

Elias Motsoaledi Local Municipality



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06 September 2017

PUBLIC NOTICE NO: 119 EMLM RESOLUTION ON PROPERTY RATES BY-LAW

Notice is hereby given in terms of sections 162 and 229(1) of the Constitution; section 13 of the Local Government: Municipal Systems Act and section 6 of the Local Government: Municipal Property Rates Act, 2004, that the Council resolved by the way of council resolution number **BT17/18-15** allow property rates by-law for public consultation prior to the final approval. The by-law is attached as annexure

Annexure

ELIAS MOTSOALEDI LOCAL MUNICIPALITY



Draft

**MUNICIPAL PROPERTY RATES
BY-LAWS**

Original Council Approval		Amended
Date of Council Approval		
Resolution Number		
Effective Date		

The Municipal Manager of Elias Motsoaledi Local Municipality acting in terms of Section 13(a) of the Local Government: Municipal Systems Act, 2000 (No.32 of 2000) hereby publishes the Municipal Property Rates By-Law for the Municipality as approved by Council as set out hereunder.

PREAMBLE

WHEREAS section 229(1) of the Constitution requires a municipality to impose rates on property and surcharge on fees for the services provided by or on behalf of the municipality;

AND WHEREAS section 13 of the Municipal Systems Act read with section 162 of the Constitution requires a municipality to promulgate municipal by-laws by publishing them in the official gazette of the relevant province;

AND WHEREAS section 6 of the Local Government: Municipal Property Rates Act, 2004 requires a municipality to adopt by-law to give effect to the implementation of its property rates policy; the by-laws may differentiate between the different categories of properties and different categories of owners of properties liable for the payment of rates;

NOW THEREFORE BE IT ENACTED by the Council of Elias Motsoaledi Local Municipality, as follows:

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1. Definitions

For the purpose of these by-laws any word or expression to which a meaning has been assigned in the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004) shall bear the same meaning unless the context indicates otherwise-

'Body corporate' means the collective name given to the owners of the units and common property within a sectional title scheme and this comes into being when the developer transfers the first unit to its new owner

'Committee (Section 80)' means Budget and Treasury Committee Of Elias Motsoaledi Local Municipality in terms of Municipal Structures Act.

'Municipality' means Elias Motsoaledi Local Municipality established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

'the Act' means the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004);

In these by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa.

2. Purpose of the by-law

The purpose of this by-law is to give effect to the implementation of the municipal rates policy as outlines in section 6 of the Act.

3. Categories of properties

1) Categories of rateable property for purposes of levying differential rates are in terms of section 8(2) of the Act determined as follows:

- a) residential properties,
- b) business and commercial properties,
- c) industrial properties,
- d) municipal properties(rateable),
- e) state owned properties,
- f) public service infrastructure,
- g) agricultural,
- h) agricultural vacant land,
- i) non-permitted use,
- j) multiple use properties,
- k) vacant land,
- l) state trust land,
- m) public benefit organization, and
- n) any other properties within the municipality.

4. Categories of owners

- (1) Owners of the properties as outlined in section 3 above are liable for the payment of rates as provided for in section 6(2) (b) of the Act as determined by valuation and supplementary valuation roll of the municipality.

5. Exemptions, reductions and rebates

- (1) The following categories of owners are determined for the purposes of granting exemptions, reductions and rebates:
 - (a) those owners who qualify and who are registered as indigents in terms of the adopted indigent policy of the municipality;
 - (b) those owners who do not qualify as indigents in terms of the adopted indigent policy of the municipality but whose total monthly income is less than the amount annually determined by the municipality in its budget;
 - (c) owners of property situated within an area affected by-
 - (i) a disaster within the meaning of the Disaster Management Act, 2002 (Act No. 57 of 2002); or
 - (ii) serious adverse social or economic conditions;
 - (d) owners of residential properties with a market value below the amount as determined annually by the municipality in its budget;
 - (e) owners temporarily without income;
 - (f) owners dependent on pensions or social grant for their livelihood; and
 - (g) any other owners as outlined in section 15 to 18 of the Act.

6. Differential rating

- (1) Criteria for differential rating on different categories of properties will be according to-
 - (a) the nature of the property including its sensitivity to rating; and
 - (b) the promotion of social and economic development of the municipality.
- (2) Differential rating among the various property categories will be done by way of setting different cent amount in the rand for each property category; and by way of reductions and rebates as provided for in the municipal rates policy.

7. Properties used for multiple purposes

- (1) Rates on properties used for multiple purposes will be levied as follows:
 - (a) in accordance with the "permitted use of the property".
 - (b) in accordance with the "dominant use of the property" if (a) cannot be applied; or
 - (c) in accordance with the "different uses" by apportioning the market value of a category of property to the different purposes for which the property is used, if both (a) and (b) above cannot be applied.

3. Accounts to be furnished

- (1) The municipality shall furnish each person liable for the payment of rates with a written account, which will specify:
 - (a) the amount due for rates payable,
 - (b) the date on or before which the amount is payable,
 - (c) how the amount was calculated,
 - (d) the market value of the property, and
 - (e) rebates, exemptions, reductions or phasing-in, if applicable.

- (2) A person liable for payment of rates remains liable for such payment, whether or not such person has received a written account from the municipality. If the person concerned has not received a written account, necessary enquiries must be made with the municipality.
- (3) In case of joint ownership the municipality shall consistently, in order to minimise costs and unnecessary administration, recover rates from one of the joint owners only, provided that it takes place with the consent of the owners concerned.

9. Special rating areas

- (1) The municipality shall, whenever deemed necessary, by means of a formal council resolution determine special rating areas in consultation with the relevant communities as provided for in section 22 of the Act.
- (2) The following matters shall be attended to in consultation with the committee whenever special rating is being considered:
 - a) proposed boundaries of the special rating area;
 - b) statistical data of the area concerned giving a comprehensive picture of the number of erven with its zoning, services being rendered and detail of services such as capacity, number of vacant erven and services that are not rendered;
 - c) proposed improvements clearly indicating the estimated costs of each individual improvement;
 - d) proposed financing of the improvements or projects;
 - e) priority of projects if more than one;
 - f) social economic factors of the relevant community;
 - g) different categories of property;
 - h) the amount of the proposed special rating;
 - i) details regarding the implementation of the special rating; and
 - j) the additional income that will be generated by means of this special rating.
- (5) In determining the special additional rates the municipality shall differentiate between different categories as referred to in section 3 of the Act.
- (6) The additional rates levied shall be utilized for the purpose of improving or upgrading of the specific area only and not for any other purposes whatsoever.

10. Payment of rates

- (1) The owner of the property is the person liable for the payment of the rates levy on the property, as determined in section 24 of the Act.
- (2) Joint owners of a property shall be jointly and severally liable for the payment of the rates levied on the property.
- (3) In the case where an agricultural property is owned by more than one owner in undivided shares and these undivided shares were allowed before the commencement date of the subdivision of Agricultural Land Act, 1970 (Act No 70 of 1970), the municipal Council shall hold any joint owner liable for all the rates levied in respect of the Agricultural property concerned or hold any joint owner only liable for that portion of rates levied on the property that represents the joint owner's undivided share in property.
- (4) Rates levied on property in sectional title schemes, shall be payable by the owner of each unit, the municipal council may, depending on the circumstances, have an agreement with the body corporate to collect rates on its behalf as its agents.
- (5) Rates levied on property in sectional title schemes, where the body corporate is the owner of any specific sectional title unit, shall be payable by the Body Corporate.
- (6) If any amount due for rates is unpaid by the owner of the property, the municipality may recover the amount from the tenant or occupier of the property, The amount due for rates may also be recovered from the agent of the owner as set out in section 29 of the Act.

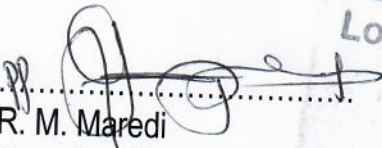
- 7) In the event of a company, closed corporation or body corporate in terms of the Sectional Title Act, 1986 (Act No 95 of 1986) is the owner of the property, the payment of property rates is the joint responsibility of the directors and members of the legal entity.
- 8) Interest on arrears rates, whether payable on or before 1st of each month or in equal monthly instalments, shall be calculated in accordance with the provision of the credit control, debt collection and indigent policy of the municipality
- 9) If the property owner, who is responsible for the payment of property rates in terms of this by-law, fails to pay such rates in the prescribed manner, it will be recovered from him or her in accordance with the provision of the Credit Control, Debt Collection and indigent policy of the municipality.
- 10) Arrears rates shall be recovered from tenants, occupiers and agent of the owner, in terms of section 28 and 29 of the Act.
- 11) Where the rates on a particular property have been incorrectly determined, whether because of an error or omission on the part of the municipality or false information provided by the property owner concerned or a contravention of the permitted use to which the property concerned may be put, the rates payable shall be appropriately adjusted for the period extending from the date on which the error or omission is detected back to the date on which rates were first levied in terms of current valuation.
- 12) In addition, where the error occurred because of the false information provided by the property owner or as a result of a contravention of the permitted use of the property concerned, interest on the unpaid portion of the adjusted rates payable shall be levied at a maximum rate permitted by prevailing legislation.

11. Repeal

This by-law repeals any other property rates by-law applicable to the municipality

12. Short title and commencement

This by-law is called Elias Motsoaledi Local Municipality Property Rates By-Law and shall be effective on the date of publication in the provincial gazette.


R. M. Maredi
Municipal Manager

Elias Motsoaledi
Local Municipality

08 SEP 2017

Municipal Manager