

SENQU LOCAL MUNICIPALITY

SINCE 2000



BY- LAW ON PROPERTY RATES

SENQU MUNICIPALITY MUNICIPAL NOTICE

LOCAL AUTHORITY NOTICE NO...

2017

BY-LAW ON PROPERTY RATES

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-law on Property Rates.

SCHEDULE

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CHAPTER 1

OBJECTIVES, DEFINITIONS AND APPLICABILITY OF BY-LAW

1 Objectives

The objectives of this By-Law are to:

- (a) give effect to the right contained in section 229 of the Constitution of the Municipality to impose rates on property in its area of jurisdiction;
- (b) give effect to the provisions of the Act;
- (c) ensure the equitable treatment of persons liable for rates;
- (d) determine criteria to be applied for the levying of differential rates for different categories of properties;
- (e) determine or provide criteria for the determination of categories of properties and categories of owners of properties;
- (f) determine criteria to be applied for granting exemptions, rebates and reductions;
- (g) determine how the Municipality's powers must be exercised in relation to multiple use properties; and
- (h) identify which categories of properties the Municipality has elected not to rate as provided for in section 7 of the Act.

2 Definitions

In this By-Law any word or expression to which a meaning has been assigned in the By-law and the Act shall have the meaning so assigned to it and, unless the context otherwise indicates:

“agent” in relation to the owner of a property, means a person appointed by the owner of the property-

- (a) to receive rental or other payments in respect of the property on behalf of the owner; or
- (b) to make payments in respect of the property on behalf of the owner;

“agricultural property” means agricultural land as defined in the Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970, and includes all land situated in the municipal area except such land included in the boundaries of a former disestablished municipality now falling within the Municipality and which was not zoned for agricultural purposes in terms of a town planning scheme or land use scheme of that municipality and a smallholding;

“agricultural purpose” in relation to the use of a property, excludes the use of a property for the purpose of eco-tourism or for the trading in or hunting of game;

“agricultural use” means the cultivation and farming of agricultural property for crops and plants or for the breeding thereon of animals (excluding game) and includes only such activities and buildings as are reasonably connected with such use;

“billing cycle” means the date on which the written account is printed by the Municipality to the date on which the account is due and payable by the owner;

“billing date” means the start of the billing cycle;

“budget process” means the budget process of the Municipality in terms of sections 22 and 23 of the Municipal Finance Management Act;

“commercial” means the activity of buying, selling of trade in goods or services and includes any office or accommodation on the same erf, the use of which is incidental to such business, excluding the business of mining, farming or agriculture, or any other business consisting of cultivation of soils, the gathering in of crops or the rearing of livestock or consisting of the propagation and harvesting of fish or other aquatic organisms;

“Council” means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

“day care centre” means a childcare facility as defined in the Senqu Municipality: Childcare Services by-law, 2017 or a facility where care is provided during the day for the infirm;

“exemption” in relation to the payment of a rate, means an exemption granted by the Municipality in terms of section 15 of the Act;

“financial year” means the period starting from 1 July in a year to 30 June the next year;

“form” means a form approved by the Municipality for the purposes of this By-law;

“indigent owner” means an owner of property registered as an indigent debtor in terms of the Indigent Support and Basic Services Subsidy By-law, 2017;

“industrial” means a branch of trade or manufacturing, production, assembling or processing of finishing products from raw material or fabricated parts, on so large scale that capital and labour are significantly involved;

“market value”, in relation to a property, means the value of the property determined in accordance with section 46 of the Act;

“mining” means any operation or activity for the purpose of extracting any mineral on, in or under the earth, water or any residue deposit, whether by underground or open working or otherwise and includes any operation or activity incidental thereto;

“Municipal Finance Management Act” means the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003);

“Municipal Systems Act” means Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“Municipality” means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-law by virtue of a power vested in the Municipality and delegated to such employee or agent;

“organ of state” means an organ of state as defined in section 239 of the Constitution;

“owner” –

- (a) in relation to a property referred to in paragraph (a) of the definition of “property”, means a person in whose name ownership of the property is registered;
- (b) in relation to a right referred to in paragraph (b) of the definition of “property”, means a person in whose name the right is registered;
- (c) in relation to a land tenure right referred to in paragraph (c) of the definition of “property”, means a person in whose name the right is registered or to whom it was granted in terms of legislation; or
- (d) in relation to public service infrastructure referred to in paragraph (d) of the definition of “property”, means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of “publicly controlled”, provided that a person mentioned below may for the purposes of this Act be

regarded by a municipality as the owner of a property in a trust excluding state trust land:

- (i) A trustee, in the case of a property in a trust excluding state trust land;
- (ii) an executor or administrator, in the case of a property in a deceased estate;
- (iii) a trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
- (iv) a judicial manager, in the case of a property in the estate of a person under judicial management;
- (v) a curator, in the case of a property in the estate of a person under curator ship;
- (vi) a person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
- (vii) a lessee, in the case of a property that is registered in the name of a municipality and is leased by it; or
- (viii) a buyer, in the case of a property that was sold by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

“permitted use” in relation to a property, means the limited purposes for which the property may be used in terms of-

- (a) any restrictions imposed by –
 - (i) a condition of title;
 - (ii) a provision of a town planning or land use scheme; or
 - (iii) any legislation applicable to any specific property or properties; or
- (b) any alleviation of any such restrictions;

“property” means

- (a) immovable property registered in the same name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person;
- (b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
- (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; or
- (d) public service infrastructure;

“publicly controlled” means owned by or otherwise under the control of an organ of state and including –

- (a) a public entity listed in the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) a municipality; or
- (c) a municipal entity as defined in the Municipal System Act;

“public benefit organisations” means an organisation conducting public benefit activities as defined in the Act and registered in terms of the Income Tax Act and qualifies for tax reductions because of those activities;

“public service infrastructure” means publicly controlled infrastructure of the following kinds:

- (a) national, provincial or other public roads on which goods , services or labour move across a municipal boundary;
- (b) water or sewer pipes, ducts or other conduits, dams, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme serving the public;
- (c) power stations, power substations or power lines forming part of an electricity scheme serving the public;
- (d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;
- (e) railway lines forming part of a national railway system;
- (f) communication towers, masts, exchanges or lines forming part of a communication system serving the public;
- (g) runways or aprons at national or provincial airports;
- (h) breakwaters, sea walls, channels, basins, quay walls, jetties, roads, railway, or infrastructure used for the provision of water, lights, power, sewerage or similar services of ports, or navigational aids comprising lighthouses, radio navigational aids, buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels;
- (i) any other publicly controlled infrastructure as may be prescribed; or
- (j) right of way, easements or servitudes in connection with infrastructure mentioned in paragraph (a) to (i);

“rate” means a municipal rate on property envisaged in section 229(1)(a) of the Constitution;

“rateable property” means property on which a municipality may in terms of section 2 levy a rate, excluding property fully excluded from the levying of rates in terms of section 17 of the Act;

“rebate” in relation to a rate payable on a property, means a discount granted in terms of section 15 of the Act on the amount of the rate payable on the property;

“reduction” in relation to a rate payable on a property, means the lowering in terms of section 15 of the Act of the amount for which the property was valued and the rating of the property at that lower amount;

“residential property” means a suit of rooms which forms a living unit that is exclusively used for human habitation purposes, or a multiple number of such units on a property, excluding a hotel, guest house, commune, boarding and undertaking, hostel and place of instruction as defined in the land use scheme of the Municipality but excludes vacant land, irrespective of its zoning or intended use;

“rates policy” means the Senqu Rates and Evaluation Policy adopted in terms of section 3 of the Act; and

“smallholding” means a property recorded in the Deeds Registry database as being an erf and zoned for agricultural use in terms of an adopted town planning scheme or land use scheme;

“state-owned property” means properties owned by the state, which are not included in the definition of public service infrastructure in the Act and are classified as follows:

- (a) state properties that provide local services;
- (b) state properties that provide regional or municipal district-wide services;
- (c) state properties that provide national or provincial services;

“state trust land” means land owned by the state -

- (a) in trust for persons communally inhabiting the land in terms of a traditional system of land tenure;
- (b) over which tenure rights were registered or granted; or
- (c) which is earmarked for disposal in terms of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994);

“the Act” means the Local Government: Municipal Property Rates Act, 2004 (Act 6 of 2004);

“vacant land” means land where no immovable improvements have been erected, with the exclusion of agricultural land. It however does include agricultural land that is not productively used for agricultural purposes; and

“written account” means an account contemplated in section 27 of the Act.

3 Applicability of By-law

- (1) This By-law must be read with any applicable provisions of the Act.
- (2) In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the Municipality, regulates property rates, the provisions of this By-law shall prevail to the extent of the inconsistency.

CHAPTER 2

RATES POLICY AND THE IMPOSITION OF RATES

4 Adoption and implementation of rates policy

- (1) The Municipality shall adopt and implement a rates policy on the levying of rates on rateable property in the area of jurisdiction of the Municipality, which complies with the provisions of the Act.
- (2) The Municipality must annually review, and if necessary, amend its rates policy and any amendments to the rates policy must accompany the Municipality's annual budget when it is tabled in the Council in terms of section 16(2) of the Municipal Finance Management Act.
- (3) The Municipality shall not be entitled to levy rates, other than in terms of the Act, this By-law and the rates policy.

5 Contents of rates policy

The rates policy shall inter alia -

- (a) apply to all rates levied by the Municipality pursuant to the adoption of the annual budget of the Municipality;
- (b) comply with the requirements for -
 - (i) the adoption and content of a rates policy as contemplated in section 3 of the Act;
 - (ii) a community participation process as contemplated in section 4 of the Act; and
 - (iii) the annual review of a rates policy as contemplated in section 5 of the Act;
- (c) specify any additional principles, criteria and implementation measures consistent with the Act, for the levying of rates;
- (d) provide for the implementation of any regulations promulgated in terms of section 19(1)(b) of the Act; and

- (e) include additional enforcements mechanisms, if any, as the Municipality may wish to impose in addition to the enforcement mechanisms contained in the Act, the Municipal Systems Act, the Senqu Credit Control and Debt Collection By-law and the rates policy of the Municipality.

6 Imposition of rates

(1)The Municipality must, as part of each annual operating budget process, determine a rate in the rand to be levied on the market value of all rateable property as recorded in the Municipality's valuation roll and supplementary valuation roll.

(2)The Municipality must recover the rates monthly or in a single amount annually.

- (a) Where the rates levied on a property are based on a supplementary valuation made in terms of section 78(1) of the Act such rate shall be payable from the date contemplated in section 78(4) of the Act.
- (b) The Municipality must recover the rates due in accordance with its Credit Control and Debt Collection By-law read together with its Credit Control and Debt Collection Policy.

CHAPTER 3

CATEGORIES OF PROPERTY AND CATEGORIES OF OWNERS OF PROPERTY

7 Differential rating

Subject to and in conformity with the Act, the Municipality may levy different rates on different categories of rateable property determined by it in terms of section 8.

8 Categories of rateable property

(1) For the purpose of levying different rates on different categories of rateable property, the Municipality must -

- (a) provide criteria for determining different categories of rateable property;
- (b) determine different categories of rateable property.

(2) The different categories of rateable property determined by the Municipality in terms of subsection (1)(b) and the criteria for determining different categories of rateable property by the Municipality in terms of subsection (1)(a) must be specified in the rates policy.

(3) The different categories of rateable property determined by the Municipality in terms of subsection (1)(b) may include, but are not limited to the following:

- (a) Residential properties;
- (b) commercial or business properties;

- (c) industrial properties;
 - (d) public service infrastructure properties;
 - (e) properties owned by public benefit organisations and used for specified public benefit activities;
 - (f) agricultural properties used for agricultural purposes;
 - (g) agricultural properties used for commercial or industrial purposes;
 - (h) agricultural properties used for eco-tourism, conservation, trading in or hunting of game;
 - (i) agricultural properties not used for any purpose or for a purpose not known to the Municipality;
 - (j) state-owned properties that provide local services;
 - (k) state-owned properties that provide regional or municipal district- wide services;
 - (l) state-owned properties that provide provincial or national services;
 - (m) municipal properties;
 - (n) vacant land;
 - (o) formal and informal settlements;
 - (p) smallholdings used for agricultural purposes;
 - (q) smallholdings used for residential purposes;
 - (r) smallholdings used for industrial purposes;
 - (s) smallholdings used for business and commercial purposes; and
 - (t) smallholdings used for other purposes.
- (4) If a rateable property is used for multiple purposes, rates must be determined by the Municipality according to -
- (a) the permitted use of the property, if the permitted use is regulated by the Municipality; or
 - (b) if the permitted use is not regulated by the Municipality, the dominant use of the property.

9 Categories of owners of properties

- (1) For the purpose of granting an exemption, a rebate or reduction, the Municipality shall determine different categories of owners of properties in its rates policy.
- (2) The criteria for determining different categories of owners of properties shall be specified by the Municipality in its rates policy.
- (3) The different categories of owners of properties determined by the Municipality in terms of subsection (1) may include, but are not limited to, the following categories:
 - (a) indigent owners;

- (b) owners of properties situated within an area affected by a disaster within the meaning of the Disaster Management Act, 2002 (Act 57 of 2002);
- (c) owners of agricultural properties used for agricultural purposes, commercial or industrial purposes, eco-tourism, conservation, trading in or hunting of game, or not used for any purpose or for a purpose unknown to the Municipality;
- (d) owners dependent on pensions, social grants or disability pensions for their livelihood with a monthly household income threshold determined by the Municipality in its rates policy or in its indigent and free basic services policy;
- (e) owners without income for an uninterrupted period of three months immediately before 1 July of any financial year;
- (f) owners of residential property with a market value lower than a value determined by the Municipality in its rates policy and determined by the Municipality's municipal valuer;
- (g) owners of properties registered in their name used primarily as a place of worship; and
- (h) any other owners of properties exempted by the Municipality in terms of the rates policy.

CHAPTER 4

EXEMPTION, REBATE OR REDUCTION OF RATES

10 Power of Municipality to exempt from or grant reduction in or rebate on rates

- (1) The Municipality may -
 - (a) exempt a specific category of owners of properties, or the owners of a specific category of rateable properties, from payment of a rate levied on their property; or
 - (b) grant to a specific category of owners of properties, or the owners of a specific category of rateable properties, a reduction in or a rebate on the rates payable in respect of their properties.
- (2) If the Municipality chooses to exempt from the payment of rates, grant a reduction in or rebate on rates to a specific category of rateable property or a specific category of owner of rateable property, it shall exercise this power in accordance with the criteria determined in the rates policy in terms of section 3(3)(b)(ii) of the Act.
- (3) The Municipality shall not levy rates contrary to the provisions of section 16 and 17 of the Act.

(4) The Municipality shall ensure that any exemption, reduction in or rebate on rates granted by it are clearly indicated on the written accounts.

11 Exemption from rates

(1) The following categories of rateable property are exempted from rates levied on that property:

- (a) properties registered in the name of the Municipality or owned by municipal entities and all public service infrastructure owned by the Municipality;
- (b) properties in respect of which it is impossible or unreasonably difficult to establish a market value because of legally insecure tenure resulting from past racially discriminatory laws or practices;
- (c) properties used as a place of public worship;
- (d) properties to which the provisions of the National Heritage Resources Act, 1999 (Act of 1999), apply;
- (e) properties used as cemeteries or crematoria;
- (f) any other categories of rateable property exempted by the Municipality in accordance with the Rates Policy.

(2) The following categories of owners of rateable property are exempted from rates levied on that property:

- (a) owners dependent on pensions and social grants who reside on the property to which the exemption applies and the value of that property does not exceed the amount determined by the Municipality in its rates policy after the R15 000.00 exclusion in terms of section 17(1)(h) of the Act;
- (b) public benefit organisations performing one of the following public benefit activities:
 - (i) welfare and humanitarian activities;
 - (ii) health care activities;
 - (iii) educational and development activities; and
 - (iv) community and social activities;
- (c) indigent owners who reside on the property to which the exemption applies and the value of that property does not exceed does not exceed the amount determined by the Municipality in its rates policy after the R15 000.00 exclusion in terms of section 17(1)(h) of the Act;
- (d) institutions that has been declared subject to the Cultural Institutions Act, 1998 (Act 119 of 1998);

- (e) old age homes;
 - (f) day care centres;
 - (g) museums, libraries and botanical gardens;
 - (h) youth development organisations;
 - (i) animal protection societies;
 - (j) police forums;
 - (k) sporting bodies; and
 - (l) any other category of owner of property exempted by the Municipality in accordance with the rates policy.
- (3) No application for exemption from rates by the owners of the properties, whether determined in section 17 of the Act or determined in this section, is required by the Municipality, with the exception of owners referred to in subsection (2)(a) and (b).
- (4) An owner who qualifies for an exemption from rates in terms of subsection (2)(a) and (b) may apply to the Municipality for such exemption on the applicable form.
- (5) If the applicant qualifies for an exemption from rates in terms of subsection (2)(a), the application form contemplated in subsection (4) must be accompanied by -
- (a) a certified copy of the identity document or any other proof of the applicant's age which is acceptable to the Municipality;
 - (b) proof of household income to the satisfaction of the Municipality; and
 - (c) an affidavit from the applicant.
- (6) If the applicant qualifies for an exemption from rates in terms of subsection (2)(b), the application form contemplated in subsection (4) must be accompanied by -
- (a) proof of ownership of the property;
 - (b) proof that the public benefit organisation is registered in terms of the Income Tax Act, 1962 (Act 58 of 1962) for tax reduction.
- (7) The Municipality must deal with all applications submitted to it in accordance with its Credit Control and Debt Collection Policy
- (8) The Municipality retains the right to refuse an application for an exemption from rates if the information supplied in terms of subsections (5) and (6) is incomplete, incorrect or false.

12 Reduction in rates

- (1) The Municipality may grant a reduction in the rates levied on a rateable property by the owner of that property –
- (a) if it has been partially or totally destroyed; or

- (b) if the property is situated within an area affected by a disaster as defined in the Disaster Management Act, 2002 (Act 57 of 2002).
- (2) An owner who qualifies for a reduction in rates in terms of this section may apply to the Municipality for such reduction on the form approved by the Municipality.
- (3) An application form contemplated in subsection (2) must be accompanied by documentation or other evidence, to the satisfaction of the Municipality -
 - (a) to prove that the property concerned has been totally or partially destroyed;
 - (b) to indicate the extent to which the property can still be used; and
 - (c) to indicate the impact of the destruction or disaster on the value of the property.
- (4) The Municipality retains the right to refuse an application for a reduction in rates if the information supplied in terms of subsections (2) and (3) are absent, incomplete, incorrect or false.

13 Rebate on rates

- (1) The Municipality may grant a rebate on the rates levied on a rateable property if -
 - (a) it is an agricultural property as defined in section 1 of the Act;
 - (b) the owner is dependent on a pension or social grant for his or her livelihood;
 - (c) the owner has been without a total gross monthly household income determined in the rates policy for a period of time determined in the rates policy; or
 - (d) an organ of state is the owner of the property.
- (2) The Municipality must, in its rates policy determine the percentage rebate that may be granted by it and the percentage may be determined on a sliding scale.
- (3) An owner who qualifies for a rebate on rates in terms of this section may apply to the Municipality for such rebate on the form approved by the Municipality.
- (4) The Municipality must, when considering an application for a rebate in terms of subsection (1), apply the criteria contemplated in the rates policy.
- (5) The Municipality retains the right to refuse an application for a rebate on rates if the information supplied by the applicant is incomplete, incorrect or false.

14 Disclosure of financial information

The municipal manager shall annually table in the Council the information required in

terms of section 15(3) and (4) of the Act.

CHAPTER 5

PAYMENT OF RATES

15 Frequency of payment of rates

- (1) The Municipality may recover the rates due to it in a single amount annually or in monthly instalments.
- (2) The Municipality shall levy rates in a single amount annually on an agricultural property and a property owned by an organ of state and it may levy a single amount annually as may be agreed to with the owner of the property.
 - i. The Municipality shall levy rates on properties, other than a
 - ii. property referred to in subsection (2), in 11 equal instalments.
- (2) All rates levied in a single amount annually in accordance with subsection (2) shall be paid by the owner of the property concerned on or before 31 December of the financial year in which it becomes due.
- (3) All rates levied in instalments in accordance with subsection (3) shall be paid by the owner of the property concerned on or before the date indicated on the account, which date shall be on or before the end of the billing cycle for the month concerned.
- (4) An owner of property may apply in writing to the Municipality for a change in the frequency of his or her payment on the approved form and such application must be submitted to the Municipality before 31 May of a financial year and such a change in frequency, if approved, applies in the subsequent financial year.

16 Arrears

- (1) All rates that remain unpaid after the due date stipulated on the written accounts must be collected by the Municipality through the provisions contained in the Senqu Municipality: Credit Control and Debt Collection By-law; 2017.
- (2) Interest on arrear rates must be calculated at the rate determined by the Council during its annual budget review process.
- (3) The Council may grant exemption on interest on arrears in the rates policy.
- (4) The Municipality must recover any arrear rates from the owner, tenant or occupier of the property concerned or from the agent of the owner of the property concerned, in terms of sections 28 and 29 of the Act.
- (5) Joint owners of a rateable property, including the joint owners of agricultural property are jointly and severally liable for the payment of rates on that property.

CHAPTER 3

GENERAL MATTERS

17 Community Participation Process

- (1) For the purposes of the adoption of the rates policy community participation must be undertaken in accordance with the provisions of section 4 of the Act.
- (2) Community participation in any amendments to the rates policy as a result of the annual review of thereof as required by section 5 of the Act, must be effected through the Municipality's annual budget process in terms of sections 22 and 23 of the Municipal Finance Management Act.

18 Appeals

- (1) Any person may appeal against any decision taken under this By-Law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act, 2000.
- (2) An appeal relating to the value of the property as reflected on the valuation roll must be lodged in terms of Chapter 6 of the Act.

19 Repeal of by-laws

The Rates Policy By-Law published in the *Provincial Gazette* by Notice Number 54 of 2005 is hereby repealed.

20 Short title and commencement

This By-law shall be known as the Senqu Municipality: Property Rates By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.