

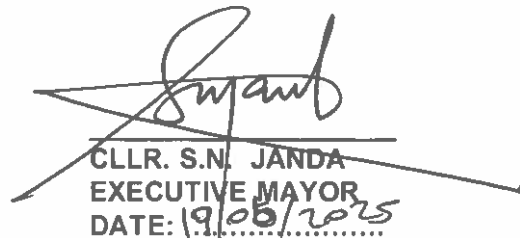
LEASING POLICY FOR 2025/2026 FY



SIGNED BY:



MR. M. NAKO
MUNICIPAL MANAGER
DATE: 19/06/2025



CLLR. S.N. JANDA
EXECUTIVE MAYOR
DATE: 19/06/2025

1. Purpose of the Policy

1.1 The purpose of this Policy is to provide a procedural and management framework for leasing of all municipally owned properties and those that are donated to the municipality by government departments in accordance with the Mbashe Municipality's Supply Chain

Management Policy, Local Government: Municipal Financial Management Act 2003 and associated regulations (Municipal Asset Transfer Regulations, Municipal Supply Chain Management Regulations).

1.12 To outline that in the event that any provision of this Policy is found to be in contravention enabling legislation on leasing, such legislation shall take precedent over such provision.

2. Objectives and High-Level Principles

2.1 The Leasing Policy will:

2.1.1. Facilitate equitable access to the Mbashe immovable assets by applying the contents of section 217 of the Constitution of South Africa (which states that government procurement must be in accordance with a system which is fair, equitable, transparent, competitive and cost-effective).

2.1.2. Enable lease transactions and leases to be processed in a legislatively compliant yet efficient manner.

2.1.3. Secure future financial gains for Mbashe Municipality.

2.1.4. Support the Mbashe Municipality social and environmental agendas by making provision for residents pursuing social and environmental activities to be granted opportunity to lease the municipal properties .

2.1.5. Support the Mbashe economic development imperatives by:

(a) Facilitating the expedited processing of leases with developmental impact.

(b) Aligning development with the strategic plans of the Mbashe Municipality

2.1.6. Assist with the upkeep of properties in the portfolio insofar as maintenance requirements may be stipulated in rental agreements.

3. Definition of Terms

3.1.1. Beneficial Occupation refers to that period where the Municipal Manager or his delegate has given the Lessee occupation of the Property, or portion thereof, prior to the signing of a Lease Agreement or Property Transfer. During this time the Lessee shall not be required to pay rental. The beneficial occupation period will be restricted to 6 (six) months.

3.1.2. Bid means an offer to lease a property from Municipality at a specified rental.

3.1.3. Bidder means any person offering to lease a property owned by Municipality.

3.1.6. Council shall mean the Council of the Mbashe Municipality.

3.1.7. Competitive Process means a call for alternative proposals, closed/selective/targeted group

3.1.8. Custodian Department shall mean the Departments within the Municipality that are accountable for the optimal management, deployment and maintenance of the assets under its control in accordance with applicable legislation and policy.

3.1.9. Mbashe shall mean the Municipality.

3.1.10. Expense Lease Agreements shall mean Lease Agreements entered into between the Municipality and owners of privately owned land or buildings where Municipality is the Lessee.

3.1.11. In principle approval shall mean a decision taken by the Council, or if the decision making powers have been delegated to the Municipal Manager or delegatee, in terms of Regulation 34 of the MATR to grant the rights to use, control or manage an Mbashe Municipality owned immovable asset.

3.1.12. Lease Agreement shall mean a contract between a Lessor and Lessee that allows the Lessee rights to the use of a property owned or managed by the Lessor for a period of time. The agreement does not provide ownership rights to the Lessee; however, the Lessor may grant certain allowances to modify, change or otherwise adapt the property to suit the needs of the Lessee.

3.1.13. Lease Commencement Date shall mean date as agreed by the Lessor and the Lessee

3.1.14. Lease End Date shall mean the last day of the Lease Period as stipulated in the Lease Agreement or the Lease Termination Date whichever comes first.

3.1.15. Lease Period shall mean the period of months/ years stipulated in the Lease Agreement commencing on the Commencement Date and expiring at either the Lease End Date or the Lease

Termination Date, whichever comes first. The Lease period shall be a continuous period not linked to Municipality's financial periods.

3.1.16. Lease Termination Date shall mean the date on which the Lease Agreement has been cancelled prior to the Lease End Date.

3.1.17. Lessor shall mean the Mbashe Municipality

3.1.18. Lessee shall mean the user of the Municipality's immovable property.

3.1.20. Long Term Lease shall mean a Lease Agreement entered into between the Municipality and a Lessee of which the lease period is longer than three 3 years but less than 20 years, excluding the renewal period.

3.1.21. MATR means the Municipal Asset Transfer Regulations promulgated in terms of the MFMA and published in Government Gazette No. 31346 of 22 August 2008, as amended from time to time.

3.1.22. MFMA means the Local Government Municipal Finance Management Act, Act 56 of 2003 including any Regulations promulgated in terms thereof, as amended from time to time.

3.1.23. Option to Renew shall mean the opportunity provided to an existing Lessee to renew a Lease Agreement for a further period to be negotiated between the Lessor and Lessee.

3.1.24. Permission to Occupy shall mean permission granted by the Municipal Manager or his delegatee in the prescribed form to any person or organization or organ of state to occupy a specified Property or portion thereof for a specific purpose and for a predefined period.

3.1.25. Policy shall mean the Leasing Policy for Municipally Owned Immoveable Property.

3.1.26. Property shall mean any immoveable asset acquired or owned by Mbashe Municipality and is further described as land and any immoveable improvement on that land, and which have enduring value and consists of assets or residential, non-residential or infrastructure nature and include machinery and equipment that have been installed and are an integral part of the immoveable assets.

The following types of assets listed hereunder will be construed to be immoveable assets for the purposes of this policy:

(a) land including but limited to developed, undeveloped, vacant, cultivated, non- useable or inaccessible land;

(b) buildings including but not limited to office accommodation, residential buildings, police stations, courts, schools, hospitals and community facilities;

(c) rights in land including servitudes, "rights to use" or leases;

(d) infrastructure including but not limited to roads, railway lines/sidings, airports, transmission lines, dams, road reserves, pipelines, bridges, reservoirs; and

(e) conservation, cultural and heritage assets including but not limited to historical sites, conservation areas and sites of scientific significance.

3.1.27. Property Transaction means the granting of a Property Right.

3.1.28. Property Right means a right to use, control or manage municipal owned immovable property for a period exceeding one calendar month without ceding ownership thereof.

3.1.29. Rental shall mean the applicable rental payable by a Lessee as determined by a Valuer on a monthly or annual basis including any rental discounts (if applicable).

3.1.30. Rental for out of home advertising shall mean a monthly rental payable in arrears per advertisement area determined by whichever is greater of the fixed rental for media owners or the percentage income as prescribed in the annual tariff or alternatively, a tendered rate payable.

3.1.31. Rental Discount shall mean the percentage with which the calculated market related rental tariff (valuation) will be discounted.

3.1.32. Short Term Lease shall mean a Lease Agreement entered into between Mbashe Municipality and a Lessee whereof the total lease period shall not exceed three (3) years.

3.1.33 Right to use, control or manage in relation to a capital asset, means a right to use, control or manage the capital asset for a period exceeding one calendar month, without ceding legal ownership of the asset.

3.1.34. Termination shall mean the termination of the Lease Agreement by either party (i.e. the Lessee or Lessor).

3.1.35. Turnover Rental shall mean a rent that is calculated as a percentage of the gross revenue or total sales of a Lessee's business in addition to the calculated market related rental e.g. the Lessee of a filling

station shall be required to pay a monthly amount to Mphashe Municipality in respect of the number of litres fuel pumped during the preceding month..

3.1.37. User Agreements shall mean agreements entered into in respect of facilities occupied by multiple users for short periods of time who will be charged the promulgated Mphashe Municipality tariffs applicable at that time for the usage of the facility.

3.1.38. Valuation shall mean the determination of the value of municipal immovable property (or portion thereof) and the applicable rental.

3.1.39. Valuer shall mean a professional person registered, in terms of the Property Valuers Profession Act, 2000, with the South African Council for the Property Valuers Profession.

All other terms shall have the same meaning as defined in standing legislation and associated regulations, as amended from time to time.

4. LEGISLATIVE AND GOVERNANCE FRAMEWORK

This policy must be read in conjunction with the latest versions (including amendments) of the following legislation and regulations.

4.1 Constitution of RSA, 1996, as amended.

4.2 Mphashe Municipality Supply Chain Management Policy

4.3 Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003, Sections 14, 90 and 33 (MFMA).

4.4 Municipal Assets Transfer Regulations, 2008 (MATR).

4.5 Municipal Supply Chain Management Regulations, 2005- Regulation 40 (MFMA SCMR).

4.6 Local Government: Municipal Systems Act, 2000.

4.7 Any other applicable legislation, regulations and policies that may govern the disposal, letting or transfer of ownership of municipal land and related activities that are not in contradiction with the primary legislation referred to above.

5. RESPONSIBILITIES

5.1 The legal office is the custodian of this policy. The Manager: Legal and compliance in conjunction with the Legal Officer in the Legal section shall be responsible for the implementation of the policy as well as the monitoring of adherence thereof. Legal section shall be contacted for clarification of the content of the policy if such a need exists.

5.2 The afore-mentioned officials shall also be responsible for the revision of the policy, as and when required, to ensure that the policy addresses the challenges it was designed to remedy.

6. SCOPE

6.1 The policy is applicable to all Mphashe Municipality owned Immovable Properties and must be complied with in all instances where the letting of Municipal owned Immoveable Properties is concerned and includes all existing leases in respect of Municipal owned Immovable Properties. Examples of leases covered by this policy are for land, buildings, cell masts telecommunications, airspace, and any other immovable property belonging to council.

6.2 The lease portfolio will consist of a variety of different types of leases based on both the usage and value of a particular asset as well as the term of the lease. Lease types are grouped into segments (see Section 9.2). The policy also includes an overall lease management framework (see Section 11) that will apply to all leases.

7. EXCLUSIONS

7.1 Section 14 of the MFMA and the MATR apply to capital assets which are defined in the MATR to include Immoveable Property, as well as certain moveable assets. This policy only applies to Immoveable Property. In addition, the policy does not apply in the following instances:

(a) Expense Lease Agreements.

(b) Leases administered by the Mphashe Municipality Human Settlements Department

8. SEGMENTATION OF LEASING PORTFOLIO

8.1 Segmentation Criteria

Legislation implies important segmenting dimensions, some of which have been further divided to generate additional benefits for the Municipality.

8.1.1 The term of a lease directly affects what processes have to be followed from both national and municipal legislative perspectives. According to the MFMA ATR, a long term lease is defined as a lease with a lease period greater than 3 years. A long term lease of a high value asset (asset valued at or above R10 million) requires a public participation process. In addition, lease terms are a determinant of relevant delegations and also used for GRAP reporting on the Municipal assets. Segmenting leases by lease periods enables the municipality to forecast the future financial revenue for the Municipality as well as conduct age analyses of the lease portfolio. All leases must have definite terms in order to forecast the value of the contract in terms of GRAP asset reporting. An upper limit of 20 years will apply for all Long Term Leases, and that may be subject to renewal.

8.1.2 The value of the leased asset is also a critical segmenting dimension insofar as it dictates, in conjunction with the lease period (see 1 above) whether or not a public participation process is required, as well as what delegations apply. The asset value assists with the determination of market related rentals and therefore the valuation of the lease portfolio. The value of the capital asset will be determined on a pro-rata basis in the event that the entire immovable asset i.e. immovable property is not let to a single tenant.

8.2 Usage Segmentation

Leases will be classified into the following usage segments:

8.2.1 Long Term Lease (lease longer than 3 years)

8.2.2 Developmental impact leases defined as:

- Any Lease Agreement in excess of nine (9) years and eleven (11) months),
- Having an estimated value of capital outlay for the development and related operations that represent a significant capital injection to Mbhashe Municipality,
- Containing a design concept that is aligned to the Growth and Development Strategy, Spatial Development Frameworks and other Mbhashe Municipality spatial, environmental and/or economic plans, and
- Leases anticipated to create a number of temporary and/or permanent jobs.

8.2.3 Other commercial use (Telecommunications, SMMEs, industrial, agricultural, etc.)

8.2.4 Social use (e.g. church grounds, crèches, NGOs, old age homes, cultural societies, sports and recreational facilities, federations/bodies/clubs etc.)

8.2.5 Private use (e.g. parking, gardening, security and includes encroachments into road reserves for the purposes of parking, security, landscaping or gardening). This type of agreement also includes Lease Agreements where consent is granted to a user in respect of remnants, small portions of land, sanitary or pedestrian lanes and properties which place maintenance burdens on Mbhashe Municipality.

8.2.6 The above classification only serves as a guide and some segments may be consolidated or split.

9. THE RIGHTS TO USE, CONTROL OR MANAGE MBHASHE MUNICIPALITY OWNED IMMOVABLE ASSETS

9.1 General principles and guidelines pertaining to the letting by Council of Immovable Property

9.1.1 Where possible, Council's Immovable Property should be managed as a sustainable resource by leveraging environmental, social and economic returns on such Immovable Property while Council retains ownership thereof.

9.1.2 Immovable Properties that have been let shall be inspected at reasonable time periods to ensure compliance with the terms and conditions of the agreement of lease.

10.1 Municipal Asset Transfer Regulations (MATR)

10.1.1 Chapter 4 of the Municipal Asset Transfer Regulations (MATR) governs the granting of a right to use control or manage an immovable capital asset.

10.1.2 In terms of Regulation 34, only the Council of a municipality may grant an in-principle approval to grant the rights to use, control or manage an immovable capital asset if the lease period exceeds three years and the value of the asset exceeds R10 million.

10.2 Methods of awarding leases:

Once an in-principle decision has been obtained that the rights to use, control or manage a Municipal owned immovable asset may be granted, any method may be used to conclude a property transaction to ensure that the principles of fairness and transparency are given.

11. FRAMEWORK FOR LEASE PROCESSING

1.1 Elements of a Lease

All the essential requirements listed below must exist simultaneously to constitute a valid lease of an immovable asset owned by the Municipality.

11.1.1 The parties to the agreement i.e. the Lessor and the Lessee;

11.1.2 The correct legal description of the subject immovable property and its locality; and

11.1.3 Applicable rental which must be market related unless the lease is in the public interest or the plight of the poor demands otherwise, or an outdoor / out of home advertising lease;

11.1.4 The duration of the lease; and

11.1.5 Annual rental escalation percentage which must be agreed upon and noted in the Lease Agreement and must be in line with market related rental escalations.

11.2 Generic detailed Lease Process

A lease application follows the ensuing steps from receipt to conclusion (not necessarily in any order) (this are only guidelines):

11.2.1 Application and supporting documents are received and verified for correctness.

11.2.2 Property description of proposed lease premises and ownership status verified as Mbashe Municipality owned;

11.2.3 Conduct site inspection to establish condition of premises;

11.2.4 Credit check conducted to verify applicant's ability to fulfil rental commitments (where required);

11.2.5 Item drafted and circulated for comments from departments and affected ward councilors and any other relevant government departments.

11.2.6 Valuation performed by a registered Valuer instructed by Mbashe Municipality;

11.2.7 Final item drafted and submitted for approval to the relevant delegated Mbashe Municipality authority.

11.2.8 Applications that require Council approval may follow the following route, which may be amended from time to time (not necessarily in any order):

(a) MAYCO

(b) If required, the relevant Oversight Committee

(c) Full Council Committee

11.3 Renewal of Leases

11.3.1 Where the lease has the option to renew and the lessee is exercising his option to renew, Municipal Manager shall assess whether the lessee conducted the account satisfactory. If so, the lease may be renewed to a set maximum period.

(a) Where the lease DOES NOT have an option to renew but the lessee has applied to extend or continue the lease, the department will submit such request to the Municipal Manager for approval

(d) The renewal of a Lease Agreement may only be done for a set maximum period. Such renewal shall only be done once. Should the Lessee request renewal for the second time, the department will treat the application as new and follow all the processes relevant for the new lease.

(f) Approval/Rejection of counter applications will be decided by the Municipal Manager or his delegatee (or as per delegations".

11.4 Specific Lease Processes

Leasing Policy for 2025/2026

The full application process (see Sections 11.2 and 11.3 for details) culminates in the signing of the Lease Agreement between the applicant and Mbashe Municipality. There are five distinct high-level procedures that apply under different circumstances that may first have to be finalised before the above-mentioned lease processes can be attended to

11.4.1 Public Participation Requirement

11.4.1 In the event that Council intends to enter into a Lease Agreement that has a lease period of more than three (3) years and a capital asset value exceeding R10 million, Council must be requested to authorise the Municipal Manager to conduct a public participation process. This process is described in Regulation 35 of the MATR and includes the required details for the information statement in Regulation 34 (3) (b).

Regulation 35: Public participation process for granting long-term rights to municipal capital assets with value in excess of R10 million reads as follows:

"If the municipal council has in terms of regulation 34 (3) (a) authorised the accounting officer to conduct a public participation process in connection with any proposed granting of a long term right to use, control or manage a capital asset with a value in excess of R10 million, the accounting officer must at least 60 days before the meeting of the municipal council at which the decision referred to in regulation 34 (1) (b) is to be considered (a) In accordance with section 21A of the Municipal Systems Act) make public the proposal to grant the relevant right together with the information statement referred to in regulation 34 (3) (b); and
ii) invite local community and other interested persons to submit to the municipality comments or representations in respect of the proposed granting of the right; and

11.5 Additional Requirements and Considerations

11.5.1. Lease Commencement Date and the collection of rentals past the Lease Expiry Date

11.5.1.1 The Lease Commencement Date is defined in the Section 3 "Definitions" of this Policy.

11.5.1.2 There may, however, be instances where a new Lease Agreement in respect of current Lessees Of Mbashe Municipality cannot be concluded prior to the Lease Expiry Date. In such instances, the current Rental payable as at the Lease Expiry Date shall be escalated as per the stated annual escalation percentage of the expired Lease Agreement. The escalated Rental shall become payable by the 7th (seventh) day of the first month following the Lease Expiry Date.

11.5.1.3 The Lessee shall be required to pay the escalated Rental until such time that a new Lease Agreement has been concluded, i.e. the signing of the new Lease Agreement by both Parties.

11.5.1.4 The Lessee shall however, once provided with the new Lease Agreement, be required to sign such agreement within two months from the date the Lease Agreement was submitted to the Lessee. Failure by the Lessee to sign the new Lease Agreement will result in the Lessee being given one month's notice to vacate the Property.

11.5.1.5 The City Manager or his delegatee will in such instances decide the manner in which the vacated Property will be made available for rental purposes.

11.5.2. Sub-Letting

11.5.2.1 The Lessee shall not be entitled to sub-let the Property or any part thereof nor assign, cede or transfer its interest under the Lease Agreement nor part with possession of the premises to any other party or body without the written consent of the Municipal Manager having been first obtained.

11.5.2.2 In the event of the Municipal Manager consenting to the sub-letting of the Property or a portion thereof, the Lessee shall in no way be relieved of its obligations to Mbashe Municipality under the main Lease Agreement by reason of any sub-lease.

11.5.3. Maintenance

11.5.3.1 Each immovable property owned by Mbashe Municipality is unique and the maintenance responsibilities of the Lessor (Mbashe Municipality) and the Lessee will differ depending on the nature of the maintenance that needs to be undertaken by both parties.

11.5.3.2 In general, for council owned buildings, the maintenance responsibilities of the Lessor (Mbhashe Municipality) will be to maintain in good order and repair all structural portions of the premises, including the roof and exterior walls, pipes and conduits, central air-conditioning equipment, escalators and utility installations. The Lessor shall also make all repairs to the interior of the premises which may be of a structural nature or which are caused by structural failures or movement, repairs to the interior of the premises made necessary by leakage of the roof, or by leakage of any utility installation; provided, however, that Lessor shall not be obligated to make such repairs for any structural damage caused by Lessee, its agents or employees or in instances where the Lease Agreement stipulates that the Lessee is responsible for all maintenance..

11.5.3.3 The Lessee accepts the premises "as is" and shall keep the interior of the premises in good condition and repair including the water heating units, related plumbing, air-conditioning equipment, at its expense. The Lessee shall however not be responsible for ordinary wear and tear, obsolescence and damage by fire, act of God. Mbhashe Municipality may issue written notice calling on the Lessee to carry out any remedy to ensure that Lessee meets its maintenance responsibilities.

11.5.3.4 The Legal Office unit shall have the discretion to determine the maintenance responsibilities of a Lessee in the event that:

- (a) the leased property is legally occupied by multiple Lessees; or
- (b) the Lessee is performing the total maintenance of the leased premises on behalf of Council (specific reference is made to Sports Clubs, Federations or similar bodies); or
- (c) consideration is granted in relation to the plight of the poor.

11.5.3.5 All Lease Agreements shall clearly state the maintenance responsibilities of both the Landlord (Mbhashe Municipality) and the Lessee.

11.5.4. Provision to waive rental in lieu of maintenancelupgrading

11.5.4.1 In cases where the asset to be leased is in poor condition or in need of urgent upgrading, a portion of rental may be waived in exchange for effecting such repairs or installations as may be required. In some instances occupation can be delayed until the repair and/or installation is complete i.e. the period of the lease would begin after the repairs are completed. In other instances, a portion of rental could be discounted for an agreed number of months. An inspection at the end of the agreed repair period must be conducted to ensure that the Lessee has fulfilled his/ her commitments in terms of this arrangement, failing which, he/she becomes liable for the full rental amount i.e. the waiver is invalidated. Such waiver may only be authorised by the Municipal Manager or his/ her delegatee.

11.5.5. Determination of market related rentals

11.5.5.1 Valuers within the Municipality will be requested to provide an objective estimation of the rental valuation in respect of the Property or portion thereof. Such valuation shall be used as the point of departure in all rental negotiations and any rebates or discounts to be granted shall be calculated against the said market valuation. The calculated market related rental may be made payable either on a monthly or annual basis.

11.5.5.2 The Legal unit shall have the discretion to decide when Turnover Rental shall be payable in respect of the activities conducted on the leased property.

11.5.5.3 In the event that the current land use rights do not permit the proposed land use, the prospective Lessee shall be required to apply to Mbhashe Municipality for such land use rights. Should any suspensive conditions be imposed by the Lessor on the prospective Lessee, the prospective Lessee shall be required to, within three (3) months from being notified by the Legal Office to do so, accept in writing to undertake all steps or actions necessary at his/her own costs to ensure that such suspensive conditions will be initiated within three (3) months from the date of notification by the legal Unit. No Lease Agreement shall be concluded unless the prospective Lessee has paid an amount equivalent to two months rental and submit the proof of payment to the legal office.

11.5.5.4 Any prospective Lessee who does not initiate the required actions to comply with the suspensive condition(s) within the three (3) months mentioned above will be notified by the Legal Unit that the process to conclude the Lease Agreement will be terminated unless the prospective Lessee can substantiate reasons for non-compliance.

11.5.5.5 Since the acquisition of land use rights may be prolonged process, the Municipal Manager or his

delegatee shall adjust the rental payable by the prospective Lessee to be market related at such time the Lease Agreement is to be concluded i.e. after the land use rights have been approved by Mphashe Municipality. In such instances, the lease period shall only commence once the Lessee has met all the suspensive conditions and no occupation of the said land shall be permitted prior to finalisation of any such processes.

11.5.5.6 Furthermore, if a valuation is older than fifteen (15) months at the time of signature of the Lease Agreement, the rental value may be adjusted upwards administratively by the department. Valuations older than 24 months shall have to be re-done.

11.5.5.7 All rentals to be payable in advance on signing of the agreement and thereafter on the first day of the month, but not later than the 7th day of the said month for leases payable monthly, or annually in advance for those cases to be paid annually.

This Section must be read in conjunction with Section 10.6 above.

11.5.6. Annual escalation of rental amounts

11.5.6.1 Unless expressly otherwise indicated, all Lease Agreements shall be subject to an annual escalation to be determined by the Municipal Manager or his delegatee. Such rate shall be determined prior to the conclusion of the Lease Agreement at a fixed percentage for the duration of the lease period.

11.5.6.2 The Real legal unit shall however, have the discretion to review the annual escalation percentage in respect of long term Lease Agreements at three (3) yearly intervals during the lease period.

11.5.7. Non-Payment of Rental

11.5.7.1 All Lessees who are in default with regards to the payment of their monthly or annual rental will be dealt with in terms of the Council's Credit Control and Debt Collection processes.

11.5.7.2 The Legal unit will in instances where an Organ of State does not honour its rental obligations address such non-performance in terms of the Intergovernmental Relations Framework Act, Act 13 of 2005.

11.5.8. Payment of Costs Incurred

Lease Agreements entered into requires the Municipality to incur costs in respect of:

Valuations to determine market related rental tariffs, where necessary and advertising costs

11.5.8.1 In instances where the Municipality takes the initiative to advertise identified land parcels for letting purposes, the Municipality shall be responsible for all costs pertaining to the advertisement and valuation of such land parcels.

11.5.8.2 The applicant may be required to pay application fees as per tariffs

11.5.8.3 Should it be required that the permissible land use rights need to be amended to accommodate the proposed land use/s, the Lessee shall be responsible to appoint the necessary consultants to finalise all the relevant applications to acquire the land use rights at their own cost, which the Municipality will not reimburse.

11.5.8.4 In such instances the lease shall commence only after the Lessee has met all the applicable suspensive conditions imposed by any of the Municipality's user departments with the understanding that the Property is NOT occupied or used by the Lessee until the necessary approvals have been granted.

11.5.8.5 All Lessees shall (if required) be responsible for the payment of connection fees in respect of any municipal services required.

11.5.9. Payment of interest on outstanding rental balances

11.5.9.1 The Lessee shall be responsible for the payment of all outstanding rental balances. The applicable interest shall be calculated at a rate specified in the applicable schedule - Tariffs for Financial Services and will be charged per month or part thereof on all arrear balances.

11.5.9.2 No Lease Agreement shall be entered into unless the Lessee has submitted proof to the effect that his/her current municipal account in respect of municipal services as well as rental charges pertaining to any property leased from Mphashe Municipality, are up to date.

11.5.10. Payment for the consumption of municipal services

11.5.10.1 Lessees in respect of single leased properties shall be required to pay for the consumption of municipal services, i.e. electricity, water, sewerage, refuse removal etc. Copies of all Lease Agreements entered into by the Legal Unit will be provided to the Finance Department to open services accounts in name of Lessees. The Relevant units within the Municipality shall be responsible for the reading of the relevant meters, the invoicing and collection of outstanding monies from the Lessee in respect of the services consumed.

11.5.10.2 In instances where multiple Lessees occupy the same leased premises, the Finance Department may in conjunction with the relevant engineering services departments calculate a pro-rata amount in respect of the consumption of municipal services which each Lessee shall be required to pay in addition to the calculated monthly or annual rental. Where separate meters can be installed, such may be provided for each tenant.

11.5.11. Payment of a rental deposit

11.5.11.1 The Lessee shall be responsible for the payment of a deposit that will be determined by the valuers within the legal office section.

11.5.11.2 Any Lessee who has breached any clause contained in the relevant Lease Agreement, shall forfeit the deposit or such proportionate part thereof taking into consideration the costs incurred by the Municipality to rectify the breach.

11.5.12. Improvements to Municipal Property and buildings by the Lessee

11.5.12.1 No improvements may be made to Municipal immovable property unless permission for such improvements has been obtained from the accounting officer or his delegatee as the duly delegated authority of the Landlord. All proposed improvements shall be submitted to and considered by the building control sub unit and all relevant departments for approval.

11.5.12.2 Apart from the above, all improvements may only be made once the relevant building plans have been approved by the building control unit in terms of the National Building Regulations and Building Standards Act, 103 of 1977.

11.5.12.3 Any improvements to the Municipality's immovable property effected by the Lessee and which Council wishes to retain shall revert to Council free of compensation at the expiry of the Lease Period or on the termination of the Lease Agreement. Where such improvements are not required by Council, the Lessee shall at its own cost remove such improvements to the satisfaction of the Council, unless agreed otherwise by both parties.

11.5.13. Re-instatement of the Leased Property

11.5.13.1 Lessees may be required, at their cost, to re-instate the Property, or the portion thereof leased, to the condition it was at the time of occupation, fair wear and tear excepted. Mbhashe reserves the right to re-instate the leased Property and recover all costs incurred from the Lessee.

11.5.14. Insurance of Leased Property

11.5.14.1 By default, Municipality shall be responsible for the insurance of all leased premises and any improvements thereon, although exceptions may be negotiated, for example long term leases. Insurance premiums may be recovered from the Lessee either in full if the Lessee is the only occupant of the Property, or on a pro- rata basis if multiple Le

11.5.15. Letting of Immovable Property required by business units within the Municipality

11.5.15.1 The legal office May assist in reserving those immovable assets required by any business unit to render the minimum levels of municipal services. In the event that a property is not immediately required by any Business unit within the Municipality, the legal unit may negotiate short term Lease Agreements in respect of such immovable property.

11.5.15.2 Any Lease Agreement entered into in respect of immovable assets required by any Municipal department shall include an early termination clause, which will allow the termination of the Lease Agreement following three months' written notice to the Lessee.

11.5.16. Authority to decline applications or to terminate Lease Agreements prior to the lease expiry date

11.5.16.1 The Municipality Manager or his delegatee is in terms of this Policy duly authorised to decline lease applications that do not fulfil requirements laid out in this Policy or in the lease agreement

11.5.16.2 In the event that a Lessee has not met his/her/its contractual obligations in terms of the relevant Lease Agreement and therefore is in breach of contract, Municipal Manager shall have the mandate to terminate such Lease Agreement prior to the lease expiry date.

11.5.17 Permission to Occupy/Beneficial Occupation

11.5.17.1 The accounting officer shall have the discretion to, under certain circumstances, to permit an applicant of municipal owned Property to occupy the said Property prior to the Lease Commencement Date.

11.6 Site Inspections

11.6.1 All properties leased must be inspected by the Legal Unit or the relevant custodian department to ensure compliance with the terms and conditions of the Lease Agreement. Over and above this, the Municipality reserves the right to gain access to and inspect the premises at any point in during the period of the lease.

11.7 Records management

11.7.1 The original Lease Agreement shall be scanned by the legal Unit or be kept in the relevant file for that particular property by the sub-unit of the custodian department.

11.8 Payment and evictions

11.8.1 Payment of rental fees shall be in accordance with the signed Lease Agreement and in the event of non-payment, appropriate measures shall be taken. Action taken by the Municipality ranges from letters of demand and to notice to vacate. Should the Lessee refuse or fail to vacate, or lodge a dispute or a notice to object, an application to evict may be lodged.

11.9 Lease expiry and re-applications

11.9.1 Lease Agreements with existing Lessees of Immovable Properties may be re- negotiated where the Municipal Manager or his delegatee is of the opinion that public competition would not serve a useful purpose. In such instances, a new lease with new lease terms may be entered into between the Lessor and Lessee and the applicable rental payable will be determined by way of a market valuation. The process to enter into a new lease agreement shall commence during a reasonable period prior to the Lease End Date.

11.9.2 No new Lease Agreement(s) shall be entered into unless all fees payable in respect of the leased property are paid up to date.

11.10 Payment of an Application Fee

11.10.1 All persons, companies, organisations, clubs etc. who apply to lease any immovable property or portion thereof owned by the Municipality may be required to pay a predetermined application fee determined by Council by means of tariffs, which fee would be adjusted annually.

12. REVIEWAL

The policy shall be reviewed annually or when there is a change in legislation.