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## Rates Remissions and Postponements Policy

### Policy objectives and scope

1. To have a rating system which:
  - Appropriately spreads the incidence of rates.
  - Provides sufficient revenue to cover costs.
  - Complies with relevant legislation.
  - Is transparent to the ratepayer and promotes accountability.
2. Rates remissions modify the rates liability on particular rating units in order to ensure an appropriate rate liability.
3. Postponements allow for the delay in payment of rates in certain specific circumstances.
4. Council must comply with the requirements of the Local Government Act 2002 (LGA) and the Local Government (Rating) Act 2002 (LGRA).

### Remissions policy guidelines

#### General

5. All rates remissions are deducted from the rates assessment when the rates are assessed at the start of each rating year.
6. All applications, where applicable, for rates remissions must be received one month prior to the rates being assessed. Remissions received after this date will be applied to the following financial year (except for penalty and natural calamity or disaster remissions). Rates remissions are not made retrospectively.
7. All references to the remission of the general rate shall also apply to the transitional rate.

#### Not-for Profit Community Organisations

8. Council applies the rules of Schedule 1 of the Local Government (Rating) Act 2002 and extends these provisions to not-for-profit community organisations.

9. These organisations must deliver social benefits to the community where neither government nor business is best or appropriately placed to do so. An application for rating relief from this remission is required and is available on Council's website.
10. Where there is multi-use on a property, a division of the rating unit will be undertaken for rating purposes.
11. The policy is:
  - That these rating units will have all rates remitted except for water, refuse and sewerage services supplied.
  - Water, refuse and sewerage rates will be charged as targeted rates to 100% non-rateable rating units.

#### **Conditions and Criteria**

12. A qualifying not-for profit community organisation is defined as:
  - The organisation must be either a registered Charitable Trust or an IRD approved donee organisation.
  - The organisation and anyone using the organisations property must not be operating any activity for private profit.
  - The organisation must deliver social benefits as a substantial part of its activities.
  - The organisation must complete and provide all information requested on the application form and respond to any further enquiry for information to support the application.
  - New remission will be approved in public meeting by the Finance Committee.
  - As annual declaration form is required to be completed confirming that the organisation still occupies the property and meets the purpose of this policy.

#### **Penalties Remission**

13. The objective of this policy is to consider requests for remission of penalty charges on rates.

#### **Conditions and Criteria**

14. Council's policy is that rates penalties may be remitted under the following criteria:
  - Remission may be granted where payment has been received after the date fixed for imposition of a penalty charge, provided that none of the previous four instalments were similarly received late.
  - Remission may be granted where a ratepayer either:
    - Makes satisfactory arrangements for regular and substantial reduction of arrears. (These arrangements are to include the remission of penalty charges as long as such arrangements are fully met); or,
    - provides sufficient information which, if considered genuine and if substantiated with reasonable excuse for late payment, would justify remission for late penalty charges,
15. The practice of a penalty for non-payment of rates by due date is an accepted standard practice for local authorities and delay in mail delivery does not constitute justification for remission.
16. A written application for remission is required if the request does not meet the above criteria.

## Hardship Relief

17. The objective of this policy is to receive and consider applications for rates remission in the cases of extreme financial hardship.

### Conditions and Criteria

18. Council will remit part of the rates owing on a rating unit in cases of extreme hardship. Council has approved the following criteria for determining the application of this policy:
- Ratepayers must apply to Council in writing to be considered for a remission.
  - The maximum remission is \$447 - (updated 1 July 2015).
  - The maximum remission amount to be increased by the average percentage general residential rates increase annually.
  - The application will be assessed independently from the Government Rates Rebate Scheme.
  - For the purposes of calculating the remission the basic allowable income factor is set at \$22,858 - (updated 1 July 2015).
  - The income threshold level will be adjusted by the annual percentage change in the Super Living Alone benefit payment each year.
  - The following essential elements must be met before any remission is granted:
    - The applicant must be the owner of the rating unit, must reside at the property and the property must be classified as a residential rating category. Companies, trusts and other similar ownership structures of these properties do not qualify for this remission;
    - Council must be satisfied that extreme financial hardship on any individual exists or would be caused by requiring payment of the whole or part of the rates;
    - the applicant must declare total household income and their total financial position for the purposes of the remission calculation;
    - the applicant's total assets must not exceed the "total assets" formula described in the Postponement due to Financial Hardship Policy;
    - all applications for rates remission be treated on a case-by-case basis and approved/declined by either the Chief Financial Officer or Revenue Manager;
    - Council shall consider whether postponement of rates is a more suitable option.

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## Property affected by Natural Calamity or Disaster

19. The objective of this policy is to enable rate relief to be provided to assist ratepayers experiencing extreme financial hardship due to a calamity or natural disaster that affects their ability to pay rates.

### Conditions and Criteria

20. Remissions approved under this policy do not set a precedent and will be applied only for each specific event and only to properties affected by the event.
21. Council may remit all or part of any rate on any rating unit where the application meets the following criteria:
- Where erosion, subsidence, submersion or other natural calamity or disaster has affected the use or occupation of any rating unit.
  - It is applicable for each single event and does not apply to erosion, subsidence or other incidences that may have occurred without a recognised major natural calamity or disaster.

- Council can set additional criteria for each event where it considers it to be fair and reasonable to do so. This is because the criteria may change depending on the nature and severity of the event and available funding at the time. Council may require financial or other records to be provided as part of the remission approval process.
- The extent of any remission shall be determined by Council on a case-by-case basis.

### **Organisation with Club Liquor Licence**

22. The objective of this policy is to ensure sporting clubs and organisations that are entitled under Schedule 1, Part 2, Local Government (Rating) Act 2002 to a remission of 50% of residential rates. However the Local Government (Rating) Act 2002 excludes land, in respect of which a club licence under the Sale and Supply of Alcohol Act 2012 is for the time being in force, from receiving the 50% non-rateable status.
23. It is difficult to determine the portion of the property to which the liquor licence applies. A further consideration is that often the liquor licence is not held to generate profit but helps to cover the operating costs of the sporting club or organisation.

### **Conditions and Criteria**

24. To ensure consistency, sporting clubs and organisations which hold a club liquor licence, may be eligible for the 50% remission if they meet the following criteria:
  - The club or organisation must qualify as 50% non-rateable under Schedule 1, Part 2, Local Government (Rating) Act 2002.
  - The club or organisation must not operate for private pecuniary profit.
  - The club or organisation must hold the liquor licence as an incidental activity to the primary purpose of occupancy.
  - The restaurant, bar and gaming machines area for Chartered Clubs are excluded from this remission and will be rated at the full commercial rating.
  - The club or organisation will be required to complete a yearly statutory declaration confirming that they meet the condition and criteria under the policy.
  - Council may remit 50% of the rate levied in respect of the land relating to the liquor licence where it considers it to be fair and reasonable to do so.

### **Hardship Relief for 100% Non-Rateable Community Organisations (Needs Based)**

25. The objective of this policy is to facilitate the ongoing provision of the Community Organisations (Needs Based) and their services to the residents of Hamilton City where the charging of the full targeted rate for water, sewerage and refuse may affect the Community Organisations (Needs Based) viability.

### **Conditions and Criteria**

26. Council may remit up to 40% of the targeted rates levied for water, wastewater and refuse in respect of the rating unit, where the application meets the following criteria, and where it considers it to be fair and reasonable to do so:
  - Organisations must not operate for private pecuniary profit.

- Organisations must not receive any funding from government agencies or have any contracts for fee for service with government agencies.
  - Organisations must operate on a voluntary basis and have no full-time or part-time paid employees or contractors operating in this capacity.
  - The cost of the full targeted rates for water, wastewater and refuse will cause the Organisations extreme financial hardship and/or cause the organisation to operate at a financial deficit.
27. Organisations (Needs Based) must provide the following documents with their application:
- Statement of Objectives
  - Constitution or Trust Deed
  - Full financial accounts
  - Information showing extreme financial hardship and operating position
  - Information on activities and programmes
  - Information on funding sources
28. Each application shall be determined by Council on a case-by-case basis.
29. Applications for this remission must be made annually by the Community Organisation (Needs Based).

### **Hardship Relief for 50% Non-Rateable Sporting and Cultural Organisations**

30. The objective of this policy is to facilitate the ongoing provision of the Sporting and Cultural Organisations and their services to the residents of the City where the charging of rates may affect the Sporting and Cultural Organisations viability. Council will remit general and transitional rates up to an amount, so that the amount payable is equivalent to the rates on the water, sewerage and refuse services the property receives.

#### **Conditions and Criteria**

31. The application must meet the following criteria and conditions to qualify for the above remissions:
- Organisations must not operate for private pecuniary profit.
  - Organisations must not receive any funding from government agencies or have any contracts for fee for service with government agencies.
  - Organisations must not hold a liquor licence under the Sale and Supply of Alcohol Act 2012.
  - Gross annual income of the organisation must be less than \$600,000.
  - Organisations must operate on a voluntary basis and have no full-time and part-time paid employees or contractors operating in this capacity.
  - The charge of 50% of the general rate will cause the organisation extreme financial hardship and/or cause the organisation to operate at a financial deficit.
32. Organisations must provide the following documents with their application:
- Statement of Objectives
  - Constitution or Trust Deed
  - Full Financial Statements
  - Information showing extreme financial hardship and operating position
  - Information on activities and programmes
  - Information on funding sources

33. Each application shall be determined by Council on a case-by-case basis.
34. Applications for this remission must be made annually by the Sporting and Cultural Organisation.

### **Community Organisation with Retail Shops**

35. The objective of this policy is to facilitate the on-going provision of the Community Organisation (Needs Based) and their services to the residents of Hamilton. The remission is to acknowledge the benefits these community groups deliver to the city by way of helping those in need and supplying low cost items to the community.

#### **Conditions and Criteria**

36. The applicant must be a legally constituted charitable trust or incorporated society not for profit which delivers social benefits to the community where neither government nor business is best or appropriately placed.
37. The community retail shops will be rated at full commercial rates with a remission of 50%.

### **Council Owned Property**

38. The objective of this policy is to be administratively efficient by minimising unnecessary, uneconomic transactions by removing rates transactions for some Council owned properties. Council rates all its rateable properties but remits the rates on those properties that are used for non-commercial purposes. Commercial or investment properties are rated on the same basis as the private sector.

#### **Conditions and Criteria**

39. The following Hamilton City Council owned properties are considered to be non-commercial in their use and will attract 100% rates remission.
  - Properties classified as community assets.
  - Administrative buildings.
  - Infrastructural assets for transport, water, sewerage, storm water, and solid waste management.
  - Sports facilities (including Waikato Stadium).
  - Claudelands.
  - Carparks (when no fee is charged).

### **Water, Sewerage and Refuse Services**

40. The objective of this policy is to not charge rating units for water, sewerage or refuse collection services when Council has not made that service available to the rating unit.

#### **Conditions and Criteria**

41. A service is not available when the water supply or sewerage networks or refuse collection is not able to be connected or provided to the property for physical reasons.

42. The remissions are as a rate in the dollar of capital and land value to recognise that portion of the general and transitional rate that is to be remitted.
43. The rate in the dollar is calculated by taking the percentage that each of water, sewerage and refuse collection services are of the general and transitional rate for each differential category.
44. No applications are required.

### **Change of Use – Commercial to Residential**

45. The objective of this policy is to adjust the rates on Commercial properties to residential rates where the property has changed use part way through the financial year.

### **Conditions and Criteria**

46. Show homes:
  - Show homes are rated commercial rates.
  - Where a show home is sold for residential use Council will calculate the difference in the commercial and residential rate from the next instalment after Council was notified in writing of the change of use.
  - The difference between the commercial and residential rate will be remitted from the rates for the remaining portion of the year.
47. Home occupation- Commercial:
  - Where a division has been created for a commercial activity in a residential property and that commercial activity has ceased and the property is reverted to full residential use Council will calculate the difference in the commercial and residential rate from the next instalment after Council was notified in writing of the change of use.
  - The property will be inspected to establish the criteria have been met.
  - The difference between the commercial and residential rate will be remitted from the rates for the remaining portion of the year.

### **Delegation**

48. The Chief Financial Officer or Revenue Manager may approve decisions on the application of the remissions policies unless stated otherwise within this policy.

### **Postponement policy guidelines**

#### **Rates Postponement - Postponement due to Financial Hardship**

1. The objective of this policy is to provide a measure of rating relief to property owners where the full payment of rates would otherwise cause financial hardship.
2. Section 110 of the Local Government Act 2002 and Section 87 of the Local Government (Rating) Act 2002 provides for Council to postpone rates in cases of extreme financial hardship. The "Act" provides the necessary authority to grant relief after Council's full enquiry and on being satisfied that financial hardship exists or would be caused by non-postponement. Postponed

rates are a charge against the property and must be paid either at the end of the postponement term or when the property is sold, whichever is the earlier.

3. All applications for postponement will be treated on a case-by-case basis and approved/declined by either the Chief Financial Officer or Revenue Manager.
4. Council has established base criteria against which the acceptability or otherwise of individual applications for rates postponement relief on grounds of hardship will be able to be judged. In Council's opinion, "hardship" may occur and a measure of relief may be able to be given when all of the following aspects are present:
  - The ratepayer is the property owner.
  - The property is used by the ratepayer as his or her permanent place of residence.
  - The property is used solely for residential purposes.
  - The ratepayer has not less than 25% equity in the property.
  - The total assets of the household are not more than those specified by the set formula The assessed rates which would otherwise be payable, when compared with the total gross annual income for the ratepayer's household, exceeds the appropriate figure as calculated on the application form.
  - For those property owners whose disposable income is too low to clear both arrears and current year's rates within a 24 month period, Council will consider the postponement of all or part of the arrears that would not be cleared within a two year time frame. An agreement to regularly pay a set amount to cover both current and the nominated amount of arrears is assumed. Each application will be considered on its individual merits.

#### **Total Assets Formula**

5. The total asset formula is:
6. No property owner(s) would be eligible for rates postponement relief if the total assets held exceed:
  - The property to which the application for rates postponement relief relates;
  - Normal household chattels;
  - A car;
  - Other assets of whatever nature (including cash and investments) with a total value of more than \$17,947 - (updated 1 July 2015, to adjust annually by CPI index).

#### **Household Income Formula**

7. The annual income formula proposed would have three elements to calculate the value of rates postponed:
  - **Initial Contribution**

It is suggested that an initial contribution towards the cost of rates is charged before any relief is calculated. This sum is likely to cover the cost of all utility services to residential properties calculated on a uniform charge basis. This amount is \$790 - (updated 1 July 2015).

The minimum rates payable figure is adjusted annually by the movement in the CPI.
  - **Additional Contribution**

It is also suggested that the ratepayer should pay at least one-third of the remainder due, i.e. one third of the amount by which the rates exceed the initial contribution payable by the ratepayer.
  - **Abatement**



Where the annual income is in excess of the household income limit, the postponed amount is reduced by \$1 for each \$20 of excess income. Council's current household income limit is \$16,980 - (updated 1 July 2015).

The household income limit is adjusted annually by the movement in the CPI and the updated figures are disclosed in the Annual Plan/Community Plan each year.

(The income limit before abatement applies is a 50% increase on Government income limits set for the Rates Rebate Scheme) and CPI adjusted since 1991 when the policy was first introduced.

The formula followed to establish the amount of postponed rates will be based on the above, combined with the general method used in the calculation of Government Rates Rebate.

### **Applications for Rates Postponement**

8. All applicants will be required to complete, in full, the application questionnaire annually. Staff will conduct an interview with the applicant, supported, where considered necessary, by advice and assistance from the Budget Advisory Service. It is proposed that the Deputy Chief Executive will make the decisions on eligibility for postponement under delegated authority from the Chief Executive.
9. The Deputy Chief Executive, Finance Manager and Revenue Manager may approve, in cases of extreme hardship, the postponement of rates in accordance with Section 110 of the Local Government Act 2002 and Section 87 of the Local Government (Rating) Act 2002, subject to regular reporting of decisions made under this delegation to the Finance & Audit Committee. When deciding that extreme financial hardship applies, consideration must be given to any guidelines approved by Council.
10. The financial circumstances of successful applicants will be reviewed each year during the period of postponement in order to ascertain whether the situation has changed. For this purpose it is likely that the application questionnaire and a declaration will be required annually.
11. If the financial circumstances of the person in receipt of rates postponement improves during the term that relief has been granted to the extent that the payment of rates in whole would not create a hardship, the remainder of the period of the postponed rates may be cancelled and the applicant could be required to pay all current rates, together with postponed rates and any accrued interest.

### **Process and Period of Postponement**

12. When an application for postponement is approved, it is suggested that the following provisions will apply:
  - Postponement will first apply in the year a completed application is received. The amount of rates postponed will not incur additional charges.
  - Instead of the Council requiring payment of the full annual rates bill in the year in which it falls due, the ratepayer will be required to pay to the Council the appropriate amount shown on the application form as the "Minimum Payment Scale". The balance of the total annual rates bill will be postponed.
  - Any rates postponed shall be registered as a charge on the land.
  - Interest may be charged annually on the postponed rates at 10% p.a. or at the same rate of interest that would be charged by the Council's bankers on any overdraft in the Council's name at the commencement of each rating year, whichever is less.

- The total amount of all postponed rates and charges will be postponed:
    - until the death of the property owner; or
    - until the applicant/occupier ceases to be the occupier (or one of the occupiers) of the land; or
      - until a date when the applicant/occupier ceases to:
        - use the property as his/her permanent place of residence; or to
    - use the property solely for residential purposes.
    - until a date upon which any of the statements certified by the applicant in the application for rates postponement are found to have been incorrect at the time they were made; or
    - until a date upon which all or any part of the rates due and owing by the property owner from time to time, and not postponed, become overdue - whichever occurs first.
13. In any case, rates postponement will be for a period of time not exceeding ten years from the date of application.

#### **Any Part of the Postponed Rates May be Paid at Any Time**

14. Notwithstanding the above:
- The applicant may elect to "postpone" the payment of a lesser sum than that which he/she would otherwise be entitled to have postponed under this policy.
  - Any part of the postponed rates and/or interest charges may be paid at any time.

#### **Ratepayers to be Given Details of Postponed Rates Each Year**

15. Not less than once annually every ratepayer, a part of whose rates have been postponed under this policy, will be provided with:
- a statement showing the total annual rates currently due;
  - a breakdown showing year by year the total amount of the postponed rates and interest charges.
16. Following the end of the financial year, a schedule of rates postponed will also be provided to Council (annually), listing all the properties for which rates postponements have been granted and which remain outstanding.
17. When rates are no longer eligible to be postponed on the property, all postponed rates will be payable immediately.

#### **Prescribed Application Form**

18. The prescribed application form for rates postponement relief under this policy is available from the Revenue Manager.

#### **Financing the Postponement Programme**

19. Adoption of this policy represents a formal recognition of a loss of cash flow (at least initially). However, once the programme has been in place a number of years, it might be expected that the collection of previously postponed rates will finance current applications.
20. To the extent of this programme's acceptance, it is proposed the current loss of income will be financed by Council's general cash resources and/or bank overdraft.

21. Note: This system complements the rates rebate programme and other schemes run by Government and voluntary organisations. The criteria regarding "household assets and income" have remained at the 1 July 1991 level, in line with the Government Rates Rebate Scheme having also been held at the levels applying at that date.

#### **Any Part of the Postponed Rates May be Paid at Any Time**

22. Notwithstanding the above:
- The applicant may elect to "postpone" the payment of a lesser sum than that which he/she would otherwise be entitled to have postponed under this policy.
  - Any part of the postponed rates and/or interest charges may be paid at any time.

## **Maori Freehold Land Policy Guidelines**

### **Rates Remission and Postponement on Maori Freehold Land**

The objective of this policy is:

- To recognise situations where there is no occupier or no economic or financial benefit is derived from the land and there is no practical means of enforcing the rates assessed.
- To grant remission, (where part only of a block is occupied), for the portion of land unoccupied and unproductive.
- To encourage owners or trustees to use or develop the land.
- Where the owners cannot be found, to take into account the statutory limitation of time for the recovery of unpaid rates.

Council's current policy is that a remission of all or part of rates may be granted in respect of rating units which are Maori freehold land in multiple ownership, where the land is both unoccupied and unproductive.

This policy addresses the requirements prescribed under Section 108 and Schedule 11 of the Local Government Act 2002 and Section 114 of the Local Government (Rating) Act 2002. Conditions and Criteria are available on the council website.

#### **Definitions**

The following definitions are taken from section 5 of the Local Government (Rating) Act 2002:

- Maori freehold land means land whose beneficial ownership has been determined by the Maori Land Court by freehold order.
- Maori freehold land in multiple ownership means Maori freehold land owned by more than five persons.
- Postponed rates means rates for which the requirement to pay is postponed.
- Remitted rates means rates for which the requirement to pay is remitted.

## SCHEDULE OF DELETIONS NOT PART OF POLICY

### ~~1.1 — Rating of 50% Non Rateable Land — General Description~~

~~Council applies the rules of Part 2 of Schedule 1 of the Local Government (Rating) Act 2002 where the land is 50% non rateable. The council will rate these properties at 50% of the residential general rate (mandatory rates). This funding covers all services of council. The conditions and criteria for application are available on the council website.~~

~~Where there is multi-use on a property, an apportionment of values will be undertaken for rating purposes.~~

Comment: Repeats the legislation for 50% non-rateable and is not a remission.

### ~~1.2 — Commercial Land Use in a Rural Location Remissions~~

~~The objective of this policy is to enable remission of part of the rates to a property where a commercial activity is operated in a rural location but do not receive all the council core services. Conditions and Criteria are available on the council website.~~

Comment: replaced by new water, sewerage and refuse remission.

### ~~1.3 — Residential Properties not receiving all core Infrastructure Services Remissions~~

~~The objective of this policy is to enable remission of part of the rates to a property where it is used for residential purposes but do not receive all the council's core infrastructure services. Conditions and Criteria are available on the council website.~~

Comment: replaced by new water, sewerage and refuse remission.

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