**IMBABAZANE MUNICIPALITY**

**(“The Municipality”)**

****

 **PROPERTY RATES POLICY**

**2016/17**

**INDEX**

**Page no.**

1. Preamble 3
2. Definitions 4
3. Fundamental Principles of This Policy 13
4. The Purpose of This Policy 13
5. Implementation of This Policy and Effective Date 14
6. Equitable Treatment of Ratepayers 14
7. Discretionary Decision Adopted By The Municipality With Respect

To Levying of Rates 15

1. Categories of Rateable Properties and Differential Rating 15
2. Categories of Rateable and Differential Rating 15
3. Amount Due for Rates 16
4. Relief Measures for Ratepayers 16
5. Relief Measure for Ownership Categories and use Categories 17
6. Exemptions 18
7. Correction of Errors and Omissions 19
8. Reduction in the Value of a Property 19
9. Rebates 20
10. Cost to the Municipality Due to Exemption, Reductions, and Rebates 23
11. Community Participation 23
12. Appointment of a Municipal Valuer 24
13. Valuation Rolls 25
14. Updating of Valuation Rolls 25
15. Recovery of Rates 25
16. Consolidation and Apportionment of Payments 26
17. Deferment of Rates 27
18. Constitutionally Impermissible Rates 28
19. Impermissible Rates in terms of Section 17 of the Act 29
20. Newly Rated Property 31
21. Legislative Context 32
22. Compliance Enforcement 32
23. Policy Adoption 32
24. **PREAMBLE**

**WHEREAS:**

The Council of the **Imbabazane Local Municipality** has resolved to levy rates on the market value of all rateable properties in its area of jurisdiction as reflected in its property register compiled in terms of section 23 of the Act in order to provide a reliable source of revenue to provide basic services and perform its functions.

The Municipality must in accordance with the provision of section 3 of the Act adopt a rates policy consistent with the Municipal Property Rates Act, 2004 (Act No. 6 of 2004) on the levying of rates in the Municipality.

Revenue raised from property rates will be used to fund services that benefit the community as a whole as opposed to individual households, and these services include, but are not limited, to the maintenance of streets, roads, sidewalks, lighting storm drainage facilities, municipal and recreation facilities, cemeteries as well as the municipal administration in general.

1. **DEFINITIONS**

Any words and phrases referred to in this policy shall have the same meaning and interpretation assigned in terms of the Municipal Property Rates Act 6 of 2004 (“the Act”) and for this purpose lists hereunder the definitions used in the Act.

 In this Act, unless the context indicates otherwise—

“act” means the Local Government Municipal Property Rates Act (Act 6 of 2004)

**"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 property that is used primarily for agricultural purposes but, without derogating from section 9 of the Act, excludes any portion thereof that is used commercially for the hospitality of guests, and excludes the use of the property for the purpose of eco-tourism or for the trading in or hunting of game;

**"annually"** means once every financial year;

**"appeal board"** means a valuation appeal board established in terms of section 56;

**"assistant municipal valuer"** means a person designated as an assistant municipal valuer in terms of section 35(1) or (2) of the Act;

**“business or commercial “**means

(a) Property used for the activity of buying, selling or trading in commodities or services and includes any office or other accommodation on the same property, the use of which is incidental to such activity;

(b) Property on which the administration of the business of private or public entities takes place;

(c) property used for the provision of commercial accommodation;

(d) property used for education purposes;

(e) Property used by the State or any organ of State; or

(f) Property excluded from any other category of property.

**"category" —**

(a) in relation to property, means a category of properties determined in terms of section 8 of the Act; and

(b) in relation to owners of properties, means a category of owners determined in terms of section 15(2) of the Act;

|  |  |
| --- | --- |
|  | **“commercial accommodation”** means lodging or board and lodging, together with domestic goods and services, in any house, flat, apartment, room, hotel, motel, Inn, guesthouse, bed & Breakfast, boarding house, residential establishment, holiday accommodation, student accommodation, unit, chalet, tent, caravan, camping site or similar establishment which is regularly or systematically supplied but excludes a dwelling supplied in terms of an agreement for letting and hiring thereof. |
| **C** | **“communal property”** means a property where there is a single registered cadastral holding and where the property is held or developed predominately for Rural Residential purposes and which may be used for multiple purposes including agricultural property, state occupied property, residential, rural residential and non-residential property, which, in the case of a property used for multiple purposes, the use will be assigned to a category of property, the value apportioned and rates levied accordingly, as contemplated in section 9 (2) of the Act.The Communal property’s land extent can vary and be adjusted according to deductions or the reinstatement of separate recognized property for rating due to the apportionment of values and adjustment of property. |
|  | **“Constitution”** means a body of fundamental principles or established precedents according to which our State is governed and as embodied and promulgated per Act 108 of 1996. |

“**Child headed household**” means a household recognized as such in terms of Section 137 of the Children’s Amendment Act 41 of 2007”

**"data-collector"** means a person designated as a data-collector in terms of section 36 of the Act;

**"date of valuation"** means the date determined by a municipality in terms of section 31(1) of the Act;

**“day”** means when any number of days are prescribed for the performance of any act, those days must be reckoned by excluding the first and including the last day, unless the last day falls on a Saturday, Sunday or any public holiday, in which case the number of days must be reckoned by excluding the first day and also any such Saturday, Sunday or public holiday;

**"district municipality"** means a municipality that has municipal executive and legislative authority in an area that includes more than one municipality, and which is described in section 155(1) of the Constitution as a category C municipality;

**“dominent use”** In relation to a property means a property used for more than one purpose subject to section 9 (1) (b) of the Act and the following criteria applies -

(a) A dominant use approach may be applied to developed property located within the area of an approved town planning scheme granted in terms of any planning law;

(b) The dominant use is the highest percentage use of all actual uses determined by gross building area;

(c) The dominant use category of property will then be applied to the levying of rates.

Dominant use may not be used for Communal property used for multiple purposes or property used for multiple purposes where there is a large surplus land component, or for property where there is a large surplus land component, or for property where there is rateable and non-rateable portions.

**"effective date"**—

(a) in relation to a valuation roll, means the date on which the valuation roll takes effect in terms of section 32(1) of the Act; or

(b) in relation to a supplementary valuation roll, means the date on which a supplementary valuation roll takes effect in terms of section 78(2)(b) of the Act;

**"exclusion",** in relation to a municipality's rating power, means a restriction of that power as provided for in section 17 of the Act;

**"exemption",** in relation to the payment of a rate, means an exemption granted by a municipality in terms of section 15 of the Act;

“**equitable treatment of ratepayers**” means the fair, just and impartial treatment of all ratepayers.

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

**"Income Tax Act"** means the Income Tax Act, 1962 (Act No. 58 of 1962);

**“indigent owner”** means the owner of property who has a permanent occupation of property and qualifies for indigent relief in terms of municipality’s indigent policy. Such an owner may not own more than one property within the municipal jurisdiction.

 **“industrial”** means property used for a branch of trade or manufacturing, production, assembly or processing of finished or partially finished products from raw material or fabricated parts in respect of which capital and labour are involved, and includes –

 (a) The production of raw products on the property;

 (b) The storage and warehousing of products; and

 (c) Any office or other accommodation on the same property the use of which is incidental to such activity.

**"land reform beneficiary",** in relation to a property, means a person who—

(a) acquired the property through—

(i) the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993);

or

(ii) the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994);

(b) holds the property subject to the Communal Property Associations Act, 1996 (Act No. 28 of 1996); or

(c) holds or acquires the property in terms of such other land tenure reform legislation as may pursuant to section 25(6) and (7) of the Constitution be enacted after this Act has taken effect;

**"land tenure right"** means a land tenure right as defined in section 1 of the Upgrading of Land Tenure Rights Act, 1991 (Act No. 112 of 1991);

**"local community",** in relation to a municipality—

(a) means that body of persons comprising—

(i) the residents of the municipality;

(ii) the ratepayers of the municipality;

(iii) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the municipality; and

(iv) visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality; and

(b) includes, more specifically, the poor and other disadvantaged sections of such body of persons;

**"local municipality"** means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls, and which is described in section 155(1) of the Constitution as a category B municipality;

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

**"MEC** **for local government"** means the member of the Executive Council of a province who is responsible for local government in that province;

**"mining property"** means a property used for mining operations as defined in the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);

**"Minister"** means the Cabinet member responsible for local government;

**"multiple purposes",** in relation to a property, means the use of a property for more than one purpose, subject to section 9 of the Act;

**"municipal council"** or **"council"** means a municipal council referred to in section 18 of the Municipal Structures Act;

**"Municipal Finance Management Act"** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

**"municipal manager"** means a person appointed in terms of section 82 of the Municipal Structures Act;

**"Municipal Structures Act"** means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

**"Municipal Systems Act"** means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

**"municipal valuer" or "valuer of a municipality"** means a person designated as a municipal valuer in terms of section 33(1) of the Act;

**"newly rateable property"** means any rateable property on which property rates were not levied before the end of the financial year preceding the date on which this Act took effect, excluding—

(a) a property which was incorrectly omitted from a valuation roll and for that reason was not rated before that date; and

(b) a property identified by the Minister by notice in the *Gazette* where the phasing-in of a rate is not justified;

**"occupier"**, in relation to a property, means a person in actual occupation of a property, whether or not that person has a right to occupy the property;

**"office bearer"**, in relation to places of public worship, means the primary person who officiates at services at that place of worship;

**"official residence"**, in relation to places of public worship, means-

(a) a portion of the property used for residential purposes; or

(b) one residential property, if the residential property is not located on the same property as the place of public worship,

registered in the name of a religious community or registered in the name of a trust established for the sole benefit of a religious community and used as a place of residence for the office bearer;

**"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;

(*bA*) in relation to a time sharing interest contemplated in the Property Time-sharing Control Act, 1983 (Act No. 75 of 1983), means the management association contemplated in the regulations made in terms of section 12 of the Property Time-sharing Control Act, 1983, and published in Government Notice R327 of 24 February 1984;

(*bB*) in relation to a share in a share block company, the share block company as defined in the Share Blocks Control Act, 1980 (Act No. 59 of 1980);

(*bC*) in relation to buildings, other immovable structures and infrastructure referred to in section 17(1)*(f)* of the Act, means the holder of the mining right or the mining permit;

(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 the following cases:

(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 curatorship;

(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

(viiA) a lessee, in the case of property to which a land tenure right applies and which is leased by the holder of such right; 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;

**“pensioner”** means a person that:

a) must be 60 years of age;

b) who is the sole owner of the property, or owner jointly with his/her spouse;

 c) does not own another property within the municipality.

**"person"** includes an organ of state;

**"place of public worship"** means property used primarily for the purposes of congregation, excluding a structure that is primarily used for educational instruction in which secular or religious education is the primary instructive medium: Provided that the property is—

(a) registered in the name of the religious community;

(b) registered in the name of a trust established for the sole benefit of a religious community; or

(c) subject to a land tenure right;

**"prescribe"** means prescribe by regulation in terms of section 83 of the Act;

“policy” means the property rates policy adopted by the Council in terms of section 3 (1) of the Act

**"property"** means—

(a) immovable property registered in the 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;

**"property register"** means a register of properties referred to in section 23 of the Act;

**"protected area"** means an area that is or has to be listed in the register referred to in section 10 of the Protected Areas Act;

**"Protected Areas Act"** means the National Environmental Management: Protected Areas Act, 2003;

**"publicly controlled"** means owned by or otherwise under the control of an organ of state, 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 Systems Act;

**"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 communications system serving the public;

(g) runways, aprons and the air traffic control unit at national or provincial airports, including the vacant land known as the obstacle free zone surrounding these, which must be vacant for air navigation purposes;

 (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) a right registered against immovable property in connection with infrastructure mentioned in paragraphs (a) to (i) of the Act;

**"public service purposes"**, in relation to the use of a property,means property owned and used by an organ of state as—

(a) hospitals or clinics;

(b) schools, pre-schools, early childhood development centres or further education and training colleges;

(c) national and provincial libraries and archives;

(d) police stations;

(e) correctional facilities; or

(f) courts of law,

but excludes property contemplated in the definition of "public service infrastructure";

**"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;

**"ratio",** in relation to section 19 of the Act, means the relationship between the cent amount in the Rand applicable to residential properties and different categories of non-residential properties: Provided that the two relevant cent amounts in the Rand are inclusive of any relief measures that amount to rebates of a general application to all properties within a property category;

**"rebate ",** in relation to a rate payable on a property, means a discount granted in terms of section 15 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;

**"register"**—

(a) means to record in a register in terms of—

(i) the Deeds Registries Act, 1937 (Act No. 47 of 1937); or

(ii) the Mining Titles Registration Act, 1967 (Act No. 16 of 1967); and

(b) includes any other formal act in terms of any other legislation to record—

(i) a right to use land for or in connection with mining purposes; or

(ii) a land tenure right;

**"residential property"** means a property included in a valuation roll in terms of section 48(2)(b)in respect of which the primary use or permitted use is for residential purposes without derogating from section 9 of the Act;

**"specified public benefit activity"** means an activity listed in item 1 (welfare and humanitarian), item 2 (health care) and item 4 (education and development) of Part 1 of the Ninth Schedule to the Income Tax Act;

**"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 land 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);

**"this Act"** includes regulations made in terms of section 83 of the Act.

**“vacant land”** means any unimproved vacant land, which is not agricultural property. Any vacant land outside the area of a scheme for which no development rights have been granted in terms of any planning law must be considered as agricultural property and valued accordingly. The value of vacant land must reflect:

(a) the highest and best use permitted by the scheme, including any consent granted in terms thereof, if the land is situated in the area of a scheme; or

(b) the highest and best use permitted in terms of a development approval, if the land does not form part of the area of a scheme, but development rights have been granted in respect of the land.

**All other terms** are used within the context of the definitions contained in the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004).

1. **FUNDAMENTAL PRINCIPLES OF THIS POLICY**

The principles of this Policy are to ensure that:-

* 1. the power of the Municipality to impose rates on property will not be exercised in a way that materially and unreasonably prejudices national economic policies, economic activities or national mobility of goods services, capital or labour in terms of Section 229 of the Constitution of the Republic of South Africa;
	2. all ratepayers, in a specific category of properties, as determined by the Council from time to time, will be treated equitably;
	3. property rates will be assessed on the market value of all rateable properties in the jurisdiction of the Municipality and for the purpose of generating revenue to balance the Municipal budget;
	4. property rates will not be used to subsidize trading and economic services;
	5. the rates income generated by the Municipality will take into account relief measures to address the social and economic needs of the community;
	6. this Policy will be developed and continuously reviewed in consultation with community and in compliance with a process of community participation in terms of Chapter 4 of the Municipal Systems Act.
1. **THE PURPOSE OF THIS POLICY**

The purpose of this Policy is to:-

* 1. comply with the provisions of Section 3 of the Municipal Property Rates Act, 2004 (Act no. 6 of 2004)
	2. give effect to the principles outlined above;
	3. determine the methodology and to prescribe procedures for implementation of the Act;
	4. determine criteria to be applied for the levying of deferential rates for different categories of properties;
	5. determine criteria for determination of categories of properties and categories of properties and categories of owners of properties;
	6. determine the criteria to be applied for granting exemptions, rebates and reductions;
	7. determine how the Municipality’s powers must be exercised in relation to multi-purpose properties:
	8. Determine measures to promote local economic and social development.
	9. Take into account the effect of rates on public service infrastructure.
	10. Identify which categories of properties the Municipality has elected not to rate as provided for in section 7 of the Act.
1. **IMPLEMENTATION OF THIS POLICY AND EFFECTIVE DATE**
	1. This Policy takes effect from **1 July 2016** being the effective and will accompany the Municipality’s budget for the financial year.
	2. This Property Rates Policy will be reviewed annually in terms of Section 22 and 23 of the Municipal Finance Management Act No. 56, 2003 ( Act No 56 of 2003).
	3. The Municipality will adopt by-laws to give effect to the implementation of its Rates Policy and such by-laws must be read in conjunction with this Policy. The rates by-laws may differentiate between:
		1. categories of properties; and
		2. Categories of owners of properties.
	4. The by-laws adopted in terms in terms of Item 5.3 may be reviewed annually, and if necessary be amended by the Municipal Council, in conjunction and in accordance with Rates Policy.
2. **EQUITABLE TREATMENT OF RATEPAYERS**
	1. The Municipality is committed to treating all ratepayers on an equitable basis. “Equitable” does not necessarily mean “equally” treatment of ratepayers. The circumstances of each category of owner category of property will be considered in a fair manner and within the limitations set out in the Act. The Municipality may adopt measures to ensure equitable and fair treatment of ratepayers.
	2. Any differentiation in levying rates will not constitute unfair discrimination.
3. **DISCRETIONARY DECISION ADOPTED BY THE MUNICIPALITY WITH RESPECT TO LEVYING OF RATES**

It is recorded that the Municipality has adopted the following resolutions:

* 1. To levy rates on all rateable properties in its area of jurisdiction.
	2. To determine the date of implementation as indicated above.
	3. To determine the date of general valuation as **1 July 2012**
	4. To levy different cents in the rand for different categories of rateable property.
	5. That the categories of properties for the purpose of differential rating to in 7.4 above are those specified in Appendix 1 attached hereto.
	6. That the criteria for the assessment of market value in terms of section 8(1) of the Act shall be actual use.
	7. Properties will be valued in terms of the dominant use of the measured building area of the property.
	8. To determine a market value for public infrastructure services that is identifiable on the basis of vacant land.
	9. To rate as part of public service infrastructure properties in the ownership of the District Municipality.
	10. Not to rate properties of which the Municipality is the owner except where leased to another party.
1. **CATEGORIES OF RATEABLE PROPERTIES AND DIFFERENTIAL RATING**

Differential rating is the levying of different rates for different categories of properties. The Municipality has resolved to levy differential rates for different categories of rateable properties are as resolved by the council in its tariff policy and gazette.

1. **CATEGORIES OF RATEABLE AND DIFFERENTIAL RATING**
	1. The Municipality will levy differential rated for different categories of rateable properties.
	2. For the purpose of the Act and in terms of Section 8 above, the categories of properties will be used for rating purposes and reflected in Appendix 1 attached to this Policy.
	3. The Municipality will not levy different rates on residential properties except s properties except as provided for in section 11, 21 and 89 of the Act.
	4. The Municipality will comply with the prescribed ratio in rating between residential and different non-residential categories of properties in terms of section 11 of the Act.
	5. Differential rating amongst the categories of properties will be by way of determining different cent amounts in the Rand for each categories of property.
2. **AMOUNT DUE FOR RATES**

The Municipality will, by resolution, as part of each annual operating budget process, determine a rate in the rand for every category of property. The rate in the rand may determine any increases in rates.

1. **RATES INCREASES**
2. The municipality will consider increasing rates annually during the budget process in line with national guidelines issued by National Treasury.
3. Consideration will include the limits to the annual increase in rates as prescribed by the National Minister, section 20(1)
4. All increases in property rates will be communicated to the local community in terms of the municipality’s policy on community participation through the budgetary process.
5. **RELIEF MEASURES FOR RATEPAYERS**
	1. The Municipality has considered:

12.1.1. the need to grant relief to certain ratepayers (including the poor) with a view to providing for appropriate measures to alleviate the impact of the rates burden on them.

* 1. The Municipality will only consider the grant of relief to those categories of owners or categories of properties who meet the requirements set out below.
	2. The Municipality will not grant relief in respect of the payment of rates other than by way of an exemption of, and a rebate on rates or reduction in the value of the property for rating purposes provided for in its rates policy and granted in terms of section 15 of the Act to:
		1. a category of owners as provided hereunder,
		2. a category of properties as provided hereunder,
	3. The Municipality will not grant relief to the owners of properties on an individual basis.
1. **RELIEF MEASURE FOR OWNERSHIP CATEGORIES AND USE CATEGORIES**
	1. RELIEF FOR OWNERSHIP CATERGORIES
		1. The Municipality has identified the following use categories of properties and ownership categories below for purpose of considering the granting of exemptions, rebates or reduction in terms of section 15 of the Act:
			1. indigent owners;

Criteria to be applied:

1. be the sole or joint owner of the property;
2. be living permanently on the property;
3. not own any other property;
4. qualifies as indigent in terms of the Municipality’s indigent support policy.
	* + 1. pensioners; criteria applicable; as definition in the Act
			2. owners temporarily without an income;
			3. owners of properties situated within an area affected by :
			4. a disaster within the meaning of the Disaster Management Act, 2002 (Act no. 57 of 2002)
5. any other serious adverse social or economic conditions,
	* + 1. the first R15 000 of the market value of the property assigned in the valuation roll or supplementary valuation roll for residential properties in terms of section 17(1)(h) of the Act;
			2. public benefit organizations who conduct the following specified public benefit activities:
6. welfare and humanitarian; or
7. health care; or
8. education; and
9. are registered in terms of the Income Tax Act for tax reduction because of the activities referred to in paragraph (f).
	* + 1. non-profit organizations registered in terms of Non-profit Organizations Act whose activities are that of a public and charitable nature as may be specified by the Municipality from time to time;
			2. minor children who are the head of a household as defined in child headed household;
			3. disabled persons;
			4. retirees;
10. **EXEMPTIONS**

**An exemption is a release from liability for the payment of rate.**

**EXEMPTIONS GRANTED TO CATERGORIES OF PROPERTIES**

**Impermissible rates**

* 1. The Municipality has exempted in total, from payment of rates the following categories of properties:
		1. Properties registered in the name of and used primarily as a place of public worship by a religious community including an official residence also registered in the name of that community, which is occupied by an office bearer who officiates at services at that place of public worship;
		2. All Municipal Properties excluding properties that are leased or rented;
		3. Parts of a special nature reserve, national park or nature reserve within the meaning of the Protected Areas Act which are not developed or used for commercial, business, agricultural or residential purposes, excluding buildings ancillary to the operation of the protected area.

 **EXEMPTIONS GRANTED TO CATERGORIES OF OWNERS OF PROPERTIES**

* 1. The Municipality has resolved to exempt from the payment of rates the following categories of owners of properties:
		1. Properties owned by public benefit organizations which are used for any use for any specific public benefit activities listed in Part 1 of the 9th Schedule to the Income Tax Act;
		2. Properties owned by owners registered as non-profit organizations.
	2. The Council shall on an annual basis review the rebates to each categories of ownership. The rebates will be granted automatically on an annual basis.
	3. The Municipality reserves the right to specify such other requirements relating to the granting of rebates as it deems necessary from time to time.
1. **CORRECTION OF ERRORS AND OMISSIONS**

 Where the rates levied on a particular property have been incorrectly determined, whether because of an error or omission on the part of the municipality or false information provided by the property owner concerned or a contravention of the permitted use to which the property concerned may be put, the rates payable shall be appropriately adjusted for the period extending from the date on which the error or omission is detected back to the date on which rates were first levied in terms of the current valuation roll.

1. **REDUCTION IN THE VALUE OF A PROPERTY**

**A reduction is the lowering of the value of the property upon which rates will be levied.**

* 1. It is recorded that the Municipality is precluded in terms of section 17(1)(h) of the Act from levying rates on the first **R15 000.00** of the market value of a property assigned in the valuation roll or supplementary valuation roll to a category determined by the Municipality:
		1. for residential properties; or
		2. for properties used for multiple purposes provided one or more

 components of the property are used for residential purposes.

* 1. The Municipality may decide to further reduce the value upon which rates will be levied in respect of residential properties.
	2. A reduction in the municipal valuation as contemplated in section 15(1)(b) of the Act will be granted on an ad hoc basis where the value of a property is affected by:
		1. a disaster within the meaning of the Disaster Management Act (Act 67of 2002; or
		2. the reduction will be in relation to a certificate issued for this purpose by the municipal valuer.
	3. any other serious adverse social or economic conditions considered by the Council as meritorious.
1. **REBATES**

**A rebate is a discount granted on the amount of rates payable by the ratepayers.**

**REBATES FOR USE CATEGORY AND OWNERSHIP CATERGORIES**

* 1. The Municipality will consider rebates to use categories and ownership categories below:
		1. Schedule of the use categories and ownership categories for which rebates will be considered:

|  |  |
| --- | --- |
| **Use Category** | **Rebate** |
| Residential | 40% |
| Commercial | 40% |
| State owned Properties (Public Service purpose) | 40% |
| Industrial | 40% |
| AgricultureSpecial provisions are available to agricultural rebates as per clause 14.5 of this Policy | 40% |
| **Category of Owners** |  |
| A pensioner | 40% |
| Retiree | 40% |
| Disabled persons | 40% |
| Indigent persons | 40% |
| Persons Temporarily without income | 40% |
| Any other serious adverse social or economic conditions | 100% |
| Health care institutions: Properties used exclusively as a hospital, clinic and mental hospital | 0 |
| Welfare institutions: Property used exclusively as an orphanage, non-profit old age home or benevolent institutions  | 40% |
| Educational institutions: Property belonging to or used by educational institutions declared or registered by law including crèches | 0 |
| Property used by an organization whose main purpose is to used the property for sporting purposes of a non-professional and non-profitable basis | 0 |
| Cultural institutions: Properties used for cultural activities by cultural organizations | 0 |
| Properties used institutions whose exclusive aim is to protect animals | 0 |
| Youth development Organisations: Property owned or used by organizations for the provision of youth leadership or development programmes | 0 |
| Properties used for short term accommodation for tourists(Hospitality industry) | 0 |
| Property used by an agricultural association that is affiliated to a provincial or national recognized agricultural union | 0 |

* 1. Organisations or institutions listed above will have to apply annually for relief on the prescribed from provided by the Municipality and will provide the following information:
		1. Registration as a non-profit organization that the property is used primarily for the specified public benefit activities and purpose of the organization
		2. Affidavit to the head of the organization that the property is used primarily for the specified public benefit activities and purpose of the organization
	2. In order to qualify for the rebates a pensioner, a retiree and a disabled person must
		1. be the owner of the property either solely or jointly;
		2. be living permanently on the property;
		3. provide proof of identity in the form of an identity document
		4. substantiate items 15.3.1 and 15.3.3 above by a way of a sworn affidavit before a Commissioner of Oaths;
		5. provide medical certificate as required by the Municipality if the application relies on a medical basis for rebate;
	3. any other supporting documents specified by the Municipality from time to time.
	4. The Municipality the criteria to be applied in respect of rebates on properties used for agricultural purpose, took into account:
		1. The extent of services provided by the Municipality in respect of such properties;
		2. The contribution of agriculture to local economy;
		3. The extent to which agriculture assists in meeting the service delivery and development obligations of the Municipality;
		4. The contribution of agriculture to the social and economic welfare of farm workers
	5. In considering the rebate for owners of agricultural properties who are bona fide farmers, the following guidelines are provided in the Regulations:

|  |  |
| --- | --- |
|  | **Percentage** |
| If the Municipality provides the following services, e.g. library, fire services, recreational facilities, emergency services out excluding trading services such as water, electricity, refuse and sanitation |  |
| The contribution the agriculture makes to the local economy |  |
| The provision of housing water, cemetery, electricity, recreational facilities to farm workers |  |
| Contribution by the agricultural sector to development obligation, e.g. farm schools, health/aid, adult education empowerment programmes.  |  |
|  |  |

* 1. In order to qualify for the rebates the applicant must apply in writing on the prescribed form substantiating compliance with the guidelines.
1. **COST TO THE MUNICIPALITY DUE TO EXEMPTION, REDUCTIONS,AND REBATES**
	1. The Municipal Manager, as determined in section 15(3) of the Act, will annually table in the Council of the Municipality the cost and benefit thereof to the community of all exemptions, rebates and reductions granted by the Municipality.
	2. All exemptions, rebates and reductions projected for a financial year will be reflected in the annual budget as income on the revenue side and expenditure on the expenditure side.
2. **COMMUNITY PARTICIPATION**

It is recorded that every municipality may only adopt its rates policy an amendment thereof or any review of its policy after following a process of community participation in accordance with chapter 4 of the Municipal System Act, 2000.

* 1. This Municipality will comply with its community participation and consultation obligation in terms of Chapter 4 of the Municipal Systems Act and Sections 4 and 5 of the Act before the Rates Policy or any review thereof is finally adopted. In terms of chapter 4 of the Municipal Systems Act, 2000 (Act No.32 of 2000)
		1. building the capacity of the local community to enable it to participate in the affairs of the Municipality; and
		2. to foster community participation for which the Municipality will allocate funds in its budget for such process.
	2. The Participation by the local community in Municipal affairs will take pride through the political structures; the mechanisms, processes and procedures for participation in municipal governance and other appropriate mechanism processes and procedures established by the Municipality and generally to apply the provisions for participation as required by the Act.
	3. The Municipality will provide:
		1. the receipt processing and consideration of petitions, objections and comments lodged by the members of the local community;
		2. public meeting and hearings by the municipal council and other political structures (e.g. ward committees) and political office bearers of the Municipality
		3. consultative sessions with locally recognized community organizations and where appropriate, traditional leadership
	4. Communication with the public relating to the Rates Policy will be in terms of section 4(2) of the Act by notice in:
		1. local newspapers circulating in its area and determined by this council as a newspaper of record; and/ or
		2. official notice boards and other public places accessible to the public including the library and the municipal offices;
		3. on the municipal websites (if applicable);and inviting the local community to submit comments and representations within the time specified in the notice.
1. **APPOINTMENT OF A MUNICIPAL VALUER**
	1. The Imbabazane Local Municipality shall appoint a Municipal Valuer in accordance with part 2 of Chapter 4 of the Act.
	2. The Municipal Valuer will be responsible for the valuation of property and preparation of a Valuation Roll for the District Management area according to the criteria determined in Chapter 5 and 6 of the Act.
2. **VALUATION ROLLS**
	1. A general valuation, of all the property in the District Management Area shall be done in accordance with part 1 of Chapter 4 of the Act.
	2. The valuation roll shall include all the properties valued and shall apply for a period of not more than four (4) financial years.
	3. The valuation roll shall take effect from the start of the financial year following completion of the public inspection period required by section 49 of the Act.
3. **UPDATING OF VALUATION ROLLS**

The Municipality shall update and, whenever necessary, cause a supplementary valuation to be made and make amendments to the particulars on the valuation roll in accordance with Chapter 8 of the Act.

1. **RECOVERY OF RATES**
	1. The following people shall be liable for the payment of rates levied by the Municipality:
		1. owner of a property;
		2. joint owners of a property, who shall be liable jointly and severally;
		3. the owner of a sectional title unit; and
		4. in relation to agricultural properties;
		5. any one joint owner of the agricultural property for all the rates levied on the agricultural property; or each individual joint owner for that portion of rates levied on the joint owner’s undivided share in the agricultural property, which ever option the Municipality may choose in relation to agricultural properties.
	2. In terms of Section 26 of the Act the Municipality will recover rates:
		1. on a monthly basis and must be paid on or before 07th day of the following month; or
		2. annually, as may be agreed with the owner of the property, on or before the 31st day of January in the financial year
	3. The Municipality will furnish each person liable for the payment of rates with a written account in terms of Section 27 of the Act.
	4. A Municipality may recover rates in arrears from tenants and occupiers in accordance with the provisions of Section 28 of the Act.
	5. The Municipality may recover rates due, either whole or in part, from the agent of the owner if this is more convenient for the Municipality and in terms of Section 29 of the Act.
2. **CONSOLIDATION AND APPORTIONMENT OF PAYMENTS**
	1. Separate accounts of persons liable for payment to the Municipality for either rates or services may be consolidated in one account and any appropriation of payments will be done in accordance with the Municipality’s credit control policy.
	2. Accounts to be furnished
		1. The Municipality will furnish each person liable for the payment of rates with a written account which will specify:
			1. the amount due for rates payable,
			2. the date on or before which the amount is payable
			3. how the amount was calculated
			4. the market value of the property
			5. the rate-randage applicable
			6. any form of relief, phasing-in of rates if applicable
	3. A person liable for payment of rates remains liable for such payment, whether or not such person has received a written account from the Municipality.

 If the person concerned has not received a written account, he/she must make the necessary enquiries with the Municipality

* 1. In the case of joint ownership the Municipality shall consistently, in order to minimize costs and unnecessary administration, recover rates from one joint owner only, provided that it takes place with the consent of the owners concerned.
	2. Where the rates levied on a particular property have been incorrectly determined, whether because of an error or omission on the part of the Municipality or false information provided by the property owner concerned or a contravention of the use category to which the property concerned may be put, the rates payable shall be appropriately adjusted for the period extending from the date on which error or omission is detected back to the date on which rates were first levied in terms of the current valuation roll.
	3. In addition where the error occurred because of false information provided by the property owner or as a result of a contravention of the use category of the property concerned, interest on the unpaid portion of the adjusted rates payable shall be levied at the maximum rate permitted by prevailing legislation.
	4. A property owner who submitted an appeal against the value of his/her property to the Valuation Appeal Board, remains responsible for the payment of the rates as calculated on the existing valuation roll until such time as the value might be adjusted. The owner will then be expected to either pay the additional rates if the property value is increased or will be refunded by the Municipality if the value is decreased. The payment or refund will be payable as from the commencement of the financial year.
1. **DEFERMENT OF RATES**
	1. The Municipality will on application defer the payment of rates in terms of section 26(3) of the Act under the following special circumstances;
		1. if a ratepayer is temporarily out of employment
		2. An applicant for deferment of rates shall substantiate his/her application with an affidavit confirming his/her employment status
	2. The Municipality will recoup deferred rates.
	3. Applicant must be made annually in writing on the prescribed form:
		1. not later than the final date for payment of such rates provided that the council may n special circumstances grant a deferment of the payment of rates after the final date for such payment notwithstanding that such application was made after such final date for payment;
	4. Deferment will be considered provided that total amount of all rates so deferred together with accumulated interest accumulated thereon shall not at any time exceed 50% of the value of the property concerned as shown in the valuation roll.
	5. The final date for payment of the rates on the property concerned shall not be affected by reason of any application for deferment in terms of sub-clause 22.2 above, provided that if the council allows such application, the portion of the rates in respect of which payment is deferred shall be refunded to the applicant.
	6. The accumulated amount of the deferred rates shall bear interest at a rate determined from time to time by the Council and the Council may also approve the waiver of such interest.
	7. Only the current year’s rates can be considered for deferment and then only if the applicant’s rates are not in arrears.
	8. Any deferment granted in terms of this Policy shall terminate immediately:
		1. upon the death of registered owner; provided that the Council may continue such deferment, in any case where it is established to its satisfied that the property concerned has been inherited by the surviving spouse and that such spouse is continuing in occupation of the property;
		2. upon the expropriation, sale or other disposal of the property concerned ;
		3. upon the owner ceasing to reside permanently on the property concerned;
		4. if the owner fails by the final date for the payment thereof, to pay rates or any part thereof owing in respect of the property concerned, after allowing for the amount of the deferment; and
		5. on expiry of the period of deferment.
2. **CONSTITUTIONALLY IMPERMISSIBLE RATES**
	1. The Act provides that in terms of Section 229(2)(a) of the Constitution a municipality may not exercise its power to levy rates on property in a way that would materially an unreasonably prejudice-
		1. national economic policies;
		2. economic activities across its boundaries; or
		3. the national mobility of goods, services, capital or labour.
3. **IMPERMISSIBLE RATES IN TERMS OF SECTION 17 OF THE ACT**
	1. It is recorded that the Municipality may not, in terms of section 17 of the Act levy a rate on:
		1. the first 30% of the market value of public service infrastructure;
			1. Section 35 of the Municipal Property Rate Amendment Act,2014 states that the prohibition on the levying of rates on public service infrastructure referred in section 17(1)*(a)* must be phased in over a period of five municipal financial years, with effect from the date of commencement of this Act.

(2) The rates levied on property referred to in subsection (1) must—

*(a)* in the first year, be no more than 80 per cent of the rate for that year otherwise applicable to that property;

*(b)* in the second year, be no more than 60 per cent of the rate for that year otherwise applicable to that property;

*(c)* in the third year, be no more than 40 per cent of the rate for that year otherwise applicable to that property;

*(d)* in the fourth year be no more than 20 percent of the rate for that year otherwise applicable to that property; and

*(e)* in the fifth year, be no more than 10 percent of the rate for that year otherwise applicable to that property.

* + 1. any part of the seashore as defined in the Seashore Act, 1935 (Act. No.21 of 1935)
		2. any part of the territorial waters of the Republic as determined in terms of the Maritime Zones Act, 1994 (Act No. 15 of 1994);
		3. any islands of which the state is the owner, including the Prince Edward islands referred to in the Prince Edward Islands Act, 1948 (Act No. 43 of 1948)
		4. those parts of a special nature reserve, national park or nature reserve within the meaning of the Protected Areas Act, or of a national botanical gardens within the meaning of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004), which are not developed or used for commercial, business, agricultural of residential purposes;
		5. mineral rights within the meaning of a “property” defined in the Act;
		6. a property belonging to a land reform beneficiary or his or her heirs, provided that this exclusion lapses ten years from the date on which such beneficiary’s title was registered in the office of the Registrar of Deeds;
		7. the first **R15 000.00** of the market value of a property assigned in the valuation roll or supplementary valuation roll of the Municipality to category determined by the Municipality.
			1. residential purposes;
			2. for properties used for multiple purposes, provided one or more components of the property are used for residential purposes; or
			3. on a property registered in the name of and used primarily as a for public worship by religious community, including an official residence registered in the name of that community which is occupied by an office-bearer of that community who officiates at services at that place of worship.
	1. The exclusion from rates of a property referred to in subsection 25.1.6 lapses if the declaration of that property as a special nature reserve, national park, nature reserve, park or botanical garden, or as part of such a reserve, park or botanical garden, is withdrawn in terms of the applicable Act mentioned in that subsection.
	2. If the property in respect of which the declaration is withdrawn is privately owned, the owner, upon withdrawn of the declaration, becomes liable to the Municipality concerned for any rates that, had not been for subsection 24.1.5, would have been on the property during the period commencing from the effective date of current valuation roll of the Municipality, rates are payable only from the date of declaration of property.
	3. The amount for which an owner becomes liable in terms of paragraph (b) must be regarded as rates in arrears, and the applicable interest on that amount is payable to the Municipality.
	4. Paragraph 25.3 and 25.4 apply only if the declaration of the property was withdrawn because of:
		1. a decision by the private owner for any reason to withdraw from the agreement concluded between the private owner and the state in terms of the Protected Areas Act, and in terms of which the private owner initially consented to the property being declared as a protected area; or
		2. a decision by the state to withdraw from such agreement because of a breach of the agreement by the private owner.
1. **NEWLY RATED PROPERTY**
	1. Any property which was not previously rated must be phased in subject to the conditions that:
		1. Property registered in the name of a land reform beneficiary must in after exclusion period in section 17(1)(g);
		2. Property owned by the Public Benefit Organization must be phased in over a period of four financial years provided that the Municipality may extend this period on written application to the MEC.
	2. The phasing in period shall be as set out in the attached table.

**Applicable Rates for properties to be phased in over four financial years**

|  |  |
| --- | --- |
| **Year** | **Percentage Rates Payable** |
| First | 75% |
| Second | 50% |
| Third | 25% |
| Fourth | ZERO% |

.

**Applicable rates for properties to be phased in over three financial years**

|  |  |
| --- | --- |
| **Year** | **Percentage Rates Payable** |
| First | 75% |
| Second | 50% |
| Third | 25% |

1. **LEGISLATIVE CONTEXT**
	1. This Policy is mandated by Section 3 of the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004), which specifically provides that a municipality must adopt a Rates Policy.
	2. In terms of Section 229 of the Constitution of the Republic of South Africa, 1996 (No.108 of 1996), a municipality may impose rates on property.
	3. In terms of the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004) a municipality in accordance with
		1. Section 2(1), may levy a rate on property in its area; and
		2. Section 2(3), must exercise its power to levy a rate on property subject to
			1. Section 229 and any other applicable provisions of the Constitution;
			2. The provisions of the Property Rates Act and any regulations promulgated in terms thereof; and
			3. The Rates Policy.
	4. In terms of Section 4 (1) (c) of the Local Government: Municipal Systems Act, 2000 (No. 32 of 2000), the Municipality has the right to finance the affairs of the Municipality by imposing, inter alia, rates on properties.
	5. In terms of Section 62(1) (f) (ii) of the Local Government: Municipal Finance Management Act, 2003 (No. 56 of 2003) the Municipal Manager must ensure that the Municipality has and implements a rates policy.
	6. This Policy must be read together with, and is subject to the stipulations of the Local Government: Municipal Property Rates Act, 2004 (No. 6 of2004), Amended Act and any regulations promulgated in terms thereof from time to time.
2. **COMPLIANCE ENFORCEMENT**

a) Violation of or non-compliance with this policy will give a just cause of disciplinary steps to be taken.

b) It will be the responsibility of Chief Financial Officer to enforce compliance with this policy.

1. **POLICY ADOPTION**

This policy has been considered and approved by the **COUNCIL**

**APPENDIX 1**

|  |  |  |  |
| --- | --- | --- | --- |
| **CATERGORIES OF PROPERTIES(Municipality to select applicable categories and add to the list if necessary)** | **REBATES** | **REDUCTION****& PHASING IN** | **EXEMTPION** |
| Farm Properties, including small holdings | 40% |  |  |
| State and Sate Trust Land including Ingonyama Trust Board Land | 100% |  |  |
| Communal Property Association | 40% |  |  |
| Municipal Public Service Infrastructure |  | 40% | 30% |
| Residential  | 40% |  |  |
| Vacant land-residential |  |  |  |
| State owned properties( Public Service Purposes) | 40% |  |  |
| **Non residential** |  |  |  |
| General Business Properties/ Commercial | 40% |  |  |
| Industrial | 40% |  |  |
| Conservation Area(NEMA) |  |  | 100% |
| Municipal owned properties |  |  | 100% |
|  |  |  |  |
| Properties:1. acquired through the Provision of Land and Assistance Act, 1993
2. which are subject to the Communal Property Association Act, 1996
 | 100% for the first 10 years |  |  |
| Formally Proclaimed Protected areas | 100% for the first 10 years |  |  |
| Properties on which National Monuments are proclaimed |  |  |  |