

# UMUZIWABANTU MUNICIPALITY



## DRAFT RATES POLICY

## I N D E X

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## CHAPTER 1

### INTERPRETATION

#### 1. Definitions

In this policy unless the context indicates otherwise – “**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 purpose**”, in relation to the use of a property, excludes the use of a property for the purpose of eco-tourism or for the trading in or hunting of game;

“**annually**” means once every financial year;

“**appeal board**” means a valuation appeal board establishment in terms of section 56 of the Municipal Property Rates Act.

“**assistant municipal valuer**” means a person designated as an assistant municipal valuer in terms of section 35(1) or (2) of the Municipal Property Rates Act;

“**category**” –

- (a) in relation to property, means a category of properties determined in terms of section 8 of the Municipal Property Rates Act and
- (b) in relation to owners of properties, means a category of owners determined in terms of section 15(2) of the Municipal Property Rates Act;

“**data collector**” means a person designated as a data-collector in terms of section 36 of the Municipal Property Rates Act,

“**date of valuation**” means the date determined by a municipality in terms of section 31(1) of the Municipal Property rates Act,

“**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 Municipal Property Rates 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 Municipal Property Rates Act:

**“exclusion”**, in relation to a municipality’s rating power, means a restriction of that power as provided for in section 17 of the Municipal Property Rates Act.

**“exemption”**, in relation to the payment of a rate, means an exemption granted by a municipality in terms of section 15 of the Municipal Property Rates Act,

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

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

**“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 the Municipal Property Rates Act has taken effect.

**“land tenure right”** means an old order right or a new order right as defined in section 1 of the Communal Land Rights Act, 2004;

**“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 organizations and non-governmental, private sector or labour organizations 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 Municipal Property Rates Act,

**“MEC for local government”** means the member of the Executive Council of a province who is responsible for local government in that province.

**“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;

**“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);

**“municipality”** -

- (a) as a corporate entity, means a municipality described in section 2 of the Municipal Systems Act; and
- (b) as a geographical area, means a municipal area demarcated in terms of the Local Government : Municipal Demarcation Act, 1998 (Act No. 27 of 1998);

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

**“Municipal Property Rates Act”** means the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004)

**“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 Municipal Property rates 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 the Municipal Property Rates 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;

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

**“owner”** –

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

provided that a person mentioned below may for the purposes of this policy 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
- (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;

**“person”** includes an organ of state;

**“prescribe”** means prescribe by regulation in terms of section 83 of the Municipal Property Rates 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 Municipal Property Rates 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 communications system serving the public;
- (g) runways or aprons at national or provincial airports;
- (h) breakwaters, sea walls, channels, basins, quay walls, jetties, roads, railway or infrastructure used for the provision of water, lights, power, sewerage or similar services of ports, or navigational aids comprising lighthouses, radio navigational aids, buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels;
  - (i) any other publicly controlled infrastructure as may be prescribed; or
- (j) rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a) to (i);

**“rate”** means a municipal rate or property on which a municipality may in terms of section 2 of the Municipal Property Rates Act levy a rate, excluding property fully excluded from the levying of rates in terms of section 17 of the Municipal Property rates Act,

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

**“reduction”**, in relation to a rate payable on a property, means the lowering in terms of section 15 of the Municipal Property Rates 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) of the Municipal Property Rates Act as residential;

**“Sectional Titles Act”** means the Sectional Titles Act, 1986 (Act No. 95 of 1986)'

**“sectional title scheme”** means a scheme defined in section 1 of the Sectional Titles Act;

**“sectional title unit”** means a unit defined in section 1 of the Sectional Titles 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)

## CHAPTER 2

### ESTABLISHMENT AND IMPLEMENTATION OF RATES POLICY

#### 2. **Legal requirements**

This policy is subject to the requirements of the Municipal Property Rates Act, 2004 (Act No. 6 of 2004) and the Municipal Systems Act, 2000 (Act No. 31 of 2000)

#### 3. **Objective**

3.1 In developing and adopting this rates policy, the Council has sought to give effect to the sentiments expressed in the preamble of the Municipal Property Rates Act, 2004 namely that;

- (a) the Constitution enjoins a local government to be developmental in nature, in addressing the service delivery priorities of our country and promoting the economic and financial viability of our municipalities;
- (b) there is a need to provide local government with access to a sufficient and buoyant source of revenue necessary to fulfill its developmental responsibilities;
- (c) revenues derived from property rates represent a critical source of income for municipalities to achieve their constitutional objectives, especially in areas neglected in the past because of racially discriminatory legislation and practices; and
- (d) it is essential that municipalities exercise their power to impose rates within a statutory framework which enhances certainty, uniformity and simplicity across the nation, and which takes account of historical imbalances and the burden of rates on the poor.

3.2 In applying its rates policy, the Council shall adhere to all the requirements of the Municipal Property Rates Act 2004, including any regulations promulgated in terms of that Act.

#### 4. **Adoption and contents of rates policy**

- 4.1 The Council must adopt a policy consistent with the Municipal Property Rates Act on the levying of rates on rateable property in the municipality.
- 4.2 A rates policy adopted in terms of paragraph 4.1 takes effect on the effective date of the first valuation roll prepared by the municipality in terms of the Municipal Property Rates Act and must accompany the municipality's budget for the financial year concerned when the budget is tabled in the municipal council in terms of section 16(2) of the Municipal Finance Management Act.
- 4.3 A rates policy must -
- (a) treat persons liable for rates equitably;
  - (b) determine the criteria to be applied by the municipality if it-
    - (i) levies different rates for different categories of properties;
    - (ii) exempts a specific category of owners of properties, or the owners of a specific category of properties, from payment of a rate on their properties;
    - (iii) grants to a specific category of owners of properties, or to the owners of a specific category of properties, a rebate on or a reduction in the rate payable in respect of their properties; or
    - (iv) increases rates;
  - (c) determine, or provide criteria for the determination of -
    - (i) categories of properties for the purpose of levying different rates as contemplated in paragraph (b)(i); and
    - (iii) categories of owners of properties, or categories of properties, for the purpose of granting exemptions, rebates and reductions as contemplated in paragraph (b)(ii) or (iii);
  - (d) determine how the municipality's powers in terms of section 9(1) of the Municipal Property Rates Act must be exercised in relation to properties used for multiple purposes;
  - (e) identify and quantify in terms of cost to the municipality and any benefit to the local community-
    - (i) exemptions, rebates and reductions;
    - (ii) exclusions referred to in section 17(1)(a), (e), (g), (h), and (i) of the Municipal Property Rates Act and
    - (iii) rates on properties that must be phased in in terms of section 21 of the Municipal Property Rates Act;

- (f) take into account the effect of rates on the poor and include appropriate measures to alleviate the rates burden on them;
- (g) take into account the effect of rates on organizations conducting specified public benefit activities and registered in terms of the Income Tax Act for tax reductions because of those activities, in the case of property owned and used by such organizations for those activities.
- (h) take into account the effect of rates on public service infrastructure;
- (i) allow the municipality to promote local, social and economic development; and
- (j) identify on a basis as may be prescribed, all rateable properties in the municipality that are not rated in terms of section 7(2)(a) of the Municipal Property Rates Act.

4.4 When considering the criteria to be applied in respect of any exemptions, rebates and reductions on properties used for agricultural purposes, a municipality must take into account-

- (a) the extent of services provided by the municipality in respect of such properties.
- (b) the contribution of agriculture to the local economy
- (c) the extent to which agriculture assists in meeting the service delivery and development obligations of the municipality; and
- (d) the contribution of agriculture to the social and economic welfare of farm workers.

4.5 Any exemptions, rebates or reductions referred to in paragraph 4.3 and provided for in the rates policy adopted by the Council must comply and be implemented in accordance with a national framework that may be prescribed after consultation with organized local government.

4.6 No municipality may grant relief in respect of the payment of a rate -

- (a) to a category of owners of properties, or to the owners of a category of properties, other than by way of an exemption, a rebate or a reduction provided for in its rates policy and granted in terms of section 15 of the Municipal Property Rates Act.
- (b) to the owners of properties on an individual basis.

## 5. **Community participation**

5.1 Before the Council of uMuziwabantu adopts the rates policy, the Council must –

- (a) follow a process of community participation in accordance with Chapter 4 of the Municipal Systems Act; and
- (b) comply with Sections 4 and 5 of the Act

5.2 The municipal manager must -

5.2.1 conspicuously display the draft rates policy for a period of at least 30 days -

- (a) at the municipality's head and satellite offices and libraries; and
- (b) on the municipality's official website,

5.2.2 advertise in the media a notice -

- (a) stating -
  - (i) that a draft rates policy has been prepared for submission to the council; and
  - (ii) that the draft rates policy is available at the municipality's head and satellite offices and libraries for public inspection during office hours and, on the municipality's official website; and
- (b) inviting the local community to submit comments and representations to the municipality within a period specified in the notice which may not be less than 30 days.

## 6. **Annual review of rates policy**

(a) The council of Umuziwabantu must annually review, and if necessary, amend, its rates policy. Any amendments to a rates policy must accompany the municipality's annual budget when it is tabled in the council in terms of section 16(2) of the Municipal Finance Management Act.

- (b) Section 3(3) to (6) of the Municipal Property Rates Act read with the necessary changes as the context may require, apply to any amendment of a rates policy. Community participation in amendments to a rates policy must be effected through the municipality's annual budget process in terms of sections 22 and 23 of the Municipal Finance Management Act.

7. **Bylaws to give effect to rates policy**

- (a) The Council of Umuziwabantu must adopt by-laws to give effect to the implementation of its rates policy.
- (b) By-laws in terms of paragraph 7(a) may differentiate between-
  - (i) different categories of properties; and
  - (ii) different categories of owners of properties liable for the payment of rates.

## **CHAPTER 3**

### **LEVYING OF RATES**

#### **8. Imposition of rates**

- (a) The Council shall as part of each annual operating budget component impose a rate in the rand on the market value of all rateable property as recorded in the municipality's valuation roll and supplementary valuation roll. Rateable property shall include any rights registered against such property, with the exception of a mortgage bond.
- (b) The Council pledges itself to limit as far as possible each annual increase over the period proceeding the financial year to which the increase relates. The Council shall, in imposing the rate for each financial year, take proper cognizance of the aggregate burden of rates and service charges on representative property owners, in the various categories of property ownership.

#### **9. Differential rates**

9.1 In imposing the rate in the rand for each annual operating budget component, the Council shall grant the following rebates to the categories of properties and categories of owners indicated below, but the Council reserves the right to amend these rebates if the circumstances of a particular annual budget so dictate.

9.1.1 Any exemptions, rebates or reductions granted and provided for in this rates policy, must comply and be implemented in accordance with a national framework that may be prescribed after consultation with organized local government.

9.1.2 The municipality may not grant relief in respect of the payment of rates to:-

(a) A category of owners of properties, or to the owners of a category of properties, other than by way of an exemption, rebate or reduction as provided for in its rates policy and granted in terms of section 15 of the Municipal Property Rates Act, or

(c) The owners of properties on an individual basis.



9.1.3 In determining whether a property forms part of a particular category indicated below the municipality shall have regard to the actual use to which the relevant property is put. In the case of vacant land not specifically included in any of the categories indicated below, the permitted use of the property shall determine into which category it falls.

<b><u>PROPERTY</u></b>	<b><u>REBATE</u></b>
(a) <b>Residential property</b>	
<ul style="list-style-type: none"> <li>• Residential properties or properties of any category used for multiple purposes where the residential component represents on average 90% or more of the property's actual use</li> </ul>	0%
(b) <b>Industrial property</b>	
<ul style="list-style-type: none"> <li>• Industrial properties</li> <li>• Industrial incentive scheme (In terms of Council's Industrial Incentive Scheme)</li> </ul>	0%
(c) <b>Business and commercial properties</b>	
<ul style="list-style-type: none"> <li>• Business and commercial properties</li> </ul>	0%
(d) <b>Farm property</b>	
<ul style="list-style-type: none"> <li>• Farm properties: residential component</li> <li>• Farm properties: business and commercial component</li> <li>• Farm properties: agricultural component</li> <li>• Farm properties: used for no purpose</li> </ul>	750% 75% 75% 75%
(e) <b>Smallholdings</b>	
<ul style="list-style-type: none"> <li>• Smallholdings: residential component</li> <li>• Smallholdings: business and commercial component</li> <li>• Smallholdings: industrial component</li> <li>• Smallholdings: agricultural component</li> </ul>	0% 0% 0% 75%
(f) <b>State-owned property</b>	
<ul style="list-style-type: none"> <li>• State-owned properties: residential</li> <li>• State-owned properties: public service infrastructure</li> <li>• State-owned properties: other</li> </ul>	0% 30% 20%
(g) <b>Municipal property</b>	
<ul style="list-style-type: none"> <li>• Municipal properties: residential</li> <li>• Municipal properties: public service infrastructure</li> <li>• Municipal properties: other</li> </ul>	100% 100% 100%

(h)	<b>District municipal property</b>	
	• Municipal properties: residential	0%
	• Municipal properties: public service infrastructure	0%
(i)	<b>Formal and informal settlements</b>	
	• Formal and informal settlements: all properties with a rateable value of up to R30 000,00	100%
(j)	<b>State trust land</b>	
	• Residential	100%
	• Hospitals, Clinics, Courts, Businesses and Other	75%
	• Public works	20%
(l)	<b>Protected areas</b>	
	• Protected areas	100%
(m)	<b>National monuments</b>	
	• Properties on which national monuments are situated, and where no business or commercial activities are conducted in respect of such monuments	100%
	• Properties on which national monuments are situated, but where business or commercial activities are conducted in respect of such monuments	100%
(n)	<b>Public benefit organizations</b>	
	• Properties owned by public benefit organizations and used to further the objectives of such organizations	100%

9.2 Properties used for multiple purposes, other than those referred to under residential properties above, shall be rated on the value assigned to each component, and shall receive the rebate applicable to such component. Where one component on average represents 90% or more of the property's actual use, such property shall be rated as though it were used for that use only.

9.3 The following categories of owners of residential properties shall additionally receive the following rebates on the rates due in respect of such properties after deducting the rebate applicable to residential properties:

9.3.1 \*Property owners who are both the permanent occupants and the sole owners of the property concerned and who are registered indigents in terms of the municipality's Indigent Support policy. 100% of the rates based on the rateable value.

9.3.2 \*Property owners who belong to one of the following categories:

(a) A ratepayer older than 60 years of age;

40% of the rates based on the rateable value above R30 000,00

(b) A bona fide pensioner under 60 years of age;

(c) A ratepayer under 60 years of age, but has been retired from employment by reason of illness or disability; and

9.4 The Council of Umuziwabantu grants the above rebates in recognition of the following factors:

(a) The inability of residential property owners to pass on the burden of rates, as opposed to the ability of the owners of business, commercial, industrial and certain other properties to recover such rates as part of the expenses associated with the goods or services which they produce.

(b) The need to accommodate indigents and less affluent pensioners.

(c) The service provided to the community by public service organizations.

(d) The value of agricultural activities to the local economy coupled with the limited municipal services extended to such activities, but also taking into account the municipal services provided to municipal residents who are employed in such activities.

- (e) The need to preserve the cultural heritage of the local community.
- (f) The need to encourage the expansion of public service infrastructure.

9.5 The Municipal Manager shall ensure that the revenues forgone in respect of the foregoing rebates are appropriately disclosed in each annual operating budget component and in the annual financial statements and annual report, and that such rebates are also clearly indicated on the rates accounts submitted to each property owner.

**9.6 Circumstances in which rebates will lapse**

- (a) Upon the death of the owner, except where the property concerned has been inherited by and occupied by the surviving spouse.
- (b) Upon the expropriation, sale or the disposal of the property.
- (c) Upon the applicant ceasing to reside permanently on the property concerned.
- (d) Failure to pay, by the final date, any rates due:-
  - (i) by virtue of the maximum allowable rebate mentioned above being exceeded; and
  - (ii) in circumstances where the applicant decides to pay any year's rates instead of applying for a rebate.

**9.8 Consequences of the lapsing of rebate**

- (a) The total amount deferred, including interest, becomes due to the municipality;
- (b) Should an applicant wish to apply for a rebate of rates, he/she may apply before the 31 August in any year;
- (c) Only properties with more than R2000, 00 outstanding in rates be sold in execution;

- (d) That with regard to pensioners who are in arrears with rates, the existing policy regarding the deferment of rates be extended to allow pensioners to defer their payments; and
- (e) That any ratepayer with his/her rates in arrears of less than R3000, 00 be allowed to enter into agreement to pay his/her current and arrear rates in monthly installments’.

#### 9.9 Amount due for rates

The rate levied by the municipality on property must be stated as an amount in the rand.

- (a) On the market value of the property;
- (b) In the case of public service infrastructure, on the market value of the public service infrastructure less 30% of that value.
- (c) In the case of property to which Section 17(1)(h) of the Municipal Property Rates Act applies, i.e. On the first R15 000, 00 of the market value of property assigned to a category determined for:
  - residential purposes; or
  - properties used for multiple purposes, provided one or more components of the property are used for residential purposes.

#### 9.10 Promulgation of resolutions levying rates

- (a) A rate is levied by a resolution passed by the Council with a supporting vote of a majority of its members.
- (b) The resolution levying the rates must be promulgated by publishing the resolution in the Provincial Gazette.
- (c) Whenever the municipality passes a resolution to levy rates, the Municipal Manager must, without delay, conspicuously display the resolution for a period of at least 30 (thirty) days at the municipality’s head and satellite offices and libraries, and on the municipality’s official website; and advertise in the media a notice stating that the resolution levying the property rates has been passed by the Council, and that the resolution is available at the municipality’s head and satellite offices and on the official website.

## 9.11 Exemptions, reductions and rebates

- (a) The municipality of Umuziwabantu may:-
- (i) exempt a specific category of owners of properties, or the owners of a specific category of properties, from payment of the rate levied on their property; or
  - (ii) grant to a specific category of owners, or to the owners of a specific category of properties, a rebate on or a reduction in the rates payable in respect of their properties.
- (b) In terms of section 8 of the Municipal Property Rates Act, 2004, exemptions, reductions or rebates are determined per Council resolution in respect of owners of properties of the following categories:-
- (i) indigent owners;
  - (ii) powers dependent on pensions or social grants for their livelihood;
  - (iii) owners of property situated within an area affected by a disaster or any other serious adverse social or economic conditions;
  - (iv) owners of residential properties with a market value lower than an amount determined by the municipality; and
  - (v) owners of agricultural properties who are bona fide farmers.
- (c) **The Municipal Manager must annually table in the council:**
- (i) a list of all exemptions, reductions and rebates granted by the municipality during the previous financial year; and
  - (ii) a statement reflecting the income which the municipality has forgone during the previous financial year by way of such exemption, reductions and rebates, exclusions referred to in the Act, and the phasing-in discount granted in terms of Section 21 of the Municipal Property Rates Act.

- (d) All exemptions, reductions and rebates projected for a financial year must be reflected in the municipality's annual budget for that year as income on the revenue side and expenditure on the expenditure side.

## **CHAPTER 4**

### **LIMITATIONS ON LEVYING OF RATES**

**10. Constitutionally impermissible rates**

The municipality may not exercise its power to levy rates on property in a manner that materially and unreasonably prejudices national economic policies, economic activities across its boundaries, or the national mobility of goods, services, capital and labour.

**11. Other impermissible rates**

The municipality may not levy a rate on:

- (a) the first 30% of the market value of public service infrastructure;
- (b) those parts of a special nature reserve, national park or nature reserve or national botanical garden which are not developed or used for commercial, business, agriculture or residential purposes;
- (c) mineral rights;
- (d) property belonging to a land reform beneficiary or his or her heirs, provided that this exclusion lapses 10(ten) years from the date on which such beneficiary's title was registered in the office of the registrar of deeds;
- (e) The first R15 000,00 is impermissible rate of the market value of a property assigned in the valuation roll or supplementary valuation roll to a category determined by the municipality for residential purposes or for properties used for multiple purposes, provided one or more components of the property are used for residential purposes; and
- (f) A property registered in the name of and used primarily as a place of public worship by a religious community, including an official residence registered in the name of that community which is occupied by an office bearer of that community and who officiates at services at that place of worship.
- (g) The Municipality of uMuziwabantu further give a rebate of R15 000.00 on the market value of Improved property assigned in the valuation roll or supplementary valuation roll of a municipality to a category determined by the municipality for residential properties

**12. Exemption of Municipalities from provisions of Clause 11**

The municipality may apply in writing to the Minister for Provincial and Local Government to be exempted from applying the exemptions granted in respect of



the first 30% of the market value of public infrastructure, the exemption on property belonging to land beneficiaries, and the exemption applying to the first R15 000,00 of the market value of residential and mixed use property, if the municipality can demonstrate that such exclusions are compromising or impeding its ability or right to exercise its powers or perform its functions within the meaning of the Constitution.

**13. Impermissible differentiation**

The municipality may not levy;

- (a) different rates on residential properties (except where transitional arrangements apply or where some of the properties are newly rateable);
- (b) a rate on non-residential properties that exceeds a prescribed ratio to the rate on residential properties;
- (c) rates which unreasonably discriminate between categories of non-residential properties; and
- (d) additional rates, except as provided for in Clause 16.

**14. Limits on annual increases of rates**

On written application by the municipality, and on good cause shown, the municipality may apply for exemption from the upper limit set by the Minister of Provincial and Local Government, on the percentage by which rates on properties or a rate on a specific category of properties may be increased.

**15. Compulsory phasing in of certain rates**

- (a) A rate levied on newly rateable property will be phased in over a period of three financial years. Similarly, a rate levied on property owned by a land reform beneficiary will, after the exclusion period has lapsed, be phased in over a period of three financial years.
- (b) A rate levied on a newly rateable property owned and used by organizations conducting specified public benefit activities will be phased in over a period of four financial years.
- (c) The phasing in discount on a property will:

- (i) in the first year, be at least 75% of the rate for that year otherwise applicable to that property;
  - (ii) in the second year, be at least 50% of the rate for that year otherwise applicable to that property; and
  - (iii) in the third year, be at least 25% of the rate for that year otherwise applicable to that property.
- (d) No rate will be levied during the first year on newly rateable property owned and used by organizations conducting public benefit activities. Thereafter the phasing in discount shall apply as for other newly rateable property except that the 75% discount shall apply to the second year, the 50% to the third year, and the 25% to the fourth year.
- (e) The rate levied on newly rateable property will not be higher than the rate levied on similar property or categories of property in the municipality.

## **CHAPTER 5**

### **ADDITIONAL RATES**

**16. Special rating areas**

- (a) The municipality of uMuziwabantu may by a resolution of the Council determine an area within the municipality as a special rating area, levy an additional rate on property in that area for the purpose of raising funds for improving or upgrading that area, and differentiate between categories of properties when levying such additional rate.
- (b) The levying of an additional rate will not be used to reinforce existing inequities in the development of the municipality, and any determination of a special rating area will be consistent with the objectives of the municipality's IDP.

# CHAPTER 6

## LIABILITY FOR RATES

### 17. **Property rates payable for rates by owners**

- (a) A rate levied by the municipality on property must be paid by the owner of the property.
- (b) Joint owners of a property are jointly and severally liable for the amount due for rates on that property.
- (c) In the case of agricultural property owned by more than one owner in undivided shares, the municipality will consider whether in the particular circumstances it would be more appropriate for the municipality to hold any one of the joint owners liable for all rates levied in respect of the agricultural property, or to hold any joint owner only liable for that portion of the rates levied on the property that represent that joint owner's undivided share in the agricultural property.

### 18. **Payment of rates on property in sectional title schemes**

- (a) The rate levied by the municipality on a sectional title unit is payable by the owner of the unit.
- (b) The municipality will not recover the rate on such sectional title unit, or any part of such rate, from the body corporate controlling the sectional title scheme, except when the body corporate itself is the owner of any specific sectional title unit.

### 19. **Method and time of payment**

- (a) The municipality may recover a rate –
  - (i) on a monthly basis or less often as may be prescribed in terms of the Municipal Finance Management Act; or
  - (ii) annually, as may be agreed to with the owner of the property
- (b) If a rate is payable in a single amount annually it must be paid on or before a date determined by the municipality. Rate payers must apply in writing if want to be an annually payer.

- (c) If a rate is payable in installments it must be paid in 12 equal installments during the financial year in respect of which such rate is payable.

**20. Accounts to be furnished.**

- (a) The municipality must furnish each person liable for the payment of a rate with a written account specifying:
  - (i) the amount due for rates payable;
  - (ii) the date on or before which the amount is payable;
- (iii) how the amount was calculated;
- (iv) the market value of the property;
- (v) if the property is subject to any compulsory phasing-in discount in terms of Clause 15 the amount of the discount, and
- (vi) if the property is subject to any additional rate in terms of Clause 16 the amount due for additional rates.
- (b) The person liable for payment of the 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, that person must make the necessary enquiries from the municipality.
- (c) Every owner of rate able property within the municipality shall notify the municipality of any address within South Africa to which notices in respect of the property shall be sent.
- (d) Any address so notified may be amended by a notification of amendment. When such notification of amendment takes effect the amended address shall be deemed for all purposes to have been notified in terms of paragraph 20(c) to the exclusion of any address previously notified.
- (e) Every such notification of address or amendment shall be in writing and –
  - (i) shall be addressed to the Municipal Manager;

- (ii) shall state either the rate number or numbers of the property as shown in the valuation roll then current or the description or descriptions thereof appearing in the said roll; and
  - (iii) shall take effect only when an acknowledgement thereof has been dispatched by the Municipal Managers.
- (f) In the event of any owner of rateable property within the municipality failing to notify the municipality of any address required in subparagraph 20(c) the account will be forwarded to the address of the property shown in the valuation roll.

**21. Recovery of rates in arrears**

- (a) The Chief Financial Officer shall be the collector of rates and shall have power under that title to sue for and recover all rates which are due and payable to the Council.
- (b) In respect of any rates remaining unpaid after the final date for their payment there shall be added for each month during which the default continues a penalty calculated at the market related rate as on 01 July 2009 per annum and for the purpose of this paragraph part of a month shall be deemed to be a month.
- (c) If the owner of any property fails to pay rates or any part thereof owing in respect of such property on or before the final date for payment – the collector shall give such owner a registered notice calling upon him/her to pay rates and the penalties accrued or accruing thereon, which notice shall state the capital amount of the rates owing and the rate number of the property in the valuation roll then current, and also contains a warning to the owner that if he/she fails to pay the arrear rates within 30(thirty) days, the collector may;
  - (i) cause to be published in one or more newspapers circulating in the area of jurisdiction of the council, a notice stating:
    - the property description appearing in the valuation roll;
    - the name of the owner;
    - the physical address as shown in the valuation roll;

- the total amount outstanding; and
- (ii) after 60 (sixty) days, the outstanding account will be handed over to the council's attorneys for collection.
- (d) If an amount due for rates levied in respect of a property is unpaid by the owner of the property after the date determined for payment by the municipality, the municipality may recover the amount in whole or in part from a tenant or occupier of the property, despite any contractual obligation to the contrary on the tenant or occupier. The municipality may recover an amount only after it has served a registered notice on such tenant or occupier.
- (e) The amount that the municipality may recover from the tenant or occupier is limited to the amount of the rent or other money due or payable, but not yet paid, by such tenant or occupier to the owner of the property.
- (f) The municipality may recover the amount due for rates on a property in whole or in part from the agent of the owner, if this is more convenient for the municipality, but only after the municipality has served a registered notice on the agent in this regard.
- (g) The amount that the municipality may recover from the agent is limited to the amount of any rent or other money received by the agent on behalf of the owner, less any commission due to the agent.
- (h) Any notice which the collector is required to give in terms of paragraph 21(c) shall be deemed to have been properly given-
  - (i) if it has been posted to an address notified in terms of paragraph 20 (c) the notification of which took effect before the date in the financial year on which rates become due and payable;
  - (ii) if subparagraph (i) does not apply and the property is not vacant land, to the address of the property shown in the valuation roll; or
  - (iii) to an address which appears to be the residential or business address of the owner according to the registers of the collector, which method of posting shall be utilized if sub-paragraphs (i) and (ii) do not apply or if any notice posted in terms of either of the said subparagraphs has been returned as undelivered.

- (i) For the purposes of this clause, working day shall mean any day on which offices of the collector are open for the receipt of payments;
- (j) Any amount paid to or recovered by the collector in respect of rates shall be applied in accordance with the following provisions to the payment of any amounts outstanding and the said provisions shall apply notwithstanding any appropriation or stipulation made by the person making any payment –
  - (i) first to the amounts outstanding in respect of the earliest year in respect of which any amount is outstanding in the following order:
    - any rates;
    - penalties
  - (ii) next to the said amounts in respect of the next earliest year, and in the said order; and
  - (iii) next to the said amounts in respect of each successive year, in the said order in respect of each year.



## **CHAPTER 7**

### **GENERAL VALUATION OF RATEABLE PROPERTY**

#### **22. General valuation and preparation of valuation rolls**

- (a) The municipality of Umuziwabantu is intending to levy a rate on property and must general valuate all properties in the municipality, and must prepare a valuation roll of all properties in terms of such valuation.
- (b) All rateable properties in the municipal area of Umuziwabantu must be valued during such general valuation, including all properties fully or partially excluded from rates in terms of Section 17 of the Municipal Property Rates Act. However, if the municipality does not intend to levy rates on its own property, on public service infrastructure owned by a municipal entity, on rights in properties, and on properties in respect of which it is impossible or unreasonably difficult to establish a market value because of legally insecure tenure resulting from past racial discrimination, the municipality is not obliged to value such properties as part of the valuation process.
- (c) The municipality may also apply to the Minister for exemption from the obligation to value properties excluded from rates in terms of Section 17 of the Municipal Property Rates Act, if the municipality can demonstrate that the valuation of such properties is too onerous for it, given its financial and administrative capacity.

#### **23. Date of valuation**

- (a) For the purpose of a general valuation the municipality must determine a date that may be not more than twelve (12) months before the start of the financial year in which the valuation roll is to be first implemented;
- (b) The general valuation must reflect the market values of properties in accordance with market conditions which apply as at the date of valuation, and in accordance with any other applicable provisions of the Municipal Property Rates Act.

#### **24. Commencement and period of validity of valuation roll**

- (a) The valuation roll takes effect from the start of the financial year following completion of the public inspection period required by section 49 of the Municipal Property Rates Act; and
- (b) The valuation roll remains valid for that financial year or for one or more subsequent financial years as the municipality may decide, but in total no for more than four financial years.

25. **Register of properties**

- (a) The Municipality must draw up and maintain a register in respect of properties situated within that municipality, consisting of a Part A and a Part B.
- (b) **PART A** of the register consists of the current valuation roll of the Municipality, including any supplementary valuation rolls prepared in terms of section 78 of the Municipal Property Rates Act.
- (c) **PART B** of the register must specify which properties are subject to:
  - (i) an exemption
  - (ii) a rebate on or reduction in the rate
  - (iii) a phasing-in of the rate;
  - (iv) an exclusion referred to in section 17 of the Municipal Property Rates Act.

## **CHAPTER 8**

### **VALUATION CRITERIA**

#### **26. General basis of valuation**

- (a) The market value of a property is the amount the property would have realized if sold on the date of valuations in the open market by a willing seller to willing buyer.
- (b) In determining the market value of a property, the following must be considered for purposes of valuing the property:-
  - (i) the value of any licence, permission or other privilege granted in terms of legislation in relation to the property;
  - (ii) the value of any immovable improvement on the property that was erected or is being used for purpose which is inconsistent with or in contravention of the permitted use of the property, as if the improvement was erected or is being used for a lawful purpose; and
  - (iii) the value of the property for a purpose which is inconsistent with or in contravention of the permitted use of the property, as if the property is being used for a lawful purpose.
- (c) In determining the market value of a property the following must be disregarded for the purposes of valuing the property:-
  - (i) the value of any building or other immovable structure under the surface of the property which is the subject matter of any mining authorization or mining rights defined in the Minerals Act, 1991;
  - (ii) the value of any equipment or machinery which, in relation to the property concerned, is immovable property, excluding -
    - ❑ a lift
    - ❑ an escalator
    - ❑ an air conditioning plant
    - ❑ fire extinguishers
    - ❑ a water pump installation for a swimming pool or for irrigations or domestic purposes; and

□ any other equipment or machinery that may be prescribed; and

- (iii) any unregistered lease in respect of the property;
- (d) In determining the market value of a property used for agricultural purposes, the value of any annual crops or growing timber on the property that have not yet been harvested as at the date of valuation must be disregarded for purposes of valuing the property.
- (e) Where the available market related date is insufficient to determine the market value of public service infrastructure, such public infrastructure may be valued in accordance with any other method of valuation as may be prescribed.
- (f) When valuing a property which is subject to a sectional title scheme, the valuer must determine the market value of each sectional title unit in the scheme.
- (g) An appeal to an Appeal Board against a decision of the municipal value in terms of the Municipal Property Rates Act, may be lodged in the prescribed manner and upon payment of the approved fee with the Municipal Manager.

## **CHAPTER 9**

### **COMMUNITY PARTICIPATION**

- 27** It is recorded that every municipality may only adopt its rates policy or any amendment thereof or any review of its policy after following a process of community participation in accordance with chapter 4 of the Municipal systems Act, 2000.
- 27.1** This Municipality will comply with its community participation and consultation obligations in terms of Chapter 4 of the Municipal Systems Act and Section 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) the Municipality is committed to:
- 27.1.1** building capacity of the local community to enable it to participate in the affairs of the Municipality; and
  - 27.1.2** to foster community participation for which the municipality will allocate funds in its budget for such processes.
- 27.2** The participation by the local community in municipal affairs will take place through the political structures: the mechanisms, processes and procedures for participation in municipal governance and any other appropriate mechanisms processes and procedures established by the municipality and generally apply the provisions for participation as required by this act.
- 27.3** The municipality will provide for:
- 27.3.1** the receipt processing and consideration of petitions, objections and comments lodged by the members of the local community;
  - 27.3.2** public meetings and hearings by the municipal council and other political structures (e.g. ward committees) and political office bearers of the municipality;
  - 27.3.3** consultative sessions with locally recognized community organizations and where appropriate traditional authorities;
- 27.4** Communication with the public relating to the Rates Policy will be in terms of section 4(2) of the act by notice in:
- 27.4.1** local newspapers circulating in its area and determined by this council as a newspaper of record; and/or
  - 27.4.2** official notice boards and other public places accessible to the public including the library and the municipal offices;
  - 27.4.3** on the municipal website
  - 27.4.4** and inviting the local community to submit comments and representations within the time specified in the notice.

## **CHAPTER 10**

### **UPDATING OF VALUATION ROLLS**

**28. General**

The municipality must regularly, but at least once a year, update its valuation roll by causing –

- (a) a supplementary valuation roll to be prepared in terms of Section 78 of the Municipal Property Rates Act; or
- (c) the valuation roll is to be amended in terms of Section 79 of the Municipal Property Rates Act.

## **CHAPTER 11**

### **MISCELLANEOUS MATTERS**

**29. Deeds returns**

- (a) As soon as may reasonably be possible after the end of every month the Registrar of Deeds shall transmit to the Municipal Manager, a list in writing setting forth the name of every person who during the previous month transferred any immovable property situated in the municipality together with a short description of such property and the name of the transferee and the amount of the purchase price paid. In respect of every transfer entered upon the list the council shall pay to the Registrar of Deeds such a fee as may be prescribed in respect thereof or in terms of the Deeds Registries Act, 1937 (Act 47 of 1937).

**30. Rates clearance certificates**

- (a) In terms of section 118 of the Municipal Systems Act –
- a registrar of deeds or other registration officer of immovable property may not register the transfer of property except on production to that registration officer of a prescribed certificate –
- (i) Issued by the municipality in which that property is situated; and
- (ii) which certifies that all amounts due in connection with that property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for the certificate have been fully paid.
- (b) In the case of the transfer of immovable property by a trustee of an insolvent estate, the provisions of this section are subject to section 89 of the Insolvency Act, 1936 (Act No 24 of 1936)
- (c) An amount due for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties is a charge upon the property in connection with which the amount is owing and enjoys preference over any mortgage bond registered against the property.

- (d) The prescribed certificate shall be valid for a period of 120 days from date of issue.
- (e) Every effort will be made to issue a municipal clearance certificate within five (5) days of receiving payment.
- (f) Only in exceptional circumstances, which must be fully motivated, will an unconditional guarantee be accepted in lieu of a cash payment
- (g) The guarantee must be –
  - (i) issued by a recognized bank
  - (ii) unconditional
  - (iii) for the full amount outstanding
  - (iv) for a specified period of time acceptable to Council.
- (h) An attorney trust cheque may also be accepted in lieu of cash payment.
- (i) There shall be no refunds on the cancellation of a sale.
- (j) The municipality shall upon receipt of a written request furnish full details of the amounts contemplated in paragraph 29(a)(ii) and the fee fixed in terms of paragraph 29(k), furnish within a period of five (5) working days from the date on which such request and fee are received, a written assessment fully specifying such details.
- (k) The fixed fee for the assessment statement contemplated in paragraph 20(j) will be fixed.
- (l) The assessment statement shall remain valid for a period of sixty days. If payment has not been received within this period, a re-assessment may be required and payment of a further assessment fee will apply.
- (m) The issue of a certificate in terms of paragraph 29(a) shall not in itself preclude the recovery by the council of any rates, penalties or amounts contemplated in that clause which have for any reason not been included in the relevant assessment statement contemplated in paragraph 29(j) or in such certificate but which are due and payable by the person who was the owner of the immovable property concerned immediately prior to the date on which such immovable property was transferred.
- (n) Where any amount paid for the purposes of obtaining a certificate contemplated in paragraph 29(a) is greater than the amount actually due and payable in respect of the rates, penalties and amounts so



contemplated, the difference shall be refunded by the council to the person by whom such first mentioned amount was paid.