

THABAZIMBI LOCAL MUNICIPALITY



THABAZIMBI PROPERTY RATES BY-LAWS

The Municipal Manager of Thabazimbi Local Municipality hereby in terms of section 13 of the Local Government: Municipal Systems Act, 2000(Act 32 of 2000), publishes Property Rates By-Law for the municipality as approved by the council, as set out hereunder

WHEREAS section 229(1) of the Constitution requires a municipality to impose rates on property and surcharges on fees for the services provided by or on behalf of the municipality;

WHEREAS section 13 of the Municipal Systems Act read with section 162 of the Constitution require a municipality to promulgate municipal by-laws by publishing them in the gazette of the relevant province;

WHEREAS section 4(1)(c) (ii) of the of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), read with section 2 of the said Local Government Municipal Property Rates Act, the municipality has the right to finance the affairs of the municipality by imposing, inter-alia, rates on property

WHEREAS section 6 of the Local Government: Municipal Property Rates Act, 2004 requires a municipality to adopt by-laws to give effect to the implementation of its property rates policy and the by-laws may differentiate between the different categories of properties and different categories of owners of properties liable for the payment of rates;

AND WHEREAS section 62 of the Local Government: Municipal Finance Act, 2003 (Act 56 of 2003) provides that the Municipal Manager must

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ensure that the municipality has and implements a rates policy embodied in a by-law as per section 6 of the said Local Government: Municipal Property Rates Act.

NOW THEREFORE BE IT ENACTED by the Municipal Council of the Thabazimbi Local Municipality, as follows:

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1. Definitions

In these by-laws, any word or expression to which a meaning and interpretation has been assigned in the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), shall bear the same meaning unless the context indicates otherwise.

“business” in relation to property, means the use of property for the activity of buying, selling or trading in commodities or services on a property and includes any office or other accommodation on the same property, the use of which is

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incidental to such activity, but does not include the business of agriculture, farming, or any other business consisting of the cultivation of soils, the gathering in of crops, the rearing of livestock or the propagation and harvesting of fish or other aquatic organisms;

“Constitution” means the Constitution of the Republic of South Africa, 1996;

“Credit Control and Debt Collection By-laws” means the Municipality’s promulgated Credit Control and Debt Collection By-laws, as amended from time to time;

“government property” means property owned and exclusively used by an organ of state, excluding farm properties used for residential or agricultural purposes or not in use;

“indigent” means any household that is legally resident in the country and reside in the Thabazimbi Local Municipality’s jurisdictional area, who due to a number of economic and social factors are unable to pay municipal basic services, and is registered by the Municipality as such in the indigent register ;

“industrial” in relation to property, means the use of a property for a branch of trade or manufacturing, production, assembling or processing of finished or partially finished products from raw materials or fabricated parts on such a large scale that capital and labour are significantly involved, including any office or other accommodation on the property, the use of which is incidental to the use of the factory;

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

“municipal manager” means the person appointed as such in terms of section 54A of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“municipal property” means any property rateable or non-rateable, owned by the Municipality;

“Municipality” means the Thabazimbi Local Municipality established in terms of section 12 of the Local Government: Municipal Structures Act 1998 (Act 117 of 1998);

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“ **pensioner**” for the purpose of this by-law means any owner of rateable property who has reached the age of 60 years or more ;

“**rates policy**” means the policy on the levying of rates on rateable properties of Thabazimbi Local Municipality, contemplated in chapter 2 of the Act;

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

“**vacant land**” in relation to property, means .

(a) land on which no immovable improvements have been erected; or

(b) land, where the value added by immovable improvements is less than 10% of the value of the land with no immovable improvements on it, applicable to urban and non-urban land;

2. Purpose

(1) The purpose of this by-law is to :-

- a) give effect to the implementation of the property rates policy as contemplated in section 6(1) of the act.
- b) determine criteria to be applied for the levying of differential rates for different categories of properties;
- c) provide for a criteria for the determination of categories of properties and categories of owners of properties; and
- d) determine criteria to be applied for granting exemptions, rebates and reductions;

3. Application of by-law

(1) This by law shall apply within the jurisdictional area of Thabazimbi Local Municipality for properties outlined in the municipal property rates by-law

4. Fundamental principles of this by-law

1. The principles of the By-Law are to ensure that rates are levied as an amount in the rand based on the market value of all rateable property contained in the municipality's valuation roll by ensuring that :

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- a) different rates will be levied for different categories of rateable property;
- b) relief measures in respect of payment for rates will not be granted to any category of property or owners on an individual basis, other than by way of an exemption, rebate or reduction;
- c) all ratepayers with similar properties will be treated the same;
- d) the ability of a person to pay rates will be taken into account;
- e) provision will be made for the promotion of local social development and sustainable local government;
- f) rates will be based on the value of all rateable property and the amount required by the municipality to balance the operating budget; and
- g) the power of the municipality to impose rates on property within its area will not be exercised in a way that materially and unreasonably prejudices national economic policies, economic activities or the national mobility of goods, services, capital or labour as prescribed in terms of Section 229 of the Constitution of the Republic of South Africa.

5. Classification of municipal services and expenditure

- (1) The municipal manager or his or her nominee subject to the guidelines provided by the National Treasury and Executive Mayor or Committee and principles contained in the rates policy will classify services, categorise expenditure and create cost centres to prevent that property rates subsidise trading and economic services
- (2) Trading and economic services will be ring-fenced and financed from service charges while community and subsidised services will be financed from profits on trading and economic services, regulatory fees and rates and rates related income.
- (3) expenditure will be classified in the following categories:
 - (a) salaries, wages and allowances
 - (b) bulk purchases
 - (c) general expenditure
 - (d) repairs and maintenance
 - (e) capital charges (interest and redemption)/depreciation

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- (f) contribution to fixed assets
 - (g) contribution to funds-
 - i. bad debts.
 - ii. working capital; and
 - iii. statutory funds.
 - (h) Contribution to reserves.
- (4) Cost centres will be created to which the costs associated with providing the service can be allocated-
- (a) by Department;
 - (b) by Divisions; and
 - (c) by Service
- (5) The classification by subject of expenditure, each with a unique vote will be applied to all cost centres.

6. Equitable treatment of ratepayers

- (1) The municipality is committed to treating all ratepayers on an equitable basis. "equitable" does not necessarily mean "equal" treatment of ratepayers. The circumstances of each category of owner or category of property will be considered in a fair manner and within the limitations set out in the Act.
- (2) Any differentiation in the levying of rates must not constitute unfair discrimination.

7. Property Rates policy

- (1) The municipality must adopt Property Rates Policy in line with section 3 of the Property Rates Act , 6 of 2004 as amended.

8. Categories of properties for different rating purposes

- (1) In terms of section 3(3) of the Act the municipality must determine the criteria for the determination of categories of property and owners for granting exemptions, reductions and rebates and criteria if it levies different rates for different categories of property
- (2) Categories of rateable properties for purposes of levying differential rates in terms of 6(2)(a) and section 8(2) of the act are:
- (a) residential properties;

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- (b) business and commercial properties;
 - (c) industrial properties;
 - (d) municipal property (rateable);
 - (e) municipal property (not rateable);
 - (f) state-owned properties;
 - (g) public service Infrastructure;
 - (h) sporting bodies ;
 - (i) agricultural vacant land ;
 - (j) non-permitted use;
 - (k) multiple use properties;
 - (l) vacant land;
 - (m) state trust land; and
 - (n) mining property
 - (o) rural communal land
 - (r) places of worship
 - (s) protected area
 - (t) illegal use(formal and informal settlements)
 - (u) vacant land; and
 - (v) other properties
- (3) Differential rating among the above determined categories of properties will be done by way of setting different rates in the rand for each property category as set out in the tariff policy and property rates policy of the municipality and according to-
- (a) the use of the property.
 - (b) permitted use of the property; or
 - (c) geographical area in which the property is situated

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(4) The criteria for weighting the categories determined above, for the purpose of determining cent in a rand amount as per tariff rates for each category, must take account of the following :

- a) The reliance or otherwise of the owners of specific categories of property on services supplied by the Municipality
- b) The strategic importance of a category of property with reference to the aims and objectives of the municipality and the Government of the Republic of South Africa as a whole and
- c) The nature of the category of property, including its sensitivity to rating

(5) Differential rating among the various property categories will be done by way of setting different cent amount in the rand for each property category and by way of reductions and rebates

9. Criteria for exemptions, reductions and rebates

1. Criteria for determining categories of owners of property for the purpose of granting exemptions, rebates and reductions in terms of section 15(2) of the Act will be according to-

- (a) indigent status of the owner of a property
- (b) sources of income of the owner of a property
- (c) owners of property situated within an area affected by
 - i. a disaster within the meaning of the Disaster Management Act, 2002 (Act No. 57 of 2002); or
 - ii. any other serious adverse social or economic conditions;

(d) owners of residential properties with a market value below a determined threshold; or

(e) owners of agricultural properties who are *bona fide* farmers

(2) The by-law will be implemented or enforced in line with the Property Rates Act , tariff by-law and rates policy of the municipality

10. Rates increases

- 1) The municipality will consider increasing rates annually during the budget process in terms of the guidelines issued by National Treasury from time to time.
- 2) Rate increases will be used to finance the increase in operating costs of community and subsidised services.
- 3) Relating to community and subsidised services the following annual adjustments will be made:
 - (a) All salary and wage increases as agreed at the South African Local Government Bargaining Council
 - (b) An inflation adjustment for general expenditure, repairs and maintenance and contributions to statutory funds, and
 - (c) Additional depreciation costs or interest and redemption on loans associated with the assets created during the previous financial year.
- (4) Extraordinary expenditure related to community services not foreseen during the previous budget period and approved by the council during a budget review process will be financed by an increase in property rates.
- (5) Affordability of rates to ratepayers.
- (6) All increases in property rates will be communicated to the local community in terms of the municipality's policy on community participation.
- (7) the levying or increase of rates by the municipality will be enforce and implemented in terms of section 5 of the Act and the municipality's rates policy

11. Notification of rates

- (1) The municipality will give notice of all rates approved and passed at the municipal council meeting at least 30 days prior to the date that the rates become effective. Accounts delivered after the 30 days notice will be based on the new rates.

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(2) A notice stating the purport of the municipality's resolution and the date on which the new rates become operational will be displayed by the municipality at places installed for that purpose and must be published in the provincial government gazette with 60 days of such resolution.

12. Recovery and Payment of rates

- 1) The levying of rates on property will be effected in terms of the Municipality's Rates Policy as amended from time to time and chapter 3 of the Act.
- 2) Ratepayers may choose between paying rates annually in one instalment on or before 30 _____ or in twelve equal instalments on or before the seventh day of the month following on the month in which it becomes payable.
- 3) If the owner of property that is subject to rates, notify the municipal manager or his/her nominee not later than 31 May in any financial year, or such later date in such financial year as may be determined by the municipal manager or his/her nominee that he/she wishes to pay all rates in respect of such property in instalments, such owner shall be entitled to pay all rates in the subsequent financial year and each subsequent financial year in twelve instalments until such notice is withdrawn by him/her in a similar manner.
- 4) Interest on arrears rates, whether payable on or before 30 _____ or in equal monthly instalments, shall be calculated in accordance with the provisions of the credit control, debt collection and indigent policy of the municipality.
- 5) If a property owner who is responsible for the payment of property rates in terms of this policy, fails to pay such rates in the prescribed manner, it will be recovered from him/her in accordance with the provisions of the Credit Control, Debt Collection policy read together with and Credit Control, Debt Collection by-law of the municipality.

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- 6) If an amount due for rates on a property is unpaid by the owner of the property, arrears rates shall be recovered from tenants, occupiers and agents of the owner, in terms of section 28 and 29 of the Act.
- 7) 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.
- 8) Where the rates levied on a property are based on a supplementary valuation made in terms of section 78(1) of the Municipal Property Rates Act, 2004 such rate will be payable from the date contemplated in section 78(4) of the Municipal Property Rates Act, 2004.
- 9) In addition, where the error occurred because of false information provided by the property owner or as a result of a contravention of the permitted use 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.

13. Repeal of laws

All By-laws previously applied by the municipality before the coming operation of this By-law are hereby repealed

14 Short title and Commencement

This by-law is called the Property Rates By-law for Thabazimbi Local Municipality and shall come into force and effect on date of publication in the *provincial gazette*.