

NKANDLA MUNICIPALITY



PROPERTY RATES POLICY

FINANCIAL YEAR: 2019/2020

EFFECTIVE DATE: 1 JULY 2019 TO 30 JUNE 2020

TABLE OF CONTENTS

1	PART ONE: PREAMBLE.....	3
2	PART TWO: DEFINITIONS.....	4
3	PART THREE: THE PURPOSE OF THE POLICY.....	17
4	PART FOUR: FUNDAMENTAL PRINCIPLES OF THIS POLICY	17
5	PART FIVE: IMPLEMENTATION OF THIS POLICY AND EFFECTIVE DATE	18
6	PART SIX: EQUITABLE TREATMENT OF RATEPAYERS.....	19
7	PART SEVEN: DISCRETIONARY DECISIONS ADOPTED BY THE MUNICIPALITY WITH RESPECT TO LEVYING PROPERTY RATES.....	19
8	PART EIGHT: CATEGORIES OF PROPERTIES FOR DIFFERENTIAL RATING PURPOSES.....	20
9	PART NINE: RELIEF MEASURES FOR RATEPAYERS	22
10	PART TEN: RELIEF MEASURES FOR OWNER CATEGORIES AND PROPERTY USE CATEGORIES.....	23
11	PART ELEVEN : COMMUNITY PARTICIPATION.....	29
12	PART TWELVE : RECOVERY OF RATES	30
13	PART THIRTEEN : CONSOLIDATION AND APPORTIONMENT OF PAYMENTS.....	31
14	PART FOURTEEN : DEFERMENT OF RATES	31
15	PART FIFTEEN : IMPERMISSIBLE RATES IN TERMS OF SECTION 17 OF THE ACT	32
16	PART SIXTEEN : CONSTITUTIONALLY IMPERMISSIBLE RATES.....	33
17	PART SEVENTEEN :ROUNDING.....	Error! Bookmark not defined.

1 PART ONE: PREAMBLE

Whereas:

- 1.1 Section 229 of the Constitution of the Republic of South Africa (Act 108 of 1996) provides that a municipality may impose rates on property;
- 1.2 The Local Government: Municipal Property Rates Act (Act 6 of 2004) regulates the power of a municipality to impose rates on property;
- 1.3 In terms of the Municipal Property Rates Act a municipality:
 - 1.3.1 may levy a rate on property in its area; and
 - 1.3.2 must exercise its power to levy a rate on property, subject to:
 - (a) section 229 and any other applicable provisions of the Constitution;
 - (b) the provisions of the Municipal Property Rates Act; and
 - (c) its rates policy;
- 1.4 The Nkandla Local Municipal Council has resolved to levy rates on the market value of all ratable properties within its area of jurisdiction;
- 1.5 The municipality must, with regard to section 3 of the Municipal Property Rates Act, adopt a rates policy consistent with the provisions of the said Act on the levying of rates in the municipality;
- 1.6 In terms of section 4 of the Local Government: Municipal Systems Act (Act 32 of 2000), the municipality has the right to finance the affairs of the municipality by imposing, inter-alia, rates on property; and
- 1.7 In terms of section 62 of the Local Government: Municipal Finance Management Act (Act 56 of 2003), the Municipal Manager must ensure that the municipality has and implements a rates policy. This rates policy is required to be reviewed annually.

2 PART TWO: DEFINITIONS

The definitions included in this rates policy are complimentary to those already contained within the Local Government: Municipal Property Rates Act, Act 6 of 2004. This rates policy defers to the definitions contained within the Act and will avoid repetition of these except where these refer to the definitions of property categories.

Act	Means the Local Government: Municipal Property Rates Act (Act 6 of 2004).
Agricultural property	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 trading in or hunting of game.
Back-packer lodge	Means a commercial accommodation establishment where beds are available to guests in communal rooms.
Bed and Breakfast	Means a commercial accommodation establishment with less than or equal to 4 bedrooms available to guests.
Business or Commercial property	Means – <ol style="list-style-type: none">1) 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;2) Property on which the administration of the business of private or public entities takes place;3) property used for the provision of commercial accommodation;4) property used for education purposes;5) Property used by the State or any organ of State; or6) Property excluded from any other category of property.7) Office blocks, retail shops, shopping centres, showrooms, petrol filling stations & private hospitals and clinics.

Category	<p>(a) In relation to property, means a category of property determined in terms of section 8 of the Act; and</p> <p>(b) In relation to owner of property, means a category of owner determined in terms of section 15 (2) of the Act and this Property Rates policy.</p>
Child Headed Household (Category of Owner of Property)	Means a household recognized as such in terms of section 137 of the Children’s Amendment Act, 41 of 2007.
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.
Date of valuation	Means the date determined by a municipality in terms of section 31(1) of the Act. The date of valuation for the General Valuation Roll is 1 st July 2018 as per the Council Resolution, NMC:27/2017/2018
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 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.
Disabled (Category of Owner of Property)	Means a person who qualifies to receive relief in terms of the Social Services Act, 1992 (Act No. 59 of 1992) or has been certified as disabled by a medical practitioner and qualifies in terms of the income threshold as defined in the Council’s Customer Care Policy or Indigent Policy.
Disaster (Deals with the treatment of the Category of Owner of Property)	Means a disaster within the meaning of the Disaster Management Act (Act 57 of 2002) or any other serious adverse social or economic condition as adopted by a Council resolution from time to time.

Disaster area

(Deals with the treatment of the Category of Owner of Property)

Means owners of property situated within an area affected by:

- (a) a disaster within the meaning of the Disaster Management Act 57 of 2002;
- (b) any other serious adverse social or economic conditions;

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 which is in this case 1st July 2019; or
- (b) In relation to a supplementary valuations means the date on which a supplementary valuation takes effect in terms of section 78(4)(a) to (e) 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.

Financial year

Means the period starting from 1 July in a year to 30 June the next year.

Guest house

Means a commercial accommodation establishment with between 5 and 10 bedrooms available to guests.

Income Tax Act

Means the Income Tax Act, 1962 (Act No. 58 of 1962).

Indigent owner

(Category of Owner of Property)

Means an owner of a property earning less than a gross income as determined by the municipality in its Indigent Policy.

Industrial Property

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:

- 1) The production of raw products on the property;
- 2) The storage and warehousing of raw or finished products;

and

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

4) Dedicated workshops used in the repair of vehicles, equipment and plant, tyre fitment and recycling of materials.

Land reform beneficiary

(Category of owner of property)

In relation to a property read with section 17 (1) (g) of the Act, 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 Act has taken effect.

Land tenure right

A land tenure right as defined in section 1 of the Upgrading of Land Tenure Rights Act, 1991 (Act No. 112 of 1991)

Legal entity

In law an entity is something which is capable of bearing legal rights and obligations, has a distinct separate existence.

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 labor 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.
- (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. This rates policy has been drafted for the Nkandla Municipality.

Market value

In relation to a property, means the value of the property determined in accordance with section 46 of the Act.

Mining property

A property used for mining operations as defined in the Mineral and Petroleum Resources Development Act, 2002 (Act No 28 of 2002);

Municipal Council or Council

Means –
the Municipal Council of Nkandla Local Municipality.

Municipal Finance Management Act

Means –
the Local Government: Municipal Finance Management Act 2003 (Act No. 56 of 2003).

Municipal owned property

Means property owned by the municipality.

Municipal leases

Means –

Property owned by the municipality and leased to another party. The municipality reserves the right to recover municipal rates against all properties registered in the name of the municipality over which a portion or all of its property is leased either through an existing lease agreement where rates are exclusive or through the provisions of the Act. Rates payable will be based on the rates category and market value as contained in the Valuation Roll.

Municipal Structures Act

Means the Local Government: Municipal Structures Act, 1988 (Act No. 117 of 1998).

Occupier

In relation to a property, means a person who occupies the 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 the place of worship;

Official residence

In relation to places of public worship –

- (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 worship,

Registered in 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.

- (a) any department of state or administration in the national, provincial or local sphere of government; or
- (b) any other functionary or institution—
 - (i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
 - (ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer;

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 the 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 property that is registered in the name of the 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.

Pensioner
(Category of Owner of Property)

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;
- (d) *Insert additional criteria as required by the Municipality*

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
- (c) Any alleviation of any such restrictions.

Places 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.
Property	Means: <ul style="list-style-type: none"> (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/legal entity; (b) a right registered against immovable property in the name of a person/legal entity, excluding a mortgage bond registered against the property; (c) a land tenure right registered in the name of a person/legal entity or granted to a person/legal entity 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 those parts of a special nature reserve, national park or nature reserve within the meaning of section 10 of the National Environmental Management: Protected Areas Act, or of a national botanical garden within the meaning of the National Environmental Management: Biodiversity Act, 2004 which are not developed or used for commercial, business, residential or agricultural purposes.
Public Benefit Organization	Means a property where the dominant activity is 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.
Publicly controlled	Means owned by or otherwise under the control of an organ of state, including: <ul style="list-style-type: none"> (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 communication 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).

It is noted that certain classes of public service infrastructure have been phased out. The remaining classes are communication towers and electrical infrastructure.

Public Service Purposes	<p>In relation to the use of a property, means property <u>owned and used by</u> an organ of state as—</p> <p>(a) hospitals or clinics;</p> <p>(b) schools, pre-schools, early childhood development centre or further education and training colleges;</p> <p>(c) national and provincial libraries and archives;</p> <p>(d) police stations;</p> <p>(e) correctional facilities; or</p> <p>(f) courts of law,</p> <p>but excludes property contemplated in the definition of ‘public service infrastructure’;</p>
Rate	<p>Means a municipal rate on property envisaged in section 229(1)(a) of the Constitution.</p>
Rateable property	<p>Means a property on which a municipality may in terms of section 2 of the Act levy a rate, excluding property fully excluded from the levying of rates in terms of section 17 of the Act.</p>
Ratio	<p>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: <i>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;</i></p>
Rebate	<p>In relation to a rate payable on a property, means a discount granted in terms of section 15 of the Act on the amount of the rate payable on the property.</p>
Reduction	<p>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.</p>
Register	<p>(a) means to record in a register in terms of –</p> <p>(i) the Deeds Registries Act, 1937 (Act No. 47 of 1937);</p>

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

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

Means a dwelling, in any building, premises, structure, or any other place, or any part thereof, used **predominantly** as a place of residence or abode of any natural person **excluding** a dwelling where the premises are used **predominantly** for any purpose other than residential, or where it is used in the supply of commercial accommodation.

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.

Threshold Value

Means the combination of the impermissible rates and Section (17) (1) (h) of the Act, a municipality may not levy a rate on the first R15, 000 of the market value of a property with a category residential and the discretionary additional reduction which the Nkandla Municipality determines annually. This is defined as the threshold value for property rates.

Vacant Land

Means-

Any undeveloped land as listed in the valuation roll and includes bulk land identified by the municipality and where there is an approved Surveyor General Plan, Township Layout

or approved general diagram, may be separately valued and rated, notwithstanding the non-registration of any subdivisions.

Unauthorised use

Means –

Any use of a property which is inconsistent with or in contravention with the permitted use of the property. The intention of municipality is to use this rating tariff to regularize the actual use with the permitted use of the property.

3 PART THREE: THE PURPOSE OF THE POLICY

3. The purpose of this policy is to:

- 3.1 Comply with the provisions of the Act, specifically with section 3 thereof;
- 3.2 Give effect to the principles outlined hereunder;
- 3.3 Ensure the equitable treatment of persons liable for rates;
- 3.4 Determine the basis for valuation and to prescribe procedures for the implementation of the Act;
- 3.5 Determine criteria for different property use categories to apply differential rates;
- 3.6 Determine or provide criteria for the determination of categories of owners of properties;
- 3.7 Determine criteria to be applied for granting relief in the form of exemptions, rebates and reductions to categories of properties and categories of owners;
- 3.8 Determine measures to promote local economic and social development; and
- 3.9 Identify which categories of properties the municipality has elected not to rate as provided for in section 7 of the Act.

4 PART FOUR: FUNDAMENTAL PRINCIPLES OF THIS POLICY

The principles of the Act are to regulate the power of a municipality to impose rates on property; to exclude certain properties from rating in the national interest; to make provision for the municipality to implement a transparent and fair valuation method of properties and to make provision for objection and appeal processes.

The principles of the policy are to ensure that:

- 4.1 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;
- 4.2 All ratepayers will be treated equitably;
- 4.3 Property rates will be assessed on the market value of all rateable properties within the jurisdiction of the municipality;
- 4.4 The property rates policy will take into account relief measures to address the social and economic needs of the community;

- 4.5 This policy will be developed in consultation with the community and in compliance with a process of community participation in terms of Chapter 4 of the Municipal Systems Act.

5 PART FIVE: IMPLEMENTATION OF THIS POLICY AND EFFECTIVE DATE

- 5.1 This policy takes effect from 1 July 2019, being the effective date of valuation roll prepared by the municipality in terms of the Act and must accompany the municipality's budget for the 2019/2020 financial year.
- 5.2 The rates policy must be reviewed annually, and if necessary amended by the Council. Such amendments must be effected in conjunction with the municipality's annual budget in terms of sections 22 and 23 of the Municipal Finance Management Act.
- 5.3 The municipality must adopt a set of Rates Policy By-laws to give effect to the implementation of its rates policy and such by-laws must be read in conjunction with this policy.
- 5.4 The adopted Rates Policy By-laws must also be reviewed annually, and if necessary be amended by the Council, in conjunction and in accordance with the rates policy.

Methods and frequency of payment of rates –

- 5.5 The Municipality shall recover property rates on a monthly basis.
- 5.6 The Municipality may recover a rate annually, on application, from owners with fifty (50) or more property rates accounts.
- 5.6.1 Such application to reach the Municipality on or before 30 April of each year.
- 5.6.2 Such annual amount to be paid by 31 October of each year.
- 5.7 The Municipality may issue rates accounts and recover property rates annually for National, Provincial Government and Ingonyama Trust owned property upon request.
- 5.8 The payment of rates shall not be affected by outstanding objections or appeal applications or non-compliance with the rates policy.
- 5.9 The Municipality will prepare supplementary valuations whenever necessary in terms of section 78(1). The Municipality must publish an annual Supplementary Valuation Roll in accordance with Section 78(6) of the MPRA.

6 PART SIX: EQUITABLE TREATMENT OF RATEPAYERS

- 6.1 The municipality is committed to treating all ratepayers on an equitable basis. 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. The municipality must adopt measures to ensure equitable and fair treatment of ratepayers.
- 6.2 Any differentiation in the levying of rates must be according to section 8 of the Act.

7 PART SEVEN: DISCRETIONARY DECISIONS ADOPTED BY THE MUNICIPALITY WITH RESPECT TO LEVYING PROPERTY RATES

It is recorded that the Council has adopted the following resolutions on 31 May 2019 (reference XXXX- xxxx):

- 7.1 To levy rates on all rateable property in its area of jurisdiction;
- 7.2 To determine the date of implementation of the general valuation roll as being 1 July 2019;
- 7.3 To determine the date of general valuation as being 1 July 2018;
- 7.4 To levy different cents in the rand for different categories of property;
- 7.5 That the categories of properties for the purpose of differential rating are those specified in this policy document;
- 7.6 In terms of section 23 of the Act, a municipality must draw up and maintain a register in respect of properties situated within that municipality, consisting of part A the valuation roll and part B the relief measures permitted in terms of rates policy.
- 7.7 The municipality shall in conjunction with the appointed municipal valuer identify and recognise property based on information from the Deeds Registry Office, legal registers of property / property rights or any other information readily available to it.
- 7.8 That the municipal valuer is responsible for determining the market value and the category of all properties based upon the actual use. Any change in actual use of a property will result in a change of category;
- 7.9 That for vacant land the permitted use shall be applied.
- 7.9.1 That a property used for multiple purposes as contemplated in section 9 of the Act and as defined in this policy, ***must***, for rates purposes, be assigned to

multiple purpose category in terms of sections 9(1)(c), 8(2)(i) and 9(2) of the Act;

- 7.10** In terms of section 46(2) of the Act under “valuation criteria” the municipal valuer is entitled to identify and value any unauthorised use of a property as if it were lawful.
- 7.11** In terms of rates policy any unauthorised use over a property used for multiple uses may be valued by apportionment and rates levied against the underlying registered owner as recorded in the Deeds registry office.
- 7.12** To determine a market related value for public service infrastructure in accordance with generally recognised valuation practices, methods and standards;
- 7.13** In terms of section 7 (2) (a) (i) of the Act to exclude municipal owned property from being rated, except where leased to a third party. Municipal owned property must be valued;
- 7.14** That special rating areas, as envisaged in terms of Section 22 of the Act may be established on application, compliance and by resolution of the council;

8 PART EIGHT: CATEGORIES OF PROPERTIES FOR DIFFERENTIAL RATING PURPOSES

- 8.1** Section 8 of the Act provides that a municipality may, subject to section 19 of the Act and in terms of criteria set out in its rates policy, levy different rates for different specified categories of rateable property, determined in sub-section (2) and (3), which must be determined according to the-
 - (a) use of property;
 - (b) permitted use of the property; or
 - (c) a combination of (a) and (b).
- 8.2** The designated Municipal Valuer of a municipality is responsible for determining the category of property in terms of its adopted rates policy.
- 8.3** For the purposes of section 8 of the Act read with section 9, the following categories of rateable property have been determined, being –
 - 8.3.1** Residential properties;
 - 8.3.2** Industrial properties;
 - 8.3.3** Business, commercial properties;
 - 8.3.4** Agricultural properties;
 - 8.3.5** Mining properties;

- 8.3.6** Properties owned by an organ of state and used for Public Service Purposes (PSP);
- 8.3.7** Public service infrastructure;
- 8.3.8** Public Benefit Organisation;
- 8.3.9** Properties used for multiple purpose, subject to section 9; or
- 8.3.10** Any other category of property as may be determined by the Minister, with the concurrence of the Minister of Finance, by notice in the *Gazette*.
- 8.3.11** Protected areas;
- 8.3.12** Places of public worship;
- 8.3.13** Vacant land;
- 8.3.14** Un-authorised use.

All these categories are defined within the relevant section of the rates policy.

- 8.6** It is recorded that in terms of section 19 (1) of the Act, a municipality may not levy:
 - 8.6.1** (a) different rates on residential properties, except as provided for in sections 11 (2) and 21 and 89 of the Act;
 - 8.6.2** (b) a rate on a category of non-residential properties that exceeds a prescribed ratio to the rate on residential properties determined in terms of section 11(1)(a) of the Act, provided that different rates may be set in respect of different categories of non-residential properties;
 - 8.6.3** (c) rates which unreasonably discriminate between categories of non-residential properties; or
 - 8.6.4** additional rates except in special rating areas as provided for in section 22 of the Act.
 - 8.6.5** In terms of section 19(2) of the Act and the rates policy, the ratio referred to in section 19.1.b are the prescribed ratios gazetted and any directives issued by the Minister of Finance and/or the National Department of Cooperative Governance.
- 8.7** Differential rating among the above determined categories of properties will be undertaken by way of setting different cent amounts in the rand for each property category within the municipal budgetary processes.
- 8.8** The criteria for weighting the categories determined above, for the purpose of determining rate randages for each category, must take account of the following:
 - 8.8.1** The perceived affordability factor for the different categories of property;
 - 8.8.2** The strategic importance of a category of property with reference to the aims and objectives of the Council and the Government of the Republic as a whole (such as social, economic and developmental issues).

8.8.3 Prescribed ratios

9 PART NINE: RELIEF MEASURES FOR RATEPAYERS

9.1 The municipality has considered the need and desire to grant relief to specific categories of owners of properties and owners of specific categories of properties with a view to providing appropriate measures to alleviate the rates burden the vulnerable ratepayers. The Municipality therefore grants Exemptions, Rebates and Reductions, to categories of owners based on local conditions and circumstances. No category of owner shall qualify for multiple rebates.

9.2 The municipality will not grant relief in respect of the payment of rates other than by way of an exemption, rebate or reduction provided for in this policy and granted in terms of section 15 of the Act to:

9.2.1 A specified category of property; or

9.2.2 A specified category of owner of property as provided for hereunder.

9.3 The municipality will not grant relief to the owners of property on an *ad hoc* or individual basis. For the purposes of rates policy the Municipality has determined the following **categories of owners (of property)** with criteria for relief measures included under Part 10 –

Note: Municipality to choose the relevant COOP that exists within the Municipal boundaries.

a) **Indigent Owners**

b) **Pensioner Owner**

c) **Disable Owner**

d) **Land Reform Beneficiary**

e) **Child Headed Households**

f) **Property owned by public benefit organizations**

g) **Owners of properties affected by a disaster or other serious adverse social or economic conditions**

h) **Owners of Nature Reserves / Conservation Areas**

i) **Property developers**

The council may approve further categories of owners as required.

10 PART TEN: RELIEF MEASURES FOR CATEGORIES OF PROEPRTY AND CATEGORIES OF OWNERS.

The municipality has identified the following use categories of properties and the requisite criteria for the purposes of granting exemptions, rebates or reductions to the owners of these categories of property in terms of section 15 of the Act:

The municipality has identified the following categories of owners of properties and the requisite criteria for the purposes of granting exemptions, rebates or reductions in terms of section 15 of the Act:

10.1 Indigent Owners	
10.1.1 Criteria	In order to qualify as an indigent owner, the owner must:
	(a) Be the sole owner of the property or own the property jointly with his/her spouse;
	(b) Live permanently on the property;
	(c) Not own any other property within Nkandla Local municipality;
	(d) Have an income threshold as defined in the Indigent Policy and be listed in the Indigent Register;
	(e) Make application annually on the prescribed form and within the prescribed period and submit a valid RSA bar coded ID
10.1.2 Relief Granted	Percentage rebate or reduction on the market value of the property: Refer the annual resolution for the levying of rates.

10.2 Pensioner Owners	
10.2.1 – Criteria	In order to qualify as a pensioner owner, the owner must:
	(a) Be at least 60 years of age;
	(b) For a residential category of property be the sole owner of the property or own the property jointly with his/her spouse;
	(c) Not be granted more than one pensioner rebate at a time;
	(d) Live permanently on the property;
	(e) Make application annually on the prescribed form and within the prescribed period and submit a valid RSA bar coded ID.
10.2.2 – Relief Granted	Percentage rebate or reduction on the market value of the property: Refer the annual resolution for the levying of rates.

10.3 Disabled Owners	
10.3.1 – Criteria	In order to qualify as a disabled person, the owner must:
	(a) Be the sole owner of the property or own the property jointly with his/her spouse;

	(b)	Live permanently on the property;
	(c)	May not own any other property within the Nkandla Municipality;
	(d)	Have an income threshold as defined in the Council's Customer Care Policy;
	(e)	Make application annually on the prescribed form and within the prescribed period and submit a valid RSA bar coded ID.
10.3.2 – Relief Granted	Percentage rebate or reduction on the market value of the property Refer the annual resolution for the levying of rates.	

10.4 Child-Headed Households		
10.4.1 Criteria	A household may be recognized as a child-headed household if it is deemed to fit the definition as contained at the beginning of this policy, and the owner must -	
	(a)	Live permanently on the property;
	(b)	May not own any other property within the Nkandla Municipality;
	(c)	Make application annually on the prescribed form and within the prescribed period and submit a valid RSA bar coded ID.
10.4.2 Relief Granted	Percentage rebate or reduction on the market value of the property: Refer the annual resolution for the levying of rates.	

10.5 Properties Owned by Public Benefit Organisations (PBO)		
10.5.1 Criteria	In order to qualify owners shall be registered as a Public Benefit Activities as listed in Part 1 of the 9 th Schedule to the Income Tax Act and must -	
	(a)	Make application in writing annually in the prescribed format;
	(b)	Provide proof of ownership of the property and registration as a Public Benefit Organisation in terms of the Income Tax Act conducting one or more of the following specified public benefit activities listed in Part 1 of the 9 th Schedule: <ul style="list-style-type: none"> • welfare and humanitarian; or • health care; or • education.
	(c)	Owners of property meeting the criteria shall pay the PBO category of property tariff as published annually.
10.5.2 Relief Granted	The PBO tariff would comply with prescribed ratios.	

Note: It is noted that this position is motivated by the need for non-profit organizations who **are not** registered in terms of the 9th schedule, Income Tax Act, to register with SARS in order to be eligible for rates relief.

10.6 Owners of properties affected by a disaster or other serious adverse social or economic conditions	
10.6.1 Criteria	The owner of any category of property may make application for the consideration of a reduction in the municipal valuation of his/her property as contemplated in section 15 of the Act, where it is contended that the market value of the property is being affected by -
	(a) A disaster within the meaning of the Disaster Management Act (57 of 2002); or
	(b) Any other serious adverse social or economic conditions as may be defined and determined by the Council.
	(c) To retain the relief the owner must apply annually for a review in April, preceding the year of rates implementation. The municipal valuer may at his/her discretion amend the market value if the property is reinstated and deemed habitable.
10.6.2 Relief Granted	<p>The relief provided will be in the form of a reduction in the municipal valuation of the property in relation to a certificate issued for this purpose by the Municipal Valuer, effective from the date of the disaster.</p> <p>The resultant reduction in the quantum of the rates payable will be for the current financial year only and calculated on a pro-rata basis from the date of the disaster or adverse conditions to the end of the financial year.</p>

10.7 Owners of nature reserves / conservation areas	
10.7.1 – Criteria	Nature Reserves and Conservation areas which are proclaimed in terms of the National Environmental Management: Protected Areas Act, 2003, shall be exempted from rates, subject to an application and evidence being submitted by the owner and on approval by the municipality.
	(a) Existing and Newly Proclaimed Nature Reserves / Conservation areas shall receive exemption upon application and production of the relevant evidence of Proclamation by the owner.
	(b) Nature Reserves/ conservation areas not Proclaimed as aforesaid, shall be rated as vacant land or agricultural property based on the definitions and may only be exempted from rates, once the owners have presented evidence of proclamation to a nature reserve or conservation area.
	(c) The applicant must attach evidence and information in support of their application claiming Nature reserve or conservation status.

	(d)	An area within a municipality may also be classified as a nature reserve or conservation area for the purpose of rating if on application by the owner – i) The municipality considers that the areas is environmentally sensitive; ii) The land is zoned for conservation purposes or an environmental servitude has been registered in favour of the Municipality over the environmentally sensitive area, and; iii) The landowner, with the assistance of the Municipality, prepares and implements an approved management plan aimed at protecting and improving the local environment.
	(e)	In cases where a Nature reserve or Conservation area is developed and is used for more than one purpose the municipal valuer will apply the multiple purpose use approach in terms of sections 9 (1) (c), 8 (2) (i) and apportion the different use values in terms section 9 (2) of the Act.
10.7.2 – Relief Granted	Rates exemption over whole or portion of the property.	Relief may be applied for and granted at the Council's discretion.

10.8 Developers who own property within the municipality	
10.8.1 – Criteria	In order to stimulate Development in certain key development nodes of the municipality, which are identified and defined by the municipality's approved Economic Spatial Plan, Developers shall be afforded a rebate, as approved by Council at its annual budget, subject to the following criteria -
	(a) The development must fall within a development node approved by Council;
	(b) The developer must register the development for the rebate at least (four months) prior to the submission of building plans to the Planning and Development Department;
	(c) The application must include development and sale plan which will indicate- <ul style="list-style-type: none"> • the phases of development and the time period in which the developer expects the development to be completed and transferred out to prospective purchasers in the development; • The number of units expected to be sold over the relief period: • A job creation plan.
	(d) The developer must submit a report at the end of the Municipal financial year indicating the number of units within the development that have been transferred and any amendments to the sales plan;
	(e) The rebate– <ul style="list-style-type: none"> a) shall be limited to three years from the date the development plan is approved, for investments with a certain specified property market value, set by Council; b) shall be apportioned in accordance with the completion and transfer of units within the development and shall be credited to the developers rates account at the end of a Financial year and; c) excludes bulk services development.
	(f) Major national projects undertaken by the State or organ of State may be granted a rebate as determined by the Council.
10.8.2 Rebate Granted	Percentage Rebate: Refer the annual resolution for the levying of rates.
10.9 Bed and Breakfast, guest houses, back packer lodges, student residences and other commercial accommodation uses	
10.9.1 – Criteria	On Application, Bed and Breakfast, Guesthouse establishments, Holiday Accommodation, Student Accommodation and Back-

	packers lodges may receive a rebate as determined by Council at its annual budget. All other accommodation establishments operating as a business will not qualify for a rebate.
(a)	For the types listed an annual application must be made by 30 April preceding the start of the new financial year for which relief is sought.
(c)	A Bed & Breakfast / Guesthouse / Back-packer lodge must be registered with Tourism KwaZulu – Natal and a local Community Tourism Organisation (CTO). In the absence of a CTO, then the establishment must be registered with a recognised Tourism Industry body;
(d)	A Bed & Breakfast / Guesthouse / Back-packer lodge must offer accommodation facilities and dining facilities only to registered guests. Establishments that in addition, offer conferencing, spa's, hair salons etc. will not qualify;
(e)	For the types listed the applicant must provide details of the establishment in respect of total size of developed property, total number of rooms, and facilities available;
(f)	To qualify the use and improvements must be legally approved by the municipality.
10.9.2 – Rebate Granted	Percentage Rebate: Refer the annual resolution for the levying of rates.

10.10 Agricultural Property use	
10.10.1 Criteria	<p>(a) To qualify for relief the owner of an agricultural property must make application to the municipal manager annually by April preceding the year of rates implementation;</p> <p>(b) To qualify the property must be used for bone fide agriculture as determined by the municipal valuer;</p> <p>(c) When considering criteria to be applied in respect of any relief for properties used for agricultural purposes a municipality must consider -</p> <ul style="list-style-type: none"> i. The extent of services provided by the municipality in respect of such properties; ii. The contribution of agriculture to the local economy; iii. The extent to which agriculture assists in meeting the service delivery and development obligations of the municipality; and iv. The contribution of agriculture to the social and economic welfare of farm workers; <p>(d) The Farmers Association/s within the municipal jurisdiction</p>

	shall present a submission motivating for the criteria as listed above by April the preceding year of rates implementation.
10.10.2 Relief granted	Relief granted in terms of the prescribed gazetted ratios to qualifying applicants.

10.11 Residential Properties with a Market Value Below a Prescribed Municipal Valuation Threshold.	
10.11.1 Criteria	It is recorded that in terms of section 17(1)(h) of the Act that the levying of rates on the first R15,000 of the market value of a residential property is impermissible. The Nkandla Municipality may grant a further reduction to all residential properties. The valuation threshold is the combination of the impermissible and reduction component and applies to property rates only.
10.11.2 Relief Granted	The owner of a property meeting the above criteria is exempted from the payment of rates. Refer the annual resolution for the levying of rates.

The above relief shall be subject to the following conditions –

- (i) All applications for relief must be in writing in the prescribed form and must reach the Municipality before 30 April preceding the year of rates implementation;
- (ii) The Municipal Manager or his/her nominee must process and approve compliant applications;
- (iii) The Municipality retains the right to refuse a rebate, reduction or exemption if the details supplied on the application form are incomplete, incorrect or false;
- (iv) Where applicable for relief the use of any land or buildings, or any part thereof, shall not be for the private pecuniary benefit of any individual, whether as a shareholder in a company or otherwise;
- (v) Where applicable for relief, if during the currency of any financial year, any such land or building is used for any purpose other than the purpose for which it was so exempted, the Municipality shall impose rates thereon or on such portion so used, at a rate proportionate to the period of such use; and
- (vi) Once the Application is granted, the Applicant is required to submit annually, an affidavit confirming the use or ownership of the property as the case may be.

11 PART ELEVEN: COMMUNITY PARTICIPATION

11.1 It is recorded that the 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, as well as sections 4 and 5 of the Act. These provisions include:

15 PART FIFTEEN: IMPERMISSIBLE RATES IN TERMS OF SECTION 17 OF THE ACT

15.1 It is recorded that the municipality may not, in terms of section 17 of the Act levy a rate on:

15.1.1 The first 30% of the market value of public service infrastructure;

15.1.2 the first R15,000 of the market value of a property assigned in the valuation roll or supplementary valuation roll of a municipality to a category determined by the municipality –

(i) for residential properties; or

(ii) for properties used for multiple purposes, provided one or more components of the property are used for residential purposes; or

15.1.3 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 who officiates at services at that place of worship.

15.1.4 The Minister, acting with the concurrence of the Minister of Finance, may from time to time by notice in the *Gazette*, increase the monetary threshold referred to in subsection 15.1.2 to reflect inflation.

15.1.5 The Minister may, by notice in the *Gazette*, lower the percentage referred to in subsection 15.1.1 but only after consultation with –

(i) Relevant Cabinet members responsible for the various aspects of public service infrastructure;

(ii) Organized local government; and

(iii) Relevant public service infrastructure entities.

15.1.6 The exclusion from rates of a property referred to in subsection 15.1.3 lapses if the property –

(i) Is disposed of by the religious community owning it; or

(ii) Is no longer used primarily as a place of public worship by a religious community or, in the case of an official residence contemplated in that subsection, is no longer used as such an official residence.

15.1.6.1 If the exclusion from rates of a property used as such an official residence lapses, the religious community owning the property

becomes liable to the municipality concerned for any rates that, had it not been for subsection 15.1.3 would have been payable on the property during the period of one year preceding the date on which the exclusion lapsed.

15.1.6.2 The amount for which the religious community becomes liable in terms of paragraph 15.1.6.1 must be regarded as rates in arrears, and the applicable interest on that amount is payable to the municipality.

16 PART SIXTEEN: CONSTITUTIONALLY IMPERMISSIBLE RATES

16.1 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 and unreasonably prejudice -

16.1.1 national economic policies;

16.1.2 economic activities across its boundaries; or

16.1.3 the national mobility of goods, services, capital or labour.

17. ROUNDING

17.1 The rates policy records that all values within the valuation roll are rounded to **(R.10)**