INGQUZA HILL
LOCAL MUNICIPALITY

Irregular, Fruitless and Wasteful Policy

2026-2027

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REVIEW HISTORY

LAST REVIEW DATE	SUMMARY OF CHANGES
May 31, 2025	• No amendments
June 30, 2025	• No amendments
May 31, 2026	• No amendments

1. INTRODUCTION

1.1. In terms of section 62 of the Municipal Finance Management Act No. 56 of 2003 (herein referred to as "MFMA"), the accounting officer is responsible for managing the financial affairs of Ingquza Hill Local Municipality (IHLM) and he must, for this purpose, inter alia:

a) Take all reasonable steps to ensure that unauthorised, irregular; fruitless and wasteful expenditure and other losses are prevented; and

b) Ensure that disciplinary or, when appropriate, criminal proceedings are instituted against any official or councillor of IHLM who has allegedly committed an act of financial misconduct or an offence in terms of Chapter 15 of the MFMA.

1.2. This is to ensure the effective, efficient and transparent systems of financial, risk management and internal control.

2. OBJECTIVES

2.1. This document sets out IHLM"s policy and procedures with regards to unauthorised, irregular, fruitless and wasteful expenditure.

2.2. This policy aims to ensure that, amongst other things:

a) Unauthorised, irregular, or fruitless and wasteful expenditure is detected, processed, recorded, and reported in a timely manner;

b) Officials and councillors have a clear and comprehensive understanding of the procedures they must follow when addressing unauthorised, irregular, fruitless and wasteful expenditure;

c) IHLM resources are managed in compliance with the MFMA, the municipal regulations and other relevant legislation; and

d) All officials and councillors are aware of their responsibilities in respect of unauthorised, irregular, fruitless and wasteful expenditure.

3. ENABLING LEGISLATION

The following enabling legislation sets the precedent for the development of IHLM unauthorised, irregular, fruitless and wasteful expenditure Policy:

a) The Constitution of the Republic of South Africa, 1996, Act No 108 of 1996;
b) The Municipal Finance Management Act, 2003, No 56 of 2003;
c) The Remuneration of Public Office Bearers Act;
d) Municipal Systems Act, 2000, Act No 32 of 2000;
e) MFMA Circular 68;
f) Any other legislation, regulation or circular that may impact this policy; and

g) Municipal Structures Act No. 117 of 1998.

4. APPLICATION OF THIS POLICY

4.1 This policy applies to all officials and councillors of IHLM

4.2 This policy should be read in conjunction with the following of IHLM:

a) Code of Conduct for Municipal Staff Members; and
b) Code of Conduct for Councillors.

4.3 Officials and Councillors must ensure all instances of unauthorised, irregular expenditure as well as fruitless and wasteful expenditure is prevented where possible and is detected and reported in a timely manner.

5. DEFINITIONS

Except if otherwise indicated:

"Councillor" means member of municipal council of IHLM.

"**Fruitless and wasteful expenditure**" means expenditure that was made in vain and would have been avoided had reasonable care been exercised.

"Financial Misconduct" means any misappropriation, mismanagement, waste or theft of the finances of a municipality, and also includes any form of financial misconduct specifically set out in sections 171 and 172 of the Act.

"Irregular expenditure" in relation to a municipality or municipal entity, means:

a. Expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of this Act, and which has not been condoned in terms of section 170;
b. Expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the Municipal Systems Act, and which has not been condoned in terms of this Act;
c. Expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the Public Office-Bearers Act, 1998, (Act 20 of 1998);
d. expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of IHLM or any of the municipality's by-laws giving effect to such policy, and which has not been condoned in terms of such policy or by-law; or
e. Excludes expenditure by a municipality which falls within the definition of „unauthorised expenditure".

"Official" in relation to a IHLM, means:

a. an employee of IHLM;
b. a person seconded to a IHLM or to work as a member of the staff of the IHLM; or
c. a person contracted by a IHLM to work as a member of the staff of the IHLM or otherwise than as an employee.

"**Overspending**" means:

a. in relation to the budget of a municipality, means causing the operational or capital expenditure incurred by the municipality during a financial year to exceed the total amount appropriated in that year's budget for its operational or capital expenditure, as the case may be;
b. In relation to a vote, means causing expenditure under the vote to exceed the amount appropriated for that vote; or
c. In relation to expenditure under section 26, means causing expenditure under that section to exceed the limits allowed in subsection (5) of that section.

"Political Office Bearer" means the speaker, executive mayor, Councillor, or a member of the executive committee as referred to in the Municipal Structures Act.

"Prohibited expenditure" in relation to this policy means unauthorised, irregular, fruitless and wasteful expenditure;

"**Senior Manager"** has the meaning assigned to it in section 1 of the MFMA and in relation to IHLM refers to Executive Managers and CFO

"Unauthorised expenditure" means any expenditure incurred by a municipality otherwise than in accordance with section 15 or 11(3), and includes-

a. Overspending of the total amount appropriated in the municipality's approved budget;
b. Overspending of the total amount appropriated for a vote in the approved budget;
c. Expenditure from a vote unrelated to the department or functional area covered by the vote;
d. Expenditure of money appropriated for a specific purpose, otherwise than for that specific purpose;
e. Spending of an allocation referred to in paragraph (b), (c) or (d) of the definition of „„allocation"" otherwise than in accordance with any conditions of the allocation; or
f. a grant by IHLM otherwise than in accordance with the MFMA.

"Vote" means

a. One of the main segments into which a budget of a municipality is divided for the appropriation of money for the different department or functional areas of the municipality; and
b. which specifies the total amount that is appropriated for the purposes of the department or functional area concerned.

6. UNAUTHORISED EXPENDITURE

6.1 Ingquza Hill Local Municipality may incur expenditure only in terms of an approved budget and within the limits of the amounts appropriated for the different votes in an approved budget.

6.2 Expenditure incurred within the ambit of IHLM"s virement policy included in the budget policy is not regarded as unauthorised expenditure.

6.3 Any expenditure that has not been budgeted for, expenditure that is not in terms of the conditions of an allocation received from another sphere of government, economic entity or organ of state and expenditure in the form of a grant that is not permitted in terms of the MFMA is regarded as unauthorised expenditure.

6.4 Unauthorised expenditure would include:

a. Any overspending in relation to both the operational budget and capital budget of the municipality;

b. Overspending in relation to each of the votes on both the operational budget and capital budget;
c. Use funds allocated to one department for purposes of another department or for purposes that are not provided for in the budget;

d. Funds that have been designated for a specific purpose or project within a departments vote may not be used for any other purpose;

e. Any use of conditional grant funds for a purpose other than that specified in the relevant conditional grant framework is classified as unauthorised expenditure;

f. Any grant to an individual or household unless it is in terms of the municipality's indigent policy, bursary scheme, corporate social responsibility policy, councillors discretionary grant or the grants-in-aid;

g. Unforeseen and unavoidable expenditure not authorised within an adjustments budget within 60 days after the expenditure was incurred; and

h. Any overspending on non-cash items, for example depreciation, impairments, provisions.

6.5 Officials and councillors must ensure that all instances of fruitless and wasteful expenditure are prevented where possible, and are detected and reported in a timely manner.

6.6 Expenditures that are NOT classified as unauthorized expenditure: -

Given the definition of unauthorised expenditure, the following are examples of expenditure that are NOT unauthorised expenditure:

i. Any over-collection on the revenue side of the budget as this is not an expenditure; and
ii. ii. Any expenditure incurred in respect of:
iii. Any of the transactions mentioned in section 11(1)(a) to (j) of the MFMA;
iv. Re-allocation of funds and the use of such funds in accordance with a council approved virement policy;
v. overspending of an amount allocated by standard classification on the main budget Table A2 (Budgeted Financial Performance: revenue and expenditure by standard classification), as long as it does not result in overspending of a „vote" on the main budget Table A3 (Budgeted Financial Performance: revenue and expenditure by municipal vote) and Table A4 (Budgeted Financial Performance: revenue and expenditure (read in conjunction with supporting Table SA1) of the MBRR; and
vi. overspending of an amount allocated by standard classification on the main budget Table A5 (Budgeted Capital Expenditure by vote, standard classification, and funding) of the MBRR so long as it does not result in overspending of a „vote" on the main budget Table A5.

6.7 Money withdrawn from a bank account under the following circumstances, without appropriation, in terms of an approved budget, is not regarded as unauthorised expenditure:

a. To defray expenditure authorised in terms of section 26 (4) of the MFMA, [*Section 26*: *Consequences of failure to approve a budget before the start of the budget year*];
b. To defray unforeseen / unavoidable expenditure circumstances strictly in accordance with Section 29 (1) of the MFMA [*Section 29: Unforeseen and unavoidable expenditure*] failing which the unforeseen /unavoidable expenditure is unauthorised;
c. Re-allocation of funds and the use of such funds in accordance with a council approved virement policy;
d. Expenditure incurred from a special bank account for relief, charitable or trust purposes provided of course that it is done strictly in accordance with Section 12 of the MFMA [*Section 12: Relief, charitable, trust or other funds*];

e. To pay over to a person or organ of state money received by the IHLM on behalf of that person or organ of state, including—
   i. Money collected by the IHLM on behalf of that person or organ of state by agreement; or
   ii. any insurance or other payments received by the IHLM for that person or organ of state;
f. To refund money incorrectly paid into a bank account;
g. To refund guarantees, sureties and security deposits;
h. For cash management and investment purposes in accordance with section 13 [Section 13: Cash Management and Investments]; and
i. To defray increased expenditure in terms of section 31 [Section 31: Shifting of funds between multi-year appropriations].

6.8 Any expenditure approved in terms the Municipal Budget and Reporting Regulations (MBRR).

7. IRREGULAR EXPENDITURE

7.1 Irregular expenditure is expenditure that is contrary to the Municipal Finance Management Act (Act No.56 of 2003), the Municipal Systems Act (Act No.32 of 2000), and the Public Office Bearers Act (Act No. 20 of 1998) or is in contravention of the Municipality‟ supply chain management policy.

7.2 Irregular expenditure is expenditure that is in violation of some or another procedural/legislative requirement as specified in the MFMA

7.3 Irregular expenditure excludes unauthorised expenditure.

7.4 Although a transaction or an event may trigger irregular expenditure, a Council will only identify irregular expenditure when a payment is made. The recognition of irregular expenditure must be linked to a financial transaction.

7.5 If the possibility of irregular expenditure is determined prior to a payment being made, the transgression shall be regarded as a matter of non-compliance.

8. REMUNERATION OF COUNCILLORS

8.1 Payments to IHLM councillors cannot exceed the upper limits of the salaries, allowances and benefits for those councillors as promulgated in the Public Officers Bearers Act.

8.2 Any remuneration paid or given in cash or in kind to a person as a councillor or as a member of a political structure of IHLM otherwise than in accordance with 9.1 including any bonus, bursary, loan, advance or other benefit, must be classified as irregular expenditure.

9. IRREGULAR STAFF APPOINTMENTS

9.1 No person may be employed in IHLM unless the post, to which he or she is appointed, is provided for in the IHLM‟s staff establishment of the municipality as approved by the council.

9.2 Any person who takes a decision knowing that such decision is unlawful will be held personally liable for any irregular or fruitless and wasteful expenditure that the municipality may incur as a result of such invalid decision.

9.3 Officials and councillors must ensure that all instances of fruitless and wasteful expenditure are prevented where possible, and are detected and reported in a timely manner.

10. FRUITLESS AND WASTEFUL EXPENDITURE

10.1 All officials and councillors must always act cautiously when spending public money and ensure that they abide by the public and accountability principles which are to promote “efficient, economic and effective use of resources and the attainment of value for money”.

10.2 Fruitless and wasteful expenditure is expenditure that was made in vain and would have been avoided had reasonable care been exercised.

10.3 This type of expenditure is incurred where no value for money is received for expenditure or the use of resources. No particular expenditure is explicitly identified by the MFMA as fruitless and wasteful.

10.4 Expenditure incurred that has been budgeted for (authorised) and was not regarded as irregular expenditure could be classified as fruitless and wasteful expenditure.

10.5 An expense is only fruitless and wasteful in terms of this policy if:

i. It was made in vain (meaning that the municipality did not receive value for money) and;

ii. and would have been avoided had reasonable care been exercised (meaning that the official or councillor concerned did not carelessly or negligently cause the expenditure to be incurred by the municipality furthermore another official or councillor under the same circumstances would not have been able to avoid incurring the same expenditure)

10.6 In determining whether expenditure is fruitless and wasteful, officials and councillors must apply the requirement of reasonable care as an objective measurement to determine whether or not a particular expenditure was fruitless and wasteful, that is-

a. Would the average man (in this case the average experienced official or councillor) have incurred the particular expenditure under exactly the same conditions or circumstances? and

b. Is the expenditure being incurred at the right price, right quality, right time, and right quantity?

10.7 Officials and councillors must ensure that all instances of fruitless and wasteful expenditure are prevented where possible and are detected and reported in a timely manner.

11. REPORTING ON UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE

11.1 Reporting of unauthorised, irregular, fruitless and wasteful expenditure must be done at the appropriate level, as this could constitute financial misconduct as follows:

a. Councillor of a municipality, must be reported to the Speaker of the council;
b. The municipal manager and speaker must be reported to the mayor;
c. Executive managers or the chief financial officer of a municipality must be reported to the municipal manager;
d. All cases of prohibited expenditure reported as per a), b) and c) above must be referred to Standing Committee for Finance or Audit Committee for investigation unless the allegations are frivolous, vexatious, speculative or obviously unfounded; and
e. Officials below executive management level of the municipality must be reported to the CFO unless in the professional opinion of the CFO or MM the nature or the amount of the prohibited expenditure warrants the case to be referred to Audit Committee and Standing Committee Finance.

11.2 All reports made by officials, councillors must be treated with utmost confidentially.

11.3 The MM must promptly inform the Mayor, the MEC for local government in the Province and the Auditor-General, in writing, of any unauthorised, irregular or fruitless and wasteful expenditure incurred by the municipality:

a. Whether any person is responsible or under investigation for such unauthorised, irregular or fruitless and wasteful expenditure; and
b. The steps that have been taken:
c. To recover or rectify such expenditure; and
d. To prevent a recurrence of such expenditure.

11.4 All expenditure classified as unauthorised, irregular, fruitless and wasteful expenditure must be reported to:

a. The Finance Portfolio Committee on a monthly basis as part of section 71 report;
b. Mayoral Committee on a quarterly basis;
c. Council on a quarterly basis;
d. MPAC on a quarterly basis; and
e. Audit Committee on a quarterly basis.

11.5 In accounting for unauthorised, irregular, fruitless and wasteful expenditure, municipal manager or delegated officials (as may be relevant) must ensure that:

a. All confirmed unauthorised, irregular, fruitless and wasteful expenditure must be recorded in separate account, in the accounting system of IHLM, created for each of the above types of expenditure;
b. All such expenditure is disclosed in the annual financial statements as required by the MFMA and treasury requirements; and
c. Details pertaining to unauthorised, irregular, fruitless and wasteful expenditure must be disclosed in the Municipality's Annual Report.

12. MAINTAINING OF REGISTER FOR UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE

12.1 Council must maintain a register of all incidents of unauthorised, irregular, fruitless and wasteful expenditure:

a. This register will be maintained by the CFO for all officials other than the CFO and MM;
b. A separate register must be maintained by the MM for expenditure incurred by CFO;
c. A separate register must be maintained by the Mayor for expenditure incurred by the MM; and
d. The Speaker will maintain a register for expenditure incurred by the Mayor and Councillors.

12.2 These registers must be updated on a monthly basis.

13. INVESTIGATION OF UNAUTHORISED AND IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE

13.1 Finance Committee and or Audit Committee must institute an investigation of all prohibited expenditure reported in terms of clause 9.1. (d), above.

13.2 The CFO must seek the Municipal Managers approval to investigation all prohibited expenditure reported to him/her in terms of clause 9.1(e) unless the allegations are frivolous, vexatious, speculative or obviously unfounded.

13.3 Once the nature of the expenditure is confirmed as unauthorised, irregular, fruitless and wasteful expenditure, the person to whom the prohibited expenditure was reported in terms of clause 9.1 above must institute the necessary procedures which could include disciplinary as well criminal proceedings.

14. DISCIPLINARY AND CRIMINAL CHARGES FOR UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE

14.1 After having followed a proper investigation, as per paragraph 11 above, the Finance Committee or the CFO as the case may be must determine whether there is a prima facie case and that a Councillor or official made, permitted or authorized prohibited expenditure.

14.2 If a prima facie case has been established, as per paragraph 12.1 above, then Finance Committee, mayor or municipal manager (as may be relevant) must institute disciplinary action as follows:

a. *Financial misconduct in terms of section 171 of the MFMA*: in the case of an official that deliberately or negligently:
   i. contravened a provision of the MFMA which resulted in prohibited expenditure; or
   ii. made, permitted or authorised an irregular expenditure (due to non-compliance with any of legislation mentioned in the definition of irregular expenditure);

a) *Breach of the Code of Conduct for Municipal Staff Members*: in the case of an official whose actions in making, permitting or authorizing an prohibited expenditure constitute a breach of the Code; and

b) *Breach of the Code of Conduct for Councillors:* in the case of a Councillor, whose actions in making, permitting or authorizing an irregular expenditure constitute a breach of the Code. This would also include instances where a councillor knowingly voted in favour or agreed with a resolution before council that contravened legislation resulting in prohibited expenditure when implemented, or where the Councillor improperly interfered in the management or administration of the municipality.

14.3 The Portfolio Chair Finance, mayor or municipal manager or delegated officials (as may be relevant) must promptly report to the SAPS all cases of alleged:

a. Irregular expenditure that constitute a criminal offence; and
b. Theft and fraud that occurred in the municipality.

14.4 The Mayor must take all reasonable steps to ensure that all cases referred to in the above paragraph are reported to the South African Police Service if:

a. The charge is against the MM; or
b. The MM fails to comply with the above paragraph.

15. RECOVERY UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE

15.1 The MM or delegated person must recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure unless the expenditure:

a. In the case of unauthorised expenditure, is
   i. authorised in an adjustment budget; OR

ii. Certified by the municipal council, after investigation by Finance Committee, as irrecoverable and is written off by council; and

b. In the case of irregular or fruitless and wasteful expenditure, is after investigation by Finance Committee, certified by council as irrecoverable and written off by council.

15.2 Irregular expenditures resulting from breaches of the Public Office-Bearers Act must be recovered from the Councillor to whom it was paid.

15.3 Once it has been established who is liable for the unauthorised, irregular, fruitless and wasteful expenditure, the Municipal Manager must in writing request that the liable Councillor or official pay the amount within 30 days or in reasonable instalments.

15.4 Without limiting liability in terms of the common law or other legislation, the MM must recover any such expenditure, in full, from official or Councillor where:

a. In the case of a Councillor, the Councillor knowingly or after having been advised by the MM that the expenditure is likely to result in unauthorised, irregular or fruitless and wasteful expenditure, instructed an official of IHLM to incur the expenditure; and In case of the official, the official deliberately or negligently incurred such expenditure.

15.5 The fact that the Council may have approved the expenditure for writing off or deemed it to be irrecoverable is no excuse in:

a. Either disciplinary or criminal proceedings against a person charged with the commission of an offence or a breach of the MFMA relating to such unauthorised, irregular, or fruitless and wasteful expenditure; or
b. Recovery of such expenditure from such person.

15.6 If the official or councillor fails to make satisfactory payment arrangements or fails to honour payment arrangements made, the amount owed for prohibited expenditure must be recovered through the normal debt collection process of the municipality.

16. CONSEQUENCES OF NON-COMPLIANCE

16.1 Any official or councillor who does not comply with their reporting duties in terms of this policy could be found guilty of Financial Misconduct.

16.2 Any councillor or official of IHLM will be committing an act of financial misconduct if that councillor or official deliberately or negligently makes or permits, or instructs another official of IHLM to make, an unauthorised, irregular, or fruitless and wasteful expenditure.

17. PROTECTION OF OFFICIALS OR COUNCILLORS WHO HAVE REPORTED UNAUTHORIZED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE

17.1 If any official or councillor who has complied with this policy and as a result thereof has been subjected to intimidation, victimisation, threats such official or councillor should immediately report such threats, victimisation, or intimidation immediately to the MM or the Mayor where applicable.

17.2 The MM or Mayor must immediately take appropriate action to ensure that protection of the official or councillor after receiving the above report.

17.3 Where the nature of the threats warrants such action, the threats should be reported to the SAPS by the official concerned, the MM or the Mayor, where applicable.

18. 16 EFFECTIVE DATE

This policy will be effective upon adoption by Council.

17 REVIEW OF POLICY

This policy must be reviewed and updated:

a) Annually in line with the budget cycle and submitted with the budget policies; or
b) Sooner if new legislation, regulation, or circulars are issued that will impact this policy.

19. ADOPTION OF THE POLICY

Policy adopted by Council of Ingquza Hill Local Municipality for implementation.

Approved by Resolution number……. on this ……day of …….

_____ _____

HONORABLE SPEAKER OF COUNCIL

S.B. Vatsha