

SPECIAL RATING AREA POLICY

CHAPTER 1

ESTABLISHMENT OF SPECIAL RATING AREAS

1. DEFINITIONS

In this policy words or expressions shall bear the meaning assigned to them and, unless the context otherwise indicates

"**additional rate**" means an additional rate contemplated in sections 19(1)(d) and 22(1)(b) of the Property Rates Act;

"**applicant**" means any person who makes an application for the determination of a special rating area in accordance with the provisions of Chapter 1, or if a management body is established in terms of section 7 any reference to "the applicant" means the management body;

"**CFO**" means the Chief Financial Officer of the City, or his or her nominee;

"**City**" means the Municipality of EThekweni

"**Council**" means the Council for Municipality of EThekweni;

"**Finance Agreement**" means the agreement signed and entered into in terms of Section 67 of the Municipal Finance Management Act (2003).

"**Financial Year**" means the Municipal financial year from 1 July to 30 June of the following year.

"**implementation plan**" means an Implementation Plan as contemplated in section 5;

"**majority**" means the majority of property owners as contemplated in section 22 of the Property Rates Act;

"**management body**" means the management body of a special rating area to be established in accordance with the provisions of section 7;

"**motivation report**" means a motivation report as contemplated in section 5

"**owner**" has the meaning assigned to it in section 1 of the Property Rates Act;

"**Policy**" means the Policy for the determination of special rating areas, or any other policy adopted by the Council in relation to special rating areas, as in force from time to time;

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

"**rateable property**" has the meaning assigned to it in section 1 of the Property Rates Act;

"**special rating area**" means a special rating area approved by the Council in accordance with the provisions of section 22 of the Property Rates Act.

2. DETERMINATION OF SPECIAL RATING AREAS

The City may by resolution of the Council determine special rating areas, and levy an additional rate on property in that area for the purpose of raising funds for improving or upgrading that area.

3. APPLICATION

- (1) Any application must –
 - (a) be in writing and be in the form as the CFO may determine;
 - (b) be submitted not later than 30 September preceding the start of the new municipal year for which application is made;
 - (c) describe and define the boundaries of the proposed special rating area;
 - (d) consist of no less than or 200 properties in total, or the total value of the properties must exceed a value as determined by Council from time to time;
 - (e) be accompanied by –
 - (i) a budget, business and implementation plan;
 - (ii) sufficient number of signed *support for establishment forms* to demonstrate that:
 - a) at least 51% of owners in number relating to properties categorized as 'Business & Commercial', provided that residential owners are zero rated in respect of the additional rate; **or**
 - b) at least 66% of other owners in number and 51% of property value favour the proposals.
- (2) The business plan should contain:
 - (a) Description for nature of intended operations and explanation why the proposal will not reinforce inequities in development of the city.
 - (b) Motivation, including an explanation of how such special rating area will improve the region and be consistent with the IDP for the city.
 - (c) The vision, mission and objective for such proposals.
 - (d) Composition of board for the management body and how they will regularly interact with local property owners.
 - (e) What staff and other service providers are intended to be engaged, and what assets exist or intend to be acquired.
 - (f) Annual budget proposed for each year of implementation plan.
- (3) The Implementation Plan should include:
 - (a) Milestones for achieving the proposed improvements.
 - (b) Tasks and target dates for each milestone.
 - (c) Performance indicators to measure progress in achieving targets
- (4) If the business plan or the implementation plan are materially amended, as determined by the CFO, after the public meeting referred to in section 4, the applicant must call a second public meeting for approval of the special rating area as amended.
 - (a) The provisions of section 4 apply with the necessary changes to the second public meeting.

4. PUBLIC PARTICIPATION

(1) PUBLIC MEETINGS

- (a) An application for the determination of a special rating area must be preceded by the holding of a public meeting.
- (b) The purpose of the public meeting is to enable the applicant to consult with those owners within the proposed special rating area with regard to the proposed boundaries of the area and the proposed improvement or upgrading of the area.
- (c) Prior to the holding of the public meeting, the applicant must give notice by pre-paid registered post, hand delivery or in any other manner approved of by the CFO to all owners of rateable property, of the applicant's intention to apply for the establishment of a special rating area; which notice must –
 - (i) state the purpose of such meeting; and
 - (ii) contain details of the place, date and time when such meeting is to be held.
 - (iii) include the proposed boundaries and supplementary services; and
 - (iv) include the proposed annual budget and additional property rate; and
 - (v) include address (within administration of EThekwini) where proposals may be inspected and objections may be lodged.
- (d) The public meeting must be held not less than 10 working days (excluding weekends and public holidays) and not more than 30 days after the date of the notice.
- (e) The public meeting must be held at such place, date and time as stated in the notice, provided that it must be held at a place which is within the boundaries of the proposed special rating area unless the CFO approves another venue in writing before the public meeting is held.
- (f) The public meeting must be chaired by a suitably qualified and experienced person and attended by representative of EThekwini administration
- (g) Interested persons must, at the public meeting, be –
 - (i) furnished with all relevant information relating to the proposed special rating area, including the information to be set out in the motivation report and implementation plan; andgiven an opportunity to ask questions, express their views and make representation.

(2) ADVERTISING OF APPLICATION AND OBJECTIONS

- (a) The applicant must cause a notice of the application to be published in a newspaper circulating within the jurisdiction of the proposed special rating area at least 10 working days (excluding weekends and public holidays) before the meeting to which reference is made in section 4(1) .
- (b) Every notice contemplated in terms of subsection (a) must state that written objections to the establishment of a special rating area or the provisions of the motivation report and implementation plan may be lodged with the Council by a date specified in the notice, which shall not be less than 8 working days after the date of publication in terms of subsection (2)(a), and must state where the documentation specified in subsection 4 (1) will be available for inspection.
- (c) Any owner of property who will be liable for paying the additional rate may submit written objections to the establishment of the special rating area, which objections

must be received by the Council not later than the date stipulated in the notice referred to in subsection (2)(a).

- (d) An applicant and any objector to the application who owns property within the proposed special rating area may make oral representations to Council.
- (e) The application, including the business plan and the implementation plan, and all objections must be available for inspection at the offices of the City, for the period referred to in subsection (2)(a).

CHAPTER 2

SPECIAL RATING AREAS – STRUCTURES AND FINANCES

5. COMMENCEMENT OF THE IMPLEMENTATION PLAN

Once the Council has approved the establishment of the special rating area, the implementation plan may only be implemented after the management body has been established in accordance with section 6.

6. ESTABLISHMENT, COMPOSITION, POWERS AND DUTIES OF MANAGEMENT BODY

- (1) The applicant must cause a management body to be established for the purposes of implementing the provisions of the implementation plan.
- (2) The management body must be a company incorporated in accordance with the provisions of the Companies Act, 2008.
- (3) The City shall monitor compliance by the management body with the applicable provisions of this Policy, any guidelines or policies adopted by the City and any agreements entered into with the management body and the City.
- (4) The registered company for the SRA must enter into an agreement with the municipality in terms of Section 67 of the Municipal Finance Management Act 2003.
- (5) Within two months after receipt of the first payment of the additional rate, the management body must begin carrying out the provisions of the implementation plan.
- (6) Within three months of the end of each financial year, the management body must provide the CFO with –
 - (a) its audited financial statements for the immediately preceding year; and
 - (b) an annual report on its progress in carrying out the provisions of the implementation plan in the preceding year to improve and upgrade the special rating area.
 - (c) a copy of the minutes of the AGM for the preceding year.

7. FINANCES

- (1) Where a special rating area has been determined, the Council must levy in accordance with the provisions of the Property Rates Act, a property rate in addition to the rates that it already charges on the owners of ratable property in the special rating area for the purposes of realising the implementation plan, provided that any rebate granted in terms of Clause 7 from Rates Policy for the City does not apply to additional rate payable by an owner in a special rating area.

- (2) When determining the additional rate referred to in subsection (1), the Council may give consideration to imposing differential additional rates on one or more of the categories set out in section 8 of the Property Rates Act.
- (3) An increase or decrease in the property valuation or a change in the category of property during the course of a financial year shall not impact on the special rate adopted by Council.
- (4) The additional rate due in terms of this Policy is a debt due to the Council and is payable and must be collected in the same manner as other property rates imposed by the Council.
- (5) Once the additional rate has been approved by a resolution of Council for its annual budget, the municipality will levy the assessed additional rate and will pay to each SRA (in the form of a grant) the revenue generated as it is collected.
- (6) The payment contemplated in subsection (4) is conditional upon the conclusion of a finance agreement to be entered into between the Council and the relevant management body on an annual basis by 31 December each year, and such agreement must regulate, among other things –
 - (a) the restriction for growth of annual funding requests and manner of payment; and
 - (b) terms on which payment to the relevant management body is to be made.
- (7) Subject to the provisions of its memorandum and articles of association, the management body is entitled to raise its own funds through commercial activities, donations or any other lawful means.

8. THE ROLE OF THE CFO

In addition to the other responsibilities and obligations of the CFO as set out elsewhere in this Policy, the CFO must monitor compliance with the applicable legislation, including this Policy, by –

- (1) receiving and considering the audited financial statements and reports regarding the carrying out of duties laid out in the implementation plan;
- (2) if he or she elects to do so, nominating representatives to attend and participate but not vote at meetings of the management body

CHAPTER 3

AMENDMENTS TO BUSINESS AND IMPLEMENTATION PLANS

9. AMENDMENT TO PLANS & EXTENSION OF BOUNDARIES

- (1) A business and an implementation plan, including the geographical boundaries of the special rating area, may be amended by the Council on written application by the management body (after approval at an AGM) at any time after the formation of the special rating area.
- (2) The boundaries for existing SRA's may be amended, provided:
 - (a) 51% of additional owners in number relating to properties categorized as business & commercial demonstrate their support; or
 - (b) 66% of additional owners in number demonstrate their support;
 - ;
 - (c) a two thirds majority vote is obtained from owners of the existing SRA favoring the amendment of the boundaries, at the AGM or Special General meeting of the

registered company, after at least 30 days notice of the amended proposals have been delivered to every property owner within the existing SRA.

- (d) The increase of the boundary or number of new properties may be limited by Council.

- (3) The Council may approve an application for an amendment referred to in subsection (1) where the Council considers it not likely to materially affect the rights or interests of any owner, provided that the Council may require the management body to cause a notice of the application for such amendment to be published as approved by the CFO.

- (4) The Council may only approve an amendment in terms of subsection (1), which the Council considers is likely to –
 - (a) materially affect the rights or interests of any person; and/or
 - (b) affect the approved budget for the special rating area;if the full process in terms of the provisions of Chapter 1 are followed, notwithstanding the exemption as allowed for in subsection (5)..

- (5) The Council may, for good reason, on written application by the management body, exempt the management body from complying with the provisions, or condone any noncompliance with any provisions, of Chapter 1.

- (6) New developments within the jurisdiction of the SRA will be rated in accordance with the effective date of the Supplementary Valuation roll.

CHAPTER 4

CONTINUATION AND DISSOLUTION OF A SPECIAL RATING AREA

10. CONTINUATION

An SRA will continue to operate until its dissolution as allowed for under Sect 11 below, on condition that the management body has met all the requirements as outlined in this policy as well as the annual agreement entered into between the Municipality and the management body.

11. DISSOLUTION

- (1) The Council may dissolve a special rating area –
 - (a) upon written application signed by the majority of owners within the boundaries of the special rating area who are liable for paying the additional rate; or
 - (b) If the Section 67 finance agreement:
 - (i) has not been renewed; or
 - (ii) has not been honoured.

- (2) Upon the winding up of a management body, the assets remaining after the satisfaction of all its liabilities shall be transferred to the municipality.