

CITY OF CAPE TOWN
SPECIAL RATING AREAS POLICY

APPROVED BY COUNCIL ON 27 MAY 2009

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1. INTRODUCTION

- 1.1 This Policy for the Establishing of Special Rating Areas must be read together with the Local Government: Municipal Property Rates Act, No 6 of 2004 ("the Property Rates Act") and the City's Special Rating Area By-Law, as in force from time to time ("the By-Law").
- 1.2 All words and phrases defined in the By-Law have the same meaning in this Policy.
- 1.3 In the event of any conflict between the provisions of the By-Law and the provisions of this Policy, the By-Law prevails.

2. AIM OF THE POLICY

This Policy aims to –

- 2.1 set out Council's position on Special Rating Areas and the factors that will influence Council's decision whether or not to determine a particular Special Rating Area;
- 2.2 provide guidance to members of the local community and to decision-makers within the City in relation to the establishment of Special Rating Areas; and
- 2.3 strike an appropriate balance between facilitating self-funded community initiatives that aim to improve and/or upgrade neighbourhoods by –
 - 2.3.1 making use of Council resources and structures, or
 - 2.3.2 making use of a section 21 company structure.

3. EXCLUSION

This Policy does not apply to privately-owned property developments or to gated developments regulated in terms of the City's Gated Development Policy.

4. POLICY STATEMENT

- 4.1 The City's general Rates Policy is based on the guiding principles of:
 - 4.1.1 equity;
 - 4.1.2 affordability;
 - 4.1.3 poverty alleviation;

- 4.1.4 social and economic development; and
- 4.1.5 financial sustainability and cost efficiency.
- 4.2 The City regards Special Rating Areas as a potential tool for allowing it to fulfil its constitutional and statutory obligations to promote:
 - 4.2.1 social and economic development; and
 - 4.2.2 a safe and healthy environment, in a way which balances the guiding principles underlying its general Rates Policy.
- 4.3 Special Rating Areas allow property owners within a geographical area to improve and upgrade their area by means of a property rate in addition to the standard property rate.

5. **FACTORS CONSIDERED WHEN DETERMINING A SPECIAL RATING AREA**

The Council will consider determining a Special Rating Area where the substantive requirements of section 22 of the Property Rates Act are complied with, including that –

- 5.1 the purpose of the Special Rating Area is to allow an additional rate to be levied on property in the defined area to raise funds for improving or upgrading the area;¹
- 5.2 the Special Rating Area will not be used to reinforce existing inequities in the development of the City's area of jurisdiction;²
- 5.3 the determination of the Special Rating Area is consistent with the City's Integrated Development Plan (IDP);³
- 5.4 the majority of members of the local community who will be liable for paying any additional rate in the Special Rating Area have consented to its establishment;⁴

¹ Section 22(1)(b)

² Section 22(4)

³ Section 22(4)

⁴ Section 22(2)(b)

- 5.5 the procedural requirements of section 22 of the Property Rates Act⁵ are complied with, including the community consultation requirement, as well as the procedural requirements in Part 1 of the By-Law;
- 5.6 the proposed improvement or upgrade has been clearly and fully defined;
- 5.7 the proposed improvement or upgrade can be clearly and logically linked to a geographical area, the boundaries of which can be clearly determined;
- 5.8 there is evidence that it will be financially viable to use a Special Rating Area to raise funds for the proposed improvement or upgrade;
- 5.9 the City is satisfied with the institutional arrangements proposed in respect of the Special Rating Area; and
- 5.10 ultimately, the decision whether or not to determine a Special Rating Area rests with the Council in its sole discretion.

6. CATEGORIES OF OWNERS / PROPERTIES 100% EXEMPTED FROM PAYMENT OF THE ADDITIONAL RATE

6.1 Indigent, Senior Citizens and Disabled Persons

Registered owners of residential properties who are indigent, senior citizens and / or disabled persons qualify for a 100% exemption from paying the additional rate should they qualify in terms of the minimum criteria as set out below. The SRA has the option to further alleviate poverty by determining additional exemption criteria.

6.1.1 Minimum Registration Criteria for Indigent

In order to qualify for registration as an indigent, for a period not exceeding twelve months, an applicant must satisfy the following criteria:

- (a) the usage of the residential property must be predominantly private residential; and

⁵ Section 22(2)(a)

- (b) the applicant must be-
 - (i) the registered owner of the residential property; or
 - (ii) an occupier of a child-headed household which is registered in the name of the deceased parent or deceased parents; or
 - (iii) a purchaser of a residential property from any of the spheres of Government on a delayed transfer basis; and
- (c) the gross total household income of the residential property may not exceed the maximum income of the Senior Citizens and Disabled Persons Rates Rebate Scheme which receives a 100% rates rebate as per the City of Cape Town: Rates Policy; and
- (d) the applicant may not be the registered owner of more than one property; and
- (e) be a full-time occupant of the property; and
- (f) notwithstanding the aforesaid, owners of residential immovable property which have a Municipal value of R88 000.00, or less, or as determined by Council from time to time, will be deemed to meet the criteria in sub-item (a) to (e).

Council may determine the criteria as mentioned in sub-items (a) to (f) from time to time.

6.1.2 Minimum Registration Criteria for Senior Citizens and Disabled Persons

Registered owners of residential properties who are senior citizens and/or disabled persons qualify for special rebates according to gross monthly household income of all persons normally residing on that property. To qualify for the exemption a property owner must be a natural person and the owner of such a property which satisfies the requirements of the definition of residential property and must on 1 July of the financial year:

- (a) occupy the property as his/her normal residence; and
- (b) be at least 60 years of age or in receipt of a disability pension; and
- (c) be in receipt of a gross monthly household income (i.e. money earned or received from any source) including that of all persons normally residing on that property) not exceeding R8 000 as proven by the submission by the minimum of 3 months bank statements from all financial institutions; and
- (d) not be the owner of more than one property; and

- (e) provided that where the owner is unable to occupy the property due to no fault of his/her own, the spouse or minor children may satisfy the occupancy requirement; and
- (f) provided that a usufructuary will be regarded as the owner; and
- (g) provided that the criteria of a natural person may be waived at the sole discretion of the CFO to allow for a property owned by a trust where the total number of beneficiaries meets all of the other requirements of paragraph 6.7 of the Rates Policy; and provided further that the gross monthly income of all persons residing on that property be added to the gross monthly income of the beneficiaries staying on that property.
- (h) The owner must submit the application by 31 August for this rebate to be granted for the financial year in which the application is submitted, failing which the rebate will not be granted.
- (i) Any owner who, during a financial year, meets all the above criteria may apply to receive the exemption from the date of receipt of the application for the remainder of that financial year, where after the criteria of 1 July will apply for subsequent financial years.
- (j) In exceptional circumstances the Special Rating Area Board may approve the granting of this exemption even though the applicant owns additional properties for which a market related rental is included in the gross monthly household income.

6.2 Valuation Threshold

All improved residential properties that have a municipal valuation of R88 000 or less will be exempt from paying additional rates. These residential properties, therefore, qualify for a 100% exemption of the additional rates.

6.3 Religious Institutions

All properties registered in the name of and used primarily as a place of 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 may be 100% exempted from paying additional rates.

Properties used primarily as an office of a Religious Community or property used as parking, camping sites not operated for gain and cemeteries for that Religious Community will receive a 100% exemption for additional rates.

In exceptional circumstances the CFO may accept that a property registered in a name other than that of the religious organisation be regarded as the property of a religious community if it can be proven that the registration is merely to facilitate transfer of the property into the name of the religious community.

With the implementation of any GV or at the request of the CFO, religious organisations will be required to provide proof to the Municipal Valuer that their properties are still being used for religious purposes.

6.4 Council Owned Properties

Only municipal properties used predominantly for official municipal business may be 100% exempted from paying additional rates.

6.5 Implementation Procedure

All categories of property or owners that qualify in terms of the minimum requirements listed in 6.1, must register first with council before supplying the SRA with the relevant proof of registration. On receipt of this proof, the SRA can 100% exempt the property or owner from paying the additional rate.

Should the SRA apply additional exemption criteria, the qualifying property owners must register directly with the City. The City must keep a record with proof of all properties that are exempted from paying the additional rate. This list must be supplied to the SRA when the membership list is finalised each financial year.

7. PROCESS

7.1 The flow chart attached as Schedule 1 gives the time line of the process, which must be completed by mid-January of the financial year preceding the establishment of the Special Rating Area.

7.2 This Policy sets out –

7.2.1 guidelines and requirements in relation to institutional arrangements for Special Rating Areas (paragraph);

7.2.2 the further requirements which must be followed (paragraph); and

7.2.3 the information which needs to be submitted to the City in order to motivate a request for determination of a Special Rating Area (paragraph).

8. INSTITUTIONAL ARRANGEMENTS

Section 22 of the Property Rates Act is not prescriptive as to the structural arrangements which need to be put in place to administer a Special Rating

Area. The two broad structural arrangements that will be supported by the Chief Financial Officer (CFO) are the following:

8.1 Administration by the City

8.1.1 If the applicant chooses to use the City as its service provider the following must be adhered to:

- (a) the proposed improvements or upgrades must meet the aims and objects of this Policy;
- (b) the respective Council Directorate(s) must enter into an agreement to provide or manage the required services;
- (c) the necessary support for the proposed improvements or upgrades must be obtained;
- (d) the CFO must establish separate accounting and record-keeping systems in respect of the income derived from the additional rate as set out in the PRA;⁶ and
- (e) the CFO will pay any expenses out of income generated by the additional rate;

8.1.1 the following provisions of the By-Law and the Policy are not applicable to Special Rating Areas administered by the City: sections 10, 11 and 12(4) to 12(6) of the By-Law and paragraph of the Policy.

8.2 Administration by the section 21 company

8.2.1 If the applicant proposes that the services/upgrades will be managed and implemented by them, the City will require the ratepayers within the Special Rating Area to establish and participate in an appropriate structure to carry out planning, contracting, financial control and administrative functions within the Special Rating Area.

8.2.2 This option does not entail ratepayers *setting* the additional rate, which under law can only be done by the Council, instead, ratepayers will *recommend* the annual budget amount of the additional rate to the City by 31 January, with

⁶ Section 22(3)(c)(i)

appropriate motivation, and the Council will consider the recommendation during its budgeting process.

8.2.3 The "administration by the section 21 company" option gives a higher degree of control and autonomy to ratepayers and, from the perspective of ratepayers who have promoted the Special Rating Area, may be the preferred option.

8.2.4 Because this option places funds collected by government in the hands of the private sector, the requirements set out in this Policy must be met.

8.2.5 The functions of the structure would include:

- (a) determining the funding required each year and making a recommendation to the CFO that the funding be approved as part of the City's annual budget;
- (b) appointing contractors to effect the improvement/s or upgrade/s; and
- (c) receiving the additional rate collected by the City and expending the funds to the contractors.

8.2.6 Structural requirements when administrated by the section 21 company:

- (a) before the City will consider allowing ratepayers in a Special Rating Area to carry out administrative and other functions in relation to the area, it must be satisfied that an appropriate structure has been put in place for that purpose. The City will require the ratepayers to establish a section 21 company (company not for gain) as per the Companies Act, No. 61 of 1973 ("the Companies Act") for that purpose;
- (b) the founding documentation in relation to the structure established by ratepayers (the Memorandum and Articles of Association) must be approved in writing by the CFO or his or her nominee;
- (c) the section 21 company must be managed under the Companies Act, No. 61 of 1973 and also comply with any other legislation as a result of the financial connection to Council; and

- (d) the section 21 company must give a written notice of the intention to hold an Annual General Meeting on the date stated in the notice by advertising in the local newspapers and one daily newspaper.
- (e) a pro forma Memorandum and Articles of Association, drafted for the purpose of a section 21 company set up as a Special Rating Area, is attached to this Policy as Schedule 2.

9. **APPLICATION FOR THE ESTABLISHMENT OF A SPECIAL RATING AREA**

The process for establishing Special Rating Areas as set out in Part 1 of the By-Law must be followed, whether the Special Rating Area is to be administered by the City or by a section 21 company.

10. **MOTIVATING A SPECIAL RATING AREA**

- 10.1 The motivation report must contain –
 - 10.1.1 a list of all rateable properties within the proposed Special Rating Area, contact details of all owners and the value of each property as set out in the Council's general valuation. Differentiation between categories of properties, as provided for in section 8 of the Property Rates Act, must be considered;
 - 10.1.2 a diagram clearly indicating the boundaries of the proposed Special Rating Area;
 - 10.1.3 whether the Special Rating Area is to be administered by the City or by a section 21 company;
 - 10.1.4 an executive summary of the improvement or upgrade proposed for the Special Rating Area as set out in the Implementation Plan;
 - 10.1.5 an explanation of how the proposed improvement or upgrade is linked to the geographical area of the proposed Special Rating Area;
 - 10.1.6 an explanation of why the proposed Special Rating Area will not reinforce existing inequities in the development of the City;
 - 10.1.7 an explanation of how the Special Rating Area, if determined, will be consistent with the City's IDP;⁷

⁷ The City's IDP is available on its website:

- 10.1.8 an explanation of the institutional arrangements proposed in relation to the Special Rating Area (including whether the applicants to the Special Rating Area are requesting that ratepayers carry out planning and administrative functions within the area, as contemplated in paragraph of this Policy);
- 10.1.9 proof of the consent of the majority of the members of the local community in the proposed Special Rating Area who will be liable for paying the additional rate (a pro forma consent form is attached to this Policy as Schedule 3);⁸
- 10.1.10 proof of the notice of the public meeting or meetings contemplated in the By-Law;
- 10.1.11 minutes of the public meeting or meetings; and
- 10.1.12 compilation date.
- 10.2 The Implementation Plan for the proposed improvements or upgrades must at least address the following:
 - 10.2.1 those services which will improve and upgrade the Special Rating Area;
 - 10.2.2 how the proposed improvements or upgrades will be implemented;
 - 10.2.3 by when the proposed improvements or upgrades will be achieved; and
 - 10.2.4 an implementation program, which clearly indicates implementation milestones, dates and responsibilities. Schedule 4 provides a template.
- 10.3 The budget for the proposed improvements or upgrades must at least address the following:
 - 10.3.1 an annual budget per line item commencing on 1 July of the first year and end on 30 June of the last year of the term; and
 - 10.3.2 a budget split for the provision of improvements or upgrades between the different categories of properties.
 - 10.3.3 Paragraph of this Policy defines the financial controls required.

⁸ Consent is required from persons liable to the City for payment of rates in the area – for example in respect of residential properties, the registered owners of the properties rather than tenants occupying those properties. The requirement relates to the majority *by number*: in other words, consent must be secured from owners of rateable properties within the boundaries of the proposed Special Rating Area who together own more than 50% in number of such properties as are within the area.

11. **EXTENSION AND/OR RENEWAL OF TERM**

In the event that a Special Rating Area seeks to renew the term over which it will operate or extend its boundaries, then the procedures set out in Part 3 of the By-Law must be followed.

12. **DISSOLUTION**

The Special Rating Area may be dissolved by resolution of the Council, subject to the provisions of section 16 of the By-Law.

13. **FINANCIAL CONTROL**

13.1 As stated in the By-Law, the amount of any additional rate levied in a Special Rating Area is determined by the Council. The additional rate is imposed by the Council, is a debt owing to the City and is payable and collected in the same manner as other property rates imposed by the Council.

13.2 Before the City will pay over any additional rate collected to the governing body of the ratepayers' management structure, the management structure and the City must have concluded a written finance agreement regulating, amongst other things:

13.2.1 the mechanisms and manner of payment;

13.2.2 how the additional rate is to be held by the management structure;

13.2.3 any parameters relating to expenditure;

13.2.4 any obligations on the management structure to take out and maintain appropriate insurance.

14. **APPLICABILITY OF OTHER COUNCIL POLICIES**

Other policies approved by the Council apply with the necessary changes, to the collection of additional rates in terms of the Policy, the By-Law and section 22 of the Property Rates Act, including, but not limited to, the City's Credit Control and Debt Collection Policy and its Rates Policy.

15. **COMMENCEMENT AND IMPLEMENTATION**

15.1 Implementation of this Policy commences on 1 July 2009.

15.2 Where the City is legally empowered to do so, requirements set out in this Policy may be imposed as conditions attached to the determination of a Special Rating Area.

15.3 This Policy and its implementation must be reviewed annually.

16. **COSTS**

Unless otherwise agreed by the City Manager or his/her nominee, the City shall not be liable for any costs incurred by ratepayers within the relevant proposed Special Rating Area in respect of the implementation of the steps set out in this Policy and in the By-Law.

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