Cape Town, South Africa

City Improvement District By-law, 2023

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Cape Town
South Africa

City Improvement District By-law, 2023

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To provide for the establishment of City Improvement Districts; to provide for additional rates; and to provide for matters incidental thereto.

Be it enacted by the City of Cape Town as follows:—

Chapter 1
Definitions, interpretation and objectives

1. Definitions

In this By-law words or expressions shall bear the meaning assigned to them herein unless the context indicates otherwise—

"**additional rate**" means an additional rate contemplated in section 22 of the Local Government: Municipal Property Rates Act, 6 of 2004 (the "MPRA"), and in Section 22 of this By-law;

"**additional rate payer**" or "ARP" in relation to a City Improvement District means the owner of a rateable property located in the special rating area who is liable to pay the additional rate;

"**alternate board observer**" means any councillor designated by the Executive Mayor in terms of section 21 to attend meetings of the board of the City Improvement District's management body as an observer in substitution for the principal board observer;

"**applicant**" means any owner or legally mandated representative of rateable property within the boundaries of a proposed City Improvement District who makes an application for the determination of such a special rating area in accordance with the provisions of Chapter 2;

"**annual budget**" means a budget of the management body of a City Improvement District as approved by the Council and includes an annual budget revised by an adjustment budget in terms of section 15 and 16, respectively;

"**annual report**" in relation to the management body of a City Improvement District means an annual report as contemplated in section 18;

"**auditor**" means an individual or firm registered as an auditor with the Independent Regulatory Board of Auditors (IRBA);

"**board**" means the board of directors of the management body of a City Improvement District, as contemplated in section 66 of the Companies Act, 71 of 2008;

"**board observer**" means, unless the context indicates otherwise, a councillor, or alternate councillor, designated by the Executive Mayor to attend meetings of the board as an observer in accordance with section 21;

"**board observer agreement**" - means the agreement entered into between the CID and the designated board observer, *inter alia* spelling out the rights and obligations of both parties in the interests of improving good governance mechanisms;

"**Business Improvement District**" or "BID" means a category of City Improvement District in which an additional rate is levied on rateable, nonresidential property within its boundaries, as contemplated in the Rates Policy;

"**business plan**" means the composite document with the minimum required contents of which are listed in Schedule 1;

"**CIPC**" means the Companies and Intellectual Property Commission established in terms of section 185 of the Companies Act;

"**City**" means the City of Cape Town, a municipality established by the City of Cape Town Establishment Notice No. 479 of 2000 of 22 September 2000, issued in terms of Section 12 of the Local Government: Municipal Structures Act, 117 of 1998 or any structure or employee of the City acting in terms of delegated authority;

"**City Improvement District**" and "CID" means a contiguous geographic area, designated by the Council for the levying of an additional rate on rateable properties within its boundaries to finance improvements and upgrades of the public spaces within the district;

"**collection ratio**" in respect of a proposed CID is a measure of how much of the revenue invoiced by the City during a 12-month period was collected during that 12-month period;

"**Common control**", in relation to two or more juristic bodies who are eligible for membership of the management body of a CID, means control by a person who—

(a) beneficially owns more than half of the issued share capital of each body;

(b) is entitled to vote a majority of the votes that may be cast at a general meeting of each body, or has the ability to control the voting of a majority of those votes, either directly or through a controlled entity of that person;

(c) is able to appoint or to veto the appointment of a majority of the directors of each body;

(d) is a holding company and each body is a subsidiary of that company;

(e) in the case of a body which is a trust, has the ability to control the majority of the votes of the trustees, to appoint the majority of the trustees or to appoint or change the majority of the beneficiaries of the trust;

(f) in the case of a close corporation, owns the majority of the members' interest or controls directly or has the right to control the majority of the members' votes in the close corporation; or

(g) has the ability to materially influence the policy of the bodies in a manner comparable to a person who, in the ordinary commercial practice, can exercise an element of control referred to in para (a) to (f) of this definition;

"**Common ownership**", in relation to two or more juristic bodies who are eligible for membership of a management body of a CID, means greater than 50% ownership of each such body by any person;

"**Companies Act**" means the Companies Act, 2008 (Act 71 of 2008);

"**Constitution**" means the Constitution of the Republic of South Africa, 1996;

"**Council**" means the Council of the City;

"**Days**" means calendar days, save that it excludes public holidays and the day on which the first event occurs and includes the day of the second event;

"**District**" means the special rating area approved by Council under section 22 of the MPRA;

"**Executive Director**" means the official responsible for CIDs appointed in terms of section 57 of the Systems Act, or his/her delegate;

"**finance agreement**" means the agreement entered into between the City and a CID's management body, which provides for the determination and payment of the additional rate by the City and financial oversight of the management body;

"**gated development**" means a gated community, settlement or development as defined in the City's Gated Development Policy;

"**local community**" in relation to a CID-means the body of persons comprising individuals falling under one or more of the following categories—

(a) property owners in the district, irrespective of whether or not they will be liable for paying the additional rate;

(b) residents of the district;

(c) tenants and body corporates in the district;

(d) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs in the district affected by the proposed improvement or upgrading of the district.

"**majority**" means the majority as stipulated in section 5(5);

"**management body**" means the management body of a CID, which shall be a non-profit company (NPC) incorporated in terms of the Companies Act, as contemplated in section 8 of this By-law;

"**members' meeting**" in relation to a CID means a meeting of the members of a CID's management body, as contemplated in the Companies Act and includes the annual general meeting;

"**Memorandum of Incorporation**" ("MOI") means the document, as amended from time to time, that sets out rights, duties and responsibilities of shareholders, directors and others within and in relation to a CID company, and other matters as contemplated in sections 1 and 15 of the Companies Act;

"**Mixed-Use Improvement District**" means a category of CID in which the additional rates liability is imposed on both residential and non-residential rateable property within its boundaries, within the meaning contemplated under the Rates Policy;

"**MPRA**" means the Local Government: Municipal Property Rates Act, 2004 (Act 6 of 2004);

"**NPC**" means a non-profit company incorporated in terms of the Companies Act;

"**non-residential property**" bears the meaning assigned to it in terms of the Rates Policy;

"**owner**" bears the meaning assigned to it in section 1 of the MPRA;

"**personal information**" bears the meaning assigned to it in section 1 of the Protection of Personal Information Act, 2013 (Act 4 of 2013);

"**Policy**" means the City's Policy regarding CIDs;

"**principal board observer**" means any councillor, designated as such by the Executive Mayor, whose primary obligation it is to attend meetings of a management body's board as an observer in terms of section 21;

"**Proposed additional rate payer**" or "proposed ARP" means the owner of a property located within a geographic area that is the subject-matter of an application for determination of a CID under section 4, or an application for expansion of an existing CID's geographic boundaries under section 26, who will become liable to pay the additional rate in the event such an application is approved by Council;

"**public space**" means land (including buildings or infrastructure situated thereupon), that is owned by the City or another organ of state, and is under the control or management of the Council for the public benefit, including but not limited to: road reserves, public roads, public streets, and land used for recreational or social service purposes;

"**quarter**" means any of the following periods in a financial year:

(a) July to 30 September;

(b) October to 31 December;

(c) January to 31 March; or

(d) April to 30 June.

"**property**" bears the meaning assigned to it in section 1 of the MPRA;

"**rate**" bears the meaning assigned to it in section 1 of the MPRA;

"**rateable property**" bears the meaning assigned to it in section 1 of the MPRA;

"**rates base value**" in relation to a proposed or existing CID means the total municipal valuation of all rateable properties of proposed ARPs or ARPs within the geographic boundaries of such district as determined by a general valuation in terms of section 30 of the MPRA;

"**Rates Policy**" means the City's Policy formulated in terms of section 3 of the MPRA on the levying of rates on rateable property within its geographical boundaries, as may be amended from time to time;

"**Residential Improvement District**" means a category of CID in which the additional rate is levied only upon rateable residential properties, within the meaning contemplated under the Rates Policy;

"**residential property**" bears the meaning assigned to it in the Rates Policy;

"**rolling bad debt reserve**" means the portion of additional rates specified in section 23(3), which is held back by the City when making the monthly payment contemplated in section 23(1) as a provision for bad debt and under-billing, to be released to the CID in accordance with section 23(6);

"**special rating area**" means a geographical area within the City's jurisdiction designated by Council under section 22 of the MPRA for the levying of an additional rate on rateable properties within its boundaries to improve and upgrade that area, referred to as a CID in this By-law;

"**Systems Act**" means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

"**term budget**" means the budget of the management body for the five-year term of a CID included in the business plan as contemplated in Schedule 1 to this By-Law;

"**written notice**" means a notice in writing, including but not limited to, e-mail, hand delivery, social media, advertisements, website or sent by post.

2. Interpretation

(1) In the event of conflict with the Afrikaans or isiXhosa texts, the English text prevails.

(2) Any reference to a "**policy**" of the City shall be interpreted as a reference to such document as may be in force at the relevant time.

3. Objectives and principles

(1) No CID determined in terms of this By-law may implement its business plan prior to 1 July 2023.

(2) The objective of this By-law is to provide a framework for the establishment of CIDs within the municipal boundaries of the City, including the composition, powers, functions and funding of governance structures of CIDs; City oversight over the implementation of CIDs by their governance structures, and to provide for related matters.

(3) The establishment, administration and activities of a CID, are governed by the following principles:

(a) The establishment of a CID is a community-driven initiative, facilitated by the City;

(b) The City has oversight over the establishment and management of CIDs to ensure compliance with statutory and policy requirements and the principles of good governance;

(c) A CID must enhance and supplement the municipal services contemplated under section 8 of the Systems Act, with a specific focus on—

(i) improving public safety;

(ii) maintaining and cleansing of public areas including, but not limited to cleaning of road verges and illegal dumping;

(iii) environmental development including, but not limited to, beautification, greening, landscaping, treeing and upgrading of public spaces; and

(iv) promoting social and economic development in an environmentally sustainable manner;

(d) Expenditure on services and projects, must benefit public spaces within the geographic area of the CID only, and may not accrue to the direct or special benefit of privately owned property;

(e) A balance must be struck between the respective interests and needs of ARPs and the local community in the CID;

(f) a CID must promote economic growth and sustainable development so as to complement the City's objectives and developmental duties under its Integrated Development Plan;

(g) a CID must promote urban regeneration through sustainable urban management;

(h) participation of all interested and affected parties in the establishment, management and implementation of CIDs must be promoted; and

(i) a CID must be established, managed and implemented in an accountable, open and transparent manner.

Chapter 2
Determination of a City Improvement District

4. Determination

(1) Subject to the provisions of this Chapter, the City may by resolution of the Council:

(a) Specify an area within its jurisdiction and determine that area as a CID in accordance with the provisions of section 22 of the MPRA, provided that—

(i) the district may not consist exclusively of a gated development;

(ii) the district's geographic boundaries do not dissect any properties; and

(iii) the initial term as well as any subsequent renewal of the term of a CID is five years.

(b) Approve a business plan for the implementation of the CID, which provides for services and projects. These services and projects can be financed in whole or in part by the additional rate (as contemplated in section 22 of the MPRA), or by funds raised independently through commercial activities, donations or any other lawful means.

(2) The resolution referred to in subsection (1) is adopted only if—

(a) the applicant has complied with the procedural requirements provided for in sections 5 and 6;

(b) the establishment of the CID is in the public interest, taking into account *inter alia* the principles and objectives listed in section 3; and

(c) the services and projects referred to in subsection (1)(b) are—

(i) consistent with the objectives stipulated in section 3(3)(c);

(ii) for the principal benefit of the CID; and

(iii) supplementary to services which the City is required to provide in terms of section 73 of the Systems Act.

5. Application

(1) Subject to subsection (2), any person who owns rateable property within the proposed geographical boundaries of a CID may lodge an application to the Council for the determination of the CID.

(2) Before commencing with the application and public participation process contemplated in section 6, the Executive Director must be satisfied that ARPs in the proposed CID has averaged a collection ratio of at least 95% for basic municipal charges during the immediately preceding 12-month period.

(3) The Executive Director may adjust the 95% collection ratio requirement, taking into account *inter alia*:

(a) the objectives and principles of this By-law in terms of section 3;

(b) the envisaged benefits to the local community in the CID;

(c) the spread of municipal account arrears across the number of proposed ARPs; and

(d) the risk of bad debt occasioned by late or non-payment of the additional rate by proposed ARPs.

(4) All costs incurred by the applicant in respect of the establishment of a CID shall be for his or her own account, provided that, after implementation of the business plan, the management body may reimburse the applicant for some or all of those costs and must be provided for in the budget.

(5) For purposes of obtaining the written consent of the proposed ARPs, the majority requirement as contemplated in section 22(2)(b) of the MPRA shall be as follows:

(a) in respect of a Business Improvement District, at least 50% plus one of the proposed ARPs;

(b) in respect of a Residential Improvement District, at least 60% of the proposed ARPs;

(c) in respect of a Mixed-use CID, the following percentage of proposed ARPs:

(i) at least 60% in the event that more than 40% of the district's rates base value consists of residential property; and

(ii) at least 50% plus one in the event that less than 40% of the district's rates base value consists of residential property.

(6) An applicant must submit an application for establishment of a CID within 9 months of convening the final public meeting contemplated in section 6(10) or 6(14), or within such other period as the Executive Director may approve.

(7) Within 60 days of receiving the application contemplated in subsection (6), the Executive Director must determine whether or not the application complies with the requirements set out in this section, read together with sections 4 and 6.

(8) If the Executive Director does not advise of his/her determination under subsection (7) within the 60-day period, he or she shall be deemed to have determined that the application complies with the relevant requirements.

(9) The application contemplated in subsection (1) must—

(a) be in writing and be in the form as the Executive Director may determine;

(b) be accompanied by:—

(i) the business plan, which shall include the subject matter and documentation listed in Schedule 1 to this By-law;

(ii) the written consent of the majority of the proposed ARPs as contemplated in subsection (5), or their nominee designated in writing, in a form determined by the Executive Director; and

(iii) payment of such fee as the Council may determine.

6. Public participation

(1) Any application for the determination of a CID must be subject to a public participation process.

(2) The applicant must submit and maintain a public participation plan for the approval of the Executive Director. The plan must set out how the applicant will comply with this section in a manner cognizant of the needs and characteristics of the local community and identifying at least the following:

(a) Methods of notification;

(b) Contents, languages and mediums of notices and advertisements;

(c) Mechanisms for providing access to documents during the public participation process (which must at least include making documentation available for inspection at the offices of the City and a neutral venue within the proposed district or as otherwise approved by the Executive Director);

(d) Consultation methods; and

(e) Venues for prescribed public meetings that are located within the proposed district, or as otherwise approved by the Executive Director.

(3) The Executive Director must approve, or reject the public participation plan, within 30 days of receipt thereof, failing which the plan will be deemed to have been approved by the Executive Director.

(4) The applicant must conduct the process prescribed in this section in accordance with the public participation plan approved in terms of subsection (3). Any deviation must be brought to the attention of the Executive Director at least 7 days before the event, who may condone non-compliance and direct remedial steps as he or she sees fit.

(5) The applicant must convene a public meeting at an approved venue, as contemplated in subsections (2)(e), at a date and time suitable to the local community to consult on the contents of the draft business plan.

(6) At least 14 days before the public meeting is due to commence and in accordance with the process required in terms of subsection (7), the applicant must deliver a written notice to the local community and any other interested and affected parties—

(a) stating the date, time and venue of the meeting;

(b) stating the purpose of the meeting;

(c) inviting members of the local community and other interested and affected parties to register their interest to receiving information, and comment on the proposed application;

(d) advising where and when members of the local community and other interested and affected parties may inspect the draft business plan; and

(e) advising how and by when members of the local community and other interested and affected parties may submit written comments on the proposed application and the draft business plan.

(7) Where this By-law requires the applicant to notify members of the local community of the proposed application and any related public participation process, the applicant must—

(a) give written notice, in the manner provided for in the approved public participation plan, to:

(i) all proposed ARPs within the proposed CID; and

(ii) all other members of the local community who are listed on the register contemplated in the CID Policy;

(b) place an advertisement in one English and one Afrikaans local, daily newspaper or in a language other than English or Afrikaans, in those cases where the local community includes a population of at least 30% of non-Afrikaans and/or non-English speakers, provided that the Executive Director may waive such requirement on good cause shown in terms of reaching the local community by way of other communication means; and

(c) employ any reasonable alternative method(s) to accommodate members of the local community who cannot participate due to illiteracy, disability or any other disadvantage.

(8) The applicant must provide members of the local community an opportunity to submit to the applicant written comments on the proposed application and the draft business plan until at least 30 days after the date of the public meeting convened in terms of subsection (5).

(9) The applicant must ensure that the comments contemplated in subsections (8) and (12) are recorded in a schedule to the final business plan and that such comments, including the applicant's responses, are tabularised and attached to the application contemplated in section 5.

(10) The applicant must convene a second public meeting to consult the local community on the contents of the final business plan conducted in accordance with the process prescribed in subsection (5), save that references to the draft business plan in these subsections must be read as references to the final business plan.

(11) At least 14 days before the public meeting contemplated in subsection (10), the applicant must notify members of the local community of the meeting in accordance with the prescribed process under subsections (6) - (7), save that references therein to the draft business plan must be read as references to the final business plan.

(12) The applicant must provide members of the local community at least 30 days after the date of the public meeting convened in terms of subsection (10) to submit to the applicant written comments on the proposed application and the final business plan.

(13) The applicant must ensure that the comments made during the second public meeting, as well as the written comments contemplated in subsection (12), are recorded in a schedule to the final business plan and that such comments, including the applicant's responses, are attached to the application.

(14) If the applicant decides to make any material amendments to the final business plan, a further public meeting shall be held within 60 days as contemplated in subsection (10).

(15) The applicant may obtain the written consent contemplated in section 22(2)(b) of the MPRA only once the final business plan has been presented at the public meeting contemplated in subsection (10) or (14).

(16) Within 14 days of being informed of the Executive Director's decision or upon his/her deemed approval, as contemplated in section 5(7) or 5(8), respectively, the applicant must notify members of the local community of the following in accordance with subsection (7)—

(a) the lodging of the application; and

(b) where the application and accompanying documentation will be available for inspection.

7. Decision

(1) Council must consider any application lodged in terms of section 5(6) within 120 days of the date of the Executive Director's decision as contemplated in section 5(7), and may—

(a) approve the establishment of a CID in accordance with section 4;

(b) refuse the application, in which event the Council must, within 30 days, furnish the applicant with written reasons for such decision; or

(c) refer the application back to the applicant for any amendments required in accordance with section 3(2).

(2) The Council may consider amended applications submitted after a refusal or referral under subsection (1), provided that—

(a) the amended application is submitted within 6 months of the relevant Council decision;

(b) the application has been appropriately amended in light of the reasons for refusal or referral;

(c) where there are any material amendments to the business plan, the applicant has complied with the following requirements:

(i) convening a public meeting and inviting written comments, in accordance with the procedure under section 6(12) - (16); and

(ii) submission of the written consent of the majority of the proposed ARPs to the amended application, in accordance with section 6(15); and

(d) the application complies in all other respects with sections 5(9).

Chapter 3
The management body

8. Management body requirements

(1) The applicant must establish a management body for purposes of implementing the provisions of the business plan.

(2) The management body shall be a non-profit company incorporated in accordance with the provisions of the Companies Act.

(3) The management body's memorandum of incorporation must provide for the appointment of a company secretary.

9. Membership

(1) Subject to subsection (2), membership of the management body is limited to ARPs.

(2) Should a member be exempted from paying the additional rate by the City in terms of section 22(3) during the course of any CID term, the membership shall be terminated from the date of exemption. Should the property owner become liable for the additional rate in the future, then he or she can apply for membership.

(3) Each member is entitled to one or more votes, which may be weighted in proportion to the municipal valuation of the member's rateable property located in the CID, provided that the

total number of votes assigned to any one member or to any number of members under common ownership or under common control shall not exceed:

(a) the maximum number as may be stipulated in the CID policy at the relevant time; and

(b) thirty-three and one-third (33-1/3) percent of the total number of votes which may be cast.

10. Members' meetings

(1) The board of the management body must convene—

(a) the first members' meeting within six months of its date of incorporation; and

(b) an annual general meeting ("AGM") once every calendar year.

(2) An AGM must be held within 6 months of the end of each financial year.

(3) The following business must be dealt with at the first members meeting:

(a) Election of directors;

(b) Acceptance of new members;

(c) Appointment of a registered auditor for the following financial year; and

(d) Approval of the implementation plan and annual budget for the following financial year.

(4) The following business must, at minimum, be dealt with at each AGM convened by the management body:

(a) The matters referred to in subsection (3);

(b) The annual report in respect of the immediately preceding financial year; and

(c) Presentation of the management body's audited financial statements for the immediately preceding financial year.

(5) Members' meetings of the management body must be open to members of the local community who are afforded a reasonable opportunity to participate in the business of the meeting, including participating in deliberations, but not vote, on any proposed resolution.

(6) Notice of every members' meeting shall alert ARPs to—

(a) their eligibility for membership of the management body;

(b) the membership application process; and

(c) the fact that, should they wish to participate as members in the relevant meeting, they may apply for membership as aforesaid within the clearly stipulated deadline in the notice.

11. Transparency

(1) The management body must conduct its affairs in a transparent manner.

(2) The management body must establish and maintain a website for purposes of publishing information pertaining to—

(a) all material documents, in PDF or similar format, submitted to the City in terms of section 5, provided that any personal information shall be redacted;

(b) the services, projects and activities undertaken by the management body;

(c) Memorandum of Incorporation;

(d) a list of members of the management body, redacting any personal information;

(e) the management body's manual compiled in terms of section 14 of Promotion of Access to Information Act;

(f) the appointment, composition, activities and processes of the management body's board of directors;

(g) the financial and performance information of the management body submitted to the City in terms of this By--law;

(h) rules of the management body governing procurement of goods and services;

(i) the management body's complaints procedure; and

(j) members' meetings of the management body, including notices, agendas and minutes.

Chapter 4
Board of the management body

12. Corporate officers

(1) The board shall elect a Chairperson, Deputy Chairperson and Treasurer from its members at the first meeting of the board of directors convened after each AGM.

13. Code of conduct

(1) The management body shall adopt a code of conduct that, at minimum, gives effect to the pro forma code of conduct provided for in the City Improvement District Policy.

(2) All members of the board shall familiarise themselves with, sign a copy of, and comply with the code of conduct contemplated in subsection (1).

Chapter 5
Financial requirements

14. Financial year

The financial year of the management body shall coincide with the financial year of the City, which is 1 July to 30 June.

15. Annual budget

(1) The management body shall not incur any material expenditure other than in terms of an approved budget.

(2) Subject to subsection (4), the management body must prepare a proposed annual budget for each successive financial year, by the date and in the format required by the Executive Director, and adopt such budget, with or without amendments, at a members' meeting as contemplated in section 10(3)(d) and 10(4)(a).

(3) Expenditures of the management body during the first 6 months of the first financial year of a CID's first 5-year term is governed by the approved term budget after which it may be re-aligned in terms of section 16.

(4) The board must submit the annual budget to the Executive Director for onward submission to Council to consider, provided that the budget—

(a) is consistent with the purport and objectives of CIDs as contemplated in section 3;

(b) does not conflict with the City's Integrated Development Plan;

(c) provides for an equitable allocation of resources in view of the needs and interests of the local community;

(d) provides for an equitable and proportional distribution of the financial burden of the CID between ARPs; and

(e) does not provide for material amendments to the term budget, as contemplated in subsection (5).

(5) Council approval in accordance with the procedure prescribed under section 25(4) is required in respect of any budget adopted by a members' meeting which provides for:

(a) a material increase in expenditure to be funded by the additional rate, in excess of such total expenditure approved under the term budget for the relevant financial year; or

(b) a reallocation of funds between expenditure line items as reflected in the term budget for the relevant financial year, which would materially alter the scope or level of services performed by the management body.

16. Adjustments budget

(1) The board may revise an annual approved budget through an adjustments budget in accordance with this section.

(2) An adjustments budget may:

(a) allocate additional revenues generated in excess of those anticipated in the annual budget to services or projects already budgeted for, or new services or projects that fall within the scope of the business plan;

(b) reflect unforeseeable and unavoidable expenditure recommended by the board;

(c) authorise the utilisation of projected savings in respect of an expenditure line item by moving it to one or more other approved expenditure line items; and

(d) correct any errors in the annual budget.

(3) Prior to approving any adjustments budget, the board must submit the proposed adjustments budget for review by the Executive Director to ensure compliance with this section and section 15(4) and 15(5) (with the changes as may be required by the context), and effect any amendments required by the Executive Director.

17. Financial management and reporting

(1) The Board must—

(a) keep full and proper records of the financial affairs of the management body;

(b) submit statements and records in accordance with the terms of the finance agreement;

(c) prepare financial statements for each financial year in accordance with generally accepted accounting practice in respect of non-profit companies; and

(d) submit the audited financial statements and the report of the management body’s auditors on those statements to the Executive Director within two months of the end of a financial year.

(2) The Treasurer of the management body must prepare and present written financial reports of expenses, revenues and bank balances for the board’s review and consideration at each board meeting.

18. Annual report

(1) Within three months of the AGM, the management body must provide the Executive Director and the relevant sub-council(s) with an annual report on its progress in implementing its business plan during the previous financial year, together with the audited financial statements and auditor's report, as adopted at the AGM.

(2) The annual report and audited financial statements referred to in sub-section (1) must—

(a) fairly present the state of affairs of the management body, its activities, and its performance against predetermined objectives and its financial position as at the end of the relevant financial year;

(b) include particulars of—

(i) any material losses as a result of criminal conduct and any irregular expenditure and fruitless or wasteful expenditure during a financial year;

(ii) any criminal or disciplinary steps taken as a consequence of such losses or irregular or fruitless and wasteful expenditure;

(iii) (aa) the management body's strategic objectives as provided for in the approved business plan;

(bb) the key performance measures and indicators for assessing performance in achieving these objectives; and

(cc) its actual performance against such objectives; and

(iv) any other matters that may be required by the Executive Director.

(c) comply with any form and content requirements set out in the City Improvement District Policy.

(3) In the event the management body's auditor issues a qualified audit report, the board must within one month of providing the Executive Director with the documents contemplated in subsection (1), advise the Executive Director of corrective measures taken.

(4) In the event the management body fails to comply with subsections (1) or (3), the Executive Director may withhold payment of the additional rate to the management body until such time as the board rectifies such non-compliance to his or her satisfaction.

(5) The Executive Director may request Council to dissolve any CID in the event that the CID's auditor has expressed a qualified audit opinion in respect of two or more consecutive annual reports.

19. Other reporting requirements

The board must report in writing to the Executive Director by the 31st of August on matters pertaining to the previous financial year:

(a) any serious or persistent financial or operational problems experienced by the CID;

(b) any irregular or fruitless and wasteful expenditure; and

(c) any interference by a councillor in the financial or operational affairs of the CID.

Chapter 6
Oversight by the City

20. General

The City shall monitor compliance by the management body with the applicable provisions of the Constitution, this By-law, any guidelines or policies adopted by the City and any agreements entered into between the management body and the City.

21. Board observers

(1) Every sub-council, having full or partial jurisdiction over a CID, shall nominate one councillor and one alternate councillor to attend meetings of the board of the management body as a board observer.

(2) The Executive Mayor of the City may, after receiving sub-council nominations, designate one or two councillors, and one alternate councillor for each councillor thus designated, to attend the meetings of the board of the management body as observers.

(3) Subject to subsection (4), a board observer shall—

(a) provided the board observer has concluded a board observer agreement with the management body as contemplated in subsection (d), be entitled to:

(i) receive all notices, minutes, reports and other documents, financial or otherwise, which the management body provides to the board and its committees at the same time and in the same manner that such notice and materials are provided to members of the board;

(ii) attend meetings of the board and its committees;

(iii) offer information to the board and its committees, if requested to do so, in relation to the City's position on any matter pertaining to this By-law, the Policy, or the finance agreement;

(b) be prohibited from participating in the affairs of the board in any manner other than that contemplated in subsection (3)(a), and in particular, shall refrain from:

(i) (aa) proposing a motion;

(bb) participating in deliberations; or

(cc) voting on a motion;

(ii) chairing a meeting of the board or any of its committees;

(iii) managing the business and affairs of the management body;

(iv) accepting appointment as a proxy of another member of the board or its committees;

(v) receiving any remuneration or reimbursement of expenses incurred by the board observer from the management body;

(vi) receiving, whether directly or indirectly, any financial benefit from the CID; and

(vii) using information acquired in the course of their duties as board observer in order to further their direct or indirect personal or private financial interests;

(c) not be taken into account when establishing a quorum at any meeting;

(d) enter into a board observer agreement with the Board to—

(i) prohibit the unauthorised use or disclosure of confidential information of the management body, excluding disclosures to the Executive Director reasonably required under subsection 3(e); and

(ii) prevent abuse of office to further private or personal interests; and

(iii) to protect the City against liability should the observer transgress;

(e) monitor the CID's compliance with the provisions of the By-law, the Policy, the Municipal Property Rates Act and the Constitution and bring any violations thereof to the attention of the Executive Director;

(f) monitor the CID's compliance with the business plan and finance agreement and bring any violations thereof to the attention of the Executive Director;

(g) monitor the performance of the CID to ensure appropriate service delivery standards and bring service inefficacies or inadequacies to the attention of the Executive Director; and

(h) be deemed to have vacated their position if they vacate office as contemplated in section 27 of the Local Government: Municipal Structures Act and shall be replaced in accordance with subsections (1) and (2).

(4) The alternate board observer shall only be entitled to attend a meeting of the board and its committees if the principal board observer is unavailable or unable to do so.

(5) The Executive Mayor may terminate the appointment of any board observer, either unilaterally or pursuant to a written request lodged with the Executive Director by the relevant management body, if the board observer—

(a) fails to perform his or her oversight functions;

(b) acts in contravention of subsection (3)(b); or

(c) commits a material breach of the board observer agreement contemplated in subsection (3)(d).

(6) Before terminating a councillor's appointment as board observer as contemplated in subsection (5) following the written request by the relevant management body, the Executive Mayor shall refer the allegation to the Speaker to deal with the matter in terms of the Code of Conduct for Councillors.

(7) The Executive Mayor shall notify the management body and relevant councillor of any decision in terms of subsection (5).

Chapter 7
The additional rate

22. Levying the additional rate

(1) The Council shall levy an additional rate on all eligible rateable properties located in a CID for each financial year of the CID term in accordance with the provisions of the MPRA.

(2) The additional rate for any financial year of the CID term—

(a) shall be calculated with reference to the total proposed expenditure to be funded by the additional rate in the term budget for the relevant period, as may be amended in accordance with section 15(5); and

(b) may differentiate between categories of rateable property, as contemplated in section 8 of the MPRA.

(3) The Council may exempt one or more categories of ARPs from the additional rate obligation, as contemplated in the MPRA and the Rates Policy.

(4) The additional rate due is a debt due to the City and is payable and shall be collected in the same manner as other property rates imposed by the Council.

23. Paying over the additional rate

(1) Subject to subsection (7), the City shall make monthly payments, on or about the 25th day of each month, to the management body of one twelfth of the CID budget, as approved by Council for that financial year, less the contribution to the rolling bad debt reserve contemplated in subsection (3);

(2) The City will create and maintain a rolling bad debt reserve to—

(a) mitigate the risk of any shortfall arising from non-payment of the additional rate by property owners;

(b) fund a provision for bad debt; and

(c) fund any shortfall due to an under-billing as a result of a decrease in the total valuation base.

(3) The City shall keep an amount equal to 3% of the monthly budgeted amount due to the management body in the rolling bad debt reserve, subject to the City's discretion to adjust such percentage in the event of financial distress of the management body or in an event of material arrears in additional rate payments.

(4) In the event the management body is in default of its reporting and compliance obligations under Chapters 5 and 6, and notwithstanding the provisions of subsections (1) - (3), the City may withhold any payment due under subsection (1) until such time as the relevant default has been remedied to the satisfaction of the Executive Director.

(5) Any additional rate billing surplus or deficit shall be offset against the rolling bad debt reserve for that financial year.

(6) In the event that the rolling bad debt reserve exceeds the accumulated arrears at the end of a financial year, 75 percent of such excess amount shall be paid by the City to the management body by 30 September of the following financial year, and shall be treated as additional income.

(7) No payments under subsection (1) shall be made without a finance agreement concluded between the City and the management body, regulating *inter alia*—

(a) the mechanisms and manner of payments to the management body; and

(b) the terms on which payments to the management body are to be made.

24. Expenditure

(1) The management body must expend funds, regardless of whether such funds derive from the additional rate, commercial activities, donations, or any other sources, solely upon services, projects or activities that provide a benefit, accruing principally to the CID and subject to section 15(1).

(2) When entering into contracts with third parties, the management body shall—

(a) observe the procurement principles enshrined in section 217 of the Constitution; and

(b) ensure that the City is not liable for any obligations of the management body.

Chapter 8
Amendment to the business plan and term extension

25. Permissible amendments to the business plan without further consent

(1) Subject to subsection (2) to (4), the business plan may be amended by the Executive Director, at the request of the board of the management body, without further consent of the ARPs, if the business plan includes a provision expressly permitting same.

(2) Amendments contemplated in subsection (1) may not materially—

(a) alter the geographic boundaries of the CID;

(b) vary the terms of liability for, or the amount of, the additional rate;

(c) increase the approved total expenditure to be funded by the additional rate (excluding funds generated by other means as contemplated in section 4(1)(b)), for the relevant financial year in terms of the term budget, unless such increase:

(i) is directly attributable to property development(s) within the CID, substantially increasing the number of ARPs; and

(ii) is borne by the new ARPs of such development;

(d) alter the scope or level of services performed by the management body.

(3) The board must give written notice of the proposed application to the Executive Director to amend the business plan in accordance with the procedure prescribed in its business plan under item 1(e) of Schedule 1 to this By-law.

(4) Applications for amendment submitted to the Executive Director in terms of subsection (1) shall be —

(a) in writing and in the form required by the Executive Director;

(b) accompanied by:

(i) a resolution of the board of the management body or a resolution from a members' meeting authorising the application;

(ii) proof of the written notice required under subsection (3); and

(iii) any administrative fee as may be recommended by the Executive Director for approval by Council.

(5) The Executive Director may approve the application if he or she is satisfied that—

(a) the board of the management body has complied with the requirements under this section; and

(b) the application is in the public interest, considering *inter alia* the objectives and principles articulated in section 3.

26. Amendments to the business plan requiring further consent

(1) A management body may apply to Council in terms of subsection (2) to materially alter their business plan in the following respects:

(a) business plan provisions not included in section 25;

(b) any liability for, or the amount of, the additional rate;

(c) any material increase in the total expenditure to be funded by the additional rate for the relevant financial year, as provided for in the term budget other than an increase as contemplated in section 25(2)(c);

(d) the scope or level of services or projects carried out by the management body; or

(e) expansion of the CID's geographic area.

(2) Any application to amend a CID's business plan as contemplated in subsection (1), shall be dealt with as follows—

(a) Before commencing with any application as contemplated in subsection 1(e), the Executive Director must be satisfied that the proposed new area for expansion has averaged a collection ratio required under section 5(2). The Executive Director may however exercise his or her discretion in accordance with section 5(3) to adjust the minimum collection ratio;

(b) The proposed amendment shall be approved at a members' meeting of the management body convened in accordance with section 10;

(c) The management body must publish the resolution contemplated in subsection (2)(b) on the CID's website within 10 days of the relevant members' meeting;

(d) The management body must comply with the public participation requirements in terms of section 6(2) - (4), within 45 days of the members' resolution,

(e) The management body must convene a public meeting to consult on the proposed application for amendment within 90 days of the members' resolution.

(f) The management body must give written notice of the public meeting to the local community, ARPs, and proposed ARPs in the case of a proposed expansion under subsection (1)(e) in accordance with the procedure required under sections 6(5) - (9). The written notice must—

(i) contain a copy or summary of the resolution contemplated in subsection (2)(b);

(ii) notify ARPs of the right to object, in writing, on the prescribed forms, within 30 days of conclusion of the public meeting to the management body; and

(iii) record that the Council may approve the amendment if written objections are not received from at least:

(aa) 40% of ARPs in a residential CID; or

(bb) 50% plus 1 of ARPs in any other sub-category of CID;

(g) The management body must provide the local community, ARPs and proposed ARPs (if applicable), with a 30 day comment period after the public meeting as contemplated in section 6(10), which comments shall be recorded in the application for amendment in accordance with section 6(13);

(h) Where the management body makes any material amendments to the application for amendment pursuant to the written comments referred to in subsection (2)(g), the management body shall convene a further public meeting in accordance with the procedure contemplated in section 6(12)-(15);

(i) In the case of a proposed expansion under subsection (1)(e), the management body must, after the conclusion of the public meeting contemplated in subsections (2)(e) or (2)(h), elicit the written consent of the majority of the proposed ARPs as contemplated in section 5(5);

(j) Where fewer than the requisite number of ARPs, as contemplated in subsection (2)(f)(iii), submit written objections to the management body within the relevant 30-day time period, the management body must submit the application for amendment to Council in accordance with subsection (5). This application must be submitted not more than 90 days after the date

on which the public meeting is held, or within such further period as the Executive Director may approve.

(3) The management body must submit an application for amendment to Council—

(a) in writing and in the form as the Executive Director may determine;

(b) not more than 90 days after the date on which the public meeting is held, or within such further period as the Executive Director may approve;

(c) accompanied by:

(i) the amended business plan which must comply with the content requirements of Schedule 1 to this By-law and must clearly identify the proposed amendments;

(ii) any comments received following the public meeting held in terms of subsection (2)(g), read together with section 6(10) and (11);

(iii) in the case of an application for expansion contemplated in subsection (1)(e):

(aa) any written objections received from ARPs as contemplated in subsections (2)(f)(ii); and

(bb) the written consent from proposed ARPs as contemplated in subsection (2)(i); and

(iv) any administrative fee as may be recommended by the Executive Director for approval by Council.

(4) The Council may approve an application for amendment, if it is satisfied that—

(a) the management body has complied with the public participation and consent procedure under subsection (2);

(b) in the case of a proposed expansion as contemplated in subsection (1)(e)—

(i) the requisite number of ARPs have not filed written objections as contemplated in subsections (2)(f)(iii); and

(ii) the proposed ARPs have averaged a collection ratio of at least 95% during the immediately preceding 12-month period in accordance with such procedure as may be prescribed under the Policy, or such lesser percentage as the Executive Director may deem appropriate considering *inter alia* the factors listed in section 5(3); and

(c) the proposed amendment is in the public interest, considering *inter alia* the objectives and principles articulated in section 3.

27. Extension of the CID term

(1) Subject to subsections (2) and (3), the Council may renew a CID term for a period not exceeding five years, on written application by the management body;

(2) The management body may apply for an extension of the CID term as follows:

(a) Prepare a written application as contemplated in section 5(9);

(b) Notify members of the management body, ARPs and the local community of the application when giving written notice of the management body's final AGM of its 5-year term, specifying that:

(i) the application is available for inspection at the management body's offices, the office of the Executive Director and is published on the management body's website;

(ii) a resolution to lodge the application will be considered at the AGM;

(iii) in the event the resolution contemplated in subsection (2)(b)(ii) is approved:

(aa) any ARP opposed to the application shall submit a written objection to the management body within 30 days of the conclusion of the AGM on forms accompanying the notice or otherwise made available by the management body;

(bb) the Council may approve the application if written objections are not received from at least 40% of ARPs in a residential CID or 51% of ARPs in any other sub-category of CID; and

(cc) members of the local community shall submit any comments in writing to the secretary of the management body within 30 days of the conclusion of the AGM.

(c) In the event that the management body makes any material amendments to the business plan after the AGM, the management body must convene a further members' meeting in accordance with the notice requirements in subsection (2)(b) for purposes of approving the amended business plan and soliciting written objections and comment as contemplated in subsection (2)(b)(iii) (with the changes required by the context).

(d) In the event that the resolution contemplated in subsection 2(b)(ii) is adopted and less than the required number of ARPs submit written objections, the management body must submit the following to the Executive Director by no later than 31 January of any calendar year—

(i) the application as required in subsection (2)(a);

(ii) the business plan, which shall comply with the content requirements of Schedule 1 to this By-law;

(iii) a copy of the written notice as required in subsection (2)(b);

(iv) any written objections of ARPs received in terms of subsection (2)(b)(iii)(aa);

(v) a summary of any comments received by the management body from the local community as contemplated in subsection (2)(b)(iii)(cc), in accordance with section 6(11);

(vi) the draft minutes of the AGM; and

(vii) any administrative fee as may be recommended by the Executive Director for approval by Council.

(3) At a meeting of Council convened as soon as duly possible after submission of the application, the Council—

(a) shall determine whether—

(i) the application complies with the requirements of section 5 (with the changes required by the context), and subsection 2(d); and

(ii) the management body has given notice of the application as required under subsection (2)(b);

(b) shall reject the application in the event of—

(i) material non-compliance with the procedural requirements of section 5, subsection (2)(b) or subsection (2)(c); or

(ii) the requisite number of ARPs as contemplated in subsection (2)(b)(iii)(bb) submitting written objections to the application in accordance with subsection 2(b)(iii)(aa);

(c) may approve the application, with or without amendments; and

(d) may refer the application back to the management body for any amendments to the business plan that the Council considers necessary in light of the principles in section 3(2).

(4) Council may consider amended applications submitted for the extension of the CID term following a refusal or referral under subsection (3)(b) or (3)(d), provided that—

(a) the amended application is submitted before the expiry of the CID's term;

(b) the application has been appropriately amended in light of the reasons for refusal or referral;

(c) to the extent there are any material amendments to the business plan:

(i) the management body convened a members' meeting in accordance with the procedure under subsection 2(b); and

(ii) the application complies with the requirements of section 5 and subsection 2(d).

Chapter 9
Dissolution of a CID

28. Dissolution

(1) The Council may dissolve a CID:—

(a) upon written application signed by the majority of owners within the boundaries of the CID who are liable for paying the additional rate;

(b) when a special resolution is passed at a members' meeting approving the voluntary winding up of the NPC as contemplated in section 80(1) of the Companies Act; or

(c) for any good cause, after prior consultation by the Executive Director with the management body and the local community.

(2) Upon the winding-up of a management body, the entire net value of the management body, including its net assets remaining after the satisfaction of all its liabilities, shall be disposed of in terms of the relevant provisions of the Companies Act and the memorandum of incorporation of the management body.

Chapter 10
Miscellaneous provisions

29. Delegation

The Executive Director may delegate any power, function or duty vested in him or her in terms of this By-law to a member of the municipal staff.

30. Transitional provisions

(1) Any Special Rating Area or CID determined or established, or deemed to have been determined or established in terms of the By-law referred to in sections 31 shall be deemed to have been determined or established in terms of this By-law.

(2) Subject to subsection (3), applications for the establishment of a special rating area in respect of which an applicant has given notice of public meetings as contemplated in section 6(2) of the By-law referred to in sections 31 prior to the commencement of this By-law, shall be concluded, submitted and decided in accordance with sections 3 - 8 of the former By-law, notwithstanding repeal thereof.

(3) Any Special Rating Area or CID determined in terms of section 8 of the By-law referred to in sections 31 pursuant to an application process contemplated in subsection (2), shall be deemed to have been established in terms of, and be governed by, the provisions of this By-law.

(4) No Special Rating Area or CID established under the By-law referred to in sections 31 may apply for amendment of its business plan in accordance with the procedure provided for under section 25, unless the provisions contemplated in section 25(1) are included in a new business plan in the course of a term extension under section 27.

31. Repeal of By-laws

The following By-laws are hereby repealed—

(a) The City of Cape Town: Special Rating Area By-law, published in *Provincial Gazette* No. 7051 of 20 July 2012; and

(b) The City of Cape Town: Special Rating Area Amendment By-law, published in *Provincial Gazette* No. 7578 of 4 March 2016.

32. Short title and commencement

(1) This By-law is called the City of Cape Town: City Improvement District By-law, 2023.

Schedule 1

Contents of a business plan

Any application for the establishment of a CID must include a business plan, which shall include:

(1) A motivation report, consisting of—

(a) An introduction—

(i) identifying the name of the proposed district;

(ii) specifying the applicant's name and providing an address for delivery of any notices to the applicant in respect of the application;

(iii) describing the geographical area of the proposed CID, including a diagram depicting the street boundaries;

(iv) providing an overview of the strategic objectives of the proposed CID's management body, as they pertain to—

(aa) improving public safety;

(bb) maintenance and cleansing;

(cc) environmental development, including but not limited to beautifying and upgrading public areas and facilities; and

(dd) promoting social and economic development in an environmentally sustainable manner; and

(v) listing the core values of the management body of the proposed CID.

(b) A discussion of the proposed services and projects in respect of each strategic objective contemplated in item 1(a)(iv) above, which must—

(i) describe the proposed services and projects and the activities forming part thereof;

(ii) identify the area within the proposed boundaries of the CID where the improvements and upgrades will be carried out;

(iii) provide their total estimated costs over the term of the CID;

(iv) motivate the allocation of resources to any specific area contemplated in item (1)(b)(ii) in the event any improvement and upgrades will not be uniformly carried out in the proposed CID as a whole; and

(v) demonstrate how the proposed improvements and upgrades are consistent with the municipality's Integrated Development Plan and with section 22(4) of the Property Rates Act.

(c) A discussion of the financial impact of the CID—

(i) the specified category/categories of ARPs, liable for paying the additional rate (e.g. residential, non-residential);

(ii) an explanation of how the amount of the additional rate is to be calculated in respect of the first year of the CID term, illustrated by reference to representative examples of typical valuations in the district;

(iii) reference to the possibility of year-on-year increases or decreases in the additional rate during the second to fifth years of the CID term, accompanied by—

(aa) an explanation of the basis of the calculation of potential variations with reference to the term budget (e.g. variations in the municipal rates base of the district pursuant to municipal valuations; inflation; increases expressly provided for in the term budget, as well as additional developments in the district);

(bb) an explanation of the guidelines in the Policy governing caps on the maximum amount of the additional rate as a percentage of the municipal rate in any financial year, and how that bears upon any year-on-year increase; and

(cc) criteria for exemptions from the additional rate liability under the Rates Policy.

(d) The proposed management structure of the NPC;

(e) A statement as to whether any of the provisions of the business plan may be amended by Executive Director on recommendation of the board as contemplated in sections 25, without written consent of a majority of the ARP's, and, if so:

(i) which of the provisions of the business plan may be so altered; and

(ii) the consultation and notification procedure to be followed prior to making such application to the Council.

(f) A list of all rateable properties within the proposed CID, detailing:

(i) the address of each proposed ARP; and

(ii) the City's categorisation of each property in terms of section 8 of the MPRA.

(2) An implementation plan in the form of a schedule covering the 5-year term, listing the following in respect of each strategic objective contemplated in item (1)(a)(iv) above:

(a) proposed practical measures to achieve the relevant strategic objective;

(b) key performance indicators in respect of each measure;

(c) projected commencement and completion dates of each measure; and

(d) the persons or bodies responsible for the effective implementation of each measure.

(3) A term budget, estimating the predicted revenue and expenditure of the CID over the duration of the 5-year term and the contingency margin provided for, including, but not limited to:

(a) Estimated revenues (excluding interest);

(b) Estimated expenditure, which must disclose the contingency margin included in the cost calculations for expenditure other than the items listed in sub-items (vii) - (ix), including but not limited to:

(i) Employee-related expenditure;

(ii) Core business related expenditure;

(iii) Repairs and maintenance of assets;

(iv) General expenditure arising from all other planned operations, such as cost of outsourcing administration and management functions;

(v) Individual costs for each proposed project;

(vi) Capital expenditure;

(vii) Interest and redemption costs;

(viii) Depreciation of assets; and

(ix) Provision for a rolling bad debt reserve contribution.

(4) The following annexures:

(a) The approved public participation plan contemplated in section 6(2);

(b) In respect of the public meetings convened in terms of section 6 and sections 25, as well as AGMs convened in terms of sections 26:

(i) proof of notice of the meetings to proposed ARPs and the local community; and

(ii) the agendas and minutes;

(c) The table of comments received during the public participation process in terms of section 6, 25 and 26;

(d) The written consent of the proposed ARPs, whether in respect of an application under section 5 or 26.