



SPECIAL RATING AREA BY-LAW

- 24 NOVEMBER 2022



SPECIAL RATINGS AREA BY-LAW

GEORGE MUNICIPALITY

EFFECTIVE: 2022

INDEX

CHAPTER 1: DEFINITIONS AND INTERPRETATION	3
1. DEFINITIONS.....	3
2. INTERPRETATION	4
CHAPTER 2: ESTABLISHMENT OF SPECIAL RATING AREAS	4
3. DETERMINATION OF SPECIAL RATING AREAS.....	4
4. APPLICATION.....	4
5. PUBLIC MEETINGS.....	4
6. MOTIVATION REPORT AND IMPLEMENTATION PLAN	5
7. ADVERTISING OF APPLICATION AND OBJECTIONS	5
8. DECISION.....	6
9. APPROVAL OF A LIMITED SPECIAL RATING AREA	7
CHAPTER 3: SPECIAL RATING AREAS – STRUCTURES AND FINANCES.....	7
10. COMMENCEMENT OF THE BUSINESS/IMPLEMENTATION PLAN.....	7
11. ESTABLISHMENT, COMPOSITION, POWERS AND DUTIES OF MANAGEMENT BODY	7
12. FINANCES	9
13. THE ROLE OF THE CFO.....	10
CHAPTER 4: AMENDMENT AND EXTENSION OF IMPLEMENTATION PLANS	10
14. AMENDMENT TO IMPLEMENTATION PLANS.....	10
15. EXTENSION OF IMPLEMENTATION PLANS.....	11
CHAPTER 5: DISSOLUTION OF A SPECIAL RATING AREA.....	11
16. DISSOLUTION	11
CHAPTER 6: MISCELLANEOUS PROVISIONS	11
17. GUIDELINES.....	11
18. SHORT TITLE AND COMMENCEMENT	11

GEORGE MUNICIPALITY

SPECIAL RATING AREA BY-LAW

To provide for:

- the establishment of special rating area;
- to provide for additional rates; and
- to provide for matters incidental thereto.

BE IT ENACTED by George Municipality as follows:-

CHAPTER 1: DEFINITIONS AND INTERPRETATION

1. DEFINITIONS

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

“additional rate” means an additional rate contemplated in section 19(1)(d) and 22(1)(b) of the Property Rates Act and in section 12(2) of this By-Law;

“applicant” means any owner who makes an application for the establishment of a special rating area in accordance with provisions of Chapter 1, or if a management body is established in terms of section 10 of any reference to “the Applicant” means the management body;

“CFO” means the Chief Financial Officer of George Municipality, or his or her nominee;

“Council” or **“the Council”** means Council of George Municipality;

“implementation plan” means an Implementation Plan as contemplated in section 6;

“limited special rating area” means a limited special rating area approved by the Council in terms of section 9;

“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 provision of Section 10;

“motivation report” means a motivation report as contemplated in Section 6;

“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 Council in relation to special rating areas, as in force from time to time;

“Property Rates Act” means the Local Government 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 and section 8 of this By-Law.

2. INTERPRETATION

In the event of any conflict with the Afrikaans or isiXhosa texts, the English text prevails.

CHAPTER 2: ESTABLISHMENT OF SPECIAL RATING AREAS

3. DETERMINATION OF SPECIAL RATING AREAS

George Municipality may by resolution of the Council determine special rating areas.

4. APPLICATION

(1) Any owner located within the area of jurisdiction of George Municipality and who owns property within the proposed special rating area, may lodge an application to the Council for the establishment of a Special Rating Area.

(2) All costs incurred by the Applicant in respect of the establishment of a Special Rating Area shall be for his or her own account, provided that after implementation of the Implementation Plan the management body may reimburse the Applicant for some or all those costs.

(3) Any application contemplated in subsection (1) must-

- a. be in writing and be in the form (if any) as the CFO or his/her delegate may from time to time determine;
- b. be submitted not more than 9 (nine) months after the date on which the public meeting referred to in section 5 is held, or if a second public meeting is held as provided for in section 6(2), 9 (nine) months after the date of the second public meeting;
- c. be accompanied by-
 - i. a Motivation Report and an Implementation Plan to the satisfaction of the Municipality;
 - ii. proof of the proceedings of the public meeting as required in section 5;
 - iii. the written consent of the majority of the members of the local community in the proposed Special Rating Area who will be liable for the paying the additional rate, in a format determined by the CFO or his/her delegate;
 - iv. payment of such fee as the Council may from time to time determine.

5. PUBLIC MEETINGS

(1) An application for the determination of a Special Rating Area must be preceded by the holding of a public meeting.

(2) 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.

- (3) Prior to holding of the public meeting, the Applicant must-
 - a. Give written notice in a manner approved by the CFO or his/her delegate, in terms of this By-Law, to all owner/s of rateable property, who will be liable for payment of the additional rate, of the Applicant's intention to apply for the determination of a Special Rating Area;
 - b. In the notice referred to in section 3 (a), give notice of a public meeting, which notice must-
 - i. State the purpose of the meeting; and
 - ii. Contain details of the place, date, and time when such meeting will be held.
- (4) The public meeting must be held not less than 7 (seven) days and not more than 30 (thirty) (30) days after the date of the notice referred to in subsection (3)(a).
- (5) The public meeting must be held at such a place, date and time as stated in the notice in terms of subsection (3)(a)., provided that it must be held at a place, which is within the boundaries of the proposed Special Rating Area, unless the Municipality approves another venue in writing before the public meeting is held.
- (6) The public meeting must be chaired by a suitable qualified and experienced person appointed by the CFO or his/her delegate.
- (7) Interested persons must, at the public meeting, be-
 - a. 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, as required in terms of section 6; and
 - b. Be given an opportunity to ask questions, express their views and make representations.

6 MOTIVATION REPORT AND IMPLEMENTATION PLAN

- (1) Any application for the establishment of a Special Rating Area must include a Motivation Report and an Implementation Plan covering a period commencing on 1 July of a year and ending on 30 June of the fifth year or covering such lesser period as may be determined by the CFO or his/her delegate.
- (2) If the Motivation Report or the Implementation Plan are materially amended, as determined by the Municipality, after the public meeting referred to in section 5, the Applicant must call a second public meeting for approval of the Special Rating Area as amended, and the provisions of section 5 applies with the necessary changes to the second public meeting.

7 ADVERTISING OF APPLICATION AND OBJECTIONS

- (1) The applicant must within 14 (fourteen) days after the application is lodged in accordance with section 4, or within such further period which the CFO or his/her delegate may approve-

- (a) cause a notice of the application to be published in a manner approved by the CFO or his/her delegate; and
 - (b) either before or up to 7 (seven) days after the date of publication of the notice in terms of subsection (1)(a), give written notice of the application to all owners within the proposed Special Rating Area, who will be liable for payment of the additional rate, such notice to be given by the pre-paid registered post, hand delivery or in any other manner approved of in writing by the CFO or his/her delegate.
- (2) Every notice contemplated in terms of section (1) must state that written objections to the determination 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 30 (thirty) days after the date of publication in terms of subsection (1)(a), and must state where the documentation specified in section 6 will be available for inspection.
 - (3) Any owner of rateable property who will be liable for paying the additional rate may submit written objections to the determination 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).
 - (4) An Applicant and any objector to the application who owns property within the proposed special rating area may make representations to the CFO or his/her delegate and such representation shall be considered by Council as part of the application submission to Council.
 - (5) The Council may allow the Applicant and any objector to make oral representations to it.
 - (6) The application, including the Motivation Report and the Implementation Plan, and all objections must be available for inspection at the office of the George Municipality and at a venue determined by the CFO or his/her delegate within the proposed Special Rating Area, for the period referred to in subsection (2).

8 DECISION

- (1) After the provision of sections 4 and 7 have been complied with, the Council must, at a meeting of the Council held 30 (thirty) days after the last date for the submission of objections in accordance with subsection 7(2), consider the application and-
 - (a) approve the establishment a Special Rating Area which must be implemented in accordance with the Motivation Report and Implementation Plan;
 - (b) approve the establishment of a Special Rating Area and the Motivation Report and Implementation Plan with such amendments or conditions as the Council considers to be in the public interest;
 - (c) approve the establishment of a Special Rating Area and the Motivation Report and Implementation Plan in respect of a limited area in terms of section 9; or
 - (d) refuse the application, in which event the Council must, within 30 (thirty) days, furnish the Applicant with written reasons for not approving the establishment of a Special Rating Area or the Motivation Report and Implementation Plan; or

- (e) refer the application back to the Applicant for amendments in such manner as the Council may direct.
- (2) If an application is refused by the Council in accordance with the provisions of subsection (1)(d) or referred back to the Applicant in accordance with the provisions of subsection (1)(e), the Applicant may, within 6 (six) months of the Council's decision, re-apply to the Council for the establishment of the Special Rating Area, provided that such re-application has been appropriately amended in the light of the reasons for refusal or referral back, as the case may be.
- (3) If the Motivation Report or Implementation Plan is amended in any material respect at any time before the approval thereof, the Council may require that the application be re-advertised in accordance with the provision of section 7, with the necessary changes.

9 APPROVAL OF A LIMITED SPECIAL RATING AREA

If an application in terms of section 4 is not accompanied by the requisite number of written confirmations of the majority of the owners as required by section 4(3)(c), but the Applicant can demonstrate to the satisfaction of the Council, that-

- (1) there is such confirmation from owners of rateable properties in a limited geographical area within the proposed Special Rating Area that would meet the requirements of section 4(3)(c) if they were to be applied to that area; and
- (2) the level of services to be provided will not be reduced and the budget will be reduced accordingly as a result of the provision of those services in the limited area, as referred to in subsection (a) alone, as compared to the provision of those services in the whole of the proposed Special Rating Area.

Then the Council may accept such an application and, subject to the other requirements of this By-Law, approve the establishment of a Special Rating Area in respect of the discreet area referred to in subsection (1) alone.

CHAPTER 3: SPECIAL RATING AREAS – STRUCTURES AND FINANCES

10. COMMENCEMENT OF THE BUSINESS/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 11 and the finance agreement has been concluded in terms of section 12(4).

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

- (1) The Applicant must before the Implementation Plan is implemented in accordance with the provisions of section 10, establish a management body 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 section 21 of the Companies Act, 1973 (Act no 61 of 1973). The memorandum and articles of association of the management body shall be subject to the prior written approval of the CFO or his/her delegate.

- (3) The management body must determine the name for the Special Rating Area in accordance with the Policy.
- (4) Within 2 (two) months after receipt of the first additional rate, the management body must commence to provide services in accordance with the Implementation Plan.
- (5) The management body must comply with the Policy and with all applicable guidelines published by the Council in terms of section 17.
- (6) Within 2 (two) months of the end of each financial year, the management body must provide the CFO or his/her delegate with –
 - (a) its audited financial statements for the immediately preceding year; and
 - (b) a report on its progress in carrying out the provisions of the Implementation Plan in the preceding year, including the steps taken to improve and upgrade the Special Rating Area.
- (7) George Municipality shall monitor compliance by the management body with the applicable provisions of this By-Law, any guidelines or policies adopted by George Municipality and any agreements entered into with the management body and George Municipality.
- (8) Every ward having full or partial jurisdiction over a Special Rating Area, must, nominate one ward Councillor as an observer and one other Councillor as an observer and one other Councillor as an alternate observer of the management body.
- (9) The Executive Mayor of the Municipality shall, after receiving ward nominations, appoint one or two Councillors and one alternate Councillor for each Councillor appointed as observer, to serve on the board of the management body.
- (10) Employees of the Municipality may not serve on the management body as representatives of the Municipality in any capacity.
- (11) Any Councillor appointed by the Executive Mayor in terms of subsection (5) must-
 - (a) not have all the powers and duties of directors of companies as set out in the Companies Act and the memorandum of incorporation of the management body;
 - (b) be deemed to have vacated their position should such observer no longer serve as a Councillor and such observer shall be replaced in accordance with subsections (4) and (5); and
 - (c) not chair the board of the management body or any committee or sub-committee of the board.
- (12) Within three (3) months after its Special General meeting, the management body of the newly established SRA must provide the relevant Committee(s) with a progress report.

12. FINANCES

- (1) The financial year of the management body must coincide with the financial year of the Council.
- (2) Where a Special Rating Area has been established, the Council will 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 rateable property in the Special Rating Area for the purposes of realising the Implementation Plan, provided that the Council may in terms of the Local Government: Municipal Property Rates Act, 2004 (Act no 6 of 2004), Property Rates By-Law, Property Rates Policy, Customer Care, Credit Control and Debt Collection By-Law and the Customer Care, Credit Control and Debt Collection Policy, exempt the indigent, senior citizens, disabled persons or any other category or residents.
- (3) When determining the additional rate referred to in subsection (2) the Council may consider imposing differential additional rates on one or more of the categories as set out in Section 8 of the Property Rates Act.
- (4) The additional rate due in terms of this By-Law is a debt due to Council and is payable and must be collected in the same manner as other property rates imposed by the Council.
- (5) The CFO or his/her delegate may, for the purpose of carrying out the provisions of the Implementation Plan of a Special Rating Area and subject to section 67 of the Local Government: Municipal Finance Management Act, 2003 (Act no 56 of 2003) make payment to the management body of a Special Rating Area.
- (6) The payment contemplated in subsection (5) is conditional upon the conclusion of a finance agreement to be entered into between the Council and the relevant management body, and such agreement must regulate, among other things-
 - (a) the mechanism and manner of payment; and
 - (b) the other 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 Council, may for the purposes of this By-Law, determine and impose on the management body an administrative charge.
- (9) The CFO or his/her delegate may, after consultation with the management body, determine and impose on the management body an administrative charge to reimburse the Council for the costs incurred by it in fulfilling its obligations in terms of the finance agreements referred to in subsection (6).
- (10) The auditing function of the Special Rating Area management body must be carried out by an audit firm approved by the CFO or his/her delegate.

13. THE ROLE OF THE CFO OR HIS/HER DELEGATE

- (1) In addition to the other responsibilities of the CFO as set out elsewhere in this By-Law, the CFO or his/her delegate must-
 - (a) establish a separate accounting and other record-keeping systems regarding the revenue generated by the additional rate and the improvement and upgrading of the Special Rating Area;
 - (b) monitor compliance with the applicable legislation, including By-Law, Policy and guidelines adopted in terms of Section 17 and agreements entered into by the management body and the Council by-
 - (i) Receiving and considering the audited financial statements and reports regarding the carrying out of duties laid out in the implementation plan;
 - (ii) If he or she elects to do so, nominate representative to attend and participate but not vote at meetings of the management body
- (2) The Council may establish a committee composed of persons representing the community in the relevant Special Rating Area to act as a consultative and advisory forum for the City on the improvement and upgrading of the relevant Special Rating Area, provided that representivity, including gender representivity, is considered when such a committee is established.

CHAPTER 4: AMENDMENT AND EXTENSION OF IMPLEMENTATION PLANS

14. AMENDMENT TO IMPLEMENTATION PLANS

- (1) An Implementation Plan, including geographical boundaries of the Special Rating Area, may be amended by Council on written application by the management body at any time after the formation of the Special Rating Area.
- (2) An amendment in terms of subsection (1), which the Council considers is not likely to materially affect the rights or interests of any owner, may be approved forthwith by the Council; provided that the Council may require the management body to cause notice of the application for such amendment to be published as approved by the CFO or his/her delegate.
- (3) Only The Council may approve an amendment in terms of the subsection (1), with the changes required by the context, in accordance with the provisions of Chapter 1, which the Council considers is likely to-
 - (a) materially affect the rights or interests of any person;
 - (b) affect the approved budget for the Special Rating Area; and
 - (c) change the boundaries of the special rating area.
- (4) The CFO or his/her delegate may, for good reason which must be recorded, on written application by the management body, exempt the management body from complying with the provisions, or condone any non-compliance with any such provisions, of this By Law.

15. EXTENSION OF IMPLEMENTATION PLANS

A management body must, if it elects to extend the term of the Implementation Plan for a further period, on or before 1 January in the year in which the Implementation Plan is due to terminate, apply to George Municipality for approval of extension of the terms of the Implementation Plan, provided that-

- (a) the extension of the Implementation Plan may only be approved by the Council in accordance with the provisions of Chapter 1, with the changes required by the context, and the CFO or his/her delegate may, for good reason which must be recorded, on written application by the management body, exempt the management body from complying, or condone any non-compliance, with any such provisions; and
- (b) the provisions of Section 14 shall apply to any amendment of an Implementation Plan which has been extended in terms of this section.

CHAPTER 5: DISSOLUTION OF A SPECIAL RATING AREA

16. 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) for any other good cause, after prior consultation by the CFO or his/her delegate with the management body or the community.
- (2) Upon the winding up of a management body, the assets remaining after the satisfaction of all its liabilities shall be utilised by the Council to provide additional municipal services in accordance with the provisions of the Implementation Plan for such area.

CHAPTER 6: MISCELLANEOUS PROVISIONS

17. GUIDELINES

The Council may at any time publish guidelines in respect of the establishment and management of Special Rating areas, including but not limited to guidelines in respect of the areas or categories of areas within which Special Rating Areas may be established, and regarding the services that may be provided by the management body.

18. SHORT TITLE AND COMMENCEMENT

- (1) This By-Law is called the George Municipality: Special Rating Areas By-Law, 2022.
- (2) This By-Law takes effect on the date of publication in the Provincial Gazette, provided that no new Special Rating Area determined in terms of this By-Law may implement its Implementation Plan prior to July 2023.

