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(\*Afskrifte is verkrygbaar by Kamer M21, Provinsiale Wetgewer-gebou,  
Waalstraat 7, Kaapstad 8001.)

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**PROVINCIAL NOTICE**

The following Provincial Notice is published for general information.

ADV. B. GERBER,  
DIRECTOR-GENERAL

Provincial Building,  
Wale Street  
Cape Town.

**PROVINSIALE KENNISGEWING**

Die volgende Proviniale Kennisgewings word vir algemene inligting gepubliseer.

ADV. B. GERBER,  
DIREKTEUR-GENERAAL

Provinsiale-gebou,  
Waalstraat  
Kaapstad.

P.N. 85/2015

25 March 2015

**THEEWATERSKLOOF MUNICIPALITY  
SPECIAL RATING AREA BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Municipal Council of the Theewaterskloof Municipality enacts as follows:

**To provide for the establishment of special rating areas; to provide for additional rates; and to provide for matters incidental thereto.**

**BE IT ENACTED** by the Theewaterskloof Municipality as follows:-

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**CHAPTER 1****ESTABLISHMENT OF SPECIAL RATING AREAS****1. DEFINITIONS**

In this by-law the English text prevails in the event of any conflict with the Afrikaans text, and unless the context otherwise indicates -

**"additional rate"** means an additional rate contemplated in sections 19(1)(d) and 22(1)(b) of the Property Rates Act and in section 11(2) of this By-Law;

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

**"business plan"** means a motivation report, implementation plan and term budget as contemplated in section 5;

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

**"Municipality"** means the Theewaterskloof Municipality established by Provincial Notice No. 479 of 2000 in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

**"Companies Act"** means the Companies Act 71 of 2008, as amended or replaced;

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

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

**"limited special rating area"** means a limited special rating area approved by the Council in terms of section 8;

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

**"management body"** means the management body of a special rating area to be established in accordance with the provisions of section 10;

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

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

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

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

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

**"special rating area"** means a special rating area approved by the Council in accordance with the provisions of section 22 of the Property Rates Act and section 7 of this By-Law.

**"term budget"** means the budget of the management body of the Non Profit Company contemplated in section 5 of this By-law.

## **2. DETERMINATION OF SPECIAL RATING AREAS**

The Municipality may by resolution of the Council determine Special Rating Areas according to applications in accordance with section 22 of the Municipal Property Rates Act.

## **3. APPLICATION**

- (1) Any owner located within the area of jurisdiction of the Municipality and who owns property within the proposed special rating area, may lodge an application to the Council for the determination 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 of those costs.
- (3) Any application contemplated in subsection (1) must –
  - (a) be in writing and be in the form as the CFO may determine;
  - (b) be submitted not more than nine (9) months after the date on which the public meeting referred to in section 4 is held, or if a second public meeting is held as

provided for in section 5(2), nine (9) months after the date of the second public meeting;

(c) be accompanied by –

- (i) the business plan;
- (ii) the written consent of the majority of the members of the property owners or any other person mandated by the property owner in writing in the proposed special rating area who will be liable for paying the additional rate, as determined by the CFO;
- (iii) payment of such fee as the Council may determine.

#### **4. 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 the holding of the public meeting, the applicant must –
  - (a) give notice in a manner approved by the CFO in terms of this By-law to all owners 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 subsection (3)(a), give notice of a public meeting, which notice must –
    - (i) state the purpose of such meeting; and
    - (ii) contains details of the place, date and time when such meeting is to be held.

- (4) The public meeting must be held not less than seven (7) days and not more than thirty (30) days after the date of the notice.
- (5) The public meeting must be held at such place, date and time as stated in the notice, provided that it must be held at a place which is within the boundaries of the proposed special rating area unless the CFO approves another venue in writing before the public meeting is held.
- (6) The public meeting must be chaired by a suitably qualified and experienced person appointed by the CFO.
- (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; and
  - (b) given an opportunity to ask questions, express their views and make representations.

## **5. BUSINESS PLAN**

- (1) Any application for the establishment of a special rating area must include a Business Plan, Implementation Plan and a term budget 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.
- (2) If the Business Plan or the implementation plan are materially amended, as determined by the CFO, after the public meeting referred to in section 4, the applicant must call a second public meeting for approval of the special rating area as amended.

- (3) The provisions of section 4 apply with the necessary changes to the second public meeting.

## **6. ADVERTISING OF APPLICATION AND OBJECTIONS**

- (1) The applicant must within fourteen (14) days after the application is lodged in accordance with section 3, or within such further period which the CFO may approve –
- (a) cause a notice of the application to be published in a manner approved by the CFO; and
  - (b) either before or up to seven days after the date of publication of the notice, 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 pre-paid registered post, hand delivery or in any other manner approved of in writing by the CFO.
- (2) Every notice contemplated in terms of subsection (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 days after the date of publication in terms of subsection (1)(a), and must state where the documentation specified in subsection (5) 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 (1).
- (4) An applicant and any objector to the application who owns property within the proposed special rating area may make oral representations to Council.

(5) The application, including the motivation report and the implementation plan, and all objections must be available for inspection at the offices of the Municipality and at a venue determined by the CFO within the proposed special rating area, for the period referred to in subsection (2).

## 7. DECISION

(1) After the provisions of sections 3 to 6 have been complied with, the Council must, at a meeting of the Council held as soon as possible after the last date for the submission of objections in accordance with section 6(2), consider the application and –

- (a) determine a special rating area which must be implemented in accordance with the motivation report and implementation plan;
- (b) determine a special rating area with such amendments or conditions as the Council considers to be in the public interest;
- (c) determine a special rating area in respect of a limited area in terms of section 8;
- (d) refuse the application, in which event the Council must, within 30 days, furnish the applicant with written reasons for not approving the determination of a special rating area; or
- (e) refer the application back to the applicant for amendment 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 six (6) months of the Council's decision, re-apply to the Council for the determination of the special rating area, provided that such re-application has been appropriately amended in the light of the reasons for refusal or referral, as the case may be.

(3) If the motivation report or implementation plan is amended in any material respect at any time before the determination, the Council may require that the

application be re-advertised in accordance with the provisions of section 6, with the necessary changes.

## **8. DETERMINATION OF A LIMITED SPECIAL RATING AREA**

If an application in terms of section 3 is not accompanied by the majority of the members of the local community in the proposed special rating area required by section 3(3)(c), but the applicant can demonstrate to the satisfaction of the Council, that –

- (a) there are such confirmations from owners of rateable properties in a limited geographical area within the proposed special rating area that would meet the requirements of section 3(3)(c) if they were to be applied to that area; and
- (b) 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 alone, as compared to the provision of those services in the whole of the proposed special rating area,

then the Council may, subject to the other requirements of this By-Law, determine a limited special rating area.

## **CHAPTER 2**

### **SPECIAL RATING AREAS – STRUCTURES AND FINANCES**

## **9. COMMENCEMENT OF THE IMPLEMENTATION PLAN**

Once the Council has approved the establishment of the special rating area, the implementation plan may only be implemented after the management body has been established in accordance with section 10.

## **10. ESTABLISHMENT, COMPOSITION, POWERS AND DUTIES OF MANAGEMENT BODY**

- (1) The applicant must cause to be established a management body for the purposes of implementing the provisions of the business plan.

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- (2) The management body must be a non-profit company incorporated in accordance with the provisions of the Companies Act, (Act No 71 of 2008)
- (3) The Municipality shall monitor compliance by the management body with the applicable provisions of this By-Law, any guidelines or policies adopted by the Municipality and any agreements entered into with the management body and the Municipality.
- (4) The Council must nominate the relevant ward councillor and one other person, as representatives to attend and participate, but not vote, at the meetings of the management body.
- (5) Employees of the Municipality may only serve as representatives of the Municipality on the management body if nominated to do so by the CFO in terms of section 12(b)(ii) of this By-law.
- (6) Within two (2) months after receipt of the first payment of the additional rate, the management body must begin carrying out the provisions of the business plan.
- (7) Within two (2) months of the end of each financial year, the management body must provide the CFO with –
  - (a) its audited financial statements for the immediately preceding year; and
  - (b) an annual report on its progress in carrying out the provisions of the business plan in the preceding year to improve and upgrade the special rating area.
- (8) Within two (2) months after the Annual General Meeting, the management body must provide the Council with –
  - (a) its audited financial statements for the immediately preceding year; and
  - (b) an annual report on its progress in carrying out the provisions of the business plan in the preceding year to improve and upgrade the special rating area.

## **11. FINANCES**

- (1) The financial year of the management body must coincide with the financial year of the Municipality.

- (2) Where a special rating area has been determined, the Council must levy in accordance with the provisions of the Property Rates Act, a property rate in addition to the rates that it already charges on the owners of rateable property in the special rating area for the purposes of realising the business plan, provided that the Council may in terms of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), Rates Policy, Credit Control and Debt Collection By-law and the Credit Control and Debt Collection Policy, exempt the indigent, senior citizens, disabled persons or any other category of residents.
- (3) When determining the additional rate referred to in subsection (2), the Council may give consideration to imposing differential additional rates on one or more of the categories set out in section 8 of the Property Rates Act.
- (4) The additional rate due in terms of this By-law is a debt due to the Council and is payable and must be collected in the same manner as other property rates imposed by the Council.
- (5) The Council may, for the purpose of carrying out the provisions of the business 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 mechanisms and manner of payment; and
  - (b) terms on which payment to the relevant management body is to be made.
- (7) Subject to the provisions of its memorandum of incorporation, the management body is entitled to raise its own funds through commercial activities, donations or any other lawful means.
- (8) The Municipality shall, for the purposes of this By-law, determine and impose on the management body an administrative charge which will be determined annually during the budget process.

## 12. THE ROLE OF THE CFO

In addition to the other responsibilities and obligations of the CFO as set out elsewhere in this By-Law, the CFO must -

- (a) establish 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 this By-Law and the Policy, by –
  - (i) receiving and considering the audited financial statements and reports regarding the carrying out of duties laid out in the business plan;
  - (ii) if he or she elects to do so, nominating representatives to attend and participate but not vote at meetings of the management body as provided for in section 10(5).

## CHAPTER 3

### AMENDMENT AND EXTENSION OF IMPLEMENTATION PLANS

## 13. AMENDMENT TO IMPLEMENTATION PLANS

- (1) An implementation plan, including the geographical boundaries of the special rating area, may be amended by the Council on written application by the management body at any time after the formation of the special rating area.
- (2) The Council may approve an application for an amendment referred to in subsection (1) where the Council considers it not likely to materially affect the rights or interests of any owner, provided that the Council may require the management body to cause a notice of the application for such amendment to be published as approved by the CFO.
- (3) The Council may only approve an amendment in terms of 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; or
  - (c) change the boundaries of the special rating area.
- (4) The Council may, for good reason, on written application by the management body, exempt the management body from complying with the provisions, or condone any non-compliance with any provisions, of Chapter 1.

#### **14. EXTENSION OF IMPLEMENTATION PLANS**

A management body must, if it elects to extend the term of the SRA for a further period, on or before 1 January in the year in which the business plan is due to terminate, submit an application to the Municipality for approval of extension of the term of the SRA , 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 Council may, for good reason, on written application by the management body, exempt the management body from complying, or condone any non-compliance, with any such provisions;
- (b) the provisions of section 13 shall apply to any amendment of a business plan which has been extended in terms of this section.

### **CHAPTER 4**

### **DISSOLUTION OF A SPECIAL RATING AREA**

#### **15. 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) after prior consultation by the CFO with the management body or the community, for any good cause, whereupon he or she may cause the management body to be wound up.
- (2) Upon the winding up of a management body the assets remaining after the satisfaction of all its liabilities shall be transferred to a similar type Non Profit Company in line with the requirements of the Companies Act.

## **CHAPTER 5**

### **MISCELLANEOUS PROVISIONS**

#### **16. TRANSITIONAL PROVISIONS**

- (1) Any special rating area determined or established, or deemed to have been determined or established in terms of the By-Law referred to in section 17 shall be deemed to have been determined or established in terms of this By-Law.
- (2) Any –
- (a) application initiated by an applicant, including a business plan for such an application;
  - (b) advertisement or public meeting in respect of such application;
  - (c) application submitted to Council;
  - (d) approval by the Council of any application,

made, done or given prior to the date of this By-Law, shall be governed by this By-Law, provided that any business plan in force on the commencement date of this By-Law shall, notwithstanding the provisions of section 5, terminate on the termination date of the relevant implementation plan.

**17. REPEAL OF BY-LAWS**

The provisions of any by-laws previously promulgated by the Municipality or by any of the disestablished municipalities now incorporated in the Municipality are hereby repealed as far as it relates to matters provided for in this by-law.

**18. EXEMPTIONS**

- (1) Any person may by means of a written application, with a full motivation, apply to the Municipality for exemption from any provision of this by-law.
- (2) The municipality may after consideration of an application and the motivation therefor –
  - (a) grant an exemption in writing, and stipulate the conditions in terms of which the exemption is granted, and the period for which such exemption is valid;
  - (b) alter or cancel any exemption or condition of an exemption; or
  - (c) refuse to grant an exemption.
- (3) An exemption does not take effect, before the applicant has undertaken in writing to comply with all conditions imposed by the Municipality, and if an activity is commenced before such undertaking has been provided to the Municipality, the exemption granted will lapse.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

**19. CONFLICT BETWEEN LEGISLATION**

When any stipulation of this by-law, is in conflict with national and provincial legislation, regulations, the national and provincial legislation, regulations shall prevail.

**20. SHORT TITLE**

- (1) This By-Law is called the Theewaterskloof Municipality: Special Rating Areas By-law.

**21. OPERATIVE DATE**

This by-law shall take effect on the date of publication.

**THEEWATERSKLOOF MUNISIPALITEIT  
VERORDENING OP SPESIALE-AANSLAGGEBIEDE**

Kragtens die bepalings van artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996, verorden die Munisipale Raad van die Theewaterskloof Munisipaliteit as volg:

**Om voorsiening te maak vir die instelling van spesiale-aanslaggebiede; om voorsiening te maak vir bykomende belasting; en om voorsiening te maak vir aangeleenthede wat daarmee gepaard gaan.**

**VERORDEN** die Theewaterskloof Munisipaliteit as volg:-

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## HOOFSTUK 1

### INSTELLING VAN SPESIALE-AANSLAGGEBIEDE

#### 1. WOORDOMSKRYWING

In hierdie verordening neem die Engelse teks voorrang in die geval van strydigheid met die Afrikaanse teks, en tensy dit uit die samehang anders blyk, beteken

**"aansoeker"** enige eienaar wat aansoek doen om die bepaling van 'n spesiale-aanslaggebied ooreenkomsdig die bepalings van hoofstuk 1, of indien 'n bestuursliggaam ingevolge artikel 10 ingestel is, beteken 'n verwysing na **"die aansoeker"** die bestuursliggaam;

**"belasbare eiendom"** dieselfde as in artikel 1 van die Wet op Eiendomsbelasting;

**"Beleid"** die Beleid vir die bepaling van spesiale-aanslaggebiede, of enige ander beleid wat die Raad met betrekking tot spesiale-aanslaggebiede aanvaar, soos van tyd tot tyd van krag;

**"beperkte spesiale-aanslaggebied"** 'n spesiale-aanslaggebied ingevolge artikel 8 deur die Raad goedgekeur;

**"bestuursliggaam"** die bestuursliggaam van 'n spesiale-aanslaggebied wat ooreenkomsdig die bepalings van artikel 10 ingestel moet word;

**"bykomende belasting"** 'n bykomende belasting beoog in artikels 19(1)(d) en 22(1)(b) van die Wet op Eiendomsbelasting en in artikel 11(2) van hierdie verordening;

**"eienaar"** dieselfde as in artikel 1 van die Wet op Eiendomsbelasting;

**"HFB"** die hoof- finansiële beampte van die Munisipaliteit, of sy of haar genomineerde;

**"implementeringsplan"** 'n implementeringsplan soos in artikel 5 beoog;

**"Maatskappywet"** die Maatskappywet, 2008 (Wet Nr. 71 van 2008), soos gewysig of vervang;

**"meerderheid"** die meerderheid van eiendomsbesitters soos beoog in artikel 22 van die Wet op Eiendomsbelasting;

**"motiveringsverslag"** 'n motiveringsverslag soos beoog in artikel 5;

**"Munisipaliteit"** die Theewaterskloof Munisipaliteit wat deur Provinsiale Kennisgewing No. 479 van 2000 ingevolge artikel 12 van die Plaaslike Regering: Wet op Munisipale Strukture, 1998 (Wet No. 117 van 1998) ingestel is;

**"Raad"** die Raad van die Munisipaliteit;

**"sakeplan"** 'n motiveringsverslag, implementeringsplan en termynbegroting soos beoog in artikel 5;

**"spesiale-aanslaggebied"** 'n spesiale-aanslaggebied soos deur die Raad goedgekeur ooreenkomstig die bepalings van artikel 22 van die Wet op Eiendomsbelasting en artikel 7 van hierdie verordening;

**"termynbegroting"** die begroting van die bestuursliggaam van die Maatskappy sonder Winsoogmerk beoog in artikel 5 van hierdie verordening;

**"Wet op Eiendomsbelasting"** die Plaaslike Regering: Wet op Munisipale Eiendomsbelasting, 2004 (Wet Nr. 6 van 2004).

## **2. BEPALING VAN SPESIALE-AANSLAGGEBIEDE**

Die Munisipaliteit kan spesiale-aanslaggebiede deur 'n Raadsbesluit na oorweging van aansoeke ooreenkomstig die bepalings van artikel 22 van die Wet op Eiendomsbelasting, bepaal.

## **3. AANSOEK**

- (1) Enige eienaar in die regssgebied van die Munisipaliteit wat eiendom in die voorgestelde spesiale-aanslaggebied besit, kan by die raad 'n aansoek indien vir die bepaling van 'n spesiale-aanslaggebied.
- (2) Alle kostes wat die aansoeker met betrekking tot die bepaling van 'n spesiale-aanslaggebied aangaan, moet deur hom of haar self betaal word, met dien verstande dat die bestuursliggaam ná die inwerkingtreding van die sakeplan 'n deel van of al daardie koste aan die aansoeker kan terugbetaal.
- (3) 'n Aansoek wat in subartikel (1) hierbo beoog word, moet –
  - (a) skriftelik wees en in 'n formaat wat die HFB kan bepaal;
  - (b) ingedien word binne hoogstens nege (9) maande ná die datum waarop die openbare vergadering waarna in artikel 4 verwys word, gehou word, of indien 'n tweede openbare vergadering ingevolge artikel 5(2) gehou word, binne nege (9) maande ná die datum van die tweede vergadering;
  - (c) vergesel word van –
    - (i) die sakeplan;
    - (ii) die skriftelike toestemming van die meerderheid van die eiendomsbesitters of 'n ander persoon met 'n skriftelike mandaat van die eiendomsbesitter in die voorgestelde spesiale-aanslaggebied wat die bykomende belasting sal moet betaal, soos deur die HFB bepaal;

(iii) betaling van sodanige geld as wat die Raad kan bepaal.

#### **4. OPENBARE VERGADERINGS**

- (1) 'n Aansoek om die bepaling van 'n spesiale-aanslaggebied moet deur 'n openbare vergadering voorafgegaan word.
- (2) Die doel van die openbare vergadering is om die aansoeker in staat te stel om die eienaars in die voorgestelde spesiale-aanslaggebied te raadpleeg met betrekking tot die voorgestelde grense van die gebied en die voorgestelde verbetering of opgradering van die gebied.
- (3) Voor die openbare vergadering moet die aansoeker –
  - (a) aan alle eienaars van belasbare eiendom wat die bykomende belasting sal moet betaal, kennis gee van die aansoeker se voorneme om aansoek te doen om die bepaling van 'n spesiale-aanslaggebied, welke kennisgewing op sodanige wyse moet geskied as wat die HFB ingevolge hierdie verordening kan bepaal;
  - (b) in die kennisgewing waarna in subartikel 3(a) verwys word, kennis gee van 'n openbare vergadering, en die kennisgewing moet –
    - (i) die doel van sodanige vergadering vermeld; en
    - (ii) besonderhede van die plek, datum en tyd van die vergadering bevat.
- (4) Die openbare vergadering moet nie minder nie as sewe (7) dae en nie meer nie as dertig (30) dae ná die datum van die kennisgewing plaasvind.
- (5) Die openbare vergadering moet op sodanige plek, datum en tyd gehou word as wat in die kennisgewing vermeld word, met dien verstande dat dit binne die grense van die voorgestelde spesiale-aanslaggebied gehou moet word, tensy die HFB skriftelike toestemming vir 'n ander vergaderplek verleen voordat die openbare vergadering gehou word.

(6) 'n Toepaslik gekwalifiseerde en ervare persoon wat deur die HFB aangestel word, moet as voorsitter van die openbare vergadering optree.

(7) By die openbare vergadering moet belangstellende persone –

- (a) alle tersaaklike inligting met betrekking tot die voorgestelde spesiale-aanslaggebied ontvang, wat die inligting insluit wat in die motiveringsverslag en implementeringsplan uiteengesit moet word; en
- (b) geleentheid kry om vrae te vra, hulle menings te lug en vertoë te rig.

## **5. SAKEPLAN**

- (1) 'n Aansoek om die instelling van 'n spesiale-aanslaggebied moet 'n sakeplan, implementeringsplan en 'n termynbegroting insluit vir 'n tydperk wat op 1 Julie van 'n bepaalde jaar begin en op 30 Junie van die vyfde jaar daarna, of sodanige korter tydperk as wat die HFB kan bepaal, ten einde loop.
- (2) Indien die sakeplan of die implementeringsplan na afloop van die openbare vergadering waarna in artikel 4 verwys word, wesenslik gewysig word, soos deur die HFB bepaal, moet die aansoeker 'n tweede openbare vergadering belê vir die goedkeuring van die spesiale-aanslaggebied soos gewysig.
- (3) Die bepalings van artikel 4, met die nodige veranderings, is op die tweede openbare vergadering van toepassing.

## **6. ADVERTERING VAN AANSOEK EN BESWARE**

- (1) Die aansoeker moet binne veertien (14) dae nadat die aansoek ooreenkomsdig artikel 3 ingedien is, of binne sodanige langer tydperk wat die HFB goedkeur –

- (a) 'n kennisgewing van die aansoek laat publiseer op 'n wyse wat deur die HFB goedgekeur is; en
- (b) binne of tot en met sewe dae na die datum van publisering van die kennisgewing, skriftelike kennis van die aansoek gee aan alle eienaars in die voorgestelde spesiale-aanslaggebied wat die bykomende belasting sal moet betaal, welke kennisgewing per voorafbetaalde geregistreerde pos versend, met die hand afgeliever of op enige ander manier gestuur moet word wat die HFB skriftelik goedkeur.
- (2) Elke kennisgewing wat in subartikel (1) beoog word, moet vermeld dat skriftelike besware teen die bepaling van 'n spesiale-aanslaggebied of die bepalings van die motiveringsplan en implementeringsplan teen 'n datum soos in die kennisgewing bepaal, wat nie minder nie as dertig (30) dae ná die publikasiedatum ingevolge subartikel (1)(a) moet wees, by die raad ingedien kan word, en moet vermeld waar die dokumentasie ingevolge subartikel (5) ter insae sal lê.
- (3) 'n Eienaar van belasbare eiendom wat die bykomende belasting sal moet betaal, kan skriftelike besware teen die bepaling van die spesiale-aanslaggebied indien, welke besware die raad moet bereik teen nie later nie as die datum wat bepaal word in die kennisgewing waarna subartikel (1) verwys word.
- (4) 'n Aansoeker en enige beswaarmaker teen die aansoek wat eiendom in die voorgestelde spesiale-aanslaggebied besit, kan mondelinge vertoë aan die Raad rig.
- (5) Die aansoek, met die motiveringsplan en die implementeringsplan en alle besware, moet vir die tydperk waarna in subartikel (2) verwys word, ter insae lê by die kantore van die Munisipaliteit en by 'n lokaal binne die voorgestelde spesiale-aanslaggebied soos deur die HFB bepaal.

## 7. BESLISSING

- (1) Nadat daar aan die bepalings van artikel 3 tot 6 voldoen is, moet die Raad by 'n raadsvergadering na die sluitingsdatum vir die indiening van besware ooreenkomstig artikel 6(2) die aansoek oorweeg, en –
  - (a) 'n spesiale-aanslaggebied bepaal wat ooreenkomstig die motiveringsplan en implementeringsplan in werking gestel moet word;
  - (b) 'n spesiale-aanslaggebied bepaal met sodanige wysings of voorwaardes as wat na die Raad se mening in die openbare belang is;
  - (c) 'n spesiale-aanslaggebied bepaal met betrekking tot 'n beperkte gebied ingevolge artikel 8;
  - (d) die aansoek weier, in welke geval die Raad die aansoeker binne 30 dae van skriftelike redes moet voorsien waarom die bepaling van 'n spesiale-aanslaggebied nie goedgekeur is nie; of
  - (e) die aansoek na die aansoeker terugverwys vir sodanige wysings as wat die Raad kan voorskryf.
- (2) Indien die Raad ooreenkomstig die bepalings van subartikel (1)(d) weier of dit ooreenkomstig die bepalings van subartikel 1(e) na die aansoeker terugverwys, kan die aansoeker binne ses (6) maande na die Raad se beslissing weer by die Raad aansoek doen om die bepaling van die spesiale-aanslaggebied, met dien verstande dat sodanige heraansoek op gepaste wyse gewysig is aan die hand van die redes vir die weierung of die terugverwysing, na gelang van die geval.
- (3) Indien die motiveringsverslag of implementeringsplan in enige stadium voor die bepaling in enige wesenlike opsig gewysig word, kan die Raad vereis dat die aansoek met die nodige veranderings weer ooreenkomstig die bepalings van artikel 6 geadverteer word.

## 8. BEPALING VAN 'n BEPERKTE SPESIALE-AANSLAGGEBIED

Indien 'n aansoek ingevolge artikel 3 nie vergesel gaan van die toestemming van die meerderheid van die eiendomsbesitters in die voorgestelde spesiale-aanslaggebied soos deur artikel 3(3)(c) vereis word nie, maar die aansoeker tot die bevrediging van die Raad kan toon dat –

- (a) daar sodanige bekragtigings van eienaars van belasbare eiendomme in 'n beperkte geografiese gebied in die voorgestelde spesiale-aanslaggebied is wat aan die vereistes van artikel 3(3)(c) voldoen indien dit op daardie gebied toegepas sou word; en
- (b) die vlak van dienste wat gelewer gaan word nie sal daal nie en die begroting dienooreenkomsdig verminder sal word as gevolg van die lewering van daardie dienste net in die beperkte gebied, vergeleke met die lewering van daardie dienste in die hele voorgestelde spesiale-aanslaggebied,

kan die Raad, onderworpe aan die ander vereistes van hierdie verordening, 'n spesiale-aanslaggebied bepaal.

## HOOFTUK 2

### SPESIALE-AANSLAGGEBIEDE – STRUKTURE EN FINANSIES

## 9. INWERKINGTREDING VAN DIE IMPLEMENTERINGSPLAN

Nadat die Raad die instelling van die spesiale-aanslaggebied goedgekeur het, kan die implementeringsplan slegs in werking gestel word nadat die bestuursliggaam ooreenkomsdig artikel 10 ingestel is.

## 10. INSTELLING, SAMESTELLING, MAGTE EN PLIGTE VAN BESTUURSLIGGAAM

- (1) Die aansoeker moet 'n bestuursliggaam laat instel met die doel om die bepalings van die sakeplan in werking te stel.

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- (2) Die bestuursliggaam moet 'n maatskappy sonder winsbejag wees wat ooreenkomsdig die bepalings van die Maatskappywet (Wet No. 71 van 2008) geïnkorporeer is.
- (3) Die Munisipaliteit moet die bestuursliggaam se voldoening aan die toepaslike bepalings van hierdie Verordening, enige riglyne of beleid van die Raad en enige ooreenkomste tussen die bestuursliggaam en die Raad moniteer.
- (4) Die Raad moet die betrokke wyksraadslid en een ander persoon as verteenwoordigers benoem om die vergaderings van die bestuursliggaam by te woon en daarvan deel te neem, maar sonder stemreg.
- (5) Werknemers van die Munisipaliteit mag slegs as verteenwoordigers van die Munisipaliteit in die bestuursliggaam dien as hulle deur die HFB ingevolge artikel 12(b)(ii) van hierdie verordening benoem word.
- (6) Binne twee (2) maande na ontvangs van die eerste betaling van die bykomende belasting moet die bestuursliggaam die bepalings van die sakeplan begin uitvoer.
- (7) Binne twee (2) maande na die einde van elke boekjaar moet die bestuursliggaam die HFB voorsien van –
  - (a) sy geouditeerde finansiële state vir die onmiddellik voorafgaande jaar; en
  - (b) 'n jaarverslag oor sy vordering met die uitvoering van die bepalings van die sakeplan in die voorafgaande jaar ten einde die spesiale-aanslaggebied te verbeter en op te gradeer.
- (8) Binne twee (2) maande na die algemene jaarvergadering moet die bestuursliggaam die Raad voorsien van –
  - (a) sy geouditeerde finansiële state vir die onmiddellik voorafgaande jaar; en

- (b) 'n jaarverslag oor sy vordering met die uitvoering van die bepalings van die sakeplan in die voorafgaande jaar ten einde die spesiale-aanslaggebied te verbeter en op te gradeer.

## 11. FINANSIES

- (1) Die boekjaar van die bestuursliggaam moet saamval met die boekjaar van die Munisipaliteit.
- (2) Waar 'n spesiale-aanslaggebied bepaal is, moet die Raad ooreenkomstig die bepalings van die Wet op Eiendomsbelasting 'n eiendomsbelasting bykomend tot die belasting wat eienaars van belasbare eiendom in die spesiale-aanslaggebied reeds betaal, oplê ten einde die oogmerke van die sakeplan te verwesenlik, met dien verstande dat die Raad ingevolge die Plaaslike Regering: Wet op Eiendomsbelasting, 2004 (Wet Nr. 6 van 2004), die Beleid oor Eiendomsbelasting, die Verordening op Kredietbeheer en Skuldinvordering, en die Beleid oor Kredietbeheer en Skuldinvordering, deernisgevalle, senior burgers, persone met gestremdhede of enige ander kategorie inwoners kan vrystel.
- (3) Wanneer die Raad die bykomende belasting waarna in subartikel (2) verwys word, bepaal, kan die Raad dit oorweeg om differensiële bykomende belastings op te lê aan een of meer van die kategorieë wat in artikel 8 van die Wet op Eiendomsbelasting uiteengesit word.
- (4) Die bykomende belasting verskuldig ingevolge hierdie Verordening is skuld wat aan die Raad verskuldig is, en is betaalbaar en moet op dieselfde manier ingevorder word as ander eiendomsbelasting wat die Raad hef.
- (5) Ten einde die bepalings van die sakeplan vir 'n spesiale-aanslaggebied uit te voer, en onderworpe aan artikel 67 van die Plaaslike Regering: Wet op Munisipale Finansiële Bestuur, 2003 (Wet Nr. 56 van 2003), kan die Raad betalings aan die bestuursliggaam van 'n spesiale-aanslaggebied maak.

- (6) Die betaling wat in subartikel (5) beoog word, is op voorwaarde dat daar 'n finansiële ooreenkoms tussen die Raad en die tersaaklike bestuursliggaam gesluit word, welke ooreenkoms onder andere die volgende moet reël –
- (a) die betaalmeganismes en -metode; en
- (b) die bepalings waarvolgens betaling aan die tersaaklike bestuursliggaam gemaak sal word.
- (7) Onderworpe aan die bepalings van sy akte van inkorporasie kan die bestuursliggaam self deur kommersiële bedrywighede, skenkings en ander wettige maniere geld insamel.
- (8) Vir die doeleindes van hierdie Verordening kan die Raad 'n administratiewe heffing wat jaarliks tydens die begrotingsproses bepaal word aan die bestuursliggaam oplê.

## **12. DIE ROL VAN DIE HFB**

Benewens die ander verantwoordelikhede en verpligtinge van die HFB soos elders in hierdie verordening uiteengesit, moet die HFB –

- (a) afsonderlike rekeningkundige en ander optekeningstelsels instel met betrekking tot die inkomste uit die bykomende belasting en die verbetering en upgradering van die spesiale-aanslaggebied;
- (b) nakoming van die toepaslike wetgewing, wat hierdie Verordening en die Beleid insluit, moniteer deur –
- (i) die geouditeerde finansiële state en verslae met betrekking tot die uitvoering van pligte soos in die sakeplan uiteengesit in ontvangs te neem en te oorweeg; en

- (ii) indien hy of sy so besluit, verteenwoordigers te benoem om die vergaderings van die bestuursliggaam by te woon en daaraan deel te neem, maar sonder stemreg, soos in artikel 10(5) bepaal.

## HOOFSTUK 3

### WYSIGING EN VERLENGING VAN IMPLEMENTERINGSPLANNE

#### 13. WYSIGING VAN IMPLEMENTERINGSPLANNE

- (1) Die Raad kan, op skriftelike aansoek van die bestuursliggaam in enige stadium na die bepaling van die spesiale-aanslaggebied, die implementeringsplan, en die geografiese grense van die spesiale-aanslaggebied, wysig.
- (2) Die Raad kan 'n aansoek om wysiging waarna in subartikel (1) verwys word, goedkeur indien dit na die Raad se oordeel geen wesentlike invloed op die regte of belang van enige eienaar behoort te hê nie, met dien verstande dat die Raad kan vereis dat die bestuursliggaam 'n kennisgewing van die aansoek om sodanige wysiging, soos deur die HFB goedgekeur, moet laat publiseer.
- (3) Die Raad kan 'n wysiging ingevolge subartikel (1), met die veranderings soos deur die samehang vereis ooreenkomsdig die bepalings van Hoofstuk 1, slegs goedkeur as dit na die Raad se mening waarskynlik –
- (a) die regte of belang van enige persoon wesentlik sal raak;
  - (b) die goedgekeurde begroting vir die spesiale-aanslaggebied sal raak; of
  - (c) die grense van die spesiale-aanslaggebied sal verander.
- (4) Die Raad kan om 'n gegrondede rede, op skriftelike aansoek van die bestuursliggaam, die bestuursliggaam van die nakoming van die bepalings van hoofstuk 1 vrystel of nie-nakoming van enige bepalings van hoofstuk 1 kondoneer.

#### **14. VERLENGING VAN IMPLEMENTERINGSPLANNE**

Indien 'n bestuursliggaam die termyn van 'n spesiale-aanslaggebied (SAG) vir 'n verdere tydperk wil verleng, moet sodanige bestuursliggaam voor of op 1 Januarie van die jaar waarin die sakeplan ten einde gaan loop, 'n aansoek om verlenging van die termyn van die SAG by die Munisipaliteit indien, met dien verstande dat –

- (a) die Raad die verlenging van die implementeringsplan slegs ooreenkomsdig die bepalings van hoofstuk 1 kan goedkeur, met die veranderings soos deur die samehang vereis, en die Raad kan om 'n gegronde rede, en op skriftelike aansoek van die bestuursliggaam, die bestuursliggaam van die nakoming van enige sodanige bepalings vrystel, of enige nie-nakoming daarvan kondoneer;
- (b) die bepalings van artikel 13 van toepassing is op enige wysiging van die sakeplan wat ingevolge hierdie artikel verleng is.

### **HOOFSTUK 4**

#### **ONTBINDING VAN 'n SPESIALE-AANSLAGGEBIED**

#### **15. ONTBINDING**

(1) Die Raad kan 'n spesiale-aanslaggebied ontbind –

- (a) op skriftelike aansoek wat onderteken is deur die meerderheid van eienaars binne die grense van die spesiale-aanslaggebied wat die bykomende belasting sal moet betaal; of
- (b) nadat die HFB die bestuursliggaam of die gemeenskap vooraf geraadpleeg het, om enige gegronde rede, in welke geval hy of sy die bestuursliggaam kan laat ontbind.

(2) By die ontbinding van 'n bestuursliggaam, moet netto bates wat na die vereffening van al sy laste oorbly, oorgedra word na 'n soortgelyke tipe

maatskappy sonder winsoogmerk ooreenkomstig die vereistes van die Maatskappywet.

## HOOFSTUK 5

### DIVERSE BEPALINGS

#### 16. OORGANGSBEPALINGS

- (1) Enige spesiale-aanslaggebied wat ingevolge 'n verordening waarna in artikel 17 verwys word, bepaal of ingestel is, of as bepaal of ingestel beskou word, word as ingevolge hierdie Verordening bepaal of ingestel beskou.
- (2) Enige –
  - (a) aansoek wat deur 'n aansoeker inisieer word, wat 'n sakeplan vir sodanige aansoek insluit;
  - (b) advertensie of openbare vergadering met betrekking tot sodanige aansoek;
  - (c) aansoek wat by die Raad ingedien word;
  - (d) Raadsgoedkeuring vir enige aansoek,

wat voor die datum van hierdie Verordening gedoen is, verskyn, gehou is of verleen word, word deur hierdie Verordening gereël, met dien verstande dat enige sakeplan wat op die datum van inwerkingtreding van hierdie Verordening van krag is, ondanks die bepalings van artikel 5, ten einde loop op die beëindigingsdatum van die tersaaklike implementeringsplan.

#### 17. HERROEPING VAN VERORDENINGE

Die bepalings van enige verordeninge wat voorheen deur die Munisipaliteit of deur enige van die ontbinde munisipaliteite wat tans in hierdie Munisipaliteit geïnkorporeer is, word hiermee herroep in soverre dit verband hou met aangeleenthede waarvoor in hierdie verordening voorsiening gemaak word.

## **18. VRYSTELLINGS**

- (1) Enige persoon kan 'n skriftelike aansoek met volledige motivering by die Munisipaliteit indien om vrystelling van enige bepaling van hierdie verordening.
- (2) Die munisipaliteit kan na oorweging van 'n aansoek en die motivering daarvoor –
  - (a) skriftelike vrystelling verleen, en die voorwaardes waarop die vrystelling verleen word en die tydperk waarvoor sodanige vrystelling verleen word, voorskryf;
  - (b) 'n vrystelling of voorwaarde van 'n vrystelling wysig of kanselleer; of
  - (c) weier om vrystelling te verleen.
- (3) 'n Vrystelling tree nie in werking voor die aansoeker op skrif onderneem het om al die voorwaardes wat deur die Munisipaliteit opgelê is, na te kom nie, en indien 'n aktiwiteit begin word voor sodanige onderneming aan die Munisipaliteit voorsien is, sal die vrystelling verval.
- (4) Indien 'n voorwaarde van 'n vrystelling nie nagekom word nie, verval die vrystelling onmiddellik.

## **19. STRYDIGHEID TUSSEN WETGEWING**

Wanneer 'n bepaling van hierdie verordening strydig is met nasionale en provinsiale wetgewing of regulasies, geld die nasionale en provinsiale wetgewing of regulasies.

## **20. KORT TITEL**

- (1) Hierdie Verordening staan bekend as die Theewaterskloof Munisipaliteit: Verordening op Spesiale-aanslaggebiede.

## **21. DATUM VAN INWERKINGTREDING**

Hierdie verordening tree op die datum van publisering daarvan in werking.







