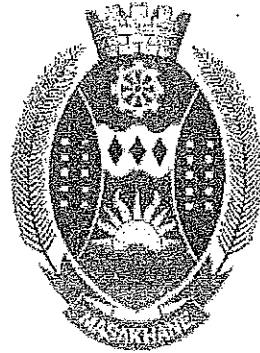


LOCAL AUTHORITY NOTICE 48 OF 2019



**STEVE TSHWETE LOCAL MUNICIPALITY**

**CITY IMPROVEMENT DISTRICT BY-LAW**

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## CITY IMPROVEMENT DISTRICT BY-LAW

### 1. PREAMBLE

- 1.1 The City Improvement District model is based on international best practice. It is aimed at preventing the degeneration of cities and towns and the consequential urban decay, and facilitating their upliftment, economic growth and sustainable development.
- 1.2 The purposes of City Improvement Districts are to –
  - 1.2.1 enhance and supplement the municipal services provided by the Steve Tshwete Local Municipality ("the Municipality");
  - 1.2.2 facilitate investment in the City Improvement Districts;
  - 1.2.3 facilitate a co-operative approach between the Municipality and the private sector in the provision of municipal services;
  - 1.2.4 halt the degeneration and facilitate the upliftment of distressed business and mixed-use areas; and
  - 1.2.5 promote economic growth and sustainable development and in this way assist the Council in the fulfilment of its objects and developmental duties as set out in sections 152 and 153 of the Constitution.
- 1.3 This By-Law accordingly seeks to –
  - 1.3.1 establish a mechanism whereby property owners and tenants will be encouraged to participate in the processes of sustainable development;
  - 1.3.2 consolidate and give effect to the City's urban renewal imperatives while recognising the unique needs and challenges facing different commercial and mixed-use precincts;
  - 1.3.3 facilitate the recognition of defined geographic districts in order to enhance and supplement the provision of municipal services within them;
  - 1.3.4 clearly define the processes in terms of which City Improvement Districts must be established and ensure that property owners within the areas of the proposed City Improvement Districts are fully involved in these processes, thereby facilitating their participation in the affairs of the Municipality.

## 2. INTERPRETATION

In this By-Law, unless the context otherwise indicates --

- 2.1 **"Applicant"** means any owner, or the Municipality, who makes an application for the establishment of a City Improvement District in accordance with the provisions of section 3; provided that if the Council exempts the applicant in terms of section 7 or if a management body is established in terms of section 13, any reference to "the Applicant" means the management body;
- 2.2 **"City Improvement District"** means a geographic district approved by the Council in accordance with the provisions of section 9 for the purposes set out in section 1.2;
- 2.3 **"Municipality"** means the Steve Tshwete Local Municipality;
- 2.4 **"City Improvement District plan"** means a City Improvement District plan as contemplated in section 4.1.3.1;
- 2.5 **"Council"** or **"the Council"** means the Council of the Steve Tshwete Local Municipality;
- 2.6 **"Constitution"** means the Constitution of the Republic of South Africa, Act No. 108 of 1996;
- 2.7 **"levy"** when used as a noun in connection with the implementation of a City Improvement District plan, means an additional rate contemplated in section 15.2;
- 2.8 **"management body"** means the management body of the City Improvement District to be incorporated or established in accordance with the provisions of section 7.1 or section 13.1;
- 2.9 **"owner"** means any registered owner of rateable property within the City Improvement District concerned and, in the case of a sectional title scheme established in terms of the provisions of the Sectional Titles Act, No. 95 of 1986, means the body corporate;
- 2.10 **"rateable property"** means immovable property on which a rate may be levied in accordance with the Constitution or any enabling legislation;
- 2.11 **"rates base value"** means the total value of all immovable properties within the boundaries of a City Improvement District established or proposed to be established in terms of this By-Law as appears from the valuation roll prepared in accordance with the relevant legislation;

- 2.12 "service" or "municipal service" means a service that is provided or may be provided, or a function which is fulfilled or may be fulfilled, by the Steve Tshwele Local Municipality to or for the benefit of persons within the area of the City Improvement District concerned, and in respect of which the Municipality has executive authority and the right to administer in terms of section 156(1) of the Constitution.

## **PART 1 – ESTABLISHMENT OF CITY IMPROVEMENT DISTRICTS**

### **3. ESTABLISHMENT OF A CITY IMPROVEMENT DISTRICT AND APPROVAL OF A CITY IMPROVEMENT DISTRICT PLAN**

- 3.1 Any owner of rateable property located within the area of jurisdiction of the Municipality, or the Municipality, may apply to the Council for the approval of the establishment of a City Improvement District.
- 3.2 Subject to section 7, the application process must entail –
- 3.2.1 advertising the intention to hold a public meeting in terms of section 5;
  - 3.2.2 the holding of a public meeting in terms of section 6;
  - 3.2.3 the submission of an application in terms of section 4;
  - 3.2.4 advertising the application and consideration of objections in terms of section 8;
  - 3.2.5 the decision of the Council in terms of section 9; and
  - 3.2.6 the obtaining of majority support in terms of section 10.
- 3.3 All costs incurred by the applicant in respect of the establishment of a City Improvement District shall be for his or her own account; provided that after implementation of the City Improvement District plan the management body may reimburse the applicant for some or all of those costs.

### **4. APPLICATION**

- 4.1 Any application for the establishment of a City Improvement District must –
- 4.1.1 be in writing and be in the form (if any) as the Council may from time to time determine;
  - 4.1.2 be submitted not more than 90 (ninety) days after the date on which the public meeting referred to in section 6 is held; and

4.1.3 be accompanied by –

- 4.1.3.1 a City Improvement District plan covering a period ending on 30 June of the fourth year after the proposed establishment of the City Improvement District, which plan must include at least a description of the services to be provided by the management body, a draft budget and the proposed levy, and which must be clearly identified by means of a compilation date;
- 4.1.3.2 subject to section 4.2, written confirmation from owners of rateable properties within the boundaries of the proposed City Improvement District who together own not fewer than 25% (twenty five percent) in number of such properties and not less than 25% (twenty five percent) of the rates base value of such properties, that they support the establishment of the proposed City Improvement District in accordance with the City Improvement District plan. The written confirmation must refer to the compilation date of the City Improvement District plan;
- 4.1.3.3 subject to section 7, proof that the provisions of sections 5 and 6 have been complied with;
- 4.1.3.4 payment of the fee (if any) as the Council may from time to time determine.

#### **APPROVAL OF LIMITED CITY IMPROVEMENT DISTRICT AREA**

4.2 If an application in terms of section 4.1 is not accompanied by the requisite number of written confirmations from owners required by section 4.1.3.2, but the applicant can demonstrate to the Council's satisfaction that –

- 4.2.1 there are such confirmations from owners in respect of rateable properties in a discrete geographical area within the proposed City Improvement District area that would meet the requirements of section 4.1.3.2 if they were to be applied to that area; and
- 4.2.2 the services to be provided will not be reduced and the levy will not be increased as a result of the provision of those services in the discrete area referred to in section 4.2.1 alone, as compared to the provision of those services in the whole

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of the proposed City Improvement District, then the Council may accept such an application and, subject to the other requirements of this By-Law, approve the establishment of a City Improvement District and the City Improvement District plan in respect of the discrete area referred to in section 4.2.1 alone.

## 5. ADVERTISING OF INTENTION TO HOLD PUBLIC MEETING

5.1 Prior to the public meeting referred to in section 6, the Applicant must –

5.1.1 give notice of his or her intention to apply for the approval of the City Improvement District, such notice to be given by publishing a notice in at least 1 (one) newspaper circulating in the proposed City Improvement District, or by placing prominent information posters within the proposed City Improved District, or by giving written notice to all owners of rateable property within the proposed City Improvement District, or in any other manner approved in writing by the Council;

5.1.2 in the notice referred to in section 5.1.1, give notice of a public meeting to be held in accordance with the provisions of section 6, which notice shall state the purpose of such meeting and shall contain details of the place, date and time when such meeting is to be held.

5.2 The public meeting must be held not less than 7 (seven) days and not more than 30 (thirty) days after the date of publication of the last of the advertisements referred to in section 5.1.1.

## 6. PUBLIC MEETING

6.1 The public meeting must be held at such place, date and time as advertised in terms of section 5.

6.2 At the meeting interested persons shall be–

6.2.1 furnished with all relevant information relating to the proposed City Improvement District including the draft City Improvement District plan; and

6.2.2 given an opportunity to ask questions and express their views.

6.3 The public meeting must be held at a place which is within the boundaries of the proposed City Improvement District unless the Council approves another venue in writing before the public meeting is held.

6.4 The public meeting must be chaired by a suitably qualified and experienced person.

## 7. EXPEDITED PROCESS

If an applicant, when submitting an application in terms of section 4, provides written proof that the application for a City Improvement District is supported by owners of rateable property within the boundaries of the proposed City Improvement District who own not fewer than 50% (fifty percent) in number of such properties and not less than 50% (fifty percent) of the rates base value of the rateable properties within the boundaries of the proposed City Improvement District, then the Council may exempt the applicant from the obligation to comply with the provisions of sections 5 and 6, provided that –

- 7.1 the management body is established prior to the submission of the application in terms of section 4.1;
- 7.2 the applicant satisfies the Council that the requisite level of support for the establishment of the City Improvement District and for the City Improvement District plan has been established in the period commencing not more than 6 (six) months prior to the submission of the application; and
- 7.3 the applicant must, in addition to the requirements set out in section 4.1, provide proof of approval of the City Improvement District plan by the persons supporting the establishment of the City Improvement District.

## 8. ADVERTISING OF APPLICATION AND OBJECTIONS

8.1 The applicant must within 14 (fourteen) days after the application is lodged in accordance with section 4, or within such further period which the Council may approve –

8.1.1 cause a notice of the application to be published at least once in 1 (one) newspaper circulating in the proposed City Improvement District; and

8.1.2 either before or up to 7 (seven) days after the date of publication of the notice in terms of section 8.1.1, give written notice of the application to all owners of rateable property within the proposed City Improvement District, such notice to be given by pre-paid registered post, hand delivery or in any other manner approved in writing by the Council.



- 8.2 Every notice contemplated in terms of section 8.1 must state that written objections to the establishment of a City Improvement District or the provisions of the City Improvement District plan may be lodged with the Council by a date specified in the notice, which shall not be less than 21 (twenty one) days after the date of publication of the notice in terms of section 8.1.1, and must state where the documentation specified in section 8.5 will be available for inspection.
- 8.3 Any owner of rateable property or other interested person occupying rateable property within the proposed City Improvement District may submit written objections to the establishment of the City Improvement District, which objections must be received by the Council not later than the date stipulated in the notice referred to in section 8.2.
- 8.4 The Council may allow the applicant and any objector to make oral representations to it.
- 8.5 The application and all objections must be available for inspection at the offices of the Council for the period referred to in section 8.2.

## 9. DECISION

- 9.1 Subject to section 7, after the provisions of sections 4, 5, 6 and 8 have been complied with, the Council must, at the first full meeting of the Council held 30 (thirty) days or more after the last date for the submission of objections in accordance with section 8.2, consider the application and –
- 9.1.1 approve the establishment of a City Improvement District in accordance with the City Improvement District plan; or
- 9.1.2 approve the establishment of a City Improvement District and the City Improvement District plan with such amendments or conditions as the Council considers to be in the public interest; or
- 9.1.3 approve the establishment of a City Improvement District and the City Improvement District plan in respect of a limited area, as more fully set out in section 4.2;
- 9.1.4 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 City Improvement District or the City Improvement District plan; or
- 9.1.5 refer the application back to the applicant for amendment in such manner as the Council may direct.

9.2 If any application is refused by the Council in accordance with the provisions of section 9.1.4, the applicant may at any time thereafter reapply to the Council for the establishment of the City Improvement District; provided that such re-application has been appropriately amended in the light of the reasons for refusal by the Council.

9.3 If a City Improvement District plan is at any time before the approval thereof amended in any material respect, the Council may require that the application be re-advertised mutatis mutandis in accordance with the provisions of section 8.

#### **10. MAJORITY SUPPORT**

Within 6 (six) months of the approval of the application in terms of section 9, the applicant must provide written proof to the Council that owners of rateable property within the boundaries of the City Improvement District who own not fewer than 50% (fifty percent) in number of such properties and not less than 50% (fifty percent) of the rates base value of the rateable properties within the boundaries of the City Improvement District, approve the formation of the City Improvement District and the City Improvement District plan as approved by the Council; provided that an applicant whose application has been approved by the Council following an expedited process as set out in section 7 shall not be required to comply with the provisions of this section 10.

#### **11. ESTABLISHMENT OF CITY IMPROVEMENT DISTRICT AND IMPLEMENTATION OF CITY IMPROVEMENT DISTRICT PLAN**

Once section 10 has been complied with, the City Improvement District plan may only be implemented after the management body has been established in accordance with section 13.

#### **12. AMENDMENT OF CITY IMPROVEMENT DISTRICT PLAN AND EXTENSIONS OF TERM OF CITY IMPROVEMENT DISTRICT PLAN**

12.1 A City Improvement District plan may be amended by the Council on written application by the management body at any time after the formation of the City Improvement District.

- 12.2 An amendment in terms of section 12.1 which the Council considers is not likely to materially affect the rights or interests of any person 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 in a newspaper circulating in or near the vicinity of the City Improvement District.
- 12.3 An amendment in terms of section 12.1 which the Council considers is likely to materially affect the rights or interests of any person, and/or which affects the levy to be charged in respect of the City Improvement District, and/or which changes the boundaries of the City Improvement District, may only be approved by the Council in accordance with the provisions of this Part 1, with the changes required by the context; provided that the Council may, for good reason, which it must record, on written application by the management body exempt the management body from complying with any such provisions or condone any non-compliance with any such provisions.
- 12.4 Not earlier than 90 (ninety) days prior to the expiry of the period of the City Improvement District plan referred to in section 4.1.3.1 or the expiry of any extension of the City Improvement District plan under this section 12.4, the management body must submit to the Council an application for extension of the term of the City Improvement District plan or any extension thereof, for approval by the Council; provided that –
- 12.4.1 such extension shall not materially affect the rights or interests of any person or affect the levy to be charged in respect of the City Improvement District or change the boundaries of the City Improvement District;
- 12.4.2 the Council may, before taking a decision to extend the term of the City Improvement District plan, require the management body to cause notice of the application for such extension to be published in a daily newspaper circulating in or near the vicinity of the City Improvement District, which notice must comply with the provisions of section 8.2, with the changes required by the context.

The provisions of sections 12.1 to 12.3 shall apply in the same terms to any amendment of a City Improvement District plan which has been extended in terms of this section 12.4.

## PART 2 – CITY IMPROVEMENT DISTRICTS – STRUCTURES AND FINANCES

### 13. ESTABLISHMENT AND COMPOSITION OF MANAGEMENT BODY

- 13.1 The applicant must, before the City Improvement District plan is implemented in accordance with the provisions of section 11, cause to be established a management body for the purposes of managing and controlling the implementation of the City Improvement District plan. Such management body shall be a company incorporated in accordance with the provisions of section 21 of the Companies 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 Council.
- 13.2 Owners of rateable property and tenants within the boundaries of the City Improvement District shall be entitled to be members of the management body; provided that –
- 13.2.1 the votes of members who are owners must be weighted in proportion to the levies payable by them;
- 13.2.2 the weighting accorded to any one member may not exceed one third of the total number of votes which may be cast;
- 13.2.3 members who are tenants may attend meetings of the management body and participate in the debate, but may only vote if permitted to do so in terms of the management body's articles of association.
- 13.3 The Council shall monitor compliance by the management body with the applicable provisions of this By-Law, any guidelines or policies adopted by the Council in terms of section 17, and any agreements entered into with the management body and the Council, by –
- 13.3.1 receiving and considering the financial statements referred to in section 14.3;
- 13.3.2 if it elects to do so, nominating representatives to attend and participate, but not vote, at meetings of the management body.

#### **14. POWERS AND DUTIES OF MANAGEMENT BODY**

- 14.1 Within 2 (two) months after receipt of the first levy, the management body must commence to provide services in accordance with the City Improvement District plan.
- 14.2 The management body must comply with all applicable guidelines and policies published by the Council in terms of section 17.
- 14.3 The management body must provide the Council with its audited financial statements for the immediately preceding financial year, within 3 (three) months of the end of each financial year.

#### **15. FINANCES**

- 15.1 The financial year of the management body must coincide with the financial year of the Council.
- 15.2 Where a City Improvement District has been established, the Council will levy in accordance with the provisions of relevant legislation, a property rate in addition to the rates that it already charges on the owners of rateable property in the City Improvement District for the purposes of the City Improvement District.
- 15.3 The levy due in terms hereof shall be a debt due to the Council and shall be payable monthly and collected in the same manner as other property rates imposed by the Council.
- 15.4 Any payment by the Council to a City Improvement District is conditional upon the conclusion of a finance agreement to be entered into between the Council and the relevant City Improvement District, such agreement to regulate, among other things, the mechanisms and manner of payment, and the other terms on which payment to the relevant City Improvement District is to be made.
- 15.5 The Council may, after consultation with the City Improvement Districts, determine and impose on the City Improvement Districts 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 section 15.4.

### **PART 3 – DISSOLUTION OF A CITY IMPROVEMENT DISTRICT**

#### **16. DISSOLUTION**

16.1 The Council may dissolve a City Improvement District –

16.1.1 upon written application signed by owners of rateable property within the boundaries of the City Improvement District who own not fewer than 50% (fifty percent) in number of such properties and not less than 50% (fifty percent) of the rates base value of the rateable properties within the boundaries of the City Improvement District; or

16.1.2 for any other good cause, whereupon the Council shall cause the management body to be wound up.

16.2 Upon the winding up of a management body, the assets remaining after the satisfaction of all its liabilities shall be transferred to the City.

### **PART 4 – MISCELLANEOUS PROVISIONS**

#### **17. GUIDELINES AND POLICIES**

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

#### **18. OPERATIVE DATE**

This By-law becomes effective on the date determined by the Council in the Provincial Gazette