



**CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD**

ANNEXURE 16

UNFORESEEN AND UNAVOIDABLE EXPENDITURE POLICY

May 2021

Budgets Department



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1. DEFINITIONS AND ABBREVIATIONS

In this Policy, unless the context indicates otherwise –

“City” or “City of Cape Town” means the City of Cape Town, a municipality established by the City of Cape Town Establishment Notice No 479 of 22 September 2000 issued in terms of the Local Government Municipal Structures Act 1998 or any structure or employee of the City acting in terms of delegated authority.

“CFO” or “Chief Financial Officer” means a person designated in terms of section 80(2)(a) of the MFMA;

“IDP” means the Integrated Development Plan of the City of Cape Town which sets out the strategic and budget priorities adopted by the Council of the City of Cape Town in terms of section 25(1) of the Municipal Systems Act.

“MFMA” means the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003);

“Municipal Council” or “council” means the council of a municipality referred to in section 18 of the Municipal Structures Act.

“MBRR” means the Municipal Budget and Reporting Regulations made in terms of section 168 of the MFMA (Act No. 56 of 2003);

“Policy” means a guide/framework enabling a municipality to achieve its objectives in the interest of the community. It is a basic principle by which a municipality is guided.

“Unforeseen and Unavoidable Expenditure” means expenditure that could not have been foreseen at the time of adoption of the annual budget of a municipality.

2. PROBLEM STATEMENT

The purpose of this policy is to make provision for any unforeseen and unavoidable expenditure, which might occur and prescribes the process to be followed for the approval of such expenditure.

3. DESIRED OUTCOMES

This policy will help and guide the City in addressing unforeseen and unavoidable expenditure.



4. STRATEGIC FOCUS AREAS

- 4.1 The City's IDP identifies **five** strategic focus areas which provide a solid foundation for the articulation of service delivery. These are The Opportunity City, The Safe City, The Caring City, The Inclusive City and The Well-Run City. Within the strategic focus areas, the City has further identified linked objectives.
- 4.2 This policy supports the following strategic focus area and objective:
 - 4.2.1. The Well Run City - Objective 5.1: Operational sustainability
 - 4.2.2. This objective is about delivering services and creating value for customers in an operationally sustainable manner based on evidenced led decision making so that the City can remain financially stable and resilient to shocks in a changing environment.

5. ROLE PLAYERS AND STAKEHOLDERS

The role players and stakeholders who will ensure that unforeseen and unavoidable expenditure is being dealt with according to legislative requirements and council processes are:

- 5.1 The respective directorate/department - Responsible for preparing a report on the unforeseen and unavoidable expenditure when such expenditure occurs.
- 5.2 The Office of the City Manager - Responsible for reviewing the report in order to confirm legal compliance.
- 5.3 The Budgets department - Responsible for confirming the financial implications.
- 5.4 The Mayor - Responsible for reviewing, approving and tabling the report at Council for noting.

6. GUIDING PRINCIPLES

- 6.1 A directorate becoming aware of the need to incur unforeseen or unavoidable expenditure must immediately approach the CFO with full details on the expenditure, providing information on the consequences of not incurring the expenditure as well as an indication of the expected cost (both for the current year as well as any recurring cost resulting from the event).
- 6.2 Confirmation that the expenditure does not constitute expenditure that may not be allowed by the Executive Mayor as per regulation 71(2) of the MBRR must be given by the directorate when approaching the CFO.
- 6.3 The CFO will determine whether the cost could be dealt with through a process of virement of funds within the relevant votes, and whether sufficient funds are available for shifting within the vote. Once the CFO has supported the request, the relevant Executive Director will be required to submit a report to the Executive Mayor requesting approval. If approval is granted, the adjustment will be effected on the financial system.
- 6.4 The abovementioned process must be dealt with as a priority in order to ensure that administrative delays do not exacerbate the situation.
- 6.5 An adjustments budget, incorporating the approved expenditure, must be submitted to the next council meeting as per of Section 28 of the MFMA.



7. REGULATORY CONTEXT

- 7.1. This policy has been formulated in terms of the provisions of Section 29 of the MFMA and regulations 71 and 72 of the MBRR, which prescribes the process to be followed for the approval of unforeseen and unavoidable expenditure.
- 7.2. Section 168 (1) of the MFMA, Treasury regulations and guidelines
The Minister, acting with the concurrence of the Cabinet member responsible for local government, may make regulations or guidelines applicable to municipalities and municipal entities, regarding—
(a) any matter that may be prescribed in terms of this Act;
(b) financial management and internal control;
(c) a framework for regulating the exercise of municipal fiscal and tariff-fixing powers;
- 7.3. Section 169 (1) of the MFMA, Consultative processes before promulgation of regulations
1. Before regulations in terms of section 168 are promulgated, the Minister must—
(a) consult organised local government on the substance of those regulations; and
(b) publish the draft regulations in the Government Gazette for public comment.
2. Regulations made in terms of section 168 must be submitted to Parliament for parliamentary scrutiny at least 30 days before their promulgation.
- 7.4. Section 170 (1) of the MFMA, Departures from treasury regulations or conditions
1. The National Treasury may on good grounds approve a departure from a treasury regulation or from any condition imposed in terms of this Act.
2. Non-compliance with a regulation made in terms of section 168, or with a condition imposed by the National Treasury in terms of this Act, may on good grounds shown be condoned by the Treasury.
- 7.5. Section 177(1) of the MFA, Delays and exemptions states that The Minister may by notice in the Gazette—
(b) where practicalities impede the strict application of a specific provision of this Act, exempt any municipality or municipal entity from, or in respect of, such provision for a period and on conditions determined in the notice.

8. POLICY DIRECTIVE DETAILS

- 8.1. Unforeseen and unavoidable expenditure (MFMA Section 29)
1. *The mayor of a municipality may in emergency or other exceptional circumstances authorise unforeseeable and unavoidable expenditure for which no provision was made in an approved budget.*
2. *Any such expenditure-*
(a) *Must be in accordance with any framework that may be prescribed;*
(b) *May not exceed a prescribed percentage of the approval annual budget;*



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9. IMPLEMENTATION, EVALUATION AND REVIEW OF THE POLICY

This policy framework is important for financial compliance of the City. It provides for an all-inclusive administrative procedure for the management of unforeseeable and unavoidable expenditure.

- 9.1 This policy will come into effect once it has been approved at Council.
 - 9.2 In terms of section 17(1) (e) of the MFMA this policy must be reviewed on an annual basis and the reviewed policy must be tabled at Council for approval as part of the budget process.
 - 9.3 Changes in legislation must be taken into account for future amendments to the policy.
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