

GAUTENG PROVINCIAL LEGISLATURE

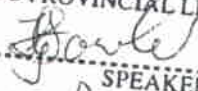
ENGLISH TEXT SIGNED BY THE PREMIER

ASSENTED TO


18.12.97

**GAUTENG
CITY IMPROVEMENT
DISTRICTS ACT, 1997**

CERTIFIED CORRECT AS PASSED BY
THE GAUTENG PROVINCIAL LEGISLATURE

SIGNED.....
SPEAKER

DATE.....15 December, 1997

No 12, 1997

ACT

To provide procedures for the formation and independent management of city improvement districts to fund the provision of services in addition to those which a municipality ordinarily provides in order to facilitate investment in the city improvement district; to halt further degeneration of cities; and to promote economic growth and sustainable development within cities; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of Gauteng, as follows:—

DEFINITIONS

1. In this Act, unless the context otherwise indicates—
 - (i) **“city improvement district”** means a geographic district approved in terms of section 3 of this Act; 5
 - (ii) **“MEC”** means the Member of the Executive Council responsible for Development Planning and Local Government within the Province;
 - (iii) **“management body”** means the management body of a city improvement district established in terms of section 4 of this Act; 10
 - (iv) **“municipality”** means, subject to section 2(2), the municipality with the authority to levy and recover property rates in respect of immovable property in the area of jurisdiction concerned;
 - (v) **“prescribe”** means prescribed by regulation in terms of Section 9 of this Act; 15
 - (vi) **“province”** means province of Gauteng;
 - (vii) **“rates base in value”** means the total value of all immovable property within the boundaries of a city improvement district formed or proposed to be formed in terms of this Act, as appears from the valuation roll prepared in accordance with the Local Authorities Rating Ordinance (Ordinance No. 11 of 1977); 20
 - (viii) **“rateable property”** means immovable property on which a rate or rates may be levied in accordance with the Local Authorities Rating Ordinance (Ordinance No. 11 of 1977); .
 - (ix) **“regulation”** means a regulation prescribed in terms of this Act; 25
 - (x) **“this Act”** includes the regulations.

PETITION FOR FORMATION OF CITY IMPROVEMENT DISTRICT

2. (1) A municipal council must, on receipt of a petition indicating the support of 25 (twenty-five) percent of owners of rateable properties within the boundaries of a proposed city improvement district, consider the formation of a city improvement district in accordance with the provisions of this Act. 30
- (2) A petitioner must make a petition to the municipal council of the municipality, subject to subsection (3), within whose jurisdiction the proposed city improvement district falls.
- (3) If the proposed city improvement district falls within the boundaries of two or more municipalities, the municipal councils of these municipalities must, upon request by the petitioner, either— 35

- (a) agree to reallocate the powers and functions provided for in terms of this Act to one of such municipal councils; or
 - (b) agree to form a committee made up of representatives of each municipal council to exercise the powers and perform the functions provided for in terms of this Act. 5
- (4) A petition must take the form of a city improvement district plan, covering a three year period taking into account the requirements of this Act, and must include the prescribed requirements and be in the prescribed form.
 - (5) The petitioner, after having received written acknowledgement of the petition by the municipal council, must notify the public of its petition and invite comment from the public to be received by the municipal council, in accordance with subsection (6). 10
 - (6) The petitioner must in the prescribed time and form cause to be published a notice of the petition once in the *Provincial Gazette* and once in a daily newspaper circulating in or near the vicinity of the proposed city improvement district. 15
 - (7) The petitioner must in the prescribed time and form notify every owner of rateable property within the boundaries of the proposed city improvement district of the petition by registered mail.
 - (8) The petitioner must take reasonable steps to advertise notification of the petition within the boundaries of the proposed city improvement district. 20
 - (9) The municipal council must make available for inspection a petition and any comments and objections received by any interested party in respect of a petition.
 - (10) The municipal council must consider the petition together with comments and objections received at a public hearing at which the municipal council may allow members of the public to make oral representations to it regarding the formation of a city improvement district. 25

DECISION ON PETITION FOR CITY IMPROVEMENT DISTRICT

3. (1) In reaching a decision on a petition, a municipal council may take into account any matter prescribed or which is in the public interest and must take into account the following— 30
 - (a) the extent to which owners of rateable property in the proposed district are up to date with the payment of rates; and
 - (b) whether the formation of the city improvement district is consistent with the land development objectives set for the relevant area in terms of the Development Facilitation Act, 1995 (Act No. 67 of 1995) or similar integrated development plans for the area set in terms of other legislation. 35
- (2) A municipal council may— 40
 - (a) approve the formation of a city improvement district and a city improvement district plan;
 - (b) approve the formation of a city improvement district and a city improvement district plan with amendments or conditions as the municipal council considers in the public interest; and 45
 - (c) refer the petition back to the petitioners with written reasons for not approving the formation of a city improvement district or city improvement district plan indicating that the petition may be resubmitted to the municipal council in the time period prescribed: provided that if the resubmitted petition proposes an increased levy for any owner of rateable property, the petitioner must notify such owner by registered mail. 50

FORMATION OF CITY IMPROVEMENT DISTRICT AND MANAGEMENT BODY

4. (1) After a petition is approved in terms of section 3, the city improvement district may be formed only after written proof in the prescribed form is provided to the municipal council by the petitioner indicating that more than 50 (fifty) percent of the owners of rateable property who represent more than 50 (fifty) percent of the rate base in value of the property in the city improvement district, approve the formation of the city improvement district and city improvement district plan as approved by the municipal council. 60

- (2) After the written proof mentioned in subsection (1) is acknowledged by the municipal council, a city improvement district management body must be formed and incorporated in terms of section 21 of the Companies Act (Act No. 61 of 1973) or as any other legal entity approved by the MEC.
- (3) Owners of rateable property and tenants within the boundaries of the city improvement district are entitled to be members of the management body: provided that the votes of members may be weighted in proportion to the levy payable by them and provided further that the weighting accorded to any one member or a group of members under common ownership or control may not exceed one third of the total number of votes which may be cast.
- (4) The board of directors of the management body must include at least three representatives of the owners of rateable property and one representative of the municipality, provided that the owners of rateable property must always be in the majority on the board.

POWERS AND DUTIES OF MANAGEMENT BODY 15

- 5. (1) Within one month after collection of the first levy and in accordance with the budget of the city improvement district plan, the management body must provide the services that are indicated in the city improvement district plan.
- (2) On written application from an owner of rateable property within the city improvement district, the management body may agree that the owner may make non-monetary contributions to the city improvement district in substitution of part or all of the levy as the case may be: provided that the agreement must be in writing and clearly specify the obligations of the owner of rateable property.
- (3) The levy due in terms of this Act will be a debt due to the management body concerned, and the management body may sue for and recover the amount by action in any competent court: provided that the management body may in its discretion recover the amount in the Magistrates Court in the area in which the city improvement district is situated.
- (4) A management body may, on an annual basis, update the level of services to be provided by the municipality in the city improvement district as reflected in the city improvement district's plan.
- (5) The management body must provide the municipality with its annual audited financial statements and a report on progress in the implementation of the city improvement district plan within 3 (three) months of the financial year-end of the management body.

POWERS AND DUTIES OF MUNICIPALITY

- 6. (1) Once a city improvement district has been formed, a municipality must levy an amount on behalf of the management body from the owners of rateable property in the city improvement district in accordance with the approved plan.
- (2) Such amount must be levied together with other amounts which the municipality may levy from the owners of rateable property in respect of rates and taxes but the purpose of the amount must be indicated as a separate item from other rates and taxes levied by the municipality.
- (3) The levies collected by the municipality for the city improvement district must be paid on a monthly basis to the management body free of any deductions or set-off for the purpose of implementing the city improvement district plan.
- (4) Services provided for in the city improvement district plan and financed by the levy charged to the owners of rateable property must be in addition to or an enhancement of those provided by the municipality.
- (5) Any increase in applicable services provided by municipalities throughout its area of jurisdiction must be matched with increases in such services within the city improvement district.
- (6) The municipality must notify the management body in writing of any reduction or substantial change to services provided by the municipality in the city improvement district.
- (7) If the level of services provided by the municipality in the city improvement district is reduced by the municipality without a corresponding reduction of

services throughout the municipality's area of jurisdiction, the management body may, by written notice, notify the municipality and require the municipality to reinstate such services within a period of 30 (thirty) days from such notice.

- (8) If the municipality fails to reinstate such services within such period, the management body may notify the MEC of the municipality's failure to reinstate such services and the MEC may give such directions to the municipality as he/she deems necessary. 5

AMENDMENT OF CITY IMPROVEMENT DISTRICT PLAN

7. (1) At any time after the formation of a city improvement district, the city improvement district plan may be amended by the municipal council on recommendation of the management body. 10
- (2) Amendments in terms of subsection (1) which the municipal council considers to be immaterial may be made by the municipal council after the management body has given notice of its intention to amend the plan, by advertisement in a daily newspaper circulating in the city improvement district. 15
- (3) If the amendment is, in the opinion of the municipal council, a material amendment or affects the levy to be charged in respect of the city improvement district or changes the boundaries of the city improvement district area then the management body must: 20
- (a) notify the public of the proposed amendment and invite comment from the public to be received by the municipal council, by—
- (i) causing the publication of the notice referred to in subsection (a) once in the *Provincial Gazette* and once in a daily newspaper circulating in or near the vicinity of the city improvement district; 25
- (ii) notifying every owner of rateable property within the boundaries of the city improvement district of the amendment by registered mail; and
- (iii) advertising notification of the amendment within the boundaries of the city improvement district. 30
- (b) The proposed amendment and comments and objections received by the municipal council in respect of the proposed amendment must be made available for inspection by any interested party.
- (c) The municipal council must consider the proposed amendment together with comments or objections received at a public hearing at which the municipal council may allow members of the public to make oral representations to it regarding the proposed amendment. 35
- (4) Section 3 will apply to decisions of the municipal council regarding proposed amendments in terms of subsection (3) and section 4(1) will apply to approved amendments. 40

DISSOLUTION OF CITY IMPROVEMENT DISTRICT

8. (1) In the case of insolvency of a management body, or on written petition in the prescribed form of more than 50 (fifty) percent of the owners of rateable property and who represent more than 50 (fifty) percent of the rates base in value within the boundaries of a city improvement district, a municipal council may disestablish a city improvement district. 45
- (2) Subject to any applicable laws relating to insolvency, the municipal council must cause the management body to be wound up and, if applicable, cause its net assets remaining after satisfying its creditors to be transferred to the municipality or municipalities concerned. 50

REGULATIONS

9. The MEC must make regulations in respect of any matter required to be prescribed by this Act and may make any other regulations required for carrying out the provisions of this Act. 55

SHORT TITLE AND DATE OF COMMENCEMENT

10. This Act shall be called the Gauteng City Improvement Districts Act, 1997, and shall come into operation on a date to be fixed by the Premier by Proclamation in the *Provincial Gazette*.