CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

# ANNEXURE 21

# UNFORESEEN AND UNAVOIDABLE EXPENDITURE POLICY

## 2025/26 BUDGET (JUNE 2025)

Making progress possible. Together.

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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 (Act No. 117 of 1998) or any structure or employee of the City acting in terms of delegated authority.

**“Chief Financial Officer (CFO)”** means a person designated in terms of section 80(2)(a) of the Municipal Finance Management Act (Act No. 56 of 2003).

**“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 (Act No. 32 of 2000).

**“Municipal Finance Management 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.

**“Municipal Budget and Reporting Regulations (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 Five Year IDP (2022-2027) identifies six priorities and three foundation areas, which support the vision of creating a City of Hope and provide a solid foundation for the articulation of service delivery. The priorities and foundation areas are:

Priority:

1. Economic Growth
2. Basic Services
3. Safety
4. Housing
5. Public Space, Environment and Amenities
6. Transport

Foundation:

1. A resilient City
2. A more spatially integrated and inclusive City
3. A capable and collaborative City government

The City has identified linked objectives and programmes within the above areas.

4.2 This policy supports the following priority/foundation area, objective and programme:

4.2.1. Foundation 3 – Objective 16: A capable and collaborative City government and
Programme 16.1: Operational sustainability Programme.

## 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

Upon a directorate becoming aware of the need to incur unforeseen or unavoidable expenditure the correct process is undertaken to understand and motivate for such expenditure and appropriate authorisation from the CFO is sought in order to regularise such expenditure.

## 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;*
*(c) Must be reported by the mayor to the municipal council at its next meetings; and*

*(d) Must be appropriated in an adjustments budget.*

3. *If such adjustments budget is not passed within 60 days after the expenditure was incurred, the expenditure is unauthorised and section 32 applies.*

8.2. Authorisation of unforeseen and unavoidable expenditure (MBRR Regulation 71)

1. *The mayor of a municipality may authorise expenditure in terms of section 29 of the Act only if-*
   *(a) The expenditure could not have been foreseen at the time the annual budget of the municipality was passed; and*
   *(b) The delay that will be caused pending approval of an adjustments budget by the municipal council in terms of section 28(2)(c) of the Act to authorise the expenditure may –*
      i. *result in significant financial loss for the municipality;*
      ii. *cause a disruption or suspension, or a serious threat to the continuation, of a basic municipal service;*
      iii. *lead to loss of life or serious injury or significant damage to property; or*
      iv. *obstruct the municipality from instituting or defending legal proceedings on an urgent basis.*
2. *The mayor of a municipality may not authorise expenditure in terms of section 29 of the Act if the expenditure -*
   *(a) was considered by the council, but not approved in the annual budget of the municipality or an adjustments budget;*
   *(b) is required for -*
      i. *price increases of goods or services during the financial year;*
      ii. *new municipal services or functions during the financial year;*
      iii. *the extension of existing municipal services of functions during the financial year;*
      iv. *the appointment of personnel during the financial year; or*
      v. *allocating discretionary appropriations to any vote during the financial year; or*
   *(c) would contravene any existing council policy; or*
   *(d) is intended to ratify irregular or fruitless and wasteful expenditure.*

8.3. Monetary limits on unforeseen and unavoidable expenditure as set out in the MBRR Regulation 72 and applicable to the City:

*The amount of expenditure that a mayor of a municipality may authorise in terms of section 29 of the Act is limited to –*

*(c) R15 million in the case of a municipality with approved total revenue in its current annual budget greater than R500 million.*

## 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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