

COU0011: RATE REBATE POLICY (COMMUNITY)

Policy Type:	Council Policy
Responsible Department:	Business Support & Improvement
Responsible Officer:	Chief Financial Officer
Related Policies and Procedures	Economic Development Incentive Policy
Community Plan Link	<i>Community Living</i> 1.2 Our Community participates in community activities, learning opportunities and volunteering.
Date Adopted	24 May 2010: C665/10
Last review date	26 August 2019: C0079/19
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1. PREAMBLE

- 1.1. The *Local Government Act 1999* (the Act) sets out at Chapter 10, Division 5 (Sections 159 to 166) those provisions applicable to the Council granting a rebate of rates to persons or bodies.
- 1.2. In accordance with the rebate provisions contained in the Act, this Policy sets out the type of use in respect of land for which the Council must grant a rebate of rates and the amount that rebate must be, and those types of land use where the Council has a discretion to grant a rebate of rates.

2. SCOPE

- 2.1. This policy is intended to provide guidance to the community as to the grounds upon which a person or body is, or may be, entitled to receive a rebate of rates and the matters that the Council will take into account in deciding an application for a rebate.

3. POLICY PURPOSE/OBJECTIVES

- 3.1. The rate rebate policy seeks to:
 - Assist Council in meeting its legislative requirements under the Act.
 - Define the criteria for assessments which have not met the mandatory requirements of the Act but have provided sufficient support for a discretionary rebate under section 166.

- Streamline the decision-making process for discretionary rebate determinations and provide a consistent framework under which to apply determinations.
 - Provide transparency in regard to the discretionary rebates granted by Council, and provide for a regular review process to be undertaken in terms of the financial support provided by Council.
- 3.2. In developing this policy Council has given consideration to the five principles previously identified by the local government industry in applying the imposition of rates on communities.
- 3.3. These principles are:
- *Equity* - rating responsibility should be distributed in an equitable manner across and within our communities;
 - *Benefit* - ratepayers should receive some benefits from paying tax, but not necessarily to the extent of the tax paid;
 - *Ability-to-pay* - in raising rates the ability of the taxpayer to pay the rates must be taken into account;
 - *Efficiency* – Council's rates are currently designed to be neutral in its effect on ratepayers and therefore it is considered efficient unless it changes ratepayer behaviour;
 - *Simplicity* – the application of rates should be understandable, hard to avoid and easy to collect.
- 3.4. To some extent these principles are in conflict with each other. As such Council aims to balance the application of the principles, the policy objectives of rating, the need to raise revenue and the effects of rates on the community.
- 3.5. Further, in achieving equity across the community, this policy has an overriding principle that all ratepayers should contribute an amount to basic service provision.
- 3.6. Council is mindful that where a rebate is applied to a property or that property is exempt from paying council rates, those rates foregone must be contributed by the rest of the community. The principles of equity dictate that Council remains diligent in only awarding rebates and exemptions where they are warranted.

4. DEFINITIONS

- 4.1. **CEO** is the Chief Executive Officer of the Corporation of the City of Unley, as appointed by Council.
- 4.2. **Council (with a capitalised C)** is the elected decision making body for the City of Unley.
- 4.3. **council (with a non-capitalised c)** refers to the City of Unley as the organisation.
- 4.4. **Discretionary Rebate** is a rebate which has been applied under section 166 of the Act.
- 4.5. **Rebates** can be categorised as strategic development, land uses providing a benefit or service to the local community and rate relief. Under legislation, these include:
- (a) where it is desirable for the purpose of securing the proper development of the area (or a part of the area);
 - (b) where it is desirable for the purpose of assisting or supporting a business in its area;

- (c) where it will be conducive to the preservation of buildings or places of historic significance;
- (d) where the land is being used for educational purposes;
- (e) where the land is being used for agricultural, horticultural or floricultural exhibitions;
- (f) where the land is being used for a hospital or health centre;
- (g) where the land is being used to provide facilities or services for children or young persons;
- (h) where the land is being used to provide accommodation for the aged or disabled;
- (i) where the land is being used for a residential aged care facility that is approved for Commonwealth funding under the *Aged Care Act 1997* (Commonwealth) or a day therapy centre;
- (j) where the land is being used by an organisation which, in the opinion of the Council, provides a benefit or service to the local community;
- (k) where the rebate relates to common property or land vested in a community corporation under the *Community Titles Act 1996* over which the public has a free and unrestricted right of access and enjoyment
- (l) where the rebate is considered by the Council to be appropriate to provide relief against what would otherwise amount to a substantial change in rates payable due to:
 - a redistribution of the rates' burden within the community arising from a change to the basis or structure of the council rates: or
 - a change to the basis on which land is valued for the purpose of rating, rapid changes in valuations, or anomalies in valuations.
- (m) where the rebate is considered by council to be appropriate to provide relief in order to avoid what would otherwise constitute:
 - a liability to pay a rate or charge that is inconsistent with the liabilities that were anticipated by the council in its annual business plan; or
 - a liability that is unfair or unreasonable;
- (n) where the rebate is to give effect to a review of a decision of the council under Chapter 13, Part 2 (Section 270 to 271 of the Act)
- (o) where the rebate is contemplated under another provision of the Act.

4.6. **Mandatory Rebate** is a Rebate that Council must grant in accordance with the Act.

4.6.1. Mandatory Rebates of **100%** are for public cemeteries, the Royal Zoological Society as well as:

4.6.1.1. **Health Services:** Land being predominantly used for service delivery or administration by a hospital or health centre incorporated under the *South Australia Health Commission Act 1976*;

4.6.1.2. **Religious Purposes:** Land containing a church or other building used for public worship (and any grounds), or land solely used for religious purposes;

4.6.2. Mandatory Rebates of **75%** are for either community services or educational purposes.

4.6.2.1. **Community Services:** Section 161 of the Act provides that as well as meeting the definition of “community services organisation” as defined in the Act, eligibility for a rebate by a community services organisation is subject to it providing one or more of the following community services:

- emergency accommodation
- food or clothing for disadvantaged persons (i.e., persons who are disadvantaged by reason of poverty, illness, frailty, or mental, intellectual or physical disability)
- supported accommodation (i.e., residential care facilities in receipt of Commonwealth funding or accommodation for persons with mental health, intellectual, physical or other difficulties who require support in order to live an independent life)
- essential services, or employment support, for persons with mental health disabilities, or with intellectual or physical disabilities
- legal services for disadvantages persons
- drug or alcohol rehabilitations services, or
- the conduct of research into, or the provision of community education about, diseases or illnesses, or the provision of palliative care to persons who suffer from diseases or illnesses.

Where a “community services organisation” is eligible for a mandatory rebate, the residential rate must be applied to the land to which the rebate relates in accordance with section 161 (2) of the Act. This is as a result of Council declaring differential rates according to land use and providing for a distinct residential rate.

4.6.2.2. **Educational Purposes:** Section 165 of the Act sets out that the following land will be rebated at 75 per cent (or, at the discretion of Council, at a higher rate):

- Land occupied by a government school under a lease or licence and being used for educational purposes, or
- Land occupied by a non-government school registered under the *Education and Early Childhood Services (Registration and Standards) Act 2011* and being used for educational purposes, or
- Land being used by a University or University College to provide accommodation and other forms of support for students on a not for profit basis.

4.7. **Rating** is the process of raising revenue by way of levying rates and charges.

4.8. **Rebate** is the amount that a rate or charge may be reduced in accordance with Chapter 10, Division 5 of the Act.

5. ROLES AND RESPONSIBILITIES

- 5.1. This policy is applicable to all staff and Council and Committee members in relation to the application of rebates by the City of Unley.

6. POLICY STATEMENT

6.1. MANDATORY REBATES

- 6.1.1. The City of Unley will act in accordance with the Act in providing mandatory rebates as required by sections 160 – 165.
- 6.1.2. Where the Council is satisfied from its own records, or from other sources, that a person or body meets the necessary criteria for a mandatory rate rebate, the Council will grant the rebate accordingly.
- 6.1.3. Where the Council is not satisfied based upon the information in its possession or otherwise does not hold relevant information it will require the person or body to lodge an application form with such information as stipulated and any other information that the Council may reasonably require.
- 6.1.4. Applicants who satisfy the criteria for a mandatory rebate will be granted the rebate at any time provided the application is lodged prior to the 30 June of the rating year and provided the entitlement to the rebate existed at 1 July of the rating year.
- 6.1.5. Council will confirm the continuation of a person or body's eligibility for a mandatory rebate on a regular basis to ensure that rebates are only granted where they are warranted. This will require the relevant person or body to lodge an application form with such information as stipulated and any other information that the Council may reasonably require to confirm the continuation of eligibility.

6.2. DISCRETIONARY REBATES

- 6.2.1. Council may grant a discretionary rebate of rates up to and including 100% of the relevant rates or service charges under a number of cases and for a period not exceeding the timeframe as identified in section 166 of the Act. However, to ensure all ratepayers contribute an amount towards basic service provision, the maximum discretionary rebate will be 75%.
- 6.2.2. Under the same premise, although Council may, pursuant to the Act, increase a mandatory rebate by up to a further 25%, Council will not grant any additional discretionary rebate to ensure ratepayers contribute an amount towards basic service provision.
- 6.2.3. In deciding whether to grant a rebate for land uses, as detailed in section 166 (1a) of the Act, Council will take the following matters into account:
 - (a) the nature and extent of Council services provided in respect of the land for which the rebate is sought in comparison to similar services provided elsewhere in the Council's area;
 - (b) the community need that is being met by activities carried out on the land for which the rebate is sought; and

- (c) the extent to which activities carried out on the land for which the rebate is sought provides assistance or relief to disadvantaged persons
 - (d) other matters considered relevant by Council (**Attachment 1**).
- 6.2.4. Persons who, or bodies which, seek a discretionary rebate will be required to submit an application form to the Council and provide to the Council such information as stipulated on the application form and any other information that the Council may reasonably require.
- 6.2.5. All applications for a discretionary rebate of rates must be submitted on or before 1 May prior to the rating year unless the application is a result of a change in eligibility for a mandatory rebate. In those circumstances where an application relates to a change in rebate/rate exemption in a relevant rating year, then the application will be applied for the full rating year if received within 2 months of the change in rebate/exemption being advised. The Council reserves the right to refuse to consider applications received after the specified date.
- 6.2.6. Where there is no maximum timeframe specified for a rebate provided under section 166, Council will grant a discretionary rebate to the last rating period commencing within a Council term to allow for a regular review of discretionary rate rebates.
- 6.2.7. A summary of all discretionary rebates applied for, including whether they have been successful or not and the associated reasons will be reported to Council on an annual basis.

6.3. ALL REBATES

- 6.3.1. If an entitlement to a rebate ceases or no longer applies during the course of a financial year, council will recover rates proportionate to the remaining part of the financial year.
- 6.3.2. If a person or body has the benefit of a rebate of rates and the grounds on which the rebate has been granted cease to exist, the person or body must immediately inform the Council of that fact and (whether or not the Council is so informed) the entitlement to a rebate ceases. If a person or body fails to do so that person or body is guilty of an offence.
- 6.3.3. The Council will, in writing, advise an applicant for the rebate of its determination of that application. The advice will state:
- (a) if the application has been granted, the amount of the rebate; or
 - (b) if the application has not been granted, the reasons why.
- 6.3.4. Any person or body who is aggrieved by a determination of the delegated officer in respect of an application for a rebate may seek a review of that decision in accordance with Council's Procedure for Internal Review of a Council Decision.

7. POLICY DELEGATIONS

- 7.1. The Council has delegated its power, pursuant to section 44 of the Act, to the Chief Executive Officer and sub delegates to grant applications for mandatory rebates, which meet the requirements of the Act

7.2. The CEO **only** has also been delegated the power under sections 159 (4), 161(1) and sections 165 (1) and (2), to grant a rebate of more than 75% of rates for persons or bodies who meet the requirements of the Act for mandatory rebates.

7.3. The power to grant discretionary rebates of rates is retained by Council.

7.4. Refer to the Council Delegations Register for further information.

8. LEGISLATION

8.1. *Local Government Act 1999*

8.1.1. Division 5 – Rebates of Rates

Section 160 – Health Services	100% Rebate
Section 161 – Community Services (including Housing Associations)	75% Rebate
Section 162 – Religious Purposes	100% Rebate
Section 163 – Public Cemeteries	100% Rebate
Section 164 – Royal Zoological Society of SA	100% Rebate
Section 165 – Educational Purposes	75% Rebate
Section 166 – Discretionary rebates of rates	

8.2. *Aged Care Act 1987 (Commonwealth)*

8.3. *Community Housing Providers National Law*

8.4. *Community Titles Act 1996*

8.5. *Education and Early Childhood Services (Registration and Standards) Act 2011*

8.6. *Health Commission Act 1976*

9. AVAILABILITY OF POLICY

9.1. The Policy is available for public inspection during normal office hours at:

The Civic Centre,
181 Unley Road, Unley SA 5061.

A copy may be purchased for a fee as determined annually by Council.

It is also available for viewing, download and printing free of charge from the Council's website www.unley.sa.gov.au.

DOCUMENT HISTORY

Date	Ref/Version No.	Comment
24 May 2010	C665/10: V1	
28 February 2017	C767/17: V2	
26 August 2019	C0079/19: V3	

When deciding an application for a Discretionary Rebate on specified grounds (being Section 166(1)(d) – (j) inclusive as highlighted in blue in Section 6 definitions) Council:

- must take into account the statutorily prescribed matters as detailed in clause 5.2.3 of this Policy and
- may take into account other matters it considers relevant.

These other relevant matters include, but are not limited to:

- the community need that is being met by activities carried out on the land for which the rebate is sought;
- the extent to which activities carried out on the land for which the rebate is sought provides assistance or relief to disadvantaged persons;
- why there is a “need” for financial assistance through a rebate;
- the level of rebate (percentage and dollar amount) being sought and why it is appropriate;
- the extent of financial assistance, if any, being provided to the applicant and/or in respect of the land by Commonwealth or State agencies;
- whether the applicant has made/intends to make applications to another Council whether, and if so to what extent, the applicant is or will be providing a service within the Council area;
- whether the applicant is:
 - (a) a public sector body;
 - (b) a private not for profit body; or
 - (c) a private for profit body.
- whether there are any relevant historical considerations that may be relevant for all or any part of the current Council term;
- the desirability of granting a rebate for more than one year in those circumstances allowed for in Section 166 (1) (e.g. securing proper development, supporting business or common property under the *Community Titles Act 1996*) of this policy
- consideration of the full financial consequences of the rebate for Council;
- the time the application is received;
- the availability of any community grant to the person or body making the application;
- whether the applicant is in receipt of a community grant; and
- any other matters and policies of Council, which are considered to be relevant.

In relation to the granting of discretionary rebates other than those set out at Section 166(1)(d) – (j), the Council may take into consideration any matters it considers relevant, but is not obliged to take into consideration those matters set out above.