



# ETHEKWINI MUNICIPALITY

## RATES POLICY

### 2018/ 2019

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## **PREAMBLE**

In terms of Section 229 (1) on the Constitution of the Republic of South Africa the Municipality has the power to levy a rate on property in its area.

In terms of Section 3 (1) of the Local Government: Municipal Property Rates Act, No. 6 of 2004 (hereinafter referred to as the MPRA) and Section 62(1)(f) of the Local Government: Municipal Finance Management Act, No. 56 of 2003 (hereinafter referred to as the MFMA), a Municipality should adopt and implement a policy on the levying of rates on rateable property.

This document sets out the rates policy of the eThekweni Municipality and must be read in conjunction with the eThekweni Municipality: Property Rates Bylaw 2015, as amended, and the MPRA.

## PURPOSE

The objective of this policy is to regulate the power of the Municipality to impose rates on property in a sustainable, fair and equitable way.

## DEFINITIONS AND ACRONYMS

In addition to the Definitions provided for in the MPRA the following Definitions apply for the purpose of this Policy-

**"Act"** means Local Government: Municipal Property Rates Act, No.6 of 2004;

**"Additional rate"** means an additional rate contemplated in sections 19(1) (d) and 22(1) (b) of the Act read together with clause 9;

**"Audited Financial Statements"** mean, for the purposes of clause 7.5 and 7.8:  
An annual report issued by an independent registered auditor or a person certified by a registered body or a certified bookkeeper expressing an opinion on financial statements. This includes a statement of financial position; a statement of financial performance; a cash-flow statement; other statements that may be prescribed; and any notes to these statements;

**"Back-packer lodge"** means a commercial accommodation establishment where beds are available to guests in communal, hostel type accommodation;

**"Bed & Breakfast"** means a commercial accommodation establishment with a maximum of 8 beds available, to guests;

**"Billing Cycle"** means the start of the cycle on which the account is printed to the date on which it falls due and payable;

**"Brownfield"** means a Brownfield development as contemplated in terms of the Economic Development Incentive Policy of the Municipality;

**“Business and Commercial property”** means:

- (a) Property used for the activity of buying, selling or trading in commodities or services and includes any office or other accommodation on the same property, the use of which is incidental to such activity;
- (b) Property on which the administration of the business of private or public entities takes place;
- (c) Property used for the provision of commercial accommodation;
- (d) Property used for education purposes;
- (e) Property used by the State or any organ of State; or
- (f) Property excluded from any other category of property;

**“Business Plan”** means a motivation report, Supplementary Services Implementation Plan and Term Budget as contemplated in clause 9;

**“By-law”** means eThekweni Municipality: Property Rates By-law 2015, as amended;

**“CFO”** means Chief Financial Officer of the Municipality as defined in the Local Government Municipal Finance Management Act, Act 56 of 2003 or his/her delegate in terms of section 59 of the Local Government Municipal Systems Act, No.32 of 2000;

**“Commercial Accommodation”** means lodging, or board and lodging, in any house, flat, apartment, room, hotel, motel, inn, guesthouse, bed & breakfast, back-packer lodge, boarding house, residential holiday resort establishment, time share, holiday accommodation, student accommodation, unit, chalet, tent, caravan, camping site or similar establishment which is regularly or systematically supplied but excludes a Primary property;

**“Community Tourism Organisation” (CTO)** means an independent local organisation registered with the Municipality’s Durban Tourism Department and the KwaZulu-Natal Economic Development, Tourism and Environmental Affairs Department , responsible for the promotion of tourism establishments and tourism operators within a local area;

**“Companies Act”** means the Companies Act, No 71 of 2008, as amended;

**“Council”** means the eThekweni Municipal Council; a council composed and elected in terms of section 157 of the Constitution;

**“EDTEA”** means KwaZulu-Natal Economic Development, Tourism and Environmental Affairs Department;

**“Finance Agreement”** means the agreement duly signed, and entered into in terms of Section 67 of the MFMA;

**“Greenfield”** means a Greenfield development as contemplated in the Economic Development Incentive Policy of the Municipality;

**“Guest-house”** means a commercial accommodation establishment with a minimum of 9 and a maximum of 20 beds available to guests;

**“Heritage Act”** means the KwaZulu-Natal Heritage Act, No. 4 of 2008, as amended;

**“Holiday Accommodation”** means in relation to this policy all residential properties, privately owned and which are used or rented out periodically for a period up to 60 days at a time, per transient guest with a permanent place of residence elsewhere, exclusively for commercial accommodation;

**“IDP”** means Integrated Development Plan contemplated in section 25 of the Local Government: Municipal Systems Act, No 32 of 2000, as amended;

**“Industrial Property”** means property used for a branch of trade or manufacturing, production, assembly or processing of finished or partially finished products from raw material or fabricated parts in respect of which capital and labour are involved, and includes—

- (a) The processing of raw products on the property;
- (b) The storage and warehousing of products on the property; and

(c) Any office or other similar facility on the same property, the use of which is incidental to such activity;

**“Juristic Person”** includes a partnership, association or other body of persons, corporate or unincorporated and includes a trust and organ of state;

**“Life Rights Scheme”** means a housing development scheme, with rights of occupation, as contemplated in the Housing Development Schemes for Retired Person’s Act, No. 65 of 1988;

**“MFMA”** means Local Government: Municipal Finance Management Act, No. 56 of 2003, as amended;

**“Minor”** means a natural person under the age of 18 years;

**“MOI”** means a memorandum of incorporation registered in terms of the Companies Act;

**“Municipal”** means for the purposes of clause 6.1(k), the Municipality, where it is either the registered owner of property or property is statutorily vested in the Municipality;

**“Municipal Financial Year”** means the year starting 1 July each year;

**“National Building Regulations”** mean the National Building Regulations and Building Standards Act 1977 (Act No. 103 of 1973);

**“NPC”** means a Non-profit company registered in terms of the Companies Act to manage a SRA;

**“Non-Profit Retirement Villages”** shall bear the same meaning as ‘housing development scheme’ defined in the Housing Development Schemes for Retired Person’s Act 1998 (Act 65 of 1988) read together with Section 30 of the Income Tax Act, No. 58 of 1962;

**“Old Age Home”** means for the purposes of this Policy, a residential facility of the nature contemplated in the Older Persons Act, No. 13 of 2006, as amended, for persons who have attained the age of 60 years or older;

**“Orphanage”** means a residential institution devoted to the care of children whose parents or family members are unable, or unwilling, to care for them;

**“Outside Urban Development Line”** means a geographical area comprising of properties in respect of which municipal services are mostly not available and where development is generally not promoted, as demarcated on Annexure **A** hereto;

**“Owner”** means in addition to the persons defined in the Act, includes–

- a) in relation to a property referred to in paragraph (a) of the definition of "property" in the Act, means a person in whose name ownership of the property is registered;
- b) The administrator of the body corporate of the sectional title scheme in the case of common property in a sectional title scheme where there are no elected trustees of the body corporate;
- c) The administrator, where the owner of the building is a mental health care user as defined in section 1 of the Mental Health Act, No. 17 of 2002;
- d) The business rescue practitioner, where the owner of the property has been placed under business rescue;
- e) The managing agent, where the owner of the building is absent from the Republic of South Africa or where the Municipality has, after reasonable attempts, not been able to determine his or her whereabouts;
- f) Every person who is entitled to occupy or use a building, or who does occupy or use a building, where –
  - (i) The owner of the building is absent from the Republic of South Africa;
  - (ii) The Municipality has, after reasonable attempts, not been able to determine the whereabouts of the owner of the building; and
  - (iii) There is no managing agent;
- g) Trustees and beneficiaries jointly, in the case of property in a trust;
- h) An executor or administrator, in the case of property in a deceased estate;

- i) A trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
- j) A judicial manager, in the case of a property in the estate of a person under judicial management;
- k) A curator, in the case of a property in the estate of a person under curatorship;
- l) A person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude, as joint owner together with the registered owner;
- m) A lessee, in the case of a property that is registered in the name of the Municipality and is leased by it;
- o) A buyer or a developer, in the case of a property that was sold by the Municipality and in respect of which possession has been given pending registration of ownership in the name of the buyer, beneficiary, or a developer;
- p) A fideicommissary as joint owner together with the fiduciary;
- q) The Ingonyama Trust, in respect of the land vested in The Ingonyama Trust by virtue of The Ingonyama Trust Act of 1994;
- r) The National Government of the Republic of South Africa, in the case of a property that is registered in the name of a deregistered company or close corporation and where ownership thereof has accrued to the state by operation of law (bona vacantia); or
- s) An owner of the property in the name of any juristic person not mentioned in this definition of an owner;

**“Person”** means a natural person or Juristic Person;

**“Prescribed Form”** means any document that may be prescribed by law or approved by Council or required by the CFO from time to time;

**“Primary Property”** means the primary residential property where a person has his or her permanent principal home to which he or she returns or intends to return and where he or she resides for at least nine (9) months in the Municipal Financial Year;



**“Public Benefit Organisation” (PBO)** means a public benefit organisation as defined in section 30(1) of the Income Tax Act, No. 58 of 1962;

**“Public School”** means a public school contemplated in Chapter 3 of the South African Schools Act No 84 of 1996, as amended;

**“Rateable Rural Property”** means any structure on privately owned land, (including land in the ownership of an organ of state) which is situated within identified rural areas of the Municipality, where the value of a structure on such land, exceeds the value threshold as determined by the Council when approving the Municipality’s annual budget;

**“Relief”** means exemptions, rebates or reductions that may be granted by the Municipality in terms of this Policy;

**“Rural Residential”** means privately owned land, with multiple residential structures, situated within identified rural areas of the Municipality, where each residential structure does not exceed the value as determined by Council in its budget meeting, as the maximum reduction amount for residential property;

**“SARS”** means the South African Revenue Service;

**“School Not for Gain”** means for the purposes of clause 7.8, a school registered and operating in terms of the South African Schools Act 1996 (Act 84 of 1996), as amended, and in respect of which a tax exemption certificate has been issued by the South African Revenue Services as contemplated in Part 1 of the Ninth Schedule of the Income tax Act, 1962 (Act 58 of 1962);

**“Senior Citizen”** means a natural person who is sixty (60) years or older;

**“Special Rating Area” (SRA)** subject to section 22 of the Act, means a geographic area, approved by Council, within which property owners agree to pay for certain services supplementary to those supplied by the Municipality. These services are

financed by levying an additional rate, which is added to the rates bill of the property owners within the geographical area

**“Term Budget”** means the budget of a NPC contemplated in clause 9 of this Policy;

**“The Municipality”** means eThekweni Municipality;

**“Trading Services”** shall include: property used by the Municipality’s Electricity Department; Municipal Parking Areas/Buildings; Market Buildings; Municipal Entities; property used by the municipality’s water, refuse and sanitation departments; and

**“Vacant Land”** means land that has not been developed with any structures.

## **PROBLEM STATEMENT**

The Constitution enjoins municipalities to be developmental in nature, in addressing service delivery priorities and promoting the economic and financial viability of municipalities.

Municipalities need to be provided with access to a sufficient and buoyant source of revenue necessary to fulfil their developmental responsibilities.

Income derived from property rates is a critical source of revenue for municipalities to achieve their constitutional objectives, especially in areas that have been neglected in the past due to racially discriminatory laws.

The Act specifies that it is essential that municipalities exercise their power to impose rates within a statutory framework and enjoins municipalities to adopt a rates policy consistent with the Act.

## **POLICY**

### **1. INSTITUTIONAL REQUIREMENTS**

- 1.1 Treasury is the responsible municipal cluster for this Policy.
- 1.2 In applying its rates policy, the Municipality will meet the requirements of the Act and the MFMA, and any other relevant legislation.
- 1.3 Section 3 of the Act provides that a rates policy takes effect on the effective date of the first valuation roll prepared by a Municipality in terms of the Act.
- 1.4 Council shall review its rates policy, together with the Municipality's budget, annually.

### **2. LIABILITY FOR RATES**

- 2.1 Rates levied on property must be paid by the owner of the property.
- 2.2 Joint owners or trustees of a trust, are jointly and severally liable for payment of Rates on the property, the one paying the other to be absolved.
- 2.3 Service of accounts or documents or process on any one owner is deemed to be service on all owners.

### **3. AMOUNT DUE FOR RATES**

- 3.1 The Municipality will, by resolution, as part of each annual operating budget process, determine a rate in the rand for every category of property.
- 3.2 Rates may be increased annually, in accordance with the budget resolution, as result of–

- a) any increase in the Budget;
- b) any increase in rebates, exemptions and or reductions;
- c) any Regulatory changes to ratio's as prescribed in terms of section 19 of the Act;
- d) any decrease in the market value of property; or
- e) any other related reason not listed above.

#### **4. METHOD AND FREQUENCY OF PAYMENT OF RATES**

- 4.1 The Municipality shall recover a rate on a monthly basis in 12 near equal instalments, together with any supplementary rates.
- 4.2 The Municipality may recover a rate annually, on application, from owners with fifty (50) or more property rates accounts under the following conditions:
  - 4.2.1 Such application must reach the Municipality on or before 30 April of each year and
  - 4.2.2 Such annual amount must be paid by 31 October of each year.
- 4.3 The Municipality may recover a rate annually for National and Provincial Government owned property.
- 4.4 The payment of rates shall not be affected by reason of objections, an appeal or non-compliance with the rates policy.
- 4.5 The Municipality may publish a number of Supplementary Valuation Rolls during the year, in accordance with Section 78 of the Act. The rates, as adjusted by the Supplementary Valuation Roll, will be levied accordingly.
- 4.6 Unless otherwise specified in section 78 of the Act, relief and rates will not be raised or implemented retrospectively.

## 5. CATEGORIES OF PROPERTY

- 5.1 The Municipality may levy different Rates for different categories of Property, the details of which are contained in **ANNEXURE B** attached hereto.
- 5.2.1 Subject to clause 5.2.2, the categories of property are determined according to the use of the property and the property shall be rated on such actual use.
- 5.2.2 Rateable Rural Property will be valued and rated in accordance with the footprint of the actual structure erected on such property.
- 5.3 A change in use may result in a change in the category of the property.
- 5.4 The Municipality does not separately value rights in land except:
- a) public service infrastructure;
  - b) rights of extension in sectional title schemes;
  - c) registered leases within identified rural areas of the Municipality and
  - d) deed of grant rights
- 5.5 Differential rating among the various property categories may be executed by different rate randages for each property category.
- 5.6 The Municipality has identified the following categories of property in line with section 8 and 93A of the Act-
- a) Residential property;
  - b) Agricultural property;
  - c) Vacant land
  - d) Industrial property;
  - e) Business and Commercial property;
  - f) Public Service Infrastructure Property,
  - g) Outside Urban Development Line,
  - h) Unauthorised or Illegal development or use, and Abandoned Property or Building;

- i) Rateable Rural Property, and
- j) Rural Residential.

5.7. Where a property is used for multiple purposes, the Municipality will assign the appropriate categories listed in clause 5.6 to the different purposes for which the property is used.

5.8 The prohibition on the levying of rates on Public Service Infrastructure is limited to properties referred to in section 17 (1) (aA) of the Act and is being phased in, as contemplated in section 93A (Transitional Arrangement: Public Service Infrastructure) of the Act.

5.9 Once an occupation or completion certificate has been issued by the Planning and Development Unit of the Municipality in terms of the National Building Regulations, Vacant Land will be re-categorised in accordance with the Act.

## **6. CATEGORIES OF OWNERS OF PROPERTY**

6.1 The Municipality has determined the following categories of owners of property-

- a) residential;
- b) senior citizens;
- c) disability grantees or medically boarded persons;
- d) child headed households;
- e) public benefit organisations;
- f) life rights schemes and retirement complexes;
- g) bed & breakfasts, guesthouses, backpacker lodges, holiday accommodation and student accommodation;
- h) schools not for gain;
- i) sporting bodies;
- j) land reform beneficiaries;
- k) municipal;
- l) public service infrastructure;
- m) owners of property affected by natural and other disasters;

- n) vacant land;
- o) nature reserves or conservation areas; and
- p) economic development (Greenfield and Brownfield).

## **7. EXEMPTIONS, REBATES AND REDUCTIONS (“RELIEF”)**

- a) The Municipality may, in terms of the criteria set out in this Policy exempt a specific category of owners of properties, or the owners of a specific category of properties, from the payment of a rate levied on their property; or grant to a specific category of owners of properties, or to the owners of a specific category of properties, a rebate on or a reduction in the rates payable in respect of their properties, as determined in this clause 7.
- b) The Owner must make application for Relief in a prescribed form no later than 30 April preceding the new Municipal financial year for which Relief is sought. Relief shall only be granted upon approval of the application by the Municipality. Unless indicated to the contrary in this Policy, Relief shall become effective on 1 July of the financial year for which it is sought.
- c) Once the application is approved, it must be renewed annually in the prescribed form, and must reach the Municipality no later than 30 April preceding the new Municipal financial year for which Relief is sought.
- d) Unless indicated to the contrary in this Policy, the existing application will lapse should it not be renewed annually before 30 April preceding the new Municipal financial year. Relief will only be re-instated prospectively from the next practical billing cycle once a renewal application, in the prescribed form, has been approved. The onus is on the beneficiary to ensure that that the Relief has been renewed.
- e) All exemptions, rebates and reductions are subject to an amount determined by a resolution of Council when approving the Municipality’s annual budget.

- f) No category of owner shall qualify for multiple rebates except for Senior Citizens, Disability Grantees, Child Headed Households and Medically Boarded persons.
- g) Unless indicated to the contrary in this Policy, Relief will lapse:
  - i. at the end of the Municipal Financial Year for which it was granted;  
or
  - ii. where the applicant ceases to meet all the relevant qualifying criteria;  
or
  - iii. on date of transfer of the property.

## **7.1 RESIDENTIAL PROPERTY**

7.1.1 The Act imposes a R15 000 exclusion in the value of residential property. Accordingly, the Municipality will not levy a rate on the first R15 000 of the market value of Residential Properties as set out in section 17(1) (h) of the Act.

7.1.2 The Municipality may grant an additional rebate on the valuation of residential property by resolution of Council at its annual budget meeting. This further rebate will be granted on an application basis as contemplated in 7 (b).

## **7.2 SENIOR CITIZENS**

The aim of this rebate is to alleviate the burden on Senior Citizens who have a fixed income and limited resources.

7.2.1 Subject to the criteria set out in clause 7.2.2 and 7.2.3 Senior Citizens may be granted a rebate on their Primary Property, with effect from the next practical billing cycle, following the date of approval of an application.

7.2.2 The criteria for the grant of the Senior Citizens' Rebate are as follows:



- 7.2.2.1 The applicant -
- a) must be sixty (60) years or older;
  - b) must produce a South African bar-coded identity document or a Smart Identity card;
- 7.2.2.2 The property in respect of which the rates rebate application applies, must meet the following criteria:
- a) The property must be the Primary Property of the applicant;
  - b) In the case of owners married in community of property, the property must be registered in the name of the applicant, and/or the applicant's spouse;
  - c) In the case of the co-ownership of a property other than in terms of a marriage in community of property, the property must be registered jointly in the names of the applicant and the co-owner (who must be a natural person) in equal and undivided shares;
  - d) In the case of a property subject to a usufruct or a personal servitude of use or habitation in favour of the applicant, such right of usufruct, use or habitation must be registered; or
  - e) The value of the property must not exceed a value as determined by the Council when approving the Municipality's annual budget.
- 7.2.2.3 The rebate will only be granted to an applicant in respect of one property.
- 7.2.2.4. In the case of a property registered in the name of a Trust:
- a) the application must be made by the trustee(s) of the Trust; and
  - b) all the beneficiaries of the Trust must meet the criteria in clause 7.2.2; and
  - c) the trustee(s) must submit with the application for the rebate, certified copies of:
    - (i) the title deed of the property; and

- (ii) the trust deed; and
- (iii) any document amending the trust deed; and
- (iv) the current Letters of Authority in respect of the Trust.

7.2.2.5 In the case of an application by the holder of a usufruct or a personal servitude of use or habitation, the applicant must submit with the application:

- (i) the title deed of the property; and
- (ii) where applicable, the registered notarial deed of usufruct or use or habitation.

7.2.2.6 In the case of owners married in community of property, and only one spouse is a Senior Citizen, the property may still qualify for a rebate under this Policy, and the application must be made by the spouse who is a Senior Citizen.

7.2.2.7 In the case of the co-ownership of a property other than in terms of a marriage in community of property:

- a) All the owners in their individual capacities must meet the applicable qualifying criteria for a Senior Citizen; and
- b) The property must be registered jointly in the names of the applicant and the co-owner (who must be a natural person) in equal and undivided shares.

7.2.3 The Senior Citizens Rebate will lapse –

- a) on the death of the applicant if the applicant owns 100% of the property;
- b) on the date of transfer of the property;
- c) when the applicant ceases to reside permanently in the property;
- d) in the case of a property registered in the name of a trust, when the beneficiaries no longer meet the qualifying criteria;
- e) in the case of a property which is subject to a usufruct or a personal right of use or habitation, when the holder of the right of usufruct, use or habitation no longer meets the qualifying criteria;

- f) at the end of the Municipal Financial Year for which the rebate is granted;
- g) when the primary property undergoes a category change and no longer meets the qualifying criteria for relief; or
- h) on the date of transfer of the applicant's undivided share in the property, in the case of co-ownership in equal and undivided shares as contemplated in 7.2.2.7.

7.2.4 Rebates granted in error or due to false or incorrect information supplied by the applicant, will be reversed immediately from date of inception of the rebate.

7.2.5 Council may approve further rebates at its annual budget meeting, based on its indigence support programme and the income level of qualifying applicants.

7.2.6 For the purposes of clause 7.2.2.3, an owner in a Sectional Title Scheme who owns, in addition to the residential unit, a garage, parking, granny flat or storage room, on separate Title, is deemed to be the owner of one (1) property.

7.2.7 For the purposes of clause 7.2.2.3, an owner of two or more properties which are notarially tied to each other, is deemed to be the owner of one (1) property.

7.2.8 Where a Senior Citizen has failed to make application for relief before 30 April as specified in 7(d), and the failure was not due to any negligence on the part of such Senior Citizen, the Senior Citizen may submit representations to the CFO as to why the Relief should be renewed.

- (a) Representations shall be made by submitting an affidavit or affirmation, signed before a Commissioner of Oaths, indicating the reasons for the failure to make timeous application for the renewal of the Relief and the grounds why the renewal of the Relief should be granted. The prescribed renewal application form, duly completed, must accompany such document.
- (b) Any representations must be submitted within three (3) months of the new Municipal financial year for which the relief is sought (i.e. by 30 September).

- (c) A panel of 3 officials within the Revenue Management Unit, nominated by the CFO, one (1) of whom shall be the Head Revenue Management, will consider the representations and reply thereto in writing.
- (d) Such panel may conduct independent investigations to verify the facts or call for additional information.
- (e) The panel may-
  - (i) Allow the representations if there are reasonable grounds indicating that the Relief ought to be renewed in which event the Relief will apply in respect of the whole of the Municipal financial year for which the Relief is sought, subject to 7.2.3.
  - (ii) Reject the representations if there are no such reasonable grounds.

### **7.3 DISABILITY GRANTEES OR MEDICALLY BOARDED PERSONS**

7.3.1 The intention of this rebate is to assist those people who have a physical or mental condition that constrains him/her from performing normal work related functions and as a consequence he/she is unable to find employment or unable to maximise his/her earning capacity.

In the spirit of this, the CFO may hear representations where an application has been rejected. The same process as laid down in section 25 (Disputes) of the Municipality's Credit Control and Debt Collection Policy shall apply, with such changes as are necessary. The Applicant may be required to submit to further medical examinations by a Municipal appointed medical practitioner, at the expense of the Applicant. The CFO or his nominee may make a decision that is binding.

7.3.2 Disability Grantees including temporary disability grantees or Medically Boarded persons may, on annual application, be granted a rebate, with effect from the next practical billing cycle following the date of application, subject to the following:

- a) Disability grantees: the applicant must be in possession of a letter, issued by the Department of Social Services, confirming receipt of a

- disability grant, or a specialist medical practitioner confirming disability and inability to work. ;
- b) Medically boarded persons: the applicant must produce a letter from the Applicant's relevant ex-employer or the underwriter for the employer confirming medical boarding;
  - c) The applicant must produce a South African bar coded identity document or Smart Identity Card;
  - d) The applicant must reside on the Primary Property;
  - e) The applicant must be the registered owner of the Primary Property. This includes co-owners who are married to each other or property owned solely by either spouse;
  - f) Joint owners must each meet the above criteria or the criteria set out in 7.2 (i.e. as a senior citizen / disabled / medically boarded person);
  - g) In the case of a Trust, the beneficiaries must meet all of the above criteria. A copy of the Title Deed must be produced;
  - h) In the case of a usufruct or other personal servitude, the servitude must be registered over the whole property. The holder of the personal servitude must meet all of the above criteria, where applicable. A copy of The Title Deed must be produced. The holder/s of the servitude will be granted the rebate jointly on one property only; and
  - i) Executors/Administrators of deceased estates, Liquidators and Trustees of Insolvent Estates and temporary disability grantees are excluded from the rebates.

#### 7.3.3 The rebate will lapse:

- a) Subject to clause 7.3.3 (e), on death of the applicant if the applicant owns 100% of the property ;
- b) on the date of transfer of the property;;
- c) When the applicant ceases to reside permanently on the primary property;
- d) In the case of a property registered in the name of a medically boarded person when a medically boarded person gains employment;
- e) At the end of a Municipal financial year for which the rebate is granted;
- f) When the property undergoes a category change and no longer meets the qualifying criteria for Relief.

7.3.4 Rebates granted in error or due to false or incorrect information supplied by the applicant, will be reversed immediately from date of inception of the rebate.

#### **7.4 CHILD HEADED HOUSEHOLDS**

7.4.1 A property shall be classified as a “Child Headed Household” if either:

7.4.1.1 all the occupants of the property are minors; or

7.4.1.2 the adult/s occupying the property together with a Minor/s are so debilitated by age or disease that they are unable to function as the head of the household; and

7.4.1.3 a social worker from the Department of Social Welfare has investigated the circumstances of the property and has certified that the circumstances set out in 7.4.1.1.and 7.4.1.2 apply to the property.

7.4.2 A Child Headed Household may receive a rebate, from a date as determined by the CFO, subject to the following–

7.4.2.1 The property is registered in the name of a debilitated adult or one or more minors, or in the name of an adult who has died; and

7.4.2.2 The minors reside permanently on the property; and

7.4.2.3 The value of the property must not exceed a value as determined by resolution of Council at its annual budget meeting.

7.4.3 The application for the rebate must be accompanied by confirmation from the Department of Social Welfare that the criteria set out in 7.4.1.1 or in 7.4.1.2 have been met and that in fact the property is headed by a minor.

7.4.4 In addition, if the property is registered in the name of one or more persons who have died, the application must be accompanied by:

7.4.4.1 A copy of the Letters of Executorship or the Letters of Administration in respect of the estate of the registered owner;

7.4.4.2 A copy of the Liquidation and Distribution Account or the Statement of Assets and Liabilities authorising the transfer of the property to the minor(s), if those

documents have been drafted and submitted to the Office of the Master of the High Court.

7.4.5 In the case of a property where the only adult occupant(s) is/are terminally ill, the application must be accompanied by a certified copy of the medical report confirming that the adult(s) is/are terminally ill.

7.4.6 An application for a rebate must be renewed annually and endorsed by the Department of Social Welfare as contemplated in 7.4.3.

7.4.7 The Rebate will lapse –

7.4.1.1 once the minor reaches the age of 18;

7.4.1.2 on the date of transfer of the property;

7.4.1.3 when the minor(s) cease(s) to reside permanently in the property; or

7.4.1.4 if the Department of Social Welfare certifies that it no longer regards the household as a Child Headed Household;

7.4.1.5 if an application is not submitted annually (and in this regard late applications may be reinstated with effect from the next billing cycle); or

7.4.1.6 when the property undergoes a category change and no longer meets the qualifying criteria for relief.

## **7.5 PUBLIC BENEFIT ORGANISATIONS**

7.5.1 A PBO which carries out a public benefit activity as listed below, on property registered in its name and which satisfies the criteria set out in clause 7.5.2, may apply for an exemption from the payment of rates:-

- i) Welfare & Humanitarian  
Orphanage, Non-profit retirement village, Life – rights scheme; Old age home.
- ii) Health Care  
Hospital, clinic or mental hospital.

- iii) Animal Welfare  
Care of animals, reptiles and/or birds including the rehabilitation, or prevention of the ill-treatment thereof.
- iv) Education and Development  
Training, education and/or rehabilitation of persons with severe physical or mental disability.
- v) Cultural  
Cemetery and/or crematorium;  
Promotion, protection, preservation or maintenance of a property with Heritage Landmark status under the Heritage Act and open to the public.

7.5.2 An Exemption shall be subject to the following conditions:

- i) The Public Benefit Organisation must own the property.
- ii) The Public Benefit Organisation must produce:
  - (a) a tax exemption certificate issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the Ninth Schedule of the Income Tax Act, 1962 (Act 58 of 1962), and
  - (b) also, a tax clearance certificate confirming that the Public Benefit Organisation is in good standing.
- iii) The Public Benefit Organisation must produce its Audited Financial Statements for assessment by the CFO.
- iv) The CFO has the right to conduct a full financial analysis and credit check of the Public Benefit Organisation and to call for such other documents as may be considered relevant to the consideration of the application.
- v) All municipal accounts held in the name of the Public Benefit Organisation must be up to date at date of the application, or the Public Benefit Organisation must have concluded a suitable arrangement with the Municipality in terms of its Credit Control and Debt Collection Policy.
- vi) The Public Benefit Organisation must produce a Special Consent Authority or a Zoning Certificate from the Municipality's Land Use Management Department confirming that the use of the property is not in breach of any planning law or Planning Scheme.



- vii) The exemption will only be granted after an official application has been made and approved by the CFO.
- viii) The Municipality retains the right to refuse an application for exemption if the details supplied on the application form are incomplete, incorrect or false.
- ix) The use of any land or buildings, or any part thereof, in terms of clause **7.5.1** , shall not be for the private pecuniary benefit of any individual, whether as a trustee in a trust, shareholder in a company or otherwise.
- x) Notwithstanding compliance with all the conditions set out in clause **7.5.2**, an application from a Public Benefit Organisation may be refused if an assessment of the Audited Financial Statements shows that the Public Benefit Organisation is not adhering to the criteria/conditions for Public Benefit Organisations as set out in Section 30 of the Income Tax Act 58 of 1962, as amended read together with the Ninth Schedule thereto.
- xi) If, during the currency of any Municipal financial year, any exempted property is used for any purpose other than the purpose for which it was so exempted, the owner shall become liable to the Municipality for any rates that, had it not been for the exemption, would have been payable on the property with effect from the date the event occurred. The amount for which the owner becomes liable shall be regarded as rates in arrears and the owner shall be liable, in addition to the rates, to pay to the Municipality interest thereon at the rate prescribed in the Municipality's Credit Control and Debt Collection Policy.
- xii) The property shall not be owned by the State.
- xiii) Application for exemption must be made on an annual basis, by no later than 30 April preceding the new Municipal Financial Year. A failure to do so will result in the Public Benefit Organisation not qualifying for the exemption for that particular Municipal Financial Year.
- xiv) An exemption granted, will apply for the full Municipal Financial Year unless the reason for granting the exemption ceases to apply during the year.

## **7.6 LIFE RIGHTS SCHEMES AND RETIREMENT COMPLEXES**

7.6.1 Where a property does not qualify for exemption from rates under clause 7.5.1 (i) , the owner of a property on which a Life Rights Scheme or a retirement complex has been developed, may, on application, receive a rebate not exceeding an amount or a percentage as determined by Council when approving the Municipality's annual budget.

7.6.2 Qualifying Criteria–

- a) the scheme/complex/development must be registered in terms of the Housing Development Schemes for Retired Persons Act 65 of 1988;
- b) the scheme/complex/development must be registered with and regulated by the South African Association for Homes for the Aged (SAHA); and
- c) the Title Deeds of the property must be appropriately endorsed.

## **7.7 COMMERCIAL ACCOMMODATION**

On approval of an application, commercial accommodation specified hereunder, may receive a rebate not exceeding an amount and or a percentage as determined by Council when approving the Municipality's annual budget.

### **7.7.1 Qualifying Criteria for Bed & Breakfast / Guest-house/Back-packer lodge/Holiday Accommodation:**

- a) The owner of the property, except for Holiday Accommodation, must permanently reside on the property. In the case of a Company, Close Corporation or Trust being the registered owner, at least one director/member/trustee thereof must reside permanently on the property, subject to any of the members of such companies, close corporations and trusts not being a member of another company, close corporation or trust that owns a Bed and Breakfast establishment, Guest House or Back-packer lodge within the jurisdiction of the Municipality.

- b) The Bed & Breakfast / Guesthouse / Back-packer lodge/Holiday Accommodation must be registered with a CTO and **EDTEA**. The applicant must meet the criteria set by Durban Tourism and all membership fees or other fees payable to Durban Tourism and the CTO must be paid up to date.
- c) The applicant must provide details of the establishment in respect of total size of developed property, total number of rooms and facilities available to guests. This will be required to be certified by Durban Tourism.
- d) A permit/licence in terms of the Municipality's By-law dealing with accommodation establishments, and Town Planning approval must accompany the application, where applicable.
- e) The relevant CTO must confirm its support for the rebate renewal application by certifying the applicant's rebate renewal application form.

#### **7.7.1.1 Rebates**

The establishment will be rated as a Business and Commercial property.

##### **a) Bed & Breakfast / Guest-houses –**

- i) Where up to 8 beds are available to guests, a rebate not exceeding an amount as determined by Council when approving the Municipality's annual budget, will apply.
- ii) Where between a minimum of 9 and a maximum of 20 beds are available to guests, a rebate not exceeding an amount as determined by Council at its annual budget meeting, will apply.

##### **b) Back –packer lodges –**

- i) Where up to 40 beds are available to guests, a rebate not exceeding an amount as determined by Council at its annual budget meeting, will apply.
- ii) Where up to 80 beds are available to guests, a rebate not exceeding an amount as determined by Council at its annual budget meeting, will apply.

- iii) Where more than 80 beds are available to guests, a rebate not exceeding an amount as determined by Council at its annual budget meeting, will apply.

**c) Holiday Accommodation–**

- (i) A property let out for the purposes of holiday accommodation, may receive a rebate not exceeding an amount or a percentage as determined by Council at its annual budget.
- (ii) In addition to complying with the applicable provisions of clause 7.7.1, the applicant must provide proof of compliance with the provisions of clause 7.7.3.

**7.7.2 Student Accommodation–**

A property let out for the purpose of accommodating registered students and or learners of higher education, may receive a rebate not exceeding an amount and or a percentage as determined by Council at its annual budget meeting and the following criteria must be met.

Qualifying Criteria:

- a) Owners must apply annually. Failure to apply will result in a lapse of the rebate.
- b) A list of students and student registration certificates must accompany the application.
- c) There must be at least four (4) learners or students occupying the property.
- d) The property must be available to students or learners for a period exceeding hundred and eighty (180) days in any given year.
- e) Lease agreements with higher education Institutions and or with the student or learner, where applicable must be included.
- a) A copy of a permit or approval as may be required by law for the conduct of a student accommodation establishment must be provided. (e.g. planning consent; a permit/licence issued under the Municipality's By-

law dealing with accommodation establishments), duly certified by a Commissioner of Oaths as a true copy of the original document.

- b) A clearance certificate from the Municipality's Environmental Health Unit.

### **7.7.3 Information relating to Holiday Accommodation**

7.7.3.1 For the purposes of implementing and enforcing the provisions of this Policy, the levying of and recovery of amounts due for, rates on property, the maintenance of an updated valuation roll and verifying information, any Person

7.7.3.1.1 Providing Holiday Accommodation or allowing Holiday Accommodation to take place on a property or premises;

7.7.3.1.2 Conducting a rental pool scheme relating to the provision of Holiday Accommodation either as Owner, Body Corporate, Operator or as an agent on behalf of an Owner or occupier of property or premises,

must, by no later than 30 April of each financial year, furnish the Municipality with a written statement in a prescribed form, specifying, -

- a) the property that is used for Holiday Accommodation and furnishing the property description as registered in the Deeds Registry Office of KwaZulu-Natal;
- b) In addition to (a) above, in the case of Timeshare or Shareblock Schemes, the name of the Scheme and details pertaining to the flat or unit on the property being used for Holiday Accommodation;
- c) In addition to the information set out in (a) and (b) above, such other information and particulars as may be prescribed so as to achieve the objectives mentioned in 7.7.3.1.

#### **7.7.3.2 Where-**

7.7.3.2.1 A person commences any activity specified in clause 7.7.3.1.1 or 7.7.3.1.2, in any Financial Year, such person must notify the Municipality within forty five (45) days of such event. Such

notification must be in a prescribed form and be supported by a valid written consent of the trustees of the Body Corporate or their authorized agents, in the case of a Sectional Title Scheme and, in the case of a share block scheme, by a valid written consent of a duly authorized representative of the share block company.

7.7.3.2.2 A juristic person furnishes a written statement referred to in clause 7.7.3.1, such statement must be signed by at least one (1) duly authorized office bearer/director/member of the juristic person.

7.7.3.3 In the event of a person ceasing to provide Holiday Accommodation in respect of a property or premises or withdrawing a property or premises from a rental pool scheme, the Owner or, as the case may be, the Operator, must notify the Municipality within forty five (45) days of such event.

7.7.3.4 A person who fails to-

7.7.3.4.1 furnish a written statement in terms of clause 7.7.3.1 or on request by the Municipality; or

7.7.3.4.2 notify the Municipality within the time period contemplated in clauses 7.7.3.3,

commits an offence, in addition to such other remedies that the Municipality may have in terms of this Policy or the law.

## **7.8 SCHOOLS NOT FOR GAIN.**

7.8.1 A School Not for Gain may be granted a rebate subject to the following conditions:

- a) the applicant must produce a tax exemption certificate issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the Ninth Schedule of the Income Tax Act, 1962 (Act 58 of 1962);
- b) the CFO must consider all applications;
- c) the Municipality retains the right to refuse an application if the details supplied in the application form are incomplete, incorrect or false;

- d) the use of any land or buildings, or any part thereof, shall not be for the private pecuniary benefit of any individual, whether as a shareholder in a company or otherwise;
- e) if during the currency of any Municipal financial year, any such land or building is used for any purpose other than the purpose for which it was so granted a rebate, the Municipality shall impose rates thereon or on such portion so used, at a rate proportionate to the period of such use;
- f) The School Not for Gain must produce its Audited Financial Statements for assessment by the CFO;
- g) The CFO has the right to conduct a full financial analysis and credit check of the School Not for Gain and to call for such other documents as may be considered relevant to the consideration of the application; and
- h) Notwithstanding anything contained in this Policy to the contrary, the Department of Education or the Department of Public Works (National or Provincial) as the case may be, may make application for Relief on behalf of all or certain, qualifying public schools within the jurisdiction of the Municipality either in a combined application or on an individual basis.

## **7.9 SPORTING BODIES**

- 7.9.1 Sporting bodies shall be rated on the value of the building area used for commercial purposes only or as stipulated in the lease agreement with the Municipality.
- 7.9.2 The building area shall exclude change rooms and store rooms necessary for the sport.
- 7.9.3 Applicants must produce a tax exemption certificate issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the Ninth Schedule of the Income Tax Act, 1962 (Act 58 of 1962).

## **7.10 MUNICIPAL PROPERTIES**

- 7.10.1 All municipal owned properties are exempted from property rates, except for Trading Services and Municipal owned properties where the Municipality has entered into an agreement with any Person, indicating otherwise.
- 7.10.2 Council may, by way of a resolution at its annual budget meeting, grant Municipal Entities rates rebate.

## **7.11 NATURAL AND OTHER DISASTERS**

- 7.11.1 Properties that have been damaged by a natural disaster, as defined in terms of the Disaster Management Act 2002 (Act 57 of 2002) may be re-valued on application, as at date of such natural disaster, in accordance with the Act.
- 7.11.2 Where property has been damaged by causes other than that defined by the Disaster Management Act, and such damage renders the property uninhabitable, then, on application, the Municipality may grant a six (6) months temporary rebate, from the date of damage to the property.
- 7.11.3 A further temporary rebate, may be granted thereafter, on application.
- 7.11.4 This provision excludes damage to property by arson.

## **7.12 VACANT LAND**

- 7.12.1 Subject to clause 7.12.2, the Municipality may grant a reduction in market value of all vacant land, not exceeding an amount as



determined by Council when approving the Municipality's annual budget.

7.12.2 Vacant land which is considered developable in terms of applicable law may not be granted such reduction in market value.

### **7.13 CONSULATES**

Property owned by Consulates shall be valued and rates shall be raised, and recovered from the Department of International Relations and Co-operation in terms of the Diplomatic Immunities and Privileges Act 2001 (Act 37 of 2001).

### **7.14 OTHER IMPERMISSIBLE RATES**

- a) The Municipality will not levy a rate where it is impermissible to do so in terms section 17 of the Act.
- b) The Municipality shall be entitled to request such documents as approved by the CFO, from owners of property, in order to ensure adherence to section 17 of the Act.

#### **7.14.1 LAND REFORM BENEFICIARIES**

In accordance with the Act, property belonging to a land reform beneficiary or his/her heirs, dependants or spouse, is exempt, from rates for ten (10) years from date on which the beneficiary's title was registered in the office of the Registrar of Deeds; provided that such exemption lapses upon alienation of the property by the land reform beneficiary or his/her heirs, dependants or spouse.

## **7.14.2 PUBLIC SERVICE INFRASTRUCTURE**

- 7.14.2.1 Rates will not be levied on the first 30% of market value of, Public Service Infrastructure (PSI) referred to in paragraphs (c), (d), (f), (i) and (j) of the definition of PSI in the Act. 7.14.2.2 The Municipality will not rate property referred to in paragraphs (a), (b), (e), (g) and (h) of the definition of PSI in accordance with the Act.

## **7.14.3 NATURE RESERVES / CONSERVATION AREAS**

- 7.14.3.1 Nature Reserves and Conservation areas which are proclaimed in terms of the National Environmental Management: Protected Areas Act 2003 (Act 57 of 2003) shall be excluded from rates.
- 7.14.3.2 Newly Proclaimed Nature Reserves/Conservation areas shall receive exclusion upon application and production of the relevant Proclamation.
- 7.14.3.3 Nature Reserves not proclaimed as aforesaid, shall be rated as vacant land and may be excluded from rates, once the owners are in receipt of an Environmental Certificate in terms of clause 7.14.3.4.
- 7.14.3.4 Upon application to the Environment Planning and Climate Protection Department, an Environmental Certificate may be granted to owners of any piece of land or part thereof, where:
- a) The Municipality considers the land to be environmentally sensitive, e.g. it forms part of the Durban Metropolitan Open Space System (DMOSS);
  - b) The land is zoned for conservation purposes or an environmental servitude has been registered in favour of the Municipality over the environmentally sensitive area; and
  - c) The landowner, with the assistance of the Municipality, prepares and implements an approved management plan aimed at protecting and improving the local environment.
- 7.14.3.5 Where the land is not zoned for conservation purposes and an environmental servitude has not been registered in favour of the Municipality, an owner may be granted a reduction or rebate, provided the

owner has agreed to the Municipality rezoning the affected land to protect the environment.

- 7.14.3.6 The owner of a Nature Reserve / Conservation area cannot receive a reduction or rebate on the Nature Reserve/Conservation area component of the property in addition to the rate benefits in terms of clause 7.14.3.4 above.
- 7.14.3.7 The Environmental Certificate will lapse if the property is no longer used for bona fide environmental conservation purposes, in which event, the property will be rated on its new use from date of such use.
- 7.14.3.8 Parks and environmental protection areas within a Home Owners' Association shall receive an exemption once a servitude restricting its use is registered or the land is zoned for environmental protection.

## **8. AGRICULTURAL PROPERTY**

- 8.1 In order for a property to fall within the definition of "Agricultural Property" in the Act and meet the requirement that such property is '*used primarily for agricultural purposes*', an agricultural certificate must be issued by the Municipal Valuer as contemplated in clause 8.2 .
- 8.2 The Owner must make application for an agricultural certificate on a prescribed form;
- 8.3 An agricultural certificate may be granted to an owner of any piece of land or part thereof, on the following basis:
  - a) The Municipal Valuer is satisfied that such land is used exclusively for *bona fide* agricultural purposes or subsistence farming;
  - b) An application has been lodged with the Real Estate Unit, by no later than 30th April preceding the start of the new Municipal year for which the agricultural certificate is sought;and

- c) The Owner has produced a tax certificate, (such as an IT34 certificate) issued by the South African Revenue Services (SARS) proving that they are taxed as a farmer or a mill contract (e.g. in the case of sugar cane) proving that he/she is an active farmer.

8.4 The owner of agricultural property cannot receive reduction or rebate on the agricultural component of the property in addition to the agricultural randage.

8.5 Once the application referred to in clause 8.2, is approved, it must be renewed annually in the prescribed form, and must reach the Municipality no later than 30 April preceding the new Municipal financial Year.

## **9. SPECIAL RATING AREAS IN TERMS OF SECTION 22 OF THE ACT**

### **PART 1**

#### **9.1 Determination of a SRA**

9.1.1 The Municipality may, in terms of the Act and this Policy, and by resolution of the Council, at its annual budget meeting, establish a SRA and determine the Additional Rate that will be levied on rateable property in such SRA

#### **9.2 Liability for Additional Rate on rateable property**

9.2.1 Subject to the provisions of the Act and this Policy:

9.2.1.1 the Additional Rate will apply to all rateable property within a SRA including rateable property owned by an Organ of State.

9.2.1.2 Successors in title to rateable property within a SRA will be liable for the Additional Rate with effect from date of transfer of a rateable property into their name.

### **9.3 Exclusion**

9.3.1 Property that is owned by, or vested in, the Municipality or a Municipal Entity of which the Municipality is the parent Municipality is excluded from payment of the Additional Rate.

### **9.4 Purpose of a SRA**

9.4.1. An Additional Rate is levied on rateable property in an SRA, exclusively, to fund supplementary services (in addition to those normally provided by the Municipality) in order to improve or upgrade the area.

9.4.2. The type and scope of the supplementary services to be delivered within a geographic area are based on the needs of the area and owners within the area who will be liable for payment of the Additional Rate. Whilst needs will differ from one geographic area to another, SRA's provide a potential tool to achieve the following outcomes (not necessarily finite)-

9.4.2.1. enhance and supplement the municipal services provided by the Municipality;

9.4.2.2. facilitate the regeneration and upliftment of distressed areas;

9.4.2.3. promote investment by the private sector into the SRA;

9.4.2.4. address barriers to local economic growth;

9.4.2.5. contribute to an attractive, safe and people centred public realm;

9.4.2.6. facilitate the fulfilment of the Municipality's objects and developmental duties as set out in its IDP.

## **9.5 Factors considered by the Council when determining a SRA**

9.5.1 The Council will consider determining a SRA provided the requirements of this Policy and section 22 of the Act have been complied with, including that -

- 9.5.2.1. Sufficient evidence exist that it will be financially viable to use a SRA to raise funds for the proposed improvements or upgrade of the area and that the collection rate in the immediate preceding Municipal Financial Year did not fall below 95%;
- 9.5.2.2. The proposed SRA contains no less than 200 rateable properties, or the total value of the rateable properties exceeds the value as determined by the Council from time to time;
- 9.5.1.3 The proposed improvements or upgrade to be effected, have been clearly and fully described to enable both the local community within the area and the Council to make an informed decision;
- 9.5.1.4 The geographic area has been clearly demarcated allowing the proposed improvements or upgrade to be logically linked to the area;
- 9.5.1.5 The Additional Rate, which will be in addition to the standard property rate levied on rateable property, is affordable and does not exceed 25%of the municipal rates payable by a registered owner of a rateable property within the SRA;
- 9.5.1.6 The Term Budget is realistic in respect of the supplementary services to be provided, and allows for a cash backed stabilisation reserve fund not exceeding 30% of the Additional Rate transferred to the NPC in one Municipal Financial Year to address unforeseen expenditure, specifically, the eventuality of a reduction in the quantum of the Additional Rate collectable from registered owners on account of a decrease in the valuation of any rateable property or a change in the category of a rateable property during a Municipal Financial Year;

- 9.5.1.7 The SRA will not be used to reinforce existing inequities in the development of the Municipality;
- 9.5.1.8 The determination of the SRA is consistent with the objectives of the Municipality's IDP;
- 9.5.1.9 The determination of separate accounting and other record-keeping systems by the Municipality regarding the revenue generated by the Additional Rate and the improvement and upgrading of the SRA;
- 9.5.1.10 A differentiation between categories of properties will apply when levying the Additional Rate;
- 9.5.1.11 The majority of members of the local community, as contemplated in 9.11, who will be liable for paying the Additional Rate in the SRA, have consented to its formation;
- 9.5.1.12 The Council is satisfied with the institutional arrangement proposed in respect of the SRA; and
- 9.5.2.13 Ultimately, the Council is vested with the sole discretion to determine whether or not a SRA should be determined.

## **9.6 Initiation of a SRA**

- 9.6.1. Any owner or group of owners ('the Applicant') who own rateable property within a proposed SRA, may initiate the establishment of a SRA subject to the provisions of this Policy, the Act or the Bylaw.

Nothing however, detracts from the right of a Municipality to establish a SRA.

- 9.6.2. All costs incurred by the Applicant in respect of the establishment of a SRA shall be for the Applicant's account, subject to the provisions of 9.20.

## **9.7 Structural Arrangement of a SRA**

9.7.1 Although Section 22 of the Act does not prescribe the structural arrangements that must be put in place to administer a SRA, only the following institutional mechanisms are acceptable to the Municipality to administer a SRA-

9.7.1.1 A specially established NPC for the purposes, solely, of carrying out and / or giving effect to the provisions of Section 22 of the Act read together with this Policy. Where the NPC option is selected by the local community and approved by the Council, the local community within the proposed SRA will be required to establish such structure at their own cost, subject to 9.19 and elect ratepayers from amongst themselves to serve on the board of directors.

9.7.1.2 Administration by the Municipality. This will be in exceptional cases, where the relevant line department(s) has/have confirmed that adequate resources exist within their department and have thus, signified their support to providing the supplementary services to the SRA, on the basis that existing services to other areas will not be compromised.

## **9.8 Administrative and structural implications of a NPC**

9.8.1 A NPC option gives a greater degree of control and autonomy to ratepayers with regard to the administration of a SRA. The Steering Committee contemplated in 9.9.1 would be responsible for facilitating the formation of such NPC.

9.8.2 Where the Steering Committee proposes that the upgrading and or improvement of services in a SRA be administered through a NPC, the planning, contracting, financial control and administrative functions will be the responsibility of the NPC.



- 9.8.3 In addition to compliance with Schedule 1 (Provisions Concerning Non-Profit Companies) of the Companies Act, a NPC's MOI must substantially conform to the inaugural MOI prescribed by the CFO and must contain provisions for:
- 9.8.3.1 the annual election by ratepayers within the SRA of members of the NPC board;
  - 9.8.3.2 an annual general meeting at which the NPC must:
    - i) Report on the progress during the year;
    - ii) Table audited annual financial statements;
    - iii) Present for approval a budget and Supplementary Services Implementation Plan for the ensuing year;
    - iv) Have invited an appropriate representative of the Municipality to attend.
  - 9.8.3.3 Any proposed amendment to the inaugural prescribed MOI to be subject to the prior approval of the CFO in writing.
  - 9.8.3.4 Assets remaining upon dissolution of the NPC shall be distributed to a similar NPC operating within a SRA. Such other similar NPC may be named in the NPC's MOI or be determined during the dissolution process.
- 9.8.4 In order to derive maximum benefit for the SRA, a NPC must register with SARS as a VAT vendor.
- 9.8.5 Councillors who actively assist an Applicant and/or the Steering Committee to pursue and promote the establishment of a SRA must recuse themselves when the Council considers the application for establishment of a SRA.
- 9.8.6 Although the NPC is responsible for the administration of the financial affairs of the NPC, the NPC option does not detract from the Municipality's statutory right to set the Additional Rate. Only the Municipal Council at its annual budget may approve the Additional Rate.

9.8.7 Directors of the NPC would owe a fiduciary duty to the local community within the SRA, in particular, the ratepayers within the SRA who will be funding the supplementary services. Functions of the NPC would include:

9.8.7.1 determining the budget and Supplementary Services Implementation Plan each year.

9.8.7.2 appointing contractors to effect the improvement/s or upgrade/s and monitoring and reviewing their performance in accordance with measurable performance indicators.

9.8.7.3 receiving the Additional Rate from the Municipality and expending the funds in accordance with the Supplementary Services Implementation Plan approved by the CFO.

9.8.8 Because the NPC option results in public funds collected by the Municipality, being transferred to a private entity, the NPC must be administered and managed strictly in accordance with the Companies Act and also comply with other relevant legislation, and corporate governance principles as enunciated in the King Reports on Corporate Governance. Furthermore, in contracting with suppliers or service providers, the NPC must adhere to the five pillars of procurement which are endorsed in the General Procurement Guidelines issued by the National Government of the Republic of South Africa, namely:

- (a) Value for money
- (b) Open and effective competition
- (c) Ethics and fair dealing
- (d) Accountability and reporting
- (e) Equity

9.8.9. The NPC must have at least three (3) directors. Each director must be assigned a specific portfolio(s) aligned with the Business Plan. No director shall have a direct or indirect interest which is inconsistent with the objects of the NPC, nor shall a director have a direct or indirect interest in any service provider that is engaged by the NPC.

9.8.10 The NPC must give written notice to the local community who are liable for the Additional Rate of the intention to hold a members' meeting within six months of the establishment of the NPC and thereafter an annual general meeting on the date specified in the notice by:

9.8.10.1 advertising in at least two local daily newspapers circulating in the area, and giving notice in a community (local) newspaper, where applicable; and.

9.8.10.2 serving notice on every ratepayer who will be liable for payment of the Additional Rate, in the manner contemplated in 9.21; and

9.8.10.3 posting a copy of the notice on the NPC's website referred to in 9.10.11; and

9.8.10.4 making a copy of the notice available to the CFO for publication on the Municipality's own official web-site.

9.8.11 The purpose of the meetings referred to in 9.8.10 will be to, amongst other items on the agenda:

9.8.11.1 appoint directors;

9.8.11.2 amend the MOI of the NPC, if required, subject to the prior written consent of the CFO; and

9.8.11.3 present for approval the following year's Budget and Service Delivery and Budget Implementation Plan.

## **9.9 Processes for the Establishment of a SRA**

The process for establishing a SRA as contained in this Policy, must be followed in order for the Council to give consideration to the determination of a SRA.

## **9.10 Initiating the SRA**

9.10.1 The Applicant contemplated in 9.6, must establish a Steering Committee composed of not less than three persons representing the property owners in the proposed SRA. Representivity, including gender representivity must be taken into account when such Steering Committee is established. Members of the Steering Committee must at all times, be in good standing in respect of all monies lawfully due by them to the Municipality. No prospective service provider to the SRA may be a member of the Steering Committee.

9.10.2 The Steering Committee must furnish the CFO with the names of the members of the Steering Committee and must meet with the CFO prior to commencing with the establishment process to ensure that the SRA is the appropriate mechanism to address the needs of the local community within the area and that the proposed supplementary services are consistent with the objectives of the Municipality's IDP.

9.10.3 The Steering Committee must keep comprehensive documentary records relating to the establishment of the SRA, including minutes of meetings.

9.10.4 Should the Steering Committee resolve to proceed with the establishment of the SRA, it must notify the CFO in writing and provide the CFO with the following-

9.10.4.1 an aerial map in colour depicting the boundaries of the SRA and clearly showing all roads within the SRA. Such map may be procured from the Municipality's Surveying and Land Information Department.

9.10.4.2 an extract of the property database obtainable from the Municipality's Real Estate (Valuations) Department reflecting all property situated within the SRA. The Steering Committee must, with the assistance of the Municipality, verify the accuracy of such database. Any anomalies must be reported to the CFO for remedial action.

9.10.5 After receipt of the property database, the CFO will prepare a total arrears profile of the owners of property who will be liable for the Additional Rate within the SRA. Only when the CFO is satisfied with the financial viability of the proposed SRA, may the Steering Committee proceed further with the establishment of the SRA.

9.10.6 To assist the Steering Committee to proceed with the establishment of the Special Rating Area in accordance with this Policy, the CFO may furnish the Steering Committee with the rates addresses supplied by the property owners within the Special Rating Area for billing purposes. Prior to release of such information, the Steering Committee must sign a Confidentiality Document in the form prescribed warranting that such information will only be used for purposes related to the establishment of the SRA.

9.10.7 The Steering Committee must conduct an urban management perception survey (only one survey per property owner), in the form prescribed, of not less than 20% of properties in the property database (a proportional split in terms of the usage code is required). In addition, a random sample of people both living and conducting business within the area, which is equal in number to not less than 5% of the properties in the database, must be carried out. The CFO has the right to request a further survey/sample, if necessary. The CFO may reduce the number of survey/sample forms required, subject to fully motivated reasons in writing.

9.10.8 The Steering Committee must consult with the relevant municipal department(s) and address the following-

9.10.8.1 the current service(s) provided and the levels thereof;

9.10.8.2 the desired improvements/upgrades to the current services and proposed manner of implementation.

Relevant details of the respective department are obtainable from any of the Municipality's Sizakala Centres.

9.10.9 All documents relating to the establishment of the SRA, must be approved by the CFO before circulating them to the public.

9.10.10 The Steering Committee must compile a Business Plan in accordance with the provisions of 9.16.

9.10.11 The Steering Committee must establish and maintain a website that is accessible to the local community and the Municipality, for the purpose of viewing information pertaining to the proposed SRA including information on the Business Plan and such information as may be prescribed in terms of this Policy.

## **9.11 First Public Meeting – in principle support**

9.11.1 Any application for the determination of a SRA must be preceded by the holding of a public meeting ('the First Public Meeting'). Such meeting shall only be held once the CFO has confirmed in writing, in the prescribed form, that the Applicant has complied with the requirements set out in 9.10.

9.11.2 The purpose of the First Public Meeting is to enable the Steering Committee to consult with the local community and, in particular the owners of Property, including on the following matters-

9.11.2.1 the proposed boundaries of the SRA;

9.11.2.2 the proposed supplementary services;

9.11.2.3 the proposed rate range of the Additional Rate which is expected to be applicable in terms of the Business Plan;

9.11.2.4 the differentiation between categories of property when the Additional Rate is levied;

9.11.2.5 the Business Plan;

9.11.2.6 the proposed vehicle to manage and administer the SRA; and

9.11.2.7 the consent of the majority of the owners of rateable property, as contemplated in 9.12.2.1 and 9.12.2.2, who will be liable for paying the Additional Rate.

9.11.3 Prior to the holding of the First Public Meeting, the Steering Committee must:

9.11.3.1 give notice of the intention to apply for the approval of the SRA, such notice to be given by-

9.11.3.1.1 publishing a notice in a prescribed form, in at least two local daily newspapers circulating in the proposed SRA. Provided that where the dates of publication differ, the date of the last publication is deemed to be the date of publication;

9.11.3.1.2 placing, subject to the provisions of the Municipality's Advertising Bylaws, prominent information posters, in a prescribed form, on street poles within the proposed SRA;

9.11.3.1.3 displaying a notice at the Municipality's head office, such municipal satellite offices, as determined by the CFO and such municipal libraries, as determined by the CFO, for public inspection during office hours;

- 9.11.3.1.4 serving notice on every ratepayer who will be liable for payment of the Additional Rate, in the manner contemplated in 9.21;
- 9.11.3.1.5 posting a copy of the notice on the NPC's website referred to in 9.12; and
- 9.11.3.1.6 making a copy of the notice available to the CFO for publication on the Municipality's own official web-site.

9.11.4 The notice of the First Public Meeting must-

- 9.11.4.1 state the purpose of such meeting;
- 9.11.4.2 contain details of the place, date and time when such meeting is to be held;
- 9.11.4.3 include the proposed boundaries and supplementary services;
- 9.11.4.4 state the proposed Term Budget;
- 9.11.4.5 state that unless exempted by the Act and this Policy, all property owners will be liable for the proposed Additional Rate;
- 9.11.4.6 include the Municipality's address where the Business Plan may be inspected for the period;
- 9.11.4.7 state the location where, date from which and date by when, written comments and representations to the proposed SRA and/or the Business Plan, in accordance with 9.12, may be submitted to the Municipality. Provided that the period specified in such notice for the submission of objections may not be less than thirty days calculated from the date on which the First Public Meeting is held.



9.11.5 The Steering Committee must provide proof of publication in the newspapers by lodging the full newspaper tear sheets with the Municipality within seven working days (excluding weekends and public holidays) of date of closing of the period allowed for lodging objections.

9.11.6 In addition to the proof contemplated in 9.11.5, the Steering Committee must simultaneously submit to the Municipality an affidavit confirming compliance with 9.11.3.1.2 - 9.11.3.1.6. The deponent to the affidavit must be one of the members who has knowledge and can attest to the facts.

9.11.7 The First Public Meeting must be held not less than 10 working days (excluding weekends and public holidays) and not more than thirty days (excluding weekends and public holidays) after the date of the notice. The venue must be situated within the boundaries of the proposed SRA, unless the CFO, on good grounds, approves another venue in writing before the First Public Meeting is held and prior to publication of the notice referred to in 9.11.3.1.1.

9.11.8 Interested persons must, at the First Public Meeting, be:

9.11.8.1 furnished with all relevant information relating to the proposed SRA, including the Business Plan;

9.11.8.2 given an opportunity to ask questions, express their views and make representations;

9.11.8.3 briefed on the procedure which allows any of them to lodge objections for the consideration of the Council in its deliberations on the application contemplated in 9.13.

9.11.9 The First Public Meeting must be attended by a representative from the Municipality and chaired by a suitably qualified and experienced person.

9.11.10 Minutes of the First Public Meeting must be kept and a copy lodged with the CFO no later than fourteen working days (excluding weekends and public holidays) after the First Public Meeting is held. Such minutes shall be available for inspection by the local community, upon request, at the address mentioned in 9.11.4.7.

## **9.12. Obtaining support for the SRA**

9.12.1 Support for the establishment of the SRA may only be formally obtained after the First Public Meeting, and on the prescribed consent form provided by the CFO.

9.12.2 In order for the establishment of the proposed SRA to be considered, sufficient number of property owners within the SRA must sign the prescribed consent form to demonstrate that:

9.12.2.1 in the case of a proposed SRA where the properties are predominantly categorised as 'Business and Commercial', at least 51% of such owners in number, support the establishment of the SRA. Each registered owner will be entitled to one (1) vote irrespective of the number of co-owners. Residential owners will be zero rated in respect of the Additional Rate.

9.12.2.2 in the case of a proposed SRA other than the one contemplated in 9.12.2.1, at least 66% of owners in number and equating to 51% of the value of rateable property within the SRA, support the establishment of the SRA. Each registered property will be entitled to one (1) vote irrespective of the number of co-owners.

9.12.3 All support forms must be filed and cross referenced to the property database in terms of 9.10.4.2 to verify the accuracy thereof.

9.12.4 Any property owner who wants to object to the establishment of a SRA or any other matter directly related to the proposed SRA, can do so by indicating this on the prescribed consent form. The objector will have the right to submit a formal objection letter in accordance with 9.14 once an application for the establishment of a SRA is submitted to Council.

9.12.5 Consents and objections will be considered only if they are submitted to the Municipality by the last day specified in the notice referred to in 9.11.4.7.

9.12.6 A second public meeting must be called if the Business Plan is materially amended, as determined by the CFO, after the First Public Meeting has been held. In such instance, the provisions of 9.11 apply with the necessary changes to the second public meeting for approval of the SRA.

9.12.7 The Steering Committee may engage with any objectors who object to the proposed SRA pursuant to the holding of the First Public Meeting or the second public meeting, as contemplated in 9.11.1 and 9.12.6 respectively. Where engagement happens, the Steering Committee must provide the objectors and the Municipality, with minutes of the meeting held with them. An objector will be allowed to respond to the minutes within ten working days.

9.12.8 A person liable for the Additional Rate may appoint any individual as a proxy to participate in, and speak at, the First Public Meeting contemplated in 9.11.1, or give or withhold written consent on behalf of such person for any purpose in terms of this Policy relating to the determination of a SRA, provided that the proxy appointment must be in writing, dated and signed by such person and be in a prescribed form. Any proxy presented at the First Public Meeting must be retained by the Steering Committee and be available for inspection by the Municipality, if necessary. Where a proxy appointment has been given for the purposes of submitting any prescribed document in terms of this Policy relating to the determination of a SRA, either the original proxy appointment must accompany such prescribed document or a lawful certified copy attested by a commissioner of oaths.

### **9.13 Application in terms of Section 22 of the Act**

9.13.1 An application for the establishment of a SRA must be submitted in accordance with this Policy.

9.13.2 An application for the determination of a SRA must-

9.13.2.1 be in writing and be in the prescribed form;

9.13.2.2 be accompanied by the Business Plan;

9.13.2.3 be accompanied by payment of any prescribed fee.

9.13.3 The Steering Committee must give notice of the SRA application, as contemplated in 9.13.1, but may only proceed to do so, once the CFO has confirmed in writing that the application complies in all respects with this Policy.

9.13.4 The Steering Committee must commence with public notice in the manner and form provided for in 9.14.1, within fourteen working days (excluding weekends and public holidays) of receipt of the notification referred to in 9.13.3, or within such further period which the CFO may approve in writing.

9.13.5 The Steering Committee must display the following on the website established in terms of 9.10.11:

- i) Application letter;
- ii) Business Plan;
- iii) Report on the urban management perception survey;
- iv) Presentations given at public meetings;
- v) Minutes of public meetings;
- vi) this Policy;
- vii) the Bylaw;
- viii) SRA frequently asked questions;
- ix) Notices; and
- x) Prescribed consent/objection form

9.13.6 The SRA application must be submitted by no later than 31 August of the financial year preceding the start of the new Municipal Financial Year for which the application is made. Such date enables the Municipality to make provision for the Additional Rate in its budget processes for such Municipal Finance Year. The CFO may extend this date to 30 September if a properly motivated request is received and the Municipality's budget processes can accommodate this.

## **9.14 Advertising of Application**

9.14.1 The Steering Committee must give notice of its application to the Municipality for the establishment of a SRA by

9.14.1.1 publishing a notice in a prescribed form, once, in at least two local daily newspapers circulating in the proposed SRA, and giving notice in a community (local) newspaper, where applicable. Provided that where the dates of publication differ, the date of the last publication is deemed to be the date of publication;

9.14.1.2 displaying a notice at the Municipality's head office, such municipal satellite offices, as determined by the CFO and such municipal libraries, as determined by the CFO, for public inspection during office hours;

9.14.1.3 serving notice on every ratepayer who will be liable for payment of the Additional Rate, in the manner contemplated in 9.21;

9.14.1.4 making a copy of the notice available to the CFO for publication on the Municipality's web-site.

9.14.2 A notice contemplated in 9.14.1.2 must be published in the language of the newspaper.

9.14.3 Every notice contemplated in 9.14.1 must state that written objections to the determination of a SRA or the provisions of the Business Plan may be lodged with the Municipality by not later than a date specified in the notice, which shall not be less than thirty working days (excluding weekends and public holidays) after the date of publication in terms of 9.14.1.1, and must further state that the Business Plan is available for inspection at a location determined by the CFO within the SRA, during such thirty day period .

9.14.4 The Steering Committee must provide proof of publication in the newspapers by lodging the full newspaper tear sheets with the Municipality within seven working days (excluding weekends and public holidays) of date of closing of the period allowed for lodging objections.

## **9.15 Objections to the SRA**

9.15.1 Objections must be submitted to the Municipality by the last day specified in the notices in terms of 9.14.1.1. Any consent or objection submitted late will be disqualified from consideration.

9.15.2 Objectors to the establishment of a SRA must do so in writing provided that where an objector wants to make oral representations, such objector must be assisted by a municipal official at one of the Municipality's Sizakala Centres. The first name, surname and designation of the municipal official who recorded the oral representations must appear on the objection document.

9.15.3 An objection must contain the following:

9.15.3.1 The name and physical address of the person making the objection;

9.15.3.2 The address at which the person shall receive service of any notice or correspondence, which may include a facsimile or email address;

9.15.3.3 the interest of the person in the application;

9.15.3.4 full reasons for the objection.

## **9.16 Content of the Business Plan**

9.16.1 The Business Plan must:

9.16.1.1 include a motivation report;

- 9.16.1.2 include an aerial map in colour delineating the geographic boundaries of the SRA and clearly showing all roads within the SRA;
- 9.16.1.3 show alignment with the Municipality's IDP;
- 9.16.1.4 include a Supplementary Services Implementation Plan;
- 9.16.1.5 include a Term Budget based on the information relating to property values, category of usage and respective rate randages available at the time;
- 9.16.1.6 reflect a reasonable distribution of expenses so that improvements to or the upgrade of the SRA, as contemplated, are not diluted by the costs of administration;
- 9.16.1.7 confines the supplementary services to public places;
- 9.16.1.8 demonstrates how it is anticipated the SRA and local community may benefit;
- 9.16.1.9 give attention to socio-economic challenges prevalent in the SRA.

## **9.17 Content of the Motivation Report**

9.17.1 The content of the motivation report must be in the prescribed form and include the following annexures:

- 9.17.1.1 A list of all rateable Property within the SRA, contact details of all property owners and the value of each property and their category, as reflected in the Municipality's general valuation roll or any relevant supplementary valuation roll;

- 9.17.1.2 Proof of the consent of the majority of the local community within the proposed SRA who will be liable for paying the Additional Rate;
- 9.17.1.3 Proof of the notice of the public meeting or meetings contemplated in this Policy;
- 9.17.1.4 Minutes of the public meetings or other meetings contemplated in this Policy;

## **9.18 Supplementary Services Implementation Plan**

9.18.1 The Supplementary Services Implementation Plan must contain the following minimum content:

- 9.18.1.1 Milestones in respect of the supplementary services;
- 9.18.1.2 Tasks per milestone;
- 9.18.1.3 Assignment of responsibility per goal, milestone and task with start and finish dates; and
- 9.18.1.4 Performance indicators per milestone, per quarter.

## **9.19 The Term Budget**

9.19.1 The Term Budget must address at least the following:

- 9.19.1.1 a three year budget with a forecast for five years, that is sustainable in terms of being funded from realistic anticipated revenue to be collected and is also sufficiently conservative to address the fact that any transfer of funds by the Municipality to the NPC will be based on the actual Additional Rate collected per month and as stipulated in 9.19.1.4;



- 9.19.1.2 an annual budget, per line item that aligns with the Municipal Financial Year;
- 9.19.1.3 a budget split for the provision of improvements or upgrades between the different categories of rateable properties;
- 9.19.1.4 A budget that makes allowance for the fact that the Municipality will transfer to the NPC, monthly, the Additional Rate collected based on 1/11<sup>th</sup> of their budget, with the final payment of retained funds to be paid once the final adjustment and reconciliation, for the year, between the annual budget and actual collection has been made.
- 9.19.1.5 a budget showing a cash backed stabilisation reserve fund that shall not exceed 30% of the Additional Rate transferred to the NPC in any Municipal Financial Year, to address unforeseen expenditure, specifically, the eventuality of a reduction in the quantum of the Additional Rate collectable from property owners on account of any change downward in the valuation of a property or change in the category of a property resulting in the reduction of the municipal property rate;
- 9.19.1.6 be compliant with generally recognised accounting principles. The CFO exercising his/her oversight role, may reject and refer back any budget that is not accordance with such principles.

## **9.20 Pre-Establishment Cost of the SRA**

9.20.1 In the budget for the first Municipal Financial Year, the Steering Committee may include the pre-establishment costs of the SRA provided that:

- 9.20.1.1 In motivating for inclusion of the pre-establishment costs in the SRA budget, the NPC must be able to justify such costs to the CFO by reference to a bench marking exercise and/or legislated tariffs;

9.20.1.2 No legal costs payable to any member of the legal profession will be entertained where they exceed the statutory Supreme Court tariff published by the Rules Board of South Africa. A certificate by a validly registered practising attorney must be produced certifying that the legal costs claimed comply with the Supreme Court tariff. In the event of a dispute, the CFO may refer the matter to the KwaZulu-Natal Law Society for a final decision.

9.20.1.3 Ultimately, no pre-establishment costs may be incorporated into the NPC's budget unless agreed by the CFO in writing.

## **9.21 Service of documents**

9.21.1 Subject to any prescribed mode of service or communication stipulated in any notice or document contemplated in this clause 9, any document that needs to be served on any person in terms of this Policy in relation to the establishment of a SRA, may be served:

9.21.1.1 by sending the document by pre-paid registered post, to the last known residential or business address in the Republic. An acknowledgement of the posting thereof from the postal service must be obtained;

9.21.1.2 by sending the document by pre-paid registered post to the municipal billing address of the person, where available;

9.21.1.3 by delivering the document by hand to the person (with proof of receipt by signature on delivery);

9.21.1.4 by successful electronic transmission of the document to the last known e-mail address of the person or to the e-mail address used for municipal billing purposes, where available; or

9.21.1.5 by SMS to the mobile phone number of the person (with proof of receipt through a delivery or read receipt).

9.21.2 If a document has been served in terms of 9.21.1 by

9.21.2.1 delivering the document to the addressee personally, the date on which the document was delivered, must be regarded as the date of service of the document.

9.21.2.2 If a document has been served by successful electronic transmission of the document to the e-mail address, the date on which the document was successfully transmitted must be regarded as the date of service of the document.

9.21.2.3 If a document has been served by pre-paid registered post or certified mail, service must be regarded as having been effected to that person's last known residential or business address in the republic and acknowledgement of the posting thereof from the postal service is obtained.

## **9.22 Decision of the Council**

9.22.1 When considering an application for the determination of a SRA, the Council may:

9.22.1.1 determine a SRA which must be implemented in accordance with the Business Plan;

9.22.1.2 determine a SRA with such conditions as the Council considers to be in the interest of the local community and the property owners who will be liable for the Additional Rate;

9.22.1.3 refuse the application, in which event the CFO must, within thirty working days (excluding weekends and public holidays), furnish the

applicant with written reasons for not approving the determination of a SRA; or

9.22.1.4 refer the application back to the applicant for amendment in such manner as the Council may direct.

9.22.2 If an application is refused by the Council or referred back to the applicant in accordance with 9.22.1.4, the applicant may, within six months of the Council's decision but subject to 9.13.6, re-apply to the Council for the determination of the SRA, provided that such application has been appropriately amended to accommodate the reasons for refusal or referral, as the case may be.

## **PART 2**

### **9.23 Finance Agreement**

9.23.1 Any payment by the Municipality to the NPC shall be subject to the prior conclusion of a Finance Agreement in terms of section 67 of the Municipal Finance Management Act, in the prescribed form, as approved by Council, between the NPC and the Municipality, which agreement shall regulate, amongst other things:

- 9.23.1.1 The mechanisms and manner of payment;
- 9.23.1.2 Terms upon which payment to the NPC is to be made;
- 9.23.1.3 How the additional rate is to be held by the NPC;
- 9.23.1.4 Retention of a portion of monies collected to mitigate against property valuation adjustments, as contemplated in clause 9.18.1.5
- 9.23.1.5 any parameters relating to expenditure; and
- 9.23.1.6 any obligations on the NPC to take out and maintain appropriate insurance.

9.23.2 A copy of the NPC's Business Plan, as approved by Council, must be attached as an annexure to the Finance Agreement.

9.23.3 Funds will not be transferred to the NPC unless the Municipality is in receipt of the original signed Finance Agreement.

9.23.4 Once the SRA has been approved by a resolution of Council at its annual budget meeting and the Finance Agreement has been signed, effective, for the ensuing Municipal Financial Year, the Municipality will levy the Additional Rate.

9.23.5 A Finance Agreement will be concluded with a NPC for a period of three years, subject to the right of the Municipality, annually, amongst other things, to review the performance of the NPC, its compliance with obligations under the Finance Agreement and this Policy, as well as the continuing financial viability of the SRA.

9.23.6 In the event of the NPC failing to comply with its obligations under the Finance Agreement and or this Policy, or the CFO determining that the SRA is no longer financially viable during the annual review as contemplated in 9.23.5, the Finance Agreement may be cancelled (without derogating from any other right that the Municipality may have) or the SRA may be dissolved in terms of this Policy, as the case maybe.

### **PART 3**

#### **9.24 Finances**

9.24.1 The additional rate is imposed by the Council, is a debt owing to the Municipality and is payable and collected in the same manner as other property rates imposed by the Municipality.

9.24.2 Property owners who are Senior Citizens, Disability Grantees/Medically Boarded Persons and Child Headed Household who receive a rates rebate in terms of this Policy, the Act, or by Council at its annual budget meeting, will not be liable for the proposed Additional Rate.

9.24.3 Within 3 months of the end of each financial year of a NPC, the NPC must provide the CFO with :

- (a) its audited financial statements for the immediately preceding year; and
- (b) an annual report on its progress in carrying out the provisions of the business plan in the preceding year to improve and upgrade the special rating area.

9.24.4 A NPC must commence the implementation of its Supplementary Services Implementation Plan within two months of receipt of the first tranche payment of funds by the Municipality in accordance with the Finance Agreement.

9.24.5 Transfer of any funds by the Municipality to a NPC will be effected monthly in arrears.

9.24.6 Subject to the provisions of its MOI, a NPC is entitled to raise its own funds through commercial activities, donations or any other lawful means.

9.24.7 The CFO may request a forensic audit should it be deemed necessary.

9.24.8 The CFO may request a special board meeting of a NPC.

9.24.9 The financial year of the NPC should coincide with the financial year of the Municipality.

## **9.25 Annual requirements**

9.25.1 The NPC must, by no later than by 31 December submit an annual budget and Supplementary Services Implementation Plan for comment by the CFO before

approval at its annual general meeting or a Special General Meeting and ensure that:

9.25.1.1 the quantum of funds held in the stabilization reserve fund as contemplated in 9.4.1.6 is being maintained;

9.25.1.2 the Supplementary Services Implementation Plan is aligned with the proposed budget.

9.25.2 The NPC must submit an annual budget as approved at an annual general meeting or Special General Meeting to the CFO by 31 January, with appropriate motivation including a Supplementary Services Implementation Plan for the next financial year, and the Council will consider recommendations regarding the Additional Rate during its budgeting process.

9.25.3 The NPC must provide the CFO with a quarterly performance scorecard based on the activities set out in the Supplementary Services Implementation Plan.

9.25.4 The NPC will within one month after the AGM provide the CFO with draft minutes of the annual general meeting to ensure compliance with the legal requirements.

## **9.26 Financial Viability**

9.26.1 The financial viability of a SRA, in any Municipal Financial Year, must be measured, amongst other things, against the actual collection rate of the Additional Rate on a quarterly basis. If such collection rate falls below 95%, the Municipality may dissolve the SRA as in 9.29.

## **9.27 Amendment to the Business Plan**

9.27.1 The CFO may approve a written application by a NPC for an amendment of its Business Plan, as approved by Council, where the CFO considers it not likely to materially affect the rights or interests of any property owner within the SRA, provided that the CFO may require the NPC to cause a notice of the application for such amendment to be published in a form approved by the CFO.

## **PART 4**

### **9.28 Amendment of Boundaries**

9.28.1 Amendment to boundaries of an existing SRA, shall be treated as a new application in terms of clause 9.13 with such changes as may be required by the context.

9.28.2 The new SRA boundary may not exceed 100% of the existing SRA boundary in size.

9.28.3 Council may limit the increase of the new geographical boundary or the number of the new properties to be incorporated.

## **PART 5**

### **9.29 Dissolution of a Special Rating Area**

9.29.1 An SRA may be dissolved by a Council Resolution –

9.29.1.1 Where the NPC breaches the Finance Agreement and has failed to remedy the breach within the period determined in the Finance Agreement.



9.29.1.2 If, in the case of a SRA where the properties are predominantly categorised as 'Business and Commercial', at least 51% of the owners in number, liable for the Additional Rate, sign the Prescribed Form supporting the dissolution of the SRA. Each registered owner will be entitled to one (1) vote irrespective of the number of co-owners, or

9.29.1.3 If, in the case of a SRA other than the one contemplated in 9.29.1.2, at least 66% of owners in number, liable for the Additional Rate, and equating to 51% of the value of rateable property within the SRA, sign the Prescribed Form supporting the dissolution of the SRA. Each registered property will be entitled to one (1) vote irrespective of the number of co-owners.

9.29.1.4 If Council, upon the recommendation of the CFO, determines that the SRA is not financially viable, as contemplated in 9.26.

9.29.1.5 For any other good cause, after prior consultation by a CFO with the NPC and the local community.

9.29.2 Unless otherwise determined by Council, the effective date of dissolution of a SRA, shall be on the last day of June in the Municipal financial year of the Council resolution.

## **PART 6**

### **9.30 Transitional Provisions**

9.30.1 If an existing NPC's financial year end does not coincide with the Municipal Financial Year, the NPC must take steps to rectify this within twelve months of the date of adoption of this Policy or within such other period as may be approved by the CFO, for good reason.

9.30.2 The CFO may, upon written submission by an existing NPC, condone non-compliance by such NPC with any new provision contained in this Policy in relation to the NPC's budgeting and reporting obligations, where the CFO determines that it is not practically possible to comply with the new provision. The NPC must rectify the non-compliance by such period as determined by the CFO

## **10. PROPERTIES USED FOR MULTIPLE PURPOSES**

10.1 Properties used for multiple purposes will, for rating purposes, be dealt with in terms of section 9(1) (c) of the Act and rates levied on such property will be determined by-

10.1.1 apportioning the market value of the property to the different purposes for which the property is used; and

10.1.2 applying the rates applicable to the appropriate categories listed in clause 5.6 , to the different market value apportionments.

## **11. UNAUTHORISED OR ILLEGAL DEVELOPMENT OR USE AND ABANDONED PROPERTY OR BUILDING**

11.1 Where a property is being or , has been developed or is being used without authority or illegally, in contravention of National Legislation, any Municipality's By-laws or any Regulations, the Land Use Scheme or any other applicable law, the Municipality may change its category to the "Unauthorised or Illegal development or use, and Abandoned Property or Building" category.

11.2 Where a property or the buildings on a property have, in the opinion of the CFO, been abandoned and have become or are becoming derelict or unusable in its present condition for the purpose for which it was intended, the Municipality may change the category of the relevant property to the "Unauthorised or Illegal development or use, and Abandoned Property or Building" category.

- 11.3 Where an owner or any person occupying privately owned property through such owner unlawfully encroaches upon an adjoining Municipal property, the Municipality will change the category of the offending owner's property to "Unauthorised or Illegal development or use, and Abandoned Property or Building" category, until such time as the unlawful activity ceases.

## **12. RURAL RESIDENTIAL PROPERTY and RATEABLE RURAL PROPERTY**

- 12.1 Individual structures, on Rural Residential property identified by the Municipality, may be valued and rated on individual accounts notwithstanding the non-registration of any subdivisions.
- 12.2 Individual structures on Rateable Rural Property may be valued and rated on individual accounts notwithstanding the non-registration of any subdivisions.
- 12.3 Notwithstanding the individual accounts, the owner of the property remains liable for rates.

## **13. SECTIONAL TITLE PROPERTIES**

- 13.1 Registered exclusive use areas shall be valued together with the sectional title units concerned.
- 13.2 Exclusive use areas in terms of the Rules of the Body Corporate shall form part of the common property.
- 13.3 Units not used for residential purposes shall not benefit from residential rebates or reductions.
- 13.4 The Municipality may value real rights of extension, and such rights shall be rated in accordance with the vacant land rate.

- 13.5 Where a developer pursues a phased development, the bulk land shall be valued as vacant land and rated in accordance with 13.4.
- 13.6 Where real rights are being traded, the rights may be included in the valuation roll.
- 13.7 Where a Share Block Company as defined by the Share Blocks Control Act 1980 (Act no. 59 of 1980) has opened a Sectional Title Register in respect of residential land and buildings to which the Share Block Scheme relates, then, only residential sectional title unit owners may qualify for rebates under clause 7.2, 7.3 and 7.4, provided they meet the necessary criteria as set out by the Municipality from time to time.

#### **14. ECONOMIC DEVELOPMENT**

- 14.1 In order to stimulate economic development within the City, a specific rates rebates, referred to as the “development incentive rebate”, may, upon application and approval be granted as an incentive for a particular development.
- 14.2 The amount of any particular development incentive rebate and the criteria for the granting of any specific development incentive rebate (without derogating from the provisions of clause 14.3), shall be determined annually by the Council when approving the Municipality’s annual budget.
- 14.3 The development incentive rebate is subject to the Economic Development Incentive Policy as approved by Council. (The Economic Development and Investment Promotion Unit is the custodian of the Economic Development Incentive Policy).
- 14.4 Every individual application for the development incentive rebate together with a draft agreement to be concluded between the Municipality and the owner of

the property (the “Contracting Party”), must be submitted to Council for approval.

14.5 In relation to a Greenfield Investment, the vacant land may receive a rebate on the difference in rate randage of the intended use of the developed land, on approval of development plans based on the following criteria–

- a) the rebate shall be according to category rate randage of property to approved building plan;
- b) the rebate shall be for a defined period;
- c) the Contracting Party shall be under obligation to complete the development within the defined period, and
- d) Subject to annual inflationary linked increases, the rebate shall remain the same, until such time as a completion certificate has been issued by the Municipality in terms of the National Building Regulations and Building Standards Act, 1977(Act 103 of 1977), as amended or upon expiry of the defined period, whichever is the earlier, as per the agreement between the Municipality and the Contracting Party.
- e) Notwithstanding d) above, in the case of a development with a total investment value of R1 billion or more, where:
  - i) a registrable subdivision is developed and a completion certificate has been issued; or
  - ii) a Certificate of Registered Title has been issued by the Deeds Registry in respect of a subdivision,such subdivision will be excluded from the rebate and will be rateable in terms of the Act.

14.6 In relation to a Brownfield investment, a rebate as approved by Council, on individual applications may be granted for prioritized areas earmarked by the Municipality, based on the following criteria–

- a) building plans for the proposed development must have been approved;
- b) the development incentive rebate shall be for a defined period;
- c) the Contracting Party shall be under a non-renewable contractual obligation to complete the development within the defined period; and

- d) Subject to annual inflationary linked increases, the rebate shall remain the same, until such time as a completion certificate has been issued by the Municipality in terms of the National Building Regulations and Building Standards Act, 1977(Act 103 of 1977), as amended or upon expiry of the defined period, whichever is the earlier, as per the agreement between the Municipality and the Contracting Party.
- e) Notwithstanding d) above, in the case of a development with a total investment value of R1 billion or more, where:
  - i) a registrable subdivision is developed and a completion certificate has been issued; or
  - ii) a Certificate of Registered Title has been issued by the Deeds Registry in respect of a subdivision,such subdivision will be excluded from the rebate and will be rateable in terms of the Act.

14.7 A development incentive rebate is:

14.7.1 granted on application;

14.7.2 for a defined period;

14.7.3 dealt with on its own merit; and

14.7.4) as determined by the Council when approving the Municipality's annual budget; and

14.7.5 subject to the Municipality's annual budget for a particular Municipal Financial Year.

14.8 Where a development is complete and there is subsequent occupation but transfer of ownership has not taken place, the Contracting Party shall be liable for the relevant taxes and any other municipal debt arising out of such occupation.

14.9 If the Contracting Party receives the development incentive rebate in error, the Municipality reserves the right to reverse the rebate in the manner it deems fit.

14.10 The agreement contemplated in clause 14.3 may, with the prior consent of the Municipality in writing, be ceded to a successor in title of the Contracting Party.

## **15. MULTIPLE ENTRIES IN THE VALUATION ROLL**

- 15.1 On application, unregistered long leases on land owned by the State or a State Entity may, at the discretion of the Head: Real Estate be valued and rated per lease boundary, the costs of which shall be borne by the Applicant.
- 15.2 Notwithstanding such valuation and rating, the owner of the land shall remain responsible for the rates on such land.

## **16. PAYMENT AND RECOVERY OF RATES**

- 16.1 Payment and recovery of rates shall be governed by the Municipality's Credit Control and Debt Collection Policy.
- 16.2 The lodging of an objection or appeal does not defer liability for the payment of rates beyond the date determined for payment;

## **17. DEFERMENT OF RATES PAYABLE BY UNEMPLOYED PERSONS**

- 17.1 The Municipality may on application defer the payment of rates in terms of section 26(3) of the Act, only in respect of rates payable in respect of residential property, under the following special circumstances. To qualify for deferment of rates, the Applicant
  - 17.1.1. must be temporarily unemployed for a period not exceeding 3 months as at the date of application;
  - 17.2.1.2 must substantiate his/her application with a letter by the Department of Labour confirming unemployment status;
  - 17.2.1.3 must produce an unemployment Insurance Fund (UIF) card; where an applicant was employed in a formal sector;

- 17.2.1.4 must produce a permit issued by the Municipality's Business Support (Informal Trade) Unit; where an applicant was employed in the informal sector;
- 17.2.1.5 must furnish an affidavit confirming his/her unemployment status; and
- 17.2.1.6 must produce any other relevant documents that the CFO may request from time to time;
  
- 17.2.1.2 must reside permanently on the residential property concerned; and
  
- 17.2.1.3 must be the registered owner of the residential property.
  
- 17.2.2 Application must be made in writing on the prescribed form.
  
- 17.2.3 Subject to clause 17.2.5, a deferment period shall endure for a period of six (6) months, calculated from the date of approval.
  
- 17.2.4 The Municipal account must be up to date at the date of application, in order for the application to be considered.
  
- 17.2.5 Any deferment granted in terms hereof shall terminate immediately–
  - 17.2.5.1 upon the death of the registered owner; provided that the Council may continue such deferment, in any case where it is established to its satisfaction that the property concerned has been inherited by the surviving spouse and that such spouse is continuing in occupation of the property;
  - 17.2.5.2 upon the expropriation, transfer or other disposal of the property concerned;
  - 17.2.5.3 upon the owner ceasing to reside permanently on the property concerned;
  - 17.2.5.4 if the owner fails by the final date for the payment thereof, to pay rates or any part thereof owing in respect of the property concerned, after allowing for the amount of the deferment;



- 17.2.5.5 Upon the applicant becoming formally or informally employed or trading for his/her own account; or
- 17.2.5.6 on expiry of the period of deferment.

17.2.6 Deferment of rates payment will not be granted simultaneously with any rates rebate provided in this Policy, i.e. the ratepayer will not enjoy a deferment simultaneously with a rebate.

17.2.7 It is recorded that certain unsold properties within Special Zone 91, being the Point Waterfront development, the area of which is depicted on the Municipality's Planning Scheme Map, are the subject of rates deferment granted to the developer and registered owner of the sites, Durban Point Development Company Pty Ltd, in which the Municipality has a 50% shareholding interest.

Per Council resolution dated 28 October 2015, and in terms of section 26(3) of the Act, Council approved the deferment of rates in respect of properties still registered in the name of the Durban Point Development Company Pty Ltd, for the period 1 July 2014 to 30 June 2019 with the proviso that when transfer of any land parcel takes place to any other party, rates will become payable by the new owner and the deferred portion on the property in question, will be due and payable. Any rates accrued up to the point of sale on the remaining properties will remain deferred until the expiration of the deferment period of 30 June 2019, at which date the entire accumulated amount will become due and payable.

## **18. SUPPLEMENTARY VALUATIONS**

18.1 The Municipality shall from time to time value new properties and revalue existing properties, and such new valuations shall be reflected in a supplementary valuation roll, and the rates levied on a property listed in the supplementary valuation roll will become payable as determined in section 78 of the Act.

- 18.2 In the case where there was a change in the category of a rateable property as contemplated in section 78(1)(g) of the Act, rates levied on such property shall become payable on the date on which the change of category occurred or on the date on which the supplementary valuation roll reflecting the change, was completed, whichever date is the earlier subject to the provisions of section 18.3 and 18.4.
- 18.3 If it is not possible to determine the exact date on which the change of category occurred, the CFO may determine such date and may have regard to the following:
- 18.3.1 the date of issue of a Certificate by the Development Planning and Environmental Management Department indicating abandoned, unauthorized or illegal development/use as contemplated by clause 11;
  - 18.3.2 the date of issue of a Certificate by the Real Estate Unit following an inspection of the property;
  - 18.3.3 any records or correspondence confirming the date of change of category;
  - 18.3.4 any enforcement /compliance or other notice issued in terms of any law, indicating a change of category; or
  - 18.3.5 any other factors which the CFO deems relevant.
- 18.4 Where the CFO has determined that the date on which the change of category referred to in section 78 (1)(g) of the Act preceded the date of transfer of the property to the current owner of the property, the date on which the change of category occurred will, for the purposes of section 78(4)(e) of the Act, be deemed to be the date of transfer to such current owner.

## **19. GENERAL**

- 19.1 The CFO or his nominee may hear representations where applications for rebates or exemptions have been rejected and his/her nominee may take a decision, based on the spirit of this Policy, which is binding.

## **20. POLICY EVALUATION AND REVIEW**

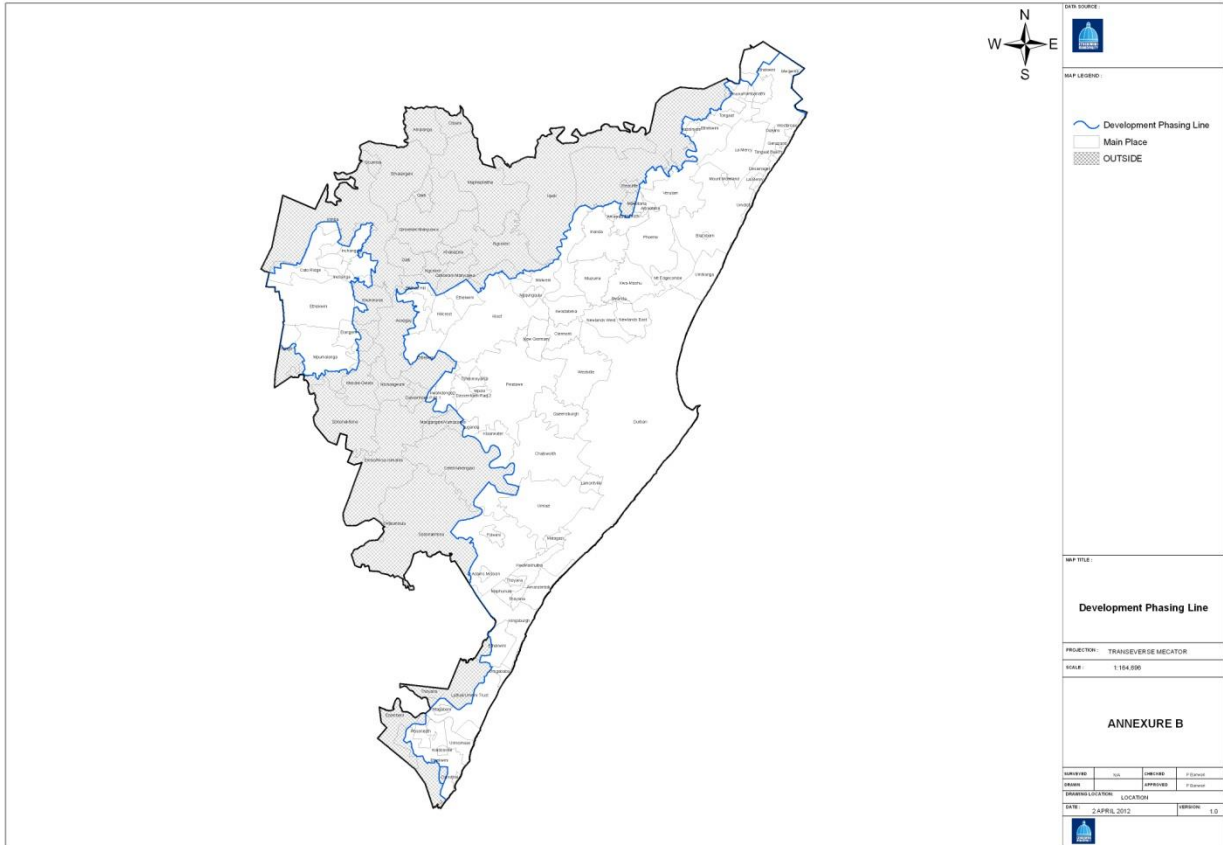
This is the 10th review of the original rates policy adopted by Council in 2008 in compliance with the Act.

Practical implementation issues, legislative requirements and where applicable, statistics are used to evaluate and review this policy. This policy is reviewed annually in terms of the Act.

**THIS POLICY AND PRESCRIBED FORMS ARE AVAILABLE AT CUSTOMER SERVICE CENTRES, SIZAKALA CENTRE OFFICES AND THE CITY HALL, DURBAN AND ON THE ETHEKWINI MUNICIPALITY WEBSITE [www.durban.gov.za](http://www.durban.gov.za)**

## **ANNEXURE A**

### **URBAN DEVELOPMENT LINE**



**ANNEXURE B**

<b>Rate Code</b>	<b>Rating Category</b>
*1	Residential property
2	Agricultural property
3	Vacant Land
4	Industrial Property
5	Business and Commercial Property
8	Public Service Infrastructure properties
9	Outside urban Development Line
22	Unauthorised or Illegal development or use, and Abandoned Property or Building
1	Rateable Rural Property
1	Rural Residential