



# ETHEKWINI MUNICIPALITY

## SPECIAL RATING AREA POLICY

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# **SPECIAL RATING AREAS IN TERMS OF SECTION 22 OF THE MUNICIPAL PROPERTY RATES ACT**

## **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 and Section 62(1)(f) of the Local Government: Municipal Finance Management Act, No. 56 of 2003, a Municipality should adopt and implement a policy on the levying of rates on rateable property.

The levying of a special rate in relation to areas defined as Special Rating Areas is provided for in terms of Section 22 of the Municipal Property Rates Act read in conjunction with Rates policy of the eThekweni Municipality and the eThekweni Municipality: Property Rates Bylaw of 2015.

## **PURPOSE**

The objective of this Policy, which is to be read in conjunction with the above mentioned legislative and policy framework, is to regulate principles and procedures by which Special Rating Areas in eThekweni are established, funded, managed and governed in a sustainable, fair and equitable way.

## **DEFINITIONS AND ACRONYMS**

In addition to the definitions provided for in the Act, the following definitions apply for the purpose of this Policy-

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

**"Additional Rate"** means an additional rate contemplated in Sections 19(1)(d) and 22(1)(b) of the Act read together with the eThekweni Municipal Property Rates Policy, which and is payable and collected in the same manner as other property rates imposed by the Municipality;

**"Additional Rate Randage"** means the cents in the rand set as a tariff for each category of additional rates levied by the Municipality;

**"Audited Financial Statements"** mean 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;

**"Basic municipal services"** means the services as defined in the Municipal Systems Act that are provided by 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, for the purposes of the Finance Agreement, the business plan together with all its annexures, as updated from time to time for each successive financial year in respect of which the Finance Agreement remains in force, and which shall include:

- a) A motivation report for the establishment or continued operation of an SRA, as applicable;
- b) Additional Services Implementation Plan;
- c) Annual budget;
- d) Term budget; and
- e) Confirmation of alignment with the Municipality’s IDP;

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

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

**“Commercial SRA”** means an SRA in which only business and commercial properties are liable for the Additional Rate.

**“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;

**“Demarcated area”** means, a defined local area described on a map and by its main bounding roads that may be an SRA or any other form of managed precinct.

**“Finance Agreement”** means an agreement, in the prescribed form, entered into between the Municipality and the SRA Management Company in terms of Section 67 of the MFMA;

**“IDP”** means Integrated Development Plan contemplated in Section 25 of the Systems Act;

**“Initiators”** means a group of owners who come together informally and agree to consult owners and the community of a demarcated area with the intention of leading a process to apply for the establishment of a SRA.

**“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 or the holding thereof 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;

**“liable owner”** means each member of the local community who may become liable for payment of the Additional Rate, should the Special Rating Area be established;

**“local community”** in relation to a municipality means;

- (a) that body of persons comprising -
  - (i) the residents of the municipality;
  - (ii) the ratepayers of the municipality;
  - (iii) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the municipality; and
  - (iv) visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality; and
- (b) includes, more specifically, the poor and other disadvantaged sections of such body of persons;

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

**“Mining Property”** means a property used for mining operations as defined by the Mineral and Petroleum Resources Development Act, No.28 of 2002, as amended;

**“Mixed use SRA”** means an SRA in which all categories of property that are liable for Municipal Rates are liable for the Additional Rate.

**“Municipal property”** means any property over which the Municipality is either the registered owner of property or the property is statutorily vested in the Municipality;

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

**“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; or
- b) Other categories of owner as defined in the Rates Policy.

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

**“Policy”** means this Special Rating Area policy;

**“Prescribed Form”** means any document that may be developed by the Municipality for purposes of applying this policy;

**“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 Service Infrastructure”** means publicly controlled infrastructure of the kind contemplated in the definition of ‘public service infrastructure’ in the Act;

**“Rating category”** means the category code assigned to various categories of property use for rating purposes.

**“Rates Randage”** means the cents in the rand set as a tariff for each category of rates levied by the Municipality;

**“Rates policy”** means the eThekweni Municipal Rates Policy;

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

**“Residential SRA”** means an SRA established in a predominantly residential area in which all categories of property that are liable for Municipal Rates are liable for the Additional Rate.

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

**“Special Rating Area (SRA)”** subject to Section 22 of the Act, means a demarcated area, approved by Council, within which property owners agree to pay an additional rate for certain supplementary services in that area in order to improve or upgrade the demarcated area.

**“SRA Management Company”** means a Non-Profit Company formed in the process of establishing a SRA that is represented by a Board of Directors elected at an Annual General Meeting of the owners and with whom the Municipality concludes a Finance Agreement, as envisaged in this Policy read in conjunction with the Municipal Rates Policy;

**“Supplementary Service”** means those services supplied within an SRA by an SRA management company or its contracted service provider, that are intended to be supplementary basic municipal service or are supplied as an additional service that is not supplied by the Municipality in order to improve or upgrade the demarcated SRA;

**“Systems Act”** means the Local Government: Municipal Systems Act, No.32 of 2000, as amended;

**“Term budget”** means the three-year budget of the SRA Management Company, with a forecast of five years, which forms part of the Business Plan;

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

**“Use’** in relation to the levying of a rate for different categories of rateable property, means actual use contemplated in Section 8(1)(a) of the Act and relates to the activity that takes place on the property; and

**“Vacant Land”** means, subject to the provisions of Section 9 of the Act, a rateable property where no immovable improvements have been erected.

## **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. In so doing the Municipality is required in terms of the Municipal System Act to provide basic municipal services on a fair and equitable basis to all citizens and across all areas of the Municipality.

The nature and extent of the basic services supplied by the Municipality are in relation to its financial and organizational capacity.

Where communities are of the view that the Municipality’s basic services are inadequate for their needs and where they are willing to supplement this service level, the Municipality is entitled in terms of the Municipal Property Rates Act to levy an additional rate on request of the Community over their residential, commercial or industrial properties for this purpose.

Whereas the Municipality is empowered to collect these additional rates in terms of the Rates Policy and the Act, and transfers funds equivalent of the additional rates raised in terms of Section 67 of the Municipal Finances Management Act, the Act and the Rates Policy do not make provision for the regulatory processes and the governance relating to the levying of the additional rate. The Municipality is therefore obliged to develop a framework to regulate the

establishment, management and governance of the activities for which the additional rates have been raised.

Moreover, the Municipality desires to support the application of the SRA system wherever it is feasible and is requested by local communities to promote co-operative precinct management. Nevertheless, in doing so, the Municipality is also obliged to ensure that the principles of fairness, equity, transparency and the responsible use of public funds is observed. For this purpose, it has adopted the policy provisions set out herein.

## **POLICY**

### **1. Institutional Requirements**

- 1.1 Economic Development and Planning Committee is the municipal cluster responsible for this Policy.
- 1.2 In applying this policy, the Municipality will meet the requirements of the MFMA, and any other relevant legislation.
- 1.3 This policy is enduring, subject to amendment from time to time and should be read in conjunction with the Rates Policy.

### **2. Determination of an SRA**

The Municipality may, in terms of the Act and this Policy, by resolution of the Council, establish an SRA wherein an additional rate is to be levied on rateable property in terms of the Rates Policy.

### **3. Liability for the Additional Rate and exclusions and financial control**

- 3.1 Liability to pay the Additional Rate is set out in clause 9.2 of the Rates Policy
- 3.2 Exclusions and exemptions for payment of the Additional Rate are set out in clause 9.3 of the Rates Policy.
- 3.3 Financial control over collections of Additional Rates and the transfer of funds to the SRA Management Company is set out in clause 9.4 of the Rates Policy.
- 3.4 The SRA Management Company is responsible for the determination, approval and submission of an annual budget, by 31 January of each financial year, upon which the CFO will determine the Additional Rates applicable for the following financial year.
- 3.5 The SRA budget should not be such that the required Addition Rate exceeds thirty five percent of the normal rate for the first two years of establishment and no more than twenty five percent of from the third year onwards, unless approved at an annual general meeting of the SRA Management Company and approved by the Head of Economic Development in consultation with the CFO.
- 3.6 No single property should be required to pay an annual additional rate that exceeds twenty percent of the total annual budget of the SRA and where this might occur the Municipality will impose a cap on the Additional Rate of the liable properties, unless the owner agrees to pay the amount in excess of twenty percent.
- 3.7 The additional rates raised becomes public funds in the hands of the Municipality for which it is obliged to ensure that funds are expended and monitored in terms of Section 67 of the MFMA and the Finance Agreement.

- 3.8 The Municipality will hold a separate account for the additional rate applicable to each SRA and transfer these funds to the SRA Management Company in the form of eleven equal monthly tranches plus a twelfth tranche, the amount of which will be determined after 30 June each year following a reconciliation of the monthly amounts already paid to the SRA and the amounts received from additional rate-payers.
- 3.9 The Municipality will provide monthly reports to SRA's within 30 days of the month end showing the amount of the additional rate collected in that month.

#### **4 Principles**

The following principles must be observed both during the process of preparing an application to the Municipality for a SRA to be established as contemplated in clause 5, as well as in the operation of the SRA once approved, noting that the Municipality's decision to approve the SRA application or its continue operation may be based on its assessment of compliance hereto:

- 4.1 The affected owners and community must be consulted through a transparent process as contemplated in clauses 5.1 to clause 5.4;
- 4.2 Adequate information shall be made accessible to owners and the community in terms of the procedure set out in clause 5;
- 4.3 A Steering Committee and/or a Board of an SRA Management Company must not be subject to undue dominance by a single owner of properties over all other owners in a demarcated area.;
- 4.4 The SRA will not be used to reinforce existing inequities in the development of the Municipality or to deny access to, or freedom of movement within an SRA;
- 4.5 Reasonable gender and racial representation among the Board, management and service providers of the SRA;
- 4.6 The services and activities of an SRA will be confined to the improvement and upgrading of the area and shall be applied only in relation to public spaces or the area as a whole;
- 4.7 SRAs should adopt a constructive approach in addressing poverty related challenges as they manifest in the area and should not be seen to be displacing problems into neighbouring areas;
- 4.8 The procurement of services is to be done in terms of Section 217 of The Constitution, which requires adherence to the principles of fairness, equitability, transparency, competitiveness and cost-effectiveness and the terms of the Finance Agreement;
- 4.9 All documentary records relating to the processes of establishment and operation described in this Policy and the Finance Agreement must be retained by the SRA Management Company and be made available to the Municipality upon request in terms of the Finance Agreement.

#### **5 Procedure for application and establishment**

The prescribed procedure consists of five phases: preliminary, formal planning, application, approval and operational.

## 5.1 Preliminary

- 5.1.1 A group of Initiators, who shall comprise of owners, businesses or residents in a proposed demarcated area, may informally decide to explore the possibility of applying for an SRA to be established in their area.
- 5.1.2 The Initiators must:
  - 5.1.2.1 accept liability for any costs incurred during the preliminary phase leading to the public meeting;
  - 5.1.2.2 notify the Head of Economic Development in writing of their intention to commence with the SRA establishment process and in this notice, provide:
    - 5.1.2.2.1 The name, physical address, email address and phone number of each Initiator;
    - 5.1.2.2.2. Demarcate the proposed SRA area by reference to the bounding roads.
- 5.1.3 The nominated representative of the Economic Development Unit will respond, noting the Initiators' intention and providing the following:
  - 5.1.3.1 A copy of this Policy;
  - 5.1.3.2 The set of prescribed forms to be used at various stages of the process set out herein;
  - 5.1.3.3 A GIS map;
  - 5.1.3.4 A database extracted from the municipal valuation roll of all properties within the demarcated area; and
  - 5.1.3.5 A database containing the rates addresses supplied by the property owners within the demarcated area for billing purposes, subject to the Initiators having signed a Confidentiality Document in the form prescribed, warranting that such information will only be used for purposes related to the establishment of the SRA.
- 5.1.4 Having received written acknowledgement from the Office of the Head of Economic Development, the Initiators may proceed, as follows:
  - 5.1.4.1 From the property database provided by the Municipality, identify the owners within the demarcated area who would be liable for the additional rate;
  - 5.1.4.2 Establish a website and any other social media platforms which enable all relevant information to be publicly accessible, including but not necessarily limited to;
    - 5.1.4.2.1 The map of the demarcated area,
    - 5.1.4.2.2 Whether it is proposed that the SRA should be considered a commercial, mixed use or residential SRA;
    - 5.1.4.2.3 The proposal that is being put forward for consideration,



- 5.1.4.2.4 Any public notices including notices required in terms of this policy, and any other legislation.
- 5.1.4.3 Register a Non-Profit Company to govern the SRA, using the prescribed form for the Memorandum of Incorporation, at any stage prior to commencement of the formal planning stage.
- 5.1.4.4 Conduct two perception surveys, using the prescribed forms, in order to guide further planning;
  - 5.1.4.4.1 One survey directed to all property owners liable for the additional rate,
  - 5.1.4.4.2 A second survey directed to people who conduct business, live, work and visit the precinct, provided that the number of surveys exceeds 20% of the number registered properties in the demarcated area.
  - 5.1.4.4.3 In the case of a residential SRA the second survey may be waived.
- 5.1.4.5 Based on the perception surveys, determine the supplementary services and any other activities that are perceived to be required to achieve the desired level of upgrading or improvement in the demarcated area.
- 5.1.4.6 Draft a preliminary business plan which includes, at least;
  - 5.1.4.6.1 a description and quantification of the level and cost for each of the proposed services and activities,
  - 5.1.4.6.2 an appropriate three-year budget, which must not exceed the limits set out in clause 3.5 and which must include an amount of 5% per annum to be accumulated as a reserve to a maximum equal to 25% of the annual budget in the fifth year,
  - 5.1.4.6.3 A forecast of the rate range of the Additional Rate which owners can use to calculate their Additional Rate liability based on the business plan budget and valuation of their properties,
  - 5.1.4.6.4 a description of the governance structure of the SRA.
- 5.1.4.7 Give due notice of and convene a meeting to consult the local community using the relevant prescribed forms and formats supplied by the Municipality.
- 5.1.4.8 Supply a copy of the notice and agenda to the Office of the Head of Economic Development to be placed on the Municipality's website.
- 5.1.4.9 Publish the notice at least two weeks in advance of the meeting date:
  - 5.1.4.9.1 In at least two newspapers circulating in the demarcated area, provided that where the dates of publication differ the last date is deemed to be the date of publication;

- 5.1.4.9.2 On public notice boards at any Municipal Services Offices and libraries located within the demarcated area, as determined by the Head of Economic Development;
- 5.1.4.9.3 On the SRA website;
- 5.1.4.9.4 On posters, of a number to be agreed with the Office of the Head of Economic Development relative to the area to be covered, placed on prominent lampposts throughout the demarcated area, subject to the provisions of the Municipality's Outdoor Advertising by-law.
- 5.1.4.10 Serve the notice directly to each liable owner by at least one of the following means:
  - 5.1.4.10.1 by pre-paid registered post to the municipal billing address;
  - 5.1.4.10.2 by successful electronic transmission to the e-mail address used for municipal billing purposes;
  - 5.1.4.10.3 by delivering by hand to the person (with proof of receipt by signature on delivery);
  - 5.1.4.10.4 by SMS or other mobile phone application to the registered owner, subject to proof of receipt being verified.
- 5.1.4.11 Make the following arrangements for the meeting with the concurrence of the Head of Economic Development.
  - 5.1.4.11.1 Appoint a suitable person to chair the meeting.
  - 5.1.4.11.2 Appoint a person with minute taking experience to record the proceedings of the meeting using the prescribed form, which minutes must within seven days of the meeting, be posted on the SRA website and supplied to the Office of the Head of Economic Development.
  - 5.1.4.11.3 Take a register of attendance completed by all who attend the meeting, identifying the owners from other members of the community.
  - 5.1.4.11.4 Arrange for the receipt of proxies and the recording of the proxy nominations;
  - 5.1.4.11.5 Provide for the attendance of a representative of the Head of Economic Development.
- 5.1.4.12 Conduct the proceedings of the meeting as follows:
  - 5.1.4.12.1 The advertised agenda shall be followed without substantive changes to the agenda;
  - 5.1.4.12.2 The Initiators should introduce themselves to the meeting and present a report on the Preliminary Process as an item on the agenda;
  - 5.1.4.12.3 Following the requisite presentations, as indicated in the agenda, and adequate time for questions the meeting must

be asked to indicate by show of hands whether the local community present supports the continuation of the process set out in this policy leading towards the possible establishment of a SRA;

5.1.4.12.4 Should the meeting vote in favour of the proposal contemplated in 5.1.4.13.3, a Steering Committee shall be elected at the meeting, which shall comprise of a minimum of five members of whom at least a majority shall be members of the local community who would become liable for payment of the Additional Rate and which shall be responsible for execution of the further process set out in this policy.

5.1.4.13 Report the outcome of the meeting to the Office of the Head of Economic Development in writing or at a meeting and the proceedings and decisions of such meeting shall be minuted.

5.1.5 Having reviewed the procedure followed at the meeting and the minutes and having considered the feasibility of the business plan presented at the meeting and the probability of the SRA's sustainability, the Head of Economic Development, having consulted with the CFO, will advise the Steering Committee whether it may proceed or not.

## 5.2 Formal planning and obtaining support

5.2.1 The costs incurred by the Steering Committee, to prepare the business plan and to obtain the votes of owners, but excluding the costs related to registering NPC, may be recovered in the first year's operating budget subject to;

5.2.1.1 An application to the Head of Economic Development justifying all proposed claims by reference to a bench marking exercise and/or legislated tariffs;

5.2.1.2 No legal costs may be claimed without certification by a validly registered practising attorney that the legal costs claimed by a member of the legal profession do not exceed the statutory High Court tariff. In the event of a dispute, the CFO may refer the matter to the Law Society of South Africa for a final decision.

5.2.1.3 Approval of application by the Head of Economic Development in consultation with the CFO.

5.2.2 The preliminary business plan must be extended to include:

5.2.2.1 A strategic plan for the improvement and upgrading of the precinct, including a statement of principles, objectives and intent that describes the vision for the proposed SRA and which demonstrates alignment with the principles set out under clause 4 of this Policy.

5.2.2.2 A proposal as to how the views of lessees will be accommodated in the governance of a commercial or mixed use SRA.

- 5.2.2.3 A procurement policy that is in line with the King IV principles of good governance and the procurement principles contemplated in clause 4.8.
- 5.2.2.4 A Services Plan including a detailed and costed plan for each proposed supplementary service, based on competitive quotes having been obtained.
- 5.2.2.5 A Management Plan detailing how the SRA Management Company will be governed and managed, including a staffing plan if the company is to employ its own management and administration, or a competitively sourced, costed proposal in the event of an outsourced management system.
- 5.2.2.6 A Financial Plan detailing 12-month and 36-month budgets a-month projection of revenue, expenditure and cash flow and a breakeven analysis in the event of borrowings or liabilities in terms of 5.2.1.
- 5.2.2.7 The anticipated additional rate to be paid in respect of each liable property required to fund the budget of the business plan.
- 5.2.2.8 An operational plan for the ensuing year setting out the business plan's main establishment milestones.
- 5.2.3 The business plan must be published on the SRA website and notices related to obtaining support must advise where the business plan can be obtained.
- 5.2.4 The Steering Committee, using the prescribed form, must proceed to solicit support from individual owners
- 5.2.5 For an application to be lodged, support must be obtained using the prescribed form with each registered property that is liable for the additional rate being entitled to one (1) vote irrespective of the number of co-owners.
- 5.2.6 In the case of a proposed 'Commercial SRA' support must be obtained in respect of at least 50% plus 1 of all properties categorised as 'Business and Commercial', with residential properties not being liable for the Additional Rate
- 5.2.7 In the case of a proposed SRA other than the one contemplated in 5.2.6, support must be obtained in respect of at least 66% plus 1 of properties categorised as residential and 50% plus 1% of properties categorised as Business and Commercial'.
- 5.2.8 In the case of properties under sectional title or share block ownership schemes, the Steering Committee may consult with the Management Company or Managing Agent of the property to conduct an internal vote in respect of that property and to reach a decision by majority of 50% plus one of the owners for the property to agree to the establishment of the proposed SRA.
- 5.2.9 All support forms must be filed and cross referenced to the property database obtained in terms of 5.1.3.1 to verify the accuracy thereof
- 5.2.10 Having attained the required number of supporting votes the Steering Committee must publish a notice of the intention to apply to the Municipality to approve the SRA;

- 5.2.10.1 on its website, and
  - 5.2.10.2 in the prescribed format in one newspaper distributed in the demarcated area, and
  - 5.2.10.3 by notice sent directly to each liable owner by at least one of the means set out in 5.1.4.10
- 5.2.11 The notice in terms of 5.2.10 must clearly inform the local community who will be liable for paying the additional rate of their right to object in terms of sub-clause 5.3 and provide access to the prescribed form and specify the closing date for objections.
- 5.3 Upon receipt of the notice in terms of 5.2.10, members of the local community who will become liable to pay the additional rate may lodge an objection to the establishment of the SRA with the Head of Economic Development, which objection must contain the following:
- 5.3.1 The name and physical address of the person making the objection;
  - 5.3.2 The email or postal address at which the person shall receive any further notice or correspondence;
  - 5.3.3 the interest of the person in the application;
  - 5.3.4 full reasons for the objection.
- 5.4 Objections must be lodged within 30 days after notice has been given in terms of clause 5.2.10.
- 5.5 The Head of Economic Development will notify the Steering Committee of objections as they are lodged, and the Steering Committee must send its response to the objections to the Office of the Head Economic Development within 14 days after date of receipt.
- 5.6 The Head of Economic Development will evaluate all objections received and reach a conclusion and inform the objecting party or parties and the Steering Committee either that:
- 5.6.1 the policy has been complied with and an Application to Council may proceed, or
  - 5.6.2 that the policy has not been complied with in some respect that can be remedied and advise the Steering Committee on the remedial action to be taken after which an Application can be submitted, or
  - 5.6.3 the non-compliance with the policy is of such a nature or extent that an Application will not be accepted and be put to the Council.
- 5.7 Application
- 5.7.1 The application, using the prescribed form, must be lodged with the Head of Economic Development by 30<sup>th</sup> November.
  - 5.7.2 The application must be accompanied by;
    - 5.7.2.1 A motivation for the establishment of the SRA

- 5.7.2.2 The company registration documents of the SRA Management Company.
  - 5.7.2.3 A full list of the owners who have assented to the payment of an additional rate, together with their duly signed acceptance forms.
  - 5.7.2.4 The business plan in terms of 5.2.1.1 upon which the support of owners was obtained.
  - 5.7.2.5 Proof of the notice of the public meeting contemplated in this Policy;
  - 5.7.2.6 Minutes of the public meetings or other meetings contemplated in this Policy
- 5.7.3 On receipt of an application for the establishment of an SRA the Head of Economic Development will;
- 5.7.3.1 evaluate whether the establishment procedure has been complied with and consider any objections in terms of the Policy, and
  - 5.7.3.2 consider the feasibility of the proposed SRA in consultation with the CFO in relation to; the number and collective value of properties that are subject to the additional rate within a contiguous demarcated area and the historical payment record of rate-payers and the likelihood of future sustainability of the business plan, and
  - 5.7.3.3 If the application is deemed to be compliant and feasible, will present a report to Council in February of the following year or as soon thereafter as reasonably practical, recommending the approval of the SRA's establishment and authorisation for a Finance Agreement to be concluded.
- 5.7.4 When considering an application for the establishment of an SRA, the Council may:
- 5.7.4.1 determine an SRA, which must be implemented in accordance with the Business Plan
  - 5.7.4.2 determine an SRA with such conditions as the Council considers to be in the interest of the local community and the liable owners;
  - 5.7.4.3 refuse the application, in which event the Head of Economic Development must, within twenty working days (excluding weekends and public holidays), furnish the applicant with written reasons for not approving the determination of an SRA; or;
  - 5.7.4.4 refer the application back to the applicant for amendment in such manner as the Council may direct.
- 5.8 Approval
- 5.8.1 If approved by the Council the Municipality will enter into a three-year Finance Agreement with the SRA Management Company with effect from 1 July of the following financial year.

- 5.8.2 The funding of the SRA is formally approved in May when the Additional Rate for the SRA is included in the gazetted municipal budget for the following financial year.
  - 5.8.3 The Head of Economic Development will then advise the SRA Management Company of the gazetted additional rate amounts, which will be in line with the proposed budget, whereupon the SRA Management Company must register:
    - 5.8.3.1 With SARS for VAT if the annual payment from the Municipality is to be in excess of one million Rand per year.
    - 5.8.3.2 With the Central Supplier Database and then the eThekwini Supplier Database.
  - 5.8.4 Following upon 5.8.3 the SRA Management Company must:
    - 5.8.4.1 advise all owners, and to other interested people of the SRA's establishment and the commencement of the imposition of the additional rate from 1 July by means of;
      - 5.8.4.1.1 A notice on its website, and
      - 5.8.4.1.2 A notice using the prescribed form sent to the rates billing address of the owners who are liable for the additional rate by a direct notice to their rates billing address using the prescribed form,
    - 5.8.4.2 Convene a Special General Meeting at which the Directors of the company are to be elected.
  - 5.8.5 If the SRA Management Company has been established as an NPC with members, then all owners within the demarcated area who have become liable for the additional rate will have to enrol as members of the NPC as they cannot be taken into membership automatically.
- 5.9 Activation and Implementation
- 5.9.1 The first payment in terms of the Finance Agreement will be made at the end of August and thus any activation of the SRA should not take place before 1 September unless alternative funding arrangements have been made.
  - 5.9.2 Notices of NPC board meetings and Annual General Meetings must be sent to the Head of Economic Development in case he/she wishes to exercise the right to delegate an official to attend them.
  - 5.9.3 Minutes of board meetings must be submitted with quarterly reports.
  - 5.9.4 Amendments to the approved budget may be made only if authorised in writing by the Head of Economic Development in consultation with the CFO and approved by the NPC's directors on behalf of the owners.
  - 5.9.5 The Finance Agreement sets out the reporting and other requirements in compliance of Sect 67 of the MFMA in terms of which the budget is transferred to the SRA Management Company in monthly tranches.

## **6 Proxies**

- 6.1 The appointment of proxies by owners liable for the additional rate may be executed and accepted, using the prescribed proxy form, for the purpose of voting at the public meeting and general meetings of the NPC and for the acceptance of the proposal to establish the SRA.
- 6.2 Proxy forms must be retained by the SRA Management Company pending possible later reference.

## **7 Post establishment monitoring**

- 7.1 Nothing shall derogate from the Municipality's right annually, amongst other things, to review the performance of an SRA and its compliance with obligations under the Finance Agreement, this Policy and the Rates Policy.
- 7.2 The Head of Economic Development may recommend the dissolution of an SRA in terms of the Finance Agreement.

## **8 Dissolution of an SRA**

An SRA may be dissolved by a Council Resolution –

- 8.1 Where the SRA Management Company breaches the terms of the Finance Agreement and fails to remedy the breach within the period determined in the Finance Agreement;
- 8.2 If 50% plus 1 of the owners liable for the Additional Rate, sign the Prescribed Form petitioning the Council to dissolve the SRA.
- 8.3 If the Council, upon the recommendation of the CFO in consultation with the Head of Economic Development, determines that the SRA is not financially viable, as a result of the collections of the Additional Rate having fallen to such an extent over a period of at least six consecutive months that the SRA can no longer finance its operations to the meet the mandate from property owners.
- 8.4 Unless otherwise determined by the Council, the effective date of dissolution of an SRA, shall be on the last day of June in the Municipal financial year of the Council resolution.
- 8.5 The Head of Economic Development may request a forensic audit of an SRA Management Company in terms of the Rates Policy should it be deemed necessary.

## **9 Extension of boundaries**

- 9.1 Amendment to the boundaries of an existing SRA, shall be treated as a new determination of an SRA in terms of Section 22 of the Act read with this Policy and the Rates Policy.
- 9.2 The area to be added may not exceed 100% of the number of properties liable for the Additional Rate, unless specifically authorized by Council.

## **10 Effective date**

This policy shall be effective as of 1 July 2020 and it applies to the whole of the jurisdiction of the EtheKwini Municipality.



## **11 Transitional Arrangements**

SRAs established before this Policy becomes effective must make the necessary revisions to align their MOIs and/or procedures to this policy by 31 December 2020.