

**MEMORANDUM OF INCORPORATION**  
**OF**  
**URBAN IMPROVEMENTS PRECINCTS (RF) NPC**  
**(REGISTRATION No.2000/026018/08)**

which is referred to in the rest of this Memorandum of Incorporation as “the company”

The Company is a Non Profit company without members, with the following objects:

- To provide safer, cleaner and more attractive urban environments;
- To comply with the provisions of the Ethekewini Municipality Special Rating Area Policy.

The Board of Directors of the Company comprises of no less than 3 nor more than 8 directors, and 0 alternate directors, each of whom is to be elected as follows:

- 6 directors at a directors meeting of the Company;
- 2 directors elected by the stakeholders of the Urban Improvements Precincts Association.

This Memorandum of Incorporation was approved by special resolution on 29 September 2015 at the annual general meeting held at the Durban City Lodge.

In this Memorandum of Incorporation –

- (a) a reference to a Section by number refers to the corresponding Section of the Companies Act, 2008;
- (b) words that are defined in the Companies Act, 2008 be the same meaning in this Memorandum as in that Act.
- (c) Words appearing to the right of an optional check line are void unless that line contains a mark to indicate that it has been chosen as the applicable option.

The Schedules attached to this Memorandum are part of the Memorandum of Incorporation.

### ***Article 1 --- Incorporation and Nature of the Company***

#### ***1.1 Incorporation***

- (1) The Company is incorporated as a Non-profit company, as defined in the Companies Act, 2008.
- (2) The Company shall have a financial year end of June.
- (3) The Company is incorporated in accordance with, and governed by –
  - (a) the unalterable provisions of the Companies Act, 2008 that are applicable to Non-profit companies;
  - (b) The alterable provisions of the Companies Act, 2008 that are applicable to Non-profit companies, subject to any limitation, extension, variation or substitution set out in this Memorandum; and
  - (d) the provisions of this Memorandum of Incorporation.

#### ***1.2 Objects and Powers of the Company***

The Objects of the Company are as set out on the cover sheet and, except to the extent necessarily implied by the stated objects, the purposes and powers of the Company are not subject to any restriction, limitation or qualification.

From the date and time that the incorporation of the Company is registered, as stated in its registration certificate, the Company has all of the legal powers and capacity of an individual, except to the extent that a juristic person is incapable of exercising any such power, or having any such capacity.

#### **Authority to conclude contracts**

The Company shall not conclude any contract, enter into any agreement or otherwise bind itself to any liability without the consent of all the directors where the value of such contract to the Company exceeds R100 000.00 (one hundred thousand rand).

### **Finance agreement**

The Company must have a valid finance agreement in terms of section 67 of the Municipal Finance Management Act.

### **Dissolution of the company**

As detailed in Special Area Rating Policy of the Ethekewini Municipality, the Council for the Municipality of Ethekewini may dissolve a special rating area –

- (a) Upon written application signed by the majority of owners within the boundaries of the special rating area who are liable for paying the additional rate; or
- (b) If the section 67 finance agreement:
  - (i) Has not been renewed; or
  - (ii) Has not been honoured

Upon the winding up of the Company, the assets remaining after the satisfaction of all its liabilities shall be transferred to the municipality.

### **1.3 Memorandum of Incorporation and Company rules.**

- (1) This Memorandum of Incorporation of the Company may be altered or amended only in the manner set out in section 16, 17 or 152 (6)(b).
- (2) The authority of the Company's Board of Directors to make rules for the Company, as contemplated in section 15 (3) to (5) is not limited or restricted in any manner by this Memorandum of Incorporation.
- (3) The Board must publish any rules made in terms of section 15(3) to (5) by delivering a copy of those rules to each director by ordinary mail.
- (4) The Company must publish a notice of any alteration of the Memorandum of Incorporation or the Rules, made in terms of section 17(1), by delivering a copy of those rules to each director by ordinary mail.

### **1.4 Optional provisions of Companies Act, 2008 do not apply**

The Company does not elect, in terms of section 34(2), to comply voluntarily with the provisions of Chapter 3 of the Companies Act, 2008.

### **1.5 Company not to have members**

As contemplated in Item 4(1) of Schedule 1 of the Act, the Company has no members.

**Article 2 --- Directors and Officers**

**2.1 Composition of the Board of Directors**

- (1) The Board of Directors of the Company comprises of no less than 3 nor more than 8 directors, and 8 alternate directors each of whom is to be elected at each annual general meeting of the Company
- (2) A director shall serve for a term of 1 year from the annual general meeting.
- (3) A retiring director shall be eligible for re-election.
- (4) The Company at any annual general meeting at which any directors retire may fill up the vacated offices by electing a like number of persons as directors.
- (5) It is preferable that there is an odd number of directors.
- (6) In addition to the appointed directors there are no appointed *ex officio* directors of the company, as contemplated in section 66 (4).
- (7) In addition to satisfying the qualification and eligibility requirements set out in section 69, to become or remain a director of the Company, a person need not satisfy any further eligibility requirements or qualifications.

**2.2 Authority of the Board of Directors and Committees**

- (1) The authority of the Company's Board of Directors to manage and direct the business and the affairs of the Company, as set out in Section 66(1) is not limited or restricted by this Memorandum of Incorporation.

**2.3 Board of Directors Meetings**

- (1) The authority of the Company's Board of Directors to consider a matter other than at a meeting, as set out in Section 74 is not limited or restricted by this Memorandum of Incorporation.
- (2) The right of the Company's Directors to requisition a meeting of the Board, as set out in Section 73(1), may be exercised by at least 25% of the directors as provided in that Section.
- (3) The authority of the Company's Board of Directors to conduct a meeting in entirely by electronic communication, or provide for participation in a meeting by electronic communication, as set out in Section 73(3) is not limited or restricted by this Memorandum of Incorporation.
- (4) The authority of the Company's Board of Directors to determine the manner and form of providing notice of its meetings, as set out in Section 73(4) is not limited or restricted by this Memorandum of Incorporation. The company shall however have at least 1 annual general meeting.

- (5) The authority of the Company's Board of Directors to proceed with a meeting despite a failure or defect in giving notice of the meeting, as set out in Section 73(5) is not limited or restricted by this Memorandum of Incorporation.
- (6) The quorum requirement for a directors meeting to begin, the voting rights at such a meeting, and the requirements for approval of a resolution at such a meeting, are as set out in Section 73(5).
- (7) Questions arising at any meeting of the directors shall be decided by a majority of votes and in case of an equality of votes the chairman shall have a second or casting vote.
- (8) The directors may elect a chairman and a deputy chairman and determine the period for which is to hold office. The chairman, or in his absence the deputy chairman, shall be entitled to preside over all meetings of directors. If no chairman or deputy chairman is elected, or if at any meeting neither is within 15 (fifteen) minutes of the time appointed for holding the same present or willing to act as chairman thereof, the directors present shall choose someone of their number to be chairman of such meeting.
- (9) A resolution in writing signed by all the directors, shall be as valid and effectual as if it had been passed at a meeting of the directors duly convened and held.

#### **2.4 Indemnification of Directors**

- (1) The authority of the Company's Board of Directors to advance expenses to a director, or indemnify a director, in respect of the defence of legal proceedings, as set out in Section 78(3) is not limited or restricted by this Memorandum of Incorporation.
- (2) The authority of the Company's Board of Directors to indemnify director in respect of liability, as set out in Section 78(5) is not limited or restricted by this Memorandum of Incorporation.
- (3) The authority of the Company's Board of Directors to purchase insurance to protect the Company, or a director, as set out in Section 78(6) is not limited or restricted by this Memorandum of Incorporation.

#### **2.5 Officers and Committees**

- (1) The Board of Directors may appoint any officers it considers necessary to better achieve the objects of the Company.
- (2) The authority of the Company's Board of Directors to appoint committees of directors, and to delegate to any such committee any of the authority of the Board as set out in Section 72(1), or to include in any such committee persons who are not directors, as set out in Section 73(2)(a) is not limited or restricted by this Memorandum of Incorporation.
- (3) The authority of a committee appointed by the Company's Board, as set out in Section 72(2)(b) and (c) is not limited or restricted by this Memorandum of Incorporation.

*Article 3 --- General Provisions*

**ESTABLISHMENT OF A SPECIAL RATING AREA**

The Company is responsible for the management of the special rating area as defined by the Special Rating Area Policy of the Ethekewini Municipality, as amended from time to time.

To this effect the Company has entered into a Memorandum of Agreement with the Ethekewini Municipality in terms of Section 67 of the Municipal Finance Management Act 2003. This agreement is to be signed annually.

**APPROVAL OF ANNUAL INCREASE**

The manager of the Special Rating Area must notify all members of the company, by ordinary or electronic mail, of the increase to be applied to the special rating area for the next financial year.

Members are hereby given the opportunity to raise any objection to the proposed increase. If no written response is received from a member, it will be deemed as an acceptance of the proposed levy.