



**CEDERBERG MUNICIPALITY**

**POLICY REGARDING CAPITAL CONTRIBUTIONS FOR BULK SERVICES**

**2019**

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Annexure A – Bulk Infrastructure Contribution Levy Guideline

## 1. **DEFINITION OF TERMS**

The following meanings apply in this policy document, unless indicated otherwise by the context:

“infrastructure”, with regard to municipal services – all external bulk services as well as internal services, networks and conduits;

“municipal services”, with regard to –

- (1) water supply – water treatment plants, pump stations, reservoirs and main water conduits from reservoirs that are also referred to as external bulk services;
- (2) sewage disposal – wastewater treatment plants, septic tanks, main drainage conduits and pump stations also referred to as external bulk services;
- (3) electricity – substations, transformers, and main conduits also referred to as external bulk services;
- (4) streets and storm water – all laid out streets for use by the public, with accompanying storm water drainage systems;
- (5) solid waste - means the handling of waste material from generation at the source through the recovery processes to disposal and storage facilities.

“municipality”, the Cederberg Municipality;

“fixed capital contribution”, a financial contribution determined in accordance with the provisions of this policy taking into account any exemptions as may be applicable;

“real cost capital contribution”, a financial contribution based on the estimated actual costs of the immediate upgrading, extension or construction of infrastructure;

“developer” means the person, including an organ of state, which may or may not be the owner of the land, applying for permission to develop or change the use of land;

“development” means the changing of use and/or of cadastral boundaries in order to intensify the utilisation of land;

“development charge/ capital contribution” means a once-off charge imposed by the municipality on a developer as a condition of approval of a land development application in order to cover the cost of municipal engineering services required as a result of an intensification of land use

“residential unit”, the same as the meaning attached to it in the regulations promulgated under Provincial Notice 1048 dated 5 December 1988 in terms of section 8 of the Land Use Planning Ordinance No. 15 of 1985.

## **2. AIM OF THE POLICY**

- 2.1 Rapid expansion and development of the Municipality’s area of jurisdiction has resulted in an increasing number of applications for subdivision of land and applications for deviations in land use.
- 2.2 Granting such subdivisions and applications for rezoning and deviation frequently causes a heavy burden on existing municipal service infrastructure and necessitates upgrading and/or extension of such infrastructure at enormous cost, if not immediately, than at a later stage.
- 2.3 It is therefore seen as fair and equitable that a land owner who applies for the subdivision of an area of land, or for particular departures, should be obliged to make a financial contribution (henceforth referred to as developers charge and/or capital contribution) to the upgrading and/or extension of existing municipal services.

- 2.4 Capital contributions / Development charges are imposed by the municipality to recover the initial capital costs of installing essential municipal engineering services infrastructure that is required to support the land development process.
- 2.4.1 They are imposed during the development approval process and associated with the intensification of land uses. A more intensive use of land places additional burdens on infrastructure networks through requiring more civil services (for example additional water, sanitation, roads, stormwater, solid waste, electricity capacity) to be treated and supplied.
- 2.4.2 This additional pressure emerges regardless of whether the development is a sub-division of a property or the construction of a shopping mall. The additional capacity required are supplied through installing new infrastructure or allowing a portion of existing, pre-installed infrastructure network capacity to be dedicated to the servicing a new development.
- 2.5 The aim of this document therefore is to establish a policy to indicate in which cases and to what extent such capital contributions will be levied by Cederberg Municipality.

### **3. PRINCIPLES OF POLICY**

#### 3.1 Equity and Fairness

Development charges should be reasonable, balanced and practical so as to be equitable to all stakeholders. The key function of a system of development charges is to ensure that those who benefit from new infrastructure investment, or who cause off-site impacts, pay their fair share of the associated cost

#### 3.2 Predictability

Development charges should be a predictable, legally certain and reliable source of revenue to the municipality for providing the necessary infrastructure.

### 3.3 Spatial and economic neutrality

A primary role of a system of development charges is to ensure the timely, sustainable financing of required urban infrastructure. They should be determined on identifiable and measurable costs.

### 3.4 Administrative ease and uniformity

The determination, calculation and operation of development charges should be administratively simple and transparent

## 4. **LEGAL FRAMEWORK**

4.1 Section 229 of the Constitution empowers municipalities to impose rates on property and surcharges on fees provided by or on behalf of the municipality.

4.2 In terms of section 75A of the Municipal Systems Act, municipalities have the power to levy and recover fees, charges or tariffs in respect of any function or service provided by a municipality.

4.3 SPLUMA assumes the existence of development charges in sections 49(4) and (5).

4.3.1 Section 43 of SPLUMA specifically empowers municipalities to approve land development applications subject to conditions, one of which is that development charge be paid.

4.3.2 The policy regarding capital contributions for bulk infrastructure is to be read in line with the Cederberg Municipality By-Law on Municipal Land Use Planning: Provincial Gazette of 15 March 2019 (Chapter VIII).

## 5. **BASIS FOR CALCULATION OF CAPITAL CONTRIBUTIONS**

[How capital contributions will be calculated]

- 5.1 The calculation of capital contributions is based on the principle that current inhabitants of a municipal area should not benefit from a new development at the cost of the developer or subsequent inhabitants, or that the developer should not benefit at the cost of the current inhabitants.

Calculation of fixed capital contributions is therefore based on specific applications and as set out in the Cederberg Civil Engineering Guidelines for Bulk Infrastructure Contribution Levy.

- 5.2 The aim of the policy is to institute a uniform basis for the calculation of fixed capital contributions in the Municipality's area of jurisdiction as a whole and to grant exemption from specific components of the capital contributions with regard to those municipal services that are not yet available in a specific area or are not yet provided to a specific standard.
- 5.3 This policy differentiates between fixed capital contributions and real cost capital contributions.

- (1) Fixed capital contributions are financial contributions payable to the Municipality to maximum limits and according to calculations as set out in paragraph 4 hereof, subject to exclusions, exemptions and other conditions as contained in this policy.

It is intended to provide the necessary bulk services to property development. It does not necessarily imply that the Municipality has to upgrade or extend services with immediate effect.

- (2) A real cost capital contribution is a financial contribution payable to the Municipality in cash and is based on the estimated real cost of immediate upgrading or extension of infrastructure necessitated by property development for the purpose of facilitating

the provision of services to such a development. Such infrastructure could include external bulk services as well as internal networks and conduits.

## **6. CALCULATION OF CAPITAL CONTRIBUTIONS**

[What capital contributions amount to]

The rationale for the determination of unit costs to calculate development charges is set out in the Bulk Infrastructure Contribution Levy, Civil Engineering Guidelines.

The fixed capital contributions payable on the different components of municipal services have been calculated by the Municipality's Engineers on the basis of these guidelines, adjustments, suppositions and recommendations.

The cost on which the fixed capital contributions is based must be revised at least once yearly on the basis of the latest available data, and the necessary adjustments to the capital contributions must be made, where necessary.

The amount payable to the Municipality as a real cost capital contribution as contemplated in this policy is the estimated amount as determined by the Head of Department Technical Services or the Municipal Manager, as the case may be, or by consulting engineers assigned for this purpose.

## **7. LEVYING AND COLLECTION OF CAPITAL CONTRIBUTIONS**

[How and when capital contributions are collected]

7.1 Fixed capital contributions, subject to exclusions and exemptions as set out in paragraph 8, are levied and collected on all developments in accordance with the provisions of this policy, read in conjunction with the Civil Engineering Guideline,

(1) in respect of which applications for subdivision are received and which could be utilised for the erection of a residential building on any of the following use zones:

- single residential
- general residential
- group housing
- town housing
- residential 1, 2, 3, 4 and 5

The applicable fixed capital contribution is levied on each subdivided section on which the erection of a residential building is allowed in any of the above use zones in terms of the municipality's scheme regulations, with the exception of the last subdivided portion remaining after all other portions have been transferred.

(2) that are not cadastrally subdivided and that, in the case of developed premises, are already lawfully utilised for the following land uses or, in the case of undeveloped premises, can be used for the erection of a residential building within any of the use zones indicated below:

- general residential
- group housing
- town housing

The appropriate fixed capital contribution is levied on each independent residential unit erected for any of the above-mentioned use zones, including an additional residential unit erected on a single residential premise.

(3) that are subject to an application for a departure in terms of section 15(1) of the Land Use Planning Ordinance No. 15 of 1985, with the purpose of using the property as –

- a guest house; or
- a bed and breakfast establishment.

7.2 A real cost capital contribution is levied and collected according to the provisions of this policy;

- (1) as an alternative to the payment of fixed capital contributions or a component thereof, In the cases of streets and storm water, sewerage and electricity services, the Head of Department Technical Services will have authority to decide that a real cost capital contribution has to be paid instead of a fixed capital contribution or a component thereof, with regard to each relevant service.

Where a component of a real cost capital contribution is required instead of a fixed capital contribution, the relevant Head of Department may also determine that the remaining components of the fixed capital contribution will be payable, together with such real cost capital contributions.

- (2) regarding any other development, regardless of land use (that is, inclusive of business premises, industrial premises, etc.), whether such development is the result of rezoning, subdivision, an application for a departure or whether it occurs on premises that have already been zoned for the relevant purpose.

A real cost capital contribution as intended in paragraph 5 will only be payable if the Head of Department Technical Services is of the opinion that a proposed development will have such a material and immediate impact on existing infrastructure that immediate upgrading or extension of the infrastructure will be required to enable the provision of the necessary services to such a development. Such infrastructure could include external bulk services, as well as internal networks and conduits.

### 7.3 Capital contributions are payable and must be collected as follows:

Under conditions as signified in –

- paragraph 7.1(1) - on or before the date of transfer of a subdivided portion – by the applicant for the subdivision;
- paragraph 7.1(2) - on or before the date of approval of the building plans with regard to the relevant development – by the owner of the property connected to the building plan;

- paragraph 7.1(3) - on or before the date of the approval of the departure – by the applicant applying for such departure;
  
- paragraph 7.2 - on or before the date of transfer of the subdivided portion of the relevant subdivision, building plans or application for a departure – by the applicant for the subdivision or departure, or the owner of the property related to the building plans, as the case may be. Upgrading or extension of infrastructure will only be executed when the real cost capital contribution has been paid.

7.3.1 The Municipality shall impose a condition that confirms that the land use becomes unlawful in the case of non-payment of the required Capital Contribution, enabling the Municipality to invoke its enforcement measures with regards to unlawful land use.

7.4 The Head: Planning and Development will be responsible for the application of this policy and will take all administrative and organisational steps that may reasonably be required in this regard to ensure that capital contributions are levied correctly, consistently and in accordance with the provisions of this policy and are paid into a ring-fenced account or Capital Replacement Reserve of the Municipality.

The onus is on the Head of Department Technical Services, as the case may be, to advise the Head of Planning and Development and Head of Department Financial Services accordingly, in writing, when building plans are received that require the collection of capital contributions in accordance with the stipulations of this policy.

7.5 Municipal areas with regard to which fixed capital contributions can be levied and collected, will be deemed to be the urban fringe area of each of the relevant towns, as indicated in the Municipality's spatial development plan.

NOTE: The rural area will be deemed to be that area of land that does not fall within the urban fringe areas referred to above and no fixed capital contributions will be payable with regard to these land areas. Development in the rural area may, however, be subject to payment of a real cost capital contribution as determined by the Municipality.

## **8. EXCLUSIONS AND EXEMPTIONS**

### **8.1 Exclusions**

No capital contributions of any nature whatsoever are payable on subdivisions with regard to land to be used for low cost housing that is to be funded from state funds.

### **8.2 Exemptions**

8.2.1 Fixed cost contributions calculated in accordance with the provisions of paragraph 4 or the various components thereof will not be payable under the following circumstances:

- (1) where existing municipal services or components thereof that have been established in specific municipal areas, were financed mainly from sources other than municipal funds, for instance allocations and/or subsidies, or where such services or components of services were established by a private developer for own account;
- (2) where no municipal services or components thereof have been provided in a specific municipal area or to specific properties in a municipal area;
- (3) where streets in specific municipal areas predominantly have not been constructed to a permanent surface standard;
- (4) where, with regard to the electricity supply service, the Municipality is not the authority providing electricity in a specific municipal area;
- (5) where, regarding a specific municipal service or component thereof, a developer or land owner is expected to upgrade or extend such a municipal service or component thereof, or to create it, for his own account

8.2.2 The Civil Engineering Guideline provides an indication of the municipal services, or components thereof, and the municipal areas that, on the basis of the criteria listed above will qualify for exemption or partial exemption from payment of a fixed capital contribution when this policy is put into operation.

8.2.3 The effect of the exemptions and the practical application thereof, are as follows:

- (1) The fixed capital contributions payable after specific adjustments have been made and exemptions applicable, are as set out in the Civil Engineering Guideline, subject, however, to the provisions of sub-paragraphs (2), (3) and (4) below.
- (2) An exemption lapses as soon as the Municipality establishes or provides any municipal service or component thereof from municipal funds, that is, by means of a loan or from its income account, to an area that was previously exempt from a fixed capital contribution as a result of the application of paragraph 7.2.1. The capital contribution that is payable in the relevant area therefore has to be adjusted by increasing it by the appropriate component of the capital contribution.
- (3) Where some streets in a specific municipal area, for instance, are built to permanent surface standard and some are merely gravel roads,
  - the capital contribution component with regard to streets in the case of subdivision of property bordering on an asphalted street, for instance, will only be payable with regard to the subdivided portion bordering the asphalt street;
  - subdivided portions that only border on gravel roads will be exempt from the payment of the relevant capital contribution component.
- (4) The principle contained in subparagraph (3) above is equally applicable in the case of subdivisional portions of a property where portions of a property can be physically connected to the sewerage network while other portions cannot be linked up.

8.2.4 The exemptions set out above not be applicable to fixed capital contributions payable with regard to guest houses and bed and breakfast establishments.

In respect all other areas where there is an obligation on the developer, regarding a specific municipal service or component thereof, a developer or land owner is expected to upgrade or extend such a municipal service or component thereof, or to create it, for his own account; it is specifically the policy view that the Municipality will retain the prerogative to determine the category and extent of the service (i.e. water, water and sanitation etc.) the developer ought to upgrade.

## **9. DEVELOPMENT AGREEMENTS**

The applicant /developer of any development applying for permission to develop or change the use of land in terms of this policy are required to conclude a development agreement with the Municipality.

The development agreement would be drafted by the Municipality and will incorporate the rights and obligations of the parties.

Failure to comply with the terms and conditions as set out may lead to cancellation of approvals.

Payment terms, planning conditions and any other conditions as may be imposed by the competent authority must be included in the Development agreement.

The Development agreement may incorporate the staggered payment of a capital contribution of a particular development in phases in more complex projects; which will allow the developer to pay capital contributions at the commencement of each approved phase.

## **10. INSTALLATION OF INFRASTRUCTURE BY DEVELOPER IN LIEU BULK CAPITAL CONTRIBUTIONS**

10.1 A developer may by agreement with the Municipality install bulk engineering services in lieu of Capital Contributions.

10.2 Where a developer installs bulk engineering services in accordance with 8.1 the Municipality may deduct the cost of the infrastructure installed from the Capital Contributions due for that particular development, provided that:

- (1) The infrastructure to be installed is to the standard required by the Municipality
- (2) The infrastructure to be installed is located in close proximity to the development and/or located in an area as directed by the municipality;

10.3 The Developers agreement must incorporate a written services agreement that is entered into between the parties, which specifies:

- 1) the infrastructure to be provided in lieu of Capital Contribution, the standards to which the infrastructure is to be built,
- 2) the cost of the infrastructure and the assets to be transferred to the Municipality;
- 3) the services agreement must be signed by the developer and the Municipality prior to the commencement of any works to be provided in lieu of Capital Contributions;
- 4) the infrastructure installed, and the land on which it is situated, are either formally transferred to or received by the Municipality or the required agreements are made to ensure that the Municipality has access to the infrastructure if it does not fall on municipal land, which may include the registration of a servitude in favour of the municipality;
- 5) the final value of the assets transferred, as reflected in payment certificates, must be reconciled with the original Capital Contributions liability and any balance due by the developer must be paid in full.

## **11. UTILISATION OF CAPITAL CONTRIBUTION REVENUES**

11.1 Capital contributions revenues received must be ring-fenced and may only be used for capital works, i.e. the construction of new municipal infrastructure and /or the upgrading of existing municipal infrastructure.

11.2 These revenues may not be used to reduce or eliminate existing infrastructure backlogs, for operations or maintenance costs, or as a general revenue source for the Municipality.

## **12. DATE OF COMMENCEMENT**

This policy is effective July 1, 2019.

**BULK INFRASTRUCTURE CONTRIBUTION LEVY  
CIVIL ENGINEERING GUIDELINES  
2019**



**DEFINITION**

- 1 Bulk infrastructure contribution levies (**BICLS**) /Pro rata contributions in Cederberg Municipality are defined as:
  - 1.1 a specific charge imposed by the Municipality as a condition of approval of a land use application
  - 1.2 in order to cover the cost of municipal engineering services required as a result of an intensification of land use,
  - 1.3 and the anticipated impact of the development on the municipal infrastructure requirements.
- 2 The basis on which the amount is calculated is premised on the increased impact
  - 2.1 that a new or amended land use and additional footprint will have on the existing infrastructure.
  - 2.2 and/or as a proportional contribution according to needs arising from the approval.
- 3 Development Charges are levied in terms of Section 42 of the LUPO which provides that when an approval is granted for a land use application in terms of LUPO, then the Municipality is empowered to impose conditions as it may think fit.
  - 3.1 In imposing these conditions the Municipality must, in terms of section 42(2) of LUPO, have regard to
    - 3.1.1 the community needs and the public expenditure which may arise from and the public expenditure incurred in the past which facilitates the approval
    - 3.1.2 as well as the various rates and levies paid in the past or to be paid in the future by the owner of the land concerned.

- 3.2 These conditions can include conditions relating to the payment of money which is directly related to requirements resulting from the land use application in respect of the provision of necessary services to the land concerned as well as surrounding areas to which the land use has an impact.
- 4 Rapid expansion and major national infrastructure development in the municipality's area of jurisdiction has resulted in an increasing number of applications for subdivision of land and applications for deviations in land use.
- 5 Granting such subdivisions and applications for rezoning and deviation
- 5.1 frequently causes a heavy burden on existing municipal service infrastructure and,
- 5.2 necessitates upgrading and/or extension of such infrastructure at enormous cost, if not immediately, then at a later stage.
- 6 The calculation of fixed and real cost capital contributions is therefore based on
- 6.1 the estimated cost of either immediate or future upgrading or extension of infrastructure necessitated by property development for the purpose of facilitating the provision of services to a development.
- 6.2 as well as the impact that development has on the future infrastructure requirements both via additional physical footprint and population impact immediately and over time.
- 6.3 such infrastructure could include external bulk services as well as internal networks and conduits. The capital contributions payable on the different components of municipal services are calculated on the basis of guidelines, adjustments, suppositions and recommendations informed by infrastructure backlogs and requirements of the municipality.
- 7 Definitions: External engineering services include bulk- and link engineering services. The Development Charge includes both, but different rules apply to them. Developers are required to pay a Development Charge consisting of both of these components:
- a) a pro rata share of the cost of bulk engineering services to the development; and
- b) the costs of any link engineering services required for the development.

- 8 Unless bulk engineering services are provided in lieu of Development Charges, the developer shall be responsible for both of the above.
- 8.1 It is imperative to recognise that only the provision of infrastructure for which the municipality is responsible is covered by the Development Charge.
- 8.2 The cost of required Provincial and national infrastructure is therefore not covered by the Development Charge.
- 8.2.1 These costs may have to be paid by the developer, and the process, applications and approvals will be managed by the authority responsible for providing a particular or specific service.
- 8.2.2 For example: Eskom for Electricity in their distribution areas, SANRAL for national roads, and Provincial Public Works for provincial roads.
- 8.3 N.B. Excluded from the Development Charge is the provision and installation of internal engineering services, which is the responsibility of the developer.
- 9 Section 49 of SPLUMA stipulates that:

***Provision of engineering services***

*49. (1) An applicant is responsible for the provision and installation of internal engineering services.*

*(2) A municipality is responsible for the provision of external engineering services.*

*(3) Where a municipality is not the provider of an engineering service, the applicant must satisfy the municipality that adequate arrangements have been made with the relevant service provider for the provision of that service.*

*(4) An applicant may, in agreement with the municipality or service provider, install any external engineering service instead of payment of the applicable development charges, and the fair and reasonable cost of such external services may be set off against development charges payable.*

*(5) If external engineering services are installed by an applicant instead of payment of development charges, the provision of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), pertaining to procurement and the 56 Spatial Planning and Land Use Management Act, 2013 Act No. 16 of 2013 appointment of contractors on behalf of the municipality does not apply.*

10 The municipality may however reserve the right to approve the specifications of the infrastructure and engineering services to be sourced and to be part of the evaluation and adjudication processes of the applicant to ensure value for money.

\* The municipality may however reserve the right to approve the specifications of the infrastructure and engineering services to be sourced and to be part of the evaluation and adjudication processes of the applicant to ensure value for money.

11 Section 40 of the Provincial Act No. 3 of 2014: Western Cape Land Use Planning Act, 2014 stipulates the following:

*40. (1) When a municipality approves a land use application subject to conditions, the conditions must be reasonable conditions and must arise from the approval of the proposed utilisation of land.*

*(2) Conditions imposed in accordance with subsection (1) may include, but are not limited to, conditions relating to—*

*(a) the provision of engineering services and infrastructure;*

*(b) the cession of land or the payment of money;*

*(c) the provision of land needed for public places or the payment of money in lieu of the provision of land for that purpose;*

*(d) settlement restructuring;*

*(e) agricultural or heritage resource conservation;*

*(f) biodiversity conservation and management;*

*(g) the provision of housing with the assistance of a state subsidy, social facilities or social infrastructure;*

*(h) energy efficiency;*

*(i) requirements aimed at addressing climate change;*

- (j) the establishment of an owners' association in respect of a subdivision;*
- (k) the provision of land needed by other organs of state;*
- (l) the endorsement in terms of section 31 of the Deeds Registries Act in respect of public places where the ownership thereof vests in the municipality;*
- (m) the registration of public places in the name of the municipality;*
- (n) the transfer of ownership to the municipality of land needed for other public purposes;*
- (o) the implementation of a subdivision in phases;*
- (p) the payment of a contravention levy in respect of the unlawful utilisation of land;*
- (q) requirements of other organs of state.*

*(3) Subject to subsection (12), a condition contemplated in subsection (2)(b) may require a proportional contribution to municipal public expenditure according to the normal need therefor arising from the approval, as determined by the municipality in accordance with norms and standards as may be prescribed.*

*(4) Municipal public expenditure contemplated in subsection (3) includes, but is not limited to, municipal public expenditure for municipal service infrastructure and amenities relating to—*

- (a) community facilities, including play equipment, street furniture, crèches, clinics, sports fields, indoor sports facilities or community halls;*
- (b) conservation purposes;*
- (c) energy conservation;*
- (d) climate change; or*
- (e) engineering services.*

- (5) When determining the contribution contemplated in subsections (3) and (4), a municipality must have regard to at least—
- (a) the municipal service infrastructure and amenities for the land concerned that are needed for the approved land use;
  - (b) the public expenditure on that infrastructure and those amenities incurred in the past and that facilitates the approved land use;
  - (c) the public expenditure on that infrastructure and those amenities that may arise from the approved land use;
  - (d) money in respect of contributions contemplated in subsection (3) paid in the past by the owner of the land concerned; and
  - (e) money in respect of contributions contemplated in subsection (3) to be paid in the future by the owner of the land concerned.
- (6) Except for land needed for public places or internal engineering services, any additional land required by the municipality or other organs of state arising from an approved subdivision must be acquired subject to applicable laws that provide for the acquisition or expropriation of land.
- (7) A municipality may not approve a land use application subject to a condition that approval in terms of other legislation is required.
- (8) If a municipality imposes a condition contemplated in subsection (2)(a), an engineering services agreement must be concluded between the municipality and the owner of the land concerned before the installation of infrastructure commences on the land.
- (9) An owners' association or home owners' association that came into being by virtue of a condition imposed under the Ordinance and that is in existence immediately before the commencement of this Act is regarded as an owners' association that came into being by virtue of a condition imposed by a municipality in accordance with this Act and in terms of applicable by-laws.
- (10) If a municipality approves a land use application subject to conditions, it must specify which conditions must be complied with before the sale, development or transfer of the land.
- (11) A person may not apply to the Registrar of Deeds to transfer an erf unless the person has proved to the satisfaction of the municipality compliance with the conditions of approval that have to be complied with before the land may be transferred.

*(12) A municipality may, if appropriate, depart from contributions determined in accordance with subsections (3) and (5).*

12 Bulk infrastructure contribution levies (BICL) is also provided for in terms of Section 42 of the Land Use Planning Ordinance (LUPO), 15 of 1985. When an approval is granted for a land use change in terms of LUPO, then the Municipality is empowered to impose conditions.

### **13 Infrastructure in lieu of Development Charge**

13.1 A developer may by agreement with the municipality install bulk engineering services in lieu of BICL or a portion thereof.

13.2 Where a developer installs bulk engineering services in accordance with this agreement they may deduct the cost of the infrastructure installed from the BICL for that particular development, provided that:

- a) the infrastructure to be installed is to the standard required by the municipality;
- b) the infrastructure to be installed is located within the same municipal district in which the development is situated;
- c) a written Services Agreement is entered into, which specifies the infrastructure to be provided in lieu of BICL, the standards to which the infrastructure is to be built, the cost of the infrastructure and the assets to be transferred to municipality;
- d) the Services Agreement is signed by the developer and the municipality prior to the commencement of any works to be provided in lieu of Development Charges;
- e) the actual implementation programme and anticipated transfer date is recorded;
- f) the municipality may not issue any clearance in terms of local government legislation otherwise due to the developer prior to the fulfilment of the commitment or provision of bank guarantee in terms of the amount payable for the development charge.
- g) the municipality may not approve a building plan in relation to the development concerned prior to the fulfilment of the commitment or provision of a guarantee in terms of the amount payable for the development charge.
- h) the municipality may however reserve the right to approve the specifications of the infrastructure and engineering services to be sourced in lieu of the BICL and to be part of the evaluation and adjudication processes of the applicant/developer to ensure value for money.

13.3 In the instance where the services agreement is negotiated and the parties conclude that only a portion (  X   %) installation of external engineering services in lieu of an agreed portion of payment of the applicable BICL is payable,

and

- 13.4 the fair and reasonable cost of such external services will be set off against that portion ( $X$  %) of BICL payable. The remaining portion  $Y$  ( $100\% - X\%$ ) becomes payable in terms of the developers obligations to the Municipality,
- 13.5 The value of the infrastructure to be installed in lieu of BICL must be deemed reasonable and the municipality must get a report to that effect from an independent, registered Consulting Engineer appointed by the developer;
- 13.6 The Municipality may decide and reserves the right to appoint an independent, registered Consulting Engineer to verify the report provided by the developer in terms of the above paragraph
- 13.7 Accurate records of payment are to be kept by the developer to verify final payment certificates; the municipality may have access to all relevant records relating to the construction process, including not only records relating to the procurement process, but also the contractual documentation, notices, invoices, progress reports and other records; and the Municipality may impose other appropriate safeguards on a case-by-case basis depending on the circumstances.
- 13.8 The infrastructure installed and the land on which it is situated are either formally transferred to or received by the municipality or the required agreements are made to ensure that the municipality has access to the infrastructure if it does not fall on municipal land, which may include the registration of a servitude in favour of the municipality.
- 14 The final value of the assets transferred, as reflected in payment certificates, must be reconciled with the original BICL charges liability and any balance due by the developer must be paid in full.

## **15 Township Establishment**

- 15.1 Township establishment is a complex and multifaceted process of converting land into residential, commercial or industrial properties. Due to the rural nature of the municipal area the establishment of new townships are unique in nature and requires circumspect evaluation.
- 15.2 The BICL policy will applicable to evaluate the infrastructure requirements at the commencement of any application for township establishment submitted. Applications received, whether from a private developer or government department (e.g. rural villages,

packing stores, and distribution facilities) civil infrastructure requirements will be considered and assessed in terms of this policy.

15.3 Every application received by the Municipality for township establishment would be subject to sufficient bulk infrastructure capacity being in place. The determination of the capacity must take place during Step 1 below, and no approvals will be granted if the capacity is insufficient, and or until such time that the capacity is installed.

15.3.1 Step 1 - Township Establishment – legal process whereby an authority receives, considers and approves an application for a township and which culminates in the proclamation of the township. The process may be prescribed in any of various Acts, Regulations and Ordinances.

15.3.2 Step 2 - Township Proclamation – The formal gazettement of the approval of the township. This event marks the conversion of the status of the property from farmland to a township and from this moment the new zonings are also valid. No transfer of individual stands in the township will be allowed without proclamation.

15.3.3 Step 3 - Township Register – Forms part of the township proclamation process, whereby the Registrar of Deeds registers the township on his records. The township register is in essence the document through which the single title deed of the original farm portion, is converted and divided into a multitude of titles (for each erf) from where the first transfer is effected.

15.4 In the instance where partial or no bulk infrastructure capacity exist to facilitate the township establishment and the municipalities own budget and resources does not allow for the particular civil capacity installations the municipality may

15.4.1 Impose a prerequisite condition for the applicant to install bulk and link civil services at the applicants cost,

Or

15.4.2 Levy a real cost capital contribution - which is a financial contribution payable to the Municipality upfront in cash and is based on the estimated real cost of immediate upgrading or extension of infrastructure necessitated by property development for the purpose of facilitating the provision of services to such a development. Such infrastructure could include external bulk services as well as internal networks and conduits

15.5 Such installation and or upfront payment does not excuse/exonerate/preclude the payment of BICL charges as the Municipality still would need to process the additional load (e.g. waste collection and processing and additional sewerage and water treatment). The Engineering department of the municipality reserves the right to decide what the terms and conditions will be of the service agreement to be concluded. The agreement between the applicant and municipality shall stipulate the responsibilities to provide the bulk, link, internal and or external services required for the development, the level of services to be provided, as well as the amounts of services contributions payable.

## **16 ADMINISTRATION**

**16.1** The Department of Technical Services will administer and enforce the guideline and related policy in their capacity as the user department.

**16.2** The Department of Technical Services is responsible for the review of this guideline at the end of each financial year. The revised guideline is to be approved by the Head of Technical Services.

**16.3** In lieu of applications where the payment of the BICL is applicable, it is in the Head of Department's discretion to upon receipt of the relevant report decide which BICL is applicable.

## **17 CALCULATION METHODOLOGY**

### Determination of unit costs for use in calculations for development charges

17.1 A municipal Development Charge is calculated to determine as closely as practical the pro rata share of the actual, capital cost of related municipal infrastructure needed to service a particular development or services on which a particular development has an impact. The determination of costs is based on estimated unit costs for each service, which are calculated in the following manner:

17.1.1 The impact or demand from this future development on each of the engineering services is calculated using average unit demands for each land use category, based on demand factors from municipal masterplans and professional engineering experience.

17.1.2 The infrastructure required to service this new demand is determined, taking into account existing master planning and any existing capacity (or lack thereof) within the systems.

17.1.3 The future capital cost of this infrastructure is quantified using the Current Replacement Cost of construction of the systems. Current replacement cost includes all land costs, professional fees, materials, labour, preliminary and general items.

17.1.4 The outstanding loan amount for each service is divided by the total capacity of the existing service infrastructure (to obtain a loan amount per unit of demand) and subtracted from the unit capital cost. This correction is made to avoid double payment for infrastructure capacity that is funded through loans and recovered through tariffs.

17.2 The above process can be summarized in the following conceptual formula:

Key	
<b>DC</b>	Development Charge
<b>ARC</b>	Asset Replacement Costs
<b>OL</b>	Outstanding Loans
<b>ANC</b>	Average Network Capacity
<b>CC</b>	Capacity Contribution
<b>SD</b>	Size of Development
<b>TGR</b>	Trip Generation Rate
<b>CR</b>	Cost Rate
<b>SC</b>	Strength Contribution
<b>DHTR</b>	Daily Heavy Trip Rate
<b>AF</b>	Axle Factor
<b>HTL</b>	Half Trip Length

<u>Water</u>	<b>DC = <math>\frac{ARC-OL}{ANC}</math></b>	ARC: Current Asset Replacement Costs OL: Outstanding Loans ANC: Average Network Capacity as per WSDP (KI/day)
<u>Sewerage</u>	<b>DC = <math>\frac{ARC-OL}{ANC}</math></b>	ARC: Current Asset Replacement Costs OL: Outstanding Loans ANC: Average Network Capacity as per WSDP (KI/day)
<u>Electricity</u>	<b>DC = <math>\frac{ARC-OL}{ANC}</math></b>	ARC: Current Asset Replacement Costs OL: Outstanding Loans ANC: Average Network Capacity as per Electricity Masterplan (kVA)

<u>Solid Waste</u> $DC = \frac{ARC-OL}{ANC}$	ARC: Current Asset Replacement Costs OL: Outstanding Loans ANC: Solid waste generation rate as per IWMP(Kg/day)
<u>CFC</u> $DC = \frac{ARC-OL}{ANC}$	ARC: Current Asset Replacement Costs OL: Outstanding Loans ANC: Area of CFC's(m <sup>2</sup> )
<u>Roads</u> CC = SO x TGR x HTL x CR SC = SD x DHTR x AF x CR DC = CS + SC	

## TARIFF STRUCTURE

Municipal Service	Capital Contribution	(Guesthouse and B&Bs - No. of beds at % of tariff)			Exemption: RDP/Subsidised Housing Residential units (1 Unit)			Exemption: RDP/Subsidised Housing Residential units (2 Units+)	Mega Capital Contribution *
		1 to 3 at 25%	4 to 6 at 50%	7+ at 100%	2 bed unit at 25%	3 bed unit at 50%	4 bed unit at 100%	Base Rate per unit	R/m <sup>2</sup>
1. Water	R 13 096.74	R 3 274.18	R 6 548.37	R 13 096.74	R 3 274.18	R 6 548.37	R 13 096.74	R 13 096.74	R 6.55
2. Sewerage	R 7 402.34	R 1 850.59	R 3 701.17	R 7 402.34	R 1 850.59	R 3 701.17	R 7 402.34	R 7 402.34	R 3.70
3. Electricity	R 1 348.67	R 337.17	R 674.33	R 1 348.67	R 337.17	R 674.33	R 1 348.67	R 1 348.67	R 0.67
4. Solid Waste	R 1 642.85	R 410.71	R 821.43	R 1 642.85	R 410.71	R 821.43	R 1 642.85	R 1 642.85	R 0.82
5. Roads & Stormwater	R 4 391.25	R 1 097.81	R 2 195.62	R 4 391.25	R 1 097.81	R 2 195.62	R 4 391.25	R 4 391.25	R 2.20
6. Community Facilities	R 2 398.63	R 599.66	R 1 199.32	R 2 398.63	R 599.66	R 1 199.32	R 2 398.63	R 2 398.63	R 1.20
<b>TOTAL CAPITAL CONTRIBUTION (All Services)</b>	R 30 280.48	R 7 570.12	R 15 140.24	R 30 280.48	R 7 570.12	R 15 140.24	R 30 280.48	R 30 280.48	R 15.14

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\*Note Mega Capital Contribution: (Capital Contribution/2000) x2x actual m<sup>2</sup>