Policy Name	**DEVELOPMENT CHARGES POLICY**
Policy Number	**2023/2024**
Responsible Clusters	**Trading Services Cluster** **Finance Cluster** **Economic Development & Planning Cluster** **Human Settlements, Engineering and Transportation Cluster**
Authored by	**Finance Cluster** **Economic Development and Planning Cluster** **Trading Services Cluster**
Vetted by	**Legal and Compliance Unit**
Policy Owners	**Economic Development and Planning Cluster** **Finance Cluster**
Status	**Approved**
Date of Approval	**26 April 2023**
Approved By	**Council**
Review intervals	**Annually and as and when required**

ETHEKWINI MUNICIPALITY: DEVELOPMENT CHARGES POLICY 2023/2024

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1. DEFINITIONS

"**applicant**" means any person who makes a land development application as contemplated in Section 45 of SPLUMA;

"bulk engineering service" means capital infrastructure assets associated with that portion of an external engineering service which is intended to ensure delivery of municipal engineering services for the benefit of multiple users or the community as a whole, whether existing or to be provided as a result of development in terms of a municipal spatial development framework (as defined in SPLUMA); these services include:

i. Water
ii. Sanitation
iii. Electricity
iv. Municipal roads and Stormwater
v. Transport services which include taxi ranks, bus ranks, pedestrian bridges, public transport interchanges, scholar drop-off facilities and public space improvements, including trading stalls, that are associated with public transport interchanges, ranks, stations and facilities.

"bulk service" means that portion of an external engineering service which is intended to ensure provision of the engineering services for the benefit of multiple users or the community, whether existing or provided for in a municipal spatial development framework;

"capacity" means the maximum demand for an engineering service, that the associated capital infrastructure assets can satisfy;

"catalytic project" means, for the purposes of this Policy, a large-scale spatial development project with an investment value of R500 million and above, aimed at contributing substantially to job creation and economic growth in the Municipality;

"CFO" means Chief Financial Officer of the Municipality as defined in the MFMA or his/her delegate in terms of Section 59 of the Systems Act;

"condition of approval" means a condition imposed by the City on the approval of a land development application in terms of land use planning legislation;

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"Council" or "Municipal Council" means the eThekwini Municipal Council, a municipal council referred to in section 157(1) of the Constitution;

"developer" means an applicant, as defined in SPLUMA, whose land development application is approved, in whole or in part, by the person or body authorised to do so in terms of applicable legislation;

"development charges" means is a once off charge levied by a municipality on the landowner as a condition for approving land development application, to cover the costs incurred by the municipality when installing new infrastructure or upgrading an existing infrastructure;

"Early Childhood Development Centre (ECD)" means any building or premises used for the care of more than six (6) children and includes a playgroup, crèche, aftercare, pre-school, nursery school, edu-care or similar facility;

"economic infrastructure" means infrastructure serving market driven commercial and industrial consumers;

"effective date" means the date on which this Policy comes into effect which shall be 1 July 2023;

"engineering services" means the infrastructure required to supply water, sewerage, municipal roads, stormwater drainage, municipal public transport, solid waste collection and removal required for the purpose of land development;

"engineering services agreement" means an agreement concluded between the Municipality and a developer, detailing specific terms and conditions on external engineering services provided by the Municipality to an approved land development, and its associated development charges;

"external engineering services" means:

a) municipal engineering services infrastructure external to the development site boundary and includes both:
    i) bulk engineering services, which means municipal services infrastructure external to the development, including land, required to provide engineering services to multiple users at a municipality-wide scale as indicated in the relevant master plans; and

ii) link engineering services, which means municipal services infrastructure external to the development site boundary, including land, required to connect internal engineering services within the proposed development to proposed bulk engineering services; and existing or

b) bulk and link engineering services as described above in (a) but which also falls within the site boundary where the characteristics of the site so require external engineering services to be included on the site in addition to internal engineering services;

"**Gross Leasable Area (GLA)"** means the area of a building designed for, or capable of, occupancy and/or control by tenants, measured from the centre line of joint partitions to the inside finished surface of the outside walls, and shall exclude the following:

(i) all exclusions from the definition of floor space;

(ii) toilets;

(iii) lift shafts, service ducts, vertical penetrations of floors;

(iv) lift motor rooms and rooms for other mechanical equipment required for the proper functioning of the building;

(v) areas reasonably used in connection with the cleaning, maintenance and care of the building, excluding dwelling units for caretakers, supervisors, cleaners or maintenance staff; and

(vi) interior parking and loading bays;

"infrastructure backlog" means a lack of capacity in the existing infrastructure networks that result in a service being provided below the minimum acceptable standard;

"infrastructure master plans" means high level infrastructure plans prepared by the Municipality to cater for future development. These include, but are not limited to the Integrated Transport Plan, Electricity Business Plan, Bulk Water and Sanitation Master Plans, Stormwater Master Plans and Integrated Waste Management Plan;

“internal engineering service” means an engineering service located within the boundaries of a land area required for the use and development of the land area and which is to be owned and operated by the Municipality or a service provider;

“land development” means the erection of building or structures on land or change of use of land, including township establishment, the subdivision or consolidation of land or any deviation from the land use or use permitted in terms of the Land Use Scheme;

“land development application” means an application for land development lodged with the Municipality for consideration and decision making and “application” shall have a corresponding meaning;

“link engineering service” means an external engineering service required to connect an internal engineering service to a bulk engineering service and includes the land required for the link engineering service;

“Municipality” means eThekwini Municipality, a category A Municipality as envisaged in terms of section 155(1) of the Constitution;

“Municipal Manager” means a person appointed in terms of the Systems Act as the head of administration of the Municipal Council;

“Planning and Land Use Management By-law” means eThekwini Municipality: Planning and Land Use Management By-law, 2016;

“Second dwelling” means another dwelling unit which may, in terms of the zoning scheme, be erected on a land unit where a dwelling house is also permitted and such second dwelling may be a separate structure or attached to an outbuilding or may be contained in the same structure as the dwelling house, provided that:

a) the second dwelling shall remain on the same land unit as the dwelling house; and

b) the second dwelling shall comply with the requirements specified in the Municipality’s Land Use Management Scheme;

“SPLUMA” means the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013);

"Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

2. PREAMBLE

The Municipality has an obligation of promoting the development principles of spatial justice; spatial sustainability; spatial resilience; efficiency and good administration in municipal planning through its policies. The Development Charges Policy seeks to provide a framework for the implementation of development charges, by providing guidance on the assessment and collection of development charges in a transparent and equitable manner.

This policy seeks to ensure the efficient use of public resources, promote the development of infrastructure and services in areas of economic growth. The Policy intends to provide a balanced approach to the assessment and collection of development charges and to ensure that development charges are applied in a fair and equitable manner.

This Policy must be read in conjunction with the Constitution of the Republic of South Africa, the eThekwini Municipality: Property Rates By-law 2015 (as amended), Treasury Framework on development charges, Systems Act, Local Government: Municipal Property Rates Act 6 of 2004, SPLUMA and eThekwini Municipality: Planning and Land Use Management By-law 2016.

3. PURPOSE

The purpose of this Policy is to provide a framework for the external engineering services for which development charges are payable and to set out the calculation method of the development charges payable by a developer to the Municipality. It also intends to provide a framework on equitability and sustainability for financing capital infrastructure assets. This will ensure that the municipality is equipped to efficiently and effectively provide capital infrastructure assets and support development of land in its area of jurisdiction. This Policy also intends to promote transparency, consistency, fairness and certainty of development charges

management by prescribing how the development charges will be implemented. The scope of development charges determines the development charges liability for the following bulk engineering services that are provided by the Municipality:

i. Water
ii. Sanitation
iii. Electricity
iv. Refuse collection
v. Municipal roads and Stormwater
vi. Transport services which include taxi ranks, bus ranks, pedestrian bridges, public transport interchanges, scholar drop-off facilities and public space improvements, including trading stalls, that are associated with public transport interchanges, ranks, stations and facilities.

4. POLICY OBJECTIVES

The desired outcome of this Development Charges Policy is to:

i. recover the portion of the capital cost of economic infrastructure that is attributable to developments.
ii. enable the provision of economic infrastructure timely and efficiently in order to support land development.
iii. provide economic infrastructure in the most cost-effective manner, taking into consideration scarce resources and effective urban form.
iv. promotes sustainable infrastructure provision and compliments the Municipal Spatial Development Framework in shaping a cost-effective urban environment.
v. mitigates the risk of inadequate infrastructure, which may result in negative impacts on ecosystems and environmental quality.

This policy provides the key details of the development charges namely:

i. A once-off capital amount paid to cover the costs of the additional infrastructure that the Municipality is obliged to provide.
ii. The trigger for determining whether a development charges must be paid once the land development application has been approved.

iii. The basis on which the amount of a development charges is calculated based on the increased impact that a new or changed use will have on the existing infrastructure.

iv. The conditions under which such a charge becomes payable and the administrative procedures for making such payment. The development charge is calculated over and above any other obligations that a developer may incur in terms of applicable legislation.

5. PROBLEM STATEMENT

This Policy promotes sustainability in municipal infrastructure investment finance, which allows the municipality to meet its required strategic infrastructure need in order to promote economic growth that creates job opportunities and reduces poverty. Over the years, the municipality has been imposing development charges guided by Council resolutions, departmental processes and procedures. There is a need to formalise these procedures to ensure consistency in its application. Under investment in the municipal infrastructure has a negative impact on its economy and the provision of basic services to communities. Without this Policy, developers would not be held accountable for the infrastructure costs associated with their projects, leaving the Municipality to bear the burden of these costs. Whereas, the Policy assists to ensure that developers are contributing their fair share to the cost of infrastructure and that the Municipality has funds needed to support new development, development charges are at a level that minimises the cost to developers while still providing necessary funds to cover the cost of providing infrastructure and services.

6. PRINCIPLES OF THE POLICY

The Policy is guided by the key principles which closely reflect National Treasury's National Policy Framework for Municipal Development Charges. The following guiding principles must be considered when implementing this Policy:

6.1 *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 apply the 'benefit principle' of public finance, which means that those who benefit from new infrastructure investment, or who cause off-site impacts, pay their fair share of the associated costs. This implies that the existing residents should not benefit from new development at the cost of a developer, and a developer or new residents should not unduly benefit at the cost of the existing resident. The same land use should be treated the same.

6.2 *Predictability*

Development charges should be a predictable, legally certain and reliable source of revenue to the Municipality for providing external engineering services and should be clearly and transparently accounted for. In order to promote predictability in municipal finance systems the costs associated with municipal capital infrastructure assets provided expressly to benefit poor households should be established before subsidies are applied in a transparent manner to fund the liability.

6.3 *Spatial and Economic Neutrality*

The primary role of a system of development charge is to ensure the timely, and sustainable financing of required capital infrastructure assets. Development charges should be used to promote and support economic development, including job creation and economic growth. The development charges should be applied equally and fairly across all geographic areas and economic sectors without creating an imbalanced playing field for developers. This guiding principle ensures that the development charges do not create economic or geographic disparities that could lead to negative undesired outcomes.

6.4 *Administrative ease and uniformity*

The determination, calculation and operation of development charges should be administratively simple and transparent. Charges should be calculated based on the estimated cost of infrastructure to support growth, apportioned to each unit of growth relative to the benefit that each derives. The Municipality needs to demonstrate that its development charges tariffs are informed and supported by justifiable evidence.

These principles take cognisance of the following Municipal's Inclusive Growth Strategy in the IDP (2020/2021):

i. The strategy emphasises the need to position the Municipality as a more cost-effective destination to do business. The Municipality has the lowest rate of entrepreneurship among the large metros in the country and consequently lower incomes and lower contribution to taxes than all other large cities. It is hence important to ensure that the cost of doing business in the Municipality is closely monitored and benchmarked against its country peers. This benchmarking must be undertaken annually and independently, be incorporated as background to this Policy and must be reviewed on annual basis. The principle of creating an enabling environment for job creation is based on the pillar of providing a cost-effective business environment.

ii. Over the years, Statistics South Africa surveys identified, eThekwini Municipality as bearing the highest construction costs among all metro cities in South Africa. The drivers of these costs need to be better understood and the policy must take cognisance of these costs during the calculation of unit costs for each of the services.

iii. The country's record of high unemployment which is the highest in the world, necessitates that investments, development projects and infrastructure development that promote the principles of economic development and job creation, need to be encouraged and fostered. The IDP contains a list of key tradable sectors that need to be attracted and grown as they will bring in income and value into the eThekwini region and assist the Municipality in achieving its mandate of job creation and local economic development. Given this imperative such sector and investments should be considered differently.

iv. The IDP takes a medium and long-term view of growing the rates base and revenue generation of the Municipality. Successful cities the world over are those that are able to attract and grow businesses by creating a competitive platform for the private sector to do business. Such cities become globally competitive and are able to improve the quality of life of citizens enabled by its own financial stability. The Municipality must therefore always take a medium

and long-term view of financial performance rather than a narrow short-term one.

7. LEGAL FRAMEWORK

7.1 Constitution

In terms of the Section 152(1) and (2) of the Constitution, the municipality has a responsibility to provide services to communities in a sustainable manner, to promote social and economic development. Whilst executing its responsibility, it must strive within the financial and administrative capacity, to achieve social and economic development. Section 156(1) states that a municipality has executive authority in respect of, and the right to administer local government matters such as Electricity, Water, sanitation, Road, Storm Water, refuse and solid waste removal. In terms of Section 229(1) of the Constitution, municipalities are empowered to impose property rates and surcharges on fees for services provided by or on behalf of the municipality. These property rates and municipal surcharges referred to in Section 229(1) of the Constitution, are regulated in the Municipal Property Rates Act, 2004 and tariffs are regulated in the Systems Act.

7.2 Systems Act

Section 4(1)(c) of the Systems Act provides that the Municipality has a right to finance its the affairs by charging fees for services, imposing surcharges on fees, rates on property and other taxes, levies and duties, to the extent authorised by national legislation. This right is further illustrated in Section 11(3)(i), which provides that the municipality may impose and recover rates, taxes levies, duties, services fees and surcharges on fees, including setting and implementing tariff, rates and tax and debt collection policies.

Municipality is expected to exercise its power to impose levies subject to provisions envisaged in terms of Section 75A of Systems Act. Section 75A (1) provides that a Municipality may levy and recover fees, charges or tariffs in respect of any function or service of the Municipality and interest on any outstanding debt. Section 76(b)(i) - (v) allows the Municipality to provide services through an external mechanism, which

includes any institution, entity or person legally competent to operate a business activity.

7.3 SPLUMA

Section 49 of the SPLUMA, prescribes that:

" (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 appointment of contractors on behalf of the municipality does not apply."

7.4 Planning and Land Use Management By-law

Section 44(1) provides that *when deliberating on any application, a decision maker must, where applicable, consider the following, which includes but is not limited to–*

(p) development charges applicable under law at the time of lodgement of the Application…;

Furthermore, section 45(2)(a) states that a decision maker may impose any reasonable conditions including conditions related to the provision of engineering services and the payment of any development charges in terms of any applicable law at the time of lodgement of the application;

8. INTERPRETATION OF THE POLICY

8.1 Where there is a conflict of interpretation between the English version of this Policy and a translated version, the English version prevails.

9. POLICY ROLE PLAYERS AND STAKEHOLDERS

The main role players and stakeholders responsible for this policy are:

9.1 Various units within the Municipality that have a direct interest in the implementation of development charges;

9.2 External land developers in the land development industry (private and public sector); and

9.3 Members of the public that are affected by this Policy.

10. ADMINISTRATION PROCESS

10.1 The development charges may be levied in respect of a land development application submitted for approval to the Municipality in terms of the eThekwini Municipality: Planning and Land Use Management By-law, 2016.

10.2 Such application must be lodged with the Development Planning, Environment and Management Unit, in a prescribed form, provided by the office or the Municipality's official website.

10.3 Upon the approval of a land development application, the Municipality will calculate the development charges by using methodology illustrated in Clause 12 of this Policy and a proforma invoice, stipulating the description of the services, the total payable amount and other details about the transaction, will be generated.

10.4 The developer will enter into an engineering services agreement with the Municipality, which will specify terms of the agreement and the development charges thereof.

10.5 The development charges will apply to the following land use intensification types:

a) Rezoning applications:

i. Rezoning to sub-divisional area, overlay zoning or equivalent zoning that enables rezoning and simultaneous subdivision of the land and which is typically required for new development or urban infill development;

ii. Rezoning of land from one base zone to another in order to change the permitted land uses on the site; and

iii. Rezoning from one subzone to another within the same base zone in order to increase the permitted floor space.

b) Sub-division applications where the number of dwelling units increases as a result of the subdivision, or where the subdivision application results in the increase of floor space or GLA.

c) Permanent departure applications:

i. Applications to increase the permitted floor space, GLA, number of occupants or number of rooms; and

ii. Applications to increase permitted coverage.

d) Special Consent use applications (in terms of the Planning and Land Use Management By-law) where the change in land use is deemed by the Municipality to result in additional utilisation of infrastructure.

e) Any application for the amendment of conditions or a site development plan of a previous approval where the condition or site development plan limited the land use, floor space, GLA, coverage or similar provision relating to the intensification of the land use.

f) All additional land use rights including the consolidation of land units, where the change in land use or consolidation of the land units are deemed by the Municipality to result in additional utilisation of infrastructure.

g) Where a property owner is required in terms of the provisions of the Land Use Scheme to comply with conditions relating to available design capacity on

the municipal services network, such as, but not limited to second (additional) dwelling units exceeding 80m² floor space.

h) Any increase in land use rights from the original zoning scheme under which the rights vested with the property.

i) Any other application or use that will increase the demand for infrastructure capacity.

10.6 The development charges will not apply to the following land development applications, which are deemed to have no significant impact on provision of external infrastructure:

a) Rezoning applications to a less intensive zone, i.e. where one land use (primary or special consent use) is replaced by a different land use with similar or lesser infrastructure utilisation impacts for all services.

b) Subdivision applications where no additional development rights or land units are created, or which do not result in additional loading onto external infrastructure.

c) Relaxation applications for building lines or height or other similar parameters, which do not lead to an intensification of land use.

d) Applications where rights are granted on a temporary basis, provided that:

i. such applications may only be granted if the infrastructure impact of the temporary use is the same or less than the existing use; and

ii. if the Municipality does not have sufficient spare capacity available to accommodate the application for the temporary departure, it will not be approved.

e) Consolidation applications that are not accompanied by rezoning or additional rights application.

f) Special consent use applications which have a similar or lesser impact on infrastructure utilisation than original rights applicable to the property.

g) Applications to change land use to one of the following land uses, up to the extent indicated and using the definitions set out in this policy:

i. Early Childhood Development Centre;

ii. home occupation up to 40m^2 per erf;

iii. home childcare facility of up to six children per erf;

iv. second dwelling up to 80m^2 per erf; and

vi. bed and breakfast establishment up to the first three bedrooms of the bed and breakfast component and the first three residential rooms of the existing dwelling. (Credit for maximum 3 residential rooms and three accommodation rooms per property).

11. INSTALLATION OF EXTERNAL ENGINEERING SERVICES

11.1 The external engineering services, in this context includes bulk and link engineering services and are both the subject of the development charges.

11.2 The Municipality may enter into a written agreement with the developer, where instead of payment of development charges, the developer installs full or partial external engineering services on behalf of the Municipality, provided that:

11.2.1 the developer enters into an engineering service agreement in writing with the Municipality, specifying the details of the external engineering services to be provided by the developer to offset the payment of development charges.

11.2.2 the terms of the agreement specify the value of the external engineering services to be installed by the developer, in order to reduce development charges payable to the Municipality;

11.2.3 the amount calculated to off-set development charges may not exceed the total amount calculated for external engineering services installation.

11.3 During the installation of the external engineering service, the developer must assume efficient and cost-efficient approach.

11.4 Where an external engineering services are installed by the developer instead of payment of development charges, the provisions of the Local Government: Municipal Finance Management Act No. 56 of 2003 pertaining to procurement and appointment of contractors on behalf of the Municipality, will not apply.

11.5 Where a developer opts to install the infrastructure, such infrastructure, upon installation, becomes a property of the Municipality, and the developer shall register and transfer any rights of such infrastructure to the Municipality.

11.6 Fees collected from the development charges will be ring-fenced and be used to fund upgrading and extensions of bulk infrastructure within the Municipality.

11.7 The Municipality must, in the adjustments budget, record all capital infrastructure assets attained, in accordance with the MFMA's provision applicable to capital infrastructure assets gained.

12. CALCULATION OF DEVELOPMENT CHARGES

12.1 Calculation of development charges will be informed by the following principles:

12.1.1 the developer is responsible for the provision of internal and link external engineering services. The development charges relate only to the cost of bulk engineering services.

12.1.2 the development charges liability must be a proportional share cost of bulk engineering services, to the extent of the demand projected to be create by land development, and must be calculated on the basis of a reasonable assessment of the costs of providing existing or planned bulk engineering services.

12.1.3 The development charges for each service is calculated based on the total impact on the service, multiplied by the unit cost for that service. This calculation will be undertaken for each engineering service covered by this policy. The generic calculation formula is as follows:

Development charge $= \sum_{i=1}^{N}$ total impact on services × unit cost of services

Where: N is the total number of services covered by this policy

12.1.4 To calculate the development charges, the following data inputs are required:

i. Proposed land use changes
ii. Unit impact for land use
iii. Unit cost of service for anticipated demand

12.1.5 Determination of unit impact will be estimated using standard unit impacts for each land use. Such standard unit impact is based on national engineering norms and standards and validated against land use and consumption data for Municipality. The generic calculation formula is as follows:

Total impact of service $= \sum_{i=1}^{N}$ Unit impact for land use (i) x (proposed units – existing units)

Where: N is the total number of land use in the proposed development

Table below illustrates the measurement for the impact on each of the engineering services:

ENGINEERING SERVICE	MEASURE	UNIT OF MEASURE
Electricity	After Diversity Maximum Demand (ADMD)	kVA
Roads	Modified vehicle trip generation	Equivalent trips/peak hour
Water	Average Annual Daily Demand (AADD)	kℓ/day
Sanitation	Average Annual Daily Outflow	kℓ/day
Stormwater	Runoff coefficient Development area	unit-less runoff coefficient (site area) m²
Transport	Public transport passenger trips per peak period	Public transport trips/peak period
Solid waste	airspace required and transfer station	Solid waste generation rate (kg/day)

12.1.6 Unit cost estimates for each infrastructure category will be inflated annually by the average construction escalation values as published by the South African Forum of Civil Engineering Contractors (SAFCEC) or similar inflation index.

12.2 The unit cost of service will be based on the estimated capital costs of the respective external engineering service required to service the new demand, taking into account approved engineering standards and any existing capacity or lack thereof within the systems.

12.2.1 The unit cost of service would be re-calculated periodically, but within a period of not more than five years, using current replacement costs in order to determine as closely as practical the infrastructure cost.

12.3 Development charges may **only** be used for the construction of new engineering infrastructure or the upgrading of existing engineering infrastructure.

12.4 Development charges may not be used to reduce or eliminate any existing services infrastructure backlogs, for operational and maintenance expenditure or for any other purpose than described in Clause 12.3 above. Therefore, when determining the unit cost of service, services infrastructure backlogs, operational and maintenance expenditure is excluded.

13. PAYMENT OF DEVELOPMENT CHARGES

13.1 Once the land development application has been approved by the Municipality and engineering services agreement is concluded between the Municipality and the developer, a developer must pay the applicable development charge to the Municipality partially or in full prior to developing land. Payment will be due as per the conditions set out in the land development application approval.

13.2 The condition of approval for a land-use change or development must set out the payment requirements and specifically indicate:

a) the amount to be paid, including provisions for escalation over time where applicable; and

b) the stage the development charge payment is due, where developments are in phases of more than one stage.

13.3 The Municipality will register the service account in the name of the developer, where development charges will be raised and due for payment. A statement of account will be generated and made available to the developer.

13.4 Payment must be made into the bank account specified by the Municipality or at any Municipal Customer Services Centres.

13.5 As a method of payment, the Municipality shall accept modes of payment as stipulated in the Credit Control and Debt Collection Policy and as approved by the Council.

13.6 The Municipality will not allow any internal or link services to be connected to the Municipal's bulk services unless all development charges due and payable to the Municipality are paid in full by the developer or payment arrangements, in accordance with the Municipal's Credit Control and Debt Collection Policy have been made with the Municipality.

13.7 If the conditional application approved by the Municipality lapses, any development charges already paid will not be refunded back to the developer. The conditional approved application lapses if conditions of such approval are not complied with, within a period specified in the approval.

13.8 Where the developer opts not to proceed with the approved development, the Municipality will only refund any development charges received after deducting any costs incurred and subject to any representation made by the developer to the CFO and Municipal Manager.

13.9 Where prior engineering services agreement is made between the Municipality and the developer, and additional infrastructure is installed by the developer, the Municipality may off-set the costs of the additional infrastructure from the development charges paid by the developer on a fair and reasonable basis.

13.10 The Municipality may approve development in phases thereby allowing development charges to be paid on commencement of each approved phase.

13.11 Municipality may, on written agreement with the developer, request that the developer installs external engineering services infrastructure (both bulk or/and link engineering services) which is required for development, on behalf of the Municipality, and that the cost of installation thereof may be set-off against the developer's future or current property rates account.

13.12 The development charges are only applicable to the provision of engineering services infrastructure owned and managed by the Municipality and its entities. It does not include costs associated with engineering infrastructure owned and managed by other Municipalities, provincial and national government and other state-owned entities.

14. EXEMPTIONS AND SUBSIDIES

14.1 The Municipality may grant exemption or subsidise categories of landowners or land developments where development charges may be reduced or waived on application.

The criteria may include land development for the purposes of:

a) Providing low-income and subsidised housing;
b) The beneficiaries of the land development:
i. people who are primarily indigent,
ii. dependent on pensions or social grants for their livelihood;
iii. persons temporarily without income;

iv. persons situated within an area affected by a disaster within the meaning of the Disaster Management Act, 2002 (Act No. 57 of 2002) or any other adverse social or economic conditions; or

v. serving community, conservation, educational, institutional or public purposes as defined in Schedule 2 of the SPLUMA.

c) Where land development meets the criteria for subsidisation in terms of this Policy, been funded or budgeted to be funded through a fiscal transfer from another sphere of government, the municipality must grant a subsidy to the extent of that grant funding.

d) Providing incentive towards the implementation of catalytic projects that are key in supporting the socio-economic recovery and growth of the Municipality in line with the Spatial Development Framework.

15. ISSUING OF REVENUE CLEARANCE CERTIFICATES AND OTHER APPROVALS

15.1 Where the developer owes the Municipality an amount for the development charges and the debt remains unpaid or the developer fails to comply with an engineering services agreement, the Municipality may hold back the revenue clearance certificate, approval of land development or Certificate of Occupancy.

15.2 Where the developer fails to pay the agreed development charges, the Municipality may disapprove any connection to its bulk services system until such charges are settled or payment arrangement are concluded with the Municipality.

15.3 The collection of any outstanding development charges will be subjected to the processes of debt collection as prescribed in the eThekwini Municipality's Credit Control and Debt Collection Policy.

16. POLICY EVALUATION AND REVIEW

16.1 To evaluate and review this Policy, statistical data, practical implementation issues and legislative requirements will be used, and the Policy will be reviewed annually.

17. TRANSITIONAL ARRANGEMENTS

17.1 This Policy shall take effect on the effective date.

17.2 The provisions of the Policy will not be implemented retrospectively. Therefore, development applications approved prior to the approval of this Policy will be subject to the terms and conditions of the engineering services agreement concluded with the Municipality.

18. DISPUTE AND RESOLUTION

18.1 A person whose rights are affected by a decision taken by a decision maker in terms of this Policy may lodge a dispute subject to the right of appeal in terms of Section 62 of the Systems Act.

19. GENERAL

19.1 Without detracting from other communication modes that may be implemented by the Municipality, from time to time, this policy will be published on the Municipality's official website: www.durban.gov.za. It will also be communicated to the local community during the statutory annual budget community participation process.

19.2 Prescribed application forms may be obtained at Customer Service Centres, Sizakala Centre Offices and on the Municipality's official website.