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THE PRESIDENCY

No. 4957 **11 June 2024**

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

Act No. 04 of 2024: The Municipal Fiscal Powers and Functions Amendment Act, 2024

LIBANDLA LEMENGAMELI

No. 4957 **11 Junie 2024**

Lapha kuniketwa satiso sekutsi Mengameli uvumile lomtsetfo lolandzelako, loshicilelwa lapha njengesatiso jikelele:—

No. 04 wanga 2024: Umtsetfo wemandla Etetimali nemisebenti yaBomasipala, 2024

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GENERAL EXPLANATORY NOTE:

[ ]	Words in bold type in square brackets indicate omissions from existing enactments.
_____	Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President)
(Assented to 6 June 2024)

ACT

To amend the Municipal Fiscal Powers and Functions Act, 2007, so as to insert certain definitions; to regulate the power of municipalities to levy development charges; to set out the permissible uses of income from development charges; to provide for the basis of calculation of development charges; to provide for municipal development charges policies; to provide for community participation and making of by-laws in order to give effect to policy on development charges; to provide for engineering services agreements; to provide for the installation of external engineering services by applicants instead of payment of development charges; to provide for the consequences of non-provision of infrastructure by a municipality; to provide for rebate and exemption on the payment of development charges; to provide for dispute resolution, delegations and financial misconduct and transitional provisions relating to development charges; to empower the Minister to make regulations for the effective implementation of matters relating to development charges; to amend the Spatial Planning and Land Use Management Act, 2013; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Substitution of section 1 of Act 12 of 2007

1. The following section is hereby substituted for section 1 of the Municipal Fiscal Powers and Functions Act, 2007 (Act No.12 of 2007) (hereinafter referred to as the principal Act):

"**Definitions and interpretation**

1. (1) In this Act, unless the context otherwise indicates—

'applicant' means an applicant whose land development application is approved, in whole or in part, by the person or body authorised to do so in terms of the Spatial Planning and Land Use Management Act;

'bulk engineering service' means bulk engineering service as defined in section 1 of the Spatial Planning and Land Use Management Act;

GENERAL EXPLANATORY NOTE:

[ ] Emagama labhalwe ngalokugcamile lasetibayeni letitikwele akhombisa lokweciwe kumitsetfo lekhona lemisiwe.

Emagama ladvwetjelwe ngemugca locondzile akhombisa lokufakiwe kumitsetfo lemisiwe.

(English text signed by the President)
(Assented to 6 June 2024)

UMTSETFO

Kuchibiyela uMtsetfo Wemandla Etimali Nemisebenti Yboamasipala, 2007, kute kufakwe tinchazelo letitsile; kulawula emandla abomasipala ekukhokhisa inhlawulo yentfutfuko; kubeka kusetjentiswa lokuvumelekile kwemali lengenako levela etindlekweni tekutfutfukisa; kuniketa ngesisekelo sekubala tindleko tentfutfuko; kuniketa tinchubomgomo tetindleko tentfutfuko tamasipala; kuniketela kubamba lichaza kwemphakatsi kanye nekwenta imitsetfo yabomasipala kute kufezeke inchubomgomo mayelana netindleko tentfutfuko; kuniketa tivumelwano temisebenti yebunjiniyela; kuniketela kufakwa kwetinsita tebunjiniyela tangaphandle ngulabafaka ticelo esikhundleni sekukhokhwa kwetindleko tekutfutfukisa; kuniketela ngemiphumela yekunganiketi kwesakhiwo ngumasipala; wekuniketa saphulelo kanye nekukhululwa ekukhokheni tindleko tentfutfuko; kuniketela kucazululwa kwetingcabano, titfunywa kanye nekungatiphatsi kahle timali kanye netetfulo tesikhashana letiphatselene netindleko tentfutfuko; kuniketa iNdvuna emandla ekwenta imitsetfonchubo yekucaliswa ngemphumelelo kwetindzaba letiphatselene netindleko tentfutfuko; kuchibiyela uMtsetfo Wekuhlelwa Kwendzawo Nekuphatfwa Kwekusetjentiswa Kwemhlaba, wanga-2013; kanye nekuniketela tindzaba letiphatselene naloko.

UMISWA yiPhalamende yeRiphabhilikhi yaseNingizimu Afrika, ngalendlela lelandzelako:—

Kufaka esikhundleni sesigaba 1 seMtsetfo 12 wanga-2007

1. Lesigaba lesilandzelako sifakwa esikhundleni sesigaba 1 seMtsetfo Wemandla Etetimali Nemisebenti Yabomasipala, 2007 (uMtsetfo No. 12 wanga-2007) (njengoba lapha ubitwe njengeMtsetfo loyinhloko):

"**Tinchazelo nekuhunyushwa**

1. (1) Kulomtsetfo, ngaphandle uma ngabe lokucuketfwe kusho lokunye—

'umfakisicelo' kusho umfakisicelo lesicelo sakhe sekutfutfukiswa kwemhlaba sivunyiwe, ngalokuphelele noma incenye, ngumuntfu noma umtimba logunyatwe kwenta loko ngekweMtsetfo WekuHlelwa Kwendzawo kanye Nekuphatfwa Kwekusetjentiswa Kwemhlaba.

'Umsebenti webunjiniyela ngebuningi' kusho umsebenti webunjiniyela ngebuningi njengoba kuchazwe esigabeni 1 seMtsetfo WekuHlelwa Kwendzawo kanye Nekuphatfwa Kwekusetjentiswa Kwemhlaba;

'capacity' means the maximum demand for an engineering service that the associated capital infrastructure assets can meet;

'capital infrastructure asset' means land, property, building or any other immovable asset, including plant and equipment that accede thereto, which is required for provision of an engineering service, parks and open spaces or a municipal service;

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

'development charge' means a charge levied by a municipality in terms of section 9A(1)*(a)*, and contemplated in section 49 of the Spatial Planning and Land Use Management Act, which must contribute towards—

(a) the cost of capital infrastructure assets required to meet increased demand for existing and planned external engineering services; or

(b) the cost referred to in paragraph *(a)* and the cost of land for parks and open spaces if the land development application provides for the use of land for residential purposes; or

(c) the costs referred in paragraphs *(a)* and *(b)* and, with the approval of the Minister, the cost of municipal services other than engineering services;

'engineering service' means engineering service as defined in section 1 of the Spatial Planning and Land Use Management Act;

'engineering services agreement' means a written agreement concluded between a municipality and an applicant on which a land development application has been brought in terms of section 45 of the Spatial Planning and Land Use Management Act, recording their detailed and specific respective rights and obligations regarding the provision and installation of external engineering services and internal engineering services required for an approved land development and matters ancillary thereto;

'engineering service zone' means, for each engineering service, the area within a municipal boundary which is served by a geographically or technically distinct network of capital infrastructure assets, as determined in accordance with section 9B(2)*(e)*(i);

'external engineering service' means an external engineering service as defined in section 1 of the Spatial Planning and Land Use Management Act, and includes bulk engineering service and link engineering service;

'internal engineering service' means an internal engineering service as defined in section 1 of the Spatial Planning and Land Use Management Act;

'land development' means land development as defined in section 1 of the Spatial Planning and Land Use Management Act;

'land development application' means an application for approval of land development as contemplated in section 33, read with section 45, of the Spatial Planning and Land Use Management Act;

'land use' means land use as defined in section 1 of the Spatial Planning and Land Use Management Act;

'link engineering service' means a link engineering service as defined in section 1 of the Spatial Planning and Land Use Management Act;

'Minister' means the Minister of Finance;

'umtsamo' kusho sidzingo lesisetulu setinsita tekunjiniyela imphahla yesakhiwo lehlobene lengahlangabetana nayo;

'imphahla yesakhiwo yenhlokodolobha' ichaza umhlaba, indzawo, sakhiwo nanoma nguyiphi lenye imphahla lengagudluki, lokuhlanganisa imishini netintfo tekusebenta letivumelana naloko, lokudzingekako ekuniketweni kwensita tebunjiniyela, emapaki netindzawo letivulekile noma insita yamasipala;

'Umtsetfosisekelo' kusho uMtsetfosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996;

'umtselo wekutfutfukisa' kusho umtselo lokhokhwa ngumasipala ngekulandzela sigaba 9A(1)*(a)*, futsi lokucatjangwe esigabeni 49 seMmtsetfo Wekuhlelwa Kwetindzawo Nekuphatfwa Kwekusetjentiswa Kwemhlaba, kumele kufake sandla kute—

(a) tindleko temagugu etakhiwo teluhlelo lolusisekelo letidzingekako kuhlangabetana nekukhula kwesidzingo setinsita tebunjiniyela tangaphandle letikhona naletihleliwe; ne

(b) betindleko letishiwo endzimeni *(a)* kanye nendleko yemhlaba emapaki netindzawo letivulekile uma sicelo sekutfutfukiswa kwemhlaba sivumela kusetjentiswa kwemhlaba ngetinjongo tekuhlala; nobe

(c) tindleko letiphawulwe etindzimeni *(a)* na *(b)* futsi ngemvumo yeNdvuna, tindleko temisebenti yabomasipala ngaphandle kwemisebenti;

'umsebenti webunjiniyela' kusho umsebenti webunjiniyela njengoba kuchazwe esigabeni seMtsetfo WekuHlelwa Kwendzawo kanye Nekuphatfwa Kwekusetjentiswa Kwemhlaba;

'sivumelwano setinsita tebunjiniyela kusho sivumelwano lesibhaliwe lesisemkhatsini wamasipala nemfakisicelo lapho sicelo sekutfutfukiswa kwemhlaba sifakwe khona ngekwemigomo yesigaba 45 seMtsetfo wekuHlelwa kweMhlaba nekuPhatfwa Kwekusetjentiswa Kwemhlaba, lesicopha emalungelo nemitfwalo yemfanelo lechazwe ngalokubekiwe futsi lecondzile macondzana nekuniketwa nekufakwa kwetinsita tebunjiniyela tangaphandle netinsita tebunjiniyela tangekhatsi letidzingekako ekutfutfukisweni kwemhlaba lekuvunyelwe kanye netindzaba letihambisana nako;

'indzawo yetinsita tebunjiniyela' kusho, ngensita ngayinye yebunjiniyela, indzawo lengakhatsi kwemngcele wamasipala lenikwe inethiwekhi lehlukile ngekwendzawo noma ngekwebuchwepheshe yetimphahla tetakhiwo tetimali, njengoba kuncunywe ngekuhambisana nesigaba 9B(2)*(e)*(i);

'umsebenti webunjiniyela wangaphandle' kusho umsebenti webunjiniyela wangaphandle njengoba kuchazwe esigabeni 1 seMtsetfo wekuHlelwa kweMhlaba nekuPhatfwa Kwekusetjentiswa Kwemhlaba, futsi kuhlanganisa umsebenti webunjiniyela lobukhulu kanye nemsebenti webunjiniyela bekuchumanisa;

'umsebenti webunjiniyela bangekhatsi' kusho umsebenti webunjiniyela bangekhatsi njengoba kuchazwe esigabeni 1 seMtsetfo WekuHlelwa Kwendzawo kanye Nekuphatfwa Kwekusetjentiswa Kwemhlaba;

'kutfutfukiswa kwemhlaba' kusho kutfutfukiswa kwemhlaba njengoba kuchazwe esigabeni 1; seMtsetfo WekuHlelwa Kwetindzawo kanye Nekuphatfwa Kwekusetjentiswa Kwemhlaba;

'sicelo sekutfutfukiswa kwemhlaba' sichaza sicelo sekuvunywa kwekutfutfukiswa kwemhlaba njengoba kuhlongotwe esigabeni 33, lesifundvwa nesigaba 45, seMtsetfo WekuHlelwa Kwetindzawo kanye Nekuphatfwa Kwekusetjentiswa Kwemhlaba;

'kusetjentiswa kwemhlaba' kusho kusetjentiswa kwemhlaba njengoba kuchazwe esigabeni 1 seluHlelo Lwetindzawo Nekulawulwa Kwekusetjentiswa Kwemhlaba;

'insita yebunjiniyela bekuchumanisa' kusho insita yebunjiniyela bekuchumanisa njengoba ichazwe esigabeni 1 seMtsetfo wekuHlelwa keMhlaba nekuPhatfwa Kwekusetjentiswa Kwemhlaba;

'Ndvuna' kushiwo Ndvuna Wetetimali.

'municipal base tariff' means the fees necessary to cover the actual cost associated with rendering a municipal service, and includes, but is not limited to—

(a) bulk purchasing costs in respect of water and electricity reticulation services, and other municipal services;

(b) overheads, operation and maintenance costs;

(c) capital costs; and

(d) a reasonable rate of return, if authorised by a regulator of, or the Minister responsible for, that municipal service;

'municipal council' means a municipal council contemplated in section 157 of the Constitution;

'Municipal Finance Management Act' means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

'municipality'—

(a) when referred to as a corporate body, means a municipality as described in section 2 of the Municipal Systems Act; or

(b) when referred to as a geographical area, means the area falling within a municipal boundary in terms of section 21 of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998);

'Municipal Planning Tribunal' means a Municipal Planning Tribunal as defined in section 1 of the Spatial Planning and Land Use Management Act, and includes a municipal official authorised to determine land use and land development applications in terms of section 35(2) of the Spatial Planning and Land Use Management Act;

'municipal service' means—

(a) any local government matter listed in Part B of Schedule 4 or Part B of Schedule 5 to the Constitution; or

(b) any function assigned to a municipality in accordance with section 9 or 10 of the Municipal Systems Act;

'municipal surcharge' means a charge in excess of the municipal base tariff that a municipality may impose on fees for a municipal service provided by, or on behalf of, a municipality, in terms of section 229(1)(a) of the Constitution;

'Municipal Systems Act' means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

'municipal tax' means a tax, levy or duty that a municipality may impose in terms of section 229(1)(b) of the Constitution;

'prescribe' means prescribe by regulation in terms of section 10;

'rebate' means a reduction granted by a municipality in terms of section 9E on the amount of development charge payable for a category of applicants or a category of land development as per the criteria determined in its policy on development charges;

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

'this Act' includes any regulation made under this Act; and

'unit impact' means the average demand that a land use, or mix of land uses, is expected to have on an engineering service.

(2) If any conflict relating to a provision of this Act arises between this Act and a provision of any other legislation, the provision of this Act prevails.".

'Itharifu lesisekelo yamasipala' kusho timali letidzingekako tekukhokhela tindlekocobo letiphatselene nekuniketa tinsita tamasipala, futsi kufaka ekhatsi—

(a) tindleko tekutsenga ngebunyenti tinsita tekwehlukaniswa kwemanti nagezi, naletinye tinsita tamasipala;

(b) tindleko letincunyiwe, tekusebenta nekunakekela;

(c) tindleko tekucala umsebenti; kanye

(d) nesilinganiso lesemukelekile sekubuyisela, uma ngabe sigunyatwe ngumlawuli nobe Indvuna lebukene netinsita tamasipala;

'umkhandlu wamasipala' kusho umkhandlu wamasipala lohlongotwe esigabeni 157 seMtsetfosisekelo**;**

'Umtsetfo Wekuphatfwa Kwetimali Tamasipala' kusho Hulumende Wendzawo: UMtsetfo Wekuphatfwa Kwetimali Tamasipala, 2003 (uMtsetfo No. 56 wanga-2003);

'masipala'—

(a) lapho kubhekiselwa kuyo njengenhlangano, kusho masipala njengoba kuchazwe esigabeni 2 seMtsetfo Wetinhlelo Tamasipala; noma

(b) lapho kubhekiselwa endzaweni ngekwendzawo, kusho indzawo lewela ngekhatsi kwemincele yamasipala ngekusho kwesigaba 21 seMtsetfo waboHulumende baseKhaya: Umtsetfo wekuHlukanisa waMasipala, wanga-1998 (uMtsetfo No. 27 wanga-1998);

'Sigungu setiPhatsimandla taMasipala' sisho sigungu setiPhatsimandla taMasipala njengoba sichazwe esigabeni 1 seMtsetfo wekuHlelwa nekuPhatfwa lesigunyatwe kuncuma kusetjentiswa kwemhlaba kanye neticelo tekutfutfukiswa kwemhlaba ngekusho kwesigaba 35(2) seMtsetfo wekuHlelwa nekuPhatfwa kweMhlaba;

'umsebenti wamasipala' kusho—

(a) noma nguluphi ludzaba lwahulumende wendzawo loluhlelwe eNcenyeni B yeSheduli 4 noma eNcenyeni B yeSheduli 5 yeMtsetfosisekelo; kumbe

(b) noma ngumuphi umsebenti loniketwe kumasipala ngekuhambisana nesigaba 9 noma 10 seMtsetfo Wetinhlelo Tamasipala;

'Inhlawulo lengetiwe yamasipala' kusho inhlawulo ledlula intsengo lesisekelo yamasipala lengase ifakwe ngumasipala emalini lekhokhelwa umsebenti wamasipala lowentiwa ngumasipala noma egameni lakhe, ngekwemigomo yesigaba 229(1)(a) seMtsetfosisekelo;

'Umtsetfo Wetinhlelo Tamasipala' kusho Hulumende Wendzawo: Umtsetfo Wetinhlelo Tabomasipala, 2000 (Umtsetfo No. 32 wanga-2000);

'Intsela yamasipala' kusho intsela, imali lekhokhwako noma intsela masipala langayibeka ngekulandzisa kwesigaba 229(1)(b) seMtsetfosisekelo;

'kuncuma' kusho kufaka umyalelo ngekwemigomo yesigaba 10;

'sephulelo' kusho kuncishiswa lokuniketwe ngumasipala ngekwemigomo yesigaba 9E ngelinani lentsengo yentfutfuko lelikhokhelwa sigaba lesitsite sebafakiticelo noma sigaba lesitsite sekutfutfukiswa kwemhlaba ngekwemigomo lencunywe kunchubomgomo yakhe yetindleko tekutfutfukiswa;

'loMtsetfo' ufaka ekhatsi noma Miphi imitsedto lekekiwe leyentiwe Ngaphansi kwaloMtsetfo; kantsi

'Umtsetfo Wekuhlelwa Kwendzawo Nekusetjentiswa Kwemhlaba' kusho uMtsetfo Wekuhlelwa Kwendzawo Nekusetjentiswa Kwemhlaba, 2013 (uMtsetfo No. 16 wanga-2013);

'umtselela weyunithi' kusho 'silinganiso sekusetjentiswa kwemhlaba, noma inhlanganisela yekusetjentiswa kwemhlaba, lokulindzeleke kutsi kube khona kunista yebunjiniyela.

(2) Uma kunekungcubutana lokuhlobene nesimiso saloMtsetfo emkhatsini waloMtsetfo nesimiso sanoma ngumuphi lomunye umtsetfo, simiso saloMthetfo siyabusa.''.

Amendment of section 2 of Act 12 of 2007

2. Section 2 of the principal Act is hereby amended—

(a) by the deletion in paragraph *(d)* for the word "and" at the end of subparagraph (ii);

(b) by the substitution in paragraph *(d)* for the full stop at the end of subparagraph (iii) of a semicolon; and

(c) by the addition of the following paragraph:

"*(e)* provide for development charges and matters connected therewith.".

Substitution of section 3 of Act 12 of 2007

3. The following section is hereby substituted for section 3 of the principal Act:

"**Application of Act**

3. (1) This Act applies to—

(a) municipal surcharges and municipal taxes referred to in section 229 of the Constitution, other than rates on property regulated in terms of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), and municipal base tariffs regulated under the Municipal Finance Management Act, the Municipal Systems Act or sector legislation; and

(b) development charges.

(2) Chapters 2 and 3 do not apply to development charges.".

Insertion of Chapter 3A in Act 12 of 2007

4. The following Chapter is hereby inserted in the principal Act after Chapter 3:

"**CHAPTER 3A**

DEVELOPMENT CHARGES

Power to levy development charge

9A. (1)*(a)* A municipality may levy a development charge in respect of a land development application submitted to it in terms of section 33(1) read with section 45 of the Spatial Planning and Land Use Management Act.

(b) If a municipality decides to levy development charges, its municipal council must adopt a resolution for the municipality to levy the development charges, and thereafter the municipality must comply with this Act.

(2) A municipality must exercise its power to levy a development charge subject to—

(a) section 229 of the Constitution;

(b) this Act; and

(c) the policy on development charges adopted in terms of section 9B.

(3) Development charges collected by a municipality—

(a) must be used for purposes of funding or acquiring capital infrastructure assets in a timely and sufficient manner and to support current and projected land development in the municipal area;

Kuchitjiyelwa kwesigaba 2 seMtsetfo 12 wanga-2007

2. Sigaba 2 seMtsetfo loyinhloko siyachitjiyelwa—

(a) ngekususa endzimeni *(d)* yeligama lelitsi ''kanye'' ekugcineni kwendzinyana (ii);

(b) ngekufaka esikhundleni sendzima *(d)* endzaweni yangci ekupheleni kwendzinyana (iii) ikholomu; futsi

(c) ngekufakwa kwalesigaba lesilandzelako:

''*(e)* kuniketa ngetindleko tentfutfuko kanye netindzaba letihlobene naloko.''.

Kufakwa esikhundleni sesigaba 3 seMtsetfo 12 wanga-2007

3. Ngako-ke lesigaba lesilandzelako sifakwa esikhundleni sesigaba 3 seMtsetfo loyinhloko:

''**Kusetjentiswa KweMtsetfo**

3. (1) LoMtsetfo usebenta ku—

(a) tinhlawulo letingetiwe tamasipala kanye netintsela tamasipala lokukhulunywe ngato esigabeni 229 seMtsetfosisekelo, ngaphandle kwentsela yetakhiwo letilawulwa ngekwaHulumende Wasekhaya: UMtsetfo Wentsela Yetakhiwo Tamasipala, 2004 (uMtsetfo No. 6 wanga-2004), kanye nentsela lesisekelo yamasipala lelawulwa ngaphansi kwaMasipala. Umtsetfo Wekuphatfwa Kwetimali, uMtsetfo Wetinhlelo Tamasipala noma Umtsetfo Wemkhakha;

(b) kanye netindleko tentfutfuko.

(2) Sahluko 2 na-3 atisebenti etindlekweni tekutfutfukisa.''.

Kufakwa kweSahluko 3A kuMtsetfo 12 wanga-2007

4. Ngako-ke Sahluko lesilandzelako sifakwe eMtsetfweni loyinhloko ngemva kweSahluko 3:

"SAHLUKO 3A

INKOKHELO YENTFUTFUKO

Emandla ekukhokhisa inhlawulo yentfutfuko

9A. (1)*(a)* Mmasipala angakhokhisa inhlawulo yentfutfuko mayelana nesicelo sekutfutfukiswa kwemhlaba lesifakwe kuyeo ngekwesigaba 33(1) lesifundvwa nesigaba 45 seMtsetfo wekuHlelwa Kwetindzawo kanye Nekuphatfwa Kwekusetjentiswa Kwemhlaba**.**

(b) Uma masipala atsatsa sincumo sekukhokhisa intsela yentfutfuko, umkhandlu wamasipala kufanele utsatse sincumo sekutsi masipala akhokhise tindleko tentfutfuko, emva kwaloko masipala kumele ahambisane naloMtsetfo.

(2) Mmasipala kumele asebentise emandla akhe kubita inhlawulo yentfutfuko lencike ku—

(a) sigaba 229 seMtsetfosisekelo;

(b) loMtsetfo; futsi

(c) nenchuborngomo ngekutfutfuka kwetindleko letivunyelwe ngekwesigaka ele.

(3) Ngaphandle kwekutsi kubekwe ngalenye indlela etimeni tekuvunywa kwekutfutfukiswa kwemhlaba, umfakisicelo kufanele akhokhe linani leligcwele lemtfwalo wekutfutfukiswa ngaphambi kwekutfutfukisa noma kusebentisa umhlaba kulandzela kuvunywa—

(a) siGungu sekuHlela saMasipala ngekwesigaba 35(1) seMtsetfo WekuHlelwa Kwendzawo kanye Nekuphatfwa Kwekusetjentiswa Kwemhlaba; noma

(b) may, where capital infrastructure exists, be used to repay funds borrowed by the municipality.

(4) The amount of a development charge must be—

(a) proportional to the extent of the demand that the land development is projected to create for existing or planned bulk engineering services; and

(b) calculated on the basis of a reasonable assessment of the costs of providing existing or planned bulk engineering services.

(5) Unless otherwise provided for in the conditions of approval of a land development, an applicant must pay the full amount of a development charge before developing or utilising the land following an approval by—

(a) a Municipal Planning Tribunal in terms of section 35(1) of the Spatial Planning and Land Use Management Act; or

(b) an official authorised in terms of section 35(2) of the Spatial Planning and Land Use Management Act in respect of that land development.

Adoption and contents of policy on development charges

9B. (1)*(a)* A municipal council must adopt a policy consistent with this Act on the levying of development charges in the municipality.

(b) The content and structure of a municipality's policy on development charges may be prescribed.

(2) A policy on development charges must—

(a) treat applicants liable for development charges equitably and fairly;

(b) ensure that there is no duplication of costs in the manner in which development charges are calculated;

(c) set out the methodology for the calculation of a unit cost per engineering service—

(i) which must be determined in the prescribed manner and which must include all land costs, professional fees, materials, labour and reasonable costs of construction, and any other prescribed costs;

(ii) such that the unit cost for each engineering service is adjusted by the municipality on an annual basis during the budget preparation process referred to in section 21 of the Municipal Finance Management Act, taking into account the inflationary impact; and

(iii) in a manner that the unit cost for each engineering service is re-calculated at least once every five years or within such longer period as is approved in writing by the Minister, taking into account the current and planned capacity for each engineering service at the date of re-calculation, and any other relevant factors;

(d) set out standard unit impacts for each engineering service in respect of each land use or category of land uses that are applied in the municipal land use scheme, in a manner that—

(i) the impact of any authorised land use on an engineering service is calculated as the unit impact determined for that land use multiplied by the number of units authorised;

(ii) the impact of the land development is calculated as the difference between the impact on an engineering service of the authorised land use at the date of the land development application, and that of the land use proposed in the land development application, provided that the minimum impact is zero; and

(b) anga, lapho kunetinsita temali khona, tisentjentiswa kukhokhela timali letibolekwe ngumasipala.

(4) lelinani lelibitwa kute kutfutfukiswe kufanele—

(a) lilinganiswe ngendlela lekudzingeke ngayo kantsi nangalendlela lokutfutfukiswa kwalomhlaba kulinganiswe ngayo kute kulungiselwe tinsita letinkhulu tebunjiniyela letikhona naletihleliwe; futsi

(b) tibalwe ngendlela lefinyelelekako yekuhlolwa kwetindleko tekuniketa tinsita letinkhulu tebunjiniyela letihleliwe naletikhona.

(5) Ngaphandle kwekutsi kube kuniketwe ngalenye indlela kulemibandzela yemvume yekutfutfukiswa kwemhlaba, lofake sicelo kufanele akhokhe lemali yonkhe yekutfutfukiswa lena lebitiwe ngembi kwekutfutfukisa noma kusetjentiswa kwalomhlaba kulandzela imvume levela—

(a) Sigungu Lesihlelela Masipala ngekwesigaba 35(1) seMtsetfo Wekuhlelwa Kwendzawo Nekulawulwa Kwekusetjentiswa Kwemhlaba; noma

(b) sikhulu lesigunyatwe ngekwesigaba 35(2) seMtsetfo WekuHlelwa Kwendzawo kanye Nekuphatfwa Kwekusetjentiswa Kwemhlaba mayelana naloko kutfutfukiswa kwemhlaba.

Kwamukelwa kanye nalokucuketfwe kunchubomgomo yetindleko tekutfutfukisa

9B. (1)*(a)* Umkhandlu wamasipala kumele wamukele inchubomgomo lehambisana naloMtsetfo mayelana nekukhokhiswa kwetindleko tentfutfuko kumasipala.

(b) Lokucuketfwe kanye nesakhiwo senchubomgomo wamasipala mayelana netindleko tekutfutfukiswa kungase kuncunywe.

(2) Umgomo wetindleko tentfutfuko kufanele—

(a) uphatse labafake ticelo labanesibopho sekukhokha inhlawulo yentfutfuko ngalokulinganako nangokulungile;

(b) ucinisekise kutsi akukho kuphindvwaphindvwa kwetindleko ngendlela tindleko tentfutfuko letibalwa ngayo;

(c) ubeke indlela yekubala iyunithi yetindleko tensita ngayinye yebunjiniyela—

(i) lekumele tincunywe ngendlela lebekiwe futsi lokumele uhlanganise tonkhe tindleko temhlaba, timali temsebenti, imphahla, basebenti kanye netindleko letifanele tekwakha, kanye nanoma ngutiphi letinye tindleko letincunyiwe;

(ii) kute tindleko teyunithi yensita ngayinye yebunjiniyela tilungiswe ngumasipala njalo ngemnyaka ngesikhatsi sesabelomali inchubo yekulungiselela lokukhulunywe ngako esigabeni 21 seMtsetfo Wekuphatfwa Kwetetimali Tamasipala, kubukwa umtselela wekwehla kwemandla emali; futsi

(iii) ngendlela tindleko teyunithi ngayinye yensita yebunjiniyela ibale kabusha lokungenani kanye njalo eminyakeni lemihlanu noma ekhatsi naleso sikhatsi lesidze lesigunyatwe nguNdvuna ngekubhala phansi, kucatjangelwa emandla anyalo nalahleliwe ensita ngayinye yebunjiniyela ngelusuku lekubala kabusha, kanye nanoma ngitiphi letinye tici letifanele;

(d) ibeke imitselela lejwayelekile yeyunithi ngayinye yensita yebunjiniyela macondzana nekusetjentiswa kwemhlaba ngamunye noma sigaba sekusetjentiswa kwemhlaba lesisetjentiswa eluhlelweni lekusetjentiswa kwemhlaba wamasipala, ngendlela—

(i) umtselela wanoma ngukuphi kusetjentiswa kwemhlaba logunyatiwe kunsita yebunjiniyela ubalwa njengemtselela weyunithi lencunywe kuloko kusetjentiswa kwemhlaba uphindvwe ngelinani lemayunithi lagunyatiwe;

(ii) umtselela wekutfutfukiswa kwemhlaba ubalwa njengemehluko emkhatsini kwemtselela wekusetjentiswa kwemhlaba lokugunyatiwe ngelusuku lwesicelo sekutfutfukiswa kwemhlaba, kanye nemtselela wekusetjentiswa kwemhlaba lokuhlongotwako esicelweni sekutfutfukiswa kwemhlaba, kumsebenti webunjiniyela, ngaphandle kwaloko uma umtselela lomncane inguziro; futsi

(iii) the impact of the land development can be multiplied by the unit cost per engineering service to determine the total development charge;

(e) determine the criteria to be applied by the municipality when—

(i) calculating development charges with reference to engineering service zones, provided that the criteria for identification of engineering service zones must reflect the technical factors relevant to each engineering service and provided further that no part of a municipality may fall in more than one engineering service zone in respect of an engineering service; or

(ii) granting a specific category of applicants or a specific category of land developments, a reduction or exemption in the development charge payable in respect of the land development; and

(f) specify any engineering service zones determined in accordance with the criteria referred to in paragraph *(e)*(i).

(3) A municipal council must publish the adjusted unit costs referred to in subsection (2)*(c)* within two months of approving the municipal budget.

(4) The policy on development charges referred to in subsection (1) may provide for the payment of a development charge in tranches in accordance with a payment schedule for specified categories of land development, such as which payment is due and payable before developing or utilising the land, unless the municipality and an applicant agree otherwise.

(5) Despite subsection (2)*(d)*, the policy on development charges may provide for the municipality, at its own instance or on request by an applicant, to increase or reduce the calculated impact of a land development on external engineering services, so as to reflect the actual anticipated demand for one or more of the required external engineering services, where exceptional circumstances, as prescribed, justify such an increase or reduction.

Community participation

9C. (1) Before a municipality adopts a policy on development charges, the municipality must—

(a) follow a process of community participation that is consistent with Chapter 4 of the Municipal Systems Act; and

(b) comply with subsection (2).

(2) The municipality must—

(a) display the draft policy on development charges for a period of at least 30 days in the manner provided for in section 21A of the Municipal Systems Act; and

(b) advertise in the media, in the manner provided for in section 21 of the Municipal Systems Act, a notice—

(i) stating that—

(aa) a draft policy on development charges has been prepared for submission to the municipal council; and

(bb) the draft policy on development charges is available at the municipality's head and satellite offices and libraries for public inspection during office hours and, if the municipality has an official website or a website available to it, that the said draft policy is also available on that website; and

(ii) inviting the local community to submit comments and representations to the municipality concerned within a period

(iii) umtselela wekutfutfukiswa kwemhlaba ungaphindvwaphindvwa ngetindleko teyunithi ngayinye yensita yebunjiniyela kute kuncunywe linani leliphelele lenkokhiso yekutfutfukiswa;

(e) lincume tindlela lokufanele tisetjentiswe ngumasipala lapho—

(i) kubala tindleko tentfutfuko ngalokuphatselene netindzawo tensita yebunjiniyela, ngaphandle kwaloko uma indlela yekukhomba tindzawo tensita yebunjiniyela kufanele ibonise tici tebuchwepheshe letihambisana nensita ngayinye yebunjiniyela futsi kuncike ekutseni ayikho incenye yamasipala lengawela ngetulu kwaleyodvwa; noma

(ii) ngekuniketa sigaba lesishile salabafakisicelo noma sigaba lesitsite sekutfutfukiswa kwemhlaba, kuncishiswa noma kukhulula imali yentfutfuko lekhokhwako mayelana nemhlaba kutfutfukiswa; futsi

(f) icacise noma ngutiphi tindzawo tensita yebunjiniyela letincunywe ngekuhambisana nemibandzela lekukhulunywe ngayo endzimeni *(e)*(i).

(3) Umkhandlu wamasipala kufanele ushicilele tindleko teyunithi lelungisiwe lekukhulunywe ngato esigatjaneni (2)*(c)* tingakapheli tinyanga letimbili letigunyatwe ngumasipala kusabelomali.

(4) Umgomo wetindleko tekutfutfukisa lokukhulunywe ngawo esigatjaneni (1) unganiketa kukhokhwa kwetindleko tentfutfuko ngekwetigaba ngekuhambisana neshejuli yekukhokha yetigaba letishiwo tekutfutfukiswa kwemhlaba, njengekutsi inkhokhelo lekufanele ikhokhwe futsi ikhokhwe ngaphambi kwekutfutfukisa noma kusebentisa umhlaba, ngaphandle uma masipala nemfakisicelo bavumelana ngalenye indlela.

(5) Nakusigatjana (2)*(d)*, inchubomgomo yetindleko tekutfutfukisa inganiketa kutsi kumasipala, ngesikhatsi sawo noma ngekucelwa ngumfakisicelo, akhulise noma anciphise umtselela lobaliwe wemhlaba. kutfutfukiswa kwetinsita tebunjiniyela bangaphandle, kute kubonakale sidzingo sangempela lesilindzelwe sensita leyodvwa noma ngetulu ledzingekako yebunjiniyela bangaphandle, lapho timo letingavamile, njengoba tincunyiwe, titsetselela loko kwandza noma kwehliswa.

Kuhlanganyela kwemphakatsi

9C. (1) Ngaphambi kwekutsi masipala atsatse inchubomgomo ngetindleko tentfutfuko, masipala kumele—

(a) alandzele luhlelo lekubamba lichaza kwemphakatsi loluhambisana neSahluko 4 seMtsetfo wetiNhlelo taMasipala; futsi

(b) kutfobela sigatjana (2).

(2) Mmasipala kumele—

(a) avete luhlaka lwenchubomgomo ngetindleko tentfutfuko sikhatsi lesingangetinsuku letingu-30 ngendlela leniketwe esigabeni 21A seMtsetfo Wetinhlelo Tamasipala; futsi

(b) akhangise kubetindzaba, ngendlela leniketiwe esigabeni 21 seMtsetfo Wetinhlelo Tamasipala, satiso—

(i) lesichaza kutsi—

(aa) luhlaka lwenchubomgomo mayelana netindleko tentfutfuko selulungisiwe kute luhanjiswe emkhandlwini wamasipala; futsi

(bb) luhlaka lwenchubomgomo mayelana netindleko tentfutfuko luyatfolakala enhloko wamasipala nemahhovisi esathilayithi kanye nemtapo welwati kute luhlolwe ngumphakatsi ngetikhatsi temsebenti futsi, uma masipala unewebhusayithi lesemtsetfweni noma iwebhusayithi letfolakalako, leyo nchubomgomo leluhlaka lelishiwoko nalo luyatfolakala. kuleyo webhusayithi; futsi

(ii) imema umphakatsi wendzawo kutsi uletse imibono netetfulo kumasipala lotsintsekako ekhatsi nesikhatsi lesishiwo

specified in the notice, which period may not be less than 30 days.

(3) A municipal council must take all comments and representations into account when finalising the draft policy on development charges.

By-laws to give effect to policy on development charges

9D. (1) A municipality must adopt and publish by-laws, in terms of sections 12 and 13 of the Municipal Systems Act, to give effect to the implementation of its policy on development charges.

(2) The by-laws made in terms of subsection (1) may differentiate between—

(a) engineering services;

(b) categories of applicants; and

(c) categories of land developments,

in respect of which development charges may be payable.

(3) A municipality's by-laws on development charges may be integrated into other by-laws relating to municipal planning or a related area of municipal legislative competence.

Rebate and exemption

9E. (1) If a municipality has opted to levy development charges in terms of section 9A(1), it may only—

(a) grant a rebate for a category of applicants or a category of land developments through reducing the development charge payable in respect thereof; or

(b) exempt a category of applicants or a category of land developments from paying development charges,

where it has set out the criteria for rebate or exemption in its policy on development charges.

(2) If a rebate or exemption is granted in terms of subsection (1), the municipality must set out the reasons and identify the alternative funding source for the required bulk engineering services, to the value of the rebate or the exemption.

(3) When granting a rebate or exemption in terms of subsection (1) in respect of categories of applicants and categories of land developments, a municipality may determine such categories in accordance with the criteria set out in its policy on development charges.

(4) If a land development satisfies the criteria for rebate or exemption in terms of the municipality's policy on development charges and the bulk engineering services for that land development have been paid for, or have been budgeted to be funded through a transfer from another sphere of government, the municipality must grant a rebate or exemption to the extent of that transfer.

(5) Before a municipality grants a rebate or exemption, it must calculate the development charge as if it were payable.

(6) The manner in which a rebate or exemption may be granted by a municipality may be prescribed.

Engineering services agreement

9F. An engineering services agreement must—

(a) be concluded in respect of any approved land development which necessitates the installation of internal engineering services or external engineering services, whether by the municipality or an applicant;

(b) be consistent with the conditions of approval of the land development;

kwisatiso, sikhatsi lesingeke sibe ngaphansi kwetinsuku letinge-30.

(3) Umkhandlu wamasipala kufanele utsatse konkhe kuphawula kanye netiphakamiso kubhekwe lapho kuphotfulwa luhlaka lwenchubomgomo yetindleko tekutfutfukisa.

Imitsetfo yamasipala kute isebente kutinchubomgomo tetindleko tekutfutfukisa

9D. (1) Masipala kumele amukele futsi ashicilele imitsetfo yamasipala, ngekwesigaba 12 kanye na-13 seMtsetfo wetiNhlelo taMasipala, kute kucalise kusebenta kwenchubomgomo yawo mayelana netindleko tentfutfuko.

(2) Imitsetfo yamasipala leyentiwe ngekwesigatjana (1) ingahlukanisa emkhatsini—

(a) tinsita tebunjiniyela;

(b) tigaba talebafake ticelo; futsi

(c) tigaba tekutfutfukiswa kwemhlaba,

mayelana netindleko tentfutfuko letingakhokhwa.

(3) Imitsetfo yamasipala yetindleko tentfutfuko ingase ihlanganiswe kuleminye imitsetfo yamasipala lehlobene nekuhlela kwamasipala noma indzawo lehlobene nemakhono emtsetfo wamasipala.

Saphulelo nekukhululwa

9E. (1) Uma masipala akhetse kukhokhisa intsela yentfutfuko ngekwesigaba 9A(1), ungakwati kuphela—

(a) linikete saphulelo semkhakha webafakisicelo noma sigaba sekutfutfukiswa kwemhlaba ngekunciphisa inkokhiso yekutfutfukisa lekhokhwako mayelana naloko; noma

(b) ikhulule sigaba sebafake ticelo noma sigaba sekutfutfukiswa kwemhlaba ekukhokheni tindleko tekutfutfukisa,

lapho ibeke khona imibandzela yekuncishiselwa noma yekukhululwa kunchubomgomo yayo yetindleko tekutfutfukisa.

(2) Uma saphulelo noma kukhululwa kuniketwa ngekwesigatjana (1), masipala kufanele ubeke tizatfu futsi uvete lomunye umtfombo weluchaso lwemisebenti ledzingekako yebunjiniyela lobuningi, ngelinani lesaphulelo noma kukhululwa.

(3) Lapho leniketa saphulelo noma kukhululwa ngekwesigatjana (1) macondzana netigaba talebafake ticelo kanye netigaba tekutfutfukiswa kwemhlaba, masipala angancuma leto tigaba ngekuhambisana nemibandzela lebekwe kunchubomgomo yawo mayelana netindleko tekutfutfukiswa.

(4) Uma kutfutfukiswa kwemhlaba kufeza imibandzela yekuncishiselwa noma kukhululwa ngekwenchubomgomo wamasipala mayelana netindleko tekutfutfukisa kanye tinsita letiningi tebunjiniyela baloko kutfutfukiswa kwemhlaba setikhokhelwe, noma tibekelwe sabelomali kutsi tichaswe ngekudluliswa kwalomunye umkhakha wahulumende, umasipala kumele unikete saphulelo noma kukhululwa kute kufike lapho kudluliselwa khona.

(5) Ngaphambi kwekutsi umasipala anikete saphulelo noma kukhululwa, kufanele abale inkokhiso yentfutfuko njengekutsi ikhokhwe.

(6) Indlela saphulelo noma kukhululwa lokunganiketwa ngayo masipala ingancunywa.

Sivumelwano setinsitakalo tebunjiniyela

9F. Sivumelwano setinsita tebunjiniyela kufanele—

(a) siphotfulwe macondzana nanoma ngukuphi kutfutfukiswa kwemhlaba lokugunyatiwe lokwenta kudzingeke kutsi kufakwe tinsita tebunjiniyela bangekhatsi noma tinsita tebunjiniyela bangaphandle, kungaba ngumasipala noma umfakisicelo;

(b) sihambisane nemibandzela yekugunyatwa kwekutfutfukiswa kwemhlaba;

(c) in the event of any changes to the conditions of approval of the land development, be amended to the extent necessary for consistency with the changed conditions of approval; and

(d) include provisions regulating at least the following matters:

(i) The nature and extent of the internal engineering services or external engineering services that must be installed by the municipality or an applicant;

(ii) the timing of commencement and completion of the internal engineering services or external engineering services that must be installed by the municipality or an applicant;

(iii) the amount of an applicant's costs of installation, or the process for determining that amount, where an applicant is to install link engineering services or bulk engineering services, including the process, after installation, for making any adjustments to that amount;

(iv) dispute resolution;

(v) the engineering and other standards to which the installed internal engineering services or external engineering services must conform;

(vi) external engineering services of greater capacity than that which is required by the applicant; and

(vii) the party responsible for the ownership of the internal engineering services after completion.

Installation of external engineering services by applicant

9G. (1) A municipality which levies development charges may agree in writing with an applicant that the applicant installs all or part of the bulk engineering services required for an approved land development, and the municipality may off-set the costs of installation of such bulk engineering services against the associated development charge.

(2) The costs referred to in subsection (1) must be determined in the prescribed manner.

(3) Upon completion, any capital infrastructure asset installed by an applicant in accordance with an agreement referred to in subsection (1) becomes the property of the municipality, and the municipality bears the responsibility of ensuring that registration of transfer of any rights in the affected capital infrastructure asset to the municipality is effected, to the extent necessary.

(4) A municipality may require that bulk engineering services are installed to accommodate a greater capacity than that which is required for the land development, in order to support future development in the area of the land development as determined by the municipality.

(5) If in the circumstances provided for in subsection (4) the cost of installing bulk engineering services by an applicant exceeds the development charge for the land development, the municipality must reimburse or off-set the amount in excess of the development charge, in accordance with an agreed payment schedule, by a period not exceeding three years from the date of completion of the installation by an applicant, unless an applicant waives his or her right to reimbursement of that amount or any part thereof.

(6) A municipality may require that link engineering services are installed to accommodate a greater capacity than that which is required for the land development, in order to support future development in the area of the land development.

(7) If in the circumstances provided for in subsection (6), the municipality does require the installation of link engineering services to accommodate a greater capacity, the municipality must reimburse or off-set

(c) sichitjiyelwe ngekwelizinga lelidzingekako kute sihambisane nemibandzela leguculiwe yekugunyatwa, uma kwenteka noma ngitiphi tingucuko etimisweni tekuvunywa kwekutfutfukiswa kwemhlaba; futsi

(d) sihlanganise tetfulo letilawula ngekungenani leti tindzaba letilandzelako:

(i) Luhlobo nelizinga letinsita tebunjiniyela bangekhatsi noma tinsita tebunjiniyela tangaphandle lokufanele tifakwe ngumasipala noma umfakisicelo;

(ii) sikhatsi sekucala kanye nekuphotfulwa kwetinsita tebunjiniyela bangekhatsi noma tinsita tebunjiniyela bangaphandle lekufanele tifakwe ngumasipala noma umfakisicelo; tebunjiniyela bangekhatsi noma tinsita tebunjiniyela bangaphandle lokufanele tifakwe ngumasipala noma umfakisicelo;

(iii) liinani letindleko tekufaka temfakisicelo, noma inchubo yekuncuma lelo linani, lapho umfakisicelo atofaka tichumanisi tetinsitakalo tebunjiniyela noma tinsita letiningi tebunjiniyela, lokuhlanganisa inchubo, ngemva kwekufaka, yekwenta noma ngutiphi tingucuko kulelo linani;

(iv) kucazulula timphikiswano;

(v) bunjiniyela nalamanye emazinga lekumele tinsita tebunjiniyela bangekhatsi letifakiwe noma tinsita tebunjiniyela bangaphandle; kumele tihambisane nawo;

(vi) tinsita tebunjiniyela tangaphandle temtsamo lomkhulu kunalowo lodzingwa ngumfakisicelo; futsi

(vii) licembu lelibukele bunikati betinsitakalo tebunjiniyela bangekhatsi ngemuva kwekucedvwa.

Kufakwa kwetinsita tebunjiniyela bangaphandle ngumfakisicelo

9G. (1) Masipala lokhokhisa intsela yentfutfuko ungavumelana ngekubhala nemfakisicelo kutsi umfakisicelo ufaka tonkhe noma incenye yetinsita letiningi tebunjiniyela letidzingekako ekutfutfukisweni kwemhlaba logunyatiwe, futsi masipala unganciphisa tindleko tekufakwa kwaleto tinsitakalo tebunjiniyela beluningi inkokhiso yentfutfuko lehambisanako.

(2) Tindleko lekukhulunywe ngato esigatjaneni (1) kufanele tincunywe ngendlela lencunyiwe.

(3) Uma sekucedziwe, noma nguyiphi imphahla yesakhiwo lefakwe ngumfakisicelo ngekuhambisana nesivumelwano lokukhulunywe ngaso esigatjaneni (1) iba imphahla yamasipala, futsi masipala unemtfwalo wemfanelo wekucinisekisa kutsi kubhaliswa kwekudluliselwa kwanoma ngumaphi emalungelo uisakhiwo semali letsintsekako yemphahla kumasipala isetjentiswa ngekwelizinga lelidzingekako.

(4) Masipala angadzinga kutsi kufakwe tinsita tebunjiniyela ngebuningi kute kutsatfwe umtsamo lomkhulu kunalowo lodzingekako ekutfutfukisweni kwemhlaba, kute kusekelwe intfutfuko yesikhatsi lesitako endzaweni yekutfutfukiswa kwemhlaba njengoba kuncunywa masipala.

(5) Uma etimeni letinikwe esigatjaneni (4) tindleko tekufaka tinsita tebunjiniyela ngebuningi ngumfakisicelo tidlula tindleko tekutfutfukiswa kwekutfutfukiswa kwemhlaba, masipala kufanele abuyisele noma abeke linani lelisetulu kwenkokhiso yekutfutfukisa, ngekuhambisana neshejuli yekukhokha lokuvunyelwene ngako, esikhatsini lesingadluli eminyakeni lemitsatfu kusukela elusukwini lwekuphotfulwa kwekufakwa kwemfakisicelo, ngaphandle uma umfakisicelo adzela lilungelo lakhe lekubuyisela leyo mali noma nguyiphi incenye yaloko.

(6) Masipala angadzinga kutsi kufakwe tinsita tebunjiniyela letichumanisako kute kutsatfwe umtsamo lomkhulu kunalowo lodzingekako kute kutfutfukiswe umhlaba, kusekelwe intfutfuko yesikhatsi lesitako endzaweni yekutfutfukiswa kwemhlaba.

(7) Uma etimeni letiniketwe esigatjaneni (6), masipala angadzingi kutsi kufakwe tinsita tebunjiniyela lobuchumanisako kute kutsatfwe umtsamo lomkhulu, masipala kufanele akhokhele noma asuse linani lenkokhiso

the amount of the development charge by the difference between the costs of the link engineering services installed, and the costs of those link engineering services that would have been required for that land development.

(8) The installation of external engineering services by an applicant as contemplated in this section does not constitute an external mechanism for the provision of municipal services as contemplated in section 76 of the Municipal Systems Act.

Non-installation of bulk engineering services by municipality

9H. (1) If a municipality fails to complete the installation of bulk engineering services within a period of 12 months from the completion date as stipulated in an engineering services agreement, the municipality must, subject to subsection (2), reimburse the applicant that portion of the development charge which is attributable to the failure, with interest charged at the applicable rate, as determined in terms of section 80(1)*(a)* of the Public Finance Management Act, 1999 (Act No. 1 of 1999), calculated from the date of completion as stipulated in the engineering services agreement.

(2)*(a)* Despite subsection (1), the municipality and an applicant may agree to extend the time period for completion of the bulk services by the municipality.

(b) Where the municipality completes the installation within such extended time period, it has no obligation to reimburse an applicant that portion of the development charge or any interest thereon.

Bulk and link engineering services as part of internal engineering services

9I. Where a bulk or link engineering service is intended to service subsequent developments and traverse the internal boundaries of the land development by an applicant—

(a) the municipality and the applicant must agree that the service be regarded as an external or internal engineering service; or

(b) if the municipality and the applicant do not agree as contemplated in paragraph *(a)*, the municipality's determination applies.

Dispute resolution

9J. (1) A person whose rights are affected by a decision regarding development charges taken by a municipality, may appeal against that decision in accordance with the mechanism provided for in section 62 of the Municipal Systems Act.

(2) A dispute arising in relation to any matter regulated by an engineering services agreement must be resolved in accordance with the dispute resolution mechanism provided for in that agreement.

Delegations

9K. (1) Except to the extent provided otherwise in this Chapter or in any other legislation, a power or duty conferred upon a municipality in terms of this Chapter, other than the power of a municipal council to adopt a development charges policy and by-law, may be delegated to an official of the relevant municipality.

(2) A delegation in terms of subsection (1)—

(a) must be in writing;

(b) is subject to such limitations and conditions as the person who made the delegation may impose in a specific case; and

yekutfutfukiswa ngemehluko emkhatsini kwetindleko tetichumanisi tetinsita tebunjiniyela letifakiwe, kanye netindleko taleto tinsita tebunjiniyela letichumanisako lebetitodzingeka ekutfutfukisweni kwemhlaba.

(8) Kufakwa kwetinsita tebunjiniyela bangekhatsi ngumfakisicelo njengoba kuhlongotwe kulesi sigaba akuhlanganisi indlela yangaphandle yekuniketa ngemisebenti yamasipala njengoba kuhlongotwe esigabeni 76 seMtsetfo Wetinhlelo Tamasipala.

Kungafakwa kwetinsita letiningi tebunjiniyela ngumasipala

9H. (1) Uma masipala ahluleka kucedzela kufakwa kwetinsita tebunjiniyela ngebuningi esikhatsini lesitinyanga letinge-12 kusukela ngelusuku lekuphotfulwa njengoba kubekwe esivumelwaneni setinsita tebunjiniyela, masipala kumele, ngekwesigatjana (2), abuyisele umfakisicelo leyo ncenye yentfutfuko inkokhiso ledalwe kwehluleka, nentalo lekhokhiswako ngesilinganiso lesifanele, njengoba kuncunywa ngekwesigaba 80(1)*(a)*seMtsetfo Wekuphatfwa Kwetimali Tahulumende, 1999 (uMtsetfo No. 1 wanga-1999), lebalwa kusukela lusuku lekucedvwa njengoba kushiwo esivumelwaneni setinsita tebunjiniyela.

(2)*(a)* Ngaphandle kwesigatjana (1), masipala kanye nemfakisicelo bangavuma kwelula sikhatsi sekuphotfulwa kwetinsitakalo ngebuningi ngumasipala.

(b) Lapho masipala acedza kufakwa ngekhatsi kwesikhatsi leseluliwe kanjalo, akanaso sibopho sekubuyisela umfakisicelo leyo ncenye yemali yekutfutfukisa noma nguyiphi intalo yayo.

Tinsita letiningi tebunjiniyela njengencenye yetinsitakalo tebunjiniyela tangekhatsi

9I. Lapho khona umsebenti webunjiniyela wekuhlela lokuningi nobe luhlelo lwekuhlanganisa luhlose tikhungo temphakatsi imikhawulo yekwakhiwa kwemhlaba ngemfakisicelo—

(a) masipala nemfakisicelo kumele bavumelane kutsi umsebenti webunjiniyela kumele utsatfwe njengemsebenti wangaphandle nobe wangekhatsi; nobe

(b) uma masipala nemfakisicelo bangavumelani ngekulandzela indzima *(a)*, kusebenta siciniseko samasipala.

Kucazulula imphikiswano

9J. (1) Umuntfu emalungelo akhe atsintfwa sincumo mayelana netindleko tentfutfuko letitsatfwe ngumasipala, angafaka sikhalo ngaleso sincumo ngekuhambisana nenchubo leniketwe esigabeni 62 seMtsetfo Wetinhlelo Tamasipala.

(2) Timphikiswano letivela macondzana nanoma nguluphi ludzaba lolulawulwa sivumelwano setinsita tebunjiniyela kufanele ticazululwe ngekuhambisana nendlela yekucazulula timphikiswano letinikwe kuleso sivumelwano.

Titfunywa

9K. (1) Ngaphandle kwalapho kuniketwe ngalenye indlela kulesi Sahluko nanoma ngimuphi lomunye umtsetfo, emandla noma umsebenti loniketwe umasipala ngekwalesi Sahluko, ngaphandle kwemandla emkhandlu wamasipala wekwamukela inchubomgomo yetindleko tentfutfuko kanye nemtsetfo wamasipala, letijutjwe esisebentini samasipala lotsintsekako.

(2) Kugunyatwa ngekwemigomo yesigatjana (1)—

(a) kufanele kube ngulokubhaliwe;

(b) kungaphansi kwemikhawulo nemibandzela lengase ibekwe ngumuntfu lowente kutfunywa esimeni lesitsite; futsi

(c) does not divest the person who made the delegation of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty.

(3) The person who made the delegation may confirm, vary or revoke any decision taken in consequence of a delegation in terms of this section, but no such variation or revocation of a decision may detract from any rights that may have accrued to any person as a result of the decision.

Financial misconduct

9L. Section 171 of the Municipal Finance Management Act applies with the necessary changes required by the context, where an official of a municipality wilfully or negligently—

(a) contravenes any provision of this Act;

(b) fails to comply with a duty imposed by a provision of this Act or fails to comply with a duty delegated to him or her in terms of this Act; or

(c) provides incorrect or misleading information in any document which in terms of the requirements of this Act must be submitted to the municipal council.''.

Amendment of section 10 of Act 12 of 2007

5. Section 10 of the principal Act is hereby amended by the insertion in subsection (1) after paragraph *(b)* of the following paragraphs:

''*(b*A*)* a method or methods for calculating development charges;

*(b*B*)* the information to be submitted by an applicant to a municipality when applying for a rebate or exemption to the development charge payable;

*(b*C*)* requirements for municipal accounting and financial reporting in relation to municipal development charges, including the format for reporting on municipal development charges revenue and expenditure;

*(b*D*)* matters relating to the installation of external engineering services by an applicant instead of the payment of a municipal development charge;

*(b*E*)* model engineering services agreements for use by any municipality in the implementation of Chapter 3A, which may be adjusted to the requirements of the municipality;''.

Amendment of legislation and transitional provision

6. (1) Subject to subsection (2), the legislation mentioned in the Schedule is hereby amended as set out in the Schedule.

(2) A municipality which levies development charges in terms of a pre-existing policy or by-law, as at the date of commencement of this Act, must ensure that it complies with this Act within 36 months after the date of commencement of this Act.

Substitution of long title of Act 12 of 2007

7. The following long title is hereby substituted for the long title of the principal Act:

''**To regulate the exercise by municipalities of their power to impose surcharges on fees for services provided under section 229(1)*(a)* of the Constitution; to provide for the authorisation of taxes, levies and duties that municipalities may impose under section 229(1)*(b)* of the Constitution; to provide for development charges; and to provide for matters connected therewith**.''.

(c) akumsusi umuntfu lodlulise umtfwalo wemfanelo lophatselene nekusebentisa emandla lawaniketiwe noma kwentiwa kwemsebenti lodluliselwe sibopho lesiphatselene nekusetjentiswa kwemandla ladluliselwe noma kwentiwa kwemsebenti lodluliselwe.

(3) Umuntfu lonikete ligunya angagunyata, agucule noma ahocise noma ngusiphi sincumo lesitsatfwe ngenca yekuniketelwa ligunya ngekwalesi sigaba, kodvwa akukho kuguculwa noma kuhociswa kwesincumo lokunjalo lokungaphazamisa noma ngumaphi emalungelo lokungenteka kutsi atfolwe nginoma ngumuphi umuntfu ngenca yesincumo.

Kungaphatsi kahle timali

9L. Sigaba 171 seMtsetfo wekuPhatfwa kwetetiMali taMasipala sisebenta netingucuko letidzingekako letifunwa umongo, lapho sikhulu samasipala ngamabomu noma ngekunganaki—

(a) kwephula noma ngusiphi simiso saloMtsetfo;

(b) lehluleka kuhambisana nemsebenti lobekwe sibopho saloMtsetfo noma lehluleka kuhambisana nemsebenti loniketwe wona ngekwaloMtsetfo; noma

(c) iniketa lwati lolungalungile noma loludukisako kunoma ngumuphi umbhalo ngekwemibandzela yaloMtsetfo lokumele wetfulwe kumkhandlu wamasipala.''.

Kuguculwa kwesigaba 10 seMtsetfo 12 wanga-2007

5. Sigaba 10 seMtsetfo lomkhulu siyachitjiyelwa ngekufakwa esigatjaneni (1) ngemva kwendzima *(b)* yaleti tigaba letilandzelako:

''*(b*A*)* indlela noma tindlela tekubalwa kwemali lekhokhelwa kutfutfukiswa;

*(b*B*)* lwati lekufanele lufakwe ngumfakisicelo kumasipala lapho afaka sicelo sesaphulelo noma sekukhululwa emalini lekhokhwako yekutfutfukisa;

*(b*C*)* tidzingo tekubalwa kwetimali kwamasipala nekubika kwetetimali macondzana netindleko tekutfutfukiswa kwamasipala, kubandzakanya ifomethi yekubika ngemali lengenako netindleko tetindleko tekutfutfukiswa kwamasipala;

*(b*D*)* tindzaba letiphatselene nekufakwa kwetinsitakalo tebunjiniyela tangaphandle ngumfakisicelo esikhundleni sekukhokhwa kwenkokhelo yekutfutfukiswa kwamasipala;

*(b*E*)* tivumelwano temisebenti yebunjiniyela letisibonelo letitosetjentiswa ngunoma ngumuphi masipala ekusetjentisweni kweSahluko 3A, letingahle tilungiswe ngekwetidzingo tamasipala;''.

Kuguculwa kwemtsetfo nesimiso sesikhashana

6. (1) Ngekuya ngesigatjana (2), umtsetfo lobalulwe eHIelweni ngaloku uchitjiyelwa njengoba ubekiwe eHIelweni.

(2) Masipala lokhokhisa imali yekutfutfukisa ngekwenchubomgomo lekhona ngaphambili noma ngemtsetfo wendzawo, ngelusuku lekucalisa kusebenta kwaloMtsetfo, kufanele ucinisekise kutsi uyavumelana naloMtsetfo tingakapheli tinyanga letinge-36 ngemuva kwelusuku lekucalisa kusebenta kwaloMtsetfo.

Kufakwa esikhundleni kwesihloko lesidze seMtsetfo 12 wanga-2007

7. Lesihloko lesidze Siyakhishwa kupakwa lesi lesidze seMtsetfo loyinhloko:

''**Kulawula kusetjentiswa kwabomasipala emandla abo ekufaka timali letengetiwe emalini lekhokhelwa tinsita letiniketwe ngaphansi kwesigaba 229(1)*(a)* seMtsetfosisekelo; kuniketa kugunyatwa kwentsela, imali; lekhokhwako kanye nentsela masipala angayibeka ngaphansi kwesigaba 229(1)*(b)* seMtsetfosisekelo; kuniketela timali tekutfutfukisa; kanye nekuniketa tindzaba letihlobene naloku**.''.

Amendment of arrangement of sections of Act 12 of 2007

8. The arrangement of sections of the principal Act is hereby amended by the insertion after item 9 of the following Chapter:

"**CHAPTER 3A**

DEVELOPMENT CHARGES

9A. Power to levy development charge
9B. Adoption and contents of policy on development charges
9C. Community participation
9D. By-laws to give effect to policy on development charges
9E. Rebate and exemption
9F. Engineering services agreement
9G. Installation of external engineering services by applicant
9H. Non-installation of bulk engineering services by municipality
9I. Bulk and link engineering services as part of internal engineering services
9J. Dispute resolution
9K. Delegations
9L. Financial misconduct".

Short title and commencement

9. This Act is called the Municipal Fiscal Powers and Functions Amendment Act, 2024, and takes effect on a date to be determined by the President by proclamation in the *Gazette*.

Kuchitjiyelwa kwekuhlelwa kwetigaba teMtsetfo 12 wanga-2007

8. Kuhlelwa kwetigaba teMtsetfo loyinhloko ngaloku kuchitjiyelwa ngekufakwa ngemva kweliphuzu 9 leSahluko lesilandzelako:

"SAHLUKO 3A

TINDLEKO TENTFUTFUKO

9A. Emandla ekukhokhisa inkokhiso yentfutfuko
9B. Kwamukelwa kanye nalokucuketfwe kwenchubomgomo yetindleko tekutfutfukisa
9C. Kungenelela kwemmango
9D. Imitsetfonchubo yekucalisa inchubomgomo yemali lekhokhelwa
9E. Kutfutfukiswa Saphulelo nekukhululwa
9F. Sivumelwano setinsitakalo tebunjiniyela
9G. Kufakwa kwetinsitakalo tebunjiniyela tangaphandle ngumfakisicelo
9H. Kungafakwa kwetinsitakalo tebunjiniyela lobukhulu ngumasipala
9I. Tinsita letiningi tebunjiniyela njengencenye yetinsitakalo tebunjiniyela tangekhatsi
9J. Kucazululwa kowenglatano
9K. Titfunywa
9L. Kungaphatsi kahle timali".

Sihloko lesifushane nekucala

9. Lomtsetfo ubitwa ngekutsi nguMtsetfo Wemandla Etetimali Nemisebenti yaboMasipala, 2024, futsi ucala kusebenta ngelusuku lolutawuncunywa nguMongameli ngesimemetelo *kuGazethi.*

SCHEDULE

LAWS AMENDED OR REPEALED

(Section 6)

No. and year of Act	Short title of Act	Extent of repeal or amendments
Act No. 16 of 2013	Spatial Planning and Land Use Management Act, 2013	**1.** The amendment of section 1— *(a)* by the insertion after the definition of ''body'' of the following definition: '' **'bulk engineering services'** 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.''; and *(b)* by the insertion after the definition of ''land use scheme'' of the following definition: '' **'link engineering services'** means the capital infrastructure assets associated with that portion of an external engineering service, which links an internal engineering service to the applicable bulk engineering services.''. **2.** The amendment of section 49— *(a)* by the substitution for subsection (2) of the following subsection: ''(2) A municipality is responsible for the provision of external engineering services: Provided that link engineering services are installed by an applicant and that the municipality may require that such services are installed to provide a greater capacity than the land development itself needs, subject to the municipality reimbursing the applicant accordingly, unless the applicant waives his or her claim to reimbursement or the value of installing the additional capacity is set off against the applicable development charges liability.''; and *(b)* by the addition of the following subsection: ''(6) A municipality may agree to contribute towards the cost of link engineering services, where the applicant's provision of link engineering service that meet the minimum standards of the municipality shall result in capacity that exceeds the requirements of the land development itself: Provided that the maximum contribution of the municipality does not exceed the amount which represents the difference between the cost associated with meeting the minimum standard and the cost of the actual requirements of the land development in question.''. **3.** The amendment of Schedule 1— *(a)* by the substitution in paragraph *(y)* for the words preceding subparagraph (i) of the following words: ''regulate the provision of municipal engineering services **[and the imposition of development charges]**, including—''; and *(b)* by the deletion in paragraph *(y)* of subparagraphs (iv) and (vi).

ISHEJULI

IMITSETFO LECHITJIYELWE NOMA LECITSIWE

(Sigaba 6)

No. en jaar van Wet	**Kort titel van Wet**	**Omvang van herroeping of wysigings**
Wet No. 16 van 2013	Wet op Ruimtelike Beplanning en Grondgebruikbestuur, 2013	**1.** Die wysiging van artikel 1— *(a)* deur die volgende omskrywing na die omskrywing van ''interne ingenieursdiens'' in te voeg: '' **'koppelingsingenieursdienste'** die kapitale infrastruktuurbates wat met daardie gedeelte van 'n eksterne ingenieursdiens geassosieer word, wat 'n interne ingenieursdiens aan die toepaslike massa ingenieursdienste koppel;''; en *(b)* deur die volgende omskrywing na die omskrywing van ''LUR'' in te voeg: '' **'massa ingenieursdienste'** kapitale infrastruktuurbates wat geassosieer word met daardie gedeelte van 'n eksterne ingenieursdiens wat beoog is om lewering van munisipale ingenieursdienste tot voordeel van veelvuldige lede van die gemeenskap as 'n geheel te verseker, hetsy dit reeds bestaan of ingevolge 'n munisipale ruimtelike ontwikkelingsraamwerk voorsien staan te word;''. **2.** Die wysiging van artikel 49— *(a)* deur subartikel (2) deur die volgende subartikel te vervang: ''(2) 'n Munisipaliteit is verantwoordelik vir die voorsiening van eksterne ingenieursdienste: Met dien verstande dat koppelingsingenieursdienste deur 'n aansoeker geïnstalleer word en dat die munisipaliteit kan vereis dat sodanige dienste geïnstalleer word om 'n groter kapasiteit te voorsien as wat die grondontwikkeling self benodig, onderworpe daaraan dat die munisipaliteit die aansoeker dienooreenkomstig terugbetaal, tensy die aansoeker sy of haar aanspraak op terugbetaling van die hand wys of die waarde van die installering van die bykomende kapasiteit afgeset word teen die toepaslike ontwikkelingsheffingslas.''; en *(b)* deur die volgende subartikel by te voeg: ''(6) 'n Munisipaliteit kan instem om by te dra tot die koste van koppelingsingenieursdienste, waar die aansoeker se voorsiening van koppelingsingenieursdienste wat aan die minimum standaarde van die munisipaliteit moet voldoen, kapasiteit tot gevolg sal hê wat die vereistes van die grondontwikkeling self oorskry: Met dien verstande dat die maksimum bydrae van die munisipaliteit nie die bedrag oorskry wat die verskil verteenwoordig tussen die koste wat met voldoening aan die minimum standaard gepaard gaan en die koste van die werklike vereistes van die betrokke grondontwikkeling nie.''. **3.** Die wysiging van Bylae 1— *(a)* deur in paragraaf *(y)* die woorde wat subparagraaf (i) voorafgaan, deur die volgende woorde te vervang: ''die voorsiening van munisipale ingenieursdienste **[en die heffing van ontwikkelingstariewe]** reguleer, met inbegrip van—''; en *(b)* deur in paragraaf *(y)* subparagraaf (iv) en (vi) te skrap.

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