

PAYMENT OF OPEN SPACE CONTRIBUTIONS

Item A-CORP (62-2010) CM 2001/07/22	CITY DEVELOPMENT DEPARTMENT: THE APPROVAL OF AN UNIFORM POLICY ON THE PAYMENT OF OPEN SPACE CONTRIBUTIONS IN THE EKURHULENI METROPOLITAN MUNICIPAL AREA
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RESOLVED:

1. **That** the contents of the report regarding approval of an uniform policy on the payment of open space contributions in the Ekurhuleni Metropolitan Municipal Area **BE NOTED**.
2. **That** the proposed policy **BE ACCEPTED** as a policy of the Ekurhuleni Metropolitan Municipality.
3. **That** the policy **BE IMPLEMENTED** from 1 August 2010 and **BE REVIEWED** when Council deems it necessary.
4. **That** the Chief Financial Officer **ENSURES** that the net contributions received (after taking any fees paid for obtaining valuations for calculation of contributions into account) are ring-fenced for the exclusive use of providing open space and be able to link such contribution to respective townships and/or erven.
5. **That** all applications (delegated to the Executive Director) where the amount of contributions are still to be determined **BE NOTED** by the Corporate Services and City Planning Portfolio Committee.
6. **That** a register of applications referred to in 5 above **BE KEPT** at the Corporate Office of City Development until such time that contributions are calculated and reports brought to the Portfolio Committee for approval.
7. **That** a workshop for all Councillors **BE HELD**.

OPEN SPACE CONTRIBUTION POLICY

1 AUGUST 2010

PREPARED BY: CITY
DEVELOPMENT
DEPARTMENT

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1. PROBLEM STATEMENT

Although the request for open space contribution is legislated, the implementation of this matter differs in the Customer Care Areas. The main aspects that tend to differ are:

- In which cases contribution is required and,
- On which value/s contributions are calculated.

2. PURPOSE

The purpose of the policy is to develop a uniform approach to the calculation of open space contribution within the Ekurhuleni Metropolitan Municipality.

3. DEFINITIONS

All definitions as included in the legislation mentioned hereunder are of importance. Reference to open space shall mean private and public open space.

4. MAIN CONSIDERATIONS

- Provision of open space in developing areas

As provided for in Regulation 44 of the Town Planning and Townships Ordinance, 15 of 1986, open space shall be provided for each residential township that is established.

The developer has the choice to:

1. provide all open space within the township,

2. provide some open space in the township and pay contribution for the rest, or
 3. to pay contribution to the full amount
- Uniformity in requesting open space contribution

Contribution should be requested in the same manner in the whole of Ekurhuleni. According to the Town Planning and Townships Ordinance, open space contribution can only be requested for residential developments. Developments for any other uses do not need to make provision for open spaces.

- Uniformity in calculation of contributions

Regulation 43 (e) of the Town Planning and Townships Ordinance provide for either the Municipal valuation as reflected in the Valuation roll to be used or a supplementary valuation to be done when determining the site value of the land. This aspect also needs to be uniform.

- Use of funds paid for open space contributions

Developers have often requested explanations on where and how funds paid in as open space contributions are used by the municipality. Proposals for ring fencing of these funds for exclusive use of providing open space were received. Due to the nature of the contributions the Finance Department commented that the Chief Financial Officer must ensure that the net contributions received are ring fenced for the exclusive use of providing open space.

5. RELEVANT LEGISLATION

- Town Planning and Townships Ordinance, 15 of 1986

The following extracts are of importance:

“Section 20 Provisions which may be contained in town-planning scheme

(2) Where consent is granted by virtue of subsection (1) (a), the conditions on which the consent is granted may include a condition that (c) the person to whom the consent is granted shall pay to the local authority an amount of money in respect of the provision of - (ii) open spaces or parks where the granting of the consent will bring about a higher residential density.”

“Section 63 Contribution in respect of engineering services, open spaces or parks (1) Where an amendment scheme which is an approved scheme came into operation in terms of section 58 (1), the authorized local authority may, within a period of 30 days from the date of the commencement of the scheme, by registered letter direct the owner of land to which the scheme relates to pay a contribution to it in respect of the provision of - (b) open spaces or parks where the commencement of the amendment scheme will bring about a higher residential density, and it shall state in that letter -

- (i) the amount of the contribution;***
- (ii) particulars of the manner in which the amount of the contribution was determined; and (iii) the purpose for which the contribution is required:***

Pro vided that -

- (i) the amount of the contribution required in respect of open spaces or parks, where applicable, shall be determined by the local authority in the manner prescribed; (bb) in calculating the contribution an amount paid, payable or becoming payable in terms of section 20 (c) shall be taken into account.***

“Section 92 Subdivision or consolidation of erven in approved township

(3) Where a local authority approves an application in terms of subsection (2), it **may** impose any condition it may deem expedient, including a condition, in the case of an application for a subdivision, that the owner shall pay to it an amount of money in respect of the provision of-

(b) open spaces or parks, and such amount shall be determined by the local authority in the manner prescribed:

Provided that in calculating the amount a contribution paid, payable or becoming payable in terms of section 48 or 63 shall be taken into account.”

“Section 98 Decision on application for establishment of township

(2) Where an authorized local authority approves an application in terms of subsection (1) it may impose any condition it may deem expedient, including a condition requiring the payment of an endowment in cash or the provision of an endowment in kind or both.”

“Regulation 44 Provision of Land for Open Spaces or Parks

(1) Where, in terms of sections 71(2) or 98 (2) of the Ordinance, the Administrator or an authorized local authority on approval of an application to establish a township, imposes a condition requiring the applicant to provide land for open spaces or parks, the area of that land shall be determined in accordance with the formula -
 $a \times 24 \text{ m}^2 + b \times 18 \text{ m}^2$, in which formula-

- (a) “a” represents the number of residential units which may be erected on land in the township which, in terms of the town-planning scheme concerned, is to be zoned **“Residential 1” or “Residential 2”**;
- (b) “b” represents the number of residential units which may be erected on land in the township which, in terms of the town -planning scheme concerned, is to be zoned **“Residential 3” “Residential 4” or “Residential 5”**.

(2) Any area of land in a **proposed township which is subject to flooding by a 1:50 year flood** shall be shown on the plan of the township as an open space or park if so required by the local authority concerned.

(3) If, in a proposed township, part of any area of land subject to flooding by a flood contemplated in subregulation (2) is less than 32 m measured from the centre of a water course, the area of land shown as an open space or park on the plan of the township shall be extended to measure 32 m from the centre of the water course.

(4) The area of land to be provided for open spaces or parks in terms of subregulation (1), shall be reduced by the area of land to be shown as open spaces or parks in terms of subregulations (2) and (3).

(5) In calculating the number of residential units which may be erected in a township, a residential unit shall be deemed to have a floor area of 99,1 m².

(6) Where the Administrator or an authorized local authority, when approving an application to establish a township, imposes a condition requiring the applicant to pay an endowment in cash or to make provision for a park or open space, the value of “Residential 1” zoned land in the township or, if there is no such land in the township, the value of “Residential 1” zoned land in the vicinity of the township, shall be used as a basis for the determination of the value of the area calculated according to the formula in subregulation (1), but taking into account the cost of the provision of engineering

services in respect of such land and other contributions, and for this purpose the value of land excludes the value of improvements.

(7) The local authority may, on the basis of an approved guide plan, reduce the area of land which has to be provided for parks or open spaces or reduce the cash contribution.

“Regulation 43 Determination of Amount or Contribution Payable in Respect of Provision of Open Spaces or Parks

(1) Where, by virtue of or in terms of the provisions of the Ordinance an applicant for the consent of the Administrator or a local authority to use any land or building for a particular purpose or an applicant contemplated in section 45 (1), 56 (1) or 92 (1) of the Ordinance is required to pay an amount of money or a contribution to the local authority in respect of the provision of open spaces or parks, such amount or contribution shall be determined in accordance with the formula -

$$\frac{(a - b) \times c \times e}{d}$$

in which formula -

- (a) “a” represents the number of residential units which may be erected on the land to which the application relates in terms of the approved application;
- (b) “b” represents the number of residential units which could have been erected on the land contemplated in paragraph (a) prior to the approval of the application;
- (c) “c” represents -
 - (i) 24m² where, in terms of the approved application, the land contemplated in paragraph (a) may be used for Residential 1 or 2 purposes;
 - (ii) 18 m² where, in terms of the approved application, the land contemplated in paragraph (a) may be used for Residential 3, 4 or 5 purposes;
- (d) “d” represents the area of the land contemplated in paragraph (a) in m²
- (e) “a” represents the site value of the land contemplated in paragraph (a) -
 - (i) as reflected in the valuation roll or the supplementary valuation roll of the local authority; or
 - (ii) if the land is not reflected in the valuation roll or supplementary valuation roll of the local authority, as determined by a valuer -
 - (aa) who is a member of the South African Institute of Valuers; or
 - (bb) as defined in section 1 of the Local Authorities Rating Ordinance, 1977 (Ordinance 11 of 1977), who has been appointed for that purpose by the local authority.

(2) For the purposes of paragraph (e) of subregulation (1), “valuation roll” and “supplementary valuation roll” shall have the meaning attached thereto in section 1 of the Local Authorities Rating Ordinance, 1977 and it includes a “preliminary valuation roll” and “preliminary supplementary valuation roll” as contemplated in the said section 1.

(3) The local authority may, on the basis of an approved guide plan, grant a discount on the amount or contribution.”

6. TOWN PLANNING PROCEDURE

The following is proposed as a uniform policy for the contribution to be paid for open space:

6.1 Circumstances under which open space contributions will be payable

- 6.1.1 Open space contribution will be required in all rezoning and township establishment applications where approval of the application will result into the possibility that more residential units can be erected on the property than prior to the application. This would be applicable to any use zone where residential units will be erected.
- 6.1.2 The contribution will be based on the density envisaged and the regulations in the Town Planning and Townships Ordinance. For densities lower than 20 units per hectare, 24m² of open space should be provided and for densities higher than 20 units per hectare, 18 m² of open space should be provided.
- 6.1.3 Open space contribution will be applicable where the developer cannot provide the prescribed open space area within the township area in the case of a township establishment. Where the developer decide to develop the township in phase, the prescribed open space must be either included in each phase or form part of he first phase.

Where the developer provides such open space, these should be to the satisfaction of the Council. Land like sinkholes and flood lines should not be considered as usable open space.

- 6.1.4 Open space contribution will be applicable in the case of a rezoning where the application implies an increase in density.
- 6.1.5 No open space contribution will be required for subdivision applications only, as these contributions will be calculated as part of the rezoning application to increase the density, or as part of the original township establishment.
- 6.1.6 In cases where a rezoning is applied for and the number of units are not known (no density is stipulated, but only height, coverage and Floor Area Ratio), contributions will be requested as part of the Site Development Plan procedure.

6.2 Calculation of open space contribution

- 6.2.1 Formulas in Regulations 43 and 44 of the Town Planning and Townships Ordinance (No. 15 of 1986) will be used for the calculation of open space to be provided and contribution to be paid.
- 6.2.2 The appointed Valuation Firm will be requested to provide the current land value and determine the contribution as per the format attached hereto as Annexure 1. This will only be requested as soon as there is certainty regarding the recommendation and proposed condition of an application and this value will be considered a supplementary valuation.
- 6.2.3 The calculations for contribution for open space will be done by the appointed Valuation firm. The relevant Area Planner will provide the information as per Annexure 1 to the appointed Valuation firm and inform the developer of the amount after receiving the calculation from the firm.



Ekurhuleni
METROPOLITAN MUNICIPALITY

Memorandum

To: Evaluations

For attention:

Your Ref:

&

Our Ref:

From: Executive Director: City Development

Email: marthinaa@ekurhuleni.com

Date:

**Corporate Office
City Development**

Ground Floor
Sanlam Building
Cnr Kempton Road

Margaret Avenue
KEMPTON PARK

Tel: (011) 999-
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www.ekurhuleni.co

Subject : REQUEST FOR LAND VALUE TO DETERMINE OPEN SPACE CONTRIBUTIONS: REZONING

APPLICATION: **Rezoning.**
PROPERTY DESCRIPTION: **Erf 321 Germiston**
EXTENT OF PROPERTY: **3250 m²**
CURRENT ZONING: **"Residential 1"**
APPROVED ZONING: **"Residential 4"**

Manner in which contribution is determined:

a	a = 23	("Residential 4" divided into 23 units)
b	b = 1	(" Residential 1" 1 unit)
c	c = 18	(Approved "Residential 4" zoning)
d	d = 1173	(Total area of erven under discussion)
e	e =	(To be determined by Valuator)

Formula

$$\frac{(a-b) \times c \times e}{d}$$

$$\frac{(23-1) \times 18 \times \dots}{1173}$$

According to the formula the contribution is: R.....

Valuation as determined by Valuator

.....
.....
.....
.....

VALUER

DATE



Ekurhuleni
METROPOLITAN MUNICIPALITY

Memorandum

To: Evaluations

For attention:

Your Ref:

&

Our Ref:

From: Executive Director: City Development

Email: marthinaa@ekurhuleni.com

Date:

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Subject : REQUEST FOR LAND VALUE TO DETERMINE OPEN SPACE CONTRIBUTIONS: TOWNSHIP ESTABLISHMENT

APPLICATION: Township establishment (Pomona ext. 109)
PROPERTY DESCRIPTION: Ptn 321 of the farm Hartbeestfontein 12 I.R.
EXTENT OF PROPERTY: 1.25 ha
CURRENT ZONING: "Agriculture"
APPROVED ZONING: "Residential 2"

Manner in which contribution is determined:

a a = 96 ("Residential 2" 96 units)
b b = 0 (none)

Formula

$a \times 24m^2 + b \times 18m^2$

$96 \times 24m^2 + 0 \times 18m^2$

Open space required 2304 m²
Open space provided in township - 0 m²
= 2304 m²

According to the formula the contribution is: R.....

Valuation as determined by Valuator

.....
.....
.....
.....

VALUER

DATE