

DRAFT 2015

KILKENNY COUNTY COUNCIL

**Development Contribution Scheme, as per Section 48 *as amended*
of the Planning & Development Acts, 2000-2013**

Draft Approved by Members on 16/2/2015

Introduction

Section 48 of the Planning & Development Act 2000 as amended by Section 30 Planning and Development Act 2010 enables Local Authorities, when granting a permission under Section 34 of the Act, to include conditions requiring the payment of a contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority, and that is provided, or that it is intended will be provided, by or on behalf of a local authority, (regardless of other sources of funding for the infrastructure and facilities).

The types of public infrastructure and facilities that can be funded by this mechanism are:

- (a) The acquisition of land.
- (b) The provision of open spaces, recreational and community facilities and amenities and landscaping works.
- (c) The provision of roads, car-parks, car-parking places, sewers, wastewater and water treatment facilities, service connections, surface water mains and flood relief work.
- (d) The provision of bus corridors and lanes, bus interchange facilities, infrastructure to facilitate public transport, cycle and pedestrian facilities, and traffic calming measures.
- (e) The refurbishment, upgrading, enlargement or replacement of roads, car-parks, car-parking places, sewers, wastewater and water treatment facilities, service connections or surface water mains.
- (f) The provision of high capacity telecommunications infrastructure, such as broadband
- (g) The provision of school sites and
- (h) Any matters ancillary to paragraphs (a) to (g).

Area to which the Development Contribution Scheme shall apply

The Scheme will apply to the entire administrative area of Kilkenny County Council.

Should a particular geographical area require a higher level of financing for new services and infrastructure than is envisaged within this Development Contribution Scheme, then Kilkenny County Council reserves the right to prepare and adopt a separate Section 48 Development Contribution Scheme for that particular area, at which point the charges payable under this scheme would no longer apply in that area.

Duration of Development Contribution Scheme

The Development Contribution Scheme shall commence on the date of adoption of the Scheme by Kilkenny County Council and will apply for a minimum of three years from 2015 to 2017 inclusive unless revised and will continue past the end of 2017 until such time as a new Scheme is adopted.

Should a change to the assumptions underpinning this scheme be of such magnitude that they materially affect this scheme, then the Council reserves the right to revise this scheme sooner than referred to above.

Methodology for Determining Development Contributions

In determining contribution levels, regard has been had to the objectives and strategies of Kilkenny County Council. In particular, regard has been had to, among other sources, the County Development Plan, Local Area Plans, the approved Capital Budget for 2015 – 2017.

The following datasets informed the preparation of this scheme;

- Population projections for the County as set out in Kilkenny City and County Development Plans
- Residential planning applications granted and commencement notices received between 2010 and 2013.
- The amount of non-residential development commenced in the period between 2010 and 2013.

The basis for determination of a contribution under the Kilkenny County Council Development Contribution Scheme has been taken into consideration:

- The public infrastructure and facility projected costs attributable in the lifetime of the scheme are as follows:

<i>Infrastructure Classes</i>	<i>%</i>	<i>€'000</i>
Roads	46	1,828
Recreation, Community and Amenity	54	2,145
Total	100	3,973
Note: Water service projects are now the remit of Irish Water		

Kilkenny County Council has spent, and will continue to spend large amounts of money on public infrastructure and facilities which benefit development throughout the County. The projects included in this contribution scheme for the above infrastructure classes are detailed in Appendix 1.

- The aggregated floor areas in square meters of projected development for the years 2015 to 2017 for the main classes of development are as follows:

<i>Development Type</i>	<i>Square Metres</i>
Residential:	90,000
Non-Residential:	69,000

Following an examination of current market conditions and the need to achieve a balance between retaining competitiveness and the need to secure the necessary funding (including co-funded requirements) to put in place much needed infrastructure to drive the Kilkenny economy and position the County to attract inward investment to develop its socio-economic fabric.

The levels of contributions for the various classes of development for the Development Contribution Scheme 2015 – 2017 were arrived at (see following table).

LEVEL OF DEVELOPMENT CONTRIBUTION			
	Description of Development	UNIT	Rate of Charge
1	Residential Development where Rural Housing Policy Applies		
	Area of house less than 125m ²	<i>M²</i>	€ 15.00
	Area of house between 126m ² and 200m ²	<i>M²</i>	€ 18.00
	Area of house between 201m ² and 275m ²	<i>M²</i>	€ 20.00
	Area of house between 276m ² and 300m ²	<i>M²</i>	€ 22.50
	Area of house greater than 301m ²	<i>M²</i>	€ 25.00
2	Urban Residential development	<i>M²</i>	€ 25.00
3	Domestic garage/Fuel store/Garden shed >25m²	<i>M²</i>	€ 15.00
4	Non Residential development including Open Storage Yards	<i>M²</i>	€ 25.00
5	Mobility Management- Shortfall in car parking spaces > 5 spaces	<i>Per Space</i>	€1,000.00
6	Agricultural excluding horticultural Development - €6 per m² > 500 m² of development area (see limitation)	<i>M²</i>	€ 6.00
7	Horticultural Development	<i>M²</i>	€ 6.00
8	Initial afforestation : €600/ha. of site area > 50 ha.(first 50ha.exempt) Replace.Afforestation etc. : €600/ha.of site area > 10ha.(first 10 ha.exempt)	<i>Ha.</i>	€ 600.00
9	Quarries/extractive industry in addition to any buildings	<i>0.1 Ha</i>	€2,000.00
10	Deposit of refuse or waste	<i>0.1 Ha</i>	€1,500.00
11	Landfilling/raising of sites (inert material) other than for agricultural reclamation	<i>0.1 Ha</i>	€1,000.00
12	The provision on, in, over or under land of plant and machinery or of tanks or other structures (other than buildings) for storage purposes	<i>Per m²</i>	€ 15.00
13	Land (excluding structures) for outdoor recreational use –minimum charge of €500 will apply.	<i>Ha.</i>	€ 500.00
14	Wind Farm Development > than 0.1 MW (< than 0.1MW is exempt)	<i>Per MW</i>	€5,000.00
15	Communication Masts	<i>Per Mast</i>	€10,000.00
16	Other Non Communication Equipment	<i>Per Structure</i>	€1,000.00
17	Development not coming within any of the foregoing classes	<i>M²</i>	€ 25.00

Residential extension

A residential extension up to 40 sq. m. in floor area is exempt from development contribution. Subsequent extension or extensions over and above 40 sq m in floor area will be charged at the residential rate for Roads and Recreation per square meter. This exemption does not apply to attic conversions where the floor area is constructed as part of the initial house.

Agricultural Development

The contribution shall be payable on all roofed structures, whether open or enclosed. Contributions shall be payable on the cumulative roofed floor area exceeding 500m².

Mixed Development

In the case of a mixed development, the contribution payable will be based on the sum of charges applicable to each development type within the mixed development, each development type to be charged as per the above categories.

Conversion to Residential Units

A contribution will be charged in respect of any additional residential units/area created in accordance with the scheme.

Change of Use for Non Residential Units

Where an applicant submits a planning application for a change of use, then any development charges paid in respect of the previous use will be available for offset against the development charges payable on the revised use application.

Demolition and Rebuild/Extension of Use

Where an applicant applies to either demolish an existing serviced and habitable residential or commercial building and replace with another, or extend an existing building, then the development charge payable is to be calculated on the increased floor area of the new build over the old. Demolition of a habitable building shall be certified by the Planning Authority prior to any allowance being availed of.

Exemptions/Reductions will NOT apply to Retention applications.

Exemptions from the payment of Development Contributions

The following categories of development will be exempted from the requirements to **pay development contributions under the scheme**:

- Development carried out by Kilkenny County Council pursuant to Section 179 of the Planning and Development Acts 2000 – 2013.
- Where a planning permission is issued for the construction of residential units, which is constructed by a Voluntary Housing body, and is not to be used mainly for profit or gain and which is recognized as such by the Planning Authority.
- Social housing units which are provided in accordance with an agreement under Section 96 of the Planning and Development Acts, 2000-2013 to Kilkenny County Council/ Voluntary Housing body which is recognized as such by the Planning Authority
- Where a planning permission is issued for a change of use, the Planning Authority may consider a waiver of the development charge or part thereof where the change of use does not lead to the need for new or upgraded infrastructure/services.
- Where a planning permission is issued for the provision of a Class 3 structure i.e. stand alone garage, store, shed, greenhouses, lean to, car port or similar structure of less than 25m², then no development charge is payable on that element of the development. This type of structure greater than 25m² will be charged on the full area.
- Masts and antennae and other apparatus/equipment for communication purposes that form part of the National Broadband Scheme as defined by the Department of Communication, Energy and Natural Resources. Any new buildings associated with masts and antennae will be charged at the commercial rate.
- Developments by voluntary not for profit clubs, non-statutory groups/organizations for non commercial community related developments.

Reduced Development Contributions

The following categories of non-residential development will attract a reduction in respect of development contributions:

- A reduction of **50%** from the standard development charge will apply where a planning permission relates to a school development.
- A reduction of **50%** from the standard development charge will apply to the following:
 - Small enterprises/Start up Businesses grant aided by the Local Enterprise Office or other recognized local development agencies.
- A reduction of **50%** from the standard development charge applicable to the proposed development will apply to derelict sites/sites in need of regeneration at the discretion of the Planning Authority provided that a Derelict site notice has been served or site is on the register of derelict sites. A **25%** reduction will apply at the discretion of the Planning Authority, where a proven derelict structure does not appear on the Derelict Site Register.
- Commercial distribution warehousing/storage will be assessed at the full commercial rate permitted up to 500 sq m and at 50% for the remaining floor area.
- A reduction of **70%** from the standard development charge applicable to Commercial & Industrial development will apply to the following:
 - Open storage/hard surface non residential space (uncovered storage space), including vehicle sales forecourt development and associated sales and display parking.
- A reduction of **75%** from the standard development charge applicable to a protected structure will apply to redevelopment on the existing protected structure, included in the Kilkenny County Council Record of Protected Structures, as established under Part IV of the Planning and Development Acts 2000 -2013. Full development charges will apply to any new floor area provided.

Ring-Fencing of Income

Monies accruing to the Council under this Development Contribution Scheme must be accounted for in separate account and can only be applied as capital for public infrastructure and facilities. A programme of works to be undertaken arising from income generated by the scheme shall be prepared annually. This programme shall have regard to the level of contributions raised in the preceding year.

Payment of Contribution

Contributions shall be payable immediately upon commencement of development. The contribution payable will be based on the contribution rate in existence and not the contribution rate in existence at the time of permission being granted. Should there be a delay of greater than 6 months in contribution payment, then the Council may be entitled to charge interest from the date payment was due to the actual payment date, at a rate of 5% per annum.

The Council may, at its discretion, facilitate the phased payment of contributions over an agreed period.

However, in cases where a large development is being carried out in agreed phases, the contribution may be paid in instalments before the commencement of each phase. The prior agreement of the Council will be required to any such agreement and the Council may require the giving of security to ensure contribution payment. The contribution payable upon each instalment will be based on the contribution rate at the time of commencement of that phase and not the contribution rate in existence at the time of permission being granted.

Where a development contribution is not paid in accordance with the terms of a condition laid down by the Council (or An Bord Pleanála), the Council may recover any contribution due as a simple contract debt in a court of competent jurisdiction. Kilkenny County Council reserves the right to initiate further enforcement action in respect of unpaid contributions.

Adjustment of contribution amounts

The rates of contribution payable may be updated annually beginning on the 1st January, 2016 in accordance with the Wholesale Price Index for Capital Goods, Building & Construction published by the Central Statistics Office at the discretion of the Council. The base period, against which changes in the Wholesale Price Index for Capital Goods, Building & Construction will be compared, will be the month of adoption of this Development Contribution Scheme.

Any annual adjustments shall be limited to a maximum increase/decrease of 5% even where the increase/decrease in the Wholesale Price Index for Capital Goods, Building

and Construction is greater than 5%. In the case where the adjusted charge is not a whole number, then the charge will be rounded up or down to:

- (1) the nearest Euro where the charge is per m² of development area
- or
- (2) the nearest €100 in all cases other than in (1)

There will be a six month grace period starting from the date of a planning decision being granted during which time if the development charge owing is paid, that the adjustments referred to in this section will not apply.

Special Development Contribution

Kilkenny County Council may, in addition to the terms of this scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by this scheme are incurred by Kilkenny County Council in respect of public infrastructure and facilities which benefit the proposed development. Where payment of such a contribution is required, the condition shall specify the particular works carried out or proposed to be carried out by Kilkenny County Council to which the contribution relates.

Where the works in question;

1. Are not commenced within 5 years of the date of payment to Kilkenny County Council of the contribution (or final instalment thereof if paid by phased payment.)
2. Have commenced, but have not been completed within 7 years of the date of payment to Kilkenny County Council of the contribution (or the final instalment thereof if paid by phased payment) or
3. Where Kilkenny County Council decides not to proceed with the proposed works or part thereof,

the contribution shall be refunded to the applicant together with any interest that may have accrued over the period held by Kilkenny County Council. However, where Kilkenny County Council has incurred expenditure within the required period in respect of a proportion of the works proposed to be carried out, any refund shall be in proportion to those proposed works which have not been carried out.

An applicant may, subject to the agreement of Kilkenny County Council, undertake the specific works, to which the specific exceptional costs relate, in lieu of special contribution payment. Such an agreement may allow for the works to be carried out to Kilkenny County Council specified standards and supervision arrangements.

If a developer is required to provide services over and above his own immediate needs, then he can be compensated in accordance with the planning legislation.

END

**APPENDIX 1 – Public Infrastructure and Facility Projects included
in the 2015-2017 Development Contribution Scheme**

Roads	Gross Project Cost €000
• Kilkenny Central Access Scheme	1,100,000
• Flood Relief Schemes	150,000
• Mobility Management	200,000
• Bohernatounish Road Roundabout	120,000
• Graiguenamanagh UVRs	258,000
<i><u>Total Roads</u></i>	<i><u>€1,828,000</u></i>

Recreation, Community and Amenity

• County & City Library – Build Cost	845,000
• Recreational & Amenity Grant Schemes	750,000
• Thomastown Library & Community Arts Centre	250,000
• St Francis Abbey – Park	300,000

Total Recreation, Community and Amenity ***€2,145,000***

Overall Total ***€3,973,000***