

# **KILKENNY COUNTY COUNCIL**

**Development Contribution Scheme, as per Section 48  
of the Planning & Development Act, 2000,**

**Adopted 21<sup>st</sup> December, 2007**

## **Introduction**

Section 48 of the Planning & Development Act 2000, 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, drains and watermains,
- (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, drains or watermains, and
- (f) any matters ancillary to paragraphs (a) to (e).

## **Area to which the scheme shall apply**

A planning authority may make one or more schemes in respect of different parts of its functional area. Kilkenny County Council has prepared this draft scheme for its entire functional area excluding that area covered by the Kilkenny City Western Environs Local Area Plan, which was adopted by Kilkenny County Council on 17<sup>th</sup> May, 2004 and delineated on the attached Map 1.

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.

## Basis for determination of 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 County Development Board Strategy, The Councils 2007 – 2011 Capital Budget, Village and Urban Renewal projects, The Recreational Needs Study and the Councils Programme for the Provision of Water and Wastewater Infrastructure in Kilkenny City and County (adopted by Council May 2007).

The basis for determination of a contribution under the Kilkenny County Council Development Contribution Scheme is as follows:-

- (i) The public infrastructure and facility costs attributable to the years 2008 to 2012 included in this scheme are as follows:

<i>Infrastructure Classes</i>	<i>%</i>	<i>€'000</i>
Roads	37	20,986
Water Services	38	21,474
Open Spaces, Recreation and Amenity	25	14,566
	<u>100</u>	<u>57,026</u>

The costs for the different infrastructure classes include land acquisition costs as well as those elements of the preparation costs of the County Development Plan and Local Area Plans that are necessary for, and ancillary to, the delivery of the infrastructure concerned.

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. In arriving at the infrastructure costs for scheme inclusion, regard has been had to the actual estimated cost of providing the classes of public infrastructure and facilities referred to above. The projects included in this contribution scheme for the above infrastructure classes are detailed in Appendix 1; any benefit accruing in respect of existing development has been excluded from development contribution scheme cost inclusion.

- (ii) The aggregated floor areas in square meters of projected development, for the years from 2008 to 2012 inclusive, for the main classes of development, are as follows:

<b>Development Type</b>	<b>Projected Development 2008-2012</b>
	Sq.m
Residential	773,000
Commercial & Industrial	431,000

- (iii) The draft contribution charge for new developments is calculated by dividing the total infrastructural costs included in the Scheme, as outlined at (i) above, by the projected development as outlined in (ii) above

## Development Contributions Applicable from the 1<sup>st</sup> January 2008

Description of Development	Amount of Contribution (per m <sup>2</sup> of development area unless otherwise specified)
1. Residential development – Roads & Recreation	First 125m <sup>2</sup> : €18 per m <sup>2</sup>  next 25m <sup>2</sup> between 126 m <sup>2</sup> – 150 m <sup>2</sup> : €21 per m <sup>2</sup>  next 25m <sup>2</sup> between 151 m <sup>2</sup> – 175 m <sup>2</sup> : €24 per m <sup>2</sup>  all other m <sup>2</sup> greater than 176 m <sup>2</sup> : €29 per m <sup>2</sup> Note (A) Domestic Garage/Fuel/Store/Garden Shed >25 m <sup>2</sup> (Note A) €18 per m <sup>2</sup>
2. Residential development – Roads & Recreation + Water	€47 Note (A)
3. Residential development – Roads & Recreation + Wastewater	€47 Note (A)
4. Residential development – Roads & Recreation + Water + Wastewater	€65 Note (A)
5. Commercial & Industrial– Roads & Recreation	€29
6. Commercial & Industrial– Roads & Recreation + Water	€37 Note (B)
7. Commercial & Industrial– Roads & Recreation + Wastewater	€37 Note (B)
8. Commercial & Industrial– Roads & Recreation + Water + Wastewater	€45 Note (B)
9. Nursing homes, guesthouses, hotels	€45
10. Agricultural Development	€6 per m <sup>2</sup> only on area greater than 500 m <sup>2</sup> of development area
11. Change of use from residential to commercial	The charges as appropriate in 5. to 8. above less any development contributions already paid on the residential development
12. Shortfall in car parking provided	€3,500 per space
13. (a) Initial afforestation  (b) Replacement of broadleaf high forest by conifer species	(a) Initial afforestation - €600 per hectare of site area > 50 hectares (first 50 hectares exempt) (b) Replacement afforestation €600 per hectare of site area > than 10 hectares (first 10 hectares exempt)
14. Land use for: (a) the winning and working of materials (b) deposit of refuse or waste (c) buildings used exclusively for storage ancillary to the operation of a quarry including machinery storage sheds, quarry canteens, etc. (d) storage of quarrying aggregates or related outputs such as concrete blocks and bricks but excluding area for the manufacture of concrete blocks and bricks	€2,000 per 0.1 hectare of site area, subject to a minimum charge of €10,000
15. The provision on, in, over or under land of plant and machinery or of tanks or other structures (other than buildings) for storage purposes	€45
16. The use of land as a golf course or a pitch and putt course or for any other outdoor recreational facilities	€250 per hectare of site area, subject to a minimum charge of €10,000
17. Wind Farm Development: ≥ 50 m in height to hubcentre: < 50 m in height to hubcentre:	€5,000 per turbine Exempt
18. Communication Masts	€10,000 per mast
19. Development not coming within any of the foregoing classes	€45

In the case of a mixed development, the fee 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.

#### **Note A**

Any residential extension up to 40 sq. m. in floor area is exempt from development contribution. Where a residential extension exceeds 40 sq. m. in floor area, then the normal development contribution charge applies to the entire floor area, including the first 40 sq. m.

Stand alone garage floor area is to be charged under Category 1 Residential Development – Roads & Recreation regardless of whether or not water services are provided to the garage element of the overall development.

#### **Note B**

The Governments water services pricing policy provides for the recovery of the marginal *capital* costs of water services: from the general non-domestic customer on the basis of either a consolidated metered charge using the water in/water out principle or through individual contracts with significant, generally larger, customers; and for residential development through development contributions. Where an individual contract with a significant customer exists, then the water services element of the normal development charge will not apply.

#### **Conversion to Residential Units**

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

#### **Change of Use**

Where an applicant submits a planning application for a change of use within the Commercial and Industrial category, 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 building and replace with another, or extend an existing property, then the development charge payable is to be calculated on the increased floor area of the new build over the old.

## **Exemptions/ Reductions**

The Council may grant exemption from, or reduce the amounts of, contribution in respect of the following categories of development;

- (1) Where a planning permission is issued for a development which consists of or comprises development which in the opinion of the County Manager is development proposed to be carried out by or on behalf of a voluntary organisation, and is not residential accommodation, and which in the opinion of the County Manager
  - (a) Is designed or intended to be used for social, recreational, educational or religious purposes by the inhabitants of a locality or by people of a particular group or religious denomination and is not be used mainly for profit or gain
  - or
  - (b) Is designed or intended to be used as a workshop, training facility, hostel or other accommodation for persons with disabilities and is not to be used mainly for profit or gain,

then the only development charge payable will be 80% of the water services element of the overall development charge payable.

### Schools

Where an application relates to a school development, full charges in relation to water services will be payable where the school is availing of a grant from the Department of Education & Science for the works being carried out.

If the school can provide proof that the works are being carried out without grant aid, then they will be charged 80% of the water services development charge.

- (2) Where a proposal relates to a residential development for which a Disabled Persons Grant will be received, then the only development charge payable will be 80% of the water services element of the overall development charge payable.
- (3) Where a proposal consists of or comprises the provision of houses, or development ancillary to such provision, which is proposed to be carried out under Section 179 of the Planning and Development Act, 2000 (as amended) a development contribution shall not be payable.
- (4) Where a proposal consists of the provision of housing and includes a condition providing for the applicant to enter into an agreement under Section 96 of the Planning and Development Act, 2000 as substituted by Section 3 of the Planning and Development (Amendment) Act, 2002 a development contribution shall not apply to residential units provided for use by Kilkenny County Council/Kilkenny Borough Council under such an agreement.

- (5) Where a proposal consists of the provision of housing by a voluntary housing body, as defined in Section 6 of the Housing (Miscellaneous Provisions) Act, 1992, then no development contribution shall be payable.
- (6) Where a planning permission is issued relating to development on a protected structure, included in the Kilkenny County Council Record of Protected Structures, as established under Part IV of the Planning and Development Act, 2000 (as amended), then a reduction of 75% from the normal development charge applicable to the protected structure will apply.
- (7) Where a proposal consists of development by a tax registered charitable institution, then only the water services element of the normal development charge is payable.
- (8) Where a proposal includes the provision of a stand alone garage of less than 25m<sup>2</sup>, then no development charge is payable on the garage element of the development.
- (9) Where a proposal includes agricultural/horticultural polytunnel development, then 20% of the Category 10 Agricultural Development charge will be payable for those elements of the development relating to agricultural/horticultural polytunnels.
- (10) Where a proposal consists of development that will be serviced by a group water or waste water scheme that is itself serviced by a public supply, then such applicants will be allowed credit against the water or waste water element of any development charges payable for any contributions already paid by them to the group water or waste water scheme concerned, subject to a maximum credit of 50% of the relevant development charge payable.

Monies raised under this Development Contribution Scheme will be dispersed on the basis of an Annual Development Contribution Scheme Budget, which itself will be decided on by the Council Members, and will be transparent and open to public scrutiny.

In relation to Roads, approximately 30% of the annual fund, excluding interest finance costs, shall be allocated for agreement at Area level. In relation to Open Space, Recreation and Amenity, approximately 40% of the annual fund shall be allocated for Area level agreement. The determination of the individual Area allocations shall be based on Area Populations. The Recreation element of the monies allocated for area level agreement can be drawn on by local community/voluntary groups under the terms of the Council's Recreational Capital Fund Grant Scheme.

County Flagship Projects eligible for funding under the Development Contribution Scheme, shall be deemed to be a separate allocation from the allocation of funding to the Electoral Areas and shall be subject to the decision of the full Council.

### **Method of contribution payment**

Contributions shall be payable immediately upon development commencement. At this time, the contribution payable will be based on the contribution rate then in existence and not the contribution rate in existence at the time of permission being granted. Should there be a delay of greater than 2 months in contribution payment, then the Council shall be entitled to charge interest from the date payment was due, to the actual payment date, at a rate of 5% per annum.

However, in cases where a development is being carried out in phases, the contribution may be paid in installments 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 then in existence, and not the contribution rate in existence at the time of permission being granted nor the contribution rate in existence at the development commencement.

### **Adjustment of contribution amounts**

The contribution rates payable will be adjusted annually, commencing on 1<sup>st</sup> January, 2009, based on changes to the Wholesale Price Index for Capital Goods, Building & Construction published by the Central Statistics Office. Any annual adjustments shall be limited to a maximum annual increase of 5% even where the increase in the Wholesale Price Index for Capital Goods, Building and Construction is greater than 5%. 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.

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 m<sup>2</sup> 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.

### **Scheme Period**

This Scheme will apply for a minimum of five years from 2008 to 2012 inclusive and will continue past the end of 2012 until such time as the Scheme is revised.

This Scheme will be reviewed on a bi-annual basis with the first of these reviews to take place after the end of 2009 to be followed as soon as possible thereafter by the issuing of a progress report to the Members on the result of that review. 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.

### **Exceptional Costs**

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,
2. Have commenced, but have not been completed within 7 years of the date of payment to Kilkenny County Council, 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 while 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. This is in accordance with legislation as outlined in Section 34(2)(m) of the Planning and Development Act, 2000.

**END**

**APPENDIX 1 – Public Infrastructure and Facility Projects included  
in the 2008 – 2012 Development Contribution Scheme**

<b>Roads</b>	<b>Gross Project Cost €000</b>
• N8/M8	346,000
• N9 Phase 2 Waterford - Knocktopher	230,000
• N9 Phase 4 Knocktopher - Carlow	450,000
• N24 Mooncoin Bypass	75,000
• N76 Improvement Tennypark	12,500
• N77 Improvement Ballinaslee	7,500
• N77 Kilkenny Ring Road	34,000
• N10 Ring Road Dual Carriageway	3,100
• Graiguenamanagh Relief Road	6,500
• Kilkenny Inner Relief Road	40,000
• Road Improvements Waterford City Environs	10,000
• Kilkenny Western Environs Roads	36,300
• Callan Traffic Management Plan	1,600
• R700 Thomastown By Pass	18,000
• Road Improvements & Traffic Management	5,350
<b>Total Roads</b>	<b>1,275,850</b>

**Water Services**

Water Schemes

• Water Conservation	26,892
• Gowran-Goresbridge-Paulstown WS	9,070
• Kilkenny City Regional WS	8,930
• Bennetsbridge Regional WS	9,900
• Bundle A	14,205
- Clogh-Castleomer WS	
- Ballyragget WS	
- Urlingford-Johnstown WS	
• Bundle B	20,000
- Thomastown WS	
- Callan WS	
- Graiguenamanagh WS	
- Inistioge WS	
• Mooncoin Regional WS	9,000
• South Kilkenny Regional WS	20,000
• Piltown-Fiddown WS	3,000
• Glenmore WS	200
<b>Total Water Schemes</b>	<b>121,197</b>

**Gross Project Cost  
€000**

WasteWater Schemes

• Gowran	816
• Mooncoin	800
• Kilmacow	5,000
• Belview	1,800
• Kilkenny City Western Environs	4,800
• Bennetsbridge	800
• Kilmoganny	350
• Kilkenny Main Drainage	15,800
• Kilkenny Sludge Management	14,725
• Freshford	7,900
• Ballyhale-Knocktopher	900
• Inistioge	300
• Thomastown	1,500
• Piltown	800
• Castlecomer	1,500
• Kells	800
• Tullaroan	285
• Dungarvan	393
• Urlingford	1,000
• Goresbridge	
• Fiddown	600
• Paulstown	750
• Johnstown	
• Stonyford	350
• Coon	300
• Mullinavat	610
• Clogh-Moneenroe	1,500
• Glenmore	350
• Kilmanagh	300
• Deerpark(Castlecomer)	250
• Loughmacask	5,000
<b>Total WasteWater Schemes</b>	<b>70,279</b>

**Gross Project Cost  
€000**

Surface Water Schemes

- Mooncoin 5,000

**Total Surface Water Schemes 5,000**

•  
Other Water Services

- Water Metering + Asset Management 3,080

**Total Other Water Services 3,080**

**TOTAL WATER SERVICES 199,556**

**Open Spaces, Recreation and Amenity**

- Playgrounds 750
- River Nore Linear Park 3,250
- Waterford City Environs Flagship 6,000
- Scanlon Park Sports Complex 9,300
- Recreational & Industrial Land 10,000
- Mullinavat Library 750
- Graiguenamanagh Project 1,000
- New Civic Library 13,000

- Local Area Funding 44,050 60%
- Local Area Funding 29,367 40%

**Total Recreation 73,417 100%**