

**OFFALY COUNTY COUNCIL**

**REVISED DEVELOPMENT CONTRIBUTION SCHEME**

**2008-2014**

**PLANNING & DEVELOPMENT ACTS 2000 – 2006**



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##### **1. Introduction**

The Planning & Development Acts 2000-2006 provides for a system for levying development contributions in order to increase its flexibility and the range of infrastructure that can be funded by this mechanism. The Act provides for three types of development contributions that may be attached as conditions to a planning permission under the Act:

- general development contributions
- special development contributions
- supplementary development contributions

The contributions will be based on a development contribution scheme adopted by the elected members for their functional areas.

## **2. General Development Contribution Scheme**

### **2.1 Scheme Details**

Section 48 of the Planning & Development Acts 2000-2006 enables the Planning Authorities when granting permission 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).

“Public infrastructure and facilities” means:

- (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 waste water and water treatment facilities, drains and water mains,
- (d) the provision of bus corridors and lanes, bus interchanges facilities (car parks for those 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, waste water and water facilities, drains or water mains, and
- (f) any matters ancillary to paragraphs (a) to (e).

### **2.2 Area of Application of Scheme**

The Planning & Development Acts 2000-2006 empowers a Planning Authority to make one or more schemes in respect of different parts of its functional area. This scheme shall apply to the administrative area of County Offaly (excluding the Town Councils of Birr and Tullamore).

## 2.3 Basis for Determination of Contributions

The Act provides that:-

- (i) The scheme must state the basis for determining the contributions to be paid in respect of public infrastructure and facilities.
- (ii) The scheme must indicate the contribution to be paid in respect of the different classes of public infrastructure and facilities **which are provided or to be provided** by the local authority.
- (iii) The planning authority shall have regard to the actual estimated cost of providing the classes of public infrastructure and facilities. The determination may not include any benefit that accrues in respect of existing development e.g. where a proportion of the capacity of a new wastewater treatment plant will be used by existing development.
- (iv) The scheme may make provision for payment of different contributions in respect of different classes or descriptions of development.
- (v) The scheme may allow for the payment of a reduced contribution or no contribution in certain circumstances.

The basis for determining the contributions to be paid in respect of public infrastructure and facilities is calculated having regard to:-

the estimated cost to the Council, in the period 2008 to 2014 of providing further public infrastructure and facilities as set out in the objectives outlined in the County Offaly Development Plan, the Offaly County Development Board Strategy, the Tullamore Town Development Plan and Environs and Birr Town Development Plan and Environs, Annual Roads Programme and Village and Urban Renewal Projects. These costs include estimated costs of land acquisition where relevant.

## 2.4 Level of Contributions

### 2.4.1 Level of Contributions

The contribution as approved by the Council at its meeting on 18<sup>th</sup> February, 2008 is €8,000 per house (**now €8,240** updated in accordance with the Wholesale Price Index for Building and Construction) and €53 per square metre of floor area for industrial/commercial development (**now €54.50** updated in accordance with the Wholesale Price Index for Building and Construction), more particularly set out in Table 1 and Table 2.

#### **2.4.2 Conversion of Residential Units**

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

Where an existing residential unit is extended or converted to create an additional residential unit e.g. an apartment or flat, the appropriate rate of contribution will be payable in respect of each additional residential unit erected.

#### **2.4.3 Change of Use from Residential to Commercial**

The charges as appropriate in Table 1 shall apply in the case of a change of use from residential to commercial use, with an allowance being made for any development contributions already paid in respect of the residential development.

#### **2.4.4 Change of Use (Car Parking)**

Where a change of use is proposed the Council shall take into account the inherent car parking associated with the existing use when calculating car parking development contributions.

#### **2.4.5 Car Parking in a Structure**

Development contributions shall not be levied on car parking areas where such car parking is provided within a structure and such a structure is proposed in order to meet the council's development plan standards for an associated development.

#### **2.4.6 Mixed Use Complementary Parking**

Where a proposed development will consist of a mixture of uses, and the use of the units, due to varying hours of business, will allow for the sharing of the proposed parking spaces, the planning authority will calculate the number of spaces to be provided based on the maximum number of spaces that will be required at any given time throughout the day.

#### **2.4.7 Extensions**

Subject to 2.4.2 above, a development contribution will not be required in the case of extensions to residential units unless a connection to public water mains or sewerage is required. In such cases only the relevant contributions appropriate to the service provided will be required.

A development contribution will be required in the case of extensions to industrial/commercial development. The appropriate rate of contribution will be payable in respect of each additional m<sup>2</sup> of development involved.

#### **2.4.8 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 overall development.

### **2.5 Payment of Contributions**

#### **2.5.1 Payment/Collection of Contributions**

Offaly County Council will apply conditions requiring payment of the contributions provided for in the scheme on all decisions to grant permissions effective from 3<sup>rd</sup> March, 2008, with the exception of the exemptions listed at 2.5.4 below. Contributions will be payable in accordance with the terms of the condition set out in the planning permission. If the contribution is not paid in accordance with the condition, then an amount to include interest, at a rate to be determined, in respect of the period the payment was withheld, will be payable. Any amount owed may be recovered through the courts as a simple contract debt or by use of the enforcement provisions under the Planning & Development Acts 2000 -2006.

#### **2.5.2 Indexation of Contributions**

The rates of contribution set out in Table 1 and Table 2 will be adjusted on the 1<sup>st</sup> January each year based on changes to the wholesale Price Index for Building and Construction published by the Central Statistics Office. The adjusted figure will be rounded to the nearest 10 Euro in respect of a residential unit or a fixed contribution and to the nearest 50 cent per m<sup>2</sup> in respect of industrial/commercial/other development.

#### **2.5.3 Phasing of Payments**

The contributions shall be payable prior to commencement of development or as otherwise agreed by the Planning Authority. Contributions shall be payable at the index adjusted rate relevant to the year in which the development authorised by planning permission is commenced. The Planning Authority may facilitate the phased payment of contributions subject to an administrative charge and may require the giving of security to ensure payment of contributions.

## 2.5.4 Exemptions & Reductions

The Planning Authority may allow for full or partial exemptions from payment at its discretion:

- (a) **Voluntary Organisations**  
Development by or on behalf of a voluntary organisation which 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 to be used mainly for profit or gain – (100% Reduction).
- (b) **Workshop/Training Facility**  
Development which 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 – (100% reduction).
- (c) **Housing Adaptation Grant Scheme**  
In the case of the Housing Adaptation Grant Scheme for People with a Disability that where a grant is paid by Offaly County Council a 100% reduction will apply.
- (d) **Architectural Development**  
Restoration/refurbishment to a high architectural standard of buildings included in the Record of Protected Structures – (100% reduction).
- (e) **Social Housing** units, including those which are provided in accordance with an agreement made under Part V of the Planning & Development Act (as amended by the Planning & Development (Amendment) Act, 2002) or which are provided by a voluntary or co-operative housing body, which is recognised as such by the Council, or provided by the HSE – (100% exemption).
- (f) **Change of Uses Within Classes**
  - i. Changes of use between the uses described in Class 1, 2 and 3 of the Planning and Development Regulations (Schedule 2, Part 4, Article 10) should be exempted from the development contribution scheme when the use being changed to is also within these classes.
  - ii. Change of use from any one use in any one Class to another use within another Class would be subject to the provision of the Development Contribution Scheme.
  - iii. Ordinarily, changes of use from one use to another use contained within the one Class is considered Exempted Development as per Part 4 of the Regulations and therefore no Development

Contribution applies as no application needs to be made. Where an application is made however, an exemption should be given in respect of the Development Contribution Scheme.

**(g) Derelict Sites**

Applications for upgrading derelict/disused dwellings will be treated as new or residential units and attract a contribution. However, all developments on sites, which are on the register of derelict sites, under the Derelict Sites Act 1990 will receive a 50% deduction on full development charge.

**(h) Development ancillary to development referred to in paragraphs (a) to (e) above inclusive.**

## **2.6 Ring-Fencing of Income**

Money accruing to the Council under the Scheme must be accounted for in separate accounts and can only be applied as capital for public infrastructure and facilities. The Annual Reports must contain details of monies paid or owing to it under the scheme and indicate how such monies paid to it have been spent. In addition the County Manager is required to submit to the Members each year a Report indicating the Programme of Capital Works proposed by the Local Authorities. As a general principle expenditure of monies received shall have regard to both needs and priorities and the income received from the Development Contribution Scheme from the various areas within the County.

## **2.7 Appeals to An Bord Pleanála**

Conditions requiring a contribution to be paid in accordance with a General Development Contribution Scheme may not be appealed to An Bord Pleanála. However an appeal may be brought where an applicant for permission considers that the terms of the scheme have not been properly applied in respect of any condition laid down by the Planning Authority.

## **2.8 Duration of Scheme**

The Scheme may be reviewed from time to time by the Planning Authority having regard to circumstances prevailing at the time.

### **3.0 Special Development Contribution Scheme**

Offaly County Council may, in addition to the terms of the General Development Contribution Scheme require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred in respect of public infrastructure and facilities which benefit the proposed development. In such cases the condition will specify the particular works carried out or proposed to be carried out by the Council.

If the works in question are not commenced within 5 years, or completed within 7 years of the receipt of payment, or where the Council decide not to proceed with the proposed works or part of works, the applicant will be refunded the special contribution together with any interest accrued over the period held by the Council. Any refund will be in proportion to the work not carried out. Conditions requiring the payment of contributions under the Special Development Contribution Scheme may be appealed to An Bord Pleanála.

### **4.0 Supplementary Development Contribution Scheme**

Section 49 of the Act provides for the making of a Supplementary Development Contribution Scheme in order to facilitate a particular public infrastructure service or project which is provided by a local authority or a private developer on behalf of and pursuant to an agreement with a Local Authority (e.g. through Public Private Partnership) and which will directly benefit the development on which the levy is imposed.

Supplementary Development Contribution Schemes may be used for rail, light rail or other public transport infrastructure, particular new roads or particular water or waste water infrastructure. However they should only be used where the project will bring a direct benefit to the developments which it serves. In the case of a rail or light rail project, for example, provision of the infrastructure will facilitate increased residential densities surrounding the infrastructure.

In general the same rules of procedure apply to the adoption of a Supplementary Development Contribution Scheme, as to the adoption of a general contribution scheme. However, the scheme must in addition specify the area or areas within the functional areas of the planning authority where the scheme will apply and the particular public infrastructure project or service for which the scheme is being applied.

In the area for which the scheme is adopted, these contributions will be payable in addition to those payable under Section 48. Developers should not be required to make two payments in respect of the same infrastructure, and therefore a public infrastructure project should not be included in both a General and Supplementary Contribution Scheme.

Where the project is to be provided by way of a Public Private Partnership, the PPP agreement can specify the way in which these contributions will be applied to pay for the infrastructure in question.

It is proposed to draft a Supplementary Draft Contribution Scheme in respect of Tullamore Waste Water. It is also intended to provide Supplementary Schemes as required during the lifetime of this Development Contribution Scheme.

**Table 1 – Level of Contribution – Residential & Industrial/Commercial Development**

	<b>Class of Infrastructure</b>	<b>€per residential Unit</b>	<b>€per m<sup>2</sup> of floor area industrial/commercial development</b>
A	Open spaces, cultural, recreational and community facilities, playgrounds, Libraries, Arts, amenities and landscaping works, town and village improvement, sports facilities – including land acquisition.	€1,260	€8.30
B	Roads, infrastructure including public lighting, footpaths, cycle and pedestrian facilities, car parking, traffic calming measures and land acquisition, drainage, broadband and traffic management.	€1,260	€8.30
C	Wastewater treatment facilities, sewers and drains – including land acquisition.	€2,510	€16.60
D	Water Treatment Facilities & Water Mains – including land acquisition	€3,010	€20.00
	<b>TOTAL</b>	<b>€8,040</b>	<b>€32.20</b>

**Note A: Use of Service**

Contributions in respect of C & D above apply only to developments availing of the infrastructural services provided or to be provided.

**Note B: Water Services Pricing Policy**

The Government 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. Pending the full introduction of the water services pricing policy, commercial/industrial development will be levied for water and wastewater at the above rates.

**Note C: Residential**

Where a house has been destroyed by fire then any development contributions paid will be off set against the development contributions payable under the new application

**Commercial**

Where an applicant submits a planning application within the commercial/industrial category then any development contributions paid in respect of the previous use shall be available for off set against any development contribution payable on the revised use application.

**Table 2 – Levels of Contributions – Other Categories of Development**

	<b>Category</b>	<b>Amount of Contribution</b>
A	Shortfall in provision of car-parking space: (i) Urban (ii) Rural	€6,030 per space €3,015 per space
B	Shortfall in provision of open space: (i) Urban (ii) Rural	Special Contribution Special Contribution
C	Agricultural Development	<500m <sup>2</sup> = nil 500 m <sup>2</sup> - 1000 m <sup>2</sup> = €4.00 per M <sup>2</sup> > 1000 m <sup>2</sup> = €8.90 per M <sup>2</sup>
D	Initial afforestation/replacement of broad-leaf high forest by conifer species/peat extraction	€1,065 per hectare of site area, only where planning permission is required.
E	Land use for: (a) the winning and working of minerals (b) deposit of refuse or waste	€1,908 per 0.1 hectare of site area subject to a minimum charge of €19,080
F	Storage and Warehousing (not for retailing)	€26.80 per M <sup>2</sup>
G	Communication Masts	€20,100 per mast
H	Land filling/Raising of sites (inert material)	€0.65 per M <sup>2</sup>
I	Wind farm Developments	€3,015 per MW of capacity.

**Note A: Shortfall in Provision of Car Parking Spaces / Open Space**

The term urban in this case refers to Tullamore Environs, Birr Environs, Edenderry and Portarlinton.