



**COMHAIRLE CATHRACH CHORCAI      CORK CITY COUNCIL**

**TAKING IN CHARGE POLICY  
FOR  
RESIDENTIAL DEVELOPMENTS**

**17 September 2010**

**Preface**

*This document outlines Cork City Council's policy in relation to taking in charge of residential developments.*

*Cork City Council wish to point out that the Technical Information contained in this document is a summary of the relevant standards and is for guidance only. The original Technical Documents should be referred to at all times.*

**TABLE OF CONTENTS**

**Section**

- 1.0 Introduction
- 2.0 Management Companies/ Gated Communities
- 3.0 General Conditions to be Met
- 4.0 Timeframe
- 5.0 Standards Required
- 5.0 Bond/ Security
- 7.0 Enforcement
- 8.0 Reports

## **1.0 INTRODUCTION**

1.1 This document sets out Cork City Council's policy in relation to the taking in charge of residential developments. Residential developments with Management Companies are discussed in section 2. This section sets out the circumstances in which a request for the taking-in-charge will be considered and the services that will be considered for taking in charge. The conditions to be met and procedures to be followed are set out in later sections of this policy document.

1.2 The Planning & Development Acts provide for the taking in charge of residential developments of two or more houses by local authorities. They provide that when a development has been completed in accordance with planning permission, the planning authority shall initiate procedures under Section 11 of the Roads Act 1993 to take the development in charge, if requested to do so by the developer or a majority of owners of the houses involved.

### **1.3 Services Considered For Taking In Charge**

The following elements of a residential development will be considered by Cork City Council for taking in charge, subject to the conditions and requirements indicated below:

- Development roads (as defined in the Roads Act 1993)
- Lighting forming part of the development roads
- Fire Hydrants/ Mains forming part of the development roads
- Water mains, sewers and service connections within the meaning of the Water Services Act 2007
- Open spaces within the development

- Car parks within the development
  - Site boundaries which are abutted on both sides by either open spaces/ public roads/ public footpaths, i.e. orphan walls. (Note - Boundaries between private property and public open spaces/ roads/ footpaths will remain the responsibility of the property owner)
- 1.4 Liability for the maintenance of elements of a development to be taken in charge shall remain with the developer/ owner until such time as Cork City Council formally takes the estate in charge (i.e. resolution of the Elected Members of Cork City Council).
- 1.5 The taking of an estate in charge is a function reserved to the Elected Members of Cork City Council. It will be for the Elected Members to decide whether or not to take an estate in charge.
- 1.6 It should be noted that upon completion of the taking in charge process the ownership of the land represented by the now public roads, public open spaces & public car parks within the attendant grounds of the development remains with the developer/ owner unless it is vested in Cork City Council (section 4.3)

## 2.0 MANAGEMENT COMPANIES

- 2.1 A properly constituted/ legally Incorporated Management Company will be required as a condition of planning permission for multi-unit structure(s) or gated developments if Cork City Council deems it appropriate for the purpose of maintaining services within the development.
- 2.2 The responsibility for the maintenance of services within the development must be conveyed to the Management Company and the Management Company must put in place arrangements to maintain these services.
- 2.3 All services within the development must be completed to the required standard to the satisfaction of Cork City Council (see section 5). The services for which the Management Company has responsibility will **not** be taken in charge.
- 2.5 A bond/ security must be lodged with Cork City Council prior to the development commencing. The conditions applying to the bond/ security are outlined in further detail in section 6. However it should be noted that this bond/ security must be maintained by the developer until:
- (a) the development has been completed to the required standard to the satisfaction of Cork City Council and in accordance with the planning permission and
  - (b) a properly constituted/ legally Incorporated Management Company has been established and the responsibility for maintaining services have been conveyed to the Management Company and/ or any relevant areas taken in charge.
- The bond/ security will only be released by Cork City Council when (a) and (b) above have been complied with.

- 2.6 It is the responsibility of the Management Company to agree with the relevant Agencies satisfactory arrangements for full access for emergency vehicles/ personnel at all times.

**3.0 GENERAL CONDITIONS TO BE MET**

- 3.1 The development is an authorised development and is constructed in accordance with the planning permission granted.
- 3.2 All development contributions and connection fees have been paid in full.
- 3.3 The developer has lodged a bond/ security with Cork City Council and maintained same to the satisfaction of Cork City Council.
- 3.4 The developer has entered into a Planning Agreement with Cork City Council and complied with same to the satisfaction of Cork City Council.
- 3.5 The developer must request to have the development taken in charge by written submission to Cork City Council.
- 3.6 Any bond/ security lodged with Cork City Council will only be released:
- (a) on completion of all works to the satisfaction of Cork City Council and in accordance with the planning permission and
  - (b) the estate has formally been taken in charge (i.e. resolution of the Elected Members of Cork City Council) and / or a properly constituted/ legally Incorporated Management Company has been established and the responsibility for maintaining the services has been conveyed to the Management Company.
- 3.7 All infrastructure and services to be taken in charge shall be constructed in accordance with standards specified in section 5.

- 3.8 The standards for completion will be those applicable at the date of grant of planning permission unless otherwise agreed.
- 3.9 When a taking in charge request is being made, a developer must submit documentation that will allow Cork City Council to ascertain whether or not all services have been completed to the satisfaction of Cork City Council and in accordance with the planning permission. The exact documents to be submitted will be dependent upon the nature of the development. On request Cork City Council will specify the documents/ digital information required to be submitted.
- 3.10 Subsequent to a request being lodged with the Council for taking in charge of an estate Cork City Council will carry out inspections of the estate.
- 3.11 The phased taking in charge of a development may be considered where phases are completed and which are in isolation to the remainder of the development, have unique access points onto the nearest public road and there is a clear demarcation between the phases.
- 3.12 Under current Health & Safety legislation, a safety file containing information relevant to the development works must be submitted to the planning authority, on completion of a development, with any request for the development to be taken in charge.
- 3.13 All wayleaves to be provided to Cork City Council on foot of the permission for the development must be completed.



#### **4.0 TIMEFRAME**

4.1 Upon receipt of a request to have a residential development or a phase of a residential development taken in charge, Cork City Council will endeavor to implement the following (see 4.2):

(i) Within two weeks of receipt of the request for taking in charge, Cork City Council will acknowledge receipt of the request and outline any requirements/ outstanding issues that must be addressed before the request can be processed. The request will not be considered a valid request until all the necessary information has been submitted and verified (section 3.9).

ii) Within two months of receipt of a valid request for taking in charge with the required documentation, Cork City Council will carry out a comprehensive inspection of the development or phase(s) of the development. Within one month of the relevant inspection, Cork City Council will notify the developer in writing of any outstanding works associated with the satisfactory completion of the development.

(iii) On receipt of the details of outstanding issues from Cork City Council, the developer will within one month arrange for completion of these works, and notify Cork City Council when works are completed. If works cannot be carried out within that period the developer will notify Cork City Council as to when the works will be completed. That period must in any event not exceed six months from the date of receipt by the developer of outstanding works from Cork City Council.

(iv) Cork City Council will, within one month of being notified of the completion of the works at (iii), arrange for final inspection of the development or phase(s) of the development to determine the satisfactory completion of the said outstanding works as identified at (ii).

(v) Upon final inspection of the development or phase(s) of the development and the satisfactory completion of all the works, Cork City Council will proceed to initiate the procedures to formally take the residential development or phase(s) of the residential development in charge (i.e. resolution of the Elected Members of Cork City Council).

(vi) Subsequent inspections may be required if all of the works are not completed to the satisfaction of Cork City Council. The taking in charge process will not commence until all works are completed to the satisfaction of Cork City Council.

4.2 It is the objective of Cork City Council to endeavour to adhere to this timeframe. If the timeframe cannot be met, the reasons for the delay will be provided.

4.3 Cork City Council reserves the right to require a developer/ owner to vest in Cork City Council all/ part of the land contained within the attendant grounds of the development subject to the planning permission that is to be taken in charge by Cork City Council.

## **5.0 STANDARDS REQUIRED**

5.1 All residential developments must be completed in accordance with the relevant planning permission, the associated planning conditions of the said planning permission and with the following:

- Cork City Council – Minimum Engineering Requirements
- Design & layout of residential areas as set out in the Cork City Development Plan, Local Area Plans, Residential Development Guidelines & Traffic Management Guidelines as applicable.
- Minimum construction standards as set out in the DOEHLG recommendation for Site Development Works for Housing Areas

5.2 All residential developments granted planning permission must at a minimum comply with the standards in force in Cork City Council at the time of the relevant grant of permission.

## **6.0 SECURITY BOND**

- 6.1 A bond/ security must be lodged with Cork City Council prior to the commencement of any residential development of two houses or more.
- 6.2 The value of the bond/ security will be determined by Cork City Council with reference to the drawings submitted by the developer in compliance with the planning permission and the estimated cost to secure the provision, satisfactory completion and maintenance of development roads (as defined in the Roads Act 1993), lighting forming part of the development roads, fire hydrants/ mains forming part of the development roads, water mains, sewers, service connections within the meaning of the Water Services Act 2007, open spaces within the development, car parks within the development and site boundaries which are abutted on both sides by either open spaces/ public roads/ public footpaths, i.e. orphan walls.
- 6.3 If the developer fails to submit drawings prior to the development commencing, the Council will determine the value of the bond having regard to:
- The drawings submitted with the planning application
  - The permission granted and
  - The estimated cost to secure the provision, satisfactory completion and maintenance of development roads (as defined in the Roads Act 1993), lighting forming part of the development roads, fire hydrants/ mains forming part of the development roads, water mains, sewers, service connections within the meaning of the Water Services Act 2007, open spaces within the development, car parks within the development and site

boundaries which are abutted on both sides by either open spaces/ public roads/ public footpaths, i.e. orphan walls.

- 6.4 The bond/ security shall provide for the adjustment on a quarterly basis, in accordance with the Consumer Price Index of the Central Statistics Office of the amount of the bond approved by Cork City Council.
- 6.5 This bond/ security must be maintained by the developer until:
- (a) the development has been completed to the required standard to the satisfaction of Cork City Council and
  - (b) the development has been taken in charge (i.e. resolution of the members of Cork City Council) and / or a properly constituted/ legally Incorporated Management Company has been established and the responsibility for maintaining services has been conveyed to the Management Company.
- The bond/ security will only be released by Cork City Council when (a) and (b) above have been complied with.
- 6.6 Where a developer does not maintain a bond / does not complete a development to the required standard to the satisfaction of Cork City Council, the Council may make a formal claim on the bond/ security to complete the outstanding works.

**7.0 ENFORCEMENT**

- 7.1 In the event that a development has not been completed within the appropriate period, enforcement proceedings in accordance with the Planning and Development Acts may be commenced.

**8.0 REPORTS**

- 8.1 Reports in relation to residential developments will be presented at every meeting of the Planning & Development Functional Committee of Cork City Council.