

Community Infrastructure Levy (CIL)

Improving access to services and facilities for all

Charging Schedule

October 2013



Building a world-class city for everyone

Introduction

1 In 2010 the Government introduced the Community Infrastructure Levy (CIL) as the preferred mechanism for securing developers contributions towards infrastructure to support growth in an area. The regulations¹ which introduced CIL also require planning obligations to be scaled back to cover only site-specific obligations.

~~2—This document is a consultation paper on Oxford City Council’s Draft Charging Schedule issued following consideration of the responses and issues raised at the Preliminary Draft Charging Schedule consultation stage in July 2012.~~

~~3—The proposed Draft Charging Schedule is presented in paragraph 12 below. The rest of the document provides background information to the charging schedule.~~

~~4—The next key stages to adoption of CIL by the City Council are outlined in the table below:~~

Stage	Date
Consultation on Draft Charging Schedule (6 weeks)	18th January 2013 – 1st March 2013
Submission for examination	March 2013
Examination Hearings	June 2013 (expected)
CIL adoption	October 2013

The Community Infrastructure Levy

~~52~~ The Community Infrastructure Levy is a tariff in the form of a standard charge on new development, which in Oxford ~~will be~~ is set by the City Council to help the funding of infrastructure. It is intended to supplement, or top up, other sources of funding to widen infrastructure delivery.

~~63~~ Most development has some impact on infrastructure and should contribute to the cost of providing or improving infrastructure. The principle behind CIL is for those who benefit financially from a planning permission to pay towards the cost of funding the infrastructure needed to support development.

~~74~~ CIL will improve Oxford City Council’s ability to mitigate the cumulative impacts on infrastructure from most developments; unlike the ~~former~~ current system of planning obligations which tend ~~ed~~ s to affect mainly larger developments. Being charged on a per square metre basis, CIL charges will be proportional to the scale of the development.

~~85~~ In investing in the infrastructure of the area, CIL is expected to have a positive economic effect on development in the medium to long term.

¹ ~~Regulations 2010 on legislation.gov.uk website~~
~~<http://www.legislation.gov.uk/uksi/2010/948/contents/made>~~
~~–Amended Regulations 2011 on legislation.gov.uk website~~
~~<http://www.legislation.gov.uk/uksi/2011/987/contents/made>~~

96 Oxford City Council has complied with the requirements under Part 11 of the Planning Act 2008, and CIL Regulations 2010, when deciding on a CIL rate. We have done this by demonstrating the use of ‘appropriate available evidence to inform the draft charging schedule’ (Section 211 (7A)) and by striking what appears to the charging authority, ~~it~~ also ‘must aim to strike what appears to be an appropriate balance between’:

- the desirability of funding infrastructure from CIL, and
- ‘the potential effect (taken as a whole) of the imposition of CIL on the economic viability of development across its area’ (Regulation 14)

The rates were tested through consultation and independent examination.

107 The term ‘taken as a whole’ indicates that economic viability evidence is used to show that CIL rates can be borne by most development across Oxford. It does not mean that CIL rates can be borne by each and every development.

The charging authority

118 ~~Once CIL is adopted,~~ Oxford City Council is ~~will be~~ the charging authority for the purpose of Part 11 of the Planning Act 2008 and the CIL Regulations 2010 as amended ~~in 2011 and 2012.~~

Draft Charging Schedule coming into effect on 21st October 2013

129 CIL will be charged in pounds sterling (£) at differential rates according to the type of development set out in the schedule below:

The CIL rates

Development type	CIL Rate/m ²
A1 Shops	£100
A1 out of centre shops	£100
A2 Financial and professional services	£100
A3 Restaurants and cafés	£100
A4 Drinking establishments	£100
A5 Hot food takeaways	£100
B1 Business	£20
B2 General industrial	£20
B8 Storage or distribution	£20
C1 Hotels	£20
C2 and C2A Residential institutions and Secure Residential Institution	£20
C3 Dwellinghouses*	£100
C4 Houses in multiple occupation	£100
Student accommodation	£100
D1 Non-residential institutions	£20
D2 Assembly and leisure	£20
All development types unless stated otherwise in this table	£20 standard charge

C3 includes self contained sheltered accommodation and self-contained graduate accommodation

CIL liability

~~13~~10 Development liable for CIL payment comprises:

- Development that creates 100m² or more of new build floor space measured as Gross Internal Floor Area (GIA).
- Development of less than 100m² new build GIA that results in the creation of one or more dwellings.
- The conversion of a building that is no longer in lawful use.

~~14~~11 Liability to pay CIL on qualifying developments applies whether development requires planning permission or is enabled through permitted development orders (General Permitted Development Order, Local Development Orders, Neighbourhood Development Orders, Enterprise Zones)²

CIL exemptions

~~15~~12 CIL charges will not be levied on:

- Development that creates less than 100m² of new build floor space measured as GIA and does not result in the creation of one or more dwellings.
- Buildings into which people do not normally go, or only go to perform maintenance³.
- Buildings for which planning permission was granted for a limited period.
- Affordable housing, subject to an application by a landowner for CIL relief (CIL regulation 49).
- Development by charities for charitable purposes subject to an application by a charity landowner for CIL relief (CIL regulation 43).

~~16~~13 A charging authority can choose to offer discretionary relief to a charity landowner where the greater part of the chargeable development will be held as an investment, from which the profits are applied for charitable purposes (CIL regulation 44).

~~17~~14 It can also choose to offer exceptional circumstances relief (CIL regulation 55) on the basis of an unacceptable impact on the economic viability of a development, and where the exemption of a charitable institution from liability to pay CIL would constitute State aid (CIL regulation 45) and would otherwise be exempt from liability under regulation 43.

~~18~~15 In Oxford City discretionary relief is not available under any of Regulations 44, 45 or 55.

Calculating the chargeable amount

² Regulations 5 and 9 of the Community Infrastructure Levy Regulations 2010 as amended ~~in 2011 and 2012~~

³ Regulation 6 (2) of the Community Infrastructure Levy Regulations 2010 as amended

~~19~~16 The City Council will calculate the amount of CIL chargeable in accordance with regulation 40 of the Community Infrastructure Levy Regulations 2010 (as amended ~~in 2011 and 2012~~). Refer to Annex 3 for an extract of this regulation.

~~20~~17 The relevant rate (R) for each development type is shown in the Charging Schedule above and the Gross Internal Area (GIA) is measured and calculated in accordance with the Royal Institute of Chartered Surveyors (RICS) Code of Measuring Practice. Annex 2 sets out an extract of RICS code.

~~21~~18 The chargeable amount will reflect inflation by being index linked to RICS' Building Cost Information Service 'All-in Tender Price Index'.

~~22~~19 Amended CIL Regulations ~~2012~~ mean that for Section 73 applications to vary an existing planning condition, CIL will only be payable upon any increase in chargeable floorspace from the section 73 application/permission⁴.

Netting off existing floor space

~~23~~20 In certain circumstances, where a development includes the demolition of an existing building, the existing Gross Internal Area (GIA) can be deducted from the proposed floorspace. These deductions in respect of demolition or change of use will only apply where the existing building has been in continuous lawful use⁵ for at least six months in the 12 months prior to the development being permitted.

~~24~~21 Oxford City Council may deem the Gross Internal Area (GIA) of a building to be zero where there is not sufficient information, or no information of sufficient quality, regarding the GIA of an existing building or whether it is in lawful use.

Liability for CIL

~~25~~22 Development will be liable for CIL when:

- Development permitted by a 'general consent' (including permitted development) commences on or after 6th April 2013
- Planning permission is granted through a decision notice or appeal decision on or after the date on which CIL is brought into effect of publication of the CIL Charging Schedule.

~~26~~23 Development will not be liable for CIL when:

- Planning permission was granted before CIL was brought into effect. the CIL Charging Schedule is published.
- Outline planning permission was granted before CIL was brought into effect ~~publication of the CIL Charging Schedule~~, but the approval of reserved

⁴ Regulation 9 of the Community Infrastructure Levy Regulations 2010 as amended ~~in 2012~~

⁵ 'For the purposes of this regulation a building is in use if a part of that building has been in use for a continuous period of at least six months within the period of 12 months ending on the day planning permission first permits the chargeable development' (Regulation 40(10) of the Community Infrastructure Levy Regulations 2010)

matters / phases is made after ~~CIL was brought into effect-publication of the CIL Charging Schedule~~. In this instance, the approval of reserved matters / phases does not trigger a liability to pay CIL.

~~27~~24 Once planning permission is granted, CIL regulations encourage any party, (such as a developer submitting a planning application, or a landowner), to take liability to pay the CIL charge. CIL liability runs with the land. If no party assumes liability to pay before development commences, land owners will be liable to pay the levy.

Payment of CIL

~~28~~25 The default position is that CIL payment is due within 60 days of the commencement of development; however in some cases CIL is due immediately.⁶ For some developments, instalments may be permitted in accordance with the City Council's Instalments policy. Annex 4 of this document sets out an Instalments Policy. ~~This will not be part of the CIL Examination but informal comments on the draft policy are welcomed.~~

Payments in kind

~~29~~26 In circumstances where the liable party and Oxford City Council agree, payment of the levy may be made by transferring land. The agreement cannot form part of a planning obligation, must be entered into before the chargeable development is commenced⁷ and is subject to fulfilling the following:

- the acquired land is used to provide or facilitate the provision of infrastructure within Oxford;
- the land is acquired by Oxford City Council or a person nominated by Oxford City Council;
- the transfer of the land must be from a person who has assumed liability to pay CIL;
- the land has to be valued by an independent person agreed by Oxford City Council and the person liable to pay CIL;
- 'Land' includes existing buildings and other structures, land covered with water, and any estate, interest, easement, servitude or right in or over the land.

Collection of CIL

~~30~~27 Oxford City Council is the collecting authority for the purpose of Part 11 of the Planning Act 2008 and CIL Regulations 2010 (as amended ~~by Regulations 2011 and 2012~~).

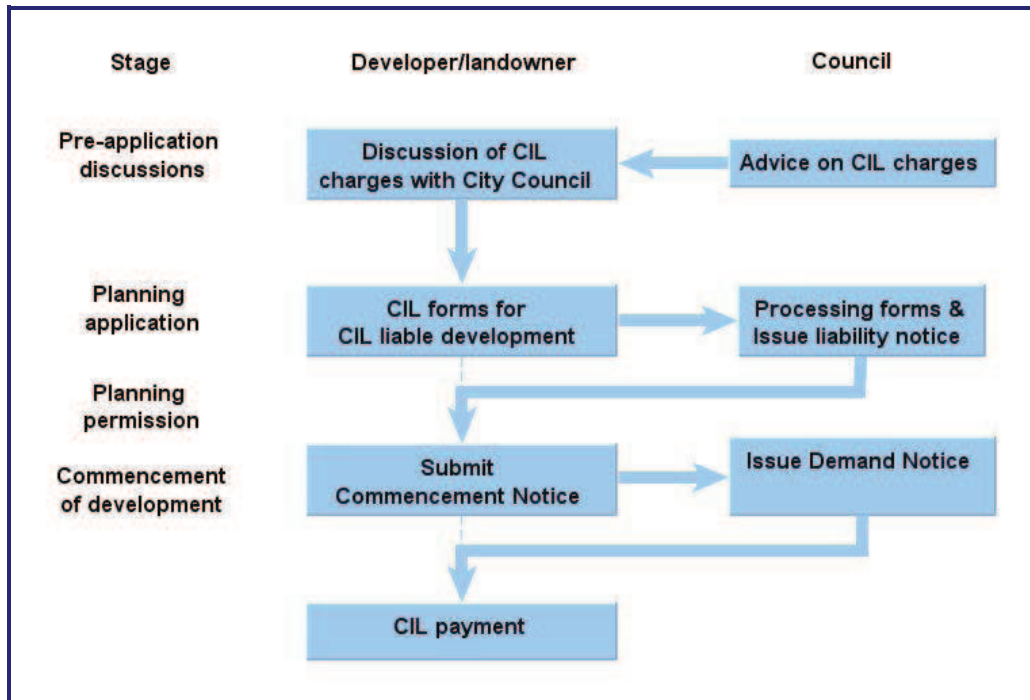
~~31~~28 When planning permission is granted, Oxford City Council will issue a liability notice setting out the amount payable, and the payment procedure.

⁶ Payments are due immediately where no party assumes liability and/or no commencement notice is submitted before commencement. Where this occurs the developer does not get the benefit of payment by instalments.

⁷ Regulation 73 of the Community Infrastructure Levy Regulations 2010

3229 In the case of development enabled through permitted development orders, the person(s) liable to pay will need to consider whether their proposed development is chargeable, and to issue Oxford City Council a notice of chargeable development.

3330 The diagram below illustrates a summarised version of the collection process.



Appeals

3431 A liable person can request a review of the chargeable amount by the charging authority within 28 days from the issue of the liability notice. CIL Regulations allow for appeals on:

- the calculation of the chargeable amount following a review of the calculation by the City Council.
- disagreement with the City Council’s apportioned liability to pay the charge.
- any surcharges incurred on the basis that they were calculated incorrectly, that a liability notice was not served or the breach did not occur.
- a deemed commencement date if considered that the date has been determined incorrectly.
- against a stop notice if a warning notice was not issued or the development has not yet commenced.

3532 A person aggrieved by the levy (or attempt to levy) of a distress can appeal to the Magistrates Court.

Spending CIL revenue

3633 CIL revenue will be spent on the infrastructure needed to support development in Oxford. ~~Once CIL is adopted,~~ Oxford City Council will publish on its website a list of

infrastructure projects or types of infrastructure ~~to~~that may be wholly or partially funded by CIL. This list will be known as the Regulation 123 list.

~~37~~34 Oxford City Council will publish annual reports showing, for each financial year:

- How much has been collected in CIL;
- How much has been spent;
- The infrastructure on which it has been spent;
- Any amount used to repay borrowed money;
- Amount of CIL retained at the end of the reported year.

~~38~~35 It is the Government's intention to allow for a proportion of CIL to be passed to Parish Councils and Neighbourhoods⁸. 15% of CIL receipts in parished areas are to be passed to the relevant Parish Council. In unparished areas, this 15% would be held by the City Council and spent in accordance with the wishes of the community. The proportion would rise to 25% in areas with adopted Neighbourhood Plans.

Administration fee

~~39~~36 Oxford City Council will use 5% of the CIL revenue to fund the administration costs of the Levy.

CIL and Section 106 agreements

~~40~~37 Unlike S106, the levy is to provide infrastructure to support the development of an area, not to make individual planning applications acceptable in planning terms. It breaks the link between a specific development site and the provision of infrastructure and thus provides greater flexibility for delivery of infrastructure when and where it is needed.

~~41~~38 Section 106 agreements and Section 278 Highways Agreements will continue to be used to secure site-specific mitigation and affordable housing. In some instances, S106 agreements may be used in large development sites needing the provision of their own specific infrastructure for which delivery may be more suitably dealt with through S106s.

~~42~~39 ~~Once CIL is in place, the City Council will be required to publish a list of the infrastructure intended to be funded by CIL (Regulation 123 list).~~ The City Council will not be able to secure Section 106 contributions for infrastructure that they propose to fund through CIL (those projects set out in the Regulation 123 list). This is to avoid double charging and provide confidence on infrastructure funding to the community, developers, investors and infrastructure providers.

~~43~~40 ~~A combined SPD revising existing Planning Obligations and Affordable Housing SPDs will be adopted and implemented alongside CIL. An Affordable Housing and Planning Obligations SPD has been adopted.~~ This SPD ~~will~~ makes it clear what infrastructure is to be covered by CIL and what will still be required through planning obligations.

⁸ Set out in Regulation 59A of the Community Infrastructure Levy Regulations 2013

Annex 1 - Guide to Use class Order definitions

The following list is based on the Government's guide to Use Classes as shown in their planning and building regulations online resource 'The Planning Portal'. It is not a definitive source of legal information.

- **A1 Shops** - Shops, retail warehouses, hairdressers, undertakers, travel and ticket agencies, post offices (but not sorting offices), pet shops, sandwich bars, showrooms, domestic hire shops, dry cleaners, funeral directors and internet cafes.
- **A2 Financial and professional services** - Financial services such as banks and building societies, professional services (other than health and medical services) including estate and employment agencies and betting offices.
- **A3 Restaurants and cafés** - For the sale of food and drink for consumption on the premises - restaurants, snack bars and cafes.
- **A4 Drinking establishments** - Public houses, wine bars or other drinking establishments (but not night clubs).
- **A5 Hot food takeaways** - For the sale of hot food for consumption off the premises.
- **B1 Business** - Offices (other than those that fall within A2), research and development of products and processes, light industry appropriate in a residential area.
- **B2 General industrial** - Use for industrial process other than one falling within class B1 (excluding incineration purposes, chemical treatment or landfill or hazardous waste).
- **B8 Storage or distribution** - This class includes open air storage.
- **C1 Hotels** - Hotels, boarding and guest houses where no significant element of care is provided (excludes hostels).
- **C2 Residential institutions** - Residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres.
- **C2A Secure Residential Institution** - Use for a provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short term holding centre, secure hospital, secure local authority accommodation or use as a military barracks.
- **C3 Dwellinghouses** - this class is formed of 3 parts:
 - C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child.
 - C3(b): up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems.
 - C3(c) allows for groups of people, (up to six), living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e. a small religious community may fall into this section as could a homeowner who is living with a lodger.
- **C4 Houses in multiple occupation** - small shared dwelling houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.

- **D1 Non-residential institutions** - Clinics, health centres, crèches, day nurseries, day centres, schools, art galleries (other than for sale or hire), museums, libraries, halls, places of worship, church halls, law court. Non residential education and training centres.
- **D2 Assembly and leisure** - Cinemas, music and concert halls, bingo and dance halls (but not night clubs), swimming baths, skating rinks, gymnasiums or area for indoor or outdoor sports and recreations (except for motor sports, or where firearms are used).
- **Sui Generis** - Certain uses do not fall within any use class and are considered 'sui generis'. Such uses include: theatres, houses in multiple occupation, hostels providing no significant element of care, scrap yards. Petrol filling stations and shops selling and/or displaying motor vehicles. Retail warehouse clubs, nightclubs, launderettes, taxi businesses, amusement centres and casinos.

Source: Planning Portal <http://www.planningportal.gov.uk>

Annex 2 - How to measure Gross Internal Area

Oxford City Council will use the Royal Institution of Chartered Surveyors (RICS)'s Code of Measuring Practice to measure or check the Gross Internal Area (GIA) of a development and calculate or confirm its relevant CIL rate. The guide below is based on RICS' Code of Measuring Practice (6th edition, with amendments), the full Code of Measuring Practice is available in RICS website at <http://www.rics.org>

GIA is the area of a building measured to the internal face of the perimeter walls at each floor level.

Including:

- Areas occupied by internal walls and partitions
- Columns, piers, chimney breasts, stairwells, lift-wells, other internal projections, vertical ducts, and the like
- Atria and entrance halls, with clear height above, measured at base level only
- Internal open-sided balconies, walkways, and the like
- Structural, raked or stepped floors are property to be treated as a level floor measured horizontally
- Horizontal floors, with permanent access, below structural, raked or stepped floors
- Corridors of a permanent essential nature (e.g. fire corridors, smoke lobbies)
- Mezzanine floor areas with permanent access
- Lift rooms, plant rooms, fuel stores, tank rooms which are housed in a covered structure of a permanent nature, whether or not above the main roof level
- Service accommodation such as toilets, toilet lobbies, bathrooms, showers, changing rooms, cleaners' rooms, and the like
- Projection rooms
- Voids over stairwells and lift shafts on upper floors
- Loading bays
- Areas with a headroom of less than 1.5m*
- Pavement vaults
- Garages
- Conservatories

Excluding:

- Perimeter wall thicknesses and external projections
- External open-sided balconies, covered ways and fire escapes
- Canopies
- Voids over or under structural, raked or stepped floors
- Greenhouses, garden stores, fuel stores, and the like in residential

* GIA is the basis of measurement in England and Wales for the rating of industrial buildings, warehouses, retail warehouses, department stores, variety stores, food superstores and many specialist classes valued by reference to building cost (areas with a headroom of less than 1.5m being excluded except under stairs) ~~areas with a headroom of less than 1.5m being excluded except under stairs~~

Annex 3 - Regulation 40 of the Community Infrastructure Levy Regulations 2010 (as amended by Regulations 2011 and 2012)

**PART 5
CHARGEABLE AMOUNT**

Calculation of chargeable amount

40.—(1) The collecting authority must calculate the amount of CIL payable (“chargeable amount”) in respect of a chargeable development in accordance with this regulation.

(2) The chargeable amount is an amount equal to the aggregate of the amounts of CIL chargeable at each of the relevant rates.

(3) But where that amount is less than £50 the chargeable amount is deemed to be zero.

(4) The relevant rates are the rates at which CIL is chargeable in respect of the chargeable development taken from the charging schedules which are in effect—

(a) at the time planning permission first permits the chargeable development; and

(b) in the area in which the chargeable development will be situated.

(5) The amount of CIL chargeable at a given relevant rate (R) must be calculated by applying the following formula—

$$\frac{R \times A \times IP}{Ic}$$

where—

A = the deemed net area chargeable at rate R;

IP = the index figure for the year in which planning permission was granted; and

IC = the index figure for the year in which the charging schedule containing rate R took effect.

(6) The value of A in paragraph (5) must be calculated by applying the following formula—

$$G_R - K_R - \left(\frac{G_R \times E}{G} \right)$$

where—

G = the gross internal area of the chargeable development;

GR = the gross internal area of the part of the development chargeable at rate R;

E = an amount equal to the aggregate of the gross internal areas of all buildings which—

(a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use; and

(b) are to be demolished before completion of the chargeable development; and

KR = an amount equal to the aggregate of the gross internal area of all buildings (excluding any new build) on completion of the chargeable development which—

(a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use;

(b) will be part of the chargeable development upon completion; and

(c) will be chargeable at rate R.”

(7) The index referred to in paragraph (5) is the national All-in Tender Price Index published from time to time by the Building Cost Information Service of the Royal Institution of Chartered Surveyors (a); and the figure for a given year is the figure for 1st November of the preceding year.

(8) But in the event that the All-in Tender Price Index ceases to be published, the index

referred to in paragraph (5) is the retail prices index; and the figure for a given year is the figure for November of the preceding year.

(9) Where the collecting authority does not have sufficient information, or information of sufficient quality, to enable it to establish—

(a) the gross internal area of a building situated on the relevant land; or

(b) whether a building situated on the relevant land is in lawful use,

the collecting authority may deem the gross internal area of the building to be zero.

(10) For the purposes of this regulation a building is in use if a part of that building has been in use for a continuous period of at least six months within the period of 12 months ending on the day planning permission first permits the chargeable development.

(11) In this regulation “building” does not include—

(a) a building into which people do not normally go;

(b) a building into which people go only intermittently for the purpose of maintaining or inspecting machinery; or

(c) a building for which planning permission was granted for a limited period.

(12) In this regulation “new build” means that part of the chargeable development which will comprise new buildings and enlargements to existing buildings.

Annex 4 - Instalments policy

Community Infrastructure Levy Instalments policy

www.oxford.gov.uk



This policy is made in line with regulation 69B of the Community Infrastructure Levy (Amendment) Regulations 2011 and 2012. Oxford City Council will allow the payment of CIL as outlined in points 1 and 2 below:

1. Where the chargeable amount is less than £200,000 the chargeable amount will be required within 60 days of commencement.
2. Where the chargeable amount is between equal or more than £200,000 and £2 million, the chargeable amount will be required as per the following four instalments:

1 st instalment	2 nd instalment	3 rd instalment	4 th instalment
25%	25%	25%	25%
within 60 days	within 160 days	within 260 days	within 360 days

3. Where the chargeable amount is over £2 million, the chargeable amount will be required as per the following four instalments:

<u>1st instalment</u>	<u>2nd instalment</u>	<u>3rd instalment</u>	<u>4th instalment</u>
<u>25%</u>	<u>25%</u>	<u>25%</u>	<u>25%</u>
<u>within 60 days</u>	<u>By end of year 1</u>	<u>By end of year 2</u>	<u>By end of year 3</u>

Commencement will be taken to be the date advised by the developer in the commencement notice under CIL Regulation 67.

This Instalments Policy takes effect on 21st October 2013~~{insert date}~~

Notes:

N1: When the City Council grants an outline planning permission which permits development to be implemented in phases, each phase of development is a separate chargeable development and the instalment policy will apply to each separate phase.

N2: This policy will not apply if:

- a) A commencement notice is not submitted prior to commencement of the chargeable development
- b) Nobody has assumed liability to pay CIL in respect of the chargeable development prior to the intended day of commencement
- c) Failure to notify the City Council of a disqualifying event before the end of 14 days beginning with the day the disqualifying event occurs
- d) An instalment payment has not been made in full after the end of the period of 30 days beginning with the day on which the instalment payment was due

Community Infrastructure Levy (CIL) Charging Schedule

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