

CARLOW COUNTY COUNCIL

BYE LAWS FOR THE CONTROL OF THE CONSUMPTION and POSSESSION OF INTOXICATING LIQUOR IN PUBLIC PLACES IN TULLOW, CO. CARLOW – 2007

and

**as amended at the meeting of Carlow County
Council held on the 15th July 2009**

Bye Laws for the Control of the Consumption and Possession of Intoxicating Liquor in Public Places in Tullow, Co. Carlow - 2007

Carlow County Council, being of the opinion that it is desirable in the interests of the common good of the local community in the Town of Tullow, that certain activities should be regulated and that Bye Laws should be made for these purposes, in exercise of the powers conferred on them by Part 19 of the Local Government Act 2001, hereby make the following Bye Laws.

1. These Bye Laws may be cited as the Tullow, Co. Carlow (Control of the Consumption and Possession of Intoxicating Liquor in Public Places) Bye Laws 2007
2. These Bye Laws shall come into force on 1st January 2008.
3. In these Bye Laws:
 - “ The Act” means the Local Government Act 2001.
 - “ The Council” means Carlow County Council.
 - “ The Town” means the Town of Tullow within the confines of Tullow Town Boundary, Co. Carlow
 - “ Authorised person” includes any person authorised in writing by the Council for the purposes of these Bye Laws or a member of the Garda Síochána.
 - “ Intoxicating Liquor” has the same meaning as in the Intoxicating Liquor Acts (1833 – 2003)
 - “ Container” means any bottle, glass, jar, carton, can or similar object used for the purpose of holding liquids or other substances.
 - “ Public place” includes any place in the Town to which the public have access as of right and includes any park, open space or green area used for the recreation of members of the public whether owned or under the control or otherwise of the Council and any river, stream, canal, lake or watercourse and any car park, cemetery, schoolyard or church grounds. It also includes any footpath, footway, road or derelict building.

But does not include:

(a) A private house or dwelling or garden or curtilage of such house or dwelling only in so far as concerns any activity of the owner or occupier or any person therein or thereon as of right or with the express permission of the owner or occupier.

(b) Any premises licensed for the consumption of alcoholic liquor during the hours authorised for sale and consumption of same pursuant to the Intoxicating Liquor Act 1833 to 2003 as amended.

(c) Any tables and chairs outside a hotel, restaurant or public house on a public road and which are designated by the Minister (as defined by the Local Government Planning & Development Act 1963 as amended) (herein called "The Act of 1963") as being suitable for licensing under section 89 of the Act of 1963 and in respect of which a licence has been granted by Carlow County Council and is for the time being in force and subject to compliance with any condition contained in such licence.

4. (a) A person shall not consume or attempt to consume intoxicating liquor in a public place within the Town.

(b) A person shall not have in his / her possession intoxicating liquor in a public place within the Town with the intention of consuming it in a public place or supplying it to any other person for consumption in a public place within the Town.

(c) For the purpose of sub paragraph (b) above where a person has intoxicating liquor in his / her possession in a public place within the Town, in circumstances where it is reasonable to conclude that he / she intends to consume the same in that public place or another public place within the Town or to supply the same to another person for such consumption, it shall be presumed (until the contrary is shown, the onus for which shall be on the accused) that he / she intended to consume the same or to supply it to another person for such consumption as aforesaid.

(d) For the purposes of sub paragraph (b) hereof where a group of persons are congregated together in a public place within the Town with intoxicating liquor in their immediate vicinity, then each member of the group shall be deemed to be in possession of the intoxicating

liquor and it shall not be necessary to prove that any one or more of the persons handled the container of intoxicating liquor.

(e) In a prosecution for an offence under paragraph (a) or (b) of these Bye Laws where it is proved that the accused was consuming or attempting to consume from or (as appropriate) was in possession of a container normally used for sale of intoxicating liquor of any particular description, it shall be presumed (until the contrary is shown, the onus shall be on the accused) that the accused was consuming, attempting to consume or (as appropriate) was in possession of intoxicating liquor and it shall not be necessary for the prosecutor to prove by analysis or otherwise that the liquid involved was intoxicating liquor.

5. Where an authorised person suspects with reasonable cause that an offence or offences under the Bye Law 4 hereof has or have been committed he / she may without warrant seize, remove and destroy the intoxicating liquor and container(s) relevant to the offence or offences.
6. (a) Where an authorised person suspects with reasonable cause that an offence or offences under Bye Law 4 hereof has been committed, he / she may demand that the accused person shall supply him/her with his/her full name and address and such person shall forthwith comply with such request. If that demand is refused or the person gives a name or address which is false or misleading, that person shall be guilty of an offence.

(b) An authorised person may request an accused person to then leave the area and such person shall comply with such request. If that request is refused, that person shall be guilty of an offence.
7. Any person who obstructs or attempts to obstruct an authorised person from the exercise of any power conferred by these Bye Laws, shall be guilty of an offence.
8. Pursuant to section 205 of the Act, a person who contravenes any provision of these Bye Laws, shall be liable on summary conviction, to a fine not exceeding €1,500.

9. Pursuant to section 206 of the Act, a person contravening any section of these Bye Laws may be served with a notice in the form attached by an authorised person specifying a fixed payment of €50 in respect of such contravention and such notice shall specify a period of twenty one days within which the payment must be made in order to avoid prosecution.
10. Nothing in these Bye Laws shall prevent the Council from granting in response to a written application received at least four weeks before the event, a dispensation from these Bye Laws for a specific event where the Council considers such dispensation to be in the interest of the common good of the people of Tullow.

Made and adopted under the common seal of Carlow County Council on the 6th December 2007 and amended at the meeting of Carlow County Council held on _____ 2009.

Nominated Member

Senior Executive Officer

Director of Services

