

Comhairle Bhaile An Tulach Mhóir

Tullamore Town Council

Bye-laws for the control of the consumption and possession of intoxicating liquor in public places

**MADE PURSUANT TO
THE LOCAL GOVERNMENT ACT 1994**

BYE-LAWS

MADE BY

**TULLAMORE TOWN COUNCIL BY VIRTUE OF THE POWER
CONFERRED ON THE COUNCIL BY PART VII OF THE LOCAL
GOVERNMENT ACT, 1994**

**PROVIDING FOR THE CONTROL OF THE CONSUMPTION AND
POSSESSION OF INTOXICATING LIQUOR**

IN PUBLIC PLACES WITHIN

THE ADMININSTRATIVE AREA OF TULLAMORE TOWN.

**AS ADOPTED BY THE MEMBERS AT THEIR MEETING OF
THURSDAY 14TH NOVEMBER 2003.**

Whereas Tullamore Town Council, (hereinafter called the Council) has power by virtue of Section 37(1) of the Local Government Act 1994, as amended by the Litter Pollution Act 1997, to make Bye-Laws for or in relation to the use, operation, protection, regulation or management of any land, services, or any other thing whatsoever provided by or under the control of the Council or in relation to any matter connected therewith **And** Whereas the Council is of the opinion that behaviour consisting of the consumption of intoxicating liquor in public places is contrary to the proper use, operation, protection, regulation or management of such public places under its control or management in that such behaviour seriously detracts from the proper purpose, amenity and enjoyment of public places. **NOW IT BE KNOWN** that the Council has hereby made the following Bye-Laws:

1. In these Bye-Laws, except where the context otherwise requires:-

'The Act' means the Local Government Act 1994.

'The Regulations' means the Local Government Act 1994 (Bye-Laws) Regulations 1995.

'The Councillors' means the Tullamore Town Councillors

'The Town' means the town of Tullamore, which is by statute designated as the functional area of Tullamore Town Councillors.

'Authorised persons' means persons authorised by the Council pursuant to the Local Government Act 1994

'Intoxicating Liquor' means spirits, wine, beer, porter, stout, cider, perry, and any fermented, distilled or spirituous liquor which cannot, according to any law for the time being in force, be legally sold without a licence from the Revenue Commissioners or any drink or other liquid containing alcohol.

'Container' means any bottle, glass, jar, carton, or similar object used for the purpose of holding liquids or any other substances.

'Public place' includes any place in the Town Councillors area 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 Councillors 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.

It 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 a right or with the express permission of the owner-occupier.
- (b) Any premises licensed for the consumption of alcoholic liquor during hours authorised for sale and consumption of the same pursuant to the Licensing Act 1833-1995 as amended.

- (c) Any tables or chairs provided outside on a street or a public place immediately adjacent to a hotel, restaurant or public house or any occasional licence (within the meaning of the Intoxicating Liquor Acts) granted in respect for such **and** is in strict compliance with the general laws concerning the sale and consumption of intoxicating liquor **and** where the arrangements for such tables and chairs are strictly compliant with the provisions of the Local Government (Planning and Development) Acts 1963-2000, or as amended from time to time or pursuant to any regulations made thereunder or made under the provisions of the Roads Act 1993 **and** where the tables and chairs aforesaid have been provided, for patrons only, by the proprietor(s) of the hotel, restaurant or public house aforesaid **and** where the consumption aforesaid occurs within the hours of trading permitted under the general law relating to spirits retailers on-licences (i.e. publicans licences)
2. (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 purposes of *subsection (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 place or another public place within the town area 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 lie 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 *subsection (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 individuals handled the container of intoxicating liquor.
3. Any person who contravenes *Section 2 subsections (a) or (b)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **€1,000.00**.
4. (a) Where the authorised person or a member of the Garda Síochána suspects with reasonable cause that an offence under *Section 2* of these Bye-Laws is being or has been committed he/she may seize, remove and destroy the intoxicating liquor and containers relevant to the suspected offence.
- (b) A person who obstructs or impedes or refuses to comply with a request of an authorised person and/or a member of the Garda Síochána in accordance with

Section 4 (a) shall be guilty of an offence under these Bye-Laws and shall be liable on summary conviction to a fine not exceeding **€1,000.00**.

- (c) A person who prevents or attempts to prevent any other person from complying with a request of an authorised person and/or a member of the Garda Síochána in accordance with *Section 4 (a)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **€1,000.00**
 - (d) Where an authorised person and /or a member of the Garda Síochána is of the opinion that a person is committing or has committed an offence to which this section relates, the authorised person and/or the member of the Garda Síochána may demand the name and address of such person.
 - (e) Where a person whose name and address is requested of him/her under *subsection (4)* refuses or fails to give his/her name and address, or gives an address which is false and misleading he/she shall be guilty of a offence and shall be liable on summary conviction to a fine not exceeding **€1,000.00**.
5. Where an authorised person and/or a member of the Garda Síochána has reasonable grounds for believing that a person is contravening or has contravened a provision of these Bye-Laws he/she may direct the person to refrain from acting in such a manner and leave immediately the vicinity of the place concerned in a peaceable and orderly manner.
6. Notwithstanding the remedy provided for in *Section 3* of these Bye-Laws, an authorised person or a member of the Garda Síochána may, pursuant to Section 41 of the Local Government Act 1994, serve a fixed payment notice (within the meaning of Section 41 aforesaid) on any person who in his/her opinion is committing an offence or has committed such an offence by virtue of a contravention of these Bye-Laws. Such fixed payment notice shall specify the amount of the fixed payment and the period within which the fixed payment must be paid in order to avoid prosecution and shall be in the general form of the notice set out in the First Schedule to the Local Government Act 1994, (Bye-Laws) Regulations 1995 – S.I. No. 360 of 1995 – (or as provided for in any amending regulations) but subject to such regulations thereto as the Council may consider appropriate in the case of these Bye-Laws. The amount of the fixed payment applicable to the fixed payment notice shall be **€63.50**.
7. Notwithstanding the provisions of these Bye-Laws the Councillors on application received not less than 4 weeks before the event may at their discretion and after consultation with the Gardaí relax the provisions of these Bye-Laws in whole or in part on the occasion of
- (i) major civic celebrations
 - (ii) major sporting events.
 - (iii) any event which the Councillors consider such dispensation to be in the interest of the common good of the people of Tullamore.

8. Nothing in this Bye-Law shall prevent the carriage along any road or footpath of intoxicating liquor in a container which has not been opened since it was first sealed by the manufacturer or producer of the intoxicating liquor or the container.
9. These Bye-Laws may be cited as the **Tullamore Town Council (Control of the consumption and possession of intoxicating liquor) Bye-Laws, 2003.**
10. The operation of these Bye-Laws shall commence on the.

Given under the Common Seal of Tullamore Town Council.

Cathaoirleach _____

Director of Services _____

Town Clerk _____

Dated this

**Tullamore Town Council,
Town Hall,
Cormac Street,
Tullamore,
Co. Offaly.**

Telephone: (0506) 52470

FIXED PAYMENT NOTICE FOR THE PURPOSE OF SECTION 41 OF THE LOCAL GOVERNMENT ACT, 1994

NAME OF LOCAL AUTHORITY Tullamore Town Council

TO: Name: _____

Address: _____

AGE / DOB: _____

It is alleged that you have contravened the provisions of the Bye-Laws made under Part VII of the Local Government Act, 1994 entitled Tullamore Town Council (Control of the Consumption and Possession of Intoxicating Liquor in Public Places) Bye-Laws 2002

BY:

(a) Consuming / attempting to consume intoxicating liquor in a public place;

(b) Possession of intoxicating liquor in a public place with the intention of Consuming it or supplying it for consumption;

(c) Failing to comply with a direction to leave immediately the place concerned in a peaceable and orderly manner;

(d) Refusing to give a name and address OR Giving a name and address which is false and misleading (delete as appropriate)

AT:

ON:

TIME:

During the period of 21 days beginning on the date of this notice you may pay the sum of €63.50 accompanied by this notice, at the offices of the Local Authority named in this notice located at the Town Hall, Tullamore, Co. Offaly.

A prosecution in respect of the alleged contravention will not be instituted during the said period and if the sum of €63.50 is paid during the period, no prosecution will be instituted at any time.

Signed.....
(Authorised Person)

Date:.....

Important: Payment will be accepted at the offices of the local authority specified above and must be accompanied by this notice. Payment may be made by post. A receipt will be given. Cheques etc. should be made payable to Offaly County Council

You are entitled to disregard this notice and defend the prosecution of the alleged contravention in Court.

TULLAMORE TOWN COUNCIL (CONTROL OF THE CONSUMPTION AND POSSESSION OF INTOXICATING LIQUOR IN PUBLIC PLACES) BYE-LAWS, 2003

NOTIFICATION TO TULLAMORE TOWN COUNCIL TO ISSUE A FIXED PAYMENT NOTICE UNDER THE ABOVE BYE-LAWS

GARDA STATION: _____
DATE: _____

REF NO: _____

To:
TOWN CLERK,
TULLAMORE TOWN COUNCIL,
TOWN HALL,
CORMAC STREET,
TULLAMORE,
CO OFFALY.

Hereunder are particulars of the offence(s) deleted. Please arrange for service of the Fixed Payment Notice under the above Bye-Laws.

OFFENDER: _____

D.O.B.: _____

ADDRESS: _____

NATURE OF OFFENCE(S):

Please tick

- (a) Bye-Law 2 (a) by consuming or attempting to consume intoxicating liquor in a public place
AT: _____
DATE/TIME: _____
- (b) Bye-Law 2 (b) by possession of intoxicating liquor in a public place with the intention of consuming it or supplying it for consumption ;
AT: _____
DATE/TIME: _____
- (c) Bye-Law 5 for failing to comply with a direction to leave immediately the place concerned peaceable and orderly manner;
AT: _____
DATE/TIME: _____
- (d) Bye-Law 4 (d) for refusing to give a name and address OR Giving a name and address which is false and misleading (delete as appropriate)
AT: _____
DATE/TIME: _____