



**Bye-laws of
Wexford County Council**

for

**The prohibition of consumption of intoxicating
liquor on streets and in public places**

Made under The

Local Government Act 2001 as amended in 2014

WEXFORD COUNTY COUNCIL

LOCAL GOVERNMENT ACTS 1925 TO 2014 LOCAL GOVERNMENT ACT 2001 (BYE-LAWS) REGULATIONS 2006

WEXFORD COUNTY COUNCIL (PROHIBITION OF CONSUMPTION OF INTOXICATING LIQUOR ON STREETS AND IN PUBLIC PLACES) DRAFT BYE- LAWS ____ APRIL 2021

Wexford County Council, (hereinafter called the Council) is empowered pursuant to Section 199(1) of the Local Government Act, 2001 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 has power pursuant to Section 199(2)(a) where in its opinion it is desirable in the interest of the common good of the local community (i) that any activity or matter should be regulated or controlled or (ii) that any nuisance should be controlled or suppressed, to make a bye-law for that purpose.

WHEREAS Wexford County Council is of the opinion that it is desirable in the interests of the common good of the local community within its functional area and for the purpose of controlling or suppressing nuisance that the consumption of intoxicating liquor in public places is an activity that should be regulated and controlled and that Bye-Laws should be made for this purpose.

NOW WEXFORD COUNTY COUNCIL in the exercise of the powers conferred on it by Section 199(2)(a) of the Local Government Act, 2001 and all other powers in that behalf

HEREBY MAKE THE FOLLOWING BYE-LAWS:

- | | |
|----------------------------|--|
| Title | 1. These Bye-Laws may be cited as the Wexford County Council (Regulation and Control of the Consumption of Intoxicating Liquor in Public Places) Bye-Laws 2020. |
| Commencement | 2. These Bye-Laws shall come into operation on the ____ April 2021 |
| Area of application | 3. These Bye-Laws apply to all Public Places in the functional Area of Wexford County Council. |
| Revocation | 4. From and after the date on which these Bye-Laws shall come into Operation all other previous sets of bye laws relating to drinking in public places" shall be and are hereby revoked. |
| Interpretation | 5(1). In these Bye-Laws except where the context otherwise requires the following words and expressions shall have the meanings hereby respectively assigned to them: |

"Authorised Person" means a person authorised in writing by the Authority under the Local Government Act, 2001 or a member of the Garda Síochána;

"Enactment" means an Act or a statutory instrument or any portion of an Act or statutory instrument;

"The Authority" means Wexford County Council;

"Bottle or container" does not include a bottle or container for a substance which is in the possession of the person concerned for a purpose other than the consumption of Intoxicating liquor;

"Excepted person" means a member of the clergy who has in his possession and/or consumes intoxicating liquor for the purpose of religious services;

"Fixed payment notice" means the general form of the notice set out in the Schedule to the Local Government Act, 2001 (Bye-Laws) Regulations 2006 subject to such alterations as may be considered appropriate by the Authority;

"Footpath", "footway" and "road" have the meanings assigned to them respectively by the Roads Act, 1993;

"Functional Area" means the administrative area of Wexford County Council and any part of the foreshore and coastal waters within and adjoining that Functional Area,

"Intoxicating liquor" includes spirits, wine, beer, porter, stout, cider, sherry and any fermented, distilled, or spirituous liquor which cannot according to any law for the time being in force, be legally sold without a license from the Revenue Commissioners or any drink or other liquid containing alcohol which is an intoxicating liquor within the meaning of the Licensing Acts, 1833-2018 as amended, adapted or extended by or under any subsequent enactment;

"Public place" includes:

- I. Any footpath, footway, or road in the Functional Area.
- II. Any cemetery, churchyard, and the curtilage of any church.
- III. Any premises, outdoor area, school grounds, railway station or other place to which members of the public have or are permitted

access, whether as of right , as a trespasser or by express or implied invitation, permission or otherwise and which is in the control or management of the Council.

- IV. Any street, lane, quay, cul-de-sac, square, passageway, alley, bridge, or tunnel together with any such areas or spaces that is contiguous with any foregoing places.
- V. Any part of the foreshore and any coastal waters within or adjoining the Functional Area.

But does not include

- a) a private house or dwelling or the garden or curtilage of such house or dwelling only as far as concerns any activity of the owner or occupier or of a person therein or thereon as of right or with the express or implied permission of the owner or occupier;
- b) any premises licensed for the consumption of intoxicating liquor during the hours authorised for sale and consumption, pursuant to the Licensing Acts 1833 to 2018 as amended adapted or extended by or under any subsequent enactment;
- c) any tables and chairs outside a hotel, restaurant or public house or other such premises which are designated by the Minister (as defined by the Planning and Development Act 2000 as amended) as being suitable for licensing under section 254 of the said Act and in respect of which a license has been granted by the Authority and is for the time being in force and subject to compliance with any conditions contained in such license.

5(2)a reference to any enactment in these Bye-Laws shall be construed as a reference to that enactment as amended, applied, consolidated, re-enacted by, or as having effect by any subsequent enactment, or any enactment amending, applying, consolidating, or re enacting the same.

5(3)unless the context otherwise requires words denoting the singular shall include the plural and vice versa and words denoting person or persons shall include either gender.

5(4)except where the context otherwise requires, any reference in these Bye-Laws to a numbered Bye-Law shall be construed as a reference to the Bye-Law bearing that number in these Bye-Laws.

5(5)Headings are for ease of reference only and shall

not affect construction.

5(6) to the extent that no provision has been made by or under any other enactment and subject to Bye-Law 5(7)

- a) No person (unless an excepted person) shall consume or attempt to consume intoxicating liquor or substance misuse in a public place within the Functional Area.
- b) No person (unless an excepted person) shall supply intoxicating liquor or an illegal substance to another person for consumption in a public place within the functional area.

5(7) It is not an offence to consume intoxicating liquor purchased from licensed premises, an hotel or restaurant while seated at tables and chairs within the curtilage of such licensed premises, hotel, or intoxicating liquor is in strict compliance with the liquor license attaching to such licensed premises, hotel or restaurant or any occasional license (within the meaning of the Licensing Acts 1833 to 2018) granted in respect of such premises and where the arrangements for tables and chairs are compliant with the provisions of the Planning and Development Act, 2000 as amended and any regulations made thereunder or made under the provisions of the Roads Act, 1993 and where the tables and chairs have been provided for patrons only by the licensee or proprietor and such consumption occurs within the hours of trading permitted under the general law relating to spirits retailers on-licenses (i.e. publican's licenses)

5(8) In a prosecution for a contravention of these Bye Laws, where it is proved that a person was consuming or attempting to consume intoxicating liquor from a bottle or container normally used for the sale of intoxicating liquor of any description, it shall be presumed until the contrary is proved that the person was consuming or attempting to consume intoxicating liquor and it shall not be necessary for the prosecutor to prove by analysis or otherwise that such bottle or container contained intoxicating liquor.

5(9) No person shall obstruct or impede or refuse to comply with a with a request of an Authorised Person

acting in the exercise of his powers pursuant to section 204 of the Act or pursuant to these Bye Laws.

5(10) No person shall prevent, attempt to prevent, or encourage or incite another person to prevent or attempt to prevent an Authorised Person from exercising his powers pursuant to section 204 of the Act or pursuant to these Bye-Laws.

5(11) No person shall prevent, attempt to prevent, or encourage or incite another person from complying with a request made by an Authorised Person to that other person pursuant to section 204 of the Act or pursuant to these Bye-Laws.

5(12) An Authorised Person may request any person who appears to be contravening or to have contravene a provision of these Bye-Laws

- (i) to immediately leave the place where the Authorised Person believed him to have contravened or to be contravening the Bye Laws,
- (ii) to desist from the contravening behavior
- (iii) to surrender to him in such manner as may be directed by the Authorised Person any bottle or container which the Authorised Person reasonably suspects contains intoxicating liquor

5(13) If a person fails, refuses or neglects to comply with a request made by an Authorised Person pursuant to Bye-Law 5(12), the Authorised Person may seize, remove and destroy such bottle or container and its contents which appears to the Authorised Person to belong to that person or to be in his or her possession or under his or her control.

5(14) It is an offence contrary to section 204 of the Act to obstruct or impede or refuse to comply with a request made by an Authorised Person and where an Authorised Person is of the opinion that a person is or has committed such an offence or has contravened a provision of these Bye-Laws, the Authorised Person may demand the name and address of that person.

5(15) Where a member of the Garda Siochána is of the opinion that a person has committed an offence contrary to section 204 of the Act or a provision of these Bye-Laws, the member may arrest that person without warrant if he or she fails or refuses to provide his name or address or provides a name or address which the member reasonably suspects to be false or misleading.

5(16) It is an offence to contravene any provision of these Bye Laws. An offence under these Bye-Laws may be prosecuted by the Council which made the Bye-Law or by an member of An Garda Siochana.

5(17) Any person who contravenes a provision of these Bye-Laws is guilty of an offence and shall be liable on summary conviction to a fine not exceeding €2,500. If the contravention of the Bye-Law is continued after conviction, the person causing the contravention is guilty of an offence on each day on which that contravention continues and is liable upon summary conviction for each such offence to a fine not exceeding €500.

5(18) Where an Authorised Person is of the opinion with reasonable cause that a person is contravening or has contravened any provision of these Bye-Laws, the Authorised Person may, pursuant to Section 206(1) of the Act serve a fixed payment notice on that person as an alternative to a prosecution for such contravention requiring the payment of a fixed payment of €75.00 within a period of 21 days of the date of service of the fixed payment notice to avoid prosecution. In the event of non-payment of that fixed amount within that 21-day period, the person upon whom the fixed payment notice was served is liable on summary conviction to a fine not exceeding €1,900.

5(19) Notwithstanding the provisions of these Bye-Laws the Chief Executive, on application not less than 6 weeks before the relevant event, may at his discretion and after consultation with An Garda Siochána permit relaxation of these Bye-Laws in respect to intoxicating liquor in whole or any part of the Functional Area on occasion of:

- (i) a major civic celebration;
- (ii) a major sporting event;
- (iii) a major festival;

- (iv) a special community event organised for and by the relevant community for a limited period.

MADE AND ADOPTED UNDER THE COMMON SEAL
OF WEXFORD COUNTY COUNCIL

THIS ____ April 2021

PRESENT WHEN THE COMMON SEAL
OF WEXFORD COUNTY COUNCIL WAS AFFIXED HERETO

CATHAOIRLEAH

CHIEF EXECUTIVE