

Kildare County Council (Control of Consumption & Possession of Alcohol in Public Places) Bye-Laws 2019

Kildare County Council is empowered pursuant to Section 199(1) and Section 131 of the Local Government Act 2001 as inserted by Section 131A and 131B of the Local Government Reform Act 2014 to make bye-laws in accordance with the Local Government Act 2001 (Bye-Laws) Regulations 2006 for or in relation to the use, operation, protection, regulation or management of any land, services, or any other matter provided by or under the control of management of Kildare County Council, or in relation to any commented matter.

Kildare County Council, being of the opinion that it is desirable in the interests of the common good of the local community that certain activities should be regulated and that bye-laws should be made for that purpose, the Council in exercise of the powers conferred on it by Section 199 of the Local Government Act, 2001 as amended and in accordance with the Local Government Act 2001 (Bye-laws) Regulations 2006 hereby make the following bye-laws:

- 1 Citation:** These bye-laws may be cited as “Kildare County Council (Control of Consumption and Possession Alcohol in Public Places) Bye-Laws 2019.
- 2 Commencement:** These bye-laws shall come into force on the [Date].
- 3 Area of Application:** These Bye-Laws apply to towns within the Functional Area of Kildare County Council (hereinafter “the Area”) defined on the schedule attached to these bye-laws
- 4 Interpretation** In these bye-laws except where the context otherwise requires:-

“The Act” means the Local Government Act 2001 (as amended).

“The Council” means Kildare County Council.

“Intoxicating Liquor” means spirits, wine, beer, porter, stout, cider, perry and sweets 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 and includes drinks which are advertised as being alcohol-free but which nonetheless contain some alcohol, but does not include any substance lawfully supplied by a pharmacist for the purpose of preventing, relieving or healing any illness;

“Container” means any bottle, glass, jar, can, cup, carton or similar object used for the purpose of holding liquids or other substances;

“Footpath”, “Footway” and “Road” have the meanings assigned to them respectively by the Roads Act 1993

“Authorised Person” includes any person authorised in writing by the Council for the purposes of these bye-laws.

“Functional Area” means the County of Kildare.

“Public Place” means a place to which the public can and do have access, to include, churches, churchyards and cemeteries, open spaces, beaches, public parks, green spaces and amenity areas, canals, canal banks and towpaths, riverbanks, any outdoor area or place including the curtilage of private and public buildings to which the public have access either by right or as a trespasser or otherwise, or by express or implied permission together with such area or spaces contiguous with any of the foregoing places **AND** which is within the control or management of Kildare County Council.

5 Subject to Article 17 and 18 hereof, no person or persons shall –

- (i) Consume or attempt to consume intoxicating liquor on a road or in a public place within the functional area of the Council or
- (ii) Possess intoxicating liquor on a road or in a public place within the functional area of the Council with the intention of consuming it on a road or in a public place or of supplying it to a person or persons for consumption on a road or in a public place within the functional area of the Council.

A person who contravenes paragraph 6(1) or 6(2) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **€1,900**.

6 Where an Authorised Person 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, such Authorised Person or member of the Garda Síochána may direct such person to do either or both of the following, that is to say:

- (i) desist from such breach, and
- (ii) leave immediately the vicinity of the place concerned in a peaceable and orderly manner

Failure to comply with such a direction shall be an offence under this bye-law, and that person shall be liable on summary conviction in the District Court to a fine not exceeding **€1,900**.

7 Where an Authorised Person or a member of An Garda Síochána suspects, with reasonable cause, that a person has committed, is committing or is about to commit a breach of these bye-laws or any article of it, the authorised person or member of An Garda Síochána may demand the name and address of such person and if that demand is refused, or the person gives a name or address which the Authorised Person or a member of An Garda Síochána has reasonable cause to believe is false or misleading, that person

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **€1,900**.

8. Where an authorised person or a member of An Garda Síochána is of the opinion with reasonable cause that a person or persons is/are committing or has committed an offence under these bye-laws, the Authorised Person or the member of An Garda Síochána may confiscate all intoxicating liquor in the person's possession.
9. Where a member of An Garda Síochána is of the opinion with reasonable cause, that a person or persons is/are committing or has committed an offence under these bye-laws, that member may arrest such person or persons without warrant.
10. Any person who obstructs or attempts to obstruct an Authorised Person or a member of An Garda Síochána from the exercise of any power conferred by these bye-laws, shall be guilty of a breach of these bye-laws.
11. Where a member of the Garda Síochána or an authorised person is of the opinion with reasonable cause that an offence is being committed or has been committed under any provision of these bye-laws, a member of the Garda Síochána or an authorised person may serve such person/persons with a notice, specifying a fixed payment, not exceeding such amount as may be prescribed, in respect of a contravention of a bye-law as an alternative to a prosecution for the contravention and where the bye-law so provides it shall specify-
 - (i) the amount of the fixed payment, and
 - (ii) the period within which it must be paid in order to avoid prosecution.

The amount of the fixed payment applicable to the fixed payment notice shall be **€75**. In the event of non-payment within the specified period a person or persons shall be liable on summary conviction to a fine not exceeding **€1,900**.
12. Pursuant to Section 205 of the Act, A person or persons who contravene(s) a provision of these bye-laws shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **€1,900**.
13. Pursuant to Section 207 of the Act, Kildare County Council may prosecute any person who contravenes any part of these Bye Laws
14. Pursuant to Section 208 of the Act, all Fixed Payment Notice fines must be paid to Kildare County Council.
15. Nothing in these bye-laws shall prevent the carriage along any road or footpath of alcohol in a container which has not been opened since it was first sealed by the manufacturer or producer of the alcohol or the container.
16. It shall not be an offence under these bye-laws to consume intoxicating liquor while seated at tables and chairs provided on a street or a public place immediately adjacent to a hotel, restaurant or public house where the

consumption of such intoxicating liquor is in strict compliance with the liquor licence attaching to such hotel, restaurant or public house or any occasional licence (within the meaning of the Intoxicating Liquor Acts) granted in respect of such premises **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 these are amended from time to time or pursuant to any regulations made there under 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., publican's licences).

17. Notwithstanding the provisions of these bye-laws, Kildare County Council, on application, not less than 6 weeks before an event, may at their discretion and after consultation with the Gardai 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) Special community events organised for and by the community itself.
- 18 Nothing in these Bye Laws shall prevent Kildare County 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.

Made and adopted by Kildare County Council, whose seal has been affixed hereto, on the [date].

Chief Executive

Nominated Member of Council

Schedule to Kildare County Council (Control of Consumption & Possession of Alcohol in Public Places) Bye-Laws 2019

The parts of the Functional Area of Kildare County Council to which these bye-laws apply are as follow:

1. Athy: That part of County Kildare comprising the Town of Athy and its environs as outlined in red on Map annexed hereto,
2. Ballymore-Eustace: That part of County Kildare comprising the Town of Ballymore-Eustace and its environs as outlined in red on Map annexed hereto,
3. Castledermot: That part of County Kildare comprising the Town of Castledermot and its environs as outlined in red on Map annexed hereto,
4. Celbridge: That part of County Kildare comprising the Town of Celbridge and its environs as outlined in red on Map annexed hereto,
5. Clane: That part of County Kildare comprising the Town of Clane and its environs as outlined in red on Map annexed hereto,
6. Johnstown: That part of County Kildare comprising the Town of Johnstown and its environs as outlined in red on Map annexed hereto,
7. Kilcock: That part of County Kildare comprising the Town of Kilcock and its environs as outlined in red on Map annexed hereto,
8. Kilcullen: That part of County Kildare comprising the Town of Kilcullen and its environs as outlined in red on Map annexed hereto,
9. Kildare: That part of County Kildare comprising the Town of Kildare and its environs as outlined in red on Map annexed hereto,
10. Kill: That part of County Kildare comprising the Town of Kill and its environs as outlined in red on Map annexed hereto,
11. Kilmeague: That part of County Kildare comprising the Town of Kilmeague and its environs as outlined in red on Map annexed hereto,
12. Leixlip: That part of County Kildare comprising the Town of Leixlip and its environs as outlined in red on Map annexed hereto,
13. Maynooth: That part of County Kildare comprising the Town of Maynooth and its environs as outlined in red on Map annexed hereto,
14. Monasterevin: That part of County Kildare comprising the Town of Monasterevin and its environs as outlined in red on Map annexed hereto,

15. Naas: That part of County Kildare comprising the Town of Naas and its environs as outlined in red on Map annexed hereto,
16. Newbridge: That part of County Kildare comprising the Town of Newbridge and its environs as outlined in red on Map annexed hereto,
17. Prosperous: That part of County Kildare comprising the Town of Prosperous and its environs as outlined in red on Map annexed hereto,
18. Rathangan: That part of County Kildare comprising the Town of Rathangan and its environs as outlined in red on Map annexed hereto,
19. Robertstown: That part of County Kildare comprising the Town of Robertstown and its environs as outlined in red on Map annexed hereto,
20. Sallins: That part of County Kildare comprising the Town of Sallins and its environs as outlined in red on Map annexed hereto,