

**KILKENNY COUNTY COUNCIL (PROHIBITION OF CONSUMPTION OF
INTOXICATING LIQUOR ON STREETS AND IN PUBLIC PLACES)
BYE LAWS 2013**

**BYE-LAWS
MADE BY
KILKENNY COUNTY COUNCIL
FOR
PROHIBITING THE CONSUMPTION OF INTOXICATING LIQUOR ON
THE STREETS OF AND IN PUBLICS PLACES WITHIN PART OF THE
FUNCTIONAL AREA OF KILKENNY COUNCIL COUNTY**

WHEREAS Kilkenny County Council has power by virtue of Section 199 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 matter provided by or under the control of Kilkenny County Council, or to make bye-laws where in its opinion it is desirable and in the interest of the common good of the local community that any activity or matter be regulated or controlled or that any nuisance should be controlled or suppressed.

AND WHEREAS Kilkenny County Council is of the opinion that the consumption of intoxicating liquor on streets and in other public places in part of its functional area is contrary to the proper use, operation, protection, regulation or management of such streets and other public places under its control or management in that it seriously detracts from the proper purpose, amenity and enjoyment of such streets and public places.

AND WHEREAS Kilkenny County Council is of the opinion that it is desirable and in the interest of the common good of the local community that the consumption of intoxicating liquor in public places in part of its functional area be regulated, controlled or suppressed.

NOW BE IT KNOWN that Kilkenny County Council has hereby made the following bye-laws in respect of those parts of its functional area more particularly described in the Schedule attached thereto.

1. In these bye-laws, except where the context otherwise requires:
 - (i) "The Authority" means Kilkenny County Council.
 - (ii) "street" means roads, streets, lanes, quays, cul de sacs, squares, passageways, alleys, bridges, tunnels, car parks, footpaths together with such areas or spaces as are contiguous with any of the foregoing places and in every such case which is situate in the functional area of the Authority and which is provided by or under the control or management of the Authority.
 - (iii) "licenced premises" means any premises licensed for the consumption of intoxicating liquor during the hours authorised for sale and consumption of same pursuant to the Licensing Acts 1833

-- 2010 as amended or any club premises authorised to sell alcohol pursuant to the Registration of Clubs Act 1904 to 2008

- (iv) "public places" means ;
- (a) open spaces, riverbanks, public parks, parkettes, green spaces and amenity areas together with such areas or spaces as are contiguous with any of the foregoing places and which are situated in the functional area of the Authority and which are provided by or under the control or management of the Authority,
 - (b) any footpath, footway, public right of way or road in the functional area of the Authority,
 - (c) any highway, alley, bridge or tunnel in the functional area of the Authority,
 - (d) any cemetery, church, churchyard or the curtilage of any church in the functional area of the Authority,
 - (e) any school, school yard or school sports ground or the curtilage of any school in the functional area of the Authority,

But does not include;

- (f) a private house or dwelling or the garden or curtilage of such house or dwelling only in so far as concerns any activity of the owner or occupier or of a person therein as of right or with the express or implied permission of the owner or occupier.
 - (g) any licensed premises during the hours authorised for the sale of intoxicating liquor.
- (v) "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 enforced be legally sold without a licence from the Revenue Commissioners or any drink or other liquid containing alcohol.

2. Subject to bye-law 5 hereof, any person who consumes intoxicating liquor in a street or public place shall be guilty of an offence and shall be liable on summary conviction in the District Court pursuant to Section 205 of the Local Government Act 2001 to a fine not exceeding €2,500.00.

3. Subject to bye-laws 4 and 5 hereof any person who, while on a street or in a public place, is in possession of intoxicating liquor contained within an opened can, opened bottle, opened pack or within a drinking glass or cup or similar container, shall be guilty of an offence and shall be liable on summary conviction in the District Court pursuant to Section 205 of the Local Government Act 2001 to a fine not exceeding €2,500.00.

4. In any prosecution of an offence pursuant to bye-law 3 hereof it shall be a good defence for a Defendant to prove that it was not his or her intention to consume the said intoxicating liquor on the street or in the public place.

5. It shall not be an offence under these bye-laws to consume intoxicating liquor or to be in possession of intoxicating liquor contained in an open container while seated

at tables and chairs provided on a street or in a public place immediately adjacent to a licensed premises where the consumption of such intoxicating liquor is in strict compliance with the law concerning the sale and consumption of intoxicating liquor from that licensed premises and where the arrangement of such tables and chairs are strictly compliant with the provisions of the Planning and Development Acts 2000 to 2006 and any amendments thereto or pursuant to any regulations made there-under and where the tables and chairs aforesaid have been provided for patrons only by the aforesaid licensed premises and where the consumption aforesaid occurs within the hours of trading permitted under the law relating to the consumption of intoxicating liquor on the said licensed premises.

6. Where any member of An Garda Síochána has detected an offence under bye-law 2 or 3 and where the member of An Garda Síochána also forms the opinion that the person who has committed the offence is in possession of a container of intoxicating liquor for the purpose of committing a further breach of these bye-laws, that member of An Garda Síochána may request the relevant person to immediately give the aforementioned container to that member of An Garda Síochána (or another member of An Garda Síochána accompanying the member). A person who fails or refuses to comply with a such request made by a member of An Garda Síochána shall be guilty of an offence and shall be liable on summary conviction in the District Court pursuant to Section 205 of the Local Government Act 2001 to a fine not exceeding €2,500.00.

7. Where a member of the Garda Síochána is of the opinion that a person has committed an offence under these bye-laws the member may request that person to provide the member with his or her name or address. A person who fails or refuses to comply with such a request shall be guilty of an offence and shall be liable on summary conviction in the District Court pursuant to Section 205 of the Local Government Act 2001 to a fine not exceeding €2,500.00.

8. (a) Notwithstanding the offences provided for in bye-laws 2 and 3, the Authority may as an alternative to prosecution for contravention of bye-laws 2 and 3 serve any person alleged to be guilty of such contravention with a notice specifying a fixed payment not exceeding €75.00 and that such payment must be made by such person within a period of 21 days beginning on the date of such notice at the offices of the Authority.

(b) The notice referred to in bye-law 8(a) shall be in the form set out in the First Schedule to the Local Government Act 2001 (Bye-Laws) Regulations 2006 having inserted therein the name and address of the Authority, specifying in general terms the nature of the contravention alleged, specifying in respect of fixed payment the sum of €75.00, specifying the place where the offices of the Authority are situate and specifying that cheques may be made payable to the Authority.

(c) Any person served with a fixed penalty notice is entitled to disregard such notice and defend a prosecution of the alleged contravention in court.

9. The operation of these byelaws shall commence on 16th May, 2013.

10. These bye-laws may be cited as the Kilkenny County Council (Prohibition of Consumption of Intoxicating Liquor in Streets and in Public Places) Bye-Laws 2013.

**Schedule to Kilkenny County Council (Prohibition of consumption of
intoxicating liquor on streets and in public places) Bye-Laws 2013**

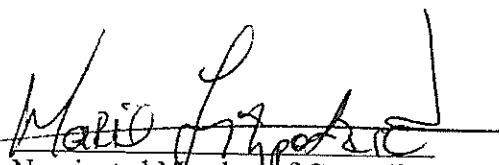
The parts of the functional area of Kilkenny County Council to which these bye-laws apply are as follows:

1. Ballyragget : That part of County Kilkenny comprising the Town of Ballyragget and it's environs as outlined in red on Map annexed hereto,
2. Bennettsbridge : That part of County Kilkenny comprising the Town of Bennettsbridge and it's environs as outlined in red on Map annexed hereto,
3. Callan : That part of County Kilkenny comprising the Town of Callan and it's environs as outlined in red on Map annexed hereto,
4. Castlecomer : That part of County Kilkenny comprising the Town of Castlecomer as outlined in red on Map annexed hereto ,
5. Ferrybank : That part of County Kilkenny comprising the Town of Ferrybank and it's environs as outlined in red on Map annexed hereto,
6. Goresbridge: That part of County Kilkenny comprising the Town of Goresbridge and it's environs as outlined in red on Map annexed hereto,
7. Graiguenamanagh: That part of County Kilkenny comprising the Town of Graiguenamanagh and it's environs as outlined in red on Map annexed hereto,
8. Inistioge: That part of County Kilkenny comprising the part of the townland of Kilcross as outlined in red on Map annexed hereto,
9. Kilkenny City Environs: That part of County Kilkenny comprising the City of Kilkenny and it's environs as outlined in red on Map annexed hereto, other than those parts thereof which constitute the functional area of Kilkenny Borough Council,
10. Mooncoin: That part of County Kilkenny comprising the Town of Mooncoin and it's environs as outlined in red on Map annexed hereto,
11. Piltown: That part of County Kilkenny comprising the Town of Piltown and it's environs as outlined in red on Map annexed hereto,
12. Thomastown: That part of County Kilkenny comprising the Town of Thomastown and its environs as outlined in Red on Map annexed hereto.

Dated this the 15th day of April 2013.

Present when the Common
Seal of Kilkenny County
Council was affixed hereto


County Manager


Nominated Member of Council

KILKENNY COUNTY COUNCIL

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