

CASUAL TRADING BYE-LAWS 2021



**MUNICIPAL DISTRICTS OF
CASTLECOMER
CALLAN THOMASTOWN
PILTOWN**

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CASUAL TRADING ACT 1995

Bye-laws in relation to the Control, Regulation, Supervision and

Administration of Casual Trading

Kilkenny County Council

PART 1

Bye-Laws 2021

The Council of the County of Kilkenny pursuant to the powers conferred on them by Section 6 of the Casual Trading Act 1995 as amended and Section 19 of the Local Government Act 2001 hereby makes the following Bye-Laws in relation to the control, regulation, supervision of Casual Trading for the Administrative and Functional area of the Municipal Districts of Castlecomer, Callan Thomastown and Piltown.

Citation

These Bye-laws may be cited as the “Casual Trading Bye-Laws 2021 for the Municipal Districts of Castlecomer, Callan Thomastown and Piltown”

Commencement

These Bye-laws shall come into operation on the 17th of February, 2022 or in the event of an appeal on the date of final confirmation by the District Court or Circuit Court whichever is applicable.

Definitions

In these Bye-Laws, the following definitions shall apply: -

“the Acts” means the Casual Trading Act 1995 as amended, Local Government Act 2001 and Local Government Reform Act 2014.

“the Council” means the Municipal Districts of Castlecomer, Callan Thomastown and Piltown.

“Municipal Districts of Castlecomer, Callan Thomastown and Piltown” means the Functional Area comprising the Administrative Area of the Municipal District of Castlecomer, the Municipal District of Callan Thomastown and the Municipal District of Piltown.

<i>"Casual Trading"</i>	Has the meaning assigned to it in Section 2 of the Casual Trading Act 1995 as amended.
<i>"Casual Trading Area"</i>	Means the lands designated as an area, as per these bye-laws and Appendix 1 attached hereto, where casual trading may take place.
<i>"Stall"</i>	Shall include any wheeled or moveable stall or box, barrow, cart, trailer, caravan or other vehicle or both or other stand or conveyance used for casual trading.
<i>"Goods"</i>	shall include all provisions or marketable commodities.
<i>"sell", "Selling" or "sale"</i>	Includes agreeing to offer to sell or displaying for sale or inviting an offer to buy.
<i>"Licence"</i>	Means licence under Section 4 of The Casual Trading Act, 1995 as amended and for the time being in force.
<i>"Casual Trader/Licence Holder"</i>	Means any person licensed to carry out casual trading pursuant to "the Acts" as amended and these bye-laws and shall include his/her servants or agents, if authorised in writing in accordance with these bye-laws.
<i>"Trading Bay"</i>	Means the maximum single area, as defined on the maps set out on the Appendix 1 attached to these bye-laws, that may be occupied in a Casual Trading Area by a person engaged in casual trading.
<i>"Vehicle"</i>	Means and includes every means of conveyance, whether mechanically propelled or not, of persons, market produce or any goods or article.
<i>"Authorised Officer"</i>	Means a person appointed by the Local Authority under Section 10 of the Casual Trading Act 1995 as amended and Section 19 of the Local Government Act 2001.

PART 2

GENERAL

1. Casual trading shall only be carried on at the locations designated for that purpose in Part 3 of these Bye-Laws or for a specified event or events at such other locations as may be approved by the Council in a licence issued pursuant to Section 4(1)(a)(iii) of the Act. Designated areas indicated on the maps attached to Appendix 1 of these Bye-Laws.
2. A person shall not engage in casual trading unless he/she holds a Casual Trading Licence from the Council that is for the time being in force and the casual trading is in accordance with the licence.
3. No goods or articles shall overhang a stall or be deposited on the ground except within the trading place.
4. Stalls and all other articles must be removed after the hours of trading specified in the licence.
5. The Council reserves the right to remove stalls found on the casual trading area after trading hours and/or goods or other articles left outside the trading place at any time. These items will be stored by the Council and will only be returned to the licence holder on the payment of the Council's costs in relation to the administration, removal and storage of these items.
6. Licence holders engaged in the sale of foodstuffs shall comply with the requirements of the Food Hygiene Regulations for the time being in force or any further regulations that may be made in that regard and applicants for a Casual Trading Licence relating to the sale of food must produce evidence of compliance with such regulations.
7. A licence holder trading in a casual trading area shall not be permitted to use a loud speaker or public address system and shall refrain from causing nuisance or disturbance.
8. Casual trading shall take place only during the hours specified in a casual trading licence. In the absence of being so specified between the hours of 8.00 a.m. and 6.00 p.m. (Casual Trading by Mobile Fast Food Outlets in the Casual Trading Area at Castlecomer shall be restricted so that casual trading shall cease and all equipment, stalls, articles, connected therewith be removed no later than 12.30 a.m.)
9. Licence holders shall ensure that no obstruction is caused or allowed to be caused to the owners or occupiers of premises and their invitees in the vicinity of the Casual Trading area.

10. No licence holder or any other person shall interfere with or obstruct any officer, servant or agent of the Council engaged in the carrying out of any works of maintenance on any part of the casual trading area even where such work is carried out during trading hours.
11. The stall holder shall not display goods beyond the boundaries of his/her stall either on the ground or hanging over the sides of the stall, or deposit or cause to be deposited any goods or articles on the ground except on the portion of the ground within the trading bay.
12. All generators used in conjunction with Casual Trading stalls, shall conform to acceptable noise levels and a manufacturer's certificate will be required to confirm specification.
13. The Council shall not be responsible for any property belonging to any person wherever deposited or left in any part of the casual trading area nor for any loss, damage or injury caused by the negligence of any licence holder, his agents, employers or customers.
14. In the event of non-compliance with any of these regulations by the holder of a trading licence or by his/her servant or agent, Kilkenny County Council may terminate the trading licence without notice.
15. Any existing Licence granted under the Kilkenny County Council Casual Trading Act 1995 Bye-Laws 2002 shall be deemed to be a valid Casual Trading Licence for the remainder of the period specified in such Licence.
16. These Bye-laws shall be known as the "Municipal Districts of Castlecomer, Callan Thomastown and Piltown *Casual Trading Bye-Laws 2021*".
17. A person engaged in casual trading shall indemnify the Council against any claim whatsoever by any person for damages for personal injuries, loss or damage caused by any act or omission of the said person holding a licence or his/her servants or agents in and about the carrying on of casual trading.
18. Applications for licences must be accompanied by evidence of a current valid policy of insurance with a recognised insurance company and covering all activities associated with the purposes for which the Casual Trading Licence is to issue including all risks and perils to a minimum of €6,350,000 for any one incident, extending to provide an indemnity to the Council in respect of claims arising from the negligence of the Trader. Notice of termination of a policy shall render the said Casual Trading Licence null, void and of no effect and in which event the licence holder including servants and agents of the applicant shall forthwith cease to trade and render the area vacant and returned to the control of the Council.

LICENCE

19. (i) An application for a Casual Trading Licence shall be made not less than thirty days in advance of the first date on which trading is to take place.
 - (ii) Only goods listed on the licence application may be sold from the stall of a casual trading licence holder.
 - (iii) Casual trading shall be confined to the trading place at the designated Casual Trading Area in accordance with the licence issued and stalls are to be wholly within the trading places in the Casual Trading Area.
 - (iv) The type of stall must be approved by the Council.
 - (v) The allocation of a trading space/bay shall not confer upon the licence holder any tenancy or right to occupy or transfer said trading space/bay.
 - (vi) A casual trading licence for stall trading shall be effective for a period of one year subject to compliance by the Stall Trader with the Bye-Laws and subject to paragraph (viii) below.
 - (vii) A register of Casual Trading Licences shall be retained by Kilkenny County Council.
 - (viii) A Casual Trading Licence may be revoked at any time by the Municipal District of Kilkenny City at its discretion, as provided for in the Casual Trading Act 1995 as amended.
20. An applicant for a casual trading licence shall pay a licence fee as set out in the schedule attached hereto.
 21. The Council may grant more than one casual trading licence in respect of one trading place within a Casual Trading Area.
 22. The Council reserves the right to include any condition, within reason, on a casual trading licence.
 23. The Council reserve the right to grant or refuse a Casual Trading Licence.
 24. A licence holder trading in a casual trading area shall display the Casual Trading licence number relating to the trading, in such a position as to be clearly visible and easily legible to members of the public.

25. A Casual Trading Licence shall only be used by the person to whom the licence was issued or by such agent of such person as agreed in writing by the Council. The holder of a Casual Trading Licence shall be restricted to trading in the space/bay, allocated for that specific licence at any one time for the designated trading bay.
26. The Council may revoke a Casual Trading Licence if it is satisfied that a condition of the licence is being or has been contravened or if the person to whom it was granted is convicted of an offence in relation to the importation, possession or sale of goods committed while he/she was the holder of a casual trading licence or an offence under the Act.
27. If the trading bay is not used for a continuous period by the licence holder, the Council may, at its discretion, serve notice on the licence holder that his/her licence may be revoked for the remainder of the licence period, and arrange to reallocate the bay in question.

LITTER

28. A person carrying on casual trading shall keep the area in which he/she is casual trading in a clean and tidy condition.
29. A suitable receptacle for refuse, agreed with the Council, must be provided by the licence holder and must be kept at all times of trading within the trading place.
30. Litter must not be allowed to accumulate in the vicinity of the trading place during casual trading hours and at the end of the trading the trading place must be cleaned up and all refuse removed and properly disposed of by the licence holder.
31. Each trader shall be responsible for the management of all wastes arising from his/her trading and associated activities and shall remove all waste generated from his/her business or trade. All waste removed by traders from the Designated Casual Trading Area shall be disposed of in a manner which complies with the Waste Management Acts. Any trader found to be in breach of this bye-law shall be liable to prosecution under the Litter Pollution Acts and shall be liable to have their Casual Trading Licence revoked.
32. Each trader who sells food or drink for immediate consumption shall comply with Section 15 of the Litter Pollution Act 1997 in that suitable waste receptacles shall be provided to prevent the creation of litter and the trader shall ensure that any litter caused by the operation of the outlet is removed from the vicinity within a reasonable distance.

AUTHORISED OFFICERS

33. The Council shall appoint Authorised Officers for the purposes of managing and controlling its Casual Trading Areas.

34. An Authorised Officer may:

(i) enter, inspect and examine any place where he has reasonable cause to believe casual trading is being engaged in.

(ii) require any person whom he has reasonable cause to believe to be engaging in casual trading:-

to produce, if it is not being displayed, a casual trading licence authorising such trading and to permit the officer or member of the Garda Siochana to examine the licence, and

if he fails, neglects or refuses to produce such a licence or, in a case in which it is not being displayed, to furnish to the officer his name and address and, if he is the servant or agent of another person, the name and address of the other person,

(iii) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act or of bye-laws made thereunder are being complied with,

(iv) require any person whom he has reasonable cause to believe to be engaging in casual trading in contravention of this Act to give such information as is in his power to give as to the ownership of any goods being sold in the course of such trading.

(v) require any person whom he has reasonable cause to believe to be engaging in casual trading in contravention of these Bye-laws to produce to him any documents, books or records relating to such trading in his power, possession or control and give to him such information as he may request in relation to entries in those documents, books or records and examine, copy or take extracts from any such document, book or record.

35. An authorised officer who proposes to perform a power or function conferred on him by paragraph 2. may request a member of the Garda Siochana to accompany him if he has reasonable cause to apprehend any obstruction in the execution of his duty.

36. A person shall not obstruct or interfere with, or give false information to, an authorised officer or a member of the Garda Siochana in the performance of his functions under these Bye-laws.

37. A person shall not fail, refuse or neglect to comply with a requirement of an Authorised Officer or a member of the Garda Siochana under these Bye-Laws.
38. A person shall be deemed not to have failed or refused to comply with a requirement of an authorised officer under these Bye-laws to produce a casual trading licence if he gives to the officer his name and address and if he is the servant or agent of another person, the name and address of that other person.

EVENT TRADING

39. Kilkenny County Council reserves the right to award trading licences to traders for special events, festivals and fairs for the Municipal Districts of Castlecomer, Callan Thomastown and Piltown.
40. Applications for event licences shall be made not less than thirty days in advance of the date on which trading is to take place.
41. The Council reserves the right to limit the number of licences awarded for each event.
42. The Council reserves the right to allow trading to take place outside of the hours specified in Article 6(iii) for certain events.
43. Trading shall be carried out in accordance with specific conditions attached to the event licence and all conditions of such licence shall be strictly adhered to by the licensee.
44. All articles of these bye-laws shall apply to licensees licensed for event trading.

FEES

45. The following are the fees in respect of Casual Trading Licences for the Municipal Districts of Castlecomer, Callan Thomastown and Piltown.
An applicant for a Casual Trading Licence in a casual trading area shall pay a licence fee of €500 per annum except where casual trading takes place on more than one day per week then the licence fee shall be €500 plus €125 for each additional days casual trading per week. The maximum annual fee for a Casual Trading Licence will be €1,250 per Casual Trading Area.

An applicant for a Casual Trading Licence to trade at locations specified in the licence for a specified event or events pursuant to Section 4(l)(a)(iii) of the Act shall pay a licence fee of €25 per day.

The fees set out under this section may be updated annually by the Council in accordance with the Consumer Price Index.

PENALTIES

46. Every person who shall offend against any of the foregoing bye-laws (Section 3) shall be liable on conviction to a fine not exceeding €12,679 (Section 14) and €1,269 (other than Section 14) in accordance with the Casual Trading Act 1995 as amended or such increased amounts which may be fixed by statute from time to time.

VARIATIONS

47. Kilkenny County Council may vary the location and number of trading bays referred to in Part 3 of these Bye Laws to reflect decisions that are taken in the interest of the proper planning and development of the Municipal Districts of Castlecomer, Callan Thomastown and Piltown.

PART 3

Kilkenny County Council hereby designates the following Casual Trading Areas.

The lands as set out below and as delineated on the maps attached hereto are hereby designated as the Casual Trading Areas by the Council for the County of Kilkenny. The number of trading places indicated below for each Casual Trading Area shall be the maximum number of trading places for that Casual Trading Area and the location of each trading place shall be as indicated on the maps attached hereto in Appendix 1.

Municipal District of Castlecomer			
Town/Village	Location	No. of Trading Bays in Designated Areas	Map attached Numbered
Castlecomer	The Square	3	1
Johnstown	The Square	1	2
Freshford	Old Bridge St	1	3

Municipal District of Callan Thomastown			
Town / Village	Location	No. of Trading Bays in Designated Areas	Map attached Numbered
Graiguenamanagh	Boat House Carpark	3	4
Thomastown	The Quay Carpark & Mill Street	3	5
Inistioge	The Square	1	6
Hugginstown	The Village	1	7
Callan	Motte Field & The Fairgreen	2	8
Bennettsbridge	Walkway	1	9
Stoneyford	Main Street	1	10
Kells	Kilkenny Road	1	11

Municipal District of Piltown

Town/Village	Location	No. of Trading Bays in Designated Areas	Map attached Numbered
Ferrybank	Carpark SE Greenway	1	12
Glenmore	Carpark SE Greenway	1	13

These Bye-Laws shall be known as the “Municipal Districts of Castlecomer, Callan Thomastown and Piltown Casual Trading Bye-Laws, 2021” and shall come into operation on the 17th day of February, 2022.

The “Kilkenny County Council Casual Trading Act 1995 Bye-Laws 2002” made on the 16th day of September, 2002 are hereby revoked as and from the date of the 16th day of February, 2022.

Made and Adopted under the Common Seal of Kilkenny County Council for the County of Kilkenny this 17th day of January, 2021.

Signed:

Cllr. Fidelis Doherty

Chairperson

Mr. Sean McKeown

Director of Services