



Comhairle Cathrach & Contae Phort Láirge
Waterford City & County Council

***Waterford City and County Council
(Prevention and Control of Litter)
Bye-laws, 2022***

DRAFT

Title

Waterford City and County Council (Prevention and Control of Litter) Bye-laws, 2022

Statutory Basis of the Bye-law

Waterford City and County Council, pursuant to Section 21 of the Litter Pollution Act 1997 and Section 199(1) of the Local Government Act 2001 and in accordance with Part 19 of the Local Government Act 2001, hereby makes the following bye-laws:

Citation

These bye-laws may be cited as the Waterford City and County Council (Prevention and Control of Litter) Bye-laws, 2022

Date of Commencement

These bye-laws shall enter into force on the Xth of XXXX 2022.

Geographical area of application

These bye-laws shall apply to the functional area of Waterford City and County Council.

1. Interpretation and Definitions

In these bye-laws, these words and phrases have the following meanings:

“Authorised Person” means a person authorised by Waterford City and County Council to perform, on behalf of the local authority, the functions of the local authority and of a litter warden under this Act or a member of An Garda Síochana.

“Cigarette receptacle” means a receptacle designated or otherwise apparently intended to be used for the deposit of cigarettes.

“Advertising Material” means anything being distributed free of charge which is deemed by the Council to be distributed for commercial purposes or for the purpose of promoting an event or meeting or the sale, consumption or use of any products, goods or services and shall include the free distribution of any food or drink product.

“Distributor” means the person carrying out the distribution or the person organising the distribution or the person on whose behalf the distribution is being carried out.

“Distribution” shall include handing out/delivering to passers-by, leaving material in a public place or a place adjacent to a public road, footway or footpath, including placing on vehicles but does not include the distribution of advertising material by means of a direct delivery to a place having an address.

“electronic cigarette” means a product that can be used for consumption of nicotine-containing vapour via a mouth piece, or any component of that product, including a cartridge, a tank and the device without cartridge or tank. Electronic cigarettes can be disposable or refillable by means of a refill container and a tank, or rechargeable with single use cartridges;

“herbal product for smoking” means a product based on plants, herbs or fruits which contains no tobacco and that can be consumed via a combustion process;

“Land in the vicinity” means, in respect of premises of an occupier, land within a reasonable distance, not exceeding 100 metres of the premises.

“Nicotine containing product” means—

- (a) a tobacco product,
- (b) a tobacco related product
- (b) a herbal product for smoking,
- (c) an electronic cigarette, or
- (d) a refill container;

“Opening Hours” means the times during which the premises is normally open to the public and 15 minutes after the normal closing time.

“Premises” means any structure permanent or temporary, including a mechanically-propelled vehicle.

“Person” shall include an individual or a body corporate.

“Public domain” means all land between the premises and the public roadway, and shall include the public road, public footway, private landings, railed private areas and grassed areas in public or private ownership.

“refill container” means a receptacle that contains a nicotine-containing liquid, which can be used to refill an electronic cigarette

“tobacco products” means products that can be consumed and consist, even partly, of tobacco, whether genetically modified or not;

“tobacco related product” means any cigarette paper, tube or filter manufactured for use in the smoking of tobacco,

Unless the contrary is indicated, for the avoidance of doubt and in accordance with Section 19 of the Interpretation Act 2005, the definitions in the Litter Pollution Act apply to these by-laws, including to the following terms:

“deposit”, “footway”, “land”, “litter”, “litter receptacle”, “litter warden”, “mechanically propelled vehicle”, “occupier”, “public place”, “public road”, “registered owner”, “roadway”.

Where it is necessary, the Interpretation Act 2005 shall apply in construing any provision of these bye-laws.

2. Provision of Litter Receptacles

2.1. The occupier of any premises that is used for

- a. the sale of confectionery, food or drink for consumption off the premises,

- b. the sale of food or drink for consumption on a part of the premises forming open land adjacent to or in the vicinity of the premises, or on land adjacent to the premises
- c. a public market, whether on a public road, on public land or otherwise,
- d. the sale of nicotine containing products
- e. a bus or rail station, airport or seaport,
- f. a retail shopping centre,

shall ensure, at the occupier's own cost, that an adequate number of litter receptacles are in place in the public domain at their premises

2.2. The occupier of any premises that is used as a

- a. a licensed premises,
- b. a cinema, theatre, concert hall or leisure centre, an amusement arcade or an area for other indoor or outdoor sport or recreation,
- c. a bookmaking (gaming) business,
- d. a hairdressers, barbers, make-up or nail salon
- e. a third level educational institution or college,

shall ensure, at the occupier's own cost, that an adequate number of cigarette receptacles are in place in the public domain

2.3. Where a litter receptacle is provided in accordance with Bye-Law 2.1 or a cigarette receptacle in accordance with Bye-Law 2.2 in the public domain the occupier shall ensure that adequate provision is made for the emptying and maintenance of these bins.

3. Monitoring and removal of Litter

3.1. The occupier of any premises shall keep the public domain free from all litter during the opening hours of the premises.

3.2. The occupier of a premises referred to in Bye-law 2.1 (a – d) shall

- a. monitor the land in the vicinity of the premises during the opening hours of the premises to ensure that the area is maintained free of litter of a type or brand supplied by that premises and shall remove or ensure that all such litter is removed forthwith. This monitoring and removal shall be carried out at opening time, at closing time and at least once during each two hourly period during opening hours.
- b. Two or more occupiers where their premises are in a reasonable distance of each other may make an agreement with each other or a third party to undertake their duties outlined in subsection (a). Details of this agreement shall be notified in writing to Waterford City and County Council and shall outline who shall undertake the duties outline in subsection (a).

3.3. The Occupier of a premises referred to in Byelaw 2.1 (e-f) or in Byelaw 2.2 shall monitor the public domain during the opening hours of the premises to ensure that the area is maintained free of litter and shall remove or ensure that all such litter is removed forthwith. This monitoring and removal shall be carried out at opening time, at closing time and at least once during each two hourly period during opening hours.

4. Monitoring and cleaning schedule

4.1. The occupier shall keep a Schedule, which shall record the actions taken by the occupier to comply with Bye-Laws 2 and 3, as appropriate, in the form set out in Schedule 1 of these Bye-Laws. This

schedule shall be retained by the occupier for a period of one month from the date unless within that period he/she is required to surrender this document to an authorised person in accordance with Bye-Law 10.

4.2. The Schedule referred to in Bye-Law 4.1 shall be displayed on the premises in a prominent location visible to the public.

4.3. The occupier shall retain the schedule referred to in Bye-Law 4.1 for at least 1 month and have it available for inspection.

5. Washing of the Public Domain

5.1. The occupier of any premises used for the sale of hot food for the consumption off the premises or sale of food or drink for consumption on a part of the premises forming open land adjacent to or in the vicinity of the premises, or on land adjacent to the premises shall wash the public domain adjoining their business premises as required;

6. Shopping Trolleys

6.1. The occupier of a premises using shopping carts or trolleys shall install a trolley loss prevention device on each trolley to prevent the unauthorised taking of trolleys or to assist in the trolley's recovery. This preventions system may be a wheel lock system, or a tracking device.

6.2. The occupier of a premises shall ensure that all shopping trolleys/baskets belonging to the occupier are collected from all public places during the opening hours of the premises. This collection shall be carried out at closing time and at least once during each 2-hourly period during opening hours.

7. Feeding of birds or other wild or feral animals

7.1. Feeding of birds, or other wild or feral animals shall be prohibited in the areas listed in schedule 2.

7.2. When feeding birds or other wild or feral animals in public places, only an amount of food that will be consumed immediately shall be placed on the ground

7.3. A person who has placed food on the ground shall remove any unconsumed food prior to their leaving the location.

8. Distribution of Advertising Material

8.1. Any person distributing advertising material shall do so in compliance with the following.

a. Advertising material may only be handed directly or given to members of the public and shall not be left unattended for members of the public to pick up,

b. Advertising material may only be given to persons aged 16 or over, unless those persons are accompanied by an adult.

c. The person responsible for the distribution of the advertising material shall monitor the land in the vicinity of the distribution location(s) during the hours the material is being distributed to ensure that the area is maintained free of litter of a type being distributed and shall remove or ensure that all such litter is removed forthwith. This monitoring and removal shall be carried out at least once during each hourly period during which the material is being distributed, and at the end of the period in which the distribution period.

8.2. Bye-law 8.1 shall not apply to

a. the distribution of advertising material by means of a direct delivery to a place having an address, or

- b. the distribution of advertising material relating to a presidential election within the meaning of the Presidential Elections Act 1993, a general election or a bye-election, within the meaning, in each case, of the Electoral Act 1992, a local election within the meaning of the Local Government Act 2001, a referendum, within the meaning of the Referendum Act 1994, an election of representatives to the European Parliament under the European Parliament Elections Act 1997, or an election of members of *Údarás na Gaeltachta* under the *Údarás na Gaeltachta Act 1979*.

9. Aquaculture

9.1. In the section;

- a. “licence” means a licence granted under the Fisheries (Amendment) Act, 1997
- b. “licence holder” means a person granted such a licence

9.2. Licence holders engaged in aquaculture under a licence shall keep a Schedule in the form set out in Schedule 3, which shall record the actions taken by the licence holder to comply with the Waste Management condition of their licence, i.e. that adjoining areas shall be kept clear of all redundant structures (including apparatus, equipment and/or uncontained stock), waste products and operational litter or debris and shall make provision for the prompt removal and proper disposal of such material.

9.3. The licence holder shall maintain a notice board in a prominent area or areas adjoining their licenced area and shall display an up to date copy of the schedule along with a map and details of the areas cleaned and a contact number for the licence holder

10. Powers of an Authorised Person

10.1. An authorised person for the purpose of these Bye-Laws may enter the premises or public domain during opening hours for the purpose of inspecting the Schedules and Notice referred to in these Bye-Laws or for any other purpose associated with these Bye-Laws.

10.2. Whenever an authorised person enters any premises or the public domain, pursuant to these Bye-Laws, the authorised person may therein, as appropriate—

- a. take such photographs and carry out such inspections,
- b. require from the occupier of the premises or any person employed on the premises such information,
- c. require the production of and inspect the Schedule and Notice referred to in Bye-Law 4 and take copies of or extracts from, or take away if considered necessary for the purposes of inspection or examination, any such Schedules or Notice,
- d. require the production of such records or documents and take copies of or extracts from, or take away if considered necessary for the purposes of inspection or examination, any such records or documents, as the authorised person, having regard to all the circumstances, considers necessary for the purposes of exercising

10.3. If an authorised person considers that the provisions made by the occupier to comply with the requirements of Bye-Laws 2 to 5 are inadequate, the authorised person may specify in writing the measures required to comply with the requirements of these Bye-Laws and the occupier shall comply accordingly.

13. Enforcement Provisions/Fixed Payment Notices.

- (a) *Subject to paragraph (b), a person found guilty of the contravention of these bye-laws shall be liable to the penalty of no more than €2,500.*

- (b) Paragraph (a) shall not apply where a fixed payment notice has been issued in accordance with the Local Government Act 2001 (Bye-Laws) Regulations and where a full payment has been made by the person subject to that notice.*
- (c) Where the contravention of any provision of these bye-laws continues after a person has been subject to the fine referred to in paragraph (a), a person found guilty of an offence relating to this continued contravention shall be liable to a penalty of no more than €500 per day for each day the contravention continues after that conviction.*
- (d) A fixed payment notice may be issued requiring a person found to have contravened or be contravening these bye-laws to make a payment of €75. Payment of this notice shall be made within 21 days of the date of the notice in order to avoid the person subject to this notice being prosecuted for the contravention of these bye-laws.*

Schedule 1

Waterford City and County Council (Prevention and Control of Litter) Byelaws
Inspection and Cleansing Schedule

Name of Premises: _____

Address of Premises: _____

Date:

Time		Time		Time	
Area Inspected		Area Inspected		Area Inspected	
Area Cleaned		Area Cleaned		Area Cleaned	
Bins empties		Bins empties		Bins empties	
Time		Time		Time	
Area Inspected		Area Inspected		Area Inspected	
Area Cleaned		Area Cleaned		Area Cleaned	
Bins empties		Bins empties		Bins empties	
Time		Time		Time	
Area Inspected		Area Inspected		Area Inspected	
Area Cleaned		Area Cleaned		Area Cleaned	
Bins empties		Bins empties		Bins empties	
Time		Time		Time	
Area Inspected		Area Inspected		Area Inspected	
Area Cleaned		Area Cleaned		Area Cleaned	
Bins empties		Bins empties		Bins empties	

Signed: _____

1. Please mark with a **✓** if function has been carried out or an **X** if not carried out.
2. This document must be retained for 1 month Waterford City and County Council may require it for inspection.

Schedule 2

Schedule of Streets and areas where it is prohibited to feed birds or other wild or feral animals

1. Waterford City
 - a. John Roberts Square
 - b. Broad Street,
 - c. Barronstrand Street
 - d. Michael Street,
 - e. The Applemarket,
 - f. John Street, between the junction with Parnell Street and The Apple Market
 - g. Peter Street, between the junction of Michael Street and Arundel Square
 - h. Arundel Square,
 - i. Arundel Lane
 - j. Blackfriars Street
 - k. High Street, between the junction of Keizer Street and Henrietta Street
 - l. Henrietta Street
 - m. Constitution Square
 - n. Cathedral Square,
 - o. Cathedral Close
 - p. Baileys New Street
 - q. Great Georges Street
 - r. O'Connell Street between the junction of Hanover Street and Gladstone Street
 - s. Hanover Street
 - t. Parade Quay between Greyfriars and The Mall
 - u. The Mall between Parade Quay and Lombard Street
 - v. Greyfriars
2. Tramore
 - a. Queen Street,
 - b. Main Street,
 - c. Broad Street,
 - d. Strand Road,
 - e. Strand Street, between the junction of Gallwey's Hill and the entrance to the South Shore Apartment Car Park
 - f. The Promenade, , between the junction with the Estuary Road and the Men's Slip (is that the right one beside the lifeguard hut)
3. Dungarvan
 - a. Grattan Square,
 - b. Parnell Street, between the junction of St Mary Street and St Augustine Street
 - c. O'Connell Street between the junction of St Mary Street and Western Terrace
 - d. St Mary Street
 - e. Davitt's Quay between the junction of Carberry Lane and Castle Street
 - f. The Lookout
4. Cappoquin
 - a. Lower Main Street
 - b. Cook Street,
5. Lismore
 - a. Main Street,
 - b. West Street, between the junction of Chapel Street and New Street

6. Dunmore More East
 - a. Dock Road between the entrance to Dunmore East Harbour and Queens Terrace
 - b. Strand Road between Horsequarter and Wellington Terrace
 - c. Killea Road between Wellington Terrace and Marian Terrace
7. Ardmore
 - a. Main Street
8. Stradbally
 - a. The Square
9. Bunmahon
 - a. The Coast Road (R675) between the Copper House and the junction with Barrack Hill.

Schedule 3

Waterford City and County Council (Prevention and Control of Litter) Byelaws
Aquaculture Licence Cleansing Details

Licence Number: _____
Licence Holder Name: _____
Contact Number: _____

Date	Start Time	End Time	Areas Cleaned	Signed

GIVEN under the Common Seal of Waterford City and County Council _____ day of _____, 2022

Mayor

Director of Services