

COMHAIRLE CONTAE DHÚN LAOGHAIRE - RÁTH AN DÚIN

DÚN LAOGHAIRE RATHDOWN COUNTY COUNCIL

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Bye-Laws for the Prevention and Control of Litter, 2009*

Dún Laoghaire-Rathdown County Council

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Dún Laoghaire-Rathdown County Council, in exercise of the powers conferred on it by Part 19 of the Local Government Act 2001, section 21 of the Litter Pollution Act, 1997 as amended by section 57 of the Protection of the Environment Act, 2003, hereby make the following Bye-Laws relating to the prevention and control of litter in its administrative area.

Part 1: Preliminary

Date of Commencement: 15th June 2009.

Area of application: These bye-laws shall apply to the administrative area of Dún Laoghaire-Rathdown County Council hereinafter referred to as "**the Council**".

Any reference in these bye-laws to an Act or Regulations shall include a reference to that Act or Regulations as amended.

Definitions: In these bye-laws

- 1.1 **"Authorised Person"** means a person authorised by the Council to perform, on behalf of the Council, the functions of the Council for the purpose of these bye-laws or a member of An Garda Síochana.
- 1.2 **"Litter"** means a substance or object, whether or not intended as waste (other than waste within the meaning of the Waste Management Act, 1996, which is properly consigned for disposal) that, when deposited in a place other than a litter receptacle or other place lawfully designated for the deposit, is or is likely to become unsightly, deleterious, nauseous or unsanitary, whether by itself or with any other such substance or object, and regardless of its size or volume or the extent of the deposit.
- 1.3 **"Litter receptacle"** means a receptacle designated or otherwise apparently intended to be used for the deposit of litter.
- 1.4 **"Cigarette receptacle"** means a receptacle designated or otherwise apparently intended to be used for the deposit of cigarettes.
- 1.5 **"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.
- 1.6 **"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.
- 1.7 **"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.

- 1.8 **"Occupier"**, in relation to any place or thing, means the person or persons occupying the premises, whether legally or otherwise, the place or thing and includes any other person having, for the time being control of the premises.
- 1.9 **"Opening Hours"** means the times during which the premises is normally open to the public and 15 minutes after the normal closing time.
- 1.10 **"Relevant Premises"** (hereinafter referred to as **"a premises"**) means any structure permanent or temporary, including a mechanically-propelled vehicle.
- 1.11 **"Person"** shall include an individual or a body corporate.
- 1.12 **"Public Place"** means any place to which the public has access whether as of right or by permission and whether subject to or free of charge.
- 1.13 **"Land"**, means land adjoining the premises to which a notice under this section relates that is part of-
 - (a) any footway adjoining the land and forming, or forming part of, a public road, and
 - (b) any area of land forming part of a public road between any such footway and the roadway.
- 1.14 **"Land in the vicinity"** means, in respect of premises of an occupier, land within a reasonable distance, not exceeding 100 metres of the premises.

PART 2: Schedule of Relevant Premises

These bye laws apply to an occupier of any premises that are used wholly or partly for the purposes of:-

- 2.1. The sale of confectionery, food or drink for consumption on or off the premises;
- 2.2. The sale of food or drink for consumption on a part of the premises forming open land adjacent to or land in the vicinity of the premises;
- 2.3. The sale of intoxicating liquor for consumption on or off the premises;
- 2.4. A restaurant, cafe selling food or drink for consumption on or off the premises;
- 2.5. The sale of newspapers/magazines;
- 2.6. The sale to the public of fuel for motor vehicles;
- 2.7. A cinema, theatre, leisure centre, amusement arcade or other place of entertainment, or any area used for indoor or outdoor sport or recreation;
- 2.8. A financial institution, having automated teller machines (ATM) for withdrawals, deposits or payments located in a public place;
- 2.9. A bookmakers;
- 2.10. Provider of a bus terminus, bus shelter, rail station, Luas station or seaport;
- 2.11. A car park;

- 2.12. A retail shopping centre;
- 2.13. A public business or office park or an industrial or trading estate;
- 2.14. A public market, whether on a public road, on public land or otherwise;
- 2.15. An educational institution;
- 2.16. Any commercial premises;
- 2.17. Any state or semi-state premises.

PART 3:

- 3.1. The occupier of a premises shall, if required by an authorised officer, at the occupier's own cost, provide an adequate number of litter receptacles immediately outside their premises, of suitable design and size, with specifications, location and number to be approved in advance by the Council;
- 3.2. The occupier of a premises shall, if required by an authorised officer, at the occupier's own cost, provide an adequate number of cigarette receptacles, immediately outside their business premises, of suitable design and size, with specifications to be approved in advance by the Council;
- 3.3. Where a litter or cigarette receptacle is provided, by the occupier, in a public place, the occupier shall ensure that adequate provision, as determined by the Council, is made for the emptying and maintenance of these receptacles, thus ensuring their availability for use during business opening hours;
- 3.4. The occupier of a premises shall monitor land in the vicinity of the premises 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 hourly period during opening hours;
- 3.5. The occupier of a premises shall wash the pavement adjoining their business premises as required;
- 3.6. 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 hourly period during opening hours;
- 3.7. Where a distributor distributes, by hand or any other means, newspapers, advertising material, hand-bills or promotional material to any member of the public within the functional area of the Council, the person shall monitor land in the vicinity of the distribution point to ensure the area is maintained free of litter associated with the distribution and shall remove or ensure that all such litter is removed;
- 3.8. The occupier shall keep a schedule, which shall record the actions taken by the occupier to comply with Bye-Laws 3.4 and 3.6, as appropriate. 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 these bye-laws;

- 3.9. The Schedule referred to in bye-law 3.8 shall be displayed on the premises in a prominent location visible to the public
- 3.10. If an authorised person considers that the provisions made by the occupier to comply with the requirements of bye-laws 3.1 to 3.6 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;
- 3.11. 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 or for any other purpose associated with these bye-laws;
- 3.12. The occupier of premises shall display anti-litter signage, if required, in the form agreed by the Council;
- 3.13. Whenever an authorised person, pursuant to these bye-laws, enters any premises or any public place, the authorised person may therein, as appropriate—
 - (a) Require from the occupier of the premises or any person employed on the premises such information,
 - (b) require the production of and inspect the schedule and notice referred to in bye-law 3.8 and take copies of or extracts from, or take away if considered necessary for the purposes of inspection or examination, any such schedule or notice,
 - (c) 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 any power conferred on him/her under these bye-laws.
- 3.14. Nothing in these bye-laws shall be construed as diminishing a person's statutory responsibilities under other statutes.

PART 4: Offences

Enforcement

- 4.1 An authorised person may request any person who appears to be contravening or to have contravened a provision of these bye-laws to refrain from such contravention.
- 4.2 If any person contravenes any provision of these bye-laws, the Council may, pursuant to section 206 of the Local Government Act, 2001, serve on such person a Fixed Payment Notice, specifying a fixed payment, as an alternative to a prosecution for such contravention. The amount of the fixed payment is €75 and the said fixed payment must be paid within 21 days of the date of service of such Fixed Payment Notice if such person is to avoid a prosecution.
- 4.3 Any person served with a Fixed Payment Notice is entitled to disregard such Notice and defend a prosecution of the alleged contravention in court.

WARNING

A person who contravenes any provision of these bye-laws shall be guilty of an offence under section 205(1) of the Local Government Act, 2001 and shall be liable on summary conviction to a fine not exceeding €1,904.60.

If the contravention of a provision of these bye-laws is continued after conviction, the person causing the contravention shall be guilty of a further offence on each day on which the contravention continues and shall be liable on summary conviction for each such offence to a fine not exceeding €126.97 per day under section 205(2) of the Local Government Act, 2001.

A person who obstructs or impedes or refuses to comply with a request of an authorised person acting in the exercise of the functions conferred on an authorised person by Part 19 of the Local Government Act, 2001 shall be guilty of an offence under section 204(3)(a) of the said 2001 Act.

Where an authorised person is of the opinion that a person is committing or has committed an offence to which section 204 or section 205 of the Local Government Act, 2001 relates, the authorised person may demand the name and address of such person and if that demand is refused or the person gives a name or address which is false or misleading, that person shall be guilty of an offence under section 204(3) (b) of the said 2001 Act.

A person who is convicted of an offence under section 204(3) of the Local Government Act, 2001 shall be liable on summary conviction to a fine not exceeding €1,904.60.

Dated this _____ day of _____ 2009.

**PRESENT when the Common Seal of
Dun Laoghaire-Rathdown County Council
was affixed hereto:**

**Cathaoirleach na Chomhairle Contae
Dhún Laoghaire-Ráth an Dúin.**

Approved Officer

**County Council Official
County Hall, Dun Laoghaire**