



**Carrick-on-Shannon Municipal District
Leitrim County Council**

**Regulation and control of the Consumption of Intoxicating Liquor in Public
Places Draft Bye-Laws 2016**

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Regulation and control of the consumption of Intoxicating Liquor in Public Places Draft Bye Laws, 2016

The Members of Carrick-on-Shannon Municipal District, Leitrim County Council in exercise of the powers conferred on them by the provisions of Part 19 of the Local Government Act 2001, as amended by the Local Government Reform Act, 2014 and in the interest of the common good and having consulted with An Garda Síochána, hereby make the following Bye-Laws in relation to the regulation and control of the consumption of Intoxicating Liquor in Public Places for the Functional Area of Carrick-on-Shannon.

Citation:-

1. These Bye-Laws shall be cited as “Carrick-on-Shannon Municipal District (Regulation and Control of the Consumption of Intoxicating Liquor in Public Places) Bye-Laws 2016.

Commencement:-

2. These Bye-Laws shall come into force on the _____.

Area of Application:-

3. These Bye-Laws shall apply to the functional area of Carrick-on-Shannon town.

Interpretation:-

4. In these Bye-Laws, except where the context otherwise requires:

“**the Council**” means Leitrim County Council.

“**Authorised Person**” means any person employed by the Council or any other person authorised by the Council to carry out functions under these Bye-Laws and shall include *inter alia* Community Wardens and Beach Lifeguards.

“**Designated Licensed Area**” means any Area designated by the Council in which these Bye-Laws will not apply for the term and subject to the conditions of any such Licence issued by the Chief Executive in exercise of his powers conferred by these Bye-Laws.

“**footpath**”, “**footway**” and “**road**” shall have the meanings assigned to them in the Roads Act 1993.

“**Functional Area**” means any place under the control or management of the Council within Carrick-on-Shannon town.

“Intoxicating Liquor” means all ardent, spirituous, distilled, or vinous liquors, beers, liquids or compounds, whether medicated, proprietary or not, and by whatever name called, containing 0.5 percent or more alcohol by volume, which are beverages, but does not include fermented malt beverages.

“Public Place” includes:-

- i. any footpath, footway or road in the functional area,
- ii. any highway,
- iii. any cemetery, Church, Churchyard or the curtilage of any Church,
- iv. any premises, outdoor areas, or other place to which members of the public have or are permitted to have access, whether as a right, or as a Trespasser, or by express or implied invitation, permission or otherwise, or whether on payment or otherwise,
- v. any part of the foreshore and any coastal waters within or adjoining the Functional Area
(and above the high water mark only)

But does not include:-

- (a) 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 or thereon as of right or with the express or implied permission of the owner or occupier thereof;
- (b) any premises licensed for the sale and consumption of intoxicating liquor during the hours authorised under statute including the curtilage thereof; or,
- (c) any tables and chairs outside a hotel, restaurant or public house on a public road and which are designated by the Minister (as defined by the Local Government (Planning & Development) Act 2000 as amended (herein called the Act of 2000) as being suitable for licencing under Section 254 of the Act of 2000 and in respect of which a licence has been granted by the County Council and is for the time being in force and subject to compliance with any conditions contained in licence and

- (d) any other area designated as a Designated Licensed Area under Part 4 of these Byelaws

PART 2 (Offences)

- 5. A person shall not consume or attempt to consume intoxicating liquor in a public place within the Functional Area and a person shall not have in his or her possession intoxicating liquor in a public place within the Functional Area with the intention of consuming it in a public place within the Functional Area or of supplying it to any other person for consumption in a public place within the Functional Area.
- 6. An Authorised Person and/or a member of An Garda Síochána may request any person who appears to be contravening or to have contravened a provision of these Bye-Laws to leave the vicinity and move off and/or to refrain from any such breach. Failure to comply with such a request shall be a contravention of this Article of these Bye-Laws
 - (a) Where an Authorised Person and/or a member of An Garda Síochána suspects with reasonable cause, that an offence under these Bye-Laws has been committed, or is being committed, such Authorised Person and/or member of An Garda Síochána may stop, search or cause to be searched that person and may seize, confiscate and destroy without warrant any bottle or container with its contents, which is in the possession of such person or persons.
 - (b) Where an Authorised Person and/or member of An Garda Síochána suspects with reasonable cause that a bottle or container in a public place situate in the Functional Area (whether or not in the possession of a person) holds intoxicating liquor and further suspects with reasonable cause that an offence under these Bye-Laws has been or is being or may be committed, such Authorised Person and/or member of An Garda Síochána may seize, confiscate and destroy without warrant any such bottle or container together with contents therein contained.
 - (c) Any person who resists or wilfully obstructs an Authorised Person and/or member of An Garda Síochána in the course of their duties under Article 6 (a) and/or 6 (b) shall be guilty of an offence under these Bye-Laws.
- 7.
 - (a) Where a member of An Garda Síochána is of the opinion that a person is committing or has committed an offence under these Bye-Laws, that member may arrest such person without warrant.
 - (b) Where an Authorised Person and/or a member of An Garda Síochána is of the opinion that an offence has been committed under any provision of these Bye-Laws the Authorised Person and/or member of An Garda Síochána may:-
 - i. Demand the name and address of any such person whom the Authorised Person and/or member of An Garda Síochána

suspects, with reasonable cause, has committed or whom the Authorised Person and/or member of An Garda Síochána finds committing such an offence.

(c) Any person who fails when requested to so provide his or her name and address when demanded by virtue of Article 7 (b) (i), or gives a name and/or address when so demanded which is false or misleading, shall be guilty of an offence.

PART 3 (Sanctions & Increase in Fine)

8. Any person who contravenes any provision of these Bye-Laws or who prevents, attempts to prevent or encourages any other person to prevent, or attempt to prevent the exercise by an Authorised Person and/or a member of An Garda Síochána from exercising a power conferred by these Bye-Laws or who encourages any other person not to comply with a request made under Article 6 of these Bye-Laws shall be guilty of an offence and shall be liable on summary conviction to fine not exceeding €1,500 (one thousand five hundred euro).
9. Where an Authorised Person and/or a member of An Garda Síochána is of the opinion with reasonable cause that an offence is being committed or has been committed under any provision of these Bye-Laws, an Authorised Person and/or the member of An Garda Síochána may serve such person 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 prosecution (as referred to in Article 8) for the contravention and where these Bye-Laws so provide the Fixed Notice 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 €100.00 (one hundred euro) and the specified period for payment to avoid prosecution shall be 21 days. In the event of non-payment within the period of 21 days then the said Fixed Payment shall increase to €200.00 (two hundred euro) and if the said Fixed Payment is not discharged within a period of 56 days from the date of the issue of the Fixed Payment Notice a person or persons shall be liable on summary conviction to a fine not exceeding €1,500.00 (one thousand five hundred euro)

10. These Bye-Laws shall become operative on the _____,

PART 4 (Designated Licensed Areas and Occasional Licenses)

11. Notwithstanding the provisions of these Bye-Laws a Garda Superintendent, on written application to him/her to include a management plan to cover public safety and public health issues, not less than 21 days before an event, may at his/her operational discretion and after consultation with the Health

Service Executive and the Chief Executive, relax the provisions of these Bye-Laws in Designated Licensed Areas in whole or in part on the occasion of:-

- (i) major civic celebrations,
- (ii) major sporting events,
- (iii) major festivals

GIVEN under the Common Seal
of
LEITRIM COUNTY COUNCIL on
this the day of
