

Comhairle Contae Mhuineacháin
Monaghan County Council



**County Monaghan (Regulation and Control of the
Consumption of Intoxicating Substances
in Public Places) Bye-Laws 2020**

(adopted by Monaghan County Council on 6 January 2020)

Comhairle Contae Mhuineacháin Monaghan County Council

Regulation and Control of the Consumption of Intoxicating Substances in Public Places Bye-Laws 2020

Whereas Monaghan County Council is of the opinion that it is desirable in the interests of the common good of the local community within the functional area that certain activities and/or matters should be regulated and controlled and that nuisances should be controlled or suppressed and whereas the authority is further of the opinion that it is desirable that a bye-Law be made for this purpose

NOW Monaghan County Council in exercise of the powers conferred on it by Sections 199 and 200 of the [Local Government Act, 2001 \(as amended\)](#) and all other statutory powers on that behalf hereby makes the following bye-laws:

1. **Title:** These bye-laws shall be cited as the County Monaghan (Regulation and Control of the Consumption of Intoxicating Substances in Public Places) Bye-laws, 2020.
2. **Commencement:** These bye laws shall come into operation on the 10th day of February 2020.
3. **Area of Application:** These bye-laws shall apply to all public places in the Functional Area of Monaghan County Council.
4. **Revocation:** From and after the date on which these Bye-Laws shall come into operation all previous Intoxicating Liquor bye-laws adopted by Monaghan County Council, Monaghan Town Council, Clones Town Council, Castleblayney Town Council and Carrickmacross Town Council shall be and are hereby revoked.
5. **Interpretation:** In these bye-laws, except where the context otherwise requires, the following words and phrases shall have the following meanings respectively:
 1. "authorised person" means a person authorised in writing by the authority pursuant to the Local Government Act, 2001 or a member of An Garda Síochána.
 2. "the authority" means Monaghan County Council.
 3. "footpath", "footway" and "road" have the meanings assigned to them respectively by the [Roads Act, 1993](#).
 4. "Functional Area" means the entire area of County Monaghan inclusive of the Municipal Districts of Ballybay-Clones; Carrickmacross-Castleblayney and Monaghan.
 5. "Intoxicating Substance" means any intoxicating liquor, alcoholic drink, drug (other than a drug lawfully supplied by a chemist on a medical prescription) or any other gas, solvent or other chemical substance or combination of substances having or capable of having an effect similar to intoxicating liquor or a drug.
 6. "public place" includes:
 - any footpath, footway or road in the functional area,
 - any highway,

- any cemetery, church, churchyard or the curtilage of any church,
- any premises, outdoor area,
- any part of the foreshore, on board a boat or vessel berthed in a bay within or adjoining the functional area, or
- other place to which members of the public have or are permitted to have access, whether as of right, as a trespasser, or by express or implied invitation permission or otherwise, or whether on payment or otherwise
- any train, vessel or vehicle used for the carriage of persons whether for reward or otherwise,

but does not include:

- a private house or dwelling or the garden or curtilage of such house or
 - dwelling only in so far as it concerns any activity of the owner or occupier or of the person therein or thereon as of right or with the express or implied permission of the owner or occupier
 - 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 to 1988 as amended, or
 - any tables and chairs outside a hotel, restaurant or public house on a public road in respect of which a license under [Section 254 of the Planning and Development Act, 2000\(as amended\)](#) has been granted by the authority and is for the time being in force and subject to compliance with all conditions contained in such license.
6. To the extent that no provision has been made under an enactment other than the Local Government Act, 2001(as amended) for the purposes of this paragraph a person shall not use, consume, smoke, inject or in any way make use of an intoxicating substance in any place within the functional area and a person shall not have in his possession such an intoxicating substance within the functional area with the intention of using, consuming, smoking, injecting or in any way making use of such intoxicating substance within the functional area or of supplying it to any other person for use, consumption, smoking, injecting or in any way being made use of within the functional area.

A person shall not consume or attempt to consume intoxicating liquor or an alcoholic drink in a public place within the functional area and a person shall not have in his possession intoxicating liquor or an alcoholic drink 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.

Nothing in these bye-laws shall prohibit or prevent the authority from issuing licenses or other authorisations permitting conduct, which would otherwise constitute a breach of the terms of these bye-laws. The grant or refusal of any such license or authorisation shall be in the absolute discretion of the authority and shall be subject to or without conditions.

7. Where an authorised person or a member of the Garda Síochána is of the opinion that an offence is being committed or has been committed under any provision of these bye-laws, the authorised person or member of the Garda Síochána may:-
 - demand the name and address of any person whom the authorised person or member of the Garda Síochána suspects, with reasonable cause, has committed or whom the authorised person or a member of the Garda Síochána finds committing such an offence.
 - 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.

Where a member of the 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.

8. An authorised person and/or a member of the 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 or move off or to refrain from any such contravention. Failure to comply with such a request shall be a contravention of this article of these bye-laws and shall be liable on summary conviction in the District Court to a fine not exceeding €1,904.60.

Where an authorised person and/or a member of the 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 the Garda Síochána may seize and confiscate, without warrant any bottle or container which contains an intoxicating substance, together with its contents which is in the possession of such person or persons.

Where an authorised person and/or a member of the 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 an intoxicating substance 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 a member of the Garda Síochána may seize and confiscate, without warrant, any such bottle or container together with its contents.

The disposal of the property seized/confiscated shall be the subject of an order by the Judge of the District Court, where appropriate or in these cases where the seizure/confiscation is not the subject of any court proceedings, the property seized/confiscated shall be the subject of an application by the Garda Superintendent to the District Court under the Police (Property) Act, 1897 for an order as to disposal.

9. Where an authorised person or a member of the Garda Síochána is of the opinion that an offence is being committed or has been committed under any provision of

these bye-laws the authorised person or a member of the Garda Síochána may serve such person with 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 a prosecution for the contravention and where the bye-law so provides it shall specify:

- the amount of the fixed payment, and
- 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 €75.00 and the said notice shall be in the form set out in the schedule hereto in accordance with the Local Government Act, 2001 (Bye-Laws) Regulations 2006.

10. 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 of an authorised person and/or a member of the Garda Síochána from exercising a power conferred by these bye-laws or who encourages any other person not to comply with a request under Article 7 of these bye-laws shall be guilty of an offence punishable as provided in Section 205 of the Local Government Act, 2001 (as amended).

11. Notwithstanding the provisions of these bye-laws, the Chief Executive, may at his discretion and after consultation with An Garda Síochána and the local Municipal District members, permit the relaxation of these bye-laws, for a limited period, in respect of the whole or any part of the functional area on the occasion of:

- (i) A major civic celebration.
- (ii) A major sporting event.
- (iii) A major festival.
- (iv) A special community event for and by the relevant community.

**Made and adopted under the Common Seal of Monaghan County Council on
this 6th day of January, 2020.**

**Present when Seal of the
Monaghan County Council
was affixed hereto:**

Seal

**E. O'Sullivan,
Chief Executive,
Monaghan County Council**

Nominated Member of Monaghan County Council

Schedule

Fixed payment notice for the purposes of Section 206 of the Local Government Act 2001

NAME OF LOCAL AUTHORITY _____

To: Name _____
Address _____

It is alleged that you have contravened the provisions of a bye-law made under Part 19 of the Local Government Act 2001 entitled by (in general terms specify nature of contravention) at on

During the period of 21 days beginning on the date of this notice, you may pay the sum of euro, producing/attaching this notice, at the offices of the local authority named in this notice located at

A prosecution in respect of the alleged contravention will not be instituted during the said period and if the sum of euro is paid during that period, no prosecution will be instituted at any time.

Signed Date
(Authorised Person)

Important Payment will be accepted at the offices of the local authority specified above and must be accompanied by this notice. Payment may be made by post. Cheques etc. should be made payable to “.....” (name of local authority). A receipt will be issued.

You are entitled to disregard this notice and defend a prosecution of the alleged contravention in court.