

**DRAFT BYE -LAWS MADE BY
CORK CITY COUNCIL FOR
PROHIBITION OF CONSUMPTION OF INTOXICATING LIQUOR
ON THE STREETS OF CORK AND IN PUBLIC PLACES WITHIN
THE CITY OF CORK.**

Whereas Cork City Council in the exercise of the powers vested in it by Section 199 of the Local Government Act, 2001 to make bye-laws for or in relation to the use, operation, protection, regulation or management of any land, services, or any other thing whatsoever or in relation to any matter connected therewith and whereas Cork City Council is of the opinion that behaviour relating to the consumption of intoxicating liquor on streets and in other public places is contrary to the proper use, operation, protection, regulation or management of such streets and other public places in that such behaviour seriously detracts from the proper purpose, amenity and enjoyment of such streets and public places.

NOW BE IT KNOWN that Cork City Council has hereby made the following bye-laws:

1. In these bye-laws, except where the context otherwise requires: -

‘street’ means roads, streets, lanes, quays, cul-de-sacs, squares, passageways, ‘alleys, bridges, tunnels, or footpaths together with such areas or space as is contiguous with any of the foregoing places and which are situate in the functional area of the Authority:

‘public place’ includes open spaces, river banks, public parks, parkettes, green spaces, and amenity areas together with such area or space as is contiguous with any of the foregoing places and which are situate in the functional area of the Authority:

‘Intoxicating liquor’ means spirits, wine, beer, porter, stout, cider, perry and sweets and any fermented, distilled or spirituous liquor which cannot, according to any law for the time being in force, be legally sold without a license from the Revenue Commissioners or any drink or other liquid containing alcohol.’

‘authorised person’ any member of An Garda Síochána is considered an authorised person under Section 204 of the Local Government Act 2001.

2. Subject to paragraph 5 hereof, any person who consumes intoxicating liquor on a street or in a public place will be in contravention of Section 205 of the Local Government Act 2001 and may be guilty of an offence and liable on summary conviction in the District Court to a fine not exceeding €2,500.
3. Subject to paragraph 5 hereof, any person who, while on a street or in an open place, is in possession of intoxicating liquor contained within an opened can, opened bottle, opened pack, or within a drinking glass or cup or similar container with the intention of consuming such intoxicating liquor on a street or in an open space, such person shall be guilty of an offence and shall be liable on summary conviction in the District Court to a fine not exceeding €2,500.
4. In any prosecution of an offence under paragraph 3 hereof a presumption shall operate, unless and until the contrary is proved by the defendant, that the intention of the defendant was to consume such intoxicating liquor, or any part thereof, while on a street or in a public place.
5. It shall not be an offence under these bye-laws to consume intoxicating liquor while seated at tables and chairs provided on a street or a public place immediately adjacent to a hotel, restaurant or public house where the consumption of such intoxicating liquor is in strict compliance with the liquor license attaching to such hotel, restaurant or public house and is in strict compliance with the general laws concerning the sale and consumption of intoxicating liquor and where the arrangements for such tables and chairs are strictly compliant with the provisions of the Local Government (Planning and Development) Acts, 2000 - 2010 and the Roads Act, 1993 or as these Acts are amended from time to time or pursuant to any regulations made thereunder and where the tables and chairs aforesaid have been provided, for patrons only, by the proprietor(s) of the hotel, restaurant or public house aforesaid and where the consumption aforesaid occurs within the hours of trading permitted under the general law relating to spirits retailers on-licenses (i.e., publican's licenses).
6. On a prosecution for an offense under these bye-laws a presumption shall operate (where the prosecution so elects) to the effect that any liquid found in any container material to the

prosecution shall be presumed until the contrary is proved to be for consuming or attempting to consume intoxicating liquor and it shall not be necessary for the prosecutor to prove by analysis or otherwise that such bottle or container contained intoxicating liquor.

7. A container material to the prosecution and which is found not to contain liquid shall (where the prosecution so elects) be presumed to have contained liquid at the time of the alleged offence. It shall not be necessary for the prosecutor to prove by analysis or otherwise that such bottle or container contained intoxicating liquor.
8. A person shall not be entitled to give or lead evidence or otherwise argue for the purpose of rebutting a presumption referred to in paragraphs 6 and 7 of these bye-laws unless, within not less than 7 clear days of the date of the hearing of the offence, he has given notice in writing to the prosecutor of his or her intention to do so.
9. Where any member of the Garda Siochana has detected a breach of these Bye Laws and where that member of the Garda Siochana also forms the opinion that the person who so breached the bye laws is in possession of a container or containers of intoxicating liquor for the purpose of committing a further breach of these bye laws, that member of the Garda Siochana may confiscate and may destroy all or any container or containers aforesaid together with the contents thereof.
10. Notwithstanding the remedy provided for in paragraphs numbered 2 and 3 of these Bye- laws, Cork City' Council may, pursuant to Section 206 of the Local Government Act, 2001, serve a Fixed Payment Notice (within the meaning of Section 206 aforesaid) on any person committing an offence by virtue of a contravention of these bye-laws. Such Fixed Payment Notice shall specify the amount of the fixed payment and the period within the fixed payment must be paid in order to avoid prosecution and shall be in the general form of the notice set out in the Schedule to the Local Government Act, 2001 (Bye-Laws) Regulations, 2006 — S.I. No. 362 of 2006 but subject to alterations thereto as Cork City Council may consider appropriate in the case of these bye-laws. The amount of the fixed payment applicable to the Fixed Payment Notice shall be €75.00.

11. It shall not be an offence under these bye laws to consume intoxicating liquor at an event in respect of which there is a letter from the Chief Executive of Cork City Council exempting the application of these bye laws, at such location, for such period and subject to such conditions as stated therein, application for such letter to be made to the Chief Executive, Cork City Council in advance of each event and the granting of such exemption to be at the sole discretion of the Chief Executive following consultation with An Garda Síochána.
12. These bye-laws may be cited as the Cork City Council Prohibition of Consumption of Intoxicating Liquor on Streets and in Public Places) Bye-Laws, 2021.
13. Prohibition on the Consumption of Intoxicating Liquor on the Streets of Cork and in Public Places within the City of Cork Bye-Laws 2001 are hereby repealed.
14. The operation of these bye-laws shall commence on the / /2022 (not less than 30 days after its making).

Made and adopted under the Common Seal of Cork City Council this _____ day of _____ 202__

PRESENT when the COMMONSEAL of CORK CITY COUNCIL was affixed hereto:

Lord Mayor of Cork: _____

Chief Executive,
Cork City Council: _____