

Dublin City Council

Bye-Laws for the Prevention and Control of Litter

Dublin City 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

Area of application: These Bye-Laws shall apply to the administrative area of Dublin City Council hereinafter referred to as the Council.

Date of Commencement: 2nd January 2009

1 Definitions. In these Bye-Laws

- 1.1 **“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 the sale, consumption or use of any products, goods or services and shall include the free distribution of any food or drink product.
- 1.2 **“Appointed Person”** means a person who is appointed in writing by the Council for the purpose of Bye-Laws 2.14, 2.15, 2.18, 3.5, 3.9, 3.11 of these Bye-Laws.
- 1.3 **“Authorised Person”** means a person who is authorised in writing by the City Council for the purpose of these Bye-Laws or a member of An Garda Síochana .
- 1.4 **“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.
- 1.5 **“Distributor”** means the person carrying out the distribution or the person organising the distribution.
- 1.6 **“Distribute”** means engaging in distribution, as defined in these Bye-Laws, or procuring or arranging for such distribution.
- 1.7 **“Leaflet”** means an advertising sheet/sheets of paper intended for free distribution.

- 1.8 **“Litter”** has the same meaning as in the Litter Pollution Acts 1997-2003.
- 1.9 **“Licensed Premises”** shall not include a premises licensed solely for the sale of intoxicating liquor for consumption off the premises.
- 1.10 **“Occupier”** means the person or persons occupying the premises, whether owner, lessee, tenant or any other person having for the time being control of the premises.
- 1.11 **“Opening Hours”** means the times during which the premises is normally open to the public and 15 minutes after the normal closing time.
- 1.12 **“Operative date”** means the date on which a premises, which has been declared to be a relevant premises in accordance with Bye-Law 2.14, becomes a relevant premises for the purpose of these Bye-Laws.
- 1.13 **“Packaging,”** means a container or wrapping, applied on the premises, for holding hot food or sandwiches or hot beverages sold on the premises for consumption off the premises or in the public domain.
- 1.14 **“Person”** shall include an individual or a body corporate.
- 1.15 **“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.
- 1.16 **“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.
- 1.17 **“Public Road”, “Public Footway” and “Public Roadway”** have the same meaning as in the Roads Act 1993.
- 1.18 **“Relevant Premises”** (hereinafter referred to as **“the premises”**) means
- (a) any structure permanent or temporary, including a mechanically propelled vehicle, where hot food, hot drinks or sandwiches are being sold for consumption off the premises including in the public domain;
 - (b) a licensed premises, or
 - (c) a premises which is designated as a relevant premises in accordance with Bye-Law 2.15.
- 1.19 **“Sandwich”** means 2 or more slices of bread, a bread roll or similar that are sold with a filling.
- 1.20 **“Vicinity”** means the public road (but excluding the public roadway), public footway, private landings and grassed areas in the public domain within a distance of 50 metres each side of the premises.
- 1.21 Any reference in these bye-laws to an Act or Regulations shall include a reference to that Act or Regulations as amended.

PART 2 : TAKE-AWAY AND LICENSED PREMISES

- 2.1 The occupier of a premises shall keep the public domain free from all litter and stains during the opening hours of the premises.
- 2.2 The occupier of a premises, which is not a licensed premises, shall monitor 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.
- 2.3 The occupier of a premises referred to in Bye-Law 2.2 shall ensure, at the occupier's own cost, that an adequate number of litter bins are in place in the public domain. The occupier must obtain the prior written approval of The Council for the number, specification and location of such litter bins.
- 2.4 The occupier of a premises, which is a licensed premises, 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 hourly period during opening hours, except during the periods 10.30am to 12.30pm and 3pm to 7pm when the monitoring and removal of litter shall be carried out at least once during each two hourly period.
- 2.5 The occupier of a premises which is a licensed premises shall, at the occupier's own cost, provide an adequate number of cigarette bins, as determined by the Council, in the public domain.
- 2.6 Where a litter bin is provided in accordance with Bye-Law 2.3 or a cigarette bin in accordance with Bye-Law 2.5 in the public domain the occupier shall ensure that adequate provision, as determined by the Council, is made for the emptying and maintenance of these bins.
- 2.7 The occupier shall keep a Schedule, which shall record the actions taken by the occupier to comply with Bye-Laws 2.2 to 2.6, as appropriate, in the form set out in Appendix 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 2.13.
- 2.8 If an authorised person considers that the provisions made by the occupier to comply with the requirements of Bye-Laws 2.1 to 2.7 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.
- 2.9 The occupier shall display an anti-litter Notice in the premises in the form provided by the Council.

- 2.10 The Schedule referred to in Bye-Laws 2.7 and the Notice referred to in Bye-Law 2.9 shall be displayed on the premises in a prominent location visible to the public.
- 2.11 The packaging on all items for sale in a premises shall clearly bear the name and address of the premises.
- 2.12 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.
- 2.13 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-Laws 2.7 and 2.9 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 any power conferred on him/her under these Bye-Laws.
- 2.14 Where, in the opinion of an appointed person, a premises, which is not a relevant premises for the purposes of these Bye-Laws, is a significant source of litter pollution, an appointed person shall serve a notice on the occupier stating that it is proposed to declare the premises to be a relevant premises and informing the occupier that he/she may within 14 days state the reasons in writing why the premises should not be declared a relevant premises.
- 2.15 Following consideration by an appointed person of the occupier's response in accordance with Bye-Law 2.14, an appointed person shall declare a premises to be a relevant premises or notify the occupier in writing that the premises shall not be declared a relevant premises for the purposes of this Bye-Law.
- 2.16 Where the premises is declared a relevant premises in accordance with Bye-Law 2.15 for the purposes of these Bye-Laws a notification of this decision shall be sent to the occupier and this notification shall inter alia specify the operative date which shall not be earlier than 21 days from the date of the notification.
- 2.17 Where a premises has been declared to be a relevant premises under the provisions of Bye-Law 2.15, the occupier may, not earlier than 6 months following the operative date, apply to the Council to rescind the declaration.

- 2.18 If, following consideration of this application, an appointed person is of the opinion that the premises has ceased to be a significant source of litter pollution he/she may rescind the declaration with effect from a specified date.
- 2.19 Nothing in these Bye-Laws shall be construed as diminishing a persons statutory responsibilities under other statutes.

PART 3 DISTRIBUTION OF ADVERTISING MATERIAL

- 3.1 It shall be an offence, to distribute any advertising material for commercial purposes except in accordance with the provisions of these Bye-Laws.
- 3.2 No person shall distribute advertising material in a public place unless there is in force a valid distribution permit, hereinafter referred to as a permit, issued by the Council or its agents in accordance with these Bye-Laws.
- 3.3 No person shall distribute advertising material in a public place except in compliance with the provisions of a permit.
- 3.4 Any person distributing advertising material shall have a copy of the permit available for inspection at all times and shall produce it on demand to an authorised person or a member of An Garda Síochána.
- 3.5 A permit shall not be granted for the following classes of advertising material (a) leaflets or (b) any material which in the opinion of an appointed person is likely to cause significant litter pollution.
- 3.6 A permit shall not be granted for the distribution of advertising material in Grafton Street, Henry Street or O'Connell Street.
- 3.7 The Council may refuse to grant a permit
- (a) if, in the opinion of the Council, the grant of that permit would result in the number of permits for that location at that time being excessive or
 - (b) if, in the opinion of the Council, a permit should not be granted for reasons of Health and Safety.
- 3.8 A permit may be granted with or without conditions to a distributor, subject to Bye-Law 3.9, following compliance with the following to the satisfaction of the Council
- (a) The completion of an application form substantially in accordance with Appendix 2
 - (b) The production of satisfactory evidence that the applicant is the holder of current insurance fully indemnifying himself, his agents and the Council in respect of all claims including by third parties to a limit of indemnity which is satisfactory to the Council.
 - (c) The provision of a satisfactory litter/waste management plan. The plan shall include detailed arrangements for preventing litter arising from the distribution of the advertising material and removing such material, or identical material, from the area within a 100 metre radius of the distribution location/locations.

The measures to be taken to ensure compliance with this Bye-Law may be carried out by the distributor or the distributor may make an arrangement with the City Council to carry out these measures.

- (d) If the City Council considers that litter prevention and/or cleaning measures are required in addition to those proposed in the Litter/Waste Management Plan, the City Council may require such measures to be carried out and may include these as a permit condition.
 - (e) Payment of a fee of €250
 - (f) Any other information, which in the opinion of the Council is required to determine the application.
 - (g) The submission of a current Tax Clearance Certificate.
- 3.9 In considering the application, the Council shall have regard to the compliance of the applicant with the conditions of permits previously issued under these Bye-Laws and the Council may refuse to grant a permit if in the opinion of an appointed person there has been persistent or serious breaches of these conditions by the applicant or by any distributor operating under a permit issued to the applicant and if in particular on-the-spot fines and/or legal proceedings have been issued for breaches of this part of these Bye-Laws or the Litter Pollution Acts 1997-2003 in respect of previous permits granted under these By-Laws.
- 3.10 If in the opinion of the Council the distributor fails to satisfactorily comply with the provisions of the Litter/Waste Management Plan or a permit condition imposed in accordance with Bye-Law 3.8, the City Council may, at the expense of the distributor, carry out any cleaning and/or prevention measures that are required.
- 3.11 An appointed person may at any time rescind a permit issued where in his/her opinion there has been a serious breach of a condition of a permit issued in accordance with these Bye-Laws or a serious breach of the Litter Pollution Acts 1997-2003 as a result of the operation of the permitted activity.
- 3.12 A permit shall include the following
- (a) The name and address of the operator
 - (b) The dates and times when advertising material may be distributed in accordance with the permit
 - (c) The locations where the advertising material may be distributed
 - (d) The type/types of material which may be distributed
 - (e) Any conditions imposed by the Council.
- 2.13 These Bye-laws shall not apply to the distribution of commercial advertising material by means of a direct delivery to a place having an address.

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 2008.

Present when the Common Seal of DUBLIN CITY COUNCIL was affixed hereto.

Appendix 1

Dublin City Council Litter Prevention & Control Bye Laws



Name of Premises _____

Address _____

: Inspection/Cleaning Schedule					
Time:	✓/x	Time:	✓/x	Time:	✓/x
Area Inspected		Area Inspected		Area Inspected	
Area Cleaned		Area Cleaned		Area Cleaned	
Bins Emptied		Bins Emptied		Bins Emptied	

Time:	✓/x	Time:	✓/x	Time:	✓/x
Area Inspected		Area Inspected		Area Inspected	
Area Cleaned		Area Cleaned		Area Cleaned	
Bins Emptied		Bins Emptied		Bins Emptied	

Time:	✓/x	Time:	✓/x	Time:	✓/x
Area Inspected		Area Inspected		Area Inspected	
Area Cleaned		Area Cleaned		Area Cleaned	
Bins Emptied		Bins Emptied		Bins Emptied	

Time:	✓/x	Time:	✓/x	Time:	✓/x
Area Inspected		Area Inspected		Area Inspected	
Area Cleaned		Area Cleaned		Area Cleaned	
Bins Emptied		Bins Emptied		Bins Emptied	

Time:	✓/x	Time:	✓/x	Time:	✓/x
Area Inspected		Area Inspected		Area Inspected	
Area Cleaned		Area Cleaned		Area Cleaned	
Bins Emptied		Bins Emptied		Bins Emptied	

Time:	✓/x	Time:	✓/x	Time:	✓/x
Area Inspected		Area Inspected		Area Inspected	
Area Cleaned		Area Cleaned		Area Cleaned	
Bins Emptied		Bins Emptied		Bins Emptied	

Signed: _____

Date: _____

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 as Dublin City Council may require it for inspection.

APPENDIX 2

Application to Distribute Advertising Material

1. Name/Address of Applicant

Name: _____

Address: _____

**2. Contact details of person dealing with application
(if different from above)**

Name _____

Address _____

Telephone Number: _____

Mobile Phone Number _____

Email address: _____

Fax Number: _____

**3. Contact details of person supervising the distribution of the material
(This person must be contactable by mobile phone at all times when the
material is being distributed)**

Name _____

Mobile Phone Number: _____

**4. Locations where material will be distributed
(Please indicate the street name and the location on the street in which you intend to
distribute the material)**

5. Date(s) on which the material is to be distributed

6. Times during which it is proposed to distribute material

7. Number of people distributing the material

8. Number of items to be distributed

9. Describe the nature of the material to be distributed.

11 Describe how the material will be distributed (e.g. handing to passers by, leaving at location, other)

11. Public Liability Insurance Policy (Please submit insurance certificate)

Policy Number: _____

Expiry Date: _____

Name of Insurance Company: _____

Name of Insured: _____

Amount Insured: _____

12 I agree to ensure that the distribution of this material will be carried out in compliance with the provisions of the Dublin City Council Litter Prevention and Control Bye-Laws 2008, the Waste/Litter Management Plan and any conditions imposed by Dublin City Council in relation to this permit.

Signature _____

Block Capitals _____

Title _____