

TIPPERARY COUNTY COUNCIL NENAGH MUNICIPAL DISTRICT

DRAFT AMENITY AREA BYE-LAWS 2019

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TIPPERARY COUNTY COUNCIL NENAGH MUNICIPAL DISTRICT

DRAFT AMENITY AREA BYE-LAWS 2019

Tipperary County Council in pursuance of the powers conferred on it by the following Acts, as amended, namely Part 19 of the Local Government Act 2001 (as amended), the Local Government Act 2001 (Bye-Laws) Regulations 2006, the Control of Dogs Act 1986, the Casual Trading Act 1995, the Control of Horses Act 1996, the Litter Pollution Act 1997, the Road Traffic Act 1961 (as amended) and the Waste Management Act 1996 and in pursuance of every other power enabling it and in the interest of the common good make the following Bye-Laws for the purpose of regulating the use of Amenity Areas which are within the administrative area of the Nenagh Municipal District and are listed in the First Schedule hereto and defined in the accompanying maps.

1. Citation:

These bye-laws shall be cited as the Tipperary County Council Nenagh Municipal District Amenity Area Bye-Laws 2019. Bye-laws which are replaced by these Bye-Laws are set out in the Sixth Schedule.

2. Commencement:

These bye-laws shall come into operation on the ____ day of _____ 2019.

3. Duration of Bye-Laws

Unless otherwise stated these bye-laws shall apply all year round.

4. Interpretation

Throughout the Bye-Laws, unless the context otherwise requires, the following words and expressions shall have the meaning hereafter respectively assigned to them:

- (a) "The Council" means Tipperary County Council.
- (b) "The consent of the Council" means the permission in writing of an authorised person.
- (c) "The Act" means the Local Government Act 2001 (as amended).
- (d) "Amenity Area(s)" shall include amenity areas, recreational open spaces, parks, green spaces, blueways, greenways, gardens, orchards, car parks

(whether temporary or permanent) and playgrounds which are provided as a public amenity together with such area or space as is contiguous to each and all of the foregoing places and which are within the control or management of the Council, as listed in the First Schedule hereto and therein identified on the maps thereto annexed.

- (e) "Authorised Person" means a person authorised in writing by Tipperary County Council under the legislation or a member of the Garda Síochána.
- (f) "Nuisance" means unreasonable interference with or disturbance or annoyance to any person in the exercise of his or her rights.
- (g) "Danger" means a person or thing that may cause injury, loss or pain to any person.
- (h) "Waste" shall have the meaning attributed to it by Section 4 of the Waste Management Act, 1996 (as amended).
- (i) "Horse" includes horse, donkey, mule and hinny.
- (j) "Dog" shall mean a bitch of any age or a dog of any age and shall also include a puppy over 4 months old.
- (k) "Car Park" means the car parks provided by the Council at locations in any of the Amenity Areas outlined in the First Schedule to these Bye-Laws.
- (l) "Parking Bay" means a space in a car park intended for the parking of one vehicle, or where the space is intended for the parking of motor cycles, of more than one vehicle, and so indicated by surface or other signs or markings.
- (m) "Casual Trading" has the meaning assigned to it by Section 2 of the Casual trading Act 1995 (No. 19 of 1995).
- (n) "Camper Van" means a van equipped as a self-contained travelling home and includes any power-driven vehicle which is moved by its own means and which contains such facilities for recreational travel. This term shall include vehicles known as campers, dormobiles, recreational vehicles (RVs), motor homes.
- (o) "Caravan" shall be taken to include camper trailers and any other non-self propelled vehicle on wheels which is designed and constructed to be towed by a motor vehicle.

5. Prohibited Acts

No person shall do or cause to be done any of the following in the Amenity Areas covered by these Bye-Laws, without the written consent of the Council:

5.1 Damage

- (i) Light an open fire (other than in a contained unit such as a barbecue) or do anything which may cause damage by fire.
- (ii) Where barbecue facilities have been provided in an Amenity Area these and these only should be used.

- (iii) Damage any grass, plants, shrubs, flowers, trees, benches or other structures.
- (iv) Paint, write, cut or carve or in any manner inscribe letters, figures or marks upon any wall, rock, bench, sign, sculpture, notice, noticeboard or other structure.
- (v) Deposit, throw or leave in any Amenity Area any waste, rubbish or any item of litter as defined in the Litter Pollution Act 1997 (as amended) other than in receptacles provided for that purpose.
- (vi) Deposit in any litter bins or other such receptacles domestic or commercial waste other than the deposit of recyclables in the appropriate receptacles provided for the purposes of recycling at bring banks, bottle banks or other such locations.
- (vii) Remove any stones, plants, trees, flowers, benches, signs, notices, noticeboards or other structures except in accordance with legislation and with the consent of the Council.
- (viii) Remove, destroy or injure or otherwise interfere with any bird, bird's nest or bird's eggs in the Amenity Area or ill-treat, worry or disturb any animal in the Amenity Area.
- (ix) Interfere with or damage any lifebuoy, lifesaving equipment, litter receptacle, sign, flag or information board, wall, railing or fence or any other thing placed in the Amenity Area by the Council or with the authority of the Council.
- (x) Interfere with or damage any facilities or the contents of such facilities provided in the Amenity Area by the Council or by others acting with the authority of the Council – such facilities to include toilet facilities, kayak/canoe racks, bicycle stands, washing facilities, recycling facilities and any other such facilities provided for the benefit of the users of the Amenity Area.
- (xi) Ignite or set off Fireworks, sky lanterns or other such contrivances.
- (xii) Throw any missile in the Amenity Area to damage property or endanger any other person or wildlife within the Amenity Area.
- (xiii) Excavate, dig or otherwise interfere with the Amenity Area and all things growing therein.

5.2 Nuisance

- (i) Cause a nuisance or do any act likely to cause a nuisance.
- (ii) Cause annoyance, obstruction, danger or injury to any person frequenting or using the Amenity Area or do any act likely to cause annoyance, obstruction, danger or injury to any person frequenting or using the Amenity Area.
- (iii) Create or cause any unreasonable level of noise including playing music from radios, stereos or other musical instruments at such level as to cause annoyance to other users of the Amenity Area.
- (iv) Play music either live or recorded using amplification equipment after the hour of 10 p.m.

- (v) Molest, menace, threaten, annoy or otherwise interfere with any person using or enjoying the Amenity Area.
- (vi) Beg, gamble, behave indecently or importune or otherwise cause annoyance.
- (vii) Obstruct, impede, annoy or needlessly interrupt an Authorised Person or employee of the Council in the performance of his/her duties or disobey the lawful directions of an Authorised Person or employee of the Council.

5.3 Vehicles/Tents/ Parking

- (i) Park or cause to be parked in a car park a vehicle in such a position or in such condition or in such circumstances that it would cause, or be likely to cause, danger to other persons using the car park, or to obstruct the entrance to or exit from the car park, or to obstruct the free flow of traffic within the car park.
- (ii) Park or cause to be parked, in a car park which has defined parking bays, a vehicle in such a position that it, or any portion of it, extends from one parking bay into another.
- (iii) Overhaul or carry out repairs to a vehicle while it is parked in a car park, save where it is necessary to do so to enable the vehicle to be removed from the car park.
- (iv) Use a vehicle for the sale of goods, tickets, or any service in or from the vehicle, or as an office other than in accordance with a written permission given by the Council and subject to the terms and conditions of such permission.
- (v) Offer or display any vehicle for sale or for hire or as a prize.
- (vi) Make any unnecessary noise by means of or in relation to a vehicle while it is parked in a car park or by means of any equipment, fitting or instruments fitted to or carried on the vehicle or any loudspeaker or radio in or in any way connected with the vehicle.
- (vii) Erect any tent or camp in any part of an Amenity Area save with the written permission of the Council and subject to the terms and conditions of such permission.
- (viii) Place or keep any caravan in any part of an Amenity Area save with the written permission of the Council and subject to the terms and conditions of such permission.
- (ix) Park a Camper Van in a designated car park overnight save with the written permission of the Council and subject to the terms and conditions of such permission.
- (x) Park any vehicle other than in a designated car park or parking area where such designated car parks or parking areas have been provided.
- (xi) Drive or park any vehicle on grassed areas.
- (xii) Where an area has been designated for the purpose of parking of camper vans, to park within or without that area other than in accordance with the rules and regulations applicable for the time being for such designated area.

5.4 Trading/Hiring/Advertising/Events

- (i) Exhibit any advertising board, placard, wares, merchandise in the Amenity Area save with the written consent of the Council and subject to the terms and conditions of such consent.
- (ii) Organise, stage or hold any public meeting, sporting or commercial event in the Amenity Area save with the written consent of the Council and subject to the terms and conditions of such consent.
- (iii) Conduct or take part in any musical performance (whether vocal or instrumental), dance, concert or other like entertainment for commercial purposes in any Amenity Area save with the written consent of the Council and subject to the terms and conditions of such consent.
- (iv) Carry out casual trading in an Amenity Area other than in an area designated as a Casual Trading Area save with the written consent of the Council and subject to the terms and conditions of such consent.
- (v) Any prosecution in respect of offences relating to matters covered by the Casual Trading Act 1995 will be taken in accordance with that legislation.

5.5 Filming

- (i) No person shall make any movie or film on a commercial basis in an Amenity Area save with the consent of the Council and subject to the terms and conditions of such consent.

5.6 Sale of alcohol

- (i) No person shall offer for sale or supply for consumption intoxicating liquor in an Amenity Area or organise an event which involves the sale of alcohol save with the consent of the Council and consent of the appropriate licensing authorities and subject to the terms and conditions of such consents.

5.7 Drugs

- (i) No person shall consume, inject or otherwise absorb or have in their possession controlled drugs or solvents in any Amenity Area.

5.8 Control of Horses

- (i) The provisions of the Tipperary County Council (Control of Horses) Bye-Laws, 2015 apply in relation to control of horses in Amenity Areas. These provide that no person shall, at any time in a public place, turn out to graze or feed or allow to stray or to remain in any such public place any horse without the written consent of the Council. A copy of the Council's current Control of Horses Bye-Laws is available on the Council's website

www.tipperarycoco.ie or a copy can be obtained from the Environment Section, Tipperary County Council, Civic Offices, Clonmel, Co. Tipperary.

- (ii) Persons in charge of a horse in an Amenity Area, in accordance with a consent given pursuant to Article 5.8 (i) above, shall ensure the following:
 - a. That the horse is kept under control at all times.
 - b. That the horse is not causing annoyance, danger or nuisance to any person in the Amenity Area.
 - c. That any horse faeces, manure or other noisome or offensive material is removed and disposed of as soon as possible to avoid causing a nuisance.
- (iii) Areas may be designated where the presence of horses is completely prohibited – such prohibition may apply to all or part of an Amenity Area. Details of any such areas are set out in Schedule 3.
- (iv) Any prosecution in respect of offences relating to matters covered by the Control of Horses Act 1996 will be taken in accordance with that legislation.

5.9 Control of Dogs

- (i) Dogs, other than guide dogs, are prohibited from being within the 8artilage of any playground or any enclosed play areas within Amenity Areas.
- (ii) Areas may be designated where the presence of dogs is completely prohibited – such prohibition may apply to all or part of an Amenity Area. Details of any such areas are set out in Schedule 2.
- (iii) All dog owners who bring their dogs into an Amenity Area shall ensure the following:
 - a. That the dog is kept under control at all times.
 - b. That the dog is not causing annoyance, danger or nuisance to any person in the Amenity Area or worrying, chasing, injuring or disturbing any animals, birds or other creatures in the Amenity Area.
 - c. That the dog owner carries plastic bag/pooper scooper or other appropriate item with them for the proper disposal of dog fouling either in bins provided for that purpose or, if no such bins are provided, by bringing the dog fouling home and disposing of it in an orderly fashion.
 - d. That any dog to which the Control of Dogs (Restriction of Certain Dogs) Regulations 1991 applies is led by means of a sufficiently strong chain or leash, not exceeding one metre in length by a person over the age of 16 years who is capable of controlling said dog and that such dog is securely muzzled.

5.10 Control of Other Animals

- (i) No person shall turn out to graze in the Amenity Areas, or allow or suffer to stray or remain in the Amenity Area any cattle, sheep or other animal without the written consent of the Council.

5.11 Play Equipment

- (i) Children using Play Equipment or Play Appliances in any children's playground should be supervised by an adult.
- (ii) Play Equipment should be used in an appropriate manner and any guidelines/restrictions in terms of age appropriate usage should be adhered to.
- (iii) Any damaged or broken equipment should be reported to Tipperary County Council (Nenagh Municipal District) at 0761 06 5000.

11.1 Firearms

- (i) No person shall bring into an Amenity Area any firearm, airgun, catapult or any other weapon, save with the written permission of the Council for an approved competition or for the practice for an approved competition and subject to terms and conditions of such permission.

6. Natura 2000 Sites – Special Areas of Conservation (SACs) & Special Protection Areas (SPAs)

- 6.1** Where consent is sought for any event or activity in an Amenity Area that is within or adjacent to a SAC or SPA the Council is required to consider the implications before making a decision on any application. Consideration must be given as to the possible impacts of the event or activity on the site in question and to whether or not mitigation measures are required or how impacts can be avoided. For this purpose screening is required in order to determine if an Appropriate Assessment should be undertaken. In such cases additional information may be required from the applicant.

7. Authorised Persons/Offences

- 7.1** It shall be lawful for any Authorised Person or member of an Garda Síochána to enforce these bye-laws, to issue directions to any person in respect of these bye-laws, to request any person who is contravening or appears to be contravening any provision of these bye-laws to refrain from any activity or to leave the Amenity Area and to exclude or remove from any part of the Amenity Area any person committing any breach of these bye-laws and to take such other steps as authorised by law.
- 7.2** A person who contravenes a provision of these bye-laws shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €2,500.

- 7.3** 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 and shall be liable on summary conviction to a fine not exceeding €500 per day.
- 7.4** A person who obstructs or impedes or refuses to comply with a request of a member of the Garda Síochána or an authorised person acting in the exercise of the functions conferred on an authorised person by these bye-laws shall be guilty of an offence.
- 7.5** Where an authorised person or a member of the Garda Síochána is of the opinion that a person is committing or has committed an offence to which these bye-laws relate, the authorised person or the Garda, as the case may be, may demand the name and address of such person and if this demand is refused or the person gives a name or address which is false or misleading, the person shall be guilty of an offence.
- 7.6** Where a member of An Garda Síochána is of the opinion that a person is committing or has committed an offence to which these bye-laws relate, that member may arrest the person without warrant.
- 7.7** An offence under these bye-laws may be prosecuted by the Council or by a member of An Garda Síochána.
- 7.8** A person may be served with a notice specifying a fixed payment, not exceeding €75 in respect of a contravention of these bye-laws as an alternative to a prosecution for the contravention. Notice of the fixed payment shall be in the general form of the notice set out in the Third Schedule to these bye-laws.
- 7.9** Where the offence to which the notice relates is in contravention of other bye-laws referred to herein the amount of the fines and the format of the fixed payment notice shall be as prescribed in the relevant bye-laws.

8. Consent of the Council – Activities & Events

- 8.1** Notwithstanding any provision of these bye-laws the Council may give permission for any of the purposes mentioned in these bye-laws, which are not contrary to common law, and having regard to the scale of the proposed activity, the character of the applicant, the number of other permissions already granted and the general comfort and convenience of visitors to the Amenity Area concerned.

8.2 Such permission shall:

- (i) Be based on a written application requesting such permission.
- (ii) Specify any terms and conditions which may apply.
- (iii) Specify the duration of the permission.
- (iv) Specify to whom the permission is granted.

8.3 Where permission of the Council is sought to carry out any activity or event in an Amenity Area such application shall be made using the form specified in the Fifth Schedule to these Bye-Laws. The application shall be made at least four weeks prior to the date for which permission is sought.

8.4 Following consideration of the application permission in principle may be issued subject to submission of specified documentation which may include the following:

- 2 No. copies of site location maps, to a scale of 1:10560 and 1:2500, clearly indicating location of proposed event.
- **Insurances:**
 - a) Evidence of Public Liability Insurance in the sum of €6.5 million
 - b) Evidence of Indemnification of Tipperary County Council.

- **Safety Requirements:**

A draft plan for the management of the event prepared in accordance with the appropriate code(s) of practice and including:

- a) The names and responsibilities of the event controller, the safety officer and their deputies
- b) A draft site emergency plan
- c) A draft traffic management plan
- d) A draft safety strategy statement
- e) A draft environmental monitoring programme for before, during and after the proposed event
- f) Details of the proposed plan for the licensed area in relation to the provision for;
 - The removal of structures

- The carrying out of any works for the reinstatement of the venue after the event
 - The full clean up of the surrounding area
 - Any remedial works arising for any damage caused to public property, facilities or amenities associated with the event.
- Other documentation appropriate to the scale and type of event
- 8.5** Where such permission is granted by the Council the applicant shall:
- (i) Display the permission together with the terms and conditions thereof in a prominent position.
 - (ii) Ensure that all participants are aware of the terms and conditions.
 - (iii) Ensure that the terms and conditions are adhered to.
- 8.6** The decision of the Council on any such application is final.
- 8.7** Any Consent, Licence, Permit or Permission issued by the Council in pursuance of this Bye-Law may be revoked by the Council in the event of non-compliance with the terms and conditions of the Consent, Permit, Licence or Permission.
- 8.8** Where permission is granted by the Council a condition may be attached requiring the payment of a refundable deposit to cover costs which may be incurred associated with repair of damage, clean-ups, waste disposal, etc.
- 8.9** This deposit shall be forfeited in the event of any such costs being incurred by the Council over and above normal maintenance.

9. Consent of the Council – Structures, Furniture, etc.

- 9.1** No benches, equipment, monumental structures, commemorative plaques or statues or other similar items may be placed in an Amenity Area without the consent of the Council and to do so without consent will be an offence under these bye-laws.

- 9.2** Any application from organisations or members of the public for such consent shall be made to Tipperary County Council, Nenagh Municipal District, and the decision of the Council on such applications shall be final.
- 9.3** Conditions may be attached to any such consent where Tipperary County Council considers it appropriate to do so. Such conditions may include the payment of a fee, the making of a contribution towards maintenance, providing insurance or giving a duration for the consent after which the item must be removed.
- 9.4** Any items placed in an Amenity Area may be removed and disposed of by the County Council without notice. The person placing such item shall be responsible for the Council's costs in effecting such removal.

10. Future Developments

- 10.1** Where in the future equipment or facilities are provided in an Amenity Area to which these bye-laws apply, the provisions of these bye-laws shall also apply to such equipment or facilities notwithstanding that these were not in place at the time of adoption of the bye-laws.

11. Other Statutory Powers

- 11.1** For the avoidance of any doubt nothing in these Bye-Laws shall in any way restrict the exercise by the Council of any statutory powers conferred on it pursuant to any legislation, whether or not reference is made in these Bye-Laws to such powers.

FIRST SCHEDULE & MAPS

Schedule of Amenity Areas to which Bye-Laws Apply

The following is the schedule of Amenity Areas to which these Bye-Laws apply. The specific areas within these locations are as defined on the maps which form part of these bye-laws.

Map References

- NMD 01. Ballina Amenity Area**
- NMD 02. Ballingarry Amenity Areas**
- NMD 03. Castlelough Amenity Area**
- NMD 04. Clare Glens Amenity Area**
- NMD 05. Tountinna Amenity Area**
- NMD 06. Dromineer Amenity Area**
- NMD 07. Garrykennedy Amenity Area**
- NMD 08. Garrynatineel Amenity Area**
- NMD 09. Graves of the Leinstermen Amenity Area**
- NMD 10. Kilgarvan Quay Amenity Area**
- NMD 11. Luska Amenity Area**
- NMD 12. Mota Amenity Area**
- NMD 13. Shanballyedmond Amenity Area**
- NMD 14. Silvermines Amenity Area**
- NMD 15. Skehanagh Amenity Area**
- NMD 16. Steppe Amenity Area**
- NMD 17. Terryglass Amenity Area**
- NMD 18. The Look-Out Amenity Area**
- NMD 19. The Castle Garden, Nenagh**
- NMD 20. Garden of Remembrance, Cloughjordan**

SECOND SCHEDULE

Schedule of Amenity Areas or parts of Amenity Areas where presence of dogs is completely prohibited.

These locations are as defined on the maps which form part of these bye-laws

(1). **Enclosed Playgrounds at the following locations :**

NMD 01 (a). Ballina Enclosed Playground & MUGA

NMD 03 (a). Castlough Enclosed Playground

NMD 06 (a). Dromineer Enclosed Playground

NMD 07 (a). Garrykennedy Enclosed Playground

NMD 17 (a). Terryglass Enclosed Playground

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THIRD SCHEDULE

Schedule of Amenity Areas or parts of Amenity Areas where presence of horses is completely prohibited.

These locations are as defined on the maps which form part of these bye-laws

NMD 6. Dromineer Amenity Area

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FOURTH SCHEDULE

Fixed Payment Notice for the purposes of Section 206 of the Local Government Act 2001 (as amended)

Tipperary County Council	
To:	Name
	Address
<p>It is alleged that you have contravened the provisions of a bye-law made under Part 19 of the Local Government Act 2001 entitled Tipperary County Council Nenagh Municipal District Amenity Area Bye-Laws 2018 by _____</p> <p>_____</p> <p>(in general terms specify nature of contravention) at _____ on _____</p>	
<p>During the period of 21 days beginning on the date of this notice, you may pay the sum of €75, producing this notice, at the offices of the local authority named in this notice located at Civic Offices, Limerick Road, Nenagh, Co. Tipperary.</p>	
<p>A prosecution in relation of the alleged contravention will not be instituted during the said period and if the sum of €75 is paid during that period, no prosecution will be instituted at any time.</p>	
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 Tipperary County Council. A receipt will be issued.
You are entitled to disregard this notice and defend a prosecution of the alleged contravention in court.	



FIFTH SCHEDULE

Application for permission for use of Amenity Area or to carry out specified activities within Amenity Area

APPLICATION FOR PERMISSION FOR USE OF AMENITY AREA TO HOLD AN OUTDOOR EVENT

1. Name of Applicant (Group/Organisation/Club)	
2. Address:	
3. Contact Person:	Name: Role:
4. Contact No:	Landline: _____ Mobile: _____
5. E-mail:	
6. Purpose of Event	(a) Social (b) Community (c) Fund-raising (d) Promotional (e) Other (please specify)

7. Location of Amenity Area	
8. Proposed Date(s)	
9. Proposed Duration of Event	
10. Proposed Time event is due to commence and conclude	
11. Brief Description of Type of Event Proposed	
12. Estimated Number of Attendance (per day)	<p>Vehicles:</p> <p>Type:</p> <p>People:</p>
13. List any types of stalls, activities, competitions or other relevant information	<p>(a) _____</p> <p>(b) _____</p> <p>(c) _____</p> <p>(d) _____</p> <p>(e) _____</p> <p>(f) _____</p> <p>(g) _____</p>
14. Welfare Facilities	
15. Waste disposal	

16. Water based	Will the event include any water-based activities?
17. Flora, fauna, habitats	What measures will be taken to protect the environment and amenity of the area and to avoid disturbance of the flora, fauna, birds and habitats of the area?
18. Entrance Fees	<p>Is it proposed to charge an entrance fee to this event?</p> <p>Yes/No If Yes provide details</p>
19. Any other relevant details	
20. Signature of Applicant	
21. Date of Application	

SIXTH SCHEDULE

Schedule of Bye-Laws revoked by these Bye-Laws

The following Bye-Laws are revoked by these Bye-Laws:

- **Tipperary (North Riding) County Council Car Park Bye-Laws 1987**

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