

EAST AYRSHIRE COUNCIL

FULL COUNCIL – 11TH OCTOBER 2007

EAST AYRSHIRE COUNCIL (PROHIBITION OF THE CONSUMPTION OF ALCOHOLIC LIQUOR IN DESIGNED PLACES)(AMENDMENT NO. 1) BYELAWS 2007

Report by the Head of Legal, Procurement & Regulatory Services

1. PURPOSE OF REPORT

- 1.1 To seek approval for a change to the existing byelaws prohibiting the consumption of alcoholic liquor in designated places.

2. BACKGROUND

- 2.1 In 1997 East Ayrshire Council passed byelaws which prohibited the consumption of alcoholic liquor in designated places.
- 2.2 In terms of Section 202A of the Local Government (Scotland) Act 1973 local authorities are required to review their existing byelaws every ten years.
- 2.3 There has been subsequent residential development since the introduction of the existing byelaws which means that there are currently residential areas which are not designated areas in terms of the existing byelaws, meaning that the byelaws cannot be enforced in those areas.
- 2.4 The Scottish Executive issued a circular on 8th March, 2007, Circular No. JD/6/2007 entitled "Byelaws Prohibiting the Consumption of Alcohol in Designated Public Places". The Circular addressed several matters, including concerns that the current model byelaws on which the East Ayrshire Council byelaws are based, make it difficult in certain circumstances, to prove that an accused was consuming alcohol in a designated area unless he or she was actually seen doing so. Several Councils within Scotland have now extended the prohibition contained within their byelaws to criminalise possession of an open container of alcohol in a designated place. A Working Group on Off-Sales in the Community Report published in 2004 also commented on the possible problems of proving the drinking offence and recommended that the Scottish Executive consider producing a new model byelaw on public drinking using an amended model byelaw as a template. The intention being to avoid difficulties proving that an accused had been drinking if he had not been seen to do so.
- 2.5 Accordingly, it is proposed that the current byelaws are revised to criminalise possession of an open container of alcohol in a designated place and include the new designated residential areas to allow for effective enforcement.

3. FINANCIAL/POLICY IMPLICATIONS

- 3.1 Nil

4. LEGAL IMPLICATIONS

- 4.1 These revised byelaws will ensure that the Council brings residential areas created within the preceding ten years within the scope of prosecution and also bring its byelaws in line with Best Practice being adopted by other local authorities.

5. COMMUNITY PLAN IMPLICATIONS

The proposed revision to the existing byelaws complements the current Community Plan objectives.

6. RECOMMENDATION

- 6.1 It is recommended that Members:-

- i) Approve the proposed East Ayrshire Council (Prohibition of the Consumption of Alcoholic Liquor in Designated Places) (Amendment No 1) Byelaws 2007 which are appended to this report; and
- ii) authorise the Director to seek confirmation of the amendments
- iii) otherwise note the contents of this report.

A copy of the plans referred to in the byelaws and Scottish Executive Circular No. JD/6/2007 have been placed at the members information point.

David Mitchell
Head of Legal, Procurement & Regulatory Services

DM/MB/sm
11th October 2007

BACKGROUND PAPERS

1. Circular No JD/6/2007 Byelaws Prohibiting the Consumption of Alcohol in Designated Public Places

For further information on the content of this report contact: Peter Hessett, Team Leader, Litigation and Advice – 01563 576015

Implementation officer: Peter Hessett, Legal Services

EAST AYRSHIRE COUNCIL (PROHIBITION OF THE CONSUMPTION OF
ALCOHOLIC LIQUOR IN DESIGNATED PLACES) (AMENDMENT NO. 1) BYELAWS
2007

EAST AYRSHIRE COUNCIL
COUNCIL HEADQUARTERS
LONDON ROAD
KILMARNOCK
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EAST AYRSHIRE COUNCIL (PROHIBITION
OF THE CONSUMPTION OF ALCOHOLIC
LIQUOR IN DESIGNATED PLACES)
(AMENDMENT NO 1) BYELAWS 2007

East Ayrshire Council (hereinafter referred to as “the Council”) in exercise of the powers conferred on it by Sections 201, 202 and 203 of the Local Government (Scotland) Act 1973, and of all other powers enabling it in that behalf, hereby amends the East Ayrshire Council Byelaws Prohibiting Consumption of Alcoholic Liquor in Designated Places:-

CITATION

1. This amendment may be cited as the “East Ayrshire (Prohibition of the Consumption of Alcoholic Liquor in Designated Places) (Amendment No. 1) Byelaws 2007” and the byelaws as amended may be cited as “East Ayrshire Council Byelaws Prohibiting Consumption of Alcoholic Liquor in Designated Places”.

**AMENDMENTS TO EAST AYRSHIRE COUNCIL BYELAWS PROHIBITING
CONSUMPTION OF ALCOHOLIC LIQUOR IN DESIGNATED PLACES**

2. East Ayrshire Council Byelaws Prohibiting Consumption of Alcoholic Liquor in Designated Places shall be amended as follows:-
 - (1) In the definition of “designated place” in paragraph (1)(1) delete the words “Schedule 1 to 45 to these byelaws and shown outlined in red on the plans annexed and signed as relative hereto.” and substitute “the Schedule to the East Ayrshire Council (Prohibition of the Consumption of Alcoholic

Liquor in Designated Places) (Amendment No 1) Byelaws 2007 and shown outlined in red on the plans annexed and signed as relative thereto” therefor.

- (2) In paragraph 2(1) in the second line after the words “alcoholic liquor” insert “in a designated place or is found to be in possession of an open container containing alcoholic liquor in a designated place.
- (3) The plans and Schedules annexed to the East Ayrshire Council Byelaws Prohibiting Consumption of Alcoholic Liquor in Designed Places are hereby removed from the byelaws and shall be deleted and replaced with the plans and Schedule annexed to the East Ayrshire Council (Prohibition of the Consumption of Alcoholic Liquor in Designated Places)(Amendment No. 1) Byelaws 2007.

THE COMMON SEAL OF EAST AYRSHIRE COUNCIL

Was affixed to these Byelaws on the

In the presence of

David Mitchell
Head of Legal, Procurement and Regulatory Services
East Ayrshire Council

The byelaws were signed by David John Mitchell, signing his usual signature “David Mitchell” being the Head of Legal, Procurement and Regulatory Services for East Ayrshire Council and as such Proper Officer of the authority on 2007.

SCHEDULE

Each of the areas specified below is a designated place for the purposes of these byelaws:

1. ALL and WHOLE the village of Auchinleck, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 1 annexed and signed as relative hereto.
2. ALL and WHOLE the village of Bellsbank, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 2 annexed and signed as relative hereto.
3. ALL and WHOLE the village of Burnside, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 3 annexed and signed as relative hereto.
4. ALL and WHOLE the village of Catrine, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 4 annexed and signed as relative hereto.
5. ALL and WHOLE the village of Coalhall, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 5 annexed and signed as relative hereto.
6. ALL and WHOLE the village of Cronberry, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 6 annexed and signed as relative hereto.
7. ALL and WHOLE the village of Crookedholm, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 7 annexed and signed as relative hereto.
8. ALL and WHOLE the village of Crosshouse, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 8 annexed and signed as relative hereto.
9. ALL and WHOLE the town of Cumnock, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 9 annexed and signed as relative hereto.
10. ALL and WHOLE the village of Dalmellington and Burnton, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 10 annexed and signed as relative hereto.
11. ALL and WHOLE the village of Dalrymple, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 11 annexed and signed as relative hereto.
12. ALL and WHOLE the village of Darvel and Priestland, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 12 annexed and signed as relative hereto.
13. ALL and WHOLE the village of Drongan, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 13 annexed and signed as relative hereto.

14. ALL and WHOLE the village of Dunlop, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 14 annexed and signed as relative hereto.
15. ALL and WHOLE the village of Fenwick and Laigh Fenwick, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 15 annexed and signed as relative hereto.
16. ALL and WHOLE the village of Galston, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 16 annexed and signed as relative hereto.
17. ALL and WHOLE the village of Gatehead, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 17 annexed and signed as relative hereto.
18. ALL and WHOLE the village of Hollybush and Skeldon Mills, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 18 annexed and signed as relative hereto.
19. ALL and WHOLE the village of Hurlford, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 19 annexed and signed as relative hereto.
20. ALL and WHOLE the town of Kilmarnock, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 20 annexed and signed as relative hereto.
21. ALL and WHOLE the village of Kilmaurs, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 21 annexed and signed as relative hereto.
22. ALL and WHOLE the village of Knockentiber, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 22 annexed and signed as relative hereto.
23. ALL and WHOLE the village of Leggate, Connel and Bank Glen, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 23 annexed and signed as relative hereto.
24. ALL and WHOLE the village of Logan and Lugar, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 24 annexed and signed as relative hereto.
25. ALL and WHOLE the village of Lugton, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 25 annexed and signed as relative hereto.
26. ALL and WHOLE the village of Mauchline, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 26 annexed and signed as relative hereto.
27. ALL and WHOLE the village of Moscow, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 27 annexed and signed as relative hereto.

28. ALL and WHOLE the village of Muirkirk, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 28 annexed and signed as relative hereto.
29. ALL and WHOLE the village of New Cumnock, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 29. annexed and signed as relative hereto.
30. ALL and WHOLE the village of Newmilns, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 30 annexed and signed as relative hereto.
31. ALL and WHOLE the village of Ochiltree, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 31 annexed and signed as relative hereto.
32. ALL and WHOLE the village of Patna, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 32 annexed and signed as relative hereto.
33. ALL and WHOLE the village of Polnessan, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 33 annexed and signed as relative hereto.
34. ALL and WHOLE the village of Rankinston, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 34 annexed and signed as relative hereto.
35. ALL and WHOLE the village of Sinclairston, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 35 annexed and signed as relative hereto.
36. ALL and WHOLE the village of Skares, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 36 annexed and signed as relative hereto.
37. ALL and WHOLE the village of Sorn, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 37 annexed and signed as relative hereto.
38. ALL and WHOLE the village of Stewarton, which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 38 annexed and signed as relative hereto.
39. ALL and WHOLE the village of Waterside (Doon Valley), which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 39 annexed and signed as relative hereto.
40. ALL and WHOLE the village of Waterside (by Fenwick), which forms part of the East Ayrshire Council area shown within the boundaries outlined in red on plan 40 annexed and signed as relative hereto.