



Dún Laoghaire-Rathdown
County Council Comhairle Contae
Dhún Laoghaire-Ráth an Dúin

COMHAIRLE CONTAE DHÚN LAOGHAIRE - RÁTH AN DÚIN

DÚN LAOGHAIRE RATHDOWN COUNTY COUNCIL

FINAL DRAFT

DÚN LAOGHAIRE-RATHDOWN COUNTY COUNCIL

CONTROL OF ON-STREET CAR CLUB BYE-LAWS 2018

OCTOBER 2018

**DUN LAOGHAIRE-RATHDOWN COUNTY COUNCIL
CONTROL OF ON-STREET CAR CLUB BYE-LAWS 2018**

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Dún Laoghaire-Rathdown County Council (hereinafter referred to as “the Council”) in exercise of the powers vested in it by the provisions of Part 19 of the Local Government Act 2001 and all other enabling statutory powers, hereby makes the following Bye-Laws for the regulation of the operation of on-street car clubs in respect of its administrative area.

**Part I
Preliminary**

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|----------------------------|----------|---|
| Citation | 1 | These Bye-Laws may be cited as the Dún Laoghaire-Rathdown County Council Control of On-Street Car Club Bye-Laws 2018. |
| Commencement Date | 2 | These Bye-Laws shall come into operation on the _____ of _____, 2018. |
| Area of application | 3 | These Bye-Laws apply to the administrative area of Dún Laoghaire-Rathdown County Council. |
| Interpretation | 4 | <p>In these Bye-Laws:</p> <p>“the Council” means Dún Laoghaire-Rathdown County Council;</p> <p>“agent of the Council” means any person employed by the Council or any other person authorised by the Council to carry out functions under these Bye-Laws and/or statutory legislation;</p> <p>“authorised person” means a person appointed by the Chief Executive of the Council, to be an authorised person for the purposes of these Bye-Laws;</p> <p>“applicant” means a company or body corporate, eligible to make formal application to the Council for a car club licence or permit, where such a company or body corporate has made such an application;</p> <p>“operator” means the organisation providing the car club service within the Council area, which operator shall be responsible for, <i>inter alia</i>, the day-to-day running of the service including the provision of vehicles, management of the car club, electronic booking system, indemnity, insurance and marketing;</p> <p>“car club licence” means a licence issued by the Council to a car club operator for the provision of a car club service within the Council’s administrative area and bearing a specific identification number;</p> |

“car club member” means someone who has completed the necessary procedures and is, at that time, authorised by the Operator to access and use a car club vehicle;

“car club vehicle” means an Irish registered mechanically propelled vehicle provided for the use of car club members;

“car club vehicle permit” means a permit issued by the Council to an Operator in respect of a car club vehicle for the purposes of the Bye Laws, and containing the particulars specified;

“disabled persons parking permit” means a permit granted in accordance with Article 43 of the Road Traffic (Traffic and Parking) Regulations 1997, and “disabled person’s parking bay” means a parking space to which Article 44 of the Road Traffic (Traffic and Parking) Regulations 1997 applies;

“fixed payment notice” is the notice provided for in Part IV of these bye Laws for the purposes of Section 206 of the Local Government Act, 2001;

“good industry practice” means the degree of skill, care, prudence, foresight and operating practice which would reasonably and ordinarily be expected from time to time of a skilled and experienced operator (engaged in the provision of the service or the same type of undertaking as that of the operator) or any sub-operator under the same or similar circumstances;

“on-street car club” means an organisation having, standing or plying a car club vehicle for hire and use of same, in a public place, or on a public road;

“public road” means a road over which a public right of way exists and responsibility for the maintenance of which lies with the Council;

“the Road Traffic Acts” means the Road Traffic Acts 1961-2016, as amended from time to time, and regulations made there under;

“the Road Traffic Regulations” means the Road Traffic (Traffic and Parking) Regulations 1997 (S.I. No 182 of 1997) and the Road Traffic (Signs) Regulations 1997 (S.I. No 181 of 1997);

“service” means the provision of a car club vehicle for the use of car club members, consistent with the requirements set out in these Bye-Laws;

“vehicle” means either:

- a passenger vehicle with passenger accommodation for not more than twelve persons excluding the driver, and not drawing a trailer or other vehicle;

or

- a goods vehicle whose unladen weight does not exceed 3.5 tonnes, and not drawing a trailer or other vehicle.

Part II.

Car Club Operator’s Licence

Applying for an Operator Licence 5

(a) An applicant shall apply to the Council for a car club licence to operate an on-street car club, and be granted such a car club licence by the Council, prior to commencing operation;

(b) A car club licence shall be valid for an initial period of twelve months and, subject to the Council being satisfied with the operator’s compliance with these Bye-Laws and licensing conditions, shall be renewable thereafter every twenty four months, or such shorter period as may be deemed appropriate in the absolute discretion of the Council;

(c) Subject to the Council being satisfied that the operator has complied with the provisions of these Bye-Laws, such an operator shall have an option for a period of two months, from the date of expiration of the licence to renew it;

(d) A car club licence shall be granted only where the following conditions have been met by the operator:-

- i. The applicant for it has paid the Council the licence fee of €100 per annum. This fee shall be determined from time to time by Council. The determination of the licence fee shall be a reserved function.
- ii. The Council is satisfied that the applicant will comply with the provisions of these Bye-Laws and other licensing requirements.
- iii. The applicant has provided evidence of public liability insurance (the minimum indemnity limit of which shall be at least €6.4 million but may be increased by the Council from time to time) and employer’s liability insurance (the minimum indemnity limit of which shall be at least €13 million but may be increased by the Council from time to time) covering the operation of the car club, expressly indemnifying the Council. The determination of the minimum indemnity limits set out in these Bye-Laws shall be an executive function.

- iv. The applicant shall be tax compliant, and shall accordingly submit a tax clearance access number and tax reference number, to facilitate on-line annual verification of its tax status;
- (e) An operator shall not operate, or permit to be operated, its car club service without holding a current car club licence in respect of that service. A permit shall also be required for each car club vehicle;
- (f) The operator shall provide the Council with a vehicle registration number and such other details as the Council shall deem appropriate, in respect of each vehicle, before, and in order to ensure, the issue of a car club licence;
- (g) The maximum number of car club vehicles to be operated under any once car club license is 50. This figure may be adjusted at the absolute discretion of the Council. The definition of any adjustment shall be a reserved function;
- (h) An operator shall not operate, or permit to be operated, its car club service, other than in accordance with the terms of the car club licence applicable to it and the provisions of these Bye-Laws;
- (i) An operator shall lease, or own, all car club vehicles. The model(s) used shall be a commercial choice for the operator. However, the operator shall be required to justify its choice of vehicle(s) with regard to environmental performance and any other relevant criteria, as defined by the Council, to the Council;
- (j) An operator shall ensure that vehicles are serviced in accordance with best practice and the manufacturers recommended standards;
- (k) An operator shall ensure that vehicles are maintained to a legal and roadworthy standard, with the requisite vehicle tax paid and insurance cover in place, and that the said vehicles accord with all, applicable, statutory requirements;
- (l) The operator shall ensure that vehicles are kept to a reasonable standard of cleanliness at all times. Repair or cleansing of car club vehicles must not be carried out on-street;
- (m) All livery (including advertising) on an operator's car club vehicles shall be agreed by the operator with the Council,

with a minimum of two weeks' notice, in writing. No advertising for alcohol products will be permitted on vehicles;

- (n) In providing a car club service, an operator shall ensure that it is complying with all applicable legislation and with good industry practice;
- (o) The Operator shall take all reasonable steps, in accordance with Good Industry Practice, to prevent any fraudulent, dishonest or corrupt activity by its staff, the operator (including shareholders, staff and directors) and/or any of the operator's suppliers. The Operator shall notify the Council immediately if it has reason to suspect that any fraud, dishonesty or corrupt practice has occurred or is occurring or is likely to occur that would adversely affect the Council or the reputation of Car Club or if notified by An Garda Síochana.
- (p) The Operator shall keep and maintain throughout the duration of the licence full and accurate records of their journey data relating to the service and shall share same with the Council and also provide access at all reasonable times to duly authorised staff or agents of the Council to anonymised journey data and to inspect its operational systems and other such documents as the Council considers necessary in connection with the issuing and the operation of the licence;
- (q) An operator shall, at all times, comply with the requirements of the Health and Safety at Work Act 2005 and any other Acts, Regulations, Orders or Rules of Law, pertaining to health and safety;
- (r) The Operator shall assist the Council by providing any relevant information and reasonable assistance in connection with any legal proceedings in which the Council has an interest relating to the operation of Car clubs;
- (s) The Council shall, in no circumstances, be liable to an operator for any indirect or consequential loss, loss of goodwill, or loss of income, arising from the provision of a car club service;
- (t) The Operator shall comply with all requirements of data protection law and such guidelines as may be issued by the Data Protection Commissioner from time to time including but not limited to (i) the Data Protection Acts 1988 and 2003; and (ii) all EU requirements arising (including but not limited to provisions relating to the processing of data, ensuring the security of data and restrictions on transfer of data abroad) and any legislation and regulations implementing same.

Part III.
Car club Vehicle Permit

**Applying for a
car club permit** **6**

- (a) An operator shall apply to the Council for a permit for each vehicle used as part of a car club, and, if granted such a permit, shall pay an annual fee of €1,000 per permit. This fee shall be reviewed from time to time by the Executive of the Council, but its variation shall be a reserved function;
- (b) A car club vehicle permit shall be valid for a period of twelve months from the date of issue, unless otherwise indicated by the Council, and the variation of the period of validity of such a permit shall be a reserved function;
- (c) An operator shall not stand a car club vehicle, or cause a car club vehicle to stand, or permit a car club vehicle to stand, for hire, on a public road or designated parking space, unless a permit issued under this Bye-Law so authorises the said standing of the car club vehicle, or the appropriate parking fee has been paid;
- (d) A permit granted in respect of a car club vehicle shall be prominently displayed in the vehicle;
- (e) A car club vehicle permit shall contain the following particulars-
 - a. The words "Comhairle Contae Dhún Laoghaire – Ráth an Dún" and "Dún Laoghaire Rathdown County Council",
 - b. The date of expiry of the Car club Vehicle permit, and
 - c. the registration number of the vehicle in respect of which the said permit is issued;
- (f) Where the Council is satisfied that a car club vehicle permit has been lost, destroyed or stolen, the Council, or its agents, shall issue a replacement to the relevant operator on payment of such fee as may be determined by the Council, and such replacement permit shall be substituted for the original permit, and the original permit shall be cancelled. The setting of the replacement fee for a car club vehicle permit shall be a reserved function but shall be notified to the operator, in any event, at the time of issue of the original car club vehicle permit;

(g) A vehicle

i. other than a vehicle displaying a valid car club vehicle permit, irrespective of control or ownership, or whether it has had a car club vehicle permit issued to it under these Bye-Laws,

or

ii. displaying an invalid car club vehicle permit,

shall be subject to the terms and terms of enforcement of the Dún Laoghaire-Rathdown County Council Parking Control Bye-Laws in force at that time;

(h) The Council may cancel a car club vehicle permit where it establishes that the operator does not hold an entitlement to the permit in accordance with these Bye-Laws, or where it establishes that the holder has obtained the permit by the submission of falsified documentation, or where the operator is seriously or persistently in breach of these Bye-Laws or refuses persistency to comply with a request of an agent of the Council or an authorised person;

(i) The Council reserves the right to revoke the licence of an operator whose car club vehicle(s) display(s) an invalid car club vehicle permit.

Part IV Car Club Requirements

Miscellaneous 7

(a) Car club vehicles shall be subject to the Road Traffic Acts and the Road Traffic Regulations, and when a car club vehicle is parked on-street, it shall also accord with the provisions of the Dún Laoghaire-Rathdown County Council Parking Control Bye-Laws in force at that time;

(b) A car club member shall be responsible for compliance with the Road Traffic Acts, the Road Traffic Regulations, and, when appropriate, the Dún Laoghaire-Rathdown County Council Parking Control Bye-Laws in force at that time;

- (c) A car club member may park a car club vehicle in a disabled person's parking bay if the car club vehicle displays a valid disabled-person's parking permit at that time and the said car club member is entitled to use such a valid disabled-person's parking permit. A car club vehicle may not be left in a disabled person's parking bay one the car club member has finished using the car club vehicle;
- (d) An operator shall be responsible for compliance with all administrative and road traffic regulations, and statutory obligations, when the vehicle is not being used by a car club member, and where an operator can identify that a car club member bears responsibility for a breach or any such regulation or statutory obligation, it shall be a matter to be resolved between that operator and that car club member.

At no time, shall any liability attach to the Council in respect of any failure of an operator, a car club member, or a car club vehicle, to abide by the Road Traffic Acts or the Road Traffic Regulations;

- (e) A car club vehicle shall be of an approved standard and subject, at all times, to inspection by an authorised person. An operator shall ensure in its performance that, wherever possible, it uses working methods, equipment, materials and consumables that minimize environmental damage;
- (f) The Council, an authorised person or any agent of the Council, may request an operator or car club member, who appears to be contravening, or to have contravened, a provision of these Bye-Laws, to refrain from the contravening activity;
- (g) The Council may cancel a car club licence where it believes that the operator no longer meets the requirements for a car club licence to be issued in accordance with these Bye-Laws, or where it establishes that the holder has obtained the licence by the submission of falsified documentation, or where the operator is seriously or persistently in breach of these Bye-Laws or refuses persistently to comply with a request of an agent of the Council or an authorised person;
- (h) The Council may, as a condition of granting a licence, prescribe specific streets or areas where car club vehicles shall be permitted to park, and may limit the number of car club vehicles permitted to park on any specific street or on in any specific area;

- a. "car club vehicle parking bay" as defined in Article 2 of the Road Traffic (Traffic and Parking) (Car Clubs and Electrically Powered Vehicles) Regulations 2014,
- b. "pay parking place" as defined by the Dún Laoghaire-Rathdown County Council Parking Control Bye-Laws 2007, and including a place, space or bay for the parking of a vehicle, in a pay parking area, on a public road, or in a car park, intended for the parking of mechanically propelled vehicles.

Part V Enforcement

Enforcement

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- (a) A person who contravenes any provision of these Bye-Laws shall be guilty of an offence under section 205 of the Local Government Act 2001 and shall be liable on summary conviction to a fine not exceeding €1,904.60;
- (b) Where a 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 €126.97 per day under section 205(2) of the Local Government Act 2001;
- (c) If any person contravenes any provision of these Bye-laws, the Council may, pursuant to Section 206(1) of the Local Government Act 2001, serve on such person a Fixed Payment Notice (see Third Schedule hereto), specifying a fixed payment, as an alternative to a prosecution for such contravention. The amount of the fixed payment shall be €75 and the said fixed payment must be paid within 21 days of the date of service of such Fixed Payment Notice for such person to avoid a prosecution;
- (d) Notice of the Fixed Payment (as described in subsection c) shall be in the general form of the notice set out in the Schedule of these Bye-Laws;
- (e) Any person served with a Fixed Payment Notice is entitled to defend a prosecution of the alleged contravention in court;

- (f) 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;
- (g) Where an authorised person is of the opinion that a person is committing or has committed an offence to which this section 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;
- (h) 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;
- (i) A person who is convicted of an offence under section 204(3) of the said 2001 Act shall be liable on summary conviction to a fine not exceeding €1,904.60.

**SCHEDULE
DUN LAOGHAIRE-RATHDOWN COUNTY COUNCIL
CONTROL OF ON-STREET CAR CLUB BYE-LAWS 2018**

FIXED PAYMENT NOTICE FOR THE PURPOSES OF SECTION 206 OF THE LOCAL GOVERNMENT ACT 2001

Name of Local Authority **Dún Laoghaire Rathdown County Council**

To: Name: _____

Address: _____

It is alleged that you have contravened the provisions of bye-laws made under Part 19 of the Local Government Act, 2001 entitled **Dún Laoghaire Rathdown County Council Control of On-Street Car club Bye-Laws 2018**

by
(in general terms specify nature of contravention) at

.....

on During this period of 21 days beginning on the date of this notice you may pay the sum of €75, accompanied by 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 €75 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 – Dún Laoghaire Rathdown County Council

A receipt will be given.

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

