



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

COMHAIRLE CONTAE DHÚN LAOGHAIRE - RÁTH AN DÚIN
DÚN LAOGHAIRE RATHDOWN COUNTY COUNCIL

DRAFT

**CONTROL OF STATIONLESS ON-STREET
BIKE HIRE BYE-LAWS, 2018**

**DUN LAOGHAIRE-RATHDOWN COUNTY COUNCIL
CONTROL OF STATIONLESS ON-STREET BIKE HIRE 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 them by the provisions of Part 19 of the Local Government Act, 2001 and all other enabling statutory powers hereby make the following Bye-Laws for the regulation of the operation of Stationless On-Street Bike Hire in respect of the administrative area of Dún Laoghaire-Rathdown County Council.

Part I

Preliminary

Citation	1	These Bye-Laws may be cited as the Dún Laoghaire-Rathdown County Council Control of Stationless On-Street Bike Hire 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>“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 who is authorized in writing by the Council for the purposes of Section 204 of the Local Government Act 2001 or a member of An Garda Síochána.</p> <p>“Bike” means: a pedal bike which is intended or adapted for propulsion solely by the physical exertion of a single person seated thereon. This shall include pedal assisted bikes.</p> <p>“Bike Permit” means a permit in respect of a Bike issued by the Council to the Operator for the purposes of the Bye Laws.</p>

“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.

“Licence” means a licence issued by the Council to an Operator to provide the service within the Council area and bearing a specific identification number.

“Operator” means the operator of the Service within the Council area. The Operator shall be responsible for, but not limited to, the day-to-day running of the service including the provision of Bikes, management, electronic booking system, indemnity, insurance and marketing.

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

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

“Service” means the provision, within the administrative area of the Council in accordance with the requirements of these Bye Laws, of a bike for stationless on-street hire.

“Stationless On-Street Bike” means a bike provided for the use of Stationless On-Street Bike Hire Members.

“Stationless On-Street Bike Hire Company” means an organisation having, standing or plying a Stationless On-Street Bike for hire and use of same in a public place or on a public road.

“User” means someone who has completed all the necessary procedures and is currently authorised by the Operator to access and use a Stationless On-Street Bike.

Part II.

Applying for an Operator Licence

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Stationless On-Street Bike Hire Operator’s Licence

- a. An Operator shall apply to the Council for a Licence to operate a Stationless On-Street Bike Hire service prior to commencing operation.
- b. A Licence shall be valid for an initial period of twelve (12) months and shall subject to satisfactory compliance with these Bye-Laws and licensing conditions and be renewable thereafter every twenty four (24) months.
- c. Subject to the Council being satisfied that the Operator has complied with the provisions of these Bye-Laws, such Operator shall have an option for a period of two (2) months from the date of expiration of the licence to renew it.
- d. A Licence shall be granted only where –
 - i. The applicant for it has paid the Council the licence fee of €100 per annum. This fee shall be reviewed from time to time by the Executive of the Council.
 - ii. The Council is satisfied that the Applicant will comply with the provisions of these Bye-Laws and other licensing requirements.
 - iii. The applicant shall submit a Tax Clearance Access number and Tax Reference number to facilitate online annual verification of tax status.

- iv. The applicant provides evidence of Public Liability Insurance (minimum indemnity limit of €6.5 million) and Employer's Liability Insurance (minimum indemnity limit of €13.0 million) covering the operation of Stationless On-Street Bike Hire service, expressly indemnifying the Council.
- e. An Operator shall not operate or permit to be operated a service without holding a current licence in respect of it.
- f. The Council shall, by Executive Order, specify the number of bikes to be operated under the licence and the Operator shall provide the Council with Bike Identification Numbers and such other details as the Council deems appropriate for the issuing of a licence.
- g. The Council may, by Executive Order, define an upper limit on the number of bikes to be operated under any one licence.
- h. An Operator shall pay for a bike permit for each bike for hire.
- i. An Operator shall not operate or permit to be operated a service except in accordance with the terms of the licence applicable to it and the provisions of these Bye-Laws.
- j. The Operator shall ensure in its provision of the service that wherever possible it uses working methods, equipment, materials and consumables which minimise environmental damage.
- k. The Operator shall lease or own all bikes. The model(s) used will be a choice for the Operator, however the Operator shall ensure the bikes are in compliance with the Road Traffic Acts, are roadworthy and meet any other relevant criteria as defined by the Council.

- l. The Operator shall ensure that bikes are serviced and maintained in accordance with best practice and recommended standards, are legal and roadworthy, and comply with all applicable statutory requirements.
- m. The Operator shall ensure that bikes are kept to a reasonable standard of cleanliness at all times.
- n. The Operator shall agree proposed livery (including advertising) on all bikes with the Council with a minimum of two weeks' notice in writing and the Council must agree to any changes in writing. No advertising for alcohol products will be permitted on Bikes.
- o. Repair and washing of bikes must not be carried out on-street other than basic repairs and cleaning.
- p. In providing the service the Operator shall ensure that it is complying with all applicable legislation and with Good Industry Practice.
- q. 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 Stationless On-Street Bike Hire Services or if notified by An Garda Síochana.
- r. The 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.

- s. 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 Stationless On-Street Bike Hire Service.
- t. The Council shall in no circumstances be liable to the Operator for any indirect or consequential loss, loss of goodwill or loss of income arising from the provision and operation of Stationless On-Street Bike Hire Service.
- u. 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.
- v. Where the Council decides to refuse to grant a Licence or revoke an existing Licence the affected Operator may appeal that decision to the Director of the Municipal Services Department. No further appeal will be accepted.
- w. 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.

Stationless On-Street Bike Hire Vehicle Permit

Applying for a Stationless On-Street Bike Hire permit

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- a. An Operator shall apply to the Council for a Bike Permit for each bike. A Permit shall be valid for a period of twelve (12) months from the date of issue.
- b. The setting of the fee for the issue and renewal of a Bike Permit shall be an Executive Function. The Council reserves the right to review the permit fee after an initial two (2) year period.
- c. An Operator shall not stand or cause or permit a Bike to be stood for hire/parked on a public road/footpath unless it holds a valid Bike permit in respect of that Bike.
- d. Where the Council are satisfied that a valid permit has been lost, destroyed or stolen, the Council or its agents shall issue a replacement to the Operator on payment of a fee as determined by the Council and such replacement permit shall be substituted for the original permit and the original permit shall be cancelled.
- e. The Council reserves the right to revoke the permit of an Operator whose bike display an invalid permit

Part IV

Stationless On-Street Bike Hire Requirements

Miscellaneous

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- a. The Council may limit the overall number of Stationless On-Street Bike in the County for hire. This figure may be adjusted at the absolute discretion of the Council. The setting of the overall number shall be an Executive function.
- b. The Council may, by Executive Order, set an upper limit on the number of Bikes operated by any single Operator.

- c. Bikes shall be subject to the relevant Road Traffic Acts and Bikes shall be parked on-street in accordance with Licence conditions and shall be parked vertically at a Cycle Stand. Bikes that are parked in such a manner as creates a danger to pedestrians or other road users shall be deemed to be in breach of licensing conditions and shall be subject to immediate removal under Section 71 of the Roads Act 1993. The Operator will be responsible for all removal and storage charges.
- d. Users of the service shall be responsible for compliance with all Road Traffic Acts.
- e. Operators shall be responsible for compliance with all Road Traffic Acts when the Bike is not being rented.
- f. Bikes shall be of an approved standard and subject at all times to inspection by an Authorised Person / agent of the Council.
- g. An Authorised Person / agent of the Council may request any Operator or User who appears to be contravening or to have contravened a provision of the Bye-Laws to refrain from that activity.
- h. An Operator or User who has contravened a provision of these Bye-Laws, or who obstructs or impedes or refuses to comply with a request of an authorised person / agent of the Council acting in the exercise of the functions conferred on an authorised person / agent of the Council by these Bye-Laws is guilty of an offence and may be issued with a Fixed payment notice in the amount of €75.
- i. The Council may cancel a Licence where it establishes that the Operator no longer meets the requirements for a licence to be issued in accordance with these Bye-Laws, or where it establishes that the Operator has obtained the licence by the submission of falsified documentation or where the Operator is seriously or persistently in breach of these Bye-Laws.

- j. The Council may cancel a Bike 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 Operator has obtained the permit by the submission of falsified documentation or where the Operator is seriously or persistently in breach of these Bye-Laws.
- k. The Council may, as a condition of granting a licence, prescribe streets/areas where Stationless On-Street Hire Bikes should or should not be deployed, where they cannot park and also may limit the number of Stationless On-Street Bike Hire Bikes parked in any specific street/area.

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.

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

To: **Name:** _____

Address: _____

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Present when the Seal of

**Dún Laoghaire-Rathdown County Council
was affixed hereto:**

This day of 2018

**Cathaoirleach na Chomhairle Contae
Dhún Laoghaire-Ráth an Dúin**

Approved Officer

**County Council Official
County Hall, Dún Laoghaire**