



## **Draft County of Clare (Presentation, Storage and Segregation for the Purpose of and in the Course of the Collection of Household and Commercial Waste) Bye-Laws, 2012**

### **Explanatory Notes for Public Consultation**

#### **Introduction**

Clare County Council, in exercise of the powers conferred on it by Section 35 of the Waste Management Act, 1996, as amended, and in accordance with Part 19 of the Local Government Act, 2001, is proposing to make bye-laws for the County of Clare relating to the presentation, storage and segregation for the purpose of and in the course of the collection of household and commercial waste and certain ancillary, consequential and related waste management matters. It should be noted that provision is being made in the proposed bye-laws for the imposition of fixed penalty notices in accordance with section 206 of the Local Government Act, 2001.

The draft bye-laws concerning the presentation, storage, segregation and collection of household and commercial waste in Co. Clare were approved by the elected members of Clare County Council on 10<sup>th</sup> September 2012. Clare County Council wishes to invite members of the public and interested parties to review the draft bye-laws and submit their views for consideration by Clare County Council.

The draft bye-laws will be available for public inspection for a period of one month commencing on Friday, 21<sup>st</sup> September 2012 until Monday, 22<sup>nd</sup> October 2012 during normal working hours at the following locations:

- Clare County Council, Áras Contae an Chláir, New Road, Ennis
- Ennis Town Council, Waterpark House, Drumbiggle, Ennis
- Kilrush Town Council, Kilrush Civic Offices, Market Square, Kilrush
- Shannon Civic Offices, Town Hall, Shannon
- Ennistymon Area Office, Ennis Road, Ennistymon
- Scarriff Area Office, Mountshannon Road, Scarriff
- South East Clare Area Office, Westbury Centre, Knockballynameath

The draft bye-laws will also be available to view and download from the Clare County Council website at [www.clarecoco.ie](http://www.clarecoco.ie) during the public inspection period. A hard copy of the draft bye-laws may be obtained by any person, without charge, on request from Clare County Council.

All those who wish to make submissions, in relation to the draft bye-laws, for consideration by Clare County Council, may do so, in writing, by 5.00 pm on Tuesday, 30<sup>th</sup> October 2012. Such submissions may be made by post and should be addressed to the Staff Officer, Environment Section, Transportation, Water Services and Environment Directorate, Clare County Council, Áras Contae an Chláir, New Road, Ennis, Co. Clare or via electronic mail to email address [wastebyelaws@clarecoco.ie](mailto:wastebyelaws@clarecoco.ie).

## **Background**

Clare County Council proposes to update the current bye-laws regulating the presentation and collection of waste within the county, which have been in place since 2007 and are known formally as the '*County of Clare (Presentation and Collection of Household Waste and Commercial Waste) Bye-Laws, 2007*'. The purpose of the current bye-laws is to regulate the manner in which households and commercial premises store and present their waste for collection by authorised waste collectors. Significant work has been carried out by staff of Clare County Council and Town Councils within the county to implement and enforce the 2007 bye-laws, which has included, for example, the completion of over 500 inspections in 2010 and 400 inspections in 2011. In the main, there has been a high level of compliance by households and commercial premises with the existing bye-laws.

However, there remain fundamental issues with regard to proper management of waste, particularly with regard to certain households who do not appear to be able to account for how they dispose of their waste. There is a legitimate concern that unaccounted for waste may be contributing to illegal waste activity such as fly-tipping and backyard burning.

By way of background, the population in Co. Clare, according to Census 2011, is 116,885 with 43,934 occupied households. According to waste records for 2010 submitted to the EPA almost 53% of households in Co. Clare availed of a regular kerbside household waste collection service. The relatively low take-up by households of a regular waste collection service is not something that is particular to Co. Clare, as the equivalent figure in 2010 for Limerick County Council was 48% and for Kerry County Council it was 52%, while the national average of the number of households that availed of a regular waste collection service was 71%.

The 53% of households availing of a regular waste collection service in Co. Clare might appear to be a stark statistic but needs to be put in context before any conclusions can be drawn. National statistics on waste for 2010 clearly show that local authorities with a large urban base tend to have a greater proportion of households availing of a regular waste collection service than local authorities with a large rural base, as is the case in Co. Clare, where certain households may not be in close proximity to a regularly serviced waste collection route. A study carried out by the Regional Waste Management Office in Limerick shows that about 14% of households actually share a bin service. In addition, in 2010, almost 8,400 tonnes of household waste was deposited at Clare County Council's 5 No. civic amenity sites and 53 No. bring banks. This 8,400 tonnes is equivalent to the waste arising from over 9,000 households (equating to 20% of households in Co. Clare) in a single year. This means that there may be approximately 20 to 25% of households in Co. Clare whose waste cannot be accounted for. There is no legal requirement under current national waste legislation that compels households to avail of a regular waste collection service. However, such a proposal has been put forward in the recent Government waste policy document entitled '*A Resource Opportunity*' published by the Department of Environment, Community and Local Government in July 2012. The policy makes reference in section 4.3.2 of the document to proposed policy actions and measures so that '*all householders will be obliged to*

*demonstrate that they are availing of an authorised waste collection service or are otherwise managing their waste in an environmentally acceptable manner...'* It is envisaged that the Government will put in place regulations to bring the proposed policy measures into effect and that the regulations will have penalties and fines for non-compliance. It is not clear at this stage when the proposed measures will be put in place.

It is in this context that Clare County Council is proposing new and updated bye-laws that would, among other things, require households within 200 metres of a collection route serviced regularly by an authorised waste collector to avail of a waste collection service. It is believed that the introduction of the 'compulsion' clause for household waste collection would greatly assist Clare County Council, and Ennis and Kilrush Town Councils who have certain functions under litter pollution legislation, in ensuring that household waste is properly managed and that disposal and recycling of the waste is carried out in an authorised manner.

Households not availing of a regular waste collection service from an authorised waste collector will be required to prove that they arrange to dispose of or recycle their own waste in an authorised manner and will be required to provide proof in the form of receipts when requested to do so by authorised Council staff. Legitimate methods of recycling and disposing of household waste include the use of civic amenity sites and the sharing of waste collection services between neighbours, family members, etc.

The bye-laws will be known as the '*County of Clare (Presentation, Storage and Segregation for the Purpose of and in the Course of the Collection of Household and Commercial Waste) Bye-Laws, 2012*', and would apply to all of Co. Clare including functional area of Clare County Council and the Town Council areas of Ennis, Kilrush, Kilkee and Shannon. Similar bye-laws were introduced by Limerick County Council at the beginning of 2012 and have been in place for a number of years in Leitrim County Council's functional area and by all accounts appear to have been relatively successful.

## **Summary of the Draft Bye Laws**

A local authority is empowered to make bye-laws for the purpose of the proper management of waste or the prevention or control of environmental pollution under section 35 of the Waste Management Act, 1996, as amended. The process generally of by which a local authority can make bye-laws is set out under Part 19 of the Local Government Act, 2001. The draft bye-laws are structured in three parts, consisting of 10 sections, and 2 schedules. The following represents an outline of the contents of the bye-laws and reference should be made to the text of draft of the bye-laws for specific details.

### Part I (Sections 1 to 3)

- Provides information on the commencement of the bye-laws and repeal of existing bye-laws.
- Terms used in the bye-laws are defined and explained. Please note in particular the definition of a 'collection route' in 2.1(f) and 'dwelling' in 2.1(l).
- The area of application of the bye-laws is defined as being the geographical area consisting of County Clare, including the functional areas of Clare County Council and the Town Councils of Ennis, Kilrush, Kilkee and Shannon.

### Part II (Sections 4 to 9)

- Provides details on general obligations relating to waste management for household and commercial waste.
- Arguably, the most significant aspect of the bye-laws is the requirement for a householder to avail of a regular waste collection service where the household is within 200 metres of a collection route serviced by an authorised waste collector.
- Households may share waste collection services with another householder who is availing of a regular waste collection service by an authorised waste collector.
- Households not availing of a regular waste collection service from an authorised waste collector will be required to prove that they arrange to dispose of or recycle themselves in an authorised manner and will be required to produce provide proof in the form of receipts when requested to do so by authorised Council staff.
- Measures relating to proper storage and preparation of waste for collection, with emphasis on source separation of residual, dry recyclable and organic waste.

- The deposition of waste glass from commercial sources will not be permitted at bring banks or civic amenity sites.
- Requirements to present waste in wheeled bins in prescribed places at designated times.
- Offence to interfere or add to waste which is stored or presented by another person.

#### Part III (Section 10)

- Sets out the arrangements for enforcement of the bye-laws.
- Fixed penalty notice or on-the-spot fine of €75 can be issued for contravening the bye-laws. It should be noted that €75 is the maximum fine amount permissible under the Local Government Act, 2001 (Bye-Laws) Regulations, S.I. 362 of 2006.
- Prosecution for contravention of the bye-laws can be taken at the district court with the maximum fine set at €1,905 for those found guilty.

#### Schedule 1

- Provides specific details on how households are required to separate their waste at source.

#### Schedule 2

- Includes the template to be used in connection with the issue of fixed penalty notices or on-the-spot fines for contravention of the bye-laws.

### **Process Involved in Making Bye-Laws**

There are a number of stages of development for bye-laws under sections 199 to 202 of Part 19 of the Local Government Act, 2001.

Once the period for receipt of submissions on the draft bye-laws from the public or interested parties has passed, any submissions received by Clare County Council will be considered and the bye-laws, with any necessary revisions, will again go before the elected members of Clare County Council for their approval. Bye-laws once finally approved or 'made' by the Council can only come into force once a period of thirty days has elapsed from the day on which the bye-laws are made.