

**THE MORAY COUNCIL
BYELAWS PROHIBITING CONSUMPTION OF ALCOHOL IN
DESIGNATED PLACES (LOSSIEMOUTH) 2009**

The Moray Council constituted under the Local Government (Scotland) Act 1994 (hereinafter referred to as "the Council") in exercise of the powers conferred upon it by sections 201, 202 and 203 of the Local Government (Scotland) Act 1973, and of all the other powers enabling it in that behalf, hereby makes the following Byelaws:-

Interpretations and Citation

1. (1) In these byelaws, unless the context otherwise requires –

"alcoholic liquor", "licensed canteen", "licensed premises" and "registered club" have the same meanings as in the Licensing (Scotland) Act 1976;

"designated place" means any place to which the public have access within the areas specified in Schedule 1 to this byelaw and shown by a red line on the plan annexed and signed as relative hereto.
- (2) These byelaws may be cited as "The Moray Council Byelaws Prohibiting Consumption of Alcohol in Designated Places (Lossiemouth) 2009".

Application

2. These byelaws shall not apply –
 - (1) On 31 December, from 6pm until the end of that day; and
 - (2) On 1 January, until 6am.

Offence

3. (1) Any person who consumes alcoholic liquor in a designated place or is found to be in possession of an open container containing alcoholic liquor in a designated place in circumstances whereby it is reasonable to infer that that person intended to drink from it whilst in a designated place shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) It shall not be an offence against these byelaws to do anything in any designated place which is a licensed canteen, licensed premises or a registered club, or to do anything which is specifically authorised by any of the provisions of the Licensing (Scotland) Act 1976 as amended.

(3) It shall not be an offence against these byelaws to do anything in any designated place in respect of which there is in operation:

- (a) an occasional licence in terms of section 33(1) or (2) of the Licensing (Scotland) Act 1976; or
- (b) an occasional permission in terms of section 34(1) of that Act,

during any period when alcoholic liquor may be sold there by virtue of that licence or, as the case may be, permission and for 15 minutes after the expiry of such period.

Presumptions

- 4. (1) These byelaws apply for the purposes of any trial for an offence against these byelaws.
- (2) Any liquid found in a container shall, subject to the provisions of these byelaws, be presumed to conform to the description of the liquid on the container.
- (3) A container which is found to contain –
 - (a) no liquid; or
 - (b) insufficient liquid to permit analysis

shall, subject to the provisions of these byelaws, be presumed to have contained at the time of the alleged offence liquid which conformed to the description of the liquid on the container.

- (4) A person shall not be entitled to lead evidence for the purpose of rebutting a presumption mentioned in paragraphs (2) or (3) of these byelaws unless, not less than 7 days before the date of the trial, notice has been given to the prosecutor of the intention to do so.

Public Notice of Effect

- 5. (1) The Council shall erect one or more signs at or reasonably adjacent to each designated place for the purpose of giving notice of the effect of these byelaws.
- (2) It shall be no defence in proceedings against a person for an offence under these byelaws that the Council failed to comply with paragraph 5(1) of these byelaws.

Dated this 25th Day of May 2009


Chief Legal Officer
The Moray Council

SCHEDULE 1

List of Designated Places – Lossiemouth

1. All of the public area within the area outlined in red on the map annexed to and forming part of this byelaw ("the Map") more specifically comprising:

- (1) From the southeast corner of the football ground at the point marked "1" on the Map ("Point 1"), all of the public area running in a south-easterly direction from the disused railway line between the dunes and the northern edge of the woods; crossing the Spynie Canal then following the track through the caravan park to the edge of the River Lossie; crossing the said river and continuing in a north-easterly direction across the sand then across the dunes onto the beach, up to the sea edge, at the high-tide mark; then along the said sea edge to the area known as the Old Harbour, to the point marked "2" on the Map ("Point 2").
- (2) From Point 2, all of the public area running from the Quay in the Old Harbour to the Old Pier, along the outside edge of Marina Quay, across the mouth of the harbour, then in a westerly direction along the outside edge of the harbour wall and at the harbour's end, along the sea edge, at the high-tide mark, to the club house adjacent to the Stotfield Hithe car park, at the point marked "3" on the Map ("Point 3").
- (3) From Point 3, all of the public area running from the start of the Stotfield Hithe car park, along the outside edge of the dunes, at the high tide mark, to the start of the footpath running in a southerly direction through the golf course; thereafter along the said footpath in the said southerly direction to the junction where the B9040 and the B9135 meet at the point marked "4" on the Map ("Point 4").
- (4) From Point 4, all of the public area running from the said B9040/B9135 junction southwards along the B9135 to the roundabout where Coularbank Road joins from the left; then left at the said roundabout and along Coularbank Road for approximately 25 metres, before following a line in an easterly direction around the south side of the property "Caol Ila"; thereafter in a south-easterly direction along the line of a drain to the south of the cul-de-sacs West End Drive, Halliman Way, Fastnet Place, Fisher Place and Malin Place to the southern edge of Sunbank Park at the point marked "5" on the Map ("Point 5").
- (5) From Point 5, all of the public area running along the southern edge of Sunbank Park, to the A941, then northwards along the A941 before returning eastwards along a line bordering the southern side of the houses to the south of the cul-de-sac, Inchbroom Court, to the B9103; thereafter running in a south-easterly direction along the B9103 to the disused railway line crossing the B9103 in a north-south direction; then running northwards along the said disused railway line, back to Point 1.



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In exercise of the powers conferred upon them by sections 201 and 202 of the Local Government (Scotland) Act 1973, the Scottish Ministers hereby confirm the foregoing byelaws.

The Scottish Ministers hereby fix 3 August 2009 as the date on which the byelaws shall come into operation.

Bridget Campbell

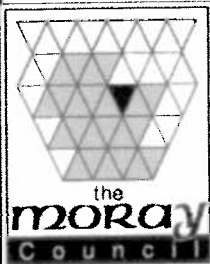
Bridget Campbell
A member of the staff of
the Scottish Ministers

The Scottish Government
Criminal Justice Directorate
St Andrew's House
28 July 2009



Drawing title

Lossiemouth



Scale	1:12,500	Date	February 2009
Drawn By	JG		
Drawing Number	SIMC\1103		

Central Services Division
Estates

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