

Draft

(Comhairle Chontae Dhun na nGall)

Donegal County Council

BYE LAWS MADE UNDER

CONTROL OF HORSES ACT, 1996

The County Council of the County of Donegal, in exercising of the powers conferred on it by Sections 13, 39 and 40 of the Control of Horses Act, 1996, hereby makes the following Bye Laws in respect of the administrative county of Donegal including the urban districts of Letterkenny, Bunrana and Bundoran.

PART I

PRELIMINARY

1. These Bye Laws may be cited as Donegal County Council (Control of Horses) Bye Laws, 2010.
2. These Bye Laws shall come into operation on the day of 2011.

DEFINITIONS

3. In these Bye Laws, except where expressly stated to the contrary, the following words have the meanings hereby respectively assigned to them, that is to say:-

“ the Act”	means the Control of Horses Act, 1996.
“the Council”	means Donegal County Council.
“Authorised Person”	means a person appointed as an authorised person by the Council under Section 3 of the Act.
“Horse”	includes a horse, donkey, mule and hinny.
“Keeper”	means any person having possession or control of a horse whether he/she be the owner of the horse or not.

“Public Place”	means any street, road, seashore, park, land, field or other place to which the public have access, whether by right or permission, whether with or without vehicles and whether subject to or free of charge and includes a market, fair or access to any lands owned or under the control of Donegal County Council.
“Superintendent”	means the Superintendent of the Garda Síochána for the area in which a horse is seized or detained under the provisions of the Act.
“Regulations”	means regulations made by the appropriate Minister in accordance with his/her powers under the Act.
“Pound”	means a pound provided under the Pounds (Provision and Maintenance) Act, 1935 or a private pound (within the meaning of section 5 of the Animals Act, 1985).
“Dispose of”	means to sell or to give away or have destroyed and cognate words shall be construed accordingly.

PART II

HORSE DETAINED UNDER SECTION 37

4. Where a horse is seized and detained within the Administrative Area of Donegal County Council, pursuant to Section 37 of the Act, the following provisions shall apply:
- (a) Notice of the seizure and detention of the horse in the Form 1 set out in Part III Schedule C hereof shall be served on the owner or keeper of the horse, where known, as soon as possible.
 - (b) Where the owner or keeper of the horse is not known, notice in the Form 2 set out in Part III Schedule C hereof shall be displayed in the office of the Garda Síochána for the area in which the horse was seized and in the pound or place where the horse is detained, as soon as possible.
 - (c) Appropriate services of a Veterinary Surgeon, where required, may be provided.
 - (d) The Council or a Superintendent may recover from the owner or keeper of the horse all pound fees payable in respect of the horse, together with all or any other expenses, including fees for keep, care and sustenance, veterinary fees, collection and transportation fees incurred by the Council or the Superintendent in accordance with Part III Schedule A of these Bye Laws.
 - (e) The horse may be released to the owner or keeper of the horse, on proof being tendered of his/her ownership or right to keep the horse and on payment of all outstanding fees and expenses in respect of the horse provided that detention of the horse is not required by the Council or a Superintendent in accordance with Section 39(1)(a), (b) or (c) of the Act, and provided that the Council or the Superintendent is satisfied that adequate accommodation and sustenance and, if necessary, adequate veterinary attention, will be provided for the horse and is satisfied that the horse will not be cruelly treated.
 - (f) If the owner or keeper of the horse shall fail to make himself/herself known to the Council or cannot be found within a period of five days from the date of seizure and detention the Council or the Superintendent may dispose of the horse in accordance with these Bye Laws and the Act.

- (g) If the owner or keeper of the horse is known and can be readily found but on request by the Council, the Superintendent or the person in charge of the pound or place where the horse is kept, within five days or such longer period as may be specified in the request of demand being made, fails to pay fees due hereunder or fails to remove the horse, the Council or the Superintendent may dispose of the horse in accordance with these Bye Laws and the Act.
- (h) Where the Council or the Superintendent decides to dispose of the horse they may do so by way of sale or destruction. Sale may be by way of public auction or at a market or in any other manner considered appropriate by the Council or the Superintendent.
- (i)
 - (i) Where it is proposed to sell a horse under this Bye Law, the Council or the Superintendent shall cause a notice describing the animal and stating where it was seized, where it is being held and the time and place of the proposed sale, to be displayed at the Garda Station for the area in which the horse was seized and at the place where it is to be sold.
 - (ii) If the proposed sale is otherwise than by way of auction or at a market, the time and place of sale may be omitted from the said notice.
 - (iii) The said notice shall continue to be exhibited until the horse has been sold or the Council or the Superintendent declares the sale abortive.
 - (iv) Where the horse has been sold under this Bye Law, the Council or the Superintendent shall retain out of the proceeds of sale an amount equivalent to all costs, fees and expenses of any kind incurred by the Council or the Superintendent in accordance with Part III Schedule B and C of these Bye Laws and any balance shall be remitted to the owner or keeper of the horse, if known, or if unknown, shall be retained by the Council.

DISPOSAL OF HORSE UNDER SECTION 40

- 5. Where a horse is detained under Section 37 of the Act and has been so detained on two or more occasions within the previous twelve months and where the Council or the Superintendent is of the opinion that:

- (a) The keeper of the horse is not exercising adequate control over the horse, so as to prevent it straying, causing a nuisance, or posing a danger to persons or property, or
- (b) Such horse is likely to be in a public place whilst not under adequate control.

The Council or the Superintendent may decide to dispose of the horse. On the disposal of the horse under this Bye Law, the owner or keeper of the horse shall pay to the Council all or any expenses including fees for keep, veterinary fees, transportation fees, fees of sale and pound fees in accordance with Part III Schedules B and C of these Bye Laws.

AUTHORISED PERSON

- 6. (a) Where an authorised person or a member of the Garda Siochana suspects that a person is in breach of these Bye Laws and directs the person to desist from so offending, the person shall obey the direction of the authorised person of the Garda Siochana.
- (b) An authorised person or a member of the Garda Siochana may seize and detain any horse where he/she has reason to suspect that the horse is being kept, or ridden or driven contrary to these Bye Laws.

OFFENCES

- 7. Any person who contravenes any of the Bye Laws shall be guilty of an offence.

PENALTY

- 8. Every person who shall offend against any of the foregoing Bye Laws shall be liable for every such offence on summary conviction to a fine not exceeding €1,500 or to imprisonment not exceeding six months or both.

OPERATIVE DATE

- 9. These Bye Laws will come into operation on (xxxxx February 2011).

(Comhairle Chontae Dhun na nGall)
Donegal County Council

Control of Horses Act, 1996 and Donegal County Council Bye Laws
made thereunder

NOTICE OF SEIZURE AND DETENTION OF A HORSE(S)

Name Date

Address

.....

.....

Dear Sir/Madam

Notice is hereby given that a horse(s) understood to be in your ownership was/were seized by the Council on (insert date) at (location) The horse(s) may be reclaimed at on production of suitable identification, proof of ownership and payment of the appropriate fees.

If you fail to pay all fees due and fail to remove the horse(s) from the above location within 5 days of the date of this notice, the Council will dispose of the horse(s) in accordance with these Bye Laws and the Control of Horses Act, 1996.

Donegal County Council retains the right to detain the horse(s) pending any prosecutions which it may take.

Yours faithfully

County Secretary

(Comhairle Chontae Dhun na nGall)
Donegal County Council

Control of Horses Act, 1996 and Donegal County Council Bye Laws
made thereunder

NOTICE OF SEIZURE AND DETENTION OF A HORSE(S)

Notice is hereby given that a horse(s) (*description*)
..... was/were seized on
(*insert date*) from (*location*)
..... and is/are being held at
(*location*)

The Council is not aware of who the owner(s) of the horse(s) may be.

The owner(s) of the horse(s) may collect the horse(s) on production of suitable identification, proof of ownership and the payment of all appropriate fees.

Please take notice that if the owner does not collect the horse(s) within 5 days from the date of this notice, pay all fees due in respect of the detention of the horse(s), the Council will dispose of the horse(s) in accordance with these Bye Laws and the Control of Horses Act, 1996. Donegal County Council reserves the right to retain the horse(s) pending any prosecutions it might take.

Signed this day of

County Secretary

PART III

SCHEDULE A

Description		Amount of Fee
(i)	Collection and transportation of horse(s) by vehicle from a place where it was found, to the place of detention.	Actual costs or €200 per horse, whichever is the greater.
(ii)	Care and sustenance during the period of detention.	Actual costs or €30 per horse per day, whichever is the greater.
(iii)	Veterinary attention, where provided.	Actual costs or €50 per visit per horse, whichever is the greater.

SCHEDULE B

Sale Fees

Auctioneers' fees or €100 per horse where the horse is sold directly by the Council.

MADE AND ADOPTED UNDER THE COMMON SEAL OF THE COUNTY
COUNCIL OF THE COUNTY OF DONEGAL THIS DAY OF
2011.

Cathaoirleach

**Director of Water and Environment
Services**