

REPORT ON THE ASSESSMENT OF THE SUBMISSIONS RECEIVED, RECOMMENDATIONS AND OTHER AMENDMENTS PROPOSED

Galway City Council Draft Control of Horses Bye Laws - Draft – 8th March 2021.

Assessment of Submissions and Proposed Amendments

Submission A – Marie Bartley

| Submission A | Recommendation | Reason | Existing wording and Proposed Amended Wording (green text) |
|---|--|--|---|
| Articles 4-10: Agreed by commenting YES and AGREE in the submission. No comments made | That this submission is not required to be included in the bye-laws. | No specific comments on the wording submitted. | No Change |
| Articles 11 to 18: Answered N/A to. No comments made | That this submission is not required to be included in the bye-laws. | No specific comments on the wording submitted. | No Change |

Submission B - Clodagh Stapleton

| Submission B | Recommendation | Reason | Existing wording and Proposed Amended Wording (green text) |
|---|--|--|---|
| Articles 4 to 18: Answered No throughout submission. No comments made. | That this submission is not required to be included in the Bye-Laws. | No specific comments on the wording submitted. | No Change |

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Submission C - Patrick Mulrooney

| Submission C | Recommendation | Reason | Existing wording and Proposed Amended Wording (green text) |
|--|--|--|---|
| Articles 4 to 18: Answered N/A No comments made | That this submission is not required to be included in the Bye-Laws. | No specific comments on the wording submitted. | No Change |

Submission D - Doreen Gurney

| Submission D | Recommendation | Reason | Existing wording and Proposed Amended Wording (green text) |
|--|--|--|---|
| Articles 4 to 18: Answered N/A in all submissions. No comments made | That this submission is not required to be included in the Bye-Laws. | No specific comments on the wording submitted. | No Change |

Submission E - Michelle Roche

| Submission E | Recommendation | Reason | Existing wording and Proposed Amended Wording (green text) |
|--|--|--|---|
| Articles 4 to 18: Answered No in all submissions. No comments made. | That this submission is not required to be included in the Bye-Laws. | No specific comments on the wording submitted. | No Change |

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Submission F - Neasa Bheilbigh

| Submission F | Recommendation | Reason | Existing wording and Proposed Amended Wording (green text) |
|--|---|---|---|
| <p>Articles 4 to 6: Answered No in the submission</p> <p>Article 7 to 9. Answered Yes in the submission.</p> <p>No comments made</p> <p>Article 7: Commented partially agree on - control of horses in a public place.</p> <p>Article 9: Commented: “If horses are to be kept in or excluded f” unfinished.</p> <p>Article 10: Answered No.</p> <p>Article 11-18- Answered N/A</p> | <p>That this submission is not required to be included in the Bye-Laws.</p> | <p>No specific comments on the wording submitted.</p> | <p>No Change</p> |

Submission G - Ciara Shanahan GTM

| Submission G | Recommendation | Reason | Existing wording and Proposed Amended Wording (green text) |
|--|---|---|---|
| <p>Article 4: Answered Yes</p> <p>Article 5-10: Answered No</p> <p>Article 11-18: Answered N/A</p> <p>No comments made</p> | <p>That this submission is not required to be included in the Bye-Laws.</p> | <p>No specific comments on the wording submitted.</p> | <p>No Change</p> |

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Submission H - Yolanda Mollahan

| Submission H | Recommendation | Reason | Existing wording and Proposed Amended Wording (green text) |
|--|--|---|---|
| Article 4: Yes Partially Agree Comment: <i>By confining these Bye Laws to Galway City the problem will spread more in County Galway</i> | That this submission is not required to be included in the Bye-Laws. | GCC can only adopt Bye Laws within its functional area. Galway County Council are also proposing the introduction of similar Bye Laws | No Change |
| Article 5 and 6: No | That this submission is not required to be included in the Bye-Laws. | | No Change |
| Article 7: Yes Partially Agree Comment : <i>There needs to be a complete ban on sulkies</i> | That this submission is not required to be included in the Bye-Laws. | It is considered that the Bye Laws are sufficiently robust as it refers to sulkies | No Change |
| Article 8: Yes Partially Agree Comment : <i>Tethering should be included</i> | That this submission is not required to be included in the Bye-Laws. | It is considered that the Bye Laws are sufficiently robust at Article 8 | No Change |
| Article 9: Yes Partially Agree Comment: <i>Any person living in a council house r housing estate should never be allowed to keep a horse at that</i> | That this submission is not required to be included in the Bye-Laws. | It is considered that the Bye Laws are | No Change |

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|--|--|--|---|
| dwelling x)should include regular worming, yearly vaccinations & farrier care. | included in the Bye-Laws. | sufficiently robust at Article 9 | |
| Article 10: No Article 11: Yes Partially Agree Comment :All fairs such as Ballinasloe should be banned as they are a hive for animal cruelty | That this submission is not required to be included in the Bye-Laws. | Not relevant in the context of City functional area | No Change |
| Article 12: Yes Partially Agree Comment: Surely it should read 'No person' shall participate in racing of any kind on public roads not just under the age of 16. | Amendment proposed to wording | This matter is also addressed in the following section 12(b) which refers to all persons. However, it is agreed to remove reference to persons under the age of 16 at s. 12(a) | Amend Section 12 (a) to read 'No person, either directly or indirectly, shall participate in or engage in a race of a horse drawn vehicle on a public road within the City of Galway' |
| Article 13: No | That this submission is not required to be included in the Bye-Laws. | | No Change |
| Article 14: Yes Partially Agree Comment: The practice of disposing of horses by destruction is disgraceful unless advised by a vet & last resort. Not only is it the horse being punished due to | That this submission is not required to be included in the Bye-Laws. | Rehoming will be a priority in the first instance and destruction a last option. | No Change |

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|---|---|---|---|
| <p>human irresponsibility it is not solving the problem as these people will just go & buy another horse for as little as €20 & repeat the cruelty. The charge to the taxpayer of €300 per horse that is destroyed is also unacceptable.</p> | | | |
| <p>Article 15 and 16: No</p> | <p>That this submission is not required to be included in the Bye-Laws.</p> | | <p>No Change</p> |
| <p>Article 17: Yes Partially Agree Comment: Enforcement is the best way & the lack of this by department of agriculture, council & guards is not helping the problem. All guarda cars should carry microchip scanners so any offenders with horses can be charged at the scene if no microchip found as this is an offence. We have dog wardens, why not full time trained horse wardens?</p> | <p>That this submission is not required to be included in the Bye-Laws.</p> | <p>It is considered that the Bye Laws are sufficiently robust at Article 17. The matters noted in the submission are operational.</p> | <p>No Change</p> |
| <p>Article 18: Yes Partially Agree Comment: The Control of Horses Act 1996 already cover these offences so the emphasis has to be on enforcement. Owning any animal is a responsibility not a right. Good luck I love horses & hope for a day when they are respected by all.</p> | <p>That this submission is not required to be included in the Bye-Laws.</p> | <p>Comment only.</p> | <p>No Change</p> |

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Submission I – Galway Traveller Movement

| Submission I | Recommendation | Reason | Existing wording and Proposed Amended Wording (green text) |
|---|--|---|---|
| <p>Bye law 5 provides that no person shall keep or have charge or control of a horse in the control area without a current horse license.</p> <p>Observation: the process for obtaining a license is unclear (there appears to be no relevant information on Galway City Council's website).</p> <p>Recommendations: We request that further information would be made publically available in advance of the issuing of the bye laws explaining how horse licenses can be obtained. The public need to be made aware of how to obtain a license, the cost of a license and detail of the specific requirements in terms of land ownership. For example can a horse owner simply rent land as is widely the practice?</p> <p>Galway Traveller Movement would recommend that these horse by laws are not introduced until there is a functioning licensing system which is accessible and makes clear and transparent decisions with a right of appeal mechanism in place should a licence be refused. This is a necessary action as otherwise horse owners without a horse licence or the knowledge of how to acquire one will immediately be in default of the bye-laws but without any way to bring themselves into compliance.</p> | <p>No amendments proposed to No. 5 Licence</p> | <p>The process for obtaining a licence will be explained and provided to GTM and others to distribute in advance of commencement date of the Bye Laws (propose 'commencement date' is agreed 3 months after agreement and adoption by GCC)</p> <p>Requirements also exist under Section 20(1) (a) Control of Horses Act 1996 (No. 37 of 1996.)</p> <p>The licence / appeals process will be publicised and circulated in advance of commencement, and a grace period will be allowed so</p> | <p>No Change</p> <p>Propose that 3 month commencement date be agreed following adoption</p> |

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| Submission I | Recommendation | Reason | Existing wording and Proposed Amended Wording (green text) |
|--|--|--|--|
| <p>We would ask that once the bye laws are introduced that there would be an adequate "grace period" to allow owners to bring themselves in line with the bye- laws. GCC as the landlords of all social housing schemes and Traveller specific schemes should play a role in ensuring that all of their tenants are made aware of these proposed changes and given adequate notice and information to bring themselves into line with the bye laws.</p> | | <p>that horse owners can ensure compliance</p> | |
| <p>Bye-Law 13 relates to seizure and detention of horses.</p> <p>Observation: There are some very onerous requirements in this bye-law and GTM recommend the following:</p> <p>Recommendations:</p> <p>The five day period, which includes weekends and bank holidays, is very short and should be extended. If for example a horse was to be seized on the Friday of a bank holiday weekend this would leave 1 other working day within which to resolve the matter. This period needs to be extended to allow for due process and fair execution of the bye laws.</p> <p>Bye-Law 13(iv) states that all relevant fees are recoverable from the owner or keeper of a seized horse. The bye law does not specify any amounts making this clause impermissibly vague. In order for it to be</p> | <p>Accept submission and propose amendment</p> | <p>The 5 day period referenced in the draft Bye-Laws is 5 working days not inc. Saturday or Sunday. Where the 5th day is a day the Council Offices are closed, the period will expire on the next day the office is open.</p> <p>GCC are awaiting SC Advice on the matter of fees. However it is advised that the</p> | <p>Amendment proposed to include the word 'working days' at S.13 (i)</p> <p>To be dealt with by way of a Schedule to be attached to the adopted Bye laws setting out applicable fees</p> |

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| Submission I | Recommendation | Reason | Existing wording and Proposed Amended Wording (green text) |
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| <p>enforceable amounts must be specified under each heading (see McDonagh v Galway County Council [2019] IEHC 304 as authority for the requirement to enumerate/specify amounts)</p> <p>Bye-Law 13(iv)(vii) provides that a horse may only be released on payment of the relevant fees. The point has already been made that in order for the fees to be sufficiently certain as to be enforceable, amounts be set out in the Bye-Laws. Accordingly, this Bye-Law and any other Bye-Law predicated on the charging of fees, is at risk of being found to be unenforceable unless the deficiency in Bye- Law 13(iv) is addressed.</p> <p>In s.39(3) of the Control of Horses Act 1996 it allows amounts due and owing to a local authority to be recovered as simple contract debts. Thus, there is no necessity to retain a seized horse for the non-payment of fees.</p> <p>Bye-Law 13(vii) provides that a horse may be disposed of in circumstances where the owner of the horse fails within five days of being notified to provide eight items of proof (listed at 13(vii) (ix) - (xvi)). GTM wishes to highlight that this aspect of the Bye-Laws is clearly disproportionate for a number of reasons. These reasons will be outlined in the following bullet points.</p> | | <p>means of calculating fees should be included in the Bye Laws, a standard cost could be included to avoid dispute.</p> <p>Section 6(1) of the 1996 Act does specify the penalties and perhaps the Bye-Laws should also make reference to the penalties on conviction for an offence for the avoidance of any doubt and in circumstances where the current draft Bye Laws does not seem to specify any penalty.</p> | <p>To be dealt with by way of a Schedule to be attached to the adopted Bye laws setting out applicable fees</p> <p>No Change</p> |

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| Submission I | Recommendation | Reason | Existing wording and Proposed Amended Wording (green text) |
|---|-----------------------|--|--|
| <ul style="list-style-type: none"> • A horse may constitute an individual's property and, as such, is recognised by the Constitution as being subject to special protections. Interferences with property and property rights must therefore be in accordance with law and consistent with principles of natural and constitutional justice. • Taking that into account, the following are clear deficiencies with the Bye-Law. First, there is no apparent internal appeal mechanism or way for an individual to make representations. • Secondly, some of the items of proof may take more than five days to assemble for completely legitimate reasons. • Thirdly, the Council states it may dispose of a horse for non-payment of fees. The earlier points about the enforceability of the fees Bye-Laws applies equally here. | | <p>Sections 37, 39 and 40 of the Control of Horses Act, 1996, which sets out the statutory steps and criteria for the said seizure and detention supports the position in the draft Bye Laws. It is considered appropriate that it is necessary to retain a seized horse for the non-payment of fees.</p> <p>Noted. An appeals mechanism will be incorporated into the Bye-laws to enable a horse owner to appeal seizure of a horse or in relation to matters outlined in section 13.</p> <p>Noted. Fee schedule to be included</p> | <p style="color: green;">Include an amendment to permit an appeals mechanism in relation to Section 13 – seizure and detention</p> <p style="color: green;">Fee schedule to be included</p> |

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Submission J – Galway SPCA

| Submission J | Amendment - delete wording in red – new wording/amendment in green | Reason | Revisions/Amendments |
|--|---|--|-----------------------------|
| <p>Point 9: Keeping of Horses in a Control Area</p> <p>(xv) the premises or land shall be registered with the Department And Point 6 - (i) and (ii) Exemptions: Farmer and affiliated Hunt Club member.</p> <p><i>We would advise that neither be exempt from (A) obtaining a horse licence and both should (B) be subject to the proposed Control of Horses Bye Laws in the Control Area. We see this as contradictory on the basis that ALL Horses need to be registered with the Department of Agriculture Food and the Marine as well as have valid horse passport but also that they as public citizens should be subject to the Bye laws within the control area.</i></p> | <p>License refers to license issued by the Council.</p> <p>Any premises or land where a horse is kept is also required to register with the Dept Agriculture. In most instances both classes will have registered with the Dept and the requirement for an additional license with the Council is not considered necessary.</p> | <p>The Department of Agriculture, Food and the Marine has published information on horse registration and passports, including a series of FAQs. For further information on horse registration and passports, contact the relevant approved passport issuing body or the Department’s Animal Identification and Movement Division at: horseid@agriculture.gov.ie</p> | <p>No Change</p> |
| <p>Point 9: Keeping of a Horse in a Control Area- ‘where a horse is kept under a horse license granted by the Council at a premises within the control area the following shall apply’</p> | <p>That this submission is not required to be included in the bye-laws</p> | <p>It is necessary for the some subjectivity in the Bye-Laws which cannot be overly</p> | <p>No Change</p> |

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| Submission J | Amendment - delete wording in red – new wording/amendment in green | Reason | Revisions/Amendments |
|---|--|---|-----------------------------|
| <p>In several subsections under this heading the terms “adequate” and “suitable” have been applied. We are concerned that these terms are subjective and the responsibility of the Authorised person to interpret.</p> | | <p>prescriptive in terms of definitions.</p> | |
| <p>Point 14: Disposal of a detained Horse. ‘where the Council or Supt decides to dispose of a horse...’</p> <p>The GSPCA recommends putting a holding facility in place for detained horses within the control area, they would like to see the prioritisation of re-homing, and to tender a contract to Irish Welfare Charities in this regard.</p> | <p>That this submission is not required to be included in the bye-laws</p> | <p>A holding facility is available to GCC, but not within the control area.</p> <p>This requirement is not practical. This requirement could impose additional unnecessary costs.</p> <p>Rehoming will be a priority in the first instance and destruction a last option.</p> | <p>No Change</p> |