

## Edinburgh's Civic Code – Byelaws

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### The City of Edinburgh Council

29 June 2006

#### 1 Purpose of report

- 1.1 This report summarises the recent positive discussions between Council officials and the Scottish Executive Justice Department held following instructions from Council on 4 May, and recommends approval and promotion of an amended byelaw prohibiting the consumption of alcohol in designated public places.

#### 2 Summary

- 2.1 On 4 May 2006 the Council considered an amended byelaw prohibiting the consumption of alcohol in designated public places.
- 2.2 Council reaffirmed its commitment to the need for byelaws and continued consideration of the matter in order to seek a meeting with the Justice Minister.
- 2.3 A meeting took place between Council officials, the Police and Scottish Executive Justice Department officials on 7 June.
- 2.4 Agreement was reached between the parties on a way forward for the promotion of a drinking byelaw and on a strategy for demonstrating the need for a begging byelaw.

#### 3 Main report

- 3.1 Council considered a report on 4 May 2006 which summarised the discussions between officials and Scottish Executive Justice Department officials, and also recommended approval and promotion of an amended byelaw prohibiting the consumption of alcohol in designated public places.
- 3.2 That report reflected the then current approach adopted by the Justice Department to the effect that the drinking byelaws should conform to a model used by authorities throughout Scotland. The Justice Department had asked that the words "and fails to desist on being required to do so by Police Constable" be removed from the description of the proposed offence in the Edinburgh byelaws.

- 3.3 Unanimous support was expressed by Council reaffirming its commitment to the need for the drinking byelaws. Council noted that the proposed wording of the byelaw on the consumption of alcohol in public places was arrived at after extensive local consultation and had the full support of Lothian and Borders Police and the Procurator Fiscal. It was considered that the proposed wording struck the right balance and was appropriate to the character and circumstances of the City. Council further believed that the revised wording proposed by the Justice Department would result in a less effective byelaw than that originally envisaged and as described in Edinburgh's Civic Code.
- 3.4 The Chief Executive wrote to the Chief Constable, the Procurator Fiscal of Lothian and Borders, the Lord Advocate, Scottish Ministers and all MSPs in Edinburgh to advise them of the Council's position. A meeting was requested with the Justice Minister in order to discuss the matter further.
- 3.5 A very positive meeting was held on 7 June between Council officials, Lothian and Borders Police and Justice Department officials. The special case for Edinburgh was accepted and it was emphasised that there would be a need for clarity to the person in the street on the effect of the proposed drinking byelaw. In addition, a protocol would require to be agreed between the Council, Police and the Procurator Fiscal to ensure clarity and consistency of approach in enforcing the byelaw.
- 3.6 There are ongoing discussions with the Justice Department on the terms of further amended drinking byelaws attached at Appendix 1. Council is now requested to approve the draft byelaws as the first step in the statutory process towards promotion.
- 3.7 The meeting on 7 June also considered the proposed begging byelaw. It was agreed that further discussions required to be undertaken with the Procurator Fiscal's office in relation to the current approach to begging. It was agreed by all parties that the promotion of a begging byelaw was not simply a criminal justice issue and that there were consequences for social exclusion. The Justice Department officials indicated their willingness to help the Council in making a case to Ministers in support of a begging byelaw. Further work is required on this matter before the Council makes a submission to the Justice Department.


#### **4 Financial Implications**

- 4.1 Future financial implications associated with the implementation of the Civic Code and byelaws are unknown. There will be advertising costs associated with the publication of draft byelaws.

#### **5 Recommendations**

- 5.1 It is recommended that the Council approves the draft drinking byelaws attached at Appendix 1 and instructs the Council Solicitor to pursue the statutory process for confirmation.

5.2 Council is asked to note the current position regarding begging byelaws and that a further report will be presented in due course.

  
JIM INCH  
Director of Corporate Services  
20/6/06

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<b>Appendices</b>	Appendix 1: Byelaws Prohibiting Consumption of Alcohol in Designated Public Places.
<b>Contact/tel</b>	Colin MacKenzie – Legal Services Division Tel: 0131-529-4369 e-mail: <a href="mailto:colin.mackenzie@edinburgh.gov.uk">colin.mackenzie@edinburgh.gov.uk</a>
<b>Wards affected</b>	All
<b>Background Papers</b>	Reports to Council – 15 December 2005: Edinburgh’s Draft Civic Code – Consultation Results. Report to Council – 4 May 2006; Edinburgh’s Civic Code – Byelaws.

## **APPENDIX 1**

### **THE CITY OF EDINBURGH COUNCIL BYELAWS PROHIBITING CONSUMPTION OF ALCOHOL IN DESIGNATED PUBLIC PLACES**

The City of Edinburgh Council (“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 other powers enabling it in that behalf, hereby makes the following byelaws:-

#### **1. Interpretation and Citation**

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

“Alcoholic liquor”, “licensed canteen”, “licensed premises” and “registered club” have the same meaning 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 these byelaws and shown outlined in red on the plan annexed and signed as relative hereto;

- (2) These byelaws may be cited as “the City of Edinburgh Council Prohibition of Consumption of Alcohol in Designated Public Places Byelaws 2006.”

#### **2. Offence**

- (1) Subject to paragraphs (2) and (3) of this byelaw, any person who consumes alcoholic liquor in a designated place and fails to desist on being required to do so by a Police Constable, 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.

- (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.

### 3. Presumptions

- (1) This byelaw applies 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 this byelaw, be presumed to conform to the description of the liquid on the container.
- (3) A container which is found to contain –
  - (c) no liquid; or
  - (d) insufficient liquid to permit analysis

shall, subject to the provisions of this byelaw, 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) above unless, not less than twenty-one days before the date of the trial, he has given notice to the prosecutor of his intention to do so.

### 4. Public Notice of Effect

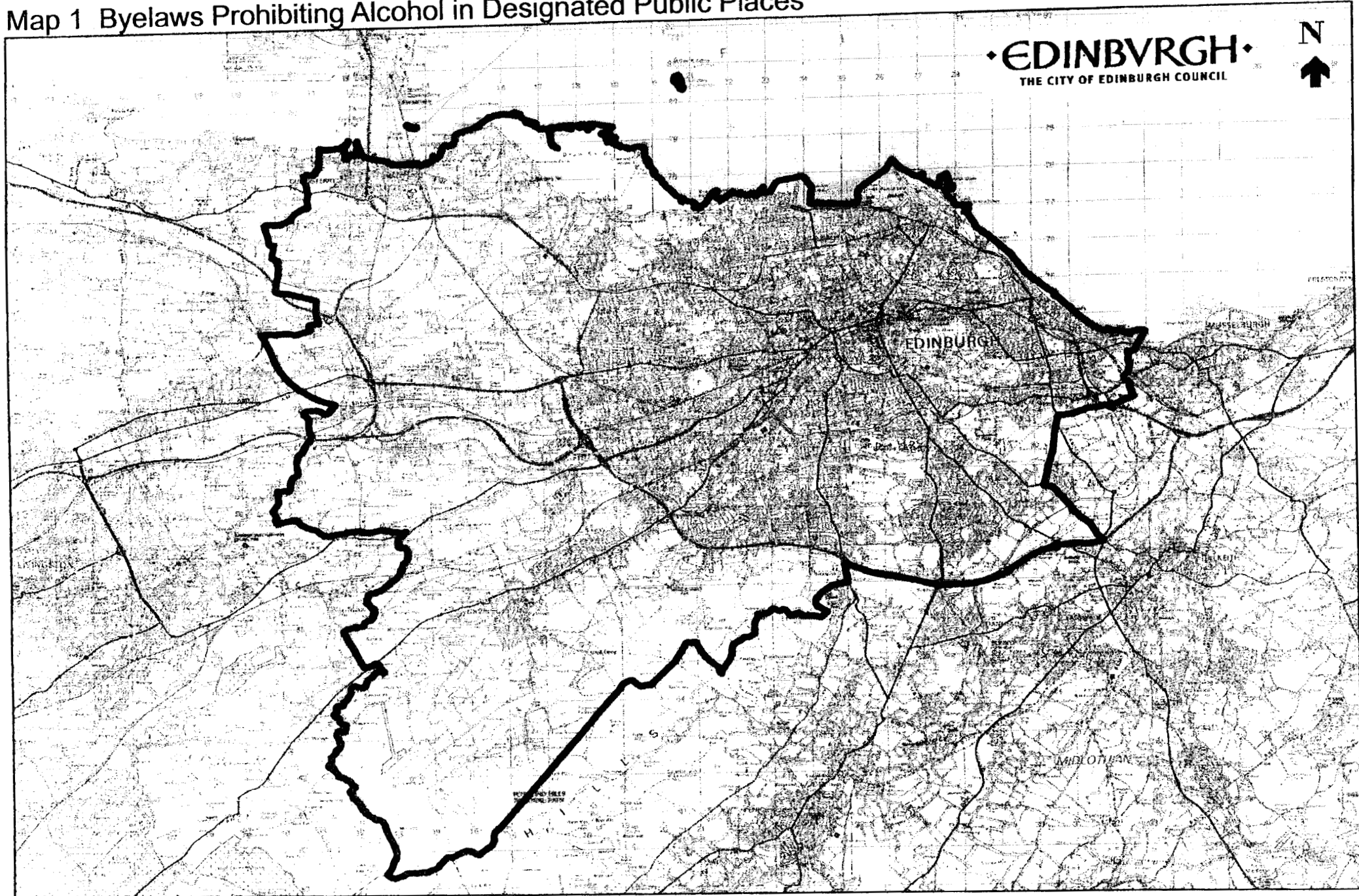
- (1) The Council shall erect one or more signs at or reasonably adjacent to each designated place for the purpose of giving notice of the effect of these byelaws.
- (2) It shall be no defence in proceedings against a person for an offence under these byelaws that the Council failed to comply with paragraph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

## **SCHEDULE 1**

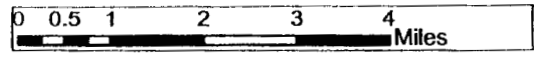
### **DESIGNATED PLACE – THE CITY OF EDINBURGH COUNCIL**

All of the public areas within the City of Edinburgh bounded by the designated boundary of the City of Edinburgh Council as defined in the Local Government Etc (Scotland) Act 1994, all as shown outlined in red on the map annexed to and forming part of these byelaws.

# Map 1 Byelaws Prohibiting Alcohol in Designated Public Places



• EDINBURGH •  
THE CITY OF EDINBURGH COUNCIL



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