

**NORTHERN MIDLANDS COUNCIL
ON STREET DINING BY-LAW
BY-LAW NO. 2 OF 2009**

A BY-LAW made under section 145 of the *Local Government Act 1993* for the purpose of regulating and licensing dining on a highway in the Northern Midlands area.

**PART 1
PRELIMINARY**

Short Title

1. This By-law may be cited as the On Street Dining By-law no. 2 of 2009.

Application

2. This By-law applies to the whole of the Northern Midlands municipal area.

Interpretation

3. In this By-law, unless the contrary intention appears:-

"authorised officer"	means an employee or contractor authorised by the General Manager for the purposes of this By-law;
"Council"	means the Northern Midlands Council;
"furniture"	means chairs, tables and umbrellas and display stands;
"highway"	means a local highway within the meaning of the <i>Local Government (Highways) Act 1982</i> ;
"general manager"	Means the General Manager appointed by Council to that position.
"authorised officer"	means the authorised officer appointed by the Council to that position;
"licence"	means a licence issued by the Council in accordance with this By-law;
"street dining"	means the consumption of food and or beverages by seated customers in an area on a highway external to a take-away food shop, hotel or restaurant licensed to serve food;

**PART 2
LICENCE**

Licence

4. (1) A person may apply to the Council for a licence authorizing street dining to take place on the highway.
(2) An authorised officer may, on behalf of Council, grant a licence to a person authorizing street dining on a highway, on such terms and conditions as he or she thinks fit.

Licence Responsibilities & Obligations

5. (1) The licensee must maintain the area where the licence applies and the area adjacent to it in a clean and sanitary manner;
(2) The licensee must not cause or permit the area where the licence applies and the area adjacent to be contaminated or insanitary;

Street dining without a licence

6. (1) A person must not cause or permit any furniture or other items to be placed or left on a highway for a purpose of encouraging or permitting street dining except in accordance with the conditions of a current licence.

**PART 3
INFRINGEMENT NOTICES**

7 Infringement Notices

- (1) An authorised officer may:
- (a) issue an infringement notice to a person that the authorised officer has reason to believe is guilty of a specified offence;
 - (b) issue one infringement notice in respect of more than one specified offence;
 - (c) impose a monetary penalty for the specified offence in respect of which the infringement notice is issued.
- (2) Infringement notices may be issued in respect of the offences specified in Column 1 of the Schedule to this By-law and the penalty specified in Column 3 opposite the offence is the penalty payable under an infringement notice issued in respect of that offence.
- (3) In order to avoid the infringement notice being referred to the Director Monetary Penalties Enforcement Service for enforcement action the person issued with an infringement notice must comply with section 17 of the Monetary Penalties Enforcement Act 2005
- (4) An infringement notice alleging that a vehicle has been used in relation to a specified offence may be served by affixing it to that vehicle.
- (5) The Monetary Penalties Enforcement Act 2005 applies to an infringement notice issued under this By-law.

8 Infringement Notice Offences

All monies payable to the council or general manager under this By-law are a debt due to the Council and recoverable at law.

Column 1 CLAUSE	Column 2 OFFENCE	Column 3 PENALTY (Penalty Units)
GENERAL DESCRIPTION OF OFFENCE		
5	Provision of street dining without a licence	2
5	On-going daily offence to provide street dining without a licence	1
5	Provision of street dining in an area that is not kept clean and hygienic	1
5	On-going daily offence for the provision of street dining in an area that is not kept clean and hygienic	1

In witness whereof the Common Seal of the Northern Midlands Council was hereunto affixed this 26 day of January 2010, pursuant to a resolution of Council passed on the 25 day of January 2010 in the presence of us:

(CS)

.....
KIM POLLEY, Mayor

.....
ADAM WILSON, Acting General Manager

This By-law is certified as being in accordance with the law.

.....
SHAUN McELWAIN, Legal Practitioner

Certified as being made in accordance with the *Local Government Act 1993*

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ADAM WILSON, Acting General Manager

Confirmed by me this day of 2010

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HON JIM COX MHA
Minister for Local Government