

**The Orkney Islands Council Prohibition of Alcohol Byelaws in Designated
Public Places Byelaws (Kirkwall) 2021**

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 **10 January 2021** as the date on which the byelaws shall come into operation.



A member of the staff of
the Scottish Ministers

The Scottish Government
Justice Directorate
St Andrew's House
13 December 2021

The Orkney Islands Council Prohibition of Consumption of Alcohol in Designated Public Places Byelaws (Kirkwall) 2021

Orkney Islands Council ("the Council") in exercise of the powers conferred upon it by sections 201, 202 and 203 of the Local Government (Scotland) Act 1973, section 46 of the Orkney County Council Act 1974 and of all the other powers enabling it in that behalf, hereby makes the following byelaws:

Interpretation and Citation

1.1. In these byelaws, unless the context otherwise requires:

"alcohol", has the same meaning as in section 2 of the Licensing (Scotland) Act 2005;

"licensed premises" has the same meaning as in section 147(1) of the Licensing (Scotland) Act 2005 but does not include premises in respect of which there is a provisional premises license (within the meaning of section 45(5) of that Act);

"occasional license" has the same meaning as in section 56(1) of the Licensing (Scotland) Act 2005;

"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 plans annexed and signed as relative hereto;

1.2. These byelaws may be cited as "The Orkney Islands Council Prohibition of Consumption of Alcohol in Designated Public Places Byelaws (Kirkwall) 2021".

Offence

2.1. Subject to paragraph 2.2. and 2.3. below, 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.

2.2. It shall not be an offence against these byelaws to do anything in any designated place which comes within the meaning of licensed premises.

2.3. It shall not be an offence against these byelaws to do anything in any designated place in respect of which an occasional licence is in operation during any period when alcohol may be sold there by virtue of that licence and for 15 minutes after the expiry of such a period.

Presumptions

3.1. This byelaw applies for the purposes of any trial for an offence against these byelaws.

3.2. 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.

3.3. A container which is found to contain:

3.3.1. no liquid; or

3.3.2. 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.

3.4. 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 7 days before the date of the trial, they have given notice to the prosecutor of their intention to do so.

Public Notice of Effect

4.1. 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.

4.2. It shall be no defence in proceedings against a person for an offence under these byelaws that the Council failed to comply with paragraph 4.1. of this byelaw.



Gavin Rattray Mitchell.

Head of Legal Services.

Council Offices, Kirkwall, Orkney, KW15 1NY.

17 November 2021.



This is the Schedule to the Orkney Islands Council Prohibition of Consumption of Alcohol in Public Places Byelaws (Kirkwall) 2021

The area in and around Kirkwall together with Hatston Pier and the surrounding area, all as shown outlined in red on the attached plan.



Gavin Rattray Mitchell.

Head of Legal Services.

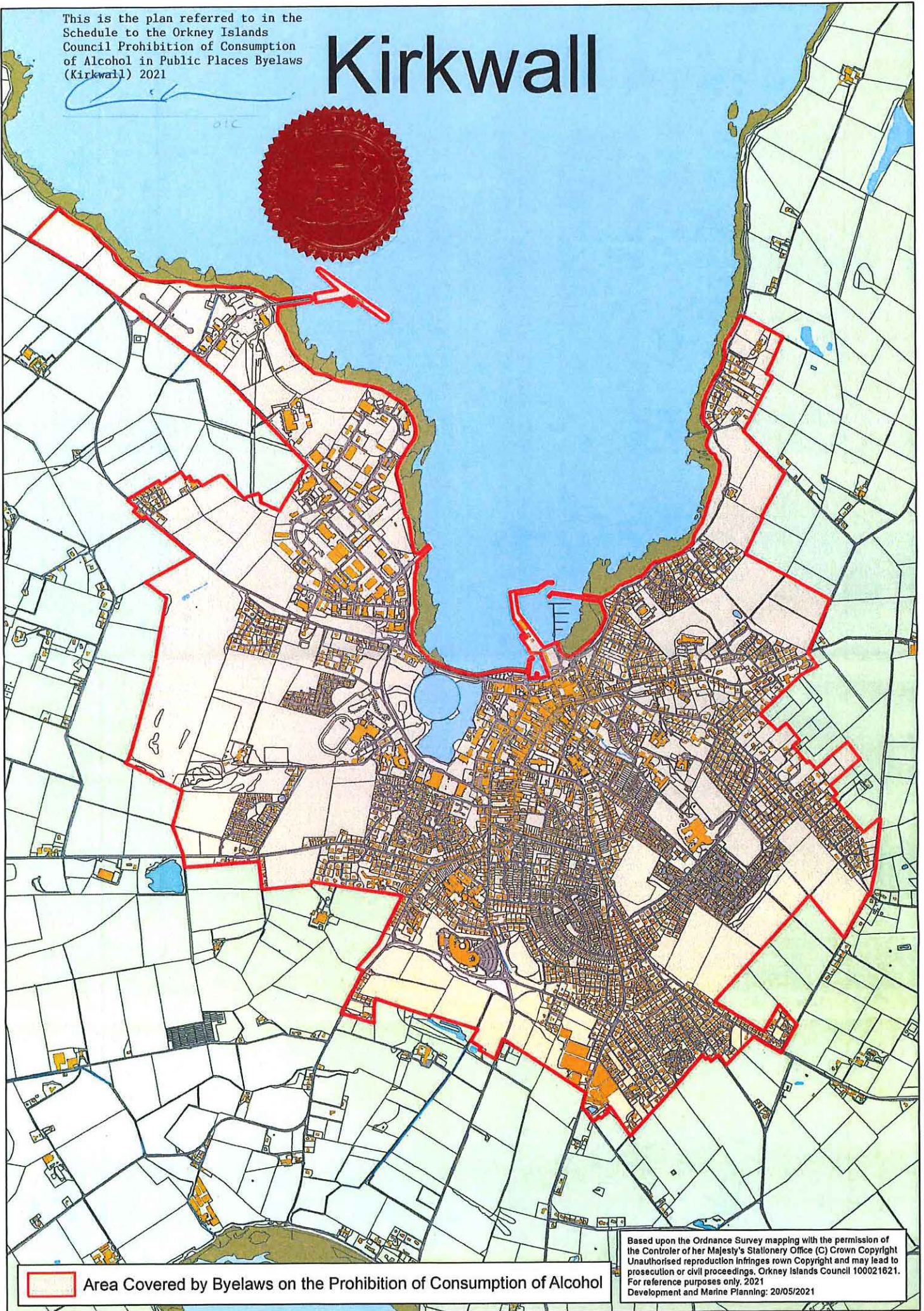
Council Offices, Kirkwall, Orkney, KW15 1NY.


17 November 2021.



This is the plan referred to in the Schedule to the Orkney Islands Council Prohibition of Consumption of Alcohol in Public Places Byelaws (Kirkwall) 2021

Kirkwall



 Area Covered by Byelaws on the Prohibition of Consumption of Alcohol

Based upon the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office (C) Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Orkney Islands Council 100021621. For reference purposes only. 2021. Development and Marine Planning: 20/05/2021