

DRAFT – FOREST HEATH DISTRICT COUNCIL

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

SECTION 59

PUBLIC SPACES PROTECTION ORDER

This order is made by Forest Heath District Council (the 'Council') and shall be known as the Public Spaces Protection Order (Dogs) 2016

PRELIMINARY

1. The Council, in making this Order is satisfied on reasonable grounds that:

The activities identified below have been carried out in public places within the Council's area and have had a detrimental effect on the quality of life of those in the locality,

and that:

the effect, or likely effect of the activities:

is, or is likely to be of a persistent or continuing nature,
is, or is likely to be, such as to make the activities unreasonable, and
justifies the restrictions imposed by the notice.

2. The Council is satisfied that the prohibitions imposed by this Order are reasonable to impose in order to prevent the detrimental effect of these activities from continuing, occurring or recurring, or to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.
3. The Council has had particular regard to the rights and freedoms set out in Article 10 (right of freedom of expression) and Article 11 (right of freedom of assembly) of the European Convention on Human Rights and has concluded that the restrictions on such rights and freedoms imposed by this Order are lawful, necessary and proportionate.

4. For the purpose of this order –

- (i) A person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;
- (ii) Placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be sufficient removal from the land;
- (iii) Being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces
- (iv) "an authorised officer of the Council" means an employee, partnership agency or contractor of the Council who is authorised in writing by Forest Heath District Council for the purposes of giving directions under the Order.
- (v) Each of the following is a "prescribed charity" –

Dogs for the Disabled (registered charity number 700454)
Support Dogs Limited (registered charity number 1088281)
Canine Partners for Independence (registered charity number 803680)

THE ACTIVITIES

5. The Activities prohibited by the Order are:

- (i) failing to remove dog faeces from land to which the public or any section of the public has access (on payment or otherwise, as a right or by virtue of express or implied consent)
- (ii) taking a dog(s) onto, or permitting a dog(s) to enter or remain on any play area, multi-use games area, green gym or wheel park as detailed in Schedule 1
- (iii) taking a dog(s) onto, or permitting a dog(s) to enter or remain on any fenced sports area between 1st August and 31st May (the football season) as detailed in Schedule 1

THE PROHIBITION

6. The activities are prohibited within the areas listed in Schedule 1 and illustrated on the attached plans in Schedule 2.

THE EXCEPTION

7. The Prohibition does not apply to a person who –
 - (i) Is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
 - (ii) Is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which is relied on for assistance ; or
 - (iii) Has a disability which affects mobility, manual dexterity, physical coordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which he relies for assistance.

PERIOD FOR WHICH THIS ORDER HAS EFFECT

8. This Order will come into force at midnight on xxxxxx and will expire on xxxxxx.
9. At any point before the expiry of this three year period the Council can extend the Order by up to three years if they are satisfied on reasonable grounds that this is necessary to prevent the activities identified in the Order from occurring or recurring or to prevent an increase in the frequency or seriousness of those activities after that time.

WHAT HAPPENS IF YOU FAIL TO COMPLY WITH THIS ORDER?

Section 67 of the Anti-Social Behaviour Crime and Policing Act 2014 says that it is a criminal offence for a person without reasonable excuse-

- (a) to do anything that the person is prohibited from doing by a public spaces protection order, or
- (b) to fail to comply with a requirement to which the person is subject under a public spaces protection order

A person guilty of an offence under section 67 is liable on conviction in the Magistrates Court to a fine not exceeding level 3 on the standard scale

FIXED PENALTY

A constable, police community support officer or authorised officer of the Council may issue a fixed penalty notice to anyone he or she believes has committed an offence under section 67 of the Anti-Social Behaviour, Crime and Policing Act. You will have 14 days to pay the fixed penalty of £80. If you pay the fixed penalty within the 14 days you will not be prosecuted

APPEALS

Any challenge to this order must be made in the High Court by an interested person within six weeks of it being made. An interested person is someone who lives in, regularly works in, or visits the restricted area. This means that only those who are directly affected by the restrictions have the power to challenge. The right to challenge also exists where an order is varied by the Council.

Interested persons can challenge the validity of this order on two grounds: that the Council did not have the power to make the order, or to include particular prohibitions or requirements; or that one of the requirements of the legislation, for instance consultation, has not been complied with.

When an application is made the High Court can decide to suspend the operation of the order pending the Court's decision, in part or in totality. The High Court has the ability to uphold the order, quash it, or vary it.

Dated.....

The Common Seal of)
FOREST HEATH DISTRICT COUNCIL)
was affixed in the presence of)

.....
Authorised Signatory