

# WEST DEVON BOROUGH COUNCIL

## The Anti-Social Behaviour Crime and Policing Act 2014

### Public Spaces Protection Order 2020

#### Control of Dogs

This Order is made by West Devon Borough Council (“The Council”) under the Anti-Social Behaviour, Crime and Policing Act 2014 Section 59 (“the Act”) and remains in force for a period of 3 years from the date of the Order.

1. This Order relates to:

- (i) All land which is in the administrative area of the Council and which is open to the air (which includes land that is covered but open to the air on at least one side) and to which the public are entitled or permitted to have access (with or without payment), (“the restricted area”)

Except

- (ii) land that is placed at the disposal of the Forestry Commissioner under section 39(1) of the Forestry Act 1967.

2. The Council is satisfied that the two conditions below have been met, in that:

- (i) Activities carried out in the restricted area as described below, have had a detrimental effect on the quality of life of those in the locality, or it is likely that these activities will be carried on in the public places and that they will have such an effect. The said activities being dog fouling, dog(s) off leads, dogs in exclusion areas.
- (ii) The effect or the likely effect of the activities described above, 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 Order.

## BY THIS ORDER

3. The effect of this Order is to impose the following prohibitions and/or requirements at all times:

In the restricted area any person who does not comply with the following requirements commits an offence:

### A. Fouling

1. If, at any time in the restricted area, as indicated in Schedule 1A below, a person who is in charge of the dog at the time (or if a minor, the person responsible for the dog) fails to carry the means (dog bags or other container) to collect dog waste.
2. If, at any time in the restricted area, as indicated in Schedule 1A below, a dog defecates and a person who is in charge of the dog at the time (or if a minor, the person responsible for the dog) fails to remove the faeces from the land forthwith and properly dispose of it, that person shall be guilty of an offence unless:
  - (i) He/she has reasonable excuse for failing to do so: or
  - (ii) The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his/her failing to do so.

For the purposes of this article:

- a. A person registered as blind in a register compiled under section 29 of the National Assistance Act 1948 shall not be guilty of an offence if they are alone with the dog and unable to remove the faeces;
- b. A person with a disability which affects his mobility, manual dexterity, physical coordination or ability to lift and who relies for assistance on a dog trained by a prescribed charity shall not be guilty of an offence if they are alone with the dog and unable to remove the faeces. A "prescribed charity" is:
  - Dogs for the Good (Registered Charity no. 1092960)
  - Support Dogs (Registered Charity no. 1088281)
  - Canine Partners for Independence (Registered Charity no. 803680)
- c. Taking the faeces away from the land for proper disposal elsewhere or placing the faeces in a receptacle on the land, either a litter bin or dog waste bin, shall be sufficient removal from the land.
- d. Being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces.

- e. A person who habitually has a dog in his/her 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.

### **B. Dogs on Leads**

If, at any time, on any land to which this article applies and designated as a Dogs on Leads Area as detailed in Schedule 1B below, a person does not keep the dog on a lead unless:

- (i) He/she has reasonable excuse for failing to do so: or
- (ii) The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
- (iii) Failing to have a lead in his/her possession at the time shall not be a reasonable excuse for failing to do so.

For the purposes of this article a person who habitually has a dog in his/her 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.

### **C. Dogs on Leads by direction**

If, at any time in the restricted area a specified in Schedule 1C below, a person in charge of a dog (or if a minor, the person responsible for the dog) does not comply with a direction given to him/her by an authorised officer of the Authority to put and keep the dog on a lead, unless:

- (i) He/she has a reasonable excuse for doing so; or
- (ii) The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his/her failing to do so.
- (iii) Failing to have a lead in his/her possession at the time shall not be a reasonable excuse for failing to do so.

For the purposes of this article 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.

An Authorised Officer of the Council or a Police Officer may only give a direction under this Article to put and keep a dog on a lead if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog is likely to cause annoyance or disturbance to any other person (on any land to which this Article applies) or the worrying or disturbance of any animal or bird.

## D. Dog Exclusion Areas

If, at any time, on any land to which this article applies as specified in Schedule 1D below, a person in charge of a dog takes the dog onto, or permits the dog to enter or to remain, on any land to which this article applies unless:

- (i) He/she has a reasonable excuse for doing so; or
- (ii) The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his/her failing to do so.

Nothing in this article applies to a person who:

- a. Is registered a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
  - b. Relies upon an assistance dog that is with him/her and which has been trained by a registered charity to perform that role; or
  - c. Is in charge of a dog for the time being employed for purposes in relation to agriculture, hunting, pest control, the police or rescue services.
4. For the purpose of this article a person who habitually has a dog in his/her 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.
5. A person who is guilty of an offence under this Order shall be liable on summary conviction to a fine not exceeding Level 3 on the standard scale or a fixed penalty notice of £100.00

Liability to conviction for the offence may be discharged by the payment of a fixed penalty notice issued by an authorised officer or police officer. The amount of the fixed penalty notice shall be £100.00 and it shall be payable to West Devon Borough Council.

Where a fixed penalty notice is issued no proceedings will be taken for the offence before the end of the period of 14 days following the date of the notice. The person served may not be convicted of the offence if the fixed penalty notice is paid before the end of the 14 day period.

An authorised officer means an employee of the Council, or other person who is authorised in writing by the Council, or a Police Officer for the purpose of giving directions or carrying out enforcement under this Order.

# SCHEDULE 1

## A. Fouling

1. Subject to the exception in 1(ii) above relating to Forestry Commission land, this article applies to all land which is in the administrative area of the Council and which is:
  - Open to the air (which includes land that is covered but open to the air on at least one side); and
  - To which the public are entitled or permitted to have access (with or without payment).

## B. Dogs on leads

1. This article applies to all areas covered by Rule 56 of the Highway Code i.e., on the road, or on the pavement, or on a path shared with cyclists or horse riders
2. Areas with retail premises designated as zone 1 under the Environmental Protection Act 1990 i.e., where there are 2 or more commercial / shop premises
3. Car Parks
4. Cemeteries and Churchyards
5. Any fenced, hedged or walled pond, area of water or nature reserve
6. Marked sports fields whilst organised sport is in progress
7. Areas delineated as formal gardens.

## C. Dogs on leads by direction

1. Subject to the exception in 1(ii) above relating to Forestry Commission land, this article applies to all land which is in the administrative area of the Council and which is:
  - Open to the air (which includes land that is covered but open to the air on at least one side); and
  - To which the public are entitled or permitted to have access (with or without payment).

**D. Dog Exclusion Areas**

1. This article applies to all land within the Council’s administrative area comprising:
  - Any fenced, hedged or walled children’s play area
  - Any fenced, hedged or walled bowling green
  - Any fenced, hedged or walled tennis court
  - Any fenced, hedged or walled skateboard or BMX park
  - Any fenced, hedged or walled putting green
  - any sporting or recreational facility pitch when sport is in play.

**By resolution of West Devon Borough Council dated:**

The Common Seal of the West Devon Borough Council hereunto affixed this  
.....day of .....2020 in the presence of

Andy Bates  
Chief Executive and Head of Paid Service