

ALLERDALE BOROUGH COUNCIL
(PUBLIC SPACES PROTECTION) (DOG FOULING) ORDER 2020

The Allerdale Borough Council makes this order in exercise of its powers under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 and of all other enabling powers being satisfied that the conditions set out in section 59 of the Act have been met.

PREAMBLE

(A) The Council is satisfied that dog fouling has taken place which has had a detrimental effect on the quality of life of those in the locality of the district of Allerdale.

(B) The Council is satisfied that the effect of these activities is persistent in nature such as to make the activities unreasonable and to justify the restrictions set out in this Order.

(C) The Council is satisfied that it is reasonable to impose the restrictions set out in this Order so as to prevent or to reduce the detrimental effect referred to above from continuing, occurring or recurring.

(D) The Council has had particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950 as it has effect for the time being in relation to the United Kingdom.

(E) The Council has carried out the necessary consultation and the necessary publicity, and given the necessary notification, as required by section 72 of the Act, before making this Order.

(F) Any individual who lives in or regularly works in or visits the area to which this Order extends may apply to the High Court to question this Order's validity on the grounds that the Council did not have the power to make the Order or to include particular prohibitions or requirements imposed by it, or that a requirement contained in the Act was not complied with in relation to the Order. Any application must be made within a period of six weeks beginning with the date on which the Order is made.

(G) For the purposes of this Order, "the Council" means Allerdale Borough Council (and its lawful successors) and "the Act" means the Anti-Social Behaviour, Crime and Policing Act 2014.

PART I – DOG FOULING

1. If a dog defecates at any time on land to which this Order applies and a person who is in charge of the dog at that time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless –

- a. he has a reasonable excuse for doing so; or
- b. the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

2. Nothing in Article 1 applies –

a. to a person who is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948;

b. to a person who has a disability which affects his mobility, manual dexterity, physical co-ordination 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; or

c. in relation to a working dog while it is being used for work in connection with emergency search and rescue, law enforcement, the work of Her Majesty's armed forces, or herding or driving cattle.

3. For the purposes of this Part –

a. 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;

b. 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;

c. 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 for the removal of the faeces shall not be a reasonable excuse for failing to remove faeces; and

d. each of the following is a "prescribed charity" – Dogs for Good (registered charity no. 700454), Support Dogs (registered charity no. 1088281) and Canine Partners for Independence (registered charity no. 803680).

PART II – PENALTIES

4. A person who is guilty of an offence under Part I above shall on summary conviction be liable to a fine not exceeding level 3 on the standard scale.

5. A constable or an authorised person may issue a fixed penalty notice to anyone he has reason to believe has committed an offence under this Order, and where that fixed penalty is paid in accordance with the terms of the fixed penalty notice, that person shall not be liable to conviction for the offence.

6. The penalty specified in a fixed penalty notice issued under Article 5 shall be £100, such sum to be reduced by 25% if the penalty is paid within a period less than 14 days.

PART III – AUTHORISED PERSONS

7. For the purposes of this Order, an authorised person includes –

a. a police community support officer; and

b. any other person duly authorised by the Council.

PART IV – COMMENCEMENT

8. This Order shall come into operation on 20 October 2020 and shall continue in effect until 19 October 2023.

9. The Council may resolve to extend the duration of this Order by further periods of up to three years per extension.

PART V – RESTRICTED AREA

10. This Order (including, for the avoidance of doubt, all of the restrictions set out herein) applies to all public places in the District of Allerdale, shown on the appended plan.

11. For the avoidance of doubt, this Order applies to all persons, at all times, in all circumstances, in relation to the restricted area.

12. For the purposes of this Part, a “public place” means any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission (and for the avoidance of doubt, includes highways).

IN WITNESS WHEREOF the Common Seal of the
Allerdale Borough Council was hereto affixed
in the presence of an authorised signatory on this
_____ day of _____ 2020.