

# THE ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

## BROADLAND DISTRICT COUNCIL PUBLIC SPACES PROTECTION ORDER No. 1/2018

1. This Order is made by Broadland District Council ("the Council") under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 ("the Act") and this Order may be cited as the Broadland District Council Public Spaces Protection Order No. 1/2018.
2. The Council is satisfied that:
  - (a) Activities being the fouling of land by dogs and the failure to remove dog faeces in the restricted areas as described below in article 5(1) have had or are likely to have 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 restricted areas and they will have such an effect.
  - (b) The effect, or likely effect, of the activities is, or is likely to be, of a persistent or continuing nature and is, or likely to be, such as to make the activities unreasonable and justifies the restrictions imposed by this Order.
  - (c) The restricted areas in respect of article 5(1) of this Order for the avoidance of doubt include but are not limited to all public highway including footway, verge and footpath, all public parks, pleasure grounds, sports grounds, recreation grounds, playing fields, cemeteries and play areas where these are open to the public as of right or by virtue of express or implied permission.
3. Under section 67 of the Act it is a criminal offence for a person without reasonable excuse to do anything that the person is prohibited from doing by a public spaces protection order, or to fail to comply with a requirement to which the person is subject under a public spaces protection order. A person does not commit an offence under section 67 of the Act by failing to comply with a prohibition or requirement that the local authority did not have the power to include in the public spaces protection order.
4. This Order comes into force at midnight on (insert date) for a period of 3 years unless extended under section 60 of the Act.

### 5. REQUIREMENTS AND PROHIBITIONS

#### 5(1) FOULING - REQUIREMENT TO REMOVE DOG FAECES

Subject to article 7 below if within the administrative area of the Council a dog defecates at any time on land 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 the person who is in charge of the dog at the time shall remove the faeces from the land forthwith.

## **6. OFFENCE**

A person failing to comply with the requirement set out in article 5(1) of this Order shall be guilty of an offence unless:-

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

## **7. EXEMPTIONS**

Nothing in article 5(1) of this Order shall apply to a person who:-

- (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
- (b) has a disability which affects his or her mobility, manual dexterity, physical coordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a registered charity and upon which he or she relies for assistance. A registered charity means a charity registered with the Charity Commission for England and Wales

## **8. FOR THE PURPOSE OF THIS ORDER**

- 8(1) A person who habitually has a dog in his or 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.
- 8(2) 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 to satisfy the requirement of article 5(1).
- 8(3) The Council does not consider 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 is a reasonable excuse for failing to remove the faeces as required by article 5(1).

9. **PENALTY**

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.

10. **FIXED PENALTY NOTICE**

- 10.1 A constable or an authorised officer of the Council or a person authorised by the Council in that regard may issue a fixed penalty notice to anyone who he or she believes has failed without reasonable excuse to comply with the requirement as set out in article 5(1) of this order and thus has committed an offence under section 67 of the Act.
- 10.2 The level of the fixed penalty shall be £100 save that if the fixed penalty is paid within 10 days following the date of the notice the amount payable is reduced to £80.
- 10.3 A person who pays the fixed penalty within the period of 14 days following the date of the notice may not be convicted of the offence in respect of which the fixed penalty notice was issued.

Dated.....

The common seal of Broadland District Council was affixed in the presence of

Signature.....

Authorised Officer –

## **Challenging the Validity of Orders**

An interested person may apply to the High Court to question the validity of:-

- a. This Order, or
- b. A future variation of this Order.

“interested person” means an individual who lives in the restricted area or who regularly works or visits that area.

An interested person may apply to the High Court within six weeks from the date in which the Order is made, on the grounds that:

- a. The Council did not have the power to make the order or variation, or to include particular prohibitions or requirements imposed by the Order (or by the Order as varied);
- b. A requirement under Chapter 2 of the Anti-Social Behaviour, Crime and Policing Act 2014 was not complied with in relation to the Order or variation.