

## **SCARBOROUGH BOROUGH COUNCIL**

### **THE DOG CONTROL PUBLIC SPACES PROTECTION ORDER 2017**

#### **THE ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014 (PART 4 CHAPTER 2 SECTIONS 59-75)**

The Scarborough Borough Council ('the Council'), in exercise of its powers under the Anti-social Behaviour, Crime and Policing Act 2014 ('the Act') hereby makes the following Dog Control Public Spaces Protection Order ('the Order').

#### **PART 1 – GENERAL**

- 1.1 This Order comes into force on [insert date] for a period of 3 years.
- 1.2 Before the expiry of this Order the Council may extend, vary or discharge it in accordance with the provisions of the Act.
- 1.3 In making this Order the Council is satisfied on reasonable grounds that-
  - (a) the activities covered by this Order have been carried on in a public place within the Council's area and have had a detrimental effect on the quality of life of those in the locality; and
  - (b) 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.
- 1.4 The Council is also satisfied that the prohibitions and requirements set out within this Order are reasonable-
  - (a) to prevent the detrimental effect on the quality of life of those in the locality continuing, occurring or recurring; or
  - (b) to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.
- 1.5 For the purposes of this Order, a person who habitually has a dog in their 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.
- 1.6 An "authorised person" means a person authorised in writing by the Council to issue fixed penalty notices under this Order.

## **Penalty**

- 1.7 A person who is guilty of any offence under this Order shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- 1.8 A constable or authorised person may issue a fixed penalty notice to any person they have reason to believe has committed an offence under this Order.
- 1.9 A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the Council.
- 1.10 Where a person is issued with a fixed penalty notice under this Order-
- (a) no proceedings may be taken for the offence before the end of the period of 14 days following the date of the notice;
  - (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.

## **Exemption**

- 1.11 Nothing in this Order applies 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) is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which they rely for assistance; or
  - (c) has a disability which affects their 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 they rely for assistance.
- 1.12 For the purpose of this Order, each of the following is a “prescribed charity”-
- (a) Dogs for the Disabled (registered charity number 700454);
  - (b) Support Dogs (registered charity number 1088281); and
  - (c) Canine Partners for Independence (registered charity number 803680).

## **PART 2 – FOULING**

### **Preliminary**

- 2.1 This Part of the Order applies to all land which is within the administrative area of the Council and which is-
- (a) open to the air (which includes land which is covered but open to the air on at least one side); and;
  - (b) to which the public are entitled or permitted to have access (with or without payment).
- 2.2 Excepted from the description in article 2.1 is land that is placed at the disposal of the Forestry Commissioners under section 39(1) of The Forestry Act 1967.
- 2.3 For the purpose of this Part of the Order-
- (a) placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be a sufficient removal from the land;
  - (b) 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.

### **Offence**

- 2.4 If a dog defecates at any time on land to which this Part of the 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) they have 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 their failing to do so.

### **Fixed Penalty**

- 2.5 Where a person is issued with a fixed penalty notice for an offence under this Part of the Order, the amount of the fixed penalty is £100.

## **PART 3 – SEASONAL PROHIBITION**

### **Preliminary**

- 3.1 This Part of the Order applies to all of the land (which is in the administrative area of the Council) specified below-
- (a) Filey – the beach from a line drawn at 90° to the line of the coast from the southernmost point of the sea wall at Royal Parade to a line drawn at 90° to the sea wall from the northernmost side of the beach slipway which separates the Coble Landing from the Promenade.
  - (b) Scarborough North Bay – the beach from a line drawn at 90° to the Promenade from the top of the northernmost beach slipway at the Sands (former Corner Café) to a line drawn at 90° from the Promenade to the top of the northernmost beach slipway at the end of the existing run of chalets (on the bulge of land previously occupied by the chair lift).
  - (c) Scarborough South Bay – the beach from the West Pier to a line drawn at 90° to Foreshore Road from the top of the southernmost flight of steps leading to the beach at the roundabout adjacent to the underground car park.
  - (d) Whitby – the West Beach from the West Pier to a line drawn at 90° to the Promenade from the east side of the beach steps adjacent to the western end of the beach chalets.
  - (e) Sandsend – the beach from the steps below the public conveniences below Sandhills to the slipway at the southern end of Bank Bottom Car Park.

### **Offence**

- 3.2 A person in charge of a dog shall be guilty of an offence if, at any time during the period 1 May to 30 September inclusive in any year, they take the dog onto, or permit the dog to enter or to remain on, any land to which this Part applies unless-
- (a) they have 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 their doing so.

## **Fixed Penalty**

- 3.3 Where a person is issued with a fixed penalty notice for an offence under this Part of the Order, the amount of the fixed penalty is £75.

## **PART 4 – YEAR ROUND PROHIBITION**

### **Preliminary**

4.1 This Part of the Order applies to all of the land (within the administrative area of the Council) specified below-

#### 4.1.1 Scarborough-

- (a) Falconers Square
- (b) Granville Square
- (c) The Green, Burniston
- (d) Quarry Mount Park
- (e) Oliver's Mount (South Playing Fields)
- (f) Shuttleworth Gardens
- (g) Woodlands Crematorium and Cemetery

#### 4.1.2 Whitby-

- (a) Whitby (Larpool) Cemetery
- (b) White Leys Playing Fields
- (c) Pannett Park

#### 4.1.3 Filey-

- (a) The paddling pool and its enclosures on the Promenade at the foot of Crescent Hill
- (b) The Lawns Cemetery
- (c) Memorial Gardens

## **Offence**

4.2 A person in charge of a dog shall be guilty of an offence if, at any time, they take the dog onto, or permit the dog to enter or to remain on, any land to which this Part applies unless-

(a) they have 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 their doing so.

## **Fixed Penalty**

4.3 Where a person is issued with a fixed penalty notice for an offence under this Part of the Order, the amount of the fixed penalty is £75.

## **PART 5 – SEASONAL DOGS ON LEADS**

### **Preliminary**

5.1 This Part of the Order applies to all of the land (within the administrative area of the Council) specified below-

5.1.1 Whitby-

(a) Tate Hill Beach

(b) West Cliff Sports/Recreation Area

### **Offence**

5.2 A person in charge of a dog shall be guilty of an offence if, at any time during the period 1 May to 30 September inclusive in any year, on any land to which this Part applies they do not keep their dog on a lead, unless-

(a) they have 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 their failing to do so.

### **Fixed Penalty**

5.3 Where a person is issued with a fixed penalty notice for an offence under this Part of the Order, the amount of the fixed penalty is £75.

## **PART 6 – YEAR ROUND DOGS ON LEADS**

### **Preliminary**

6.1 This Part of the Order applies to all of the land (within the administrative area of the Council) specified below-

#### 6.1.1 Scarborough-

- (a) Scarborough North Bay – the Promenade from Scalby Mills Road to the Sands (former Corner Café)
- (b) Scarborough South Bay – the Promenade from a line drawn at 90° from the steps directly opposite the northerly end of the Spa to a line 90° at the southerly end of the Spa Cliff Lift.
- (c) Alma Square
- (d) Alexandra Gardens
- (e) Bracken Hill Playground
- (f) Briercliffe Playground
- (g) Community Hall (Sports Area)
- (h) Crescent Gardens
- (i) Dean Road Cemetery
- (j) Eastway Playing Fields
- (k) Gallows Close Playing Fields
- (l) Grosvenor Gardens
- (m) Italian Gardens
- (n) Linden Road Play Area, Newby
- (o) Manor Road Bowling Greens
- (p) Manor Road Cemetery

- (q) Merryweather Gardens, Northway
- (r) Rose Gardens
- (s) The Mere (area bounded by unadopted road)
- (t) Newby Farm
- (u) Northstead Manor Gardens
- (v) Olivers Mount (Memorial)
- (w) Peasholm Park and Lower Glen
- (x) St Martins Square
- (y) St Nicholas and Town Hall Gardens
- (z) Sainsburys Play Area
- (aa) Valley Road Gardens (north of Valley Road)
- (bb) West Square Garden

6.1.2 Whitby-

- (a) The Promenade at Whitby (including the whole of Battery Parade) between Whitby Pavilion (formerly the Spa) and the western end of the beach chalets.
- (b) Crescent Gardens
- (c) Ellerbeck Way Playground
- (d) Formal Gardens (land between Khyber Pass and East Crescent)
- (e) Helredale Recreation Ground
- (f) Ingham Play Park, Sleights
- (g) Kingfisher Drive Recreation Area
- (h) Lowdale Lane Sportsfield, Sleights

- (i) Marton Court Amenity Area
- (j) South Seas Gardens (Little Park)

#### 6.1.3 Filey-

- (a) The Promenade from the southernmost point of Coble Landing to the sea wall at Royal Parade
- (b) Crescent Gardens
- (c) Evron Centre Gardens (formerly Filey Town Hall Gardens)
- (d) Glen Gardens (including Mini-Golf Course)
- (e) Northcliffe Gardens
- (f) Southdene Bowling Green

#### 6.1.4 The following Highways (including the carriageway and any adjoining footpaths and verges)-

##### 6.1.4.1 Scarborough Highways-

- (a) Aberdeen Walk (pedestrianised zone)
- (b) Bar Street
- (c) Huntriss Row
- (d) Newborough
- (e) Vernon Road (pedestrianised zone)
- (f) Westborough

##### 6.1.4.2 Whitby Highways-

- (a) Baxtergate
- (b) The Bridge
- (c) Chubb Hill

(d) Church Street

(e) Flowergate

(f) Hagersgate

6.1.4.3 Filey Highways-

(a) Belle Vue Street

(b) Hope Street

(c) John Street

(d) Murray Street

**Offence**

6.2 A person in charge of a dog shall be guilty of an offence if, at any time, on any land to which this Part of the Order applies, they do not keep the dog on a lead, unless-

(a) they have 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 their failing to do so.

**Fixed Penalty**

6.3 Where a person is issued with a fixed penalty notice for an offence under this Part of the Order, the amount of the fixed penalty is £75.

## **PART 7 – DOGS ON LEADS BY DIRECTION**

### **Preliminary**

- 7.1 This Part of the Order applies to all land which is within the administrative area of the Council and which is-
- (a) open to the air (which includes land which is covered but open to the air on at least one side); and
  - (b) to which the public are entitled or permitted to have access (with or without payment)
- 7.2 Excepted from the description in article 7.1 is land that is placed at the disposal of the Forestry Commissioners under section 39(1) of The Forestry Act 1967.
- 7.3 In this Part of the Order an ‘authorised officer of the Council’ means a person who is authorised in writing by the Council for the purpose of giving directions under this Part of the Order.
- 7.4 An authorised officer of the Council may only give a direction under this Part of the Order to put and keep a dog on a lead if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause-
- (a) annoyance or disturbance to any other person; or
  - (b) the worrying or disturbance of any animal or bird;
- on any land to which this Part of the Order applies.

### **Offence**

- 7.5 A person in charge of a dog shall be guilty of an offence if, at any time, on any land to which this Part of the Order applies, they do not comply with a direction given to them by an authorised officer of the Council to put and keep the dog on a lead of not more than 2 metres in length, unless-
- (a) they have 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 their failing to do so.

## **Fixed Penalty**

7.6 Where a person is issued with a fixed penalty notice for an offence under this Part of the Order, the amount of the fixed penalty is £75.