

# DRAFT PSPO

## EASTLEIGH BOROUGH COUNCIL

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

### PUBLIC SPACES PROTECTION ORDER (1) (DOG FOULING) 2024

Eastleigh Borough Council (“the Council”) hereby makes the following Order pursuant to Section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”) and all other enabling powers.

This order may be cited as Eastleigh Borough Council Public Spaces Protection Order (1) (Dog Fouling) and shall come into force on *(insert date)*. The Order shall remain in force for a period of 3 years unless extended in accordance with Section 60 of the Act.

The Council makes this Order on the basis it is satisfied on reasonable grounds that, without these controls, the activities carried on and/or likely to be carried on, will have a detrimental effect on the quality of life of those in the locality and that the aforementioned activities are, or are likely to be, of a persistent or continuing nature and are, or are likely to be, such as to make them unreasonable, and justifies the restrictions imposed by this Order.

It is an offence under Section 67 of the Anti-social Behaviour, Crime and Policing Act 2014 for any person without reasonable excuse to fail to comply with a requirement which they are subject to under this Order.

#### **Interpretation**

1. Within this order;
  - a. “An Authorised Officer” means Police Officer, an authorised Police Community Support Officer, or a person who is authorised in writing by the Council for the purpose of enforcement of this Order.
  - b. “Public Place” means any place in the administrative area of the Authority to which the public or a section of the public has access, on payment or otherwise, as of right by virtue of express or implied permission.
  - c. “Person in Charge” means 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.

#### **Fouling of Land by Dogs**

2. If a dog defecates at any time in a public place, the person in charge of the dog at the time shall remove the faeces from the land forthwith.
3. Placing the faeces in a receptacle which is provided for the purpose, or for the disposal of waste, shall be sufficient removal from the public place.

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4. Being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for, or suitable means of, removing the faeces shall not be a reasonable excuse, as per section 5(a) of this Order, for failing to remove the faeces.

### **General Defences**

5. It shall be a defence to offences arising under section 2 if the person;
  - a. has reasonable excuse for failing to comply with the relevant sections; or
  - b. the owner, occupier or other person or authority having control of the public place has consented (generally or specifically) to their failing to do so; or
  - c. is subject to the exemptions listed below.

### **Exemptions**

6. Nothing in 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 their 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. Each of the following is a “prescribed charity” –
    - i. Dogs for the Disabled (registered charity number 700454)
    - ii. Support Dogs Limited (registered charity number 1088281)
    - iii. Canine Partners for Independence (registered charity number 803680)
    - iv. Assistance Dogs UK (registered charity number 119538)

### **Penalty**

7. Breach of this Order, without reasonable excuse is a criminal offence, subject to a fixed penalty notice (of £100) or prosecution. If a fixed penalty notice remains unpaid after the time allowed by statute, then the offender will be liable to prosecution. On summary conviction, an individual would be liable to a fine not exceeding level 3 on the standard scale.

### **Appeal**

8. 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 regularly visits the Restricted Area. This means that only those who are directly affected by the restrictions have the power to challenge.
9. Interested persons can challenge the validity of this Order on two grounds:

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- a. That the Council did not have the power to make the Order or variation, or to include particular prohibitions or requirements;
  - b. That one of the requirements of the Act has not been complied with.
10. 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.

The COMMON SEAL of EASTLEIGH BOROUGH COUNCIL was hereunto affixed in the presence of:

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