

## **BURNLEY BOROUGH COUNCIL**

### **PUBLIC SPACE PROTECTION ORDER (DOG CONTROL)**

#### **ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014 PART 4**

#### **SECTION 59 PUBLIC SPACES PROTECTION ORDER**

The Public Spaces Protection Order shall come into effect on 9<sup>th</sup> January 2023 for a period of 3 years.

Burnley Borough Council ("the Council") in exercise of the power under section 59 of The Anti-Social Behaviour, Crime and Policing Act 2014 ("the Act"), being satisfied that the conditions set out in section 59 of the Act have been met, HEREBY MAKES the following Public Spaces Protection Order ("PSPO").

#### **1. FOULING OF LAND BY DOGS**

(1a) This part of the Order applies to all public places in the Borough of Burnley

For these purposes, 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

(1b) 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 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 failing to do so.

(1c) For the purposes of this section—

(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 a 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 for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces;

## 2. DOGS ON LEADS

(2a) This Order applies to the following land

- o All cemeteries, crematoriums, churchyards and burial grounds within the Borough of Burnley in which dogs are to be kept on fixed leads or retracted leads of no more than 2m length.

- o All car parks and public vehicle parking areas maintained by the Borough of Burnley

- o All highways, pavements, pedestrianised areas (e.g. St James Street & Charter Walk, etc) within the Borough of Burnley.

- o Bowling greens within the Borough of Burnley

- o In part of Towneley Park, Burnley

- \* Barwise picnic area

- \* The ornamental gardens around Towneley Hall

- \* The Rabbit Walk (crossing the golf course)

- o In part of Scott Park, Burnley

- \* Ornamental area near the pavilions and play areas

- o In part of Memorial Park, Padiham

- \* Ornamental area near Knight Hill House

(2b) A person in charge of a dog shall be guilty of an offence if at any time on any land to which this Order applies he does not keep the dog on a lead, unless—

(a) he 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 failing to do so.

(2c) For the purposes of this section 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.

### **3. THE DOGS ON LEADS BY DIRECTION**

(3a) This Order applies to all land in the Borough of Burnley which is open to the air, including covered land which is open on at least one side, and to which the public are entitled or permitted to have access (with or without payment)

(3b) A person in charge of a dog shall be guilty of an offence if at any time, on any land to which this Order applies, he does not comply with a direction given him by an authorised officer of the Council to put and keep the dog on a lead, unless—

(a) he 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 failing to do so.

(3c) For the purposes of this section

(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) an authorised officer of the Council may only give a direction under this 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 annoyance or disturbance to any other person or the worrying or disturbance of any animal or bird.

### **4. THE DOGS EXCLUSION**

(4a) This Order applies to the following land:

a) all children's equipped playgrounds (with or without fencing), and

all ball courts,

all tennis courts

all Multi Use Games Areas

within the Borough of Burnley

b) Thompson Park, Burnley

(c) Queens Park, Burnley

(d) Towneley Park, Burnley, golf courses (18 & 9 hole and pitch and putt) except on the Rabbit Walk footpath, Towneley War Memorial Pond.

(4b) For the purpose of this section

(a) A "children's play area" is an area that is set aside for children to play in and contains children's play equipment such as a slide, swings, seesaw, climbing frame or other similar play apparatus.

(b) A children's play area is "enclosed" if it is surrounded on all sides by fences, gates, walls or other structures that mark the extent of the play area.

(c) An enclosed Multi Use Games Area is "enclosed" if it is surrounded on all sides by fences, gates, walls or other structures that mark the extent of the area.

(4c) A person in charge of a dog shall be guilty of an offence if he takes the dog on to, or permits the dog to enter or to remain on, any land to which this order applies 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 doing so.

(4e) For the purposes of this section

(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;

## **5. Exemptions and definitions**

(1c) 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 he relies for assistance; or

(c) 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 Assistance Dogs UK or any prescribed charity with a purpose of training assistance dogs and upon which he relies for assistance.

(d) to the normal activities of a working dog, whilst the dog is working. This includes dogs that are being used for work in connection with emergency search and rescue, law

enforcement and the work of Her Majesty's armed forces; and farm dogs that are being used to herd or drive animals.

(e) A prescribed charity is a charity that is an accredited member of Assistance Dogs UK (ASUK) Assistance Dogs International (ADI) or the International Guide Dogs Federation (IGDF)

(f) The term "Assistance Dog" shall mean a dog which has been trained to assist a person with a disability

(g) The expression "disability" shall have the meaning prescribed in section 6 of the Equality Act 2010 or as may be defined in any subsequent amendment or re-enactment of the legislation

## **5. Other matters**

### **(5a) Authorised Officer**

In this Order "an authorised officer" means an authorised officer of the Council, a police officer, a police community support officer, an officer accredited under the community safety accreditation scheme as designated by the council or contractor of the Council who is authorised in writing by the Council for the purposes of giving directions under the Order.

(5b) An authorised officer may issue a Fixed Penalty Notice (FPN) to anyone he or she has reason to believe has committed an offence under this Order.

If an authorised officer proposes to give a person a notice under this Public Space Protection Order, the officer may require the person to give him his name and address.

(5c) A person commits an offence if—

(a) he fails to give his name and address when required to do so under subsection (5b) above, or

(b) he gives a false or inaccurate name or address in response to a requirement under that subsection.

(5d) A person guilty of an offence under subsection (5c) above is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5e) Any interested person (an individual who lives, works in or regularly visits) in the restricted area who desires to question the validity of this Order on the grounds that the Council has no power to make it or that any requirement of the Act has not been complied with in relation to this Order, may apply to the High Court within six weeks from the date upon which this Order is made.

**6. Penalty**

(6a) 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 to be offered an FPN at an amount determined by the Council (currently £100).

**THE COMMON SEAL of the COUNCIL**

**OF the BOROUGH OF BURNLEY**

was hereunto affixed this 5<sup>th</sup> day of January 2023.

in the in the presence of:

*A. M. Lee*

Authorised Signatory

*J. C. J. J. J.*

Authorised Signatory



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