

APPENDIX 2

Public Spaces Protection Order Anti-Social Behaviour, Crime and Policing Act Part 4 Chapter 2 Section 59

The Rotherham Metropolitan Borough Council (Dog Fouling and Control Borough-Wide) Public Spaces Protection Order

1. Rotherham Metropolitan Borough Council has exercised its powers under the Anti-Social Behaviour, Crime and Policing Act 2014 ("the Act") and being satisfied that all the requirements of the Act have been met hereby makes the following Order, known as:

The Rotherham Metropolitan Borough Council (Dog Fouling and Control Borough-Wide) Public Spaces Protection Order

2. This Order shall come into operation on [DATE] and shall have an effect for 1 year thereafter, unless extended, varied or discharged by further order as set out in the Act.
3. The Council is satisfied that the conditions set out in Section 59 (2) of the Act have been met. Namely, that activities carried out in a public place within the authority's area have had or it is likely that they will have a detrimental effect on the quality of life of those in the locality, namely:

3.1 The failure of persons to remove dog faeces from land

4. The Council is also satisfied that the conditions set out in Section 59 (3) of the Act have been met. Namely, that the effect or likely effect of the activities is, or is likely to be, of a persistent or continuing nature and that these activities are unreasonable and justify the restrictions imposed by this Order and that it is in all the circumstances expedient to make this Order for the purpose of reducing crime and/or anti-social behaviour in a public place.
5. The effect of this Order is to require relevant persons to undertake the following activities within the Borough of Rotherham:

Dog Fouling

5.1 It will be an offence for any person in control of a dog to fail to remove its faeces from the land forthwith unless:

- i) the person has reasonable excuse for failing to do so.

6. Unless otherwise stated, the prohibitions and requirements contained in this Order shall apply to all persons, at all times of the day and all days of the week throughout the calendar year and throughout the entirety of the restricted area.
7. Nothing in this order shall apply to a person who –
 - (i) Is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
 - (ii) A person with a disability as defined by the Equality Act 2010 or its successor and who relies upon an accredited assistance dog trained by an accredited member of Assistance Dogs International (ADI) or the International Guide Dog Federation (IGDF) or other prescribed charity.
8. Any person who carries out acts from which they are prohibited from doing or fails to comply with a requirement set out in this Order, within the restricted area, commits an offence under section 67 of the Act and is liable to receive a Fixed Penalty Notice at a maximum of £100 and on summary conviction to a fine not exceeding level 3 on the standard scale (£1,000).
9. An authorised person may issue a Fixed Penalty Notice to anyone he or she believes has committed an offence. The level of the fixed penalty shall be £100. A person committing an offence and failing to pay the fixed penalty may be prosecuted.
10. Additional Information and Definitions for the purpose of the Order:
 - 10.1 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.
 - 10.2 Placing the faeces in receptacle on the land, which is provided for the purpose of, or for the disposal of, dog faeces shall be sufficient removal from the land.
 - 10.3 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 of removing the faeces shall not be reasonable excuse for failing to remove the faeces.
 - 10.4 “Public place” means any place to which the public or any section of the public has access, on payment or otherwise, as a right or by virtue of express or implied permission.
 - 10.5 “Land” refers to all land, including access land in the Borough of Rotherham which is open to air (which includes land that is covered but open to the air on at least one side), to which the public are entitled or permitted to have access (with or without payment).

10.6 "Authorised person" means a police officer, an employee of Rotherham Metropolitan Borough Council or other person who is authorised in writing by the Council.

11. In accordance with section 66 of the Act, any interested person who wishes to challenge the validity of this Order on the grounds that the Council did not have the power to make the Order or that a requirement under the Act has not been complied with may apply to the High Court within six weeks from the date upon which the Order is made.

THE COMMON SEAL OF)
ROTHERHAM METROPOLITAN)
BOROUGH COUNCIL)
was affixed to this Order)
in the presence of)

Duly Authorised Officer

