

CONWY COUNTY BOROUGH COUNCIL

DRAFT DOG CONTROL PUBLIC SPACES PROTECTION ORDER 2017

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

Conwy County Borough Council ('the Council'), in exercise of its powers under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 ('the Act') and under all other enabling powers hereby makes the following Public Spaces Protection Order:

1. This Order may be cited as the "Conwy County Borough Council (Dog Control) Public Spaces Protection Order 2017" ('the Order') and applies to the public places described in the Schedules to the Order and shown on the plans attached to the Order ("the restricted areas").
2. In making this Order the Council is satisfied on reasonable grounds that:-
 - (i) activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or it is likely that activities will be carried on in a public place within that area and they will have such an effect;
 - (ii) 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 by the Order.
3. The Council is also satisfied that the prohibitions and requirements set out within this Order are reasonable:-
 - (i) to prevent the detrimental effect on the quality of life of those in the locality continuing, occurring or recurring; or
 - (ii) to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.
4. This Order comes into force on [] 2018 and shall have effect and remain in force for a period of three years from that date.
5. Before the expiry of this Order the Council may extend, vary or discharge it in accordance with the provisions of the Act.

BY THIS ORDER

6. The effect of the Order is to impose the following prohibitions and/or requirements in the restricted areas at all times:-

(i) FOULING OF LAND BY DOGS

(a) If a dog defecates at any time on land in the restricted area detailed in Schedule 1 of this Order the person who is in charge of the dog at the time must remove the faeces from the land forthwith, unless:-

- (i) that person has a reasonable excuse for failing to do so; or
- (ii) the owner/occupier or other person or authority having control of the land has consented (generally or specifically) to that person failing to do so; or
- (iii) that person is subject to the exemptions listed in Schedule 1.

(b) For the purposes of this article:-

- (i) 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;
- (ii) 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;
- (iii) 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.

(ii) MEANS TO PICK UP

(a) A person in charge of a dog on land in the restricted area detailed in Schedule 2 must have with them appropriate means to pick up dog faeces deposited by that dog unless:-

- (i) that person has a reasonable excuse for failing to do so; or
- (ii) the owner/occupier or other person or authority having control of the land has consented (generally or specifically) to that person failing to do so; or
- (iii) that person is subject to the exemptions listed in Schedule 2.

- (b) The obligation in Article 6 (ii) (a) is complied with if, after a request from an authorised officer of the Council, the person in charge of the dog produces an appropriate means to pick up dog faeces.
- (c) In this article 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 article.

(iii) DOGS EXCLUDED – YEAR ROUND PROHIBITION

- (a) A person in charge of a dog must not take that dog onto, or permit the dog to enter or to remain on land within the restricted area referred to in Schedule 3 of this Order unless:-
 - (i) that person has reasonable excuse for doing so; or
 - (ii) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to that person doing so; or
 - (iii) that person is subject to the exemptions listed in Schedule 3
- (b) For the purpose of this article:-
 - (i) a person who habitually has a dog in their possession is taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.

(iv) DOGS EXCLUDED – SEASONAL PROHIBITION

- (a) A person in charge of a dog must not take that dog onto, or permit the dog to enter or to remain on land within the restricted area referred to in Schedule 4 of this Order unless:-
 - (i) that person has reasonable excuse for doing so; or
 - (ii) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to that person doing so; or
 - (iii) that person is subject to the exemptions listed in Schedule 4
- (b) For the purpose of this article:-
 - (i) a person who habitually has a dog in their possession is taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.

(v) DOGS ON LEADS

- (a) Any person in charge of a dog, at any time, must put and keep the dog on a lead in the restricted area detailed in Schedule 5, unless :-
- (i) that person has reasonable excuse for failing to do so; or
 - (ii) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to that person not doing so.
- (b) For the purpose of this article:-
- (i) a person who habitually has a dog in their possession is taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.

(vi) DOGS ON LEADS BY DIRECTION

- (a) Any person in charge of a dog, at any time, must put and keep the dog on a lead when directed to do so in the restricted area detailed in Schedule 6, unless:-
- (i) that person has reasonable excuse for failing to do so; or
 - (ii) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to that person not doing so.
- (b) For the purpose of this article:-
- (i) a person who habitually has a dog in their possession is taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;
 - (ii) an authorised officer of the Council may only give a direction under this article 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 other animal or bird on any land to which this article applies.
 - (iii) in this article, 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 article.

7. PENALTY

7.1 Any person who fails without reasonable excuse to comply with any of the requirements or prohibitions at articles 6 (i), 6(ii), 6(iii), 6(iv), 6(v), 6(vi) in this Order shall be liable on summary conviction to a fine not exceeding level 3 (currently £1000) on the standard scale.

8. FIXED PENALTY

8.1 A constable, Police Community Support Officer or authorised person of the Council may issue a fixed penalty notice to any person he or she believes has committed an offence. A person committing an offence will have 28 days to pay the fixed penalty of £100, failing which they may be prosecuted.

8.2 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.

8.3 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 28 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.

9. APPEALS

9.1 Any challenge to this Order must be made to the High Court by an interested person within 6 weeks of it being made or varied. An "interested person" is someone who lives in, regularly works in, or visits the restricted area. This means that only those who are directly affected by the restrictions have the right to challenge.

9.2 Interested persons can challenge the validity of the Order on two grounds:-

- (i) that the Council did not have power to make the order or variation, or to include particular prohibitions or requirements imposed by the Order; or
- (ii) that a requirement under the legislation for the making or varying an Order has not been complied with.

9.3 When an application is made, the High Court can decide to suspend the operation of the Order, or any of the prohibitions or requirements imposed by the Order, until the final determination of the proceedings.

9.4 The High Court has the ability to uphold the Order, quash it or vary it.

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RESTRICTED AREAS

SCHEDULE 1 – FOULING OF LAND BY DOGS

- (1) All public places within the whole area of Conwy County Borough Council as shown in Plan 1.**

“Public Place” in this Order means any place which is:-

- (i) open to the air (which includes land which is covered but open to the air on at least one side); and
- (ii) to which the public or any section of the public are entitled or permitted to have access (on payment or otherwise), as of right or by virtue of express or implied permission.

- (2) Exemptions - Nothing in this Schedule applies 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) 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 they rely for assistance.

- (3) For the purpose of this Schedule, each of the following is a “prescribed charity”:-**

- (i) Dogs for the Disabled (registered charity number 700454);
- (ii) Support Dogs (registered charity number 1088281); and
- (iii) Canine Partners for Independence (registered charity number 803680).

SCHEDULE 2 – MEANS TO PICK UP

- (1) All public places within the whole area of Conwy County Borough Council as shown in Plan 2**

“Public Place” in this Order means any place which is:-

- (i) open to the air (which includes land which is covered but open to the air on at least one side); and
- (ii) to which the public or any section of the public are entitled or permitted to have access (on payment or otherwise), as of right or by virtue of express or implied permission.

- (2) Exemptions - Nothing in this Schedule applies 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) 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 they rely for assistance.

- (3) For the purpose of this Schedule, each of the following is a “prescribed charity”:-**

- (i) Dogs for the Disabled (registered charity number 700454);
- (ii) Support Dogs (registered charity number 1088281); and
- (iii) Canine Partners for Independence (registered charity number 803680).

SCHEDULE 3 – DOGS EXCLUDED (YEAR ROUND PROHIBITION)

(1) All public places within the whole area of Conwy County Borough Council as shown in Plans 1 and 2, in particular

- (a) All Fenced Children's Play Areas
- (b) All Multi Use Games Areas
- (c) All Tennis Courts
- (d) All Skate Parks
- (e) All Bowling Greens
- (f) All Recreational Fields associated with Education Establishments
- (g) The Playing Area of All Marked Sports Pitches

Including also the specific areas listed below and as shown in red on Plan 3

- (h) Betws-Yn-Rhos Play Ground, Betws-Yn-Rhos
- (i) Capel Garmon Playing Field, Capel Garmon
- (j) Cae Ffwf Football Ground, Glan Conwy
- (k) Gyffin Playing Field, Gyffin
- (l) Gowers Road Recreation Area, Trefriw
- (m) Cae Llwyd Playing Field, Cerrigydrudion
- (n) Maes Aled Playground, Llansannan
- (o) The Football Pitch, Bowling Green and Multi Use Games Area, Llansannan
- (p) The Football Pitch, Bowling Green, Swimming Pool, Tennis Courts and Children's Play Area, Llanfairfechan
- (q) The Llandudno / Craig Y Don Community Paddling Pool
- (r) Colwyn Bay beach – the area of the beach between the low water mark and promenade wall between the slipway (but not to include the slipway) serving Porth Eirias and the first entrance to the beach to the left of the Pier, in line with Colwyn Bay Station
- (s) Rhos Point, Rhos on Sea – the small sandy portion of beach unwashed by the tide.

(2) Exemptions - Nothing in this Schedule applies 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) is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which that person relies for assistance (dog must be clearly marked as assistance); or
- (iii) 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 they rely for assistance.

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SCHEDULE 4 – DOGS EXCLUDED (SEASONAL PROHIBITION)

- (1) All beaches seasonally between 1st May and 30th September to include the seashore and foreshore as per (a) to (f) below and as shown in red on Plan 4**
- (a) Kinmel Bay – the area of the beach between low water mark and the promenade between the entrance to the beach from the car park St Asaph Avenue, Kinmel Bay and the first entrance to the beach from the promenade near Woodside Avenue, Kinmel Bay.
 - (b) Pensarn – the area of the beach between the low water mark and the promenade between the embedded wooden posts adjacent to the cafe building and the embedded concrete posts at the western extremity of the promenade.
 - (c) Llandudno North Shore – the area of beach between the low water mark and the promenade extending from Llandudno Pier to the first slipway (But not to include the slipway).
 - (d) Llandudno West Shore – the area of the beach between the low water mark and the promenade extending between the two stone groynes.
 - (e) Penmaenmawr – the area of the beach between the low water mark and the promenade from the breakwater wall to the slipway (but not to include the slipway) near the children's Play Area.
 - (f) Llanfairfechan – the area of beach extending between the low water mark and the promenade between the two slipways (but not to include the slipways)

SCHEDULE 5 – DOGS ON LEADS

(1) All public roads and pavements which are subject to the speed limit of 40 mph or less within the whole area of Conwy County Borough Council

- (a) in this Order, the definition of “road” is all public highways having a right of passage for motor vehicles (which includes areas of pavement, footway and verge set aside for pedestrians within such a highway);
- (b) “motor vehicles” are defined in section 185(1) of the Road Traffic Act 1988 and section 136(1) of the Road Traffic Regulation Act 1984 as “a mechanically propelled vehicle, intended or adapted for use on roads”.

(2) All of the land within the whole area of Conwy County Borough Council as shown on Plans 1 and 2 in particular

- (a) All Cemeteries and Churchyards
- (b) All Car Parks

Including also the specific areas listed below and as shown in purple on Plan 5

- (c) Cae Derw Playing Field Llandudno Junction; excluding the fenced area designated for dog exercising,
- (d) Betws-Yn-Rhos Sports Ground, Betws-Yn-Rhos
- (e) Pentwyn Road Recreation Field, Deganwy
- (f) The Oval, Llandudno
- (g) Maesdu Road Recreation Ground, Llandudno
- (h) Rowen Recreation Field, Rowen
- (i) The Riverside Walk from the Bridge to Plas Y Dre Car Park, Llanrwst
- (j) The Footpaths traversing and surrounding The Golf Club, Betws Y Coed
- (k) North Wales Golf Club, Llandudno
- (l) Llysfaen Community and Recreational Land, Dolwen Road, Llysfaen
- (m) The Sand Dunes, Kinmel Bay

- (n) Llanfairfechan Recreation Ground and Land surrounding the Boating Lake, Llanfairfechan
- (o) Clwyd Park Recreation Field, Kinmel Bay excluding the fenced area designated for dogs
- (p) Gwrych Estate, Abergele
- (q) The area of Bodlondeb Park containing the football pitch, cricket pitch and tennis courts, Conwy
- (r) The pathway between Glan Yr Afon Road and Old Mill Road Dwygyfylchi
- (s) The pathway between Conway Old Road and Old Mill Road, Dwygyfylchi
- (t) The pathway from Ysguborwen Road to the garage adjacent to the A55/Maes Y Llan, Dwygyfylchi
- (u) Recreational land surrounding the Football Pitch, Bowling Green and Multi Use Games Area, Llansannan

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SCHEDULE 6 – DOGS ON LEADS BY DIRECTION

- (1) All public places within the whole area of Conwy County Borough Council as shown in Plans 1 and 2**

“Public Place” in this Order means any place which is:-

- (i) open to the air (which includes land which is covered but open to the air on at least one side); and
- (ii) to which the public or any section of the public are entitled or permitted to have access (on payment or otherwise), as of right or by virtue of express or implied permission.

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