

Caerphilly County Borough Council
Anti-Social Behaviour, Crime & Policing Act 2014

Caerphilly County Borough Council (Dog Control) Public Spaces Protection Order 2017

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

1. This Order may be cited as the Caerphilly County Borough Council (Dog Control) Public Spaces Protection Order 2017:
2. This Order will come into force on 2017 and will remain in force for a period of three years unless varied or discharged by further orders of the Council:
3. **Introduction**
 - (a) The failure to “pick up” after a dog has fouled on publicly accessible land is an important issue in the local environment generally, the effect of which is detrimental on the quality of life of the community at large. It causes risks to health and defaces the land and is therefore important that the community recognise the need to clean up after their dogs and to ensure that they have with them at all times an appropriate receptacle to do so.
 - (b) When not properly supervised and kept under control dogs that are allowed off a lead in public areas may cause a nuisance and injury to members of the public and other animals.
 - (c) Dogs in children’s play areas can become aggressive if startled. They may also defecate in these areas, which may cause a health risk to the children using them.
 - (d) The Order is made because the Council is satisfied on reasonable grounds that the behaviour set out above has had and is likely to continue to have a detrimental effect on the quality of life of people within the County Borough. Furthermore that the effect is likely to be of a persistent or continuing nature and is or will be unreasonable and justifies the requirements set out in this Order which seeks to prevent or reduce the detrimental effects of the activities referred to above, by imposing reasonable restrictions and requirements on people whilst in charge of dogs on public land.
4. **Definitions**
 - (a) “Authorised Person(s)” means a constable or a person authorised by the Council under Section 68 of the Act.
 - (b) “Appropriate Receptacle” means any bag, or receptacle which is designed for the purpose of holding dog faeces for disposal.
 - (c) “for the purpose of this Order a “disability” means a condition that qualifies as a disability for the purposes of the Equality Act 2010 and a “disabled person” means a person who has such a disability.

5. Restrictions and Requirements

- (a) The effect of the Order is to impose the restrictions and requirements as set out in Parts 1 to 5 below.

Part 1 – Dog Fouling

1. If a dog defecates at any time on land to which this Part of the Order applies, and the 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 he can show that:-
 - (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 him failing to do so;
2. This Part of the Order applies to all public places in the County Borough of Caerphilly.

For those 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.
3. For the purpose of this Part of the Order:-
 - (a) Placing the faeces in a receptacle on the land which is provided for this 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;

Part 2 – Carry Appropriate Receptacle

1. If a person who is in charge of a dog at any time on land to which this part of the Order applies does not have or produce when requested by an Authorised Person, an Appropriate Receptacle for picking up dog faeces, that person shall be guilty of an offence unless:-
 - (a) they have 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.
2. This part of the Order applies to all public places in the County Borough of Caerphilly.

For those 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.

Part 3 – Dogs On leads In Enclosed Memorial Gardens

1. A person in charge of a dog shall be guilty of an offence if at any time that person takes a dog onto or permits a dog to enter and/or remain in any of the enclosed Memorial Gardens set out in Appendix 2 without being controlled by a lead of not more than two metres in length unless that person can show that:-
 - (a) They have 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 him failing to do so.
2. For these purposes, a “lead” means any rope, cord, leash or similar item used to tether, control or restrain a dog, but does not include any such item which is not actively being used as a means of restraint so that the dog remains under a person's close control.

Part 4 – Dogs On Leads By Direction

1. A person in charge of a dog will be guilty of an offence if at any time on land to which this part of the Order applies, they fail to comply with a direction given to them by an Authorised Officer to put and keep the dog on a lead of not more than two metres in length for such period and/or in such circumstances as directed by the Officer, unless that person can show that:-
 - (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 him failing to do so.
2. For these purposes, as “lead” means any rope, cord, leash or similar item used to tether, control or restrain a dog, but does not include any such item which is not actively being used as a means of restraint so that the dog remains under a person's close control.
3. This part of the Order applies to all public places in the County Borough of Caerphilly.

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.
4. For the purposes of this Part of the Order, an Authorised Person may only direct a person to put and keep a dog on a lead if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog that is likely to cause annoyance or disturbance to any other person, or the worrying or disturbance of any animal.

Part 5 – Dog Exclusions In Children's Play Areas/Multi Use Games Areas –

1. A person in charge of a dog will be guilty of an offence if at any time he takes the dog on to, or permits the dog to enter or remain on, any of the enclosed children's play areas/multi use games areas listed in Appendix 1 to this Order, unless that person can show that:-
 - (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 him doing so.

Exemptions

1. The provisions in **Parts 1 and 2** of this Order shall not apply to a person who:-
 - (a) Is registered as partially sighted or blind, in a register compiled under Section 29 of the National Assistance Act 1948; or
 - (b) Is registered as “sight-impaired”, “severely sight-impaired” or as “having sight and hearing impairments which, in combination have a significant effect on their day to day lives”, in a register compiled under Section 18 of the Social Services and Well-Being (Wales) Act 2014; or
 - (c) Has a disability which affects his mobility, manual dexterity, physical co-ordination, or ability to live, carry or otherwise move everyday objects, such that the person cannot reasonably be expected to remove the faeces.
 - (d) Has some other disability, such that a person cannot reasonably be expected to remove the faeces.
2. The provisions in **Part 5** of this Order shall not apply to
 - (a) A dog trained by a registered charity to assist a person with a disability and upon which a disabled person relies for assistance.

Other Matters

1. For the purpose of this Order 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.
2. Where the person in charge of a dog wishes to rely upon any of the exemptions set out in this Order, the burden will be on that person to prove that they satisfy the requirements of the exemption being relied upon.

Offence

It is an offence for any person without reasonable excuse

- (a) To do anything that a person is prohibited from doing by this Order
- Or
- (b) To fail to comply with a requirement to which a person is subject under this Order

Any person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale

Fixed Penalties

An Authorised Person may issue a Fixed Penalty Notice to anyone he or she believes has committed an offence under this Order. A person will have 14 days to pay the fixed penalty of £100 or a discounted amount of £75 if paid within 7 days. Failure to pay the fixed penalty will result in prosecution.

Appeals

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 visits any of the areas affected by this Order. This means that only those who are directly affected by the restrictions have the power to challenge. The right to challenge also exists where an order is varied by the Council.

Interested persons can challenge the validity of this Order on two grounds: that the Council did not have power to make the Order, or to include particular prohibitions or requirements; or that a requirement of the legislation was not complied with in relation to the Order.

Dated the _____ day of _____ 2017.

The Common Seal of
Caerphilly County Borough
Council was hereunto affixed
in the presence of:

Authorised Officer