

**Public Spaces Protection (Dog Control) Order
2020**

**Section 59 of the Anti-Social Behaviour, Crime
and Policing Act 2014**

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Introduction

Pursuant to Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014.

Mid Devon District Council (in this Order called “the Council”), in exercise of its powers under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”) and of all other enabling powers, after consultation carried out in accordance with the Act, and being satisfied that uncontrolled and irresponsible dog walking in public places has a detrimental effect on the quality of life of the local community and that the conditions set out in Section 59 of the Act are met, hereby makes the following Order.

1. Definitions and Interpretation

1.1 In the following provisions of this Order, the following terms shall have the meanings hereby respectively ascribed to them:-

“Authorised Officer” means a person who is authorised in writing by the Council for the purposes of this Order

“District of Mid Devon” means the land shown edge red on the plan marked “District” and referred to in Schedule A

“Person in Charge” means the person who has the dog in his possession, care or company at the time the offence is committed or otherwise, the owner or person who habitually has the dog in his possession

“Police Constable” means any person lawfully designated and authorised by a Chief Officer of Police to exercise the powers and duties of a Police Constable

“Public Spaces” means land within the District of Mid Devon, which is open to the air including covered land which is open on at least one side and to which the public are entitled and permitted to have access, with or without payment, with the exception of Forestry Commission Land

1.2 Except when the context otherwise requires, the singular includes the plural and vice-versa; and the masculine includes the feminine and vice-versa.

1.3 Reference to an Act of Parliament, statutory provision or statutory instrument includes a reference to that Act of Parliament, statutory provision or statutory instrument as amended, extended or re-enacted from time to time and to any regulations made under it.

2. Scope

This Order applies to the Public Spaces, Parks and Open Spaces cited in this Order within the District of Mid Devon, as indicated on the plans in Schedules A,B,C and D hereto.

3. Duration

This Order shall come into effect on [] 2020 and shall remain in force for a period of 3 years from this date, unless extended by further orders made under the Council's statutory powers.

4. Title

This Order may be cited as “The Mid Devon (Public Spaces Protection) (Dog Control) Order 2020” and imposes the following requirements and prohibitions.

5. Dog Fouling

5.1 In any Public Spaces -

- 5.1.1 If a dog defecates at any time, the Person in Charge must remove the faeces from the land forthwith; and
- 5.1.2 A Person in Charge of a dog must have with them an appropriate means to pick up any faeces deposited by that dog, and must produce this if requested to do so by an Authorised Officer or Police Constable.

5.2 For the purposes of Article 5.1.1 -

- 5.2.1 Placing the faeces in a receptacle on the land which is provided for the purpose or for the disposal of waste, shall be sufficient removal from the land; and
- 5.2.2 Being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a suitable device or means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces.

6. Dogs on Leads

- 6.1 In any of the public cemeteries listed and shown in Schedule B to this Order, any Person in Charge of a dog, at any time, must put and keep the dog on a lead and under proper control.
- 6.2 In any of the of public parks listed and shown in Schedule C to this Order, any Person in Charge of a dog, at any time, must put and keep the dog on a lead and under proper control.
- 6.3 In all other Public Spaces a Person in Charge of a dog, at any time, must put and keep the dog on a lead and keep it under proper control when directed to do so by an Authorised Officer or Police Constable.
- 6.4 For the purposes of Article 6.3, an Authorised Officer or Police Constable shall only give a direction 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 alarm, distress or disturbance to any other person or animal or bird on the land.

7. Dogs Excluded (Enclosed Children's Play Areas)

A Person in Charge of a dog is prohibited from taking that dog onto, or permitting the dog to enter or remain on any enclosed children's play area (which are Public Spaces) described or listed in Schedule D to this Order.

8. Limit on number of dogs

No person in any Public Spaces shall be in charge of more than 4 dogs at any time.

9. Offences and Penalties

- 9.1 Any failure to comply with the requirements or prohibitions imposed in Articles 5, 6, 7 or 8 of this Order shall constitute a criminal offence, unless:
 - 9.1.1 The person has a reasonable excuse for failing to do so;
 - 9.1.2 The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so; or

9.1.3 The person is exempt under Article 10 of this Order.

9.2 Any person guilty of an offence under this Order shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale (on the date of this Order, this is set at £1,000).

9.3 A Fixed Penalty Notice may be issued by an Authorised Officer or Police Constable to anyone believed to have committed an offence under this Order. The Fixed Penalty shall be £100.00. Payment of the Fixed Penalty of £50.00 within 14 days from the date of the Fixed Penalty Notice will discharge the liability for prosecution.

10. Exemptions

10.1 The requirements and prohibitions imposed by this Order shall not apply to any person who:

10.1.1 is registered as blind, sight or hearing impaired under the National Assistance Act 1948, or any other legislation;

10.1.2 has a disability which affects his mobility, manual dexterity, physical coordination, or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a registered charity and upon which he relies for assistance; or

10.2.3 is using a working dog for purposes of law enforcement, military duties or statutory emergency services (search and rescue).

11. Appeal

Any interested person (defined as an individual who lives in the restricted area or who regularly works in or visits that area) may question the validity of this Order, pursuant to Section 66 of the Act, on application made to the High Court within 6 weeks from the date of the Order.

12. Validity (Severance)

If any provision of this Order is held invalid or unenforceable for any reason by a court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of the Order shall continue in full force and effect as if the Order had been executed with the invalid, illegal or unenforceable provision eliminated.

THE COMMON SEAL OF Mid Devon District Council

was hereunto affixed

in the presence of:-

Authorised Signatory

THE SCHEDULES

List of Plans

SCHEDULE A District of Mid Devon

Plan 1 – Map of District

SCHEDULE B – Public Cemeteries

Plan 2 – St Matthews Cheriton Fitzpaine

Plan 3 – Black Dog Crediton

Plan 4 – Crediton

Plan 5 – St Andrews Colbrooke

Plan 6 - Wembworthy

Plan 7 – Halberton

Plan 8 – Bradninch

Plan 9 - All Saints Culmstock

Plan 10 – Culmstock

Plan 11 – Hemyock

Plan 12 – St Mary's Hemyock

Plan 13 – Uffculme

Plan 14 – Uffclume

Plan 15 – St Mary's Uffculme

Plan 16 – St Andrews Cullompton

Plan 17 – Tiverton

Plan 18 – St Mary's Willand

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SCHEDULE C -- Parks & Open Spaces

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- Plan 23 - Bluebell Avenue Tiverton
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- Plan 25 - Burma Star Garden Tiverton
- Plan 26 - Chawleigh Chumleigh
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- Plan 29 - Cottey Brook Tiverton
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Plan 51 - Peoples Park Crediton
Plan 52 - Peoples Park Tiverton
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Plan 61 - Starkey Close Tiverton
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Plan 66 - Tree Field Tiverton
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Plan 70 - Willand Moor Road Willand

SCHEDULE D - Enclosed Children's Play Areas

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Plan 72 - Ash Drive Cullompton

Plan 73 - Ashley Rise Tiverton

Plan 74 - Banksia Close Tiverton

Plan 75 - Barnfield Crediton

Plan 76 - Barns Close Bradninch

Plan 77 - Bockland Close Cullompton

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Plan 79 - Churchlands Bow

Plan 80 - Coles Mead Tiverton

Plan 81 - Conifer Close Cullompton

Plan 82 - Cornlands Sampford Peverell

Plan 83 - Cotteylands _ Cameron Close Tiverton

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- Plan 148 - Tanners Close Clover Drive Cullompton
- Plan 149 - The Hams BMX Track Tiverton

Schedule A

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Schedule B

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Schedule D

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