

**The Mid Devon (Public Spaces Protection)
(Dog Control) Order 2020**

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

DRAFT

Contents

1. Introduction
2. Scope
3. Duration
4. Title
5. Dog Fouling
6. Dog on Leads
7. Dogs Excluded (Enclosed Children's Play Areas)
8. Limit on number of dogs
9. Offences and Penalties
10. Exemptions
11. Appeal
12. Validity (Severance)

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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

“Plans” means the plans attached to the Schedules to this Order.

“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.

1.4 References to articles clauses and Schedules are to the articles, clauses and Schedules of this deed.

1.5 Where land is listed in a Schedule the location and extent of the land is shown in the corresponding Plan referred to in the Schedule.

2. Scope

This Order applies to the Public Spaces, Public Parks Public Cemeteries and enclosed play areas cited in this Order within the District of Mid Devon, and shown on the plans to 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 Public Spaces which is also a public cemetery or part of it listed 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 Public Spaces which is also a public park or part of it listed in Schedule C 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 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. This article does not apply to enclosed children's play areas referred to in Article 7 as dogs are prohibited from the said enclosed children's play areas.

9 Offences and Penalties

- 9.1 Any failure to comply with the requirements or prohibitions imposed in Articles 5, 6, 7 and 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.

was hereunto affixed
in the presence of:-

Authorised Signatory

DRAFT

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 Fizpaine

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

Plan 19 – Willand Parish Cemetery

SCHEDULE C -- Parks & Open Spaces

- Plan 20 - Amory Park Tiverton
- Plan 21 – Ashley Close Uffculme
- Plan 22 – Beacon Park Crediton
- Plan 23 - Bluebell Avenue Tiverton
- Plan 24 - Blundells Road Tiverton
- Plan 25 - Burma Star Garden Tiverton
- Plan 26 - Chawleigh Chumleigh
- Plan 27 - Chestnut Drive Willand
- Plan 28 - Church Road Silverton
- Plan 29 - Cottey Brook Tiverton
- Plan 30 - Cranmore View Tiverton
- Plan 31 - Cromwells Meadow Crediton
- Plan 32 - Crossparks Cullompton
- Plan 33 - Crow Bridge Cullompton
- Plan 34 - Cudmore Park Tiverton
- Plan 35 - Culm Valley Uffculme
- Plan 36 - Forcefield Road Cullompton
- Plan 37 - Gables Lea Willand
- Plan 38 - Glebelands Road Tiverton
- Plan 39 - Gornhay Lane Tiverton
- Plan 40 - Graters Copse Tiverton
- Plan 41 - Great Close Culmstock
- Plan 42 - High Bullen Silverton
- Plan 43 - Landunvez Place Bradninch
- Plan 44 - Meadow Lane Cullompton
- Plan 45 - Millhayes Meadows Hemyock
- Plan 46 - Moutbatten Road Tiverton
- Plan 47 - Newcombes Meadow Crediton
- Plan 48 - Oak Close Tiverton
- Plan 49 - Old Park Tiverton
- Plan 50 - Palmerston Park Woods Tiverton

Plan 51 - Peoples Park Crediton
Plan 52 - Peoples Park Tiverton
Plan 53 - Phoenix House Tiverton
Plan 54 - Queen Elizabeth Drive Crediton
Plan 55 - Railway Walk Tiverton
Plan 56 - River Exe Recreation Tiverton
Plan 57 - School Road Silverton
Plan 58 - Southfield Drive Crediton
Plan 59 - St Andrew Street Tiverton
Plan 60 - St Lawrence's Green Crediton
Plan 61 - Starkey Close Tiverton
Plan 62 - Stoneyford Cullompton
Plan 63 - Blank
Plan 64 - The Oval Tiverton
Plan 65 - Tidcombe Railway Walk Tiverton
Plan 66 - Tree Field Tiverton
Plan 67 - Victoria Close Willand
Plan 68 - Victoria Crescent Crediton
Plan 69 - West-Exe Recreation Ground Tiverton
Plan 70 - Willand Moor Road Willand

SCHEDULE D - Enclosed Children's Play Areas

Plan 71 - Amory Park, Tiverton

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

Plan 78 - Chaffinch Drive Crediton

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

Plan 84 - Cudmore Park Tiverton

Plan 85 - Culm Valley Way Uffculme

Plan 86 - Dove Close Cullompton

Plan 87 - Ellerhayes Hele

Plan 88 - Everett Place Tiverton

Plan 89 - Fernworthy Copplestone

Plan 90 - Fulda Crescent Crediton

Plan 91 - Glebelands Cheriton Bishop

Plan 92 - Godfreys Garden Bow

Plan 93 - Greenaway Morchard Bishop

Plan 94 - Greenway Crediton

Plan 95 - Halsbury Road Tiverton

Plan 96 - Harpitt Close Willand

Plan 97 - Hawthorne Road Tiverton

Plan 98 - Haymans Close Cullompton

Plan 99 - Haymans Green Cullompton

Plan 100 - Headweir Road Cullompton

Plan 101 - Knightwood Cullompton

Plan 102 - Lapford Play Area
Plan 103 - Larks Drive Cullompton
Plan 104 - Linden Road Cullompton
Plan 105 - Logan Way Hemyock
Plan 106 - Lords Meadow Crediton (1)
Plan 107 - Lords Meadow Crediton Skate Park Crediton
Plan 108 - Lords Meadow Crediton
Plan 109 - Mallow Court Willand
Plan 110 - Millhayes Hemyock
Plan 111 - New Buildings Sandford
Plan 112 - Orchard Leigh Tiverton
Plan 113 - Orchard Way Willand
Plan 114 - Palmerston Park Tiverton
Plan 115 - Pathfields Uffculme
Plan 116 - Pippins Field Uffculme
Plan 117 - Ploudal Road Cullompton
Plan 118 - Primrose Close Tiverton
Plan 119 - Priory Road Tiverton
Plan 120 - Puddington Play Area
Plan 121 - Queen Elizabeth Drive Crediton
Plan 122 - Queensway Tiverton
Plan 123 - Recreation Ground Willand
Plan 124 - Rivermead Cullompton
Plan 125 - Siskin Chase Cullompton
Plan 126 - South View Willand
Plan 127 - Spencer Drive Tiverton
Plan 128 - Spindlebury Road Cullompton
Plan 129 - Spinning Path Gardens Crediton
Plan 130 - St Martins Close Bow
Plan 131 - Starkey Close Tiverton
Plan 132 - Starlings Roost Cullompton
Plan 133 - Station Road, Bray Close Burlescombe

- Plan 134 - Sunnymead Copplesstone
- Plan 135 - Tiverton Adventure Playground
- Plan 136 - Town Barton Sanford
- Plan 137 - Townlands Bradninch
- Plan 138 - Trickey Close Tiverton
- Plan 139 - Tuckers Meadow Crediton
- Plan 140 - Tufty Park Cullompton
- Plan 141 - Victoria Close Willand
- Plan 142 - Walnut Drive Crediton
- Plan 143 - Water Meadow Cullompton
- Plan 144 - Waylands Road Tiverton
- Plan 145 - West-Exe Recreation Ground & Pool Tiverton
- Plan 146 - Wilcombe Tiverton
- Plan 147 - Worcester Crescent Willand
- Plan 148 - Tanners Close Clover Drive Cullompton
- Plan 149 - The Hams BMX Track Tiverton