



**The Mid Devon (Public Spaces Protection)
(Dog Control) Order 2021**

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

DRAFT

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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 and Schedules are to the Articles and Schedules of this Order.

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 churchyards 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 [] 2021 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 2021"

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 cemetery or churchyard 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 park listed 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 Subject to Articles 6.1 and 6.2 in all 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 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 play area 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 6 dogs at any time. This Article does not apply to enclosed play areas referred to in Article 7 as dogs are prohibited from the said enclosed 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;

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

10.2.4 is using a working dog for agricultural activities or exempt hunting as set out in Schedule 1 of the Hunting Act 2004.

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

DRAFT

THE SCHEDULES

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Plan 5 – Blank

Plan 6 – Blank

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Plan 12 – Cemetery, Cullompton

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