

MAIDSTONE BOROUGH COUNCIL

PUBLIC SPACES PROTECTION ORDER (the "Order")

Dog Control

(SECTIONS 59, 60 AND 61 ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014)

In exercise of its powers under sections 59, 60 and 61 of the Anti-social Behaviour, Crime and Policing Act 2014 ("the Act") Maidstone Borough Council hereby varies and extends the existing transitioned Public Spaces Protection Orders regarding Dog Controls.

This order may be cited as the Maidstone Borough Council Public Spaces Protection Order – Dog Control

The Maidstone Borough Council ("the Council") having consulted with the relevant authorities and persons and being satisfied on reasonable grounds that activities in the manner prohibited below, carried out or likely to be carried on in the public spaces as specified in Schedules 1 to 4 of this Order have had, or are likely to have, a detrimental effect on the quality of life of those in the locality and;

- Is, or is likely to be, of a persistent or continuing nature;
- Is, or is likely to be, unreasonable and
- Justifies the restrictions imposed

This Order shall apply to the parts of the area of the Maidstone Borough shown edged red on the plans attached in Schedules 1-4 (the "Restricted Area"), to which the public or a section of the public have access on payment or otherwise, as of right or by virtue of express or implied permission.

PROHIBITIONS / REQUIREMENTS:

1. Remove dog faeces from land forthwith

- a. This part of the Order shall apply to any public space within the Borough of Maidstone shown edged red on the plan attached at Schedule 1 (the "Restricted Area")
- b. If a dog defecates at any time in the restricted area a person who is in charge of the dog at that time must remove the faeces from the land forthwith unless:
 - i. They have 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 the failure to do so
- c. *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*
- d. *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*
- e. A person in charge of the dog at the time of the offence shall provide, when asked by an authorised officer, a name and address in relation to not removing dog faeces from land forthwith.

2. Exclusion of Dogs from Play Areas and Tennis Courts

- a. This part of the Order shall apply to the play areas and Maidstone Borough Council Tennis Courts in the Borough of Maidstone as listed in Schedule 2 and shown edged red on the plans attached at Schedule 3 (the "Restricted Area")
- b. A person in charge of a dog must not take or allow the dog into the restricted area at any time unless:
 - i. They have 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 the failure to do so
- c. A person in charge of the dog at the time of the offence shall provide, when asked by an authorised officer, a name and address in relation to taking or allowing a dog to enter the restricted area

3. Keep Dogs on Leads in the Vinters Park Crematorium and the Sutton Road Cemetery

- a. This part of the Order relates to the Vinters Park Crematorium in the Borough of Maidstone shown edged red on the plans attached at Schedule 4 (the "Restricted Area") and Sutton Road Cemetery in the Borough of Maidstone shown edged red on the plan attached at Schedule 5 (the "Restricted Area").
- b. A person in charge of a dog in the restricted area must keep the dog on a lead at all times at unless:
 - i. They have 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 the failure to do so
- c. A person in charge of the dog at the time of the offence shall provide, when asked by an authorised officer, a name and address in relation to failing to keep dogs on leads in the restricted area.

4. Dogs on Leads by Direction

- a. This part of the Order shall apply to the Borough of Maidstone shown edged red on the plan attached at Schedule 1 (the "Restricted Area")
- b. A person in charge of a dog in the restricted area must at all times comply with a direction given to them by an authorised officer to put and keep the dog on a lead unless:
 - i. They have 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 the failure to do so
- c. An authorised officer may only give a direction under this part of the order if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog that is likely to cause nuisance, injury or disturbance to any other person, or to a bird or another animal.
- d. It is an offence to fail to provide, when asked by an authorised officer, a name and address in relation to not placing and keeping the dog on a lead when directed to do so by an authorised officer.

5. Keep Dogs Under Proper Control

- a. This part of the order shall apply to the Borough of Maidstone shown edged red on the plans attached at Schedule 1 (the "Restricted Area")
- b. A person in charge of a dog must keep the dog under proper control at all times in the restricted area unless:
 - i. They have 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 the failure to do so
- c. It is an offence to fail to provide, when asked by an authorised officer, a name and address in relation to failing to keep the dog under proper control.

EXEMPTIONS:

This Order does not apply to a person who is-

- a. is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948, or "severely sight impaired", or "sight impaired" under the Care Act 2014; or
- b. 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 "prescribed charity" and upon which he relies for assistance;
- c. each of the following is a "prescribed charity"
 - i. Dogs for the Disabled (registered charity number 700454)
 - ii. Support Dogs (registered charity number 1088281)
 - iii. Canine Partners for Independence (registered charity number 803680)
 - iv. Hearing dogs for deaf people (registered charity number 293358)
 - v. Any charity created subsequent to this Order, which covers the issues detailed in point b. above.

DEFINITIONS:

For the purpose of this Order:

"authorised officer/ authorised person" means Police Constable, designated Police Community Support Officer, or an officer with authority delegated by the Council.

"in charge of a dog" means 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;

"public space" means any place to which the public, or a section of the public, have access on payment or otherwise, as of right or by virtue of express or implied permission.

OFFENCES AND FIXED PENALTY NOTICES:

1. Under Section 67 of the Act it is an offence for a person without reasonable excuse to:
 - i. Do anything that the person is prohibited from doing by the Order; or
 - ii. Fail to comply with a requirement to which the person is subject under the Order

Any person who commits an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

2. In respect of controls 1 to 4, in accordance with Section 68 of the Act, an authorised person may issue a Fixed Penalty Notice up to £100 to a person he has reason to believe has committed an offence under Section 67.
3. In respect of control 5, in accordance with Section 68 of the Act, an authorised person may issue a Fixed Penalty Notice up to £100 to a person he has reason to believe has committed an offence under Section 67. A Fixed Penalty Notice may specify two amounts and specify that if the lower of those amounts is paid within a specified period, that is the amount of the Fixed Penalty.

APPEALS:

In accordance with Section 66 of the Act, any interested person who wishes to challenge the validity of this Order on the grounds that the Council did not have the power to make the Order or to include particular prohibitions or requirements imposed by the Order, or that a requirement under the Act has not been complied with may apply to the High Court within six weeks from the date upon which the Order is made.

SCHEDULE 1:

A map of the Maidstone Borough showing the Restricted Area edged in red.

SCHEDULE 2:

List of the play areas & Maidstone Borough Council Tennis Courts which are restricted areas as shown in Schedule 3.

SCHEDULE 3:

Maps of the play areas & Maidstone Borough Council Tennis Courts showing the Restricted Area edged in red

SCHEDULE 4:

A map of the Vinters Park Crematorium showing the Restricted Area edged in red

SCHEDULE 5:

A map of the Sutton Road Cemetery showing the Restricted Area edged in red

This Order shall come into force on 21st October 2020 and have effect for a period of 3 years.

**The Common Seal of the
Borough of Maidstone
was affixed in the presence of:**