

APPENDIX 2

DRAFT ORDER

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

SECTION 59

PUBLIC SPACES PROTECTION ORDER

This order is made by the London Borough of Hackney (the 'Council') and shall be known as the Public Spaces Protection Order (Dog Control) 2020.

PRELIMINARY

1. The Council, in making this Order is satisfied on reasonable grounds that:

The activities identified below have been carried out in public places within the Council's area and have had a detrimental effect on the quality of life of those in the locality,

and that:

the effect, or likely effect, of the activities:

is, or is likely to be, of a persistent or continuing nature,

is, or is likely to be, such as to make the activities unreasonable, and

justifies the restrictions imposed by the notice.
2. The Council is satisfied that the prohibitions imposed by this Order are reasonable to impose in order to prevent the detrimental effect of these activities from continuing, occurring or recurring, or to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.
3. The Council has had regard to the rights and freedoms set out in the European Convention on Human Rights. The Council has had particular regard to the rights and freedoms set out in Article 10 (right of freedom of expression) and Article 11 (right of freedom of assembly) of the European Convention on Human Rights and has concluded that the restrictions on such rights and freedoms imposed by this Order are lawful, necessary and proportionate.

THE ACTIVITIES

4. The Activities prohibited by the Order are:

- i Failing to remove dog faeces from land within the Restricted Area forthwith.
- ii Allowing dogs to enter or remain on land identified in Schedule 1 of this order (the exclusion areas).
- iii Failing to keep a dog on a lead at all times when on the land identified in Schedule 2 of this order,
- iv Failing to comply with a direction given by an Authorised Officer of the Council to put and keep a dog on a lead,
- v Failing to keep a dog under proper control.

THE PROHIBITION

5. A person shall not engage in any of the Activities anywhere within the Restricted Area as shown shaded on the attached map labelled “The Restricted Area” or, in relation to Article 4(ii) within the land listed in schedule 1 to this order and in relation to Article 4(iii), within the land listed in schedule 2 to this order.

6. This Prohibition is subject to the Exception stated below.

FOR THE PURPOSES OF THIS ORDER

7. 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.

THE EXCEPTION

8. Nothing in this order shall apply to a person who –

- a. is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948;

- b. is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which he relies for assistance;
 - c. 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;
 - d. a person who is training an assistance dog in an official capacity; or
 - e. a dog used by the police or other agencies permitted by the Council for official purposes.
9. Nothing in Article 4(ii), (iii), (iv) and (v) shall apply to a person who has been given permission by the owner occupier or other person having control of the land.

DEFINITIONS

10. In this Order the following words or phrases are defined as follows:

‘Authorised Officer’ means an employee or agent of the Authority who is authorised for the purpose of giving directions under this Order.

‘Council’ means the London Borough of Hackney.

‘In charge’ A person who has a dog in his possession shall be taken to be in charge of the dog

‘Lead’ means any rope, cord, leash or similar item which is no more than two metres in length and which 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 control. An extendable lead must not be extended beyond two metres.

‘Proper control’ means a dog being on a lead or muzzled if the dog requires it, or otherwise being at heel/close enough to the person in charge that it can be restrained if necessary or respond immediately to voice commands.

‘Removing/removal of dog faeces’ means placing the faeces in a receptacle in the Restricted Area which is provided for the purpose, or the disposal of waste.

‘Restricted Area’ means the whole of the London Borough of Hackney as shown on the map attached to this order and labelled ‘Restricted Area’.

PERIOD FOR WHICH THIS ORDER HAS EFFECT

11. This Order will come into force at midnight on [**date to be inserted**] and will expire at midnight on [**date to be inserted**].
12. At any point before the expiry of this three year period the Council can extend the Order by up to three years if they are satisfied on reasonable grounds that this is necessary to prevent the activities identified in the Order from occurring or recurring or to prevent an increase in the frequency or seriousness of those activities after that time.

WHAT HAPPENS IF YOU FAIL TO COMPLY WITH THIS ORDER?

Section 67 of the Anti-Social Behaviour Crime and Policing Act 2014 says that it is a criminal offence for a person without reasonable excuse –

- (a) to do anything that the person is prohibited from doing by a public spaces protection order, or
- (b) to fail to comply with a requirement to which the person is subject under a public spaces protection order.

A person guilty of an offence under section 67 is liable on conviction in the Magistrates Court to a fine not exceeding level 3 on the standard scale.

FIXED PENALTY

A Constable, Police Community Support Officer or Council Enforcement Officer may issue a fixed penalty notice to anyone he or she believes has committed an offence under section 67 of the Anti- Social Behaviour, Crime and Policing Act. You will have 14 days to pay the fixed penalty of £100. If you pay the fixed penalty within the 14 days you will not be prosecuted.

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 the safe zone. 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 one of the requirements of the legislation has not been complied with.

When an application is made the High Court can decide to suspend the operation of the order pending the Court's decision, in part or in totality. The High Court has the ability to uphold or quash the order or any of its prohibitions or requirements.

Dated.....

Sealed etc

Text of Section 67 Anti-Social Behaviour Crime and Policing Act 2014

(1) It is an offence for a person without reasonable excuse-

(a) To do anything that the person is prohibited from doing by a public spaces protection order, or

(b) To fail to comply with a requirement to which a person is subject under a public spaces protection order

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

(3) A person does not commit an offence under this section by failing to comply with a prohibition or requirement that the local authority did not have power to include in the public spaces protection order

SCHEDULES:

Schedule 1:

By virtue of Article 4(ii) of this order, dogs are **excluded** from all children's play areas, outdoor gyms, BMX tracks, courts, skate parks and all fenced off picnic areas throughout the Restricted Area. This order also applies to all areas designated as a play area, gym, court or skate park by the Council this Order comes into effect.

ALLENS GARDENS, N16

APPLES AND PEARS ADVENTURE PLAYGROUND, E2

BROADWAY MARKET GREEN, E8

BUTTERFIELD GREEN, N16

CLAPTON COMMON, E5

CLAPTON SQUARE, E5

CLISSOLD PARK, N16

DAUBENEY FIELDS, E9

DE BEAUVOIR SQUARE, N1

EVERGREEN ADVENTURE PLAYGROUND, E8

HACKNEY DOWNS, E5

HACKNEY MARSH ADVENTURE PLAYGROUND, E9

HAGGERSTON PARK, E2

HOMERTON GROVE ADVENTURE PLAYGROUND, E9

KIDSACTIVE AFTER SCHOOL CLUB, E5

LONDON FIELDS, E8

MILLFIELDS PARK, E5

SHAKESPEARE WALK ADVENTURE PLAYGROUND, N16

SHEPHERDESS WALK, N1

SHOREDITCH ADVENTURE PLAYGROUND, N1

SHOREDITCH PARK, N1

SPRINGFIELD PARK, E5

ST JOHN'S CHURCHYARD PLAY
AREA, E9

STOKE NEWINGTON COMMON, N16

STONEBRIDGE PARK, E8

WELL STREET COMMON, E9

Sports grounds, courts, multi-use games areas (MUGA) and pitches

ASKE GARDENS MUGA, N1

CLISSOLD PARK TENNIS COURTS AND MUGA, N16

HACKNEY DOWNS TENNIS AND BASKETBALL COURTS , MUGA AND
PITCHES, E5

HACKNEY MARSHES SPORTS PITCHES, E5

HAGGERSTON PARK ASTRO-TURF PITCH AND BMX TRACK, E2

LONDON FIELDS TENNIS COURTS AND CRICKET PITCH, E8

MABLEY GREEN ASTRO-TURF PITCH, ADI-ZONE AND REGULAR
PITCHES, E9

MILLFIELDS CRICKET FIELDS, TENNIS AND BASKETBALL COURTS , E5

SHEPHERDESS WALK MUGA, N1

SHOREDITCH PARK RUGBY PITCH AND BEACH VOLLEYBALL COURT ,
N1

SPRING HILL TENNIS COURTS AND RUGBY PITCHES , E5

SPRINGFIELD PARK CRICKET PITCHES AND TENNIS COURTS , E5

UFTON GARDENS MUGA, N1

Fenced dog free areas in

CLISSOLD PARK, N16

SPRINGFIELD PARK, E5

Schedule 2

By virtue of Article 4 (iii) of this order **dogs must be kept on a lead** in general public areas (excluding towpaths), on roads and in car parks, churchyards, burial grounds (excluding Abney Park Cemetery), communal areas on estates and public parks including:

ALBION PARADE, N16

ALBION SQUARE GARDENS, E8

ASKE GARDENS, N1

CASSLAND ROAD GARDENS, E9

CHARLES SQUARE, N1

CHURCH STREET GARDENS, N16

GOLDSMITH'S SQUARE RECREATION GROUND AND PLAY AREA, E2

FAIRCHILD'S GARDEN, E2

WEST HACKNEY RECREATION GROUND, N16

HOXTON SQUARE, N1

KYNASTON GARDENS, N16

LEVY MEMORIAL GROUND, N16

MARK STREET GARDEN, EC2

QUAKER BURIAL GROUND, N16

SHACKLEWELL GREEN, E8

SHORE GARDENS, E9

ST JOHN AT HACKNEY CHURCHYARD, E8

ST JOHN OF JERUSALEM CHURCHYARD, E9

ST LEONARD'S CHURCHYARD, E1

ST MARY'S OLD CHURCH, N16

ST THOMAS' LONG BURIAL GROUND, E9

ST THOMAS' SQUARE, E9

UFTON GARDENS, N1

SHEPHERDESS WALK, N1 (which is over half a hectare in size)

and QUEEN ELIZABETH OLYMPIC PARK (which is over half a hectare in size)