

Order for the Extension of a Public Spaces Protection Order under The Anti-Social Behaviour, Crime and Policing Act 2014
WESTMORLAND AND FURNESS COUNCIL
The Fouling of Land by Dogs (Eden) Order 2023

Westmorland and Furness Council in exercise of its powers under section 60 of the Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”), hereby extend the Fouling of Land by Dogs (District of Eden) Order 2008 (“the Order”) by making the following Order:-

THIS ORDER is made by Westmorland and Furness Council (“the Council”) because the Council is satisfied on reasonable grounds that the conditions at section 59 (2) and (3) are met as follows:

- activities carried on or likely to be carried on in a public place have had or are likely to have a detrimental effect on the quality of life of those in the locality,
- the effect or likely effect of the activities is or is likely to be, of a persistent or continuing nature,
- the effect or likely effect of the activities is or is likely to be, such as to make the activities unreasonable, and
- justifies the restrictions imposed by the notice

AND that an extension of the Order is necessary under section 60(2) to prevent-

- (a) occurrence or recurrence after that time of the activities identified in the order, or
- (b) an increase in the frequency or seriousness of those activities after that time.

1. **The Public Open Space** to which this order applies is that land specified in the Schedule.
2. **This Order** comes into force on 19th October 2023 .

Offence

3. (1) If a dog defecates at any time on land to which this Order applies and a person who is in charge of the dog at that time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless
 - (a) he has a reasonable excuse for failing to do so; or
 - (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

- (2)** Nothing in this article applies to a person who
- (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
 - (b) has a disability which affects his mobility, manual dexterity, physical co-ordination 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.
- (3)** For the purposes of this article
- (a) a person who habitually has a dog in his 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;
 - (b) placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be a sufficient removal from the land;
 - (c) 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;
 - (d) 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).

Penalty

4. A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Duration of Order

5. This order shall remain in force for a period of three years unless extended under section 60 of the Act 2014.

Appeal

6. An interested person may apply to the High Court to question the validity of this order on the ground that the local authority did not have power to make the order or that it has not complied with a requirement of the Act. An Appeal must be made within 6 weeks of the date on which the order is made.

Date

The Common Seal of)
WESTMORLAND AND FURNESS COUNCIL)
is affixed in the presence of)

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Chief Legal and Monitoring Officer

SCHEDULE

This Order applies to the following land in the area of Eden within the District of Westmorland and Furness:

All land which is open to the air and to which the public are entitled or permitted to have access (with or without payment) and which is within 200 metres of a public highway which comprises or includes a carriageway which is subject otherwise than temporarily to a speed limit of 40 miles per hour or less, except for "access land" within the meaning of the Countryside and Rights of Way Act 2000.