

Carmarthenshire County Council

Anti-social Behaviour, Crime & Policing Act 2014

**Carmarthenshire County Council (Dog Control) Public Spaces
Protection Order 2016**

Carmarthenshire County Council ("the Council") hereby makes the following Public Spaces Protection Order under section 59 of the Anti-social Behaviour, Crime & Policing Act 2014:

This Order may be cited as the 'Carmarthenshire County Council (Dog Control) Public Spaces Protection Order 2016'.

This Order will come into force on [Date to be inserted when the Order is made] and will remain in force for a period of three years.

Introduction

- (a) People who fail to clean up after their dogs on publicly accessible land cause nuisance to others. The presence of dog faeces is a potential hazard to all members of the public alike. It causes risks to health, defaces land and has the potential to deface people and their property.
- (b) When not properly supervised and kept under control, dogs that are allowed off a lead in public areas can cause road traffic accidents, and can cause nuisance or injury to members of the public and to other animals.
- (c) Dogs in children's play areas can become aggressive if startled. They can also defecate in these areas, defacing and causing a health risk to the young children that use them.
- (d) The Council is satisfied that the behaviour set out above has had, and is likely to continue to have, a detrimental effect on the quality of life of people within Carmarthenshire.
- (e) This Order seeks to prevent or reduce the detrimental effects referred to above, by imposing reasonable restrictions and requirements on people whilst in charge of dogs on public land. It seeks to facilitate the safe sharing of our public spaces, whilst recognising that people should be able to exercise their dogs off lead in public areas, provided that their dogs are under control and behaving appropriately.

Offences

Part 1 - Dog Fouling

1. If a dog defecates at any time on land to which this part of the Order applies, and the 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 he can show that:-
 - (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 him failing to do so;
2. This part of the Order applies to all public places in the County of Carmarthenshire.

For these purposes, a "public place" means any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.
3. For the purpose of this part of the Order:
 - (a) placing the faeces in a receptacle on the land which is provided for this purpose, or for the disposal of waste, shall be a sufficient removal from the land;
 - (b) 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;

Part 2 - Dogs on Leads by Direction

4. A person in charge of a dog will be guilty of an offence if at any time, on land to which this part of the Order applies, they fail to comply with a direction given to them by an authorised officer of the Council to put and keep the dog on a lead of not more than 2 metres in length for such period and/or in such circumstances as directed by the officer, unless he can show that:-
 - (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 him failing to do so.
5. For these purposes, a "lead" means any rope, cord, leash or similar item 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 close control.
6. This part of the Order applies to all public places in the County of Carmarthenshire.

For these purposes, a "public place" means any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission
7. For the purposes of this part of the Order, an authorised officer of the Council may only direct a person to put and keep a dog on a lead if such restraint is reasonably necessary to prevent a nuisance, or behaviour by the dog that is likely to cause annoyance or disturbance to any other person, or the worrying or disturbance of any animal.
8. In this part of the Order "an authorised officer of the Council" means a person who is authorised in writing by the Authority for the purpose of giving directions under this Order. This can include a person who is not an employee of the Council.

Part 3 - Dog Exclusions

9. A person in charge of a dog will be guilty of an offence if at any time he takes the dog onto, or permits the dog to enter or remain on, any land to which this part of the Order applies, unless he can show that:-
 - (a) he has a reasonable excuse for doing so; or
 - (b) the owner, occupier, or other person or authority having control of the land, has consented (generally or specifically) to him doing so;
10. This Part of the Order applies to all enclosed children's play areas in the County of Carmarthenshire that are open to the air.

For these purposes land which is covered is to be treated as land which is "open to the air" if it is open on at least one side.
11. For the purposes of this part of the Order:-
 - (a) A "children's play area" is an area that is set aside for children to play in and contains children's play equipment such as a slide, swings, seesaw, climbing frame or other similar play apparatus.
 - (b) A children's play area is "enclosed", if it is surrounded on all sides by fences, gates, walls or other structures that mark the extent of the play area.

Exemptions for Disabled People

12. The dog fouling provisions in this Order do not apply to a person who:
 - (a) is registered as partially sighted or blind, in a register compiled under section 29 of the National Assistance Act 1948; or
 - (b) is registered as "sight-impaired", "severely sight-impaired" or as "having sight and hearing impairments which, in combination, have a significant effect on their day to day lives", in a register compiled under section 18 of the Social Services and Well-being (Wales) Act 2014; or
 - (c) has a disability which affects his mobility, manual dexterity, physical coordination, or ability to lift, carry, or otherwise move everyday objects, such that he cannot reasonably be expected to remove the faeces; or

- (d) has some other disability, such that he cannot reasonably be expected to remove the faeces.
13. The dog exclusion provisions in this Order do not apply to a dog trained by a registered charity to assist a person with a disability and upon which a disabled person relies for assistance.
14. For the purposes of this Order, a “disability” means a condition that qualifies as a disability for the purposes of the Equality Act 2010 and a “disabled person” means a person who has such a disability.

Exemption for Working Dogs

15. Nothing in this Order shall apply to the normal activities of a working dog, whilst the dog is working.

This includes dogs that are being used for work in connection with emergency search and rescue, law enforcement and the work of Her Majesty’s armed forces; farm dogs that are being used to herd or drive animals; dogs that are being lawfully used for the capture or destruction of vermin and dogs that are being lawfully used for the purposes of hunting.

Other Matters

16. For the purposes of this Order 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.
17. Where the person in charge of a dog wishes to rely upon any of the exemptions set out in this order, the burden will be on him to prove that he satisfies the requirements of the exemption being relied upon.

Penalties

18. A person who is guilty of an offence under this order shall on summary conviction be liable to a fine not exceeding level 3 on the standard scale.
19. A Fixed Penalty Notice may be issued to a person who breaches this Order, offering them the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty.

Dated the day of 2016

The Common Seal of
Carmarthenshire County
Council was hereunto
affixed in the presence of:

Head of Administration & Law