

SCARBOROUGH BOROUGH COUNCIL

THE SCARBOROUGH PUBLIC SPACES PROTECTION ORDER 2017

THE ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014 (PART 4 CHAPTER 2 SECTIONS 59-75)

The Scarborough Borough Council ('the Council') in exercise of its powers under the Anti-social Behaviour, Crime and Policing Act 2014 ('the Act') hereby makes the following Public Spaces Protection Order ('the Order').

PART 1 – GENERAL

- 1.1 This Order comes into force on 1 July 2017 for a period of 3 years.
- 1.2 This Order applies to all Land-
 - (a) which is open to the air (including land which is covered but open to the air on at least one side);
 - (b) to which the public are entitled or permitted to have access (with or without payment); and
 - (c) which is outlined in red on the plan attached as the Schedule to this Order.
- 1.3 Before expiry of this Order the Council may extend, vary or discharge it in accordance with the provisions of the Act.
- 1.4 In making this Order the Council is satisfied on reasonable grounds that-
 - (a) the activities covered by this Order have been carried on in a public place within the Council's area and have had a detrimental effect on the quality of life of those in the locality; and
 - (b) 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.
- 1.5 The Council is also satisfied that the prohibitions and requirements set out within this Order are reasonable-
 - (a) to prevent the detrimental effect on the quality of life of those in the locality continuing, occurring or recurring; or

(b) to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

1.6 In making this Order the Council has had particular regard to the rights and freedoms of expression and freedom of assembly set out in articles 10 and 11 of the European Convention on Human Rights.

1.7 An “authorised person” means a person authorised in writing by the Council to enforce, and issue fixed penalty notices under, this Order.

Penalty

1.8 A person who is guilty of an offence under Part 2 of this Order shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

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

1.10 A constable or authorised person may issue a fixed penalty notice to any person they have reason to believe has committed an offence under this Order.

1.11 Where a person is issued with a fixed penalty notice for an offence under this Order, the amount of the fixed penalty is £100.

1.12 A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of the fixed penalty to the Council.

1.13 Where a person is issued with a fixed penalty notice under this Order-

(a) no proceedings may be taken for the offence before the end of the period of 14 days following the date of the notice;

(b) the person may not be convicted of the offence if the person pays the fixed penalty in full before the end of that period.

PART 2 – ALCOHOL

Preliminary

2.1 This Part of the Order does not apply to the consumption of alcohol on or in the following places-

- (a) Premises (other than Council operated licensed premises) authorised by a premises licence to be used for the supply of alcohol;
- (b) Premises authorised by a club premises certificate to be used by the club for the supply of alcohol;
- (c) A place within the curtilage of premises within Article 2.1 (a) or (b);
- (d) Premises which by virtue of Part 5 of the Licensing Act 2003 may at the relevant time be used for the supply of alcohol or which, by virtue of that Part, could have been so used within 30 minutes before that time;
- (e) A place where facilities or activities relating to the sale or consumption of alcohol are at the relevant time permitted by virtue of a permission granted under section 115E of the Highways Act 1980 (highway-related uses);
- (f) Council operated licensed premises-
 - (i) when the premises are being used for the supply of alcohol; or
 - (ii) within 30 minutes after the end of a period during which the premises have been used for the supply of alcohol.

2.2 A requirement imposed by an authorised person under Part 2 Article 2.4 below is not valid if the authorised person is asked by the person to show evidence of their authorisation and fails to do so.

2.3 A constable or authorised person may dispose of anything surrendered under Part 2 Article 2.4 in whatever way they think appropriate.

Offence

2.4 A person who fails to comply without reasonable excuse with any requirements of a constable or authorised person-

- (a) to cease consumption of alcohol or anything which the constable or authorised person reasonably believes to be alcohol; or

(b) to surrender anything in their possession which is, or which the constable or authorised person reasonably believes to be, alcohol or a container for alcohol;

on Land to which this Order applies commits an offence.

PART 3 – PSYCHOACTIVE SUBSTANCES

Preliminary

- 3.1 In this Part of this Order “psychoactive substance” means any substance which-
- (a) is capable of producing a psychoactive effect in a person who consumes it; and
 - (b) is not an exempted substance under section 3 of the Psychoactive Substances Act 2016.
- 3.2 For the purposes of this Part of this Order-
- (a) a substance produces a psychoactive effect in a person if, by stimulating or depressing the person’s central nervous system, it affects the person’s mental functioning or emotional state; and references to a substance’s psychoactive effects are to be read accordingly;
 - (b) a person consumes a substance if the person causes or allows the substance, or fumes given off by the substance, to enter the person’s body in any way.
- 3.3 A constable or authorised person may dispose of anything surrendered under Part 3 Article 3.4 in whatever way they think appropriate.

Offence

- 3.4 A person who fails to comply without reasonable excuse with any requirement of a constable or authorised person-
- (a) to cease consumption of a psychoactive substance or anything which the constable or authorised person reasonably believes to be a psychoactive substance; or
 - (b) to surrender anything in their possession which is, or which the constable or authorised person reasonably believes to be, a psychoactive substance or a container for a psychoactive substance;
- on Land to which this Order applies commits an offence.

PART 4 – URINATION AND DEFECATION

Offence

4.1 A person commits an offence if at any time they urinate and/or defecate without reasonable excuse for doing so on or within Land to which this Order applies.

Date: 8 May 2017

The **COMMON SEAL** of the
SCARBOROUGH BOROUGH COUNCIL

was hereunto affixed on the

11 May

2017

in the presence of:-



DAVID KITSON
SOLICITOR
REGULATORY AND GOVERNANCE MANAGER



14093

Authorised Signatory