

## LONDON BOROUGH OF WANDSWORTH

### ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

#### LONDON BOROUGH OF WANDSWORTH (CONSUMPTION OF ALCOHOL AND PSYCHOACTIVE SUBSTANCES AND DOG CONTROL) PUBLIC SPACES PROTECTION ORDER 2023

#### RECITALS

- A. The London Borough of Wandsworth (“the Council”) is satisfied that the requirements of Chapter 2 of Part 4, and specifically Sections 59 and 72, of the Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”) have been satisfied and that it is, in all the circumstances, appropriate to make this Order.
- B. The Council is satisfied that the activities specified by this Order (“the prohibited activities”) have been and will continue to be carried on in public spaces in the Council’s area which have had and will continue to have a detrimental effect on the quality of life of those in the locality, such anti-social behaviour resulting from the public consumption of psychoactive substances and alcohol in public places (other than premises excluded from this Order) and a lack of dog control.
- C. The Council, in making this Order, is satisfied on reasonable grounds that the prohibited activities have been carried out in the restricted area, and have had a detrimental effect on the quality of life of those in the locality and it is likely that those activities will continue to be carried out in the restricted area and will have that effect.
- D. The Council is further satisfied that the effect, or likely effect, of the activities-
- a. is, or is likely to be of a persistent or continuing nature;
  - b. is, or is likely to be such as to make the activities unreasonable; and
  - c. justifies the restrictions imposed by this Order.
- E. The Council is satisfied that the prohibitions and requirements imposed by this Order are ones that it is reasonable to impose in order to prevent the detrimental effect from continuing, occurring, or recurring or to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

- F. The Council has had regard to the rights and freedoms set out in the Convention for the Protection of Human Rights and Fundamental Freedoms 1950 (“the Convention”) in so far as they may be affected by these Orders. 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 Convention and has concluded that the restrictions on such rights and freedoms imposed by this Order are lawful, necessary and proportionate.
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The Council of the London Borough of Wandsworth (in this Order called “the Council”) hereby makes the following Order pursuant to and in exercise of its powers under Section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”):

## **Part 1 - General**

### **Citation**

1. This Order may be cited as the London Borough of Wandsworth (Consumption of Alcohol and Psychoactive Substances and Dog Control) Public Spaces Protection Order 2023.

### **Commencement and Duration**

2. This Order shall come into force on xxx October 2023 and will remain in force for the period of 2 years thereafter, unless extended, or discharged before that date.

### **Interpretation**

3. In this Order –

“the Act” means Anti-social Behaviour, Crime and Policing Act 2014;

“alcohol” means spirits, wine, beer, cider or any other fermented, distilled or spirituous liquor (in any state) but does not include alcohol which is of a strength not exceeding 0.5% at the time of sale or supply;

“Authorised Person” means a Constable, Police Community Support Officer, Council Officer or other person authorised for the purposes of this Order by the Council;

“the Council” means the London Borough of Wandsworth;

“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;

“Restricted Area” means the area identified in Article 4, subject to Articles 10 to 13.

#### **Public Space effected by this Order**

4. This Order applies in any public place within the administrative area of the Council (the Restricted Area), subject to the provisions of Articles 10 to 13 limiting the application of those Articles to specified parts of the Restricted Area.

#### **Conditions on imposition of Requirements**

5. (1) Where an authorised person imposes a requirement under this Order on a person (P) he or she must tell (P) that failing without reasonable excuse to comply with the requirement is an offence.  
  
(2) A requirement imposed under this Order by an authorised person who is not a constable or police community support officer, is not valid if the person—
  - (a) is asked by P to show evidence of his or her authorisation, and
  - (b) fails to do so.

## **Part 2 – Anti-social Behaviour**

### **Prohibition on consumption of alcohol**

6. (1) Subject to paragraph (2) no person shall consume alcohol within the Restricted Area so as to cause, or be likely to cause nuisance or annoyance to any other person.
- (2) The prohibition in paragraph (1) does not apply to the premises etc. within the Restricted Area set out in Schedule 1 to this Order.
- (3) Paragraph (4) applies where an authorised person reasonably believes that a person (P) —
  - (a) is or has been consuming alcohol in breach of paragraph (1), or
  - (b) intends to consume alcohol in circumstances in which doing so would be a breach of that Article.
- (4) An authorised person may require P—
  - (a) not to consume, in breach of paragraph (1), alcohol or anything which the authorised person reasonably believes to be alcohol;
  - (b) to surrender anything in P's possession which is, or which the authorised person reasonably believes to be, alcohol or a container for alcohol.
- (5) An authorised person may dispose of anything surrendered under paragraph (4)(b) in whatever way he or she thinks appropriate.

### **Public consumption of psychoactive substances**

7. (1) No person shall consume, or be in possession of, a psychoactive substance within the Restricted Area.
- (2) For the purposes of Article—

- (a) "psychoactive substance" means any substance, including nitrous oxide, which—
- (i) is capable of producing a psychoactive effect in a person who consumes it, and
  - (ii) is not an exempted substance.
- (b) 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.
- (c) 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.
- (d) "exempted substance" means a substance listed in Schedule 1 to the Psychoactive Substances Act 2016, subject to any amendments by Regulations made by the Secretary of State.

(3) Paragraph (4) applies where an authorised person reasonably believes that a person (P) —

- (a) is or has been consuming or is in possession of a psychoactive substance, in breach of the prohibition in paragraph (1), or
- (b) intends to consume a psychoactive substance in circumstances in which doing so would be a breach of that prohibition.

(4) Where this paragraph applies an authorised person may require P—

- (a) not to consume, in breach of the prohibition in paragraph (1), a psychoactive substance or anything which the authorised person reasonably believes to be a psychoactive substance;
- (b) to surrender anything in P's possession which is, or which the authorised person reasonably believes to be, a psychoactive substance or a container for a psychoactive substance.



- (5) An authorised person may dispose of anything surrendered under paragraph (4)(b) in whatever way he or she thinks appropriate.

### **Part 3 – Dog Control**

#### **Interpretation of Part 3**

8. In this Part –

(1) a person who habitually has a dog in his or her 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;

(2) "prescribed charity" means —

- (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) Guide Dogs for the Blind (registered charity number 209617)
- (vi) Assistance Dogs (UK) (registered charity number 1119538)

#### **Dog Fouling**

9. (1) If a dog defecates at any time in the Restricted Area the person who is in charge of the dog at that time (P) is required to remove the faeces from the Restricted Area forthwith, unless (P) has a reasonable excuse for failing to do so.

(2) Nothing in this Article applies to a person who—

- (a) is registered as a sight impaired and severely sight impaired person in a register maintained under section 77 of the Care Act 2014; or
- (b) has a disability which affects his or her 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 she or he relies for assistance.

- (c) is training an assistance dog in an official capacity; or
- (d) is a constable, or police community support officer or other person permitted by the Council using a dog for official purposes.

(3) For the purposes of this Article—

- (a) placing the faeces in a receptacle in the Restricted Area, which is provided for the purpose, or for the disposal of waste, shall be a sufficient removal from the Restricted Area;
- (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.

### **Dogs on Leads**

10. (1) This Article applies to the parts of the Restricted Area specified in Schedule 2 to this Order.

(2) All dogs within the Restricted Area to which this Article applies shall be kept on a lead at all times by the person in charge of the dog (P), unless P has a reasonable excuse for failing to do so.

### **Requirement to put and keep a dog on a Lead**

11. (1) This Article applies to the parts of the Restricted Area specified in Schedule 3 to this Order.

(2) Paragraph (3) applies where an authorised person reasonably believes that a person in charge of a dog (P) in the Restricted Area to which this Article applies, has not kept the dog on a lead.

(3) Where this paragraph applies an authorised person may require P to put and keep the dog on a lead, unless P has a reasonable excuse for failing to do so.

(4) For the purposes of this Article, an authorised person may only impose a requirement under paragraph (3) if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person or the worrying or disturbance of any animal or bird.

### **Exclusion of dogs from certain areas**

12. (1) This Article applies to the parts of the Restricted Area specified in Schedule 4 to this Order known as dog exclusion areas.

(2) A person in charge of a dog (P) shall not, at any time, take the dog onto a dog exclusion area, or permit the dog to enter or remain on such area, unless P has a reasonable excuse for doing so.

(3) Nothing in this Article applies to a person who—

- (a) is registered as a sight impaired and severely sight impaired person in a register maintained under section 77 of the Care Act 2014; or
- (b) is deaf, in respect of a dog trained by a prescribed charity and upon which he or she relies for assistance; or
- (c) has a disability which affects his or her 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 or she relies for assistance; or
- (d) is training an assistance dog in an official capacity; or
- (e) is a constable, or police community support officer or other person permitted by the Council using a dog for official purposes.



### **Multiple dog walking and specified maximum number of Dogs**

13. (1) This Article applies to the parts of the Restricted Area specified in Schedule 5 to this Order.

(2) The maximum number of dogs which a person may take onto the Restricted Area to which this article applies is four.

(3) No person shall, at any time, take onto the Restricted Area more than four dogs unless—

(a) that person has a licence issued by the Council permitting him or her to take more than four dogs onto the Restricted Area; or

(b) he or she has a reasonable excuse for doing so.

(4) A person who is permitted to take more than four dogs onto the Restricted Area under a licence issued by the Council, shall not at any time, take more than the permitted number of dogs onto the Restricted Area unless he or she has a reasonable excuse for doing so.

### **Requirement to provide Name and Address**

14. (1) If an authorised person reasonably believes that a person (P) has breached any of prohibitions or requirements imposed by Articles 6 to 13 he or she may require P to give his or her name and address to the authorised person.

(2) An authorised person who imposes a requirement under paragraph (1) must tell P that—

(a) failing to give his or her name and address when required to do so under paragraph (1), or

(b) giving a false or inaccurate name or address in response to a requirement under that paragraph is an offence.

## **Part 4 – Penalties for failure to comply with the Order**

### **Offence of failing to comply with the Order**

15. Subject to Article 17, by Section 67 of the Act, it is a criminal offence for a person without reasonable excuse—
- (a) to do anything that the person is prohibited from doing by this Order, or
  - (b) to fail to comply with a requirement to which the person is subject under this Order.
16. A person guilty of an offence under Section 67 of the Act is liable on summary conviction in the Magistrates' Court to a fine not exceeding level 3 on the standard scale.
17. By Section 67(4) of the Act it is not an offence to consume alcohol in breach of Article 6(1) but, by Section 63(6) of the Act a person who fails without reasonable excuse to comply with a requirement imposed on him or her under Article 6(4) of this Order commits an offence and is liable on summary conviction in the Magistrates' Court to a fine not exceeding level 2 on the standard scale.

### **Fixed Penalty Notices**

18. An authorised person may issue a fixed penalty notice (FPN) to anyone he or she has reason to believe has committed an offence under Section 63 or 67 of the Act. A person issued with a FPN must pay the fixed penalty of £100 within 14 days to discharge any liability to conviction for the offence. The penalty is automatically reduced to £75 if paid within 10 days.

**Premises etc. to which Article 6(1) does not apply**

- (1) The prohibition in Article 6(1) to this Order does not apply to—
- (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 paragraph (a) or (b);
  - (d) premises which by virtue of Part 5 of the Licensing Act 2003 (Permitted temporary activities) 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 the 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).
- (2) prohibition in Article 6(1) to this Order does not apply to licensed premises operated by the Council—
- (a) when the premises are being used for the supply of alcohol, or
  - (b) within 30 minutes after the end of a period during which the premises have been used for the supply of alcohol.
- (3) In this paragraph—
- “club premises certificate” has the meaning given by Section 60 of the Licensing Act 2003;
  - “premises licence” has the meaning given by Section 11 of that Act;
  - “supply of alcohol” has the meaning given by Section 14 of that Act.