

WEST DEVON BOROUGH COUNCIL **draft June 2014 NT**

THE CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005

The Dog Control Orders (Prescribed Offences and Penalties etc) Regulations 2006
(SI 2006/1059)

BOROUGH OF WEST DEVON FOULING OF LAND BY DOGS ORDER 2014

West Devon Borough Council (in this Order called "the Council") hereby makes the following Order:

1. Citation and Commencement.

2. This Order comes in to force on xx October 2014 and may be cited as the Borough of West Devon Fouling of Land by Dogs Order 2014.
3. This Order applies to the land specified in the Schedule below.
4. In this Order "an Authorised Officer of the Council" means an employee of the Council, or, anyone who acts in the capacity of an agent of the Council under a contract, who is authorised in writing by the Council for the purpose of giving directions under this Order, or, any other such person who may be authorised by the Authority or by legislation (e.g. Police Community Support Officer) to enforce this Order.
5. Any reference to 'he' or 'him' or 'his' applies to any gender.

6. Offence

- (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 (or if a minor, the person responsible for the dog) 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 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.

(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 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).

7. Penalty

A person who commits an offence under this Order may either be issued with a Fixed Penalty Notice by an Authorised Officer for the sum of £80 (or any other such sum as may from time to time be permitted by legislation) OR be summonsed, and if found guilty in the Magistrates’ Court shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale or any other penalty as may from time to time be permitted by legislation.

THE COMMON SEAL OF)
WEST DEVON BOROUGH COUNCIL)

Was affixed)
In execution as a deed in the)
Presence of:-)

.....
SOLICITOR duly authorised in that behalf

SCHEDULE

1. Subject to the exception in Paragraph 2 below, all land which is in the administrative area of the Council and which is:

- (i) Open to the air (which includes land that is covered but open to the air on at least one side); and
 - (ii) To which the public are entitled or permitted to have access (with or without payment).
2. Excepted from the description in paragraph 1 above is land that is placed at the disposal of the Forestry Commissioners under section 39 (1) of the Forestry Act 1967.