

## **NORTH DEVON DISTRICT COUNCIL**

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

#### **PART 4, SECTION 59**

### **PUBLIC SPACES PROTECTION ORDER**

In exercise of the power under section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 (the Act), being satisfied that the conditions set out in section 59 of the Act have been met, the North Devon District Council (NDDC) hereby makes a Public Spaces Protection Order in relation to the Restricted Areas as outlined in red on the location plans (the town centres of Barnstaple and Ilfracombe) as shown in Schedule 1 of this Order.

The terms of the order are that any person within the Restricted Areas, whilst in a street or any other public place to which the public have access without payment, shall:

**A. Surrender any intoxicating substance\* in their possession to an authorised person\*\* when requested to do so by that authorised person, if:**

**(a) They are found to be ingesting, inhaling, injecting, smoking or otherwise using an intoxicating substance or substances; or**

**(b) They are in possession of such intoxicating substance or substances with the intent of using such intoxicating substance within this area; or**

**(c) The authorised person has reasonable grounds to believe that such person is using or intends to use the intoxicating substance or substances within the said area.**

**B. Not urinate in a street\* or public open space.**

The term 'street' includes any road, footway, beach or other area to which the public have access without payment. It also includes a service area as defined in Section 329 of the Highways Act 1980. Other areas will include parks and retail car parks to which the public have access without payment. Exemptions shall apply where authorised temporary public urinals/toilets have been provided in accordance with any specification issued by North Devon District Council and with its agreement.

**C. Not carry out aggressive begging –**

Aggressive begging is defined as behaviour that a reasonable person would regard as intimidating and which is designed to cause a member of the general public to offer money to a person not known to them. North Devon District Council would define that behaviour as:

(1) clearly intimidating, i.e. through the use of threatening language or gestures, or  
(2) intimidating by being passive aggressive, such as standing or sitting in close proximity (i.e. within 5 metres) of a cash machine or pay station either singularly or in a group of two or more i.e. where people expect privacy and/or feel vulnerable with their money, bank cards, wallets or purse on display.

**D. Not behave (either individually or in a group of two or more people) in a manner that has caused or is likely to cause a member of the public to suffer harassment, alarm or distress by that behaviour.**

**E. Person or persons within this area who breach Prohibition D shall when ordered to do so by an authorised person leave the area either immediately or by such time as may be specified and in such a manner as may be specified.**

*The manner specified by the authorised person may include a requirement not to re-enter a defined zone within the PSPO area until a certain time, which shall be no later than 24 hours from the time that an authorised person orders a person to leave the area and or persons to disperse from that area.*

- It is an offence for a person without reasonable excuse to do anything that the person is prohibited from doing by the PSPO or to fail to comply with a requirement to which the person is subject under the PSPO. By virtue of section 67 (2) of the Act a person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale or a Fixed Penalty Notice may be issued by virtue of section 68 (1) of the Act up to a current maximum of £100.
- Any person who lives in the area of the PSPO or who regularly works in or visits that area may apply to the High Court to challenge the validity of the PSPO if that person believes that the authority did not have power to make the order or that a requirement in the Chapter of the Act relevant to the PSPO was not complied with. An application under section 66 of the Act must be made within the period of six weeks beginning with the date on which the PSPO is made.

This Order shall come into force on 1<sup>st</sup> January 2024 and shall remain in place for a period of 3 years

Dated this

THE COMMON SEAL of NORTH DEVON  
DISTRICT COUNCIL was hereunto fixed  
In the presence of:

### **Explanatory Notes:**

- (i) \*Intoxicating Substance is given the following definition (which includes alcohol and 'new psychoactive substances' i.e. substances with the capacity to stimulate or depress the central nervous system).
- (ii) Exemptions shall apply in cases where the substances are used for a valid and demonstrable medicinal use, given to an animal as a medicinal remedy, are cigarettes or vaporisers (tobacco products), or are food stuffs regulated by food safety legislation, or where the use of the intoxicating substance when alcohol falls within the curtilage of a premises licenced for the sale and consumption of alcohol, and within the operating hours of such. An exemption also applies to premises, authorised to sell alcohol, where a pavement licence has been granted by North Devon Council under Part 1 of the Business and Planning Act 2020.
- (iii) Section 63 (1) and (2) of the Act provides that where a constable or authorised person reasonably believes that a person is or has been consuming alcohol or intends to consume the alcohol in breach of this prohibition, that constable or authorised person may require the person not to consume the alcohol or to surrender the alcohol or container for alcohol to that constable or authorised person. Upon being provided with evidence that the constable or authorised person has the appropriate authorisation, a person who fails to comply with the requirement of the constable or authorised person shall commit an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale. A constable or an authorised person may dispose of anything surrendered in whatever way he or she thinks appropriate.
- (iv) \*\* An authorised person shall be a Police Constable, Police Community Support Officer or authorised North Devon District Council Officer, who must be able to present their authority upon request.

SCHEDULE 1 – LOCATION PLAN