Appendix 1

The Public Spaces Protection Order 2019 No.: 2019-001

Anti Social Behaviour, Crime and Policing Act 2014 ("the Act")

Melton Borough Council ("the Authority") has made the following Public Spaces Protection Order under section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 ("the Act") being satisfied that:

(a) Activities as described in this order and carried out in a public place within its area have had a detrimental effect on the quality of life of those living in the locality and/or

(b) It being likely that activities will be carried out in a public place and that they will have such an effect

And that the effect or likely effect of the activities

(a) Is or is likely to be of a persistent or continue nature
(b) Is or is likely to be such as to make the activities unreasonable; and
(c) Justifies the restrictions imposed by this Order

And pursuant to the requirements of section 72 of the Act the Council:

(a) having had particular regard to the rights of freedom of expression and freedom of human assembly set out in Articles 10 and 11 of the European Convention on Human Rights; and

(b) having carried out the necessary consultation, notification and publicity:

HAS DECIDED TO MAKE this Public Spaces Protection Order under section 59 of the Act.

This Order comes into force on XXX and shall have effect for a period of 3 years, unless extended by further orders under Melton Borough Council's statutory powers.

In this Order:

- an “Authorised Officer of the Authority” means an employee of Melton Borough Council who is authorised in writing by the Authority for the purpose of giving directions under this Order.

- an “Authorised Person” includes Authorised Officer of the Authority”, Police Officers (including Police Community Support Officer (PCSO’s) and Police Constables).

This order incorporates:

Article 1.0 - Dog Fouling in specified areas:

1.1 This article applies to land specified in Schedule 1 of this Order.

1.2 If a dog defecates at any time on any land to which this article applies and a 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 –

(a) He has a reasonable excuse for failing to do so; or

(b) The owner, occupier or other person/authority having control of the land has expressly consented to his failing to do so.

1.3 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 faeces in a receptacle on the land which is provided for the purpose, or 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.

1.4 In accordance with section 67 of the Act a person who is guilty of an offence under this article shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Article 2.0 - Failing to produce device or other means or removing dog faeces on demand

2.1 This article applies to land specified in Schedule 1 of this Order.

2.2 If at any time on any land to which this article applies, a person who is in charge of a dog at any time fails to produce forthwith a device for or other suitable means of removing dog faeces (whether or not the dog has defecated) when asked to do so by an Authorised Person, 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/authority having control of the land has expressly consented to his failing to do so.

2.3 For the purposes of this article, 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.

2.4 In accordance with section 67 of the Act a person who is guilty of an offence under this article shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Article 3.0 – Dogs on Lead by Direction

3.1 This article applies to land specified in Schedule 1 of this Order.

3.2 A person who is in charge of a dog that is out of control and/or causing a nuisance and/or there are grounds for reasonable apprehension that it will injure any person or assistance dog, shall be guilty of an offence if, at any time, on any land to which this article applies he does not put the dog on a lead and keep the dog on the lead of not more than five (5) metres in length, unless –

(a) He has a reasonable excuse for failing to do so; or

(b) The owner, occupier or other person/authority having control of the land has expressly consented to his failing to do so.

3.3 For the purposes of this article, 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.

3.4 In accordance with section 67 of the Act a person who is guilty of an offence under this article shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Article 4.0 – Dog Exclusion

4.1 This article applies to land specified in Schedule 2 of this Order.

4.2 A person who is in charge of a dog shall be guilty of an offence if, at any time, he takes the dog onto, or permits the dog to enter or to remain on, any land to which this article applies unless:

(a) He has a reasonable excuse for failing to do so; or

(b) The owner, occupier or other person/authority having control of the land has expressly consented to his failing to do so.

4.3 For the purposes of this article, 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.

4.4 In accordance with section 67 of the Act a person who is guilty of an offence under this article shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Article 5.0 – Direction to Move On and Disperse (where necessary):

5.1 This article applies to land specified in Schedule 3 of this Order.

5.2 A person commits an offence if they fail to comply immediately with a direction by an Authorised Person to move on from any location on any land to which this article applies to such distance from that location and for such a time period and disperse to groups of no more than 3 individuals as specified by the Authorised Person unless:

(a) He has a reasonable excuse for failing to do so; or

(b) The owner, occupier or other person/authority having control of the land has expressly consented to his failing to do so.

5.3 An Authorised Person may only give a direction under this article if such direction is reasonably necessary to prevent nuisance or behaviour by a person that is likely to cause annoyance or disturbance to any other person.

5.4 In accordance with section 67 of the Act a person who is guilty of an offence under this article shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Article 6.0 – Prohibition of Alcohol Consumption

6.1 This article applies to land specified in Schedule 3 of this Order.

6.2 No person shall consume alcohol or have an open container of alcohol in their possession on any land to which this article applies subject to the exemptions referred to in Appendix A below.

6.3 Where an Authorised Person reasonably believes that a person is or has been consuming alcohol in breach of the prohibition in 6.2 above, or intends to consume alcohol in circumstances in which doing so would be a breach of that prohibition, under section 63(2) if the Act the Authorised Person may require the person:

(a) Not to consume, in breach of the Order, alcohol or anything which the Authorised Person reasonably believes to be alcohol;

(b) to surrender anything in the person's possession which is, or which the Authorised Person reasonably believes to be, alcohol or a container for alcohol.

6.4 An Authorised Person who imposes a requirement under section 63(2) of the Act must the person that failing without reasonable excuse to comply with the requirement is an offence.

6.5 A requirement imposed by an Authorised Person under section 63(2) of the Act is not valid if the Authorised Person is asked by the person to show evidence of his or her authorisation and fails to do so.

6.6 An Authorised Person may dispose of anything surrendered under section 63(2)(b) of the Act in whatever way he or she thinks appropriate.

6.7 A persons who fails without reasonable excuse to comply with a requirement imposed on him or her under section 63(2) of the Act commits an offence and is liable on summary conviction to a fine not exceeding 2 on the standard scale.

Exemptions:

Articles 1, 2 and 4 shall apply to all land within the Borough of Melton which is open to the air (including covered land which is open to the air on at least one side), and to which the public are entitled or permitted to have access with or without payment.

Nothing in articles 1, 2 and 4 shall apply to:

1. A person who has an assistance dog
2. Land used for agriculture and woodlands
3. Rural common land

Fixed Penalties:

An Authorised Person may issue a fixed penalty notice to anyone he or she has reason to believe has committed an offence under section 63 or 67 in relation to a public spaces protection order

Appendix A:

Section 62 Premises etc to which alcohol prohibition does not apply:

(1) A prohibition in a public spaces protection order on consuming alcohol 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 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) A prohibition in a public spaces protection order on consuming alcohol does not apply to council-operated licensed premises—

(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 section—

"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.

(4) For the purposes of this section, premises are "council-operated licensed premises" if they are authorised by a premises licence to be used for the supply of alcohol and—

(a) the licence is held by a local authority in whose area the premises (or part of the premises) are situated, or

(b) the licence is held by another person but the premises are occupied by a local authority or are managed by or on behalf of a local authority.

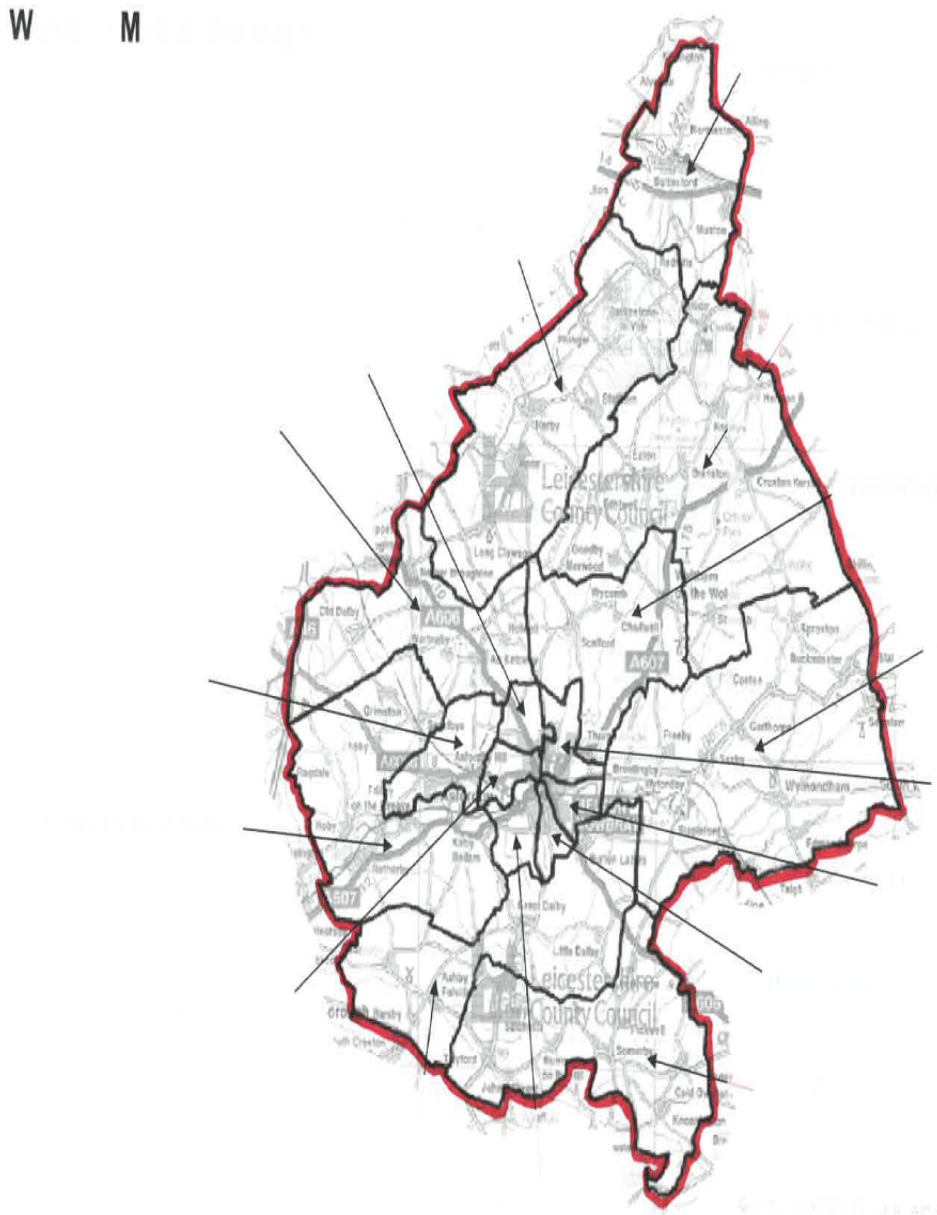
Made: .....
The Common Seal of the **MELTON BOROUGH COUNCIL** was hereto affixed in the presence of: ..... Authorised Signatory

Schedule 1

The Public Spaces Protection Order

Articles 1.0, 2.0 and 3.0

Public spaces within the Borough of Melton (shown edged red on the plan attached), being Public Places in the Authority's area to which articles 1.0, 2.0 and 3.0 of this Order and the Act apply.



Schedule 2

The Public Spaces Protection Order

Article 4.0

Public spaces within the Borough of Melton detailed below, being Public Places in the Authority's area to which article 4.0 of this Order and the Act applies.

Play_Space (Features: 19, Selected: 0)

function	distinctiv	Area_Ha
Play Space	The Crescent Play Area	7.37
Play Space	Play Close Park	6.40
Play Space	Melton Country Park	0.10
Play Space	Scalford Brook Play Area	0.33
Play Space	Collingwood Close	0.03
Play Space	Horseguards Way	0.03
Play Space	Arden Drive	0.01
Play Space	Lancers Drive	3.22
Play Space	Ullswater Road	2.11
Play Space	Dieppe Way	3.67
Play Space	Sunnybrook Play Area	2.28
Play Space	Thrush Close Play Area	5.11
Play Space	Kirby Fields	0.02
Play Space	Hartopp Road Play Area	2.01
Play Space	Honeysuckle Way Play Area	8.29
Play Space	Baldocks Lane Play Area	0.10
Play Space	Melton Skate Park	6.10
Play Space	Vulcan Close	0.02
Play Space	Dickens Drive Play Area	7.05

Schedule 3

The Public Spaces Protection Order

Articles 5.0 and 6.0

Public spaces within the Borough of Melton (shown edged red on the plan attached), being Public Places in the Authority's area to which articles 5.0 and 6.0 of this Order and the Act apply.