



PUBLIC SPACES PROTECTION ORDERS (PSPO) COVERING
CONSUMPTION OF ALCOHOL

This Order may be cited as the **South Hams District Council Public Space Protection Order (Alcohol) 2021** and shall come into force on 18 October 2021.

PRELIMINARY

1. The Council in making this Order is satisfied on reasonable grounds that:

The activities identified below have been carried out in public spaces within the Council's area and have had a detrimental effect on the quality of life of those in the locality.

and that:

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 by the notice.

2. The Council is satisfied that the prohibitions imposed by the Order are reasonable to impose in order to prevent the detrimental effect of these activities from continuing, occurring or reoccurring, or to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or reoccurrence.
3. The Council has had regard to the rights and freedoms set out in the European Convention on Human Rights. 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 European Convention on Human Rights and has concluded that the restrictions on such rights and freedoms imposed by this Order are lawful, necessary and proportionate.

THE ACTIVITIES

4. The Activities prohibited by this Order are:
 - i. failing to comply with a direction not to consume, in breach of this order, alcohol, or anything which an authorised person reasonably believes to be alcohol where the authorised person reasonably believes that a person has engaged in anti-social behaviour.
 - ii. failing to surrender a container of alcohol (whether open or not) when asked to do so by an authorised person.
 - iii. engaging in anti-social behaviour which is likely to cause harassment alarm and distress to those persons in the locality.

THE PROHIBITIONS

5. A person shall not engage in any of the Activities listed at paragraph 4(i) and 4(iii) anywhere within the Restricted Areas as detailed in Schedule 1 and marked on the map at Schedule 2 of this order and labelled "Restricted Areas".
6. This Prohibition is subject to the Exception stated below.

THE REQUIREMENT

7. A person who is believed to have engaged in a breach of this Order is required to give their name and address to a police officer, police community support officer or other person designated by the Council.

THE EXCEPTION

8. Nothing in this Order shall apply to a person who is consuming alcohol on premises listed in section 62 of the 2014 Act, the full text of section 62 appears at Schedule 3 of this Order.

DEFINITION

9. In this Order the following words or phrases are defined as follows:
'Alcohol' has the same meaning as in section 191 of the Licensing Act 2003, the full text of s.191 appears at the end of this Order.

'Anti-social behaviour' means conduct that has caused or is likely to cause nuisance, annoyance, harassment, alarm or distress to any person.

'Authorised Officer' means an employee or agent of the Authority who is authorised for the purpose of giving directions under this Order.

'Council' means South Hams District Council.

PERIOD FOR WHICH THIS ORDER HAS EFFECT

10. This Order is made on 15 July 2021 and will come into force at midnight on 18 October 2021 and will expire at midnight on 18 October 2021 and will expire at midnight on 17 October 2024.
11. At any point before the expiry of this three year period, the Council can extend the Order by up to three years if they are satisfied on reasonable grounds that this is necessary to prevent the activities identified in the Order from occurring or reoccurring or to prevent an increase in the frequency or seriousness of those activities after that time.

The PSPO area is defined as being the land described in Schedule 1 below and shown in red on the maps attached to this Order in Schedule 2, being land in the area of the Council.

SCHEDULE 1

DARTMOUTH

Coronation Park, Royal Avenue Gardens, New Ground Car Park, Footways immediately adjacent to both of the above, being part of North Embankment, Coombe Road, College Way and Mayor's Avenue, Manor Gardens and from the embankment edge of the Boatfloat to the greenhouses in Mayors Avenue.

Victoria Road park, Collingwood road park, and Britannia Avenue park.

IVYBRIDGE

Public Highway (including all carriageways, footways and footpaths and open spaces): Fore Street (throughout), Marjorie Kelly Way (throughout), Leonards Road (throughout), Glanvilles Road, Glanvilles Mill, the area bounded by Leonards Road; Fore Street and Marjorie Kelly way. Playground off St. Johns Close. Woodlands Park. Victoria Park. MacAndrews Field. Filham Park. The underpass of the A38. Playing fields known as Erme Playing Fields.

KINGSBRIDGE

Recreation Ground. Town Square (excluding area adjacent Creek's End), Britton's Field. Duncombe Park inc. entrance car park area, children's play area, central grassed area and terraces, Bridge Street (to junction with

Church Close), Promenade/Embankment Road (west side) grassed and surfaced area adjacent toilets to end of grassed/surfaced area beyond Memorial Shelter, Bus station and footpath opposite pharmacy, Prince of Wales Road. Library – Steps/ramp and paved area in front of Library. Kingsbridge Town Council – Quay House grounds. Lower Union Road, Devon Square, Mill Street, Fore Street. Derby Road Industrial Estate.

SALCOMBE

Baptist Lane, Chapel End, Cliff House Gardens, Cliff Road – adjacent to Cliff House Gardens, Clifton Place including the slipway, Courtenay Park, Cross Park Gardens, the perimeter of roads of Cross Park Gardens from Courtenay Street to Devon Road, Courtenay Street, Customhouse Quay including all landing stages and slipways, Ferry Pier and Steps including the landing stage, also the unnamed passage and steps running south from the Ferry Steps to the foreshore, Folly Lane, Fore Street, Fore Street – Footway in front of Nos 74 to 76, Fore Street – Area leading to Kings Court, Market Street, Robinsons Row, Union Street, Victoria Place and Quay including all landing stages and slipways, Whitestrand Car Park and Quay including the pontoon, slipway and steps. Victoria Quay as far as Island Street. Island Street. Gould Road. Shadycombe Road. Shadycombe Road Car Park. Creek Car and Boat Park. Cross Park Gardens. Bakerswell. Bonfire Hill Cemetery, Shadycombe Cemetery.

TOTNES

Fore Street, High Street, Rotherfold, Cistern Street (excluding south of Rotherfold), Leechwell Street, Church Close Guildhall Yard, Ramparts Walk, footpath adjacent to Civic Hall car park, Civic Square, The Plains, Coronation Road (to the entrance of the Fire Station). Open space at Rotherfold, Civic Hall car park, St Mary's churchyard, The Lamb and Heath's Gardens, the footpath from Coronation Road to Babbage Road, pedestrianised area around Town Mill, forecourt of Totnes United Free Church, Vire Island, Town Quay, Symons Passage. Steamer Quay Car Park and adjacent road. Longmarsh park area.

SCHEDULE 2

Maps

SCHEDULE 3

LEGISLATION

Section 62 - Anti-Social Behaviour, Crime and Policing Act 2014

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.

Section 63 - Anti-Social Behaviour, Crime and Policing Act 2014

Consumption of alcohol in breach of prohibition in order

- (1) This section applies where a constable or an authorised person reasonably believes that a person (P);
 - (a) is or has been consuming alcohol in breach of a prohibition in a public spaces protection order, or
 - (b) intends to consume alcohol in circumstances in which doing so would be a breach of such a prohibition.

In this section "*authorised person*" means a person authorised for the purposes of this section by the local authority that made the public spaces protection order (or authorised by virtue of section 69(1)).

- (2) The constable or authorised person may require P. –
 - (a) not to consume, in breach of the order, alcohol or anything which the constable or authorised person reasonably believes to be alcohol;
 - (b) to surrender anything in P's possession which is, or which the constable or authorised person reasonably believes to be, alcohol or a container for alcohol.
- (3) A constable or an authorised person who imposes a requirement under subsection (2) must tell P that failing without reasonable excuse to comply with the requirement is an offence.
- (4) A requirement imposed by an authorised person under subsection (2) 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
- (5) A constable or an authorised person may dispose of anything surrendered under subsection (2)(b) in whatever way he or she thinks appropriate.
- (6) A person who fails without reasonable excuse to comply with a requirement imposed on him or her under subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Offences

Section 67 - Anti-Social Behaviour, Crime and Policing Act 2014

Offence of failing to comply with order

- (1) It is an offence for a person without reasonable excuse—
 - (a) to do anything that the person is prohibited from doing by a public spaces protection order, or
 - (b) to fail to comply with a requirement to which the person is subject under a public spaces protection order.
- (2) 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.
- (3) A person does not commit an offence under this section by failing to comply with a prohibition or requirement that the local authority did not have power to include in the public spaces protection order.
- (4) Consuming alcohol in breach of a public spaces protection order is not an offence under this section (but see section 63).

Section 191-- Licensing Act 2003

Meaning of "alcohol"

- (1) In this Act, "*alcohol*" means spirits, wine, beer, cider or any other fermented, distilled or spirituous liquor in any state, but does not include—
 - (a) alcohol which is of a strength not exceeding 0.5% at the time of the sale or supply in question,
 - (b) perfume,
 - (c) flavouring essences recognised by the Commissioners of Customs and Excise as not being intended for consumption as or with dutiable alcoholic liquor,
 - (d) the aromatic flavouring essence commonly known as Angostura bitters,
 - (e) alcohol which is, or is included in, a medicinal product or a veterinary medicinal product,
 - (f) denatured alcohol,
 - (g) methyl alcohol
 - (h) naphtha, or

(i) alcohol contained in liqueur

confectionery

(2) In this section —

"denatured alcohol" has the same meaning as in section 5 of the Finance Act 1995 (c. 4);

"dutiabale alcoholic liquor" has the same meaning as in the Alcoholic Liquor Duties Act 1979 (c. 4);

"liqueur confectionery" means confectionery which —

- (a) contains alcohol in a proportion not greater than 0.2 litres of alcohol (of a strength not exceeding 57%) per kilogram of the confectionery, and
- (b) either consists of separate pieces weighing not more than 42g or is designed to be broken into such pieces for the purpose of consumption;

"medicinal product" has the same meaning as in section 130 of the Medicines

Act 1968 (c. 67)

"strength" is to be construed in accordance with section 2 of the Alcoholic Liquor Duties Act 1979; and

"veterinary medicinal product" has the same meaning as in regulation 2 of the Veterinary Medicines Regulations 2006.

Dated.....

**THE COMMON SEAL OF
SOUTH HAMS DISTRICT**
was hereunto affixed in the
presence of:

Steve Jorden
Executive Director and
Authorised Signatory