

ORDER
ANTI-SOCIAL BEHAVIOR, CRIME AND POLICING ACT 2014
SECTION 59

PUBLIC SPACES PROTECTION ORDER

This Order is made by the Southend-on-Sea City Council (the 'Council') and shall be known as the Public Spaces Protection Order (Southend Seafront and Adjoining Areas) **No3 of 2022**

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 this Order.
2. The Council is satisfied that the prohibitions imposed by this Order are reasonable to impose in order to prevent the detrimental effect of these activities from continuing, occurring, or recurring, or to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.
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. Launching and recovering Personal Water Craft in the PWC Restricted Area otherwise than from the designated permitted launch site
- ii. The use of Personal Water Craft in the PWC Restricted Area in a manner that poses a risk to the safety of people, wildlife or property.
- iii. The use of Personal Water Craft in the PWC Restricted Area in a manner that has the potential to cause harassment, alarm and/or distress to any other beach or coastal water users or residents.
- iv. The non-adherence to the Southend-on-Sea City Beach and Coastal Waters Code of Practice (“the Code of Practice”) set out by the Council containing specific rules applicable to Personal Water Craft
- v. The use and disposal of all barbecues (BBQs) in a Public place within the BBQ Restricted Area

THE PROHIBITION

5. A person shall not engage in any of the Activities in paragraphs 4i, ii, iii and iv anywhere within the PWC Restricted Area as shown coloured blue on the map referred to as ‘PWC Restricted Area’ annexed at Schedule 1.
6. A person shall not engage in any of the Activities in paragraphs 4v, vi, vii, viii, ix and x anywhere within the BBQ Restricted Area as shown coloured red on the map referred to as ‘BBQ Restricted Area’ annexed at Schedule 1.
7. This Prohibition is subject to the Exceptions stated below

THE REQUIREMENTS

8. A person who is believed to have engaged in a breach of this Order or anti-social behaviour within the PWC or BBQ Restricted Areas, is required to give their name and address to an Authorised Officer
9. A person who is believed to have engaged in a breach of this Order, or in anti-social behaviour within the PWC or BBQ Restricted Areas, is required to leave the area if asked to do so by an authorised officer and not to return for a specified period not exceeding 48 hours
10. A person must clear up his/her belongings and/or litter if asked to do so by an Authorised Officer

THE EXCEPTIONS

11. The designated permitted launch site referred to in paragraph 4(i) is listed in the Code of Practice and are as follows:
 - a. Shoebury Common Slipway
12. Nothing in paragraph 4(v) to (x) shall prohibit BBQs, of any type, from being operated and held either within the grounds of public houses, hotels, restaurants,

cafes, or on Council owned land and common land in the BBQ Restricted Area by events organisers, vendors or individuals who have been granted a licence by the Council to use a BBQ within the BBQ Restricted Area.

13. Nothing in paragraph 4(v) to (x) shall prohibit beach hut owners from using gas or electric barbecues within their ownership area.

OTHER

14. This Order applies to Public places within the Council's area and is limited to the PWC Restricted Area and BBQ Restricted Area.
15. The effect of the Order is to impose the prohibitions and requirements detailed herein, at all times, save where specified exemptions apply or where the express permission of the Council has been given on the use of the relevant Restricted Area

DEFINITIONS

16. For the purpose of this Order the following definitions will apply

'Activities' means the prohibited activities listed in paragraph 4 above and/or failing to adhere to the Code referred to in paragraph 4(iv) and (viii) above.

'Authorised Officer' means a police officer a police community support officer or a person authorised in writing by the Council

'BBQ' means outdoor cooking by means of live fire and/or smoke and/or heat created by using and burning wood, paper, briquette or charcoal or by lighting gas or by using electricity, including battery power.

The Act defines Restricted Area not the specifics so only one definition needed to cover both.

'Restricted Area' has the meaning given by section 59(4) of the Anti-Social Behaviour, Crime and Policing Act 2014 and for the purposes of this Order the BBQ Restricted Area is shown coloured red on the BBQ Restricted Area Map annexed at Schedule 1 and identified as the 'BBQ Restricted Area' and the PWC Restricted Area is shown coloured blue on the PWC Restricted Area Map annexed at Schedule 1 and identified as the 'PWC Restricted Area'

'Drought' means the period of a water shortage in the locality decided by the Central Government, emergency or public services.

‘Heatwave’ the period in which the Met Office forecasts the temperature in the locality to exceed 35 degrees centigrade or as otherwise decided by Central Government, emergency or public services.

‘Interested Person’ means an individual who lives in the PWC or BBQ Restricted Areas or who regularly works in or visits that area

‘Personal Water Craft’ means a small craft, propelled by a directionally controlled water jet or other mechanical means of propulsion and steered: (i) by means of a handlebar operated linkage system with or without rudder at the stern, or (ii) by the person or persons riding the craft using their body weight for the purpose, or (iii) by a combination of the methods referred to respectively in (i) and (ii) above, and, for the avoidance of doubt, the term includes (but is not limited to) jet skis.

‘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

‘Southend-on-Sea City Beach and Coastal Water Code of Practice’ means the code of practice set out by the Council containing specific rules applicable to Personal Water Craft and for the use and disposal of gas and electric BBQs in the Designated BBQ Areas marked on the Map in Schedule 1 to this Order

PERIOD FOR WHICH THIS ORDER HAS EFFECT

17. This Order came into force at midnight on [] 2022 and will expire at midnight on [] 2025.
18. 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 recurring or to prevent an increase in the frequency or seriousness of those activities after that time. The Council may extend this Order more than once.

WHAT HAPPENS IF YOU FAIL TO COMPLY WITH THIS ORDER?

19. Section 67 of the Anti-Social Behaviour, Crime and Policing Act 2014 says that it is a criminal 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
20. A person guilty of an offence under section 67 is liable on conviction in a Magistrates Court to a fine not exceeding level 3 on the standard scale

FIXED PENALTY

21. An Authorised Officer may issue a fixed penalty notice to anyone he or she believes has committed an offence under section 67 of the Anti- Social Behaviour, Crime and Policing Act. You will have 14 days to pay the fixed penalty of £100. If you pay the fixed penalty within the 14 days you will not be prosecuted.

APPEALS

22. Any challenge to this Order must be made in the High Court by an interested person within six weeks of it being made. An interested person is someone who lives in, regularly works in or visits PWC or BBQ Restricted Areas. This means that only those who are directly affected by the restrictions have the power to challenge. The right to challenge also exists where an order is varied by the Council.

23. Interested persons can challenge the validity of this Order on two grounds: that the Council did not have power to make the Order, or to include particular prohibitions or requirements; or that one of the requirements of the legislation has not been complied with.

24. When an application is made, the High Court can decide to suspend the operation of the Order pending the Court’s decision, in part or in totality. The High Court has the ability to uphold the Order, quash it or vary it.

Dated.....

THE COMMON SEAL of SOUTHEND ON SEA)

CITY COUNCIL was pursuant to a resolution)

of the Council hereunto affixed to this Deed in the)

presence of:-)

Proper Officer of the Council

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

(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 a 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

Schedule 1 to this Order

Maps of the Restricted Areas referred to as []