

OADBY AND WIGSTON BOROUGH COUNCIL

PUBLIC SPACE PROTECTION ORDER NO 1 OF 2021 – PSYCHOACTIVE SUBSTANCES, E.G. NITROUS OXIDE

The Anti-Social Behaviour Crime and Policing Act 2014

1. WHEREAS Oadby and Wigston Borough Council ("the Council") is satisfied that the requirements of sections 59 and 72 of the Anti-Social Behaviour Crime and Policing Act 2014 ("the Act") have been satisfied and that it is, in all the circumstances, appropriate to make this Order.
2. WHEREAS the Council is satisfied that activities have been and will continue to be carried out in the RESTRICTED AREA, referred to below which have had and will continue to have a detrimental effect on the quality of life of those in the locality, such activities being the consumption of psychoactive substances, e.g. nitrous oxide, leading to anti-social behaviour, likely to cause harassment, alarm, distress, nuisance or annoyance.
3. WHEREAS the Council is satisfied that the effect of the activities is, or is likely to be, of a persistent or continuing nature, and is, or is likely to be such as to make the activities unreasonable and the effect justifies the restrictions imposed by this Order.
4. WHEREAS the Council is satisfied that the prohibitions imposed by this Order are ones that it is reasonable to impose in order to prevent the detrimental effect from continuing, occurring, or recurring or to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.
5. WHEREAS the Council has had particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the European Convention on Human Rights and Equality Act 2010.
6. THE COUNCIL MAKES the following Order in exercise of its powers under section 59, 60 & 61 of the Act.
7. This Order may be cited as Oadby and Wigston Borough Council (Psychoactive Substances, e.g. Nitrous Oxide) Public Spaces Protection Order No.1 of 2021 ("the Order"). This Order takes effect on the **(date)** and continues to have effect for a period of three years thereafter until **(date)**.
8. This Order applies to the land described in the Schedule below ("RESTRICTED AREA") and which is shown edged black on the attached plan ("the Order plan").
9. This Order applies to all persons in public places within the RESTRICTED AREA at all times of the day and night, save on where otherwise stated within the prohibitions.

10. This Order applies to the land described in the Schedule 1 below ("The Restricted Area), i.e. all public spaces within Oadby and Wigston, as set out on the Order Plan and which is shown edged black on the attached plan ("the Order plan").

11. PROHIBITIONS

- a) **Person(s) within the Restricted Area will not:**
Ingest, inhale, inject, smoke, possess or otherwise use psychoactive substances (e.g. nitrous oxide) and which is causing or likely to cause harassment, alarm, distress, nuisance or annoyance to members of the public.
- b) **Meaning of "psychoactive substance" etc**
"Psychoactive substance" means any substance, which is capable of producing a psychoactive effect in a person who consumes it and is not an exempted substance. For the purposes of this prohibition a substance produces a psychoactive effect in a person if, by stimulating or depressing the person's central nervous system, it affects the person's mental functioning or emotional state.
- c) For the purposes of this prohibition a person consumes a substance if the person causes or allows the substance, or fumes given off by the substance, to enter the person's body in any way. 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 (tobacco) or vaporisers or are foodstuffs regulated by food health and safety legislation.
- d) Persons within this area who breach this prohibition shall surrender any psychoactive substances (e.g. nitrous oxide) in his/her possession to an authorised person. An authorised person could be a police constable, Police Community Support Officer or authorised person designated by Oadby and Wigston Borough Council and must be able to present their authority upon request.

12. OFFENCE AND PENALTY

- a) Any person who, without reasonable excuse, fails to comply with the prohibitions in a-d above commits an offence.
- b) Any person who is guilty of an offence under prohibitions a-d of the Order shall be liable to summary conviction to a fine not exceeding level 3 on the standard scale.

13. ENFORCEMENT

- a) The Order shall be enforced by Police Constables, Police Community Support Officers and authorised persons designated by Oadby and Wigston Borough Council.
- b) A Police Constable, Police Community Support Officer or authorised person designated by Oadby and Wigston Borough Council may issue a

fixed penalty notice (FPN) to anyone they believe has committed an offence.

- c) A person committing an offence will have 14 days to pay the fixed penalty of £100.00, failing which you may be prosecuted. No further proceedings will be taken against you before the expiration of 14 days following the date of the FPN.
- d) A Police Constable, Police Community Support Officer or authorised person designated by Oadby and Wigston Borough Council may dispose of anything surrendered to him or her as a result of a requirement imposed by them in whatever way they think is appropriate.
- e) A Police Constable, Police Community Support Officer or authorised person designated by Oadby and Wigston Borough Council may take other necessary and proportionate enforcement action in reference to the Borough's Anti-Social Behaviour Policy. This may include referral to support services, low-level enforcement or referral to court action.

14. APPEALS

In accordance with Section 66 of the Act, any challenge to this order must be made in the High Court by any interested person within 6 weeks of it being made. An Interested person is someone who lives in, regularly works in, or visits the restricted area. 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. Interested persons can challenge the validity of this order on two grounds: That the council did not have the power to make the order, or to include particular prohibitions or requirements; or that one of the requirements of the legislation, for instance, consultation has not been complied with 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.

- 15. For the purposes of this Order, '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.

IN WITNESS WHEREOF THE COMMON SEAL OF
THE MAYOR OF THE COUNCIL

Schedule 1

Oadby and Wigston PSPO Area



1:37,500

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Restricted Zone Marked in Red

OADBY AND WIGSTON BOROUGH COUNCIL

Public Spaces Protection Orders. Anti-Social Behaviour Crime and Policing Act 2014.

OFFICER AUTHORITY

(Name of Authorised Officer)

Is hereby authorised to enforce the Oadby and Wigston Borough Council (Psychoactive Substances, e.g. Nitrous Oxide) Public Spaces Protection Order No.1 of 2021

This authorisation is issued under Part 3 – Section 6- Scheme of Delegation to Officers – Paragraph 1.5.24 .

Signed:

Name:

Designation: Head of Law and Democracy

Date: [INSERT DATE] 2021