

ELMBRIDGE BOROUGH COUNCIL

THE ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

ELMBRIDGE BOROUGH COUNCIL
(UNAUTHORISED MOORING) PUBLIC SPACES PROTECTION ORDER 2023

This Order may be cited as the Elmbridge Borough Council (Unauthorised Mooring) Public Spaces Protection Order 2023.

Elmbridge Borough Council (“the Council”) in exercise of its powers under Section 59, of the Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”), hereby makes the following Order: -

1. This Order shall come into operation on the [Date] and shall have effect for a period of 3 years unless extended by further orders under the Council’s statutory powers. _____
2. The Order relates to the Public Places within the Borough of Elmbridge shown edged red on the plans attached to this Order and thereafter known as Restricted Areas.
3. The Council is satisfied that the conditions set out in Section 59(2) & (3) of the Act have been met, namely.
 - a. that the activities of Unauthorised Mooring(s) and the associated littering, noise, and preventing others from temporary mooring for 24 hours in association with the Public Right of Navigation of the River Thames in a Restricted Area has a detrimental effect on the quality of life of those in the locality; and
 - b. that the effect, or likely effect, of the activities is, or is likely to be, of a persistent or continuing nature and accordingly, these activities are unreasonable and justify the restrictions imposed by the Order.

Restrictions

4. Any person(s) shall not carry out a Prohibited Activity within, or on, or by, or at, any of the Restricted Areas.
5. The Order shall have effect to prevent the Prohibited Activity within the Restricted Area.
6. It is an offence for a person, without reasonable excuse, to engage in a Prohibited Activity;

UNLESS

The Environment Agency’s [Guidance on River Thames: current river conditions](#) for the area between Molesey Lock to Teddington Lock has issued a Red or Yellow Warning Board, which advises, depending on the warning issued, that users of powered and/or unpowered boats either not to navigate, or to find a safe mooring.

Definitions

‘Authorised Person’ means Council Officers, Police Constables, Police Community Support Officers or other persons authorised by the Council in writing.

‘Interested Person’ means an individual who lives in a Restricted Area or who regularly works in or visits the Restricted Area.

‘Prohibited Activity’ means a prohibition against activities of an Unauthorised Mooring and the associated littering, noise and prevention of others from temporary mooring for 24 hours in association with the Public Right of Navigation of the River Thames.

‘Public Place’ means the same as that under Section 74(1) of the Act: *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.*

‘Public Right of Navigation’ means the public right of navigation within the meaning of Section 79 of the Thames Conservancy Act 1932.

‘Red or Yellow Warning Boards’ means warnings issued by the Environment Agency to users of powered and/or unpowered boats and which are regularly updated online at www.gov.uk/guidance/river-thames-current-river-conditions

‘Restricted Area’ means those areas identified and edged in red on the Plans, covering areas of the riverbanks and riversides, of Ditton Reach, Albany Reach, Cigarette Island, Cowey Sale and Hurst Park and Surrey County Council’s land adjacent to Hampton Court bridge, which accompanies this Order as a Schedule.

‘Unauthorised Mooring’ means a mooring that has stayed for longer than 24 hours within, or at, on or by a Restricted Area, without the written consent of the Council, and has returned within 72 hours to that Restricted Area.

Offences

1. Under section 67, it is an offence for a person, without reasonable excuse, to do anything that the person is prohibited from doing by a public spaces protection order, or 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 section 67 is liable on summary conviction to a fine not exceeding level 3 on the standard scale which is currently £1,000.

Fixed Penalty Notice

An Authorised Person may issue a Fixed Penalty Notice to anyone he or she believes has committed an offence. The amount of the Fixed Penalty Notice shall be £100. The penalty can be reduced to £65, if paid within 14 days otherwise the full penalty will be due. If you do not pay the penalty within 15 days, you may be prosecuted.

Appeals

Under section 66 of the Act, any Interested Person who wishes to challenge the validity of this Order on the grounds that the Council did not have the power to make the Order

