

WINCHESTER CITY (OFF STREET) PARKING PLACES ALRESFORD ORDER 2009

Winchester City Council (hereinafter referred to as "the Council") in exercise of its powers under Section 35 of the Road Traffic Regulation Act 1984 (which Act is hereinafter referred to as "the Act of 1984") and of Part IV of Schedule 9 to the Act of 1984, and of all other enabling powers and amending Acts with consent of Hampshire County Council and after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 of the Act of 1984 hereby make the following Order.

PART I

General

1. Commencement and citation. This Order may be cited as the Winchester City (Off Street) Parking Places Alresford Order 2009 and shall come into operation on the 22nd day of September 2009.

Interpretation

2. (1) In this Order except where the context otherwise requires, the following expressions have the meanings hereby assigned to them:-
 - (i) "the Council" means Winchester City Council;
 - (ii) "disabled person's badge" means a badge of a form prescribed by the Disabled Persons (Badges for Motor Vehicles) (England and Wales) Regulations 2000;
 - (iii) "disabled person's vehicle" means a motor vehicle being driven by a disabled person, or used for the carriage of a disabled person, which is displaying at the relevant time a disabled person's badge;

- (iv) "driver" in relation to a vehicle waiting in a parking place, means the person driving the vehicle at the time it was left in the parking place;
- (v) "goods vehicle" has the same meaning as in Section 192 of the Road Traffic Act 1988;
- (vi) "owner" has the same meaning as in Section 92 of the Traffic Management Act 2004;
- (vii) "civil enforcement officer" has the same meaning as in Section 76 of the Traffic Management Act 2004
- (viii) "parking device" has the same meaning as in Section 142 of the Act of 1984 and shall include any apparatus or device approved by the Secretary of State operated by the insertion of coins or bank notes or by means of credit or debit cards;
- (ix) "penalty charge" has the same meaning as Section 2 The Civil Enforcement of Parking Contraventions (England) General Regulations 2007
- (x) "parking place" means any part of any land or building specified by name in Column 1 of the Schedule to this Order and marked on the plan attached hereto provided by the Council pursuant to the Act of 1984 for use as a public parking place;
- (xi) "upper parking area" means the land hatched black on the attached plan
- (xii) "bus parking area" means the area edged blue on the attached plan
- (xiii) "parking bay" means a space in a parking place, marked on the surface of the parking place by lines, studs or other indications, or indicated by notices which is provided for the parking of vehicles;
- (x) "relevant position" means :
 - (a) in the case of a vehicle fitted with a front windscreen, a position thereon with the obverse side facing on the near side of and immediately behind the windscreen so that the date, time, parking place name and fee paid shown on the ticket are clearly visible from outside the vehicle.

- (b) in the case of a vehicle not fitted with a front windscreen, any other conspicuous position on the front of the vehicle so that the date, time, parking place name and fee paid shown on the ticket are clearly visible from outside the vehicle.
- (xii) "ticket" means the ticket issued by means of a parking device or parking apparatus on payment of the appropriate fee;
- (xiii) "e-ticket" shall mean a ticket purchased by ringing the number prescribed and displayed in the car park for that purpose, by the payment method specified and shall only be valid for the time specified and for the vehicle details given and for the car park for which it was purchased
- (iv) "trailer" shall have the same meaning as defined in Section 136 of the Act of 1984;
- (v) "vehicle" means a motor vehicle as defined by Section 136 of the Act of 1984.
- (vi) "designated school holiday" period advertised by notice in the car park during which time the upper car park and bus parking area may be used on a weekday

(2) Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended, applied, consolidated or re-enacted by, or as having effect by virtue of any subsequent enactment.

(3) The Interpretation Act 1978 shall apply to the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

PART II

Use of Parking Places

3. The land and buildings specified by name in Column 1 to this Order shall not be used, subject to the following provisions of this Order, other than as parking places for such classes of vehicles, in such positions and on such days and during such hours as are specified in relation to that land or buildings in the

said Schedule and on payment of such charges as are specified in the said Schedule.

4. Nothing in this Order shall prevent the Council, if appropriate by a notice displayed at the parking places;

(a) from closing the parking place or any part thereof for any period

(i) whilst any works are being executed therein

(ii) whilst the parking place or part thereof is required for use for some special purpose

(iii) for any other reason

(b) from setting aside for use only by specially authorised vehicles of part or parts of a parking place on all days or on certain days or during certain parts of certain days.

(c) from designating by display of a notice the car park on a maximum of 10 days per year for private use in connection with Perins School

5. Where in Article 4 of, or Schedule 1 to this Order, a parking place is described as available for waiting on all days or on certain days by specified classes of vehicle or in a specified position, the driver of a vehicle shall not, except with and subject to the terms of any permission in writing from the Council in the particular case, cause or permit it to wait in that parking place on any day:-

(a) unless it is a vehicle of one of the specified classes of vehicles appropriate to that parking place and that day; or

(b) otherwise than wholly within a parking bay marked out on the parking place; or

(c) so as unreasonably to prevent access to any premises adjoining the road, or the use of the road by other persons, or so as to be a nuisance.

6. The driver of a vehicle shall not, except with and subject to the terms of any permission in writing from the Council in the particular case, cause or permit it to wait in a parking place or any part thereof –
 - (a) at any time when the parking place or that part (as the case may be) has been closed or set aside for use only by specially authorised vehicles in accordance with Article 4 of this Order;
 - (b) for longer than 24 hours or, in a car park where the maximum stay specified in Column 6 of Schedule 1 to this Order is less than 24 hours, for longer than the period so specified.
7. (1) The driver of a vehicle shall upon depositing the vehicle in a parking place immediately pay the appropriate charge applicable to the class of vehicle, and period of parking ascertained by reference to Schedule 1 to this order
- (2) The charge referred to in paragraph (1) of this Article shall be payable
 - (i) by the insertion of an appropriate coin, coins or bank notes into the apparatus provided, where a parking apparatus is in use, or
 - (ii) by means of such credit or debit cards or other electronic methods of payment, which would include the purchase of an e-ticket as may be approved and advertised on site by notice by the Council, or
 - (iii) by such other parking device having been specifically or generally approved by the Secretary of State for such purposes and which is advertised by notice on site as a valid means of payment
- (3) The particulars as to the time at which a ticket was obtained from parking apparatus, specified on the ticket issued by such apparatus or in the case of an e-ticket records retained by the Council shall be evidence of the particulars so specified.

- (4) No person shall exhibit on any vehicle, any disabled person's badge upon which the figures or particulars have become illegible or altered in any way by anyone other than a person duly authorised by the appropriate authority.
- (5) Where any parking apparatus is defective or is not installed in a car park the charge referred to in paragraph (1) of this Article may be collected by a civil enforcement officer.
- (6) A vehicle left by the driver thereof who has been issued with a permit by the Council for the purpose of leaving the vehicle in a parking place for such time as that vehicle is parked in consequence of the driver's duty or business on behalf of the Council shall be exempted from payment of the charges specified in Column 7 of Schedule 1 hereto.
- (7) A ticket issued on payment of the charge referred to in Article 7(1) hereof shall be valid only at the parking place at which it was issued or in the case of an e-ticket at the parking place specified on purchase.
- (8) A vehicle which displays in the relevant place a disabled person's badge left in a parking place specified by name as a disabled parking space and described as a "Pay and Display" car park in Column 1 of Schedule 1 hereto shall be exempt from payment of any charge specified in Column 7 of Schedule 1 hereto. PROVIDED THAT such exemption shall apply only where at the time the vehicle is parked in the parking place it is either driven or occupied as a passenger by the holder of the disabled person's badge.
- (9) The requirements of Article 7 (1) for a driver to pay the appropriate charge upon depositing the vehicle in the parking place shall not apply where the car park operates a system whereby entry to the car park is through a barrier which is opened upon a ticket being issued to the driver on entry PROVIDED the driver pays the appropriate charge applicable to the class of vehicle and period of parking ascertained by reference to Schedule 1 by payment in accordance with Article 7(3) above prior to exiting the car park

(10) The Council may vary the limits of a parking place or places as expedient for good management of the parking place or places and shall alter the plans accordingly.

Parked without displaying ticket

8. (1) Subject to Article 8(2) below, any ticket issued on payment of the charge referred to in Article 7 of this Order shall at all times be displayed in the relevant position so that the date, time, parking place name and fee paid shown on the ticket are clearly visible from outside the vehicle.

(2) The requirements of Article 8 (1) for a driver to display a ticket shall not apply:-

(i) where the car park operates a system whereby entry to the car park is through a barrier which is opened upon a ticket being issued to the driver on entry, provided the driver pays the appropriate charge such for payment on exit at a parking apparatus or barrier;

(ii) where an e-ticket has been purchased covering the class of vehicle and period of parking .

(3) If any ticket is issued to the driver on entry it shall be produced to any person duly authorised by the Council on demand at any time whilst the vehicle is within the parking place and where the driver of any vehicle leaving any parking place is unable to produce the ticket issued to him on entering the Car park or the ticket issued to him on entry to the car park is defaced or damaged the charge of the visit shall be calculated by reference to the maximum charge for that Car park in accordance with Schedule 1

Parked with additional payment to extend time beyond that first purchased

9. Where a parking ticket has been purchased and displayed in accordance with the provisions of Articles 7 and 8 of this order no additional tickets shall be purchased which would have the effect, by their combination of avoiding a higher parking

charge rate that would have been appropriate upon an initial single ticket purchase.

Parked beyond the bay markings

10. The driver of a vehicle shall not permit it to wait in a parking place other than wholly within a marked parking bay.

Parked in disabled persons spaces or other spaces designated by signs or lines

11. (1) The driver of a vehicle left in a parking place shall permit it to wait only in such positions as conform with any notices or markings displayed in the parking place or with any directions given by a civil enforcement officer and shall not leave a vehicle in a position that prevents the ingress or egress of any other vehicle.

(2) Where there is a sign in a parking bay indicating that the use of that bay is suspended the driver of a vehicle shall not permit that vehicle to wait in that parking bay.

(3) The driver of a vehicle shall not leave it in a designated disabled bay unless it is displaying a valid disabled persons badge.

Vehicle exceeds maximum height/weight or not otherwise of specified class

12. Where

- (a) in Schedule 1 to this Order a parking place is described as available for vehicles of a specified class or in a specified position; or
- (b) a parking bay within a parking place is described by special markings or indicated by means of a notice displayed within the parking place as available for vehicles of a specified class or in a specified position;

the driver of a vehicle shall not permit it to wait in that parking place or parking bay (as the case may be) unless it is of the specified class or other than in the position specified.

13. In relation to the parking place described as Upper parking area and bus parking area in Schedule 1 to this Order, a vehicle shall not be left in these areas on a weekday (other than a designated school holiday which will be advertised by notice on site) the vehicle may be removed by the Council under the provisions of Article 26 and 27 hereto

Penalty Charge Notices

14(1) If a vehicle has been left

- (i) in contravention of or failure to comply with the provisions of Articles 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, or 13 of this Order or
- (ii) beyond the period of parking which has been paid for or in a parking bay in the upper car park or bus parking area on a weekday other than a designate school holiday

a penalty charge shall become payable provided that if the penalty charge is paid before the end of the period of 14 days beginning with the date of service of the notice, the amount of the penalty charge shall be reduced in accordance with the provisions of Part 3 of Schedule 9 to the Traffic Management Act and paragraph 2 of the Schedule to the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007;

(2) In the case of a vehicle in respect of which a penalty charge has been incurred a civil enforcement officer may fix a penalty charge notice to the vehicle or give such a notice to the person appearing to him or her to be in charge of the vehicle or may issue a notice by post if the civil enforcement officer has reason to believe a penalty charge is payable and was prevented by some person from issuing the notice or was in the process of issuing the notice and the vehicle was driven away from the position in which it was stationary prior to the completion of the penalty charge notice PROVIDED THAT a penalty charge notice may not be served later than the expiration of the period of 28 days beginning with the date on which, according to a record produced by an approved device, or information given by a civil enforcement officer, the contravention to which the penalty charge notice relates occurred.

- (3) A penalty charge notice must contain the matters prescribed in the Schedule to the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 together with 3(2) and (4) (as applicable) of The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007.
- (4) The penalty charge should be paid to the Council either by cheque (drawn upon a bank or building society acceptable to the Council), postal order, cash (in dominations acceptable to the Council), credit or debit card or by such other means as the Council may deem acceptable, which shall be delivered or sent by post (or by telephone in the case of credit or debit card) so as to reach the offices of the Council, its authorised agent or other address specified in the penalty charge notice no later than 23hr 59.59 on the 28th day following the day on which the penalty charge was incurred
- (5) For the purpose of Sub-Article (1) the amount of the penalty charge shall be that published by the Council in accordance with the Traffic Management Act 2004 as amended
- (6) The provisions of Sections 63-67 and 70-82 of and Schedules 6 and 7 to the Road Traffic Act 1991 as amended by the Traffic Management Act 2004 and The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 and any other amending Legislation shall apply to the above restrictions imposed by this Order

15. The holder of any ticket, disabled person's badge or other purported authority to park shall produce such document on demand for inspection by a civil enforcement officer or any other person duly authorised by the Council.

Restriction on Removal of Notices

16. Where a notice has been fixed to a vehicle or given to the person appearing to be in charge of the vehicle in accordance with the provisions of Article 14(2) of this Order, no person other than the owner or driver of the vehicle or some

other person duly authorised by them or the Council, shall remove the notice from the vehicle until the vehicle is removed from the parking place.

17. (1) Where in a parking place signs are erected or surface markings are laid out for the purposes of: -

(a) indicating that a vehicle using the parking place shall proceed in a specified direction within the parking place; or

(b) indicating the entrance to or exit from that parking place

no person shall drive or cause or permit to be driven any vehicle

(i) so that it enters the parking place otherwise than by an entrance or leaves the parking place otherwise than by an exit so indicated or

(ii) in a direction other than that specified, as the case may be

(2) Any trailer attached to a vehicle or an articulated vehicle, as defined by Section 136 of the Road Traffic Act of 1984, shall not be disconnected from the vehicle

18. When a vehicle or trailer is waiting in a parking place in contravention of the provisions of any Article of this Order, a person authorised in that behalf by the Council may alter or cause to be altered the position of the vehicle in order that its position shall comply with those provisions but without prejudice to the provisions of Article 27 of this Order

19. The driver of a vehicle shall not bring into a parking bay any vehicle or trailer attached hereto containing any toxic, inflammable, explosive, noxious or dangerous substance, other than fuel used either for the propulsion of the vehicle or the drawing of the vehicle as the case may be or for the driving or any ancillary engine or equipment forming part of the vehicle

20. The driver of a vehicle using a parking place shall not drive the vehicle other than for the purpose of leaving that vehicle in a parking place in accordance with the provisions of this order or for the purpose of departing from the parking place. (Provided that this Article shall not prevent a person from driving a motor vehicle in a parking place to which this Order applies for the purpose of gaining access to a private parking place where access to that private parking place

can only be gained by driving a vehicle through a parking place to which this Order applies).

21. No person in a parking place shall wantonly shout or otherwise make any loud noise to the disturbance or annoyance of users in the parking place or residents or occupiers of premises in the neighbourhood.
22. No person shall in a parking place
 - (a) use any threatening, abusive or insulting language, gesture or conduct likely to put any person in fear or so as to occasion a breach of the peace or whereby a breach of the peace is likely to be occasioned
 - (b) Deposit or leave any vehicle, trailer, or anything which formed part of a vehicle or trailer, or any rubbish, litter or other thing within a parking place so as to give rise to a concern that it may be abandoned there
 - (c) Roller skate, skateboard, cycle or play with any mechanical contrivances or at any game or sport
23. No person shall use a vehicle, or trailer while it is in a parking place, in connection with the sale or any article to persons in or near the parking place or in connection with the selling or offering for hire of his skill or services or for sleeping, camping, eating or cooking purposes. Except with the approval of the Council and subject to such conditions as the Council may from time to time decide, no person shall carry out in any parking place any commercial activities, or the cleaning, washing, servicing or repair of vehicles or trailers (except such minimum emergency repairs as may be necessary to remove a vehicle or trailer from a parking place)
24. No person shall use a parking place as a means of passage proceeding from one road to another road.
25. In a parking place no person shall
 - (a) erect or cause or permit to be erected any tent, booth, stand, building or other structure without the written consent of the Council;

- (b) light or cause or permit to be lit any fire;
- (c) leave or cause or permit to be left any wheeled shopping trolley except in the trolley bays provided or with the written permission of the Council

26. When a vehicle or trailer is left or used in a parking place in contravention of any of the provisions contained in the Articles of this Order, a person authorised in that behalf by the Council may remove the vehicle or trailer or arrange for the aforesaid vehicle or trailer to be removed from the parking place.

27. Any person removing a vehicle or trailer by virtue of the last preceding Article of this Order may do so by towing or driving the vehicle or in such other manner as he may think necessary and may take such measures in relation to the vehicle or trailer as he may think necessary to enable him to remove it as aforesaid.

28. When a person authorised by the Council removes or makes arrangements for the removal of a vehicle or trailer from a parking place, he or she shall make such arrangements as may be reasonably necessary for the safe custody of the vehicle, or trailer.

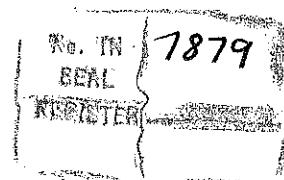
29. Neither the Council nor the person authorised to remove or make arrangements to remove vehicles or trailers shall be responsible for any loss or damage to the vehicle or trailer or to anything contained therein arising from, or in consequence of, the exercise of the powers contained in the Articles of this order. Any expenses incurred by the Council in removing a vehicle or trailer within any parking place shall be recoverable by the Council from the driver of the vehicle or vehicle to which the trailer was attached, as the case may be, summarily as a civil debt.

30. The Council accepts no liability either at common law or under the Occupiers Liability Act 1957, or otherwise, for loss of or damage to vehicles or other property left in any of the Council's parking places to which this order applies.

The Common Seal of Winchester City Council)
was hereunto affixed this 6TH day of April 2011)
in the presence of

hml

Head of Legal Services



SCHEDULE 1

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6	COLUMN 7
Name of Parking Place	Position in which vehicles may wait	Class of Vehicles	Days when parking available	Prescribed Charging Hours	Maximum Period for which vehicles may wait	Scale of Charges
1 Lower Parking Area, Perins Car park, Alresford Area shown on attached plan	Wholly within a marked parking bay	Passenger vehicles and goods vehicles of an unladen weight not exceeding 2 tonnes and any other vehicle for which express consent of the Council has been given	8.00am-10.00pm All Days	8.00am-6.00pm Mondays - Saturdays inclusive	14 hours	Monday to Saturday 8am-6pm Up to 1 hour £0.30 Up to 2 hours £0.60 Up to 3 hours £0.80 Up to 4 hours £1.20 All day rate £1.50
2. Bus Parking Area Perins Car Park Alresford Area shown on attached plan	Wholly within a marked parking bay	Passenger vehicles and goods vehicles of an unladen weight not exceeding 2 tonnes and any other vehicle for which express consent of the Council has been given	8.00am-10.00pm Weekdays and school holidays 8.00am to 4.00pm Sundays	8.00am-6.00pm Mondays - Fridays inclusive during designated school holidays	14 hours	Monday to Saturday 8am-6pm Up to 1 hour £0.30 Up to 2 hours £0.60 Up to 3 hours £0.80 Up to 4 hours £1.20 All day rate £1.50
3. Upper Parking Area, Perins Car Park Alresford Area shown on attached plan	Wholly within a marked parking bay	Passenger vehicles and goods vehicles of an unladen weight not exceeding 2 tonnes and any other vehicle for which express consent of the Council has been given	8.00am-10.00pm Weekdays and school holidays 8.00am to 4.00pm Sundays	8.00am-6.00pm Mondays - Fridays inclusive during designated school holidays	14 hours	Monday to Saturday 8am-6pm Up to 1 hour £0.30 Up to 2 hours £0.60 Up to 3 hours £0.80 Up to 4 hours £1.20 All day rate £1.50