

DISTRICT COUNCIL OF NEW FOREST

THE DISTRICT OF NEW FOREST (OFF STREET PARKING PLACES) ORDER 2005

The District Council of New Forest in exercise of its powers under sections 32 and 35 and Part IV of the Road Traffic Regulation Act 1984, and of all other enabling powers, and with the consent of Hampshire County Council in accordance with section 39(3) of the 1984 Act, and after consulting with the Chief Officer of Police in accordance with Schedule 9 to the 1984 Act, hereby makes the following Order:-

PART 1

General

1. Commencement and Citation

This Order shall come into operation on the Second day of January 2006 and may be cited as the District of New Forest (Off-Street Parking Places) Order 2005

2. Revocation

Without prejudice to the validity of anything done or to any liability incurred in respect of any act or omission before this Order comes into operation, the District of New Forest (Off-Street Parking Places) Order 1983, as amended, is hereby revoked

3. Interpretation

- (1) Any reference in this Order to a numbered Article or to a numbered part of a Schedule is a reference to the Article or Schedule bearing that number in this Order
- (2) In this Order, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:-
 - “all other contraventions” means those parking contraventions in respect of which a penalty charge is payable under The Civil Enforcement of Parking (England) General Regulations 2007 and which are not higher level contraventions

“civil enforcement officer” means a civil enforcement officer within the meaning of section 76 of the 2004 Act

"charging hours" means any period specified in Column 4 of Parts I or II of the Schedule in respect of which a charge is imposed by virtue of Columns 5 and 6 of Parts 1 or II of the Schedule or is imposed by virtue of a variation notice duly given under Section 35C of the 1984 Act;

“Council” means the District Council of New Forest;

“disabled person’s vehicle parking bay” means a parking bay where signs are erected or surface markings are made for the purpose of indicating that such parking bay is available for use by a disabled person’s vehicle;

"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;

“higher level contraventions” means those parking contraventions falling within one or more of the descriptions of contraventions listed in column (2) of Table 3 in paragraph 2 of the Schedule to The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007

"motor cycle" means a two-wheeled mechanically propelled vehicle not having a side-car or trailer attached thereto;

"parking bay" means a space in a parking place which is provided for the leaving of a vehicle;

“parking clock” is a parking device within the meaning of section 35 (3B) of the 1984 Act and means a device issued by or on behalf of the Council which is capable of showing the five minute period during which a vehicle arrived at a parking place;

"parking place" means any area of land specified in Column 1 of Parts I, II and III of the Schedule provided by the Council for use as a parking place;

"parking ticket" means a ticket or tickets issued by a ticket machine relating to any parking place;

“penalty charge” means a charge as stated in Article 16 as amended from time to time in compliance with the provisions of the 2004 Act and Regulations thereunder;

“penalty charge notice” means a penalty charge notice issued or served pursuant to the provisions of the 2004 Act and Regulations thereunder;

“the 1984 Act” means the Road Traffic Regulation Act 1984;

“the 2004 Act” means the Traffic Management Act 2004;

“ticket machine” means an apparatus or device within the meaning of section 35(3) of the 1984 Act

- (3) The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament and as if for the purposes of that Act this Order were an Act of Parliament and the Order revoked by Article 2 was an Act of Parliament thereby repealed

PART II

Use of Parking Places

4. Use of Areas as Parking Places

Each parking place may be used subject to the following provisions of this Order as a parking place for such vehicles in such positions and during such hours as are specified in relation to that parking place in the Schedule

5. Class and Position of Vehicles

Where in the Schedule a parking place is described as available for the parking of 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:

- (a) unless it is of the specified class; or
- (b) in a position other than that specified or other than that directed by a civil enforcement officer

6. Manner of Parking of Trailers

The driver of a vehicle drawing a trailer shall not permit the vehicle or the trailer to wait in a parking place unless they have been disconnected and for the purpose of this Order the vehicle and the trailer shall be deemed to be separate vehicles and the said driver shall be deemed to be the driver of each of the said vehicles

7. Period of Waiting

- (1) Subject to paragraph (2) below, the driver of a vehicle shall not permit it to wait in a parking place for longer than the maximum period permitted for waiting specified in the Schedule in relation to that parking place
- (2) The following vehicles left in a parking place shall be exempt from any limitation imposed by this Order on the length of time a vehicle may wait in a parking place namely:-
 - (a) An invalid carriage as defined in section 136(5) of the 1984 Act
 - (b) A vehicle issued to a disabled person in lieu of an invalid carriage
 - (c) A disabled person's vehicle which displays in the relevant position (as defined in regulation 4 of the Local Authorities Traffic Orders (Exemption for Disabled Persons) (England) Regulations 2000) a disabled person's badge issued by any local authority in accordance with the provisions of the Disabled Persons' (Badges for Motor Vehicles) Regulations 2000 or any subsequent regulations amending or re-enacting the same

8. Restriction on Return to a Parking Place

- (1) Where a vehicle has left a parking place specified by name in Column 1 of Part II of the Schedule between the hours specified in Column 7 of Part II of the Schedule and in relation to that parking place the maximum period for which vehicles may wait does not exceed eight hours then the driver of that vehicle shall not within two hours of its leaving permit it to wait again in the parking place
- (2) Where a vehicle has left the Town Quay Parking Place Lymington short stay area between the hours specified in Column 7 of Part I of the Schedule then the driver of that vehicle shall not within two hours of its leaving permit it to wait again in that parking place
- (3) Where a vehicle has left the Rumbridge parking place Totton one hour maximum waiting period between the hours of 8.00 a.m and 4.00 p.m then the driver of that vehicle shall not

within two hours of its leaving permit it to wait again in that parking place

9. Use of Disabled Persons' Vehicle Parking Bays

No driver of a vehicle not being a vehicle specified in Article 7(2) of this Order shall permit it to wait in a disabled person's vehicle parking bay

10. Parking of Vehicles in Parking Places

In the event of a parking place not being marked with white or other lines to indicate parking bays vehicles shall be parked in an orderly manner and so as not to cause obstruction to other vehicles and the absence of such white or other lines shall not invalidate any of the provisions contained in this Order

11. Prohibited Uses of Parking Places

- (1) No person shall without the prior written permission of the Council use any part of a parking place or any vehicle including a caravan left in a parking place:
 - (a) for sleeping or camping purposes
 - (b) for eating or cooking purposes
 - (c) for the purpose of repair servicing or washing any vehicle or part thereof other than is reasonably necessary to enable that vehicle to depart from the parking place
 - (d) for the purpose of or in connection with the sale of any article to persons in or near the parking place or the selling or offering for hire of his skills or services
 - (e) for the operation of any equipment or machinery including motor engines and refrigeration units except:
 - (i) as may be reasonably necessary to enable that vehicle to enter, park or leave the parking place, or
 - (ii) with the prior written permission of the Council or other lawful authorityproviding that this paragraph shall not apply to the area in Ringwood shown as "lorry park" on Drawing No 11655/24
- (2) In a parking place no person shall

- (a) use any part of a parking place for the storage of goods
- (b) erect any tent booth or other structure without the prior written permission of the Council
- (c) otherwise enter on or remain in any part of a parking place except:
 - (i) the driver or passenger of a vehicle using the parking place for the purpose of parking the vehicle or for the purpose of departing from the parking place, or
 - (ii) as may be reasonably necessary to cross on foot through the parking place, or
 - (iii) with the prior written permission of the Council or other lawful authority

12. Movement of Vehicles in Parking Places

Where in a parking place signs are erected or surface markings are made for the purpose of:

- (a) indicating the entrance to or exit from the parking place; or
- (b) indicating that a vehicle using the parking place shall proceed in a specified direction within the parking place

no person shall drive or cause or permit to be driven any vehicle 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 in a direction other than that specified as the case may be

PART III

Payment for Parking

13. Amount of Charge at Parking Places

- (1) Unless the vehicle has the benefit of an exemption from charges as provided in Article 14 the driver of a vehicle using a parking place specified by name in Column 1 of Parts I or II of the Schedule shall on the parking of the vehicle in the parking place pay the appropriate parking charge as set out in Parts I or II of the Schedule
- (2) The charge for a vehicle left in a parking place for any period during charging hours shall be as specified in Columns 5 and 6 of Parts I or II of the Schedule or such other sum as may be

substituted therefor by notice duly given under Section 35C of the 1984 Act and shall be payable not later than the first leaving of the vehicle in a parking place

(3) The charge referred to in paragraph (2) of this Article shall be payable either:

- (a) by the purchase of a parking ticket from a ticket machine within that parking place, or
- (b) by means of cellular telephone, in those parking places where a notice or notices are displayed stating that such a facility is available,

in either case in accordance with the conditions and instructions displayed in the parking place

(4) The driver of a vehicle left in a parking place to which this Article applies shall pay a parking charge at the price and for the period specified in relation to that parking place in Columns 5 and 6 of Parts I or II of the Schedule or at any price as may be substituted therefor by notice duly given under Section 35C of the 1984 Act and, where payment has been made by the purchase of a parking ticket from a ticket machine, shall exhibit that parking ticket on the vehicle in accordance with the provisions of this Article

(5) A parking ticket shall be a valid parking ticket for a parking place if and so long as the following conditions are satisfied:-

- (a) where the ticket issued has an adhesive sticking facility:
 - (i) in the case of a vehicle fitted with a transparent windscreen, the parking ticket is stuck to the inside surface of the windscreen on the offside so that it is facing forwards and can be easily seen from the front of the vehicle
 - (ii) in the case of a vehicle not fitted with a transparent windscreen, the parking ticket is stuck on the front of the vehicle so that it is facing forwards and can be easily seen from the front of the vehicle
- (b) where the ticket issued does not have an adhesive sticking facility, the ticket is placed on the dashboard or fascia of the vehicle so that the front of the ticket is clearly legible from the outside of the vehicle

- (c) except where to Article 15(9) applies, the expiry time shown on the front of the ticket has not passed

14. Exemptions from Charges

- (1) If at the time when a vehicle is left in a parking place during charging hours there is no ticket machine at that parking place or all the ticket machines at that parking place carry notices placed upon them by a person duly authorised by the Council indicating that they are out of order the driver of that vehicle shall be exempt from payment of the charge imposed by Article 13 of this Order
- (2) The following vehicles left in any parking place during charging hours shall be exempt from the payment of any charge imposed by a provision of this Order -
 - (i) a motor cycle
 - (ii) an invalid carriage
 - (iii) a vehicle issued to a disabled person in lieu of an invalid carriage
 - (iv) a disabled person's vehicle which displays in the relevant position (as defined in regulation 4 of the Local Authorities Traffic Orders (Exemption for Disabled Persons) (England) Regulations 2000) a disabled person's badge issued by any local authority in accordance with the provisions of the Disabled Persons' (Badges for Motor Vehicles) Regulations 2000 or any subsequent regulations amending or re-enacting the same
 - (v) a passenger vehicle adapted to carry more than 12 passengers exclusive of the driver, but only where the vehicle is left in a parking place specified in Part II of the Schedule hereto in a designated and marked coach parking area within that parking place
 - (vi) except in that area of the Furlong (North East) car park and lorry park shown as "lorry park" on Drawing No 11655/24 a goods vehicle of gross vehicle weight exceeding 3.5 tonnes, but only where the vehicle is left in a parking place specified in Part II of the Schedule hereto in a designated and marked lorry parking area within that parking place

- (3) A vehicle left in the parking places specified by name in Column 1 of Part 1 of the Schedule hereto shall be exempt from payment of the charge at parking places imposed by Article 13 of this Order if
 - (a) a District-wide parking clock is displayed on the dashboard or fascia of the vehicle so that the front of the clock is clearly legible from the outside of the vehicle and
 - (b) the District-wide parking clock has been set to show the correct five minute period during which the vehicle arrived at the parking place and has not been adjusted during the period of the stay
- (4) A vehicle left in the parking places specified by name in Column 1 of Part II of the Schedule hereto shall be exempt from payment of the charge at parking places imposed by Article 13 of this Order if
 - (a) a District-wide or a shoppers' parking clock is displayed on the dashboard or fascia of the vehicle so that the front of the clock is clearly legible from the outside of the vehicle and
 - (b) the District-wide or shoppers' parking clock has been set to show the correct five minute period during which the vehicle arrived at the parking place and has not been adjusted during the period of the stay and
 - (c) if the parking clock displayed is a shoppers' parking clock the terms of Article 15 (3) to (9) are complied with

15. Parking Clocks

- (1) The charges for annual or periodic parking clocks shall be as specified in Part IV of the Schedule hereto or such other sum as may be substituted therefor by notice duly given under section 35C of the 1984 Act
- (2) Shoppers' parking clocks issued in respect of the parking places referred to in Part II of the Schedule hereto shall not be valid in respect of any of the parking places referred to in Part I of the Schedule hereto

- (3) Shoppers' parking clocks shall be valid in respect of the parking places referred to in Part II of the Schedule hereto for a maximum period of three hours starting with the time the vehicle on which the parking clock is displayed arrived at the parking place
- (4) Subject to compliance with paragraphs (5) and (6), shoppers' parking clocks shall also be valid in respect of the following parking places referred to in Part II of the Schedule hereto throughout the times during which a charge for parking applies by virtue of columns 5 and 6 of that Schedule:
- Hythe Jones Lane – that area of the parking place shown as long stay on Drawing No 11655/48
- Hythe New Road – that area of the parking place shown as long stay on Drawing No 11655/47
- (5) The vehicle in question shall also display, in the manner applicable to parking clocks under Article 14(4)(a), a valid Hythe Ferry Parking Card
- (6) For the purposes of paragraph (5) a Hythe Ferry Parking Card is valid if:
- (a) it is issued at Hythe Pier on behalf of the Hythe Ferry operator, and
 - (b) in the case of a Parking Card issued with a monthly, quarterly or annual Hythe Ferry ticket, the vehicle is parked during the period for which the Card states it is valid
 - (c) in the case of a Parking Card issued with a 10-journey Hythe Ferry ticket, the date on which the vehicle is parked is entered on the Card, and
 - (d) in the case of either form of Parking Card referred to in sub-paragraph (b) or (c), no dates previously entered on the Card have been deleted or amended
- (7) This paragraph applies where a vehicle is parked in a parking place named in Part II of the Schedule and the maximum time for which vehicles may wait in that parking place exceeds three hours and the vehicle displays a valid shoppers' parking clock:
- Where in the circumstances described above the vehicle remains in the parking place for more than the time permitted under Article 15 (3) to (8) the driver shall purchase a parking

ticket for a period equivalent to that part of the vehicle's stay that exceeds the time permitted under Article 15 (3) to (8) and that parking ticket may be purchased at any time during the period of the vehicle's stay permitted under Article 15 (3) to (8)

PART IV

Penalty Charge at Parking Places

16. Penalty Charge at Parking Places

- (1) If a vehicle is left in a parking place in contravention of or non-compliance with this Order in circumstances in which there is a parking contravention within the meaning of Schedule 7 to the 2004 Act, a penalty charge shall be payable under the terms of the 2004 Act and Regulations thereunder for each day of the said contravention or non-compliance
- (2) The penalty charge shall be £70 in respect of higher level contraventions and £50 in respect of all other contraventions
- (3) The penalty charge shall be discounted to £35 in respect of higher level contraventions and to £25 in respect of all other contraventions if payment is received by the Council as provided in Articles 17 and 18 within fourteen days of the issue of the penalty charge notice
- (4) On the issue of a charge certificate in accordance with the provisions of regulation 21 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 the penalty charge shall be increased to £105 in respect of higher level contraventions and to £75 in respect of all other contraventions
- (5) A penalty charge notice shall be served by a civil enforcement officer or by post in accordance with the provisions of the 2004 Act and Regulations thereunder

17. Manner of Payment of Penalty Charge

Payment shall be made in the manner specified on the penalty charge notice

18. Time for Payment of Penalty Charge

Payment of a penalty charge shall be received by the Council within the period stated on the penalty charge notice but should the Council's offices be closed on the last day of the period for receiving payment the period may be extended until the next full working day

PART V

Removal of Vehicles from or Moving of Vehicles within Parking Places

19. Removal of Vehicles from Parking Places

(1) Where a civil enforcement officer or other person duly authorised by the Council is of the opinion that any of the provisions contained in Articles 5, 6, 7 or 11(1) of this Order have been contravened or not complied with in respect of a vehicle left in a parking place he may remove the vehicle or cause it to be removed from the parking place provided that where a vehicle is left in a parking place in contravention of the provisions of Article 5(b) of this Order a civil enforcement officer or any other person duly authorised by the Council may move the vehicle or cause it to be moved to a position which complies with that provision

(2) The owner of a vehicle removed from a parking place under Article 19 (1) shall pay the following charges to the Council and payment shall be made to the address, within the period, and by any of the methods, specified on the invoice sent or given to the owner by the Council

For removal of the vehicle - £105

For storage of the vehicle - £12 for each 24 hour period or part thereof

For disposal of an unclaimed vehicle - £50

20. Movement of Vehicles in a Parking Place in Emergencies

A civil enforcement officer or any other person duly authorised by the Council may in case of emergency move or cause to be moved vehicles left in a parking place to any place he thinks fit

21. Manner of Moving Vehicles

Any person moving or removing a vehicle in accordance with Articles 19 or 20 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 as he may think necessary to enable him to move or remove it as aforesaid

22. Safe Custody of Vehicles

When a civil enforcement officer or other person duly authorised by the Council removes a vehicle or causes it to be removed from a parking place in accordance with Article 19 of this Order he shall make such arrangements as may be reasonably necessary for the safe custody of the vehicle

PART VI

Closure of Parking Places

23. Closure of Parking Places

Notwithstanding the provisions of this Order the Council may by notice displayed on or near a parking place close that parking place or part thereof for any period and no driver of any vehicle shall use that parking place or any part thereof when it is so closed

Authorised Signatory

Date