

## **BOROUGH OF OADBY AND WIGSTON**

### **THE BOROUGH OF OADBY AND WIGSTON (OFF-STREET PARKING PLACES) ORDER 2008**

The Borough Council of Oadby and Wigston (hereinafter referred to as “the Council”) in exercise of their powers under Sections 32, 35 and of the Road Traffic Regulation Act 1984, (hereinafter referred to as “the Act”) and of all other enabling powers hereby revoke the Off-Street Parking Places Orders made by the Council and listed in Schedule 1 hereof and with the consent of the County Council of Leicestershire given under Section 39(3) of the Act of 1984 and after consulting the Chief Officer of Police in accordance with Part III of Schedule 9 to the Act of 1984, hereby make the following Order:

#### **PART 1**

#### **GENERAL**

#### **COMMENCEMENT AND CITATION**

1. This Order shall come into operation on the 31st day of March, 2008 and may be cited as “The Borough of Oadby and Wigston (Off-Street Parking Places) Order 2008.

#### **INTERPRETATION**

2. (1) Any reference in this Order to a numbered Article is a reference to the Article bearing that number in this Order, and any reference in this Order to a numbered Schedule is a reference to the 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:-
  - (a) “Authorised Officer” means a civil enforcement officer or any person as defined by the relevant legislation duly authorised by or on behalf of the Council to supervise and enforce the operation of the car park or any part thereof.
  - (b) “Charging Hours” means any period for which a charge is specified
  - (c) “Council” means Oadby and Wigston Borough Council
  - (d) “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 or the person deemed to be the driver under the terms of this Order, as defined in S142 of the Act

- (e) "Disabled Person's badge" has the same meaning as in the Disabled Persons (Badge for Motor Vehicles) Regulations 2000, from time to time as amended.
- (f) "Disabled Person's Vehicle" means a vehicle lawfully displaying a valid disabled persons badge.
- (g) "Goods Vehicle" means a motor vehicle constructed or adapted for use for the carriage or haulage of goods.
- (h) "Higher Level Contraventions" are as defined in the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges)(England) Order 2007 or any amendment or re-enactment thereof.
- (i) "Lower Level Contraventions" means all parking contraventions which are not higher level contraventions
- (k) "Motor Car", "Motor Cycle" and "Trailer" have respectively the same meanings as in Sections 136 and 137 of the Act.
- (l) "Owner" in relation to a vehicle which is required to be licensed under the provisions of the Vehicle Excise and Registration Act 1994 means the person in whose name the vehicle was registered under the said Act on the date on which the vehicle was left in the parking place in question.
- (m) "Parking Place" means any area of land specified in column 1 of Schedule 2 provided by the Council for use as a Parking Place and, for the purpose of identification only edged red on the plans annexed hereto.
- (n) "Parking Bay" means any area of a parking place which is provided for the leaving of a vehicle and which is indicated by markings on the surface of the parking place.
- (o) "Parking Ticket" means a ticket, card, token or permit displayed in the relevant position.
- (p) "Penalty Charge" means a penalty charge relating to a parking contravention and payable in accordance with regulation 4 of the Civil Enforcement of Parking Contraventions (England) general Regulations 2007
- ( q) "Penalty Charge Notice" has the meaning given by regulation 8(1) of the Civil Enforcement of Parking Contraventions(England) General Regulations 2007
- (r) "Permit" means any or all types of permit which may be issued under Article 4(a) of this Order to a vehicle or driver
- (s) "Permit Holder" means any or all types of permit which may be issued under Article 3 of this Order to a vehicle or driver

- (t) "Solo motor cycle" means a motor cycle with two wheels and not being attached to a side car
- (u) "Serve" in respect of a Penalty Charge Notice means the forms of service specified in Regulations 9 and 10 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 or any amendment or re-enactment thereof.
- (v) "In the relevant position" in relation to any vehicle means that; -
  - (i) In the case of a vehicle fitted with a front windscreen the badge is exhibited thereon with the obverse side facing forwards on the near side of and immediately behind the windscreen;
  - (ii) In the case of a vehicle not fitted with a front windscreen, the badge is exhibited in a conspicuous position on the front or near side of the vehicle.
- (w) "Ticket Machine" means a device provided by the Council situated in or near to the Parking Place which issues parking tickets on payment of the charge.
- (x) "Vehicle" means any vehicle whether or not it is in a fit state for use on roads, and includes any caravan, and any chassis or body, with or without wheels, appearing to have formed part of such vehicle and any load carried by, and anything attached to, such vehicle.
- (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 Sections 16 and 17 of that Act this order were an Act of Parliament.

## **PART II**

### **USE OF PARKING PLACES**

- 3. (1) The area of land specified by name in column 1 of schedule 2 may be used, subject to the following provisions of this order as a parking place for such classes of vehicles, in such positions, on such days and during such hours as are specified in relation to that area in that schedule.
- (2) (a) Where in column 3 of schedule 2 a parking place is described 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 unless it is of the class and in the position specified.
  - (b) Whenever parking bays are provided vehicles must be positioned wholly within the markings of a parking bay and where within a parking place there

is a sign or surface marking which indicates that a parking bay is available only for a disabled persons vehicle the driver of a vehicle shall not permit the vehicle to wait in that parking bay unless it is a Disabled Persons Vehicle. Failure to comply with this Article shall result in a charge becoming payable in accordance with the provisions of Article 29 of this Order.

(c) In so far as a motor vehicle is parked in a car park during the charging hours

(3) (a) Where this order imposes a time limit on parking a vehicle in parking places in parking bays marked with white lines:-

(i) That vehicle may be left in that parking place on one occasion only on any one day except Sundays and Bank Holidays.

(ii) It shall be an offence for the driver of that vehicle to leave it in that parking place on a second or subsequent occasion on any one day except Sundays and Bank Holidays.

(iii) The fee for parking a vehicle in it shall be nil for each of the first, second and third hour's parking.

(b) Where this order imposes a time limit on parking a vehicle in part only of a parking place the provisions of paragraphs (3) (a) (i), (ii) and (iii) above shall apply only to that part of the parking place.

(4) (a) The Council may agree with any person (permit holder) in respect of any parking place to permit that person to leave a vehicle in a specified parking bay in consideration of a fee charged at the rate of £5.00 or no charge per day. The Council may operate a scheme to determine the allocation of contract parking permits for the designated parking places.

(b) If at any time in a parking place there is displayed a notice or other indication is given that a particular bay is reserved for (1) use by a Permit Holder, (2) leaving solo motorcycles (3) specified or unspecified use no person shall leave a vehicle in any such parking bay other than for the purpose for which the bay is reserved. If that Article is not complied with, then a charge shall be payable in accordance with the provisions of Article 4 and 29 of this Order.

(c) The Driver of a Motor Vehicle which displays in the relevant position a Disabled Persons Badge and whose motor vehicle is parked as specified in Article 3(2)(b) of this Order shall be exempt from any payment or charge specified in Schedules 2 and 3 of this Order for a period of 3 hours, but they shall not be exempt from any other provisions of this Order

#### 4 **RESTRICTIONS on USE of PARKING SPACES**

- (1) The owner or driver of a vehicle shall not permit that vehicle to wait in a parking place unless the vehicle is licensed in pursuance of the provisions of the Vehicle Excise and Registration Act 1994 and unless there is in relation to the use of the vehicle by the driver such a policy of insurance as complies with the requirements of Part VI of the Road Traffic Act 1988.
- (2) The driver of a motor vehicle using the parking place shall stop the engine as soon as the vehicle is in position in the parking place within a parking bay and shall not start the engine except when about to change the position of the vehicle, in, or to depart from, the parking place.
- (3) No person shall use any part of a parking place or any vehicle left in a parking place:-
  - (1) For sleeping, camping, eating or cooking; or
  - (2) For the purpose of servicing, washing, cleaning, constructing, maintaining or repairing any vehicle or part thereof other than is reasonably necessary to enable that vehicle to depart from the parking place; or
  - (3) for washing any part of his person.
- (4) The driver of a vehicle using the parking place shall not sound any horn or other similar instrument except for the purpose of warning in an emergency.
- (5) No person shall ride on or otherwise use a skateboard or use roller-skates in the parking place.
- (6) No person shall use a vehicle while it is in a parking place, in connection with the sale of any article (including the vehicle itself) to persons in or near the parking place or in connection with the selling or offering for hire of his skill or services, unless expressly authorised to do so by the Council.
- (7) No person shall use a parking place for the storage of a vehicle for any purpose.
- (8) No person shall transfer goods of any description, other than articles of a personal nature such as a travelling bag, from one vehicle to another while one or both of the vehicles are parked in a parking place.
- (9) No person shall in a parking place wantonly shout or otherwise make any loud noise to the disturbance or annoyance of users of the parking place or residents of premises in the neighbourhood.
- (10) No person shall in a parking place destroy, damage, interfere with or deface any property belonging to the Council, and in addition to liability for any penalty imposed for a breach of this provision of this order, any person so doing shall be liable for and shall pay the Council the full cost of repair of the damage.
- (11) (1) No person shall in a parking place use threatening, insulting or abusive language gesture or conduct with intent 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.

- (2) A person who is not in a parking place for the purpose of parking or retrieval of a vehicle or for a purpose connected therewith on being requested to leave the parking place by an officer of the Council or a Police Constable shall do so forthwith.
- (12) In a parking place no person shall:-
- (1) Erect or cause to be erected any tent, booth, stand, building or other structure without the written consent of the Council;
  - (2) Light or cause or permit to be lit any fire, stove or cooker.
- (13) 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 purposes 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.

#### **Movement, removal and disposal of vehicle left in a Parking Place**

- 5.
- (1) If a vehicle is left in a parking place in a position other than in accordance with the provisions of Article 3, a person authorised by the Council in that behalf may alter or cause to be altered the position of the vehicle so that its position is in accordance with the said provisions.
  - (2) If a vehicle is left in a parking place in contravention of any of the provisions of this order a person authorised by the Council in that behalf may remove the vehicle from the parking place or arrange for its removal.
  - (3) For the purpose of meeting the requirements of an emergency a person authorised in that behalf by the Council or a Police Constable in uniform may alter or cause to be altered the position of a vehicle in a parking place or remove or arrange for the removal of a vehicle from a parking place.
  - (4) Any person altering, or causing the alteration of, the position of a vehicle by virtue of paragraph (1) of this Article, or removing, or causing the removal of, a vehicle by virtue of paragraphs (2) or (3) of this Article, may do so by towing or driving the vehicle or in such other manner as he think reasonably necessary to enable the position of the vehicle to be altered or the vehicle to be removed.
  - (5) Any person removing or arranging for the removal of a vehicle by virtue of paragraphs (2) or (3) of this Article shall make such arrangements as he considers to be reasonably necessary for the safety of the vehicle in the place to which it is removed.
  - (6) Any reasonable costs incurred by the Council in the exercise of the powers contained in paragraphs (1) (2) (4) and (5) of this article may be recovered

from the owner or driver of the vehicle concerned and the Council may retain possession of the vehicle until such costs are paid in full.

- (7) Section 102 of the Act shall apply to this order in respect of the recovery by the Council of the charges for the moving or removal of vehicles in accordance with this Article.
  - (8) Where in a parking place signs are erected or surface markings are laid for the purpose of:-
    - (1) Indicating the entrance to or exit from the parking place, prohibiting entry or exit, or
    - (2) Indicating that a vehicle using the parking place shall proceed in a specified direction within the parking place, or
    - (3) Indicating the parking bays within which a driver may leave a vehicle.
  - (9) No driver shall drive a 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 so specified, (iii) or enters or exits the parking place in contravention of a sign prohibiting entry or exit, or (iv) so that it is left otherwise than within a parking bay.
  - (10) No person shall, except with the permission of a person authorised by the Council in that behalf, drive or permit to be driven any vehicle in a parking place for any purpose other than the purpose of leaving that vehicle in the parking place, in accordance with the provision of this order, or for the purpose of departing from the parking place.
  - (11). No person shall use a parking place as a means of passage by motor vehicles proceeding from one road to another road unless markings on the surface of the parking place or signs indicate that this is permissible.
  - (12). No person shall drive in a parking place in a direction contrary to that indicated by arrows signs on the surface thereof or of other signs erected thereon.
6. The provisions of the Refuse Disposal (Amenity) Act 1978 shall be incorporated herein and form part of this order so that:-
- (1) No person shall within any parking place do anything which if the parking place were land in the open air would constitute an offence under the Refuse Disposal (Amenity) Act 1978 and the Removal and Disposal of Vehicles Regulations as amended.
  - (2) The Council may dispose of a vehicle abandoned in any parking place in accordance with the provisions of the Refuse Disposal (Amenity) Act 1978 which are treated as incorporated herein.

7. Where an Authorised Officer has reason to believe that a vehicle has been left or permitted to remain at rest contrary to the provisions of the Order he or another person acting under his discretion may fix an immobilisation device to the vehicle concerned while it remains in the place where it was found in accordance with the provisions of Part 3 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 and any other powers so enabling.
8. **Penalty Charge for Use of Car Parks**
- (1) Any contravention or non-compliance with any provision of this Order by the Driver will result in the issuing of and liability for a penalty charge as detailed in Schedule 2 of this Order. In the case of a motor vehicle in respect of which a penalty charge notice has been incurred an Authorised Officer shall Serve the penalty charge notice which shall comply with the requirements of the Schedule to The Civil Enforcement of Parking Contraventions (England)General Regulations 2007
- (2) The particulars given in the penalty charge notice attached to a vehicle in accordance with this Article shall be treated as evidence in any proceedings relating to failure to pay such a penalty charge.
9. The reduced penalty charge being the charge set by the Secretary of State under the provisions of Section 77 and Schedule 9 of the Traffic Management Act 2004 and The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges)(England)Order 2007 is to be paid within 14 days following the date of issue endorsed on the penalty charge notice
- 10 In the event of the driver failing to pay a penalty charge within the period stipulated in this Order the Council may give notice in writing to the Owner of the motor vehicle in respect of which the penalty charge was incurred requiring the Owner to supply the identity of the Driver.

#### **Restrictions on Removal of a Notice**

- 11 When a notice has been attached to a motor vehicle in accordance with any of the foregoing provisions of this Order no person other than a person authorised by the Council in that behalf or the driver or a person authorised by the driver in that behalf shall remove the notice from the motor vehicle

#### **Prohibition on use of Parking Places**

- 12 (1) Where an owner or driver has incurred liability to pay a charge and the charge remains unpaid for a period of two months from the date when a notice was attached to a vehicle in accordance with Article 4(4), the Council may prohibit the owner or driver of that vehicle from using for the purpose of leaving any vehicle therein, any one or more of the parking places governed by this order for such period as it thinks fit, PROVIDED THAT the owner or driver shall first be given notice that the prohibition shall come into effect at the end of 7 days including the date of the notice.

- (2) A person subject to a prohibition under Article 31(1) shall not during the currency of that prohibition leave a vehicle in any parking place specified thereunder.
- (3) For the purpose of this Article notice is duly given if it is posted in a letter addressed to the last-known address of the driver or owner of the vehicle as the case may be.
- (4) On payment of all outstanding liability to the Council in respect of the leaving of a vehicle in any parking place, the prohibition in this Article shall be removed as soon as is reasonably practicable.

### **General Provisions**

- 13 Without prejudice to its powers under this order to recover any charges or payments due to the Council in proceedings before the Magistrates' Court, the Council shall have power to recover any such charge or payment in the County Court as if it were a civil debt.
- 14 In schedule 2 the requirement that no period of parking on the parking place shall exceed three hours shall be construed so that the period of three hours means the period of at least three hours between the time of first observation and the time of final observation as defined in Article 4(1).
- 15 Double and hatched Yellow Lines installed in a parking place indicate that no parking is permitted adjacent thereto.
16. It shall be an offence to fail to comply forthwith with a request of a duly authorised officer of the Council, which is made for the purpose of securing compliance with any provision of this order.
17. Contravention of or non-compliance with any of the provisions of this order shall be an offence in accordance with Section 35A of the Act.
18. The Council shall not be responsible for any loss or damage to any vehicle or any of the contents thereof nor for any injury to or death of any person which may occur while the vehicle has been left in a parking place or while the position of the vehicle is being altered in accordance with Article 10.

### **Power of the Council to Close Car Parks**

- 16 (1) Nothing in this Order shall restrict the power of the Council by notice, to suspend the operation of the car park or any part thereof and when the operation of the car park or part thereof is suspended, the Council shall display a notice or notices to that effect at the car park and at the ticket machines.

- (2) When the operation of the car park is suspended pursuant to paragraph (1) of this Article, no person shall cause any motor vehicle to enter, stand, wait or be left in the car park or any part thereof, for the duration of the suspension without the written authorisation of the Council, except for an ambulance or any motor vehicle being used in the service of a fire brigade or police force, or any motor vehicle with the permission of a police constable in uniform or when displaying a valid dispensation.
- (3) If at any time the Council shall require a car park or part thereof for any purpose whatsoever (including its use as a private car park in connection with a particular event) then the right of any person to park any motor vehicle thereon shall immediately terminate until the Council shall no longer require the car park or part thereof.

The Common Seal of OADBY AND

WIGSTON BOROUGH COUNCIL

was hereto affixed this            day

of March 2008

MAYOR:

CHIEF EXECUTIVE: