

BIRMINGHAM CITY COUNCIL
(BOSWELL ROAD ETC SUTTON COLDFIELD)
(PROHIBITION AND RESTRICTION OF WAITING AND
PARKING PLACES) ORDER 2005

Birmingham City Council ("the Council") in exercise of its powers under Sections 1 (1), 2 (1) to (3) and 4 (2) of the Road Traffic Regulation Act 1984 (as amended) ("the Act") and of Part IV of Schedule 9 to the Act and of all other enabling powers and after consulting the Chief Officer of Police in accordance with Part III of Schedule 9 to the Act hereby makes the following Order.

1.0 Commencement and Citation

- 1.1 (1) This Order shall come into operation on the 6th day of June Two Thousand and Five and may be cited as "Birmingham City Council (Boswell Road etc Sutton Coldfield) (Prohibition and Restriction of Waiting and Parking Places) Order 2005".
- (2) The plan titled "Birmingham City Council (Boswell Road etc Sutton Coldfield) (Prohibition and Restriction of Waiting and Parking Places) Order 2005", ("the On-Street Plan") is incorporated into this Order.

2.0 Interpretation

- 2.1 In this Order, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:

"authorised person" means an employee or agent of the Council authorised to exercise all or any of the functions of the Council under this Order;

"carriageway", "footway", "verge" and "central reservation" have the same meaning as in Section 329 (1) of the Highways Act 1980;

"disabled person's badge" and "parking disc" have the same meaning as in Regulation 3 (1) of the Local Authorities' Traffic Orders (Exemptions for Disabled Persons) (England) Regulations 2000 and "relevant position" has the same meaning as in Regulation 4 of those Regulations;

"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;

"goods" includes postal packets of any description; and "delivering" and "collecting" in relation to any goods includes checking the goods for the purpose of their delivery or collection;

"goods vehicle" means a motor vehicle which is constructed or adapted for use for the carriage of goods or burden of any description, and is not drawing a trailer;

"highway" means all carriageways, footways, verges and central reservations;

"key" means the key attached to the On-Street Plan to be read in conjunction with the On-Street Plan;

"motor cycle" and "invalid carriage" have the same meanings as in section 136 of the Act;

"On-Street Plan" means the plan titled "Birmingham City Council (Boswell Road etc Sutton Coldfield) (Prohibition and Restriction of Waiting and Parking Places) Order 2005";

"owner" has the meaning assigned to it by Section 82(2) and (3) of the Road Traffic Act 1991;

"parking attendant" has the same meaning as that provided in Section 63A of the Act;

"parking place" means an area on a road designated as a parking place by Article 4.1;

"passenger vehicle" means a motor vehicle (other than a motor cycle or invalid carriage) constructed solely for the carriage of passengers and their effects and adapted to carry not more than sixteen passengers exclusive of the driver, and not drawing a trailer

"permit holder" means a person to whom a permit has been issued under the provisions of Articles 6.2 or 6.5;

"permitted hours" means the period between 7.00am and 7.00pm Monday to Saturday;

"relevant fee" means in relation to a resident permit, an additional resident permit or a visitor permit, the respective fee which shall be determined from time to time by the Council to be paid by an applicant for either permit;

"resident" means a person whose usual residence is at premises the postal address of which is 1, 3, 5, 7, 9, 11, 15, 17, 19, 21 or 23 Boswell Road;

"resident permit" means a permit issued under the provisions of Article 6.2;

"road" has the same meaning as in Section 142 (1) of the Act;

"Shading Type 1", "Shading Type 2" and "Shading Type 3" mean the types of shading so described on the On-Street Plan.

"telecommunications apparatus" has the same meaning as in Schedule 2 to the Telecommunications Act 1984;

"traffic sign" means a sign of any size, colour and type prescribed or authorised under, or having effect as though prescribed or authorised under, Section 64 of the Act;

"traffic warden" means a traffic warden employed by a police authority in pursuance of Section 95 of the Act;

"universal service provider" has the same meaning as in Section 4 (3) of the Postal Services Act 2000;

"visitor permit" means a permit issued under the provisions of Article 6.5;

- 2.2 For the purpose of this Order a vehicle shall be regarded as displaying a resident permit, or a visitor permit in the relevant position if while the vehicle is in the parking place the resident permit or visitor permit is displayed in a conspicuous position on the vehicle so that all the information recorded on the front of the permit is legible and clearly visible to a person standing at the front or nearside of the vehicle.
- 2.3 Where the Council deem it so expedient all references to "resident permit" in this Order shall include reference to "visitor permit".
- 2.4 Except where otherwise stated, any reference in this Order to a numbered Article or Schedule is a reference to the Article or Schedule bearing that number in this Order.
- 2.5 Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment.
- 2.6 The prohibitions and restrictions imposed by this Order shall be in addition to and not in derogation from any restriction or requirement imposed by any regulation made or having effect as if made under the Act or by or under any other enactment.
- 2.7 (1) In "The Borough of Sutton Coldfield (Consolidation of Traffic Regulation and Waiting Restrictions etc) Order 1971", the reference to Boswell Road in Schedule Seven (Article 4) is hereby revoked.
- (2) The West Midlands County Council (Boswell Road etc, Sutton Coldfield) (Prohibition of Waiting) Order 1983 is hereby revoked.
- 2.8 The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.
- 3.0 Prohibition and Restriction of Waiting
- 3.1 Save as provided in Articles 3.3 and 3.4, no person shall, except upon the direction of a police constable in uniform or a traffic warden or with the permission of an authorised officer of the Council, cause or permit any vehicle to wait in the lengths of road or on the sides of road shown by Shading Type 1 on the On-Street Plan.
- 3.2 Save as provided in Articles 3.3 and 3.4, no person shall, except upon the direction or with the permission of a police constable in uniform or a traffic warden or with the permission of an authorised officer of the Council, cause or permit any vehicle to wait between in the lengths of road or on the sides of road shown by Shading Type 2 on the On-Street Plan between the hours of 9.00am and 5.00pm Monday to Saturday.
- 3.3 Nothing in Articles 3.1 and 3.2 shall prohibit any persons from causing or permitting any vehicle to wait in the lengths of road or on the sides of road referred to therein for so long as may be necessary:
- (a) to enable a person to board or alight from the vehicle;
 - (b) to enable goods to be loaded on to or unloaded from the vehicle;
 - (c) to enable the vehicle if it bears the livery of a Universal Service Provider being used for the purposes of the provision of a universal postal service as defined in the Postal Services Act 2000;
 - (d) to enable the vehicle to be used for police, ambulance or fire brigade

purposes;

- (e) to enable the vehicle (other than a passenger vehicle) if it cannot conveniently be used for such purpose in any other road to be used in the service of a local authority, a water undertaker or a sewerage undertaker or the National Rivers Authority or their agents in pursuance of statutory powers or duties;
- (f) to enable the vehicle to wait at or near to any premises situated on or adjacent to the said lengths or sides of road so long as the waiting by that vehicle is reasonably necessary in connection with any wedding or funeral or other religious observances;
- (g) to enable the vehicle if it cannot conveniently be used for such purpose in any other road to be used in connection with any of the following operations, namely:
 - (i) building, industrial or demolition operations;
 - (ii) the removal of any obstruction to traffic;
 - (iii) the maintenance, improvement or reconstruction of the said lengths of road or sides of road; or
 - (iv) the laying, erection, alteration or repair in or on land adjacent to the said lengths of road or sides of road of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity or of any telecommunications apparatus as defined in the Telecommunications Act 1984.

3.4 Nothing in Articles 3.1 and 3.2 shall render it unlawful to cause or permit a vehicle which displays in the relevant position a disabled person's badge and a parking disc (on which the driver or other person in charge of the vehicle has marked the time at which the period of waiting began) to wait in the lengths of road or on the sides of the road referred to in these Articles for a period not exceeding three hours (not being a period separated by an interval of less than one hour from a previous period of waiting by the same vehicle in the same lengths or on the same sides of road on the same day)

3.5 No person shall, except upon the direction of a police constable in uniform or a traffic warden or with the permission of an authorised person of the Council, cause or permit any vehicle to wait on footways and verges contiguous to these lengths of road referred to in this Order.

4.0 Parking Places

- 4.1 (1) Each of the parts of a road shown by Shading Type 3 on the On-Street Plan is authorised to be used, subject to the following provisions of this Order, as a parking place for the parking during the permitted hours of the classes of vehicle specified in Article 4.1 (2) subject to the provisions of Article 4.1 (3).
- (2) The classes of vehicle which may be left in a parking place are passenger vehicles, goods vehicles not exceeding 5 tonnes maximum gross weight, motor cycles and invalid carriages.
- (3) No person shall leave a vehicle in a parking place unless it is a vehicle

displaying a valid resident's permit or visitor's permit in the relevant position and that permit shall be so displayed for the whole time that the vehicle remains in the parking place.

- (4) Where a permit has been displayed on a vehicle in accordance with the provisions of Article 4.1 (3), no person, not being the permit holder, shall remove the permit from the vehicle unless authorised to do so by the permit holder.

4.2 Nothing in Articles 4.1 shall prohibit any persons from causing or permitting any vehicle to wait in a parking place for so long as may be necessary:

- (a) to enable a person to board or alight from the vehicle;
- (b) to enable the vehicle to be used for the delivery to or collection from or loading or unloading goods at any premises fronting onto the parking place provided that no vehicles so engaged shall wait for longer than 30 minutes outside the premises without the permission of an authorised person;
- (c) to enable the vehicle if it bears the livery of a Universal Service Provider being used for the purposes of the provision of a universal postal service as defined in the Postal Services Act 2000;
- (d) to enable the vehicle to be used for police, ambulance or fire brigade purposes;
- (e) to enable the vehicle (other than a passenger vehicle) if it cannot conveniently be used for such purpose in any other road to be used in the service of a local authority, a water undertaker or a sewerage undertaker or the National Rivers Authority or their agents in pursuance of statutory powers or duties;;
- (f) if the vehicle is waiting owing to the driver being prevented from proceeding by circumstances beyond the control of the driver or to such waiting as is necessary to prevent an accident;
- (g) to enable the vehicle if it cannot conveniently be used for such purpose in any other road to be used in connection with any of the following operations, namely:
 - (i) building, industrial or demolition operations;
 - (ii) the removal of any obstruction to traffic;
 - (iii) the maintenance, improvement or reconstruction of the said lengths of road or sides of road; or
 - (iv) the laying, erection, alteration or repair in or on land adjacent to the said lengths of road or sides of road of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity or of any telecommunications apparatus as defined in the Telecommunications Act 1984.

4.3 Every vehicle left in a parking place shall so stand:

- (a) that the left or nearside of the vehicle is adjacent to the left-hand edge of the

carriageway;

- (b) that the distance between the edge of the carriageway and the nearest wheel of the vehicle is not more than 0.3 metres; and
- (c) so as not to unreasonably prevent access to any premises adjoining the road, or the use of the road by other persons, or so as to be a nuisance.

4.4 Where a vehicle is standing in a parking place in contravention of the provisions of Article 4.3, a Parking Attendant or an authorised person may alter or cause to be altered the position of the vehicle in order that its position shall comply with those provisions.

4.5 (1) Any authorised person may suspend the use of any parking place or any part thereof for up to seven days and for longer periods with the permission of the Council whenever he considers such suspension reasonably necessary:

- (a) for the purpose of facilitating the movement of traffic or promoting its safety;
- (b) for the convenience of occupiers of premises adjacent to the parking place on any occasion of the removal of furniture from one office or dwelling-house to another or the removal of furniture from such premises to a depository or to such premises from a depository;
- (c) for the purpose of:
 - (i) any building operation, demolition or excavation in or adjacent to the parking place;
 - (ii) the maintenance, improvement or reconstruction of the parking place; or
 - (iii) the laying, erection, alteration, removal or repair in or adjacent to the parking place of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity or any telecommunications apparatus, traffic sign or parking meter;
- (d) on any occasion on which it is likely by reason of some special attraction that any street will be thronged or obstructed; or
- (e) for the convenience of occupiers of premises adjacent to the parking place at times of weddings or funerals, or on other special occasions;

(2) A police constable in uniform may suspend for not longer than twenty-four hours the use of any parking place or any part thereof whenever he considers such suspension reasonably necessary for the purpose of facilitating the movement of traffic or promoting its safety.

(3) Any person suspending the use of a parking place or any part thereof in accordance with the provisions of paragraph (1) or paragraph (2) of this Article shall thereupon place or cause to be placed in or adjacent to the parking place or part thereof the use of which is suspended a traffic sign indicating that waiting by vehicles is prohibited.

- (4) No person shall cause or permit a vehicle to be left in any part of a parking place during such period as there is in or adjacent to that part of the parking place a traffic sign placed in pursuance of paragraph (3) of this Article.

Provided that nothing in this paragraph shall render it unlawful to cause or permit any vehicle being used for fire brigade, ambulance or police purposes to be left in any part of the parking place during such period as is referred to therein, or to any other vehicle so left if that vehicle is left with the permission:

- (i) of the person suspending the use of the parking place or the part thereof in pursuance of paragraph (1) of this Article,
- (ii) of a police constable in uniform,
- (iii) of a traffic warden, or
- (iv) of an authorised person

- 4.6 The driver of a vehicle using a parking place shall not permit the carrying out of any work of construction or repair except such as may be necessary to enable the vehicle to be removed from the parking place.

- 4.7 No person shall use any vehicle, while it is in a parking place during the permitted hours, in connection with the sale of any article to any person in or near the parking place or in connection with the selling or offering for sale of his skill in handicraft or his services in any other capacity.

Provided that nothing in this Article shall prevent the sale of goods from a vehicle if the vehicle is one which may be left in a parking place in accordance with Article 4.1 (2) and the goods are immediately delivered at or taken into premises adjacent to the vehicle from which the sale is effected;

- 4.8 When a vehicle is left in a parking place in contravention of any of the provisions of this Order, the owner will become liable for a Penalty Charge and a Parking Attendant or an authorised person may affix a Penalty Charge Notice to the vehicle and, subsequently, may remove or arrange for the removal of the vehicle from that parking place.

- 4.9 A Parking Attendant or an authorised person removing a vehicle by virtue of Article 4.8 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 remove it as aforesaid.

- 4.10 When a Parking Attendant or an authorised person removes or makes arrangements for the removal of a vehicle from a parking place by virtue of Article 4.9, he shall make such arrangements as may be reasonably necessary for the safe custody of the vehicle.

- 4.11 Any expenses incurred by the Council in removing a vehicle from a parking place by virtue of Article 4.9 shall be recoverable by the Council from the owner of the vehicle.

- 4.12 The Council may as respects a vehicle which has been removed from a parking place in pursuance of Article 4.9, if it appears to have been abandoned, sell or otherwise dispose of the vehicle after having made reasonable enquiry to ascertain the name

and address of the owner of the vehicle in accordance with the procedure set out in the Refuse Disposal (Amenity) Act 1978.

- 4.13 A police constable in uniform, a traffic warden, a Parking Attendant or an authorised person may move or cause to be moved, in case of emergency, to any place he thinks fit, vehicles left in a parking place.

5.0 General

- 5.1 Nothing in Articles 4.1 or 4.5 (4) shall apply if the vehicle is being used by a doctor or a member of the nursing services when visiting a resident.
- 5.2 Where a Penalty Charge Notice or any other notice has been attached to a vehicle as a result of a failure to comply with the provisions of this Order, no person not being the driver of the vehicle, a police constable in uniform, a Parking Attendant or authorised person shall remove the notice from the vehicle unless authorised to do so by the driver.
- 5.3 The penalty charge shall be paid to the Council in accordance with the instructions on the Penalty Charge Notice.

6.0 Permits

- 6.1 (1) A resident permit shall include the following particulars:
- (a) The registration mark of the vehicle in respect of which the permit has been issued;
 - (b) The name of the Resident Parking Scheme in which the parking place is situated and for which the permit is issued;
 - (c) the date on which the validity of the permit will expire;
 - (d) An authentication that the permit has been issued by the Council.
- (2) A visitor permit shall include the following particulars:
- (a) The registration mark of the vehicle in which the permit is being displayed;
 - (b) The name of the Resident Parking Scheme in which the parking place is situated and for which the permit is issued;
 - (c) the date for which the visitor permit is valid;
 - (d) An authentication that the permit has been issued by the Council.

Application for and use of Permits

- 6.2 (1) (a) Any resident who is the owner of a vehicle of the class specified in Article 4.1 (2) may apply to the Council for the issue of a resident permit for the parking of that vehicle in the parking place;

- (b) The application shall be made on a form issued by and obtainable from the Council and shall include the particulars and information required by such form.
- (c) The application shall be accompanied by the relevant fee.
- (2) The Council may at any time require an applicant for a permit or a permit holder to produce to an officer of the Council such evidence in respect of the application as they may reasonably require to verify any particulars or information given to them.
- (3) On receipt of an application duly made under the foregoing provisions of this Article together with the relevant fee, the Council upon being satisfied that the applicant is a resident and is the owner of a vehicle of the class specified in paragraph (1) of this Article, may, subject to Paragraph (5) of this Article, issue to the applicant one resident permit for the parking in the parking place of the vehicle to which such permit relates by the owner of such vehicle or by any person using such vehicle with the consent of the owner.
- (4) (i) Where the Council have issued more than one resident permit to a particular resident, all the resident permits issued to that resident shall have the same period of validity;
- (ii) The issue of a resident permit or permits to a resident shall not be construed as if any part of the parking place was reserved solely for the use of a permit holder or that there will be space available for parking a vehicle in the parking place.

Surrender, Cancellation and Validity of Resident Permits

- 6.3
- (1) A permit holder may surrender a resident permit to the Council at any time;
 - (2) A resident permit shall cease to be valid on the occurrence of any one of the events set out in paragraph (4) of this Article and the permit holder shall surrender the resident permit which he holds to the Council within 48 hours of the occurrence of the relevant event;
 - (3) (i) The Council may entirely at its own discretion cancel a resident permit and notify the permit holder by a notice in writing served on the permit holder at the address shown by that person on the application for the resident permit or at any other address believed to be that person's place of abode; and
 - (ii) the permit holder shall surrender the resident permit to the Council within 48 hours of the receipt of the aforementioned notice;
 - (4) The events referred to in the foregoing paragraphs of this Article are:
 - (a) the permit holder ceasing to be a resident;
 - (b) the permit holder ceasing to be the owner of the vehicle in respect of which the permit was issued;
 - (c) the withdrawal of such permit by the Council under the provisions of paragraph (2) of this Article;

- (d) the vehicle in respect of which such permit was issued being adapted or used in such a manner that it is not a vehicle of the class specified in Article 4.1 (2) to the Order; or
- (e) the period of validity of the resident permit has expired.

Application for and issue of Duplicate Resident Permits

- 6.4
- (1) If a resident permit is mutilated or accidentally defaced or the figures or particulars thereon have become illegible or the colour of the resident permit has become altered by fading or otherwise, the permit holder shall surrender it to the Council and the Council upon receipt of the resident permit shall issue a duplicate resident permit so marked;
 - (2) If a resident permit is lost or destroyed, the permit holder may apply to the Council for the issue to him of a duplicate resident permit and the Council, upon being satisfied as to such loss or destruction, shall issue a duplicate resident permit so marked and upon such issue the resident permit which it duplicates shall become invalid;
 - (3) The provisions of this Order shall apply to a duplicate resident permit and an application therefore as if it were a resident permit, or as the case may be an application therefore;
 - (4) The date on which the validity of the duplicate resident permit will expire will be the same date as shown on the resident permit which it duplicates;
 - (5) The Council will levy a charge for the issue of a duplicate resident permit.

Application for and issue of Visitors Permits

- 6.5
- (1)
 - (a) Any resident may apply to the Council for the issue of visitor permits for the parking of a vehicle in the parking place provided it is a vehicle of the class specified in Article 4.2 to this Order
 - (b) The application shall be made on a form issued by and obtainable from the Council and shall include the particulars and information required by such form.
 - (c) The application shall be accompanied by the relevant fee.
 - (2) The Council may at any time require an applicant for visitor permits to produce to an officer of the Council such evidence in respect of the application as they may reasonably require to verify any particulars or information given to them.

- (3) On receipt of an application duly made under the foregoing provisions of this Article, the Council upon being satisfied that the applicant is a resident may, subject to Provisos (i) and (ii) hereto, issue to the applicant visitor permits for the parking in the parking place of a vehicle provided that:
- (i) it is a vehicle of the class specified in Article 4.2 to this Order;
 - (ii) a maximum of 50 visitor passes per year will be issued to any one household

GIVEN under the COMMON SEAL of BIRMINGHAM CITY COUNCIL the 3rd day of June Two thousand and Five.

THE COMMON SEAL of BIRMINGHAM CITY COUNCIL
was hereunto affixed in the presence of :-

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77201

Authorised Signatory




NOTES


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Date 2002

KEY

-  No Waiting At Any Time (Shading type 1)
-  No Waiting Mon-Sat, 9am-5pm (Shading type 2)
-  Resident Permit Holders only (Mon-Sat, 9am-5pm) (Shading type 3)

DATE	REV	REVISIONS	ENG.

 **Birmingham City Council**
Highways

Constituency Services

NEIL DANCER
CHIEF HIGHWAY ENGINEER
1 LANCASTER CIRCUS,
BIRMINGHAM B4 7DD.

SCHEME

indirect
BIRMINGHAM CITY COUNCIL
(BOSWELL ROAD etc
SUTTON COLDFIELD)

T7200

DRAWING

(PROHIBITION & RESTRICTION
OF WAITING AND PARKING
PLACES) ORDER 2005

SCALE
1:1250

DRAWN
IA

DATE
MAY 2005

ENG.
KR

APPROVED
KR

FILE LOCATION

LA076104/2005-2006/... Boswell Gardens

SHEET SIZE

A3

DRAWING NO

IMN BWG 001

SHEET

REV.