

THE BUCKINGHAMSHIRE COUNTY COUNCIL
(WATERSIDE NORTH CAR PARK, AYLESBURY)
(OFF-STREET PARKING PLACES) ORDER 2015

The Buckinghamshire County Council in exercise of its powers under sections 32 – 35, 35A, 39, 44, 63A, 99, 100, 116 and Part IV of Schedule 9 and having regard to Section 122 of the Road Traffic Regulation Act 1984 (“the 1984 Act”) and under the Traffic Management Act (“the 2004 Act”) as amended and of all other enabling powers, and after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 to the 1984 Act, hereby makes the following Order.

PRELIMINARY

Citation and commencement

1. This Order shall come into operation on 14th October 2015 and may be cited as “The Buckinghamshire County Council (Waterside North Car Park, Aylesbury) (Off-Street Parking Places) Order 2015”.

Interpretation

2. In this Order, except where the context otherwise requires, the following expressions have the meaning hereby respectively assigned to them:

“bank holiday” means the days specified in Section 1(1) of Schedule 1 of the Banking and Financial Dealings Act 1971 with the addition of New Year’s Day or as appropriate 2 January and the first Monday in May subject to special circumstances of any year and also includes the common law holidays namely Good Friday and Christmas Day;

“charging hours” means in respect of the parking place, those hours during which a vehicle may only be permitted to wait in parking place upon payment of a charge, as specified in the Schedule to this Order;

“civil enforcement officer” means a person provided by the Council for the enforcement or road traffic contraventions for which the Council is the enforcement authority (including enforcement of the provisions of this Order) and the supervision of Off-Street Parking Places situate within Aylesbury Vale District, and duly authorised in that behalf. Such a person may be either an individual employed by the Council for that purpose or, where the Council has made arrangements with any person for the purposes of Section 63A of the Road Traffic Regulation Act 1984 and/or Section 76 of the Traffic Management Act 2004, an individual employed by that person to act as a Civil Enforcement Officer;

“Council” means the Buckinghamshire County Council and includes any parking services contractors or authorised agent appointed by or acting on behalf of the Council for the purposes of any function under the provisions of this Order;

“daily charge” means the charge imposed by the Council for parking in a parking place on any one day and for a specified period of time as is identified in the scale of charges specified in the Schedule to this Order;

“disabled person’s badge” means a badge issued by any Local Authority in accordance with the provisions of the Local Authorities’ Traffic Orders (Exemptions for Disabled Persons) Regulations 2000 or a badge having effect under those regulations as if it were a Disabled Person’s Badge ;

“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” means any goods of any kind whether animate or inanimate, and includes postal packets of any description, and “delivering” and “collecting” in relation to any such goods includes checking the goods for the purpose of their collection;

“goods vehicle” means a motor vehicle, the overall height and width of which does not exceed 2.3 metres and the overall length of which does not exceed 5.3 metres, constructed or adapted for use for the carriage or burden of goods;

“motor cycle” has the same meaning as that in S136 of the Road Traffic Regulation Act 1984;

“motor vehicle” has the same meaning as given in Section 136 of the Road Traffic Regulation Act 1984;

“notice to owner” has the same meaning as in the relevant legislation;

“owner” in relation to a vehicle, means the person by whom such vehicle is kept and used. In determining who was the owner at any time it shall be presumed that the owner was the person named in the vehicle registration document as the registered keeper of the vehicle or the person who has the use of such vehicle in the course of his / her employment and who is entitled to use such vehicle as though he / she were the registered keeper thereof;

“parking place” means any of the areas of land (including any structures thereon) which have been provided by the Council for use as a parking place pursuant to Sections 32 and 33 of the Road Traffic Regulation Act 1984 (as amended); and which is identified by name in Column 1 of the Schedule and includes any part thereof;

“parking bay” means an area of a parking place intended to be used for the parking of a single vehicle, delineated or indicated by the appropriate markings on the surface of the parking place;

“parking charge” means any charge to which reference is made in Article 15;

“passenger vehicle” means a motor vehicle constructed or adapted solely for the carriage of not more than 12 passengers (exclusive of the driver) and their effects and not drawing a trailer;

“penalty charge” has the same meaning as in the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 or any subsequent legislation so enabling;

“penalty charge notice” means a notice in relation to the Parking Contravention in such form and given in such manner as is required by the relevant legislation:

“permitted hours” means the periods specified for each parking place during which parking by vehicles is permitted;

“relevant legislation” means Part IV and Schedules 4 and 9 of the Road Traffic Regulation Act 1984 and Part 6 and Schedules 7-12 of the Traffic Management Act 2004, and any subsequent legislation made thereunder;

“restricted area” means any part of the parking place which is not designated as a parking place by means of appropriately worded signs, surface markings or writing;

“ticket” means a ticket issued by a ticket machine relevant to the parking place in which a vehicle has been parked;

“ticket machine” means an apparatus of a type approved by the Secretary of State for issuing a ticket indicating the payment of a charge, the date on which the ticket is valid and the time by which the vehicle is required to leave the parking place;

3. Any reference in this Order to a numbered Article shall, unless the context requires otherwise, be construed as a reference to the Article bearing that number in this Order.
4. Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended, applied, consolidated, re-enacted by or as having effect by virtue of any subsequent enactment.
5. The Interpretation Act 1978 shall apply to the interpretation of this Order as it applies or the interpretation of an Act of Parliament and as if for the purposes of Section 21 of that Act this Order were an Act of Parliament and the Orders revoked by this Order were Acts of Parliament thereby repealed.
6. The restrictions imposed by this Order shall be in addition to and not in derogation from any restriction or requirements imposed by any regulations made or having effect as if made under the Act of 1984 or by or under any other enactment.

USE OF PARKING PLACES

General provisions

7. Subject to the following provisions of this Order, each parking place (or any identified part thereof) may be used as a place for the waiting of such classes of vehicles in such positions and on such days and during such hours and on payment of such charges as are specified in relation to that parking place in the Schedule hereto.
8. Save as provided in Article 39, the driver of a vehicle shall not permit the vehicle to wait in a restricted area within a parking place.
9. Where, within a parking place a parking bay is marked by means of appropriately worded signs, surface markings or writing as being reserved exclusively for the parking of vehicles on which a valid Disabled Person's Badge is displayed, only vehicles on which such a Disabled Person's badge is displayed in accordance with

the relevant provisions contained in Article 21 the driver may wait or be permitted to wait in that parking bay.

10. Where in Column (2) of the Schedule, within a parking place, a parking bay is marked by means of appropriately worded signs as being exclusively reserved for vehicles of a certain class, the driver shall not cause or permit the vehicle to wait unless it is of the class and in the position specified.
11. The driver of a vehicle may not cause or permit the vehicle to wait within a parking place in such a manner as to:
 - (1) obstruct vehicular access to or egress from the parking place or any parking bay in the parking place, or
 - (2) obstruct any footway, footpath or pedestrian access way in the parking place, or
 - (3) otherwise obstruct the free flow of pedestrian or vehicular traffic within the parking place.
12. The driver of a vehicle may not cause or permit the vehicle to wait in a parking place for longer than the maximum period of waiting in that parking place.
13. The driver of a vehicle may not cause or permit the vehicle to wait in a parking place other than in a parking bay, or in such manner that the wheel of that vehicle is located outside the markings defining the boundaries of that parking bay.
14. The driver of a vehicle shall not cause or permit the vehicle to wait in a parking place save for the purposes designated in, and as provided by, this Order.

CHARGES FOR PARKING

15. Any person proposing to cause or permit a vehicle to wait in a parking place during

the charging hours shall immediately upon entering the parking place pay the appropriate charge in accordance with the scale of charges specified in Column (6) of the Schedule hereto, by obtaining or purchasing an appropriate ticket according to the proposed period of waiting (and where a charge is specified for a period the whole of that charge shall be due and payable for use of the parking place for any part of that period), provided that no charge shall be payable:

- (1) in respect of the use of a parking place for the waiting of a vehicle outside of the charging hours, or
- (2) in respect of the use of a parking bay within a parking place for the waiting of a motor cycle where the parking bay concerned is marked as being reserved exclusively for the use of motor cycles, or
- (3) The driver of a vehicle on which a valid Disabled Person's Badge is displayed in accordance with the relevant provisions of this Order shall not cause or permit the vehicle to wait in a parking place for a period in excess of the maximum period of waiting specified in the Schedule in relation to the parking place concerned.

- 16. The "Council" reserves the right to adjust/increase parking charges and permit prices upon the notification period being observed.

METHOD OF PAYMENT OF CHARGES

- 17. The charge referred to in Article 15 shall be paid by the insertion of a coin to the appropriate value into a ticket machine provided for receipt of the same in the relevant parking place. Payment may only be made in sterling, using coins of a denomination or denominations accepted by the ticket machine(s) concerned. Any overpayment made shall not be refundable, nor shall it otherwise affect the operation of any provision of the Order.

DISPLAY OF TICKETS

18. Immediately after a ticket having a face value corresponding to not less than the appropriate charge specified in this Order for the proposed period of parking has been obtained or purchased, it shall be displayed in accordance with the provisions of Article 19 of this Order. That ticket shall continue to be displayed throughout the period during which the vehicle is left in the parking place concerned.
19. Any ticket which has been obtained or purchased in accordance with the terms of this Order shall be displayed in a conspicuous position on the fascia or dashboard of the vehicle in respect of which it was issued, so that the details shown on the front of the ticket are clearly visible to, and legible by, a person standing outside the vehicle and immediately adjacent to its front windscreen. In the case of a vehicle having no fascia or dashboard the ticket shall be displayed in a conspicuous position on the body of the vehicle, and such ticket shall be displayed so that the details shown on the front of the ticket are clearly visible to, and legible by, a person standing immediately adjacent to the vehicle.
20. No person shall display on a vehicle which is left in a parking place during the charging hours any ticket other than that purchased in respect of the current period during which the vehicle is caused or permitted to wait in the parking place. A ticket purchased in respect of a period of waiting by one vehicle shall not authorise a period of waiting by another vehicle during any part of the period for which the ticket is (or remains) valid.

Display of Disabled Person's Badge

21. Subject to the provisions of this Order, any Disabled Person's Badge which is required to be displayed on a vehicle shall be displayed in a conspicuous position on the fascia or dashboard of the vehicle in respect of which it was issued, so that the details shown on the front of the badge are clearly visible to, and legible by, a person standing outside the vehicle and immediately adjacent to its front windscreen.

No Pay and Display Ticket displayed

22. If at any time while a vehicle is left in a parking place no ticket is displayed on that vehicle in the relevant position and where arrangements to pay the daily charge through an alternative approved method of payment have not been made, it shall be judged that the charge has not been paid.

Non-transferrable

23. A ticket purchased from a ticket machine under Article 15 is not transferable between vehicles or between different parking places.

Ticket machine out of order

24. If at the time when a vehicle is left during the charging hours in a parking place and on the nearest ticket machine in that parking place there is a notice placed by a person duly authorised by the Council, indicating that the said ticket machine is out of order, then a ticket shall be obtained from another ticket machine located within the same parking places.
25. If, at any time when a vehicle is parked during the permitted hours in a parking place, all the ticket machines are out of order, the driver of that vehicle shall be exempt from payment of the charge and display of a ticket, provided that the maximum period of parking still applies.

CONTRAVENTION AND PENALTY CHARGE

Contravention

26. If a vehicle is parked in a parking place without complying with the requirements of this Order, a contravention shall have occurred and a Penalty Charge shall be payable. A Penalty Charge Notice showing the information required by the 2004 Act

may then be issued by a Civil Enforcement Officer in accordance with the requirements of the 2004 Act or any subsequent applicable legislation.

Penalty Charge Notice

27. In the case of a vehicle in respect of which a Penalty Charge may have been incurred, it shall be the duty of a Civil Enforcement Officer to either hand the Penalty Charge Notice to the driver of the vehicle, post the Penalty Charge Notice to the owner of the vehicle or attach the Penalty Charge Notice to the vehicle in a conspicuous position.

Manner of Payment of Penalty Charge

28. The Penalty Charge shall be paid in accordance with the instructions contained on the Penalty Charge Notice. The recipient of a Penalty Charge Notice may be eligible to make representations or appeal against the Penalty Charge Notice issued, as detailed on the Penalty Charge Notice and in accordance with the requirements and procedures set out in the 2004 Act and its subordinate legislation.
29. If a Penalty Charge is paid not later than the last day of the period of 14 days beginning with the date on which the Penalty Charge Notice is served the Penalty Charge shall be reduced by the amount of any applicable discount.
30. If after the last day of the period of 28 days beginning with the date on which a Notice to Owner was served no representations have been made in accordance with the relevant legislation and the Penalty Charge has not been paid, the Council may increase the charge by the amount of any applicable surcharge.
31. The amount of any payable discount or any applicable surcharge for the purposes of Articles 29 and 30 respectively shall be determined from time to time by the Council in accordance with the relevant legislation.

EVIDENCE

32. The particulars given in the Penalty Charge Notice attached to a vehicle in accordance with this Order shall be treated as evidence in any proceedings relating to failure to pay such Penalty Charge.

PROHIBITION ON REMOVAL OF TICKETS

33. When a pay and display ticket has been displayed in or on a vehicle in accordance with the provisions of this Order no person other than the driver of the vehicle concerned (or a person authorised by the driver of the vehicle in that behalf) shall remove the ticket from the vehicle concerned, or otherwise interfere with it, until the vehicle is removed from the parking place.
34. Where a penalty charge notice has been attached to a vehicle no person not being the driver of the vehicle or a person authorised by the Council in that behalf shall remove the penalty notice from the vehicle unless authorised to do so by the driver.

SUSPENSION OF USE OF PARKING PLACE

35. A Civil Enforcement Officer or any other person duly authorised by the Council may suspend the use of a parking place or parking bay within a parking place whenever they consider such suspension reasonably necessary:
- (1) for the purpose of facilitating the movement of traffic or promoting its safety;
 - (2) for the purpose of any building operation, demolition or excavation adjacent to the parking place, the maintenance, improvement or reconstruction of the highway or the cleansing of gullies in or adjacent to the parking place, the laying, erection, alteration or repair in or adjacent to the parking place or any sewer or of any main, pipe, or apparatus for the supply of gas, water or

electricity or of any telecommunications system or the placing, maintenance or removal of any traffic sign;

36. Any authorised person suspending the use of a parking place or parking bay in accordance with the provisions of this Order shall thereupon place or cause to be placed in or adjacent to that parking place or part thereof a traffic sign indicating that parking by vehicles is prohibited.

No parking in a suspended parking place

37. No person shall cause or permit a vehicle to park in a parking place or parking bay within a parking space during which such period as the Council has suspended that parking place or parking bay and exhibits notice of such suspension on or near that parking place.
38. Nothing in the preceding Article shall render it unlawful to cause or permit a vehicle to be parked in a parking place which has been suspended, which displays in the relevant position a valid waiver certificate issued by the Council, and the vehicle is parking in accordance with the terms and conditions of the said certificate.

EXEMPTIONS FROM RESTRICTIONS ON WAITING

39. Notwithstanding the foregoing provisions of this Order a vehicle may wait during the charging hours in any part of a parking place if the use of that part has not been suspended and if:
- (a) the vehicle, if it cannot conveniently be used for such purpose in any other place, to be used in connection with any of the following operations, namely:-
 - (1) the removal of any litter, rubbish or other deposit;
 - (2) the removal of any vehicle;
 - (3) the laying, erection, alteration or repair in or on land adjacent to the said places of any sewer or of any main, pipe or apparatus for the

supply of gas, water or electricity or of any telecommunications system,

- (4) use in the service of an undertaker, the Environment Agency or any public authority in pursuance of any statutory powers or duties;
 - (5) the laying out, reconstruction, repair, alteration or renewal of any of the parking places designated in the Schedule hereto;
 - (6) building, industrial or demolition operations or;
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- (b) the vehicle is being used by or with the consent of the Council and whilst being used it is necessary for the vehicle to wait in that parking place or;
 - (c) the vehicle is prevented from proceeding by circumstances beyond the control of the person in charge of it or,
 - (d) the vehicle is being used for police, fire brigade, ambulance or other emergency service.

RELOCATION, REMOVAL AND DISPOSAL OF VEHICLES

40. (1) If a vehicle is left in a parking place in a position other than in accordance with the provisions of this Order a person authorised by the Council in that behalf may alter or cause to be altered the position of the vehicle 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, or is abandoned, a person authorised by the Council in that behalf may remove the vehicle from that parking place or arrange for such removal and the Council shall be entitled to recover as a civil debt from any person responsible such charges in respect of the removal, storage and disposal of the vehicle as the Council may require in accordance with the relevant legislation.
- (3) For the purpose of meeting the requirements of an emergency, a person authorised in that behalf by the Council or a police officer 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 virtues of paragraphs (2) or (3) of this Article, may do so by towing or driving the vehicle or in such manner as he/she may think reasonably necessary.
- (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/she considers reasonably necessary for the safety of the vehicle in the place to which it is removed.

LIABILITY AND OTHER PROVISIONS

Liability

- 41. The Council accepts no responsibility, 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.

Driving within a parking place

- 42. No person shall except with the permission of a Civil Enforcement Officer drive any vehicle in the parking place other than for the purpose of leaving that vehicle in the parking place in accordance with the provisions of this Order, or for the purpose of departing from the parking place.
- 43. Where in the parking place signs are erected, or surface or other markings are laid for the purpose of:
 - (1) indicating the entrance to, or exit from, the parking place, or

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

no person shall drive or permit any vehicle to be driven

(a) 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

(b) in a direction other than that specified,

44. (1) Unless the Council's prior written consent is obtained, no person shall :

(a) drive any vehicle otherwise than for the purpose of leaving it in the parking place in accordance with the provisions of this order or for the purpose of departing from the parking place,

(b) use a vehicle, while it is in the parking place, in connection with the sale of any article to persons in or near the parking place or in connection with the selling or offering for hire of skills or services;

(c) erect or cause to be erected any tent, booth, stand, building or structure or other thing;

(d) light or permit to be lighted any fire;

(e) display or distribute or cause to be displayed or distributed any notice, leaflet, handbill, booklet, book or other item;

(f) maintain, repair, service or wash any vehicle or part thereof other than is reasonably necessary to enable the vehicle to depart from the parking place;

(g) drive any vehicle and cause it to wait in a parking place without displaying

a valid ticket, in accordance with the provisions of this order.

(h) drive any vehicle in any direction other than that indicated by signs or surface markings.

(2) No person in a parking place shall:

(a) sound any horn or similar instrument except when necessary for the safety of persons or vehicles in the parking place;

(b) shout or make or permit any noise or otherwise behave to the disturbance or annoyance to users of the parking place, occupants of neighbouring premises or passers-by;

(c) use any threatening, abusive or insulting language, gesture or conduct likely to cause, or causing, a breach of the peace;

(d) use any part of the parking place or any vehicle in it for sleeping, cooking or camping purposes;

(e) use any part of the parking place for skating (using in-line or roller skates), or skateboarding;

(f) engage in any other activity which causes disturbance or annoyance to users of the parking place, occupants of neighbouring premises or passers-by.

45. No person shall in the parking place cause or permit to be emitted from the vehicle (whether continuously or intermittently) any noise originating from any fitment or alarm on the vehicle such as would in the opinion of a Civil Enforcement Officer cause disturbance or annoyance to users of the parking place or to occupiers of premises in the neighbourhood, save that this Article shall not be deemed to have been breached if any fitment or alarm on the vehicle shall have been activated by any unauthorised person improperly tampering with the vehicle, but such


unauthorised activation of the fitment or alarm shall not prohibit or prevent a Civil Enforcement Officer:

- (1) immobilising the vehicle or causing it to be immobilised pursuant to the relevant legislation, or
- (2) moving the vehicle or causing it to be moved within the parking place, or
- (3) removing the vehicle or causing it to be removed from the parking place pursuant to the relevant legislation, or
- (4) in the alternative making arrangements for the fitment or alarm to be rendered inoperable or silenced.

Wilful damage

- 46. Any person who with intent to defraud interferes with the ticket machine or operates or attempts to operate it by the insertion of objects other than undamaged and unaltered coins or legal tender and of the appropriate denomination, or other approved method of payment, shall be liable to prosecution.
- 47. Any person who interferes or damages any part of the fabric of a parking place or integral signing provided for the operation of a parking place shall be liable to prosecution.

THE COMMON SEAL of **BUCKINGHAMSHIRE**
COUNTY COUNCIL was hereunto affixed
this 12th day of October 2015
in the presence of:-


Authorised Signatory



