



DISTRICT COUNCIL
NORTH OXFORDSHIRE

**THE CHERWELL DISTRICT COUNCIL (OFF-STREET PARKING PLACES)
(SPICEBALL LEISURE CENTRE, BANBURY) ORDER 2010**

The Cherwell District Council (hereinafter referred to as "the Council") in exercise of their powers under Sections 32, 35(1) and (3) and 35A(3) and Part III of Schedule 9 of the Road Traffic Regulation Act 1984, (which said Act is hereinafter referred to as "the Act of 1984") and of all other enabling powers, after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 of the Act of 1984, and with the consent of the Oxfordshire County Council in accordance with Section 39(3) of the Act of 1984 hereby make the following Order:-

PART I

IMPLEMENTATION, CITATION AND DEFINITIONS

1. This Order may be cited as "The Cherwell District Council (Off-Street Parking Places) (Spiceball Leisure Centre, Banbury) Order 2010 and shall come into operation on the 1 April 2010.

2. The Cherwell District Council (Off-Street Parking Places) (Spiceball Leisure Centre, Banbury) Order 2009 is hereby revoked.

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

"charging hours" means the period between 8.00 am on one day and 6.00 pm on the same day and between 10.00 am and 4.00 pm on a Sunday, and Sunday charging hours shall apply on all Bank and Public Holidays other than Christmas Day, Boxing Day and New Year's Day when no charges shall apply;

"commercial vehicle" means any mechanically propelled vehicle which is constructed or adapted for the carriage of goods;

"Council" means the Cherwell District Council;

"driver" in relation to a vehicle left in the parking place, means the person driving the vehicle at the time it was left in the parking place;

"motor car" means any motor car within the meaning of Section 136(2) of the Act of 1984 with the exception of a commercial vehicle;

"owner" has the same meaning as in the Act of 1984;

"parking bay" means any area of the parking place which is provided for the leaving of a vehicle and indicated by markings on the surface of the parking place or by signs or otherwise;

"parking place" means the parking place described in Column 1 in the Schedule to this Order, provided by the Council under Section 32(1) of the Act of 1984;

"parking warden" means a person authorised by or on behalf of the Council to supervise the parking place or to regulate the use of the parking place as circumstances so demand;

"registered keeper" means the person in whose name the vehicle was registered under the Vehicle Excise and Registration Act 1994;

"relevant date" means the date upon which any vehicle is or was parked in the parking place or upon which any event occurs or occurred in breach of any of the provisions of this Order or to which this Order relates;

"relevant position" means for the purpose of this Order:-

- (a) in the case of a vehicle fitted with a front glass windscreen, with the obverse side of the ticket notice or badge, as the case may be, facing forwards on the rear side of and immediately behind the windscreen; or
- (b) in the case of a vehicle not fitted with a front windscreen in a conspicuous position on the vehicle;

"ticket machine" means apparatus or a device of a type and design approved by the appropriate Minister in accordance with Section 35(3) of the Act of 1984 used as a means to indicate the time at which a vehicle arrived at the parking place or the time at which the initial authorised period of parking expires or the charges paid or payable in respect of a vehicle in the parking place, or as a means to collect such charges;

"vehicle" means any vehicle as defined in Section 136(1) of the Act of 1984;

4. (1) Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment.

(2) The restrictions imposed by this Order shall be in addition to and not in derogation from any restriction or requirement imposed by any other regulations.

PART II

USE OF PARKING PLACE

5. (1) The parking place specified in the Schedule to this Order is authorised to be used, subject to the following provisions of this Order, as a parking place for such vehicles or classes of vehicles, in such positions on such days and during such hours and on payment of such charges as are specified in relation to the parking place in the said Schedule and the parking place shall not be used by any person for any other purpose whatsoever, unless so authorised in writing by the Council.

(2) Any right of passage within the parking place specified in the said Schedule is available only to persons driving or being conveyed in motor vehicles or riding or being conveyed in/on other vehicles and does not extend to pedestrians and no rights of way whatsoever over the said parking place other than for the purpose of parking vehicles shall be deemed to have been granted by the Council by virtue of this Order.

(3) No person other than a person authorised by the Council, the driver of or a passenger in a vehicle parked or intended to be parked in the parking place, or other person

authorised by such driver or passenger, or the driver of or a passenger in any vehicle in the service of or employed by the fire, police or ambulance services when on an emergency call or any police vehicle on patrol shall enter the parking place for any purpose whatsoever.

6. (1) A person shall not drive in the parking place a motor vehicle unless:-

- (a) He or she is the holder of a licence authorising him or her to drive a motor vehicle of its class or description on a road, or
- (b) He or she is the holder of a provisional driving licence and is accompanied in the vehicle by a person holding a licence of the type mentioned in (a) above.

(2) The driver of a vehicle shall not permit that vehicle to wait in the 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 1972.

7. A person shall not drive in the parking place a motor vehicle at a speed exceeding that officially notified by way of signs or in the absence of such signs at a speed exceeding fifteen miles per hour.

8. The driver of any vehicle in the parking place shall comply with any instruction given, by a duly authorised person, by direction signs or in any other manner as to the route to be followed within the parking place.

9. (1) Where in the Schedule to this Order the parking place is described as available to vehicles of a specified class, the driver of a vehicle shall not permit it to wait in the parking place unless it is of the specified class.

(2) A driver of a vehicle using the parking place shall not park the vehicle in any position other than within a parking bay indicated as being reserved for vehicles and in particular, such driver shall not park the vehicle on any space indicated by appropriate markings as being reserved for official use or to be kept clear and shall not park the vehicle in such a position as to impede the free access to and egress from the parking place.

(3) In the absence of any such designated parking bays for whatever reason, a driver of a vehicle using the parking place shall park the vehicle as directed by the parking warden if appropriate or any other duly authorised person.

(4) The driver of any vehicle which is constructed or adapted for drawing a trailer or caravan shall not within the parking place cause or permit such trailer or caravan to be unhitched from the vehicle.

(5) Where part of the parking place is specifically reserved for the use of motorcycles with or without sidecars the driver of any other class of vehicle shall not permit it to wait in the area so reserved.

(6) The driver of a vehicle which together with its load the width of which exceeds 2.9 metres or the length of which exceeds 15.5 metres shall not use the parking place except with the prior written consent of the Council.

(7) Where, within the parking place, there is a sign or surface marking which indicates that a parking bay is available only for a disabled person's vehicle, the driver of a

vehicle shall not permit it to wait in that parking bay unless it is a disabled person's vehicle displaying a valid disabled person's parking authorisation badge.

(8) Where a sign or notice is displayed in the parking place prescribing the maximum height limit for vehicles permitted to use the parking place no vehicle exceeding that height may use the parking place.

10. A driver of a vehicle using the parking place shall stop the engine as soon as the vehicle is in position in the parking place and shall not start the engine except when about to change the position of the vehicle in or to depart from the parking place.

11. Except with the written authority of the Council, the driver of a vehicle shall not permit it to wait in the parking place for longer than the maximum period permitted for waiting specified in the Schedule to this Order.

12. No person shall cause or take part in any gathering or demonstration within the parking place, or cause any unreasonable or unnecessary noise, such as wantonly shouting or making any loud noise to the disturbance or annoyance of users of the parking place or anyone close by.

13. No person shall in the parking place use any threatening, abusive or insulting language, gesture or conduct with intent to put any person in fear or so as to occasion a breach of the peace.

14. No person shall use the parking place for the playing of any game, sport or undertake any recreational activity nor shall any pedal cycle be taken or ridden therein unless specific provision is made within the parking place for the storage of pedal cycles.

15. No person shall in the parking place cause or permit any dog or other animal belonging to him or in his charge to enter or remain in the parking place unless such dog or animal is on a lead and under proper control and effectively restrained from causing annoyance to any person and from worrying and disturbing any other animal, or foul the parking place.

16. Except with the consent of the Council no person shall in the parking place tether, drive or ride any animal.

17. No person shall in the parking place, deposit any litter or engage in any activity which can reasonably be expected to result in the deposit of litter, wilfully, carelessly, or negligently deface, damage or destroy any part of the parking place, any tree or shrub growing therein, or any wall, fence or barriers enclosing the parking place or any fitting or equipment in or on the parking place, urinate or defecate in the parking place or any part thereof.

18. No person shall in the parking place, commit any act which, if committed on a public highway, would constitute an offence under the provisions of the Environmental Protection Act 1990.

19. The driver of a vehicle while it is waiting in the parking place shall not carry out or permit to be carried out any work of cleaning, servicing, maintenance or repair to the vehicle or part thereof except such as may be necessary to enable the vehicle to be moved or depart from the parking place.

20. No horn or other similar instrument may be sounded on a vehicle using the parking place except when the position of the vehicle in the parking place is about to be changed or the vehicle is about to depart from the parking place.

21. Except with the written authority of the Council, no person shall use a vehicle, or anything towed by a vehicle while it is in the parking place, for camping, eating, sleeping or other domestic purposes or as a place of habitation.
22. No person shall in the parking place except with the consent of the Council, erect or cause or permit to be erected any tent, booth, stand, building or other structure.
23. Unless authorised in writing by the Council so to do no person shall, within the parking place, sell or attempt to sell any article to persons in or near the parking place, or sell or offer for hire his skill or services and shall not use a vehicle or anything towed by a vehicle while it is in the parking place or any part of the parking place for such purpose, or for the purpose of any exhibition.
24. No person shall in the parking place other than with the consent of the Council, sell or attempt to sell, hire, lease or offer for sale any vehicle or part of any vehicle or act in any manner which can be construed as such and no vehicle shall be advertised for sale while it is standing in the parking place.
25. Any person who wilfully or carelessly damages in any way or interferes with the fabric or structure or equipment of the parking place, shall be guilty of an offence under this Order and in addition to the penalty provided by Section 35A of the Act of 1984, shall be liable for the cost of repair of the damage.
26. Except with the prior written consent of the Council, no person shall distribute or affix to the exterior of any vehicle or any part thereof in the parking place or to the fabric, structure or equipment of the parking place or any part thereof any advertisement or promotional literature provided that a person shall not be guilty of an offence under this Article by reason only that his goods, trade, business or other concerns are given publicity by the advertising material if he proves that it was displayed without his knowledge or consent.
27. No person shall cause or permit the contents of any closet, urinal, lavatory, basin or sink or of any tank into which such a closet, urinal, lavatory basin or sink drains to be discharged or to leak on to the parking place or into the drainage system of the parking place.
28. No person shall light or cause or permit to be lit any fire in or on the parking place or use any part of the parking place or any vehicle left in the parking place for cooking purposes.
29. No naked lights, smoking or draining or replenishing of fuel tanks shall be permitted in the parking place.
30. (1) If in any case, owing to the presence of a motor vehicle in the parking place, an accident occurs whereby personal injury is caused to a person other than the driver of that vehicle or damage is caused to a vehicle other than that motor vehicle or to any other property whatsoever, the driver of the motor vehicle shall stop and, if required so to do by any officer, agent or servant of the Council or any other person having reasonable grounds for so requiring, give his name and address and also the name and address of the owner and the identification marks of the vehicle or vehicles.
- (2) If in the case of such accident as aforesaid, the driver of the motor vehicle for any reason does not give his name and address to any such persons as aforesaid, he shall report the accident at the Banbury Police Station or to a police officer as soon as reasonably practicable and in any case within twenty-four hours of the occurrence thereof.

PART III

CHARGES

31. (1) Save as provided in paragraph (2) of this Article the driver of a vehicle using the parking place shall, on leaving the vehicle in the parking place pay the appropriate charge in accordance with the scale of charges specified in Column 6 of the Schedule to this Order.

(2) Any person who wilfully avoids or seeks to avoid, or assists in avoiding, the payment of the appropriate charge at the parking place shall be guilty of an offence under this Order.

(3) The following vehicles left in the parking place by the drivers thereof shall be exempt from the payment of any charge specified in Column 6 of the Schedule to this Order:-

- (i) an invalid carriage;
- (ii) a vehicle issued to a disabled person by the Department of Health and Social Security in lieu of an invalid carriage;
- (iii) a vehicle left by the driver thereof, who is a person on account of his severe physical disability has been given a notice in writing by the Council that he is exempt from any such charge, if the notice is displayed on the vehicle in the relevant position;
- (iv) a disabled person's vehicle which displays in the relevant position a disabled person's badge issued by any Local Authority in accordance with the provisions of the Disabled Persons (Badges for Motor Vehicles) Regulations 1982 or a badge having effect under those Regulations as if it were a disabled person's badge;
- (v) the driver of a vehicle displaying a disabled person's badge or European equivalent when leaving that vehicle in the parking place shall set the clock which forms part of the disabled person's badge to show the time of arrival in the parking place and on the expiration of the maximum period of stay applicable to the parking place the parking place shall be vacated unless a person on account of his severe physical disability has been given notice in writing by the Council that he is exempt from any limitation on time and a notice to that effect is displayed on the vehicle in the relevant position;
- (vi) any vehicle in the service of or employed by the fire, police or ambulance services when on an emergency call

(4) The driver of any vehicle parking that vehicle in the parking place shall key in the vehicle registration mark and pay the appropriate charge referred to in paragraph (1) of this Article on leaving the vehicle in the parking place by the insertion of the appropriate coin or coins or card as the case may be into the ticket machine.

(5) On payment of the charge for a vehicle left in the parking place, the driver thereof shall exhibit on the vehicle the ticket or tickets issued by the ticket machine in the relevant position so that such ticket or tickets are clearly visible.

(6) If at any time the ticket machine is defective, or is not installed at the parking place, the charge may be collected by a parking warden, duly authorised by the Council who will issue a ticket indicating the charge paid and the time and date of issue.

32. (1) If a vehicle is left in the parking place:-
- (a) for longer than the maximum periods for which payments were made or having returned to the parking place during the excluded period as provided in Column 5 of the Schedule to this Order;
 - (b) and the clock on a badge displayed on a disabled person's vehicle has not been set to show the time of arrival in the parking place;
 - (c) without payment of the appropriate charge;
 - (d) without displaying a parking or other ticket in the relevant position or where such ticket has been displayed and the registration mark of the vehicle shown on the ticket does not correspond with the registration mark of the vehicle left in the parking place;
 - (e) and it is not a vehicle of a class permitted to use the parking place as provided in paragraph (1) of Article 9 and Column 3 of the Schedule to this Order;
 - (f) for longer than the maximum period permitted for the parking place by virtue of Article 11 and Column 5 of the Schedule to this Order;
 - (g) other than wholly within a marked parking bay except in those circumstances where a vehicle is permitted to park outside a marked parking bay either with the consent of the Council or at the discretion of an authorised officer or a parking warden;
 - (h) in a parking bay reserved for motorcycles with or without sidecars in accordance with paragraph (5) of Article 9 of this Order and the vehicle so left is not a motorcycle with or without a sidecar;
 - (i) in a parking bay available only for disabled persons' vehicles in accordance with paragraph (7) of Article 9 and the vehicle so left is not a disabled person's vehicle;
 - (j) and such vehicle is a caravan or caravanette which is occupied between the hours of dusk and dawn;
 - (k) and such vehicle is an unhitched caravan or trailer;
 - (l) where the parking place has been closed in accordance with the provisions of Article 38 of this Order.

the "excess charges" specified in paragraphs (2) and (3) below shall apply:-

(2) An excess charge (hereinafter referred to as "the excess charge") of seventy pounds (£70) (inclusive of VAT) shall be payable, in respect of (b) to (l) above and payment shall be made to the Council within 14 days of the Excess Charge Notice, such date being the date upon which the excess charge was received.

(3) An excess charge shall be payable in respect of (a) above where the amount of the charge for the use of the parking bay in the parking place shall be the amount of the charge specified in the Schedule to this Order together with an additional amount being an excess charge of fifty pounds (£50) (inclusive of VAT) subject to a discount of ten pounds (£10) should payment be made to the Council within fourteen days of the

date of the Excess Charge Notice with such date being the date upon which the excess charge was incurred.

(4) In the case of a vehicle in respect of which an excess charge may have been incurred, it shall be the duty of the parking warden or other authorised person to attach to the vehicle in a conspicuous position a notice which shall include the following particulars:-

- (i) the registration mark of the vehicle or, where the vehicle is being used under a trade licence, the number of the trade plate carried by the vehicle;
- (ii) the date and time at which he first noticed that the vehicle had been left in the parking place for longer than the maximum permitted period for which payment had been made or during the excluded period in respect of (a) above, or that the vehicle had been left in the parking place in respect of one or more as the case may be of (b) to (l) above;
- (iii) a statement that an excess charge of the amount specified in paragraphs (2) and (3) of this Article to this Order is required to be paid;
- (iv) the manner in which, and the time within which, the excess charge should be paid; and
- (v) a statement that it is an offence under Section 35A of the Act of 1984 for the driver of the vehicle who has left the vehicle in the parking place to fail to pay the excess charge.

33. When a ticket or tickets have been exhibited on a vehicle in accordance with the provisions of Article 31 of this Order or a notice has been attached to a vehicle in accordance with the provisions of Article 32 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 said ticket or tickets or the said notice.

34. In the event of the failure of a ticket machine in the parking place, the Council shall be at liberty to operate the parking place by means of a Parking Warden whereby until such time as the failure has been rectified the driver of a vehicle using the parking place, shall pay to the Parking Warden the appropriate charge in respect thereof and shall obtain from the Parking Warden a ticket indicating that the appropriate charge has been paid and shall retain such ticket for production upon request of a Parking Warden at any time before the driver has left the parking place with his/her vehicle.

PART IV

GENERAL PROVISIONS

35. (1) If a vehicle is left in the parking place in a position other than in accordance with the provisions of Article 9, 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 the 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 such removal and should make arrangements as may be reasonably necessary for the safe custody of the vehicle.

(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 the parking place or remove or arrange for the removal of a vehicle from the 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 may think reasonable necessary to enable the position of the vehicle to be altered or the vehicle to be removed.

(5) No person altering or causing to be altered the position of a vehicle or removing or arranging for the removal of a vehicle by virtue of paragraphs (1) or (2) respectively of this Article or the Council shall be liable for any loss or damage to the vehicle or to anything contained therein or thereon arising from or in consequence of the exercise of the powers contained in this Article and any expenses incurred by the Council by virtue of action taken under paragraphs (1) or (2) of the Article shall be recoverable by the Council from the driver of the vehicle summarily as a civil debt.

36. (1) Where the driver of a vehicle is alleged to be guilty of an offence to which this Order applies, the owner of the vehicle shall give such information as to the identity of the driver as he may be required to give by or on behalf of the Council; and

(2) Any other person shall, if required as aforesaid, give any information which it is in his power to give and which may lead to the identification of the driver.

(3) For the purpose of the institution of proceedings for any offence under this Order it shall be conclusively presumed (notwithstanding that the person may not be an individual) that the registered keeper of the vehicle at the relevant date shall pursuant to the provisions of Section 35A(3)(a) of the Act of 1984 be deemed to be responsible for any contravention of or non-compliance with this Order unless the registered keeper can prove in any proceedings:-

- (a) that the registered keeper was neither the owner nor the keeper of the vehicle at the relevant date; or
- (b) that the vehicle was being used at the relevant date without the consent of the Registered Keeper.

Provided that the Council shall be entitled to proceed against any other person whom the Council proves to be either the owner or the keeper or the driver of the vehicle at the relevant date instead of the registered keeper.

(4) Where in any proceedings for an offence under this Order of failing to pay any charge it is proved that the amount has become due or any part of that amount has not been duly paid the Court shall order the payment of the sum not paid and any sum ordered to be paid shall be recoverable as a penalty.

37. Pursuant to Section 35A(3) of the Act of 1984 the provisions of sub-sections (4), (5) and (6) of Section 47 of the Act of 1984 shall apply to this Order save that references in the said sub-section of "this Section" shall be construed as references to Section 35A of the Act of 1984.

38. Notwithstanding the provisions of this Order the Council may by notice displayed on or near the parking place close the parking place or any part thereof for any period either

generally or in respect of a particular class or classes of vehicles and the driver of any vehicle or of a particular class or classes of vehicles shall not use the parking place or any part thereof which has been so closed.

39. The Council shall not be responsible for any loss or damage to any vehicle, or to anything contained therein or thereon from any cause whatsoever, whilst any such vehicle is entering, within or leaving the parking place.

PART V

DISPOSAL OF VEHICLES ABANDONED IN THE PARKING PLACE

40. The Council may as respects a vehicle which has been removed from the parking place in pursuance of Article 35 of this Order, if it appears to them 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 PROVIDED THAT the Council shall be deemed to have made reasonable enquiry to ascertain the name and address of the owner of any vehicle to which this Article applies if they have taken in relation to that vehicle such steps as may be prescribed by any regulations for the time being in force by virtue of the Act of 1984, for authorising the Council to sell or otherwise dispose of the vehicle if it had been left on a road and if it appeared to the Council that it had been abandoned.

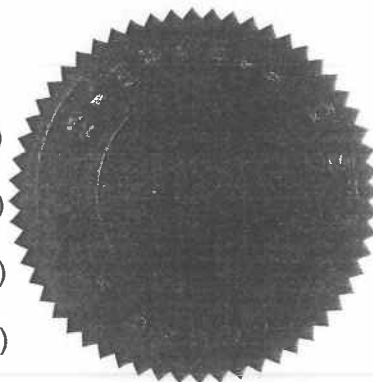
THE COMMON SEAL of the)

CHERWELL DISTRICT COUNCIL)

was hereunto affixed this)

29th day of March 2010)

in the presence of:-)



CDC 17903

Authorised signatory

SCHEDULE

Classes of Vehicles

- A: Private Cars, excluding Hackney Carriages and Private Hire Vehicles
 B: Invalid Carriages/Disabled Persons' Vehicles
 C: Motor Cycles, Scooters and Three-Wheeled Vehicles
 D: Commercial Vehicles up to 1.5 tonnes unladen weight

Name of Parking Place	Position in which Vehicle may wait	Classes of Vehicles	Day and Hours of operation of Parking Place	Maximum Period for which vehicle may wait	Scale of Charges
(1)	(2)	(3)	(4)	(5)	(6)
SPICEBALL LEISURE CENTRE CAR PARK, as shown on the plan annexed hereto	Wholly within a parking bay	A,B,C,D	All days, 24 hours per day	Up to 3 hours (with no return within 1 hour)	£1.70 for up to 1 hour; £2.40 for over 1 hour up to 2 hours; £2.90 for over 2 hours up to 3 hours. (Subject to a refund of £1.00 when customers of the Spiceball Leisure Centre use the facilities during the charging period).