

DENBIGHSHIRE COUNTY COUNCIL
(RUSSELL COURT RHYL)
(PROHIBITION OF WAITING LOADING AND UNLOADING) ORDER 2008

Denbighshire County Council (hereinafter referred to as “the Council”) in exercise of the powers conferred by Sections 1(1) and (2), 2(1) to (3), 4(2) and (3), 32, 35, 45, 47, 49, 51, 52 and 124 and Part IV of Schedule 9 of the Road Traffic Regulation Act 1984 (“the Act of 1984”), as amended and Section 43 and Schedule 3 of the Road Traffic Act 1991 and of all other powers them enabling and after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 to the Act of 1984 and with the Road Traffic Act 1991, hereby makes the following Order:-

PART I
CITATION AND INTERPRETATION

1. This Order shall come into operation on the 28th day of January 2008 and may be cited as the Denbighshire County Council (Russell Court Rhyll) (Prohibition of Waiting Loading and Unloading) Order 2008
2. In this Order, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:

“ambulance” has the same meaning as in the Vehicle Excise and Registration Act 1994;

"authorised agent" means the parking services contractor appointed by or duly authorised to act on behalf of the Council for the purposes of the supervision and enforcement of this Order;

“authorised officer” means the Head of Transport and Infrastructure for the Council or any other officer of the Council to be designated by the Council;

“carriageway” means a way constituting or comprised in a highway being a way (other than a cycle track) over which the public have a right of way for the passage of vehicles;

“disabled person’s vehicle” has the same meanings as in the Local Authorities’ Traffic Orders (Exemption for Disabled Persons) (Wales) Regulations 2000;

“disabled person’s badge ” and “parking disc” mean the badge and disc issued by a local authority in accordance with the provisions of the

Disabled Persons (Badges for Motor Vehicles) (Wales) Regulations 2000 or being a badge having effect under these regulations as if it were a disabled person's badge;

"driver", in relation to a vehicle waiting in a parking place or on a road or length of road, means the person driving the vehicle at the time it was left in that parking place or road or length of road;

"enactment" means any enactment, whether public general or local, and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment and 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;

"goods" means goods or burden of any description and includes postal packets of any description;

"goods vehicle" means a motor vehicle which is constructed or adapted for use for the carriage of goods or burden of any description and which does not exceed 5.30 metres in length or 2.25 metres in height ;

"immobilisation device" has the same meaning as in Section 104(9) of the Act of 1984;

"institution" means an institution concerned with the care of disabled persons to which a disabled persons badge may be issued in accordance with Section 21(4) of the Chronically Sick and Disabled Persons Act, 1970;

"institutional badge" means a disabled persons badge issued to an institution;

"loading" means the loading or unloading of goods to or from a vehicle;

"motor cycle" and "invalid carriage" have the same meanings as in Section 136 of the Act of 1984;

"motor vehicle" has the same meaning as in Section 136 of the Act of 1984;

"owner", in relation to a vehicle means the person by whom the vehicle is kept. In determining who was the owner of the vehicle at any time it shall be presumed that the owner was the person in whose name the vehicle

was at that time registered under the Vehicle Excise and Registration Act 1994;

"parking attendant" means a person authorised by or on behalf of the Council to enforce the prohibitions, restrictions and regulations imposed by this order;

"penalty charge" and "reduced penalty charge" means a charge set by the Council under the provisions of section 66 of the Road Traffic Act 1991 and with the approval of the Welsh Assembly Government which is to be paid to the Council within 28 days beginning with the date of the notice, or 14 days in the case of a reduced penalty charge, following the issue of a penalty charge notice;

"penalty charge notice (PCN)" means a notice issued or served by a parking attendant pursuant to the provisions of section 66 of the Road Traffic Act 1991;

"relevant position" in respect of: -

- (a) a disabled person's badge, means
 - (i) in the case of a vehicle fitted with a dashboard or fascia panel, the badge is exhibited thereon so that part 1 of the badge is legible from the outside of the vehicle; or
 - (ii) the case of a vehicle not fitted with a dashboard or fascia panel, the badge is exhibited in a conspicuous position on the vehicle so that part 1 of the badge is legible from the outside of the vehicle;
- (b) a disabled person's parking disc, means that the side showing the quarter hour during which the period of waiting began is legible from outside the vehicle;

"specified position" in respect of a disabled person's vehicle displaying both a disabled persons badge and a disabled person's parking disc means that the driver of that vehicle shall permit it so to stand that:-

- (a) (i) the left or near side of the vehicle is adjacent to the left-hand edge of the carriageway;
- (ii) the distance between the edge of the carriageway and the nearest wheel of the vehicle is not more than 300 millimetres;
- (b) no part of the vehicle obstructs any vehicular means of ingress to or egress from any premises adjacent to the side of the road on which the vehicle is waiting.

"telecommunication apparatus" has the same meaning as in the Telecommunications Act 1984;

"The Act of 1984" means the Road Traffic Regulation Act 1984;

"traffic sign" means a sign of any size, colour and type prescribed or authorised pursuant to or having the effect as though prescribed or authorised pursuant to Section 64 of the Act of 1984.

3. 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. Any reference in this Order to a road or side of road identified in the Schedule to this Order is a reference to all those so identified
4. The prohibitions and restrictions imposed by this Order shall be in addition to and not in derogation of any restriction, prohibition or requirement imposed by any Regulations or Orders made or having effect as if made under the Act of 1984, or by or under any other enactment.
5. Save where the contrary is indicated, any reference in this Order to:
 - (a) this Order or another Order shall be construed as such a reference to this Order or, as the case may be, such other Order, as the same may have been or may from time to time be amended, varied or supplemented;
 - (b) a Statute or Regulation shall be construed as reference to such Statute or Regulations as the same may have been, or may from time to time be amended or re-enacted.
6. The Interpretation Act 1978 shall apply to the interpretation of this Order as it applies for 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 amended or revoked by Article 11 were Acts of Parliament thereby repealed.

PART II PROHIBITION AND RESTRICTION OF WAITING

7. Save as provided in Article 8 of this Order no person shall, except upon the direction or with the permission of a police constable in uniform, cause or permit any vehicle to wait at any time on the lengths of roads or sides of the roads as specified in the Schedule hereto.

8. (1) Nothing in Article 7 of this Order shall render it unlawful to cause or permit any vehicle to wait in any of the roads, lengths of road or on the sides of road specified therein for so long as may be necessary to enable:
- (a) a person to board or alight from the vehicle;
 - (b) 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 or sides of road; and
 - (iv) the laying, erection, alteration or repair in or on land adjacent to the said lengths 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 line of telecommunications apparatus as defined in the Telecommunications Act 1984;
 - (c) the vehicle, if it cannot conveniently be used for such purposes in any other road, to be used in the service of a local authority, water undertaker, sewerage undertaker or the National Rivers Authority in pursuance of statutory powers or duties;
 - (d) the vehicle of a universal service provider (as defined in section 4(3) and (4) of the Postal Services Act 2000) to be used for the purpose of delivering and/or collecting mail;
 - (e) to enable the vehicle to be used for fire brigade, ambulance or police purposes;
 - (f) in any case where the person in control of the vehicle,
 - (i) is required by law to stop;
 - (ii) is obliged to stop so as to prevent an accident, or

(iii) is prevented from proceeding by circumstances outside his control;

PART III
CONTRAVENTION OF ORDER

9. (1) If a vehicle is left in any road or length of road in contravention of any provision of this Order, a penalty charge shall be payable and/or the vehicle may be removed from that location.
- (2) In the case of a vehicle in respect of which a penalty charge is payable, a Penalty Charge Notice showing the information required by section 66(3) of the Road Traffic Act 1991 may then be issued by a parking attendant in uniform in accordance with section 66(1) of the said Act.
- (3) In the case of a vehicle in respect of which the penalty charge may have been incurred, it shall be the duty of the parking attendant to attach to the vehicle in a conspicuous position a Notice which shall include the following particulars:
- (i) the grounds on which the parking attendant believes that the penalty charge is payable with respect to the vehicle;
 - (ii) the amount of the penalty charge which is payable;
 - (iii) that the penalty charge must be paid before the end of the period of 28 days beginning with the date of the notice;
 - (iv) that if the penalty charge is paid before the end of the period of 14 days beginning with the date of the Notice, the amount of the penalty charge will be reduced by the specified proportion;
 - (v) that if the penalty charge is not paid before the end of the 28 day period a Notice to Owner may be served by the Local Authority on the person appearing to be the owner of the vehicle; and
 - (vi) the address to which payment of the penalty charge must be made or sent.
- (4) Payment of the penalty charge to the Council shall be either via its Internet site at www.denbighshire.gov.uk or by telephone quoting a valid credit or debit card account number, or by cheque, bankers draft ,money order or postal order made payable to Denbighshire County Council which shall be delivered or sent by post to reach the Chief Cashier of the Council at the Town Hall, Wellington Road, Rhyl or in cash in person at the Council's Cash Office at the same address to arrive not later than 4.30 p.m. of the fourteenth day following the day on which the penalty charge notice was issued

provided that if the said fourteenth day falls upon a day on which the said department is closed the period within which the said charge shall be paid to the Council shall be extended until 4.30 p.m. on the next full day on which the said department is open.

- (5) If the penalty charge is not paid within 28 days of the Notice to Owner, the charge may be increased by 50% on the issue of a Charge Certificate in accordance with the provisions of paragraph 6 of schedule 6 of the 1991 Act.
- (6) Continuing failure to pay may result in a judgement in the County Court against the owner to enable the Council to recover payments due.
- (7) A penalty charge notice affixed to a vehicle shall not be removed or interfered with except by or under the authority of the owner or person in charge of the vehicle or the Council.
- (8) If a vehicle is left after a penalty charge has been incurred, a parking attendant in uniform or a person acting under his direction may attach to the vehicle an immobilisation device and a notice in accordance with the requirements of section 69(1) and (2) of the Road Traffic Act 1991 and that vehicle shall only be released from the device on payment of the penalty charge, or as the case may be a reduced penalty charge, along with such release fee as may be required by the Council.
- (9) Where a parking attendant has removed or caused to be removed a vehicle in accordance with paragraph (1) of this Article:-
 - (a) he/she shall provide for the safe custody of the vehicle;
 - (b) the Council shall be entitled to recover from the person responsible such charges in respect of the removal, storage and disposal of the vehicle as it might prescribe from time to time;
 - (c) the provisions of the Road Traffic Regulation Act 1984 as amended shall apply to the disposal of any such vehicle removed by or on behalf of the Council pursuant to this Article.

PART IV VALIDITY

10. If a court, the Department for Transport, the National Parking Adjudication Service or the Traffic Enforcement Centre declares any part of this Order

to be invalid or unenforceable, such declaration shall not invalidate the remainder of the Order.

PART V
AMENDMENTS

11. The Denbighshire County Council (Prohibition and Restriction of Waiting and Street Parking Places) Consolidation Order 2004 is amended in so far as it relates to the length of road specified in the Schedule hereto

SCHEDULE

Lengths of Road at Rhyl in the County of Denbigh

No Waiting Loading or Unloading At Any time

Russell Court; Both sides; from the projected south easterly kerbline of Russell Road for a distance of 36 metres in a south easterly direction.

THE COMMON SEAL of DENBIGHSHIRE)
COUNTY COUNCIL was hereunto)
affixed in the presence of:-)

Chairman

Authorised Signatory

Dated this 21st day of January 2008