

NORTH YORKSHIRE COUNTY COUNCIL

(HARROGATE, KNARESBOROUGH, PANNAL AND BURNBRIDGE)
(PARKING AND WAITING) (NO. 22) ORDER 2015

North Yorkshire County Council (hereinafter referred to as "the Council") in exercise of their powers under Sections 1(1), 2(1) to (3), 4(2), 32(1) and 35(1) of the Road Traffic Regulation Act 1984 ("the 1984 Act") and Part IV of Schedule 9 to the 1984 Act and under the Traffic Management Act 2004 ("the 2004 Act") 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 Act, hereby make the following Order:-

PART I
GENERAL

1. (1) When used in this Order each of the following expressions has the meaning assigned to it below:-

"Authorised Parking Place" means any parking place on a road authorised or designated by an Order made or having effect as if made under the 1984 Act and, or which is comprised within and indicated by a road marking complying with either diagram 1028.3, 1028.4, 1032 or diagram 1033 in Schedule 6 to the 2002 Regulations or otherwise authorised by the Department for Transport;

"Carriageway" means that part of the Road over which the public have right of way for the passage of Motor Vehicles and excludes any way over which the public have right of way on foot only;

"Charge Certificate" means the statement that the penalty charge has been increased in accordance with Regulation 21 of The Civil Enforcement of Parking Contraventions (England) General Regulations 2007;

"Civil Enforcement Officer" means any officer of the Council who is duly authorised in writing in that behalf (from time to time) by the Council to enforce the provisions of this Order pursuant to Section 76 of the 2004 Act and Section 63A of the 1984 Act;

"Column" means a Column in a Schedule or Part of a Schedule referred to or last referred to;

"Cycle Track" has the same meaning as in Section 329 of the Highways Act 1980;

"delivering" and or "collecting" in relation to any Goods includes checking the Goods for the purpose of their delivery or collection;

"Director of Development Services" means the officer employed in that post or any equivalent post by the Harrogate Borough Council;

"Disabled Person" means a person who holds a disabled persons' badge in accordance with the provisions of the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 (No. 682) (and in particular Regulation 4 thereof) or any re-enactment thereto;

"Disabled Person's Badge" means a badge issued in accordance with the provisions of the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 (as amended) (in particular Regulation 11 and the Schedule thereto) or under regulations having effect in Scotland and Wales under Section 212 of the Chronically Sick and Disabled Persons Act 1970 as referred to currently by the Local Authorities Traffic Orders (Exemptions for Disabled) (England) Regulations 2000 (No. 683) or any subsequent further re-enactments thereof;

"Disabled Person's Vehicle" means a vehicle driven by a Disabled Person as defined in Regulation 4(2) of the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 (No. 682);

"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 (and shall, as appropriate, bear the meaning assigned by Section 142 of the 1984 Act);

"Goods" shall mean items of any description which cannot easily be carried by one person and do not include Goods that are not pre-ordered, shopping, small fragile Goods or cash or other valuable securities which are being collected or delivered from a bank/building society (except in the case of security company collections);

"Goods Vehicle" means a motor vehicle constructed or adapted for the carriage or haulage of Goods or burden of any description (other than the effects of passengers) or a trailer so constructed or adapted whether or not such Trailer may by superimposition be attached to the Motor Vehicle in such a manner as to cause a substantial part of its weight to be borne by the Motor Vehicle;

"Heavy Commercial Vehicle" has the same meaning as in section 138 of the 1984 Act and which has an operating weight exceeding 7.5 tonnes;

"Heavy Goods Vehicle" means a Goods Vehicle with a maximum gross weight exceeding 7.5 tonnes which is constructed or adapted to carry or haul Goods of any description or which is fitted with a special appliance, plant, machinery or apparatus, such appliance plant machinery of apparatus being included in the weight or, for the purposes of this Order, a 'Heavy Commercial Vehicle' as defined in section 138 of the 1984 Act;

"Higher Level Contraventions" are as defined in The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 or any amendment or re-enactment thereof;

"junction" means, unless otherwise indicated in this Order, the intersection of the general alignment of the boundaries of two road kerblines or projected kerblines of roads;

"Length" referring to a Road means a length of road described in a Schedule;

"Loading" and, or "Unloading" means when a Motor Vehicle stops to load or unload Goods and "Loaded" and "Unloaded" shall be construed accordingly;

"Loading Bay" means any area of carriageway intended for the waiting of vehicles for so long as may be necessary to enable Goods to be loaded on or unloaded from the vehicle and which is comprised within and indicated by a road marking complying with diagram 1028.3 or 1032 in Schedule 6 to the Traffic Signs Regulations and General Directions 2002;

"Lower Level Contraventions" means all parking contraventions which are not higher level contraventions as defined in The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 or any amendment or re-enactment thereof;

"Motor Car" shall mean and include any mechanically propelled vehicle not being a Motor Cycle or an Invalid Carriage, which is constructed itself to carry passengers of which the weight unladen does not normally exceed 3500 kilograms subject always to the inclusion of the extended meaning to this term given in Section 136 of the 1984 Act (and whether or not it is being used for business purposes);

"Motor Cycle" and "Invalid Carriage" have the same meanings respectively as in Section 136(4) of the 1984 Act;

"Motor Vehicle" means any class of mechanically propelled vehicle including Motor Cycles, Motor Cars, Goods Vehicles and car derived vans, and shall bear the extended definition given thereto in Sections 136 and 137 of the 1984 Act (but shall not include any Heavy Commercial Vehicle as defined in Section 138 of the 1984 Act) (and whether or not it is being used for business purposes). Where reference is made to vehicle or Motor Vehicle in the Order these terms shall be deemed to have the same meaning and be

interchangeable and to be interpreted accordingly;

“Officer” means an Officer of the Council duly authorised for any purpose;

“Owner” in relation to a Motor Vehicle means the person by whom such Motor Vehicle is kept and used;

“Paragraph” means a paragraph of the Article in which the word appears unless otherwise stated;

“Parking Disc” means, in relation to Article 5(2) of this Order, a device which:-

- (i) is 123 millimetres square and coloured blue, issued on or after 1st April 2000, or orange if issued before that date;
- (ii) has been issued by a local authority and has not ceased to be valid; and
- (ii) is capable of showing the Quarter Hour Period during which a period of waiting began;

“Parking Place” means any parking place on a road authorised or designated by an Order made or having effect as if made under the 1984 Act and which is comprised within and indicated by a road marking complying with either diagram 1028.3, 1028.4, 1032 or diagram 1033 in Schedule 6 to the 2002 Regulations or otherwise authorised by the Department for Transport;

“Parking Services Manager” means an Officer for the time being appointed to that post by the Harrogate Borough Council;

“Passenger Vehicle” means a Motor Vehicle (other than a Motor Cycle, an Invalid Carriage, Goods Vehicle or Heavy Commercial Vehicle) as defined in this Order;

“Penalty Charge” means a charge set by the Council in accordance with charges set by the Secretary of State under the provisions of Section 77 and Schedule 9 of the 2004 Act and The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 which is to be paid to the Council within 28 days beginning with the date of service endorsed upon the penalty charge notice in the manner set out in the penalty charge notice;

“Penalty Charge Notice” means a notice issued or served by a civil enforcement officer or posted by the Council pursuant to the provisions of Section 78 of the 2004 Act and The Civil Enforcement of Parking Contraventions (England) General Regulations 2007;

“Post Office” and any reference to “post office vehicle” or “postal packets” shall be construed in the context of the Postal Services Act 2000 and the Postal Services Act 2000 (Consequential Modifications to Local Enactments No. 1) Order 2001 (SI No. 2001/648) and shall include therefore references to “universal service providers”, as the context shall require;

“Quarter Hour Period” means a period of quarter of an hour starting at any hour or fifteen, thirty or forty-five minutes past the hour which can be shown on the Parking Disc;

“Reduced Penalty Charge” means a charge set by the Council in accordance with charges set by the Secretary of State under the provisions of Section 77 and Schedule 9 of the 2004 Act and The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 which is to be paid to the Council within 14 days following the date of service endorsed upon the penalty charge notice in the manner set out in the penalty charge notice;

“Registered Keeper” means:-

- (a) the person whose name appears in the Motor Vehicle registration document

or book of the Motor Vehicle in whose name the vehicle is registered, or

- (b) a person who has the permanent use of the Motor Vehicle vested in the name of his employer, or in the case of a leased Motor Vehicle in the name of the leasing company;

“Relevant Position” means (in conformity with Regulation 12 of the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 (SI 2000 No. 682) referred to above):-

- (a) in relation to a Disabled Person's Badge,
 - (i) in the case of a vehicle fitted with a dashboard or facia panel, the badge is exhibited thereon so that Part 1 of the Disabled Person's Badge is legible from outside the vehicle; or
 - (ii) in the case of a vehicle not fitted with a dashboard or facia panel, the badge is exhibited in a conspicuous position on the Motor Vehicle so that Part 1 of the Disabled Person's Badge is legible from outside the vehicle.
- (b) in relation to a Parking Device or Parking Disc (in conformity with Regulation 4 of the Local Authorities' Traffic Orders (Exemptions for Disabled Persons) (England) Regulations 2000 (SI 2000 No. 683)):-
 - (i) in the case of a vehicle fitted with a dashboard or facia panel the Parking Disc is exhibited thereon so that the quarter-hour period during which the period of waiting began is legible from outside the vehicle; or
 - (ii) in the case of a vehicle not so fitted the Parking Disc is exhibited in a conspicuous position on the Motor Vehicle so that the quarter-hour period during which the period of waiting began is clearly legible from the outside of the vehicle.

“Road” means the full width of the highway including the carriageway and footway any other Road to which the public has access and includes bridges over which a Road passes;

“Service” or “Served” in respect of a Penalty Charge Notice means the forms of service specified in regulations 9 and 10 of The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 or any amendment or re-enactment thereof;

“Secretary of State” means the Secretary of State for Transport;

“Traffic Sign” means a sign or marking of any size colour and type prescribed or authorised under, or having effect as though prescribed or authorised under Section 64 of the 1984 Act;

“the 1984 Act” means the Road Traffic Regulation Act 1984;

“the 2002 Regulations” means the Traffic Signs Regulations and General Directions 2002;

“the 2004 Act” means the Traffic Management Act 2004;

“Verge” means any part of a Road which is not a carriageway, footway or lay-by.

- (2) Except where otherwise stated, any reference in this Order to a numbered Article is a reference to the Article bearing that number in this Order, and any reference in this Order to a Schedule is a reference to a Schedule bearing that number in this Order.

2. For the purposes of this Order any reference to a length of Road shall be construed as a reference to the length specified in Column 4 of the Schedules to this Order of the side or sides of Road specified in respect of that length in Column 3 thereof in relation to the Road named in respect of that side or those sides in Column 2 of those Schedules.

PART II
PROHIBITION AND RESTRICTION OF WAITING

3. Save as provided in Article 5 of this Order no person shall, except upon the direction or with the permission of a Civil Enforcement Officer, cause or permit any Motor Vehicle to wait at any time in any length of Road specified in Schedule 1 to this Order.
4. Save as provided in Article 5 of this Order no person shall, except upon the direction or with the permission of a Civil Enforcement Officer, cause or permit any Motor Vehicle to wait between the hours of 8.00 am and 6.00 pm, Mondays to Saturdays (inclusive) in any length of Road specified in Schedule 2 to this Order.

Exemptions

5. (i) Nothing in Articles 3 and 4 of this Order shall render it unlawful to cause or permit any Motor Vehicle to wait in any length of Road specified in Schedules 1 to 2 to this Order for so long as may be necessary to enable:-
- (a) a person to board or alight from the Motor Vehicle;
 - (b) Goods to be Loaded on or Unloaded from the Motor Vehicle; or
 - (c) the Motor Vehicle if it cannot conveniently be used for such purposes in any other Road to be used in connection with any of the following operations:-
 - (i) building, industrial or demolition operations;
 - (ii) the removal of any obstruction to traffic;
 - (iii) the maintenance, improvement or reconstruction of any length of Road specified in the said Schedules;
 - (iv) the laying, erection, alteration or repair in, or in land adjacent to any of the said lengths or sides of Road of any sewer or of any main, pipe, cable or apparatus for the supply of gas, water or electricity or of any electronic communications apparatus as defined in Schedule 2 to the Telecommunications Act 1984; or
 - (v) a vehicle to be used for the purpose of delivering or collecting postal packets as defined in Section 125(1) of the Postal Services Act 2000.
 - (d) the Motor Vehicle if it cannot conveniently be used for such purpose in any other Road to be used in the service of a local authority or a water authority for the purpose of the performance of the statutory functions of such authority;
 - (e) the Motor Vehicle to take in petrol, oil, water or air from any garage situated on or adjacent to any length of Road specified in the said Schedules;
 - (f) the Motor Vehicle to wait at or near to any premises situated on or adjacent to any length of Road specified in the said Schedules for so long as is reasonably necessary to enable the vehicle to be used for or in connection with the purposes of any wedding or funeral taking or to take place from or at any such premises, or
 - (g) the Motor Vehicle to be used for Fire Brigade, Ambulance or Police purposes.

- (2) Nothing in Articles 3 and 4 of this Order shall render it unlawful to cause or permit a Disabled Person's Vehicle which displays in the Relevant Position a Disabled Person's Badge whilst such Motor Vehicle is being used by or for the convenience of a Disabled Person and a Parking Disc (on which the Driver or other person in charge of the Motor Vehicle has marked the time at which the period of waiting began) to wait in any of the lengths of Road referred to in that Article 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 Motor Vehicle in the same length of Road on the same day).

PART III
AUTHORISATION AND USE OF PARKING PLACES FOR
THE LOADING AND UNLOADING OF GOODS

6. That part of the Road specified in Schedule 3 to this Order is authorised to be used, twenty four hours a day, subject to Articles 7 to 12 of this Order as a Parking Place for Motor Vehicles, for the purpose of enabling Goods to be Loaded onto or Unloaded from a Motor Vehicle, such length of Road being designated as a Loading Bay.
7. For the avoidance of doubt, the Driver of a Motor Vehicle shall not permit it to wait in any Parking Place specified in Schedule 3 to this Order unless the Motor Vehicle is;
- (a) of the specified class; and
 - (b) positioned wholly within the limits of the Parking Place as indicated by the markings on the carriageway, and no part of it, whilst so parked, projects over, on to or straddles any marking placed within that Parking Place.
8. The Driver of a Motor Vehicle shall not permit it to wait in any Parking Place specified in Schedule 3 to this Order for longer than may be necessary for Goods to be Loaded onto or Unloaded from the Motor Vehicle to or from any premises located adjacent to or on the length of road on which the Loading Bay is situated.

Exemptions

9. (1) Nothing in Articles 7 to 12 of this Order shall restrict the power of the Council for preventing obstruction of the Roads by Order on the occasion of any public procession, rejoicing or illumination, or where the Roads are thronged or liable to be obstructed to suspend any of the Parking Places specified in Schedule 3 to this Order.
- (2) Nothing in Articles 7 to 12 of this Order shall render it unlawful for a Motor Vehicle to wait in the Parking Place specified therein:-
- (a) if it is being used for Police, Fire Brigade or Ambulance purposes;
 - (b) if it is being used by statutory undertakers or their contractors in connection with any building operation or demolition, the maintenance, improvement or construction of the Parking Place or the laying, erection, alteration or repair in or near the Parking Place of any sewer or of any main pipe or apparatus for the supply of gas, water or electricity or of any electronic communications apparatus as defined in Schedule 2 to the Telecommunications Act 1984;
 - (c) if it is waiting owing to the Driver being prevented from proceeding by circumstances beyond his control or to such waiting being necessary in order to avoid accidents;
 - (d) if it is being used in the service of a local authority or water authority which is being used in pursuance of statutory powers or duties; or
 - (e) if it is waiting to enable it to be used in connection with the removal of any obstruction to traffic.

10. A Driver of a Motor Vehicle shall not use any Parking Place specified in Schedule 3 to this Order:-
- (a) so as 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; or
 - (b) when for preventing obstruction of the Roads, the Council shall by Order made on the occasion of any public procession, rejoicing or illumination or where the Roads are thronged or liable to be obstructed have suspended any Parking Places and have exhibited notice of such suspension on or near the Parking Place.
11. The Driver of a Motor Vehicle using a Parking Place on any of the lengths of Road specified in Schedule 3 to this Order shall stop the engine as soon as the Motor Vehicle is in position in the Parking Place and the engine shall not be started except when the position of the Motor Vehicle in the Parking Place is about to be changed or the Motor Vehicle is about to depart from the Parking Place.
12. No Motor Vehicle shall be used while it is in a Parking Place in the 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 the skill or services of any person.

PART IV
PENALTY CHARGE AND PAYMENT

13. Where a Motor Vehicle:-
- (a) waits, parks or is left on a Road in contravention of the foregoing provisions of this Order or otherwise contravenes or fails to comply with the provisions of this Order, insofar as it relates to a Motor Vehicle waiting, parking or being left on a Road; or
 - (b) waits, parks or is left on a Road in contravention of any other Traffic Regulation Order the provisions of which are not consolidated into this Order or fails to comply with the provisions of any such Order insofar as it relates to a vehicle waiting, parking or being left on a Road; or
 - (c) parks in contravention of the provisions of Sections 19 or 21 of the Road Traffic Act 1988 (prohibition of parking of HGVs on Verges, central reservations and footways), and (driving or parking on Cycle Tracks);
- a penalty charge shall be payable by the owner for each day of the said contravention or non-compliance.
14. The penalty charge or reduced penalty charge shall be in the sum of the following amounts:-
- (a) The penalty charge - Band 2 as set out in Section 1 of The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 subject to payment being received by the Council as provided in Article 18 within 28 days beginning with the date of service of the penalty charge notice.
 - (b) The reduced penalty charge - a 50 per cent reduction of the penalty charge subject to payment being received by the Council as provided in Article 19 within 14 days beginning with the date of service of the penalty charge notice.
 - (c) On the issue of a charge certificate in accordance with the provisions of Regulation 21 of The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 to the effect that the penalty charge in question is increased by 50 per cent.
15. Service of a penalty charge notice or charge certificate by post is deemed effective on the second working day after the day of posting.
16. In the case of a motor vehicle in respect of which a penalty charge is payable under Article 18 a penalty charge notice, which shall comply with the requirements of Regulation 9 and the Schedule

to The Civil Enforcement of Parking Contraventions (England) General Regulations 2007, may be issued by a civil enforcement officer and may accordingly be affixed to the motor vehicle in a conspicuous position or given to the person appearing to be in charge of the vehicle,

17. In the case of a motor vehicle in respect of which a penalty charge is payable under Article 18 a penalty charge notice, which shall comply with the requirements of Regulation 10 and the Schedule to The Civil Enforcement of Parking Contraventions (England) General Regulations 2007, may be issued by post by the Council if the owner of the vehicle drives the vehicle away before the civil enforcement officer has issued a penalty charge notice or the civil enforcement officer has been prevented from issuing a penalty charge notice.
18. Payment of the penalty charge to the Council shall be paid by electronic transfer, cash or by credit card or debit card, cheque or postal order in each case crossed and made payable to Harrogate Borough Council which shall be delivered or sent by post so as to reach the relevant Department/ Office of the Council as stated on the penalty charge notice not later than 4:30pm, within 28 days beginning with the date of service of the penalty charge notice, but should the said Council Department/ Office be closed on that day, the period for receiving payment may be extended until 4:30pm on the next full working day. Payment may also be made in person or by phone as detailed on the Penalty Charge Notice.
19. Payment of the reduced penalty charge to the Council shall be paid by electronic transfer, cash or by credit card or debit card, cheque or postal order in each case crossed and made payable to Harrogate Borough Council which shall be delivered or sent by post so as to reach the relevant Department/ Office of the Council as stated on the penalty charge notice not later than 4:30pm, within 14 days beginning with the date of service of the penalty charge notice, but should the said Council Department/ Office be closed on that day, the period for receiving payment may be extended until 4:30pm on the next full working day. Payment may also be made in person or by phone as detailed on the Penalty Charge Notice.
20. The particulars given in the penalty charge notice attached to a vehicle, given to the person appearing to be in charge of the vehicle or issued by post by the Council in accordance with Articles 13 - 19 shall be treated as evidence in any proceedings relating to failure to pay such penalty charge.

PART V **REVOCATION OF EXISTING ORDERS**

21. The Traffic Regulation Orders specified in Column 1 of Schedule 4 to this Order are hereby revoked to the extent specified in Column 2 of that Schedule, and to the extent that the provisions of this Order are inconsistent with, or incompatible with, the provisions of any other Order, Byelaws or enactment relating to traffic regulation in Harrogate, Knaresborough, Pannal and Burnbridge area not specifically referred to in Schedule 4, the provisions of this Order shall prevail for all purposes.

PART VI **OPERATION OF THE ORDER**

22. 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 Order or regulations made or having effect as if made under the Act or by or under any other enactment.
23. This Order shall come into operation on 24 July 2015 and may be cited as "North Yorkshire County Council (Harrogate, Knaresborough, Pannal and Burnbridge) (Parking and Waiting) (No.22) Order 2015".

SCHEDULE 1
WAITING PROHIBITED AT ALL TIMES WITH EXEMPTIONS

<u>Column 1</u> <u>Item</u>	<u>Column 2</u> <u>Road</u>	<u>Column 3</u> <u>Side</u>	<u>Column 4</u> <u>Length</u>
1.	Tower Street, Harrogate	South East	From its junction with West Park, to a point 97.5 metres north east of its junction with West Park.
2.	Tower Street, Harrogate	South East	From a point 120 metres north east of its junction with West Park, to a point 132 metres north east of its junction with West Park.

SCHEDULE 2
WAITING PROHIBITED 8.00 AM TO 6.00 PM, MONDAY TO SATURDAY (INCLUSIVE)
WITH EXEMPTIONS

<u>Column 1</u> <u>Item</u>	<u>Column 2</u> <u>Road</u>	<u>Column 3</u> <u>Side</u>	<u>Column 4</u> <u>Length</u>
1.	Tower Street, Harrogate	South East	From a point 132 metres north east of its junction with West Park, to its intersection point with the north eastern kerb line of Belford Road.

SCHEDULE 3
AUTHORISED PARKING PLACE FOR THE LOADING AND UNLOADING OF GOODS

<u>Column 1</u> <u>Item</u>	<u>Column 2</u> <u>Road</u>	<u>Column 3</u> <u>Side</u>	<u>Column 4</u> <u>Length</u>
1.	Tower Street, Harrogate	South East	From a point 97.5 metres north east of its junction with West Park, to a point 120 metres north east of its junction with West Park.

SCHEDULE 4
REVOCATIONS

<u>Column 1</u> <u>Title of Order</u>	<u>Column 2</u> <u>Extent of Revocation</u>
North Yorkshire County Council (Harrogate, Knaresborough, Pannal and Burn Bridge) (Parking and Waiting) (No.16) Order 2013	In so far as it relates to Item 2363, Schedule 1 (No waiting at any time - Tower Street, Harrogate) In so far as it relates to Item 67, Schedule 3 (No waiting Monday to Saturday, 8am to 6pm – Tower Street, Harrogate).

THE COMMON SEAL of NORTH
YORKSHIRE COUNTY COUNCIL
was hereunto affixed this 20th day
of July 2015 in the presence of:-

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**AUTHORISED
SIGNATORY**