

# **THE BOROUGH OF HAVANT**

## **THE BOROUGH OF HAVANT (EMSWORTH TOWN CENTRE) (RESIDENTS' PARKING SCHEME) ORDER 2007**

The Council of the Borough of Havant ("the Council") pursuant to arrangements made under Section 101 of the Local Government Act 1972 with the County Council of Hampshire in exercise of the powers conferred on that County Council under Sections 1(1), 2(1) to (3), 4(2), and Part IV of Schedule 9 to the Road Traffic Regulation Act 1984 ("the Act") and of all other enabling powers, after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 to the Act, hereby makes the following Order.

### **1 CITATION AND DURATION**

This Order shall come into force on the 30th day of September 2007 and may be cited as the Borough of Havant (Emsworth Town Centre) (Residents' Parking Scheme) Order 2007.

### **2 INTERPRETATION**

- 2(1) In this Order, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:

"Authorised Hackney Carriage Stand" means any area of the carriageway which is comprised within and indicated by a road marking complying with diagram 1028.2 in Schedule 2 of the Traffic Signs Regulations and General Directions 2002.

"Disabled Person's Badge" means a badge issued by any local authority in accordance with the provisions of the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 or a badge having effect under those regulations as if it were disabled person's badge.

"Disabled Person's Vehicle" means a vehicle, which displays a Disabled Person's Badge in the manner prescribed by Regulation 12 of the Disabled Person's (Badges for Motor Vehicles) (England) Regulations 2000.

"Driver" in relation to a vehicle waiting in a length of road, means the person driving the vehicle at the time it was left in the parking place.

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

"Hackney Carriage" means a vehicle licensed by the Council under section 37 of the Town Police Clauses Act 1847.

"Owner" means the person by whom the vehicle is kept. In determining who was the owner of a 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 behalf of the Council to enforce the restrictions imposed by this Order.

"Penalty Charge" means the charge set by the Council (as agent for the Hampshire County Council) under the provisions of the Road Traffic Act 1991, which is to be paid to the Council following the issue of a Penalty Charge Notice within 28 days of the issue of that Notice.

"Relevant Position" means:

- (i) where the vehicle is fitted with a front windscreen, in a position immediately behind the windscreen on the near side so that the front of the item displayed is clearly and entirely visible; or
- (ii) in the case of a vehicle not fitted with a front windscreen, in a conspicuous position on the front or near side of the vehicle so that the front of the item displayed is clearly and entirely visible.

"Resident" means a person whose usual place of abode is at premises the postal address of which is in a road specified in Part 1 or Part 2 of the Schedule to this Order.

"Resident's Permit" means a permit issued under the provisions of Article 5 of this Order.

"Telecommunications Apparatus" means such apparatus as defined in paragraph 1(i) of the telecommunications code contained in Schedule 2 to the Telecommunications Act 1984.

"Waiver Certificate" means a certificate issued on behalf of the Council for the purposes of Article 4(f), permitting a specified vehicle to wait in special circumstances on a length or lengths of roads where the waiting of that vehicle would otherwise be restricted or prohibited.

"Zone A" means any of the lengths of road specified in Part 1 of the Schedule to this Order.

"Zone B" means any of the lengths of road specified in Part 2 of the Schedule to this Order

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

- 2(3) Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment.
- 2(4) The prohibitions, restrictions and requirements imposed by this Order are in addition to and not in derogation of any restriction, prohibition or requirement imposed by any other enactment and any exception or exemption from the provisions of this Order is without prejudice to the provisions of any other enactment and, for the avoidance of doubt, nothing in this Order shall prejudice the validity or enforcement of any permanent traffic regulation order or other order made under the Act at the date hereof and which affects any of the lengths of road referred to in the Schedule SAVE AS is necessary to give full effect to the exemption in Article 4(g) of this Order
- 2(5) In the event that the public right of way over any length of road or parking place specified in the Schedules to this Order is extinguished, this Order shall cease to have effect with respect to that length of road or parking place.
- 2(6) The prohibitions and restrictions imposed by Article 3 are for identification purposes only illustrated and shown annotated on Plan Hi12/231 annexed hereto.

### **3 PROHIBITION AND RESTRICTION OF WAITING**

#### **Time Limited Waiting**

Save as provided in Article 4 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 in any of the lengths of road specified in Part 1 or Part 2 of the Schedule to this Order between the hours of 9.00 am to 6.00 pm on Monday to Saturday (inclusive) for a longer period than 45 minutes or if a period of less than 45 minutes has elapsed since the termination during the said hours of the last period (if any) of waiting of the vehicle in that same length of road

### **4 EXEMPTIONS**

- (a) Nothing in Article 3 shall render it a contravention to cause or permit a vehicle to wait in the lengths of road referred to therein, if the vehicle is being used:
- (i) for so long only as is necessary to enable a person to board or alight from the vehicle;
  - (ii) in connection with any building, industrial or demolition operations in or adjacent to those lengths of road, the removal of any obstruction of traffic in those lengths of roads, the maintenance, improvement or reconstruction of the said lengths of road, or the laying, erection, alteration or repair in or on land adjacent to the said lengths of road of any sewer, or of any main, pipe or apparatus for the supply of gas, water or electricity

or of any telecommunications apparatus, if it cannot conveniently be used for such purpose in any other length of road;

- (iii) in the service of a local authority or of a water authority in pursuance of statutory powers or duties, if it cannot conveniently be used for such purposes in any other road;
  - (iv) for police, fire brigade or ambulance purposes;
  - (v) in connection with a wedding or funeral provided that the vehicle can be reasonably used for that purpose only from the road;
  - (vi) to enable any gate or other barrier at the entrance to premises to which the vehicle requires access or from which it has emerged to be opened or closed;
  - (vii) to enable a vehicle of (and bearing a livery used by) a universal service provider within the meaning ascribed by the Postal Services Act 2000 to be used for the purpose of delivering or collecting postal packets in the course of the provision of a universal postal service as defined in that Act.
- (b) Nothing in Article 3 shall prevent any person from causing or permitting a vehicle to wait in any road for so long as may be necessary for the purpose of delivering or collecting goods or merchandise or loading or unloading the vehicle at premises adjoining that road if it cannot conveniently wait for such purpose within the curtilage of those premises or in any other road.
- (c) Nothing in Article 3 shall render it a contravention to cause or permit a disabled person's vehicle to wait in any length of road referred to in that Article for a longer period than is specified in that Article in relation to that length of road.
- (d) Nothing in Article 3 shall render it a contravention to cause or permit a vehicle to wait in any length of road referred to in the said Article for so long as may be necessary to enable a public service vehicle being used in the operation of a local service within the meaning ascribed by the Transport Act 1985 to wait at a stopping place marked and authorised by the Council for the purpose of (i) allowing a person to board or alight from the vehicle or to pay a fare (ii) the vehicle to wait, if it arrives at the stopping place in advance of the advertised time for a period not exceeding 15 minutes.
- (e) Nothing in Article 3 shall render it a contravention to cause or permit a Hackney Carriage to wait upon an authorised Hackney Carriage Stand.
- (f) Nothing in Article 3 shall render it a contravention to cause or permit a vehicle displaying in a prominent position behind the windscreen so



that it is facing forwards and can be entirely and easily seen from the front of the vehicle a valid waiver certificate issued by a person duly authorised by the Council to wait in accordance with the terms and conditions prescribed by the said certificate. A waiver certificate may be cancelled at any time at the sole discretion of the Council and shall thereupon immediately cease to be valid. A notification of such cancellation shall be sent by post to the holder of the certificate at any address which the Council believes to be that person's address and the certificate shall forthwith be surrendered to the Council.

- (g) Nothing in Article 3 shall render it a contravention to cause or permit a vehicle to wait in any length of road referred to in that Article for a longer period than is specified in that Article in relation to that length of road provided that there is displayed on the vehicle in the manner specified in Article 10 of this Order a valid Resident's Permit issued by the Council in respect of that vehicle.

## **5 APPLICATION FOR AND ISSUE OF RESIDENT'S PERMITS**

- (a) Any Resident who in the opinion of the Council:
  - (i) is the owner of a vehicle of the following class, that is to say a passenger vehicle, a goods vehicle or a motor cycle, or
  - (ii) with the permission of the owner uses a vehicle of the said class on a regular basis during the course of his employment, and
  - (iii) has as his place of abode premises which do not have off-street parking facilities,

may apply to the Council for the issue of a Resident's Permit for the leaving of the vehicle in pursuance of the exemption in Article 4 (g) of this Order and any such application shall be made on a form issued by and obtainable from the Council and shall include the particulars and information required by such form to be supplied.

- (b) Any Resident who is the owner of a motor vehicle and a motor cycle may apply to the Council for a Resident's Permit valid for both vehicles as specified in paragraph (a) above.
- (c) The Council may at any time require an applicant for a Resident's Permit or a holder of such a permit to produce to an officer of the Council such evidence in respect of an application for a permit made to them as they may reasonably require to verify any particulars or information given to them or in respect of any permit issued by them as they may reasonably require to verify that the permit is valid.
- (d) On receipt of an application duly made under the foregoing provisions of this Article the Council, upon being satisfied that the applicant is eligible to apply for a permit under the terms of paragraphs(a) and (b)

above, shall subject to the prior payment of the charge specified in Article 6, issue to the applicant one Resident's Permit for the leaving in accordance with the provisions of Article 4(g) of the vehicle to which such permit relates by the owner of such vehicle or by any person using such vehicle with the consent of the owner other than a person to whom such vehicle has been let for hire or reward PROVIDED THAT

- (1) in the case of any applicant whose postal address specified in his application is in a road referred to in Part 1 of the Schedule , the permit issued to him shall only be valid in Zone A and, for the avoidance of doubt, shall have and be of no effect under this Order whenever the vehicle in respect of which it has been issued is left in Zone B;
  - (2) in the case of any applicant whose postal address specified in his application is in a road referred to in Part 2 of the Schedule , the permit issued to him shall only be valid in Zone B and, for the avoidance of doubt, shall have and be of no effect under this Order whenever the vehicle in respect of which it has been issued is left in Zone A; and
  - (3) subject to the provisions of Article 8 of this Order, the Council shall not issue a permit to any Resident which would be valid for any period during which any other Resident's Permit issued to that Resident is or would be valid.
- (e) A maximum of one Resident's Permit may be issued by the Council per postal address PROVIDED THAT
- a no permit shall be issued to any address which has off-street parking facilities;
  - b a maximum of two vehicles may be registered on a single permit
- (f) The period of validity of a Resident's Permit shall be 12 calendar months from the date it is issued by the Council PROVIDED THAT the Council may in its absolute discretion issue a Resident's Permit having a period of validity which is shorter than 12 calendar months from the date it is issued by the Council.

## **6 CHARGES FOR PERMIT APPLICATIONS**

- (a) The charge for the consideration of an application for a Resident's Permit shall be, in the case of such a permit having a validity of 12 calendar months, £30.00 (thirty pounds) and in the case of such a permit having a validity of less than 12 calendar months, such sum as shall represent £30.00 pro rata by reference to the number of complete calendar months of its validity

- (b) The charges imposed by this Article may be waived or refunded in the absolute discretion of the Council in respect of any application or permit or class of application or permit as the Council may determine.

## **7 SURRENDER, WITHDRAWAL AND VALIDITY OF PERMITS**

- (a) The holder of a Resident's Permit may surrender the permit to the Council at any time and shall surrender the permit to the Council on the occurrence of any one of the events set out in paragraph (c) of this Article
- (b) The Council may, by notice in writing served on the permit holder by sending to the permit holder at the address shown by that person on the application for the permit or at any other address believed to be that person's place of abode, withdraw a permit if it appears to the Council that any one of the events set out in paragraphs (c)(i) (ii) or (iv) of this Article has occurred and permit holder shall surrender the permit to the Council within 48 hours of the receipt of the aforementioned notice.
- (c) The events referred to in the foregoing provisions of this Article are:
  - (i) the permit holder ceasing to be a Resident;
  - (ii) the permit holder ceasing to be the owner of the vehicle in respect of which the permit was issued;
  - (iii) the withdrawal of such permit by the Council under the provisions of paragraph (b) of this Article;
  - (iv) the vehicle in respect of which the permit was issued being adapted or used in such a manner that it is not a vehicle of the class specified in Article 5 of this Order;
  - (v) the issue of a duplicate permit by the Council under the provisions of Article 8 of this Order;
  - (vi) the permit ceasing to be valid pursuant to the provisions of paragraph (d) of this Article; and
  - (vii) this Order ceasing to be in force , whether by expiry, revocation or for any other reason
- (d) Without prejudice to the foregoing provisions of this Article a Resident's permit shall cease to be valid at the expiration of the period specified thereon or on the occurrence of any one of the events set out in paragraphs (i) (ii) (iii) (iv) (v) and (vii) of this Article, whichever is the earlier.

## **8 APPLICATION FOR AND ISSUE OF DUPLICATE PERMITS**

- (a) If a permit is mutilated or accidentally defaced or the figures or particulars thereon become illegible or the colour of the permit has become altered by fading or otherwise, the permit holder shall either surrender it to the Council or apply to the Council for the issue to him of a duplicate permit and the Council upon the receipt of the permit shall issue a duplicate permit so marked and upon such issue the first permit shall become invalid.
- (b) If a permit is lost or destroyed, the permit holder may apply to the Council for the issue to him of a duplicate permit and the Council, upon being satisfied as to such loss or destruction, shall issue a duplicate permit so marked and upon such issue the first permit shall become invalid.
- (c) The provisions of this Order shall apply to a duplicate permit and an application therefor as if it were a permit or, as the case may be, an application therefor.

## **9 FORM OF PERMITS**

A Resident's Permit shall be in writing and shall include the following particulars:

- (a) the registration mark of the vehicle or vehicles in respect of which the permit has been issued;
- (b) the location (viz Zone A or Zone B) in which the permit is valid;
- (c) the period during which, subject to the provisions of Article 7(d) of this Order, the permit shall remain valid; and
- (d) an indication that the permit has been issued by the Council.

## **10 DISPLAY OF PERMITS**

Any vehicle left in a length of road in accordance with the provisions of Article 4(g) shall at all times display in the relevant position a valid permit issued in respect of that vehicle.

## **11 RESTRICTION ON REMOVAL OF PERMITS**

When a Resident's Permit has been displayed on a vehicle in accordance with the provisions of Article 10, no person, other than the driver of that vehicle, shall remove the permit from the vehicle unless authorised to do so by the driver.

## **12 CONTRAVENTIONS**

If a vehicle is left without complying with the requirements of this Order then a contravention will have occurred and a penalty charge shall be payable. A Penalty Charge Notice showing the information required by the Road Traffic Act 1991 may then be issued by a Parking Attendant in accordance with the requirements of the Road Traffic Act 1991.

## **13 NOTICE OF PENALTY CHARGE**

- (i) In the case of a vehicle in respect of which the penalty charge may have been incurred, it shall be the duty of a Parking Attendant to attach to the vehicle in a conspicuous position a Notice which shall include the following particulars:
  - (a) the grounds on which the Parking Attendant believes that a penalty charge is payable with respect to the vehicle;
  - (b) the amount of the penalty charge which is payable;
  - (c) that the penalty charge must be paid before the end of the period of 28 days beginning with the date of the Notice;
  - (d) 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 charge will be reduced by one half;
  - (e) that if the penalty charge is not paid before the end of the 28 day period a Notice to the owner may be served by the Council on the person appearing to them to be the owner of the vehicle;
  - (f) the address to which payment of the penalty charge must be sent.
- (ii) A Penalty Charge Notice fixed to a vehicle in accordance with this Article shall not be removed or interfered with except by or under the authority of :
  - (a) the owner, or person in charge, of the vehicle; or
  - (b) the Council.

## **14 RESTRICTION ON REMOVAL OF NOTICES**

Where a Notice has been attached to a vehicle in accordance with the provisions of Article 13, no person who is not a Parking Attendant or some other person duly authorised by the Council shall remove the Notice from the vehicle until the vehicle has been removed from the length of road or the parking place where the contravention occurred.

## **15 PAYMENT OF PENALTY CHARGE**

- (i) The owner of a vehicle in respect of which the penalty charge has been incurred shall pay the penalty charge to the Council as indicated on the Penalty Charge Notice.
- (ii) If the penalty charge is paid before the end of the period of 14 days beginning with the date of the Penalty Charge Notice the amount of the penalty charge will be reduced by one half.
- (iii) If the period of 28 days for payment of the penalty charge has expired without that charge being paid the Council may serve a notice ("a notice to owner") on the person who appears to them to have been the owner of the vehicle when the alleged contravention occurred and the notice to owner so served shall state the matters required to be stated therein by or under the Road Traffic Act 1991.

### **SCHEDULE**

#### **Part 1**

#### **ZONE A (Roads in Emsworth situated to the north of Havant Road) (A259)**

**Lengths of street wherein waiting is to be limited to 45 minutes, return prohibited within 45 minutes Monday-Saturday 9.00 am-6.00 pm – Zone A Resident's Parking Permit holders exempt**

1. North Street, Emsworth, the west side from a point 98 metres south of the centre line of its junction with St James' Road, southwards to the boundary between No 38 and Nos 40/42 North Street
2. North Street, Emsworth, the west side from a point 87 metres south of the centre line of its junction with St James' Road, southwards for a distance of 6 metres
3. North Street, Emsworth, the west side from the boundary between No 64 and No 66 North Street, northwards to the boundary between No 72 and No 74 North Street
4. St James' Road, the north side from a point 8 metres west of its junction with North Street, westwards for a distance of 18 metres
5. Palmers Road (middle Arm), the north side from a point 18 metres east of its junction with North Street, eastwards for a distance of 12 metres
6. Palmers Road (middle Arm), the north side from a point 38 metres east of its junction with North Street, eastwards for a distance of 13 metres



7. Palmers Road (middle Arm), the south side from the eastern boundary of No 5 Palmers Road, westwards for a distance of 13 metres
8. Palmers Road (middle Arm), the south side from a point 26 metres west of the eastern boundary of No 5 Palmers Road, westwards for a distance of 11 metres
9. Palmers Road (Northern Arm), the south side from a point 54 metres east of its junction with North Street, eastwards thence southwards for a distance of 48 metres

## **Part 2**

### **ZONE B (Roads in Emsworth situated to the south of Havant Road) (A259)**

**Lengths of street wherein waiting is to be limited to 45 minutes, return prohibited within 45 minutes Monday-Saturday 9.00 am-6.00 pm – Zone B Resident's Parking Permit holders exempt**

1. King Street, the south-west side from a point 66 metres north-west of the centre line of its junction with The Fishermans, north-westwards for a distance of 9 metres
2. King Street, the south-west side from a point 48 metres north-west of the centre line of its junction with The Fishermans, north-westwards for a distance of 9 metres
3. King Street, the south-west side from a point 12 metres north-west of the centre line of its junction with The Fishermans, north-westwards for a distance of 13 metres
4. King Street, the south-west side from the boundary between No 21 and No 23 King Street, south-eastwards to the eastern boundary of No 35 King Street
5. Queen Street, the north-west side from a point 14 metres north-east of the centre line of its junction with Frankland Terrace, north-eastwards for a distance of 15 metres
6. Queen Street, the north-west side from a point 19 metres south-west of the centre line of its junction with Frankland Terrace, south-westwards for a distance of 7 metres
7. Queen Street, the north-west side from a point 31 metres south-west of the centre line of its junction with Frankland Terrace, south-westwards to the boundary between No 10 and No 12 Queen Street

DATED this                day of September 2007

THE COMMON SEAL of THE  
COUNCIL OF THE BOROUGH  
OF HAVANT was hereunto  
affixed in the presence of:

Solicitor to the Council

Statement of Reasons

The Council's precise reasons for making the Order are:

- to facilitate the passage on the road or any other road of any class of traffic (including pedestrians)
- to avoid danger to persons or other traffic using the road or any road or for preventing the likelihood of any such danger arising, and
- to promote the relief of parking problems being experienced by residents in roads adjacent to the Emsworth Town Centre by making permanent the provisions of the Emsworth Town Centre Residents' Parking Scheme which has been in operation on an experimental basis since March 2006.