

02 AUG 2010

HAVANT BOROUGH COUNCIL
THE BOROUGH OF HAVANT
(HAVANT: SOUTHMOOR LANE CAR PARK)
OFF STREET PARKING PLACES ORDER 2010

The Council of the Borough of Havant (hereinafter called "the Council") in exercise (with the consent of Hampshire County Council pursuant to Section 39(3)) of its powers under Sections 32 and 35 of the Road Traffic Regulation Act 1984 ("the 1984 Act") and under the Traffic Management Act 2004 and of all other enabling powers and after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 to the 1984 Act hereby makes the following Order:

PART I

GENERAL

Citation

1. This Order shall come into operation on the nineteenth day of July 2010 and may be cited as the Borough of Havant (Havant: Southmoor Lane Car Park) Off-Street Parking Places Order 2010.

Interpretation

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

"**authorised vehicles**" means vehicles authorised by the Council;

"**car**" means a mechanically propelled vehicle constructed solely for the carriage of up to seven passengers;

"**Civil Enforcement Officer**" means a civil enforcement officer within the meaning of Part 6 of The Traffic Management Act 2004, being a person authorised by or on behalf of the Council to supervise any parking place and to act as indicated by the use of the expression in any of the Articles of this Order

"**combination**" means any vehicle drawing a caravan or trailer while joined by a physical tow bar;

"**Council**" means the Council of the Borough of Havant;

"**disabled persons badge**" or "blue badge" has the same meaning as in the Disabled Persons (Badges for Motor Vehicles)(England) Regulations 2000 SI 682;

"**disabled person's vehicle**" has the same meaning as in The Local Authorities' Traffic Orders (Exemptions for Disabled Persons) (England and Wales) Regulations 2000;

"**driver**" in relation to a vehicle in a parking place means the person driving the vehicle at the time it entered the parking place;

"**heavy commercial vehicle**" has the same meaning as in section 138 of the 1984 Act;

"**motor cycle**" means a solo motor cycle only and excludes any motor cycle which has a side-car or trailer, or which has more than two wheels.

"**owner**" means the person by whom the vehicle is kept;

- (i) 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, and
- (ii) in relation to a vehicle the subject of a lease or hiring agreement means the person in possession of the vehicle under that agreement;

"**parking place**" means the area of land provided by the Council under Section 32 or, as the case may be, provided pursuant to arrangements made under Section 33 of the Road Traffic Regulation Act 1984 and described in the Second Schedule;

"**penalty charge**" means a penalty charge which is payable by virtue of Part 6 of the Traffic Management Act 2004;

"**penalty charge notice**" means a notice issued or served by a Civil Enforcement Officer pursuant to section 78 of the Traffic Management Act 2004 and regulations made under that section;

"**relevant position**" in respect of a disabled person's badge and parking disc has the same meaning as in the Local Authorities Traffic Orders (Exemptions for Disabled Persons) (England) Regulations 2000; and

"**vehicle**" means any motor vehicle less than 3.5 tonnes.

- 3. Except where the context requires otherwise, any reference in this Order to an Article or Schedule shall be construed as a reference to that Article or Schedule in this Order.
- 4. The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

PART II

DESIGNATION AND USE OF PARKING PLACE

Designation of parking places

- 5. Each area of land specified by name or description in column 1 of the Schedules to this Order may be used subject to the following provisions of this Order as a parking

place for such classes of vehicles in such positions on such days and during such hours as are specified in relation to that area in the Schedules to this Order.

Use of parking places

6. Where in the Schedules to this Order a parking place is described as available for vehicles of a specified class or in a specified position no person shall cause or permit a vehicle to wait in that parking place unless it is of the class and in the position so specified.
7. Where within a parking place there is a sign or surface marking which indicates that a parking place is available only for a disabled person's vehicle no person shall cause or permit a vehicle to wait in that parking place unless it is a disabled person's vehicle which displays in the relevant position a disabled person's badge.
8. FOR THE AVOIDANCE OF ANY DOUBT, no person shall use any parking place or cause or permit any vehicle to be in any parking place in contravention of or without complying with any prohibition, restriction, limitation or other stipulation of whatever kind which is contained in any Article or Schedule to this Order.

Maximum stay

9. No person shall cause or permit a vehicle to be at any one time in the parking place (or any part thereof) specified in the Second Schedule for a longer period than the maximum period of waiting specified in respect of that parking place in the Second Schedule and shall not, within the specified period of prohibited return after its leaving, permit it to be again in that parking place.

Position of vehicles

10. Where parking places are marked out in a parking place all vehicles of the correct class shall be positioned wholly within the parking place marked for that class of vehicle.

Restriction of access

11. No person shall use a parking place so as to restrict use of any traffic lane, to prevent access to any parking place (where marked) or premises adjoining the parking place, or so as to be a nuisance.

Other provisions / Use of vehicles in parking places

12. The driver of a motor vehicle using a 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.
13. No person shall, unless he has the prior express written consent of the Council, use a vehicle while it is in a parking place in connection with the sale of any articles to persons in or near the parking place or in connection with the selling or offering for hire of his skill or services.

14. No person shall, unless he has the prior express written consent of the Council, use any part of a parking place or any vehicle left in a parking place
 - (a) for human habitation or any domestic purpose; or
 - (b) for the purpose of servicing, repairing or washing any vehicle or part thereof other than as is reasonably necessary to enable that vehicle to depart from the parking place.
15. No person shall, unless he has the prior express written consent of the Council, affix or attach to or leave or place on any vehicle while it is in a parking place any leaflet, bill placard or poster.
16. The driver of a vehicle using a parking place shall not sound any horn or other similar instrument except when about to change the position of the vehicle in or to depart from the parking place.

Dangerous substances

17. No person shall drive or permit to be driven into a parking place any vehicle containing any noxious or dangerous substance or material.

Restriction on size of vehicles

18. No person shall cause or permit to be driven into the parking place specified in the Schedule:
 - (a) any public service vehicle; or
 - (b) any heavy commercial vehicle; or
 - (c) any caravans, trailers and combinations

except with prior written approval given by a person authorised in that behalf by the Council.

Direction of travel

19. Where in a parking place signs are erected or surface markings are laid for the purpose of:
 - (a) indicating the entrance to or exit from the parking place; or
 - (b) indicating that a vehicle using the parking place shall proceed in a specified direction within the parking place,

no person shall drive or permit to be driven any vehicle (i) so that it enters the parking place otherwise than by an entrance, or leaves the parking place otherwise than by an exit so indicated; or (ii) in a direction other than so specified.

Parking uses only

20. No person shall except with the permission of a person authorised by the Council in that behalf drive or permit to be driven any vehicle in the parking place for any purpose other than the purpose of leaving that vehicle in the parking place in accordance with the provisions of this Order or for the purpose of departing from the parking place.

Exemptions

21. The driver of a vehicle left in the parking place specified in the Second Schedule shall be exempt from compliance with the maximum period of waiting and prohibition of return specified in respect of the parking place if:
- (a) the vehicle is being used for emergency services purposes;
 - (b) the vehicle is in the service of a local authority or water authority in pursuance of statutory powers;
 - (c) the vehicle is being used in connection with any building operation or demolition, the removal of any obstruction to traffic, the maintenance, improvement or reconstruction of the parking place or the laying, erection, alteration or repair in the parking place of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity or of any telecommunication apparatus as defined in paragraph 1(1) of the Telecommunications Code contained in Schedule 2 of the Telecommunication Act 1984; or
 - (d) if there is displayed in the relevant position a valid waiver certificate or other written authority issued by or on behalf of the Council and the vehicle is parked in accordance with the terms and conditions of the certificate or written authority.

PART III

Removal of vehicles

22. When a vehicle is brought into or left in the parking place in contravention of Articles 6, 7, 8, 9, 10, 11, 12, or 29 a person authorised in that behalf by the Council may remove the vehicle or arrange for it to be removed from the parking place, and when it is so removed he/she shall make such arrangement as may be reasonably necessary for the safe custody of the vehicle.
23. Any person removing a vehicle by virtue of the last preceding Article may do so by towing or driving the vehicle or in such other manner as he/she may think necessary and may take such measures in relation to the vehicle as he/she may think necessary to enable him/her to remove it as aforesaid.

PART IV

SUSPENSION OF PARKING PLACE

Power to close parking places

24. Nothing in this Order shall prevent the Council by notice, sign or barrier displayed in the parking place:
- (a) from closing the parking place or any part thereof for any period; and/or
 - (b) from setting aside the parking place or any part or parts thereof on all days or on certain days or during certain parts of days for use only by particular vehicles or organisations.
25. Any person suspending the use of the parking place or any part thereof in accordance with the provisions of Article 24 shall thereupon place or cause to be placed in or adjacent to that parking place or that part thereof a notice or traffic sign indicating that the use of that parking place or that part thereof is suspended and that waiting by vehicles is prohibited.
26. No person shall cause or permit a vehicle to be left in the parking place or any part thereof during any period when the use of that parking place or that part thereof is suspended or during such period as there is in or adjacent thereto a notice or traffic sign placed by or on behalf of the Council indicating such suspension.

PART V

PENALTY CHARGE AT PARKING PLACES

For the avoidance of any doubt the provisions of this Order and in particular (but without prejudice to the generality of the foregoing) the provisions of the following Articles 27 to 31 (inclusive) are without prejudice to the provisions of Part 6 of the Traffic Management Act 2004 (“the Act”) and the regulations made thereunder (“the Regulations”) and in the event of any conflict the provisions of the Act and of the Regulations shall prevail over the provisions of this Order.

Penalty charge

27. If a vehicle is left in a parking place in contravention of or without complying with any Article or Schedule to this Order a penalty charge shall be payable and/or the vehicle may be removed from that location or parking place.

Penalty charge notice

28. Where a penalty charge may have been incurred in respect of a vehicle it shall be the duty of a Civil Enforcement Officer to attach to the vehicle in a conspicuous position a penalty charge notice which shall include the following particulars;
- (a) the grounds on which the Civil Enforcement Officer 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

Payment of the penalty charge

- 29. (a) 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.
- (b) 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.
- (c) 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 Traffic Management Act 2004;.

Indications as evidence

- 30. The particulars given in the penalty charge notice issued or served in respect of a vehicle in accordance with this Order shall be treated as evidence in any proceedings relating to failure to pay such penalty charge.

Restriction on removal of a penalty charge notice

- 31. When a penalty charge notice has been attached to a vehicle pursuant to any of the foregoing provisions of this Order, no person, not being the owner or person in charge of the vehicle, a Civil Enforcement Officer or some other person duly authorised by the Council shall remove the penalty charge notice from the vehicle unless under the authority of the said owner, person in charge of the vehicle, Civil Enforcement Officer or other authorised person.

PART VI

DISPOSAL OF VEHICLES ABANDONED

Removal of a vehicle from parking places

32. Where a person duly authorised by the Council is of the opinion that any of the provisions contained in this Order have been contravened, or not complied with in respect of a vehicle left in a parking place, he/she may, under the provisions of the Removal and Disposal of Vehicles Regulations 1986, remove the vehicle or cause it to be removed from the parking place, and, where it is so removed, shall provide for the safe custody of the vehicle.

Disposal of vehicles abandoned in parking places

33. (i) The Council may sell or otherwise dispose of a vehicle which has been, or could at any time be, removed from a parking place pursuant to Article 35, if the vehicle appears to have been abandoned, provided that this power of disposal shall not be exercisable unless the Council has taken such of the following steps as are applicable to the vehicle in question, and there has elapsed a period of six weeks beginning with the taking of the first of those steps.
- (ii) Where the vehicle carries a registration mark the Council shall ascertain from the appropriate body the name and address of the person who is the Registered Keeper of the vehicle pursuant to the Vehicle Excise and Registration Act 1994, unless the Council is satisfied that the true owner of the vehicle has identified himself to it.
- (iii) The Council shall, where it is by virtue of paragraphs (ii), (iv) and (v) of this Article, aware of the name and address of a person who it appears may be the owner of the vehicle, send a Notice to that person at that address stating that it is the intention of the Council to sell or otherwise dispose of the vehicle (which shall be sufficiently described in the Notice) on or after a specified date (which shall not be less than two weeks from the date of the Notice and in any event not earlier than six weeks from the date of the first step taken by the Council under this Part of this Order) unless it is in the meantime removed by or on behalf of that person from such place as is specified by the Council in the said Notice or from such place as may be subsequently notified in writing by the Council to that person.
- (iv) If any person to whom a Notice is sent in accordance with paragraph (iii) of this Article informs the Council of the name and address of some other person who he alleges may be the owner of the vehicle, a Notice stating the particulars mentioned in the last preceding Article shall be sent to that other person and to any further person who the Council may in consequence of the sending of the Notice to the said other person be led to believe may be the owner of the vehicle.
- (v) Where a vehicle does not carry a registration mark the first step to be taken by the Council shall be to apply in writing to the Chief Officer of Police in

whose area the parking place is situated enquiring whom that officer considers is the owner of the vehicle and the address of that person.

- (vi) The Council shall then make such further enquiries as to ownership as it thinks fit.
- (vii) Upon the sale of a vehicle by the Council, the Council shall apply the proceeds of sale in or towards the satisfaction of any costs incurred by it in connection with the disposal thereof and of any charge or payment to which it is entitled.
- (ix) In the event that any such costs incurred by the Council in connection with the disposal of the vehicle are not satisfied by virtue of the last preceding Article, the Council may recoup those costs from the person who was the owner of the vehicle immediately before it was removed from the parking place, provided that that person was sent by the Council a Notice under paragraph (iii) of this Article.
- (x) Any sums received by the Council on a sale of a vehicle shall, after deducting any sum applied thereout of by virtue of paragraph (vii) of this Article, be payable within a period of one year from receipt thereof to any person to whom, but for such sale, the vehicle would have belonged and insofar as any such sums are not claimed within the said period they shall be paid into the General Rate Fund of the Council.
- (xi) Where under the foregoing provisions of this Order a Notice is required to be or may be sent to a person the Notice shall be sent by recorded delivery post.

FIRST SCHEDULE

Parking places (or parts thereof) where waiting is limited to 24 hours

Parking Place	Access via	Classes of vehicles by which parking places may be used	Position in which vehicle may wait	Days and hours of operation
<u>Southmoor Lane Car Park</u> South of Southmoor Lane	Southmoor Lane	All vehicles less than 3.5 tonnes gross vehicle weight	As indicated by markings on carriageway or signage erected in the parking space	All days All hours

SECOND SCHEDULE

Parking places (or parts thereof) where waiting is limited to 3 hours and return prohibited within 2 hours Monday to Friday inclusive between the hours of 9.00am to 5.00pm.

Parking Place	Access via	Classes of vehicles by which parking places may be used	Position in which vehicle may wait	Days and hours of operation
<u>Southmoor Lane Car Park</u> Southern end of Southmoor Lane Car Park beyond the 2 nd barrier	Southmoor Lane	All vehicles less than 3.5 tonnes gross vehicle weight	As indicated by markings on carriageway or signage erected in the parking space	All days All hours

THE COMMON SEAL OF THE
COUNCIL OF THE BOROUGH
OF HAVANT was hereunto
affixed this

15th day of July 2010

In the presence of



Solicitor to the Council

File No: AS/TRO/156
Plan No: HI20/12



