

**ROAD TRAFFIC REGULATION ACT 1984****HEREFORDSHIRE COUNCIL****OFF STREET PARKING PLACE (STATION APPROACH, HEREFORD) ORDER 2013**

The County of Herefordshire District Council and known as Herefordshire Council ("the Council") in exercise of its powers under section 32, 35 and Part IV of Schedule 9 of the Road Traffic Regulation Act 1984 ("the 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 makes the following order:-

1. This Order shall come into operation on the 18 November 2013 and may be cited as the Herefordshire Council Off Street Parking Place (Station Approach, Hereford) Order 2013.
2. (1) **DEFINITIONS:** In this Order:-

"Car Park" means the area of land used as an off street parking place for a permitted Vehicle subject to the terms of this Order which said area is shown a thick black line on the plan annexed hereto or as varied by the Council.

"CEO" means a civil enforcement officer appointed and authorised by the Council under the provisions of section 76 Traffic Management Act 2004 ("the 2004 Act") or other officer or agent authorised by the Council.

"Charging Hours" means the period as specified in Article 8 in this Order and as further specified at the Car Park on all days a Parking Charge is in operation, or any revised charging hours as introduced in accordance with the provisions of the Act and as displayed and in operation at the Car Park.

"Driver", in relation to a permitted Vehicle in the Car Park, means the person driving the Vehicle at the time it was left in the Car Park.

"Motor Cycle" has the same meaning as defined in section 136 of the Act and also refers to a solo Motor Cycle only and excludes any Motor Cycle which has a side car or trailer or which has more than two wheels.

"Motor Car" has the same meaning as in section 136 of the Act.

"Minibus" means a passenger carrying vehicle which is constructed or adapted to carry more than eight passengers (but not more than 16 passengers) excluding the driver.

"The Owner", in relation to a Vehicle, means the person who is the registered keeper of the Vehicle or to whom liability has been properly transferred.

"Vehicle" means a Motor Car, Motor Cycle, Coach, Minibus or Lorry.

"Parking Bay" means any area within the Car Park which is provided for the leaving of a permitted Vehicle (which may or may not be for a specified class of Vehicle) and is indicated by markings on the surface of the Car Park or signed or otherwise indicated by signs in the Car Park.

"Disabled Persons Badge" has the same meaning as in the Disabled Persons (Badges for Motor Vehicles) Regulations 2000 (as amended).

"Disabled Persons Vehicle" has the same meaning as in The Local Authorities' Traffic Orders (Exemptions for Disabled Persons) (England) Regulations 2000 (as amended).

"Disabled Persons Parking Disc" has the same meaning as in the Disabled Persons (Exemptions for Disabled Persons) (England) Regulations 2000 (as amended).

"Parking Charge" means the scale of charges currently in operation and displayed at the Car Park and as stated in Article 10 of this Order (as varied from time to time).

"Parking Permit" means any valid contract permit, private rent permit, Council staff permit, business permit or residents permit of a type issued by, or on behalf of, the Council subject to any terms and conditions imposed by the Council for the same.

"Parking Ticket" means a valid ticket issued for the payment of the Parking Charge.

"Payment Method" means any of the following methods of payment or any other payment method introduced by the Council –

*"Pay and Display"* - a type of payment method in operation at a Car Park whereby before leaving a permitted Vehicle at such a Car Park a Parking Ticket is purchased at the level of Parking Charge when parking a Vehicle in a Parking Bay and which must be displayed prominently on the Vehicle;

*"Pay on Foot"/Pay on Exit"* - a type of payment method for a Parking Ticket where an entry ticket is taken at the entry barrier to access the Car Park and prior to leaving the Car Park the said ticket is inserted into a payment machine located in the Car Park and the correct payment for the time parked is made whereupon the said ticket is returned and inserted in the exit barrier so as to exit the Car Park; or in the case of any barrierless system using Automatic Number Plate Recognition (ANPR) technology, where payment is made at a payment machine for the time parked without the need for a ticket and prior to leaving the Car Park.

*"Pay by Phone"* - a type of payment method whereby parking time is purchased by phone at the time of parking and at the level of Parking Charge as on display in the relevant Car Park, which may include an additional 'convenience charge', and without the need to display a Parking Ticket on the permitted Vehicle.

"PCN" means a penalty charge notice issued by or served by a CEO pursuant to the provisions of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007.

"Penalty Charge" means the charge set by the Council under section 77 and Schedule 9 of the 2004 Act which is to be paid to the Council following the issue of a PCN.

"Season Ticket" means a valid yearly, quarterly or other period ticket that may be purchased, at the discretion of the Council, to park a permitted Vehicle at any relevant Car Park at the scale of charges and on the terms and conditions as determined from time to time by the Council.

- (2) For the purpose of this order a permitted Vehicle shall be regarded as displaying
- (a) a valid Disabled Persons Badge in the relevant position, when,
    - (i) in the case of a Vehicle fitted with a dashboard or fascia panel, the badge is exhibited thereon so that the front of the badge is legible from outside the Vehicle; with the expiry date showing and
    - (ii) in the case of a Vehicle not fitted with a dashboard or fascia panel, the said badge is exhibited in a conspicuous position on the Vehicle so that the front of the said badge is legible from outside the Vehicle;
  - (b) a Disabled Persons Parking Disc in the relevant position, when,
    - (i) in the case of a Vehicle fitted with a dashboard or fascia panel, the disc is exhibited thereon so that the quarter-hour period during which the period of waiting began is legible from outside the Vehicle; and
    - (ii) in the case of a Vehicle not so fitted, the said disc is exhibited in a conspicuous position on the vehicle so that the front of the badge is legible from outside the Vehicle.
- (3) The Interpretation Act 1978 shall apply for the interpretation of this Order.

(4) 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 having effect by virtue of any subsequent enactment.

### DESIGNATION AND USE OF THE CAR PARK

- 3 (1) Designation - the Car Park may be used, subject to the provisions of this Order, as a place to park a permitted Vehicle of such a class in a Parking Bay on such days and during the Charging Hours on payment of such Parking Charge, where applicable, as is displayed at the Car Park, and as shown in Article 8 to this Order (as varied from time to time).
- (2) Class and Position of Vehicle - where by notice or surface markings displayed at the Car Park a Parking Bay is described as available for a permitted Vehicle of a specified class or for a permitted Vehicle to be left in a specified location a Driver shall not permit a permitted Vehicle to park in the Car Park or park in any Parking Bay within the Car Park unless -
- (a) it is of the said permitted specified class of Vehicle (if any); and
  - (b) it is parked wholly within a Parking Bay allocated for that specified class or in a position as directed by a CEO.
- (3) Disabled Persons Vehicle - where within the Car Park 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 Persons Vehicle which shall display a valid Disabled Persons Badge and Disabled Persons Disc in the relevant position.
- (4) In so far as a permitted Vehicle is left in the Car Park during the Charging Hours the Driver shall pay the Parking Charge.
- (5) Liability – the Council accepts no liability for the loss or damage to a Vehicle or other property left in the Car Park.

- (6) Nothing in this Article shall restrict the power of the Council with or without prior notice to close the Car Park or part thereof on a temporary or permanent basis
4. The Driver of a Vehicle shall not permit it to wait in the Car Park for longer than the maximum period (if any) permitted for waiting as displayed at the Car Park.
  5. Where there is evidence of a Parking Bay in the Car Park then a Driver of a Vehicle shall ensure that their Vehicle is parked wholly within it.
  6. Where there is no Parking Bay in evidence within the Car Park then a Vehicle which in the opinion of a CEO is causing an obstruction may be issued with a PCN.
  7. The Driver of a permitted Vehicle shall not park it in any restricted area of the Car Park, as defined by 'hatched markings' or double yellow lines on the surface of the Car Park.
  8. Where there is a Parking Bay in the Car Park reserved for a permitted electric Vehicle to "charge up" the said Vehicle, any permitted Vehicle parked in the same must pay the appropriate Parking Charge and "charge up" fee (if any) as the Council may determine from time to time.
  9. Only a permitted electric Vehicle may park in a Parking Bay reserved for such a vehicle and it must be using the said Parking Bay for the active "charge up" of the same.

**PARKING CHARGE AT THE CAR PARK (INCLUDING SEASON TICKETS AND PARKING PERMITS)**

10. (1) The Driver of a permitted Vehicle using the Car Park shall pay the relevant Parking Charge, unless they have a valid Season Ticket or valid Parking Permit for the Car Park.
- (2) The scale of charges and charging hours, as at the date of the commencement of this Order are as follows:

**Monday to Saturday inclusive (08.00 to 18.00 hours)**

£3.00 all day

**Sunday (08.00 to 18.00 hours)**

£2.00 all day

**Season Ticket**

£600 per year; £165 per quarter.

- (3) The above scale of charges and charging hours may be varied in accordance with any relevant statutory provisions.
- (4) The Parking Charge is payable by any Payment Method that is displayed at the Car Park.
- (5) Where the option to 'Pay by Phone' is available any person choosing this method of payment will, in addition to the parking charge, be required to pay a transaction fee of 20 pence for each parking period taken out. Optional 'reminder' text messages are charged at 10 pence for each text message. These additional payments are made to the service provider and no part of the payment is passed to the Council. These charges may be varied at the discretion of the service provider.
- (6) Where the Council has decided that a Season Ticket may be purchased at a particular Car Park on the scale of charges as set from time to time by the Council the Season Ticket shall be valid only in any Car Park so specified for the period for which it is issued and is subject to any other Council terms and conditions that apply.
- (7) Where a Parking Permit has been issued by the Council (whether for payment or not) it shall be valid only in any Car Park so specified for the period for which it is issued and is subject to any other Council terms and conditions that apply.
- (8) Display - where issued any valid Parking Ticket, Season Ticket or Parking Permit shall be displayed in a conspicuous position in the Vehicle in respect of which it was issued and the Driver shall cause it to be exhibited in that position at all times for which the Vehicle is parked in the Car Park.

- (9) Withdrawal - the Council may withdraw a Season Ticket or Parking Permit, including for the avoidance of doubt any said staff permit, at any time by notifying the holder of the same in writing of such withdrawal and making the appropriate pro rata refund of monies (if any) minus any administration fee and on the date specified in the said written notice as the withdrawal date the Season Ticket, Parking Permit or said staff permit shall become invalid.
- (10) Where the holder of a Season Ticket no longer requires the Season Ticket the holder may request a pro rata refund and the said refund, less any administrative fee (if any), may be given at the council's discretion.
- (11) For the avoidance of doubt the purchase of a Season Ticket or Parking Permit does not guarantee the holder of the same to be able to park in a Parking Bay within the Car Park.
- (12) The Council may (at its entire discretion) issue a duplicate Season Ticket, Parking Permit or said staff permit on the application by the holder of the same and on payment by the holder of the relevant administrative fee (if any) determined by the Council from time to time and on such issue of a said duplicate the previous Season Ticket, Parking Permit or said staff permit shall become invalid and the provisions of this Order shall apply to the said duplicate.
- (13) A Season Ticket, Parking Permit or said staff permit remains the property of the Council and shall be surrendered on request to the Council and in such circumstances the Council at its discretion may make a pro rata refund.
- (14) Inoperative Ticket Machines - if at the time when a permitted Vehicle is left in a Parking Bay of the Car Park during the Charging Hours there is no ticket machine available for the Car Park, or all such ticket machines are out of order, the Owner shall be exempt from payment of the charge unless the Council, or its approved agent, has made alternative arrangements for the collection of the Parking Charge.



- (15) Unless stated otherwise by signs in the Car Park indicating that there are 'No Concessions', no Parking Charge shall be payable (for up to 3 hours parking or other period as displayed at a Car Park) in respect of a permitted Vehicle which displays in the relevant position a valid Disabled Persons Badge and a valid Disabled Person Parking Disc (where applicable), provided the Vehicle is being used by the person in respect of whom the badge is issued immediately before or immediately after the Vehicle is parked in a Parking Bay.
- (16) For the avoidance of doubt it is hereby stated:-
- (a) the Parking Charge payable by the Driver of a Motor Cycle which has been parked in a space marked out for a Motor Car shall be the same as that for a Motor Car and if the Car Park displays a sign that it prohibits a Motor Cycle from parking other than in a specific bay for a Motor Cycle then a parking contravention will have occurred;
- (b) Motor cycles may be parked free of charge only in those areas designated and signed or marked for use by the same in the Car Park.

#### **PENALTY CHARGE**

11. (1) If a permitted Vehicle is parked in the Car Park in contravention of or non compliance with any Article of this Order a contravention shall have occurred and a Penalty Charge shall be payable by the Owner and a PCN may be issued by a CEO in accordance with the requirements of the 2004 Act and for the avoidance of doubt the Articles of this Order may be enforced at any time of the day or night which includes the times outside of any Parking Charge period.
- (2) Subject to any other relevant provision of this Order a parking contravention shall not have been committed in respect of a valid Disabled Persons Vehicle which correctly displays in the relevant position a valid Disabled Persons Badge and a valid Disabled Persons Parking Disc to wait for up to 3 hours in the Car Park (or other time period as displayed in the Car Park) and thereafter the Driver of the said disabled vehicle shall pay the relevant Parking Charge as displayed in the Car Park.

- (3) Payment of the Penalty Charge to the Council shall be in accordance with the terms and conditions as stated on the PCN and Council payment information leaflet which accompanies the same.
- (4) The particulars given in the PCN attached to a permitted Vehicle in accordance with this Article shall be treated as evidence in any proceedings relating to failure to pay the Penalty Charge.

#### **RESTRICTION ON REMOVAL OF A PCN**

12. When a PCN has been attached to a Vehicle in accordance with any of the foregoing provisions 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 shall remove the PCN from the Vehicle.

#### **MISCELLANEOUS PROVISIONS**

13. The Driver of a permitted Vehicle shall not permit that Vehicle to wait in the Car Park unless the vehicle is licensed in pursuance of the provisions of the Vehicle Excise and Registration Act 1994.
14. The Driver of a Vehicle using the Car Park must not obscure the number plates or vehicle licence (tax disc) in an attempt to avoid paying the Parking Charge and to avoid receiving a PCN and the Council or its agents maintain the right to remove anything hiding or covering the said number plates of any said Vehicle.
15. The Driver of a permitted Vehicle using the Car Park shall stop the engine as soon as the Vehicle is in position in the Parking Bay, and shall not start the engine except when about to change the position of the Vehicle in or to depart from the Car Park.
16. (1) Unless approved in advance by an authorised officer of the Council no person shall use a permitted Vehicle or any other apparatus or structure or stall in any part of the Car Park in connection with the sale of any food drink or other goods to persons in or

near the Car Park or in connection with the selling or offering for hire of his skill or services.

- (2) Subject to paragraph (3) of this Article, no person shall use any part of the Car Park or any permitted Vehicle left in a parking place –
    - (a) for sleeping or camping or cooking; or
    - (b) for eating and cooking purposes; or
    - (c) for the purposes of servicing or washing any vehicle or part thereof other than is reasonably necessary to enable that vehicle to depart from the Car Park.
  - (3) No person shall use the Car Park or any part thereof for the distribution of leaflets or advertising materials or attach such leaflets or materials to any Vehicle in a parking place.
17. The Driver of a permitted Vehicle using the Car Park shall not sound any horn or other similar instrument except when necessary to warn other users of the Car Park of the presence of their Vehicle.
18. (1) If a permitted Vehicle is left in the Car Park in a position other than in a Parking Bay 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 provisions of this Order.
- (2) If a permitted Vehicle is left in the Car Park in contravention of any of the foregoing provisions of this Order a person authorised by the Council in that behalf may remove the Vehicle from the Car Park or arrange for such removal.
- (3) For the purpose of meeting the requirements of an emergency or preventing an obstruction a person authorised in that behalf by the Council or a police officer may alter or cause to be altered the position of a permitted Vehicle in the Car Park or remove or arrange for the removal of a Vehicle from the Car Park.

- (4) Any person altering, or causing the alteration of, the position of a permitted Vehicle by virtue of this Article, or removing, or causing the removal of, a permitted Vehicle by virtue of this Article, may do so by towing or driving the Vehicle or in such other manner as he may think reasonably necessary to enable the position of the Vehicle to be altered or the Vehicle to be removed.
- (5) Any person removing or arranging for the removal of a permitted Vehicle from the Car Park by virtue of this Article shall make such arrangements as he considers to be reasonably necessary for the safety of the Vehicle in the place to which it is removed.
- (6) The Council may seek to recover from the Owner any charges incurred in removing a Vehicle by virtue of this article.

19. Where in the Car Park signs are erected or surface markings are laid for the purpose of -
- (a) indicating the entrance to or exit from the Car Park, or
  - (b) indicating that a permitted Vehicle using the Car Park shall proceed in a specified direction within the Car Park

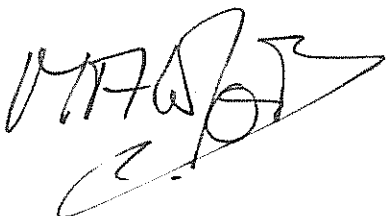
no person shall drive or permit to be driven any permitted Vehicle (i) so that it enters the Car Park otherwise than by an entrance, or leaves the Car Park otherwise than by an exit, so indicated, or (ii) in a direction other than so specified.

20. No persons shall, except with the permission of a person authorised by the Council in that behalf, drive or permit to be driven any permitted Vehicle in the Car Park for any purpose other than the purpose of leaving that Vehicle in the Car Park in accordance with the provisions of this Order or for the purpose of departing from the Car Park.
21. Any person using the Car Park for authorised purposes shall show consideration to other users, and in particular a Vehicle shall not be driven in a manner likely to cause a danger to any other person.

22. No person shall in the Car Park wantonly shout or otherwise make any loud noise to the disturbance or annoyance of users of the parking place or residents of premises in the neighbourhood.
23. No person shall in the Car Park 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 or whereby a breach of the peace is likely to be occasioned.
24. No person shall use the Car Park solely as a means of passage proceeding from one road to another.
25. In the Car Park no person shall –
  - (a) erect or cause or permit to be erected any tent, booth, stand, building or other structure without the prior written consent of the Council;
  - (b) light or cause or permit to light any fire.
26. Subject to any relevant provision in Article 11 no person shall while a permitted Vehicle is in the Car Park use the same for any purpose other than parking the Vehicle, boarding or alighting from the Vehicle or taking articles out of or into the Vehicle, and in particular but without prejudice to the generality of the foregoing provisions of this Article shall not carry out works of maintenance and/or construction in respect of a Vehicle except such as may be necessary to enable the Vehicle to be moved from the Car Park.
27. For the avoidance of doubt should there be any ambiguity between the provisions of this order and any statutory provisions then the latter shall prevail.

Dated this 20th October 2013

THE COMMON SEAL of the COUNTY OF HEREFORDSHIRE  
DISTRICT COUNCIL was hereunto  
affixed BY ORDER



Authorised Officer

