

KIRKLEES COUNCIL
(OFF STREET PARKING PLACES) (NO. 3) ORDER 2011

The Council of the Borough of Kirklees (hereinafter referred to as “the enforcement authority”) in exercise of their powers under Sections 32, 33 and 35 of the Road Traffic Regulation Act 1984 (hereinafter referred to as “the Act”) and Part 6 of the Traffic Management Act 2004 and The Road Traffic (Permitted Parking Area and Special Parking Area) (Metropolitan Borough of Kirklees) Order 2006 together with all other enabling powers hereby make the following Order:-

PART I

1. COMMENCEMENT AND CITATION

This Order shall come into operation on the 28th day of November 2011 and may be cited as the Kirklees Council (Off-Street Parking Places) (No. 3) Order 2011.

2. INTERPRETATION

- 2.1 Any reference in this Order to a numbered Article is a reference to the Article bearing that number in this Order.
- 2.2 For the avoidance of doubt any reference in this order to a parking space shall be deemed to be a reference to more than one parking place where the context so requires
- 2.3 In this Order except where the context otherwise requires the following expressions have the meaning hereby respectively assigned to them:-

“**Agent**” in relation to a parking place means any person or company with whom the enforcement authority has an agency agreement for the management or control of that parking space

“**Charging Hours**” in relation to a parking place means the period specified in Column 5 of the First Schedule to this Order

“**Civil Enforcement Area**” has the meaning given by Schedule 8 to the 2004 Act

“Civil Enforcement Officer” has the meaning given by Section 76 of the 2004 Act

“Contract Parking Permit” means a permit purchased from or otherwise issued by the enforcement authority for the purpose of exempting the holder from paying further or any charges, the conditions of use of the permit being determined by the enforcement authority at the time of issue

“Disabled Person’s Badge” has the same meaning as in Regulation 2 of the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000

“Disabled Person’s Vehicle” has the same meaning as in Section 142 of the 1984 Act

“Driver” in relation to a motor vehicle waiting in the parking place means the person driving the vehicle at the time it was left in the parking place

“Enforcement Authority” means the Council

“Goods” includes postal packets of any description and cash over five kilograms in weight or one thousand pounds in value and “delivering” and “collecting” in relation to any goods includes checking the goods for the purpose of their delivery or collection

“Invalid Carriage” has the same meaning as in Section 136 of the Act

“Motor Car” has the same meaning as in Section 136 of the Act

“Motor Cycle” has the same meaning as in Section 136 of the Act

“Motor vehicle” has the same meaning as in Section 136 of the Act

“Notice to Owner” means a notice served under Regulation 19 of the General Regulations

“Owner” in relation to a vehicle means the person by whom the vehicle is kept and used which in the case of a vehicle registered under the Vehicle Excise and Registration Act 1994 is presumed (unless the contrary is proved) to be the person in whose name is vehicle is registered

“Parking Bay” means a space marked out on the surface of the parking place to accommodate the leaving of a single vehicle

“Parking Charge” means such charge as is payable by reference to column 6 of the Schedule to this Order

“Parking Place” means the parking place described in Column 1 of the Schedule to this Order

“Parking Ticket” means a ticket dispensed by a ticket machine on the payment of the parking charge

“Penalty Charge” has the meaning given by Section 92 of the 2004 Act

“Penalty Charge Notice” has the meaning given by regulation 8 of the General Regulations

“Subordinate Legislation” has the same meaning as in Section 21 of the Interpretation Act 1978

“Ticket Machine” means any apparatus or device installed to facilitate collection of the parking charge or dispense tickets as evidence of payment of the parking charge

“The 2004 Act” means the Traffic Management Act 2004

“The General Regulations” means the Civil Enforcement of Parking Contraventions (England) General Regulations 2007

PART II

USE OF PARKING PLACE

3. The parking place may be used subject to the following provisions of this Order as parking places for such classes of motor vehicles specified in Article 4 in such positions and on such days and on payment of such charges as are specified in the Schedule to this Order.

4. The classes of motor vehicles permitted to use the parking places (except with the permission of any person duly authorised by the enforcement authority or its agent) are motor cycle, motor car with or without a trailer and invalid carriage.
5. Where the parking place is described as available for motor vehicles of a specified class or in a specified position the driver of a motor vehicle shall not permit it to wait in that parking place:-
 - a) unless it is of the specified class; or
 - b) in a position other than that specified.
6. For the purposes of this Order where a motor vehicle is drawing a trailer the motor vehicle and the trailer shall be deemed to be separate vehicles and the driver of the motor vehicle drawing the trailer shall be deemed to be the driver of each of the said vehicles
7. The driver of a motor vehicle shall not permit it to wait in the parking place for longer than the maximum period permitted for waiting in column 7 of the Schedule to this Order or where no maximum is specified for the parking place in column 7 of the Schedule for longer than 72 hours.

Nothing in this Article shall apply to parking bays set aside specifically for contract parking permit holders or any vehicle used for the purposes of a council approved car club.

8. Unless prior written consent has been granted by the enforcement authority no person shall:-
 - a) use a motor vehicle while it is in the parking place in connection with the selling or offering for hire of his skill or services or the skill or services of any other person; nor
 - b) use any part of the parking place or any building structure, mechanical device or other physical feature therein or any motor vehicle left therein to display advertising material nor to place upon or attach to any motor vehicle any advertising material to induce the public to participate in or frequent any place, function or gathering for the purpose of demonstration or entertainment or to buy or hire or otherwise obtain any thing or skill or services of any person and nothing shall be displayed to induce the public to engage for gain in any lottery, sweepstake, raffle or competition.

9. Subject to the proviso hereto when a motor vehicle is left in the parking place in contravention of any of the provisions of Articles 4, 5, 6, 7, or 13 a person authorised in that behalf by the enforcement authority may remove the motor vehicle or arrange for it to be removed from that parking place **PROVIDED THAT** when a motor vehicle is waiting in the parking place in contravention of the provisions of Article 5(b) a person authorised in that behalf by the enforcement authority may alter or cause to be altered the position of the motor vehicle in order that its position shall comply with that provision.
10. Any person removing or altering the position of a motor vehicle by virtue of Article 9 may do so by towing or driving the motor vehicle or in such other manner as he may think necessary and may take such measures in relation to the motor vehicle as he may think necessary to enable him to remove it or alter its position as the case may be.
11. When a person authorised by the enforcement authority removes or makes arrangement for the removal of the motor vehicle from the parking place by virtue of Article 9 he shall make such arrangement as may be reasonably necessary for the safe custody of the motor vehicle.
12. No person shall except with the permission of any person duly authorised by the enforcement authority or its agent drive any motor vehicle in the parking place other than for the purpose of leaving that motor vehicle in the parking place in accordance with the provisions of this Order or for the purpose of departing from the parking place or for the purposes of gaining access to or egress from premises situated adjacent to the parking place or any other premises accessible from or only from the said parking place or for the purposes of picking up or setting down passengers.
13. Unless prior written consent has been granted by the enforcement authority or its agent no person shall use any part of the parking place or any motor vehicle left in the parking place:
- (a) for sleeping or camping purposes;
 - (b) for eating or cooking purposes; or
 - (c) for the purpose of servicing or washing any motor vehicle or part thereof other than is reasonably necessary to enable that motor vehicle to depart from the parking place.

For the avoidance of doubt the term "motor vehicle" in this Article shall include a moveable dwelling and any vehicle adapted for use as a moveable dwelling.

14. Where in the 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 motor vehicle using the parking place shall proceed in a specified direction within the parking place.

no person shall drive or cause or permit to be driven any motor 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 that specified as the case may be.

15. Nothing in Article 14 shall apply to any motor vehicle when being used in the service of the enforcement authority or in accordance with any agency agreement relating to the parking place.

16. In a parking place no person shall:

- (a) erect or cause or permit to be erected any tent booth stand building or other structure without the written consent of the enforcement authority; or
- (b) light or cause or permit to be lit a fire.

17. Where in a parking place signs are erected or surface markings are laid for the purpose of indicating that a parking bay is intended for the use of:

- (a) a motor vehicle displaying in the relevant position a disabled person's badge;
- (b) contract parking permit holders;
- (c) delivering goods or collecting goods from premises situated adjacent to the parking place;
- (d) licensed hackney carriages
- (e) parents and toddlers
- (f) picking up or setting down passengers
- (g) a motor vehicle being used by a Council approved car club

the driver of a motor vehicle shall not permit the motor vehicle to wait in the parking bay unless the motor vehicle respectively:-

- (a) displays in the relevant position a disabled person's badge;
- (b) exhibits the contract parking permit so that it is facing forwards and can easily be seen from the front of the motor vehicle;
- (c) is being used for the purpose of delivering or collecting goods from the said premises;
- (d) is a licensed hackney carriage
- (e) is carrying one or more toddlers
- (f) is being used for the purpose of picking up or setting down passengers and remains in the parking place for a period not exceeding 5 minutes
- (g) exhibit a valid permit issued for the purpose of a Council approved car club so that it is facing forward and can be easily seen from the front of the vehicle.

and a motor vehicle being used for the purpose of delivering or collecting goods from premises shall be moved as soon as the delivery or collection is complete and in any event within twenty minutes.

- 18.** Should a motor vehicle parked in the parking place in contravention of this Order be removed by a person authorised by the enforcement authority or its agent a reasonable charge to cover the cost of recovery in addition to any other accrued charges shall be payable before the motor vehicle is released.
- 19.** (1) Any person duly authorised by the enforcement authority or its agent may suspend the use of a parking place or any part thereof whenever he considers such suspension reasonably necessary always provided that adequate prior notice has been given:-
- (a) for the purpose of any building operation demolition or excavation adjacent to or in the parking place;
 - (b) for the purpose of maintenance improvement or reconstruction of the parking place or any part thereof or the laying erection alteration or repair in or near the parking place of any sewer or any main pipe or apparatus for the supply of gas water or electricity or of any telecommunications apparatus or electronic communications apparatus or of any traffic sign or ticket machine;
 - (c) for the convenience of occupiers of premises adjacent to the parking place on any occasion of the removal of furniture from one office or dwelling house to another or the removal of furniture from such premises to a depository or to such premises from a depository;
 - (d) on any such occasion on which it is likely by reason of some special attraction that the parking place will be thronged or obstructed; or

- (e) in any other circumstances where the enforcement authority or its agent in their absolute discretion consider the suspension of use of a parking place to be reasonably necessary.
- (2) If the use of a parking place or any part thereof is suspended during the charging hours for any of the purposes specified in Article 19 (1) a charge equal to the parking charge payable for a 10 hour stay (assuming no limitation on the maximum period of waiting for each parking bay suspended) shall be payable in respect of each day or part thereof during which use of the parking place or part thereof is suspended.
- 20. The enforcement authority shall not be liable in respect of loss of or damage to any motor vehicle or the fittings or contents of any motor vehicle waiting or moving in or entering or leaving or otherwise using the parking place.

PART III

CHARGING FOR THE USE OF A PARKING PLACE

21. PARKING TICKETS

- (1) For the purposes of this Order a parking ticket shall be a ticket purchased from a ticket machine or a civil enforcement officer at the parking place at the price specified opposite that parking place in Column 6 of the Schedule to this Order and for the period specified opposite that parking place in Column 7 of the said Schedule.
- (2) At its discretion the enforcement authority may dispense with any ticket machines at a parking place and make such alternative arrangements as it considers appropriate to facilitate the sale of parking tickets by a civil enforcement officer and any such parking ticket issued by a civil enforcement officer shall be treated as if it had been issued by a ticket machine and all provisions of this Order shall apply.
- (3) A parking ticket shall be valid for the parking place if and so long as the following conditions are satisfied:
 - (a) the parking ticket is exhibited in the relevant position on the motor vehicle for which it is issued;

- (b) the period or accumulated period indicated on the parking ticket or tickets as the case may be calculated from the date and time of purchase indicated on the ticket(s) or from the beginning of the charging period whichever is the later has not expired;
- (c) the motor vehicle is parked in the position described in Column 2 of the Schedule to this Order; and
- (d) the motor vehicle is not otherwise contravening the provisions of Part 2 of this Order.

22. RESTRICTION ON REMOVAL OF PARKING TICKETS

When a parking ticket has been exhibited on a motor vehicle in accordance with the provisions of Article 21 no person other than a person duly authorised by the civil enforcement authority or its agent in that behalf or the driver or a person duly authorised by the driver shall remove the parking ticket from the motor vehicle until the motor vehicle is removed from the parking place.

23. OTHER EXEMPTIONS FROM CHARGING

The driver of a motor vehicle shall be exempt from payment of any penalty charge in respect of the parking place if:

- (a) the driver displays in the relevant position a disabled person's badge; or
- (b) the motor vehicle is being used for the purposes of picking up or setting down passengers providing that such motor vehicle remains in the parking place for a period not exceeding 5 minutes; or
- (c) the motor vehicle is a licensed hackney carriage and is waiting at a hackney carriage stand established by byelaw; or
- (d) the motor vehicle is being used for the purpose of delivering goods to or collecting goods from premises situated adjacent to the parking place where such premises are accessible from and only from the said parking place; or
- (e) at the time when a motor vehicle is left in the parking place during the charging hours there is no ticket machine at that parking place or all the ticket machines at that parking place carry notices placed upon them by a person duly authorised by the enforcement authority or its agent indicating that they are out of order this exemption applying only on the day the motor vehicle was first left; or
- (f) it is a motor cycle parked in a marked out motor cycle bay.

PART IV
DISPOSAL

- 24.** Any motor vehicle removed by the Council from a parking place shall be dealt with in accordance with Sections 101 to 103 of the Act as amended by the Road Traffic Act 1991 and for the purposes of this Article motor vehicle includes trailer.

PART V
CONTRAVENTIONS OF PROVISIONS OF ORDER

- 25.** Where a motor vehicle is left in a parking place or in any road or length of road in contravention of any provision of this order such contravention shall be dealt with in accordance with the provisions of the 2004 Act and any subordinate legislation made under it.
- 26.** The amount of the penalty charge for a parking contravention and, where applicable, the charges for the removal, storage and disposal of a vehicle shall be as set from time to time by the enforcement authority in accordance with the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 or any enactment or replacement thereof and published by it.

GIVEN under the Corporate Common Seal of the Council of the Borough of Kirklees this Sixteenth day of November Two Thousand and Eleven.

THE CORPORATE COMMON SEAL of)
THE COUNCIL OF THE BOROUGH OF)
KIRKLEES was hereunto affixed)
in the presence of :-)

Acting Assistant Director – Legal, Governance and Monitoring /Authorised Signatory

**Schedule
Off Street Parking Places**

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Name and description of parking place	Position in which vehicles may wait	Days of operation of the parking place	Hours of operation of the parking place	Charging hours	Scale of charges (No charge unless specified) *denotes discounted parking tariff	Maximum period for which vehicles may wait
Greenhead Park Car Park, Huddersfield A car park for visitors and users of 'The Park Café' located within the Conservatory of Greenhead Park. The car park is located off Park Drive South and Park Avenue, Huddersfield.	Wholly within the limits of the parking place	7 Days a week – including Bank Holidays	All hours	8.00am to 6.00pm Monday to Sunday and including Bank Holidays	i) During the charging hours a parking charge of £1.00 an hour ii) A refund of 1 hour will be redeemed by customers of The Park Café on presentation of a voucher at the point of sale.	i) Maximum stay of 3 hours (no return within one hour).