

KIRKLEES COUNCIL

(TRAFFIC REGULATION) (NO. 35) ORDER 2011

FITZWILLIAM STREET, HUDDERSFIELD

The Council of the Borough of Kirklees ("the Council") in exercise of their powers under Sections 1, 2, 4, 32, 35, 45, 46, 47, 49 and 53 of the Road Traffic Regulation Act 1984 ("the Act"), Part 6 of the Traffic Management Act 2004, the Road Traffic (Permitted Parking Area and Special Parking Area) (Metropolitan Borough of Kirklees) Order 2006 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 which relates to roads in Huddersfield in the Kirklees Metropolitan District:-

PART I

1. Interpretation

- 1.1. Any reference in this Order to a numbered Article is a reference to the Article bearing that number in this Order and any reference to a numbered Schedule is a reference to the Schedule bearing that number in this Order.
- 1.2. The Orders referred to in Columns 1 and 2 of the Fourth Schedule are hereby revoked to the extent stated in Column 3 of that Schedule.
- 1.3. In this Order except where the context otherwise requires the following expressions have the meanings hereby respectively assigned to them:-

"annual charge" in relation to a business parking permit means a sum (being such sum as the Council may from time to time determine) payable by a business permit holder to facilitate the issue or renewal of such a permit by the Council.

"authorised position" means in relation to Article 3, wholly within the limits of the parking place as marked on the carriageway in accordance with the road markings as indicated by Diagrams 1028.4, 1032 and 1033 in Schedule 6 to the 2002 Regulations and in such position so as not to obstruct the movement of other motor vehicles

"Bank Holiday" has the same meaning as in the Banking and Financial Dealings Act 1971.

"carriageway" has the same meaning as in Section 329 of the Highways Act 1980.

"civil enforcement area" has the meaning given by Schedule 8 of the 2004 Act.

"civil enforcement officer" has the meaning given by S.76 of the 2004 Act.

"disabled person's badge" has the same meaning as in the 2000 Regulations and the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000.

"disabled person's motor vehicle" means a motor vehicle lawfully displaying a disabled person's badge and which immediately before or after any period of waiting allowed by virtue of this Order has been or is to be driven by a disabled person or has been or is to be used for carrying disabled persons as passengers.

"dual purpose vehicle" has the same meaning as in Paragraph 2 of Schedule 6 to the Act.

"enforcement authority" means the Council.

"goods" has the same meaning as in the Road Traffic Act 1988.

"goods vehicle" means a motor vehicle not exceeding 30 cwts (1524 kg) unladen weight which is constructed or adapted for use for the carriage of goods or burden of any description.

"invalid carriage" means the same 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 which in the case of a motor vehicle registered under the Vehicle Excise and Registration Act, 1994 is presumed (unless the contrary is proved) to be the person in whose name the vehicle is registered.

"parking disc" has the same meaning given by regulation 8(5) of the 2000 Regulations

"passenger vehicle" means a motor vehicle (other than a motor cycle or invalid carriage) constructed solely for the carriage of passengers and their effects and adapted to carry no more than twelve passengers exclusive of the driver.

"penalty charge" has the meaning given by S.92 of the 2004 Act.

"penalty charge notice" has the meaning given by Regulation 8 of the General Regulations.

"permit" means a permit issued under the provisions of Article 3.15 to 3.21 inclusive.

"permitted mot vehicle" means in relation to Article 3, a passenger vehicle, goods vehicle, dual purpose vehicle, invalid carriage and motor cycle.

"postal packets" has the same meaning as in the Postal Services Act 2000.

"relevant position" in relation to a disabled person's badge has the same meaning as in Regulation 12 of the Disabled Person's (Badges for Motor Vehicles) (England) Regulations 2000 and the 2000 Regulations

"relevant position" in relation to a parking disc means:-

- (i) the disc is exhibited on the dashboard or fascia of the motor vehicle; or
- (ii) where the motor vehicle is not fitted with a dashboard or fascia the disc is exhibited in a conspicuous position on the motor vehicle

so that the period during which waiting began is clearly legible from the outside of the motor vehicle.

"resident" means in relation to a parking place any person whose usual residence is at premises the postal address of which is as defined opposite to that parking place in Column 2 of the Third Schedule.

"return prohibition period" means in relation to Article 2.2.2 the period specified in Column 3 of the Second Schedule.

"subordinate legislation" has the same meaning as in Section 21 of the Interpretation Act 1978.

"telecommunications apparatus" has the same meaning as in the Telecommunications Act 1984.

"traffic sign" means a sign of any size, colour and type prescribed or authorised under, or having effect as though prescribed or authorised under, Section 64 of the Act.

"universal service provider" has the same meaning as in the Postal Services Act 2000.

"the 2000 Regulations" means the Local Authorities Traffic Orders (Exemptions for Disabled Persons) (England) Regulations 2000.

"the 2002 Regulations" means the Traffic Signs Regulations and General Directions 2002.

"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

2. Prohibitions and Restriction on Waiting

- 2.1. Save as provided in Articles 2.3, 2.4 and 2.5 no person shall, except upon the direction or with the permission of a police constable in uniform or of a civil

enforcement officer, cause or permit any motor vehicle to wait at any time in the lengths of road specified in the First Schedule.

2.2. Save as provided in Articles 2.3 and 2.5 no person shall, except upon the direction or with the permission of a police constable in uniform or of a civil enforcement officer, cause or permit any motor vehicle to wait in any of the lengths of road specified in Column 1 of the Second Schedule on the days and during the times specified in Column 2 of the Second Schedule unless such day falls upon a Bank Holiday:-

2.2.1. for a period in excess of that specified in Column 3 of the Second Schedule;

2.2.2. if a period less than the return prohibition period has elapsed since the termination during the limited waiting hours of the last period of waiting of the motor vehicle in the same length of road.

2.3. Nothing in Articles 2.1 and 2.2 shall prohibit any person from causing or permitting any motor vehicle to wait in the length of road specified in the First and Second Schedules to this Order for so long as may be necessary:-

2.3.1. to enable a person to board or alight from the motor vehicle;

2.3.2. to enable the motor vehicle, if it cannot be conveniently used for such purpose in any other road, to be used in connection with any wedding or funeral, building operation or demolition, the removal of any obstruction to traffic, the maintenance, improvement or reconstruction of the length of road so specified or the laying, erection, alteration or repair in or near the said length 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;

2.3.3. if the motor vehicle is a Mobile Speed Camera Unit or an Automatic Number Plate Recognition Vehicle

2.3.4. to enable the motor vehicle, if it is in the service of the Post Office or other universal service provider to be used for the purpose of delivering or collecting postal packets;

2.3.5. to enable the motor vehicle to be used in the length of road so specified for police, ambulance, fire brigade, local authority or water authority purposes when used in pursuance of statutory powers or duties;

2.3.6. if the motor vehicle is waiting owing to the driver being prevented from proceeding by circumstances beyond the control of the driver, or to such waiting as is necessary to prevent an accident;

2.3.7. for the purpose of loading or unloading the motor vehicle whilst it is in actual use in connection with the removal or delivery of furniture to or from any premises fronting, adjoining or abutting the said length of road, provided that notice is given twenty four hours in advance to the Police and their consent obtained;

- 2.4. Nothing in Article 2.1 shall prohibit any person from causing or permitting any motor vehicle to wait in the length of road specified in the First Schedule for so long as may be necessary to deliver to or collect from or load or unload goods at any premises fronting onto the said length of road provided that no motor vehicle so engaged shall wait for longer than 30 minutes outside the same premises without the permission of a police constable in uniform or a civil enforcement officer and provided always that a police constable in uniform or a civil enforcement officer may at any time require the driver of a motor vehicle to move it if it is necessary for the purposes of preventing obstruction.
- 2.5. Nothing in Articles 2.1 and 2.2 shall render it unlawful to cause or permit any motor vehicle to wait:-
- 2.5.1. for a period not exceeding 3 hours (not being a period separated by an interval of less than 1 hour from the previous period of waiting by the same motor vehicle in the same road or part of road on the same day) in any of the lengths of road specified in the First Schedule;
- 2.5.2. in any of the lengths of road specified in the Second Schedule;
- if the motor vehicle is a disabled person's motor vehicle which displays in the relevant position:
- a) in all cases a disabled person's badge, and
- b) in the cases stated in Article 2.5.1 a parking disc issued by any local authority in accordance with the provisions of the 2000 Regulations, or a badge having effect under those Regulations as if it were a disabled person's badge and the driver or other person in charge of the motor vehicle marks on the parking disc the time at which the period of waiting began.

PART III

3. Parking Places – Permit Holder

- 3.1. The part of road specified in Column 1 of the Third Schedule is authorised to be used as a parking place for the parking of permitted motor vehicles in the authorised position and on such days and during such hours as are specified in relation to the said part of road in Column 3 of the Third Schedule. A permit holder may only park in any of the parking places provided that they are of a category authorised to use the parking place which is specified directly opposite thereto in Column 2 of the Third Schedule.
- 3.2. The driver of a motor vehicle shall not permit it to wait in the parking place unless it is a permitted motor vehicle.
- 3.3. Every motor vehicle using the parking place shall wait thereon in the authorised position.

- 3.4. Save as provided in Articles 3.10 and 3.11 the driver of a motor vehicle other than a permitted motor vehicle shall not use the parking place unless authorised to do so by a police constable in uniform or a civil enforcement officer, always provided that no motor vehicle shall use the parking place so as unreasonably to prevent access to premises adjoining the road by other persons, or so as to be a nuisance and provided always that a police constable in uniform or a civil enforcement officer may at any time require the driver of the motor vehicle to move it if it is reasonably necessary for the purpose of preventing obstruction or in the case of an emergency move or cause to be moved to any place he thinks fit, any motor vehicle left in a parking place.
- 3.5. the driver of a motor vehicle shall stop the engine as soon as the motor vehicle is in position in the parking place, and shall not start the engine except when about to change position of the motor vehicle in, or to depart from, the parking place.
- 3.6. No person shall use a motor vehicle, whilst it is in the parking place, in 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 his skill or services or any other person's skill or services.
- 3.7. A person authorised by the enforcement authority may suspend the use of the parking place or any part thereof whenever he considers such suspension reasonably necessary:-
 - 3.7.1. for the purpose of facilitating the movement of traffic or promoting its safety;
 - 3.7.2. for the convenience of the occupiers of premises adjacent to the parking place on any occasion of the removal of furniture from a dwelling, house or office to another or the removal of furniture from such premises to a depository or to such premises from a depository;
 - 3.7.3. for the convenience of the occupiers of premises adjacent to the parking place at times of weddings or funerals or on other special occasions;
 - 3.7.4. for the purpose of any building operation, demolition or excavation adjacent to the parking place or the maintenance or reconstruction of the parking place or the laying, erection, alteration, or repair in or adjacent to the parking place of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity or of any telecommunications apparatus;
 - 3.7.5. and he has made an appropriate Order and/or given notice as may be required by legislation.
- 3.8. A person authorised by the enforcement authority suspending the use of a parking place or any part thereof in accordance with the provisions of Article 3.7 shall thereupon place or cause to be placed in or adjacent to that parking place or part thereof the use of which is suspended a traffic sign or notice indicating that waiting by motor vehicles is prohibited.

- 3.9. Save as provided in Articles 3.10 and 3.11 no person shall cause or permit any motor vehicle to be left in the parking place or part thereof, as the case may be, during such period as there is in or adjacent to that parking place or part thereof a traffic sign or notice in pursuance of Article 3.8.
- 3.10. Nothing in Articles 3.1, 3.2, 3.3, 3.4 and 3.9 shall prohibit any person from causing or permitting any motor vehicle to wait in the parking place for so long as it may be necessary:-
- 3.10.1. to enable a person to board or alight from the motor vehicle;
 - 3.10.2. to enable the motor vehicle, if it cannot be conveniently used for such purpose in any other road, to be 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 any part thereof of 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 and telecommunications apparatus;
 - 3.10.3. to enable the motor vehicle , if it is in the service of the Post Office or other universal service provider to be used for the purpose of delivering or collecting postal packets;
 - 3.10.4. to enable the motor vehicle to be used for police, ambulance, fire brigade, local authority or water authority purposes when used in pursuance of statutory powers or duties;
 - 3.10.5. if the motor vehicle is waiting owing to the driver being prevented from proceeding by circumstance beyond the control of the driver, or to prevent an accident;
 - 3.10.6. to enable the motor vehicle to be used in connection with the removal of furniture from a dwellinghouse or office to another or the removal of furniture from such premises to a depository or to such premises from a depository.
- 3.11. Nothing in Articles 3.1, 3.2, 3.3, 3.4 and 3.9 shall apply if the motor vehicle is being used by a legally qualified general medical practitioner, district nurse, midwife or similar people when visiting persons whose postal address is as defined opposite to that parking place in Column 2 of the Third Schedule, so long as the motor vehicle concerned is clearly marked Doctor, Midwife etc. and the visit is expected to be of less than 15 minutes duration.
- 3.12. Subject to the proviso hereto, when a motor vehicle is left in the parking place in contravention of any of the provisions contained in Articles 3.1, 3.2, 3.3, 3.4 and 3.9 a person authorised in that behalf by the enforcement authority may remove the motor vehicle or arrange for it to be removed from the parking place provided that when a motor vehicle is waiting in the parking place in contravention of the provisions of Article 3.3, 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.

- 3.13. Any person removing a motor vehicle or altering its position by virtue of Article 3.12 may do so by towing or driving the motor vehicle or such other manner as he may think necessary to enable him to remove it or alter its position as the case may be.
- 3.14. When a person authorised by the enforcement authority removes or makes arrangements for the removal of a motor vehicle from the parking place by virtue of Article 3.12, he shall make such arrangement as may be reasonably necessary for the safe custody of the motor vehicle and its contents.

Application for and issue of permits

- 3.15. Any resident who is the owner of a permitted motor vehicle may apply to the enforcement authority for the issue of a residents parking permit for the leaving of that motor vehicle in a parking place and any such application shall be made on a form issued by and obtainable from the enforcement authority and shall include the particulars and information required by such form.
- 3.16. On receipt of an application for a residents parking permit duly made under the foregoing provisions of Article 3.15, the enforcement authority, upon being satisfied that the applicant is a resident and is the owner of a permitted motor vehicle, may, subject to the proviso hereto, issue to the applicant one permit for the leaving in the parking place of the motor vehicle to which such permit related by the owner of such motor vehicle or by any person using such motor vehicle with the consent of the owner other than a person to whom such motor vehicle has been let for hire or reward provided that subject to the provisions of Article 3.24 and 3.25, the enforcement authority shall not issue a permit to any resident which would be valid any period during which any other permit issued to that resident is or would be valid.
- 3.17. Any resident may apply to the enforcement authority for the issue of a visitors parking permit to enable a bona vide visitor to his premises to leave a permitted motor vehicle in a parking place and any such application shall be made on a form issued by and obtainable from the enforcement authority and shall include the particulars and information required by such form. Subject to Article 3.20 one permit only to be issued to the residents of premises having a separate postal address.
- 3.18. Any occupant of business premises may, upon payment of an annual charge, apply to the enforcement authority for the issue or renewal of a business parking permit (which shall be valid for a period of twelve months from the date of issue or renewal as the case may be) for the leaving of a permitted motor vehicle in a parking place.
- 3.19. The enforcement authority may at any time require a permit holder or applicant for a permit to produce to an officer of the enforcement authority such evidence in respect of an application made to them for a permit as they may reasonably require to verify any particulars or information given to them.

- 3.20. The enforcement authority may at their discretion issue a permit with or without charge to any person who in the opinion of the enforcement authority requires to park in any parking place any permitted motor vehicle.
- 3.21. The issue of a permit under the foregoing provisions of Article 3.16, 3.17 and 3.18 shall not be construed as if any parking space in the parking place was reserved solely for the use of a permit holder.

Surrender, withdrawal and validity of permits

- 3.22. A permit holder may surrender a permit to the enforcement authority at any time and shall surrender a permit to the enforcement authority on the occurrence of any one of the events set out in Article 3.25.
- 3.23. The enforcement authority may, by notice in writing served on the permit holder by sending the same by the recorded delivery service to the permit holder at the address shown by that person on the application for the permit or at any address believed to be that person's place of abode, withdraw a permit entirely at its own discretion and the permit holder shall surrender the permit to the enforcement authority with 48 hours of the receipt of the aforementioned notice.
- 3.24. A permit shall cease to be valid on the occurrence of any one of the events set out in Article 3.25.
- 3.25. The events referred to in Article 3.22 are:-
- 3.25.1. the permit holder ceasing to be a resident;
 - 3.25.2. the permit holder ceasing to be the owner of the motor vehicle in respect of which the permit was issued;
 - 3.25.3. the withdrawal of such permit by the enforcement authority under the provisions of Article 3.23;
 - 3.25.4. the motor vehicle in respect of which the permit was issued being adapted or used in such a manner that it is no longer a permitted motor vehicle.

Application for and issue of duplicate permits

- 3.26. If a permit is mutilated or accidentally defaced or the figures or particulars thereon have become illegible or the colour of the permit has become altered by fading or otherwise the permit holder shall surrender it to the enforcement authority and the enforcement authority, upon receipt of the permit, shall issue a duplicate permit so marked.
- 3.27. If the permit is lost or destroyed, the permit holder may apply to the enforcement authority for the issue to him of a duplicate permit and the enforcement authority, upon being satisfied as to such loss or destruction, shall issue a duplicate permit so marked and upon such issue the permit which it duplicates shall become invalid

provided that a replacement for a duplicate permit will only be issued upon payment of a charge (being such sum as the enforcement authority may from time to time determine).

- 3.28. the provisions of the 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.

Form of permit

- 3.29. A permit shall be in writing and shall bear the words "Residents Parking Permit", "Visitors Parking Permit", or "Business Parking Permit" as the case may be and shall include the following particulars:-

- 3.29.1. the registration mark of the motor vehicle in respect of which the permit has been issued, or the address of the premises in question;
- 3.29.2. the name of the road and district in which the parking place is situated and for which the permit is issued;
- 3.29.3. an authentication that the permit has been issued by the enforcement authority;
- 3.29.4. the period during which the permit shall remain valid.

Display of permits

- 3.30. At all times during which a motor vehicle is left in a parking place there shall be displayed on the front or near side of the motor vehicle a valid permit issued in respect of that motor vehicle so that all particulars referred to in Article 3.29 are readily visible from the front or near side of the motor vehicle.

Restriction on the removal of permits

- 3.31. When a permit has been displayed on a motor vehicle in accordance with the provisions of Article 3.30, no person not being the driver of the motor vehicle shall remove the permit from the motor vehicle unless authorised to do so by the driver of the motor vehicle.

PART IV

4. Contraventions of Provisions of Order

- 4.1. 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.

- 4.2. 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 re-enactment or replacement thereof and published by it.

PART V

5. **Revocations**

- 5.1 The order referred to in Column 1 of the Fourth Schedule is hereby revoked to the extent stated in Column 2 of that Schedule.

PART VI

6. **General**

- 6.1. The restrictions imposed by this Order shall be in addition to and not in derogation of any restrictions or requirements imposed by any Regulations made or having effect as if made under the Act or by or under any other enactment.
- 6.2. Any reference in this Order to a Statute or Statutory Instrument shall include reference to any re-enactment or replacement thereof.
- 6.3. For the avoidance of doubt, any reference in this Order to a length of road shall be deemed to be a reference to more than one length of road or more than one parking place where the context requires it.
- 6.4. This Order shall come into operation on the 23rd day of July 2012 and may be cited as the "Kirklees Council (Traffic Regulation) (No. 35) Order 2011".

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

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

FIRST SCHEDULE

NO WAITING AT ANY TIME

COLUMN 1	COLUMN 2	COLUMN 3
Name of Road	Length affected	Days and hours of operation
1. Fitzwilliam Street, Huddersfield	a) North-west side from its intersection with the extended eastern kerbline of Portland Street for a distance of 10.5 metres north-eastwards.	All days All hours
	b) North-west side from its intersection with the extended western kerbline of Portland Street for a distance of 13.5 metres in a south-westerly direction.	All days All hours
	c) South-east side from its intersection with the extended eastern kerbline of Portland Street for a distance of 14 metres in a north-easterly direction.	All days All hours
	d) South-east side from its intersection with the extended western kerbline of Portland Street for a distance of 11 metres in a south-westerly direction.	All days All hours

SECOND SCHEDULE

LIMITED WAITING

COLUMN 1	COLUMN 2	COLUMN 3
Name of Road and Length affected	Days and hours of operation	Maximum period for which vehicles may wait and return prohibition period
Fitzwilliam Street, Huddersfield a) North-west side from a point 5 metres north-east of its junction with Wentworth Street for a distance of 77.5 metres north-eastwards	All days All hours	1 hour No return within 1 hour.
b) North-west side from a point 10.5 metres north-east of its junction with Portland Street for a distance of 13 metres north-eastwards	Monday to Saturday 8.00 am to 6.00 pm	1 hour No return within 15 minutes.

THIRD SCHEDULE

PARKING PLACES – PERMIT HOLDERS

COLUMN 1	COLUMN 2	COLUMN 3
Part of Road authorised as a street Parking Place	Persons authorised to use such Parking Place	Days and hours of operation
Fitzwilliam Street, Huddersfield		
North-west side from a point 5 metres north-east of its junction with Wentworth Street for a distance of 77.5 metres north-eastwards	Belgrave Terrace Belmont Street Cambridge Road Cedar Avenue Cedar Mount Clare Hill Claremount Street Elmwood Avenue Elmwood Close Fitzwilliam Street Highfields Road Little Brunswick Street Mountjoy Road New North Road Newhouse Place Portland Street Trinity Street (excluding Nos. 53-71 inclusive) Vernon Avenue (Nos 1, 1a, 3-15 (odds) and 6-44 (evens)) Vernon Close Waverley Road Wentworth Street (or any person to whom a permit has been issued for use in that behalf)	All days All hours

FOURTH SCHEDULE

REVOCATIONS

COLUMN 1	COLUMN 2	COLUMN 3
Order Title	Schedule	Item No / Description
Kirklees Metropolitan Council (Traffic Regulation) (Huddersfield Area) (No.2) (Consolidation) Order 2006	First Schedule Fifth Schedule Sixth Schedule	Items 128 c) and 128 n) Items 15 b) and 15 c) Item 49 b)