

KIRKLEES COUNCIL
(ON STREET PARKING PLACES) (No. 1) ORDER 2016

The Council of the Borough of Kirklees (hereinafter referred to as “the enforcement authority”) in exercise of its powers under Sections 45, 46, 47 and 49 of the Road Traffic Regulation Act 1984 (hereinafter referred to as “the Act”) and Part IV of Schedule 9 to the Act and Part 6 of the 2004 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 and with those persons and organisations specified in the Local Authorities’ Traffic Orders (Procedure) (England & Wales) Regulations 1996 hereby makes the following Order:-

1. This Order shall come into force on the 26th day of March 2016 and may be cited as the “Kirklees Council (On Street Parking Places) (No.1) Order 2016”

2. INTERPRETATION

(1) Unless the context otherwise requires any reference in this Order to a numbered Article is a reference to the Article bearing that number in this Order and any reference in this Order to a numbered Schedule is a reference to the Schedule bearing that number in this Order.

(2) For the avoidance of doubt any reference in this Order to a parking place shall be deemed to be a reference to more than one parking place where the context so requires.

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

“charging hours” in relation to a parking place means the period specified in Column 5 of the First Schedule.

“charging period” means the length of time for which a parking charge has been paid PROVIDED THAT if a greater value of coins are inserted into the ticket machine than the maximum parking charge could be for a parking place then the charging period shall be the maximum stay for the parking place stated in Column 7 of the First Schedule.

“civil enforcement area” has the meaning given by Schedule 8 to the 2004 Act

“civil enforcement officer” has the meaning given by s.76 of the 2004 Act

“contract parking permit” means a permit purchased from or otherwise issued by the enforcement authority in accordance with Article 22(6)

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

“driver” in relation to a vehicle left in a 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 value and “delivering” and “collecting” in relation to any goods includes checking the goods for the purpose of their delivery or collection

“goods vehicle” means a vehicle which is constructed or adapted for use for the carriage of goods of burden of any description and is not drawing a trailer

“parking charge” means the sum defined in Article 6(1) for any particular parking place

“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

“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 bay” means a space fully or partially marked out on the surface of the parking place to accommodate the leaving of a single vehicle

“parking place” means an area on a highway in the Metropolitan District of Kirklees designated as a parking place for the leaving of vehicles by Article 3

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

“passenger vehicle” means a vehicle (other than a motor cycle or invalid carriage) constructed solely for the carriage of passengers and their effects and adapted to carry not more than twelve passengers exclusive of the driver and not drawing a trailer

“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

“relevant parking charge” means the appropriate parking charge for a vehicle left in the actual parking place at the actual time that vehicle is left

“relevant position” in relation to a disabled person’s badge has the same meaning as in Regulation 12 of the Disabled Persons (Badges for Motor Vehicles)(England) Regulations 2000

“relevant position” in relation to a parking ticket means in such a position that the expiry date and time can be seen easily through the front windscreen of the vehicle or in the case of a vehicle not fitted with a front windscreen the ticket is displayed conspicuously on the front of the vehicle

“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 initial charge and of the time of issue of the parking ticket

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

“universal service provider” has the same meaning as in the Postal Services Act 2000

“vehicles” means motor cars passenger vehicles goods vehicles invalid carriages motor cycles and trailers

“the 2004 Act” means the Traffic Management Act 2004

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

3 DESIGNATION OF PARKING PLACES

- (1) The areas of highway in the Metropolitan District of Kirklees which are described as parking places in Column 1 of the First Schedule are hereby designated as parking places.
- (2) The number of parking bays in a parking place shall not exceed the number specified (if any) in Column 1 of the First Schedule.
- (3) Subject to any maximum number specified in Column 1 of the First Schedule the number and disposition of parking bays in a parking place shall be as may be determined by the enforcement authority.

4 VEHICLES FOR WHICH PARKING PLACES ARE DESIGNATED

Each parking place may be used subject to the provisions of this Order for the leaving during the charging hours of vehicles.

5 MARKING ON THE CARRIAGEWAY OF PARKING PLACES AND PARKING BAYS

The limits of each parking place and each parking bay shall be indicated on the carriageway in accordance with Diagram 1028.4 Diagram 1032 or Diagram 1033 in Schedule 6 of the Traffic Signs Regulations and General Directions 2002.

6 AMOUNT OF INITIAL CHARGE AT PARKING PLACES

(1) The parking charge for a vehicle left in a parking bay within a parking place during the charging hours shall subject as hereinafter provided be as set out in Column 6 of the First Schedule against the name of the parking place in Column 1 of that Schedule PROVIDED THAT if the parking place is not marked out in parking bays it shall be assumed that each 5 metres of the parking place (or part thereof if the length is not divisible by 5) is a separate parking bay

(2) If a vehicle is in a parking place during the charging hours and the parking charge payable has not been duly paid a civil enforcement officer may give to the driver of the vehicle or attach to the vehicle in a conspicuous position a notice indicating that a penalty charge shall be payable by the owner of the vehicle.

7 PAYMENT OF THE PARKING CHARGE IN PARKING PLACES WHERE TICKET MACHINES ARE INSTALLED

(1) The parking charge where a ticket machine is installed shall be payable on the leaving of a vehicle in a parking place by the insertion into the ticket machine of coins of the denomination marked on the ticket machine to the value of the relevant parking charge.

- (2) Any parking ticket shall be displayed in the relevant position on the vehicle for which it was issued.
- (3) Payment of the parking charge shall be evidenced by the issue by a ticket machine relating to that parking place of a parking ticket indicating that payment of that parking charge has been made and by the display of that parking ticket on the vehicle in accordance with the provisions of Article 7(2).
- (4) The day and time shown on any parking ticket (issued in the parking places) as being the day and time in respect of which the relevant parking charge has been paid shall be presumed unless the contrary is proved to be the day and time in respect of which such parking charge has been paid.
- (5) If at any time while a vehicle is left in a parking place no parking ticket indicating that the relevant parking charge has been paid in respect of the day on which the vehicle is so left is displayed on that vehicle in accordance with the provisions of Article 7(2) it shall be presumed unless the contrary is proved that the relevant parking charge has not been paid.

7A ALTERNATIVE APPROVED METHOD OF PAYMENT

- (1) In this Order the expression “alternative approved method of payment” means park and phone or any other approved system where a pay and display ticket is not produced and the expression “park and phone” means a method of payment of the parking charge as directed by notice at the parking place (where available) involving intimation by phone of the relevant registration number of the vehicle, location of the parking place, credit or debit card details and any such other details as the enforcement authority may from time to time require.
- (2) A driver, upon parking a vehicle in a parking place during the charging hours, instead of complying with the earlier requirements of this Order in relation to the payment of the parking charge, may immediately make arrangements to pay the appropriate parking charge through an alternative approved method of payment.

- (3) A driver who has made arrangements to pay the appropriate parking charge through an alternative approved method of payment will not be under any obligation to comply with any requirement to display a parking ticket in the relevant position on a vehicle which would otherwise be imposed by earlier provisions of this Order.
- (4) Where using its powers under this Order the enforcement authority has exercised its discretion to dispense with any ticket machines, in addition to any alternative arrangement which it may make to facilitate the sale of parking tickets the authority may also make arrangements for the making of the payment of the appropriate parking charge through an alternative approved method of payment.
- (5) Any provision of this Order which exempts the driver of a motor vehicle from payment of any penalty charge where, at the time when the 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 authorized by the enforcement authority or its agent indicating that they are out of order, shall not apply where the enforcement authority has advised that payment shall be made using an alternative approved method of payment.
- (6) Any provision of this Order which prohibits during the charging hours the purchase of more than one parking ticket at a discounted tariff shall apply equally to the making of the payment of a parking charge through an alternative approved method of payment.
- (7) Any provision of this Order which requires the driver of a vehicle to remove it from a parking place for a specified period before it may again be left in that parking place during the charging hours shall apply equally where the payment of the parking charge was made through an alternative approved method of payment.

8 CONTRAVENTION OF PROVISIONS OF THIS ORDER

- (1) Where a motor vehicle is left in a parking place or in a road or any length of a 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.

- (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.

9. TICKET MACHINES TO BE INSTALLED AT PARKING PLACES

There shall be a ticket machine in the vicinity of each parking place.

10. VEHICLES TO LEAVE PARKING PLACE AFTER EXPIRY OF INITIAL PERIOD

No person shall display on a vehicle left in a parking place a parking ticket for a charging period other than one commencing when the vehicle was first left in that parking place unless the vehicle has first been taken away from that parking place in accordance with Article 11.

11. INTERVAL BEFORE VEHICLE AGAIN TO BE LEFT

No vehicle which has been taken away from a parking place after the parking charge has been incurred shall again be left in that parking place during the charging hours until the expiration of the period specified in relation to that parking place in Column 7 of the First or Second Schedule calculated from the time it was taken away.

12. MANNER OF STANDING IN PARKING PLACES

Every vehicle left in a parking place in respect of which the parking charge has been incurred shall stand in the parking place in accordance with the provisions of Column 2 of the First Schedule.

13. ALTERATION OF POSITION OF VEHICLE IN PARKING PLACE

Where any vehicle is standing in a parking place in contravention of the provisions of Article 14 or 22(6) a civil enforcement officer may alter or cause to be altered the position of the vehicle in order that its position shall comply with those provisions.

14. REMOVAL OF VEHICLE FROM PARKING PLACES

- (1) Where a civil enforcement officer is of the opinion that any of the provisions contained in Article 6 Article 10 Article 12 Article 16 or Article 17 have been contravened or not complied with in respect of a vehicle left in a parking place (s)he may remove or cause to be removed the vehicle from the parking place.
- (2) Any person removing or altering the position of a vehicle by virtue of this Article or Article 13 may do so by towing or driving the vehicle or in such other manner as (s)he may think necessary and may take such measures in relation to the vehicle as (s)he may think necessary to enable him/her to remove it or alter its position as the case may be.
- (3) When a person authorised by the enforcement authority removes or makes arrangements for the removal of a vehicle from the parking place by virtue of this Article (s)he shall make such arrangements as may be reasonably necessary for the safe custody of the vehicle.
- (4) Any vehicle removed 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.

15. MOVEMENT OF VEHICLES IN PARKING PLACES IN EMERGENCIES

Any person duly authorised by the enforcement authority or a police constable in uniform may move or cause to be moved in the case of emergency to any place he thinks fit vehicles left in a parking place.

16. POWER TO SUSPEND USE OF PARKING PLACES

- (1) Any person duly authorised by the enforcement authority 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 facilitating the movement of traffic or promoting its safety;
 - (b) for the purpose of any building operation, demolition or excavation adjacent to or in the parking place;
 - (c) 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 of 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;
 - (d) for the convenience of occupiers of premises adjacent to the parking place on any occasion of the removal of furniture from one office or dwellinghouse to another or the removal of furniture from such premises to a depository or to such premises from a depository;
 - (e) on any such occasion on which it is likely by reason of some special attraction that any street will be thronged or obstructed;
 - (f) for the convenience of occupiers of premises adjacent to the parking place at times of weddings or funerals or on other special occasions;
or
 - (g) in any other circumstances where the enforcement authority in their absolute discretion consider the suspension of use of a parking place to be reasonably necessary.

- (2) A police constable in uniform may suspend for not longer than twenty four hours the use of a parking place or any part thereof whenever (s)he considers such suspension reasonably necessary for the purpose of facilitating the movement of traffic or promoting its safety.

- (3) At the discretion of the Chief Officer of Police a parking place or any part thereof may be suspended whenever he considers such suspension reasonably necessary to enable the police to discharge their duties.
- (4) Any person suspending the use of a parking place or any part thereof in accordance with the provisions of paragraphs (1), (2) or (3) of this Article shall thereupon:-
- (i) place or cause to be placed on the ticket machine relating to the parking bays which are within that parking place a cover or notice indicating that the use of the bays is suspended and that waiting by vehicles is prohibited; or
 - (ii) place or cause to be placed upon the relevant part of the parking place traffic cones (as described in Diagram 7101 in Schedule Twelve Part II to the Traffic Signs Regulations and General Directions 2002) or such other traffic signs or lights as are appropriate to indicate that waiting by vehicles is prohibited.
- (5) Any person duly authorised by the enforcement authority may temporarily remove any ticket machines adjacent to or within that parking place or, as the case may be, a part thereof and any post bracket or other support on which such ticket machine is fitted and shall thereupon place or cause to be placed in or adjacent to that parking place a traffic sign giving the indication referred to in Article 16(4).
- (6) Subject to the provisions of Article 16(4) if the use of a parking place is suspended or any part thereof during the charging hours for any of the purposes of Article 16(1) except sub-paragraph (a) a charge equal to the relevant parking charge payable as if there were no limitation on the maximum period of waiting for each parking bay suspended in respect of each day or part thereof during which use of the parking place or part thereof is suspended or one quarter of the penalty charge whichever is the greater PROVIDED THAT if the parking place is not marked out in parking bays then the charge shall be calculated on the assumption that each 5 metres of the parking place affected (or part thereof if the length is not divisible by 5) is a separate parking bay.

- (7) Subject to the proviso contained herein no person shall cause or permit a vehicle to be left in any part of a parking place during such period as there is a cover notice or traffic sign within the parking place placed in pursuance of Article 16(4) and (5).

Provided that nothing in this paragraph shall apply to:-

- (i) any vehicle being used for fire brigade, ambulance, police or local authority purposes or for any purpose specified in Article 16(1)(a);
- (ii) any other vehicle if that vehicle is so left with the permission of the person who authorised suspension of use of the parking place or part thereof in accordance with the foregoing provisions of this Article, or a police constable in uniform or a traffic warden or other person duly authorised by the enforcement authority.

17. RESTRICTION OF USE OF VEHICLES AT PARKING PLACES

Unless prior written consent has been granted by the enforcement authority no person shall:-

- (a) use a vehicle whilst it is in the parking place in connection with the sale or advertisement of any thing to persons in or near the parking place or in connection with the selling or offering for hire of his skill or services or the skill or services of any other person; or
- (b) use any part of the parking place or any building structure mechanical device or other physical feature therein or any vehicle left therein to display advertising material nor to place upon or attach to any vehicle in the parking place 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.

18. RESTRICTION OF WAITING OF VEHICLES IN PARKING PLACES

(1) Without prejudice to the foregoing provisions of this Order with respect to vehicles which are left in a parking place in accordance with those provisions, any other vehicle may wait during the permitted hours:-

(a) anywhere in a parking place if:-

- (i) the vehicle is waiting only for so long as is necessary to enable a person to board or alight from the vehicle;
- (ii) the vehicle is waiting owing to the driver being prevented from proceeding by circumstances beyond his control or to such waiting being necessary in order to avoid an accident;
- (iii) the vehicle is a vehicle used for fire brigade purposes or an ambulance, or a vehicle (other than a passenger vehicle) in the service of a local authority or a vehicle in the service of a police force in such cases being used in pursuance of statutory powers or duties;
- (iv) the vehicle is waiting only for so long as may be necessary to enable it to be used in connection with the removal of any obstruction to traffic;
- (v) the vehicle is in the service of or employed by a universal service provider and is waiting while postal packets addressed to premises adjacent to the parking place in which the vehicle is waiting are being unloaded from the vehicle, or having been unloaded therefrom, are being delivered or while postal packets are being collected from premises or posting boxes adjacent to the parking place in which the vehicle is waiting, or is in use in connection with the servicing of telephone kiosks adjacent to the parking place;
- (vi) the vehicle, not being a passenger vehicle, is waiting only for so long as may be reasonably necessary to enable it to be used for any purpose specified in Article 16(1)(b) or (c);
- (vii) the vehicle not being a passenger vehicle, is in actual use in connection with the removal of furniture from premises

adjacent to the parking place in which the vehicle is waiting to a depository or to such premises from a depository;

(viii) in any other case the vehicle is waiting for the purpose of delivering or collecting goods or merchandise or loading or unloading the vehicle at premises adjacent to the parking place in which the vehicle is waiting and the vehicle does not wait for more than twenty minutes or such longer period as a police constable in uniform, civil enforcement officer or duly authorised officer of the enforcement authority may authorise; or

(ix) goods are sold from the vehicle by any person who is licensed by the enforcement authority to sell goods from a stationary pitch situated in the parking place

(2) No parking charge specified in the foregoing provisions of this Order shall be payable in respect of any vehicle waiting in a parking place in accordance with the foregoing provisions of this Article.

(3) Nothing in the foregoing provisions of this Article shall be taken as authorising anything which would be a contravention of any regulations made under or having effect under Section 25 of the Act or the Road Vehicles Lighting Regulations 1989 or any amendment or variation thereto.

(4) The driver of a vehicle shall not permit it to wait in a parking place for any of the purposes specified in Article 20(1)(a) for longer than the maximum period permitted for waiting specified in Column 7 of the First Schedule to this Order in relation to that parking place.

(5) When a vehicle has left a parking place after waiting therein for any of the purposes specified in Article 20(1)(a), the driver thereof shall not, within the return prohibition period specified in Column 7 of the First Schedule, permit it to wait again in the parking place for any of those purposes.

19. MANNER OF WAITING IN PARKING PLACES

A person causing or permitting a vehicle to wait in a parking place by virtue of Article 18(1) (a) (v, vi and viii) shall take all necessary steps to ensure that the vehicle stands as if left in accordance with Article 12.

20. EXEMPTION FROM CHARGES

- (1) If there is displayed within any parking place a notice placed by a civil enforcement officer or such other person duly authorised by the enforcement authority to indicate that the ticket machine relating to that parking place is out of order, that notice shall state the maximum length of time defined in Article 20(2) during the charging hours for which a vehicle may be left in the parking place without payment of any parking charge and if any vehicle is left for longer than that time then a penalty charge shall become payable and the provisions of Article 8 shall apply.
- (2) The “maximum length of time” for the purposes of Article 20 shall be the maximum period of stay for the parking place stated in Column 7 of the Schedule.
- (3) If a ticket machine which was out of order is repaired during the charging hours then any vehicle left before the repair shall be exempt from charge so long as it is not left for longer than the maximum length of time defined in Article 20(2).
- (4) If a ticket machine is out of order then a civil enforcement officer may instead of placing a notice in accordance with Article 22(1) place a notice nominating another ticket machine or machines in the locality at which a parking ticket may be obtained and that parking ticket shall be valid for the purposes of Article 7.
- (5) No parking charge nor any penalty charge shall be payable in respect of any vehicle left in a parking place during the charging hours if there is validly displayed in the relevant position on the vehicle a disabled person’s badge or if that vehicle is a motor cycle.

- (6) The owner of a vehicle may on application to the enforcement authority purchase or otherwise be issued with a contract parking permit and the driver of a vehicle left in the parking place shall be exempt from payment of the parking charge provided that the contract parking permit is exhibited in the vehicle so that it is facing outwards and can be easily seen from the front of the vehicle and provided that the terms and conditions of use determined at the time of issue are adhered to.
- (7) Without prejudice to the generality of the foregoing provisions of this Article nothing in this Article shall be taken to exempt any vehicle or the driver of any vehicle left in any parking place from any other provisions of this Order.

21. INSTALLATION OF TICKET MACHINES ETC

The enforcement authority may:-

- (a) install in such positions on or in the vicinity of a parking place as they may think fit such ticket machines as are required for the purpose of that parking place; and
- (b) carry out such other work as is reasonably required for the purpose of the satisfactory operation of a parking place.

22. DEROGATION AND PRECEDENCE OVER OTHER ORDERS

- (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.
- (2) Where the provisions of any Order made or having effect as if made under the Act impose any prohibition or restriction on waiting by vehicles or grant any exemption from such prohibition or restriction relating to a length of road designated as a parking place in this Order the provisions for the parking place in this Order shall prevail.

23. REVOCATIONS

- (1) The items listed in the Column 1 of the Second Schedule are hereby revoked to the extent stated in Column 2 of that Schedule.

GIVEN under the Corporate Common Seal of the Council of the Borough of Kirklees this Twenty-fourth day of March Two thousand and sixteen.

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

Assistant Director – Legal Governance and Monitoring /Authorised Signatory

First Schedule
On Street Parking Places Huddersfield

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 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 (up to 72 hours unless specified)
<p>Mulberry Street, Huddersfield</p> <p>North-east side from a point 103 metres south-east of its junction of Somerset Road for a distance of 24 metres in a south-easterly direction.</p>	Wholly within the limits of the parking place and parallel to the kerb	All Days	All Hours	<p>Monday to Saturday 8am – 6pm</p> <p>Sunday 12 (noon) – 6pm</p>	<p>i) During the charging hours a parking charge of £2.50 for up to 5 hours and £4.00 for over 5 hours Monday to Saturday and £1 per visit on Sundays.</p> <p>ii) Outside the charging hours no charge.</p>	<p>i) Unlimited during the charging hours.</p> <p>ii) Unlimited outside the charging hours</p>

SECOND SCHEDULE

REVOCATIONS

Column 1 Order affected by revocation	Column 2 Extent of revocation
Kirklees Council (On Street Parking Places) (No.3) Order 2007 (as amended)	First Schedule item 1 b)

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MULBERRY STREET

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