

**THE NORTH HERTFORDSHIRE DISTRICT COUNCIL HITCHIN SWIMMING CENTRE (OFF-STREET PARKING PLACES) (HITCHIN) (AMENDMENT) ORDER 2013**

Date of Order: 9 April 2013  
Order No: NHDC/OFFST/2013/01

The North Hertfordshire District Council in exercise of its powers under Sections 1, 2, 3, 4, 32, 35, 45, 46, 47, 49, 53 and Schedule 9 of the Road Traffic Regulation Act 1984 (as amended) ("the 1984 Act"), and in accordance with Part 6 of the Traffic Management Act 2004 ("the 2004 Act") and of all other enabling powers, and with the consent and approval of the Hertfordshire County Council and after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 of the 1984 Act hereby makes the following Order:-

**PART I  
GENERAL**

**Citation**

1. This Order shall come into operation on 24 day of May 2013 and may be cited as the North Hertfordshire District Council Hitchin Swimming Centre (Off-Street Parking Places) (Hitchin) (Amendment) Order 2013.
2. The provisions of the North Hertfordshire District Council (Hitchin Swim Centre) Off-Street Parking Places Order 2004 are hereby amended as follows -

**Interpretation**

3. Any reference in this Order to a numbered Article or to a numbered Schedule is a reference to the Article or to the Schedule bearing that number in this Order.
4. The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament and as if for the purposes of that Act this Order were an Act of Parliament and the Orders revoked by Article 2 thereto were Acts of Parliament thereby repealed.
5. In this Order, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them –

"Council" means the North Hertfordshire District Council;

"disabled person" means a disabled person of a description prescribed by Regulation 5 of the Disabled Persons (Badges for Motor Vehicles) Regulation 2000;

"disabled person's vehicle" means a motor vehicle which is being driven by a disabled person or which is being used for carrying any disabled person as a passenger and as defined in Regulation 2 of the Local Authorities Traffic Orders (Exemptions for Disabled Persons) (England and Wales) Regulations 2000;

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

"driver" means the person driving a vehicle at the time it was left in the parking place;

"motor cycle" means a solo motor cycle, motor assisted cycle and motor scooter but excludes motor cycle which has a side-car or trailer or has more than two wheels;

"owner" means the person by whom the vehicle is kept. In determining who was the owner of a vehicle at any time it shall be presumed that the owner was the person in whose name the vehicle was at that time registered under the Vehicle Excise and Registration Act 1994;

"Civil Enforcement Officer" means a person, as given in section 76(5) of the 2004 Act, authorised by or on behalf of the Council to supervise parking places and enforce the restrictions imposed by this Order;

"parking bay" means any area of the parking place which is provided for the leaving of a motor vehicle as indicated by white lines or other appropriate markings on the surface of the floor of the parking place;

"parking charge" means the charge prescribed in schedule 1 to be paid for vehicles left in a parking place;

"parking place" means any of the several areas of land either specified by name or otherwise described in column (1) of Schedule 1 which have been provided by the Council under Section 32 of the 1984 Act for use as parking places;

"penalty charge" and "reduced penalty charge" shall have the meaning as a charge set by the Council in accordance with The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 and the provisions of Part 6 and Schedule 9 of the 2004 Act;

"penalty charge notice" means a notice issued or served by a Civil Enforcement Officer pursuant the provisions of the 2004 Act.

"relevant position" means:

- (a) in the case of a vehicle which is fitted with a transparent windscreen, that a ticket or season ticket shall be displayed on or close to the inside surface of the windscreen so that it is facing forwards and can be easily seen and read from in front of the vehicle or alternatively behind a nearside window; or
- (b) in the case of a vehicle not fitted with a transparent windscreen, the parking ticket or season ticket is attached in a conspicuous and readable position on the front of the vehicle; or
- (c) in respect of a Disabled Person's Badge, in accordance with the provisions of Regulation 4 of the Local Authorities Traffic Orders (Exemptions for Disabled Persons) (England) Regulations 2000, thus:
  - (i) in the case of a vehicle fitted with a dashboard or fascia panel the badge is exhibited thereon so that part 1 of the badge is legible from outside the vehicle; or
  - (ii) in the case of a vehicle not fitted with a dashboard or fascia panel, the badge is exhibited in a conspicuous position on the vehicle so that Part 1 of the badge is legible from outside the vehicle;

"season ticket" means a ticket purchased from or granted by the Council or any seller authorised by the Council, subject to certain conditions, valid for the period specified by the Council in writing or on the ticket for use in parking places specified by the Council in writing or on the ticket;

"ticket machine" means an apparatus of a type and design, approved by the Secretary of State, for the purpose, inter alia, of this Order, being apparatus designed to indicate the time by a clock, and to issue parking tickets which show that a payment has been made of an amount, or for a period specified thereon, and which specify the date and the time at which the vehicle must leave the parking place;

"ticket" or "tickets" shall be construed as reference to a ticket or tickets purchased from a ticket machine by the insertion therein of an appropriate coin or coins or credit/debit card;

"vehicle" means a mechanically propelled vehicle and includes the trailer and any other separate units forming part of an articulated vehicle, a motor-cycle, motor-cycle combination, motor scooter, motor assisted medal cycle, and motor or electrically powered invalid carriage.

## **PART II**

### **USE OF PARKING PLACES**

#### **Use of parking places**

6. The Parking Places listed in Schedule 1 may be used, subject to the following provisions of this Order, as parking places for such classes of vehicles, on such days and during such hours, for the maximum period of waiting (if any) and on the payment of such charges as are specified in relation to each such area in Schedule 1. No vehicle other than a vehicle of a Hitchin Swimming Centre user shall be taken onto or permitted to remain in the Hitchin Swimming Centre car park.
7. No person shall cause or permit a vehicle to wait in a bay marked for Disabled Persons unless the vehicle displays a valid Disabled Person's Badge in the manner prescribed by Regulation 12 of the Disabled Person's (Badges for Motor Vehicles) (England) Regulations 2000 and the vehicle is being driven or used by the person to whom the badge is issued.
8. Nothing shall prohibit a vehicle on which a valid Disabled Persons Badge is displayed in the relevant position and the vehicle is being driven or used by the person to whom the badge is issued from being parked in any other parking bay provided the vehicle is of the class permitted by or under this Order to park in such other parking bay.

9. No person shall cause or permit a vehicle to wait in a bay marked for motor cycles or a marked hackney carriage stand unless it is of the required class.

#### **Power to close parking places**

10. Nothing in this Order shall prevent the Council by notice, sign or barrier displayed in the parking place:
  - (a) from closing the parking place or any part thereof for any period; and/or
  - (b) from setting aside the parking place or any part or parts thereof on all days or on certain days or during certain parts of days for use only by particular vehicles.
11. No person shall cause or permit a vehicle to be left in a parking place or any part thereof during such periods that the use of that parking place or that part thereof is suspended or during such period as there is in or adjacent thereto a notice or traffic sign placed by or on behalf of the Council.

#### **Maximum period of parking**

12. The driver of a vehicle shall not cause or permit that vehicle to wait in any of the parking places specified in the Schedule for any continuous period exceeding 24 hours in duration:
13. No vehicle shall be left in any parking bay or in any part of any car park beyond the time of closure of the car park.

#### **Position of vehicles**

14. All vehicles of the correct class shall be positioned wholly within the parking bays marked for that class of vehicle on the parking places.

## **Access and egress**

15. Subject to the provisions of Article 37, no person shall, except with the permission of an authorised representative of the Council, drive any vehicle in a parking place other than for the purpose of leaving that vehicle in the parking place in accordance with the provisions of this Order or for the purpose of departing from the parking place.
16. No person shall leave any vehicle or cause or permit any vehicle to be left in the parking place in a position which prevents other vehicles from gaining access to or egress from the parking place or any parking bay.
17. No person shall drive a vehicle in the parking place in such a manner as to be likely to cause danger, annoyance or inconvenience to other users of the parking place or to the occupants of premises in the neighbourhood.
18. Where signs are erected or surface markings are laid in any parking place for the purpose of indicating the entrance to or exit from the parking place or indicating that a vehicle using the parking place shall proceed only in a specified direction within the parking place no person shall drive or cause or permit to be driven any vehicle –
  - (i) so that it enters the parking place otherwise than by an entrance so indicated or leaves the parking place otherwise than by an exit so indicated; or,
  - (ii) in a direction other than so specified.
19. The driver of a vehicle using the parking place shall stop the engine as soon as the vehicle is in position in the parking place, and shall not restart the engine except when about to change the position of the vehicle in or to depart from the parking place.
20. The driver of a vehicle using any parking place shall not sound any horn or other similar instrument except when necessary.

## **Other provisions**

21. A person shall not unless with the written consent of the Council expose or hold out any vehicle for hire:

22. No person, except with the prior written consent of the Council, while in any part of the parking place shall –
- (a) sell or offer for sale or expose for sale any goods, merchandise, vehicle or other article of any kind of food or drink;
  - (b) sell or offer or invite for hire his / her skill or services;
  - (c) use any vehicle while in the parking place for any of the purposes mentioned, in paragraphs (a) and (b) of this Article; or
  - (d) use a parking place for the purpose of displaying or distributing advertising material.
23. No person shall enter or use the parking places other than for the purpose of parking, removing or gaining access to any vehicle therein or for some other lawful reason.
24. No person shall use any part of a parking place or any vehicle left in a parking place:
- (a) for sleeping or camping purposes;
  - (b) for eating or cooking purposes; or,
  - (c) for the purposes of servicing or washing any vehicle or part thereof other than as may be reasonably necessary to enable that vehicle to depart from the parking place.
25. No person shall cause or permit the radiator of any vehicle to be drained on to the surface of a parking place.
26. No person shall in any parking place:
- (a) erect or cause or permit to be erected any tent, booth, stand, stall or other structure or place a caravan without the prior written consent of the Council; or
  - (b) light or cause or permit to be lit any fire or portable gas stove or similar apparatus; or,
  - (c) place or deposit and leave on or in the parking place any shopping trolley or basket or any glass, china, earthenware, tin, carton, paper or rubbish, or any object which obstructs or prevents vehicles from properly using or leaving a parking place; provided that shopping trolleys may be left in areas marked and set aside for the leaving of shopping trolleys within the parking place; or,
  - (d) couple, uncouple, manoeuvre or leave standing any vehicle or trailer in such a manner as to be likely to cause damage to the surface of the car park.

27. A person using the parking place shall not cause or suffer any animal belonging to him / her or in his / her charge to enter or remain in the parking place unless such animal is on a lead and under proper control and is effectually restrained from causing annoyance to any person and from worrying and disturbing any other animal, or is effectively and humanely confined within a vehicle.
28. No person shall in any parking place wantonly shout or otherwise make or cause to be made any loud noise to the disturbance or annoyance of other persons using the parking place or the occupiers of premises in the neighbourhood.
29. No person while in a parking place shall use or engage in any threatening, abusive, violent or insulting language, gesture or conduct with intent or so as to be likely to put any person in fear or so as to occasion a breach of the peace or where by a breach of the peace is likely to be occasioned.
30. No person shall throw, project or propel within or from any part of the parking place any vehicle, object or substance or any kind with intent or so as to be likely to cause (whether directly or indirectly) personal injury to any other person or damage to any property.
31. A person shall not in the parking place wilfully, carelessly or negligently deface, damage or destroy any part of the parking place or any wall, fence or barriers enclosing any parking place or any fitting or equipment in or on the parking place.

#### **Movement and Removal of vehicles**

32. In the event of any vehicle being left in a parking place in contravention of any of the provisions of this Order any person duly authorised in that behalf by the Council may either move that vehicle to a position where it does not contravene those provisions or remove the vehicle or arrange for it to be removed from the parking place.
33. For the purpose of meeting what he / she reasonably deems to be an emergency, any person duly authorised in that behalf by the Council or a police officer in uniform may alter or cause to be altered the position of any vehicle in a parking place or remove or arrange for the removal of any vehicle from a parking place.



34. Any person authorised to remove or alter the position of any vehicle by virtue of the preceding Articles may do so by towing or driving the vehicle or in such other manner as he / she may think expedient.
35. When any person authorised by the Council removes or makes arrangements for the removal of any vehicle from a parking place by virtue of the preceding Articles he / she shall make such arrangements as may be reasonably necessary for the safe custody of the vehicle.
36. In the event of any tent, booth, stand or other structure being erected or a caravan being placed in the parking place in contravention of Article 26 (a) any person duly authorised in that behalf by the Council may take down demolish and remove the same from the parking place.

#### **Right of access**

37. Notwithstanding the provisions of Article 15 of this Order and the limitations contained in Schedule 1 as to the classes of vehicles permitted to use the parking places, nothing shall be deemed to prevent or restrict the proper and lawful exercise of any rights of way granted by the Council, whether before or after the date on which this Order comes into operation, for the purpose of enabling vehicles (either generally or of any particular class or description and subject to due compliance with the terms and conditions of any such grant) to be driven into or through any parking place so as to obtain or facilitate access to or from any adjoining or neighbouring land or premises from or to any public highway.

### **PART III**

#### **CHARGES FOR USE OF PARKING PLACES**

##### **Pay and display parking tickets**

38. The driver of a vehicle left in accordance with the provisions of this Order in a parking place indicated in Schedule 1 shall purchase a valid parking ticket at the price and for the

period indicated in Schedule 1 and exhibit the parking ticket on the vehicle in the relevant position.

39. A parking ticket used in a parking place indicated in schedule 1 shall only be a valid parking ticket if:
- (i) it has been purchased from a ticket machine in the parking place where the vehicle is left;
  - (ii) it is exhibited on the vehicle in a relevant position: AND
  - (iii) it has been purchased in accordance with the provision that one ticket per vehicle shall be valid either:
    - (a) for the number of hours or for the period specified on the ticket commencing, if purchased during charging hours, at the time of purchase or if purchased outside charging hours, at the beginning of the next following period of charging hours; OR
    - (b) from the time of purchase or if purchased outside charging hours from the beginning of the next following period of charging hours to the expiry time specified on the ticket so however that no such ticket shall be valid after the vehicle has exceeded in any one period of charging hours the maximum period of waiting (if any) specified in Schedule 1.

#### **Payment of parking charge**

40. The charge referred to in Article 38 shall be payable by the insertion of an appropriate coin or coins or credit/debit card into the ticket machine provided, being an apparatus or device approved in accordance with section 35(3) or the 1984 Act.
41. The charge referred to in Article 38 may be paid by the insertion of a pre-paid magnetic card where the appropriate approved apparatus is installed in the parking place and by virtue of the provisions of section 35A(4) of the 1984 Act the provisions of section 47(5) of the 1984 Act shall apply in respect of such apparatus.

### **Season tickets**

42. The driver of a vehicle left in accordance with the provisions of this Order in a parking place or parking places as are either specified by the Council in writing or on the season ticket shall be exempt from purchasing a parking ticket if there is displayed in the relevant position a valid season ticket.

### **Restriction on removal of parking or season tickets**

43. When a parking ticket or season ticket has been exhibited on a vehicle, in accordance with the provisions of Article 39 or 42, no person shall remove the parking ticket or season ticket from the vehicle until the vehicle is removed from the parking place.

### **Motor cycles**

44. The driver of a motorcycle, which is left in accordance with the provisions of this order in a parking place specified in schedule 1 and in the position provided for such vehicles as specified in Article 9, shall be exempt from purchasing a parking ticket.

### **Disabled person's vehicles**

45. The driver of a vehicle left in accordance with the provisions of this Order in a parking place, indicated in schedule 1 shall be exempt from purchasing a parking ticket if the vehicle is a vehicle which displays a Disabled Person's Badge in the manner prescribed by Regulation 12 of the Disabled Person's (Badges for Motor Vehicles) (Wales) Regulations 2000 and the vehicle is being driven or used by the person to whom the badge is issued.

### **Absence of ticket machine**

46. If at the time when a vehicle is left in a parking place specified in the schedules included with this Order during the charging hours there is no ticket machine at the parking place, or all the ticket machines at that parking place carry notices placed upon them by a person duly authorised by the Council indicating that they are out of Order, the charge shall be payable on demand to the Car Park Attendant or other person authorised to receive such

a payment by the Council. In the absence of such arrangements, the driver of that vehicle shall be exempt from purchasing a parking ticket.

### **Indications as evidence**

47. The indications given by any apparatus or device as is specified in Article 45 and 46 or any tickets issued by it shall be treated as evidence of the facts which the apparatus device or ticket purports to record.

## **PART IV**

### **CONTRAVENTIONS AND PENALTY CHARGE**

#### **Contraventions**

48. If a vehicle is left in a parking place specified in schedule 1 during the charging hours without complying with the requirements of this Order, a contravention shall have occurred and a penalty charge shall be payable. A Penalty Charge Notice showing the information required by the the 2004 Act may then be issued by a Civil Enforcement Officer in accordance with the requirements of the 2004 Act.

#### **Notice of penalty charge**

49. In the case of a vehicle in respect of which the penalty charge may have been incurred, it shall be the duty of a Civil Enforcement Officer to attach to the vehicle in a conspicuous position a Notice which shall include the following particulars:
- (a) the grounds on which the Civil Enforcement Officer believes that a penalty charge is payable with respect to the vehicle;
  - (b) the amount of the penalty charge which is payable;
  - (c) that the penalty charge must be paid before the end of the period of 28 days beginning with the date of the Notice;
  - (d) that if the penalty charge is paid before the end of the period of 14 days beginning with the date of the Notice, the amount of the penalty charge will be reduced by a proportion specified from time to time by the Secretary of State and / or Local Authorities acting through the Joint Committee;

- (e) that if the penalty charge is not paid before the end of the 28 day period a Notice to the Owner may be served by the Local Authority on the person appearing to them to be the owner of the vehicle;
- (f) the address to which payment of the penalty charge must be sent.

### **Restriction on removal of notices**

50. Where a Notice has been attached to a vehicle in accordance with the provisions of Article 49, no person who is not a Civil Enforcement Officer or some other person duly authorised by the Council or driver shall remove the Notice from the vehicle, until the vehicle has been removed from the parking place.

### **Payment of penalty charge**

51. The penalty charge shall be paid to the Council within 28 days of the issue of the penalty charge notice either:
- (a) by cheque, bankers' draft, money order or postal order delivered or sent by post so as to reach Parking Services at North Hertfordshire District Council, P.O. Box 227, Letchworth Garden City, SG6 3WX or as indicated on the penalty charge notice, or
  - (b) by cheque, postal order, in cash by credit card or debit card in person at any North Hertfordshire District Council office which accepts such payments, or
  - (c) by credit card or debit card over the phone using the number specified on the penalty charge notice, or
  - (d) by internet using the North Hertfordshire District Council web site:

Provided that, if the said twenty eighth day falls upon a day on which the said Department or office is closed, the period within which payment of the said charge shall be made to the Council shall be extended until 4.30pm on the next full day on which the said Department is open.

52. If the penalty charge is paid before the end of the period of 14 days beginning with the date of the Notice, the amount of the penalty charge will be reduced by the specified proportion.

53. If the owner fails to pay the penalty charge by the end of the 28 day period, a Notice to Owner may be served; and if the charge is then not paid within a further 28 days it may be increased by 50% on the issue of a Charge Certificate in accordance with the provisions of paragraph 6 of Schedule 6 of the 1991 Act.
54. Continuing failure to pay may result in a judgement in the County Court against the owner to enable the Council to recover payments due.

## PART V ABANDONED VEHICLES

### Disposal of vehicles abandoned in parking places

55. Where a vehicle is considered by the Council to be abandoned in a parking place the following provisions shall apply.
- (i) The Council may sell or otherwise dispose of a vehicle which has been, or could at any time be, removed from a parking place pursuant to Articles 37 and 38, if the vehicle appears to have been abandoned, provided that this power of disposal shall not be exercisable unless the Council has taken such of the following steps as are applicable to the vehicle in question, and there has elapsed a period of six weeks beginning with the taking of the first of those steps.
  - (ii) Where the vehicle carries a registration mark the Council shall ascertain from the appropriate body the name and address of the person who is the Registered Keeper of the vehicle pursuant to the Vehicles (Excise) Act 1971, unless the Council is satisfied that the true owner of the vehicle has identified himself to it.
  - (iii) The Council shall, where it is by virtue of paragraphs (ii), (iv) and (v) of this Article, aware of the name and address of a person who it appears may be the owner of the vehicle; send a Notice to that person at that address stating that it is the intention of the Council to sell or otherwise dispose of the vehicle (which shall be sufficiently described in the Notice) on or after a specified date (which shall not be less than two weeks from the date of the Notice and in any event not earlier than six weeks from

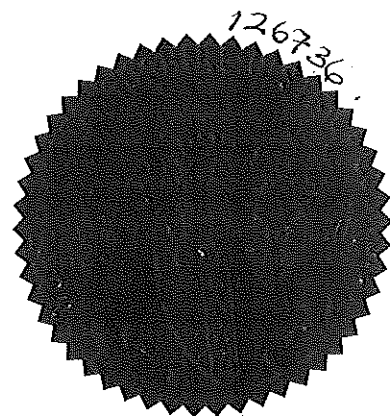
the date of the first step taken by the Council under this Part of this Order) unless it is in the meantime removed by or on behalf of that person from such place as is specified by the Council in the said Notice or from such place as may be subsequently notified in writing by the Council to that person.

- (iv) If any person to whom a Notice is sent in accordance with paragraph (iii) of this Article informs the Council of the name and address of some other person who he alleges may be the owner of the vehicle, a Notice stating the particulars mentioned in the last preceding Article shall be sent to that other person and to any further person who the Council may in consequence of the sending of the Notice to the said other person be led to believe may be the owner of the vehicle.
- (v) Where a vehicle does not carry a registration mark the first step to be taken by the Council shall be to apply in writing to the Chief Officer of Police in whose area the parking place is situated enquiring whom that officer considers is the owner of the vehicle and the address of that person.
- (vi) The Council shall then make such further enquiries as to ownership as it thinks fit.
- (vii) Upon the sale of a vehicle by the Council, the Council shall apply the proceeds of sale in or towards the satisfaction of any costs incurred by it in connection with the disposal thereof and of any charge or payment to which it is entitled.
- (viii) In the event that any such costs incurred by the Council in connection with the disposal of the vehicle are not satisfied by virtue of the last preceding Article, the Council may recoup those costs from the person who was the owner of the vehicle immediately before it was removed from the parking place, provided that that person was sent by the Council a Notice under paragraph (iii) of this Article.
- (ix) Any sums received by the Council on a sale of a vehicle shall, after deducting any sum applied thereabouts by virtue of paragraph (vii) of this Article, be payable within a period of one year from receipt hereof to any person to whom, but for such sale, the vehicle would have belonged and insofar as any such sums are not claimed within the said period they shall be paid into the General Rate Fund of the Council.

(x) Where under the foregoing provisions of this Order a Notice is required to be or may be sent to a person the Notice shall be sent by recorded delivery post.

The North Hertfordshire District Council Hitchin Swimming Centre (Off-Street Parking Places) (Hitchin) (Amendment) Order 2013 is hereby confirmed:

THE COMMON SEAL OF NORTH )  
HERTFORDSHIRE DISTRICT )  
COUNCIL was hereunto affixed this )



*A J [Signature]*

day of 9 April 2013 in the presence of )



**SCHEDULE 1**

**PARKING PLACES, CLASSES OF VEHICLES, TIMES OF OPERATION AND TARIFFS**

Name and description of Parking Place in Hitchin  (1)	Class of Vehicle by which the Parking Place may be used  (2)	Days on which and hours during which the Parking Place shall be open for use of Hitchin Swimming Centre users  (3)	Charges apply between the hours of 8.00 am and 6.00 pm on every day except Sundays and Bank Holidays  (4)	Charges which are Refundable  (5)
The Hitchin Swimming Centre Car Park	All classes other than commercial vehicles constructed or adapted for the purpose of carrying goods and being of an unladen weight exceeding 1500 kgs.	Every day between the hours of 7am and 10pm (Sundays and Bank Holidays – No Charge)	<p>£1.00 for up to three hours</p> <p>£2.00 for up to four hours</p> <p>£3.00 for up to six hours</p> <p>£4.00 for up to eight hours</p> <p>£5.00 for up to ten hours</p>	Any user of the Hitchin Swimming Centre and Archers Health and Fitness Club may be entitled to a refund of £1.00 on the ticket purchased for up to the first three hours of use only.

