

PRESTON CITY COUNCIL

CITY OF PRESTON (OFF STREET PARKING PLACE) (CHAPEL YARD MOBILITY CENTRE CAR PARK) ORDER 2009

Preston City Council in exercise of its powers under sections 32 and 35 and Part IV of Schedule 9 of the Road Traffic Regulation Act 1984 and in consideration of the provisions of the Road Traffic Act 1991, the Traffic Management Act 2004 and The Road Traffic (Permitted Parking Area and Special Parking Area) (County of Lancashire) Order 2004 and of all other enabling powers, with the consent of the County Council of Lancashire in accordance with section 39(3) of the 1984 Act and after consulting the Chief Officer of Police in accordance with Part III of Schedule 9 to the 1984 Act hereby make the following Order:

PART I GENERAL

Commencement

- 1.1 This Order shall come into operation on 5th October 2009 and may be cited as the City of Preston (Off Street Parking Place) (Chapel Yard Mobility Centre Car Park) Order 2009.

Interpretation

- 1.2 Except where the context requires otherwise, any reference in this Order to an Article or Schedule shall be construed as a reference to that Article or Schedule in this Order.
- 1.3 The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.
- 1.4 Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment.
- 1.5 “Include”, “includes” and “including” are deemed to be followed by the words “without limitation” and general words introduced by “other” do not have a restrictive meaning, and “for example” is not to be interpreted as if there are not other examples nor to limit or restrict the ordinary meaning of the words preceding it.

- 1.6 Headings are inserted for convenience only and shall not affect the construction of this Order.
- 1.7 A provision of this Order which is void or unenforceable shall (to that extent) be read down so as to be valid and enforceable and if it is not capable of being so read down then it shall be severed from all other provisions of this Order and the remaining provisions shall continue to have effect.
- 1.8 Words importing the singular or plural number include the plural and singular number respectively and the words importing the masculine gender include the feminine or neutral gender and references to a person or corporation include a corporation or person respectively.

Definitions

- 1.9 In this Order, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them:

“Approved Vehicle” means a Preston Community Transport Minibus, Preston Community Transport Service Vehicle or Minibus or Service Vehicle from another Community Transport Organisation or Lancashire County Council Travel Care.

“Civil Enforcement Officer” means any officers, agents or servants of the Council who are authorized to supervise and control vehicles in Parking Places and enforce the provisions of this Order as pursuant to section 63A of the 1984 Act and section 76 of the 2004 Act.

“Disabled Person” means a disabled person of a description prescribed by Regulation 4 of The Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000, or any other legislation as may replace it in the future.

“Disabled Person’s Badge” means a badge which was issued, or has effect as if issued, to a Disabled Person or an institution under The Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 or any other legislation as may replace it in the future or under regulations having effect in Scotland or Wales under section 21 of the Chronically Sick and Disabled Persons Act 1970, and has not ceased to be in force.

“Disabled Person’s Vehicle” means a Vehicle which displays in the Relevant Position a Disabled Person’s badge and Parking Disc.

“Driver” in relation to a Vehicle or Approved Vehicle Waiting in the Parking Place means the person driving the Vehicle or Approved Vehicle immediately prior to Parking it in the Parking Place.

“Enforcement Authority” means Preston City Council.

“Invalid Carriage” means a mechanically propelled vehicle of which the weight unladen does not exceed 254 kilograms and which is specifically designed and constructed, and not merely adapted, for the use of a person suffering from some physical defect or disability and is used solely by such a person.

“Material Time” means the time when the contravention giving rise to the Penalty Charge is said to have occurred.

“Motor Car” means a mechanically propelled vehicle, not being a motor cycle or an invalid carriage, which is constructed itself to carry a load or passengers and the weight of which unladen—

(a) if it is constructed solely for the carriage of passengers and their effects, is adapted to carry not more than seven passengers exclusive of the driver, and is fitted with tyres of such type as may be specified in regulations made by the Secretary of State, does not exceed 3050 kilograms,

(b) if it is constructed or adapted for use for the conveyance of goods or burden of any description, does not exceed 3050 kilograms (or 3500 kilograms if the vehicle carries a container or containers for holding, for the purposes of its propulsion, any fuel which is wholly gaseous at 17.5 degrees Celsius under a pressure of 1.013 bar or plant and materials for producing such fuel); or

(c) does not exceed 2540 kilograms in a case not falling within (a) or (b) above.

“Motorcycle” means a mechanically propelled vehicle (not being an invalid carriage) with fewer than four wheels, of which the weight unladen does not exceed 410kilograms.

“Owner” in relation to a Vehicle or Approved Vehicle means the person in whose name the vehicle is registered at the relevant time under the Vehicle Excise and Registration Act 1994.

“Park” refers to a Vehicle or Approved Vehicle which Waits in a Parking Place.

“Parking” has a corresponding meaning to “Park”.

“Parking Disc” means a device which-

- (a) is 125 millimetres square and coloured blue, if issued on or after the 1st April 2000, or orange if issued before that date;
- (b) has been issued by a local authority and has not ceased to be valid; and
- (c) is capable of showing the quarter hour period during which a period of waiting has begun.

“Parking Place” means any land or place specified by name in Column 1 of the Schedule.

“Parking Space” means any area of the Parking Place which is provided for the leaving of a Vehicle or Approved Vehicle and indicated by markings on the surface of the Parking Place.

“Penalty Charge” means the charge set by the Council under the provisions of the 2004 Act and subordinate legislation made thereunder.

“Penalty Charge Notice” means a notice issued or served by a Civil Enforcement Officer pursuant to the provisions of section 78 of the 2004 Act and The Civil Enforcement of Parking Contraventions (England) General Regulations 2007, or any other legislation as may replace it in the future.

“Relevant Position” means-

- (a) in respect of a Vehicle displaying a valid Disabled Person’s Badge-
 - (i) the badge is exhibited on the dashboard or fascia of the Vehicle, or
 - (ii) where the Vehicle is not fitted with a dashboard or fascia, the badge is exhibited in a conspicuous position on the vehicle,
so that the whole of the information contained on the front of the badge is clearly legible from the outside of the Vehicle.
- (b) in respect of a Vehicle displaying a valid Parking Disc-
 - (i) in the case of a Vehicle fitted with a dashboard or fascia panel the disc is exhibited thereon so that the quarter-hour period during which the period of waiting began is clearly legible from outside the Vehicle; or
 - (ii) in the case of a Vehicle not so fitted the disc is exhibited in a conspicuous position on the Vehicle so that the quarter-hour period during which the period of waiting began is clearly legible from outside the Vehicle.

- (c) in respect of a Vehicle displaying a Shopmobility Authorised Parking Permit-
 - (i) the permit is exhibited on the inside surface of the front windscreen or dashboard or fascia of the Vehicle, or
 - (ii) where the Vehicle is not fitted with a transparent windscreen or dashboard or fascia, the permit is exhibited in a conspicuous position on the Vehicle, so that the whole of the information contained on the front of the permit is clearly legible from the outside of the Vehicle.

“Shopmobility Parking Space” means any Parking Space within the Parking Place where there is a sign and/or surface marking which indicates that the Parking Space is reserved for the parking of a Vehicle displaying in the Relevant Position a valid Shopmobility Authorised Parking Permit and Parking Disc.

“Shopmobility Authorised Parking Permit” means a permit issued by the Mobility Centre which entitles the holder of the permit to park a Vehicle in a Shopmobility Parking Space within the Parking Place.

“the 1984 Act” means the Road Traffic Regulation Act 1984.

“the 2004 Act” means the Traffic Management Act 2004.

“the Council” means Preston City Council.

“Vehicle” means a Motor Car, Motorcycle, Invalid Carriage.

“Wait” refers to a Vehicle or Approved Vehicle stopping and remaining stationary for any period of time whether or not with the intention of parking. If a Vehicle or Approved Vehicle remains stationary for any period in a Parking Place whether or not a person alights from the Vehicle it is deemed to be Waiting.

“Waiting” has a corresponding meaning to “Wait”.

PART II DESIGNATION AND USE OF PARKING PLACE

Designation and use of parking place

- 2.1 The Parking Place specified by name in column 1 of the Schedule may be used, subject to the following provisions of this Order, as a Parking Place for such Vehicles Approved Vehicles or Vehicles of a permitted class in

such positions on such conditions and on such days during such hours as are specified in relation to the Parking Place in the Schedule.

Class and position of vehicle

- 2.2 Where in the Schedule the Parking Place is described as available for vehicles of a specified class or in a specified position the Driver of a vehicle shall not permit it to Wait in the Parking Place-
- (a) unless it is of the specified class; or
 - (b) in a position other than that so specified.
- 2.3 Nothing in this Article shall make it unlawful under Article 2.2 to Park a vehicle in the Parking Place of any of the following descriptions:-
- (a) vehicles used for Fire Brigade purposes;
 - (b) vehicles used for police purposes;
 - (c) vehicles used for ambulance purposes;
 - (d) street cleansing vehicles;
 - (e) vehicles used for the collection of refuse;
 - (f) vehicles used for the purpose of gritting or salting or the clearance of snow;
 - (g) vehicles used for the purpose of cleansing repairing or maintaining lighting apparatus;
 - (h) vehicles used in connection with the reconstruction alteration or maintenance of or the provision of services to or supervision of the Parking Place maximum period for which a Vehicle may be left.

Position of vehicle

- 2.4 Every Vehicle or Approved Vehicle left Waiting in the Parking Place in accordance with the provisions of this Order shall so stand so that every part of the Vehicle or Approved Vehicle is within the limits of a particular Parking Space within the limits of the Parking Place.

Maximum period of stay

- 2.5 Where in the Schedule the Parking Place is described as being available for use on specified days during specified hours or as being available for use for a maximum period of stay a Driver shall not cause or permit a Vehicle or Approved Vehicle to Park in the Parking Place on any day during such hours or for any period longer than that specified.

Period of no return

- 2.6 Where in the Schedule the Parking Place is described as having a period within which a Vehicle may not return, a Driver shall not cause or permit a

Vehicle to Wait in the Parking Place on any day during such period which the Vehicle is excluded from Waiting in the Parking Place.

Motorcycle parking spaces

- 2.7 A Driver shall not cause or permit a Vehicle other than a Motorcycle to Wait in a Parking Space signed and/or surface marked for Motorcycles.
- 2.8 A Motorcycle shall Park only in a Parking Space signed and/or surface marked for Motorcycles.

Parking for Mobility Centre users

- 2.9 A Driver shall not cause or permit a Vehicle to Wait in a Shopmobility Parking Space unless the Vehicle displays in the Relevant Position a valid Shopmobility Authorised Parking Permit and Parking Disc.
- 2.10 Nothing in this Article shall make it unlawful under Article 2.9 for a Driver to Park a Vehicle in a Shopmobility Parking Space provided that:
- (a) (i) the Mobility Centre Manager has given his consent; and
 - (ii) the Vehicle displays in the Relevant Position a valid Disabled Person's Badge and Parking Disc or is an Invalid Carriage, or
 - (b) the vehicle is an Approved Vehicle.
- 2.11 A Vehicle displaying a Shopmobility Authorised Parking Permit and Parking Disc shall Park in a Shopmobility Parking Space only.

No waiting

- 2.12 Wherever within the Parking Place it has been indicated by the use of surface markings in the form of yellow hatching that Waiting within an area within the Parking Place, is not permitted, the Driver of a Vehicle shall not permit it to Wait in that area.
- 2.13 Article 2.12 shall not apply to the Driver of an Approved Vehicle.

Waiting for a parking space

- 2.14 A Vehicle Waiting in the Parking Place for a Parking Space to become available shall Wait within that area of the Parking Place which has been so indicated by the use of surface markings and/or sign provided that the Driver remains inside the Vehicle at all times and there is displayed on the Vehicle in the Relevant Position a valid:
- (a) Disabled Person's Badge; or
 - (b) Shopmobility Authorised Parking Permit.

Prohibition from loading and/or unloading

- 2.15 No commercial vehicle shall Wait in the Parking Place at any time.
- 2.16 Nothing in Article 2.15 shall make it unlawful for a commercial vehicle to Park in the Parking Place provided that such a commercial vehicle is left for the purpose of loading and/or unloading goods and/or providing services in connection with the Mobility Centre.

PART III RELOCATION AND REMOVAL OF VEHICLES

Removal and repositioning of vehicles

- 3.1 Where a Vehicle or Approved Vehicle Waits in the Parking Place in contravention of any of the provisions of this Order a person authorized in that behalf by the Council may remove the Vehicle or Approved Vehicle or arrange for the Vehicle or Approved Vehicle to be removed from the Parking Place and when a Vehicle or Approved Vehicle is Waiting in the Parking Place in contravention of the provision of Article 2.4 a person authorized in that behalf by the Council may alter or cause to be altered the position of the Vehicle or Approved Vehicle in order that its position shall comply with that Article.

Removal of vehicles in an emergency

- 3.2 For the purpose of meeting the requirements of an emergency a person authorized in that behalf by the Council or a police constable in uniform may alter or cause to be altered the position of a Vehicle or Approved Vehicle in the Parking Place or remove or arrange for the removal of a Vehicle or Approved Vehicle from the Parking Place and in so doing shall provide for the safe custody of the Vehicle or Approved Vehicle.

Method of removing and repositioning vehicles

- 3.3 An authorized person altering or causing to be altered the position of the Vehicle or Approved Vehicle by virtue of Articles 3.1 or 3.2, or removing or causing the removal of a Vehicle or Approved Vehicle by virtue of Articles 3.1 or 3.2 may do so by towing or driving the Vehicle or Approved Vehicle or in such other manner as he may think necessary and may take such measures in relation to the Vehicle or Approved Vehicle as he may think necessary to enable him to remove it or alter its position as the case may be.

Safe custody of vehicles

- 3.4 An authorized person removing or arranging for the removal of a Vehicle or Approved Vehicle by virtue of Articles 3.1 or 3.2 shall make such arrangements as he considers to be reasonably necessary for the safe custody of the Vehicle or Approved Vehicle.
- 3.5 Where an authorized person has removed or caused to be removed a Vehicle or Approved Vehicle by virtue of Articles 3.1 or 3.2 the Council shall be entitled to recover from any person responsible such charges in respect of the removal, storage and disposal of the Vehicle or Approved Vehicle as it determined under Schedule 9 of the 2004 Act.

Power to close any parking place or part thereof

- 3.6 Notwithstanding the provisions of this Order any person authorized by the Council may by notice, sign or barrier displayed on or near the Parking Place close the Parking Place or any part thereof for any period and/or may designate the Parking Place or any part thereof as reserved for use only by particular vehicles for particular purposes approved by the Council.
- 3.7 No Driver of any Vehicle or Approved Vehicle shall use the Parking Place or any part thereof when it is so closed unless with the written consent of the Council or in compliance with the particulars of the reservation.

PART IV OTHER PROVISIONS

Stop engine

- 4.1 The Driver of a Vehicle using the Parking Place shall stop the engine as soon as a Vehicle is correctly in position in the Parking Space and shall not start the engine except when about to change the position of the Vehicle in or to depart from the Parking Place.

Parked causing an obstruction

- 4.2 The Driver of a Vehicle or Approved Vehicle using the Parking Place shall not park the Vehicle or Approved Vehicle in such a manner or place where it causes an obstruction to any other users of the Parking Place.

Vehicle tax and insurance

- 4.3 The Driver of a Vehicle or Approved Vehicle shall not cause nor permit the Vehicle or Approved Vehicle to Wait in the Parking Place unless the Vehicle or Approved Vehicle is licensed in accordance with the provisions of the Vehicles Excise and Registration Act 1994 and there is in relation to the use of the Vehicle or Approved Vehicle by the Driver such a current policy of insurance as complies with the requirements of the Road Traffic Act 1988.

Entry and exit

- 4.4 The driver of a Vehicle or Approved Vehicle shall comply with all signs and markings in the Parking Place:
- (a) indicating the entrance to or exit from the Parking Place; or
 - (b) indicating that a Vehicle using the Parking Place shall proceed in a specified direction within the Parking Place.

Activities prohibited in parking places

- 4.5 No person shall use a Vehicle while it is in the Parking Place in connection with the sale of any article (including the Vehicle itself) to persons in or near the Parking Place or in connection with the selling or offering for hire of his skills or services, except with the prior written permission of the Council.
- 4.6 No person shall use any part of the Parking Place or any Vehicle left in the Parking Place:
- (a) for sleeping or accommodation or camping purposes;
 - (b) for eating or cooking purposes;
 - (c) to undertake (or allow to be undertaken) any cleaning, maintenance or repair of a Vehicle except such as may be necessary to enable the Vehicle to be removed from the Parking Place.
- 4.7 In the Parking Place no person shall:
- (a) erect or cause to be erected any tent stand building or other structure without the written consent of the Council; or
 - (b) light or cause or permit to be lit any fire.

No liability for loss or damage to vehicle or property

- 4.8 The Council accepts no liability for the loss or damage to Vehicles or Approved Vehicle or other property left in the Parking Places to which this Order applies.

PART V CONTRAVENTION OF THIS ORDER

Contravention

- 5.1 A contravention of this Order which does not constitute a parking contravention within the meaning of the 2004 Act is an offence under section 35A(1) of the 1984 Act.
- 5.2 Where a contravention of this Order constitutes a parking contravention within the meaning of the 2004 Act the contravention shall be subject to the penalties and procedures provided for by the said legislation and any subordinate legislation made thereunder.
- 5.3 If a Vehicle or Approved Vehicle is left in a Parking Place in contravention of this Order a Penalty Charge shall be payable by the person:
- (i) who was the owner of; or
 - (ii) who hired
- the Vehicle or Approved Vehicle involved in the contravention at the Material Time.

Restriction on removal of notices

- 5.4 A Penalty Charge Notice fixed to a vehicle shall not be removed or interfered with except by or under the authority of:-
- (a) the owner or person in charge of the Vehicle or Approved Vehicle; or
 - (b) the Enforcement Authority.

Indications of evidence

- 5.5 The particulars given in a Penalty Charge Notice issued in accordance with the 2004 Act and any subordinate legislation made thereunder shall be treated as evidence in any proceedings relating to the failure to pay such Penalty Charge.

Disposal of Vehicles

- 5.6 If a Vehicle has been, or could at anytime be, removed from the Parking Place in pursuance of this Order and the Vehicle appears to the Council to have been abandoned the Council may dispose of that Vehicle in such a manner as it thinks fit, the provisions set out in the 1984 Act shall apply.

THE SCHEDULE

1	2	3	4	5
Parking Place name	Days and times	Position in which vehicles must park	The following are permitted to park	Maximum waiting period
Chapel Yard Mobility Centre Car Park	Monday to Saturday 06:00 to 18:00 hours	Wholly within a Parking Space	(1) Motor Car displaying a valid: (i) Disabled Person's Badge and Parking Disc (ii) Shopmobility Authorised Parking Permit and Parking Disc (2) Motorcycle (3) Invalid Carriage	4 hours no return within 2 hours
	Monday to Saturday 06:00 to 18:00 hours	Wholly within a Parking Space	Preston Community Transport Minibus, Preston Community Transport Service Vehicle, Minibus or Service Vehicle from another Community Transport Organisation or Lancashire County Council Travel Care.	No restriction
	Monday to Saturday 18:00 to 06:00 hours, all day Sunday and Bank Holidays	Wholly within a Parking Space	Motor Car, Invalid Carriage, Motorcycle	No restriction

THE COMMON SEAL of)
 PRESTON CITY COUNCIL)
 was hereto affixed this)
 day of 2009)
 in the presence of:)

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	Monday to Saturday 18:00 to 06:00 hours, all day Sunday and Bank Holidays	Wholly within a Parking Space	Motor Car, Invalid Carriage, Motorcycle	No restriction

THE COMMON SEAL of)
 PRESTON CITY COUNCIL)
 was hereto affixed this 29th)
 day of September 2009)
 in the presence of:)

[Handwritten Signature]

