

THE CITY OF SUNDERLAND (ASHBROOKE PAY BY PHONE) PARKING
PLACES ORDER 2016

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PLACES) ORDER 2016**

THE COUNCIL OF THE CITY OF SUNDERLAND ("the Council") in exercise of its powers under Sections 45, 46 and 122 of and Part IV of Schedule 9 to the Road Traffic Regulation Act 1984 ("the 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 the persons and organisations specified in the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 hereby makes the following Order:-

TITLE AND COMMENCEMENT

1. This Order may be cited as The City of Sunderland (Ashbrooke Pay by Phone) Parking Places Order 2016 shall come into operation on the 8th August 2016

DEFINITIONS

- 2.(1) In this Order:-

"the Act" means the Road Traffic Regulation Act 1984

"Bay" means a space within a Parking Place which is provided for the leaving of a vehicle and indicated by markings on the surface of the Parking Place;

"Carriageway" means a way constituting or comprised in a highway being a way (other than a cycle track) over which the public have a right of passage of vehicles but excludes any lay-by;

"Chargeable Hours" has the meaning assigned to it in Article 4

"Civil Enforcement Officer" means a person authorised by or on behalf of the Council to supervise and enforce any restrictions imposed by this Order;

"Credit Card" has the same meaning as in Section 35A of the Act;

"Debit Card" has the same meaning as in Section 35A of the Act;

"Disabled Person's Badge" has the same meaning as in the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000;

"Driver" in relation to a vehicle waiting in a Parking Place, means the person driving the vehicle at the time it was left in the Parking Place;

"Hackney Carriage" has the same meaning as in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976;

"Hackney Carriage Rank" has the same meaning as in Section 63 of the Local Government (Miscellaneous Provisions) Act 1976;

"Hand Held Device" means a wireless hand held computer which is programmed to receive and record information transmitted by the Pay By Phone System and operated by a Civil Enforcement Officer to facilitate the enforcement of Parking Places;

"Location Identification Number" means the location number assigned to each Parking Place where the "Pay by Phone" system is in operation;

"Mobile Telephone" means any wireless telegraphy apparatus as defined in The Wireless Telegraphy Act 2006 designed or adapted for the purposes of transmitting and receiving spoken or text messages so as to provide a network within the meaning of The Communications Act 2003 and is not physically connected to the land line;

"Motor Car" has the same meaning as in Section 136(2) of the Act;

"Motor Cycle" has the same meaning as in Section 136(4) of the Act;

"Parking Disc" has the same meaning as in Regulation 8(5) of the Local Authorities' Traffic Orders (Exemptions for Disabled Persons) (England) Regulations 2000;

"Parking Place" means a place designated by this Order for the leaving of a vehicle;

"Passenger Vehicle" means a vehicle constructed or adapted for the carriage of passengers and their effects

"Pay by Phone System" means the system operated and maintained by the Council's appointed Service Provider to accept and record payments of parking charges (inclusive of any appropriate administrative charge), made by means of a Credit or Debit Card or any other approved method of secure authorised payment and transmitted by a Mobile Telephone or internet apparatus to obtain a period of parking in a Parking Place where the Pay by Phone System is operational and indicated by lawful signs;

"Regulated Road" means any of the roads, lengths of road or sides of road specified in the Schedules to this Order;

"Relevant Position" means:-

- (a) In the case of a Disabled Person's Badge –
 - (i) where a vehicle is fitted with a dashboard or fascia, the badge is exhibited on the dashboard or fascia, or
 - (ii) where a vehicle is not fitted with a dashboard or fascia, the badge is exhibited in a conspicuous position on the vehicle

so that the front of the badge displaying the serial number and expiry date is clearly legible from the outside of the vehicle; and

(b) in the case of a Parking Disc –

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

so that, when marked to show the quarter hour period during which a period of waiting began, that period is clearly legible from the outside of the vehicle; and

(c) in the case of Waiver Certificate –

- (i) where a vehicle is fitted with a dashboard or fascia, the waiver certificate is exhibited on the dashboard or fascia, or**
- (ii) where a vehicle is not fitted with a dashboard or fascia the Waiver Certificate is exhibited in a conspicuous position on the vehicle**

so that the front of the Waiver Certificate showing the location, vehicle registration number and expiry date is clearly legible from the outside of the vehicle

"Service Provider" means the contractor or agent authorised by the Council to operate and accept the payment of parking charges by means of the "Pay by Phone" system

"the Regulations" means the Traffic Signs Regulations and General Directions 2016;

"Telecommunications Apparatus" has the meaning given by paragraph 1(1) of the Schedule 2 to 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" and **"Provision of a Universal Postal Service"** have the same meanings as in the Postal Services Act 2000;

"Waiver Certificate" means a certificate issued by or on behalf of the Council permitting a specified vehicle to wait in specified circumstances on a length or lengths of road where the waiting of that vehicle would otherwise be restricted or prohibited by the provisions of this Order

- 2.(2) Any reference in this Order to any enactment, regulation or other similar instrument shall be construed as a reference to the enactment, regulation or other similar instrument as amended, applied, consolidated, re-enacted by or as having effect by virtue of any subsequent enactment, regulation or other similar instrument.
- 2.(3) The Schedules form part of this Order and will have the same force and effect as if expressly set out in the body of this Order and any reference to this Order will include the Schedules
- 2.(4) The headings to the Articles of this Order will not affect its construction
- 2.(5) The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.
- 2.(6) In this Order the masculine includes the feminine and vice versa and the singular includes the plural where the context so admits

PAY BY PHONE PARKING PLACES

Parking Places

3. Each area of the highway described in Column 1 of Schedule 7.49 to this Order is hereby designated as Parking Place between the hours of 8am to 6pm, every day.
4. In this Order the Chargeable Hours means the period specified in Column 2 of Schedule 7.49 to this Order
5. The number and situation of Bays in each Parking Place shall be determined by the Council and the limits of each Parking Place and the limits of each Bay shall be indicated by the Council on the Carriageway by appropriate Traffic Signs

Charges and Method of Payment

6. Subject to Articles 19, 20, 21, 22 and 23 of this Order, no person may leave or cause any vehicle to be left in a Parking Place specified in Column 1 of Schedule 7.49 to this Order during the Chargeable Hours except upon the payment of the charges specified in Column 3 of the said Schedule in relation to that Parking Place.

Payment by Phone System

7. The Driver of a vehicle who leaves or causes any vehicle to be left in a Parking Place specified in Column 1 of Schedule 7.49 shall pay the charges imposed by Article 6 of this Order by the Council's Pay by Phone System and shall register the information contained in Article 8 with the Council's Service Provider.

8. The information referred to in Article 7 above is:-
 - (a) the telephone number of a mobile telephone
 - (b) a Credit Card or Debit Card identification number, expiry date and such other information as may be requested by the Service Provider relating to the Credit Card or Debit Card against which the payment will be made; and
 - (c) the registration number of the vehicle in respect of which the charges are to be paid
9. The telephone number of the Mobile Telephone registered in accordance with Article 8 shall for the purposes of this Order be known as the "Account Number"
10. Once the Driver of the vehicle has registered the information required by Article 8, he shall pay the charges imposed by Article 6 of this Order in accordance with the provisions of this Order by the Council's Pay by Phone System by disclosing the following information to the Council's Service Provider:-
 - (a) their Account Number
 - (b) the Credit and or Debit Card identification number, expiry date and such other details as may be requested by the Service Provider relating to the Credit Card or Debit Card against which the payment is being made
 - (c) the Location Identification Number of the Parking Place in respect of which payment is being made; and
 - (d) the registration number of the vehicle being parked
11. Where payment of the charges imposed by Article 6 are made in accordance with the provisions of this Order, the period of parking shall commence on receipt by the Service Provider of the information specified in Article 8 of this Order.
12. Where payment of the parking charges imposed by Article 6 of this Order have been made in accordance with the provisions of this Order, the period of parking may be increased by payment of an additional sum towards the period of parking by the Councils Pay by Phone System.
13. The Driver of a vehicle who pays the charges imposed by Article 6 of this Order via the Pay by Phone system shall, in addition to paying such charges, pay such administrative charges in connection with the use of the Pay by Phone System to the Council's Service Provider in each Parking Place where the Pay by Phone System is in operation.

14. In any proceedings in respect of an alleged contravention of or non-compliance with this Order:-
- (a) a verification from the Service Provider regarding the registration number of the vehicle, the Location Identification Number, the period of parking and the charges paid via an approved Hand Held Device relating to payment via the Pay by Phone System shall be evidence that the charges specified in Column 3 of Schedule 7.49 have been paid, unless the contrary is proved.
 - (b) in respect of the Parking Places specified in Column 1 of Schedule 7.49 to this Order in the absence of a record registered on the Council's Pay by Phone System which can be verified by a Civil Enforcement Officer on a Hand Held Device to indicate that a parking charge has been paid in respect of that vehicle it shall be presumed unless the contrary is proved that the parking charges set out in Column 3 of Schedule 7.49 to this Order have not been paid via the Council's Pay by Phone System.

Removal of Vehicles from Parking Places

15. When a vehicle is left in a Parking Place in contravention of any of the provisions contained in this Order, a person authorised in that behalf by the Council may remove the vehicle or arrange for it to be moved from that Parking Place
16. Where it appears to the Council that a vehicle left in a Parking Place has been abandoned, a person authorised in that behalf by the Council may remove the vehicle or arrange for it to be removed from that Parking Place, provided that where the Council propose to move such a vehicle which in their opinion is in such a condition that it ought to be destroyed, then they shall, not less than 7 days before removing it, cause to be affixed to the vehicle a notice stating that they propose to remove it for destruction at the end of the period specified in Section 101 of the Act
17. Any person removing a vehicle by authority of Article 15 or 16 of this Order may do so by towing or driving the vehicle or in such other manner as he may think necessary and may take such measures in relation to the vehicle as he may think necessary to enable him to remove it as aforesaid
18. When a person authorised by the Council removes or makes arrangements for the removal of the vehicle from a Parking Place by authority of Articles 15 and 16 of this Order, he shall, except in the case of a vehicle which in the opinion of the Council is in such condition that it ought to be destroyed, make such arrangements as may be deemed reasonably necessary for the safe custody of the vehicle.

Use of Parking Places during Chargeable Hours without payment

19. Without prejudice to the foregoing provisions of this Order relating to vehicles which are left in a Parking Place specified in Column 1 of Schedule 7.49 to this Order in accordance with those provisions any other vehicle may wait during the Chargeable Hours:-

- (a) anywhere in a Parking Place specified in Column 1 of Schedule 7.49 to this Order 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 due 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 used for fire and rescue service purposes, is an ambulance or is vehicle (other than a passenger vehicle) in the service of a local authority or is a vehicle in the service of a police force in either case being used in pursuance of statutory powers or duties;
 - (iv) the vehicle is waiting for so long as may be necessary to enable it to be used in connection with the removal of any obstruction to traffic;
 - (iii) the vehicle is a vehicle of a Universal Service Provider engaged in the provision of a Universal Postal Service;
 - (iv) 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 the purpose of any building operation, demolition or excavation in or adjacent to the Parking Place or the maintenance, improvement or reconstruction of the Parking Place or the laying, erection, alteration, removal 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;
 - (v) the vehicle is waiting for the purpose of posting or removing advertising material in the form of posters on or from premises adjacent to the Parking Place in which the vehicle is waiting;
 - (vi) in any other case the vehicle is waiting for the purpose of delivering or collecting goods or loading or unloading the vehicle a premises adjacent to the Parking Place in which the vehicle is waiting and the vehicle does not wait for such purposes for more than twenty minutes or for such longer period as a police officer or a Civil Enforcement Officer in uniform may authorise.

- (b) anywhere in a Parking Place specified in Column 1 of Schedule 7.49 to this Order other than in a Bay if goods are sold from the vehicle by a person who is licensed by the Council to sell goods from a stationary pitch situated in the Parking Place
20. No charge specified in the foregoing provisions of this Order shall be payable in respect of any vehicle waiting in a Parking Place specified in Column 1 of Schedule 7.49 in accordance with the provisions of Article 19
21. Any person who leaves or causes a vehicle to be left in a Parking Place specified in Column 1 of Schedule 7.49 to this Order by virtue of the provisions of paragraphs (vi), (vii) or (viii) of Article 19 shall take all steps necessary to ensure that the vehicle shall so stand as to be in accordance with the provisions of Article 26 of this Order.

Exemptions from Charges

Exemptions for Vehicles displaying a valid Disabled Persons Badge

22. Any vehicle which displays in the Relevant Position a Disabled Person's Badge shall, if left in a Parking Place specified in Column 1 of Schedule 7.49 to this Order or parking Bay therein during the Chargeable Hours, be exempt from the payment of any charge provided that the vehicle immediately before or after the act of waiting has been or is about to be driven or used by the person to whom the badge has been issued or as the case may be, used for the carrying of that person as a passenger.

Exemption for Vehicles displaying a Waiver Certificate

23. Any vehicle which displays in the Relevant Position a valid Certificate issued by the Council and the vehicle is waiting in accordance with the terms and conditions of the said certificate.

WAIVER CERTIFICATES

24. The Council may issue a Waiver Certificate on receipt of an application and may impose charges, terms and conditions as appropriate.
25. A Waiver Certificate may be cancelled at any time at the sole discretion of the Council and shall thereupon immediately cease to be valid. Notification of such cancellation shall be in writing to the holder of the certificate and either delivered to him personally or sent to or left at any address that the Council believes to be that person's address and the certificate shall forthwith be surrendered to the Council.

GENERAL PROVISIONS RELATING TO PARKING PLACES

26. No person shall cause or permit a vehicle to wait in a Parking Place referred to in Article 3 above other than wholly within the limits of a Bay.

27. No person shall use a Parking Place referred to in Article 3 above so as to prevent access to any premises adjoining the road or the use of the road by other persons or so as to be a nuisance.
28. The driver of a vehicle using a Parking Place referred to in Article 3 above shall stop the engines as soon as the vehicle is in position in the Parking Place and shall not start the engine except when about to change position of the vehicle in or to depart from the Parking Place.
29. No person shall use a Parking Place referred to in Article 3 above or any vehicle while it is in a Parking Place, in connection with the sale or offering or exposing for sale any goods to any person in or near the Parking Place or in connection with the selling or offering for hire his skills or services without the written permission of the Council.
30. Subject to the proviso hereto, where a vehicle is left in a Parking Place referred to in Article 3 above in contravention of any of the provisions contained in this Order a person authorised in that behalf by the Council may remove the vehicle or arrange for it to be removed from that Parking Place provided that when a vehicle is waiting in a Parking Place in contravention of any provisions regarding the position in which a vehicle must be parked in a Parking Place, a person authorised in that behalf by the Council may alter or cause to be altered the position of the vehicle in order that its position shall comply with that provision.
31. Any person removing a vehicle or altering its position by virtue of Article 30 of this Order may do so by towing or driving the vehicle or in such other manner as they may think necessary and may take measures in relation to the vehicle as they may think necessary to enable them to remove it or alter its position, as the case may be.
32. Any person duly authorised by the Council may suspend temporarily the use of a Parking Place referred to in Article 3 above or any part thereof whenever they consider such suspension reasonably necessary:-
 - (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 in or adjacent to the Parking Place or the maintenance, improvement or reconstruction of the highway or the cleansing of gullies in or adjacent to the Parking Place, the laying, erection, alteration, removal 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 or the placing, maintenance or removal of any traffic sign;
 - (c) for the convenience of occupiers of premises adjacent to the Parking Place on any occasion of the removal of furniture to or from one office

or dwelling-house adjacent to the Parking Place from or to a depository, another office or dwelling-house;

- (d) on any occasion on which it is likely by reason of some special attraction that any street will be thronged or obstructed; or
 - (e) for the convenience of occupiers of premises adjacent to the Parking Place at times of weddings or funerals or other special occasions;
 - (f) to facilitate the holding of an event either in the Parking Place (including any part thereof) or in a street adjacent to the Parking Place or to enable members of the public to watch an event
33. A police officer in uniform may suspend the use of a Parking Place referred to in Article 3 above or any part thereof whenever he considers such suspension reasonably necessary for the purpose of facilitating the movement of traffic or promoting its safety. Any such suspension shall not exceed 24 hours.
34. Any person suspending the use of a Parking Place referred to in Article 3 above or any part thereof in accordance with the provisions of Articles 32 and 33 shall thereupon place or cause to be placed in or adjacent to that Parking Place or part thereof a sign indicating that parking by vehicles is prohibited and the extent (where relevant) of the Parking Place where there is such a prohibition
35. No person shall cause or permit a vehicle to wait in a Parking Place referred to in Article 3 above or any part thereof during such period as the Council (or any person authorised on its behalf) or a police officer has suspended the Parking Place or any part thereof and notice of such suspension on or near the Parking Place indicates that waiting or parking is prohibited.

SUPPLEMENTARY PROVISIONS

36. If any existing Order or Orders whose provisions conflict with any of the provisions of this Order and the Schedules hereto has or have not been revoked by this Order or any other Order then such conflicting Order or Orders are hereby revoked to the extent that their provisions conflict with this Order.
37. The restrictions imposed by this Order shall be in addition to and not in derogation from any restriction or requirement imposed by any regulations made or having effect as if made under the Act, or by or under any other enactment.

LIST OF SCHEDULES

7.49 PAY BY PHONE PARKING

MONDAY TO SATURDAY 8.00 A.M. TO 6.00 P.M.

Schedule No

7.49 Pay by Phone Parking: Monday to Saturday, 8 a.m. – 6. p.m.

Column 1 Areas of Highway Designated as Parking Places	Column 2 Maximum period for which vehicle(s) may wait	Column 3 Charges during chargeable hours (Mon-Sat excluding Christmas Day (8.00 a.m.-6.00 p.m.)
Tunstall Terrace West, Ashbrooke, Sunderland		
(i) the north side from a point 11.0 metres west of its intersection with the western highway boundary of Tunstall Road, for a distance of 24.0 metres in a westerly direction.	All Day	60p per hour Or part thereof OR £4.00 All Day
(ii) The north side from a point 51.0 metres west of its intersection with the western highway boundary of Tunstall Road, for a distance of 42.0 metres in a westerly direction.		No charge for parking on Thursday between 3.00 p.m. and Midnight
Tunstall Terrace, Ashbrooke, Sunderland		
(i) The north side from a point 8.0 metres east of its intersection with the eastern highway boundary of Tunstall Road, for a distance of 42.0 metres in an easterly direction.	All Day	60p per hour Or part thereof OR £4.00 All Day
(ii) The north side from its intersection with the extended party property boundary of 4 & 5 Tunstall Terrace, for a distance of 36.0 metres in a westerly direction.		No charge for parking on Thursday between 3.00 p.m. and Midnight

Dated the 21st July 2016

SGAL
62080 A

THE SEAL of THE COUNCIL OF)
THE CITY OF SUNDERLAND was)
hereunto affixed in the presence of:-)



Authorised Signatory

