

SWINDON BOROUGH COUNCIL
(LYDIARD PARK AND COATE WATER PARK)
(OFF-STREET PARKING PLACES) ORDER 2018

Swindon Borough Council (hereinafter referred to as "the Council") in exercise of its powers under Section 35(1) and (3) and Part IV of Schedule 9 of the Road Traffic Regulation Act 1984 (hereafter referred to as "the 1984 Act") and the Traffic Management Act 2004 (hereinafter referred to as "the 2004 Act") and of all other enabling powers and after consultation with the Chief Office of Police in accordance with Part III of Schedule 9 to the 1984 Act hereby makes the following Order:

1. This Order shall come into operation on the 12 January 2018 and may be cited as Swindon Borough Council (Lydiard Park and Coate Water Park) (Off-Street Parking Places) Order 2018.

2. In this Order –

"2004 Act" means the Traffic Management Act 2004;

"2007 Regulation" means the Civil Enforcement of Parking Contraventions (England) General Regulations 2007;

"Charging Days" means all days including Bank Holidays and specified in column 4 of the Schedule;

"Charging Hours" means the period specified in column 4 of the Schedule;

"Civil Enforcement Officer" has the same meaning as in Section 76 of the 2004 Act;

"Council" means Swindon Borough Council;

"Disabled Person's Badge" means a badge issued by any Local Authority in accordance with the provisions of the Local Traffic Orders (Exemptions for Disabled Persons) Regulations 2000 or a badge having effect under those regulations as if it were a disabled person's badge;

"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 or the person deemed to be the Driver under the terms of this Order;

"Expiry Time" is the time indicated on the Pay and Display Ticket and is the time by which the must leave the Parking Place;

"Motor Car" means a motor vehicle as defined in Section 136(2) of the 1984 Act;

"Motor Cycle" means a motor vehicle as defined in Section 136(4) of the 1984 Act;

"Owner" in relation to a Vehicle means the owner as defined by Section 92(1) of the 2004 Act;

"Heavy Commercial Vehicle" has the same meaning as in Section 138 of the 1984 Act;

“Passenger Vehicles” means Vehicles designed and constructed for the carriage of passengers, comprising more than eight seats in addition to the driver's seat, and having a maximum mass not exceeding 5 tonnes;

“Parking Place” means an area of Land at Lydiard Park and Coate Water Park as specified in column 1 of the Schedule, provided by the Council pursuant to Section 32 of the 1984 Act for the purpose of leaving of Vehicles;

“Parking Permit” means a season ticket or contract permit issued by the Council;

“Pay and Display Ticket” means a ticket issued by a Ticket Machine located in the Parking Place in which the Vehicle has been left or issued by the Council on payment of a charge and valid for parking in that Parking Place and on the day it was issued.

“Pay by Phone” means a telephone payment system provided by the Council whereby a parking charge state in the Schedule to this Order (and the appropriate administration charge) is collected by the Council or a Council third party via an electronic system (including via the internet) by credit or debit card or other means of secure authorised payment;

“Penalty Charge” has the same meaning as in Regulation 2 of the General Directions 2007;

“Penalty Charge Notice” has the same meaning as in Regulation 8 of the General Regulations 2007;

“Relevant Position” in respect of a vehicle displaying a Pay and Display Ticket, Parking Permit or valid Disabled Person's Badge –

- (i) The ticket, permit or Disabled Person's Badge is exhibited on the inside surface of the windscreen or in a clearly visible position so that it is facing forwards and can be seen and read from the front or side of the Vehicle; or
- (ii) In the case of a Vehicle that is not fitted with a transparent windscreen, the ticket or permit is exhibited on the front of the Vehicle facing forwards and clearly visible;

“Ticket Machine” means an apparatus of a type and design approved by the Secretary of State in accordance with Section 35(3) of the Act for the purpose of this Order, being apparatus designed to indicate the time by a clock and to issue parking tickets indicating the payment of charge and the date and time at which the payment was made.

“Vehicle” means any motor car, passenger vehicle or other mechanically propelled automobile.

PART ONE AUTHORISATION AND USE OF PARKING PLACES

3. Each area of Land specified in the Schedule hereto may be used, subject to the provisions of this Order, as a place to leave Vehicles of such classes, on such days, during such hours, for such period and on payment of such charges as are specified in relation to that area in the Schedule.
4. Where in the Schedule to this Order, a Parking Place is described as available for Vehicles of a specified class or Vehicles to be left in a specified location, no person shall cause or permit a Vehicle to wait in that Parking Place;

- (i) unless it is of the specified class;
- (ii) in such a position that obstructs the entrances to and egress from the parking place or obstructs any other vehicle; or
- (iii) Unless in accordance with the signing provided in the Parking Place at the time of entry or as directed by an Officer who is authorised to do so by the Council

- 5. ~~No person shall cause or permit a Vehicle to wait any area of the Parking Place marked for use by disabled persons unless the Vehicle displays a valid Disabled Person's Badge in the Relevant Position.~~
- 6. Where a Parking Place is described within the Schedule as available on specified days, during specified hours or for a maximum period of stay, no person shall cause or permit a Vehicle to park in that Parking Place on any day, during such hours or for any period other or longer than those specified.
- 7. Nothing in this Order shall prevent the Council by notice, sign or barrier displayed in the Parking Place:
 - (i) from closing a Parking Place or any part thereof for any period; and/or
 - (ii) from setting aside a Parking Place or any part or parts thereof on all days or on certain days or during certain parts of the days for use only by particular Vehicles or organisations.
- 8. When suspending the use of a Parking Place or any part thereof in accordance with the provisions of the preceding Article the Council or such person duly authorised by them shall place or cause to be placed in or adjacent to the Parking Place or that part thereof a notice or traffic sign indicating that the use of the Parking Place or that part thereof is suspended that that parking by Vehicles in prohibited.
- 9. 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 the Parking Place or that part thereof is suspended or during such period as there is in or adjacent thereto a notice or traffic sign place by or on behalf of the Council in pursuance of Article 8 and 9.
- 10. No person shall in a Parking Place without express written permission of the Council, use a Vehicle, in connection with the sale of any article, including the Vehicle itself, to any person in or near the Parking Place or in connection with the selling or offering for hire of skill or services in any other capacity.
- 11. The Driver of a Vehicle using a Parking Place shall stop the engine as soon as the Vehicle is in the Parking Place and shall not start the engine except when about to change the position of the Vehicle in or to depart from the Parking Place.
- 12. The driver of a Vehicle using a Parking Place shall not park the Vehicle in such a manner or place where it causes an obstruction to any other users of the Parking Place.
- 13. In respect of a Vehicle in any Parking Place, no person shall;

- (i) Use any part of it for sleeping or camping or cooking or for the purpose of servicing or washing any Vehicle or part thereof other than is reasonably necessary to enable the vehicle to depart from the Parking Place
 - (ii) Wilfully sound any horn or other similar instrument on a Vehicle except when necessary to alert other users that the Driver is about to change position of the Vehicle in or to depart from the Parking Place
 - (iii) Erect or cause or permit to be erected any tent, booth, stand, building or other structure without the written consent of the Council
 - (iv) Light or cause to be lit any fire
 - (v) Use any vehicle or the Parking Place for advertising or attach advertisements in any form to vehicles parking any Parking Place.
14. Where in a Parking Place signs are erected or surface markings are laid for the purpose of;
- (i) indicating the entrances to or exit from the Parking Place, or
 - (ii) indicating that a Vehicle using the Parking Place shall proceed in a specified direction within the Parking Place,
15. No person shall drive or permit to drive any vehicle
- (i) So that it enters the Parking Place otherwise than by an entrance or leaves the Parking Place otherwise than by an exit, so indicated, or
 - (ii) In a direction other than so specified

PART TWO CHARGES FOR PARKING

16. The Driver of a Vehicle using a Parking Place shall upon leaving the Vehicle in the Parking Place pay the appropriate charge for parking as laid down for that Parking Place within the Schedule to the Order.
17. The Driver of a Vehicle using a Parking Place, shall upon parking purchase a Pay and Display Ticket at the level of charge and for the period required in accordance with the scale of charges within the Schedule to this Order.
18. Save for payment by Pay by Phone, once a vehicle has been parked within a Parking Place, the Driver of the Vehicle shall;
- (i) ensure that a valid Pay and Display Ticket has been obtained promptly and is displayed at all times the Vehicle is parked, to cover the entire period that the Vehicle is parked in the Parking Place, and
 - (ii) displays the Pay and Display issued at that Parking Place in the Relevant Position in respect of which it was issued.
19. A Pay and Display Ticket is not transferable from one Vehicle to another and on transfer the Pay and Display Tickets ceases to be valid.

20. A Pay and Display Ticket is valid only for the Parking Place in which it was issued and on the date it was purchased. This is defined by the reference code of the Ticket Machine located in that Parking Place printed on the Pay and Display Ticket.
21. A expiry date of the period for which the appropriate charge has been paid shall be:
- (i) Where a Pay and Display Ticket is displayed, the Expiry Time which shall be conclusively determined by reference to the time displayed on the issuing Ticket Machine; or
 - (ii) Where payment has been made by Pay by Phone, the period for which payment has been made and recorded has expired.
22. If any time while a Vehicle is left in a Parking Place no Pay and Display Ticket is displayed on that Vehicle in the Relevant Position and in accordance with the provisions of Article 16 and confirmation of non-payment or expiry time purchased by Pay by Phone is obtained, it shall be deemed that the charge has not been paid.
23. If any time when a Vehicle is left during the Charging Hours in a Parking Place and on the nearest Ticket Machine in that Parking Place there is a notice place by a person duly authorised by the Council, indicating that the said Ticket Machine is out of order, then a ticket shall be obtained from another Ticket Machine within the same Parking Place (where provided).
24. The Council shall make Parking Permits available, and these shall be at the appropriate non-refundable fee for a specific Parking Place subject to any conditions determined by the Council from time to time.
25. The Driver shall abide by the terms stipulated by the Council for the use of the Parking Permit.
26. A Parking Permit is only valid in the Parking Place in respect of which it was issued and up to the date of expiry shown on the Parking Permit.
27. The Driver of the Vehicle shall display the Parking Permit in the Relevant Position on the Vehicle in respect of which it was issued at all times during which the Vehicle is left in the Parking Place.

PART THREE EXEMPTIONS

28. No daily charge shall be payable in respect of:
- (i) A Vehicle which displays in the Relevant Position a valid Disabled Person's Badge provided that the Vehicle immediately before or the act of parking has been used or is about to be used by the person(s) in respect of whom the badge is issued;
 - (ii) A Motor Cycle; or
 - (iii) A Vehicle displaying in a Relevant Position a valid Parking Permit valid for that Parking Place.

PART FOUR RELOCATION, REMOVAL AND DISPOSAL OF VEHICLES

29. A person authorised by the Council or a Police Constable in uniform may, using such measures as are appropriate, move or cause to be moved in the case of any emergency to any place he/she thinks fits, any Vehicle left in a Parking Place.
30. Any person removing a Vehicle from a Parking Place under the provisions of Article 29 or 33 shall make such arrangements as may be reasonably necessary to provide for the safe keeping of the Vehicle.
31. The Council may sell or otherwise dispose of, in accordance with current legislation, a Vehicle which has been, or could at any time be, removed from a Parking Place if the Vehicle appears to be abandoned.
32. A person authorised by the Council may, using such measures as are appropriate, move or cause to be moved to any place he/she thinks fit, any Vehicle left in a Parking Place in contravention of Article 10 and the cost of movement or removal and safe keeping shall be the liability of the Owner of the Vehicle.

PART FIVE CONTRAVENTION

33. Save for the provisions of Article 14 and 15 if a vehicle is left in a Parking Place without complying with the requirements of this Order, a contravention shall have occurred and a Penalty Charge shall be payable. A Penalty Charge Notice may then be issued and/or the Vehicle may be removed from that location.
34. In the case of a Vehicle in respect of which a Penalty Charge is payable, it shall be the duty of;
- (i) a Civil Enforcement Officer to serve a Penalty Charge Notice in accordance with regulation 9 of the 2007 Regulations; or
 - (ii) the Enforcement Authority to serve a Penalty Charge Notice in accordance with regulation 10 of the 2007 Regulations.
35. When a Penalty Charge notice has been attached to a Vehicle in accordance with any of the provisions of this Order, it shall not be removed or interfered with except by or under the authority of the Owner or person in charge of the Vehicle or by some other person duly authorised by the Council.
36. The particulars given in the Penalty Charge Notice attached to the Vehicle in accordance with this Order shall be treated as evidence in any proceedings relating to failure to pay such Penalty Charge.

THE COMMON SEAL of
SWINDON BOROUGH COUNCIL
was hereunto affixed this
10th day of January 2018

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HEAD OF CONVEYANCING,
ENVIRONMENT AND CONTRACTS