

DATED:

31st October

2013

**BOROUGH OF TORBAY,
(RIVIERA CENTRE PARKING PLACES)
ORDER 2013**

**Caroline Taylor
Chief Operating Officer
Torbay Council
Town Hall
Torquay
TQ1 3DR**

Off Street Order.

**BOROUGH OF TORBAY,
(RIVIERA CENTRE PARKING PLACES)
ORDER 2013**

The Council of the Borough of Torbay ("the Council") in exercise of its powers under Sections 32, 33 and 35 of the Road Traffic Regulation Act 1984 ("the 1984 Act") as amended by the Parking Act 1989 and the Traffic Management Act 2004 and of all other enabling powers with the consent of the County Council of Devon in accordance with Section 39(3) of the 1984 Act and after consulting with the Chief Officer of Police in accordance with Part III of Schedule 9 to the 1984 Act hereby makes the following Order:-

Part I

1. This Order shall come into operation on the 1st December 2013, and may be cited as "Borough of Torbay (Riviera Centre Parking Places) Order 2013".

2. Without prejudice to the validity of anything done or to any liability incurred in respect of any act or omission before the coming into force of this Order, the "Borough of Torbay (Riviera Centre Parking Places) Order 2008" is hereby revoked.

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

"car park permit" shall mean any season ticket issued for a period not exceeding one year and expiring at any time;

"civil enforcement officer" means a person authorised by or on behalf of the Council to supervise any parking place;

"commercial vehicle" means a vehicle being used for or constructed or adapted for commercial purposes having a gross unladen weight of more than 2 tonnes;

"cycle" has the same meaning as in Section 196 of the Road Traffic Act 1972;

"disabled person's vehicle" has the same meaning as in the Local Authorities Traffic Orders (Exemptions for Disabled Persons)(England) Regulations 2000;

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

"e-permit" means an electronic permit purchased via the mobile telephone parking system;

"goods" includes postal packets of any descriptions; and delivering and collection in relation to any goods including checking the goods for the purpose of their delivery or collection;

"goods vehicle" means a motor vehicle which is constructed or permanently adapted for the use of the carriage of goods or burden of any description, and

unless it is an articulated vehicle within the meaning of S138(3) of the Act, is not drawing a trailer;

“mobile telephone parking” means the purchase of a period of parking via a mobile telephone to facilitate a cashless and ticketless parking transaction;

“motor car” has the same meaning as in Section 136 of the Act;

“motor cycle” and “invalid carriage” have the same meaning respectively as in Section 136 of the Act;

“parking bay” means a space in a parking place which is provided for the leaving of a vehicle;

“parking disc” means a disc, issued by a Local Authority, 125 millimetres square coloured blue and capable of showing the quarter hour period during which a period of waiting begins;

“parking place” means any area of land provided in pursuance of Section 32 and 33 of the 1984 Act for use as a parking place and as specified in the Schedules or in any amending Order for the time being in force and shall include approach roads, footpaths, footways, verges (including flower beds) and grassed areas not forming part of the adopted highway and for the purpose of avoidance of doubt, the area of land comprised within a parking place shall be as shown on any plan attached to this Order and the said plan or plans shall in any proceedings be conclusive evidence as to the areas of land so comprised and shall include parking places at which a pay and display machine is installed;

“pay and display machine” means an apparatus of a type and design approved by the Secretary of State for Transport for the purpose of this Order being apparatus designed to indicate the time by a clock and to issue numbered tickets indicating the payment of a charge, the period in respect of which it has been paid and the day and time at which the charge was paid, or the expiry time of the period paid for;

“pay and display ticket” means a ticket issued by a pay and display machine;

“permitted hours” means the hours specified for charging purposes in the Schedules to this Order in respect of any parking place and are the hours during which a parking charge shall be paid for the leaving of a vehicle in that parking place;

“relevant position” is as defined in Regulation 4 of the Local Authorities’ Traffic Orders (Exemptions for Disabled Persons)(England) Regulations 2000;

“telecommunication apparatus” has the same meaning as defined in Section 4(3) of 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;

(2) Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment.

Part 2

Designation of Parking Places

4. Each area which is specified in Schedules 1 of this Order is designated as a parking place.

Vehicles for which Parking Places are Designated.

5. Each parking place may be used, subject to the provisions of this Order, for the leaving during the permitted hours of such vehicles as are motor cars, commercial vehicles, coaches, motor cycles or disabled persons vehicles, provided that they are parked within a relevant bay to their class of vehicle.

Amount and Method of Payment of Initial Charge at Pay & Display Parking Places and Display of Tickets

6. (1) The initial charge paid for a vehicle left in a parking place specified in Schedule 1 shall be subject to the tariffs specified in Schedule 2 of this Order;
- (2) The initial charge shall be payable immediately on the leaving of the vehicle in a parking place –
- (a) if a pay and display machine is installed, by the insertion of coins of denominations between 5p and £2 to the correct amount.
 - (b) where provision is made for mobile telephone parking this method of payment may be used as an alternative to a pay and display ticket specified in paragraph (a) of this Article.
- (3) Upon payment of the initial charge for the vehicle the driver thereof shall exhibit on the vehicle, in accordance with provisions of paragraph (4) of this Article, a pay and display ticket issued by a pay and display machine relating to the parking place in which the vehicle is left.
- (4) The ticket referred to in paragraph (3) of this Article shall be exhibited in the vehicle at all times during which the vehicle is left in a parking place during the permitted hours so that all the particulars on that side of the pay and display ticket which bears the indication that a parking charge has been paid and the day and time by which the parking period started, are readily visible from the front or near side of the vehicle to a person standing at the front or near side of the vehicle;
- (5) All vehicles shall be parked wholly within a marked parking bay in a parking place in accordance with Article 12 of this Order.
- (6) No vehicle shall remain in a parking place after the expiry of time paid for, as per the provisions of paragraphs (1) of this Article, has expired.

(7) If a vehicle is left in a valid parking bay within a parking place whilst displaying a valid car park permit specified in Article 7 then that vehicle shall be exempt from paying any additional parking charge.

(8) In any parking place a parking bay(s) may be set aside for use by vehicles displaying a valid disabled persons badge in the relevant position and no other vehicle shall park in such bays or spaces set aside for disabled drivers.

(9) In any parking place a parking bay(s) may be set aside for use by motor cycles only, and no other class of vehicle shall park in such bays or spaces set aside for motor cycles.

(10) If a vehicle is left in a pay and display parking place otherwise than in accordance with this Order then a penalty charge shall be payable in accordance with Article 8 of this Order.

Car Park Permits

7. (1) A vehicle shall be exempt from paying the parking charges specified in Article 6 (1) when a valid car park permit issued by the Riviera Centre or Torbay Council Parking Services is displayed in the vehicle in accordance with paragraph (2) of this Article -

(2) The permits referred to in this Article shall be exhibited in the vehicles front windscreen at all times during which the vehicle is left in a parking place during the permitted hours so that all the particulars on that side of the permit which bears the valid from date, expiry date, serial number, hologram (where applicable) and valid location are readily visible from the front or near side of the vehicle to a person standing on the near side of the vehicle.

(3) Car park permits may not be copied under any circumstances. If the Riviera Centre or the Council has reason to believe that a permit has been copied or falsified then they may at their absolute discretion by serving notice in writing on the permit holder at the address provided by that person on their application for the permit, or at any other address believed to be that persons place of abode, withdraw the permit and the permit holder shall surrender the permit to the Riviera Centre or the Council within 48 hours of the receipt of the aforementioned notice.

(4) Car Park Permits provided by the Riviera Centre shall not be valid for use in any on street pay and display parking facilities within Torbay.

(5) All vehicles displaying a valid car park permit shall be parked wholly within a relevant marked bay.

Contravention in a Parking Place

8. If a vehicle is left in a parking place during the charging hours without complying with the provisions of this Order, then a contravention shall be deemed to have occurred and a penalty charge shall be payable. A penalty charge notice showing the information required by the Traffic Management Act 2004 may then be issued by a civil enforcement officer in accordance with the requirements of that Act.

9. (1) When a penalty charge notice has been issued in respect of a vehicle in accordance with the provisions of Article 8 of this Order, no person not being the driver of the vehicle, a civil enforcement officer or a person duly authorised by the Council shall remove the notice from the vehicle.
- (2) When a ticket or permit has been exhibited on a vehicle in accordance with the provisions of Articles 6 & 7 of this Order no person shall remove the ticket or permit from the vehicle until the vehicle has been removed from the parking place.

Manner of Payment of the Penalty Charge

10. (1) The Penalty charge notice shall be paid to the Council in accordance with the instructions indicated on the penalty charge notice, either –
- (a) by cheque or postal order, which shall be delivered or sent by post to the address indicated in the penalty charge notice; or
 - (b) by any other acceptable means which is agreed by the Council or authorised agent and the person or persons paying the penalty charge.
- (2) The penalty charge must be paid to the Council before the end of twenty-eight days beginning with the date of the penalty charge notice.
- (3) If the penalty charge is paid to the Council before the end of a period of fourteen days beginning with the date of the penalty charge notice, the amount of the penalty charge shall be reduced in accordance with the provisions of the Traffic Management Act 2004.
- (4) For the purposes of this Article the penalty charge shall be taken to be paid when it is received at the office at the address indicated on the penalty charge notice and if the end of the period of twenty-eight days specified in paragraph(2) of this Article or the end of the period of fourteen days specified in paragraph(3) of this Article falls upon a day the said office is closed, the period within which the payment of the penalty charge shall be made shall be extended until the time at which the said office closes on the next full day on which that office is open.

No Additional Coins to be inserted after Payment of Initial Charge

11. No person shall insert in a pay and display machine relating to the parking bay in which a vehicle is left any coins additional to those inserted by way of payment of the initial charge in respect of that vehicle.

Manner of Standing in Parking Places

12. Every vehicle left in a parking place shall so stand –
- (1) that every part of the vehicle is within the limits of a marked parking bay which shall be the appropriate bay in relation to the type of vehicle;
 - (2) if the vehicle cannot be parked wholly within one marked bay then a valid pay and display ticket must be purchased and clearly displayed as per Article 6 for each marked parking bay that the vehicle occupies;

Tickets As Evidence

13. For the purposes of Section 35(3)-(5) of the 1984 Act any indication of date and time printed on a ticket issued by a ticket machine shall, unless the contrary is proved, be conclusive of the date of and the time at which such ticket was purchased.

Conditions

14. Where a parking place is described as available for use by vehicles of a specified class, the driver of a vehicle shall not permit it to wait in that parking place unless it is of the specified class.
15. The driver of a motor vehicle using a parking place shall stop the engine as soon as the vehicle is in position in the parking place and shall not start the engine except when about to change the position of the vehicle or in order to depart from the parking place.
16. The driver of the vehicle shall not, except with written consent of the Riviera Centre, permit that vehicle to wait in a parking place unless the vehicle is licensed in accordance with the provisions of Section 1 of the vehicle (Excise) Act 1962.
17. The driver of a motor vehicle using a parking place shall not sound any horn or other similar instrument without proper cause.
18. No person shall subject to the provisions of Article 19 hereof or except with the permission of any person duly authorised by the Riviera Centre drive any vehicle in any parking place or otherwise be within the parking place other than for the purpose of leaving a vehicle in the parking place in accordance with the provisions of this Order or for the purpose of returning to or removing such a vehicle from the parking place.
19. In a parking place no person shall –
 - (1) erect or cause or permit to be erected any tent, booth, stand, building or other structure without the written consent of the Riviera Centre;
 - (2) light or cause or permit to be lit any fire;
 - (3) carry on any trade or business of whatever description without the prior written consent of the Riviera Centre;
 - (4) distribute, allow to be or cause to be distributed advertising material except with the prior written consent of the Riviera Centre;
 - (5) deposit or cause to be deposited, any rubbish or litter of whatever description, except in a container provided in the parking place for that purpose;
 - (6) transfer fuel out or into a vehicle, except where necessary to allow the vehicle to be driven;
20. No person shall in a parking place wantonly shout or otherwise make any loud noise or play any radio or sound system to the disturbance or annoyance of users of the parking place or residents of premises in the neighbourhood.

21. No person shall in a parking place use any threatening abusive or insulting language gesture or conduct with intent to put any person in fear or so as to occasion a breach of the peace or whereby a breach of the peace is likely to be occasioned.
22. No person shall use any part of a parking place or any vehicle left in a parking place-
- (1) for sleeping or camping purposes;
 - (2) for heating cooking or preparing food;
 - (3) for the purpose of repairing servicing cleaning or washing any vehicle or part thereof other than is reasonably necessary to enable that vehicle to depart from the parking place or with the consent of the Riviera Centre;
 - (4) for the transfer of goods of any description from one vehicle to another or the loading and unloading of goods except with prior written consent of the Riviera Centre;
23. No person shall use a parking place or any lift provided at a parking place as a means of passage proceeding from one road to another;
24. (1) Where in a parking place signs, bollards, cones or barriers are erected or surface markings are laid for any purpose and in particular, but not only for, the following purposes:
- (a) regulating the direction in which vehicles should or should not proceed;
 - (b) delineating or indicating areas, parking bays, parking spaces, access or circulation spaces into which vehicles should or should not proceed;
 - (c) indicating areas where vehicle are not permitted to wait;
 - (d) indicating the class or type of vehicle which may use a particular area, parking bay or parking space;
- (2) No person shall leave a motor vehicle in contravention of, or interfere with, such signs, bollards cones or barriers;
25. Where in any parking place a container or containers have been provided for the collection of waste glass or cullet for the purpose of recycling, it shall not be a breach of Article 18 hereof for any person to enter a parking place, whether on foot or in a vehicle, for the purpose of so depositing glass or cullet in such container, provided that such person leaves the parking place immediately thereafter or else proceeds immediately thereafter to park or remove a vehicle in accordance with the remaining Articles of this Order.
26. Where a car park supervisor or authorised person is present at a parking place no person shall use a motor vehicle in contravention of their directions.
27. Where a car park supervisor or authorised person is reasonably of the opinion that any of the provisions in Articles 14 to 24 inclusive have been contravened or not complied with in respect of a vehicle left in a parking place, they may –

- (1) require any person apparently in charge of the vehicle to remove it from the parking place or they may themselves remove the vehicle from the parking place or alter its position, or cause it to be removed, or its position to be altered and where it is so removed shall provide for its safe custody and the Council may recover any costs so incurred as a Civil debt;
 - (2) require any person whom they reasonably believe to be responsible for, or to have information concerning the said contravention or non compliance, to provide his/her name and address and evidence of identity;
28. Any person removing or altering the position of a vehicle by virtue of Article 27 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 such 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.
29.
 - (1) Notwithstanding the provisions of this Order, the Riviera Centre may by notice displayed on or near a parking place, close or temporarily reserve for any purpose, that parking place or part thereof, for any period and no driver of any vehicle shall use that parking place or any part thereof when it is so closed except with the prior written consent of the Riviera Centre;
 - (2) Notwithstanding the provisions of this Order, the Riviera Centre may by notice displayed on entry to and in the car park, close or temporarily reserve for any purpose, that parking place or part thereof, for any period. Any remaining vehicles left in the car park after the notified closing time, and before the stated opening time, may be released on demand by a person authorised in that behalf by the Council, subject to a release fee of £75 being paid to the Council by the driver of the vehicle.
 - (3) Where a parking place is enlarged or otherwise altered or a new parking place created, the Council may apply the provisions of this Order to that enlarged, altered or new parking place and this Order shall be construed accordingly;
30.
 - (1) In any parking place no person shall leave unattended any shopping trolley other than in any area which is indicated as an authorised collection point for such trolleys;
 - (2) Without prejudice to paragraph (1) of this Article, a person authorised in that behalf by the Council may remove any shopping trolley left unattended other than at an authorised collection point;
 - (3) Where any shopping trolley is removed by a person authorised in that behalf by the Council in accordance with paragraph (2) of this Article, the owner of such trolley may collect it from the place to which it has been removed within thirty days of its removal on the payment to the Council of the sum of £10;
31. No person shall use any vehicle while it is in a parking place in connection with the sale of any article to any person in or near the parking place or in connection with the selling or offering for sale of his skill or services without the consent in writing of the Riviera Centre.

32. In case of emergency any person duly authorised by the Riviera Centre or the Council may move or cause to be moved any vehicle left in a parking place.
33. No person shall drive a vehicle in a parking place at a speed in excess of 10 miles per hour, or other such speed, as may be indicated on a sign displayed in the parking place.

Exemptions from Charges

34. (1) The following vehicles left in parking bays during the charging hours shall be exempt from the payment of any charge in a parking place specified in the foregoing provisions of this Order –
- (a) any liveried Torbay Council or Tor2 vehicles;
 - (b) police, fire or ambulance vehicles used by authorised officers in the course of their duty;
 - (c) breakdown service vehicles attending vehicles which have broken down in a parking place specified in Schedule 1;
 - (d) any motor cycles parked in a designated motor cycle bay;
 - (e) any vehicle displaying a valid car park permit in accordance with Article 7 of this Order;
 - (f) any vehicle displaying a valid exemption notice that has been provided by Torbay Council Parking Services;

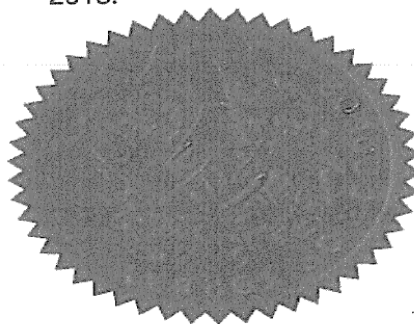
Derogation

35. The restrictions imposed by this Order shall be in addition to and not in derogation of any restrictions or requirements imposed by any other made or having effect as if made under the Act or by or under any other enactment.
36. The powers conferred by this Order on a civil enforcement officer may be exercised by a police constable in uniform.
37. When this Order comes into effect the "Borough of Torbay (Riviera Centre Parking Places) Order 2008" is hereby revoked.

DATED the 31st day of October 2013.

THE COMMON SEAL of
The Council of
The Borough of Torbay was
Hereunto affixed in the presence of:


Proper Authorised Signatory.



The Council of The
Borough of Torbay

S / No: 5272

Schedule 1: Parking Places

Riviera Centre Car Park

Schedule 2: Daily Parking Charges for Schedule 1 Parking Places

<u>Parking period up to:</u>	<u>Charge</u>
75 minutes	£1.00
2 hours	£2.00
3 hours	£3.00
4 hours	£4.00
5 hours	£5.00
24 hours	£8.00
Overnight charge valid from 6pm to 6am	£3.00

Schedule 3: Revocations

Borough of Torbay (Riviera Centre Parking Places) Order 2008