

WOLVERHAMPTON CITY COUNCIL

THE WOLVERHAMPTON CITY COUNCIL

(PENN)

(PROHIBITION AND RESTRICTION OF WAITING)

ORDER 2007

Wolverhampton City Council in exercise of its powers under sections 1, 2, 4, 32, 35, 124 (1) (d) and Part IV of Schedule 9 of the Road Traffic Regulation Act 1984 (the Act of 1984) as amended and the Road Traffic Act 1991 (the Act of 1991) 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, hereby makes the following Order.

SECTION 1 – PRELIMINARY

Citation and commencement

1. This Order shall come into operation of the *5th* day of *February* 2007 and may be cited as the Wolverhampton City Council (Penn) (Prohibition and Restriction of Waiting) Order 2007.
2. The Wolverhampton City Council (Penn) (Prohibition and Restriction of Waiting) Order 2007 includes Plans (the "Plans") incorporated in The Wolverhampton City Council (Penn) (Prohibition and Restriction of Waiting) Order 2007 Plan Supplement ("the Plan Supplement")

Interpretation

3. In this Order, except where the context otherwise required, the following expressions have the meaning hereby respectively assigned to them:

"Council" means Wolverhampton City Council and includes any parking services contractors or authorised agent appointed by or acting on behalf of the Council for the purposes of any function under the provisions of this Order;

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

“disabled persons vehicle” means a vehicle displaying in the relevant position a disabled persons badge and which has been used immediately before or is about to be used by the person(s) in respect of whom the badge has been issued;

“driver” in relation to a vehicle waiting in a restricted area, means the person driving the vehicle at the time it was left in the restricted waiting area;

“enactment” means any enactment, whether public , general or local, and includes any order, byelaw rule, regulation, scheme or other instrument having effect by virtue of an enactment;

“goods” means goods of any kind whether animate or inanimate and includes postal packets of any description and “delivering” and “collecting” in relation to any goods includes checking the goods for the purpose of their delivery or collection;

“invalid carriage” has the same meaning as that in S136 of the Act of 1984;

“loading area” means any of the sides or lengths of roads specified on the Plans where activities other than loading are prohibited;

“motor-cycle” has the same meaning as that in S136 of the Act of 1984;

“no loading hours” means in relation to any no loading road the hours during which loading and unloading is restricted on the Plans;

“no loading road” means any of the sides or lengths of roads specified on the Plans where loading is prohibited provided that the expression “no loading road” shall not include any parking place;

“no stopping hours” means in relation to any no stopping road the hours during which stopping is restricted on the Plans;

“no stopping road” means any of the sides or lengths of roads specified on the Plans where stopping is prohibited provided that the expression “no stopping road” shall not include any parking place;

“one-way street” means a highway in which the driving of vehicles otherwise than in one direction is prohibited;

“owner” in relation to a vehicle, means the person by whom such vehicle is kept and used. In determining who was the owner at any time it shall be presumed that the owner was the person named in the vehicle registration document as the registered keeper of the vehicle or the person who has the use of such vehicle in the course of his / her employment and who is entitled to use such vehicle as though he / she were the registered keeper thereof;

“parking attendant / civil enforcement officer” means a person employed in accordance with section 63A of the Act of 1984 to carry out the functions therein;

“parking disc” has the same meaning as in the Local Authorities Orders (Exemptions for Disabled Persons)(England) Regulations 2000;

“parking place” means an area of a highway designated by this Order for the waiting of vehicles of specific classes;

“passenger vehicle” means a motor vehicle (other than a motor-cycle or invalid carriage) constructed or adapted solely for the carriage of not more than twelve passengers (exclusive of the driver) and their effects and not drawing a trailer;

“permitted hours” means the periods specified for each parking place during which waiting by vehicles of a specific class is permitted as specified on the Plans;

“prohibited hours” means in relation to any prohibited road the hours during which waiting or loading is prohibited as specified on the Plans;

“prohibited road” means any of the sides or lengths of roads specified on the Plans where waiting is prohibited provided that the expression “prohibited road” shall not include any parking place;

“relevant position” in respect of a disabled person’s badge and parking disc has the same meaning as in the Local Authorities’ Traffic Orders (Exemptions for Disabled Persons) (England) Regulations 2000

“restricted hours” means in relation to any restricted road the hours during which waiting is restricted as specified on the Plans;

“restricted road” means any of the sides or lengths of roads specified on the Plans where waiting is restricted or specific activities are restricted during the restricted hours provided that the expression “restricted road” shall not include any parking place;

“telecommunication system” has the same meaning as in the Telecommunications Act 1984 (c.12);

4. Any reference in this Order to a numbered Article shall, unless the context requires otherwise, be construed as a reference to the Article bearing that number in this Order and any reference to a Plan is a reference to a Plan incorporated into the Plan Supplement.

5. Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended, applied, consolidated, re-enacted by or as having effect by virtue of any subsequent enactment.

SECTION 2 – PROHIBITION AND RESTRICTION OF WAITING

Prohibition of Waiting

6. Save as provided in Articles 12 to 15, 17 to 18 and 20 no person shall, except upon the direction or with the permission of a parking attendant / civil enforcement officer in uniform or police officer in uniform, cause or permit any vehicle to wait at any time on any prohibited road as specified on the Plans.

Restriction of waiting

7. Save as provided in Articles 12 to 15, 17 to 18 and 20 no person shall, except upon the direction or with the permission of a parking attendant / civil enforcement officer in uniform or police officer in uniform, cause or permit any vehicle to wait on any restricted road during the restricted hours as specified on the Plans.

Limited waiting

8. Save as provided in Articles 12 to 15, 17 to 19 and 20 no person shall, except upon the direction or with the permission of a parking attendant / civil enforcement officer or police officer in uniform, cause or permit any vehicle to wait on any restricted road in respect of which there is specified on the Plans a period during the restricted hours in which waiting is allowed,
 - (a) for a period longer than specified on the Plans, or
 - (b) if a period less than that specified on the Plans as being the period in which the vehicle shall not return has elapsed since a previous period of waiting by the same vehicle on the same side of length of road.

Loading areas

9. Save as provided in Articles 12 to 14 and 17 no person shall, except upon the direction or with the permission of a parking attendant / civil enforcement officer in uniform or police officer in uniform, cause or permit any vehicle to wait in any loading area specified on the Plans unless it is of the specified class and except for the loading or unloading of goods in connection with adjoining trade or business premises.

Restriction on loading and unloading

10. Save as provided in Articles 12 to 13 and 17 no person shall, except upon the direction or with the permission of a parking attendant / civil enforcement officer or police officer in uniform, cause or permit any vehicle to wait for the purpose of enabling goods to be loaded to or unloaded from the vehicle on any no loading road during the no loading hours as specified on the Plans.

Restriction on stopping

11. Save as provided in Articles 12 to 13 and 17 no person shall, except upon the direction or with the permission of a parking attendant / civil enforcement officer or police officer in uniform, cause or permit any vehicle to stop on any no stopping road during the no stopping hours as specified on the Plans.

Emergencies

12. Nothing in Articles 6 to 11 of this Order shall render it unlawful to cause or permit any vehicle to wait in any of the roads, lengths of road or on the sides of road or loading areas specified therein for so long as may be necessary to enable the vehicle to be used in an emergency for fire and rescue, ambulance or police purposes:

General exemptions

13. Nothing in Articles 6 to 11 of this Order shall render it unlawful to cause or permit any vehicle to wait in any of the roads, lengths of road or on the sides of road or loading areas specified therein for so long as may be necessary to enable:
- (a) the vehicle, if it cannot conveniently be used for such purpose in any other road, to be used in connection with any of the following operations, namely:-
 - (i) building, shop fitting, industrial or demolition operations;
 - (ii) the removal of any obstruction to traffic;
 - (iii) the maintenance, improvement or reconstruction of the said lengths or sides of road; and
 - (iv) the laying, erection, alteration or repair in or on land adjacent to the said lengths or sides of road of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity or of any telecommunications system,
 - (b) the vehicle, if it cannot conveniently be used for such purposes in any other road, to be used in the service of a local authority or its contractors in pursuance of that authority's statutory powers or duties;
 - (c) the vehicle of the Royal Mail or other universal service provider (as defined in section 4(3) and (4) of the Postal Services Act 2000) to be used for the purpose of delivering and/or collecting mail;
 - (d) in any case where the person in control of the vehicle,
 - (i) is required by law to stop;
 - (ii) is obliged to stop so as to prevent an accident, or
 - (iii) is prevented from proceeding by circumstances outside his/her control;
14. Nothing in Articles 6 to 9 of this Order shall render it unlawful to cause or permit any vehicle to wait in any of the roads, lengths of road or on the sides of road or loading areas specified therein for so long as may be necessary to enable goods to be loaded to or unloaded from a vehicle (or goods or merchandise to be delivered or collected).

15. Nothing in Articles 6 to 8 of this Order shall render it unlawful to cause or permit any vehicle to wait in any of the roads, lengths of road or on the sides of road specified therein for so long as may be necessary to enable a person to board or alight from the vehicle.
16. Nothing in Articles 6 to 11 of this Order shall render it unlawful to cause or permit any vehicle to wait upon an authorised parking place.
17. Nothing in Articles 6 to 11 shall prevent any person from causing or permitting a vehicle to wait in any prohibited or restricted road if it is displaying in the relevant position a valid permit or waiver certificate issued by the Council and the vehicle is waiting in accordance with the terms and conditions of the said permit or certificate.

Waiting by disabled persons' vehicle

18. Nothing in Articles 6 to 7 shall render it unlawful to cause or permit a disabled person's vehicle which displays in the relevant position a disabled person's badge and a parking disc, on which the driver or other person in charge of the vehicle has marked the time at which the period of waiting began, to wait in a prohibited road or a restricted road for a period not exceeding three hours (not being a period separated by an interval of less than one hour from a previous period of waiting by the same vehicle in the same length of road or on the same side of road on the same day):
Provided that the vehicle immediately before or after the act of parking 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 disabled person(s) as passenger(s).
19. Nothing in Article 8 shall render it unlawful to cause or permit a disabled person's vehicle which displays in the relevant position a disabled person's badge to wait on the sides of roads where waiting is permitted:

Provided that the vehicle immediately before or after the act of parking 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 disabled person(s) as passenger(s).

Hackney carriages

20. Nothing in Articles 6 to 8 shall prevent any person from causing or permitting a licensed hackney carriage to wait in any duly authorised hackney carriage stand.

Waiver certificate

21. The Council may issue a waiver certificate on receipt of written application with at least 5 days working notice and may impose terms and conditions as appropriate.
22. 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 at any address that the Council believes to be that person's address and the certificate shall forthwith be surrendered to the Council.

SECTION 3 – DISABLED PERSON'S PARKING PLACES

Designation of disabled person's parking places

23. The parts of roads identified as such on the Plans are hereby designated to be used subject to the following provisions of this Order as disabled person's parking places and may be used subject to the provisions of this Order on such days and during such hours as are specified on the Plans.

24. No person shall cause or permit any vehicle to wait in a disabled person's parking place during the permitted hours unless there is displayed on that vehicle in the relevant position a valid disabled person's badge.
- Provided that the vehicle immediately before or after the act of parking 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 disabled person(s) as passenger(s).

Maximum period of waiting

25. No person shall cause or permit any vehicle to remain in a disabled person's parking place for longer than the maximum period specified for that parking place in the Plans.
26. Where as indicated on the Plans there is a limit on the time of stay on a disabled person's parking place, the driver of a vehicle shall upon leaving the vehicle in the disabled person's parking place, display in the relevant position a disabled person's badge and a parking disc on which has been marked the time at which the period of waiting began and shall remove that vehicle from the said parking place within the maximum time specified.
27. Where a period within which a vehicle must not be left again in the disabled person's parking place is specified, no person shall permit or cause the vehicle to wait again in that parking place until the expiry of that specified period.

Manner of standing in a parking place

28. Every vehicle left in a parking place in accordance with the foregoing provisions of this Order shall stand:
- (i) if the parking place is in a one-way street, so that the vehicle is facing according to the direction of the traffic flow and adjacent to the edge of the carriageway;

- (ii) if the parking place is not in a one-way street, so that the left or near side of the vehicle is adjacent to the left-hand edge of the carriageway;
- (iii) so that the distance between the edge of the carriageway and the nearest wheel of the vehicle is not more than 300mm;
- (iv) so that no part of the vehicle obstructs any vehicular means of ingress to or egress from premises adjacent to the side of the road on which the vehicle is waiting; and
- (v) so that every part of the vehicle is within the limits of the parking place.

Alteration of position of a vehicle in a parking place

29. Where any vehicle is standing in a parking place in contravention of the provisions of the preceding Article, a parking attendant / civil enforcement officer or police officer in uniform may alter or cause to be altered the position of the vehicle in order that its position shall comply with those provisions.

Removal of a vehicle from a parking place

30. Where a parking attendant / civil enforcement officer is of the opinion that any of the provisions contained in Article 28 have been contravened or not complied with in respect of a vehicle left in any part of a parking place, he / she may remove or cause to be removed the vehicle from the parking place and, where it is so removed, shall provide for the safe custody of the vehicle.

Movement of a vehicle in a parking place in an emergency

31. A police officer in uniform may move or cause to be moved, in case of emergency, to any place he / she thinks fit, any vehicle left in a parking place and shall provide for the safe custody of the vehicle.

Power to suspend the use of a parking place

32. (1) Any person duly authorised by the Council may suspend the use of a parking place 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 adjacent to the parking place, the maintenance, improvement or reconstruction of the highway or the cleansing of gullies in or adjacent to the parking place, the laying, erection, alteration or repair in or adjacent to the parking place or any sewer or of any main, pipe, or apparatus for the supply of gas, water or electricity or of any telecommunications system 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 on other special occasions.
- (2) A police officer in uniform may suspend for not longer than twenty-four hours the use of a parking place or any part thereof whenever they consider such suspension reasonably necessary for the purpose of facilitating the movement of traffic or promoting its safety.
- (3) Any person or police officer suspending the use of a parking place or any part thereof in accordance with the provisions of paragraph (1) or, as the case

may be, paragraph (2) of this Article shall thereupon place or cause to be placed in or adjacent to that parking place or part thereof a traffic sign indicating that waiting by vehicles is prohibited.

33. No person shall cause or permit a vehicle to be waiting in a parking place or any part thereof during which such period as the Council or a Police officer has suspended that parking place or part thereof and exhibits notice of such suspension on or near that parking place.
34. Nothing in the preceding Article shall render it a contravention to cause or permit a vehicle to be left in a parking place, which displays in the relevant position a valid waiver certificate issued by the Council, and the vehicle is waiting in accordance with the terms and conditions of the said certificate.

Restrictions of the use of vehicles in a parking place

35. During the permitted hours no person shall use any parking place or any vehicle whilst 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 sale of their skill in handicraft or their services in any other capacity.

Placing of traffic signs etc.

36. The Council shall:
 - (a) place and maintain traffic signs indicating the limits of each parking place
 - (b) place and maintain traffic signs of a design approved by the Secretary of State for the Department for Transport indicating that such parking places may be used during the permitted hours for the leaving only of the vehicles of the specified classes, and
 - (c) carry out such other work as it reasonably required for the purposes of the satisfactory operation of a parking place.

PART 4 - CONTRAVENTION OF ORDER

Contravention

37. If a vehicle is left in a parking place during the permitted hours or in any road or length of road in contravention or without complying with the requirements of this Order a contravention shall have occurred and a penalty charge shall be payable and/or the vehicle may be removed from that location.

Penalty charge notice

38. In the case of vehicles in respect of which a penalty charge may have been incurred, it shall be the duty of the parking attendant / civil enforcement officer to attach to the vehicle in a conspicuous position a notice which shall include the following particulars:
- (a) the registration mark of the vehicle or, where the vehicle is being used under a trade licence, the number of the trade plate carried by the vehicle;
 - (b) the grounds on which the parking attendant / civil enforcement officer believes that a penalty charge is payable in respect of that vehicle;
 - (c) the amount of penalty charge required to be paid;
 - (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 the specified proportion or amount;
 - (e) that if the penalty charge is not paid before the end of the 28 day period a Notice to owner may be served by the Council on the person appearing to be the owner of the vehicle; and
 - (f) the address to which payment of the penalty charge must be sent.

Manner of payment of penalty charge

39. 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 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 Wolverhampton City 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

Provided that, if the said twenty eight 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 4.30 on the next full day on which the said Department is open.

40. 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.
41. If the owner fails to pay the penalty charge by the end of the 28 day period, a notice of owner may be served; and if the charge is 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.
42. Continuing failure to pay the penalty charge may result in a judgement in the County Court against the owner to enable the Council to recover the payments due.

Indications as evidence

43. The particulars given in the penalty charge notice attached to a vehicle in accordance with Article 38 shall be treated as evidence in any proceedings relating to failure to pay such penalty charge.

Restriction on removal of notices

44. Where a penalty charge notice has been attached to a vehicle in accordance with the provisions of Article 38 no person, not being the driver of the vehicle, a police officer in uniform, a parking attendant / civil enforcement officer or some other person duly authorised by the Council shall remove the notice from the vehicle unless authorised to do so by the keeper of the vehicle.

Immobilisation

45. If a vehicle is left after a penalty charge has been incurred, a parking attendant / civil enforcement officer in uniform or a person acting under his/her direction may attach to the vehicle an immobilisation device and a notice in accordance with the requirements of section 69(1) of the Road Traffic Act 1991 and that vehicle shall only be released from the device on payment of the penalty charge, or as the case may be reduced penalty charge, along with such release fee as may be required by the Council
46. The restrictions imposed by this Order shall be in addition to and not in derogation from any restriction or requirements imposed by any regulations made or having effect as if made under the Act or by or under any other enactment.

Removal of vehicle

47. Where a parking attendant / civil enforcement officer has removed or caused to be removed a vehicle in accordance with Articles 30, 31 or 37,
- (a) he / she shall provide for the safe custody of the vehicle;
 - (b) the Council shall be entitled to recover from the person responsible such charges in respect of the removal, storage and disposal of the vehicle as it might prescribe from time to time;
 - (c) the provisions of the 1984 Act as amended shall apply to the disposal of such vehicles removed by or on behalf of the Council pursuant to this Article.
48. Nothing in Articles 30, 31, 37 or 45 shall apply in respect of a vehicle displaying in a relevant position a valid disabled person's badge.

PART 5 - REVOCATIONS

49. All the traffic regulation orders or parts of traffic regulation orders imposing the following restrictions as they relate to roads in the Wolverhampton City Council, Penn area made prior to this Order are hereby revoked:
- (a) Prohibition and restrictions of waiting and loading and unloading;
 - (b) Prohibition of stopping; and
 - (c) Disabled Parking Spaces.

Dated: 30 January 2007

THE COMMON SEAL of WOLVERHAMPTON
CITY COUNCIL was hereunto affixed in the
presence of:-



Sandra B Stepten

Authorised signatory

72/07

