

**THE BOROUGH OF NORTH WARWICKSHIRE**  
**(OFF STREET PARKING PLACES) ORDER, 2015**

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The Council of the Borough of North Warwickshire ("the Council") in exercise of their powers under Sections 32, 33, 35, 35A and 38 and Part IV of Schedule 9 to the Road Traffic Regulation Act, 1984, ("the Act") and of all other enabling powers, with the consent of the Warwickshire County Council, in accordance with Section 39(3) of the Act and after consulting the Chief Officer of Police in accordance with Part III of Schedule 9 to the Act, hereby make the following Order:-

PART I

GENERAL

Citation and Date of Operation

1. This Order, which revokes the Order mentioned in Article 30 below, shall come into operation on 1<sup>st</sup> March 2015 and may be cited as "The Borough of North Warwickshire (Off Street Parking Places) Order,2015."

Definitions

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

*"disabled person's badge" has the same meaning as in the The Local Authorities' Traffic Orders (Exemptions for Disabled Persons) (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;

"long stay car parks" means the parking places listed in column 1 of Schedule 1 to this Order;

*"motor car" and "trailer" have respectively the same meaning as in Sections 136 and 137 of the Act;*

"operative hours" mean the periods specified in column 4 and 5 of Schedule 1 and 2 to this Order;

*"owner" in relation to a vehicle which is required to be licensed under the provisions of the Vehicle Excise & Registration Act 1994 means the person in whose name the vehicle was registered under the said Act on the date on which the vehicle was left in the parking place in question;*

"parking attendant" means a person authorised by or on behalf of the Council to carry out any duties in relation to the parking places listed in Schedules 1 and 2 to this Order;

"parking place" means any area of land specified by name in column 1 of Schedule 1 or Schedule 2 to this Order provided by the Council under Section 32 of the Act for use as a parking place;

"parking space" means any area of a parking place which is provided for the leaving of a vehicle and indicated by markings on the surface of the parking place or by any such other suitable means as may be practicable;

“short stay car parks” mean the parking places listed in column 1 of Schedule 2 to this Order;

“Staff Permit Holders” means any vehicle displaying a permit issued by the Council for the purpose of allowing parking in a specified Parking Place and

*“vehicle” means any vehicle whether or not it is in a fit state for use on roads, and includes any caravan, and any chassis or body, with or without wheels, appearing to have formed part of such vehicle or any load carried by, and anything attached to, such vehicle;*

*The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament and as if for the purposes of Section 16 and 17 of that Act this Order were an Act of Parliament*

## PART II

### USE OF PARKING PLACE

#### Use of Land and Parking Place

3. (1) Subject to Articles 4 and 5 below, each area of land specified by name in column 1 of either of the Schedules to this Order may be used, subject to the following provisions of the order, as a parking place for such classes of vehicles, in such positions on such days, during such hours and at such charges as are specified in relation to that area in the said Schedules.
  - (2) Every vehicle parked in any of the said parking places shall, where parking spaces are defined, be parked only in such a space. For the avoidance of doubt where such spaces are delineated by surface markings, vehicles must be parked within the markings and tyres shall not touch or encroach beyond the said markings. Where parking spaces are surface marked or otherwise indicated as being reserved for a special class of vehicle no vehicle of any other class shall be parked in any such space.
  - (3) Where, within a parking place, there is a sign or surface marking which indicates that a parking space is available only for a disabled person's vehicle, the driver of a vehicle shall not permit it to wait in that parking space for any period unless it is one of the types of vehicle described in Article 29 below or either the driver of the vehicle or a passenger in the vehicle at the time it is left in the parking place *has been issued with a valid disabled person's badge and that it is clearly displayed on the dashboard so that it can be checked by a Parking Attendant.*
4. Nothing in Article 3 of this Order shall:
    - (a) restrict the power of the Council temporarily to close any or all of the parking spaces or places; or
    - (b) prevent any person from causing or permitting a vehicle to wait in a parking place for so long as may be necessary to enable:
      - (i) a person to board or alight from a vehicle;
      - (ii) goods to be loaded on to or unloaded from the vehicle.

5. *The Council may, by notice displayed at or near a parking place, immediately close such a parking place or part thereof for any period, and no driver of any vehicle shall use such a parking place or part thereof when it is so closed.*

#### Amount of Charges

6. (1) If a vehicle (not being a vehicle exempted from this provision by Article 29 or permission having been otherwise granted in writing by the Council) is parked outside of the parking bay markings, or exceeds the permitted weight limit of 1500kg, or is left in a parking place, or part thereof which is subject to a time limit on parking, such that it is observed therein during its operative hours at a particular time, (the time of first observation), and is subsequently observed therein during its operative hours at a time more than the maximum period for which a vehicle may wait as specified in column 5 of Schedule 1 or Schedule 2, after the time of first observation, (the time of final observation) then (1) the driver of the vehicle shall be guilty of an offence and (2) a charge of £50 (the charge) shall be paid by the Driver of the vehicle to the Council in accordance with the remaining provisions of this Article.
- (2) *In default of the payment of the charge by the driver of the vehicle in accordance with Articles 6(1) or 6(5) the owner of the vehicle shall be liable to pay the charge.*
- (3) *Both the driver of the vehicle and the owner of the vehicle shall be responsible persons within the meaning of Section 35A(3) of the Act of 1984, so however that the Council may prosecute either the driver of the vehicle or the owner of the vehicle, but not both for contravention of the provisions of this Order. Furthermore, the Council may recover any charge or sum due under this Order from either the driver or the owner of the vehicle but not both.*
- (4) In the case of a vehicle in respect of which a charge may have been incurred it shall be the duty of the Parking Attendant to attach to the vehicle, in a conspicuous position, a notice which shall include the following particulars:-
- (a) the registration mark on 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 date and time of final observation in the cases of breach of Article 6(1);
- (c) a statement that the charge of £50 is required to be paid or alternatively if the sum of £25 ("the sum") is offered in payment within 7 days of the date of the notice, and is in fact paid within this seven day period, the Council shall accept it in lieu of £50;
- (d) the manner in which, the time within which, the charge should be paid;
- (e) a statement that it is an offence under Section 35A of the Act of 1984 for the driver of a vehicle who has left the vehicle in a parking place to fail to pay the charge, or in default of payment of the charge by the driver an offence for the owner of the vehicle to fail to pay the charge.
- (5) *Upon making payment the driver or owner shall supply the following information, namely: the date of the offence, the name of the appropriate parking place, the registration number of the vehicle, together with the*

*number of the charge notice issued in respect of the offence for which payment is offered. This requirement may be satisfied by production of the charge notice showing the required information.*

- (6) Where the owner of a vehicle is liable to pay the charge by reason of Article 6(2) and the Council seeks to recover the charge from the owner the Council shall inform the owner by notice in writing to such liability and shall require the charge to be paid before the date specified for payment in the notice such date being not less than 14 days from the date of the notice, and in default of payment in accordance with this the owner shall be guilty of an offence.
- (7) For the purpose of this Article notice is duly given if it is posted in a letter addressed to the last known address of the driver or owner of the vehicle as the case may be.
- (8) Without prejudice to its powers under this Order to recover any charge or payment due to the Council in proceedings before the Magistrates' Court, the Council shall have power to recover any such charge or payment in the County Court as if it was a civil debt.
- (9) In Schedules 1 and 2 the requirement that no period of parking on the parking place shall exceed the maximum period specified in column 5 of each Schedule shall be construed so that the maximum period means the period of at least that specified in column 5 between the time of the first observation and time of the final observation as defined in Article 6(1). For the avoidance of doubt therefore it is immaterial whether the vehicle has been removed between the time of the first observation and the time of the final observation as defined in Article 6(1). Similarly it is immaterial whether the vehicle has returned to the same or a different parking space within the same parking place.

#### Restriction on Removal Notices

7. When a notice has been attached to a vehicle in accordance with any of the foregoing provisions of this Order, no person other than a person authorised by the Council, or the driver or a person authorised by the driver shall remove the notice from the vehicle. And it shall be an offence under this Order for any person other than a person authorised as aforesaid to remove such a notice from a vehicle.

## Driving, Vehicle Excise and Insurance Requirements

8. A person shall not drive a vehicle in a parking place unless:
- (a) that person is the holder of a licence authorising him or her to drive a vehicle of its class or description on a road; or
  - (b) he or she is the holder of a provisional driving licence and is accompanied in the vehicle by a person holding a licence of the type mentioned in (a) above; and
  - (c) in either case, the vehicle is licensed in pursuance of the provisions of the Vehicle Excise and Registration Act 1994 and unless there is in relation to the use of the vehicle by the driver such a policy of insurance as complies with the requirements of Part VI of the Road Traffic Act, 1988.

## Speed Limit

9. A person shall not drive, in a parking place, a vehicle at a speed exceeding ten miles per hour.

## Use of Vehicle Engine

10. The driver of a vehicle using a parking place shall stop the engine as soon as the vehicle is 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.

## Prohibition of Certain Sales and Activities

11. No person shall use a vehicle, while it is in a parking place, in connection with the sale of any article to persons in or near the parking place or in connection with the selling or offering for hire of his or her skill or services, nor in the parking place display or offer for sale any vehicle.
12. No person shall use any part of a parking place or any vehicle left in a parking place:
- (a) for sleeping, camping, caravanning, or cooking purposes;
  - (b) for the purposes of servicing, washing, maintaining or repairing any vehicle or part thereof other than is reasonably necessary to enable that vehicle to depart from the parking place; or.
  - (c) for the erection of any tent, booth, stand, building or other structure.
13. No person shall light or cause or permit to be lit any fire within any part of a parking place.

## Use of Horn

14. The driver of a vehicle using a parking place shall not sound any horn or similar instrument except in an emergency or when about to change the position of the vehicle in or to depart from the parking place.

### Incorrect Positioning and Removal of Vehicles

15. (1) If a vehicle is left in a parking place in a position other than in accordance with the provisions of Article 3 of this Order, an authorised Officer of the Council may alter or cause to be altered the position of the vehicle so that it is left in a position which meets the requirements of the said Article.
- (2) If a vehicle is left in a parking place in contravention of any of the foregoing provisions of this Order, an authorised Officer of the Council may remove the vehicle or arrange for it to be removed from the parking place.
- (3) For the purposes of meeting the requirements of an emergency, an authorised officer of the Council or a police constable in uniform may alter or cause to be altered the position of a vehicle in a parking place or remove or arrange for the removal of a vehicle from a parking place.
- (4) Any person altering, or causing the alteration of, the position of a vehicle by virtue of paragraph (1) of this Article, or removing, or causing the removal of, a vehicle by virtue of paragraphs (2) or (3) of this Article, may do so by towing or driving the vehicle or in such other manner as he or she may think reasonably necessary to enable the position of the vehicle to be altered or the vehicle to be removed.
- (5) Any person removing or arranging for the removal of a vehicle by virtue of paragraphs (2) or (3) of this Article shall make such arrangements as he or she considers to be reasonably necessary for the safety of the vehicle in the place to which it is removed.
- (6) *Any reasonable costs incurred by the Council in the exercise to the powers contained in paragraphs (1), (2), (3), (4) and (5) of this Article may be recovered from the owner or driver of the vehicle concerned and the Council may retain possession of the vehicle until such costs are paid.*
- (7) *Section 102 of the Act shall apply to this Order in respect of the recovery by the Council of the charges for the removing or removal of vehicles in accordance with this Article.*

### Use of Entrances and Exits

16. Where in a parking place signs are erected or surface markings are laid for the purpose of:
  - (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,

no persons shall drive or permit to be driven 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.

### Restriction on Vehicle Movements

17. No persons shall, except with the permission of any person authorised by the Council, drive any vehicle in a parking place other than for the purpose of leaving that vehicle in the parking place in accordance with the provisions of this Order or for the purposes of departing from the parking place.

## Liability Disclaimer

18. Apart from their statutory liability, the Council are not and will not be under any liability whatsoever in respect of the loss of or any damage occasioned to:
- (a) any vehicle; and/or
  - (b) anything in on or about the vehicle howsoever such loss or damage may be caused.

whilst such vehicle is on any parking place or being removed from that parking place.

## General

19. *Contravention of or non-compliance with any the provisions of this Order shall be an offence in accordance with Section 35A of the Act.*
20. *No persons shall use a parking place for the storage of any vehicle or any other object/anything for any purpose.*
21. *No persons shall in a parking place wantonly shout or otherwise make any loud noise to the disturbance or annoyance of users of the parking place or residence of premises in the neighbourhood.*
22. *No persons shall in a parking place destroy, damage, interfere with or deface any property belonging to the Council, and in addition to liability for any penalty imposed for breach of this provision of this Order, any person doing so shall be liable for and shall pay the Council the full cost of repair of the damage.*
23. (1) *No persons shall in a parking place use any threatening, insulting or abusive 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.*
- (2) *A person who is not in a parking place for the purpose of parking or retrieval of a vehicle or a purpose connected therewith on being requested to leave the parking place by an Officer of the Council, parking attendant or any Police Constable shall do so forthwith.*
24. *No person shall use a parking place as a means of passage by a motor vehicle proceeding from one road to another road unless markings on the surface of the parking place or signs indicate that this is permissible.*
25. *The driver of a vehicle drawing a trailer shall not permit the vehicle or the trailer to wait in a parking place unless they have been disconnected, and for the purpose of this order the vehicle and the trailer shall be deemed to be separate vehicles and the said driver shall be deemed to be the driver of each of the said vehicles.*
26. *In accordance with sub-section 3(c) of Section 35A of the Act, sub-sections (4), (5) and (6) of Section 47 of the Act shall apply to the parking spaces surfaced marked or otherwise indicated as being reserved for a special class of vehicle, in accordance with Article 3(2), as though in the aforementioned sub-sections of Section 47 before the words "this section" was substituted the words "Section 35A of the Road Traffic Regulation Act 1984".*



27. *Double yellow lines installed in a parking place indicate that no parking is permitted adjacent thereto.*
28. *It shall be an offence to fail to comply forthwith with a request of a duly authorised Officer of the Council or parking attendant, which is made for the purpose of securing compliance with any of the provisions of this Order.*

### PART III

#### EXEMPTIONS

29. The following vehicles left in a parking place shall be exempt from any limitation of time providing, in each case, either the driver of the vehicle or a passenger in the vehicle at the time it is left in the parking place is a disabled person:
- (i) any invalid carriage;
  - (ii) a vehicle issued to a Disabled Person by the relevant Government Department in lieu of an invalid carriage;
  - (iii) a vehicle left by the driver thereof who is a person who, on account of his or her severe physical disability, has been given a notice in writing by the Council that he or she is exempt from any limitation on time, if the notice is displayed in a conspicuous position on the vehicle and can be read from outside the vehicle; or
  - (iv) a Disabled Person's vehicle which displays a valid Disabled Person's Badge, provided that the badge is displayed in a conspicuous position on the vehicle and the wording on the badge can be read from outside the vehicle.

### PART IV

#### REVOCATIONS

30. [The Borough of North Warwickshire \(Off Street Parking Places\) Order, 2013](#) is hereby revoked.

THE COMMON SEAL of the NORTH )  
 WARWICKSHIRE BOROUGH COUNCIL )  
 was hereunto affixed on the )  
 in the presence of: )

Designated Officer