

TEWKESBURY BOROUGH COUNCIL

THE TEWKESBURY BOROUGH COUNCIL (OFF-STREET PARKING PLACES) ORDER 2015

The Council of the Borough of Tewkesbury (hereinafter called "the Council") in exercise of its powers under Sections 32, 33, 35, and 124 of the Road Traffic Regulation Act 1984 (hereinafter called "the Act of 1984") and Parts III and IV of the Schedule 9 to the Act of 1984 and the Traffic Management Act 2004 (hereinafter called "the 2004 Act") and of all other enabling powers and with the consent of Gloucestershire County Council given under Section 39(3) of the Act of 1984 and after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 of the Act of 1984 hereby makes the following Order

PART 1

GENERAL

Article No.

1. Commencement and Citation

This Order shall come into operation on the 1st day of April 2015 and may be cited as "The Tewkesbury Borough Council (Off-Street Parking Places) Order 2015".

2. Revocations

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 Tewkesbury Borough Council (Off-Street Parking Places) Order 2009 is hereby revoked.

3. Interpretation

(1) Any reference in this Order to a numbered Article is a reference to the Article bearing that number in this Order and any reference in this Order to "the Schedule" is a reference to the Schedule to this Order.

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

"appropriate ticket machine" in respect of a parking place means a ticket machine situate in that parking place

"charging hours" in respect of a parking place means any period specified in relation to that parking place in Column 7 of the Schedule in respect of which a parking charge is specified in Article 13

"civil enforcement officer" has the same meaning as Section 76 of the 2004 Act

"Council" means Tewkesbury Borough Council

"disabled person's badge" has the same meaning as in the Disabled Persons' (Badges for Motor Vehicles) (England) Regulations 2000 and any amendments or re-enactment thereof

"disabled person's vehicle" means a vehicle lawfully displaying a disabled persons' 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

"Electronic Transfer Parking System" means a system using electronic records and mobile telephone or text connection, set up and maintained by the Service Provider to accept and record payment of parking charges on behalf of the Council

"motor vehicle" has the same meaning as given in Section 136 of the Act of 1984

"owner", in relation to a vehicle, means the person by whom such vehicle is kept and used and it shall be presumed that the owner is the person in whose name the vehicle was at that time registered under the Vehicle Excise and Registration Act 1994

"parking bay" 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

"parking charge" means the amount payable in accordance with Article 13(1), (2) and (3) of this Order

"parking permit issued by the Council" means a parking permit issued by the Council (in such form as the Council shall from time to time prescribe)

"parking place" means any area of land specified by name in Column 1 of the Schedule and provided by the Council under Section 32(1) or Section 33 of the Act of 1984 for use as a parking place

"parking ticket" means a ticket issued by the appropriate ticket machine in accordance with Paragraph 4 of Article 13 which indicates that the parking charge has been paid and the day and time by which the period for which the parking charge has been paid will expire

"passenger vehicle" means a vehicle constructed or adapted solely for the carriage of passengers and their effects

"penalty charge" means a charge set by the Secretary of State under the provisions of Section 77 of the 2004 Act and The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007

"Penalty Charge Notice" means a notice issued by or served by a civil enforcement officer or posted by the Council pursuant to the provisions of Section 78 of the 2004 Act and The Civil Enforcement of Parking Contraventions (England) General Regulations 2007

"Service Provider" means either the Council or such company or contractor authorised and appointed by the Council to operate, administer and accept payment of any parking charges on its behalf by way of the Electronic Transfer Parking System

"System Member" means a person who has entered into an agreement with the Service Provider to pay them the amount of any parking charge which is payable for a specific vehicle when left in a parking place during

the charging hours by using the Electric Transfer Parking System and has provided them with the information necessary to enable the Electric Transfer Parking System to be accessed when that vehicle is so left

“ticket machine” means any apparatus of a type and design approved by the Secretary of State for Transport for the purpose of this Order, being apparatus designed to issue parking tickets indicating the payment of a charge and the date and time at which a charge was paid

"vehicle" means any vehicle as defined in the classes of vehicles permitted to wait in the parking places as set out in the Schedule whether or not it is in a fit state for use on the public highway and includes any chassis or body with or without wheels, appearing to have formed part of such a vehicle and any load carried by and anything attached to such a vehicle.

- (3) For the purposes of this Order, a vehicle shall be regarded as displaying a disabled persons badge in the relevant position if the badge is exhibited in the manner prescribed in 'The Blue Badge Scheme' advisory leaflet "Parking concessions for disabled and blind people" published by the Department for Transport or in the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000.
- (4) For the purpose of this Order a vehicle towing a caravan or a trailer shall be deemed to be a goods vehicle in excess of 1525 kg unladen weight.
- (5) For the purposes of this Order any mechanically propelled passenger carrying vehicle constructed or adapted with seats for nine or more persons (inclusive of the driver) shall be deemed to be a goods vehicle in excess of 1525 kg unladen weight.
- (6) Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment.
- (7) The Interpretation Act 1978 shall apply for the interpretation of this Order.

PART 2

AUTORISATION AND USE OF PARKING PLACES

Article No.

4.

Use of Parking Places

- (1) Each of the areas specified in Column 1 of the Schedule is authorised to be used, subject to the following provisions of this Order, as a parking place for such vehicles or classes of vehicles as are specified in relation to that parking place in Column 3 of the Schedule and on such days and during such hours as are specified in relation to that parking place in the said Schedule and on payment of the appropriate parking charge.
- (2) Consent to use the parking places specified in Column 1 of the Schedule is withdrawn if the terms and conditions of the Order or of the conditions shown on the charges and conditions of use boards sited in the parking places are not complied with.

- (3) Where in the Schedule a parking place is described as available for vehicles of a specified class or on specified days or during specified hours the driver shall not permit it to wait in that parking place:-
- (a) unless it is of a specified class
 - (b) on days or during hours other than those specified
 - (c) in any position except wholly within a marked parking bay delineated by surface applied line markings, embedded contrasting-colour paving elements, barrier posts or other indication of parking bay. All road wheels of the vehicle must be contained within one individual marked bay
 - (d) in such a position as to obstruct access to the parking place or obstruct the access roads within the parking place.
- (4) Where, within a parking place, there is a sign or surface marking which indicates that a parking bay is provided only for a disabled person's vehicle, the driver of a vehicle shall not permit it to wait in that parking bay unless it is a disabled person's vehicle.

5. Closing and Setting Aside Parking Places

- (1) Nothing in this Order shall prevent the Council, by notice displayed at a parking place:-
- (a) from closing the parking place or any part thereof for any period
 - (b) from setting aside for special use or for use only by specially authorised vehicles of any part or parts of the parking place on all days or on certain days or during certain parts of certain days
- (2) The driver of a vehicle shall not, except with and subject to the terms of any permission in writing from the Council in the particular case, cause or permit it:-
- (a) to wait in the parking place or any part thereof at any time when the parking place or that part (as the case may be) has been closed under Article 5(1)(a) of this Order
 - (b) to wait in any part of the parking place at a time when that part has been set aside for special use or for use by a specially authorised vehicle in accordance with Article 5(1)(b) of this Order, unless the vehicle is so authorised.

6. Licensing and Insurance

- (1) The driver of a vehicle shall not drive in or permit it to wait in a parking place unless it possesses a current vehicle licence issued under the Vehicle Excise and Registration Act 1994 and any amendment or re-enactment thereof, or exhibits in the prescribed manner trade plates and a current trade licence issued under the Vehicle Excise and Registration Act 1994 and any amendment or re-enactment thereof.

- (2) The driver of a vehicle shall not drive in or permit it to wait in a parking place unless there is in relation to the use of the vehicle by the driver such a current policy of insurance as complies with the requirements of Part VI of the Road Traffic Act 1988 and any amendment or re-enactment thereof.

7. Use of vehicle in parking places

- (1) The driver of a motor vehicle using a parking place shall stop the engine and apply the handbrake as soon as the vehicle is in position in the parking place and shall not release the handbrake or start the engine except when about to change the position of the vehicle in or to depart from the parking place.
- (2) The driver of a vehicle using a parking place shall not drive the vehicle recklessly or at a speed or in a manner which is dangerous to other users of that parking place or without due care and attention or without reasonable consideration for other users of that parking place.
- (3) No person shall sell or attempt to sell or use any 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 skill or services or provision of facilities without the prior written consent of the Council.
- (4) 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 person 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 as the case may be
 - (iii) at an excess speed.
- (5) No person shall, except with the permission of a person authorised by the Council in that behalf, drive or permit to be driven any vehicle in the parking place for any purpose other than the purpose of leaving that vehicle in the parking place or for the purpose of departing from the parking place in accordance with the provisions of this Order.
- (6) No person shall use a parking place as a means of passage by a vehicle proceeding from one road to another.
- (7) No person shall, except with the prior consent of the Council, permit to be driven any vehicle in a parking place for the purpose of Learner Driver training except for the purpose of leaving that vehicle in the parking place or for the purpose of departing from the parking place in accordance with the provisions of this Order.

- (8) The driver of a vehicle using a parking place shall not sound a horn or other similar instrument:-
 - (a) In the case of a motor vehicle which is stationary, at any time, other than at times of danger due to another moving vehicle in or near the parking place, or
 - (b) In the case of a vehicle which is in motion, between 11.00 p.m. and 7.00 a.m. the following morning.
- (9) No person shall use any part of a parking place or any vehicle or appurtenance left in a parking place:-
 - (a) for sleeping or camping or cooking or washing purposes; or
 - (b) without the prior written consent of the Council for the purpose of servicing or washing any vehicle or part thereof other than is reasonably necessary to enable that vehicle to depart from the parking place.

8. Advertising and Promotional Material

- (1) Except with the written consent of the Council, no person shall use a parking place for the purpose of displaying or distributing advertising promotional or campaigning material;
- (2) Part (1) of this Article shall apply:-
 - (i) to any person who engages in the distribution of advertising promotional or campaigning material in a parking place
 - (ii) to any person who engages any other person to distribute advertising promotional or campaigning material in a parking place
 - (iii) to any person whose goods, trade, business or other concerns receive publicity by the display of such advertising promotional or campaigning material

provided that a person shall not be in breach of this Order under part (1) of this Article by reason only that his goods, trade, business or other concerns are given publicity by the advertising material if he proves that it was displayed without his knowledge or consent.

9. Other Uses of a Parking Place

- (1) In a parking place no person shall:-
 - (a) erect or cause or permit to be erected any tent, booth, stand, building or other structure without the written consent of the Council
 - (b) light or cause or permit to be lit any fire, stove or cooker; or
 - (c) place or cause to be placed any advertising promotional or campaigning information on any vehicle

- (d) transfer or cause to be transferred any type of fuel from one vehicle to another vehicle.
- (2) No person shall in a parking place without the written consent of the Council (which may be given on such terms and conditions as it thinks fit):-
 - (a) make any collection of money or articles for charitable or other purposes;
 - (b) advertise or publish by any means any event, display, entertainment, sale, business, shop, organisation or other thing.

10. Noise, Disturbance and Anti-social Activity

- (1) No person shall in a parking place wantonly shout or otherwise make any loud noise (including the use of any in-vehicle or portable sound systems or amplifying equipment) to the disturbance or annoyance of users of the parking place or residents or occupiers of premises in the neighbourhood.
- (2) No person shall in a parking place:-
 - (a) obstruct the civil enforcement officers in the exercise of their duties, threaten or otherwise intimidate them
 - (b) use any threatening, abusive or insulting language, gesture or conduct which is offensive and/or 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
 - (c) without the consent of any person duly authorised by the Council, leave or cause to be left unattended in any parking place other than in a designated trolley park any shopping or supermarket trolley
 - (d) deposit any litter or engage in any activity which can reasonably be expected to result in the deposit of litter
 - (e) wilfully, carelessly or negligently deface, damage or destroy any part of the parking place, any tree or shrub growing therein or any wall, fence or barriers enclosing any parking place or any fitting or equipment in or on the parking place
 - (f) urinate or defecate in a parking place or any part thereof otherwise than in a public convenience specifically provided and set apart for such purpose
 - (g) cause or permit any dog or other animal belonging to him or his charge to:-
 - (i) enter or remain in the parking place unless such dog or animal is on a lead and under proper control and effectively restrained from causing annoyance to any person and from worrying and disturbing any other animal
 - (ii) foul the parking place

- (h) except with the written consent of the Council
 - (i) park or drive or ride any vehicle of any description which is not expressly authorised in accordance with the provisions of this Order
 - (ii) tether, drive or ride any animal
 - (iii) play any game or sport or undertake any recreational activity.

11. Supervision of Parking Places

The Council does not undertake to supervise the parking places specified in Column 1 of the Schedule and vehicles are parked entirely at the owner's and/or driver's risk and the Council will not accept any liability for any loss or damage howsoever caused either to the vehicle or its contents or injury to persons unless caused by negligence of the Council, its servants or its agents.

12. Maximum Waiting Period

Except in any case where a parking permit issued by the Council permits waiting in a specified parking place specified in Column 1 of the Schedule for a period longer than that specified in Column 6 of the Schedule and the vehicle displays that parking permit in accordance with this Order, a driver of a vehicle shall not permit a vehicle to wait in that parking place for longer than the period specified in Column 6 of the Schedule.

PART 3

CHARGES FOR THE USE OF PARKING PLACES

Article No.

- 13.
- (1) The appropriate parking charge is payable for vehicles waiting in the parking places specified in the Schedule during the charging hours specified in the Schedule, unless the vehicle displays a valid parking permit issued by the Council or the driver has been exempted by the Council from payment of the charge.
 - (2) The appropriate parking charge means the charge or charges specified in relation to that parking place in Column 8 of the Schedule and in relation to the days specified in that Schedule.
 - (3) The charge referred to in Paragraph (2) of this Article shall be payable immediately after a vehicle is parked in a parking bay and before the driver leaves the parking place by either:-
 - (a) the insertion of appropriate currency into the ticket machine; or
 - (b) where applicable, a System Member instructing the Service Provider, either by mobile telephone or by a text message, to initiate the process of payment of the parking charge by means of a credit card or debit card transaction via the Electronic Transfer Parking System.

(4) The parking ticket issued on payment of the charge referred to in Paragraph of this Article in the manner specified in Paragraph 3(a) of shall be displayed face up:-

- (a) in the case of a vehicle fitted with a front windscreen, in a conspicuous position inside the front windscreen or windshield of the vehicle in respect for which it was issued
- (b) in any other case, in a conspicuous position at the front of the driving compartment of the vehicle for which it was issued

such that the parking purchase information (day of issue, expiry time and fee paid) is clearly visible from outside of the vehicle through the front windscreen or from the front of the vehicle and shall be displayed for the whole time that the vehicle is left in the parking place and shall not be removed until the vehicle is removed from the parking place.

(5) Any parking ticket issued on payment of the charge referred to in Paragraph (2) of this Article shall be valid for the day of issue only except when payment was made after 5.30pm when the ticket will remain valid on the day following the date of purchase but only for the period of time for which payment was made and such time will begin to run at 8.00a.m. on that following day

(6) Any parking ticket issued on payment of the charge referred to in Paragraph (2) of this Article shall be valid only for the vehicle for which it is initially purchased and is not transferable between vehicles.

(7) With the exception of parking tickets issued at either Station Road, Tewkesbury or Back Lane, Winchcombe parking places which shall not be transferred between parking places any parking ticket purchased at any parking place will be valid at any other parking place other than Station Road, Tewkesbury or Back Lane, Winchcombe but only until the expiry time shown on the parking ticket.

(8) When a parking ticket or parking tickets has or have been displayed on a vehicle in accordance with Paragraph (4) of this Article, no person other than the driver of the vehicle shall remove the parking ticket or parking tickets from the vehicle unless authorised by the driver so to do.

(9) The purchase of a parking ticket or parking tickets or payment by the Electronic Transfer Parking System shall entitle the driver to leave the vehicle in the parking place for so long as is indicated by the parking ticket or tickets so purchased, or where payment has been made by the Electronic Transfer Parking System for the period for which payment has been made and recorded on the Electronic Transfer Parking System providing that the vehicle shall not wait in the parking place for a period of time greater than the maximum period of permitted waiting for that parking place.

(10) The expiry of the period for which the charge specified for that parking place in the Schedule has been paid shall be either:- (a) when the time printed on the parking ticket displayed in or on the vehicle has passed; or (b) by the Electric Transfer Parking System holding a record that indicates that the period in respect of which the System Member has paid the relevant parking charge has expired.

- (11) If at any time while a vehicle is left in a parking place no parking ticket is displayed on that vehicle in accordance with Paragraph (4) of this Article or the Electronic Transfer Parking System does not contain a record that the process of payment of the parking charge to the Service Provider in respect of that vehicle in that parking place has been initiated at or before that time it shall be presumed that the parking charge has not been duly paid.
- (12) Except as provided in Paragraph (5) of this Article, if at any time while a vehicle is parked in a parking place during the charging hours either the parking ticket displayed on the vehicle in accordance with the provisions of Paragraph (4) of this Article shows a date that is not the date on which the vehicle is parked or the time shown by the clock on the ticket machine that issued the parking ticket is later than the time shown on that parking ticket, or, where the Electric Transfer Parking System indicates that the period in respect of which payment by the System Member of the parking charge for that vehicle has expired, it shall be presumed that the period for which payment has been made has expired.
- (13) If it is presumed, in accordance with the provisions of Paragraph (11) of this Article that the parking charge has not been duly paid, or in accordance with Paragraph (12) that the period for which payment of the parking charge has been made has expired, then these indications shall be evidence that a contravention of or failure to comply with the provisions of this Order has occurred.
- (14) A parking ticket shall be presumed, in all cases, to have been issued on the date shown thereon.
- (15) If at any time when a vehicle is left during the charging hours in a parking place there is a notice placed by any person duly authorised by the Council on the ticket machine indicating that the said ticket machine is out of order then a parking ticket shall be obtained from another ticket machine within that parking place (where provided).
- (16) Where no parking ticket can be obtained and displayed in accordance with this Article in the event that all ticket machines at that parking place carry notices displayed upon them by a person duly authorised by the Council indicating that they are out of order AND where the Electronic Transfer Parking System is not available to the driver of a vehicle who left it in that parking place a vehicle may be left in that parking place without payment of the parking charge.

Exemptions from parking charge

- (17) No parking 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 after 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 which is left in a parking bay specified for such vehicles (if any)

- (iii) a vehicle left displaying in a relevant position a parking permit issued by the Council valid for that time and for that parking place
- (iv) the day designated as Remembrance Sunday in each year
- (v) Tewkesbury Town parking places for the day of the event of the switching on of the Tewkesbury Christmas lights in each year
- (vi) Winchcombe Town parking places for an equivalent Christmas event to that specified in Article 17(v) in each year to be determined by the Council in consultation with Winchcombe Town Council
- (vii) The last Saturday before 25th December in each year.

(18) Permits

- (i) The owner of a vehicle may on application to the Council purchase a parking permit for use in a specified/designated parking place in respect of that vehicle for a charge as specified in the Schedule and that parking permit shall be valid in such parking places as are specified thereon during the period for which it is issued under terms and conditions determined by the Council.
- (ii) Any parking permit issued by the Council in accordance with Paragraphs (18)(i) of this Article shall be displayed in a conspicuous position in the front windscreen or windshield or at the front of the driving compartment of the vehicle in respect of which it is issued such that the parking permit serial number and car registration number (if printed thereon) are clearly visible from outside of the vehicle and shall not be removed until the vehicle is removed from the parking place. The parking permit shall be displayed for the entire period that the vehicle is left in the parking place.

PART 4

CONTRAVENTION AND PENALTY CHARGES

Article No.
14.

- (1) If a vehicle is parked in a parking place in contravention of or in non-compliance with this Order a contravention within the meaning of paragraph 4 of Schedule 7 to the 2004 Act shall have occurred and a penalty charge shall be payable by the owner and a Penalty Charge Notice may be issued by a civil enforcement officer in accordance with the requirements of the 2004 Act.
- (2) Payment of the penalty charge to the Council shall be in accordance with the terms and conditions as stated on the Penalty Charge Notice.
- (3) The particulars given in the Penalty Charge Notice in accordance with this Article shall be treated as evidence in any proceedings relating to the failure to pay the penalty charge.

- (4) Where a Penalty Charge 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 authorized by the driver shall remove the Penalty Charge Notice from the vehicle.

The Common Seal of the Borough)
Council of Tewkesbury was hereunto)
affixed the Twenty-sixth day of March)
2015 in the presence of :-)

Borough Solicitor