

The Borough of Brentwood (Off-Street Parking Places) Consolidation Order 2012

Made

Coming into operation Monday 11 February 2013

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Brentwood Borough Council (hereinafter referred to as "the Council") in exercise of the powers under Section 111 of the Local Government Act 1972, Sections 32, 33, 34, 35, and 39 of the Road Traffic Regulation Act 1984 and Part IV of Schedule 9 to the Road Traffic Regulation Act 1984 and of all other enabling powers and after consultations in accordance with Part III of Schedule 9 to the Act, hereby makes the following Order: -

Citation

1. This Order shall come into operation on Monday 11 February 2013 and may be cited as The Borough of Brentwood (Off-Street Parking Places) Consolidation Order 2012.

Interpretation

2. In this Order, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:
 - (1) "**the Act**" means the Road Traffic Regulation Act 1984;
 - (2) "**ambulance**" has the same meaning as in the Vehicle Excise and Registration Act 1994;
 - (3) "**Authorised Officer**" means a person authorised (by name or designation or both) in writing by the Managing Director of the Council;
 - (4) "**Blue Badge**" has the same meaning as a disabled person's badge in the Disabled Persons (Badges for Motor Vehicles) Regulations 2000 and the Local Authorities' Traffic Orders (Exemption for Disabled Persons) (England) Regulations 2000;
 - (5) "**Civil Enforcement Officer**" has the same meaning as a civil enforcement officer in the Traffic Management Act 2004 Part 6 s.76;
 - (6) "**Driver**" in relation to a vehicle in a parking place means the person driving or having control or charge of the vehicle, or the person having driven or having had control or charge of the vehicle at the material time; in relation to a vehicle shall mean the person in whose name the vehicle was or is at the time registered under the Vehicle (Excise) Act 1971 (or any statutory replacement thereof) and references to the address of such person shall be taken to refer to the address recorded in the record kept under the Act with respect to that vehicle as being that person's address;
 - (7) "**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 and 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;
 - (8) "**Invalid carriage**", "**motor vehicle**", "**motor cycle**" and "**trailer**" have respectively the same meanings as in section 136 of the Act provided that for the purpose of this Order the term "motor cycle" shall be deemed to include only a solo motor cycle;
 - (9) "**No Return**" means no return of a vehicle to a given parking place within a specified period;
 - (10) "**Off-street Plans**" means the Borough of Brentwood Off-Street Parking Plans which are incorporated into this Order in schedule 3.
 - (11) "**owner**" has the same meaning as in Section 92 of Traffic Management Act 2004
 - (12) "**Parking Bay**" means an area contained within a parking place delineated by markings to indicate the position in which a vehicle may be parked;
 - (13) "**Parking Place**" has the same meaning as that set out in Section 32(4)(b) of the Act;
 - (14) "**Pay and Display Parking Place**" means a parking place in which a driver must follow the procedure as stipulated in Article 15 of this Order;
 - (15) "**Pay on Foot Barrier-controlled Parking Place**" means a parking place in which a driver must follow the procedure as stipulated in Article 14 of this Order;
 - (16) "**Pay by Phone**" means the telephone payment parking system provided by the Council;

- (17) “**penalty charge**” has the same meaning as in Section 92 of The Traffic Management Act 2004 and set at a level in accordance with Band 2 in the regulations for the time being in force under Section 77 and Schedule 9 of the said act as published from time to time and is an additional amount payable regardless of the period for which a vehicle is left;
- (18) “**penalty charge notice**” means a notice described in Section 78 of The Traffic Management Act 2004 having effect as if issued or served by a Civil Enforcement Officer or posted by the enforcement authority under any regulations for the time being in force under Section 78 of The Traffic Management Act 2004.
- (19) “**Service Provider**” means the company authorised and appointed by the Council to operate, administer and maintain the payment of parking charges using the telephone payment parking system;
- (20) “**Telephone Payment Parking System**” means a system to facilitate and monitor the payment of parking charges using telephone communication with the service provider in accordance with instructions indicated on signs located at each parking place where the system is operational.
- (21) “**permitted hours**” means the hours identified on schedules 1 & 2 attached to this Order;
- (22) “**relevant position**” means
- (i) in the case of a disabled person’s badge:-
 - a. the **disabled person’s badge** is exhibited on the dashboard or facia of the vehicle, or
 - b. where the vehicle is not fitted with a dashboard or facia, the **disabled person’s badge** is exhibited in a conspicuous position on the vehicle, so that the side of the **disabled person’s badge** onto which the expiry details serial number and other details confirming the validity thereof are printed is fully and clearly legible from the outside of the vehicle, and
 - (ii) in the case of any **parking ticket** issued on payment of the parking charge or **season ticket** or **permit** the **parking ticket**, **season ticket** or **permit** shall be attached to the vehicle in respect of which it was issued -
 - (iii) in the case of any other vehicle –
 - a. where the vehicle is fitted with a front glass windscreen extending across the vehicle to the nearside, facing forwards on the near side of the glass of such windscreen behind the glass; or
 - b. where the vehicle is not fitted with a front glass windscreen, on the near side of the vehicle so that the all the details shown on the side of the said **parking ticket** **season ticket** or **permit** onto which the expiry details serial number and other details confirming the validity thereof are printed is fully and clearly legible to a person standing at the near side of the vehicle in all cases.
- (23) “**season ticket**” means a pre-paid permit issued to a person for the parking of a specified vehicle in a specified parking place or places for a specified date or dates without the requirement to make a payment or obtain a parking ticket during the time for which the season ticket is valid. Improper use of which will render the same void;
- (24) “**Barrier-Controlled Parking Place**” means a parking place in which a Driver must follow the procedure as stipulated in Article 14 of this Order;
- (25) “**Limited Waiting Parking Place**” means a parking place in which a driver must not wait in that parking place for more than the maximum period as stipulated in Schedule 1 to this Order;
- (26) Except where the context otherwise requires, any reference in this Order to a numbered article or schedule is a reference to the article or schedule bearing that number in this Order.

- (27) Insofar as any provision of this Order conflicts with a provision which is contained in an Order made or having effect as if made under the Act and existing at the time when this Order comes into operation.
3. The prohibitions imposed by this Order shall be in addition to and not in derogation of any restriction, prohibition or requirement imposed by any Regulations or Orders made or having effect as if made under the Act, or by or under any other enactment.
4. Save where the contrary is indicated, any reference in this Order to:
- (1) This Order or another Order shall be construed as such a reference to this Order or, as the case may be, such other Order, as the same may have been or may from time to time be amended, varied or supplemented;
 - (2) A Statute or Regulation shall be construed as reference to such Statute or Regulations as the same may have been, or may from time to time be amended or re-enacted.
5. The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

Parking places

6. Each of the Parking Places specified in Schedule 1 and as identified and defined in the Off-Street Plans in schedule 3 may only be used for the parking of vehicles subject to the following provisions of this Order.

Dimensions and position of vehicles

7. No motor vehicle shall be left in any Parking Place if:
- (1) its length exceeds 6.00 metres.
 - (2) its height exceeds 2.1 metres.
 - (3) its width exceeds 2.3 metres.
 - (4) Every vehicle left in a parking place in accordance with the provisions of this Order shall stand so that every part of the vehicle is within the limits of a parking bay.

Maximum period for which a vehicle may be left and no return period

8. (1) On the days and times upon which the parking place is regulated as stipulated in schedule 1 to this Order, the driver of a vehicle shall not cause it to remain in such parking place for longer than the maximum period permitted.
- (2) When a vehicle has departed from a parking place after having been left therein that vehicle shall not return to that parking place within the period stipulated in Schedule 1 to this Order.

Season tickets

9. (1) The Council may at its discretion issue Season Tickets
- (2) The Council may at its discretion provide a duly appointed agent with Season Tickets for issue to such persons, or firms or companies upon such terms and conditions as may be agreed between the Council and such agent.
- (3) A Season Ticket may be used only in accordance with the terms and conditions laid down by the Council from time to time. The Council may vary the terms and conditions at its absolute discretion.
- (4) Any Season Ticket issued by the Council remains the property of the Council and is non-transferable.

Dispensations and suspensions

10. (1) The Council may issue a dispensation permitting a vehicle or vehicles to park lawfully in what otherwise would be a contravention of this Order.

Exemptions for disabled persons' vehicles and motor cycles

11. (1) Any disabled person's Vehicle which displays in the relevant position a valid Blue Badge and any solo motor cycle, shall be exempt from the provisions of Articles 8 and 15 of this Order.
- (2) Without prejudice to the generality of this Article, a Vehicle to which this Article applies shall stand in the Parking Place in accordance with the provisions of Article 13 of this Order, and wholly within the limits of that place.

Other provisions

12. No person shall use any vehicle, while it is in the 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 or hire of his skill or services and no person shall while a vehicle is in the parking place affix or place thereon any advertisement, unless the owner of the vehicle has obtained from the Council their consent in writing for such use and observed any conditions contained therein.

Manner of standing in parking places

13. Every vehicle left in a Parking Place in accordance with the foregoing provisions of this Order shall stand so that every part of the vehicle is within the limits of a parking bay.

Pay on foot barrier-controlled parking places

14. (1) The Driver of a Vehicle left in a Pay on Foot Barrier-controlled Parking Place shall, subject to that which is provided for in Article 2 (23) and 9, pay the appropriate charge as stipulated in Schedule 3 and follow the payment procedure for that Pay on Foot Barrier-controlled Parking Place as set out in the following paragraphs.
- (2) Upon entering the Pay on Foot Barrier-controlled Parking Place in a Vehicle, the Driver shall obtain from the machine situated at the entrance to the Pay on Foot Barrier-controlled Parking Place, a parking ticket indicating the time of entry.
- (3) Prior to leaving the Pay on Foot Barrier-controlled Parking Place in a vehicle, the Driver shall insert the parking ticket into the payment machine located in the Pay on Foot Barrier-controlled Parking Place, and pay the appropriate parking charge.
- (4) Upon paying the appropriate parking charge, the Driver shall leave the Pay on Foot Barrier-controlled Parking Place in his Vehicle without delay, and within the time limit as stipulated on a notice situated near each payment machine.
- (5) The Driver in a vehicle shall leave that Pay on Foot Barrier-controlled Parking Place, by inserting the parking ticket in the machine situated at the exit from that Parking Place.
- (6) Where the Driver of a Vehicle has been issued with a valid Season Ticket, in accordance with Article 9, no charge shall be payable by that Driver for parking in a Pay on Foot Barrier-controlled Parking Place so long as he produces or inserts the Season Ticket at the machine upon entering and at the machine upon leaving that Parking Place.
- (7) No person shall insert into any machine situated in a Pay on Foot Barrier-controlled Parking Place, a coin or bank note, unless that coin or bank note is valid legal and correct currency for use in that machine.

Pay and display parking places

15. Save as provided for in Article 9,10,11 & 16, no Vehicle shall be left in a Pay and Display Parking Place unless displaying a valid and appropriate parking ticket obtained from a Pay and Display machine, in accordance with article 2 (19) of this order.

Cashless Parking

16. (1) In addition to the provisions of Article 11 of this Order, where the service is available, each Parking Place referred to in Schedule 1 may also be used for such classes of vehicles in

such positions on such days during such hours on payment of the relevant parking charge using Pay by Phone

- (2) Pay by Phone information signs and the relevant Location Identification Number signs will be located in each parking place where Pay by Phone is in operation and will provide information in relation to the operation and use of Pay by Phone
- (3) The payment of a parking charge using Pay by Phone will relate only to the Parking Places as indicated by the Location Identification Number displayed on the Location Identification Number sign situated in the Parking Place
- (4) Where a vehicle has been left in a Parking Place operating Pay by Phone an indication that the relevant parking charge has been made in respect of that vehicle using Pay by Phone together with an indication of the parking periods for which payment has been made shall appear on the Hand-Held Device
- (5) Without prejudice to the provisions of Article 11 and 15 of this Order if at any time while a vehicle is left in a Parking Place referred to in Schedule 2 to this Order no indication appears on a Hand-Held Device that payment of the relevant parking charge has been made using Pay by Phone or a Hand-Held Device indicates that the payment period for which payment was made using Pay by Phone has expired it shall be presumed that either:
 - (i) The relevant parking charge has not been duly paid in respect of that vehicle in accordance with the provisions of Article 15 of this Order; or
 - (ii) The parking period for which payment was made using Pay by Phone has expired

and in either case a Civil Enforcement Officer may serve a Penalty Charge Notice

Penalty charge

17. Where a Driver contravenes an Article contained in this Order, the Owner of the Vehicle shall incur a penalty charge set at a level in accordance with Band 2 in the regulations for the time being in force under Section 77 and Schedule 9 of the Transport Management Act 2004 as published from time to time and is an additional amount payable regardless of the period for which a vehicle is left.

Penalty charge notice

18. (1) In the case of a vehicle in respect of which the penalty charge may have been incurred, it shall be the duty of a Civil Enforcement Officer to attach to the vehicle in a conspicuous position or serve or the enforcement authority send by post a notice in accordance with the provisions contained in the Transport Management Act 2004 or any Regulations made there under.
- (2) A penalty charge notice fixed to a vehicle shall not be removed or interfered with except by or under the authority of:
 - (i) the Owner, or person in charge, of the Vehicle; or
 - (ii) the Council.

Power to suspend use of parking places

19. (1) Any persons duly authorised by the Council may suspend the use of a parking place or any part thereof whenever he considers such suspension reasonable at the absolute discretion of the Council.
- (2) A police constable in uniform may suspend for not longer than twenty-four hours the use of a parking place of any part thereof whenever he considers such suspension reasonably necessary.
- (3) Any person suspending the use of a parking place or any part thereof in accordance with the provisions of paragraph (1) or paragraph (2) of this Article shall thereupon place or cause to be placed in or adjacent to that parking place or the part thereof the use of which is suspended a traffic sign indicating that waiting by vehicles is prohibited.

- (4) No person shall cause or permit a vehicle to be left in any parking place or part of a parking place during such period as there is in or adjacent to that parking place or part of a parking place a traffic sign placed in pursuance of paragraph (3) of this Article, provided that nothing in this paragraph shall render it unlawful to cause or permit any vehicle being used for any purpose specified in Article 21 (1) of this Order.

Suspension of use of a parking place

20. (1) Notwithstanding any of the provisions of this Order the Council may by notice displayed on or near a Parking Place close that Parking Place or any part thereof for any period and may use such Parking Place for any purpose.
- (2) No driver of any vehicle shall use the Parking Place or that part thereof in the circumstances described in paragraph (1) of this Article without the prior consent in writing of the Council
- (3) The Council may at its absolute discretion temporarily suspend charging in a parking place and or impose temporary restrictions.
- (4) Notices explaining the temporary changes will be placed in prominent positions in the parking place before the changes come into effect and upon temporary restrictions being removed and or charging being reinstated.
21. (1) Nothing in this Order shall render it unlawful to cause or permit any vehicle to wait in any parking place specified herein:
- (i) to enable the vehicle to be used for fire brigade, ambulance or police purposes;
 - (ii) upon the direction or with the permission of a police constable in uniform or a Civil Enforcement Officer

Removal and disposal of vehicles and other things from parking places

22. (1) Where a Civil Enforcement Officer is of the opinion that any of the provisions contained in this Order have been contravened or not complied with in respect of a Vehicle or other thing left in a Parking Place, that Civil Enforcement Officer or an authorised officer may remove or cause to be removed the Vehicle or other thing from the Parking Place, and where it is so removed, shall provide for the safe custody of the Vehicle or other thing.
- (2) Where a Vehicle or other thing has been removed from a Parking Place in accordance with paragraph (1) of this Article the Driver or Owner of the Vehicle or other thing or person authorised by the Owner in writing in that behalf shall be required to pay to the Council up to the maximum sum set out in The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc.) Regulations 1989 and furnish satisfactory proof of identity.
- (3) Following payment of the sum mentioned in paragraph (2) above and upon production of satisfactory proof of identity the Council shall issue a receipt, together with details of the place where the Vehicle or other thing has been impounded.
- (4) Upon production of the receipt given in accordance with paragraph (3) of this Article to an authorised person at the place of impound the Vehicle or other thing shall be released to the person producing the receipt.
- (5) Any Vehicle or other thing removed from the Parking Place in accordance with paragraph (1) of this Article which appears to the Council to be abandoned shall be disposed of in accordance with the provisions of the Refuse Disposal (Amenity) Act 1978 and its related Regulations.

Method of removing vehicles

23. Any person removing or altering the position of a Vehicle or other thing in pursuance of Article 22 of this Order may do so in any manner as he may think necessary and may take such measures in relation to the Vehicle or other thing as he may think necessary to enable him to remove it or alter its position; neither such person nor the Council shall be responsible for any loss or damage to the Vehicle or other thing or to anything contained

