

HENLEY ON THAMES TOWN COUNCIL

MILL LANE - (OFF-STREET PARKING PLACE) ORDER 2008

The Henley on Thames Town Council (hereinafter referred to as "the Council") in exercise of its powers under sections 57-59 of the Road Traffic Regulation Act 1984, ("the Act of 1984") and section 35 of the Act of 1984 as applied by the said section 59 and of all other enabling powers and with the consent of Oxfordshire County Council given under Section 59 of the Act of 1984 and after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 to the Act of 1984, hereby make the following Order dated _____

PART 1

GENERAL

1. (1) This Order shall come into operation on 1 January 2009 and may be cited as the Henley on Thames - Mill Lane (Off-Street Parking Place) Order 2008.
2. (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:-

"authorised persons" means any person authorised in writing by the Council;

"authorised vehicle" means a vehicle specified in Column 3 of Schedule 1 to this Order;

"charging hours" means the period specified in Column 5 of the Schedule 1

"coach" means a public service vehicle as defined in Section 1 of the Public Passenger Vehicles Act 1981

“commercial vehicle” means a motor vehicle as defined in Section 136(2)(c) of the Road Traffic Regulation Act 1984

"disabled person" means a disabled person of a description prescribed by the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000

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

"disabled person's vehicle" means a motor vehicle which

- (a) is driven by a disabled person, or
- (b) is used by an institution (as defined in the Disabled Persons (Badges for Motor Vehicles) (England) Regulations of 2000) for carrying disabled persons as passengers, or
- (c) is otherwise used for carrying disabled persons as passengers and is either
 - (i) a vehicle which is constructed or adapted for the carriage of not more than 12 passengers (exclusive of the driver) and is not a public service vehicle, as defined in the Public Service Vehicles Act 1981 or
 - (ii) a dual purpose vehicle which displays in the relevant position a disabled person's badge

and is, in each case, a vehicle which, immediately before or after parking in a parking place, has been or is to be driven by a disabled person or, as the case may be, has been or is to be used for carrying disabled persons as passengers

"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

“excess charge” shall have the meanings given to it in Schedule 2 of this Order

“HGV” means mechanically not being a motor car or coach which is constructed to carry a load of which the weight unladen exceeds 2540 kilograms

“initial excess charge” shall have the meaning given to it in Schedule 2 of this Order

"invalid carriage" means a vehicle as defined in Section 136(5) of the Road Traffic Regulation Act 1984

"motor car" means a motor vehicle defined in Section 136(2) of the Road Traffic Regulation Act 1984

(not being a goods vehicle or a public service vehicle) and not drawing a trailer

“motor caravan” means a vehicle adapted for the purpose of sleeping and or cooking

"motor cycle" means a vehicle defined in section 136(4) of the Act of 1984, not having a trailer attached thereto

"owner" in relation to a vehicle has the same meaning as in section 101 of the Act of 1984 and or means the person whom such a vehicle is kept and used by

"parking attendant" means a person authorised by or on behalf of the Council to supervise and or manage any parking place

“parking bay” means any area of the parking place which is provided for the leaving of a vehicle and indicated by markings on the surface of the parking place

"parking place" means any area of land specified by name in Column 1 of Schedule 1 to this Order provided by the Council under the Act of 1984 for use as a parking place;

“permitted period” means the time for which correct payment was made

“person responsible” in relation to a vehicle left in the parking place means the driver or the vehicle or, if the identity of the driver cannot be reasonably ascertained, the owner and or custodian of the vehicle

"public service vehicle" means a vehicle as defined in the Public Service Vehicles Act 1981

"relevant position" means:-

- (a) in the case of a vehicle fitted with a front windscreen, the badge is exhibited thereon with the obverse side facing forwards on the near side of and immediately behind the windscreen; and
- (b) in the case of a vehicle not fitted with a front windscreen, the badge is exhibited in a conspicuous position on the front or near side of the vehicle

“season ticket / annual parking permit” has the means any ticket and or permit issued by the Council described on the face of it as a season ticket or annual parking permit

"ticket machine" means any apparatus or device of a type and design approved specially or generally by the Secretary of State for Transport, being designed to issue parking tickets indicating the payment of a charge and the date and time at which the charge was paid

“trailer” means a vehicle drawn by a motor vehicle as defined in Section 136(1) of the Road Traffic Regulation Act 1984

“valid parking ticket” shall mean a current season ticket or annual parking permit or ticket issued for the period during which the vehicle is parked in that parking place

- (3) The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

PART II

USE OF PARKING PLACE

Use of land and parking places

3. Each area of land specified by name in Schedule 1 may be used, subject to the following provisions of this Order, as a parking place for such classes of vehicles, in such positions and on such days and during such hours and on payment of such charges as are specified in relation to that area in the said Schedule.
4. Where in Column 1 of Schedule 1 to this Order a parking place is described as available for vehicles of a specified class or in a specified position, the driver of a vehicle shall not without the prior authority of any person authorised by the Council permit it to wait in that parking place:-
 - (a) unless it is of the specified class; or
 - (b) in a position other than that specified.
5. Subject to Article 6(5) of this Order the driver of a vehicle shall not permit it to wait in any parking place specified in Schedule 1 to this Order, for longer than the maximum period permitted for that parking place and shown in Column 5 of the said Schedule 1.

6. (1) The driver of a vehicle using any of the parking places specified in Schedule 1 to this Order shall
 - (i) if there is a parking attendant in any such parking place, on his demanding the appropriate charge in accordance with the Scale of Charges specified in Column 7 of Schedule 1, pay the same, or
 - (ii) if there is a ticket machine in any such parking place, purchase from the machine a parking ticket immediately upon parking his vehicle in payment for one or more periods in that parking place in accordance with the Scale of Charges specified in Column 7 of the Schedule 1 and shall exhibit the same on the vehicle in accordance with the provisions of this Article, or
 - (iii) in any other case, shall pay to the Council or on demand in writing from a person authorised by the Council the appropriate charge in accordance with the Scale of Charges specified in Column 7 of Schedule 1 provided that no charge shall be payable - by the driver of a vehicle left in any of the parking places specified in Schedule 1 to this Order, who displays in accordance with paragraph (4)(a)(i) or (ii) of this Article a valid season ticket or parking permit issued in respect of that vehicle in accordance with the provision of Article 7(1) or paragraph 5 of this Article.
- (2) Where there is a ticket machine in the parking place, the charge referred to in paragraph (1) of this Article shall be payable by the insertion of an appropriate coin or coins into the apparatus or device provided or by the insertion and authorisation of an electronic payment card into the apparatus or device provided.
- (3) For the purpose of this Order a parking ticket is a ticket or permit issued either from a person authorised by the Council or from a ticket machine at a parking place for one or more parking periods at the charge or charges specified in relation to that parking place in Column 7 of Schedule 1 to this Order.
- (4) A parking ticket shall be valid for the parking place for which it is purchased and if and so long as the following conditions are satisfied:-
 - (a) the parking ticket is exhibited on the vehicle
 - (i) in the case of a vehicle which is fitted with a transparent windscreen either by sticking the parking ticket to the inside surface of the windscreen or by displaying the parking ticket inside the vehicle so that it is facing forwards and can be easily seen through the windscreen at the front of the vehicle
 - (ii) in the case of a vehicle which is not fitted with a transparent windscreen by affixing one half of the parking ticket (torn vertically) on the front of the vehicle so that it is facing forwards and can be easily seen from the front of the vehicle, the other half of the parking ticket to be retained by the driver and produced on demand
 - (b) the period applicable to the parking ticket, calculated from the date and time of purchase indicated on the parking

ticket, has not expired

- (c) the parking ticket is non-transferable and is used for the parking of one vehicle only
- (d) the vehicle is not occupying a parking bay specially allocated for use by a disabled person's vehicle
- (e) if at any time a vehicle is left in a parking place and no ticket is exhibited or visible exhibited in accordance with Article 4 (a) and (b) above, it shall be conclusively presumed that no charge has been paid

(5) The owner of a vehicle may on application to the Council purchase an annual season ticket / parking permit in respect of that vehicle for a charge ascertained by reference to the said Scale of Charges and that season ticket shall, subject to the provisions of this Article be valid only at the parking place and during the period for which it is issued.

(6) The driver of a vehicle using a parking place specified in Schedule 1 to this Order to which the provisions of paragraph (5) of this Article apply shall exhibit in a conspicuous position on the vehicle the annual season ticket / parking permit valid for use in that particular parking place in accordance with Article 4 above.

7. (1) The owner of a vehicle may on application to the Council purchase an annual season ticket / parking permit at a charge ascertained by reference to the Scale of Charges set out in Schedule 1 to this Order and such a season ticket / parking permit shall be valid only in the parking place named in the said permit and at the times permitted by the said permit.

(2) The driver of a vehicle using a parking place specified in Schedule 1 to this Order shall exhibit in a conspicuous position on the vehicle an annual season ticket / parking permit valid for use in that particular parking place.

8. When a parking ticket or annual season / parking permit has been exhibited on a vehicle in accordance with the provisions of Article 6(4) and Article 6(6) of this Order or an annual season ticket / parking permit has been exhibited in accordance with the provisions of Article 7(2) of this Order, no person shall remove the said parking ticket or annual season / ticket parking permit, as the case may be, from the vehicle until the vehicle is removed from the parking place.

9. The provision of this part use of land and parking places shall apply unless prior notice to the contrary is given by the Council.

Amount of excess charges at parking places

Not displaying a valid parking ticket or annual season ticket / parking permit or otherwise not in accordance with this Order

10. Where

- (i) in any parking place in Schedule 1 to this Order in which there is a ticket machine, the charge has not been paid in accordance with the Scale of Charges specified in Column 7 of the said Schedule, in respect of a vehicle or for any other reasons identified in Schedule 2 then initial excess/excess charge(s) as defined in Schedule 2 of this Order shall become due and a notice shall be attached to the vehicle in a conspicuous position which shall include the particulars as set out in (iii) (a) to (e) below;
- (ii) in any parking place in Schedule 1 to this Order a vehicle is parked without displaying a annual season ticket / parking permit in accordance with Article 6(6) or Article 7(2) hereof an initial/excess charge as defined in Schedule 2 of this Order shall become due in respect of the parking of that vehicle and a notice shall be attached to the vehicle in a conspicuous position which shall include the particulars as set out in (a) to (e) below:-
 - (iii)
 - 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 time at which it was noticed that the initial excess/excess charge had been incurred;
 - c) a statement that the initial excess/excess charge is required to be paid;
 - d) the manner in which, and time within which, the initial excess/excess charge should be paid; and
 - e) a statement that it is an offence under this Order and Section 35A (1) of the Road Traffic Regulation Act 1984 for the driver of the vehicle who has left the vehicle in a parking place to fail duly to pay the initial excess/excess charge.

11. The driver or owner of a vehicle in respect of which the initial excess/excess charge has been incurred shall pay the initial excess/excess charge to the Council either by cheque or postal order or cash which shall be delivered or sent by post (not cash) so as to reach the Council not later than 1.00 p.m. on the seventh day following the day on which the initial excess/excess charge was incurred, or in cash in person at the Town Council offices, Market Place, Henley on Thames, not later than aforesaid, provided that, if the seventh day falls upon a day on which the Council is closed, the period within which payment of the initial excess /excess charge shall be made to the Council shall be extended until 1.00 p.m. on the next full day on which the Council is open.
12. Where a notice has been attached to a vehicle in accordance with the provisions of Article 12 of this Order, no person not being a parking attendant or some other person duly authorised by the Council shall remove the notice from the vehicle until the vehicle is removed from the parking place.

Removal of vehicles

13. If any vehicle is left in a parking place other than in accordance with Article 4, Article 5, Article 6, Article 7, Article 8, or any other Article of this Order, a person authorised on that behalf by the Council may alter or cause to be altered the position of the vehicle so that its position is in accordance with the said Articles or remove the vehicle or arrange for it to be removed from the parking place.
14. A parking attendant or any other person duly authorised by the Council or a police constable in uniform may move or cause to be moved, in case of emergency, to any place he thinks fit, vehicles left in a parking place.
15. Any person removing or altering the position of a vehicle by virtue of Article 13 or Article 14 of this Order may do so by towing or driving of the vehicle or in such other manner as he may think necessary and may take such measure in relation to the vehicle as he may think necessary to enable him to remove it or alter its position, as the case may be, and the Council may recover from the owner or driver of the said vehicle any costs incurred.
16. When the person authorised by the Council moves or makes arrangements for the removal of any vehicle from the parking place by virtue of Article 13 or Article 14 hereof he shall make such arrangements as may be reasonably necessary for the safe custody of the said vehicle and the Council may recover the cost of the storage and custody from the owner, and following such removal Sections 101 and 102 of the Act of 1984 shall be applicable by the Council in respect of the vehicle in so far as the Council shall so desire.

Other provisions

Return period

17. When a vehicle has left a parking place with a maximum waiting period the driver shall not permit it to wait again in that parking place within the period specified in Column 6 of the Schedule

Shut off engine

18. The driver of a motor vehicle using a parking place shall stop the engine as soon as the vehicle is in position in the parking place, and shall not start the engine except when about to change the position of the vehicle in or to depart from the parking place.

No selling or hiring or other commercial activity

19. Except with the express written permission of the Council 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 or marketing of his skill or services.
20. No person shall, except as expressly permitted otherwise by virtue of Schedule 1 of this Order, use any part of a parking place or any vehicle left in a parking place:-
 - (a) for sleeping or camping purposes;
 - (b) for eating or cooking purposes;
 - (c) 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;
 - (d) for playing or participating in any sport or recreation; or
 - (e) for the purpose of teaching learner drivers.

Insurance and Tax

21. The driver of a vehicle shall not permit that vehicle to wait in a parking place unless the vehicle is licensed in accordance with the provision of Section 1 of the Vehicles (Excise) Act 1971 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 1972.

Sounding of horn and making of noise

22. The driver of a vehicle using a parking place shall not sound any horn or other similar instrument except when about to change position of the vehicle in or to depart from the parking place.
23. No person shall in a parking place wantonly or recklessly shout or otherwise make any loud noise to the disturbance or annoyance of users of the parking place or residents of premises in the neighbourhood.

Conduct

24. No person shall in a parking place use any threatening, abusive or insulting language, gesture or conduct with intent to put any person in fear or so as to occasion a breach of the peace or whereby a breach of the peace is likely to be occasioned.

Driving around

25. No person shall use a parking place as a means of passage proceeding from one road to another.
26. No person shall, except with the express permission of persons authorised by the Council in that behalf, drive or permit to be driven any vehicle in a parking place for any purpose other than the purpose of leaving that vehicle in the parking place in accordance with the provisions of this Order or for the purpose of departing from the parking place.

Direction signs

27. 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,
 - (b) indicating that a vehicle using the parking place shall proceed in a specified direction within the parking place.

No person shall drive or cause 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 that specified, as the case may be.

Structures, fires

28. 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 any fire to be lit.

Closure of parking places

29. (a) A driver shall not use a parking place when the parking place or any part thereof has been closed by the Council.
- (b) Nothing in this Order shall prevent or otherwise restrict the power of the Council to close to the public the whole or any part of any parking place (as the Council shall determine) temporarily or permanently.

Miscellaneous

30. The driver of a vehicle using any of the parking places in Schedule 1 shall upon being requested to do so by a parking attendant either show to him the receipt issued to him in respect of the parking of the vehicle at the parking place for the current period or pay the charge specified in the Scale of Charges in Column 6 thereof.
31. The charges specified in Column 7 of Schedule 1 shall apply in respect of each arrival of a vehicle at any parking place specified in the said Schedule and if the vehicle remains in any such parking place longer than the period for which a charge has been paid, the said charges shall apply as if there had been an arrival of the vehicle at the parking place at the commencement of each subsequent period of day or night.
32. Failure to comply with any provision of this Order is an offence under Section 35 of the Act of 1984.

PART III

EXEMPTION

33. The following vehicle left wholly in a parking bay or on double yellow lines for no longer than three hours not returning within the charging period (Schedule 1 Column 5) provided that no parking bay is available and the vehicle is not obstructing movement of traffic or any vehicle, shall be exempt from the payment of any parking charge specified in Schedule 1
 - (1) the driver of a vehicle which displays in accordance with Article 4 (a) a disabled person's badge shall be exempt from any payment specified in any Articles in this Order subject to the hours and days of operation of the parking place in Column 4 of Schedule 1 provided that the driver or passenger of the vehicle is the disabled badge holder.

SIGNED SEALED and DELIVERED on the _____ 2008 by:-

Town Clerk _____

in the presence of:-

Councillor _____

Councillor _____

Draft

Schedule 1 - CAR PARKS SUBJECT TO PARKING CHARGES

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Name of parking place	Position in which vehicle may wait	Permitted classes of vehicles	Hours and days of operation of parking place	Charging period and maximum period for which vehicles may wait	No return period	Schedule of Charges
Mill Lane	Wholly within a parking bay or disabled persons parking bay as indicated by surface markings	Motor cycle; Motor car not exceeding 3.5 tonnes (70cwts) unladen weight No coaches No caravans No campervans No boats No buses No commercial vehicles No trailers	All days Hours 06:00 (6am) to 22:00 (10pm) No overnight stay	All days 10:00 (10 am) to 18:00 (6pm) Max	None	0-2 hours, up to 2 hours - £1.00 0-4 hours, up to 4 hours - £2.00 0-8 hours, up to 8 hours - £3.00 Annual parking permit / season ticket

The Council accepts no responsibility for any loss or damage to property whatsoever and howsoever caused.

Schedule 2 INITIAL EXCESS AND EXCESS CHARGES

Not displaying a valid parking ticket

- (1) If the vehicle is left in a parking place and no valid parking ticket, annual season ticket / parking permit is thereon properly displayed in accordance with the provisions of this Order an excess charge of £70 (hereinafter referred to as “the excess charge”) shall be payable forthwith but if the sum of £35 is paid to the Council within 14 days of the date of the said notice issued under Article 10 above the Council shall accept the sum of £35 in full settlement of the excess charge.

Leaving a vehicle not wholly in a parking bay or in a disabled space

- (2) If a vehicle is left in a parking place in a position other than wholly in a parking bay an excess charge of £70 (hereinafter referred to as “the excess charge”) shall be payable forthwith but if the sum of £35 is paid to the Council within 14 days of the said notice the Council shall accept the said sum of £35 in full settlement of the excess charge.
- (3) If a vehicle is left in a parking place in a parking bay reserved for disabled persons and there is not displayed on that vehicle at the time of parking a disabled person’s badge then an excess charge of £70 (hereinafter referred to as “the excess charge”) shall be payable forthwith but if the sum of £35 is paid to the Council within 14 days of the date of the said notice issued under Article 10 above the Council shall accept the sum of £35 in full settlement of the excess charge.

Leaving a vehicle not in excess of one hour longer than the permitted period

- (4) If a vehicle left in a parking bay of a parking place during the permitted period for a period not in excess of one hour longer than the said permitted period for which payment of the charge specified in Column 7 of the Schedule has been made an initial amount of £20 (which additional amount is hereafter referred to as the “initial excess charge”) shall be payable.
- (5) If an initial excess charge is payable and not paid within 14 days of the date of the said notice issued under Article 10 above an excess charge of £35 (hereinafter referred to as “the excess charge”) shall be payable.

Leaving a vehicle in excess of one hour longer than the permitted period

- (6) If the vehicle is left in parking bay of a parking place during the permitted period for a period in excess of one hour longer than the said permitted period for which payment of the charge specified in Column 7 of the Schedule then an excess charge of £70 (hereinafter referred to as “the excess charge”) shall be payable forthwith but if the sum of £35 is paid to the Council within 14 days of the date of the said notice issued under Article 10 above the Council shall accept the sum of £35 in full settlement of the excess charge

Leaving a vehicle in a parking place during a period when parking is not permitted.

- (7) If a vehicle is left in parking place at any time during hours when parking at the parking place is not permitted as specified in Column 4 of the Schedule then an excess charge notice of £70 shall be payable forthwith notwithstanding that an initial and or excess charge notice may also be payable. A further excess charge of £70 will be payable for each and every period in which a vehicle is left in a parking place during the daily period when parking at the parking place is not permitted as specified in Column 4 of the Schedule.

Returning a vehicle to a parking place within the no return period

(8) If a vehicle returns to a parking place within the no return period as specified in Column 6 and notwithstanding that a valid parking ticket may thereon be properly displayed an excess charge of £70 (hereinafter referred to as “the excess charge”) shall be payable forthwith but if the sum of £35 is paid to the Council within 14 days of the date of the said notice under Article 10 above the Council shall accept the sum of £35 in full settlement of the excess charge

Parking a vehicle other than permitted class of vehicle

(9) If a vehicle other than a permitted class in accordance with Column 3 of Schedule 1 is left in a parking place notwithstanding that a parking ticket, annual season ticket / parking permit may be properly displayed in accordance with the provisions of this Order an excess charge of £70 (hereinafter referred to as “ the excess charge”) shall be payable forthwith but if the sum of £35 is paid to the Council within 14 days of the date of the said notice issued under Article 10 above the Council shall accept the sum of £35 in full settlement of the excess charge.

Contravention of other conditions of parking of this Order including but not limited to Articles 18, 19,20,21,22,23,24,25,26,27,28

(10) If a vehicle or its owner or any person in control of the vehicle or person using the parking place fails to comply with any other conditions of this Order then an excess charge of £70 (hereinafter referred to as “ the excess charge”) shall be payable forthwith but if the sum of £35 is paid to the Council within 14 days of the date of the said notice issued under Article 10 above the Council shall accept the sum of £35 in full settlement of the excess charge.