

SOUTH KESTEVEN DISTRICT COUNCIL
CIVIL ENFORCEMENT OFF- STREET PARKING PLACES
ORDER 2012

South Kesteven District Council (“the Council”) in exercise of its powers under Section 35 and Schedule 9 of the Road Traffic Regulation Act 1984 as amended (“the 1984 Act”) and the Traffic Management Act 2004 (“the 2004 Act”) and of all other enabling powers and with the consent of the Lincolnshire County Council given under Section 39(3) of the 1984 Act and after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 of the 1984 Act and in compliance with regulations made under the Act make the following Order:-

PART I – GENERAL

1. This Order is made on * and will come into effect on the * and may be cited as the South Kesteven District Council Civil Enforcement Off-Street Parking Places Order 2012.
2. The South Kesteven District Council (Off-Street Parking Places) (Pay and Display) Order 2010 and the South Kesteven District Council (Off-Street Parking Places) Order 2009 and all subsequent variations or amendments are revoked by this Order.
3. (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 shall have the meanings respectively assigned to them:-

“charging hours” – means any period specified in column 5 of Part I of the Schedule on any day prescribed in column 4 of Part I of the Schedule as a day when charges are payable.

“civil enforcement officer” – means the officer appointed by or on behalf of the Council to supervise the parking places.

“Council” – means South Kesteven District Council situated at St. Peter’s Hill Grantham Lincolnshire NG31 6PZ.

“disabled person’s badge” – has the same meaning as in the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 and shall include a badge issued under regulations having effect in Scotland or Wales under s21 of the Chronically Sick and Disabled Persons Act 1970.

“disabled person’s vehicle” – means a vehicle driven by a disabled person, or used at the time of parking for the carriage of a disabled person as defined in the above Regulations.

“driver” – means the person driving the vehicle at the time it was left in the parking place.

“owner” – means the person by whom the vehicle is kept and for the purposes of this Order it shall be presumed that the owner was the person in whose name the vehicle was at the relevant time registered under the provisions of the Vehicle Excise and Registration Act 1994 and “registered keeper” shall be construed accordingly.

“motorcycle” – means a solo motorcycle only and excludes any motorcycle which has a side car or trailer or which has more than two wheels.

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

“parking place” – means any area of land specified in column 1 of Part I of the Schedule provided by the Council in pursuance of Section 32 (1) of the 1984 Act for use as a parking place.

“parking ticket meter” and “ticket issuing machine” – means such apparatus or device as may from time to time be provided by the Council and situated in the parking place for the purpose of Article 5 of this Order.

“vehicle” means any motorcar, motorcycle or other mechanically propelled automobile.

- (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 PLACES

Use of land and parking places

4. (1) Each area of land specified by name in column 1 of Part I and Part II of the Schedule may only be used subject to the following provisions of this Order as a parking place for such class or classes of vehicles in such positions on such days and during such hours as are specified in relation to that area in Part I of the Schedule.
- (2) (i) Where in Parts I, II and III of the Schedule 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

permit it to wait in that parking place unless it is of the class and in the position so specified

(ii) Where within a parking place there is a sign or surface marking which indicates that a parking bay is available only for a disabled persons vehicle the driver of a vehicle shall not permit it to wait in that parking bay unless it is a disabled persons vehicle displaying a disabled persons badge

(iii) Where within a parking place there is a surface marking of lines or hatching or some other marking indicating that waiting or parking is not permitted within or over such lines hatching or other marking the driver of a vehicle shall not permit it to wait or be parked on such markings but must ensure that it is left wholly within a parking bay and parked between the lines so as not to obstruct access to and egress from the parking place or any part thereof for other users or to obstruct the free movement of vehicles using other parking bays within the parking place.

(3) Insofar as a vehicle is left in a parking place during the charging hours the driver thereof shall pay such charge or charges as are specified in the following provisions of this Order.

Amount of initial charge at parking places

5. (1) This article applies to the parking places specified by name in column 1 of Part I of the Schedule.

(2) The initial charge for a vehicle parking in a parking place during the charging hours shall, subject as hereinafter provided, be in accordance with the Scale of Charges specified in column 7 of Part I of the Schedule.

- (3) The initial charge referred to in the last preceding paragraph shall be payable at the time of arrival of the vehicle in the parking place by the insertion into the parking ticket meter relating to the parking place of a coin or coins amounting to the value of the initial charge.
- (4) The owner of a vehicle may on application to the Council purchase a season ticket in respect of that vehicle for a charge ascertained by reference to the said Scale of Charges and that season ticket shall be valid in such parking places and at such times as may be determined by the Council during the period for which it is issued. The Council reserves the right to suspend the issue of season tickets without notice
- (5) The Council may, at its discretion, issue a parking permit to the driver of a vehicle and that parking permit shall be valid in such parking places and at such times as may be determined by the Council
- (6) The driver of a vehicle shall attach or cause to be attached any ticket or tickets issued on payment of the initial charge referred to in this Article or any season ticket or parking permit issued under this Article in a conspicuous position on the vehicle in respect of which issued and shall cause the said ticket or tickets, season ticket or parking permit to be exhibited in that position at all times when the vehicle is parked in a parking place

Indication by parking ticket meter

6. (1) Payment of the initial charge for a vehicle left in a parking place shall be indicated by the issue of a ticket or tickets indicating that the charge has been paid on the day on which the vehicle is so left

in respect of an initial period being of not more than the unexpired period of the charging hours on the day of payment

- (2) Any ticket of the type referred to in this Article shall be exhibited in the manner specified in Article 5(6) of this Order
- (3) Any ticket issued by a parking ticket meter shall be presumed unless the contrary is proved to have been issued on the date shown thereon and when the clock on the said parking ticket meter indicated the time to be that shown on the said ticket
- (4) No person shall exhibit on a vehicle left in a parking place during the charging hours any ticket or tickets issued by a parking ticket meter relating to that parking place other than the ticket or tickets issued by a parking ticket meter upon payment of the initial charge in respect of that vehicle

Amount of Penalty Charge at Parking Places

7. (1) If a vehicle is left in a parking place during the charging hours for a longer period than that period for which payment was made, the amount shown in Part III of the Schedule (which amount is hereinafter referred to as the "Penalty Charge") shall be payable by the driver of that vehicle in accordance with Part III of the Schedule and Article 9.
- (2) If a vehicle is left in a parking place during the charging hours either:-
 - (i) without having paid the initial charge or
 - (ii) without a valid parking ticket season ticket or parking permit being displayed

the amount shown in Part III of the Schedule (which amount is referred to as the "Penalty Charge") shall be payable by the driver of that vehicle in accordance with Part III of the Schedule and Article 9.

(3) If a vehicle is left in a parking place during the charging hours and fails to comply with Articles 4 (2) and 10 to 25 of this Order the amount shown in Part III of the Schedule (which amount is referred to as the "Penalty Charge") shall be payable by the driver of that vehicle in accordance with Part III of the Schedule and Article 9.

(4) In the case of a vehicle in respect of which an 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, where the driver is present, to hand to the driver, or the Council to post to the Owner the Penalty Charge Notice which shall include the following particulars and which particulars are required by the Civil Enforcement of Parking Contraventions (England) General Regulations 2007:-

- (a) the date on which the notice is served;
- (b) the name and address of the Council;
- (c) 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.
- (d) the date and time at which the alleged contravention occurred.
- (e) the grounds on which the civil enforcement officer serving the notice believes that a Penalty Charge is payable.

- (f) the amount of the Penalty Charge.
- (g) that the Penalty Charge must be paid not later than the last day of the period of 28 (twenty eight) days beginning with the date on which the Penalty Charge Notice was served.
- (h) that if the Penalty Charge is paid not later than the last day of the period of 14 (fourteen) days beginning with the date on which the notice is served the Penalty Charge will be reduced by the amount of any applicable discount.
- (i) the manner in which the Penalty Charge must be paid; and
- (j) that if the Penalty Charge is not paid before the end of the period of 28 (twenty eight) days referred to in (g) above a notice to the owner may be served by the Council on the owner of the vehicle.

Restriction on removal of notices

8. When 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 authorised by the driver shall remove the Notice from the vehicle.

Manner of payment of Penalty Charge

9. (1) The Penalty Charge shall be paid to the Council in accordance with the instructions indicated on the Penalty Charge Notice either:
- i. By cheque or postal order, which shall be delivered or sent by post to the address indicated on the Penalty Charge Notice or;

- ii. By any other acceptable means which is agreed by the Council and the person or persons paying the Penalty Charge.
- (2) The Penalty Charge must be paid to the Council before the end of twenty eight days beginning with the date of the Penalty Charge Notice.
 - (3) If the Penalty Charge is paid to the Council before the end of a period of fourteen days beginning with the date of the Penalty Charge Notice the amount of the Penalty Charge shall be reduced in accordance with the Part III of the Schedule of this Order which is pursuant to the Traffic Management Act 2004.
 - (4) For the purposes of this Article the Penalty Charge shall be taken to be paid when it is received at the office at the address indicated on the Penalty Charge Notice and if the end of the period of twenty eight days specified in paragraph (2) above or the end of the fourteen days specified in paragraph (3) above falls upon a day the Council office is closed, the period within which the payment of the Penalty Charge shall be made shall be extended until the time at which the Council office closes on the next full day on which that office is open. If full payment is not received within 28 (twenty eight) days of issue, the registered keeper or the person that the Council believes to be the owner of the vehicle will receive a Notice to Owner.
 - (5) At this stage, the registered owner/keeper of the vehicle can submit a formal representation objecting to the issue of the Penalty Charge Notice. Vehicle keeper information will be requested from the DVLA
 - (6) In the event that the formal representation is rejected, the registered owner/keeper can submit an appeal to the Traffic Penalty Tribunal. They are an independent body and will consider the registered owner/keeper's comments and those offered by the Council. A final decision will be reached.
 - (7) If no payment is received within twenty eight days of the date of service of the Notice to Owner, a Charge Certificate will be issued and the outstanding amount is increased by 50%.

- (8) Continued non payment will result in the debt being registered at the County Court and an Order for Recovery will be sent to the owner. At this stage, the outstanding amount has increased by £7.00 and a period of 21 (twenty one) days is allowed for payment or for a witness statement to be submitted.
- (9) Failure to pay the outstanding amount will result in the outstanding amount being referred to a bailiff to recover the monies.

Miscellaneous

- 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 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.
- 11. (1) No person shall use a vehicle, while it is in a parking place, in connection with the sale of any article to persons or the sale of that vehicle or offering or advertising that vehicle for sale to persons in or near the parking place or in connection with the selling or offering or advertising for hire of his skill or service.
 - (2) No person shall use any part of a parking place or any vehicle left in a parking place:
 - (a) for sleeping or camping or cooking; or
 - (b) 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.
- 12. The driver of a vehicle using a parking place shall not sound any horn or other similar instrument except when about to change the position of the vehicle in or to depart from the parking place.

DRAFT ORDER FOR CIVIL PROCEEDINGS 10.5.12

13. No person shall in a parking place wantonly shout or otherwise make a loud noise to the disturbance or annoyance of users of the parking place or residents of premises in the neighbourhood.

14. 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 and whereby a breach of the peace is likely to be occasioned.

15. 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.

16. 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 a parking place or any part of any car park to which this Order relates 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.

17. No person shall permit the vehicle to remain continuously in a parking place specified in Part II of the Schedule for a period of more than forty eight (48) hours without express written permission of the Council.

DRAFT ORDER FOR CIVIL PROCEEDINGS 10.5.12

18. Caravans shall not be permitted to wait in any parking place at any time without the express written permission of the Council.
19. Heavy goods vehicles shall not be permitted to wait in any parking place unless that parking place is of that specified class at any time without the express written permission of the Council.
20. Trailers that are not attached to a vehicle shall not be permitted to wait in any parking place at any time without the express written permission of the Council.
21. In a parking place no person shall:-
 - (a) erect 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.
 - (c) drive a vehicle above the speed of 10mph (ten miles per hour) or for driving around such parking place unnecessarily for driving recklessly erratically dangerously or for any game or sport involving motor vehicles or motor sport rally or motor trial.
 - (d) place a skip or similar storage receptacles or for the storing of goods rubbish or waste of any description howsoever short or long the period without the express written permission of the Council.
 - (e) commit any criminal offence.
22. Save as provided in Article 23 of this Order, no person shall cause or permit any vehicle to wait at any time on any carriageway giving access to or egress from a parking place.

23. Nothing in Article 22 of this Order shall prevent a person from causing or permitting a vehicle to wait on any such carriageway as is mentioned therein for as long as may be necessary:-
- (a) if the vehicle is waiting, owing to the driving being prevented from proceeding by circumstances beyond his control or such waiting as is necessary to prevent an accident;
 - (b) if the vehicle is a fire engine or ambulance or any vehicle in the service of the local authority or police force being used in either case in pursuance of statutory powers or duties.
24. Any vehicle using or remaining in the parking place shall be at the owner's or driver's risk and the Council, or its agents, officers or employees shall not be liable for loss or damage to it or its contents or accessories howsoever arising.
25. The Council may at its complete discretion and without prior notice having been given, suspend the use of any parking place covered by this Order.

PART III – EXEMPTION

26. (1) The driver of a disabled persons vehicle which displays in the relevant position a disabled person's badge shall be exempt from any limitation of time specified in Article 4 and from any payment specified in Articles 5 and 6. A driver who is neither disabled nor carrying a disabled person at the time of parking is not exempt from the provisions of Articles 4, 5, and 6.
- (2) For the purpose of this Order a vehicle shall be regarded as displaying a disabled person's badge in the relevant position when:-

- (i) 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
- (ii) in the case of a vehicle not fitted with a front windscreen, the badge is exhibited in a conspicuous position on the front or nearside of the vehicle.

PART III – REMOVAL OF VEHICLE FROM PARKING PLACE

27. (1) If a vehicle is left in a parking place in a position other than in accordance with the provisions of Article 4, a person authorised 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 provisions.
- (2) If a vehicle is left in a parking place in contravention of any of the provisions of this Order a person authorised by the Council may remove the vehicle from that parking place or arrange for such removal and storage of the vehicle.
- (3) For the purpose of meeting the requirements of any emergency, a person authorised by 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 and storage of a vehicle from a parking place.
- (4) If a vehicle is removed and stored as mentioned in (2) and (3) above the Council shall serve upon the owner of the vehicle a notice stating that their vehicle has been removed and inform them of where it is being stored. Also the notice will stipulate the charges incurred in accordance with the Civil Enforcement of

Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 which are set out in Part III of the Schedule

- (5) The Council may for the purpose of altering or causing to be altered the position of any such vehicle or for the purpose of removing or arranging removal of such vehicle gain access by the use of reasonable force if necessary to such vehicle
- (6) 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 paragraph (2) or (3) of this Article, may do so by towing or driving the vehicle or in such other manner as he may think reasonably necessary to enable the position of the vehicle to be altered or the vehicle to be removed
- (7) Any person removing or arranging for the removal of a vehicle by virtue of paragraph (2) or (3) of this Article shall make such arrangements as he considers reasonably necessary for the safety of the vehicle in the place to which it is removed and stored.
- (8) The Council or other person shall not be liable for any cost claim demand or liability arising from the exercise of their powers under this Article.

PART V – DISPOSAL OF VEHICLES ABANDONED IN A PARKING PLACE

28. The Council may as respects a vehicle which has been, or could at any time be, removed from a parking place in pursuance of Article 27 of this Order, if it appears to them to have been abandoned, sell or otherwise dispose of the vehicle. Provided that the power of disposal conferred by this Article shall not be exercisable in the case of a vehicle unless there have been taken by the Council such of the following steps as are

applicable to the vehicle and there has elapsed a period of six weeks beginning with the taking of the first of those steps

29. (1) Subject to the provisions of Article 35 of this Order, where a vehicle carries a registration mark issued under the Vehicle Excise and Registration Act 1994 the Council shall apply in writing to the Driver and Vehicle Licensing Agency enquiring who it appears may be the owner of the vehicle and the address of that person.
 - (2) Where the Council act under this Article the first step for the purposes of the last and next succeeding Article shall be taken to be the sending of the notice mentioned in Article 30.
30. The Council shall, where they are by virtue of the last preceding Article aware of the name and address of a person who it appears may be the owner of the vehicle, send a notice to that person at that address stating that it is the intention of the Council to sell or otherwise dispose of the vehicle (which shall be sufficiently described in the notice) on or after a specified date (which shall not be less than two weeks from the date of the notice and in any event not earlier than 6 (six) weeks from the date of the first step taken by the Council under this part of this Order) unless it is in the meantime removed by or on behalf of that person from such place as is specified by the Council in the said notice, or from such place as may be subsequently notified in writing by the Council to that person.
31. If any person to whom a notice is sent in accordance with the last preceding Article informs the Council of the name and address of some other person whom he alleges may be the owner of the vehicle a notice stating the particulars mentioned in the last preceding Article shall be sent to that other person and to any further person who the Council may in consequence of the sending of the notice to the said other person be led to believe may be the owner of the vehicle.

32. Subject to the provisions of Article 36 of this Order, where a vehicle does not carry a registration mark issued under the Vehicle Excise and Registration Act 1994, the first step to be taken by the Council shall be to apply in writing to the Chief Officer of the Police in whose area the parking place is from which the vehicle has been, or could at any time be, removed in pursuance of this Order inquiring who that officer considers is the owner of the vehicle and the address of that person.
33. If, after steps have been taken under the foregoing provisions of this Part of this Order, a vehicle is not claimed, the Council shall make further enquiries (if any) as they consider reasonable as to who may be the owner of the vehicle and the address of that person.
34. Where by virtue of Article 32 or 33 of this Order, the Council are informed of the name and address of a person who it is considered may be the owner of the vehicle, Articles 30 and 31 of this Order as respects the sending of notices shall apply in relation to that person at that address as they apply in relation to the person mentioned in the said Article 30.
35. Nothing in the foregoing provisions of this part of this Order shall require the Council to take any such steps as are therein mentioned for the purpose of inquiring who is the owner of a vehicle to which Article 28 of this Order applies, if they have found a person who satisfies them that he is in fact the owner of that vehicle and they have sent him at his address a notice containing the particulars specified in Article 30 of this Order.
36. Upon the sale of a vehicle by the Council, the Council shall apply the proceeds of sale in or towards the satisfaction of any costs incurred by them in connection with the disposal thereof and of any charge or payment to which they are entitled as regards the vehicle under Section 102 of the 1984 Act.
37. In the event of any such costs incurred by them in connection with the disposal of the vehicle not being satisfied by virtue of the last preceding

Article, the Council may recoup those costs so far as not satisfied from the person who was the last owner of the vehicle before it was removed from the parking place in pursuance of Article 27 of this Order, if that person was sent by the Council a notice under the foregoing provisions of this part of this Order stating the particulars mentioned in Article 30 of this Order.

38. Any sum received by the Council on a sale of the vehicle, after deducting any sum applied there out by virtue of Article 36 of this Order, shall be payable within a period of 1 (one) year from the date of the sale of the vehicle to any person whom, but for such sale the vehicle would have belonged, and insofar as any such sums are not claimed within the said period they shall be paid into the general fund of the Council.
39. If the owner of a vehicle which has been or which could at any time have been removed from a parking place in pursuance of Article 28 of this Order, reclaims the vehicle before the Council sells or otherwise disposes of it as provided for by Article 28 of this Order then the Council shall be entitled to recover from such owner any charge or payment to which they are entitled as regards the vehicle under Section 102 of the 1984 Act.
40. Where under the foregoing provisions of this Part of this Order a notice is required to be, or may be, sent to a person the notice shall be sent by registered post or by the recorded delivery service.

Executed as a Deed by SOUTH)
KESTEVEN DISTRICT COUNCIL)
having caused its common seal)
to be affixed hereto)

In the presence of)

