

SOUTH KESTEVEN DISTRICT COUNCIL

(OFF- STREET PARKING PLACES) ORDER 2009

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

PART I – GENERAL

1. This Order is made on the * and will come into effect on the * and may be cited as the South Kesteven District Council (Off-Street Parking Places) Order 2009
2. This Order does not revoke the South Kesteven District Council (Off-Street Parking Places) Order 2002 as varied by the 2006 Order and is made in addition to that 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 hereby respectively assigned to them:-

“driver” – in relation to a vehicle left in a parking place means the person driving the vehicle at the time it was left in the parking place subject to the provisions of paragraphs (3) and (4) of this

Article and shall have the same meaning assigned to it by Section 142(1) of the 1984 Act

“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

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

“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 Act for use as a parking place

“vehicle” - means any motor vehicle that is either a motor car or a light goods vehicle with or without a trailer attached or a solo motorcycle with a sidecar attached

- (3) Subject to paragraph (4) of this Article for the purposes of the institution of proceedings under Section 35(A) of the Act against the driver of the vehicle as the person(s) responsible for an alleged breach of the Order it shall be conclusively presumed that the registered keeper of the vehicle was the driver of that vehicle at the relevant time and accordingly that acts or omissions of the driver of the vehicle were the acts or omissions of the registered keeper PROVIDED THAT if the registered keeper is not an individual or company having independent legal identity and status

or is otherwise a partnership or firm, it shall be conclusively presumed that any partner or promoter of such registered keeper was the driver of that vehicle at the relevant time

- (4) The presumption in paragraph (3) of this Article shall not apply if it is proved at the time of the alleged breach that the vehicle was in the possession of some other person or that the person against whom proceedings under Section 35(A) of the Act have been instituted was not the registered keeper or owner at the time of the alleged breach or was not a partner or a promoter of the registered keeper
- (5) 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 Part 1 of Schedule 1 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 Part 2 of Schedule 1
- (2) (i) Where in Part I 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 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 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

5. 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
6. 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
7. 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
8. 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

9. 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
10. 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
11. 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
12. 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
13. No person shall permit the vehicle to remain continuously in a parking place for a period of more than forty eight (48) hours without the express written permission of the Council

14. Caravans shall not be permitted to wait in any parking place at any time without the express written permission of the Council
15. Heavy goods vehicles shall not be permitted to wait in any parking place at any time without the express written permission of the Council
16. 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
17. 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 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 motor 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
18. Save as provided in Article 19 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

19. Nothing in Article 18 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
20. 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
21. For the purpose of meeting the requirements of any provision of this Order, a person so authorised on behalf of the Council or a police constable in uniform, if having reasonable grounds to do so, may stop and require a driver of the vehicle to give his or her name and address and also the name and address of the owner of the vehicle
22. 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

Removal of vehicle from parking place

23. (1) If a vehicle is left in a parking place in a position other than in accordance with the provisions of this Order, 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
- (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 of a vehicle from a parking place
- (4) 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
- (5) 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 lifting 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
- (6) 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
- (7) When a vehicle has been removed in accordance with paragraph (2) or (3) of this Article by towing or lifting 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, the costs of removal and for its safe custody shall be the

liability of the driver and in the event that the driver cannot be either identified or traced then the owner shall be liable for such costs

- (8) The cost to be paid to the Council for the removal of a vehicle from the parking place under the provisions of paragraph (7) of this Article is stated in Schedule 2
- (9) 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 IV – DISPOSAL OF VEHICLES ABANDONED IN A PARKING PLACE

- 24. 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 23 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
- 25. (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

26. 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 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
27. 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
28. Subject to the provisions of Article 31 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
29. 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

30. Where by virtue of Article 26 or 27 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 26 and 27 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 26.
31. 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 24 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 26 of this Order
32. 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 Act.
33. 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 23 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 26 of this Order
34. Any sum received by the Council on a sale of the vehicle, after deducting any sum applied there out by virtue of Article 32 of this Order, shall be payable within a period of 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

35. 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 23 of this Order, reclaims the vehicle before the Council sells or otherwise disposes of it as provided for by Article 24 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 Act
36. 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

SCHEDULE 1

PART I

Each area of land :

Car park at Wyndham Park Hill Avenue Grantham Lincolnshire

Car park at Dysart Park Bridge End Road Grantham Lincolnshire

**Car park at Trent Road adjacent to the Rose and Castle Public House
Grantham Lincolnshire**

**Car park at The Meres Leisure Centre and Sports Stadium on Trent Road
Grantham Lincolnshire**

Car park at Arnoldfield Gonerby Hill Foot Grantham Lincolnshire

See attached plans

SCHEDULE 1

PART II

The days and during such hours as are specified in relation to Part 2 of Schedule 1

Monday - Sunday (including all bank holidays)

24 hours a day (ie all day)

DRAFT