

HALSTEAD TOWN COUNCIL
(OFF – STREET PARKING PLACES) ORDER 2018

Halstead Town Council of Queens Hall, Chipping Hill, Halstead, Essex. CO9 1ET (the “Council”) in exercise of its powers in relation to parking places in schedule 1 (as amended) and Part IV of Schedule 9 to the Road Traffic Regulations Act 1984, the Traffic Management Act 2004 and all Regulations and Orders made in exercise of the powers conferred under the Traffic Management Act 2004 and of all other enabling powers of the Road Traffic Regulation Act 1984 and after consultation with the Chief Officer of Police in accordance with Part 111 of Schedule 9 to the Road Traffic Regulation Act 1984, hereby makes the following order:-

PART 1
CITATION AND INTERPRETATION

1. This order shall come into operation on 1st April 2018 and may be cited as the Halstead Town Council (Off-Street Parking Placed) Order 2018.

Interpretation

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

“The 1984 Act” means the Road Traffic Regulation Act 1984 (as amended);

”The 2004 Act” means the Traffic Management Act 2004 (as amended);

”approved device” has the same meaning as in Section 92 of the 2004 Act;

”authorised officer” means the Town Clerk of the Council or person duly authorised by the Council to act on its behalf (to whom the Council has delegated all relevant powers) to be designated by the Council”;

“Car Park Officer ” means any officer who is authorised to supervise and control vehicles in the parking place and appointed to enforce the provisions of this Order pursuant to section 63A of the 1984 Act and has the same meaning as in Section 76 of the 2004 Act;

”Council” means the Halstead Town Council.

”Disabled persons Badge” means any badge issued, or having effect as if issued, under regulations for the time being in force under section 21 of the Chronically Sick and Disabled Persons Act 1970;

“driver” means the person driving the vehicle at the time it was left in that parking place or parking bay or in the case of a trailer means the person who was driving the vehicle which towed the trailer into the parking place at the time it entered the parking place;

“enforcement authority” has the same meaning as in Paragraph 8 of Part 2 of Schedule 8 of the 2004 Act and is Halstead Town Council in the case of this Order;

“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;

“machines” means a device approved in accordance with section 35(3) of the 1984 Act and the provisions of Section 47(5) of the 1984 Act shall apply in respect of such device;

“motor car” means a mechanically propelled vehicle not being a motor cycle or a disabled persons vehicle which is constructed itself to carry a load or passengers and the weight of which is unladen does not exceed two tons;

“motorcycle” has the same meaning as in Section 136 of the 1984 Act;

“owner” has the same meaning as in Section 92 of the 2004 Act;

“parking bay” means an area within a parking place marked out for the leaving of a vehicle;

“parking contravention” has the same meaning as in Part 1 of Schedule 7 of the 2004 Act;

“parking disc” has the same meaning as in the Local Authorities Traffic Orders (Exemption for Disabled Persons) (England) Regulations 2007;

“parking place” means any area of land specified by name in Column 1 of Schedules 1, to this Order provided by the Council under Section 32(1) or by agreement under Section 33 of the 1984 Act for use as a parking place;

“penalty charge” has the same meaning as in Section 92 of the 2004 Act 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 2004 Act as published from time

to time and is an additional amount payable regardless of the period for which the vehicle is left;

“penalty charge notice” means a notice described in Section 78 of the 2004 Act 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 2004 Act.;

“permit” means a permit issued under the provision of Article 6;

“permit holder” means a person to whom a permit has been issued under the provision of Article 6 of this Order;

“relevant position” means

- (i) in the case of a disabled persons 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 persons badge is exhibited in a conspicuous position on the vehicle

so that the side of the disabled persons 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 a parking ticket or permit:-
 - a) the parking ticket/permit is exhibited on the dashboard or facia of the vehicle, or
 - b) where the vehicle does not have a dashboard or facia, the parking ticket/permit is exhibited in a conspicuous position on the vehicle,

so that when marked to show the time during which a period of waiting began, that period is 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

- a) in the case of two-wheeled motor cycle having a side car attached thereto in a conspicuous position of the near side of the vehicle in front of the driving seat ; or
- b) in the case of any other vehicle –

- (i) 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
- (ii) where the vehicle is not fitted with a front glass windscreen on the near side of the vehicle

so that 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 provided that the foregoing need not apply in the case of a valid virtual permit where available;

“season ticket” means a pre-paid permit issued to a person pursuant to Article 6 for the parking of a specified vehicle in a specified Parking place or placed 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;

“trailer” means a trailer within the meaning of Section 136(1) of the 1984 Act and shall include a caravan and a boat;

“vehicle” means a mechanically propelled vehicle intended or adapted for use on roads (motor vehicle as defined in Section 136(1) of the 1984 Act) and a vehicle drawn by a motor vehicle (trailer as defined in Section 136(1) of the 1984 Act);

3. Except where otherwise stated, 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.
4. Save where the contrary is indicated, any reference in this Order to:
 - (a) 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;
 - (b) 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.

PART II
OFF STREET PARKING PLACES

5. Each area of land specified in Column 1 of Schedule 1, shown on the plans to this Order may be used, subject to the following provisions of this Order, as a parking place for such classes of vehicles, in such position 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, provided that the driver of a vehicle shall not permit that vehicle to wait in a parking place unless the vehicle is licensed in pursuance of the provision of the Vehicle Excise and Registration Act 1994 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 1988.

The driver of a vehicle shall comply with any instruction given by a sign or surface marking authorised to be placed by the Council except that an authorised officer may authorise or require the driver of any vehicle to take any action other than that specified.

6. (1) The driver of a vehicle upon entering a parking place and having parked in an empty parking place within the charging hours specified in Column 5 of Scheduled 1, to this Order shall purchase a virtual permit or take a ticket or tickets from the machine by the insertion of coins of the appropriate denomination in accordance with the scale of charges specified in Column 7 of Schedules¹ to this Order. Provided that no charge shall be payable by the driver of a vehicle left in that parking place who exhibits a valid unexpired permit issued in respect of that vehicle in accordance with the provisions of paragraphs 2(a) and 2(b) of this Article.
- (2) (a) Subject to the discretion of the Council the owner of a vehicle may apply to the Council to purchase a permit in respect of that vehicle to park in a parking bay at particular parking places at a charge specified in Schedule 1, of this order.
- (b) Subject to the discretion of the Council, it may issue to its employees, or authorised officers a permit for use
- (3) The driver of a vehicle leaving a vehicle in a parking bay during the charging hours specified shall display or attach the ticket or parking disc or parking permit referred to in paragraph 1 of this Article in the relevant position.

A vehicle shall not be left in a parking bay if it does not display an

unexpired ticket, tickets or permit or displays an expired ticket, or permit.

- (4) The driver shall on leaving the vehicle in the parking place purchase a parking ticket or virtual permit or obtain a parking permit in accordance with Article 6(1) and (3) of this order
7. Article 6 of this order shall apply to all drivers including in respect of a disabled person's vehicle on which a disabled person's badge is displayed in the relevant position
8. Where a parking disc, parking permit, parking ticket has been displayed or affixed to a vehicle in the relevant position in accordance with the provision of the preceding Article, no person shall remove the disc, permit, ticket or tickets while the said vehicle remains at the parking place.
9. No person shall knowingly exhibit on any vehicle any parking disc, parking permit or parking ticket or tickets which have been altered, defaced, mutilated or added to or upon which the figures or particulars have become illegible.
10. Permits issued under this Order shall not be transferable from one vehicle to another without the prior approval of the Council and any vehicle exhibiting a permit indicating a registration mark issued pursuant to the Vehicle Excise and Regulation Act 1994 other than that borne by the vehicle on which the said permit is exhibited, shall be deemed not to be exhibiting a valid unexpired permit.
11. The council will issue a new permit in place of a permit which may be destroyed, lost, altered, defaced, mutilated or added to or upon which the figures or particulars have become illegible, on payment of a fee paid to the Council, subject always to the Council being satisfied as to the reasons for replacement, the cost to be subject to a reasonable administrative charge determined by the Council from time to time.

Use of parking bays/parking places

12. No person shall leave a vehicle in a parking place unless it has been left within the markings of a single parking bay and no person shall use a parking bay so as to be or cause or permit a nuisance.
13. No person shall park a vehicle in a parking bay in the parking place which has been specifically reserved for use by disabled drivers unless that vehicle has a

valid disabled person's badge and disc displayed in the relevant position.

14. No person shall without the written consent of the Council or an authorised officer use a vehicle, while it is in a parking place or parking bay, in connection with the selling or offering for hire of his skill or services.
15. No person shall, except with the permission of the Council or an authorised officer drive any vehicle in a parking place other than for 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.
16. No person shall use any park or a parking place, parking bay or any vehicle left in a parking place or parking bay:
 - (a) for sleeping or camping purposes;
 - (b) For cooking purposes; or
 - (c) For the purpose of repairing, servicing or washing any vehicle part thereof other than is reasonably necessary to enable that vehicle to depart from the parking place or parking bay.
17. No vehicle shall use a parking place as a means of passage to proceed from one road to either the same road or another road unless the vehicle has in the meantime been properly parked therein and the appropriate fee paid
18. In a parking place or parking bay 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 or heating devise.
19. The driver of a vehicle shall not cause it to exceed 10 mph or any other authorised maximum speed shown on official signage or markings when it is being driven within the parking place.
20. 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.

(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.

21. Where in a parking place signs are erected or surface markings are laid for the purpose of identification of a parking bay no person shall cause or permit a vehicle to be parked in the parking place other than within a parking bay so identified.

Stop Engine

22. The driver of a motor vehicle using a parking place shall stop the engine as soon as the vehicle is in position in a parking bay 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.

Suspension, Closure of Parking Places/Parking Bays.

23. The Council; or an authorised officer may close or suspend any bay, parking places or part thereof either temporarily or permanently and by way of signs, cones or barriers shall exhibit notice of such closing on or near the parking place or the part closed as the case may be, and no vehicle shall be parked in any parking place or part thereof so closed.

Movement or Removal of vehicles

24. When a vehicle is left in parking place or parking bay in contravention of any of the provisions contained in this Order, an authorised officer may remove the vehicle or arrange for it to be removed or some other person duly authorised by the Council, an authorised officer from that parking place or parking bay or alter or cause to be altered the position of the vehicles so that its position shall comply with the provision of the Order

25. Any person removing or altering the position of a vehicle by virtue of the last preceding Article of this Order may do so by towing or driving the vehicle or in such other manner as he may think necessary and may take such measures in relation to the vehicle as he may think necessary.

26. When a person authorised by the Council removes or makes arrangements for the removal of a vehicle from a parking place by virtue of this Order he shall

make such arrangements as may be reasonably necessary for the safe custody of the vehicle

Emergency movement of vehicles.

27. Any person duly authorised by the Council or a Police Constable on duty may move or cause to be moved in case of emergency, to any place he thinks fit, vehicles left in the parking place.

Recovery of cost relating to the removal, storage and disposal of vehicles.

28. The council shall be entitled to recover its reasonable expenses incurred under the preceding Articles in accordance with the relevant legislation in the removal, storage and disposal of the vehicle from the keeper thereof.

PART III CONTRAVENTION OF ORDER

Contravention of Penalty Charge

29. (1) For the advance of doubt, and in addition the other Articles of the Order, a contravention of this Order shall be deemed to have been incurred by a vehicle:-
- (a) Being parked without payment of the parking charge (as provided for in Article 6);
 - (b) Being used in parking place in connection with the sale or offering or exposing for sale of goods when prohibited (as provided for in Article 14);
 - (c) Being parked for longer than the maximum period permitted (as provided for in Article 5);
 - (d) Being parked in a restricted area in a car park (as provided for in Article 23);
 - (e) Being parked after the expiry of paid for time (as provided for in Article 6);
 - (f) Being parked in a car park without clearly displaying a valid pay & display ticket (as provided for in Article 6);
 - (g) Being parked in a permit bay without clearly displaying a valid permit (as provided for in Article 6);
 - (h) Being parked beyond the bay markings (as provided for in Article 5 and/or 12);
 - (i) Being parked in a disabled person's parking space without clearly displaying a valid disabled person's badge (as provided for in Article 5, and/or
 - (j) If the vehicle parked exceeds maximum weight and/or height and/or length permitted in the area (as provided for in Article 5);

- (k) Being parked in a car park area not designated for that class of vehicle (as provided for in Article 5);12);
 - (l) Unauthorised parking of any vehicle.
 - (l) Being parked causing an obstruction (as provide for in Article 5 and/or 12
 - (m) Being parked in a car park when closed (as provide for in Article 23);
 - (n) Being parked in a pay and display car park without clearly displaying a valid pay and display ticket when required;
 - (o) Being parked in a parking place for a purpose other than the designated purpose for the parking place (as provide for in Articles 12, 14, 15, 17 or 18);
 - (p) Being parked with engine running where prohibited (as provided for in Article 22);
- (2) If a vehicle is left in a parking place in contravention of any Article of this Order where a penalty charge notice may be served or issued by an enforcement officer or sent by post by the Council by virtue of the provision of the 2004 Act or any Regulations made thereunder, then a penalty charge in accordance with Band 2 of the aforesaid Regulations shall be payable and/or the vehicle may be removed from that location or parking place.
- (3) If a person (who may or not be an individual but is conclusively presumed to be the registered keeper of any vehicle involved unless that person can prove otherwise) does not comply with any Article of this Order other than that covered by 29 (2) then the person responsible shall be guilty of an offence under Section 35A of the 1984 Act and/or any vehicle involved may be removed from that location or parking place.

Penalty Charge Notice

30. In the case of a vehicle in respect of which the penalty charge may have been incurred. It shall be the duty of the car park officer to attach to the vehicle in a conspicuous position or serve or the enforcing council send by post a notice in accordance with the provisions contained in the 2004 Act or any Regulations made thereunder.
- 31 The penalty charge shall be paid to the Council in accordance with the instructions contained on the penalty charge notice

Indication as evidence

- 32 Particulars given in the penalty charge notice attached to a vehicle or served by the car park officer or sent by the enforcing council in accordance with

this part shall be treated as evidence in any proceedings relating to failure to pay such a penalty charge.

Restriction of removal of a penalty charge notice

- 33. Where a penalty charge notice has been attached to a vehicle in accordance with any of the foregoing provisions of this Order, no person, not being the owner or person in charge of the vehicle, a person authorised by the driver of the vehicle, a Car Parking Officer or some other person duly authorised by the Council shall remove the penalty charge notice from the vehicle unless authorised to do so by the owner or person in charge of the vehicle.**

**PART IV
REVOCATION**

The Halstead Town Council (Off Street Parking Places) Order 2017 is hereby revoked in its entirety