

Off-street order

Westmorland and Furness Council (Off-street parking places) (Appleby-in-Westmorland Library) (Appleby Horse Fair) Order 20><

Westmorland and Furness Council ("the Council") in exercise of its powers under Sections 1(1) and 2(1) to (4), 32, 35, 45 and 46 of the Road Traffic Regulation Act 1984 ("the Act") and Part IV of Schedule 9 to the Act and of all other enabling powers, in accordance with Section 39 (3) of the Act and after consulting the Chief Officer of Police in accordance with Part III of Schedule 9 to the Act hereby makes the following Order:

Definitions and interpretation

1. In this Order unless stated or the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them :

- a) "disabled person" means a person who holds a disabled persons' badge in accordance with the provisions of the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 (No. 682) (and in particular Regulation 4 thereof) or any re-enactment thereto;
- b) "disabled person's badge" means a badge issued in accordance with the provisions of the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 (as amended) (in particular Regulation 11 and the Schedule thereto) or under regulations having effect in Scotland and Wales under Section 21 of the Chronically Sick and Disabled Persons Act 1970 as referred to currently by the Local Authorities Traffic Orders (Exemptions for Disabled) (England) Regulations 2000 (No. 683) or any subsequent further re-enactments thereof;
- c) "disabled person's vehicle" means a vehicle driven by a disabled person as defined in Regulation 4(2) of the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 (No. 682);
- d) "the Fair" means Appleby Horse Fair;

- e) "driver" in relation to a vehicle waiting in a parking place means the person who was driving the vehicle at the time it entered the parking place 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
- f) "goods vehicle" has the meaning given in section 138(3) of the Act
- g) "invalid carriage" has the meaning given in Section 136(5) of the Act;
- h) "motor car" has the meaning given in section 136(2)(a) of the Act;
- i) "motor cycle" has the meaning given in section 136(4) of the Act;
- j) "motor vehicle" has the meaning given in section 136(1) of the Act;
- k) "owner", in relation to a vehicle, means the person by whom such vehicle is kept and used;
- l) "parking bay" means any area of a Parking place which is provided for the leaving of a vehicle and indicated by markings on the surface of the Parking place;
- m) "parking place" means any area of land specified by name in column 1 of Part 1 of the Schedule provided by the Council under section 32(1) of the Act for use as a Parking place
- n) "parking device" has the meaning given in section 35(3B) of the Act
- o) "penalty charge" means the charge specified in Part III of the Schedule
- p) "penalty charge notice" means the notice specified in Article 25
- q) "private light goods vehicle" means a motor vehicle constructed or adapted for use for the conveyance of goods or burden of any description and which has an unladen weight not exceeding 3500 kilograms
- r) "trailer" means a trailer within the meaning of section 136(1) of the Act and shall include a caravan
- s) words importing the masculine include the feminine and vice versa
- t) "traffic sign" means a sign or marking of any size colour and type prescribed or authorised under, or having effect as though prescribed or authorised under, Section 64 of the 1984 Act;
- u) "The 2016 Regulations" means the Traffic Signs Regulations and General Directions 2016;

- v) In the absence of contrary provision any reference to a statute or Statutory provision shall be construed as reference to that statute or Statutory provision as from time to time amended modified extended replaced or re-enacted including reference to any subordinate legislation made under it from time to time.
- w) “relevant position” means:
- (ii) In the case of a disabled person’s badge:
 - (ii) In the case of a vehicle fitted with a fascia panel or dashboard exhibited thereon so that part 1 of the badge is legible from the outside of the vehicle, or
 - (iii) In the case of a vehicle not fitted with a dashboard or fascia panel exhibited in a conspicuous position so that part 1 of the badge showing the date of expiry is legible from outside the vehicle
 - (iv) In the case of any other badge permit prepaid ticket or other parking device mentioned in this order:
 - (v) In the case of a vehicle fitted with a front windscreen exhibited thereon with the face of the device facing forwards such that the date time and other details confirming the validity thereof are legible from outside the vehicle, or
 - (vi) In the case of a vehicle not fitted with a front windscreen exhibited in a conspicuous position on the front of the vehicle or as far as possible towards the front of the vehicle on the near side of the vehicle such that the date time and other details confirming the validity thereof are legible from outside the vehicle.

Provision and use of Parking Places

2. The area of land specified by name in column 1 Schedule 1 and 2 of this Order and shown for identification purposes only edged by a red line on plan ref: AHP/AL/01/26 attached hereto may be used, subject to the following provisions of this Order, as a parking place for such vehicles or classes of vehicles, in such positions, for such period on such days and during such hours, as are specified in relation to that parking place in the Schedules.
3. Where in columns 2 to 6 of the Schedules, a parking place is described as having been provided for vehicles of a specified class or in a specified position or during a specified period (including any provisions specifying particular positions or periods for specific classes of vehicle), the driver of a vehicle shall not permit it to wait in that parking place otherwise than in accordance with such provisions.
4. No parking place or any part thereof shall be used outside the days of operation specified in column 4 of the schedules or when such parking place.

Penalty charges

5. If there is any contravention of any of the provisions of articles 2, 3 and 4 and any of the provisions of the Schedule of this Order then a penalty charge shall be payable to the Council.
6. In the case of a vehicle in respect of which a penalty charge may have been incurred, a parking attendant shall attach to the vehicle in a conspicuous position or give to the person who appears to be in charge of the vehicle a notice which shall include the following particulars:
 - 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. a description of the contravention of this order which has been observed
 - c. the date and time at which the parking attendant observed that the contravention occurred;
 - d. a statement that the penalty charge is required to be paid; and
 - e. the date the penalty charge notice is issued;
 - f. the manner in which, and the time within which, the penalty charge should be paid.
7. Subject to Article 5 the penalty charge shall be paid to the Council within 28 days of the day on which the penalty charge notice was issued.
8. In the event that the penalty charge is paid to the Council within 14 days of the date of the penalty charge notice having been issued the reduced sum shall be accepted in full settlement of the penalty charge.
9. If the penalty charge remains unpaid after 56 days from the date the penalty charge notice was issued and a charge certificate is issued the penalty charge payable shall be the increased amount.
10. 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 in that behalf or the driver or a person authorised by the driver in that behalf shall remove the notice from the vehicle.
11. In the case of any contravention in respect of which a vehicle is in a parking place and a penalty charge is payable, a separate penalty charge shall be payable on each day that the vehicle remains in the parking place and the contravention is continuing.

Other provisions

12. The registered keeper of the vehicle shall be deemed to be responsible for any contravention or non-compliance with the provisions of this order and shall be responsible for the payment of any charges unless he can show that
 - a. They are neither the owner nor the keeper of the vehicle on the relevant date or
 - b. that the vehicle was being used on the relevant date without his consent provided that the Council shall be entitled to recover any charge from and proceed against any other person who is shown to the Council's satisfaction to have been the owner keeper or driver of the vehicle on the relevant date instead of the registered keeper.
13. Any vehicle using or remaining in any parking place shall be at the owner's or driver's risk and the Council its agents officers or employees shall not be liable for loss or damage caused to it or to its contents or accessories howsoever arising including damage caused directly or indirectly as a result of a vehicle being removed from the Parking place under the provisions of this Order.
14. The driver of a motor vehicle using a parking place shall stop the engine as soon as the vehicle is in a position in the parking place in which a vehicle may wait as specified in column 2 of the schedules, and shall not start the engine except when about to change the position of the vehicle in, or to depart from, the parking place.
15. No vehicle shall park in a parking place in such a way as to cause an obstruction to others.
16. No vehicle shall be sold offered or exhibited for sale whilst it is in a parking place.
17. 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 of his skill or services without the prior written consent of the Council.
18. No person shall use any part of a parking place or any vehicle left in a parking place for sleeping or camping or cooking; or
19. for the purpose of servicing, maintaining, repairing or washing any vehicle or part thereof other than so far as is reasonably necessary to enable that vehicle to depart from 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

21. No person shall drive or permit to be driven any vehicle;
- a. so that it enters the parking place otherwise than by an entrance, or
 - b. leaves the parking place otherwise than by an exit, so indicated, or
 - c. in a direction other than so specified.
22. 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 for any purpose other than the purpose of leaving that vehicle in that parking place in accordance with the provisions of this Order or for the purpose of departing from the parking place.

Removal of vehicles

23. If a vehicle is left in a parking place in a position other than in accordance with the provisions of Article 2 and column 2 of the schedules in this Order, a person authorised by the Council in that behalf may alter or cause to be altered the position of the vehicle so that its position is in accordance with the said provisions.
24. If a vehicle is left in a parking place in contravention of any of the foregoing provisions of this Order a person authorised by the Council in that behalf may remove the vehicle from that parking place or arrange for such removal.
25. For the purpose of meeting the requirements of any emergency, a person authorised in that behalf 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.

Dated:

The **COMMON SEAL** of **WESTMORLAND AND FURNESS COUNCIL**

was hereunto affixed

in the presence of:

Authorised Signatory