

MONMOUTHSHIRE COUNTY COUNCIL
(OFF-STREET PARKING PLACES) ORDER 2017

Monmouthshire County Council (hereinafter called "the Council") in exercise of its powers under section 32,33,34 and 35 of the Road Traffic Regulation Act 1984 (hereinafter called "the 1984 Act") and Traffic Management Act 2004 after consultation with the Chief Officer of Police in accordance with paragraph 20 of Schedule 9 to the 1984 Act hereby makes the following Order:-

PART 1

GENERAL

1. This Order shall come into operation on the 17th day of March 2017
and may be cited as "the Monmouthshire County Council (Off-Street Parking Places) Order 2017".
2. The Monmouthshire County Council (Off-Street Parking Places) Order 1996 as amended is hereby revoked.
3. (1) In this Order, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them:-

"Authorised Officer" means a person authorised by or on behalf of the Council to supervise any Parking Place or a police constable in uniform.

"Contravention Fee" means a charge payable to the Council and specified in Articles 36 to 40 inclusive.

“Contravention Notice” means a notice issued by an Authorised Officer of the Council in accordance with the provisions of Article 41.

“Council Offices” means:-

- (i) County Hall, The Rhadyr, Usk, NP15 1GA; or
- (ii) Monmouth Community Hub, Rolls Hall, NP25 3BY or
- (iii) Caldicot Community Hub Woodstock Way, Caldicot, NP6 4DB; or
- (iv) Abergavenny Library, Baker Street, Abergavenny, NP7 5BD; or
- (v) Chepstow Community Hub, Manor Way, Chepstow NP16 5HZ
- (vi) Usk Community Hub 35 Maryport Street Usk, NP15 1AE

“Charging Car Parks” means those parking places specified in column 1 of the Schedule and shown numbered 1,2,4,5,6,7,8,9,10,13,15,16,17,18,19,26,27,28,29,30,31,,33,34,35 inclusive.

“Days of Operation” means the days prescribed in column 3 of the Schedule.

“Disabled Persons Vehicle permitted to park in designated disabled bays” means:-

- (i) an invalid carriage as defined in section 136(5) of the 1984 Act; or

- (ii) a vehicle issued for a disabled person by the Department of Health in lieu of an invalid carriage; or
- (iii) any vehicle which bears at the front or rear in a conspicuous position a badge issued by any local authority to the driver in pursuance of section 21 of the Chronically Sick and Disabled Persons Act 1970.

“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” means a charge of £5 payable, in accordance with the provisions of Article 32, by the Driver of any vehicle parked in Long Stay Charging Car Park between the hours of 9 a.m. and 5 p.m.

“Hours of Operation” means the period prescribed in column 4 of the Schedule.

“Loading Bay” means the loading bay area at Glendower Street Car Park Monmouth identified hatched in Blue on the plan no.T229a.

“Owner” in relation to a vehicle which is required to be licensed under the provisions of the Vehicle Excise and Registration Act 1994 means the person in whose name the vehicle was registered under the said Act on the date on which the vehicle was left in the Parking Place in question.

“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

“Parent and Toddler Parking Place” means any parking bay designated for the sole use of an adult with a child travelling in the vehicle using such a parking bay.

“Parking Fee” means the sum to be paid in accordance with the provisions of this Order and as specified in column 5 of the Schedule by the Driver of any vehicle left in a Charging Car Park and for the avoidance of doubt where any vehicle tows any other vehicle into a Charging Car Park the appropriate Parking Fee shall be paid in respect of each vehicle.

“Parking Permit” means a permit issued by the Council under the provisions of Article 47 to include season permits for use in long stay car parks and season permits for use in short stay car parks and permits that may only be used in specific car parks.

“Parking Place” means a place specified in column 1 of the Schedule and provided by the Council pursuant to section 32(1) of the 1984 Act for the purpose of vehicle parking within the area outlined in red and being the car parks identified on the corresponding Plan numbered and identified in that column.

“Parking Ticket” means any ticket issued from a Ticket Machine or issued by an Authorised Officer at a Charging Car Park including weekly tickets and five (5) day tickets.

"Permitted Position" means, where parking bays are provided, wholly within a bay marked on the Placing Place.

"Permitted Vehicles" means a motor car, motor cycle, invalid carriage as defined in section 136 of the 1984 Act, commercial vehicles not exceeding 2.5 tonnes unladen weight, caravan, trailer and pedal cycles.

"Plan" means a plan attached to and forming part of this Order.

"Public Service Vehicle" means a motor vehicle of a type defined in section 1 of the Public Passenger Vehicles Act 1981.

"the Schedule" means the Schedule attached to and forming part of this Order.

"Ticket Machine" means an apparatus provided by the Council at any Charging Car Park and which is designed to indicate on a Parking Ticket the time at which a vehicle arrived and the time at which it ought to leave or one or other of these items.

"Vehicle" includes motor cycle, caravan, trailer and pedal cycle.

- (2) For the purposes of this Order where a vehicle is drawing a trailer or caravan the vehicle and the trailer or caravan shall be deemed to be

separate vehicles and the driver of the leading vehicle shall be deemed to be the driver of both the vehicles.

- (3) References in this Order to any Article without further designation shall be construed as a reference to the Article so numbered
- (4) Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended, extended, modified or re-enacted by any subsequent enactment.
- (5) The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament, and as if for the purposes of section 22 of that Act this Order were an Act of Parliament and the provisions revoked by Article 2 were enactments thereby repealed.

PART II

USE OF PARKING PLACES – GENERAL

- 4. Except with the written authority of the Council no Parking Place may be used other than as a parking place for such classes of vehicle as are specified in relation to that Parking Place in column 2 of the Schedule on the Days of Operation and during the Hours of Operation and in accordance with the following provisions of this Order.
- 5. Except with the written authority of the Council the Driver of a vehicle shall not permit the vehicle to wait in a Parking Place for longer than the

maximum period permitted for waiting specified in column 6 of the Schedule in relation to that Parking Place.

6. No person shall use a Parking Place or any part thereof which has been closed in part or in whole by authority of the Council.
7. The Driver of a vehicle using a Parking Place shall not permit the vehicle to be left in that Parking Place otherwise than in the Permitted Position.
8. Where in a Parking Place signs are erected or surface markings are laid for the purpose of indicating that part of the Parking Place is reserved no person shall allow a vehicle to be left within such part of a Parking Place unless such person is the holder of a valid Parking Permit authorising them to park within that part of the Parking Place PROVIDED THAT they shall only park within that part of the Parking Place in accordance with any terms and conditions which are attached to their Parking Permit.
9. No person shall without the written authority of the Council while a vehicle is in a Parking Place use the Parking Place for any purpose other than parking the vehicle, boarding or alighting from the vehicle or taking articles out of or into the vehicle, and in particular but without prejudice to the generality of the foregoing provisions of this Article shall not:-
 - (a) carry out any work of construction, overhauling, alteration, cleaning or repair in respect of the vehicle except such as may be necessary to enable the vehicle to be moved from the Parking Place;

- (b) use the vehicle 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 or someone else's skill or services;
 - (c) use the vehicle for the purpose of storing any goods or materials with a view to selling or delivering such articles to persons in or near to the Parking Place.
- 10. No person shall use any part of a Parking Place or any vehicle left in a Parking Place:
 - (i) for sleeping or camping purposes; or
 - (j) for eating or cooking purposes.
- 11. No person shall permit a vehicle other than a Disabled Persons Vehicle a Motor Cycle or Pedal Cycle to wait in any part of a Parking Place which the Council has set aside only for the parking of Disabled Persons Vehicles Motor Cycles and/or Pedal Cycles.
- 12. No person shall permit a vehicle other than a vehicle carrying a child to park in a parking bay within Car Parks identified in Column 1 of the Schedule being car parks 6,7,16,19,26, and 31 where parent and toddler bays are designated for that purpose
- 13. No person shall in any Parking Place:
 - (i) erect or cause or permit to be erected any tent, booth, stand, building or other structure without the written consent of the Council; or

(j) light or cause or permit to be lit any fire.

14 The Driver of a vehicle other than a caravan, trailer or pedal cycle shall not permit that vehicle to be left in a Parking Place unless the vehicle is licensed in accordance with the provisions of section 1 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 V1 of the Road Traffic Act 1988.

15 No person shall except:-

(a)with the permission of the Council or an Authorised Officer, or

(b)where they have a legal right of access through the Parking Place,

drive any vehicle or ride any pedal cycle or other machine 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 in a Parking Place destroy, damage, interfere with or deface any property belonging to the Council and in addition to the penalty provided by Schedule 2, Part 1, to the Road Traffic Offenders Act 1988 any person so doing shall be liable for and shall pay to the Council the full cost of repair of the damage.

17. No person shall in a Parking Place wantonly shout or otherwise make any loud noise or sound any horn or other similar instrument or do anything to the disturbance or annoyance of users of the Parking Place or residents or occupiers of premises in the neighbourhood.
18. No person shall in a Parking Place use any threatening, abusive or insulting words or behaviour with intent to put any person in fear or to provoke a break of the peace.
19. No person shall in a Parking Place distribute or cause to be distributed or sell or cause to be sold any leaflets, pamphlets, papers, journals or any other similar material or publications without the written consent of the Council.
20. No person shall within any Parking Place do anything which if the Parking Place were land in the open air would constitute an offence under the provisions of the Refuse Disposal (Amenity) Act 1978.
21. 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,
 - (c) 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.

22. No person shall in a Parking Place cause or permit to be driven any vehicle in a reckless or dangerous manner or at a speed exceeding 10mph.

PART III

REMOVAL AND DISPOSAL OF VEHICLES IN A PARKING PLACE

23. Where an Authorised Officer is of the opinion that any of the provisions contained in Articles 4, 5, 6, 7, 8, 9, 10, 11, 13, 27 44 and 46 have been contravened or not complied with in respect of a vehicle left in a Parking Place he may remove the vehicle or cause it to be removed from the Parking Place PROVIDED THAT where a vehicle is left in a Parking Place in a position other than a Permitted Position an Authorised Officer may move the vehicle or cause it to be moved to a Permitted Position or may remove the vehicle or cause it to be removed from the Parking Place.

24. In case of emergency an Authorised Officer or any other person duly authorised by the Council may move or cause to be moved any vehicle left in a Parking Place to any place he thinks fit.
25. Any person moving or removing a vehicle in accordance with Article 24 or 25 may do so by towing or driving or in such a manner as he may think necessary and may take such measures in relation to the vehicle as he may think necessary to enable him to move or remove it as aforesaid.
- (i) When an Authorised Officer moves or removes a vehicle or causes it to be moved or removed from a Parking Place in accordance with Article 24 or 25 he shall make such arrangements as may be reasonably necessary for the safe custody of the vehicle but neither such Authorised Officer nor the Council, its servants or agents shall be liable for any loss or damage to any such vehicle or its contents arising from or in consequence of the exercise of the powers contained in Articles 24 and 25.
- (ii) Section 102 of the 1984 Act shall apply to this Order in respect of the recovery by the Council of charges for the moving or removal of vehicles in accordance with Articles 24 and 25 for storage and custody of such vehicles and for disposal of abandoned vehicles.
- 26 Where a vehicle has been removed from a Parking Place in accordance with Article 24 or 25 and it appears to the Council to have been abandoned the Council may sell or otherwise dispose of the vehicle after having made reasonable enquiry to ascertain the name and address of the owner of the vehicle PROVIDED THAT the Council shall be deemed to have made

reasonable enquiry to ascertain the name and address of the owner of any vehicle to which this Article applies if it has taken in relation to that vehicle such steps as may be prescribed by any regulations for the time being in force by virtue of the 1984 Act, the Refuse Disposal (Amenity) Act 1978 or any other Act authorising the Council to sell or otherwise dispose of abandoned vehicles.

PART IV

CHARGES AND CONTRAVENTIONS

27 Subject to the provisions of Article 34, the Driver of a vehicle using:-

(i) a Charging Car Park (excluding that Parking Place numbered 5 in column 1 of the Schedule and known as Byefield Car Park) between the hours of 9 a.m. and 5 p.m. and

(ii) the said Byefield Car Park between the hours of 8 a.m. and 5 p.m.

on any day (except Sundays) who is not the holder of a valid Parking Permit shall

(iii) pay the Parking Fee in respect of that Parking Place as specified in column 5 of the Schedule, and

(iv) affix a Parking Ticket on the dashboard inside the vehicle in respect of which it was issued so that the date and time of issue or expiry (as appropriate) of the Parking Ticket may be read by an Authorised Officer

and shall cause the said ticket to be so exhibited at all times while the vehicle is parked in that Charging Car Park.

28. The Parking Fee shall be paid:-

(i) by the insertion in a Ticket Machine of a coin or coins, bank notes, payment cards or tokens such as may be required by the appropriate Ticket Machine.

29. When a Parking Ticket has been exhibited on a vehicle in accordance with the provisions of Article 28(iv) no person shall remove the Parking Ticket the vehicle until the vehicle is removed from the Charging Car Park.

30. Where any vehicle is left in a Charging Car Park and the provisions of Articles 7, 8 or 9 are contravened a Contravention Fee of sixty pounds (£60) shall become due.

31. Where the Driver of a vehicle has left that vehicle in a Long Stay Charging Car Park and the Driver has purchased a Parking Ticket but has left his vehicle for longer than the period paid for a Contravention Fee of sixty pounds (£60) shall become due PROVIDED THAT the Council may waive payment of that Contravention Fee where the Driver of any vehicle within one hour of the expiry time specified on the Parking Ticket purchased for that vehicle on that day has:-

(i) paid the Excess Charge by purchasing an additional ticket from the Ticket Machine, and

(ii) sent to the Head of Operations of the Council within seven days the original ticket, the additional ticket and the Contravention Notice.

32. Where in any Charging Car Park a Ticket Machine becomes inoperable for any reason the Driver of any vehicle using any such Parking Place shall when so requested by an Authorised Officer pay to that Authorised Officer the appropriate Parking Fee in respect thereof and shall obtain from an Authorised Officer a Ticket indicating that the appropriate Parking Fee has been paid and shall display the Parking Ticket in accordance with Article 28(d).

33. In the event of the failure of a Ticket Machine at any Charging Car Park the Council shall be at liberty to operate any such Parking Place by means of an Authorised Officer in accordance with Article 34 until such time as the failure is rectified.

34. Unless it shall be proved to the contrary indications given by a Ticket Machine of the date and time of issue or expiry (as appropriate) of a Parking Ticket, of the Parking Fee paid and of the machine number of the issuing Ticket Machine shall be evidence of such facts for the purpose of:-

(i) any proceedings for the recovery of any Contravention Fee payable to the Council in accordance with the provisions of this Order and of section 35 of the 1984 Act and section 4(3) of the Road Traffic Offenders Act 1988, and

- (ii) any prosecution brought by the Council under section 35A of the 1984 Act.

- 35. Subject to Articles 31, 32 and 38 to 40 inclusive, where a Driver has left a vehicle in a Parking Place otherwise than in accordance with the provisions of Part II of this Order a Contravention Fee of one hundred pounds (£100) shall become due.
- 36. Where the Driver of a commercial vehicle exceeding 2.5 tonnes unladen weight parks the vehicle in a Parking Place other than as permitted in respect of those Parking Places numbered 3 and 12 in column 1 of the Schedule a Contravention Fee of one hundred pounds (£100) shall become due.
- 37. Where any vehicle is left in a Parking Place and the provisions of Article 5 are contravened a Contravention Fee of sixty pounds (£60) shall become due.
- 38. Where any vehicle is left in a Parking Place and the provisions of Article 9 or Article 23 are contravened a Contravention Fee of one hundred pounds (£100) shall become due.
- 39. Where any vehicle is left at any time in a Parking Place otherwise than in accordance with the provisions of this Order a Contravention Notice shall be attached to the vehicle in a conspicuous position by an Authorised Officer 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) the time at which it was noticed that a Contravention Fee specified in Articles 30 ,31 and 36 to 40 had been incurred.
- (c) a statement that the Contravention Fee or Excess Charge (as appropriate) is required to be paid;
- (d) The manner in which the time within which the Contravention Fee or Excess Charge (as appropriate) should be paid and including:-
 - (i) where the Contravention Notice relates to payment of a Contravention Fee a statement referring to the provisions of Article 42 relating to the payment of the Contravention Fee in the manner specified in that Article; and
 - (ii) where the Contravention Notice relates to payment of the Excess Charge a statement referring to the provisions of Article 31 relating to the payment of the Excess Charge in the manner specified in that article.
- (k) a statement that it is an offence under this Order and Section 35A of the 1984 Act for the Driver of a vehicle who has left a vehicle in a Parking Place to fail to pay the Contravention Fee or Excess Charge (as appropriate).

40. Subject to Article 43 the Driver of a vehicle in respect of which a Contravention Fee specified in Articles 30, 31 and 36 to 40 has been incurred shall pay the Contravention Fee to the Council either by cheque or postal order which shall be delivered or sent by post so as to reach the Head of Operations of the Council not later than 4.30 p.m. on the thirtieth day following the day on which the Contravention Fee was incurred or in cash at the Council Offices not later than aforesaid PROVIDED that if the thirtieth day falls upon a day on which the Council Offices are closed the period within which the payment of the Contravention Fee shall be made to the Council shall be extended until 4.30 p.m. on the next full day on which the Council Offices are open.

41. Where payment of any Contravention Fee specified in Articles 31 , 32 and 37 and 40 is received by the Head of Operations of the Council:-

(a)not later than 4.30pm on the fourteenth day on which the Contravention Fee was incurred.

42. When a Contravention Notice has been attached to a vehicle in accordance with the provisions of Article 41 no person shall remove the Contravention Notice from the vehicle until the vehicle is removed from the Parking Place.

PART V

MISCELLANEOUS PROVISIONS

43(a) Where the Driver of a vehicle is alleged to be guilty of an offence to which this Order applies the Owner of the vehicle shall give such information as to the identity of the Driver as he may be required to give by or on behalf of the Council and such information shall be given in writing if so required by the Council, and

(b) any other person shall if required as foresaid give in manner aforesaid any information it is in his power to give which may lead to the identification of the Driver.

44. Notwithstanding the fact that a Contravention Notice may have been issued by an Authorised Officer in respect of a breach of any provision of this Order and that payment of the Contravention Fee specified in that Contravention Notice may have been made, the Council shall be entitled to prosecute under section 35A of the 1984 Act the Driver of any vehicle who was responsible for such a breach.

45. The Council may issue to any person or persons a Parking Permit valid for use in such Parking Places and on such conditions as may be determined by the Council and the Council may require payment or payments of such sums as it may determine prior to the issue of any Parking Permit.

46. The Council may permit free parking in any of the towns within Monmouthshire on up to three Saturdays in the run up to Christmas in any year

47. Any Parking Ticket issued shall be transferrable on the day of issue between Charging Car Parks situated in the same town where the Parking Fees payable in respect of those Charging Car Parks are the same.
48. Any appeal made to the Council arising out of any contravention of any 'article' in the Order will be processed in line with (1) The Civil Enforcement of Parking Contraventions (General Provision) (ales) (No.2) Regulations 2008 and (23) The Civil Enforcement of Parking Contraventions (Representations and Appeals) (Wales) Regulations 2008.

DATED this 6th day of February two thousand and seventeen

GIVEN under the Commons Seal of

MOUNMOUTHSHIRE COUNTY COUNCIL


Member of the Council


Authorised Signatory

