

TENDRING DISTRICT COUNCIL
THE DISTRICT OF TENDRING
(OFF-STREET PARKING PLACES)
ORDER 2023

The Tendring District Council (hereinafter referred to as “the Council”) in exercise of the powers conferred on the Council under Section 35(1) and (3) of the Road Traffic Regulation Act 1984 (hereinafter referred to as “the Act”), as amended, and Schedule 9 of the Act and of all other enabling powers and after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 of the Act, hereby makes the following Order:-

PART 1
CITING AND INTERPRETATION

1. This Order shall come into operation on the day of 2023 and may be cited as “The District of Tendring (Off-Street Parking Places) Order 2023”.
2. In this Order, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:-

“the 2004 Act” means the Traffic Management Act 2004;

“Cashless Parking” means a cashless prepayment made via telephone, smartphone, computer or other method, allowing a vehicle to park for a period of time. When that time expires the vehicle is required to leave the designated Parking Place or Parking Bay;

“Civil Enforcement Officer” means a person authorised by or on behalf of the Council to supervise and carry out enforcement in respect of any parking area pursuant to Section 63A of the Act and has the same meaning as in Section 76 of the 2004 Act;

“Coach” falls within the meaning of “heavy motor car” as specified by Section 136 of the Act and is a mechanically propelled vehicle, not being a motor car, which is constructed itself to carry passengers and of which weight unladen exceeds 2540 kilograms;

“Commercial Vehicle” falls within the meaning of “heavy motor car” as specified by Section 136 of the Act and is a mechanically propelled vehicle, not being a motor car, which is constructed itself to carry a load or passengers and of which weight unladen exceeds 2540 kilograms;

“Disabled Person’s Badge”, “Disabled Person’s Vehicle” and “Parking Disc” have the same meanings as in the Local Authorities’ Traffic Orders (Exemptions for Disabled Persons) (England) Regulations 2000;

“Driver” in relation to a vehicle waiting in a parking place means the person driving the vehicle at the time it was left in that parking place;

“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;

“Enforcement Authority” has the same meaning in Paragraph 8 of Part 2 of Schedule 8 of the 2004 Act and is the Tendring District Council in the case of this Order;

“Electric Charging Point” means a purpose-built unit designed specifically for an electric vehicle.

“Electric vehicle” means a motor vehicle, which is propelled by electric energy (battery only powered vehicle) from rechargeable batteries. The batteries provide the power to propel the vehicle and to power the lights and all accessories within the vehicle. Hybrid vehicles which require charging are included in this category

“Electric Vehicle Charging Bay” means a parking place designed for the sole use of an electric vehicle for a maximum number of hours continuous charging time. The maximum number of continuous charging hours may vary from car park to car park and will be advised to motorists by notices in the car park

“Motor Car” means a mechanically propelled vehicle not being a motor cycle or a disabled persons’ vehicle but includes a light commercial vehicle which is constructed itself to carry a load of passengers and the weight of which unladen does not exceed two tons as defined in Section 136 of the 1984 Act;

“Motorcycle” and “Invalid Carriage” have the same meaning as in Section 136 of the Act;

“Motor Home” means a mechanically propelled vehicle, not being a motor car, which is constructed itself to carry a load or passengers and of which weight unladen exceeds 2540 kilograms and consists of the minimum features required to fall within the DVLA category of “motor caravan”.

“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;

“Parking Permit” means a valid and unexpired parking permit applied for and issued by the Council, which is required to be displayed upon use;

“Parking Place” means a place designated by the Council where vehicles, or vehicles of any class, may wait and specified by name in Column 1 of the Schedule to this Order under Section 32 of the Act or by agreement under Section 33 of the Act;

“Parking Ticket” means a device used to indicate the time at which a vehicle arrived at, and the time at which it ought to leave, a Parking Place, or one or other of those times, or the charges paid and issued by the Machine. A Parking Ticket is required to be purchased for each Parking Bay occupied by the Vehicle and displayed in accordance with the Order;

“Penalty Charge” has the same meaning as in Section 92 of the 2004 Act and is 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 which is to be paid to the Council not later than the last day of the period of 28 days beginning with the date on which the penalty charge notice was served, and will be reduced by a discount of 50% if it is paid not later than the last day of the period of 14 days beginning with the date on which the penalty charge notice was served;

“Penalty Charge Notice” means a notice served by a Civil Enforcement Officer pursuant to the provisions of Part 6 of the 2004 Act;

“Relevant Position” in respect of:

- (a) a Disabled Person’s Badge means:
 - (i) in the case of a Vehicle fitted with a front windscreen, that the badge is exhibited in accordance with the terms of issue and on the nearside of and immediately behind the windscreen with the front facing forward so as to be visible and legible from the outside of the Vehicle; or
 - (ii) in the case of a Vehicle not fitted with a front windscreen, that the badge is exhibited in accordance with the terms of issue on the front or nearside of the Vehicle with the front facing forward so as to be visible and legible from the outside of the Vehicle;
- (b) a Disabled Person’s Parking Disc, means that the side showing the time is facing forward or outward and immediately behind the windscreen or side window on the front or nearside of the Vehicle;

“Vehicle” means a mechanically propelled vehicle intended or adapted for use on roads (Motor Vehicle as defined in section 136(1) of the Act) and shall include a motorcycle, a trailer and a caravan;

“Virtual Permit” means a valid and unexpired permit for parking applied for and registered and issued electronically by the Council;

- 3. Except where otherwise stated, any reference in this Order to a numbered Article is a reference to the Article bearing that number in this Order.
- 4. The prohibitions imposed by this Order shall be in addition to and not in derogation of any restriction, prohibition or requirement imposed by any Regulations or Orders made or having effect as if made under the Act, or by or under any other enactment.
- 5. 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

USE OF PARKING PLACES:

6. Each area of land specified in Column 1 of the Schedule 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.
7.
 - (1) The Driver of a Vehicle upon entering the Parking Place or having parked in a Parking Bay in the Parking Place within the charging hours specified in Column 7 of the Schedule to this Order shall purchase a Parking Ticket per Parking Bay occupied from the Machine or by using Cashless Parking. No charge shall be payable by the Driver of a Vehicle left in that Parking Place who displays a valid unexpired Parking Permit or has a registered Virtual Permit issued in respect of that Vehicle in accordance with the provisions of paragraphs (2) and (3) of this Article.
 - (2)(a) Subject to the discretion of the Council the owner of a Vehicle may apply to the Council for a registered Virtual Permit in respect of that vehicle for a particular Parking Place;
 - (b) Subject to the discretion of the Council, Virtual Permits may be issued to employees of the Council for such periods as are specified on those permits when the employees concerned are engaged on official duties.
 - (3) A Vehicle shall not be left in a Parking Place or Parking Bay unless it displays a valid and unexpired Parking Ticket(s) or Parking Permit or has obtained a Virtual Permit or used Cashless Parking.
 - (4)(a) The Driver of a Vehicle leaving a Vehicle in a Parking Bay in the Parking Place during the charging hours specified shall display or fixed the Parking Ticket(s) or Parking Permit (unless the Driver is using Cashless Parking or has been issued with a Virtual Permit for the Parking Place) referred to in paragraph 1 of this Article so that the validity of the Parking Ticket(s) or Parking Permit can be checked by a person standing at the offside of a vehicle:
 - (b) In the case of a Motor Cycle in a conspicuous position on the offside of the Vehicle in front of the driving seat;
 - (c) In the case of all other vehicles in such a position as to be clearly visible through the offside of the windscreen facing frontwards.
 - (5) The Driver of a Vehicle having parked in a Parking Bay or in a Parking Place shall be allowed a period not exceeding 5 minute to purchase and display a Parking Ticket or used Cashless Parking in accordance with Article 7(1) and (3) of this Order.
8. Where a Parking Ticket or Parking Permit has been displayed or fixed to a Vehicle in accordance with the provisions of this Order, no person shall remove the Parking Ticket or Parking Permit while the said Vehicle remains at the Parking Place.
9. No person shall knowingly exhibit on any Vehicle any Parking Ticket or Parking Permit which has been altered, faced, mutilated or added to or upon which the figures or particulars have become illegible.

10. Parking 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 Parking Permit indicating a registration mark issued pursuant to the Vehicle Excise and Registration Act 1994 other than that borne by the Vehicle on which the said Parking Permit is exhibited, shall be deemed not to be exhibiting a valid unexpired Parking Permit.
11. The holder of a Parking Permit issued under this Order may at any time surrender the Parking Permit by delivering it to the Council's Corporate Director (Operational Services) and where a Parking Permit is surrendered, the holder thereof shall be entitled to be repaid by the Council by way of rebate an amount equal to one twelfth of the amount paid in respect of each complete calendar month of the period of the currency of the parking permit which is unexpired at the date of surrender.
12. Nothing in Article 7 of this Order shall apply in respect of a Disabled Person's Vehicle on which a Disabled Person's Badge and Parking Disk on which the Driver or other person in charge of the Vehicle has marked the time of which the period of waiting began are displayed.
13. No person shall use the Parking Place so as to be or cause or permit a nuisance or obstruction.
14. 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 Disabled Person's Badge and Parking Disk displayed thereon, or in a Parking Bay reserved for Council employees.
15. No vehicle should be parked in a designated Electric Vehicle Charging Bay unless the vehicle is an Electric Vehicle. When parking in an Electric Vehicle Charging Bay the vehicle must be connected to and using the Electric Charging Point. Parking in an Electric Vehicle Charging Bay with a non-Electric Vehicle will be liable to a Penalty Charge Notice. Parking an Electric Vehicle within a designated bay is subject to existing Scale of Charges and Hours of Operation within the Parking Places as specified in the Schedule to this Order.
16. The Council may close any Parking Place or part thereof either temporarily or permanently and 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.
17. 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 the Parking Place in accordance with the provisions of this Order or for the purpose of departing from the Parking Place.
18. The Driver of a 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 or sound any horn or similar instrument except when about to change the position of the Vehicle in or to depart from the Parking Place.
19. No person shall without the written consent of the Council 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 skills or services.
20. No person shall use any part of a Parking Place or any Vehicle left in a Parking Place:

- (a) for sleeping or camping purposes;
 - (b) for cooking purposes; or
 - (c) for the purpose of repairing, servicing or washing any Vehicle or part thereof other than is reasonably necessary to enable that Vehicle to depart from the Parking Place.
21. 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 paid the appropriate fee or in possession of a valid unexpired Parking Permit or Virtual Permit.
22. Where signs are erected or surface markings are laid in a Parking Place 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 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 specified, as the case may be.
23. Where signs are erected or surface markings are laid in a Parking Place 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.
24. 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 or heating device.
25. The driver of a Vehicle shall not cause it to exceed 10 mph when it is being driven within the Parking Place.
26. When a Vehicle is left in a Parking Place in contravention of any of the provisions contained in this Order, a person duly authorised by the Council may remove the Vehicle or arrange for it to be removed from that Parking Place or alter or cause to be altered the position of the Vehicle so that its position shall comply with the provisions of this Order.
27. 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 they may think necessary and may take such measures in relation to the Vehicle as they may think necessary.
28. When a person duly authorised by the Council removes or makes arrangements for the removal of a Vehicle from a Parking Place by virtue of this Order they shall make such arrangements as may be reasonably necessary for the safe custody of the Vehicle.

29. Where a Vehicle is removed from a Parking Place in accordance with the provisions of this Order, and subsequently stored and or disposed of, the Council is entitled to recover from the owner of the Vehicle or the Driver such charges as prescribed in the Council's Scale of Charges for Removal, Storage and Disposal of Vehicles pursuant to Section 101 of the Act.
30. In the case or an emergency, a person duly authorised by the Council or a Police Constable in uniform may move or cause to be moved a Vehicle left in a Parking Place to any place considered more appropriate.

PART III CONTRAVENTION OF ORDER

31. If a Vehicle is left in contravention of any provisions of this Order, a Penalty Charge shall become payable in respect of each day or part thereof that the Vehicle is left and in the case of a Vehicle in respect of which a Penalty Charge has been incurred, the Civil Enforcement Officer shall attach to the vehicle in a conspicuous position a Penalty Charge Notice which shall indicate the following particulars:-
 - (1) The date and time of the alleged contravention.
 - (2) The date the Penalty Charge Notice was served.
 - (3) The Vehicle registration number.
 - (4) The make and colour of the Vehicle.
 - (5) The location of the Vehicle.
 - (6) Details of the alleged offence.
 - (7) Details of the penalty payable.
 - (8) Instructions on when and how to pay.
 - (9) Instructions on how and when an enquiry and/or formal representation against the issue of the penalty may be made.
 - (10) The reference number of the Penalty Charge Notice.
31. Where a Penalty Charge Notice has been attached to a Vehicle in accordance with the provisions of Article 30 of this Order, no person shall remove the notice from the Vehicle other than the driver of the Vehicle or a person duly authorised to do so by the Driver.
32. The Penalty Charge shall be paid to the Council in accordance with the instructions on the Penalty Charge Notice.
33. Where the Vehicle is left in contravention of this Order and is to be removed from the Parking Place pursuant to the provisions of Articles 25-28 of this Order, a warning letter will be attached to the Vehicle.

**PART IV
REVOCATIONS**

33. The provisions of The District of Tendring (Off-Street Parking Places) Order 2016 are hereby revoked.

GIVEN under the Common Seal of the Tendring District Council this day of
2023.

The **COMMON SEAL** of **TENDRING**

DISTRICT COUNCIL was hereunto

affixed in the presence of:-

Head of Legal Services