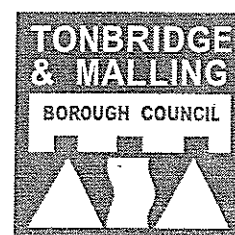


**TONBRIDGE & MALLING BOROUGH COUNCIL  
(OFF-STREET PARKING PLACES)  
(AMENDMENT No 2) ORDER 2009**

Made: 21st April 2009  
Coming into Operation: 27<sup>th</sup> April 2009

Steve Humphrey  
Director of Planning Transportation & Leisure Services  
Tonbridge & Malling Borough Council



**Tonbridge and Malling Borough Council**  
**(Off-Street Parking Places) (Amendment No. 2) Order 2009**

The Tonbridge and Malling Borough Council ("the Council"), in exercise of its powers under sections 32 and 35 of the Road Traffic Regulation Act 1984 ("the Act") and Part 6 of the Traffic Management Act 2004 and of all other enabling powers, with the consent of the County Council of Kent 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:

Citation and Commencement

1. (1) This Order may be cited as the ***Tonbridge and Malling Borough Council (Off-Street Parking Places) (Amendment No.2) Order 2009.***
- (2) This Order shall come into operation on **27<sup>th</sup> April 2009.**
- (3) The Order set out in the first column of the Table shall be amended to the extent specified in the second column of the Table

**Table (Article 1)**  
**Order to be amended**

| <u>Column 1</u><br>Title of Order                                                         | <u>Column 2</u><br>Extent to which amended by this Order |
|-------------------------------------------------------------------------------------------|----------------------------------------------------------|
| <b>Tonbridge &amp; Malling Borough Council<br/>(Off-Street Parking Places) Order 2008</b> | <b>As detailed in Schedule attached</b>                  |

Definitions & Interpretation

2. (1) In this Order, any reference to a numbered article is a reference to the article bearing that number in this Order, and any reference to "the Schedule" is a reference to the schedule to this Order.
- (2) In this Order, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:

"Act of 1971" means the Vehicles (Excise) Act 1971 and includes any regulations made, or having effect, thereunder;

"Act of 1984" means the Road Traffic Regulation Act 1984 and includes any regulations made, or having effect, thereunder;

"Act of 2004" means the Traffic Management Act 2004;

"appropriate manner" in relation to the display of pre-paid tickets and permits means in such a position inside the vehicle and in such a manner that date and time symbols or permit details thereon are clearly visible from the front or near side of the vehicle;

"authorised person" means a civil enforcement officer or other person duly authorised by the Council or a constable;

"car" means the same as motor car;

"caravan" means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed or by being transported on a motor vehicle or trailer);

"charge certificate" means a certificate issued by the Council stating that payment has not been received or a challenge or a representation lodged following the issue of a Penalty Charge Notice;

"civil enforcement officer" means a person formerly known as a "parking attendant" authorised by or on behalf of the Council to supervise parking places and enforce the provisions of this Order and as defined by Section 76(a) of the Act of 2004;

"civil appeals order" means the civil enforcement of parking contraventions (England) representations of appeals regulations 2007 number 3482;

"coach" means a passenger carrying vehicle, exceeding 5.5m in length and capable of carrying more than 16 passengers;

"commercial vehicle" means any mechanically propelled vehicle which is constructed or adapted for the carriage of goods;

"contravention" means any breach of the provisions herein contained;

"council" means Tonbridge & Malling Borough Council

"current" in relation to a vehicle licence means valid on the relevant date;

"day" means

(a) the day when the parking charge was paid or when the vehicle was first left in the parking place; or

(b) any consecutive period of 23 hours in any calendar day but does not include any day which is a Sunday or a public holiday;

"disabled parking bay" means a bay within a parking place identified by surface markings and/or other signage, for the parking at any time of vehicles displaying valid disabled persons badges;

"disabled persons badge" has the same meaning as in the Disabled Persons (Badges for Motor Vehicles) Regulations 1982 (as amended);

"disabled persons vehicle" means a vehicle lawfully displaying a disabled person badge and which is a vehicle which, immediately before or after any period of waiting allowed by virtue of a provision of a kind required by the Local Authorities Traffic Orders (Exemption for Disabled Persons)(England) Regulations 2000 to be included in an order under the Act of 1984, has been or is to be driven by a disabled person or, as the case may be, has been or is to be used for carrying disabled persons as passengers;

"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;

"General Order" means the Civil Enforcement of Parking Contraventions (England) General Regulations Order 3483;

"goods carrying vehicle" means a motor vehicle which is constructed or adapted for use for the carriage of goods or burden of any description and is not drawing a trailer;

"heavy motor car" means a vehicle as defined in Section 136 (3) of the 1984 Act;

"invalid carriage" means a mechanically propelled vehicle of which the weight unladen does not exceed 254 kilograms and which is specially designed and constructed, and not merely adapted, for the use of a person, suffering from some physical default or disability and is used solely by such a person;

"long stay" car park allows a maximum of 23 hours parking when the appropriate fee is paid ;

"mini bus" means a small passenger carrying motor vehicle not exceeding 5.5m in length capable of carrying more than 8 but not more than 16 passengers whether or not the same is either a motor car or a heavy motor car as the case may be;

"motor car" means any motor car within the meaning of Section 136 (2) of the Act of 1984 with the exception of a commercial vehicle;

"motor caravan" means a motor vehicle not exceeding 5.5m in length which provides fixed sleeping arrangements whether or not the same is either a motor car or a heavy motor car as the case may be;

"motor cycle" means any vehicle as defined in Section 136 (4) of the Act of 1984;

"motor cycle bay" means a parking bay marked out on the surface of the car park that is reserved for parking of solo motorcycles only;

"motor vehicle" means any vehicle as defined in Section 136 (1) of the Act of 1984;

"order" means the Tonbridge & Malling Borough Council (Off Street Parking Places) Order 2008;

"owner" has the same meaning as in the Act of 1984;

"parking adjudicator" has the same meaning as in Section 81 of the Act of 1984;

"parking attendant" has the same meaning as in Section 63a of the Road Traffic Regulation Act 1984;

"parking bay" means any areas 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 period" means the period during which the vehicle is parked in the parking bay;

"parking charge" means the charge specified in respect of a parking place in the Schedule Part (I);

"parking place" means any area of land specified by name in column 1 of the Schedule Part.(I), including any access road thereto from the public highway;

"pay & display" means a system of payment for parking of motor vehicles used at car parks where the pre-paid tickets must be obtained and be displayed in the appropriate manner within the vehicle;

"penalty charge" means the charge adopted by the Council which is payable in the event of any breach of the order;

"penalty charge notice" means a notice attached to the vehicle indicating a penalty charge has been incurred;

"permit" means a permit or dispensation of the type described in paragraph 6;

"pre-paid ticket" means a valid pay & display ticket purchased at the commencement of the parking period at a ticket machine within the parking place in which the vehicle is parked;

"public holiday" includes Christmas Day, Good Friday and any bank holiday;

"relevant position" means;

#### **In the case of a disabled persons badge**

The badge must be displayed on top of the dashboard or facia panel of a vehicle with the front of the badge (i.e. the side showing the wheelchair-user symbol) facing forward so that the relevant details are legible from outside of the vehicle. If the vehicle does not have a dashboard or facia panel you must exhibit the badge in a conspicuous position on the vehicle so that the relevant details are legible from outside the vehicle;

#### **In the case of any other badge or permit as follows;**

- i) in the case of a vehicle fitted with a front windscreen, the badge is exhibited thereon with the obverse side facing forwards on the nearside of and immediately behind the windscreen;
- ii) in the case of a vehicle not fitted with a front windscreen, the badge is exhibited in a conspicuous position on the front or nearside of the vehicle;

In all cases the details of the front of the badge or permit must be clearly visible for inspection;

"registered keeper", in relation to a vehicle, means the person in whose name the vehicle is registered under the Act of 1971;

"Regulations of 2000" means the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000;

"short stay" car park allows a maximum of 4 hours parking when the appropriate fee is paid ;

"solo motor cycle" means a motor bicycle without a sidecar or trailer;

"ticket machine" means an apparatus of a type and design approved by the Secretary of State for Transport in accordance with section 35(3) of the Act for the purpose of the parking places specified in the Schedule, being apparatus designed to indicate the time by a clock and to issue tickets indicating the payment of a charge if applicable (see the Schedule Part (I) and the day and time at which the charge was paid.

"trailer" means a trailer as defined in Section 136 (1) of the Act of 1984;

"valid pay & display ticket" means a pre-paid ticket issued from a ticket machine within the car park in which the vehicle is parked, that shows the time the ticket was purchased, expiry date and time, the fee paid and the ticket machine number, for the duration of the parking period; such tickets to be non-transferable;

Words importing one gender include all other genders; words importing the singular include the plural & vice versa;

Unless expressly stated to the contrary any reference to a specific statute includes and statutory extension or modification, amendment or re-enactment of that statute and any regulations or orders made under it, and any general reference to a statute includes and regulations or orders made under that statute;

Reference to any order regulation or statutory instrument includes any order replacing or amending the order regulation or statutory instrument;

The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

#### General provisions relating to the use of parking places

3. (1) Each area of land specified by name (in column 1) of the **Schedule** attached may be used as a parking place for one or more of the specified classes of vehicles on the days and times specified (in column 2), and at the charge specified (in column 3), all subject to the terms, conditions and provisions of this Order.
- (2) The driver of a vehicle shall not permit it to wait in a parking place unless it is one of the specified classes.
- (3) Where, within a parking place, there are surface markings which indicate parking bays, the driver of a vehicle shall not permit it to wait otherwise than

wholly within such a parking bay. The Council may at any time change the location or number of such parking bays within a parking place.

- (4) Where, within a parking place, there is a sign or surface marking which indicates that a parking bay is available only for a disabled person's vehicle, the driver of a vehicle shall not permit it to wait or park in that parking bay unless it displays a current 'disabled person's badge' in accordance with the provisions of the Regulations of 2000 and the registered disabled person is either the driver or a passenger in the vehicle. The driver of a vehicle displaying a current 'disabled person's badge' in accordance with the provisions of the Regulations of 2000 may wait or park the vehicle, free of charge in a parking place provided that the period of stay does not exceed the maximum stay for that parking place. A driver displaying a current 'disabled person's' valid badge may also wait or park in a normal bay under the same conditions.
- (5) The driver of a vehicle shall not permit that vehicle to remain in the parking place for longer than the maximum period of times indicated on the relevant parking place notice.
- (6) The driver of a vehicle shall not permit that vehicle to return to the parking place within the period of time specified on the parking place notice.
- (7) Where within a parking place there are roadways and other areas which are not available for the parking of vehicles, the driver of a vehicle shall not permit it to wait or park at any location other than wholly within a marked parking bay specific to that class of vehicle.
- (8) In this Article, "specified classes" mean the following classes of vehicle:
  - (a) motor vehicles within the provisions of section 136 of the Act of 1984;
  - (b) motor cycles as defined in section 136(4) of the Act of 1984;
  - (c) motor vehicles constructed or adapted for use for the conveyance of goods, including mini buses, motor caravans and small trailers that do not exceed height restrictions and will fit within the marked bays; but that conform to section 136 (2) (a),(b) and (c) of the Act of 1984
  - (d) invalid carriages;
  - (e) disabled person's vehicles,  
and "specified class" shall be construed accordingly.

#### Suspension of use of parking places

4. (1) Notwithstanding any other provision of this Order, the Council may close a parking place, or any part of a parking place, for such period as it considers appropriate.

- (2) The driver of a vehicle shall not leave the vehicle in a parking place at any time when it is closed in accordance with the provisions of paragraph (1) of this article.

#### Authority to Park

Charges apply as stated in the attached Schedule Part (I).

5. (1) Except as otherwise provided by this Order, no vehicle shall be left in a parking place during the charging hours unless the driver has first obtained the relevant ticket, season ticket or permit.
- (2) The parking charge shall be paid upon the first parking of the vehicle in the parking place by use of a ticket machine within the parking place or any other method agreed by the council.
- (3) Whenever a vehicle occupies any of the parking places mentioned in the Schedule hereto where it be stated that a charge applies, a pre-paid ticket shall be purchased when the vehicle is parked in respect of the parking period (not being longer than the maximum period permitted in that parking place) during which the vehicle is intended to be parked, and such pre-paid ticket shall be exhibited on the vehicle in the appropriate manner throughout the said period, unless a valid season ticket or permit is on display, so it can be clearly seen by a civil enforcement officer, such ticket to be non-transferable to any other vehicle.
- (4) A ticket issued on payment of the initial charge shall only be valid for use in the parking place in which it is issued or any other parking place within the same group, within column 1 of the Schedule Part (I).
- (5) A ticket is not transferable between vehicles.
- (6) Any person may, on application in writing to the Council, purchase a season ticket in respect of a vehicle for the parking charge specified for season tickets. A season ticket may only be issued in respect of a parking place specified in Part I of the Schedule as a parking place for which season tickets are available and any season ticket shall be valid only in respect of the parking place or places in respect of which it is issued.
- (7) Any season ticket or permit issued in respect of a vehicle in accordance with paragraph (6) of this article shall be fixed to the windscreen close to the excise licence, which is easily read by a civil enforcement officer, on or in the vehicle in respect of which it was issued at all times whilst the vehicle is in the parking place.
- (8) A vehicle shall not be left in a parking place if at any time there is displayed on the vehicle an expired ticket or an expired season ticket / permit
- (9) The Council may at any time, whether on payment or otherwise, grant written permission by way of a permit / dispensation for vehicles to park in such parking places and at such times as it may consider appropriate:



Provided that no vehicle shall be left in a parking place in reliance upon such permission unless a permit issued in accordance with such permission is fixed to the windscreen close to the excise licence, on or in the vehicle in respect of which it was issued.

#### Exemptions from charges in parking places

6. (1) The Schedule Part (II) shall have effect for the purpose of exempting drivers of vehicles from payment of a parking charge.

#### Contraventions of this Order- Penalty Charge Notice

7. (1) Where a vehicle is left in a parking place in contravention of any of the provisions of this Order, a civil enforcement officer may attach to the vehicle in a conspicuous position a penalty charge notice, in accordance with the Traffic Management Act 2004
- (2) In the case of a vehicle in respect of which a Penalty Charge Notice may have been incurred it shall be the duty of the civil enforcement officer, employed by the Council, to attach to the vehicle in a conspicuous position a Penalty Charge Notice which shall include the following particulars:
- (i) the vehicle registration number & make;
  - (ii) the date of the contravention;
  - (iii) the date & time of issue of the Penalty Charge Notice;
  - (iv) the name of the parking place;
  - (v) a description of the contravention;
  - (vi) a statement that a Penalty Charge Notice in the amount specified is incurred;
  - (vii) the manner in which and the time within which the Penalty Charge Notice should be paid;

provided that the requirements of this paragraph shall not apply to a breach of this order if the vehicle is removed from the parking place before the Penalty Charge Notice can be completed or affixed to the vehicle;

#### Restriction on removal of notices

8. (1) Where 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) an authorised person;
  - (b) the driver; or
  - (c) a person authorised by the driver on their behalf,

shall remove the notice from the vehicle whilst it is in the parking place.

#### Manner of payment of a penalty charge

9. (1) A penalty charge or charges shall be paid to the Council by the driver or the registered keeper of the vehicle in accordance with the instructions on the penalty charge notice.

#### Parked vehicles to be licensed and insured

10. (1) The driver of a vehicle shall not permit that vehicle to wait in a parking place unless -
- (a) there is displayed on the vehicle a valid vehicle excise licence issued in pursuance of the provisions of the Act of 1971; and
  - (b) 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 1972.

#### Vehicles to be parked with engines stopped

11. (1) 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.

#### Activities prohibited in parking place

12. (1) Except with the prior written permission of the Council, 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.
- (2) Except with the prior written permission of the Council, 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) erect, or cause to be erected, any tent, booth, stand, building, structure or other thing;
  - (c) light, or cause or permit to be lighted, any fire;
  - (d) display or distribute, or cause to be displayed or distributed, any notice, leaflet, handbill, booklet, book or other item;
  - (e) 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;
  - (f) for the display of any vehicle for sale or sell any vehicle;
  - (g) park any caravan or trailer of any kind; or
  - (h) use any part of the parking place for cycling, skateboarding, any ball game or any other game.

### Nuisances, etc in parking place

13. (1) 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.
- (2) No person in a parking place shall -
- (a) shout or make or permit any loud noise to be made to the annoyance or disturbance of any users of the parking place, any occupants of adjoining or neighbouring premises or any passers-by; or
  - (b) use any threatening, abusive or insulting language, gesture or conduct likely to occasion, or occasioning, a breach of the peace.

### Alteration of the position, and removal, of vehicles

14. (1) If a vehicle is left in a parking place in a position other than in accordance with the provisions of Article 3 of this order, an authorised person 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, an authorised person may remove the vehicle from that parking place or arrange for such removal.
- (3) For the purpose of meeting the requirement of an emergency, an authorised person 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) An authorised person may move, or cause to be moved, any vehicle or other container containing any substance which appears to him to be hazardous to health as defined by the Control of Substances Hazardous to Health Regulations 1988 or any other legislation relating to health or safety.
- (5) A person -
- (a) altering, or causing the alteration of, the position of a vehicle by virtue of Paragraph (1) of this article; or
  - (b) removing, or causing the removal of, a vehicle by virtue of paragraph (2), (3) or (4) of this article,

may do so by towing 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 the removal of a vehicle by virtue of paragraph (2) or (3) of this article shall make such arrangements as he considers to be reasonably necessary for the safety of the vehicle in the place to which it is removed.

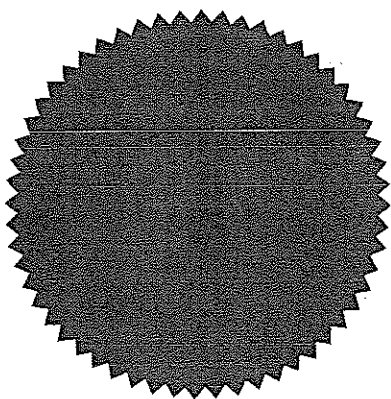
Restrictions on driving of vehicles in parking places

15. (1) 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 so indicated;
  - (ii) so that it leaves the parking place otherwise than by an exit so indicated; or
  - (iii) in a direction other than so specified.
- (2) No person shall, except with the prior written permission of the Council, 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.



The Common Seal of the Tonbridge and  
Malling Borough Council was hereunto  
affixed in the presence of:

*Julie Bailey*

CENTRAL SERVICES  
DIRECTOR

SEAL BOOK NO. 1638

21st April 2009



The Tonbridge and Malling Borough Council (Off-Street Parking Places) Order 2008 is to be amended by the addition of The Schedule below:-

**The Schedule**  
**PART 1**  
**Table of Parking Places**

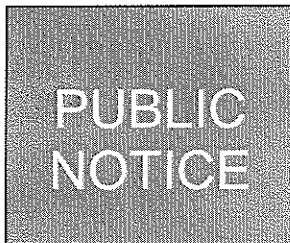
| Column 1<br>Names of parking places | Column 2<br>Maximum period for which vehicles may wait & charging period                                                   | Column 3<br>Scale of charges                                                                                                                           |
|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Group 14</b><br><br>River Walk   | a Charging period 8am to 6pm<br>Monday to Saturday<br><br>b Free Sunday and Public Holidays<br><br>c Maximum stay 23 hours | <b>Pay and display charges</b><br>Up to ½ Hour £0.30<br>½ to 1 hour £0.80<br>1-2 hours £1.50<br>2-3 hours £2.10<br>3-6 hours £3.10<br>6-23 hours £4.50 |

**PART II**

**Exemptions from initial charges in parking places**

The drivers of the following vehicles shall be exempt from payment of an initial charge during the charging periods:

- (1) A disabled person's vehicle parked in accordance with the provisions on paragraph (4) of Article 3.
- (2) A motor cycle (without a sidecar) or a moped as defined in the Act of 1971 parked in a parking bay reserved for the parking of motor cycles and mopeds.



**TONBRIDGE & MALLING BOROUGH  
COUNCIL (OFF-STREET PARKING PLACES)  
(AMENDMENT No 2) ORDER 2009**



Notice is hereby given that Tonbridge & Malling Borough Council made an Order on **21<sup>st</sup> April 2009** under Sections 32 and 35 of the Road Traffic Regulation Act 1984, having obtained the consent of Kent County Council in accordance with Section 39(3) 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.

The effect of the Order will be to amend the *Tonbridge & Malling Borough Council (Off-street Parking Places) Order 2008*, The Schedule PART 1, Table of Parking Places, by adding a new parking place to the Order with associated tariffs as follows.

| <b>Names of Parking Places</b>    | <b>Maximum period for which vehicles may wait &amp; Charging period</b>                                                       | <b>Scale of charges</b>                                                                                                                             |
|-----------------------------------|-------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Group 14</b><br><br>River Walk | a Charging period 8am to 6pm<br>Monday to Saturday<br><br>b Free Sunday and Public<br>Holidays<br><br>c Maximum stay 23 hours | <b>Pay and display charges</b><br>Up to ½ Hour £0.30<br>½ to 1hr £0.80<br>1-2 hours £1.50<br>2-3 hours £2.10<br>3-6 hours £3.10<br>6-23 hours £4.50 |

Anyone wishing to question the validity of the Order, or any of its provisions on the grounds that they are not within the powers conferred by the Act of 1984, as amended, or that any requirement of the Act of 1984, or any instrument made thereunder has not been complied with may, within six weeks from the date of the Order, make application for that purpose to the High Court. The Order will come into effect on **27<sup>th</sup> April 2009**.

If you have any questions concerning the proposed Order or require further information please contact 01732 876276 during normal office hours.

Steve Humphrey  
Director of Planning Transport & Leisure