

THE BOROUGH OF EASTLEIGH

(UPPER MARKET STREET OFF-STREET CAR PARK, EASTLEIGH) ORDER 2024

The Council of the Borough of Eastleigh (hereinafter referred to as “the Council”) pursuant to arrangements made under section 101 of the Local Government Act 1972 in exercise of their powers under sections 32, 33 and 35 of the Road Traffic Regulations Act 1984 (“the Act”) with the consent of the Hampshire County Council pursuant to section 39(3) of the Act and after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 to the Act hereby makes the following Order:-

PART 1 – GENERAL

Commencement and Citation

1. This Order shall come into operation on **xxxx** and may be cited as the “Borough of Eastleigh (Upper Market Street Off-Street Car Park, Eastleigh) Order 2024”.

Interpretation

2. (1) In this Order, except where otherwise stated, any reference to an article, schedule or part shall be construed as a reference to that article, schedule or part in this Order
(2) In this Order, any reference to an Act, Statutory Instrument or Order shall be construed as a reference to that Act, Statutory Instrument or Order as amended.
(3) In this Order, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:

“car park permit” means a ticket or card or virtual parking permit issued by the Council in respect of a particular vehicle which entitles the holder to leave that vehicle in a parking place at any time in accordance with the provisions of this Order up to and including the date of expiry as shown on the permit.

“charging hours” means the periods as specified in column 4 of the Schedule to this Order during which a charge as specified in column 5 of the Schedule to this Order is payable for leaving a vehicle of a class specified in column 3 of the Schedule to this Order in a parking place.

“civil enforcement officer” shall have the same meaning as in section 76 of the Traffic Management Act 2004.

“disabled person’s badge” means a badge which was:

- (a) issued, or has effect as if issued, to a disabled person or an institution under the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 or under regulations having effect in Scotland or Wales under section 21 of the Chronically Sick and Disabled Persons Act 1970; and
- (b) has not ceased to be in force;

as defined in the Local Authorities’ Traffic Orders (Exemptions for Disabled Persons) (England) Regulations 2000.

“disabled person’s vehicle” means a vehicle lawfully displaying a disabled persons badge, as defined under section 142 of the Act.

“driver”, in relation to a vehicle waiting in a parking place, means the person in charge of the vehicle at the same time it was left in the parking place.

“electric charging point” means an installation adjacent to a parking bay for the purposes of recharging the battery of an electric vehicle by way of a connecting lead.

“electric vehicle” means a motor vehicle which is powered entirely or partially by electricity and is capable of being charged from an external source.

“electric vehicle parking place” means a parking place specified in the Schedule to this Order provided and indicated by markings on the surface markings and signage located within the boundaries of the parking bay, where a charging point is provided for the use of charging electric vehicles.

“goods vehicle” means a vehicle exceeding 3.5 tonnes max gross weight and which is constructed or adapted for use for the carriage of goods or burden of any description, and is not drawing a trailer.

“motorcycle” means a mechanically propelled vehicle (not being an invalid carriage) with 2 wheels, not having a trailer attached thereto.

“owner”, in relation to a vehicle, means the person named in the vehicle registration document or the person by whom such vehicle is kept and used.

“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 disc” has the same meaning as in the Local Authorities’ Traffic Orders (Exemptions for Disabled Persons) (England) Regulations 2000.

“parking place” means any area specified in name in the Schedule to this Order provided by the Council under section 32(1) of the Act for use as a parking place.

“passenger vehicle” means a vehicle (other than a motorcycle or invalid carriage) constructed solely for the carriage of passengers and their effects and adapted to carry not more than twelve passengers exclusive of the driver, and not drawing a trailer.

“public service vehicle” shall have the same meaning as in section 1 of the Public Passenger Vehicles Act 1981.

“ticket machine” means an apparatus designed to issue parking tickets indicating the payment of a charge and the date and time at which the charge was paid or expired.

“trailer” shall have the same meaning as in section 136 of the Act.

“vehicle” means a motor vehicle and “motor vehicle” has the same meaning as in section 136 of the Act.

“virtual parking permit” means an electronic record of a parking ticket, permit or waiver issued and confirmed by the Council to exempt a vehicle from a restriction under the terms and charges applicable at the time of issue. Where a reference is made to “displaying a permit”, this requirement or option may be discharged by the obtaining of a virtual parking permit as an alternative to a physical parking permit.

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

(5) If a court, the Department for Transport, the Traffic Penalty Tribunal or the Traffic Enforcement Centre declares any part of this Order to be invalid or unenforceable, such declaration shall not invalidate the remainder of the Order.

PART II – USE OF PARKING PLACES

Use of Areas as Parking Places

3. Each area of land specified by name in column 1 of the Schedule to this Order is designated as a parking place and may be used subject to the following provisions of this Order as a parking place for such classes of vehicles, in such positions on such days and during such hours, and on payment of such charges as are specified in relation to that area in the various articles and the Schedule to this Order.

Class and Position of Vehicles

4. Where in the articles or Schedule to this Order a parking place is described as available for vehicles of a specified class or in a specified position, the driver of a vehicle shall not permit it to wait in that parking place unless it is of the class and in the position so specified.
5. Only vehicles displaying a valid parking permit at all times, or in respect of which a virtual parking permit has been issued, shall be permitted to wait in that parking place as specified in the Schedule 1 to this Order.
6. Where, within a parking place, there is a sign or a surface marking which indicates that a parking bay is available for a disabled person's vehicle, the driver of a vehicle shall not permit it to wait in that parking bay unless it is a disabled person's vehicle.
7. Where, within a parking place, there is a sign or surface marking which indicates that a parking bay is available for a motorcycle only, only motorcycles shall be permitted to wait in that parking bay.
8. When a parking place is described in the Schedule to this Order as operating on certain days or during certain times, the driver of a vehicle shall not permit it to wait in that parking place on any other day or at any other time without the Council's permission.
9. Where, within a parking place, there is a sign or surface marking which indicates that a parking bay is available for use by authorised vehicles only, the driver of a vehicle shall not permit it to wait in that parking bay unless that vehicle has been designated as an authorised vehicle by an authorised Officer of the Council.
10. No person shall park a trailer in a parking place.
11. No person shall park a goods vehicle or a public service vehicle in any parking place.
12. No person shall park a vehicle in a signed restricted area unless directed by an authorised Officer of the Council.

Use of Vehicles in Parking Places

13. No person shall use a vehicle while it is in a parking place as a dwelling or for any domestic or sanitary purposes.
14. No person shall use any vehicle, whilst it is in a parking place, in connection with the sale of any article to any person in or near the parking place or in connection with the selling or offering for sale of a skill or handicraft or service in any other capacity without the consent of a person authorised by the Council.

Driving of Vehicles in Parking Places

15. The driver of a 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 depart from the parking place.
16. No person shall, except with the permission of the Council, drive any vehicles in parking places 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.

Repair of Vehicles in Parking Places

17. No person shall, while a vehicle is in a parking place, permit the carrying out of work either of maintenance or repair thereto or of any other nature whatsoever except such as may be necessary to enable the vehicle to depart from the parking place.

Removal of Vehicles from Parking Places

18. Where a Police Constable in uniform or a person authorised by the Council is of the opinion that any of the provisions contained in article 3 of this Order have been contravened or not complied with in respect of a vehicle left in a parking place, he or she may remove or cause to be removed the vehicle from the parking place, and where it is so removed shall provide for safe custody of the vehicle.

Movement of Vehicles in Parking Places in Emergencies

19. A Police Constable in uniform or a person authorised by the Council may remove or cause to be moved in cases of emergency, to any place he or she thinks fit, any vehicle left in a parking place
20. When a person authorised by the Council removes or makes arrangements for the removal of a vehicle from a parking place by virtue of article 19 of this Order, that person shall make such arrangements as may be reasonably necessary for the safe custody of the vehicle.

Entry and Exit

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 specific 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 the entrance or leaves the parking place otherwise than by the exit so indicated; or
- ii. in a direction other than that specified.

Power to Suspend the Use of Parking Places

22. Any person duly authorised by the Council may suspend the use of a parking place or of any part thereof whenever he or she considers such suspension reasonably necessary for facilitating the carrying out of works of repair or renewal, or in connection with fairs or matters approved or authorised by the Council, or on such other occasions and for such purposes as it sees fit.

Penalty Charge

23. If a vehicle is left in a parking place during the charging hours for a period longer than that for which the payment was made or in contravention of any other provision of this Order, a penalty charge shall be payable.

Manner of Payment of Penalty Charge

24. The penalty charge shall be paid in the manner specified on the penalty charge notice.

Restriction on Removal of Notices

25. Where a notice has been attached to a vehicle no person not being a civil enforcement officer or the driver of the vehicle or a person authorised by the driver shall remove the notice from the vehicle.

Amount of Charge at Parking Places

26. The charge for a vehicle left in a parking place for any period during the charging hours shall be as specified in column 5 of the Schedule to this Order.

Parking Tickets

27. Unless the vehicle has the benefit of an exemption, as specified in article 28 of this Order, the driver of a vehicle using a parking place specified in column 1 of the Schedule to this Order shall on the parking of the vehicle in the parking place during the charging hours display at all times in the relevant position a valid ticket issued by the ticket machine situated in the parking place.

28. The following vehicles shall be exempt from the display of any parking ticket:

1. A disabled person's vehicle which displays in a relevant position a disabled person's badge (for a maximum of 3 hours);
2. A motorcycle parked in a motorcycle bay;
3. A vehicle using or displaying at all times in a conspicuous position to the vehicle a valid car park permit issued in respect of that vehicle.

29. Upon payment of the charge (or free ticket) for a vehicle left in a parking place during the charging hours, the driver thereof shall exhibit the ticket at all times in a conspicuous position to the vehicle in respect of which it was issued.
30. Any ticket obtained in accordance with this Order is not transferable between one vehicle and another, or between one parking place and another.

Exemptions

31. Nothing in this Order shall prohibit any vehicle from waiting, stopping or parking for as long as necessary in the following circumstances:
- (a) The vehicle is directed to wait or stop by or with the permission of a Police Officer or civil enforcement officer.
 - (b) The vehicle is being used for fire and rescue authority (within the meaning of the Fire and Rescue Services Act 2004), ambulance (including providing a response to an emergency at the request of an NHS ambulance service), a bomb or explosive disposal, special forces, police or National Crime Agency purposes and the observance of a provision of this Order would be likely to hinder the use of that vehicle for the purpose for which it is being used.
 - (c) Where the vehicle is prevented from proceeding by circumstances beyond the driver's control or in order to prevent an accident.
 - (d) The vehicle cannot be moved due to an unavoidable breakdown.
 - (e) A vehicle using or displaying at all times in a conspicuous position to the vehicle a valid car park permit issued in respect of that vehicle.

SCHEDULE 1

1	2	3	4	5	6
Name of Parking Place	Position in Which Vehicles Can Park	Class of Vehicles	Hours and Days of Restriction	Scale of Charges or Permit Restriction	Maximum Period Which a Vehicle May Stay
Upper Market Street Off-Street Car Park (as shown in red in annexed plan)	Wholly within those parking bays indicated by surface markings	All Vehicles	All hours All days	Permit Holders Only	If specified on or within the Permit

Dated this day of 2024

THE COMMON SEAL of EASTLEIGH)

BOROUGH COUNCIL was hereunto)

affixed in the presence of:-)

Head of Legal Services

DATED _____ 2024

BOROUGH OF EASTLEIGH

(UPPER MARKET STREET OFF-
STREET CAR PARK,
EASTLEIGH) ORDER 2024

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