

# Amendment Order 1999

**South Hams District Council** ("the Council") in exercise of its powers under Section 35 of and Paragraph 27 of the Ninth Schedule to the Road Traffic Regulation Act 1984 (as amended) ("the Act") and of all other enabling powers with the consent of the County Council of Devon in accordance with Section 39(3) of the Act and after consulting the Chief Officer of Police in accordance with Paragraph 20 of the Ninth Schedule to the Act makes the following Order:-

- Use of parking place
- Exemption
- Failure to comply with the provision of this order
- Revocation

## PART1 - General

### 1. Commencement and Citation

This Order shall come into operation on the First of April 1999 and may be cited as the District of South Hams (Off Street Parking Places) Order 1999

### 2. Reference and interpretation

(1) Any reference in this Order to a numbered Clause is a reference to the Clause bearing that number in this Order and any reference in this Order to "the Schedule" is a reference to the Schedule to this Order

(2) In this Order:-

**"Charging hours"** means any period specified in column 6 of the Schedule in respect of which a Scale Charge is specified in Clause 4 and column 7 of the Schedule

**"Disabled Person's Badge"** has the same meaning as in the Disabled Persons (Badges for Motor Vehicles) Regulations 1982

**"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 or the person leaving or depositing a boat or boat trailer in a Parking Place

**"Owner"** in relation to a Vehicle means the person by whom such Vehicle is kept and used

**"Parking Attendant"** means a person authorised by or on behalf of the Council to supervise any Parking Place (or places)

**"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 Place"** means any area of land specified by name in column 1 of the Schedule provided by the Council under Section 32(1) of the Act for use as a Parking Place

**"Reserved Parking Space Season Ticket"** means a ticket issued for the period of one year or any other specified period for the use of a specific Parking Bay

**"Scale Charge"** shall have the meaning given to it in Clause 4 of this Order

**"Standard Charge"** shall have the meaning given to it in Clause 6 of this Order

**"Season Ticket"** shall include:-

(a) Any ticket issued for the period of twelve calendar months from the 1st day of April or any ticket issued for part of that period at a proportionate charge

(b) Any weekly ticket valid for seven days from the day of issue inclusive of the day of issue

**"Ticket Machine"** includes apparatus approved by the Secretary of State for Transport under Section 35(3) of the Act (as amended) for the purpose of vending tickets indicating the time of a Vehicle's arrival at a Parking Place and the provisions of Section 47(5) of the Act shall apply in respect of such apparatus

**"Vehicle"** means:-

(a) A mechanically propelled vehicle intended or adapted for use on roads or

(b) A trailer for towing a boat or a boat which has been removed from a trailer and left or deposited at a Parking Place

(c) 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 16(1) and 17(2) of that Act this Order were an Act of Parliament and the Orders revoked by Clause 25 of this Order were Acts of Parliament thereby repealed)

## **PART II - Use of parking place**

### **3. Use of Land and Parking Place**

(i) A Parking Place may be used subject to the following provisions for the parking of such classes of Vehicles in such positions on such days and during such hours as are specified in relation to that Parking Place in the Schedule and not otherwise

(ii) Where in the Schedule 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

(iii) Insofar as a Vehicle is left or allowed to remain in a Parking Place the Driver of the Vehicle shall pay such charge or charges as are specified in the following provisions of this Order unless the Vehicle is exempt from paying such charges as specified in Part III of this Order

### **4. Amount of Scale Charge at Parking Place**

(i) This Clause applies to every Parking Place

(ii) The Scale Charge for a Vehicle left in a Parking Place during the Charging Hours and complying in all respects with the provisions of this Order shall be as set out in column 7 of the Schedule and shall be payable not later than the first leaving of the Vehicle

(iii) The Scale Charge shall be payable by the insertion of an appropriate coin or coins into the apparatus or device provided in the Parking Places being an apparatus or device approved in accordance with Section 35(3) of the Act (as amended) or by handing the appropriate coin or coins to a parking attendant as the case may be

**Provided that: -**

The Scale Charge shall not be payable by the Driver of a Vehicle left in that Parking Place who produces or displays as appropriate:-

(a) A valid Season Ticket issued in respect of that Vehicle in accordance with the provisions of subparagraph (vi) of this Clause or

(b) Produces or displays a valid Reserved Parking Space Season Ticket issued in respect of that

Vehicle in accordance with the provisions of sub-paragraph (vii) of this Clause

(c) Is otherwise exempt from the Scale Charge by the provisions of Clause 23 of this Order

(iv) The Driver of a Vehicle left in a Parking Place to which this Clause applies shall purchase a parking ticket for that Parking Place at a price and for the period specified in relation to that Parking Place in columns 6 and 7 of the Schedule and shall exhibit a valid parking ticket on the vehicle in accordance with the provisions of this Clause

(v) A parking ticket shall be a valid parking ticket for the Parking Place in respect of which it has been purchased if and so long as the following conditions are satisfied:-

(a) The parking ticket is attached in a conspicuous position to the Vehicle in respect of which it has been issued

(b) The period applicable to the parking ticket calculated from the date and time of purchase indicated on the parking ticket has not expired

(c) The Scale Charge has been paid

(vi) The Owner of a Vehicle may purchase a Season Ticket from the Council in respect of that Vehicle for a charge as set out in the Scale of Charges on the last page of the Schedule and that Season Ticket shall be valid in such Parking Places as are specified on the Season Ticket during the period for which it is issued

(vii) The Owner of a Vehicle may purchase a Reserved Parking Space Season Ticket from the Council in respect of that Vehicle for the charge specified in the Scale of Charges on the last page of the Schedule and a Reserved Parking Space Season Ticket shall be valid for such reserved parking space as is specified thereon during the period for which it is issued

(viii) If on the date a Vehicle is left or allowed to remain in a Parking Place (as the case may be) a person is shown to have been the Registered Keeper of the Vehicle in writing from the appropriate Registration Authority then for the purpose of this Order and in any legal proceedings in relation to this Order he shall be deemed to have been the Driver of the Vehicle on that date unless the contrary is shown **provided that** this provision shall not apply where the Registered Keeper is a Company incorporated under the Companies Acts

## **5. Restrictions on Waiting**

(i) The Driver of a Vehicle shall not permit it to wait in a Parking Place for longer than the maximum period permitted for waiting specified in relation to that Parking Place in column 6 of the Schedule and on any Notice displayed at or near the entrance to the Parking Place

(ii) When a Vehicle has left a Parking Place after waiting therein the Driver of the Vehicle shall not within two hours after its leaving permit it to wait again in that Parking Place unless the Driver has paid the Scale Charge for all day parking (if applicable to that Parking Place) in accordance with Clause 4 and column 7 of the Schedule

(iii) The Driver of a Vehicle shall not permit it to wait in a Parking Bay marked "reserved" unless he has a Reserved Parking Space Season Ticket for that particular reserved Parking Bay

## **6. Amount of Standard Charge at Parking Places**

(i) This Clause applies to every Parking Place

(ii)(a) If a Vehicle is left or allowed to remain in a Parking Place otherwise than in full accordance with the provisions of this Order then a Standard Charge of Thirty-Five Pounds (£35.00) shall become due in respect of each day (or each period of Charging Hours equal to that specified in column 6 of the Schedule as the maximum period for that Parking Place) during which such Vehicle is so left

(b) Where a Standard Charge is incurred in respect of a Vehicle wholly or partly by reason of a valid

parking ticket not having been exhibited then any unpaid Scale Charge shall be due in addition to the Standard Charge

(iii) The Standard Charge shall be reduced to Twenty-Five Pounds (£25.00) if paid (together with any unpaid Scale Charge) within seven days of the date on which the Standard Charge was incurred

(iv) The Standard Charge and any unpaid Scale Charge shall be recoverable as a civil debt

(v) In the case of a Vehicle in respect of which a Standard Charge has been incurred it shall be the duty of a Parking Attendant to attach to the Vehicle in a conspicuous position 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) The date and time at which it was first noticed that the Standard Charge had been incurred

(c) A statement that the Standard Charge (and any unpaid Scale Charge) is required to be paid

(d) The manner in which and the time within which the Standard Charge (and any unpaid Scale Charge) should be paid

(e) A statement that it is an offence under Section 35A of the Act for the Driver of a Vehicle who has left the Vehicle in a Parking Place to fail to duly pay the Standard Charge (and any unpaid Scale Charge)

(f) A statement that the Standard Charge shall be reduced to Twenty-Five Pounds (£25.00) if paid (together with any unpaid Scale Charge) within seven days of the date on which the Standard Charge was incurred

#### **7. Manner of Payment of Standard Charge**

The Driver of a Vehicle in respect of which a Standard Charge has been incurred shall pay it (together with any unpaid Scale Charge) to the Council either by:-

(i) Cheque bankers credit money order or postal order which shall be delivered or sent by post so as to reach the Cash Office of the Council at Follaton House Plymouth Road Totnes Devon TQ9 5NE not later than 1.00 pm on the Fourteenth day following the day on which the Standard Charge was incurred or

(ii) In cash in person or by messenger at the Council's offices not later than aforesaid **PROVIDED THAT** if the Fourteenth day falls upon a day on which the Council offices are closed the period within which payment shall be made to the Council shall be extended until 1.00 pm on the next full day on which the Council offices are open

#### **8. Tickets as Evidence**

For the purpose of Section 35A of the Act any indication of date and time printed on a ticket issued by a ticket machine or a Parking Attendant shall be conclusive evidence of the date on and the time at which such ticket was purchased

#### **9. Restriction on Removal of Notices or Tickets**

When a notice or ticket 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 or ticket from the Vehicle

#### **10. Transfer of Tickets/Vehicles**

Any parking ticket issued in accordance with the provisions of this Order shall remain the property of the Council and shall not be transferable between Vehicles and shall be valid only at the Parking Place at

which it was issued unless otherwise specified

#### **11. Other Provisions**

The Driver of a Vehicle shall not permit that vehicle to wait in a Parking Place unless the Vehicle displays such licence as is required in respect of it by the provisions 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 requirement of Part VI of the Road Traffic Act 1988

12. 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 to depart from the Parking Place

13.(i) No person shall use any part of a Parking Place or any Vehicle or caravan left in a Parking Place for the sale of any article to persons in or near the Parking Place or for the selling or offering for hire of his skill or services without the consent of the Council

(ii) No person shall use any part of a Parking Place or any Vehicle or caravan left in a Parking Place:-

(a) For sleeping or camping or cooking or

(b) For the purpose of servicing or washing any Vehicle other than is reasonably necessary to enable that Vehicle to depart from the Parking Place

14. 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

15. No person shall in a Parking Place wantonly shout or otherwise make any loud noise to the disturbance or annoyance of users of the Parking Place or residents of premises in the neighbourhood

No person shall in a Parking Place use any threatening abusive or insulting language gesture or conduct with intent to put any person in fear or so as to occasion a breach of the peace or whereby a breach of the peace is likely to be occasioned

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 or leaves the Parking Place otherwise than by an exit so indicated or (ii) in a direction other than so specified

18. No person shall except with the permission of a person authorised by the Council in that behalf drive or permit to be driven a 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

19. In a Parking Place no person shall:-

(a) Erect or cause 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

(c) Use or permit to be used any skateboard or rollerskate

(d) Deposit or otherwise leave any caravan or trailer (whether or not attached to a vehicle) or any object

except as may be indicated as authorised in the Schedule or on any Notice displayed at or near the entrance to the Parking Place

## **20. Incorporation of Section 47 of the Act**

Sub-sections (4) and (6) of Section 47 of the Act shall apply to a Parking Place as if it were a Parking Place provided on the highway

## **21. Closure of Parking Place**

Notwithstanding the provisions of this Order the Council may by notice displayed on or near a Parking Place close that Parking Place or any part of it for any period and no Driver of any vehicle shall use that Parking Place or any part of it when it is closed

## **22. Movement/Removal of Vehicles in Parking Places**

Without prejudice to the provisions of Clause 6 :-

- (i) If a Vehicle is left in a Parking Place in a position other than in accordance with the provisions of Clause 3 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 provisions set out in Clause 3
- (ii) If a Vehicle is left in a Parking Place in contravention of any of the 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 and the owner of such Vehicle shall be charged a removal charge of Fifty Pounds (£50.00) (in addition to any other Charge incurred under this Order) in payment of the cost of removal of the Vehicle
- (iii) For the purpose of meeting the requirements of an 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
- (iv) Any person altering or causing the alteration of the position of a Vehicle by virtue of paragraph (i) of this Clause or removing or causing the removal of a Vehicle by virtue of paragraphs (ii) or (iii) of this Clause 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
- (v) Any person removing or arranging for the removal of a Vehicle by virtue of paragraphs (ii) and (iii) of this Clause 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

## **PART III - Exemption**

(1) The following Vehicles left in a Parking Bay reserved for the use of vehicles by disabled persons shall be exempt from any payment of the Scale Charge specified in Clauses 4 and 5 for a period of up to three hours and thereafter Clauses 4 and 5 shall apply in full as if the Vehicle had first been left in the Parking Bay upon the expiry of the said three hour period

(a) A Vehicle which displays in the relevant position a Disabled Person's Badge

(b) An invalid carriage

(c) A vehicle left by a driver who on account of his severe physical disability has been give a Notice in writing by the Council stating that he is exempt from any such charge or limitation on time provided that such Notice is displayed on the Vehicle in a conspicuous position

(d) A Vehicle displaying a Notice of Exemption from the charges issued by the Council

(2) For the purposes of this Order a Vehicle shall be regarded as displaying a Disabled Person's Badge

in the relevant position when:-

(a) The badge is exhibited on the front windscreen of the Vehicle with the obverse side facing forwards on the near side of and immediately behind the windscreen and

(b) In the case of a Vehicle not fitted with a front windscreen the badge is exhibited in a conspicuous position on the Vehicle and

(c) In either case the Vehicle's actual time of arrival in the Parking Bay is indicated by a Parking Disc (conforming to British Standard Specification) displayed in a like manner

(3) The Driver of a Vehicle not being a Vehicle referred to in Clause 23(1) of this Order shall not permit that vehicle to wait in a Parking Bay reserved for Vehicles used by Disabled Persons

(4) Subject to paragraph (1) of this Clause the provisions of Clause 6 shall apply to all vehicles using any Parking Place

#### **PART IV - Failure to comply with the provision of this order**

24. Without prejudice to the provision of Clause 6 any person who shall contravene or fail to comply with any provision contained in any Clause of this Order shall be liable on summary conviction to a fine not exceeding Level 2 on the Standard Scale except

(i) In the case of an offence committed by a person in a Parking Bay reserved for Disabled Persons' Vehicles where that person would not be guilty of that offence if the Vehicle in respect of which it is committed had been a Disabled Person's Vehicle where instead that person shall be liable on summary conviction to a fine not exceeding Level 3 on the Standard Scale or

(ii) where in accordance with the Order any device or apparatus provided for the collection of charges any person who with intent to defraud interferes with the apparatus or device or operates or attempts to operate it by the insertion of objects other than current coins of the appropriate denomination shall be liable on summary conviction to a fine not exceeding Level 3 on the Standard Scale

#### **PART V - Revocation**

The following Orders are revoked: -

The South Hams (Off Street Parking Places) Order 1996

The South Hams (Off Street Parking Places) (Amendment) Order 1997

The South Hams (Off Street Parking Places) (Amendment) Order 1998

**THE COMMON SEAL of SOUTH HAMS DISTRICT COUNCIL** was affixed to this

Order on the day of 12th March 1999 in the presence of:-

Chairman/Councillor

Authorised Officer