

ABERDEENSHIRE COUNCIL

ROAD TRAFFIC REGULATION ACT, 1984

THE ABERDEENSHIRE COUNCIL (OLDMELDRUM) (OFF-STREET PARKING) ORDER, 2014

2014

Principal Solicitor (Representation)  
Legal and Governance  
Woodhill House  
Westburn Road  
Aberdeen  
AB16 5GB



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Aberdeenshire Council in exercise of the powers conferred upon it by the Road Traffic Regulation Act, 1984, and of all other enabling powers and after consultation with the Chief Constable in accordance with Part III of Schedule 9 to the Act of 1984, hereby makes the following order:-

1. This order may be cited as “The Aberdeenshire Council (Oldmeldrum) (Off-Street Parking) Order, 2014”, and shall come into operation on 1 December 2014.

2. Definitions

The following expressions have the meanings hereby assigned to them except where the context otherwise requires:-

“the Council” means Aberdeenshire Council incorporated under the Local Government etc (Scotland) Act, 1994 as amended and having their principal office at Woodhill House, Westburn Road, Aberdeen;

“the Act” means the Road Traffic Regulation Act, 1984, as amended;

“order” means The Aberdeenshire Council (Oldmeldrum) (Off-Street Parking) Order, 2014 including the Schedule attached thereto;

“notice” means a notice affixed to a vehicle in accordance with the terms of Article 5(2) of the order;

“owner” means the person registered as the keeper of the relevant vehicle at the appropriate time with the Driver and Vehicle Licensing Agency in Swansea;

“chargeable hours” means the period indicated as such at any point in the Schedule attached hereto;

“free parking period” means the period of free parking permitted with no return within the period specified in the Schedule to this order;

“parking disc” means a disc, issued by the Council, and capable of showing the quarter hour period during which a free parking period begins;

“cashless parking” means a cashless prepayment made by mobile phone to the number displayed on signage in the off-street car park allowing the vehicle to be parked for the period of time for which payment has been made;

“handheld device” means a device used by a car park operative to verify the time of day and period of time for which payment has been made;

“electric vehicle” means any vehicle which uses one or more electric motors for propulsion;

“electric vehicle charging point” means an allocated space in an off-street car park at which an electric vehicle charging post is situated for the purposes of the charging of an electric vehicle;

“goods” means articles of any kind, and includes postal packets of any description and “delivering” and “collecting” in relation to any goods includes checking the goods for the purpose of their delivery or collection;

“light goods vehicle” means a motor vehicle, primarily constructed for the carriage of goods or burden of any description, with a maximum permissible gross vehicle weight (gvw) not exceeding 3.5 tonnes;

“heavy goods vehicle” means a motor vehicle, primarily constructed or adapted for use for the carriage of goods or burden of any description, weighing more than 3.5 tonnes gross vehicle weight (gvw);

“car park” means any area of land or building referred to as such at any point in the Schedule hereto, which area of land or building under the control of the Council in pursuance of the Act for use from time to time as a parking place;

“car park operative” means a person authorised by, or on behalf of, the Council to supervise any car park;

“passenger vehicle” means a motor vehicle constructed or adapted solely for the carriage of the passengers and their effects and adapted to carry not more than eight passengers exclusive of the driver; the expression “passenger vehicle” includes a motor cycle as defined in the Act;

“coach or bus” means a motor vehicle, constructed or adapted solely for the carriage of passengers and their effects, and designed to carry more than eight passengers, exclusive of the driver, and not drawing a trailer as defined in the Act;

“trailer” means a non-motorised carrier designed to be pulled by a vehicle and including a caravan;

“parking space” means a marked space in a car park which is provided for the leaving of a vehicle there;

“residential exemption permit” means a permit issued by the Council in accordance with Article 11 of this order;

“traders exemption permit” means a permit issued by the Council in accordance with Article 12 of this order;

“address” means a household identified in the Electoral Roll or the Council Tax Valuation List as an individual residential property unit;

“ticket” means a ticket issued by a Council ticket issuing machine relating to any car park affected by this order;

“ticket issuing machine” means an apparatus designed to indicate the time externally, and to issue numbered vehicle registration specific tickets indicating the free parking period (if any), amount to be paid, the charge paid, the period in respect of which it has been paid, the day and time at which the charge was paid, and incorporating the identification mark of the machine from which the ticket has been issued;

“traffic sign” means a sign of any size, colour and type prescribed by or authorised under, or having effect as if prescribed by or authorised under the Act;

“blue badge holder” means any passenger or light goods vehicle displaying in the relevant position a blue badge in the form prescribed in the Disabled Persons (Badges for Motor Vehicles) Regulations 1982 as amended by the Disabled Persons (Badges for Motor

Vehicles) (Scotland) Regulations 2000 and Regulation 10 of the Disabled Persons (Badges for Motor Vehicles) (Scotland) (Amendment) Regulations 2007, issued by a local authority for display on a motor vehicle driven by a disabled person, or used for the carriage of a disabled person or persons for the purpose of parking concessions

Unless the contrary shall be established it shall be presumed (notwithstanding that the person may not be an individual) that the owner of the vehicle was also the driver of the vehicle at the relevant time;

Insofar as this order may not provide explicit definition of any term, that term shall be interpreted in accordance with any definition of it in the Act, or otherwise according to common usage.

3. Use of Off-Street Car Parks

- (1) Subject to Article 12 of this order each off-street car park shall be used only for parking, and shall be subject to the charging provisions of this order only on such days and during such hours as are specified in the schedule to this order.
- (2) Each off-street car park shall be used for parking only by the class or classes of vehicle marked against that car park in the schedule to this order.

4. Amount and Method of Payment of Initial Charge for Parking in an Off-Street Car Park

- (1) If a vehicle is left in an off-street car park during charging hours, a charge shall be paid in accordance with the provisions of this part of the order, unless the vehicle is exempt from such payment under Article 14, or is subject to a free parking period as specified in the Schedule to this order.
- (2) Save as provided in Article 4(1) above, the charge for a vehicle left in an off-street car park during the charging hours shall be referred to as an initial charge and shall be detailed in relation to that car park specified in the Schedule to this order.
- (3) Save as provided in Article 4(2) above, the initial charge shall be payable on leaving the vehicle in the off-street car park either by:
  - (a) purchasing a pay and display ticket by the insertion into the ticket issuing machine of a combination of coins of the denominations indicated on that ticket issuing machine such that their total value is not less than the appropriate initial charge, as detailed in the Schedule to this order; or
  - (b) making a cashless payment by means of a credit or debit card (chip and pin) by insertion into the ticket issuing machine or via mobile phone such that the total value is not less than the appropriate initial charge, as detailed in the Schedule to this order; or
- (5) If a ticket issued by the ticket issuing machine is obtained for the vehicle by payment of the initial charge or is in respect of a free parking period, the ticket shall be exhibited on the vehicle, in accordance with the provisions of Article 4. No other ticket issued by a ticket issuing machine shall be exhibited on the vehicle.
- (6) A ticket of the kind referred to in Article 4(5) shall:-
  - (a) be exhibited on the vehicle in a prominent and conspicuous position.
  - (b) only be used for display on the vehicle for which it was purchased.
  - (c) be valid in any off-street car park in the town where it was purchased during the period for which payment has been made.

Excess Charge in respect of Off-Street Car Parks

- (1) A charge amounting to sixty pounds, with a reduction to twenty pounds for receipt of payment on the day of issue or forty pounds for receipt of payment within fourteen days (which amount is hereinafter referred to as the "excess charge") shall be payable whether or not any initial charge is payable when:-
- (a) a vehicle is left in an off-street car park, in respect of which charging is applicable, for longer than the period for which payment of the appropriate initial charge has been made; or
  - (b) a vehicle is left in an off-street car park during a free parking period, for longer than the period for which free parking is permitted; or
  - (c) a vehicle which has been left in a car park during a free parking period or in respect of which charging is applicable either (i) exhibits a ticket obtained from the appropriate ticket issuing machine, or (ii) has made a cashless payment indicated on the handheld device, or (iii) exhibits a parking disc, does not do so in accordance with this order; or
  - (d) a vehicle is left in a car park such that it does not conform with the manner of standing specified in this order; or
  - (e) the owner of any vehicle has failed to abide by any provision contained in this order; or
  - (f) a vehicle not eligible to be left in a part of a car park which has been reserved for a particular use in accordance with Article 22 hereto, is so left; or
  - (g) a vehicle is left in contravention of Article 23 hereto.
- (2) In the case of a vehicle in respect of which the excess charge has been incurred, it shall be the duty of the car park operative to attach to the vehicle, in a conspicuous position, a notice which shall include:-
- (a) the registration mark of the vehicle or, when the vehicle is being used under a trade licence, the number of the trade plate carried by the vehicle;
  - (b) the time at which the car park operative first notices (i) that in respect of a free parking period or payment of an initial charge, the ticket obtained from the ticket issuing machine or parking disc has not been exhibited on the vehicle in accordance with the provisions of the order, or (ii) that the vehicle has been left in a car park during charging hours for longer than the period for which payment of the appropriate initial charge has been made or in respect of a free parking period for longer than the free parking period permitted, or (iii) that the vehicle has been parked such that it does not conform with the manner of standing specified in this order; or (iv) an apparent breach of the relevant provisions contained in this order;
  - (c) a statement that the excess charge of sixty pounds requires to be paid (reduced to twenty pounds if payment is received on the day of issue or to forty pounds if payment is received within 14 days);
  - (d) the manner in which and the time within which, and also any special conditions according to which, the excess charge should or can be paid; and

- (e) a statement that a driver who fails to pay any excess charge shall be guilty of an offence in terms of the Act.

6. Restriction on Removal of Tickets and Notices

- (1) When a ticket has been exhibited on a vehicle in accordance with the provisions of this order, no person, not being the driver of the vehicle, shall remove the ticket from the vehicle unless authorised to do so by the driver. Further, when a ticket has been exhibited in accordance with the provisions of this order, no person shall transfer such ticket for use on another vehicle.
- (2) Where a notice has been attached to a vehicle in accordance with the provisions of this order, no person, not being the driver of the vehicle or a car park operative, shall remove the notice from the vehicle unless authorised to do so by the driver.
- (3) Any person contravening the terms of the foregoing sub-paragraphs shall be guilty of an offence.

7. Manner of Payment of Excess Charge

- (1) The excess charge shall be paid to the Council in the manner, within the time limit specified, and in accordance with any other special conditions and arrangements, as may be specified on the notice attached to the vehicle in terms of this order.
- (2) Notwithstanding any possible criminal proceedings arising out of non-payment of the excess charge, the excess charge shall remain recoverable by the Council as a civil debt due by the owner of the vehicle.

8. Ticket Issuing Machines to be Installed at Off-Street Car Parks

There shall be at least one ticket issuing machine in or in the vicinity of each off-street car park in respect of which charging is applicable, allowing for the charge to be paid by the means detailed in Article 4 of this order.

9. Indications on Ticket Issuing Machine Tickets and Handheld Devices

- (1) The free parking period (if any) and payment of the initial charge period for a vehicle left in an off-street car park shall be indicated (i) by a ticket issuing machine relating to the off-street car parks in the town in which the vehicle has been left, by the issue of a numbered vehicle registration specific ticket, and by the exhibition of that ticket on the vehicle, or (ii) the electronic record of a cashless payment on the handheld device indicating that the relevant initial charge has been made, or (iii) by a parking disc exhibited on the vehicle and indicated on the handheld device, in accordance with the provisions of this order.
- (2) The expiry of a free parking period and the period for which the initial charge has been paid shall be indicated (i) when there is exhibited on the vehicle a ticket, issued by a ticket issuing machine relating to off-street car parks in the town in which the vehicle has been left, indicating a date and time, and where the time shown on the clock on the said ticket issuing machine is later than the time shown on the ticket, or (ii) a cashless payment has been made and the date and time indicated on the handheld device is later than the time shown on the electronic record of that transaction, or (iii) when there is exhibited on the vehicle a parking disc and the time indicated on the handheld device is later than the time shown on the parking disc.

10. No Additional Coins to be inserted after Payment of Initial Charge

Persons wishing to park for more than the minimum charge period must make payment of the appropriate charge at the time of first parking.

11. Residential Exemption Permits

- (1) Residential exemption permits will be made available only in respect of residential properties and subject to the approval of the relevant Area Committee.
- (2) Only two residential exemptions permits per property will be issued, irrespective of the number of people resident in the property at any time.
- (3) Residential exemption permits can be used in any Council off-street car park in the town of the residential exemption permit holder's registered address.
- (4) Residents of properties where there is a private parking facility will not be eligible for a permit.
- (5) There shall be endorsed on any residential exemption permit the vehicle registration number relating to the vehicle for which the permit was granted, and any residential exemption permit shall be valid only in respect of that vehicle.
- (6) A residential exemption permit shall be payable at a cost of thirty pounds from 1 June 2014, forty pounds from 1 April 2015, fifty pounds from 1 April 2016 and sixty pounds from 1 April 2017 and shall be renewable one year after the date of issue.
- (7) The appropriate officer of the Council shall require sight of any suitable documentation in connection with the need to determine whether or not an applicant to hold a residential exemption permit is eligible to do so.
- (8) In the event of failure to produce the necessary relevant documentation then the Council shall be entitled to refuse to issue a residential exemption permit for that person.
- (9) The Council will maintain a database of all residential exemption permit holders pertaining to off-street car parks.
- (10) Residential exemption permits are not required to be displayed.

12. Traders Exemption Permits

- (1) An application for a traders exemption permit can be made to the Council in writing by traders. Applicants must demonstrate that;
  - (a) they provide a service that is not currently provided by shops in the local town centre.
  - (b) there is persistent difficulty in getting parked on the streets in the local town centre.
  - (c) there is parking available in the local town centre car parks.



- (2) A traders exemption permit shall be payable at a cost of two hundred and fifty pounds per annum and will permit commercial activities to be held by traders in off-street car parks in specified towns.

13. Manner of Standing in Off-Street Car Parks

Every vehicle left in an off-street car park where stalls are marked shall only use that off-street car park by parking within a stall, and shall so stand that every part of the vehicle is within the limits of that stall.

14. Exemptions from Parking Charges and Time Limits

- (1) If at the time when a vehicle is left during the charging hours in an off-street car park, there are signs on all of the ticket issuing machines relating to that off-street car park placed by any person duly authorised by the Council indicating that the ticket issuing machines are out of order, then the provisions of this order will be suspended but only in regard to payment of the initial charge and only until the end of the charging period.
- (2) A vehicle holding a residential exemption permit (as provided for in Article 11 of this order) valid for off-street car parks in that town, shall be exempt from the payment of any charge or from compliance with any limitation of time during which a vehicle may be left in an off-street car park specified in this order.
- (3) A vehicle displaying a traders exemption permit (as provided for in Article 12 of this order) valid for off-street car parks in specific towns, shall be exempt from the payment of any charge or from compliance with any limitation of time during which a vehicle may be left in an off-street car park specified in this order.
- (4) A blue badge holder shall be exempt from payment of any charge, and from compliance with any limitation of time, in respect of any off-street car park specified in this order.

15. Removal of Vehicles etc from Off-Street Car Park

- (1) When a vehicle is left in any off-street car park in contravention of any of the provisions of this order, a person authorised in that behalf, by or on behalf of the Council, may remove, or arrange to have removed, the said vehicle from the car park. When a vehicle is left in an off-street car park, in a position other than a position in which it may wait in accordance with this order, a person authorised in that behalf by, or on behalf of, the Council may alter or cause to be altered the position of the vehicle. The Council may, by written notice, require the owner of such vehicle to remove the vehicle from an off-street car park, or from any place to which it has been removed for safe custody. If the owner fails or refuses to comply with the notice within a period of six weeks from the date of service of the notice the vehicle will be deemed to have been abandoned by the owner and thereafter any person authorised in that behalf by, or on behalf of, the Council may dispose of the said vehicle. Any sum recovered therefor, in excess of the parking charges incurred, the costs of disposal and of any other relative sums, will be payable to the owner on application to the Council, and any deficiency arising will be payable by the owner to the Council.
- (2) Any person removing or altering the position of any vehicle by virtue of this Article may do so by towing or driving the vehicle or moving it in such other manner as he or she may think necessary; and he or she may take such measures in relation to the vehicle as may be necessary to enable its removal or the alteration of its position, as the case may be; provided that in the event of any vehicle being removed from any off-street car park, such person shall make such arrangements as may be reasonably necessary for the safe custody of the vehicle.

- (3) The Council will not be liable for any unavoidable damage arising out of the said removal of the vehicle.
- (4) Where a trailer or obstruction, such as building materials or waste, has been left in an off-street car park for a period exceeding twenty-four hours, the Council may, by written notice, require the owner of such trailer or obstruction to remove the trailer or obstruction from an off-street car park. If the owner fails or refuses to comply with the notice within a period of seven days from the date of service of the notice the trailer or obstruction will be deemed to have been abandoned by the owner and any person authorised by, or on behalf of the Council may dispose of the trailer or obstruction. Any sum recovered therefor, in excess of the parking charges incurred, the costs of disposal and of any other relative sums, will be payable to the owner on application to the Council, and any deficiency arising will be payable by the owner to the Council.
- (5) Where a trailer has been left in contravention of Article 19 hereto or where any obstruction such as building material or waste material has been left in an off-street car park and the Council, after reasonable efforts to ascertain the owner of any trailer or obstruction, is unable to ascertain the owner the Council may remove the trailer or obstruction, provided the trailer or obstruction has been occupying a parking space or spaces in the off-street car park for a period exceeding seven days and may thereafter dispose of the trailer or obstruction. Any costs incurred may be recovered by the Council should the owner be identified at a later date.

16. Movement of Vehicles etc in Off-Street Car Parks in Emergencies

A police officer or any person duly authorised by the Council, may, in case of emergency, move or cause to be moved, to any place thought fit, any vehicle, trailer or obstruction left in an off-street car park.

17. Restrictions on use of Off-Street Car Parks

- (1) No person shall, except with the permission of any person duly authorised by, or on behalf of, the Council, drive any vehicle in any off-street car park other than for the purpose of leaving that vehicle in the off-street car park in accordance with the provisions of this order, or for the purpose of departing from the car park.
- (2) Where in any off-street car park signs are erected or surface markings laid for the purpose of indicating (a) the entrance to or exit from the off-street car park or (b) that a vehicle using the off-street car park shall proceed in a specified direction within the car park, no person shall drive, or cause or permit to be driven, any vehicle (i) so that it enters the off-street car park otherwise than by an access so indicated, or (ii) in a direction other than that specified, as the case may be.
- (3) The driver of any vehicle shall not permit the said vehicle to wait in any off-street car park so as to obstruct the entry, exit or movement of any other vehicle.
- (4) No person, without the permission of the Council in writing, shall use a vehicle, while it is in an off-street car park, in connection with the sale of any article to any person or persons, in or near the car park, or in connection with the selling, offering for hire, or other availability, of the skill or services of any individual or organisation.
- (5) No person shall use any part of an off-street car park or any vehicle left in an off-street car park for sleeping, camping or cooking purposes, other than with the authorisation of the Council in accordance with the provisions of Article 20.

- (6) No person shall permit any vehicle to wait in any off street car park unless the said vehicle is licensed in accordance with relevant statutory requirements and unless there is, in relation to the use thereof by the driver, such policy of insurance as complies with relevant statutory requirements.
- (7) No person shall repair or service any vehicle or part thereof, in an off-street car park, other than is reasonably necessary to enable that vehicle to depart from the off-street car park, nor shall any person wash any vehicle in an off-street car park.
- (8) No person shall operate any audio equipment either in or outwith a vehicle while in an off-street car park.
- (9) No person shall ply for hire or accept passengers for hire in an off-street car park.
- (10) In an off-street car park no person shall:-
  - (a) erect or cause or permit to be erected any tent, booth, stand, building or other structure without written consent of the Council; or
  - (b) light or cause or permit to be lit any fire; or
  - (c) dump or dispose of rubbish or litter other than in designated bins where provided; or
  - (d) use a skateboard, or roller blades, or suchlike.

18. Restriction of Waiting of Vehicles in Off-Street Car Parks

Without prejudice to the foregoing provisions of this order with respect to vehicles which are left in an off-street car park in accordance with those provisions, any vehicle of the type specified hereunder may, subject as hereunder, wait anywhere on the aisles of an off-street car park, other than an off-street car park or part of an off-street car park the use of which has been suspended:-

- (a) a light goods or heavy goods vehicle, provided it does not cause an obstruction, waiting for so long as may be reasonably necessary for the purpose of delivering or collecting goods or merchandise, including the removal of furniture, or the loading or unloading of the vehicle at premises adjacent to the off-street car park in which the vehicle is waiting, provided that the vehicle does not so wait for more than thirty minutes, or such longer period as a police officer or a car park operative may authorise, or
- (b) a vehicle used for fire brigade purposes, or an ambulance or a vehicle (other than a passenger vehicle) in the service of a local authority or statutory undertaker, or a vehicle in the service of a police force, in each case being used in pursuance of statutory powers and duties.

19. Restriction on the Parking of Trailers in Off-Street Parks

Nothing in this order shall prevent the parking of trailers in accordance with the provisions of the order subject to the following:-

- (a) no person shall permit any trailer or caravan to wait in a parking space in an off-street car park for a continuous period exceeding twenty-four hours.

20. Powers to Suspend or Reserve Use of Car Parks

- (1) An annual list of local events shall be agreed by the relevant Area Committee to be held in specified off-street car parks and requiring the suspension or reserved use of the car park.
- (2) For all other events including one-off events any person duly authorised by the Council may suspend or reserve the use of an off-street car park, or any part thereof, whenever and for such period as is considered reasonable and shall duly inform the local Ward Members and the Chair of the relevant Area Committee.
- (3) Any person suspending or reserving the use of an off-street car park or any part thereof in accordance with the provisions of the immediately preceding paragraph, shall place or cause to be placed in or adjacent to that car park, or the relevant part thereof, a sign or signs indicating that waiting is prohibited.
- (4) No person shall cause or permit a vehicle to be left in any part of an off-street car park, during such period as there is, in or adjacent to that part of the car park, a sign of pursuance of the immediately preceding paragraph. Provided that nothing in this paragraph shall render it unlawful to cause or permit any vehicle being used for the fire brigade, ambulance or police purposes to be left in any part of a car park during such period referred to in this paragraph, or any other vehicle to be so left if that vehicle is left with the permission of:-
  - (i) the person suspending or reserving the use of the off-street car park or part thereof in pursuance of this order, or
  - (ii) a police officer.

21. Powers to Install Ticket Issuing Machines and Carry out Other Works

The Council may:-

- (a) install, in such positions in or in the vicinity of an off-street car park as they may think fit, such ticket issuing machines and cashless parking information signs as are required by this order for the purposes of that off-street car park; and
- (b) carry out such other work as is authorised by this order, or is reasonably required for the purposes of the satisfactory operation of a car park.

22. Reservation of Spaces for Blue Badge Holders and Electric Vehicles


- (1) The Council may reserve in any of the car parks affected by this order a suitable number of spaces for vehicles displaying in each case a disabled person's badge issued by a local authority in exercise of its powers under Section 21(1) of The Chronically Sick and Disabled Persons' Act, 1970, and no person shall cause or permit any vehicle to wait in such a space, at any time, without displaying such a badge.
- (2) The Council may reserve in any of the car parks affected by this order a number of pay and display spaces for electric vehicles. An electric vehicle may only be left in a space reserved for such vehicles during the period taken to charge the vehicles battery.

23. Penalties

Any person contravening or failing to comply with any of the provisions of this order shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.

24. Upon the coming into effect of this order any provision of any other order made or having effect, as if made, under the Road Traffic Regulation Act, 1984 and existing at the time when this order comes into effect, which provision imposes conditions of use of any of the car parks referred to in this order and the schedule relating hereto is hereby revoked.

Given under the Seal of the Aberdeenshire Council on the Twenty-Seventh day of November, Two Thousand and Fourteen.

  
Principal Solicitor (Representation)

