

# **THE PORTSMOUTH CITY COUNCIL (PIER ROAD TEMPORARY CAR PARK) (OFF-STREET PARKING PLACES) (NO. 44) ORDER 2021**

The Portsmouth City Council, in exercise of its powers under Sections 32, 33, 35 of the Road Traffic Regulation Act 1984 ("the 1984 Act"), as amended, the Traffic Management Act 2004 ("the 2004 Act"), the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 ("the 2007 Regulations"), and of all other enabling powers, and in accordance with Parts III and IV of Schedule 9 to the 1984 Act, hereby makes the following Order:

## **PART 1 GENERAL**

### Commencement and Citation

- 1.1 This Order shall come into operation on 29 June 2021 and may be cited as the Portsmouth City Council (Pier Road Temporary Car Park) (Off-Street Parking Places) (No.44) Order 2021.

### Definitions and Interpretation

- 1.2 In this Order, except where the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them:

"Bank Holiday" has the same meaning as described in the Banking and Financial Dealings Act 1971. Good Friday, the first Monday of May and Christmas Day shall be treated as if it were a Bank Holiday for the purposes of this Order and "Bank Holidays" shall be interpreted accordingly;

"Charging Periods" means the days and hours (where applicable) specified in Schedule 2 to this Order as times at which a Parking Charge is applicable at a specific Parking Place, or any revised charging periods as introduced by a notice varying this Order or any part of it;

"Civil Enforcement Officer" means any person authorised by or on behalf of the Council under the provisions of section 76 of the 2004 Act to supervise and control parking in the City of Portsmouth and to carry out such other functions as may be conferred or carried out under any enactment;

"Council" means Portsmouth City Council or any other authority or body assuming its powers as the local authority for the City of Portsmouth;

"Disabled Persons' Badge" means a badge issued by a Local Authority in accordance with the provisions of the The Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000;

"Driver" in relation to a vehicle in a Parking Place means the person driving the vehicle at the time it was driven into and/or left in the Parking Place and for the purposes of the Order and any legal proceedings taken thereunder if on the date a vehicle is driven into and/or left in a Parking Place a person is the Owner of the vehicle that person shall be deemed to have been the driver of the vehicle in absence of proof that the Driver was another person;

"Electronic Payment" means the purchase of a parking permit through payment by debit or credit card facilitated on site or by remote verification through the use of a card reader, mobile phone text, telephone call or such other methods as are approved by the Council from time to time;

"Motorcycle" refers to a solo motorcycle only and excludes any motorcycle which has a side-car or trailer, or which has more than two wheels;

"Owner" in relation to a vehicle means the person who is recorded as the registered keeper by the Driver and Vehicle Licensing Agency on the date on which the vehicle was parked in the parking place in question;

"Parking Bay" means an area of a Parking Place which is provided for the parking of a vehicle and where relevant of a class specified and indicated by markings on the surface of the Parking Place or signed or otherwise indicated by signs or notices or similar means in or outside the Parking Place;

"Parking Charge" means the charge for parking a vehicle in a Parking Place as specified in Schedule 2;

"Parking Permit" means any document, disk, token, stamp or other similar device issued or approved by the Council that allows a vehicle to be parked in specified Parking Places and shall include but is not limited to Southsea Common parking permits;

"Parking Place" means any area of land or building specified in Schedule 2 provided by the Council pursuant to Section 32(1) and 33(4) of the 1984 Act for the purpose of parking vehicles;

"Payment Machine" means an apparatus of a type designed to:

- a) issue parking tickets which show that a payment has been made of an amount or for a period specified thereon and which specify the date and, either the time of such payment, or the expiry time of the parking period for which payment has been made or both;
- b) allow the payment of additional credit as payment of the Parking Charges to be loaded on to a Smartcard by either cash or Electronic Payment.

"Parking Ticket" means a ticket issued by a Payment Machine located in the Parking Place in which the vehicle has been parked or issued by a person nominated by the Council on payment of a charge and valid for a parking period as advertised at that Parking Place;

"Permitted Vehicles" means the following classes of vehicle

- i) Motor Cars as defined in Section 136 of the 1984 Act;
- ii) Motorcycles;
- iii) Motor vehicles constructed or adapted for use for the conveyance of goods or burden the unladen weight of which does not exceed 1 ton.

"Penalty Charge" means a charge imposed by legislation in respect of parking contraventions that are subject to civil enforcement;

“Relevant Position” means

- (a) in respect of a vehicle displaying a valid Disabled Person’s Badge -
  - (i) in the case of a vehicle fitted with a dashboard or fascia panel, the badge is exhibited thereon in accordance with the instructions on the badge and is legible from outside the vehicle; or
  - (ii) in the case of a vehicle not fitted with a dashboard or fascia panel, the badge is exhibited in a conspicuous position on the vehicle in accordance with the instructions on the badge and is legible from outside the vehicle;
- (b) in respect of a vehicle displaying a Parking Ticket or Parking Permit
  - (i) the ticket or permit is exhibited on the inside surface of the windscreen or in a clearly visible position so that it is facing towards the front of the vehicle and can be easily seen and read from the front or side of the vehicle; or
  - (ii) in the case of a vehicle that is not fitted with a transparent windscreen, the ticket or permit is exhibited on the front of the vehicle facing outwards and clearly visible;

" Schedule" means the Schedules annexed to this Order.

- 1.3 Except where the context requires otherwise, any reference in this Order to a numbered Article shall be construed as a reference to the Article bearing that number in this Order.
- 1.4 Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended, applied, consolidated, re-enacted by or as having effect by virtue of any subsequent enactment.
- 1.5 Unless the context otherwise requires, words denoting the singular shall include the plural and vice versa and words denoting persons shall include either gender, bodies corporate, unincorporated associations and partnerships.
- 1.6 The Interpretation Act 1978 shall apply for the interpretation of this Order.
- 1.7 The Orders specified in Schedule 1 to this Order are hereby varied as specified in that Schedule.

## **PART 2**

### **DESIGNATION AND USE OF PARKING PLACES**

#### Designation

- 2.1 Each Parking Place specified by name in Schedule 2 may be used, subject to the following provisions of this Order, for parking such classes of vehicles, in such positions, on such days, during such hours, for such periods and on payment of such charges as specified in that Schedule.
- 2.2 The Council reserves the right to permanently close or temporarily suspend the use of the whole or part of any of its Parking Places, or enlarge or otherwise alter any of its Parking Places and any associated facilities without prior notice as it deems appropriate.

- 2.3 Any vehicles left in a Parking Place outside of the stated opening times may be released upon reasonable request by a person authorised by the Council, and may be subject to a release fee being paid by the Driver or the Owner of the vehicle.

#### Class and Position of Vehicle

- 2.4 No person shall cause or permit to be parked any vehicle other than a Permitted Vehicle in any of the Parking Places unless specified in Schedule 2 or otherwise authorised by the Council.
- 2.5 Where in Schedule 2 the Parking Place is described as available for vehicles of a specified class or vehicles to be parked in a specified position, or where certain Parking Bays are indicated either by notice at the Parking Place or by signs or surface markings to be limited to a specified class of vehicle or user the Driver of a vehicle shall not cause or permit a vehicle to wait or be left in any Parking Bay to which such restrictions apply within the Parking Place unless it is:
- (i) of the specified class or the Driver or a passenger in the vehicle is permitted to park in such Parking Bay; and
  - (ii) it is parked wholly within a Parking Bay allocated for that specified class or in a position directed by a Civil Enforcement Officer or any other officer authorised by the Council.
- 2.6 Where within a Parking Place there is a notice, sign, surface marking and/or studs in the ground which indicate the limits of the Parking Bays the Driver of a vehicle shall not cause the vehicle to be parked otherwise than wholly within a Parking Bay so delineated, and shall not permit it to wait in that Parking Place unless it is so positioned.
- 2.7 Where Parking Bays are not marked out in a Parking Place the Driver of a vehicle shall ensure that it is positioned so that it does not obstruct or potentially obstruct other vehicles using the Parking Place, the free flow of traffic circulating within the Parking Place and the entrances to and exits from the Parking Place.
- 2.8 The Driver of a vehicle shall not use a Parking Place so as to prevent other persons from obtaining access to and exiting from the Parking Place or otherwise cause an obstruction in the Parking Place or Parking Bay.
- 2.9 The Driver of a vehicle shall not use a Parking Place which is subject to limitation or restriction on use as specified in this Order otherwise than in accordance with such limitation or restriction.
- 2.10 The Driver of a vehicle shall not permit that vehicle to be parked in any Parking Place:
- a) in a Parking Bay where a sign, surface marking or notice indicates that it is for permit holders only without displaying in the Relevant Position a valid Parking Permit for the vehicle or Parking Place in question
  - b) in a Parking Bay marked for disabled persons unless the vehicle displays in the Relevant Position a valid Disabled Person's Badge, and a Parking Permit for the vehicle or Parking Place in question.

## **PART 3 PARKING CHARGES AND PERMITS**

### Parking Charges

- 3.1 Subject to Articles 3.2 and 3.3 the Driver of the vehicle to which a Parking Charge is applicable in accordance with the Schedule 2 upon parking the vehicle in a Parking Bay unless otherwise instructed by a Civil Enforcement Officer or a person duly authorised by the Council in any of the Parking Places, shall immediately obtain such Parking Ticket at the Parking Place. Such Parking Ticket shall indicate either payment of the charge and the date of issue or the date and time of issue and the period running from that time during which parking is permitted. The payment indicated upon any such ticket shall be regarded as conclusive evidence of payment of the amount stated on the Parking Ticket.
- 3.2 Article 3.1 shall not apply to vehicles where an exemption from the Parking Charges applies to holders of a valid Disabled Persons badge and where such vehicles display a valid Disabled Person's Badge in the Relevant Position.
- 3.3 Article 3.1 shall not apply where the Driver or Owner of a vehicle to which a Parking Charge would otherwise be applicable has obtained a Parking Permit valid in the Parking Place in which the vehicle is parked and valid for the days and hours during which the said vehicle is parked and the Parking Permit is displayed in the Relevant Position.
- 3.4 The Parking Charges for parking in a particular Parking Place shall be as specified in Schedule 2 or as varied by notice. Where a Parking Charge is payable upon parking a vehicle in a Parking Bay in that Parking Place it shall be paid by such of the following methods that are available at the Parking Place at the time that the vehicle is parked or prior to leaving a Pay on Exit Parking Place:
- a) by the insertion of the appropriate fee into the Payment Machine provided by cash;
  - b) by payment to an authorised person upon entry to the Parking Place;
  - c) by paying the appropriate fee by Electronic Payment ;
  - d) by payment of the Parking Charge by Smartcard in conjunction with the appropriate system.

### Parking Validation

- 3.5 Subject to Article 3.6 and 3.7 where a Driver has parked within a Parking Bay at a Parking Place specified in Schedule 2 the Driver shall ensure that a valid Parking Ticket has been obtained to cover the entire period that the vehicle is parked in the Parking Place, and such Parking Ticket is displayed in the Relevant Position on the vehicle in respect of which it was issued at all times the vehicle is parked.
- 3.6 Article 3.1 and 3.5 shall not apply where a Parking Charge has been paid by Electronic Payment or by purchase of a Smartcard or Parking Permit and no ticket is produced as a result of making such payment or where the Parking Place is a Pay on Exit Parking Place.

3.7 Article 3.5 shall not apply where an exemption for Disabled Badge Holders applies in the Parking Place and the holder of that badge is either the Driver or a passenger in the said vehicle and the Disabled Person's Badge is displayed in the Relevant Position.

3.8 Subject to Article 3.9, if at any time while a vehicle is parked in a Parking Place:

- (a) to which a Parking Charge is applicable and no valid Parking Ticket or Parking Permit is displayed in the Relevant Position ; or
- (b) where no Parking Charge is applicable where the Driver or a passenger in the vehicle is the holder of a Disabled Parking Badge and no Disabled Parking Badge is displayed in the Relevant Position;

and in all cases in accordance with any other provisions of this Order, it shall be deemed that the Parking Charge has not been paid.

3.9 Article 3.8 shall not apply where a record exists of an Electronic Payment being made.

#### Parking permits

3.10 A Parking Permit is only valid in the Parking Place or Parking Places in respect of which it was issued for such vehicles, such times and such periods as are specified on the Parking Permit and/or the Schedule

3.11 The Driver shall abide by the terms stipulated by the Council from time to time for the use of the Parking Permit.

## **PART 4**

### **MISCELLANEOUS PROVISIONS**

4.1 The Driver of a vehicle using a Parking Bay at a Parking Place shall stop the engine as soon as the vehicle is in position in the Parking Bay and shall not start the engine except when about to change the position of the vehicle in or to depart from the Parking Place

4.2 No person shall without the prior written consent of the Council use a vehicle while it is in a Parking Place in connection with the sale of or offering for sale any article to any person or persons in or near the Parking Place or in connection with the selling or offering for hire of any skill or service

4.3 The Driver and/or Owner of a vehicle shall not cause or permit that vehicle to be left in a Parking Bay at a Parking Place unless the vehicle is licensed in accordance with the provisions of Section 1 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 requirements of Part VI of the Road Traffic Act 1988

4.4 The Driver of a vehicle using a Parking Place shall not sound any horn or similar instrument except when necessary to alert other users of the Parking Place of a potential danger or risk of accident

4.5 No person shall, except with the permission of a Civil Enforcement Officer or any person duly authorised by the Council drive or permit to be driven any vehicle in a

Parking Place other than for the purpose of leaving that vehicle in a designated Parking Bay in accordance with the provisions of this Order or for the purpose of departing from that Parking Place

- 4.6 No person shall without the authority of the Council (at its absolute discretion) use any part of a Parking Place or any vehicle left in that Parking Place for the purposes of:
- (a) sleeping or camping
  - (b) eating or cooking
  - (c) repairing, servicing, washing, or painting or otherwise tending any vehicle or part thereof other than such vehicle repairs or servicing as necessary to enable that vehicle to depart from the Parking Place
  - (d) selling any goods (including but not limited to food or drink or other comestible matter) or services
- 4.7 No person shall anywhere in or on any Parking Place without the prior consent of the Council (at its absolute discretion):
- a) erect or cause or permit to be erected any tent, booth, stand, building or other structure
  - b) shall light or cause to permit to be lit any fire
  - c) engage in pedal cycling, skateboarding, roller-skating, ball games, or games of any description or
  - d) anything else which is or may be a nuisance or annoyance to any other persons visiting the Parking Place or residents of premises in the neighbourhood
- 4.8 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 that Parking Place or
  - (b) indicating that a Vehicle using that Parking Place shall proceed in a specified direction within the Parking Place
  - (c) indicating the maximum speed limit within the Parking Place
- no person shall drive or cause or permit to be driven any vehicle in any Parking Place :
- (i) so that it enters that Parking Place otherwise than by an entrance or leave that Parking Place otherwise than by an exit indicated by signs, notices or other method at the Parking Place
  - (ii) in a direction other than specified by signs, notices, road markings or other method at the Parking Place
  - (iii) at a speed in excess of that specified by signs, notices, road markings or other method at the Parking Place
- 4.9 No person shall in a Parking Place use any threatening, abusive or insulting language, gesture or conduct to any officer, employee agent or contractor or other persons visiting the Parking Place in such a manner as to reasonably 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
- 4.10 Nothing in Parts 2, 3 and 6 of this Order shall apply to vehicles used in connection with any of the following operations, namely:
- (i) building, industrial or demolition operations on the site of the Parking Place,
  - (ii) the removal of any obstruction to traffic in the Parking Place,
  - (iii) the maintenance, improvement or reconstruction of the Parking Place,

- (iv) the laying, erection, alteration or repair in the Parking Place of any sewer, or of any main, pipe or apparatus for the supply of gas, water or electricity or of any telegraphic line as defined in the Telegraph Act 1878,
- (v) in the service of a local authority or water authority in pursuance of statutory powers or duties,
- (vi) for police, fire and rescue or ambulance purposes.

## **PART 5**

### **REMOVING OR ALTERING THE POSITION OF A VEHICLE**

- 5.1 A Civil Enforcement Officer or a person authorised by the Council or a Police Officer in uniform may alter or cause to be altered the position of a vehicle in a Parking Place or remove or arrange for the vehicle to be removed from a Parking Place:
- a) for the purposes of meeting the requirement of an emergency; or
  - b) where the vehicle is creating a hazard or an obstruction; or
  - c) where any vehicle parked in a Parking Place which has been closed or suspended in whole or in part by the Council and the Owner of the vehicle has failed to remove it after being given reasonable notice that the vehicle will be removed by the Council unless it is removed by the Owner by a specified date.
- 5.2 Any person removing or altering the position of a vehicle by virtue to Article 5.1 of this Order may do so by towing or driving the vehicle or in such other manner as he may think necessary and may take such measure or measures in relation to the vehicle as he may deem necessary to enable him to remove it or alter its position as the case may be.
- 5.3 Any person removing a vehicle from a Parking Place under the provisions of this Order shall make such arrangements as may be reasonably necessary to provide for the safe keeping of the vehicle and shall notify the Owner of the vehicle of its location within a reasonable period and the requirements (including any charges) for the repossession of such vehicle.

## **PART 6**

### **CONTRAVENTION AND PENALTY CHARGE**

- 6.1 A failure by any person to comply with any requirement of this Order shall be a contravention of this Order and in the event of a breach of any of Articles 2 to 4 of this Order a Civil Enforcement Officer may issue a Penalty Charge Notice by affixing such notice to the vehicle, and a Penalty Charge shall be payable by the either the Owner or Driver.
- 6.2 Where a Penalty Charge Notice has been attached to a vehicle in accordance with the Article 6.1 above no person, other than the Driver or Owner of the vehicle, a police constable in uniform or a person duly authorised by the Council shall interfere with or remove the Penalty Charge Notice from the vehicle.
- 6.3 The prohibitions and restrictions imposed by this Order shall be in addition to and not in derogation from any restriction or requirement imposed by any regulations made or having effect as if made under the Act, or by or under any other enactment.



## **SCHEDULE 1**

### **AMENDMENTS TO EXISTING ORDERS**

1. The Portsmouth City Council (Off-Street Parking Places) (Consolidation) (No.58) Order 2018
  - a) Amend the Item in Schedule 1 relating to SOUTHSEA COMMON, The area west of Serpentine Road, bounded by Pier Road, Duisburg Way and Clarence Esplanade, to allow charging for non-permit holders at weekends and on bank holidays as per Schedule 2, within the section of the Parking Place shown on the plan at Schedule 3.

## SCHEDULE 2

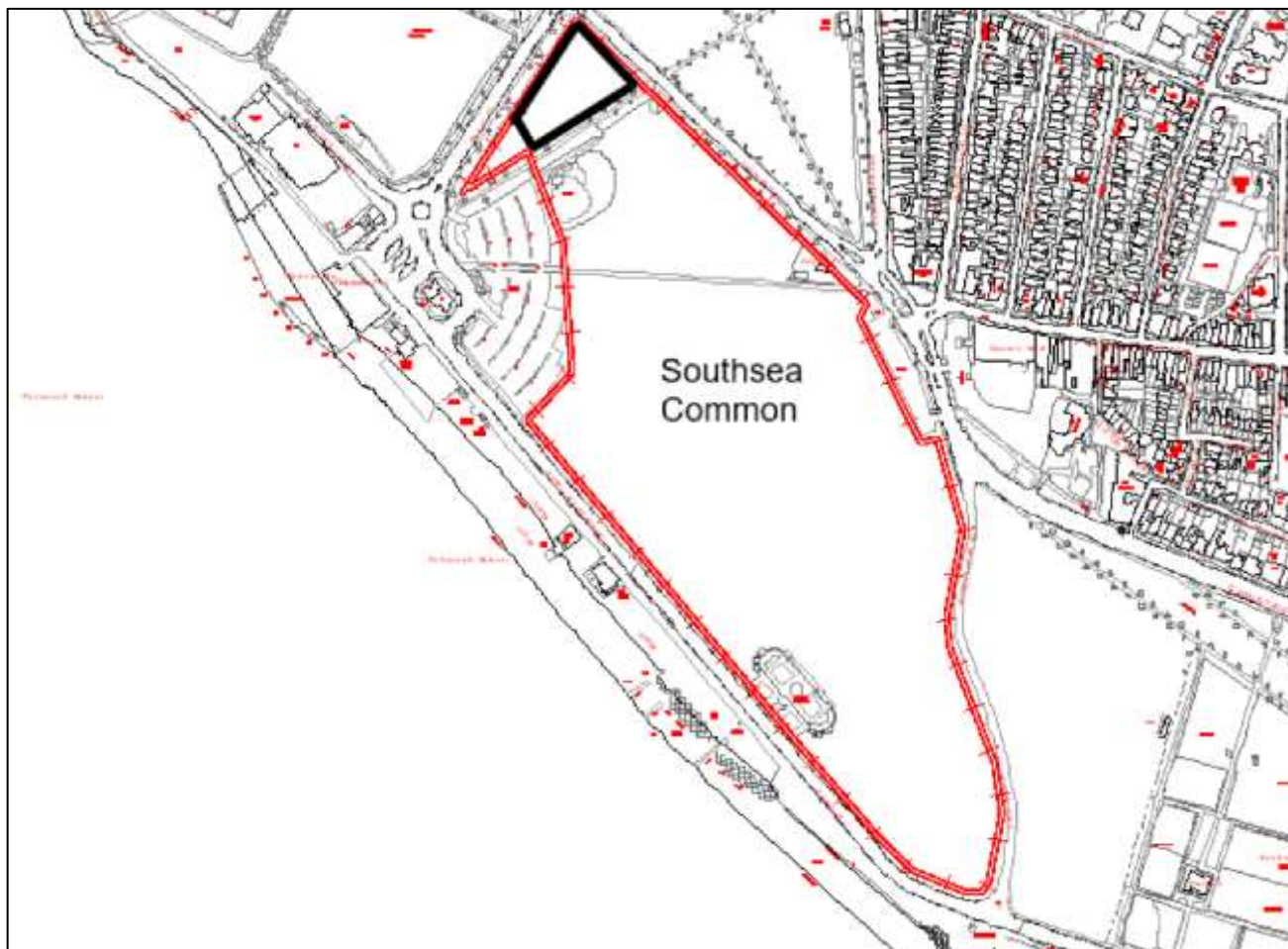
### PARKING PLACES

NAME OF PARKING PLACE	CLASS OF VEHICLE PERMITTED TO USE PARKING PLACE	PERIOD OF OPERATION OF PARKING PLACE	HOURLY/DAILY PARKING CHARGES PER PARKING BAY	PARKING PERMIT CHARGES
<p>PIER ROAD TEMPORARY CAR PARK The area south of Duisburg Way and east of Pier Road  Plan in Schedule 3.</p>	<p>Permitted Vehicles  and  Vehicles displaying a Parking Permit valid for use on Southsea Common</p>	<p>Saturday 10am to 8pm  Sunday 10am to 8pm  Bank holidays 10am to 8pm  Operation not to exceed 56 days within 2021 or 28 days within 2022 or 2023.</p>	<p>Up to 1 hour £1.80 Up to 2 hours £3.10 Up to 3 hours £4.10 Up to 4 hours £5.00 Up to 6 hours £6.20 Up to 8 hours £8.50 All Day £12.00</p>	<p>Not applicable  NB: All Car Parks season ticket is not valid in this Parking Place</p>

## SCHEDULE 3

### PLAN OF AFFECTED LOCATION

Area covered by Item in Schedule 1 of The Portsmouth City Council (Off-Street Parking Places) (Consolidation) (No.58) Order 2018, relating to Southsea Common west of Serpentine Road (red boundary line). Pier Road temporary car park, authorised by this traffic order, is indicated by the solid black outline.



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## **CITY COUNCIL'S STATEMENT OF REASONS FOR THE ORDER**

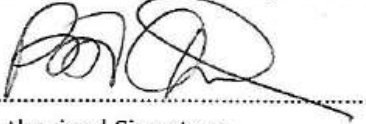
To provide temporary replacement parking for Clarence Pier car park and other lost space along the seafront which will be closed for sea defence construction works. The Council has a duty under section 122 of the Road Traffic Regulation Act 1984 to provide suitable and adequate parking facilities. Under section 32 (1)(a) the Council can create a Traffic Regulation Order to provide a parking place where it considers necessary to prevent or relieve congestion.

The seafront in Portsmouth is popular particularly in good weather and at weekends and it is considered necessary to provide replacement public parking at these times in order to prevent congestion. It is intended that the car park will be available until the 25<sup>th</sup> September 2023 when it is expected that Clarence Pier car park will be open and other work in this section of the seafront will be complete, which time this traffic order (44/2023) may be revoked. The car park will not be used for public parking more than 56 days before 31<sup>st</sup> December 2021 and not more than 28 days in 2022 or more than 28 days in 2023.

Given under the common seal  
Of the Portsmouth City Council this 16th day of June 2021.

**THE COMMON SEAL OF PORTSMOUTH**  
**CITY COUNCIL** was hereunto affixed in  
pursuance of a resolution of the Council  
passed at a meeting duly convened and held:-

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Authorized Signatory



REGISTRATION No.  
79118