

**THE EAST LoTHIAN COUNCIL
(VARIOUS ROADS – NORTH BERWICK)
(PROHIBITION & RESTRICTION ON WAITING, LOADING &
UNLOADING ETC),
VARIATION ORDER No: 2**

TO XXX/XX

EAST LoTHIAN COUNCIL in exercise of their powers under Sections 1(1), 2(1) to (3), 4, 32, 33, 35 45, 46 and Part IV of Schedule 9 of the Road Traffic Regulation Act 1984 (“1984 Act”), subsequently amended or varied and of all other enabling powers and after consultation with the Chief Constable in accordance with Part III of Schedule 9 to the 1984 Act hereby make the following Order:

1 Citation and Commencement

1.1 This Order may be cited as "The East Lothian Council, (Various Roads – North Berwick), (Prohibition & Restriction on Waiting, Loading & Unloading Etc) Variation Order No 2” and shall come into operation on the XX day of XXXX 2023.

2 Definitions

2.1 Unless otherwise stated, words and expressions used in this Order shall have the meaning given to them in the East Lothian Council (Various Roads, North Berwick) (Prohibition & Restriction on Waiting, Loading and Unloading Etc.) Consolidation Order 2016 (TO/289/16) (“**2016 Order**”) and as amended in Article 3.2 of this Order.

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

"car park" means any off street parking area in which there are displayed surface markings or other directions to indicate the position in which any vehicle should be parked;

“charging point” means a device designed for the charging of an electric vehicle or vehicles, where said device has been provided by the Council and is associated with an electric vehicle charging bay;

“combined parking place” means an on street parking place available for residents’ permit parking and pay and display parking as identified in Schedule 14, the map based schedule and/or depicted in a map tile;

“Controlled Parking Zone” comprises of all the roads that are so classified and specified in sections 1 to 3 in Schedule 14 of this Order;

"driver" in relation to a vehicle, means the person authorised by the owner to drive the said vehicle and, for the avoidance of doubt, includes the owner of the vehicle;

"electronic communications network" has the same meaning as in Section 32 of the Communications Act 2003;

“electronic payment system” means a system to facilitate and monitor the payment of parking

charges using telephone or internet enabled devices via communication with the provider authorised and appointed by the Council to operate, administer and maintain the process for the payment of the parking charge, in accordance with the instructions indicated on signs located at or in the vicinity of each parking place;

“electric vehicle” means a vehicle which is capable of being wholly or partially propelled by electrical power and where said power is derived from an electrical storage battery which can be charged from an electrical source external to the vehicle;

“electric vehicle charging bay” means any part of a road or car park that has been designated for the leaving of electric vehicles for the purpose of charging said vehicles under the provisions of the East Lothian Council (Electric Vehicles Charging Bays) Order 2019 (TO-007/19);

“hand held device” means a hand held computer or other electronic apparatus used by a parking attendant which is programmed to interface with the electronic payment system;

"healthcare worker" means:

- (1) such persons as having been identified by NHS Lothian as being a GP, doctor, registered nurse or any other nominated medical persons carrying out domiciliary visits to patients residing within the Controlled Parking Zone; or
- (2) such persons as are GP's, doctors, registered nurses employed at qualifying medical practices and carrying out domiciliary visits to patients residing within the Controlled Parking Zone;

"healthcare workers' permit" means a permit granted by the Council under the terms of Article 7.8 of this Order;

"household" means persons, whether members of the same family or otherwise, occupying any part of a building, being a part of which is occupied as a separate dwelling, and, in particular, includes a flat;

"keeper" means:

- (1) the owner of a qualifying vehicle; or
- (2) a qualifying resident identified and authorised by a registered business as being the sole or main user of a qualifying vehicle owned or leased by that business; or
- (3) a qualifying resident identified and authorised by the owner of a qualifying vehicle as being the sole or main user of that vehicle, provided that both the owner of the qualifying vehicle and the qualifying resident are resident at the same address;

"local authority" means a council constituted under Section 2 of the Local Government etc. (Scotland) Act 1994;

"local roads authority" means the roads authority for East Lothian, and the term “roads authority” shall have the same meaning as in Section 121A of the 1984 Act;

“map based schedule” means a combination of map tiles and map schedule legends identified in Schedule 14 of this Order, which depict and identify the type and governing provisions of restrictions imposed or parking places designated by this Order, the map based schedule being annexed hereto;

“map schedule legend” means the key or keys shown on the map based schedule which, when used in conjunction with a map tile, identifies the type of restriction imposed or the type of parking places designated by this Order;

“map tile” means an individual map with a specific tile reference and map tile reference, being part of the map based schedule;

"map tile label", where shown on a map tile in relation to a parking place, loading place or a waiting, loading or stopping restriction, means a label which indicates the type of parking place, loading place or a waiting, loading or stopping restriction and if appropriate, other applying conditions;

"medical practitioner" means a “fully registered person” as defined in The Medical Act 1983;

"motor cycle" has the same meaning as in Section 136 of the 1984 Act;

"motor vehicle" has the same meaning as in Section 136 of the 1984 Act;

"nearside" in relation to a vehicle, means the left side of the vehicle viewed from the perspective of the driver sitting in the vehicle facing forwards;

"offside" in relation to a vehicle means the right side of the vehicle viewed from the perspective of the driver sitting in the vehicle facing forwards;

"one-way street" means a road in which the driving of vehicles otherwise than in one direction is prohibited;

"owner", in relation to a vehicle, means the registered keeper of the vehicle;

"parking charge" means the charge payable by any person leaving a vehicle in a pay and display parking place and/or combined parking place during the permitted hours in accordance with Articles 6 (pay and display parking) of this Order;

"parking meter" has the same meaning as in Section 46(2) of the 1984 Act;

“parking place” means any part of a road that has been designated for the leaving of vehicles as specified by Article 5.2 and in any other provisions within this Order;

"passenger vehicle" has the same meaning as is given to the expression in Regulation (3)(2) of the Road Vehicles (Construction and Use) Regulations 1986;

“pay and display parking place” means a parking place within an off-street car park identified as a pay and display parking place in Schedule 14, the map based schedule and/or depicted in a map tile;

“Penalty Charge Notice” or “PCN” is a penalty for contravention of parking regulations and this Order;

"permit" means any permit granted by the Council under the terms of this Order and, for the avoidance of doubt, refers only to the original permit as granted and any replacement issued

under Article 8.5;

"permit holder" means any person to whom a permit has been granted by the Council under the terms of this Order;

“permit parking place” means on-street parking place available permit parking under Article 7.1 as identified in Schedule 14, the map based schedule and/or depicted in a map tile;

“permitted hours” means the hours of 8.30 a.m. and 6.00 p.m. on Monday to Saturday inclusive and 1.00 p.m. to 6.00 p.m on Sunday;

"police vehicle" means a vehicle, whether or not mechanically propelled, which is being used by Police Scotland in the pursuance of duties being carried out under the direction of the Chief Constable;

“postal packets” has the same meanings as in section 27 of the Postal Services Act 2011;

“postal services” has the same meanings as in section 27 of the Postal Services Act 2011;

"prohibited hours", means, in relation to any restricted road, the period or periods where said road is subject to a loading prohibition, indicated either on a Schedule, map schedule legend or on the map tile label associated with the map tile related to that road;

"qualifying resident" means:

- (1) a person who is solely or mainly resident at premises the postal address of which is in a road described in Schedule 16; or
- (2) any person who owns, leases and resides at the property on a long-term basis of any residential property the postal address of which is in a road described in Schedule 16 or where the said property is not the sole or main place of residence and is used as a second home or holiday home;

"qualifying vehicle" means a passenger vehicle, goods vehicle, motor cycle with a side-car attached thereto or invalid carriage which in each case:

- (1) has a height not exceeding 8 feet and two inches (2.5 m) except on the roads marked with an asterisk (*) in Schedule 14 where the height shall not exceed seven feet and 6 inches (2.29m); and
- (2) is not drawing a trailer;

"residents' permit" means a permit granted by the Council under the terms of Article 7.4 of this Order and valid under Article 8.3;

"residents' permit holder" means a qualifying resident to whom a permit has been granted by the Council under the terms of Article 7.4 of this Order;

"RNLI staff" means a person who is either employed by or is a volunteer member of the Royal National Lifeboat Institution based at North Berwick Lifeboat Station;

"RNLI permit" means a permit granted by the Council under the terms of Article 7.12 of this Order;

“road boundary” means the outer extent of the road where the road’s carriageway, footway, cycle track or verge adjoins adjacent property;

“Schedule” means a Schedule to this Order consisting of Schedules 1, 2, 3B, 5A, 6B, 8, 10, 14, 15, 16, 17, 18 and the map based schedule;

"security vehicle" means a liveried vehicle in the service of, or being employed by, a security company;

"street" has the same meaning as a 'road' as herein defined;

“this Order” means this East Lothian Council (Various Roads – North Berwick) (Prohibition & Restriction On Waiting, Loading & Unloading Etc.), Variation Order No: 2;

"ticket" means a ticket issued by a parking meter installed at a pay and display parking place, or a combined parking place;

"valid application" means an application made in accordance with the relevant application under Articles 7 and on the appropriate form for the permit applied for and, for the avoidance of doubt, includes payment of the appropriate fee as specified in this Order;

“vehicle” unless the context otherwise requires, means a vehicle of any description and includes a machine or implement of any kind, drawn or propelled along roads whether or not by mechanical power; and

"zone" means an area comprising the roads and the parking places which are so classified and specified;

- (1) in the map schedule by way of either the map schedule legend or relevant map tile labels and
- (2) in sections 1 to 3 of Schedule 14.

2.3 Interpretation

- (a) For the purposes of this Order a vehicle shall be deemed to wait on a road if the vehicle is stationary and if any point in that road is directly below any part of either the vehicle or its load (if any).
- (b) For the purposes of this Order, the dimensions of all parking places or loading places designated by this Order and identified as such by the map schedule legend shall comply with the requirements of Schedule 7 of the Traffic Signs Regulations and General Directions 2016.
- (c) 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.
- (d) Unless the context otherwise requires, a reference in this Order:
 - (1) to a Schedule or Schedules is a reference to a Schedule or Schedules to this Order;
 - (2) to a numbered Article or Schedule is a reference to the Article or Schedule bearing that number in this Order; and
 - (3) to a numbered paragraph is a reference to the paragraph bearing that number in the Article in which the reference occurs.
- (e) The restrictions, prohibitions and requirements imposed by this Order shall be in addition to and not in derogation of any restriction or requirement imposed by any regulations made or having effect as if made under the 1984 Act as amended as aforesaid or by or under any other enactment.
- (f) For the avoidance of doubt, the Council does not accept responsibility for any inaccuracies contained in the Ordnance Survey data relied upon to create the map based schedule.
- (g) All words importing the singular also include the plural and vice versa where the context requires.
- (h) All signs, carriageway markings etc. shall comply with the Traffic Signs Regulations and General Directions 2016.

PART 1 – VARIATIONS

3. Extent of amendments

- 3.1 The **2016 Order** shall be varied in accordance with this Part 1.
- 3.2 The following definitions in Clause 2(a)(Interpretation) of the 2016 Order shall be amended as follows:
- (a) "boxed areas" means the lengths of road specified in Schedule 10 to this Order, being lengths of road which are marked by the traffic markings specified in diagram 1043 in Schedule 9, Part 6 of the Traffic Signs Regulations and General Directions 2016;
 - (b) "parking bay" means a marked space which is provided for the leaving of a vehicle;
 - (c) "road" has the same meaning as in the Roads (Scotland) Act 1984 and includes part of a road; and
 - (d) the definition of "permitted hours" shall be deleted. For avoidance of doubt, the definition of "permitted hours" as contained in Article 2.2. of this Order shall apply for the purposes of this Order.
- 3.3 Schedule 1 of the 2016 Order (relating to Prohibition of Waiting, Loading and Unloading in lengths of road) shall be replaced with the Schedule 1 annexed to this Order.
- 3.4 Schedule 2 of the 2016 Order (relating to Prohibition of Waiting in lengths of road) shall be replaced with the Schedule 2 annexed to this Order.
- 3.5 Schedule 3b of the 2016 Order (relating to Restriction of Waiting in lengths of road) shall be replaced with the Schedule 3b annexed to this Order.
- 3.6 Schedule 5a of the 2016 Order (relating to Lengths of road and parking areas specified as disabled parking places) shall be replaced with the Schedule 5a annexed to this Order.
- 3.7 Schedule 6b of the 2016 Order (relating to Lengths of road specified as loading / unloading bays) shall be replaced with the Schedule 6b annexed to this Order.
- 3.8 Schedule 8 of the 2016 Order (relating to One-Way lengths of road) shall be replaced with the Schedule 8 annexed to this Order.
- 3.9 Schedule 10 of the 2016 Order (relating to areas specified as box junctions) shall be replaced with the Schedule 10 annexed to this Order.
- 3.10 The following clauses of the 2016 Order shall be deleted:
- (a) Clause 5 (Restriction of Waiting in lengths of road specified in Schedule 3a);
 - (b) Clause 7 (Restriction of Waiting in lengths of road specified in Schedule 3c);
 - (c) Clause 8 (Restriction of Waiting in lengths of road specified in Schedule 3d);
 - (d) Clause 9 (Restriction of Waiting in lengths of road specified in Schedule 4a);
 - (e) Clause 10 (Restriction of Waiting in lengths of road specified in Schedule 4b);
 - (f) Clause 11 (Restriction of Waiting in lengths of road specified in Schedule 4c);
 - (g) Clause 12 (Restriction of Waiting in lengths of road specified in Schedule 4d);
 - (h) Clause 13 (Restriction of Waiting in lengths of road specified in Schedule 4e);
 - (i) Clause 14 (Restriction of Waiting for vehicles over 7 feet 6 inches / 2.29m in lengths of road)

- specified in Schedule 4f);
- (j) Clause 16 (Lengths of road and parking areas specified as disabled parking places with waiting limited to 1 hour in any 2 hour period in Schedule 5b);
 - (k) Clause 17 (Lengths of road and parking areas specified as disabled parking places in Schedule 5c);
 - (l) Clause 18 (Lengths of road and parking areas specified as disabled parking places with waiting limited to 90 minutes in any 3 hour period in Schedule 5d);
 - (m) Clause 19 (Lengths of road specified as loading / unloading bays in Schedule 6a);
 - (n) Clause 22 (Areas specified as coach parking places in Schedule 9);
 - (o) Clause 24 (Areas specified as roads adjacent to schools in Schedule 11);
 - (p) Clause 25 (Areas specified as School Keep Clear Markings); and
 - (q) Clause 26 (Exceptions for Public Holidays).

4. **Revocations**

4.1 The following Orders are hereby revoked in their entirety:

- (a) East Lothian Council (Glebe Car Park, North Berwick) (Limited Waiting) Order 2022 (TO – 515/22); and
- (b) East Lothian Council (Kirk Ports Car Park, North Berwick) (Limited Waiting) Order 2022 (TO – 514/22)

PART 2 – CONTROLLED PARKING ZONES

5.1 Designation of parking places

Each part of a road or car park listed in Schedule 14, identified on the map based schedule by way of a map tile label and the map schedule legend, as a (1) pay and display parking place; (2) permit parking place area; and (3) combined parking place is hereby designated as a parking place and all together the Controlled Parking Zone.

5.2 Use of designated parking places

In accordance with the provisions of this Order:

- (a) Each pay and display parking place shall only be used during the permitted hours for the leaving of:
 - (1) qualifying vehicles displaying a ticket in accordance with Article 6.4 and in accordance with the minimum and maximum lengths of stay as stated in either the map schedule legend or a map tile label relating to that parking place;
 - (2) qualifying vehicles with a health care workers' permit while the permit holder is in the course of their duties and that comply with the requirements of Article 7.1(b);
 - (3) qualifying vehicles with a RNLI permit while the permit holder is in the course of their duties; or
 - (4) a qualifying vehicle displaying a valid disabled person's badge.
- (b) Each permit parking place shall only be used during the permitted hours for the leaving of:
 - (1) qualifying vehicles with a residents' permit granted for the zone where the permit parking place is and that comply with the requirements of Article 7.1(a);
 - (2) qualifying vehicles with a healthcare workers' permit while the permit holder is in the course of their duties and that comply with the requirements of Article 7.1(b);
 - (3) qualifying vehicles with a RNLI permit while the permit holder is in the course of their duties; or
 - (4) a qualifying vehicle displaying a valid disabled person's badge.
- (c) Each combined parking place shall only be used during the permitted hours for the leaving of:
 - (1) qualifying vehicles displaying a ticket in accordance with Article 6.4 and in accordance with the minimum and maximum lengths of stay as specified in either the map schedule legend or a map tile label;
 - (2) qualifying vehicles with a residents' permit granted for the zone where the combined parking place is and which comply, where applicable, with the requirements of Article 7.1(a);
 - (3) qualifying vehicles with a healthcare workers permit while the permit holder is in the course of their duties and which comply with the requirements of Article 7.1(b);
 - (4) qualifying vehicles with a RNLI permit while the permit holder is in the course of their duties; or
 - (5) a qualifying vehicle displaying a valid disabled person's badge.
- (d) For the avoidance of doubt and as contained in Article 2 (definitions), the height of a qualifying vehicle left on a parking place marked with an asterisk on Schedule 14 shall not exceed seven feet and 6 inches (2.29m).
- (e) For the avoidance of doubt, for times outwith the permitted hours, there is no requirement for a vehicle to display (1) a ticket; (2) a residents' permit; (3) a healthcare workers' permit; (4) an RNLI permit; or (5) a valid disabled person's badge.

5.3 Restriction on use of vehicles in parking places

- (a) No person shall use any vehicle while it is left in a parking place during the permitted hours in connection with the selling or offering for sale of goods or services in any capacity: provided that nothing in this Article shall prevent the sale of goods from a vehicle if the vehicle is one to which the provisions of Article 5.4(a)(9) of this Order apply.
- (b) The driver of a vehicle using a parking place during the permitted hours shall not cause or permit the carrying out of any work of construction or repair to any vehicle except such as may be necessary to enable the vehicle to be removed from the parking place.

5.4 Exceptions from restriction of waiting by vehicles in parking places

- (a) The following vehicles are excepted from the requirements under Article 5.2 and may wait during the permitted hours other than a parking place or part of a parking place the use of which has been suspended, if:
 - (1) the vehicle is waiting for a period not exceeding five minutes, or such longer period as a parking attendant may approve, to enable a person to board or alight from the vehicle;
 - (2) the vehicle is waiting owing to the driver being:
 - (i) obliged to stop in order to avoid an accident; or
 - (ii) prevented from proceeding by any circumstances beyond their control, where the said circumstance relates directly to the movement, or otherwise, of traffic on the road,
 - (3) the vehicle is being used for fire and rescue, ambulance, or police purposes;
 - (4) the vehicle, not being a passenger vehicle, is being used in the service of a local authority in pursuance of statutory powers or duties: Provided that in all the circumstances it is reasonably necessary in the exercise of such powers or in the performance of such duties for the vehicle to wait at the place in which it is waiting;
 - (5) the vehicle is waiting only for so long as may be necessary to enable it to be used in connection with the removal of any obstruction to traffic;
 - (6) if the vehicle, being a liveried vehicle, is in the service of, or is being employed by, a universal postal service provider and is in actual use, in the place within which the vehicle is waiting, while postal packets:
 - (i) addressed to premises adjacent to the said place are being unloaded from the vehicle;
 - (ii) addressed to premises adjacent to the said place having been unloaded from the said vehicle, are being delivered;
 - (iii) are being collected from postal boxes or premises adjacent to the said place for loading onto the vehicle; or
 - (iv) are being loaded onto the vehicle,
 - (7) the vehicle, not being a passenger vehicle, and where the said vehicle is integral to the work being undertaken, is waiting only for so long as may be reasonably necessary to enable it to be used for the purpose of:
 - (i) the maintenance, improvement or reconstruction of the parking place; or
 - (ii) the laying, erection, alteration, removal or repair in or adjacent to the parking place of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity or of any telecommunication apparatus; or
 - (iii) the placing, maintenance or removal of any traffic sign or parking meter;
 - (iv) provided that, in all cases, the vehicle or vehicles are in actual use in connection with the work being undertaken and that, in the case of any of the operations described in sub-paragraphs (i) to (iii) above, the said operation or operations are to be conducted within the extents of the road,
 - (8) the vehicle is in actual use in connection with a funeral undertaking;
 - (9) the vehicle is waiting if goods are being sold or offered for sale from the vehicle by a person who is licensed by the Council to sell goods from a stationary vehicle situated in the place;

- (10) if the vehicle, being a security vehicle, is in actual use while currency, or other valuables:
 - (i) are being unloaded from the vehicle;
 - (ii) having been unloaded from the said vehicle, are being delivered;
 - (iii) are being collected from premises adjacent to that road for loading onto the vehicle; or
 - (iv) having been collected from the said premises, are being loaded onto the vehicle,
- (11) in the case of a permit parking place or a combined parking place, where the vehicle is a vehicle in actual use for the purpose of delivering or collecting goods or merchandise or while loading or unloading the vehicle at premises adjoining the road in which the place is located, provided that no such vehicle engaged in delivering or collecting goods or merchandise or being loaded or unloaded shall so wait for a period of more than fifteen minutes in the same place or, if a period of less than thirty minutes has elapsed since the termination of the last period of waiting (if any) of the vehicle outside the same premises; and
- (12) a motorcycle with no side-car attached thereto.

5.5 Manner of standing in parking places

Every vehicle waiting in a parking place, in accordance with Article 5.4 of this Order shall:

- (a) subject to 5.5(c), comply with any special provisions as to the manner standing are identified on the road by means of appropriate road markings and as indicated on the relevant map tile,
- (b) subject to 5.5(c), stand so that every part of the vehicle is within the limits of that parking place or, where applicable, parking bay; and
- (c) if the vehicle is waiting by virtue of the provisions of Articles 5.4(a) (6), (7), (8), (9) (10) and (11) and the size of the said vehicle would prevent it from complying with Article 5.5(b) then the following shall apply:
 - (1) if the place is not in a one-way street, that the left or nearside of the vehicle is adjacent to the left- hand edge of the carriageway,
 - (2) if the place is in a one-way street, that the left or nearside of the vehicle is adjacent to the left-hand edge of the carriageway or the right or offside of the vehicle is adjacent to the right-hand edge of the carriageway, and
 - (3) that the longitudinal axis of the vehicle is parallel to the edge of the carriageway nearest to the vehicle and that the distance between the said edge and the nearest wheel of the vehicle is not more than 0.3 metres.

5.6 Power to suspend use of parking places

- (a) Any person duly authorised by the Executive Director of Place of the Council may suspend the use of any parking place or any part thereof whenever it is considered that such suspension is reasonably necessary:
 - (1) for the purpose of facilitating the movement of traffic or promoting its safety; or
 - (2) for the purpose of:
 - (i) any building operation, demolition or excavation in or adjacent to the parking place;
 - (ii) the maintenance, improvement or reconstruction of the road in or adjacent to the parking place; or
 - (iii) the maintenance or cleansing of gullies in or adjacent to the parking place;
 - (iv) the laying, erection, alteration, removal or repair in or adjacent to the parking place of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity or of any tele-communication apparatus; or
 - (v) the placing, maintenance or removal of any traffic sign or parking meter;
 - (3) for the convenience of occupiers of premises adjacent to the place on the occasion of the removal of furniture from one office or dwelling house to another or the removal of furniture from such premises to a depository or to such premises from a depository;

- (4) on any occasion on which it is likely by reason of some special attraction that any street will be thronged or obstructed; or
 - (5) for the convenience of occupiers of premises adjacent to the parking place at times of funerals or on other special occasions.
- (b) Any person suspending the use of a parking place or any part thereof in accordance with the provisions of paragraph (a) of this Article, shall place or cause to be placed, in or adjacent to that or any part of that parking place which is suspended, a traffic sign or signs indicating that waiting by vehicles is prohibited.
 - (c) On any suspension of the use of a parking place or part of a parking place in accordance with the provisions of paragraph (a) of this Article any person duly authorised by the Council may temporarily remove, or cause to be removed, any parking meter relating to such parking place or part thereof and any post or other support to which such parking meter is fitted and shall thereupon place or cause to be placed in or adjacent to that parking place or part thereof a traffic sign indicating that waiting by vehicles is prohibited.
 - (d) No person shall cause or permit a vehicle to wait:
 - (1) in a parking place or part thereof during such period as there is on the parking meter relating to that parking place a notice indicating that the use of the parking place or part thereof is suspended; or
 - (2) in any parking place or part thereof during such period as there is in or adjacent to that parking place or part thereof a traffic sign placed in pursuance of paragraphs (b) or (c) of this Article provided that nothing in this paragraph shall render it unlawful to cause or permit any vehicle being used for fire and rescue, ambulance or police purposes or any vehicle being used for any purpose specified in Article 5.4(a) (2), (5) or (6) to wait in that part of the parking place during such period referred to in this paragraph, or to any other vehicle so waiting if that vehicle is waiting with the permission of any person duly authorised by the Executive Director of Place of East Lothian Council.

6. Pay and display parking

6.1 Amount of parking charge at pay and display and combined parking places specified in Schedule 15

- (a) There will be a parking charge in accordance with Schedule 15 for a vehicle left during the permitted hours in any pay and display parking place or combined parking place with the exception of:
 - (1) in the case of a combined parking place; a qualifying vehicle displaying a residents permit granted for that zone in accordance with Article 8.1;
 - (2) where applicable, a qualifying vehicle is displaying a valid healthcare workers permit in accordance with Article 8.1; or
 - (3) where applicable, a qualifying vehicle is displaying a valid RNLI permit in accordance with Article 8.1;
 - (4) a qualifying vehicle displaying a valid disabled person's badge;
 - (5) a motorcycle with no side-car attached thereto; or
 - (6) there is evidence on a hand-held device that a valid permit has been granted for that vehicle.

6.2 Payment of parking charge in respect of pay and display and combined parking places

- (a) Subject to the provisions of this Order, the parking charge for a vehicle left during the permitted hours in a pay and display parking place or combined parking place shall be payable on the leaving of the vehicle either by:
 - (1) the insertion in the parking meter associated with the parking place in which the vehicle is left of a coin or coins of the denominations listed on the associated parking meter as valid

- for use in that parking place;
- (2) the driver using the electronic payment system to register such payment, or
 - (3) any other means of payment as may be authorised by the Council and indicated by instructions displayed on the associated parking meter.

6.3 Indications of payment of charges at pay and display and combined parking places as evidence

- (a) Without prejudice to the provisions of Article 9.3, if at any time while a qualifying vehicle is left, during the permitted hours, in a pay and display parking place or combined parking place, the parking charge shall be deemed to have been paid, if:
 - (1) a valid ticket is displayed on the vehicle in accordance with the provisions of Article 6.4; or
 - (2) an indication appears on a hand-held device that the parking charge has been paid in respect of that vehicle, provided that:
 - (i) the registration mark of that vehicle exactly matches the registration mark held on the electronic payment system; and
 - (ii) the electronic payment system and the information shown on the hand-held device confirm that the parking charge has been paid for that vehicle and for the location in which that vehicle has been left.
- (b) The date and time recorded on:
 - (1) the electronic payment system for a vehicle left in a pay and display parking place, or combined parking place, and where the registration mark of the vehicle exactly matches the details on the electronic payment system; or
 - (2) on a ticket displayed on a vehicle left in a pay and display parking place or combined parking place,shall be presumed, unless the contrary is proved, to be the date and time in respect of which the parking charge was paid.
- (c) The expiry of the period of a parking charge:
 - (1) paid by means of coins inserted in a parking meter shall be indicated by the time indicated on a ticket displayed on the vehicle for which the charge has been paid; or
 - (2) paid by means of electronic payment shall be indicated within the electronic payment system and linked to the particular vehicle for which the charge has been paid.

6.4 Display of evidence of payment for vehicles in pay and display and combined parking places

- (a) Upon payment of the parking charge as referred to in Article 6.1:
 - (1) by means of coins inserted in a parking meter, the driver of the vehicle shall display or cause to be displayed on the vehicle while it is left in the parking place the ticket as issued by the parking meter relating to that parking place:
 - (i) where the vehicle is fitted with a front windscreen extending across the vehicle to the nearside, on the nearside of the inside surface of such windscreen; or
 - (ii) where the vehicle is not fitted with a front windscreen, in a conspicuous position on the nearside of the vehicle,
 - (2) by means of the electronic payment system, an indication that payment of the parking charge has been made shall appear on a hand held device and within the electronic payment system.
- (b) The ticket referred to in this Article shall be so displayed that the day and time recorded on the front thereof are clearly visible to a person standing at the front or the nearside of the vehicle.

6.5 Additional payment

Additional payment maybe made:

- (a) by means of coins inserted into a parking meter when the original payment was made in that way, or
- (b) by means of the electronic payment system provided that the original payment was made in that way,

provided that the maximum length of stay as specified in either the map schedule legend or a map tile label for the relevant pay and display parking place, combined parking place or electric vehicle parking bay, is not exceeded.

6.6 Interval before a vehicle may again be left in a pay and display or combined parking place

Subject to Article 6.7, no vehicle which has been taken away from a pay and display parking place, combined parking place or electric vehicle parking place during the permitted hours, after payment of the parking charge has been made, shall again be left in that parking place during the permitted hours until the expiry of 90 minutes from the time it was taken away from the said parking place.

6.7 Exemptions from restrictions on the use of pay and display and combined parking places

- (a) The minimum and maximum lengths of stay as specified in either the map schedule legend or a map tile label relating to a pay and display parking place or combined parking place shall not apply to any of the following vehicles whilst waiting during the permitted hours in the said parking place:
 - (1) in the case of a combined parking place only; provided that, where applicable, a qualifying vehicle is displaying a valid residents permit granted for that zone in accordance with Article 8.1;
 - (2) provided that, where applicable, a qualifying vehicle is displaying a valid healthcare workers permit in accordance with Article 8.1 in accordance with Article 7.1(b);
 - (3) provided that, where applicable, a qualifying vehicle is displaying a valid RNLI permit in accordance with Article 8.1;
 - (4) a qualifying vehicle, invalid carriage or motor vehicle, displaying a valid disabled person's badge;
 - (5) a motorcycle with no side-car attached thereto; or
 - (6) there is evidence on a hand-held device that a valid permit has been granted for that vehicle.

6.8 Amount of parking charge and maximum stay at electric vehicle charging bay

A number of pay and display parking places are also electrical vehicle charging bays. In addition to the provisions relating to pay and display parking places under Articles 6.1 to 6.7, an electric vehicle charging bay shall only be used by an electric vehicle connected to and actively drawing an electric charge from a charging point placed in relation to and directly adjacent to that charging place. In such circumstances, the provisions of the East Lothian Council (Electric Vehicle Charging Bays) Order 2019 shall apply.

6.9 Indications of entitlement of a vehicle to be left in an electric vehicle-charging bay

The Council may gather such evidence as is necessary to ascertain whether a vehicle left in an electric vehicle charging bay:

- (a) is an electric vehicle and is connected to and actively drawing an electric charge from a charging point placed in relation to and directly adjacent to that charging place;
- (b) has exceeded the maximum length of stay for that charging place as specified in either the map schedule legend or a map tile label; or
- (c) has not complied with the requirements of Article 6.6.

7 PERMITS: SPECIFIC PROVISIONS

Section 1 – General

7.1 Permits for the use of permit parking places, pay and display parking places and combined parking places

- (a) Any qualifying vehicle that displays a valid residents' permit can be left, including during the permitted hours, in the permit parking place or combined parking place for the zone or zones for which the permit has been granted as shown in Schedule 16.
- (b) Any vehicle that displays a valid healthcare workers' permit can be left in any parking place in the Controlled Parking Zone, during the permitted hours, provided that:
 - (1) upon arrival at the parking place, the healthcare workers' permit holder must set the time of arrival on the healthcare workers' permit in accordance with the instructions provided therein; and
 - (2) it shall not wait for a period longer than two hours.
- (c) Any qualifying vehicle that displays a valid RNLI permit can be left in any parking place in the Controlled Parking Zone, during the permitted hours for which the permit has been granted while the permit holder is in the course of their duties.

7.2 Fees for permits

- (a) There will be a fee for:
 - (1) a residents' permit granted in respect of a qualifying vehicle;
 - (2) a healthcare workers' permit granted in respect of a qualifying vehicle;
 - (3) a RNLI permit granted in respect of a qualifying vehicle;
 - (4) a duplicate permit granted in respect of a qualifying vehicle in accordance with the terms of Article 8.5;
- (b) The fee referred to in paragraph (a) of this Article are set out in Schedule 17 to this Order.
- (c) The fee in Article 7.2(b) may be varied from time to time by the Council. The fees relating to resident permits will be varied in accordance with the applicable process as described in Schedule 18.

Section 2 – Residents' Permits

7.3 Applications for residents' permits for the use in permit parking places and combined parking places

- (a) Except as provided in paragraph (c) of this Article, any qualifying resident who is the keeper of a qualifying vehicle may individually apply to the Council for the grant of a residents' permit in respect of that vehicle for (1) in the case of the roads specified in Schedule 16 sections 1 and 3 for the zone in which the qualifying resident resides; or (2) for all zones where the qualifying resident resides in a road specified in Schedule 16 section 2, and any such application shall:
 - (1) be made on a form issued by the Council;
 - (2) include the information or particulars as specified on the aforementioned form; and
 - (3) be accompanied by means of payment of the appropriate fee for the said permit as is specified in Schedule 17.
- (b) The Council may at any time require a qualifying resident applying for a residents' permit or a residents' permit holder to produce to an officer of the Council:
 - (1) in respect of an application for a permit, such evidence as they may reasonably require to verify any particulars or information given to them: or
 - (2) in respect of any previously granted permit, such evidence as they may reasonably require to verify that the permit is valid and that the residents' permit holder remains entitled to the

said permit.

(c) In the case of:

- (1) applications for residents' permits where the address of the qualifying resident is their sole or main residence, except in exceptional circumstances and at the discretion of the Council, only two qualifying residents in each household shall be granted a permit for a qualifying vehicle and no qualifying resident shall be granted more than one permit; the permit granted in this Article 7.3(c) may, in exceptional circumstances and at the discretion of the Council, relate to one additional qualifying vehicle in which case the said permit shall display the registration marks of both vehicles;
- (2) applications for residents' permits where the address of the qualifying resident is a second or holiday home, only one qualifying resident in each household shall be granted a permit and no qualifying resident shall be granted more than one permit;
- (3) any permit bearing the registration marks of more than one vehicle, the keeper of each vehicle so recorded must be a qualifying resident at the same address as the permit holder to whom the permit was granted; and
- (4) a situation where multiple applications in accordance with Paragraph (a) of this Article are received from qualifying residents within the same household, the applications shall be processed by the Council in order of receipt.

7.4 Grant of residents' permits for the use of permit parking places and combined parking places

Except as provided for in this Part of the Order, on receipt of a valid application under Article 7.3 the Council shall grant to the qualifying resident, one residents' permit for the qualifying vehicle or vehicles to be left in a permit parking place or combined parking place for the zone or zones for which the permit has been granted.

7.5 Form of residents' permits

A residents' permit shall be in one of the following forms:

- (a) in writing and shall include the following particulars:
 - (1) the registration mark of the qualifying vehicle or, as the case may be, qualifying vehicles in respect of which the permit has been granted;
 - (2) the period during which, subject to the provisions of Article 8.3 of this Order, the permit shall remain valid and, as the case may be, that the holder is exempt from payment of any parking charges in a permit parking place or combined parking place for which the permit has been granted, by virtue of an endorsement "Exempted" by the Council;
 - (3) the specified zone or zones in which the use of the permit is valid;
 - (4) an indication that the permit was granted by the Council; and
 - (5) an indication that the appropriate fee has been paid to the Council for the permit, or
- (b) in electronic format, with the resident permit details listed in paragraph (a) of this article held centrally by, or on behalf of, the Council and accessible via a hand-held device; or
- (c) in any other form as may be determined from time to time by the Council.

Section 2 – Healthcare Workers’ Permits

7.7 Applications for healthcare workers’ permits

- (a) NHS Lothian may apply to the Council for the grant of permits for use on qualifying vehicles, the keepers of which are healthcare workers employed by NHS Lothian, and any such application shall be made in accordance with the procedure prescribed by the Council, which procedure may be varied from time to time by the Council.
- (b) Any qualifying medical practice may apply to the Council for the grant of permits for use on a qualifying vehicle, and any such application shall be made in accordance with the procedure prescribed by the Council, which procedure may be varied from time to time by the Council.
- (c) The Council may at any time require NHS Lothian or any medical practice applying for a permit, or permits, or a healthcare workers’ permit holder to produce to an officer of the Council:
 - (1) in respect of an application for a permit, such evidence as they may reasonably require to verify any particulars or information given to them: or
 - (2) in respect of any previously granted permit, such evidence as they may reasonably require to verify that the permit is valid or that the healthcare workers’ permit holder remains entitled to the said permit.

7.8 Grant of healthcare workers’ permits

Except as provided for in this Part of the Order, on receipt of a valid application the Council shall grant:

- (a) permits to NHS Lothian following an application under Article 7.7(a); and
 - (b) permits to qualifying medical practices for Medical Practitioners registered as operating from within the applying practice following an application under Article 7.7(b),
- for use any parking place in the Controlled Parking Zone.

7.9 Form of healthcare workers’ permit

A healthcare workers’ permit shall be in one of the following forms:

- (a) in writing and shall include the following particulars:
 - (1) the period during which, subject to the provisions of Article 8.3 of this Order, the permit shall remain valid;
 - (2) a numerical reference that indicates to whom the permit has been granted;
 - (3) an indication that the permit was granted by the Council;
 - (4) an indication that the appropriate fee, for the period during which the permit shall remain valid, has been paid to the Council; and
 - (5) the time on which the vehicle first arrived in the parking place as validated by the healthcare workers’ permit holder in accordance with the instructions provided therein, or
- (b) in electronic format, with the permit details listed in paragraph (a) of this article held centrally by, or on behalf of, the Council and accessible via a hand-held device; or
- (c) in any other form as may be determined from time to time by the Council.

Section 3 – RNLI Permits

7.10 Applications for RNLI permits

- (a) RNLI staff may apply to the Council for the grant of permits for use on qualifying vehicles while the permit holder is in the course of their duties, the keepers of which are RNLI staff based at North Berwick Lifeboat Station, and any such application shall be made in accordance with the procedure prescribed by the Council, which procedure may be varied from time to time by the Council.
- (b) The Council may at any time require RNLI staff applying for a permit, or permits, or a RNLI permit holder to produce to an officer of the Council:

- (1) in respect of an application for a permit, such evidence as they may reasonably require to verify any particulars or information given to them: or
- (2) in respect of any previously granted permit, such evidence as they may reasonably require to verify that the permit is valid or that the RNLI permit holder remains entitled to the said permit.

7.12 Grant of RNLI permits

Except as provided for in this Part of the Order, on receipt of a valid application the Council shall grant to RNLI staff, a permit for the leaving, during the permitted hours, of RNLI staff's qualifying vehicles, for use any parking place in the Controlled Parking Zone.

7.13 Form of RNLI permit

A RNLI permit shall be in one of the following forms:

- (a) in writing and shall include the following particulars:
 - (1) the period during which, subject to the provisions of Article 8.3 of this Order, the permit shall remain valid;
 - (2) a numerical reference that indicates to whom the permit has been granted;
 - (3) an indication that the permit was granted by the Council; and
 - (4) an indication that the fee, for the period during which the permit shall remain valid, has been paid to the Council, or
- (b) in electronic format, with the permit details listed in paragraph (a) of this article held centrally by, or on behalf of, the Council and accessible via a hand-held device; or
- (c) in any other form as may be determined from time to time by the Council.

8. PERMITS: GENERAL PROVISIONS

8.1 Requirement to display permits on vehicles left in pay and display parking places, permit parking places and combined parking places

- (a) Where a permit holders' vehicle has been granted a physical permit, is left under Article 5.2 during the permitted hours, the following shall apply:
 - (1) for a residents' permit holder's vehicle, the driver thereof shall display or cause to be displayed the valid residents' permit issued in respect of that vehicle showing the particulars referred to in Article 7.5;
 - (2) for a healthcare workers' permit holder's vehicle, the driver thereof shall display or cause to be displayed a valid healthcare workers' permit showing the particulars referred to in Article 7.9;
 - (3) for an RNLI permit holder's vehicle, the driver thereof shall display or cause to be displayed a valid RNLI permit showing the particulars referred to in Article 7.13;
 - (4) only the display of the original, unaltered permit shall indicate that the holder or user of the said permit is entitled, under the terms of this Order, to leave the vehicle or vehicles for which the permit has been granted, in that parking place; and
 - (5) in all cases the permit displayed must be valid for use at the time that the vehicle was parked and may not have expired or have been withdrawn by the Council under the terms of Article 8.4(c).
- (b) In all instances described in paragraph (a) of this Article the permit referred to should be displayed at the front or nearside of the vehicle so as to be clearly visible from the front or nearside of the vehicle.

8.2 Indications by permits as evidence

- (a) The following shall be considered sufficient evidence, unless the contrary is proved, that the

appropriate fee as referred to in Article 7.2 and specified in Schedule 17 for a residents permit, healthcare workers' permit or RNLI permit has not been paid and that the below vehicle is not entitled to be left in that parking place if:

- (1) said vehicle does not display, in the manner specified in Article 8.1, a valid permit for the use of the parking place (as required under Article 5.2) which the vehicle was left; or
- (2) there is no indication on a hand-held device that a valid permit has been granted for said vehicle for the use of the parking place in which the vehicle was left.

8.3 Cessation of validity of permits

Subject to the provisions of Article 8.4, any permit granted under the terms of this Order, shall cease to be valid:

- (a) in the case of a residents' permit, at the expiry of the period specified thereon (which period shall not exceed a period of twelve months from the date on which it is granted) or on the occurrence of any one of the events set out in Articles 8.4(c) (1), (2), (3) or (4), whichever is the earlier;
- (b) in the case of a healthcare workers' permit, at 11:59 pm on the thirty-first day of January in the year of grant by the Council, or on the occurrence of any one of the events set out in Articles 8.4 (c) (2), (3), (4), (5) or (6), whichever is the earlier;
- (c) in the case of a RNLI permit, at 11:59 pm on the thirty-first day of January in the year of grant by the Council, or on the occurrence of any one of the events set out in Articles 8.4(c) (2), (3), (4), (5), or (7), whichever is the earlier; or
- (d) should the permit be altered, defaced or damaged to the extent that any of the information or details thereon become unreadable.

8.4 Surrender and withdrawal of permits

- (a) A permit holder may surrender any permit to the Council at any time and shall surrender such permit to the Council on the occurrence of any of the events set out in Article 8.4(c).
- (b) The Council may by notice in writing delivered to or serve on the permit holder by sending the same, by recorded delivery service, to the permit holder at the address shown by that person on the application for the permit or at any other address believed to be that person's place of residence or business, a notice to withdraw any permit if it appears to the Council that any one of the events in Article 8.4(c) has occurred and the permit holder shall surrender such permit or permits (as the case may be) to the Council within 48 hours of the receipt of the aforementioned notice.
- (c) The events referred to in the foregoing provisions of this Article are:
 - (1) the residents' permit holder ceasing to be a qualifying resident;
 - (2) the permit holder ceasing to be the keeper of the vehicle or, as the case may be, vehicles, for which the permit was granted;
 - (3) the vehicle in respect of which such permit was granted being adapted or being used in such a manner that it is no longer a qualifying vehicle;
 - (4) the grant of a duplicate permit by the Council under the provisions of Article 8.5;
 - (5) the permit ceasing to be valid pursuant to the provisions of Article 8.3;
 - (6) the healthcare workers' permit holder ceasing to be employed by NHS Lothian or by a qualifying medical practice;
 - (7) the RNLI permit holder ceasing to be RNLI staff.
- (d) Where a permit is granted to any person on receipt of a cheque and the cheque is subsequently dishonoured, the permit shall cease to be valid and the Council shall, by notice in writing served on the person to whom such permit was granted by delivering or sending the same by recorded delivery service to the permit holder at the address shown by that person on the application for the permit or at any other address believed to be that person's place of abode, require that person to surrender the permit to the Council within 48 hours of the receipt of the aforementioned notice.

8.5 Application for and grant of replacement permits

- (a) If a permit is mutilated or accidentally defaced or the particulars or figures thereon have become illegible, the permit holder shall surrender the permit to, and may apply to, the Council for the grant to them of a replacement permit and the Council, upon receipt of the permit, shall grant a replacement permit on payment to the Council of the fee specified in Schedule 17, and upon such grant the mutilated or defaced permit shall become invalid.
- (b) If a permit is lost or destroyed, the permit holder may apply to the Council for the grant to him of a duplicate permit and the Council, upon being satisfied as to such loss or destruction, may grant a duplicate permit on payment to the Council of the fee specified in Schedule 17, and upon such grant the lost or destroyed permit shall become invalid.
- (c) The provisions of this Order shall apply to a replacement permit and an application therefor as if it were a permit or, as the case may be, an application therefor.

8.6 Refund of fee paid in respect of a permit and exchange of permits

- (a) A permit holder who surrenders a residents' permit to the Council before the permit becomes valid shall be entitled to a full refund of the fee paid in respect thereof.
- (b) A permit holder who surrenders a residents' permit to the Council after the permit has become valid shall be entitled to a part refund of the charge paid in respect thereof calculated in accordance with the provisions of Schedule 17.

9 GENERAL

9.1 Installation of parking meters, placing of traffic signs, etc.

The Council shall place and maintain such traffic signs as are required to give effect to the provisions of this Order and, without prejudice to the generality of the foregoing, shall:

- (a) install and maintain in such positions as they think fit in the vicinity of a parking place such parking meters as may be required for the purposes of this Order;
- (b) cause the limits of each parking place and, as the case may be, any parking bay to be indicated on the road by placing and maintaining thereon appropriate traffic signs;
- (c) place and maintain in the vicinity of each parking place appropriate traffic signs indicating that such parking place may be used during the permitted hours for the leaving only of the vehicles specified in Article 5.2; and
- (d) carry out such other work as is reasonably required for the purposes of this Order and the satisfactory operation of any parking place or loading place.

9.2 Restrictions on the removal of tickets and permits

When a ticket or permit has been displayed on a vehicle in accordance with Article 6.4 or Article 8.1, no person, not being the driver of the vehicle, shall remove the said ticket or permit from the vehicle unless authorised to do so by the driver.

9.3 Exemptions from charges

- (a) If, at the time when a vehicle is first left in a pay and display parking place, or combined parking place, during the permitted hours, any parking meter relating to that parking place:
 - (1) bears a notice, placed by either a parking attendant or by any person duly authorised by the Council, indicating that the parking meter relating to that parking place is out of order, or
 - (2) is found to be out of order,

the vehicle shall be exempt from the parking charge, provided that all reasonable endeavors have been made to pay the parking charge at the nearest available working parking meter and the vehicle is left no longer than the maximum length of stay permitted within that parking place. If the vehicle is left for

longer than the maximum length of stay permitted within that parking place the parking charge shall be deemed to have been incurred and paid at the time when the vehicle was first left in the parking place and all the provisions of this Order shall apply accordingly.

- (b) Without prejudice to the generality of this Article, a vehicle to which this Article applies shall stand in the associated parking place in accordance with the provisions of Article 5.5.

9.4 Penalty Charge Notice

- (a) A Penalty Charge Notice, as permitted by the Road Traffic Act 1991, shall be payable in respect of a vehicle left in a parking place in breach of this Order, and for the avoidance of doubt includes a breach of article 5.2, 5.3, 5.5, 6.1, 6.2, 6.3, 6.4, 6.6, 6.8, 7.1, 8.1, 8.2.
- (b) The amount of the Penalty Charge Notice shall be £100, discounted to £50 if paid within 14 days; this shall increase to £150 if the Council issues a charge certificate in relation to the Penalty Charge.
- (c) A Penalty Charge Notice shall be attached to the vehicle, or handed to the owner or person who appears to be in charge of the vehicle, incurring the Penalty Charge Notice.
- (d) Where a penalty charge notice has been attached to a vehicle in accordance with this Article 9 hereof, no person, other than the owner or person who appears to be in charge of the vehicle, or a person duly authorised by the Council, shall remove the penalty charge notice from the vehicle unless authorised to do so by the owner or person who appears to be in charge of the vehicle. Any person who removes a penalty charge notice without the proper authority shall be guilty of an offence in terms of the Road Traffic Act 1991.

GIVEN UNDER THE SEAL of EAST LoTHIAN COUNCIL this XXX day of XXXX 2023.

Authorised Signatory
East Lothian Council
John Muir House
Haddington
EH41 3HA

ORDER XXX/2322

**EAST LoTHIAN COUNCIL
ROAD TRAFFIC REGULATION ACT 1984**

2023

Subjects: North Berwick Variation Order No: 2

**EAST LoTHIAN COUNCIL
JOHN MUIR HOUSE
HADDINGTON**

