

APPENDIX 1

SOUTH DERBYSHIRE DISTRICT COUNCIL
(OFF-STREET PARKING PLACES)
(CIVIL ENFORCEMENT AND CONSOLIDATION)
ORDER 2008

South Derbyshire District Council (hereinafter called “the Council”) in exercise of its powers under Sections 32, 35 and Part IV of Schedule 9 of the Road Traffic Regulation Act 1984, as amended (“the 1984 Act”) and of all other enabling powers, with the consent of the Derbyshire County Council in accordance with section 39(3) of the 1984 Act and after consultation with the Chief Constable of Derbyshire Constabulary in accordance with Part III of Schedule 9 to the 1984 Act hereby makes the following Order:

PART I
GENERAL

Commencement and Citation

1. This Order shall come into operation on the 24th day of November 2008 and may be cited as the South Derbyshire District Council (Off-Street Parking Places) (Civil Enforcement and Consolidation) Order 2008.

Interpretation

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

“Bank Holiday” has the same meaning as described in the ‘Banking and Financial dealings Act 1971 (C.80). The first Monday of May shall be treated as if it were a Bank Holiday for the purposes of this Order;

“Charging Days”, means those days other than Christmas Day and Easter Sunday, which are as specified at each Parking Place respectively;

“Council” means South Derbyshire District Council or its successor authority;

"Disabled Persons' Badge" means a badge issued by any Local Authority in accordance with the provisions of the Local Authorities' Traffic Orders (Exemptions for

Disabled Persons Regulations 2000 or a badge having effect under those regulations as if it were a Disabled Person's Badge);

“Goods Vehicle” means a Vehicle which is constructed or adapted for use for the carriage of goods or burden of any description, the overall height of which does not exceed 1.85 metres and the unladen weight of which does not exceed 2540 kilograms and is not drawing a trailer;

“Loading/Unloading” refers to when a Vehicle is parked wholly in a Parking Place or bay marked for that purpose on site, for the purpose of delivering or collecting goods or merchandise or loading or unloading the Vehicle at premises adjacent to the Parking Place or bay and the Vehicle does not park for more than twenty minutes or such longer period as a duly authorised officer of the Council may authorise;

“Motor Cycle” refers to a solo motorcycle only and excludes any motor cycle 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 leaving of a Vehicle of a class specified and indicated by markings on the surface of the Parking Place or signed or otherwise indicated by signs in the Parking Place;

“Parking Permit” means a season ticket, contract permit, business permit, staff permit or resident’s permit of a type and design issued by the Council;

“Parking Place” means an area of land provided by the Council pursuant to Section 32(1) of the 1984 Act for the purpose of parking of Vehicles and not closed (in part or in whole) by a notice erected thereon by authority of the Council;

“Penalty Charge” means a charge imposed by legislation in respect of parking contraventions that are subject to civil enforcement and has the same meaning as in the Civil Enforcement of Parking Contraventions (England) General Regulations 2007;

“Public Holiday” means Christmas Day, Good Friday and any other day designated by the Government as a public holiday;

“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 so that Part 1 (the front of the badge), 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 so that Part 1 of the badge is legible from outside the Vehicle;
- (b) in respect of a Vehicle displaying a 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 forwards 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 forwards and clearly visible; or
- (c) in respect of a Vehicle displaying a Hackney Carriage Plate
 - (i) the plate must be affixed to the Vehicle in accordance with the instructions given within the licence as issued by the District Borough Council;

“Vehicle” means any motor car, Motor Cycle or other mechanically propelled automobile.

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.
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.

5. Unless the context otherwise requires, words denoting the singular shall include the plural and vice versa and words denoting the persons shall include either gender, bodies corporate, unincorporated associations and partnerships.
6. The Interpretation Act 1978 shall apply for the interpretation of this Order.

PART II

DESIGNATION AND USE OF PARKING PLACES

Designation

7. Each area of land or building specified by the accompanying plans may be used, subject to the provisions of this Order, as a place to park Vehicles of such classes, in such positions, on such days, during such hours, for such period and on payment of such charges as are advertised at each Parking Place.

Class and position of Vehicle

8. Where by notice at a Parking Place, a Parking Place is described as available for Vehicles of a specified class or Vehicles to be parked in a specified location, no person shall cause or permit a Vehicle to be parked in that Parking Place or in any Parking Bay within the Parking Place,
 - (i) unless it is of the specified class;
 - (ii) that is parked beyond the Parking Bay markings;
 - (iii) in a position other than that specified; or
 - (iv) for a purpose other than provided for in this Order.

Disabled person's parking bays

9. No person shall cause or permit a Vehicle to be parked in a Parking Bay marked for disabled persons unless the Vehicle displays a valid Disabled Person's Badge in the Relevant Position and immediately before or immediately after the act of parking the Vehicle has been or is about to be used by the person(s) in respect of whom the Disabled Person's Badge has been issued.

Permit Parking Bays

10. No person shall cause or permit a Vehicle to park in a Parking Bay marked for permit holders unless the Vehicle is displaying a Permit valid for that time and that Parking Bay.

Taxi bays

11. No person shall cause or permit a Vehicle to be parked in an area marked as a taxi bay unless the Vehicle displays in the relevant position a valid Hackney Carriage plate issued by the Council.

Loading and unloading bays

12. No person shall cause or permit a Vehicle to park in any area marked as a loading bay unless the Vehicle is being used for the purpose of Loading or Unloading.

Motor Cycle parking bays

13. No person shall cause or permit a Vehicle to park in a Parking Bay marked for Motor Cycles unless the Vehicle is a Motor Cycle.

Maximum Period of Stay

14. Where by notice on site, a Parking Place or in any Parking Bay within the Parking Place is described as being in operation on specified days, during specified hours or for a maximum period of stay, no person shall cause or permit a Vehicle to be parked in that Parking Place or in any Parking Bay within the Parking Place on any day, during such hours or for any period other or longer than those specified.

Period of no return

15. Where by notice on site, a Parking Place is described as having a period within which a Vehicle may not return, no person shall cause or permit a Vehicle to be parked again in that Parking Place on any day, during such period.

Power to close or suspend Parking Places

16. Nothing in this Order shall prevent the Council by notice, sign or barrier displayed in a Parking Place:
 - (i) from closing a Parking Place or any part thereof for any period; and/or

- (ii) from setting aside a Parking Place or any part or parts thereof on all days or on certain days or during certain parts of days for use only by particular Vehicles or organisations.
17. Any person closing or suspending the use of a Parking Place or any part thereof shall thereupon place or cause to be placed in or adjacent to that Parking Place or that part thereof a notice or traffic sign indicating that of that Parking Place or that part thereof is closed or the use is suspended and that parking by Vehicles is prohibited.
18. No person shall cause or permit a Vehicle to be parked in a Parking Place or any part thereof during such periods that the Parking Place or that part thereof is closed or the use is suspended or during such period as there is in or adjacent thereto a notice or traffic sign indicating the closure or suspension placed by or on behalf of the Council.

Sale of Goods

19. No person shall in a Parking Place without the express written permission of the Council, use a Vehicle, in connection with the sale of any article, including the Vehicle itself, to any person in or near the Parking Place or in connection with the selling or offering for hire of skill or services in any other capacity.

Parked with engine running

20. The driver of a Vehicle using a Parking Place shall stop the engine as soon as the Vehicle is in the parking space and shall not start the engine except when about to change the position of the Vehicle in or to depart from the Parking Place.

Parked causing an obstruction

21. The driver of a Vehicle using a Parking Place shall not park the Vehicle in such a manner or place where it causes an obstruction to any other users of the Parking Place.

PART III
CHARGES FOR PARKING

Payment

22. Not Applicable

Means of payment

23. Not Applicable

Pay and display Parking Places

24. Not Applicable

Display of ticket

25. Not Applicable

Validity of Pay and Display Tickets

26. Not Applicable

27. Not Applicable

Expiry of parking period

28. Not Applicable

No Pay and Display Ticket displayed

29. Not Applicable

30. Not Applicable

31. Not Applicable

Parking Permits

32. Parking Permits are available from the Council at the appropriate fee, for a Vehicle of a specific class and for a specific Parking Place subject to conditions determined by the Council.

33. The driver shall abide by the terms stipulated by the Council for the use of the Parking Permit.

34. A Parking Permit is only valid in the Parking Place in respect of which it was issued, for the Vehicle in respect of which it was issued and up to the date of expiry shown on the Parking Permit.
35. A Parking Permit remains the property of the Council and must be surrendered on request. In such instances any refund of fee paid will be provided in accordance with the Council's policies.

Display of Parking Permit

36. A Parking Permit shall be displayed in the Relevant Position on the Vehicle in respect of which it was issued at all times during which the Vehicle is parked in the Parking Place.

Replacement Parking Permits

37. Damaged or lost Parking Permits will be replaced on application to the Council and on payment of an administration fee in accordance with Council policies. The damaged or lost Parking Permit will then become immediately invalid.

Surrender of Parking Permit

38. The holder of a Parking Permit may, on surrendering the Parking Permit, be entitled to a refund based upon the Council policy in place at that time.

Restriction on removal

39. When a Parking Permit has been exhibited on a Vehicle in the relevant position no person shall remove the Parking Permit from the Vehicle until the Vehicle is removed from the Parking Place.

PART IV EXEMPTIONS

Exemption from daily Charge

40. Not Applicable

Absence of Ticket Machine

41. Not Applicable

Payment by Approved Method of Payment

42. Not Applicable

PART V
RELOCATION, REMOVAL AND DISPOSAL OF VEHICLES

Emergencies

43. A person authorised by the Council or a Police Constable in uniform may, using such measures as are appropriate, move or cause to be moved in the case of an emergency to any place he/she thinks fit, any Vehicle parked in a Parking Place.

Contraventions in suspended Parking Place

44. A person authorised by the Council may, using such measures as are appropriate, move or cause to be moved to any place he/she thinks fit, any Vehicle parked in a Parking Place which has been closed or suspended in whole or in part by the Council and the cost of movement or removal and safe keeping shall be the liability of the owner of the vehicle.

Safe keeping

45. 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.

Disposal of Vehicles abandoned in Parking Places

46. The Council may sell or otherwise dispose of, in accordance with current legislation, a Vehicle which has been, or could at any time be, removed from a Parking Place if the Vehicle appears to have been abandoned.

PART VI
CONTRAVENTION AND PENALTY CHARGE

Contravention

47. Save for the provisions in Part VII, if a Vehicle is parked in a Parking Place without complying with the requirements of this Order, a contravention shall have occurred and a Penalty Charge shall be payable and/or the vehicle may be removed from the location.

Restriction on removal of notices

48. A notice fixed to a Vehicle in accordance with this Order shall not be removed or interfered with except by or under the authority of:
- (i) the Owner, or person in charge of, the Vehicle;
 - (ii) the Council for the Parking Place in which the Vehicle in question was found.

Indications as Evidence

49. The particulars given in the notice attached to a Vehicle in accordance with this Order shall be treated as evidence in any proceedings relating to failure to pay such Penalty Charge.

PART VII LIABILITY AND OTHER PROVISIONS

Liability

50. The Council accepts no liability for the loss or damage to Vehicles or other property left in any of the Parking Places to which this Order applies save for that arising from the negligence of the Council.

Driving within a Parking Place

51. Where in a Parking Place signs are erected or surface markings are laid for the purpose of
- (i) indicating the entrance to or exit from the Parking Place, or
 - (ii) indicating that a Vehicle using the Parking Place shall proceed in a specified direction within the Parking Place,
- any person who drives or permits to be driven any Vehicle
- (i) so that it enters the Parking Place otherwise than by an entrance or leaves the Parking Place otherwise than by an exit, so indicated, or
 - (ii) in a direction other than so specified
- shall be liable to prosecution.
52. Any person who, without with the permission of a person authorised by the Council in that behalf, drives or permits to be driven any Vehicle in a Parking Place for any purpose other than the purpose of leaving that Vehicle in the Parking Place in accordance with

the provisions of this Order or for the purpose of departing from the Parking Place shall be liable to prosecution.

Wilful damage

53. Not Applicable

Domestic purposes

54. Any person who uses any part of the Parking Place or any Vehicle parked in a Parking Place

- (i) for sleeping or camping or cooking, or
- (ii) for the purpose of servicing or washing any Vehicle or part thereof other than is reasonably necessary to enable the Vehicle to depart from the Parking Place, shall be liable to prosecution.

Behaviour

55. Any person who wilfully sounds any horn or any other similar instrument on a Vehicle except when about to change the position of the Vehicle in or to depart from the Parking Place shall be liable to prosecution.

56. Any person who in a Parking Place shouts or otherwise or otherwise makes any loud noise to the disturbance or annoyance of users of the Parking Place or residents or premises in the neighbourhood shall be liable to prosecution.

57. Any person who in a Parking Place uses any threatening, abusive or insulting language, gesture or conduct with intent to put any person in fear or so as to occasion a breach of the peace or whereby a breach of the peace is likely to be occasioned shall be liable to prosecution.

Other activities

58. Any person who in a Parking Place

- (i) erects or causes or permits to be erected any tent, booth, stand, building or other structure without the prior written consent of the Council, or
 - (ii) lights or causes to be lit any fire,
- shall be liable to prosecution.

PART VIII
REVOCATIONS

Revocations

59. The following Orders made by South Derbyshire District Council and all their Amendments and any other Orders and Regulations of whatever nature relating to off-street Parking Places specified in the Schedules within the area of the Council made before the introduction of this Order are hereby revoked.

**EXECUTED as a Deed by affixing the COMMON SEAL
of South Derbyshire District Council
in the presence of :-**

Chair

Chief Executive

Dated this day of 2008