

BLACKBURN WITH DARWEN BOROUGH COUNCIL
(FEILDEN STREET OFF STREET PARKING PLACES)
(CIVIL ENFORCEMENT) ORDER 2021

The Council of the Borough of Blackburn with Darwen ("the Council") in exercise of its powers under Sections 32, 33, 34, 35, 35A, 35B, 35C, 44, and 124 and Parts III and IV of Schedule 9 of the Road Traffic Regulation Act 1984 and the Road Traffic Act 1991 and the Road Traffic (Permitted Parking Area and Special Parking Area) (Borough of Blackburn with Darwen) Order 2004 and the Traffic Management Act 2004 and all other enabling powers, and after consultation with the Chief Constable of Police in accordance with Part III of Schedule 9 to the Road Traffic Regulation Act 1984, hereby makes the following Order:

PART I
GENERAL

Commencement and Citation

1. This Order shall come into operation on the *8th March* 2021 and may be cited as the Blackburn with Darwen Borough Council (Feilden Street Off Street Parking Places) (Civil Enforcement) Order 2021

Interpretation

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

"1984 Act" means the Road Traffic Regulation Act 1984

"1991 Act" means the Road Traffic Act 1991

"2004 Act" means the Traffic Management Act 2004

"ANPR" means automatic number plate recognition

"Charging Days", means the period as specified column 2 of Schedule 2 attached to this Order;

"Charging Hours", means the time periods as specified in column 2 of Schedule 2 attached to this Order;

"Charging Post" means a purpose built apparatus designed specifically for the charging of an Electric Vehicle;

"Civil Enforcement Officer" means a person authorised by or on behalf of the Council in accordance with Section 76 of the 2004 Act;

"Council" means Blackburn with Darwen Borough Council or its successor authority and includes any parking services contractors or authorised agent appointed by or acting on behalf of the Council;

“Daily Charge” means the charge imposed by the Council for parking in a parking place on any one day and for a specified period of time as is identified in the scale of charges specified by notice at each Parking Place;

"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);

“Electric Vehicle” means any vehicle that is powered entirely or partially by electricity and is capable of being charged from an external source which for the avoidance of doubt shall include hybrid and plug-in hybrid vehicles

“Electric Parking Place”, means an area at which an Electric Vehicle only may wait (and charge) as specified in Schedule 3 by means of a Charging Post

“Loading/Unloading” refers to when a Vehicle is parked wholly in the 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 fifteen minutes or such longer period as a duly authorised officer of the Council or Civil Enforcement Officer may authorise;

“mobile phone payment” means a cashless payment made by mobile phone to the number displayed in the parking place allowing the vehicle to be parked for the time period for which the payment has been made, to be used where such facility is advertised and provided for in a Parking Place and the use of which is specified by notice in the Parking Place;

“Motor Car” has the same meaning as in Section 136(2) of the 1984 Act;

“Motor Cycle” has the same meaning as in Section 136(4) of the 1984 Act;

“Invalid Carriage” has the same meaning as in Section 136(5) of the 1984 Act;

“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;

“park”, “parked” and “parking” refer to the stopping of a vehicle and it remaining at rest for some time whether or not the driver is still in the vehicle and a vehicle shall be deemed to be parked for any period in the same parking place or parking bay (as the case may be) if any part of it is below the vehicle or the vehicle's load (if any) whether or not the vehicle is moved during that period;

“parking bay” means an area of a parking place, which is provided for the parking 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;



Feilden Street, Blackburn Off Street Parking Places **Feilden Street Multi Story and Undercroft car parks**

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“Parking Permit” means an access permit, proximity card, scratch card permit, clock permit, contract permit, staff permit, or any other permit of a type and design issued by the Council, or a combination thereof;

“Parking Place” means the area of land or building provided by the Council pursuant to Section 32(1) of the 1984 Act for the purpose of the Parking of Vehicles and not closed (in part or in whole) by a notice, sign or barrier, erected or displayed thereon by authority of the Council and specified in the Schedules and Plans incorporated into this Order;

“Parking Ticket” means the receipt for payment of the parking charge

“Pay on Foot/Pay on Exit” means the Parking Place where an entry parking ticket is taken at the entry barrier to access the Parking Place. Prior to leaving the Parking Place, this parking ticket is then inserted in to a Ticket Machine located in the Parking Place and the correct payment for time parked in the Parking Place is made

“Payment Card” means a bank credit or debit card, e-purse card, discount card or pre-payment card to be used where such facility is advertised and provided in the Parking Place and the use of which is specified by notice in the Parking Place;

“Penalty Charge” means a penalty charge imposed under Part 6 of the 2004 Act

“Penalty Charge Notice” means a notice served by a Civil Enforcement Officer, or by post, pursuant to Section 78 of the 2004 Act and supporting regulations

“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 the front of the badge (within the meaning of the 2000 Regulations) (showing the expiry date) is legible from the outside of 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 the front of the badge, as described above, is legible from outside the vehicle;
- (b) in respect of a Vehicle displaying a Reserved Parking Permit:
 - (i) the Reserved Parking Permit is exhibited on the inside surface of the front windscreen or in a clearly visible position so that it is facing forwards so that all details are legible from the outside of the vehicle; or
 - (ii) in the case of a Vehicle that is not fitted with a transparent front windscreen, the Reserved Parking Permit is exhibited on the front of the Vehicle facing forwards and clearly visible.

“Reserved Parking Bay” means an area of the Parking Place, which is provided for the parking of a Vehicle as agreed by the Council and the Reserved Parking Permit holder and will be indicated by markings on the surface of the Parking Place or signed or otherwise indicated by signs in the Parking Place;

“Reserved Parking Permit” means an access permit, proximity card, or any other permit of a type and design issued by the Council, or a combination thereof which must be displayed in the Relevant Position;

“Schedule” means the relevant schedule attached to this Order and headed as such;

“Ticket Machine” means an apparatus of a type and design approved by the appropriate minister for the purpose of this Order, being apparatus designed to accept payment of an amount for a specified period payable prior to the Vehicle leaving the Parking Place.

“Vehicle” means any Motor Car, Motor Cycle or invalid carriage

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 name in Schedule 1 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 specified by notice at that parking place.

Class and position of Vehicle

8. Where in Schedule 1 and by notice at a parking place, the 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 park in that Parking Place or in any Parking Bay within the Parking Place,
 - (i) unless it is of the specified class;
 - (ii) if it is parked beyond the Parking Bay markings; or
 - (iii) If it is in a position other than that specified.
9. If 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 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.

Disabled person's parking bays

10. No person shall cause, or permit, a Vehicle to park 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.

Motor Cycle parking bays

11. 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

12. Where specified in the Schedule 2 and by notice at each Parking Place respectively, a Parking Place, or a specifically marked Parking Bay within a Parking Place, is described as available 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 specifically marked Parking Bay within a Parking Place, on any day, during such hours or for any period other or longer than those specified.

Power to close or suspend Parking Places

13. Nothing in this Order shall prevent the Council by notice, sign or barrier displayed or erected in a Parking Place:
 - (i) from closing or suspending the use of 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.
14. 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.
15. 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.

Reserved Parking Bays

16. No person shall cause or permit a Vehicle to be parked in any area marked as a Reserved Parking Bay unless entitled to do so or unless there is on display in the relevant position in the Vehicle a valid Reserved Parking Permit.

Sale of Goods

17. No person shall in the Parking Place, without the express written permission of the Council, use a Vehicle, in connection with the sale of any article, including the Vehicle

33. The holder of an annual Parking Permit or Reserved Parking Permit shall on surrendering the Parking Permit or Reserved Parking Permit not entitled to a refund of any monies paid in advance from the 1 day of the month following the cancellation request with the return of the permit.

Restriction on removal

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

**PART IV
EXEMPTIONS FROM DAILY CHARGES**

Exemption from Daily Charge – Pay on Foot

35. No Daily Charge shall be payable in respect of a Vehicle parked displaying in the Relevant Position a Reserved Parking Permit valid for the Parking Place or if the driver has made use of a Parking Permit to gain access through the ANPR entry and exit barriers.

**PART V
GENERAL MANAGEMENT OF THE PARKING PLACES**

Driving within the Parking Place

36. Where in the 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; or
 - (iii) as may be indicated by any person duly authorised by the Council; must comply with the direction signs indicated.

**PART VI
RELOCATION, REMOVAL AND DISPOSAL OF VEHICLES**

Emergencies

37. In the case of emergency, a person authorised by the Council or a Police Officer in uniform may, using such measures as are appropriate, move or cause to be moved in the case of an emergency to any place they thinks fit, any Vehicle left in the Parking Place.

Contraventions in closed or suspended Parking Place

38. A person authorised by the Council may, using such measures as are appropriate, move or cause to be moved to any place they thinks fit, any Vehicle left in the 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

39. Any person removing a Vehicle from the 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

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

PART VII CONTRAVENTION AND PENALTY CHARGE

Contraventions

41. Save for the provisions in Part VIII, if a Vehicle is parked in the Parking Place without complying with the requirements of this Order, a contravention shall have occurred and a Penalty Charge shall be payable.
42. In the case of a Vehicle in respect of which a Penalty Charge is payable, a Penalty Charge Notice containing the information required by Section 66 of the Road Traffic Act 1991 as applied and modified by the Road Traffic (Permitted Parking Area and Special Parking Area) (Borough of Blackburn with Darwen) Order 2004 and the Traffic Management Act 2004 may be issued by a Civil Enforcement Officer by fixing it to the Vehicle, or by giving it to the person appearing to him to be in charge of the vehicle, or may be served by the Council by post as prescribed by regulations.

Restriction on removal of notices

43. A notice fixed to a Vehicle in accordance with the provisions of 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; or
 - (ii) the Council for the Parking Place in which the Vehicle in question was found.

Indications as Evidence

44. The particulars given in any notice issued in accordance with this Order shall be treated as evidence in any proceedings relating to failure to pay the Penalty Charge or in any court action.

Offences

45. Any person who uses any part of the Parking Place contrary to the provisions in Part VII of this Order, shall have committed an offence and a notice of intended prosecution may be issued and/or any vehicle may be removed from the Parking Place.

PART VIII LIABILITY AND OTHER PROVISIONS

Liability

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

Validity

47. If a Court, the Department for Transport, the Traffic Penalty Tribunal or the Traffic Enforcement Centre declares any part of this Order to be invalid or unenforceable such declaration shall not invalidate the remainder of the Order.

Driving within the Parking Place

48. Where in the 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;
- then any person who drives or permits to be driven any Vehicle:
- (a) 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
 - (b) in a direction other than so specified;
- shall be liable to prosecution.
49. 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 the 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

50. Any person who with intent to defraud interferes with the Pay on exit/Pay on Foot or Ticket Machine or operates or attempts to operate it by the insertion of objects other than undamaged and unaltered coins of legal tender and of the appropriate denomination, or payment cards, or other approved devices, shall be liable to prosecution.
51. Any person who interferes with or damages any part of the fabric of the Parking Place or integral signing provided for the operation of the Parking Place shall be liable to prosecution.

Domestic purposes

52. Any person who uses any part of the Parking Place or a moveable dwelling parked within the Parking Place or any other vehicle in the parking place is used for sleeping or camping or cooking shall be liable to prosecution.

Behaviour

53. 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.

54. Any person who in the 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.
55. Any person who in the 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

56. Any person who in the Parking Place:
- (i) erects or causes or permits to be erected any tent, booth, stand, building or other structure without the written consent of the Council; or
 - (ii) lights or causes to be lit any fire;
- shall be liable to prosecution.
57. A person who uses the Parking Place for the purpose of displaying or posting or distributing advertising material or fly tipping of rubbish without the written consent of the Council shall be liable to prosecution.

PART IX
DESIGNATION AND USE OF ELECTRIC PARKING PLACES

58. Subject to the provisions of this Order, each Electric Parking Place shall only be used for the waiting of Electric Vehicles.
59. At all times whilst an Electric Vehicle is waiting in an Electric Parking Place, the driver shall cause that vehicle to be connected via a recharging lead to the Charging Post installed in respect of the Electric Parking Place except upon the direction or with the permission of a Civil Enforcement Officer or Police Constable in uniform.
60. No person shall cause an Electric Vehicle to wait in an Electric Parking Place for longer than four hours.
61. No person shall cause an Electric Vehicle which has been removed after waiting in an Electric Parking Place to wait again in that Electric Parking Place within a period of four hours of its removal.
62. Every Electric Vehicle waiting in an Electric Parking Place shall be caused to stand so that every part of the vehicle is within the marked limits of the Electric Parking Place.
63. Each Electric Parking Place shall be subject to the scale of charges as set out in column 3 of Schedule 2 pertaining to the relevant carpark within this Order.
64. Unless the context otherwise requires or is dealt with specifically already under this Part IV, then Parts II, III, V, VI, VII, and VIII shall apply to Electric Parking Places with the following definitions substituted mutatis mutandis :
- a. "Parking Bay" shall be read as "Electric Parking Place"; and
 - b. "Vehicle" shall be read as "Electric Vehicle".

**PART X
REVOCATIONS**

65. The Order referred to in Schedule 4 is hereby revoked in full from effect of the date of this Order.

Given under the Common Seal of the Blackburn with Darwen Borough Council this
day of *March* 2021

LH

The COMMON SEAL of the Blackburn)
with Darwen Borough Council was)
hereunto affixed in pursuance of a)
resolution of the Council held on the)
this 15th day of November 2001)



19603

Authorised Officer

SCHEDULE 1
OFF STREET CAR PARK PAY ON FOOT

Street	Side	Location
FEILDEN STREET BLACKBURN MULTI STORY CAR PARK	No Side Specified	The entire car park
FEILDEN STREET BLACKBURN UNDERCROFT CAR PARK	No Side Specified	The entire car park

SCHEDULE 2
PARKING TARIFF

FEILDEN STREET MULTI STORY CAR PARK

Class of Vehicle	Days and Hours of Operation	Scale of Charges
Motor Car, Motorcycle and Invalid Carriage	Monday - Sunday (7am-7pm)	Up to 1 hour £1.40
		Up to 2 hours £1.90
		Up to 4 hours £2.90
		Up to 8 hours £4.10
		Over 8 hours £6.40
	Monday to Sunday (7pm - 7am)	overnight flat rate £1.40
	Permit parking	£55 per month £660 per annum

FEILDEN STREET UNDERCROFT CAR PARK

Class of Vehicle	Days and Hours of Operation	Scale of Charges
Motor Car, Motorcycle and Invalid Carriage	Monday – Sunday (7am - 7pm)	Up to 1 hour £1.40
		Up to 2 hours £1.90
		Up to 4 hours £2.90
		Up to 8 hours £4.10
		Over 8 hours £6.40
	Monday to Sunday (7pm - 7am)	overnight flat rate £1.40

SCHEDULE 3
ELECTRIC VEHICLE CHARGING BAY MAX STAY 4 HOURS

REEL CINEMA UNDERCROFT CAR PARK BLACKBURN,	Two Electric Parking Places marked and signed for sole use by Electric Vehicles
FEILDEN STREET BLACKBURN UNDERCROFT CAR PARK	Two Electric Parking Places marked and signed for sole use by Electric Vehicles

SCHEDULE 4

BLACKBURN WITH DARWEN BOROUGH COUNCIL (FEILDEN STREET OFF-STREET
CAR PARKING PLACES) (CIVIL ENFORCEMENT) ORDER 2010

