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**DATED**

**1998**

**DERBY CITY COUNCIL  
(MARKEATON PARK OFF-STREET)  
PARKING PLACES ORDER 1998**

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Director of Corporate Services  
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**DERBY CITY COUNCIL**

**ROAD TRAFFIC REGULATION ACT 1984**

**DERBY CITY COUNCIL (MARKEATON PARK OFF STREET)**

**PARKING PLACES ORDER 1998**

DERBY CITY COUNCIL ("the Council"), in exercise of its powers under Section 35(1) and (3) of the Road Traffic Regulation Act 1984 ("the Act") and Part IV of Schedule 9 to the Act and of all other enabling powers, after consulting the Chief Officer of Police in accordance with Part III of Schedule 9 to the Act, makes the following Order:

1. This Order shall come into operation on the Sixth day of April One thousand nine hundred and ninety-eight and may be cited as the Derby City Council (Markeaton Park Off Street) Parking Places Order 1998.
2. (1) Any reference in this Order to a numbered Article is a reference to the Article bearing that number in this Order and any reference in this Order to a "Schedule" is a reference to a Schedule to this Order.

(2) In this Order:

"Charging Hours" - means any period specified in Column 3 of Part I of the First Schedule in respect of which a charge or a scale of charges is specified in Column 4 thereof.

"Disabled Person's Badge" - means a badge of a form prescribed in the Disabled Persons (Badges for Motor Vehicles) (Amendment) Regulations 1991.

- "Disabled Person's Vehicle" - has the same meaning as in the Local Authorities Traffic Orders (Exemption for Disabled Persons) (England and Wales) (Amendment) Regulations 1986.
- "Driver" - in relation to a vehicle means the person driving the vehicle at the time when it was left in the Parking Place, subject to the provisions of Paragraphs 1 and 5 of Article 8.
- "Motor Cycle" - means a mechanically propelled vehicle (not being an invalid carriage as defined in Section 136(5) of the Act) with less than four wheels of which the weight unladen does not exceed 410 kilograms.
- "Owner" - in relation to a vehicle means the person by whom such vehicle is kept and used.
- "Parking Attendant" - means a person authorised by or on behalf of the Council to supervise and control vehicles in any Parking Place.
- "Parking Place" - means any area of land at Markeaton Park provided by the Council under Section 32(1) of the Act for use as a parking place.
- "Pedal Cycle" - means a cycle not being propelled by mechanical power.

“Ticket Machine”

- means an apparatus designed to issue parking tickets indicating the payment of a charge and the date and time when the charge was paid.

- (3) The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

### **USE OF LAND AND PARKING PLACE**

3. (1) The Parking Place may be used subject to the following provisions of this Order for such classes of vehicles in such positions on such days and during such hours as are specified in relation to that area in Part I of the First Schedule, provided that nothing in this Order shall prevent the Council from closing the Parking Place or any part of it for the purposes of carrying out works of repair, renewal or maintenance.
- (2) (i) Where in Part I of the First Schedule the Parking Place is described as available for vehicles of a specified class or in a specified position the Driver of a vehicle shall not permit it to wait in that Parking Place unless it is of the class and in the position so specified.
- (ii) Where within the Parking Place there is a sign or surface marking which indicates that an area is available only for a Disabled Person's Vehicle the Driver of a vehicle shall not permit it to wait in that area unless it is a Disabled Person's Vehicle displaying a Disabled Person's Badge.
- (3) When a Parking Place is described in Column 2 and 3 of Part I of the First Schedule as operating on certain days or during certain times, the Driver of a vehicle shall not permit it to wait in that Parking Place on any other day or at any other time without the Council's permission.



## AMOUNT OF INITIAL CHARGE AT PARKING PLACES

4. (1) When a vehicle is left in a Parking Place during the Charging Hours the Driver shall, subject to Paragraph 2 of this Article, ~~pay the appropriate charge in accordance with~~ the scale of charges specified in Column 4 of Part I of the First Schedule as relating to that Parking Place.
- (2) No charge shall be payable by a Driver of a vehicle left in a car Parking Place if he displays a staff permit.
- (3) The charge referred to in Paragraph 1 of this Article shall be payable by the insertion of an appropriate coin or coins into a Ticket Machine.
- (4) Any ticket issued on payment of the charge referred to in Paragraph 1 of this Article shall be displayed on the vehicle as follows:
- (i) in the case of a vehicle which is fitted with a front windscreen by sticking the ticket to the inside surface of the windscreen so that it is facing forward and can be easily seen from the front of the vehicle; or
  - (ii) in the case of a vehicle which is not fitted with a front windscreen by sticking the ticket on the front of the vehicle so that it is facing forward and can be easily seen from the front of the vehicle.

The ticket shall not be valid unless so displayed.

## EXCESS CHARGES

5. (1) If a vehicle is left in the Parking Place during the Charging Hours either:
- (i) for a longer period than that period for which payment was made; or
  - (ii) without a valid ticket being displayed; or
  - (iii) in contravention of Articles 3(2)(i) and 3(2)(ii);

the amount shown in Part II of the First Schedule (the "excess charge") shall be payable by the Driver of that vehicle but the Driver shall not otherwise be liable for contravention of Article 4 if the excess charge is paid in accordance with Article 7.

~~(2) In the case of a vehicle in respect of which an excess charge may have been incurred it~~

shall be the duty of a Parking Attendant to attach to the vehicle in a conspicuous position a notice which shall include the following particulars:

- (a) the registration mark of the vehicle or where the vehicle is being used under a trade licence the number of the trade plate carried by the vehicle;
- (b) the name of the Parking Place in which the vehicle is left and the date and time of the attaching to the vehicle of the said notice;
- (c) the nature of the contravention of the Order that has led to an excess charge becoming payable under Article 5(1);
- (d) when the contravention of the Order relates to those matters referred to in Article 5(1)(i) or 5(1)(ii) a record of the details printed on any ticket displayed on the vehicle or alternatively a statement to the effect that no valid parking ticket was displayed;
- (e) a statement that the excess charge is required to be paid and the amount of that excess charge;
- (f) the manner in which and the time within which the excess charge should be paid; and
- (g) a statement that it is an offence under Section 35(A) of the Act for the Driver of a vehicle who has left the vehicle in the Parking Place to fail to pay the excess charge.

## **RESTRICTION ON REMOVAL OF EXCESS NOTICES**

6. When a notice has been attached to a vehicle in accordance with Article 5 no person other than a person authorised by the Council or the Driver or a person authorised by the Driver shall remove the Notice from the vehicle.

## **PAYMENT OF EXCESS CHARGE**

7. (1) The excess charge shall be paid to the Council either by cheque, banker's draft, money order or postal order which shall be delivered or sent by post so as to reach the Director of Planning and Technical Services at Celtic House, Heritage Gate, Friary Street, Derby, not later than 4.00 pm on the tenth day following the day on which the excess charge was incurred or in cash in person at the Department not later than the period stated before.
- (2) If the tenth day falls upon a day on which the Department is closed the period in which payment of the charge shall be made to the Council will be extended until 4.00 pm on the next full day on which the said Department is open.

## **LEGAL PROCEEDINGS**

8. Pursuant to powers given by Section 35(A) and 47(5) and (6) of the Act the following shall apply for proceedings under Section 35(A) of the Act:
- (1) If on the date a vehicle is left in a Parking Place a person is shown to have been the registered keeper in a notice from the appropriate Registration Authority then for the purposes of this Order such a person will, subject to Paragraph 5 of this Article, be conclusively presumed to be the registered keeper of the vehicle at the time (notwithstanding that the keeper may not be an individual) and accordingly that acts or omissions of the Driver of the vehicle were the acts or omissions of the registered keeper.

- (2) The date and time printed on the Ticket Machine at the Parking Place shall be good evidence that the ticket was purchased on that date and at that time.
- (3) Where in relation to the failure to pay any charge under this Order it is proved to the satisfaction of the Court that the amount which has become due or any part of it has not been paid the Court shall order payment of the sum not paid.
- (4) The particulars given in the notice attached to a vehicle in accordance with Article 5(2) shall be treated as evidence in any proceedings for an offence of failing to pay an excess charge.
- (5) The presumption in Paragraph (1) of this Article shall not apply if it is proved that at the time of the alleged offence the vehicle was in the possession of some other person or that the accused was not the registered keeper at the time of the alleged offence.

#### **GENERAL PROVISIONS**

9. The Driver of a motor vehicle using the Parking Place shall stop the engine as soon as the vehicle is in position in the Parking Place and shall not start the engine except when about to change the position of the vehicle in or to depart from the Parking Place.
10. No person shall use a vehicle while it is in the Parking Place in connection with the sale of any article to persons in or near the Parking Place or in connection with the selling or offering for hire of his skills or services without the written consent of the Director of Corporate Services of the Council.
11. No person shall use any part of the Parking Place or any vehicle left in the Parking Place for the purpose of servicing or washing any vehicle or part thereof other than is reasonably necessary to enable that vehicle to depart from the Parking Place.

12. The Driver of a vehicle using the Parking Place shall not sound any horn or other similar instrument except when about to change the position of the vehicle in or to depart from the Parking Place.

~~13. The Driver of a vehicle drawing a trailer shall not permit the vehicle or trailer to wait in a Parking Place unless they have been disconnected and for the purpose of this Order the vehicle and the trailer shall be deemed to be separate vehicles and the Driver shall be deemed to be the Driver of each of the vehicles.~~

14. (1) If a vehicle is left in the Parking Place in a position other than in accordance with the provisions of Article 3 a person authorised by the Council may alter or cause to be altered the position of the vehicle so that its position is in accordance with the provisions.

(2) If a vehicle is left in the Parking Place in contravention of any of the foregoing provisions of this Order a person authorised by the Council may remove the vehicle from that Parking Place or arrange for its removal.

(3) In an emergency a person authorised by the Council or a Police Constable in uniform may alter or cause to be altered the position of a vehicle in the Parking Place or remove or arrange for the removal of a vehicle from the Parking Place.

(4) Any person altering or causing the alteration of the position of a vehicle by virtue of Paragraph 1 of this Article or removing or causing the removal of a vehicle by virtue of Paragraphs 2 or 3 of this Article may do so by towing or driving the vehicle or in such manner as he may think reasonably necessary to enable the position of the vehicle to be altered or the vehicle to be removed.

(5) Any person removing or arranging for the removal of a vehicle by virtue of Paragraphs 2 or 3 of this Article shall make such arrangements as he considers to be reasonably necessary for the safety of the vehicle in the place to which it is removed.

15. Where in the Parking Place signs are erected or surface markings are laid for the purpose of:
- (a) indicating the entrance to or exit from the Parking Place; or
  - (b) indicating that a vehicle using the Parking Place shall proceed in a specified direction within the Parking Place;
- then no person shall drive or permit 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.
16. No person shall, except with the permission of a person authorised by the Council, drive or permit to be driven any vehicle in the Parking Place for any purpose other than the purpose of leaving that vehicle in the Parking Place or for the purpose of departing from the Parking Place in accordance with the provisions of this Order.
17. No person shall knowingly exhibit on any vehicle any parking ticket which has been altered, defaced, mutilated or added to or upon which the figures or particulars have become illegible.
18. No person shall use any part of the Parking Place or any vehicle left in the Parking Place for sleeping or camping purposes.
19. No person shall play or take part in any game in the Parking Place.
20. No person shall use the Parking Place as a means of passage proceeding from one road to another road.
21. No person shall in the Parking Place erect or cause or permit to be erected any tent, booth, stand, building or other structure without the written consent of the Director of Corporate Services.

## EXEMPTIONS

22. (1) The Driver of a vehicle which displays in the relevant position a Disabled Person's

Badge shall be exempt from any payment specified in Articles 4 and 5.

~~(2) For the purpose of this Order a vehicle shall be regarded as displaying a Disabled~~

Person's Badge in the relevant position when:

- (i) in the case of a vehicle fitted with a front windscreen the badge is exhibited thereon with the obverse side facing forward on the near side of and immediately behind the windscreen; and
- (ii) in the case of a vehicle not fitted with a front windscreen the badge is exhibited in a conspicuous position on the front or near side of the vehicle.

23. A vehicle of any type specified in this Article which is left in the Parking Place shall be exempt from any payment specified in Articles 3 and 4:

- (i) an invalid carriage;
- (ii) a Motor Cycle or Pedal Cycle.

## SUSPENSION OF ORDER

24. The Council shall be entitled to suspend any or all of the provisions of this Order on such occasions and for such purposes as it sees fit.

The COMMON SEAL of the **DERBY** )  
**CITY COUNCIL** was hereunto affixed )  
the day of March One )  
thousand nine hundred and ninety-eight )  
in the presence of: )

*M A Gooke*

Director of Corporate Services



**FIRST SCHEDULE  
PART 1**

(1) Classes of Permitted Vehicles	(2) Days of Operation of Parking Place	(3) Charging Hours	(4) Scale of Charges
(i) Motor cars as defined in Section 136(2)(a) of the Act.	Seven days a week including Bank Holidays	6 am to 10 pm	0-4 hrs £0.50 Over 4 hrs £1.00
(ii) Motor cycles.			
(iii) Motor vehicles not exceeding 1525 kg unladen weight.			

**FIRST SCHEDULE  
PART II**

1. For contravening the provisions of Article 5(1)(ii) the excess charge shall be £40.00, provided that if the charge is paid not later than the tenth day following the day on which it was incurred the charge shall be reduced to £30.00.
2. For contravening the provisions of Article 5(1)(i) and Article 5(1)(iii) the excess charge shall be £30.00, provided that if the charge is paid not later than the tenth day following the day on which it was incurred the excess charge shall be reduced to £20.00.
3. For the avoidance of doubt in paragraphs 1. and 2. above, where the tenth day falls upon a day on which the Planning and Technical Services Department is closed, the period in which payment of the reduced charge may be made shall be extended until the next full day on which the Department is open.