

NORTH YORKSHIRE COUNTY COUNCIL
(VARIOUS ROADS, BOROUGH OF HARROGATE) (DISABLED PERSON'S PARKING BAYS)
(NO 4) ORDER 2016

North Yorkshire County Council (hereinafter referred to as "the Council") in exercise of their powers under Sections 1(1), 2(1) to (3), 4(2), 32(1) and 35(1) of the Road Traffic Regulation Act 1984 ("the 1984 Act") and Part IV of Schedule 9 to the 1984 Act and the Traffic Management Act 2004 ("the 2004 Act") and of all other enabling powers and after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 to the Act, hereby make the following Order:-

PART 1

GENERAL

1. (1) When used in this Order each of the following expressions has the meaning assigned to it below:-

"Charge certificate" means the statement that the penalty charge has been increased in accordance with Regulation 21 of The Civil Enforcement of Parking Contraventions (England) General Regulations 2007;

"Civil Enforcement Officer" means any officer of the Council who is authorised to supervise and control vehicles in the parking place and enforce the provisions of this Order pursuant to Section 76 of the 2004 Act and Section 63A of the 1984 Act;

"Disabled Person" means a person who holds a disabled persons' badge in accordance with the provisions of the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 (No. 682) (and in particular Regulation 4 thereof) or any re-enactment thereto;

"Disabled Person's Badge" means a badge issued in accordance with the provisions of the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 (as amended) (in particular Regulation 11 and the Schedule thereto) or under regulations having effect in Scotland and Wales under Section 21(1)(b) of the Chronically Sick and Disabled Persons Act 1970 as referred to currently by the Local Authorities' Traffic Orders (Exemptions for Disabled Persons) (England) Regulations 2000 (No. 683) or any subsequent further re-enactments thereof;

"Disabled Person's Parking Bay" means any area of carriageway designated as a parking bay reserved for disabled persons' badge holders and which is comprised within and indicated by a road marking complying with diagram 1028.4 or 1028.6 in Schedule 7 (Part 4) to the 2016 Regulations;

"Disabled Person's Vehicle" means a vehicle driven by a disabled person as defined in Regulation 4(2) of the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 (No. 682) and which is displaying a disabled person's badge in the relevant position;

"Higher level contraventions" are as defined in The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 or any amendment or re-enactment thereof;

"Lower level contraventions" means all parking contraventions which are not higher level contraventions as defined in The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 or any amendment or re-enactment thereof;

"Motor Vehicle" means any class of mechanically propelled vehicle including Motor Cycles, Motor Cars, Goods Vehicles and car derived vans, and shall bear the extended definition given thereto in Sections 136 and 137 of the 1984 Act (but shall not include any Heavy Commercial Vehicle as defined in Section 138 of the 1984 Act) (and whether or not it is being used for business purposes). Where reference is made to vehicle or motor

vehicle in the Order these terms shall be deemed to have the same meaning and be interchangeable and to be interpreted accordingly;

"Owner" in relation to a motor vehicle means the person by whom such motor vehicle is kept and used;

"Penalty charge" means a charge set by the Council in accordance with charges set by the Secretary of State under the provisions of Section 77 and Schedule 9 of the 2004 Act and The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 which is to be paid to the Council within 28 days beginning with the date of service endorsed upon the penalty charge notice in the manner set out in the penalty charge notice;

"Penalty charge notice" means a notice issued or served by a Civil Enforcement Officer or posted by the Council pursuant to the provisions of Section 78 of the 2004 Act and The Civil Enforcement of Parking Contraventions (England) Regulations 2007;

"Post Office" and any reference to "post office vehicle" or "postal packets" shall be construed in the context of the Postal Services Act 2000 and the Postal Services Act 2000 (Consequential Modifications to Local Enactments No. 1) Order 2001 (SI No. 2001/648) and shall include therefore references to "universal service providers", as the context shall require;

"Reduced penalty charge" means a charge set by the Council in accordance with charges set by the Secretary of State under the provisions of Section 77 and Schedule 9 of the 2004 Act and The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 which is to be paid to the Council within 14 days following the date of service endorsed upon the penalty charge notice in the manner set out in the penalty charge notice;

"Registered keeper" means:-

- (a) the person whose name appears in the Motor Vehicle registration document or book of the Motor Vehicle in whose name the vehicle is registered, or
- (b) a person who has the permanent use of the Motor Vehicle vested in the name of his employer, or in the case of a leased Motor Vehicle in the name of the leasing company;

"Relevant Position" in relation to a disabled person's badge means (in conformity with Regulation 12 of SI 2000 No. 682 referred to above) if:-

- (a) the badge is exhibited on the dashboard or fascia of the vehicle; or
- (b) where the vehicle is not fitted with a dashboard or fascia, the badge is exhibited in a conspicuous position on the vehicle,

so that the front of the badge is clearly legible from the outside of the vehicle;

"Road" means the full width of the highway including the carriageway and footway;

"Service" in respect of a penalty charge notice means the forms of service specified in regulations 9 and 10 of The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 or any amendment or re-enactment thereof;

"the 2016 Regulations" means the Traffic Signs Regulations and General Directions 2016 (SI 2002/362).

- (2) Except where otherwise stated, any reference in this Order to a numbered article or Schedule is a reference to the article or Schedule bearing that number in this Order.

- 2. For the purposes of this Order any reference to a length of road shall be construed as a reference to the length specified in column 4 of the Schedule to this Order of the side or sides of road

specified in respect of that length in column 3 thereof in relation to the road named in respect of that side or those sides in column 2 of that Schedule.

PART 2

PROHIBITION OF WAITING AT ALL TIMES, EXCEPT FOR DISABLED PERSON'S VEHICLES

3. No person shall except upon the direction or with the permission of a Civil Enforcement Officer, cause or permit any vehicle, other than a disabled person's vehicle, to wait at any time in any length of road specified in the Schedule to this Order, such lengths of road being designated as disabled person's parking bays.

Exemptions

4. Nothing in article 3 of this Order shall render it unlawful to cause or permit any vehicle to wait in any length of road to which that article applies if it is necessary to do so to enable:-
- (i) the vehicle to be used for the removal of any obstruction to traffic, or
 - (ii) the vehicle to be used for Police, Fire Brigade or Ambulance purposes, or
 - (iii) the vehicle, if it cannot conveniently be used for such purpose in any other road, to be used in pursuance of statutory powers or duties or in connection with any building operation or demolition, the maintenance, improvement or reconstruction of the length of road or the laying, erection, alteration or repair in, or in land adjacent to the length of road of any sewer or of any main, pipe, wire or cable or any apparatus for the supply of gas, water or electricity or of any telegraphic line or telecommunications apparatus as defined in Schedule 2 to the Telecommunications Act 1984.

PART 3

PENALTY CHARGE AND PAYMENT

5. (1) Where a motor vehicle:-
- (a) waits, parks or is left on a road in contravention of the foregoing provisions of this Order or otherwise contravenes or fails to comply with the provisions of this Order, insofar as it relates to a motor vehicle waiting, parking or being left on a road; or
 - (b) waits, parks or is left on a road in contravention of any other Traffic Regulation Order the provisions of which are not consolidated into this Order or fails to comply with the provisions of any such Order insofar as it relates to a vehicle waiting, parking or being left on a road; or
 - (c) parks in contravention of the provisions of Sections 19 or 21 of the Road Traffic Act 1988 (prohibition of parking of HGVs on Verges, central reservations and footways and driving or parking on Cycle Tracks);
- a penalty charge shall be payable by the owner for each day of the said contravention or non-compliance.
- (2) The penalty charge or reduced penalty charge shall be in the sum of the following amounts:-
- (a) The penalty charge - Band 2 as set out in Section 1 of The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 subject to payment being received by the Council as provided in Article 5(6) within 28 days beginning with the date of service of the penalty charge notice.
 - (b) The reduced penalty charge - a 50 per cent reduction of the penalty charge subject to payment being received by the Council as provided in

Article 5(7) within 14 days beginning with the date of service of the penalty charge notice.

- (c) On the issue of a charge certificate in accordance with the provisions of Regulation 21 of The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 to the effect that the penalty charge in question is increased by 50 per cent.
- (3) Service of a penalty charge notice or charge certificate by post is deemed effective on the second working day after the day of posting.
- (4) In the case of a motor vehicle in respect of which a penalty charge is payable under Article 5(1) a penalty charge notice, which shall comply with the requirements of Regulation 9 and the Schedule to The Civil Enforcement of Parking Contraventions (England) General Regulations 2007, may be issued by a civil enforcement officer and may accordingly be affixed to the motor vehicle in a conspicuous position or given to the person appearing to be in charge of the vehicle.
- (5) In the case of a motor vehicle in respect of which a penalty charge is payable under Article 5(1) a penalty charge notice, which shall comply with the requirements of Regulation 10 and the Schedule to The Civil Enforcement of Parking Contraventions (England) General Regulations 2007, may be issued by post by the Council if the owner of the vehicle drives the vehicle away before the civil enforcement officer has issued a penalty charge notice or the civil enforcement officer has been prevented from issuing a penalty charge notice.
- (6) Payment of the penalty charge to the Council shall be paid by electronic transfer, cash or by credit card or debit card, cheque or postal order in each case crossed and made payable to Harrogate Borough Council which shall be delivered or sent by post so as to reach the relevant Department/Office of the Council as stated on the penalty charge notice not later than 4:30pm, within 28 days beginning with the date of service of the penalty charge notice, but should the said Council Department/Office be closed on that day, the period for receiving payment may be extended until 4:30pm on the next full working day. Payment may also be made in person or by phone as detailed on the penalty charge notice.
- (7) Payment of the reduced penalty charge to the Council shall be paid by electronic transfer, cash or by credit card or debit card, cheque or postal order in each case crossed and made payable to Harrogate Borough Council which shall be delivered or sent by post so as to reach the relevant Department/Office of the Council as stated on the penalty charge notice not later than 4:30pm, within 14 days beginning with the date of service of the penalty charge notice, but should the said Council Department/Office be closed on that day, the period for receiving payment may be extended until 4:30pm on the next full working day. Payment may also be made in person or by phone as detailed on the Penalty Charge Notice.
- (8) The particulars given in the penalty charge notice attached to a vehicle, given to the person appearing to be in charge of the vehicle or issued by post by the Council in accordance with Articles 5(1) – (7) shall be treated as evidence in any proceedings relating to failure to pay such penalty charge.

PART 4

REVOCATION OF EXISTING ORDERS

6. The Traffic Regulation Orders specified in Column 1 of Schedule 2 to this Order are hereby revoked to the extent specified in Column 2 of that Schedule, and to the extent that the provisions of this Order are inconsistent with, or incompatible with, the provisions of any other Order, Byelaws or enactment relating to traffic regulation in the Borough of Harrogate not specifically

referred to in Schedule 2, the provisions of this Order shall prevail for all purposes.

PART 5

OPERATION OF THE ORDER

7. The prohibitions and restrictions imposed by this Order shall be in addition to and not in derogation from any restriction or requirement imposed by any Order or regulations made or having effect as if made under the Act or by or under any other enactment.
8. This Order shall come into operation on 31 October 2016 and may be cited as "North Yorkshire County Council (Various Roads, Borough of Harrogate) (Disabled Person's Parking Bays) (No 4) Order 2016".

SCHEDULE 1

WAITING PROHIBITED AT ANY TIME EXCEPT FOR DISABLED PERSON'S VEHICLES

<u>Column 1 Item</u>	<u>Column 2 Road</u>	<u>Column 3 Side</u>	<u>Column 4 Length</u>
1.	Back Crab Lane, Harrogate (No.18 Crab Lane)	West	From a point 1 metre south of its intersection point with the projected boundary line of Nos 16/18 Crab Lane, to a point 5.6 metres north of its intersection point with the projected boundary line of Nos 16/18 Crab Lane.
2.	Dene Park, Harrogate (No. 7)	North West	From a point 14.3 metres north east of its intersection point with the projected boundary line of Nos 5/7 Dene Park to a point 17.9 metres north east of its intersection point with the projected boundary line of Nos 5/7 Dene Park.
3.	Dene Park, Harrogate (No. 39a)	South East	From a point 1.2 metres north east of its intersection point with the projected south west building line of No 39/39a Dene Park, to a point 5.4 metres south west of its intersection point with the projected south west building line of No 39/39a Dene Park.
4.	Dene Park, Harrogate (No. 57)	South East	From its intersection point with the projected boundary line of Nos 38/40 Dene Park, in a north easterly direction for a distance of 6.6 metres.
5.	Devonshire Place, Harrogate (No. 28)	North East	From a point 30.9 metres south east of its junction with Lime Grove, to a point 37.5 metres south east of its junction with Lime Grove.

<u>Column 1 Item</u>	<u>Column 2 Road</u>	<u>Column 3 Side</u>	<u>Column 4 Length</u>
6.	Grove Park Walk, Harrogate (No.23)	North East	From a point 1 metre north west of its intersection point with the projected boundary line of Nos 21/23 Grove Park Walk, to a point 5.6 metres south east of its intersection point with the projected boundary line of Nos 21 23 Grove Park Walk.
7.	Woodfield Road, Harrogate (No. 101)	North West	From a point 23.3 metres north east of its junction with Elm Road, to a point 29.9 metres north east of its junction with Elm Road.
8.	Woodfield Close, Harrogate (No. 2 Woodfield View)	South East	From a point 13 metres south west of its intersection point with the projected boundary line of Nos 2/4 Woodfield View, to a point 19.6 metres south west of its intersection point with the projected boundary line of Nos 2/4 Woodfield View.

SCHEDULE 2

REVOCATIONS

<u>Column 1 Title of Order</u>	<u>Column 2 Extent of Revocation</u>
"North Yorkshire County Council (Various Roads, Borough of Harrogate) (Disabled Person's Parking Bays) (No.1) Order 2013".	In so far as it relates to Item 1 in Schedule 1 (No waiting except Disabled Badge Holders – No. 15 Albany Avenue) Item 13 in Schedule 1 (No waiting except Disabled Badge Holders – No. 33 West End Avenue)
"North Yorkshire County Council (Various Roads, Borough of Harrogate) (Disabled Person's Parking Bays) (No.2) Order 2013".	In so far as it relates to; Item 2 in Schedule 1 (No waiting except Disabled Badge Holders – 48 Albert Road, Harrogate) Item 9 in Schedule 1 (No waiting except Disabled Badge Holders – 161 Dene Park) Item 17 in Schedule 1 (No waiting except Disabled Badge Holders – 33 West End Avenue)

Given under **THE COMMON SEAL** of
NORTH YORKSHIRE COUNTY COUNCIL
 this **21st** day of October 2016 in the
 presence of: -

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W. Cooley
**AUTHORISED
 SIGNATORY**

