DATED 1st August 1998

THE BOROUGH OF PENDLE
(NELSON OFF STREET PARKING) ORDER, 1998

P. Mousdale,
Secretary and Solicitor,
Town Hall,
NELSON,
Lancashire.

THE BOROUGH OF PENDLE
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The Borough Council of Pendle ("the Council") in exercise of its powers under Section 35 (1), of the Road Traffic Regulation Act 1984 ("the Act") and Part IV of Schedule 9 to the Act and all other enabling powers, with the consent of Lancashire County Council in accordance with Section 39(3) of the Act and after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 to the Act hereby makes the following Order:-

Part I - General

1. This Order shall come into operation on the 1st day of August, One thousand nine hundred and ninety-eight and may be cited as The Borough of Pendle (Nelson Off Street Parking) 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 "the Schedules" is a reference to the Schedules to this Order.

(2) In this Order except where the context otherwise requires, the following expressions have the meanings respectively assigned to them;

"driver"	in relation to a vehicle entering, leaving or waiting in a parking place, means the person who was driving the vehicle at the time it was left in the parking place;
"owner"	in relation to a vehicle, means the person by whom such vehicle is kept and used;

"parking bay"	means any area of a parking place which has been provided for the leaving of a vehicle and marked out as an area within the boundaries of which a vehicle should be parked;
"parking place"	means an area of land specified by name in column 1 of the Schedules which has been provided by the Council under Section 32(1) of the Act for use as a parking place;
"parking attendant"	means a person authorised by virtue of Section 35(9) of the Act by, or on behalf of, the Council to supervise any parking place;
"parking disc"	means an approved device to BS.4631 which is capable of showing the quarter-hour period during which a vehicle arrived at a parking place;
"prescribed hours"	means the period prescribed in column 5 of Schedule One;
"quarter hour periods"	means a period of a quarter of an hour starting at 8.00 a.m. or at any hour or fifteen, thirty or forty-five minutes past an hour prior to the end of the prescribed hours which can be shown by a parking disc;

Part II - Use of Parking Places

3. The parking places may be used, subject to the following provisions of this Order, as parking places for such classes

of vehicles, in such positions on such days and during such hours as are specified in relation to those Schedules.

4. Where in the Schedules a parking place is described as available for vehicles of a specified class or in a specified position, the driver of that vehicle shall not permit it to wait in that parking place unless it is of the specified class and in the specified position.

5. Nothing in this Article shall restrict the power of the Council or the Police to close a parking place for preventing obstruction of the parking place on the occasion of any public procession, rejoicing or illumination, or where the parking place is thronged or liable to be obstructed.

Part III - Disc Parking

6. (1) This Article and Articles 7-15 of this Order shall apply to the parking places specified in Schedule 1.

(2) Subject to the provisions of Article 11, the driver of a vehicle shall, on the arrival of the vehicle at a parking place specified in Schedule 1 during the prescribed hours, exhibit on the vehicle in accordance with the following provisions of this Article a parking disc.

(3) The parking disc shall be exhibited on the vehicle in a conspicuous position and shall be so placed that the time shown on the front of the said disc is clearly visible.

7. The driver of a vehicle shall, on exhibiting the parking disc on the vehicle in accordance with the provisions of Article 6

set the disc so that it indicates the quarter-hour period during which the vehicle arrived at the parking place.

8. (1) The driver of a vehicle shall not permit it to wait continuously in a parking place for longer than the period specifies in Column 6 of Schedule 1, such period being calculated as commencing from the quarter-hour period indicated on the parking disc set in accordance with the provisions of Article 7; provided that where the indicated time of arrival is not shown as an exact quarter-hour period then any such period shall be calculated as commencing from the next quarter-hour period indicated on the parking disc and that period shall be treated as evidence that the vehicle has been waiting in the parking place since that later time in any proceedings for an offence under this paragraph of this Article.

(2) Where a vehicle, having been left in a parking place , remains there at the beginning of the prescribed hours, then the vehicle shall be treated for the purposes of this Order as if it had arrived in the parking place at the beginning of those hours.

(3) Where in any proceedings for an offence under paragraph (1) of this Article, it is not proved that the offence had been committed, but it is proved that the parking disc had not been set in accordance with Article 7 the defendant may be convicted of an offence under that Article.

(4) In any proceedings for an offence under paragraph (1) of this Article it shall be assumed unless the contrary is shown, that the parking disc mentioned in that paragraph is an approved device.

9. No person shall:-

(1) After the parking disc exhibited on a vehicle has been set in accordance with Article 7, alter the indications given by that parking disc or remove that parking disc whilst the said vehicle remains in the parking place; or

(2) Knowingly exhibit on any vehicle any parking disc which has been altered, defaced, mutilated or added to or upon which the figures or particulars have become illegible.

10. When a vehicle has left a parking place after waiting thereon the driver shall not within two hours of its leaving, permit it to wait again within that parking place.

11. (1) The driver of a two wheeled motor cycle not having a sidecar attached thereto as defined in Section 136(4) of the Act or of a pedal cycle shall be exempt from the provisions of Articles 6, 7 and 8.

(2) The driver of a disabled person's vehicle shall be exempt from the provisions of Article 6,7 and 8.

12. (1) Where a driver parks a vehicle in a parking place in accordance with Articles 3-11 then no charge will be made by the Council.

(2) Where a driver fails to comply with the provisions of Articles 3-11, a charge (hereinafter referred to as the standard charge) shall be payable to the Council forthwith by the driver of that vehicle and he shall be deemed to have contravened or failed to comply with the provisions of this Order and the provisions of Section 47(4) of the Act shall apply mutatis mutandis.

13. In the case of a vehicle in respect of which the Standard Charge may have been incurred, it shall be the duty of a parking attendant or person appointed by the Council to attach to the vehicle in a conspicuous position a Charge notice which shall include the following particulars:-

(i) 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, together with the make, model and colour of the vehicle.

(ii) The day, date and time at which he first noticed that the vehicle was parked in contravention of Articles 4,6,7,8,9 and 10.

(iii) Details of the contravention(s) under Articles 4,6,7,8,9 and 10 which constitutes an offence under S.35A Road Traffic Regulations Act, 1986.

(iv) A statement of the standard charge that is required to be paid.

(v) The manner in which and the time within which the standard charge shall be paid.

(vi) A statement that it is an offence under this Order and Section 35(A) of the Road Traffic Regulation Act, 1984 for the driver of a vehicle which has been left in the parking place to fail to pay the standard charge.

14. When a charge notice has been attached to a vehicle in accordance with the provision of Article 14, no person not being the driver of the vehicle or person duly authorised by the Council shall remove it from the vehicle unless authorised to do so by the driver.

15. (1) The Standard Charge shall be £20.00 unless subsequently amended by the Council, notice of which shall be published in a local newspaper not less than 21 days before the date on which the amended Standard Charge comes into effect.

(2) The Standard Charge shall be paid to the Financial Manager (Revenues) within 10 working days of the date of the Charge Notice, but if payment is made within 5 working days of the date of the Charge Notice then the Standard Charge will be reduced by 50%.

Presumptions in Legal Proceedings

16. For the purpose of any proceedings, in respect of the alleged contravention or non-compliance with the terms of this Order, brought against any person as being the owner of the vehicle at the relevant time, it shall be presumed (notwithstanding that any person may not be an individual) that he was the driver of the vehicle at that time and, accordingly, that acts or omissions of the driver of the vehicle at that time

were his acts or omissions.

17. For the purposes of Article 16, the owner of a vehicle shall be taken to be the person by whom the vehicle is kept and used, and for the purpose of determining, in the course of any proceedings, who was the owner of a vehicle at any time, it shall be presumed that the owner was the person in whose name the vehicle was at that time registered under the Vehicles (Excise) Act 1971.

18. Notwithstanding the presumption in Article 17 it shall be open to the defence in any proceedings to prove that the person in whose name a vehicle was so registered at a particular time was not the person by whom the vehicle was kept at that time, and to the prosecution to prove that the vehicle was kept by some other person at that time.

19. Notwithstanding the presumption in Article 17 and the provision of Article 18, in relation to a vehicle which is the subject of a Hiring Agreement or a Consumer Credit Agreement, the owner means the person in possession of the vehicle under that Agreement.

Part IV - General Management of the Parking Place

20. Articles 21-33 inclusive shall apply to the parking places specified in both Schedule 1 and Schedule 2.

21. A vehicle remaining in a parking place shall be at the owner's or driver's risk and the Council shall not be liable for loss or damage to the vehicle or its contents howsoever such loss or damage may arise other than loss or damage occasioned by the act, default, omission or neglect of the

Council or its servants or agents.

22. In a parking place the driver of a vehicle shall comply with any instructions which may be given by a parking attendant or which may be contained on a parking disc which the driver may obtain in accordance with the provisions of this Order and in particular he shall remove the vehicle from the parking place on being asked so to do.

23. When a vehicle is left in a parking place in contravention of any of the provisions contained in Article 8 of this Order or when the owner or the driver of a vehicle shall has failed to comply with any of Articles 22, 31 or 32 a person authorised by the Council may thereupon remove the vehicle or arrange for it to be removed from the parking place and the Council may recover the expenses reasonably incurred in so doing from the owner of the vehicle.

24. Any person removing a vehicle by virtue of Article 23 of this Order may do so by towing or driving the vehicle or in such manner as he may think necessary and may take such measures in relation to the vehicle as he may think necessary to enable him to remove it as aforesaid.

25. Any person removing a vehicle from a parking place by virtue of Article 23 of this Order shall leave it or cause it to be left on another car park under the control of the Council and shall notify the last known registered owner of the vehicle (if ascertainable) of the place where the vehicle has been left as soon as may be reasonably possible thereafter. It shall be sufficient notification to the last known owner if a

prepaid letter is sent to his last known address by the recorded delivery service.

26. In cases of emergency any person duly authorised by the Council may move or cause to be moved to any place which he may think fit any vehicle which has been left in a parking place.

27. Where in a 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,

no person shall drive or permit to be driven any vehicle so that it enters the parking place otherwise than by an entrance, or leaves the parking place otherwise that by an exit, so indicated, or in a direction other than so specified.

28. No person shall, except with the permission of a person authorised by the Council in that behalf, drive or permit 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.

29. The driver of a vehicle shall not permit that vehicle to wait in a parking place unless the vehicle is licensed in pursuance of the provision of the Vehicle (Excise) Act 1971

and unless there is in relation to the use of a vehicle by the driver such a policy of insurance as complies with the requirements of Part IV of the Road Traffic Act, 1972.

30. The driver of a motor vehicle using a 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 or to depart from the parking place.

31. (1) No person shall use a vehicle while it is in a parking place in connection with the sale or offering for sale of any article to persons in or near the parking place or in connection with the selling or offering for hire of his skill or services.

(2) No person shall use any part of a parking place for the purpose of displaying a vehicle or any other article for sale.

32. No person shall use any part of the parking place or any vehicle left in a parking place:-

(i) For sleeping or camping or cooking; or

(ii) For the purpose of servicing, repair or washing any vehicle or part thereof other than is reasonably necessary to enable that vehicle to depart from the parking place.

33. The driver of a vehicle using a 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.

Part V - Revocations

34. The following Orders in relation to Nelson off street parking places are hereby revoked;

The Borough of Pendle (Nelson Off Street Parking Places) Order, 1986

The Borough of Pendle (Nelson Off Street Parking Places)(Amendment) Order, 1989

The Borough of Pendle (Nelson Off Street Parking Places)(Amendment) Order, 1990

The Borough of Pendle (Nelson and Colne Off Street Parking) Order, 1991

The Borough of Pendle (Nelson and Colne Off Street Parking)(Amendment) Order, 1994

IN WITNESS whereof the Common Seal of The Borough Council of Pendle was hereunto affixed this 1st day of August One thousand nine hundred and ninety-eight

THE COMMON SEAL of The Borough)
Council of Pendle was hereunto)
affixed in the presence of:-)

Mayor

Philip Mousdale

Secretary and Solicitor

SCHEDULE ONE

1. KING PLACE	2. POSITION IN WHICH VEHICLES MAY WAIT	3. CLASS OF VEHICLES PERMITTED TO PARK	4. DAYS AND HOURS OF OPERATION OF THE ORDER	5. DAYS AND HOURS OF OPERATION OF THE DISC PARKING PROVISIONS OF THE ORDER	6. MAXIMUM PERIOD FOR WHICH VEHICLES MAY WAIT
Boitside Car Park Nelson	Wholly within the parking bays marked	(i) Motor- cycles, motor cars and invalid carriages as defined in S.136 of the Act and motor vehicles constructed or adapted solely for the purpose of carrying goods, but not exceeding 1.5 tonnes unladen weight (not having a trailer of caravan attached)	All days and all hours	Mondays to Saturdays inclusive 8.00 a.m. to 6.00 p.m.	2 hours
Bvery Street Car Park Nelson	as above	as above	as above	as above	2½ hours
New Brown Street Car Park Nelson	as above	as above	as above	as above	as above
Railway Street Car Park Nelson	as above	as above	as above	as above	as above
Stanley Street (Civic Theatre) Car Park Nelson	as above	as above	as above	as above	as above
Booth Street Car Park Nelson	as above	as above	as above	as above	as above

1. ING PLACE	2. POSITION IN WHICH VEHICLES MAY WAIT	3. CLASS OF VEHICLES PERMITTED TO PARK	4. DAYS AND HOURS OF OPERATION OF THE ORDER	5. DAYS AND HOURS OF OPERATION OF THE DISC PARKING PROVISIONS OF THE ORDER	6. MAXIMUM PERIOD FOR WHICH VEHICLES MAY WAIT
roadway Car ark Nelson	as above	as above	as above	as above	as above
elson Multi torey Car ark (Off etherfield oad) Levels , 2 & 3	as above	as above	as above	as above	3 hours