

**WIGAN BOROUGH COUNCIL**  
**WIGAN BOROUGH (OFF STREET PARKING PLACES)**  
**(DERBY STREET CAR PARK, TYLDESLEY) ORDER 2016**

The Wigan Borough Council in exercise of its powers under Sections 32, 35 and Part IV of Schedule 9 of the Road Traffic Regulation Act 1984 and under the Traffic Management Act 2004 and of all other powers enabling it in that behalf hereby makes the following Order:-

**PART 1**  
**GENERAL**

1. This Order may be cited as the Wigan Borough (Off Street Parking Places) (Derby Street Car Park, Tyldesley) Order 2016 and shall come into operation on 16<sup>th</sup> January 2017.

2.(1) 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;

“2004” Act means the Traffic Management Act 2004

“2000 Regulations” means the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000;

“applicable discount” and “applicable surcharge” means the amount of any discount or, as the case may be a surcharge set in accordance with Schedule 9 of the Traffic Management Act 2004

“Civil Enforcement Officer” means an individual authorised by or on behalf of the Council to supervise on street / off street parking places and the roads / streets within the jurisdiction of Wigan Borough Council in accordance with the 2004 Act

**“Council” means the Wigan Borough Council;**

**“disabled driver” means (i) any person driving an invalid carriage or (ii) any person driving an authorised vehicle fitted with a badge issued in accordance with the 2000 Regulations;**

**“disabled person” means a disabled person of a description presented by Regulation 5 of the 2000 Regulations;**

**“disabled person’s badge” means either**

- (i) a badge in the form prescribed by Regulation 11 of the 2000 Regulations;**
- or**
- (ii) a replacement badge issued in accordance with Regulation 7 of the 2000 Regulations.**

**“disabled person’s vehicle” has the same meaning as in the Local Authorities Traffic Orders (Exemption for Disabled Persons) (England) Regulations 2000 means a vehicle which displays in the relevant position a disabled person’s badge issued by any local authority in accordance with the provisions of the 2000 Regulations or a badge having effect under those regulations as if it were a disabled persons badge;**

**“driver”, in relation to a vehicle in the parking place, means the person driving the vehicle at the time it entered the parking place;**

**“parking disc” means a device which**

- (a) is 125 millimetres square and coloured blue;**
- (b) has been issued by a Local Authority and has not ceased to be valid; and**
- (c) is capable of showing the quarter-hour period during which a period of waiting has begun;**

**“parking place” means the area of land adjacent to Derby Street, Tyldesley.**

“penalty charge” means a penalty charge relating to a parking contravention and payable in accordance with Regulation 4 of The Civil Enforcement of Parking Contraventions (England) General Regulations 2007;

“penalty charge notice” means a notice which:-

- a) was served in accordance with Regulation 9 and 10 of the Civil Enforcement of Parking Contravention (England) General Regulations 2007 in relation to a parking contravention; and
- b) complies with the requirements of the Schedule to the said Regulations which apply to it as well as to those of Regulation 3 of The Civil Enforcement of Parking Contraventions (England) Representation and Appeal Regulations 2007.

“relevant charge” means the charges displayed for the time being on a sign located at the entrance to or within the parking place;

“relevant period” means the length of time for which a relevant charge has been paid PROVIDED THAT if a greater value of coins are inserted into the ticket machine than the maximum relevant charge could be for a parking place then the relevant period shall be the maximum stay for the parking place stated in the 3<sup>rd</sup> column of the Schedule;

“relevant position” means:-

- (i) A vehicle displays a disabled person's badge in the relevant position 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.
- (ii) A vehicle displays a parking disc in the relevant position if:-
  - (a) the disc is exhibited on the dashboard or fascia of the vehicle, or
  - (b) where the vehicle does not have a dashboard or fascia, the disc is exhibited in a conspicuous position on the vehicle;

so that, when marked to show the quarter-hour period during which a period of waiting began, that period is clearly legible from the outside of the vehicle

- (iii) A vehicle displays a parking ticket in the relevant position if:-
- (a) in the case of a vehicle fitted with a dashboard or facia panel, the parking ticket is exhibited thereon so that the time shown on the front of the parking ticket is legible from outside the vehicle.

Or

- (b) in the case of a vehicle not so fitted, the parking ticket is exhibited in a conspicuous position on the vehicle so that the time shown on the front of the parking ticket is legible from outside the vehicle.

- (iv) A vehicle displays a permit in the relevant position if:-

- (a) in the case of a vehicle fitted with a dashboard or facia panel, the permit is exhibited thereon so that the details shown on the front of the permit are legible from outside the vehicle.

Or

- (b) in the case of a vehicle not so fitted, the permit is exhibited in a conspicuous position on the vehicle so that the details shown on the front of the permit are legible from outside the vehicle.

“specified” means specified in the Schedule hereto.

“permit” means a permit issued by the Council.

- (2) Any reference in this Order to a numbered Article is a reference to the Article having that number in this Order.
- (3) The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

PART 2  
USE OF THE PARKING PLACE

- 3.(1) The parking place may be used on any Monday, Tuesday, Wednesday, Thursday, Friday and Saturday (other than a Bank or Public Holiday) between 8.00 am and 6.00 pm waiting limited to 120 minutes return prohibited within 240 minutes on payment of the relevant charge as the charges to be paid in connection with the use of the parking place subject to the provisions of this Order, as a place in which vehicles of the specified classes may wait.
- (2) The parking place may be used on any Sunday between 8.00 a.m. and 6.00pm and such other times as the Council may notify by a sign on the entrance to the parking place free of charge subject to the provisions of this Order, as a place in which vehicles of the specified classes may wait.
4. The driver of a vehicle shall not permit it to wait in the parking place –
- (a) unless it is of a specified class; or
  - (b) in a position other than a specified position, except as directed by a parking attendant; or
  - (c) for longer than the specified maximum period; or
  - (d) unless the relevant charge has been paid or a valid permit displayed as appropriate; or
  - (e) for longer than the period for which a relevant charge has been paid.
- 5.(1) The relevant charge for a vehicle left in a parking place on any Monday, Tuesday, Wednesday, Thursday, Friday and Saturday (other than a Bank or Public Holiday) between 8.00am and 6.00pm shall, subject as hereinafter provided, be the amount payable by virtue of Article 3(1) in respect of the use of the parking place.

- (2) Save where a season ticket has been issued in respect of the use by a vehicle of the parking place the relevant charge shall be paid on the leaving of a vehicle in the parking place on any Saturday (other than a Bank or Public Holiday) between 8.00 am and 6.00 pm and shall be paid by the insertion of the necessary coins into the apparatus or device provided at the parking place, being an apparatus or device approved in accordance with Section 35(3) of the 1984 Act, and the provisions of Section 47(5) of the said Act shall apply in respect of such apparatus or device.
- (3) The ticket issued on payment of the relevant charge shall be displayed in the vehicle in a conspicuous position so that it can be easily read from outside the vehicle.
- (4) Where a vehicle in respect of which a relevant charge has been paid is to remain in the parking place for longer than the relevant period for which the relevant charge was paid, a further relevant charge may be paid by the insertion of the necessary coins into the apparatus or device aforesaid before the expiry of the said relevant period in respect of which the first relevant charge was paid, and for the purposes of this Order (including this paragraph) any such further payment shall be deemed to be the payment of the relevant charge and this Order shall apply accordingly.
- (5) The Council may on application and in its absolute discretion issue in respect of any vehicle a season ticket for the parking place for the period indicated by the applicant, being a period in respect of which a fee is provided by this Order.
- (6) The appropriate fee shall be paid on the issue of a season ticket, which shall be valid for the period or until the day stated therein.

- 6.(1) A vehicle shall not be left in the parking place on any Monday, Tuesday, Wednesday, Thursday, Friday and Saturday (other than a Bank or Public Holiday) between 8.00 am and 6.00 pm for longer than the relevant period for which payment was made, or for longer than that period and any further period for which payment has been made in accordance with Article 5(4)
7. The driver of a vehicle shall not permit the vehicle to wait in the parking place unless the vehicle is licensed in accordance with Section 1 of the Vehicles (Excise) Act 1971 and there is in force in relation to the use of the vehicle by the driver such a policy of insurance as complies with the requirements of Part VI of the Road Traffic Act 1988.
8. The driver of a vehicle using the parking place shall stop the engine as soon as the vehicle is in position, and shall not start the engine except for the purpose of changing the position of the vehicle or departing from the parking place.
- 9.(1) No person shall use a vehicle in the parking place in connection with the sale or offering for sale of goods to persons in or near the parking place or in connection with the sale or hire or offering for sale or hire of his skill or services.
- (2) No person shall use any part of the parking place or any vehicle in the parking place –
- (a) for sleeping or camping purposes; or
  - (b) for eating or cooking purposes,
- and no person shall use any part of the parking place for the purposes of servicing or repairing or washing a vehicle or any part thereof otherwise than as may be reasonably necessary to enable the vehicle to depart from the parking place.
10. No person shall in the parking place –
- (a) erect or cause to be erected any tent, booth, stand or other structure without the written consent of the Council; or
  - (b) light or cause to light any fire.

11. The driver of a vehicle in the parking place shall not sound the horn or other similar instrument except when the position of the vehicle in the parking place is being changed or the vehicle is leaving the parking place.
12. If signs are erected or marked in the parking place for the purpose of –
  - (a) indicating the entrance to or exit from the parking place; or
  - (b) indicating the direction in which a vehicle may proceed,no person shall drive –
  - (i) so as to enter or attempt to enter the parking place otherwise than by the entrance so indicated;
  - (ii) so as to leave or attempt to leave the parking place otherwise than by the exit so indicated
  - (iii) otherwise than in accordance with the sign or marking indicating the direction in which a vehicle may proceed.
13. No person shall, except with the permission of a person duly authorised by the Council, drive a vehicle in the parking place otherwise than for the purpose of leaving the vehicle in the parking place in accordance with the provisions of this Order or for the purpose of departing from the parking place.
14. The provisions of Article 5 shall not apply with respect to –
  - (a) an invalid carriage;
  - (b) a vehicle issued to disabled person by the Department of Social Security in lieu of an invalid carriage;
  - (c) a vehicle used by a driver who is a person who on account of severe physical disability has been given a notice in writing by the Council that he is exempt from such provisions, if the notice is displayed on the vehicle in a conspicuous position; or
  - (d) a disabled person's vehicle which displays in the relevant position a disabled person's badge issued by any local authority in accordance with the 2000 Regulations or a badge having effect under those Regulation as if it were a disabled person's badge.



15. In the event of a contravention of Article 5(2) the driver of the vehicle shall be the person responsible for the purposes of section 35A(1) of the 1984 Act.
- 16.(1) Payment of the relevant charge in accordance with Article 5(2) and of any further charge paid pursuant to Article 5(4) shall be shown by means of a ticket issued by the apparatus or device referred to in the said Article 5(2).
  - (2) The time at which any such payment was made shall also be shown by means of the said ticket.
17. Penalty Charges
  - (1) If a vehicle is left in a parking place in contravention of or in non-compliance with this Order a penalty charge shall be payable for each day of the said contravention or non-compliance and/or the vehicle may be removed from that location.
  - (2) In the case of a vehicle in respect of which a penalty charge is payable, a penalty charge notice showing the information required by The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 and The Civil Enforcement of Parking Contravention (England) Representations and Appeals Regulations 2007 may then be issued by a civil enforcement officer in uniform in accordance with the Traffic Management Act 2004.
  - (3) If a vehicle is left after a penalty charge has been incurred, a civil enforcement officer in uniform or a person acting under his direction may attach to the vehicle an immobilisation device and a notice in accordance with the requirements of section 79 of the 2004 Act and that vehicle shall only be released from the device on payment of the penalty charge, or as the case may be the applicable discount or surcharge, along with such release fee as may be required by the Council.

- (4) Where a civil enforcement officer has removed or caused to be removed a vehicle in accordance with paragraph (1) of this Article:-
- (a) He shall provide for the safe custody of the vehicle;
  - (b) The Council shall be entitled to recover from the person responsible such charges in respect of the removal, storage and disposal of the vehicle as it might prescribe from time to time;
  - (c) the provisions of the 1984 Act as amended shall apply to the disposal of any such vehicle removed by or on behalf of the Council pursuant to this Article.

Nothing in paragraphs (3) and (4) of this Article shall apply in respect of a vehicle displaying in the relevant position a valid disabled person's badge issued by any local authority.

- (5) A Penalty Charge can be discharged by the driver of a vehicle in respect of which a Penalty Charge has been incurred paying the applicable discount to the Council in the amount and manner prescribed on the Penalty Charge Notice.
- (6) If the Penalty Charge is not discharged in accordance with Article 17(5) above then the Penalty Charge shall be discharged by the driver of a vehicle in respect of which a Penalty Charge has been incurred paying the full amount of the Penalty Charge in the amount and manner prescribed on the Penalty Charge Notice.

DATED this *5th* day of *December* 2016

EXECUTED as a DEED by )  
 affixing THE COMMON SEAL of )  
THE WIGAN BOROUGH COUNCIL )  
 in the presence of: )



*570/16*

Assistant Director - Legal

## SCHEDULE

<b>POSITION IN WHICH VEHICLE MAY WAIT</b>	<b>CLASSES OF VEHICLE</b>	<b>MAXIMUM PERIOD FOR WHICH VEHICLES MAY WAIT</b>
Wholly within a parking bay	<p>Motor cars as defined in Section 136 (2) (a) of the 1984 Act.</p> <p>Motor cars as defined in Section 136 (2) (b) of the 1984 Act but not exceeding 1525 kilograms unladen weight.</p> <p>Motor cycles as defined in Section 136 (4) of the 1984 Act.</p> <p>Invalid carriages as defined in Section 136(5) of the 1984 Act.</p>	<p>Monday, Tuesday, Wednesday, Thursday, Friday and Saturday 8am – 6pm waiting limited to 120 minutes return prohibited within 240 minutes Or such other times that the Council may notify by a sign on the entrance to the parking place</p>