

THE MIDLOTHIAN COUNCIL

THE MIDLOTHIAN COUNCIL (VARIOUS ROADS) (PROHIBITION AND RESTRICTION ON WAITING, LOADING AND UNLOADING ETC) (DECRIMINALISED PARKING ENFORCEMENT) DESIGNATION AND CONSOLIDATION ORDER 2018 - TO/R5.3.19

The Midlothian Council, in exercise of their powers under Sections 1(1), 2(1) to 2(3), 4(2), 32, 35, 45, 46, 49, 53 and 124 of, and Part IV of Schedule 9 to, the Road Traffic Regulation Act 1984, as amended and as modified by The Road Traffic (Permitted Parking Area and Special Parking Area) (Midlothian Council) Designation Order 2018 (SSI 2018/60) (which Act as so amended and modified is referred to in this Order as "the 1984 Act"), and of all other enabling powers and after consultation with the Chief Constable of the Police Service of Scotland in accordance with Part III of Schedule 9 to the 1984 Act hereby make the following Order:

Citation and Commencement

1. This Order may be cited as the "The Midlothian Council (Various Roads) (Prohibition and Restriction on Waiting, Loading and Unloading etc) (Decriminalised Parking Enforcement) Designation and Consolidation Order 2018" and shall come into operation on the Ninth day of April 2018.
2. This Order is made without prejudice to the validity of anything done or to any liability incurred in respect of any act or omission before the coming into operation of the Order.

Interpretation

- 3 In this Order, except where the context requires otherwise, the following expressions have the meanings hereby respectively assigned to them:
 - "Article" means an Article of this Order;
 - "carriageway" means an area of road over which all vehicles have a right of passage;
 - "Council" means The Midlothian Council;
 - "disabled person" and "disabled person's badge" have the same meaning as in the Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000, as subsequently amended or varied;
 - "disabled person's vehicle" means a vehicle lawfully displaying a disabled person's badge in the relevant position;
 - "emergency service vehicle" means a vehicle being used by the police, fire and rescue, or ambulance services;
 - "goods vehicle" has the same meaning as in the Road Vehicles (Construction and Use) Regulations 1986, as subsequently amended or varied;
 - "key" means the key of the computerised plan associated with this Order which links lengths of road to the prohibitions and restrictions etc to which they are subject.
 - "manner of parking" means the way in which a vehicle is parked at the edge of a carriageway;
 - "parking attendant" has the same meaning as in Section 63A of the 1984 Act;
 - "parking bay" means a space in a parking place which is provided for the leaving of a vehicle;
 - "permitted hours" means any period not exceeding the stipulated time in the specified time periods shown in each schedule, between the hours specified in each specific schedule;
 - "Plan" means the computerised plan associated with this Order on which all the prohibitions and restrictions imposed by the Order are recorded and linked to a key specifying the extent and duration of each;

"relevant position" has the same meaning as in Regulation 3 of the Local Authorities Traffic Orders (Exemptions for Disabled Persons) (Scotland) Regulations 2000 as subsequently varied or amended;

"restricted or prohibited hours" means any period during which the restrictions or prohibitions imposed by relevant Articles of this Order apply;

"road" includes part of a road;

"School Zig-Zag marking" has the same meaning as the appropriate sign within the Traffic Signs Regulations and General Directions 2016;

"Schedule" means a Schedule to this Order;

"street trader's licence" means a licence of that name issued under the powers contained in the Civic Government (Scotland) Act 1982, as subsequently varied or amended;

"taxi" has the same meaning as in Section 23(1) of the Civic Government (Scotland) Act 1982;

"taxi stance" means a stance appointed by the Council in terms of section 19 of the Civic Government (Scotland) Act 1982;

"telecommunication apparatus" has the same meaning as in the Telecommunications Act 1984;

"traffic sign" means a sign of any size, colour and type prescribed or authorised under, or having effect as though prescribed or authorised under, section 64 of the 1984 Act;

"universal postal service" and "universal postal service provider" shall be construed in accordance with Part 3 of the Postal Services Act 2011 as subsequently varied or amended;

"vehicle", unless the context requires otherwise, means a vehicle of any description and includes a machine or implement of any kind, drawn or propelled along roads whether or not by mechanical power.

- 3A For the purposes of this Order, a vehicle is 'stopped' if it is at rest, whether or not the driver or any other person is within, and 'stop' and 'stopping' are to be construed accordingly.
- 4 The restrictions, prohibitions and requirements imposed by this Order are in addition to and not in derogation of any restriction, prohibition or requirement imposed by any other enactment, and any exception or exemption to the provision of this Order is without prejudice to the provisions of any other enactment.

Prohibition of Waiting, Loading and Unloading in lengths of road in Schedule 1

- 5 Save as provided in Articles 12, 13, 14, 20 and 22, no person shall, except upon the direction or permission of a police constable or a parking attendant, cause or permit any vehicle to wait, load or unload at any time in any of the lengths of road shown on the associated Plan as being within Schedule 1.

Prohibition of Waiting in lengths of road in Schedule 2

- 6 Save as provided in Articles 12, 13, 14, 15, 16, 18, 19, 20, 21 and 22 no person shall, except upon the direction or with the permission of a police constable or a parking attendant, cause or permit any vehicle to wait at any time, in any of the lengths of road shown on the associated Plan as being within Schedule 2.

Restriction of Waiting in lengths of road in Schedule 3

- 7 Save as provided in Articles 12, 13, 14, 15, 16, 18, 19, 20, 21 and 22 no person shall, except upon the direction or with the permission of a police constable or a parking attendant, cause or permit any vehicle to wait between the hours of 8.00am and 6.00pm on Mondays to Sundays inclusive in any of the lengths of road shown on the associated Plan as being within Schedule 3.

Restriction of Waiting in lengths of road in Schedule 4

- 8 Save as provided in Articles 12, 13, 14, 15, 16, 18, 19, 20, 21 and 22 no person shall, except upon the direction or with the permission of a police constable or a parking attendant, cause or permit any vehicle to wait for more than 30 minutes, with no return permitted within two hours, between the hours of 8.30am and 6.00pm Mondays to Saturdays inclusive in any of the lengths of road shown on the associated Plan as being within Schedule 4.

Lengths of road and parking areas specified as disabled parking places in Schedule 5

- 9 Save as provided in Articles 12, 13, 14, 16, 18, 19, 20 and 22, no person shall, except upon the direction or with the permission of a police constable or a parking attendant, cause or permit any vehicle other than a disabled person's vehicle whilst properly displaying a valid disabled person's badge, to wait
- (a) at any time on Mondays to Sundays inclusive within a designated disabled person's bay on any length of road shown on the associated plan as being within Schedule 5a;
 - (b) for longer than 1 hour in any 2 hour period on Mondays to Saturdays between the hours of 8.30am and 6.00pm inclusive in any length of road shown on the associated Plan as being within Schedule 5b.

Lengths of road specified as loading / unloading bays in Schedule 6

- 10 Save as provided in Articles 12, 13, 14, 18, 19, 20, 21 and 22 no person shall, except upon the direction or with the permission of a police constable or a parking attendant, cause or permit any vehicle other than a vehicle in actual use for loading or unloading goods to wait during the Restricted hours in any length of road shown on the associated Plan as being in Schedule 6, and no such vehicle may remain for more than 30 minutes, or return if a period of less than 30 minutes has elapsed since the last period of waiting in that length of road.

School Keep Clear markings in Schedule 7

- 11 Save as provided in Articles 12, 13, 14, and 22 no person shall, except upon the direction or with the permission of a police constable or a parking attendant, cause or permit any vehicle to stop between the hours of 8.00am to 9.00am and 2.15pm to 4.30pm on Mondays to Thursdays or between 8.00am and 9.00am and 12.00 noon to 1.30pm on Fridays on the School Keep Clear (zig-zag) markings in any length of road shown on the associated Plan as being within Schedule 7.

Lengths of road specified as taxi stances in Schedule 8

- 11A Save as provided in Articles 13, 14 and 22 no person shall, except upon the direction or with the permission of a police constable or a parking attendant, cause or permit any vehicle other than a taxi to enter into or wait in any length of road shown on the associated plan as being a designated taxi stance within Schedule 8 during the hours of operation.

Exception for Parking Holidays

- 12 The following days of the year are designated as 'parking holidays' and will be exempt from enforcement activity: 1 January, 2 January, 25 December and 26 December, and the next available weekday when any of those days falls on a Saturday or Sunday in a particular year.

Exemption from Waiting Restrictions – Emergency and Local Authority Vehicles

- 13 Nothing in Articles 5, 6, 7, 8, 9, 10 or 11 shall apply to vehicles:
- (a) being used for fire and rescue, ambulance or police service purposes; or
 - (b) while being used in the service of the local roads authority in pursuance of statutory powers or duties: provided that in all the circumstances it is reasonably necessary in the exercise of

such powers or duties for the vehicle to wait or stop at the place in which it is either waiting or stopped.

Exemption from Waiting Restrictions - General Operations

- 14 Nothing in Articles 5, 6, 7, 8, 9, 10 or 11 shall prevent any person from causing or permitting a vehicle to wait in any of the lengths of road referred to in those Articles for so long as may be necessary to enable the vehicle, if it cannot conveniently be used for such purposes in any other road, to be used in connection with any:
- (a) building operation; or
 - (b) demolition; or
 - (c) the laying, erection, alteration or repair of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity or of any electronic communications apparatus; or
 - (d) excavation; or
 - (f) the placing, maintenance or removal of any traffic sign.

Exemption from Waiting Restrictions - Disabled Person's Vehicles

- 15 Nothing in Articles 6, 7 or 8 shall apply to a disabled person's vehicle displaying a valid disabled person's badge which is not causing an obstruction and is being driven or used by disabled persons.

Exemptions from Waiting Restrictions - Loading and Unloading of Goods

- 16 Nothing in Articles 6, 7, 8, 9 or 11 shall prevent any person from causing or permitting a vehicle to wait in any of the lengths of roads specified for as long as may be necessary for the purpose of delivering or collecting goods or merchandise or loading or unloading the vehicle at premises adjoining that road, provided that no such vehicle shall wait:
- (a) for a longer period than thirty minutes in the same place; or
 - (b) for a longer than 10 minutes in the same place without goods being loaded into or unloaded from the vehicle.
- 17 Notwithstanding anything in Article 16, the driver of a vehicle engaged in delivering, collecting, loading or unloading goods or merchandise shall move the vehicle on the instruction of a police constable or a parking attendant whenever such moving may be reasonably necessary for the purpose of preventing an obstruction.

Exceptions from Waiting Restrictions – Universal Service Providers

- 18 Nothing in Articles 6, 7 or 8 shall prevent any person from causing or permitting a liveried vehicle in the service of, or being employed by, a universal service provider or registered delivery company from waiting whilst in actual use while postal packets:
- (a) which are addressed to premises adjacent to that road are being unloaded from the vehicle or, having been unloaded, are being delivered, or
 - (b) are being collected from postal boxes or premises adjacent to that road for loading onto the vehicle or are being loaded onto the vehicle.

Exceptions from Waiting Restrictions – Security Vehicles

- 19 Nothing in Articles 6, 7 or 8 shall apply to a vehicle in the service of, or being employed by, a security company which is in actual use while currency or other valuables:
- (a) are being unloaded from the vehicle or, having been unloaded, are being delivered; or
 - (b) are being collected from premises adjacent to the road for loading onto the vehicle, or having been collected, are being loaded onto the vehicle.

Exceptions from Waiting Restrictions - Funeral Vehicles

- 20 Nothing in Articles 5, 6, 7, 8, 9 or 10 of this Order shall apply to designated undertakers' vehicles being used in connection with an actual funeral undertaking.

Exceptions from Waiting Restrictions – Boarding and Alighting

- 21 Nothing in Articles 6, 7, 8, 9 or 10 of this Order shall prevent any person from causing or permitting a vehicle to wait in any of the lengths of road referred to in those Articles for so long as may be necessary to enable a person to board or alight from a vehicle, or to load thereon or unload therefrom his personal luggage, provided that no vehicle shall wait in any such road for longer than 10 minutes or such longer period as a police constable or a parking attendant may approve.

Exceptions from Waiting Restrictions – Accidents etc

- 22 Nothing in Articles 5, 6, 7, 8, 9, 10 or 11 of this Order shall prevent any person from causing or permitting a vehicle to wait in any of the lengths of road referred to in those Articles
- (a) because the driver is obliged to stop in order to avoid an accident; or
 - (b) because the driver is prevented from proceeding by circumstances beyond their control which relate directly to the movement, or otherwise, of traffic on the road.

Duty to Move On

- 23 Notwithstanding any exception contained in this Order, the person in control of any vehicle loading, unloading or waiting during the restricted or prohibited hours in any of the lengths of road specified in Schedules 1, 2, 3, 4, 5, 6 or 7 shall move the vehicle on the instructions of a police constable or a parking attendant, whenever such removal is required.

Manner of Waiting

- 24 The driver of any vehicle waiting in any of the lengths of road specified in Schedules 3, 4, 5, 6, or 7 shall, unless a different orientation is marked or signed, or indicated by a police constable or a parking attendant, wait so that:
- (a) the left or nearside of the vehicle is parallel to the edge of the carriageway, and
 - (b) the nearest wheels of the vehicle are not more than 0.3m from the edge of the carriageway nearest to the vehicle.

Use of Vehicle

- 25 No person shall use a vehicle while it is in a 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 skill or services, unless they hold a street trader's licence in respect of such sale or hire or unless parking restrictions have been suspended by the Council and an appropriate permit issued in respect of the activities.

Suspension of Waiting, Loading etc

- 26 A person authorised by the Council or a police officer in uniform may suspend the use of all or part of a waiting place, loading bay or taxi stance etc, and shall arranged for the suspension to be clearly signed.

Contravention and Penalty Charge

27 If a vehicle is parked without complying with the requirements of this Order, a contravention shall have occurred and a penalty charge shall be payable. A penalty charge notice may then be issued and served, or the vehicle may be removed from its location. A penalty charge shall be payable in respect of any contravention on each calendar day. All enforcement action shall be in terms of current legislation.

Relocation, Removal and Disposal of Vehicles

28 Any person removing a vehicle under the terms of this Order shall make such arrangements as may be reasonably necessary for the safekeeping of the vehicle, and the cost of moving and safekeeping shall be the liability of the owner of the vehicle.

Validity

29 If a court or the Parking and Bus Lane Tribunal Service for Scotland declares any part of this Order to be invalid or not enforceable, such declaration shall not invalidate the remainder of this Order.

Revocations

30 The following orders are hereby revoked:

- (1) The Burgh of Penicuik (Various Streets) (Prohibition and Restriction of Waiting) Order 1971, as varied.
- (2) The Lothian Regional Council (Various Streets, Dalkeith) (Traffic Regulations; Prohibition and Restriction on Waiting etc) Order 1977, as varied.
- (3) The Midlothian Council (Loanhead and Straiton, Midlothian) (Various Roads) (Prohibition of Waiting) Traffic Regulation Order 1999 (T4.55), as varied.
- (4) The Midlothian Council (Various Streets, Loanhead, Midlothian) (Prohibition and Restriction of Waiting, Loading and Unloading) Traffic Regulation Order 2001 (T4.76), as varied.
- (5) The Midlothian Council (Disabled Parking Places, Dalkeith) Traffic Regulation Order 2001 (T4.91), as varied.
- (6) The Midlothian Council (Various Roads, Bonnyrigg) (Prohibition and Restriction on Waiting, Loading and Unloading) Traffic Regulation Order 2006 (T4.189), as varied.
- (7) The Midlothian Council (Various Roads, Bilston) (Waiting Restrictions) Traffic Regulation Order 2005 (T4.194), as varied.
- (8) The Midlothian Council (Various Roads, Roslin) (Restrictions on Waiting) Traffic Regulation Order 2005 (T4.200), as varied.
- (9) The Midlothian Council (Various Roads, Newtongrange) (Prohibition and Restriction on Waiting, Loading and Unloading) Traffic Regulation Order 2006 (T4.192), as varied.
- (10) The Midlothian Council (Various Streets, Gorebridge) (Waiting Restrictions) Traffic Regulation Order 2007 (T4.239), as varied.
- (11) The Midlothian Council (Various Roads, Midlothian) (Waiting Restrictions at Schools) Traffic Regulation Order 2008 (T4.220), as varied.

Given under the Seal of The Midlothian Council this Twenty-seventh day of March Two thousand and eighteen.

Alan Turpie
Proper Officer










Explanatory Note

(This Note is not part of the Order)

All the Prohibitions and Restrictions imposed by this Order are plotted on a computerised plan of Midlothian, with a key to identify the Schedules, the prohibitions and restrictions in place, and the days and times to which they apply.

2018 Parent Order for R5.3.62

APPENDIX 1 : PLAN KEY

KEY					
 1	No waiting or loading at any time	 4	Limited waiting Mon-Sat 8.30am-6pm : 30 minutes, no return within 2 hours	 6	Goods vehicles loading and unloading only
 2	No waiting at any time	 5a	Disabled badge holders only 24 hours	 7	School Keep Clear: No stopping Mon-Thurs 8am-9am and 2.15pm-4:30 pm, and Fri 8am-9am and 12noon-1:30pm
 3	No waiting Mon-Sat 8am-6pm	 5b	Disabled badge holders only Mon-Sat 8.30am to 6pm: 1 hour, no return within 2 hours	 8	Taxis only

APPENDIX 2 : PLAN VARIATIONS

Plan Reference	Effective Date	Revision	Made Date	Purpose
Mid/R5.3.19-01	09/04/2018	R5.3.19	27/03/2018	Original Order as Made
Mid/R5.3.19-02	04/02/2019	R5.3.25	22/01/2019	Corrects entries relating to 'School Keep Clear' restrictions
Mid/R5.3.19-03	08/04/2019	R5.3.27	19/03/2019	Applies DYL waiting restrictions at and around the Beechgrove Road / Stone Avenue / Stone Crescent / Sycamore Road junction, and SKC restrictions on Stone Place, all in Mayfield
		R5.3.34	19/03/2019	Applies DYL waiting restrictions to a section of B6372 Lady Brae, Gorebridge
		R5.3.41	19/03/2019	Applies DYL waiting restrictions on A6094 Rosewell Road and at junctions on Polton Avenue Road, Bonnyrigg
		R5.3.45	19/03/2019	Applies DYL waiting restrictions at the junction of Cuiken Bank and Cuiken Terrace in Penicuik
Mid/R5.3.19-04	19/08/2019	R5.3.21	24/06/2019	Formalises taxi stances in Bonnyrigg and Dalkeith
		R5.3.36	06/08/2019	Creates loading bays in Dalkeith, Newtongrange and Roslin and varies entries relating to existing bays: varies criteria for use of loading bays; clarifies powers to issue penalty charges and to remove vehicles
		R5.3.49	06/08/2019	Applies DYL waiting restrictions at the junction of B6372 Lady Brae and Vogrie Road, Gorebridge
Mid/R5.3.19-05	10/08/2020	R5.3.24	28/07/2020	Varies waiting etc restrictions on A701 John Street, Penicuik
		R5.3.37	28/07/2020	Applies DYL (24 hour) waiting restrictions to sections of B7006 Main Street, Roslin
		R5.3.56	28/07/2020	Applies waiting restrictions along a section of A6094 Eskbank Road, Bonnyrigg

APPENDIX 3 : SCHEDULES

Schedule 1	Lengths of Roads where Waiting, Loading and Unloading are Prohibited at all times
Schedule 2	Lengths of Roads where Waiting is Prohibited at all times
Schedule 3	Lengths of Roads where Waiting is Prohibited at specified times
Schedule 4	Lengths of Roads where Waiting is Limited to 30 minutes during the day, with no return within two hours
Schedule 5	Lengths of Roads where Waiting is Allowed only for Disabled Person's vehicles
Schedule 6	Lengths of Roads designated for Loading and Unloading only
Schedule 7	School Keep Clear: Lengths of Roads where Stopping, Waiting and Loading are Prohibited at school arrival and departure times
Schedule 8	Lengths of Roads designated for Taxis only