

DATED

2010

BOROUGH OF TORBAY
(VARIOUS STREETS, BRIXHAM)
(CONTROL OF WAITING, LOADING AND UNLOADING)
ORDER 2010

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BOROUGH OF TORBAY
(VARIOUS STREETS, BRIXHAM)
(CONTROL OF WAITING, LOADING AND UNLOADING)
ORDER 2010

THE COUNCIL OF THE BOROUGH OF TORBAY ("the Council") in exercise of its powers under sections 1(1), 2(1), 2(2), 4(2) and 124 of and Part IV of Schedule 9 to the Road Traffic Regulation Act 1984 ("the 1984 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 of 1984 hereby makes the following Order:-

1. This Order shall come into force on the _____ day of _____ and may be cited as the Borough of Torbay (Various Streets, Brixham) (Control of Waiting, Loading and Unloading) Order 2010.

2. Without prejudice to the validity of anything done before or to any liability incurred before the coming into force of this Order the Orders specified in Schedule 16 are hereby revoked.

3. (1) In this Order the following expressions have the meanings hereby respectively assigned to them:-

"bus" and "local bus" have the same meanings as in regulation 22(2) and 4 respectively of the Traffic Signs Regulations and General Directions 2002;

"bus stop area" means any area of carriageway of a specified road intended for the waiting of buses which is comprised within and indicated by a road marking complying with either diagram 1025.1, 1025.3 or 1025.4 in Schedule 6 of the Traffic Signs Regulations and General Directions 2002;

"civil enforcement officer" means a person in uniform authorised by or on behalf of the Council to enforce the provisions of this Order;

"disabled person's badge" has the same meaning as in Regulation 3(1) of the Local Authorities' Traffic Orders (Exemption for Disabled Persons) (England) Regulations 2000 and "relevant position" has the same meaning as in Regulation 4 of those Regulations;

"driver" in relation to a vehicle waiting in a length of road specified in a Schedule to this Order means the person driving the vehicle at the time it was left in that length of road;

"goods vehicle" means a motor vehicle or trailer constructed or permanently adapted solely for the carriage or haulage of goods or burden of any description;

"parking disc" means a disc which has been issued by a local authority and has not ceased to be valid, is 125mm square and coloured blue and is capable of showing the quarter hour period during which a period of waiting has begun;

"parking place" means any area of a length of road specified in Article 4 or Article 5 provided for the leaving of a vehicle or vehicles and "parking space" means any individual area within a parking place provided for the leaving of one vehicle only, and which is either -

(a) bounded on one side or more than one side by the edge of the carriageway of that length of road and on the other side or sides by a traffic sign indicating the limits of the area of carriageway within which a vehicle may be parked; or

(b) bounded on all sides by a traffic sign indicating the limits of the area of carriageway or the area of footway or the area of both carriageway and footway, as the case may be, within which a vehicle may be parked,

and the boundaries referred to in paragraphs (a) and (b) above shall be taken to be the limits of a parking place or the limits of a parking space, as the case may be, for the purposes of Article 9 of this Order;

"penalty charge" means the charge set under the provisions of the Traffic Management Act 2004, with the approval of the Secretary of State for Transport, which is to be paid to the Council following the issue of a penalty charge notice;

"penalty charge notice" means a notice issued or served by a civil enforcement officer pursuant to the provisions of the Traffic Management Act 2004;

"postal packet" has the same meaning as in the Postal Services Act 2000;

"prescribed hours", in relation to a parking place, means the period of time specified in relation to a length of road referred to in Article 4 or Article 5 in which the parking place is situated;

"road" means the carriageway and any footway, pavement, verge, or grass verge comprising a road;

"taxi" has the same meaning as in the Traffic Signs Regulations and General Directions 2002;

"taxi rank" has the same meaning as in the Traffic Signs Regulations and General Directions 2002 comprising an area of carriageway within and indicated by a traffic sign complying with diagram 1028.2 in Schedule 6 of those Regulations;

"traffic sign" means a traffic sign of the size, colour or type prescribed or authorised under section 64 of the Road Traffic Regulation Act 1984, including any line or marking on a road;

"vehicle" includes any part of a vehicle.

- (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.
4. Save as provided in Articles 6 and 7 no person shall, except upon the direction or with the permission of a police constable in uniform, or a civil enforcement officer, cause or permit any vehicle to -
- (a) wait at any time in any length of road specified in Schedule 1.0;
 - (b) wait at any time between the first day of May and the thirtieth day of September (both dates inclusive every year) in any length of road specified in Schedule 2.0;
 - (c) wait between the hours of 8am and 6pm on any day of the week in any length of road specified in Schedule 4.0;
 - (d) wait between the hours of 8am and 10pm on any day of the week in any length of road specified in Schedule 4.1;
 - (e) wait between the hours of 8am and 6pm on Mondays to Fridays inclusive between the first day of September and the thirty-first day of July(both dates inclusive every year)and excluding public holidays in any length of road specified in Schedule 5.0;
 - (f) proceed between the hours of 10am and 10pm on any day of the week between the first day of June and the thirty-first day of October (both dates inclusive every year) or between the hours of 10am and 6pm on any day of the week between the first day of November in any one year and the thirty-first day of May of the following year (both dates inclusive in any length of road specified in Schedule 6.0;
 - (g) be loaded or unloaded at any time in any length of road specified in Schedule 7.0;

- (h) be loaded or unloaded between the hours of 9am and 4pm on Mondays to Saturdays inclusive in any length of road specified in Schedule 7.1;
- (i) be loaded or unloaded between the hours of 10am and 12 noon and 2pm and 5pm on any day of the week between the first day of June and the thirty-first day of August (both dates inclusive every year) in any length of road specified in Schedule 8.0;
- (j) be loaded or unloaded between the hours of 10am and 10pm on any day of the week between the first day of June and the thirty-first day of October(both dates inclusive every year) or between the hours of 10am and 6pm on any day of the week between the first day of November in any one year and the thirty-first day of May of the following year (both dates inclusive in any length of road specified in Schedule 8.1;
- (k) wait between the hours of 8am and 6pm on any day of the week in any length of road specified in Schedule 9.0 –
 - (i) for a longer period than one hour;
 - (ii) if a period of less than one hour has elapsed since the termination of the last period of waiting (if any) by that vehicle in that length of road;
- (l) wait between the hours of 8am and 6pm Mondays – Saturdays inclusive in any length of road specified in Schedule 9.1 –
 - (i) for a longer period than one hour;
 - (ii) if a period of less than two hours has elapsed since the termination of the last period of waiting (if any) by that vehicle in that length of road;
- (m) wait between the hours of 8am and 6pm on any day of the week in any length of road specified in Schedule 9.2 –
 - (i) for a longer period than two hours;
 - (iii) if a period of less than two hours has elapsed since the termination of the last period of waiting (if any) by that vehicle in that length of road;

- (n) wait between the hours of 8am and 6pm Mondays – Fridays inclusive in any length of road specified in Schedule 9.3 –
 - (i) for a longer period than two hours;
 - (iv) if a period of less than three hours has elapsed since the termination of the last period of waiting (if any) by that vehicle in that length of road;

- (o) wait between the hours of 8am and 6pm on any day of the week between the first day of May and the thirtieth day of September (both dates inclusive every year) in any length of road specified in Schedule 10.0 –
 - (i) for a longer period than one hour;
 - (ii) if a period of less than one hour has elapsed since the termination of the last period of waiting (if any) by that vehicle in that length of road.

- (p) wait between the hours of 8am and 6pm on any day of the week between the first day of May and the thirtieth day of September (both dates inclusive every year) in any length of road specified in Schedule 10.1 –
 - (iii) for a longer period than two hours;
 - (ii) if a period of less than two hours has elapsed since the termination of the last period of waiting (if any) by that vehicle in that length of road.

5. Save as provided in Article 8 no person shall, except upon the direction or with the permission of a police constable in uniform, or a civil enforcement officer, cause or permit any vehicle:

- (a) to stop or remain at rest at any time in a school keep clear marking as specified in Schedule 3.0;
- (b) to wait other than for so long as may necessary for the purpose of enabling goods to be loaded on or unloaded from that vehicle at any time in any authorised loading bay specified in Schedule 11.0;

- (c) to wait for the purpose of enabling goods to be loaded on or unloaded from that vehicle between the hours of 8am and 10am on any one day of the week in any authorised loading bay specified in Schedule 11.1 –
 - (i) for a longer period than 30 minutes,
 - (ii) if a period of less than two hours has elapsed since the termination of the last period of loading or unloading (if any) by that vehicle in that length of road
 - (d) other than a bus, to wait between the hours of 8am and 9am and 3pm and 4pm on Mondays to Fridays inclusive in any length of road specified in Schedule 12.0;
 - (e) other than a bus, to wait between the hours of 10am and 6pm on any one day of the week in any length of road specified in Schedule 12.1;
 - (i) for a longer period than 30 minutes,
 - (iv) if a period of less than two hours has elapsed since the termination of the last period of waiting (if any) by that vehicle in that length of road;
 - (f) other than a bus, to wait between the hours of 10am and 4pm on any one day of the week or a goods vehicle to wait between the hours of 4pm on any one day of the week and 10am on the following day in any length of road specified in Schedule 12.2;
 - (g) other than a goods vehicle, to wait between the hours of 10pm on any one day of the week and 10am on the following day between the first day of June and the thirty-first day of October (both dates inclusive every year) or between the hours of 6pm on any one day and 10am on the following day between the first day of November in any one year and the thirty-first day of May of the following year (both dates inclusive) in any length of road specified in Schedule 13.0;
 - (h) other than a goods vehicle, to wait at any time in any length of road specified in Schedule 13.1;
 - (i) other than a local bus, to stop between the hours of 7am and 7pm on any day of the week in a bus stop area as specified in Schedule 14.0;
 - (j) other than a taxi, to wait at any time in a taxi stand as specified in Schedule 15.0.
6. Nothing in Articles 4(a) to 4(f) inclusive shall render it unlawful to cause or permit any vehicle to wait in any of the lengths of roads referred to in those Articles for a period of not more than 20 minutes in the same place to enable goods to be

loaded on or unloaded from the vehicle provided that such loading or unloading is not prohibited by virtue of Article 4(g) or 4(j).

- 7 (1) Nothing in Article 4 shall render it unlawful to cause or permit any vehicle to wait in any of the lengths of roads referred to in that Article for so long as may be necessary to enable-
- (a) a person to board or alight from the vehicle;
 - (b) the vehicle if it cannot conveniently be used for such purpose in any other road to be used in connection with any of the following operations namely-
 - (i) building, industrial or demolition operations;
 - (i) the removal of any obstruction to traffic;
 - (ii) the maintenance, improvement or reconstruction of the said lengths of roads; or
 - (iv) the laying, erection, alteration or repair in or in land adjacent to the said lengths of roads of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity or of any electronic communications network within the meaning of the Communications Act 2003;
 - (c) the vehicle, if it cannot conveniently be used for such purposes in any other road, to be used in the service of a local authority or a water authority in pursuance of statutory powers or duties;
 - (d) the vehicle to take in petrol, oil, water or air from any garage situated on or adjacent to the said lengths of road;
 - (e) the vehicle to be used for fire, ambulance or police purposes;
 - (f) any vehicle being a taxi to wait upon an authorised taxi rank or stand.
 - (g) the vehicle belonging to the Post Office and other companies engaged for the purpose of collecting or delivering postal packets, cash or valuable securities to banks, building society, post offices or post boxes and business premises.
 - (h) any vehicle being used by dignitaries in pursuance of ceremonial duties on behalf of the local authority.

- (2) Nothing in Articles 4(a) to 4(f) inclusive shall render it unlawful to cause or permit a vehicle which displays in the relevant position a disabled person's badge and a parking disc (on which the driver or other person in charge of the vehicle has marked the time at which the period of waiting began) to wait in any length of road referred to in the said Articles for a period not exceeding three hours (not being a period separated by an interval of less than one hour from a previous period of waiting by the same vehicle in the same length of road on the same day) and provided that the loading or unloading of a vehicle in that length of road is not prohibited by virtue of Articles 4(g) or 4(j).
 - (3) Nothing in Articles 4(g) or 4(j) shall render it unlawful for a person to cause or permit a vehicle which displays in the relevant position a disabled person's badge to wait in any length of road referred to therein.
8. Nothing in Article 5 shall render it unlawful for a person to cause or permit a vehicle to wait in any length of road specified in Schedule 11.0, 11.1 or a bus stop area specified in Schedule 12.0, 12.1, 12.2, or a taxi stand specified in Schedule 15.0 –
 - (a) if the vehicle is being used for the removal of any obstruction to traffic; or
 - (b) if the vehicle is being used in the service of a local authority or a water authority in exercise of statutory powers or duties and whilst being so used in such service it is necessary for the vehicle to wait in that length of road or bus stop area; or
 - (c) if the vehicle is being used for police, fire or ambulance purposes; or
 - (d) in any case where the person in control of the vehicle –
 - (i) is required by law to stop;
 - (ii) is obliged to stop so as to prevent any accident; or
 - (iii) is prevented from proceeding by circumstances beyond their control.
 - (e) any vehicle being used by dignitaries in pursuance of ceremonial duties on behalf of the local authority.
 - (f) any vehicle being a taxi to wait upon an authorised taxi rank or stand:-

- (i) provided the driver is in the taxi and available for immediate hire when their taxi is first or second on an authorised taxi rank or stand; or
- (ii) the driver is available when any other taxi immediately in front of their vehicle is driven off, or moved forward, so as to fill the space previously occupied by the taxi in front.

9. The driver of a vehicle waiting in a parking place during the prescribed hours shall cause it so to stand:

- (a) so that every part of the vehicle is wholly within the limits of the parking place, or where the parking place is comprised of parking spaces, wholly within the limits of a parking space;
- (b) so that no part of the vehicle obstructs any vehicular means of ingress to or egress from any premises adjacent to the side of the road on which the vehicle is waiting.
- (c) so that the longitudinal axis of the vehicle is parallel to the edge of the carriageway nearest to the vehicle and the distance between the said edge and the nearest wheel of the vehicle is not more than 30 centimetres.

Authorisation and Use of Health Care Badges.

10. (1) Any carer may apply to the Council for the issue of a Health Care Badge for the leaving of a Motor Vehicle outside or near the place of residence of the person or persons that they care for, and any such application shall be made on a form issued by and obtainable from the Council and shall include the particulars and information required by the Council to be supplied.
- (2) The Holder of a Health Care Badge may leave a Motor Vehicle which displays in the relevant position a Health Care Badge and a parking disc (on which the driver or other person in charge of the vehicle has marked the time at which the period of waiting began) outside or near the place of residence of the person or persons that they care for to wait;-
- (i) for a period of up to 1 hour on a No Waiting Restriction,
 - (ii) for an additional period of up to 1 hour in a limited waiting bay during the specified periods of waiting that apply to the limited waiting parking place,
 - (iii) for a period of up to 15 minutes in a loading bay.

- (3) The Council may at any time require an applicant for a Health Care Badge or Health Care Badge Holder to produce to an officer of the Council such evidence in respect of an application or an issued badge as they may reasonably require to verify any particulars or information given or to verify that an issued badge is valid.
 - (4) On receipt of an application made under the foregoing provisions of this Article the Council upon being satisfied with the particulars and information given shall at its' absolute discretion issue to the applicant one Health Care Badge, parking disc and a Protective Cover for the leaving by the holder during the prescribed hours of the vehicle to which such badge relates in accordance with part (2) of this Article.
 - (5) Subject to the provisions of Article 11 of this Order the Council shall not issue a Health Care Badge to any carer which would be valid for any periods during which any other Health Care Badge issued to that carer extends.
 - (6) There will be a minimum £15 charge subject to an annual review by the Council in connection with the issue of a Health Care Badge.
 - (7) If the Carer's duties for which the application was made cease the Health Care Badge will no longer be valid and must be surrendered to the Council immediately.
 - (8) If it appears to the Council that any of the provisions contained in this part of this Order are being abused or not being complied with in respect of the use of a Health Care Badge the Council may at its absolute discretion, by notice in writing served on the Badge Holder at the address shown by that person on the application for the Health Care Badge or at any address believed to be that person's place of abode, withdraw the Health Care Badge and the Badge holder shall surrender the Health Care Badge and parking disc to the Council within 48 hours of the receipt of the aforementioned notice.
- 11.
- (1) If a Health Care Badge is mutilated or accidentally defaced or the particulars thereon have become illegible or the colour of the badge has become altered by fading or otherwise the badge shall be considered invalid and the badge holder shall be required to surrender it to the Council and apply for the issue of a duplicate badge. If a badge has been obtained or defaced in an attempt to defraud the Council then the individual will not be entitled to apply for another badge.
 - (2) If a Health Care Badge is lost or destroyed, the badge holder may apply to the Council for the issue of a duplicate badge and the Council, upon being satisfied as to such loss or destruction, shall issue a duplicate badge and upon such issue the badge that has been replaced shall become invalid.
 - (3) The provisions of this part of this Order shall apply to a duplicate Health Care Badge or as the case may be an application therefore.

12. A Health Care Badge shall be in writing and include the following particulars:-
 - (a) the registration mark of the vehicle in respect of which the Health care Badge has been issued;
 - (b) the period during which, subject to the provisions of parts (6) and (7) of Article 10 of this Order, the badge shall remain valid;
 - (c) an indication of the parking areas for which the badge applies;
 - (d) an indication that the badge has been issued by the Council.
13. At all times during which a vehicle is left on a no waiting restriction or in a parking place during the prescribed hours the Driver thereof shall cause to be displayed in the front windscreen of the vehicle a valid Health Care Badge and parking disc relating to that parking place in the protective cover so that all the particulars referred to in Article 12 of this Order are readily visible from the front or nearside of the vehicle.
14. Where a Health Care Badge has been displayed on a vehicle in accordance with the provisions of Article 13 of this Order, no person, not being the Driver of the vehicle, shall remove the badge from the vehicle unless authorised to do so by the Driver of the vehicle.
15. If a vehicle is left or parked without complying with the provisions of this Order, then a contravention shall be deemed to have occurred and a penalty charge shall be payable. A penalty charge notice showing the information required by the Traffic Management Act 2004 may then be issued by a civil enforcement officer in accordance with the requirements of that Act.
16. When a notice has been attached to a vehicle in accordance with the provisions of Article 15 no person not being the driver of the vehicle or a person duly authorised by the Council shall remove the notice from the vehicle.
17. (1) The penalty charge shall be paid to the Council in accordance with the instructions indicated on the penalty charge notice, either –
 - (a) by cheque or postal order, which shall be delivered or sent by post to the address indicated in the penalty charge notice; or
 - (b) in cash, which shall either be delivered in person or sent by registered post to the address indicated on the penalty charge notice; or
 - (c) by any other accepted means which is agreed by the Council or authorised agent and the person or persons paying the penalty charge.

- (2) The penalty charge must be paid to the Council before the end of twenty-eight days beginning with the date of the penalty charge notice.
- (3) If the penalty charge is paid to the Council before the end of a period of fourteen days beginning with the date of the penalty charge notice, the amount of the penalty charge shall be reduced in accordance with the provisions of the Traffic Management Act 2004.
- (4) For the purposes of this Article the penalty charge shall be taken to be paid when it is received at the office at the address indicated on the penalty charge notice and if the end of the period of twenty-eight days specified in paragraph (2) of this Article or the end of the period of fourteen days specified in paragraph (3) of this Article falls upon a day on which the said office is closed, the period within which payment of the penalty charge shall be made shall be extended until the time at which the said office closes on the next full day on which that office is open.

Suspension of Parking Places.

18. (1) Any person duly authorised by the Council may suspend the use of a parking place or any part thereof whenever he/she considers such suspension reasonably necessary:-
 - (a) for the purpose of facilitating the movement of traffic or promoting its safety;
 - (b) for the purpose of any building operation, demolition or excavation in or adjacent to the parking place or the maintenance, improvement or reconstruction of the parking place or the laying, erection, alteration, removal or repair in or adjacent to the parking place of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity or of any telegraphic line, traffic sign or parking meter;
 - (c) for the convenience of occupiers of premises adjacent to the parking place on any occasion of the removal of furniture from the premises to another or the delivery of furniture to the adjacent premises from another.
 - (d) On any occasion on which it is likely to be by reason of some special attraction or sporting event that any street will be thronged or obstructed; or
 - (e) For the convenience of occupiers of the premises adjacent to the parking place at times of weddings or funerals, or on other special or commemorative occasions.
- (2) A Police Constable in uniform may suspend for not longer than twenty-four hours the use of a parking place or any part thereof whenever he/she considers such suspension reasonably necessary for the purpose of facilitating the movement of traffic or promoting its safety.

- (3) At the discretion of the Chief Officer of Police a parking place or any part thereof shall be suspended whenever he/she considers such suspension reasonably necessary to enable the police to discharge their duties.
- (4) Any person suspending the use of a parking place or any part thereof in accordance with the provisions of paragraphs (1) or (2) above shall thereupon place or cause to be placed in or adjacent to that part or those parts a traffic sign or signs indicating that waiting is prohibited.
- (5) No person shall cause or permit a vehicle to be left in any part of a parking place during such period that there is in or adjacent to that part of the parking place a traffic sign placed in pursuance of paragraph 4 above provided that nothing in this paragraph shall render it unlawful to cause or permit any vehicle being used for fire brigade, ambulance or police purposes or any other vehicle duly authorised or directed by a police constable in uniform, a civil enforcement officer or by any person duly authorised by the Council.

Authority To Move & Remove Vehicles In Parking Places.

19. Subject to the proviso hereto, when a vehicle is left in a parking place in contravention of any of the provisions contained in Articles 5 – 9 of this order, and Article 18 of this order, a civil enforcement officer or other person authorised in that behalf by the Council, or a police constable in uniform, may remove the vehicle or arrange for it to be removed from the parking place, Provided that when a vehicle is waiting in the parking place in contravention of the provisions of Articles 5 – 9, and Article 18 of this order, a person authorised in that behalf by the Council may alter or cause to be altered the position of the vehicle in order that its position shall comply with that provision.
20. Any person removing a vehicle or altering its position by virtue of the last preceding Article of this order may do so by towing or driving the vehicle or in such other manner as he/she may think necessary and may take such measures in relation to the vehicle as he/she may think necessary to enable him/her to remove or alter its position, as the case may be.
21. Any person duly authorised by the Council, or police constable in uniform may move or cause to be moved, in case of emergency, to any place he/she thinks fit, any vehicle left in a parking place.
22. When a person authorised by the Council removes or makes arrangements for the removal of a vehicle from the parking place by virtue of Articles 19, and 21 of this order, he/she shall make such arrangements as may be necessary for the safe custody of the vehicle.

Dated the day of 2010.

The COMMON SEAL of)
THE COUNCIL OF)
THE BOROUGH OF TORBAY)
was hereunto affixed in the presence of:)

Proper Officer And
Authorised Signatory.

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SCHEDULE 16 – REVOCATIONS:

Borough of Torbay (Various Streets, Brixham) (Control of Waiting, Loading and Unloading) Amendment Order No.1 Harbour View, 2009.

Borough of Torbay (Various Streets, Brixham) (Control of Waiting, Loading and Unloading) Amendment Order No.2 South Furzeham Road, 2009.