

DATED

2010

BOROUGH OF TORBAY
(PAIGNTON HARBOUR ESTATE ZONE)
(CONTROL OF WAITING, LOADING AND UNLOADING AND PROHIBITION OF
DRIVING) ORDER 2010

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BOROUGH OF TORBAY
(PAIGNTON HARBOUR ESTATE ZONE)
(CONTROL OF WAITING, LOADING AND UNLOADING AND PROHIBITION OF
DRIVING) 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 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 (Paignton Harbour Estate Zone) (Control of Waiting, Loading and Unloading and Prohibition of Driving) Order 2010.
2. (1) In this Order the following expressions have the meanings hereby respectively assigned to them:-

“authorised loading bay” means any authorised loading bay referred to in Article 5 which is either -

- (a) bounded on one side or more than one side by the edge of the carriageway of a length of harbour 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 footway and carriageway, 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 an authorised loading bay for the purposes of Article 9 of this Order;

"Civil Enforcement Officer" means a person in uniform authorised by or on behalf of the Council to enforce the provisions of this Order;

"driver" in relation to a vehicle waiting in a length of harbour 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;

"Harbour Estate Zone" means the area of land comprising the harbour edged in red on the attached plan for the purposes of this Order (appendix 1);

"Harbour Road" means any road, pier, wharf, quay, bridge or other work which, or any land which is vested in or is the property of the Harbour Authority and is accessible to Motor Vehicles;

"Harbour Master" means the harbour master appointed by the harbour authority and includes his authorised deputies and assistants and any person authorised by the harbour authority to act in that capacity;

"parking place" means any area of a length of harbour road referred to in Article 6 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 harbour 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 footway and carriageway, 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;

"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” –

(a) in relation to a parking place, means the period of time specified in relation to a length of harbour road specified in Article 6 in which the parking place is situated;

(b) in relation to an authorised loading bay, means the period of time specified in relation to that authorised loading bay in Article 4;

“Paignton Harbour User Permit” means a permit issued by the Harbour Master in for use in the authorised permit bays specified in Article 6 of this order;

“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 harbour road;

“vehicle” includes any part of a vehicle;

“vessel” means every description of vessel, however propelled or moved, and includes any thing constructed or used to carry persons or goods by water.

- (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.
3. Save as provided in Article 10, no person shall, except upon the direction or with the permission of a Civil Enforcement Officer and/or Harbour Master cause or permit any vehicle to proceed in the length of harbour road specified in Schedule 1 to this order at any time between the 1st April or Good Friday (whichever is earlier) and the 30th September.
4. Save as provided in Articles 8 and 9, no person shall, except upon the direction or with the permission of a Civil Enforcement Officer and/or Harbour Master cause or permit any vehicle to wait at any time between the 1st April (or Good Friday whichever is earlier) and the 30th September in any length of harbour road specified in Schedule 2 to this Order.
5. Save as provided in Articles 8 and 9, no person shall, except upon the direction or with the permission of a Civil Enforcement Officer and/or

Harbour Master cause or permit any vehicle to wait other than for so long as may be necessary for the purpose of enabling goods to be loaded or unloaded from that vehicle at any time in any authorised loading bay as specified in Schedule 3 to this Order.

6. Authorisation and Use of Paignton Harbour User Permits and Permit Bays

- (1) The lengths of harbour road specified in Schedule 4 to this Order are hereby authorised to be used subject to the following provisions of this Part of this order as a Permit Parking Place during the Prescribed Hours for Motor Vehicles that display a valid Permit. This should be in the manner specified paragraph 7 of Article 6 of this Order, and a valid Permit for the area in which the vehicle is left as issued by the Harbour Master in respect of that vehicle and which park in position wholly within the limits so marked or other means of standing shown by road markings provided by the Council.
- (2) The limits of each Parking Place shall be indicated on the carriageway by the appropriate Traffic Signs and any vehicle standing in a Parking Place shall stand wholly within the limits so marked.
- (3) The Council may at any time require an applicant for a Paignton Harbour User Permit or Paignton Harbour User Permit Holder to produce to an officer of the Council such evidence in respect of an application or an Issued Permit as they may reasonably require to verify any particulars or information given or to verify that an issued badge is valid.
- (4) If a Permit is mutilated or accidentally defaced or the figures or particulars thereon have become illegible or the colour of the Permit has become altered by fading or otherwise the permit shall become invalid and the Permit Holder shall be required to surrender it to the Harbour Master and apply for the issue to him of a duplicate Permit. If a permit has been obtained or defaced in an attempt to defraud the Council then the individual may not be entitled to apply for another permit at the Harbour Master's discretion.
- (5) A Permit shall be in writing and shall include the following particulars:-
 - (a) the registration mark of the vehicle in respect of which the Permit has been issued;
 - (b) the period during which the Permit shall remain valid;

- (c) an indication of the parking area for which the permit applies
- (6) A Permit shall cease to be valid at the expiration of the period specified thereon.
- (7) At all times during which a vehicle is left in a Permit Parking Place during the Prescribed Hours, the Driver thereof shall cause to be displayed in the front windscreen of the vehicle a valid Permit relating to that Parking Place so that all of the particulars referred to in paragraph 5 of Article 7 of this Order are readily visible from the front or nearside of the vehicle.
- (8) Where a Permit has been displayed on a vehicle in accordance with the provisions of paragraph 7 of Article 6 of this Order, no person, not being the Driver of the vehicle, shall remove the Permit from the vehicle unless authorised to do so by the Driver of the vehicle.
- 7. Nothing in Articles 4-5 inclusive shall render it unlawful to cause or permit any vehicle to wait in any of the lengths of harbour 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.
- 8. Nothing in Articles 4-5 inclusive shall render it unlawful to cause or permit any vehicle to wait in the lengths of harbour road referred to therein for so long as may be necessary to enable:-
 - (a) a person to board or alight from the vehicle;
 - (b) for the purpose of launching or landing a vessel, providing the vehicle is moved as soon the launching or landing process is complete;
 - (c) 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 within the Harbour Estate and with the express permission of the Harbour Master, namely:-
 - (i) building, industrial or demolition operations;
 - (ii) the removal of any obstruction to traffic;
 - (iii) the maintenance, improvement or reconstruction of the said lengths of harbour road; or

- (iv) the laying, erection, alteration or repair in or in land adjacent to the said lengths of harbour road 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;
 - (d) 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;
 - (e) the vehicle to be used for fire, ambulance, police, or coastguard purposes;
 - (f) 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 is prevented from proceeding by circumstances beyond their control.
9. The driver of a vehicle waiting in a parking place or in an authorised loading bay 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 the authorised loading bay, as the case may be, 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 harbour 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.
10. Nothing in Article 3 shall render it unlawful for a person to cause or permit a vehicle or motorcycle to proceed in the lengths of roads referred to in the said Article if the vehicle or motor cycle is being used:-
- (a) by vehicles delivering or collecting goods from those businesses situated adjacent to the harbour roads;

- (b) by holders of a permit valid under Article 6 of this Order in order to access a permit holders parking place;
 - (c) for the purpose of launching or landing a vessel;
 - (d) with the permission of a Civil Enforcement Officer and/or Harbour Master.
- 11. 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.
- 12. When a notice has been attached to a vehicle in accordance with the provisions of Article 11 no person not being the driver of the vehicle or a person duly authorised by the Council shall remove the notice from the vehicle.
- 13.
 - (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.

- (2) 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.

14. (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) 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.
- (3) 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.

15. Subject to the proviso hereto, when a vehicle is left in contravention of any of the provisions contained in Articles 3 – 6 of this order, and Article 14 of this order, a Civil Enforcement Officer or other person authorised in that behalf by the Council, or a Police Officer 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 contravention of the provisions of Articles 4 – 6, and Article 14 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.
16. 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.
17. Any person duly authorised by the Council, or police officer 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.
18. 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 15, and 17 of this order, he/she shall make such arrangements as may be necessary for the safe custody of the vehicle.

Schedule1 – No Unauthorised Vehicles At Any Time 1st April (or Good Friday whichever is earlier and the 30th September **(Inclusive)**)

South Quay

From its junction with Roundham Road for its entire length, including the slipway.

East Quay

From its junction with South Quay for its entire length.

North Quay

From its junction with West Quay for its entire length.

West Quay

From its junction with Roundham Road for its entire length, including the slipway.

Schedule 2 – No Waiting At Any Time 1st April (or Good Friday whichever is earlier and the 30th September **(Inclusive)**)

South Quay

From its junction with Roundham Road for its entire length (including the slipway) with the exception of the designated permit holders only bays.

East Quay

From its junction with South Quay for its entire length with the exception of the designated loading only bay and designated permit holder only bays.

North Quay

From its junction with West Quay for its entire length.

West Quay

From its junction with Roundham Road for its entire length (including the slipway) with the exception of the designated permit holder only bays.

Schedule 3 – Loading Only Bay At Any Time 1st April (or Good Friday whichever is earlier and the 30th September **(Inclusive)**)

East Quay

From a point opposite the western boundary wall of the Factory west for a distance of 17 metres.

Schedule 4 – Paignton Harbour User Permit Holders Only At Any Time 1st April (or Good Friday whichever is earlier and the 30th September **(Inclusive)**)

East Quay

All marked parking spaces as shown on the attached plan (appendix 1).

South Quay

All marked parking spaces as shown on the attached plan (appendix 1).

West Quay

All marked parking spaces as shown on the attached plan (appendix 1).

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

Proper Officer and Authorised Signatory