**Notice of Making**

**Borough of Torbay**

(Various Streets, Brixham) (Control of Waiting, Loading and Unloading) Amendment Order No1 2021

Torbay Council made the above Order on 4th March 2022 under the provisions of the Road Traffic Regulation Act 1984, to come into force on 17th March 2022. The effect is to introduce the following measures in the specified roads in Brixham:-

**Revocation of No Waiting At Any Time**

Berry Head Road.

**Revocation of No Waiting At Any Time between 1st May to 30th September (dates inclusive)**

Berry Head Road, Victoria Road.

**New Restrictions:**

**No Waiting At Any Time**

Berry Head Road, Victoria Road.

**No Waiting 9am to 6pm during the period 1st May to 30th September (dates inclusive)**

Berry Head Road.

Documents giving more detailed particulars of the Order may be inspected between 9:00am and 5:00pm each working day at the Torbay Council Connections Office, Paignton Library and Information Centre, Great Western Road, Paignton, TQ3 3HZ. The documentation may also be viewed online at the following web address: [www.torbay.gov.uk/proposedtros](http://www.torbay.gov.uk/proposedtros)

If any person wishes to question the validity of the order or of any of its provisions on the grounds that such is not within the powers conferred by the Act, or that any requirement of the Act or of any instrument made under the Act has not been complied with, that person may within six weeks from the appearance of this advertisement apply to the High Court for this purpose.

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| Date: 16th March 2022 Anne-Marie Bond  Chief Executive Torbay Council Town Hall, Castle Circus TORQUAY    TQ1 3DR  | **A black and white sign  Description automatically generated with low confidence**  |

**DATED** 4 March **2022**

**BOROUGH OF TORBAY**

**(VARIOUS STREETS, BRIXHAM)**

**(CONTROL OF WAITING, LOADING AND UNLOADING)**

**AMENDMENT ORDER No.1 2021**

**ANNE-MARIE BOND**

**Chief Executive**

**Torbay Council**

**Town Hall**

**TORQUAY**

**TQ1 3DR**

**BOROUGH OF TORBAY**

**(VARIOUS STREETS, BRIXHAM)**

**(CONTROL OF WAITING, LOADING AND UNLOADING)**

**AMENDMENT ORDER No.1 2021**

The **COUNCIL OF THE BOROUGH OF TORBAY** in exercise of its powers under Sections 1(1), 2(1) and (2)4 and Part IV of Schedule 9 of the Road Traffic Regulation Act 1984 (hereinafter referred to as “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 of the Act hereby makes the following Order:-

1. This Order shall come into force on the 17th. day of March 2022

 and may be cited as the Borough of Torbay (Various Streets, Brixham) (Control of Waiting, Loading and Unloading) Amendment Order No.1 2021.

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

“bus” and “buses” have the same meaning as given in regulations 22(2) and 24(1) respectively 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;

"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;

“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 parking attendant pursuant to the provisions of the Traffic Management Act 2004;

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

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

“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.

3. 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 1 are hereby revoked.

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 2;

(b) wait between the hours of 8am and 6pm, on any day of the week, during the period 1st May to 30th September (both dates inclusive) in any length of road specified in Schedule 3.

5. 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 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.

6. (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;

1. (ii) the removal of any obstruction to traffic;
2. 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 be used for the purpose of delivering or collecting a postal packet or packets;

(e) the vehicle to be used for fire, ambulance or police purposes;

1. the vehicle to be used for the purpose of collecting or delivering cash or valuable securities to banks, building society or post offices/ shops.

(g) in any case where the person in control of the vehicle –

1. is required by law to stop;
2. is obliged to stop so as to prevent any accident; or
3. is prevented from proceeding by circumstances beyond their control.

(h) any 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 societies, post offices or post boxes and business premises.

(2) Nothing in Article 4 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).

7. 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.

8. When a notice has been attached to a vehicle in accordance with the provisions of Article 7 no person not being the driver of the vehicle or a person duly authorised by the Council shall remove the notice from the vehicle.

9. (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) 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.

1. 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.

10. (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:-

1. for the purpose of facilitating the movement of traffic or promoting its safety;
2. 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 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.

* + - 1. (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.
			2. (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.
		1. (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.

11. Subject to the proviso hereto, when a vehicle is left in a parking place in contravention of any of the provisions contained in Articles 4 – 6 of this order, and Article 10 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 4 – 6, and Article 10 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.

12. 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.

13. 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.

14. 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 8 and 11 of this order, he/she shall make such arrangements as may be necessary for the safe custody of the vehicle.



THE COMMON SEAL of THE COUNCIL OF THE )

BOROUGH OF TORBAY was hereunto affixed )

this 4th. day of March )

Two Thousand and Twenty Two in the presence of :- )



Proper Officer and Authorised Signatory S./No. 8510

**Schedule 1: Revocations**

**No Waiting At Any Time**

Berry Head Road

(i) the south side from the boundary of Nos. 69/71 in a north-easterly direction for a distance of 87 metres.

(ii) the north side from its junction with the access road leading to the hard car park (Breakwater) north-eastwards for a distance of 26 metres.

(iii) the north-west side from a point 12 metres north of the boundary wall to Nos.53/55 to the access road leading to the hard car park (Breakwater).

**No Waiting At Any Time between 1st May-30th September (dates inclusive)**

Berry Head Road

(i) the north side from a point 26 metres north-west of its junction with the access road leading to the hard car park (Breakwater) north-east for a distance of 105.5 metres.

(ii) the south-east side from the boundary of Nos. 69/71 in a north-easterly direction to its eastern terminus at the entrance to the Berry Head Estate.

(iii) the north side from a point 174 metres north-east of the access road leading to the hard car park north-east for a distance of 135 metres.

(iv) the north side from the eastern boundary of Breakwater Court north-east to its terminus to the Berry Head Estate.

Victoria Road

Both sides from Berry Head Road to the boundary of “Chatsworth”/”Highcombe”.

**Schedule 2: No Waiting At Any Time**

Berry Head Road

(i) the south side from the boundary of Nos. 69/71 in a north-easterly direction to its terminus at the Berry Head Estate.

(ii) the north-west side from a point 12 metres north of the boundary of Nos. 53/55 in a north-westerly direction to a point 113 metres south-west of the boundary of Nos. 4/6.

(iii) the north side from a point 69 metres south-west of the boundary of Nos. 4/6 in a north-easterly direction for a distance of 147 metres.

(iv) the north side from a point 9 metres west of the boundary of Nos. 14/16 in a westerly direction for a distance of 87 metres.

(v) the north side from a point 9 metres east of the boundary of Nos. 30/32 in an easterly direction to its terminus at the Berry Head Estate.

Victoria Road

Both sides from its junction with Berry Head Road in a south-easterly direction to the boundary of ‘Chatsworth’ and ‘Highcombe’.

**Schedule 3: No Waiting 8am-6pm, during the period 1st May-30th September (dates inclusive)**

Berry Head Road

The north side from a point 9 metres west of the boundary of Nos. 14/16 in an easterly direction for a distance of 106 metres.

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