

THE ISLE OF WIGHT COUNCIL
(PROHIBITION OF PARKING ON VERGE OR FOOTWAY)
ORDER NO 1 2024

The Isle of Wight Council ('the Council') in exercise of their powers under Sections 1, 2(1) to 2 (3) and 4(2) of the Road Traffic Regulation Act 1984 ('the Act of 1984'), the Road Traffic Act 1991 ("the Act of 1991") 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 make the following Order:

Citation and commencement

1. This Order shall come into operation at 0001 hours on Friday 15th day of November 2024 and may be cited as the Isle of Wight Council (Prohibition of Parking on Verge or Footway) Order No. 1 2024.
2. The Isle of Wight Council (Prohibition of Parking on Verge or Footway) Order No. 1 2024 Plans (the "Plans") are incorporated into this Order.

Revocations

3. (i) There are no revocations.

Interpretation

4. In this Order except where the context otherwise requires the following expressions are the meanings hereby respectively assigned to them:

"carriageway" means a way contributing or comprised in a highway being a way (other than a vehicle track) over which the public have a right of way for the passage of vehicles;

"goods" means good of any kind whether animate or inanimate and includes postal packets of any description and "delivering" and "collecting" in relation to an

goods includes checking the goods for the purpose of their delivery or collection;

“main carriageway” means any carriageway used primarily by through traffic and includes any carriageway of a slip road;

“owner” in relation to a vehicle, means the person by whom such vehicle is kept and used. In determining who was the owner at any time it shall be presumed that the owner was the person named in the vehicle registration document as the registered keeper of the vehicle or the person who has the use of such vehicle in the course of his / her employment and who is entitled to use such vehicle as though he / she were the registered keeper thereof;

“parking attendant / civil enforcement officer” means a person employed in accordance with section 63A of the Act of 1984 to carry out the functions therein;

“restricted hours” means in relation to any clearway, the period and hours during which parking is restricted as specified on the Plans.

“verge” means any land forming part of the highway maintainable at public expense which is neither carriageway nor footway.

“Footway” means a way comprised in a highway which also comprises a carriageway, being a way over which the public have a right of way on foot only;

Restriction

5. Save as provided in Articles 6 and 7 of this Order no person shall, except upon the direction or with the permission of a parking attendant/civil enforcement officer or police constable in uniform, cause or permit any vehicle to park during the restricted hours in the lengths of road specified as a verge or footway in the Plans.

Exemptions

6. Nothing in Articles 5 of this Order shall prevent any person from causing or permitting a vehicle to park in the lengths of road referred to in those Articles for so long as may be necessary:
- a. to enable a vehicle, if it cannot conveniently be used for such purpose in any other road, to be used in connection with any building operation or demolition, the removal of any obstruction to traffic, the maintenance, improvement or reconstruction of any of the lengths of road so referred to or the laying, erection, alteration or repair in or near to any of the said lengths of road of any sewer or any main, pipe or apparatus for the supply of gas, water or electricity or of any telegraphic line as defined in Schedule 2 of the Telecommunications Act 1984;
 - b. for the purposes of delivering or collecting postal packets as defined in the Postal Services Act 2000;
 - c. for the collection of household refuse from, or the cleaning of cesspools at, premises adjacent to the road including or comprising that carriageway;
 - d. for any gate or other such barrier at the entrance to premises to which the vehicle requires access or from which it has emerged to be opened or closed;
 - e. in the service of a local authority or statutory undertaker in pursuance of statutory powers or duties;
 - f. for an emergency service vehicle to be used in the course of duty;
 - g. in any case where the person in control of the vehicle is required by law to stop, is obliged to do so in order to avoid an accident, is prevented from proceeding by circumstances beyond his or her control or is directed or permitted to do so by a police constable in uniform;

7. Nothing in Articles 5 and 6 shall prevent any person from causing or permitting a vehicle to park in any prohibited or restricted road if it is displaying in a conspicuous position and legible from the near side of the vehicle a waiver certificate issued by the Council and the vehicle is parking in accordance with the terms and conditions of the said permit or certificate.

Contravention

8. If a vehicle is left in any road or length of road in contravention of or without complying with the requirements of this Order a contravention shall have occurred and a penalty charge shall be payable and/or the vehicle may be removed from that location.

Penalty charge notice

9. In the case of a vehicle in respect of which a penalty charge may have been incurred, it shall be the duty of the Parking attendant / civil enforcement officer to attach to the vehicle in a conspicuous position a notice which shall include the following particulars:
- a. the registration mark of the vehicle or, where the vehicle is being used under a trade licence, the number of the trade plate carried by the vehicle;
 - b. the grounds on which the Parking attendant / civil enforcement officer believes that a Penalty Charge is payable in respect of that vehicle;
 - c. the amount of Penalty Charge required to be paid;
 - d. that if the penalty charge is paid before the end of the period of 14 days beginning with the date of the notice, the amount of the penalty charge will be reduced by the specified proportion or amount;
 - e. that if the penalty charge is not paid before the end of the 28 day period a Notice to owner may be served by the Council on the person appearing to be the owner of the vehicle; and
 - f. the address to which payment of the Penalty Charge must be sent.

Manner of payment of penalty charge

10. The penalty charge shall be paid to the Council within 28 days of the issue of the penalty charge notice either;
- (a) by cheque, bankers' draft, money order or postal order delivered to any Isle of Wight Council office which accepts such payments, or
 - (b) by cheque, postal order, in cash, by credit card or debit card in person at any Isle of Wight Council office which accepts such payments, or
 - (c) by credit card or debit card over the phone or through the Council's web site using the number specified on the penalty charge notice

Provided that, if the said twenty eight day falls upon a day on which the said Department or office is closed, the period within which payment of the said charge shall be made to the Council shall be extended until 4.00pm on the next full day on which the said Department is open.


11. If the penalty charge is paid before the end of the period of 14 days beginning with the date of the notice, the amount of the penalty charge will be reduced by 50%.
12. If the owner fails to pay the penalty charge by the end of the 28 day period, a notice of owner may be served; and if the charge is not paid within a further 28 days it may be increased by 50% on the issue of a charge certificate in accordance with the provisions of paragraph 6 of schedule 6 of the Act of 1991.
13. Continuing failure to pay the penalty charge may result in a judgement in the County Court against the owner to enable the Council to recover the payments due.

Indications as evidence

14. The particulars given in the penalty charge notice attached to a vehicle in accordance with Article 9 shall be treated as evidence in any proceedings relating to failure to pay such penalty charge.

Restriction on removal of notices

15. Where a penalty charge notice has been attached to a vehicle in accordance with the provisions of Article 9 no person, not being the driver of the vehicle, a police constable in uniform, a parking attendant / civil enforcement officer or some other person duly authorised by the Council shall remove the notice from the vehicle unless authorised to do so by the keeper of the vehicle.

THE COMMON SEAL of THE ISLE OF
WIGHT COUNCIL was hereunto affixed this
2nd day of November 2024 in the presence
of : 

Authorised Signatory


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