

THE ISLE OF WIGHT COUNCIL
(DESIGNATED LOADING BAYS)
ORDER NO 1 2017

The Isle of Wight Council ('the Council') in exercise of their powers under Sections 1 (1) and (2), 2(1), to (3), 4(2), 32 and 35 of the Road Traffic Regulation Act 1984, as amended, 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:

Revocation

1. The Isle of Wight Council (Designated Loading Bays) Order No 1 2014 is hereby revoked.

Citation and commencement

2. This Order shall come into operation at 0001 hours on Friday 25 of August 2017 and may be cited as the Isle of Wight Council (Designated Loading Bays) Order No. 1 2017
3. The Isle of Wight Council (Designated Loading Bays) Order No. 1 2017 Plans (the "Plans") are incorporated into this Order.

Interpretation

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

"designated loading bay" means any part of a road authorized by this Order to be used as a bay for the loading and unloading of goods;

"driver" means in relation to a vehicle waiting in a designated loading bay, the person driving the vehicle at the time that it was left in the designated loading bay;

"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;

“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;

“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;

“permitted hours” means in relation to any prohibited road the hours during which waiting or loading is prohibited as specified on the Plans;

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

“restricted road” means any of the sides or lengths of road specified on the Plans where waiting is restricted or specific activities are restricted during the restricted hours provided that the expression “restricted road” shall not include any parking place.

Designation

5. Each of the parts of road specified as such in the Plans is authorized to be used, subject to the following provisions of this Order as a designated loading bay.

Restriction

6. Save as provided in Articles 10, 11 or 14 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 wait during the restricted hours in a designated loading bay as specified on the Plans.
7. Save as provided in Articles 10, 11 or 14 of this Order no person shall except upon the direction or with the permission of a Parking Attendant/Civil Enforcement Officer or a Police Constable in uniform cause or permit any vehicle to wait in a designated loading bay for longer than the maximum period permitted for loading or unloading specified on the Plans.
8. When a vehicle has left a designated loading bay, the driver shall not cause or permit that vehicle to wait again in that bay, within the period specified on the Plans.

Power to Suspend Loading Bays

9. Any person duly authorised by the Council may suspend the use of a loading bay or any part thereof whenever he 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 or traffic sign;
 - (c) for the convenience of occupiers of premises adjacent to the parking place on any occasion of the removal of furniture from one office or dwelling-house to another or the removal of furniture from such premises to a depository or to such premises from a depository;
 - (d) on any occasion on which it is likely by reason of some special attraction that any street will be thronged or obstructed; or
 - (e) for the convenience of occupiers of premises adjacent to the parking place at times of weddings or funerals, or on other special occasions.
- (2) A Police Constable in uniform may suspend for not longer than twenty four hours the use of a loading bay or any part thereof whenever he considers such suspension reasonably necessary for the purpose of facilitating the movement of traffic or promoting its safety.
- (3) Any person suspending the use of a loading bay or any part thereof in accordance with the provisions of paragraph (1) or paragraph (2) of this Article shall thereupon place or cause to be placed in or adjacent to that loading bay or the part thereof the use of which is suspended a traffic sign indicating that waiting by vehicles is prohibited.
- (4) No person shall cause or permit a vehicle to be left in any loading bay or part of a parking place during such period as there is in or adjacent to that loading bay or part of a parking place a traffic sign placed in pursuance of paragraph (3) of this Article:

Provided that nothing in this Article shall render it unlawful to cause or permit any vehicle being used for fire and rescue, ambulance or police purposes or the vehicle displays in a conspicuous position a waiver certificate issued by the Council and the vehicle has been left in accordance with the conditions of the certificate.

Exemptions

10. Nothing in Articles 6, 7 and 8 of this Order shall apply so as to prevent any person from causing or permitting any vehicle to wait in a designated loading bay specified in the Plans.
 - (a) that the vehicle is being used for the purposes of loading or unloading; and
 - (b) that the vehicle shall not wait for a period of longer than the period specified in the Plans.
11. Nothing in Articles 6, 7 and 8 of this Order shall apply to as to prevent any person from causing or permitting any vehicle to wait in a designated loading bay specified in the Plans provided that the vehicle is being used;
 - a. In connection with any building operation or demolition in or adjacent to those lengths of road, the removal of any obstruction to traffic in those lengths or road, the maintenance, improvement or reconstruction of those lengths of road, or the laying erection, inspection, maintenance, alteration, repair, renewal or removal in or adjacent to those lengths of road of any sewer, main, pipe, conduit, wire or cable or other apparatus as defined in Schedule 2 of the Telecommunications Act 1984; and
 - b. For emergency purposes by Police, Ambulance or Fire & Rescue Service.

Conditions of Use

12. No person shall cause or permit a vehicle to wait in a designated loading bay;
 - a. so as unreasonably to prevent access to any premises adjoining the road, or the use of the road by other persons or so as to be a nuisance;
 - b. if it has been suspended by the Council, Police Constable in uniform or a Parking Attendant/Civil Enforcement Officer.
13. The driver of a vehicle using a designated loading bay shall stop the engine as soon as the vehicle is in position in the bay, and shall not start the engine except when about to change the position of the vehicle in or to depart from the bay.

Waiver Certificate

14. Nothing in Articles 6, 7 and 8 shall prevent any person from causing or permitting a vehicle to wait in any prohibited or restricted road if it is displaying in a conspicuous position and legible from the near side of the vehicle a valid permit or waiver certificate issued by the Council and the vehicle is waiting in accordance with the terms and conditions of the said permit or certificate.

Contravention

15. 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

16. 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

17. 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
 - (d) 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.
18. 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%.
19. 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 1991 Act.
20. 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

21. The particulars given in the penalty charge notice attached to a vehicle in accordance with Article 16 shall be treated as evidence in any proceedings relating to failure to pay such penalty charge.

Restriction on removal of notices

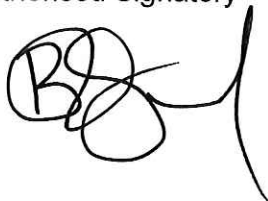
22. Where a penalty charge notice has been attached to a vehicle in accordance with the provisions of Article 16 no person, not being the driver of the vehicle, a police constable in uniform, a parking attendant / civil enforcement officer or some other person duly

authorised by the Council shall remove the notice from the vehicle unless authorised to do so by the keeper of the vehicle

23. The restrictions imposed by this Order shall be in addition to and not in derogation of any restrictions or requirements imposed by any regulations made or having effect as if made under the Act or by or under any other enactment.

THE COMMON SEAL of THE ISLE OF WIGHT
COUNCIL was hereunto affixed this 23rd
day of August 2017 in the presence of :

Authorised Signatory



BEN GARD
LAWYER
AUTHORISED SIGNATORY
ISLE OF WIGHT COUNCIL

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