

ORDINANCE NO. 2016-15

PRIVATE OFF-STREET PARKING FACILITIES

The Contra Costa County Board of Supervisors ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

SECTION I. SUMMARY. This ordinance authorizes operators of privately owned and maintained off-street parking facilities to regulate unauthorized parking in those facilities.

SECTION II. Chapter 46-14 of the County Ordinance Code is amended to read:

Chapter 46-14

PRIVATE OFF-STREET PARKING FACILITIES

46-14.002 Authority and Purpose. The Board of Supervisors finds and declares that there are privately owned and maintained off-street parking facilities within the County that are generally held open for use of the public for purposes of vehicular parking. This ordinance authorizes operators of privately owned and maintained off-street parking facilities to regulate unauthorized parking in those facilities. (Ords. 2016-15 § 2, 2014-16 § 2.)

46-14.004 Definitions. For purposes of this chapter, the following words and phrases have the following meanings:

- (a) “Notice of parking charge” means a written document affixed to a vehicle that notifies the vehicle driver of a parking violation charge that is due as a result of unauthorized parking in an off-street parking facility.
- (b) “Off-street parking facility” means privately owned and maintained property that is held open for use by the public for parking vehicles.
- (c) “Parking violation charge” means a charge imposed by a private parking operator for unauthorized parking in an off-street parking facility.
- (d) “Person” means a natural person, firm, company, corporation, partnership, or association.
- (e) “Private parking operator” means a person who owns or operates, or person who acts on behalf of a person who owns or operates, an off-street parking facility.
- (f) “Unauthorized parking” or “parked without authorization” means (1) parking in an off-street parking facility in violation of parking restrictions established by a private parking operator and indicated by signs at the off-street parking facility; (2) failing to pay or failing to properly display proof of payment for parking at any pay-and-park off-street

parking facility; (3) leaving a vehicle parked at an off-street parking facility for a period of time in excess of the amount paid for or permitted at the parking facility; (4) parking in a “no parking,” red zone, yellow zone, loading zone, fire lane, or area not designated as a parking space at an off-street parking facility; or (5) blocking, impeding, or restricting another vehicle’s ability to enter or exit the parking facility or a space at the facility, or otherwise obstructing the orderly flow of traffic. (Ords. 2016-15 § 2, 2014-16 § 2.)

46-14.006 Parking violation charge.

- (a) A private parking operator may impose a parking violation charge on an owner of a vehicle for unauthorized parking by issuing a notice of parking charge.
- (b) A parking violation charge imposed by a private parking operator may not exceed \$50.
- (c) A late fee equal to one-half of the amount of the parking violation charge may be charged if the initial mail-in parking charge remains unpaid after 21 days after the date the notice of parking charge is issued and the parking violation charge has not been timely disputed in accordance with section 46-14.006.
- (d) If it is determined at the conclusion of an administrative hearing held in accordance with section 46-14.006 that a person owes a parking violation charge and the owed parking violation charge remains unpaid after 21 days after the administrative hearing decision, then a late fee equal to one-half of the parking violation charge may be charged.
- (e) A private parking operator is not authorized to add any charges from the Department of Motor Vehicles to the charges authorized by this section. (Ords. 2016-15 § 2, 2014-16 § 2.)

46-14.008 Signs.

- (a) A parking violation charge may not be imposed at an off-street parking facility and a notice of parking charge may not be issued at an off-street parking facility unless signs that comply with this chapter have been posted at the off-street parking facility.
- (b) Signs not less than 17 by 22 inches in size with lettering not less than one inch in height must be posted at each entrance to the off-street parking facility and must include statements to the effect that the off-street parking facility is subject to public moving vehicle laws and violators may be subject to a parking violation charge or removal.
- (c) Additional signs or notices shall be posted and visible from each restricted parking space identifying any applicable parking restrictions. If different restrictions apply to parking spaces with common entrances and exits, the restrictions applicable to each space must be clearly delineated. Where a parking meter or other device requiring payment before parking is in use, any signage or notice requirements under this subsection may be

satisfied by a sticker or other display on the parking meter or other device. (Ords. 2016-15 § 2, 2014-16 § 2.)

46-14.010 Notices.

- (a) A notice of parking charge must contain all of the following information:
 - (1) The words “INVOICE” followed by “PARKING CHARGE IMPOSED BY []” (inserting the name, telephone number, and location of either the private parking operator or the off-street parking facility where the notice was issued) must be at the top of the notice in capital letters in at least 12-point print.
 - (2) If a notice of parking charge is issued for unauthorized parking in a customer-only parking space, the listed telephone number of the business whose customers are designated to use the customer-only parking must be in the notice in at least 10-point print.
 - (3) The notice must state that the business or private parking operator may cancel the parking violation charge at any time for any reason.
 - (4) The notice must provide fair notice of the dispute resolution procedures described in Section 46-14.012.
- (b) A notice of parking charge may not display any feature that resembles a County parking citation or County seal or logo. The sentence “This notice of parking charge is not issued by Contra Costa County” must be at the bottom of the notice in at least 12-point print.
- (c) A private parking operator may contract with a third party processing entity or entities to process notices of parking charges. (Ords. 2016-15 § 2, 2014-16 § 2.)

46-14.012 Dispute resolution procedures.

- (a) A private parking operator that issues notices of parking charges must establish a written dispute resolution policy for contested parking charges that complies with this section. A copy of the private parking operator’s current policy must be filed with the Public Works Department. The private parking operator shall make its current policy available to the public upon request. The policy shall contain a provision that allows the issuer of the notice of parking charges to cancel the parking charge at any time for any reason.
- (b) For a period of 21 calendar days after the issuance of a notice of parking charge or 14 calendar days after the mailing of a notice of delinquent parking charge, exclusive of any days from the day the private parking operator or processing entity receives a request for a copy or facsimile of the original notice of parking charge and the day the private parking

operator or processing entity complies with the request, a person may request an initial review of the notice by the private parking operator. The request may be made by telephone, in writing, or in person. There shall be no charge for this review. If, following the initial review, the private parking operator is satisfied that the violation did not occur, that the registered owner was not responsible for the violation, or that extenuating circumstances make dismissal of the parking charge appropriate in the interest of justice, the private parking operator shall cancel the notice of parking charge or notice of delinquent parking charge. The private parking operator shall advise the processing agency, if any, of the cancellation. The private parking operator or the processing entity shall mail the results of the initial review to the person contesting the notice. If the notice is not cancelled after the initial review, the private parking operator shall include a reason for the denial, notice of the ability to request an administrative hearing, and notice of the procedure for waiving prepayment of the parking penalty based upon an inability to pay as specified in subsection (c).

- (c) If the person is dissatisfied with the result of the initial review, the person may request an administrative hearing of the parking charge no later than 21 calendar days after the results of the private parking operator's initial review are mailed. The request may be made by telephone, in writing, or in person. The person requesting an administrative hearing shall deposit the amount of the parking charge with the private parking operator or the processing entity. The private parking operator shall adopt a written procedure to allow a person to request an administrative hearing without payment of the parking charge upon satisfactory proof of an inability to pay the amount due. Notice of this procedure shall be provided to all persons who request an administrative hearing. An administrative hearing shall be held within 90 calendar days after the receipt of a request for an administrative hearing, excluding time tolled pursuant to this section. The person requesting the hearing may request one continuance, not to exceed 21 calendar days.
- (d) The administrative hearing process shall include the following:
 - (1) The person requesting a hearing shall have the choice of a hearing by mail or in person. An in-person hearing shall be conducted within the boundaries of Contra Costa County.
 - (2) If the person requesting the hearing is a minor, that person shall be permitted to appear at a hearing or admit responsibility for the parking charge without the necessity of the appointment of a guardian. The private parking operator or processing entity may proceed against the minor in the same manner as against an adult.
 - (3) The administrative hearing shall be conducted in accordance with written procedures established by the private parking operator and approved by the Public

Works Department. The hearing shall provide an independent, objective, fair, and impartial review of contested parking violations.

- (4) (A) To conduct the administrative hearings, the private parking operator shall contract with an independent third party or parties, not controlled by a private parking operator, that employ qualified examiners. Examiners shall demonstrate those qualifications, training and objectivity necessary to conduct a fair and impartial review. An examiner shall not be employed, managed, or controlled by a person whose primary duties are as a private parking operator or parking charge processor. The examiner shall be separate and independent from the parking charge collection or processing function. An examiner's continued employment, performance evaluation, compensation, and benefits shall not, directly or indirectly, be linked to the amount of parking charges collected by the examiner. No contract between a private parking operator and an independent third party for the use of hearing examiners may include incentives based on the number of invoices issued or the number or percent of disputed invoices adjudicated that uphold parking charges.
 - (B) Examiners shall have a minimum of 20 hours of training. The examiner is responsible for the costs of the training. The private parking operator may reimburse the examiner for those costs. Training may be provided through (i) an accredited college or university, (ii) a program conducted by the Commission on Peace Officer Standards and Training, (iii) the American Arbitration Association, or (iv) any program approved by the Public Works Department. Training programs may include topics relevant to the administrative hearing, including, but not limited to, applicable laws and regulations, parking enforcement procedures, due process, evaluation of evidence, hearing procedures, and effective oral and written communication. Upon the approval of the Public Works Department, up to 12 hours of relevant experience may be substituted for up to 12 hours of training. In addition, up to eight hours of training requirements described in this subparagraph may be credited to an individual, at the discretion of the Public Works Department, based upon training programs or courses described in this subparagraph that the individual attended within the last five years.
- (5) The person who issues a notice of parking charge shall not be required to participate in an administrative hearing. The private parking operator shall not be required to produce any evidence other than the notice of parking charge or copy of the notice and information received from the Department of Motor Vehicles identifying the registered owner of the vehicle. The documentation in proper form shall be prima facie evidence of the violation.

- (6) The examiner's decision following the administrative hearing may be personally delivered to the person by the examiner or sent by first-class mail. If the notice is not cancelled, the decision shall include a written reason for the denial.
- (7) If the examiner determines that the person owes the parking charge, the examiner may allow payment of the parking charge in installments, or the private parking operator may allow for deferred payment or payment in installments, if the person provides evidence satisfactory to the examiner or the private parking operator, as the case may be, of an inability to pay the parking penalty in full. (Ords. 2016-15 § 2, 2014-16 § 2.)

46-14.014 Registration.

- (a) Every private parking operator that issues notices of parking charges must register with the Public Works Department before issuing any notices.
- (b) The registration must include:
 - (1) The name, address and telephone number of the private parking operator.
 - (2) The Contra Costa County business license number of the private parking operator.
 - (3) A list of all off-street parking facilities where parking violation charges are imposed, and the restrictions that apply to each off-street parking facility.
 - (4) The name, address and telephone number of each contact person or persons authorized to resolve disputes for each off-street parking facility.
 - (5) A copy of the dispute resolution procedures required under section 46-14.012.
- (c) The registration fee will be an amount established by the Board of Supervisors in the Public Works Department's fee schedule. (Ords. 2016-15 § 2, 2014-16 § 2.)

46-14.016 Unauthorized business practices.

- (a) A private parking operator may not do any of the following:
 - (1) Immobilize a vehicle by attaching a Denver boot or any other device.
 - (2) Pay any employee or independent contractor a salary or fee that is in any way based on the number of notices of parking charges that are issued.

- (3) Take any action or threaten to take any action to collect, or contact another person who takes or threatens to take any action to collect, an unpaid parking violation charge, other than to seek establishment of the debt in a judicial proceeding.
 - (4) Report or threaten to report an unpaid parking violation charge to a credit bureau or a collection agency unless a judicial proceeding has established the debt.
- (b) An owner or operator of a privately owned and maintained off-street parking facility may not file with, or transmit to, the Department of Motor Vehicles a notice of parking charge for the purpose of having the Department of Motor Vehicles attempt to collect unpaid parking penalties by refusing to issue or renew a license pursuant to Vehicle Code section 12808.1 or refusing to renew the registration of a vehicle pursuant to Vehicle Code section 4760.
- (c) When issuing notices of parking charges, all persons employed by a private parking operator shall wear uniforms that identify them as private parking enforcement employees. Any uniform, badge or insignia used by employees of a private parking operator must be separate and distinct in appearance from uniforms, badges and insignia worn by local law enforcement agencies and is subject to prior approval by the sheriff. (Ords. 2016-15 § 2, 2014-16 § 2.)

46-14.018 Compliance.

- (a) It is unlawful for any person to impose a parking violation charge or to issue or cause to be issued a notice of parking charge that is not in compliance with this chapter.
- (b) A notice of parking charge that does not comply with this chapter is invalid. (Ords. 2016-15 § 2, 2014-16 § 2.)

46-14.020 Vehicle Removal. Notwithstanding any provision of this code or other applicable rule or regulation, a private parking operator may, without the permission of the owner or driver of a vehicle, immediately tow any vehicle parked without authorization at an off-street parking facility if:

- (a) Within any applicable 2-year period, (1) the vehicle was parked without authorization at any of the private parking operator's private parking facilities located within the County a total of three or more times, (2) the private parking operator issued a notice of parking charge with respect to that unauthorized parking, and (3) three or more of these charges remain unpaid; or
- (b) The vehicle is parked in (1) a manner that blocks, impedes, or restricts another vehicle's ability of egress or ingress, (2) a fire lane, (3) any manner that obstructs the orderly flow of traffic, (4) any area that is clearly and conspicuously designated by signs or other

traffic control devices as an area in which parking is restricted or forbidden, or (5) any other manner that otherwise poses a hazard or threat to public safety. (Ord. 2016-15 § 2.)

SECTION III. EFFECTIVE DATE. This ordinance becomes effective 30 days after passage, and within 15 days after passage shall be published once with the names of supervisors voting for or against it in the Contra Costa Times, a newspaper published in this County.

PASSED on _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: DAVID J. TWA,
 Clerk of the Board of Supervisors
 and County Administrator

Board Chair

By: _____
Deputy

[SEAL]

TLG:

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