



## COUNTY OF DEL NORTE

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### Memorandum

**AGENDA DATE:** March 24, 2020

**TO:** Del Norte County Board of Supervisors

**FROM:** County Counsel

**SUBJECT:** Ordinance Repealing, Updating, and Enacting Parking Enforcement Provisions

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### **RECOMMENDATION FOR BOARD ACTION:**

- 1.) Introduce in title only: Ordinance Repealing, Updating, and Enacting Parking Enforcement Provisions
- 2.) Waive further reading
- 3.) Set a hearing on April 14, 2020 to Adopt the Ordinance
- 4.) Designate County Counsel to prepare a summary of the Ordinance for publication

### **SUMMARY:**

This ordinance repeals and replaces the Del Norte County Parking Enforcement Ordinance. The updated Del Norte County Parking Enforcement Ordinance will be codified at Title 10 Chapter 12 of the Del Norte County Code. The existing Parking Enforcement Ordinance is attached as Exhibit A.

At a previous Board meeting in February, the Board of Supervisors directed County Counsel to work on a parking ordinance under California Vehicle Code §22651 (k) which states that a peace officer or employee engaged in parking enforcement may remove a vehicle "If a vehicle is parked or

left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.” In reviewing the Del Norte County Parking Ordinance, the existing ordinance contained many outdated provisions dating to 1957 that required removal due to inaccuracies with current circumstances. For the sake of efficiency, the parking enforcement regulations were also repealed and updated at this time. These enforcement provisions were mostly in compliance with California law and required few updated as they were enacted in 2009 and largely reflected the corresponding section of the Vehicle Code §40215.

The Parking Enforcement ordinance was updated to reflect the number of days required by the Vehicle Code to reflect that a request for administrative review must be made within twenty-one (21) days from the issuance of the notice of parking violation, or within fourteen (14) days from the mailing of the notice. Sections in the existing County parking ordinance that appeared to be more appropriate in the enforcement section were moved to this Chapter. Minor updates to the hearing procedures were updated to be as close to hearings on administrative citations as possible while still adhering to California law. The definition of indigency and the waiver process in order to receive a hearing without deposit of the parking ticket fee was updated to reflect the definition in the Vehicle Code §40220.

**Fiscal Impact:**

No fiscal impact.

**ALTERNATIVE:**

Do not adopt the ordinance in which case the current ordinance will remain in effect. Direct staff to make changes to the ordinance.

**AGENCY(S) INVOLVEMENT:** County Counsel, Community Development Department

**SIGNATURE REQUIRED:** Board Chair.

**BOARD OF SUPERVISORS  
COUNTY OF DEL NORTE, STATE OF CALIFORNIA**

**ORDINANCE NO. 2020-\_\_\_\_\_**

**AN ORDINANCE REPEALING, UPDATING, AND ENACTING PARKING  
PROVISIONS**

The following ordinance, consisting of four sections, was passed and adopted by the Board of Supervisors of the County of Del Norte, State of California, at a regular meeting of the Board of Supervisors held on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, by the following vote:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
Gerry Hemmingsen, Chair  
Del Norte County Board of Supervisors  
State of California

ATTEST:

\_\_\_\_\_  
Kylie Goughnour  
Clerk of the Board of Supervisors  
County of Del Norte County

Approved as to form:

\_\_\_\_\_  
Elizabeth Cable  
Del Norte County Counsel

The Board of Supervisors of the County of Del Norte ordains as follows:

**SECTION 1: Parking Enforcement Provisions**

**Title 10 Chapter 14 of the Del Norte County Code, related to Parking, a copy of which is attached as Exhibit A, is repealed in its entirety and replaced with the following which shall be entitled Title 10 Chapter 12 of the Del Norte County Code:**

Title: 10 - Vehicles and Traffic  
Chapter: 12 – Parking Enforcement  
Section: 10 – Definitions

The following definitions apply to terms utilized in this Chapter to provide clarity and consistency:

- A. "Administrative hearing" means a hearing process with respect to a citation, conducted in accordance with the procedures specified herein, initiated by a timely written request of a contestant dissatisfied with the results of the administrative review.
- B. "Administrative review" means the initial citation review process, initiated by a contestant's timely request, and conducted by the issuing agency staff.
- C. "Appeal" means the action taken by a contestant to request an administrative hearing.
- D. "Citation" includes, but is not limited to notices of parking or standing violation, and notices of delinquent violation.
- E. "Contestant" means any person or entity who is the registered owner, driver, rentee or lessee who is liable for parking penalties in accordance with the provisions of California Vehicle Code Sections 40200, et seq., and who contests or disputes liability for the parking penalties.
- F. "DMV" means the state Department of Motor Vehicles.
- G. "Issuing agency" means the Del Norte County Community Development Department, the Del Norte County Sheriff's Department, or the California Highway Patrol, whichever issues the parking citation; provided however that only the Community Development Department shall act as the issuing agency for the purpose of administrative review.
- H. "Parking penalty" includes the applicable civil penalty for the violation specified on the citation, the late payment penalty, and the Department of Motor Vehicles (DMV) lien fee, if applicable.
- I. "Parking violation" means any violation of any regulation governing the standing or parking of a vehicle under the California Vehicle Code, under any federal or state statute or regulation, or under any County of Del Norte ordinance or resolution.
- J. "Revenue division" means the County of Del Norte Tax collector. Except as otherwise provided in this Chapter, the Tax Collector shall act as the processing agency for parking and standing violations in accordance with

Vehicle Code sections 40200 through 40230.

Title: 10 - Vehicles and Traffic  
Chapter: 12 - Parking Enforcement  
Section: 20 – Schedule of Parking Penalties

It is the intention of the Del Norte County Board of Supervisors to exercise its full authority specified in California Vehicle Code Section 40203.5(a) by establishing, by resolution, a schedule of penalties for parking and related violations, late payment penalties, administration fees, and other related charges for parking and related violations.

Title: 10 - Vehicles and Traffic  
Chapter: 12 - Parking Enforcement  
Section: 30 – Purpose and Timelines

- A. This Chapter describes the procedures for parking enforcement, under the authority of, and for the purpose of implementing the requirements of Vehicle Code sections 40200 through 40230. The purpose of the procedures specified herein is to provide a fair and thorough process for review.
- B. Within this procedure there are various time limitations established for presentation of certain requests, including but not limited to requests for administrative review, requests for administrative hearing, and requests for copies of documents. For purposes of this procedure, the specified time limitations are jurisdictional. Untimely requests will be rejected. Waivers will not be issued unless specified herein. No person has authority to waive or otherwise grant exceptions to a specified time limitation.

Title: 10 - Vehicles and Traffic  
Chapter: 12 - Parking Enforcement  
Section: 40 – Summary of Procedures

This procedure encompasses two sequential stages of review available to persons or entities wishing to contest citations for parking or standing violations:

1. Administrative review; and
2. Administrative hearing.

The first stage, administrative review, is initiated by a contestant 's timely written, telephonic, or in-person request for review of the circumstances surrounding issuance of the citation. The contestant will be required to complete a review request form. The reasons for the contest must be specified in the form in order to focus the investigation. The review process consists of an investigation by the issuing agency staff, who will review the citation and the circumstances surrounding its issuance. The results of this process will be mailed to the contestant within fourteen (14) days of the request for review.

The second stage, administrative hearing, is initiated by a contestant who is not satisfied with the results of the administrative review. To initiate this process, the contestant must, on the written request form provided by the county, indicate whether the contestant prefers a hearing by mail or in person. The reasons for the contest must also be articulated on the form. In order to perfect the appeal, the contestant must also deposit the amount of the parking penalty, at the time the administrative hearing is requested. If any of these requirements are not met within the prescribed time limits, the appeal will be untimely and will be rejected. The hearing will be conducted by an independent hearing examiner. The hearing will be conducted in accordance with the provisions of this procedure. A written determination of the contest will be provided to the contestant personally, or by mail. Finally, appeal of the county's final decision on the citation may be made to the Superior Court.

Title: 10 - Vehicles and Traffic

Chapter: 12 - Parking Enforcement

Section: 50 – Administrative Review

- A. Initiating Administrative Review.
  - 1. Timeliness. A request for administrative review must be made within twenty-one (21) days from the issuance of the notice of parking violation, or within fourteen (14) days from the mailing of the notice of delinquent parking violation exclusive of any days from the day the processing agency receives a request for a copy or facsimile of the original notice of parking violation and the day the processing agency complies with the request. Requests made outside of this timeline shall be denied.
  - 2. Manner of Making Request. The request for administrative review may be made by written request, telephone, or in person to the revenue division.
  - 3. No Charge. There shall not be a charge for this review.
- B. Written Statement of Reasons. A contestant shall provide to the revenue division a written statement of the reasons for contesting the parking violation. The statement of reasons shall be made on a form provided by the revenue division.
- C. Investigation. Upon receipt of a timely request for administrative review and the statement of reasons, the revenue division shall forward the request and statement to the issuing agency and the issuing agency staff will commence an investigation of the citation and the circumstances surrounding its issuance. The review shall consist of a determination of whether the citation contains all of the items required by California Vehicle Code Section 40202, and shall focus on the reasons for the request as specified by the contestant.
  - 1. Cancellation of Citation. If, based on the results of the investigation, the issuing agency is satisfied that the citation was not in accordance with California Vehicle Code Section 40202, or, based on the contestant's statement of reasons, that the violation did not occur or

the registered owner was not responsible for the violation, the issuing agency shall cancel the citation and shall specify in writing the reasons for canceling the citation.

2. Determination of Validity. If, based on the results of the investigation, the issuing agency is satisfied that the citation was in accordance with California Vehicle Section 40202, and that the reasons specified by the contestant do not exist, or do not affect the validity of the citation, the issuing agency shall specify those findings in writing together with the supporting reasons for making the findings.
- D. Notification to Contestant. The issuing agency shall mail the results of the investigation to the contestant by first class mail and shall forward a copy of the results to the revenue division. Services of the results upon contestant shall be complete upon placement of the results in the United States mail, postage paid. A Hardship Waiver request form shall be sent to the contestant along with the notification.

Title: 10 - Vehicles and Traffic

Chapter: 12 - Parking Enforcement

Section: 60 - Administrative Hearing

- A. Initiating Administrative Appeal.
1. Timeliness. A contestant dissatisfied with the results of the administrative review may appeal. Any such appeal must be made within twenty one (21) days of mailing the results of the investigation.
  2. Requirements for Perfecting Appeals. The contestant's appeal shall be initiated by means of a written form provided by the revenue division, completed by the contestant, and filed by the contestant with the revenue division within the time specified in subsection (A)(1) of this section. In addition, the following requirements must be satisfied within the said time period:
    - a. The contestant shall deposit with the revenue division the full amount of the parking penalty.
    - b. The contestant shall complete the portion of the form specifying the contestant's preference for a hearing by mail or in person.
    - c. The contestant shall complete the portion of the form specifying the reasons for contesting the citation.
    - d. If different than the record address contained in the parking or revenue division's records, the contestant shall complete the portion of the form specifying the address of the contestant for purposes of mailing notices of hearing and other documents in connection with the appeal.
  3. Rejection as Untimely. In the event that the contestant fails to satisfy any one or more of the above requirements within the time



specified in subsection (A)(2) of this section, the appeal shall be rejected as untimely.

4. **Hardship Waiver.** A person who is indigent shall be entitled to a hardship waiver. A person requesting a hardship waiver shall provide such request to the revenue division within twenty one (21) days of mailing the results of the investigation. Proof of indigency must be included. Indigency is defined under Vehicle Code Section 40220 as:

- a. The person meets the income criteria set forth in subdivision (b) of Section 68632 of the Government Code.
- b. The person receives public benefits from a program listed in subdivision (a) of Section 68632 of the Government Code.
- c. The person may demonstrate that the person is indigent by providing either of the following information, as applicable:
  - i. Proof of income from a pay stub or another form of proof of earnings, such as a bank statement, that shows that the person meets the income criteria set forth in subdivision (b) of Section 68632 of the Government Code, subject to review and approval by the processing agency or its designee. The processing agency or its designee shall not unreasonably withhold its approval.
  - ii. Proof of receipt of benefits under the programs described in subparagraph (B) of paragraph (1), including, but not limited to, an electronic benefits transfer card or another card, subject to review and approval by the processing agency. The processing agency or its designee shall not unreasonably withhold its approval.

B. **Notice of Hearing.** Within twenty-one (21) days from the filing with the revenue division of a contestant's timely appeal, the revenue division shall send via first class mail to the contestant a notice of hearing. The notice shall specify the date, time, and place of hearing in accordance with California Vehicle Code Section 40215(b). An administrative hearing shall be held within ninety (90) calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to California Vehicle Code Section 40200 et seq. or this Chapter. Administrative hearings shall be set no sooner than 15 days from the contestant's request for appeal.

C. **Continuances.**

1. **Requests Made Prior to Date of Hearing.** A contestant may, in writing or otherwise, request that the revenue division reschedule the hearing if the request is made at least twenty-four (24) hours prior to the hearing. The revenue division shall grant one continuance not to exceed twenty-one (21) calendar days in accordance with California Vehicle Code Section 40215(b).

D. **Hearing Procedures.**

1. **Procedural Matters.**

- a. **Appearances.** The officer issuing the citation shall not be required to appear at the hearing. The contestant shall appear at the hearing, unless a hearing by mail has been designated by the contestant in the appeal request form. If the contestant does not appear at the hearing, the contest shall be decided by the hearing officer based on the citation, the record of the administrative review, and any other relevant material in the record, taking into account the reasons specified by the contestant in the appeal request form. Appearances by minors shall be governed by the provisions of California Vehicle Code Section 40215(c)(2).
  - b. **Hearing Officers.** The hearing shall be conducted by an independent and impartial hearing examiner meeting the qualifications specified in California Vehicle Code Section 40215(c)(4), who shall have been appointed pursuant to County Code section 2.26.020.
  - c. **Hearing Record.** The hearing officer shall write pertinent information into the record during the in-person hearing. The hearing record and any supporting documentation will remain with the case file at the county revenue division. If the contestant appeals the hearing officer's decision to the superior court, the entire case file will be forwarded to the court. The hearing records for those cases not appealed to the municipal court will be retained by the county for one year.
  - d. **Representation.** The contestant may, in his or her discretion, be represented by an attorney in the appeal process, including but not limited to the contest hearing. Any such representation shall be at the sole and exclusive cost of the contestant. No contestant shall be entitled to representation at the expense of the county, or any other public agency, irrespective of indigency status.
2. **Conduct of the Hearing.**
- a. **Initial Procedures-Hearing Officer Duties.** At the commencement of the hearing, the hearing officer shall:
    - i. Make a pre-hearing statement, briefly explaining the nature of the civil proceedings, the manner of conducting the hearing and the limits on the introduction of evidence, the process of rendering a decision, the effects of the decision in terms of collection remedies available to the revenue division, the right of the contestant to appeal to the municipal court for a de novo hearing, and any other matters in the hearing officer's discretion;
    - ii. Read the citation into the record;
    - iii. Administer an oath to the contestant and any prospective witnesses;

- iv. Record the name and address of the contestant; and
  - v. Write the registered owner's name and address; and the contestant's relationship to the registered owner, if applicable.
- b. Proof Requirements-Validity of Citation.
- i. Burden of Proof. The issuing agency bears the burden of proof, by a preponderance of the evidence, that the citation meets statutory requirements for validity.
  - ii. Prima Facie Case. If the citation, or a copy thereof, contains all of the items specified in California Vehicle Code Section 40202, and if the revenue division or issuing agency has included in the record the information received from the DMV identifying the registered owner of the vehicle, the citation and such information shall be prima facie evidence of the facts contained therein, and of the parking violation. The issuing agency shall not be required to produce any other information in order to establish the parking violation.
  - iii. Rebuttal. The contestant may introduce credible relevant rebuttal evidence relating to the validity of the citation.
- c. Proof Requirements-Contestant's Defenses.
- i. Burden of Proof-Defenses. The contestant bears the burden of proof, by a preponderance of the evidence, that although the citation is facially valid, a viable defense exists which would preclude the contestant's liability for the parking penalty, or that a viable defense exists which would limit the contestant's liability for late payment penalties.
  - ii. Defenses-Late Payment Penalties. Nonreceipt of the notice of violation itself, if based on sufficient credible evidence, may constitute a defense to late payment penalties based on nonpayment of the notice of violation. However, nonreceipt of the notice of violation is not a defense to late response to the notice of delinquent parking violation. The defense of nonreceipt of the notice of violation is not available to the registered owner if it is established that the person operating the vehicle at the time of the citation was not the registered owner. Proof of timely payment of the citation is a defense to late payment penalties.
  - iii. Defenses-Merits of Citation. Defenses relating to the merits of the citation must be established by the contestant by credible evidence. Such defenses may include, but are not limited to signage matters (missing, obscured or defaced signs), where the contestant demonstrates that it was impossible for him or her to

become aware of the applicable parking restrictions; malfunctioning parking meters; recent loss of parking permit or placard, accompanied by clear proof of the exercise of due diligence in efforts to replace the permit or placard; mechanical breakdown of the vehicle, where the vehicle was not illegally parked prior to the breakdown, where the violation in fact results from the breakdown and reasonable steps were taken to remove the vehicle prior to the occurrence of the violation. Personal reasons, inconvenience, lack of funds, forgetfulness, failure to observe signs, lack of available parking elsewhere, lack of knowledge of the applicable restrictions, and similar or related matters are not under any circumstances a defense to liability for the parking penalties. No defense which was not included in the statement of reasons contained in the contestant's appeal hearing request will be considered.

- d. Evidence.
- i. Rules of Evidence. The hearing officer shall only consider evidence that is relevant to whether the violation occurred and whether the appellant has caused or maintained the violation of the Code occurred on the date specified in the administrative citation, whether the violation continues to exist, and/or whether the amount of the fine is correctly applied under this Chapter. Formal rules of evidence shall not apply. The hearing officer may exclude evidence the probative value of which is outweighed the probability that its admission will necessitate undue time. Evidence relevant to the issues raised by the contestant's statement of reasons, and to the validity of the citation itself under California Vehicle Code Section 40202, will be received.
  - ii. Form of Evidence. Other than the citation and the DMV information, the hearing officer shall receive into the record the issuing agency and revenue division's record from the administrative review, together with relevant testimony, documentation and other material which is submitted by a party. The hearing officer may, but is not required to, admit evidence in the form of declarations of witnesses, submitted by the contestant. Such declarations shall not be admitted unless presented in the form required for declarations under California Code of Civil Procedure Section 2015.5, and shall contain the statements required by California Code of Civil Procedure 437c(d). Oral evidence shall be taken under oath or affirmation.

- e. Witnesses. The contestant may present witnesses in support of the contestant's contentions. The hearing officer, after conducting the initial procedures of the hearing, may exclude witnesses until their turn to testify occurs. The hearing officer may limit the number of witnesses in the interest of preventing cumulative or repetitive testimony. The parties shall be given the opportunity to testify and present witnesses and evidence concerning the parking citation, and to cross-examine witnesses and dispute evidence. The hearing officer may conduct such cross-examination of the contestant or any witness.
  - f. Continuances. The hearing officer may continue any hearing for any reason.
3. Decisions.
- a. Basis for Decision. The hearing officer shall make a decision on liability for the parking penalties based on the testimony and other evidence in the record.
  - b. Disposition. The hearing officer shall enter the disposition on the hearing record, and enter the total amount of the parking penalties. The decision, including the rationale therefore, shall be placed in written form.
  - c. Delivery of Decision to Contestant. The hearing officer may personally deliver or send the written decision to the contestant via first class mail.
  - d. Finality. The decision shall be the final decision of the revenue division. The decision shall set forth the time limits for the contestant to file for judicial review in the Del Norte County Superior Court, and a notice that if no such review is sought within the applicable time limitation, the decision shall be final for all purposes

Title: 10 - Vehicles and Traffic

Chapter: 12 – Parking Enforcement

Section: 70 – Judicial Review

Within thirty (30) days after the mailing or personal delivery of the final decision described in Section 10.12.060(D)(3)(c) of this chapter, the contestant may seek review by filing an appeal to Del Norte County Superior Court. Such review will be conducted in accordance with the provision of California Vehicle Code Section 40230.

Title: 10 - Vehicles and Traffic

Chapter: 12 - Parking

Section: 80 – Partial Payments

The hearing officer or the issuing agency may, at any stage of the initial review or the administrative hearing process, and consistent with the written guidelines established by the issuing agency, allow payment of the parking penalty in installments, or the issuing agency

may allow for deferred payment, if the person provides evidence satisfactory to the examiner or the issuing agency, as the case may be, of an inability to pay the parking penalty in full. If authorized by the governing board of the issuing agency, the examiner may permit the performance of community service in lieu of payment of a parking penalty

## **SECTION 2: CEQA Determination**

Approval of parking regulations, citations, fines, and related penalties is categorically exempt under the California Environmental Quality Act (CEQA, California Public Resources Code Section 21000 et seq.), pursuant to 14 California Code of Regulations Section 15321(a), as an action related to the enforcement of parking laws administered by the County of Del Norte.

## **SECTION 3: Severability**

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of the Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsection, sentence, clause, or phrases be declared unconstitutional or invalid.

## **SECTION 4: Effective Date**

Pursuant to Government Code § 25123, this ordinance shall take effect and be in force thirty (30) days from the date of its passage; and before the expiration of fifteen (15) days after its passage it, or a summary of it, shall be published once, with the names of the members of the Board of Supervisors voting for and against the same in the Del Norte County Triplicate, a newspaper of general circulation published in the County of Del Norte.

# Exhibit A

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**Title:** 10 - Vehicles and Traffic  
**Chapter:** 14 - Parking Enforcement  
**Section:** 10 - Penalties fines fees and related charges for parking traffic and related violations

Intent. It is the intention of the Del Norte County Board of Supervisors to exercise its full authority specified in California Vehicle Code Section 40203.5(a) by providing a procedure for establishment of a schedule of penalties for parking and related violations, late payment penalties, administration fees, and other related charges for parking and related violations.

Procedure for establishment. Subject to any limitations imposed by state law, the Board of Supervisors shall, by resolution, establish, penalties, fines, fees and related charges for parking and related violations, late payment violations, administrative fees and any other charge relating to the administration of the provisions of the California Vehicle Code specifying civil procedures for citation resolution, and booting and impounding of vehicles. (Ord. 2009-005 § 4 (part), 2009)

**Title:** 10 - Vehicles and Traffic  
**Chapter:** 14 - Parking Enforcement  
**Section:** 20 - Administrative adjudication procedure

Purpose. The procedures embodied in this administrative adjudication procedure have been duly adopted by the Board of Supervisors, under the authority of, and for the purpose of implementing the requirements of Vehicle Code sections 40200 through 40230. The purpose of the procedures specified herein is to provide a fair and thorough process for review, both at the administrative level, and in the form of a hearing when requested, of citations issued for parking or standing violations, within the unincorporated area of the County of Del Norte.

Application of Time Limitations. Within this procedure there are various time limitations established for presentation of certain requests, including but not limited to requests for administrative review, requests for administrative hearing, and requests for copies of documents. For purposes of this procedure, the specified time limitations are jurisdictional. Untimely requests will be rejected. Waivers will not be issued. No person has authority to waive or otherwise grant exceptions to a specified time limitation.

Summary of Procedures. This procedure encompasses two sequential stages of review available to persons or entities wishing to contest citations for parking or standing violations:

1. Administrative review; and
2. Administrative hearing.

The first stage, administrative review, is initiated by a contestant's timely written, telephonic, or in-person request for review of the circumstances surrounding issuance of the citation. The contestant will be required to complete a review request form. The reasons for the contest must be specified in the form in order to focus the investigation. The review process consists of an investigation by the issuing agency staff, who will review the citation and the circumstances surrounding its issuance. The results of this process will be mailed to the contestant.

The second stage, administrative hearing, is initiated by a contestant who is not satisfied with the results of the administrative review. To initiate this process, the contestant must, on the written request form provided by the county, indicate whether he or she prefers a hearing by mail or in person. The reasons for the contest must also be articulated on the form. In order to perfect the appeal, the contestant must also deposit the amount of the parking penalty, at the time the administrative hearing is requested. If any of these requirements are not met within the prescribed time limits, the appeal will be untimely and will be rejected. The hearing will be conducted by an independent hearing examiner. The hearing will be conducted in accordance with the provisions of this procedure. A written determination of the contest will be provided to the contestant personally, or by mail. Finally, appeal of the county's final decision on the citation may be made to the Superior Court.

(Ord. 2009-005 § 4 (part), 2009)

**Title:** 10 - Vehicles and Traffic  
**Chapter:** 14 - Parking Enforcement  
**Section:** 25 - Definitions



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The following definitions apply to terms utilized in this Chapter to provide clarity and consistency:

"Administrative hearing" means a hearing process with respect to a citation, conducted in accordance with the procedures specified herein, initiated by a timely written request of a contestant dissatisfied with the results of the administrative review.

"Administrative review" means the initial citation review process, initiated by a contestant's timely request, and conducted by the issuing agency staff.

"Appeal" means the action taken by a contestant to request an administrative hearing.

"Citation" includes, but is not limited to notices of parking or standing violation, and notices of delinquent violation.

"Contestant" means any person or entity who is the registered owner, driver, rentee or lessee who is liable for parking penalties in accordance with the provisions of California Vehicle Code Sections 40200, et seq., and who contests or disputes liability for the parking penalties.

"DMV" means the state Department of Motor Vehicles.

"Issuing agency" means the Del Norte County Community Development Department, the Del Norte County Sheriff's Department, or the California Highway Patrol, whichever issues the parking citation; provided however that only the Community Development Department shall act as the issuing agency for the purpose of administrative review.

"Parking penalty" includes the applicable civil penalty for the violation specified on the citation, the late payment penalty, and the Department of Motor Vehicles (DMV) lien fee, if applicable.

"Parking violation" means any violation of any regulation governing the standing or parking of a vehicle under the California Vehicle Code, under any federal or state statute or regulation, or under any County of Del Norte ordinance or resolution.

"Revenue division" means the County of Del Norte Tax collector. Except as otherwise provided in this Chapter, the Tax Collector shall act as the processing agency for parking and standing violations in accordance with Vehicle Code sections 40200 through 40230.

(Ord. 2009-005 § 4 (part),2009)

**Title:** 10 - Vehicles and Traffic  
**Chapter:** 14 - Parking Enforcement  
**Section:** 30 - Administrative Review

**A. Initiating Administrative Review.**

1. **Timeliness.** A request for administrative review must be made within twenty-one (21) days from the issuance of the notice of parking violation, or within twenty-one (21) days from the mailing of the notice of delinquent parking violation.

2. **Manner of Making Request.** The request for administrative review may be made by written request, telephone, or in person to the revenue division.

**B. Written Statement of Reasons.** A contestant shall provide to the revenue division a written statement of the reasons for contesting the parking violation. The statement of reasons shall be made on a form provided by the revenue division. If the statement of reasons is not timely provided by the contestant, within the time period specified in subsection (A)(1) of this section, the request for administrative review will be rejected, and the contestant shall have no further rights to administrative review, or to an administrative hearing.

**C. Investigation.** Upon receipt of a timely request for administrative review and the required statement of reasons, the revenue division shall forward the request and statement to the issuing agency and the issuing agency staff will commence an investigation of the citation and the circumstances surrounding its issuance. The review shall consist of a determination of whether the citation contains all of the items required by California Vehicle Code Section 40202, and shall focus on the reasons for the request as specified by the contestant.

1. **Cancellation of Citation.** If, based on the results of the

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investigation, the issuing agency is satisfied that the citation was not in accordance with California Vehicle Code Section 40202, or, based on the contestant's statement of reasons, that the violation did not occur or the registered owner was not responsible for the violation, the issuing agency shall cancel the citation and shall specify in writing the reasons for canceling the citation.

2. Determination of Validity. If, based on the results of the investigation, the issuing agency is satisfied that the citation was in accordance with California Vehicle Section 40202, and that the reasons specified by the contestant do not exist, or do not affect the validity of the citation, the issuing agency shall specify those findings in writing together with the supporting reasons for making the findings.

D. Notification to Contestant. The issuing agency shall mail the results of the investigation to the contestant by first class mail and shall forward a copy of the results to the revenue division. Services of the results upon contestant shall be complete upon placement of the results in the United States mail, postage paid.

**Title:** 10 - Vehicles and Traffic  
**Chapter:** 14 - Parking Enforcement  
**Section:** 40 - Administrative Hearing

A. Initiating Appeal.

1. Timeliness. A contestant dissatisfied with the results of the administrative review may appeal. Any such appeal must be made within twenty one (21) days of mailing the results of the investigation.

2. Requirements for Perfecting Appeals. The contestant's appeal shall be initiated by means of a written form provided by the revenue division, completed by the contestant, and filed by the contestant with the revenue division within the time specified in subsection (A)(1) of this section. In addition, the following requirements must be satisfied within the said time period:

a. The contestant shall deposit with the revenue division the full amount of the parking penalty.

b. The contestant shall complete the portion of the form specifying the contestant's preference for a hearing by mail or in person.

c. The contestant shall complete the portion of the form specifying the reasons for contesting the citation.

d. If different than the record address contained in the parking or revenue division's records, the contestant shall complete the portion of the form specifying the address of the contestant for purposes of mailing notices of hearing and other documents in connection with the appeal.

In the event that the contestant fails to satisfy any one or more of the above requirements within the time specified in subsection (A)(1) of this section, the appeal shall be rejected as untimely.

3. Exceptions to Parking Penalty Deposit Requirement.

a. Indigency. Pursuant to California Vehicle Code Section 40215(b), the revenue division is required to establish a procedure for contestants desiring to establish their inability to deposit the full amount of the parking penalties. Such persons are required to establish their inability to pay the full amount of the parking penalties by verifiable and substantial proof thereof. The revenue division procedure will follow the county indigent collection procedure in effect at the time of request.

B. Notice of Hearing. Within twenty-one (21) days from the filing with the revenue division of a contestant's timely appeal, the revenue division shall send via first class mail to the contestant a notice of hearing. The notice shall specify the date, time, and place of hearing in accordance with California Vehicle Code Section 40215(b). An administrative hearing shall be held within ninety (90) calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to California Vehicle Code Section 40200 et seq. or this Chapter.

C. Continuances.

1. Requests Made Prior to Date of Hearing. A contestant may, in writing or otherwise, request that the revenue division reschedule the hearing if the request is made at least twenty-four (24) hours prior to the hearing. The revenue division shall grant one continuance not to exceed twenty-one (21) calendar days in accordance with California Vehicle Code Section 40215(b).

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D. Hearing Procedures.

1. Procedural Matters.

a. **Appearances.** The officer issuing the citation shall not be required to appear at the hearing. The contestant shall appear at the hearing, unless a hearing by mail has been designated by the contestant in the appeal request form. If the contestant does not appear at the hearing, the contest shall be decided by the hearing officer based on the citation, the record of the administrative review, and any other relevant material in the record, taking into account the reasons specified by the contestant in the appeal request form. Appearances by minors shall be governed by the provisions of California Vehicle Code Section 40215(c)(2).

b. **Hearing Officers.** The hearing shall be conducted by an independent and impartial hearing examiner meeting the qualifications specified in California Vehicle Code Section 40215(c)(4), who shall have been appointed pursuant to County Code section 2.26.020.

c. **Hearing Record.** The hearing officer shall write pertinent information into the record during the in-person hearing. The hearing record and any supporting documentation will remain with the case file at the county revenue division. If the contestant appeals the hearing officer's decision to the municipal court, the entire case file will be forwarded to the court. The hearing records for those cases not appealed to the municipal court will be retained by the county for one year.

d. **Representation.** The contestant may, in his or her discretion, be represented by an attorney in the appeal process, including but not limited to the contest hearing. Any such representation shall be at the sole and exclusive cost of the contestant. No contestant shall be entitled to representation at the expense of the county, or any other public agency, irrespective of indigency status.

2. Conduct of the Hearing.

a. **Initial Procedures-Hearing Officer Duties.** At the commencement of the hearing, the hearing officer shall:

i. Make a pre-hearing statement, briefly explaining the nature of the civil proceedings, the manner of conducting the hearing and the limits on the introduction of evidence, the process of rendering a decision, the effects of the decision in terms of collection remedies available to the revenue division, the right of the contestant to appeal to the municipal court for a de novo hearing, and any other matters in the hearing officer's discretion;

ii. Read the citation into the record;

iii. Administer an oath to the contestant and any prospective witnesses;

iv. Record the name and address of the contestant; and

v. Write the registered owner's name and address; and the contestant's relationship to the registered owner, if applicable.

b. **Proof Requirements-Validity of Citation.**

i. **Burden of Proof.** The issuing agency bears the burden of proof, by a preponderance of the evidence, that the citation meets statutory requirements for validity.

ii. **Prima Facie Case.** If the citation, or a copy thereof, contains all of the items specified in California Vehicle Code Section 40202, and if the revenue division or issuing agency has included in the record the information received from the DMV identifying the registered owner of the vehicle, the citation and such information shall be prima facie evidence of the facts contained therein, and of the parking violation. The issuing agency shall not be required to produce any other information in order to establish the parking violation.

iii. **Rebuttal.** The contestant may introduce credible relevant rebuttal evidence relating to the validity of the citation.

c. **Proof Requirements-Contestant's Defenses.**

**Burden of Proof-Defenses.** The contestant bears the burden of proof, by a preponderance of the evidence, that although the citation is facially valid, a viable defense exists which would preclude the contestant's liability for the parking penalty, or that a viable defense exists which would limit the contestant's liability for late payment penalties.

ii. **Defenses-Late Payment Penalties.** Nonreceipt of the notice of violation itself, if based on sufficient credible evidence, may constitute a defense to late payment penalties based on nonpayment of the notice of violation. However, nonreceipt of the notice of violation is not a defense to late response to the notice of delinquent parking violation. The defense of nonreceipt of the notice of violation is not available to the registered owner if it is established that the person operating the vehicle at the time of the citation was not the registered owner. Clear proof of timely payment of the citation is a defense to late payment penalties.

iii. **Defenses-Merits of Citation.** Defenses relating to the merits of the citation must be established by the contestant by credible evidence. Such defenses may include, but are not limited to signage matters (missing, obscured or defaced signs), where the contestant demonstrates that it was impossible for him or her to become aware of the applicable parking restrictions; malfunctioning parking meters; recent loss of parking permit or placard, accompanied by clear proof of the exercise of due diligence in efforts to replace the permit or placard; mechanical breakdown of the vehicle, where the vehicle was not illegally parked prior to the breakdown, where the violation in fact results from the breakdown and reasonable steps were taken to remove the vehicle prior to the occurrence of the violation. Personal reasons, inconvenience, lack of funds, forgetfulness, failure to observe signs, lack of available parking elsewhere, lack of

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knowledge of the applicable restrictions, and similar or related matters are not under any circumstances a defense to liability for the parking penalties. No defense which was not included in the statement of reasons contained in the contestant's appeal hearing request will be considered.

d. Evidence.

Rules of Evidence. The rules of evidence for civil court proceedings shall not apply in hearings conducted pursuant to this procedure. Evidence relevant to the issues raised by the contestant's statement of reasons, and to the validity of the citation itself under California Vehicle Code Section 40202, will be received. Determinations of credibility of evidence are committed to the sound discretion of the hearing officer.

ii. Form of Evidence. Other than the citation and the DMV information, the hearing officer shall receive into the record the issuing agency and revenue division's record from the administrative review, together with relevant testimony, documentation and other material which is submitted by a party. Credibility determinations, together with determinations as to the weight to be assigned to evidence, are committed to the sound discretion of the hearing officer. The hearing officer may, but is not required to, admit evidence in the form of declarations of witnesses, submitted by the contestant. Such declarations shall not be admitted unless presented in the form required for declarations under California Code of Civil Procedure Section 2015.5, and shall contain the statements required by California Code of Civil Procedure 437c(d).

e. Witnesses. The contestant may present witnesses in support of the contestant's contentions. The hearing officer, after conducting the initial procedures of the hearing, may exclude witnesses until their turn to testify occurs. The hearing officer may limit the number of witnesses in the interest of preventing cumulative or repetitive testimony.

f. Cross-Examination by Hearing Officer. The hearing officer may conduct such cross-examination of the contestant or any witness, as in the hearing officer's sole and exclusive discretion is warranted under all of the circumstances.

3. Decisions.

a. Basis for Decision. The hearing officer shall make a decision on liability for the parking penalties based on the testimony and other evidence in the record.

b. Disposition. The hearing officer shall enter the disposition on the hearing record, and enter the total amount of the parking penalties. The decision, including the rationale therefore, shall be placed in written form.

c. Delivery of Decision to Contestant. The hearing officer shall send the written decision to the contestant via first class mail.

d. Finality. The decision shall be the final decision of the revenue division. The decision shall set forth the time limits for the contestant to file for judicial review in the Del Norte County Superior Court, and a notice that if no such review is sought within the applicable time limitation, the decision shall be final for all purposes

**Title:** 10 - Vehicles and Traffic

**Chapter:** 14 - Parking Enforcement

**Section:** 50 - Judicial Review

Within thirty (30) days after the mailing or personal delivery of the final decision described in Section 10.14.040(D)(3)(d) of this chapter, the contestant may seek review by filing an appeal to Del Norte County Superior Court. Such review will be conducted in accordance with the provision of California Vehicle Code Section 40230.

(Ord 2009-005 § 4 (part),2009)

**Title:** 10 - Vehicles and Traffic

**Chapter:** 14 - Parking Enforcement

**Section:** 60 - Copies of citations

Upon request, the revenue division will provide a copy of a citation to any person who has received a notice of delinquent parking violation, or to his or her agent, upon request made by mail or in person. The copy will be provided within fifteen (15) days of the request, upon payment of the fee established by the County. The copy can be one produced by any reasonable means available to the revenue division, including printed representation of computer information.

(Ord 2009-005 § 4 (part),2009)

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