



Council Agenda Report

From: Elizabeth Wagner Hull, City Attorney
Ty Lewis, City Manager

Subject: Introduction and first reading of an Ordinance Amending Paso Robles Municipal Code Chapter 12.42, Parking Management, to clarify the process for setting parking rates, reestablishing the Downtown Parking Zone and other clean up measures.

Report back by City Manager on implementation of new parking rates and provide direction to staff regarding a refund process for parking fees paid in the Downtown Parking Zone from February 6, 2023, to February 6, 2024 pursuant to the period authorized under the Government Claims Act.

CEQA Determination: The City finds that this action is not a project under the California Environmental Quality Act pursuant to State Guidelines Section , §§ 15060, subd. (c)(2)-(3), 15378.

Date: February 20, 2024

Facts

1. On October 16, 2018, the City Council heard the first reading of an ordinance revising Paso Robles Municipal Code Chapter 12.42, among other sections, to address charging for parking pursuant to Vehicle Code ("VC") Section 22508.
2. Following the first reading of the ordinance City staff, community members and an Ad Hoc Committee met to consider comments made by the community at the first reading and recommended minor revisions to the ordinance.
3. On November 6, 2018, the City Council approved the second reading and adopted the ordinance (the "2018 Parking Management Ordinance") incorporating the minor modifications recommended by the Ad Hoc committee and the community following the first reading.
4. Between November 2018 and May 2019, City staff continued to meet internally and with the community regarding the implementation of the new parking program.
5. On May 7, 2019, the City Council heard a Downtown Parking update and, by motion recorded as a minute action, approved two hours of free parking in the area from 10th St to 14th St and Spring St to Pine St ("Downtown Parking Zone"), between 9 a.m. – 6 p.m., Monday-Friday, with paid parking to be initiated when and where appropriate after two hours ("Paid Parking Program").
6. On May 21, 2019, the City Council approved agreements with vendors to implement the Paid Parking Program.
7. In August 2019, the City began charging for parking pursuant to the Paid Parking Program.
8. Between August 2019 and May 2022, the Downtown Parking Advisory Commission and community continued to review aspects of the Paid Parking Program. In May 2022, the City Council disbanded the Downtown Parking Advisory Commission.
9. On March 16, 2021, the City Council adopted Resolution 21-035, which extended the Paid Parking Program to operate Monday-Sunday, from 9 a.m. – 8 p.m. each day.

10. Between December 2022 and November 2023, the City Council heard numerous items related to the Paid Parking Program designed to assess the implementation and fiscal impacts of the Paid Parking Program.
11. On November 21, 2023, the City Council approved, by motion and recorded as a minute action, charging \$1 per hour starting at minute 1 within the Downtown Parking Zone, allowing unlimited senior permits for City residents, and the design and ordering of new signage. The Council also requested the City Manager to return with any additional actions requiring Council action to implement the revisions to the Paid Parking Program and to provide an update to the Council.
12. Following that action a number of community members asserted the City did not have the ability to charge for parking in the downtown area because the City did not have an ordinance addressing the imposition of parking rates.
13. In response to the community concerns the City Attorney's office conducted a review of the City's existing Parking Management Ordinance, PRMC 12.42, and all actions taken since its adoption to confirm that the parking program was implemented consistent with the requirements of the Vehicle Code and the City's own ordinance. .
14. Following an initial review of the implementation of Municipal Code Chapter 12.42 the City paused charging for parking and issuing citations associated with parking in the Downtown Parking Zone effective February 7, 2024.

Options

1. Take no action ;
2. Introduce for first reading by title only, an ordinance of the City Council of the City of El Paso de Robles amending Chapter 12.42 of Title 12 of the Paso Robles Municipal Code to clarify the process for setting parking rates, reestablishing the Downtown Parking Zone and other clean up measures; provide feedback to the City Manager on the implementation and signage for the new rates (once effective); and provide direction to staff regarding the proposed refund of parking fees collected from February 6, 2023 to February 6, 2024.
3. Provide alternative direction to staff.

Analysis and Conclusions

Review of Downtown Paid Parking Program by City Attorney

The City has maintained downtown parking and associated paid parking rates, with varying structures, for many years. Chapters 12.38, 12.42 and 12.45 of the City's Municipal Code all include codified local law adopted by ordinance relevant to City's downtown parking. More recently, on November 21, 2023, City Council had a properly agendized discussion on the future of downtown parking in response to the findings and recommendations of the City Council ad hoc, which was created to consider changes to the downtown parking program. At that meeting, by a 3-2 roll call vote, the City Council decided (as described within the adopted minutes for that meeting): "to charge \$1 per hour from minute one of the [downtown] parking session; to allow unlimited senior parking permits for residents over 65 years old within the City limits for one vehicle per household; to continue all other existing parking regulations; to direct staff to improve the signage and kiosks; and to direct staff to bring back any other required future formal action items related to parking" (the "November Parking Action").

Following that action concerns were raised suggesting the City's November Parking Action violated State law. Specifically, it has been asserted that Vehicle Code section 22508(a) required the Council to have noticed and approved an ordinance to properly effectuate the November Parking Action. In response to those concerns the City Attorney reviewed the adoption of the Parking Management Ordinance in 2018 and the actions taken by the City since that time to implement the Parking Management Ordinance. As

described below, the assertion that the November Parking Action violated state law is incorrect. However, the review of actions implementing the 2018 Ordinance uncovered that the Downtown Parking Zone was not established correctly.

VC 22508 provides, in part, that a city “shall not establish parking meter zones of fix the rates for those zones except by ordinance. The rate of fees may be variable, based upon criteria identified by the local authority in the ordinance. An ordinance establishing a parking meter zone shall describe the area that would be included within the zone.”

The City adopted the 2018 Parking Management Ordinance to comply with VC 22508. The 2018 Ordinance provides for the establishment of parking meter zones, provides criteria to establish the variable rate of fees charged, and provides that parking meter zones were to be adopted by subsequent ordinance or resolution. After much public engagement and input the Paid Parking Program was designed to delegate authority to City Manager regarding time limits and parking rates based upon variable criteria. As adopted by the Council, and presently in effect, the 2018 Parking Management Ordinance sets forth a regulatory system which provides that within parameters set by the Council, the City Manager is authorized to set time limits and rates pursuant to his judgement to achieve the 85% parking utilization rate. Achieving the 85% parking utilization rate is the goal set by the Council.

Based upon the delegated authority within the City’s ordinance, the November 21, 2023 action was consistent with the 2018 Parking Management Ordinance. However, during the review of the matter by the City Attorney, it was discovered that the footprint of the Downtown Parking Zone was created by motion and recorded in the minutes (on May 7, 2019) and, was not created by ordinance or resolution as required by Municipal Code section 12.42.020. As a result, it has been determined that the Downtown Parking Zone was not appropriately formed. The City Manager, in consultation with the City Attorney, determined that pausing the enforcement of the downtown parking program was appropriate until the Downtown Parking Zone could be reestablished consistent with the Municipal Code requirements. As such, the City paused the collection of parking fees in the Downtown Parking Zone effective February 7, 2024. In addition, the City has voided all parking citations received and unpaid prior to that date. The Parking Program will remain paused until the City Council has adopted an ordinance amending PRMC Chapter 12.42, Parking Management, to clarify the Downtown Parking Zone.

Modification to PRMC Chapter 12.42, Parking Management

During the review of the Downtown Paid Parking Program and in light of the confusion resulting from the structure of the ordinance, the following revisions to Chapter 12.42 are recommended to the Council. The recommendations, though not required to be compliant with VC Section 22508, are intended to make clarifying changes to the ordinance and codify the area covered by the Downtown Parking Zone. The modifications describe the Council approved range of parking rates from \$1-\$5 per hour. The City Manager is then authorized to modify the charged rate and time limits to facilitate achieving the desired 85% utilization rate. VC 22508 does not require the local ordinance to set a definitive parking rate. Rather, it allows for the local ordinance to provide that the rate of fees may be variable based upon criteria in the local ordinance. The proposed modifications to PRMC 12.42 reiterate the intent of the 2018 Parking Management Ordinance but more clearly establish the parameters and criteria by which the parking rates may be modified in the future without amending the ordinance. Additionally, a provision has been added to clarify the basis for the Senior Parking Permit Program pursuant to VC 22507. Specifically, the changes are:

12.42.020 Parking zones.

- A. Parking zones shall be established by the city council by ordinance ~~or resolution~~, which may include the establishment of time limits and/or parking rates for such zones.
- B. ~~The City Council does hereby establish the Downtown Parking Zone which shall include the area extending from 10th Street to 14th Street, from Spring Street to Pine Street and the 900 block of both 12th and 13th Streets (from Pine Street to Railroad Street).~~

12.42.060 Overparking—Exceptions.

It shall be unlawful for any person, except outside of the designated parking zone hours and days of operation, to cause, allow, permit, or suffer any vehicle registered in his/her name or operated or controlled by him/her to be parked in any parking space upon any street within a parking zone or within a parking lot as indicated by proper signs placed in such zone or lot indicating the maximum parking time allowed in such parking space. A vehicle will be deemed to have been parked longer than the posted time limit, if it has not been moved at least "out of the parking zone" or parking lot after the expiration of the maximum time limitation indicated on the posted signage. ~~A The specific parking zone for which local parking regulations apply is defined as the parking zone~~ will be indicated on posted signage. A vehicle may not return to the initial parking zone or parking lot sooner than two hours following the expiration of the initial time period. Within parameters set by the city council, the city manager or their designee may set and adjust the parking zones, posted time limits, and/or period of operation of paid parking between the hours of seven o'clock a.m. and ten o'clock p.m. on any day, with the intent of achieving the target utilization rate of eighty-five percent.

12.42.070 Parking zone regulations – Authority.

~~B. All parking zone time limits and/or paid parking rates heretofore established shall be and remain in effect unless otherwise set or adjusted by the city council.~~ The city council establishes that a paid parking session commences immediately upon parking, as provided in 12.42.080, unless otherwise determined by the city manager, or their designee. The length of time allowed for a timed parking session for each parking area shall be established by the city manager, or their designee, and range ~~of time limits limits~~ from a minimum of fifteen minutes to a maximum of ten hours. The city manager, or their designee, shall set the time limit of each parking zone, consistent with achieving the eighty-five percent target utilization rate, based upon parking occupancy data and community input. ~~The city manager, or their designee, may designate certain parking spots as a maximum of 15 minutes and, if determined by the city manager, or their designee, to be consistent with achieving the 85% parking utilization rate or in the best interest of the community, provide that those designated parking spots do not require payment.~~

C. Under the authority of California Vehicle Code section 22508, the City Council establishes a range of hourly parking rates from \$1.00 to \$5.00. The City Manager, or their designee, shall set the rate of the parking zones within that range consistent with achieving the 85 percent target utilization.

D. Under the authority of California Vehicle Code section 22507, the city council may establish preferential parking privileges associated with any Parking Zone or other area by ordinance or resolution with provisions reasonable and necessary to ensure the effectiveness of a preferential parking program.

Implementation of November 21, 2023 Action

As described above, at the November 21, 2023, Council meeting, by a 3-2 roll call vote, the City Council decided: "to charge \$1 per hour from minute one of the [downtown] parking session; to allow unlimited

senior parking permits for residents over 65 years old within the City limits for one vehicle per household; to continue all other existing parking regulations; to direct staff to improve the signage and kiosks; and to direct staff to bring back any other required future formal action items related to parking.” Additionally, the Council requested the City Manager return to the Council to provide an update on the new signage and related matters.

Following the effective date of the modifications to PRMC 12.42, if adopted by the Council, the City will proceed with an education program to ensure the public is aware of the changes to the program. New signage will be installed and parking ambassadors will be available to update the public on the new program. If adopted the modifications to PRMC 12.42 would be effective on Friday, April 5, 2024 (30 days following a second reading on March 5, 2024). Between the adoption of the changes to PRMC 12.42, City staff will be working with the community to educate them on the new parking program prior to its implementation on April 5, 2024.

Effective April 5, 2024, the Downtown Parking Zone cost for parking would be \$1 per hour. Although the previous rate structure was generally achieving a utilization rate between 75-85% busy days exceeded the 85% threshold. Additionally, as has been previously presented to the Council, the two hour free parking has been technologically difficult to implement. This revised rate structure is anticipated to achieve a similar utilization rate and, as a flat rate will be less confusing for the public, will result in a system that is easier to implement for staff and consistent with the technological capabilities of the kiosk/meter system. Based upon the foregoing, its implementation will be consistent with the ordinance.

Additionally, if this ordinance is approved by the Council tonight, staff will return with a resolution, at the same meeting as the second reading of the ordinance is heard, to memorialize the senior parking permit program. Specifically, the resolution will implement modifications to expand the program consistent with the direction from the City Council at the November 21, 2023 meeting.

Consideration of Refunds for Parking Payments Received

Although the City has not received any valid claims for a refund of downtown parking fees, it seems appropriate to provide an opportunity for customers who paid for parking to apply for and receive a refund. Under the Government Claims Act, claims for overpayment of fees may only reach back to payments for the prior one year.

As such, staff is seeking direction from the City Council regarding providing a refund and, if the Council would like to voluntarily provide refunds in lieu of requiring people to file a claim under the Government Claims Act, an appropriate refund mechanism for the parking fees collected and citations issued within the 12 months prior to the downtown parking program being paused. Staff envisions a refund process including the following components:

- A refund payment to customers who can demonstrate through credit card charge or other mechanism a payment for parking (fees or citation) between February 6, 2023, and February 6, 2024.
- The amount of the refund would be the amount demonstrated paid by the customer during that period.
- To receive the refund the customer will be required to sign a waiver agreeing not bring a claim/lawsuit arising from the imposition of Downtown Parking fees prior to February 7, 2024. This waiver will be included on the claim form provided by the City to process the refund. The claim form will be available on the City’s website or by hardcopy at City Hall.

- A city website announcement of the refund process.
- Customers would have 120 days to complete and return the refund form to the City from the date the City website goes live with information on the refund process.

Fiscal Impact

The total cost to manage and operate the downtown parking program is approximately \$500,000 per year. Because of the significant start-up costs associated with the technology and kiosks of the parking program, City Council approved a General Fund loan to the Parking Program until program revenues were sufficient to operate independently. As of February 15, 2024, the loan balance is approximately \$511,500. If City Council were to not reestablish the downtown parking program, the program would be dissolved, and the General Fund loan written off.

The fiscal impacts regarding the refunds for the parking fees and citations issued within the 12 months prior to the downtown parking program being paused is significant. Over the past year, there have been 62,445 parking sessions, totaling \$177,000, and 7,688 parking citations, totaling \$384,000. As such, assuming that 100% of the people who paid for parking during the past year complete and return a claim form, the refund would have a fiscal impact of approximately \$561,000. However, this will be very time intensive and additional resources will be needed to handle the potential influx of 60,000+ requests for refunds. This would further exacerbate the loss to the General Fund mentioned above.

CEQA

The City finds that this action is not a project under the California Environmental Quality Act pursuant to State Guidelines Section §§15060, subd. (c)(2)-(3), 15378.

Recommendation

It is recommended that City Council take the following actions:

1. Introduce for first reading by title only, an ordinance of the City Council of the City of El Paso de Robles amending Chapter 12.42 of Title 12 of the Paso Robles Municipal Code to clarify the process for setting parking rates, reestablishing the Downtown Parking Zone and other clean up measures.
2. Receive the report from the City Manager on the implementation and signage for the new downtown parking program (once effective).
3. Direct staff to implement the proposed process as outlined in this report to provide refunds of parking fees collected and citations from February 6, 2023 to February 6, 2024.

Attachments

1. Ordinance XXXX - Amending Chapter 12.42 of the El Paso de Robles Municipal Code
2. Proposed Signage for Downtown Paid Parking Program
3. Draft-Downtown Parking Refund Request Form
4. Draft-No Enforcement Days