

**San Diego Unified Port District – Port Code****Section No. 8.29****SECTION NO. 8.29 – VEHICLE IMPOUND COST RECOVERY PROGRAM FEE****(a) Purpose**

This section establishes a vehicle impound cost recovery program to establish a fee and a charge, payable to the District, in an amount equal to the District's administrative costs and expenses for: removing, impounding, storing, or releasing a lawfully impounded vehicles, and conducting a hearing and processing an appeal after a vehicle is impounded. The Harbor Police removes and stores numerous vehicles from streets and highways and public and private property in the jurisdiction of the San Diego Unified Port District and neighboring areas pursuant to Sections 22651 et seq. of the Vehicle Code.

**(b) Authority**

1. California's Vehicle Code and Section 8.20 of this code authorize the Harbor Police Department and other duly authorized persons to remove motor vehicles from the District's streets and hold, or "impound," the vehicles for certain violations of the law such as unpaid parking tickets, expired registration, illegal parking, driving under the influence or without a license, speed contests or reckless driving. The Vehicle Code also permits the Harbor Police Department to impound vehicles to preserve evidence, investigate

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a crime and other lawful reasons. The District's Harbor Police Department regularly impounds vehicles in violation of those laws.

2. Vehicle Code Section 22850.5(a) authorizes the District to adopt an ordinance for imposing a vehicle impound release fee equal to the District's administrative expenses related to removing, impounding, storing or releasing vehicles. Additionally, Vehicle Code Section 22850.5(b)(4) allows the District to impose a charge, as part of its administrative costs, for providing a hearing or an appeal on the impounded vehicle's removal, impoundment, storage or release, if the registered owner, the legal owner or either one's agent requests, in writing, the hearing or appeal.
3. When the Harbor Police Department impounds a vehicle and later releases it to its owner, the District incurs substantial labor costs and administrative expenses, including, but not limited to:
  - a) Documenting the impound;
  - b) Contacting the court or prosecutor and confirming the vehicle is no longer needed as evidence;
  - c) Verifying that Department of Motor Vehicle registration fees were paid;
  - d) Releasing the impound hold on the vehicle; and

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- e) Conducting a post-impound hearing or processing a post-impound appeal if requested.
4. When the Harbor Police Department lawfully impounds a vehicle for a violation of the law, the vehicle's owner should bear the financial burden and reimburse the District for its costs to impound the vehicle. Therefore, creating a vehicle impound release fee and requiring the vehicle's owner to pay the fee are appropriate means for recovering the District's administrative costs and expenses.
  5. When the vehicle's owner requests a hearing or an appeal concerning the impounded vehicle's removal, impoundment, storage, or release, that person should reimburse the District for its costs to conduct the hearing and process the appeal. Therefore, creating a post-impound hearing charge and requiring the vehicle's owner to pay the charge are appropriate means for recovering the District's administrative costs and expenses.

(c) Definitions

For purposes of the section, certain words and phrases not otherwise defined in code Section 0.03 shall be defined as follows, unless the context requires a different meaning:

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1. “Legal Owner” – has the same meaning as that term is defined in California Vehicle Code Section 370, or any successor legislation. The term includes the legal owner's agent.
  2. “Registered Owner” – has the same meaning as that term is defined in California Vehicle Code Section 505, or any successor legislation. The term includes the registered owner's agent.
  3. “Vehicle” – has the same meaning as that term is defined in California Vehicle Code Section 670, or any successor legislation.
- (d) Vehicle Impound Release Fee
1. The District establishes a vehicle impound release fee, payable when a registered owner or a legal owner seeks the release of a vehicle which the District's Harbor Police Department impounded under state law or any provision of this Code.
  2. A registered owner who redeems an impounded vehicle or requests its release shall pay to the District through its Harbor Police Department the vehicle impound release fee.
  3. A legal owner who redeems an impounded vehicle or requests its release and who voluntarily requests a post-storage hearing shall pay to the Harbor Police Department the vehicle impound release fee.

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- (e) Post-impound Hearing Charge
1. The District establishes a post-impound hearing charge, payable when a registered owner or a legal owner submits to the District's Harbor Police Department a written request for a hearing or an appeal after a vehicle is impounded.
  2. A registered owner or a legal owner who requests, in writing, a hearing or an appeal related to the impounded vehicle's removal, impoundment, storage or release shall pay to the District's Harbor Police Department the post-impound hearing charge.
- (f) Unpaid Fee or Charge-Civil Debt
1. The vehicle impound release fee under Section (d) and the post-impound hearing charge under Section (e) are in addition to any one or more of:
    - a) The charges, fees, or fines that a registered owner or a legal owner may owe the District under a California Vehicle Code provision or under any provision of this Code or both; or
    - b) The charges that a registered owner or a legal owner may owe a vehicle towing services provider.
  2. When a person fails, neglects or refuses to pay the vehicle impound release fee under Section (d) for an impounded vehicle that qualifies for release or when a person otherwise pays that fee

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but later cancels or stops payment on it, and in either situation that fee's payment is lawfully due or owing, the unpaid amount constitutes a debt owed to the District by that person, from whom the District may recover in a civil action.

3. When a person who seeks a post-impound hearing or appeal fails, neglects, or refuses to pay the post-impound hearing charge under Section (e) or when a person otherwise pays that charge but later cancels or stops payment on it, and in either situation that charge's payment is lawfully due or owing, the unpaid amount constitutes a debt owed to the District by that person, from whom the District may recover in a civil action.

#### (g) Fee and Charge-Exceptions

1. The District through its Harbor Police Department shall not collect from a registered owner or a legal owner the vehicle impound release fee under Section (d) or post-impound hearing charge under Section (e), or both, under any of the following circumstances:
  - a) When the vehicle was:
    - (1) Reported stolen and recovered;
    - (2) Driven or taken without the registered owner's or the legal owner's express or implied permission and the

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vehicle was evidence of a crime, contained evidence of a crime or was part of a criminal investigation;

- 3) Impounded in error;
- 4) Lien sold under Civil Code Section 3068.1 to 3074 and Vehicle Code Section 22851 or any successor legislation, and the lien sale proceeds were insufficient to pay the tow provider's total charges and administrative costs.

- b) When a court orders a waiver of the vehicle impound release fee or the post-impound hearing charge, or both.
- c) When state law or this code exempts or excludes a registered owner or a legal owner from paying a vehicle impound release fee or post-impound hearing charge, or both.

(h) Fee and Charge-Refund

The District through its Harbor Police Department shall refund the impound release fee and/or post-impound hearing charge incurred by a registered owner if the hearing officer whom the District through its Harbor Police Department appoints to conduct the post impound hearing or process the post-impound appeal determines that:

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1. A reasonable ground for removing, impounding, or storing the vehicle did not exist;
  2. A circumstance listed in Section (g) applies; or
  3. The facts disclosed at the hearing or in the appeal warrant the impound release fee's refund.
- (i) Resolution Establishing Fee and Charge
1. By resolution, the Board of Port Commissioners shall establish or modify the amount or rate of:
    - a. The vehicle impound release fee under Section (d), basing it on the actual and reasonable costs to the District, including administration and overhead, for impounding vehicles; and
    - b. The post-impound hearing charge under Section (e), basing it on the actual and reasonable costs to the District, including administration and overhead, for providing post-impound hearings and appeals.
  - 2) To reflect cost-of-living changes and to ensure that changing economic conditions do not impair the real value of the vehicle impound release fee and the post-impound hearing charge, on July 1 of each year the Chief of Harbor Police shall:
    - a) Review the vehicle impound release fee and the post-impound hearing charge; and

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- b) Adjust the vehicle impound release fee, or the post-impound hearing charge, or both:
  - (1) Upward or downward by the same percentage increase or decrease, occurring during the previous twelve (12) months, in the consumer price index for all urban consumers ("CPI-U") for the San Diego Area (published by the Bureau of Labor Statistics, U.S. Department of Labor), or applying a similar index if the CPI-U is not published or available, and
  - (2) To the nearest one dollar (\$1.00).
- 3. In addition to adjusting the vehicle impound release fee and the post-impound hearing charge for cost-of-living changes under Section (i) b., the Chief of Harbor Police shall recommend, with the Executive Director's approval, that the Board of Port Commissioners revise the fee and the charge when a change in the cost of impounding and releasing vehicles or conducting post-impound hearings and processing post-impound appeals, or both, makes revision appropriate.
- 4. The Chief of Harbor Police may prepare, adopt, amend and enforce rules, regulations or procedures for:
  - a) Releasing a property impounded vehicle;

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- b) Conducting a post-impound hearing or appeal; and
  - c) Collecting, administering, and refunding the vehicle impound release fee and post-impound hearing charge.
5. A copy of the resolution establishing the current vehicle impound release fee and post-impound hearing charge will remain on file, and will be available for inspection in the Office of the District Clerk.

*(Enacted March 6, 2012 – Ordinance No. 2665)*