



STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE:

Ordinance Amending Chapter 15.04 of the Sausalito Municipal Code Addressing Traffic Regulations to Add a New Section 15.04.165 – Parking on Private Property.

RECOMMENDED MOTION:

Waive first reading, read by title only and introduce an ordinance of the City Council of the City of Sausalito Amending Chapter 15.04 of the Sausalito Municipal Code Addressing Traffic Regulations to Add a New Section 15.04.165 – Parking on Private Property.

SUMMARY

The proposed ordinance will allow the enforcement of parking violations on private and commercial property at the request of the property owner if the property is properly posted.

BACKGROUND

Historically, the regulation of parking on private property has been the sole responsibility of the property management or owner of the property. Once an official sign has been properly posted, a property owner has the authority to have a vehicle towed which is in violation of the private owner's parking restrictions. To have a vehicle towed to a private towing facility, the property owner is responsible to adhere to many regulations including; erecting proper signs, contacting the local law enforcement agency with its intent to tow, obtaining registered and legal owner information of the vehicle and following through with giving notice to the same, and sending a written report to the Department of Justice in Sacramento.

One of our local private property managers has suggested that our City enact an ordinance that will allow property owners to call the Police Department to report an unauthorized vehicle that is parking on private property. The ordinance would allow the police to issue a parking citation to the unauthorized vehicle. The effect of the parking citation would deter vehicle operators from unauthorized parking on private property, and would be less of a financial impact than towing the vehicle.

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The City of Novato currently has such an ordinance in place that allows authorized City employees to enforce parking violations on private and commercial property. The property must be properly marked by way of signage and enforcement will only be initiated at the property owners(s) or agent's request. This ordinance has been instrumental in assisting private property owners in keeping their parking facilities available for use by its tenants and customers. (City of Novato Municipal Code 18-7.15).

The proposed ordinance amends Chapter 15.04 of the Sausalito Municipal Code to add a new Section 15.04.165 which prohibits the parking of a vehicle in a private driveway or on property without the direct or implied consent of the owner or a person in lawful possession of the driveway or property.

This recommendation was presented to the City of Sausalito OMIT committee on June 16, 2008 for review. The OMIT Committee recommended a presentation to the Sausalito Chamber of Commerce/Business Exchange and then forwarding the recommendation to the full Sausalito City Council for consideration. Captain MacQuarrie made a presentation to the Chamber of Commerce on July 8th and the proposal was well received.

ISSUES

In most areas throughout the City of Sausalito parking is a problem due to the geographical location and layout of our City. The parking problem is not just a City issue but extends to several commercial and residential communities as well. The parking problem becomes magnified on weekends and during special events due to the high amount of vehicular traffic that passes through the City.

Throughout Sausalito, there are several private locations compromised of commercial (Mollie Stones, Marina Plaza, Libertyship Way, etc.) and residential (Eden Roc Condominiums, Whiskey Springs Condominiums, Sausalito Towers Apartments, etc) complexes. Currently the only resource these property owners have at their disposal is to ignore or tow unauthorized vehicles parking on their property. If the property owners have the vehicle towed, they are responsible for the tow fee which is currently \$205. Towing several vehicles in a day could result in hundreds of dollars of lost revenue for our merchants.

Currently the Sausalito Police Department has no authority to help property or business owners when we are called to a private property parking problem. All we can do is provide advice which often leads the owner of the property feeling unsatisfied because the problem is left unresolved.

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If the proposed City Ordinance was in place, our officers could issue a parking citation to the vehicle on a daily basis until the vehicle was voluntarily moved by the owner or towed by the property owner. Having this option would provide business and residential owners with a choice and would leave them feeling satisfied that their concern was addressed by the City.

FISCAL IMPACT

This is a voluntary program and the cost of purchasing and installing the signs is incurred by the property owners themselves.

All revenues generated through the issuance of parking citations are the property of the City of Sausalito. By charging \$53 per citation (our current fine for a "No Parking" violation) and depending on the volume of citations issued, this will result in additional revenue for the City.

The only foreseen cost to the City would be on any funds that were spent on public education prior to enacting this Municipal Code.

STAFF RECOMMENDATIONS

Staff recommends that the City Council waive first reading, read by title only and introduce an Ordinance of the City Council of the City of Sausalito Amending Chapter 15.04 Addressing Traffic to add a new Section 15.04.165 –Parking on Private Property.

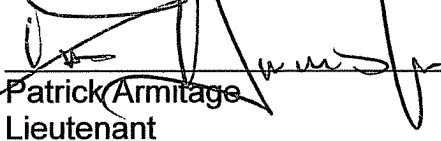
An alternative recommendation would be to leave this issue as the sole responsibility of the property owner and leave the situation unchanged by forgoing the recommendation to adopt this resolution.

ATTACHMENTS

1. Proposed Ordinance of the City Council of the City of Sausalito Amending Chapter 15.04 Addressing Traffic to add a new Section 15.04.165 – Parking on Private Property.
2. Signage Requirements
3. Guidelines For Private Property Towing
4. Picture of Private Property Sign
5. Picture of Commercial Business Sign


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PREPARED BY:



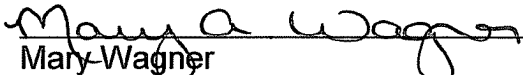
Patrick Armitage
Lieutenant

REVIEWED BY (Department Head):



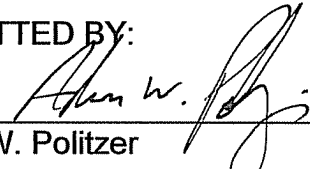
Scott Paulin
Chief of Police

REVIEWED BY:



Mary Wagner
City Attorney

SUBMITTED BY:



Adam W. Politzer
City Manager

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ORDINANCE NO. _____

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAUSALITO
AMENDING CHAPTER 15.04 OF THE SAUSALITO MUNICIPAL CODE
ADDRESSING TRAFFIC REGULATIONS TO ADD A NEW SECTION
15.04.165 – PARKING ON PRIVATE PROPERTY**

WHEREAS, Title 15 of the Municipal Code of the City of Sausalito sets forth certain regulations regarding traffic; and

WHEREAS, the City and

WHEREAS, animal control services are provided by the Marin Humane Society pursuant to a contract with the County of Marin; and

WHEREAS, the County of Marin has revised its Animal Services Ordinance; and

WHEREAS, the City Council of the City of Sausalito desires to adopt the revisions to Title 15 of the Sausalito Municipal Code in order to impose restrictions on parking on private property without the consent of the owner.

THE CITY COUNCIL OF THE CITY OF SAUSALITO HEREBY ORDAINS AS FOLLOWS:

SECTION I. Chapter 15.04 of Title 15 of the Sausalito Municipal Code is hereby amended to add a new Section 15.04.165 to read as follows:

“15.04.165 Parking on Private Property. No person shall park a vehicle in a private driveway or on property without the direct or implied consent of the owner or person in lawful possession of the driveway or property.”

SECTION II. This ordinance shall be liberally construed to achieve its purposes and preserve its validity. 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 this ordinance. The City Council 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, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION III. This ordinance shall be and is hereby declared to be in full force and effect as of thirty (30) days from and after the date of its passage. Before the expiration of fifteen (15) days after passage by the City Council this Ordinance shall be published once in a newspaper of general circulation published in the City of Sausalito.

This ordinance was introduced at a regular meeting of the City Council of the City of Sausalito on _____, 2008, and was adopted at a regular meeting of the City Council of the City of Sausalito on _____, 2008, by the following roll call vote:

AYES:	COUNCILMEMBERS:	_____
NOES:	COUNCILMEMBERS:	_____
ABSENT:	COUNCILMEMBERS:	_____
ABSTAIN:	COUNCILMEMBERS:	_____

Amy Belser, MAYOR

ATTEST:

CITY CLERK

City Clerk

RESTRICTED PARKING ON PRIVATE PROPERTY

PARKING ON PRIVATE PROPERTY. NO PERSON SHALL PARK A VEHICLE IN A PRIVATE DRIVEWAY OR ON PRIVATE PROPERTY WITHOUT THE DIRECT OR IMPLIED CONSENT OF THE OWNER OR PERSON IN LAWFUL CONTROL OF THE DRIVEWAY OR PROPERTY

Enforcement of C.O. xxxxx, other than for blocking a private driveway, shall be taken only if the private property is posted as designated in this order.

SIZE OF SIGN: Signs restricting parking shall not be less than 17 by 22 inches in size, with the lettering designating parking restrictions or prohibition not less than 1 inch in height.

INFORMATION ON SIGN: This sign shall contain the following:

- A. Restriction or prohibition of parking
- B. Violators will be cited under C.O.
- C. Sausalito Police Department 415-289-4170
- D. Unauthorized vehicles will be towed away at owner's expense - authority CVC Section 22658 (optional)

POSTING REQUIREMENTS: An adequate number of signs shall be posted on the private property in plain view at all entrances to the property.

The responsibility for posting parking restrictions for private property rests with the property owner or person in lawful control of the property.

CUSTOMER PARKING ONLY NO PARKING IN RED ZONE

Name of Business
Violators will be cited
Sausalito C.O.
Police Dept. Phone 289-4170

Name of Business
Violators will be cited
Sausalito C.O.
Police Dept. Phone 289-4170

EMPLOYEE PARKING ONLY

Name of Business
Violators will be cited
Sausalito C.O.
Police Dept. Phone 289-4170

TENANT PARKING ONLY
Name of Business
Unauthorized vehicles will be
towed away at owner's expense
Authority 22658 CVC
Violators will be cited
Sausalito C.O.
Police Dept. Phone 289-4170

**NAME OF BUSINESS
PERMISSION TO PARK
IN MARKED SPACES ONLY**

Violators will be cited
Sausalito C.O.
Police Dept. Phone 289-4170

**PRIVATE PARKING LOT
PARKING BY PERMIT ONLY**

Name of Business
Violators will be cited
Sausalito C.O.
Police Dept. Phone 289-4170

PRIVATE PROPERTY
NO PARKING
Violators will be cited
Sausalito C.O.
Police Dept. Phone 289-4170

PATIENT PARKING
Name of Doctor, Hospital, etc.
Violators will be cited
Sausalito C.O.
Police Dept. Phone 289-4170

**GUIDELINES FOR PRIVATE PROPERTY OWNERS
PRIVATE PROPERTY TOWING**

Requirements for towing of a vehicle from private property by private property owners or persons in lawful possession of any private property.

This guide contains California Vehicle Code Laws pertaining to the towing of a parked vehicle from private property by the legal owner of the property or by the person in legal possession of the private property. If more exact information is required, the legal language is contained in the California Vehicle Code which may be purchased at any office of the Department of Motor Vehicles. The numbers in parenthesis following each paragraph indicates the Vehicle Code Section(s) summarized herein.

It should be emphasized that this is only a guide and that it is recommended that an attorney be consulted to clarify any of the information contained herein and prior to causing any private property tow.

I. The owner or person in lawful possession of any private property may cause a vehicle to be towed away if the following occurs:

A. **FIRST**, all entrances to the property have a sign posted in clear view and must contain the following information:

1. "Public Parking Prohibited"
2. "Vehicles will be Towed at Owners Expense"
3. List the telephone number of the local law enforcement agency.

[CVC Section 22658(a)]

B. **SECOND**, the person causing the vehicle to be removed must contact the local law enforcement agency, as listed on the posted sign(s), and give information about the intended tow. This call must be made before the actual removal of the vehicle.

[CVC Section 22658(a)]

C. **THIRD**, the person causing removal must ensure the vehicle is taken to the nearest public garage.

[CVC Section 22658(a)]

D. **FOURTH**, the person causing removal shall obtain the name and address of the registered and legal owner of the vehicle from the registration records of the Department of Motor Vehicles. Then the person causing the removal must immediately give a notice in writing to both the registered and legal owner(s). The notice must contain the following information:

1. Why the vehicle was removed

2. Who caused the vehicle to be towed
3. Where the vehicle was towed to
4. The mileage on the vehicle prior to it being moved

[CVC Section 22658(b)]

E. FIFTH, a copy of the above notice shall be given to the proprietor of the garage at the time the vehicle is towed.

[CVC Section 22658(b)]

F. If the person causing the tow does not know or is unable to ascertain the owner(s) name and address, or for any other reason is unable to give notice to the owner(s) of the towed vehicle, and the vehicle is not returned to the owner within a period of 120 hours (5 days), then:

1. The person causing the tow shall send a written report to the Department of Justice in Sacramento:

Department of Justice
P.O. Box 13417
Sacramento, CA 95813

The report shall include:

- a. A complete description of the vehicle
- b. Date, time, place from where the vehicle was removed
- c. Mileage on the vehicle at the time the vehicle was towed
- d. The reason/grounds the vehicle was towed
- e. The name of the garage and the place where the vehicle is stored

[CVC Section 22853 and CVC Section 22658(b)]

G. Any owner or person in lawful possession or any person in control of any private property, who causes the removal of a vehicle parked on that property, shall be liable for any storage or towing charges whenever there has been a failure to post a sign as provided above.

(CVC Section 22658(e))

H. The owner of a vehicle towed from private property, under the provisions listed in this guide, may recover for any damage to the vehicle. The damage must be caused by an intentional or negligent act on the part of the person who caused the removal of the vehicle or by the person or company who removes the vehicle.

[CVC Section 22658(d)]

As is mentioned in this guide, the owner or person in legal possession of the private property is responsible for the provisions listed. This is true even if a tow service agrees to assist the person causing the tow with any notifications or documentation. It is recommended that an attorney be consulted prior to engaging in any private property towing.

**PRIVATE PARKING
BY PERMIT ONLY**

LAUREL CREEK

UNAUTHORIZED VEHICLES
WILL BE TOWED AWAY
AT OWNER'S EXPENSE
AUTHORITY 22650 CVC

VIOLATORS WILL BE CITED
NOVATO M.C. 18-7.15

NOVATO POLICE DEPT.
PHONE 897-4361

FOR TOWED CARS:
REDHILL TOWING 456-0943

LAUREL CREEK
1419-1432



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