



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 120106

Introduced February 16, 2012

**Councilmembers Green, Henon, Council President Clarke,
Councilmembers Greenlee, Blackwell, Oh, Squilla, Bass, Quiñones
Sánchez, Tasco, Reynolds Brown and O'Brien**

**Re-Referred to the
Committee on Rules**

AN ORDINANCE

Amending Title 12 of The Philadelphia Code, entitled "Traffic Code," by providing for the adjudication of parking violations contested by alternative methods; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 12 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 12-2800. ADMINISTRATIVE ADJUDICATION OF PARKING VIOLATIONS.

* * *

§ 12-2805. Notice of *Parking* Violation.

(1) The Parking Authority shall, at any time within forty-five (45) days after learning of the name and address of the owner of the motor vehicle, send a notice by first class mail to the owner of the motor vehicle, and, if known, to the operator, at the address appearing on the registry of a state department of motor vehicles. The notice of violation shall inform the operator or owner: (i) of the parking violation charged, the time and date of the parking violation, and the amount of fines, costs and additional fees due; (ii) of the right to ~~request a hearing~~ *contest a violation at a hearing or by submitting written testimony and other evidence using the mail or by electronic submission, including but not limited to, email, website or facsimile transmissions*; (iii) that a civil action may be

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commenced against the violator for failure to ~~appear~~ *contest* or pay the amount due; and (iv) of such other penalties as maybe authorized by statute, ordinance or regulation.

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§ 12-2806. Answer.

(1) In answer to a parking ticket or notice of violation, a person to whom such ticket or notice was issued may:

(a) admit the commission of the violation by payment of the fines, costs and additional fees due;

(b) admit with explanation; or

(c) deny liability and request a hearing with respect to the parking violation.

(d) *deny liability and request that adjudication be conducted by submission of written testimony and other evidence using the mail or by electronic submission, including but not limited to, email, website or facsimile transmissions.*

(2) The regulations issued by the Director of Finance pursuant to subsection 12-2802(1) shall provide for the manner by which a parking ticket or notice of violation may be answered *and contested*. The regulations ~~may~~ *shall* provide for *the answer and review of contested violations* by personal appearance, by mail, ~~by telephone~~ *by submission of written testimony and other evidence using the mail or by electronic submission, including but not limited to, email, website or facsimile transmissions*, or in such other manner as the Director of Finance deems appropriate, *including, without limitation, telephonic hearings, if needed, to resolve a contest raised by Section (1)(d) above. The Parking Authority is required to provide access by hyperlink on the Parking Authority Website to any website that the Director of Finance shall designate for electronic submission.*

(3) A person who admits the commission of a parking violation shall, and a person who admits with explanation may, at the time of submission of the answer, pay the civil fines and costs, and any additional fees as may be due for failure to answer within the time required.

(4) If the person to whom a parking ticket or notice of violation is issued is a minor, such person shall be permitted to ~~appear at a hearing~~ *contest the violation or otherwise* admit responsibility for a parking violation without the necessity of the appointment of a guardian, and the City may proceed against such person in the same manner as if that person were an adult.

§ 12-2807. ~~Hearings~~ *Adjudications.*

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(1) Each ~~hearing for the~~ adjudication of a parking violation pursuant to this Chapter shall be ~~held before~~ *conducted* by a Parking Hearing Examiner.

(2) The officer issuing the ticket shall not be required to appear at the hearing unless the respondent has denied liability and the Parking Hearing Examiner determines that the officer's ~~presence~~ *participation* is required. The Parking Hearing Examiner may grant a reasonable continuance if the officer is not available ~~at the time of hearing~~. The Parking Hearing Examiner may also issue a subpoena to compel the production ~~at the hearing~~ of any document, paper or record relevant to the violation charged. The City shall not be required to submit any evidence other than the parking ticket and information from a state department of motor vehicles identifying the owner of the vehicle. Such documentation in proper form (including without limitation any facsimile of the original parking ticket and the information from a state department of motor vehicles which has been transferred onto microfilm, computer tape or other form of data storage) shall be considered prima facie evidence that the registered owner of the vehicle was the person who committed the parking violation. The ~~presence~~ *participation* of an attorney or other representative of the City shall not be required.

(3) If a person (i) fails to answer or (ii) fails to appear at a hearing when required to do so, or (iii) *fails to timely contest the parking violation by mail or by electronic submission*, or (iv) having admitted commission of the parking ~~infraction~~ *violation* (with or without explanation), fails to pay the fines, costs and additional fees assessed, the Parking Hearing Examiner shall enter an order by default sustaining the charges, fix the appropriate fine and assess appropriate costs and additional fees, if any.

(4) An order by default may be vacated by the Parking Hearing Examiner within one (1) year after its entry only upon written application setting forth (i) a sufficient defense to the charge, and (ii) excusable neglect as to the respondent's failure to *timely submit testimony and evidence or attend the hearing*. If a notice of violation was mailed to the registered owner at the address appearing on the registry of a state department of motor vehicles, the failure to receive such notice shall not be considered a defense unless the owner can prove that a state department of motor vehicles was advised of the owner's change of address prior to the date of the parking ~~infraction~~ *violation*.

(5) ~~Hearings~~ *Adjudications* shall be conducted in a fair and appropriate manner. Technical rules of evidence shall not apply, and all relevant evidence of reasonably probative value may be received. All testimony shall be given under oath or affirmation. *Written testimony shall be signed by the witness and notarized*. A record shall be made ~~of a hearing~~ *of all adjudications*, and recording devices may be used for such purposes.

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(6) After due consideration of the evidence and arguments offered ~~in~~ on a contested ~~case~~ violation, the Parking Hearing Examiner shall determine whether the charges have been established. If the Parking Hearing Examiner determines the charges have not been established, an order dismissing the charges shall be entered. If the Parking Hearing Examiner determines the charges have been established, ~~he shall enter~~ an order sustaining the charges, fixing the appropriate fine, and assessing costs and additional fees, if any, as appropriate *shall be entered*.

(7) Upon entry of an order determining liability for a parking violation, the Parking Authority shall notify the operator or owner, by first class mail: (i) of the violation charged, and (ii) of the entry of an order determining liability for a parking violation.

(8) Any person who has received a parking ticket, a parking citation or a summons from the Philadelphia Traffic Court charging a parking violation prior to the effective date of this Chapter may elect to contest the violation before the Director of Finance under the procedures set forth in this Chapter for the contesting of civil parking violations. If a person elects to contest the violation before the Director of Finance, he shall consent to the jurisdiction of the Director of Finance and the adjudication of the violation by the Director of Finance, and the Parking Authority shall notify the Traffic Court that the City requests a dismissal of the summary proceeding for the parking violation in question.

§ 12-2808. Administrative Review.

(1) The Director of Finance shall constitute Parking Appeals Panels which shall consist of one (1) or more persons, but in no event shall the Parking Hearing Examiner from whose decision the appeal is taken be included in the panel determining said appeal.

(2) An appeal from a determination of any Parking Hearing Examiner after a ~~hearing on~~ *adjudication* of a plea denying liability, or from a determination denying a motion to reopen any matter, shall be submitted to a Parking Appeals Panel which shall have power to review the facts and the law, and shall have power to affirm the determination or to reverse or modify any determination appealed from for error of fact or law, or to remand for additional proceedings, or, in appropriate cases, to hear the matter de novo.

(3) A party aggrieved by the final determination of a Parking Hearing Examiner may obtain a review thereof by serving upon the Parking Authority, within thirty (30) days of the entry of such final determination, a notice of appeal on a form provided by the Parking Authority, setting forth the reasons why the final determination should be reversed or modified. Service of the notice of appeal upon the Parking Authority shall be made by certified or registered mail, return receipt requested. Upon

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receipt of such notice of appeal, the Finance Director's Office shall furnish to the appellant, upon request and at the appellant's expense, a *record or* transcript of the original ~~hearing~~ *contested violation certified by the Parking Authority*. No appeal shall be conducted less than ten (10) days after the mailing of the *record or* transcript to the appellant.

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SECTION 2. This Ordinance shall become effective 180 days after this Ordinance becomes law.

Explanation:

~~Strikethrough~~ indicates matter deleted.

Italics indicate new matter added

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