

**SAN MATEO COUNTY EXPRESS LANES JOINT POWERS AUTHORITY
TOLL FACILITY ORDINANCE (SMCEL ORDINANCE 2021-01)**

PREAMBLE

The San Mateo County Express Lanes Joint Powers Authority, referred to herein as SMCELJPA, was granted approval by the California Transportation Commission (CTC) pursuant to California Streets and Highways Code Section 149.7, as amended by Assembly Bill (AB) 194 to build, own, administer, and operate high-occupancy toll lanes or other toll facilities, including the administration and operation of a value pricing program and exclusive or preferential lane facilities for public transit, on US 101 between Interstate 380 and the Santa Clara/San Mateo County line.

While traveling on San Mateo County US 101 Express Lanes, motorists are required to have a valid FasTrak® account with a balance sufficient to pay the applicable toll to facilitate vehicle occupancy validation and the Toll collection process pursuant to California Vehicle Code (“Vehicle Code”) Section 23302 et seq., and California Streets and Highways Code Section 149.6(b). Vehicle Code Section 23302.5 provides that it is unlawful for a person to evade or attempt to evade the payment of tolls or other charges on any vehicular crossing or toll highway, and it further provides that such acts are subject to civil penalties. Vehicle Code Division 17, Chapter 1, Article 4, commencing with section 40250 (Article 4), provides for enforcement of civil penalties for violation of Vehicle Code Section 23302.5 and any ordinance enacted by local authorities pursuant to civil administrative procedures set forth in Article 4. This ordinance establishes the administrative procedures and penalties, enacted pursuant to Article 4, to ensure that motorists who evade the payment of Tolls while travelling on San Mateo County US 101 Express Lanes shall be subject to civil penalties, while ensuring fairness in the treatment of violators.

Now, therefore, the SMCELJPA, ordains as follows:

Section 1. Purpose.

The purpose of this ordinance is to establish tolls and a toll collection process for the SMCELJPA toll facilities on US 101 between Interstate 380 and the San Mateo/Santa Clara county line, to establish civil penalties for the evasion of those tolls or noncompliance with other policies set forth in this ordinance, and to establish a program that addresses how motorists can enroll and participate in SMCELJPA’s toll facility program.

Section 2. Scope.

Every motorist entering a SMCELJPA toll facility shall be subject to and must abide by this ordinance.

Section 3. Definitions.

These definitions apply to this ordinance. Unless specifically defined below, the words and phrases used in this ordinance shall have the same meaning as they have in common usage. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words “shall” and “must” are always mandatory and

not merely directive.

“Applicable toll” means the toll for a vehicle entering a SMCELJPA toll facility established by this ordinance as determined from information collected by the FasTrak[®] system at the time the vehicle enters the SMCELJPA toll facility, including discounts for which the motorist is then eligible.

“Authorized emergency vehicle” means a vehicle satisfying the conditions specified in Vehicle Code Section 21655.5 or Section 23301.5 for an exemption from paying a toll on a SMCELJPA toll facility.

“BATA” means the Bay Area Toll Authority.

“Caltrans” means the State of California Department of Transportation.

“Clean air vehicle” or “CAV” means a motor vehicle described in Section (b)(5) of Section 166 of Title 23 of the United States Code that displays a valid decal, label or other identifier issued pursuant to Vehicle Code Section 5205.5(a).

“CTOC” means the California Toll Operators Committee.

“Discount” means a reduced-rate toll expressed as a percent of the full toll as determined from information collected by the FasTrak[®] system at the time the vehicle enters the SMCELJPA toll facility.

“FasTrak[®]” or “FasTrak[®] system” means the electronic toll collection system administered by BATA for the SMCELJPA toll facilities, as well as the electronic toll collection systems administered by other members of CTOC.

“FasTrak[®] account” means an account by that name established with BATA or any other CTOC member.

“FasTrak Flex[®] toll tag” means a FasTrak[®] toll tag featuring a switch for indicating the number of occupants in the vehicle.

“FasTrak[®] toll tag” means a FasTrak[®] electronic toll payment device issued by BATA (or any other member of CTOC) that meets the specifications of California Code of Regulations Title 21. “FasTrak[®] toll tag” includes non-revenue FasTrak[®] toll tags and FasTrak Flex[®] toll tags.

“High occupancy vehicle” or “HOV” means a vehicle with the minimum number of occupants specified by SMCELJPA for entering a SMCELJPA toll facility zone as a high occupancy vehicle as set forth in Attachment A to this ordinance and as displayed on SMCELJPA signs and other official signs or traffic control devices.

“HOV 3+” means a high occupancy vehicle requirement of three or more occupants.

“Hours of operation” of a SMCELJPA toll facility zone means the hours when SMCELJPA is operating the SMCELJPA toll facility on any day within the maximum hours of operation as

displayed on SMCELJPA signs and other official signs or traffic control devices. The hours of operation of a SMCELJPA toll facility zone shall not extend beyond the hours when the zone is otherwise restricted to use by high occupancy vehicles.

“Motorist” means the registered owner, rentee, lessee, or driver of a vehicle.

“Non-revenue FasTrak[®] toll tag” means a FasTrak[®] toll tag that does not result in a toll being charged.

“Over-the-road bus serving the public” means a bus that is characterized by an elevated passenger deck located over a baggage compartment and that serves the public.

“Pay-by-plate” means use of on-road vehicle license plate identification recognition technology to accept payment of tolls in accordance with BATA or CTOC policies.

“Penalty” means the monetary amounts assessed as civil penalties for each violation, including the unpaid tolls and the toll evasion penalty, and shall constitute a toll evasion penalty under Vehicle Code Section 40252.

“Public transportation vehicle” means a public transportation vehicle as defined in Section 166 of Title 23 of the United States Code that meets SMCELJPA’s requirements for identifying public transportation vehicles specified at the SMCELJPA toll facility website.

“San Mateo County US 101 Express Lanes” means any express lane under the jurisdiction of the SMCELJPA on US 101, namely Southbound from Interstate 380 in San Mateo County to the Santa Clara County line, and Northbound from the Santa Clara County line to Interstate 380 in San Mateo County.

“SMCELJPA” means the San Mateo County Express Lanes Joint Powers Authority, a joint exercise of powers agency formed under the California Joint Exercise of Powers Act with jurisdiction over the operation of the SMCELJPA toll facilities.

“SMCELJPA toll facility” means each high occupancy vehicle lane within the geographic jurisdiction of San Mateo County that is operated by SMCELJPA as a toll lane.

“SMCELJPA toll facility website” means the website at www.smcexpresslanes.org or any new or updated website hosted by SMCELJPA exclusively containing information about the San Mateo County US 101 Express Lanes.

“Vehicle” means any device as defined in California Vehicle Code Section 670.

“Vehicle Code” means the California Vehicle Code.

“Violation” has the meaning assigned in Section 8.2.

Section 4. Timing.

The tolls and penalties for violations imposed by this ordinance shall apply to motorists entering a SMCELJPA toll facility zone from and after the date and time when SMCELJPA opens the SMCELJPA toll facility zone for use by the public as a toll facility.

Section 5. Usage Requirements.

5.1 Every motorist traveling in a SMCELJPA toll facility during its hours of operation is required to be in a vehicle with either (1) a properly-mounted and properly-functioning FasTrak[®] toll tag on board, or (2) valid vehicle license plates properly attached pursuant to Vehicle Code Section 4850.5 or 5200, and, in either case, being associated with a valid FasTrak[®] account having a balance sufficient to pay the applicable toll. Every motorist traveling in a SMCELJPA toll facility during its hours of operation is required to pay the applicable toll using that FasTrak[®] account unless exempt by this ordinance.

5.2 To be “properly-mounted” means that, except as specified in Section 5.3, the FasTrak[®] toll tag shall be located in or on the vehicle in a location so as to be accurately read by the FasTrak[®] system and be visible for the purposes of enforcement at all times while the vehicle is located in the SMCELJPA toll facility.

5.3 A motorcyclist shall use any one of the methods specified in Vehicle Code Section 23302(a)(3) to comply with the requirement to have a properly-mounted FasTrak Flex[®] toll tag, as long as the FasTrak Flex[®] toll tag is able to be read by SMCELJPA’s detection equipment.

5.4 Every motorist entering a SMCELJPA toll facility during its hours of operation and having a FasTrak Flex[®] toll tag must use the toll tag to accurately declare the number of occupants in the vehicle or, if permitted under Section 7, accurately indicate toll-exempt or discount status.

5.5 A license plate account surcharge as specified in Attachments A and B to this ordinance shall apply to pay-by-plate toll payments.

Section 6. Tolls.

Each motorist entering a SMCELJPA toll facility during its hours of operation who is not entitled to an exemption from tolls under Sections 7.1(B) through (F), inclusive, or Sections 7.4 or 7.5, shall be charged the then-applicable toll. The current tolls upon entering a SMCELJPA toll facility zone or segment shall be displayed on SMCELJPA signs. The tolls adjust dynamically and in real-time to manage congestion to an acceptable level of service. As such, the toll applicable to a motorist entering a SMCELJPA toll facility zone or segment is the toll displayed on the last SMCELJPA pricing sign before such motorist enters the zone or segment. Further, the total toll charged is determined based on the zones or segments of the SMCELJPA toll facility in which such motorist is detected. General information about tolls for SMCELJPA toll facilities is available online at the SMCELJPA toll facility website.

Section 7. Exemptions from Tolls; Discount Tolls.

7.1 The following vehicles are exempt from paying tolls imposed by this ordinance.

- (A) vehicles entering a SMCELJPA toll facility outside the hours of operation of that facility.
- (B) high occupancy vehicles.
- (C) motorcycles.
- (D) public transportation vehicles and over-the-road buses that serve the public.
- (E) California Highway Patrol vehicles policing a SMCELJPA toll facility.
- (F) authorized emergency vehicles.

7.2 To enjoy the exemption from tolls afforded under Section 7.1(B), (C), (D), (E) or (F), every motorist entering a SMCELJPA toll facility during its hours of operation who is entitled to that exemption must use a properly-mounted FasTrak Flex[®] toll tag to accurately indicate a toll- exempt status or follow such other methods for indicating eligibility for exemption as shall be specified by SMCELJPA at the SMCELJPA toll facility website. Otherwise, such motorist entering a SMCELJPA toll facility during its hours of operation shall be charged the applicable toll.

7.3 Motorists having a properly-mounted, non-revenue FasTrak[®] toll tag are exempt from paying tolls and penalties for violations imposed by this ordinance.

7.4 Two-occupant vehicles traveling in a HOV 3+ SMCELJPA toll facility shall pay the discounted toll, if any, specified for vehicles with two persons in Attachment A to this ordinance. To be eligible for the discounted toll, two-occupant vehicles must use a properly-mounted FasTrak Flex[®] toll tag to accurately indicate their occupancy status (by switching the tag to the '2' setting) or follow such other methods for indicating eligibility for the discount as shall be specified by SMCELJPA online at the SMCELJPA toll facility website. An exception is for Class I vehicles designed by the manufacturer to be occupied by not more than two persons, including the driver; in this case, if the vehicle is occupied by two persons, the vehicle qualifies as toll- exempt, but must use a properly-mounted FasTrak Flex[®] toll tag switched to the '3+' setting or follow such other methods for indicating eligibility for exemption as shall be specified by SMCELJPA at the SMCELJPA toll facility website.

7.5 Motorists driving clean air vehicles shall be eligible to pay a discounted toll, if any, specified for clean air vehicles in Attachment B to this ordinance. Clean air vehicles on all SMCELJPA toll facilities must (i) use a properly mounted FasTrak[®] CAV toll tag accurately declaring the number of occupants in the vehicle (by switching the tag to the '1', '2' or '3+' setting), or (ii) follow such other methods for indicating eligibility for the discount as shall be specified by SMCELJPA online at the SMCELJPA toll facility website.

Section 8. Enforcement and Penalties.

8.1 This ordinance adopts and incorporates by this reference, as though fully set forth herein, the administrative procedures and penalties in Article 4, Chapter 1 of Division 17 of the Vehicle Code as amended from time to time hereafter. The processing of notices of toll evasion violations and notices of delinquent toll evasion violations shall be conducted in accordance with those procedures and penalties by BATA, as the processing agency for SMCELJPA within the meaning of Section 40253 of the Vehicle Code. The FasTrak[®] Regional Customer Service Center Policies set forth in Attachment C to BATA Resolution No. 52, Revised, as amended from time to time, shall be applicable to the SMCELJPA toll

facilities and this ordinance (except to the extent they conflict with the provisions of this ordinance) and are hereby adopted and incorporated by reference into this ordinance as though fully set forth herein.

8.2 It shall be a violation to fail to comply with the usage requirements described in Sections 5.1, 5.2, 5.3, or 5.4.

8.3 The penalties for violations under this ordinance shall be the penalties set forth in Attachment C to this ordinance.

8.4 Vehicle occupancy violations while in the SMCELJPA toll facilities, including using a FasTrak Flex[®] toll tag to declare an occupancy status for toll exempt or discounted tolls when such declaration is not permitted hereunder, and other moving violations while in the SMCELJPA toll facilities, including entry into a SMCELJPA toll facility by a vehicle that is not authorized by the laws of the State of California to travel in such facility, are subject to citation by the California Highway Patrol.

8.5 SMCELJPA may use any lawful method to verify compliance with requirements for discount and toll-exempt trips in the SMCELJPA toll facilities. Toll violations, including using a FasTrak Flex[®] toll tag to declare an occupancy status for toll exempt or discounted tolls when such declaration is not permitted hereunder, are subject to enforcement by SMCELJPA, as detailed in Sections 8.1 and 8.2 or as specified by SMCELJPA online at the SMCELJPA toll facility website, with penalties as provided in Section 8.3.

8.6 SMCELJPA or BATA may access data saved electronically by the toll system in order to investigate violations under this ordinance. Such data may include, but is not limited to, the vehicle license plate number, FasTrak Flex[®] toll tag setting, and FasTrak[®] toll tag account number, as permitted by law.

Section 9. Severability.

The provisions of this ordinance are severable, and if any provisions of this ordinance, or application of any provision of this ordinance to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this ordinance, shall not be affected thereby.

Section 10. Amendment.

The provisions of this ordinance may be amended from time to time in accordance with the procedures set forth in Section 50020 and following of the California Government Code. The concurrence in or consent to any such amendment by any federal or State of California entity with jurisdiction over highways shall be obtained before that amendment is adopted, but only to the extent expressly required by federal or California statutory law. Attachments A, B, and C to this ordinance may be updated from time to time by a resolution of the governing board of SMCELJPA.

Section 11. Delegated Authority.

The SMCELJPA's executive council is hereby authorized and directed to develop procedures, forms, documents, and directives which may be necessary to implement the terms of this ordinance, and the executive council may delegate such duties and obligations under this ordinance to staff, or consultants under contract.

Section 12. Effective Date.

This ordinance will take effect and be in force 30 days after its adoption. Upon adoption, this ordinance shall be signed by the Chair of the governing board of SMCELJPA and shall be published by the Secretary of SMCELJPA once, within 15 days of its adoption, in a newspaper of general circulation printed and published in the County of San Mateo, California.

**SAN MATEO COUNTY EXPRESS LANES JOINT
POWERS AUTHORITY**



Don Horsley
Chair

Date: 6/23/21

The above ordinance was first adopted by the San Mateo County Express Lanes Joint Powers Authority at a regularly-scheduled meeting of SMCELJPA held in San Mateo, California, on [Date].

ATTACHMENT A

Facilities and Tolls

Under the San Mateo County Express Lanes Joint Powers Authority Toll Facility Ordinance, discounts applicable to two- and three-occupants shall be as set forth in Table A-1:

Table A-1
(as adopted by the SMCELJPA Board on 6/11/21)

| Vehicles Eligible for Discounts | Discounts based on HOV-3 Requirement* |
|---|---|
| Vehicles with three (3) or more occupants | Meet minimum occupancy requirement. No Toll. |
| Vehicles with two (2) occupants | 50% Discount |

For all SMCELJPA toll facilities, the surcharge for FasTrak® license plate account transactions shall be consistent with the maximum amount established by FasTrak® Regional Customer Service Center Policies (BATA Resolution No. 52).

ATTACHMENT B

Facilities and Tolls

Under the San Mateo County Express Lanes Joint Powers Authority Toll Facility Ordinance, discounts applicable to single-occupants Clean Air Vehicles shall be as set forth in Table B-1:

Table B-1
(as adopted by the SMCELJPA Board on 6/11/21)

| Vehicles Eligible for Discounts | Discounts based on HOV-3 Requirement* |
|--|--|
| Single Occupant Clean Air Vehicle | 50% Discount |

For all SMCELJPA toll facilities, the surcharge for FasTrak® license plate account transactions shall be consistent with the maximum amount established by FasTrak® Regional Customer Service Center Policies (BATA Resolution No. 52).

The discount provided by this Attachment shall expire as of September 30, 2025 unless extended, amended, or repealed prior to that date.

ATTACHMENT C

Schedule of Penalties for Toll Evasion Violations

All Violations

1st Notice Toll + \$25 penalty

2nd Notice Toll + \$70 penalty

Exceptions:

1. If the violation is determined to be the fault of the toll agency.
2. For 1st time offense, a non-customer can open a FasTrak[®] account and the \$25 penalty will be waived.
3. For FasTrak[®] account holders in good standing, toll-only will be posted to the account balance. If the account balance is less than the amount of the toll, the account balance must be brought to the opening balance amount prior to posting the violation toll amount.

A processing fee will be applied to violations sent to the Department of Motor Vehicles (DMV) for a registration hold in the amount of the DMV recording fee authorized pursuant to Vehicle Code Section 4773, as said amount may subsequently be amended from time to time.