Introduced in Council on above date and referred to Committee on February 27, 2024

FINANCE

City Clerk

Scranton, PA March 12, 2024
Committee on Finance reports favorably on the within ordinance

Chair

SIXTH ORDER:
March 5, 2024

FILE OF COUNCIL NO. 6

2024

AN ORDINANCE

AMENDING CHAPTER 328 OF SCRANTON CITY CODE ("PARKING LOTS AND PARKING GARAGES") TO UPDATE AND CLARIFY ADMINISTRATIVE PROVISIONS FOR THE LICENSING, REGULATION, INSPECTION, AND ENFORCEMENT OF CERTAIN OFF-STREET PARKING LOTS AND PARKING GARAGES.

WHEREAS, on April 5, 1995, Scranton City Council unanimously passed File of Council No. 40 of 1995, codified in Chapter 328 of Scranton City Code, to regulate the operation of parking garages and lots within the city; and

WHEREAS, regulating and licensing the operation of off-street, pay-to-park parking garages and parking lots continues to be in the best of interest of the health, safety, and welfare of City; and

WHEREAS, regulating such parking operations protects the safety of their customers and other drivers, passengers, and pedestrians; promotes consumer confidence in driving and parking within the City of Scranton, thereby promoting economic development; staves off blight; and guards against property damage and other risks to important transportation infrastructure within the City, as well as other real and personal property; and

WHEREAS, the City wishes to update and clarify the administrative provisions of Chapter 328 to give parking operators more certainty in the regulatory environment and to give the City additional regulatory tools to protect the health, safety, and welfare of the public; and

WHEREAS, the City wishes to change the license fee structure; and

WHEREAS, the City wishes to require more information from parking operators to ensure such operations remain in compliance with the law, including the American with Disabilities Act, and protect the public from loss of or damage to vehicles parked, stored, or placed under the jurisdiction of the parking operator; and

WHEREAS, the City wishes to require City officials to provide notice to parking operators prior to closing parking properties for violating Chapter 328; and

WHEREAS, the City intends to dedicate more resources to the enforcement of Chapter 328, including but not limited to inspection and enforcement of the Property Maintenance Code; the International Building Code; the Human Relations Code; the Stormwater Management Code; the Zoning Code; the Pennsylvania Human Relations Act; the Americans with Disabilities Act of

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1990; and the 2010 ADA Standards for Accessible Design, as each has been or may be amended; and

NOW THEREFORE, BE IT ORDAINED AND ENACTED that Chapter 328 ("Parking Garages and Lots") of the Scranton City Code is hereby amended to read in its entirety as follows:

"328-1 Parking License Required

A. Definitions.

PARKING OPERATOR

Any person(s) that owns the real property of a Parking Property and any person(s) that owns, directs, manages, or operates, or otherwise engages in the business of a Parking Property.

PARKING PROPERTY

Any off-street parking garage, parking lot, or any other parcel property located within the City of Scranton that charges a fee for the temporary or long-term parking of one or more motor vehicles. Any property that offers discounted parking fees or free parking to persons showing proof of patronage to or validation by any business enterprise shall explicitly be considered a Parking Property. Parking Property shall not include any such property with ten (10) or fewer parking spaces for which a fee is charged.

B. Requirement. Prior to operating a Parking Property, the Parking Operator must first obtain a valid annual Parking License for said Parking Property from the City. It shall be unlawful for any person or entity to own, hold, lease, keep, maintain, operate, or employ or engage another for the operation of an operating Parking Property that is not licensed pursuant to this Chapter.

C. Timeline.

(1) Every Parking Operator must submit their application by May 30 each year.

(2) A Parking License shall be valid from June 1 of a given year through May 30 of the following year.

(3) For the calendar year 2024 only, a Parking License shall not be required to operate a Parking Property prior to June 1, 2024.

328-2 Parking License Fee

A. Annual Fee. Every Parking Operator must pay the annual fee before being issued a Parking License for that year.

B. **Fee Schedule.** The annual fee shall be assessed per Parking Property according to the following schedule, based on the number of parking spaces provided for motor vehicles:

Parking Spaces	Annual Fee
Under 100	$100 flat fee
100 to 199	$200 flat fee
200 and over	$300 flat fee

C. **Discounts.**

(1) The annual fee shall be discounted by $10 per parking space for each parking space with a dedicated electric vehicle charging station.

(2) After any discount is applied pursuant to paragraph (1), the annual fee shall be discounted by 10% for any Parking Property that uses Permeable Paving throughout the entire Parking Property. "Permeable Paving" means pervious concrete, porous asphalt, permeable pavers or other forms of pervious or porous paving material intended to allow passage of water through the pavement section. Permeable Paving often includes an aggregate base that provides structural support and acts as a stormwater reservoir.

D. **Late Fee.** A late fee of 10% shall be added to any annual fee not paid by the deadline set forth in this Chapter or, if applicable, set forth by any rules and regulations of City.

E. **Reimbursement for Costs.** If the City deems it necessary for the Parking Operator to provide additional information to ensure compliance with this Chapter, the Parking Operator shall bear all costs associated with providing such additional information, including but not limited to additional engineering services or third-party inspection services engaged by the City.

328-2.1 License Requirements

A. **Insurance.**

(1) **Coverage Types and Limits.** Every Parking Operator shall maintain insurance from an insurer legally authorized to conduct business in Pennsylvania in no less than amounts adequate for the protection of the public from loss of or damage to the vehicles parked, stored, or placed under the jurisdiction of the Parking Operator and against liability arising out of the ownership or use of the Parking Property. The Department of Community Development shall establish a schedule of such minimum

amounts, which may be based on variable factors including but not limited to the number of parking spaces; the value of the motor vehicles stored or parked; and/or the presence or absence of a garage or other structure(s) and the characteristics of said garage(s) or other structure(s) at the Parking Property or Parking Properties.

(2) **Certificate.** Certificate(s) of Insurance proving compliant coverage shall be provided to the Department of Community Development at the time of application for a Parking License.

B. **Lighting.** In addition to any other lighting provisions, including provisions of the Zoning Code:

(1) All parking lots shall be adequately illuminated for security and safety purposes; and

(2) Lighting shall meet published illumination standards established by the International Energy Conservation Code (as adopted by the City in Chapter 201 of City Code) for the lighting of public spaces. Lighting sources shall be provided and maintained in operating condition.

C. **Certificate of Occupancy.** Every Parking Property building, structure, or facility shall have a valid Certificate of Occupancy prior to receiving a Parking License.

D. **Engineering Report.**

(1) For every Parking Property with a parking garage, the Parking Operator shall submit to the City an engineering report certifying the structural integrity of the parking garage.

(2) The Department of Community Development, in consultation with the City Engineer, shall establish minimum requirements for the format of such engineering report as well as the minimum qualifications for the professional producing such engineering report.

(3) Any Parking Property that submitted an engineering report to the City in the prior year and subsequently received a Parking License for that year shall be exempt from submitting an engineering report in its renewal application. Accordingly, a Parking Property that continually renews its Parking License need only submit an engineering report every other year.

(4) The Parking Operator shall bear all costs for obtaining the engineering report.

E. **Safety.** Safety barriers, protective bumpers, directional markers, or space striping may be required to assure safety and protection to landscaping and structures.

F. **Restriping Notice.** At least 10 days prior to restriping any portion of a Parking Property, a Parking Operator shall notify the City and submit its design plans, which shall demonstrate compliance with the Americans with Disabilities Act of 1990 (ADA), as amended and as may be amended, and/or any other law, code, rule, or regulation governing restriping that is promulgated by or enforced by the City.

G. **Electric Vehicle Supply Equipment.** The Fire Department shall establish additional safety requirements with respect to electric vehicle supply equipment.

328-3 Closings & Sanctions

A. **Authority to Close.** The City may cause to be closed any Parking Property that:

(1) does not hold a valid Parking License;

(2) failed to pass inspection pursuant to Section 328-4; or

(3) is in violation of any other provision of this Chapter.

B. **License Sanctions.** In addition to any closure or penalty, the City may, as appropriate, suspend, revoke, or refuse to renew a Parking License when the Director of Community Development or their designee determines, based on a totality of the circumstances, the violation(s) to be reckless, deliberate, especially dangerous to life or property, excessively numerous, and/or unresolved for an excessive period of time.

C. **Notices.** Prior to any closure or sanction under this Section, the City shall provide notice in accordance with this sub-section.

(1) The City shall first provide at least 10 days' notice by posting notice at the Parking Property and sending a regular or certified mailing to the property owner of the Parking Property. Such posting and sending of notice may be initiated at the same time.

(2) The notice requirement of Paragraph (1) need not apply when notice of closure is provided concurrent with notice pursuant to any other law, including but not limited to Section 203-16 of City Code. In such case, the notice requirements of such other law may control.

(3) There shall be a rebuttable presumption that any notice required to be given under this Chapter shall have been received by any and all Parking Operators and property

owners of the Parking Property if the notice was given in the manner provided by this sub-section.

D. **Appeals.** Any Parking Operator affected by a decision, a notice, or order issued by the City pursuant to this Chapter shall have the right to appeal to the Scranton Housing Board of Appeals, provided that a written application for appeal is filed within 10 calendar days after the day that the decision, notice, or order was first posted or sent pursuant to this Section.

E. **Emergency Closure.** If the City engineer determines in writing that a Parking Property presents a clear and present danger to life or property, the City may close such Parking Property immediately prior to providing the notice required by this Chapter.

F. **Other Remedies.** Nothing in this Chapter shall be interpreted as to limit the authority of the City to close, condemn, abate, demolish, or take any other legal action on any property for the violation of any other law.

328-4 Inspections

A. **Authority to Inspect.**

(1) All Parking Properties shall be subject to a regular inspection prior each year to being issued an annual Parking License.

(2) All operating Parking Properties, and any property reasonably suspected of operating as a Parking Property, shall be subject to inspection by the appropriate City officials upon probable cause of violation.

B. **Inspection Criteria.** All such Parking Properties and suspected properties shall be subject to inspection for compliance with following, as amended and as may be amended, along with any other applicable laws, codes, rules, or regulations determined by the Department of Community Development:

(1) This Chapter;

(2) Chapter 201 (Uniform Construction Codes), including Section 406 of the International Building Code;

(3) Chapter 296 (Human Relations and Discrimination);

(4) Chapter 360 (Property Maintenance), including Section 302 of the International Property Maintenance Code;

(5) Chapter 405 (Stormwater Management);

(6) Chapter 445 (Zoning), including Article VII of the Zoning Ordinance of 2023 and Article VI of the Zoning Ordinance of 1993, as applicable;

(7) the Pennsylvania Human Relations Act;

(8) American with Disabilities Act (ADA) of 1990; and

(9) 2010 ADA Standards for Accessible Design.

C. **Non-Compliance.** Failure of a Parking Property to undergo inspection shall not, in and of itself, constitute a violation of this Chapter subject to penalties under Section 373-9. However, the Parking License for such Parking Property may be suspended and/or the Parking Property may be closed pursuant to Section 328-3.

328-5 Violations and Penalties

A. Any person who shall violate any provision in this Chapter shall, upon conviction thereof, be sentenced to pay a fine of not more than $600 and, in default of payment, to undergo imprisonment for a term not to exceed 30 days. Each day that a violation of this chapter continues shall constitute a separate offense.

B. Nothing in this Chapter shall be construed to relieve the property owner of an operating Parking Property from liability for any violation of this Chapter that occurs on said Parking Property.

C. It shall be a violation of this Chapter to make any identifiable misrepresentation or material omission in the application for a Parking License or in any communication with the City concerning the provisions of this Chapter.

328-6 Rules and Regulations

A. The Department of Community Development shall have the discretion to request additional information from an applicant for just cause.

B. The Department of Community Development is hereby authorized to promulgate such rules and regulations not inconsistent with this Chapter or any other law in furtherance of the administration of this Chapter.

C. The Department of Community Development may make a determination that there is good cause to explicitly include in or exclude from the definition of Parking Property or Parking Operator certain classes of properties or persons and, upon such determination, promulgate rules or regulations to that effect."

SECTION 1. If any section, clause, provision, or portion of this Ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction, such decisions shall not affect any other section, clause, provision, or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion. The City reserves the right to amend this Ordinance of any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Ordinance, and the effective administration thereof.

SECTION 2. This Ordinance shall become effective immediately.

SECTION 3. This Ordinance is enacted by the Council of the City of Scranton under the authority of the Act of the Legislature, April 13, 1971, Act No. 62, known as the "Home Rule Charter and Optional Plans Law", 11 Pa. C.S. § 12650 ("Regulation of Parking Lot and Parking Garage Operators"), and any other applicable law arising under the laws of the State and Pennsylvania.

Passed by the Council
March 12, 2024
Receiving the Affirmative votes of Council Persons
KING, SCHUSTER, ROTHCHILD, MCANDREW, SNURL
Negative NONE
President

Approved 3/13/2024
Mayor
City Clerk
Certified Copy