



FREE-FLOATING PARKING PERMIT TERMS AND CONDITIONS

One-Way Car Share Program

January 23, 2017

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1 DEFINITIONS

"Car sharing" is defined as a membership-based service, available to all licensed and qualified drivers which allows members to use a vehicle (including passenger cars, scooters and motorcycles) without a separate written agreement each time a member reserves and uses a vehicle, charges rates and prices that are directly proportional to usage and offers members access to a dispersed network of vehicles, 24 hours per day, 7 days a week at self-service locations where vehicles are not attended. (Berkeley Municipal Code 14.62.020)

"One-way car sharing" means a car sharing operations model that allows members to pick up a vehicle from one location and drop it off in a different location within a defined geographic area, as specified by the qualified car share organization that operates that vehicle. (Berkeley Municipal Code 14.62.020)

"One-way car share vehicle" means a vehicle (including passenger cars, scooters and motorcycles) owned and operated by a qualified car share organization that is clearly and distinctly branded, is constantly tracked through Global Positioning System (GPS), and is technologically-enabled to allow members to pick up a car share vehicle from one location and drop it off at a different location within a defined geographic area, as specified by the car share organization. (Berkeley Municipal Code 14.62.020)

"Qualified car share organization" is a car share organization that has a rental fleet of at least twenty one-way car share vehicles for member use. (Berkeley Municipal Code 14.62.020)

"Annual Bay Area master parking badge" is a sticker affixed to the rear bumper of each one-way car share vehicle on which to locate applicable municipal parking permits. (Berkeley Municipal Code 14.62.020)

"Free-Floating Parking Permit" is a parking permit affixed to the annual Bay Area master parking badge that allows members of a qualified share organization to lawfully park at metered and unmetered spaces in which parking is allowed for up to two hours or longer, but not in residential parking permit areas. (Berkeley Municipal Code 14.62.020)

"Master Residential Parking Permit" is a parking permit affixed to the Annual Bay Area Master Parking Badge that allows qualified one-way car share vehicles to park in all residential parking permit areas with the same rights and restrictions as residential parking permit holders. (Berkeley Municipal Code 14.62.020)

"Company's designated service area" is the area agreed upon by the qualified car share organization permit holder and the Public Works Department, which bounds the geographic area where one-way car share members may legally park one-way car share vehicles within Berkeley. (Berkeley Municipal Code 14.62.020)

2 AUTHORITY

By ordinance 7,508 N.S. and resolution, 67,696 – N.S., the City Council delegated the authority to the Director of Public Works or a designee to approve the criteria and administrative rules to issue Free-Floating Parking Permits for the One-Way Car Share pilot program through June 30, 2019.

3 INTENT

The intent of Free-Floating Parking Permits, referred to in the rest of the document as “FFPPs”, is to facilitate car sharing within Berkeley by establishing a permit that entitles a car share vehicle with an affixed permit to lawfully park in metered, on-street spaces with duration limits of two hours or longer for up to 72 hours within the company’s designated service area. The concept for the FFPP is based on the idea that qualified car share organizations (CSO) should deposit an estimate of meter fees for parking activity of one-way car share vehicles within the City of Berkeley. The estimate will be monitored quarterly and reconciled with actual parking activity in Berkeley at the end of the City’s fiscal year during the One Way Car Share pilot program.

4 PRIVILEGES OF THE FREE-FLOATING PARKING PERMIT

The following privileges will be extended to the Permittee:

- 1. Waiver of parking duration time limits at unmetered spaces within the company’s designated service area:** The FFPP allows permitted car share vehicles to be parked up to 72 hours at unmetered spaces on the public right-of-way with **time limits of two hours or more**, in legal and not otherwise restricted parking spaces, within the company’s designated service area. Restricted parking spaces include those in Residential Parking Permit (RPP) areas, as well as those with one or more regulating signs (i.e., vanpool spaces, street cleaning, no parking during peak-hour, etc.), which cannot be used by Permittee during the specified restricted times shown on the sign(s). The Permittee should consult *Title 14 – Vehicles and Traffic, Berkeley Municipal Code*, for a list of City parking restrictions.
- 2. Waiver of parking duration time limits at metered spaces within the company’s designated service area:** The FFPP allows permitted car share vehicles to be parked up to 72 hours at metered spaces on the public right-of-way with **time limits of two hours or more**, in legal and not otherwise restricted parking spaces, within the company’s designated service area. Restricted parking spaces include those with one or more regulating signs (e.g., vanpool spaces, street cleaning, no parking during peak-hour, etc.), which cannot be used by Permittee during the specified restricted times shown on the sign(s). The Permittee should consult *Title 14 – Vehicles and Traffic, Berkeley Municipal Code*, for a list of City parking restrictions.
- 3. Ability of the Permittee to pre-pay estimated parking fees accrued by vehicles in the company’s designated service area:** The annual FFPP deposit is an estimate of the expected fees from metered parking that a single one-way car share vehicle will accrue over the course of each fiscal year (July 1st through June 30th). For organizations operating in two or more contiguous municipalities, the FFPP deposit will be pro-rated based on the percent of the company’s one-way car share rental fleet expected to be in Berkeley at any given time. The FFPP will also be pro-rated on a quarterly basis within a fiscal year for newly qualified car share organizations or for rental fleet expansions. With FFPPs, the Permittee agrees to pay City Council approved meter fees as posted online at http://www.ci.berkeley.ca.us/Public_Works/Transportation/Parking_Meters.aspx, as amended

from time to time. One-way car share member-users should not pay to park FFPP vehicles at meters with time limits of two hours or longer within the company's designated service area. It is expected that the Permittee will track the location and duration of every parking event within the company's designated service area in Berkeley and report parking activity to the City on a quarterly basis. At the end of the fiscal year, the City will invoice the Permittee for any parking fee shortfall. If the Permittee has overpaid at the start of the FFPPs term, then a credit will be applied towards a renewal of permits for organizations planning to continue one-way car share operations, or a reimbursement check to those ceasing one-way car share operations.

5 ELIGIBLE PERMITTEES

An eligible applicant for FFPPs must have obtained written notification from the City of Berkeley indicating that the applicant is either 1) a qualified car share organization in Berkeley, or 2) a conditionally qualified CSO in Berkeley dated within four (4) months of the FFPP application.

6 PERMIT STRUCTURE

Each FFPP shall be granted to a specific vehicle. To purchase individual FFPPs, an applicant must be a qualified CSO. Conditionally qualified CSOs may reserve permits for up to three months by providing a purchase order for car share vehicles to be delivered to the San Francisco Bay Area region. Permits are issued to individual qualified CSOs and they may not be traded, resold, transferred, assigned, or otherwise conveyed.

7 PERMIT TERM

FFPPs shall last for one fiscal year, July 1st through June 30th. Annual administrative fees and FFPP deposits will be pro-rated for the following scenarios:

1. The City's One-Way Car Share pilot program begins after July 1st. Fees and permit deposits will be pro-rated based on the month by which permits will be issued until the end of the fiscal year. For example, if permits are expected to be issued for use by November 1, annual fees and permits will be pro-rated for eight months.
2. A qualified car share organization applies for permits after July 1st. Fees and permit deposits will be pro-rated on a quarterly basis until the end of the fiscal year. For example, Company A will begin operations in October and assessed annual fees and permit deposits pro-rated for nine months, while Company B will begin operations in April and assessed annual fees and permit deposits pro-rated for three months.

The option to renew permits to Permittees in good standing with the Revenue Department will be presented in June of each year during the One-Way Car Share pilot program.

8 PERMIT CAP AND RENTAL FLEET SIZE

The City limits the number of annual One-Way Car Share parking permits to 1,600 total during the pilot program. These parking permits include FFPPs, Master Residential Parking Permits (MRPPs), and combined FFPP-MRPPs. Each qualified CSO can apply for up to 700 annual parking permits.

A qualified CSO applicant, however, cannot purchase more individual parking permits than it has car share vehicles for deployment in the region. For example, if an applicant only has 30 car share vehicles ready to deploy, the qualified CSO cannot purchase more than 30 permits. Individual permits are associated with each car share vehicle's license plate. Qualified CSOs may reserve permits for up to three (3) months by providing a purchase order for car share vehicles to be delivered to the San Francisco Bay Area region.

9 ANNUAL BAY AREA MASTER PARKING BADGE

The annual Bay Area master parking badge is a sticker affixed to the rear bumper of each one-way car share vehicle on which to locate applicable municipal parking permits (Berkeley Municipal Code 14.62.020). **It is manufactured by the qualified CSO** and must contain, at minimum, the following:

- Title: Annual Bay Area Master Parking Badge
- License plate number of car share vehicle to which the badge is attached
- Permit expiration date (must expire June 30 of the following year)
- Badge must allow 1.25" by 1.25" spaces for municipal parking permits
- Badge background color must correspond to California Department of Motor Vehicles' expiration year colors. For example, the badge should be green for permits that expire June 30, 2017.
- Materials: The badge must be printed on waterproof vinyl adhesive with a laminate overlay
- Location: The badge must be affixed to the lower left corner of the rear bumper of the vehicle

The City will need to approve the design of the annual Bay Area master parking badge supplied by the qualified CSO before issuing the parking permits. See below for a design example

Figure 1: Sample Design for Annual Bay Area Master Parking Badge



10 EVIDENCE OF PERMIT

A separate, individual, revocable FFPP will be issued to each vehicle registered by the Permittee. As evidence, the City of Berkeley will issue permits to be affixed to the Annual Bay Area Master Parking Badge for each vehicle. The Permittee must associate each parking permit's individual number with the car share vehicle license plate to which it is affixed in a report to the City.

If the Permittee also purchases Master Residential Parking Permits (MRPPs) for its car share vehicles, the City will provide one FFPP-MRPP combined parking permit for each vehicle.

11 ESTABLISHMENT OF A COMPANY'S DESIGNATED SERVICE AREA

It is the obligation of the qualified CSO to propose a designated service area in which to establish car share services in accordance with the criteria below. The boundaries of the company's designated service area will be submitted in the form of a map (preferably in GIS) to the One Way Car Share staff contact as part of the FFPP rental fleet application process. Qualified CSOs operating a regional system will submit two maps: one that shows only the Berkeley service area and the other that shows the regional service area.

The Permittee is allowed up to one change per quarter-year of the company's designated service area during the term of the FFPP. Any proposed changes to the boundaries after beginning operations must be submitted to the One Way Car Share staff contact for approval. As long as the criteria below are met

and there are no outstanding claims by neighborhood associations and/or business groups, the City will automatically approve the change to the company's designated service area.

The Permittee must notify its members about changes to the company's designated service area at least three (3) days before the Permittee adjusts the zone.

If changes to the operating area proposed by Permittee will significantly restrict access of neighborhoods or neighborhood commercial districts to car share services, the Permittee must contact any City-recognized neighborhood organizations and/or business associations that are impacted and provide an opportunity for neighborhood input.

The City may provide a list and/or map of any and all parts of the company's designated service area that the Permittee's permits will not be honored. The Permittee's permits will not be valid when the vehicle is parked in these areas and therefore must follow the same rules and regulations as any other motor vehicle.

Eligibility Criteria of a Company's Designated Service Area:

1. The company's designated service area must be situated in part or completely within the City of Berkeley's boundaries.
2. The company's designated service area must be contiguous, with the exception of the City's "black out list" or specified streets and block faces that have parking restrictions or are otherwise designated by the City to not be suitable for car sharing.
3. At least 20 percent (20%) of the company's designated service area should encompass all or parts of census tracts that have been designated as Communities of Concern by the Metropolitan Transportation Commission (MTC). Details about the Communities of Concern designation can be found on the MTC's data portal at <http://opendata.mtc.ca.gov/>. This recommendation is aligned with the Bike Share system's requirement that 20 percent of bike share stations must be located in Communities of Concern.
4. If a street or block face would like to be included in a company's designated service area, and the Permittee has denied the request of the appropriate neighborhood association and/or business group, the City reserves the right to withhold approval of subsequent changes to the company's designated service area or renewal of the FFPPs until the complaints with said groups have been resolved. The neighborhood association and/or business group must file notice of the request to be included in a given company's designated service area with the City at least ten (10) business days before a specific date of a requested action. The City must notify the affected Permittee within ten (10) business days that the City has received such a request from a neighborhood association and/or business group.
5. If, after six (6) months of inclusion in a company's designated service area, neighborhood organizations and/or business groups within the zone protest the inclusion of a street or block face in a company's designated service area, these groups may petition the City to have its street included on the black out list of streets with overriding parking restrictions. At least two-

thirds (2/3) of residents on a given street or block face must sign a petition to remove the street and/or block face from a company's designated service area. The City requires that the petitioning neighborhood and/or business group make an effort to negotiate the parking behavior directly with the Permittee operating in the company's designated service area before bringing a petition to the One-Way Car Share staff contact.

6. The company's designated service area is only valid and operational so long as the Permittee holds active Free-Floating Parking Permits granted by the City.

12 OUTREACH TO NEIGHBORHOOD ASSOCIATIONS AND BUSINESS GROUPS

In the months before parking permits become eligible for purchase, the City will inform the public through a media press release as well as neighborhood associations and/or business groups about the One-Way Car Share pilot program. The City may request representatives from the Applicant to accompany City representatives to meetings with these associations or groups.

After the City qualifies a CSO, the Permittee should request at least one (1) meeting with each neighborhood associations and/or business group located within the company's designated service area. When a company's designated service area expands, the Permittee shall to request at least one (1) meeting with each neighborhood association and/or business group located in the expanded company's designated service area.

The Permittee shall not advertise or publish the City's participation in this One-Way Car Share pilot program prior to receiving its qualified or conditionally qualified status.

13 PERMIT FEES AND PAYMENT RECONCILIATION

The Permittee agrees to pay all permit and other appropriate fees to the City upon submittal of the FFPP application.

Annual FFPP charges for the One-Way Car Share pilot program were adopted by the City Council on [September 27, 2016](#), as follows:

- Administration fee (per qualified CSO): \$11,375
- FFPP deposit based on the rental fleet operating only in Berkeley (per car share vehicle): \$1,580
- Meter recovery fee: to be established upon "true up" at the end of the fiscal year

Permittee intending to operate their fleet using the combined FFPP-MRPPs will be subject to the following fees, as detailed in the Master Residential Parking Permit Terms and Conditions:

- MRPP fee based on the rental fleet operating only in Berkeley (per car share vehicle): \$165

The intent of the administration fee is to make the One-Way Car Share pilot program cost neutral. The intent of the FFPP deposit is to create an upfront estimate of the expected meter usage by car share vehicles within the company's designated service area. Meter recovery fees, assessed at the end of the fiscal year for the rental fleet, are based on the actual time car share vehicles parked at meters.

The Permittee will track and summarize actual parking meter usage per vehicle in an easy-to-read report provided to the One-Way Car Share staff contact, as detailed in the [Data Reporting and Record Keeping](#) section. These reports will be used to calculate the meter recovery fee, reconciling the actual dollar value of parking meter usage versus the FFPP deposit, through the end of the fiscal year (June 30). In case of overpayment, the City will credit the surcharge towards the following year's permit renewal. If the Permittee does not plan to continue operations, a refund will be issued by the City for the balance. In case of underpayment, the City will invoice the Permittee for the balance by the last business day of the subsequent month.

The Permittee will be allowed to increase its fleet on a quarterly basis, provided the annual total and organization permit caps are not exceeded (see [Permit Cap and Rental Fleet Size](#)). If a qualified CSO wishes to increase its rental fleet size during the fiscal year of operations, the Permittee must fill out an FFPP permit application and pay the FFPP deposit before operating the additional vehicles in the City of Berkeley. Prorated FFPP deposits for additional rental fleet vehicles are detailed below.

PRORATING

The fees above are based on an operating year from July 1 through June 30 and assumes that each Permittee's rental fleet vehicle is located solely in Berkeley. Prorating for the administration fee will be assessed for partial year operations. Prorating for the FFPP deposit will be assessed for partial year operations and a company's regional designated service area, as described below.

Partial Year

Administration fees for a partial year will be assessed to qualified CSOs only when the Permittee intends to begin initial operations in Berkeley on or after October 1. FFPP deposit prorating will be assessed when qualified CSOs intend to begin operations in Berkeley on or after October 1 or add more vehicles to their rental fleet. Partial year fees will be assessed as follows.

| Qualified CSO intends to begin operations | Administration fees | FFPP Deposit |
|--|----------------------------|---------------------|
| July 1 – September 30 | \$11,375 | \$1,580 |
| October 1 – December 31 | \$9,500 | \$1,185 |
| Jan 1 – March 31 | \$6,250 | \$590 |
| April 1 – June 30 | \$3,125 | \$395 |

Regional Designated Service Area

If the qualified CSO's designated service area spans multiple municipalities that include Berkeley, the Permittee will initially estimate the percent of their rental fleet that will be located in each municipality in which it intends to operate. The Permittee will pay an FFPP deposit for each vehicle based on this estimate. For example, if 20% of the Permittee's rental fleet on average is expected to be parked in Berkeley during meter operation hours, the Permittee's FFPP deposit per rental vehicle will be calculated as \$316 for operations from July 1 to June 30. Reporting at the end of the fiscal year (June 30) will be used to provide a calculation for the following year's FFPP deposit per vehicle.

The FFPP deposit for each rental fleet vehicle operating regionally would also be prorated according to the partial year operations described above. For example, the Permittee with a designated regional

service area operating 20% of their rental fleet in Berkeley intending to begin operations on January 1 would be assessed 20% of 50% of the full-priced FFPP deposit ($0.2 * 0.5 * \$1,580$), or \$158.

The administration fee is not prorated for the regional service area.

14 INSURANCE REQUIREMENTS

As part of the FFPP application process, the Permittee shall furnish to the City satisfactory proof that the Permittee has taken out for the entire period of operation, as further defined below, the following insurance in a form satisfactory to City for which the Permittee may be legally liable, whether performed by the Permittee, or by those employed directly or indirectly by it, or by anyone for whose acts the Permittee may be liable. The Permittee shall maintain in force, at its own expense, each type of insurance noted below:

- Commercial general liability insurance, written on an "occurrence" basis, which shall provide coverage for bodily injury, death and property damage resulting from operations, products liability, blasting, explosion, collapse of buildings or structures, damage to underground structures and utilities, liability for slander, false arrest and invasion of privacy arising out of construction management operations, blanket contractual liability, broad form endorsement, a construction management endorsement, products and completed operations, personal and advertising liability, with per location limits of not less than \$2,000,000 general aggregate and \$2,000,000 each occurrence, subject to a deductible of not more than \$25,000 payable by the Permittee.
- Automobile liability insurance with limits not less than \$2,000,000 each occurrence including coverage for owned, non owned and hired vehicles, subject to a deductible of not more than \$10,000 payable by the Permittee.

Insurance policies shall contain an endorsement containing the following terms:

- City, and its directors, officers, partners, representatives, employees, the Permittee, subconsultants and agents, shall be named as additional insureds, but only with respect to liability arising out of the activities of the named insured, and there shall be a waiver of subrogation as to each named and additional insured.
- The policies shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability.
- Written notice of cancellation, non-renewal or of any material change in the policies shall be mailed to City thirty (30) days in advance of the effective date thereof.
- Insurance shall be primary insurance and no other insurance or self insured retention carried or held by any named or additional insureds other than the Permittee shall be called upon to contribute to a loss covered by insurance for the named insured.

Certificates of Insurance and Endorsements shall clearly describe the coverage and shall contain a provision requiring the giving of written notice described above.

The City Traffic Engineer will automatically revoke this permit without further action if this insurance is permitted to lapse, is canceled, or for any other reason becomes inoperative.

The Permittee shall forward all insurance documents and renewals to the One-Way Car Share Coordinator, Public Works Transportation Division, 1947 Center Street, 4th Floor, Berkeley, CA 94704.

15 PERMIT APPLICATION AND SERVICE INITIATION

To apply for and receive FFPPs for an organization's car share fleet, the applicant will follow the following steps:

1. Become a qualified car share organization
2. Submit the following business documents:
 - a. Berkeley business license number
 - b. Proposed designated service area map with border street names clearly indicated
 - i. If operating regionally, two maps will be required, one focused on Berkeley only and one at a regional scale
 - c. Application for permit, which requires listing rental fleet vehicle license plate numbers, estimating percent of fleet in all of the municipalities in which it intends to operate, and declaring the organization's operational model for one-way car share (FFPP only, Master Residential Parking Permit, or combined FFPP-MRPP)
 - i. Qualified CSOs may submit a fleet vehicle purchase order to reserve permits for no more than three months
 - d. Final vehicle branding design (photo or rendering), identifying vehicle as belonging to the Permittee's car share organization, must be clearly visible on the vehicle, in contrasting colors with letters two inches high or larger.
 - e. Qualified CSO's Annual Bay Area Master Parking Badge design
 - f. Signed acceptance of Free Floating Parking Permit Terms and Conditions
 - g. Payment for administrative fees and permit fees
 - h. Certificate of insurance with minimum coverage and the City of Berkeley named as additionally insured
3. Conduct outreach meetings, as appropriate
4. Apply Annual Bay Area Master Parking Badge and appropriate municipal parking permits on the badge to left rear bumper of car share vehicles

Applications, Terms and Conditions, and other information can be found on the City's website at <http://www.ci.berkeley.ca.us/onewaycarshare.aspx>.

The City expects Permittees to initiate car share services or expand their fleet within the quarter in which the permit is issued. Permits will be available for issuance about one week in advance of the quarterly permit terms, as indicated below.

| Quarterly permit terms for initiating operations or expanding fleet | Pre-quarter permit issuance |
|--|--|
| July 1 – September 30 | Starts June 23 or first business day thereafter |
| October 1 – December 31 | Starts September 23 or first business day thereafter |
| Jan 1 – March 31 | Starts December 21 or first business day thereafter |
| April 1 – June 30 | Starts March 24 or first business day thereafter |

For example, if parking permits were issued to a qualified CSO on October 15th, the vehicles for which the permits were issued must be in operation no later than December 31st. If the Permittee does not initiate car share services or put additional fleet vehicles into operation during the quarter in which the permits were issued, the unused parking permits will be revoked and ineligible to be renewed in a subsequent permit term.

16 DATA REPORTING AND RECORD KEEPING

The Permittee must administer and provide a yearly membership survey and quarterly/annual usage reports to the City. The Permittee will also be required to maintain records, per the terms detailed in this section.

Information submitted to the City is subject to the City of Berkeley's Sunshine Ordinance (Berkeley Municipal Code Chapter 2.06 – Open Government) and the California Public Records Act (Government Code Section 6250 et seq.). If the Permittee believes that any material it submits constitutes trade secrets, privileged information, or confidential commercial or financial data, the Permittee should mark those items as confidential or proprietary. The City is not bound by the Permittee's determination as to whether materials are subject to disclosure under CPRA and reserves the right to independently determine whether the materials are required to be made available for inspection or otherwise produced under CPRA. If the City receives a request for such information marked as confidential, it will notify the Permittee. If a suit is filed to compel disclosure of such information, the City will notify the Permittee, and the Permittee shall be responsible for taking appropriate action to defend against disclosure of its confidential information, and will hold the City harmless from any costs or liability resulting from any CPRA litigation.

Annual membership survey

The Permittee will survey members at least once every fiscal year. The survey must include questions that, at minimum, ask for the following information of members due to car share membership:

- Change in personal vehicle ownership
- Change in personal vehicle use
- Change in vehicle miles traveled by car
- Change in mode of travel
- Member satisfaction with service

The survey must be approved by the City prior to distribution. The survey must be distributed to all of the company's members at least two weeks in advance of a due date. The Permittee will provide a summary of the results from the annual survey to the One-Way Car Share contact or the designee of the City's Traffic Engineer at the City's Public Works Transportation Division no later than **February 28** of every year during the pilot program.

Quarterly reports

The Permittee is required to provide reports to the City on a quarterly basis summarizing the rental fleet, operations, and membership to facilitate a better understanding of how the entire car share system is being utilized and to better inform future policy changes. Report coverage periods and their due dates are detailed below:

| Operational period (or portion thereof) | Report due |
|---|------------|
| July 1 – September 30 | October 31 |
| July 1 – December 31 | January 31 |
| July 1 – March 31 | April 30 |
| July 1 – June 30 | July 31 |

Information provided in the reports by the Permittee will include, but not be limited to, the following:

- Parking events summary data (see Parking Events below for more details)
- Average number of minutes that a car share vehicle occupies a paid parking space when meters are in operation
- Average number of trips per car per day
- Number of vehicles in fleet
- Average percent of fleet in each jurisdiction in which it operates, calculated from parking events data
- The average percent of fleet in Berkeley during meter operation hours
- Changes to the designated service area in Berkeley and regionally, if applicable
- Total number of members based in Berkeley
- Percent of Berkeley-based members compared to overall Bay Area membership
- Summary of member demographics

Parking Events

The Permittee shall include a monthly summary of data related to parking events at all locations in the City. This data should detail the time parked by each vehicle in metered spaces at the effective rates, as well as sum up the meter usage costs in relation to FFPP deposits. Should the Permittee's designated service area include goBerkeley demand responsive parking rate districts, the Permittee must track the parking meter rate changes and apply them to the parking events, which can change as often as every sixty days. This data will be used to evaluate charges related to the FFPP deposit. If the City Council approves any changes to metered parking rates or meter districts during the permit term, the permit fee will be adjusted to reflect the changes. Parking meter rates are published online at http://www.cityofberkeley.info/Public_Works/Transportation/Parking_Meters.aspx.

Records

The Permittee shall retain and maintain all records and documents relating to FFPP permits for five (5) years after the date in which the FFPPs terminate, and shall make them available for inspection and audit by authorized representatives of the City. Permittee shall make available all requested data and records at reasonable locations within the City of Berkeley at any time during normal business hours, and as often as the City deems necessary. If records are not made available within the City of Berkeley, the Permittee shall pay the City's travel costs to the location where the records are maintained. Failure to make requested records available for audit by the date requested may result in revocation of parking permits.

17 ENFORCEMENT

Parking Enforcement

The City will train its parking enforcement officers of the new privileges associated with the FFPP and equip them with approved company's designated service area maps. The One-Way Car Share contact or the designee of the City's Traffic Engineer will be responsible for keeping the parking enforcement staff apprised of changes to a Permittee's approved designated service area.

With the exception of the aforementioned privileges bestowed to car share vehicles and Permittees (see [Privileges of the Free Floating Parking Permit](#)), car share vehicles are subject to all other traffic and parking regulations outlined in *Title 14 – Vehicles and Traffic* of Berkeley's Municipal Code. Parking enforcement officers will issue citations to car share vehicles for violations as they would private automobiles. Permittees with outstanding parking citations will not be allowed to renew FFPPs until citations have been resolved with the City's Finance Department.

Financial and Field Audits

The City reserves the right to conduct a financial review and/or audit of the Permittee. If the City commences an audit of a Permittee, the Permittee will be notified of the forthcoming audit at least thirty (30) days in advance of the audit by mail and by email. Details of the financial information to be provided to the City will be included in the notification.

The City reserves the right to conduct field audits of car share vehicles in which parking enforcement officers record locations of parked car share vehicles and cross-check them against reports of parking activity provided to the City by the Permittee.

The City will issue a warning to the Permittee if it fails either a financial or field audit. The Permittee risks revocation of some or all individual FFPPs if the Permittee fails to take measures to address the audit failure or repeats a failure in a subsequent audit.

18 SUSPENSION OR REVOCATION

The Permittee agrees to surrender privileges associated with FFPPs in the notice of revocation or suspension. The City may suspend or revoke the status of any qualified car share organization if it is determined to have violated any of the provisions of the Berkeley Municipal Code or any regulations in

these terms and conditions. During the time that the permit is suspended, it shall be unlawful for the car share organization to exercise any of the rights granted with FFPPs.

Any decision to suspend or revoke may be appealed to the City Manager by filing one copy of a written appeal with the City Manager within ten (10) days after the mailing of a Notice of Suspension or Revocation by the Department of Public Works. The appeal shall clearly and concisely set forth the grounds upon which it is based. If a timely appeal is made by the applicant, the City Manager shall schedule a hearing before a hearing officer.

In circumstances that pose a serious threat to public health or safety, the City reserves the right to immediately revoke an FFPP effective on the date the notice of revocation is mailed and emailed to the Permittee. The City shall state the public health or safety reasons that require immediate revocation in the notice of revocation. In such circumstances, the Permittee shall be required to immediately remove the car share vehicle from the public right of way.

The FFPP is revocable by the City Traffic Engineer at any time in the event of public necessity or the Permittee fails to comply with the conditions of these permits. No expenditure of money hereunder, lapse of time, or other act or thing shall operate as an estoppel against the City of Berkeley, or be held to give the Permittee any vested or other right. Upon the expiration of the FFPP, or upon its sooner revocation by the City Traffic Engineer, the Permittee's rights granted by the FFPP shall be terminated.

19 INDEMNIFICATION

Permittee shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Permittee or loss of or damage to property, arising directly or indirectly from Permittee's One-Way Car Share program, including, but not limited to, Permittee's use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Permittee, its subcontractors or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City.

In addition to Permittee's obligation to indemnify City, Permittee specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Permittee by City and continues at all times thereafter. Permittee shall also indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in consequence of the use by City, or any of its officers or agents, of articles or services to be supplied in the operation of a One-Way Car Share program.

Permittee shall indemnify, defend and hold harmless the City of Berkeley, its officers, agents and employees from and against all claims, demands, suits, actions, damages, liabilities, costs and expenses of whatsoever nature, including all attorney fees and costs, relating to, resulting from or arising out of the permitted activities.

20 COMPLIANCE WITH ADDITIONAL TERMS AND CONDITIONS

Permittee agrees to comply with any and all additional written terms and conditions required by the City of Berkeley for participation in the One-Way Car Share pilot program. Permittee acknowledges that these written terms and conditions may be changed, amended, or revised at any time by the City upon written notification to the Permittee. By acceptance of the *Free Floating Parking Permit Terms and Conditions*, Permittee agrees to comply with any changed, amended or revised written terms and conditions within thirty (30) days of written notification by the City. Failure to comply with any or all terms and conditions required by the City in the MRPP can result in the revocation of any or all FFPPs issued to the Permittee.

21 COMPLIANCE WITH APPLICABLE LAW

The Permittee represents and certifies, under penalty of perjury, that the car share organization and the car share vehicles on whose behalf the Permittee is seeking FFPPs is in compliance with all California Vehicle Code requirements, FFPP requirements, and qualified CSO criteria set forth in this Free Floating Parking Permit Terms and Conditions and in the City's Municipal Code.

22 RESPONSIBILITIES OF PERMITTEE

It is responsibility of the Permittee to, among others:

1. Operate a legitimate car sharing service that benefits the residents of Berkeley.
2. Maintain its qualified CSO status during use of FFPPs.
3. Maintain adequate and sufficient insurance coverage.
4. Conduct outreach to Berkeley residents and businesses, as appropriate.
5. Display evidence of the FFPP on each car share vehicle.
6. Maintain and submit documentation of an approved designated service area, with no more than one change each quarter year.
7. Track and report to the City parking activity of car share vehicles within the company's designated service area on a quarterly basis.
8. Pay upfront administrative fees.
9. Pay upfront FFPP deposits, as specified in this Free-Floating Parking Permit Terms and Conditions and as may be amended. Reconcile balance differences quarterly and at the end of the City's fiscal year with respect to the amount of actual parking activity.
10. Pay the City all citations and towing fees incurred by the Permittee's car share vehicles; however the pass-through of fees to the member is justified when the member is the responsible party, according to the California Vehicle Code and/or the Berkeley Municipal Code.

11. Report changes in license plate numbers, vehicle registrations, and other required vehicle information to the One-Way Car Share contact or the designee of the City's Traffic Engineer, as changes to the permitted fleet occur during the term of the permit.
12. Facilitate the City's financial and/or field audits and take steps to address the City's recommendations from the audits.
13. Administer an annual survey of the Permittee's members and summarize the results in a report to the City.
14. Provide digitized maps or map layers of parking restrictions in the Permittee's designated service area, including but not limited to Berkeley's street sweeping schedule, parking time limits of less than two hours, and time of day parking prohibitions.
15. Meet all of the requirements of the FFPPs.

23 RESPONSIBILITIES OF THE CITY

It is the responsibility of the City to:

1. Fulfill the objectives of the Car Share Policy (67,696-N.S.).
2. Administer a fair, timely, and efficient process for qualifying car share organizations and issuing appropriate parking permits.
3. Coordinate internally to communicate changes to maps, permits, permit fees, etc. between divisions and departments.
4. Keep records of qualified CSOs and permits granted.
5. Conduct outreach to Berkeley residents and businesses, as appropriate.
6. Respond to concerns and petitions of Berkeley residents and businesses, as appropriate.
7. Assess permit fees as defined in the terms and conditions.
8. Enforce the traffic and vehicle codes.
9. Conduct audits of Permittees to ensure that car share services follow regulations and accurately report parking activity, as needed.
10. Receive and analyze reports of parking activity.
11. Respond to requests from Permittees, as defined in the FFPP terms and conditions, in a timely and efficient manner.
12. Provide data about metered on-street spaces (locations and identifiers) and parking restrictions within the City of Berkeley to Permittees, as is readily available.
13. Keep Permittees apprised of changes to permit terms and conditions, parking and curb designations, and parking meter rates and permit fees.
14. Keep Permittees apprised of changes to key City personnel and provide a staff contact to car share organizations.