

**SUNOL SMART CARPOOL LANE JOINT POWERS AUTHORITY
(I-680 Sunol Express Lane JPA)**

**ORDINANCE FOR ADMINISTRATION OF
TOLLS AND ENFORCEMENT OF TOLL VIOLATIONS
FOR THE I-680 SUNOL EXPRESS LANES AND INCORPORATION OF
ARTICLE 4 CHAPTER 1 DIVISION 17 OF THE VEHICLE CODE**

PREAMBLE

The Sunol Smart Carpool Lane Joint Powers Authority, also sometimes identified as the “I-680 Sunol Express Lane JPA,” is authorized pursuant to California Streets and Highways Code section 149.5 to conduct, administer, and operate a value pricing high-occupancy vehicle program on Interstate 680 in Alameda and Santa Clara Counties.

While traveling in Sunol Smart Carpool Lane Joint Powers Authority’s facilities, motorists are required to be in a vehicle with either (1) a properly-mounted and properly-functioning valid transponder 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 toll. Every motorist traveling in the facilities during its hours of operation is required to pay the applicable toll using a FasTrak® account. 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 further provides that such acts are subject to civil penalties. Vehicle Code Division 17, Chapter 1, Article 4, commencing with Section 40250, provides for enforcement of civil penalties for violation of Vehicle Code Section 23302.5 and any ordinance enacted by local authorities, including joint powers authorities, pursuant to civil administrative procedures set forth in Article 4. This Ordinance establishes the usage requirements for the I-680 Sunol Express Lanes, as well as administrative procedures and penalties, enacted pursuant to Article 4, to ensure that motorists who evade the payment of tolls are subject to civil penalties, while also ensuring fairness in the treatment of violators.

In addition to this Ordinance, the Sunol Smart Carpool Lane Joint Powers Authority has also adopted supplemental administrative policies applicable to its facilities. These policies are available online on the I-680 Sunol Express Lanes Website and hard copies are available upon request.

Now, therefore, the Board of the Sunol Smart Carpool Lane Joint Powers Authority hereby ordains as follows:

ARTICLE I - GENERAL

Section 1. Title

This Ordinance shall be known as the “I-680 Sunol Express Lanes Toll Enforcement Ordinance.”

Section 2. Purpose

The purpose of this Ordinance is to establish usage requirements for the I-680 Sunol Express Lanes and civil penalties for the evasion of those tolls or noncompliance with other policies set forth in this Ordinance. Every Motorist entering the I-680 Sunol Express Lanes shall be subject to and must abide by this Ordinance.

Section 3. Definitions

The following definitions shall apply throughout 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.

- (a)** “Alameda CTC” means the Alameda County Transportation Commission.
- (b)** “Article 4” means California Vehicle Code Division 17, Chapter 1, Article 4, commencing with Section 40250.
- (c)** “Authority” means the Sunol Smart Carpool Lane Joint Powers Authority, its employees, agents, and contractors.
- (d)** “Authorized emergency vehicle” means a vehicle satisfying all of the conditions specified in Vehicle Code Section 21655.5 or Section 23301.5 for an exemption from paying a toll on the I-680 Sunol Express Lanes.
- (e)** “BATA” means the Bay Area Toll Authority.
- (f)** “Board” means the governing body of the Authority.
- (g)** “CAV Transponder” means a Transponder associated with a FasTrak Account that either BATA or any other California toll operator agency abiding by CTOC interoperability guidelines has designated for use by an eligible Clean Air Vehicle.
- (h)** “Clean Air Vehicle” means a motor vehicle referenced 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) or any other California law that enables toll-free or reduced-rate passage on the I-680 Sunol Express Lanes.
- (i)** “CTOC” means the California Toll Operators Committee.
- (j)** “Delinquent Penalty” means the amount assessed when a Violation is deemed to be delinquent in accordance with the procedures adopted in **Section 8**.

(k) “Discount” or “Discounted” means a reduced-rate Toll expressed as a percent of the full Toll as specified in the Schedule of Discounts/Surcharges in Appendix A, attached hereto and incorporated herein. Appendix A may be updated from time to time by a resolution of the Board. Upon adoption of such resolution, the updated rates will be effective and deemed included in this Ordinance.

(l) “FasTrak®” or “FasTrak” means the electronic toll collection system, administered by BATA for the I-680 Sunol Express Lanes, as well as the electronic toll collection systems administered by any other California toll operator agency abiding by CTOC interoperability guidelines.

(m) “FasTrak Account” shall mean an account established with BATA or any other California toll operator agency abiding by CTOC interoperability guidelines to administer the payment of tolls, including License Plate FasTrak Accounts.

(n) “High Occupancy Vehicle” means a vehicle with the minimum number of occupants specified by the Authority for entering the I-680 Sunol Express Lanes as a high occupancy vehicle as set forth in Appendix A to this Ordinance and as displayed on signs and other official signs or traffic control devices throughout the I-680 Sunol Express Lanes.

(o) “Hours of Operation” of the I-680 Sunol Express Lanes means the hours when the Authority is charging a Toll as displayed on I-680 Sunol Express Lanes signs and other official signs or traffic control devices.

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

(q) “HOV 2+” means a high occupancy vehicle requirement of two or more occupants.

(r) “I-680 Sunol Express Lanes” means any express lane under the jurisdiction of the Sunol Smart Carpool Lane Joint Powers Authority, as more fully described in Appendix B attached hereto and incorporated herein.

(s) “I-680 Sunol Express Lanes Website” means the website at <http://alamedactc.org/680expresslanes> or any new or updated website hosted by Alameda CTC exclusively containing information about the I-680 Sunol Express Lanes.

(t) “License Plate FasTrak® Account” shall mean an account established with BATA or any other any other California toll operator agency abiding by CTOC interoperability guidelines to administer the payment of tolls without the use of a Transponder.

(u) “Motorist” shall mean the registered owner, rentee, lessee and/or driver of a Vehicle.

(v) “Non-revenue Transponder” means a Transponder associated with a FasTrak Account that has been designated within the account as exempt from having a toll being charged on the I-680 Sunol Express Lanes.

(w) “Notice of Delinquent Toll Evasion Violation” shall mean the written notice provided to the registered owner of a Vehicle when a Penalty has not been timely received by the Authority.

(x) “Notice of Toll Evasion Violation” shall mean the written notice provided to the registered owner of a Vehicle which has committed a Violation.

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

(z) “Penalty” shall mean the monetary amounts assessed for each toll Violation, including the unpaid Tolls, the Toll Evasion Penalty and the Delinquent Penalty, and constitutes a toll evasion penalty under Vehicle Code Section 40252(b).

(aa) “Penalties Schedule” shall mean the schedule of Penalties, attached hereto and incorporated herein as Appendix C, outlining the current Penalties for Toll Violations. Appendix C may be updated from time to time by a resolution of the Board. Upon adoption of such resolution, the new schedule will be effective and deemed included in this Ordinance.

(bb) “Processing Agency” shall mean BATA, as designated in accordance with Vehicle Code Sections 40252 and 40253 and Streets and Highway Code Section 149.5, as the party responsible for the processing of the Notices of Toll Evasion and Notices of Delinquent Toll Evasions.

(cc) “Repeat Violator” means any Motorist for whom more than five (5) Notices of Toll Evasion Violation have been issued in any calendar month within the preceding twelve (12) month period.

(dd) “Switchable Transponder” shall mean a Transponder, including FasTrak Flex®, with a switch or other mechanism that allows Motorists to self-declare the number of vehicle occupants.

(ee) “Terms and Conditions” shall mean the obligations of Authority and a FasTrak customer with regard to the usage and maintenance of a FasTrak Account as published by, BATA, or any other California toll operator agency abiding by CTOC interoperability guidelines from time to time.

(ff) “Toll” shall mean the monetary charges for use of the I-680 Sunol Express Lanes as applicable at the time a Motorist enters the I-680 Sunol Express Lanes, as determined through the Toll pricing system established through policies adopted by the Authority.

(gg) “Toll Evasion Penalty” is the amount assessed under **Section 8** and Appendix C of this Ordinance.

(hh) “Transponder” shall mean an electronic device that meets the specifications of California Code of Regulations Title 21 and is used to pay Tolls electronically.

(ii) “Vehicle” shall mean any vehicle as defined in Vehicle Code Section 670.

(jj) “Violation” shall mean the commission of any activity proscribed in **Sections 4 and 5** of this Ordinance.

Section 4. I-680 Sunol Express Lanes Usage Requirements

(a) Every Motorist traveling in the I-680 Sunol Express Lanes is required to be in a Vehicle with either (i) a properly-mounted and properly-functioning valid Transponder on board, or (ii) valid vehicle license plates properly attached to the Vehicle as required by 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 Toll. Every Motorist traveling in the I-680 Sunol Express Lanes is required to pay the Toll using the FasTrak Account associated with the applicable Transponder or license plate.

(1) “Properly-mounted” means that, except as specified in **Section 4(a)(2)** below, the Transponder shall be (i) affixed to the Vehicle in a location and in a manner as directed by the agency issuing the Transponder that ensures that it can be read by the Authority’s detection equipment; and (ii) visible for the purposes of enforcement at all times while the Vehicle is in the I-680 Sunol Express Lanes.

(2) 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 Transponder as long as the Transponder is able to be read by the Authority’s detection equipment.

(3) Every Motorist traveling in the I-680 Sunol Express Lanes with the minimum number of Vehicle occupants to qualify for high occupancy lane use at that time must have a Switchable Transponder set to the required number of occupants prior to travel or they will be charged the posted single occupancy Toll.

(4) Motorists traveling in the I-680 Sunol Express Lanes without a Switchable Transponder in the Vehicle will be charged the posted single occupancy Toll rate.

(5) A Motorist with a valid License Plate FasTrak® Account traveling in the I-680 Sunol Express Lanes will be charged the posted single occupancy Toll rate via Pay-by-Plate payment. A License Plate Account surcharge as specified in Appendix A to this Ordinance shall apply to Pay-by-Plate Toll payments.

(b) FasTrak Account holders who are Motorists in the I-680 Sunol Express Lanes shall adhere to the Terms and Conditions provided at the time of account opening as updated thereafter with notification to the FasTrak Account holders.

Section 5. Exemptions from Tolls and Discount Tolls

(a) The following Vehicles are exempt from paying Tolls imposed by this Ordinance:

- (1)** Vehicles entering the I-680 Sunol Express Lanes outside the Hours of Operation;
- (2)** High Occupancy Vehicles, identified as exempt in Appendix A;
- (3)** Motorcycles;
- (4)** California Highway Patrol vehicles policing the I-680 Sunol Express Lanes;
- (5)** Authorized Emergency Vehicles; and
- (6)** Motorists having a properly-mounted, Non-revenue Transponder.

(b) To use the exemption from tolls afforded under **Section 5(a)**, every Motorist entering the I-680 Sunol Express Lanes during its Hours of Operation who is entitled to that exemption must use a properly-mounted Switchable Transponder to accurately indicate a toll-exempt status or follow such other methods for indicating eligibility for exemption as specified by the Authority in its adopted policies. Otherwise, such Motorist entering the I-680 Sunol Express Lanes during its Hours of Operation shall be charged the applicable Toll.

(c) Two-occupant Vehicles traveling in HOV 3+ I-680 Sunol Express Lanes shall pay the applicable Discounted Toll, if any, specified in Appendix A to this Ordinance. To be eligible for the Discounted Toll, two-occupant Vehicles must use a properly-mounted, valid, Switchable Transponder to accurately indicate HOV 2 status (by switching the Transponder to the '2' setting) or follow such other methods for indicating eligibility for the Discount as shall be specified by the Authority in its adopted policies. 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 Switchable Transponder switched to the '3+' setting or follow such other methods for indicating eligibility for exemption as shall be specified by the Authority in its adopted policies.

(d) Motorists driving clean air vehicles shall be eligible to claim the Discounted Toll, if any, specified in Appendix A to this Ordinance. In order for a single-occupant Clean Air Vehicle Motorist to be eligible for a Discounted Toll, the Motorist must (i) use the properly-mounted CAV Transponder issued for that Vehicle by the FasTrak

Account managing agency and accurately declaring the number of occupants in the Vehicle (by switching the Transponder to the '1', '2', or '3+' setting), or (ii) follow such other methods for indicating eligibility for the Discount as specified by the Authority in its adopted policies.

Section 6. Liability for Failure to Pay Toll

(a) Except as provided herein, the registered owner, and the driver, rentee or lessee of a Vehicle which is the subject of any Violation shall be jointly and severally liable for any Penalty imposed under this Ordinance, unless the registered owner can demonstrate that the Vehicle was used without the express or implied consent of the registered owner. Anyone who pays any Penalty pursuant to this Ordinance shall have the right to recover the same from the driver, rentee or lessee, and not from the Authority or the Processing Agency.

(b) A driver, rentee, or lessee of a Vehicle who is not the owner of the Vehicle may contest a Notice of Toll Evasion Violation as applied to the driver, rentee, or lessee without the consent of the registered owner in accordance with this Ordinance.

(c) Any Motorist assessed a Penalty for a Violation shall be deemed to be charged with a non-criminal, civil violation.

Section 7. Violations and Enforcement

(a) It shall be a Violation of this Ordinance to:

- (1)** Fail to comply with **Section 4(a)**;
- (2)** Fail to comply with **Section 4(a)(1)**;
- (3)** Fail to comply with **Section 4(a)(2)**;
- (4)** Fail to comply with **Section 4(a)(3)**;
- (5)** Fail to comply with **Section 4(a)(4)**.

(b) Vehicle occupancy violations while in the I-680 Sunol Express Lanes, including using a Switchable Transponder to declare an occupancy status for Toll exempt or Discounted Tolls when such declaration is not justified or permitted hereunder, and other moving violations while in the I-680 Sunol Express Lanes, including entry into the I-680 Sunol Express Lanes 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.

(c) A Motorist traveling in the I-680 Sunol Express Lanes without either a properly-mounted and properly-functioning valid Transponder on board that is associated

with a valid FasTrak account or valid vehicle license plates properly attached to the Vehicle pursuant to Vehicle Code Section 4850.5 or 5200 are subject to citation by the California Highway Patrol.

(d) Toll violations, including using Switchable Transponder to declare an occupancy status for Toll Exempt or Discounted Tolls when such declaration is not justified or permitted hereunder, are subject to enforcement by the Authority, as detailed in this Ordinance and in the Authority's adopted policies. Toll violations are subject to the Penalties provided in the Penalties Schedule in Appendix C.

Section 8. Penalties and Processing of Violation(s)

(a) This Ordinance adopts and incorporates by this reference, as though fully set forth herein, the statutory requirements, and administrative procedures provided in Article 4, Chapter 1 of Division 17 of the Vehicle Code for the imposition, processing, and collection of Toll Evasion Violations, as may be amended from time to time hereafter. The processing of Notices of Toll Evasion Violations and Notices of Delinquent Toll Evasion Violations shall also be conducted in accordance with those procedures and penalties adopted by BATA, as the Processing Agency for the Authority within the meaning of Section 40253 of the Vehicle Code. The FasTrak® Regional Customer Service Center Policies set forth in Attachment A to BATA Resolution No. 52, Revised, as amended from time to time, shall be applicable to the I-680 Sunol Express Lanes and this Ordinance (except to the extent they conflict with the provisions of this Ordinance or the Vehicle Code) and are hereby adopted and incorporated by reference into this Ordinance as though fully set forth herein.

(b) The Authority or the Processing Agency 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, Transponder occupancy setting, and Transponder's associated FasTrak Account number, as permitted by law.

(c) The Penalties for a Violation of this Ordinance shall be the amounts set forth in the Penalties Schedule attached hereto as **Appendix C** and incorporated by reference herein. The Penalties Schedule may be updated by resolution of the Board from time to time. Penalties may not be greater than the amounts established under Vehicle Code Section 40258 as the maximum Penalties for civil Toll Evasion Violations. If the driver of any Vehicle is arrested pursuant to Article 1 (commencing with Section 40300) of Chapter 2 of the Vehicle Code, the civil procedure for enforcement of violations established by this Ordinance shall not apply. Revenues received from the Penalties assessed pursuant to this subsection shall be returned to the Authority.

Section 9. Confidentiality

Any information obtained during the enforcement of Violations shall not be used for any purpose other than to pursue the collection of Violations or process Tolls.

Section 10. Other Notices

Provided that the applicable requirements of Article 4, Chapter 1 of Division 17 of the Vehicle Code are met, nothing herein shall prohibit the Authority or the Processing Agency from establishing informal methods of notifying Motorists of Violations and/or from collecting Tolls and Penalties for Violations through such means.

Section 11. Implementation

The Authority's Executive Director 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 Director may delegate such duties and obligations under this Ordinance to staff of, or consultants under contract to, the Authority or Alameda CTC.

Section 12. Severability

If any term, covenant or condition of this Ordinance shall be held by a court of competent jurisdiction to be invalid or unenforceable, then that term, covenant, or condition shall be deemed stricken and the remainder of this Ordinance shall not be affected and each remaining provision shall be valid and enforceable to the fullest extent permitted by law unless any of the stated purposes of this Ordinance would be defeated.

ARTICLE II –PUBLICATION/EFFECTIVE DATE OF ORDINANCE.

A summary of this Ordinance shall be prepared by the General Counsel. At least five (5) days prior to the Board meeting at which this Ordinance is scheduled to be adopted, the Clerk of the Authority shall (1) publish the summary, which will include a web address for access to the full version and a statement that a hard copy of the full ordinance will be mailed to members of the public upon request, in a newspaper of general circulation printed and published within each of the counties within the jurisdiction of the Sunol Smart Carpool Lane Joint Powers Authority, and (2) post in the Authority's Office a certified copy of this Ordinance. Within fifteen (15) days after the adoption of this Ordinance, the Clerk shall (1) publish the summary in a newspaper of general circulation, which will include a web address for access to the full version, printed and published within each of the counties within the jurisdiction of the Sunol Smart Carpool Lane Joint Powers Authority, and (2) post in the Authority's Office a certified copy of the full text of this Ordinance along with the names of those Board members voting for and against this Ordinance or otherwise voting. The Board Secretary shall attest to such adoption and publication of this Ordinance. This Ordinance shall become effective thirty (30) days after adoption.

PASSED AND ADOPTED by the Board of the Sunol Smart Carpool Lane Joint Powers Authority on _____ by the following vote:

AYES:

NOES:

EXCUSED:

Date Published: _____ (Alameda County)

Date Published: _____ (Santa Clara County)

Attested to:

Dated: _____

Board Secretary

APPENDIX A
SCHEDULE OF DISCOUNTS/SURCHARGES

Facilities and Tolls

Under the I-680 Sunol Express Lanes Toll Enforcement Ordinance, discounts/exemptions applicable to two- and three-occupant Vehicles and single-occupant Clean Air Vehicles shall be as set forth in Table A-1.

Table A-1
(as adopted by the Board on _____.)

Vehicles Eligible for Discounts	Discounts based on HOV Requirements (Discounts may not be combined.)	
	Posted requirement: HOV-2 (Minimum of two-occupant requirement)	Posted requirement: HOV-3 (Minimum of three-occupant requirement)
Vehicle with two occupants	Meets minimum occupancy requirement. No Toll.	TBD (This discount will be set before HOV-3 lanes become operational)
Vehicle with three occupants	Meets minimum occupancy requirement. No Toll.	Meets minimum occupancy requirement. No Toll.
Single-Occupant Clean Air Vehicle	50% Toll Discount	

License Plate FasTrak Account Surcharge

For the I-680 Sunol Express Lanes, the surcharge for License plate FasTrak Account transactions shall be \$0.00.

Appendix B

Operational I-680 Sunol Express Lanes Under Jurisdiction of Sunol Smart Carpool Lane Joint Powers Authority

(as adopted by the Board on _____.)

- Southbound I-680: State Route 84 to State Route 237
- Northbound I-680: Grimmer Boulevard to State Route 84

Appendix C

Penalties Schedule

(as adopted by the Board on _____.)

Toll Evasion Penalty: Original Toll plus up to a maximum \$25 toll evasion penalty

Delinquent Penalty: Original Toll plus up to a maximum \$70 penalty – i.e., \$25 Toll Evasion

Penalty plus \$45 late fee

Exceptions:

1. If the violation is determined to be the fault of the Authority.
2. For first time offense, a non-customer can open a FasTrak® account and the toll evasion penalty will be waived.

Department of Motor Vehicles (DMV) Processing Fee:

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