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# Ungated Environments: Best Practices for Parking Payment Providers

By Todd Tucker and Michael Drow, PTMP



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Since the pandemic, consumers have accelerated the adoption of mobile payment services, resulting in a significant increase in the number of providers and daily mobile transactions processed. Consequently, digital payment options have become increasingly common in many garages and surface lots throughout North America. However, in ungated, camera-monitored/managed environments, accepting parking payments is becoming increasingly complex, and new risks are emerging that owners and operators need to protect themselves against. Proper execution of digital payments in these environments is still a developing concept.

As those of us veterans in this industry understand all too well, the age-old principle that parking customers will do everything in their power to avoid paying for parking remains constant to this day. As such, despite adhering to the legal principles in each state, as well as all federal rules and statutes, constant challenges to parking property owners' rights to prevent unpaid and unauthorized trespassing onto their private property persist. There appears to be no end to the creative plaintiffs' lawyers and state regulatory agencies with a vested interest in the parking business: *how dare you prevent me from trespassing on your property for free, and further, dare to use technology to prevent it?*

### **Observation of Digital Payment Practices in Neighboring Industries**

This article shares key learnings and observations gathered over nearly three decades of operations, designed to help parking property owners and managers, as well as their third-party and/or proprietary parking payment providers, function effectively in these ungated environments.

Parking payment providers and operators can learn a great deal by recognizing the evolving use of digital payments in other industries and the best practices being promoted by government agencies in those settings. This will help parking operators and payment providers apply those lessons to the parking industry's operations and get ahead of storm clouds brewing. Specifically, as an industry, we should consider the following areas:

- Payment acceptance policies.
- Application of fees and surcharges in relation to parking fees.
- Signage on site and in mobile apps/websites communicating rates, hours of service, and pricing.
- Procedures and options to communicate with parkers about active parking sessions.

As is playing out in other industries, such as hotels, events, and airlines, mobile and electronic payments are revealing new consumer interaction and communication issues that must be addressed.

Many years ago, the parking industry worked to ensure consumers understood the price of parking by showing total fees due on signs at the facility entrance. Mobile payments and other services are creating new "windows" for a consumer to select parking. The same standards we use for on-site signage must now be applied to these new "digital windows." If we do not adopt this mindset, we

risk creating confusing and, in the worst case, perceived deceptive interactions with consumers while they use digital tools to purchase parking. Our on-site signage needs to be congruent with the information provided and parking operations to consumers via all digital channels in use on-site. Variances from the practice can draw the ire of many state attorneys general and similarly situated regulatory agencies nationwide. Creative attorneys assume it *must* be an intentional, deceptive trade practice scheme employed by the parking operator, thus deserving of a class-action effort.

We aim to provide early clarity in a continually evolving, ungated parking business environment, benefiting all parking facility operators and payment platforms. The following is a list of key topics and perspectives that all relevant stakeholders should consider in 2025 as they position themselves for the highest financial returns with the least risk.

### **Parking Rates, Convenience Fees, & Receipts**

Providing clear and concise information for potential parkers has been a requirement of parking facilities for decades. It is so essential that many municipalities define the expectations of clear information when presenting parking fees in their municipal codes for parking facility signage. A clear sign that shows the duration of parking for a specific fee (e.g., 0-1 hour \$5, 1 -2 hours \$10), clear start and end times of parking rates (e.g., evening parking 5:00 p.m. to 2:00 a.m. is \$25), and types of vehicles allowed. An all-inclusive fee (taxes, fees, etc.) is standard in nearly every city in North America.

While mobile payments have been around for more than 15 years, the recent acceleration of digital tools has highlighted the gaps between expectations for clear and concise information on-site versus that provided on a phone app or website. As an industry, we need to ensure the following fee concepts are applied consistently to onsite signage and to our digital tools:

#### **1) Parking fees and rules are clear and concise to the consumer.**

The total parking fee should be shown as early as possible, whether via signs, in the app, or online. A “checkout surprise” is an undesirable outcome. If I think I am going to pay \$6.00, but when I get to check out, it's \$7.00 after adding fees, that is a consumer detriment.

- While we almost always include the associated parking taxes in our rates, we rarely include the convenience fee or other surcharges. This issue is being addressed in many other industries, where regulators are requiring all fees to be included in the preview of price options for consumers. It is no longer acceptable to add fees in the “cart.” A consumer should see the total parking fee when they are searching.
- Fee transparency is especially important if a parking operator intends to adopt a flexible or dynamic pricing strategy sometime down the road. In that case, parkers might even need additional information as to why the rates change at different hours of the day or depend on space selection. Otherwise, they could feel deceived, which could lead to customer loss.

The consumer needs to know the valid start and end times of the desired rate.

- Each rate offered should have a valid start and end time shown to the consumer when reviewing their options. For example, it is not appropriate to

sell Event Parking for \$25. The consumer should be aware that Event Parking starts at 3:00 p.m. and expires at 1:00 a.m. the following day.

The consumer needs to understand the options for changing, extending, or varying their stay.

- Not all rates can be extended or changed. It is not always possible to change a license plate on a parking purchase. All these restrictions need to be clearly communicated to the customer upfront.
- Not all rates allow in and out privileges of a facility during a parking event use.

## **2) Parking Fees on-site are consistent with the Parking Fees on your apps.**

- A consumer who drives into a facility based on a sign that says “Day Parking \$5” expects to see the same price in the digital tool they use to pay for parking. It should at least be an option among others.
- Offering a \$5 sign on the driveway and then charging the consumer \$5.50 to park via the pay station or app can be considered unclear marketing or, worse, a deceptive trade practice if the additional \$0.50 fee is not communicated on the sign or early in the consumer journey in the app search process.
- If using multiple payment providers, it is vital that you are always aware of the fees being charged across the multiple platforms. It is not necessary to make them all the same, but a facility should have a defined program for different fees on different platforms and confirm that the onsite signage is always showing the highest fee.
  - As a parking owner or operator, it is very dangerous to assume that you will be able to escape scrutiny by saying that you are not aware of the payment vendors' practices and thus are not responsible. This is *not* how the regulators see the world.

## **3) Receipts should provide a complete, accurate summary of the transaction and be available during and after the parking event.**

When a consumer purchases parking on site or via an app, a receipt is expected to be provided. The receipt should be straightforward to understand and summarize the complete purchase, and the parking services purchased. This includes:

- Be aware of the improper use of colloquial names on a receipt that can cause confusion for the parking location. The location name on the receipt should be the same location associated with the physical property or the address used for a parking facility license. Too often, colloquial names are used that confuse the parker and cause them to park in the wrong location.
- Date of purchase.
- Date and time of valid parking: When does the authorized parking time explicitly start and end?



- On-site operations - the car used to park must be valid. For ungated environments, listing the associated vehicle ID with the purchase is essential to support on-site operations and ensure proper registration.
- Instructions to add time or change a license plate are not required, but it is highly advisable to include them.

Receipts should be retrievable in the future and for an indefinite period.

- With the rapidly increasing use of ungated facilities, there is an increased use of enforcement and compliance services. Consumers often make errors when entering vehicle information, and/or payment providers do not always send the paid transaction data payload promptly to the enforcement teams and platforms (via API or otherwise). As a result, consumers need an easy and quick way to retrieve proof that they paid according to the requirement. Providing easy and quick access to a receipt with the above information listed allows the consumer to easily access it.

Consumers don't think in terms of your internal company vernacular. Therefore, ensure that the information you provide is presented in a clear and consumer-friendly manner.

- *Lot 27* means nothing to a consumer. *123 Main Street* offers a readily understandable meeting for consumers.
- *Big Red Lot* means nothing to a consumer. *456 New Avenue* has an understandable meeting with a consumer.
- Make sure any address used is the exact address of the facility where a navigation system will take the consumer.
  - Understanding that digital platforms may struggle with this – i.e., pin drops for latitude/longitude may vary from the valid street address of the garage. Do your best to put yourself in the consumer's shoes and have empathy for any challenges they may encounter on the journey to buy/park with you.

Ensuring that the parking rates paid and the receipts received are clear and concise is of paramount importance.

### **Signage, Signage, Signage**

Both of your authors have spent many years operating payment platforms, so the perceived priorities around signage on each parking property are not lost to unseasoned minds. However, prioritizing things such as color schemes, company logos, and the most convenient and/or cheapest signage materials and placement can be misplaced priorities. An operation should balance the look and feel of the sign with solid signage practices, which focus on legally sufficient notices and communication with each driver. The messaging, exact language, font, layout, and physical placement of ungated operations rules and regulations, parking fees, and digital payment access on each sign is the spinal cord of the ability to operate and monitor your facilities.

Without being insulting, we all need to understand the need to cater to our lowest common denominator customer populations. If you are aware of one person who is confused by signage, you

can be sure there are more. And more challenging are the individuals who will take advantage of the poor signage and not pay for parking. Signage is where potential deceptive trade practice lawsuits will arise, especially as we increase the use of digital payment tools offered by different parties.

There is a tension between a clean-looking facility and the need to provide clear communication to the consumer. With poor planning, your facility could look like the side of a heavily sponsored racing car. Thus, every operator/owner should develop a standard and minimum desired sign package specification that includes proper placement of signs on the facility. The following are key elements to include in your sign package for an ungated facility:

### **1) Generic Guidelines**

- If the sign is to be seen by a driver entering a facility, make sure the font is the appropriate size for a driver to read (i.e., no 6-point font). Use section headers in a larger font to call out specific topics.
- Provide a QR code to enable a consumer to access and read the details of the signs in more detail.

### **2) Parking Fees**

- Rate signs should show the relevant hour bands with inclusive pricing.
- Rate signs should show rate specials (evening rate, overnight rate, event rate) that include valid start and end times for the special rate with the inclusive price.
- These signs should be at entrances and payment stations.

### **3) Parking Payment Acceptance**

- If using mobile apps, make sure the signage clearly explains how to use the app and that the QR codes are easily retrieved.
- Treat the screens on the app as your signage. Does the app or website clearly show the valid start and end times for parking? Describe any restrictions on the use of the car park.
- Consider placing signage to reduce the impact of fraud (e.g., overlays of fraudulent QR codes). Hanging these signs higher or using very large QR codes can help slow attempts to duplicate fraudulently.
- Reasonable grace periods should always be allowed – 5 minutes is rarely reasonable.

### **4) Rules and Regulations**

- Clear communication of a “Contract is Formed” when using the parking facility.
- When a customer enters your parking facility, they enter an implied contract to use your parking services (legally sound position upheld by courts).
- Due to our litigious society, explicitly stating the contract terms and conditions on a sign in your facility is becoming a necessity. At the very least, provide a link via QR code to access them.

### **5) Enforcement and Compliance**

- If employing enforcement and compliance services, it is essential to have a sign that informs the consumer of such and to clearly state the effect of enforcement upon them while on the property. This includes:
  - That their personal information is accessed via license plate, and they acquiesce to the same as a condition of parking.
  - Maximum fees for receiving a violation or a notice.

- There are no minimum fees that can be added. This is “fee stacking,” and it is highly discouraged.
  - Potential for vehicle immobilization or towing.
- Clearly articulate the methods/pathway to dispute a notice.
- In some municipalities, additional signage is required for vehicle immobilization and towing activity.

The misalignment of your payment methods and messaging, coupled with a different process and messaging around how failure to pay will be enforced after the fact, is ripe for legal challenges. These practices seem to have become the class plaintiff attorney’s favorite argument.

### **Understanding the Post-Notice/Notice Resolution Process Downstream**

Once a parking session has ended and a driver has either not followed the lot’s policies or failed to pay the appropriate parking fees, a comprehensive post-notice of non-compliance process is initiated. This can be performed by the operator’s staff or a third-party firm responsible for enforcement/compliance on a lot. Regardless of who performs the work, it is crucial to have a defined process and guidelines to ensure consumers have a fair and easy process to raise their disputes in response to receiving a violation or notice.

The dispute process should be straightforward for consumers to engage in. Many entities provide at least an email address for dispute resolution, while others offer additional contact options, including email, online forms, and phone numbers. When a consumer engages, there should be consistent communication with them, so they know the status of their dispute. Sometimes, the consumer may not be as gracious when engaging your staff in a dispute. However, we must ensure that our industry always provides a fair and helpful hand to these irate and sometimes confused consumers. Remember, much of the technology is new, and consumers are not yet fully accustomed to it. Think of supermarket auto checkouts – 10 years ago, they were so new, they had to be manned to function. It is rare to be in a modern grocery store and see consumers who DON’T know how to use automated checkout machines.

Any violation or notice should clearly explain the reason for the notice. A notice should display the following at a minimum:

- The time of the violation observation.
- The location of the violation observation.
- The reason for the violation.
- The vehicle identification (license plate, make/model).
- Supporting pictures.
- Amount owed for the violation.
- How to dispute.
- How to pay.

Additionally, each operator should have defined policies to address common disputes. The following are examples of common disputes”

- *Parked at the Wrong Address*

- Addresses can confuse consumers – your app drops a pin at one address. Still, the lot's legal address is another. Consumers OFTEN pay for one lot and park at another. Parking Violation or Compliance Notices should be dismissed for this innocent error, but mistakes happen.
- *Data Entry Error*
  - Consumers often make mistakes when selecting a vehicle and entering a license plate. Notices should be dismissed if a consumer can prove with a receipt that they entered an incorrect license plate for the time associated with the notice or violation, and they actually paid to park
- *No Payment Found*
  - Payment providers sometimes delay sending parking payment data to enforcement and compliance services. Thus, notices or violations can be issued that should not. Notices should be dismissed if a consumer can prove with a receipt that they paid.
- *Special Needs Parkers*
  - Sometimes, consumers with disabilities forget to present a handicap placard while in the facility. Again, consumers should have their notice dismissed if a proper placard can be presented by the person with a disability.
  - Also, bear in mind that many handicapped parkers believe they get free parking at public and PRIVATE parking lots. The latter is rarely true.
- *Erroneously Issued Notices*
  - Even though the processing accuracy of technologies available is far better than that of manual processing, rare mistakes and glitches may occur. It is OK to admit that innovative solutions and automation are new to us, and sharing some insights with parkers builds trust and loyalty in the long run.
  - In these cases, operators must not try to cover up the system error and make the parker feel like they did something wrong, when in fact, they did not. This behavior destabilizes parkers' perception of compliant behavior and undermines trust in the operation's regulations, potentially leading to customer loss and a negative reputation.
  - Assigning subsequent discounts to parkers who received a notice by mistake is optional, but dismissing the notice is an absolute necessity.

## **Summing it Up**

Despite the current boom in digitization and automation, maintaining some human aspects of the parking process can be advantageous. Offering a customer service channel or hotline to address complaints and provide personalized explanations can significantly enhance compliance and payment rates, as well as customer confidence in the compliance and payment processes. Making consumers wait days to hear back from you is poor practice.

Never underestimate the creative plaintiff attorneys who roam the Earth seeking holes in a parking facility's operating model to attach a claim. In past years, slip and fall ambulance chasers have attacked parking operators for trip hazards in parking lots. Now, times have changed, and those same creative attorneys are currently advancing claims around the digitization of parking. Claims such as Deceptive Trade Practices (DTP), Driver's Privacy Protection Act (DPPA), and Fair Debt

Collections Act (FDCPA). Claims are all the rage in the modern, heavily technology-based parking environment. Working with your partners to address these matters will help you and your partners minimize the impact of lawsuits, allowing you to benefit from the introduction of innovative technology and operating practices that provide better services to both consumers and your clients.

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