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DEPARTMENT OF
PUBLIC WORKS

TRAFFIC ENGINEERING
DIVISION

CITY OF SACRAMENTO
CALIFORNIA

1000 I STREET
SUITE 170
SACRAMENTO, CA
95814

PH 916-264-5307
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December 2, 1997

Law and Legislation Committee
Sacramento, California

Honorable Members in Session:

SUBJECT: ESTABLISHMENT OF AN ADMINISTRATIVE PENALTY FOR
UNAUTHORIZED BLOCKAGE OF TRAFFIC

LOCATION/COUNCIL DISTRICT: Citywide, all districts.

RECOMMENDATION:

This report recommends that the Law and Legislation Committee recommend adoption by the full City Council the attached ordinance establishing an administrative penalty for unauthorized blockage of traffic.

CONTACT PERSON: Marty Hanneman, Traffic Engineering Services Manager
264-7508

FOR COMMITTEE MEETING OF: December 16, 1997

SUMMARY:

Because of an unprecedented number of construction projects, certain contractors willfully begin or complete work outside of the city-approved time periods. Issuance of a parking citation is currently the only available penalty that Public Works staff has for blockage of city streets during peak traffic periods. In most cases this proves to be ineffective. And, because of other public safety matters, the Police Department usually will not respond. Establishing an administrative penalty will provide Public Works and Utilities staff with an additional tool to better control the use of our rights-of-way.

BACKGROUND INFORMATION:

During the peak traffic periods (7 to 8:30 a.m. and 4 to 5:30 p.m.) full utilization of our primary streets and sidewalks is critical. This is especially important for the primary streets into and out of the central city (i.e., I, J, L, P, Q Streets). However, because of an unprecedented number of construction projects, certain contractors willfully begin or complete work outside of the city-approved time periods. Consequently, major traffic backups occur and motorists are inconvenience and public safety is jeopardized.

Currently, when this unauthorized use occurs Public Works staff will respond and ask the violator to move. Often times this proves unsuccessful. Thus, staff will call Parking Enforcement personnel to issue a \$23.00 parking citation. Because of the relatively low citation cost, most violators will choose to ignore it. And, because of other more urgent public safety matters, the Police Department generally will not respond.

In order to be more effective in keeping our primary streets open during the peak traffic periods, staff recommends adding the following sections to the City Code and amending Section 58.09.905, relating to the closure of primary streets in the city:

City Ordinance

25.04.069-1 Closure of Street for Construction

"No person performing construction, excavation or other work shall close or obstruct vehicular or pedestrian traffic on a primary city street between the hours of 7:00 a.m. to 8:30 a.m. and 4:00 p.m. to 5:30 p.m. without the prior approval of the Directors of Public Works or Utilities. Any person receiving such approval shall comply with all conditions and requirements established by the director."

25.04.069-2 Violation: Administration Penalties

"The Directors of Public Works or Utilities may issue an order imposing an administrative penalty to any person violating any provision of section 25.04.069-1. The administrative penalty order shall be imposed in accordance with the provisions of section 1.01.070 of this code...."

The administrative penalty for each violation of any provision of section 25.04.069-1 shall be \$500.00. In addition to the foregoing penalty, the City may withhold issuance of permits for encroachment or excavation in a city street or debarment proceedings may commence for City contracts to any person issued an

administrative penalty order for violation of section 25.04.069-1 three times within a two-year period. However, the City may withhold issuance of permits for a period of not longer than two years after said administrative penalty orders are final.

City Code

Section 58.09.905 Grounds for debarment

(i) "The issuance to such person, within a two (2) year period, of three administrative penalty orders for closing or obstructing traffic on a primary city street in violation of Section 25.04.069-1 of this code."

Emergency repairs, as defined in Section 2, 25.04.069 of the City Code, will be exempt from the Administrative Penalty.

FINANCIAL CONSIDERATIONS:

None. No additional funds are being requested.

ENVIRONMENTAL CONSIDERATIONS:

The Planning Division, Neighborhood, Planning & Development Services Department has reviewed the project and has determined that it is exempt from the California Environmental Quality Act (CEQA) under Sections 15061(b)(1), 15061(b)(3), and 15301(c) of the CEQA Guidelines. This project involves general policy and procedures with the operation of City streets and has no potential adverse impacts on the environment.

POLICY CONSIDERATIONS:

The proposed ordinance is intended to provide staff with an additional tool to better manage the City's rights-of-way by accomplishing the following:

- Reduce the disruption and public inconvenience during peak traffic periods.
- To provide and protect public health, safety, and welfare.
- Require contractors performing work within City rights-of-way to comply with approved working hours.

The proposed ordinance is consistent with the City Council's priorities of Public Safety and Economic Development.

Law and Legislation Committee
Establishment of Administrative Penalty for Blockage of City Streets
December 16, 1997

MBE/WBE:

Not applicable.

Respectfully submitted,



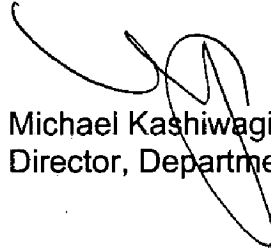
Marty Hanneman
Traffic Engineering Services Manager

RECOMMENDATION APPROVED:



BETTY MASUOKA
Deputy City Manager

APPROVED:



Michael Kashiwagi
Director, Department of Public Works

/mh
Admin penalty-report2

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE ADDING SECTIONS 25.04.069, 25.04.069-1 AND 25.04.069-2 TO THE SACRAMENTO CITY CODE, AND AMENDING SECTION 58.09.905 OF THE SACRAMENTO CITY CODE, RELATING TO CLOSURE OF PRIMARY STREETS FOR CONSTRUCTION

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

The Sacramento City Council hereby finds and declares as follows:

1. During the peak traffic periods from 7:00 to 8:30 a.m., and from 4:00 to 5:30 p.m., full utilization of the City's primary streets is critical to maintaining traffic flow and preventing major traffic backups.
2. When contractors working on or adjacent to the City's primary streets block traffic during the peak traffic periods, significant traffic backups occur, significantly increasing the risk of traffic accidents and other adverse impacts caused by traffic backups, and jeopardizing the public health, safety and welfare.
3. Provisions in the City's permits and contract specifications prohibiting traffic blockages during the peak traffic periods have proven difficult to enforce effectively, so that the occurrence of traffic blockages has become more frequent, resulting in more frequent traffic backups on the City's primary streets.
4. Imposing an administrative penalty on contractors who block traffic on the City's primary streets during the peak traffic periods, and imposing

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additional penalties upon contractors who commit repeated violations, will promote and protect the public health, safety and welfare by providing a more effective means of preventing these unauthorized traffic blockages.

SECTION 2.

Sections 25.04.069, 25.04.069-1 and 25.04.069-2 are added to the Sacramento City Code to read as follows:

25.04.069 Definitions.

The following terms used in sections 25.04.069-1 and 25.04.069-2 shall have the meanings set forth below:

"Closure time period" means the time period between the hours of 7:00 a.m. to 8:30 a.m., or between the hours of 4:00 p.m. to 5:30 p.m., when closing or obstructing traffic in a primary City street is prohibited pursuant to section 25.04.069-1.

"Director" means the Director of the Public Works or Utilities Departments of the City of Sacramento or his/her authorized representative(s).

"Emergency repairs" means repairs to a utility facility located in or adjacent to a primary City street that must be performed immediately when the necessity arises to safeguard life or property or maintain continued operation of the facility.

"Person" means any person, firm, company or governmental agency, including any person performing work under a contract between the person and the City.

A "primary City street" is any one of the following streets and its adjacent public sidewalk:

- 3rd Street between I St and Broadway
- 5th Street between H St and Broadway
- 6th Street between H St and Q St
- 7th Street between G St and T St
- 8th Street between G St and Broadway
- 9th Street between G St and Broadway
- 10th Street between G St and Broadway

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11th Street between G St and Q St
12th Avenue between Martin Luther King, Jr. Blvd and Sutterville Rd
12th Street between N. 12th St and W St
13th Street between H St and L St
14th Street between G St and L St
15th Street between F St and Broadway
16th Street between N. 16th St and Broadway
19th Street between G St and Broadway
21st Street between 4th Ave and G St
24th Street, between (Knight Way and Meadowview Rd) and (W St and 2nd Ave)
29th Street between D St and W St
30th Street between E St and T St
34th Street between Folsom Blvd and Broadway
43rd Avenue west of South Land Park Dr
47th Avenue, City portions between 24th St and Stockton Blvd
55th Street
59th Street between Folsom Blvd and Broadway
65th Street Expressway between Elvas Ave and south City boundary
Alhambra Blvd between E St and Broadway
Alta Arden Expressway
Alta Valley Way
American River Drive between Howe Ave and Munroe St
Arcade Blvd between Marysville Blvd and Marconi Ave
Arden Way
Azevedo Drive
Broadway
Bruceville Road
Capitol Avenue between 15th St and Folsom Blvd
Carlson Drive
Center Parkway
Challenge Way
College Town Drive
Connie Drive between Roseville Rd and Marconi Ave
Cosumnes River Blvd
Del Paso Blvd south of Marysville Blvd
E Street between 27th St and Alhambra Blvd
El Camino Avenue
Elder Creek Road
Elsie Avenue

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Elvas Avenue between 56th St and 65th St
Ethan Way
Evergreen Street
Exposition Blvd
Fair Oaks Blvd
Florin Perkins Road
Florin Road
Folsom Blvd
Franklin Blvd
Freeport Blvd
Fruitridge Road
G Street between 7th St and Alhambra Blvd
Garden Highway
Greenhaven Drive
H Street
Heritage Lane
Hornet Drive
Howe Avenue
I Street between 3rd St and 29th St
J Street
Jackson Road
Jibboom Street
K Street between 15th Street and Alhambra Blvd
L Street between 3rd St and Alhambra Blvd
La Mancha Way
La Riviera Drive
Land Park Drive
Mack Road
Main Avenue west of Kelton Way
Marconi Avenue
Martin Luther King, Jr. Blvd
Marysville Blvd between Del Paso Blvd and Bell Ave
Meadowview Road
Munroe Street
N Street between 2nd St and Alhambra Blvd
North 12th Street
North 16th Street
North B Street between N. 7th St and 16th St
Northgate Blvd

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Norwood Avenue
P Street between 2nd St and Stockton Blvd
Pocket Road
Point West Way
Power Inn Road
Q Street between 2nd St and Alhambra Blvd
Raley Blvd
Response Road
Richards Blvd
Rio Linda Blvd
Riverside Blvd
Roseville Road
Royal Oaks Drive
San Juan Rd
Seamas Avenue east of Riverside Blvd
South Land Park Drive
South Watt Avenue
Sproule Avenue
Stockton Blvd
Sunbeam Avenue
Sutterville Road
T Street between 34th St and 39th St
Truxel Road
University Ave between Campus Commons Rd and Fair Oaks Blvd
Valley Hi Drive between Franklin Blvd and Mack Rd
W Street between 3rd St and 29th St
West El Camino Avenue
Windbridge Drive
Winding Way
X Street between 3rd St and Alhambra Blvd

"Traffic Engineering Services Office" means the office responsible for providing traffic engineering services for the Public Works Department of the City of Sacramento, 1000 I Street, Suite 170, Sacramento, CA., phone: (916) 264-5307, FAX (916) 264-8404.

25.04.069-1 Closure of Street for Construction.

Except when necessary to perform emergency repairs, no person performing

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construction, excavation or other work shall close or obstruct vehicular or pedestrian traffic on a primary City street between the hours of 7:00 a.m. to 8:30 a.m., and 4:00 p.m. to 5:30 p.m., without the prior approval of the director. Any person receiving such approval shall comply with all conditions and requirements established by the director. Emergency repairs that close or obstruct vehicular or pedestrian traffic on a primary City street between the hours of 7:00 a.m. to 8:30 a.m. or 4:00 p.m. to 5:30 p.m., shall be reported to the Traffic Engineering Office not later than one (1) hour after the need for the emergency repairs is determined. If the need for emergency repairs arises during City non-working hours, the Traffic Engineering Office shall be notified not later than 9:00 a.m. on the next working day.

25.04.69-2 Violation; Administrative Penalties

The director may issue an order imposing an administrative penalty to any person violating any provision of section 25.04.069-1. The administrative penalty order shall be imposed in accordance with the provisions of section 1.01.070 of this code, and shall contain the following:

- (a) The name and address of the violating party, if available.
- (b) The location, date and time of the violation.
- (c) A description of the act(s) or condition(s) violating section 25.04.069-1.
- (d) The amount of the administrative penalty, with instructions for submitting payment to the City.
- (e) A statement indicating that the administrative penalty may be appealed, in accordance with the provisions of section 1.01.070(d)(4) of this code, by filing a written notice of appeal with the City Clerk no later than 20 days after the order is issued to the violator.
- (f) A statement indicating that the order imposing the administrative penalty shall be final if it is not appealed within the time required.
- (g) A statement indicating that a party upon whom a final administrative penalty has been imposed may seek review of the order imposing the penalty pursuant to California Code of Civil Procedure §§ 1094.5 and 1094.6.

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The administrative penalty for each violation of any provision of section 25.04.069-1 shall be \$500.00. Violations of section 25.04.069-1 by the same person occurring during the same closure time period but located in different blocks or located in the same block but occurring during different closure time periods shall constitute separate violations for which separate administrative penalty orders may be issued. If a person performing work under a contract between the person and the City violates any provision of section 25.04.069-1, the City may deduct the amount of any administrative penalties imposed hereunder from any funds otherwise payable to the person under the contract.

In addition to the foregoing penalty, the City may withhold issuance of permits for encroachment or excavation in a city street (issued pursuant to chapter 12.04 or chapter 38.03 of this code) to any person issued an administrative penalty order for violation of section 25.04.069-1 three (3) times within a two (2) year period; the City may withhold issuance of permits for a period of not longer than two (2) years after said administrative penalty orders are final.

SECTION 3.

Section 58.09.905 of the Sacramento City Code is amended to read as follows:

58.09.905 Grounds for debarment.

Debarment may be imposed on a person by the city manager, or a hearing examiner on appeal, in accordance with the procedures established by this chapter on any of the following grounds:

- (a) Commission by such person of any act of:
 - (i) Fraud, bribery, collusion, or conspiracy;
 - (ii) Bid rigging, price fixing or any other act in violation of any federal, state or local law in connection with the bidding upon, award or performance of any public contract; or
 - (iii) Embezzlement, theft forgery, falsification or fabrication of records, or perjury.

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- (b) Submission by such person of a bid, proposal, or other document pertaining to or required by a city contract or agreement, or pertaining to or required by any provision of the city code, which is known by such person to be false or contain false information.
- (c) Such person knowingly doing business with a debarred third person in performance of any city contract or agreement awarded after debarment of said third person.
- (d) More than one occurrence of substandard performance by such person on any city contract or agreement, including, but not limited to: (i) a material breach of the contract or agreement, (ii) a failure to complete work required under the contract or agreement on time and/or within budget when such failure is attributable to such person's negligent or wrongful actions or inactions, (iii) substandard quality of work, or (iv) any negligent or wrongful failure to cooperate with the city such that timely, satisfactory completion of the work was jeopardized. The occurrences of substandard performance described herein may occur on the same contract or agreement or on different contracts or agreements.
- (e) One or more serious violation by such person, during the performance of any city contract or agreement, of any labor or safety statutes, regulations or standards including, but not limited to, applicable local, state or federal statutes, regulations or standards governing prevailing wage, occupational safety and health, and nondiscrimination requirements.
- (f) One or more serious violation by such person of any law or regulation governing the handling, transfer, storage or disposal of hazardous materials or hazardous waste.
- (g) One or more serious violation by such person of any law or regulation governing the handling, transfer, storage or disposal of solid waste generated in connection with construction or demolition.
- (h) A violation by such person of any law or regulation governing conflict of interest.

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(i) The issuance to such person, within a two (2) year period, of three administrative penalty orders for closing or obstructing traffic on a primary City street in violation of Section 25.04.069-1 of this code.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

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25.04.69-2 Violation; Administrative Penalties

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- (a) The name and address of the violating party, if available.
- (b) The location, date and time of the violation.
- (c) A description of the act(s) or condition(s) violating section 25.04.069-1.
- (d) The amount of the administrative penalty, with instructions for submitting payment to the City.
- (e) A statement indicating that the administrative penalty may be appealed, in accordance with the provisions of section 1.01.070(d)(4) of this code, by filing a written notice of appeal with the City Clerk no later than 20 days after the order is issued to the violator.
- (f) A statement indicating that the order imposing the administrative penalty shall be final if it is not appealed within the time required.
- (g) A statement indicating that a party upon whom a final administrative penalty has been imposed may seek review of the order imposing the penalty pursuant to California Code of Civil Procedure §§ 1094.5 and 1094.6.

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In addition to the foregoing penalty, the City may withhold issuance of permits for encroachment or excavation in a city street (issued pursuant to chapter 12.04 or chapter 38.03 of this code) to any person issued an administrative penalty order for violation of section 25.04.069-1 three (3) times within a two (2) year period; the City may withhold issuance of permits for a period of not longer than two (2) years after said administrative penalty orders are final.

SECTION 3.

Section 58.09.905 of the Sacramento City Code is amended to read as follows:

58.09.905 Grounds for debarment.

Debarment may be imposed on a person by the city manager, or a hearing examiner on appeal, in accordance with the procedures established by this chapter on any of the following grounds:

- (a) Commission by such person of any act of:
 - (i) Fraud, bribery, collusion, or conspiracy;
 - (ii) Bid rigging, price fixing or any other act in violation of any federal, state or local law in connection with the bidding upon, award or performance of any public contract; or
 - (iii) Embezzlement, theft forgery, falsification or fabrication of records, or perjury.

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- (b) Submission by such person of a bid, proposal, or other document pertaining to or required by a city contract or agreement, or pertaining to or required by any provision of the city code, which is known by such person to be false or contain false information.
- (c) Such person knowingly doing business with a debarred third person in performance of any city contract or agreement awarded after debarment of said third person.
- (d) More than one occurrence of substandard performance by such person on any city contract or agreement, including, but not limited to: (i) a material breach of the contract or agreement, (ii) a failure to complete work required under the contract or agreement on time and/or within budget when such failure is attributable to such person's negligent or wrongful actions or inactions, (iii) substandard quality of work, or (iv) any negligent or wrongful failure to cooperate with the city such that timely, satisfactory completion of the work was jeopardized. The occurrences of substandard performance described herein may occur on the same contract or agreement or on different contracts or agreements.
- (e) One or more serious violation by such person, during the performance of any city contract or agreement, of any labor or safety statutes, regulations or standards including, but not limited to, applicable local, state or federal statutes, regulations or standards governing prevailing wage, occupational safety and health, and nondiscrimination requirements.
- (f) One or more serious violation by such person of any law or regulation governing the handling, transfer, storage or disposal of hazardous materials or hazardous waste.
- (g) One or more serious violation by such person of any law or regulation governing the handling, transfer, storage or disposal of solid waste generated in connection with construction or demolition.
- (h) A violation by such person of any law or regulation governing conflict of interest.

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FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

- (i) The issuance to such person, within a two (2) year period, of three administrative penalty orders for closing or obstructing traffic on a primary City street in violation of Section 25.04.069-1 of this code.

DATE PASSED FOR PUBLICATION:
DATE ENACTED:
DATE EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

/mh
Admin Penalty-ord2

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FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____