

2.1B

DEPARTMENT OF
FINANCE

REVENUE DIVISION

CITY OF SACRAMENTO
CALIFORNIA

CITY HALL
ROOM 104
915 I STREET
SACRAMENTO, CA
95814-2696

March 24, 1997

REVENUE
ADMINISTRATION
916-264-5724

Law and Legislation Committee
Sacramento, California

Honorable Members in Session:

**SUBJECT: AN ORDINANCE ADOPTING PROCEDURES FOR ADMINISTRATIVE
APPEAL OF FEES AND CHARGES**

LOCATION/COUNCIL DISTRICT: Citywide

STAFF RECOMMENDATION

This report recommends that the Law and Legislation Committee approve the proposed ordinance relating to administrative appeal of fees and charges and forward the ordinance to the City Council for enactment.

CONTACT PERSON: Ken Nishimoto, Director of Administrative Services, 264-7205
Margaret Freeman, Revenue Manager, 264-5724

FOR LAW AND LEGISLATION COMMITTEE MEETING OF: April 15, 1997

SUMMARY

This report recommends enactment of an ordinance establishing an administrative procedure to appeal a fee or charge that the appellant contends violates applicable law relating to the setting of fees. The proposed ordinance would not apply to any fee or charge for which a different appeal procedure has been established by state law or city ordinance or resolution.

Re: **AN ORDINANCE ADOPTING PROCEDURES FOR ADMINISTRATIVE APPEAL
OF FEES AND CHARGES**

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BACKGROUND INFORMATION

Pursuant to the California Constitution and state law, the amount of certain fees and charges imposed by the City of Sacramento may not exceed the estimated reasonable cost of providing the service for which the fee or charge is imposed. In addition, there are numerous requirements relating to the procedure for adopting fees and charges, such as notice and publication requirements.

At present, the City of Sacramento does not have a formal administrative procedure by which persons may challenge a fee or charge. Having such a procedure is desirable, because it will:

- Provide clear and specific rules for challenging a fee or charge.
- Allow the City to adjust individual fees or charges in appropriate cases, minimizing the need for litigation.
- Create increased certainty with respect to fees and charges paid, by requiring that any challenge to a fee or charge be filed with the City Clerk within fifteen (15) days after payment of the fee or charge.
- Permit the issues surrounding a challenged fee or charge to be sorted out in an administrative setting, reducing costs and the time normally required to resolve fee and charge disputes.

Features of the proposed ordinance are:

- Establishes a three-member Fee Appeals Board. Members are the Director of Administrative Services, the Director of Public Works, and the City Manager, or their designees.
- Requires payment of the challenged fee or charge before an appeal may be filed.
- Requires filing of appeal within fifteen (15) days after payment of the challenged fee or charge.
- Permits the City Manager to adjust the fee or charge upon review of the appeal documents, without a hearing. If the appellant is not satisfied with the City Manager's preliminary review, a hearing before the Board can be requested.

Re: **AN ORDINANCE ADOPTING PROCEDURES FOR ADMINISTRATIVE APPEAL
OF FEES AND CHARGES**

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- The appellant pays an appeal fee only if the City Manager's preliminary review does not resolve the appeal.
- The appellant must present a prima facie case that the fee or charge is out of compliance with applicable law. If a prima facie case is presented, the City shall have the burden to establish by a preponderance of the evidence that the fee or charge complies with applicable law.
- When data necessary to determine the estimated reasonable cost of the service are not available until after the service is performed, the hearing may be postponed.
- To ensure that the appellant receives a prompt decision, maximum time periods for each step of the appeal process are specified.

The ordinance would apply only to fees which, by law, must meet specified standards. For example, fees for use of City property (i.e. public property leased to private parties, fees for community center and convention center facilities, etc.) would not be covered.

FINANCIAL CONSIDERATIONS

It is not anticipated that adoption of this procedural ordinance will have a significant impact on the City budget. Any appeal fees paid by appellants will be offset by hearing expenses. Adoption of the ordinance may help to control the increase in City Attorney resources needed to respond to fee and charge challenges.

ENVIRONMENTAL CONSIDERATIONS

It can be seen with certainty that adoption of this ordinance will not have an impact on the environment. No environmental review is required.

POLICY CONSIDERATIONS

This ordinance is consistent with other City Council efforts (e.g. bid protests) to establish clear rules and procedures for all interested parties.

Law & Legislation Committee
March 24, 1997

Re: **AN ORDINANCE ADOPTING PROCEDURES FOR ADMINISTRATIVE APPEAL
OF FEES AND CHARGES**

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MBE/WBE

This report does not involve procurement of goods or services.

Respectfully submitted,



KEN NISHIMOTO
Director of Administrative Services

RECOMMENDATION APPROVED:



BETTY MASUOKA
Deputy City Manager

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE ADOPTING PROCEDURES FOR ADMINISTRATIVE APPEAL OF FEES AND CHARGES

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

SECTION 1.

Chapter 2.08 (Sections 2.08.800 through 2.08.840) is hereby added to Title 2 of the Sacramento City Code, to read as follows:

CHAPTER 2.08 Administrative Appeal of Fees and Charges

Section 2.08.800 Administrative appeal of fees and charges.

Any person or entity who contends that a fee or charge imposed upon the person or entity by or on behalf of the City of Sacramento, or the amount thereof, (1) exceeds the estimated reasonable cost of providing the service for which the fee or charge is imposed, in the case of a fee or charge which by law may not exceed the estimated reasonable cost of providing the service for which it is imposed, or (2) violates any federal, state, or local law or regulation relating to the procedure, methodology, or basis for, or the manner of, establishment or setting and collection of fees or charges by or on behalf of the City of Sacramento, may appeal the fee or charge, or the amount thereof, according to the procedure set forth in this Chapter.

The procedure set forth in this Chapter shall not apply to fees or charges for which a different appeal procedure has been established by state law or City ordinance or resolution.

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DATE ADOPTED: _____

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For fees and charges to which this Chapter applies, the administrative appeal procedure set forth herein is the exclusive remedy to challenge a fee or charge. Failure to appeal as permitted by this Chapter shall constitute a failure to exhaust available administrative remedies, and shall bar any further or other review or appeal.

Section 2.08.810 Payment of fee or charge; Filing of appeal and payment of appeal fee; Fee Appeals Board.

Any person or entity desiring to assert an appeal pursuant to this Chapter shall first tender the full amount of the disputed fee or charge to the City, which tender may, but need not, be made under protest. A written appeal including the grounds for the appeal and any written material which will be used to support the appeal, shall be filed with the City Clerk, who shall serve as the clerk of the Fee Appeals Board, not later than fifteen (15) calendar days after payment of the disputed fee or charge. The Fee Appeals Board shall consist of the Director of Administrative Services or the Director's designee, the Director of Public Works or the Director's designee, and the City Manager or the Manager's designee. The City Manager or the Manager's designee shall serve as the Chair of the Board.

Section 2.08.820 Review of appeal; hearing and decision.

The appeal shall first be reviewed preliminarily by the City Manager. The City Manager may confer with, or request a written submittal from, the City Department imposing the fee or charge. Notice of the City Manager's preliminary decision shall be given to the appellant within thirty (30) days after the appeal is filed. In the event the appeal is granted, an appropriate refund shall be made, based on the recalculated fee or charge. In the event the appeal is not granted, or is granted only in part, notice shall be mailed to the appellant by first class mail to the address set forth in the written appeal, which notice shall briefly specify the reason for the decision of the City Manager. Any appellant may request a de novo hearing before the Board. Any such application for hearing shall be filed with the City Clerk within fifteen (15) calendar days after the date of the notice of the City Manager's preliminary decision and shall be accompanied by an appeal fee established by resolution of the City Council. The Board shall thereafter schedule a hearing with no less than ten (10) calendar days written notice to the appellant. The hearing shall be held within sixty (60) calendar days after the date of the notice of preliminary decision, unless it is postponed pursuant to section 2.08.830. The appellant and any representative of the appellant may be present at the hearing and may present any evidence relevant to the appeal. The Board shall decide the appeal considering evidence from the appellant and evidence from the City Department imposing the fee or charge and other persons who may have personal knowledge of relevant information

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DATE ADOPTED: _____

concerning the fee or charge. The proceedings shall be tape recorded. The proceedings may also be reported by a certified shorthand reporter provided at the appellant's expense. The appellant shall have the burden to establish a prima facie case that the fee or charge violates applicable law. In those cases where the appellant establishes a prima facie case, the City shall have the burden to establish by a preponderance of the evidence that the fee or charge complies with applicable law. Written notice of the Board's decision on the appeal after hearing shall be mailed to the appellant within thirty (30) days after the hearing. The decision of the Board shall be final and conclusive. The City Clerk shall give notice to the appellant of the time limits for judicial review set forth in Section 2.08.840.

Section 2.08.830 Postponement of hearing.

Either the appellant or the City Department imposing the fee or charge may request a postponement of the hearing for good cause. The request shall be submitted to the Board Chair in writing for decision. Good cause shall include (without limitation) the ground that data necessary to determine the estimated reasonable cost of the service is not yet available. In such cases, the hearing may be postponed until after the service has been provided or to another appropriate time.

Section 2.08.840 Judicial review.

Any judicial action taken by the appellant in any manner to set aside, annul or vacate any decision of the Fee Appeals Board shall be filed within the time limits prescribed in Code of Civil Procedure Section 1094.6.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____



2.2

DEPARTMENT OF
POLICE

ARTURO VENEGAS, JR.
CHIEF OF POLICE

CITY OF SACRAMENTO
CALIFORNIA

March 11, 1997

Ref: 2-26

HALL OF JUSTICE
813 SIXTH STREET
SACRAMENTO, CA
95814-2495

PH 916-264-5121
FAX 916-448-4620
E-MAIL
spdcou@quiknet.com
http://
www.quiknet.com/spd/

Law and Legislation Committee
Sacramento, California 95814

Honorable Committee Members:

SUBJECT: AMENDING SECTIONS 25.01.002, 51.02.202 AND 51.02.205 OF THE CITY CODE, RELATING TO THE ISSUANCE OF PARKING CITATIONS, AND TO THE OPERATION OF REGIONAL TRANSIT VEHICLES ON THE K STREET MALL.

LOCATION AND COUNCIL DISTRICT: City-wide, all districts.

RECOMMENDATION:

It is recommended that the Law and Legislation Committee forward the attached ordinance amendments to the City Council for adoption.

CONTACT PERSON: Sergeant Mark Sakauye, Regional Transit Detail,
Metro Sector, Police Department, 321-2995

FOR LAW AND LEGISLATION COMMITTEE MEETING OF: April 15, 1997

SUMMARY:

This report recommends that the Law and Legislation Committee recommend that the City Council adopt the attached ordinance amendments which would:

- Enable designated Regional Transit (RT) employees to issue parking citations.
- Update City Ordinances to match the current RT shuttle bus operation on the K Street mall.

BACKGROUND INFORMATION:

Vehicles are often illegally parked in Regional Transit (RT) bus stops causing a number of problems. Consequently, buses are unable to pull into the stop causing all or part of a bus to impede traffic or to partially block an intersection. A safety issue arises because passengers, including disabled riders, are required to board the bus in the street or at a non-designated boarding area.

Authorizing designated RT employees to cite these vehicles would have positive benefits for the city, RT and RT passengers. This solution would ease traffic congestion and allow for a more efficient and safe transit operation.

RT's only recourse regarding this problem is to call for a Police Officer to issue a citation. This situation can often result in a lengthy delay that affects safety and scheduling concerns for RT and the public.

Authorizing RT employees to issue parking citations would be a simple solution to an ongoing problem.

RT has been providing a shuttle bus service on the K st. Mall and downtown area since May of 1996. The amendments to City Ordinances Sections 51.01.202 and 51.02.205 will bring the existing RT shuttle bus operation on the mall into technical compliance with the law.

ENVIRONMENTAL CONSIDERATIONS:

Not applicable. Information only.

FINANCIAL CONSIDERATIONS:

The proposed amendment to the City Ordinance regarding parking may yield an increase in the revenue generated through the citation process. RT will not receive any revenue from this or any of the proposed amendments.

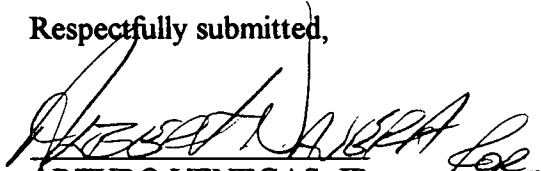
POLICY CONSIDERATIONS:

The proposed ordinance amendments are consistent with City policy in providing a safe environment for both vehicular and pedestrian traffic along with assisting in the efficient operation of public transportation.


MBE/WBE CONSIDERATIONS:

None. No goods or services are being purchased.

Respectfully submitted,


ARTURO VENEGAS, JR.
CHIEF OF POLICE

RECOMMENDATION APPROVED


BETTY MASUOKA
DEPUTY CITY MANAGER

Attachment: Proposed ordinances

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON THE DATE _____

**AN ORDINANCE AMENDING SECTIONS 25.01.002, 51.02.202 AND 51.02.205,
RELATING TO THE ISSUANCE OF PARKING CITATIONS, AND TO THE
OPERATION OF REGIONAL TRANSIT VEHICLES ON THE K STREET MALL**

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

SECTION 1

Section 25.01.002 of the Sacramento City Code is hereby amended to read as follows:

25.01.002 Authority of Police and Fire Officers

The police department shall: enforce the street traffic regulations of the city and all of the state vehicle laws applicable to street traffic in the city; shall make arrests for traffic violations; shall investigate traffic accidents; shall co-operate in the administration of the traffic laws and in developing ways and means to improve traffic conditions; and shall carry out those duties especially imposed upon the department by this chapter and other ordinances of the city. A suitable system of filing traffic accident reports shall be maintained and a copy of each report shall be made available to the city traffic engineer.

Officers of the police department, or such persons as are assigned by the chief of police, are hereby authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws. In the event of a fire or other emergency, or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require, notwithstanding the provisions of the traffic laws.

Officers and members of the fire department, when at the firehouse or at the scene of a fire, may direct, or assist the police in directing, traffic thereat or in the immediate vicinity.

Civilian employees of the city, when designated by the chief of police, shall enforce those provisions of this chapter and the vehicle code relating to the standing or parking of vehicles.

For City Clerk Use Only

Ordinance No. _____

Date Adopted _____

Civilian employees of the Sacramento Regional Transit District, when designated by the Chief of Police, shall enforce those provisions of this chapter and the vehicle code relating to the standing or parking of vehicles

SECTION 2

Section 25.02.202 of the Sacramento City Code is hereby amended to read as follows:

51.02.202 Same--Exceptions

The provisions of Section 51.02.201 shall not apply to the following:

- (a) A Fire vehicles and ambulances responding to emergency calls.
- (b) Utility vehicles engaged in the repair of hazards or the correction of disruptions of essential services.
- (c) Building services vehicles engaged in the repair of hazards or the correction of disruptions of essential services.
- (d) trams ~~shuttle buses~~ operated by the Sacramento Regional Transit District.
- (e) Vehicles leaving the parking garage at 11th Street between the K-L alley and L Street from the exit to L Street only; provided, however, that no vehicle shall stop or stand unless in a traffic queue exiting from the garage.
- (f) Vehicles traversing the K-L alley from 12th to 10th Streets over the extension of the alley right-of-way only.
- (g) Self-propelled wheel chairs or invalid tricycles operated by persons whose physical disabilities prohibit normal walking.
- (h) City-operated maintenance vehicles not exceeding ten feet long and five feet wide.
- (i) Maintenance vehicles and equipment used between the hours of 10:30 p.m. and 4:30 a.m. for maintenance of the mall, utilities and buildings which cannot be reached from adjacent streets and alleys, if authorized by a written permit issued by the city manager.

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For City Clerk Use Only

Ordinance No. _____

Date Adopted _____

- (j) Waste removal vehicles being used between the hours of 10:30 p.m. and 6:30 a.m., or during emergencies or special events.
- (k) Construction vehicles and equipment used between the hours of 10:30 p.m. and 4:30 a.m. in construction or demolition of buildings adjacent to malls or the installation of maintenance of signs thereon, if authorized by a written permit issued by the city manager.
- (l) Funeral vehicles including no more than one hearse and three vehicles, and wedding vehicles including no more than three vehicles on 11th Street from the J-K alley to north line of K Street.
- (m) Vehicles for display or operated for special events at such times and places as may be authorized by a written permit issued by the city manager.
- (n) Police vehicles.
- (o) Light rail vehicles and supervisory, maintenance and revenue collection vehicles operated by the Sacramento Regional Transit District.
- (p) Pending completion of the convention center expansion project, motor vehicles associated with loading and unloading activities at the convention center, in the area of 13th Street between the north right-of-way line of K Street and the south right-of-way line of K Street.

No person authorized to operate or park a motor vehicle on a mall shall stop, stand or park such vehicle on a mall at any time in such a manner as to block passage of any emergency vehicle or light rail vehicle or to block pedestrian movement or access to any buildings.

For City Clerk Use Only

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Date Adopted _____

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SECTION 3

Section 25.02.205 of the Sacramento City Code is hereby amended to read as follows:

51.02.205 Speed

No person shall operate any vehicle upon any mall at a speed of more than five miles per hour; provided, however, that this speed limit shall not apply to light rail transit vehicles and shuttle buses (30 passengers or less) operated by the Sacramento Regional Transit District. It is understood that said light rail transit vehicles are governed by and shall operate in compliance with the regulations of the California Public Utilities Commission relating to the speed of the light rail vehicles on pedestrian malls such as the K Street Mall. Shuttle buses shall not be operated on any mall at a speed of more than 10 mph.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

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For City Clerk Use Only

Ordinance No. _____

Date Adopted _____

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON THE DATE _____

**AN ORDINANCE AMENDING SECTIONS 25.01.002, 51.02.202 AND 51.02.205,
RELATING TO THE ISSUANCE OF PARKING CITATIONS, AND TO THE
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Officers of the police department, or such persons as are assigned by the chief of police, are hereby authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws. In the event of a fire or other emergency, or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require, notwithstanding the provisions of the traffic laws.

Officers and members of the fire department, when at the firehouse or at the scene of a fire, may direct, or assist the police in directing, traffic thereat or in the immediate vicinity.

Civilian employees of the city, when designated by the chief of police, shall enforce those provisions of this chapter and the vehicle code relating to the standing or parking of vehicles.

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SECTION 2

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51.02.202 Same--Exceptions

The provisions of Section 51.02.201 shall not apply to the following:

- (a) A Fire vehicles and ambulances responding to emergency calls.
- (b) Utility vehicles engaged in the repair of hazards or the correction of disruptions of essential services.
- (c) Building services vehicles engaged in the repair of hazards or the correction of disruptions of essential services.
- (d) shuttle buses operated by the Sacramento Regional Transit District.
- (e) Vehicles leaving the parking garage at 11th Street between the K-L alley and L Street from the exit to L Street only; provided, however, that no vehicle shall stop or stand unless in a traffic queue exiting from the garage.
- (f) Vehicles traversing the K-L alley from 12th to 10th Streets over the extension of the alley right-of-way only.
- (g) Self-propelled wheel chairs or invalid tricycles operated by persons whose physical disabilities prohibit normal walking.
- (h) City-operated maintenance vehicles not exceeding ten feet long and five feet wide.
- (i) Maintenance vehicles and equipment used between the hours of 10:30 p.m. and 4:30 a.m. for maintenance of the mall, utilities and buildings which cannot be reached from adjacent streets and alleys, if authorized by a written permit issued by the city manager.

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Ordinance No. _____
Date Adopted _____

- (j) Waste removal vehicles being used between the hours of 10:30 p.m. and 6:30 a.m., or during emergencies or special events.
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No person authorized to operate or park a motor vehicle on a mall shall stop, stand or park such vehicle on a mall at any time in such a manner as to block passage of any emergency vehicle or light rail vehicle or to block pedestrian movement or access to any buildings.

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SECTION 3

Section 25.02.205 of the Sacramento City Code is hereby amended to read as follows:

51.02.205 Speed No person shall operate any vehicle upon any mall at a speed of more than five miles per hour; provided, however, that this speed limit shall not apply to light rail transit vehicles and shuttle buses (30 passengers or less) operated by the Sacramento Regional Transit District. It is understood that light rail transit vehicles are governed by and shall operate in compliance with the regulations of the California Public Utilities Commission relating to the speed of the light rail vehicles on pedestrian malls such as the K Street Mall. Shuttle buses shall not be operated on any mall at a speed of more than 10 mph.

DATE PASSED FOR PUBLICATION:

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DATE EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

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Date Adopted _____