

**Agenda Item #11**

There is no item for this number.

## General Manager's Report September 14, 2009

### FEDERAL UPDATE

The U.S. Senate and U.S. House of Representatives returned from Congress' annual August recess this week. Over the next few weeks, both chambers will confront a number of unresolved public transportation issues. One of the top transit priorities is the completion of annual appropriations legislation that funds all federal agencies and programs for Fiscal Year 2010. These appropriation measures include the Transportation, Housing and Urban Development (THUD) appropriations bill which awaits Senate floor consideration this month. After the full Senate passes its version of the THUD bill, members of the Senate and House Appropriations Committee will meet in conference to develop the compromise version for final passage and President Obama's signature. Should the THUD bill not be completed by the end of September, a continuing resolution will be required to fund THUD programs such as the Federal Transit Administration (FTA) News Starts/Small Starts program. Another key transportation measure yet to be resolved is the enactment of a rewrite or extension of SAFETEA-LU which expires on September 30. Considering the sizable legislative agenda before Congress in the next few weeks and the limited time remaining before SAFETEA-LU expires, it is likely that an extension will be required.

### STATE UPDATE

Draft legislation is being submitted by the Petroleum Fuels Pollution Tax Working Group of The Commission on the 21st Century Economy, convened by Commissioner Fred Keeley. This proposal will provide relief to the General Fund by allocating revenue to retire existing transportation and transit bonds. The funds from this tax source will be dedicated to road maintenance and smart growth activities consistent with Article XIX of the State Constitution and with the greenhouse gas reduction goals set out by SB 375 (Steinberg) and AB 32 (Nunez), providing some relief on the General Fund and reducing the costs to the state of implementing AB 32 and SB 375.

Three options- a conservative, moderate and aggressive option, have been proposed. All options begin with a \$0.18 tax in 2010. The taxes would then be adjusted annually for inflation, and increased by the specified annual escalator (\$0.05, \$0.07, or \$0.09 per gallon) every year for 10 years. This gradual ramp will allow consumers time to adjust, allow more alternatives to enter the market, and will help to alleviate fears about delaying the economic recovery.

The monies remaining in the Transportation Revenue Account after debt service and allocation of funds to planning and implementation of projects would be paid out as follows: 50% would be transferred to the State Highway Account to be used for eligible projects in the State Highway Operation and Protection Program and for mass transportation projects consistent with Article XIX of the California Constitution; and 50% would be apportioned to cities and counties for street and highway maintenance, rehabilitation, reconstruction, and storm damage repair, as well as for mass transportation projects consistent with Article XIX of the California Constitution.

Significant Legislation

AB 338 <u>Ma</u> (D) Transit village developments: infrastructure financing.	09/03/2009 Read third time, passed, and to Assembly. (Ayes 21. Noes 16.)
AB 729 <u>Evans</u> (D) Public contracts: transit design-build contracts. Extends design-build authority for transit agencies	09/02/2009 Assembly Rule 77 suspended. Senate amendments concurred in. To enrollment
AB 1158 <u>Hayashi</u> (D) Transit village plan. Adds educational facilities to transit village plans	09/04/2009 Enrolled and to the Governor at 2 p.m.
AB 1072 <u>Eng</u> (D) Public Transportation Modernization, Improvement, and Service Enhancement Account. Locks in a formula for distribution of Prop 1B transit funds	09/04/2009 Enrolled and to the Governor at 2 p.m.

**FARE INCREASE AND SERVICE CHANGE UPDATES**

Customer Service

The passenger education campaign has been going smoothly with print and electronic information widely distributed to passengers and the media. With a few exceptions, as can be expected with significant fare and service changes, RT employees have reported that passengers are aware of the changes and have adjusted accordingly.

Facilities Management staff has assisted in the updating of all signage throughout the system, including light rail station kiosks, bus shelters and vehicles. The transition was completed last week.

RT staff began a ticket exchange program at key light rail stations on Tuesday, September 8 and will continue through Thursday, September 17. Passengers can continue to exchange \$2.25 Basic single fare tickets and \$1.10 Discount single fare tickets at the Customer Service and Sales Center at 1225 R Street (adjacent to the 13<sup>th</sup> Street light rail station) through the June 30, 2010 expiration date.

Operations

RT is in the seventh day of the fare increase and from an operational perspective has not experienced any significant updates since last reported. The Operator and Transit Officer training was adequate and effective, with both groups being prepared to implement the changes that began on September 1. The programming of the fare vending machines at the light rail stations to accept the new fare structure are going smoothly and remain a seamless transition for RT's riders. With the elimination of transfers, the fare structure is still appreciated by the Operators for the simpler administration to RT riders.

**CALIFORNIA CAPITAL AIRSHOW UPDATE**

ORAL REPORT BY MARK LONERGAN, COO

RT MEETING CALENDAR

**Regional Transit Board Meeting**

October 5, 2009  
RT Auditorium  
6:00 P.M.

October 26, 2009  
RT Auditorium  
6:00 P.M.

November 9, 2009  
RT Auditorium  
6:00 P.M.

**Executive Board Committee Meeting**

October 5, 2009  
RT Auditorium  
4:00 P.M.

November 2, 2009  
RT Auditorium  
4:00 P.M.

December 7, 2009  
RT Auditorium  
4:00 P.M.

**Mobility Advisory Council**

October 8, 2009  
RT Auditorium  
2:30-4:30 P.M.

November 5, 2009  
RT Auditorium  
2:30-4:30 P.M.

December 3, 2009  
RT Auditorium  
2:30-4:30 P.M.

**Quarterly Retirement Board Meeting**

September 21, 2009  
RT Auditorium  
9:00 A.M. - Noon

December 7, 2009  
RT Auditorium  
9:00 A.M. - Noon

# REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
13	09/14/09	Open	Action	08/31/09

Subject: Adopt an Ordinance Establishing Penalties and Regulations for Parking at Regional Transit Parking Lots

## ISSUE

Whether or not to adopt Ordinance 09-09-01, Approving Parking Regulations for Light Rail Park and Ride Lots and Establishing Enforcement Procedures for Parking Violations at RT Facilities.

## RECOMMENDED ACTION

Adopt Ordinance 09-09-01, Approving Regulations Establishing Enforcement Procedures for Parking Violations at RT Facilities and Establishing a Fee Schedule for Parking Violations.

## FISCAL IMPACT

RT has budgeted approximately \$150,000 as revenue from this pilot program. Although the full fiscal impact is unknown, the expectation is that the pilot program will produce a positive impact. Under ideal conditions, every vehicle parked in a designated lot will result in RT collecting \$1 for each vehicle and no fines will be collected. The experience of other agencies with similar pay-for-parking programs, including the City of Sacramento, includes the receipt of additional revenue from their citation programs. RT's pilot program will impose modest fines and seeks flexibility in the resolution of citations.

## DISCUSSION

Over the last few years, the Board and Staff have been looking for revenue generating activities to fill the budget shortfalls created by state cuts and sales tax revenue decreases. One of the ideas used by other transit agencies has been parking fees. Staff performed extensive research and investigations contacting other transit agencies and parking management staff. Staff presented to the RT Board options which included a pilot parking program at a limited number of stations. After 7 public meetings, where the Board considered parking options and various types of parking plans, subject to all of the information provided by staff, the Board chose to approve a Pilot Parking Program at 3 light rail station park and ride lots.

The plan for these three park and ride lots includes: pay by stall number on the platform, pay electronically by stall number via the web, and monthly pass paid for via the web or at a sales location. Cash, credit card and ATM will all be accepted as forms of payment. As previously noted, January 1, 2010 is the implementation date for the parking fee at the three pilot stations. Marketing is working on a campaign to inform the public of the changes and staff will be on site for the first two weeks of the program to assist the public with the change. A formal update will be provided to the Board after a six month operating period with updates provided under the General Manager's report. During the initial two weeks, staff will issue warning tickets, except in cases where the patron's behavior warrants a citation.

Approved:

  
General Manager/CEO

Presented:

  
Chief of FBSS Division

# REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
13	09/14/09	Open	Action	08/31/09

Subject: Adopt an Ordinance Establishing Penalties and Regulations for Parking at Regional Transit Parking Lots

At the August 24, 2009 Board meeting, the Board waived the first reading of an ordinance establishing enforcement procedures for parking violations. The proposed Ordinance establishes rates and penalties for RT's pilot parking fee program at the Watt/I-80, Watt West, and Roseville Road light rail stations. Pursuant to Resolution 09-07-0122, adopted by the Board of Directors on July 27, 2009, the Board approved a \$1 per day fee for vehicle parking at these lots. Citations with fines are needed to encourage the payment of the parking fee. This Ordinance is modeled from the Sacramento City Code's parking enforcement provisions. The fines and penalties associated with enforcement of these violations are also consistent with what is being charged by the City and the County of Sacramento.

The Ordinance also establishes fines for violating parking restrictions in all of RT's parking lots. Currently under City and County code violations, these violations result in the towing of patron and employee vehicles. When vehicles are towed by RT Staff, the owner pays the towing company approximately \$270 to reclaim their vehicle. Because of the harshness of this penalty, Staff is proposing, through this Ordinance, a citation schedule with much lower penalties. This Ordinance is expected to result in fewer towed vehicles minimizing the effort and cost of recovering vehicles by their owners. RT Staff towed in excess of 26 vehicles in the last 12 months.

The Ordinance would set penalties as follows:

Failure to pay parking fee	<b>\$ 29.50</b>
Parking prohibited, signs posted	<b>\$ 37.50</b>
Parked in excess of 72 hours	<b>\$ 32.50</b>
Red curb or bus zone in RT lot	<b>\$ 48.00</b>

The penalties include amounts that are required to be set aside for the payment of court construction as provided by Government Code sections 70372 and 76000.

The California Vehicle Code provides a procedure for local agencies to issue citations for parking violations, including, an administrative process to contest those citations. An initial review of a citation and administrative hearing are made a part of the review process of this Ordinance. It is anticipated that RT's Customer Advocacy department will maintain overall responsibility for monitoring the citation process, conducting the initial reviews, and collection of fees and penalties. Furthermore, the General Manager/CEO will appoint an impartial hearing officer to hear a second step administrative hearing. As a final step, those cited with a violation may seek de novo review in the Superior Court.

In addition to allowing RT to enforce its pay-for-parking pilot program, the Ordinance also provides authority for RT's staff to enforce parking violations at all of its parking facilities, not only at the park and ride lots that are a part of the pilot program. The Ordinance does not establish any new parking regulations, but allows RT's staff to ticket those who violate existing parking provisions.

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Subject: Adopt an Ordinance Establishing Penalties and Regulations for Parking at Regional Transit Parking Lots

Staff believes that using these enforcement methods would be less onerous than towing the violator's vehicle, which is currently the only enforcement method available and in use by RT's staff.

Staff recommends the Board of Directors adopt Ordinance 09-09-01 Approving Parking Regulations for Light Rail Park and Ride Lots and Establishing Violation Enforcement Procedures. Pursuant to Title III, section 3.1.7.3 of RT's Administrative Code, no ordinance shall become effective until 30 days after the date of its final passage.

ORDINANCE NO. 09-09-01

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

September 14, 2009

**AN ORDINANCE APPROVING REGULATIONS FOR CHARGING FEES  
AT RT PARK AND RIDE LOTS AND  
ESTABLISHING ENFORCEMENT PROCEDURES  
FOR PARKING VIOLATIONS AT RT FACILITIES**

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT DO ORDAIN AS FOLLOWS:

**SECTION 1: Intent and Authority.**

This Ordinance shall establish regulations related to parking violations at RT facilities, including RT's park and ride lots where a fee is charged for parking. This Ordinance authorizes RT staff, security contractors, and other designated persons to issue citations for parking violations, and establishes administrative procedures for contesting the issuance of a parking citation.

This Ordinance is adopted pursuant to California Vehicle Code Sections 40200 et seq., which provides for civil penalties and the establishment of administrative procedures for violations of local regulations that are not misdemeanors, including, violations of parking regulations.

**SECTION 2: Definitions.**

The following definitions pertain to terms utilized in this Ordinance:

- A. Administrative Hearing - "Administrative Hearing" means a hearing process with respect to a citation, conducted in accordance with the procedures specified herein, initiated by a timely written request of a Contestant dissatisfied with the results of the Initial Review.
- B. Appeal - "Appeal" means the action taken by a Contestant seeking review of a citation by the Superior Court.
- C. Citation - "Citation" includes, but is not limited to, notices of parking or standing violation.



- D. Contestant - "Contestant" means any person or entity who is the registered owner, driver, rentee, or lessee who is liable for parking penalties in accordance with the provisions of California Vehicle Code Sections 40200, et seq., and who contests or disputes liability for the parking penalties.
- E. DMV - "DMV" means the California Department of Motor Vehicles.
- F. Initial Review - "Initial Review" means the initial citation review process, initiated by a Contestant's timely request, and conducted by the issuing agency staff.
- G. Issuing Agency - "Issuing Agency" means the agency which issues a parking citation pursuant to this Ordinance.
- H. Parking Penalty - "Parking Penalty" includes the applicable civil penalty for the violation specified on the citation, the late payment penalty, and the DMV lien fee, if applicable.
- I. Parking Violation - "Parking Violation" means any violation of any regulation governing the standing or parking of a vehicle under the California Vehicle Code, under any federal or state statute or regulation, under any RT regulation as may be established pursuant to RT's Ordinances or Resolutions regulating the standing or parking of vehicles.
- J. RT - "RT" means the Sacramento Regional Transit District.

### **SECTION 3: Parking Fees and Penalties.**

#### **3.01 Parking on District property**

Whenever RT's Board of Director's determines that parking or standing of vehicles on District property should be prohibited, limited, or restricted, the General Manager/CEO shall have the power and authority to order signs or markings to be erected or posted indicating that the parking of vehicles is prohibited, limited or restricted.

When signs or markings authorized by the provisions of RT's Administrative Code, Ordinances, or Resolutions are in place, giving notice thereof, no person shall stop, stand, or park a vehicle contrary to the directions of such signs or markings. Any vehicle parked in violation of such signs or markings may be cited as provided in the Vehicle Code. Violations are subject to civil penalties as provided in Section 4 of this Ordinance.

#### **3.02 Rates to be posted at parking lots**

The General Manager/CEO shall direct the posting of a notice of the schedule of rates to be charged to the public or persons desiring to park within designated

lots. Such schedule of rates shall be posted in a conspicuous place at each entrance to any such parking lot and the rates to be charged shall be in words and figures of sufficient size so as to allow an operator of a vehicle desiring to park in any such lot to be notified of the rates chargeable for such service. Such notice shall be lighted at all times when the lot is open for business and there is insufficient natural light available to allow the operator of a vehicle to read it.

### **3.03 Parking lot rates**

Pursuant to RT's pilot program, a one dollar (\$1.00) per day fee authorizes the parking of one (1) passenger vehicle or light truck within a marked space at RT's Watt/I-80, Watt West, and Roseville Road light rail stations, commencing January 1, 2010. The payment of a parking fee shall not constitute a bailment and shall not subject RT, its officers, agents, or employees to liability for the loss of a vehicle or its contents.

Rates changes or the inclusion of additional RT parking lots where a fee is charged for parking shall be established by resolution of the Board of Directors. Each such resolution shall contain a description of each respective lot and the respective rates to park per hour, day, and month.

### **3.04 Fees to be paid for parking in District lots**

Except as specifically provided, no person shall park or leave standing any vehicle in any District parking lot where a fee is charged without immediately thereafter displaying a valid permit or by depositing a parking fee with the appropriate slot number at a designated pay station. All fees, rates, and charges for the use of the facilities shall be collected from the owner, operator, or person in charge of the vehicle desiring to park. It is unlawful for any person to fail to pay the fees, rate, and charges for the use of RT's parking facilities after having been given notice to pay.

No fee shall be charged to nor collected from any officer or employee of the District for the parking of a District-owned vehicle in an off-street parking facility at such times when such officer or employee is engaged in District business. In addition, the General Manager/CEO may authorize specified officers and employees of the District to park their private vehicles in designated parking facilities during such times when the officers and employees are engaged in their official public duties.

The issuance and review of notices of parking violation and delinquent parking violation, and the liability for and payment and collection of parking violation penalties, shall be governed by Sections 40200 et seq. of the California Vehicle Code and Section 4 of this Ordinance.

**3.05 Towing vehicles from District parking lots and facilities**

Notwithstanding any other provision of this Ordinance, RT shall retain the right to tow vehicles parked in violation of its parking regulations.

Any vehicle left on a RT parking lot for more than seventy-two (72) hours without prior arrangements having been made, may be removed from the parking lot at the expense of the owner or operator of that vehicle.

Any vehicle left in a location which interferes with RT's ability to deliver transit services may be immediately removed at the expense of the owner or operator of that vehicle.

**3.06 Parking contrary to signs and markings in District parking lots**

Parking contrary to signs and markings in any District parking lot is subject to citation as provided by this Ordinance.

**3.07 Persons designated to issue citations**

The General Manager/CEO may designate persons, including agents and employees of RT, who shall be authorized to issue citations pursuant to this Ordinance and as may be permitted by the California Vehicle Code.

**3.08 Issuance of parking citations**

All parking citations shall be affixed to the vehicle's windshield or other conspicuous place on the vehicle, thereby constituting service of the notice of the parking violation for purposes under this Ordinance.

**SECTION 4: Parking Violation Enforcement Procedures**

**4.01 Penalties, fines, fees and related charges for parking, traffic, and related violations**

**A. Intent**

It is the intention of RT's Board of Directors to exercise its full authority specified in California Vehicle Code Section 40203.5(a), by providing a procedure for establishment of a schedule of penalties for parking and related violations, late payment penalties, administrative fees, and other related charges for parking and related violations.

**B. Procedure for Establishment**

Subject to any limitations imposed by state law, the Board of Directors may amend by resolution, the penalties, fines, fees and related charges for parking and related violations, late payment violations, administrative fees, and any other charge relating to the administration of the provisions of the California Vehicle Code specifying civil procedures for citation resolution and impounding of vehicles.

**C. Schedule of Penalties**

Failure to pay parking fee (3.04)	<b>\$ 29.50</b>
Parking prohibited, signs posted (3.01)	<b>\$ 37.50</b>
Parked in excess of 72 hours (3.05)	<b>\$ 32.50</b>
Red curb or bus zone in RT lot (3.05)	<b>\$ 48.00</b>

The penalties set forth above, include those amounts required to be collected pursuant to Government Code sections 70372 and 76000.

Penalties shall be noted on the citation form, including, any late payment penalties, of an additional ten dollars for each thirty (30) days of delinquency.

The Schedule of Penalties may be amended by Resolution of the RT Board of Directors.

**4.02 Administrative adjudication procedure**

**A. Purpose**

The purpose of the procedures specified herein is to provide a fair and thorough process for review, both at the administrative level, and in the form of a hearing when requested, of citations issued for parking or standing violations, within the District.

**B. Application of Time Limitations**

Within this procedure there are various time limitations established for presentation of certain requests, including but not limited to requests for initial review, requests for administrative hearing, and requests for copies of documents. For purposes of this procedure, the specified time limitations are jurisdictional. Untimely requests will be rejected. Waivers will not be issued. No person has authority to waive, or otherwise grant exceptions to a specified time limitation.

### **C. Summary of Procedures.**

This procedure encompasses two sequential stages of review available to persons or entities wishing to contest citations for parking or standing violations:

1. Initial Review; and
2. Administrative Hearing.

The first stage, Initial Review, is initiated by a Contestant's timely written, telephonic, or in-person request for review of the circumstances surrounding issuance of the citation. The Contestant will be required to complete a review request form, within which the reasons for the contest must be specified, in order to focus the investigation. The review process consists of an investigation by the issuing agency staff, who will review the citation and the circumstances surrounding its issuance. The results of this process will be mailed to the Contestant.

The second stage, Administrative Hearing, is initiated by a Contestant who is not satisfied with the results of the Initial Review. To initiate this process, the Contestant must, on the written request form provided by RT, indicate whether he or she prefers a hearing by mail or in person. The reasons for the contest must also be articulated on the form. In order to perfect the Administrative Hearing request, the Contestant must also deposit the amount of the parking penalty. If any of these requirements are not met within the prescribed time limits, the request for Administrative Hearing will be untimely and will be rejected. The hearing will be conducted by a hearing examiner appointed by the General Manager/CEO. The hearing will be conducted in accordance with the provisions of this procedure. A written determination of the contest will be provided to the Contestant personally, or by mail.

Contestants unsatisfied by the decision of the Administrative Hearing examiner may appeal that decision to the Sacramento Superior Court as provided in Vehicle Code section 40230.

#### **4.03 Initial Administrative Review**

##### **A. Initiating Initial Review**

1. **Timeliness.** A request for Initial Review must be made within twenty-one (21) days from the issuance of the notice of parking violation, or within twenty-one (21) days from the mailing of the notice of delinquent parking violation.

2. Manner of Making Request. The request for an Initial Review may be made by written request, telephone, or in person as provided on the Notice of Violation issued pursuant to this Ordinance.

**B. Written Statement of Reasons**

A Contestant shall provide to Customer Advocacy a written statement of the reasons for contesting the parking violation. The statement of reasons shall be made on a form provided by RT's Customer Advocacy Department. If the statement of reasons is not timely provided by the Contestant within the time period specified in subsection (A)(1) of this section, the request for an Initial Review will be rejected, and the Contestant shall have no further rights to an Administrative Hearing or any further review.

**C. Investigation**

Upon receipt of a timely request for an Initial Review and the required statement of reasons, Customer Advocacy will commence an investigation of the citation and the circumstances surrounding its issuance. The review shall consist of a determination of whether the citation contains all of the items required by California Vehicle Code Section 40202, and shall focus on the reasons for the request as specified by the contestant.

1. Cancellation of Citation. If, based on the results of the investigation, Customer Advocacy is satisfied that the citation was not in accordance with California Vehicle Code Section 40202, or, based on the Contestant's statement of reasons, that the violation did not occur or the registered owner was not responsible for the violation, the issuing agency shall cancel the citation and shall specify in writing the reasons for canceling the citation.
2. Determination of Validity. If, based on the results of the investigation, Customer Advocacy is satisfied that the citation was in accordance with California Vehicle Section 40202, and that the reasons specified by the Contestant do not exist, or do not affect the validity of the citation, Customer Advocacy shall specify those findings in writing together with the supporting reasons for making the findings.

**D. Notification to Contestant**

The results of the investigation will be mailed to the Contestant, by first class mail. Services of the results shall be complete upon placement of the results in the United States mail, postage paid.

#### 4.04 Administrative Hearing

##### A. **Initiating the Administrative Hearing Process**

1. **Timeliness.** A Contestant dissatisfied with the results of the Initial Review, described above, may then request an Administrative Hearing. Any such request for an Administrative Hearing must be made within twenty-one (21) days of mailing the results of the investigation.

2. **Requirements for Perfecting Administrative Hearing.** The Contestant's request for an Administrative Hearing shall be initiated by means of a written form provided by Customer Advocacy, completed by the contestant, and filed by the Contestant with the Customer Advocacy within the time specified in subsection (A)(1) of this section. In addition, the following requirements must be satisfied within the said time period:

a. The Contestant shall deposit with Customer Advocacy the full amount of the parking penalty.

b. The Contestant shall complete the portion of the form specifying the contestant's preference for a hearing by mail or in person.

c. The Contestant shall complete the portion of the form specifying the reasons for contesting the citation.

d. If different than the record address contained in the parking or Customer Advocacy's records, the Contestant shall complete the portion of the form specifying the address of the Contestant for purposes of mailing notices of hearing and other documents in connection with the appeal.

In the event that the Contestant fails to satisfy any one or more of the above requirements within the time specified in subsection (A)(1) of this section, the request for an Administrative Hearing shall be rejected as untimely.

##### 3. **Exceptions to Parking Penalty Deposit Requirement**

a. Indigency. Pursuant to California Vehicle Code Section 40215(b), Customer Advocacy is required to establish a procedure for Contestants desiring to establish their inability to deposit the full amount of the parking penalties. Such persons are required to establish their inability to pay the full amount of the parking penalties by verifiable and substantial proof thereof. Customer

Advocacy shall have discretion to create a payment plan with the contestant where substantial proof of hardship is established.

**B. Notice of Hearing**

Within twenty-one (21) days from the filing with Customer Advocacy of a Contestant's timely request for an Administrative Hearing, Customer Advocacy shall send via first class mail to the contestant a notice of hearing. The notice shall specify the date and time of hearing, and the place where the hearing will take place, in accordance with California Vehicle Code Section 40215(b). An Administrative Hearing shall be held within ninety (90) calendar days following the receipt of a request for an Administrative Hearing, excluding time tolled pursuant to California Vehicle Code Section 40200 et seq. or this chapter.

**C. Continuances**

**1. Requests Made Prior to Date of Hearing**

A Contestant may, in writing or otherwise, request that Customer Advocacy reschedule the hearing if the request is made at least twenty-four (24) hours prior to the hearing. Customer Advocacy shall grant one continuance not to exceed twenty-one (21) calendar days in accordance with California Vehicle Code Section 40215(b).

**D. Hearing Procedures**

**1. Procedural Matters.**

a. Appearances. The officer/employee issuing the citation shall not be required to appear at the hearing. The Contestant shall appear at the hearing, unless a hearing by mail has been designated by the Contestant in the request for Administrative Hearing form. If the Contestant does not appear at the hearing, the matter shall be decided by the hearing officer based on the citation, the record of the Initial Review, and any other relevant material in the record, taking into account the reasons specified by the Contestant in the appeal request form. Appearances by minors shall be governed by the provisions of California Vehicle Code Section 40215(c)(2).

b. Hearing Officers. The hearing shall be conducted by a fair and impartial hearing officer(s) meeting the qualifications specified in California Vehicle Code Section 40215(c)(4), who shall have been appointed by RT's General Manager/CEO to act in that capacity. The hearing officer shall be separate and independent from the citation collection processing



function and his/her continued employment shall not be contingent on the amount of fines collected by the hearing officers.

c. Hearing Record. The hearing officer shall write pertinent information into the record during the in-person hearing. The hearing record, and any supporting documentation will remain with the case file at Customer Advocacy. If the Contestant appeals the hearing officer's decision to the superior court, the entire case file will be forwarded to the court. The hearing records for those cases not appealed to the superior court will be retained by RT for one year.

d. Representation. The Contestant may, in his or her discretion, be represented by an attorney in the process, including but not limited to the contest hearing. Any such representation shall be at the sole and exclusive cost of the Contestant. No Contestant shall be entitled to representation at the expense of RT, or any other public agency, irrespective of indigency status.

## **2. Conduct of the Administrative Hearing.**

a. Hearing Officer Duties. At the commencement of the hearing, the hearing officer shall:

i. Make a pre-hearing statement, briefly explaining the nature of the civil proceedings, the manner of conducting the hearing and the limits on the introduction of evidence, the process of rendering a decision, the effects of the decision in terms of collection remedies available to Customer Advocacy, the right of the contestant to appeal to the Superior Court for a de novo hearing, and any other matters in the hearing officer's discretion;

ii. Read the citation into the record;

iii. Administer an oath to the Contestant and any prospective witnesses;

iv. Record the name and address of the Contestant; and

v. Write the registered owner's name and address; and the contestant's relationship to the registered owner, if applicable.

b. Proof Requirements - Validity of Citation.

i. Burden of Proof. The issuing agency bears the burden of proof, by a preponderance of the evidence, that the citation meets statutory requirements for validity.

ii. Prima Facie Case. If the citation, or a copy thereof, contains all of the items specified in California Vehicle Code Section 40202, and if the issuing agency has included in the record the information received from the DMV identifying the registered owner of the vehicle, the citation and such information shall be prima facie evidence of the facts contained therein, and of the parking violation. The issuing agency shall not be required to produce any other information in order to establish the parking violation.

iii. Rebuttal. The Contestant may introduce credible relevant rebuttal evidence relating to the validity of the citation.

c. Proof Requirements - Contestant's Defenses.

i. Burden of Proof - Defenses. The Contestant bears the burden of proof, by a preponderance of the evidence, that although the citation is facially valid, a viable defense exists which would preclude the Contestant's liability for the parking penalty, or that a viable defense exists which would limit the Contestant's liability for late payment penalties.

ii. Defenses - Late Payment Penalties. Nonreceipt of the notice of violation itself, if based on sufficient credible evidence, may constitute a defense to late payment penalties based on nonpayment of the notice of violation, however, is not a defense to late response to the notice of delinquent parking violation. The defense of nonreceipt of the notice of violation is not available to the registered owner, where the person operating the vehicle at the time of the citation was not the registered owner. Clear proof of timely payment of the citation is a defense to late payment penalties.

iii. Defenses - Merits of Citation. Defenses relating to the merits of the citation must be established by the Contestant by credible evidence. Such defenses may include, but are not limited to signage matters (missing, obscured or defaced signs), where the contestant demonstrates that it was impossible for him or her to become aware of the applicable parking restrictions; malfunctioning parking meters or other payment devices; and mechanical breakdown of the vehicle, where the vehicle was not illegally parked prior to the breakdown, where the violation in fact results from the breakdown and reasonable steps were taken to remove the vehicle prior to the occurrence of the violation. Personal reasons, inconvenience, lack of funds, forgetfulness, failure to observe signs, lack of available parking elsewhere, lack of

knowledge of the applicable restrictions, and similar or related matters are not under any circumstances a defense to liability for the parking penalties. No defense which was not included in the statement of reasons contained in the Contestant's appeal hearing request will be considered.

d. Evidence.

i. Rules of Evidence. The rules of evidence for civil court proceedings shall not apply in hearings conducted pursuant to this procedure. Evidence relevant to the issues raised by the Contestant's statement of reasons, and to the validity of the citation itself under California Vehicle Code Section 40202, will be received. Determinations of credibility of evidence are committed to the sound discretion of the hearing officer.

ii. Form of Evidence. Other than the citation and the DMV information, the hearing officer shall receive into the record the issuing agency and Customer Advocacy's record from the Initial Review, together with relevant testimony, documentation and other material which is submitted by a party. Credibility determinations, together with determinations as to the weight to be assigned to evidence, are committed to the sound discretion of the hearing officer. The hearing officer may, but is not required to, admit evidence in the form of declarations of witnesses, submitted by the contestant. Such declarations shall not be admitted unless presented in the form required for declarations under California Code of Civil Procedure Section 2015.5, and shall contain the statements required by California Code of Civil Procedure 437c(d).

e. Witnesses. The Contestant may present witnesses in support of the contestant's contentions. The hearing officer, after conducting the preliminary procedures of the hearing, may exclude witnesses until their turn to testify occurs. The hearing officer may limit the number of witnesses in the interest of preventing cumulative or repetitive testimony.

f. Cross-Examination by Hearing Officer. The hearing officer may conduct such cross-examination of the Contestant or any witness, as in the hearing officer's sole and exclusive discretion is warranted under all of the circumstances.

**3. Decisions.**

a. Basis for Decision. The hearing officer shall make a decision on liability for the parking penalties based on the testimony and other evidence in the record.

b. Disposition. The hearing officer shall enter the disposition on the hearing record, and enter the total amount of the parking penalties. The decision, including the rationale therefore, shall be placed in written form.

c. Delivery of Decision to Contestant. The written decision shall be sent to the Contestant via first class mail.

d. Finality. The decision shall be the final decision of RT's Hearing Officer. The decision shall set forth the time limits for the contestant to file for judicial review in the Sacramento County Superior Court, and a notice that if no such review is sought within the applicable time limitation, the decision shall be final for all purposes.

#### **4.05 Judicial review**

Within thirty (30) days after the mailing or personal delivery of the final decision described in Section 4.04, the Contestant may seek review by filing an appeal to Sacramento County Superior Court. Such review will be conducted in accordance with the provision of California Vehicle Code Section 40230.

#### **4.06 Copies of citations**

Upon request, Customer Advocacy will provide a copy of a citation to any person who has received a notice of delinquent parking violation, or to his or her agent, upon request made by mail or in person. The copy will be provided within fifteen (15) days of the request, upon payment of the fee established by the revenue division. The copy can be one produced by any reasonable means available to the Finance division, including printed representation of computer information.

### **SECTION 5: Severability**

This Ordinance shall be liberally construed to effectuate its purposes. The provisions of this Ordinance are severable. If any of the provisions is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such portion shall be deemed, to maximum extent possible, a separate, distinct, and independent provision, so that such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, subsections, words or portions of this Ordinance or their application to other persons or circumstances. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the invalidity shall not affect the remaining portions of this Ordinance.

**Section 6: Effective Date**

This Ordinance shall become effective thirty (30) days after the date of its passage.

**Section 7: Ordinance Publication**

Within fifteen (15) calendar days after adoption, the Secretary is hereby directed to publish this Ordinance in full in a newspaper of general circulation published within RT's activated boundaries.

Passed and adopted at a regular meeting of the Sacramento Regional Transit District on the 14<sup>th</sup> day of September 2009, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
STEVE COHN, Chair

ATTEST:

MICHAEL R. WILEY, Secretary

By: \_\_\_\_\_  
Cindy Brooks, Assistant Secretary