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OFFICE OF THE CITY CLERK  
OAKLAND

# CITY OF OAKLAND

## AGENDA REPORT

2010 JAN 28 PM 4: 32

TO: Office of the City Administrator  
ATTN: Dan Lindheim  
FROM: FMA - Parking Operations Division  
DATE: February 9, 2010

RE: **Ordinance Amending Oakland Municipal Code Section 10.48.010 "Schedule of Parking Fines" to Add or Increase a City of Oakland Fine for California State Vehicle Code Sections 4461, 4463 "Misuse or Abuse of Distinguishing Placards and Special License Plates" to \$1,100 (One Thousand One Hundred Dollars) and Section 22507.8 "Disabled Person Parking Space" to \$368 (Three Hundred Sixty-Eight Dollars) and Section 22522 ("3 Feet from Sidewalk Access Ramp") to \$313 (Three Hundred Thirteen Dollars)**

### SUMMARY

On July 7, 2009 the City Council adopted Ordinance No. 12953 C.M.S., amending Oakland Municipal Code Section 10.48.010 "Schedule of Parking Fines" to increase certain parking fines. On October 11, 2009 Governor Schwarzenegger signed A.B. 144 (Ma) into law which amends the California Vehicle Code to address the problem of disabled parking placard abuse. The effective date of the legislation is January 1, 2010. Abusers of disabled placards cause hardship for disabled persons with valid placards by preventing them from finding accessible parking. A.B. 144 authorizes:

- Local municipalities to adopt new or increased fines and penalties for various disabled parking violations.
- Local parking enforcement officers to cite disabled parking violations through issuing a parking citation.
- A fine of not less than \$250 and not more than \$1,000 for (1) the improper lending of a disabled parking placard to any other person; (2) the misuse or abuse of a special license plate or placard while driving or parking when it is displayed on a vehicle that is not being used to transport, and is not in the reasonable proximity of, the person to whom the special license plate or placard was issued, and (3) the use of a counterfeit, forged, altered or mutilated placard or special license plate.

A.B. 144 requires the City to:

- Impose an additional 10% penalty to the fines imposed above, to be remitted to Alameda County.
- Increase its penalty for parking in a blue zone without a valid license plate or placard, from \$335 to \$368.
- Increase its penalty for parking within three feet of a sidewalk access ramp from \$285 to \$313.

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The attached Ordinance amending Oakland Municipal Code Section 10.48.010 would implement the maximum fine allowed under the provisions authorized by A.B. 144, which is \$1000. Previous California Vehicle Code Sections 4461 and 4463 treated the misuse of a special license plate or placard, the use of a counterfeit, forged, altered or mutilated placard or special license plate as misdemeanor enforceable by a local Police Officer. A.B. 144 has made all of those violations punishable as either a misdemeanor or by the issuance of a notice of parking violation, thereby allowing Parking Citation Officers to enforce these CVC sections through the issuance of a parking citation. A.B. 144 also requires the City to impose a 10% surcharge in addition to this fine, or \$100, to be remitted to Alameda County.

Before the passage of A.B. 144, California Vehicle Code Section 22507.8 allowed for the issuance of parking citations for parking in a disabled space without a special license plate or placard or parking in the cross hatch areas adjacent to a disabled parking space. The current fine for violations under this CVC Section is \$335. A.B. 144 requires the City to increase this fine by 10%, to \$368. , CVC Section 22522 authorizes the issuance of a citation for a vehicle that is parked less than three feet from a sidewalk access ramp. The current fine for this violation is \$285. A.B. 144 requires the City to increase this fine by 10%, to \$313.

### **FISCAL IMPACT**

Recent disabled placard sting operations conducted by parking enforcement staff during December 2009 and January 2010, have averaged about 1.5 instances per day of a placard or license plate being misused or abused. Enforcement efforts have been conducted six days per month over the past two months. Given the results of current enforcement efforts, the City could potentially realize revenue of up to \$100,000 if the \$1,000 fine was applied.

It should be noted, however, that ongoing enforcement effort will likely result in diminishing returns, as there are a finite number of issued placards being used in the City. Once enforcement efforts have identified individuals who misuse placards or the public generally becomes aware that enforcement efforts are taking place, the misuse of placards might be substantially reduced, resulting in fewer citations being issued.

### **BACKGROUND**

A.B. 144 amends the California Vehicle Code in an effort to address the problem of disabled parking placard abuse. According to data from the California Department of Motor Vehicle, there are 23 million registered drivers in the State of California and over 2.3 million of them have disabled placards. Between 1997 and 2007 there was a 131% increase in the number of disabled placards issued in California. More than 3,000 disabled placards and license plates have been issued to drivers who reside in Oakland. The overall goal of A.B. 144 (Ma) is to improve access, mobility, and quality of life for drivers with disabilities by implementing meaningful penalties as a means of providing disincentive for illegal use of accessible parking spaces. Additionally, this bill would allow parking enforcement officers to enforce abuses of disabled parking privileges through the issuance of a parking citation or civil penalty to a vehicle. The adjudication of those civil penalties is governed by the same civil administrative procedures, or

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citation protest process, currently outlined in the California Vehicle Code. The proposed amendments will not take away any legislated authorization for the proper authorities to issue a misdemeanor violation. The San Francisco Municipal Transportation recently adopted an ordinance to impose an \$825 fine related to abuse or misuse of a disabled placard or license plate.

### KEY ISSUES AND IMPACTS

Abusers of disabled placards cause hardship for disabled persons with valid placards by preventing them from finding accessible parking. Additionally, placard abusers prevent non-disabled patrons from parking at legally designated locations by using the placard to park for free with no time restrictions. The number of placards and license plates cited for abuse or misuse during the early stages of implementing A.B. 144 is dependent on the resources allocated to this enforcement effort. The Fiscal Impact section above discusses current enforcement levels and outcomes of those efforts.

The following table identifies the days during which enforcement efforts have taken place and the number of placards confiscated as a result of misuse:

<b>Date of Enforcement Activity</b>	<b>Number of Placards Confiscated</b>
12/10/09	3
12/11/09	3
12/17/09	3
12/18/09	3
12/22/09	0
12/23/09	0
1/6/10	1
1/7/10	0
1/8/10	2
<b>Total</b>	<b>15</b>

The California Vehicle Code currently authorizes parking enforcement officers to issue citations for parking in a disabled parking space without displaying a special license plate or placard, parking in the cross hatch areas adjacent to a disabled parking space, or parking within three feet from a sidewalk access ramp. Under A.B. 144, parking enforcement officers would be able to cite violations under CVC 4461 and 4463 which prohibits the improper lending, misuse of a special license plate or placard, or the use of a counterfeit, forged, altered or mutilated placard or special license plate. Additionally, citations issued under existing CVC Section 22507.8 currently enforced by parking enforcement officers, regarding parking in a disabled space without any disabled placard or plates, must be increased to a maximum of \$368, and citations issued under existing CVC Section 22552 regarding parking within three feet of a sidewalk access ramp, must be increased to a maximum of \$313.

### **SUSTAINABLE OPPORTUNITIES**

There are no direct economic, environmental, or social equity opportunities resulting from this action.

### **DISABILITY AND SENIOR CITIZEN ACCESS**

The proposed action serves to discourage drivers from misusing or abusing disabled placards and license plates, thereby creating hardship for disabled persons with valid placards by preventing them from finding accessible parking.

### **RECOMMENDATION(S) AND RATIONALE**

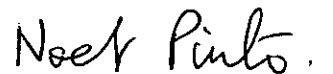
Staff recommends that Council adopt the proposed ordinance amending Oakland Municipal Code Sections 10.48.010 "Schedule of Parking Fines" as described in the attached ordinance.

Abusers of disabled placards cause hardship for disabled persons with valid placards by preventing them from finding accessible parking. Placard abusers prevent non-disabled patrons from parking at legally designated locations by using the placard to park for free with no time restrictions. For these reasons, staff believes that the additional fines are warranted.

### **ACTION REQUESTED OF THE CITY COUNCIL**

Staff requests that City Council approve the ordinance.

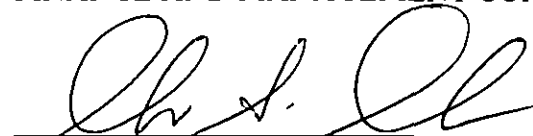
Respectfully submitted,



\_\_\_\_\_  
Noel Pinto  
Parking Operations Manager

Prepared by:  
Thomas DiSanto, Administrative Services Manager II  
Parking Administration

APPROVED AND FORWARDED TO THE  
FINANCE AND MANAGEMENT COMMITTEE:

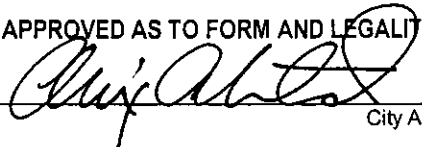
  
\_\_\_\_\_  
Office of the City Administrator

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APPROVED AS TO FORM AND LEGALITY

  
City Attorney

## OAKLAND CITY COUNCIL

ORDINANCE NO. \_\_\_\_\_ C.M.S.

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**ORDINANCE AMENDING OAKLAND MUNICIPAL CODE SECTION 10.48.010 "SCHEDULE OF PARKING FINES" TO ADD OR INCREASE A CITY OF OAKLAND FINE FOR CALIFORNIA STATE VEHICLE CODE SECTIONS 4461, 4463 "MISUSE OR ABUSE OF DISTINGUISHING PLACARDS AND SPECIAL LICENSE PLATES" TO \$1,100 (ONE THOUSAND ONE HUNDRED DOLLARS), AND SECTION 22507.8 "DISABLED PERSON PARKING SPACE" TO \$368 (THREE HUNDRED SIXTY-EIGHT DOLLARS) AND SECTION 22522 "3 FEET FROM SIDEWALK ACCESS RAMP" TO \$313 (THREE HUNDRED THIRTEEN DOLLARS)**

**WHEREAS**, the City of Oakland collects fines for violations of the Oakland Traffic Code as set forth in Title 10 of the Oakland Municipal Code; and

**WHEREAS**, the City of Oakland has a duty to enforce parking violations as set forth in the Oakland Municipal Code; and

**WHEREAS**, recently enacted California Assembly Bill 144, amending California Vehicle Code Sections 4461 and 4463 to authorize a civil penalty of not less than \$250 and not more than \$1,000 for the improper loaning or misuse of a special license plate or placard, the use of a counterfeit, forged, altered or mutilated placard or special license plate, and the use of a valid license plate or placard when it is displayed on a vehicle that is not being used to transport, and is not in the reasonable proximity of, the person to whom the special license plate or placard was issued; and

**WHEREAS**, A.B. 144 also amends Vehicle Code Sections 4461 and 4463 to require local jurisdictions to impose an additional ten percent fine for the above violations, bringing the maximum fine for those violations to \$1100; and

**WHEREAS**, The City Council finds and determines that establishing the maximum \$1,100 fine for improper loaning or misuse of a disabled parking placard, the use of a counterfeit, forged, altered or mutilated placard or special license plate and the improper parking in a disabled parking space while misusing a disabled parking placard, is necessary to enforce these violations; and

**WHEREAS**, The new parking citation fines for violations of Vehicle Code Sections 4461 and 4463 have been authorized by California law and justified by the Finance and Management Agency; and

**WHEREAS**, A.B. Bill 144 also amends Vehicle Code Section 22507.8 to require local jurisdictions to impose an additional ten percent penalty for parking a vehicle in a space designated for disabled persons without a valid license plate or placard, thereby increasing the existing fine from \$335 to \$368; and

**WHEREAS**, A.B. Bill 144 also amends Vehicle Code Section 22522 to require local jurisdictions to impose an additional ten percent penalty for parking less than three feet from a sidewalk access ramp, thereby increasing the existing fine from \$285 to \$313; and

**WHEREAS**, a public hearing was held on February 9, 2010 to review the proposed changes to the fines; now, therefore

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**Section 1.** Oakland Municipal Code (O.M.C.) Section 10.48.010 "Schedule of Parking Fines" is hereby amended as set forth below. Additions are indicated by underscoring and deletions are indicated by ~~strike through type~~; portions of ordinances not cited or not shown in underscoring or strike-through type are not changed.

State Vehicle Code Section	Description	Current CVC Fine	Proposed CVC Fine	Pass Through Surcharge (Remitted to Alameda County)	Total New Fine Amount
4461 (b)	<u>Improper Lending of Distinguishing Placards and Special License Plates</u>	\$0	<u>\$1,000.00</u>	<u>\$100.00</u>	<u>\$1,100.00</u>
4461 (c)	<u>Improper Display of, and Misuse or Abuse of Distinguishing Placards and Special License Plates</u>	\$0	<u>\$1,000.00</u>	<u>\$100.00</u>	<u>\$1,100.00</u>
4461 (d)	<u>Parking in Designated Spaces While Misusing or Abuse of Distinguishing Placards and Special License Plates</u>	\$0	<u>\$1,000.00</u>	<u>\$100.00</u>	<u>\$1,100.00</u>
4463 (c)	Use of a Counterfeit, Forged, Altered or Mutilated Placard or Special License Plate	\$0	<u>\$1,000.00</u>	<u>\$10.00</u>	<u>\$1,100.00</u>
22507.8	Disabled Person Parking Space	\$335	<u>\$368</u>	N/A	<u>\$368</u>
22507.8A	Disabled Person Parking Space	\$335	<u>\$368</u>	N/A	<u>\$368</u>

22507.8B	Disabled Person Parking Space	\$335	\$368	N/A	\$368
22507.8C	Disabled Parking - Hatch Marks	\$335	\$368	N/A	\$368
22522	3' from Sidewalk Access Ramp	\$285	\$313	N/A	\$313

**Section 2.** Severability. If any article, section, subsection, sentence, clause, or phrase of this ordinance or exhibit is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of remaining portions which shall remain in full force and effect.

**Section 3.** Effective Date. This ordinance shall become effective as provided in Section 216 of the Charter of the City of Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
 LaTonda Simmons  
 City Clerk and Clerk of the Council  
 of the City of Oakland, California

DATE OF ATTESTATION: \_\_\_\_\_