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OFFICE OF THE CITY CLERK
OAKLAND

CITY OF OAKLAND

2009 MAR 26 PM 6:52

AGENDA REPORT

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Parking Division
DATE: April 7, 2009

RE: An Ordinance Amending Sections 10.48.010 and 8.44.050 of the Oakland Municipal Code (O.M.C.) to Add a \$10.00 "Pass-through" Surcharge to All O.M.C. Violation Fines Including All California Vehicle Code (C.V.C.) Violation Citations to Offset and Remit to State/Alameda County Surcharges Imposed by California Government Code (GC) Sections 76000(b) and GC 70372(b)

SUMMARY

Staff is submitting for City Council approval an amendment to Oakland Municipal Code Sections 10.48.010 and 8.44.050 to add a \$10.00 "pass-through" surcharge to all violations to allow the City to fully collect and remit the required surcharge to the County and State. Since 1994, the City has been remitting \$5.00 per violation in court surcharges for every paid citation to Alameda County to finance the State Courthouse Construction and Criminal Justice Facilities projects. Until now, the City has been absorbing the \$5.00 court surcharge, which is costing the City approximately \$1.8 million a year. Starting January 1, 2009, Senate Bill (SB) 1407 (Perata), "Court Facilities", revised the California Government Code and increased this surcharge by \$4.50 for a total of \$9.50, which will cost the City an estimated additional \$1.6 million per year. Implementation of the "pass-through" surcharge would start immediately upon passage of the proposed ordinance. *Exhibits A and B* of the proposed ordinance outlines the affected fines and the "pass-through" surcharge added.

FISCAL IMPACT

Currently, the City pays approximately \$1.8 million annually to Alameda County for the required surcharge of \$5.00 per paid citation. This amount is not passed on to the parking violators, and is therefore subsidized by the City. The \$4.50 increase required by the passage of SB1407 would cost the City an additional \$1.6 million annually, for a total cost to the City of \$3.4 million. Revising the fee structure to pass on all of the State subsidy would result in a total of approximately \$3.4 million in annual cost avoidance to the General Purpose Fund. The surcharges collected will be deposited into the General Purpose Fund (1010), Finance and Management Treasury Division Organization (08721), Parking Liability Account (21317), and Financial Management Program (IP59), and will be remitted to Alameda County at the end of each month.

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BACKGROUND

In 1994, the citation processing responsibility was transferred from the courts to the local issuing agencies, which required the issuing agencies to collect and remit the \$5.00 surcharge that had been imposed by Government Code (GC) 76000(b), to the County and State. Since then, the City of Oakland has been remitting the \$5.00 surcharge to Alameda County on a monthly basis. However, the "Parking Fines Schedule" was not updated at that time to account for the \$5.00 surcharge the City was required to remit, and the City absorbed the cost. Starting January 1, 2009, with the adoption of SB 1407, the City is now obligated to collect and remit an additional \$4.50 surcharge for every parking violation paid to the State for the "Immediate and Critical Needs Account" and the "State Facilities Construction Fund ." Therefore, with the passing of SB 1407, the amount the City is obligated to collect and transfer to the County and State has increased by \$4.50, for a total of \$9.50.

KEY ISSUES AND IMPACTS

Since 1994, the City has been paying approximately \$1.5 to \$1.8 million in surcharges to Alameda County amounting to approximately \$21 million in 14 years. When SB 1407 went into effect on January 1, 2009, the court surcharge the City is obligated to collect went up by \$4.50. This additional \$4.50 surcharge will result in an estimated \$1.6 million increase in the City's payment to the County and State, resulting in a commensurate loss of \$1.6 million in revenue to the City annually. The proposed \$10.00 "pass-through" surcharge on parking violations will enable the City to collect the mandated surcharge from the violators and pass it through to the State, which will save the City an estimated \$3.4 million a year.

PROGRAM DESCRIPTION

In addition to currently remitting \$5.00 surcharge for every paid citation to Alameda County on a monthly basis, Parking sets aside \$2.00 per paid citation on selected violation codes for the Senior program, and \$2.00 for every \$10.00 paid only on C.V.C. violation 22507.a, 220507.b and 22507.c for the Disabled program. The remaining amount goes to the General Purpose Fund.

SUSTAINABLE OPPORTUNITIES

Economic: The City can save approximately \$3.4 million annually by adding the \$10.00 fee to the citation.

Environmental: There are no environmental impacts resulting from the proposed fee increase.

Social Equity: None.

DISABILITY AND SENIOR CITIZEN ACCESS

There is no impact on disabled or senior citizen access.

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RECOMMENDATION (S) AND RATIONALE

Staff recommends that the City Council approve the proposed ordinance amending sections 10.48.010 and 8.44.050 of the Oakland Municipal Code (O.M.C.) to add a "pass-through" surcharge of \$10.00 to all parking violation fines including all California Vehicle Code (C.V.C.) violation citations to collect and remit surcharges imposed by California Government Code Sections 76000(b) and GC 70372(b).

ACTION REQUESTED OF THE CITY COUNCIL

Staff requests that the City Council approve the above recommendations to add a "pass-through" surcharge of \$10.00 to all violation citations to collect and remit the State mandated surcharges of \$10.00 per paid violation.

Respectfully submitted,

Noel Pinto

Noel Pinto
Parking Division Manager

Prepared by:
Shahla Azimi
Revenue Analyst

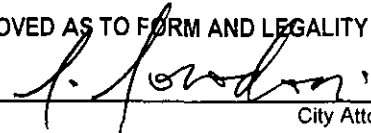
APPROVED AND FORWARDED TO THE
FINANCE AND MANAGEMENT COMMITTEE:

Clayton J. [Signature]

Office of the City Administrator

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INTRODUCED BY COUNCILMEMBER _____

FILED
OFFICE OF THE CITY CLERK
OAKLAND

 City Attorney

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OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

An Ordinance Amending Sections 10.48.010 and 8.44.050 of the Oakland Municipal Code (O.M.C.) to Add a \$10.00 "Pass-through" Surcharge to All O.M.C. Violation Fines Including All California Vehicle Code (C.V.C.) Violation Citations to Offset and Remit to State/Alameda County Surcharges Imposed by California Government Code (GC) Sections 76000(b) and GC 70372(b)

WHEREAS, the City of Oakland wishes to preserve the livability, social, and economic stability of the City; and

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

WHEREAS, pursuant to the provision of the California Constitution and the State of California laws, the City of Oakland is authorized to set new fines for all types of parking violations, fees and rates for parking violations; and

WHEREAS, since 1994, the City has been remitting \$5.00 in State Mandated surcharges amounting to approximately \$21 million for the past fourteen (14) years to Alameda County; and

WHEREAS, the City has been absorbing the \$5.00 court surcharges and paying them out of the revenue collected, costing the City approximately \$1.8 million a year; and

WHEREAS, the State of California Senate Bill 1407 that became effective January 1, 2009 has increased the mandated surcharge by \$4.50 to fund the courthouse construction projects; and

WHEREAS, the City of Oakland is proposing to add a \$10.00 "pass-through" surcharges to all of its Parking Violations and for citations issued for California Vehicle Code violations; and

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 to add a \$10.00 "pass-through" surcharge to all O.M.C. violation fines including all California Vehicle Code (C.V.C.) violation citations to collect and remit surcharges imposed by California Government Code Sections 76000(b) and GC 70372(b). OMC Section 10.48.010 is amended as shown in Exhibits A and B.

Section 2. Oakland Municipal Code section 8.44.050 is hereby amended

8.44.050 Penalties.

A. Any person violating any provision of this chapter may be ejected from the complex by any Oakland Police Department officer, Alameda County Sheriff or other security personnel of the authorized representative.

B. In addition to the penalties described in subsection A of this section, a violation of Section 8.44.030H or I is a misdemeanor punishable by imprisonment not to exceed six months, or by fine not to exceed one thousand dollars (\$1,000.00), or both. A violation of any other section is an infraction, punishable by a fine of one hundred dollars (\$100.00) for the first offense, two hundred fifty dollars (\$250.00) for the second offense, and five hundred dollars (\$500.00) for the third offense.

C. In addition to any penalty imposed for a violation of section 8.44.040G1, G2, G3 and H, there shall be imposed a surcharge as specified in section section 10.48.010.

Section 3. 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 4. This ordinance shall become effective immediately upon passage of the proposed ordinance.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

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: _____

EXHIBIT A
Schedule of Parking Fines
Oakland Municipal Code (OMC) (changes shown in *italics*)

Oakland Municipal Code Section	Description	Base Fine	Surcharge	Total Fine
10.08.150	Obstructing normal flow of traffic	\$28	<i>\$10</i>	<i>\$38</i>
10.16.090	Failure to cramp wheels on grade	\$32	<i>\$10</i>	<i>\$42</i>
10.16.110	Obedience to signs and barriers	\$47	<i>\$10</i>	<i>\$57</i>
10.28.020	No parking in parkway	\$35	<i>\$10</i>	<i>\$45</i>
10.28.030	Abandoned/using street for storage	\$250	<i>\$10</i>	<i>\$260</i>
10.28.040	Parking vehicle wrong on a one-way street	\$40	<i>\$10</i>	<i>\$50</i>
10.28.040A	Over 18" from curb	\$40	<i>\$10</i>	<i>\$50</i>
10.28.040B	Parked wrong way on a two-way street	\$40	<i>\$10</i>	<i>\$50</i>
10.28.040D	Parking within parking space markings	\$35	<i>\$10</i>	<i>\$45</i>
10.28.050	Angle parking (within markings)	\$35	<i>\$10</i>	<i>\$45</i>
10.28.060	Angle parking unloading--Must have permit	\$32	<i>\$10</i>	<i>\$42</i>
10.28.070	No parking adjacent to school	\$122	<i>\$10</i>	<i>\$132</i>
10.28.080	No stopping/parking in signed zone (narrow street)	\$30	<i>\$10</i>	<i>\$40</i>
10.28.090C	No parking within 20' of signal or stop sign	\$32	<i>\$10</i>	<i>\$42</i>
10.28.100	Emergency--No parking (temporary signs)	\$32	<i>\$10</i>	<i>\$42</i>
10.28.120	Parking commercial vehicles in residential district--Over 10,000 pounds	\$122	<i>\$10</i>	<i>\$132</i>
10.28.130	Parking of commercial vehicles--7,000 to 10,000 pounds	\$122	<i>\$10</i>	<i>\$132</i>
10.28.150	Key in ignition	\$32	<i>\$10</i>	<i>\$42</i>
10.28.160	Parking prohibited--Unattached trailer	\$63	<i>\$10</i>	<i>\$73</i>
10.28.170	Parking prohibited--Tall vehicles	\$32	<i>\$10</i>	<i>\$42</i>
10.28.180	One-hour zone	\$50	<i>\$10</i>	<i>\$60</i>
10.28.190	Two-hour zone	\$50	<i>\$10</i>	<i>\$60</i>

Oakland Municipal Code Section	Description	Base Fine	Surcharge	Total Fine
10.28.210	Four-hour zone	\$50	\$10	\$60
10.28.240	No parking--Certain hours	\$53	\$10	\$63
10.28.250	No parking any time	\$50	\$10	\$60
10.28.260	No parking 3 a.m.--6 a.m.	\$32	\$10	\$42
10.32.020	Parking for official cars (City Hall press vehicles)	\$32	\$10	\$42
10.32.030	Parking for official cars (City Hall Administration Building)	\$35	\$10	\$45
10.32.100	Parking for official cars (OPD and county of Alameda)	\$35	\$10	\$45
10.32.130	Parking for official cars (Fire Department)	\$35	\$10	\$45
10.32.140	Parking for official cars (county cars)	\$35	\$10	\$45
10.32.150	Parking for official cars (U.S. mail vehicle)	\$35	\$10	\$45
10.32.170	Parking by permit--City cars and authorized city employees	\$35	\$10	\$45
10.32.180	Traffic in parks	\$32	\$10	\$42
10.36.020	Parking over space markings	\$35	\$10	\$45
10.36.030 A and B	Meters	\$35	\$10	\$45
10.36.050 A and B	Parking meter violation--Expired	\$45	\$10	\$55
10.36.060	Meter--Overtime (meter feeding)	\$45	\$10	\$55
10.36.100	Meter--Expired--Off-street meter	\$45	\$10	\$55
10.40.020A1	No parking--Red Zone	\$70	\$10	\$80
10.40.020A4	No parking--Green Zone	\$50	\$10	\$60
10.40.030B	Special zones--Sign posted for loading/unloading passengers or materials	\$32	\$10	\$42
10.40.060	No parking in Yellow Zones	\$50	\$10	\$60

Oakland Municipal Code Section	Description	Base Fine	Surcharge	Total Fine
10.40.070	No parking in White Zones	\$50	\$10	\$60
10.40.080	Standing in alley	\$32	\$10	\$42
10.40.090E	No parking--Bus zone	\$252	\$10	\$262
10.40.100	Bus to park/stop within 18 of curb	\$40	\$10	\$50
10.40.110	No parking--Taxi zone	\$32	\$10	\$42
10.44.120A	Residential permit parking zone	\$70	\$10	\$80
10.52.010	Certain vehicles prohibited	\$32	\$10	\$42
10.56.270	Parking prohibited	\$32	\$10	\$42
10.56.290	No Parking in Red Zones (Airport Ground Traffic)	\$50	\$10	\$60
10.56.300	No Parking in Green Zones (Airport Ground Traffic)	\$50	\$10	\$60
10.56.310	No Parking in Yellow Zones (Airport Ground Traffic)	\$50	\$10	\$60
10.56.320	No Parking in White Zones (Airport Ground Traffic)	\$50	\$10	\$60
10.56.330	Improper parking	\$32	\$10	\$42
10.56.350	Parallel parking	\$32	\$10	\$42
10.56.360	Parked Crosswalk	\$32	\$10	\$42
10.64.170	Misdemeanor to abandon or keep vehicles of type regulated by this chapter	\$250	\$10	\$260
10.64.180	Misdemeanor to fail to remove vehicles after order to do so	\$250	\$10	\$260
8.44.040 G1, G2, G3 & H	Activities Prohibited within the Parking Facility (First Offense)	\$100	\$10	\$110
8.44.040 G1, G2, G3 & H	Activities Prohibited within the Parking Facility (Second Offense)	\$250	\$10	\$260
8.44.040 G1, G2, G3 & H	Activities Prohibited within the Parking Facility (Third Offense)	\$500	\$10	\$510

EXHIBIT B

State Vehicle Code Section	Description	Base Fine	Surcharge	Total
22500	Improper parking, citation category not specified	\$30.00	\$10.00	\$40.00
22500(a)	No parking--Intersection	\$30.00	\$10.00	\$40.00
22500(b)	No parking--Crosswalk	\$30.00	\$10.00	\$40.00
22500(c)	No parking--Safety zone (red zone between stop bar and right-hand curb)	\$30.00	\$10.00	\$40.00
22500(d)	No parking within 15 of fire station driveway	\$30.00	\$10.00	\$40.00
22500(e)	No parking--Driveway	\$30.00	\$10.00	\$40.00
22500(f)	No parking--Sidewalk	\$30.00	\$10.00	\$40.00
22500(g)	No parking--Obstructing construction traffic	\$30.00	\$10.00	\$40.00
22500(h)	No parking--Double parked	\$30.00	\$10.00	\$40.00
22500(j)	No parking--Tunnel	\$30.00	\$10.00	\$40.00
22500(k)	No parking--Bridge	\$30.00	\$10.00	\$40.00
22500.1	No parking--Fire lane	\$30.00	\$10.00	\$40.00
22502	18" from curb (or distance from curb)	\$30.00	\$10.00	\$40.00
22505	No parking--State highway areas	\$30.00	\$10.00	\$40.00
22513	No solicitation by tow truck	\$30.00	\$10.00	\$40.00
22514	No parking--Fire hydrant	\$30.00	\$10.00	\$40.00
22515	Improper parking--Wheels not blocked/brakes not set	\$30.00	\$10.00	\$40.00
22516	Locked vehicle--Person unable to escape	\$30.00	\$10.00	\$40.00
22520	No parking on freeway	\$30.00	\$10.00	\$40.00
22520.5	Vending on freeway prohibited	\$30.00	\$10.00	\$40.00
22521	No parking on/near railroad track	\$30.00	\$10.00	\$40.00
22951	No street/alley parking from offstreet lot	\$30.00	\$10.00	\$40.00
23333	No parking--Vehicular crossing	\$30.00	\$10.00	\$40.00

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NOTICE AND DIGEST

An Ordinance Amending Sections 10.48.010 and 8.44.050 of the Oakland Municipal Code (O.M.C.) to Add a \$10.00 "Pass-through" Surcharge to All O.M.C. Violation Fines Including All California Vehicle Code (C.V.C.) Violation Citations to Offset and Remit to State/Alameda County Surcharges Imposed by California Government Code (GC) Sections 76000(b) and GC 70372(b)

This Ordinance will amend Oakland Municipal Code Sections 10.48.010 of the Oakland Municipal Code (O.M.C) to increase all Parking Violation Fines by \$10.00 and adding \$10.00 to all California Vehicle Code (C.V.C) violation citations to collect and remit surcharges imposed by the State.