Staff Summary Report

Tempe

Council Meeting Date: 07-22-08 **Agenda Item Number: _____**

SUBJECT: This is the introduction and first public hearing to approve Ordinance No. 2008.36, amending Chapter 22 of the Tempe City Code by adding a new Article VIII regarding Transit, and amending Chapter 26 of the Tempe City Code by amending Section 26-1 and by adding Section 26-5 regarding Transit Enforcement Aides. The second public hearing is set for August 14, 2008.

DOCUMENT NAME: 20080722pwjsm01 **TRANSPORTATION PLANNING (1101-01)**

SUPPORTING DOCS: Yes.

COMMENTS: Approval to amend the Tempe City Code to allow for the issuing of citations for light rail operations. These code amendments pertain to Fare Enforcement, Code of Conduct for vehicles, facilities and properties, and Powers of Transit Enforcement Aides.

PREPARED BY: Jyme Sue McLaren, Deputy Public Works Manager – LRT Division (350-8803)

REVIEWED BY: Glenn Kephart, Public Works Manager (350-8205)
Tom Ryff, Police Chief (350-8214)

LEGAL REVIEW BY: Bill Amato, Police Legal Advisor (350-8610)

FISCAL NOTE: Sufficient funds for future light rail operations and maintenance are available in cost center 3921.

RECOMMENDATION: Staff recommends adoption of Ordinance No.2008.36.

ADDITIONAL INFO: To assure consistency among transit user policies, uniform code amendments were developed for each of the cities where light rail service is being provided.

ORDINANCE NO. 2008.36

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING CHAPTER 22 OF THE TEMPE CITY CODE, RELATING TO MISCELLANEOUS–OFFENSES BY ADDING NEW ARTICLE VIII RELATING TO TRANSIT AND AMENDING CHAPTER 26 OF THE TEMPE CITY CODE, RELATING TO POLICE BY AMENDING SECTION 26-1 AND ADDING NEW SECTION 26-5 RELATING TO TRANSIT ENFORCEMENT AIDES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

Section 1. That Chapter 22 of the Tempe City Code is hereby amended by adding new Article VIII as follows:

ARTICLE VIII. TRANSIT

DIVISION 1. GENERALLY

Sec. 22-171. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Complaint for nonpayment of fare means a complaint whereby the passenger is charged with violating this article.

Fare means compensation paid for a light rail or bus boarding ticket from a vending machine or other source.

Fare inspector means a person authorized to enforce this section.

Guideway means an area where light rail vehicles will operate and includes the light rail track, overhead catenary system and the entire area extending seven (7) feet out from the track centerline, or within the prolonged curb lines adjoining the light rail tracks.

Identification means any government issued document that contains a photograph, date of birth and physical description, including but not limited to, height, weight, eye color, sex, origin and hair color of the person presenting the identification.

METRO means the light rail transit system operated by Valley Metro Rail, Inc.

Paid zone means the inside of a transit vehicle, light rail station platform or other areas as designated by appropriate signage or markings.

Passenger means any person lawfully occupying, riding or using any transit vehicle, boarding or alighting from such a vehicle, or waiting within a designated paid zone waiting area at a light rail station.

Proof of fare payment means a valid METRO pass or transit fare media valid for the time and day of use.

Transit vehicle means a light rail train, public bus or Valley Metro vehicle used to transport passengers.

Valley Metro means motor buses and facilities operated by Phoenix Public Transit Department, City of Tempe, City of Mesa or other local jurisdictions that operate bus transit service as part of Valley Metro, private contractors, and the Regional Public Transportation Authority.

Sec. 22-172. Authority to order a passenger from transit vehicle or transit property.

A passenger who refuses to provide proof of fare payment or conform to any lawful regulation of this article may be removed from the vehicle by a fare inspector at any transit facility or usual stopping place.

Sec. 22-173. Penalty.

Violations of this article shall be a civil offense and shall be enforced pursuant to the provisions of § 1-7 of this code.

Secs. 22-174—22-179. Reserved.

DIVISION 2. FARE ENFORCEMENT

Sec. 22-180. Fare violations.

It shall be unlawful and a violation of this article for any person to:

(1) Occupy or ride in any transit vehicle that requires a fare without payment of the applicable fare;

(2) Fail to exhibit proof of fare payment upon request of a fare inspector when occupying or disembarking from a transit vehicle;

(3) Refuse to disembark a transit vehicle or transit facility upon demand of a fare inspector;

(4) Fail to provide his or her name, address and identification to a fare inspector when being served with a complaint for nonpayment of fare; or

(5) Fail to exhibit proof of fare payment upon request while waiting in a designated paid zone waiting area by a fare inspector.

Sec. 22-181. Complaint for nonpayment of fare.

(a) A complaint shall be served on the defendant by a fare inspector pursuant to the provisions of § 1-8 of this code.

(b) If the defendant refuses to accept a complaint, the tender of the complaint by a fare inspector to the defendant shall constitute service thereof upon the defendant.

Secs. 22-182—22-189. Reserved.

DIVISION 3. CONDUCT ON TRANSIT VEHICLES, FACILITIES AND PROPERTIES

Sec. 22-190. Transit parking and boarding.

(a) A driver shall not park a vehicle in the area designated for vehicle parking unless the person complies with posted parking regulations.

(b) If intending to pick up or drop off a transit passenger, a driver shall park in the area designated for vehicle parking or briefly stop his or her vehicle in areas designated for passenger loading or unloading, while remaining with the vehicle, and then remove the vehicle from the station without delay after the transit passenger is dropped off or picked up.

(c) No person shall stop or park a vehicle at a transit parking facility in such manner that the vehicle blocks access to a marked pedestrian walkway, designated traffic lane, parking space, fire lane, boarding zone or guideway.

(d) No person shall be permitted to remain at a transit station or stop for more than one hour.

Sec. 22-191. Animals.

No person shall transport animals in a transit vehicle unless:

(1) The animal is a guide or service animal, including a service animal in training, that has been specially trained to assist persons with disabilities and is on a leash; or

(2) The animal is in a completely enclosed and secured cage or carrying case that is small enough to fit on the passenger's lap, and the animal does not otherwise endanger or disturb the comfort or health of other passengers.

Sec. 22-192. Prohibited conduct on transit vehicle, property or facility.

It shall be unlawful and a violation of this article for any person to:

(1) Transport any item that blocks the aisle or the areas of the transit vehicle reserved for passengers in wheelchairs or who use mobility aids;

(2) Possess an open container of or consume an alcoholic beverage in a transit vehicle or on transit property;

(3) Carry onto or aboard a transit vehicle or transit property any flammable or explosive substance or hazardous materials;

(4) In any manner, hang onto or attach his or her body to any exterior part of a transit vehicle or touch a moving transit vehicle;

(5) Walk between coupled light-rail vehicles;

(6) Enter upon, occupy or remain upon the guideway except as necessary to board or alight a transit vehicle unless authorized by a valid permit;

(7) Throw an object at or from any transit vehicle or at any person or thing on or in any transit vehicle, or on transit property;

(8) Travel in any mode, including but not limited to, motor vehicle, pedestrian, bicycle, equestrian, roller skate, rollerblade, upon or across any guideway, or light rail station platform, except within a marked crosswalk at a signalized intersection;

(9) Place any object on any portion of the guideway;

(10) Interfere with the operation of a transit vehicle, transit facility or ticket vending machine;

(11) Interfere with the ingress or egress of any passenger on transit vehicle or transit property;

(12) Use tobacco products, or carry any lighted or smoldering substance, in any form, aboard a transit vehicle or within any space where posted signage prohibits smoking;

(13) Operate a sound-emitting device, unless the only sound produced by such item is emitted by a personal-listening attachment (earphone or headphone) audible only to the person carrying the device producing the sound, except a peace officer, firefighter, transit employee, or emergency response professional, in the course of employment;

(14) Light a flashlight, scope light, laser light or object that projects a flashing light or beams of light while inside a transit vehicle or towards a transit vehicle, except in an emergency;

(15) Place feet on or lie down on the seat of a transit vehicle or place any article on the seat which would leave grease, oil, paint, dirt or any other substance on the seat;

(16) Expectorate, defecate, urinate or litter in or upon a transit vehicle, transit property or transit facility;

(17) Light or detonate sparklers, firecrackers or other types of pyrotechnic devices in or upon a transit vehicle, transit property or transit facility.

(18) Injure, mutilate, deface, alter, change, displace, remove or destroy any sign, notice or advertisement on or in any transit vehicle or transit property;

(19) Disobey the instructions of any traffic signal, security notice, sign or marker unless otherwise directed by a fare inspector, peace officer or authorized transit representative;

(20) Recklessly damage, deface, mutilate or tamper with transit property so as to impair its function or value; or

(21) Post signs, notices or drawings or inscribe a message, slogan, sign, mark or symbol on transit property without written permission from the transit company.

Sec. 22-193. Use restrictions.

(a) Any person adjudicated responsible of violating any provision of this article resulting in a fine is prohibited from riding a Metro transit vehicle until the sanction is fully paid.

(b) Any person adjudicated responsible for violating any provision of this article more than two (2) times is prohibited from riding a Metro transit vehicle for ninety (90) calendar days.

(c) Any person who poses a serious continuing risk to the public or transit property may be immediately removed from a Metro transit vehicle and the person will be prohibited from using Metro transit vehicles for a period not to exceed ninety (90) calendar days.

(d) Any person guilty of assaulting a fare inspector or employee acting in the scope of his employment will be prohibited from using a Metro transit vehicle for a minimum of one year.

Secs. 22-194—22-199. Reserved.

Section 2. That Section 26-1 of the Tempe City Code is hereby amended to read as follows:

Sec. 26-1. Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings respectively ascribed to them by this section, unless the context clearly indicates a different meaning:

Chief of police means the chief of police of the police department of the city or his designated representative.

Civilian traffic investigator means an employee of the police department who is empowered to investigate traffic accidents and enforce state statutes and city ordinances relating to traffic laws if the violation is related to a traffic accident.

Police aide means a volunteer or paid employee of the police department of the city empowered to enforce certain ordinances of the city pursuant to Arizona Revised Statutes, § 28-627(E).

TRANSIT ENFORCEMENT AIDE means a paid employee of the police department or an employee of a private entity which has entered into a contract with either the police department or a transit provider on behalf of the city.

Section 3. That Chapter 26 of the Tempe City Code is hereby amended by adding new Section 26-5 as follows:

SEC. 26-5. POWERS OF TRANSIT ENFORCEMENT AIDES.

TRANSIT ENFORCEMENT AIDES ARE EMPOWERED TO ENFORCE PROVISIONS OF THIS CODE RELATED TO FARE ENFORCEMENT AND RAIL SECURITY AS DEFINED IN CHAPTER 22, ARTICLE VIII.

Section 4. Pursuant to the Tempe City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this _____day of _____, 2008.

_____
MAYOR

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____

City Attorney