

Appendix B

**King County Department of Transportation
Metro Transit Division
Administrative Policies and Procedures**

TITLE: Regular Route and Contracted Service Expulsions and
Suspensions

POLICY CODE NO. : 2003-01 (as amended)

EFFECTIVE DATE: April 1, 2005

APPROVED: _____
Kevin Desmond, Transit General Manager

1.0 Subject Title

Regular Route and Contracted Service Expulsions and Suspensions

2.0 Purpose

Pursuant to King County Code (K.C.C.) 28.96.430, the Director of the Department of Transportation may authorize certain department personnel to expel from Transit Property persons who commit Transit Violations, and to suspend their privileges to thereafter enter upon Transit Property and use the transit system. The purpose of this Policy and Procedure is to identify such authorized personnel and the manner by which they may order such expulsions and suspensions from Transit Property. This Policy and Procedure supercedes PUT 11-1-2(DP) and amends Policy Code 2003-01, dated August 15, 2003.

By definition, “Transit Property” as used herein excludes paratransit vehicles because the authority to exclude persons from paratransit service is addressed by a separate Policy and Procedure.

3.0 Organizations Affected

King County Department of Transportation, Transit Division, Transit Police Unit.

4.0 References

Transit Code of Conduct established by King County ordinance and codified in Chapter 28.96 K.C.C., including amendments.

Delegation of Authority by Director of the Department of Transportation to Transit General Manager dated May 6, 2002.

5.0 Definitions

5.1 The definitions set forth in Chapter 28.92 K.C.C., including amendments thereto, shall apply to the terms used in this Policy and Procedure except as otherwise provided.

5.2 The following terms used herein shall have the following meanings:

- a. Code of Conduct - the provisions of Chapter 28.96 K.C.C., including amendments.
- b. Contracted Service - transit service provided by a private contractor but excluding paratransit service.
- c. Enforcement Action – an action taken by a Transit Police Officer or another police officer to file, or commence the process for filing, a civil infraction case or criminal case against a person for a Transit Violation, including but not limited to the booking of a subject and/or referring a matter to the prosecutor’s office for filing.
- d. Paratransit – the contracted service provided under K.C.C. 28.94.035 and K.C.C. 28.94.045.

- e. Police officer - a commissioned police officer acting in the course of employment by a jurisdiction located within King County.
- f. Suspension Notice - the form, a copy of which is attached as **Exhibit A**, issued by a Transit Police Officer or the acting chair of the Suspension Panel.
- g. Suspension Notice Modification - the form, a copy of which is attached as **Exhibit B**, issued by a Transit Police Officer or the Suspension Panel, to modify the suspension period if it is determined the initial Suspension Notice provided for a suspension period that was not in accord with Subsections 8.2, 8.3 and 8.4.
- h. Suspension Panel - a panel comprised of the Sales and Customer Services Manager, the Chief of Transit Security, the contract administrator for applicable contracted service, or their designees, and an Operations Supervisor selected by the Operations Manager.
- i. Transit Business Day – the period that begins at 4:01 a.m. of one date and extends until 4:00 a.m. of the next date. For example, the end of the Transit Business Day of June 22 is 4:00 a.m. of June 23.
- j. Transit Police Officer - a commissioned police officer acting in the course of employment, part-time or full-time, by the King County Transit Police Unit.
- k. Transit Property – a vehicle or facility as defined in K.C.C. 28.92.170 but excluding paratransit vehicles.
- l. Transit Violation – an act or threatened act that violates the Code of Conduct or any federal, state or local law, which act or threatened act is committed in, on or in relation to Transit Property.

6.0 Statement of Policy

In addition to any other remedies and sanctions available under applicable civil and criminal federal, state and local law, a person entering upon Transit Property or using the transit system who commits a Transit Violation is subject to the following under K.C.C. 28.96.410:

- a. immediate expulsion from transit properties;
- b. suspension of the privilege of entering upon and using the transit system and properties;

- c. civil penalties if the violation constitutes an infraction; and
- d. criminal penalties if the violation constitutes a misdemeanor.

For the same Transit Violation, a person is subject to expulsion/suspension from Transit Property and/or civil/criminal sanction.

7.0 Immediate Expulsion

The following persons are hereby authorized to immediately expel from Transit Property a person who commits a Transit Violation, by issuing such person an oral order to immediately exit the property.

- a. Transit Operations Service Supervisors
- b. Personnel of a contracted service provider (e.g. DART) that are designated by the Manager of Service Development
- c. Any police officer

An oral expulsion order issued under this Section shall be effective through the end of the Transit Business Day in which it is issued and shall not thereafter constitute a suspension of a person's privilege to re-enter Transit Property. Failure to immediately comply with an oral expulsion order and remain off Transit Property for the remainder of the Transit Business Day shall be grounds for prosecution for criminal trespass.

8.0 Suspension by Transit Police Officer or Transit Police Supervisor

8.1 A Transit Police Officer, who takes an Enforcement Action against a person for committing a Transit Violation or who is present when another police officer takes an Enforcement Action, is hereby authorized to also issue such person a written Suspension Notice immediately expelling such person from Transit Property for the remainder of that calendar day and suspending his/her privileges to enter upon Transit Property and use the transit system for a period as provided in Subsections 8.2, 8.3 and 8.4. Issuance of the Suspension Notice may be based on observation by the Transit Police Officer or upon witness reports that would ordinarily be relied upon by police officers. Issuance of a Suspension Notice shall be made either by personal delivery or by mail in accordance with Section 11.0.

8.2 A Transit Police Supervisor is authorized to issue a written Suspension Notice to a person who has been arrested by a law enforcement agency for committing a Transit Violation if such Supervisor, upon receiving a report of the arrest, reviews the facts and determines that probable cause existed for the arrest. Issuance of a Suspension Notice by such Supervisor shall be made by mail in accordance with Section 11.0.

8.3 For violations identified as infractions in K.C.C. 28.96.010(A), the period of suspension issued by such Transit Police Officer or Supervisor shall be in accordance with the following.

- a. If the person being suspended has not been suspended from Transit Property within the twelve (12) months prior to the violation, the period of suspension shall be three (3) calendar days.
- b. If the person being suspended has been suspended once from Transit Property within the twelve (12) months prior to the violation, the period of suspension shall be seven (7) calendar days.
- c. If the person being suspended has been suspended two, three or four times from Transit Property within the twelve (12) months prior to the violation, the period of suspension shall be thirty (30) calendar days.
- d. If the person being suspended has been suspended five times from Transit Property within the twelve (12) months prior to the violation, the period of suspension shall be 180 calendar days.

8.4 For violations identified as misdemeanors in K.C.C. 28.96.010(B) or local or state law, the period of suspension issued by such Transit Police Officer or Supervisor shall be in accordance with the following.

- a. If the person being suspended has not been suspended from Transit Property within twelve months (12) prior to the violation, the period of suspension shall be seven (7) calendar days.
- b. If the person being suspended has been suspended once from Transit Property within twelve (12) months prior to the violation, the period of suspension shall be thirty (30) calendar days.
- c. If the person being suspended has been suspended two, three or four times from Transit Property within twelve (12) months prior to the violation, the period of suspension shall be ninety (90) calendar days.

- d. If the person being suspended has been suspended five times from Transit Property within the twelve (12) months prior to the violation, the period of suspension shall be 180 calendar days.

8.5 Notwithstanding Subsections 8.2 and 8.3 above, if the current violation is a felony violation or is based on possession or use of a weapon in violation of Chapter 9.41 RCW, the period of suspension issued by such Transit Police Officer or Supervisor shall be 365 calendar days.

8.6 Multiple suspensions that overlap shall be served consecutively, not concurrently. For example, a person who has served two days of a seven-day suspension and is suspended for another thirty days shall complete the seven-day suspension before commencing the thirty-day suspension.

8.7 If, after the initial Suspension Notice is issued, it is determined that a different suspension period was warranted under the provisions of Subsections 8.2, 8.3 or 8.4, a Transit Police Officer may issue a Suspension Notice Modification correcting the period of suspension. Issuance of a Suspension Notice Modification shall be made either by personal delivery or by mail in accordance with Section 11.0.

8.8 Failure to comply with a Suspension Notice or Suspension Notice Modification shall be grounds for prosecution for criminal trespass. The person being suspended need not be found guilty of the underlying civil infraction or criminal charge in order for a Suspension Notice or Suspension Notice Modification to be issued or effective. Subsequent dismissal of a notice of civil infraction or a finding of not guilty on a criminal charge may be taken into account in the review of the Suspension Notice or a Suspension Notice Modification.

9.0 Suspension or Modification by the Suspension Panel

9.1 The Suspension Panel may issue a Suspension Notice to a person whose actions or threats constitute a Transit Violation, whether or not a notice of civil infraction or a criminal citation has been issued. The Suspension Panel may act on its own initiative or upon the request of a chief of Service Quality, a chief of Base Operations, the Chief of Transit Security or the County Contract Administrator responsible for contracted service. Prior to submitting such a request to the Suspension Panel, the requester shall review incident reports, Customer Assistance Office records, witness statements, photographic images and other information available from transit operators, service supervisors, Transit Police Officers, or other persons. Any request to the Suspension Panel shall be accompanied by a summary of the available information about the Transit Violation and copies of any related documents.

9.2 If, based on credible evidence and the documentation available, the Suspension Panel reasonably concludes that a person committed a Transit Violation, and that such violation warrants a suspension of privileges, the Panel is authorized to issue such person a written Suspension Notice and an explanatory letter, immediately expelling such person from Transit Property and suspending his/her privileges to enter upon Transit Property and use the transit system. The duration of a suspension shall be based on the Suspension Panel's judgement as to what suspension period is fair, just and in the best interests of the public transportation system, taking into consideration the seriousness of the Transit Violation, the offender's history of prior Transit Violations, the potential that the person will commit future Transit Violations and the seriousness of the risk that such potential poses to the safety of transit operators, passengers and others. A suspension for an indefinite period may be issued subject to review at regular intervals, not less than annually, as established by the Suspension Panel. The Suspension Panel may look to the provisions of Subsections 8.2, 8.3 and 8.4 as a guide in exercising its judgement but is free to establish a shorter or longer period of suspension based on the criteria set forth above. Issuance of a Suspension Notice shall be made either by personal delivery or by mail in accordance with Section 11.0.

9.3 Upon its own initiative or upon the request of a chief of Service Quality, a chief of Base Operations, the Chief of Transit Security or the County Contract Administrator responsible for applicable contracted service, the Suspension Panel may modify an initial Suspension Notice issued by a Transit Police Officer if the Panel determines that a greater or lesser suspension period is warranted based on the criteria set forth in Subsection 9.2. Issuance of a Suspension Notice Modification shall be made either by personal delivery or by mail in accordance with Section 11.0.

9.4 Failure to comply with a Suspension Notice or Suspension Notice Modification shall be grounds for prosecution for criminal trespass. The person being suspended need not be found guilty of the underlying civil infraction or criminal charge in order for a Suspension Notice or Suspension Notice Modification to be issued or effective. Subsequent dismissal of a notice of civil infraction or a finding of not guilty on a criminal charge may be taken into account in the review of the Suspension Notice or a Suspension Notice Modification.

10.0 Contents of Suspension Notice

Notice of Suspension from Transit Property shall be in writing signed by the issuing Transit Police Officer or the acting chair of the Suspension Panel. The Notice of Suspension shall inform the person of the reason for the Suspension, the Transit Property from which the person is suspended, and the period of the Suspension, the process to request review of the suspension and the availability upon request of alternate means of communication for people with disabilities. The Notice shall also include a statement that failure to comply shall be grounds for prosecution for criminal trespass.

11.0 Delivery

Delivery of the Suspension Notice or a Suspension Notice Modification shall be accomplished by personal delivery or by placing the notice in the U.S. mail to the person's last known address. Actual receipt of the notice is accomplished as of the time and date of the personal delivery of the notice. Constructive receipt of the notice is construed to have been accomplished two days after a notice is placed in the U.S. mail.

12.0 Effectiveness

Unless otherwise specified on the notice, the suspension period shall include the remainder of the calendar day on which the person being suspended actually or constructively receives the notice plus the specified number of full calendar days that follow. A person may not defeat the effectiveness of a Suspension Notice or a Suspension Notice Modification by refusing to sign or accept the notice.

13.0 Review of Suspension Notices

13.1 Except as otherwise provided in Subsection 13.3, a person may request a review of a Suspension Notice by submitting a written request to the Transit General Manager within thirty (30) days after the effective date of issuance of the Suspension Notice. The Suspension Notice, including any written report submitted by the person who issued the Suspension, establishes a prima facie case that the person committed the violation as described. The written request for review shall state the reasons for modifying the suspension and/or expunging the record of the suspension.

13.2 Upon receiving a timely request, the Transit General Manager shall designate a person or a committee, as deemed appropriate by the Transit General Manager, to review the Suspension Notice. The person being suspended may orally present his or her reasons why the Suspension Notice should be modified or expunged. Such presentation may be made, at the option of the person being suspended, by phone or in person at a time and location mutually agreed upon by the person being suspended and the reviewer(s). Reasonable alternate means of communication are available upon request for people with disabilities. Within ten (10) days after the person being suspended presents his or her reasons, the reviewer(s) shall make a decision affirming and/or expunging the issuance of the Suspension Notice. The reviewer(s) shall affirm if a preponderance of the evidence supports the issuance of the Suspension Notice; provided that, notwithstanding such affirmation, the reviewer(s) may, for good cause shown, reduce the period of suspension. The reviewer(s)' decision shall be the final decision on behalf of the County.

13.3 Notwithstanding the requirements for review under Subsection 13.1 above, a person having been suspended who obtains a dismissal of a notice of civil infraction or receives a finding of not guilty on a criminal charge based on the same conduct for which the Suspension Notice was issued, may, within ten (10) days of obtaining such dismissal or receiving such a finding, request review of the Suspension Notice under the same requirements and procedures set forth in Subsection 13.1 above. The reviewer(s) shall determine whether to modify or expunge the Suspension Notice after taking into account such dismissal or finding and the basis and evidence on which such dismissal or finding was made. Dismissal of a notice of civil infraction or being granted a finding of not guilty on a criminal charge based on the same conduct for which the Suspension Notice was issued shall not, given the burden of proof requirements applicable to such proceedings, require modifying or expunging the Suspension Notice.

13.4 Notwithstanding any other provision of this Policy, a suspension from Transit Property shall not be construed to prohibit a person from entering the King Street Center Office Building for the purpose of submitting a request for review or making a presentation on review.

14. Coordination with Paratransit Suspensions

14.1 A Suspension Notice issued by a Transit Police Officer under Section 8.0 shall not apply to Paratransit Property.

14.2 A Suspension Notice issued by the Suspension Panel under this Policy and Procedure may apply to Paratransit Property as well as Transit Property if the process used by the Panel also complied with the Transit Division's Policy and Procedure applicable to Paratransit Property.

14.3 A Suspension Notice issued by the Suspension Panel under the Transit Division's Policy and Procedure applicable to Paratransit Property may apply to both Transit Property as well as Paratransit Property if the process used by the Paratransit Panel also complied with the provisions hereof.