

1 [Establishing administrative penalties and procedures for violations of the full-time driving
2 requirement and for violations of the Taxi Commission’s rules and regulations.]

3 **Ordinance amending the San Francisco Police Code by adding Sections 1186, 1187,
4 and 1188, to restate the full-time driving requirement, and to establish administrative
5 penalties and procedures for violations of the full-time driving requirement and for
6 violations of the Taxi Commission’s rules and regulations.**

7 Note: Additions are *single-underline italics Times New Roman*;
8 deletions are ~~*strikethrough italics Times New Roman*~~.
9 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

10 Be it ordained by the People of the City and County of San Francisco:

11
12 Section 1. The San Francisco Police Code is hereby amended by adding
13 Sections 1186, 1187, and 1188, to read as follows:

14 **SEC. 1186. FULL-TIME DRIVING REQUIREMENT; VIOLATIONS; ADMINISTRATIVE**
15 **PENALTIES.**

16 *(a) Full-Time Driving Requirement. The holder of a taxicab permit shall actually engage in*
17 *the mechanical operation and have physical charge or custody of a motor vehicle for hire which is*
18 *available for hire or actually hired for at least four hours during any 24-hour period on at least 75*
19 *percent of the business days during the calendar year.*

20 *(b) Administrative Penalties. The Taxi Commission Executive Director (the Director) may*
21 *impose administrative penalties for violations of the full-time driving requirement, in accordance with*
22 *the following procedure:*

23 *(1) Notice. Upon the Director's determination that a permit holder has violated the full-time*
24 *driving requirement, the Director shall send a written notice, by first class mail or hand-delivery, to the*
25 *permit holder, at the address listed in the Taxi Commission's records. The notice shall describe the*

1 violations, state the amount of the administrative penalty and fees to be imposed, and notify the permit
2 holder that he or she has the right to request administrative review of the Director's determination by
3 filing such a request within 15 business days of the date of the notice.

4 (2) **Amount of Penalty.** The administrative penalties assessed against the permit holder by the
5 Director shall not exceed one-and-one-half times any lease fees collected by the permit holder during
6 the period that the permit holder was in violation of the full-time driving requirement. In determining
7 the amount of the penalty, the Director shall take into account:

8 (i) Whether the permit holder has in the past violated the full-time driving requirement, other
9 provisions of Article 16, the Taxi Commission's rules and regulations, or state law relevant to the
10 operation of a taxicab permit;

11 (ii) Whether the permit holder concealed or attempted to conceal his or her non-compliance
12 with the full-time driving requirement; and,

13 (iii) Such additional factors as the Director may determine are appropriate.

14 (3) **Additional Fees.** In addition to the administrative penalty assessed pursuant to
15 Subsection (2) above, the Director may assess additional fees to cover the costs incurred in enforcing
16 the administrative penalty, including the costs of other City agencies.

17 (4) **Collection.** The Director shall notify the permit holder in writing of the amount of the
18 penalty and fees and declare that such costs are due and payable to the Treasurer of the City and
19 County of San Francisco within 30 days of the date of the notice. If the penalty and fee are not paid
20 within 30 days of the notice, the Director shall request that the Tax Collector pursue collection of the
21 penalty and fee against the property owner, up to and including imposition of a special assessment lien
22 in accordance with the requirements of Article XX of Chapter 10 of the San Francisco Administrative
23 Code (commencing with Section 10.230). The Director shall request that the City Attorney pursue
24 collection of the penalty and fee against the permit holder.

1 (5) **Administrative Review of Imposition of Penalty.** The permit holder may seek
2 administrative review of the assessment and amount of the penalty or fee imposed by requesting a
3 hearing on the matter pursuant to Section 1188. If no request for administrative review is filed
4 pursuant to Section 1188, the Director's determination shall be final. Thereafter, if the penalties and
5 costs are not paid within the time specified in the notice, the Director may pursue any method of
6 collection of such penalties and costs authorized by applicable law.

7 (c) **Other Penalties.** The penalties and methods of enforcement set forth in this Section are in
8 addition to those set forth in Sections 1090 and 1185 of this Code and in addition to any other penalties
9 or methods of enforcement authorized by law.

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11 **SEC. 1187. COMMISSION RULES AND REGULATIONS; VIOLATIONS; ADMINISTRATIVE**
12 **PENALTIES.**

13 (a) **Administrative Penalties.** The Taxi Commission Executive Director (the Director) may
14 impose administrative penalties for violations of the Commission's rules and regulations, in
15 accordance with the following procedure:

16 (1) **Notice.** Upon the Director's determination that a permit holder has violated the
17 Commission's rules and regulations, the Director shall send a written notice, by first class mail or
18 hand-delivery, to the permit holder, at the address listed in the Taxi Commission's records. The notice
19 shall describe the violations, state the amount of the administrative penalty and fees to be imposed, and
20 notify the permit holder that he or she has the right to request administrative review of the Director's
21 determination by filing such a request within 15 business days of the date of the notice.

22 (2) **Amount of Penalty.** For regulations classified as Minor under the Commission's Rules,
23 there shall be a penalty not to exceed \$25 for the first violation, \$50 for a second violation of the
24 regulation within one year of the first violation, and \$150 for a third or additional violation of the
25 regulation within one year of the first violation.

1 For regulations classified as Moderate under the Commission's Rules, there shall be a penalty
2 not to exceed \$75 for the first violation, \$150 for a second violation of the regulation within one year of
3 the first violation, and \$450 for a third or additional violation of the regulation within one year of the
4 first violation.

5 For regulations classified as Major under the Commission's Rules, there shall be a penalty not
6 to exceed \$250 for the first violation, \$400 for a second violation of the regulation within one year of
7 the first violation, and \$500 for a third or additional violation of the regulation within one year of the
8 first violation.

9 In determining the amount of the penalty, the Director shall take into account:

10 (i) Whether the permit holder has in the past violated the full-time driving requirement, other
11 provisions of Article 16, the Taxi Commission's rules and regulations, or state law relevant to the
12 operation of a taxicab permit;

13 (ii) Whether the permit holder concealed or attempted to conceal his or her non-compliance
14 with the Commission's rules and regulations; and,

15 (iii) Such additional factors as the Director may determine are appropriate.

16 (3) **Additional Fees.** In addition to the administrative penalty assessed pursuant to
17 Subsection (2) above, the Director may assess additional fees to cover the costs incurred in enforcing
18 the administrative penalty, including the costs of other City agencies.

19 (4) **Collection.** The Director shall notify the permit holder in writing of the amount of the
20 penalty and fees and declare that such costs are due and payable to the Treasurer of the City and
21 County of San Francisco within 30 days of the date of the notice. If the penalty and fee are not paid
22 within 30 days of the notice, the Director shall request that the Tax Collector pursue collection of the
23 penalty and fee against the property owner, up to and including imposition of a special assessment lien
24 in accordance with the requirements of Article XX of Chapter 10 of the San Francisco Administrative
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1 Code (commencing with Section 10.230). The Director shall request that the City Attorney pursue
2 collection of the penalty and fee against the permit holder.

3 (5) **Administrative Review of Imposition of Penalty.** The permit holder may seek
4 administrative review of the assessment and amount of the penalty or fee imposed by requesting a
5 hearing on the matter pursuant to Section 1188. If no request for administrative review is filed
6 pursuant to Section 1188, the Director's determination shall be final. Thereafter, if the penalties and
7 costs are not paid within the time specified in the notice, the Director may pursue any method of
8 collection of such penalties and costs authorized by applicable law.

9 (b) **Other Penalties.** The penalties and methods of enforcement set forth in this Section are in
10 addition to those set forth in Sections 1090 and 1185 of this Code and in addition to any other penalties
11 or methods of enforcement authorized by law.

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13 **SEC. 1188. ADMINISTRATIVE REVIEW.**

14 (a) **Request for Administrative Review.** A permit holder may seek administrative review of the
15 decision of the Taxi Commission Executive Director (the Director) under Section 1186 or 1187 by
16 requesting a hearing on the matter. The request shall specify in detail the basis for contesting the
17 imposition or the amount of the administrative penalties or enforcement costs and shall be filed with
18 the Director within 15 business days of the date of the notice of the imposition of the penalties and
19 costs.

20 (b) **Notice for and Scheduling of Administrative Review Hearing.** Whenever administrative
21 review is requested pursuant to subsection (a) above, the Director within 10 business days of receipt of
22 the request shall notify the permit holder of the date, time, and place of the administrative review
23 hearing by first-class mail or hand delivery. Such hearing shall be held no sooner than 20 business
24 days and no later than 40 business days after the Director receives the request for administrative
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1 review, unless time is extended by mutual agreement of the permit holder and the Director. Notice of
2 hearings shall be posted on the Commission's web site at least 72 hours in advance of the hearing.

3 (c) **Submittals for the Administrative Review Hearing.** The Director shall appoint a hearing
4 officer for the administrative review hearing. The hearing officer shall not be an employee of the Taxi
5 Commission or the Police Department.

6 At least 10 business days prior to the hearing, the parties to the hearing shall submit written
7 information to the hearing officer including, but not limited to, the following: a statement of the issues
8 to be determined by the hearing officer, a statement of the evidence to be offered at the hearing and the
9 identity of any witnesses to appear at the hearing. The written information shall not exceed 10 double-
10 spaced pages, excluding exhibits.

11 (d) **Conduct of the Administrative Review Hearing.** The hearing shall be open to the public
12 and tape recorded. Any party to the hearing may, at his or her own expense, cause the hearing to be
13 recorded by a certified court reporter. During the hearing, evidence and testimony may be presented
14 to the hearing officer. Parties may be represented by counsel and have the right to cross-examine
15 witnesses. All testimony shall be given under oath.

16 The hearing need not be conducted according to formal rules of procedure and evidence, but no
17 decision shall be based solely on hearsay evidence. The hearing officer may make reasonable rulings
18 to ensure a fair and efficient hearing.

19 (e) **Proposed Decision.** The hearing officer shall, within ten business days after the conclusion
20 of the hearing, present a proposed decision including written findings and recommendations regarding
21 penalties to the Executive Director. The hearing officer shall at that time transmit his or her decision to
22 the permit holder by certified mail directed to the most recent address on file with the Commission for
23 the permit holder. The Director shall post at his or her office a notice that a copy of the proposed
24 decision is available for public inspection during normal business hours.

1 The proposed decision shall be a recommendation to the Executive Director, and the Director
2 shall adopt, modify, or deny such recommendation and prepare a final decision on the matter. The
3 Director may review the recording of the hearing and any written materials submitted in connection
4 with the hearing, and may remand the matter to the hearing officer for further proceedings. The
5 Director shall act on the hearing officer's proposed decision within 20 business days of receiving the
6 appeal. The Executive Director shall serve his or her final decision upon the parties to the hearing and
7 post the decision in the same manner as provided for herein with respect to the hearing officer's
8 proposed decision.

9 The Executive Director shall also place the final decision on the Taxi Commission's consent
10 calendar for the next scheduled meeting occurring not less than ten calendar days after entry of the
11 Director's decision. The Director shall submit the recording of the hearing and any written materials
12 submitted in connection with the hearing. The Commission will act on the Director's decision and the
13 record presented; it will not rehear the case. The Commission may only modify or overturn the
14 Executive Director's decision by a two-thirds' vote.

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17 APPROVED AS TO FORM:
18 DENNIS J. HERRERA, City Attorney

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20 By: _____
21 THOMAS J. OWEN
22 Deputy City Attorney