

1 [Healthy Air and Clean Transportation Program.]

2
3 **Ordinance (1) amending the San Francisco Environment Code by repealing current**
4 **Sections 400 through 409, and adopting new Sections 400 through 424; (2) amending**
5 **the San Francisco Environment Code by amending current Sections 410, 411, and 421**
6 **and re-numbering them as Sections 425, 426, and 427 respectively; and (3) amending**
7 **the San Francisco Administrative Code by amending Section 4.10-1, all to establish and**
8 **implement a new Healthy Air and Clean Transportation Program, providing for the**
9 **gradual conversion of the City's vehicle fleet to clean air vehicles and the gradual**
10 **reduction of the overall number of passenger vehicles and light duty trucks in the**
11 **City's vehicle fleet by 20 percent; and making environmental findings.**

12 NOTE: Additions are *single-underline italics Times New Roman*;
13 deletions are *strike-through italics Times New Roman*.
14 Board amendment additions are double-underlined;
Board amendment deletions are ~~strike-through normal~~.

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

16 Section 1. The San Francisco Environment Code is hereby amended by repealing
17 Sections 400 through 409 in their entirety.

18 ***SEC. 400. FINDINGS AND PURPOSE.***

19 *The Board of Supervisors finds that:*

20 *(a) Industries, automobiles, and natural sources all contribute to a significant air pollution*
21 *problem in the Bay Area. While air pollution in the Bay Area has decreased since its peak in 1969, the*
22 *growth in population, increase in industrial development, and in particular, the dramatic increase in*
23 *vehicles and vehicle miles traveled, threaten to overcome the air quality successes to date.*

24 *(b) Air pollution is a major public health concern in the United States. The American Lung*
25 *Association estimates the nationwide health costs of air pollution to be in the billions of dollars.*

1 *According to the United States Public Health Service, high levels of air pollution can cause or*
2 *aggravate lung illnesses such as acute respiratory infections, asthma, chronic bronchitis, emphysema,*
3 *and lung cancer. Coughing, wheezing, chest pain, eye irritation, and headaches are common reactions*
4 *to air pollution. Children, the elderly, athletes, and people with compromised immune systems suffer*
5 *the worst health problems caused by poor air quality. In these sensitive groups, poor air quality causes*
6 *more significant health impacts such as breathing difficulties, weakening of the body's ability to resist*
7 *disease, and hindering the development of lung capacity among children.*

8 *(c) A recent federal study found that long-term exposure to air pollution in the four (4) Bay*
9 *Area counties could cause 208 additional cases of cancer for every million residents, which is 208*
10 *times greater than the acceptable risk of cancer caused by air pollution as established by the Clean Air*
11 *Act of 1990. The study concludes that most of the cancer risk is attributable to two chemicals contained*
12 *in vehicle exhaust-benzene, a component of gasoline, and butadiene, a by-product of fuel combustion.*
13 *This study is significant because it calculated the cancer risks based on the air that people actually*
14 *breathe, rather than on computer models.*

15 *(d) Air pollution causes other significant economic costs. These costs from air pollution include*
16 *damage to plants, animals, buildings and structural materials. Agricultural losses in California caused*
17 *by air pollution are estimated to be \$300 million each year. Deterioration of buildings, metal, rubber,*
18 *and painted surfaces (e.g.: the cost to clean buildings resulting from diesel soot) cost millions of*
19 *dollars each year. Decreased visibility, often called "haze," degrades the natural beauty of the Bay*
20 *Area and secondarily, this can affect tourism and economic growth. A 1996 University of California at*
21 *Davis study estimated the total national cost from automobile generated air pollution to be between*
22 *\$24 and \$450 billion per year.*

23 *(e) Over one hundred types of air pollutants exist. The most serious and persistent outdoor air*
24 *quality problem in the Bay Area is high levels of ground level ozone or smog. Ozone is formed as the*
25 *result of a complex photochemical process which occurs when certain volatile organic compounds and*

1 *gases (predominantly oxides of nitrogen from automobile combustion) react with sunlight and high*
2 *temperatures. Since automobile travel is responsible for over half of the chemicals that cause high*
3 *ozone levels in the Bay Area, replacement of polluting vehicles by less polluting vehicles is a crucial*
4 *element in the continued health of the residents and businesses of San Francisco.*

5 *(f) The Clean Air Act mandates the United States Environmental Protection Agency (EPA) to*
6 *establish national air quality standards that would ensure the same basic health and environmental*
7 *protection for all Americans. The Bay Area Air Quality Management District (BAAQMD) uses the*
8 *Pollutant Standard Index (PSI) to report air pollution information to the public, as well as to monitor*
9 *compliance with the Clean Air Act. The EPA sets the National Ambient Air Quality Standard (NAAQS)*
10 *to represent the concentration of a pollutant above which adverse health effects have been observed.*

11 *(g) In the past five (5) years, the Bay Area has violated the NAAQS for ozone twenty-nine (29)*
12 *times. As a result, the EPA has reclassified the Bay Area as a Nonattainment area for the federal one-*
13 *hour ozone standard. The loss of ozone attainment status will force the BAAQMD to adopt stricter*
14 *regulations from a list of measures in the state implementation plan (SIP), a requirement under the*
15 *Clean Air Act. New regulations will adversely affect Bay Area businesses and possibly automobile*
16 *owners. Stricter air quality regulations translate to higher costs for everyone and may cause fewer*
17 *businesses to be created and retained in the Bay Area. The EPA is presently implementing a new ozone*
18 *monitoring standard which will likely further jeopardize the future attainment status of the Bay Area*
19 *and lead to adoption of even stricter standards by BAAQMD.*

20 *(h) Over ninety percent (90%) of Californians live in regions adversely affected by air quality*
21 *problems, largely as a result of automobile exhaust. A program to control automobile emission in*
22 *California began in 1961, far in advance of federal controls. The State of California conducts its own*
23 *vehicle emissions control program that is stricter than federal standards. Nevertheless, the Bay Area*
24 *continues to violate state ozone standards at an alarming rate, with one hundred and twelve (112)*
25 *exceedance over the past five (5) years. In 1988, the California Legislature enacted the California*

1 ~~Clean Air Act, which requires each air district not meeting state air quality standards to prepare a~~
2 ~~Clean Air Plan that would achieve the standards. The Clean Air Plan contains regulations that affect~~
3 ~~both Bay Area businesses and residents.~~

4 ~~(i) In 1990, the California Air Resources Board adopted the Low-Emission Vehicle (LEV)~~
5 ~~regulation, which requires auto manufacturers to produce vehicles that meet increasingly stringent air~~
6 ~~quality standards. These regulations originally required that, beginning in 1998, two percent (2%) of~~
7 ~~all vehicles sold by auto manufacturers to be zero-emission vehicles (ZEVs). These regulations have~~
8 ~~since been modified to eliminate the phase-in of ZEV sales requirement for 1998 through 2000 model~~
9 ~~years in favor of a ZEV demonstration program during this period. The new regulations retain the~~
10 ~~prior requirement that beginning with the 2003 model year, ten percent (10%) of all vehicles sold in~~
11 ~~California must be ZEVs.~~

12 ~~(j) In 1997, the Board of Supervisors approved the Sustainability Plan for the City and County~~
13 ~~of San Francisco. The Sustainability Plan states, "[a]chieving and maintaining good air quality is~~
14 ~~crucial to the public health and economic vitality of San Francisco."~~

15 ~~(k) The United States imports over fifty percent (50%) of its oil. This high dependence on~~
16 ~~imported oil has become a major national security concern for the Federal Government.~~

17 ~~(l) To address this national security issue, Congress passed the Energy Policy Act of 1992~~
18 ~~(EPACT) and directed the Department of Energy (DOE) to establish a variety of programs aimed at~~
19 ~~substantially reducing the quantity of oil consumed by motor vehicles. EPACT requires the Federal~~
20 ~~Government to phase in fleet acquisitions of alternative fuel vehicles. DOE is in the process of~~
21 ~~rulemaking to determine whether alternative fuel vehicle acquisition requirements for private and local~~
22 ~~government automobile fleets are necessary to achieve EPACT's clean air and energy security goals.~~
23 ~~DOE is promoting the voluntary use of alternative fuel vehicles through its Clean Cities programs.~~

24 ~~(m) DOE officially recognized the San Francisco Clean Cities Coalition (SFCCC) in 1994 as a~~
25 ~~Clean Cities program. SFCCC has ongoing programs of substituting conventional transportation fuels~~

1 ~~with domestically produced, clean burning alternative fuels; encouraging an increase in acquisition~~
2 ~~and utilization of alternative fuel vehicles (AFVs); developing alternative fuel supply infrastructure and~~
3 ~~related services; advancing public understanding of the benefits and costs of using AFVs. SFCCC~~
4 ~~members include: the Department of Administrative Services, Department of Public Transportation,~~
5 ~~Public Utilities Commission, San Francisco International Airport, San Francisco County~~
6 ~~Transportation Authority, BAAQMD, City College of San Francisco, Pacific Gas and Electric~~
7 ~~Company, United States Department of Energy, United States National Park Service, United States~~
8 ~~General Services Administration, United Airlines, NorCal Waste Management, Inc., Olympian Oil~~
9 ~~Company, and the San Francisco Bay Area Clean Air Vehicle Coalition (the precursor organization to~~
10 ~~the Clean Cities Coalition).~~

11 ~~(n) The City and County of San Francisco currently operates over one hundred and thirty (130)~~
12 ~~AFVs. These vehicles have proved themselves to be cost effective and were easily integrated into the~~
13 ~~City's fleet operations. The use of low emission AFVs by the City has been beneficial to the air quality~~
14 ~~in the Bay Area.~~

15 ~~(o) Under this Chapter, the City and County of San Francisco wishes to exercise its power to~~
16 ~~make economic decisions involving its own funds as a participant in the marketplace and to conduct its~~
17 ~~own business as a municipal corporation to ensure that purchases and expenditures of public moneys~~
18 ~~are made in a manner consistent with the policy of improving the air quality in the City and in the Bay~~
19 ~~Area through the purchase and use of low emission AFVs and ZEVs.~~

20 ~~(p) Under this Chapter, the City and County of San Francisco wishes to foster, promote, and~~
21 ~~encourage the use of low emission AFVs and ZEVs by developing infrastructures to support the use of~~
22 ~~these vehicles.~~

23 ~~(q) Under this Chapter, a Clean Air Program is established to aid the City and County of San~~
24 ~~Francisco in identifying funding sources for the purchase of low emission AFVs and ZEVs, to assist the~~
25 ~~City in the development of alternative fuel infrastructures, to develop a clean air plan for the City and~~

1 *County of San Francisco, and to educate and promote the use of low emission AFVs and ZEVs in the*
2 *private and public sectors.*

3 *(r) This Chapter applies the Precautionary Principle to the selection of low or zero emission*
4 *vehicles and the creation of fueling infrastructure for City fleets and public transit to minimize impacts*
5 *on human health and natural resources.*

6
7 ***SEC. 401. DEFINITIONS.***

8 *(a) "Alternative Fuel" means any fuel other than gasoline, diesel, and other substantially*
9 *petroleum-based fuels that is less polluting than gasoline or diesel fuel, as determined by the California*
10 *Air Resource Board. Alternative Fuel shall include, but is not limited to, natural gas and electricity.*

11 *(b) "Alternative Fuel Vehicle" means any motor vehicle powered by alternative fuels.*

12 *(c) "Bi-Fuel Vehicle" means any motor vehicle designed to operate on two (2) fuels, one of*
13 *which is an alternative fuel, but not on a mixture of fuels.*

14 *(d) "Bus" means any passenger vehicle with a seating capacity of greater than fifteen (15)*
15 *persons.*

16 *(e) "Car-Sharing Program" means a program in which automobile providers are established to*
17 *make motor vehicles available to people on a per-use basis.*

18 *(f) "City Department" means any department of the City and County of San Francisco. City*
19 *department does not include any other local agency or any federal or State agency, including but not*
20 *limited to the San Francisco Unified School District, the San Francisco Community College District,*
21 *the San Francisco Redevelopment Agency, and the San Francisco Housing Authority.*

22 *(g) "Construction Vehicle" means any motor vehicle intended for use in the construction,*
23 *repair, and/or demolition of structures or roadways and which is not licensed for use on public roads.*

24 *(h) "Electric Charging Bay" means a device used to restore the electromotive power of a*
25 *battery in an electric vehicle.*

1 (i) ~~"Electric Vehicle" means a zero-emission vehicle that derives its motive power from one (1)~~
2 ~~or more electric motors.~~

3 (j) ~~"Fast-Fueling" means a fueling process that refuels an alternative fuel vehicle in the same~~
4 ~~or less time than traditional refueling methods.~~

5 (k) ~~"Heavy Duty Vehicle" means any motor vehicle, licensed for use on roadways, having a~~
6 ~~manufacturer's gross vehicle weight rating greater than 14,000 pounds.~~

7 (l) ~~"Hybrid Electric Bus" means a bus having an on-board internal combustion engine attached~~
8 ~~to an electric generator.~~

9 (m) ~~"Light Duty Truck" means any motor vehicle, with a manufacturer's gross vehicle weight~~
10 ~~rating of 6,000 pounds or less, which is designed primarily for purposes of transportation of property~~
11 ~~or is a derivative of such a vehicle, or is available with special features enabling off-street or off-~~
12 ~~highway operation and use.~~

13 (n) ~~"Medium Duty Vehicle" means any 1995 and subsequent model year vehicle having a~~
14 ~~manufacturer's gross vehicle weight rating of 14,000 pounds or less and which is not a passenger~~
15 ~~vehicle or light-duty truck.~~

16 (o) ~~"Motor Vehicle" means a self-propelled vehicle.~~

17 (p) ~~"Motorized Equipment" means any implement powered by an internal combustion engine.~~

18 (q) ~~"Natural Gas Bus" means a bus powered by natural gas.~~

19 (r) ~~"Natural Gas Fueling Station" means any fueling station that provides fueling services for~~
20 ~~motor vehicles fueled by natural gas.~~

21 (s) ~~"NOX" means oxides of nitrogen.~~

22 (t) ~~"Particulate Matter (PM)" means solid or liquid particles of soot, dust, smoke, fumes,~~
23 ~~aerosols or other airborne material.~~

24 (u) ~~"PM10" means particulate matter less than ten (10) microns in diameter.~~

25 (v) ~~"PM2.5" means particulate matter less than two and five-tenths (2.5) microns in diameter.~~

1 (w) *"Passenger Vehicle" means any motor vehicle designed primarily for transportation of*
2 *persons and having a design capacity of twelve (12) persons or less.*

3 (x) *"Portable Motorized Equipment" means motorized equipment that is capable of being*
4 *carried or moved from one location to another. Indicia of portability or transportability include, but*
5 *are not limited to, wheels, skids, carrying handles, a dolly, a trailer, or a platform.*

6 (y) *"Stationary Motorized Equipment" means motorized equipment that remains or will remain*
7 *at a single site at a building, structure, facility, or installation for more than twelve (12) consecutive*
8 *months.*

9 (z) *"Trolley Bus" means an electric powered bus that derives its motive power from overhead*
10 *wires.*

11 (aa) *"Ultra-Low Emission Vehicle" means any motor vehicle that meets or exceeds the*
12 *standards set forth in 13 California Code of Regulations § 1960.1 for Ultra-Low Emission Vehicles.*

13 (bb) *"Zero-Emission Vehicle" means (i) any motor vehicle that produces zero exhaust*
14 *emissions of all criteria pollutants, as defined by 17 California Code of Regulations § 90701(b), (or*
15 *precursors thereof) under any and all possible operational modes and conditions or (ii) any vehicle*
16 *that has been certified by the California Air Resources Board as a zero-emission vehicle.*

17 (cc) *"Director" means the Director of the Department of the Environment established pursuant*
18 *to Section 4.118 of the Charter.*

19
20 **~~SEC. 402. CLEAN AIR PROGRAM ESTABLISHMENT, DUTIES AND FUNDING.~~**

21 (a) *There is hereby established a program to be known as the Clean Air Program in the City*
22 *and County of San Francisco in the Department of the Environment.*

23 (b) *Subject to the budget, fiscal and Civil Service provisions of the Charter, the Director shall*
24 *appoint an individual who shall be responsible for the day-to-day Program operations, including but*
25 *not limited to supervision of staff and budgeting. The Clean Air Program shall be responsible for*

1 ~~supervising the implementation of the provisions of this Chapter, assisting with the expansion of the~~
2 ~~alternative fueling network in the City and County of San Francisco, assisting with City department~~
3 ~~financing and acquisition of ultra-low or zero-emission vehicles and equipment, performing outreach to~~
4 ~~residents and private-sector fleet operators to encourage the purchase of ultra-low and zero-emission~~
5 ~~vehicles and equipment, promoting automobile trip reduction by City employees, developing~~
6 ~~educational programs to train City employees in the use of alternative fuel vehicles and equipment and~~
7 ~~in techniques that reduce fuel consumption, encouraging the development of car-sharing programs,~~
8 ~~and serving as San Francisco's Clean Cities Coordinator, under the Clean City Program of the U.S.~~
9 ~~Department of Energy.~~

10
11 ~~SEC. 403. [Reserved]~~

12
13 ~~SEC. 404. ALTERNATIVE FUEL INFRASTRUCTURE.~~

14 ~~(a) Natural Gas Fueling Stations—Assessment and Recommendations. Not later than six (6)~~
15 ~~months from the effective date of this Chapter, the Planning Department, in cooperation with the Clean~~
16 ~~Air Program, shall assess the need for a competitive network of public-access natural gas fast-fueling~~
17 ~~stations in the City and County of San Francisco and shall provide a report to the Board of Supervisors~~
18 ~~detailing the results of the assessment. Such report shall include recommendations for legislative action~~
19 ~~that may be required to achieve the goal set forth in subsection (b).~~

20 ~~(b) Development of Natural Gas Fueling Stations. Not later than eighteen (18) months from the~~
21 ~~effective date of this Chapter, the Planning Department, in cooperation with the Department of~~
22 ~~Building Inspection, shall coordinate the siting and development of not fewer than five (5) public~~
23 ~~access natural gas fast-fueling stations by public and/or private entities within the City and County of~~
24 ~~San Francisco.~~

1 **~~SEC. 405. ELECTRIC VEHICLE CHARGING INFRASTRUCTURE.~~**

2 ~~(a) Establishment of Pilot Program. Not later than eighteen (18) months from the effective date~~
3 ~~of this Chapter, the Department of Parking and Traffic in consultation with the Department of Building~~
4 ~~Inspection shall implement a pilot program to install a total of fifty (50) public access, dedicated~~
5 ~~electric charging bays in at least six (6) City-owned garages, parking lots, and/or other sites accessible~~
6 ~~to the public.~~

7 ~~(b) Planning and Assessment. Not later than eighteen (18) months from the effective date of this~~
8 ~~Chapter, the Department of Parking and Traffic, in cooperation with the Clean Air Program, shall~~
9 ~~develop and recommend to the Board of Supervisors a plan for creating a comprehensive electric~~
10 ~~charging infrastructure for electric vehicles in the City and County of San Francisco. Such plan shall~~
11 ~~include:~~

12 ~~(1) A market demand assessment for electric charging infrastructure needs within the~~
13 ~~City and County of San Francisco based on California Air Resource Board mandates for zero-emission~~
14 ~~vehicle sales and projected sales within the Bay Area;~~

15 ~~(2) An assessment of public and private funding options available for installation of~~
16 ~~charging bays in all City-owned parking garages and lots by the year 2003; and~~

17 ~~(3) Tax-based or other incentive programs to encourage the installation of electric~~
18 ~~charging bays in privately owned parking facilities located in the City and County of San Francisco.~~

19
20 **~~SEC. 406. PROCUREMENT OF VEHICLES BY CITY DEPARTMENTS.~~**

21 ~~(a) Passenger Vehicles and Light-Duty Trucks. Except as set forth in subsection (e), beginning~~
22 ~~90 days from the effective date of this Chapter, all City departments shall purchase or lease only~~
23 ~~models of passenger vehicles and light duty trucks that are rated as ultra-low emission vehicle or zero~~
24 ~~emission vehicle. Commencing July 1, 2000, at least ten percent (10%) of all passenger vehicles and~~
25 ~~light duty trucks purchased or leased by the City within any fiscal year shall be zero-emission models.~~

1 ~~The Mayor's Office and the Director shall review annual and supplemental vehicle funding requests~~
2 ~~from City departments to ensure that this requirement is met each fiscal year.~~

3 ~~(b) Medium Duty Vehicles. Except as set forth in subsection (e), beginning 90 days from the~~
4 ~~effective date of this Chapter, City departments shall purchase or lease only Medium Duty Vehicles~~
5 ~~with engines having exhaust emissions levels rated as ultra-low emission or super ultra-low emission~~
6 ~~pursuant to Section 1956.8(h) of Title 13 of the California Code of Regulations or Medium Duty~~
7 ~~Vehicles that are rated as ultra-low emission or super ultra-low emission pursuant to Section~~
8 ~~1960.1(h)(2) of Title 13 of the California Code of Regulations.~~

9 ~~(c) Heavy Duty Vehicles. Except as set forth in subsection (e), beginning 90 days from the~~
10 ~~effective date of this Chapter, when purchasing or leasing Heavy Duty Vehicles, City departments shall~~
11 ~~purchase or lease only Heavy Duty Vehicles whose engines are certified under the optional standards~~
12 ~~for their exhaust emissions pursuant to Section 1956.8 of Title 13 of the California Code of~~
13 ~~Regulations.~~

14 ~~(d) Motorized Equipment. Except as set forth in subsection (e), City departments shall purchase~~
15 ~~or lease only portable or stationary motorized equipment that is powered by alternative fuels.~~

16 ~~(e) Exemptions.~~

17 ~~(1) Notwithstanding any other provisions of this Chapter, this Section shall not apply to~~
18 ~~any motor vehicles that are used for public safety purposes. Such vehicles shall include, but are not~~
19 ~~limited to: police vehicles, fire vehicles, ambulances, and other emergency response vehicles. Nothing~~
20 ~~in this subsection shall be construed to prohibit City departments from purchasing or leasing motor~~
21 ~~vehicles used for public safety purposes that satisfy the requirements of this section. It shall be the~~
22 ~~policy of the City to purchase or lease emergency response vehicles that comply with the requirements~~
23 ~~of this section to the extent that the purchase or lease of such vehicles is feasible and practical.~~

24 ~~(2) This Section shall not apply to the acquisition of buses by the Public Transportation~~
25 ~~Department for its fleet.~~

1 ~~(3) Upon a written request from a City department, the Director may grant an~~
2 ~~exemption to the requesting City department from the requirements of this Section under the following~~
3 ~~circumstances:~~

4 ~~(A) Where the requesting department demonstrates that no model of motor~~
5 ~~vehicle or motorized equipment is available which will comply with the requirements of this Section~~
6 ~~and meet the specifications of the department for its intended use. In deciding whether to grant an~~
7 ~~exemption pursuant to this subparagraph, the Director shall consider the availability of funding for the~~
8 ~~purchase or lease of motor vehicles or motorized equipment mandated by this Section.~~

9 ~~(B) Where the requesting department demonstrates to the satisfaction of the~~
10 ~~Director each of the following:~~

11 ~~(i) That the cost of the vehicle or motorized equipment that complies with~~
12 ~~the requirements of this Section is more than one and a half times the cost of an equivalent low~~
13 ~~emission vehicle or motorized equipment powered by gasoline or diesel fuel;~~

14 ~~(ii) That the department has applied for, but failed to receive, funding for~~
15 ~~the purchase or lease of the vehicle or motorized equipment that complies with the requirements of this~~
16 ~~Section from sources other than the City's General Fund; and~~

17 ~~(iii) That the amortized cost differential cannot be recovered over the~~
18 ~~operating life of the vehicle or motorized equipment that complies with the requirements of this Section~~
19 ~~through a reduction in fuel, maintenance, and other costs incurred during the operating life of such~~
20 ~~vehicle or equipment.~~

21 ~~(C) Where the requesting department demonstrates to the satisfaction of the~~
22 ~~Director that the use of vehicle or motorized equipment that complies with the requirements of this~~
23 ~~Section would significantly disrupt departmental operations due to the lack of adequate fueling and/or~~
24 ~~maintenance facilities for those motor vehicles or motorized equipment.~~

1 (4) ~~Where the Director grants an exemption pursuant to paragraph (3), the requesting~~
2 ~~department shall purchase or lease the model of motor vehicle or motorized equipment that will meet~~
3 ~~its specifications and has the lowest available ratings for emissions of NOX and PM10, and, if~~
4 ~~applicable, PM2.5 established by the California Air Resources Board for the type or class of vehicle or~~
5 ~~motorized equipment being purchased or leased.~~

6 (f) ~~Rules and Regulations. The Director may promulgate such regulations as may be necessary~~
7 ~~from time to time to carry out the requirements of this section.~~

8 (g) ~~List of Vendors. The Director shall develop a comprehensive list of vendors supplying~~
9 ~~motor vehicles and motorized equipment that comply with the requirements of this section for use by~~
10 ~~City departments in making purchasing or leasing decisions.~~

11 (h) ~~Other Requirements. All motor vehicles and motorized equipment purchased or leased~~
12 ~~pursuant to this section shall meet all applicable safety standards and other requirements for the~~
13 ~~intended use of the vehicle or equipment.~~

14 (i) ~~Funding. It shall be the policy of the City to: (1) use monies that are not part of a City~~
15 ~~department's regular appropriation, including, but not limited to, regional, state, or federal grants, to~~
16 ~~fund the entire purchase or lease price of ultra-low or zero emission vehicles or motorized alternative~~
17 ~~fuel equipment that is used in a pilot program or demonstration project; and (2) in all other cases, use~~
18 ~~such monies only to fund the difference in purchase or lease price between the ultra-low or zero~~
19 ~~emission vehicle or motorized alternative fuel equipment and the gasoline or diesel-fueled motor~~
20 ~~vehicle or motorized equipment that would otherwise be purchased or leased.~~

21 (j) ~~Annual Report. Not later than September 1 of each fiscal year, the Director shall submit to~~
22 ~~the Mayor and the Board of Supervisors a report which includes a summary of motor vehicles and~~
23 ~~motorized equipment purchased or leased by City departments. Such report shall include a comparison~~
24 ~~of (i) the annualized projected maintenance and fueling costs for each type or class of motor vehicle~~
25 ~~and motorized equipment purchased or leased pursuant to this section, (ii) the estimated annualized~~

1 *maintenance and fueling costs for vehicles and motorized equipment that would otherwise be*
2 *purchased or leased, and (iii) the projected reduction in the emissions of NOX, PM10 and, if*
3 *applicable, PM2.5 from motor vehicles and motorized equipment purchased or leased pursuant to this*
4 *section.*

5 *(k) Phase Out of Highly Polluting Vehicles and Equipment. Not later than eighteen (18) months*
6 *from the effective date of this Chapter, each City department, with the cooperation of the Director,*
7 *shall develop and recommend to the Board of Supervisors a plan to phase out the use of older and*
8 *highly polluting motor vehicles and motorized equipment that have been in service for twelve (12) or*
9 *more years. Such plan shall include, but is not limited to, a study into the feasibility of centralizing the*
10 *purchase and ownership of City motor vehicles within the Department of Administrative Services,*
11 *which are leased to City Departments on an as-needed basis.*

12
13 **~~SEC. 407. OPERATION OF BI-FUEL VEHICLE.~~**

14 *No bi-fuel vehicle owned by the City may be powered by gasoline, diesel, or other petroleum-*
15 *based fuel while operating within the City and County of San Francisco. Bi-fuel vehicles owned by the*
16 *City shall bear a notice stating the requirements of this subsection, posted in one or more locations that*
17 *are plainly visible to the vehicle operator. This section shall not apply to (1) the operation of bi-fuel*
18 *vehicles in emergency situations or (2) the operation of buses by the Public Transportation*
19 *Commission.*

20
21 **~~SEC. 408. DEPARTMENT OF PUBLIC TRANSPORTATION BUSES AND TROLLEY BUSES.~~**

22 *(a) Pilot Program. For the purpose of developing fueling specifications for the first planned*
23 *Department of Public Transportation bid package after the effective date of this chapter to replace*
24 *existing diesel-powered buses, the Public Transportation Commission, with input from the*
25 *Transportation Authority, shall implement an alternative fuels pilot program to evaluate the efficacy of*

1 ~~using alternative fuel buses to reduce air pollution while maintaining current level of service and~~
2 ~~safety. This program shall include testing of both dedicated natural gas and hybrid electric buses.~~

3 ~~(b) Identification and Conversion of Diesel Bus Lines. Not later than six (6) months from the~~
4 ~~effective date of this Chapter, the Public Transportation Commission shall identify heavily traveled~~
5 ~~diesel bus lines that are appropriate for conversion to cleaner, quieter electric trolley bus lines. The~~
6 ~~Public Transportation Commission and the Planning Department shall develop proposed street~~
7 ~~amenities, including, but not limited to, light standards and street landscaping, designed to mitigate the~~
8 ~~aesthetic impact of any proposed overhead wires. Residents in the neighborhoods surrounding such bus~~
9 ~~lines shall be provided with notice and an opportunity to comment on the proposed plan.~~

10 ~~(c) Phase Out of Diesel Buses. Not later than eighteen (18) months from the effective date of~~
11 ~~this Chapter, the Public Transportation Commission shall develop a plan to phase out the use of diesel~~
12 ~~buses that have been in service for a time period greater than the time period set forth by the applicable~~
13 ~~federal funding guidelines.~~

14
15 **~~SEC. 409. REGIONAL PUBLIC SECTOR AND PRIVATE SECTOR FLEETS.~~**

16 ~~(a) Regional Public Transportation Authorities. Not later than twelve (12) months from the~~
17 ~~effective date of this Chapter, the Clean Air Program shall develop a plan, including incentives, to~~
18 ~~encourage the regional public sector transit agencies to use buses that are classified as zero emission~~
19 ~~or cleaner emission vehicles on bus lines that originate or terminate in San Francisco.~~

20 ~~(b) Private Sector Fleets. Not later than twelve (12) months from the effective date of this~~
21 ~~Chapter, the Clean Air Program shall develop a plan, including incentives, to encourage private sector~~
22 ~~fleets that operate a significant number of motor vehicles within the City and County of San Francisco~~
23 ~~to convert their fleets to zero emission vehicles or motor vehicles that comply with the requirements of~~
24 ~~Section 406 of this Chapter.~~

1 ~~(c) Residential Vehicles. Not later than twelve (12) months from the effective date of this~~
2 ~~Chapter, the Clean Air Program shall develop a plan, including incentives, to encourage residents of~~
3 ~~the City and County of San Francisco to purchase zero-emission vehicles or motor vehicles that comply~~
4 ~~with Section 406 of this Chapter.~~

5 ~~(d) San Francisco Unified School District. Upon request by the San Francisco Unified School~~
6 ~~District, the Transportation Authority and the Public Transportation Commission shall assist the~~
7 ~~school district with the development of bid specifications and/or contract requirements requiring the~~
8 ~~use of alternative fuel school buses in the District's bid package for school bus service. Upon request~~
9 ~~by the San Francisco Unified School District, the Transportation Authority and the Public~~
10 ~~Transportation Commission shall also assist the school district with the preparation of applications for~~
11 ~~local, regional, state, and/or federal funding to pay for part or all of the costs of such buses.~~

12 ~~(e) Car-Sharing Program. The Clean Air Program, shall assist the Department of Parking and~~
13 ~~Traffic and the Planning Department and other Federal and State agencies in the development of car-~~
14 ~~sharing programs in all high density urban neighborhoods of the City. Such neighborhoods shall~~
15 ~~include, but are not limited to, Nob Hill, North Beach, Russian Hill, Castro, Tenderloin, Telegraph~~
16 ~~Hill, Downtown, Mission, Hayes Valley, Haight, Mission Bay, Treasure Island, and the Presidio.~~

17
18 Section 2. The San Francisco Environment Code is hereby amended by adding new
19 Sections 400 through 424, to read as follows:

20 **SEC. 400. HEALTHY AIR AND CLEAN TRANSPORTATION PROGRAM.**

21 ~~(a) Title. Sections 400 through 424 of this Chapter shall be known as the Healthy Air And~~
22 ~~Clean Transportation Ordinance.~~

23 ~~(b) Purpose. The Healthy Air And Clean Transportation Ordinance is intended to assist the~~
24 ~~City in achieving its air pollution and greenhouse gas reduction goals by: promoting the use of~~
25 ~~vehicles that have zero or super ultra-low emissions, achieve high energy efficiency and use alternative~~

1 fuels with a low carbon impact; implementing policies to minimize the use of single occupancy vehicles
2 and reduce the total number of passenger vehicles and light-duty trucks in the municipal fleet;
3 maximizing the use of outside sources to fund such programs; encouraging the creation, expansion,
4 and maintenance of alternative fueling infrastructure in the City and at City facilities; and
5 encouraging trip reduction, carpooling, and public transit.

6 **(c) Findings.**

7 (1) Air pollution endangers public health. According to the California Air Resources
8 Board (CARB), the levels and concentrations of smog forming, lung-clogging pollutants in the Bay
9 Area, such as ozone and particulate matter (soot particles), not only exceed California's existing
10 health-based standards, but also are often times measured at levels that are two to three times the
11 standards. According to the Bay Area Air Quality Management District (BAAQMD), emissions from
12 motor vehicles are the leading cause of air pollution in the Bay Area. Furthermore, during the summer
13 of 2006, the San Francisco Bay Area endured more days where emissions of ozone-forming pollutants
14 exceeded federal and state health-based air quality standards than it has experienced in nearly ten
15 years.

16 (2) According to the American Lung Association of California, high levels of air
17 pollution cause premature death, and aggravate lung illnesses such as acute respiratory infections,
18 asthma, chronic bronchitis, emphysema, and lung cancer. Coughing, wheezing, chest pain, eye
19 irritation, and headaches are common reactions to air pollution. Sensitive groups, like children, the
20 elderly, athletes, and people with compromised immune systems, are even more susceptible to the
21 detrimental health effects caused by air pollution. In these sensitive groups, poor air quality causes
22 more significant health impacts such as breathing difficulties and weakening of the body's ability to
23 resist disease.

24 (3) According to the California Air Resources Board, the annual health impacts of
25 exceeding state health-based standards for ozone and particulate matter include: 8,800 premature

1 deaths; 8,200 hospital admissions for respiratory disease; 340,000 asthma attacks; 3,000 asthma-
2 related emergency room visits; 3,000 hospital admissions for cardiovascular disease; 4.7 million
3 school absences due to respiratory conditions, including asthma; 2.8 million lost workdays; and,
4 reduced lung function growth rates in children.

5 (4) Emissions from motor vehicles are a major source of greenhouse gas emissions.
6 Statewide, the California Air Resources Board has found that 41 percent of carbon dioxide emissions, a
7 major greenhouse gas, stem from the transportation sector. In San Francisco, the inventory of
8 greenhouse gas emissions in the City's Climate Action Plan shows that vehicles belonging to San
9 Francisco residents or otherwise traveling in and out of San Francisco contributed 51 percent of all
10 greenhouse gases generated in the City in 1990. In 2002, the Board of Supervisors adopted Resolution
11 158-02, "Reducing Greenhouse Gas Emissions," to support efforts to curb global warming and set
12 greenhouse gas emission reduction goals for the City and County of San Francisco. The City's Climate
13 Action Plan establishes the goal of reducing carbon and other greenhouse gas emissions from
14 transportation and other sources in the City to 20 percent below 1990 levels by the year 2012.

15 (5) Near-total reliance on petroleum for transportation fuel jeopardizes San
16 Francisco's economic security. The San Francisco region and the State of California rely on
17 petroleum for 96 percent of all transportation fuel. Diversifying the supply of transportation fuels
18 available in the San Francisco region, and particularly increasing supplies of alternative fuels that
19 have low carbon impact and are sustainable, will help provide a more stable and secure base for the
20 region's economy by making it less vulnerable to interruptions in petroleum supplies while also
21 improving air quality and reducing greenhouse gas emissions.

22 (6) Urban Environmental Accords commit San Francisco to take actions to achieve
23 clean transportation. In 2005, San Francisco became a signatory participant in the Urban
24 Environmental Accords, established on the occasion of the United Nations Environmental Program's
25 World Environment Day in San Francisco. The Accords call on participating cities around the world

1 to reduce smog-forming and other polluting emissions from public fleets by 50 percent in seven years,
2 to expand the availability of affordable public transportation, and to reduce single-occupancy commute
3 trips by 10 percent in seven years.

4 (7) In 1997, the Board of Supervisors approved the Sustainability Plan for the City and
5 County of San Francisco. The Sustainability Plan states, “[a]chieving and maintaining good air quality
6 is crucial to the public health and economic vitality of San Francisco.”

7 (8) The City and County of San Francisco's fleet includes more than eight hundred
8 (800) clean passenger vehicles and light-duty trucks. These include compressed natural gas, hybrid
9 electric and battery electric vehicles.

10
11 **SEC. 401. DEFINITIONS.**

12 (a) “Alternative Fuel With Low Carbon Intensity” means any transportation fuel that is less
13 polluting than gasoline or petroleum diesel fuel, as determined by the California Air Resource Board
14 and that is shown to have lower lifecycle carbon emissions than gasoline or petroleum diesel.
15 Alternative Fuels with Low Carbon Intensity may include, but are not limited to: natural gas; propane;
16 biofuels from low carbon, sustainable and preferably local sources; hydrogen produced from low
17 carbon and/or renewable sources; and electricity.

18 (b) “Alternative Fuel Vehicle” means any motor vehicle powered by alternative fuel with low
19 carbon intensity.

20 (c) “Bus” means any passenger vehicle with a seating capacity of more than fifteen (15)
21 persons.

22 (d) “City” means City and County of San Francisco.

23 (e) “Department” means any officer, board, commission, department or other division of the
24 City and County of San Francisco. Department does not include the San Francisco Unified School
25

1 District, the San Francisco Community College District, the San Francisco Redevelopment Agency, or
2 the San Francisco Housing Authority or any other local, state, or federal agency.

3 (f) "Director" means the Director of the Department of the Environment, or his or her
4 designee.

5 (g) "Emergency Vehicle" means any vehicle publicly owned and operated that is used by a
6 public safety officer for law enforcement purposes, fighting fires or responding to emergency fire calls,
7 or used by emergency medical technicians or paramedics for official purposes.

8 (h) "Greenhouse gas or greenhouse gas emissions" means and includes all of the following
9 gases: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur
10 hexafluoride.

11 (i) "Light-Duty Truck" means any motor vehicle, with a manufacturer's gross vehicle weight
12 rating of 8,500 pounds or less, that is designed primarily for purposes of transportation of property or
13 is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway
14 operation and use.

15 (j) "Motor Vehicle" means a self-propelled vehicle.

16 (k) "Online Green Vehicle Purchase Criteria Document" means a document issued by the
17 Department of the Environment which provides emissions data for general purpose sedans, light duty
18 pickup trucks, and vans with a gross vehicle weight under 10,000 pounds. In order to be listed in the
19 Purchase Criteria Document and approved for purchase by the City under this Chapter, vehicles must
20 have a smog score of 9 or higher and a global warming score of 8 or higher, as reported by the
21 California Air Resources Board (CARB) and listed on its driveclean.ca.gov website.

22 (l) "Passenger Vehicle" means any motor vehicle designed primarily for transportation of
23 persons and with a design capacity of twelve (12) persons or less.

24 (m) "Public Safety Department" means the San Francisco Police Department, the San
25 Francisco Sheriff's Department, and the San Francisco Fire Department.

1 (n) "Purchase" means to buy, rent, lease, borrow or otherwise acquire the right to use.

2 (o) "Remove from service" means to complete filings with the California Department of Motor
3 Vehicles either to remove the City as the motor vehicle owner permanently, or to register the motor
4 vehicle as non-operational for the relevant fiscal year.

5
6 **SEC. 402. [Reserved]**

7
8 **SEC. 403. REDUCING THE MUNICIPAL FLEET.**

9 **(a) Implementing Transit-First.**

10 (1) No later than March 1, 2011, all officers, boards, commissions and department
11 heads responsible for departments that require transportation to fulfill their official duties, and other
12 City officials assigned City motor vehicles, shall implement the City's voter-approved Transit-First
13 Policy (San Francisco Charter Section 8A.115) by adopting and implementing written policies that (A)
14 maximize the use of public transit, including taxis, vanpools, and car-sharing; (B) facilitate travel by
15 bicycle, or on foot; and, (C) minimize the use of single-occupancy motor vehicles, for travel required in
16 the performance of public duties.

17 (2) The Department of the Environment shall provide technical assistance to
18 departments and City officials subject to this requirement in developing complying policies and
19 implementation procedures and in coordinating policies and procedures among City departments.

20 (3) No later than July 1, 2011, and every year thereafter, each department and City
21 official subject to this requirement shall submit its written policies to the Department of the
22 Environment and the Controller.

23 (4) No later than July 1, 2012, and every year thereafter, each department and City
24 official subject to this requirement shall, in a form approved by the Department of the Environment,
25 include with its written policies a report on its success in substituting transit-first modes of

1 transportation for single-occupancy motor vehicle transportation. Such reports shall be subject to audit
2 by the Controller.

3 (5) Notwithstanding any other provision of this Ordinance or other City law, the
4 Controller shall refuse to certify any expenditure by the City for the purchase of any passenger vehicle
5 or light duty truck by any officers, boards, commissions or departments subject to this requirement for
6 so long as the Controller finds, in his or her sole discretion, that such officers, boards, commissions, or
7 departments have failed to adopt a satisfactory transit-first policy, or to implement the policy adopted,
8 or failed to justify the purchase of a new or replacement vehicle in lieu of driving alternatives as
9 identified in Section 403(a)(1).

10 **(b) Reducing the Number of Passenger Vehicles and Light-Duty Trucks in the Municipal**
11 **Fleet.**

12 (1) Beginning July 1, 2011, and each year thereafter through July 1, 2015, the City
13 Administrator and each Department head or other City official with jurisdiction over passenger
14 vehicles and light-duty trucks used for City business shall remove from service without replacement at
15 least 5 percent of the existing total number of passenger vehicles and light-duty trucks in the portion of
16 the municipal fleet under his or her jurisdiction.

17 (2) Beginning no later than July 1, 2015, and each year thereafter, the City
18 Administrator and each Department head or other City official with jurisdiction over passenger
19 vehicles and light-duty trucks used for City business shall remove from service all passenger vehicles
20 and light-duty trucks in the municipal fleet that are 12 years old or older, which removal may be
21 included in the reductions required by subsection (1) above. No later than July 1, 2014, the City
22 Administrator and each Department head or other City official subject to this subsection shall submit to
23 the Director and the City Administrator, in a format specified by the Director, a written plan for
24 implementing this requirement.

1 (3) **Monitoring Fleet Reductions.** No later than July 1, 2011 and every year thereafter,
2 the City Administrator and each Department head or other City official with jurisdiction over
3 passenger vehicles and light-duty trucks used for City business shall submit to the Board of
4 Supervisor's Budget Analyst, in a format specified by the Director, in consultation with the Controller,
5 a report of that official's progress in meeting the annual fleet reduction requirements of
6 Section 403(b)(1) and (2).

7 (c) **Waivers.** The Director of the Department of Environment may waive the
8 requirements of Section 403(b)(1) & (2) in whole or in part where the Director finds that the
9 mandated fleet reductions would unduly interfere with the department's ability to discharge its
10 official functions. In that case, the Director, in consultation with the City Administrator, may
11 require the department to implement an alternative plan to reduce the department's fleet
12 greenhouse gas emissions.

13 (d) **Capital Projects.** In determining and implementing required reductions to the municipal
14 fleet for purposes of subsection (b), the City Administrator or a Department head or other City official
15 with jurisdiction over passenger vehicles and light-duty trucks used for City business may, with the
16 prior written approval of the Director, exclude for the duration of a capital project any new vehicles
17 required for that project. Those vehicles must have the lowest emission and highest efficiency ratings
18 available and suitable for their intended use.

19
20 **SEC. 404. NEW OR REPLACEMENT MOTOR VEHICLES .**

21 (a) Unless granted a waiver under Section 404(b) or exempt under subsection 404(c), City
22 officials may not purchase or authorize the purchase of any motor vehicle unless the purchase complies
23 with each of the following:

24 (1) The purchase complies with the Transit-First policy required under Section 403(a)
25 and adopted by the department or City official for whose use the vehicle is principally intended;

1 (2) A passenger vehicle or light-duty truck requested for purchase is an approved make
2 and model under the applicable Online Green Vehicle Purchase Criteria Document; and,

3 (3) The motor vehicle requested for purchase meets all applicable safety standards and
4 other requirements for the intended use of the vehicle.

5 (b) **Waivers.** The Director of the Department of Environment may waive the requirements of
6 Section 404(a) where the Director finds that (1) there is no passenger vehicle or light-duty truck
7 approved by the Online Green Vehicle Criteria Document that meets all applicable safety standards
8 and other requirements for the intended use of the motor vehicle; or (2) the passenger vehicle or light-
9 duty truck will be used primarily outside of the geographic limits of the City and County of San
10 Francisco in location(s) which lack required fueling or other infrastructure required for a complying
11 motor vehicle.

12 (c) **Exemptions.** This Section shall not apply in the following circumstances:

13 (1) To the purchase of emergency vehicles where the public safety department
14 concludes, after consultation with the Department of the Environment, that the purchase of a complying
15 vehicle is not feasible or would otherwise unduly interfere with the department's public safety mission.

16 (2) To the acquisition of buses by the San Francisco Municipal Transportation
17 Authority for public transportation purposes.

18 (3) To any purchase necessary to respond to an emergency that meets the criteria set in
19 Administrative Code Sections 21.15(a) or 6.60. In such cases, the department shall, to the extent
20 feasible under the circumstances, acquire the noncomplying vehicles only for a term anticipated to
21 meet the emergency need. Any City department invoking this exemption shall promptly notify the City
22 Administrator and the Director, in writing, of the purchase and the emergency that prevented
23 compliance with this section.

1 (4) Wherever the purchase of a passenger vehicle or light-duty truck is exempt from the
2 requirements of this section, City departments and officials shall select a vehicle with as low emissions
3 and high efficiency ratings as possible.

4
5 **SEC. 405. HEALTHY AIR AND CLEAN TRANSPORTATION PROGRAM IMPLEMENTATION.**

6 (a) The Director, in consultation with the City Administrator, shall implement and administer
7 the Healthy Air and Clean Transportation Program, and, except as provided elsewhere in this
8 Ordinance, the Director may from time to time promulgate appropriate rules, regulations and
9 guidelines for such purposes.

10 (b) The Department of the Environment shall issue, and update at least annually, an Online
11 Green Vehicle Purchase Criteria Document listing baseline smog and global emission scores,
12 including updates to those scores, for vehicles that may be purchased by City departments, and which
13 shall govern the purchase of such vehicles in accordance with Section 404.

14 (c) The Department of the Environment shall assist the City Administrator and all Departments
15 in developing programs and implementing policies to achieve the Transit-First, municipal fleet
16 retirement and reduction, and purchasing requirements of this Ordinance.

17 (d) Subject to the budget, fiscal and Civil Service provisions of the Charter, the Director may
18 appoint an individual who, under the direction of the Director and the Commission on the
19 Environment, shall be responsible for the day-to-day operations of the Healthy Air and Clean
20 Transportation Program, including but not limited to managing the day-to-day operations of the
21 program, supervising staff and managing the budget.

22 (e) **City Administrator Regulations.** The City Administrator shall, in consultation with the
23 Department of the Environment, Controller, and other City officials with authority to purchase motor
24 vehicles, promulgate regulations for approval of all purchases of passenger vehicles and light duty
25 trucks which shall include, but not be limited to, a requirement that each request be accompanied by a

1 written explanation of how the requested purchase complies with the City's Transit-First Policy and the
2 Department's own policies as set forth in its reporting under Section 403(d).

3 (f) The Controller shall not certify any City expenditure for the purchase of a motor vehicle, or
4 for registration with the California Department of Motor Vehicles of any motor vehicle, unless the
5 purchase complies with all of the requirements of this Ordinance.

6
7 **SEC. 406. INFRASTRUCTURE FOR ALTERNATIVE FUELS WITH LOW CARBON**
8 **INTENSITY.**

9 (a) Alternative Fuel Infrastructure. The Department of the Environment, in consultation with
10 other interested City departments, shall facilitate the development of fueling facilities for alternative
11 fuels with low carbon intensity for municipal and privately owned vehicles, including, but not limited
12 to, infrastructure for electric transportation, including recommending necessary legislation to the
13 Board of Supervisors.

14 (b) The Department of Environment shall seek funding sources for developing public and
15 private alternative fueling facilities and other products and services to support the operation of
16 alternative fuel vehicles with low carbon intensity.

17
18 **SEC. 407. DEMONSTRATION PILOT PROGRAMS FOR NEW TECHNOLOGIES.**

19 (a) The Department of Environment shall seek funding for the City to participate in
20 demonstration and other pilot programs designed to test promising clean vehicle or related
21 technologies where the Director of the Department of the Environment concludes that the City's
22 participation in such programs may establish the viability of the technologies and/or advance their
23 commercial availability.

24 (b) Contracts and grants or awards in furtherance of such demonstration or other pilot
25 programs with a duration of no more than two years are not subject to the contracting requirements of

1 the Administrative Code or Environment Code, but shall be subject to the requirements of the San
2 Francisco Sunshine Ordinance, Administrative Code Chapter 67.

3
4 **SEC. 408. GRANTS.**

5 The Department of Environment shall coordinate all grant applications on behalf of the City
6 and County of San Francisco for grants to support clean vehicle and alternative fuel programs, except
7 that it may assist the San Francisco Public Utilities Commission, San Francisco Airport, Port of San
8 Francisco, and San Francisco Municipal Transportation Authority with grant applications only upon
9 request.

10
11 **SEC. 409. PRIVATE SECTOR FLEETS.**

12 The Department of the Environment shall implement programs to encourage City residents and
13 private fleet operators to purchase and operate vehicles that have zero emissions, super ultra low
14 emissions, high-energy efficiency and/or use alternative fuels with low carbon intensity, including
15 recommending legislation to the Board of Supervisors necessary to achieve these objectives.

16
17 **SEC. 410. CLEAN SCHOOL BUSES.**

18 Upon request, the Department of the Environment may assist the San Francisco Unified School
19 District with developing bid specifications and other contract documents for more energy efficient,
20 alternative fuel or best available emission control technology school bus services and with identifying
21 possible grants for clean school buses.

22
23 **SEC. 411. LIMITATIONS ON THE SCOPE OF THE ORDINANCE.**

24 Consistent with the Charter and other applicable State and Federal law, this Healthy Air And
25 Clean Transportation Ordinance shall not apply to the San Francisco Public Utilities Commission, San

1 Francisco Airport, Port of San Francisco, or San Francisco Municipal Transportation Authority to the
2 extent its requirements would conflict with those laws or otherwise interfere with the discharge of those
3 functions placed under the direct jurisdiction of the department.

4
5 **SEC. 412. REPORTING.**

6 No later than July 1, 2012 and regularly thereafter, the Department of the Environment shall
7 report to the Mayor and the Board of Supervisors on steps taken towards implementing this Ordinance
8 and recommend any legislation necessary to achieve its objectives.

9
10 **SEC. 420. CITY UNDERTAKING.**

11 Under the Healthy Air and Clean Transportation Ordinance, the City wishes to exercise its
12 power to make economic decisions involving its own funds as a participant in the marketplace and to
13 conduct its own business as a municipal corporation to ensure that purchases and expenditures of
14 public monies are made in a manner consistent with the policy of improving the air quality in the City
15 and doing its part to reduce greenhouse gas emissions and curb global warming through the purchase
16 and use of vehicles that have low emissions, high energy efficiency and or use alternative fuels with a
17 low carbon intensity.

18
19 **SEC. 421. PRECAUTIONARY PRINCIPLE.**

20 The Healthy Air and Clean Transportation Ordinance applies the City's Precautionary
21 Principle Policy set forth in Chapter 1 of the Environment Code to the selection of vehicles and non-
22 vehicular motorized equipment by creating a preference for vehicles and non-vehicular motorized
23 equipment with super ultra low emissions, high energy efficiency or that use alternative fuels with a low
24 carbon intensity that minimize impacts on human health and natural resources.

1 **SEC. 422. SEVERABILITY.**

2 *If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held*
3 *to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision*
4 *shall not affect the validity of the remaining portions of the Ordinance. The Board of Supervisors*
5 *hereby declares that it would have passed this Ordinance and each and every section, subsection,*
6 *sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any*
7 *portion of this Ordinance would be subsequently declared invalid or unconstitutional.*

8
9 **SEC. 423. NO CONFLICT WITH FEDERAL OR STATE LAW.**

10 *Nothing in this Ordinance shall be interpreted or applied so as to create any requirement,*
11 *power or duty in conflict with any federal or state law.*

12
13 **SEC. 424. UNDERTAKING FOR THE GENERAL WELFARE.**

14 *In undertaking the implementation of this Ordinance, the City is assuming an undertaking only*
15 *to promote the general welfare. It is not assuming, nor is it imposing on its officer and employees, an*
16 *obligation for breach of which it is liable in money damages to any person who claims that such breach*
17 *proximately caused injury.*

18
19 Section 3. The San Francisco Environment Code is hereby amended by re-numbering
20 Sections 410, 411, and 421 as Sections 425, 426, and 427, respectively, and by amending all
21 three Sections to read as follows:

22 **SEC. ~~425~~ 410. SAN FRANCISCO MUNICIPAL RAILWAY BUSES.**

23 **Acquisition of Clean Muni Buses.** Muni shall replace all pre-1991 diesel buses on or
24 before January 1, 2007.

1 **Phase Out of Highly Polluting Muni Diesel Buses.** Muni shall remove from active or
2 reserve service and shall no longer operate any diesel bus that exceeds its 12 year useful life
3 based on the following schedule:

4 (1) All diesel buses that were purchased on or before December 31, 1988 shall be
5 removed from active or reserve service on or before December 31, 2004;

6 (2) All diesel buses that were purchased on or before December 31, 1989 shall be
7 removed from active or reserve service on or before December 31, 2005;

8 (3) All diesel buses that were purchased on or before December 31, 1990 shall be
9 removed from active or reserve service on or before December 31, 2006.

10 **Extensions.** If replacement buses are not commercially available or unforeseen
11 circumstances prevent Muni from procuring new buses on a timely basis, Muni may seek a
12 one-time extension of up to twelve months from the San Francisco Transportation Authority
13 (TA) for any of the aforementioned deadlines. Approval for such extensions shall require eight
14 or more votes by the Transportation Authority Board of Commissioners. Extension requests
15 shall be submitted in writing at least sixty days prior to the deadline and shall include a
16 detailed accounting of why Muni is unable to meet its obligations under this measure.
17 Extension requests shall also include a list of specific actions that Muni will undertake to offset
18 the emission reductions that would have resulted if no extension were granted. Proposed
19 emission reductions should benefit Muni passengers or residents living near diesel bus routes
20 or diesel bus yards. All extension requests shall be evaluated by the Department of the
21 Environment to determine the validity of proposed emission reductions. The Department of
22 the Environment shall report its findings to the Board of Commissioners at least one week
23 prior to the extension request hearing date.

24 Notwithstanding Section 404(c)(2) ~~406.(e)(2)~~, the provisions of Section 404 ~~406~~ shall
25 apply to the acquisition of buses by Muni for its fleet.

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SEC. ~~426~~ 411. CLEAN CONSTRUCTION ASSISTANCE AND REPORTING.

(a) Definitions:

(1) "Most effective verified diesel emission control strategy" means a device, system or strategy that is verified pursuant to Division 3 Chapter 14 of Title 13 of the California Code of Regulations to achieve the highest level of pollution control from an off-road vehicle.

(2) "Off-road engine" mean a diesel internal combustion engine (including the fuel system) including without limitation, internal combustion engines used to power excavators, backhoes, bulldozers or similar equipment used in any City construction projects. "Off-road engine" does not include portable engines or stationary engines (engines that remain at one location for more than 12 months).

(3) "Off-road vehicle" means a vehicle that is propelled by an off-road engine of twenty-five (25) horsepower or greater, including, without limitation, excavators, backhoes, bulldozers and similar equipment used in any project subject to this Chapter. "Off-road vehicle" does not include a horticultural maintenance vehicle used for landscaping purposes that is powered by an off-road engine of sixty-five (65) horsepower or less and that is not used in any construction program or project. "Off-road vehicle" does not include portable equipment.

(4) "Tier 2 standards" are those standards for an off-road engine as described in Division 3, Chapter 9, Article 4, Section 2423(b)(1)(A) of Title 13 of the California Code of Regulations, as amended.

(b) Technical Assistance to Local Businesses. The Department of the Environment shall provide technical assistance to businesses certified as Local Businesses Enterprises (LBEs) by the Human Rights Commission and other local businesses in securing available

1 local, state and federal public incentive funding to retro-fit, repower or replace off-road
2 vehicles or off-road engines operated by such businesses within the City.

3 (c) **Annual Reporting Requirement.** The Department of the Environment annually
4 shall prepare and distribute to City departments with off-road vehicles or off-road engines
5 summary information, including application procedures and deadlines, about available local,
6 state and federal public incentive programs to retrofit, repower, or replace older, more
7 polluting diesel equipment. The Department of the Environment shall include in the Annual
8 Report to the Mayor and the Board of Supervisors, required in Section ~~414~~ 406(j), the
9 following: (1) information supplied to the Department of the Environment by City Departments about
10 the extent to which each City Department's off-road vehicle and off-road engine fleet meets or
11 exceeds either Tier 2 standards for off-road engines or utilizes the most effective verified
12 diesel emission control strategy, (2) a summary of the results of grant applications made and
13 awarded for the prior year to retro-fit, repower or replace off-road vehicles and engines in the
14 City's fleet, including fleet upgrades funded and completed, (3) a summary of technical
15 assistance provided to LBEs and other local businesses, and results, if known, and (4)
16 recommendations to the Board of Supervisors, Mayor, and City Departments for procedural,
17 policy, or legislative changes to reduce air pollution emanating from off-road vehicles and off-
18 road engines.

19
20 **SEC. ~~427~~ 421. COMMUTER BENEFITS PROGRAM.**

21 (a) **Definitions.** Whenever used in this Section, the following terms shall have the
22 meanings set forth below.

23 (1) "Alternative Commute Mode" shall mean public transit (bus, train, ferry,
24 etc.), vanpool, carpool (including "casual carpool"), bicycling, and walking.

25 (2) "City" shall mean the City and County of San Francisco.

1 (3) "Covered Employee" shall mean any person who:

2 (A) Performed an average of at least ten (10) hours of work per week for
3 compensation within the geographic boundaries of San Francisco for the same employer
4 within the previous calendar month; and

5 (B) Qualifies as an employee entitled to payment of a minimum wage
6 from the employer under the California minimum wage law, as provided under Section 1197 of
7 the California Labor Code and wage orders published by the California Industrial Welfare
8 Commission, or is a participant in a Welfare-to-Work Program.

9 (4) "Covered Employer" shall mean an employer for which an average of
10 twenty (20) or more persons per week perform work for compensation. In determining the
11 number of persons performing work for an employer during a given week, all persons
12 performing work for compensation on a full-time, part-time or temporary basis, including those
13 who perform work outside of the geographic boundaries of San Francisco, shall be counted,
14 including persons made available to work through the services of a temporary services or
15 staffing agency or similar entity.

16 (5) "Employer" shall mean any person, as defined in Section 18 of the
17 California Labor Code, including corporate officers or executives, who directly or indirectly, or
18 through an agent or any other person, except through the services of a temporary services or
19 staffing agency or similar entity, employs or exercises control over the wages, hours or
20 working conditions of an employee. "Employer" shall not include any governmental entity.

21 (6) "Transit Pass" shall mean any pass, token, fare card, voucher or similar
22 item entitling a person to transportation on public transit within the meaning of 26 U.S.C.
23 § 132(f)(5)(A), as the Federal law may be amended from time to time, including but not limited
24 to, travel by ferry, bus, trolley, streetcar, light rail or train by MUNI, BART, AMTRAK,
25 CALTRAIN, SAMTRANS or GOLDEN GATE TRANSIT.

1 (7) "Transportation Benefit Program" shall mean the program set forth in
2 subsection (b) Sections 410(b) 410(d) of this Ordinance.

3 (8) "Vanpool" shall mean a "commuter highway vehicle" within the meaning of
4 26 U.S.C. § 132(f)(5)(B), as the federal law may be amended from time to time, which
5 currently means any highway vehicle:

6 (A) the seating capacity of which is at least 6 adults (not including the
7 driver), and

8 (B) at least 80% of the mileage use of which can reasonably be
9 expected to be (i) for the purpose of transporting employees in connection with travel between
10 their residences and their place of employment; and (ii) on trips during which the number of
11 employees transported for such purposes is at least 1/2 of the seating capacity of such
12 vehicle (not including the driver).

13 (b) **Transportation Benefits Program.** ~~No later than 120 days after the effective date of~~
14 ~~this Ordinance, all~~ All Covered Employers shall provide at least one of the following
15 transportation benefit programs to Covered Employees:

16 (1) A Pre-Tax Election: A program, consistent with 26 U.S.C. § 132(f), allowing
17 employees to elect to exclude from taxable wages and compensation, employee commuting
18 costs incurred for transit passes or vanpool charges (but not for parking), up to maximum level
19 allowed by federal tax law, 26 U.S.C. 132 (f)(2)(A), ~~which presently is one hundred and ten dollars~~
20 ~~per month (\$110.00);~~

21 (2) Employer Paid Benefit: A program whereby the employer supplies a transit
22 pass for the public transit system requested by each Covered Employee or reimbursement for
23 equivalent vanpool charges at least equal in value to the purchase price of the appropriate
24 benefit, which shall not exceed the cost of an adult San Francisco MUNI Fast Pass, ~~which~~
25 ~~presently is \$45.00;~~ or

1 (3) Employer Provided Transit: Transportation furnished by the employer at no
2 cost to the covered employee in a vanpool or bus, or similar multi-passenger vehicle operated
3 by or for the employer.

4 (c) **Administration and Enforcement.**

5 (1) The Director of the Department of the Environment, in consultation with the
6 San Francisco Office of Labor Standards Enforcement shall promulgate rules and regulations
7 to implement the Transportation Benefits Program. Such rules and regulations shall, to the
8 extent consistent with this Ordinance, conform to IRS regulations under 26 U.S.C. § 132(f),
9 and rules for the City's Paid Sick Leave Ordinance, Administrative Code Section 12W and
10 Health Care Security Ordinance, Administrative Code Chapter 14.

11 (2) The Department of the Environment shall maintain an education and advice
12 program to assist employers with meeting the requirements of the Transit Benefit Program.

13 (3) Any Covered Employer who fails to offer at least one transportation benefit
14 programs to Covered Employees as required by Section 421(b) shall be guilty of an infraction.
15 If charged as an infraction, upon conviction thereof, said person shall be punished by (A) a
16 fine not exceeding \$100.00 for a first violation, (B) a fine not exceeding \$200.00 for a second
17 violation within the same year, and (C) a fine not exceeding \$500.00 for each additional
18 violation within the same year.

19 (4) The Director of the Department of the Environment, or his or her designee,
20 may issue administrative citations to any Covered Employer who fails to provide at least one
21 transportation benefit programs to Covered Employees as required by Section 421(b). San
22 Francisco Administrative Code Chapter 100, "Procedures Governing the Imposition of
23 Administrative Fines," is hereby incorporated in its entirety and shall govern the amount of
24 fees and the procedure for imposition, enforcement, collection, and administrative review of
25 administrative citations issued to enforce this Section 184.77.

1 (5) The City may not recover both administrative and civil penalties for the
2 same violation. Penalties collected under this Chapter, which may include recovery of
3 enforcement costs, shall be used to fund implementation and enforcement of the
4 Transportation Benefits Program.

5 (d) **Emergency Ride Home Program.** The Department of the Environment is hereby
6 authorized to establish an Emergency Ride Home Program and, to the extent funding is
7 available from the Bay Area Air Quality Management District's Transportation Fund for Clean
8 Air, the San Francisco Transportation Authority, or other sources, to reimburse persons who
9 commute to worksites in San Francisco using an alternative commute mode, for transportation
10 costs to return home, or to a transit spot or remotely parked car, where such costs resulting
11 from an illness or emergency of the commuter or immediate family, or other verifiable,
12 unexpected events out of the commuter's control. The Department of the Environment shall
13 adopt rules and regulations to implement this program.

14
15 Section 4. The San Francisco Administrative Code is hereby amended by amending
16 Section 4.10-1, to read as follows:

17 **SEC. 4.10-1. CITY-OWNED AND LEASED VEHICLES; FLEET MANAGEMENT**
18 **PROGRAM.**

19 (a) All general purpose vehicles owned, leased or rented by the City and previously
20 assigned to, or placed under the jurisdiction of, any officer or department of the City are
21 hereby transferred to the jurisdiction of the City Administrator ~~Director of Administrative Services~~.
22 General purpose vehicles acquired after the effective date of this ordinance shall also be
23 placed under the jurisdiction of the City Administrator ~~Director of Administrative Services~~.

24 (b) The City Administrator ~~Director of Administrative Services~~ shall have primary authority
25 over vehicles now or hereafter placed under his or her jurisdiction, but may assign these

1 vehicles for use by City officers and departments. The City Administrator ~~Director of~~
2 ~~Administrative Services~~ may adopt rules and regulations necessary to implement this vehicle
3 fleet management program, including rules covering: terms, conditions, and fees for
4 assignment of vehicles by the City Administrator ~~Director of Administrative Services~~ to individual
5 City officers and departments; vehicle maintenance programs; and vehicle replacement plans,
6 provided that the City Administrator shall not approve the purchase of any motor vehicle that does not
7 comply with Environment Code Section 404 . Fees charged for the assignment of vehicles shall
8 be set by the City Administrator ~~Director of Administrative Services~~ in consultation with the
9 Controller, and the fees shall be used to pay for acquisition and replacement of vehicles,
10 maintenance and repair, and other costs of administering the program. Each year, the City
11 Administrator, in consultation with the Controller, shall assess and collect the Air Pollution Mitigation
12 Fees required by Environment Code Section 405. The City Administrator ~~Director of Administrative~~
13 ~~Services~~ may make appropriate provision for vehicles previously acquired using special,
14 dedicated or otherwise restricted funds.

15 (c) Beginning no later than July 1, 2014, and every year thereafter, the City Administrator
16 shall: (1) remove from service and discontinue the operation of all passenger vehicles and light-duty
17 trucks in the municipal fleet that are 12 years old or older; and (2) reduce the total number of
18 passenger vehicles and light-duty trucks in that portion of the municipal fleet under his or direct
19 jurisdiction by 5 percent from its size on July 1, 2008. The City Administrator ~~Director of~~
20 ~~Administrative Services~~ shall provide a report on its fleet management program and proposals
21 for vehicle replacement along with its annual budget submission to the Mayor and the Board
22 of Supervisors.

23 (d) ~~The Director of Administrative Services shall submit an initial vehicle maintenance~~
24 ~~program to the Board of Supervisors by May 16, 2003. The Director shall submit a report on proposed~~
25

1 *lease fees to the Board no later than May 16, 2003. The Director shall submit an initial vehicle*
2 *replacement plan to the Board no later than December 1, 2003.*

3
4 Section 5. **Environmental Findings.** The Planning Department has determined that
5 the actions contemplated in this Ordinance are in compliance with the California
6 Environmental Quality Act (California Public Resources Code sections 21000 et seq.). Said
7 determination is on file with the Clerk of the Board of Supervisors in File No. 101009
8 and is incorporated herein by reference.

9
10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12
13 By: _____
14 THOMAS J. OWEN
15 Deputy City Attorney