

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, or such other standard for compliance with the*
20 *full-time driving requirement adopted by the Taxi Commission (the Commission).*

21 *(b) Administrative Penalties. The Commission may impose administrative penalties for*
22 *violations of the full-time driving requirement, in accordance with the procedures established in*
23 *Section 1188.*

24 *(c) Amount of Penalty. The administrative penalties assessed against the permit holder by the*
25 *Commission shall not exceed one-half of any lease fees collected by the permit holder during the period*

1 that the permit holder was in violation of the full-time driving requirement. [Where the permit holder
2 does not collect lease fees, the Commission may impose administrative penalties not to exceed \$## for
3 each day the permit holder fails to drive short of the standard adopted by the Commission.]

4 In determining the amount of the penalty, the Commission shall take into account:

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

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

10 (iii) Such additional factors as the Commission may determine are appropriate.

11 (d) Notwithstanding the provisions of subsection (b), the Commission may not impose
12 administrative penalties for violations of the full-time driving requirement where the permit holder (1)
13 was at least 65 years of age during the calendar year when the violation was alleged to have occurred
14 and had driven a taxicab in San Francisco for at least 25 years, or (2) the permit holder was disabled
15 and the permit holder's failure to fulfill the full-time driving requirement was due to that disability.

16 The permit holder shall have the burden of establishing the applicability of the provisions of this
17 subsection during the administrative proceedings.

18
19 **SEC. 1187. COMMISSION RULES AND REGULATIONS; VIOLATIONS; ADMINISTRATIVE**
20 **PENALTIES.**

21 (a) Administrative Penalties. The Taxi Commission (the Commission) may impose
22 administrative penalties for violations of the Commission's rules and regulations, in accordance with
23 the procedures established in Section 1188.

24 (b) Amount of Penalty. For regulations classified as Minor under the Commission's Rules,
25 there shall be a penalty not to exceed \$25 for the first violation, \$50 for a second violation of the

1 regulation within one year of the first violation, and \$150 for a third or additional violation of the
2 regulation within one year of the first violation.

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

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

11 In determining the amount of the penalty, the Commission shall take into account:

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

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

17 (iii) Such additional factors as the Commission may determine are appropriate.

18
19 **SEC. 1188. PROCEDURES FOR ADMINISTRATIVE PENALTIES.**

20 (a) Notice. Upon a determination that a permit holder has violated the full-time driving
21 requirement or the Commission's rules and regulations, the Executive Director of the Taxi Commission
22 (the Director) shall send a written notice, by first class mail or hand-delivery, to the permit holder, at
23 the address listed in the Taxi Commission's records, identifying and describing the alleged violations.
24 The notice shall also inform the permit holder of the date, time, and place of the fact-finding hearing to
25 be held on the determination of violation. Such hearing shall be held no sooner than 20 business days

1 and no later than 40 business days after notice is delivered, unless the time is extended by mutual
2 agreement of the permit holder and the Director. Notice of hearings shall be posted on the
3 Commission's web site at least 72 hours in advance of the hearing.

4 (b) **Hearing Officers.** The Director shall appoint a hearing officer for the administrative
5 review hearing from a list approved by the Commission. The hearing officer shall not be an employee
6 of the Taxi Commission or the Police Department.

7 (c) **Submittals for the Hearing.** At least 5 business days prior to the hearing, the parties to the
8 hearing shall submit written information to the hearing officer including, but not limited to, the
9 following: a statement of the issues to be determined by the hearing officer, a statement of the evidence
10 to be offered at the hearing and the identity of any witnesses to appear at the hearing. The written
11 information shall not exceed 10 double-spaced pages, excluding exhibits.

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

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

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

1 (f) **Commission Action.** The Executive Director shall place the hearing officer's proposed
2 decision on the Commission's consent calendar for the next scheduled meeting occurring not less than
3 ten calendar days after entry of the Director's decision. The Director shall also submit the recording
4 of the hearing and any written materials submitted in connection with the hearing. The proposed
5 decision shall be a recommendation to the Commission, and the Commission may adopt, modify, or
6 deny such recommendation, or may remand the matter to the hearing officer for further proceedings.
7 The Commission will act on the hearing officer's proposed decision and the record presented; it will
8 not rehear the case. The Commission shall serve its final decision upon the parties to the hearing and
9 post the decision in the same manner as provided for herein with respect to the hearing officer's
10 proposed decision.

11 (g) **Collection.** If the Commission finds against the permit holder and imposes administrative
12 penalties, the Commission's decision shall state the amount of the penalties and declare that they are
13 due and payable to the City and County of San Francisco within 30 days of the date of the decision. If
14 the penalties are not paid to the Taxi Commission within 30 days of the notice, the Commission may
15 move to suspend or revoke the permit.

16 (h) **Other Penalties.** The penalties and methods of enforcement set forth in this Section and in
17 Sections 1186 and 1187 are in addition to those set forth in Sections 1090 and 1185 of this Code and in
18 addition to any other penalties or methods of enforcement authorized by law.

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20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22
23 By: _____
24 THOMAS J. OWEN
25 Deputy City Attorney