

FILE NO. 070680

ORDINANCE NO. 224-07

[Administrative Penalties and Fees for Fare Evasion or Passenger Misconduct Offenses.]

Ordinance amending San Francisco Traffic Code Sections 127, 128, 128.1, 128.1-A, 128.2, and 128.3 to clarify the definition of "Proof of Payment" and impose administrative penalties and fees for certain types of fare evasion or passenger misconduct offenses instead of criminal penalties for offenders over the age of eighteen ~~where authorized by state law~~, and authorizing the Municipal Transportation Agency's Board of Directors to set the specific penalty and fee amounts.

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

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

Section 1. The San Francisco Traffic Code is hereby amended by amending Sections 127, 128, 128.1, 128.1-A, 128.2, and 128.3 to read as follows:

**SEC. 127. FARE EVASION REGULATIONS ~~PROOF OF PAYMENT DEFINED;~~
~~BOARDING STREETCAR, MOTOR COACH, OR TROLLEY COACH WITHOUT PAYMENT OF FARE, OR BOARDING STREETCAR, MOTOR COACH, OR TROLLEY COACH THROUGH REAR EXIT.~~**

(a) It shall be unlawful for any passenger or other person in or about any public transit station (including an outdoor high-level boarding platform or station operated by the Bay Area Rapid Transit District), streetcar, cable car, motor coach, trolley coach or other public transit vehicle to evade any fare collection system or proof of payment program instituted by the Municipal Transportation Agency.

(a) — "Proof of payment" or "proof of payment program" shall mean a fare collection system that requires transit passengers to possess a valid fare receipt or transit pass upon boarding a transit vehicle or ~~entering~~ while in a paid area of a subway or boarding

1 platform, and subjects said passengers to inspections for proof of payment of fare by any
2 authorized representative of the transit system or duly authorized peace officer.

3 (b) It shall be unlawful for any person to board or ride a streetcar, motor
4 coach, trolley coach without prior or concurrent payment of fare.

5 (c) It shall be unlawful for any person to board a streetcar, motor coach,
6 trolley coach through the rear exit except: ~~(1i)~~ when a representative of the transit system is
7 present at such exit for the collection of fares or transfers or the inspection for proof of
8 payment; ~~(2ii)~~ when the streetcar, motor coach, trolley coach or other transit vehicle is
9 operating at a station or boarding platform where fares are collected prior to boarding the
10 transit vehicle; ~~(3iii)~~ when necessary for access by the disabled on wayside boarding
11 platforms; or ~~(4iv)~~ when the streetcar, motor coach, or trolley coach is operating on a transit
12 line or area designated as "proof of payment" by the *Municipal Transportation Agency*~~Public~~
13 *Transportation Commission or its designated representative.*

14 (d) It shall be unlawful to fail to display a valid fare receipt or transit pass at
15 the request of any authorized representative of the transit system or duly authorized peace
16 officer while on a vehicle or in an area designated as requiring proof of payment.

17 (e) It shall be unlawful to misuse any transfer, pass, ticket, or token with the
18 intent to evade the payment of any fare.

19 (f) It shall be unlawful for any person to knowingly use or attempt to use any
20 illegally printed, duplicated, or otherwise reproduced token, card, transfer or other item for entry onto
21 any transit vehicle or into any transit station with the intent of evading payment of a fare.

22 (g) It shall be unlawful for any unauthorized person to use a discount ticket or fail to
23 present, upon request from a system fare inspector, acceptable proof of eligibility to use a discount
24 ticket.

1 Section 2. The San Francisco Traffic Code is hereby amended by amending Section
2 128, to read as follows:

3 **SEC. 128. PASSENGER CONDUCT REGULATIONS.**

4 It shall be unlawful for any passenger or other person in or about any public transit
5 station (including an outdoor high-level boarding platform *or station operated by the Bay Area*
6 *Rapid Transit District*), streetcar, cable car, motor coach, trolley coach or other public transit
7 vehicle ~~to commit any of the acts described below, including, but not limited to, those stations or~~
8 ~~vehicles operated by the Bay Area Rapid Transit District:~~

9 (a) ~~Playing sound equipment on or in a system facility or vehicle;~~

10 (b) ~~Smoking, eating, or drinking in or on a system facility or vehicle in those areas~~
11 ~~where those activities are prohibited by that system;~~

12 (c) ~~Expectorating upon a system facility or vehicle;~~

13 (d) ~~Willfully disturbing others on or in a system facility or vehicle by engaging in~~
14 ~~boisterous or unruly behavior;~~

15 (e) ~~Carrying an explosive or acid, flammable liquid, or toxic or hazardous material~~
16 ~~in a system facility or vehicle;~~

17 (f) ~~Urinating or defecating in a system facility or vehicle, except in a lavatory.~~

18 ~~However, this paragraph shall not apply to a person who cannot comply with this paragraph as a~~
19 ~~result of a disability, age, or a medical condition;~~

20 (g) ~~Willfully blocking the free movement of another person in a system facility or~~
21 ~~vehicle. This restriction shall not be interpreted to affect any lawful activities permitted or first~~
22 ~~amendment rights protected under the laws of this state or applicable federal law, including,~~
23 ~~but not limited to, laws related to collective bargaining, labor relations, or labor disputes;~~

1 (h) Skateboarding, roller skating, bicycle riding, or roller blading in a system
2 facility, vehicle, or parking structure. This restriction does not apply to an activity that is necessary for
3 utilization of the transit facility by a bicyclist, including, but not limited to, an activity that is necessary
4 for parking a bicycle or transporting a bicycle aboard a transit vehicle as permitted by the Municipal
5 Transportation Agency.

6 (a) ~~— To knowingly provide false identification to a peace officer, fare inspector or other~~
7 ~~representative of the transit system when engaged in the enforcement of this ordinance or other City or~~
8 ~~State laws regarding fare collection, fare evasion, passenger conduct or proof of payment;~~

9 (b) ~~— To interfere with the turnstile or fare register;~~

10 (c) ~~— To meddle with the trolley pole or rope attached thereto;~~

11 (d) ~~— To meddle with tracks, switches, turnouts, or any other transit system structures or~~
12 ~~facilities;~~

13 ~~(e) — To enter upon the roadbed, tracks, structures or other portions of transit system~~
14 ~~property or facilities not open to passengers or the public;~~

15 (f) ~~— To carry any explosive or acid, flammable liquid, or toxic or hazardous material;~~

16 (g) ~~— To urinate or defecate in any public transit vehicle or facility, except in a lavatory.~~

17 ~~However, this paragraph shall not apply to any person who cannot comply with this paragraph as a~~
18 ~~result of a disability, age or a medical condition;~~

19 (h) ~~— In any manner to obstruct any person or persons in charge of any transit station or~~
20 ~~facility, streetcar, cable car, bus, trolley coach or public transit vehicle, in the performance of such~~
21 ~~person's duties, or otherwise interfere with the operation thereof;~~

22 (i) ~~— To sound any bell or other warning device, without authorization;~~

23 (j) ~~— To play sound equipment on any transit vehicle;~~

24 (k) ~~— To smoke, eat or drink;~~

1 (l) — To expectorate;

2 (m) — To wilfully disturb others by engaging in boisterous or unruly behavior;

3 (n) — To board or alight while the transit vehicle is in motion;

4 (o) — To ride roller skates, inline skates, skateboards, toy vehicles, coasters or similar devices.

5 (p) — To operate electric personal assistive mobility devices in any public transit station or
6 public transit vehicle.

7 Section 3. The San Francisco Traffic Code is hereby amended by amending Section
8 128.1, to read as follows:

9 **SEC. 128.1. PENALTIES.**

10 ~~(a) Pursuant to California Public Utilities Code Section 99580, any person over the age of~~
11 ~~eighteen who violates either Section 127 or 128 shall be subject to the issuance of a citation and~~
12 ~~imposition of an administrative penalty. Administrative penalties shall not exceed \$50 for the first~~
13 ~~offense, \$75 for the second offense committed within a one year period of the date of the first offense~~
14 ~~and \$100 for the third offense committed within a one year period of the date of the first offense.~~

15 ~~(b) The penalty for failure to pay the administrative penalty or contest the underlying~~
16 ~~citation by the first due date affixed to the notice of violation shall be \$25. The penalty for failure to~~
17 ~~pay the administrative penalty or contest the underlying citation by the second due date affixed to the~~
18 ~~notice of violation shall be \$35.~~

19 ~~(c) If a citation is referred to a processing agency for collection, an additional collection~~
20 ~~recovery fee shall be imposed in an amount not to exceed \$25.~~

21 ~~(d) The Municipal Transportation Agency's Board of Directors is authorized to set the~~
22 ~~administrative penalty, late payment penalty, and collection recovery fee amounts by resolution. The~~
23 ~~Municipal Transportation Agency's Board of Directors shall set the penalty and fee amounts no higher~~
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1 than the highest parking citation amount authorized by the California Vehicle Code based on
2 agency costs and the Consumer Price Index.

3 (e) The administrative procedures that govern the imposition, enforcement, collection, and
4 administrative review of citations issued for violations of Traffic Code Sections 127 and 128 are set
5 forth in California Public Utilities Code Sections 99580 through 99582.

6 (f) Any person under the age of eighteen who violates either Section 127 or 128 shall be
7 guilty of an infraction.

8 ~~Any person who shall violate any of the provisions of Section 127 or Subsections (j), (k), (l),~~
9 ~~(m), (n) or (o) of Section 128 of this Article shall be guilty of an infraction. Any person who shall~~
10 ~~violate any of the provisions of Subsections (a), (b), (c), (d), (e), (f), (g), (h) or (i) of Section 128 of this~~
11 ~~Article shall be guilty of a misdemeanor.~~

12 ~~If charged and found guilty of an infraction, the penalty shall be as follows: For the first~~
13 ~~offense, a fine of \$50.35; for the second offense within a one year period of one year from the~~

14 ~~date of the first offense, a fine of \$75.55; for a third and each additional offense committed~~
15 ~~within a one year period of from the date of the first offense, a fine of \$100.75.~~

16 ~~Section 4. The San Francisco Traffic Code is hereby amended by amending Section~~
17 ~~128.1-A, to read as follows:~~

18 **SEC. 128.1-A. FARE INSPECTORS.**

19 (a) The Director of ~~Public~~ Transportation is authorized to designate officers or
20 employees of the ~~Municipal Transportation Agency~~ *Public Transportation Department* to be fare
21 inspectors. Any fare inspector so designated is hereby authorized to issue citations for any
22 violation of Sections 127, ~~and 128,~~ and 128.2 of this Article.
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1 (b) Persons designated as fare inspectors shall receive the requisite training as
2 established and approved by the ~~Municipal Transportation Agency~~Public Transportation
3 ~~Department~~ and the San Francisco Police Department.

4 Section 5. The San Francisco Traffic Code is hereby amended by amending Section
5 128.2, to read as follows:

6 **SEC. 128.2. OTHER FARE EVASION AND PASSENGER CONDUCT**
7 **REGULATIONS COUNTERFEIT TRANSIT PASSES.**

8 It shall be unlawful for any passenger or other person in or about any public transit station
9 (including an outdoor high-level boarding platform or station operated by the Bay Area Rapid Transit
10 District), streetcar, cable car, motor coach, trolley coach or other public transit vehicle to engage
11 in any of the acts described below:

12 (a) Knowingly providing false identification or other information to a fare inspector or
13 other representative of the transit system when involved in the enforcement of this section;
14 City or State laws regarding fare collection, fare evasion, passenger conduct or proof of payment;

15 (b) Interfering with the turnstile or fare register;

16 (c) Meddling with the trolley pole or rope attached thereto;

17 (d) Meddling with tracks, switches, turnouts, or any other transit system structures
18 or facilities;

19 (e) Entering upon the roadbed, tracks, structures or other portions of transit system
20 property or facilities not open to passengers or the public;

21 (f) Obstructing any person or persons in charge of any transit station or facility,
22 streetcar, cable car, bus, trolley coach or public transit vehicle, in the performance of such person's
23 duties, or otherwise interfering with the operation thereof;

24 (g) Sounding any bell or other warning device, without authorization;

1 (h) ~~It shall be unlawful for any person, firm, corporation, or other combination of~~
2 ~~individuals, to Printing, duplicatinge or otherwise reproducinge any token, card, transfer or other~~
3 ~~item used for entry onto any transit vehicle or into a transit station without the express~~
4 ~~permission of the Municipal Transportation Agencytransit system issuing such item. It shall be~~
5 ~~unlawful for any person to knowingly use or attempt to use any such illegally reproduced item for entry~~
6 ~~onto any transit vehicle or into a transit station.~~

7 Section 6. ~~The San Francisco Traffic Code is hereby amended by amending Section~~
8 ~~128.3, to read as follows:~~

9 **SEC. 128.3. PENALTY.**

10 ~~Any person who shall violate any of the provisions of Section 128.2 of this code shall~~
11 ~~be guilty of a misdemeanor; provided, however, upon sentencing, the charge may, in~~
12 ~~discretion of the Court, be reduced to an infraction.~~

13 ~~Section 2. The provisions of this ordinance shall become operative~~
14 ~~thirty days after notice is provided to the public on the Municipal Transportation Agency's~~
15 ~~website and after written notice is sent to the San Francisco Superior Court.~~

16
17 APPROVED AS TO FORM:
18 DENNIS J. HERRERA, City Attorney

19 By: 
20 JOHN I. KENNEDY
21 Deputy City Attorney



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 070680

Date Passed:

Ordinance amending San Francisco Traffic Code Sections 127, 128, 128.1, 128.1-A, 128.2, and 128.3 to clarify the definition of "Proof of Payment" and impose administrative penalties and fees for certain types of fare evasion or passenger misconduct offenses instead of criminal penalties for offenders over the age of eighteen where authorized by state law, and authorizing the Municipal Transportation Agency's Board of Directors to set the specific penalty and fee amounts.

July 31, 2007 Board of Supervisors — PASSED ON FIRST READING

Ayes: 10 - Alioto-Pier, Ammiano, Daly, Elsbernd, Jew, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval
Absent: 1 - Dufty

August 7, 2007 Board of Supervisors — CONTINUED

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Jew, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

September 11, 2007 Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

Ayes: 10 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Jew, Maxwell, McGoldrick, Mirkarimi, Peskin
Excused: 1 - Sandoval

September 11, 2007 Board of Supervisors — PASSED ON FIRST READING AS AMENDED

Ayes: 10 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Jew, Maxwell, McGoldrick, Mirkarimi, Peskin
Excused: 1 - Sandoval

September 25, 2007 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Maxwell, Mirkarimi, Peskin, Sandoval, Chu
Excused: 1 - McGoldrick

File No. 070680

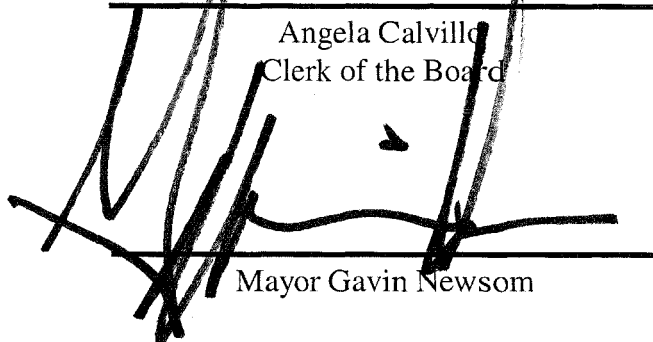
I hereby certify that the foregoing Ordinance was FINALLY PASSED on September 25, 2007 by the Board of Supervisors of the City and County of San Francisco.



Angela Calvillo
Clerk of the Board

10/02/2007

Date Approved



Mayor Gavin Newsom