

From: [Carl Macmurdo](#)
To: [BoardofAppeals \(PAB\)](#)
Subject: Fwd: item # 13 on your 10-18-2022 Board agenda, please sever and defer voting on the topic of whether to abrogate taxi permittee Board of Appeals due process appeal rights.
Date: Wednesday, October 19, 2022 9:34:24 PM
Attachments: [SFMTA memo claiming that taxi permit holders no longer have BOA appeal rights.pdf](#)
[SF City Charter sec. 4.106\(b\) Board of Appeals.pdf](#)
[SF Business and Tax Regulations Code sec. 30.pdf](#)
[bullet-point language, item 13, SFMTA hearing dated 10-18-2022.pdf](#)
[Prop A of 2007 taxi plenary authority clause.pdf](#)

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Dear BOA Commissioners,

Thank you for the lively discussion tonight under agenda items 1 and 2 pertaining to taxi driver permittees' right to appeal adverse actions to your Board.

At an SFMTA Board meeting yesterday, their Board rejected the Taxi Services staff recommendation to amend the Transportation Code so as to eliminate our BOA appeal rights.

One Director (Steve Heminger) chided staff for issuing and disseminating --- sans Board authorization --- the letter you received stating that Agency policy has been changed. Under the circumstances, I suggest you regard the memo you received stating that your Board no longer has jurisdiction over taxi appeals as being a false document.

Several taxi industry speakers offered pushback against the staff proposal at the SFMTA meeting yesterday. Below is the email I sent to the SFMTA Board on October 17.

----- Forwarded Message -----

Subject: Re: item # 13 on your 10-18-2022 Board agenda, please sever and defer voting on the topic of whether to abrogate taxi permittee Board of Appeals due process appeal rights.

Date: Mon, 17 Oct 2022 19:26:24 -0700

From: Carl Macmurdo <cmac906@gmail.com>

To: MTABoard@SFMTA.com

Dear SFMTA Directors,

Hopefully, the above subject line is self-explanatory. I am including five attachments which have a combined total of about eight paragraphs. Please read these carefully.

Two enclosures refer to taxi permittee Board of Appeals (BOA) rights as an "informal practice" which Taxi Services assumes it has the right to discontinue. To the contrary, these rights are embedded in the City Charter and SF Business and Tax Regulation Code, per two other attachments. These rights have existed for decades, possibly more than fifty years.

Presumably, two current Department Heads (BOA and Taxi Division) interpret the attached Proposition A of 2007 "**plenary authority clause**" as allowing SFMTA to override the aforementioned City Charter and Business and Tax Code regulations. Apparently, some City Attorney's office personnel also agree with that interpretation.

Please study the Prop. A clause language. It allows your Agency exclusive authority over "...

taxi-related fares, fees, charges, budgets, and personnel." There is no hint whatsoever that the Agency is authorized to abrogate the long-standing taxi permit holder BOA appeal rights. Further, the City Charter language also mandates that the BOA "***shall***" hear taxi appeals. Also, Prop. A author, Aaron Peskin, has told me previously that our taxi permittee appeal rights are provided for in the City Charter and that his purpose in assigning your Agency exclusive authority (over fares, e.g.) is to ensure that the Supervisors will not have to be involved every time the taxi rates of fare are amended, e.g.

A year ago, roughly 75 of the 350 or so taxi permit holders who had unexpectedly received "Notice of Non-renewal of Permit" letters from Taxi Services staff did request hearings from the Agency's neutral hearing officers (H.Os.) After five H.Os. ruled in favor of taxi appellants, your Agency changed the rules so that the H.Os. can no longer utilize discretion but instead have to base their rulings **solely** upon Transportation Code provisions. As such the H.Os. are no longer "neutral" and are presently an unnecessary component in the process. By contrast, the BOA is an independent review body.

To conclude, please sever the portion of item # 13 which abrogates taxi permit holder appeal rights. It is in San Francisco's interest that you do so. Taxi Services apparently wants to create a dictatorship of sorts. If you so choose, you can always schedule a future hearing on this specific topic and allow for all stakeholders to participate.

Thank you for your consideration.

Carl Macmurdo
Board member, SF taxi Medallion Holders Association

encl.

SFMTA has discontinued its informal practice of allowing taxi permit appeals to be heard by the Board of Appeals. This process is duplicative of the due process hearing requirements established in Sections 1120 and 1121 administered by the SFMTA Hearing Section. Therefore, staff is proposing to remove outdated references to the Board of Appeals and clarify that a decision by the Hearing Officer is the final administrative decision.

Subject: Prop. A of 2007 taxi language

"In order to fully integrate taxi-related functions into the Agency (should the powers and duties of the Taxi Commission be transferred to the MTA), the Agency shall have the same exclusive authority over taxi-related functions and taxi-related fares, fees, charges, budgets, and personnel it has over the Municipal Railway and parking and traffic fares, fees, charges, budgets, and personnel. Once adopted, Agency regulations shall thereafter supercede (sic) all previously-adopted ordinances governing motor vehicles for hire that conflict with or duplicate such regulations."

2/5/2019

... the right to appeal to BOA stems from the San Francisco Business and Tax Regulations Code, Article I, Section 30 as follows:

>>SEC. 30. APPEALS TO BOARD OF APPEALS.

On the issuance, denial or revocation of any permit, any applicant for a permit who is denied such permit, or any permittee whose permit is ordered revoked, or any person who deems that his interest or property, or that the general public interest will be adversely affected as the result of operations authorized by or under any permit granted or issued, or the transfer thereof, may appeal to the Board of Appeals. Such appeal shall be in writing, and except for variances, shall be filed with the Board of Appeals not later than 15 days after the action of the department from which the appeal is taken. An appeal from the decision on a variance shall be filed with the Board of Appeals not later than 10 days after the action of the Zoning Administrator.

The form and notice of said appeal, and the procedure thereon, shall be as provided by ordinance, and when not so provided then in such form as is provided by the Board of Appeals.<<

San Francisco Charter Section 4.106 Board of Appeals

(b) The Board shall hear and determine appeals with respect to any person who has been denied a permit or license, or whose permit or license has been suspended, revoked or withdrawn, or who believes that his or her interest or the public interest will be adversely affected by the grant, denial, suspension or revocation of a license or permit, except for a permit or license under the jurisdiction of the Recreation and Park Commission or Department, or the Port Commission, or a building or demolition permit for a project that has received a permit or license pursuant to a conditional use authorization.

Subject: Board of Appeals

From: "San Francisco Municipal Transportation Agency" <reply@message.SFMTA.com>

Date: 10/5/2022, 1:56 PM

To: <

Can't see the image? [View image](#)

Dear San Francisco Taxi Industry Member:

Please be advised that SFMTA has discontinued the informal practice of allowing the Board of Appeals to hear appeals related to taxi permit decisions. The SFMTA's decision to terminate its informal arrangement with the Board of Appeals does not apply to any taxi permit appeal currently pending before the Board of Appeals.

Going forward, an aggrieved applicant or permittee will still have the ability to appeal an adverse permit decision to a neutral hearing officer as set forth in Article 1100 of the Transportation Code.

If you have any questions, please contact SFTaxi@sfmta.com

SFMTA.com



From: [Carl Macmurdo](#)
To: MTABoard@SFMTA.com; [BoardofAppeals \(PAB\)](#); [Board of Supervisors \(BOS\)](#)
Subject: The city attorney has opined that SFMTA has the authority to eliminate a taxi permit holder's right to appeal adverse actions to the Board of Appeals.
Date: Wednesday, October 26, 2022 2:57:33 PM
Attachments: [City atty opinion re taxi permittee appeal rights to the BOA, dated 8-24-2022.pdf](#)

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All,

Please read the attachment.

Hopefully, the SFMTA Board's Directors, the Board of Appeals' Commissioners, the city Board of Supervisors' members, and all taxi organizations, color schemes and drivers will oppose this mean-spirited joint effort by the City Attorney's office and Taxi Services staff and Transportation Director to wipe out our (90-year-old?) due process right to have an independent review by the city's Board of Appeals. Notably, those who are trying to abrogate our due process rights are for the most part specifically targeting elderly and disabled career taxi permittees.

Carl Macmurdo
career taxi person



DAVID CHIU
City Attorney

STEPHANIE STUART
Deputy City Attorney

Direct Dial: (415) 554-3947
Email: stephanie.stuart@sfcityatty.org

MEMORANDUM

TO: Honorable Members, SFMTA Board of Directors
Honorable Members, Board of Appeals
Jeffrey Tumlin
Director of Transportation
Julie Rosenberg
Executive Director, Board of Appeals

FROM: Stephanie Stuart Bethune, Deputy City Attorney *SB*
Bradley Russi, Deputy City Attorney *BR*

DATE: August 24, 2022

RE: Jurisdiction Over Appeals of Taxi Permitting Decisions

Summary

The San Francisco Municipal Transportation Agency (SFMTA) Director of Transportation has asked whether SFMTA decisions regarding taxi permits are appealable to the Board of Appeals and specifically whether the SFMTA could rescind its voluntary agreement with the Board of Appeals. The SFMTA's inquiry relates only to future appeals of taxi permitting decisions; any decision to rescind the informal arrangement with the Board of Appeals would not impact appeals pending before the Board of Appeals. Until 2007, the Board of Appeals had jurisdiction under the City Charter to hear appeals of taxi permitting decisions made by the SFMTA's predecessor agencies. The passage of Proposition A in 2007 granted the SFMTA exclusive authority over the regulation of taxis. After the passage of Proposition A, our Office advised that the measure gave the SFMTA the power to prescribe the procedure for appealing taxi permit decisions, and therefore supplanted the Board of Appeals' jurisdiction over such appeals unless the SFMTA agrees to such review. Consistent with this advice, since 2013, the SFMTA has agreed to allow the Board of Appeals to continue to hear appeals of taxi permitting decisions. That agreement has taken the form of an informal arrangement. In this memorandum we confirm our prior advice and affirm that the SFMTA, in its discretion, may terminate the informal arrangement with the Board of Appeals regarding taxi permitting decisions, though if it were to do so we recommend that the SFMTA consult with the Board of Appeals in advance to provide for a smooth and transparent transition.

Discussion

I. Charter Authority of the Board of Appeals

Section 4.106(b) of the San Francisco Charter confers jurisdiction on the Board of Appeals to hear appeals of many City permitting decisions, including the authority to hear an appeal from any person who "has been denied a permit or license, or whose permit or license has been suspended, revoked or withdrawn . . . or who believes his or her interest or the public interest will be adversely affected by the grant, denial, suspension, or revocation of a license or permit" Before the amendments to the Charter discussed below, Charter Section 4.106 (b) gave aggrieved taxi applicants and permit holders whose permits had been suspended or revoked the right to appeal the decision to the Board of Appeals.

MEMORANDUM

TO: SFMTA & Board of Appeals
DATE: August 24, 2022
PAGE: 2
RE: Jurisdiction Over Appeals of Taxi Permitting Decisions

II. SFMTA Charter Authority.

The SFMTA was created in 1999 after the voters adopted Proposition E, which added Article 8A to the Charter. Proposition E combined the functions of the Municipal Railway and the Department of Parking and Traffic into a single agency. Proposition E also gave the SFMTA certain powers and duties that other City departments had previously held. For example, Proposition E gave the SFMTA exclusive authority to set fares for Muni and exclusive authority over the construction and management of all SFMTA property and financial assets. Charter §8A.102(b), §8A.106. Also, because taxis function in the City's overall transportation system, Proposition E also gave the Board of Supervisors the power "to abolish the Taxi Commission . . . and to transfer the powers and duties of that commission to the SFMTA's Board of Directors." Charter §8A.101(e).

In November 2007, the voters enacted Proposition A, which amended SFMTA's Charter authority by providing greater clarity regarding the SFMTA's exclusive jurisdiction over parking and traffic matters. Proposition A also clarified and broadened the scope and effect of the Board of Supervisors' power to transfer taxi functions to the SFMTA. Specifically, Proposition A amended the relevant Charter section to read as follows:

The Board of Supervisors shall have the power, by ordinance, to abolish the Taxi Commission created in Section 4.133, and to transfer the powers and duties of that commission to the Agency under the direction of the Director of Transportation or his or her designee. In order to fully integrate taxi-related functions into the Agency should such a transfer occur, *the Agency shall have the same exclusive authority over taxi-related functions and taxi-related fares, fees, charges, budgets, and personnel that it has over the Municipal Railway and parking and traffic fares, fees, charges, budgets, and personnel. Once adopted, Agency regulations shall thereafter supercede all previously-adopted ordinances governing motor vehicles for hire that conflict with or duplicate such regulations.* Section 8A.101(b). (Emphasis added.)

In 2008 the Board of Supervisors adopted Ordinance No. 308-08, abolishing the Taxi Commission. Under its Charter authority, in February 2009 the SFMTA Board of Directors adopted Article 1100 of the Transportation Code, establishing a comprehensive regulatory scheme for the taxi industry. In addition to setting eligibility requirements for all taxi-related permits, Article 1100 also prescribes the procedures and sets the standards for the issuance, renewal, denial, suspension, and revocation of taxi permits and provides a hearing process for permit holders charged with misconduct or noncompliance with the various requirements applicable to permittees.

Under Article 1100, a permit holder or applicant who receives a citation or notice of denial, nonrenewal, or summary suspension of their permit may appeal that decision by requesting a hearing. The SFMTA's Hearing Section conducts these hearings. In 2013, the SFMTA and the Board of Appeals negotiated a Memorandum of Understanding (MOU) intended to memorialize the SFMTA's consent to the Board of Appeals' exercise of jurisdiction over appeals from taxi permit decisions issued by the SFMTA's Hearing Section. But the parties did not execute the MOU and instead, the SFMTA and Board of Appeals developed an informal arrangement that allowed the Board of Appeals to continue hearing appeals of taxi permit

MEMORANDUM

TO: SFMTA & Board of Appeals
DATE: August 24, 2022
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RE: Jurisdiction Over Appeals of Taxi Permitting Decisions

decisions. Under the current practice that the SFMTA has agreed to, an aggrieved permittee may appeal the SFMTA Hearing Section's decision to the Board of Appeals.

III. The SFMTA's exclusive jurisdiction over taxi matters supplants the Board of Appeals' authority to hear appeals, so the Board of Appeals may decide these appeals only if the SFMTA consents.

The Board of Supervisors' abolition of the Taxi Commission and transfer of its functions to the SFMTA had two legal consequences. One, the SFMTA – not the Board of Supervisors or Board of Appeals – has exclusive authority over taxi-related functions, to the same extent that it does over many Municipal Railway functions. In other words, as to taxi permits, Ordinance No. 308-08 transferred the police power that had been exercised previously by the Board of Supervisors, the administrative authority of the Taxi Commission, and the appellate authority of the Board of Appeals to the SFMTA. Two, once the SFMTA adopted regulations over taxi matters, including the process for appealing certain permit decisions, unless SFMTA agrees otherwise, those regulations override any conflicting provisions of City law, including the Board of Appeals' appellate authority over permits in Charter Section 4.106.

The SFMTA's exclusive jurisdiction over taxi regulation supplanted the Board of Appeals' jurisdiction over taxi-related permit decisions, because Charter Section 8A.101(b) and Article 1100 of the Transportation Code superseded Charter Section 4.106(b). Therefore, just as the SFMTA agreed to delegate its authority and allow the Board of Appeals to hear appeals of taxi permit decisions, the SFMTA may decide, in its discretion, to discontinue that practice, thereby terminating the Board of Appeals' ability to hear appeals related to taxi permitting decisions. Notwithstanding a decision to terminate the Board of Appeals' ability to hear appeals of taxi permit decisions, an aggrieved taxi permit applicant or permit holder will still have an opportunity to appeal an adverse permit decision. Under Article 1100, when the SFMTA denies an application for a taxi permit or suspends or revokes an existing permit, the applicant or permit holder is afforded a full evidentiary hearing before an SFMTA Hearing Officer. If the SFMTA opts to rescind its informal arrangement with the Board of Appeals regarding its exercise of jurisdiction over appeals from taxi decisions, we recommend that the SFMTA Board of Directors consider any amendments to Article 1100 of the Transportation Code necessary to effectuate such change.

Conclusion

Based on the analysis above, the Charter provides the SFMTA exclusive jurisdiction over taxi matters, including appeals, and exempts taxi permit decisions from a mandatory appeal to the Board of Appeals under Charter Section 4.106. Thus, the SFMTA may discontinue the practice of allowing the Board of Appeals to hear appeals related to the grant, denial, suspension, or revocation of taxi permits. If the SFMTA elects to terminate its informal arrangement with the Board of Appeals, we recommend that it do so after consulting with the Board of Appeals for the benefit of the public and to facilitate a smooth transition and also that the SFMTA Board of Directors consider any necessary amendments to Article 1100 of the Transportation Code.

October 30, 2022

Response to your 10/18/2022 discussion of taxi permittee appeal right to BOA

INTRODUCTION

Dear SFMTA Board of Directors,

Thank you for disallowing the attempt on October 18 by Transportation Director, Jeffrey Tumlin, to eliminate the Board of Appeals right allowing taxi permit holders to appeal adverse actions. The City Charter, established in 1932, specifies that BOA appeal right. It is outrageous that Mr. Tumlin and/or Taxi Director, Kate Toran, recently disseminated a memo --- which fails to identify its authorship --- on SFMTA letterhead, without your knowledge or consent, stating that we taxi permittees no longer have the right to a BOA independent review. Presumably, these two individuals felt emboldened by a dubious, controversial memo issued by the City Attorney's office on August 24, 2022, opining that an Agency plenary authority clause in Proposition A of 2007 supersedes the City Charter --- and by extension the Business and Tax Code regulations as well --- thereby allowing your Board to change the Transportation Code to disallow an independent BOA review, should you elect to do so.

To educate you on some relevant points, I am attaching two items. The first one indicates that applicants for a taxi medallion under Proposition K of 1978 rules had to **swear the intention** to drive taxi full-time. Logically, a case-by-case analysis of a medallion holder's career driving history is necessary prior to the Agency undertaking an adverse action on the permit based upon non-driving. **Over the years, however, the city attorney and taxi regulators have miscodified this Prop K language, thereby transubstantiating the oath of intent into an ostensibly never-ending, sacrosanct full-time driving requirement.**

The second attachment underscores the total disregard for public safety inherent in this incomprehensible, **malfeasant policy**. Upon memory and knowledge, the horrific 2003 accident described in the news article was caused by an elderly, feeble Prop K medallion holder (MH) who drove on a rainy night against his will and in excess of his capacity to do so safely, solely to retain his medallion by complying with the "endless full-time driving requirement" policy.

BOA ITEM SEVERED / QUESTIONS POSED BY DIRECTOR HEMINGER

Special thanks to Director Heminger for moving to sever the BOA appeal issue from the posted agenda item pertaining to a taxi meter fare increase. The unrelated BOA appeal right issue was basically a rider amendment. All taxi speakers and other industry members are grateful for your Board's unanimous vote to sever the BOA portion.

Mr Heminger asked a few questions in an effort to form a better understanding of the issues. I want to provide more responsive answers than those given by SFMTA staff. The

following is paraphrased based on my memory of Mr. Heminger's questions, plus the responses from Mr. Tumlin, Ms. Toran, and Taxi Services staff compliance officer, Philip Cranna.

1. Q. What is the nature of these cases?

A. (Toran): **We are going after the “low-hanging fruit,”** the ones who refuse to comply with basic requirements, such as medallion holders having to maintain a current California Driver's License.

My observation: Virtually all cases which have been appealed to the BOA involve disabled career drivers with a Prop K medallion who can no longer obtain a CDL due to disability. Some are in wheelchairs. One appellant (Mr. Neyhart) was permanently blinded before he could return home from a taxi shift circa 1995. He was viciously attacked by a stranger wielding a butcher's knife. For the next 24 years, Mr. Neyhart partnered with a taxi company, thus ensuring that his taxi continuously served the public. He renewed his medallion permit annually. In 2016 (38 years after Prop K became taxi law), your Board approved 126 pages of Transportation Code amendments. One item which slipped in beneath your radar created a new requirement that a Prop K MH must maintain a CDL. Enforcement of this new provision began in 2020. Having been blinded as a violent crime victim, however, Mr. Neyhart can no longer obtain a CDL. **As such, the “low-hanging fruit” to which Ms. Toran refers is a synonym for disabled Prop K MHs.**

2. Q. In a typical year, how many taxi medallion revocations are brought forward?

A. Mr. Cranna provided a non-responsive answer.

My observation: A year ago, two BOA Commissioners asked that exact same question of Mr. Cranna. When Mr. Cranna could not respond definitively, BOA moved to continue these cases in order for SFMTA to research its data. Three months later, Mr. Cranna reported there had been exactly **one case in the time frame 2003-2020** (note: **that single case was based on moral turpitude.**)

3. Comment by Director Heminger: I don't understand why these BOA cases are being continued rather than ruled upon.

My response: The BOA has quirky voting rules. It takes a **simple majority** (i.e., three of the five Commissioners) **to uphold** an appealed lower-body decision (most often, a revocation ruling by the SFMTA administrative hearing officer.) Conversely, a **super-majority** of four Commissioners is needed **to overturn** a hearing officer's ruling. When the taxi appeals were heard by the BOA last year, there was a clear-cut Board schism. Three Commissioners favored the medallion holders' arguments, whereas the other two sided with the SFMTA/city attorney position that the Transportation Code must always be enforced. This created an impasse, with each side being one vote short of prevailing. However, a motion to continue requires a three-vote **simple majority**, and the

Commissioners favoring the MH arguments have so moved, essentially playing kick-the-can-down-the-road until these matters might be resolved, either via interim policy amendments or other developments. As agent for two of the three appellants whose continued appeals will be heard on November 16, I have argued repeatedly that certain Transportation Code entries misinterpret Prop K language, while noting also that **some Code provisions actually *contravene* the year 1990 Americans with Disabilities Act, which is Federal law.**

Three of the five BOA Commissioners (all non-attorneys) who presided over the taxi appeals during the past year have recently resigned. All three replacements are attorneys. It will be very interesting to see what transpires on November 16.

Thank you for not abrogating our BOA taxi appeal rights at this time. Thanks also for reading and considering the information I have provided herein.

Carl Macmurdo

President, San Francisco taxi Medallion Holders Association (MHA)
Board member, San Francisco Taxi Coalition (SFTC)
career taxi driver

from: SF Chronicle

Wed, March 26, 2003

type still op
It is lesser known than the, 'Doul
bridge, which is a block away and

other span their desig
ceived, the Golden Gate Bridge.

Before making his name with

2 S.F. men hit by cab at Market Street ATM

By Jim Herron Zamora
CHRONICLE STAFF WRITER

Two San Francisco men were badly injured when a taxicab veered out of control on Market Street and pinned them both against an ATM, police said.

One victim, a 57-year-old man, lost both his legs after the Yellow Cab jumped the curb and slammed into him as he stood by the Bank of America ATM at 11th and Market streets Tuesday night. He remained in critical condition Wednesday.

The second man, who is 27, suffered a crushed pelvis and other injuries and was in fair condition at San Francisco General Hospital. Authorities would not release the victims' names.

Police said the cabdriver had

crossed into oncoming traffic as he was driving west on Market around 10 p.m. and had run onto the sidewalk outside the bank.

Investigators said the driver was 73 years old and a veteran of Yellow Cab but did not give his name. Although they released him after interviewing him, they said he still could face charges.

The driver told police his brakes had failed. Officers said there was no evidence of brake problems and no skid marks. Witnesses told police the driver had not been speeding.

Yellow Cab Cooperative management did not return phone calls, and a company dispatcher declined to comment.

E-mail Jim Herron Zamora at
jzamora@sfchronicle.com.

REGULATIONS FOR TAXICABS AND OTHER MOTOR VEHICLES FOR HIRE

BE IT ORDAINED BY THE PEOPLE OF THE CITY
AND COUNTY OF SAN FRANCISCO:

Section 1. The qualified electors of the City and County of San Francisco hereby declare it shall be the law of the City and County of San Francisco that:

(a) All taxicab permits and other vehicle for hire permits issued by the City and County of San Francisco are the property of the people of the City and County of San Francisco and shall not be sold, assigned or transferred; and

(b) The Chief of Police of the City and County of San Francisco shall have the responsibility of establishing regulations to assure prompt, courteous and honest service to the riding public; and

(c) The taxicab business shall operate under the principles of free enterprise and that taxicab operators may charge less than the maximum rate of fare set by law, as set forth below.

(d) The Police Commission shall issue a sufficient number of permits to assure adequate taxicab service throughout the City and County of San Francisco.

Section 2. The Application For A Permit.

(a) Any applicant for a permit to operate a taxicab or other vehicle for hire shall apply to the Police Commission for its declaration of public convenience and necessity on blanks to be furnished by the Secretary of the Police Commission, and within fifteen (15) days of the filing of such an application the Secretary of the Police Commission shall have a notice published in the official newspaper of the City and County of San Francisco. The notice shall state that an application has been filed for a license or permit to operate a taxicab or other motor vehicle for hire or motor vehicle for hire business, the name of the applicant, the kind of equipment, and the number of taxicabs or other vehicles for hire which the applicant desires to operate. The notice shall be published for three successive days.

The applicant shall pay to the City and County of San Francisco a sum to cover the costs of advertising and investigating and processing the application for each permit, such sum to be determined periodically as appropriate by the Police Commission.

Protests against the issuing of a permit may be filed with the Police Commission. The Police Commission shall consider all protests and in conducting its hearing shall

have the right to call such witnesses as it desires. In all such hearings the burden of proof shall be upon the applicant to establish by clear and convincing evidence, which shall satisfy the Police Commission, that public convenience and necessity require the operation of the vehicle or vehicles for which permit application has been made, and that such application in all other respects should be granted.

(b) No permit shall be issued unless the person applying for the permit shall declare under penalty of perjury his or her intention actively and personally to engage as permittee-driver under any permit issued to him or her for at least four (4) hours during any twenty-four (24) hour period on at least seventy-five (75%) of the business days during the calendar year. No more than one permit shall be issued to any one person.

(c) For two (2) years from the effective date of this Ordinance, a preference in the issuance of any permit shall be given to any person who has driven a taxicab or other motor vehicle for hire in the City and County of San Francisco for at least one consecutive twelve (12) month period during any of the three (3) calendar years immediately prior to the filing of an application for issuance of such permit.

(d) No permit shall be issued except to a natural person and in no case to any business, firm, partnership or corporation.

(e) Subject to any other preference created in this Ordinance, all applications for a permit to operate a taxicab or other motor vehicle for hire shall be processed and considered in the order of their receipt by the Police Commission.

(f) No part of this Section 2 shall apply to any permit holder described in subparagraph (b) of Section 4 of this Ordinance.

Section 3. **Facts to be Considered by Police Commission.** The Police Commission, in determining whether or not public convenience and necessity exist for the issuance of a permit, may consider such facts as it deems pertinent, but must consider whether:

(a) The applicant is financially responsible and will maintain proper financial records.

(b) The public will not be adequately or properly served unless the application is granted.

(c) The applicant has complied with all provisions of the Municipal Code, including pertinent motor vehicle laws.

(d) The applicant will be a full-time driver, within the meaning of Section 2(b) of this Ordinance, of the taxicab

(Continued on next page)

CONTINUATION OF TEXT OF PROPOSITION K

or other motor vehicle for hire.

Section 4. Continuous Operation

(a) All permittees within the purview of Section 1075 of Chapter VIII, Part II of the San Francisco Municipal Code (Police Code) shall regularly and daily operate their taxicab or other motor vehicle for hire business during each day of the year to the extent reasonably necessary to meet the public demand for such taxicab or motor vehicle for hire service.

Upon abandonment of such business for a period of ten (10) consecutive days by a permittee or operator, the Police Commission shall, after five (5) days' written notice to the permittee or operator, revoke the permit or permits of such permittee or operator; provided, however, that the Chief of Police, subject to the approval of the Police Commission and only after a thorough investigation, may on written application grant to the holder of any permit hereunder permission to suspend operation pursuant to such permit for a period not to exceed ninety (90) calendar days in any one twelve (12) month period in case of sickness, death, or other similar hardship.

No permit issued under this Ordinance shall be transferable or assignable, either expressly or by operation of law. All such permits and all rights granted under them may be rescinded and ordered revoked by the Police Commission for good cause.

(b) All persons, businesses, firms, partnerships, corporations or other entities who possess outstanding permits to operate a motor vehicle for hire on the effective date of this section must surrender and exchange any such permits for new permits within sixty (60) days of the effective date of this section. The new permits shall be non-transferable and non-assignable either expressly or by operation of law. Any such surrender and exchange shall be without fee to the permit holder. From and after the sixty-first (61st) day after the effective date of this section, all permits not surrendered for new permits shall be void and continuance of operation under any such void permits shall be punishable by a \$500.00 fine and thirty (30) days incarceration in the county jail for each such void permit so used.

Section 5. Corporate Permittees

(a) If any permittee is a corporation, any sale or other transfer of ten percent (10%) or more of the stock ownership or assets of the permittee, resulting from any transaction or series of transactions and computed on a cumulative basis, will be deemed to be a sale or transfer and the permit therefore shall be null and void, unless approved by the Police Commission in conformity with the requirements of this Ordinance.

(b) Any corporation holding a permit hereunder shall maintain a stock register at the principal office of the corporation in San Francisco and the stock register shall be available to the Police Department for inspection. Such corporation shall report to the department, in writing, any of the following:

(i) Issuance or transfer of any shares of stock to any person where the issuance or transfer results in the person owning 10 percent (10%) or more of the corporate stock.

(ii) Change in any of the corporate officers which are required by Section 821 of the California Corporations Code.

(iii) Change of any members of its board of directors.

(c) Any report required pursuant to subparagraph (b) hereof shall be filed with the Police Department within ten (10) days of the change, sale or transfer to be reported.

Section 6. Maintaining Financial and Accounting Records

The Controller of the City and County of San Francisco shall have the responsibility of establishing regulations for the keeping and filing of financial statements and accounting books and records by every holder of a taxicab permit or other type of permit under this Ordinance. The purpose of such regulations is to provide information to the Board of Supervisors for ordinances respecting maximum rates of fares or other charges and to the Police Commission for the performance of its duties under the law. Failure of any permit holder to comply with the Controller's regulations may be cause for revocation of all rights granted to a permit holder to operate a taxicab or other vehicle for hire.

Section 7. Rates for Taxicabs

Notwithstanding any provision of the San Francisco Municipal Code, any person, firm or corporation operating a taxicab or taxicabs may set a rate of fare lower than the maximum rate which may be set from time to time by appropriate ordinance; provided, however, that any such lower rate shall be filed with the Board of Supervisors in writing prior to June 1st of any year, and, if approved by the Board, shall remain in effect until September 1st of the following year.

Section 8. Sections 1076, 1077, 1079 and 1135(B) of Chapter VIII, Part II of the San Francisco Municipal Code (Police Code) are hereby repealed.

Section 9. Sections 128.1, 128.2 and 128.3 of Part III, Article 2 of the San Francisco Municipal Code, are hereby repealed.

Section 10. Severability. If any section, sub-section, sub-division, paragraph, sentence, clause or phrase in this Ordinance or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The qualified electors of the City and County of San Francisco hereby declare that they would have passed each section, sub-section, sub-division, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sub-division, paragraphs, sentence, clause or phrases be declared unconstitutional, invalid or ineffective.