Increase in cap on mean gate fee for taxis and increase in taxi fares; future caps on mean gate fee and future taxi fares determined by Controller based on Consumer Price Index

Ordinance amending Sections 1079, 1135, 1135.1, and 1137 of the Police Code, and adding Section 1137.5, to increase the mean gate fee cap for taxis to $91.50 per shift, provided that certain conditions are fulfilled, and allowing for the sunsetting of the increase under certain circumstances; increase rates of fare for taxicabs to $2.85 for the first fifth of a mile, $0.45 for each additional fifth of a mile or fraction thereof, and $0.45 for each one minute of waiting or traffic delay time; require the Controller to make future determinations every even-numbered year as to the mean gate fee cap and the rates of fare for taxicabs, based on changes in the Consumer Price Index and related information submitted to the Controller by taxicab companies, with such determinations going into effect unless disapproved or modified by Board resolution; provide for offsetting increased costs to the paratransit program arising from meter fare increases; and prescribe a role for the Controller in analyzing the economic impact of prospective or actual decisions by the Taxi Commission and/or Board of Appeals to authorize the issuance of additional taxi permits, and recommending legislative adjustments to address adverse economic impacts.

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 Police Code is hereby amended by amending Section 1135.1, to read as follows:

Sec. 1135.1 GATE FEES.

(a) Cap on Gate Fees. The mean gate fee charged drivers by a taxicab company
may not exceed $82.50 for a shift of 10 hours or longer. The cap shall be prorated at $8.50 per hour for shifts shorter than 10 hours. The mean gate fee shall be determined by adding together the gate fees charged by the company for all available shifts during one week and dividing that total by the number of available shifts during the week. The aforementioned cap on gate fees and the higher cap on gate fees provided for in subsection (b) shall become operative on January 1, 2003 or, if the effective date of the Ordinance creating the higher cap on gate fees occurs thereafter, on the effective date of that Ordinance.

(b) Higher Cap on Gate Fees. Notwithstanding the provisions of subsection (a), the mean gate fee charged drivers by a taxicab company may not exceed $91.50 for a shift of 10 hours or longer and the cap shall be prorated at $9.15 per hour for shifts shorter than 10 hours, provided that the following conditions are met once they take effect:

(i) The taxicab company is in compliance with the rules and regulations established by the Controller of the City and County of San Francisco pursuant to Section 1095(b) of this Article. This condition shall take effect on January 1, 2003 or, if the effective date of the Ordinance creating the higher cap on gate fees occurs thereafter, on the effective date of that Ordinance. "Compliance" shall mean that by no later than January 1, 2003 or, if the effective date of the Ordinance creating the higher cap on gate fees occurs thereafter, by no later than the effective date of that Ordinance, the taxicab company has submitted the information required by the Controller's rules and regulations for the most recent year the information is required, and by no later than April 1, 2003 the taxicab company has submitted the information required by the Controller's rules and regulations for the three most recent years the information is required. The condition that the taxicab company be in compliance with the Controller's rules and regulations is ongoing; hence, the right to charge the higher mean gate fee authorized by this subsection is dependent on continued fulfillment of this condition.

(ii) All taxicabs operating under the taxicab company's color scheme are covered by workers' compensation insurance. This condition shall take effect on May 1, 2003. The taxicab
company shall not be deemed to fulfill this condition until the taxicab company has submitted to the
Taxi Commission proof that the condition is fulfilled. This condition is an ongoing condition, and the
aforementioned requirement for proving that the condition is fulfilled is an ongoing requirement;

hence, the right to charge the higher mean gate fee authorized by this subsection is dependent on
continued fulfillment of the condition and continued compliance with the proof requirement.

(b)(c) "Gate Fee" Defined. For the purposes of this Section, “gate fee” shall mean any
monetary fee or other charge or consideration, or any combination thereof, required of a driver
other than a permit-holder for the privilege of driving a taxicab during a particular shift, or for
any period of time, including receipt of all services provided in connection with such privilege,
whether said fee is set by contract, lease or other agreement, orally or in writing, and whether
said fee is paid by the driver as a flat rate, as a commission on receipts from fares, or as a
specified fee for any other purpose.

(e)(d) Chief's Regulations; Penalties. The Chief of Police Taxi Commission may, from
time to time and after a noticed public hearing, adopt regulations to carry out the purposes of
this Section. Violation of any provision of this Section, or of any regulation adopted pursuant
to this Section, may be cause for revocation or suspension of any permit granted to the
violator by the City and County related to the operation of taxicabs or other motor vehicles for
hire, or for the imposition of any other penalties authorized under this Article.

(e)(e) Evaluation By Taxi Commission. The Taxi Commission shall evaluate the impact
of this ordinance and any lease fee cap and report back to the Board of Supervisors within
nine months of the final adoption of this ordinance.

(f)(f) Operative Date. This Section shall only become operative on the date that the
fare increases authorized in Ordinance No. 188-98 become operative.

(g) Sunset Provisions Pertaining To Higher Cap On Gate Fees. Subsection (b) shall expire
by operation of law under either of the circumstances described below.
(i) By no later than May 1, 2003, the Controller shall submit a recommendation to the Board of Supervisors for a specific long-term lease fee cap covering all long-term lease drivers. If within 90 days of the Controller's submission of a recommendation, or, if the Controller fails to meet the deadline for submitting a recommendation, by no later than August 1, 2003, the City fails to enact into law an ordinance prescribing a specific long-term lease fee cap covering all long-term lease drivers, subsection (b) shall expire.

(ii) By no later than October 1, 2003, the Controller shall submit a recommendation to the Board of Supervisors for enactment of a program that would make a substantial and reasonable degree of health insurance or health benefits available to all taxi drivers. The Controller's recommendation shall be based on his study of the health insurance/health benefits issue, which shall include consultation with City departments having expertise in one or more dimensions of the issue. If, within 90 days of the Controller's submission of a recommendation, or, if the Controller fails to meet the deadline for submitting a recommendation, by no later than January 1, 2004, the City fails to enact into law an ordinance that establishes a program that makes a substantial and reasonable degree of health insurance or health benefits available to all taxi drivers, subsection (b) shall expire, unless the Controller certifies that it is not feasible for the City to establish such a program.

Section 2. The San Francisco Police Code is hereby amended by amending Section 1135, to read as follows:

Sec. 1135. RATES FOR TAXICABS.

(a) The rates of fare for taxicabs shall be as follows: $2.85 for the first fifth of a mile or "flag"; $0.45 for each additional fifth of a mile or fraction thereof; $0.45 for each one minute of waiting or traffic delay time. The aforementioned rates of fare for taxicabs shall become operative on January 1, 2003 or, if the effective date of the Ordinance creating the higher cap on gate fees provided for in Section 1135.1(b) of this Article occurs thereafter, on the effective date of that Ordinance. For out-of-town trips exceeding 15 miles beyond City limits, the fare will be
150 percent of the metered rate; for trips exceeding 15 miles from San Francisco International
Airport and not terminating within the City limits of San Francisco, the fare will be 150 percent
of the metered rate except for those trips from San Francisco International Airport traversing
through San Francisco going to Marin County or to the East Bay the 15-mile limit will apply
from the City limits of San Francisco as set forth above. For taxicab trips originating at San
Francisco International Airport that incur an airport trip fee, the taxicab driver may collect
$2.00 of that trip fee from the passenger upon receipt of cab fare from the passenger.

(b) For trips within the San Francisco City limits by elderly or handicapped persons who
have been deemed eligible under San Francisco's paratransit services program to pay for
transportation with scrip redeemable by participating taxicab operators from the Paratransit Program
for cash, the fare shall be at the rate less an eight-percent discount for the first year commencing with
the effective date of this ordinance and said discount thereafter shall be negotiated as required by the
San Francisco Public Transportation Commission with participating San Francisco taxicab operators.

(e)(b) The driver of a public passenger vehicle may transport two or more passengers
who voluntarily agree to share the vehicle from the same boarding point to one destination
point. Each passenger shall pay a fare at the destination point in an amount equal to the total
fare divided by the number of passengers sharing the ride.

(d)(c) A passenger who first engages a public passenger vehicle has the exclusive
right to conveyance therein to his or her destination. The driver shall not solicit or accept any
additional passenger without the prior consent of any passenger who has previously engaged
the vehicle.

(e)(d) It shall be unlawful for any taxicab operator or taxicab dispatch service to levy an
administrative fee, service charge, processing fee, or other surcharge on drivers of taxicabs
for trips paid with scrip, credit cards or other non-cash tender.
Section 3. The San Francisco Police Code is hereby amended by amending Section 1137, to read as follows:

Sec. 1137. REVIEW OF RATES OF FARE AND CAP ON GATE FEES.

The rates provided in Sections 1135 and 1136 of this Article and the cap on gate fees provided in Section 1135.1 of this Article shall be reviewed by the Board of Supervisors between September 1st and December 1st of each year in odd numbered years, beginning with 1999. Controller in even-numbered years, beginning with 2004. Not later than August 1st of each odd-numbered even-numbered year, the Controller shall transmit to the Board of Supervisors a recommendation for determination as to increases or decreases in the rates of fare for taxicabs and an increase or decrease in the cap on gate fees based upon changes in the Consumer Price Index since the prior review of rates-determination, and related information submitted to the Controller pursuant to Section 1095(b) of this Article. The Controller's August 1, 2004 determination as to increases or decreases in the rates of fare for taxicabs and an increase or decrease in the cap on gate fees shall be based upon changes in the Consumer Price Index since January 1, 2003, and related information submitted to the Controller pursuant to Section 1095(b) of this Article. In addition, the Controller's August 1, 2004 determination both as to increases or decreases in the rates of fare for taxicabs and as to an increase or decrease in the cap on gate fees shall include appropriate adjustments to ensure, in accordance with the procedure provided for in Section 1137.5 of this Article, that appropriate sums are collected to offset the increased monthly cost of paratransit scrip incurred by the paratransit program, except if the voters of the City and County of San Francisco have reauthorized a new sales tax to fund transportation.

The Controller's determination as to increases or decreases in the rates of fare for taxicabs and an increase or decrease in the cap on gate fees shall take effect on November 1 of the even-numbered year in which the Controller makes the determination, and shall remain in effect through October 31 of the next even-numbered year, unless the following events occur: (i) By September 1 of the even-
numbered year in which the Controller makes the determination the Board of Supervisors by resolution determines that the Board, or a committee thereof, should hold a hearing on the Controller's determination; (ii) by October 1 of that year a hearing is held in accordance with the aforementioned resolution; and (iii) by October 31 of that year the Board adopts a resolution disapproving or modifying the Controller's determination. Any resolution modifying the Controller's determination shall be based upon changes in the Consumer Price Index, costs recently incurred and expected to be incurred by drivers and color scheme permitholders, projected income of drivers and projected revenues of color scheme permitholders, and local economic conditions. If all three events occur, the Controller's determination shall not go into effect on November 1 of that year.

The Controller's determination as to increases or decreases in the rates of fare for taxicabs and an increase or decrease in the cap on gate fees shall, beginning January 1, 2006, treat the higher mean gate fee cap of $91.50, provided for in Section 1135.1(b), as if it were $90.00 when instituted, and treat the higher meter rate of $2.85 for the first fifth of a mile or "flag," as provided for in Section 1135(a), as if it were $2.75 when instituted. In addition, the Controller's determination as to increases or decreases in the rates of fare for taxicabs and an increase or decrease in the cap on gate fees shall, beginning January 1, 2006, make a similar accounting for any adjustments made in the Controller's August 1, 2004 determination designed to offset increased costs to the paratransit program arising from further increases in meter rates.

In cases where the holder of more than one permit to operate a sedan, limousine or taxicab fails to render a financial report within the time prescribed and in such form as the Controller may request, for the purpose of obtaining data for the Board of Supervisors in relation to the review of rates reviewing the rate of fare for taxicabs and the cap on gate fees and making a determination as to increases or decreases in the rates of fare for taxicabs and an increase or decrease in the cap on gate fees, such failure shall be a basis for cancellation of such permits by the Police Taxi Commission, provided such cancellation is approved by the Board of Supervisors.
Section 4. The San Francisco Police Code is hereby amended by adding Section
1137.5, to read as follows:

SEC. 1137.5. INCREASED COST OF PARATRANSIT PROGRAM.

From January 1, 2003 through December 31, 2005, MUNI shall calculate on a monthly basis
the increased cost of paratransit scrip incurred by the paratransit program as a result of the increase
in rates of fare for taxicabs provided for in this Ordinance or any increase in rates of fare for taxicabs
resulting from the Controller's determination or any modification thereof as provided for in Section
1137. The increased monthly cost of paratransit scrip shall be divided equally among all taxicab
permits in operation, to achieve an average increased cost per taxicab permit for each month. From
January 1, 2003 through December 31, 2005, that cost shall be allocated to color scheme
permitholders on a monthly pro rata basis, dependent on the number of taxicab permits affiliated with
each color scheme. By January 15, 2003, the Taxi Commission shall adopt procedures for calculating
and collecting appropriate sums from color scheme permitholders to offset the increased monthly cost
of paratransit scrip incurred by the paratranst program. If the voters of the City and County of San
Francisco reauthorize a new sales tax to fund transportation, the Board of Supervisors shall convene a
hearing to consider whether it is necessary to continue the program designed to offset MUNI's
increased paratransit costs pursuant to this Section.

Section 5. The San Francisco Police Code is hereby amended by amending Section
1079, to read as follows:

SEC. 1079. ISSUANCE OF PERMITS; APPLICATIONS; HEARINGS.

(a) Scope of Section. To the extent the provisions of this Section and Sections
1080 through 1088 of this Article are inconsistent with the provisions of Sections 2.1 through
2.30 of Article I of the San Francisco Police Code, the provisions of this Article shall be
applicable to all permits for the operation of motor vehicles for hire granted pursuant to this
Article; provided, however, that certain alternative and additional provisions with respect to
permits for the operation of taxicabs are set forth below in Sections 1120 et seq. Provisions of 
this Section shall not apply to taxicab dispatch service, taxicab color scheme permits, or 
permits for the operation of a rental vehicle business under Division 8 of this Article.

(b) PoliceTaxi Commission to Issue Permits. The PoliceTaxi Commission shall issue 
permits for the operation of motor vehicles for hire that are provided for in this Article as the 
public convenience and necessity shall require. The PoliceTaxi Commission shall not issue a 
permit for any motor vehicle for hire service not defined in Section 1076 hereof, except as 
provided for in Section 1078(b) of this Article.

(c) Declaration of Public Convenience and Necessity. No permit shall be issued for 
the operation of any motor vehicle for hire unless and until the PoliceTaxi Commission shall by 
resolution declare that public convenience and necessity require the proposed service for 
which application for a permit is made and the applicant is found to be eligible under all the 
requirements of this Article.

(d) Hearings to Determine Public Convenience and Necessity. The PoliceTaxi 
Commission shall hold hearings to determine public convenience and necessity pursuant to 
all applications for the issuance of permits to operate motor vehicles for hire. Protests against 
the issuing of a permit may be filed with the Police Commission. The Police Taxi Commission 
shall consider all protests and in conducting its hearing shall have the right to call such 
additional witnesses as it desires. In all such hearings, the burden of proof shall be upon the 
individual applicant to establish by clear and convincing evidence 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. Subject to the 
provisions of Subsection (e) of this Section, hearings on applications for declaration of public 
convenience and necessity shall be held at least once each calendar year for each type, kind 
or class of permit for which one or more applications are pending.
(e) Consolidation of Hearings Permitted. The PoliceTaxi Commission may consolidate for hearing and determination of public convenience and necessity all applications for a given type, kind or class of permit. Any declaration of public convenience and necessity made by the PoliceTaxi Commission pursuant to such a consolidated hearing shall be valid and binding as to the total number of permits authorized for a particular type, kind or class of permit and as to each application included for hearing in said consolidated hearing and shall have continuing force and effect until the next subsequent PoliceTaxi Commission hearing on public convenience and necessity as to that particular type, kind or class of permit. Any applicant whose application is called for hearing at a consolidated hearing may rely upon the testimony and evidence adduced before the PoliceTaxi Commission by other pending convenience and necessity, in the sole discretion and judgment of the individual applicant; provided, however, that the burden of proof in establishing public convenience and necessity shall remain on each applicant.

(f) Role of Controller. Prior to increasing the total number of authorized permits, the Taxi Commission shall notify the Controller of the proposed increase and receive from the Controller, within 30 days of the Controller's receipt of the Taxi Commission notice, a report including the Controller's recommendation for an adjustment in the mean gate fee cap and/or in rates of fare for temporary taxicabs, and/or the institution of permit lease fee controls, necessary to maintain income of drivers and color scheme permit holders

(g) Notice of Commission's Determination. Written notice of a declaration of public convenience and necessity by the PoliceTaxi Commission shall be given to all subject applicants and all protestors whose names and addresses are known to said Commission. Such notice shall be given forthwith upon the adoption of such declaration. A declaration of public convenience and necessity made at or as a result of a consolidated hearing under Subsection (e) of this Section may be appealed to the Board of Permit Appeals as set forth in
Section 3.6514.106 of the Charter of the City and County of San Francisco. Prior to increasing the total number of authorized permits beyond the currently authorized number if the Taxi Commission has not authorized an increase, or beyond any increase authorized by the Taxi Commission, the Board of Appeals shall notify the Controller of the Board of Appeals' proposed increase and receive from the Controller, within 30 days of the Controller's receipt of the Board of Appeals notice, a report including the Controller's recommendation for an adjustment in the mean gate fee cap and/or in rates of fare for taxicabs, and/or the institution of permit lease fee controls, necessary to maintain income of drivers and color scheme permitholders.

(h) If the Taxi Commission or the Board of Appeals authorizes the issuance of any additional number of taxicab permits above the 1381 permits authorized to be issued as of November 12, 2002, the Controller shall transmit to the Board of Supervisors a report including the Controller's recommendation for an adjustment in the mean gate fee cap and/or in rates of fare for taxicabs and/or temporary the institution of permit lease fee controls, necessary to maintain income of drivers and color scheme permitholders, and proposed legislation instituting such recommendations.

(i) Separate Hearings for Individual Applicants. Notwithstanding any consolidated hearing on public convenience and necessity as provided for in Subsection (e) of this Section, every applicant for a permit to operate a motor vehicle for hire shall have a separate hearing to review and determine the applicant's individual eligibility and compliance with all applicable laws, rules and regulations before a permit is issued, notice of which shall be given in the same manner as set forth in Section 1080(a) of this Article. The Police Department shall investigate each applicant. Each application shall be investigated and the results of the investigation shall be transmitted and shall report to the Police Taxi Commission on the results of said investigation at the time of the hearing on the applicant's individual qualifications. If public convenience and necessity is declared for the issuance of a permit and an applicant is found to be eligible therefor after consideration by the Police Taxi Commission of the factors set forth
in Section 1081 of this Article, the PoliceTaxi Commission shall so notify the applicant. Within
60 days thereafter the applicant shall furnish to the PoliceTaxi Commission any and all
additional information which may be required. If the PoliceTaxi Commission then finds that the
applicant, in addition to complying with all other requirements, is the owner of the vehicle or
vehicles for which a permit is sought, and that each such vehicle meets with all applicable
statutes, ordinances, rules and regulations, it shall thereupon issue the permit. A finding made
at or as a result of a hearing under this Section may be appealed to the Board of Permit
Appeals as set forth in Section 3.654.106 of the Charter of the City and County of San
Francisco.

(h)(i) Conditions on Permits. The PoliceTaxi Commission may attach such conditions
as it deems to be consistent with public convenience and necessity upon any new permit
issued under this Article. From time to time, existing permits or those issued without
conditions may be made subject to such conditions as the PoliceTaxi Commission may
determine to be consistent with public convenience and necessity after a hearing of which
notice is given to all affected permittees and the public in the manner prescribed for giving
notice in Section 1080(a) of this Article.

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

By:    
PAUL ZAREFSKY
Deputy City Attorney
Ordinance amending Sections 1079, 1135, 1135.1, and 1137 of the Police Code, and adding Section 1137.5, to increase the mean gate fee cap for taxis to $91.50 per shift, provided that certain conditions are fulfilled; and allowing for the sunsetting of the increase under certain circumstances; increase rates of fare for taxicabs to $2.85 for the first fifth of a mile, $0.45 for each additional fifth of a mile or fraction thereof, and $0.45 for each one minute of waiting or traffic delay time; require the Controller to make future determinations every even-numbered year as to the mean gate fee cap and the rates of fare for taxicabs, based on changes in the Consumer Price Index and related information submitted to the Controller by taxicab companies, with such determinations going into effect unless disapproved or modified by Board resolution; provide for offsetting increased costs to the paratransit program arising from meter fare increases; and prescribe a role for the Controller in analyzing the economic impact of prospective or actual decisions by the Taxi Commission and/or Board of Appeals to authorize the issuance of additional taxi permits, and recommending legislative adjustments to address adverse economic impacts.

November 4, 2002 Board of Supervisors — CONTINUED
   Ayes: 8 - Ammiano, Gonzalez, Hall, Leno, Maxwell, McGoldrick, Sandoval, Yee
   Noes: 3 - Daly, Newsom, Peskin

November 12, 2002 Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE
   Ayes: 9 - Ammiano, Daly, Gonzalez, Hall, Maxwell, McGoldrick, Newsom, Peskin, Sandoval
   Absent: 2 - Leno, Yee

November 12, 2002 Board of Supervisors — REFERRED: Transportation and Commerce Committee
   Ayes: 9 - Ammiano, Daly, Gonzalez, Hall, Maxwell, McGoldrick, Newsom, Peskin, Sandoval
   Absent: 2 - Leno, Yee

November 18, 2002 Board of Supervisors — AMENDED
   Ayes: 9 - Ammiano, Daly, Gonzalez, Hall, Maxwell, McGoldrick, Newsom, Peskin, Sandoval
   Absent: 2 - Leno, Yee

November 18, 2002 Board of Supervisors — PASSED ON FIRST READING AS AMENDED
   Ayes: 9 - Ammiano, Daly, Gonzalez, Hall, Maxwell, McGoldrick, Newsom, Peskin, Sandoval
   Absent: 2 - Leno, Yee
November 25, 2002  Board of Supervisors — FINALLY PASSED
Ayes: 9 - Ammiano, Daly, Gonzalez, Leno, Maxwell, McGoldrick, Peskin, Sandoval, Yee
Noes: 1 - Newsom
Absent: 1 - Hall

File No. 020678

I hereby certify that the foregoing Ordinance was FINALLY PASSED on November 25, 2002 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board

Date Approved

Mayor Willie L. Brown Jr.