



## Clipper Cove Special-Use Area Rules and Regulations<sup>1</sup>

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### **I. INTRODUCTION.**

<sup>1</sup> These “Clipper Cove Special-Use Area Rules and Regulations” combine, and supersede, the TIDA June 2010 “Clipper Cove Rules and Regulations” and “Clipper Cove Anchorage Permit Policies and Procedures.”

These Clipper Cove Rules and Regulations govern the use, mooring, anchoring and occupancy of vessels in Clipper Cove at former Naval Station Treasure Island, in conjunction with San Francisco Police Code Section 1.1 (Attachment A).

Pursuant to San Francisco Police Code Section 1.1, Clipper Cove is a Special-Use Area, as that term is defined and used in the California Harbors and Navigation Code (*see* §§651, 660). Police Code Section 1.1 was adopted in order to address the threat to public safety posed by unattended vessels anchored in Clipper Cove for extended periods of time, and to preserve the Clipper Cove ecosystem from potential harmful release of waste and toxics.

A valid Anchorage Permit issued by the Treasure Island Development Authority (TIDA) is required for stays in excess of 24 hours.

## **II. GENERAL PROVISIONS.**

- A. Observation of Rules and Regulations.** These Rules and Regulations must be observed at all times. Failure to comply with the Rules and Regulations is grounds for TIDA to deny issuance of an Anchorage Permit or to revoke an issued Anchorage Permit.
- B. Use of Terms.** In these Rules and Regulations, the terms “anchor,” “anchored,” “anchorage,” “anchoring,” “moored,” and “mooring,” are used interchangeably; if one such term is used, the others are included.
- C. Director’s Policies and Procedures.** The Director of Island Operations may promulgate Policies and Procedures to implement the overall objectives of these Clipper Cove Rules and Regulations as deemed necessary to comply with the intent of Police Code Section 1.1, upon 45 days public notice to the TIDA Board of Directors, and subject to modification by that Board.

## **III. STANDARDS AND REQUIREMENTS FOR ALL VESSELS.**

- A. Standards and Requirements for All Vessels in Clipper Cove.** All vessels in Clipper Cove must comply with the following provisions.
1. All vessels in Clipper Cove must have current registration and furnish proof of such upon request.
  2. Proof of Vessel ownership must be provided upon request.
  3. All vessels must be in a seaworthy condition at all times during anchorage in Clipper Cove.

4. All vessels must possess a functioning, fully contained on-board waste collection and sanitary system. On-board waste collection and sanitary systems must be permanently installed and of a standard on-vessel nature and design.
5. No person may live aboard any vessel anchored in Clipper Cove. This prohibition against living aboard vessels shall not prevent the use of vessels in Clipper Cove for eating and sleeping purposes during any period that the vessel is moored or anchored in Clipper Cove in compliance with these Rules and Regulations and Police Code Section 1.1.
6. All vessels must have a propulsion engine capable of carrying the vessel out of Clipper Cove.
7. All vessels must permit sanitary, safety and seaworthiness inspections when requested by TIDA or the SFPD Marine Unit.
8. Pumping of vessel sanitary systems into Clipper Cove or placing waste or refuse of any kind in Clipper Cove is prohibited at all times.
9. Vessel owners shall be responsible for all equipment and appurtenances associated with the vessel.
10. Clipper Cove is a designated No Wake Zone, and no speeds above 5 MPH are allowed.
11. Vessels shall not anchor in a way that poses a navigational hazard to other vessels attempting to enter, exit or navigate in Clipper Cove.
12. Mooring lines must be sufficient to keep vessels safely and securely anchored at all times while in Clipper Cove.
13. Vessel owners, vessel operators and vessel occupants shall not create any annoyance, nuisance or hazard to Clipper Cove or to any other persons or vessels located therein.
14. Vessels may not be left unattended for a period of more than 12 hours.
15. Mooring and anchorage of vessels in Clipper Cove is at the sole risk of the vessel operator and vessel owner.
16. Commercial operations within Clipper Cove, including salvage of materials, are prohibited without an Authority Use Permit authorizing such operations.
17. Vessel owners, vessel operators and vessel occupants shall comply with the following provision governing public access to Clipper Cove Beach:
  - Clipper Cove Beach public access hours are from sunrise to sunset.

- Overnight camping is prohibited.
  - Fires are prohibited.
  - Littering is prohibited.
18. No vessel shall enter the restricted water and shoreline area of Clipper Cove that is under active environmental monitoring, as delineated by the field of white buoys along the northern shoreline of Yerba Buena Island; nor shall any vessel owner or operator disembark from a vessel, or allow any occupants of a vessel to disembark from a vessel, onto the Yerba Buena Island shoreline within this restricted area without prior written authorization from the California Department of Transportation.
19. Vessel owners, vessel operators and vessel occupants shall at all times comply with all applicable municipal, county, state and U.S. Coast Guard laws and regulations.

#### **IV. PROCEDURES FOR ISSUANCE AND MANAGEMENT OF CLIPPER COVE ANCHORAGE PERMITS.**

**A. 24-Hour Anchorage.** For Vessels anchoring in Clipper Cove for a period not to exceed 24 hours:

1. No Anchorage Permit is required.
2. Anchoring or otherwise remaining in Clipper Cove after 24 hours may result in an infraction or misdemeanor citation by the SFPD Marine Unit or other action, including but not limited to, towing and removal of the vessel by TIDA.

**B. Short-Term Anchorage Permit, for 24–96 Hours.** For Vessels anchoring in Clipper Cove for a period of more than 24 hours and up to 96 hours:

1. All vessel owners or vessel operators wishing to anchor a vessel in Clipper Cove for a period of more than 24 hours up to 96 hours must notify TIDA and provide the vessel name, vessel CF number, contact information, the date and time of initial entry to Clipper Cove and anticipated date and time of exit from Clipper Cove. This notification requirement applies even if the anchorage or presence of the vessel in Clipper Cove will be intermittent during that time period. The required notification may be provided in one of the following ways:
  - Voicemail message left at 415-274-0382
  - [Register](http://www.sftreasureisland.org) on the TIDA website at [www.sftreasureisland.org](http://www.sftreasureisland.org) on the “Contact” page

2. This notification may be provided to TIDA in advance of anchorage in Clipper Cove. At the latest, this information must be provided immediately upon entry of the vessel into the Cove. No further action is required for stays in Clipper Cove of 96 hours or less.
3. A Short-Term Anchorage Permit will be deemed to be issued for all vessels complying with this notification requirement, unless TIDA informs the vessel owner or vessel operator that a Short-Term Anchorage Permit will not be issued due to non-compliance with the Short-Term Anchorage notification requirement or other violation of the Rules and Regulations.
4. When a Short-Term Anchorage Permit issued to a vessel, vessel owner or vessel operator expires, that vessel, vessel owner or vessel operator shall not be eligible:
  - For issuance of a consecutive Short-Term Anchorage Permit, but may be issued up to two Short-Term Anchorage Permits within a 21-day period.
  - For issuance of a Long-Term Anchorage Permit until a period of at least 21 days has elapsed.
5. A Permittee shall not be allowed to anchor or otherwise remain in Clipper Cove after expiration of the Short-Term Anchorage Permit, including any valid extension, and doing so may result in an infraction or misdemeanor citation by the SFPD Marine Unit or other action, including but not limited to, towing and removal of the vessel by TIDA.

**C. Long-Term Anchorage Permit, for 96 Hours to 21 Days.** For Vessels anchoring in Clipper Cove for a period of more than 96 hours and up to 21 days:

1. All vessel owners or vessel operators wishing to anchor a vessel in Clipper Cove for a period of more than 96 hours up to 21 days must complete a Clipper Cove Long-Term Anchorage Application (“Anchorage Application”) available at the TIDA office, One Avenue of Palms, Second Floor, Treasure Island. This application requirement applies even if the anchorage or presence of the vessel in Clipper Cove will be intermittent during that time period.
2. Upon receipt of the completed Long-Term Anchorage Application, TIDA will review the information. So long as the Application is properly completed and the vessel is in compliance with the Rules and Regulations, TIDA will issue the Clipper Cove Long-Term Anchorage Permit.
3. The Long-Term Anchorage Permit will be issued at NO CHARGE to the vessel owner. A vessel will be allowed to anchor in Clipper Cove for the term of that Permit, subject to compliance with all Rules and Regulations.
4. When a Long-Term Anchorage Permit issued to a vessel, vessel owner or vessel operator expires, that vessel, vessel owner or vessel operator shall not be eligible for

issuance of a subsequent Short-Term or Long-Term Anchorage Permit until a period of at least 21 days has elapsed.

5. A vessel, vessel owner or vessel operator may be issued up to four non-consecutive Long-Term Anchorage Permits in any calendar year.
6. The Long-Term Anchorage Permit must be kept on-board the vessel at all times during the anchorage period. The vessel is required to vacate Clipper Cove on or before the expiration date stated on the Long-Term Anchorage Permit.
7. A Permittee shall not be allowed to anchor or otherwise remain in Clipper Cove after expiration of the Long-Term Anchorage Permit, including any valid extension, and doing so may result in an infraction or misdemeanor citation by the SFPD Marine Unit or other action, including but not limited to, towing and removal of the vessel by TIDA.

**D. Extension of Short-Term Anchorage Permit Term.** A Short-Term Anchorage Permit extension may be granted for up to an additional 24 hours at the discretion of the Director of Island Operations due to:

- An immediate, verifiable threat to life safety or property posed by movement of the vessel;
- Weather conditions rendering travel unsafe; or,
- Other safety issues.

Requests for extension shall be made in writing and submitted via e-mail or in person at the TIDA office before the expiration date of the Short-Term Anchorage Permit. If an extension is not granted, the vessel must vacate Clipper Cove within 96 hours of entry of the vessel into Clipper Cove.

**E. Extension of Long-Term Anchorage Permit Term.** A Long-Term Anchorage Permit extension may be granted for up to an additional seven (7) days at the discretion of the Director of Island Operations due to:

- An immediate, verifiable threat to life safety or property posed by movement of the vessel;
- Weather conditions rendering travel unsafe; or,
- Other safety issues.

Requests for extension shall be made in writing and submitted via e-mail or in person at the TIDA office before the expiration date of the Long-Term Anchorage Permit. If an extension is not granted, the vessel must vacate Clipper Cove on or before the original expiration date stated on the Long-Term Anchorage Permit.

**F. Anchorage Permit Limitations, Suspension, Revocation.** Anchorage Permit limitations, and suspension and revocation provisions, are as follows:

1. TIDA may refuse issuance of an Anchorage Permit to any vessel in violation of the Rules and Regulations, and to any vessel in receipt of a Notice of Violation.
2. TIDA may revoke an Anchorage Permit on any of the following grounds:
  - Violation of the Rules and Regulations.
  - The vessel poses a danger to life safety or property.
  - The San Francisco Police Department or other applicable law enforcement agency has cited the vessel owner, vessel operator or vessel occupants for violation of any ordinance, statute, or regulation.
  - The provision of false information to obtain a Short-Term Anchorage Permit, or the provision of false information on the Clipper Cove Long-Term Anchorage Permit Application.
  - The presence of the vessel is impeding critical operations in Clipper Cove, including but not limited to, Navy remediation activities, Special Events taking place in Clipper Cove, Bay Bridge construction activities, and emergency response and recovery activities.
3. TIDA may suspend issuance of Anchorage Permits for any length of time it deems necessary to further on-Island operations including but not limited to, Navy remediation activities, Special Events taking place in Clipper Cove, Bay Bridge construction activities, and emergency response and recovery activities.
4. No person will be issued a Short-Term or Long-Term Anchorage Permit for more than one vessel at any given time.

**V. NOTICE OF VIOLATION, NOTICE OF REMOVAL, AND DISPOSAL OF UNCLAIMED VESSELS.**

The following provisions shall be implemented consistent with California Harbors and Navigation Code Section 526 and related provisions (Attachment C).

**A. Notice of Violation.**

1. Vessels will be in violation of Police Code Section 1.1 and will be affixed with a distinctive, visible Notice of Violation if they are moored or anchored in Clipper Cove for more than 24 hours without a valid Anchorage Permit, or moored or anchored in Clipper Cove after expiration or revocation of an Anchorage Permit, including any valid extension.

2. Vessels affixed with a Notice of Violation shall have 72 hours to vacate Clipper Cove. A vessel that has not vacated Clipper Cove within 72 hours of the Notice of Violation will be removed by TIDA or its designee, and the registered owner of the vessel will be responsible for the cost of such removal and storage. In addition, the SFPD Marine Unit may issue an infraction or misdemeanor citation.

**B. Notice of Removal.**

1. Within 48 hours after TIDA or its designee removes a vessel that is in violation Police Code Section 1.1, excluding weekends and holidays, TIDA shall mail a Notice of Removal to the registered vessel owner.
2. TIDA shall send this Notice of Removal of the vessel via certified or first class mail, and shall also send the Notice or Removal to any other person that TIDA knows has an interest in the vessel. This Notice of Removal shall include the following information:
  - a. TIDA's name, address and telephone number, and the name, address and telephone number of any applicable designee of TIDA;
  - b. A description of the vessel.
  - c. The location from which the vessel was removed.
  - d. The location of the intended or actual place of storage.
  - e. The authority and purpose for removal of the vessel.
  - f. A statement that the vessel may be claimed and recovered within 15 days of the date the Notice of Removal is issued upon payment of any costs incurred by TIDA, or its designee, related to salvage and storage of the vessel.
  - g. A statement that the registered or legal owners or any other person known to have an interest in the vessel shall have the opportunity for a Post-Removal Hearing ("Hearing") before TIDA, or its designee, to determine the validity of the removal and storage if a request for a Hearing is made to TIDA in person, by telephone, by email, or by regular mail, within 10 days after the date of Notice of Removal; and that if the registered or legal owner or any other person known to have an interest in the vessel disagrees with the decision of TIDA, or its designee after the Hearing, he or she may seek review of the decision of TIDA pursuant to Section 11523 of the California Government Code (Attachment D).
3. The registered or legal owner of any vessel removed or stored under this process shall be responsible for reimbursing TIDA for the cost of such removal or storage. TIDA shall schedule any requested Hearing to determine the validity of the removal



and storage within 48 hours of the time it receives such request, excluding weekends and holidays. TIDA may authorize its own officers or employees to conduct the Hearing, but the Hearing Officer shall not be the same person who directed removal and storage of the vessel. The failure of either the registered or legal owner or any other person known to have an interest in the property to request or attend a scheduled Hearing shall not affect the validity of the Hearing.

**C. Disposal of Unclaimed Vessels.**

1. Once the Notice of Removal has been appropriately transmitted and the time period to request a Post-Removal Hearing has expired without TIDA receiving a request for Hearing, or if a request for Hearing was received, the Hearing was held and a determination was made in TIDA's favor, TIDA shall contract with a marine lien sales company, and this company shall facilitate the lien sale of the unclaimed vessel from its current storage location.
2. Following the lien sale of the vessel, the marine lien sale agent shall provide a final 10 day notice to the registered or legal owner of the vessel, and any additional known interested parties, of the execution of a lien sale. After this 10 day period, if the vessel was not bought at lien sale or claimed, TIDA shall dispose of the vessel via contract with a marine salvage and disposal company.

**VI. ADMINISTRATIVE CITATIONS AND FINES.**

In addition to other available enforcement provisions, the TIDA Director or designee may issue an administrative citation that imposes an administrative fine for violation of any provision of Police Code §1.1 or these Clipper Cove Special-Use Area Rules and Regulation, as provided by San Francisco Police Code §1.1(f) and San Francisco Administrative Code Chapter 100 (Attachments A and B).

**ATTACHMENT A:** San Francisco Police Code Section 1.1 “Clipper Cove Special-Use Area

**ATTACHMENT B:** San Francisco Administrative Code Chapter 100 “Procedures Governing the Imposition of Administrative Fines”

**ATTACHMENT C:** California Harbors and Navigation Code Section 526 “Disposal of wrecked property, abandoned property, or property removed from a navigable waterway; notice of removal; hearing” – *Available upon request.*

**ATTACHMENT D:** California Government Code Section 11523 “Judicial Review” – *Available upon request.*

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## SEC. 1.1. CLIPPER COVE SPECIAL-USE AREA.

(a) **Special-Use Area.** In order to promote the recreational use of Clipper Cove, reduce existing and potential conflicts among recreational users of Clipper Cove, protect the overall public health and safety of users of the Cove, and to eliminate adverse environmental impacts to the San Francisco Bay, Clipper Cove is hereby designated a Special-Use Area as that term is defined and used in California's Harbors and Navigation Code (*see*, California Harbors and Navigation Code §§ 651, 660).

(b) **Clipper Cove Defined.** For the purposes of Section 1.1 of this Code, Clipper Cove is defined as that section of San Francisco Bay bounded by the south shore of Treasure Island, the north shore of Yerba Buena Island, and the connecting causeway, west of a line extending from the southeast corner of the finger pier known as "Pier 1" along the east side of Treasure Island, at about latitude 37 [degrees] 49' 11", longitude 122 [degrees] 21' 40", approximately 153 [degrees] 20' to the northeasterly point of Yerba Buena Island, at about latitude 37 [degrees] 48' 55", longitude 122 [degrees] 21' 30".

(c) **Permit Requirements.**

(1) Treasure Island Development Authority ("TIDA") shall erect signage at the entrance to the Clipper Cove Special-Use Area informing boaters of permit requirements and the method for obtaining a permit;

(2) It shall be unlawful for a vessel to be moored, anchored, or otherwise allowed to remain in Clipper Cove for more than 24 hours without a valid permit or permit extension issued by TIDA or its designee; and,

(3) It shall be unlawful for any vessel to remain moored, anchored, or otherwise allowed to remain in Clipper Cove after expiration or revocation of such permit.

(d) **Salvage Prohibited.** It shall be unlawful for any person to conduct salvage operations or to be in possession of materials salvaged from Clipper Cove, without written permission from TIDA.

(e) **Criminal Penalties.** A violation of any of the provisions of Section 1.1 shall be a misdemeanor or an infraction. The complaint charging the violation shall specify whether the violation is a misdemeanor or infraction. Any violation may be charged and punished as a misdemeanor instead of an infraction; except that any violation of Section 1.1(d) "Salvage Prohibited" shall be charged and punished as a misdemeanor.

(1) A person found guilty of a misdemeanor shall be punished by imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars (\$1,000.00), or both.

(2) A person found guilty of an infraction shall be punished by a fine of up to \$100 for a first violation, and up to \$500 for a second violation within one year of the date of the first violation. If a person is charged with a third violation within one year of the date of the second or subsequent violation, it shall be charged as a misdemeanor.

(f) **Administrative Citation and Penalty.** The TIDA Director or designee may issue an administrative citation that imposes an administrative fine for violation of any provision of this Section 1.1 or the TIDA Clipper Cove Special Use Area Rules and Regulations. San Francisco Administrative Code Chapter 100 "Procedures Governing the Imposition of Administrative Fines" as it may be amended from time to time is hereby incorporated in its entirety, and shall govern the imposition, enforcement, collection and administrative review of administrative citations and penalties issued under this Subsection (f).

(g) **Removal and Storage of Vessels.**

(1) TIDA shall erect signage at the entrance to Clipper Cove informing boaters that vessels moored, anchored, or otherwise allowed to remain in Clipper Cove in violation of this Section 1.1 are subject to removal.

(2) TIDA or its designee may remove and store any vessel that is moored, anchored, or otherwise allowed to remain in Clipper Cove in violation of this ordinance, 72 hours after notice is posted in accordance with this Subsection (g). The registered owner of any vessel removed and stored under this Section 1.1 shall be responsible for reimbursing TIDA or its designee for the cost of such removal and storage.

(3) Not less than 72 hours prior to removing a vessel moored or anchored in violation of this Section 1.1, TIDA or its designee shall securely attach to the vessel a distinctive notice stating that the vessel will be removed for violation of this Section 1.1.

(4) Within 48 hours after the removal of a vessel pursuant to this Section 1.1, excluding weekends and holidays, TIDA or its designee must send notice of removal of the vessel by certified or first-class mail: to the registered and legal owners, if known or discovered before or after the removal, at their addresses of record with the Department of Motor Vehicles and the National Vessel Documentation Center, and to any other person that TIDA or its designee knows has an interest in the vessel.

(5) The notice of removal required by Subsections 1.1(g)(3) and (g)(4) shall include the following:

(A) TIDA's name, address, and telephone number, and, if applicable, the name, address and telephone number of TIDA's designee;

(B) A description of the vessel;

(C) The location from which the vessel was removed;

(D) The location of the intended or actual place of storage;

(E) The authority and purpose for removal of the vessel;

(F) A statement that the vessel may be claimed and recovered within 15 days of the date the notice of removal is issued upon payment of any costs incurred by TIDA or its designee related to salvage and storage of the vessel, and that following expiration of the 15-day period the property will be sold or otherwise disposed of by TIDA or its designee;

(G) A statement that the registered or legal owners or any other person known to have an interest in the property shall have the opportunity for a post-removal hearing before TIDA or its designee to determine the validity of the removal and storage, if a request for a hearing is made to TIDA or its designee in person, by telephone, by email or by regular mail within 10 days from

the date of notice; and that if the registered or legal owner or any other person known to have an interest in the property disagrees with the decision of TIDA or its designee after the hearing, he or she may seek review of the decision of TIDA or its designee pursuant to Government Code § 11523 and Harbors and Navigation Code § 526(b)(7) or their successor provisions.

(6) TIDA or its designee shall conduct any requested hearing within 48 hours of the time it receives the request, excluding weekends and holidays. TIDA may authorize its own officers or employees to conduct the hearing, but the hearing officer shall not be the same person who directed the removal and storage of the vessel. The failure of either the registered or legal owners or any other person known to have an interest in the property to request or attend a scheduled hearing shall not affect the validity of the hearing.

(7) TIDA shall be responsible for the costs incurred for removal and storage if it is determined in the post-storage hearing that valid grounds for the removal and storage were not established.

**(h) TIDA Clipper Cove Special-Use Area Rules and Regulations.**

(1) The Treasure Island Development Authority Board of Directors shall periodically review the TIDA Clipper Cove Special-Use Area Rules and Regulations regarding permits and related matters, and update as appropriate in conformance with this Section 1.1, California Harbors and Navigation Code, other applicable laws and regulations, and as otherwise deemed appropriate by the TIDA Board.

(2) A public hearing shall be conducted before any adoption, amendment, or repeal of any rule or regulation. At least ten days' public notice shall be given for such public hearing. All such rules and regulations shall be filed with the Clerk of the Board of Supervisors.

(i) The remedies, penalties and procedures provided under this Section are cumulative and are not intended to be exclusive of any other available remedies, penalties and procedures.

(Added by Ord. 193-09, File No. 090555, App. 8/20/2009; amended by Ord. [10-13](#), File No. 121030, App. 2/4/2013, Eff. 3/6/2013)

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## CHAPTER 100: PROCEDURES GOVERNING THE IMPOSITION OF ADMINISTRATIVE FINES

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- Sec. 100.1. Findings and Scope of Chapter.
- Sec. 100.2. Definitions.
- Sec. 100.3. Issuance and Service of Citations.
- Sec. 100.4. Notice to Owner of Real Property.
- Sec. 100.5. Determination of the Amount of the Administrative Fine When the Citation is Issued.
- Sec. 100.6. When Fines Due; Payment of Fine; Late Payment Fee; Notices by Charging Official.
- Sec. 100.7. Remedies Available to City for Non-Payment of Fines; Liens.
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- Sec. 100.10. Charging Official Required to Submit Supporting Documents.
- Sec. 100.11. Hearing Procedures.
- Sec. 100.12. Requirement to Exhaust Administrative Remedies.
- Sec. 100.13. Advance Deposit Hardship Waiver—Undue Hardship.
- Sec. 100.14. Determination of the Hearing Officer.
- Sec. 100.15. Right to Judicial Review.
- Sec. 100.16. Controller May Adopt Regulations.

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### SEC. 100.1. FINDINGS AND SCOPE OF CHAPTER.

(a) The City and County of San Francisco (the "City") has a significant interest in encouraging compliance with its laws. To that end, City Codes often include a variety of remedies, including the right of City departments to issue citations to violators and to require such persons to pay an administrative fine.

(b) Moreover, the imposition of administrative fines is not intended to be punitive in nature, but is instead intended to compensate the public for the injury and damage caused by the prohibited conduct. The fines are intended to be reasonable and not disproportionate to the damage or injury to the City and the public caused by the prohibited conduct.

(c) To date, the City has not enacted an ordinance establishing standard procedures for the imposition, enforcement, collection, and administrative review of administrative citations and fines for violation of City ordinances. Rather, the Board has enacted a variety of ordinances authorizing administrative fines but has included separate procedures in each ordinance.

(d) The Board adopts this Chapter to provide standard procedures for the imposition, enforcement, collection, and administrative review of administrative citations and fines. However, the Board recognizes that these procedures may not be appropriate to use in whole or in part for all City ordinances. Therefore, this Chapter applies only to citation procedures set forth in an ordinance that incorporates this Chapter, subject to any exceptions provided in that ordinance.

(e) The procedures set forth in this Chapter are adopted pursuant to Government Code Section 53069.4 which governs the imposition, enforcement, collection, and administrative review of administrative citations and fines by local agencies, and pursuant to the City's home rule power over its municipal affairs.

(f) The determination by the City to impose, enforce, collect and provide administrative review of administrative fines pursuant to this Chapter is solely at the City's discretion and is only one option available to the City to seek redress for the violation of its ordinances. By adopting this Chapter, and subsequent legislation incorporating the procedures in this Chapter, the Board does not intend to limit the ability of the City to use any other remedy, civil or criminal, which may be available in a particular case. The City may use the procedures set forth in this Chapter as an alternative to, or in conjunction with, any other available remedy.

(g) In compliance with Government Code Section 53069.4(a)(2), if an ordinance pertains to building, plumbing, electrical, or other similar structural or zoning issues, the ordinance shall provide a reasonable period of time for a person responsible for a continuing violation of the ordinance to correct or otherwise remedy the violation prior to imposition of administrative fines, unless the violation creates an immediate danger to health or safety.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.2. DEFINITIONS.**

The following definitions shall apply to this Chapter.

(a) "Charging official" means a City officer or employee with authority to enforce the ordinance for which citations may issue or a person designated by the charging official to act on his or her behalf.

(b) "Citation" means an administrative citation issued pursuant to this Chapter stating that the charging official has determined that there has been a violation of one or more provisions of a City ordinance, which ordinance incorporates this Chapter in whole or in part.

(c) "Controller" means the Controller for the City and County of San Francisco or a person designated by the Controller to act on his or her behalf.

(d) "Fine" means the dollar amount of the administrative fine that the person cited is required to pay for violation of an ordinance as set forth by the charging official in the citation.

(e) "Person" means a natural person, firm, association, organization, partnership, business trust, company, corporation, limited liability company, joint venture, or club, or its manager, lessee, agent, servant, officer or employee.

(f) "Serve" or "service" means either personal delivery or deposit in the United States Mail, first class, in a sealed envelope postage prepaid. Service shall include a declaration under penalty of perjury setting forth the date of personal delivery or, for service by mail, the date of deposit in the mail. Service by personal delivery shall be deemed complete on the date of the delivery. Service by mail shall be deemed complete on the date of deposit in the mail.

(g) "Violation" means a violation of an ordinance for which the charging official has authority to issue a citation.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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### **SEC. 100.3. ISSUANCE AND SERVICE OF CITATIONS.**

(a) (1) Whenever a charging official determines that a violation of an ordinance for which that official has enforcement authority has occurred, the charging official may issue and serve a citation on any person responsible for the violation.

(2) Where there is a nexus between the violation and real property located in the City as set forth in Section 100.4, the charging official may also provide notice of the citation to the owner of the real property as provided in Section 100.4. The City may not impose a lien on the property under Section 100.7(b) unless the charging official provides this notice.

(b) The citation shall contain the following information:

(1) The name of the person to whom the citation is issued;

(2) Identification of the provision or provisions of the ordinance violated. The charging official may issue a single citation for multiple violations of an ordinance or for violation of multiple provisions of an ordinance;

(3) A description of the condition or circumstances constituting the violation(s), including the address or location and date of the violation;

(4) The amount of the fine imposed for each violation;

(5) The date by which the fine must be paid, the procedure for making payment (including to whom payment must be made and acceptable forms of payment), and the consequences of the failure to pay;

(6) The right to seek administrative review of the citation by filing an appeal with the Controller within 30 days of the date that the citation is served and notice that the failure to appeal will make the issuance of the citation a final action by the City for which there is no further administrative review and no judicial review; and

(7) The date the citation is issued and the name and signature of the charging official.

(c) When serving a citation, the charging official shall also serve a form for appealing the citation pursuant to the procedure as set forth in Section 100.9. The form shall be prescribed by the Controller and shall include a description of the procedure for seeking administrative review of the citation, including the deadline for filing the appeal and the requirement in Section 100.9 that the person appealing either deposit the amount of the fine set forth in the citation or file an application for an advance deposit hardship waiver. The appeal form shall require the appellant to provide a mailing address, a street address, a telephone number, and any other contact information that the Controller determines appropriate. The failure by the charging official to serve the appeal form with the citation shall not invalidate the citation or require any change in the procedures provided in this Chapter.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.4. NOTICE TO OWNER OF REAL PROPERTY.**

(a) Where there is a nexus between the violation and real property located in the City, the charging official may provide notice of the citation to the owner of the real property as set forth in this Subsection and that unpaid fines for the citations may become a lien on the property. If the charging official gives this notice, the official shall do so within three City business days of service of the notice on the person cited.

(1) Post one copy of the citation in a conspicuous place upon the building or real property.

(2) Serve one copy of the citation on each of the following:

(A) The person, if any, in real or apparent charge or control of the premises or property involved;

(B) The owner of record.

(b) When serving a copy of the citation as provided in Subsection (a)(2), the charging official shall include written notice of the following:

(1) That the owner of the property has the right to seek administrative review of the citation by filing an appeal with the Controller within 30 days of the date of service of the notice to the property owner.

(2) That the failure by all persons authorized to appeal the citation under this Chapter to file such an appeal will make the issuance of the citation a final action by the City as to all such persons, for which there is no further administrative review and no judicial review.

(c) For purposes of this Chapter, there is a nexus between a violation and real property where an activity or condition on the real property has caused, contributed to, or been a substantial factor in causing, the violation.

(d) The City may not impose a lien on the property under Section 100.7(b) unless the charging official provides notice to the property owner as set forth in this Section.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.5. DETERMINATION OF THE AMOUNT OF THE ADMINISTRATIVE FINE WHEN THE CITATION IS ISSUED.**



(a) Unless the ordinance under which the citation is issued otherwise provides, the amount of the fine set by the charging official shall be governed by this Section:

(1) The amount of the fine for violation of an ordinance that also makes violation an infraction shall be (1) up to \$100.00 for a first violation of the ordinance; (2) up to \$200.00 for a second violation of the same ordinance within one year of the date of the first violation; and (3) up to \$500.00 for each additional violation of the same ordinance within one year of the date of a second or subsequent violation.

(2) The amount of the fine for violation of an ordinance that also makes violation a misdemeanor shall be up to \$1000.00.

(3) The amount of the fine for violation of an ordinance that does not provide for a criminal penalty shall be up to \$1000.00.

(4) In determining the amount of the fine, the charging official may take any or all of the following factors into consideration:

- (A) The duration of the violation;
- (B) The frequency, recurrence and number of violations by the same violator;
- (C) The seriousness of the violation;
- (D) The good faith efforts of the violator to correct the violation;
- (E) The economic impact of the fine on the violator;
- (F) The injury or damage, if any, suffered by any member of the public;
- (G) The impact of the violation on the community;
- (H) The amount of City staff time, which was, expended investigating or addressing the violation;
- (I) The amount of fines imposed by the charging official in similar situations;
- (J) Such other factors as justice may require.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.6. WHEN FINES DUE; PAYMENT OF FINE; LATE PAYMENT FEE; NOTICES BY CHARGING OFFICIAL.**

(a) The citation shall set forth the date by which the fine is required to be paid, which date shall allow at least 30 days for payment from the date that the citation is served. The fine shall be due and payable on or before the date set forth in the citation, unless the person cited has filed a timely appeal in compliance with the requirements of Section 100.9.

(b) The due date for fines set forth in citations for which an appeal has been filed under Section 100.9 are due and payable on the date required under Sections 100.9(c)(2) and (d) and 100.14(b).

(c) Fines that remain unpaid 30 days after the due date shall be subject to a late payment penalty of 10 percent plus interest at the rate of 1 percent per month on the outstanding balance, which shall be added to the penalty amount from the date that payment is due.

(d) All fines and late payment fees shall be payable to the City and deposited in the City's general fund, unless the payment is made pursuant to an ordinance that provides otherwise.

(e) If the fine is unpaid by the date that it is due under this Chapter, the charging official shall serve notice within 30 days of the delinquency that fines not paid by the due date are subject to a late payment penalty as provided in Subsection (c). Where there is a nexus between the violation and real property against which the City may impose a lien for non-payment of the citation as provided in Section 100.7(b), the charging official may serve notice to the owner of such property that the person cited has not timely paid the citation and that the charging official may initiate proceedings to make the amount due and all additional authorized costs and charges, including attorneys fees, a lien on the property. If the charging official does not provide the notice set forth in this Subsection, the City may not impose a lien on the property under Section 100.7(b).

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.7. REMEDIES AVAILABLE TO CITY FOR NON-PAYMENT OF FINES; LIENS.**

(a) The amount of any fine not paid within the time required under this Chapter, including the amount of any applicable late payment charges, constitutes a debt to the City. The City may file a civil action or pursue any other legal remedy to collect such money. In any civil action to obtain payment of the fine, and any late payment penalties, the City shall be entitled to obtain a judgment for the amount of the unpaid fines and penalty payments and, in addition, for the costs and attorneys' fees incurred by the City in bringing any civil action to enforce the provisions of this Section.

(b) Where there is a nexus between the violation and real property located in the City as defined in Section 100.4(c), the charging official may initiate proceedings to make the payment amount due and all additional authorized costs and charges, including attorneys' fees, a lien on the property. Such liens shall be imposed in accordance with San Francisco Administrative Code Sections 10.230—10.237, or any successor provisions. Before initiating lien proceedings, the charging official shall send a request for payment under San Francisco Administrative Code Section 10.230A.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.8. RIGHT TO APPEAL.**

Any person who has been served with a citation, including property owners who receive notice of the citation under Section 100.4, may seek administrative review of the citation by filing an appeal with the Controller as provided in Section 100.9. The grounds for any such appeal shall be that there was no violation of the ordinance for which the citation was issued or that the person cited did not commit the violation.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.9. APPEAL PROCEDURE; APPOINTMENT OF HEARING OFFICER.**

(a) Any person who seeks the administrative review of a citation may file an appeal no later than 30 days from the date of service of the citation. An appeal shall be deemed filed on the date that the Controller receives it. At the time that the appeal is filed, the appellant must either deposit with the Controller the full amount of the fine required under the citation or must file an application for an advance deposit hardship waiver, as set forth in Section 100.13. The Controller shall promptly send notice to the charging official of an appeal filed in compliance with this Subsection.

(b) The Controller shall take the following actions within 10 days of receiving an appeal filed with the deposit required in Subsection (a): (1) appoint a hearing officer, (2) set a date for the hearing, which date shall be no less than 10 and no more than 60 days from the date that the appeal was filed, and (3) send written notice of the hearing date to the appellant and the charging official.

(c) The Controller shall, within 10 days of receiving an appeal filed with an application for an advance deposit hardship waiver, determine whether to grant or deny the waiver, as set forth in Section 100.13.

(1) If the Controller grants the waiver, the Controller shall promptly (1) appoint a hearing officer, (2) set a date for the hearing, which date shall be no less than 10 and no more than 60 days from the date that the appeal was filed, and (3) send written notice of the hearing date to the appellant and the charging official.

(2) If the Controller denies the waiver, the Controller shall serve the determination on the applicant and the charging official and shall require the applicant to make the required deposit within 10 days from service of the notice. If the person fails to comply with the requirement within 10 days, the Controller shall consider the appeal withdrawn and shall serve written notice to the person who filed the appeal and to the charging official that the appeal has been withdrawn. Upon receiving notice of the withdrawn appeal, the charging official shall serve written notice on the person cited that the fine set forth in the citation is due and payable on or before the tenth day after service of the notice.

(d) Upon receiving an appeal that is filed without either the required deposit or an application for an advance deposit hardship waiver, the Controller shall provide written notice to the person who filed the appeal that such person must either make the deposit or file the waiver application. The Controller shall provide the person 10 days from service of the notice to comply. If the person fails to comply with the requirement within 10 days, the Controller shall consider the appeal withdrawn and shall serve written notice on the person who filed the appeal and the charging official that the appeal has been withdrawn. Upon receiving notice of the withdrawn appeal, the charging official shall serve written notice that the fine set forth in the citation is due and payable on or before the tenth day after service of the notice.

(e) If the person cited fails to pay the fine within the 10 days required under Subsections (c) (2) or (d), the charging official shall serve notice of the late payment penalty that will become due for fines that remain unpaid 30 days after the due date as provided in Section 100.6(c). Where there is a nexus between the violation and real property against which the City may impose a lien for non-payment of the citation as provided in Section 100.7(b), the charging official may serve a copy of this notice on the owner of the property and, if such notice is given,

shall also provide notice that the charging official may initiate lien proceedings to make the amount due under the citation and all additional authorized costs and charges, including attorneys fees, a lien on the property. If the charging official does not provide the notice to the property owner required under this Subsection, the City may not impose a lien on the property under Section 100.7(b).

(f) When more than one person files an appeal of a citation, payment by any appellant shall satisfy the deposit requirement for all appellants.

(g) The provisions of this Section 100.9 requiring the Controller or Charging Official to act by a specific date are directory. The failure of the Controller or Charging Official to take action within the time specified shall not deprive that person of jurisdiction over the matter or of the right to take action at a later time, unless to do so would unreasonably prejudice persons issued citations. This Subsection 100.9(g) shall not apply to the requirements of this Section governing notice to the owners of real property where there is a nexus between the violation and the property as defined in Section 100.4(c).

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.10. CHARGING OFFICIAL REQUIRED TO SUBMIT SUPPORTING DOCUMENTS.**

Upon receiving notice that the Controller has scheduled a hearing on an appeal, the charging official shall, within three City business days, serve the appellant and the hearing officer with records, materials, photographs, and other evidence on which the charging official intends to rely at the hearing to support the citation. The charging official may serve this information at any earlier time; if the Controller has not yet appointed a hearing officer, the charging official may serve the information on the Controller, who shall provide it to the person appointed as hearing officer. If the charging official does not serve the information required under this Section within three City business days, the hearing officer may grant a request by the charging official to allow later service and may find good cause to continue the hearing because of the delayed service.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.11. HEARING PROCEDURES.**

(a) The hearing officer shall conduct all appeal hearings under this Chapter and shall be responsible for deciding all matters relating to the hearing procedures not otherwise specified in this Chapter or in regulations adopted by the Controller. The charging official shall have the burden of proof in the hearing. The hearing officer may continue the hearing at his or her own initiative or at the request of either party. The hearing officer may request additional information from the charging official or the person cited.

(b) The hearing need not be conducted according to technical rules of evidence and witnesses. Any relevant evidence is admissible if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs.

(c) The following provisions shall also apply to the appeal procedure:

(1) A citation that complies with the requirements of Section 100.3(b) and any additional evidence submitted by the charging official pursuant to Section 100.10 shall be prima facie evidence of the facts contained therein;

(2) The appellant shall be given the opportunity to present evidence concerning the citation; and

(3) The hearing officer may accept testimony by declaration under penalty of perjury relating to the citation from any party if he or she determines it appropriate to do so under the circumstances of the case.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.12. REQUIREMENT TO EXHAUST ADMINISTRATIVE REMEDIES.**

(a) The failure of the person cited to take the actions set forth in Subsection (c) shall constitute a failure to exhaust administrative remedies and shall preclude the person cited from obtaining judicial review of the validity of the citation.

(b) Where there is a nexus between the violation for which a citation issued and real property as defined in Section 100.4(c), the failure of the owner of such property to take the actions set forth in Subsection (c) shall constitute a failure to exhaust administrative remedies and shall preclude the property owner from obtaining judicial review of the validity of the citation.

(c) This Section applies to the following:

(1) The failure to file an appeal within the time required by Section 100.9(a).

(2) The failure to file an application for a waiver of the deposit requirement within the time required by Section 100.9, unless another appellant has deposited the amount of the fine.

(3) The failure to complete the appeal by depositing the amount of the fine within the time required by Section 100.9, unless another appellant has done so.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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## **SEC. 100.13. ADVANCE DEPOSIT HARDSHIP WAIVER - UNDUE HARDSHIP.**

(a) Any person may seek a waiver from the deposit requirement set forth in Section 100.9(a).

(b) The person requesting a waiver shall file an application on a form prescribed by the Controller, with supporting materials, no later than 30 days from the date of service of the citation. The supporting materials shall include a declaration under penalty of perjury setting forth the circumstances demonstrating that the deposit requirement would impose an undue hardship on the applicant, as well as any documents or other information that the applicant wants the Controller to consider in support of the application for a waiver.

(c) The Controller shall determine within 10 days of receiving the application whether to grant or deny a waiver, setting forth the reason for the determination. The Controller shall serve

the written determination on the applicant and the charging official. The Controller's written determination shall be a final administrative determination.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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### **SEC. 100.14. DETERMINATION OF THE HEARING OFFICER.**

(a) After considering all of the testimony and evidence submitted by the parties, the hearing officer shall issue a written decision upholding, modifying or vacating the citation and shall set forth the reasons for the determination. The determination of the hearing officer shall be a final administrative determination.

(b) If the hearing officer upholds the citation, the City shall retain the amount of the fine that the appellant deposited with the City. If no appellant has deposited the fine with the City, the hearing officer shall set forth in the decision a schedule for payment of the fine. The person cited shall pay the fine by the date or dates set forth in the hearing officer's schedule and the failure to do so shall result in the assessment of late payment fees as set forth in Section 100.6(c).

(c) If the hearing officer vacates the citation, the City shall promptly refund the deposit. If the hearing officer partially vacates the citation, the City shall promptly refund that amount of the deposit that corresponds to the hearing officer's determination. The refund shall include interest at the average rate earned on the City's portfolio for the period of time that the City held the deposit as determined by the Controller.

(d) The hearing officer shall serve the appellant and the charging official with a copy of the determination and notice of the right of the appellant to seek judicial review pursuant to California Government Code Section 53069.4.

(e) Absent good cause, the hearing officer shall hear multiple appeals of a citation at the same time.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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### **SEC. 100.15. RIGHT TO JUDICIAL REVIEW.**

(a) Any person aggrieved by the action of the hearing officer taken pursuant to this Chapter may obtain review of the administrative decision by filing a petition for review in accordance with the timelines and provisions set forth in California Government Code Section 53069.4.

(b) If a final order of a court of competent jurisdiction determines that the City has not properly imposed a fine pursuant to the provisions of this Chapter, and if the fine has been deposited with the City as required by Section 100.9, the City shall promptly refund the amount of the deposited fine, consistent with the court's determination, together with interest at the average rate earned on the City's portfolio for the period of time that the City held the fine amount as determined by the Controller.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)

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### **SEC. 100.16. CONTROLLER MAY ADOPT REGULATIONS.**

The Controller may adopt regulations governing the citation and hearing procedure set forth in this Chapter.

(Added by Ord. 73-08, File No. 071670, App. 4/30/2008)