

Agenda Item: 5

Consideration of 2008 Color Scheme Standards: Proposed Rules 4.A.13 and 5.A.10, Amendments to MPC § 1125; and Proposed 2008 Color Scheme Standards [ACTION]



TO: Honorable Commissioners
FR: Jordanna Thigpen
RE: Color Scheme Standards
DATE: June 5, 2008

These proposed Rule amendments and Color Scheme Standards were developed at the request of Commissioners to address the lack of standards for color scheme changes and the formation of new color schemes.

Color Scheme Changes:

The Commission would not allow color scheme changes to companies unless they met minimum standards, to be developed on an annual basis. For 2008 the proposed standards include, among other requirements:

- Have a bona fide manager(s) who will be accountable and cooperative with the Taxi Commission staff
- Accept credit cards in all cabs with no minimum
- File Financial Statements on time in accordance with MPC § 1137
- Issue Form 1099s to medallion holders and provide those 1099s to the Taxi Commission for inspection if so requested
- Operate Post-K medallions as gas and gate
- Receive a passing score of at least 80% on the annual audit or face progressive discipline
- Have at least five medallions
- Comply with the Clean Air Taxi Program

Formation of New Color Schemes or Transfer of Existing Color Schemes

A color scheme cannot form unless it complies with all of the above standards. A color scheme cannot be transferred to another individual without a hearing to determine if the proposed transferee is capable of meeting the Standards.

Cleaning Up Language in MPC § 1125

Some change to MPC § 1125 is required to truly effectuate the goals verbalized by the Commissioners.

Please see the attached Resolution for the text of the proposed amendments and Standards.



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JORDANNA THIIGPEN, ACTING EXECUTIVE DIRECTOR

June 10, 2008

At the meeting of the Taxicab Commission on Tuesday, June 10, 2008, the following resolution was adopted:

RESOLUTION NO. 2008-XX

ADDING RULES 4.A.13 and RULE 5.A.10 OF THE TAXICAB/RAMPED TAXI RULES AND REGULATIONS; RECOMMENDING AMENDMENTS TO MPC § 1125; ADOPTING 2008 COLOR SCHEME STANDARDS

WHEREAS, the Rules and Regulations Subcommittee recommends adding Rules 4.A.13 and Rule 5.A.10 of the Taxicab/Ramped Taxi Rules and Regulations; and

Rule 4.A.13: Medallion Holders may apply to the Commission for a change in color scheme. The Commission shall not approve any color scheme changes unless color scheme is operated in accordance with the provisions of Article 16 of the Municipal Police Code and these Rules and Regulations, and the Commission's Annual Standards.

Rule 5.A.10: All Color Schemes shall operate in accordance with the Annual Standards adopted by the Taxi Commission. No color scheme transfers shall be authorized to any color scheme which is not operating in accordance with the provisions of Article 16, these Rules and Regulations, or the Commission's Annual Standards.

WHEREAS, the Rules and Regulations Subcommittee recommends urging the Board of Supervisors to adopt amendments to MPC § 1125 as follows; and

MPC SEC. 1125. TAXICAB COLOR SCHEMES; ADOPTION; PERMITS; CHANGES.

(a) **Color Scheme Required.** Upon the issuance of a taxicab permit, every taxicab permittee shall adopt a distinguishing taxicab color scheme that has been approved by the Taxi Commission pursuant to Subsection (b) of this Section. The taxicab permittee's choice of color scheme shall be subject to the approval of the Taxi Commission, ~~which approval shall be given except when it clearly would not be in the public interest to do so.~~

(b) **Color Scheme Permits, Applications.** Any holder of a taxicab permit or a taxicab dispatch service permit under this Article *that has held said permit(s) for at least five consecutive years* may apply to the

Taxi Commission for a taxicab color scheme permit pursuant to Sections 1080, 1081 of this Article. That permit shall entitle the holder to the exclusive rights to the use of that taxicab color scheme for taxicabs licensed pursuant to this Article; provided, however, that the permittee under this Subsection may authorize taxicab permit holders to adopt the licensed taxicab color scheme, as set forth in Subsection (a). Notwithstanding the provisions of Section 1083 of this Article (nontransferability of permits), the permits issued pursuant to this Section are transferable, subject to the approval of the Taxi Commission, who shall determine that the proposed transferee meets the criteria set forth in Section 1081 of this Article ~~review the transferee according to the criteria of Section 1081. The permittee shall give notice to the Taxi Commission of any intended transfer at least 14 days prior to any such transfer.~~ Applicants for permits authorized by this Section, as well as for color scheme changes and renewal of permits, shall pay to the City and County of San Francisco a sum set by ordinance to cover the costs of advertising, investigating, and processing the application for each permit. *No color scheme permit shall be issued or transferred unless the applicant or transferee affirms under penalty of perjury, and the Commission determines, that the color scheme and the applicant or transferee shall comply with the provisions of this Article, the Commission's Rules & Regulations, and meet the requirements of subsection (c) below.*

(c) Color Scheme Permits, Annual Renewals and Revocation. No later than June 1 of each year, the Taxi Commission shall develop and maintain standards for color scheme permits and shall conduct audits of color schemes. All color scheme permits shall be renewed no later than June 30 of each year. Failure of a color scheme to meet the Commission's annual standards shall be a cause for cancellation, non-renewal, or revocation of a color scheme permit, in addition to grounds otherwise specified in this Article.

~~*(d) Existing Color Scheme. All persons and entities who, prior to the effective date of Ordinance 562-88, have obtained permission from the Chief of Police to use a taxicab color scheme are hereby deemed to be permittees under this Section; provided, however, that such persons or entities shall hereafter pay to the Chief of Police the taxicab color scheme permit fee as established by the Chief of Police. All persons who, prior to the effective date of Ordinance XXXX, have obtained permission from the City and County of San Francisco to use a taxicab color scheme must reapply and be approved by the Taxi Commission for a color scheme permit using standards developed according to section (c) by October 31, 2008, provided, however, that such persons shall not be required to pay the annual permit fee for Fiscal Year 2008-2009 until June 30, 2009.*~~

(e) Change of Color Scheme. It shall be unlawful for any taxicab permittee or operator to make or cause to be made any change whatsoever in the distinguishing color scheme of any taxicab without the prior approval of the Taxi Commission. *No change shall be approved unless both the taxicab permit and the color scheme permit receiving the permit in the transfer are operated in accordance with the provisions of this Article, the Commission's Rules & Regulations, and the Commission's annual standards.* ~~which approval shall be given except when it clearly would not be in the public interest to do so. No change in distinguishing taxicab color scheme shall be allowed if such change will result in the discontinuance, interruption or reduction of radio-dispatched taxicab service, and the Taxi Commission shall consider the impact of a proposed change of distinguishing taxicab color scheme upon the quantity and quality of radio-dispatched taxicab service or paratransit service available to the public before allowing any such change.~~

WHEREAS, the Rules and Regulations Subcommittee recommends adopting Color Scheme Standards for 2008 as follows:

1. GENERAL PROVISIONS.

- a. All Color Schemes shall operate in accordance with Article 16 of the Municipal Police Code, the Commission's Rules & Regulations, these Standards, and any procedures that are developed by the Commission to effectuate compliance.

- b. All Color Schemes shall file and maintain a valid business license issued by the City and County of San Francisco Treasurer & Tax Collector's Office.
 - c. A Color Scheme may designate more than one individual to appear as the "Color Scheme Holder," but at least one individual must be a natural person over the age of 18.
- 2. MANAGERS REQUIRED.**
- a. All Color Schemes shall be required to fill out a new application by July 30, 2008 which will designate a bona fide manager who shall serve as the central point of contact for all matters of regulatory compliance. This manager shall be a medallion holder who has held his or her medallion for at least five years and has never had a medallion suspended or revoked by the Commission. Upon written permission from the Commission Executive Director, a Color Scheme may designate additional bona fide managers for specialized matters.
 - b. The bona fide manager shall be designated as the official agent and agent for service of process for the color scheme. This manager shall be held strictly accountable to the Commission for all activities of the color scheme.
 - c. Managers may, but are not required to, qualify for the key personnel exemption codified at MPC § 1081.5. If any color scheme designates a manager that is later determined by the Commission to be other than a bona fide manager by virtue of fraud or other violations, that color scheme shall be subject to at least one year's probation and medallions shall not transfer into this color scheme during the probationary period.
- 3. COMPLIANCE REQUIRED.**
- a. All Color Schemes shall obtain a score of at least 70% during the Commission's annual Color Scheme Audit. Any Color Scheme receiving less than 70% will be re-audited on a quarterly basis for one year, shall be placed on probation during that period, and medallions shall not transfer into this color scheme during the probationary period.
 - b. All Color Schemes shall comply with the Clean Air Taxi Program.
 - c. All Color Schemes shall promptly correct all regulatory violations. Suspension or probation of a color scheme shall constitute grounds for denial of color scheme changes.
- 4. CREDIT CARDS REQUIRED.** All Color Schemes shall accept credit cards with no minimum. No Color Scheme shall charge any driver for any charges related to the processing or handling of credit cards.
- 5. FILINGS REQUIRED.**
- a. All Color Schemes shall make financial filings required by the San Francisco Controller's Office by the deadline specified by the Controller and enforced by the Taxi Commission.
 - b. All individuals, and if a corporation or partnership also appears on the Color Scheme Permit, the President, shall file a sworn statement annually attesting that the Color Scheme complies with all applicable laws, rules, and procedures, including these Standards
 - c. All Color Schemes shall file and issue an annual IRS Form 1099 for payments to each medallion holder affiliated with the Color Scheme.
- 6. OPERATION STANDARDS**
- a. All Color Schemes shall operate all Post-K medallions on a gas and gates basis only. Pre-K medallions may be operated as gas and gates or on a lease basis at the discretion of the Color Scheme Holder. Permission to operate a Post-K medallion on a lease basis may be granted at the discretion of the Taxi Commission.
 - b. All Color Schemes must affiliate with a dispatch service with at least 75 taxicabs and 10 ramped taxicabs.

THEREFORE BE IT RESOLVED, that the Taxi Commission adopts the changes described above.

AYES:
ABSENT:

NOES: 0
RECUSED: 0

Respectfully submitted,

Jordanna Thigpen
Acting Executive Director