

THIS PRINT COVERS CALENDAR ITEM NO: 10.4

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Streets

BRIEF DESCRIPTION:

Amending San Francisco Transportation Code, Division II, Section 305(a)(1)(D) to prohibit reductions and waivers of towing and storage fees when a vehicle is towed and impounded because of or in connection with felony or misdemeanor crimes.

SUMMARY:

- San Francisco is seeing a rise in “motor vehicle stunt driving,” including various driving offenses that the California Vehicle Code (CVC) categorizes as misdemeanor crimes.
- Motor vehicle stunt driving is extremely dangerous and threatens the health and safety of participants, spectators, and bystanders.
- In October 2020, the Board of Supervisors amended the Police Code to require mandatory impoundment of vehicles whose operators are arrested for motor vehicle stunt driving, as authorized under the CVC.
- Owners of impounded vehicles typically pay certain, fixed towing and storage fees set forth in Section 305(a)(1) of the Transportation Code, but owners who qualify for the SFMTA’s low-income tow program are eligible for reduced fees or waivers.
- Since July 2020, the San Francisco Police Department has impounded over 400 vehicles in connection with motor vehicle stunt driving and other driving offenses; approximately 25 percent of these vehicles were released to owners that paid reduced towing and storage fees or obtained waivers under the SFMTA’s low-income tow program.
- That these owners should benefit from the low-income tow program conflicts with laws intended to discourage motor vehicle stunt driving and other driving offenses.
- This amendment would make vehicle owners ineligible for the SFMTA’s low-income tow program if their vehicles are towed and impounded because of or in connection with motor vehicle stunt driving and other felony or misdemeanor crimes.

ENCLOSURES:

1. SFMTAB Resolution
2. Transportation Code Amendment

APPROVALS:

	DATE
DIRECTOR 	March 29, 2021
SECRETARY 	March 29, 2021

ASSIGNED SFMTAB CALENDAR DATE: April 6, 2021

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PURPOSE

Amending San Francisco Transportation Code, Division II, Section 305(a)(1)(D) to prohibit reductions and waivers of towing and storage fees when a vehicle is towed and impounded because of or in connection with felony or misdemeanor crimes.

STRATEGIC PLAN GOALS AND TRANSIT FIRST POLICY PRINCIPLES

This action supports the following SFMTA Strategic Plan Goal and Objective.

Goal 1: Create a safer transportation experience for everyone.

Objective 1.1: Achieve Vision Zero by eliminating all traffic deaths.

This action supports the following Transit First Policy Principle:

1. To ensure quality of life and economic health in San Francisco, the primary objective of the transportation system must be the safe and efficient movement of people and goods.

DESCRIPTION

Background

In recent years, San Francisco has seen a rise in “motor vehicle stunt driving,” which includes reckless driving, vehicle speed contests, and exhibitions that involve stunts and tricks with vehicles. In some instances, the motor vehicle stunt driving features cars weaving and speeding along thoroughfares, spinning “doughnuts,” and screeching tires while passengers hang out the windows, drawing crowds of spectators. In other instances, cars speed in unison.

The various stunts and tricks featured during motor vehicle stunt driving are extremely dangerous and imperil both willing spectators and uninvolved bystanders, as well as participants. In the San Francisco Bay Area, the use of vehicles for stunts and tricks has caused serious injuries and death to not only participants and spectators but also to bystanders.

Among more recent instances of motor vehicle stunt driving in San Francisco were the following:

- On February 23, 2020, there were four illegal motor vehicle stunt driving exhibitions involving 50 to 100 cars. Several cars sped through neighborhoods and engaged in reckless driving behavior. Motor vehicles blocked street intersections and engaged in tricks and stunts that included driving in continuous “figure eights” with screeching tires, and “doughnut” contests. Dozens of spectators crowded the streets and sidewalks in very close proximity to the vehicles watching the exhibitions, creating a major public safety concern.

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- On August 24, 2020, there was an illegal motor vehicle stunt driving exhibition where vehicles orbited an intersection performing continuous “doughnuts” and sending smoke from tires into the air as passengers hung out the window. Approximately 100 spectators cheered on the spinning cars. At one point, a participating driver lost control of his vehicle, forcing spectators to move back, creating a potential hazardous situation for those spectators. There were spectator vehicles that blocked all access to entry of the exhibition intersection. Nearby, gun shots were fired.
- On September 6, 2020, an illegal motor vehicle stunt driving exhibition attracted hundreds of spectators and approximately 50 vehicles. There were approximately 100 calls for police service for this event from residents concerned about public safety. A man was shot to death in the immediate vicinity of the reckless stunt driving exhibition.

Article 56 of the San Francisco Police Code

In October 2020, in response to the rise in motor vehicle stunt driving, the Board of Supervisors amended the Police Code to add Article 56 (Motor Vehicle Stunt Driving), under which Section 5601 declares:

[i]t is the policy of the City and County of San Francisco to protect the health and safety of residents by enforcing state laws that prohibit persons from engaging in reckless driving, motor vehicle speed contests, and exhibitions that involve stunts and tricks with vehicles, and that prohibit persons from aiding and abetting such activities.

Section 5602 requires that any police officer who arrests the operator of a vehicle for motor vehicle stunt driving in violation of CVC section 23109.2(2) (i.e., speed contests, reckless driving, or exhibition of speed) must impound the vehicle as follows:

- for the first incident, at least 14 days but not more than 30 days;
- for the second incident, at least 15 days but not more than 30 days;
- for all other incidents thereafter, at least 29 days but not more than 30 days.

Section 5602 is consistent with CVC section 23109.2, which provides police officers discretionary authority for, but does not require, impoundment of vehicle whose operators are arrested for motor vehicle stunt driving. As a matter of City policy, Section 5602 makes mandatory what is otherwise a discretionary act under the CVC.

Towing and Storage Fees; Low-Income Tow Program

The City’s towing and storage fees are set forth in Section 305(a)(1) of the Transportation Code. Impounded vehicles are generally subject to administrative and towing fees totaling \$574 plus a daily storage fee of \$68 per each day of storage. Under the SFMTA’s low-income tow program, vehicle owners who qualify as low-income or who are experiencing homelessness are eligible for waivers and reduced fees.

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Vehicle owners who qualify as low-income pay a reduced towing fee of \$100 and receive waivers of the administrative fee (\$318) and up to 15 days of storage (\$1,001.50). Vehicle owners who are experiencing homelessness receive full waivers of the administrative and towing fees (\$574) and up to 15 days of storage (\$1,001.50).

The purpose of the SFMTA's low-income tow program is to assist individuals who are facing economic hardship or housing instability and whose vehicles are towed primarily for non-criminal violations of the City's parking laws.

Towing Statistics

Since July 2020, the San Francisco Police Department (SFPD) has impounded over 400 vehicles in connection with motor vehicle stunt driving and other misdemeanor or felony crimes. Approximately 25 percent of these vehicles were released to owners who obtained waivers and paid reduced fees under the SFMTA's low-income tow program.

Since July 2020, the total value of these fee reductions and waivers is approximately \$163,000, which the SFMTA does not recover and must subsidize from its operating budget. These subsidies reduce the consequences of engaging in motor vehicle stunt driving and similar driving offenses, which conflicts with public safety laws intended to discourage this conduct and does not serve the purpose behind the SFMTA's low-income tow program.

Transportation Code Amendment

The proposed amendment would make owners whose vehicles are involved in or used in connection with various criminal acts, including violations of laws that prohibit persons from engaging in motor vehicle stunt driving, ineligible for SFMTA's low-income program. The operative language in Transportation Code, Section 305(a)(1)(D) would read as follows:

the reduced fees and waivers provided under subsections (A), (B), or (C) above shall not be available to either a registered owner of a towed vehicle or a registered owner's agent claiming a towed vehicle if . . . *the vehicle was towed because of or in connection with an act which would constitute a felony or misdemeanor*, or which would be punishable, in the discretion of the court, either as a felony or misdemeanor under any law of the City or County of San Francisco, the State of California, or the United States. (Emphasis added.)

The proposed language is broad enough to cover tows stemming from motor vehicle stunt driving as well as more serious crimes. If a driving offense is serious enough to be a felony or misdemeanor, then denying waivers and reduced fees for vehicles impounded because of or in connection with those offenses is warranted to further discourage such conduct.

The proposed language also covers vehicles used to aid or abet another person in the commission of a misdemeanor or felony. For example, vehicles used by their operators to obstruct intersecting roadways to facilitate motor vehicle stunt driving. Or, vehicles abandoned on site by their operators after participating in motor vehicle stunt driving exhibitions.

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The proposed language does not cover lesser public offenses, including parking violations, which are considered infractions under the law. Eligible owners whose vehicles are towed for most parking-related violations would still pay reduced towing and storage fees or waivers of these fees.

STAKEHOLDER ENGAGEMENT

The SFMTA worked with the SFPD on this item after learning that vehicle owners who participated in stunt driving exhibitions were participating in SFMTA's low-income tow program. Some of these vehicle operators were arrested for motor vehicle stunt driving or other crimes. The SFMTA and SFPD agree that providing the program's reduced towing and storage fees and waivers of such fees to these individuals conflicts with the policy of the Board of Supervisors, as stated in Article 56 of the Police Code, and other laws intended to discourage hazardous driving.

ALTERNATIVES CONSIDERED

The SFMTA has considered keeping intact the eligibility requirements for its low-income tow program. In that case, owners and operators who have their vehicles impounded because of their participation in motor vehicle stunt driving and other misdemeanor or felony crimes will remain eligible for the program's reduced towing and storage fees or waivers of those fees.

FUNDING IMPACT

Based on the first six months of Fiscal Year 2021, the SFMTA estimates subsidies for waivers and reduced fees will equal \$320,000 for the entire fiscal year. These subsidies negatively impact the agency's operating budget and conflict with the agency's Transit First Policy.

ENVIRONMENTAL REVIEW

On February 5, 2021, the SFMTA, under authority delegated by the Planning Department, determined that the elimination of tow and storage fee discounts for vehicle towed under SFPD authority is not a "project" under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b).

A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors and is incorporated herein by reference.

OTHER APPROVALS RECEIVED OR STILL REQUIRED

No other approvals are required.

The City Attorney's Office has reviewed this calendar item.

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RECOMMENDATION

Staff recommends that the San Francisco Municipal Transportation Agency Board of Directors amends the San Francisco Transportation Code Division II, Section 305(a)(1)(D) to prohibit reductions and waivers of towing and storage fees when a vehicle is towed and impounded because of or in connection with felony or misdemeanor crimes.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

WHEREAS, San Francisco is seeing a rise in “motor vehicle stunt driving,” including various driving offenses that the California Vehicle Code (CVC) categorizes as misdemeanor crimes; and,

WHEREAS, Motor vehicle stunt driving is extremely dangerous and threatens the health and safety of participants, spectators, and bystanders; and,

WHEREAS, In October 2020, the Board of Supervisors amended the Police Code to require mandatory impoundment of vehicles whose operators are arrested for motor vehicle stunt driving, as authorized under the CVC; and,

WHEREAS, Owners of impounded vehicles typically pay certain, fixed towing and storage fees set forth in Section 305(a)(1) of the Transportation Code, but owners who qualify for the SFMTA’s low-income tow program are eligible for reduced fees or waivers; and,

WHEREAS, Since July 2020, the San Francisco Police Department has impounded over 400 vehicles in connection with motor vehicle stunt driving and other driving offenses; approximately 25 percent of these vehicles were released to owners that paid reduced towing and storage fees or obtained waivers under the SFMTA’s low-income tow program; and,

WHEREAS, That these owners should benefit from the low-income tow program conflicts with laws intended to discourage motor vehicle stunt driving and other driving offenses; and,

WHEREAS, This amendment would make vehicle owners ineligible for the SFMTA’s low-income tow program if their vehicles are towed and impounded because of or in connection with motor vehicle stunt driving and other felony or misdemeanor crimes; and,

WHEREAS, On February 5, 2021, the SFMTA, under authority delegated by the Planning Department, determined that the elimination of tow and storage fee discounts for vehicle towed under SFPD authority is not a “project” under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b); and,

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors, and is incorporated herein by reference; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors amends the San Francisco Transportation Code Division II, Section 305(a)(1)(D) to prohibit reductions and waivers of towing and storage fees when a vehicle is towed and

impounded because of or in connection with felony or misdemeanor crimes.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of April 6, 2021.

Secretary to the Board of Directors

RESOLUTION NO.

[Transportation Code - Prohibition Against Reductions and Waivers of Towing and Storage Fees for Vehicles Towed Because of or in Connection with Certain Crimes]

Resolution amending Division II of the Transportation Code to prohibit reductions and waivers of towing and storage fees when a vehicle is towed and impounded because of or in connection with felony or misdemeanor crimes.

NOTE: Additions are single-underline Times New Roman; deletions are ~~strike-through Times New Roman~~.

The Municipal Transportation Agency Board of Directors of the City and County of San Francisco enacts the following regulations:

Section 1. Article 300 of Division II of the Transportation Code is hereby amended by revising Section 305, to read as follows:

SEC. 305. TOWING AND STORAGE FEES.

(a) Fees.

* * * *

(A) The SFMTA shall charge the registered owner or the registered owner’s agent claiming the towed vehicle the First Tow reduced administrative fee only if the vehicle has not previously been towed by the SFPD or SFMTA while registered to its current owner. The SFMTA shall charge the renter of the towed vehicle the First Tow reduced administrative fee only if the SFPD or SFMTA has not previously towed any vehicle registered to or rented by the renter of the towed vehicle.

(B) The SFMTA shall waive the administrative fee, any applicable dolly fee, any applicable lien fees, and the storage fees that would otherwise accrue during the first 24 hours and up to 14 consecutive calendar days thereafter that the vehicle is stored, and

instead apply the Low Income Tow Fee only if the registered owner or renter of the towed vehicle (1) establishes his or her participation in an eligible program for low income families or individuals, (2) establishes that his or her annual household income is less than or equal to 200% of the Federal Poverty Level, and (3) removes the vehicle from impound. The SFMTA shall publish the list of eligible low income programs on its website.

(C) The SFMTA shall waive the administrative fee, any applicable dolly fee, any applicable lien fees, and the storage fees that would otherwise accrue during the first 24 hours and up to 14 consecutive calendar days thereafter that the vehicle is stored, and instead grant a One-Time Tow Fee Waiver for People Certified as Experiencing Homelessness only if the registered owner or renter of the towed vehicle (1) provides certification from the Department of Homelessness and Supportive Housing, (2) has not previously been granted the One-Time Tow Fee Waiver for People Certified as Experiencing Homelessness, and (3) removes the vehicle from impound.

(D) Notwithstanding any other provision of this Code, the reduced fees and waivers provided under subsections (A), (B), or (C) above shall not be available to either a registered owner of a towed vehicle or a registered owner's agent claiming a towed vehicle if (i) the towed vehicle's registered owner is a business, including but not limited to a partnership, trust, for-profit corporation, or non-profit corporation, or (ii) the vehicle was towed because of or in connection with an act which would constitute a felony or misdemeanor, or which would be punishable, in the discretion of the court, either as a felony or misdemeanor, under any law of the City and County of San Francisco, the State of California, or the United States.

* * * *

Section 2. Effective Date. This ordinance shall become effective 31 days after enactment. Enactment occurs when the San Francisco Municipal Transportation Agency Board of Directors approves this ordinance.

Section 3. Scope of Ordinance. In enacting this ordinance, the San Francisco Municipal Transportation Agency Board of Directors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, letters, punctuation marks, charts, diagrams, or any other constituent parts of the Transportation Code that are explicitly shown in this ordinance as additions or deletions in accordance with the "Note" that appears under the official title of the ordinance.

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

By: _____
ISIDRO ALARCON JIMENEZ
Deputy City Attorney

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I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of April 6, 2021.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency