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DEPARTMENT OF ELECTIONS

Note: Uncodified text is in plain or **bold** text.

Additions to Codes are in single-underline italics text.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Title.

This Initiative shall be known and may be cited as “The COMMUNItY Transit Act.”

Section 2. The Business and Tax Regulations Code is hereby amended by adding by Article 38, consisting of Sections 3801 through 3814, to read as follows:

ARTICLE 38 RIDE-HAIL PLATFORM GROSS RECEIPTS TAX

SEC. 3801. SHORT TITLE.

This Article 38 shall be known as the “Ride-Hail Platform Gross Receipts Tax Ordinance” and the tax it imposes shall be known as “Ride-Hail Platform Gross Receipts Tax.”

SEC. 3802. FINDINGS AND PURPOSE.

(a) San Francisco’s local public transit system, Muni, serves hundreds of thousands of passenger boardings each day, connecting San Franciscans to family, friends, retail, work, school, food, housing, medical care, recreation, and the things they love.

(b) The COVID-19 pandemic negatively impacted Muni ridership, and although ridership is steadily recovering, ridership and fare revenues have not yet returned to pre-pandemic levels.

(c) A robust, growing, and fully-funded public transportation system is critical to increase public transit ridership and meet City and State goals for climate, housing, equity, safety, and economic recovery.

(d) San Francisco’s 2021 Climate Action Plan found that “At nearly 50% of total city emissions, the transportation system must be transformed to reduce overall reliance on cars and equitably and efficiently connect people to where they want to go by transit, walking, and biking.” and set a goal of 80% of trips taken by low-carbon modes like public transit by 2030.

(e) The Association of Bay Area Governments' Regional Housing Needs Allocation Plan and the Housing Element of San Francisco's General Plan indicate a need to add an additional 82,069 housing units to the city by 2030. Ensuring the availability of numerous, equitable, and healthy transportation and mobility options is a key component to the success of meeting our housing goals.

(f) A strong public transit system is an important tool in reducing mobility gaps across the City for essential workers, people of color, people with disabilities, and people with limited incomes, as documented in the Muni Service Equity Strategy.

(g) A robust, reliable, and expanded public transit system is essential to San Francisco's post-COVID economic recovery, connecting people with local businesses and services.

(h) The San Francisco Municipal Transportation Agency creates thousands of jobs, employing workers to operate, build, and maintain Muni service.

(i) Discount programs are essential to maintain affordable mobility access for thousands of riders, including youth, seniors, people with disabilities, and people experiencing homelessness. Currently, discount programs such as the Lifeline program require passenger applications, and usage remains very low among qualifying riders, demonstrating a need to improve uptake.

(j) The San Francisco County Transportation Authority estimates that Transportation Network Companies (TNCs) accounted for approximately 51% of San Francisco's congestion increase and 47% of the increase in Vehicle Miles Traveled, from 2010-2016.

(k) In 2014, San Francisco adopted Vision Zero, a plan committed to eliminating all traffic deaths in the city. In 2021, the Vision Zero SF Action Plan found that better management and regulation of TNCs could improve street safety and contribute to mode shift goals, and that supporting mode shift is critical to achieving zero traffic fatalities.

(l) The California Air Resource Board's 2018 Base Year Inventory report found that TNCs emit 48% more greenhouse gasses on a per-passenger mile basis than trips taken in a private vehicle. In the 2020 Greenhouse Gas Inventory, the transportation sector was found to be the largest source of greenhouse gas (GHG) emissions in San Francisco, accounting for 44% of City-wide GHG emissions. Private cars and trucks accounted for 72% of San Francisco's transportation GHG emissions, while Muni transit service only accounted for less than 1% of City-wide GHG emissions.

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(m) Autonomous Vehicles (AVs) will likely have a larger contribution to traffic congestion and GHG emissions than human-operated TNC vehicles because the economics of driverless trips incentivize longer trips, more frequent trips and additional 'deadhead' miles while waiting for passengers. AVs also create solid particulate matter pollution and heavy-metal battery waste, encourage continued investment in passenger vehicle infrastructure, and interfere with the operations of Muni, first responders such as the San Francisco Fire Department, and other city services.

(n) Travel patterns have changed as a result of the COVID-19 pandemic, highlighting the need for more stable sources of transportation operating revenue.

(o) Due to insufficient funding at the federal, state, regional, and local levels, the San Francisco Municipal Transportation Agency is facing a major deficit of transportation operating funding that threatens the delivery of adequate public transportation service in the coming years. In the absence of sufficient funding from other levels of government, San Francisco must take steps locally to ensure a thriving public transportation system.

(p) It is the intention of voters to impose a tax on the gross receipts of transportation network companies and autonomous vehicle passenger services in order to provide funding for Muni to expand service and improve discount programs for riders, and to protect Muni transit service and discount programs from reductions due to insufficient funding.

SEC. 3803. DEFINITIONS.

Unless otherwise defined in this Article 38, the terms used in this Article shall have the meanings given to them in Articles 6 and 12-A-1 of the Business and Tax Regulations Code, as amended from time to time. For the purposes of this Article, the following definitions apply.

"Autonomous vehicle passenger services" means any transportation of passengers offered to the public for compensation using a vehicle driven without the active physical control of a human operator.

"Limousine" means a limousine as that term is used in Section 5431 of the California Public Utilities Code as of January 1, 2019.

"Muni" means the Municipal Railway of the City and County of San Francisco.

"Municipal Transportation Agency" means the Municipal Transportation Agency of the City and County of San Francisco.

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“Participating driver” or “driver” means any person who operates a vehicle in connection with a transportation network company's online-enabled application or platform to connect with passengers.

“Personal Vehicle” means a vehicle that (1) has a passenger capacity of eight persons or less, including the driver, (2) is owned, leased, rented, or otherwise authorized for use by the driver, (3) meets any applicable inspection and other safety requirements imposed by the California Public Utilities Commission, and (4) is not a Taxicab or Limousine.

“Ride-hail platform business activities” means any business activities defined by “Transportation network company services” or “Autonomous vehicle passenger services” in this section.

“Taxicab” means a taxicab as that term is used in Section 5431 of the California Public Utilities Code as of January 1, 2019.

“Transportation network company” means an organization, including, but not limited to, a corporation, limited liability company, partnership, sole proprietor, or any other entity, operating in California that provides prearranged transportation services for compensation using an online-enabled application or other platform to connect passengers with drivers using a Personal Vehicle.

“Transportation network company services” means prearranged transportation services for compensation using an online-enabled application or other platform to connect passengers with drivers using a Personal Vehicle, including but not limited to a “Transportation network company” as that term is defined in Section 5431(c) of the California Public Utilities Code as of January 1, 2019.

SEC. 3804. IMPOSITION OF TAX.

(a) Commencing with the tax years beginning on or after January 1, 2025, for the privilege of engaging in ride-hail platform business activities within the City, the City imposes an annual Ride-Hail Platform Gross Receipts Tax on each person engaging in business within the City that receives more than \$500,000 in gross receipts attributable to ride-hail platform business activities in the City.

(b) The Ride-Hail Platform Gross Receipts Tax shall be calculated as follows:

(1) 1% for taxable gross receipts attributable to the City from ride-hail platform business activities between \$500,000.01 and \$1,000,000

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(2) 2.5% for taxable gross receipts attributable to the City from ride-hail platform business activities between \$1,000,000.01 and \$2,500,000

(3) 3.5% for taxable gross receipts attributable to the City from ride-hail platform business activities between \$2,500,000.01 and \$25,000,000

(4) 4.5% for taxable gross receipts attributable to the City from ride-hail platform business activities over \$25,000,000

(c) For the purposes of this Article 38, a person is "engaging in business within the city" if the person has more than \$500,000 in total gross receipts in the City during the tax year using the rules for assigning gross receipts under Section 956.1 of Article 12-A-1.

(d) This section shall not be construed as to impose a Ride-Hail Platform Gross Receipts Tax on a person engaging solely as a participating driver as defined in Section 3803.

(e) Any person upon whom the City is prohibited under the Constitution or laws of the State of California or the Constitution or laws of the United States from imposing the Ride-Hail Platform Gross Receipts Tax shall be exempt from the Ride-Hail Platform Gross Receipts Tax.

SEC. 3805. ALLOCATION AND APPORTIONMENT: GROSS RECEIPTS ATTRIBUTABLE TO THE CITY.

(a) Any person subject to the Ride-Hail Platform Gross Receipts Tax engaging in ride-hail platform business activities within the City and engaging in no ride-hail platform business activities outside the City is subject to the Ride-Hail Platform Gross Receipts Tax on all non-exempt gross receipts.

(b) Any person subject to the Ride-Hail Platform Gross Receipts Tax engaging in ride-hail platform business activities both within the City and outside the City shall determine their or their combined group's gross receipts attributable to the City from ride-hail platform business activities under Section 956.1 of Article 12-A-1. For purposes of this Section 3805(b), "gross receipts" as used in Section 956.1 of Article 12-A-1 shall mean all of the person or combined group's non-exempt gross receipts from ride-hail platform business activities.

Apportionment of receipts based on payroll, such as under Article 12-A-1 Section 956.2, shall not apply to the calculation of the amount of gross receipts subject to the Ride-Hail Platform Gross Receipts Tax.

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SEC. 3806. CONSTRUCTION AND SCOPE OF THE RIDE-HAIL PLATFORM GROSS RECEIPTS TAX.

(a) This Article 38 is intended to authorize application of the Ride-Hail Platform Gross Receipts Tax in the broadest manner consistent with its provisions and with the California Constitution, the United States Constitution, and any other applicable provision of federal or state law.

(b) The Ride-Hail Platform Gross Receipts Tax imposed by this Article 38 is in addition to all other City taxes, including the gross receipts tax imposed by Article 12-A-1, as amended from time to time. Accordingly, by way of example and not limitation, persons subject to both the Ride-Hail Platform Gross Receipts Tax and the gross receipts tax shall pay both taxes. Persons exempt from either the gross receipts tax or the Ride-Hail Platform Gross Receipts Tax, but not both, shall pay the tax from which they are not exempt.

SEC. 3807. RETURNS; COMBINED RETURNS.

(a) Persons subject to the Ride-Hail Platform Gross Receipts Tax shall file returns at the same time and in the same manner as returns filed for the gross receipts tax (Article 12-A-1), including the rules for combined returns under Section 956.3, as amended from time to time.

(b) If a person is subject to the Ride-Hail Platform Gross Receipts Tax but is not required to file a gross receipts tax return, such person or combined group's Ride-Hail Platform Gross Receipts Tax return shall be filed at the same time and in the same manner as if such person or combined group were required to file a gross receipts tax return.

SEC. 3808. TAX COLLECTOR AUTHORIZED TO DETERMINE GROSS RECEIPTS.

The Tax Collector may, in their reasonable discretion, independently establish a person or combined group's gross receipts within the City and establish or reallocate gross receipts among related entities so as to fairly reflect the gross receipts within the City of all persons and combined groups.

SEC. 3809. ADMINISTRATION OF THE RIDE-HAIL GROSS RECEIPTS TAX.

Except as otherwise provided under this Article 38, the Ride-Hail Platform Gross Receipts Tax shall be administered pursuant to Article 6 of the Business and Tax Regulations Code, as amended from time to time, including all penalties and other charges imposed by that Article.

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SEC. 3810. DEPOSIT AND EXPENDITURE OF PROCEEDS.

(a) All proceeds collected under the Ride-Hail Platform Gross Receipts Tax Ordinance shall be used exclusively for the following purposes:

(1) Up to 2% of proceeds may be deposited to the Tax Collector for administration of the Ride-Hail Platform Gross Receipts Tax.

(2) Refunds of any overpayments of the Ride-Hail Platform Gross Receipts Tax, including any related penalties, interest, and fees.

(3) All remaining amounts shall be deposited to the Municipal Transportation Agency, or any successor agency, to be used exclusively for the following operational purposes:

(A) Preserving, maintaining or increasing the amount of Muni service provided.

(B) Improving or preserving Muni access to public schools, public libraries and/or public parks by increasing the frequency of routes, expanding routes, or adding new routes that provide access to those destinations.

(C) Maintaining or expanding discounted Muni fare programs, or Muni fare-free programs, for passengers with disabilities, senior passengers, youth, students, or passengers with limited incomes.

(b) All amounts allocated to the Municipal Transportation Agency under Section 3810(a)(3) shall be credited to the Municipal Transportation Fund as described in Section 8A.105 of Article VIII A of the Charter.

SEC. 3811. EFFECT OF STATE AND FEDERAL AUTHORIZATION.

To the extent that the City's authorization to impose or to collect any tax imposed under this Article 38 is expanded or limited as a result of changes in state or federal statutes, regulations, or other laws, or judicial interpretations of those laws, no amendment or modification of this Article shall be required to conform the taxes to those changes, and the taxes are hereby imposed in conformity with those changes, and the Tax Collector shall collect them to the full extent of the City's authorization up to the full amount and rate of the taxes imposed under this Article.

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SEC 3812. SEVERABILITY.

(a) Except as provided in Section 3812(b), below, if any section, subsection, sentence, clause, phrase, or word of this Article 38, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by an unappealable decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of this Article. The People of the City and County of San Francisco hereby declare that, except as provided in Section 3812(b), they would have adopted this Article 38 and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this Article or application thereof would be subsequently declared invalid or unconstitutional.

(b) If the imposition of the Ride-Hail Platform Gross Receipts Tax in Section 3804 is held in its entirety to be facially invalid or unconstitutional in a final court determination, the remainder of this Article 38 shall be void and of no force and effect, and the City Attorney shall cause it to be removed from the Business and Tax Regulations Code.

SEC 3813. AMENDMENT.

The Board of Supervisors may amend this Article 38 by ordinance by a two-thirds vote and without a vote of the people, but only to further the intent as set in Section 3802(p).

SEC 3814. SAVINGS CLAUSE.

No section, clause, part, or provision of this Article 38 shall be construed as requiring the payment of any tax that would be in violation of the Constitution or laws of the United States or of the Constitution or laws of the State of California.

Section 3. Appropriations Limit Increase.

Pursuant to California Constitution Article XIII B and applicable laws, for four years from the election date when this ordinance is approved by voters, the appropriations limit for the City shall be increased by the aggregate sum collected by the levy of the tax imposed under this ordinance.

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Section 4. No Conflict with Federal or State Law.

Nothing in this measure shall be interpreted or applied so as to create any requirement, power or duty in conflict with any federal or state law.

Section 5. Competing Measures.

In the event that this measure appears on the same ballot as one or more measures which would prevent the Ride-Hail Platform Gross Receipts Tax from being imposed, the other measure or measures shall be deemed in conflict. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety.

A measure appearing on the same ballot as this measure shall not be deemed to be in conflict solely because the other measure restructures, updates or otherwise modifies other gross receipts taxes imposed in the Business and Tax Regulations Code.

Section 6. Effective Date.

The effective date of this ordinance shall be 10 days after the date the official vote count is declared by the Board of Supervisors.

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