

NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Taxi and Limousine Commission (“TLC”) is considering modifying its rules regulating taxicab lease caps- and the maximum dollar amount per shift for which taxis can be leased.

When and where is the Hearing? The Commission will hold a public hearing on the proposed rule. The public hearing will take place at 11:00 a.m. on Monday, July 9, 2012. The hearing will be in the Commission hearing room at 33 Beaver Street, 19th Floor, New York, NY 10004.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Mail.** You can mail written comments to the Taxi and Limousine Commission, Office of Legal Affairs, 33 Beaver Street – 22nd Floor, New York, New York 10004.
- **Fax.** You can fax written comments to the Taxi and Limousine Commission, Office of Legal Affairs, at 212-676-1102.
- **Email.** You can email written comments to tlcrules@tlc.nyc.gov.
- **Website.** You can submit comments to the Taxi and Limousine Commission through the NYC Rules Web site at www.nyc.gov/nycrules.
- **By Speaking At the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 212-676-1135. You can also sign up in the hearing room before the hearing begins on June 21, 2012 at 11:00 a.m. You may speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by July 9, 2012.

Do you need assistance to participate in the Hearing? You must tell the Office of Legal Affairs if you need a reasonable accommodation of a disability at the Hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 212-676-1135. You must tell us by Monday July 2, 2012.

Can I review the comments made on the proposed rules? A few days after the hearing, a transcript of the hearing and copies of the written comments will be available to the public at the Office of Legal Affairs at 33 Beaver Street, 22nd Floor, New York, NY 10004.

What authorizes the Commission to make this rule? Sections 1043 and 2303 of the City Charter and section 19-503 of the City Administrative Code authorize the Commission to make this proposed rule. This proposed rule was not included in the Commission’s regulatory agenda for this Fiscal Year.

Where can I find the Commission’s rules? The Commission’s rules are in title 35 of the Rules of the City of New York.

What rules govern the rulemaking process? The Commission must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the City Charter.

Statement of Basis and Purpose of Proposed Rule

This rule amends the Taxi and Limousine Commission's rules governing the leasing of taxicabs or taxicab medallions. The Commission's authority to make this rule is found in section 2303 of the New York City Charter and section 19-503 of the New York City Administrative Code.

The Commission held a lease cap hearing on May 31, 2012 and a public hearing on July 9, 2012. These rules reflect evidence and testimony gathered at the hearings.

The proposed rules:

- Change the mechanism by which medallion owners collect credit card charges from drivers with a lease cap increase.
- Authorize (but do not require) lessors who lease their medallions and vehicles on a shift basis to charge a lease cap surcharge for gas they provide to drivers who lease from them.
- Create a new class of lease, the Standard Medallion Lease, which includes long term lease of a vehicle or conditional purchase of a vehicle. The lease cap for the Standard Medallion Lease takes into account the cost of the vehicle.

In addition, as required by the Stipulation and Order of Dismissal of *MTBOT, et al., v City of New York*, No. 08-7837, these rules rescind the rules that, beginning on May 1, 2009, would have reduced the maximum lease rates that an owner of a non-hybrid taxicab could charge a driver. As a result of a preliminary injunction granted by the district court of the Southern District of New York on June 22, 2009, those rules were never enforced.

New material is underlined.

[Material inside brackets indicates deleted material.]

Section 1. Section 58-21 of Title 35 of the Rules of the City of New York is amended to read as follows:

§58-21 Leasing a Taxicab or Medallion

- (a) An Owner can lease a Taxicab (or a Medallion-only) to a Licensed Taxicab Driver, or to Licensed Drivers working different shifts or days if the Owner complies with the provision of this section.
 - (1) Regardless of the terms of the lease, the Owner is responsible for complying with all laws, rules and regulations governing Owners.

- (2) An Owner must not authorize or allow a lessee of a Taxicab under section 58-21(c)(1) of these Rules to sublease the Taxicab to another party.

§58-21(a)	Fine: \$75-\$150 for the first violation, \$150-\$300 for a second violation , \$300-\$500 for a third violation within 24 months, and Suspension until compliance	Appearance REQUIRED
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(b) *Service and Maintenance of Leased Taxicab Vehicles.*

- (1) Service and maintenance of a leased Taxicab (including the vehicle) is the responsibility of the Owner/lessor, and the cost of the service and maintenance of the Vehicle cannot be charged to the Driver/lessee.
- (2) The lease of a Medallion-only does not include, and does not require, the Medallion Owner/lessor to provide service and maintenance of the vehicle.
- (3) A Medallion-only lessor must not require the lessee to obtain service and maintenance from any particular provider, including, but not limited to, the Medallion Owner or any agent of the Medallion Owner. A Medallion lessor or Agent who provides services or accommodations outside the lease to a leasing driver must keep records of all transactions with that driver and such records must be available for inspection by the Chairperson

§ 58-21(b)	First violation \$500 Second and subsequent violations: \$1000 and/or suspension of the Medallion for up to 30 days. In addition to the penalty payable to the Commission, the administrative law judge may order the owner to pay restitution to the driver, equal to the excess that was charged to the driver.	Appearance REQUIRED
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(c) *Rate Rules.*

- (1) *Standard Lease Cap Rates.* An Owner of a Taxicab can charge a lease rate to a Driver that is not greater than the following Standard Lease Caps:
- (i) The Standard Lease Cap for a Medallion and vehicle for one shift will not exceed:
- A. \$[105]115, for all 12-hour day shifts
- B. \$[115]125, for the 12-hour night shift on Sunday, Monday and Tuesday

- C. \$[120]130, for the 12-hour night shift on Wednesday
 - D. \$[129]139, for the 12-hour night shifts on Thursday, Friday and Saturday
 - E. \$[666]690, for any one-week day shift for one week or longer
 - F. \$797 for any one week night shift for one week or longer.
- (ii) No driver leasing a medallion and vehicle under this paragraph 58-21(c)(1) can be charged more than a total of
- A. \$690 for six or more day shifts in any seven consecutive day period
 - B. \$797 for six or more evening shifts or combination of day and evening shifts in any seven consecutive day period.
- (iii) The lease of a medallion and vehicle under this paragraph 58-21(c)(1) includes service and maintenance. Service and maintenance of the vehicle is the responsibility of the lessor and the lessor and his or her Agent must not charge the lessee for service and maintenance costs for the vehicle.
- (iv) The lessee of a medallion and vehicle under this paragraph 58-21(c)(1) is not responsible for payment of any Commercial Motor Vehicle Tax.
- (v) For a driver with a weekly lease under 58-21(c)(1)(E) or 58-21(c)(1)(F), if the vehicle is unavailable for use for any reason that is not the lessee's responsibility during any part of any week, the payment of the Lease Cap must be pro-rated.
- (vi) For a driver with a weekly lease under 58-21(c)(1)(E) or 58-21(c)(1)(F), the lease includes costs for collision and other damage coverage, including repairs of physical damage to the vehicle.
- (2) *[Cost Adjustments.* For Taxicabs that are Hacked-up under §67-05.1 and are not Accessible Vehicles, the Standard Lease Caps set forth in paragraph (1) above will be adjusted as follows:
- (i) Beginning on May 1, 2009, each amount will be reduced by \$4 per shift (\$28 per week), so that the lease amount for one shift must not exceed:
 - A. \$101, for all 12-hour day shifts

- B. \$111, for the 12-hour night shift on Sunday, Monday and Tuesday
 - C. \$116, for the 12-hour night shift on Wednesday
 - D. \$125, for the 12-hour night shifts on Thursday, Friday and Saturday
 - E. \$638, for any one-week shift for one week or longer
- (ii) Beginning on May 1, 2010, each amount will be reduced by \$8 per shift (\$56 per week), so that the lease amount for one shift must not exceed:
- A. \$97, for all 12-hour day shifts
 - B. \$107, for the 12-hour night shift on Sunday, Monday and Tuesday
 - C. \$112, for the 12-hour night shift on Wednesday
 - D. \$121, for the 12-hour night shifts on Thursday, Friday and Saturday
 - E. \$610, for any one-week shift for one week or longer
- (iii) Beginning on May 1, 2011, each amount will be reduced by \$12 per shift (\$84 per week), so that the lease amount for one shift must not exceed:
- A. \$93, for all 12-hour day shifts
 - B. \$103, for the 12-hour night shift on Sunday, Monday and Tuesday
 - C. \$108, for the 12-hour night shift on Wednesday
 - D. \$117, for the night shifts on Thursday, Friday and Saturday
 - E. \$582, for any one-week shift for one week or longer

(3)](2) *Cost Adjustments for the Lease of Hybrid Electric and Diesel-Fueled Vehicles.*

- (i) The Standard Lease Cap for Hybrid Electric Taxicabs and Diesel-Fueled Taxicabs that are hacked-up under §67-05 of these Rules are raised by \$3 per shift (\$21 per week), so that the lease amount for one shift must not now exceed:
 - A. \$[108]118 for all 12-hour day shifts

- B. \$[118]128, for the 12-hour night shift on Sunday, Monday and Tuesday
 - C. \$[123]133, for the 12-hour night shift on Wednesday
 - D. \$[131]141, for the 12-hour night shifts on Thursday, Friday and Saturday
 - E. \$[687]708, for any one-week day shift for one week or longer
 - F. \$812 for any one week night shift for one week or longer.
- (ii) No driver leasing a medallion and vehicle under this paragraph 58-21(c)(2) can be charged more than a total of
 - A. \$708 for six or more day shifts in any seven consecutive day period
 - B. \$812 for six or more evening shifts or combination of day and evening shifts in any seven consecutive day period.
 - (iii) The lease of a medallion and vehicle under this paragraph 58-21(c)(2) includes service and maintenance. Service and maintenance of the vehicle is the responsibility of the lessor and the lessor and his or her Agent must not charge the lessee for service and maintenance costs for the vehicle.
 - (iv) The lessee of a medallion and vehicle under this paragraph 58-21(c)(2) is not responsible for payment of any Commercial Motor Vehicle Tax.
 - (v) For a driver with a weekly lease under 58-21(c)(2)(E) or 58-21(c)(2)(F), if the vehicle is unavailable for use for any reason that is not the lessee's responsibility during any part of any week, the payment of the Lease Cap must be pro-rated.
 - (vi) For a driver with a weekly lease under 58-21(c)(2)(E) or 58-21(c)(2)(F), the lease includes costs for collision and other damage coverage, including repairs of physical damage to the vehicle.

(4) (3) *The Standard Lease Cap:*

- (i) For a *Medallion-only* Hybrid Taxicab, Hacked-up under §67-05 is [\$842] \$1114 weekly.
- (ii) For all other *Medallion-only* Taxicabs, (including Accessible Taxicabs), is \$[800]1072.

(iii) A medallion lessor or Agent of a lessor must not require a medallion lessee to obtain service, repairs or maintenance of the vehicle from any particular provider, including, but not limited to, a lessor or an Agent of a lessor.

(iv) A lease, and payment of the Lease Cap under this section includes (and all of the following must be provided to the lessee):

- A. Use of the medallion;
- B. All applicable TLC fees except for TLC vehicle inspection fees (but the lessor is not required to provide vehicle registration or payment of the Commercial Motor Vehicle Tax);
- C. Insurance required by Section 58-13;
- D. Credit card fees or charges;
- E. Up to 3 drivers on a lease at the request of the drivers, which request cannot be unreasonably denied.

A lessor must not accept any other payment from a lessee for the purchase or lease of a vehicle. A Medallion lessor or Agent can agree with a driver to provide services or accommodations on an arms-length basis outside the lease. A Medallion lessor or Agent who provides services or accommodations outside the lease to a leasing driver must keep records of all transactions with that driver and such records must be available for inspection by the Chairperson.

(v) The gasoline surcharge option provided in paragraph 58-21(c)(6) is not available to Owners/lessors leasing a Medallion-only under this Section 58-21(c)(3)

(4) Standard Medallion Lease Cap including Long Term Vehicle Lease/Conditional Purchase

- (i) A Lease is covered by this paragraph 58-21(c)(4) if it includes all of the following:
 - A. The lease of a Medallion
 - B. The conditional purchase agreement for a vehicle; and
 - C. The vehicle is being conditionally sold to the driver/lessee by any of
 1. The Owner of the Medallion or any employee of the Owner, and/or

2. The Owner's Agent or any employee of the Agent, and/or
3. Any Business Entity of which a Business Entity Person of the Owner or Agent, or an employee of Owner or Agent, is a Business Entity Person

(ii) The Standard Lease Cap under this section for a Taxicab Medallion and vehicle is

- A. \$1389 weekly if the vehicle complies with the requirements of Section 67-05 of these Rules or
- B. \$1347 weekly if the vehicle complies with the requirements of Sections 67-05.1 or 67-05.2 of these Rules
- C. This Standard Lease Cap can be charged for a lease related to any one vehicle for up to 156 weeks, however it cannot be charged at any time after title to the vehicle passes (or could have passed) to the lessee.

(iii) Title to the leased vehicle must pass to one or more of the lessees, if the lessees request, after 156 weeks, or after all vehicle financing costs have been paid, whichever is sooner. The conditional seller is not required to transfer title if the lessees have failed to pay all payments due for the vehicle purchase and lease until all such payments have been made.

(iv) The lease of a Medallion together with a vehicle under this paragraph 58-21(c)(4) includes within the payment to the lessor the amount due by the Vehicle owner for the Commercial Motor Vehicle Tax.

(v) A lease, and payment of the Lease Cap under this section includes (and the following must be provided to the lessee):

- A. Use of the medallion;
- B. All applicable TLC and NYS DMV fees except for TLC vehicle inspection fees;
- C. Insurance required by Section 58-13;
- D. Credit card fees or charges;
- E. All Vehicle purchase and/or finance costs and vehicle sales tax and related costs;
- F. Up to 3 drivers on a lease at the request of the drivers, which request cannot be unreasonably denied.

A lessor can offer coverage for collisions and physical damage to the vehicle to the lessee/purchasers in an amount not to exceed \$50 per week, but cannot require that the lessee/purchasers purchase such coverage. . A Medallion lessor or Agent can agree with a driver to provide services or accommodations on an arms-length basis outside the lease. A Medallion lessor or Agent who provides services or accommodations outside the

lease to a leasing driver must keep records of all transactions with that driver and such records must be available for inspection by the Chairperson

(vi) (reserved)

(vii) The gasoline surcharge option provided in Section 58-21(c)(6) is not available to Owners/lessors leasing a Taxicab and vehicle under this Section 58-21(c)(4).

(viii) If the vehicle is unavailable for use for any reason that is not the lessee's responsibility during any part of any week, the lessee's payment of the Lease Cap must be pro-rated.

(5) *Limits on Additional Charges.* In addition to a lease amount no greater than the Standard Lease Cap (as adjusted), an Owner/lessor (as well as any agent or employee of the Owner/lessor) must not request of or accept from any lessee (of a Taxicab or Medallion-only) any money or other thing of value, except for the following (this means an Owner/lessor must not charge any tip, tax, surcharge or other fee of any kind above the Standard Lease Cap (as adjusted) except for the following):

(i) [A credit card pass-along no greater than five percent (5%), as allowed under subdivision (f), below] A gas surcharge of \$21 per shift (or \$126 for drivers leasing under 58-21(c)(1) E or F, and 58-21(c)(2) E or F (with such surcharge to be adjusted as provided below) provided that the Owner/lessor or his or her agent is providing gasoline to the lessee as provided in section 58-21(c)(6);

(ii) A security deposit and deductions from the security deposit no greater than allowed under subdivision (e) below;

(iii) The discount toll amount for use of the Owner's *EZ-Pass*® as described in §58-27 of this Chapter;

(iv) A late charge not to exceed \$25 for any shift for the late return of a vehicle;

(v) A reasonable cancellation charge, subject to the provisions of subdivision (i)(5) below;

(vi) Parking tickets and red light violations permitted to be deducted from the security deposit described in subdivision (e) below, provided that the Driver/lessee is allowed to challenge any ticket or violation; and

(vii) If the Owner (or Owner's Agent) is a Taxpayer, the Taxpayer can collect the MTA Tax collected by the lessee/Driver from the lessee/Driver. The MTA Tax must be collected in the following order:

- A. The MTA Tax must first be deducted from any credit card reimbursements due as required in subdivision (f) below.
- B. The MTA Tax must next be deducted from the security deposit permitted in subdivision (e) below.
- C. If not fully paid, then the MTA Tax must be collected from the lessee/Driver.

(viii) In addition to these charges, an Owner can deduct from credit card receipts payable to the Driver amounts charged by the T-PEP Provider, pursuant to the T-PEP Provider's contract with the Commission, provided that

- A. such amounts are provided for by contract between the T-PEP Provider and the Commission or by rule of the Commission;
- B. such amounts are dedicated for the purpose of providing healthcare services and disability coverage for drivers; and
- C. such amounts do not exceed \$0.06 per trip.

(ix) State and local sales and rental taxes on vehicle rentals.

(6) Optional Gasoline Surcharge: An Owner/lessor, or his or her Agent leasing a Taxicab under Section 58-21(c)(1) or 58-21(c)(2), may choose to provide gasoline to a lessee and charge a gas surcharge in an amount as specified in this section in addition to the Lease Cap provided in Section 58-21(c)(1) or 58-21(c)(2), provided that

- (i) Gasoline is provided to the lessee for the entire shift at no additional cost to the lessee.
- (ii) The surcharge will be \$126 per week (or \$21 per shift) until December 31, 2012
- (iii) After that date the surcharge will be reset based on the trailing 6 month average as of the date the surcharge is calculated of the New York City Gasoline Price Index issued by U.S. Energy Information Agency and published at www.eia.gov.

- (iv) The surcharge will be calculated as of June 30 and November 30 of each year beginning November 30, 2012.
- (v) The Commission will post the new surcharge on its Web site by July 15 and December 15 of each year
- (vi) The new surcharge will take effect on July 31 and December 31 of each year beginning December 31, 2012. If the Commission has not posted a new surcharge, the prior surcharge will remain in effect.
- (vii) Based on the index, the surcharge will be as follows:

<u>When the Index is:</u>	<u>The surcharge will be:</u>
<u>\$2.49 or less</u>	<u>\$13 per shift (or \$78 per week)</u>
<u>\$2.50 to \$2.99</u>	<u>\$16 per shift (or \$96 per week)</u>
<u>\$3.00 to \$3.49</u>	<u>\$18 per shift (or \$108 per week)</u>
<u>\$3.50 to \$3.99</u>	<u>\$21 per shift (or \$126 per week)</u>
<u>\$4.00 to \$4.49</u>	<u>\$23 per shift (or 138 per week)</u>
<u>\$4.50 to \$4.99</u>	<u>\$26 per shift (or \$156 per week)</u>
<u>\$5.00 or more</u>	<u>\$28 per shift (or \$168 per week)</u>

§58-21(c)	Fine: First violation: \$500 Second and subsequent violations; \$1,000 and/or suspension of the Medallion for up to 30 days. In addition to the penalty payable to the Commission, the ALJ can order the Owner to pay restitution to the Driver, equal to the excess that was charged to the Driver or the extra fuel the driver had to pay for.	Appearance REQUIRED
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- (7) *Collective Bargaining Exception to the Standard Lease Cap.* The provisions of this section do not apply to Owners and lease Drivers whose business relationship is governed by the terms of a collective bargaining agreement that regulates the subject of lease prices.
- (d) (Reserved) [*Commission Review and Change of Lease Caps.* The Commission can make changes to the lease caps as a response to policy needs or in conjunction with its regular two-year review, as follows:
 - (1) The Commission can initiate lease cap changes at any time, if the Commission believes that policy considerations require changes to be made.
 - (2) During March of each even-numbered year, the Commission will hold a public hearing and solicit written comment as to operating expenses, driver earnings, the retention of experienced drivers in the Taxicab industry, and other matters

relevant to the setting of lease caps, for purposes of considering changes to the Standard Lease Caps.]

(e) *Security Deposit on Taxicab Vehicles.*

- (1) *Security Deposit Provision Permitted.* An Owner can include a lease provision for a security deposit from the Driver, provided it complies with the requirements of this subdivision (e).
- (2) *Permitted Withholdings from Security Deposit.* At the termination or expiration of a lease an Owner may be reimbursed from the security deposit only for the following:
 - (i) Any unpaid but owing lease charges.
 - (ii) Damage to the vehicle, if the lease clearly and prominently states that the Driver is responsible for damage.
 - (iii) Any parking tickets issued during the lease.
 - (iv) Any red light violations issued to the Owner during the lease, under the NYC Department of Transportation’s camera surveillance system.
 - (v) If the Owner (or Owner’s Agent) is a Taxpayer, any MTA Tax remaining due from the Driver after deductions from credit card receipts due to the Driver.
- (3) *Deposit Not to be Used for Owner Violations.* An Owner must not require a Driver to pay any summons that is written to the Owner as Respondent, other than those specified above.

§58-21(e)(3)	Fine: First violation: \$250; Second violation: \$350; Third and subsequent violations \$500 and/or suspension of the Medallion for up to thirty days. In addition to the penalty payable to the Commission, the ALJ can order the Owner to pay restitution to the Driver, equal to the excess that was withheld from the Driver, or equal to the amount that the Driver paid, at the requirement of the Owner, to satisfy any summons against the Owner	Appearance REQUIRED
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- (4) *Limits on Amount of Deposit.* An Owner must not require a Driver to post any security deposit that is greater in amount than the rate for one lease term. However, if the lease term is for more than one week, an Owner must not require

a Driver to pay a security deposit in an amount greater than the lease rate for one week. Examples include:

- (i) An Owner who leases a Taxicab for one shift at the rate of \$80 per shift can require up to an \$80 security deposit.
- (ii) An Owner who leases a Taxicab or Medallion for one week at the rate of \$500 a week can require up to a \$500 security deposit.
- (iii) An Owner who leases a Taxicab for six months at the rate of \$2,000 a month can require up to a \$500 security deposit.
- (iv) Special Rule for Long Term leases under Paragraph 58-21(c)(4).
 - A. A Lease under Section 58-21(c)(4) can include a refundable deposit of up to \$5000, which may be collected at the beginning of the lease or in scheduled payments over time as specified in the lease. An Owner or an Owner's Agent must not accept any deposit in excess of this amount.
 - B. The weekly lease payment specified in Section 58-21(c)(4) must be credited by an amount equal to the prorated value of the refundable deposit.
 - C. If the deposit is not fully credited against the lease because of a cancellation, any remaining, uncredited deposit shall be refunded to the lessee/driver within 30 days of termination or cancellation of the lease by the lessor or an Agent of lessor. Note: this does not apply when the driver breaks or terminates the lease prior to the term. The deposit shall be held, and interest shall accrue, in the manner prescribed by section 58-21(e)(7).

§58-21(e)(4)	Fine: \$200	Appearance NOT REQUIRED
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(5) *Provide Driver Written Receipt and Accounting for Security Deposit.*

- (i) An Owner must provide written receipts for any security deposits made by a Driver.
- (ii) An Owner must provide a Driver with a written itemization of any items withheld or deducted from a security deposit.

§58-21(e)(5)	Fine: \$50	Appearance NOT REQUIRED
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(6) *Return Deposit within 30 Days of Lease Termination.*

- (i) An Owner must return a security deposit no later than 30 days after the end of the lease term.
- (ii) An Owner must return a security deposit either by check or by cash exchanged for a written receipt from the Driver.

§58-21(e)(6)	Fine: \$50	Appearance NOT REQUIRED
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(7) *Interest on Security Deposit.*

- (i) An Owner who requires a security deposit must secure the funds in an interest-bearing account in a bank or credit union within the City of New York, in an account devoted to security deposits and not commingled with funds of the Owner.
- (ii) The Owner must indicate in writing provided to the Driver the name and address of the bank or credit union and the applicable account number.
- (iii) Interest on the security deposit must accrue to the benefit of the Driver furnishing the security, except, however, that the Owner can retain one percentage point of any interest, as compensation for bookkeeping expenses.

§58-21(e)(7)	Fine: \$50	Appearance NOT REQUIRED
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- (8) *Collective Bargaining Agreement Exception to Limitations on Security Deposits.*
 The provisions of this section do not apply to Owners and lease Drivers whose business relationship is governed by the terms of a collective bargaining agreement that regulates the subject of security deposits.

(f) *Credit Card Charges.*

- (1) For any lease of a Taxicab (vehicle and Medallion) under paragraph 58-21(c)(1) or 58-21(c)(2), an Owner (or Owner's Agent) must pay a Driver in cash, on a daily basis, the total amount of all credit card payments made during the Driver's shift, less the \$.06 per trip driver health surcharge described in subdivision 58-21(k);
- (2) For any lease not described in subparagraph (1), an Owner (or Owner's Agent) must pay the Driver in cash, on no less than a weekly basis, the total amount of all credit card payments made during that period, less the \$.06 per trip driver health surcharge described in subdivision 58-21(k).

§58-21(f)(1)&(2)	Fine: \$100	Appearance NOT REQUIRED
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- (3) An Owner (or Owner’s Agent) [can] must not withhold from the cash payments[,] [a] any credit card pass-along, fees or charges [of no more than five percent (5%) of the total amount].

§58-21(f)(3)	Fine: First violation: \$200 Second violation: \$300 Third violation: \$500 In addition to the penalty payable to the Commission, the ALJ may order the Owner to pay restitution to the Driver, equal to the excess amount that was charged to the Driver.	Appearance REQUIRED
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- (4) If an Owner (or Owner’s Agent) is a Taxpayer, the Taxpayer can deduct from the credit card receipts payable to the Driver the amount due for the MTA Tax from the Driver’s trips.

(g) *Receipts to Drivers for All Payments.*

- (1) An Owner (or Owner’s Agent) must give a Driver a written receipt for every payment or deduction made under the lease and these Rules.
- (2) The receipt must include the name of the Driver and the number of the Medallion subject to the lease.
- (3) The receipt must clearly state the following information with respect to the payment or deduction:
- (i) The date
 - (ii) The name of the recipient
 - (iii) The amount
 - (iv) The purpose
 - (v) The number of the section of this chapter that authorizes the payment or deduction

§58-21(g)	Fine: \$50 plus driver gets free shift.	
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(h) *Lease Must Be in Writing.*

- (1) Every Taxicab operating lease (including any amendments), must be in writing, and must be signed by the Owner (or a person authorized to act on behalf of the Owner), and by the leasing Driver or Drivers.

- (2) A copy of the fully executed lease must be provided to the leasing Driver or Drivers.

§58-21(h)	Fine: \$500	Appearance NOT REQUIRED
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- (i) *Terms.* Every lease must contain the following terms:
- (1) *The type and term of the lease.* The lease must state the beginning date and time of the lease and the ending date and time of the lease.
- (i) A weekly lease must run for seven consecutive calendar days.
- (ii) A shift must run for 12 consecutive hours.
- (2) *Costs covered by the lease.* The lease must state the total lease amount, and must itemize that total cost, including:
- (i) The amount of the lease that applies to the medallion and the amount, if any, that applies to the vehicle
- (ii) The amounts, if any, of the security deposit
- (iii) [The percentage credit card pass-along] The gasoline surcharge if there is one
- (iv) Any other costs that the Driver will be charged
- (3) *Reference Authorizing Rule Sections.*
- (i) For each itemized cost listed above (in subparagraph (2)), the lease must include a reference to the Commission Rule authorizing the Owner to charge the cost to the Driver.
- (ii) The lease must either recite the complete text of each Rule or state the address of the Commission's Web page on which the Rule is published.
- (4) *Overcharges.* Every lease must contain clearly legible notice that overcharging a lessee/Driver is prohibited by the Commission's Rules, and that complaints of overcharges may be made in writing to the Commission or by telephone call to 311.
- (5) *Charges Upon Cancellation.*

- (i) If an Agent demands the return of a Medallion upon the request of an Owner, the Driver has the right to request the Agent to provide a replacement Medallion and, if the Agent provides another Medallion, the Driver will not be responsible for the costs of hacking up a replacement vehicle.
 - (ii) Any cancellation charge contained in the lease must be reasonable, and will not be permitted unless the lease also provides that:
 - A. Owner is not permitted to charge a Driver a cancellation charge if the Driver is not late in making lease payments at the time the Owner cancels the lease.
 - B. When a cancellation payment is made, the Driver’s obligation to make lease payments terminates immediately.
- (6) *Deposit information.* Each lease must include the information regarding deposits required by §58-21(e) of this chapter.

§58-21(i)	Fine: First violation \$500 Second and subsequent violations: \$1000 and/or suspension of the Medallion for up to thirty days. In addition to the penalty payable to the Commission, the administrative law judge may order the owner to pay restitution to the driver, equal to the excess or non-authorized charge that was charged to the driver.	Appearance REQUIRED
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- (j) *Retaliation.*
- (1) An Owner must not retaliate against any Driver for making a good faith complaint against any Owner for violation of the leasing provisions in §58-21 of this chapter.
 - (2) “Retaliation” will be broadly construed, and will include imposing any adverse condition or consequence on the Driver or withholding or withdrawing any beneficial condition or consequence from the Driver.

§58-21(j)	Fine: \$10,000 <u>plus restitution to the driver for losses</u>	Appearance NOT REQUIRED
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Section 2. Subdivision (h) of section 58-26 of Title 35 of the Rules of the City of New York is amended to read as follows:

(h) *Credit/Debit Card Rules.*

- (1) An Owner who is a merchant is not permitted to charge the Driver a pass-along or deduction from [of not more than five percent (5%) of] the total credit/debit charges incurred during the Driver's shift. An Owner who is a merchant must pay to a Driver all fares paid by credit card.
- (2) Merchants are not permitted to charge a pass-along to any passenger for credit/debit card transactions.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Amendment of Lease Cap Rule
REFERENCE NUMBER: TLC-35
RULEMAKING AGENCY: TLC**

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco Navarro
Mayor's Office of Operations

June 7, 2012
Date

**NEW YORK CITY LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Fare Increase and Amendment of Lease Cap Rules

REFERENCE NUMBER: 2012 RG 045

RULEMAKING AGENCY: Taxi and Limousine Commission

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: June 6, 2012