

1 [Transportation Code - Board of Supervisors Review of Certain Municipal Transportation  
2 Agency Decisions]

3 **Ordinance amending Division I of the Transportation Code to establish a procedure for**  
4 **Board of Supervisors review of certain Municipal Transportation Agency decisions.**

5 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
6 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
7 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
8 **Board amendment additions** are in double-underlined Arial font.  
9 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
10 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
11 subsections or parts of tables.

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

13 Section 1. Division 1 of the Transportation Code is hereby amended by adding Article  
14 10, consisting of Section 10.1, to read as follows:

15 **ARTICLE 10: BOARD OF SUPERVISORS REVIEW PROCEDURES**

16 **SEC. 10.1. REVIEW OF MUNICIPAL TRANSPORTATION AGENCY DECISIONS.**

17 (a) **Definitions.** *As used in this Section 10.1, the following words and phrases shall have  
18 the following meaning:*

19 **Bicycle Lane.** *A Class II bikeway or Class IV separated bikeway or cycle track.*

20 **Development Project.** *A project that has already received its land use  
21 entitlements from the Planning Commission or Planning Department where those entitlements  
22 anticipated subsequent, associated applications to the SFMTA.*

23 **Final SFMTA Decision.** *Any decision by the Municipal Transportation Agency  
24 (SFMTA) with regard to:*

25 **(1) installing or removing a stop sign;**

1            ~~(42) create~~creating or eliminate~~eliminating~~ a preferential parking zone pursuant to  
2 Vehicle Code sections 22507 or 22507.1;

3            ~~(23) create~~creating or eliminate~~eliminating~~ a parking meter zone;

4            ~~(34) adopt~~ing a limitation on the time period for which a vehicle may be parked;

5            ~~(5) creating or eliminating~~ a Class III bikeway or bike route;

6            ~~(46) create~~creating a pilot or temporary program involving any of (1) through (35)  
7 above, or continuing or Substantially Modifying a pilot or temporary program involving any of (1)  
8 through (35) above on a permanent basis; or

9            ~~(57) creating or Substantially Modifying~~ a Private Transportation Program that may  
10 create or eliminate a preferential parking zone, including providing access to the curb, pursuant to  
11 Vehicle Code sections 22507 or 22507.1, or that may limit the time period for which a vehicle may be  
12 parked, including providing access to the curb, in order to regulate or accommodate a private  
13 transportation service or services.

14            “Final SFMTA Decision” shall not include:

15            ~~(1) a decision by the SFMTA that was contemplated as part of the implementation~~  
16 ~~of a prior Final SFMTA Decision and is directly related to the implementation of a B~~bicycle Lane,  
17 Bus Rapid Transit project, Development Project, or Large Infrastructure Project including  
18 regulations limiting parking, stopping, standing or loading; or

19            ~~(2) -a decision by the SFMTA regarding any of the following parking restrictions or~~  
20 ~~modifications: (A) street sweeping; (B) any temporary Traffic Control Device installed or removed on~~  
21 ~~any street for the purpose of controlling parking or traffic during emergencies, special conditions or~~  
22 ~~events, construction work, short-term testing, or when necessary for the protection of public health and~~  
23 ~~safety; or (C) Special Traffic Permit.~~

24            **Large Infrastructure Project.** A project involving a contract, memorandum of  
25 understanding, or other agreement involving the SFMTA that requires Board of Supervisors approval

1 pursuant to Charter Section 9.118, or would otherwise result in anticipated revenue to the City of one  
2 million dollars or more, anticipated expenditures by the City of ten million dollars or more, or a  
3 modification of more than \$500,000 to such project.

4 **Private Transportation Program.** A framework or program developed by the SFMTA to  
5 regulate or manage any transportation-related service provided by a private or for-profit entity to  
6 customers, except for taxis or paratransit service, including SFMTA's entering into a contract, issuing  
7 a permit, adopting new legislation or amending existing legislation, or approving a request by the City  
8 Traffic Engineer or Director of Transportation.

9 ~~Proximity to Final SFMTA Decision. A distance within 500 feet of all exterior~~  
10 ~~physical boundaries of a Final SFMTA Decision.~~

11 **Special Traffic Permit.** A permit issued by the SFMTA that authorizes the obstruction  
12 of traffic for construction activities other than the parking of vehicles at a specified construction site  
13 and subject to all permit conditions imposed by the SFMTA.

14 **Substantially Modify.** Any extension of the term of a pilot or temporary program or  
15 Private Transportation Program, expansion or restriction in the geographic scope of a pilot or  
16 temporary program or Private Transportation Program, or expansion in the number of vehicles  
17 permitted under a pilot or temporary program or Private Transportation Program, ~~changes in the~~  
18 operating structure of any entity subject to the existing conditions of a pilot or temporary  
19 program or Private Transportation Program, or partnership with any Private Transportation  
20 Program that is primarily regulated by a state agency.

21 **Traffic Control Device.** A sign, signal, marking, or other device used to regulate, warn,  
22 or guide vehicular and pedestrian traffic, placed on, over, on the surface of or adjacent to a street by  
23 authority of the SFMTA. Such temporary Traffic Control Devices shall be removed when they are no  
24 longer required following the emergency, condition, or event.

25 (b) **Request for Review.**

1                   (1) A Final SFMTA Decision may be reviewed by the Board of Supervisors as set  
2 forth in this Section 10.1.

3                   (2) ~~Within~~Within ~~Not less than 10 days, but no more than 30 calendar days,~~  
4 after from the date that a Final SFMTA Decision is made by the SFMTA Board of Directors or is  
5 made in writing by the City Traffic Engineer or the Director of Transportation pursuant to Section 203  
6 of this Code, a Request for Review may be submitted to the Board of Supervisors, on a form provided  
7 by the Clerk, indicating the Final SFMTA Decision for which review is being requested and the specific  
8 basis for requesting review. The request shall include a copy of the Final SFMTA Decision, which has  
9 been dated, or that sufficiently describes the action taken by the SFMTA, and provide the date of  
10 the Final SFMTA Decision.

11                   (3) A Request for Review may only be filed as follows:

12                   (A) ~~By a City resident, or owner of real property or of a business~~  
13 ~~located in the City, which is signed by any combination of 50 other City residents, owners of~~  
14 ~~real property in the City, or owners of businesses in the City, on a form provided by the Clerk.~~  
15 ~~All signatories must be City residents, own or lease real property, or own or lease a business~~  
16 ~~within Proximity to the Final SFMTA Decision. Adequate proof of residency or real property or~~  
17 ~~business ownership shall be submitted with the petition as required by the Clerk, and~~  
18 ~~accompanied by a filing fee in the amount of \$597 payable to the Clerk of the Board of~~  
19 ~~Supervisors; or~~

20                   (B) ~~By~~ by a member of the public, with the concurrence of four~~five~~  
21 members of  
22 the Board of Supervisors, on a form provided by the Clerk requesting the Clerk to schedule a hearing  
23 before the Board of Supervisors and accompanied by a filing fee in the amount of \$250 payable  
24 to the Clerk of the Board of Supervisors.

25                   (c) Scheduling of Review Hearing.

1           (1) Upon receipt of a Request for Review, the Clerk shall review the  
2 documents submitted to confirm that all required documents and information have been  
3 submitted. The Clerk shall then provide the SFMTA with a copy of the Request for Review,  
4 including all supporting documents, within 48 business hours after receipt of a Request for  
5 Review, and request the SFMTA to submit the agency's Final SFMTA Decision to the Clerk.

6           ~~(42) Within three business days after receiving notification by the Clerk a Request~~  
7 ~~for Review, and prior to scheduling a review hearing, the Clerk SFMTA shall determine whether the~~  
8 ~~requirements set forth in subsection (b) have been met and notify the Clerk if there are any~~  
9 ~~deficiencies or incomplete required documents or information. If the prerequisites for hearing~~  
10 ~~required by subsection (b) are not timely fulfilled as determined by the SFMTA or the Clerk, the~~  
11 ~~Final SFMTA Decision shall stand and any filing fee paid shall be returned to the requester and~~  
12 ~~any filing fee paid shall be returned to the requester. If the prerequisites are fulfilled, the Clerk~~  
13 ~~shall set a time and place for a review hearing not less than 15 days after the filing of the Request for~~  
14 ~~Review. The Clerk shall send a copy of the Request for Review, including supporting~~  
15 ~~documents, and notice of the review hearing, to the SFMTA.~~

16           ~~(23) The SFMTA shall (A) prior to the review hearing, submit an explanation in~~  
17 ~~writing to the Clerk regarding of the criteria guiding the Final SFMTA Decision and the basis for that~~  
18 ~~decision by noon eight days prior to the scheduled Review Hearing, and/or (B) at the review~~  
19 ~~hearing, make a presentation regarding the basis for the Final SFMTA Decision.~~

20           ~~(34) While a review request is pending before the Board of Supervisors, the SFMTA~~  
21 ~~shall not implement any action that is the subject of the Request for Review.~~

22           (d) **Notice of Review Hearing.** Notice of the review hearing shall be posted in the Clerk's  
23 Office, on the Board of Supervisors' website, and mailed to any person who filed a Request for  
24 Review or otherwise requested notice at least 10 calendar days prior to the scheduled hearing.  
25 If more than one Request for Review is filed with the Clerk regarding the same Final SFMTA Decision,

1 the Clerk shall consolidate all requests so that only one hearing is held, provided that the period of not  
2 less than 15 days for the Clerk to schedule a review hearing as stated in subsection (c)(2) shall be  
3 triggered by the earliest filed Request for Review.

4 (e) **Decision After Review Hearing.** After the review hearing, the Board of Supervisors  
5 may, by motion, affirm or reverse the Final SFMTA Decision. Any decision to reverse the Final  
6 SFMTA Decision shall include written findings setting forth the basis for the reversal and shall be  
7 binding on the SFMTA for a two-year period but shall not preclude the SFMTA from issuing a Final  
8 SFMTA Decision that modifies the original Final SFMTA Decision, provided that the modified Final  
9 SFMTA Decision shall be subject to further review by the Board of Supervisors as set forth in this  
10 Section 10.1.

11 (f) **Status of Final SFMTA Decision.** If the Board of Supervisors fails to approve or  
12 reverse the Final SFMTA Decision within 60 days of the date of the filing of the Request for Review, the  
13 Final SFMTA Decision shall be deemed approved.

14 (g) **CEQA.** Nothing in this Section 10.1 shall be construed as providing an alternative  
15 procedure for appealing an environmental review determination under either the California  
16 Environmental Quality Act (“CEQA”) or the National Environmental Policy Act (“NEPA”).

17 (h) — Filing Fee Waiver. The filing fee set forth in subsection (b)(3)(A) shall be waived  
18 if a neighborhood organization that: (1) has been in existence for 24 months prior to the filing  
19 date of the Request for Review, (2) is on the Planning Department’s neighborhood  
20 organization notification list, and (3) can demonstrate to the Clerk or his/her designee that the  
21 organization is affected by the Final SFMTA Decision submits a request for fee waiver, on a  
22 form approved by the Clerk, when a Request for Review is filed. The filing fee shall be  
23 refunded to the City resident, owner of real property in the City, or business in the City, that  
24 filed the Request for Review if the Board of Supervisors reverses the Final SFMTA Decision.

1           (h) Filing Fee Waiver. The filing fee set forth in subsection (b)(3) shall be waived if  
2 a request for fee waiver, on a form approved by the Clerk, is submitted along with a Request  
3 for Review by:

4           (1) a neighborhood organization that: (1) has been in existence for 24  
5 months prior to the filing date of the Request for Review, (2) is on the Planning Department's  
6 neighborhood organization notification list, and (3) can demonstrate to the Clerk or his/her  
7 designee that the organization is affected by the Final SFMTA Decision; or

8           (2) an indigent person who attests to his or her inability to pay the filing fee.

9           Section 2. Effective Date. This ordinance shall become effective 30 days after  
10 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
11 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
12 of Supervisors overrides the Mayor's veto of the ordinance.

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

15 By: \_\_\_\_\_  
16       JOHN I. KENNEDY  
17       Deputy City Attorney

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