

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Ed Reiskin, Executive Director, Municipal Transportation Agency

FROM: *al*  
*bn* Alisa Somera, Legislative Deputy Director  
Land Use and Transportation Committee

DATE: February 16, 2018

SUBJECT: SUBSTITUTE LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Transportation Committee has received the following substitute legislation, introduced by Supervisor Safai on February 13, 2018:

**File No. 180089-2**

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

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: [alisa.somera@sfgov.org](mailto:alisa.somera@sfgov.org).

c: Janet Martinsen, Municipal Transportation Agency  
Kate Breen, Municipal Transportation Agency  
Dillon Auyoung, Municipal Transportation Agency  
Viktoriya Wise, Municipal Transportation Agency

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 **Final SFMTA Decision.** *A decision by the Municipal Transportation Agency (SFMTA)  
20 to (1) create or eliminate a preferential parking zone pursuant to Vehicle Code sections 22507 or  
21 22507.1; (2) create or eliminate a parking meter zone; (3) adopt a limitation on the time period for  
22 which a vehicle may be parked; (4) create a pilot or temporary program involving any of (1) through  
23 (3) above, or continue or Substantially Modify a pilot or temporary program involving any of (1)  
24 through (3) above on a permanent basis; or (5) create or Substantially Modify a Private Transportation  
25 Program that may create or eliminate a preferential parking zone, including providing access to the  
curb, pursuant to Vehicle Code sections 22507 or 22507.1, or that may limit the time period for which*

1 a vehicle may be parked, including providing access to the curb, in order to regulate or accommodate a  
2 private transportation service or services. “Final SFMTA Decision” shall not include (1) a decision by  
3 the SFMTA that was contemplated as part of the implementation of a prior Final SFMTA Decision and  
4 is directly related to the implementation of a bicycle lane, Bus Rapid Transit project, or Large  
5 Infrastructure Project including regulations limiting parking, stopping, standing or loading; or (2) a  
6 decision by the SFMTA regarding any of the following parking restrictions or modifications: (A) street  
7 sweeping; (B) any temporary Traffic Control Device installed or removed on any street for the purpose  
8 of controlling parking or traffic during emergencies, special conditions or events, construction work,  
9 short-term testing, or when necessary for the protection of public health and safety; or (C) Special  
10 Traffic Permit.

11 **Large Infrastructure Project.** A project involving a contract, memorandum of  
12 understanding, or other agreement involving the SFMTA that requires Board of Supervisors approval  
13 pursuant to Charter Section 9.118, or would otherwise result in anticipated revenue to the City of one  
14 million dollars or more, anticipated expenditures by the City of ten million dollars or more, or a  
15 modification of more than \$500,000 to such project.

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

21 **Proximity to Final SFMTA Decision.** A distance within 500 feet of all exterior physical  
22 boundaries of a Final SFMTA Decision.

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

1                    **Substantially Modify.** *Any extension of the term of a pilot or temporary program or*  
2 *Private Transportation Program, expansion or restriction in the geographic scope of a pilot or*  
3 *temporary program or Private Transportation Program, expansion in the number of vehicles permitted*  
4 *under a pilot or temporary program or Private Transportation Program, changes in the operating*  
5 *structure of any entity subject to the existing conditions of a pilot or temporary program or Private*  
6 *Transportation Program, or partnership with any Private Transportation Program that is primarily*  
7 *regulated by a state agency.*

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

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

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

15                    **(2)** *Within 30 days from the date that a Final SFMTA Decision is made by the*  
16 *SFMTA Board of Directors or is made in writing by the City Traffic Engineer or the Director of*  
17 *Transportation pursuant to Section 203 of this Code, a Request for Review may be submitted to the*  
18 *Board of Supervisors, on a form provided by the Clerk, indicating the Final SFMTA Decision for which*  
19 *review is being requested and the specific basis for requesting review. The request shall include a copy*  
20 *of the Final SFMTA Decision, or sufficiently describe the action taken by the SFMTA, and provide the*  
21 *date of the Final SFMTA Decision.*

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

23                    **(A)** *By a City resident, or owner of real property or of a business located in*  
24 *the City, which is signed by any combination of 50 other City residents, owners of real property in the*  
25 *City, or owners of businesses in the City, on a form provided by the Clerk. All signatories must be City*

1 residents, own or lease real property, or own or lease a business within Proximity to the Final SFMTA  
2 Decision. Adequate proof of residency or real property or business ownership shall be submitted with  
3 the petition as required by the Clerk, and accompanied by a filing fee in the amount of \$597 payable to  
4 the Clerk of the Board of Supervisors; or

5 (B) By a member of the public, with the concurrence of four members of the  
6 Board of Supervisors, on a form provided by the Clerk requesting the Clerk to schedule a hearing  
7 before the Board of Supervisors.

8 **(c) Scheduling of Review Hearing.**

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

16 (2) The SFMTA shall (A) prior to the review hearing, submit an explanation of the  
17 criteria guiding the Final SFMTA Decision and the basis for that decision, and/or (B) at the review  
18 hearing, make a presentation regarding the basis for the Final SFMTA Decision.

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

21 (d) **Notice of Review Hearing.** Notice of the review hearing shall be posted in the Clerk's  
22 Office and mailed to any person who filed a Request for Review. If more than one Request for Review  
23 is filed with the Clerk regarding the same Final SFMTA Decision, the Clerk shall consolidate all  
24 requests so that only one hearing is held, provided that the period of not less than 15 days for the Clerk  
25 to schedule a review hearing shall be triggered by the earliest filed Request for Review.

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

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

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

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

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

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

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6 By:   
7 JOHN I. KENNEDY  
Deputy City Attorney

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**REVISED LEGISLATIVE DIGEST**  
(Substituted, 2/13/2018)

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

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

Existing Law

Notwithstanding the SFMTA's exclusive authority to adopt various parking and traffic regulations, Charter section 8A.102(b)(8) permits the Board of Supervisors to establish procedures by which the public may seek Board of Supervisors review of certain SFMTA decisions; however, the Board of Supervisors have not yet adopt procedures to provide for such review.

Amendments to Current Law

This ordinance amends Division I of the San Francisco Transportation Code to establish procedures for review of certain SFMTA decisions by the Board of Supervisors. The ordinance: (1) creates definitions for "Final SFMTA Decision," "Private Transportation Program," and "Proximity to Final SFMTA Decision"; (2) establishes a procedure for the public to request review of a Final SFMTA Decision by the Board of Supervisors; (3) requires that notice of the review hearing be posted in the Clerk's Office; and (4) provides a procedure for the Board of Superiors to affirm or reverse a Final SFMTA Decision following the review hearing.

Background Information

Supervisors Safai and Peskin requested legislation to establish a procedure for Board of Supervisors review of certain SFMTA decisions.

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