

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 Application. A Development Application, as defined in
21 Planning Code section 401, for which an approval by the Planning Commission, Planning
22 Department or Zoning Administrator required application(s) to or decisions by the SFMTA in
23 regards to on-street parking and/or loading project that has already received its land use
24 entitlements from the Planning Commission or Planning Department where those entitlements
25 anticipated subsequent, associated applications to the SFMTA.

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

3 (1) installing or removing a stop sign;

4 (2) createcreating or eliminateeliminating a preferential parking zone pursuant to
5 Vehicle Code sections 22507 or 22507.1;

6 (3) createcreating or eliminateeliminating a parking meter zone;

7 (4) adopting a limitation on the time period for which a vehicle may be parked;

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

9 (6) createcreating a pilot or temporary program involving any of (1) through (5)
10 above, or continueing or Substantially Modifying a pilot or temporary program involving any of (1)
11 through (5) above on a permanent basis; or

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

17 “Final SFMTA Decision” shall not include:

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

22 (2) -a decision by the SFMTA regarding any of the following parking restrictions or
23 modifications: (A) street sweeping; (B) any temporary Traffic Control Device installed or removed on
24 any street for the purpose of controlling parking or traffic during emergencies, special conditions or
25

1 events, construction work, short-term testing, or when necessary for the protection of public health and
2 safety; or (C) Special Traffic Permit.

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

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

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

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

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

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

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

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

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

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

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

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

5 (c) Scheduling of Review Hearing.

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

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

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

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

3 (d) **Notice of Review Hearing.** Notice of the review hearing shall be posted in the Clerk's
4 Office, on the Board of Supervisors' website, and mailed to any person who filed a Request for
5 Review or otherwise requested notice at least 10 calendar days prior to the scheduled hearing.
6 If more than one Request for Review is filed with the Clerk regarding the same Final SFMTA Decision,
7 the Clerk shall consolidate all requests so that only one hearing is held, provided that the period of not
8 less than 15 days for the Clerk to schedule a review hearing as stated in subsection (c)(2) shall be
9 triggered by the earliest filed Request for Review.

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

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

20 (g) **CEQA.** Nothing in this Section 10.1 shall be construed as providing an alternative
21 procedure for appealing an environmental review determination under either the California
22 Environmental Quality Act ("CEQA") or the National Environmental Policy Act ("NEPA").

23 (h) — Filing Fee Waiver. The filing fee set forth in subsection (b)(3)(A) shall be waived
24 if a neighborhood organization that: (1) has been in existence for 24 months prior to the filing
25 date of the Request for Review, (2) is on the Planning Department's neighborhood

1 organization notification list, and (3) can demonstrate to the Clerk or his/her designee that the
2 organization is affected by the Final SFMTA Decision submits a request for fee waiver, on a
3 form approved by the Clerk, when a Request for Review is filed. The filing fee shall be
4 refunded to the City resident, owner of real property in the City, or business in the City, that
5 filed the Request for Review if the Board of Supervisors reverses the Final SFMTA Decision.

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

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

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

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

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

20 By: _____
21 JOHN I. KENNEDY
22 Deputy City Attorney

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