[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.

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

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

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

ARTICLE 10: BOARD OF SUPERVISORS REVIEW PROCEDURES

SEC. 10.1. REVIEW OF MUNICIPAL TRANSPORTATION AGENCY DECISIONS.

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

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

Development Project Application. A Development Application, as defined in Planning Code section 401, for which an approval by the Planning Commission, Planning Department or Zoning Administrator required application(s) to or decisions by the SFMTA in regards to on-street parking and/or loading project that has already received its land use entitlements from the Planning Commission or Planning Department where those entitlements anticipated subsequent, associated applications to the SFMTA.
**Final SFMTA Decision.** Any decision by the Municipal Transportation Agency (SFMTA) with regard to:

1. installing or removing a stop sign;
2. creating or eliminating a preferential parking zone pursuant to Vehicle Code sections 22507 or 22507.1;
3. creating or eliminating a parking meter zone;
4. adopting a limitation on the time period for which a vehicle may be parked;
5. creating or eliminating a Class III bikeway or bike route;
6. creating or eliminating a pilot or temporary program involving any of (1) through (5) above, or continuing or Substantially Modifying a pilot or temporary program involving any of (1) through (5) above on a permanent basis; or
7. creating or Substantially Modifying a Private Transportation 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 a vehicle may be parked, including providing access to the curb, in order to regulate or accommodate a private transportation service or services.

"Final SFMTA Decision" shall not include:

1. a decision by the SFMTA that was contemplated as part of the implementation of a prior Final SFMTA Decision and is directly related to the implementation of a Bicycle Lane, Bus Rapid Transit project, Development Project Application, or Large Infrastructure Project including regulations limiting parking, stopping, standing or loading; or
2. a decision by the SFMTA regarding any of the following parking restrictions or modifications: (A) street sweeping; (B) any temporary Traffic Control Device installed or removed on any street for the purpose of controlling parking or traffic during emergencies, special conditions or...
events, construction work, short-term testing, or when necessary for the protection of public health and safety; or (C) Special Traffic Permit.

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

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

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

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

**Substantially Modify.** Any extension of the term of a pilot or temporary program or Private Transportation Program, expansion or restriction in the geographic scope of a pilot or temporary program or Private Transportation Program, or expansion in the number of vehicles permitted under a pilot or temporary program or Private Transportation Program, changes in the operating structure of any entity subject to the existing conditions of a pilot or temporary program or Private Transportation Program, or partnership with any Private Transportation Program that is primarily regulated by a state agency.
Traffic Control Device. A sign, signal, marking, or other device used to regulate, warn, or guide vehicular and pedestrian traffic, placed on, over, on the surface of or adjacent to a street by authority of the SFMTA. Such temporary Traffic Control Devices shall be removed when they are no longer required following the emergency, condition, or event.

(b) Request for Review.

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

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

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

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

(b) Request for Review.

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

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

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

(A) By a City resident, or owner of real property or of a business located in the City, which is signed by any combination of 50 other City residents, owners of real property in the City, or owners of businesses in the City, on a form provided by the Clerk. All signatories must be City residents, own or lease real property, or own or lease a business within Proximity to the Final-SFMTA Decision. Adequate proof of residency or real property or business ownership shall be submitted with the petition as required by the Clerk, and accompanied by a filing fee in the amount of $597 payable to the Clerk of the Board of Supervisors; or
(B) By a member of the public, with the concurrence of four members of the Board of Supervisors, on a form provided by the Clerk requesting the Clerk to schedule a hearing before the Board of Supervisors and accompanied by a filing fee in the amount of $250 payable to the Clerk of the Board of Supervisors.

(c) Scheduling of Review Hearing.

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

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

(3) The SFMTA shall (A) prior to the review hearing, submit an explanation in writing to the Clerk regarding the criteria guiding the Final SFMTA Decision and the basis for that decision by noon eight days prior to the scheduled Review Hearing, and (B) at the review hearing, make a presentation regarding the basis for the Final SFMTA Decision.
(34) While a review request is pending before the Board of Supervisors, the SFMTA shall not implement any action that is the subject of the Request for Review.

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

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

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

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

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

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

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

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

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

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

By:  
JOHN I. KENNEDY
Deputy City Attorney
File Number: 180089  Date Passed: May 22, 2018

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

April 30, 2018 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

April 30, 2018 Land Use and Transportation Committee - CONTINUED AS AMENDED

May 07, 2018 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

May 07, 2018 Land Use and Transportation Committee - RECOMMENDED AS AMENDED

May 15, 2018 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE
  Ayes: 11 - Breed, Cohen, Fewer, Kim, Peskin, Rafai, Sheehy, Stefani, Tang and Yee

May 15, 2018 Board of Supervisors - PASSED ON FIRST READING AS AMENDED
  Ayes: 11 - Breed, Cohen, Fewer, Kim, Peskin, Rafai, Sheehy, Stefani, Tang and Yee

May 22, 2018 Board of Supervisors - FINALLY PASSED
  Ayes: 11 - Breed, Cohen, Fewer, Kim, Peskin, Rafai, Sheehy, Stefani, Tang and Yee
I hereby certify that the foregoing Ordinance was FINALLY PASSED on 5/22/2018 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Unsigned

Mark E. Farrell
Mayor

6/1/18
Date Approved

I hereby certify that the foregoing resolution, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, or time waived pursuant to Board Rule 2.14.2, became effective without his approval in accordance with the provision of said Section 3.103 of the Charter or Board Rule 2.14.2.

Angela Calvillo
Clerk of the Board

6-1-18
Date