

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 171017-133

WHEREAS, Small privately-operated, publicly-accessible buses and vans, often known as jitneys, have a long history in San Francisco; and,

WHEREAS, The SFMTA has regulatory authority over Motor Vehicles for Hire and Non-Standard Vehicles, including jitneys, operated wholly within the City and County of San Francisco; and,

WHEREAS, The City's jitney regulations were repealed in 2011 after jitneys had all but disappeared from San Francisco streets; and,

WHEREAS, Since 2011, new private transit vehicle services have begun operation in San Francisco; and,

WHEREAS, Since that time, SFMTA has received complaints from San Francisco residents, Muni operators, and others regarding PTV service in San Francisco, including violations of traffic laws and traffic and community impacts; and

WHEREAS, Private transit vehicles have the potential to support the City's goals if they operate safely, replace single-occupancy vehicle trips, reduce car ownership, complement transit and contribute to a reduction in parking demand, although SFMTA lacks data on the full effects of private transit vehicles at this time; and

WHEREAS, Private transit vehicles can contribute to adverse impacts on San Francisco's transportation network, including delaying transit bus and rail service, increasing traffic congestion, and interfering with the safe movement of people walking, biking, driving, and riding transit in San Francisco; and

WHEREAS, Regulation of private transit vehicle services is necessary to minimize such impacts and ensure such services operate in a manner that is consistent with the City's Transit First and Vision Zero policies; and

WHEREAS, The SFMTA Board adopted the Guiding Principles for Emerging Mobility Services and Technologies in July 2017 in order to consistently evaluate new mobility services and technologies and ensure their alignment with City goals and policies and these Guiding Principles informed the development of this legislation; and

WHEREAS, Pursuant to Charter Section 16.112 and the Rules of Order of the Board of Directors, published notice was placed in the City's official newspaper to provide notice that the Board of Directors would hold a public hearing on September 19, 2017, to consider the proposed establishment of private transit vehicle permit fees and penalties, which notice ran starting on August 30, 2017 for five consecutive days; and

WHEREAS, The item was continued from September 19 to October 3, and then to October 17. In compliance with Charter Section 16.112 staff posted another advertisement in the City's official newspaper which ran for five consecutive days, starting on October 6, 2017; and

Whereas, Since staff was unable to post the advertisement in a timely manner under the MTA Board's Rule of Order, Article 4, Section 10 for the October 17 meeting, the SFMTA Board of Directors is being asked to waive this Rule; and

WHEREAS, On August 14, 2017, the San Francisco Planning Department determined that approval of the Private Transit Vehicle Permit Program and Regulatory Framework is not a "project" under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b); and,

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors and is incorporated herein by reference; now, therefore be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors finds that notice was adequately given for this item and waives the SFMTA Board's Rule of Order, Article 4, Section 10, and, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors amends the Transportation Code, Division II, to create a private transit vehicle permit program, including application requirements, permit terms and conditions, fees, and administrative penalties, and, be it

FURTHER RESOLVED, That the SFMTA Board of Directors recommends that the Board of Supervisors approve an amendment to the Transportation Code, Division I to prohibit the operation of Non-Standard Vehicles, including private transit vehicles, without the applicable permit.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of October 17, 2017.



Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

RESOLUTION: 171017-133

[Transportation Code – Regulation of Non-Standard Vehicles]

Resolution amending Division II of the Transportation Code to establish a permit program for regulating certain types of motor vehicles for hire, defined as “Non-Standard Vehicles,” including, among other provisions, application requirements, permit fees, terms and conditions, and penalties for violations for such vehicles.

NOTE: Additions are single-underline Times New Roman; deletions are ~~strike-through Times New Roman~~. Asterisks (* * * *) indicate the omission of unchanged subsections or parts of tables.

Code

The Municipal Transportation Agency Board of Directors of the City and County of San Francisco enacts the following regulations:

Section 1. Article 300 of Division II of the Transportation Code is hereby amended by revising Section 310 and adding Section 322, to read as follows:

SEC. 310. SCHEDULE OF FINES.

Violation of any of the following subsections of the ~~San Francisco~~ Transportation Code governing the operation of a motor vehicle for hire shall be punishable by the administrative fines set forth below.

* * * *

<u>CONDITIONS APPLICABLE TO NON-STANDARD VEHICLE PERMITS</u>			
<u>Div. II §1206(a)</u>	<u>Operating without a permit</u>		<u>\$5000</u>
<u>Div. II §§ 1206(b)(4), 1207, 1209(a)</u>	<u>Non-Standard Vehicle Permit Conditions</u>		<u>\$250 per violation per day</u>

SEC. 322. NON-STANDARD VEHICLE PERMIT FEES.

The following is the schedule for Non-Standard Vehicle permit fees.

<u>Description</u>	<u>Fee</u>
Private Transit Vehicle Annual Permit Fee – 1-5 Vehicles	\$10,000
Private Transit Vehicle Annual Permit Fee – 6-25	\$25,000
Private Transit Vehicle Annual Permit Fee – 26-50	\$50,000
Private Transit Vehicle Annual Permit Fee – 51-100	\$90,000
Private Transit Vehicle Annual Permit Fee – 101-150	\$185,000
Private Transit Vehicle Annual Permit Fee – 151 or more	\$240,000

Section 2. Division II of the Transportation Code is hereby amended by adding a new Article 1200, consisting of Sections 1201-1213, to read as follows:

ARTICLE 1200:

REGULATION OF NON-STANDARD VEHICLES

SEC. 1201. SCOPE AND PURPOSE OF REGULATIONS.

(a) Findings.

(1) Small privately-operated, publicly-accessible buses and vans, often known as jitneys, have a long history in San Francisco.

(2) The SFMTA has regulatory authority over Motor Vehicles for Hire and Non-Standard Vehicles, including jitneys, operated wholly within the City and County of San Francisco.

(3) The City's jitney regulations were repealed in 2011 after jitneys had all but disappeared from San Francisco streets.

(4) Since 2011, new services similar to jitneys, defined in this Article 1200 as Private Transit Vehicles (PTVs), a type of Non-Standard Vehicle, have begun operation in San Francisco.

(5) Non-Standard Vehicles, including PTVs, have the potential to support the City's transportation goals if they operate safely, replace single-occupancy vehicle trips, reduce car ownership, and contribute to a reduction in parking demand. However, the full effects of Non-Standard Vehicles are not known at this time.

(6) But Non-Standard Vehicles also have the potential to contribute to adverse impacts on San Francisco’s transportation network, including delaying transit bus and rail service, increasing traffic congestion, and interfering with the safe movement of people walking, biking, driving, and riding transit in San Francisco.

(7) Regulation of Non-Standard Vehicle services is necessary to minimize such adverse impacts and ensure such services operate in a manner that is consistent with the City’s Transit First and Vision Zero policies.

(8) The SFMTA Board of Directors adopted the Guiding Principles for Emerging Mobility Services and Technologies in July 2017 in order to consistently evaluate new mobility services and technologies and ensure their alignment with City goals and policies. The Guiding Principles informed the development of this PTV legislation.

(b) Scope of Regulations.

(1) **Classes of Permits.** This Article 1200 shall apply to the following classes of Non-Standard Vehicle Permits issued by the SFMTA:

(A) Permits for operation of PTVs.

(B) Permits for operation of any other type of Non-Standard Vehicle.

(2) **Exclusion for Certain Vehicles.** This Article 1200 shall not apply to the operation of a vehicle:

(A) Engaged in the business of, or used for, transporting passengers for hire when such motor vehicle is operated under and by authority of a certificate of public convenience and necessity issued by the Public Utilities Commission of the State of California (CPUC), or under a permit issued by the CPUC in accordance with Section 5384 of the California Public Utilities Code to the extent that the commercial operation of such a vehicle is entirely within the scope of such certificate or permit;

(B) Licensed by any city, county or other public entity as a motor vehicle for hire which may enter the City and County of San Francisco for the purpose of delivering passengers who have hired the vehicle in a jurisdiction in which it is licensed to

operate, provided, however, that no such motor vehicle for hire may solicit or accept any passenger while in the City;

(C) That is regularly operated by a business, nonprofit organization, or public entity to transport discrete groups of persons, such as employees, students, patients, or clients, whether within the City or otherwise, including, but not limited to, vehicles operating under a permit issued under Section 914 of this Code, provided, however that no such motor vehicle for hire may solicit or accept any passenger while in the City except on a pre-arranged basis, and in conformance with applicable SFMTA rules and regulations;

(D) That is a Taxi, as defined in Section 1102 of this Code and regulated by the SFMTA under Article 1100 of this Code;

(E) Operated as a private ambulance and regulated by Article 14 of the Health Code; or

(F) Operating on fixed tracks or rails.

(3) **Application of Regulations to Permittee Conduct.** This Article 1200 applies to the conduct of Permittees at all times while engaged in activity authorized by the permit.

(c) **Severability.** If any section, subsection, sentence, clause, phrase or word of this Article 1200 or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of this Article. The SFMTA Board of Directors hereby declares that it would have adopted this Article and each and every section, subsection, sentence, clause, phrase and word not declared invalid or unconstitutional without regard to whether any other portion of this Article or application thereof would be subsequently declared invalid or unconstitutional.

(d) **Undertaking for the General Welfare.** In enacting and implementing this Article 1200, the City is assuming an undertaking only to promote the general welfare. It is not

assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

(e) **Implementation.** The Director of Transportation is authorized to designate a date for implementation of a program for issuance of permits pursuant to this Article 1200, which date shall be not more than 120 days from the effective date of this Article 1200.

SEC. 1202. DEFINITIONS. For purposes of this Article 1200, the following definitions shall apply:

"Administrative Probation" shall mean the status of being substantially out of compliance with this Article 1200 according to a written determination of Administrative Probation issued by the SFMTA.

"Applicant" shall mean any person, business, firm, partnership, association, or corporation that applies for a Non-Standard Vehicle Permit under this Article 1200.

"Application Fee" shall mean shall mean a fee in an amount established by the SFMTA Board of Directors, due upon the Initial Application for a permit. The Application Fee may be included as a nonrefundable portion of the Permit Fee due from an Applicant under Section 322 of the Transportation Code.

"Citation" shall mean a notice informing a Permittee or an individual or entity not a Permittee, that the Permittee, individual, or entity has violated any statute, ordinance, or regulation governing the operation or licensing of Non-Standard Vehicles.

"Complaint" shall mean a document issued by the SFMTA upon receipt of the Respondent's request for a hearing on a Citation, Notice of Denial, Notice of Revocation, or Notice of Summary Suspension, which shall contain information about each alleged violation or basis for denial, revocation, or summary suspension.

"Hearing Officer" shall mean a person employed by SFMTA's Hearing Division who is trained and authorized to conduct hearings.

"Initial Application" shall mean the first application submitted by an Applicant for a permit under this Article 1200, as contrasted to subsequent applications submitted by a current Permittee for its continued participation in the permit program established under this Article 1200.

"Model Year" shall mean a model year designated for a vehicle by the manufacturer at the time of first assembly as a completed vehicle.

"Non-Standard Vehicle" shall mean a privately owned, motor-propelled, passenger-carrying vehicle that is available for hire, is a type of vehicle which may be legally operated on the streets of the City under all applicable state and local laws and regulations, and over which the City may exercise jurisdiction, but which is not a type of vehicle excluded from the scope of this Article 1200 under Section 1201(b)(2). "Non-Standard Vehicle" includes but is not limited to Private Transit Vehicles.

"Non-Standard Vehicle Permit" shall mean a permit issued for any class of Non-Standard Vehicle in accordance with this Article 1200.

"Notice of Approval" shall mean a notice informing an Applicant for a permit that the SFMTA has decided to grant the application for the permit under Section 1205 of this Article 1200.

"Notice of Approval with Conditions" shall mean a notice informing an Applicant for a permit that the SFMTA has decided to conditionally grant the application for the permit under Section 1205 of this Article 1200, subject to specific conditions in addition to those imposed under Sections 1206 or 1207 of this Article 1200.

"Notice of Denial" shall mean a notice informing an Applicant for a permit that the SFMTA has decided to deny the application for the permit under Section 1205 of this Article 1200.

"Notice of Revocation" shall mean a notice informing a Permittee that the SFMTA has determined that the permit will be revoked in accordance with Section 1209 of this Article 1200.

"Notice of Summary Suspension" shall mean a notice informing a Permittee that the SFMTA has decided to summarily suspend the permit in accordance with Section 1212 of this Article 1200.

"Permit Fee" shall mean a fee in an amount established by the SFMTA Board of Directors, due on an annual basis. In the case of an Initial Application, a portion of the Permit Fee shall constitute the non-refundable Application Fee due at the time of an Initial Application, with the remainder due at issuance of a permit. The Applicant shall also be required to pay any late payment penalties or interest for failure to pay in accordance with the requirements of this Article 1200 or any other regulation adopted by the SFMTA Board of Directors at the time of permit issuance.

"Permittee" shall mean any person, business, firm, partnership, association, or corporation that holds a permit issued under this Article 1200 for operation of one or more Non-Standard Vehicles.

"Private Transit Vehicle" or "PTV" shall mean a Non-Standard Vehicle that is used to provide transportation to the public and charges individual fares.

"Qualified Communities of Concern" shall mean Communities of Concern as identified by the Metropolitan Transportation Commission that are located within the City and County of San Francisco in the area located south of a line commencing at the point on the easterly boundary of the City and County of San Francisco due east of the easterly terminus of Cesar Chavez Street, thence westerly to the easterly terminus of Cesar Chavez Street, thence westerly along the southerly line of Cesar Chavez Street to the westerly line of Douglass Street, thence northerly along the westerly line of Douglass Street to the northerly line of Clipper Street, thence westerly along the northerly line of Clipper Street to the northerly line of Portola Drive, thence westerly along the northerly line of Portola Drive to the westerly line of Kensington Way, thence northerly along the westerly line of Kensington Way to the southerly line of Taraval Street, thence westerly along the southerly line of Taraval Street to the westerly terminus of

Taraval Street, thence due west of the westerly terminus of Taraval Street to the westerly boundary of the City and County of San Francisco.

"Respondent" shall mean a person or entity to whom the SFMTA issues a Notice of Approval with Conditions, Notice of Denial under Section 1205, Notice of Summary Suspension under Section 1212, Notice of Revocation under Section 1209, or Citation for a violation listed under Sections 1206(a) or (b)(4), 1207 or 1209(a) is delivered.

SEC. 1203. PERMIT APPLICATIONS AND RENEWAL.

(a) **Application Forms.** The SFMTA shall provide an application form for any permit issued under this Article 1200. The Applicant shall provide such information and documents as the SFMTA requires in connection with the application, and shall pay the Application Fee.

(b) Requirements Applicable to Private Transit Vehicle Permit Applications.

(1) An Applicant may request a Private Transit Vehicle Permit for any vehicle or fleet of vehicles subject to this Article 1200.

(2) Each Applicant for a Private Transit Vehicle Permit shall submit the following information in addition to any other information which may be required by the Director of Transportation:

(A) Name, address, phone number, and email address of the Applicant;

(B) The most recent California Highway Patrol Safety Compliance Report/Terminal Record Update issued to the Applicant;

(C) A service plan, including a description of the nature, scope, frequency, and span of service, staging locations, and maps or detailed descriptions of any routes, as applicable;

(D) A map or detailed description of each proposed stop (each of which shall be a curb space or other location, at which stopping or parking is permitted), including exact location and type of curb regulation;

(E) Valid insurance certificates covering all vehicles proposed to be operated under the permit;

(F) A list of all vehicles Applicant intends to operate in PTV service, including VIN number, license plate number, make, model, Model Year, length, passenger capacity, and valid California registration documents for all such vehicles;

(G) A description or copy of Applicant's training policies and procedures for drivers, including any training related to the provision of accessible service to people with disabilities;

(H) A description or copy of Applicant's policies and procedures for providing equal access to people with disabilities as defined in Section 1207(i)(1);

(I) A description of the Applicant's fare structure and accepted methods of fare payment, which SFMTA shall evaluate based solely on completeness and accuracy, and not on any other considerations;

(J) A Service Disruption Prevention Plan which describes Applicant's efforts to maintain consistent and efficient service in the event of potential disruptions. The Service Disruption Prevention Plan may, but is not required to, include statements from third parties describing the Applicant's efforts to prevent service disruptions. The Service Disruption Prevention Plan must address, at a minimum:

(i) How vehicle breakdowns or stalls (mechanical or otherwise) will be remedied quickly so as not to block access to loading zones or impede the flow of traffic;

(ii) Sufficient vehicle availability to satisfy ridership demand;

(iii) Sufficient back-up driver staffing in the event that drivers are unable to work due to sickness or other reason;

(iv) Contingency routing plans in the case of construction, special events, parades, celebrations, rallies, protests, or other activity or occurrences that may block access to certain streets; and

(v) A description of the means by which Applicant has considered the San Francisco Board of Supervisors' March 2015 Labor Harmony Resolution (Res. No. 96-15), including steps taken to avoid potential disruptions by addressing the principles and concerns set forth in such Resolution, and any agreements or documents evidencing such steps, as well as information regarding driver schedules (including any split-shifts), work hours, working conditions, and wages.

(K) During the pendency of its application, Applicant shall provide prompt notice to SFMTA of any labor dispute in which it is involved that has the potential to cause a disruption of service.

(L) An acknowledgement by an authorized official of the Applicant that if issued a permit, Applicant agrees to comply with all applicable local, state, and federal laws governing its Private Transit Vehicle service, as well as the conditions contained in the permit, including agreeing to indemnify and hold the City and County of San Francisco, its departments, commissions, boards, officers, employees, and agents ("Indemnitees") harmless from and against any and all claims, demands, actions, or causes of action which may be made against the Indemnitees for the recovery of damages for the injury to or death of any person or persons or for the damage to any property resulting directly or indirectly from the activity authorized by the permit regardless of the negligence of the Indemnitees.

(3) At the time of Initial Application, an Applicant not currently holding a PTV permit shall submit a non-refundable Application Fee of \$5,000. Should the application be approved, SFMTA will credit the Application Fee toward the Applicant's Permit Fee.

SEC. 1204. REVIEW OF PERMIT APPLICATION.

(a) **Determination of Eligibility.** The SFMTA shall review each application to determine the Applicant's eligibility for a Non-Standard Vehicle Permit under the factors listed in this subsection (a). The SFMTA may request additional information from an Applicant where

necessary to determine the Applicant's eligibility. The SFMTA, in determining whether the permit should be granted, shall consider the following factors, in addition to any other factors determined by the Director of Transportation to be relevant to the safe and efficient operation of San Francisco's transportation system:

(1) The Applicant's compliance with all applicable statutes, ordinances, and regulations during the past five years. The SFMTA shall consider whether, during the five years prior to application, an Applicant has repeatedly violated any statute, ordinance, or regulation.

(2) The record of the Applicant for the preceding five years with regard to any other permits issued, by the City or any other jurisdiction, for the commercial operation of a motor vehicle for the transport of passengers.

(3) Any overdue unpaid amounts owed by the Applicant to the City, including but not limited to past due citations. The SFMTA shall not issue a permit unless and until the Applicant has paid all fines, fees, taxes, liens, judgments or other debts owing to the City.

(4) The ability of the Applicant to comply with all applicable permit conditions.

(5) The Applicant's written agreement to comply with all applicable permit conditions.

(6) In the case of a PTV permit application, whether the service plan complies with the evaluation criteria established by the Director of Transportation under Section 1207(f)(1).

(b) **Burden of Proof on Applicant.** A permit Applicant shall have the burden of proving that the application meets all requirements for a permit.

SEC. 1205. PERMIT ISSUANCE.

(a) **Permit Issuance.** The SFMTA may issue any class of Non-Standard Vehicle Permit only upon its determination that the permit Applicant meets all requirements for the permit, including complying with Section 1204(a)(3). Upon permit issuance, the SFMTA will post the Permittee's Service Disruption Prevention Plan on the SFMTA website.

(b) **SFMTA Decision; Hearing.** At the conclusion of the SFMTA's review of a permit application, the SFMTA shall inform the Applicant, in writing, of the SFMTA's decision to grant or deny the permit through a Notice of Approval, Notice of Approval with Conditions, or Notice of Denial. The SFMTA shall serve its decision in accordance with Section 1211(i). If the SFMTA issues a Notice of Denial or a Notice of Approval with Conditions, it shall include a statement of the grounds for denial or imposition of conditions. The Applicant may request a hearing to contest the Notice of Denial or Notice of Approval with Conditions by submitting to the SFMTA a written request for hearing within 20 business days of the date that the Notice of Denial or Notice of Approval with Conditions is served.

(c) **Automatic Temporary Stay.** Where SFMTA issues a Notice of Denial or Notice of Approval with Conditions of an application submitted by an Applicant currently holding a Non-Standard Vehicle Permit, such denial or approval with conditions shall be automatically stayed and the Applicant shall have the right to continue to operate under the existing permit until the time for requesting a hearing to contest the denial or approval with conditions has passed, without such a request; a timely request has been made and a final decision has been issued by a Hearing Officer; or the case is otherwise resolved.

(d) **Procedure for Hearing on Contest to Decision on a Permit Application.** Any hearing under this Section 1205 shall be conducted in accordance with the procedures set forth in Section 1211.

SEC. 1206. PERMIT REQUIREMENT; GENERAL PERMIT CONDITIONS.

(a) **Permits Required.** As of the date designated by the Director of Transportation under Section 1201(e) to implement the program for issuance of permits under this Article 1200, and any date thereafter, no person, business, firm, partnership, association, or corporation shall drive, or operate or cause to be operated, any Non-Standard Vehicle within the City without the applicable permit issued by the SFMTA authorizing such driving or operation in accordance with this Article.

(b) **General Permit Conditions.** The following conditions are applicable to all permits:

(1) **Permits Not Transferable.** Except as expressly provided in this Article 1200 or in permit conditions, no permit issued under this Article may be sold, transferred, or assigned, either expressly or by operation of law.

(2) **Duration of Permits.**

(A) Unless earlier revoked or summarily suspended under the provisions of this Article 1200, all permits shall expire one year from the date of issuance, unless a shorter term is specified by the SFMTA at the time of permit issuance. In the event that a permit is issued for a term of less than one year, the annual permit fee shall be pro-rated accordingly.

(B) Permittees may renew their permit by submitting a new Application and the required fee and meeting the eligibility requirements required for Applicants in Section 1204. Such applications shall be submitted to SFMTA not less than 20 business days prior to the expiration date of the current permit.

(3) **Compliance with Laws and Regulations.** Every Permittee shall comply with, and shall ensure that their affiliated vehicles and employees comply with, applicable laws, including but not limited to, the provisions of this Article 1200, the San Francisco Charter and Municipal Code, the California Vehicle Code, the California Public Utilities Code, California worker's compensation laws, and the Americans with Disabilities Act.

(4) **Cooperation with Regulatory Agencies; False Statements.** Every Permittee shall at all times fully cooperate with a Parking Control Officer, Peace Officer, or the Director and/or his or her designee, on all matters relating to regulatory compliance, including but not limited to timely compliance with requests for the inspection of records. Permittees shall not hinder, delay the production of, or withhold information or records, or knowingly make false or misleading statements to a peace officer or to the SFMTA or withhold information on any

matter relating to regulatory compliance. No Permittee shall make any false claim or false request for payment or approval to the SFMTA, its contractors, or its employees.

SEC. 1207. REGULATION OF PRIVATE TRANSIT VEHICLES.

(a) An application for a permit to operate one or more PTVs shall be submitted in accordance with Section 1203 of this Article 1200.

(b) Communication Requirements for Permittees Operating PTVs.

(1) Permittees shall establish a designated point of contact who is available during hours of operation and provide the SFMTA with her or his contact information. The designated point of contact shall respond to communications from SFMTA personnel within two business days;

(2) Permittees shall have in place an easily accessible mechanism for receiving and addressing customer complaints;

(3) Permittees shall make their fare structure and methods of fare payment publicly available on their website; and

(4) Permittee shall provide prompt notice to SFMTA of any labor dispute in which it is involved that has the potential to cause a disruption of service.

(c) Licensing and Insurance Requirements for Permittees Operating PTVs.

(1) Permittees shall comply with State law requirements governing registration with, and inspections by, the California Highway Patrol;

(2) Each Permittee shall provide and thereafter continue in effect, so long as it may engage in conducting PTV operations, adequate protection against liability imposed by law upon such carriers for the payment of damages for personal bodily injuries (including death resulting therefrom) and for damage to or destruction of property, other than property being transported by such carrier for any shipper or consignee, whether the property of one or more than one claimant, in amounts not less than the amounts set forth in the following schedule:

(A) Any vehicle with a seating capacity of 16 passengers or more:
\$5,000,000;

(B) Any vehicle with a seating capacity of eight passengers through 15 passengers, inclusive: \$1,500,000; and

(C) Any vehicle with a seating capacity of seven passengers or less:
\$1,000,000; and

(3) Each Permittee shall possess a current San Francisco Business Registration Certificate.

(d) Vehicle Requirements for PTVs.

(1) Each vehicle operated by a Permittee as a PTV shall display a permit authorization sticker and/or identifying markings in accordance with standards issued by the SFMTA;

(2) SFMTA will evaluate the vehicles listed on a Permittee's application, and may issue permit authorization stickers and/or identifying markings upon determining that the following requirements are met:

(A) Each PTV must have a current California registration and bear valid license plates unless such plates have yet to be received for the vehicle;

(B) Each PTV shall be no more than eight Model Years old or be equipped with a power source that complies with emissions standards applicable to the same class of vehicle eight Model Years prior to the current Model Year at the time of permit issuance;

(C) No vehicle permitted as a PTV shall be more than 25 feet in length, excluding space taken by bicycle racks or other auxiliary attachments, provided that the total vehicle length including bicycle racks or other auxiliary attachments does not exceed 30 feet;

(D) Each vehicle shall be able to transmit GPS location data in accordance with subsection (h) of this Section 1207; and

(E) No vehicle shall be approved for PTV service unless all outstanding past-due SFMTA traffic citations (excluding those under protest) associated with such vehicle, including citations for violation of this Article 1200, have been paid in full;

(3) Permittees shall notify the SFMTA at least 15 days prior to introducing a new vehicle into PTV service. The SFMTA will evaluate such vehicles and may issue permit authorization stickers and/or identifying markings for such vehicles after considering the factors listed in subsection (d)(2); and

(4) Permittees shall notify the SFMTA prior to operating autonomous vehicles in PTV service. Such vehicles shall comply with any regulations issued by the Director consistent with State law.

(e) Requirements for PTV Drivers.

(1) Permittees shall ensure that all drivers operating vehicles being used in PTV service possess a valid California driver's license of the class required under State law to operate such vehicles;

(2) Permittees shall certify that all PTV drivers have viewed the SFMTA Large Vehicle Urban Driving Safety Video and have completed any other safety training required by the SFMTA at the time of permit issuance, with the following qualifications:

(A) Permittees shall ensure that all PTV drivers hired after permit issuance view the SFMTA Large Vehicle Urban Driving Safety Video and complete any other safety training required by the SFMTA at the time of permit issuance, within 30 days of being hired; and

(B) Under no circumstances shall the training requirements under subsections (e)(2) and (e)(2)(A) exceed eight hours of training per year;

(3) Permittees shall comply with all applicable state and federal labor standards, including but not limited to those relating to shift lengths and workers' compensation;

(4) Permittees shall comply with all applicable laws and regulations governing driver background checks and drug and alcohol testing; and

(5) Permittees shall be responsible for ensuring that PTV drivers comply with all applicable state and local laws, including the conditions imposed by this Article, whether such drivers are direct employees of the Permittee or independent contractors.

(f) **Routes.**

(1) PTV routes shall not operate in a manner that the Director of Transportation determines substantially duplicates SFMTA public transit service. The Director of Transportation shall develop criteria for making this determination in accordance with the following procedure:

(A) The criteria shall be set forth in writing by the Director of Transportation, and the SFMTA Board of Directors shall have the opportunity to review the initial criteria at a duly noticed public hearing prior to the Director's adoption of the criteria;

(B) Following initial adoption, the Director of Transportation may amend the criteria only after providing at least 30 days' notice by U.S. Mail and email to Permittees and to the public on the SFMTA website of the proposed amendments and the opportunity for a hearing on those amendments before the Director, after which hearing the Director shall have discretion to adopt the amendments as proposed or as reasonably modified in light of the scope of the proposed amendments; and

(C) The Director of Transportation is authorized to promulgate procedures for conducting public hearings on proposed amendments to the criteria established under this Subsection(f)(1).

(2) PTVs shall comply with the restrictions in Section 501 of the Transportation Code except in case of emergency or when directed to do so by authorized personnel, including police or other law enforcement officers or SFMTA parking control officers.

(3) Notwithstanding Subsection (f)(1) of this Section 1207 or the street restrictions set forth in Section 503 of the Transportation Code, where an Applicant seeks to continue operating a route or routes already being operated by the Applicant as of August 1,

2017, and provides documentation of the operation of the route(s) as of that date, the Applicant shall be permitted to continue operating such route or routes.

(4) PTVs shall not travel in lanes designated as “Muni Only” or “Transit Only” by an Official Traffic Control Device.

(5) Permittees shall notify the SFMTA of any changes to the Permittee’s service plan provided as part of the application, not less than five business days prior to implementing such changes.

(g) **PTV Stops.**

(1) Except in cases of emergency or when directed to do so by authorized personnel, including police or other law enforcement officers or SFMTA parking control officers, PTVs shall not stop in any location where stopping is prohibited, including but not limited to bus zones, crosswalks, unauthorized driveways, red zones, or bike lanes;

(2) Except in cases of emergency or when directed to do so by authorized personnel, including police or other law enforcement officers or SFMTA parking control officers, PTVs shall pick up or discharge passengers only in authorized locations. These locations include but are not limited to white passenger loading zones of sufficient length and availability to accommodate PTV service, and other locations where stopping to pick up or discharge passengers is not prohibited;

(3) PTVs shall only stop in authorized loading zones while actively loading and unloading passengers; and

(4) Permittees shall notify the SFMTA of any changes to the list of stops provided as part of Permittee’s service plan at least five business days prior to implementing such changes.

(h) **Data Requirements for PTVs.**

(1) Permittees shall provide aggregate GPS data to the SFMTA in accordance with API specifications issued by the SFMTA and in effect at the time of permit issuance;

(2) Permittees shall provide other data, including but not limited to schedule, ridership, and routing data, to the SFMTA within five business days of any data request from SFMTA where such data is reasonably available and accessible; and

(3) Notwithstanding subsection (h)(2), Permittees shall not be required to provide SFMTA with data identifying individual riders or drivers or other data that would enable the SFMTA or a third party to ascertain information pertaining to individual riders or drivers, including but not limited to personal identifying information, or individualized information concerning trips, locations, routes, or usage.

(i) Accessibility and Equity for PTVs.

(1) Permittees shall provide equal access to persons with disabilities. When considering whether a Permittee's service provides equal access, the SFMTA shall consider whether the service provided to persons with disabilities is comparable to the service provided to the general public in the following areas:

- (A) Response time;
- (B) Travel time;
- (C) Fare;
- (D) Origins and destinations served;
- (E) On-time performance;
- (F) Vehicle accessibility; and
- (G) Such other factors as established by the Director relating to the provision of equal access to persons with disabilities;

(2) Permittees must comply with the requirements imposed on federal departments and agencies by Section 508 of the federal Rehabilitation Act (29 U.S.C. 794d) regarding the accessibility of Information and Communications Technology, including any smartphone applications and websites; and

(3) Permittees shall not deny service to any customer on the basis of race, color, ancestry, national origin, place of birth, sex, age, religion, creed, disability, sexual orientation, gender identity, weight, or height.

(j) **PTV Fees.**

(1) Permittees shall pay a Permit Fee, including an Application Fee in the case of an Initial Application, in accordance with the fee schedule in Section 322 except where such fee is subject to reduction under subsections (j)(5) or (j)(6) of this Section 1207.

(2) Permit Fees shall be due and payable within 30 days of the date of invoice.

(3) Permit Fees remaining unpaid 30 days from the date of invoice, or payment plan installments remaining unpaid after the dates agreed upon in the payment plan, shall be subject to a 10% penalty plus interest at the rate of 1% per month on the outstanding balance, which shall be added to the fee amount from the date that payment is due.

(4) If a Permittee adds vehicles to its fleet such that it becomes subject to a higher Permit Fee as listed in the fee schedule in Section 322, the Permittee shall pay the difference between the Permit Fee paid to the SFMTA at the time of permit issuance and the Permit Fee that would apply to their service given the new size of their fleet. The amount due shall be prorated based on the amount of time remaining under the permit term. Any such supplemental Permit Fee shall be due and payable to the SFMTA within 30 days of the date of invoice.

(5) Permit Fees are not refundable.

(6) The SFMTA may reduce annual PTV permit fees by up to 20% of the unadjusted permit fee amount for any Permittee that operates vehicles equipped with a zero-emission power source. Such reductions shall be determined as follows: A Permittee shall receive a 2% reduction in its permit fee for each tenth of the operating fleet consisting of zero-emission vehicles. Accordingly, an operating fleet consisting of at least 10% but less than 20% zero-emission vehicles would entitle the Permittee to a 2% reduction in the unadjusted permit fee amount; an operating fleet consisting of at least 20% but less than 30% zero-emission vehicles

would entitle the Permittee to a 4% reduction in the unadjusted permit fee amount; and so forth. An operating fleet consisting of 100% zero-emission vehicles would entitle the Permittee to a 20% reduction in the unadjusted fee amount.

(7) In addition to any reduction in the annual permit fee made pursuant to subsection (j)(6), the SFMTA may also reduce annual PTV permit fees by up to another 20% of the unadjusted permit fee amount for any Permittee that serves stops within Qualified Communities of Concern. Such reductions shall be determined as follows: For each route operated with 15-minute-or-less headways during normal service hours, there will be a 5% reduction in the permit fee for each 25% increment of stops located in Qualified Communities of Concern. Accordingly, a Permittee would receive a 5% reduction in the permit fee for each route operated with 15-minute-or-less headways during normal service hours where at least 25% but less than 50% of stops are located in Qualified Communities of Concern; a Permittee operating a route with 15-minute-or-less headways on which at least 50% but less than 75% of the stops are located in Qualified Communities of Concern would receive a 10% fee reduction; a Permittee operating a route with 15-minute-or-less headways on which at least 75% but less than 100% of the stops are located in Qualified Communities of Concern would receive a 15% fee reduction; and a Permittee operating a route with 15-minute-or-less headways on which 100% of stops are located in Qualified Communities of Concern would receive a 20% reduction.

SEC. 1208. RECORDS AND REPORTING REQUIREMENTS.

Except as otherwise specified in this Article 1200, all records required to be created and/or maintained by Applicants or Permittees for purposes of implementation of, administration of, or compliance with the permitting program authorized by this Article 1200 shall be subject to the following requirements:

(a) When a signature is required, the record must be signed by the Permittee or Applicant, if a natural person, or, in the case of a corporation or other business entity, by a

person authorized to bind the corporation or business entity, or that person's delegatee if accompanied by written documentation of the delegation of signature authority;

(b) The format and content of any records required to be created or maintained, or of any reports or plans required to be filed by Permittees by this Article 1200 shall be subject to SFMTA approval;

(c) Except as otherwise specified in this Article 1200 or required by SFMTA, all records required to be submitted to the SFMTA may be delivered by any means authorized in this subsection (c). A Permittee that is subject to the records requirement under this Article shall have the burden of proving that the required records were actually delivered in a manner consistent with this subsection (c). Except where this Article or SFMTA requires a particular method of delivery for a specific type of record, records may be submitted by any of the following means:

(1) In person by the Permittee to a location or address specified by SFMTA;

(2) By first-class U.S. Mail, postage pre-paid;

(3) By fax; or

(4) By email; and

(d) All records required to be maintained by Permittees under this Article 1200 or by other law or regulation shall be made available to the SFMTA for inspection at the Permittee's premises during normal business hours within three business days of the SFMTA's request. In addition, or in the alternative, the SFMTA may request that Permittees submit copies of records or original records within three business days of the request.

SEC. 1209. ADMINISTRATIVE FINES; PERMIT REVOCATION

(a) For good cause, the SFMTA may revoke any permit issued under this Article 1200, and may impose an administrative fine against a Permittee. "Good cause" hereunder shall include, but shall not be limited to, the following:

(1) A Permittee failed to pay a fine imposed by the SFMTA under Section 310 of this Code within 30 days of imposition or within such other time period as determined by the agreement of the Permittee and the SFMTA;

(2) A Permittee failed to pay a permit fee within 30 days following notice of nonpayment;

(3) The Permittee has violated any statute or ordinance, including any provision of Division I or II of this Transportation Code, governing the operation or licensing of the vehicles and services regulated by this Code; or

(4) The Permittee has violated one or more conditions of the permit.

(b) Citations imposing administrative fines under this Section 1209 for violations of this Article 1200 or of conditions contained in a permit under this Article shall be consistent with Section 310 of this Code, and are not subject to adjustment by the Hearing Officer in the context of an administrative hearing conducted under Section 1211.

(c) A Notice of Revocation, Notice of Administrative Probation, or a Citation for a violation listed under Sections 1206(a) or (b)(4), 1207 or 1209(a) shall include:

(1) The name of the person or entity to whom the Notice or Citation is issued;

(2) The amount of any administrative fine, or, in the case of a revocation, the action proposed to be taken;

(3) The date by which any administrative fine must be paid and the procedure for making payment;

(4) The provision(s) of this Article upon which the action is based, including, where applicable, the date and the address or location of the violation;

(5) The signature of the individual who issued the Citation, Notice of Revocation, or Notice of Administrative Probation; and

(6) Notice of the right to request a hearing, the procedure and deadline for requesting a hearing, and that failure to timely request a hearing will result in imposition of the

proposed fine or taking of the proposed action, either of which will be a final decision of the SFMTA.

SEC. 1210. ADMINISTRATIVE FINES ASSESSED AGAINST NON-PERMIT HOLDERS.

(a) Whenever the SFMTA determines that a non-Permittee has violated this Article 1200, and it pursues administrative enforcement through the imposition of an administrative fine, SFMTA may issue and serve a Citation, in person or by first-class U.S. Mail, return receipt requested on any person or entity responsible for the violation. A Citation issued in accordance with this subsection (a) shall include the information required by Section 1209(c).

(b) Administrative Hearing.

(1) Any person appealing the issuance of a Citation issued under subsection (a) may request a hearing in accordance with the procedure set forth in Section 1211(a); and

(2) All hearings on administrative appeals filed under this Section 1210 shall be conducted in accordance with Section 1211.

(c) Administrative Fines.

(1) Administrative fines imposed under this Section 1210 for violations of this Article 1200 shall be consistent with Section 310 of Division II of the Transportation Code, and are not subject to adjustment by the Hearing Officer in the context of an administrative hearing conducted under Section 1211.

(2) The penalties and methods of enforcement set forth in this Section 1210 are in addition to any other penalties or methods of enforcement authorized by law.

(d) **Right to Judicial Review.** A decision of a Hearing Officer made under this Section 1210 is a final administrative decision. The Respondent may obtain judicial review of the administrative decision by filing a petition for review in accordance with California Code of Civil Procedure Sections 1094.5 and 1094.6.

SEC. 1211. ADMINISTRATIVE HEARINGS.

(a) A Permittee or an Applicant who receives a Notice of Denial or Notice of Approval with Conditions under Section 1205(b), a Citation for a violation listed in Sections 1206(a) or (b)(4), 1207, or 1209(a), a Notice of Revocation under Section 1209, a Notice of Administrative Probation under Section 1213, or any person who receives a Citation for a violation of Section 1206(a) may request a hearing by submitting to SFMTA a request for hearing, in writing, within 20 business days of the date that the Notice of Denial, Notice of Approval with Conditions, Citation, Notice of Revocation, or Notice of Administrative Probation was served on the recipient of said Notice or Citation.

(b) Procedures for Review of Citations, Notices of Revocation, or Notices of Administrative Probation.

(1) **Complaint.** Within 10 business days of receipt of the request for a hearing, the SFMTA shall provide any Respondent who received an SFMTA Citation for a violation listed under Sections 1206(a) or (b)(4), 1207, or 1209(a), a Notice of Revocation under Section 1209, or a Notice of Administrative Probation under Section 1213 with a written Complaint consisting of a list of each alleged violation or the basis for revocation or administrative probation, the alleged facts that establish each violation or support revocation or administrative probation, and any argument in support of requested administrative fine(s), or determination(s) made by the SFMTA, as well as a list of the witnesses, if any, that SFMTA seeks to present at the hearing. The Complaint shall not exceed 10 double-spaced pages, excluding exhibits and any witness list, unless the Hearing Officer approves the filing of a longer Complaint. In addition to the Complaint, the SFMTA may submit proposed findings to the Hearing Officer.

(2) **Response to Complaint.** No later than 10 business days prior to the hearing, the Respondent may provide the SFMTA and the Hearing Officer with a written response to the Complaint, along with any additional information that the Respondent considers relevant to the case. The response shall not exceed 10 double-spaced pages, excluding exhibits,

unless the Hearing Officer approves the filing of a longer response, and shall include a list of the witnesses, if any, that the Respondent will present at the hearing. In addition to the response, the Respondent may submit proposed findings to the Hearing Officer.

(3) **Scheduling an Administrative Hearing.** The administrative hearing shall be scheduled no sooner than 30 calendar days after the Notice of Revocation, Notice of Administrative Probation, or Citation has been served on Respondent, unless the parties agree to a different schedule or the Hearing Officer imposes a different schedule. Respondent may request a continuance of the hearing by submitting a written request to the Hearing Officer at least five business days prior to the scheduled hearing. The Hearing Officer must grant or deny the request for continuance within three business days, serve the final decision on the request for continuance to the Respondent in accordance with Section 1211(i), and post the final decision on the SFMTA's website. No continuance of the administrative hearing may exceed 60 days.

(c) **Procedures for Review of Permit Denial or Approval with Conditions.** For a request by an Applicant for hearing on a Notice of Permit Denial or a Notice of Approval with Conditions under Section 1205:

(1) The SFMTA shall hold a hearing within 15 days of receiving a hearing request from the Applicant, unless a later date is agreed to by the parties as set forth below;

(2) Not less than 10 days prior to the hearing, the Applicant may file a written submission containing any information the Applicant deems relevant to the application and the Notice of Permit Denial or Notice of Approval with Conditions;

(3) Not less than four days prior to the hearing, SFMTA may file a written response to Applicant's submission;

(4) Submissions by each party shall not exceed 10 double-spaced typed pages, excluding exhibits, unless the Hearing Officer approves the filing of a longer submission; and

(5) If either party intends to present witnesses at the hearing, the party shall present a list of these witnesses to the other party at least five calendar days prior to the hearing.

(d) **Presentation of the Case.** The following procedures shall apply to hearings held under this Section 1211.

(1) In the case of a hearing on the review of a Citation, Notice of Revocation Notice of Administrative Probation, or Summary Suspension, the SFMTA shall make the initial presentation of its case at the hearing, and shall have the burden of proving, by a preponderance of the evidence, the facts alleged in the Complaint. The Respondent may present evidence following the SFMTA's presentation.

(2) In the case of a hearing on a Notice of Denial or Notice of Approval with Conditions, the Applicant shall make the initial presentation of its case at the hearing, and shall have the burden of proving by a preponderance of the evidence, that the Applicant meets all eligibility requirements, or that the conditions imposed on the approval are not necessary. The SFMTA may present evidence following the Respondent's presentation.

(3) Following presentation of evidence, each party shall have at least five minutes to present their rebuttal arguments, if any.

(4) In any hearing, subject to the Hearing Officer's discretion to limit evidence to evidence that is relevant to the proceeding, either party may present its case by means of oral or documentary evidence, may submit rebuttal evidence, and may conduct cross-examination of adverse witnesses.

(e) **Notice of Decision.**

(1) The Hearing Officer shall issue a written Notice of Decision within 30 calendar days of the date of the hearing upholding or overturning the Citation, Notice of Revocation, Notice of Permit Denial or Notice of Approval with Conditions. The Notice of Decision shall be based upon the criteria set forth in this Article 1200, include findings, and shall set forth evidence in support of each finding. The Hearing Officer shall serve the full text of the Notice of Decision on the Respondent in accordance with Section 1211(i) no later than the business day following the issuance of the Notice of Decision. The deadline for the issuance of a decision may be extended if the Hearing Officer requests additional evidence from the parties

subsequent to the hearing. If additional evidence is submitted, then the decision will be issued within 30 calendar days of the last submittal.

(2) The Hearing Officer's decision shall take effect on the date that the Notice of Decision is served on the Respondent in accordance with Section 1211(i). In the case of a Notice of Permit Denial or Notice of Approval with Conditions, if the Hearing Officer determines that a permit Applicant is qualified for the permit, or modifies a Notice of Approval with Conditions, the SFMTA shall issue the permit or modification within 15 business days of the Notice of Decision.

(3) A decision of a Hearing Officer made under this Section 1211 concerning a Non-Standard Vehicle permit or violation of a Non-Standard Vehicle permit requirement under this Article shall be a final administrative decision. The Respondent may obtain judicial review of the administrative decision by filing a petition for review in accordance with California Code of Civil Procedure Sections 1094.5 and 1094.6.

(f) **Ex Parte Communications.**

(1) No party or representative or agent of a party may communicate directly or indirectly with the Hearing Officer concerning the substance or merits of a case at any time while the case is pending unless there is notice and an opportunity for the other party to participate. This prohibition does not preclude communications about administrative or procedural matters, or policy matters that do not involve any pending case regarding any individual permit or citation.

(2) Any correspondence regarding the substance of a case directed to or received by any Hearing Officer shall become part of the case record file and shall be copied to both parties within 48 hours of the communication. If the communication received is oral, the Hearing Officer shall prepare a memorandum for the record stating the substance and the date of the communication, any response made, and the identity of the person from whom the communication was received. If a communication is received within 48 hours of a scheduled

hearing, the Hearing Officer must immediately provide copies of the communication to the parties.

(3) Except as permitted by these procedures and any applicable laws and regulations, there shall be no contact between the SFMTA and the Hearing Officer with respect to any pending case. This prohibition does not preclude communications about administrative or procedural matters, or policy matters that do not involve any pending case regarding any individual permit or citation.

(g) **Hearings Open to Public.** Hearings under this Section 1211 shall be open to the public, and public comment may be permitted in the sole discretion of the Hearing Officer, but the public may be excluded from all or a portion of the hearing when, in the sole and absolute discretion of the Hearing Officer, exclusion is necessary to protect the privacy of the Respondent or a third party or potential trade secret information. The Hearing Officer may also determine that documents submitted to the Hearing Officer will not be disclosed to the public in order to protect the privacy of the Applicant or a third party or potential trade secret information.

(h) **Settlement.**

(1) After issuance of an SFMTA Complaint, Notice of Revocation, Notice of Administrative Probation, or a Citation for a violation listed under Sections 1206(a) or (b)(4), 1207, 1209(a) or 1210, the SFMTA may enter into a settlement with the Respondent or person cited. The parties may reach a settlement before, during, or after the hearing.

(2) A settlement need not be read into the record of the hearing, or approved by the Hearing Officer, but must be reduced to writing, and signed and dated by the SFMTA and Respondent or his or her legal counsel or other authorized representative.

(3) By entering into a settlement agreement, Respondent waives any right to seek judicial review with respect to the subject of the settlement agreement.

(4) No evidence of an offer of settlement or of any statement made during settlement negotiations is admissible in a future proceeding under this Article, except that the fact that a matter was settled is admissible if otherwise relevant.

(i) Notices.

(1) Any notice, filing or other communication required to be provided to any person or entity by Sections 1205, 1209, 1210, 1211, 1212 or 1213 shall be delivered by personal delivery, overnight guaranteed delivery or first-class U.S. Mail, return receipt requested, to the last known address of the intended recipient that is on file with the SFMTA.

(2) Notwithstanding the requirements of paragraph (i)(1), by mutual agreement between the parties and with the concurrence of the Hearing Officer, the parties may agree to electronic service of any notice, filing or other communication required to be provided to any person or entity by Sections 1209, 1210, 1211, 1212 or 1213

(3) Service of notice under this Section shall be deemed complete upon the date of personal delivery, deposit in the U.S. Mail, deposit with an overnight guaranteed delivery service, or transmission by electronic means.

SEC. 1212. SUMMARY SUSPENSION OF PERMIT FOR HEALTH OR SAFETY REASONS; SUMMARY SUSPENSION PROCEDURES.

(a) Summary Suspension. When the SFMTA determines that an alleged permit violation poses an ongoing risk to public health or safety, the SFMTA may summarily suspend the permit pending the outcome of a hearing conducted pursuant to this Section 1212. Any affected Permittee shall be given a Notice of Summary Suspension, in writing, served on Permittee in accordance with Section 1211(i). A Summary Suspension shall take effect immediately upon service on the Permittee. A Notice of Summary Suspension shall include:

(1) The name of the person or entity to whom the Notice is issued;

(2) The length of suspension;

(3) The provision(s) of this Article 1200 upon which the action is based, including, where applicable, the date and the address or location of any violations, the signature of the individual who issued the Notice; and

(4) Notice of the right to request a hearing, the procedure for requesting a hearing, and notice that failure to request a hearing will result in the proposed action, which will be a final decision of the SFMTA.

(b) **Request for Summary Suspension Hearing.** Any Permittee who wishes to challenge the summary suspension of his or her permit may request, in writing, a hearing before a Hearing Officer. SFMTA shall promptly set the time and place for said hearing to occur within 10 business days of receipt of the Permittee's request for a hearing unless the parties agree to a different schedule, or the Hearing Officer imposes a different schedule, and shall cause notice of such hearing to be served on the Permittee in accordance with Section 1211(i). Respondent may request a continuance of the hearing by submitting a written request to the Hearing Officer at least five business days prior to the scheduled hearing. The Hearing Officer must grant or deny the request for continuance within two business days, must deliver the final decision on the request for continuance to the Respondent in accordance with Section 1211(i), and post the final decision on the SFMTA's website.

(c) **Complaint.** Within two business days of receipt of the request for a hearing, the SFMTA shall provide the Respondent with a written Complaint consisting of the basis for a summary suspension, the alleged facts that establish the summary suspension, and any argument in support of SFMTA's determination to summarily suspend the permit, as well as a list of the witnesses, if any, that SFMTA seeks to present at the hearing. The Complaint shall not exceed 10 double-spaced pages, excluding exhibits and any witness list, unless the Hearing Officer approves the filing of a longer Complaint. In addition to the Complaint, the SFMTA may submit proposed findings to the Hearing Officer.

(d) **Response to Complaint.** No later than two business days prior to the hearing, the Respondent may provide the SFMTA and the Hearing Officer with a written response to the Complaint, along with any additional information that the Respondent considers relevant to the case. The response shall not exceed 10 double-spaced pages, excluding exhibits, unless the Hearing Officer approves the filing of a longer response, and shall include a list of the witnesses,

if any, that the Respondent will present at the hearing. In addition to the response, the Respondent may include as a part of the response any proposed findings that the Respondent proposes be adopted by the Hearing Officer.

(e) **Presentation of the Case.** Presentation of the case shall be in accordance with Section 1211(d) of this Article

(f) **Notice of Decision.**

(1) The Hearing Officer shall issue a written Notice of Decision within one business day of the date of the hearing upholding or overturning the Summary Suspension. The Hearing Officer shall serve the full text of the Notice of Decision to Respondent in accordance with Section 1211(i) no later than the business day following the issuance of the Notice of Decision. The deadline for the issuance of a decision may be extended if the Hearing Officer requests additional evidence from the parties subsequent to the hearing. If additional evidence is submitted, then the decision will be issued within two business days of the last submittal.

(2) The Hearing Officer's decision shall take effect immediately upon issuance.

(3) A decision of a Hearing Officer made under this Section 1212 concerning summary suspension of a Non-Standard Vehicle permit shall be a final administrative decision. The Respondent may obtain judicial review of the administrative decision by filing a petition for review in accordance with California Code of Civil Procedure Sections 1094.5 and 1094.6.

(g) **Ex Parte Communications.** Ex Parte communications shall be governed by Section 1211(f) of this Article 1200.

(h) **Hearings Open to Public.** Hearings under this Section 1212 shall be open to the public in accordance with Section 1211(g) of this Article 1200.

(i) **Settlement.**

(1) After issuance of a Summary Suspension, the SFMTA may enter into a settlement with the Respondent. The parties may reach a settlement before, during, or after the hearing.

(2) A settlement need not be read into the record of the hearing, or approved by the Hearing Officer, but must be reduced to writing, and signed and dated by the SFMTA and Respondent or his or her legal counsel or other authorized representative.

(3) By entering into a settlement agreement, Respondent waives any right to seek judicial review with respect to the subject of the settlement agreement.

(4) No evidence of an offer of settlement or of any statement made during settlement negotiations is admissible in a future proceeding under this Article, except that the fact that a matter was settled is admissible if otherwise relevant.

(j) **Notices.** Notice requirements under this Section shall be governed by Section 1211(i) of this Article 1200.

(k) **Appeal.** If the Permittee seeks judicial review of a summary suspension, the suspension shall remain in effect until a final decision is issued by the Superior Court. Where a permit is revoked after a summary suspension, the revocation shall be effective immediately and, if the Permittee seeks judicial review of such revocation, shall remain in effect until a final decision is issued by the Superior Court.

SEC. 1213. ADMINISTRATIVE PROBATION.

(a) The SFMTA shall develop uniform criteria for making a determination that a Non-Standard Vehicle Permittee is on Administrative Probation based on the number and degree of violations of this Article 1200. In addition to any other applicable disciplinary measures, the SFMTA may declare the Permittee to be on Administrative Probation based on such criteria.

(b) Where SFMTA determines that a Permittee is on Administrative Probation, SFMTA shall issue a Notice of Administrative Probation listing the violation(s) of this Article that form the basis of that finding, and shall state the actions that the Permittee must take to cure the violation(s). The Notice of Administrative Probation shall be take effect 10 calendar days after the date of the Notice, and shall remain in effect until: (1) the Permittee provides the SFMTA

with satisfactory evidence that it has cured the violation(s); or, (2) a Hearing Officer upholds the Permittee's challenge to the Notice.

(c) A Non-Standard Vehicle Permittee on Administrative Probation may not add additional vehicles to its permit or receive approval for any additional routes or stops until the SFMTA makes a written determination that the violations leading to the imposition of Administrative Probation are cured or a Hearing Officer upholds the Permittee's challenge to the Notice.

(d) A Permittee placed on Administrative Probation may challenge a Notice of Administrative Probation by filing a written request for a hearing. The hearing shall be conducted pursuant to Section 1211, except that upon receipt of a Permittee's request for a hearing, SFMTA shall promptly set the time and place for said hearing to occur within ten business days of receipt of the hearing request unless the parties agree to a different schedule or the Hearing Officer imposes a different schedule. SFMTA shall cause notice of such hearing to be served on the Permittee in accordance with Section 1211(i). In addition, SFMTA shall provide the Permittee with the written complaint within two business days of receipt of the request for a hearing, and the Permittee shall provide the written response, if any, no later than two business days prior to the hearing, and the Hearing Officer shall issue a written decision, which shall take effect in accordance with Section 1211(e)(2) no later than the next business day following the hearing.

Section 2. Effective Date. This ordinance shall become effective 31 days after enactment. Enactment occurs when the San Francisco Municipal Transportation Agency Board of Directors approves this ordinance.

Section 3. Scope of Ordinance. In enacting this ordinance, the San Francisco Municipal Transportation Agency Board of Directors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, letters, punctuation marks, charts, diagrams, or any other constituent parts of the Transportation Code that

are explicitly shown in this ordinance as additions or deletions in accordance with the "Note" that appears under the official title of the ordinance.

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

By: _____
DAVID A. GREENBURG
Deputy City Attorney

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I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of October 17, 2017.



Secretary to the Board of Directors
San Francisco Municipal Transportation Agency