

[Transportation Code - Commuter Shuttle Program]

Resolution amending the Transportation Code, Division II to remove the 12-month sunset provision and continue the Commuter Shuttle Permit Program, increase administrative penalty amounts for permit violations and authorize the imposition of interest on such penalties remaining unpaid after 30 days, require that permitted shuttles placed in service after June 30, 2017 comply with disability access requirements and make technical corrections and clarifying revisions to improve program operation and administration.

NOTE: Additions are [begin addition] single-underline Times New Roman [end addition] ; deletions are [begin deletion] ~~strike through Times New Roman~~ [end deletion] .

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

Section 1. Article 900 of Division II of the Transportation Code is hereby amended by revising Section 914, to read as follows:

Sec. 914. COMMUTER SHUTTLE STOP PERMITS.

(a) **Definitions.** As used in this Section 914, the following words and phrases shall have the following meanings:

Designated Stop. An SFMTA bus stop or a white zone designated by SFMTA as a stop available for loading and/or unloading of passengers by Shuttle Service Providers that have been issued a Shuttle Permit under this Section 914.

Director. The Director of Transportation or his or her designee.

Shuttle Bus. A motor vehicle designed, used or maintained by or for a charter-party carrier of passengers, a passenger stage corporation, or any highway carrier of passengers required to register with the California Public Utilities Commission that is being operated in Shuttle Service. A Shuttle Bus shall also include any bus that is owned, or being operated on behalf of, a governmental entity and being operated in Shuttle Service.

Shuttle Permit. A permit issued by the SFMTA that authorizes a Shuttle Service Provider to load and/or unload passengers at specified Designated Stops in one or more Shuttle Buses.

Shuttle [begin deletion] Placard [end deletion] [begin addition] Permit Authorization Sticker [end addition] . A [begin deletion] placard [end deletion] [begin addition] sticker [end addition] issued by SFMTA that is visible from outside the Shuttle Bus at front [begin addition] , side, [end addition] and rear locations as specified by the SFMTA and that identifies the Shuttle Permit authorizing the Shuttle Bus to use Designated Stops.

Shuttle Service. Transportation by Shuttle Buses offered for the exclusive or primary use of a discrete group or groups, such as clients, patients, students, paid or unpaid staff, visitors, and/or residents, between an organization or entity's facilities or between the organization or entity's facilities and other locations, on a regularly-scheduled basis.

Shuttle Service Provider. Any Person using Shuttle Buses to provide Shuttle Service within the City.

Stop Event. A [begin deletion] # [end deletion] [begin addition] single [end addition] instance of stopping by a Shuttle Bus at a Designated Stop for the purpose of loading and/or unloading passengers.

(b) **Findings.**

(1) The use of Shuttle Buses for the purpose of providing Shuttle Service is a growing means of transportation in San Francisco and the greater Bay Area.

(2) Shuttle Service provides significant benefits to the community by replacing single occupant trips with more efficient transportation, contributing to a reduction in parking demand, and supporting the City's goal of increasing trips made by sustainable modes.

(3) Shuttle Service currently operating in San Francisco reduces vehicle miles traveled (VMT) in the City by approximately 4,300,000 miles each month.

(4) Unregulated use of Muni stops by Shuttle Service Providers results in unintended adverse [begin addition] traffic and safety [end addition] impacts, including delaying transit bus service, increasing traffic congestion, diverting bicyclists from bicycle lanes into mixed-flow lanes, and diverting motor vehicle traffic into adjacent travel lanes, and preventing transit buses from being able to access the curb in order to load and unload passengers.

(5) Prior to implementing a commuter shuttle pilot program in August, 2014, the SFMTA lacked complete information about Shuttle Service operations, including routes, frequency of service and stops, which had been a barrier to resolving and preventing conflicts with Shuttle Service Providers' operations, including adverse impacts on Muni service and increased traffic congestion.

(6) Inconsistent or inaccurate identification of, and lack of contact information for, Shuttle Service Providers previously made it difficult for the SFMTA to effectively and timely communicate with Shuttle Service Providers to prevent or resolve conflicts and makes enforcement of traffic and parking regulations difficult.

(7) [begin addition] SFMTA's [end addition] [begin deletion] R [end deletion] [begin addition] r [end addition] egulation [begin deletion] by the SFMTA [end deletion] of [begin deletion] the use of [end deletion] [begin addition] Designated S [end addition] [begin deletion] s [end deletion] tops by Shuttle Services to provide safe loading and unloading zones for Shuttle Services, whose cumulative ridership is equivalent to that of a small transit system, is consistent with the City's Transit First policy.

(8) The commuter shuttle pilot program implemented in August 2014 enabled SFMTA to evaluate whether shared use of Muni stops by Shuttle Buses is consistent with efficient operation of the City's public transit system. An evaluation of the pilot program conducted by SFMTA [begin addition] in October 2015 [end addition] showed that the pilot program was successful in addressing the issues described above, and also showed ways that the program could be improved.

[begin addition] (9) A subsequent evaluation of the commuter shuttle program completed in November 2016 concluded that the program was continuing to successfully address these issues. The evaluation showed a decrease in the potential for conflicts between commuter shuttles and public transit, a reduction in the number of shuttles traveling on small residential streets, and an increase in the number of new, cleaner vehicles in the commuter shuttle fleet. The SFMTA and the San Francisco County Transportation Authority also conducted a study of a potential “hub” system in which shuttles would be restricted to a limited number of stop locations in San Francisco. This study found that any hub scenario would result in a significant decrease in shuttle ridership and a concurrent increase in the number of people commuting by single-occupancy vehicle. The [end addition] SFMTA now seeks to [begin deletion] ~~establish a~~ [end deletion] [begin addition] continue the existing [end addition] program [begin deletion] ~~that continues the successful aspects of the pilot program~~ [end deletion] while [begin deletion] ~~building upon the lessons learned.~~ [end deletion] [begin addition] continuing to closely monitor its progress and make improvements to its policies and procedures. [end addition]

(c) General Permit Program Requirements.

(1) The Director is authorized to implement a program for the issuance of Shuttle Permits beginning on a date designated by the Director. [begin deletion] ~~The duration of the program shall not exceed 12 months from the date of commencement designated by the Director.~~ [end deletion]

(2) The Director may issue a Shuttle Permit for the use of Designated Stops upon receipt of an application from a Shuttle Service Provider on a form prescribed by the SFMTA which application meets the requirements of this Section 914.

(3) The Shuttle Permit shall authorize the Shuttle Service Provider to receive a specified number of Shuttle [begin deletion] ~~Placards~~ [end deletion] [begin addition] Permit Authorization Stickers [end addition] issued by SFMTA.

(4) The Director is authorized to establish up to 125 Designated Stops for the purposes of this program.

(d) **Shuttle Permit Application Requirements.** [begin addition] In addition to any other information requested by the Director, e [end addition] [begin deletion] ~~E~~ [end deletion] ach application for a permit or renewal of a permit shall contain the following information:

(1) The name, business location, telephone number, fax number and email address of the Shuttle Service Provider [begin addition] or authorized agent [end addition] ;

(2) The name, title and contact information of one or more persons representing the Shuttle Service Provider to be notified by SFMTA in the event of a problem or permit violation relating to the Permittee's Shuttle Service;

(3) The total number of Shuttle Buses the Shuttle Service Provider intends to use to deliver Shuttle Service using Designated Stops;

(4) The total number of Shuttle [begin deletion] ~~Placards~~ [end deletion] [begin addition] Permit Authorization Stickers [end addition] requested;

(5) The number of shuttle routes for which the permit applicant is proposing to provide Shuttle Service, including the frequency of service on each route, the neighborhoods served by each route, the origin and terminus of each route, and the frequency of Shuttle Service on each route. In lieu of a map, the permit applicant may provide a narrative statement describing the routes. The applicant need only identify the route to the extent that it

lies within the City. Where the point of origin or termination is outside of the City, the applicant need only provide the county in which the point of origin or termination is located;

(6) A list of the Designated Stops the permit applicant proposes to use on each shuttle route, along with the proposed frequency of use of each Designated Stop per day, resulting in a calculation of the total number of Stop Events per day at Designated Stops; and

(7) If applicable, documentation of the Applicant's registration status with the California Public Utilities Commission ("CPUC"), including any Charter Party Carrier ("TCP") authorization or permits, or registration as a private carrier of passengers, and documentation that the Applicant maintains insurance in compliance with the applicable requirements imposed by the CPUC.

(8) The application shall require the applicant to acknowledge that the Permittee, by acceptance of the permit, agrees 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, including, regardless of the negligence of the Indemnitees.

(9) Applicant shall provide a Service Disruption Prevention Plan which describes Permittee's efforts to maintain consistent and efficient service in the event of potential disruptions.

(A) The Service Disruption Prevention Plan must address, at a minimum:

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

(ii) Sufficient bus 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 that may block access to certain city streets; and

(v) A description of the means by which Applicant has considered the San Francisco Board of Supervisors' March 2015 Labor Harmony Resolution, 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 shuttle driver schedules (including any split-shifts), work hours, working conditions, and wages.

(B) 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.

(C) The SFMTA will post the Service Disruption Prevention Plan for each Permittee on the SFMTA website.

(D) The Permittee shall provide [begin addition] prompt [end addition] notice to SFMTA of any labor dispute in which it is involved that has the potential to cause a disruption of service.

(e) **Permit Issuance.** After evaluating an applicant's permit application, the Director shall grant the Permit as requested, [begin deletion] ~~or~~ [end deletion] grant the Permit with modifications, or deny the Permit. Where the Permit is granted with modifications or denied, the notice shall explain the basis for the Director's decision. [begin addition] An applicant may request review of the Director's decision to deny the permit or grant the permit with modifications. [end addition] The Director [begin addition] shall [end addition] [begin deletion] ~~may~~ [end deletion] issue procedures [begin addition] governing [end addition] [begin deletion] ~~for~~ [end deletion]

review [begin deletion] ing [end deletion] [begin addition] of [end addition] the Director's decision [begin deletion] ~~upon request of the permit applicant~~ [end deletion] .

(f) **Shuttle [begin deletion] Placard [end deletion] [begin addition] Permit Authorization Sticker [end addition] Application Requirements.** For each vehicle to be used in the Commuter Shuttle Program, Shuttle Service Providers shall apply for a Shuttle [begin deletion] ~~Placard~~ [end deletion] [begin addition] Permit Authorization Sticker [end addition] . Each application for a Shuttle [begin deletion] ~~Placard~~ [end deletion] [begin addition] Permit Authorization Sticker [end addition] or renewal of a Shuttle [begin deletion] ~~Placard~~ [end deletion] [begin addition] Permit Authorization Sticker [end addition] shall contain the following information for the Shuttle Bus that would be authorized, when bearing the Shuttle [begin deletion] ~~Placard~~ [end deletion] [begin addition] Permit Authorization Sticker [end addition] , to use Designated Stops:

- (1) The manufacturer and vehicle make or model name;
- (2) The length, gross vehicle weight rating, and passenger capacity;
- (3) The model year, or, in the case of vehicles older than model year 2012 that were not previously authorized for use in Shuttle Service under the pilot program, documentation demonstrating compliance with applicable emissions standards for model year 2012;
- (4) The type of fuel or power used; and
- (5) The license plate number and vehicle registration information.

(g) **Shuttle [begin deletion] Placard [end deletion] [begin addition] Permit Authorization Sticker [end addition] Issuance.** After evaluating an applicant's Shuttle [begin deletion] ~~Placard~~ [end deletion] [begin addition] Permit Authorization Sticker [end addition] application, the Director shall grant the Shuttle [begin deletion] ~~Placard~~ [end deletion] [begin

addition] Permit Authorization Sticker [end addition] as requested, or deny the [begin deletion] Shuttle Placard [end deletion] application and state the reason(s) for the denial.

(h) **Shuttle Permit Terms and Conditions.** The Director shall establish terms and conditions for Shuttle Permits. In addition to any other requirements imposed by the Director, Permits shall include the following terms [begin addition] and conditions [end addition] :

(1) Any Shuttle Bus being operated in Shuttle Service under the Shuttle Permit shall be listed on the Permittee's Shuttle [begin deletion] Placard [end deletion] [begin addition] Permit Authorization Sticker [end addition] application and shall display a valid SFMTA-issued Shuttle [begin deletion] Placard [end deletion] [begin addition] Permit Authorization Sticker [end addition] visible from outside the Shuttle Bus at [begin addition] the [end addition] front [begin addition] , [end addition] [begin deletion] and [end deletion] rear [begin addition] , [end addition] [begin deletion] locations [end deletion] [begin addition] and on each side of [end addition] [begin deletion] on [end deletion] the Shuttle Bus as specified by the SFMTA, at all times such vehicle is being operated in Shuttle Service in the City. A Shuttle [begin deletion] Placard [end deletion] [begin addition] Permit Authorization Sticker [end addition] may be used only for the vehicle listed on the application for that Shuttle [begin deletion] Placard [end deletion] [begin addition] Permit Authorization Sticker [end addition] , and may not be transferred to any other vehicle [begin addition] without written approval from the Director determining that the transfer is warranted [end addition] .

(2) A Shuttle Bus bearing valid Shuttle [begin deletion] Placard [end deletion] [begin addition] Permit Authorization Stickers [end addition] shall be allowed to stop at any Designated Stop subject to the following conditions:

(A) The Shuttle Bus shall give priority to any [begin addition] public [end addition] transit buses that are approaching or departing a Designated Stop [begin addition] and shall pull forward in order to accommodate other authorized users [end addition] ;

(B) The Shuttle Bus shall not stop at any Muni stops other than Designated Stops;

(C) The Shuttle Bus shall use Designated Stops only for active loading or unloading of passengers when in the course of actively providing Shuttle Service, [begin addition] unless the stop is otherwise designated, [end addition] and such loading and unloading shall be conducted as quickly as possible without compromising the safety of passengers, pedestrians, bicyclists or other motorists;

(D) Loading and unloading of passengers shall not take place in, or impede travel in, a lane of traffic or bicycle lane.

(3) A Shuttle Permit and Shuttle [begin deletion] ~~Placard~~ [end deletion] [begin addition] Permit Authorization Sticker [end addition] shall not exempt a Shuttle Bus from any other Parking restrictions or traffic regulations except as authorized by this Section 914, and a Shuttle Bus stopping or parking at any Muni stop, including a Designated Stop, in violation of the terms and conditions set forth in this Subsection (h) may be cited for violation of California Vehicle Code Section 22500(i). [begin addition] A Shuttle Bus stopping or parking at any white zone in the Designated Stop network in violation of the terms and conditions set forth in this Subsection (h) may be cited for violation of Transportation Code Section 7.2.38. [end addition]

(4) The Permittee shall comply with all applicable federal, state, and local laws, including this Code, the California Vehicle Code, and applicable CPUC requirements, including those for registration, insurance, vehicle inspection, and regulation of drivers [begin deletion] ÷ [end deletion] [begin addition] .

[end addition] (5) The Permittee shall equip each Shuttle Bus with an on-board device capable of providing real-time location [begin addition] and Stop Event [end addition] data to the SFMTA in accordance with specifications issued by the Director, and shall maintain a continuous feed of the specified data at all times when the Shuttle Bus is being

used to provide Shuttle Service within the City. The Permittee shall begin providing a continuous feed of such data to the SFMTA on the first day that the Permittee begins providing Shuttle Service under the Permit unless the Director establishes an alternate date. The SFMTA shall not be responsible for any equipment, or for the failure of any equipment, installed inside any Shuttle Bus for any reason, including for the purpose of complying with this Section 914. If a Shuttle Bus becomes unable to provide the required data for any reason, Permittee shall not operate that Shuttle Bus in Shuttle Service without first notifying SFMTA of the identity of the bus, the route affected and the time at which Permittee expects the data transmission to be restored. To facilitate SFMTA's monitoring of Shuttle Bus operations, the Director may issue regulations limiting the duration that a Shuttle Bus may operate in Shuttle Service without being able to provide the required data.

(6) The Permittee shall provide the following data regarding its Shuttle Buses, updated each month: average daily Stop Events per Designated Stop for all Shuttle Buses, monthly vehicle miles traveled by Shuttle Buses in commuter shuttle service in San Francisco (including any deadheading), average daily boardings in commuter shuttle service in San Francisco [begin deletion] , ~~average daily occupancy for each Shuttle Bus upon exiting San Francisco (if applicable)~~ [end deletion] , average daily occupancy for each Shuttle Bus upon arrival at destination, and average number of daily Shuttle Buses in operation.

(7) The Permittee shall, in a timely manner and as otherwise required by law, pay all traffic and parking citations issued to its Shuttle Buses in the course of providing Shuttle Service, as well as all permit fees and penalties for permit violations as set forth in subsections (j) and (l) below, subject to the Permittee's right under applicable law to contest such citations or penalties.

(8) Where the Director determines that the continued use of a particular Shuttle Bus listed on a Shuttle Provider's permit application would constitute a risk to public safety,

the Director shall notify the Shuttle Provider in writing, and said Shuttle Bus shall immediately be ineligible to use any Designated Stops unless and until the Shuttle Provider has proven to the satisfaction of the Director that the Shuttle Bus no longer constitutes a risk to public safety.

(9) Permitted Shuttle Buses that exceed 35 feet in length traveling in San Francisco may travel only on the major and minor arterial street network for the City of San Francisco, as determined by the California Department of Transportation [begin addition] , except as otherwise directed by police or other law enforcement officers, authorized SFMTA employees, or official traffic control devices [end addition] . [begin addition] [end addition]

(10) Permittee shall certify that all of its operators who drive permitted Shuttle Buses in San Francisco have viewed the SFMTA's Large Vehicle Urban Driving Safety video, which will be made available to all permit applicants.

(11) Any Shuttle Service Provider providing Shuttle Service that is free to the public and provided by Shuttle Buses that display the words "Free to the Public" clearly legible on the loading side of the Shuttle Bus in letters at least four inches tall, shall be exempt from otherwise applicable permit fees for Stop Events made by such Shuttle Buses.

(12) All Shuttle Buses not already approved for use under the SFMTA's commuter shuttle pilot program as of January 31, 2016 must be either model year 2012 or newer, or be equipped with a power source that complies with emissions standards applicable to [begin deletion] ~~the~~ [end deletion] 2012 [begin addition] model year vehicles of that [end addition] class [begin deletion] ~~of vehicle~~ [end deletion] . As of January 1, 2020, all Shuttle Buses used by Permittees for Shuttle Service must be model year 2012 or newer [begin addition] , or be equipped with a power source that complies with emissions standards applicable to 2012 model year vehicles of that class [end addition] . After January 1, 2020, all Shuttle Buses used by Permittees for Shuttle Service must be no more than eight model years old [begin addition] , 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.

(13) Any Shuttle Bus not already authorized for use in the commuter shuttle program as of June 30, 2017, as evidenced by having been issued a Permit Authorization Sticker on or before that date, shall comply with disability access requirements issued by the Director. [end addition]

(i) **Duration of Shuttle Permits and Shuttle** [begin deletion] ~~Placard~~ [end deletion] [begin addition] Permit Authorization Stickers [end addition] . Shuttle Permits and Shuttle [begin deletion] ~~Placard~~ [end deletion] [begin addition] Permit Authorization Stickers [end addition] issued under this Section 914 shall expire on [begin deletion] ~~e~~ [end deletion] [begin addition] June 30, 2018, [end addition] [begin deletion] ~~year from the effective date of issuance the ordinance establishing the commuter shuttle permit program on a permanent basis,*~~ [end deletion] and [begin addition] , if renewed, shall expire [end addition] annually thereafter [begin addition] on June 30 [end addition] , unless a shorter term is requested by the Permittee, the Permit is revoked, or the Director for good cause finds a shorter term is warranted.

(j) **Fees.**

(1) Unless exempted under subsection (h)(11), Shuttle Service Providers shall pay a Designated Stop use and permit fee as set forth in Section 902. The fee is intended to cover the costs incurred by SFMTA as a result of permit program implementation, administration, enforcement, and evaluation. The Designated Stop use fee shall be determined by multiplying the total number of anticipated daily Stop Events stated in the permit application for each Permittee by the per stop fee set forth in Section 902. The Director is authorized, in his or her discretion, to impose pro-rated Designated Stop use fees where a Shuttle Service Provider applies for a permit or permit modification [begin addition] with a duration of less than 12 months [end addition] [begin deletion] ~~following date of commencement of the program~~ [end deletion] .

(2) Permittees shall be billed for the Designated Stop use and permit fee upon issuance or renewal of the Permit, and on a monthly basis thereafter. The Designated Stop use and permit fee shall be due and payable within 30 days from the date of invoice. Fees remaining unpaid 30 days after the date of invoice 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.

(3) SFMTA shall reconcile the number of Stop Events for each Shuttle Service Provider against the actual stop data provided to the SFMTA on a semi-annual basis but reserves the right to conduct such reconciliation on a more frequent basis if necessary [begin addition] or appropriate, including but not limited to when SFMTA has concerns about the accuracy or reliability of such data [end addition] . Where the SFMTA determines that a Shuttle Service Provider has used Designated Stops more frequently than authorized under the Provider's Permit, the Provider shall pay the additional Designated Stop use fee due. Where SFMTA determines that the Permittee's use of Designated Stops exceeds the authorized number of daily Stop Events by 10% or more, the Provider shall pay the additional Designated Stop use fee due, plus a 10% penalty. All such fees shall be due within 30 days from the date of invoice. Fees remaining unpaid after that date shall be subject to 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.

(k) **Grounds for Suspension or Revocation.**

(1) The Director may suspend or revoke a permit issued under this Section 914 upon written notice of revocation and opportunity for hearing. The Director is authorized to promulgate hearing and review procedures for permit suspension and revocation proceedings. Upon revocation or suspension, the Shuttle Service Provider shall surrender such Permit and the Shuttle [begin deletion] ~~Placards~~ [end deletion] [begin addition] Permit

Authorization Stickers [end addition] authorized under the Permit in accordance with the instructions in the notice of suspension or revocation.

(2) Where the Director determines that public safety is at risk, or where the Permittee's continued operation as a Shuttle Service Provider would be in violation of the California Public Utilities Code or the California Vehicle Code, the Director is authorized to suspend a permit issued under this Section 914 immediately upon written notice of suspension to the Permittee, provided that the Director shall provide the Permittee with the opportunity for a hearing on the suspension within five business days of the date of notice of suspension.

(3) A permit issued under this Section 914 may be suspended or revoked under this paragraph following the Director's determination after an opportunity for hearing that:

(A) the Permittee has failed to abide by any permit condition [begin addition] , including repeated failure to pay the Designated Stop use and permit fee or any penalties imposed for violation of this Section 914 [end addition] ;

(B) the Permittee knowingly or intentionally provided false or inaccurate information on a permit application;

(C) one or more of Permittee's Shuttle Buses have, in the course of providing Shuttle Service, repeatedly and egregiously violated parking or traffic laws;

(D) the Permittee's continued operation as a Shuttle Service Provider would constitute a public safety risk; or

(E) the Permittee's continued operation as a Shuttle Service Provider would be in violation of the California Public Utilities Code or the California Vehicle Code.

(I) **Administrative Penalties.**

(1) This Section shall govern the imposition, assessment and collection of administrative penalties imposed for violations of permit conditions set forth under Subsection 914(h).

(2) The SFMTA Board of Directors finds:

(A) That it is in the best interest of the City, its residents, visitors and those who travel on City streets to provide an administrative penalty mechanism for enforcement of Shuttle Bus permit conditions [begin addition] . [end addition] [begin deletion] ~~and~~ [end deletion]

(B) That the administrative penalty scheme established by this section is intended to compensate the public for the injury or damage caused by Shuttle Buses being operated in violation of the permit conditions set forth under Subsection 914(h). The administrative penalties authorized under this section are intended to be reasonable and not disproportionate to the damage or injury to the City and the public caused by the prohibited conduct.

(C) The procedures set forth in this Section are adopted pursuant to Government Code Section 53069.4, which governs the imposition, enforcement, collection, and administrative review of administrative citations and fines by local agencies, and pursuant to the City's home rule power over its municipal affairs.

(3) Any Service Provider that is operating a Shuttle Bus in violation of the permit conditions set forth under Subsection 914(h) may be subject to the issuance of a citation and imposition of an administrative penalty under this Subsection 914(l).

(4) Administrative penalties for each violation may not exceed \$ [begin deletion] 250 [end deletion] [begin addition] 500 for the first violation of Subsection 914(h) by a Permittee or \$1000 for any subsequent violation of Subsection 914(h) within a 12-month period by that Permittee [end addition] . In determining the amount of the penalty, the officer or employee who issued the citation may take any or all of the following factors into consideration:

- (A) The duration of the violation;
- (B) The frequency, recurrence and number of violations by the same violator;
- (C) The seriousness of the violation;
- (D) The good faith efforts of the violator to correct the violation;
- (E) The economic impact of the fine on the violator;
- (F) The injury or damage, if any, suffered by any member of the public;
- (G) The impact of the violation on the community;
- (H) The amount of City staff time expended investigating or addressing the violation;
- (I) The amount of fines imposed by the charging official in similar situations;
- (J) Such other factors as justice may require.

(5) The Director of Transportation is authorized to designate officers or employees of the Municipal Transportation Agency to issue citations imposing administrative penalties for violations of the permit conditions set forth in Subsection 914(h), hereafter referred to as the "Charging Official."

(6) **Administrative Citation.** A Charging Official who determines that there has been a violation of the permit conditions set forth in Subsection 914(h), may issue an administrative citation to the Shuttle Service Provider permitted under this Section 914. The Charging Official shall either serve the citation personally on the Shuttle Service Provider or serve it by certified U.S. mail sent to the address indicated on the Shuttle Service Provider's permit application.

(7) The citation shall contain the following information: the name of the person or entity cited; the date, time, address or location and nature of the violation; the date the citation is issued; the name and signature of the Charging Official; the amount of the administrative penalty, acceptable forms of payment of the penalty; and that the penalty is due and payable

to the SFMTA within 15 business days from (A) the date of issuance of the citation if served personally, or (B) the date of receipt of the citation if served by certified U.S. Mail. The citation shall also state that the person or entity cited that it has the right to appeal the citation, as provided in Subsection 914(l).

(8) Request for Hearing; Hearing.

(A) A person or entity may appeal the issuance of a citation by filing a written request with the SFMTA Hearing Division within 15 business days from (i) the date of the issuance of a citation that is served personally or (ii) the date of receipt if the citation is served by certified U.S. Mail. The failure of the person or entity cited to appeal the citation shall constitute a failure to exhaust administrative remedies and shall preclude the person or entity cited from obtaining judicial review of the validity of the citation.

(B) At the time that the appeal is filed, the appellant must deposit with the SFMTA Hearing Division the full amount of the penalty required under the citation.

(C) The SFMTA Hearing Division shall take the following actions within 10 days of receiving an appeal: appoint a hearing officer, set a date for the hearing, which date shall be no less than 10 and no more than 60 days from the date that the appeal was filed, and send written notice of the hearing date to the appellant and the Charging Official.

(D) Upon receiving notice that the SFMTA Hearing Division has scheduled a hearing on an appeal, the Charging Official shall, within three City business days, serve the hearing officer with records, materials, photographs, and other evidence supporting the citation. The hearing officer may grant a request to allow later service and may find good cause to continue the hearing because of the delay.

(E) The hearing officer shall conduct all appeal hearings under this Chapter and shall be responsible for deciding all matters relating to the hearing procedures not otherwise specified in this Section. The Charging Official shall have the burden of proof in the hearing.

The hearing officer may continue the hearing at his or her own initiative or at the request of either party, and may request additional information from either party to the proceeding. The hearing need not be conducted according to technical rules of evidence and witnesses. Any relevant evidence is admissible if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs.

(F) The following provisions shall also apply to the appeal procedure:

(i) A citation that complies with the requirements of Section 914(l)(7) and any additional evidence submitted by the Charging Official shall be prima facie evidence of the facts contained therein;

(ii) The appellant shall be given the opportunity to present evidence concerning the citation; and

(iii) The hearing officer may accept testimony by declaration under penalty of perjury relating to the citation from any party if he or she determines it appropriate to do so.

(iv) After considering all of the testimony and evidence submitted by the parties, the hearing officer shall issue a written decision [begin addition] within 15 business days from completion of the hearing [end addition] upholding, modifying or vacating the citation and shall set forth the reasons for the determination. This shall be a final administrative determination.

(v) If the hearing officer upholds the citation, the hearing officer shall inform the appellant of its right to seek judicial review pursuant to California Government Code Section 53069.4. If the citation is upheld the City shall retain the amount of the fine that the appellant deposited with the City.

(vi) If the hearing officer vacates the citation, the City shall promptly refund the deposit. If the hearing officer partially vacates the citation, the City shall promptly refund that amount of the deposit that corresponds to the hearing officer's determination. The refund shall

include interest at the average rate earned on the City's portfolio for the period of time that the City held the deposit as determined by the Controller.

(G) Any person aggrieved by the action of the hearing officer taken pursuant to this Chapter may obtain review of the administrative decision by filing a petition for review in accordance with the timelines and provisions set forth in California Government Code Section 53069.4.

(H) If a final order of a court of competent jurisdiction determines that the SFMTA has not properly imposed a fine pursuant to the provisions of this Section, and if the fine has been deposited with the SFMTA as required by Section 914(l)(8)(B), the SFMTA shall promptly refund the amount of the deposited fine, consistent with the court's determination, together with interest at the average rate earned on the City's portfolio.

(9) Upon request by a Shuttle Service Provider owing administrative penalties for violation of permit conditions set forth under Subsection 914(h), the SFMTA may enter into a payment plan with that Shuttle Service Provider. Any such payment plan shall not extend the time for payment beyond 90 days from the otherwise applicable due date for the most recent penalty encompassed by the payment plan. In no event shall SFMTA establish more than three such payment plans for any individual Shuttle Service Provider.

(10) Administrative penalties shall be deposited in the Municipal Transportation Fund and may be expended only by the SFMTA.

[begin addition] (11) Fines that remain unpaid 30 days after the due date shall be subject to a late payment penalty of 10% plus interest at the rate of 1% per month on the outstanding balance, which shall be added to the penalty amount from the date that payment is due.

[end addition] 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 _____ .

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency