

RESOLUTION NO.

[Transportation Code - Reimbursement and Waiver of Towing and Storage Fees]

Resolution amending the Transportation Code to authorize the waiver or reimbursement of fees related to towing and storage of vehicles when the vehicle was towed to inspect it for evidence of a crime; the vehicle was mistakenly towed; the vehicle tow was incorrectly reported, filed or recorded; the vehicle was towed for the removal of component parts; or the vehicle was a stolen vehicle that was recovered in San Francisco.

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 300 of Division II of the Transportation Code is hereby amended by revising Section 305, to read as follows:

SEC. 305. TOWING AND STORAGE [begin deletion] ADMINISTRATIVE [end deletion] FEES.

[begin addition] (a [end addition]) [begin addition] Fees. [end addition] The SFMTA shall charge the owner of a towed vehicle a fee in the amount of \$263.00 effective July 1, 2014, and \$266.00 effective July 1, 2015, to reimburse the City for administrative costs related to the removal, impound, or release of vehicles towed from the public right-of-way. In addition, the SFMTA shall charge the vehicle owner a fee to reimburse the City for administrative costs related to the storage of such towed vehicles in the amount of \$2.75 effective July 1, 2014, and \$3.00 effective July 1, 2015, for the first day of storage (24 hours or less), and \$3.25 effective July 1, 2014, and \$3.50 effective July 1, 2015, for each day, or part thereof, that the

vehicle remains in storage after the first 24 hours. The administrative fees imposed pursuant to this [begin deletion] § [end deletion] [begin addition] subs [end addition] ection [begin addition] (a) [end addition] shall be in addition to the fee charged by a tow car operator to the owner of a towed vehicle for the costs of towing and storing the vehicle. The administrative fees imposed pursuant to this [begin deletion] § [end deletion] [begin addition] subs [end addition] ection shall not be taken into account in determining the maximum fee that may lawfully be charged by the tow car operator to the owner of a removed vehicle, nor shall the administrative fees imposed pursuant to this [begin deletion] § [end deletion] [begin addition] subs [end addition] ection be taken into account in determining whether a fee charged by the tow car operator to the owner of a removed vehicle is excessive as a matter of law.

[begin addition] (b) Reimbursement and Waiver of Towing and Storage Fees.

(1) Except as provided in subsection (c), below, any fees imposed or authorized by the SFMTA in connection with the towing or storage of vehicles, or the amount charged for removal of components of a vehicle, may be waived for, or reimbursed to, the registered or legal owner of the vehicle if the fees were incurred:

(A) Because the vehicle was towed or stored by order of the San Francisco Police Department to examine the vehicle for evidence of a crime;

(B) Because the vehicle was towed and stored by order of the San Francisco Police Department or the SFMTA and said towing or storage was not authorized by state or local law;

(C) Because the San Francisco Police Department or the SFMTA erroneously reported, filed, or recorded the circumstances of the towing or storage of the vehicle; or

(D) Because the vehicle was towed or stored by order of the San Francisco Police Department or the SFMTA for removal of components of the vehicle, which components were placed on the vehicle in violation of Section 10751 of the Vehicle Code.

(2) Upon verifiable proof that the vehicle was reported stolen before it was towed, or upon a determination by the San Francisco Police Department that the vehicle was stolen, the SFMTA shall waive, if the vehicle owner is an individual:

(A) All of its administrative fee related to the removal, impound, or release of the vehicle (see subsection (a), above) if the vehicle owner is a San Francisco resident, and 50% of such fee if the vehicle owner is a non-resident;

(B) Its administrative fee related to the storage of the towed vehicle (see subsection (a), above); [end addition]

[begin addition] (C) The City Contractor's fees related to the removal, impound, or release of the towed vehicle; and

(D) The City Contractor's storage fees that would otherwise accrue during the first 48 hours that the vehicle is stored if the vehicle owner is a San Francisco resident, and the Contractor's storage fees that would otherwise accrue during the first 24 hours that the towed vehicle is stored if the vehicle owner is a non-resident.

(c) Indigent Owner. [end addition]

(1) [begin addition] Should the owner of the vehicle or one in lawful possession sign an affidavit, under penalty of perjury, that said person is indigent and does not immediately have the funds to pay the accrued towing, storage, or removal of component fee, the Director of the SFMTA or his or her designee shall immediately make such investigation as necessary to ascertain if said indigent person is entitled to immediate possession of his or her vehicle without the payment of the fees incurred for towing, storage, or removal of component parts of said vehicle.

(2) Should the Director of the SFMTA or his or her designee, after an investigation, decide that the towing, storage, or removal of the component parts of a vehicle comes within the provisions of subsections (b)(1) or (2), above, and the owner of the vehicle or one in lawful possession signs an affidavit of indigency, the Director of the SFMTA shall issue a waiver directed to the person,

firm or corporation having custody of the vehicle. Said affidavit shall be on a form approved by the Director of the SFMTA.

(3) Upon presentation of this waiver to the person, firm, or corporation having custody of the vehicle, the vehicle shall be repossessed by the person presenting the waiver, without further payment.

(4)The person, firm or corporation receiving the waiver may present the waiver to the office of the SFMTA designated by its Director for payment of the fees stated on the waiver.

(d)Prohibition on Wavier and Reimbursement of Towing and Storage Fees.No reimbursement or waiver shall be made to the registered or legal owner of a vehicle pursuant to the provisions of subsection (b)(1) or (2), above, if:

(1) The owner or person in lawful possession of the vehicle is chargeable with violation of any law of the City and County of San Francisco, the State of California, or the United States, and said charge relates to the towing and storage of the vehicle or the removal of component parts thereof; or

(2) Reimbursement or waiver is requested pursuant to subsections (b)(1)(B) or (b)(1)(C), above, and the City's error in ordering, reporting, filing or recording the tow is attributable, in part, to the conduct of the registered owner, legal owner, or one in lawful possession of the vehicle; or

(3) The registered or legal owner of the vehicle, including a firm or corporation that owns vehicles used for commercial purposes, cannot show evidence of financial responsibility for said vehicle as required by Section 16020 of the California Vehicle Code.

(e)Application for Reimbursement or Waiver.

(1)Requests for reimbursement or waiver must be presented to the Director of the SFMTA or his or her designee, on a form provided therefor, within 30 days of the date of the tow of the

vehicle. The Director, or his or her designee, may, in his or her sole discretion, extend this deadline for good cause shown.

(2) Requests for reimbursement or waiver shall be itemized, describing all circumstances known to the requesting party. The Director of the SFMTA or his or her designee may request such additional information as necessary to determine the legitimacy of the request for reimbursement or waiver.

(3) All requests for reimbursement or waiver shall be made under penalty of perjury.

(4) The amount of the requested reimbursement or waiver shall not exceed the actual fees charged to the individual or entity requesting reimbursement or waiver.

(f) Prosecution of Person Responsible. No request for reimbursement or waiver shall be considered by the Director of the SFMTA or his or her designee unless and until the person requesting reimbursement or waiver agrees in writing that said person will fully cooperate in the investigation or prosecution of any person or persons responsible for any violation of law giving rise to the request for reimbursement or waiver.

(g) Subrogation. Whenever reimbursement or waiver is made pursuant to this Section 305, the City and County of San Francisco is subrogated to all rights and privileges, at law or equity, of the person, or his or her heirs or assigns, to whom payment was made to recover any monies, from any source whatsoever, due to the person requesting reimbursement or waiver arising from the activity that caused the fees to be incurred.

(h) Procedures. The Director of Transportation may establish such procedures as he or she deems appropriate to facilitate the waiver and reimbursement of towing and storage fees in accordance with this Section 305. [end addition]

Section 2. Effective and Operative Dates. This ordinance shall become effective 31 days after enactment. Enactment occurs when the San Francisco Municipal Transportation

Agency Board of Directors approves this ordinance. This ordinance shall become operative on December 1, 2015.

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: _____
Mariam M. Morley
Deputy City Attorney

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