

MARIN GENERAL SERVICES AUTHORITY
555 Northgate Drive, Suite 230, San Rafael, CA
PHONE: (415) 446-4428
www.maringeneralservicesauthority.com

MEMORANDUM

DATE: September 8, 2016
TO: MGSA Board of Directors
FROM: David J. Byers, Esq. General Counsel
SUBJECT: Proposed Modification to MGSA Taxi Regulations

Recommendation

Staff recommends approving resolution modifying Taxi Regulations.

Discussion

Recently it came to the attention of Jeff Rawles, Taxi Program Administrator, that a certain taxi driver was apparently flouting certain regulations. One of the concerns was that he was not displaying his Driver's Permit in the taxi. While the physical Permit itself states that it requires display, it came to the attention of the General Counsel that the Marin Taxi Regulations themselves are silent regarding display of the Driver's Permit.

The regs require display of the vehicle permit but not the driver's permit. This modification makes the display requirements consistent.

The Marin Taxi Regulations do specifically require display of the *Vehicle* Permit (versus the *Driver* Permit). Section D.2. These regulations were originally prepared by Orange County and subsequently modified by a former attorney for the City of Sausalito. The omission is probably an oversight. Clearly, however, public policy and common sense would mandate that the Driver's Permit be prominently displayed so that a passenger can read them.

Therefore, it is proposed that a Section C.2.h. be added to the regulations to provide: "The Driver's Permit must be displayed so that it can be easily read by a passenger in the Taxicab at all times during its operation." The proposed modification to the regulations eliminates this omission. It is the position of the General Counsel that it should be approved by Resolution.

Attachments

1. Resolution
2. Revised Taxi Regulations

**MARIN GENERAL SERVICES AUTHORITY
MODIFICATION OF TAXICAB REGULATIONS**

RESOLUTION 2016 -

WHEREAS, the Marin General Services Authority (MGSA) has regulations governing taxicabs; and

WHEREAS, Marin Taxi Regulations require display of the Vehicle Permit but is silent regarding display of the Driver's Permit; and

WHEREAS, from a consistency and taxicab passenger edification perspective a modification makes public policy sense; and

NOW THEREFORE, BE IT RESOLVED, that the MGSA Board of Directors authorizes the Taxi Regulation Program to be modified such that a new subsection is added entitled C.2.h. which provides: 'The Driver's Permit must be displayed so that it can be easily read by a passenger in the Taxicab at all times during its operation' and adopts the Taxi Regulations as attached and revised.

Adopted this 8th day of September 2016.

Ayes:

Noes:

Absent:

Dan Schwarz, MGSA Board Chair

Attested By:

Michael S. Frank, Executive Officer

MARIN GENERAL SERVICES AUTHORITY TAXI REGULATION PROGRAM

(As Revised MGSA Board Resolution 2008-01; Board Resolution 2008-05;
Board Resolution 2009-01, February 12, 2009; Board Resolution 2009-05,
May 14, 2009; **Board Resolution 2016-??, September 8, 2016**)

A. DEFINITIONS

As used herein the capitalized terms shall have the following meanings:

1. **“Agency”** shall mean and refer to each entity which is a member of the MGSA, however, the term “Agency” specifically shall not include the Marinwood Community Services District or the Bel Marin Community Services District.
2. **“Area of Jurisdiction”** means the jurisdictional boundaries of each Agency.
3. **“Call Log”** shall mean a record prepared by the Company of all trips made by the Company’s Drivers showing date, time and place of origin, and destination.
4. **“Company”** means any entity operating a Taxicab business, including without limitation, a natural person, firm, association, organization, partnership, business, trust, corporation or public entity.
5. **“Company Permit”** means a valid permit issued by the MGSA authorizing a Company to operate Taxicabs in the Area of Jurisdiction of each Agency.
6. **“County”** means the County of Marin.
7. **“DMV”** means the California Department of Motor Vehicles.
8. **“Driver”** means a person who operates a Taxicab.
9. **“Driver Permit”** means a valid permit issued by the MGSA authorizing a person to operate a Taxicab pursuant to the terms and requirements of the Program.
10. **“Executive Officer”** shall mean the Executive Officer of the MGSA or his/her designee.
11. **“MGSA”** shall mean the Marin General Services Authority or successor entity.
12. **“Revoked Permit”** shall mean any Company, Driver or Vehicle Permit suspended by the Executive Officer. It is unlawful to operate a taxi in any manner with a

- revoked permit. A driver or company must apply anew under the new fee schedule to obtain a permit after revocation.
13. **“Program”** means the rules and regulations set out in this MGSA Taxi Regulation Program as the same may be amended from time to time.
 14. **“State”** means the State of California.
 15. **“Suspended Permit”** shall mean any Company, Driver or Vehicle Permit suspended by the Executive Officer. It is unlawful to operate a taxi in any manner with a suspended permit. To reinstate a suspended permit requires the payment of \$1,000.00 for a Company Permit, \$100.00 for a Driver’s Permit, or \$100.00 for a Vehicle Permit.
 16. **“Taxicab”** shall mean a motor vehicle regularly engaged in the business of carrying passengers designed for carrying not more than eight persons, excluding the driver.
 17. **“Vehicle Permit”** shall mean a valid permit issued by the MGSA authorizing a vehicle to be utilized as a Taxicab pursuant to the terms and requirements of the Program.

B. COMPANY PERMIT

1. **Company Permit Required.** No Company shall operate or permit a Taxicab owned or controlled by it to be operated as a vehicle for hire within the Area of Jurisdiction of any Agency without having first obtained a Company Permit from the MGSA.
2. **Issuance of Company Permit.** The Executive Officer shall issue a Company Permit upon full compliance by the Company with all of the following requirements unless one or more basis for denial set forth in Section 3 of this Section B exists:
 - a. Submission of a complete Company Permit application, including a list of all vehicles to operated as Taxicabs under the Company Permit and for which Vehicle Permit applications shall be submitted; and
 - b. Submission of a copy of the Company’s drug and alcohol policy which must include at a minimum that employment or an offer of employment for any Driver is conditioned upon an acceptable drug and alcohol test meeting the requirements of these regulations and of California Government Code Section 53075.5 or successor statute; and
 - c. Submission of evidence of insurance in full force and effect which meets the following minimum requirements:

- i. Automobile liability insurance with a minimum combined single limit of Three Hundred Fifty Thousand Dollars (\$350,000.00) for injury or death of one or more persons in the same accident and for injury to or destruction of property resulting from the operation or maintenance of any Taxicab; and
- ii. Workers' Compensation insurance as required by the State of California; and
- iii. The liability policy referred to in subsection i above is to contain, or be endorsed to contain, the following provisions:
 - (A) The MGSA and each Agency, its officers, elected and appointed officials, employees, agents and volunteers are to be covered as additional insureds; and
 - (B) Coverage shall not be reduced, terminated or canceled, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the MGSA; and
- iv. Insurance is to be placed with insurers licensed to do business in the State of California with a current A.M. Best's rating of no less than "B+", in the event that an insurer's rating is reduced below "B+" (a "Rating Event") Company shall have ten (10) business days from the date that the rating actually drops below "B+" to present the Executive Officer with a written schedule of events detailing the steps Company will take to obtain replacement insurance which meets the requirements of this Program, notwithstanding the foregoing, such replacement insurance shall be obtained by Company within sixty (60) days of the Rating Event or Company shall cease operating until such complying insurance is obtained; and
- v. The Executive Officer may require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time; and
- vi. At least thirty (30) days prior to the expiration of current policies a Company shall submit a letter from its insurance carrier(s) indicating that the carrier is processing Company's request for continuance of coverage or new coverage and that the carrier believes that such coverage will be continued/issued; and
- vii. As soon as it is received by the Company but in no event later than the date of the expiration of current policies a Company shall submit insurance binders evidencing insurance coverage for the policy period subsequent to the expiration of the current policies; and

- viii. No self insured retention shall be allowed and deductibles shall not exceed Two Thousand Five Hundred Dollars (\$2500.00); and
 - d. Submission of proof of current DMV registration for each Taxicab listed in the Company Permit applicant; and
 - e. Prior to the issuance of the initial Company Permit (but not upon renewal) every owner, partner or principal officer of Company shall have:
 - i. submitted to fingerprinting by the County Sheriff’s Department; and
 - ii. successfully cleared a background check performed by the County Sheriff’s Department; and
 - f. List of every Driver authorized to operate the Taxicab(s) identified in the Company Permit application (the list of Drivers noted herein, shall not be considered part of the Company Permit, but as information for use of MGSA in the administration of these Regulations); and
 - g. The rates of fare proposed to be charged by the Company; and
 - h. Payment of all applicable fees including without limitation the Company Permit application fee and Taxicab Permit application fee.
 - i. As a condition to the receipt of a Company Permit, the Company must submit for approval by the Executive Officer an indemnification agreement, executed by an authorized representative of the Company, agreeing to release, indemnify, hold harmless and defend with counsel reasonably acceptable to the Executive Officer, the MGSA, including every Agency which is a member thereof, and their respective elected and appointed officials, officers, employees, agents and volunteers harmless against and from liability and/or claims of any kind arising out of the Program and/or the operation of Taxicab(s) including, without limitation, claims for personal injury or death or loss or damage to property.
3. **Basis for Denial of Company Permit.** The Executive Officer shall deny the issuance of a Company Permit in the event that any owner, partner or principal officer of applicant:
- a. Is under the age of 18 years; or
 - b. Falsifies material information on an application for a Company Permit; or
 - c. Is a registered sex offender pursuant to California Penal Code Section 290; or

- d. Is on formal probation or parole for any offense outlined in this Section B.3.;
or
 - e. Has at any time been convicted (or pled guilty or nolo contendere) in any state, the District of Columbia, and/or in any federal proceeding for any of the following: murder; robbery; pandering; pimping; crimes related to the sale or transportation of controlled substances; and/or crimes involving the use of a weapon; or
 - f. Within five (5) years of the application been convicted of (or pled guilty or nolo contendere) in any state, the District of Columbia, and/or in any federal proceeding or had any final administrative determination of a violation of any statute, ordinance, or regulation reasonably related to the same or similar business operation which would have resulted in suspension or revocation of the Company Permit under these Regulations.
4. **Requirements Following Issuance.** A Company which has received a Company Permit shall comply with all of the following during the term of the Company Permit:
- a. Company shall maintain the insurance required pursuant to Section B.2.c. of these Regulations in full force and effect during the term of the Company Permit; and
 - b. Company shall notify the Executive Officer of any information or fact(s) that would cause any of the information set forth in the Company Permit Application to no longer be true and correct; and
 - c. Company shall provide the Executive Officer with written notice within 72 hours in the event that any of its Drivers are terminated or are otherwise no longer authorized to operate a Taxicab identified in the Company Permit; and
 - d. Company shall notify the Executive Officer if it desires to add a Driver who shall be authorized to operate a Taxicab listed in the Company Application after such Driver has obtained a Driver's Permit.
 - e. Company shall notify the Executive Officer of any new address for Company within forty eight (48) hours of Company occupying said new address.
 - f. Company shall annually submit a written certification, the form of which will be provided by MGSA that certifies that the company operations comply with all the provisions of its Company Permit.
5. **Term and Renewal.**

- a. A Company Permit shall remain in effect for a period of one (1) year from issuance unless sooner suspended or revoked. Permits for which an application was filed prior to effective date of this latest amendment to these regulations (November 13, 2008) shall remain in effect for a period of five (5) years from date of application.
 - b. In order to renew a Company Permit prior to the expiration of an existing Permit, Company must submit a completed application for renewal no less than thirty (30) days, nor more than sixty (60) days, prior to the expiration of the Company Permit. Upon submission of a completed application for a renewal of a Company Permit, provided that the Company is in compliance with all of the provisions of these Regulations and provided further that the existing Company Permit is not otherwise suspended or revoked in accordance with the provisions of these Regulations, the existing Company Permit shall remain in effect until the later to occur of (i) such time as the application for renewal is either granted or denied; or (ii) the expiration of the existing Company Permit; at which time the existing Company Permit shall automatically be of no further force and effect.
6. **Appeal.** A Company may appeal the denial or non-renewal of the issuance of a Company Permit in accordance with the provisions of Section F of these Regulations.
7. **Transfer.** Company Permits are not transferable or assignable.

C. DRIVERS PERMIT.

1. **Driver's Permit Required.** No person shall operate a Taxicab within the Area of Jurisdiction of any Agency without having first obtained a Driver's Permit therefore.
2. **Issuance of Driver's Permit.** The Executive Officer shall issue a Driver's Permit upon submission by the Driver of all of the following requirements unless one or more basis for denial set forth in Section 3 of this Section C exists:
 - a. A fully completed Driver's Permit application signed by an authorized representative of a Company holding a Company Permit; and
 - b. A valid permanent California Class C driver's license; and
 - c. Evidence of compliance with the mandatory controlled substance and alcohol testing certification program, as set forth below:
 - i. Drivers shall show proof from a drug testing company approved by the Executive Officer that the Driver tested negative for each of the controlled substances specified in Part 40 (commencing with Section 40.1) of Title

49 of the Code of Federal Regulations, before employment. Drivers must also test negative for alcohol. Drivers must show proof of negative tests for these controlled substances and for alcohol as a condition of Permit issuance or renewal. Drivers may be also be subject to random drug and/or alcohol testing during the term of his/her Permit. As used in this section, a negative test for alcohol means an alcohol screening test showing a breath alcohol concentration of less than 0.02 percent. All test results shall be reported to the Executive Officer or his/her designee; and

- ii. Procedures shall be substantially as in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, except that the Driver shall show a valid California driver's license at the time and place of testing. Requirements for rehabilitation and for return to duty and follow up testing and other requirements and shall be substantially as in Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations.
- iii. A test consistent with subsections c. i. and ii. performed in a jurisdiction outside of the County shall be accepted as meeting the same requirement as a test performed within the County. Any negative test results shall be accepted for one year as meeting a requirement for periodic permit renewal testing or any other periodic testing if the Driver has not tested positive subsequent to the negative result. However, an earlier negative result shall not be accepted as meeting the pre-employment testing requirement for any subsequent employment or any testing requirements under the program other than periodic testing.
- iv. In the case of either a Company employee or a self-employed independent Driver, the test results shall be reported directly to the Company and the Executive Officer, who shall notify the taxicab leasing company of record, if any, of positive results.
- v. All test results are confidential and shall not be released without the consent of the Driver, except as authorized or required by law.
- vi. Self-employed independent drivers shall be responsible for compliance with, and shall pay all costs of, this program with regard to themselves. The Company shall be responsible for compliance with, and shall pay all costs of, this program with respect to their employees and potential employees, except that an operator may require employees who test positive to pay the cost of rehabilitation and of return to duty and follow up testing.
- vii. Upon the request of a Driver applying for a permit, the Executive Officer shall give the Driver a list of consortia certified pursuant to Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal

Regulations that the Executive Officer knows offer tests in or near the County.

- d. Fingerprints taken by or on file with the County Sheriff’s Department; and
 - e. A cleared background check performed by the County Sheriff’s Department; and
 - f. Two current 2” by 2” professional quality color photos (passport photos) of the applicant.
 - g. Payment of all applicable fees including without limitation the background check fee and the Driver Permit application fee.
 - h. The Driver’s Permit must be displayed so that it can be easily read by a passenger in the Taxicab at all times during its operation.**
3. **Basis for Denial of Driver’s Permit.** The Executive Officer shall deny the issuance of a Driver’s Permit in the event that the applicant:
- a. Is under the age of 18 years; or
 - b. Falsifies material information on an application for a Driver’s Permit; or
 - c. Does not possess a valid Class C California Driver’s License; or
 - d. Fails the drug and/or alcohol test required hereunder. Upon testing positive for drugs and/or alcohol the applicant shall not be eligible to reapply for a Driver’s Permit for a period of six (6) months from the test date; or
 - e. Is a registered sex offender pursuant to California Penal Code Section 290; or
 - f. Is on formal probation or parole for any offense outlined in this section 3; or
 - g. Has at any time been convicted (or pled guilty or nolo contendere) in any state, the District of Columbia, and/or in any federal proceeding, for any of the following: murder; robbery; pandering; pimping; crimes related to the sale or transportation of controlled substances, except for offenses involving marijuana; and/or crimes involving the use of a weapon; or
 - h. Within five (5) years of the application been convicted of (or pled guilty or nolo contendere) in any state, the District of Columbia, and/or in any federal proceeding, of reckless driving, driving under the influence of intoxicating liquor or drugs (DUI), a violation of California Vehicle Code Sections 2800.1 (pertaining to flight from peace officer), Section 20002 (imposing duties on the driver of any vehicle involved in an accident resulting only in damage to

any property), Section 20003 (imposing duties on the driver of any vehicle involved in an accident resulting in injury or death) or any corresponding substitute sections or similar sections of the Vehicle Code of another state; vehicular manslaughter; and/or California Penal Code Sections 240, 241, 242, or 243 pertaining to assault and battery or any corresponding substitute sections or similar sections of the Penal Code of another state, the District of Columbia, and/or a federal entity.

4. **Term and Renewal.**

- a. A Driver's Permit shall remain in effect for a period of five (5) years from issuance unless sooner suspended or revoked. A Driver's Permit shall be automatically suspended upon the revocation or suspension of the Driver's Class C Drivers License until such time as the Driver presents evidence to the Executive Officer that the requisite Driver's License has been reinstated and is in full force and effect.
 - b. In order to renew a Driver's Permit, the Driver must submit a completed application for renewal no less than thirty (30) days, nor more than sixty (60) days, prior to the expiration of the Driver's Permit. Upon submission of a completed application for a renewal of a Driver's Permit, provided that the Driver is in compliance with all of the provisions of these Regulations and provided further that the existing Driver Permit is not otherwise suspended or revoked in accordance with the provisions of these Regulations, the existing Driver Permit shall remain in effect until the later to occur of (i) such time as the application for renewal is either granted or denied; or (ii) the expiration of the existing Driver Permit; at which time the existing Driver Permit shall automatically be of no further force and effect.
 - c. The Driver's Permit shall be automatically void upon termination of Driver's employment with the Company listed in the Driver Permit application and the Driver's Permit shall be returned to the Executive Officer upon such termination.
 - d. Driver shall notify the Executive Officer in writing of any new address for Driver within forty-eight (48) hours of Driver occupying said new address.
 - e. If, for any reason, the Executive Officer gives notice to a Driver that his/her Driver Permit has been revoked or not renewed, said Driver shall immediately return his/her Permit to the Executive Officer. Failure to do so shall be grounds for the Executive Officer to refuse to issue a new Permit to said Driver.
5. **Appeal.** A Driver may appeal the denial or non-renewal of the issuance of a Driver Permit in accordance with the provisions of Section F of these Regulations.

6. **Transfer.** Driver's Permits are not transferable or assignable.

D. VEHICLE PERMIT.

1. **Initial Vehicle Inspection.** Prior to the use and operation of any vehicle as a Taxicab under the provisions of these Regulations, certification similar to that required under Section D. 3 below shall be submitted indicating that the vehicle has been thoroughly examined and found to comply with all the standards established in the California Vehicle Code or successor statute.
2. **Issuance of Vehicle Permit/Renewal.** Upon meeting the initial inspection requirements set forth in Section D.1 above and upon payment of any and all applicable fees, a non-transferable Vehicle Permit shall be issued for each approved Taxicab. The Vehicle Permit shall remain in effect for a period of one (1) year. No Vehicle Permit shall be renewed unless and until the inspection requirements set forth in Section D.3 below are met and any and all applicable fees have been paid. The Vehicle Permit must be displayed in the Taxicab at all times during its operation.
3. **Annual Inspections.** The Company holding a Vehicle Permit shall annually submit a written certification, the form of which will be provided by MGSA, which certifies that the subject vehicle complies with all the standards established in the California Vehicle Code or successor statute.
4. **Vehicles Must Be Kept in a Clean and Sanitary Condition.** Every vehicle operating under these Regulations shall be kept in a clean and sanitary condition and free of offensive odors.
5. **Designation of Taxicabs.** Each Taxicab shall bear on the outside of at least one door on each side of the vehicle, in painted letters not less than five inches nor more than seven inches in height, the name of the Company; and, in addition, may bear an identifying design approved by the Executive Officer. No vehicle shall be licensed whose color scheme, identifying design, monogram, or insignia to be used thereon shall, in the opinion of the Executive Officer, conflict with or imitate any vehicles already operating under a permit issued pursuant to these Regulations, in such a manner as to be misleading or tend to deceive or defraud the public; and provided further, that if after a license has been issued for a Taxicab hereunder, the color scheme, identifying design, monogram, or insignia thereof is changed so as to be, in the opinion of the Executive Officer, in conflict with or imitate any color scheme, identifying design, monogram, or insignia used by any other person, owner or operator, in such a manner as to be misleading or tend to deceive the public, the permit for such Taxicab or Taxicabs shall be suspended or revoked

6. **Revocation of Vehicle Permit.** The Executive Officer may revoke any Vehicle Permit in the event that the vehicle that is the subject of the permit does not meet the requirements of these Regulations. The determination of the Executive Officer may be appealed in accordance with the provisions of Section F. hereof.

E. TAXICAB OPERATION.

1. **Rates of Fare.** Every Taxicab shall have a rate card setting forth its rates of fare displayed in such a place as to be in view of all passengers. Such card shall be in a form approved by the Executive Officer. No rates of fare shall be either adopted or changed until a complete schedule thereof has been filed with the Executive Officer.
2. **Receipts.** The Driver of any Taxicab shall upon demand by the passenger render to such passenger a receipt for the amount charged on a receipt which shall bear the name of the owner, driver number, amount of meter reading or charges and date of transaction.
3. **Taxicab Service.** All Companies and Drivers shall answer all calls received by them for services as soon as they can do so and if the services cannot be rendered within a reasonable time they shall then notify the prospective passengers how long it will be before the call can be answered and give the reason therefore.
4. **Call Logs.** Every Company shall maintain daily Call Logs. The form of the Call Log shall be approved by the Executive Officer. Every Company shall retain and preserve all Call Logs in a safe place for at least the fiscal year following the fiscal year in which the Call Log is created, and said Call Logs shall be available to the inspection by the Executive Officer upon demand.
5. **Taxicab Meters.** Every Taxicab operated under this section shall be equipped with a taxicab meter and the Company shall keep such meter accurate at all times. The Company shall file an annual "certificate of inspection" from County Department of Agriculture. Upon discovery of any inaccuracy of the meter the Executive Officer is authorized to remove or cause to be removed from service any such vehicle equipped with such meter until the meter shall have been repaired and accurately adjusted.

- F. **APPEAL OF PERMIT DENIAL/NON-RENEWAL.** The Executive Officer's decision to issue or not issue any permit under these Regulations is discretionary. In the event a Company Permit or Driver Permit is denied or not renewed, the applicant, Company or Driver shall be notified in writing of the proposed adverse action and the reason(s) therefore (the "Notice of Adverse Action"). No later than ten (10) calendar days following the date on the Notice of Proposed Action the applicant, Company or Driver may submit a written appeal to the MGSA Board on the form provided by the Executive Officer which shall include the basis for such appeal together with the payment of any and all applicable fees. Failure to file a timely Notice of Appeal shall

constitute a waiver of the right to appeal. An appeal is not timely filed if the applicable fees are not paid concurrently with the submittal of the appeal. Within forty-five (45) days following the date on the Notice of Appeal a public hearing shall be held before the MGSA Board on the proposed action. The MGSA Board shall conduct the hearing as a closed session consistent with Government Code § 54956.7 when necessary. The decision of the MGSA Board shall be issued within thirty (30) days of the date of the hearing and such decision shall be final. The MGSA Board may issue the permit only if it finds that the issuance of the permit will not adversely affect the public health, safety and welfare of the residents of the County of Marin. The Company or Driver whose Permit application has been denied shall not operate a taxicab pending an appeal of such denial. A Company or Driver may operate a taxicab pending appeal of a non-renewal or appeal of revocation, unless cause for such non-renewal or revocation is among those listed in Section B.3 or C.3 as appropriate.

G. REMEDIES FOR VIOLATIONS OF THE PROGRAM

1. **Issuance of Compliance Order.** Provided that there is no immediate danger to health or safety, the Executive Officer may issue a “Compliance Order” to any Company or Driver that fails to comply with any of these regulations or for any of the following:
 - a. Providing false or inaccurate information in any Permit application; or
 - b. Allowing a Taxicab to be operated by a Driver who does not hold a valid Driver’s Permit; or
 - c. A refusal by the Company or a Driver of the Company to accept a call anywhere in the corporate limits of an Agency at any time when such Company has available Taxicabs; provided, however, that a Company or a Driver may refuse to accept a call for service when the Company or Driver reasonably determines that there is a threat to the health or safety of the Driver; or
 - d. A revocation or suspension of a Driver’s California Driver’s License; or
 - e. A failure to cooperate with any law enforcement personnel of any Agency or the California Highway Patrol.
2. **Contents of Compliance Order.** Each Compliance Order shall be in writing and shall include, without limitation, the following information:
 - a. The date of the violation(s) and, if different, the date of service of the Compliance Order.

- b. The name, address, and other identifying information of the Company and/or the Driver.
 - c. A description of the violation(s), including citation to the section(s) of the Regulations violated.
 - d. An order requiring correction of the violation(s) within ten (10) days of the date of the Compliance Order, or within such other reasonable time as the Executive Officer may determine, and notifying the Company and/or the Driver that a fine may be due or the applicable permit may be suspended or revoked if correction is not made before the expiration of the correction period.
 - e. An order prohibiting the continuation or repeated occurrence of the violation(s).
3. **Correction of Violation.** If the Executive Officer determines that all violation(s) specified in the Compliance Order have been corrected within the time set forth in the Compliance Order, no further action shall be taken against the Company and/or the Driver regarding the violations. If all violation(s) specified in the Compliance Order are not corrected within the time set forth in the Compliance Order, the Executive Officer may suspend or revoke any permit issued to a Company and/or Driver. The Executive Officer may pursue additional civil remedies or may also refer the matter to an Agency for any additional civil or criminal remedies.
4. **Immediate Revocation.** When a violation of these Regulations poses an immediate danger to health or safety, the Executive Officer may suspend or revoke any Permit issued to a Company and/or Driver.
5. **Contents of Suspension or Revocation Decision.** Each Suspension or Revocation Decision shall be in writing and shall include, without limitation, the following information:
- a. The date of the violation(s) and, if different, the date of service of the Compliance Order.
 - b. The name, address, and other identifying information of the Company and/or Driver.

- c. A description of the violation(s), including citation to the section(s) of the Regulations violated.
 - d. The penalty imposed for the violation.
 - e. A brief description of the appeal hearing process; including a statement that the Company and/or Driver has the right to contest the Suspension or Revocation Decision by requesting a hearing per these regulations within ten (10) calendar days of the date of service of the Suspension or Revocation Decision.
 - f. The name and signature of the Executive Officer.
6. **Separate Violations.** Each violation of these Regulations whether after the expiration of any correction period set forth in a Compliance Order or otherwise constitutes a separate violation for every day such violation continues.
7. **Notices.** All notices, including Compliance Orders, shall be served on the Company and/or Driver in accordance with the following provisions:
- a. Notices may be mailed by certified mail, postage prepaid, return receipt requested. Simultaneously, the same notice may be sent by first-class mail, postage prepaid. If a notice sent by certified mail is returned unclaimed, service by first-class mail shall nevertheless be effective if that mail is sent to the address of record for the Company or Driver.
 - b. Service of any notice in accordance with these requirements may be proven by declaration or affidavit. Service is complete upon deposit with the United States Postal Service.
8. **Request for Hearing.** Any Company and/or Driver may contest a suspension or revocation by requesting a hearing within ten (10) calendar days from the suspension or revocation order. The hearing request must be in writing, specifying in detail the basis for contesting the Suspension or Revocation Decision. The Company and/or Driver requesting the hearing shall deposit the amount of \$500.00 for a hearing regarding a Company permit, and \$100.00 for a hearing regarding a Vehicle or Driver Permit. Failure to file an appeal request in

- accordance with this paragraph shall constitute a waiver of the Company's and/or Driver's right to contest any matters set forth in the Suspension or Revocation Decision.
9. **Holding Hearing.** The hearing shall be held within thirty (30) days of receiving a hearing request that complies fully with paragraph 5 above. The party requesting the hearing shall be notified of the time and place of the hearing at least ten (10) days before the hearing date. Either the Company/Driver or the MGSA may request a continuance of the hearing to a mutually agreeable date, but in no event may the hearing begin later than sixty (60) days after the MGSA receives a hearing request.
10. **Conducting Authority.** The Board of the MGSA shall hold any hearing. Alternatively, the Board may request that the Executive Officer designate a Hearing Officer to hear and decide appeals of Suspension or Revocation Decision.
11. **Hearing Procedure.** On the date and at the time and place set forth in the notice of hearing, the Conducting Authority shall conduct an orderly hearing and shall accept evidence on which persons commonly would rely in the conduct of their business affairs. Formal rules of evidence need not apply. The party contesting the Suspension or Revocation Decision shall have the opportunity to testify, under oath, and to present evidence, including witnesses, who shall be under oath, concerning the alleged violation. Any other interested party may also present evidence. The Conducting Authority shall limit the evidence to that which is relevant to establishing or refuting the violation alleged in the Suspension or Revocation Decision. If the Company/Driver or any other interested person fails to attend the scheduled hearing, that person shall have waived any right to present evidence on the matter. The Suspension or Revocation Decision and any other reports submitted by the Executive Officer shall constitute prima facie evidence of the facts recited in those documents. The Conducting Authority may take the matter under consideration, may continue the hearing, and may request additional information from the Executive Officer or from the Company and/or Driver. On the basis of a preponderance of the evidence, the Conducting Authority shall determine whether to affirm or dismiss the Suspension or Revocation Decision. The Conducting Authority shall make findings based on the record of the hearing, and shall issue a final written decision based on those findings. The written decision shall be served upon the Company and/or Driver.
12. **Appeal.** Any person aggrieved by an administrative decision of a Conducting Authority may obtain review of that decision by filing a petition for review in the Marin County Superior Court, according to the requirements of Government Code Section 53069.4.

13. Complaint against business that advertises or operates taxicab transportation service for hire; Sufficiency of complaint; Investigation.

- a. Upon receipt of a complaint containing sufficient information to warrant conducting an investigation, the MGSA shall investigate any business that advertises or operates taxicab transportation service for hire. A complaining party shall give MGSA sufficient information in the view of MGSA to warrant an investigation. The MGSA shall provide an “Investigative Request Form” to a complaining party with the criteria for a complaint. Pursuant to this investigation, the MGSA shall do all of the following:
 - i. Determine which businesses, if any, are required to have in effect a valid taxicab certificate, license, or permit as required by ordinance, but do not have that valid authority to operate.
 - ii. Inform any business not having valid authority to operate that it is in violation of law.
 - iii. Within 60 days of informing the business pursuant to paragraph (2ii.), institute civil or criminal proceedings, or both, under its regulations or refer this matter to an Agency within which the business operates.
- b. For purposes of this section: “Advertises” means any action described in subdivision (b) of Government Code § 53075.9.

14. Termination of telephone service utilized by taxicabs operating without proper authority; Enforcement by local agencies; Notice; Timely protest; Hearing.

- a. Pursuant to and within the authority of Government Code § 53075.8, the MGSA enacts the following regulations.
- b. For purposes of this section, a telephone corporation or telegraph corporation, or a corporation that holds a controlling interest in the telephone or telegraph corporation, or any business that is a subsidiary or affiliate of the telephone or telegraph corporation, that has the name and address of the subscriber to a telephone number being used by a unauthorized taxicab operator shall provide the MGSA, or an authorized officer or employee of the MGSA, upon demand, and the order of a magistrate, access to this information. A magistrate may only issue an order for the purposes of this subdivision, if the magistrate has made the findings required by paragraph (2ii.) of subdivision (f).
- c.

- i. In addition to any other remedies that may be available by law, if the MGSA determines that a taxicab transportation service has operated within the County of Marin in violation of a city or county ordinance adopted under Government Code Section 53075.5 or the Marin General Services Authority Taxi Regulation Program, the MGSA may notify the taxicab operator that the MGSA intends to seek termination of the operator's telephone service. The notice shall be sent by certified mail to the operator at the operator's last known mailing address. If the MGSA is unable to determine the operator's mailing address, the MGSA shall post the notice for at least 10 calendar days.
 - ii. The notice shall contain sufficient information to identify the taxicab transportation service, to inform the taxicab operator of the alleged violations of the ordinance or regulations, and the procedures for protesting the allegations contained in the notice.
- d. The taxicab operator, within 10 calendar days of the date of the notice, may contest the allegations contained in the notice by filing a written protest with the MGSA. The MGSA shall schedule a hearing on the protest within 21 calendar days of receiving the protest.
- e. The Board of the MGSA, or any person or persons as may be designated by the Board, shall hear the protest. The MGSA shall have both the burden of providing that the use made, or to be made, of the telephone service is to hold out to the public to perform, or to assist in performing, services as a taxicab transportation service, and that the telephone service is being, or is to be, used as an instrumentality, directly or indirectly, to violate, or assist in violating, the applicable ordinance or regulation. The taxicab operator, or his or her designated representative, shall be allowed to present evidence to answer or refute any allegations presented to the MGSA. The Board or designated person may continue the hearing from time to time. Within 10 calendar days of the close of the hearing, the MGSA shall issue a written decision to uphold or reject, in whole or in part, the allegations contained in the notice. If the MGSA upholds the allegations in whole or in part, the written decision shall state either that the allegations are sufficient to justify seeking termination of the taxicab operator's telephone service, or that the allegations are not sufficient.
- f.
 - i. If the MGSA does not receive a timely protest, or, after a protest hearing held pursuant to subdivision (e), the MGSA has determined that the allegations are sufficient to justify seeking termination of the telephone operator's telephone service, the MGSA may seek termination of the taxicab operator's telephone service as provided in this section.

- ii. A telephone or telegraph corporation shall refuse telephone service to a new subscriber and shall disconnect telephone service of an existing subscriber only after it is shown that other available enforcement remedies of the MGSA or its member agencies have failed to terminate unlawful activities detrimental to the public welfare and safety, and upon receipt from any authorized officer or employee of the MGSA of a writing, signed by a magistrate, as defined by Sections 807 and 808 of the Penal Code, finding that probable cause exists to believe that the subscriber is advertising or holding out to the public to perform taxicab transportation services in violation of the applicable ordinance or regulation, or that the telephone service otherwise is being used or is to be used as an instrumentality, directly or indirectly, to violate or assist in violation of the laws requiring a taxicab operator to have valid operating authority. Included in the writing of the magistrate shall be a finding that there is probable cause to believe that the subject telephone facilities have been, or are to be, used in the commission or facilitation of holding out to the public to perform taxicab transportation services in violation of the applicable ordinance or regulation.
- g. The telephone or telegraph corporation, immediately upon refusal or disconnection of service in accordance with paragraph (2) of subdivision (f), shall notify the subscriber in writing that the refusal or disconnection of telephone service has been made pursuant to a request of the MGSA and the writing of a magistrate, and shall include a copy of this section, a copy of the writing of the magistrate, and a statement that the customer of the subscriber may request information from the MGSA concerning any provision of this section and the manner in which a complaint may be filed.
- h. The provisions of this section are an implied term of every contract for telephone service and a part of any application for telephone service. Applicants for, and subscribers and customers of, telephone service, have, as a matter of law, consented to the provisions of this section as a consideration for the furnishing of the telephone service.
- i. As used in this section, the terms “person,” “customer,” and “subscriber” include the subscriber to telephone service, any person using the telephone service of a subscriber, an applicant for telephone service, a corporation, a limited liability company, a partnership, an association, and includes their lessees and assigns.
- j. As used in this section, the following terms have the following meanings:
 - i. “Telegraph corporation” has the same meaning as specified in Section 236 of the Public Utilities Code.

- ii. “Telephone corporation” has the same meaning as specified in Section 234 of the Public Utilities Code.

15. Other Remedies. The remedies set forth in this section are not exclusive. Each Agency has the authority to enforce the provisions of the Program within its jurisdictional boundaries in accordance with the applicable provisions of its own Municipal Code.

16. Amendment. The MGSA retains the right to amend this Program and the regulations set forth herein at any time.