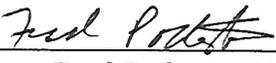
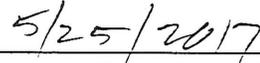




City of Seattle
Edward B. Murray, Mayor

Finance and Administrative Services
Fred Podesta, Director

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Applicant: City of Seattle Department of Finance and Administrative Services	Page: 1 of 4 Publication: 5/26/2017	Revises: New Effective: 5/26/2017
Director's Rule: FHDR-9, Enforcement Powers of the Director	Code and Section Reference: SMC 6.310.735.M	
	Type of Rule: Code Interpretation	
	Ordinance Authority: SMC 6.310.735.M.1.a	
Approved:  Fred Podesta, Director	  Date	

City of Seattle Rules for For-Hire Drivers

Rule FHDR-9, Enforcement Powers of the Director (SMC 6.310.735.M)

This Rule clarifies enforcement powers of the Director as authorized by the Seattle Municipal Code (SMC).

In exercising enforcement authority, when interpreting terms in Ordinance 124968 and Director's Rules that parallel those used in state or federal labor law, the Director will rely primarily upon Washington State Public Employment Relations Commission (PERC) cases and secondarily upon federal National Labor Relations Board authority.

Reporting Alleged Violations

Any aggrieved person or entity may file a complaint, on a form and in a manner specified by the Director, alleging a violation of SMC 6.310.735 and/or the Rules implementing Ordinance 124968 (Director's Rules). An aggrieved person or entity includes any person or entity who has, is presently being or will be injured by an alleged violation of SMC 6.310.735 and/or the Director's Rules.

The complaint must set forth specific facts that establish a clearly identified alleged violation. An incomplete form may be rejected. The complaint may include documentary evidence to support the alleged violation.

Where any Director's Rule sets forth a specific process and consequences for its alleged violation, that process will be followed and those consequences will apply instead of the process and consequences set forth in this Rule. Otherwise, this Rule sets forth the applicable process for violations of both Director's Rules and SMC 6.310.735.

Mandatory and Discretionary Investigations

Mandatory Investigations. The Director will investigate the following alleged violations:

1. Failure of a Driver Coordinator to produce a list of qualifying drivers as required by SMC 6.310.735.D and Director's Rule *FHDR-1, Qualifying Driver and Lists of Qualifying Drivers* and
2. Failure of an Exclusive Driver Representative (EDR) or a Driver Coordinator to negotiate in good faith as required by SMC 6.310.735.H.1 and Director's Rule *FHDR-4, Subjects of Bargaining.*

If the Director determines a violation has occurred, the Director will issue a written notice of violation.

Discretionary Investigations. Alleged violations of any other SMC provision may be investigated at the Director's discretion. In deciding whether to investigate, the Director may consider the seriousness and severity of the alleged violation and whether the alleged

violation is systemic in nature such that correcting it would result in wider benefits to safe, reliable and economical for-hire transportation in Seattle. The Director may also consider documents or other evidence provided by an EDR, Driver Coordinator or other party, regulatory data or information obtained independently by the Director. If the Director chooses not to investigate an alleged violation, the Director will provide the complainant with written notice that an investigation will not occur.

An investigation may be initiated by complaint or on the Director's own initiative. If the Director investigates an alleged violation(s), the process set forth below will be followed:

1. Assign the investigation to a staff member(s) in the Department of Finance and Administrative Services (FAS). The investigator will have responsibility for communicating with the parties about the process, timelines and status updates.
2. Provide each party (the complainant and the subject of the complaint) with written notice of the investigation, including a description of the alleged violation(s).
3. Request documents or other types of evidence from both parties and other individuals or entities and, as necessary, interview witnesses or hold fact-finding conferences to determine the facts concerning the alleged violation(s).

Consistent with this Rule, the Director may issue additional details on the investigatory process and if so, will make such details publicly available on a City website.

Notices of Violation

Upon determining that a violation has occurred, the Director will issue a written notice of violation to the responsible person or entity. A written notice of violation will:

1. Notify the responsible person or entity of the SMC violation and the corrective action they must take to comply with the SMC;
2. Provide a compliance deadline and notify the responsible person or entity that non-compliance will result in the accrual of penalties at the rate of up to \$10,000 per day and
3. Provide information on how to contest the violation at the Office of the Hearing Examiner in accordance with SMC 3.02 (Administrative Code).

The notice of violation will be delivered by personal service or by first class mail to the person or entity's last known address. Service by mail will be deemed complete upon the third business day following the day upon which the notice is placed in the mail.

Pending the compliance deadline, the person or entity issued a notice of violation may file with the Director a notification of compliance, on a form and in a manner specified by the Director, demonstrating that the person or entity is now in compliance with the SMC and

requesting that the violation be deemed corrected. The Director may conduct an investigation as outlined in this Rule to verify the notification of compliance. If the Director concludes that the person or entity is in compliance prior to the deadline, the violation is deemed corrected and no penalty will accrue. Upon request and for good cause, the Director may extend the compliance deadline.

The person or entity issued the notice of violation may contest the notice of violation by filing a written request for a hearing with the Office of the Hearing Examiner within 10 calendar days of the date of the compliance deadline. After the hearing, the Hearing Examiner will issue an order affirming, modifying or reversing the notice of violation. The Hearing Examiner order is the final decision of the City and the penalty of up to \$10,000 per day will begin to accrue on the date the order is issued until the violation is corrected to the satisfaction of the Director.

If the person or entity issued the notice of violation fails to request a hearing within 10 calendar days of the date of the compliance deadline, the notice of violation will be the final decision of the City and the penalty of up to \$10,000 per day will begin accruing on the compliance deadline until the violation is corrected to the satisfaction of the Director.

At any time after the compliance deadline or after issuance of a Hearing Examiner order if a notice of violation is contested, the Director may request that the City Attorney obtain a judgment in Seattle Municipal Court for the amount of the accrued penalties. The accrued penalty may be mitigated upon a showing that the person or entity responsible for the violation willingly and expeditiously corrected it and the correction was commenced promptly upon receipt of notice, but that compliance within the time specified was prevented by a condition or circumstance beyond the control of the responsible person or entity. The Director may consider other mitigating factors including but not limited to the number of people affected by the violation, the size and resources of the person or entity responsible for the violation, the person or entity's history of prior violations and the violation's gravity. Prior to a judgment being entered, the Director has authority to enter into settlement negotiations with the responsible person or entity.

Suspension of Deadlines

For good cause, the Director may suspend any applicable deadline under the SMC and Director's Rules. The Director will communicate to the affected parties when the suspension has ended and the schedule outlined in the SMC and/or Director's Rules will resume. In most cases, the Director will seek to establish the new deadline(s) commensurate with the length of the delay, but the Director may also consider other factors, such as whether any party's willful violation of the SMC or Director's Rules caused the delay, in establishing the new deadline(s).