

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to taxicab, transportation network company, and for-hire vehicle drivers; amending Section 6.310.110 of the Seattle Municipal Code; adding a new Section 6.310.735 to the Seattle Municipal Code; and authorizing the election of driver representatives.

..body

WHEREAS, the state of Washington, in Revised Code of Washington 46.72.001 and 81.72.200, has authorized political subdivisions of the state to regulate for-hire drivers and for-hire transportation services without facing liability under federal antitrust laws; and

WHEREAS, allowing taxicab, transportation network company, and for-hire vehicle drivers (“for-hire drivers”) to modify specific agreements collectively with the entities that hire, direct, arrange, or manage their work will better ensure that they can perform their services in a safe, reliable, stable, cost-effective, and economically viable manner and thereby promote the welfare of the people; and

WHEREAS, the new responsibilities for the Department of Finance and Administrative Services (FAS) contemplated in this legislation will require additional resources; and

WHEREAS, the Director of FAS has authority to adjust fees to cover the cost of the regulatory functions FAS performs on behalf of the public; and

WHEREAS, should this legislation go into effect, the Director may exercise that authority to raise additional revenue through fees to cover the additional costs; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Findings

1 A. In order to protect the public health, safety and welfare, The City of Seattle is granted
2 express authority to regulate for-hire and taxicab transportation services pursuant to Chapters
3 46.72 and 81.72 RCW. This authority includes regulating entry, requiring a license, controlling
4 rates, establishing safety requirements, and any other requirement to ensure safe and reliable
5 transportation services.

6 B. Seattle Municipal Code (SMC) Chapter 6.310 is an exercise of The City of Seattle's
7 power to regulate the for-hire and taxicab transportation industry. SMC Chapter 6.310, in
8 subsection 6.310.100.A, states: "Some of its regulatory purposes are to increase the safety,
9 reliability, cost-effectiveness, and the economic viability and stability of privately-operated for-
10 hire vehicle and taxicab services within The City of Seattle."

11 C. The purpose of this ordinance is to ensure safe and reliable for-hire and taxicab
12 transportation service pursuant to RCW 46.72.160 and RCW 81.72.210, respectively, and to
13 exercise the City's authority to regulate for-hire transportation pursuant to RCW 46.72.001,
14 which states: "The legislature finds and declares that privately operated for hire transportation
15 service is a vital part of the transportation system within the state. Consequently, the safety,
16 reliability, and stability of privately operated for hire transportation services are matters of
17 statewide importance. The regulation of privately operated for hire transportation services is thus
18 an essential governmental function. Therefore, it is the intent of the legislature to permit political
19 subdivisions of the state to regulate for hire transportation services without liability under federal
20 antitrust laws." RCW 81.72.200, governing taxicab transportation, has a similar statement of
21 legislative intent.

22 D. As the City is acting under specific state statutory authority, it is immune from
23 liability under antitrust laws.

1 E. At present, entities that hire, contract with, or partner with for-hire drivers for the
2 purpose of assisting them with, or facilitating them in, providing for-hire transportation services
3 to the public establish the terms and conditions of their contracts with their drivers unilaterally,
4 and may impose changes in driver compensation rates or deactivate drivers from dispatch
5 services without prior warning or discussion. Terms and conditions that are imposed without
6 meaningful driver input, as well as sudden and/or unilateral contract changes, may adversely
7 impact the ability of a for-hire driver to provide transportation services in a safe, reliable, stable,
8 cost-effective, and economically viable manner.

9 F. Unilateral terms and working conditions established and imposed without driver input
10 by entities that hire, contract with, or partner with for-hire drivers, as well as sudden and/or
11 unilateral changes in those terms and conditions, have resulted in driver unrest and transportation
12 service disruptions around the country.

13 G. There is currently no effective mechanism for for-hire drivers to meaningfully address
14 the terms and conditions of their contractual relationship with the entity that hires, contracts with,
15 or partners with them. For-hire drivers lack the power to negotiate these issues effectively on an
16 individual basis.

17 H. Business models wherein companies control aspects of their drivers' work, but rely on
18 the drivers being classified as independent contractors, render for-hire drivers exempt from
19 minimum labor requirements established by federal, state, and local law.

20 I. Establishing a process through which for-hire drivers and the entities that control many
21 aspects of their working conditions collectively negotiate the terms of the drivers' contractual
22 relationships with those entities will enable more stable working conditions and better ensure
23 that drivers can perform their services in a safe, reliable, stable, cost-effective, and economically

1 viable manner, and thereby promote the welfare of the people who rely on safe and reliable for-
2 hire transportation to meet their transportation needs.

3 1. Drivers working under terms that they have negotiated through a collective
4 negotiation process are more likely to remain in their positions over time, and to devote more
5 time to their work as for-hire drivers, because the terms are more likely to be satisfactory and
6 responsive to the drivers' needs and concerns. Such drivers accumulate experience that will
7 improve the safety and reliability of the for-hire transportation services provided by the driver
8 coordinator and reduce the safety and reliability problems created by frequent turnover in the for-
9 hire transportation services industry.

10 2. Establishing the drivers' contractual terms through a collective negotiation
11 process will also help ensure that the compensation drivers receive for their services is sufficient
12 to alleviate undue financial pressure to provide transportation in an unsafe manner (such as by
13 working longer hours than is safe, skipping needed breaks, or operating vehicles at unsafe speeds
14 in order to maximize the number of trips completed) or to ignore maintenance necessary to the
15 safe and reliable operation of their vehicles. Enabling driver participation in the formulation of
16 vehicle equipment standards and safe driving practices will help ensure that those standards and
17 practices are responsive to driver needs, including changing conditions, and that drivers will
18 agree with and follow those standards and practices.

19 J. Collective negotiation processes in other industries have achieved public health and
20 safety outcomes for the general public and improved the reliability and stability of the industries
21 at issue including, but not limited to, job security provisions, scheduling predictability, job
22 training, methods of communicating health and safety information and enforcing health and
23 safety standards, processes for resolving disputes with minimal rancor or conflict, and reductions

1 in industrial accidents, vehicular accidents, and inoperative or malfunctioning equipment. In
2 other parts of the transportation industry, for example, collective negotiation processes have
3 reduced accidents and improved driver and vehicle safety performance.

4 Section 2. Section 6.310.110 of the Seattle Municipal Code, last amended by Ordinance
5 124524, is amended as follows:

6 **6.310.110 Definitions**

7 * * *

8 “Commencement date” means a calendar date set by the Director after the effective date
9 of the ordinance introduced as Council Bill 118499 for the purpose of initiating certain processes
10 pursuant to Section 6.310.735 and establishing timelines and deadlines associated with them.

11 * * *

12 “Director” means the Director of Finance and Administrative Services or the director of
13 any successor department and the Director’s authorized designee.

14 “Driver coordinator” means an entity that hires, contracts with, or partners with for-hire
15 drivers for the purpose of assisting them with, or facilitating them in, providing for-hire services
16 to the public. For the purposes of this definition, “driver coordinator” includes but is not limited
17 to taxicab associations, for-hire vehicle companies, and transportation network companies.

18 “Exclusive driver representative” (EDR) means a qualified driver representative, certified
19 by the Director to be the sole and exclusive representative of all for-hire drivers operating within
20 the City for a particular driver coordinator, and authorized to negotiate, obtain and enter into a
21 contract that sets forth terms and conditions of work applicable to all of the for-hire drivers
22 employed by that driver coordinator.

23 * * *

1 B. The process of designating a QDR shall be prescribed by Director's rule. The
2 designation of a QDR shall be based on, but not limited to, consideration of the following
3 factors:

- 4 1. Registration with the Washington Secretary of State as a not-for-profit entity;
- 5 2. Organizational bylaws that give drivers the right to be members of the
6 organization and participate in the democratic control of the organization; and
- 7 3. Experience in and/or a demonstrated commitment to assisting stakeholders in
8 reaching consensus agreements with, or related to, employers and contractors.

9 C. An entity wishing to be considered as a QDR for for-hire drivers operating within the
10 City must submit a request to the Director within 30 days of the commencement date or at a later
11 date as provided in subsection G of this section. Within 14 days of the receipt of such a request,
12 the Director will notify the applicant in writing of the determination. Applicants who dispute the
13 Director's determination may appeal to the Hearing Examiner within 10 days of receiving the
14 determination. The Director shall provide a list of all QDRs to all driver coordinators.

15 1. An entity that has been designated as a QDR shall be required to establish
16 annually that it continues to satisfy the requirements for designation as a QDR.

17 2. An entity that has been designated as a QDR and that seeks to represent the
18 drivers of a driver coordinator shall notify the driver coordinator of its intent to represent those
19 drivers within 14 days of its designation as a QDR. That notice may be provided by any means
20 reasonably calculated to reach the driver coordinator, including by written notice mailed or
21 delivered to a transportation network company or taxicab association representative at the
22 mailing address listed with the City.

1 D. Driver coordinators who have hired, contracted with, partnered with, or maintained a
2 contractual relationship or partnership with, 50 or more for-hire drivers in the 30 days prior to
3 the commencement date, other than in the context of an employer-employee relationship, must,
4 within 75 days of the commencement date, provide all QDRs that have given the notice specified
5 in subsection 6.310.735.C.2 the names, addresses, email addresses (if available), and phone
6 number (if available) of all qualifying drivers they hire, contract with, or partner with.

7 E. QDRs shall use driver contact information for the sole purpose of contacting drivers to
8 solicit their interest in being represented by the QDR. The QDR may not sell, publish, or
9 otherwise disseminate the driver contact information outside the entity/organization.

10 F. The Director shall certify a QDR as the EDR for all drivers contracted with a particular
11 driver coordinator, according to the following:

12 1. Within 120 days of receiving the driver contact information, a QDR will submit
13 statements of interest to the Director from a majority of qualifying drivers from the list described
14 in subsection 6.310.735.D. Each statement of interest shall be signed, dated, and clearly state that
15 the driver wants to be represented by the QDR for the purpose of negotiations with the driver
16 coordinator. A qualifying driver's signature may be provided by electronic signature or other
17 electronic means. The Director shall determine by rule the standards and procedures for
18 submitting and verifying statements of interest by qualifying drivers choosing an EDR.

19 a. The methods for submitting and verifying statements of interest by
20 qualifying drivers choosing an EDR may include, but not be limited to: signature verification,
21 unique personal identification number verification, statistical methods, or third party verification.

22 2. Within 30 days of receiving such statements of interest, the Director shall
23 determine if they are sufficient to designate the QDR as the EDR for all drivers for that particular

1 driver coordinator, and if so, shall so designate the QDR to be the EDR, except that, if more than
2 one QDR establishes that a majority of qualifying drivers have expressed interest in being
3 represented by that QDR, the Director shall designate the QDR that received the largest number
4 of verified affirmative statements of interest to be the EDR.

5 3. Within 30 days of receiving submissions from all QDRs for a particular driver
6 coordinator, the Director shall either certify one to be the EDR or announce that no QDR met the
7 majority threshold for certification.

8 G. If no EDR is certified for a driver coordinator, the Director shall, upon the written
9 request from a designated QDR or from an entity that seeks to be designated as a QDR,
10 promulgate a new commencement date applicable to that driver coordinator that is no later than
11 90 days after the request, provided that no driver coordinator shall be subject to the requirements
12 of Section 6.310.735 more than once in any 12-month period. The QDR, any other entity that
13 seeks to be designated as a QDR, and the driver coordinator shall then repeat the processes in
14 subsections 6.310.735.C, 6.310.735.D, and 6.310.735.F.

15 H. 1. Upon certification of the EDR by the Director, the driver coordinator
16 and the EDR shall meet and negotiate in good faith certain subjects to be specified in rules or
17 regulations promulgated by the Director, including, but not limited to, best practices regarding
18 vehicle equipment standards; safe driving practices; the manner in which the driver coordinator
19 will conduct criminal background checks of all prospective drivers; the nature and amount of
20 payments to be made by, or withheld from, the driver coordinator to or by the drivers; minimum
21 hours of work, conditions of work, and applicable rules. If the driver coordinator and the EDR
22 reach agreement on terms, their agreement shall be reduced to a written agreement. The term of

1 such an agreement shall be agreed upon by the EDR and the driver coordinator, but in no case
2 shall the term of such an agreement exceed four years.

3 2. After reaching agreement, the parties shall transmit the written agreement to the
4 Director. The Director shall review the agreement for compliance with the provisions of this
5 Chapter 6.310, and to ensure that the substance of the agreement promotes the provision of safe,
6 reliable, and economical for-hire transportation services and otherwise advance the public policy
7 goals set forth in Chapter 6.310 and in the Preamble to and Section 1 of the ordinance introduced
8 as C.B. 118499. In conducting that review, the record shall not be limited to the submissions of
9 the EDR and driver coordinator nor to the terms of the proposed agreement. The Director shall
10 have the right to gather and consider any necessary additional evidence, including by conducting
11 public hearings and requesting additional information from the EDR and driver coordinator.
12 Following this review, the Director shall notify the parties of the determination in writing, and
13 shall include in the notification a written explanation of all conclusions. Absent good cause, the
14 Director shall issue the determination of compliance within 60 days of the receipt of an
15 agreement.

16 a. If the Director finds the agreement compliant, the agreement is final and
17 binding on all parties.

18 b. If the Director finds it fails to comply, the Director shall remand it to
19 the parties with a written explanation of the failure(s) and, at the Director's discretion,
20 recommendations to remedy the failure(s).

21 c. The agreement shall not go into effect until the Director affirmatively
22 determines its adherence to the provisions of this Chapter 6.310 and that the agreement furthers
23 the provision of safe, reliable, and economical for-hire transportation services and the public

1 policy goals set forth in the Preamble to and Section 1 of the ordinance introduced as C.B.
2 118499.

3 3. Unless the EDR has been decertified pursuant to subsection 6.310.735.L or has
4 lost its designation as a QDR, the EDR and the driver coordinator shall, at least 90 days before
5 the expiration of an existing agreement approved pursuant to subsections 6.310.735.H.2.c or
6 6.310.735.I.4.c, meet to negotiate a successor agreement. Any such agreement shall be subject to
7 approval by the Director pursuant to subsection 6.310.735.H.2. If the parties are unable to reach
8 agreement on a successor agreement within 90 days after the expiration of an existing agreement,
9 either party must submit to interest arbitration upon the request of the other pursuant to
10 subsection 6.310.735.I, and the interest arbitrator's proposed successor agreement shall be
11 subject to review by the Director pursuant to subsections 6.310.735.I.3 and 6.310.735.I.4.

12 4. Nothing in this section 6.310.735 shall require or preclude a driver coordinator
13 from making an agreement with an EDR to require membership of for-hire drivers in the EDR's
14 entity/organization within 14 days of being hired, contracted with, or partnered with by the driver
15 coordinator to provide for-hire transportation services to the public.

16 I. If a driver coordinator and the EDR fail to reach an agreement within 90 days of the
17 certification of the EDR by the Director, either party must submit to interest arbitration upon the
18 request of the other.

19 1. The interest arbitrator may be selected by mutual agreement of the parties. If
20 the parties cannot agree, then the arbitrator shall be determined as follows: from a list of seven
21 arbitrators with experience in labor disputes and/or interest arbitration designated by the
22 American Arbitration Association, the party requesting arbitration shall strike a name. Thereafter

1 the other party shall strike a name. The process will continue until one name remains, who shall
2 be the arbitrator. The cost of the interest arbitration shall be divided equally between the parties.

3 2. The interest arbitrator shall propose the most fair and reasonable agreement
4 concerning subjects specified in rules or regulations promulgated by the Director as set forth in
5 subsection 6.310.735.H.1 that furthers the provision of safe, reliable, and economical for-hire
6 transportation services and the public policy goals set forth in the Preamble to and Section 1 of
7 the ordinance introduced as C.B. 118499. The term of any agreement proposed by the interest
8 arbitrator shall not exceed two years. In proposing that agreement, the interest arbitrator shall
9 consider the following criteria:

- 10 a. Any stipulations of the parties;
- 11 b. The cost of expenses incurred by drivers (e.g., fuel, wear and tear on
12 vehicles, and insurance);
- 13 c. Comparison of the amount and/or proportion of revenue received from
14 customers by the driver coordinators and the income provided to or retained by the drivers;
- 15 d. The wages, hours, and conditions of employment of other persons,
16 whether employees or independent contractors, employed as for-hire or taxicab drivers in Seattle
17 and its environs, as well as other comparably sized urban areas;
- 18 e. If raised by the driver coordinator, the driver coordinator's financial
19 condition and need to ensure a reasonable return on investment and/or profit;
- 20 f. Any other factors that are normally or traditionally taken into
21 consideration in the determination of wages, hours, and conditions of employment; and
- 22 g. The City's interest in promoting the provision of safe, reliable, and
23 economical for-hire transportation services and otherwise advancing the public policy goals set

1 forth in Chapter 6.310 and in the Preamble to and Section 1 of the ordinance introduced as C.B.
2 118499.

3 3. The arbitrator shall transmit the proposed agreement to the Director for review
4 in accordance with the procedures and standards set forth in subsection 6.310.735.H.2. With the
5 proposed agreement, the arbitrator shall transmit a report that sets forth the basis for the
6 arbitrator's resolution of any disputed issues. The Director shall review the agreement as
7 provided in subsection 6.310.735.H.2.

8 4. In addition to the review provided for in subsection 6.310.735.I.3, a driver
9 coordinator or EDR may challenge the proposed agreement on the following grounds: that the
10 interest arbitrator was biased, that the interest arbitrator exceeded the authority granted by
11 subsection 6.310.735.H and this subsection 6.310.735.I, and/or that a provision of the proposed
12 agreement is arbitrary and capricious. In the event of such a challenge, the Director will provide
13 notice to the driver coordinator and the EDR, allow the driver coordinator and the EDR the
14 opportunity to be heard, and make a determination as to whether any of the challenges asserted
15 should be sustained.

16 a. If the Director finds the agreement fulfills the requirements of
17 subsection 6.310.735.H.2, and that no challenges raised under this subsection 6.310.735.I.4
18 should be sustained, the Director will provide written notice of that finding to the parties and the
19 agreement will be deemed final and binding on all parties.

20 b. If the Director finds that the agreement fails to fulfill the requirements
21 of subsection 6.310.735.H.2, or that any challenge asserted under this subsection 6.310.735.I.4
22 should be sustained, the Director shall remand the agreement to the interest arbitrator with a

1 written explanation of the failure(s) and, at the Director's discretion, recommendations to remedy
2 the failure(s).

3 c. The agreement shall not go into effect until the Director affirmatively
4 deems the agreement final and binding pursuant to subsections 6.310.735.I.3 and 6.310.735.I.4.a.

5 d. A driver coordinator or EDR may obtain judicial review of the
6 Director's final determination rendered pursuant to this subsection 6.310.735.I.4 by applying for
7 a Writ of Review in the King County Superior Court within 14 days from the date of the
8 Director's determination, in accordance with the procedure set forth in Chapter 7.16 RCW, other
9 applicable law, and court rules. The Director's final determination shall not be stayed pending
10 judicial review unless a stay is ordered by the court. If review is not sought in compliance with
11 this subsection 6.310.735.I.4.d, the determination of the Director shall be final and conclusive.

12 5. If either party refuses to enter interest arbitration, upon the request of the other,
13 either party may pursue all available judicial remedies.

14 J. During the term of an agreement approved by the Director under subsection
15 6.310.735.H or 6.310.735.I, the parties may discuss additional terms and, if agreement on any
16 amendments to the agreement are reached, shall submit proposed amendments to the Director,
17 who shall consider the proposed amendment in accordance with the procedures and standards in
18 subsection 6.310.735.H.2. Any proposed amendment shall not go into effect until the Director
19 affirmatively determines its adherence to the provisions of this Chapter 6.310 and that it furthers
20 the provision of safe, reliable and economical for-hire transportation services and the public
21 policy goals set forth in the Preamble to and Section 1 of the ordinance introduced as C.B.
22 118499.

1 1. During the term of an agreement approved by the Director under subsection
2 6.310.735.H or 6.310.735.I, the Director shall have the authority to withdraw approval of the
3 agreement if the Director determines that the agreement no longer adheres to the provisions of
4 this Chapter 6.310 or that it no longer promotes the provision of safe, reliable, and economical
5 for-hire transportation services and the public policy goals set forth in the Preamble to and
6 Section 1 of the ordinance introduced as C.B. 118499. The Director shall withdraw such
7 approval only after providing the parties with written notice of the proposed withdrawal of
8 approval and the grounds therefor and an opportunity to be heard regarding the proposed
9 withdrawal. The Director's withdrawal of approval shall be effective only upon the issuance of a
10 written explanation of the reasons why the agreement no longer adheres to the provisions of this
11 Chapter 6.310 or no longer furthers the provision of safe, reliable, and economical for-hire
12 transportation services or the public policy goals set forth in the Preamble to and Section 1 of the
13 ordinance introduced as C.B. 118499.

14 2. The Director shall have the authority to gather and consider any necessary
15 evidence in exercising the authority provided by this subsection 6.310.735.J.

16 3. A driver coordinator shall not make changes to subjects set forth in subsection
17 6.310.735.H or specified in rules or regulations promulgated by the Director without meeting and
18 discussing those changes in good faith with the EDR, even if the driver coordinator and EDR
19 have not included terms concerning such subjects in their agreement.

20 K. A driver coordinator shall not retaliate against any for-hire driver for exercising the
21 right to participate in the representative process provided by this section 6.310.735, or provide or
22 offer to provide money or anything of value to any for-hire driver with the intent of encouraging
23 the for-hire driver to exercise, or to refrain from exercising, that right. It shall be a violation for a

1 driver coordinator or its agent, designee, employee, or any person or group of persons acting
2 directly or indirectly in the interest of the driver coordinator in relation to the for-hire driver to:

3 1. Interfere with, restrain, or deny the exercise of, or the attempt to exercise, any
4 right protected under this section 6.310.735; or

5 2. Take adverse action, including but not limited to threatening, harassing,
6 penalizing, or in any other manner discriminating or retaliating against a driver, because the
7 driver has exercised the rights protected under this section 6.310.735.

8 L. Decertification. An Exclusive Driver Representative may be decertified according to
9 the following:

10 1. The Director receives a petition to decertify an EDR no more than 30 days
11 before the expiration of an agreement reached pursuant to this section 6.310.735 or no less than
12 three years after the agreement's effective date, whichever is earlier.

13 a. A decertification petition must be signed by ten or more qualifying
14 drivers. The Director shall determine by rule the standards and procedures for submitting the
15 decertification petition.

16 2. Once a petition has been accepted by the Director, the Director shall issue
17 notice to the driver coordinator and the EDR of the decertification petition and promulgate a
18 decertification date.

19 3. The driver coordinator shall have 14 days from the decertification date to
20 transmit the list of qualifying drivers to the petitioners and the EDR.

21 4. Within 120 days of receiving the driver contact information, petitioners for a
22 decertification will submit to the Director statements of interest from a majority of qualifying
23 drivers from the list described in subsection 6.310.735.K.3. The statements of interest shall be

1 signed and dated and shall clearly indicate that the driver no longer wants to be represented by
2 the EDR for the purpose of collective bargaining with the driver coordinator. The Director shall
3 determine by rule the standards and procedures for submitting and verifying the statements of
4 interest of qualifying drivers.

5 5. Within 30 days of receiving such statements of interest, the Director shall
6 determine if they are sufficient to decertify the EDR for that particular driver coordinator. The
7 Director shall either decertify the EDR, or declare that the decertification petition did not meet
8 the majority threshold and reaffirm that the EDR shall continue representing all drivers for that
9 particular driver coordinator.

10 a. If an EDR is decertified for a particular driver coordinator, the process
11 of selecting a new EDR may start according to the process outlined in subsection 6.310.735.G.

12 M. Enforcement

13 1. Powers and duties of Director

14 a. The Director is authorized to enforce and administer this section
15 6.310.735. The Director shall exercise all responsibilities under this section 6.310.735 pursuant
16 to rules and regulations developed under Chapter 3.02. The Director is authorized to promulgate,
17 revise, or rescind rules and regulations deemed necessary, appropriate, or convenient to
18 administer the provisions of this section 6.310.735, providing affected entities with due process
19 of law and in conformity with the intent and purpose of this section 6.310.735.

20 b. The Director shall investigate alleged violations of subsections
21 6.310.735.D and 6.310.735.H.1, and if the Director determines that a violation has occurred, the
22 Director shall issue a written notice of the violation. The Director may investigate alleged

1 violations of other subsections of this section 6.310.735, and if the Director determines that a
2 violation has occurred, the Director shall issue a written notice of the violation. The notice shall:

3 1) Require the person or entity in violation to comply with the
4 requirement;

5 2) Include notice that the person or entity in violation is entitled to
6 a hearing before the Hearing Examiner to respond to the notice and introduce any evidence to
7 refute or mitigate the violation, in accordance with Chapter 3.02; and

8 3) Inform the person or entity in violation that a daily penalty of up
9 to \$10,000 for every day the violator fails to cure the violation will accrue if the violation is
10 uncontested or found committed.

11 c. The person or entity named on the notice of violation must file with the
12 Hearing Examiner's Office the request for a hearing within ten calendar days after the date of the
13 notice of violation. The Hearing Examiner may affirm, modify, or reverse the Director's notice
14 of violation.

15 d. If the person or entity named on the notice of violation fails to timely
16 request a hearing, the notice of violation shall be final and the daily penalty of up to \$10,000 will
17 accrue until the violation is cured.

18 e. Nothing in this section 6.310.735 shall be construed as creating liability
19 or imposing liability on the City for any non-compliance with this section 6.310.735.

20 2. Judicial review. After receipt of the decision of the Hearing Examiner, an
21 aggrieved party may pursue all available judicial remedies.

22 3. Private right of action. Subsections 6.310.735.D, 6.310.735.E, 6.310.735.H,
23 and 6.310.735.K may be enforced through a private right of action. Any aggrieved party,

1 including but not limited to an EDR, may bring an action in court, and shall be entitled to all
2 remedies available at law or in equity appropriate to remedy any violation of this section

3 6.310.735. A plaintiff who prevails in any action against a private party to enforce this section
4 6.310.735 may be awarded reasonable attorney's fees and costs.

5 4. Contractual remedies. Nothing in this section shall be construed as preventing
6 the parties to an agreement approved by the Director from pursuing otherwise available remedies
7 for violation of such agreement.

8 Section 4. The provisions of this ordinance are declared to be separate and severable. The
9 invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance,
10 or the invalidity of its application to any person or circumstance, does not affect the validity of
11 the remainder of this ordinance, or the validity of its application to other persons or
12 circumstances.

13 Section 5. Sections 2 and 3 of this ordinance shall take effect and be in force 150 days
14 after the effective date of the ordinance introduced as Council Bill 118499.

15 Section 6. No provision of this ordinance shall be construed as a providing any
16 determination regarding the legal status of taxicab, transportation network company, and for-hire
17 vehicle drivers as employees or independent contractors. The provisions of this ordinance do not
18 apply to drivers who are employees under 29 U.S.C. § 152(3).

19 Section 7. Should a court of competent jurisdiction, all appeals having been exhausted or
20 all appeal periods having run, determine that any provision of this ordinance is preempted by
21 federal law, any and all such provisions shall be deemed null and void.
22

