

1 [Revenue Control Equipment requirements for Parking Garages and Lots.]

2

3 **Ordinance adding Article 22 to the Business and Tax Regulations Code, amending**
4 **Article 9 of the Business and Tax Regulations Code, and repealing Article 49 of the**
5 **Police Code, to establish revenue control equipment functionality and business**
6 **practices requirements for purposes of Parking Tax collection and consumer**
7 **protection, to establish penalties for violation, to require that parking garage and lot**
8 **operators certify concurrent with payment of Parking Taxes their use of revenue**
9 **control equipment that meets those requirements, and establishing a limited Parking**
10 **Tax amnesty program.**

11 Note: Additions are single-underline italics Times New Roman;
12 deletions are ~~strikethrough italics Times New Roman~~.
13 Board amendment additions are double underlined.
14 Board amendment deletions are ~~strikethrough normal~~.

14 Be it ordained by the People of the City and County of San Francisco:

15 **Section 1.** The San Francisco Business and Tax Regulations Code is hereby
16 amended by adding Article 22, sections 2201 to 2238, as follows:

17 SEC. 2201. DEFINITIONS.

18 (a) Existing Defined Terms. The terms "Operator," "Occupant," "Occupancy," "Parking
19 Station," "Motor Vehicle," and "Rent" shall have the meaning set out in Article 9, Section 601 of this
20 Code.

21 (b) Additional Defined Terms.

22 (1) "Affiliate," when used in relation to any Person means another Person who owns or
23 Controls, is owned or Controlled by, or is under common ownership or Control with, such Person.

24

25

1 (2) "Attendant Parking" means the service of parking an occupant's vehicle provided by
2 the Operator of an Attended Parking Station at the Attended Parking Station or in a Parking Station
3 connected with the Operator's Attended Parking Station.

4 (3) "Attended Parking Station" means a Parking Station in which the Operator utilizes
5 an attendant or cashier or other employee to issue Parking Tickets and/or collect Rent and/or
6 otherwise assist Occupants.

7 (4) "Automatic Vehicle Counter" means a mechanical or electronic device, such as a
8 hose counter, electric eye, arming and/or triggering loop, or other automated counting device that
9 records the passage of a vehicle.

10 (5) "Cancelled Transaction" means a Transaction that the Operator cancels prior to
11 payment because of an RCE malfunction.

12 (6) "City Garage" means a Parking Station owned by the City and County of San
13 Francisco or by the Parking Authority for the City and County of San Francisco.

14 (7) "Collected Tickets" means the number of Parking Tickets returned to the Operator
15 by Occupants for payment of Rent.

16 (8) "Control" means the power to control the affairs and key decisions of another
17 person or corporation, in whatever manner exercised, whether directly or indirectly.

18 (9) "Discount Parking" means parking provided for reduced Rent to members of a class
19 of Occupants, including but not limited to early morning entry Occupants ("early-bird"), scooter or
20 motorcycle Occupants, carpool Occupants, and persons with a merchant validation.

21 (10) "Discount Parking Ticket" means a Parking Ticket issued for Discount Parking.

22 (11) "Enforcing Agency" means the Tax Collector for the City and County of San
23 Francisco.

- 1 (12) "Flat Rate Parking" means parking provided for preset Rent for a prescribed or
2 limited time Occupancy Period at a Parking Station that is not a Public Event Parking Station.
- 3 (13) "Inventory" means the number of motor vehicles present in a Parking Station at
4 a given time.
- 5 (14) "Issued Tickets" means the total number of Parking Tickets issued to Occupants,
6 including Voided Tickets, and Parking Tickets otherwise used or consumed in the operation of the
7 Parking Facility for a given period.
- 8 (15) "Journal Tape" means a printed record of every Transaction , in consecutive
9 order, that is generated by RCE not capable of producing an electronic Log File (e.g., a cash register
10 or fee computer tape).
- 11 (16) "Log File" means an electronic read-only record generated by the RCE that is a
12 consecutive record by date and time of every Transaction and the actions of the RCE and ancillary
13 RCE devices.
- 14 (17) "Lost Ticket" means a Parking Ticket that has been issued to and misplaced by
15 an Occupant, which has not been returned to the Operator with payment of Rent.
- 16 (18) "Monthly Occupant" means an Occupant who pays a flat fee for Occupancy on a
17 monthly basis.
- 18 (19) "Monthly Parking" means parking for which Rent is charged to the Occupant as
19 a fixed monthly fee.
- 20 (20) "NIST Book 44" means the National Institute of Standards and Technology, Book
21 44, as adopted by the State of California pursuant to California Code of Regulations Section 4400 et
22 seq.
- 23 (21) "Occupancy Period" means the time elapsed between the entry and the exit of
24 an Occupant's Motor Vehicle from a Parking Station for which the Operator charges Rent.
25

1 (22) "Parking Meter" means a mechanical or electronic device, owned or operated by
2 the City and County of San Francisco, for the purpose of measuring the time a vehicle is permissibly
3 parked in a Parking Space. For purposes of this Article, a Parking Meter is not RCE.

4 (23) "Parking Space" means a marked area or space designated for and only large
5 enough for the parking of a single Motor Vehicle.

6 (24) "Parking Tax" means the tax and surcharge imposed on Rent charged for
7 Occupancy in a Parking Station imposed by Article 9 of the San Francisco Business and Tax
8 Regulations Code.

9 (25) "Parking Ticket" means the record provided by the Operator to the Occupant
10 setting forth the time and date that the Occupant's vehicle entered the Parking Station that is used by
11 the Operator to determine the Rent charged to the Occupant.

12 (26) "Pay and Display Parking Station" means an Unattended Parking Station in
13 which Occupants utilize a Pay Station to prepay Rent for a specified Occupancy Period, receive a
14 Receipt or Parking Ticket that the Occupant displays in his or her vehicle as proof of payment.

15 (27) "Pay Station" means a mechanical or electronic device that accepts payment or
16 prepayment of Rent from an Occupant and is capable of issuing a Parking Ticket, release ticket or
17 Receipt.

18 (28) "Periodic Report" means a report prepared daily, weekly, monthly, or quarterly
19 by the Operator showing, at a minimum, , the total Rent collected for that period, the identification
20 numbers of the Parking Tickets used during that period, and the number of vehicles that parked in the
21 Parking Station during that period.

22 (29) "Person" means any individual, group, company, partnership, association, joint
23 stock company, trust, corporation, society, syndicate, club, business, or governmental entity. "Person"
24 shall not include the City or any of its departments or agencies.

1 (30) "Public Event Parking Station" means a Parking Station with more than five
2 Parking Spaces, the Occupants of which are principally attendees of public events, such as a
3 performing arts or sporting events, that occur fewer than 100 days in any calendar year and for which
4 an Occupant prepays a flat-rate Rent for a fixed Occupancy Period.

5 (31) "RCE" means Revenue Control Equipment.

6 (32) "RCE Records" means the documents and reports generated by Revenue Control
7 Equipment, including but not limited to Log Files or Journal Tapes. Books of account, accounting
8 records, and other financial records provided by an Operator to the City in the course of a audit to
9 confirm the data in Log Files or Journal Tapes shall also be considered RCE records.

10 (33) "Receipt" means the record issued by an Operator to an Occupant of the Rent
11 paid by or on behalf of the Occupant.

12 (34) "Release Ticket" means the ticket issued by an Operator in exchange for
13 payment of Rent that allows the Occupant to exit the Parking Station.

14 (35) "Revenue Control Equipment" means an automated mechanical or electronic
15 device or devices that meet(s) the requirements of this Article. For purposes of this Article, a Parking
16 Meter is not RCE.

17 (36) "Service Agent" means a person or other entity engaged in the business of
18 installing, maintaining, or repairing RCE.

19 (37) "Substitute Ticket" means a Parking Ticket that an Operator processes as a
20 replacement for a Lost Ticket.

21 (38) "Transaction" means the calculation and payment of Rent for Occupancy.

22 (39) "Transient Parking" means parking for which Rent is charged to the Occupant
23 by the hour or the fraction of the hour.

1 (40) "Unaccounted Ticket" means a ticket that is issued to an Occupant and is not
2 returned to the Operator. A Lost Ticket is an Unaccounted Ticket.

3 (41) "Unaccounted Ticket Ratio" means the ratio of Unaccounted Tickets to Issued
4 Tickets for a given period, expressed as a percentage of Issued Tickets.

5 (42) "Unattended Parking Station" means a Parking Station in which the Operator
6 does not use an attendant or cashier or other employee to issue Parking Tickets, collect Rent, and/or
7 otherwise assist Occupants.

8 (43) "Valet" means a person or a service company subject to the requirements of
9 Article 12 of the San Francisco Police Code as a Fixed Location Valet or a Special Event Valet.

10 (44) "Valet Lot" means a Parking Station, including a garage, lot or other off-street
11 space or facility, used by a Valet for the parking or storage of Motor Vehicles in exchange for which
12 the Valet receives compensation or other consideration.

13 (45) "Voided Ticket" means a Parking Ticket that is not issued to an Occupant, but
14 that is used in the course of the Operator's testing, repair or maintenance of the RCE .

15 SEC. 2202. EXEMPTED PARKING STATIONS.

16 The requirements of this Article shall not apply to any Parking Station:

17 (a) That does not charge Rent at any time;

18 (b) That is a Parking Station operated by the City and County of San Francisco and uses
19 Parking Meters;

20 (c) In which all Rent paid for Occupancy is paid by a resident or a registered guest of a
21 hotel or motel by adding the Rent to the room bill or charge to the resident or registered guest, as long
22 as the charges for the hotel room and the charges for parking are subject to the Transient Hotel
23 Occupancy Tax set out in Article 7 of the San Francisco Business and Tax Regulations Code.

1 (d) That is located in a residential building or development that provides Monthly Parking
2 as a convenience or additional amenity to its residents. This exemption shall apply only to Rent paid by
3 persons who are residents of the building or development in which the Parking Station is located, and
4 where parking is provided as a convenience or additional amenity to such residents.

5 SEC. 2203. RCE REQUIREMENTS FOR ALL PARKING STATIONS.

6 (a) Unless specifically exempted in this Article, a Parking Station must utilize functioning
7 RCE that meets the requirements of this Article whenever the Operator charges Rent for Occupancy.

8 (b) RCE must record all Transactions either to a Log File or to a Journal Tape, as required
9 by this Article.

10 (c) An Operator shall utilize RCE meeting the requirements of this Article to track and
11 account for Transactions and to record and account for Rent received and Parking Taxes to be
12 collected and remitted to the Tax Collector.

13 (d) Neither an Operator nor any of its Affiliates, agents or employees shall have more than
14 a five percent ownership interest or other monetary, equitable, or secured interest in the manufacturer
15 of, vendor of or Service Agent for the RCE used in any Parking Station controlled by said Operator.

16 (e) In any case in which the Operator has an ownership interest of any kind or any amount
17 in the vendor or Service Agent for the RCE used in any Parking Facility under the control of the
18 Operator, the Operator shall not have access to the source code or access to any part of the RCE
19 software, hardware, data storage devices, or other RCE equipment that would allow the Operator to
20 modify or delete RCE Records or other data that is generated or stored in the RCE, including but not
21 limited to Rents charged, monies for Rent collected, Occupancy Periods, and Parking Taxes collected
22 or owed.

23 (f) All RCE that contains a time clock or recorder must meet or exceed the specifications,
24 tolerances, performance and testing standards for time clocks and time recorders set out in the NIST
25

1 Book 44, Section 5.55, and as it may be amended. Time clocks, time recorders and other timing devices
2 incorporated or used in RCE must be electronic and must not be capable of recalibration or other
3 adjustment other than setting the current time and date.

4 SEC. 2204. REQUIREMENTS FOR SMALL ATTENDED PARKING STATIONS.

5 (a) The Operator of an Attended Parking Station may apply to the Enforcing Agency for
6 exemption from the requirements of sections 2203 and 2205 of this Article, provided that the Operator
7 demonstrates to the satisfaction of the Enforcing Agency that the gross annual revenues of the Parking
8 Station from Rent do not exceed \$25,000.

9 (b) If the Enforcing Agency grants the Operator an exemption from the requirements of
10 sections 2203 and 2205 of this Article, the Operator shall:

11 (1) Provide to each Occupant a Parking Ticket that has preprinted on it a unique,
12 sequential identification number. The Parking Ticket shall either have a stub or a split portion that the
13 Operator shall place on the windshield of the Occupant's vehicle. The Operator shall not use a
14 Parking Ticket more than once.

15 (2) Write the Occupant's vehicle license plate number on the Parking Ticket in ink.

16 (3) Stamp the Parking Ticket with the time the Occupant entered the Parking Station
17 and the time the Occupant exited the Parking Station, using a mechanical or electronic time-stamp or
18 punch clock device.

19 (4) Upon an Occupant's payment of Rent, provide to the Occupant a hand-written or
20 machine generated Receipt stating the date and time of the Occupant's Motor Vehicle's entry to and
21 time of exit from the Parking Station, the Rent charged, the name of the attendant, and the name and
22 address of the Parking Station.

23 (5) Create a Periodic Report for each day that the Parking Station provides parking
24 in exchange for Rent.

1 (6) The Operator shall retain all Periodic Reports created pursuant to this section
2 2204 and all issued Parking Tickets for not less than five years after their creation.

3 (c) The Operator shall comply with all provisions of this Article, except as to those
4 exemptions to the requirements of Sections 2203 and 2205 granted by the Enforcing Agency.

5 SEC. 2205. REQUIREMENTS FOR ATTENDED PARKING STATIONS. Except as specifically
6 exempted or otherwise required by this Article, an Operator of an Attended Parking Station that
7 charges Rent for Occupancy by the hour or the fraction of an hour shall utilize RCE that incorporates
8 the functions set out in this Section.

9 (a) The Operator must provide a receipt issued by the RCE to the Occupant at the time the
10 Occupant's Motor Vehicle enters the Parking Station. The Parking Ticket must state the time and date
11 of entry, and the name and address of the Parking Station. Each Parking Ticket issued by the Operator
12 must contain a preprinted, unique, sequential identification number that is not printed by the RCE.

13 (b) The RCE must record the following information to a Journal Tape or Log File in the
14 sequential order in which the events occur:

15 (1) Time and date of a Motor Vehicle's entry to a Parking Station;

16 (2) Time and date of a Motor Vehicle's exit from a Parking Station;

17 (3) Amount of Rent charged;

18 (4) Value of any discounts to Rent provided;

19 (5) Amount of Parking Tax collected;

20 (6) Identity or identification number of the Operator's employee who processed the
21 Transaction.

22 (c) Each Transaction must be identified in the Log File or Journal Tape by a nonresettable,
23 sequential identification number assigned by the RCE.

1 (d) RCE must be capable of providing a legible Receipt to an Occupant at the time that the
2 Occupant pays Rent. Pay Stations and cashiers must offer the Occupant a Receipt at the time that the
3 Occupant pays Rent. A Receipt must contain the following information:

4 (1) Time and date of the entry of the Occupant's Motor Vehicle to the Parking
5 Station;

6 (2) Time and date of the exit of the Occupant's Motor Vehicle from the Parking
7 Station;

8 (3) Total amount Operator charged Occupant, including Rent and Parking Tax;

9 (4) Parking Station address;

10 (5) Business telephone and address of Operator or Operator's agent responsible for
11 addressing consumer complaints.

12 (e) Data that is entered to or maintained in a Log File or a Journal Tape must only be
13 accessible to the Operator only in a read-only format, so that the Operator, the Operator's employees,
14 and Service Agents cannot delete or alter any of the recorded data. The RCE vendor must disable any
15 RCE data functions that would allow an Operator or its agents or its employees to delete or modify
16 data entered into the RCE.

17 (f) The Operator shall not alter or attempt to alter the data in a Log File or a Journal Tape.

18 (g) Every day that the Parking Station is open for business, all information and data
19 received or generated by the RCE that is recorded to a Log File for that day must be replicated or
20 backed-up to a data tape, disk or hard drive or digital data storage medium in a readily accessible
21 read-only format, and said information and data must be maintained in San Francisco by the Operator
22 in that format for not less than five years from the date of its creation.

1 (h) Each day that the Parking Station is open for business, all information and data
2 received or generated by RCE that is recorded to a Journal Tape for that day must be printed out and
3 maintained in San Francisco by the Operator for not less than five years from the date of its creation.

4 (i) Where the Operator utilizes RCE that includes a computer, a network server, or an
5 Internet based software or database program, all employees and agents of an Operator, including but
6 not limited to cashiers, attendants, bookkeepers, supervisors and managers, and RCE maintenance
7 personnel, must be individually identified by the RCE, and each Transaction and data entry, including
8 all payments received, Voided Tickets or Cancelled Transactions, and Discount Parking Rent charged,
9 must be attributed to such individual in the Log File. The RCE must also record whenever the RCE
10 software program is altered and by whom.

11 SEC. 2206. REQUIREMENTS FOR FLAT RATE PARKING STATIONS.

12 The Operator of a Parking Station that provides Flat Rate Parking and does not provide Public
13 Event Parking is not required to comply with Sections 2205(b)(1), 2205(b) (2), 2205(d) (1), 2205(d)
14 (2), and 2205(i), but shall comply with all other provisions of Section 2205.

15 SEC. 2207. REQUIREMENTS FOR MONTHLY-ONLY PARKING STATIONS.

16 (a) The Operator of a Parking Station that only provides parking to Monthly Occupants and
17 never provides any other type of mode of parking is not required to utilize RCE, but shall maintain
18 records of the names and billing addresses of Occupants and the amount of Rent charged, the value of
19 any discounts provided, and the amount of Parking Tax collected from each Occupant. The Operator
20 shall maintain said records in San Francisco for not less than five years from the date of their creation.

21 (b) The Operator must provide each Monthly Occupant with a decal or hangtag or other
22 means of identifying the Occupant's authorization to park in the Parking Station, and the Operator
23 must require that each Occupant utilize the decal or hangtag provided.

1 SEC. 2208. REQUIREMENTS FOR UNATTENDED PARKING STATIONS

2 (a) An Operator of a Pay and Display Parking Station must have RCE located within the
3 Parking Station for the prepayment of Rent. The RCE must upon the payment of Rent issue a Parking
4 Ticket or Receipt to the Occupant that states the time and date issued, the amount of Rent prepaid, and
5 the Occupancy Period. The Parking Ticket or Receipt must contain a statement instructing the
6 Occupant to display it on the dashboard of his or her vehicle, and must warn the Occupant that his or
7 her vehicle may be towed for failing to display the Parking Ticket or Receipt as required. The
8 Operator shall post a clear and conspicuous sign at every location where the Occupant pays Rent, of at
9 least 10 inches by 15 inches, in type at least one inch high and 3/4 inches wide, repeating the aforesaid
10 display instructions and tow warning. Where an Operator has met the requirements of this section, and
11 the Occupant fails to display the Parking Ticket as directed by the Operator, the Operator may in its
12 discretion tow the vehicle in accordance with California Vehicle Code section 22658, 22952, 55953 or
13 other applicable law or charge additional Rent. Such additional rent must be clearly stated in the rate
14 posting signage required by Section 2220(b) of this Article.

15 (b) An Unattended Parking Station that is not a Pay and Display Parking Station must have
16 individually numbered and clearly marked Parking Spaces. The RCE must upon the payment of Rent
17 issue a Parking Ticket or Receipt to the Occupant that states the time and date issued, the amount of
18 Rent prepaid, and the Occupancy Period. The RCE must be able to record the identification number
19 of the Parking Space occupied by the Occupant's vehicle to track period of Occupancy.

20 (c) The Enforcing Agency may issue such rules and regulations as are required to provide
21 for the remote payment of Rent at Unattended Parking Stations through the use of telephones, cellular
22 telephones, smart cards, debit cards or other electronic devices, consistent with the purposes and
23 provisions of this Article.

1 (d) An Operator of an Unattended Parking Station shall not tow or charge additional Rent
2 to any vehicle that entered the Unattended Parking Station while the RCE was not fully operational and
3 for a period of eight hours after the RCE is restored to full function.

4 SEC. 2209. EQUIPMENT REQUIREMENTS FOR PUBLIC EVENT PARKING STATIONS.

5 (a) An Operator of a Public Event Parking Station shall at each vehicle entrance to the
6 Parking Station utilize an Automatic Vehicle Counter to record every vehicle entering the Parking
7 Station for purposes of parking.

8 (b) Automatic Vehicle Counters shall display the total number of vehicles that entered the
9 Parking Station utilizing a non-resettable mechanical or electronic counter.

10 (c) An Operator of a Public Event Parking Station shall provide a Parking Ticket to each
11 Occupant upon entry to the Parking Station, and the Operator shall instruct the Occupant to place the
12 Parking Ticket on the dashboard of the vehicle or other conspicuous place in the vehicle. Every
13 Parking Ticket must display a unique, preprinted sequential identification number, the date of the
14 event, and the address of the Parking Station.

15 (d) Automatic Vehicle Counters used in a Public Event Parking Station must be capable of
16 issuing a Journal Tape or log report or other record of the number of vehicles that entered the Parking
17 Station at the point where the Automatic Vehicle Counter was located. The Automatic Vehicle Counter
18 must state on the report the date of the activities reported and the time period in which it was in
19 operation.

20 (e) The Operator of a Public Event Parking Station must reconcile the number of vehicles
21 registered by Automatic Vehicle Counters with the number of Parking Tickets issued to Occupants for
22 every day that the Parking Station provides public event parking. An Operator must document and
23 explain in writing any discrepancies or differences between the total number of Parking Tickets used
24 and the number of vehicles counted by the Automatic Vehicle Counters.

1 (f) The Operator of a Public Event Parking Station must retain the documentation of the
2 number of Parking Tickets used and any written explanation of the difference between the number of
3 Parking Tickets used and the number of vehicles counted by its Automatic Vehicle Counters for not less
4 than five years from the date of the public event.

5 (g) Notwithstanding the requirements of Section 2212 of this Article, a Public Event Parking
6 Station is not required to accept electronic payment of Rent.

7 SEC. 2210. EQUIPMENT REQUIREMENTS FOR VALET PARKING STATIONS.

8 An Operator of a Valet Parking Station that charges Rent at a flat rate and does not charge
9 Rent to any Occupant by the hour or the fraction of an hour is not required to comply with Section
10 2205(b)(1), 2205(b)(2), 2205(d)(1), 2205(d)(2), and 2205(i), but shall comply with all other provisions
11 of Section 2205. An Operator that provides valet services and charges Rent for Occupancy by the hour
12 or the fraction of the hour is subject to all provisions of Section 2205. The requirements of this Article
13 as to Valets are in addition to and do not alter the requirements set out in Section 835 of this Code or
14 other applicable ordinances. An Operator that provides Attendant Parking is not subject to the
15 exemptions of this section.

16 SEC. 2211. MULTIPLE OPERATIONS PARKING STATIONS.

17 The Operator shall comply with all applicable provisions of this Article at all times. In
18 particular, Operator shall meet the specific requirements of this Article applicable to different Parking
19 Station operation modes, such as Attended Lot Parking Station, Unattended Parking Station, Flat Rate
20 Parking Station, and Public Event Parking Station, during any time that such Parking Station is being
21 operated in such mode.

22 SEC. 2212. NEW PARKING TECHNOLOGY.

23 The Enforcing Agency, by exercise of its rulemaking authority under this Article, may issue
24
25

1 rules, determinations and interpretations consistent with the purposes of this Article as may be
2 necessary and appropriate to apply or enforce this Article relating to new or emerging technologies
3 applicable to RCE.

4 SEC. 2213. ELECTRONIC PAYMENT.

5 Unless specifically exempted in this Article, an Operator must accept electronic payment of
6 Rent through a credit card, bank debit card, smartcard, or other means of electronic money transfer
7 widely used by or generally available to the public.

8 SEC. 2214. MAINTENANCE AND REPAIR OF REVENUE CONTROL EQUIPMENT.

9 An Operator may maintain and repair its RCE itself or use Service Agents. An Operator's
10 utilization or reliance upon Service Agents shall not relieve the Operator of its ultimate responsibility
11 for ensuring that RCE is installed in the Parking Station, is functioning correctly, and that said RCE
12 complies with the requirements of this Article during all times that the Parking Station provides
13 parking in exchange for Rent.

14 SEC. 2215. MANUAL REVENUE CONTROL PROCEDURES REQUIRED WHEN REVENUE
15 CONTROL EQUIPMENT IS NOT OPERATIONAL.

16 (a) During any time that RCE is not functioning, the Operator may continue to operate the
17 Parking Station subject to the following conditions:

18 (1) The Operator and/or the Operator's agent shall not tow any vehicle that entered
19 the Parking Station during the time that the RCE is unable to issue legible Parking Tickets or legible
20 Receipts and for eight hours after the RCE is restored to full function;

21 (2) The Operator shall manually record in ink on preprinted sequentially numbered
22 tickets the following information:

23 (A) Time and date of the entry of the Occupant's Motor Vehicle to the
24 Parking Station;

25

1 (B) Time and date of the exit of the Occupant's Motor Vehicle from the
2 Parking Station;

3 (C) Total amount Operator charged Occupant, including Rent and Parking
4 Tax;

5 (D) Parking Station address;

6 (E) Business telephone and address of Operator or Operator's agent
7 responsible for addressing consumer complaints.

8 (3) The Operator shall maintain a log written in ink recording the dates and times
9 and reasons that it utilized manual revenue control procedures. The Operator shall maintain said log
10 and all manually issued Parking Tickets for not less than five years after their creation.

11 (4) The Operator shall issue to every Occupant an individually and sequentially
12 numbered Receipt stating the date, the Occupancy Period, and the amount charged, including Rent and
13 Parking Tax.

14 (b) The Operator shall use good faith efforts to maintain and repair the RCE so that it
15 operates in conformance with the requirements of this Article. If malfunctioning RCE is not restored to
16 full function within 72 hours of the time that it ceased to operate in conformance with this Article
17 (excluding Sundays and holidays if the Operator uses a service repair company), the Enforcing Agency
18 may determine that the Operator has not made a good faith effort to maintain or repair the RCE and is
19 in willful violation of this Article. A determination that the Operator has not attempted in good faith to
20 maintain RCE or repair malfunctioning RCE may be rebutted by the Operator's presentation of proof,
21 that the Enforcing Agency in its sole and absolute discretion deems to be credible, to establish the
22 Operator's good faith efforts to maintain or repair the RCE.

23
24
25

1 SEC. 2216. INSPECTIONS OF PARKING STATIONS.

2 The Enforcing Agency shall conduct periodic inspections of Parking Stations to ensure that
3 Parking Stations have operational RCE that meet the requirements of this Article.

4 SEC. 2217. SURVEY OF PARKING STATIONS.

5 In order to gather information necessary to enforce this Article, the Enforcing Agency shall
6 conduct a survey of all Parking Stations and Operators doing business in the City.

7 SEC. 2218. REQUIRED BUSINESS PRACTICES FOR ALL PARKING STATIONS.

8 (a) Auditable Record. An Operator shall implement and utilize appropriate business
9 practices that, in conjunction with RCE, create an auditable record of the following information for
10 each Occupant:

11 (1) Rent charged and paid;

12 (2) Rent discount, if given;

13 (3) Occupancy Period (or entry and exit times) for Rent charged;

14 (4) Parking Tax collected.

15 (b) Maintenance of Parking Tickets. An Operator must keep in San Francisco each issued
16 or cancelled Parking Ticket for not less than five years from the date the Parking Ticket was issued.
17 Parking Tickets must be provided to any City auditor or other auditor authorized by the Enforcing
18 Agency immediately upon request.

19 (c) Maintenance of Log Files. An Operator shall keep in San Francisco each Log File in an
20 accessible read-only electronic storage format, for not less than five years from the date of the earliest
21 Transaction recorded in said Log File. An Operator must also maintain a printout of all Log Files for
22 not less than five years. Upon request, the Operator shall immediately provide to any City auditor or
23 other auditor authorized by the Enforcing Agency, the Log File in an electronic format readable by the
24 City.

1 (d) Maintenance of Journal Tapes. An Operator shall keep in San Francisco each Journal
2 Tape for not less than five years from the date of the earliest Transaction recorded in said Journal
3 Tape. The Journal Tape must be provided to any City auditor or other auditor authorized by the
4 Enforcing Agency immediately upon request.

5 (e) Improper Use of Discount Parking. An Operator that provides Discount Parking or
6 Flat Rate Parking must establish business practices and control measures to prevent its employees and
7 managers from using a discount Parking Ticket to avoid reporting the full amount of Rent collected or
8 to avoid remitting the correct amount of Parking Tax due.

9 (f) Reconciliation of Records. No less than monthly, for every day that the Parking Station
10 provides parking to the public in exchange for Rent, an Operator shall reconcile the number of Parking
11 Tickets issued with the number of vehicles that the RCE recorded as having entered the Parking
12 Station, and shall create a Periodic Report setting out that information.

13 (g) Training in Use of RCE. An Operator shall train its employees and managers in the
14 required uses of RCE, including but not limited to: recording Transactions; maintaining Parking
15 Tickets, Log Files, and Journal Tapes; and, reconciling the count and identification numbers of
16 Parking Tickets used with the number of vehicles that parked in the Parking Station and the amount of
17 Rent received in any given period.

18 SEC. 2219. Reserved.

19 SEC. 2220. CONSUMER PROTECTION.

20 (a) Public Complaints. The Enforcing Agency shall receive complaints from members of the
21 public as to an Operator's failure to comply with the provisions of this Article. Where the Enforcing
22 Agency determines that an Operator may have violated the terms of this Article, in addition to any
23 other action that the Enforcing Agency may take pursuant to this ordinance, the Enforcing Agency will
24 notify the District Attorney so that it may pursue its own investigation and take appropriate action.

1 Whenever a written or oral complaint is made to the Enforcing Agency that there has been a violation
2 of this Article, the Enforcing Agency shall refer the complaint to the District Attorney's Office and may
3 also investigate the complaint or allegation itself or refer the matter to the City Attorney.

4 (b) Rates Posted. The Operator shall post the rates for Rent in effect at the time the
5 Occupant enters the Parking Station at the entrance to the Parking Station, and at every place where
6 the Occupant pays Rent, including cashiers booths and Pay Stations. An Operator shall not charge an
7 Occupant more than the Rent posted for the Occupant's actual Occupancy Period. Rent rates shall be
8 posted no further than eight feet from every entrance of the Parking Station, in a manner and in a
9 typeface that can be easily read from a distance of four feet.

10 (c) Notice to Occupants of Receipt Requirement. In addition to the signage requirements of
11 California Vehicle Code section 22658 and other applicable sections of that Code, the Operator shall
12 post a clear and conspicuous sign at every vehicle entrance to the Parking Station and at every location
13 where Occupants pay Rent that informs Parkers of the Operator's obligation to provide a receipt when
14 requested and providing phone numbers to contact the Parking Facility's manager and the Enforcing
15 Agency. The Enforcing Agency shall through appropriate rules determine the specific language and
16 size of said signs.

17 SEC. 2221. Reserved.

18 SEC. 2222. Reserved.

19 SEC. 2223. VIOLATION.

20 (a) Any of the following shall be considered a violation of this Article:

21 (1) Failure of an Operator to provide to an Occupant a Receipt as required in this
22 Article. Each time an Operator fails to provide a Receipt shall be considered a separate violation.

23 (2) Operating a Parking Station without utilizing RCE or business practices and
24 procedures required by this Article.

1 (3) Failure of an Operator to cooperate with any City agency as required by this
2 Article.

3 (4) Failure of an Operator to maintain RCE Records as required by this Article.

4 (5) Failure of an Operator to report accurately in monthly or quarterly Parking Tax
5 statements required under this Article and the Business and Tax Regulations Code the dates and times
6 that it did not utilize RCE as required by this Article.

7 (6) Failure of an Operator to use good faith efforts to repair non-functioning RCE.

8 (7) Failure of an Operator to certify its conformance with the provisions of this
9 Article concurrent with payment or remittance of Parking Taxes, as required by this Article and
10 Business and Tax Regulations Code Section 6.7-2.

11 (b) Except as provided in Section 2223(a)(1) , each day that an Operator does not comply
12 with the provisions of this Article shall be considered a separate violation.

13 (c) Intentionally tampering with RCE, including but not limited to altering or deleting data
14 gathered or maintained by RCE in order to defraud the City or to defraud Occupants shall constitute a
15 serious and willful violation of this Article.

16 (d) Substituting a Parking Ticket with a Discount Parking Ticket for the purposes of falsely
17 reporting or falsely recording the amount of Rent collected from an Occupant shall constitute a serious
18 and willful violation of this Article.

19 (e) An Operator's refusal to produce RCE Records timely when requested by the Enforcing
20 Agency or other authorized agencies as required under Sections 2223, 2230 and 2236 of this Article or
21 when requested under Section 6.4-1 and 6.5-1 of the Business and Tax Regulations Code shall
22 constitute a serious and willful violation of this Article.

23 (f) An Operator's commission of any of the acts described in Sections 2229(a), 2229(b), and
24 2229(c) constitutes a serious and willful violation of this Article.

1 (g) A serious and willful violation of this Article may constitute tax fraud for which the
2 Enforcing Agency may suspend or revoke the Operator's business registration certificate and
3 certificate of authority to collect third party parking taxes pursuant to Section 6.6-1(g) of the Business
4 and Tax Regulations Code.

5 SEC. 2224. ADMINISTRATIVE PENALTIES.

6 (a) Citations. An administrative penalty may be assessed by the Enforcing Agency for a
7 violation of the provisions of this Code, as specified in Section 2223 of this Code. The penalty may be
8 assessed by means of an administrative citation issued by a person authorized by the Enforcing Agency
9 to do so.

10 (b) Penalty Amounts.

11 (1) Violation of the following Sections of this Code are subject to a penalty of \$100:
12 2223(a) (1); 2223(a)(6).

13 (2) Violation of the following Sections of this Code are subject to a penalty of \$500:
14 2223(a) (2), 2223(a) (3), 2223(a) (4), 2223(a) (5), 2223(a) (7).

15 SEC. 2225. ENFORCEMENT.

16 (a) The Enforcing Agency, the District Attorney, the Police Department and the City
17 Controller or authorized representatives of those agencies shall have the authority to inspect Parking
18 Stations, RCE, RCE Records, and books of account to ensure that an Operator is in compliance with
19 this Article, that all required RCE is functioning as required by this Article, and that Rent and Parking
20 Taxes are accurately reported and collected.

21 (b) In enforcing the provisions of this Article, the Enforcing Agency shall utilize the
22 administrative notice, citation, hearing, appeal and judicial review procedures set out in Article 6 of
23 the Business and Tax Regulations Code. The Enforcing Agency's exercise of those procedures is not a
24 prerequisite for and does not preclude any other means of enforcement available to the City or the

25

1 District Attorney, including but not limited to criminal and civil legal action, which may be pursued
2 independently of administrative action.

3 (c) In enforcing the provisions of this Article, the Enforcing Agency may use all authority
4 granted to it by law, including but not limited to its authority to audit and inspect, investigate, attach
5 liens, revoke licenses, revoke certificates of registration, revoke certificates of authority, and seize and
6 sell property under the Business and Tax Regulations Code.

7 (d) The Enforcing Agency is authorized to promulgate regulations and issue rules,
8 interpretations, and determinations consistent with the purposes of this Article as may be necessary and
9 appropriate to implement or enforce the provisions of this Article.

10 (e) An Operator is strictly liable for the acts of its employees, managers, and agents that
11 violate any provision of this Article.

12 SEC. 2226. CIVIL PENALTIES.

13 (a) Civil Penalties and Enforcement. Violation of this Article shall be subject to a civil
14 penalty of up to \$5,000 per violation. In addition to the enforcement authority and powers granted to
15 the Tax Collector in the San Francisco Business and Tax Regulations Code, the City and County of San
16 Francisco may initiate a civil action against any person to compel compliance or to enjoin violations of
17 this Article.

18 (b) Recovery of Attorneys' Fees. If the City and County of San Francisco initiates a civil
19 action against any person to compel compliance or to enjoin violations of this Article, at the time the
20 action is filed, the City may elect to seek recovery of attorneys' fees and costs incurred in that
21 enforcement action. Where the City makes this election, the prevailing party shall be entitled to
22 recover attorneys' fees. In no event shall the award of attorneys' fees to a prevailing party exceed the
23 amount of reasonable attorneys' fees incurred by the City in the action.

24 SEC. 2227. Reserved.

1 SEC. 2228. Reserved.

2 SEC. 2229. CONSUMER ACTION AND RELIEF.

3 An Occupant may bring an action against an Operator and/or an Operator's employee or agent
4 who fails to provide a Receipt upon request or who charges the Occupant Rent based on an inaccurate
5 statement of duration of Occupancy and may recover from the Operator any or all of the following: (1)
6 an order enjoining the violation; (2) civil damages; (3) punitive damages, if the court determines that
7 the violation was willful; and (4) any other relief that the court deems proper. The court shall award
8 court costs and attorney's fees to a prevailing private plaintiff in litigation filed under this subsection.

9 SEC. 2230. CRIMINAL PENALTIES.

10 a. It shall be a misdemeanor to violate the requirements of Sections 2208 or 2220 of this
11 Article, or of Section 604(a) of this Code.

12 (b) Nothing in this Article shall preclude the District Attorney from prosecuting violations
13 of the provisions of this Article as a felony under applicable State law.

14 SEC. 2231. CUMULATIVE REMEDIES.

15 Unless otherwise expressly provided, the remedies, penalties and procedures provided under
16 this Article are cumulative and are not intended to be exclusive of any other available remedies,
17 penalties and procedures.

18 SEC. 2232. LIMITATION OF ACTIONS.

19 Unless otherwise provided by state law, any criminal, civil, or administrative action brought
20 under this Article shall be commenced not more than four years from the date of the Transaction,
21 except for fraud in which case Section 6.11-2 of the Business and Tax Regulations Code shall apply.

22 SEC. 2233. COOPERATION WITH CITY AGENCIES.

23 An Operator and its owners, managers, and employees must cooperate with the Enforcing
24 Agency or any other City agency having an interest in the operation of the Parking Station, including

25

1 but not limited to City auditors, the District Attorney's office, and any other City officials, employees or
2 agents assigned by ordinance, regulation or authorized by the Enforcing Agency to administer or
3 implement this Article, by providing immediate access to all RCE, RCE Records, Parking Tickets,
4 books and records of accounts, and other documentation regarding an Operator's receipt of Rent,
5 remittance of Parking Taxes, and compliance with this Article and the Business and Tax Regulations
6 Code.

7 SEC. 2234. CITY GARAGES

8 Nothing in this Article shall limit the authority of the City and County of San Francisco or the
9 Parking Authority of the City and County of San Francisco to administer and manage Parking Stations
10 under their respective jurisdiction or control or to establish revenue control requirements for those
11 Parking Stations that are more restrictive than the provisions of this Article.

12 SEC. 2235. Reserved.

13 SEC. 2236. Reserved.

14 SEC. 2237. EFFECTIVE AND OPERATIVE DATES.

15 This Article shall become effective 30 days after final adoption by the Board of Supervisors. So
16 that Operators may obtain RCE that conforms to the requirements of this Article and so that Operators
17 wishing to do so may apply for the Amnesty Program under section 608 of the Business and Tax
18 Regulations Code, the requirements of sections 2203, 2205, 2206, 2208, 2209, 2210, 2211, and 2213 of
19 this Article shall not become operative until the termination of the Amnesty Application Period set out
20 in section 608.8 of the Business and Tax Regulations Code. Operators that have RCE meeting the
21 requirements of this Article on the effective date of this Article shall continue to use RCE complying
22 with this Article during the Amnesty Application Period. Operators that do not have RCE that complies
23 with the requirements of sections 2203, 2205, 2206, 2208, 2209, 2210, 2211, and 2213 of this Article,
24
25

1 shall during the Amnesty Application Period conform to the requirements of Section 2204(b)(1-6) and
2 2204(c) of this Article.

3 SEC. 2238. SEVERABILITY.

4 If any part of this Article or the application thereof to any person or circumstances is held
5 invalid, then the remainder of this Article, including the application of such part or provision to other
6 persons or circumstances shall not be affected thereby and shall continue in full force and effect.

7 SEC. 2239. RESERVED.

8 SEC. 2240. RESERVED.

9 SEC. 2241. RESERVED.

10 SEC. 2242. RESERVED.

11 SEC. 2243. RESERVED.

12 SEC. 2244. RESERVED.

13 SEC. 2245. RESERVED.

14

15

16

17

18

19

20

21

22

23

24

25

1 **Section 2.** The San Francisco Business and Tax Regulations Code is hereby
2 amended by amending Section 604 as follows:

3 SEC. 604. COLLECTION OF TAX BY OPERATOR; RECEIPT TO OCCUPANT;
4 RULES FOR COLLECTION SCHEDULES.

5 a. Every Operator maintaining a place of business in this City and County as
6 provided in Section 603 herein, and Renting a parking space in a Parking Station in this City
7 and County to an Occupant who is not exempted under Section 606 of this Article or
8 elsewhere in this Code, shall at the time of collecting the Rent from the Occupant, collect the
9 Parking Tax from the Occupant and on demand shall give to the Occupant a Receipt that meets
10 the requirements of Article 22 of this Code. In all cases in which the Parking Tax is not collected
11 by the Operator, as aforesaid, the Operator shall be liable to the Tax Collector of the City and
12 County for the amount of Parking Tax due on the amount of taxable Rent collected from the
13 Occupant under the provisions of this Article the same as though the Parking Tax were paid by
14 the Occupant. In all cases of transactions upon credit or deferred payment, the remittance or
15 payment of Parking Tax to the Tax Collector may be deferred in accordance therewith, and the
16 Operator shall be liable therefore at the time and to the extent that such credits are paid or
17 deferred payments are made in accordance with the rate of tax owing on the amount thereof.

18 b. Unless the Operator can provide an explanation or other sufficient proof that the
19 Enforcing Agency in its sole discretion deems to be credible to establish the validity of a claim for a
20 Lost Ticket or an otherwise Unaccounted Ticket (as those terms are defined in Section 2201 of this
21 Code), every Lost Ticket and Unaccounted Ticket shall be considered as a full value Parking Ticket for
22 which the Operator is liable for transmitting to the City the full value of the Parking Tax and surcharge
23 required under this Code applicable to a full day's Rent for a single Parking Space Occupancy without
24 discount, except that an Operator shall be allowed an Unaccounted Ticket Ratio of 1.5 percent for each
25

1 Parking Station that it operates (as that term is defined and used in Article 22 of this Code) in a
2 reporting period, for which the Operator shall not be liable for failure to remit the Parking Tax.

3 c. The Operator shall have the burden of explaining and establishing the validity of Lost
4 Tickets and Cancelled Transactions, as those terms are defined in Article 22 of this Code . The
5 Enforcing Agency may consider a verifiable statement signed by the Occupant claiming a Lost Ticket
6 that includes the Occupant's name, address, telephone number, the Occupant's Motor Vehicle license
7 plate number, the time of entry and the time of exit as sufficient proof of a valid Lost Ticket transaction.
8 An Operator shall maintain a log of all Lost Tickets and Cancelled Transactions. The Enforcing
9 Agency may consider in its sole and absolute discretion an Operator's log of Cancelled Transactions or
10 Lost Ticket transactions that includes the cashier or attendant's name and/or Log File identification
11 number who processed the Transaction, the date and time of the Transaction, and a credible reason for
12 processing the transaction as a Lost Ticket transaction.

13 d. The Tax Collector shall have the power to adopt rules and regulations
14 prescribing methods and schedules for the collection and payment of the tax and such
15 methods and schedules shall provide that the fractional part of one cent shall be disregarded
16 unless it amounts to 1/2 of one cent or more, in which case the amount (determined without
17 regard to the fractional part of one cent) shall be increased by one cent.

18
19
20
21
22
23
24
25

1 **Section 3.** The San Francisco Business and Tax Regulations Code is hereby
2 amended by adding Section 607 and Section 608, as follows:

3 SEC. 607. OPERATOR CERTIFICATION OF REVENUE CONTROL EQUIPMENT, RCE
4 RECORD REVIEW, AND UNACCOUNTED TICKET RATIO

5 (a) Definitions. The terms used in this section shall have the meaning given to them in
6 section 2201 of this Code.

7 (b) Operator's RCE Certification. Concurrent with remittance of Parking Taxes to the City
8 pursuant to Business and Tax Regulations Code Section 6.7-1, an Operator shall certify in writing
9 under penalty of perjury that it has utilized RCE that complies with the applicable provisions of Article
10 22 of this Code during the period for which the Operator remits the Parking Taxes. If the Operator
11 remits Parking Taxes to the City on a monthly basis, then the Operator shall certify that during the
12 immediately preceding month it utilized RCE that complies with all applicable provisions of this
13 Article. If the Operator prepays estimated Parking Taxes, then the Operator shall certify with its
14 prepayment that it has utilized RCE that complies with all applicable provisions of this Article during
15 the preceding prepayment period.

16 (c) Operator's RCE Records Review Certification. Concurrent with remittance of Parking
17 Taxes to the City pursuant to Business and Tax Regulations Code Section 6.7-1, an Operator shall also
18 certify in writing under penalty of perjury that it has reviewed the RCE Records, as defined at Section
19 2201(b) of this Code, as to amounts of gross revenue, Rent received, Parking Tax collected and
20 remitted, discounts provided, and Unaccounted Ticket Ratio for each Parking Station that it operated
21 in the period reported. The Operator shall further certify that it has reconciled those RCE Records
22 with its books and records of accounts of Rent received and Parking Tickets used, such that the
23 Operator's certifications made under this Article are informed and correct.

1 (d) Operator's Unaccounted Ticket Ratio Certification. Concurrent with remittance of
2 Parking Taxes to the City pursuant to Business and Tax Regulations Code Section 6.7-1, on a form
3 provided by the Tax Collector, an Operator shall state the Unaccounted Ticket Ratio for the reporting
4 period, and shall certify in writing under penalty of perjury that the stated ratio is accurate. The
5 Unaccounted Ticket Ratio shall be calculated as follows. The number of Unaccounted Tickets for a
6 reporting period is calculated separately for each Parking Station operated by the Operator as the sum
7 of Inventory at the start of the reporting period and the Issued Tickets for that period, less the Voided
8 Tickets for that period, less the Collected Tickets for that period. The Unaccounted Ticket Ratio is
9 calculated as the number of Unaccounted Tickets for a particular Parking Station for that period
10 divided by the number of Issued Tickets for that period, with the resulting quotient multiplied by 100
11 and expressed as a percentage of Issued Tickets.

12 SEC. 608. PARKING TAX AMNESTY PROGRAM

13 608.1. SHORT TITLE.

14 This ordinance shall be known as the "Parking Tax Penalty Amnesty Program."

15 608.2 DEFINITIONS.

16 The terms used in this Section 608 shall have the meaning given to them in Article 9, Section
17 601 of this Code.

18 SEC. 608.3. AMNESTY PROGRAM.

19 (a) A tax penalty amnesty program is hereby established for Operators of Parking Stations
20 required to collect and remit Parking Taxes under Articles 6 and 9 of this Code who have liabilities
21 eligible for amnesty under Section 608.4 of this Article and who satisfy the eligibility requirements
22 established in Sections 608.4 and 608.5 of this Article.

23
24
25

1 (b) For any person who has a liability eligible for amnesty under Section 608.4 of the
2 Article and who meets the eligibility requirements established in Sections 608.4 and 608.5 of this
3 Article and who applies for and is granted amnesty:

4 (1) The Tax Collector shall waive all penalties owed for failure to collect and/or
5 remit Parking Taxes under Article 22 and Sections 6.17-1, 6.17-2, and 6.17-3 of this Code; and

6 (2) The Tax Collector shall waive all penalties owed for delinquent remittance of
7 Parking Taxes owed under the provisions Articles 6 and 9 of the Business and Tax Regulations Code
8 without need to make the findings required under Section 6.17-4; and

9 (3) No proceeding to suspend or revoke a business registration certificate pursuant
10 to Section 6.6-1 of this Code shall be initiated; and

11 (4) No civil or criminal action shall be brought against an Operator, for any tax
12 period for which the Tax Collector grants tax penalty amnesty, based upon the nonreporting, under-
13 reporting, failure to remit Parking Tax and Parking Tax liabilities or the nonpayment of or failure to
14 remit any taxes owed under the provisions of Article 22 of this Code.

15 (c) The Amnesty Program shall not apply to Operators that do not voluntarily and in good
16 faith contact the Tax Collector during the Amnesty Period to submit voluntarily to an audit.

17 **SEC. 608.4. LIABILITIES SUBJECT TO AMNESTY PROGRAM.**

18 (a) The tax penalty amnesty program shall apply to remittance of third party Parking Tax
19 liabilities for the tax periods ending on or before 75 days prior to the effective date of this Ordinance,
20 with the following exceptions:

21 (1) The Tax Collector shall not waive penalties owed as a result of any jeopardy
22 determination or any audit deficiency determination that has become final prior to the commencement
23 of the Amnesty Application Period.

1 (2) The Tax Collector shall not waive, under the authority of this Article, penalties,
2 which are included in any civil tax collection litigation commenced by the Tax Collector prior to the
3 commencement of or during the Amnesty Application Period.

4 (3) Taxes owed that have been reduced to a notice of deficiency prior to the
5 commencement of the amnesty period are not eligible for inclusion in the amnesty program.

6 (b) No refund or credit shall be granted of any penalty paid by any person prior to the time
7 the person submits an amnesty application pursuant to Sections 608.3 and 608.8 of this Article.

8 SEC. 608.5. AMNESTY APPLICATIONS.

9 (a) The provisions of this Article shall apply to any person who is responsible for the
10 collection and remittance to the City of Parking Taxes under Article 22 and Section 6.7-1 of this Code
11 and who files an application for Parking Tax amnesty within the Amnesty Application Period
12 designated by the Tax Collector pursuant to Section 608.8 of this Article and who does both of the
13 following:

14 (1) Files completed tax returns for all periods for which he or she has not previously
15 filed a tax return or files amended tax returns for all periods for which he or she under-reported taxes
16 owed; and

17 (2) Pays/remits in full all taxes, fees, and interest due.

18 (b) Notwithstanding the provisions of Subsection (a) of this Section, if necessary to
19 effectuate the purposes of this Article, the Tax Collector in its sole and absolute discretion may extend
20 the period for payment of taxes and interest due or enter into an installment payment agreement in lieu
21 of complete payment. Failure of the taxpayer to comply with the terms of any extension granted or
22 installment payment agreement entered under this subsection by the Tax Collector shall render the
23 waiver of any penalties applicable thereto null and void, and the total amount of tax, interest and all
24 penalties shall be immediately due and payable.

1 SEC. 608.6. SUBSEQUENT DEFICIENCIES.

2 If the Tax Collector issues a deficiency determination based upon a return filed pursuant to
3 Section 608.5 of this Article, penalties shall be imposed only with respect to the difference between the
4 amount shown on the return and the correct amount of tax.

5 SEC. 608.7. SUBSEQUENT REFUNDS.

6 If any overpayment of tax under this Section 608 is refunded or credited, the City shall have no
7 liability for or obligation to pay interest on that overpayment.

8 SEC. 608.8. AUTHORITY OF TAX COLLECTOR.

9 Upon effective date of this Ordinance, the Tax Collector shall designate an Amnesty Application
10 Period, which shall not exceed six months in duration, in which amnesty applications shall be accepted.
11 The Tax Collector shall publicize the tax penalty amnesty program established by this Article and shall
12 notify Operators about the amnesty program and about the new requirements of Article 22 of this Code
13 and the increased penalties imposed by the provisions of Section 2231. The Tax Collector shall issue
14 all forms and instructions necessary to implement this Article. The Tax Collector shall enforce the
15 provisions of this Article and may prescribe, adopt, and enforce rules and regulations relating to the
16 administration and enforcement of this Article.

1 **Section 4.** The San Francisco Police Code is hereby amended by repealing
2 Sections 4901, 4902, 4903, 4904, 4905, 4906, 4907, 4909, 4910, 4911, 4912, 4913, 4914,
3 4915, and 4916 as follows:

4 ~~SEC. 4901. DEFINITIONS.~~

5 ~~———— (a) ——— The terms "Operator," "Occupant," "Occupancy," "Parking Station," "Motor~~
6 ~~Vehicle," "Rent," and "parking meter" shall have the meaning set forth in the San Francisco Business~~
7 ~~and Tax Regulations Code Article 9.~~

8 ~~———— (b) ——— "Parking Space." A Parking Space is a marked area designated for the parking~~
9 ~~of a vehicle.~~

10 ~~———— (c) ——— "Parking Voucher/Ticket." A parking voucher/ticket is the record provided to~~
11 ~~the Occupant setting forth the time and date that the Occupant's vehicle entered the Parking Station,~~
12 ~~and is used by the Operator to determine the Rent to be charged to the Occupant or as a claim check.~~
13 ~~(Added by Ord. 61-01, File No. 002197, App. 4/20/2001)~~

14 ~~SEC. 4902. EXEMPTIONS.~~

15 ~~———— The requirements of this Article shall not apply to any Parking Station where:~~

16 ~~———— (a) ——— No Rent is charged at any time;~~

17 ~~———— (b) ——— All Rent paid for Occupancy is paid by the deposit of a coin or coins in a parking~~
18 ~~meter owned and operated by the City and County;~~

19 ~~———— (c) ——— All Rent paid for Occupancy is paid by a resident or a registered guest of a hotel~~
20 ~~or motel by adding the Rent to the room bill of the registered guest;~~

21 ~~———— (d) ——— Occupants pay Rent only for Events and on 75 or fewer days during a calendar~~
22 ~~year; or~~

23 ~~———— (e) ——— The Operator is a governmental agency such as the School District. (Added by~~
24 ~~Ord. 61-01, File No. 002197, App. 4/20/2001)~~

1 ~~SEC. 4903. REVENUE CONTROL EQUIPMENT.~~

2 ~~(a) All Parking Stations must have functioning Revenue Control Equipment at each~~
3 ~~location operated as a Parking Station during all hours that the Parking Station is open for business.~~

4 ~~(b) Notwithstanding the provisions of Business and Tax Regulations Code Section~~
5 ~~604, the Revenue Control Equipment must provide a legible Receipt to each Occupant at the time that~~
6 ~~the Occupant pays the Rent. The Receipt must contain the following information:~~

7 ~~1. Time and date of Transaction;~~

8 ~~2. Time and date of expiration of the Transaction;~~

9 ~~3. Amount paid;~~

10 ~~4. Parking Station address;~~

11 ~~5. City business license number;~~

12 ~~6. Non resettable unique Transaction number; and~~

13 ~~7. Business telephone and address of Operator or Operator's agent responsible for~~
14 ~~addressing consumer complaints.~~

15 ~~(c) All Revenue Control Equipment must maintain a nonadjustable Transaction~~
16 ~~number and a nonvolatile record of Receipts including a nonresettable sequence number.~~

17 ~~(d) All Revenue Control Equipment must be capable of producing reports containing~~
18 ~~all Transaction occurring within:~~

19 ~~1. The 24 hours immediately preceding the request for the report;~~

20 ~~2. A calendar day immediately preceding the request for the report;~~

21 ~~3. The month in which the report is requested from the first day of the month to the~~
22 ~~date of the request;~~

23 ~~4. The 30 days prior to the request for the report;~~

1 ~~5. The year that the report is requested from the 1st of the year to the date of the~~
2 ~~request; and~~

3 ~~6. The 365 days prior to the request for the report.~~

4 ~~(e) In addition to the other requirements of this Article, Parking Stations operated~~
5 ~~without an attendant present shall have individually designated Parking Spaces, and at all times that~~
6 ~~the attendant is not present the Receipt required herein shall contain the Parking Space number.~~

7 ~~(f) If the Revenue Control Equipment is not functioning the Operator and/or the~~
8 ~~Operator's agent may continue to operate the Parking Station during the periods of time that the~~
9 ~~Revenue Control Equipment is not functioning with the following conditions:~~

10 ~~1. The Operator and/or the Operator's agent shall not tow any vehicle that entered~~
11 ~~the Parking Station during the time that the equipment is unable to issue legible Receipts;~~

12 ~~2. The Operator and/or the Operator's agent shall maintain manual revenue~~
13 ~~control procedures;~~

14 ~~3. The Operator shall issue an individually and sequentially numbered Receipt on a~~
15 ~~form authorized by the County Agricultural Commissioner Sealer of Weights and Measures; and~~

16 ~~4. The Operator and/or the Operator's agent shall use good faith efforts to repair~~
17 ~~the equipment as soon as possible. There shall be a presumption that if the equipment is not repaired~~
18 ~~within three days that the Operator and/or the Operator's agent has not made a good faith effort to~~
19 ~~repair the equipment. (Added by Ord. 61-01, File No. 002197, App. 4/20/2001; amended by Ord. 187-~~
20 ~~04, File No. 040759, App. 7/22/2004)~~

21 ~~SEC. 4904. RESPONSIBILITIES OF THE COUNTY AGRICULTURAL COMMISSIONER-~~
22 ~~SEALER OF WEIGHTS AND MEASURES.~~

23 ~~The County Agricultural Commissioner Sealer of Weights and Measures shall ensure~~
24 ~~that all required Revenue Control Equipment is functioning accurately. Upon inspection, the County~~
25

1 ~~Agricultural Commissioner Sealer of Weights and Measures, including any deputy authorized by law,~~
2 ~~shall seal the equipment. The County Agricultural Commissioner Sealer of Weights and Measures may~~
3 ~~charge a fee for these services equivalent to the device registration fee set forth in California Business~~
4 ~~& Professions Code Section 12240. (Added by Ord. 61 01, File No. 002197, App. 4/20/2001; amended~~
5 ~~by Ord. 187 04, File No. 040759, App. 7/22/2004)~~

6 ~~SEC. 4905. REPAIR OF EQUIPMENT.~~

7 ~~———— (a) ——— All Parking Station Operators are responsible for informing the County~~
8 ~~Agricultural Commissioner Sealer of Weights and Measures or his or her designee that any required~~
9 ~~Revenue Control Equipment is not functioning or has been altered or modified within 24 hours of the~~
10 ~~time that the equipment stops functioning or is otherwise altered or modified. The Parking Station~~
11 ~~Operator shall provide the specific location of the non functioning equipment, the time that the~~
12 ~~equipment stopped functioning, and the anticipated time of repair.~~

13 ~~———— (b) ——— Operators shall use Service Agents licensed by the State of California only for~~
14 ~~repair or alteration of any required equipment. (Added by Ord. 61 01, File No. 002197, App.~~
15 ~~4/20/2001; amended by Ord. 187 04, File No. 040759, App. 7/22/2004)~~

16 ~~SEC. 4906. SIGNAGE.~~

17 ~~———— Every Operator shall post a clear and conspicuous sign at every location where~~
18 ~~Occupants pay Rent, of at least 10 inches by 15 inches, in type at least one inch high and 3/4 inches~~
19 ~~wide, which states:~~

20 ~~———— THE OPERATOR OF THIS FACILITY IS REQUIRED TO PROVIDE YOU WITH A~~
21 ~~MACHINE PRINTED RECEIPT, EVEN IF YOU PAY A FLAT FEE OR PARK DURING A EVENT, IF~~
22 ~~YOU DO NOT RECEIVE A MACHINE PRINTED RECEIPT, PLEASE CALL THE DEPARTMENT OF~~
23 ~~CONSUMER ASSURANCE AT (415) 285 5010.~~

24 ~~(Added by Ord. 61 01, File No. 002197, App. 4/20/2001)~~

25

1 ~~SEC. 4907. REQUIRED MAINTENANCE OF PARKING VOUCHER/TICKETS.~~

2 ~~———— All parking Operators must keep parking voucher/tickets issued to Occupants and~~
3 ~~returned by the Occupant for a period of five years. The parking voucher/ticket must be presented to~~
4 ~~any City auditor immediately upon request. (Added by Ord. 61-01, File No. 002197, App. 4/20/2001)~~

5 ~~SEC. 4908. COOPERATION WITH CITY AGENCIES.~~

6 ~~———— All Parking Station Operators and employees must cooperate with any City agency~~
7 ~~having an interest in the operation of the Parking Station, including but not limited to City Auditors, the~~
8 ~~Tax Collector, the City Attorney's office, the District Attorney's office, County Agricultural~~
9 ~~Commissioner Sealer of Weights and Measures, and any other City officials or employees assigned to~~
10 ~~administer or implement this ordinance by providing immediate access to all Revenue Control~~
11 ~~Equipment and documentation regarding Receipt and revenue control procedures. (Added by Ord. 61-~~
12 ~~01, File No. 002197, App. 4/20/2001; amended by Ord. 187-04, File No. 040759, App. 7/22/2004)~~

13 ~~SEC. 4910. AUTHORITY TO PROMULGATE REGULATIONS.~~

14 ~~———— The Executive Director of the Department of Parking and Traffic may, in consultation~~
15 ~~with the Tax Collector and the County Agricultural Commissioner Sealer of Weights and Measures,~~
16 ~~promulgate regulations and issue rules, determinations and interpretations consistent with the~~
17 ~~purposes of this Article as may be necessary and appropriate to apply this Article in a lawful manner,~~
18 ~~including provisions for penalties due to fraud, underpayment of taxes, or any evasion of this Article or~~
19 ~~the rules and regulations promulgated thereunder. (Added by Ord. 61-01, File No. 002197, App.~~
20 ~~4/20/2001; amended by Ord. 197-03, File No. 030633, App. 8/1/2003; Ord. 187-04, File No. 040759,~~
21 ~~App. 7/22/2004)~~

22 ~~SEC. 4911. CRIMINAL PENALTIES.~~

23 ~~———— It shall be a misdemeanor to violate any provision of this Article. In addition, if the~~
24 ~~District Attorney has evidence that a person intentionally tampered with the required Revenue Control~~

1 ~~Equipment in order to defraud the City, the District Attorney may charge the person with the~~
2 ~~appropriate violations of State law. (Added by Ord. 61-01, File No. 002197, App. 4/20/2001)~~

3 ~~SEC. 4912. CIVIL PENALTIES.~~

4 ~~———— (a) ——— Consumer Action; Relief; Court Costs and Attorney's Fees.~~

5 ~~———— (1) ——— Any Occupant may bring an action against a Parking Station Operator and/or~~
6 ~~an Operator's agent who fails to provide a Receipt as required herein and may recover or obtain (a) a~~
7 ~~penalty of \$500; (b) an order enjoining the violation; (c) punitive damages, if the court determines that~~
8 ~~the violation was willful; and (d) any other relief that the court deems proper.~~

9 ~~———— (2) ——— The court shall award court costs and attorney's fees to a prevailing plaintiff in~~
10 ~~litigation filed under this Section.~~

11 ~~———— (b) ——— Civil Penalties and Enforcement. The City and County of San Francisco may~~
12 ~~initiate a civil action against any person to compel compliance or to enjoin violations of this Article. In~~
13 ~~the event the City and County of San Francisco prevails in any such action, it may recover court costs~~
14 ~~and reasonable attorney's fees. In addition, the court shall award a civil penalty up to \$2,500 per~~
15 ~~violation.~~

16 ~~———— (c) ——— Limitation of Actions. Any criminal or civil action brought under this Article~~
17 ~~shall be commenced not more than two years from the date of the Transaction. (Added by Ord. 61-01,~~
18 ~~File No. 002197, App. 4/20/2001)~~

19 ~~SEC. 4913. CUMULATIVE REMEDIES.~~

20 ~~———— Unless otherwise expressly provided, the remedies or penalties provided by this Article~~
21 ~~are cumulative to each other and to the remedies and penalties available under all other laws of the~~
22 ~~City and State. (Added by Ord. 61-01, File No. 002197, App. 4/20/2001)~~

23 ~~SEC. 4914. VIOLATION.~~

24 ~~———— Any of the following shall be considered a violation of this Article:~~

1 ~~———— (a) ——— Failure to provide a Receipt to any Occupant as required in this Article. Each~~
2 ~~failure to provide a Receipt shall be considered a separate violation.~~

3 ~~———— (b) ——— Operating any Parking Station without Revenue Control Equipment or~~
4 ~~procedures as required in this Article. Each day a Parking Station operates without the required~~
5 ~~Revenue Control Equipment or procedures shall be considered a separate violation.~~

6 ~~———— (c) ——— Failure to cooperate with any City agency as required by this Article.~~

7 ~~———— (d) ——— Failure to maintain parking vouchers/tickets for five years as required by this~~
8 ~~Article.~~

9 ~~———— (e) ——— Failure to report non functioning Revenue Control Equipment as required by~~
10 ~~this Article. Each day each non functioning machine is not reported shall be considered a separate~~
11 ~~violation.~~

12 ~~———— (f) ——— Failure to use good faith efforts to repair non functioning equipment.~~

13 ~~———— (g) ——— Operating Revenue Control Equipment that has been altered or modified without~~
14 ~~notification to the Department of Consumer Assurance within 24 hours of the alteration or~~
15 ~~modification. Each day a location is operated with Revenue Control Equipment that has been altered~~
16 ~~or modified shall be considered a separate violation. (Added by Ord. 61-01, File No. 002197, App.~~
17 ~~4/20/2001)~~

18 ~~SEC. 4915. EFFECTIVE DATE.~~

19 ~~———— The requirements of this Article shall become effective 90 days after final adoption by~~
20 ~~the Board of Supervisors. (Added by Ord. 61-01, File No. 002197, App. 4/20/2001)~~

21 ~~SEC. 4916. SEVERABILITY.~~

22 ~~———— If any part of this Article, or the application thereof to any person or circumstances is~~
23 ~~held invalid, the remainder of this Article, including the application of such part or provision to other~~

1 ~~persons or circumstances shall not be affected thereby and shall continue in full force and effect.~~

2 ~~(Added by Ord. 61-01, File No. 002197, App. 4/20/2001)~~

3

4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6

By: _____
Robert K. Stone
Deputy City Attorney

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25