

1 [Business and Tax Regulations Code - Administrative Changes]

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3 **Ordinance amending the Business and Tax Regulations Code by amending the**
4 **Common Administrative Provisions to require monthly installment payments rather**
5 **than prepayments of hotel and parking taxes, eliminate the requirement for annual**
6 **parking tax bond renewal, provide a due date for business registration fees, exclude**
7 **penalties from the calculation of interest on tax determinations, add a substantial**
8 **underreporting penalty for failure to file a return when the tax liability exceeds \$5,000,**
9 **and change the penalty for failure to register or update a registration, making**
10 **misstatements in registration, failure to allow inspection of or to produce records, and**
11 **failure to file a return; amending the Tax on Occupancy of Parking Space in Parking**
12 **Stations to eliminate the pre-payment Revenue Control Equipment certification;**
13 **amending Business Registration provisions to require a copy of the business**
14 **registration certificate rather than a business tax registration tag be displayed on**
15 **company vehicles, and to eliminate the Tax Collector's authority to suspend a business**
16 **registration certificate; amending the Payroll Expense Tax Ordinance to provide that**
17 **interest applies to unpaid penalties but not unpaid fees and interest, and to change the**
18 **date that the Office of Economic and Workforce Development must provide the Tax**
19 **Collector a list of persons eligible to claim the Central Market Street and Tenderloin**
20 **Area Payroll Expense Tax Exclusion; and amending Parking Stations, Revenue Control**
21 **Equipment to specify the date the Revenue Control Equipment Compliance Fee is due.**

22 **NOTE: Unchanged Code text and uncodified text are in plain Arial font.**
23 **Additions to Codes are in *single-underline italics Times New Roman font.***
24 **Deletions to Codes are in *strikethrough italics Times New Roman font.***
25 **Board amendment additions are in double-underlined Arial font.**
Board amendment deletions are in ~~strikethrough Arial font.~~

1 **Asterisks (* * * *)** indicate the omission of unchanged Code
2 subsections or parts of tables.

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

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5 Section 1. Clarification regarding Proposition E (November 6, 2012) and Sections
6 6.9-1, 6.9-3, and 905-A. Article 6, Sections 6.9-1 and 6.9-3, and Article 12-A, Section 905-A
7 of the Business and Tax Regulations Code were amended by Proposition E, adopted by the
8 voters at the election on November 6, 2012, and the Proposition E amendments are set to
9 become operative on January 1, 2014. But because these Proposition E amendments are not
10 yet operative, they are not included in the the Business and Tax Regulations Code. This
11 ordinance, however, treats those three sections as if they are already in the Business and Tax
12 Regulations Code as amended by Proposition E. Accordingly, the amendments in this
13 ordinance shown in those sections as additions and deletions are amendments of the text of
14 Proposition E as amended by the voters, not the text of those sections as they now appear in
15 the Business and Tax Regulations Code.

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17 Section 2. The Business and Tax Regulations Code is hereby amended by revising
18 Article 6, Sections 6.6-1, 6.8-1, 6.9-1, 6.9-3, 6.9-4, 6.9-5, 6.9-6, 6.11-1, 6.11-2, 6.11-3, 6.17-2,
19 6.17-3, and 6.21-1 to read as follows:

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21 **SEC. 6.6-1. CERTIFICATE OF AUTHORITY FOR THIRD-PARTY TAXES.**

22 (a) These additional provisions shall apply to operators under the transient hotel
23 occupancy tax (Article 7), the parking space occupancy tax (Article 9), the utility users tax
24 (Article 10) and the access line tax (Article 10B).

1 (b) Every operator who is required to collect or remit any third-party tax must possess
2 a valid certificate of authority issued by the Tax Collector.

3 (c) The application for a certificate of authority shall be on a form provided by the Tax
4 Collector and shall set forth the name under which the person transacts or intends to transact
5 business, the location of each of the person's places of business in the City, and such other
6 information as the Tax Collector may require. The application shall be signed by the owner if
7 a sole proprietor, by a member or partner, in the case of an association, or by an executive
8 officer or some person specifically authorized by the corporation to sign the application in the
9 case of a corporation. No person shall operate a business for which a certificate of authority
10 is required under subsection (b) unless and until the Tax Collector has issued that person a
11 certificate of authority. The holder of a certificate of authority must promptly notify the Tax
12 Collector of any changes to the information stated in the certificate of authority application.

13 (d) Except as provided in subsections (f), (g), (h), and (j) below, the Tax Collector,
14 within 45 days after the application is complete, shall issue a separate certificate of authority
15 to the operator to collect third-party taxes from customers for each location at which the
16 operator is required to collect such taxes. The certificate will expire on a date certain set by
17 the Tax Collector. The operator must apply for renewal of the certificate, before it expires, if
18 the operator intends to continue to engage in business in the City. Except as provided in
19 subsections (f), (g), (h) and (j), the Tax Collector may issue successive, one-year renewals of
20 an operator's certificate. Each certificate shall state the location of the place of business to
21 which it applies and shall be prominently displayed at such location in plain view of all
22 customers. Certificates of authority may not be assigned or transferred. The operator shall
23 immediately surrender to the Tax Collector the certificate for that location upon the operator's
24 cessation of business at that location or upon the sale or transfer of the business.

1 (e) The holder of a certificate of authority to collect parking taxes under Article 9 shall
2 remain presumptively liable for the collection of parking taxes at the location named in the
3 certificate, and for the reporting and remittance of such taxes to the Tax Collector, unless and
4 until the holder of the certificate both

5 (1) notifies the Tax Collector in writing that the holder has ceased to conduct a
6 parking business at such location, and

7 (2) surrenders the certificate for that location to the Tax Collector.

8 (f) (1) The Tax Collector may refuse to issue the certificate where, within the 45-
9 day period referred to in subsection (d) above, the Tax Collector determines that the operator,
10 or any signatory to the application, or any person holding a 10 percent or greater legal or
11 beneficial interest in said operator ("10% owner") is not in compliance with any provision of
12 Articles 6, 7, 9, 10, 10B, 12, 12-A, 12-A-I, or 22, including but not limited to any failure to
13 timely collect, report, pay, or remit any tax imposed by this Code, or where any such person is
14 not in compliance with any provision of Sections 1215 through 1223 inclusive of Article 17 of
15 the Police Code.

16 (2) Solely for purposes of determining under this Section whether any such
17 operator, signatory or 10% owner is not in compliance with such Articles, the Tax Collector
18 may disregard any corporation or association owned or controlled, directly or indirectly, by any
19 such operator, signatory or 10% owner and consider such corporation or association's
20 operations and liabilities as conducted by or as owned by any one or more of such corporation
21 or association's officers, directors, partners, members or owners. For purposes of this
22 Section, (A) the term "owned" means ownership of 50 percent or more of the outstanding
23 ownership interests in such corporation or association, and (B) the term "controlled" includes
24 any kind of control, whether direct or indirect, whether legally enforceable, and however
25 exercisable or exercised over such corporation or association. A presumption of control

1 arises if the operator, signatory or 10% owner is (or was) an officer, director, partner or
2 member of such corporation or association.

3 (g) Further, if any person subject to this Section violates any provision of Articles 6, 7,
4 9, 10, 10B, 12, 12-A, 12-A-1, or 22, or a rule or regulation promulgated by the Tax Collector,
5 including but not limited to any failure to timely collect, report, pay, or remit any tax imposed
6 by this Code, failure to maintain accurate registration information, failure to sign any return or
7 pay any tax when due, or failure to timely respond to any request for information, order for
8 records or subpoena, or for failure to comply with the requirements of Article 22 of the
9 Business and Tax Regulations Code or any provision of Sections 1215 through 1223 inclusive
10 of Article 17 of the Police Code, the Tax Collector may, after serving the person with written
11 notice of his or her determination in the manner provided in Section 6.11-2 and an opportunity
12 to be heard pursuant to the notice and review provisions of Section 6.13-1 *et seq.*, refuse to
13 issue that person a new certificate of authority or may revoke or suspend that person's
14 certificate of authority. The Tax Collector may refuse to issue that person a new certificate of
15 authority or to withdraw the suspension of an existing certificate until the person, signatory to
16 the application for the certificate revoked or suspended, signatory to the application for a new
17 certificate or withdrawal of the suspension, and all 10% owners have complied with the
18 provisions of Articles 6, 7, 9, 10, 10B, 12, 12-A, 12-A-1, and 22 and corrected the original
19 violation to the satisfaction of the Tax Collector. For any person applying for or holding a
20 certificate of authority to collect parking taxes, the Tax Collector shall promptly notify the Chief
21 of Police in writing that it has revoked a person's certificate of authority, refused to issue a
22 new certificate of authority, suspended an existing certificate of authority or determined that
23 the person is not in compliance with the Business and Tax Regulations Code. The Tax
24 Collector shall in writing request that the Chief of Police refuse to issue a commercial parking
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1 permit to the person or suspend or revoke the person's existing commercial parking permit
2 and immediately close the business, pursuant to Sec. 1215.3(b) of the Police Code.

3 (h) (1) Before any certificate of authority shall be issued to any applicant to engage
4 in the business of renting parking space in a parking station in this City and ~~annually~~, for as
5 long as the business continues, such applicant shall file with the Tax Collector a bond naming
6 the City as exclusive beneficiary at all times the applicant engages in such business. Such
7 bond shall be in the following amounts:

Annual gross receipts for parking station	Bond amount
Less than \$100,000.00	\$20,000
\$100,000.00 to \$250,000.00	\$50,000
\$250,000.01 to \$500,000.00	\$100,000
\$500,000.01 to \$750,000.00	\$150,000
\$750,000.01 to \$1,000,000.00	\$200,000
\$1,000,000.01 to \$1,250,000.00	\$250,000
\$1,250,000.01 to \$1,500,000.00	\$300,000
\$1,500,000.01 to \$1,750,000.00	\$350,000
\$1,750,000.01 to \$2,000,000.00	\$400,000
\$2,000,000.01 to \$2,250,000.00	\$450,000
\$2,250,000.01 to \$2,500,000.00	\$500,000
\$2,500,000.01 to \$2,750,000.00	\$550,000
\$2,750,000.01 to \$3,000,000.00	\$600,000
\$3,000,000.01 to \$3,250,000.00	\$650,000
\$3,250,000.01 to \$3,500,000.00	\$700,000
\$3,500,000.01 to \$3,750,000.00	\$750,000
\$3,750,000.01 to \$4,000,000.00	\$800,000

\$4,000,000.01 and greater	\$800,000
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(2) This bond requirement does not apply to an applicant that is a governmental entity.

(3) The Tax Collector may, in his or her discretion, independently establish the annual gross receipts for a parking station and set the bond amount pursuant to the schedule above, based on that determination. If, at the end of any calendar year, the gross receipts for a parking station have increased such that a larger bond amount would be required under the above schedule, the operator shall obtain a new bond in the increased amount by the following April 1. If at the end of any calendar year the gross receipts for the parking station have decreased, the operator may apply to the Tax Collector for a reduction of the bond amount.

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SEC. 6.8-1. CITY, PUBLIC ENTITY AND CONSTITUTIONAL EXEMPTIONS.

(a) Nothing in Articles 6, 7, 9, 10, 10B, 11, 12, ~~or 12-A~~, or 12-A-1 shall be construed as imposing a tax upon:

- (1) The City;
- (2) The State of California, or any county, municipal corporation, district or other political subdivision of the State, except where any constitutional or statutory immunity from taxation is waived or is not applicable;
- (3) The United States of America, or any of its agencies or subdivisions, except where any constitutional or statutory immunity from taxation is waived or is not applicable; or
- (4) Any person exempted from the particular tax by the Constitution or statutes of the United States or the Constitution or statutes of the State of California.

1 (b) The foregoing exemption from taxation does not relieve an exempt party from its
2 duty to collect, report, and remit third-party taxes.

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4 **SEC. 6.9-1. DETERMINATIONS, RETURNS AND PAYMENTS; DUE DATE OF TAXES.**

5 Except for jeopardy determinations under Section 6.12-2, and subject to
6 ~~prepayments~~remittances required under Section 6.9-2, all amounts of taxes and fees imposed
7 by Articles 6, 7, 9, 10, 10B, 11, 12, 12-A, and 12-A-1 are due and payable, and shall be
8 delinquent if not paid to the Tax Collector on or before the following dates:

9 (a) For the transient hotel occupancy tax (Article 7) and the parking space occupancy
10 tax (Article 9), for each ~~calendar quarter, on or before the last day of the month following each~~
11 ~~respective quarterly period~~monthly period, on or before the last day of the following month;

12 (b) For the payroll expense tax (Article 12-A) and the gross receipts tax
13 (Article 12-A-1), on or before the last day of February of each year;

14 (c) For the utility users taxes (Article 10) and the access line tax (Article 10B), for each
15 monthly period, on or before the last day of the following month;~~and~~

16 (d) For the stadium operator admission tax (Article 11), within 5 days after the event,
17 subject to the provisions of Section 804 of Article 11;~~and~~

18 (e) For the business registration certificate (Article 12), on or before the last day of May
19 preceding the registration year commencing July 1 of that year.

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21 **SEC. 6.9-3. DETERMINATIONS, RETURNS AND PAYMENTS;~~PREPAYMENTS.~~**

22 (a) ~~Prepayments and~~Remittances. Notwithstanding the due dates otherwise provided in
23 Section 6.9-1, taxpayers shall make~~prepayments and~~ remittances of taxes and third-party taxes
24 to the Tax Collector as follows:
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1 (1) Hotel and Parking Taxes. The Hotel Tax (Article 7) and the Parking Tax
2 (Article 9) returns shall be filed monthly and taxes shall be remitted monthly. Such monthly
3 remittances shall be due and payable to the Tax Collector on or before the last day of the
4 month immediately following the month for which such remittance is due. ~~Taxes paid in the first~~
5 ~~2 monthly remittances of any quarterly period shall be a credit against the total liability for such third-~~
6 ~~party taxes for the quarterly period. The third monthly remittance of any quarterly period shall be in~~
7 ~~an amount equal to the total tax liability for the quarterly period, less the amount of any monthly~~
8 ~~remittance for such quarter actually paid.~~

9 (2) Payroll Expense Tax and Gross Receipts Tax. The payroll expense tax
10 (Article 12-A) and the gross receipts tax (Article 12-A-1) shall be paid in quarterly installments
11 as follows:

12 (A) Due Dates. Every person liable for payment of payroll expense tax or
13 gross receipts tax for any tax year shall pay such tax for the subject tax year in 4 quarterly
14 installments. The first, second and third quarterly installments shall be due and payable, and
15 shall be delinquent if not paid on or before, April 30, July 31, and October 31st, respectively, of
16 the subject tax year. The fourth installment shall be reported and paid on or before the last
17 day of February following the subject tax year.

18 (B) Payments.

19 (i) Installment Payments. The first, second, and third quarterly
20 installments shall be a credit against the person's total payroll expense tax or gross receipts
21 tax, as applicable, for the subject tax year in which such first, second, and third quarterly
22 installments are due. The fourth quarterly installment shall be in an amount equal to the
23 person's total payroll expense tax or gross receipts tax liability for the subject tax year, as
24 applicable, less the amount of the payroll expense tax or gross receipts tax first, second, and
25 third quarterly installments and other tax payments, if any, actually paid.

1 (ii) Payroll Expense Tax Installments. A person's first, second, and third
2 quarterly installment payments of payroll expense tax for any tax year shall be computed by
3 using:

4 1. The person's taxable payroll expense (as defined under
5 Article 12-A) for each quarter; and

6 2. The rate of tax applicable to the tax year in which the first,
7 second, and third quarterly installments are due.

8 3. Notwithstanding the foregoing, and except for taxpayers under
9 Section 953.8 of Article 12-A-1, for tax years commencing after December 31, 2013, the first,
10 second, and third quarterly installments shall be computed using the rates set forth in the
11 following table:

Tax Year	1st, 2nd and 3rd Installments
2014	1.350%
2015	1.125%
2016	0.750%
2017	0.375%
2018	0.000%

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19 The fourth quarterly installment shall be in an amount equal to the person's total payroll
20 expense tax liability for the subject tax year, less the amount of the first, second, and third
21 quarterly installments and other tax payments, if any, actually paid. A person's total payroll
22 expense tax liability shall be computed using the rate for the subject tax year computed,
23 certified, and published by the Controller under Section 903.1 of Article 12-A or as otherwise
24 provided in this Article.
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1 (iii) Gross Receipts Tax Installments. A person's first, second, and third
2 quarterly installments of gross receipts tax for any tax year shall be computed by using:

3 1. The person's taxable gross receipts (as defined under
4 Article 12-A-1) for each quarter; and

5 2. The rate of tax applicable to the tax year in which the first,
6 second, and third quarterly installments are due.

7 3. Notwithstanding the foregoing, and except for taxpayers under
8 Section 953.8 of Article 12-A-1, for tax years commencing after December 31, 2013, the first,
9 second, and third quarterly installments shall be computed using the rates applicable to the
10 person's taxable gross receipts under Sections 953.1 through 953.7 of Article 12-A-1,
11 multiplied by the percentages set forth in the following table:

Tax Year	1st, 2nd and 3rd Installments
2014	10%
2015	25%
2016	50%
2017	75%
2018	100%

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18 The fourth quarterly installment shall be in an amount equal to the person's total gross
19 receipts tax liability for the subject tax year, less the amount of the first, second, and third
20 quarterly installments and other tax payments, if any, actually paid. A person's total gross
21 receipts tax liability shall be computed using the rate for the subject tax year computed,
22 certified, and published by the Controller under Section 959 of Article 12-A-1, or as otherwise
23 provided in that Article.

24 (b) ~~Tax-Prepayment~~Installment Penalties. Every person who fails to pay any tax
25 ~~prepayment~~installment required under this Section before the relevant delinquency date shall

1 pay a penalty in the amount of 5 percent of the amount of the delinquent tax
2 ~~prepayment~~installment per month, or fraction thereof, up to 20 percent in the aggregate, and
3 shall also pay interest on the amount of the delinquent tax ~~prepayment~~installment and penalties
4 from the date of delinquency at the rate of 1 percent per month, or fraction thereof, for each
5 month the ~~prepayment~~installment is delinquent, until paid.

6 (c) Hotel and Parking Taxes. An operator subject to the Hotel Tax (Article 7) or the
7 Parking Tax (Article 9) shall make monthly remittances in the amount of the actual tax owed.

8 (d) Forms and Adjustments. Tax ~~prepayments~~remittances required under this Section
9 shall be accompanied by a tax ~~prepayment~~remittance form prepared by the Tax Collector, but
10 failure of the Tax Collector to furnish the taxpayer with a tax ~~prepayment~~remittance form shall
11 not relieve the taxpayer from any tax ~~prepayment~~payment obligation. ~~The Tax Collector may, in~~
12 ~~writing, adjust the amount of a tax prepayment if the taxpayer can establish in writing by clear and~~
13 ~~convincing evidence that the first installment of semi-annual tax prepayments, or first, second or third~~
14 ~~monthly installment of a quarterly tax prepayment, will amount to more than one-half or one-quarter,~~
15 ~~respectively, of the person's total tax liability for the tax year in which the installment is due.~~

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17 **SEC. 6.9-4. DETERMINATIONS, RETURNS AND PAYMENTS; EXTENSION OF TIME FOR**
18 **FILING A RETURN AND PAYING TAX.**

19 (a) For good cause, the Tax Collector, in his or her discretion, may extend, for a period
20 not to exceed 60 days, the time for filing any return pursuant to this Article or regulations
21 prescribed by the Tax Collector. For ~~prepayments of taxes or for~~ taxes required to be deposited
22 monthly, the Tax Collector may only extend the time for filing a return for a period not to
23 exceed 30 days. As a condition of such extension, the person seeking the extension shall
24 make a payment of not less than 90 percent of such person's estimated liability for such
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1 period. For purposes of determining the amount of the conditional payment, the Tax Collector
2 may independently establish the taxpayer's estimated tax liability.

3 (b) Failure to make the required ~~estimated prepayment~~installment payment will result in the
4 taxpayer being subject to penalties and interest under Section 6.17-1.

5 (e) Notwithstanding subsection (a) of this Section, the Tax Collector may extend any
6 time for filing any return or payment of tax or excuse penalties for any late filing or late
7 payment by a period not to exceed 60 days if billing or other administrative duties of the Tax
8 Collector cannot be performed in a timely manner.

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10 **SEC. 6.9-5. DETERMINATIONS, RETURNS AND PAYMENTS; CREDITS AND**
11 **EXEMPTIONS.**

12 The credits and exemptions set forth in Articles 6, 7, 9, 10, 10B, 11, 12, 12-A, 12-A-1,
13 and 12-C are provided on the assumption that the City has the power to offer such credits and
14 exemptions. If a credit or exemption is invalidated by a court of competent jurisdiction, the
15 taxpayer must pay any additional amount that the taxpayer would have owed but for such
16 invalid credit or exemption. Amounts owed as a result of the invalidation of a credit or
17 exemption that are paid within 3 years after the decision of the court becomes final shall not
18 be subject to interest or penalties.

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20 **SEC. 6.9-6. FILING AND PAYING BY MAIL.**

21 (a) **Filing by Mail.** Except as otherwise provided in this Section, taxpayers may file
22 any return or other document with or make any payment to, ~~including a prepayment to,~~ the Tax
23 Collector by United States mail.

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1 **SEC. 6.11-1. DEFICIENCY DETERMINATIONS; RECOMPUTATION; INTEREST.**

2 (a) If the Tax Collector determines that a taxpayer has failed to pay or has underpaid a
3 tax, that an operator has failed to collect and remit all of a third-party tax, or that a person
4 other than the taxpayer is jointly and severally liable for any unpaid or underpaid tax, including
5 third-party taxes, the Tax Collector may compute and determine any tax deficiency upon the
6 basis of the return or returns or upon the basis of any other information with in the Tax
7 Collector's possession or that may come into the Tax Collector's possession. One or more
8 deficiency determinations ~~may be made~~ of the amount due may be made for one or for more than
9 one period.

10 (b) The amount of the determination, ~~inclusive~~exclusive of penalties, shall bear interest
11 at the rate of 1 percent per month, or fraction thereof, from the 15th day after the close of the
12 month or the ~~quarterly~~monthly period for third-party taxes, or from the last day of February
13 following the close of the annual period, for which the amount or any portion thereof should
14 have been ~~returned~~remitted until the date of payment in full, or, in the case of stadium operator
15 admission taxes, from the due dates of said tax as set forth in Article 11, Section 804.

16 (c) In making a determination, the Tax Collector may offset overpayments for a period
17 or periods together with interest on the overpayments, against underpayments for another
18 period or periods, against penalties, and against the interest on the underpayments. The
19 interest on underpayments and overpayments shall be computed in the manner set forth in
20 Section 6.17-1 for underpayments and in Section 6.15-2 for overpayments.

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22 **SEC. 6.11-2. DEFICIENCY DETERMINATIONS; REVOCATION ~~AND SUSPENSION~~**
23 **DETERMINATIONS; NOTICE AND SERVICE.**

24 (a) Upon making a determination pursuant to Section 6.11-1, or upon making a
25 determination pursuant to Section 6.6-1 that a certificate shall not be issued or ~~to suspend or~~

1 revoke a registration, the Tax Collector shall give to the taxpayer or other person affected
2 written notice of the Tax Collector's determination. Except in the case of fraud, intent to
3 evade the Business and Tax Regulations Code or rules and regulations issued or
4 promulgated by the Tax Collector, or failure to file a return, in which case there is no statute of
5 limitations, every notice of a deficiency determination shall be served within 3 years after the
6 date that a return was due for a tax for the reporting period or 3 years after the return was
7 actually filed for that reporting period, whichever is later. ~~This limitations period shall apply only
8 to tax periods commencing after December 31, 2007. The notice requirements specified in Board of
9 Supervisors Ordinance No. 26-04 shall continue to apply to obligations arising in prior tax periods.~~

10 The Taxpayer may agree in writing to extend the period for service of a notice of a deficiency
11 determination otherwise provided in this paragraph.

12 (b) The notice of any determination under this Section may be served upon the
13 taxpayer or other affected person personally or by mail; if by mail, service shall be

14 (1) to the last known address that appears or is shown in the Tax Collector's
15 records, provided there is such an address in the Tax Collector's record, or

16 (2) to an address that the Tax Collector concludes in his discretion is the last
17 known address of the person(s).

18 (c) In case of service by mail of any notice required by this Article to be served upon
19 the taxpayer or other person, the service is complete at the time of deposit with the United
20 States Postal Service.

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22 **SEC. 6.11-3. DETERMINATION IF NO RETURN MADE; ESTIMATE OF LIABILITY,**
23 **PENALTIES AND INTEREST.**

24 (a) If any taxpayer or person responsible for paying a tax or remitting a third-party tax
25 fails to make a timely return or ~~estimated tax prepayment~~ remittance, the Tax Collector may make

1 a determination based upon an estimate of the amount of the total tax liability of the taxpayer.
2 The estimate shall be made for the period or periods in respect to which the person failed to
3 timely make a return, ~~failed to timely make a prepayment~~ or failed to timely remit a tax, and may
4 be based upon any information which is in the Tax Collector's possession or may come into
5 his or her possession. Upon the basis of this estimate, the Tax Collector shall compute and
6 determine the amount required to be paid to the City, adding to the sum thus computed a
7 penalty equal to 20 percent thereof. One or more determinations may be made for one or
8 more than one period. Any such determination shall be prima facie evidence of the person's
9 liability in any subsequent administrative or judicial proceeding.

10 (b) In making a determination, the Tax Collector may offset overpayments for a period
11 or periods, together with interest on the overpayments, against underpayments for another
12 period or periods, against penalties, and against the interest on the underpayments. The
13 interest on underpayments and overpayments shall be computed in the manner set forth in
14 Sections 6.17-1 and 6.15-2, respectively. The amount of the determinations, including
15 penalties, shall bear interest at the rate of one percent per month, or fraction thereof, from the
16 date of delinquency until the date of payment.

17 (c) The Tax Collector shall serve the person or persons determined to be liable for the
18 tax as determined under Section 6.11-3 with written notice of the determination and penalty.
19 The Tax Collector shall serve the notice upon such person(s) personally or by mail. Service
20 by mail shall be

21 (1) to the last known address as indicated in the Tax Collector's records,
22 provided there is such an address in the Tax Collector's record, or

23 (2) to an address that the Tax Collector concludes in his discretion is the last
24 known address of the person(s).

1 **SEC. 6.17-2. PENALTIES FOR UNDERREPORTING OF TAX.**

2 (a) **Penalties for Negligence.** If the Tax Collector determines that all or part of any
3 tax required to be reported on any return was underreported and that such underreporting
4 was attributable to negligence, the Tax Collector may impose a penalty in the amount of
5 5 percent of the amount of the underreported tax, in addition to the tax or amount of tax, if the
6 negligence is for not more than 1 month, with an additional 5 percent for each month or
7 fraction of a month during which such negligence continues, up to 20 percent in the
8 aggregate.

9 (b) **Penalties for Intentional Disregard of Rules, Fraud, or Intend to Evade Tax.**
10 When it is determined by the Tax Collector that all or part of any tax required to be reported
11 on any return was underreported and such underreporting was attributable to fraud or an
12 intent to evade the Business and Tax Regulations Code, the Tax Collector may impose a
13 penalty in the amount of 50 percent of the amount of the underreported tax. The taxpayer or
14 other person determined to be liable for penalties pursuant to this Section is entitled to a
15 notice of deficiency determination or jeopardy determination and to the appeal rights as to
16 such determinations.

17 (c) **Additional Penalty for Substantial Underreporting.**

18 (1) For purposes of this section, "substantial underreporting of tax" means the
19 tax finally determined by the Tax Collector under Articles 7, 9, 10, 10B, 11, ~~or 12-A~~, or 12-A-1
20 of this Business and Tax Regulations Code exceeds the amount of tax reported on a
21 taxpayer's original or amended return for a taxable period by 25 percent or more, or if no return
22 is filed, the tax liability determined by the Tax Collector pursuant to Section 6.11-1 exceeds \$5000.

23 (2) If the Tax Collector determines that a taxpayer has made a substantial
24 underreporting of tax for any taxable period, the Tax Collector may impose an additional
25 penalty in an amount equal to 50 percent of the tax attributable to the substantially

1 underreported amount. The penalty for substantial underreporting is in addition to any other
2 penalty imposed under this Article 6.

3 (3) The additional penalty for substantial underreporting applies to all taxable
4 periods ending on or after June 19, 2010.

5
6 **SEC. 6.17-3. NEGLIGENCE PENALTIES FOR FAILURE TO REGISTER,**
7 **MISSTATEMENTS IN REGISTRATION, FAILURE TO TIMELY UPDATE REGISTRATION,**
8 **FAILURE TO ALLOW INSPECTION OF RECORDS UPON REQUEST, AND FAILURE TO**
9 **FILE A RETURN; SANCTION FOR FAILURE TO PRODUCE REQUESTED RECORDS.**

10 (a) Any person who fails to register, fails to amend a registration within 7 days of a
11 material change or who makes a material misrepresentation in a registration or who fails to
12 comply with a rule or regulation promulgated by the Tax Collector in a timely manner shall
13 pay, in addition to any other liability that may be imposed under the provisions of this Article, a
14 penalty in an amount equal to ~~the penalized taxpayer's annual fee for obtaining a registration~~
15 ~~certificate as set forth in Article 12~~ the greater of \$100 or the penalty assessed pursuant to
16 Section 6.17-1.

17 (b) The Tax Collector may impose a penalty upon any person who fails to file a return
18 or returns required under this Article on or before the date prescribed for filing up to the
19 amount of \$500 for each such failure. The penalty under this provision shall be in addition to
20 any other liability that may be imposed under the provisions of this Article. Filing a return that
21 the Tax Collector determines to be incomplete in any material aspect may be deemed failure
22 to file a return in violation of this Section.

23 (c) Any person who fails to allow a full inspection of records pursuant to a request
24 made by the Tax Collector within the time prescribed by the Tax Collector shall pay, in
25

1 addition to any other liability that may be imposed under the provisions of this Article, a
2 penalty in the amount of \$500 for each such failure.

3 (d) Unless the failure to allow inspection was due to reasonable cause and not willful
4 neglect, any person who fails to provide records pursuant to a written request made by the
5 Tax Collector may not contest the Tax Collector's decision regarding the amount of such
6 person's liability for any taxes, administrative collection costs, interest, penalties or other costs
7 and charges imposed under the Business and Tax Regulations Code, or oppose the collection
8 of such amount, in any subsequent administrative or judicial proceeding, on the basis of any
9 record the Tax Collector previously requested in writing that such person failed to make
10 available to the Tax Collector on or before the earliest to occur of the following:

11 (1) The conclusion of the hearing on a petition for redetermination held pursuant
12 to Sections 6.12-5 or 6.13-2;

13 (2) The date the jeopardy determination became final under Section 6.12-5 if
14 such person did not request hearing thereon;

15 (3) The date the deficiency determination became final under Section 6.13-4 if
16 such person did not request a hearing thereon.

17
18 **SEC. 6.21-1. TRANSFEREE AND SUCCESSOR LIABILITY.**

19 (a) No person shall purchase or acquire an interest in a business subject to any tax
20 imposed under the Business and Tax Regulations Code without first obtaining either a receipt
21 from the Tax Collector showing that all of the seller's taxes on the business have been paid,
22 or a certificate stating that no amount is due. For purposes of this Section, "purchase" shall
23 include any other voluntary transfer for consideration of a business, except for purchase of
24 stock of a publicly-traded company.

1 (b) The Tax Collector shall issue such a receipt or certificate, or a notice of the amount
2 that must be paid as a condition of issuing the certificate, to the buyer within 30 days after
3 receiving a written request. However, failure of the Tax Collector to timely mail the notice will
4 not release the buyer from his or her obligations under this Section, except to the extent of
5 penalties and interest in the event that the Tax Collector enforces the buyer's obligation in a
6 civil action authorized pursuant to the Business and Tax Regulations Code.

7 (c) If the buyer purchases or acquires an interest in a business owing any taxes,
8 interest or penalties imposed under Articles 7, 9, ~~or 12-A~~, or 12-A-1, the buyer shall withhold
9 from the purchase price and pay to the Tax Collector a sufficient amount to satisfy said taxes,
10 interest and penalties.

11 (d) If the buyer purchases or acquires an interest in a business in violation of this
12 Section, the buyer shall become personally liable for the amount of taxes, interest and
13 penalties owed on the business.

14 (e) The buyer's obligations shall accrue at the time the business is purchased or the
15 interest acquired, or at the time the Tax Collector determines the seller's final liability,
16 whichever is later.

17 (f) The liability at law or in equity of a successor, transferee or alter ego of any
18 taxpayer or other person determined to be liable for any tax, interest, cost or penalty subject
19 to this Article, imposed upon a taxpayer may be determined, collected and paid in the same
20 manner and subject to the same provisions and limitations as a deficiency determination
21 pursuant to Sections 6.11-1, 6.11-2, and 6.13-1 *et seq.* Nothing in this subsection shall be
22 construed to limit the rights or procedures available to the Tax Collector to collect from any
23 successor, transferee or alter ego, at law or in equity, as may be provided by law.

1 Section 3. The Business and Tax Regulations Code is hereby amended by revising
2 Article 9, Section 607 to read as follows:

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

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

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

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

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

13

14 Section 4. The Business and Tax Regulations Code is hereby amended by revising
15 Article 12, Sections 859 and 860 to read as follows:

16

17 **SEC. 859. BUSINESS ~~TAX~~ REGISTRATION TAG CERTIFICATE REQUIRED ON CERTAIN**
18 **VEHICLES.**

19 (a) The Tax Collector shall require persons engaged in the businesses listed in
20 subsection (b) to display prominently upon each vehicle which is registered as a commercial
21 vehicle with the California Department of Motor Vehicles, and which is used by the person in
22 the conduct of his or her business, a ~~registration tag~~ copy of the person's business registration
23 certificate in such form and color and containing such information as the Tax Collector shall
24 determine. An employee's personally owned vehicles are exempt from this requirement. ~~The~~

25

1 ~~Tax Collector shall charge an annual fee of \$30 for each tag issued to cover the cost of issuing the tag.~~
2 ~~The registration tag shall be valid for the year of issuance, or 1 year, whichever ends later.~~

3 ~~It is unlawful for any person, required to display a registration tag pursuant to this Section, to~~
4 ~~use or cause to be used any company vehicle which is registered as a commercial vehicle with the~~
5 ~~California Department of Motor Vehicles in the conduct of the person's business within the City and~~
6 ~~County that does not have a business tax registration tag attached thereto or to remove or deface or~~
7 ~~cover up the registration tag, or to place such registration tag upon any vehicle other than a vehicle~~
8 ~~used by the person in his or her business, or to use or cause to be used any such vehicle more than 30~~
9 ~~days after the expiration of the period for which the registration tag was issued. An employee's~~
10 ~~personally owned vehicles are exempt from this requirement.~~

11 ~~Each person required to display a registration tag on vehicles used in conduct of his or her~~
12 ~~business shall keep the registration tag(s) issued by the Tax Collector firmly affixed upon each vehicle~~
13 ~~for which a registration tag was issued at such location upon the vehicle as is designated by the Tax~~
14 ~~Collector.~~

15 ~~Subsequent to the issuance of any business tax registration certificate and prior to the~~
16 ~~expiration date, any person seeking to use any company vehicle which is registered as a commercial~~
17 ~~vehicle with the California Department of Motor Vehicles in his or her business, for which a tag has~~
18 ~~not been issued, shall procure a tag for such vehicle from the Tax Collector. Upon the payment of a fee~~
19 ~~for such tag, the Tax Collector shall deliver the tag to the person, which tag shall be securely affixed to~~
20 ~~the vehicle upon the location designated by the Tax Collector.~~

21 (b) Persons engaged in the following business(es) shall be required to display a
22 ~~registration tag~~copy of the person's business registration certificate on company vehicles which are
23 registered as commercial vehicles with the California Department of Motor Vehicles and which
24 are used in the conduct of his or her business:
25

1 Roofing contractor and any other contractor performing work for which a reroofing
2 permit is required.

3
4 **SEC. 860. REGISTRATION CERTIFICATE – ~~SUSPENSION AND~~ REVOCATION.**

5 If a person fails to comply with any provision of this Article or any rule or regulation
6 adopted pursuant thereto, the Tax Collector, after giving such person 15 days notice in writing
7 specifying the time and place of the hearing and requiring such person to show cause why his
8 or her registration certificate or registration certificates should not be revoked, may revoke ~~or~~
9 ~~suspend~~ any one or more of the registration certificates held by such person. The notice shall
10 be served in the same manner prescribed for the service of a notice of a deficiency
11 determination under Article 6. The Tax Collector shall not issue a new registration certificate
12 after the revocation of a registration certificate unless the registrant complies with the
13 provisions of the Business and Tax Regulations Code and the rules and regulations adopted
14 thereunder.

15
16 Section 5. The Business and Tax Regulations Code is hereby amended by revising
17 Article 12-A, Sections 905-A and 906.3 to read as follows:

18
19 **SEC. 905-A. SMALL BUSINESS TAX EXEMPTION.**

20 (a) Notwithstanding any other provisions of this Article, a "small business enterprise"
21 as hereinafter defined, shall be exempt from payment of the payroll expense tax; provided,
22 however, that a small business enterprise shall pay the annual registration fee pursuant to
23 Section 855 of Article 12.

24 (b) The term "small business enterprise" shall mean and include any taxpayer:
25

1 (1) Whose tax liability under this Article, but for this exemption provision, would
2 not exceed \$2,500 or, effective January 1, 2009 whose taxable payroll expense does not
3 exceed \$250,000; and

4 (2) Who has filed a tax return by the last date of February for the preceding tax
5 year. If the taxpayer fails to file a return by that date, the taxpayer shall be subject to a
6 penalty as specified in subsection (d).

7 (c) For the 2011 tax year, and each second succeeding tax year the Tax Collector
8 shall increase the ceiling for the small business tax exemption (rounded to the nearest
9 \$10,000 increment) to reflect increases in the United States Department of Labor's Bureau of
10 Labor Statistics consumer price index for all urban customers for the San Francisco-Oakland-
11 San Jose area for each of the preceding two tax years.

12 (d) In lieu of the penalty specified in Section 6.17-3 of Article 6 for failing to file a
13 return, any person who otherwise qualifies for the small business tax exemption set forth in
14 this Section who fails to file a return by the last date of February shall pay a penalty as
15 follows:

16 (1) If the person's payroll expense tax liability under this Article, but for the small
17 business tax exemption under this Section, would be \$2,250 or more, the penalty shall be
18 5 percent of the amount of such liability, for each month, or fraction thereof, that the
19 ~~return~~amount due is delinquent, plus an additional 5 percent each month, or fraction thereof,
20 that the ~~return~~amount due is delinquent, up to a maximum of 20 percent of the tax liability. Any
21 penalties remaining unpaid for a period of 90 days or more shall be subject to an additional
22 penalty of 20 percent of the amount of the tax liability excluding penalties and interest.

23 (2) Penalties are due and payable when assessed. Unpaid penalties,~~interest~~
24 ~~and fees~~ shall accrue interest at the rate of 1 percent per month, or fraction thereof, from the
25 date that they are assessed through the date of payment. The total amount of the penalties,

1 interest and fees shall not exceed the amount of the person's payroll expense tax liability for the
2 period but for the small business tax exemption.

3 (e) The Tax Collector may, in his or her discretion, reduce the penalty set forth in
4 subsection (d) to not less than \$100 upon a showing that the late filing of the return was due
5 to reasonable cause and not due to willful neglect.

6
7 **SEC. 906.3. CENTRAL MARKET STREET AND TENDERLOIN AREA PAYROLL**
8 **EXPENSE TAX EXCLUSION.**

9 * * * *

10 (c) In order to be eligible for the payroll expense tax exclusion authorized under this
11 Section, persons wishing to claim the exclusion must:

12 (1) Complete and submit an initial application to the Office of Economic and
13 Workforce Development for review and evaluation. The Office of Economic and Workforce
14 Development will use this application to verify that applicants claiming the payroll expense tax
15 exclusion under this Section meet the eligibility requirements outlined in this subsection (~~bc~~)
16 ~~this Section~~. The Office of Economic and Workforce Development and the Office of the
17 Treasurer and Tax Collector shall prescribe the form of the application and, consistent with
18 this ordinance, the rules and regulations regarding eligibility for the Central Market Street and
19 Tenderloin Area payroll expense tax exclusion, which shall include participation in the City's
20 First Source Hiring Program as defined in Section 83.4 of the Administrative Code.

21 (2) File an annual affidavit with the Office of Economic and Workforce
22 Development affirming that they continue to meet the eligibility criteria as determined by the
23 Office of Economic and Workforce Development. The annual affidavit should detail the total
24 number of individuals hired during the year, the number of individuals who were referred by
25 the San Francisco Workforce Development System during the year, and the duration of

1 employment for each individual hired during the year. The affidavit must be filed with the
2 Office of Economic and Workforce Development on or before ~~January~~December 31 of each
3 year subsequent to the Office of Economic and Workforce Development's initial approval of
4 the application.

5 (3) Maintain records and documents in a manner acceptable to the Tax
6 Collector. Such records and documents must objectively substantiate any exclusion claimed
7 under this Section and be provided to the Tax Collector upon request.

8 (4) File ~~an~~a timely annual Payroll Expense Tax Return and affidavit with the Tax
9 Collector regardless of the amount of tax liability, if any, shown on the return after claiming the
10 exclusion provided for in this Section.

11 (5) Any person whose annual payroll expense exceeds one million dollars
12 (\$1,000,000) shall enter into a binding Community Benefit Agreement with the City
13 Administrator in order to be eligible for the payroll expense tax exclusion under this Section.
14 Such Community Benefit Agreement may include commitments to engage in community
15 activities in the Central Market Street and Tenderloin Area as well as participation in
16 workforce development opportunities.

17 * * * *

18
19 Section 6. The Business and Tax Regulations Code is hereby amended by revising
20 Article 22, Section 2219.6 to read as follows:

21
22 **SEC. 2219.6. COLLECTION AND ENFORCEMENT.**

23 (a) The Revenue Control Equipment Compliance Fee shall be due ~~annually~~ to the Tax
24 Collector annually on December 31 and shall be remitted by the Operator ~~as a part of the last~~
25 ~~quarterly parking tax return.~~

1 (b) The Fee is payable, when due, at the office of the Tax Collector, and if not paid
2 within 30 days after the same becomes due, the Tax Collector shall add 10 percent to the
3 amount of the Fee as a penalty for nonpayment. If the Fee is not paid within 60 days after the
4 same becomes due, the Tax Collector shall add 15 percent to the amount of the Fee as a
5 penalty for nonpayment. If the Fee is not paid within 90 days after same becomes due, the
6 Tax Collector shall add 25 percent to the amount of the Fee, as a penalty for nonpayment;
7 provided, however, when an Operator has failed for a period of six months or more to pay the
8 ~~f~~Fee, and has allowed the ~~f~~Fee to become delinquent for this or a longer period, the Tax
9 Collector shall, in such instance, impose a penalty of 25 percent on the total amount of the
10 Fee delinquent and refer the Operator to the Bureau of Delinquent Revenue for further
11 collection and enforcement.

12
13 Section 7. Effective and Operative Date.

14 (a) Effective Date. This ordinance shall become effective 30 days after enactment.
15 Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance
16 unsigned or does not sign the ordinance within ten days of receiving it, or the Board of
17 Supervisors overrides the Mayor's veto of the ordinance.

18 (b) Operative Dates. This ordinance shall become operative on its effective date,
19 except for those provisions of Sections 6.9-1, 6.9-3, and 905-A, that are (1) amendments
20 contained in Proposition E (November 6, 2012) or (2) additional amendments shown in this
21 ordinance. Both categories of amendments to those sections shall become operative on
22 January 1, 2014.

23
24 Section 8. Severability of Ordinance Provisions; Construction of Ordinance.

1 (a) If any section, sentence, clause, phrase, or portion of this ordinance is for any
2 reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining
3 sections, sentences, clauses, phrases, or portions of this ordinance shall nonetheless remain
4 in full force and effect. The Board of Supervisors of the City and County of San Francisco
5 hereby declares that it would have adopted each section, sentence, clause, phrase, or portion
6 of this ordinance, irrespective of the fact that any one or more sections, sentences, clauses,
7 phrases, or portions of this ordinance be declared invalid or unenforceable and, to that end,
8 the provisions of this ordinance are severable.

9 (b) No section, clause, part or provision of this ordinance shall be construed as
10 requiring the payment of any tax that would be in violation of the Constitution or laws of the
11 United States or of the Constitution or laws of the State of California.

12
13 Section 9. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
17 additions, and Board amendment deletions in accordance with the "Note" that appears under
18 the official title of the ordinance. In accordance with Section 1 of this ordinance, it is the
19 Board's intent to amend the text of Section 6.9-1, 6.9-3, and 905-A.

20
21 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

22
23 By: _____
JEAN H. ALEXANDER
24 Deputy City Attorney

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