

FILE NO. 002197

ORDINANCE NO. 61-01

1 [Requiring parking stations to have revenue control equipment, to provide receipts, to report
2 non-functioning equipment, and to have signage and to provide for revocation of certificates of
3 authority to collect third-party taxes for failure to comply with these provisions.]

4 Ordinance adding Article 49 Sections 4901 to 4916 to the San Francisco Police Code to
5 require parking stations to have revenue control equipment and to provide receipts to
6 occupants, to have appropriate signage, to provide that the Department of Consumer
7 Assurance will confirm accuracy of revenue control equipment, and to provide for
8 criminal or civil penalties for violations and amending Section 6.6-1 the San Francisco
9 Business and Tax Regulation Code to allow revocation of a certificate of authority for
10 failure to comply with the provisions of the Police Code.

11 Note: Additions are *italic; Times New Roman*; deletions
12 are ~~*strikethrough italic; 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. San Francisco Police Code is hereby amended by adding Article 49
16 Sections 4901 to 4916, to read as follows:

17 *Sec. 4901. Definitions. (a) The terms "operator", "occupant", "occupancy", "parking station",*
18 *"motor vehicle", "rent", and "parking meter" shall have the meaning set forth in the San Francisco*
19 *Business and Tax Regulations Code Article 9.*

20 (b) "Parking Stall." A parking stall is a marked area designated for the parking of a vehicle.

21 (c) "Parking Voucher/Ticket." A parking voucher/ticket is the record provided to the occupant
22 setting forth the time and date that the occupant's vehicle entered the parking station, and is used by
23 the operator to determine the rent to be charged to the occupant or as a claim check.

24 *Sec. 4902. Exemptions. The requirements of this Article shall not apply to any parking station where:*

25 (a) *No rent is charged at any time;*

1 ~~(b) All rent paid for occupancy is paid by the deposit of a coin or coins in a parking meter~~
2 owned and operated by the City and County;

3 (c) All rent paid for occupancy is paid by a resident or a registered guest of a hotel or motel
4 by adding the rent to the room bill of the registered guest;

5 (d) Occupants pay rent only for special events and on 75 or fewer ~~less~~ days during a
6 calendar year; for

7 (e) The operator is a governmental agency such as the School District.

8 **Sec. 4903. Revenue Control Equipment.**

9 (a) All parking stations must have functioning revenue control equipment at each location operated as
10 a parking station during all hours that the parking station is open for business.

11 (b) Notwithstanding the provisions of Business & Tax Code Section 604, the revenue control
12 equipment must provide a legible receipt to each occupant at the time that the occupant pays the rent.

13 The receipt must contain the following information:

14 1. Time and date of transaction;

15 2. Time and date of expiration of the transaction;

16 3. Amount paid;

17 4. Parking facility address;

18 5. City business license number;

19 ~~6. Vehicle license number or parking stall number;~~

20 6. ~~7.~~ Non-resettable unique transaction number; and

21 7. ~~8.~~ Business telephone and address of ~~person~~ operator or operator's agent responsible for
22 addressing consumer complaints.

23 (c) All revenue control equipment must maintain a nonadjustable transaction number and a
24 nonvolatile record of receipts including a nonresettable sequence number.

1 (d) All revenue control equipment must be capable of producing reports containing all transaction
2 occurring within:

- 3 1. The 24 hours immediately preceding the request for the report;
- 4 2. A calendar day immediately preceding the request for the report;
- 5 3. The month in which the report is requested from the first day of the month to the date of the
6 request;
- 7 4. The 30 days prior to the request for the report;
- 8 5. The year that the report is requested from the 1st of the year to the date of the request; and
- 9 6. The 365 days prior to the request for the report.

10 (e) In addition to the other requirements of this Article, parking stations operated without an attendant
11 present shall have individually designated parking stalls, and at all times that the attendant is not
12 present the receipt required herein shall contain the parking stall number.

13 (f) If the revenue control equipment is not functioning the operator and/or the operator's agent may
14 continue to operate the parking station during the periods of time that the revenue control equipment is
15 not functioning with the following conditions:

- 16 1. The operator and/or the operator's agent shall not tow any vehicle that entered the parking
17 station during the time that the equipment is unable to issue legible receipts;
- 18 2. The operator and/or the operator's agent shall maintain manual revenue control
19 procedures;
- 20 3. The operator shall issue an individually and sequentially numbered receipt on a
21 form authorized by the City and County of San Francisco Department of Consumer
22 Assurance; and
- 23 ~~4. 3-~~ The operator and/or the operator's agent shall use good faith efforts to repair the
24 equipment as soon as possible. There shall be a presumption that if the equipment is not
25

1 repaired within three days that the operator and/or the operator's agent has not made a good
2 faith effort to repair the equipment.

3 *Sec. 4904. Responsibilities of Department of Consumer Assurance. The Department of Consumer*
4 *Assurance shall ensure that all required revenue control equipment is functioning accurately. Upon*
5 *inspection, the Department of Consumer Assurance shall seal the equipment. The Department of*
6 *Consumer Assurance may charge a fee for these services equivalent to the device registration fee set*
7 *forth in California Business & Professions Code Section 12240.*

8 *Sec. 4905. Repair of Broken Equipment.*

9 (a) All parking station operators are responsible for informing the Department of Consumer
10 Assurance that any required revenue control equipment is not functioning or has been altered or
11 modified within 24 hours of the time that the equipment stops functioning or is otherwise altered or
12 modified. *The parking station operator shall provide the specific location of the non-functioning*
13 *equipment, the time that the equipment stopped functioning, and the anticipated time of repair.*

14 (b) Operators shall use service agents licensed by the State of California only for repair or
15 alteration of any required equipment.

16 *Sec. 4906. Signage. Every operator shall post a clear and conspicuous sign at every location where*
17 *occupants pay rent, of at least 10 inches by 15 inches, in type at least one inch high and 3/4 inches wide,*
18 *which states:*

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

1 ~~Sec. 4907. Required Maintenance of Parking Voucher/Tickets.~~ All parking operators must keep
2 parking voucher/tickets issued to occupants and returned by the occupant for a period of five years.
3 The parking voucher/ticket must be presented to any City auditor immediately upon request.

4 **Sec. 4908. Cooperation With City Agencies.** All parking station operators and employees must
5 cooperate with any City agency having an interest in the operation of the parking station, including
6 but not limited to City Auditors, the Treasurer/Tax Collector, the City Attorney's office, the District
7 Attorney's office, and the Department of Consumer Assurance by providing immediate access to all
8 revenue control equipment and documentation regarding receipt and revenue control procedures.

9 **Sec. 4910. Authority to Promulgate Regulations.** The Tax Collector may promulgate
10 regulations and issue rules, determinations and interpretations consistent with the purposes of
11 this Article and Article 9 of the Business and Tax Regulations Code as may be necessary and
12 appropriate to apply such Articles in a lawful manner, including provisions for penalties due to
13 fraud, underpayment of taxes, or any evasion of such Article or the rules and regulations
14 promulgated thereunder.

15 **Sec. ~~4911~~ 4910. Criminal Penalties.** It shall be a misdemeanor to violate any provision of this
16 article. In addition, if the District Attorney has evidence that a person intentionally tampered with the
17 required revenue control equipment in order to defraud the City, the District Attorney may charge the
18 person with the appropriate violations of State law.

19 **Sec. ~~4912~~ 4911. Civil Penalties.**

20 (a) Consumer Action; Relief; Court Costs and Attorney's Fees.

21 (1) Any occupant may bring an action against a parking station operator and/or an
22 operator's agent who fails to provide a receipt as required herein and may recover or obtain (a) a
23 penalty of \$500; (b) an order enjoining the violation; (c) punitive damages, if the court determines that
24 the violation was willful; and (d) any other relief that the court deems proper.

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

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

7 (c) *Limitation of Actions.* Any criminal or civil action brought under this Article shall be
8 commenced not more than two years from the date of the transaction.

9 **Sec. ~~4913~~ 4912. Cumulative Remedies.** Unless otherwise expressly provided, the remedies or
10 penalties provided by this Article are cumulative to each other and to the remedies and penalties
11 available under all other laws of the City and the State.

12 **Sec. ~~4914~~ 4913. Violation.** Any of the following shall be considered a violation of this Article:

13 (a) Failure to provide a receipt to any occupant as required in this Article. Each failure to provide a
14 receipt shall be considered a separate violation.

15 (b) Operating any parking station without revenue control equipment or procedures as required in this
16 Article. Each day a parking station operates without the required revenue control equipment or
17 procedures shall be considered a separate violation.

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

19 (d) Failure to maintain parking vouchers/tickets for five years as required by this Article.

20 (e) Failure to report nonfunctioning revenue control equipment as required in this article. Each day
21 each non-functioning machine is not reported shall be considered a separate violation.

22 (f) Failure to use good faith efforts to repair non-functioning equipment.

23 (g) Operating revenue control equipment that has been altered or modified without
24 notification to the Department of Consumer Assurance within 24 hours of the alteration or

1 modification. Each day a location is operated with revenue control equipment that has been
2 altered or modified shall be considered a separate violation.

3 *Sec. ~~4915~~ **4914**. **Effective Date.** *The requirements of this Article shall become effective 90 days after*
4 *final adoption by the Board of Supervisors.**

5 *Sec. ~~4916~~ **4915**. **Severability.** *If any part of this Article, or the application thereof to any person or*
6 *circumstances is held invalid, the remainder of this Article, including the application of such part or*
7 *provision to other persons or circumstances shall not be affected thereby and shall continue in full*
8 *force and effect.**

9 Section 2. Article 6 of Part III of the San Francisco Business and Tax Regulation Code
10 is hereby amended by amending section 6.6-1 to read as follows:

11 SEC. 6.6-1. REGISTRATION FOR THIRD-PARTY TAXES.

12 (a) These additional provisions shall apply to operators under the transient hotel
13 occupancy tax (Article 7), the parking space occupancy tax (Article 9), and the stadium
14 operator admission tax (Article 11), and to service providers under the utility users tax (Article
15 10) and the emergency response fee (Article 10A).

16 (b) Every operator or service supplier engaging in or about to engage in business
17 within the City who is required to collect any of the taxes identified in Subsection (a) shall
18 immediately register with the Tax Collector on a form provided by the Tax Collector.

19 (c) Such registration shall set forth the name under which such person transacts or
20 intends to transact business, the location of each of his or her place or places of business in
21 the City and County, and such other information to facilitate collection of the tax as the Tax
22 Collector may require. The registration shall be signed by the owner if a natural person, by a
23 member or partner, in the case of a partnership, or by an executive officer or some person
24 specifically authorized by the corporation to sign the registration, in the case of a corporation.
25

1 (d) Except as provided in Subsection (e) below, the Tax Collector within 10 days
2 after such registration shall issue without charge a certificate of authority to each registrant to
3 collect the tax from the customer, together with a duplicate thereof for each additional place of
4 business of such registrant. Each certificate and duplicate shall state the place of business to
5 which it is applicable and shall be prominently displayed at said place(s) of business therein
6 so as to be seen and come to the notice readily of all customers. Such certificates shall be
7 nonassignable and nontransferable and shall be surrendered immediately to the Tax Collector
8 upon the cessation of business by the operator or service provider at the location named or
9 upon the sale or transfer of the business.

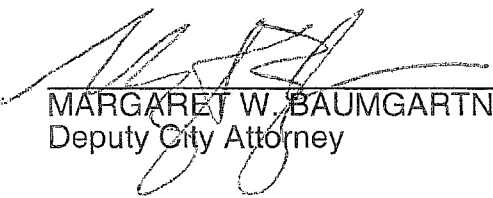
10 (e) Where within the 10-day period referred to in Subsection (d) above, the Tax
11 Collector determines that the operator or service provider, or any signatory to the registration
12 statement, or any person holding a 10 percent or greater legal or beneficial interest in said
13 operator or service provider, is not in compliance with any provision of Articles 7, 9, 10, 10A or
14 11 of Part III of the Municipal Code, the Tax Collector may refuse to issue the certificate.

15 Further, if any person subject to this Section violates any provision of Articles 7, 9, 10,
16 10A or 11 of Part III of the Municipal Code or a rule or regulation promulgated by the Tax
17 Collector, including but not limited to failing to maintain accurate registration information,
18 failure to file any return or pay any tax when due, failure to timely respond to any request for
19 information or subpoena, or for any person subject to Article 9 of the Tax Code for failure to
20 comply with the requirements of Article 49 of the Police Code, the Tax Collector may, after
21 serving the affected person with written notice of his or her determination in the manner
22 provided in Section 6.11-2 and an opportunity to be heard pursuant to the notice and review
23 provisions of Sections 6.13-1 et seq. and 6.14-1 et seq., revoke or suspend that person's
24 registration under this Section. The Tax Collector may refuse to issue that person a new
25 certificate of authority or to withdraw the suspension of an existing certificate until the person

1 seeking to re-register has complied with the provisions of Part III of the Municipal Code and
2 corrected the original violation to the satisfaction of the Tax Collector.

3
4 APPROVED AS TO FORM:

5 LOUISE H. RENNE, City Attorney

6
7
8 By: 
9 MARGARET W. BAUMGARTNER
Deputy City Attorney



City and County of San Francisco

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Tails

Ordinance

File Number: 002197

Date Passed:

Ordinance adding Article 49 Sections 4901 to 4916 to the San Francisco Police Code to require parking stations to have revenue control equipment and to provide receipts to occupants, to have appropriate signage, to provide that the Department of Consumer Assurance will confirm accuracy of revenue control equipment, and to provide for criminal or civil penalties for violations and amending Section 6.6-1 the San Francisco Business and Tax Regulation Code to allow revocation of a certificate of authority for failure to comply with the provisions of the Police Code.

April 2, 2001 Board of Supervisors — PASSED, ON FIRST READING

Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick,
Newsom, Peskin, Sandoval, Yee

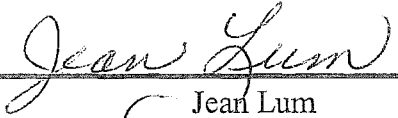
April 9, 2001 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick,
Newsom, Peskin, Sandoval

Absent: 1 - Yee


File No. 002197

I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on April 9, 2001 by the Board of Supervisors of the City and County of San Francisco.



Jean Lum
Acting Clerk of the Board

APR 20 2001
Date Approved



Mayor Willie L. Brown Jr.