

1 [Eliminating the Department of Consumer Assurance, Regulatory Compliance and Agricultural  
 2 Standards, and transferring the office of County Agricultural Commissioner-Sealer of Weights  
 3 and Measures to the Department of Public Health; making conforming changes in various  
 4 ordinances.]

5 **Ordinance amending the San Francisco Administrative Code by amending the title of**  
 6 **Article XIII, repealing section 2A.220 and amending sections 1.13-9, 1.15.1, 2A.221,**  
 7 **21.33 and 91.2, and amending the San Francisco Police Code by amending sections**  
 8 **674, 4903, 4904, 4905, 4908 and 4910, to eliminate the Department of Consumer**  
 9 **Assurance, Regulatory Compliance and Agricultural Standards, give the Director of the**  
 10 **Department of Public Health power to appoint the County Agricultural Commissioner-**  
 11 **Sealer of Weights and Measures, and make conforming changes to the Equal Access to**  
 12 **Services ordinance and ordinances governing agreements with the State for pest**  
 13 **detection, the establishment of fees for testing weighing and measuring devices, the**  
 14 **inspection of commodities supplied to the City by contractors, the regulation of**  
 15 **tobacco advertising, and the requirement that parking stations have Revenue Control**  
 16 **Equipment.**

17 Note: Additions are *single-underline italics Times New Roman*;  
 18 deletions are *strikethrough italics Times New Roman*.  
 19 Board amendment additions are double underlined.  
 20 Board amendment deletions are ~~strikethrough normal~~.

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

22 Section 1. The San Francisco Administrative Code is hereby amended by amending  
 23 Sections 1.13-9 and 1.15.1, to read as follows:

24 SEC. 1.13-9. PEST DETECTION AND TRAPPING.

25 The President of the Board of Supervisors or his or her designee is hereby  
 authorized to execute an annual contract between the City and County of San Francisco and

1 the California Department of Food and Agriculture to authorize the *City's County Agricultural*  
2 *Commissioner-Sealer of Weights and Measures Department of Agriculture* to perform exotic pest  
3 detection and trapping on behalf of the State of California.

4 SEC. 1.15.1. FEES FOR TESTING WEIGHING AND MEASURING DEVICES.

5 (a) For purposes of this Section, the term "commercial purposes" shall have  
6 the meaning prescribed in Section 12500 of the California Business and Professions Code.

7 (b) Pursuant to the California Business and Professions Code, Division 5,  
8 Chapter 2, Article 2, Sections 12210(b) and 12210.5, the Board of Supervisors hereby directs  
9 the *County Agricultural Commissioner-Sealer of Weights and Measures Department of Agriculture*  
10 *and Weights and Measures* to calibrate, test, weigh, and measure, and certify to the accuracy of,  
11 weights and measures and weighing and measuring devices and instruments, tools and  
12 accessories connected therewith, whether or not used for commercial purposes, upon the  
13 written request of any person. The Board of Supervisors hereby authorizes the County  
14 Agricultural Commissioner-*Sealer of Weights and Measures* to establish a schedule of fees for  
15 testing of weighing and measuring devices initiated by written request. Pursuant to Section  
16 12210.5 of the California Business and Professions Code, the fee schedule established shall  
17 be in accordance with those fees established by the Director of Agriculture of the State of  
18 California. The fee schedule shall be ratified by resolution of the Board of Supervisors.

19 (c) After any commercial weighing or measuring instrument or device has  
20 been tested as prescribed by Section 12210(a) of the California Business and Professions  
21 Code and found to be outside the tolerances or specifications set by the California  
22 Department of Food and Agriculture, *the County Agricultural Commissioner-Sealer of Weights and*  
23 *Measures sealer* may reinspect, retest and recertify such an instrument or device in order to  
24 determine if it is within those tolerances and specifications. Owners or operators of  
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1 commercial weighing or measuring devices that fail such an initial test shall be charged for  
2 any required retesting the same fee established for tests conducted upon written request.

3 (d) Immediately upon the approval of a change in the fees by the State of  
4 California, the County Agricultural Commissioner Sealer of Weights and Measures shall forward  
5 to the Board of Supervisors, for the Board's ratification, the change in the fees.

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7 Section 2. The San Francisco Administrative Code is hereby amended by amending  
8 the title of Article XIII, repealing Section 2A.220 and amending Sections 2A.221, 21.33, and  
9 91.2, to read as follows

10 ARTICLE XIII: PUBLIC GUARDIAN; ~~CONSUMER ASSURANCE, REGULATORY~~  
11 ~~COMPLIANCE, AND AGRICULTURAL STANDARDS~~ COUNTY AGRICULTURAL  
12 COMMISSIONER; SEALER OF WEIGHTS AND MEASURES

13  
14 ~~SEC. 2A.220. DEPARTMENT OF CONSUMER ASSURANCE, REGULATORY COMPLIANCE~~  
15 ~~AND AGRICULTURAL STANDARDS.~~

16 ~~There shall exist within the Department of Administrative Services a Department of Consumer~~  
17 ~~Assurance, Regulatory Compliance and Agricultural Standards. The Director of said department shall~~  
18 ~~be appointed by the Director of Administrative Services and shall succeed to all of the duties of the~~  
19 ~~County Agricultural Commissioner and Sealer of Weights and Measures.~~

20 SEC. 2A.221. CONSOLIDATION OF DUTIES OF THE COUNTY AGRICULTURAL  
21 COMMISSIONER AND THE SEALER OF WEIGHTS AND MEASURES.

22 The duties of the County Agricultural Commissioner and the Sealer of Weights and  
23 Measures are hereby consolidated and the County Agricultural Commissioner in addition to  
24 ~~his own~~ the duties of that office shall succeed to the duties of the Sealer of Weights and  
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1 Measures. The Director of the Department of Public Health shall appoint the County Agricultural  
2 Commissioner-Sealer of Weights and Measures.

3 SEC. 21.33. PROCEDURE UPON CONTRACTOR'S FAILURE TO DELIVER.

4 When a contractor fails to deliver a Commodity or Service of the quality, in the  
5 quantity, or in the manner specified in the contract within the time specified in the contract, the  
6 Contracting Officer may terminate the contract and/or purchase such Commodity or Service  
7 from any source; and if a greater price than that named in the contract be paid for such  
8 Commodity or Service, the excess price will be charged to and collected from the Contractor  
9 or the sureties on the Contractor's bond(s). All items supplied shall be subject to inspection or  
10 rejection by the Purchaser, by the County Agricultural Commissioner-Sealer of Weights and  
11 Measures ~~Director of Agricultural Weights and Measures~~ upon the Purchaser's request, or by the  
12 department receiving the Commodity or Service. The Purchaser's authority to procure  
13 Commodities or services from other sources as herein specified shall not preclude the City's  
14 exercise of any other remedies, including termination of the contract.

15 SEC. 91.2. DEFINITIONS.

16 As used in this Chapter, the following capitalized terms shall have the following  
17 meanings:

18 (a) "Bilingual Employee" shall mean a City employee who is proficient in the English language  
19 and a language other than English.

20 (b) "City" shall mean the City and County of San Francisco.

21 (c) "Commission" shall mean the Immigrant Rights Commission.

22 (d) "Concentrated Number of Limited English Speaking Persons" shall mean either 5  
23 percent of the population of the District in which a Covered Department Facility is located or 5  
24 percent of those persons who use the services provided by the Covered Department Facility.  
25 The Planning Department shall determine annually whether 5 percent or more of the

1 population of any District in which a Covered Department Facility is located are limited English  
2 speaking persons who speak a shared language other than English. The Planning  
3 Department shall make this determination by referring to the best available data from the  
4 United States Census Bureau or another reliable source and shall certify its determination to  
5 all City Departments and the Commission no later than December 1 of each year. Each  
6 Department shall determine annually whether 5 percent or more of those persons who use the  
7 Department's services at a Covered Department Facility are limited English speaking persons  
8 who speak a shared language other than English using either of the following methods  
9 specified in Section 91.2(j) of this Article.

10 (e) "Covered Department Facility" shall mean any Department building, office, or  
11 location that provides direct services to the public and serves as the workplace for 5 or more  
12 full-time City employees.

13 (f) "Departments" shall mean both Tier 1 Departments and Tier 2 Departments.

14 (g) "Districts" shall refer to the 11 geographical districts by which the people of the City  
15 elect the members of the City's Board of Supervisors. If the City should abandon the district  
16 election system, the Commission shall have the authority to draw district boundaries for the  
17 purposes of this Article that are approximately equal in population.

18 (h) "Limited English Speaking Person" shall mean an individual who does not speak  
19 English well or is otherwise unable to communicate effectively in English because English is  
20 not the individual's primary language.

21 (i) "Public Contact Position" shall mean a position in which a primary job responsibility  
22 consists of meeting, contacting, and dealing with the public in the performance of the duties of  
23 that position.

24 (j) "Substantial Number of Limited English Speaking Persons" shall mean either 10,000  
25 City residents, or 5 percent of those persons who use the Department's services. The

1 Planning Department shall determine annually whether at least 10,000 limited English  
2 speaking City residents speak a shared language other than English. The Planning  
3 Department shall make this determination by referring to the best available data from the  
4 United States Census Bureau or another reliable source and shall certify its determination to  
5 Departments and the Commission no later than December 1 of each year. Each Department  
6 shall determine annually whether 5 percent or more of those limited English speaking persons  
7 who use the Department's services citywide speak a shared language other than English.  
8 Departments shall make this determination using either of the following methods:

9 (1) Conducting an annual survey of all contacts with the public made by the  
10 Department during a period of at least two weeks, at a time of year in which the Department's  
11 public contacts are to the extent possible typical or representative of its contacts during the  
12 rest of the year, but before developing its annual compliance plan required by Section 91.9 of  
13 this Article; or

14 (2) Analyzing information collected during the Department's intake process. The  
15 information gathered using either method shall also be broken down by Covered Department  
16 Facility to determine whether 5 percent or more of those persons who use the Department's  
17 services at a Covered Department Facility are limited English speaking persons who speak a  
18 shared language other than English for purposes of Section 91.2(d) of this Article.  
19 Departments may not use any other method unless approved prior to its use by the  
20 Commission.

21 (k) "Tier 1 Departments" shall mean the following City departments: Adult Probation  
22 Department, ~~Department of Consumer Assurance~~, Department of Elections, Department of  
23 Human Services, Department of Parking and Traffic, Department of Public Health,  
24 Department of Public Transportation, District Attorney's Office, Emergency Communications  
25 Department, Fire Department, Juvenile Probation Department, Police Department, Public

1 Defender's Office, Department of Aging and Adult Services, Rent Stabilization and Arbitration  
2 Board, and Sheriff's Office.

3 (l) "Tier 2 Departments" shall mean all City departments not specified as Tier 1  
4 Departments that furnish information or provide services directly to the public and consist of at  
5 least 30 full-time City employees.

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7 Section 3. The San Francisco Police Code is hereby amended by amending Section  
8 674, to read as follows:

9 SEC. 674. TOBACCO ADVERTISING AND PROMOTION PROHIBITED.

10 (a) Title. This Section shall be known as the Prohibition of Tobacco  
11 Advertising and Promotion Ordinance.

12 (b) Definitions.

13 (1) "Tobacco product" shall mean any substance containing tobacco leaf,  
14 including but not limited to cigarettes, cigars, pipes, tobacco, snuff, chewing tobacco and  
15 dipping tobacco.

16 (2) "Advertising display sign" shall mean a sign, signboard, billboard, poster,  
17 freestanding sign or banner that is temporarily or permanently placed on or affixed to the  
18 ground, the sidewalk, a pole or post, or a building, or is displayed in the windows or doors of a  
19 commercial establishment, and that is used to advertise or promote products.

20 (3) "Promote" or "promotion" shall include a display of any logo, brand name,  
21 character, graphics, colors, scenes, or designs that are trademarks of a particular brand of  
22 tobacco product.

23 (4) "Publicly visible location" shall mean any outdoor location that is visible  
24 from any street, sidewalk, or other public thoroughfare, or any location inside a commercial  
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1 establishment immediately adjacent to a window or door where such location is visible from  
2 any street, sidewalk, or other public thoroughfare.

3 (5) "Person" shall include any individual, firm, partnership, cooperative  
4 association, private corporation, personal representative, receiver, trustee, assignee or other  
5 legal entity.

6 (6) "Designated department" means any City department that the County  
7 Agricultural Commissioner-Sealer of Weights and Measures ~~Department of Agriculture/Weights and~~  
8 ~~Measures~~ has designated to assist with the implementation and enforcement of this Section.

9 (c) Tobacco Advertising Prohibited. No person shall place or maintain, or  
10 cause or allow to be placed or maintained, in any manner any advertising or promotion of  
11 cigarettes or tobacco products on a billboard or advertising display sign in a publicly visible  
12 location in the City.

13 (d) Exceptions. This Section shall not apply to advertising or promotions for  
14 tobacco products:

15 (1) Located inside a commercial establishment, unless such advertising  
16 display sign or promotion is attached to, affixed to, leaning against, or otherwise in contact  
17 with any window or door in such a manner that it is visible from a street, sidewalk or other  
18 public thoroughfare;

19 (2) On billboards located within 660 feet of any highway, excluding Van Ness  
20 Avenue and Lombard Street, if the billboard is oriented so as to be visible from the highway,  
21 except as prohibited by federal, State or other local law;

22 (3) On vehicles;

23 (4) On any sign located inside or immediately outside a commercial  
24 establishment if the sign provides notice that the establishment sells tobacco products, so  
25 long as the sign does not promote any brand of tobacco product;



1 (5) On tobacco product packaging.

2 (e) Effective Date. This Section shall become operative six months after the  
3 date it is finally adopted.

4 (f) Administration and Enforcement.

5 (1) Except as otherwise provided, this Section shall be administered and  
6 enforced by the Department of Agriculture/Weights and Measures.

7 (2) The County Agricultural Commissioner-Sealer of Weights and Measures  
8 ~~Department of Agriculture/Weights and Measures~~ shall develop guidelines, as appropriate, to  
9 ensure proper implementation and enforcement of this Section. At the request of the County  
10 Agricultural Commissioner-Sealer of Weights and Measures ~~Department of Agriculture/Weights and~~  
11 ~~Measures~~, other City departments such as the Department of Public Works and the Planning  
12 Department shall assist with the implementation and enforcement of this Section.

13 (3) The County Agricultural Commissioner-Sealer of Weights and Measures  
14 ~~Department of Agriculture/Weights and Measures~~ or a designated department shall review and act  
15 upon any written complaint submitted by any private citizen or City officer or employee  
16 concerning any advertising or promotion prohibited by this Section, within 30 days of receipt of  
17 the complaint. The County Agricultural Commissioner-Sealer of Weights and Measures ~~Department~~  
18 ~~of Agriculture/Weights and Measures~~ or a designated department shall serve notice requiring  
19 correction of any violation of this Section upon the person responsible for the advertising  
20 display sign or promotion prohibited by this Section. The notice shall specify a date by which  
21 the violation shall be corrected. For billboards that display material prohibited by this Section,  
22 the date specified shall provide at least five days for correction. For all other violations, the  
23 date specified shall provide at least two days for correction.

24 (4) The City Attorney is authorized to enforce this Section by appropriate civil  
25 action. No such action shall be commenced, however, unless and until the County Agricultural

1 Commissioner-Sealer of Weights and Measures ~~Department of Agriculture/Weights and Measures~~ or a  
2 designated department has issued a notice requiring correction to any person responsible for  
3 any advertising display or promotion prohibited by this Section, the time specified in the notice  
4 has passed, and the responsible person has failed to comply with this Section. However, if  
5 three notices requiring the correction of any violation of this Section (whether the violation  
6 involves the same or different displays) are served on any person within a 30-day period, the  
7 City Attorney may pursue the remedies set forth in this Section against that person without the  
8 serving of another notice, if the additional violation occurs within 90 days of the serving of the  
9 third notice.

10 (5) Violation of this Section shall constitute grounds for injunctive relief. In  
11 addition, any person who violates or refuses to comply with the provisions of this Section shall  
12 be liable for a civil penalty of \$100 a day for each violation, which penalty shall be assessed  
13 and recovered in a civil action brought in the name of the People of the City and County of  
14 San Francisco in any court of competent jurisdiction. Each separate display of tobacco  
15 advertising or promotion prohibited by this Section shall be considered a separate violation.  
16 Each day such violation is committed or permitted to continue shall constitute a separate  
17 violation. In those instances in which a notice of correction is required by this Section, there  
18 shall be no penalty assessed for displays that occur during the period of time allowed for  
19 correction. Any penalty assessed and recovered in an action brought pursuant to this  
20 paragraph shall be paid to the Treasurer of the City and County of San Francisco. The person  
21 against whom a penalty is assessed, or against whom an injunction is obtained, also shall be  
22 liable for the costs of attorney's fees incurred by the City and County of San Francisco in  
23 bringing any civil action to enforce the provisions of this Section.

1 (6) For purposes of determining liability of persons, firms or corporations  
2 controlling franchises or business operations in multiple locations, each individual franchise or  
3 business location shall be deemed a separate entity.

4 (g) Intent as to Additional Legal Restrictions and Remedies.

5 (1) Nothing in this Section is intended to alter the obligations or restrictions  
6 that apply to any person under any other law governing signs, billboards, tobacco advertising  
7 or any other matter covered by this Section.

8 (2) The remedies set forth in this Section are not exclusive. If any action  
9 prohibited by this Section is also unlawful under any other law, the penalties and remedies  
10 under such other laws may be pursued in addition to those provided in this Section.

11 (h) Disclaimers. By prohibiting the advertising or promotion of tobacco  
12 products in outdoor or publicly visible locations, the City and County of San Francisco is  
13 assuming an undertaking only to promote the general welfare. It is not assuming, nor is it  
14 imposing on its officers and employees, an obligation for breach of which it is liable in money  
15 damages to any person who claims that such breach proximately caused injury.

16 (i) Severability. If any provision of this Section or its application to any  
17 person or circumstance is held invalid, this Section, to the extent it can be given effect, or the  
18 application of this Section to persons other than the person to whom it is held invalid, shall not  
19 be affected thereby, and to this end, the provisions of this Section are severable.

20 Section 4. The San Francisco Police Code is hereby amended by amending Sections  
21 4903, 4904, 4905, 4908 and 4910, to read as follows:

22 SEC. 4903. REVENUE CONTROL EQUIPMENT.  
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1 (a) All parking stations must have functioning revenue control equipment at each  
2 location operated as a parking station during all hours that the parking station is open for  
3 business.

4 (b) Notwithstanding the provisions of Business and Tax Regulations Code Section 604,  
5 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 facility 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 number  
16 and a nonvolatile record of receipts including a nonresettable sequence number.

17 (d) All revenue control equipment must be capable of producing reports containing all  
18 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 date  
22 of the request;
- 23 4. The 30 days prior to the request for the report;
- 24 5. The year that the report is requested from the 1st of the year to the date of the  
25 request; and

1           6. The 365 days prior to the request for the report.

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

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

9           1. The operator and/or the operator's agent shall not tow any vehicle that entered the  
10 parking station during the time that the equipment is unable to issue legible receipts;

11           2. The operator and/or the operator's agent shall maintain manual revenue control  
12 procedures;

13           3. The operator shall issue an individually and sequentially numbered receipt on a form  
14 authorized by the ~~City and County of San Francisco Department of Consumer Assurance~~ County  
15 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 the  
17 equipment as soon as possible. There shall be a presumption that if the equipment is not  
18 repaired within three days that the operator and/or the operator's agent has not made a good  
19 faith effort to repair the equipment.

20           SEC. 4904. RESPONSIBILITIES OF ~~DEPARTMENT OF CONSUMER ASSURANCE~~ THE  
21 COUNTY AGRICULTURAL COMMISSIONER-SEALER OF WEIGHTS AND MEASURES.

22           The ~~Department of Consumer Assurance~~ County Agricultural Commissioner-Sealer of Weights  
23 and Measures shall ensure that all required revenue control equipment is functioning  
24 accurately. Upon inspection, the ~~Department of Consumer Assurance~~ County Agricultural  
25 Commissioner-Sealer of Weights and Measures, including any deputy authorized by law, shall seal

1 the equipment. The ~~Department of Consumer Assurance~~ County Agricultural Commissioner-Sealer  
2 of Weights and Measures may charge a fee for these services equivalent to the device  
3 registration fee set forth in California Business & Professions Code Section 12240.

4 SEC. 4905. REPAIR OF EQUIPMENT.

5 (a) All parking station operators are responsible for informing the ~~Department of~~  
6 ~~Consumer Assurance~~ County Agricultural Commissioner-Sealer of Weights and Measures or his or her  
7 designee that any required revenue control equipment is not functioning or has been altered or  
8 modified within 24 hours of the time that the equipment stops functioning or is otherwise  
9 altered or modified. The parking station operator shall provide the specific location of the non-  
10 functioning equipment, the time that the equipment stopped functioning, and the anticipated  
11 time ~~of~~ of repair.

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

14 SEC. 4908. COOPERATION WITH CITY AGENCIES.

15 All parking station operators and employees must cooperate with any City agency  
16 having an interest in the operation of the parking station, including but not limited to City  
17 Auditors, the Treasurer/Tax Collector, the City Attorney's office, the District Attorney's office,  
18 ~~and the Department of Consumer Assurance~~ the County Agricultural Commissioner-Sealer of Weights  
19 and Measures, and any other City officials or employees assigned to administer or implement this  
20 ordinance by providing immediate access to all revenue control equipment and documentation  
21 regarding receipt and revenue control procedures.

22 SEC. 4910. AUTHORITY TO PROMULGATE REGULATIONS.

23 The Executive Director of the Department of Parking and Traffic may, in consultation  
24 with the Treasurer/Tax Collector and ~~the Director of the Consumer Assurance Department~~ the  
25 County Agricultural Commissioner-Sealer of Weights and Measures, promulgate regulations and

1 issue rules, determinations and interpretations consistent with the purposes of this Article as  
2 may be necessary and appropriate to apply this Article in a lawful manner, including  
3 provisions for penalties due to fraud, underpayment of taxes, or any evasion of this Article or  
4 the rules and regulations promulgated thereunder.

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7 APPROVED AS TO FORM:  
8 DENNIS J. HERRERA, City Attorney

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By: \_\_\_\_\_  
Molly S. Stump  
Deputy City Attorney

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