

1 [Business and Tax Regulations Code - Common Administrative Provisions; Parking Tax;
2 Business Registration]

3
4 **Ordinance amending: (1) the San Francisco Business and Tax Regulations Code by:**
5 **(a) repealing Sections 6.11-4, 6.14-1, and 6.18-4 and amending Sections 6.1-1, 6.2-8, 6.2-**
6 **9, 6.2-13, 6.2-15, 6.2-17, 6.2-18, 6.2-21, 6.4-1, 6.5-2, 6.6-1, 6.7-1, 6.7-2, 6.8-1, 6.9-1, 6.9-2,**
7 **6.9-3, 6.9-4, 6.9-5, 6.10-1, 6.10-2, 6.10-3, 6.11-1, 6.11-2, 6.11-3, 6.12-2, 6.12-5, 6.13-1, 6.13-**
8 **3, 6.13-5, 6.13-6, 6.15-1, 6.15-2, 6.15-3, 6.15-4, 6.16-1, 6.17-1, 6.17-2, 6.17-3, 6.17-4, 6.18-1,**
9 **6.18-2, 6.18-3, 6.18-5, 6.19-1, 6.19-3, 6.19-4, 6.19-5, 6.19-6, 6.19-9, 6.21-1, and 6.22-1 of**
10 **Article 6 (Common Administrative Provisions), to eliminate inconsistent and**
11 **superseded cross-references, prohibit an operator from engaging in business without**
12 **a certificate of authority, require annual renewal of a certificate of authority to collect**
13 **third-party taxes, authorize the Tax Collector to revoke an operator's business**
14 **registration certificate and certificate of authority for failure to collect and remit taxes,**
15 **failure to comply with specific provisions of the Business and Tax Regulations Code**
16 **and Police Code, failure to install and maintain revenue control equipment, or refusal to**
17 **comply with the direction regarding trust accounts, increase bond requirements for**
18 **parking station operators, authorize the Tax Collector to issue a deficiency**
19 **determination or jeopardy determination against a parking operator's bond surety,**
20 **deem the filing an incomplete tax return failure to file a return, clarify that a tax exempt**
21 **entity is not relieved from its existing duty to collect and remit third-party taxes, require**
22 **that within 15 days after the cessation of business each taxpayer file a return for the**
23 **period, eliminate the use of estimated prepayments and instead require hotel and**
24 **parking operators to remit the actual tax owed each month, permit the Tax Collector to**
25 **independently determine the taxpayer's estimated tax liability for purposes of making a**

1 **prepayment, increase the threshold amount for small firm prepayments from \$2,500 to**
2 **\$3,750, establish the "pooled rate" as the applicable rate of interest on cash security**
3 **returned to a taxpayer, provide for service of notice of a tax delinquency or**
4 **determination on anyone in the State of California, clarify the date by which a**
5 **deficiency determination must be served on a taxpayer, permit the Tax Collector to**
6 **seek summary judgment immediately upon serving notice of a jeopardy determination**
7 **on the taxpayer, establish the security necessary to stay enforcement of a jeopardy**
8 **assessment, provide that any ground that is not asserted in the taxpayer's petition for**
9 **redetermination is deemed waived in a later judicial proceeding to collect the specified**
10 **tax, establish the procedure for increasing the amount of a determination, specify that**
11 **in order to exhaust administrative remedies prior to seeking judicial relief taxpayer**
12 **must state all grounds supporting redetermination in its petition to the Tax Collector**
13 **and the Claim for Refund must be denied or deemed denied, clarify the proper party to**
14 **seek a tax refund, provides for interest to the date of the refund if a refund is applied**
15 **toward a future liability, clarify the statute of limitations period for filing suit if no notice**
16 **that the Claim has been denied is served on the Taxpayer, clarify that a refund action is**
17 **the only judicial remedy available to an aggrieved taxpayer, increase penalties for**
18 **failure to file a return, clarify the law that determines the interest rate and enforcement**
19 **procedures for summary judgments, include additional costs in the cost to enforce**
20 **judgments, authorize the Tax Collector to seek an injunction to prohibit a person from**
21 **doing business without a certificate of authority or business registration certificate,**
22 **add additional violations, increase penalty amounts, and amend the procedure for**
23 **issuing administrative citations, increase the maximum penalty amount imposed by**
24 **administrative citation from \$5,000 to \$25,000 annually, authorize the Tax Collector to**
25 **share taxpayer information with other public agencies for appropriate purposes, and**

1 reword various sections without substantive change; (b) amending Sections 604 of
2 Article 9 (Tax on Occupancy of Parking Space in Parking Stations), 713 of Article 10
3 (Utility Users Tax), and 859 of Article 12 (Business Registration), to lengthen the time
4 period that service suppliers must preserve records from 4 years to 5 years, and
5 reword various sections without substantive change; (c) repealing Sections 608
6 through 608.8 of Article 9 (Tax on Occupancy of Parking Space in Parking Stations);
7 and (2) the San Francisco Administrative Code by amending Section 10.80-2 of Article
8 XIII (Funds), Chapter 10 (Finance, Taxation, and Other Fiscal Matters), to correct
9 references to the California Government Code.

10 NOTE: Additions are single-underline italics Times New Roman;
11 deletions are ~~strike-through italics Times New Roman~~.
12 Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

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

14 Section 1. The San Francisco Business and Tax Regulations Code is hereby amended
15 by repealing Sections 6.11-4, 6.14-1, and 6.18-4 and amending Sections 6.1-1, 6.2-8, 6.2-9,
16 6.2-13, 6.2-15, 6.2-17, 6.2-18, 6.2-21, 6.4-1, 6.5-2, 6.6-1, 6.7-1, 6.7-2, 6.8-1, 6.9-1, 6.9-2,
17 6.9-3, 6.9-4, 6.9-5, 6.10-1, 6.10-2, 6.10-3, 6.11-1, 6.11-2, 6.11-3, 6.12-2, 6.12-5, 6.13-1,
18 6.13-3, 6.13-5, 6.13-6, 6.15-1, 6.15-2, 6.15-3, 6.15-4, 6.16-1, 6.17-1, 6.17-2, 6.17-3, 6.17-4,
19 6.18-1, 6.18-2, 6.18-3, 6.18-5, 6.19-1, 6.19-3, 6.19-4, 6.19-5, 6.19-6, 6.19-9, 6.21-1, and
20 6.22-1, to read as follows:

21 **SEC. 6.1-1. COMMON ADMINISTRATIVE PROVISIONS.**

22 (a) ~~Except where the specific language of the Business and Tax Regulations Code or context~~
23 ~~otherwise requires, these~~These common administrative provisions shall apply to Articles 6, 7, 9,
24 10, 10B, 11, 12, 12-A, and 12-B of ~~this such~~ Code and to Chapter 105 of the San Francisco
25 Administrative Code, unless the specific language of either code otherwise requires. Any provision

1 of this Article 6 that references or applies to Article 10 shall be deemed to reference or apply
2 to Article 10B. Any provision of this Article 6 that references or applies to a tax shall be
3 deemed to also reference or apply to a fee administered pursuant to this Article.

4 (b) Unless expressly provided otherwise, all statutory references in this Article and the
5 Articles set forth in ~~subsection~~ *Subsection* (a) shall refer to such statutes as amended from time
6 to time and shall include successor provisions.

7 (c) For purposes of this Article, a domestic partnership established pursuant to
8 Chapter 62 of the San Francisco Administrative Code shall be treated the same as a married
9 couple.

10
11 **SEC. 6.2-8. DAY.**

12 The term "day" means a calendar day. If the last day for performance of any act
13 provided for or required by the Business and Tax Regulations Code ~~is shall be~~ a holiday, as
14 defined in Chapter 7 (commencing with Section 6700) of Division 7 of Title 1 of the California
15 Government Code, or a Saturday or Sunday, the act may be performed upon the next
16 business day with the same effect as if it had been performed upon the day appointed. For
17 purposes of this Section, the Friday in November immediately after Thanksgiving Day ~~is shall~~
18 ~~be~~ considered a holiday.

19
20 **SEC. 6.2-9. EMPLOYEE.**

21 The term "employee" means any individual in the service of an employer, under an
22 appointment or contract of hire or apprenticeship, express or implied, oral or written, whether
23 lawfully or unlawfully employed, and includes but is not limited to, all of the enumerated
24 categories in ~~subsections~~ *Subsections* (a) through (f) of California Labor Code Section 3351,
25 regardless of whether Workers' Compensation Benefits, pursuant to Division 4, Part 1,

1 Section 3200, et seq. of the California Labor Code are required to be paid. Nothing herein
2 shall be deemed to incorporate any provisions from said Labor Code relating to scope of
3 employment.

4
5 **SEC. 6.2-13. OPERATOR.**

6 The term "operator" means:

7 (a) Any person conducting or controlling a business subject to the tax on transient occupancy
8 of hotel rooms;

9 (b) Any person conducting or controlling a business subject to the tax on occupancy of parking
10 spaces in parking stations in the City, including, but not limited to, the owner or proprietor of such
11 premises, lessee, sublessee, mortgagee in possession, licensee or any other person otherwise
12 conducting or controlling such business;

13 (c) Any person conducting or controlling a business subject to the stadium operator occupancy
14 tax in the City;

15 (d) Any service supplier required to collect the utility users tax under Article 10; or

16 (e) Any service supplier required to collect the access line tax under Article 10B.

17 ~~The term "operator" means any person conducting or controlling a business subject to the tax~~
18 ~~on transient occupancy of hotel rooms or the tax on occupancy of parking spaces in parking stations in~~
19 ~~the City, including, but not limited to, the owner or proprietor of such premises, lessee, sublessee,~~
20 ~~mortgagee in possession, licensee or any other person otherwise conducting or controlling such~~
21 ~~business. "Operator" shall also include any person conducting or controlling a business subject to the~~
22 ~~stadium operator occupancy tax in the City, as well as any service supplier required to collect the~~
23 ~~utility users tax under Article 10 or the emergency response fee under Article 10A.~~

1 **SEC. 6.2-15. PERSON.**

2 The term "person" means any individual, firm, company, partnership, limited liability
3 partnership, joint venture, association, proprietorship, social club, fraternal organization, joint
4 stock company, domestic or foreign corporation, limited liability company, estate, trust,
5 business trust, receiver, trustee, trustee in bankruptcy, administrator, executor, assignee,
6 syndicate, or any other group or combination acting as a unit, whether mutual, cooperative,
7 fraternal, nonprofit or otherwise. "Person" also means the United States, the State of California, the
8 City and County of San Francisco, any county, municipality, district, or other political subdivision of
9 the State.

10
11 **SEC. 6.2-17. RETURN.**

12 The term "return" means any written statement required to be filed pursuant to Articles
13 6, 7, 9, 10, 10B ~~10A~~, 11, 12 or 12-A.

14
15 **SEC. 6.2-18. SUCCESSOR.**

16 The term "successor" means any person who, directly or indirectly~~through direct or mesne~~
17 ~~conveyance~~, purchases or succeeds to the business or portion thereof, or the whole or any part
18 of the stock of goods, wares, merchandise, fixtures or other assets, or any interest therein of a
19 taxpayer quitting, selling out, exchanging or otherwise disposing of his or her business. Any
20 person obligated to fulfill the terms of a contract shall be deemed a successor to any
21 contractor defaulting in the performance of any contract as to which such person is a surety or
22 guarantor.

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1 **SEC. 6.2-21. THIRD-PARTY TAXES.**

2 The term "third-party taxes" means the transient hotel occupancy tax (Article 7), the
3 parking space occupancy tax (Article 9), the utility users tax (Article 10) and the access line tax
4 (Article 10B)~~emergency response fee (Article 10A).~~

5
6 **SEC. 6.4-1. RECORDS; INVESTIGATION; SUBPOENAS.**

7 (a) Every taxpayer shall keep and preserve ~~business~~such records ~~for a period of five~~
8 ~~years~~ as may be necessary to determine the amount of tax for which the person may be liable,
9 including all local, ~~State~~state and federal tax returns of any kind, for a period of 5 years from the
10 date the tax is due or paid, whichever is later.

11 (b) Upon request of the Tax Collector, a taxpayer shall produce such business records at the
12 Tax Collector's Office ~~The Tax Collector shall have the right to inspect, examine, and copy such~~
13 ~~records at any time~~ during normal business hours for inspection, examination, and copying. Refusal
14 to allow full inspection, examination, or copying of such records shall subject the taxpayer to
15 ~~all~~the penalties authorized by law, including but not limited to the penalties set forth in Section
16 6.17-3. As an alternative to production at the Tax Collector's Office, the Tax Collector may agree to
17 inspect, examine, and copy the requested books, papers, and records at the taxpayer's place of business
18 or some other mutually acceptable location, and may require the taxpayer to reimburse the City for the
19 Tax Collector's ordinary and reasonable expenses incurred in the inspection, examination, and copying
20 of such books, papers, and records, including food, lodging, transportation and other related items, as
21 appropriate. ~~Where the taxpayer does not have the necessary records to determine liability under the~~
22 ~~Business and Tax Regulations Code or fails to produce such records in a timely fashion, the Tax~~
23 ~~Collector may determine the taxpayer's liability based upon any information in the Tax Collector's~~
24 ~~possession or that may come into the Tax Collector's possession. Such determination shall be prima~~
25 ~~facie evidence of the taxpayer's liability in any subsequent administrative or judicial proceeding.~~

1 ~~(c)(b)~~ The Tax Collector may order any person or persons, whether ~~as~~ taxpayers,
2 alleged taxpayers, witnesses, or ~~custodians of~~ custodian or records, to produce ~~for inspection,~~
3 ~~examination and copying at the Tax Collector's office~~ all books, papers, and records which the Tax
4 Collector believes may have relevance to enforcing compliance with the provisions of the
5 Business and Tax Regulations Code for inspection, examination, and copying at the Tax
6 Collector's Office during normal business hours. ~~The Tax Collector may order the attendance before~~
7 ~~the Tax Collector of all persons, whether as taxpayers, alleged taxpayers, witnesses, or custodian of~~
8 ~~records, whom the Tax Collector believes may have any knowledge of such books, papers and records.~~
9 ~~The Tax Collector may issue, and serve, subpoenas to carry out these provisions.~~ As an alternative to
10 production at the Tax Collector's ~~Office~~ office, the Tax Collector may agree to inspect, examine,
11 and copy the requested books, papers, and records at the person's ~~taxpayer's~~ place of business
12 or some other mutually acceptable location, and may require the person ~~taxpayer~~ to reimburse
13 the City for the Tax Collector's ordinary and reasonable expenses incurred in the inspection,
14 examination, and copying of such books, papers, and records, including food, lodging,
15 transportation, and other related items, as appropriate.

16 (d) The Tax Collector may order the attendance before the Tax Collector of any person or
17 persons, whether taxpayers, alleged taxpayers, witnesses, or custodians of records, whom the Tax
18 Collector believes may have any knowledge of such books, papers, and records.

19 (e) If the taxpayer does not maintain business records that are adequate to determine liability
20 under the Business and Tax Regulations Code, or following a request by the Tax Collector, fails to
21 produce such business records in a timely fashion, the Tax Collector may determine the taxpayer's
22 liability based upon any information in the Tax Collector's possession, or that may come into the Tax
23 Collector's possession. Such determination shall be prima facie evidence of the taxpayer's liability in
24 any subsequent administrative or judicial proceeding.

25 (f) The Tax Collector may issue and serve subpoenas to carry out these provisions.

1
2 **SEC. 6.5-2. PENALTIES FOR FAILURE TO RESPOND~~FILE RESPONSE~~ TO REQUEST**
3 **FOR FINANCIAL INFORMATION.**

4 Any persons, including taxpayers, alleged taxpayers, witnesses, or custodian~~seustodian~~
5 of records, who fail to respond to the Tax Collector's written request for financial information
6 shall be subject to any penalties and sanctions provided by law, including but not limited to the
7 penalties and sanctions provided in Section 6.17-3.

8
9 **SEC. 6.6-1. CERTIFICATE OF AUTHORITY FOR THIRD-PARTY TAXES.**

10 (a) These additional provisions shall apply to operators under the transient hotel
11 occupancy tax (Article 7), the parking space occupancy tax (Article 9), the utility users tax
12 (Article 10) and the access line tax (Article 10B)~~emergency response fee (Article 10A)~~.

13 (b) Every operator ~~engaging in or about to engage in business within the City~~ who is
14 required to collect or remit any third-party tax must possess a valid~~shall immediately apply to the~~
15 ~~Tax Collector for a~~ certificate of authority from~~on a form provided by~~ the Tax Collector.

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

1 (d) Except as provided in ~~subsections~~Subsections (f), (g), ~~and~~ (h), ~~and~~ (j) below, the Tax
2 Collector, within ~~4530~~ days after the application is complete, shall issue ~~without charge~~ a
3 separate certificate of authority to the operator to collect third-party taxes from customers for
4 each location at which the operator is required to collect such taxes. The certificate will expire
5 on a date certain set by the Tax Collector. The operator must apply for renewal of the certificate,
6 before it expires, if the operator intends to continue to engage in business in the City. Except as
7 provided in subsections (f), (g), (h) and (j), the Tax Collector may issue successive, one-year renewals
8 of an operator's certificate. Each certificate shall state the location of the place of business to
9 which it applies and shall be prominently displayed at such location in plain view of all
10 customers. Certificates of authority may not be assigned or transferred. The operator shall
11 immediately surrender to the Tax Collector the certificate for that location upon the operator's
12 cessation of business at that location or upon the sale or transfer of the business.

13 (e) The holder of a certificate of authority to collect parking taxes under Article 9 shall
14 remain presumptively liable for the collection of parking taxes at the location named in the
15 certificate, and for the reporting and remittance of such taxes to the Tax Collector, unless and
16 until the holder of the certificate both (i) notifies the Tax Collector in writing that the holder has
17 ceased to conduct a parking business at such location, and (ii) surrenders the certificate for
18 that location to the Tax Collector.

19 (f) The Tax Collector may refuse to issue the certificate where, within the ~~4530~~-day
20 period referred to in ~~subsection~~Subsection (d) above, the Tax Collector determines that the
21 operator, or any signatory to the application, or any person holding a 10 percent or greater
22 legal or beneficial interest in said operator ("10% owner") is not in compliance with any

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1 provision of Articles 6, 7, 9, 10, 10B10A, 12, ~~or~~ 12-A, or 22, including but not limited to any failure
2 to timely collect, report, pay, or remit any tax imposed by this Code, or where any such person is not in
3 compliance with any provision of Sections 1216 through 1223 inclusive of Article 17 of the Police
4 Code.

5 Solely for purposes of determining under this Section whether any such operator,
6 signatory or 10% owner is not in compliance with such Articles, the Tax Collector may
7 disregard any corporation or association owned or controlled, directly or indirectly, by any
8 such operator, signatory or 10% owner and consider such corporation or association's
9 operations and liabilities as conducted by or as owned by any one or more of such corporation
10 or association's officers, directors, partners, members or owners. For purposes of this
11 Section, (i) the term "owned" means ownership of 50 percent or more of the outstanding
12 ownership interests in such corporation or association, and (ii) the term "controlled" includes
13 any kind of control, whether direct or indirect, whether legally enforceable, and however
14 exercisable or exercised over such corporation or association. A presumption of control arises
15 if the operator, signatory or 10% owner is (or was) an officer, director, partner or member of
16 such corporation or association.

17 (g) Further, if any person subject to this Section violates any provision of Articles 6, 7,
18 9, 10, 10B10A, 12, ~~or~~ 12-A, or 22, or a rule or regulation promulgated by the Tax Collector,
19 including but not limited to any failure to timely collect, report, pay, or remit any tax imposed by this
20 Code, failure~~failin~~g to maintain accurate registration information, failure to sign any return or
21 pay any tax when due, or failure to timely respond to any request for information, order for
22 records or subpoena, or for any person subject to Article 9 for failure to comply with the
23 requirements of Article 22 of the Business and Tax Regulations Code~~Article 49 of the Police Code~~, or
24 violates any provision of Sections 1216 through 1223 inclusive of Article 17 of the Police Code, the
25 Tax Collector may, after serving the person with written notice of his or her determination in

1 the manner provided in Section 6.11-2 and an opportunity to be heard pursuant to the notice
 2 and review provisions of ~~Section~~Sections 6.13-1 et seq., revoke or suspend that person's
 3 certificate of authority. The Tax Collector may refuse to issue that person a new certificate of
 4 authority or to withdraw the suspension of an existing certificate until the person, signatory to
 5 the application for the certificate revoked or suspended, signatory to the application for a new
 6 certificate or withdrawal of the suspension, and all 10% owners have complied with the
 7 provisions of Articles 6, 7, 9, 10, ~~10B10A~~, 12,
 8 ~~or 12-A, and 22~~ and corrected the original violation to the satisfaction of the Tax Collector.

9 (h) Before any certificate of authority shall be issued to any applicant to engage in the
 10 business of renting parking space in a parking station in this City, such applicant shall file with
 11 the Tax Collector a bond naming the City as exclusive beneficiary, at all times the applicant
 12 engages in such business. ~~For any parking station with annual gross receipts less than \$100,000,~~
 13 ~~such~~Such bond shall be in the following amounts:~~amount of \$5,000.~~

<u>Annual gross receipts for parking station</u>	<u>Bond amount</u>
<u>Less than \$100,000.00</u>	<u>\$20,000</u>
<u>\$100,000.00 to \$250,000.00</u>	<u>\$50,000</u>
<u>\$250,000.01 to \$500,000.00</u>	<u>\$100,000</u>
<u>\$500,000.01 to \$750,000.00</u>	<u>\$150,000</u>
<u>\$750,000.01 to \$1,000,000.00</u>	<u>\$200,000</u>
<u>\$1,000,000.01 to \$2,000,000.00</u>	<u>\$400,000</u>
<u>\$2,000,000.01 to \$4,000,000.00</u>	<u>\$800,000</u>

24 ~~For any parking station with annual gross receipts of \$100,000 or more, such bond shall be in the~~
 25 ~~amount of \$25,000.~~This bond requirement does not apply to an applicant that is a governmental entity.

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

8 (i) Such bond shall be executed by the applicant as principal, and by a corporation or
9 association which is licensed by the Insurance Commissioner of this State to transact the
10 business of fidelity and surety insurance, as surety. The applicant shall keep the bond in full
11 force and effect for the duration of the certificate of authority and all renewals thereof issued to
12 such applicant. If the bond provides that the term thereof shall be continuous until cancelled,
13 the applicant shall provide the Tax Collector with certification from the surety of the renewal or
14 continuation of the bond: at the same time that the applicant files its Business Registration
15 Certificate, and (i) when applying for renewal of an existing certificate of authority, (ii) when
16 requesting the withdrawal of a suspension of an existing certificate of authority, or (iii) upon
17 written request of the Tax Collector.

18 (j) The bond shall contain conditions that require the applicant to comply fully with all
19 the provisions of the Business and Tax Regulations Code concerning the collection of third-
20 party taxes from occupants of parking stations and the remittance of such taxes to the Tax
21 Collector. The bond shall be payable to ~~the~~this City in the amount of all unpaid parking taxes
22 on amounts of taxable rents collected by the applicant, together with all administrative
23 collection costs, interest, penalties, and other costs and charges applicable thereto; provided,
24 however, that the aggregate liability of the surety for any and all claims which may arise under
25 such bond shall in no event exceed the face amount of such bond regardless of the amount

1 due and owing to the City. The City may bring an action upon the bond for the recovery of any
2 unpaid parking taxes, administrative collection costs, interest, penalties and other costs and
3 charges at any time prior to the expiration of the period of limitations applicable to the
4 collection of such unpaid taxes by the Tax Collector.

5 (k) When there is any deficiency determination or jeopardy determination against an operator
6 for third-party taxes, the Tax Collector shall issue the deficiency determination or jeopardy
7 determination against the operator and the operator's surety; however, the liability of the surety shall
8 not exceed the face value of the bond(s). The Tax Collector shall provide notice of such deficiency
9 determination or jeopardy determination to the bond surety. An operator's petition for redetermination
10 shall be construed by the Tax Collector as a petition on behalf of both the operator and the surety and
11 may request a hearing before the Tax Collector pursuant to Section 6.13-2. Taxpayer and surety
12 hearing may be consolidated at the discretion of the Tax Collector. The surety may file a separate
13 petition for redetermination. Upon the finality of such determination or decision on petition for
14 redetermination, the operator and the surety shall be liable to the Tax Collector in the amount of the
15 determination or decision on petition for redetermination; however, the surety's liability shall not
16 exceed the face value of the bond(s). The surety shall be subject to the same requirements as the
17 operator with regard to payment of the tax liability and exhaustion of administrative remedies prior to
18 seeking judicial relief. The Tax Collector may exercise all remedies against the surety that are
19 available to the Tax Collector as to an operator or any other person determined to be liable for a tax.

20 (l) Before any certificate of authority shall be issued to any applicant to engage in the business
21 of renting parking space in a parking station in this City, the applicant shall comply with Article 22.
22 The applicant shall reimburse the Tax Collector's costs to inspect the parking station to confirm it
23 complies with Article 22.

24 (m) The Tax Collector may issue a temporary certificate of authority, for a period not to exceed
25 60 days to an applicant who has posted the bond required by subsection (h). The temporary certificate

1 of authority shall allow the applicant to operate a parking station while the Tax Collector's staff
2 completes its review, and shall allow the Tax Collector 60 additional days from issuance of the
3 temporary certificate of authority to act upon the application. Issuance of a temporary certificate of
4 authority does not constitute the Tax Collector's representation or assurance that the Tax Collector will
5 issue the applicant a permanent certificate of authority.

6
7 **SEC. 6.7-1. COLLECTION OF THIRD-PARTY TAXES.**

8 (a) Every operator receiving payment of charges from a customer shall collect the
9 amount of the third-party tax from the customer. All amounts of third-party tax so collected
10 shall be held to be a special fund in trust for the City. For purposes of this Section, a person
11 who otherwise qualifies as an operator under Section ~~6.2-14~~6.2-13 shall not, by reason of the
12 fact that the person is exempt from the tax, be exempted from the other obligations of an
13 operator, including without limitation the obligation to collect and remit to the City all third-party
14 taxes collected from non-exempt customers. An exemption from a third-party tax is enjoyed by the
15 customer, not by the operator responsible for collecting and remitting such taxes. The operator may
16 not exclude from taxation charges claimed to be exempt unless the operator has records of each
17 transaction, which demonstrate: (1) the basis for the claim of exemption, and (2) that the tax was not
18 in fact collected from the exempt customer.

19 ~~Where an operator is exempt from the tax but its tenant is not exempt, the tenant shall be~~
20 ~~deemed to be an operator and shall be liable for the tax.~~—Where a customer is not the end user of
21 a good or service subject to such tax, the customer shall be deemed an operator. The
22 existence of such deemed operator shall not relieve any other operator of obligations under
23 the Business and Tax Regulations Code, including without limitation the obligation to collect
24 and remit the tax to the City. The liability of such deemed operator and any other operator for
25

1 the tax, including applicable interest and penalties accrued through the date of payment, shall
2 be joint and several; provided, the City shall be limited to only one satisfaction thereof.

3 (b) Third-party taxes shall be collected, insofar as practicable, at the same time as
4 and along with the collection of charges made in accordance with the regular billing practice of
5 the operator. If the amount paid by a customer is less than the full amount of the charges and
6 tax which has accrued for the billing period, a proportionate share of both the charges and the
7 tax shall be deemed to have been paid.

8 (c) Where a customer receives more than one billing, one or more being for different
9 periods than another, the duty to collect shall arise separately for each billing period. In all
10 cases of transactions upon credit or deferred payment, the payment of tax to the Tax Collector
11 may be deferred in accordance therewith, and the operator shall be liable therefor at the time
12 and to the extent that such credits are paid or deferred payments are made in accordance
13 with the rate of tax owing on the amount thereof.

14 (d) Any third-party tax imposed upon customers shall be deemed a debt owed by the
15 customer to the City. Any such tax required to be collected from customers which has not
16 been remitted to the Tax Collector shall be deemed a debt owed to the City by the person
17 required to collect and remit such tax to the City.

18 (e) The Tax Collector shall have the power to adopt rules and regulations prescribing
19 methods and schedules for the collection and payment of third-party taxes and such methods
20 and schedules shall provide that the fractional part of ~~one~~ cent shall be disregarded unless it
21 amounts to one-half of ~~one~~ cent ~~percent~~ or more, in which case the amount (determined
22 without regard to the fractional part of ~~one~~ cent) shall be increased by ~~one~~ cent.

23 (f) The Tax Collector may, in the exercise of his or her discretion, require an operator under
24 this Section to maintain trust accounts for taxes collected from customers. The Tax Collector may
25 direct an operator regarding how such trust accounts shall be created and maintained, and may

1 prescribe the terms of such accounts. An operator's refusal to comply with the Tax Collector's
2 direction regarding a trust account shall be grounds for revocation of a certificate of authority and/or
3 of any license or permit to do business in San Francisco.~~The Tax Collector may require operators~~
4 ~~under this Section to maintain separate trust accounts for taxes collected from customers. The Tax~~
5 ~~Collector shall adopt rules and regulations prescribing, among other things, when such accounts shall~~
6 ~~be required and how such accounts shall be maintained.~~

7 (g) When third-party taxes are not paid when due, or when there is any deficiency
8 determination or jeopardy determination against an operator for third-party taxes, the Tax
9 Collector may collect said liabilities, including interest and penalties accrued through the date
10 of payment, from any person or persons the Tax Collector determines was responsible for
11 performing the acts of collecting, accounting for, and remitting third-party taxes to the City and
12 failed to do so, or who had. ~~For purposes of this Section, a person shall be considered to be~~
13 ~~responsible for performing the acts of collecting, accounting for, and remitting third party taxes to the~~
14 ~~City if and to the extent such person has~~ the power to control the financial decision-making
15 process by which the operator allocates funds to creditors in preference to the operator's
16 obligation to remit third-party taxes to the City. When the person or persons responsible for the
17 acts of collecting, accounting for, and remitting third-party taxes to the City cannot otherwise
18 be determined, the Tax Collector may presume the President, Chief Executive Officer, and/or Chief
19 Financial Officer of a corporation or any managing partner or member of an association to be a
20 person responsible for performing such acts. The Tax Collector is authorized to name all such persons
21 potentially responsible for performing such acts in a notice of deficiency determination or jeopardy
22 determination. The Tax Collector's Final Decision on a petition for redetermination shall identify the
23 person or persons responsible for such acts, and such final decision shall be based on the information
24 available to the Tax Collector or based on the above presumption.~~there shall be a rebuttable~~
25 ~~presumption that the President and Chief Financial Officer of a corporation or any managing partner~~

1 ~~or member of an association is the person responsible for performing such acts.~~ The liability of such
2 persons shall be joint and several with each other and with the operator, and shall be
3 established in the manner provided for under this Article for other determinations.
4

5 **SEC. 6.7-2. REPORTING AND REMITTING THIRD-PARTY TAXES AND STADIUM**
6 **OPERATOR ADMISSION TAX.**

7 (a) All amounts of utility users taxes under Article 10 are due and payable to the Tax
8 Collector for each month on or before the last day of the month immediately following each
9 respective monthly period. All amounts of stadium operator admission taxes under Article 11
10 are due and payable to the Tax Collector within ~~five~~5 days after the event, subject to the
11 provisions of Section 804 of Article 11. All amounts of third-party taxes other than the utility
12 users taxes are due and payable to the Tax Collector for each calendar quarter on or before
13 the last day of the month immediately following each respective quarterly period.

14 (b) On or before the last day of the month immediately following each respective
15 period, every operator except the stadium operator shall file a return for the preceding period
16 with the Tax Collector, on such forms as the Tax Collector may prescribe. Stadium Operators
17 shall file a return within the time periods set forth in Section 804 of Article 11. Filing of a return
18 that the Tax Collector determines to be incomplete in any material aspect may be deemed failure to file
19 a return in violation of this Section.

20 (c) Returns shall show the amount of tax required to be collected for the subject
21 period, separately, for each location at which the operator conducts business, and such other
22 information as the Tax Collector requires. The Tax Collector may require returns to show the
23 total number of transactions upon which tax was required to be collected and the amount of
24 tax due on each such transaction, and for each location at which the operator conducts
25 business. The Tax Collector may inspect, examine, and copy records for ~~of~~ each such

1 location separately, and may issue deficiency and jeopardy determinations pursuant to this
2 Article for each such location separately, or in combination with one or more other locations at
3 which the operator conducts business. The operator shall file the return, together with
4 remittance of the amount of tax due, with the Tax Collector, at the Tax Collector's ~~Office~~*office*,
5 on or before the date provided in this Section. Returns and remittances are due immediately
6 upon cessation of business for any reason.

7 (d) When a return is filed without full remittance of the amount reported to be due, the
8 amount remaining unpaid, together with any nonpayment penalties, are immediately due and
9 payable and may be collected by the Tax Collector forthwith.

10
11 **SEC. 6.8-1. CITY, PUBLIC ENTITY AND CONSTITUTIONAL EXEMPTIONS.**

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

14 (1) The City;

15 (2) The State of California, or any county, municipal corporation, district or other
16 political ~~subdivisions~~*sub-division* of the State, except where any constitutional or statutory
17 immunity from taxation is waived or is not applicable;

18 (3) The United States of America, or any of its agencies or subdivisions, except where
19 any constitutional or statutory immunity from taxation is waived or is not applicable; or

20 (4) Any person exempted from the particular tax by the Constitution or statutes of the
21 United States or the Constitution or statutes of the State of California.

22 *The foregoing exemption from taxation does not relieve an exempt party from its duty to collect*
23 *and remit third-party taxes.*

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

2 Except for jeopardy determinations under Section 6.12-2, and subject to prepayments
3 required under Section 6.9-2, all amounts of taxes and fees imposed by Articles 6, 7, 9, 10,
4 ~~10B~~10A, 11, and 12-A are due and payable, and shall be delinquent if not paid to the Tax
5 Collector on or before the following dates:

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

9 (b) For the payroll expense tax (Article 12-A), on or before the last day of February of
10 each year;

11 (c) For the utility users taxes (Article 10) and the ~~access line tax (Article 10B)~~*emergency*
12 *response fee (Article 10A)*, for each monthly period, on or before the last day of the following
13 month; and

14 (d) For the stadium operator admission tax (Article 11-), within ~~five~~5 days after the
15 event, subject to the provisions of Article 11, Section 804.

16
17 **SEC. 6.9-2. DETERMINATIONS, RETURNS AND PAYMENTS; RETURNS.**

18 (a) Except as provided in ~~subsection~~*paragraph* (b) below, on or before the due date, or
19 in the event of a cessation of business within 15 days of such cessation, each taxpayer shall file
20 a return for the subject period on a form provided by the Tax Collector, regardless of whether
21 there is a tax liability owing. A person subject to any tax or required to remit any third-party tax
22 who has not received a return form or forms from the Tax Collector is responsible for
23 obtaining such form(s) and filing a return or returns on or before the due date, or upon the
24 cessation of business. Returns shall show the amount of tax and any third-party tax paid or
25 otherwise due for the related period and such other information as the Tax Collector may

1 require. Each person subject to any tax or required to remit any third-party tax and required to
2 file the return shall transmit the return, together with the remittance of the amount of tax or
3 third-party tax due, to the Tax Collector at the Tax Collector's ~~office~~Office on or before the due
4 date specified in Section 6.9-1.

5 (b) With respect to each tax year, the Tax Collector may exempt from the annual tax
6 return filing requirement those taxpayers whose liability under the Payroll Expense Tax
7 Ordinance, computed without regard to the small business exemption set forth in
8 Section 905-A of Article 12-A, is less than the Minimum Filing Amount for such tax year. For
9 purposes of this Section, the Minimum Filing Amount shall be an amount of tax liability,
10 computed without regard to such small business exemption, between zero and \$1,000~~one~~
11 ~~thousand dollars (\$1,000)~~. The Tax Collector shall specify the Minimum Filing Amount prior to
12 the beginning of each tax year. If the Tax Collector fails to specify a Minimum Filing Amount
13 prior to the start of a new tax year, the Minimum Filing Amount for such tax year shall be the
14 Minimum Filing Amount for the preceding tax year.

15
16 **SEC. 6.9-3. DETERMINATIONS, RETURNS AND PAYMENTS; PREPAYMENTS.**

17 (a) **Prepayments.** Notwithstanding the due dates otherwise provided in Section 6.9-1,
18 taxpayers shall make prepayments of taxes and third-party taxes ("tax prepayments") to the
19 Tax Collector as follows:

20 (1) **Hotel and Parking Taxes.** The Hotel Tax (Article 7) and the Parking Tax
21 (Article 9) shall be paid in monthly installments. Such monthly installments shall be due and
22 payable to the Tax Collector on or before the last day of the month immediately following the
23 month for which the prepayment is due. Taxes paid in the first ~~two~~ monthly installments of
24 any quarterly period shall be a credit against the total liability such third-party taxes for the
25 quarterly period. Estimated tax prepayments shall be computed based on the estimated tax

1 accrued during the month in question, but in no instance shall a prepayment be equal to a
2 sum less than 30 percent of the tax collected in the immediately preceding quarterly period. If
3 the taxpayer can establish by clear and convincing evidence that the amount of any
4 prepayment will exceed the total tax liability for the quarterly period for which the tax
5 prepayment becomes due, the Tax Collector may, in writing, adjust the amount of the tax
6 prepayment. The third monthly installment of any quarterly period shall be in an amount equal
7 to the total tax liability for the quarterly period, less the amount of any tax prepayments
8 actually paid.

9 (2) **Payroll Expense Tax.** The Payroll Expense Tax (Article 12-A) shall be paid
10 in biannual or quarterly installments as follows:

11 (A) **Small Firm Prepayments.** Every person liable for payment of a total
12 Payroll Expense Tax in excess of ~~\$3,750~~^{\$2,500} but less than or equal to \$50,000 for any tax
13 year shall pay such tax for the following tax year in ~~two~~ installments. The first installment
14 shall be due and payable, and shall be delinquent if not paid on or before, August 1st. The
15 first installment shall be a credit against the person's total Payroll Expense for the tax year in
16 which the first installment is due. The first installment shall be in an amount equal to one-half
17 ~~(1/2)~~ of the person's estimated Payroll Expense for such tax year. The estimated liability shall
18 be computed by using ~~52 percent~~^{52%} of the person's taxable payroll expense (as defined in
19 Section ~~902.1902.2~~ of Article 12-A) for the preceding tax year, and the rate of tax applicable to
20 the tax year in which the first installment is due. The second installment shall be reported and
21 paid on or before the last day of February of the following year. The second installment shall
22 be in an amount equal to the person's total Payroll Expense Tax for the subject tax year, less
23 the amount of the first installment and other tax prepayments for such tax year, if any, actually
24 paid.

1 (B) **Large Firm Prepayments.** Every person liable for payment of a total
2 Payroll Expense Tax in excess of \$50,000 for any tax year shall pay such tax for the following
3 tax year in ~~four~~ quarterly installments. The first, second and third quarterly installments shall
4 be due and payable, and shall be delinquent if not paid on or before, May 1st, August 1st and
5 November 1st, respectively. The first, second and third quarterly installments shall be a credit
6 against the person's total Payroll Expense Tax for the tax year in which such first, second and
7 third quarterly installments are due. Such quarterly installments each shall be in an amount
8 equal to one-quarter (~~1/4~~) of the person's estimated Payroll Expense Tax liability for such tax
9 year. The estimated liability for such tax year shall be computed by using 104 percent~~104%~~ of
10 the person's taxable payroll expense (as defined in Section 902.1 of Article 12-A) for the
11 preceding tax year, and the rate of tax applicable to the tax year in which the first, second and
12 third quarterly installments are due. The fourth installment shall be reported and paid on or
13 before the last day of February of the following year. The fourth quarterly installment shall be
14 in an amount equal to the person's total Payroll Expense Tax liability for the subject tax year,
15 less the amount of the first, second and third quarterly installments and other tax
16 prepayments, if any, actually paid.

17 (b) **Tax Prepayment Penalties.** Every person who fails to pay any tax prepayment
18 required under this Section before the relevant delinquency date shall pay a penalty in the
19 amount of ~~five~~5 percent (~~5%~~) of the amount of the delinquent tax prepayment per month, or
20 fraction thereof, up to ~~twenty~~20 percent (~~20%~~) in the aggregate, and shall also pay interest on
21 the amount of the delinquent tax prepayment from the date of delinquency at the rate of ~~one~~
22 1 percent (~~1%~~) per month, or fraction thereof, for each month the prepayment is delinquent,
23 until paid.

24 (c) **Hotel and Parking Taxes.** ~~Upon commencing business, an~~ An operator subject to the
25 Hotel Tax (Article 7) or the Parking Tax (Article 9) shall ~~have the option of making prepayments~~

1 ~~make monthly remittances~~ in the amount of the actual tax owed, ~~or making an estimate of the~~
2 ~~prepayment for the month based on the estimated tax accrued during the month in question. Once the~~
3 ~~operator has selected an option, the operator must continue to follow that procedure unless prior~~
4 ~~written permission to use the alternative procedure has been obtained from the Tax Collector.~~

5 ~~In no instance shall an estimated prepayment of hotel or parking taxes be less than 30 percent~~
6 ~~of such tax collected in the immediately preceding quarterly period. If such estimated prepayment is~~
7 ~~less than 30 percent of the tax collected in such preceding quarterly period, the operator shall be~~
8 ~~subject to penalties and interest for the deficiency pursuant to Section 6.17-1. If a prepayment based on~~
9 ~~actual tax owed is less than 90 percent of the actual liability for the month, the operator shall be~~
10 ~~subject to penalties and interest for the deficiency pursuant to Section 6.17-1.~~

11 (d) **Forms and Adjustments.** Tax prepayments required under this Section shall be
12 accompanied by a tax prepayment form prepared by the Tax Collector, but failure of the Tax
13 Collector to furnish the taxpayer with a tax prepayment form shall not relieve the taxpayer
14 from any tax prepayment obligation. The Tax Collector may, in writing, adjust the amount of a
15 tax prepayment if the taxpayer can establish by clear and convincing evidence that the first
16 installment of biannual tax prepayments, or first, second or third monthly installment of a
17 quarterly tax prepayment, will amount to more than one_half or one_quarter, respectively, of
18 the person's total tax liability for the tax year in which the installment is due.

19
20 **SEC. 6.9-4. DETERMINATIONS, RETURNS AND PAYMENTS; EXTENSION OF TIME FOR**
21 **FILING A RETURN AND PAYING TAX.**

22 (a) For good cause, the Tax Collector, in his or her discretion, may extend, for a
23 period not to exceed 60 days, the time for filing any return pursuant to this Article or
24 regulations prescribed by the Tax Collector. For prepayments of taxes or for taxes required to
25 be deposited monthly, the Tax Collector may only extend the time for filing a return for a

1 period not to exceed 30 days. As a condition of such extension, the person seeking the
2 extension shall make a payment of not less than 90 percent of such person's estimated
3 liability for such period. For purposes of determining the amount of the conditional payment, the Tax
4 Collector may independently establish the taxpayer's estimated tax liability.

5 (b) Failure to make the required estimated prepayment will result in the taxpayer
6 being subject to penalties and interest under Section 6.17-1.

7 (c) Notwithstanding ~~subsection~~ subsection (a) of this Section, the Tax Collector may
8 extend any time for filing any return or payment of tax or excuse penalties for any late filing or
9 late payment if billing or other administrative duties of the Tax Collector cannot be performed
10 in a timely manner.

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

14 The credits and exemptions set forth in Articles 6, 7, 9, 10, ~~10B10A~~, 11, 12, ~~and~~ 12-A,
15 and 12-C are provided on the assumption that the City has the power to offer such credits and
16 exemptions. If a credit or exemption is invalidated by a court of competent jurisdiction, the
17 taxpayer must pay any additional amount that the taxpayer would have owed but for such
18 invalid credit or exemption. Amounts owed as a result of the invalidation of a credit or
19 exemption that are paid within ~~three~~ 3 years after the decision of the court becomes final shall
20 not be subject to interest or penalties.

21
22 **SEC. 6.10-1. COLLECTION OF TAX; SECURITY.**

23 The Tax Collector, whenever he or she deems it necessary to insure compliance with
24 the Business and Tax Regulations Code, may require any person subject thereto to deposit
25 with the Tax Collector such security as the Tax Collector may determine. The amount of the

1 security shall be fixed by the Tax Collector, but shall not be greater than twice the person's
2 estimated average liability for the period for which said person files returns, determined in
3 such manner as the Tax Collector deems proper. The amount of the security may be
4 increased or decreased by the Tax Collector subject to the limitations herein provided. The
5 Tax Collector may sell the security at public auction if it becomes necessary ~~so~~ to do so in
6 order to recover any tax or any amount required to be collected and remitted to the City,
7 interest, or penalty due. Notice of the sale shall be served upon the person who deposited the
8 security and upon the taxpayer, if different, personally or by mail; if by mail, service shall be
9 made in the manner prescribed for service of a notice of a deficiency determination as set out
10 in Section 6.11-2 herein, and shall be addressed to the person at said person's address as it
11 appears in the records of the Tax Collector. Upon any sale, any surplus above the amounts
12 due shall be returned to the person who deposited the security. The return of a cash security
13 shall include interest at a rate equal to the annual fiscal year interest rate earned by the City and
14 County of San Francisco's "Pooled Interest Account" invested and managed by the Treasurer.

15

16 **SEC. 6.10-2. COLLECTION OF TAX FROM THIRD PARTY.**

17 If any person is delinquent in the payment of the amount required to be paid by said
18 person, or in the event a determination has been made against any person which remains
19 unpaid, the Tax Collector may, not later than ~~three~~3 years after the payment became
20 delinquent, give notice thereof by mail or by personal service to any persons in the State of
21 California~~City~~ having in their possession or under their control any credits or other personal
22 property belonging to the delinquent, or owing any debts to the delinquent. After receiving
23 such notice, the persons so notified shall, within 5 days of the receipt of the notice advise the Tax
24 Collector by sworn writing of all such credits, personal property, or debts. Further, the persons so
25 notified shall neither transfer nor make any other disposition of the credits, other personal

1 property, or debts in their possession or under their control at the time they receive the notice
2 until the Tax Collector consents to a transfer or disposition or until ~~3020~~ days elapse after the
3 person has advised the Tax Collector in sworn writing of all such credits, personal property, or debts.
4 ~~receipt of the notice. All persons so notified shall, within five days after receipt of the notice, advise the~~
5 ~~Tax Collector of all such credits, other personal property, or debts in their possession, under their~~
6 ~~control, or owing by them.~~ Unless otherwise required by law, if persons so notified transfer such
7 assets in violation of the provisions of this ~~Section~~~~section~~, they shall become indebted to the
8 Tax Collector for the value of the property transferred, or the amount owed to the City by the
9 delinquent, whichever is less.

10
11 **SEC. 6.10-3. COLLECTION OF TAX; LEGAL ACTIONS.**

12 (a) The Tax Collector may bring an action in the courts of this State, or any other
13 state, or of the District of Columbia, or of the United States and its territories or possessions,
14 or any other forum where permitted by law to recover in the name of the City any amount of
15 taxes due and payable under the Business and Tax Regulations Code and remaining unpaid,
16 together with penalties, interest, and costs, including reasonable attorneys' fees.

17 In any action filed pursuant to this subdivision, the Complaint shall attach a certificate executed
18 by the Tax Collector or his representative that contains the following information: (1) the name of the
19 operator, taxpayer or other person determined to be liable for the tax; (2) the description of the
20 operator's, taxpayer's or other person's business against which the tax has been assessed; (3) the
21 location and/or address of the business; (4) the amount of the tax, penalty and interest remaining
22 unpaid as of the last day of the month prior to the month in which the Complaint is filed; and (5) the
23 fact that the City has complied with all provisions of the Business and Tax Regulations Code in the
24 computation and the levy of the tax, penalty or interest.

1 In prosecuting such actions, the Tax Collector shall be entitled to all of the provisional
2 remedies provided by law. Any such action shall be commenced within ~~three~~3 years from the
3 date any amount of taxes became due and payable, or from the date the return is required to
4 be filed or actually filed, whichever period expires later; except in the case of any deficiency
5 determination pursuant to Sections 6.12-1 et seq. or 6.13-1 et seq., in which case any such
6 action shall be commenced within ~~three~~3 years after such determination became final.
7 However, there shall be no limitation on the time in which such actions may be commenced in
8 cases of fraud, intent to evade the Business and Tax Regulations Code, or failure to file a
9 return.

10 (b) When the amount of any tax, penalty or interest which has become due and
11 payable remains unpaid for 15 days, the Tax Collector may record a tax lien with the
12 Assessor-Recorder, thereby creating a tax lien on all of the assessee's property and rights to
13 property, including realty, personalty, or intangibles. The Tax Collector may record or file such
14 tax lien in the office of the Recorder of any California county, with the California Secretary of State,
15 and with any other California public entity that is otherwise authorized by law to record liens. The Tax
16 Collector may record or file such tax liens in any other office of any other jurisdiction as permitted by
17 law.~~any other office of any other jurisdiction as permitted by law.~~ The tax lien shall identify the Tax
18 Collector as the lienor, the property subject to the lien, and the amount of the lien.
19 Simultaneously with the recording, a copy of the tax lien shall be mailed to or personally
20 served upon the taxpayer or other person determined to be liable for the tax at said person's
21 last known address based upon the information, contained in the Tax Collector records. The
22 tax lien after recordation has the force, effect and priority of a judgment lien and continues for
23 10 years from the date of recording, unless sooner released or otherwise discharged. This
24 remedy and any other remedies for collection of any taxes, together with all administrative
25 collection costs, interest, penalties and other costs and charges, including reasonable

1 attorneys' fees, are cumulative and may be pursued alternatively and consecutively as the
2 Tax Collector determines.

3
4 **SEC. 6.11-1. DEFICIENCY DETERMINATIONS; RECOMPUTATION; INTEREST.**

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

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

20 In making a determination, the Tax Collector may offset overpayments for a period or
21 periods together with interest on the overpayments, against underpayments for another period
22 or periods, against penalties, and against the interest on the underpayments. The interest on
23 underpayments and overpayments shall be computed in the manner set forth in Section 6.17-
24 1 for underpayments and in Section 6.15-2 for overpayments.

1 **SEC. 6.11-2. DEFICIENCY DETERMINATIONS; REVOCATION AND SUSPENSION**
2 **DETERMINATIONS; NOTICE AND SERVICE.**

3 Upon making a determination pursuant to Section 6.11-1, or upon making a
4 determination pursuant to Section 6.6-1 that a certificate shall not be issued or to suspend or
5 revoke a registration, the Tax Collector shall give to the taxpayer or other person determined
6 to be liable for the tax written notice of the Tax Collector's determination. Except in the case of
7 fraud, intent to evade the Business and Tax Regulations Code or rules and regulations issued
8 or promulgated by the Tax Collector, or failure to file a return, in which case there is no statute
9 of limitations, every notice of a deficiency determination shall be served within ~~three~~3 years
10 after the date that a return was due for a tax for the reporting period or 3 years after the return was
11 actually filed for that reporting period, whichever is later. This limitations period shall apply only to
12 tax periods commencing after December 31, 2007. The notice requirements specified in Board of
13 Supervisors Ordinance No. 26-04 shall continue to apply to obligations arising in prior tax periods.
14 ~~the fifteenth day of the calendar month following the month or the quarterly period for which the~~
15 ~~amount is proposed to be determined for third party taxes, or within three years after the last day of~~
16 ~~February following the period for which a return is required to be filed, whichever period expires later.~~
17 The Taxpayer may agree in writing to extend the period for service of a notice of a deficiency
18 determination otherwise provided in this paragraph.

19 The notice of any determination under this Section may be served upon the taxpayer or
20 other person determined to be liable for the tax personally or by mail; if by mail, service shall
21 be (1) to the last known address as indicated in the Tax Collector's records, provided there is such an
22 address in the Tax Collector's record, or (2) to an address that the Tax Collector concludes in his
23 discretion is the last known address of the person(s).~~by mail to the last known address as indicated in~~
24 ~~the Tax Collector's records.~~

1 In case of service by mail of any notice required by this Article to be served upon the
2 taxpayer or other person, the service is complete at the time of deposit with the United States
3 Postal Service~~Post Office~~.

4
5 **SEC. 6.11-3. DETERMINATION IF NO RETURN MADE; ESTIMATE OF LIABILITY,**
6 **PENALTIES AND INTEREST.**

7 If any taxpayer or person responsible for paying a tax or remitting a third-party tax fails
8 to make a timely return or estimated tax prepayment, the Tax Collector may make a
9 determination based upon an estimate of the amount of the total tax liability of the taxpayer.
10 The estimate shall be made for the period or periods in respect to which the person failed to
11 timely make a return, failed to timely make a prepayment or failed to timely remit a tax, and
12 may be based upon any information which is in the Tax Collector's possession or may come
13 into his or her possession. Upon the basis of this estimate, the Tax Collector shall compute
14 and determine the amount required to be paid to the City, adding to the sum thus computed a
15 penalty equal to 20 percent thereof. One or more determinations may be made for one or
16 more than one period. Any such determination shall be prima facie evidence of the person's
17 liability in any subsequent administrative or judicial proceeding.

18 In making a determination, the Tax Collector may offset overpayments for a period or
19 periods, together with interest on the overpayments, against underpayments for another
20 period or periods, against penalties, and against the interest on the underpayments. The
21 interest on underpayments and overpayments shall be computed in the manner set forth in
22 Sections 6.17-1 and 6.15-2, respectively. The amount of the determinations, including~~exclusive~~
23 ~~of~~ penalties, shall bear interest at the rate of one percent per month, or fraction thereof, from
24 the date of delinquency until the date of payment.

1 The Tax Collector shall serve the person or persons determined to be liable for the tax as
2 determined under Section 6.11-3 with written notice of the determination and penalty. The Tax
3 Collector shall serve the notice upon such person(s) personally or by mail. Service by mail shall be
4 (1) to the last known address as indicated in the Tax Collector's records, provided there is such an
5 address in the Tax Collector's record, or (2) to an address that the Tax Collector concludes in his
6 discretion is the last known address of the person(s).

7
8 **~~SEC. 6.11-4. DETERMINATION IF NO RETURN MADE; NOTICE AND SERVICE.~~**

9 ~~The Tax Collector shall serve the person or persons determined to be liable for the tax as~~
10 ~~determined under Section 6.11-3 with written notice of the determination and penalty. The Tax~~
11 ~~Collector shall serve the notice upon such person(s) personally or by mail.~~

12
13 **SEC. 6.12-2. JEOPARDY DETERMINATIONS; WHEN DUE AND PAYABLE; STAY OF**
14 **COLLECTION; PETITION FOR REDETERMINATION; TIME OF HEARING.**

15 (a) A jeopardy determination of tax, interest or penalty is immediately due and payable
16 upon the service of the notice of jeopardy determination to the taxpayer or other person
17 determined to be liable therefor. A lien for the amount due in the notice of jeopardy
18 determination may be recorded immediately notwithstanding the provisions of Section 6.10-1
19 et seq., summary judgment pursuant to Section 6.18-1 et seq. may be sought at once, and judicial
20 proceedings for collection may be commenced at once.

21 (b) The taxpayer may stay the enforcement of a jeopardy assessment~~collection of the whole or~~
22 ~~any amount of a jeopardy determination may be stayed~~ by filing with the Tax Collector: (i) a bond in
23 an amount equal to the amount of the assessment (together with interest thereon to the date of
24 payment) payable on the Tax Collector's certification of the amount of the assessment after the Tax
25 Collector makes a final determination of the taxpayer's petition~~as to which the stay is desired,~~

1 ~~conditioned upon the payment of the amount, the collection of which is stayed by the bond, upon notice~~
2 ~~and demand by the Tax Collector after a final determination is reached on the appeal,~~ or (ii) other
3 security ~~of a value in such amount~~ as the Tax Collector ~~deems may deem~~ necessary, but not
4 exceeding double the amount of the assessment (together with interest thereon to the date of
5 payment) together with a security agreement that authorizes the Tax Collector to use or dispose of the
6 security to satisfy the amount of the assessment after the Tax Collector makes a final determination of
7 the taxpayer's petition as to which the stay is desired. The taxpayer must also commit to pay the
8 assessment, upon notice and demand by the Tax Collector, after the Tax Collector makes a final
9 determination of the petition. If the penal amount of the bond is less than the assessment, the Tax
10 Collector may collect the part of the assessment that exceeds that penal amount. If the value of other
11 security is less than twice the assessment, the Tax Collector may collect the assessment until the unpaid
12 balance is reduced to twice the value of the security. Any stay pursuant to this subsection shall be
13 effective only against the person on whose behalf the bond or other security is provided.

14 (c) Upon filing of the bond or other security, the collection of so much of the jeopardy
15 determination amount as is covered by the bond or other security shall be stayed pending the
16 exercise by the taxpayer or other person determined to be liable for the tax of his or her
17 appeal rights. The person on whose behalf the bond or other security is submitted, shall have
18 the right to waive such stay at any time in respect of the whole or any part of the amount
19 covered by the bond or other security, and if as a result of such waiver any part of the amount
20 covered by the bond or other security is paid, then the bond or other security shall, at the
21 request of said person, be proportionately reduced. If any portion of the jeopardy
22 determination is abated, the bond or other security shall be proportionately reduced, at the
23 request of the person on whose behalf the bond or other security was provided.

24 (d) Where collection of the whole or any amount of a jeopardy determination has been
25 stayed under this Section, the period of limitation on any action to collect from the person on

1 whose behalf the bond or other security has been provided shall be tolled during the period of
2 such stay.

3
4 **SEC. 6.12-5. JEOPARDY DETERMINATIONS; PETITION FOR REDETERMINATION.**

5 Any person against whom a jeopardy determination is made may petition for the
6 redetermination thereof pursuant to Section 6.13-1 et seq. of this Article. The taxpayer shall,
7 however, file the petition for redetermination with the Tax Collector within 15 days after the
8 service of notice of determination. If a petition for redetermination of a jeopardy determination
9 is not filed within the foregoing 15-day period, the determination becomes final at the
10 expiration of that period.

11 The filing of a petition for redetermination of a jeopardy determination shall not operate
12 to stay collection. Collection may be stayed only as provided in Section 6.12-2 above.

13 If a timely petition for redetermination of a jeopardy determination is filed, the Tax
14 Collector shall review the matters raised in the petition including, if requested, whether the
15 issuance of the jeopardy determination was warranted under the circumstances. In making
16 this determination, the Tax Collector shall grant the taxpayer or other person determined to be
17 liable for the tax or such taxpayer or person's authorized representative an oral hearing if
18 requested in the petition.

19 If, in the review process, the Tax Collector determines that the determination of
20 jeopardy was improper or unwarranted, any collection action taken shall be withdrawn,
21 pending the ultimate administrative determination of the amount of the deficiency due from the
22 taxpayer or other person claimed to be liable for the tax claimed to be due in the jeopardy
23 determination notice. Neither the validity of the determination of tax, nor the burden of proof,
24 shall be affected by the Tax Collector's determination that the determination of jeopardy was
25 improper or unwarranted.

1 The taxpayer or other person determined to be liable for the tax has the right to an oral
2 hearing and determination by the Tax Collector upon the matters raised in the petition within
3 45 days from the date of the filing of the petition for redetermination, as scheduled by the Tax
4 Collector, unless the taxpayer waives said time period. The 45-day period shall be tolled
5 ~~during the period~~ between the date ~~the Tax Collector serves~~ ~~of service of~~ a written notification
6 ~~under authorized by~~ Section 6.13-1(b) ~~that the Tax Collector requires~~ ~~of the~~ additional information or
7 records ~~necessary for the Tax Collector~~ to evaluate and decide the petition, and the date ~~the Tax~~
8 ~~Collector receives that~~ ~~of receipt of all such~~ information and ~~those~~ records ~~by the Tax Collector~~.

9
10 **SEC. 6.13-1. REDETERMINATIONS; PETITION; TIME FOR FILING; INCOMPLETE**
11 **PETITIONS.**

12 (a) Any person against whom a determination is made under the Business and Tax
13 Regulations Code may petition the Tax Collector for a redetermination within 30 days after
14 service of the notice thereof, except for a petition for redetermination of a jeopardy
15 determination, which the person may file within 15 days after service of the notice as provided
16 in Section 6.12-5. If a petition for redetermination is not filed within the applicable period, the
17 determination becomes final at the expiration of the period. The final determination may be
18 enforced or collected by any method authorized by law, including but not limited to lien, levy,
19 and judicial enforcement, including provisional remedies and injunctive relief.

20 (b) Every petition for redetermination shall be verified by the person against whom the
21 Tax Collector made the determination, stating under penalty of perjury the specific grounds
22 upon which the petition is founded, with specificity sufficient to enable the Tax Collector to
23 understand and evaluate the petition, and verifying the information and authenticating the
24 records upon which the petitioner relies in support of the petition. Any ground for

1 redetermination that is not specified in the petition for redetermination shall be deemed waived by the
2 petitioner in any later judicial proceeding to collect the tax specified in the notice of determination.

3 If the Tax Collector determines that the petition fails to state specific grounds for
4 redetermination, lacks sufficient specificity to understand and evaluate the petition, or is not
5 accompanied by information and records in support of the petition the Tax Collector
6 reasonably deems necessary to evaluate and decide the petition, the Tax Collector in his or
7 her discretion may either deny the petition as incomplete or may require the petitioner in
8 writing to supplement the petition with additional information or records the Tax Collector
9 deems reasonably necessary to decide the petition. The petitioner shall submit such
10 information and records in support of the petition to the Tax Collector within 30 days of service
11 of the Tax Collector's written request, which shall be served in the manner prescribed in
12 Section 6.11-2. If mailed, service of the notice is complete at the time of deposit ~~with~~ the
13 United States Postal Service~~Post Office~~. Failure of the petitioner to provide all of the information
14 and records set forth in the written request within the 30-day period shall be sufficient ground
15 for the Tax Collector to deny the petition, and the petitioner shall be subject to the penalties
16 and sanctions provided in Section 6.17-3.

17
18 **SEC. 6.13-3. REDETERMINATIONS; ALTERATION OF DETERMINATION.**

19 The Tax Collector may decrease or increase the amount of the determination, including
20 the amount of the tax, penalties or interest, before it becomes final. The amount may be
21 increased only if a claim for the increase is asserted by the Tax Collector, and the Tax
22 Collector provides written notice thereof to the person against whom the Tax Collector issued
23 the determination ~~at least five days before the hearing~~. If the Tax Collector increases the amount
24 before the hearing described in Section 6.13-2, such written notice shall be served at least 15 days
25 before the hearing and the person receiving such notice shall file a supplemental petition for

1 redetermination addressing the increased deficiency amount at least 5 days before the hearing date.
2 The Tax Collector may reschedule the hearing for purposes of allowing the requisite notice of increase.
3 If the Tax Collector increases the amount after the hearing described in Section 6.13-2, the Tax
4 Collector shall serve notice of such increase before issuing a final decision. Within 15 days of service
5 of such notice, the person against whom claim for increase is asserted by the Tax Collector may serve a
6 supplemental petition for redetermination contesting the increased deficiency amount. The Tax
7 Collector shall hold an additional oral hearing on the increased amount upon the request of the
8 taxpayer. A supplemental petition for redetermination filed pursuant to this Section shall state any
9 additional specific grounds for redetermination applicable to the increased deficiency amount. Any
10 specific ground for redetermination that is not specified in either the initial petition for redetermination
11 or the supplemental petition for redetermination shall be deemed waived by the petitioner in any later
12 judicial proceeding to collect the tax specified in the notice of determination. Nothing in this Section
13 shall preclude a new audit or determination by the Tax Collector of a new or supplemental
14 deficiency. The burden of proof in any proceeding for redetermination or appeal thereof shall
15 be on the taxpayer, who shall have the burden of proving that the Tax Collector's
16 determination is incorrect.

17
18 **SEC. 6.13-5. EXHAUSTION OF ADMINISTRATIVE REMEDIES.**

19 Prior to seeking judicial relief, persons against whom a jeopardy determination or
20 deficiency determination is made must exhaust their administrative remedies by: (i) petitioning
21 to the Tax Collector for redetermination and including all specific grounds supporting the petition
22 for redetermination;~~and~~ (ii) paying the full amount owed as set ~~forth~~^{forth} in the final
23 determination; and (iii) presenting a claim for refund to the Controller under ~~Section~~^{Sections}
24 6.15-1 et seq. which the City Attorney has denied or which the claimant has deemed denied under
25 Section 6.15-1(c).

1 **SEC. 6.13-6. EFFECT OF TAX COLLECTOR'S NOTICE OF DEFICIENCY EXAMINATION**
2 **OF RECORDS.**

3 The Tax Collector's issuance of a notice of deficiency or failure to issue such a notice
4 for any period may not be treated as precedent for any particular method or manner of
5 reporting or treating any item included or excluded on any return for purposes of any other or
6 future item appearing or reported on a return. The Tax Collector's making of a determination or
7 jeopardy determination as to a person for a period shall not bar the Tax Collector from making further
8 determinations regarding the liability of the person for that period.

9
10 ~~**SEC. 6.14-1. BOARD OF REVIEW; JURISDICTION TO DECIDE PENDING TAXPAYER**~~
11 ~~**PETITIONS; TAX COLLECTOR RULES AND REGULATIONS.**~~

12 ~~(a) From and after the effective date of the repeal of Sections 6.14-2 and 6.14-3 of this Article,~~
13 ~~the Board of Review shall lack jurisdiction to accept any new petition for redetermination or petition~~
14 ~~for refund, or any modification or amendment to such petitions pending before the Board of Review~~
15 ~~upon such effective date.~~

16 ~~(b) The Board of Review shall promptly review and rule upon all petitions for redetermination~~
17 ~~and petitions for refund pending before it upon the effective date of the repeal of Sections 6.14-2 and~~
18 ~~6.14-3 of this Article. Such reviews and rulings shall be made in accordance with the provisions of~~
19 ~~Sections 6.14-1 through 6.14-3 of this Article, inclusive, as such sections read on the date immediately~~
20 ~~preceding the effective date of the repeal of Sections 6.14-2 and 6.14-3 of this Article.~~

21 ~~(c) From and after the effective date of the repeal of Section 6.14-3 of this Article, the Board of~~
22 ~~Review shall lack jurisdiction to approve or disapprove any rule or regulation adopted by the Tax~~
23 ~~Collector. Any rule or regulation adopted by the Tax Collector that is pending before the Board of~~
24 ~~Review on the date immediately preceding the effective date of the repeal of Section 6.14-3 of this~~

1 ~~Article shall take effect by operation of law on the effective date of the repeal of Section 6.14-3 of this~~
2 ~~Article.~~

3 ~~(d) Upon issuance of the ruling by the Board of Review or other disposition on all petitions for~~
4 ~~redetermination and petitions for refund pending before the Board of Review on the effective date of the~~
5 ~~repeal of Section 6.14-2 of this Article, the Clerk of the Board of Review shall issue a written~~
6 ~~certification to the Mayor, Clerk of the Board of Supervisors and Tax Collector that the Board of~~
7 ~~Review has concluded its work. Upon issuance of such certification, the Board of Review shall cease to~~
8 ~~exist.~~

9
10 **SEC. 6.15-1. REFUNDS.**

11 (a) Except as otherwise provided in subdivision (c) below, the Controller shall refund or
12 cause to be refunded the amount of any tax, interest or penalty that has been overpaid or paid
13 more than once, or has been erroneously or illegally collected or received by the City,
14 provided the person that paid such amount files with the Controller, within the later of ~~one~~¹
15 year of payment of such amount or when the return accompanying such payment was due, a
16 verified claim in writing therefor, stating under penalty of perjury: (i) the specific amount
17 claimed to have overpaid or paid more than once, or erroneously or illegally collected or
18 received by the City, (ii) the tax periods at issue, and (iii) the grounds upon which the claim is
19 founded, with specificity sufficient to enable the Tax Collector and other responsible City
20 officials to understand and evaluate the claim. The Controller shall enter the claim in the claim
21 register, and shall forthwith forward it to the City Attorney. If the City Attorney determines the
22 claim is insufficient, the City Attorney shall give the claimant written notice of how the claim is
23 insufficient, stating with particularity the defects or omissions therein. The City Attorney shall send the
24 claimant that notice within 20 days after the claimant presents the claim.~~The City Attorney shall review~~
25 ~~the claim for compliance with this section and other laws as may be applicable thereto. Within 20 days~~

1 ~~after the claim is presented the City Attorney shall give written notice of its insufficiency, stating with~~
2 ~~particularity the defects or omissions therein. Upon receipt of the claim, the City Attorney shall~~
3 ~~forthwith request an investigation by the Tax Collector. The Tax Collector shall submit a report with~~
4 ~~respect to the claim and recommendation thereon to the City Attorney within 30 days of receipt of the~~
5 ~~City Attorney's request.~~ The City Attorney may reject any and all claims the Controller forwards
6 to the City Attorney, and shall notify the claimant of such rejection. Allowance or compromise
7 and settlement of claims under this ~~Section~~section in excess of \$25,000 shall require the written
8 approval of the City Attorney and approval of the Board of Supervisors by resolution. The City
9 Attorney may allow or compromise and settle such claims if the amount is \$25,000 or less. No
10 claim may be paid until the Controller certifies that monies are available from the proper funds
11 or appropriations to pay the claim as allowed or as compromised and settled. For purposes of
12 this Section ~~6.15-1~~, a claim shall be deemed to accrue on the later of the date the return was
13 due or the tax was paid.

14 (b) The claim shall be on a form furnished by the Controller. A claim may be returned
15 to the person if it was not presented using the form. A refund claim may only be signed by the
16 taxpayer or other person determined to be liable for the tax or said person's guardian or
17 conservator. No other agent, including the taxpayer's attorney, may sign a refund claim.
18 Class claims for refunds shall not be permitted. The customer who pays a third-party tax to an
19 operator is the proper party to seek the refund of a disputed third-party tax. No operator or other
20 person responsible for collecting or remitting a disputed third-party tax may obtain a tax refund unless
21 that operator or other person has paid the tax to the Tax Collector pursuant to a deficiency
22 determination or a jeopardy determination, and an individual customer or customers may not seek a
23 refund of such amounts. If the claim is approved as set forth in ~~subsections~~subdivision (a) above,
24 the excess amount collected or paid may be refunded or may be credited on any amount due
25

1 and payable, from the person from whom it was collected or by whom paid and the balance
2 may be refunded to such person, his administrator or executors.

3 (c) The City Attorney, in his or her discretion and upon good cause shown, prior to the
4 expiration of the ~~one~~1-year limitations period, may waive the requirement set forth in
5 subdivision (a) above that a taxpayer file a written verified claim for a refund in any case in
6 which the Tax Collector and City Attorney determine on the basis of other evidence that (i) an
7 amount of tax, interest or penalty has been overpaid or paid more than once, or has been
8 erroneously or illegally collected or received by the City, and (ii) all other conditions precedent
9 to the payment of a refund to the taxpayer have been satisfied.

10 (d) The City Attorney shall allow, reject or otherwise act upon a claim for refund in a
11 manner specified in Government Code Section 912.6 within 45 days after it is presented to
12 the Controller. If the claim is amended, the City Attorney shall act on the amended claim
13 within 45 days after the amended claim is presented. The claimant may agree in writing to
14 extend the period within which the City Attorney must act on the claim for refund prior to
15 expiration of the original 45-day period. The claimant may deem the claim for refund denied
16 and seek judicial relief if the City Attorney does not act upon the claim within the 45-day
17 period, or such extended period to which the claimant has agreed.

18 (e) The Tax Collector may authorize the Controller to refund tax payments, without the need
19 for a refund claim, and without review by the City Attorney, if the Tax Collector determines:

20 (i) the tax was paid more than once; or

21 (ii) the amount paid exceeds the amount due as a result of an arithmetic or clerical
22 error.

23 The Tax Collector may authorize such a refund no later than 1 year after payment of the tax.
24
25

1 **SEC. 6.15-2. REFUNDS; INTEREST.**

2 (a) Any amounts refunded shall bear interest at the rate of 2/3 of ~~one~~1 percent per
3 month or fraction thereof; or the average rate of interest computed over the preceding ~~six~~6-
4 month period ~~obtained, lawfully obtainable~~ by the San Francisco Treasurer on deposits of public
5 funds at the time refund is made, whichever rate is lower, and shall be computed from the
6 date of payment to the date of refund ~~except for amounts refunded as a result of a final judicial~~
7 ~~determination of the invalidity of any portion of or amendment to the Business and Tax Regulations~~
8 ~~Code, or the invalidity of any administrative interpretation thereof, in which case interest shall be~~
9 ~~computed from the date of the claim for refund to the date of refund.~~

10 (b) If the Controller offsets overpayments for a period or periods against
11 underpayments for another period or periods, against penalties or against interest on the
12 underpayments, the taxpayer will be credited with interest on the amount so applied at the
13 rate of interest set forth above, computed from the date of payment.

14 (c) If a taxpayer chooses to apply all or part of a refund against a San Francisco tax
15 liability for a future period, the taxpayer will be credited with interest accrued to the date of refund, but
16 interest shall not continue to accrue after the date of refund ~~future year's liability, the taxpayer will not~~
17 ~~be credited with interest on the amount so applied.~~

18
19 **SEC. 6.15-3. REFUNDS; NOTICE OF DENIAL.**

20 If the claim for refund is denied, the City Attorney shall serve or cause to be served
21 notice of such denial upon the taxpayer personally or by mail. The notice of denial of such
22 claim shall be in a form substantially similar to the form for notice of rejection of claims set
23 forth in Government Code Section 913. If the City Attorney does not serve such a notice of denial
24 of claim, then the statute of limitations for filing a suit for refund shall be as set forth in Section 6.15-4.

1 **SEC. 6.15-4. EXHAUSTION OF ADMINISTRATIVE REMEDIES; PRESENTATION OF**
2 **CLAIM FOR REFUND AS PREREQUISITE TO SUIT; PAYMENT OF DISPUTED AMOUNT**
3 **AND PETITION FOR REFUND; LIMITATIONS.**

4 (a) Persons claiming they are aggrieved under the Business and Tax Regulations
5 Code must ~~first pay the amount of the disputed tax, penalty and interest, and present a claim for~~
6 ~~refund to the Controller~~, prior to seeking judicial relief: (1) pay the amount of the disputed tax,
7 penalty and interest; (2) if the disputed tax was paid pursuant to the Tax Collector's jeopardy
8 determination or deficiency determination, file a petition for redetermination, pursuant to
9 Section 6.12-5 or Section 6.13-1; and (3) present a claim for refund to the Controller and allow action
10 to be taken on such claim, pursuant to Section 6.15-1.

11 (b) Any suit for tax refund shall be commenced no later than 6 months from the date the notice
12 of denial of the claim for refund was personally delivered or deposited in the mail, or within 2 years of
13 accrual of the cause of action if notice of denial of the claim for refund is not served on the person as
14 set forth in Section 6.15-3. Persons claiming they are aggrieved under the Business and Tax
15 Regulations Code may not seek any type of judicial relief other than a refund action. Notwithstanding
16 any other section of this Code, no claim or defense that, for any reason, a tax is not due or cannot be
17 applied under this Code may be raised in any judicial proceeding except as specified in the preceding
18 sentence. Presentation of a claim for refund that substantially complies with Sections 6.15 et seq. is a
19 prerequisite to suit.

20 (c) ~~Any judicial proceeding shall be commenced no later than six (6) months from the date the~~
21 ~~notice of denial of the claim for refund was personally delivered or deposited in the mail, or within two~~
22 ~~(2) years of accrual of the cause of action if notice of denial of the claim for refund is not served on the~~
23 ~~person as set forth in Section 6.15-3.~~

1 **SEC. 6.16-1. RULES AND REGULATIONS.**

2 The Tax Collector may promulgate regulations and issue rules, determinations and
3 interpretations consistent with the provisions of the Business and Tax Regulations Code as
4 may be necessary or appropriate for the purpose of carrying out and enforcing the payment,
5 collection and remittance of taxes and to apply such Code and any rules and regulations
6 promulgated thereunder in a lawful manner. The Tax Collector shall hold a public hearing and
7 allow public comment on any proposed rule or regulation prior to adoption thereof. The Tax
8 Collector shall provide not less than 10 ~~days~~days' notice of such public hearing. A copy of such
9 rules and regulations shall be on file and available for public examination in the Tax
10 Collector's ~~Office~~office. Failure or refusal to comply with any rules and regulations promulgated
11 by the Tax Collector shall be deemed a violation of the Business and Tax Regulations Code.
12 ~~The Tax Collector may prescribe the extent to which any ruling or regulation shall be applied without~~
13 ~~retroactive effect.~~

14
15 **SEC. 6.17-1. PENALTIES AND INTEREST FOR FAILURE TO PAY.**

16 (a) Any person who fails to pay any tax to the City, or any operator or other person who
17 fails to collect and remit any third-party taxes ~~amount of tax required to be collected and paid to the~~
18 ~~City, from the date such tax becomes delinquent under Section 6.9-1~~ shall pay a penalty of five~~5~~
19 percent of the tax ~~or amount of the tax, in addition to the tax or amount of tax~~, if the failure is for
20 not more than one~~1~~ month after the tax became delinquent, plus~~with~~ an additional 5 percent for
21 each following month or fraction of a month during which such failure continues, up to 20
22 ~~percent~~20% in the aggregate, ~~plus interest at the rate of one percent per month, or fraction of a~~
23 ~~month, from the date such tax or the amount of such tax becomes delinquent under Section 6.9-1~~ until
24 the date of payment. Any taxes remaining unpaid for a period of 90 days after notification that
25

1 the tax is delinquent shall be subject to an additional penalty of 20 percent of the tax or
2 amount of the tax.

3 (b) If the failure to pay any tax is due to fraud or an intent to evade the Business and
4 Tax Regulations Code or the Tax Collector's rules and regulations, an additional penalty in the
5 amount of 50 percent of the amount due, in addition to~~exclusive of~~ any other penalties and
6 interest, shall be added thereto. A taxpayer or other person against whom a fraudulent failure
7 to pay penalty is asserted is entitled to a notice of such determination to be issued in
8 accordance with the provisions of Section 6.11-1 et seq. and to the appeal rights set forth in
9 ~~Section~~Sections 6.13-1 et seq.

10 (c) Unpaid taxes and penalties shall also accrue interest at the rate of 1 percent per month, or
11 fraction of a month, from the date the taxes become delinquent through the date the taxpayer or
12 operator pays them.

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

15 (a) Penalties for Negligence. If the Tax Collector determines that all or part of any tax
16 required to be reported on any return was underreported and that such underreporting was
17 attributable to negligence or intentional disregard of rules and regulations, the Tax Collector
18 may impose a penalty ~~upon the taxpayer~~ in the amount of 5 percent of the amount of the
19 underreported tax, in addition to the tax or amount of tax, if the negligence or intentional
20 disregard of rules and regulations is for not more than one month, with an additional 5 percent
21 for each month or fraction of a month during which such negligence or intentional disregard of
22 rules and regulations continues, up to 20 percent in the aggregate.

23 (b) Penalties for Intentional Disregard of Rules, Fraud, or Intend to Evade Tax. When it is
24 determined by the Tax Collector that all or part of any tax required to be reported on any
25 return was underreported and such underreporting was attributable to fraud or an intent to

1 evade the Business and Tax Regulations Code, the Tax Collector may impose a penalty ~~upon~~
2 ~~the taxpayer~~ in the amount of 50 percent of the amount of the underreported tax. The taxpayer
3 or other person determined to be liable for penalties pursuant to this Section are entitled to a
4 notice of ~~deficiency~~ ~~such~~ determination ~~or jeopardy determination~~ ~~to be issued in accordance with the~~
5 ~~provisions of Section 6.11-1 et seq.~~ and to the appeal rights ~~as to such determinations.~~ ~~set forth in~~
6 ~~Sections 6.13-1 et seq.~~

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

12 (a) Any person who fails to register, fails to ~~amend~~ ~~up-date~~ a registration within ~~seven~~ 7
13 days of a material change or ~~who makes a material misrepresentation in a registration~~ ~~whose~~
14 ~~registration contains a material misstatement,~~ or ~~who~~ fails to comply with a rule or regulation
15 promulgated by the Tax Collector ~~in a timely manner~~ ~~pursuant to the provisions of the Business and~~
16 ~~Tax Regulations Code within the prescribed time limits~~ shall pay, in addition to any other liability
17 that may be imposed under the provisions of this Article, a penalty in an amount equal to the
18 penalized taxpayer's annual fee for obtaining a registration certificate as set forth in Article 12.

19 (b) ~~The Tax Collector may impose a penalty upon any~~ Any person who fails to file a return or
20 returns required under this Article on or before the date prescribed for filing ~~shall pay a penalty~~
21 in the amount of ~~\$500~~ \$100 for each such failure. The penalty under this provision shall be in
22 addition to any other liability that may be imposed under the provisions of this Article. Filing of
23 a return that the Tax Collector determines to be incomplete in any material aspect may be deemed
24 failure to file a return in violation of this Section.

1 (c) Any person who fails to allow a full inspection of records pursuant to a request
2 made by the Tax Collector within the time prescribed by the Tax Collector shall pay, in
3 addition to any other liability that may be imposed under the provisions of this Article, a
4 penalty in the amount of \$500 for each such failure.

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

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

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

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

20
21 **SEC. 6.17-4. WAIVER OF PENALTIES.**

22 Any penalty or interest assessed under Sections 6.17-1, ~~6.17-2, 6.17-2~~ or 6.17-3 may be
23 waived by the Tax Collector, in whole or in part, upon a finding of any of the following:

24 ~~(a) Failure to make timely payment or reporting of tax liability or otherwise comply with the~~
25 ~~provisions of the Article was due to reasonable cause and not wilful neglect;~~

1 ~~(a)(b)~~ Failure to make timely payment or report of tax liability or otherwise comply with
2 the provisions of the Business and Tax Regulations Code occurred notwithstanding the
3 exercise of ordinary care by the taxpayer and in the absence of wilful neglect;

4 ~~(b)(e)~~ The taxpayer made an inadvertent error in the amount of payment made,
5 provided any deficiency is cured by payment in full to the Tax Collector within 10 days after
6 notice of the deficiency is mailed to the taxpayer by the Tax Collector; or

7 ~~(c)(d)~~ Waiver of the penalty or interest is ordered by a court of competent jurisdiction.
8

9 **SEC. 6.18-1. SUMMARY JUDGMENT; NOTICE; CERTIFICATE.**

10 If any tax imposed pursuant to the Business and Tax Regulations Code is not paid by
11 the last day of the month after the delinquency date, or after any jeopardy determination, or
12 after any deficiency determination of the Tax Collector becomes final pursuant to Sections
13 6.12-1 et seq. or 6.13-1 et seq., the Tax Collector may file, no sooner than 20 days after the
14 mailing of the notice required in subsection~~Subdivision~~ (b), in the office of the Clerk of the Court,
15 without fee, a certificate specifying as follows:

16 (a) The fact that a notice of intent to file the certificate has been sent, by certified mail,
17 to the operator, taxpayer or other person determined to be liable for the tax, ~~as defined in~~
18 ~~Section 6.2-13 of Article 6,~~ at the person's last known address, not less than 20 days prior to the
19 date of the certificate;

20 (b) The fact that the notice required in subsection~~Subdivision~~ (a) set forth the following
21 information:

22 (1) The name of the operator, taxpayer or other person determined to be liable
23 for the tax,

24 (2) The description of the operator's, taxpayer's or other person's business
25 against which the tax has been assessed,

1 (3) The location and/or address of the business,

2 (4) The fact that judgment will be sought in the amount of the tax, penalty and
3 interest remaining unpaid at the time of the filing of the certificate,

4 (5) The fact that, upon issuance and recordation of the judgment, additional
5 interest will continue to accrue at the rate prescribed by the Enforcement of Judgments Law (Title
6 9 of Part 2 of the Code of Civil Procedure) ~~in this Article~~, and that any bond premium posted or
7 other costs to enforce the judgment shall be an added charge,

8 (6) The fact that a recording fee in the amount set forth in Section 27361.3 of
9 the California Government Code will be required to be paid for the purpose of the recordation
10 of any release of the judgment lien;

11 (c) The name of the operator, taxpayer or other person determined to be liable for the
12 tax;

13 (d) The amount for which judgment is to be entered;

14 (e) The fact that the City has complied with all provisions of the Business and Tax
15 Regulations Code in the computation and the levy of the tax, penalty or interest; and

16 (f) The fact that a request is therein made for issuance and entry of judgment against
17 the operator, taxpayer or other person determined to be liable for the tax.

18
19 **SEC. 6.18-2. SUMMARY JUDGMENT; FILING OF CERTIFICATE; ENTRY OF JUDGMENT.**

20 The ~~County~~ Clerk of the Court, immediately upon the filing of the certificate shall enter a
21 judgment for the City and County against the operator, taxpayer or other person determined to
22 be liable for the tax in the amount of the tax, penalty and interest set forth in the certificate.

23 The ~~County~~ Clerk of the Court may file the judgment in a loose-leaf book entitled "City and
24 County Summary Tax Judgments."
25

1 **SEC. 6.18-3. SUMMARY JUDGMENT; RECORDING OF JUDGMENT; LIEN.**

2 An abstract or copy of the judgment shall be recorded, without fee, in the ~~Office~~office of
3 the Assessor-Recorder, and may be recorded in any other office in which such filing is
4 permitted by law. *The summary judgment shall be enforceable pursuant to the Enforcement of*
5 *Judgments Law (Title 9 of Part 2 of the Code of Civil Procedure).*~~From the time of the recording, the~~
6 ~~amount of the tax, penalty and interest set forth constitutes a lien upon all property of the judgment~~
7 ~~debtor in the City, and upon all property of the judgment debtor in any other jurisdiction where such~~
8 ~~abstract or copy of the judgment is recorded, owned by the judgment debtor on the date of recording or~~
9 ~~acquired by the judgment debtor thereafter, and before the lien expires, acquired by the judgment~~
10 ~~debtor. The lien has the force, effect and priority of a judgment lien and continues for 10 years from the~~
11 ~~date of the recording unless sooner released or otherwise discharged.~~

12
13 ~~**SEC. 6.18-4. SUMMARY JUDGMENT; PENALTY IN LIEU OF JUDGMENT INTEREST.**~~

14 ~~Notwithstanding any other provision of law relating to interest authorized or allowed as a result~~
15 ~~of any judgment duly entered, the additional penalties and interest provided for in Sections 6.17-1 shall~~
16 ~~be imposed in lieu of any such judgment interest.~~

17
18 **SEC. 6.18-5. SUMMARY JUDGMENT; ADDITIONAL PENALTY.**

19 In addition to any penalty or fee imposed pursuant to the Business and Tax
20 Regulations Code, a penalty equal to the costs incurred to enforce the judgment entered
21 pursuant to ~~Section~~Sections 6.18-1 et seq., including reasonable ~~attorneys'~~attorney's fees and
22 costs, ~~and the City's cost of salary and benefits for City staff to enforce the judgment,~~ shall be
23 imposed.

1 **SEC. 6.19-1. CIVIL ACTIONS.**

2 In addition to the actions provided for in Section 6.10-3, ~~the attorney for~~ the Tax
3 Collector may bring a civil action to enjoin any violation of the Business and Tax Regulations
4 Code. In the case of any person doing business without the certificate of authority required under
5 Section 6.6-1 or without the San Francisco business registration certificate required under Section 853
6 of Article 12, the Tax Collector may seek an injunction to prohibit such person from doing business in
7 San Francisco until such time as the violation is cured. Such injunction shall issue notwithstanding
8 that judicial review of the Tax Collector's action regarding such certificate of authority or business
9 registration certificate has not been completed. The Tax Collector~~City~~ shall be entitled to its
10 ~~attorneys'~~attorney's fees and costs in any action brought pursuant to this Section where the Tax
11 Collector~~City~~ is the prevailing party.

12
13 **SEC. 6.19-3. ADMINISTRATIVE PENALTIES AND CITATIONS.**

14 (a) **Administrative Penalties; Citations.** An administrative penalty may be assessed
15 for a violation of the provisions of this Code as specified below. The penalty may be assessed
16 by means of an administrative citation issued by any person designated as an "enforcement
17 officer" in subsection (c).

18 (b) **Penalty Amounts.** In addition to all other civil penalties provided for by law, the
19 following violations shall be subject to administrative penalties in the amounts set forth below:

20

VIOLATION	PENALTY AMOUNT
• Failure to obtain or post a Certificate of Authority to Collect Third- Party Taxes <u>taxes</u>	<u>\$500</u> <u>\$100.00</u>

21
22
23
24
25

1	• Failure to obtain or post an Annual Business Registration Certificate	<u>\$100</u> 100.00
2		
3	• Failure to show proof of current Business <u>Registration Certificate</u>	<u>\$100</u> 100.00
4	<u>License</u>	
5	• Failure of an operator in the business of renting parking space in a parking station to post a bond	<u>\$500</u> 100.00
6		
7	• Failure to produce information requested by the Tax Collector within 30 days of mailing of such request	<u>\$100</u> 100.00
8		
9	• Failure to produce financial records requested by the Tax Collector	<u>\$500</u> 500.00
10		
11	• Failure to retain financial records	<u>\$500</u> 500.00
12		
13	• Failure to allow the Tax Collector to inspect financial records	<u>\$500</u> 500.00
14		
15	• <u>Failure to file a return, including filing a blank return or a return that the Tax Collector determines to be incomplete in any material aspect</u>	<u>\$500</u>
16		
17	• <u>Failure to comply with any other obligation or duty imposed under the Business and Tax Regulations Code</u>	<u>\$500</u>
18		
19		
20		

21 The penalty amounts shall be increased cumulatively by ~~fifty~~ 50 percent (~~50%~~) for each
22 subsequent violation of the same provision by the same person within a ~~three~~ (~~3~~) 3-year
23 period. The maximum penalty amount that may be imposed by administrative citation in a
24 calendar year for each type of violation listed above shall be ~~\$25,000~~ \$5,000. In addition to the
25 penalty amounts listed above, the Tax Collector may assess enforcement costs to cover the

1 reasonable costs incurred in enforcing the administrative penalty, including reasonable
2 attorneys' fees. Enforcement costs shall not count toward the ~~\$25,000~~^{\$5,000} annual maximum.

3 (c) **Persons Who May Issue Citations.** The following classes of employees within the
4 ~~Office of the Treasurer and Tax Collector~~^{Treasurer/Tax Collector's office} are designated
5 "enforcement officers" and are authorized to issue administrative citations pursuant to this
6 Article:

7

8 CLASSIFICATION NUMBER	CLASS TITLE
9 4334	Investigator
10 4335	Senior Investigator
11 4337	Principal Investigator
12 09224340	Assistant Director, <u>Bureau of Delinquent Revenues</u>
13 8173	<u>Legal Assistant</u>
14 0931	<u>Director, Bureau of Delinquent Revenues</u>

15
16

17 **SEC. 6.19-4. VIOLATIONS.**

18 (a) **Separate and Continuing Violations; Penalties Paid Do Not Cure Violations.**
19 Each and every day that a violation exists constitutes a separate and distinct offense. Each
20 section violated constitutes a separate violation for any day at issue. If the person or persons
21 responsible for a violation fail to correct the violation, subsequent administrative citations may
22 be issued for the same violation(s). ~~The enforcement officer may issue such subsequent~~
23 ~~administrative citations for uncorrected violations(s) pursuant to this Section without issuing a new~~
24 ~~notice as otherwise required by Section 6.19-5.~~ Payment of the penalty shall not excuse the failure
25 to correct the violation nor shall it bar any further enforcement action by the City. If penalties

1 and costs are the subject of administrative appeal or judicial review, then the accrual of such
2 penalties and costs shall be stayed until the determination of such appeal or review is final.

3 (b) **Payments to City; Due Date; Late Payment Penalty.** All penalties assessed shall
4 be payable to the City and County. Administrative penalties and costs assessed by means of
5 an administrative citation shall be due within ~~thirty (30)~~30 days from the date of the citation.
6 The failure of any person to pay an administrative penalty and costs within that time shall
7 result in the assessment of an additional late fee. The amount of the late fee shall be ~~ten~~
8 ~~(10)~~10 percent of the total amount of the administrative penalty assessed for each month the
9 penalty and any already accrued late payment penalty remains unpaid.

10 (c) **Collection of Penalties; Special Assessments.** The failure of any person to pay
11 a penalty assessed by administrative citation within the time specified on the citation
12 constitutes a debt to the City. The City may file a civil action, create and impose liens as set
13 forth below, or pursue any other legal remedy to collect such money.

14 (d) **Liens.** The City may create and impose liens against any property owned or
15 operated by a person who fails to pay a penalty assessed by administrative citation. The
16 procedures provided for in Section 6.10-3 Article XX of Chapter 10 of the San Francisco
17 Administrative Code shall govern the imposition and collection of such liens.

18
19 **SEC. 6.19-5. ADMINISTRATIVE CITATION; ISSUANCE NOTICE OF VIOLATION.**

20 ~~(a) Notice and Opportunity to Cure. The enforcement officer shall notify any person in~~
21 ~~violation of the Code provisions identified in Section 6.19-3(b) of such violation prior to the issuance of~~
22 ~~an administrative citation. The enforcement officer may post the notice of violation by affixing the~~
23 ~~notice to a surface in a conspicuous place on the property regardless of the manner of service of the~~
24 ~~notice under Section 6.19-6. The notice of violation shall specify the action required to correct or~~
25 ~~otherwise remedy the violation(s). The person or persons responsible for the violation shall be allowed~~

1 ~~not less than ten (10) days from the date of the notice of violation to correct or otherwise remedy the~~
2 ~~violation; provided, however, that the enforcement officer may, in his or her discretion, assign a longer~~
3 ~~period, not to exceed twenty-one (21) days, within which to correct or otherwise remedy each violation.~~
4 ~~The enforcement officer may consider the cost of correction and the time needed to obtain information,~~
5 ~~documents, data and records for correction in assigning a specific period of time within which to~~
6 ~~correct or otherwise remedy each violation.~~

7 ~~(b) Issuance of Citation.~~ ~~If the person or persons responsible for the violation fail to comply~~
8 ~~with any portion of a notice of violation within the time provided, the~~The enforcement officer may
9 issue an administrative citation to any person who violates the Code provisions identified in Section
10 6.19-3(b)~~the violator~~. The administrative citation shall be issued on a form prescribed by the
11 Tax Collector.

12
13 **SEC. 6.19-6. ADMINISTRATIVE CITATION ~~AND NOTICE OF VIOLATION~~; SERVICE.**

14 Service of ~~a notice of violation and~~ an administrative citation may be accomplished as
15 follows:

16 (a) The enforcement officer may obtain the signature of the person responsible for the
17 violation to establish personal service of the citation; or

18 (b) (1) The enforcement officer shall post the citation by affixing the citation to a
19 surface in a conspicuous place on the property. Conspicuous posting of the citation is not
20 required when personal service is accomplished or when conspicuous posting poses a
21 hardship or is excessively expensive; and

22 (2) The enforcement officer shall serve the citation by first-class mail as follows:

23 (i) The administrative citation shall be mailed to the person responsible for the
24 violation by first-class mail, postage prepaid, with a declaration of service under penalty
25 of perjury; and

1 (ii) A declaration of service shall be made by the person mailing the
2 administrative citation showing the date and manner of service by mail and reciting the
3 name and address of the citation addressee; and

4 (iii) Service of the administrative citation by mail in the manner described
5 above shall be effective on the date of mailing.
6

7 **SEC. 6.19-9. REGULATIONS.**

8 The Tax Collector may promulgate and enforce rules and regulations, and issue
9 determinations and interpretations relating to the administrative penalty and citation system,
10 and the conducting of administrative hearings and rendering of decisions, pursuant to
11 Sections 6.19-3 through 6.19-11, inclusive. Any rules and regulations promulgated by the Tax
12 Collector shall be approved as to legal form by the City Attorney. The rules and regulations
13 shall become effective 30 days after ~~receipt~~^{receipt} by the Clerk of the Board of Supervisors and
14 the Clerk of the Finance Committee, unless the Board of Supervisors by resolution
15 disapproves or modifies the regulations. The Board of Supervisors' determination to modify or
16 disapprove a rule or regulation submitted by the Tax Collector shall not impair the ability of the
17 Tax Collector to resubmit the same or similar rule or regulation directly to the Board of
18 Supervisors if the Tax Collector determines it is necessary to effectuate the purposes of the
19 administrative penalty and citation system.
20

21 **SEC. 6.21-1. TRANSFEREE AND SUCCESSOR LIABILITY.**

22 ~~(a) The liability at law or in equity of a successor, transferee or alter ego of any taxpayer or~~
23 ~~other person determined to be liable for any tax, interest, cost or penalty subject to this Article,~~
24 ~~imposed upon a taxpayer shall be determined, collected and paid in the same manner and subject to the~~
25 ~~same provisions and limitations as in the case of a deficiency determination pursuant to Sections 6.12-1~~

1 ~~et seq. and 6.13-1 et seq. Nothing in this subsection shall be construed to limit the rights or procedures~~
2 ~~available to the Tax Collector to collect from any successor, transferee or alter ego, at law or in equity,~~
3 ~~as may be provided by statutory or decisional law.~~

4 ~~(a)(b)~~ No person shall purchase or acquire an interest in a business subject to any tax
5 imposed under the Business and Tax Regulations Code~~Articles 7, 9 or 12-A~~ without first obtaining
6 either a receipt from the Tax Collector showing that all of the seller's taxes on the business
7 have been paid, or a certificate stating that no amount is due. For purposes of this Section,
8 "purchase" shall include any other voluntary transfer for consideration of a business, except
9 for purchase of stock of a publicly-traded company.

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

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

20 ~~(d)(e)~~ If the buyer purchases or acquires an interest in a business in violation of this
21 Section, the buyer shall become personally liable for the amount of taxes, interest and
22 penalties owed on the business.

23 ~~(e)(f)~~ The buyer's obligations shall accrue at the time the business is purchased or the
24 interest acquired, or at the time the Tax Collector determines the seller's final liability,
25 whichever is later.

1 (f) The liability at law or in equity of a successor, transferee or alter ego of any taxpayer or
2 other person determined to be liable for any tax, interest, cost or penalty subject to this Article,
3 imposed upon a taxpayer may be determined, collected and paid in the same manner and subject to the
4 same provisions and limitations as in the case of a deficiency determination pursuant to Sections
5 6.11-1, 6.11-2, and 6.13-1 et seq. Nothing in this subsection shall be construed to limit the rights or
6 procedures available to the Tax Collector to collect from any successor, transferee or alter ego, at law
7 or in equity, as may be provided by law.

8
9 **SEC. 6.22-1. CONFIDENTIALITY.**

10 (a) The information in a taxpayer's return is confidential, as is any information the Tax
11 Collector learns about a taxpayer's business from the taxpayer or in response to the Tax Collector's
12 request for information made under Sections 6.4-1 or 6.5-1. Except as permitted by this Section or as
13 otherwise required by law, neither the Tax Collector nor his or her staff, nor any other of the City's
14 current or former employees or agents may disclose any taxpayer's confidential information to any
15 person. Except where disclosure is otherwise required by law, it is a violation of this section for the Tax
16 Collector or any officer, employee or agent of the City to make known in any manner whatever the
17 business affairs, operations or information obtained by an investigation of records or any person
18 visited or examined in the discharge of official duty, or the amount or source of income, profits, losses,
19 expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or
20 copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any
21 per-son, except as set forth below. These confidentiality provisions also apply to former Tax Collectors
22 and employees and agents thereof.

23 (b) Otherwise confidential information may be disclosed at the discretion of the Tax
24 Collector in any federal, state, city or county judicial or administrative proceeding pertaining to
25 tax administration, determination, assessment, collection, or enforcement, of any civil or

1 criminal liability arising under the Business and Tax Regulations Code if the information
2 concerns a person who is a party to the proceeding, or the proceeding arose out of, or in
3 connection with determining that person's civil or criminal liability, or the collection of that
4 person's liability with respect to any tax imposed thereunder.

5 (c) Disclosure of otherwise confidential information may be made to the extent such
6 disclosures are reasonably necessary to obtaining information bearing a direct transactional
7 relationship to the determination, assessment, collection, or enforcement, of any civil or
8 criminal liability arising under the Business and Tax Regulations Code.

9 (d) Disclosure of otherwise confidential information may be to other employees or
10 agents of the Tax Collector or employee of the City in matters preparatory to any judicial or
11 administrative proceeding pertaining to the administration or enforcement of any civil or
12 criminal liability arising out of the Business and Tax Regulations Code.

13 (e) If the Tax Collector determines that a liability owing from a taxpayer may be
14 collected from another person, the Tax Collector may disclose to such other person
15 information relevant to the determination of tax due or owing from the taxpayer.

16 (f) The taxpayer, his successors, receivers, trustees, executors, administrators,
17 assignees and guarantors, and their duly authorized legal representatives if directly
18 interested, may be given information as to the items included in the measure and amount of
19 any unpaid tax or amounts of tax required to be collected, interest and penalties.

20 (g) Notwithstanding any other provision of the Business and Tax Regulations Code or
21 of any City ordinance, the Tax Collector is authorized to enter into agreements with *other*
22 *public agencies* ~~the California Franchise Tax Board, the State Board of Equalization, and/or the~~
23 ~~Internal Revenue Service~~ providing for the exchange of information for official purposes of said
24 agencies, and to implement any such agreement through the exchange of information.

1 (h) Notwithstanding any other provision of the Business and Tax Regulations Code or
2 of any City ordinance, the Tax Collector shall provide any and all information to the Controller
3 that is needed to fulfill the Controller's responsibilities under Section 3.105 of the Charter.
4 With regard to all such information provided by the Tax Collector, the Controller shall be
5 subject to the confidentiality provisions of subsection~~Subsection~~ (a) of this Section.

6 (i) The Tax Collector may disclose to any City employee or agent for official purposes
7 any information described in subsection~~Subsection~~ (a) in aggregate or other form that does not
8 disclose the identity of particular taxpayers.

9 (j) Nothing in this Section shall impose any liability upon the Tax Collector or any
10 employee or agent thereof for any disclosures of confidential information made *in good faith* in
11 the performance of his or her duties.

12
13 Section 2. The San Francisco Business and Tax Regulations Code is hereby amended
14 by amending Sections 604, 713, and 859, to read as follows:

15
16 **SEC. 604. COLLECTION OF TAX BY OPERATOR; RECEIPT TO OCCUPANT; RULES**
17 **FOR COLLECTION SCHEDULES.**

18 (a) Every Operator maintaining a place of business in this City and County as provided
19 in Section 603 herein, and Renting a parking space in a Parking Station in this City and
20 County to an Occupant who is not exempted under Section 606 of this Article or elsewhere in
21 this Code, shall at the time of collecting the Rent from the Occupant, collect the Parking Tax
22 from the Occupant and on demand shall give to the Occupant a Receipt that meets the
23 requirements of Article 22 of this Code. In all cases in which the Parking Tax is not collected
24 by the Operator, as aforesaid, the Operator, shall be liable to the Tax Collector of the City and
25 County for the amount of Parking Tax due on the amount of taxable Rent collected from the

1 Occupant under the provisions of this Article the same as though the Parking Tax were paid
2 by the Occupant. In all cases of transactions upon credit or deferred payment, the remittance
3 or payment of Parking Tax to the Tax Collector may be deferred in accordance therewith, and
4 the Operator shall be liable therefore at the time and to the extent that such credits are paid or
5 deferred payments are made in accordance with the rate of tax owing on the amount thereof.

6 (b) Unless the Operator can provide an explanation or other sufficient proof that the
7 Enforcing Agency in its sole discretion deems to be credible to establish the validity of a claim
8 for a Lost Ticket or an otherwise Unaccounted Ticket (as those terms are defined in Section
9 2201 of Article 22 of this Code), every Lost Ticket and Unaccounted Ticket shall be considered
10 as a full value Parking Ticket for which the Operator is liable for transmitting to the City the full
11 value of the Parking Tax and surcharge required under this Code applicable to ~~a full day's Rent~~
12 ~~for a single Parking Space Occupancy~~ the highest maximum daily rate charged for any parking space
13 without discount, except that an Operator shall be allowed an Unaccounted Ticket Ratio of
14 1.5 percent for each Parking Station that it operates (as that term is defined and used in
15 Article 22 of this Code) in a reporting period, for which the Operator shall not be liable for
16 failure to remit the Parking Tax.

17 (c) The Operator shall have the burden of explaining and establishing the validity of
18 Lost Tickets and Cancelled Transactions, as those terms are defined in Article 22 of this
19 Code. The Enforcing Agency may consider a verifiable statement signed by the Occupant
20 claiming a Lost Ticket that includes the Occupant's name, address, telephone number, the
21 Occupant's Motor Vehicle license plate number, the time of entry and the time of exit as
22 sufficient proof of a valid Lost Ticket transaction. An Operator shall maintain a log of all Lost
23 Tickets and Cancelled Transactions. The Enforcing Agency may consider in its sole and
24 absolute discretion an Operator's log of Cancelled Transactions or Lost Ticket transactions
25 that includes the cashier or attendant's name and/or Log File identification number who

1 processed the Transaction, the date and time of the Transaction, and a credible reason for
2 processing the transaction as a Lost Ticket transaction.

3 (d) The Tax Collector shall have the power to adopt rules and regulations prescribing
4 methods and schedules for the collection and payment of the tax and such methods and
5 schedules shall provide that the fractional part of ~~one~~ cent shall be disregarded unless it
6 amounts to ½ of ~~one~~ cent or more, in which case the amount (determined without regard to
7 the fractional part of ~~one~~ cent) shall be increased by ~~one~~ cent.

8
9 **SEC. 713. RECORDS.**

10 It shall be the duty of every service supplier required to collect and remit to the City and
11 County any tax imposed by this Article to keep and preserve, for a period of ~~four~~ 5 years, all
12 records as may be necessary to determine the amount of such tax service supplier may have
13 been required to collect and remit to the City and County, which records the Tax Collector
14 shall have the right to inspect at all reasonable times.

15
16 **SEC. 859. BUSINESS TAX REGISTRATION TAG REQUIRED ON CERTAIN VEHICLES.**

17 (a) The Tax Collector shall require persons engaged in the businesses listed in
18 ~~subsection~~ Subsection (b) to display prominently upon each vehicle which is registered as a
19 commercial vehicle with the California Department of Motor Vehicles, and which is used by
20 the person in the conduct of his or her business, a registration tag in such form and color and
21 containing such information as the Tax Collector shall determine. An employee's personally
22 owned vehicles are exempt from this requirement. The Tax Collector shall charge an annual
23 fee of \$30 for each tag issued to cover the cost of issuing the tag. The registration tag shall
24 be valid for the year of issuance, or 1 year, whichever ends later ~~one year concurrent with the business~~
25 ~~tax registration certificate.~~

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

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

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

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

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

3
4 Section 3. The San Francisco Business and Tax Regulations Code is hereby amended
5 by repealing Sections 608 through 608.8 in their entirety:

6
7 ~~SEC. 608. - PARKING TAX AMNESTY PROGRAM.~~

8
9 ~~SEC. 608.1. - SHORT TITLE.~~

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

11
12 ~~SEC. 608.2. - DEFINITIONS.~~

13 ~~The terms used in this Section 608 shall have the meaning given to them in Article 9, Section~~
14 ~~601 of this Code.~~

15
16 ~~SEC. 608.3. - AMNESTY PROGRAM.~~

17 ~~(a) A Tax Penalty Amnesty Program is hereby established for Operators of Parking Stations~~
18 ~~required to collect and remit Parking Taxes under Articles 6 and 9 of this Code who have liabilities~~
19 ~~eligible for amnesty under Section 608.4 of this Article and who satisfy the eligibility requirements~~
20 ~~established in Sections 608.4 and 608.5 of this Article.~~

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

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

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

8 (3) ~~No proceeding to suspend or revoke a business registration certificate pursuant to~~
9 ~~Section 6.6-1 of this Code shall be initiated for an Operator's failure to collect or remit parking~~
10 ~~taxes for which the Tax Collector has granted amnesty; and~~

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

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

17
18 **~~SEC. 608.4. - LIABILITIES SUBJECT TO AMNESTY PROGRAM.~~**

19 (a) ~~The Tax Penalty Amnesty Program shall apply to remittance of penalties and interest on~~
20 ~~penalties for unpaid owing third party Parking Tax liabilities for the tax periods ending on or before 75~~
21 ~~days prior to the effective date of this Ordinance, with the following exceptions:~~

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

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

4 ~~(3) Taxes owed that have been reduced to a notice of deficiency prior to the~~
5 ~~commencement of the Amnesty Period are not eligible for inclusion in the Amnesty Program.~~

6 ~~(4) Parking taxes owed and interest on those owed taxes are not subject to amnesty.~~
7 ~~(b) No refund or credit shall be granted of any penalty paid by any person prior to the time the~~
8 ~~person submits an Amnesty Application pursuant to Sections 608.3 and 608.8 of this Article.~~

9
10 **~~SEC. 608.5 – AMNESTY APPLICATIONS.~~**

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

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

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

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

1 **~~SEC. 608.6. – SUBSEQUENT DEFICIENCIES.~~**

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

5
6 **~~SEC. 608.7. – SUBSEQUENT REFUNDS.~~**

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

9
10 **~~SEC. 608.8. – AUTHORITY OF TAX COLLECTOR.~~**

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

19
20 Section 4. The San Francisco Administrative Code is hereby amended by amending
21 Section 10.80-2, to read as follows:

22
23 **SEC. 10.80-2. TREASURY OVERSIGHT COMMITTEE - DUTIES.**

24 The duties of the Committee shall be the following: (a) Review and monitor the
25 investment policy described in Government Code Section 27133 ~~27933~~ and annually prepared

1 by the County Treasurer; (b) Cause an annual audit to be conducted to determine the
2 Treasurer's compliance with Government Code Article 6 including Sections 27130 ~~27930~~
3 through 27137 and with this ordinance. The audit may examine the structure of the investment
4 portfolio and risk; (c) Nothing herein shall be construed to allow the Committee to direct
5 individual decisions, select individual investment advisors, brokers, or dealers, or impinge on
6 the day-to-day operations of the Treasurer.

7

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

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By: _____
JULIE VAN NOSTERN
Deputy City Attorney

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