

1 [Police Code - Security Plans for Commercial Parking Garages and Lots]

2

3 **Ordinance amending the San Francisco Police Code Sections 1215 through 1215.4, and**
 4 **adding Section 1215.7, to: 1) require a security plan as part of an application for a**
 5 **commercial parking permit; 2) set requirements for security plans; 3) authorize the**
 6 **Chief of Police to suspend or revoke a commercial parking permit for violation of an**
 7 **approved security plan; 4) authorize the Chief of Police to promulgate rules that set**
 8 **requirements for security plans; and 5) authorize enforcement by the City Attorney in a**
 9 **civil action; and making environmental findings.**

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. Environmental Findings. The Planning Department has determined that the
 15 actions contemplated in this ordinance comply with the California Environmental Quality Act
 16 (California Code Section 21000 et seq.). Said determination is on file with the Clerk of the
 17 Board of Supervisors in File No. 111077 and is incorporated herein by reference.

18

19 Section 2. Factual Findings.

20 (a) Parking garages and lots provide a great service by allowing San Francisco
 21 residents and visitors access to businesses and other destinations in the City. But they can
 22 create a substantial safety risk to individuals in or near those garages and lots, as well as to
 23 vehicles and other personal property, based on the nature of the parking garage or lot, its
 24 crime history, its location, and other factors. Parking garage and lot operators can reduce this
 25 risk by identifying and implementing reasonable security measures.

1 (b) Businesses with a Place of Entertainment or an Extended Hours Premises permit
2 issued by the Entertainment Commission may attract crowds that spill over onto the adjacent
3 sidewalks and into nearby parking garages and parking lots, either before, during or at the
4 end of events at those businesses. Incidents of violence and other criminal conduct in parking
5 garages and parking lots in proximity to these businesses have raised awareness of the issue
6 of and need for security in those parking garages and lots.

7 (c) By requiring commercial parking permittees to identifying the likely security threats
8 and crime risks associated with their parking garages and lots, and to develop and implement
9 a reasonable security plan to address those threats and risks, the City and parking garage
10 and parking lot operators can reduce the risks of violence and other criminal incidents in or
11 near parking garages and parking lots, and better protect the public safety and welfare.

12
13 Section 3. The San Francisco Police Code is hereby amended by amending Sections
14 1215 through 1215.4 and adding Section 1215.7, to read as follows:

15 **SEC. 1215 COMMERCIAL PARKING PERMITS.**

16 (a) **Definitions.** The following definitions shall apply in Police Code Sections 2.9, 2.26
17 and 1215 through 1215.76 and Business and Tax Regulations Code Section 22.

18 (1) Chief of Police. The Chief of the San Francisco Police Department, or
19 designee.

20 (2) Commercial parking permit. A permit the Chief of Police issues under this
21 Section to operate a parking garage or parking lot.

22 (3) Covered crimes. The crimes of assault, battery, burglary, robbery, theft
23 including identity theft, receipt of stolen property, breaking or removing parts from a vehicle,
24 malicious mischief to a vehicle, unlawful use or tampering by bailee of a vehicle, altering a
25 vehicle identification, tax fraud or evasion, and any offense related to the use of alcohol,

1 narcotics or controlled substances while operating or in connection with a vehicle, committed
2 anywhere in the United States of America.

3 (4) Entertainment Establishment. Any building, space, or structure operating under a
4 “Place of Entertainment” permit issued pursuant to San Francisco Police Code section 1060 et seq. or
5 operating under an “Extended Hours Premises” permit issued pursuant to San Francisco Police Code
6 section 1070 et seq.

7 (45) Parking garage. Any building or structure, or any portion of a building or
8 structure, where members of the public may park or store motor vehicles for a charge. This
9 definition does not include any parking garage in a residential building or development that
10 provides parking for a charge as a convenience or amenity for residents or their guests only.

11 (56) Parking lot. Any outdoor or uncovered space, including any plot, place, lot,
12 parcel, yard or enclosure, or any portion of such a space, where members of the public may
13 park or store motor vehicles for a charge. This definition does not include any outdoor or
14 uncovered space that is part of a residential building or development that provides parking for
15 a charge as a convenience or amenity for residents or their guests only.

16 (67) Person. Any individual, firm, company, corporation, partnership, joint
17 venture, association, organization or other legal entity. When Sections 1215 through 1215.6
18 require a person to provide or list a name, the person must provide or list any prior names and
19 aliases.

20 (8) Prevailing Party. Prevailing Party has the same meaning as set forth in California
21 Code of Civil Procedure Section 1032, or any successor provision. “Prevailing Party” includes the
22 City in actions where the City obtains an injunction and/or civil penalties or other monies under
23 Sections 1215 through 1215.6 or under State law.

24 (b) Permit Requirement. A person may not operate a parking garage or parking lot,
25 directly or indirectly, unless the person holds a commercial parking permit issued by the Chief

1 of Police. This Section requires a separate commercial parking permit for each parking
2 garage and parking lot. The Chief of Police shall close immediately any parking garage or
3 parking lot operating without the required commercial parking permit.

4 (c) Annual Permit. Each commercial parking permit shall authorize the permittee to
5 operate the permitted parking garage or parking lot for one year from the date the Chief of
6 Police issues the permit, unless the Chief of Police suspends or revokes the permit. Each
7 commercial parking permit shall expire by operation of law at the end of the one year period.
8 Notwithstanding Section 2.10 of the Police Code, a permittee wishing to operate beyond the
9 one year permit term must obtain a new commercial parking permit before the existing permit
10 expires.

11
12 **SEC. 1215.1 APPLICATION FOR PERMIT.**

13 (a) **Application Requirements.** An applicant for a commercial parking permit shall
14 use the application form the Chief of Police provides, and shall supply the following
15 information:

16 (1) The applicant's business name and address, and the address of the parking
17 garage or parking lot for which the applicant seeks a commercial parking permit;

18 (2) The name, residence address, and business contact information of an
19 individual the applicant has authorized to serve as the point of contact for the application and
20 any commercial parking permit the Chief of Police issues;

21 (3) The names and residence addresses of every officer and partner of the
22 applicant and every person with 10 percent or larger ownership interest in the applicant;

23 (4) The name and residence address of the individual whom the applicant has
24 authorized to manage, direct, or control the operations of the parking garage or parking lot for
25 which the applicant seeks a commercial parking permit;

1 (5) For all individuals listed in subsections (2) through (4), a list of each
2 conviction of or plea of guilty or no contest to a covered crime in the ten years preceding the
3 application, including the nature of the offense and the place and date of the conviction or
4 plea;

5 (6) If the applicant does not own the building, structure or space where the
6 parking garage or parking lot for which the applicant seeks a commercial parking permit
7 operates or will operate, the name, business address and contact information of the owner,
8 and documentation demonstrating the nature of the applicant's interest in the building,
9 structure or space;

10 (7) A copy of a current and valid business registration certificate that the Office
11 of the Treasurer and Tax Collector has issued to the applicant under Business and Tax
12 Regulations Code Section 853. The name on the business registration certificate must match
13 the name of the applicant on the application for the commercial parking permit;

14 (8) A copy of a current and valid certificate of authority for the parking garage or
15 parking lot for which the applicant seeks a commercial parking permit that the Office of the
16 Treasurer and Tax Collector has issued to the applicant under Business and Tax Regulations
17 Code Section 6.6-1, or documentation demonstrating that the applicant has applied to the
18 Office of the Treasurer and Tax Collector for a certificate of authority for the parking garage or
19 parking lot for which the applicant seeks a commercial parking permit and has obtained the
20 bond required for that certificate. The name on the certificate of authority or on the application
21 for a certificate of authority and bond must match the name of the applicant on the application
22 for the commercial parking permit;

23 (9) A copy of plans for the parking garage or parking lot for which the applicant
24 seeks a commercial parking permit. The plans must include the name and business address
25 of the applicant; the address of the parking garage or parking lot; the name and business

1 address of the owner of the building, structure or space where the garage or lot is located, if
2 the applicant is not the owner; all pedestrian and vehicular entrances and exits to the garage or
3 lot; the dimensions and types of construction of all structures, fences or other improvements;
4 and any features that may affect street traffic;

5 (10) The total motor vehicle capacity of the parking garage or parking lot for
6 which the applicant seeks a permit, including the number of designed spaces and the motor
7 vehicle capacity of all undesignated areas the applicant could use for overflow parking;

8 (11) Certificates of insurance and endorsements evidencing insurance in the
9 amounts and coverages the Chief of Police sets under Section 1215.4(b);

10 (12) A list of all employees or other individuals working at the parking garage or
11 parking lot, or whom the applicant proposes for employment or work at the parking garage or
12 parking lot including hours and duties of employment, and a declaration signed by the applicant
13 under penalty of perjury certifying that the applicant has verified that in the preceding ten
14 years, none of the employees or other individuals has been convicted of or plead guilty or no
15 contest to a covered crime, or for any employee or other individual who has been convicted of
16 or plead guilty or no contest to a covered crime in the preceding ten years, written
17 authorization from the Chief of Police under Section 1215.6(b) allowing the employee or
18 individual to work at the parking garage or parking lot;

19 (13) The proposed design of the identification badge for employees or other
20 individuals working at the parking garage or parking lot for which the applicant seeks a permit;

21 (14) A security plan for the parking garage or parking lot. The security plan must
22 specify the hours of operation for the parking garage or parking lot and meet the requirements set in
23 Section 1215.2(c). The security plan shall include a certification from the applicant that the applicant
24 shall operate the parking garage or parking lot in compliance with the security plan for the duration of
25 any commercial parking permit issued by the Chief of Police;

1 (~~1415~~) The name and address of the person authorized to accept service of
2 process for the applicant; and

3 (~~1615~~) Any other information that the Chief of Police finds reasonably necessary
4 to investigate the application.

5 (b) **Fees.** The applicant shall submit any filing fee with the application, as well as any
6 fees for inspections or services provided by other City departments in investigating the
7 application.

8
9 **SEC. 1215.2. INVESTIGATION, HEARING AND ISSUANCE OF PERMITS.**

10 (a) **Complete Application.** The Chief of Police may not accept an application for filing
11 until it is complete. An application is not complete until the Chief of Police determines that it
12 includes all information and documentation that Section 1215.1(a) requires. After determining
13 that an application includes all required information and documentation, the Chief of Police
14 shall accept the application for filing.

15 (b) **Investigation of Application.** Once the Chief of Police accepts an application for
16 filing, the Chief of Police shall conduct an appropriate investigation of the application. As part
17 of the investigation, the Chief of Police shall make any necessary referrals to other City
18 departments, including referrals to the Planning Department, Fire Department and
19 Department of Building Inspections for their determination of compliance with zoning, building,
20 fire and safety requirements, and to the Municipal Transportation Authority to identify any
21 traffic impacts. The Chief of Police shall conduct a criminal history background check on the
22 persons listed in Sections 1215.1(a)(2) through (4).

23 (c) **Security Plan.**

24 (1) The Chief of Police shall review the applicant's security plan to ensure that the plan
25 meets the minimum requirements set in Subsection (c)(2) below and any additional requirements set by

1 the Chief of Police in rules promulgated under Section 1215.4(a), and is reasonably calculated to
2 protect individuals and vehicles in the parking garage or parking lot and within 25 feet of any
3 pedestrian or vehicular entrance or exit to the parking garage or parking lot. The Chief's evaluation of
4 the security plan shall consider all relevant factors including, but not limited to, the parking garage's
5 or parking lot's location, size, hours of operation, proximity to an Entertainment Establishment, and
6 history of incidents resulting in Police Department response in the two years before the date of the
7 application. The Chief of Police may approve a security plan, or may specify alternate or additional
8 security measures required for approval of the security plan. The Chief of Police shall disapprove any
9 security plan that the Chief determines does not adequately address the safety of individuals and
10 vehicles in the parking garage or parking lot and within 25 feet of any pedestrian or vehicular entrance
11 or exit to the parking garage or parking lot, notwithstanding the compliance of the proposed security
12 plan with the minimum requirements of Subsection (c)(2) below. The Chief of Police shall not issue a
13 commercial parking permit for any parking garage or parking lot unless the Chief approves the
14 security plan for that parking garage or parking lot.

15 (2) The security plan shall meet the following minimum requirements:

16 (A) If any pedestrian or vehicular entrance or exit to the parking garage or
17 parking lot is within 1000 feet of any entrance or exit to an Entertainment Establishment, provide for
18 an attendant, security guard or other individual retained by the permittee to remain on site for all
19 hours of operation until 3:00 a.m. An attendant, security guard or other individual is not required on
20 site if all vehicular entrances and exits to the parking garage or parking lot are closed and secured so
21 that vehicles may not enter or exit the garage or lot. The phrase "1000 feet" in this Subsection
22 (c)(2)(A) shall mean 1000 feet in all directions, including across a street, from any pedestrian or
23 vehicular entrance or exit to the parking garage or parking lot;

1 (B) Provide for measures to ensure that when the parking garage or parking lot
2 is not open for business, the vehicular entrances and exits are closed and secured so that vehicles may
3 not enter or exit the garage or lot; and

4 (C) Identify the number, type, and location of all light sources located on the
5 premises including lighting located within pedestrian stairwells and entrances and provide for at least
6 the minimum lighting specified in Fire Code Section 5003.4.

7 (3) The security plan may include additional measures to protect the safety of
8 individuals and vehicles in the parking garage or parking lot and within 25 feet of any pedestrian or
9 vehicular entrance or exit to the parking garage or parking lot, including, but not limited to, additional
10 personnel, additional lighting, security cameras, emergency call boxes or phones, mirrors, barriers,
11 and other physical improvements, or plans to close and secure one or more pedestrian or vehicular
12 entrances or exits to the parking garage or parking lot for certain hours of operation.

13 (4) The authority of the Chief of Police to review and approve security plans for
14 parking garages and parking lots does not restrict in any way the authority of the Entertainment
15 Commission to place security requirements on any business with a Place of Entertainment or Extended
16 Hours Premises permit.

17 (e) **Action on Application.** The Chief of Police shall hear and decide the application
18 within a reasonable time after accepting the application for filing. In deciding the application,
19 the Chief of Police may exercise his or her sound discretion as to whether the permit should
20 be granted or denied. The Chief of Police may consider the following:

21 (1) Whether the parking garage or parking lot complies with applicable zoning,
22 building, fire and safety requirements of the laws of the State of California and the City and
23 County of San Francisco;

24 (2) Any traffic impacts of the parking garage or parking lot;

1 (3) Whether in the preceding ten years, the applicant or any person listed in
2 Sections 1215.1(a)(2) through (4) has been convicted of or plead guilty or no contest to a
3 covered crime, or has committed a covered crime. A conviction, plea or commission of a
4 covered crime is not an automatic bar to granting the permit. The Chief of Police shall
5 consider criminal history on a case-by-case basis with due consideration given to the following
6 factors: (a) the nature and gravity of the offense; (b) the time elapsed since the offense; (c)
7 age at the time of the offense; (d) frequency of covered criminal offenses; (e) evidence of
8 rehabilitation; and (f) any other mitigating circumstances;

9 (4) Whether in the preceding ten years, the applicant or any person listed in
10 Sections 1215.1(a)(2) through (4) has engaged in or committed any fraudulent or misleading
11 business practices;

12 (5) Whether the security plan meets the minimum requirements in Subsection (2)(c)
13 above and any other requirement imposed by the Chief pursuant to 1215.2(c)(1), and is reasonably
14 calculated to protect individuals and vehicles in the parking garage or parking lot and within 25 feet of
15 any pedestrian or vehicular entrance or exit to the parking garage or parking lot;

16 (56) Whether the application contains intentionally false or misrepresented
17 information; and

18 (76) Whether granting the permit is consistent with the public interest, health,
19 safety and welfare.

20
21 **SEC. 1215.3. PERMIT REVOCATION OR SUSPENSION.**

22 (a) **Discretionary Revocation or Suspension.** The Chief of Police may revoke or
23 suspend a commercial parking permit if, after a hearing on the matter, he or she finds that:

24 (1) Grounds exist that would have constituted a basis to deny the permit
25 application;

1 (2) The permittee has failed to operate the parking garage or parking lot in compliance
2 with the security plan approved by the Chief of Police;

3 (3) The permittee, or any employee or agent of the permittee, has created, caused, or
4 contributed to the creation or maintenance of a public nuisance in the operation of the parking garage
5 or parking lot;

6 (4) The permittee, or any employee or agent of the permittee, has failed to
7 comply with any requirements imposed by Sections 1215 through 1215.6, or any rules the
8 Chief of Police issued under Section 1215.4(a); or

9 (5) The permittee, or any employee or agent of the permittee, has operated the
10 parking garage or parking lot in a manner contrary to the public interest, health, safety or
11 welfare.

12 (b) **Mandatory Revocation or Suspension.** The Chief of Police shall revoke or
13 suspend a commercial parking permit, after a hearing on the matter, promptly upon receiving
14 notice from the Office of the Treasurer and Tax Collector that it has revoked a permittee's
15 business registration certificate or certificate of authority, or has determined that the permittee,
16 or any person listed in Sections 1215.1(a)(2) through (4), is not in compliance with the
17 Business and Tax Regulations Code. If the Chief of Police suspends the permit, the Chief of
18 Police shall continue the permit suspension until the Office of the Treasurer and Tax Collector
19 notifies the Chief of Police that he or she may end the suspension.

20 (c) **Notice.** The Chief of Police shall serve written notice of a revocation or suspension
21 hearing on the permittee at the business address listed in the permit application, no fewer
22 than 10 days before the hearing. The notice shall include the time and place of the hearing
23 and a brief statement of the reasons for the proposed revocation or suspension.

24 (d) **Appeal.** Notwithstanding Section 8(i)(5) of the Business and Tax Regulations
25 Code, the filing of an appeal with the Board of Appeals from a decision of the Chief of Police

1 to revoke or suspend a commercial parking permit shall not effect a suspension of the Chief of
2 Police's action.

3 (e) **Board of Appeal.** On any appeal from a decision of the Chief of Police to revoke
4 or suspend a commercial parking permit under Section 1215.3(b), consistent with the vital City
5 policy regarding advance payment of disputed taxes and the exclusive remedies and
6 procedures available to resolve tax disputes under Article 6 of the Business and Tax
7 Regulations Code, the Board of Appeal shall have no jurisdiction to review any determination
8 of the Office of the Treasurer and Tax Collector that the applicant, or any person listed in
9 Sections 1215.1(a)(2) through (4), is not in compliance with the Business and Tax Regulations
10 Code. Nor shall the Board of Appeal have jurisdiction to review a decision of the Office of the
11 Treasurer and Tax Collector to revoke a permittee's business registration certificate or
12 certificate of authority.

13 (f) **Three-Year Ban.** If the Chief of Police revokes a commercial parking permit, the
14 permittee, and any person listed in Sections 1215.1(a)(2) through (4), may not apply for a
15 commercial parking permit for three years from the date the Chief of Police revokes the
16 permit.

17 18 **SEC. 1215.4. RULES; INSURANCE REQUIREMENTS.**

19 (a) **Rules.** After a noticed hearing, the Chief of Police may promulgate rules to
20 effectuate the purposes of Sections 1215 through 1215.6 or to facilitate the permit process.
21 *The Chief may promulgate rules that set additional requirements for security plans under this*
22 *Subsection (a), but only after consultation with the Entertainment Commission Executive Director.*

23 (b) **Insurance Requirements.** In consultation with the City Risk Manager, the Chief of
24 Police shall determine the insurance coverages and amounts necessary to protect members
25 of the public using parking garages and parking lots, and the City and County of San

1 Francisco and its officers, agents and employees, against injuries, damages, claims or
2 liabilities arising from or related to the permit or to a permittee's operation of a parking garage
3 or parking lot. The insurance shall include, at a minimum, (1) workers' compensation, with
4 employer's liability limits not less than \$1,000,000 each accident, but only if the permittee has
5 employees as defined by the California Labor Code, (2) comprehensive general liability
6 insurance with limits not less than \$1,000,000 each occurrence, (3) comprehensive
7 automobile liability insurance with limits not less than \$1,000,000 each occurrence, and (4)
8 garagekeeper's legal liability insurance with limits set based on the motor vehicle capacity of
9 the parking garage or parking lot. The Chief of Police shall post the current insurance
10 requirements at the location where applicants submit permit applications and on the Police
11 Department website. In consultation with the City Risk Manager, the Chief of Police may
12 review and revise the insurance requirements set under this Section.

13
14 **SEC. 1215.7. OTHER ENFORCEMENT.**

15 (a) In addition to the remedies and enforcement mechanism provided above, the City Attorney
16 may enforce the provisions of Sections 1215 through 1215.6 through a civil action in any court of
17 competent jurisdiction.

18 (b) The City Attorney may apply to any court of competent jurisdiction for an order seeking
19 injunctive relief to abate any nuisance caused by a failure to comply with Sections 1215 through
20 1215.6.

21 (c) In any civil court action brought by the City Attorney to enforce Sections 1215 through
22 1215.6 in which the City succeeds in obtaining any order from the Court, the City shall be entitled to
23 recover from any and all applicable Persons all of its costs of investigation, enforcement, abatement,
24 and litigation.

1 (d) The Prevailing Party in any court action to abate a violation pursuant to Sections 1215
2 through 1215.6 shall be entitled to reasonable attorneys' fees.

3 (e) Nothing in Sections 1215 through 1215.6 shall be interpreted as restricting or otherwise
4 limiting the enforcement authority conferred upon other City employees, City agencies, or state
5 agencies by other provisions of the Municipal Code or state law.

6
7 Section 4. Transition. A permittee with a current commercial parking permit is not
8 required to submit a security plan to the Police Department while that permit is in effect, but
9 shall submit a security plan as required under this ordinance when applying for a new annual
10 commercial parking permit.

11
12 Section 5. Effective Date. This ordinance shall become effective 30 days from the
13 date of passage.

14
15 APPROVED AS TO FORM:
16 DENNIS J. HERRERA, City Attorney

17 By: _____
18 KATHARINE HOBIN PORTER
19 Deputy City Attorney
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