

1 [Business and Tax Regulations Code - Parking Stations; Revenue Control Equipment]

2

3 **Ordinance amending the Business and Tax Regulations Code to authorize methods of**
 4 **electronic payment for parking; reduce parking ticket requirements; increase small lot**
 5 **exemptions; amend valet parking requirements; and clarify revenue control equipment**
 6 **requirements.**

7 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
 8 **Additions to Codes** are in *single-underline italics Times New Roman font*.
 9 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
 10 **Board amendment additions** are in double-underlined Arial font.
 11 **Board amendment deletions** are in ~~strikethrough Arial font~~.
 12 **Asterisks (* * * *)** indicate the omission of unchanged Code
 13 subsections or parts of tables.

11

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

13 Section 1. Article 22 of the Business and Tax Regulations Code is hereby amended by
 14 revising Sections 2201, 2202, 2203, 2204, 2205, 2207, 2208, 2209, 2210, 2211, 2212, 2213,
 15 2215, 2218, 2219, 2219.6, 2221, and 2226, and deleting Section 2219.10, to read as follows:

16 **SEC. 2201. DEFINITIONS.**

17 (a) Sections 2201 through 2218 of this Article shall be known as the "Parking Revenue
 18 Control Equipment Ordinance."

19 (ab) Existing Defined Terms. The terms "Operator," "Occupant," "Occupancy,"
 20 "Parking Station," "Motor Vehicle," and "Rent" shall have the meaning set out in Article 9,
 21 Section 601 of this Code.

22 (bc) Additional Defined Terms. When used in this Article, the following terms shall
 23 mean:

24 (H)"Affiliate" means a Person who owns or Controls, is owned or Controlled by,
 25 or shares common ownership or Control with, another Person.

1 (2)"Attendant Parking" means the service of parking an Occupant's Motor Vehicle
2 ~~occupant's vehicle~~ at an Attended Parking Station or in a Parking Station connected with the
3 Attended Parking Station provided by the Attended Parking Station Operator.

4 (3)"Attended Parking Station" means a Parking Station in which the Operator
5 utilizes an attendant or cashier or other employee to issue Parking Tickets and/or collect Rent
6 and/or otherwise assist Occupants.

7 (4)"Automatic Vehicle Counter" means a mechanical or electronic device, such
8 as a hose counter, electric eye, arming and/or triggering loop, or other automated counting
9 device that records the passage of a Motor Vehicle ~~vehicle~~.

10 (5)"Cancelled Transaction" means a Transaction that the Operator cancels prior
11 to payment.

12 (6)"City Garage" means a Parking Station owned by the City and County of San
13 Francisco or by the ~~San Francisco~~ Parking Authority of the City and County of San Francisco.

14 (7)"Collected Tickets" means the number of Parking Tickets returned to the
15 Operator by Occupants for payment of Rent.

16 (8)"Control" means the power to control the affairs and key decisions of another
17 person, association or corporation, ~~in whatever manner exercised, whether directly or indirectly,~~
18 ~~whether legally enforceable, and however exercisable or exercised over such corporation or~~
19 ~~association, as the term Control is further defined in Article 6, Section 6.6-1(f)(2) of this Code. A~~
20 ~~presumption of control arises if the Operator, signatory or other person who 10% owner is (or was) an~~
21 ~~officer, director, partner or member of such corporation or association.~~

22 (9)"Discount Parking" means parking provided for reduced Rent to members of a
23 class of Occupants, including but not limited to early morning entry Occupants ("early-bird"),
24 scooter or motorcycle Occupants, carpool Occupants, and persons with a merchant
25 validation.

1 ~~(10)~~"Discount Parking Ticket" means a Parking Ticket issued for Discount
2 Parking.

3 "Electronic Payment" means the payment of Rent using a credit card, debit card,
4 prepaid account card, cellular phone, Quick Response (QR) code, or other method of payment that
5 does not utilize cash or bank check and is acceptable to the Enforcing Agency, as more particularly
6 described in Sections 2203(g) and 2213.

7 "Electronic Payment Record" means the record of a Transaction generated in the
8 course of Electronic Payment of Rent, as described in Section 2213.

9 ~~(11)~~"Enforcing Agency" means the Tax Collector for the City and County of San
10 Francisco.

11 ~~(12)~~"Flat Rate Parking" means parking provided for a fixed ~~present~~ Rent for a
12 prescribed or limited time Occupancy Period at a Parking Station that is not a Public Event
13 Parking Station.

14 ~~(13)~~"Inventory" means the number of motor vehicles present in a Parking Station
15 at a given time.

16 ~~(14)~~"Issued Tickets" means the total number of Parking Tickets issued to
17 Occupants, including Voided Tickets, and Parking Tickets otherwise used or consumed in the
18 operation of the Parking Facility for a given period.

19 ~~(15)~~"Journal Tape" means a printed record of every Transaction, in consecutive
20 order, that is generated by RCE not capable of producing an electronic Log File (e.g., a cash
21 register or fee computer tape).

22 ~~(16)~~"Log File" means an electronic read-only record generated by the RCE that
23 is a consecutive record by date and time of every Transaction and the actions of the RCE and
24 ancillary RCE devices.

25

1 (17)"Lost Ticket" means a Parking Ticket that has been issued to and misplaced
2 by an Occupant, which has not been returned to the Operator with payment of Rent.

3 (18)"Monthly Occupant" means an Occupant who pays a flat fee for Occupancy
4 on a monthly basis.

5 (19)"Monthly Parking" means parking for which Rent is charged to the Occupant
6 as a fixed monthly fee.

7 (20)"NIST Book 44" means the National Institute of Standards and Technology,
8 Book 44, as adopted by the State of California pursuant to California Code of Regulations
9 Section 4400 et seq.

10 (21)"Occupancy Period" means the time elapsed between the entry and the exit
11 of an Occupant's Motor Vehicle from a Parking Station for which the Operator charges Rent.

12 (22)"Parking Meter" means a mechanical or electronic device, owned or
13 operated by the City and County of San Francisco, for the purpose of measuring the time a
14 Motor Vehicle ~~vehicle~~ is permissibly parked in a parking space. For purposes of this Article, a
15 Parking Meter is not RCE.

16 (23)"Parking Tax" means the tax and surcharge imposed on Rent charged for
17 Occupancy in a Parking Station imposed by Article 9 of the ~~San Francisco~~ Business and Tax
18 Regulations Code.

19 (24)"Parking Ticket" means the record provided by the Operator to the Occupant
20 setting forth the time and date that the Occupant's Motor Vehicle ~~vehicle~~ entered the Parking
21 Station that is used by the Operator to determine the Rent charged to the Occupant.

22 (25)"Pay and Display Parking Station" means an Unattended Parking Station in
23 which Occupants utilize a Pay Station to pay Rent for a specified Occupancy Period and
24 receive a Receipt or Parking Ticket that the Occupant displays conspicuously in his or her
25 Motor Vehicle ~~vehicle~~ as proof of payment.

1 ~~(26)~~"Pay Station" means a mechanical or electronic device that accepts payment
2 or prepayment of Rent from an Occupant and issues a Parking Ticket, release ticket or
3 Receipt.

4 ~~(27)~~"Periodic Report" means a report prepared daily, weekly, monthly, or
5 quarterly by the Operator showing, at a minimum, the total Rent collected for that period, the
6 identification numbers of the Parking Tickets used during that period, and the number of
7 vehicles parked in the Parking Station during that period.

8 ~~(28)~~"Person" means any individual, group, company, partnership, association,
9 joint stock company, trust, corporation, society, syndicate, club, business, or governmental
10 entity. "Person" shall not include the City or any of its departments or agencies.

11 ~~(29)~~"Public Event Parking Station" means a Parking Station with more than five
12 parking spaces, the Occupants of which are principally attendees of public events, such as a
13 performing arts or sporting events, that occur fewer than 100 days in any calendar year and
14 for which an Occupant prepays a flat-rate Rent for a fixed Occupancy Period.

15 ~~(30)~~"RCE" means Revenue Control Equipment.

16 ~~(31)~~"RCE Records" means the documents and reports generated by Revenue
17 Control Equipment, including but not limited to Log Files or Journal Tapes. Books of account,
18 accounting records, and other financial records provided by an Operator to the City in the
19 course of an audit to confirm the data in Log Files or Journal Tapes shall also be considered
20 RCE records.

21 ~~(32)~~"Receipt" means the record issued by an Operator to an Occupant of the
22 Rent paid by or on behalf of the Occupant.

23 ~~(33)~~"Release Ticket" means the ticket issued by an Operator in exchange for
24 payment of Rent that allows the Occupant to exit the Parking Station.

25

1 ~~(34)~~"Revenue Control Equipment" means an automated mechanical or
2 electronic device or devices that meet(s) the requirements of this Article. For purposes of this
3 Article, a Parking Meter is not RCE.

4 ~~(35)~~"Service Agent" means a person or other entity engaged in the business of
5 installing, maintaining, or repairing RCE.

6 "Small Attended Parking Station" means an Attended Parking Station that receives
7 annual gross revenues below the threshold stated in Section 2204(a).

8 ~~(36)~~"Substitute Ticket" means a Parking Ticket that an Operator processes as a
9 replacement for a Lost Ticket.

10 ~~(37)~~"Transaction" means the calculation and payment of Rent for Occupancy.

11 ~~(38)~~"Transient Parking" means parking for which Rent is charged to the
12 Occupant by the hour or the fraction of the hour.

13 ~~(39)~~"Unaccounted Ticket" means a ticket that is issued to an Occupant and is
14 not returned to the Operator. A Lost Ticket is an Unaccounted Ticket.

15 ~~(40)~~"Unaccounted Ticket Ratio" means the ratio of Unaccounted Tickets to
16 Issued Tickets for a given period, expressed as a percentage of Issued Tickets.

17 ~~(41)~~"Unattended Parking Station" means a Parking Station in which the Operator
18 does not use an attendant or cashier or other employee to issue Parking Tickets, collect Rent,
19 and/or otherwise assist Occupants.

20 ~~(42)~~"Valet" means a person or a service company subject to the requirements of
21 ~~Article 12~~ of the Police Code as a Fixed Location Valet Parking Service or a Special Event
22 Valet Parking Service.

23 ~~(43)~~"Valet Lot" means a Parking Station, including a garage, lot or other off-
24 street space or facility, used by a Valet for the parking or storage of Motor Vehicles in
25 exchange for which the Valet receives compensation or other consideration.

1 (44)"Voided Ticket" means a Parking Ticket that is not issued to an Occupant,
2 but that is used in the course of the Operator's testing, repair or maintenance of the RCE.

3 **SEC. 2202. EXEMPTED PARKING STATIONS.**

4 The requirements of this Article shall not apply to any Parking Station:

5 (a) That does not charge Rent at any time;

6 (b) That is ~~a Parking Station~~ operated by the City and County of San Francisco and
7 uses Parking Meters;

8 (c) In which all Rent paid for Occupancy is paid by a resident or a registered guest
9 of a hotel or motel by adding the Rent to the room bill or charge to the resident, or registered
10 guest, as long as the charges for the hotel room and the charges for parking are subject to the
11 Tax on the Transient Occupancy of Hotel Rooms set out in Article 7 of the ~~San Francisco~~
12 Business and Tax Regulations Code;

13 (d) That is located in a residential building or development that provides Monthly
14 Parking as a convenience or additional amenity to its residents. This exemption shall apply
15 only to Rent paid by persons who are residents of the building or development in which the
16 Parking Station is located, and where parking is provided as a convenience or additional
17 amenity to such residents; or

18 (e) That is ~~a Parking Station~~ operated by a governmental entity other than the City
19 and County of San Francisco or the Parking Authority of the City and County of San Francisco. A
20 Parking Station operated by a person other than a governmental entity is not exempt from the
21 provisions of this ~~Article~~article, even if the Parking Station is located on property owned by a
22 governmental entity.

1 **SEC. 2203. RCE REQUIREMENTS FOR ALL PARKING STATIONS.**

2 (a) Unless *otherwise* specifically exempted in this Article, a Parking Station must
3 utilize functioning RCE that meets the requirements of this Section and all other applicable
4 provisions of this Article whenever the Operator charges Rent for Occupancy.

5 (b) RCE must record all Transactions either to a Log File or to a Journal Tape, as
6 required by this Article.

7 (c) An Operator shall utilize RCE *that meets ~~meeting~~* the requirements of this Article
8 to track and account for Transactions and to record and account for Rent received and
9 Parking Taxes to be collected and remitted to the Tax Collector.

10 (d) Neither an Operator nor any of its Affiliates, agents or employees shall have
11 more than a five ~~5~~ percent ownership interest or other monetary, equitable, or secured interest
12 in the manufacturer of, vendor of or Service Agent for the RCE used in any Parking Station
13 controlled by said Operator.

14 (e) In any case in which the Operator has an ownership interest of any kind or any
15 amount in the manufacturer of, vendor of or Service Agent for the RCE used in any Parking
16 Facility under the control of the Operator, the Operator shall not have access to the source
17 code or access to any part of the RCE software, hardware, data storage devices, or other
18 RCE equipment that would allow the Operator to modify or delete RCE Records or other data
19 that is generated or stored in the RCE, including but not limited to Rents charged, monies for
20 Rent collected, Occupancy Periods, and Parking Taxes collected or owed.

21 (f) All RCE that contains a time clock or recorder must meet or exceed the
22 specifications, tolerances, performance and testing standards for time clocks and time
23 recorders set out in the NIST Book 44, Section 5.55, as it may from time to time be amended.
24 Time clocks, time recorders and other timing devices incorporated or used in RCE must be
25

1 electronic and must not be capable of recalibration or other adjustment other than setting the
2 current time and date.

3 (g) Where an Operator is required to accept or voluntarily accepts Electronic Payment, the
4 RCE must: (1) record the time and date of a Motor Vehicle's entry to the Parking Station and the
5 Occupancy Period; (2) assign a unique identification number to the Transaction associated with the
6 method of payment; and (3) record the Rent charged and Parking Tax assessed. Methods of Electronic
7 Payment must be administered by a third party payment processor that is not affiliated with the
8 Operator of the Parking Station. Any Electronic Payment method must create an Electronic Payment
9 Record for every Transaction. A Parking Station that accepts Electronic Payment must post the
10 business telephone and address of the Operator or the Operator's agent responsible for addressing
11 complaints concerning incorrect charges and other issues concerning payment of Rent.

12 **SEC. 2204. REQUIREMENTS FOR SMALL ATTENDED PARKING STATIONS.**

13 (a) An Operator of a Small Attended Parking Station shall comply with all applicable
14 provisions of this Article, unless an exemption as specified in this Section 2204 is granted in writing by
15 the Enforcing Agency. The Operator of ~~an~~ a Small Attended Parking Station may apply to the
16 Enforcing Agency for exemption from the requirements of Sections 2203, ~~and~~ 2205, and 2213
17 of this Article, provided that the Operator demonstrates to the satisfaction of the Enforcing
18 Agency that the gross annual revenues of the Parking Station from Rent do not exceed
19 \$40,000 ~~\$25,000~~. An Operator of a Small Attended Parking Station is not required to accept
20 Electronic Payment, but if it does accept Electronic Payment it must comply with the requirements of
21 Section 2213.

22 (b) If the Enforcing Agency grants the Operator of a Small Attended Parking Station an
23 exemption from the requirements of Sections 2203, ~~and~~ 2205, and 2213 of this Article, the
24 Operator shall:

1 (1) Provide to each Occupant a Parking Ticket that has preprinted on it a
2 unique sequential identification number. The Parking Ticket shall either have a stub or a split
3 portion that the Operator shall place on the windshield of the Occupant's Motor Vehicle ~~vehicle~~.
4 The Operator shall not use a Parking Ticket more than once.

5 (2) Write the Occupant's Motor Vehicle's ~~vehicle~~ license plate number on the
6 Parking Ticket in ink.

7 (3) Stamp the Parking Ticket with the time the Occupant's Motor Vehicle
8 entered the Parking Station and the time ~~it the Occupant~~ exited the Parking Station, using a
9 mechanical or electronic time-stamp or punch clock device.

10 (4) Upon an Occupant's payment of Rent, provide to the Occupant a hand-
11 written or machine generated Receipt stating the date and time of the Occupant's Motor
12 Vehicle's entry to and ~~time of~~ exit from the Parking Station, the Rent charged, the name of the
13 attendant, and the name and address of the Parking Station.

14 (5) Create a Periodic Report for each day that the Parking Station provides
15 parking in exchange for Rent.

16 (6) The Operator shall retain all Periodic Reports created pursuant to this
17 Section 2204 and all issued Parking Tickets for not less than five ~~5~~ years after their creation.

18 ~~—(c) The Operator shall comply with all provisions of this Article, unless an exemption from the~~
19 ~~requirements of Sections 2203 and 2205 is granted in writing by the Enforcing Agency.~~

20 **SEC. 2205. REQUIREMENTS FOR ATTENDED PARKING STATIONS.**

21 Except as specifically exempted or otherwise required by this Article, an Operator of an
22 Attended Parking Station that charges Rent for Occupancy by the hour or the fraction of an
23 hour shall utilize RCE that meets the requirements of ~~incorporates the functions set out in~~ this
24 Section 2205.
25

1 (a) Except for Attended Parking Station Transactions that utilize Electronic Payment, the
2 The Operator must provide a Parking Ticket ~~ticket~~ issued by the RCE to the Occupant at the
3 time the Occupant's Motor Vehicle enters the Parking Station. The Parking Ticket must state
4 the time and date of entry, and the name and address of the Parking Station. Each Parking
5 Ticket issued by the Operator must contain a preprinted, unique, sequential identification
6 number that is not printed by the RCE. This preprinted ticket, once issued, shall directly
7 correspond and be traceable to a unique identification number for the transaction ~~number~~ that is
8 generated by the RCE.

9 (b) The RCE must record the following information to a Journal Tape or Log File in
10 the sequential order in which the events occur:

- 11 (1) Time and date of a Motor Vehicle's entry to a Parking Station;
- 12 (2) Time and date of a Motor Vehicle's exit from a Parking Station;
- 13 (3) Amount of Rent charged;
- 14 (4) Value of any discounts to Rent provided;
- 15 (5) Amount of Parking Tax collected;
- 16 (6) Identity or identification number of the Operator's employee who processed
17 the Transaction or the identification number of the RCE Pay Station that processed the Transaction.

18 (c) Each Transaction must be identified in the Log File or Journal Tape by a
19 nonresettable, sequential identification number assigned by the RCE.

20 (d) RCE must be capable of providing a legible Receipt to an Occupant at the time
21 that the Occupant pays Rent. Pay Stations and cashiers must offer the Occupant a Receipt at
22 the time that the Occupant pays Rent. A Receipt must contain the following information:

- 23 (1) Time and date of the entry of the Occupant's Motor Vehicle to the Parking
24 Station;

- 1 (2) Time and date of the exit of the Occupant's Motor Vehicle from the
2 Parking Station;
- 3 (3) Total amount Operator charged Occupant, including Rent and Parking
4 Tax;
- 5 (4) Parking Station address; *and*
- 6 (5) Business telephone and address of Operator or Operator's agent
7 responsible for addressing consumer complaints.

8 (e) Data that is entered to or maintained in a Log File or a Journal Tape must be
9 accessible to the Operator only in a read-only format, so that the Operator, the Operator's
10 employees, and Service Agents cannot delete or alter any of the recorded data. The RCE
11 vendor must disable any RCE data functions that would allow an Operator or its agents or its
12 employees to delete or modify data entered into the RCE.

13 (f) The Operator shall not alter or attempt to alter the data in a Log File or a Journal
14 Tape.

15 (g) Every day that the Parking Station is open for business, all information and data
16 received or generated by the RCE that is recorded to a Log File for that day must be
17 replicated or backed-up to a data tape, disk or hard drive or digital data storage medium in a
18 readily accessible read-only format, and said information and data must be maintained in San
19 Francisco by the Operator in that format for not less than *five* years from the date of its
20 creation.

21 (h) Each day that the *Attended* Parking Station is open for business, all information
22 and data received or generated by RCE that is recorded to a Journal Tape for that day must
23 be printed out. The Operator must maintain the printed data in San Francisco for not less than
24 *five* years from the date of its creation.

25

1 (i) Where the Operator of an Attended Parking Station utilizes RCE that includes a
2 computer, a network server, or an Internet-based software or database program, all
3 employees and agents of an Operator, including but not limited to cashiers, attendants,
4 bookkeepers, supervisors and managers, and RCE maintenance personnel, must be
5 individually identified by the RCE, and each Transaction and data entry, including all
6 payments received, Voided Tickets or Cancelled Transactions, and Discount Parking Rent
7 charged, must be attributed to such individual in the Log File. The RCE must also record
8 whenever the RCE software program is altered and by whom.

9 (j) In an Attended Parking Station, for any Transaction that utilizes Electronic Payment,
10 the Operator is exempt from the following requirements of this Article: (1) to issue a Parking Ticket as
11 required by Section 2205(a); and, (2) to retain Parking Tickets as required by Section 2218(b).

12 **SEC. 2207. REQUIREMENTS FOR MONTHLY-ONLY PARKING STATIONS.**

13 (a) An Operator of a Parking Station that only provides parking to Monthly
14 Occupants and never provides any other type or mode of parking is not required to utilize
15 RCE, but shall maintain records of the names and billing addresses of Occupants and the
16 amount of Rent charged, the value of any discounts provided, and the amount of Parking Tax
17 collected from each Occupant. The Operator shall maintain said records in San Francisco for
18 not less than five years from the date of their creation. An Operator of a Parking Station that
19 only provides parking to Monthly Occupants may accept Electronic Payment that meets the
20 requirements of Section 2213.

21 (b) The Operator must provide each Monthly Occupant with a decal, hangtag or
22 other means of identifying the Occupant's authorization to park in the Parking Station, and the
23 Operator must require that each Occupant utilize the decal or hangtag provided.

1 **SEC. 2208. REQUIREMENTS FOR UNATTENDED PARKING STATIONS.**

2 ~~(a) — An Operator of a Pay and Display Parking Station must have RCE located within the~~
3 ~~Parking Station for the prepayment of Rent. The RCE must upon the payment of Rent issue a Parking~~
4 ~~Ticket or Receipt to the Occupant that states the time and date issued, the amount of Rent prepaid, and~~
5 ~~the Occupant Period. The Parking Ticket or Receipt must contain a statement instructing the Occupant~~
6 ~~to display it on the dashboard of his or her vehicle, and must warn the Occupant that his or her vehicle~~
7 ~~may be towed for failing to display the Parking Ticket or Receipt as required. The Operator shall~~
8 ~~clearly and conspicuously post a sign at every location where the Occupant pays Rent, which is at least~~
9 ~~10 inches by 15 inches in size, and in type at least one inch high and 3/4 inches wide, repeating the~~
10 ~~aforesaid display instructions and tow warning. Where an Operator has met the requirements of this~~
11 ~~Section, and the Occupant fails to display the Parking Ticket as directed by the Operator, the Operator~~
12 ~~may in its discretion tow the vehicle in accordance with California Vehicle Code Section 22658, 22952,~~
13 ~~55953 or other applicable law or charge additional Rent. Such additional rent must be clearly stated in~~
14 ~~the rate posting signage required by Section 2220(b) of this Article.~~

15 ~~(b) — An Unattended Parking Station that is not a Pay and Display Parking Station must have~~
16 ~~individually numbered and clearly marked parking spaces. The RCE must upon the payment of Rent~~
17 ~~issue a Parking Ticket or Receipt to the Occupant that states the time and date issued, the amount of~~
18 ~~Rent prepaid, and the Occupancy Period. The RCE must be able to record the identification number of~~
19 ~~the parking space occupied by the Occupant's vehicle to track period of Occupancy.~~

20 (a) — An Operator of an Unattended Parking Station must either (1) use Pay and Display RCE
21 that issues a Parking Ticket to be displayed in the Occupant's Motor Vehicle, or, (2) use RCE that
22 utilizes a method of Electronic Payment acceptable to the Enforcing Agency that records the
23 Occupant's Motor Vehicle's license number, parking space number, or some other means of identifying
24 the Occupant as having paid Rent.

1 (b) An Unattended Parking Station that uses Electronic Payment must have individually
2 numbered and clearly marked parking spaces. The RCE must be able to record the identification
3 number of the parking space occupied by the Occupant's vehicle to track period of Occupancy and
4 confirm Payment of Rent.

5 (c) Pay and Display RCE must upon the payment of Rent issue a Parking Ticket or Receipt
6 to the Occupant that states the time and date issued, the amount of Rent prepaid, and the Occupancy
7 Period. The Parking Ticket or Receipt must contain a statement instructing the Occupant to display it
8 on the dashboard of his or her vehicle, and must warn the Occupant that his or her vehicle may be
9 towed for failing to display the Parking Ticket or Receipt as required.

10 (d) The Operator of an Unattended Parking Facility shall post a sign, which is at least 10
11 inches by 15 inches in size, and in type at least one inch high and 3/4 inches wide, at every location
12 where the Occupant pays Rent or in a at least two places that are otherwise conspicuous and obvious
13 to any Occupant, instructing the Occupant how to pay Rent and warning the Occupant that his or her
14 Motor Vehicle may be towed for failure to display the Parking Ticket as instructed and/or failure to pay
15 Rent.

16 (e) Pay and Display RCE must upon the payment of Rent issue a Parking Ticket or Receipt
17 to the Occupant that states the time and date issued, the amount of Rent prepaid, and the Occupant
18 Occupancy Period. The Parking Ticket or Receipt must contain a statement instructing the Occupant to
19 display the Parking Ticket or Receipt on the dashboard of his or her Motor Vehicle, and must warn the
20 Occupant that his or her Motor Vehicle may be towed for failing to display the Parking Ticket or
21 Receipt as required.

22 (f) Where an Operator has met the requirements of this Section 2208, and the Occupant
23 fails to pay Rent or fails to display the Parking Ticket as instructed, the Operator may in its discretion
24 tow the Motor Vehicle in accordance with California Vehicle Code Sections 22658, 22952, 55953 or
25

1 other applicable law or charge additional Rent. Such additional rent must be clearly stated in the rate
2 posting signage required by Section 2220(b) of this Article.

3 (eg) The Enforcing Agency may issue such rules and regulations as are required to
4 provide for the remote payment of Rent at Unattended Parking Stations through the use of
5 telephones, cellular telephones, smart cards, debit cards or other electronic devices,
6 consistent with the purposes and provisions of this Article.

7 (dh) An Operator of an Unattended Parking Station shall not tow or charge additional
8 Rent to any Motor Vehicle ~~vehicle~~ that entered the Unattended Parking Station while the RCE
9 was not fully operational and for a period of eight~~8~~ hours after the RCE is restored to full
10 function.

11 **SEC. 2209. EQUIPMENT REQUIREMENTS FOR PUBLIC EVENT PARKING**
12 **STATIONS.**

13 (a) An Operator of a Public Event Parking Station shall at each vehicle entrance to
14 the Parking Station utilize an Automatic Vehicle Counter to record every Motor Vehicle ~~vehicle~~
15 entering the Parking Station for purposes of parking.

16 (b) Automatic Vehicle Counters shall display the total number of Motor Vehicles
17 ~~vehicles~~ that entered the Parking Station utilizing a non-resettable mechanical or electronic
18 counter.

19 (c) An Operator of a Public Event Parking Station shall provide a Parking Ticket to
20 each Occupant upon entry to the Parking Station, and the Operator shall instruct the
21 Occupant to place the Parking Ticket on the dashboard of the Motor Vehicle ~~vehicle~~ or other
22 conspicuous place in the Motor Vehicle ~~vehicle~~. Every Parking Ticket must display a unique,
23 preprinted sequential identification number, the date of the event, and the address of the
24 Parking Station.

1 (d) Automatic Vehicle Counters used in a Public Event Parking Station must be
2 capable of issuing a Journal Tape or Log File report or other record of the number of Motor
3 Vehicles ~~vehicles~~ that entered the Parking Station at the point where the Automatic Vehicle
4 Counter was located. The Automatic Vehicle Counter must state on the report the date of the
5 activities reported and the time period in which it was in operation.

6 (e) The Operator of a Public Event Parking Station must reconcile the number of
7 Motor Vehicles ~~vehicles~~ registered by Automatic Vehicle Counters with the number of Parking
8 Tickets issued to Occupants for every day that the Parking Station provides public event
9 parking. An Operator must document and explain in writing any discrepancies or differences
10 between the total number of Parking Tickets used and the number of Motor Vehicles ~~vehicles~~
11 counted by the Automatic Vehicle Counters.

12 (f) The Operator of a Public Event Parking Station must retain the documentation of
13 the number of Parking Tickets used and any written explanation of the difference between the
14 number of Parking Tickets used and the number of Motor Vehicles ~~vehicles~~ counted by its
15 Automatic Vehicle Counters for not less than ~~five~~ 5 years from the date of the public event.

16 (g) Notwithstanding the requirements of Section ~~2213~~ 2212 ~~of this Article~~, a Public
17 Event Parking Station may but is not required to accept Electronic Payment. The Operator must
18 issue a Parking Ticket to each Occupant, notwithstanding the method of payment of Rent ~~electronic~~
19 ~~payment of Rent. If the Operator of a Public Event Parking Station accepts Electronic Payment, it must~~
20 comply with the requirements of Section 2213.

21 **SEC. 2210. EQUIPMENT REQUIREMENTS FOR VALET PARKING STATIONS.**

22 (a) An Operator of a Valet Parking Station that charges Rent at a flat rate and does
23 not charge Rent to any Occupant by the hour or the fraction of an hour is not required to
24 comply with Sections 2205(a), 2205(b)(1), 2205(b)(2), 2205(d)(1), 2205(d)(2), 2205(d)(4) and
25 2205(i) ~~of this Article~~, but shall comply with all other provisions of Section 2205. An Operator

1 that provides valet services and charges Rent for Occupancy by the hour or the fraction of an
2 hour is subject to all provisions of Section 2205. The requirements of this Article as to Valets
3 are in addition to and do not alter the requirements set out in Section 853 of this Code,
4 Sections 1216 through 1223 inclusive of Article 17 of the Police Code, or other applicable
5 ordinances. An Operator that provides Attendant Parking is not subject to the exemptions of
6 this Section.

7 (b) An Operator of a Valet Parking Station must provide a Parking Ticket issued by the
8 RCE to the Occupant at the time the Operator accepts the keys or otherwise assumes control of the
9 Occupant's Motor Vehicle. The Parking Ticket must state the date of entry, the time of entry if Rent is
10 charged by time, and the name and address of the Operator. Each Parking Ticket issued must contain
11 a unique identification number that corresponds and is traceable to a transaction number generated by
12 the RCE.

13 (c) In a Valet Parking Station, for any Transaction that utilizes Electronic Payment, the
14 Operator is exempt from the following requirements of this Article: (1) to issue a Parking Ticket as
15 required by Section 2210(b); and, (2) to retain Parking Tickets as required by Section 2218(b).

16 (d) An Operator of a Valet Parking Station must comply with the requirements of Section
17 2203. Where an Operator of a Valet Parking Station utilizes an off-street facility (lot or garage) to
18 park Motor Vehicles, the owner or operator of said off-street facility is not required to issue a separate
19 Parking Ticket for said Motor Vehicles. An owner or operator of an off-street parking facility that is
20 used only by an Operator of a Valet Parking Station, and is not otherwise used as a Parking Facility
21 open to the public, is not required to comply with the provisions of Section 2203 .

22 **SEC. 2211. MULTIPLE OPERATIONS PARKING STATIONS.**

23 An ~~The~~ Operator shall comply with all applicable provisions of this Article at all times. In
24 particular, Operator_s shall meet the specific requirements of this Article applicable to different
25 Parking Station operation modes, such as Attended Lot Parking Station, Unattended Parking

1 Station, Flat Rate Parking Station, and Public Event Parking Station, during any time that such
2 Parking Station is being operated in such mode.

3 **SEC. 2212. NEW PARKING TECHNOLOGY.**

4 The Enforcing Agency, by exercise of its rulemaking authority under this Article, may
5 issue rules, determinations and interpretations consistent with the purposes of this Article as
6 may be necessary and appropriate to apply or enforce this Article relating to new or emerging
7 technologies applicable to RCE, including but not limited to Electronic Payment and other forms of
8 RCE that record and process a Transaction without use of a Parking Ticket or that utilize other
9 paperless means of recording and processing a Transaction.

10 **SEC. 2213. ELECTRONIC PAYMENT.**

11 (a) Unless specifically exempted in this Article otherwise provided in Section 2204, an
12 Operator must accept ~~electronic~~ payment of Rent through at least one of the following Electronic
13 Payment methods that comply with the requirements of this Section: ~~a~~ credit card, bank debit card,
14 prepaid account card, cellular telephone, QR code, ~~smartcard~~, or other means of electronic money
15 transfer that meets the requirements of this Section 2213 and is acceptable to the Enforcing Agency
16 widely used by or generally available to the public.

17 (b) Where an Operator utilizes Electronic Payment, the Electronic Payment method must
18 create an Electronic Payment Record for every Transaction that assigns a unique identification number
19 to the Transaction and states the location of the Parking Facility, the amount of Rent charged, and the
20 date(s) and Occupancy Period, which information must be transmitted to the Occupant either through a
21 billing statement or receipt. Any method of Electronic Payment must be administered by a third party
22 payment processor that is not affiliated with the Operator of the Parking Station. An Operator that
23 accepts Electronic Payment must post the business telephone and address of the Operator or the
24 Operator's agent responsible for addressing complaints concerning incorrect charges and other issues
25 concerning payment of Rent.

1 **SEC. 2215. MANUAL REVENUE CONTROL PROCEDURES REQUIRED WHEN**
2 **REVENUE CONTROL EQUIPMENT IS NOT OPERATIONAL.**

3 (a) During any time that RCE is not functioning, the Operator may continue to
4 operate the Parking Station subject to the following conditions:

5 (1) The Operator and/or the Operator's agent shall not tow any *Motor Vehicle*
6 *vehicle* that entered the Parking Station during the time that the RCE is unable to issue legible
7 Parking Tickets or legible Receipts and for eight hours after the RCE is restored to full
8 function.

9 (2) The Operator shall manually record in ink on preprinted sequentially
10 numbered tickets the following information:

11 (A) Time and date of the entry of the Occupant's Motor Vehicle to the
12 Parking Station;

13 (B) Time and date of the exit of the Occupant's Motor Vehicle from the
14 Parking Station;

15 (C) Total amount Operator charged Occupant, including Rent and
16 Parking Tax;

17 (D) Parking Station address; and

18 (E) Business telephone and address of Operator or Operator's agent
19 responsible for addressing consumer complaints.

20 (3) The Operator shall maintain a log written in ink recording the dates and
21 times and reasons that it utilized manual revenue control procedures. The Operator shall
22 maintain said log and all manually issued Parking Tickets for not less than five years after
23 their creation.

1 (4) The Operator shall issue to every Occupant an individually and
2 sequentially numbered Receipt stating the date, the Occupancy Period, and the amount
3 charged, including Rent and Parking Tax.

4 (b) The Operator shall use good faith efforts to maintain and repair the RCE so that
5 it operates in conformance with the requirements of this Article. If malfunctioning RCE is not
6 restored to full function within 72 hours of the time that it ceased to operate in conformance
7 with this Article (excluding Sundays and holidays if the Operator uses a service repair
8 company), the Enforcing Agency may determine that the Operator has not made a good faith
9 effort to maintain or repair the RCE and is in willful violation of this Article. A determination
10 that the Operator has not attempted in good faith to maintain RCE or repair malfunctioning
11 RCE may be rebutted by the Operator's presentation of proof, that the Enforcing Agency in its
12 sole and absolute discretion deems to be credible, to establish the Operator's good faith
13 efforts to maintain or repair the RCE.

14 **SEC. 2218. REQUIRED BUSINESS PRACTICES FOR ALL PARKING**
15 **STATIONS.**

16 (a) Auditable Record. An Operator shall implement and utilize appropriate business
17 practices that, in conjunction with RCE, create an auditable record of the following information
18 for every Transaction each Occupant:

- 19 (1) Rent charged and paid;
- 20 (2) Rent discount, if given;
- 21 (3) Occupancy Period (or entry and exit times) for Rent charged; and
- 22 (4) Parking Tax collected.

23 (b) Maintenance of Parking Tickets. An Operator must keep in San Francisco each
24 issued or cancelled Parking Ticket for not less than five years from the date the Parking
25

1 Ticket was issued. Parking Tickets must be provided to any City auditor or other auditor
2 authorized by the Enforcing Agency immediately upon request.

3 (c) Maintenance of Log Files. An Operator shall keep in San Francisco each Log
4 File in an accessible read-only electronic storage format, for not less than five years from the
5 date of the earliest Transaction recorded in said Log File. An Operator must also maintain a
6 printout of all Log Files for not less than five years. Upon request, the Operator shall
7 immediately provide to any City auditor or other auditor authorized by the Enforcing Agency,
8 the Log File in an electronic format readable by the City.

9 (d) Maintenance of Journal Tapes. An Operator shall keep in San Francisco each
10 Journal Tape for not less than five years from the date of the earliest Transaction recorded in
11 said Journal Tape. The Journal Tape must be provided to any City auditor or other auditor
12 authorized by the Enforcing Agency immediately upon request.

13 (e) Improper Use of Discount Parking. An Operator that provides Discount Parking
14 or Flat Rate Parking must establish business practices and control measures to prevent its
15 employees and managers from using a discount Parking Ticket to avoid reporting the full
16 amount of Rent collected or to avoid remitting the correct amount of Parking Tax due.

17 (f) Reconciliation of Transaction Records. No less than monthly, for every day that
18 the Parking Station provides parking to the public in exchange for Rent, an Operator shall
19 reconcile the number of Parking Tickets issued and received, and the number of Motor Vehicles
20 that utilized Electronic Payment, with the number of Motor Vehicles ~~vehicles~~ that the RCE
21 recorded as having entered the Parking Station, and shall create a Periodic Report setting out
22 that information for every Transaction that occurred during that period.

23 (g) Training in Use of RCE. An Operator shall train its employees and managers in
24 the required uses of RCE, including but not limited to: recording Transactions; maintaining
25 Parking Tickets, Log Files; and Journal Tapes; and reconciling the count and identification

1 numbers of Parking Tickets used and Electronic Payment records with the number of Motor
2 Vehicles ~~vehicles~~ that parked in the Parking Station, and the amount of Rent received in any
3 given period.

4 **SEC. 2219. TITLE AND PURPOSE.**

5 Sections 2219 through 2219.11 of this Article ~~This Ordinance~~ shall be known as the
6 "Revenue Control Equipment Compliance Fee Ordinance" and the Fee imposed herein shall
7 be known as the "Revenue Control Equipment Compliance Fee" or "Fee." The purpose of this
8 Fee is to recover the City's costs to ensure that all ~~parking operators~~ Operators and Parking
9 Stations meet the requirements of this Article 22.

10 **SEC. 2219.6. COLLECTION AND ENFORCEMENT.**

11 (a) The Revenue Control Equipment Compliance Fee shall be due to the Tax
12 Collector annually on December 31 and shall be remitted by the Operator.

13 (b) The Fee is payable, when due, at the office of the Tax Collector, and if not paid
14 within 30 days after the same becomes due, the Tax Collector shall add 10 percent to the
15 amount of the Fee as a penalty for nonpayment. If the Fee is not paid within 60 days after the
16 same becomes due, the Tax Collector shall add 15 percent to the amount of the Fee as a
17 penalty for nonpayment. If the Fee is not paid within 90 days after same becomes due, the
18 Tax Collector shall add 25 percent to the amount of the Fee, as a penalty for nonpayment;
19 provided, however, when an Operator has failed for a period of six months or more to pay the
20 Fee, and has allowed the Fee to become delinquent for this or a longer period, the Tax
21 Collector shall, in such instance, impose a penalty of 25 percent on the total amount of the
22 Fee delinquent. The Tax Collector may refer delinquent accounts ~~and refer the Operator~~ to the
23 Bureau of Delinquent Revenue for further collection and enforcement.

24 **SEC. 2219.10. SEVERABILITY.**

25

1 If any of the provisions of this Ordinance or the application thereof to any person or
2 circumstance is held invalid, the remainder of this Chapter, including the application of such part or
3 provisions to persons or circumstances other than those to which it is held invalid, shall not be affected
4 thereby and shall continue in full force and effect. To this end, the provisions of this Section are
5 severable.

6 * * * *

7 **SEC. 2221. ~~RESERVED.~~ SEVERABILITY.**

8 Severability. If any section, subsection, sentence, clause, phrase, or word of this Article is for
9 any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction,
10 such decision shall not affect the validity of the remaining portions of the Article. The Board of
11 Supervisors hereby declares that it would have enacted this Article and each and every section,
12 subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard
13 to whether any other portion of this Article would be subsequently declared invalid or unconstitutional.

14 **SEC. 2226. CIVIL PENALTIES.**

15 (a) Civil Penalties and Enforcement. Violation of this Article shall be subject to a civil
16 penalty of up to \$25,000 per violation. In addition to the enforcement authority and powers
17 granted to the Tax Collector in the ~~San Francisco~~ Business and Tax Regulations Code, the City
18 and County of San Francisco may initiate a civil action against any person to compel
19 compliance or to enjoin violations of this Article.

20 (b) Recovery of ~~Attorneys'~~ Attorney's Fees. If the City and County of San Francisco
21 initiates a civil action against any person to compel compliance or to enjoin violations of this
22 Article, at the time the action is filed, the City may elect to seek recovery of ~~attorneys'~~ attorney's
23 fees and costs incurred in that enforcement action. Where the City makes this election, the
24 prevailing party shall be entitled to recover ~~attorneys'~~ attorney's fees. In no event shall the
25

1 award of ~~attorneys'~~ attorney's fees to a prevailing party exceed the amount of reasonable
2 ~~attorneys'~~ attorney's fees incurred by the City in the action.

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

6 **SEC. 607. OPERATOR CERTIFICATION OF REVENUE CONTROL EQUIPMENT,**
7 **RCE RECORD REVIEW, AND UNACCOUNTED TICKET RATIO.**

8 * * * *

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

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

25 * * * *

1 Section 3. Effective Date. This ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
4 of Supervisors overrides the Mayor’s veto of the ordinance.

5 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
6 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
7 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
8 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
9 additions, and Board amendment deletions in accordance with the “Note” that appears under
10 the official title of the ordinance.

11 Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word
12 of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any
13 court of competent jurisdiction, such decision shall not affect the validity of the remaining
14 portions of the ordinance. The Board of Supervisors hereby declares that it would have
15 passed this ordinance and each and every section, subsection, sentence, clause, phrase, and
16 word not declared invalid or unconstitutional without regard to whether any other portion of
17 this ordinance would be subsequently declared invalid or unconstitutional.

18
19 APPROVED AS TO FORM:
20 DENNIS J. HERRERA, City Attorney

21 By: _____
22 ROBERT K. STONE
23 Deputy City Attorney

24 n:\legana\as2014\1500003\00961205.doc