

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Regina Dick-Endrizzi, Director  
Small Business Commission, City Hall, Room 448

FROM: Linda Wong, Assistant Clerk  
Board of Supervisors

DATE: December 22, 2016

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Budget and Finance Committee

The Board of Supervisors' Budget and Finance Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

**File No. 161263**

**Ordinance amending the Business and Tax Regulations Code to allow operators to use Revenue Control Equipment in the form of software applications, establish criteria for its use, and to allow valet parking operators to obtain one certificate of authority to collect the parking tax at all locations.**

Please return this cover sheet with the Commission's response to Linda Wong, Assistant Clerk, Budget and Finance Committee, at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

\*\*\*\*\*

**RESPONSE FROM SMALL BUSINESS COMMISSION - Date: \_\_\_\_\_**

**No Comment**

**Recommendation Attached**

\_\_\_\_\_  
**Chairperson, Small Business Commission**

c: Menaka Mahajan, Small Business Commission

1 [Business and Tax Regulations Code - Revenue Control Equipment, Software Applications,  
2 and Valet Parking Operators Certificates of Authority]

3 **Ordinance amending the Business and Tax Regulations Code to allow operators to use**  
4 **Revenue Control Equipment in the form of software applications, establish criteria for**  
5 **its use, and to allow valet parking operators to obtain one certificate of authority to**  
6 **collect the parking tax at all locations.**

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.

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

15 Section 1. The Business and Tax Regulations Code is hereby amended by revising  
16 Sections 6.6-1, 607, 2203, 2204, 2219.6, and 2219.7, to read as follows:

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

18 (a) These additional provisions shall apply to operators under the Tax on Transient  
19 Occupancy of Hotel Rooms (hereinafter, "Hotel Tax") (Article 7), the Tax on Occupancy of  
20 Parking Space in Parking Stations (hereinafter "Parking Tax") (Article 9), the Utility Users Tax  
21 (Article 10), and the Access Line Tax (Article 10B).

22 \* \* \* \*

23 (d) Except as provided in subsections (f), (g), (h), (i), ~~and (m)~~ and (n) below, the Tax  
24 Collector, within 45 days after the application is complete, shall issue a separate certificate of  
25 authority to the operator to collect third-party taxes from customers for each location at which  
the operator is required to collect such taxes. The certificate will expire on a date certain set

1 by the Tax Collector. The operator must apply for renewal of the certificate, before it expires,  
2 if the operator intends to continue to engage in business in the City. Except as provided in  
3 subsections (f), (g), (h), (j), (l), ~~and (m)~~, and (n) below, the Tax Collector may issue successive,  
4 one-year renewals of an operator's certificate. Each certificate shall state the location of the  
5 place of business to which it applies and shall be prominently displayed at such location in  
6 plain view of all customers. Certificates of authority may not be assigned or transferred. The  
7 operator shall immediately surrender to the Tax Collector the certificate for that location upon  
8 the operator's cessation of business at that location or upon the sale or transfer of the  
9 business.

10 \* \* \* \*

11 (n) If an Operator is a corporation, partnership or business entity required to hold a fixed  
12 location valet parking permit or special event valet parking permit under Sections 1216-1223 of Article  
13 17 of the Police Code, within 45 days after the application for a certificate of authority is complete, the  
14 Tax Collector shall issue one certificate of authority to the operator to collect parking taxes from  
15 customers for all locations at which the operator is required to collect such taxes.

16  
17 **SEC. 607. OPERATOR CERTIFICATION OF REVENUE CONTROL EQUIPMENT, RCE**  
18 **RECORD REVIEW, AND UNACCOUNTED TICKET RATIO.**

19 (a) **Definitions.** The terms used in this Section 607 shall have the meaning given to  
20 them in Section 2201 of this Code.

21 (b) **Operator's RCE Certification.** Concurrent with remittance of Parking Taxes to the  
22 City pursuant to Business and Tax Regulations Code Section 6.7-1, an Operator shall certify  
23 in writing under penalty of perjury that it has utilized RCE that complies with the applicable  
24 provisions of Article 22 of this Code during the period for which the Operator remits the  
25 Parking Taxes.

1 (c) **Operator's RCE Records Review Certification.** Concurrent with remittance of  
2 Parking Taxes to the City pursuant to Business and Tax Regulations Code Section 6.7-1, an  
3 Operator shall also certify in writing under penalty of perjury that it has reviewed the RCE  
4 Records, as defined at Section 2201(c) of this Code, as to amounts of gross revenue, Rent  
5 received, Parking Tax collected and remitted, and discounts provided, ~~and Unaccounted Ticket~~  
6 ~~Ratio~~ for each Parking Station that it operated in the period reported. The Operator shall  
7 further certify that it has reconciled those RCE Records with its books and records of accounts  
8 of Rent received and Parking Tickets used, such that the Operator's certifications made under  
9 this Article 9 are informed and correct.

10 ~~(d) Operator's Unaccounted Ticket Ratio Certification. Concurrent with remittance of Parking~~  
11 ~~Taxes to the City pursuant to Business and Tax Regulations Code Section 6.7-1, on a form provided by~~  
12 ~~the Tax Collector, an Operator shall state the Unaccounted Ticket Ratio for the reporting period, and~~  
13 ~~shall certify in writing under penalty of perjury that the stated ratio is accurate. The Unaccounted~~  
14 ~~Ticket Ratio shall be calculated as follows. The number of Unaccounted Tickets for a reporting period~~  
15 ~~is calculated separately for each Parking Station operated by the Operator as the sum of Inventory at~~  
16 ~~the start of the reporting period and the Issued Tickets for that period, less the Voided Tickets for that~~  
17 ~~period, less the Collected Tickets for that period. The Unaccounted Ticket Ratio is calculated as the~~  
18 ~~number of Unaccounted Tickets for a particular Parking Station for that period divided by the number~~  
19 ~~of Issued Tickets for that period, with the resulting quotient multiplied by 100 and expressed as a~~  
20 ~~percentage of Issued Tickets.~~

21  
22 **SEC. 2203. RCE REQUIREMENTS FOR ALL PARKING STATIONS.**

23 (a) Unless otherwise specifically exempted in this Article 22, a Parking Station must utilize  
24 functioning RCE or an approved software application for payment initiation, tracking,  
25 reconciliation, and reporting that meets the requirements of this Section 2203 and all other

1 applicable provisions of this Article whenever the Operator charges Rent for Occupancy.

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

4 (c) An Operator shall utilize either RCE or an approved software application that meets  
5 the requirements of this Article to initiate, track, reconcile, and report payment account for  
6 Transactions and to record and account for Rent received, and Parking Taxes to be collected  
7 and remitted to the Tax Collector.

8 (d) RCE Requirements.

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

13 ~~(e)~~(2) In any case in which the Operator has an ownership interest of any kind  
14 or any amount in the manufacturer of, vendor of, or Service Agent for the RCE used in any  
15 Parking Facility under the control of the Operator, the Operator shall not have access to the  
16 source code or access to any part of the RCE software, hardware, data storage devices, or  
17 other RCE equipment that would allow the Operator to modify or delete RCE Records or other  
18 data that is generated or stored in the RCE, including but not limited to Rents charged,  
19 monies for Rent collected, Occupancy Periods, and Parking Taxes collected or owed.

20 ~~(f)~~(3) All RCE that contains a time clock or recorder must meet or exceed the  
21 specifications, tolerances, performance, and testing standards for time clocks and time  
22 recorders set out in the NIST Book 44, Section 5.55, as it may from time to time be amended.  
23 Time clocks, time recorders, and other timing devices incorporated or used in RCE must be  
24 electronic and must not be capable of recalibration or other adjustment other than setting the  
25 current time and date.

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

11           (e) Requirements for Software Applications.

12           (1) All software applications must contain a time clock or recorder that meets or  
13 exceeds the specifications, tolerances, performance, and testing standards for time clocks and time  
14 recorders set out in the NIST Book 44, Section 5.55, as it may from time to time be amended. Time  
15 clocks, time recorders, and other timing devices incorporated or used in the software applications  
16 must be electronic and must not be capable of recalibration or other adjustment other than setting the  
17 current time and date.

18           (2) An Operator using a Software Application must only accept Electronic Payment.

19           (3) The software application must: (A) record the time and date of a Motor Vehicle's  
20 pick-up and return times and entry to the Parking Station and the Occupancy Period; (B) record and  
21 log the payment type, Rent charged, and Parking Tax collected; and (C) assign a unique identification  
22 number to the Transaction associated with the electronic payment type.

23           (4) The software application must provide the customer with an electronic receipt  
24 reporting the Rent charged and the Parking Tax assessed upon completion of any Transaction.

1                   (5) The software application must route all Payments through a certified payment  
2 processor independent of the parking Operator. Each Electronic Payment method must create a record  
3 of every Electronic Payment processed to collect Services revenue and Parking Tax, and those records  
4 must be made available to the Tax Collector upon demand. At the request of the Tax Collector, the  
5 Operator must: (A) supply the systems log(s) of all Transactions processed through the software  
6 application; (B) provide a copy of the periodic Merchant Account Statement produced by the  
7 independent payment processor; (C) permit examination of its electronic payment transaction records  
8 maintained by the independent payment processor; and/or (D) supply a copy of the monthly account  
9 statement for the bank account into which Services revenue and Parking Taxes are deposited.

10                   (6) An Operator using a software application must post, on its website and on  
11 electronic transaction receipts delivered to the customer, the business telephone, email address, and  
12 physical address of the Operator or Operator's agent responsible for addressing complaints  
13 concerning incorrect charges or other issues concerning payment for services rendered.

14  
15 **SEC. 2204. REQUIREMENTS FOR SMALL ATTENDED PARKING STATIONS.**

16                   (a) An Operator of a Small Attended Parking Station shall comply with all applicable  
17 provisions of this Article 22, unless an exemption as specified in this Section 2204 is granted  
18 in writing by the Enforcing Agency. The Operator of a Small Attended Parking Station may  
19 apply to the Enforcing Agency for exemption from the requirements of Sections 2203, 2205,  
20 and 2213, provided that the Operator demonstrates to the satisfaction of the Enforcing  
21 Agency that the gross annual revenues of the Parking Station from Rent do not exceed  
22 \$40,000. If the Enforcing Agency grants an exemption from the requirements of Sections 2203, 2205,  
23 and 2213, the Operator shall be exempt from the RCE fee provided for in Section 2219.5. An  
24 Operator of a Small Attended Parking Station is not required to accept Electronic Payment,  
25 but if it does accept Electronic Payment it must comply with the requirements of Section 2213.

1 (b) If the Enforcing Agency grants the Operator of a Small Attended Parking Station an  
2 exemption from the requirements of Sections 2203, 2205, and 2213, the Operator shall:

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

7 (2) Write the Occupant's Motor Vehicle's license plate number on the Parking  
8 Ticket in ink.

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

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

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

18 (6) The Operator shall retain all Periodic Reports created pursuant to this  
19 Section 2204 and all issued Parking Tickets for not less than five years after their creation.  
20

21 **SEC. 2219.6. COLLECTION AND ENFORCEMENT.**

22 (a) The Revenue Control Equipment Compliance Fee shall be due to the Tax Collector  
23 annually on December 31 and shall be remitted by the Operator except in the case of a new  
24 Operator where the fee for the current year shall be due on the last day of the month in which the  
25



1 Operator is approved by the Tax Collector and the fee for the subsequent year shall be due  
2 December 31.

3 (b) The Fee is payable, when due, at the office of the Tax Collector, and if not timely  
4 ~~paid within 30 days after the same becomes due~~, the Tax Collector shall add 10% ~~percent~~ to the  
5 total amount of the Fee as a penalty for nonpayment. If the Fee is not paid ~~within 60 days~~  
6 ~~after by the first day of the second month after~~ the same becomes due, the Tax Collector shall add  
7 15% ~~percent~~ to the total amount of the Fee as a penalty for nonpayment. If the Fee is not paid  
8 ~~within 90 days after by the first day of the third month after~~ same becomes due, the Tax Collector  
9 shall add 25% ~~percent~~ to the total amount of the Fee, as a penalty for nonpayment; provided,  
10 however, when an Operator has failed for a period of six months or more to pay the Fee, and  
11 has allowed the Fee to become delinquent for this or a longer period, the Tax Collector shall,  
12 in such instance, impose a penalty of 25% ~~percent~~ on the total amount of the Fee ~~delinquent~~.  
13 The Tax Collector may refer delinquent accounts to the Bureau of Delinquent Revenue for  
14 further collection and enforcement.

15  
16 **SEC. 2219.7. EXEMPTIONS.**

17 (a) **Exemption.** The Fee shall not apply to any Parking Station that is exempt from the  
18 requirements of Article 22, pursuant to Section 2202, or Section 2204, or that is registered and  
19 eligible, under Section 6.9-3 of the Business and Tax Regulations Code.

20 (b) **Inspection and Audit.** The Tax Collector may inspect or audit any claim for  
21 exemption from the Fee to determine whether or not the Parking Station is exempt from the  
22 Fee.

23 (c) **Notice of Change in Status.** Any Operator who claims an exemption to Fee  
24 payment must notify the Tax Collector in writing within 10 days of when that Parking Station  
25 no longer qualifies for the exemption, if applicable.

1 (d) **Penalties for Establishments That Falsely Claim to Qualify for Exemption.**

2 Any Operator that claims an exemption and is found by the Tax Collector not to be entitled to  
3 the exemption and to have falsely claimed the exemption without reasonable grounds,  
4 ~~Operator~~ shall be subject to a penalty of ~~\$100~~250. The Tax Collector may impose the penalty  
5 by written citation. Any Operator that disputes the Tax Collector's determination under this  
6 Section may appeal to the Tax Collector in writing according to the provisions of Article 6,  
7 Section 6.19-8.

8  
9 Section 2. Effective Date. This ordinance shall become effective 30 days after  
10 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
11 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
12 of Supervisors overrides the Mayor's veto of the ordinance.

13  
14 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
15 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
16 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
17 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
18 additions, and Board amendment deletions in accordance with the "Note" that appears under  
19 the official title of the ordinance.

20  
21 APPROVED AS TO FORM:  
22 DENNIS J. HERRERA, City Attorney

23 By:   
24 Moe Jamil  
25 Deputy City Attorney

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**LEGISLATIVE DIGEST**

[Business and Tax Regulations Code - Revenue Control Equipment, Software Applications, and Valet Parking Operators Certificates of Authority]

**Ordinance amending the Business and Tax Regulations Code to allow operators to use Revenue Control Equipment in the form of software applications, establish criteria for its use, and to allow valet parking operators to obtain one certificate of authority to collect the parking tax at all locations.**

Existing Law

Existing law does not allow for software applications to be used to satisfy the requirements of Revenue Control Equipment for parking operators. Existing law also requires valet parking operators to possess multiple certificates of authority to collect parking tax if the operator has multiple locations.

Amendments to Current Law

This ordinance will allow parking operators to use software applications to satisfy the Revenue Control Equipment requirement and specify standards to ensure accurate collections. The ordinance will also allow valet parking operators to obtain one certificate of authority to collect parking tax for all of their business locations.

Background Information

The Office of the Treasurer Tax Collector administers the City's parking tax. Technological innovation in the parking industry has brought new types of software applications that can precisely track parking activity for operators. Simultaneously, new companies have emerged in the valet parking industry that own multiple locations. This ordinance is a response to these industry changes, to ensure that the City adapts to these changes while maintaining precise revenue collection.

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