Ordinance amending the Administrative Code by setting March 31 as the annual due date to pay registration fees for weighing and measuring devices and automated point of sale stations used for commercial purposes; retroactively eliminating fees billed by the Tax Collector on or after January 1, 2019, through fees otherwise due prior to March 31, 2025, for each business with a taximeter device; refunding eliminated fees paid to the City, and any penalties paid on such fees; and updating administrative fees to conform with the State of California’s annual device administrative fee schedule.

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

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

Section 1. Chapter 1 of the Administrative Code is hereby amended by revising Section 1.13-5, to read as follows:

SEC. 1.13-5. WEIGHTS AND MEASURES – REGISTRATION PERMITS AND FEES.

(a) Registration and Fees Requirement. All weighing and measuring devices used for commercial purposes, as defined in subdivision (e) of Section 12500 of the California Business and Professions Code, Section 12500, subdivision (e), shall be registered annually with the County Sealer of Weights and Measures (“County Sealer”). A registration may not be transferred between persons or locations. The fee charged by the County Sealer for such registration shall be used to offset the costs of inspecting and testing of said devices pursuant to Section 12240.
of the California Business and Professions Code Section 12240 and to recover the cost of carrying out California Business and Professions Code Section 12211. The initial fee shall be due and payable immediately upon the commencement of the commercial use of the device. Thereafter, the fee shall be due and payable annually on or before March 31, pursuant to Section 76.1 of Article 2 of the Business and Tax Regulations Code for the upcoming registration term commencing April 1. All registrations for weighing and measuring devices issued prior to November 1, 2021, that were effective on November 1, 2021, shall continue to be effective through March 31, 2022.

(b) Calculation of Fees. The amount of the fees shall be set to recover the total costs of inspection and testing incurred by the County Sealer for each annual registration, but shall not exceed the maximum annual charges authorized under California Business and Professions Code Section 12240. Each registration fee shall include a business location fee component; a device fee component; and a State of California administrative charge. The registration fees shall be according to the following schedule:

Beginning January 1, 2013, and thereafter, the registration fee shall be one hundred dollars ($100) per business location, plus a device fee listed in subsections (c)(1) through (c)(11) below.

(c) Device Fees.

(1) For large capacity weighing devices, other than livestock, with capacities of 10,000 pounds or greater, the device fee shall not exceed two hundred fifty dollars ($250) per device;

(2) For smaller capacity weighing devices, other than livestock scales, with capacities of at least 2,000 pounds but less than 10,000 pounds, the device fee shall not exceed one hundred fifty dollars ($150) per device;

(3) For livestock scales with capacities of 10,000 pounds or greater, the device fee shall not exceed one hundred fifty dollars ($150) per device;
(4) For livestock scales with capacities of at least 2,000 pounds but less than 10,000 pounds, the device fee shall not exceed \textit{one hundred dollars} ($100) per device;

(5) For liquefied petroleum gas meters, truck mounted or stationary, the device fee shall not exceed \textit{one hundred eighty-five dollars} ($185) per device.

(6) For wholesale and vehicle meters, the device fee shall not exceed \textit{seventy-five dollars} ($75) per device;

(7) For computing scales, the device fee shall not exceed \textit{twenty dollars} ($20) per device. For purposes of this subsection (7), a computing scale shall be a weighing device with a capacity of less than 100 pounds that indicates the money value of any commodity weighed, at predetermined unit prices, throughout all or part of the weighing range of the scale. For the purposes of this subsection, the portion of the annual registration fee consisting of the business location fee and the device fees authorized by this subsection shall not exceed the sum of \textit{one thousand dollars} ($1,000) for each business location.

(8) For jewelry and prescription scales, the device fee shall not exceed \textit{eighty dollars} ($80) per device. For purposes of this subsection (8), a jewelry or prescription scale is a scale that meets the specifications, tolerances, and sensitivity established pursuant to California Business and Professions Code Section 12107.

(9) For weighing devices, other than computing, jewelry, and prescription scales as defined in subsections (7) and (8), with capacities of at least 100 pounds, but less than 2,000 pounds, the device fee shall not exceed \textit{fifty dollars} ($50) per device.

(10) For vehicle odometers utilized to charge mileage usage fees in vehicle rental transactions or in computing other charges for service, including, but not limited to, ambulance, towing, or limousine services, the device fee shall not exceed \textit{sixty dollars} ($60) per device.
(A) This subsection (10) does not apply to odometers in rental passenger vehicles, as defined by California Vehicle Code Section 465, that are subject to California Civil Code Sections 1936-1939.01 et seq. If a person files a complaint with the County Sealer of Weights and Measures, regarding the accuracy of a rental passenger vehicle odometer, the County Sealer may charge a fee to the operator of the vehicle rental business sufficient to recover, but not to exceed, the reasonable cost of testing the device in investigation of the complaint.

(B) For vehicle odometers utilized to charge mileage usage fees in vehicle rental transactions involving nonpassenger vehicles that are not subject to California Civil Code Sections 1936-1939.01 et seq., the portion of the annual registration fee consisting of the business location fee and the device fee authorized under this subsection (10) shall not exceed three hundred forty dollars ($340) for each business location.

(11) For all other commercial weighing or measuring devices not listed above, the device fee shall not exceed twenty dollars ($20) per device. For purposes of this subsection (e)(11), the total annual registration fee shall not exceed the sum of one thousand dollars ($1,000) for each business location.

(d) Business Locations. For purposes of this Section 1.13-5, a single business location is defined as:

(1) each vehicle, except for those vehicles that are employed in vehicle rental transactions containing one or more commercial devices; or,

(2) (A) for vehicles that are employed in vehicle rental transactions that are not subject to California Civil Code Sections 1936-1939.01 et seq., each business location at which vehicles are stored or maintained by a vehicle rental company for the purposes of renting vehicles to customers.
(B) A facility that meets all of the following criteria shall not be considered a business location for the purposes of this paragraph subsection (d)(2):

(i) The facility is not wholly, or in any part, owned, leased, or operated by the vehicle rental company.

(ii) The facility is not operated or staffed by an employee of the vehicle rental company.

(iii) The facility stores or maintains, on a temporary basis, vehicles at the location for customer convenience.

(C) If a person files a complaint with the County Sealer regarding the accuracy of an odometer in a vehicle found or located at a facility described in this subsection (B), above; the County Sealer may charge a fee to the operator of the vehicle rental company sufficient to recover, but not to exceed, the reasonable cost of testing the device in investigation of the complaint; or:

(3) each business location that uses different categories or types of commercial devices that require the use of specialized testing equipment and that necessitates not more than one inspection trip by a Weights and Measures official.

(e) Utility Meters. For marinas, mobile home parks, recreational vehicle parks, and apartment complexes, where the owner of the marina, park, or complex owns and is responsible for the utility meters, the device fee shall not exceed the following:

(1) For water submeters, two dollars ($2) per device per space or apartment.

(2) For electric submeters, three dollars ($3) per device per space or apartment.

(3) For vapor submeters, four dollars ($4) per device per space or apartment.

Marinas, mobile home parks, recreational vehicle parks, and apartment complexes, for which the above fees are assessed, shall be inspected and tested as frequently as required by California Code of Regulations, title 4, Section 4070 regulation.
(f) **State of California Fees.** In addition to the fees set forth above, the California Code of Regulations, Title 4, Division 9, Chapter 3, Article 3, Section 4075, requires each County Sealer county office of weights and measures to collect the following fees therein, as amended from time to time, on behalf of the California Department of Food and Agriculture ("CDFA") for recovery of the Department's administrative costs, and to remit these funds to CDFA the Department.

<table>
<thead>
<tr>
<th>Device Category</th>
<th>Administrative Fee</th>
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</thead>
<tbody>
<tr>
<td>Electric Submeter</td>
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<tr>
<td>Water Submeter</td>
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<tr>
<td>Vapor Submeter</td>
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<tr>
<td>CNG Meter</td>
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<td>Fabric, Cordage, Wire Meter</td>
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<td>Grease and Lube Meter</td>
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<td>Vehicle Meter</td>
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<td>Wholesale Meter</td>
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<td>Miscellaneous Measuring Device</td>
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<tr>
<td>Scales - less than 2,000 pounds capacity</td>
<td>$1.10</td>
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<tr>
<td>Liquified Gas Meter</td>
<td>$8.00</td>
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</tbody>
</table>
(g) **Rules and Regulations.** The County Sealer shall promulgate such rules and regulations as are reasonable and necessary to implement this Section 1.13-5 ordinance.

(h) **Penalties.** The penalty for fees not paid within 30 days of billing shall be 100% of the unpaid fees. The penalties in the foregoing sentence shall not be effective for fees in subsection (a) for registrations effective on or after April 1, 2022. Rather, fees in subsection (a) for registrations effective on or after April 1, 2022, shall be subject to the penalties under Section 76.1 of Article 2 of the Business and Tax Regulations Code.

(i) **Temporary Waiver of Fees for Businesses with Taximeter Devices.**

   (1) The business location fee and device fee components of the annual registration fees billed by the Tax Collector on or after January 1, 2019, through fees otherwise due prior to March 31, 2025, shall be waived for each business with a taximeter device.

   (2) This subsection (i) shall be retroactive to January 1, 2019.

   (3) This subsection (i) shall expire by operation of law on March 31, 2025. After that date, the City Attorney shall cause this subsection (i) to be removed from the Administrative Code.

(j) **Refund for Businesses with Taximeter Devices of Waived Fees and Associated Penalties Paid to the City.**

   (1) If a business with a taximeter device pays or has paid to the City any fee waived under subsection (i), the Department of Public Health shall refund or cause to be refunded the amount of that fee, plus any penalties paid with respect to that fee, without interest, upon request of that business. Any refund requested under this subsection (j) must be filed in writing with the Department of Public Health within the later of: (1) one year of payment of the fee or penalty; or (2) November 1, 2022.
Section 2. Chapter 115 of the Administrative Code is hereby amended by (1) revising existing Sections 115.3, 115.4 (first section so numbered), 115.4 (second section so numbered), 115.5, 115.7, and 115.8, and (2) renumbering existing Sections 115.4 (second section so numbered), 115.5, 115.6, 115.7, and 115.8, as Sections 115.5, 115.6, 115.7, 115.8, and 115.9, respectively, to read as follows:

SEC. 115.3. DURATION – PROHIBITION OF TRANSFER OF REGISTRATION.

(a) All registrations shall be valid for up to one year and expire on the last day of the term of registration. The person holding the registration shall renew it in a manner similar to the issuance of the original registration. The Division of Weights and Measures shall consider registrations not renewed within thirty (30) days after the last day of the term of registration as expired, until such time as the Division receives the renewal fee and the applicable penalty fee.

(b) Registrations may not be transferred between persons or locations. In the case where a holder of a registration leases, sublets, subcontracts, or in any manner allows any other person or entity to engage in activities regulated, all point of sale stations remain the responsibility of the registrant. Otherwise, the other person or entity must obtain a separate registration in accordance with the provisions of this Chapter 115.

SEC. 115.4. ANNUAL REGISTRATION FEE.

Each person registering a point of sale system for a business location in the City and County shall pay an annual registration fee. The Board of Supervisors must ratify by resolution any changes to the registration fee schedule. The annual registration fee shall be seventy-five dollars ($75) per business location, plus fourteen dollars ($14) fee for each point of
sale station. The point of sale station fee shall not exceed seven hundred and seventy three dollars ($773) per business location.

SEC. 115.54. REGISTRATION FEE, PENALTY FEE, PAYMENT, AND USE.

(a) The registration fees required by Section 115.43 shall be due and payable annually on or before March 31, pursuant to Section 76.1 of Article 2 of the Business and Tax Regulations Code for the upcoming registration term commencing April 1 at the commencement of each term of registration. For businesses commencing operations during the term of registration, the fees shall be due and payable as of the date of commencement. Fees are not pro-rated for portions of the term of registration. All registrations issued prior to November 1, 2021, that were effective on November 1, 2021, shall continue to be effective through March 31, 2022.

(b) The Division of Weights and Measures may charge a re-inspection fee, equal to the City and County's cost of re-inspection or retesting, as determined by the Board of Supervisors by resolution, for retail establishments that fail a standard inspection as defined in Section 13350, Division 5, California Business and Professions Code Sections 13350 et seq and its successor provisions.

(c) The fees collected shall be used by the Division of Weights and Measures solely to implement and enforce this Chapter 115.

SEC. 115.55. LATE REGISTRATION FEES.

(a) In accordance with Sections 115.43 and 115.54, any registration or re-inspection fee not paid within thirty (30) days after the last day of the term of registration is delinquent. The original fee remains due and shall be subject to a penalty of fifty percent (50%) of the original fee, and fees not paid after sixty (60) days past the original due date shall be subject to a penalty amount equal to one hundred percent (100%) of the original fee to cover the additional costs associated with late registration or payment.
(b) The penalties in subsection (a) shall not be effective for fees in Section 115.4 for registrations effective on or after April 1, 2022. Rather, fees in Section 115.4 for registrations effective on or after April 1, 2022 shall be subject to the penalties under Section 76.1 of Article 2 of the Business and Tax Regulations Code.

SEC. 115.76. VIOLATIONS.
It shall be unlawful for any person or any employee or agent thereof to use point of sale stations without obtaining and maintaining a current registration.

SEC. 115.77. ENFORCEMENT.
In order to protect the public from point of sale stations that are inaccurate or defective, the Division of Weights and Measures will enforce violations of this Chapter pursuant to the penalty provisions below in Section 115.9 and pursuant to all applicable federal and state law, including, but not limited to, Division 5 of the California Business and Professions Code (Sections 12001 et seq.) and Title 4, Division 9 of the California Code of Regulations, title 4, division 9.

SEC. 115.78. PENALTIES.
The City and County shall impose penalties for failure to obtain a registration certificate or failure to have a valid current registration certificate as follows:

(a) Unless otherwise provided, any person violating any provision of this Chapter shall be guilty of an infraction or misdemeanor as hereinafter specified.

(b) Any person so convicted shall be:

(1) Guilty of an infraction offense and punished by a fine not exceeding one hundred dollars ($100.00) and not less than fifty dollars ($50.00) for a first violation of this Chapter.
(2) Guilty of an infraction offense and punished by a fine not exceeding two
hundred dollars ($200.00) and not less than one hundred dollars ($100.00) for a second violation
of the same provision of this Chapter 115 within a 12-month period;

(3) Guilty of a misdemeanor for the third and any additional violation of the
same provision of this Chapter 115 within a 12-month period and punished by a fine not
exceeding one thousand dollars ($1,000.00) and not less than five hundred dollars ($500.00) or
six months in jail, or both.

(c) Notwithstanding the above, a first or second offense may be charged and
prosecuted as a misdemeanor.

(d) Payment of any fine or service of a jail sentence shall not relieve a person
from the responsibility of correcting the condition resulting from the violation.

(e) In addition to the above penalties, the court may order that the guilty party
reimburse the City and County for all its costs of investigating, analyzing, and prosecuting the
enforcement action against the guilty party. The court shall fix the amount of such
reimbursement upon submission of proof of such costs by the City and County.

(f) In addition to all other remedies provided by this Chapter 115 or state law, in
the event of continuing violation of the provisions of this Chapter 115, the Division of Weights
and Measures may seek injunctive relief to restrain further violation.

Section 3. Amendment of Uncodified Ordinance No. 49-21.

(a) The references to “Section 115.5” in Section 4(a) of uncodified Ordinance No. 49-21
are hereby deleted and replaced by “Section 115.6.”

(b) The Clerk of the Board of Supervisors is directed to place a notice of this
amendment of Ordinance No. 49-21 in the file for that ordinance, Board File No. 210138, and
to cause the notice to be included with the copy of Ordinance No. 49-21 posted on the
Board’s website.

Section 4. Effective Date; Retroactivity.

(a) This ordinance shall become effective 30 days after enactment. Enactment occurs
when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
Mayor’s veto of the ordinance.

(b) Upon the effective date of this ordinance, the amendments in this ordinance to
subsection (i) of Section 1.13-5 of Chapter 1 of the Administrative Code shall be retroactive to
January 1, 2019, and the remainder of this ordinance shall be retroactive to November 1,
2021.

Section 5. Scope of Ordinance. Except as stated in Section 3 of this ordinance, in
enacting this ordinance, the Board of Supervisors intends to amend only those words,
phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts,
diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this
ordinance as additions, deletions, Board amendment additions, and Board amendment
deletions in accordance with the “Note” that appears under the official title of the ordinance.

Section 6. Severability. If any section, subsection, sentence, clause, phrase, or word
of this ordinance, or any application thereof, to any person or circumstance, is held to be
invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
shall not affect the validity of the remaining portions or applications of the ordinance. The
Board of Supervisors hereby declares that it would have passed this ordinance and each and
every section, subsection, sentence, clause, phrase, or word not declared invalid or
unconstitutional without regard to whether any other portion of this ordinance or application
thereof would be subsequently declared invalid or unconstitutional.

Section 7. Undertaking for the General Welfare. In enacting and implementing this
ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
is liable in money damages to any person who claims that such breach proximately caused
injury.

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

By: /s/ VALERIE J. LOPEZ
Deputy City Attorney
Ordinance amending the Administrative Code by setting March 31 as the annual due date to pay registration fees for weighing and measuring devices and automated point of sale stations used for commercial purposes; retroactively eliminating fees billed by the Tax Collector on or after January 1, 2019, through fees otherwise due prior to March 31, 2025, for each business with a taximeter device; refunding eliminated fees paid to the City, and any penalties paid on such fees; and updating administrative fees to conform with the State of California's annual device administrative fee schedule.

September 20, 2021 Rules Committee - RECOMMENDED

September 28, 2021 Board of Supervisors - PASSED ON FIRST READING
Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

October 05, 2021 Board of Supervisors - FINALLY PASSED
Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 10/5/2021 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor