File No. 120631

Committee Item No. 8
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Completed by: Victor Young **Date** September 7, 2012
Completed by: Victor Young **Date** _____

Substituted 9/4/12

FILE NO. 120631 ORDINANCE NO.

[Business and Tax Regulations, Police and Planning Codes - Parking Tax Simplification for Residential Properties]

Ordinance: 1) amending the San Francisco Business and Tax Regulations Code by adding Section 609 to establish Parking Tax Simplification for Residential Properties to relieve residential property owners and managers renting five or fewer parking spaces in Parking Stations physically attached to or otherwise associated with the building from the requirement to: (a) obtain a certificate of authority, (b) make monthly tax prepayments, (c) obtain a parking tax bond, and (d) providing amnesty from parking taxes, interest, penalties and fees owed for tax periods more than 24 months prior to the effective date of the Ordinance; 2) amending the Business and Tax Regulations Code Section 2219.7 to exempt property owners and managers registered pursuant to Section 609 from the requirement to pay the Revenue Control Equipment compliance fee; 3) amending the Planning Code Section 204.5 to allow as an accessory use up to five dwelling unit parking spaces to be leased to persons living off-site anywhere in the City; 4) making conforming changes to the Planning Code Section 150(d); 5) amending the Police Code Section 1215 to eliminate the requirement to hold a commercial parking permit for property owners and managers registered pursuant to Section 609 of the Business and Tax Regulations Code; and 6) making environmental findings and findings of consistency with the general plan.

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

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

Section 1. FINDINGS.

(a) The Planning Department has determined that the actions contemplated in this Ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by reference.

(b) Pursuant to Planning Code Section 302, this Board finds that the Planning Code amendments will serve the public necessity, and welfare for the reasons set forth in Planning Commission Resolution No. _____ and the Board incorporates such reasons herein by reference. A copy of Planning Commission Resolution No. _____ is on file with the Clerk of the Board of Supervisors in File No. _____.

(c) This Board finds that these amendments are consistent with the General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set forth in Planning Commission Resolution No. _____, and the Board hereby incorporates such reasons herein by reference.

Section 2. The San Francisco Business and Tax Regulations Code is hereby amended adding Section 609, to read as follows:

SEC. 609. PARKING SPACE OCCUPANCY TAX SIMPLIFICATION FOR RESIDENTIAL PROPERTIES

(a) Findings.

(1) San Francisco's parking tax generates revenue for the City's general fund, which in turn funds the provision of many vital services for residents.

(2) Any person who rents parking space in a Parking Station, as defined in Article 9 of the Business and Tax Regulations Code, must collect parking tax from the individual parking the car

and remit it to the City. Current City law treats large commercial operators of garages and small property owners the same for purposes of this tax.

(3) It is estimated that hundreds, if not thousands, of small property owners rent at least one parking space to non-residents, but do not register with the City or collect and remit parking tax.

(4) Many small property owners are ignorant of the legal requirements.

(5) Some small property owners may wish to comply with the law, but fear substantial tax liabilities, including penalties and interest, and therefore, do not come forward.

(6) The City desires to maximize the collection of required taxes.

(7) Therefore, in order to encourage small property owners to come forward, to register with the City, and to start collecting parking tax, this Ordinance will forgive taxes owed earlier than 24 months prior to the effective date of the Ordinance.

(8) The Board of Supervisors finds that by providing a period of amnesty and by simplifying the registration process, many small property owners will begin to comply with the law, resulting in an overall increase in tax revenue remitted to the City.

(b) Notwithstanding any other provision of this Code, the owner or manager of a residential building, that operates a Parking Station that is a part of the residential building and, is located on the same parcel, or within 50 feet of the property line of the building, shall be relieved of certain requirements for Parking Stations as enumerated below, provided the owner or manager meets all of the requirements of and registers under Subsection (c) below.

The aforesaid building owner or manager:

(1) Shall not be required to obtain a certificate of authority from the Tax Collector pursuant to Article 6, Section 6.6-1(a) or to execute a bond pursuant to Section 6.6-1(h), or to comply with any requirement to obtain insurance to operate a Parking Station.

(2) Shall not be required to make monthly tax prepayments pursuant to Section 6.9-3(a)(1), provided that the gross revenues of the Parking Station from Rent collected from individuals

that do not reside at the property do not exceed $4,000 in a quarterly reporting period or $15,000 annually. At any time that the gross revenues of the Parking Station from Rent exceed $4,000 during any quarterly reporting period, the building owner or manager must report and file monthly tax prepayments as required by Section 6.9-3(a)(1) beginning with the following month.

(3) Is registered under Subsection (c) below, and if eligible for parking tax simplification for a specific Parking Station, shall not be required to pay the Revenue Control Equipment Compliance Fee in Article 22, Section 2219.5 for that Parking Station.

(4) Shall not be required to hold a commercial parking permit under Section 1215(b) of the Police Code.

(c) In order to be eligible for the relief authorized under this Section, the building owner or manager must register for relief using a simple form prescribed by the Tax Collector for that purpose, and provide information required by the Tax Collector. The owner or manager shall demonstrate to the satisfaction of the Tax Collector that the residential property and Parking Station rentals meet all of the following requirements:

(1) No more than 5 spaces in the Parking Station are rented to individuals who do not reside at the residential property.

(2) Spaces are rented to individuals who do not reside at the property on a monthly basis only.

(3) The building owner or manager complies with the Revenue Control Equipment requirements in Article 22, Section 2207.

(4) Total gross receipts from the rental of parking space to individuals who do not reside at the property does not exceed $4,000 in any quarter or $15,000 annually.

(d) In addition, the owner or manager must:

(1) Maintain documents and records of all parking transactions in a manner acceptable to the Tax Collector. Such documents and records must objectively substantiate any relief claimed under this Section and be provided to the Tax Collector or designee upon request.

(2) Timely file with the Tax Collector a quarterly parking space occupancy tax return, regardless of the amount of tax liability shown on the return. All returns shall be filed by the due date set forth in Article 6 of the San Francisco Business and Tax Regulations Code.

(3) Any owner or manager who makes a material misrepresentation in a registration or fails to amend a registration within 7 days of a material change or who fails to comply with a rule or regulation promulgated by the Tax Collector in a timely manner shall, in addition to any other liability that may be imposed under the provisions of this Article, be ineligible to claim relief under this Section.

(e) The Office of the Treasurer and Tax Collector may adopt forms, rules and regulations regarding the relief provided under this Section. The Tax Collector shall verify whether the applicant is entitled to the Parking Tax Simplification under this Ordinance.

(f) Amnesty.

(1) The building owner or manager who registers for relief under this Section not later than March 31, 2013 and satisfies the eligibility requirements established in Subsections 609(b) and (c) of this Article shall be eligible for amnesty from all fees, penalties and interest for failure to report and remit parking space occupancy tax due and payable prior to March 31, 2013 and shall, in addition, be eligible for amnesty from all taxes for failure to report and remit parking space occupancy tax for the tax periods ending before April 1, 2011, with the following exceptions:

(i) The Tax Collector may not waive any liability owed as a result of any jeopardy determination served on the taxpayer or other person determined to be liable pursuant to Article 6, Section 6.12-1 of this Code or any audit deficiency determination that has been reduced to a written notice of deficiency determination and served on the taxpayer or other person determined to be liable pursuant to Article 6, Section 6.11-2 of this Code prior to the effective date of this Ordinance.

(ii) The Tax Collector shall not waive, under the authority of this Article, liabilities that the City has sought in any civil tax collection litigation commenced by the Tax Collector prior to the commencement of the amnesty application period.

(2) The Tax Collector shall waive all taxes, fees, penalties and interest owed for delinquent remittance of parking space occupancy taxes owed under the provisions Articles 6 and 9 of the Business and Tax Regulations Code, but forgiven under this Section 690(f), without need to make the findings required under Section 6.17-4.

(3) The Tax Collector shall waive all fees, penalties and interest owed for failure to collect and/or remit parking space occupancy taxes under Article 22 and Sections 6.17-1, 6.17-2, and 6.17-3 of this Code.

(4) No proceeding to suspend or revoke a business registration certificate pursuant to Section 6.6-1 of this Code shall be initiated based on an owner's or manager's failure to collect or remit parking space occupancy taxes for which the Tax Collector has granted amnesty.

(5) No administrative proceeding or civil or criminal action on behalf of the City and County of San Francisco shall be brought against an owner or manager for any tax period for which the Tax Collector grants amnesty based upon the nonreporting, under-reporting, failure to remit parking space occupancy tax or the nonpayment of or failure to remit any taxes owed under the provisions of Article 22 of this Code.

(6) If the Tax Collector determines that the person registering for relief under this Section is delinquent in any taxes, fees or penalties owed to the City and County of San Francisco other than the parking tax, that person shall be ineligible to claim the relief under this Subsection(f).

Section 3. The Business and Tax Regulations Code is hereby amended by amending Section 2219.7 to read as follows:

SEC. 2219.7. EXEMPTIONS.

(a) **Exemption.** The Fee shall not apply to any Parking Station that is exempt from the requirements of Article 22, pursuant to Section 2202~~.~~*, or that is registered and eligible for parking tax simplification, pursuant to Article 9, Section 609 of the Business and Tax Regulations Code.*

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

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

(d) **Penalties for Establishments That Falsely Claim to Qualify for Exemption.** Any Operator that claims an exemption and is found by the Tax Collector not to be entitled to the exemption and to have falsely claimed the exemption without reasonable grounds, Operator shall be subject to a penalty of $100. The Tax Collector may impose the penalty by written citation. Any Operator that disputes the Tax Collector's determination under this Section may appeal to the Tax Collector in writing according to the provisions of Article 6, Section 6.19-8.

Section 4. The Planning Code is hereby amended by amending Section 150 to read as follows:

SEC. 150. OFF-STREET PARKING AND LOADING REQUIREMENTS.

(a) **General.** This Article 1.5 is intended to assure that off-street parking and loading facilities are provided in amounts and in a manner that will be consistent with the objectives and policies of the San Francisco General Plan, as part of a balanced transportation system that makes suitable provision for walking, cycling, public transit, private vehicles, and the movement of goods. With respect to off-street parking, this Article is intended to require

facilities where needed but discourage excessive amounts of automobile parking, to avoid adverse effects upon surrounding areas and uses, and to encourage effective use of walking, cycling, and public transit as alternatives to travel by private automobile.

(b) **Spaces Required.** Off-street parking and loading spaces, according to the requirements stated in this Article 1.5, shall be provided for any structure constructed, and any use established, whether public or private, after the original effective date of any such requirement applicable to such structure or use.

(c) **Additions to Structure and Uses.**

(1) For any structure or use lawfully existing on such effective date, off-street parking and loading spaces need be provided only in the case of a major addition to such structure or use, and only in the quantity required for the major addition itself. Any lawful deficiency in off-street parking or loading spaces existing on such effective date may be carried forward for the structure or use, apart from such major addition.

(2) For these purposes, a "major addition" is hereby defined as any enlargement, alteration, change of occupancy or increase in intensity of use which would increase the number of off-street parking spaces required for dwelling units by two or more spaces; which would increase the number of off-street parking spaces required for uses other than dwelling units by at least 15 percent or by at least five spaces, whichever is greater; or which would increase the requirement for off-street loading spaces by at least 15 percent.

(3) Successive additions made after the effective date of an off-street parking or loading requirement shall be considered cumulative, and at the time such additions become major in their total, off-street parking and loading spaces shall be provided as required for such major addition.

(d) **Spaces to be Retained.** Once any off-street parking or loading space has been provided which wholly or partially meets the requirements of this Code, such off-street parking

or loading space shall not thereafter be reduced, eliminated or made unusable in any manner; provided, however, that in the Outer Clement Neighborhood Commercial District a maximum of one off-street parking space may be used for the storage of materials for a commercial use if the commercial use is on a lot contiguous to the lot on which the parking space is located and if access between the commercial use and the storage is available without the use of a public sidewalk or other public right-of-way and if the storage occurred prior to 1985. Any required residential parking space may be leased or rented on a monthly basis ~~*to serve the resident of any dwelling unit within 1,250 feet of said parking space,*~~ as provided under Section 204.5(b)(1) of this Code, and such lease or rental shall not be considered a reduction or elimination of required spaces.

(e) **Parking in Excess of the Maximum Permitted.** Any off-street parking space or spaces which existed lawfully at the effective date of this Section and which have a total number in excess of the maximum permitted off-street parking spaces permitted under Section 151.1 shall be considered noncomplying features pursuant to Section 180(a)(2) and shall be regulated as set forth in Section188.

Section 5. The Planning Code is hereby amended by amending Section 204.5 to read as follows:

SEC. 204.5. PARKING AND LOADING AS ACCESSORY USES.

In order to be classified as an accessory use, off-street parking and loading shall meet all of the following conditions:

(a) Such parking or loading facilities shall be located on the same lot as the structure or use served by them. (For provisions concerning required parking on a separate lot as a principal or conditional use, see Sections 156, 159, 160 and 161 of this Code.)

(b) Unless rented on a monthly basis to serve a dwelling unit ~~within 1,250 feet~~ pursuant to Section 204.5(b)(1), below, accessory parking facilities for any dwelling in any R District shall be limited, further, to storage of private passenger automobiles, private automobile trailers and boats, and trucks of a rated capacity not exceeding ¾ ton. Notwithstanding any provision of this Code to the contrary, the following shall be permitted as an accessory use:

(1) Lease~~,~~ *of lawfully existing off-street residential parking spaces by the property owner or manager,* for *a* term of no less than one month~~, of a lawfully existing off-street parking space that is required or permitted to serve a dwelling unit on the same lot,~~ *is permitted as follows: (A)* for use by any resident of a dwelling unit located on a different lot within 1,250 feet of such parking space~~.~~ *or (B) for use by any resident of a dwelling unit located on a different lot within the City and County of San Francisco so long as no more than five (5) spaces are rented to those who live beyond 1,250 feet of such parking space*.

(c) Accessory parking facilities shall include only those facilities which do not exceed the following amounts for a structure, lot or development: three spaces where one space is required by this Code; four spaces where two spaces are required by this Code; 150 percent of the required number of spaces where three or more spaces are required by this Code; and, in all districts other than NC, 15 spaces or seven percent of the total gross floor area of the structure or development, whichever is greater, or in NC Districts, three spaces, where no off-street parking spaces are required by this Code. For purposes of calculation under the last provision just stated, gross floor area shall be as defined by this Code, and the area considered to be devoted to parking shall be only the parking spaces and aisles, excluding entrance and exit driveways and ramps. Off-street parking facilities which exceed the amounts stated in this Subsection (c) shall be classified as either a principal or a conditional use, depending upon the use provisions applicable to the district in which such facilities are

located. This subsection (c) does not apply to districts subject to Section 151.1, which establishes maximum amounts of accessory parking for all uses in those districts.

Section 6. The San Francisco Police Code is hereby amended by amending Section 1215 to read as follows:

SEC. 1215 COMMERCIAL PARKING PERMITS.

(a) **Definitions.** The following definitions shall apply in Police Code Sections 2.9, 2.26 and 1215 through 1215.7 and Business and Tax Regulations Code Section 22.

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

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

(3) **Covered crimes.** The crimes of assault, battery, burglary, robbery, theft including identity theft, receipt of stolen property, breaking or removing parts from a vehicle, malicious mischief to a vehicle, unlawful use or tampering by bailee of a vehicle, altering a vehicle identification, tax fraud or evasion, and any offense related to the use of alcohol, narcotics or controlled substances while operating or in connection with a vehicle, committed anywhere in the United States of America.

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

(5) **Parking garage.** Any building or structure, or any portion of a building or structure, where members of the public may park or store motor vehicles for a charge. This definition does not include any parking garage in a residential building or development that

provides parking for a charge as a convenience or amenity for residents or their guests only~~.~~ *or any parking garage in a residential building that rents not more than five spaces to non-residents of the building on a monthly basis and is registered with the Tax Collector pursuant to Article 9, Section 609 of the Business and Tax Regulations Code.*

(6) **Parking lot.** Any outdoor or uncovered space, including any plot, place, lot, parcel, yard or enclosure, or any portion of such a space, where members of the public may park or store motor vehicles for a charge. This definition does not include any outdoor or uncovered space that is part of a residential building or development that provides parking for a charge as a convenience or amenity for residents or their guests only~~.~~ *or any outdoor or uncovered space that is part of a residential building that rents not more than five spaces to non-residents of the building on a monthly basis and is registered with the Tax Collector pursuant to Article 9, Section 609 of the Business and Tax Regulations Code.*

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

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

(b) **Permit Requirement.** A person may not operate a parking garage or parking lot, directly or indirectly, unless the person holds a commercial parking permit issued by the Chief of Police. This Section requires a separate commercial parking permit for each parking garage and parking lot. The Chief of Police shall close immediately any parking garage or parking lot operating without the required commercial parking permit. *A parking garage or*

parking lot that is registered with the Tax Collector pursuant to Article 9, Section 609, of the Business and Tax Regulations Code is not required to hold a commercial parking permit under this Section.

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

Section 7. Effective Date. This Ordinance shall become effective 30 days from the date of passage.

Section 8. This section is uncodified. In enacting this Ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any other constituent part of the Business and Tax Regulations Code, Planning Code and Police Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the legislation.

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

By: Jean H. Alexander
Jean H. Alexander
Deputy City Attorney

FILE NO. 120631

LEGISLATIVE DIGEST

[Business and Tax Regulations Code, Police Code, Planning Code – Parking Tax Simplification for Residential Properties]

Ordinance: 1) amending the San Francisco Business and Tax Regulations Code by adding Section 609 to establish Parking Tax Simplification for Residential Properties to relieve residential property owners and managers renting five or fewer parking spaces in Parking Stations physically attached to or otherwise associated with the building from the requirement to: (a) obtain a certificate of authority, (b) make monthly tax prepayments, (c) obtain a parking tax bond, and (d) providing amnesty from parking taxes, interest, penalties and fees owed for tax periods more than 24 months prior to the effective date of the Ordinance; 2) amending the Business and Tax Regulations Code Section 2219.7 to exempt property owners and managers registered pursuant to Section 609 from the requirement to pay the Revenue Control Equipment compliance fee; 3) amending the Planning Code Section 204.5 to allow as an accessory use up to five dwelling unit parking spaces to be leased to persons living off-site anywhere in the City; 4) making conforming changes to the Planning Code Section 150(d); 5) amending the Police Code Section 1215 to eliminate the requirement to hold a commercial parking permit for property owners and managers registered pursuant to Section 609 of the Business and Tax Regulations Code; and 6) making environmental findings and findings of consistency with the general plan.

Existing Law

Currently, any person who rents parking space in a Parking Station, as defined in Article 9 of the Business and Tax Regulations Code, is required to collect the tax from the individual parking the car and remit it to the City. The operator of a Parking Station must also:

- Obtain a certificate of authority from the Tax Collector (Article 6, Section 6.6-1(a).), including executing a parking tax bond. (Section 6.6-1(h).)
- Make monthly tax prepayments and remittances to the Tax Collector. (Article 6, Section 6.9-3(a)(1).)
- Pay an annual Revenue Control Equipment ("RCE") Compliance Fee. (Article 22, Section 2219.5.)
- Apply for and maintain a commercial parking permit. (Police Code, Section 1215(b).)
- Timely collect, report, and remit any tax imposed by the Business and Tax Regulations Code. (Article 6, Section 6.6-1(f).)

Under the Planning Code, accessory parking facilities for a dwelling in a residential district are limited to off-street parking, rented for a term of no less than one month, to serve a dwelling

unit on the same lot, or on a different lot, within 1,250 feet of such parking space. (Planning Code, Section 204.5(b)(1).)

Amendments to Current Law

This Ordinance will amend the current law to establish simplified parking tax reporting for the owner or manager of a residential building, who operates a Parking Station that is a part of the residential building, is on the same parcel, or is located within 50 feet of the property line of the building. Residential building owners and managers shall be relieved of the requirements to obtain a certificate of authority and a commercial parking permit, make prepayments, and pay the RCE Compliance Fee. The owner or manager may rent no more than 5 spaces in the Parking Station to individuals who do not reside at the residential property and must meet all of the qualifications stated in the Ordinance. The Tax Collector must approve the application for parking tax simplification.

The building owner or manager that registers prior to March 30, 2013 and is approved for Parking Tax Simplification will also be eligible for amnesty from liability for delinquent parking taxes, penalties, interest and fees for tax periods more than 24 months prior to the effective date of the Ordinance.

The Planning Code is amended to permit a building owner or manager to rent up to 5 parking spaces, in a Parking Station that has been approved for Parking Tax Simplification, to anyone that lives in the City, in addition to the parking that is currently permitted under the Code.

The text of certain provisions of Section 1215, not affected by this Ordinance, have been updated to reflect the changes made to Section 1215 by Ordinance 87-12, effective June 13, 2012.

Background Information

Current City law treats large commercial operators of garages and small property owners the same for the purposes of the parking tax. Many small property owners rent at least one parking space to non-residents, but do not register with the City or collect and remit parking tax, possibly because they are not aware of the requirements. In order to encourage residential property owners to come forward, to register with the City, and to start collecting parking tax, this Ordinance will simplify the process for collecting and reporting parking tax and forgive taxes for tax periods 24 months prior to the effective date of the Ordinance.

Item 8 File 12-0631	Department: Treasurer/Tax Collector (TTX)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed ordinance would: (1) add a new Section 609 to the Business and Tax Regulations Code to simplify Parking Tax requirements for residential properties; (2) amend Section 2219.7 of the Business and Tax Regulations Code to exempt qualified parking operators from the $500 fee per parking station per year for all parking stations, i.e. parking space(s), that require automated or mechanical revenue control equipment to account for parking revenue; (3) amend Section 204.5 of the Planning Code to permit the rental of up to 5 residential parking spaces in the City as an accessory use of off-street parking, provided they are rented to residents of the City, and for a term of at least one month; and (4) amend Section 1215 of the Police Code to exempt a qualified parking operator that has registered with the Tax Collector under the proposed ordinance from the requirement to hold a commercial parking permit.

Key Points

- A qualified parking operator, or small parking operator, under the proposed ordinance is a residential property owner or manager who: (1) rents five or fewer parking spaces; (2) rents parking spaces on the same residential parcel, or at another parcel within 50 or fewer feet; (3) rents parking spaces to individuals who do not reside at the property on a monthly basis; (4) maintains records of the names and billing addresses of the occupants of the rented parking spaces; and (5) receives income of not more than $4,000 in any quarter or $15,000 annually.
- The City currently levies a Parking Tax of 25% on all revenues generated by private parking operators. To increase Parking Tax revenues, the proposed ordinance would simplify the registration for small parking operators. The Treasurer/Tax Collector's Office estimates that approximately 2,435 residential property owners may be renting parking spaces to individuals who do not reside at the property on a monthly basis and not currently paying the City's Parking Tax, thus subject to this proposed ordinance.
- Under the proposed ordinance, a qualified parking operator that is presently not registered with the Tax Collector, but who registers with the Tax Collector prior to March 31, 2013 would be eligible for amnesty from paying (1) all late fees, penalties, and interest for Parking Taxes due and payable prior to March 31, 2013; and (2) all Parking Taxes due and payable prior to April 1, 2011. The proposed ordinance excludes from the proposed Parking Tax amnesty any parking operators currently being audited or pursued in civil tax collection litigation by the Tax Collector.

Fiscal Impact

- The Treasurer/Tax Collector's Office estimates generating additional annual Parking Tax revenues to the City of $935,040 from implementation of the proposed ordinance. Net General Fund revenues after transfer of funds to meet Parking Tax set-asides (i.e. SFMTA Set-Aside), baseline allocations (i.e. SFMTA Baseline, Children's Baseline, etc.) and reserves (i.e. General Reserves Deposit) are estimated to be $137,434 per year.
- In addition, the Treasurer/Tax Collector's Office estimates one-time revenues to the City of $1,870,080 for past-due Parking Taxes for the two-year period from April 1, 2011 through March 31, 2013. Net General Fund one-time revenues, after the Treasurer/Tax Collector's Office administrative expenses and transfer of funds to meet Parking Tax set-asides, baseline allocations, and reserves, are estimated to be $104,857.

Recommendation

- Approval of the proposed ordinance is a policy matter for the Board of Supervisors.

MANDATE STATEMENT & BACKGROUND

Mandate Statement

Charter Section 2.105 provides that all legislative acts in San Francisco be by ordinance, subject to approval by a majority of the Board of Supervisors.

Background

Current Legal and Tax Requirements for Parking Operators

Article 9, Section 602 of the Business and Tax Regulations Code imposes a Parking Tax of 25% on the rent of any parking space in the City. Additionally, all parking operators are required to obtain a certificate of authority from the Tax Collector, file a bond with the City, make monthly tax prepayments to the Tax Collector, and utilize specific equipment to document amount of parking revenues collected.[1]

Parking Operators in San Francisco

The City's Business and Tax Regulations Code defines a parking operator as any proprietor who rents space for parking, ranging from a surface lot to multi-level covered garage. According to the Treasure/Tax Collector's Office, approximately 650 registered parking operators in San Francisco remitted to the City approximately $70 million in Parking Tax in FY 2011-12.

In addition to these largely commercial registered parking operators, according to the Treasurer/Tax Collector's Office, many residential property owners and managers qualify as small parking operators because they rent parking spaces associated with an apartment house, duplex, condominium or other residential facility to nonresidents, i.e. individuals who do not reside at the property on a monthly basis, and thus effectively act as parking operators. A qualified parking operator, or small residential parking operator, under the proposed ordinance is a residential property owner or manager who: (1) rents five or fewer parking spaces; (2) rents parking spaces on the same residential parcel, or at another parcel within 50 or fewer feet; (3) rents parking spaces to individuals who do not reside at the property on a monthly basis (i.e. nonresidents); (4) maintains records of the names and billing addresses of the occupants of the rented parking spaces; and (5) receives income of not more than $4,000 in any quarter or $15,000 annually. The Assessor/Recorder's Office estimates that some proportion of the owners of the approximately 167,000 residential parcels in the City could qualify as parking operators, based on zoning and property records, but the actual number is not known as owners of residential properties with parking spaces tend not to register with the Tax Collector as parking operators. The proposed ordinance seeks to simplify the registration process and create incentives for small residential parking operators to remit parking taxes owed to the City.

[1] San Francisco Business and Tax Regulations Code, Sections 6.6-1(b), 6.6-1(h), and 6.9-3(a), and Article 22, respectively.

Non-compliance with Parking Tax

According to Mr. Greg Kato, Treasurer/Tax Collector's Office Policy and Legislative Manager, many small residential parking operators have been collecting revenue from renting parking spaces for many years without remitting the 25% Parking Tax owed to the City. Mr. Kato estimates that in FY 2011-12, the City collected less than $100,000 in revenues from small residential parking operators who rent out five or fewer spaces. Although the Treasurer/Tax Collector's Office does not have precise data on the number of small residential parking operators subject to the Parking Tax in the City, the Treasurer/Tax Collector estimates that 2,435 residential property owners, who are presently not paying the 25% Parking Tax due to the City, may be subject to the Parking Tax, based on information from the Assessor/Recorder and the San Francisco Apartment Association.

DETAILS OF PROPOSED LEGISLATION

A qualified parking operator under the proposed ordinance is a residential property owner or manager who:

- Rents five or fewer parking spaces;
- Rents parking spaces on the same residential parcel, or at another parcel within 50 or fewer feet;
- Rents parking spaces to individuals who do not reside at the property on a monthly basis;
- Maintains records of the names and billing addresses of the occupants of the rented parking spaces; and
- Receives income of not more than $4,000 in any quarter or $15,000 annually.

The proposed ordinance would:

- Add a new Section 609 to the Business and Tax Regulations Code to simplify parking tax requirements for residential properties;
- Amend Section 2219.7 of the Business and Tax Regulations Code to exempt qualified parking operators from the $500 fee per parking station, i.e. parking space(s), per year for all parking stations that require automated or mechanical revenue control equipment to account for parking revenue;
- Amend Section 204.5 of the Planning Code to permit the rental of up to 5 residential parking spaces as an accessory use of off-street parking, provided the parking spaces are rented to residents of the City, and for a term of at least one month; and
- Amend Section 1215 of the Police Code to exempt a qualified parking operator that has registered with the Tax Collector under the proposed ordinance from the requirement to hold a commercial parking permit.

The proposed ordinance would simplify the registration process by not requiring residential property owners or managers to:

- Obtain a certificate of authority from the Tax Collector, execute a bond, or purchase insurance to operate the parking spaces, as currently required by the Business and Tax Regulations Code;
- Pay prepayments if the amount of parking revenue received does not exceed $4,000 in a given quarter or $15,000 annually, as currently required by the Business and Tax Regulations Code;
- Pay the annual $500 fee per parking station for all parking stations required by the Business and Tax Regulations Code to have revenue control equipment; and
- Obtain a commercial parking permit, as currently required by the Police Code.

Under the proposed ordinance, a qualified parking operator that registers with the Tax Collector prior to March 31, 2013 would be eligible for amnesty from paying (1) all late fees, penalties, and interest for Parking Taxes due and payable prior to March 31, 2013; and (2) all Parking Taxes due and payable prior to April 1, 2011. The proposed ordinance excludes any parking operators currently being audited or pursued in civil tax collection litigation by the Tax Collector from the proposed Parking Tax amnesty program.

FISCAL IMPACTS

According to Mr. Kato, the proposed ordinance could increase Parking Tax revenue to the City by increasing the number of registered residential parking operators who pay Parking Taxes. Although specific data on the number of residential parking operators renting to non-residents is not currently available, Mr. Kato estimates that approximately 2,435 parking operators, who are presently not paying the Parking Tax to the City, would be subject to the proposed ordinance, based on the Assessor's residential property records and information provided by the San Francisco Apartment Association.[2]

In order to implement the proposed ordinance, the Treasurer/Tax Collector's Office estimates incurring one-time administrative expenses of $170,011, as shown in Table 1 below. These administrative costs will be covered by the future submission of a supplemental appropriation request made by the Treasurer/Tax Collector's Office in the event the proposed ordinance is passed.

If the proposed ordinance is approved, the Treasurer/Tax Collector's Office estimates generating additional potential (a) ongoing annual parking revenues of$935,040[3], and (b) one time parking revenues of$1,870,080 for past due Parking Taxes for the two-year period from April 1, 2011 through March 31, 2013. As shown in Table 1 below, of these total additional

[2] According to Mr. Kato, the Assessor estimates 167,000 residential properties may qualify as small parking operators. Of the 167,000 residential properties, the Treasurer/Tax Collector's Office estimates that 600 apartment houses, 950 duplexes, 410 condominiums, and 475 single residences may rent parking spaces to non-residents, or a total of 2,435 parking operators.

[3] Ac cording to Mr. Kato, the Treasurer/Tax Collector's Office does not know how many, if any, of the estimated 2,435 parking operators currently pay the City's Parking Tax. Mr. Kato based the estimate of $935,040 on the assumption of approximately two rented parking spaces for each of the 2,435 parking operators.

parking revenues generated, the General Fund would receive estimated net (a) one-time revenues of $104,857, and (b) ongoing annual revenues of $137,434, after accounting for the Treasurer/Tax Collector's Office administrative expenditures, and mandated tax set asides, reserves and baseline transfers, as shown in Table 1 below.

Table 1 – Estimated Net General Fund Revenues from Implementation of Residential Parking Simplification Ordinance

	Estimated One-Time	Estimated Annual Ongoing
Estimated Parking Tax Revenues	**$1,870,080**	**$935,040**
Set Asides, Reserves, and Baselines		
Parking Tax Set Aside for Municipal Transportation Agency (MTA)	(1,496,064)	(748,032)
MTA Baseline	(34,384)	(17,192)
Other Baseline (Library, Children's, and Schools)	(38,583)	(19,291)
General Reserve Deposit	(26,181)	(13,091)
Subtotal, Set Asides, Reserves, and Baselines	**(1,595,212)**	**(797,606)**
Treasurer/Tax Collector Administrative Expenses		
1408 - Taxpayer Assistance (0.5 FTE, limited)	(44,107)	0
1632 - Sr. Account Clerk (0.5 FTE, as temporary salary)	(41,809)	0
1630 - Account Clerk (0.5 FTE, as temporary salary)	(34,563)	0
Overhead	(18,072)	0
Advertising/outreach/mailing	(31,460)	0
Subtotal, Treasurer/Tax Collector Administrative Expenses	**(170,011)**	**0**
Total Net General Fund Revenues	**$104,857**	**$137,434**

Source: Treasurer/Tax Collector's Office

While the proposed ordinance may result in additional one-time Parking Tax revenues for the two-year period from April 1, 2011 through March 31, 2013, if residential parking operators register and pay past-due Parking Taxes, in accordance with the proposed ordinance, the City will forgo fees, penalties, and interest on all past due Parking Taxes prior to March 31, 2013 and all past due Parking Taxes prior to April 1, 2011. The value of these forgone Parking Taxes, fees, penalties, and interest is not known, according to Mr. Kato, because the Tax Collector does not have specific information on (a) the number of small residential parking operators who are subject to the City's current 25% Parking Taxes or (b) the amount of Parking Taxes that are past due.

RECOMMENDATION

Approval of the proposed ordinance is a policy matter for the Board of Supervisors.

BOARD of SUPERVISORS

City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

August 7, 2012

Planning Commission
Attn: Linda Avery
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Dear Commissioners:

On July 24, 2012, Supervisor Wiener introduced the following proposed substitute legislation:

File No. 120631

Ordinance: 1) amending the San Francisco Business and Tax Regulations Code by adding Section 609 to establish Parking Tax Simplification for Residential Properties to relieve residential property owners and managers renting five or fewer parking spaces in Parking Stations physically attached to or otherwise associated with the building from the requirement to: (a) obtain a certificate of authority, (b) make monthly tax prepayments, (c) obtain a parking tax bond, and (d) providing amnesty from parking taxes, interest, penalties and fees owed for tax periods more than 24 months prior to the effective date of the Ordinance; 2) amending the Business and Tax Regulations Code Section 2219.7 to exempt property owners and managers registered pursuant to Section 609 from the requirement to pay the Revenue Control Equipment compliance fee; 3) amending the Planning Code Section 204.5 to allow as an accessory use up to five dwelling unit parking spaces to be leased to persons living off-site anywhere in the City; 4) amending the Police Code Section 1215 to eliminate the requirement to hold a commercial parking permit for property owners and managers registered pursuant to Section 609 of the Business and Tax Regulations Code; and 5) making environmental findings and findings of consistency with the general plan.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Budget and Finance Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

By: Victor Young, Committee Clerk
Budget and Finance Committee

c: John Rahaim, Director of Planning
Scott Sanchez, Zoning Administrator
Bill Wycko, Chief, Major Environmental Analysis
AnMarie Rodgers, Legislative Affairs
Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

Non-physical exemption
CEQA Section 15060(c)(2)
August 10, 2012

BOARD of SUPERVISORS

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August 7, 2012

File No. 120631

Bill Wycko
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Mr. Wycko:

On July 24, 2012, Supervisor Wiener introduced the following proposed substitute legislation:

File No. 120631 Ordinance: 1) amending the San Francisco Business and Tax Regulations Code by adding Section 609 to establish Parking Tax Simplification for Residential Properties to relieve residential property owners and managers renting five or fewer parking spaces in Parking Stations physically attached to or otherwise associated with the building from the requirement to: (a) obtain a certificate of authority, (b) make monthly tax prepayments, (c) obtain a parking tax bond, and (d) providing amnesty from parking taxes, interest, penalties and fees owed for tax periods more than 24 months prior to the effective date of the Ordinance; 2) amending the Business and Tax Regulations Code Section 2219.7 to exempt property owners and managers registered pursuant to Section 609 from the requirement to pay the Revenue Control Equipment compliance fee; 3) amending the Planning Code Section 204.5 to allow as an accessory use up to five dwelling unit parking spaces to be leased to persons living off-site anywhere in the City; 4) amending the Police Code Section 1215 to eliminate the requirement to hold a commercial parking permit for property owners and managers registered pursuant to Section 609 of the Business and Tax Regulations Code; and 5) making environmental findings and findings of consistency with the general plan.

This legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board

By: Victor Young, Committee Clerk
Budget and Finance Committee

Attachment

c: Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS

City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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TDD/TTY No. 554-5227

MEMORANDUM

TO: Jose Cisneros, Treasurer/Tax Collector
Chief Greg Suhr, Police Department

FROM: Victor Young, Budget and Finance Committee
Board of Supervisors

DATE: August 7, 2012

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Budget and Finance Committee has received the following proposed substitute legislation, introduced by Supervisor Wiener on July 24, 2012, which is being forwarded to your department for informational purposes.

On July 24, 2012, Supervisor Wiener introduced the following proposed substitute legislation:

File No. 120631

Ordinance: 1) amending the San Francisco Business and Tax Regulations Code by adding Section 609 to establish Parking Tax Simplification for Residential Properties to relieve residential property owners and managers renting five or fewer parking spaces in Parking Stations physically attached to or otherwise associated with the building from the requirement to: (a) obtain a certificate of authority, (b) make monthly tax prepayments, (c) obtain a parking tax bond, and (d) providing amnesty from parking taxes, interest, penalties and fees owed for tax periods more than 24 months prior to the effective date of the Ordinance; 2) amending the Business and Tax Regulations Code Section 2219.7 to exempt property owners and managers registered pursuant to Section 609 from the requirement to pay the Revenue Control Equipment compliance fee; 3) amending the Planning Code Section 204.5 to allow as an accessory use up to five dwelling unit parking spaces to be leased to persons living off-site anywhere in the City; 4) amending the Police Code Section 1215 to eliminate the requirement to hold a commercial parking permit for property owners and managers registered pursuant to Section 609 of the Business and Tax Regulations Code; and 5) making environmental findings and findings of consistency with the General Plan.

If you have any reports or comments to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

BOARD of SUPERVISORS

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TDD/TTY No. 554-5227

June 18, 2012

File No. 120631

Bill Wycko
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Mr. Wycko:

On June 12, 2012, Supervisor Wiener introduced the following proposed substitute legislation:

File No. 120631

Ordinance: 1) amending the San Francisco Business and Tax Regulations Code by adding Section 609 to establish Parking Tax Simplification for Residential Properties to relieve residential property owners and managers renting five or fewer parking spaces in Parking Stations physically attached to or otherwise associated with the building from the requirement to: (a) obtain a certificate of authority, (b) make monthly tax prepayments, (c) obtain a parking tax bond, and (d) providing amnesty from parking taxes, interest, penalties and fees owed for tax periods more than 24 months prior to the effective date of the Ordinance; 2) amending the Business and Tax Regulations Code Section 2219.7 to exempt property owners and managers registered pursuant to Section 609 from the requirement to pay the Revenue Control Equipment compliance fee; 3) amending the Planning Code Section 204.5 to allow as an accessory use up to five dwelling unit parking spaces to be leased to persons living off-site anywhere in the City; 4) amending the Police Code Section 1215 to eliminate the requirement to hold a commercial parking permit for property owners and managers registered pursuant to Section 609 of the Business and Tax Regulations Code; and 5) making environmental findings and findings of consistency with the General Plan.

This legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board

By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS

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June 18, 2012

Planning Commission
Attn: Linda Avery
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Dear Commissioners:

On June 12, 2012, Supervisor Wiener introduced the following proposed substitute legislation:

File No. 120631

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Angela Calvillo, Clerk of the Board

Alisa Miller

By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

c: John Rahaim, Director of Planning
Scott Sanchez, Zoning Administrator
Bill Wycko, Chief, Major Environmental Analysis
AnMarie Rodgers, Legislative Affairs
Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

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MEMORANDUM

TO: Jose Cisneros, Treasurer/Tax Collector
Chief Greg Suhr, Police Department

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: June 18, 2012

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed substitute legislation, introduced by Supervisor Wiener on June 12, 2012, which is being forwarded to your department for informational purposes.

On June 12, 2012, Supervisor Wiener introduced the following proposed substitute legislation:

File No. 120631

Ordinance: 1) amending the San Francisco Business and Tax Regulations Code by adding Section 609 to establish Parking Tax Simplification for Residential Properties to relieve residential property owners and managers renting five or fewer parking spaces in Parking Stations physically attached to or otherwise associated with the building from the requirement to: (a) obtain a certificate of authority, (b) make monthly tax prepayments, (c) obtain a parking tax bond, and (d) providing amnesty from parking taxes, interest, penalties and fees owed for tax periods more than 24 months prior to the effective date of the Ordinance; 2) amending the Business and Tax Regulations Code Section 2219.7 to exempt property owners and managers registered pursuant to Section 609 from the requirement to pay the Revenue Control Equipment compliance fee; 3) amending the Planning Code Section 204.5 to allow as an accessory use up to five dwelling unit parking spaces to be leased to persons living off-site anywhere in the City; 4) amending the Police Code Section 1215 to eliminate the requirement to hold a commercial parking permit for property owners and managers registered pursuant to Section 609 of the Business and Tax Regulations Code; and 5) making environmental findings and findings of consistency with the General Plan.

If you have any reports or comments to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.