

File No. 130790

Committee Item No. 5

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date: 10/02/2013

Board of Supervisors Meeting

Date: \_\_\_\_\_

#### Cmte Board

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Completed by: Victor Young Date September 27, 2013

Completed by: Victor Young Date \_\_\_\_\_

[Business and Tax Regulations and Police Codes - Renting Parking Spaces at Residential Properties to Non-Residents]

**Ordinance amending the Business and Tax Regulations, and Police Codes to change the limits of Parking Tax Occupancy Simplification for residential properties by increasing, from five to 10, the number of parking spaces residential buildings may rent to non-residents and increasing the gross revenue they may earn from rent from \$4,000 to \$12,000 per quarter and from \$15,000 to \$40,000 annually; and making environmental findings.**

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. Findings.

The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 130790 and is incorporated herein by reference.

1 Section 2. The Business and Tax Regulations Code is hereby amended by revising  
2 Section 609, to read as follows:

3  
4 **SEC. 609. PARKING SPACE OCCUPANCY TAX SIMPLIFICATION FOR**  
5 **RESIDENTIAL PROPERTIES.**

6 **(a) Findings.**

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

9 (2) Any person who rents parking space in a Parking Station, as defined in  
10 Article 9 of the Business and Tax Regulations Code, must collect parking tax from the  
11 individual parking the car and remit it to the City. Current City law treats large commercial  
12 operators of garages and small property owners the same for purposes of this tax.

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

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

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

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

20 (7) Therefore, in order to encourage small property owners to come forward, to  
21 register with the City, and to start collecting parking tax, this Ordinance will forgive taxes owed  
22 for tax periods ending before April 1, 2011.

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

4 (b) Notwithstanding any other provision of this Code, the owner or manager of a  
5 residential building, that operates a Parking Station that is a part of the residential building  
6 and, is located on the same parcel, or within 50 feet of the property line of the building, shall  
7 be relieved of certain requirements for Parking Stations as enumerated below, provided the  
8 owner or manager meets all of the requirements of and registers under ~~§~~subsection (c) below.  
9 The aforesaid building owner or manager:

10 (1) Shall not be required to obtain a certificate of authority from the Tax  
11 Collector pursuant to Article 6, Section 6.6-1(a) or to execute a bond pursuant to Section 6.6-  
12 1(h), or to comply with any requirement to obtain insurance to operate a Parking Station.

13 (2) Shall not be required to make monthly tax ~~prepayments~~remittances pursuant to  
14 Section 6.9-3(a)(1), provided that the gross revenues of the Parking Station from Rent  
15 collected from individuals that do not reside at the property do not exceed ~~\$4,000~~\$12,000 in a  
16 quarterly reporting period or ~~\$15,000~~\$40,000 annually. At any time that the gross revenues of  
17 the Parking Station from Rent exceed ~~\$4,000~~\$12,000 during any quarterly reporting period, the  
18 building owner or manager must report and file monthly tax prepayments as required by  
19 Section 6.9-3(a)(1) beginning with the following month.

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

23 (4) Shall not be required to hold a commercial parking permit under Section  
24 1215(b) of the Police Code.  
25

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

6 (1) No more than 510 spaces in the Parking Station are rented to individuals  
7 who do not reside at the residential property.

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

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

12 (4) Total gross receipts from the rental of parking space to individuals who do  
13 not reside at the property ~~does~~ not exceed ~~\$4,000~~\$12,000 in any quarter or ~~\$15,000~~\$40,000  
14 annually.

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

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

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

24 (3) Any owner or manager who makes a material misrepresentation in a  
25 registration or fails to amend a registration within 7 days of a material change or who fails to

1 comply with a rule or regulation promulgated by the Tax Collector in a timely manner shall, in  
2 addition to any other liability that may be imposed under the provisions of this Article, be  
3 ineligible to claim relief under this Section.

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

7 (f) **Amnesty.**

8 (1) The building owner or manager who registers for relief under this Section  
9 between January 1, 2013 and June 30, 2013 and satisfies the eligibility requirements  
10 established in ~~S~~subsections 609(b) and (c) of this Article shall be eligible for amnesty from all  
11 fees, penalties and interest for failure to report and remit parking space occupancy tax due  
12 and payable prior to June 30, 2013 and shall, in addition, be eligible for amnesty from all  
13 parking space occupancy taxes for the tax periods ending before April 1, 2011, with the  
14 following exceptions:

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

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

24 (2) The Tax Collector shall waive all taxes, fees, penalties and interest owed for  
25 delinquent remittance of parking space occupancy taxes owed under the provisions of Articles

1 6 and 9 of the Business and Tax Regulations Code, but forgiven under this Section  
2 ~~690(f)~~609(f), without need to make the findings required under Section 6.17-4.

3 (3) The Tax Collector shall waive all fees, penalties and interest owed for failure  
4 to collect and/or remit parking space occupancy taxes under Article 22 and Sections 6.17-1,  
5 6.17-2, and 6.17-3 of this Code.

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

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

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

19  
20 Section 3. The Police Code is hereby amended by revising Section 1215, to read as  
21 follows:

22 **SEC. 1215. COMMERCIAL PARKING PERMITS.**

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

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

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

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

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

13           ~~(5)~~ **Parking garage.** Any building or structure, or any portion of a building or structure,  
14 where members of the public may park or store motor vehicles for a charge. This definition  
15 does not include

16                   ~~(A1)~~ any parking garage in a residential building or development that provides  
17 parking for a charge as a convenience or amenity for residents or their guests only;

18                   ~~(B2)~~ any parking garage on San Francisco Unified School District property  
19 where a Qualified Nonprofit makes special event parking available to members of the public  
20 for a charge, pursuant to a Special School Parking Event Permit under Article 9, Section 608  
21 of the Business and Tax Regulations Code; and

22                   ~~(C3)~~ any parking garage in a residential building that rents not more than ~~five~~<sup>ten</sup>  
23 spaces to non-residents of the building on a monthly basis and is registered with the Tax  
24 Collector pursuant to Article 9, Section 609 of the Business and Tax Regulations Code.  
25



1           ~~(6)~~ **Parking lot.** Any outdoor or uncovered space, including any plot, place, lot, parcel,  
2 yard or enclosure, or any portion of such a space, where members of the public may park or  
3 store motor vehicles for a charge. This definition does not include

4           ~~(A1)~~ any outdoor or uncovered space that is part of a residential building or  
5 development that provides parking for a charge as a convenience or amenity for residents or  
6 their guests only;

7           ~~(B2)~~ any outdoor or uncovered lot on San Francisco Unified School District  
8 property where a Qualified Nonprofit makes special event parking available to members of the  
9 public for a charge, pursuant to a Special School Parking Event Permit under Article 9,  
10 Section 608 of the Business and Tax Regulations Code; and

11           ~~(C3)~~ any outdoor or uncovered space that is part of a residential building that  
12 rents not more than ~~five~~10 spaces to non-residents of the building on a monthly basis and is  
13 registered with the Tax Collector pursuant to Article 9, Section 609 of the Business and Tax  
14 Regulations Code.

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

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

22           ~~(9)~~ **Qualified Nonprofit.** A volunteer led organization having a formally recognized  
23 exemption from income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code  
24 of 1986, as amended, and with a mission of benefitting one or more San Francisco public  
25 schools.

1           (b) **Permit Requirement.** Except as provided in this subsection (b), a person may not  
2 operate a parking garage or parking lot, directly or indirectly, unless the person holds a  
3 commercial parking permit issued by the Chief of Police. This Section requires a separate  
4 commercial parking permit for each parking garage and parking lot. The Chief of Police shall  
5 close immediately any parking garage or parking lot operating without the required  
6 commercial parking permit. A parking garage or parking lot that is registered with the Tax  
7 Collector pursuant to Article 9, Section 609, of the Business and Tax Regulations Code is not  
8 required to hold a commercial parking permit under this Section.

9           Notwithstanding the foregoing paragraph, a governmental entity operating a parking  
10 garage or parking lot on that governmental entity's property is not required to obtain a  
11 commercial parking permit for that parking garage or parking lot; however, any other person  
12 operating a parking garage or parking lot on a governmental entity's property must hold a  
13 commercial parking permit issued by the Chief of Police for each such parking garage and  
14 parking lot.

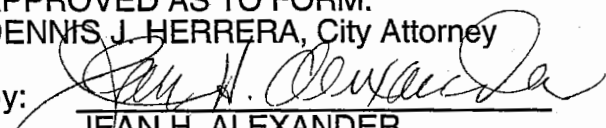
15           (c) **Annual Permit.** Each commercial parking permit shall authorize the permittee to  
16 operate the permitted parking garage or parking lot for one year from the date the Chief of  
17 Police issues the permit, unless the Chief of Police suspends or revokes the permit. Each  
18 commercial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

22  
23           Section 4. **Effective Date.** This ordinance shall become effective 30 days after  
24 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
25

1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
2 of Supervisors overrides the Mayor's veto of the ordinance.

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

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

12 By:   
13 JEAN H. ALEXANDER  
14 Deputy City Attorney

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SUBSTITUTED

9/17/13

FILE NO. 130790

LEGISLATIVE DIGEST

[Business and Tax Regulations and Police Codes - Renting Parking Spaces at Residential Properties to Non-Residents]

**Ordinance amending the Business and Tax Regulations, and Police Codes to change the limits of Parking Tax Occupancy Simplification for residential properties by increasing, from five to 10, the number of parking spaces residential buildings may rent to non-residents and increasing the gross revenue they may earn from rent from \$4,000 to \$12,000 per quarter and from \$15,000 to \$40,000 annually; and making environmental findings.**

Existing Law

Current law provides 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 are relieved of the requirements to obtain a certificate of authority and a commercial parking permit, make prepayments, and pay the Revenue Control Equipment Compliance Fee. The owner or manager may rent no more than five 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. Gross revenue from renting parking space to individuals who do not live in the building may not exceed \$4,000 per quarter or \$15,000 annually. The Tax Collector must approve the application for parking tax simplification.

A building owner or manager that registered between January 1, 2013 and June 30, 2013 and was approved for Parking Tax Simplification is eligible for amnesty from liability for penalties, interest and fees due prior to June 30, 2013 and from all parking taxes due for periods ending before April 1, 2011.

Under the Planning Code, a building owner or manager is permitted to rent up to five 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.

Amendments to Current Law

This ordinance will increase the number of parking spaces that property owners and managers of residential buildings may rent to non-residents under the Parking Tax Simplification program from five spaces to 10 spaces. Five spaces may be rented to people living within 1250 feet of the building and an additional 5 spaces may be rented to anyone residing in San Francisco. The ordinance will increase the amount of gross receipts that the owner or manager may earn renting parking spaces to non-residents from \$4,000 per quarter to \$12,000 per quarter and from \$15,000 annually to \$40,000 annually.

SUBSTITUTED  
9/17/13

FILE NO. 130790

Background Information

In 2012, the City established parking space occupancy tax simplification for residential properties. Its purpose was to encourage small property owners to register with the City and to begin collecting and remitting parking tax. For the purposes of simplification, the City considered small property owners those who rented five parking spots or fewer and earned less than \$4,000 per quarter and \$15,000 per year. Many small property owners rent up to 10 parking spaces.

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**Item 5**  
**File 13-0790**

**Department:**  
Office of the Treasurer and Tax Collector

## EXECUTIVE SUMMARY

### Legislative Objectives

- The proposed ordinance would: (1) amend Section 609 of the Business and Tax Regulations Code and Section 1215 of the Police Code to increase from 5 to 10 the number of parking spaces qualified residential parking operators may rent to non-residents, and (2) amend Section 609 of the Business and Tax Regulations Code to increase from \$4,000 to \$12,000 per quarter and from \$15,000 to \$40,000 annually the gross receipts qualified residential parking operators may earn from rent in order to qualify for certain regulatory exemptions under the Residential Parking Tax Simplification ordinance.

### Key Points

- On September 25, 2012, the Board of Supervisors approved an ordinance to simplify the City's Parking Tax requirements for small residential property owners who rent five or fewer parking spaces and receive income of not more than \$4,000 per quarter or \$15,000 annually. Such qualified residential parking operators are still subject to collecting and paying the City's 25% Parking Taxes; however, such parking operators are exempt from obtaining a certificate of authority or a commercial parking permit, filing a bond, using specialized collection equipment, and making monthly tax payments. In addition, the Residential Parking Tax Ordinance provided an amnesty to qualified residential parking operators who registered with the Tax Collector's Office between January 1, 2013 and June 30, 2013 from paying all unpaid Parking Taxes, fees, penalties and interest prior to April 1, 2011.
- The proposed ordinance would: (1) increase from 5 to 10 the number of parking spaces qualified residential parking operators may rent to non-residents, and (2) increase from \$4,000 to \$12,000 per quarter and from \$15,000 to \$40,000 annually the gross receipts qualified residential parking operators may earn from such parking rent in order to qualify for the specified exemptions.

### Fiscal Impact

- The proposed ordinance could increase Parking Tax revenue to the City, although by an unknown amount depending on the number of new residential parking operators that register with the Tax Collector's Office. The Tax Collector would not incur any significant new costs to implement the proposed ordinance.

### Policy Considerations

- The proposed ordinance does not include an amnesty for new applicants. As such, prospective registrants may face a disincentive to register, which could result in the City collecting less Parking Tax revenues.
- The proposed ordinance does not amend the Planning Code to increase the number of parking spaces that may be rented to residents who live beyond 1,250 feet of the parking space.

### Recommendation

- As the proposed ordinance would amend policy contained in the City's tax law, approval of the proposed ordinance is a policy decision for the Board of Supervisors.

**MANDATE STATEMENT / BACKGROUND****Mandate Statement**

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

**Background**

Article 9, Section 602 of the City's Business and Tax Regulations Code imposes a Parking Tax of 25% on the rent of any parking space in the City. Additionally, unless otherwise exempted, parking operators doing business in San Francisco are required to (a) obtain a certificate of authority from the Tax Collector to collect Parking Taxes, (b) file a bond with the City, (c) make monthly tax payments to the Tax Collector, (d) utilize Revenue Control Equipment to document the amount of parking revenues collected, and (e) obtain a commercial parking permit from the Police Department.<sup>1</sup> 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 a multi-level covered garage. According to the Tax Collector's Office, approximately 650 registered San Francisco parking operators remitted \$81.2 million of Parking Taxes to the City in FY 2012-13.

On September 25, 2012, the Board of Supervisors approved an ordinance (File No. 12-0631) to simplify the City's Parking Tax requirements for small residential properties (Residential Parking Tax Simplification). Under the recently approved Residential Parking Tax Simplification ordinance, a qualified residential parking operator 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 space 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 space; and
- Receives income of not more than \$4,000 in any quarter or \$15,000 annually.

In accordance with the recently approved Residential Parking Tax Simplification ordinance, such qualified residential parking operators are still subject to collecting and paying the City's 25% Parking Taxes. However, such qualified residential parking operators are exempt from the following:

- Obtaining a certificate of authority from the Tax Collector to collect Parking Taxes;
- Filing a bond with the City;

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<sup>1</sup> In accordance with various provisions of the City's Business and Tax Regulations Code and Police Code.

- Making monthly tax payments to the Tax Collector, such that tax payments would be due annually;
- Utilizing Revenue Control Equipment (RCE) to document the amount of parking revenues collected; and
- Obtaining a commercial parking permit from the Police Department.

In addition, the Residential Parking Tax Simplification ordinance granted amnesty to qualified residential parking operators who registered with the Tax Collector's Office between January 1, 2013 and June 30, 2013 from:

- Paying all unpaid Parking Taxes for the tax years ending before April 1, 2011; and
- Paying all fees, penalties and interest that would normally apply for failure to collect and pay such Parking Taxes.

### **Implementation of Current Parking Tax Simplification**

According to Mr. Greg Kato, the Tax Collector's Policy and Legislative Manager, although required to pay Parking Taxes to the City, many small residential parking operators collect revenue from renting parking spaces but do not remit the required 25% Parking Tax to the City. As a result, Mr. Kato reported that in FY 2011-12, the City collected less than \$100,000 in revenues from small residential parking operators who rented out five or fewer parking spaces.

According to Mr. Kato, after the Residential Parking Tax Simplification ordinance was approved, approximately 470 residential parking operators applied for the Residential Parking Tax Simplification program with the Tax Collector between January 1, 2013 and June 30, 2013. These 470 applications are approximately 1,965, or 81%, fewer than the 2,435 residential parking operator registrants that the Tax Collector advised could come forward under the current Residential Parking Tax Simplification program.<sup>2</sup>

Mr. Kato advises that the Tax Collector is currently verifying these applications from residential parking operators and has not begun collecting Parking Tax payments. Mr. Kato notes that although the Tax Collector proposed a supplemental appropriation of \$170,011 to implement the Residential Parking Tax Simplification ordinance, no additional funds were appropriated for this purpose and the Tax Collector has used existing staff to implement the program.

## **DETAILS OF PROPOSED LEGISLATION**

The proposed ordinance would: (1) increase from 5 to 10 the number of parking spaces qualified residential parking operators may rent to non-residents (by amending Section 609 of the Business and Tax Regulations Code and Section 1215 of the Police Code), and (2) increase from \$4,000 to \$12,000 per quarter and from \$15,000 to \$40,000 annually the gross receipts qualified

<sup>2</sup> Memorandum from the Tax Collector to Supervisor Weiner dated August 7, 2012.



residential parking operators may earn from such parking rent (by amending Section 609 of the Business and Tax Regulations Code) in order to qualify for the exemptions noted above.

Based on anecdotal accounts, (a) some residential parking operators with more than five parking spaces, but fewer than 11 parking spaces, have evicted renters from parking spaces in order to qualify for the exemptions under the recent Residential Parking Tax Simplification ordinance, and (b) the gross receipts thresholds were too low for some residential parking operators who otherwise would have qualified for the exemptions under the Residential Parking Tax Simplification ordinance.

## FISCAL IMPACTS

According to Mr. Kato, the proposed ordinance could increase Parking Tax revenue to the City, although by an unknown amount depending on the number of new residential parking operators that register with the Tax Collector's Office. According to Mr. Kato, an unknown number of residential parking operators continue to operate between 6 and 10 parking spaces and do not pay the City's Parking Tax. Therefore, Mr. Kato stated that the Tax Collector's Office is unable to provide a meaningful estimate of the number of residential parking operators who would register with the City if the existing Residential Parking Tax Simplification ordinance were expanded to include residential parking operators with up to 10 parking spaces and who earn up to \$12,000 in gross receipts per quarter or \$40,000 in gross receipts annually, as is proposed in the subject ordinance.

The current threshold for gross receipts of \$4,000 per quarter and \$15,000 per year reflects a maximum monthly rate per parking space of between \$250 and \$267 assuming the current maximum of five parking spaces. The proposed threshold for gross receipts of \$12,000 per quarter to \$40,000 per year reflects a maximum monthly rate per parking space of between \$333 and \$400 assuming the maximum of ten parking spaces. For those residential parking operators with fewer than ten parking spaces, the maximum monthly rates would be higher.

According to Mr. Kato, given that there are few, if any, residential parking operators with between 6 and 10 parking spaces that currently pay the \$500 Revenue Control Equipment Compliance Fee, who would no longer be required to do so under the proposed ordinance, such revenue loss would be minimal.

According to Mr. Kato, the Tax Collector would not incur any significant new costs in order to implement the proposed ordinance. Mr. Kato notes that the costs to implement the original Residential Parking Tax Simplification ordinance are currently being absorbed by the Tax Collector's existing staff, without additional funds being appropriated. The minor additional administrative costs that would be incurred if the proposed ordinance is approved could also be absorbed into the Tax Collector's workload, according to Mr. Kato.

**POLICY CONSIDERATIONS****Proposed Ordinance Does Not Include a Period of Amnesty for New Registrants**

The proposed ordinance does not include a proposed amendment to the Business and Tax Regulations Code to grant amnesty to new applicants from paying all unpaid Parking Taxes for any prior tax years or from paying all fees, penalties and interest that would normally apply for failure to report and pay the Parking Taxes due to the City. Under the proposed ordinance, new applicants would be required to file and remit Parking Taxes, fees, penalties and interest for all tax years in which the new registrants operated a residential parking business. As such, prospective applicants that operate between 6 and 10 parking spaces and earn up to \$12,000 per quarter or up to \$40,000 annually from rent may face a disincentive to register with the City, relative to those residential parking operators that registered with the City between January 1, 2013 and June 30, 2013.

As a result of such disincentive, it is possible that qualifying small residential parking operators may not register with the City under the proposed ordinance, which could result in the City collecting less Parking Tax revenues than if the proposed ordinance included an initial amnesty period. However, it is impossible to estimate with any confidence or precision the likely response of residential parking operators.

**Planning Code Would Still Allow for Only Up to Five Parking Spaces to be Rented to Residents Who Live Beyond 1,250 Feet of the Parking Space**

Planning Code Section 204.5 Parking and Loading Accessory Uses limits to 5 the number of parking spaces that may be rented to residents who live beyond 1,250 feet (approximately one-quarter mile) of the parking space, provided they are rented to residents of the city. The proposed ordinance does not amend Planning Code Section 204.5 Parking and Loading Accessory Uses to increase from 5 parking spaces to 10 parking spaces the number of parking spaces that may be rented to residents who live beyond 1,250 feet of the parking space. As such, under the proposed ordinance, qualified residential parking operators would be permitted to rent up to 10 parking spaces and still qualify for the above noted exemptions under the Residential Parking Tax Simplification ordinance; however, in accordance with the existing Planning Code, no more than five of such parking spaces could be rented to residents who live beyond 1,250 feet of the parking space.

**RECOMMENDATION**

As the proposed ordinance would amend policy contained in the City's tax law, approval of the proposed ordinance is a policy decision for the Board of Supervisors.

BOARD of SUPERVISORS



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August 23, 2013

File No. 130790

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Jones:

On July 30, 2013, Mayor Lee introduced the following proposed legislation:

**File No. 130790**

Ordinance amending the Business and Tax Regulations, Planning, and Police Codes to change the limits of Parking Tax Occupancy Simplification for residential properties by increasing, from five to 10, the number of parking spaces residential buildings may rent to non-residents and increasing the gross revenue they may earn from rent from \$4,000 to \$12,000 per quarter and from \$15,000 to \$40,000 annually; and making environmental findings and findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Victor Young".

By: Victor Young, Committee Clerk  
Budget and Finance Committee

Attachment

c: Monica Pereira, Environmental Planning  
Nannie Turrell, Environmental Planning

*Exempt from CEQA per  
CCRA Guidelines, Article 18,  
Section 15273, "Rates, Tolls,  
Fees and Charges."  
Nannie Turrell  
August 26, 2013  
2013.1199E*

