

BOARD of SUPERVISORS



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July 24, 2019

File No. 190793

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On July 16, 2019, Mayor Breed submitted the proposed legislation:

File No. 190793

Ordinance amending the Environment Code to require commercial parking lots and garages with more than 100 parking spaces to install electric vehicle charging equipment; amending the Police Code to add compliance with the new requirement as a condition of existing as well as future permits for commercial parking lots and garages; and affirming the Planning Department's determination under the California Environmental Quality Act.

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 "Erica Major".

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Don Lewis, Environmental Planning

1 [Environment, Police Codes - Electric Vehicle Charging in Commercial Parking]

2
3 **Ordinance amending the Environment Code to require commercial parking lots and**
4 **garages with more than 100 parking spaces to install electric vehicle charging**
5 **equipment; amending the Police Code to add compliance with the new requirement as**
6 **a condition of existing as well as future permits for commercial parking lots and**
7 **garages; and affirming the Planning Department's determination under the California**
8 **Environmental Quality Act.**

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

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

17 Section 1. CEQA Findings.

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

23 Section 2. Findings.

24 (a) As reported in the 2017 San Francisco Greenhouse Gas Emissions Inventory,
25 completed by the San Francisco Department of the Environment and published in April 2019,

1 greenhouse gas emissions in San Francisco in 2017 were 36% below 1990 levels, well ahead
2 of the statewide goal set in Assembly Bill 32 (2006) of achieving 1990 emissions levels by
3 2020. In 2008, the City enacted Chapter 9 of the Environment Code, which set additional
4 greenhouse gas emissions reduction targets of 40% below 1990 levels by 2025 and 80%
5 below 1990 levels by 2050. While the City has made strides toward reaching these goals,
6 additional efforts must be undertaken to ensure the 2050 goal is met.

7 (b) In 2017, the communitywide greenhouse gas inventory by the Department of the
8 Environment identified that the single biggest source of emissions was the transportation
9 sector at 46%, with 71% of those sector emissions resulting from private cars and trucks
10 running on fossil fuels.

11 (c) In 2017, San Francisco adopted Ordinance 115-17, requiring all light-duty sedans
12 in the municipal fleet to be zero emission vehicles by December 31, 2022. In 2018 the San
13 Francisco Municipal Transportation Agency adopted Resolution 180515-080, establishing a
14 goal to transition the entire transit fleet to 100% electric vehicles by 2035. The State of
15 California, through the California Air Resources Board, adopted a policy to transition all public
16 buses to be 100% electric by 2040.

17 (d) The Electric Vehicle ("EV") Readiness Ordinance, Chapter 29 of the Environment
18 Code, requires that new buildings and major renovations install electrical infrastructure and
19 turnkey readiness for EV charging in 10% of parking spaces.

20 (e) In 2015, Mayor Ed Lee convened the Electric Vehicle Working Group to develop
21 recommendations and a roadmap on how to expand the use of electric vehicles to help the
22 City reduce emissions and associated air pollution health impacts from the transportation
23 sector. And in 2018, Governor Jerry Brown set a goal to get 5 million electric vehicles on the
24 road and 250,000 electric vehicle charging stations installed by 2030. The State of California
25 has directed funding to support installation of electric vehicle charging stations through the

1 California Air Resources Board Low Carbon Fuel Standard Credit rebate program, grants
2 administered by California regional air districts, the Volkswagen Environmental Mitigation
3 Trust for California, California Public Utilities Commission (“CPUC”) Infrastructure Pilot
4 Programs implemented by public utilities, and CPUC and NRG Energy settlement, thus
5 substantially reducing any financial burden on owners and operators of parking lots and
6 garages. In the event the requirements set forth in this ordinance are too burdensome for an
7 owner or operator of a parking lot or garage, the ordinance provides the Director of
8 Department on the Environment with the ability to grant a full or partial waiver from
9 compliance.

10 (f) By requiring commercial parking lots and garages to install electric vehicle charging
11 equipment, the City will facilitate and encourage the adoption of electric vehicles by a greater
12 share of the population, thus assisting the City to meet the emission goals set by the City and
13 the state. Without this installation requirement, particularly in new parking lots and garages,
14 further air quality and greenhouse gas degradation would occur in the City because the on-
15 going and increasing inconvenience of finding electric vehicle charging stations would mean
16 that fewer electric vehicles could be used. Multiple studies have suggested a correlation
17 between increasing the number of charging stations with higher electric vehicles adoption
18 rates as summarized in the October 2017 white paper by The International Council on Clean
19 Transportation. In addition, the 2019 San Francisco Electric Vehicle Roadmap produced by
20 the Mayor’s Electric Vehicle Working Group Electric Mobility Subcommittee also identifies the
21 expansion of publicly-accessible Level 2 and Fast Charging infrastructure in San Francisco as
22 a key strategy to improve electric vehicle adoption rates.

23 (g) The City intends to adopt at least the minimum standards imposed by this
24 ordinance in all City-owned parking lots and garages open to the public.
25

1 Section 3. The Environment Code is hereby amended by adding Chapter 30,
2 consisting of Sections 3001-3006, to read as follows:

3
4 **CHAPTER 30: ELECTRIC VEHICLE CHARGING IN COMMERCIAL PARKING LOTS**
5 **AND GARAGES**

6 **SEC. 3001. DEFINITIONS.**

7 “Commercial Parking Lot or Garage” means a building, structure, or space on privately owned
8 land that is required by Sections 1215 through 1215.7 of the Police Code to hold a commercial parking
9 permit issued by the Chief of Police.

10 “Director” means the Director of the Department of the Environment or the Director’s
11 designee.

12 “Electric Vehicle Charging Station” means electric vehicle supply equipment that consists of
13 the conductors, including the ungrounded, grounded, and equipment grounding conductors and the
14 electric vehicle connectors, attachment plugs, and all other fittings, devices, power outlets, or
15 apparatus installed specifically for the purpose of delivering energy from premises wiring to an electric
16 vehicle.

17 “Fast Charging Station” means an Electric Vehicle Charging Station that supplies electricity at
18 a rate of 40 kW or higher.

19 “Level 2 Charging Station” means an Electric Vehicle Charging Station that supplies
20 electricity in any amount less than 40 kW, supplied by a circuit with capacity meeting manufacturer
21 specifications and not less than a 208/240V AC at 40 amps circuit.

1 **SEC. 3002. ELECTRIC VEHICLE CHARGING STATIONS REQUIRED AT**
2 **COMMERCIAL PARKING LOTS AND GARAGES.**

3 (a) Beginning January 1, 2023, any Commercial Parking Lot or Garage with more than 100
4 parking spaces designated for automobiles shall provide Level 2 Charging Stations to at least 10% of
5 the parking spaces designated for automobiles, provided that the maximum number of parking spaces
6 where Level 2 Charging Stations are required shall be no more than 200 parking spaces per
7 Commercial Parking Lot or Garage location.

8 (b) In lieu of installing Level 2 Charging Stations as required by subsection (a) of this Section
9 3002, a Commercial Parking Lot or Garage may install Fast Charging Stations as follows:

10 (1) A Commercial Parking Lot or Garage with 101-749 parking spaces available for
11 automobiles must install at least two Fast Charging Stations; or

12 (2) A Commercial Parking Lot or Garage with 750-999 parking spaces available for
13 automobiles must install at least three Fast Charging Stations; or

14 (3) A Commercial Parking Lot or Garage with 1000-1249 parking spaces available for
15 automobiles must install at least four Fast Charging Stations; or

16 (4) A Commercial Parking Lot or Garage with 1250-1499 parking spaces available for
17 automobiles must install at least five Fast Charging Stations; or

18 (5) A Commercial Parking Lot or Garage with 1500-1749 parking spaces available for
19 automobiles must install at least six Fast Charging Stations; or

20 (6) A Commercial Parking Lot or Garage with 1750-1999 parking spaces available for
21 automobiles must install at least seven Fast Charging Stations; or

22 (7) A Commercial Parking Lot or Garage with over 2,000 parking spaces available for
23 automobiles must install at least eight Fast Charging Stations.

1 **SEC. 3003. WAIVER.**

2 (a) The Director may grant a full or partial waiver from compliance with Section 3002. A
3 partial waiver shall authorize a reduction in the number of parking spaces providing Level 2 Charging
4 Stations as required by subsection (a) of Section 3002 or the number of Fast Charging Stations
5 required by subsection (b) of Section 3002, without eliminating the requirements altogether.

6 (b) In considering a request for a full or partial waiver, the Director may consider: (1) whether
7 the existing local utility infrastructure is unable to supply sufficient electrical capacity to meet the
8 requirements of this Chapter 30; (2) whether due to site conditions it is technically infeasible to install
9 the infrastructure to comply with the requirements of this Chapter; or (3) whether the Commercial
10 Parking Lot or Garage demonstrates it made good faith efforts to enter into an agreement with at least
11 two companies that install, maintain, and operate Electric Vehicle Charging Stations to install the
12 infrastructure to comply with the requirements of this Chapter at minimal or no cost to the Commercial
13 Parking Lot or Garage, but such companies declined because such an agreement was not financially
14 viable.

15 (c) The Director shall develop a process for fair evaluation of requests for waiver under this
16 Section 3003.

17
18 **SEC. 3004. ADMINISTRATION AND ENFORCEMENT.**

19 (a) The Director may issue regulations necessary or appropriate for the implementation and
20 enforcement of this Chapter 30.

21 (b) If the Director determines that a Commercial Parking Lot or Garage has violated this
22 Chapter 30 or a regulation adopted pursuant to this Chapter 30, the Director shall send a written
23 warning, as well as a copy of this Chapter 30 and any regulations adopted pursuant to it, to the
24 Commercial Parking Lot or Garage, which shall have 30 days after receipt of the warning to correct
25

1 the violation. The Director shall send the warning to the owner of the Commercial Parking Lot or
2 Garage and to the operator or leasee of the Commercial Parking Lot or Garage, if any.

3 (c) If the Commercial Parking Lot or Garage fails to correct the violation, the Director may
4 issue an administrative citation imposing an administrative fine for the violation. Administrative Code
5 Chapter 100, "Procedures Governing the Imposition of Administrative Fines," as amended from time
6 to time, is hereby incorporated in its entirety and shall govern the imposition, enforcement, collection,
7 and review of administrative citations issued to enforce this Chapter 30 or any regulation adopted
8 pursuant to this Chapter. For purposes of calculating the penalty for violating Section 3002, each day
9 that the Commercial Parking Lot or Garage has not complied with Section 3002 shall constitute a
10 separate violation. The Director shall issue the citation to the owner of the Commercial Parking Lot or
11 Garage and to the operator or leasee of the Commercial Parking Lot or Garage, if any.

12 (d) If the Director has determined that a Commercial Parking Lot or Garage does not comply
13 with Section 3002, and the Director issues an administrative citation under subsection (c) of this
14 Section 3004, and the Commercial Parking Lot or Garage fails to correct the violation within a
15 reasonable time after the administrative citation is final, which time shall be determined by the
16 Director, the Director shall send written notice to the Chief of Police concerning the violation and
17 request that the Chief of Police suspend or revoke the Commercial Parking Lot or Garage's permit to
18 operate under Section 1215.3 of the Police Code.

19
20 **SEC. 3005. UNDERTAKING FOR THE GENERAL WELFARE.**

21 In enacting and implementing this Chapter 30, the City is assuming an undertaking only to
22 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an
23 obligation for breach of which it is liable in money damages to any person who claims that such breach
24 proximately caused injury.

1 **SEC. 3006. NO CONFLICT WITH FEDERAL OR STATE LAW.**

2 This Chapter 30 shall be construed so as not to conflict with applicable federal or State laws,
3 rules, or regulations. Nothing in this Chapter 30 shall authorize any City agency or department to
4 impose any duties or obligations in conflict with limitations on municipal authority established by State
5 or federal law at the time such agency or department action is taken.

6
7 Section 4. The Police Code is hereby amended by revising Sections 1215.1, 1215.2,
8 and 1215.3 of Article 17, to read as follows:

9
10 **SEC. 1215.1. APPLICATION FOR PERMIT.**

11 (a) **Application Requirements.** An applicant for a commercial parking permit shall
12 use the application form the Chief of Police provides, and shall supply the following
13 information:

14 * * * *

15 (9) A copy of plans for the parking garage or parking lot for which the applicant
16 seeks a commercial parking permit. The plans must include the name and business address
17 of the applicant; the address of the parking garage or parking lot; the name and business
18 address of the owner of the building, the structure or space where the garage or lot is located,
19 if the applicant is not the owner; all pedestrian and vehicular entrances and exits to the garage
20 or lot; the dimensions and types of construction of all structures, fences, or other
21 improvements; any electric vehicle charging infrastructure required by Chapter 30 of the
22 Environment Code; and any features that may affect street traffic;

23 * * * *

1 (18) A statement as to whether the parking garage or parking lot must comply with
2 Chapter 30 of the Environment Code, and if so, a description of how the parking garage or parking lot
3 will comply with that Chapter;

4 (198) The name and address of the person authorized to accept service of
5 process for the applicant; and

6 (~~1920~~) Any other information that the Chief of Police finds reasonably necessary
7 to investigate the application.

8 * * * *

9
10 **SEC. 1215.2. INVESTIGATION, HEARING, AND ISSUANCE OF PERMITS.**

11 (a) **Complete Application.** The Chief of Police may not accept an application for filing
12 until it is complete. An application is not complete until the Chief of Police determines that it
13 includes all information and documentation that Section 1215.1(a) requires. After determining
14 that an application includes all required information and documentation, the Chief of Police
15 shall accept the application for filing.

16 (b) **Investigation of Application.** Once the Chief of Police accepts an application for
17 filing, the Chief of Police shall conduct an appropriate investigation of the application. As part
18 of the investigation, the Chief of Police shall make any necessary referrals to other City
19 departments, including referrals to the Planning Department, Fire Department, Department of
20 the Environment, and Department of Building Inspection for their determination of compliance
21 with zoning, building, fire, and safety requirements. The Chief of Police may refer the
22 application to the Municipal Transportation Authority for review of traffic impacts. The Chief of
23 Police shall conduct a criminal history background check on the persons listed in Sections
24 1215.1(a)(2) through (4).

25 * * * *

1 (d) **Action on Application.** The Chief of Police shall hear and decide the application
2 within a reasonable time after accepting the application for filing. In deciding the application,
3 the Chief of Police may exercise ~~his or her~~ sound discretion as to whether the permit should be
4 granted or denied. The Chief of Police may consider the following:

5 * * * *

6 (6) Whether the application contains intentionally false or misrepresented
7 information; ~~and~~

8 (7) Whether granting the permit is consistent with the public interest, health,
9 safety, and welfare; ~~and~~

10 (8) Whether the parking garage or parking lot complies with Chapter 30 of the
11 Environment Code concerning electric vehicle charging equipment.

12 * * * *

14 **SEC. 1215.3. PERMIT REVOCATION OR SUSPENSION.**

15 (a) **Discretionary Revocation or Suspension.** The Chief of Police may revoke or
16 suspend a commercial parking permit if, after a hearing on the matter, ~~he or she~~ the Chief finds
17 that:

18 (1) Grounds exist that would have constituted a basis to deny the permit
19 application;

20 (2) The permittee has failed to operate the parking garage or parking lot in
21 compliance with the security plan approved by the Chief of Police;

22 (3) The permittee, or any employee or agent of the permittee, has created,
23 caused, or contributed to the creation or maintenance of a public nuisance in the operation of
24 the parking garage or parking lot;

1 (4) The permittee, or any employee or agent of the permittee, has failed to
2 comply with any requirements imposed by Sections 1215 through 1215.6, or any rules the
3 Chief of Police issued under Section 1215.4(a); or

4 (5) The permittee, or any employee or agent of the permittee, has operated the
5 parking garage or parking lot in a manner contrary to the public interest, health, safety or
6 welfare.

7 (b) **Mandatory Revocation or Suspension.** The Chief of Police shall revoke or
8 suspend a commercial parking permit, after a hearing on the matter, promptly upon receiving
9 notice from:

10 (1) ~~The~~ The Office of the Treasurer and Tax Collector that it has revoked a
11 permittee's business registration certificate or certificate of authority, or has determined that
12 the permittee, or any person listed in Sections 1215.1(a)(2) through (4), is not in compliance
13 with the Business and Tax Regulations Code. If the Chief of Police suspends the permit, the
14 Chief of Police shall continue the permit suspension until the Office of the Treasurer and Tax
15 Collector notifies the Chief of Police that ~~he or she~~ the Chief may end the suspension; ~~or-~~

16 (2) The Department of the Environment that the permittee has failed to comply with
17 Chapter 30 of the Environment Code concerning the installation of electric vehicle charging
18 equipment. If the Chief of Police suspends the permit, the Chief of Police shall continue the permit
19 suspension until the Department of the Environment provides notice that the permittee complies with
20 Chapter 30 of the Environment Code.

21 (c) **Notice.** The Chief of Police shall serve written notice of a revocation or suspension
22 hearing on the permittee at the business address listed in the permit application, no fewer
23 than 10 days before the hearing. The notice shall include the time and place of the hearing
24 and a brief statement of the reasons for the proposed revocation or suspension.
25

1 (d) **Appeal.** Notwithstanding Section 8(i)(5) of the Business and Tax Regulations
2 Code, the filing of an appeal with the Board of Appeals from a decision of the Chief of Police
3 to revoke or suspend a commercial parking permit shall not effect a suspension of the Chief of
4 Police's action.

5 (e) **Board of Appeal.** On any appeal from a decision of the Chief of Police to revoke
6 or suspend a commercial parking permit under Section 1215.3(b), consistent with the vital City
7 policy regarding advance payment of disputed taxes and the exclusive remedies and
8 procedures available to resolve tax disputes under Article 6 of the Business and Tax
9 Regulations Code, the Board of Appeal shall have no jurisdiction to review any determination
10 of the Office of the Treasurer and Tax Collector that the applicant, or any person listed in
11 Sections 1215.1(a)(2) through (4), is not in compliance with the Business and Tax Regulations
12 Code. Nor shall the Board of Appeal have jurisdiction to review a decision of the Office of the
13 Treasurer and Tax Collector to revoke a permittee's business registration certificate or
14 certificate of authority.

15 (f) **Three-Year Ban.** If the Chief of Police revokes a commercial parking permit, the
16 permittee, and any person listed in Sections 1215.1(a)(2) through (4), may not apply for a
17 commercial parking permit for three years from the date the Chief of Police revokes the
18 permit.

19
20 Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word
21 of this ordinance, or any application thereof to any person or circumstance, is held to be
22 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
23 shall not affect the validity of the remaining portions or applications of the ordinance. The
24 Board of Supervisors hereby declares that it would have enacted this ordinance, including
25 each and every subsection, sentence, clause, phrase, and word not declared invalid or

1 unconstitutional, without regard to whether any other portion of this ordinance or application
2 thereof would be subsequently declared invalid or unconstitutional.

3
4 Section 6. Effective and Operative Date.

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

9 (b) This ordinance shall become operative on its effective date, except for Section 4,
10 amending Sections 1215.1, 1215.2, and 1215.3 of the Police Code, which shall become
11 operative on January 1, 2023.

12
13 Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
17 additions, and Board amendment deletions in accordance with the "Note" that appears under
18 the official title of the ordinance.

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

22 By: 
23 _____
24 BRADLEY A. RUSSI
25 Deputy City Attorney

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LEGISLATIVE DIGEST

[Environment, Police Codes - Electric Vehicle Charging in Commercial Parking]

Ordinance amending the Environment Code to require commercial parking lots and garages with more than 100 parking spaces to install electric vehicle charging equipment; amending the Police Code to add compliance with the new requirement as a condition of existing as well as future permits for commercial parking lots and garages; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Existing law requires commercial parking lots and garages to obtain a permit to operate from the Chief of Police. Current law does not require installation of electric vehicle charging equipment in commercial parking lots and garages.

Amendments to Current Law

The proposed ordinance would amend the Environment Code to require commercial parking lots and garages on privately owned land with more than 100 parking spaces to install electric vehicle charging stations by January 1, 2023. A commercial parking lot or garage must install Level 2 charging electric vehicle stations at 10% of available parking spaces. Alternatively, the commercial parking lot or garage may install two or more fast charging electric vehicle stations, depending on the number of parking spaces at the commercial parking lot or garage. The Director of the Department of the Environment ("Director") may grant a full or partial waiver from the requirement based on (1) the inability of the existing utility infrastructure to supply sufficient electricity, (2) site conditions rendering compliance technically infeasible, or (3) the inability of the commercial parking lot or garage to locate a partner to install, maintain, and operate the infrastructure at minimal or no cost, despite good faith efforts.

The proposed ordinance authorizes the Director to issue administrative citations to commercial parking lots or garages that fail to comply with the requirements. The Director is also authorized to issue regulations necessary for implementation and enforcement.

The proposed ordinance amends the Police Code to modify the permitting program for commercial parking lots and garages by requiring compliance with the new electric vehicle charging provisions of the Environment Code as a permit condition.