

LEGISLATIVE DIGEST

(Amendment of the Whole 5/2/12)

[Park Code - Amending Golden Gate Park Concourse Underground Parking Facility and Other Certain Fees; and Changing Controller Reporting Requirements]

Ordinance amending the San Francisco Park Code, Article 12, by 1) amending Section 12.35 to increase certain parking rates and eliminate the Early Bird Rate at the Golden Gate Park Concourse Underground Parking Facility, 2) amending Section 12.20 to revise the Controller's reporting requirement regarding cost recovery, and 3) adding a new Section 12.49 to ratify prior fees and fee adjustments; and making environmental findings and findings of consistency with general plan.

Existing Law

Section 12.35 of the Park Code sets rates for parking in the Golden Gate Park Concourse Underground Parking Facility as follows: (1) \$3.50/hour on weekdays, (2) \$4.00/hour on weekends, (3) a flat rate after 6pm of \$12.00, and (4) an early bird rate of \$12.00.

Section 12.20 of the Park Code allows the Controller to adjust annually the fees set forth in Article 12 of the Park Code according to the Consumer Price Index. It also requires the Controller to certify annually that the fees produce sufficient revenue to support the costs of providing the services for which each fee is assessed, and the fees do not produce revenue which is significantly more than the costs of providing the services for which each fee is assessed.

Amendments to Current Law

The ordinance would amend the rates set forth in Section 12.35 of the Park Code for parking in the Golden Gate Park Concourse Underground Parking Facility as follows: (1) increase the weekday hourly rate by \$1.00 to \$4.50/hour, (2) increase the weekend hourly rate by \$1.00 to \$5.00/hour, (3) increase the flat rate after 6pm by \$3.00 to \$15.00, and (4) eliminate the early bird rate.

The ordinance would also amend Section 12.20 of the Park Code to revise the Controller's reporting requirements to require the Controller to identify in its annual report any fees in Article 12 that produce revenue which is significantly more than the costs of providing the services for which each fee is assessed, and describe how such revenue is used by the Recreation and Park Department or the City.

Finally, the ordinance would add a new Section 12.49 to Article 12 of the Park Code that ratifies all fees previously set under Article 12, and all prior adjustments made thereto pursuant to Section 12.20.

This Amendment of the Whole dated 5/2/12 differs from the legislation currently on file dated April 25, 2012 as follows: The April 25, 2012 version eliminated the requirement in Section 12.20 that the Controller file an annual certification regarding cost recovery. This Amendment of the Whole amends Section 12.20 to require that the Controller identify in its annual fee report any fees in Article 12 that produce revenue which is significantly more than the costs of providing the services for which each fee is assessed, and describe how such revenue is used by the Recreation and Park Department or the City.

Background Information

The existing language in Section 12.20 requiring the Controller to certify that the fees in Article 12 do not produce revenue significantly more than the costs of providing the services for which the fees are assessed ("cost recovery limitation") is a limitation that is designed to apply to a category of fees called "regulatory fees." Local agencies impose regulatory fees to recover some or all of the costs they incur in providing regulatory services, such as issuing licenses, performing investigations, inspections, and audits, and the administrative enforcement and adjudication of regulatory regimes. The Recreation and Park Department fees set forth in Article 12 are not regulatory fees, however, and thus are not intended to be subject to the cost recovery limitation. The fees in Article 12 are charged for entrance to or rental or use of Recreation and Park Department properties, facilities and programming such as tennis courts, golf courses, swimming pools, and other similar civic facilities. Article 12 also authorizes the Department to charge for classes, lessons, and other recreational, cultural, and educational programs that it provides at those facilities. This ordinance therefore proposes to clarify the proper standard that applies to Recreation and Park fees by removing the inadvertent inclusion of a cost recovery limitation in Section 12.20 that is designed only to apply to a different category of fees.