

1 [Business and Tax Regulations Code, Police Code, and Planning Code - Parking Tax
2 Simplification for Residential Properties]

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

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

23 Be it ordained by the People of the City and County of San Francisco:
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1 Section 1. FINDINGS.

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

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

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

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

18 **SEC. 609. PARKING SPACE OCCUPANCY TAX SIMPLIFICATION FOR RESIDENTIAL**
19 **PROPERTIES**

20 (a) *Findings.*

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

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

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

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

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

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

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

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

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

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

20 The aforesaid building owner or manager:

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

24 (2) Shall not be required to make monthly tax prepayments pursuant to Section 6.9-
25 3(a)(1), provided that the gross revenues of the Parking Station from Rent collected from individuals

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

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

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

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

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

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

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

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

23 (d) In addition, the owner or manager must:
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1 (1) Maintain documents and records of all parking transactions in a manner acceptable
2 to the Tax Collector. Such documents and records must objectively substantiate any relief claimed
3 under this Section and be provided to the Tax Collector or designee upon request.

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

7 (3) If, after the timely filing of a parking space occupancy tax return, the Tax Collector
8 determines that the person was delinquent in any taxes, fees or penalties owed to the City and County
9 of San Francisco at the time of filing, that person shall be ineligible to claim the relief under this
10 Section for any tax period subsequent to the determination.

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

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

18 (f) Amnesty.

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

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

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

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

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

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

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

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

1 **SEC. 2219.7. EXEMPTIONS.**

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

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

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

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

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19 Section 4. The Planning Code is hereby amended by amending Section 204.5 to read
20 as follows:

21 **SEC. 204.5. PARKING AND LOADING AS ACCESSORY USES.**

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

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

4 (b) Unless rented on a monthly basis to serve a dwelling unit ~~within 1,250 feet~~ pursuant
5 to Section 204.5(b)(1), below, accessory parking facilities for any dwelling in any R District
6 shall be limited, further, to storage of private passenger automobiles, private automobile
7 trailers and boats, and trucks of a rated capacity not exceeding $\frac{3}{4}$ ton. Notwithstanding any
8 provision of this Code to the contrary, the following shall be permitted as an accessory use:

9 (1) Lease by the property owner or manager, for a term of no less than one month,
10 of ~~a~~ up to five lawfully existing off-street parking spaces that is ~~are~~ required or permitted to serve
11 ~~a~~ dwelling units on the same lot, or for use by any resident of a dwelling unit located on a
12 different lot within the City and County of San Francisco ~~1,250 feet of such parking space~~.

13 (c) Accessory parking facilities shall include only those facilities which do not exceed
14 the following amounts for a structure, lot or development: three spaces where one space is
15 required by this Code; four spaces where two spaces are required by this Code; 150 percent
16 of the required number of spaces where three or more spaces are required by this Code; and,
17 in all districts other than NC, 15 spaces or seven percent of the total gross floor area of the
18 structure or development, whichever is greater, or in NC Districts, three spaces, where no off-
19 street parking spaces are required by this Code. For purposes of calculation under the last
20 provision just stated, gross floor area shall be as defined by this Code, and the area
21 considered to be devoted to parking shall be only the parking spaces and aisles, excluding
22 entrance and exit driveways and ramps. Off-street parking facilities which exceed the
23 amounts stated in this Subsection (c) shall be classified as either a principal or a conditional
24 use, depending upon the use provisions applicable to the district in which such facilities are
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1 located. This subsection (c) does not apply to districts subject to Section 151.1, which
2 establishes maximum amounts of accessory parking for all uses in those districts.

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4 Section 5. The San Francisco Police Code is hereby amended by amending Section
5 1215 to read as follows:

6 **SEC. 1215 COMMERCIAL PARKING PERMITS.**

7 (a) **Definitions.** The following definitions shall apply in Police Code Sections 2.9, 2.26
8 and 1215 through 1215.6 and Business and Tax Regulations Code Section 22.

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

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

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

19 (4) **Parking garage.** Any building or structure, or any portion of a building or
20 structure, where members of the public may park or store motor vehicles for a charge. This
21 definition does not include any parking garage in a residential building or development that
22 provides parking for a charge as a convenience or amenity for residents or their guests only,
23 or any parking garage in a residential building that rents not more than five spaces to non-residents of
24 the building on a monthly basis and is registered with the Tax Collector pursuant to Article 9,
25 Section 609 of the Business and Tax Regulations Code.

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

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

13 (b) **Permit Requirement.** A person may not operate a parking garage or parking lot,
14 directly or indirectly, unless the person holds a commercial parking permit issued by the Chief
15 of Police. This Section requires a separate commercial parking permit for each parking
16 garage and parking lot. The Chief of Police shall close immediately any parking garage or
17 parking lot operating without the required commercial parking permit. A parking garage or
18 parking lot that is registered with the Tax Collector pursuant to Article 9, Section 609, of the Business
19 and Tax Regulations Code is not required to hold a commercial parking permit under this Section.

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

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4 Section 6. Effective Date. This Ordinance shall become effective 30 days from the
5 date of passage.

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7 Section 7. This section is uncodified. In enacting this Ordinance, the Board intends to
8 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
9 punctuation, charts, diagrams, or any other constituent part of the Business and Tax
10 Regulations Code, Planning Code and Police Code that are explicitly shown in this legislation
11 as additions, deletions, Board amendment additions, and Board amendment deletions in
12 accordance with the "Note" that appears under the official title of the legislation.

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

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17 By: _____
18 Jean H. Alexander
19 Deputy City Attorney

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