

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 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  
CCQA Guidelines, Article 18,  
Section 15273, "Rates, Tolls,  
Fares and Charges."*

*Nannie Turrell  
August 26, 2013  
2013.1199E*



1 [Business and Tax Regulations, Planning, and Police Codes - Residential Properties]

2  
3 **Ordinance amending the Business and Tax Regulations, Planning, and Police Codes to**  
4 **change the limits of Parking Tax Occupancy Simplification for residential properties by**  
5 **increasing, from five to 10, the number of parking spaces residential buildings may rent**  
6 **to non-residents and increasing the gross revenue they may earn from rent from \$4,000**  
7 **to \$12,000 per quarter and from \$15,000 to \$40,000 annually; and making environmental**  
8 **findings and findings of consistency with the General Plan and the eight priority**  
9 **policies of Planning Code, Section 101.1.**

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

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

18 Section 1. Findings.

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

23 (b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_, adopted  
24 findings that the actions contemplated in this ordinance are consistent, on balance, with the  
25 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board

1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
2 Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.  
3

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

6 **SEC. 609. PARKING SPACE OCCUPANCY TAX SIMPLIFICATION FOR**  
7 **RESIDENTIAL PROPERTIES.**

8 (a) **Findings.**

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

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

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

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

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

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

22 (7) Therefore, in order to encourage small property owners to come forward, to  
23 register with the City, and to start collecting parking tax, this Ordinance will forgive taxes owed  
24 for tax periods ending before April 1, 2011.  
25

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 Planning Code is hereby amended by revising Section 204.5, to read  
21 as follows:

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

23 In order to be classified as an accessory use, off-street parking and loading shall meet  
24 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 pursuant to this Section  
5 204.5(b)(1), ~~below~~, accessory parking facilities for any dwelling in any R District shall be  
6 limited, further, to storage of private passenger automobiles, private automobile trailers and  
7 boats, and trucks of a rated capacity not exceeding  $\frac{3}{4}$  ton. Notwithstanding any provision of  
8 this Code to the contrary, the ~~following shall be permitted as an accessory use:~~

9 ~~(1)~~ Lease of lawfully existing off-street residential parking spaces by the  
10 property owner or manager, for a term of no less than one month, is permitted as an accessory  
11 use as follows:

12 (A) for use by any resident of a dwelling unit located on a different lot within  
13 1,250 feet of such parking space or

14 (B) for use by any resident of a dwelling unit located on a different lot within the  
15 City and County of San Francisco so long as no more than ~~five (5)~~ 10 spaces are rented to  
16 those who live beyond 1,250 feet of such parking space.

17 (c) Accessory parking facilities shall include only those facilities which do not exceed  
18 the following amounts for a structure, lot or development: three spaces where one space is  
19 required by this Code; four spaces where two spaces are required by this Code; 150 percent  
20 of the required number of spaces where three or more spaces are required by this Code; and,  
21 in all districts other than NC, 15 spaces or seven percent of the total gross floor area of the  
22 structure or development, whichever is greater, or in NC Districts, three spaces, where no off-  
23 street parking spaces are required by this Code. For purposes of calculation under the last  
24 provision just stated, gross floor area shall be as defined by this Code, and the area  
25 considered to be devoted to parking shall be only the parking spaces and aisles, excluding

1 entrance and exit driveways and ramps. Off-street parking facilities which exceed the  
2 amounts stated in this ~~§~~ subsection (c) shall be classified as either a principal or a conditional  
3 use, depending upon the use provisions applicable to the district in which such facilities are  
4 located. This subsection (c) does not apply to districts subject to Section 151.1, which  
5 establishes maximum amounts of accessory parking for all uses in those districts.  
6

7 Section 4. The Police Code is hereby amended by revising Section 1215, to read as  
8 follows:

9 **SEC. 1215. COMMERCIAL PARKING PERMITS.**

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

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

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

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

21 ~~(4)~~ **Entertainment Establishment.** Any building, space, or structure operating under  
22 a "Place of Entertainment" permit issued pursuant to San Francisco Police Code Section 1060  
23 et seq. or operating under an "Extended Hours Premises" permit issued pursuant to San  
24 Francisco Police Code Section 1070 et seq.  
25

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

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

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

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

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

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

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

23           ~~(C3)~~ any outdoor or uncovered space that is part of a residential building that  
24 rents not more than ~~five~~<sup>10</sup> spaces to non-residents of the building on a monthly basis and is  
25

1 registered with the Tax Collector pursuant to Article 9, Section 609 of the Business and Tax  
2 Regulations Code.

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

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

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

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

22 Notwithstanding the foregoing paragraph, a governmental entity operating a parking  
23 garage or parking lot on that governmental entity's property is not required to obtain a  
24 commercial parking permit for that parking garage or parking lot; however, any other person  
25 operating a parking garage or parking lot on a governmental entity's property must hold a

1 commercial parking permit issued by the Chief of Police for each such parking garage and  
2 parking lot.

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

10  
11 Section 5. **Effective Date.** This ordinance shall become effective 30 days after  
12 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
13 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
14 of Supervisors overrides the Mayor's veto of the ordinance.

15  
16 Section 6. **Scope of Ordinance.** In enacting this ordinance, the Board of Supervisors  
17 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
18 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
19 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
20 additions, and Board amendment deletions in accordance with the "Note" that appears under  
21 the official title of the ordinance.

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

24 By: 

25 JEAN H. ALEXANDER  
Deputy City Attorney

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FILE NO. 130790

## LEGISLATIVE DIGEST

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

**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.**

### 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. 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.

FILE NO.

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.