

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

3 **Ordinance amending the Business and Tax Regulations, and Police Codes to change**
4 **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.**

9
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 ~~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 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. 130790 and is incorporated herein by reference.
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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).

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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*~~ten~~
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.
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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.

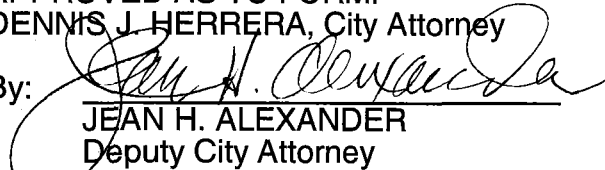
15 (c) **Annual Permit.** Each commercial parking permit shall authorize the permittee to
16 operate the permitted parking garage or parking lot for one year from the date the Chief of
17 Police issues the permit, unless the Chief of Police suspends or revokes the permit. Each
18 commercial parking permit 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.

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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.

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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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City and County of San Francisco
Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 130790

Date Passed: October 22, 2013

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.

October 02, 2013 Budget and Finance Committee - RECOMMENDED

October 08, 2013 Board of Supervisors - PASSED, ON FIRST READING

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 22, 2013 Board of Supervisors - FINALLY PASSED

Ayes: 9 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Mar, Tang and Yee
Excused: 2 - Kim and Wiener

File No. 130790

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 10/22/2013 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor

Date Approved