

1 [Business and Tax Regulations, Police Codes - Exempting Certain Parking Stations and
2 Hotels]

3 **Ordinance amending the Business and Tax Regulations Code to exempt parking**
4 **stations and hotels earning less than \$40,000 in gross annual rental revenue from the**
5 **requirements to obtain a certificate of authority and to make monthly remittances, and**
6 **to exempt such parking stations from the requirement to obtain a parking tax bond.**

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

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

15 Section 1. The Business and Tax Regulations Code is hereby amended by revising
16 Section 6.9-3 of Article 6, to read as follows:

17 **SEC. 6.9-3. DETERMINATIONS, RETURNS AND PAYMENTS.**

18 (a) **Remittances.** Notwithstanding the due dates otherwise provided in Section 6.9-1,
19 taxpayers shall make remittances of taxes and third-party taxes to the Tax Collector as
20 follows:

21 (1) **Hotel and Parking Taxes.** Except as provided in subsection (2) below, ~~t~~The
22 Hotel Tax (Article 7) and the Parking Tax (Article 9) returns shall be filed monthly and taxes
23 shall be remitted monthly. Such monthly remittances shall be due and payable to the
24 Tax Collector on or before the last day of the month immediately following the month for which
25 such remittance is due.

1 (2) Deemed Small Operators. A “Deemed Small Operator” is either a Hotel Operator
2 or Parking Station Operator that has gross revenues from Rent that do not exceed \$40,000 annually
3 attributed to either Rent from hotel or parking operations but not a combination thereof. No Hotel
4 Operator or Parking Station Operator shall be a “Deemed Small Operator” if their total combined
5 revenue from all parking and hotel operations within San Francisco is greater than \$250,000 per year.
6 Any valet parking operator required to hold a permit under Police Code Section 1216 shall not be a
7 “Deemed Small Operator.” Notwithstanding any other provision of this Code, a Deemed Small
8 Operator shall be relieved of certain obligations, specified in subsection (A) below, provided it meets
9 all of the requirements of subsection (B) below.

10 (A) The Deemed Small Operator shall be relieved of the obligation to do the
11 following:

12 (i) Obtain a certificate of authority from the Tax Collector under
13 Section 6.6-1(a) or to execute a bond under Section 6.6-1(h).

14 (ii) Make monthly tax remittances pursuant to Section 6.9-
15 3(a)(1), provided that its gross revenues from Rent do not exceed \$40,000 annually. At any time that
16 the gross revenues from Rent exceed \$40,000 annually, the operator must report and file monthly tax
17 returns as required by Section 6.9-3(a)(1) beginning with the following month.

18 (iii) A Deemed Small Operator of a Parking Station, shall not be
19 required to pay the Revenue Control Equipment Compliance Fee in Article 22, Section 2219.5 for that
20 Parking Station and shall not be required to hold a commercial parking permit under Section 1215(b)
21 of the Police Code.

22 (B) To be eligible for relief under this Section 6.9-3(a)(2), a Deemed Small
23 Operator must meet all of the following requirements:

24 (i) Register for relief using the form prescribed by the
25 Tax Collector for that purpose, and provide information required by the Tax Collector. The operator

1 shall demonstrate to the satisfaction of the Tax Collector that it meets all of the requirements of this
2 Section 6.9-3(a)(2).

3 (ii) Maintain documents and records of all parking transactions
4 in a manner acceptable to the Tax Collector. Such documents and records must objectively
5 substantiate any relief claimed under subsection (a) of this Section 6.9-3 and be provided to the Tax
6 Collector upon request.

7 (iii) Timely file with the Tax Collector annually a parking space
8 occupancy tax or a hotel tax return, regardless of the amount of tax liability shown on the return. All
9 returns shall be filed on or before January 31 of each year.

10 (iv) Any operator who makes a material misrepresentation in a
11 return or fails to amend a return within seven days of a material change or who fails to comply in a
12 timely manner with a rule or regulation promulgated by the Tax Collector shall, in addition to any
13 other liability that may be imposed under the provisions of this Article 6, be ineligible to claim relief
14 under this Section 6.9-3.

15 **(23) Payroll Expense Tax and Gross Receipts Tax.** The payroll expense tax
16 (Article 12-A) and the gross receipts tax (Article 12-A-1) shall be paid in quarterly installments
17 as follows:

18 (A) **Due Dates.** Every person liable for payment of payroll expense tax or
19 gross receipts tax for any tax year shall pay such tax for that tax year in 4 quarterly
20 installments. The first, second, and third quarterly installments shall be due and payable, and
21 shall be delinquent if not paid on or before, April 30, July 31, and October 31, respectively, of
22 that tax year. The fourth installment shall be reported and paid on or before the last day of
23 February of the immediately following tax year.

24 (B) **Installment Payments.**

25 (i) The first, second, and third quarterly installments shall be a

1 credit against the person's total payroll expense tax or gross receipts tax, as applicable, for
2 the tax year in which such first, second, and third quarterly installments are due. The fourth
3 quarterly installment shall be in an amount equal to the person's total payroll expense tax or
4 gross receipts tax liability for the tax year, as applicable, less the amount of the payroll
5 expense tax or gross receipts tax first, second, and third quarterly installments and other tax
6 payments, if any, actually paid.

7 (ii) **Payroll Expense Tax Installments.** A person's first, second,
8 and third quarterly installment payments of payroll expense tax for any tax year shall be
9 computed by using the person's taxable payroll expense (as defined under Article 12-A) for
10 each quarter and the rate of tax applicable to the tax year in which the first, second, and third
11 quarterly installments are due. Notwithstanding the foregoing sentence, and except for
12 taxpayers under Section 953.8 of Article 12-A-1, for tax years commencing after December
13 31, 2013, the first, second, and third quarterly installments shall be computed using the rates
14 set forth in the following table:

15

<i>Tax Year</i>	<i>1st, 2nd and 3rd Installments</i>
2014	1.350%
2015	1.125%
2016	0.750%
2017	0.375%
2018	0.000%

21

22 (iii) **Gross Receipts Tax Installments.** A person's first, second,
23 and third quarterly installments of gross receipts tax for any tax year shall be computed by
24 using the person's taxable gross receipts (as defined under Article 12-A-1) for each quarter
25 and the rate of tax applicable to the tax year in which the first, second and third quarterly

1 installments are due. Notwithstanding the foregoing sentence, and except for taxpayers
2 under Section 953.8 of Article 12-A-1, for tax years commencing after December 31, 2013,
3 the first, second and third quarterly installments shall be computed using the rates applicable
4 to the person's taxable gross receipts under Sections 953.1 through 953.7 of Article 12-A-1,
5 multiplied by the percentages set forth in the following table:

<i>Tax Year</i>	<i>1st, 2nd and 3rd Installments</i>
2014	10%
2015	25%
2016	50%
2017	75%
2018	100%

12
13 **(C) Computation of Liability; Payments.**

14 (i) A person's total payroll expense tax liability shall be computed
15 using the rate for that tax year computed, certified, and published by the Controller under
16 Section 903.1 of Article 12-A or as otherwise provided in Article 12-A. A person's total gross
17 receipts tax liability shall be computed using the rate for that tax year computed, certified and
18 published by the Controller under Section 959 of Article 12-A-1, or as otherwise provided in
19 Article 12-A-1.

20 (ii) Any amounts paid on a person's payroll expense tax liability for
21 a tax year that are in excess of that person's actual payroll expense tax liability for that year
22 shall be credited to that person's gross receipts tax liability for that year. Any amounts paid on
23 a person's gross receipts tax liability for a tax year that are in excess of that person's actual
24 gross receipts tax liability for that year shall be credited to that person's payroll expense tax
25 liability for that year.

1 (b) **Tax Installment Penalties.** Every person who fails to pay any tax installment
2 required under this Section before the relevant delinquency date shall pay a penalty in the
3 amount of 5 percent of the amount of the delinquent tax installment per month, or fraction
4 thereof, up to 20 percent in the aggregate, and shall also pay interest on the amount of the
5 delinquent tax installment from the date of delinquency at the rate of 1 percent per month, or
6 fraction thereof, for each month the installment is delinquent, until paid.

7 The penalty and interest provided under this subsection shall not apply if each of the
8 payroll expense tax and gross receipts tax payments are equal to or greater than the actual
9 tax owed for that quarter, or the sum of the payroll expense tax payments and gross receipts
10 tax payments for the quarter is equal to or greater than 26 percent of the sum of the payroll
11 expense tax and gross receipts tax liability for the immediately preceding tax year. For
12 taxpayers under Section 953.8 of Article 12-A-1, for tax year 2014 only, the penalty and
13 interest provided under this subsection shall also not apply if a first, second, or third gross
14 receipts tax quarterly installment payment is in an amount that is at least 26 percent of the
15 payroll expense tax liability for the immediately preceding tax year.

16 (c) **Hotel and Parking Taxes.** *Unless otherwise provided, a*An operator subject to the
17 Hotel Tax (Article 7) or the Parking Tax (Article 9) shall make monthly remittances in the
18 amount of the actual tax owed.

19 (d) **Forms and Adjustments.** Tax remittances required under this Section shall be
20 accompanied by a tax remittance form prepared by the Tax Collector, but failure of the Tax
21 Collector to furnish the taxpayer with a tax remittance form shall not relieve the taxpayer from
22 any tax payment obligation.

23
24 Section 2. The Business and Tax Regulations Code is hereby amended by repealing
25 Section 609 of Article 9 in its entirety, as follows:

1 **~~SEC. 609. PARKING SPACE OCCUPANCY TAX SIMPLIFICATION FOR RESIDENTIAL~~**
2 **~~PROPERTIES.~~**

3 ~~(a) Findings.~~

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

6
7 ~~———— (2) Any person who rents parking space in a Parking Station, as defined in Article 9 of~~
8 ~~the Business and Tax Regulations Code, must collect parking tax from the individual parking the car~~
9 ~~and remit it to the City. Current City law treats large commercial operators of garages and small~~
10 ~~property owners the same for purposes of this tax.~~

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

13 ~~———— (4) Many small property owners are ignorant of the legal requirements.~~

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

16 ~~———— (6) The City desires to maximize the collection of required taxes.~~

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

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

23 ~~(b) Notwithstanding any other provision of this Code, the owner or manager of a residential~~
24 ~~building, that operates a Parking Station that is a part of the residential building and, is located on the~~
25 ~~same parcel, or within 50 feet of the property line of the building, shall be relieved of certain~~

1 ~~requirements for Parking Stations as enumerated below, provided the owner or manager meets all of~~
2 ~~the requirements of and registers under subsection (c) below. The aforesaid building owner or~~
3 ~~manager:~~

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

7 ~~—— (2) Shall not be required to make monthly tax remittances pursuant to Section 6.9-~~
8 ~~3(a)(1), provided that the gross revenues of the Parking Station from Rent collected from individuals~~
9 ~~that do not reside at the property do not exceed \$12,000 in a quarterly reporting period or \$40,000~~
10 ~~annually. At any time that the gross revenues of the Parking Station from Rent exceed \$12,000 during~~
11 ~~any quarterly reporting period, the building owner or manager must report and file monthly tax~~
12 ~~prepayments as required by Section 6.9-3(a)(1) beginning with the following month.~~

13 ~~—— (3) Is registered under subsection (c) below, and if eligible for parking tax~~
14 ~~simplification for a specific Parking Station, shall not be required to pay the Revenue Control~~
15 ~~Equipment Compliance Fee in Article 22, Section 2219.5 for that Parking Station.~~

16 ~~—— (4) Shall not be required to hold a commercial parking permit under Section 1215(b) of~~
17 ~~the Police Code.~~

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

23 ~~—— (1) No more than 10 spaces in the Parking Station are rented to individuals who do not~~
24 ~~reside at the residential property.~~

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

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

5 ~~—— (4) Total gross receipts from the rental of parking space to individuals who do not~~
6 ~~reside at the property do not exceed \$12,000 in any quarter or \$40,000 annually.~~

7 ~~(d) In addition, the owner or manager must:~~

8 ~~—— (1) Maintain documents and records of all parking transactions in a manner acceptable~~
9 ~~to the Tax Collector. Such documents and records must objectively substantiate any relief claimed~~
10 ~~under this Section and be provided to the Tax Collector or designee upon request.~~

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

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

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

21 ~~(f) Amnesty:~~

22 ~~—— (1) The building owner or manager who registers for relief under this Section between~~
23 ~~January 1, 2013 and June 30, 2013 and satisfies the eligibility requirements established in subsections~~
24 ~~609(b) and (c) of this Article shall be eligible for amnesty from all fees, penalties and interest for~~
25 ~~failure to report and remit parking space occupancy tax due and payable prior to June 30, 2013 and~~

1 ~~shall, in addition, be eligible for amnesty from all parking space occupancy taxes for the tax periods~~
2 ~~ending before April 1, 2011, with the following exceptions:~~

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

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

11 ~~————— (2) The Tax Collector shall waive all taxes, fees, penalties and interest owed for~~
12 ~~delinquent remittance of parking space occupancy taxes owed under the provisions of Articles 6 and 9~~
13 ~~of the Business and Tax Regulations Code, but forgiven under this Section 6.09(f), without need to make~~
14 ~~the findings required under Section 6.17-4.~~

15 ~~————— (3) The Tax Collector shall waive all fees, penalties and interest owed for failure to~~
16 ~~collect and/or remit parking space occupancy taxes under Article 22 and Sections 6.17-1, 6.17-2, and~~
17 ~~6.17-3 of this Code.~~

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

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

1 ~~—— (6) If the Tax Collector determines that the person registering for relief under this~~
2 ~~Section is delinquent in any taxes, fees or penalties owed to the City and County of San Francisco other~~
3 ~~than the parking tax, that person shall be ineligible to claim the relief under this subsection (f).~~

4
5 Section 3. The Business and Tax Regulations Code is hereby amended by revising
6 Section 2219.7 to read as follows:

7
8 **SEC. 2219.7. EXEMPTIONS.**

9 (a) **Exemption.** The Fee shall not apply to any Parking Station that is exempt from the
10 requirements of Article 22, pursuant to Section 2202, or that is registered and eligible ~~for~~
11 ~~parking tax simplification, pursuant to Article 9, Section 609~~ under Section 6.9-3 of the Business and
12 Tax Regulations Code.

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

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

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

1 Section 4. The Police Code is hereby amended by revising Section 1215 to read as
2 follows:

3
4 **SEC. 1215. COMMERCIAL PARKING PERMITS.**

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

7 * * * *

8 **Parking garage.** Any building or structure, or any portion of a building or
9 structure, where members of the public may park or store motor vehicles for a charge. This
10 definition does not include

11 (1) any parking garage in a residential building or development that provides
12 parking for a charge as a convenience or amenity for residents or their guests only;

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

17 (3) any parking garage in a residential building that rents not more than ten
18 spaces to non-residents of the building on a monthly basis and is registered with the Tax
19 Collector ~~pursuant to~~ under Article ~~96~~, Section ~~6096.9-3~~ of the Business and Tax Regulations
20 Code.

21 **Parking lot.** Any outdoor or uncovered space, including any plot, place, lot, parcel,
22 yard or enclosure, or any portion of such a space, where members of the public may park or
23 store motor vehicles for a charge. This definition does not include

1 (1) any outdoor or uncovered space that is part of a residential building or
2 development that provides parking for a charge as a convenience or amenity for residents or
3 their guests only;

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

8 (3) any outdoor or uncovered space that is part of a residential building that rents
9 not more than 10 spaces to non-residents of the building on a monthly basis and is registered
10 with the Tax Collector ~~pursuant to~~ Article 96, Section ~~6096.9-3~~ 6096.9-3 of the Business and Tax
11 Regulations Code.

12 * * * *

13 (b) **Permit Requirement.** Except as provided in this subsection (b), a person may not
14 operate a parking garage or parking lot, directly or indirectly, unless the person holds a
15 commercial parking permit issued by the Chief of Police. This Section requires a separate
16 commercial parking permit for each parking garage and parking lot. The Chief of Police shall
17 close immediately any parking garage or parking lot operating without the required
18 commercial parking permit. A parking garage or parking lot that is registered with the Tax
19 Collector ~~pursuant to~~ Article 96, Section ~~6096.9-3~~ 6096.9-3, of the Business and Tax Regulations
20 Code is not required to hold a commercial parking permit under this Section.

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

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

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1 additions, and Board amendment deletions in accordance with the "Note" that appears under
2 the official title of the ordinance.

3

4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By: _____
7 MOE JAMIL
8 Deputy City Attorney

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