AMENDED IN COMMITTEE 7/15/15

FILE NO. 150625

ORDINANCE NO. 152-15

[Business and Tax Regulations, Police Codes - Exempting Certain Parking Stations and 1 Hotels] 2 Ordinance amending the Business and Tax Regulations Code to exempt parking 3 4 stations and hotels earning less than \$40,000 in gross annual rental revenue from the requirements to obtain a certificate of authority and to make monthly remittances, and 5 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. **Additions to Codes** are in *single-underline italics Times New Roman font*. 8 **Deletions to Codes** are in *strikethrough italics Times New Roman font*. Board amendment additions are in double-underlined Arial font. 9 Board amendment deletions are in strikethrough Arial font. Asterisks (* * * *) indicate the omission of unchanged Code 10 subsections or parts of tables. 11 12 Be it ordained by the People of the City and County of San Francisco: 13 Section 1. The Business and Tax Regulations Code is hereby amended by revising 14 Section 6.9-3 of Article 6, to read as follows: 15 16 SEC. 6.9-3. DETERMINATIONS, RETURNS AND PAYMENTS. 17 (a) **Remittances.** Notwithstanding the due dates otherwise provided in Section 6.9-1, 18 19 taxpayers shall make remittances of taxes and third-party taxes to the Tax Collector as 20 follows: (1) **Hotel and Parking Taxes.** Except as provided in subsection (2) below, tThe 21

Hotel Tax (Article 7) and the Parking Tax (Article 9) returns shall be filed monthly and taxes

Tax Collector on or before the last day of the month immediately following the month for which

shall be remitted monthly. Such monthly remittances shall be due and payable to the

such remittance is due.

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| 1 | (2) Deemed Small Operators. A "Deemed Small Operator" is either a Hotel Operator |
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| 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 |
| | |

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

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

| Tax Year | 1st, 2nd and 3rd Installments |
|----------|-------------------------------|
| 2014 | 1.350% |
| 2015 | 1.125% |
| 2016 | 0.750% |
| 2017 | 0.375% |
| 2018 | 0.000% |

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

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

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

(C) Computation of Liability; Payments.

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

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

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

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

- (c) **Hotel and Parking Taxes.** <u>Unless otherwise provided, aAn operator subject to the Hotel Tax (Article 7) or the Parking Tax (Article 9) shall make monthly remittances in the amount of the actual tax owed.</u>
- (d) **Forms and Adjustments.** Tax remittances required under this Section shall be accompanied by a tax remittance form prepared by the Tax Collector, but failure of the Tax Collector to furnish the taxpayer with a tax remittance form shall not relieve the taxpayer from any tax payment obligation.

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

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

SEC. 2219.7. EXEMPTIONS.

- (a) **Exemption.** The Fee shall not apply to any Parking Station that is exempt from the requirements of Article 22, pursuant to Section 2202, or that is registered and eligible *for* parking tax simplification, pursuant to Article 9, Section 609 under Section 6.9-3 of the Business and Tax Regulations Code.
- (b) **Inspection and Audit.** The Tax Collector may inspect or audit any claim for exemption from the Fee to determine whether or not the Parking Station is exempt from the Fee.
- (c) **Notice of Change in Status.** Any Operator who claims an exemption to Fee payment must notify the Tax Collector in writing within 10 days of when that Parking Station no longer qualifies for the exemption, if applicable.
- (d) Penalties for Establishments That Falsely Claim to Qualify for Exemption.

 Any Operator that claims an exemption and is found by the Tax Collector not to be entitled to the exemption and to have falsely claimed the exemption without reasonable grounds,

 Operator shall be subject to a penalty of \$100. The Tax Collector may impose the penalty by written citation. Any Operator that disputes the Tax Collector's determination under this Section may appeal to the Tax Collector in writing according to the provisions of Article 6, Section 6.19-8.

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

SEC. 1215. COMMERCIAL PARKING PERMITS.

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

* * * *

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

- (1) any parking garage in a residential building or development that provides parking for a charge as a convenience or amenity for residents or their guests only;
- (2) any parking garage on San Francisco Unified School District property where a Qualified Nonprofit makes special event parking available to members of the public for a charge, pursuant to a Special School Parking Event Permit under Article 9, Section 608 of the Business and Tax Regulations Code; and
- (3) any parking garage in a residential building that rents not more than ten spaces to non-residents of the building on a monthly basis and is registered with the Tax Collector $\underline{pursuant to under}$ Article $\underline{96}$, Section $\underline{6096.9-3}$ of the Business and Tax Regulations Code.

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

- (1) any outdoor or uncovered space that is part of a residential building or development that provides parking for a charge as a convenience or amenity for residents or their guests only;
- (2) any outdoor or uncovered lot on San Francisco Unified School District property where a Qualified Nonprofit makes special event parking available to members of the public for a charge, pursuant to a Special School Parking Event Permit under Article 9, Section 608 of the Business and Tax Regulations Code; and
- (3) any outdoor or uncovered space that is part of a residential building that rents not more than 10 spaces to non-residents of the building on a monthly basis and is registered with the Tax Collector pursuant to under Article 96, Section 6096.9-3 of the Business and Tax Regulations Code.

* * * *

(b) **Permit Requirement.** Except as provided in this subsection (b), a person may not operate a parking garage or parking lot, directly or indirectly, unless the person holds a commercial parking permit issued by the Chief of Police. This Section requires a separate commercial parking permit for each parking garage and parking lot. The Chief of Police shall close immediately any parking garage or parking lot operating without the required commercial parking permit. A parking garage or parking lot that is registered with the Tax Collector *pursuant tounder* Article 96, Section 6096.9-3(a)(2), of the Business and Tax Regulations Code is not required to hold a commercial parking permit under this Section.

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

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

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

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

Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

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

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

By:

MOE/JAMIL/ Deputy City Attorney

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City and County of San Francisco **Tails**

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

Ordinance

File Number:

150625

Date Passed: July 28, 2015

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

July 15, 2015 Budget and Finance Sub-Committee - AMENDED

July 15, 2015 Budget and Finance Sub-Committee - RECOMMENDED AS AMENDED

July 21, 2015 Board of Supervisors - PASSED ON FIRST READING

Ayes: 10 - Avalos, Breed, Christensen, Cohen, Farrell, Kim, Mar, Tang, Wiener

and Yee

Excused: 1 - Campos

July 28, 2015 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Avalos, Breed, Campos, Christensen, Cohen, Farrell, Kim, Mar, Tang,

Wiener and Yee

File No. 150625

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 7/28/2015 by the Board of Supervisors of the City and County of San Francisco.

> Angela Calvillo Clerk of the Board