



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text, Business and Tax Regulations, and Police Code Change HEARING DATE: SEPTEMBER 6, 2012

Project Name: **Parking Tax Simplification for Residential Properties**

Case Number: 2012.0791T [Board File No. 12-0631]

Initiated by: Supervisor Wiener / Introduced July 24, 2012

Staff Contact: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415.558.6395

90-Day Deadline: October 24, 2012

Recommendation: **Recommend Approval with Modifications**

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PLANNING CODE AND OTHER CODE AMENDMENTS

The proposed Ordinance would initiate amendments to the San Francisco Planning Code to allow as an accessory use up to five dwelling unit parking spaces to be leased to persons living off-site anywhere in the City.

In addition, this Ordinance would amend additional municipal codes as follows:

- 1) amend the San Francisco Business and Tax Regulations Code by adding Section 609 to establish Parking Tax Simplification for Residential Properties to relieve residential property owners and managers renting five or fewer parking spaces in Parking Stations physically attached to or otherwise associated with the building from the requirement to: (a) obtain a certificate of authority, (b) make monthly tax prepayments, (c) obtain a parking tax bond, and (d) providing amnesty from parking taxes, interest, penalties and fees owed for tax periods more than 24 months prior to the effective date of the Ordinance;
- 2) amend the Business and Tax Regulations Code Section 2219.7 to exempt property owners and managers registered pursuant to Section 609 from the requirement to pay the Revenue Control Equipment compliance fee;
- 3) amend the Police Code Section 1215 to eliminate the requirement to hold a commercial parking permit for property owners and managers registered pursuant to Section 609 of the Business and Tax Regulations Code.

The Way It Is Now:

Currently, any person who rents parking space in a Parking Station, as defined in Article 9 of the Business and Tax Regulations Code, is required to collect the tax from the individual parking the car and remit it to the City. The operator of a Parking Station must also:

- Obtain a certificate of authority from the Tax Collector (Article 6, Section 6.6-1 (a).), including executing a parking tax bond. (Section 6.6-1(h).)
- Make monthly tax prepayments and remittances to the Tax Collector. (Article 6, Section 6.9-3(a)(1).)
- Pay an annual Revenue Control Equipment ("RCE") Compliance Fee. (Article 22, Section 2219.5.)
- Apply for and maintain a commercial parking permit. (Police Code, Section 1215(b).)
- Timely collect, report, and remit any tax imposed by the Business and Tax Regulations Code. (Article 6, Section 6.6-1(f).)

Under the Planning Code, accessory parking facilities for a dwelling in a residential district are limited to off-street parking, rented for a term of no less than one month, to serve a dwelling unit on the same lot, or within 1,250 feet of such parking space. (Planning Code, Section 204.5(b)(1) .)

The Way It Would Be:

The proposed Ordinance would amend the current law to establish 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 would be relieved of the requirements to obtain a certificate of authority and a commercial parking permit, make prepayments, and pay the RCE Compliance Fee. The owner or manager may rent no more than 5 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. The Tax Collector must approve the application for parking tax simplification.

The building owner or manager that registers prior to March 30, 2013 and is approved for Parking Tax Simplification would also be eligible for amnesty from liability for delinquent parking taxes, penalties, interest and fees for tax periods more than 24 months prior to the effective date of the Ordinance.

→The Planning Code would be amended to permit a building owner or manager to rent up to five (5) parking spaces, in a Parking Station that has been approved for Parking Tax Simplification, to anyone that lives in the City. In order to qualify for such leasing the spaces must be permitted in relation to residential dwelling units. Each building is limited to leasing no more than 5 parking spaces but these 5 spaces may be located in a building of any size and is not limited to buildings with 5 or less dwelling units.

The text of certain provisions of Section 1215, not affected by this Ordinance, have been updated to reflect the changes made to Section 1215 by Ordinance 87-12, effective June 13, 2012.

ISSUES AND CONSIDERATION

Accessory Parking vs. Commuter Parking. In 2008, Ordinance Number 112-08 amended the Planning Code to amend Section 204.5 (among other changes) to allow parking spaces to be leased or rented on a monthly basis to serve the resident of any dwelling unit within 1,250-feet of said parking space. Prior to this amendment, such parking could only be used by occupants, patrons, or employees of the structure. At the time this Ordinance was reviewed, the Department stated,

“Currently there is an open and flourishing, but technically illegal, market for renting parking spaces. Today, accessory parking can only be used by the residents of that building and cannot be rented out. . . [However,] residential parking should not be used to encourage commuter parking or commercial parking.”

This statement outlines the core of the issue. The City’s goal in regulating accessory parking is to ensure that the parking is truly ancillary to the principally approved use. Originally, the Code maintained that the parking could only be leased by residents of the building. Today, the Code allows the parking to be leased by those who live in the neighborhood. The proposed change would allow small amounts of parking that is accessory to residential uses to be used leased by anyone who lives in San Francisco. Given that the amount of parking that could be leased in any one building would be limited to no more than five spaces, it is unlikely that this amendment will create a glut of parking or cause a significant increase in shift in commuter modes of travel.

Separating the cost of parking and housing. The General Plan prioritizes supporting housing that is affordable, especially through programs that do not require a direct public subsidy. Planning Code Section 167 requires that the costs of parking be separated from the costs of housing in structures of 10 or more residential units. The cost that parking adds to a typical unit in San Francisco is substantial, typically between \$50-\$60 thousand per parking space. Allowing parking spaces to be leased separately from the housing units would allow some people to choose units without parking. While it should be noted that opening up the market for parking spaces to include those who live within the City may increase competition for the spaces and thus drive the rent for such spaces upward, the City does not have a policy to protect affordable parking.

REQUIRED COMMISSION ACTION

The proposed Resolution is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATIONS

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinances and adopt the attached Draft Resolution to that effect. The recommended modification is to include the following amendments:

- I. **Return the provision to allow neighborhood rentals back into Section 204.5.**
- II. **Conforming amendment: amend Section 150(d).**

Basis for Recommendation of Support and Modifications

Basis for Overall Recommendation. The Planning Code amendment is but one piece of a larger proposal that would simplify the City's existing taxation of parking spaces. By making the process for paying the taxes simpler to implement and by providing some amnesty for those who may not have previously known about the tax, compliance with the existing tax is likely to improve. For this reason, the Department recommends approval. The Planning Code amendment itself furthers the goal of separating the costs of housing and parking by broadening the potential market of those who may rent residential spaces to residents from across the City. The proposed amendment is unlikely to increase commuter parking as it is limited to residential buildings of 5 units or less. However, the Ordinance inadvertently removes the ability for owners of buildings with more than 5 residential parking spaces to lease these spaces to those who live in the neighborhood. For this reason, the Department would propose maintaining this existing provision.

Basis for Modifications

- I. **Add the provision to allow neighborhood rentals back into Section 204.5.** The proposed Ordinance adds an avenue for managers of 5 or less parking spaces to lease the space to anyone in the City but *it also removes* the current avenue for any space to be leased to those who live in the neighborhood. This change would conflict with Section 167 which requires the costs of housing and parking to be separated in buildings with 10 or more units. The existing provision allows parking spaces to be rented to those who live within 1250 feet—this assists with the goal of separating the costs of parking and housing while also limiting the usefulness of the spaces for commuter parking. In discussing this issue with the legislative sponsor, Supervisor Wiener, it appears this change was inadvertent.

To clarify how this parking may be used as accessory use, the Department recommends that Section 204.5(b)(1) be amended to read as follows: *Lease of lawfully existing off-street residential parking spaces by the property owner or manager, for a term of no less than one month is permitted as follows: (A) for use by any resident of a dwelling unit located on a different lot within 1,250 feet of such parking space or (B) for use by any resident of a dwelling unit located on a different lot within the City and County of San Francisco so long as no more than five (5) spaces are rented to those who live beyond 1,250 feet of such parking space.*

- II. **Conforming amendment: amend Section 150(d).** This Section states that "Any required residential parking space may be leased or rented on a monthly basis to serve the resident of any dwelling unit within 1,250-feet of said parking space, as provided under Section 204.5(b)(1) of this Code, and such lease or rental shall not be considered a reduction or elimination of required spaces."

The Department proposes amending this sentence as follows: Any required residential parking space may be leased or rented on a monthly basis ~~to serve the resident of any dwelling unit within 1,250 feet of said parking space,~~ as provided under Section 204.5(b)(1) of this Code, and such lease or rental shall not be considered a reduction or elimination of required spaces.

ENVIRONMENTAL REVIEW

Both the original proposed Ordinance and the proposed modification of the Ordinance have been reviewed and found not a project under the California Environmental Quality Act guidelines sections 15060(c)(2).

PUBLIC COMMENT

The Department has received no public comment on this proposal. The Office of the Treasure & Tax Collector provided a letter to Supervisor Wiener on August 7, 2012. This letter analyzed the parking industry, provided an estimate of increased compliance, estimated new tax revenue projections, and discussed staffing needs to effectively implement the proposed Ordinance. This letter is attached here as Exhibit C.

RECOMMENDATION: Recommendation of Approval with Modifications

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Draft Board of Supervisors Ordinance [Board File No. 12-0631]
- Exhibit C: Memorandum from the Office of the Treasurer & Tax Collector dated 8.7.12



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution

HEARING DATE: SEPTEMBER 6, 2012

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

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Fax:
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Project Name: **Parking Tax Simplification for Residential Properties**

Case Number: 2012.0352T [Board File No. 12-0631]

Initiated by: Supervisor Wiener / Introduced July 24, 2012

Staff Contact: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415.558.6395

90-Day Deadline: October 24, 2012

Recommendation: **Recommend Approval with Modifications**

RECOMMENDING THAT THE BOARD OF SUPERVISORS PASS AN ORDINANCE WITH MODIFICATIONS THAT WOULD 1) AMEND THE SAN FRANCISCO BUSINESS AND TAX REGULATIONS CODE BY ADDING SECTION 609 TO ESTABLISH PARKING TAX SIMPLIFICATION FOR RESIDENTIAL PROPERTIES TO RELIEVE RESIDENTIAL PROPERTY OWNERS AND MANAGERS RENTING FIVE OR FEWER PARKING SPACES IN PARKING STATIONS PHYSICALLY ATTACHED TO OR OTHERWISE ASSOCIATED WITH THE BUILDING FROM THE REQUIREMENT TO: (A) OBTAIN A CERTIFICATE OF AUTHORITY, (B) MAKE MONTHLY TAX PREPAYMENTS, (C) OBTAIN A PARKING TAX BOND, AND (D) PROVIDING AMNESTY FROM PARKING TAXES, INTEREST, PENALTIES AND FEES OWED FOR TAX PERIODS MORE THAN 24 MONTHS PRIOR TO THE EFFECTIVE DATE OF THE ORDINANCE; 2) AMEND THE BUSINESS AND TAX REGULATIONS CODE SECTION 2219.7 TO EXEMPT PROPERTY OWNERS AND MANAGERS REGISTERED PURSUANT TO SECTION 609 FROM THE REQUIREMENT TO PAY THE REVENUE CONTROL EQUIPMENT COMPLIANCE FEE; 3) AMEND THE PLANNING CODE SECTION 204.5 TO ALLOW AS AN ACCESSORY USE UP TO FIVE DWELLING UNIT PARKING SPACES TO BE LEASED TO PERSONS LIVING OFF-SITE ANYWHERE IN THE CITY; 4) AMEND THE POLICE CODE SECTION 1215 TO ELIMINATE THE REQUIREMENT TO HOLD A COMMERCIAL PARKING PERMIT FOR PROPERTY OWNERS AND MANAGERS REGISTERED PURSUANT TO SECTION 609 OF THE BUSINESS AND TAX REGULATIONS CODE; AND 6) MAKE ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH GENERAL PLAN AND PLANNING CODE SECTION 101.1.

PREAMBLE

Whereas, on July 24, 2012 Supervisor Wiener introduced a proposed Ordinance under Board File Number 12-0631 that would amend Planning Code (among other Codes described above) to allow as an accessory use up to five dwelling unit parking spaces to be leased to persons living off-site anywhere in the City; and

Whereas, since the introduction of the proposed Ordinance, the Planning Department recommended modifications to the proposed Ordinance; and

Whereas, on September 6, 2012 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance and the proposed modification; and

Whereas, the proposed Ordinance have been found exempt from the California Environmental Quality Act per section 15060(c)(2); and

Whereas, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented by Department staff, and other interested parties; and

Whereas, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the Commission has reviewed the proposed Ordinance; and

MOVED, that the Commission hereby recommends that the Board of Supervisors recommend *approval with modifications* of the proposed Ordinance and adopts the attached Draft Resolution to that effect.

The recommended modification is to include the following amendments:

I. Add the provision to allow neighborhood rentals back into Section 204.5. To clarify how this parking may be used as accessory use, the Commission recommends that Section 204.5(b)(1) be amended to read as follows: *Lease of lawfully existing off-street residential parking spaces by the property owner or manager, for a term of no less than one month is permitted as follows: (A) for use by any resident of a dwelling unit located on a different lot within 1,250 feet of such parking space or (B) for use by any resident of a dwelling unit located on a different lot within the City and County of San Francisco so long as no more than five (5) spaces are rented to those who live beyond 1,250 feet of such parking space.*

II. Conforming amendment: amend Section 150(d). The Commission proposes amending this sentence to read as follows: *Any required residential parking space may be leased or rented on a monthly basis as provided under Section 204.5(b)(1) of this Code, and such lease or rental shall not be considered a reduction or elimination of required spaces.*

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. Planning Code Section 167 requires that the costs of parking be separated from the costs of housing in structures of 10 or more residential units.
2. The City's goal in regulating accessory parking is to ensure that the parking is truly ancillary to the principally approved use.

3. Given that the amount of parking that could be leased in any one building would be limited to no more than five spaces, it is unlikely that this amendment will create a glut of parking or cause a significant increase in shift in commuter.
4. The General Plan prioritizes supporting housing that is affordable, especially through programs that do not require a direct public subsidy. Planning Code Section 167 requires that the costs of parking be separated from the costs of housing in structures of 10 or more residential units. The cost that parking adds to a typical unit in San Francisco is substantial, typically between \$50-\$60 thousand per parking space. Allowing parking spaces to be leased separately from the housing units would allow some people to choose units without parking. While it should be noted that opening up the market for parking spaces to include those who live within the City may increase competition for the spaces and thus drive the rent for such spaces upward, the City does not have a policy to protect affordable parking.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

Housing Element

POLICY 3.4 Preserve “naturally affordable” housing types, such as smaller and older ownership units.

POLICY 7.7 Support housing for middle income households, especially through programs that do not require a direct public subsidy.

Transportation Element

POLICY 34.1 Regulate off-street parking in new housing so as to guarantee needed spaces without requiring excesses and to encourage low auto ownership in neighborhoods that are well served by transit and are convenient to neighborhood shopping.

Market & Octavia Plan

POLICY 2.4.1 Disaggregate the cost of parking from the cost of housing.

In much of the housing built under current parking requirements, the cost of parking is “bundled” into the cost of owning or renting a home, requiring households to pay for parking whether or not they need it. As part of an overall effort to increase housing affordability in the area, costs for parking should be separated from the cost of housing and, if provided, offered optionally. To support this, encourage parking provided in new residential developments to be made publicly available for lease. Encourage private developers to partner with carsharing programs in locating carshare parking in new buildings. Encourage shared use of private and public parking facilities to meet residential needs, including surplus parking available in the Opera Plaza and Civic Center Garages.

East SoMa Plan

POLICY 4.3.3 Make the cost of parking visible to users, by requiring parking to be rented, leased or sold separately from residential and commercial space for all new major development.

2. The proposed replacement project is generally consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

- A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

The proposed Ordinance will have no adverse impact on the neighborhood-serving retail uses.

- B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

The proposed Ordinance will have no adverse effect on existing housing and neighborhood character. By further permitting the separation of housing costs from parking costs, housing may become more affordable.

- C) The City's supply of affordable housing will be preserved and enhanced:

The proposed Ordinance will have no adverse effects on the City's supply of affordable housing. By further permitting the separation of housing costs from parking costs, housing may become more affordable.

- D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

The proposed Ordinance will not result in displacement of industrial or service sectors.

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The proposed Ordinance would not affect the preparedness against injury and loss of life in an earthquake.

- G) That landmark and historic buildings will be preserved:

The proposed Ordinance would not adversely affect landmark and historic buildings.

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

The proposed Ordinance would not adversely affect parks and open spaces in terms their access to sunlight and vistas.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on September 6, 2012.

Linda Avery
Commission Secretary

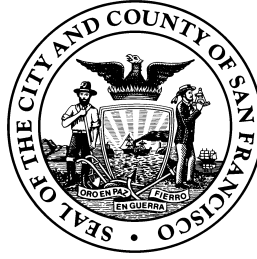
AYES:

NAYS:

ABSENT:

ADOPTED:

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

June 18, 2012

Planning Commission
Attn: Linda Avery
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Dear Commissioners:

On June 12, 2012, Supervisor Wiener introduced the following proposed substitute legislation:

File No. 120631

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

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Miller".

By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

- c: John Rahaim, Director of Planning
- Scott Sanchez, Zoning Administrator
- Bill Wycko, Chief, Major Environmental Analysis
- AnMarie Rodgers, Legislative Affairs
- Monica Pereira, Environmental Planning
- Joy Navarrete, Environmental Planning

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 ~~strike-through normal~~.

23 Be it ordained by the People of the City and County of San Francisco:
24
25

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.

15
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

25
Supervisor Wiener
BOARD OF SUPERVISORS

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:
24
25

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.

23
24 Section 3. The Business and Tax Regulations Code is hereby amended by amending
25 Section 2219.7 to read as follows:

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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.

18
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
25

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.

3
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.

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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
25

1 one year permit term must obtain a new commercial parking permit before the existing permit
2 expires.

3

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

6

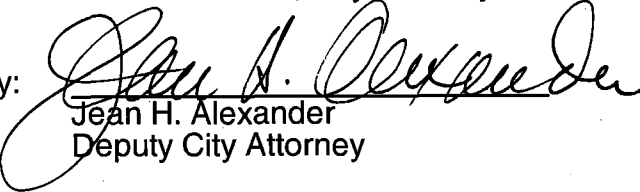
7 Section 7. This section is uncodified. In enacting this Ordinance, the Board intends to
8 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
9 punctuation, charts, diagrams, or any other constituent part of the Business and Tax
10 Regulations Code, Planning Code 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.

13

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

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16 By:


Jean H. Alexander
Deputy City Attorney

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September 6, 2012 Hearing

Office of the Treasurer & Tax Collector
City and County of San FranciscoCity Hall - Room 140
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4638

José Cisneros, Treasurer

M E M O R A N D U M

DATE: August 7, 2012

TO: Supervisor Scott Wiener

FROM: Greg Kato, Policy and Legislative Manager

SUBJECT: File #120631 – Parking Tax Simplification for Residential Properties

Parking Tax Simplification for Residential Properties was introduced on June 5, 2012. It provides for small residential parking operators to have a simplified regulatory process, and an amnesty period for unpaid taxes. Supervisor Wiener's stated goal for this program is to have many operators who had previously not been remitting parking taxes come forward and expand the parking tax base. As a revenue project, this has the potential to be successful, with the potential for over \$1.8 million in first year revenues and approximately \$930,000 in annual revenues thereafter. The Treasurer-Tax Collector requests that authorization be granted to assign sufficient staff (at an amended cost of approximately \$170,000 in the first year and reviewed in ongoing years) to ensure that the tax is collected in accordance with the policy goal of the proposed ordinance.

Current Parking Industry Landscape

The parking tax is a 25% tax on the gross receipts of parking stations in San Francisco. It is a tax on the rent paid by an occupant of a parking space that is collected by the parking operator and remitted to the City. The major exemptions from the tax are for residents of a building, and for rent taxed under the transient occupancy tax for guests staying at a hotel.

There are approximately 650 registered and remitting parking lots in San Francisco, which range from very large downtown garages to dirt lots in the outer neighborhoods, and everything in between. These operators remitted approximately \$70 million in parking taxes in fiscal year 2011-12. As the local economy continues to grow these revenues are projected to increase as well.

The Treasurer-Tax Collector administers this group of operators that has been relatively stable since a prior parking tax amnesty program that was implemented in 2006. Parking tax regulation powers were greatly enhanced due to amendments to the Business and Tax Regulations Code passed by the Board of Supervisors in late 2010, including increased bonding requirements and enforcement powers. Commercial parking permits were also

moved to the Police Department in 2010, increasing enforcement as well.

Estimating Newly Compliant Operators Due to Proposed Ordinance

Many small residential parking operators may have been collecting parking rent for many years without remitting parking tax to the City. Anecdotal comments from the apartment owners’ industry indicate that many building owners are hesitant to come forward once they learn about their obligations due to concerns about penalties and interest on long-standing parking operations. Fear of enforcement is high among these individuals, who are mostly landlords of smaller properties.

Data on how many buildings are currently renting parking to non-residents is not currently available. However, it is possible to generate a rough estimate of how many operators may come forward based on existing property data. According to the Assessor, there are approximately 167,000 parcels that may qualify for the proposed amnesty and new exempt treatment as a small parking operator.

Parcel Type	Estimated Count
Apartment House	12,000
Flats and Duplex	19,000
Condominium	41,000
One Unit - Dwelling	95,000
Total	167,000

Based on conversations with the apartment owner industry it is reasonable to assume that parking rental is more common in apartment houses, flats and duplexes than in condominiums and one unit dwellings. Conservatively, we may estimate that approximately 5% of apartment houses, flats and duplexes are renting parking to non-residents. In addition, we may estimate that 1% of condominiums and half of 1% of one unit – dwellings are also conducting such business.

Parcel Type	Estimated Count	Estimated Percent of Operators	Estimated Count of Small Operators
Apartment House	12,000	5%	600
Flats and Duplex	19,000	5%	950
Condominium	41,000	1%	410
One Unit - Dwelling	95,000	0.5%	475
Total	167,000		2,435

With these rough estimates, it is not unreasonable to assume that the regulated parking industry will increase from 650 lots to approximately 3,000 lots, a nearly five-fold increase in

operators. In addition, these operators can be expected to require much more initial customer service than existing operators since parking revenues are a small portion of their business.

Estimates of Potential Tax Revenues from Proposed Ordinance

Included in the Parking Tax Simplification for Residential Properties is an amnesty period until March 31, 2013 to pay two years of back taxes with no fees, interest or penalties. The ordinance will apply to parking operators with five or fewer spaces and less than \$15,000 in annual revenues. The Tax Collector researched the lowest monthly parking rate for office buildings outside the downtown area in 2007 and found it was \$80 per month, or \$960 per year. If we assume that rate is valid in this context, the average operator has two spaces, and the estimated number of operators is valid, then the annual revenue from parking for these operators is approximately \$4.7 million. The imputed tax component of these revenues is therefore about \$935,000 annually. With a two year collection imposed under the amnesty, the estimated collections resulting from this amnesty are approximately \$1,870,000.

Estimated Amnesty Collections Calculation

Monthly Rent per Parking Space	\$80	
Months in Year	12	
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Annual Rent per Parking Space		\$960
Parking Spaces per Operator	2	
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Annual Rent per Operator		\$1,920
Estimated Operators	2,435	
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Total Annual Citywide Rent		\$4,675,200
Tax Component of Gross Revenues	20%	
<hr/>		
Estimated Annual Tax Revenues		\$935,040
Amnesty Period (Years)	2	
<hr/>		
Estimated Amnesty Collections		\$1,870,080

Implementing as a Revenue Project by Treasurer-Tax Collector

In order to effectuate the registration of these operators and the remittance of taxes, Treasurer-Tax Collector would need a modest amount of funding to develop the new form, and staff will need to be assigned in a manner that is different than the current parking tax administration. In particular, this program targets very small operators who had not previously registered as operators. These operators will undoubtedly need additional assistance to understand their obligations. Our office has drafted a budget for this program, which is

attached as Attachment 1.

The amnesty program will require our office to adjust accounts for these operators to waive fees, interest and penalties that are automatically calculated by our tax system. In order to minimize the staff effort required to successfully implement this program, our office will not assign a collections officer to review if applicants are tax delinquent. In addition, we will structure the application such that operators will not submit payment at the time of application, but will be billed at a later date once they are approved for participation in the amnesty. This will relieve the need to budget for cashiering time to manually accept payments as they arrive.

Customer service will be a key component of the implementation, as many property owners will have questions about their status, particularly if the residential exemption applies to their situation. Sorting actual operators from exempt property owners will take significant time. In addition, we will need to perform initial intake of applications and a top level review of outstanding delinquencies. For this task, one half FTE equivalent customer service representative, Class 1408 is required.

Operators will need to be approved and enrolled as operators once they submit their application. One half FTE equivalent of a senior account clerk, Class 1632 is required to perform this task. We propose to fund this equivalent in temporary employee salaries so we may reassign staff to complete this project.

Once operators are approved, their accounts will need to be manually adjusted to remove fees, interest and penalties. One half FTE equivalent of an account clerk, Class 1630 is required to perform this task. We propose to fund this equivalent in temporary employees so we may reassign staff to complete this project.

In addition to the personnel required by this program, it may be prudent to provide outreach. A letter to all apartment houses, flats and duplexes (31,000 parcels) at \$.66 per letter (standard Repromail rate) would cost \$20,460. Contacting more properties of course would cost more. In addition, contracting some time with the Small Business Assistance Center or performing some other outreach activities would be helpful.

Proposed Ordinance and Amnesty Viable if Staffed

In summary, the proposed ordinance looks like it could be a viable revenue project for the City to pursue. However, it will need to be staffed in order to function. If it is not staffed, Treasurer-Tax Collector staff will be pulled from other revenue generating functions. Currently, with 650 lots and garages bringing in \$70 million in parking tax revenue, the tax collected per operation is over \$100,000. At the highest revenues, this program will only bring in \$3,000 per lot. A more realistic estimate is less than \$1,000 per lot. This would bring the

average tax per lot down to around \$25,000. Without a specific program with focused staff, the overall effectiveness of our parking tax collection would be diminished significantly. In addition, our taxpayer assistance for taxpayers around other taxes, such as property, business, license, and other issues would be hindered. The Treasurer-Tax Collector cannot absorb this cost.

The proposed ordinance and amnesty could be a viable revenue project if implemented properly. The Treasurer-Tax Collector requests that authorization be granted to hire staff to ensure that the tax is collected in accordance with the policy goal of the proposed ordinance.

Attachment 1:

Treasurer-Tax Collector Proposed Budget for Implementing Residential Parking Simplification and Amnesty

Personnel

Class	Description of work	FTE	Salary	Fringe	Total
1408 - Taxpayer Assistance	Manage all customer inquiry and do initial application review/processing; assumes 120K universe with a 30% response, create accounts	50%	\$33,163.00	\$10,943.79	\$44,107
1632 - Sr. Account Clerk in Temp	Set up accounting for Amnesty	50%	\$31,435.00	\$10,373.55	\$41,809
1630 - Account Clerk in Temp	Make adjustments in system for Amnesty	50%	\$25,987.00	\$ 8,575.71	\$34,563
					\$120,478
	Overhead - 15%				\$18,072
	Total Personnel				\$138,550

Non-Personnel

New form - Design and post new form				\$1,000
Mailing to Apartments/Flats/Duplexes = 31,000*.66 - postage, envelope and paper				\$20,460
Advertising/outreach				\$10,000
Total Non-personnel				\$31,460

Total **\$170,010**