

CITY OF OAKLAND
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2009 APR 16 PM 6:49

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Finance and Management Agency
Community and Economic Development Agency
DATE: April 28, 2009

RE: **An Ordinance Amending Chapter 4.16 of the Oakland Municipal Code, Parking Tax, to Exempt Large Diesel Truck Parking in Designated Parking Stations**

SUMMARY

Staff has prepared an amendment to the Parking Tax Ordinance that will amend Chapter 4.16 of the Oakland Municipal Code (OMC) to exempt large diesel trucks parked in parking stations designated exclusively for large trucks (Class 7 or greater; gross vehicle weight rating of 26,001 pounds or greater).

The proposed amendment for an exemption from the Parking Tax for large diesel truck parking will support past and future mitigation efforts in reducing toxic environmental emissions and negative health impacts that affect local neighborhoods around the Port. A Parking Tax exemption will encourage the use of designated parking facilities for large diesel trucks.

FISCAL IMPACT

Staff recently determined that parking taxes have not been collected on the parking of large diesel trucks that use parking stations around the Port area. Discussions with various involved parties revealed that many trucks and their trailers previously parked on residential streets and then agreed, pursuant to discussions with the City, to park in designated fee-based parking areas in the Port area. These negotiating parties were not aware that use of these designated parking areas result in an added Parking Tax. To staff's knowledge, most if not all of the truck operators who would be exempted from the Parking Tax under the proposed amendment to the Parking Tax ordinance have not paid the tax to the City in the past. No revenue has been collected and no revenue has been included in current or future operating budget forecasts. However, if an exemption is not approved, staff projects additional parking tax revenue of approximately \$400,000 annually.

The Parking Tax rate is 18.5%, with approximately 54% of the revenue allocated to the General Purpose Fund and approximately 46% of the revenue allocated to the Measure Y Fund. A typical parking charge for large trucks is \$125 per month, so the added Parking Tax would be approximately \$23.13 per user per month.

Item: _____
Finance and Management Committee
April 28, 2009

BACKGROUND

The Parking Tax, Chapter 4.16 of the Oakland Municipal Code, was first adopted in 1992 with an initial tax rate of 10%. At the November 2, 2004 General Election, the voters approved an increase in the Parking Tax to 18.5% (Measure Y), with 8.5% allocated to violence and crime prevention programs.

The Parking Tax is imposed on the rental of every parking space in a parking station in the City. As defined in the existing Ordinance, the term "parking stations" includes, but is not limited to: "any outdoor space or uncovered lot, parcel, yard or enclosure, or any portion thereof, where motor vehicles may be parked, stored, housed or kept, for which any charge is made; and any building or structure, or any portion thereof, in which motor vehicles may be parked, stored, housed or kept, for which any charge is made." "Motor vehicles" for the purpose of the Parking Tax, are defined as "those vehicles including but not limited to any truck, automobile, trailer, motorcycle, boat or transportable structure." The only existing exemption from the Parking Tax is for City owned and metered parking spaces.

As a result of a recent tax audit and enforcement efforts, staff discovered specific parking station operators who have not registered nor collected Parking Taxes on large diesel trucks that are parking in the Port area. Staff initiated enforcement and assessment steps to gain compliance with registration and payment of prior and current Parking Tax obligations.

Overall, parking operators maintain that they established their parking station in the Port restricted access area in 2003 to support City efforts and San Francisco Bay Conservation and Development Commission (BCDC) requirements to mitigate the negative health and environmental impacts resulting from large diesel trucks and their trailers parking and idling on neighborhood streets. In another example, through an agreement executed in 2006 between a parking operator and the City's Redevelopment Agency, the parking operator expanded their operation to provide a full array of support services to large truck operators to encourage them to use this designated facility and avoid parking and idling their diesel trucks in local neighborhoods. The proposed amendment would encourage these and many other parking operators to use designated facilities and, therefore, support the City's health and environmental mitigation efforts.

KEY ISSUES AND IMPACTS

The operators of parking stations for large diesel trucks stated that their operations were initially established to address Bay Conservation and Development Commission (BCDC) and City requirements for appropriate mitigation of negative health and environmental impacts from diesel emissions caused by large diesel trucks parking and idling in neighborhoods.

The potential loss in revenue from large diesel truck parking must be weighed against the health and environmental risks and costs from the exposure to diesel exhaust that results from large diesel trucks parking in local neighborhoods. The additional tax burden on large diesel truck operators must also be considered since many of these truck operators hauling freight in and out of the Port are independent contractors and are facing the financial burden of retrofitting their trucks with new engines to meet recently approved California Air Resources Board regulations on diesel vehicles.

Community members have expressed concerns that the additional Parking Tax may cause the large diesel truck operators to once again start parking their trucks and trailers in local neighborhoods, especially in West Oakland areas that are in close proximity to Port operations. The State of California Air Resources Board identified diesel exhaust particulate matter as a toxic air contaminant based on its potential to cause cancer, premature death, and other health problems. The impact from large diesel truck parking in local neighborhoods would result in substantial, but unknown, health and environmental costs according to the report "Taking A Toll: The High Cost of Health, Environment and Worker Impacts of the Oakland Port Trucking System"¹, released on February 4, 2009 by the East Bay Alliance for a Sustainable Economy and Pacific Institute.

Current City agreements and community concerns weigh heavily in favor of encouraging and supporting the operation of designated parking stations that are located away from local neighborhoods to serve large diesel trucks. Although the health and environmental risks and costs cannot be specifically estimated, it is reasonable to conclude that those risks and costs would outweigh the potential loss of Parking Tax revenue.

¹ The report is available at <http://www.workingeastbay.org>

SUSTAINABLE OPPORTUNITIES

Economic: Exempting those large diesel trucks from the Parking Tax that utilize designated parking stations would provide incentive for large diesel truck operators not to park in local neighborhoods, and keep these trucks operating in Oakland. Utilization of designated parking stations could reduce the costs associated negative impacts on health and the environment from diesel truck exhaust.

Environmental: Designated parking stations have been established in the Port area based on expressed community concerns, by City agreements, and BCDC requirements, in order to protect the environment and community health. These designated parking stations were specifically intended to deter large diesel truck parking in local neighborhoods. Providing an exemption from the Parking Tax specifically for large diesel trucks will support and encourage the use of designated parking stations that have been established to mitigate negative impacts on community health and the environment.

Social Equity: The Ordinance amendment will promote the fair and equitable treatment of all taxpayers while balancing the trade off between funding for essential City services against the potential costs resulting from health and environmental pollution from diesel exhaust.

DISABILITY AND SENIOR CITIZEN ACCESS

There are no ADA or senior citizen access issues identified in this report.

RECOMMENDATION AND RATIONALE

Staff recommends the City Council approve the proposed amendment to the Parking Tax Ordinance, amending Chapter 4.16 of the Oakland Municipal Code, to exempt large trucks, Class 7 or greater, that park in designated parking stations.

The proposed amendment for an exemption from the Parking Tax for large diesel truck parking will support past and future mitigation efforts toward the reduction of toxic environmental and negative health impacts affecting local neighborhoods by encouraging use of designated parking facilities for large diesel trucks in designated areas.

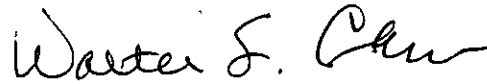
ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends the City Council approve the proposed amendment to the Parking Tax Ordinance, amending Chapter 4.16 of the Oakland Municipal Code, to exempt large trucks, Class 7 or greater, that park in designated parking stations.

Respectfully submitted,



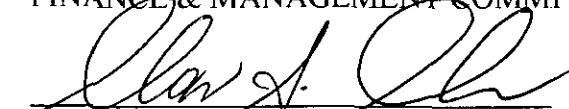
Joseph T. Yew, Jr.
Finance Director/ City Treasurer
Finance and Management Agency



Walter Cohen
Director, CEDA

Prepared by:
Terry Adelman, Revenue Manager
Revenue Division

APPROVED AND FORWARDED TO THE
FINANCE & MANAGEMENT COMMITTEE:



Office of the City Administrator

INTRODUCED BY COUNCILMEMBER _____

FILED
OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY

Katherine S. [Signature]
CITY ATTORNEY

CITY OF OAKLAND

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE AMENDING CHAPTER 4.16 OF THE OAKLAND MUNICIPAL CODE TO EXEMPT FROM THE PARKING TAX OCCUPANTS WHO PAY RENT FOR OCCUPANCY OF SPACES AT PARKING STATIONS OPERATED EXCLUSIVELY FOR LARGE DIESEL TRUCKS.

WHEREAS, the City has entered into contracts with parking lot operators for purposes of encouraging large diesel trucks to park in designated facilities and thereby reducing the health and safety impacts of such trucks on local neighborhoods; and

WHEREAS, the City Council finds that exemption from the Parking Tax for large diesel truck parking will encourage use of designated parking facilities for large diesel trucks; and

WHEREAS, the City of Oakland desires to amend the section 4.16.090 of the Parking Tax to exempt large diesel trucks occupying spaces in large diesel parking stations from the parking tax; and now therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines the forgoing recitals to be true and correct and hereby adopts and incorporates them into this Ordinance.

SECTION 2. The Municipal Code is hereby amended to add, delete, or modify sections as set forth below (section numbers and titles are indicated in **bold type**; additions are indicated by underscoring and deletions are indicated by ~~strike-through type~~; portions of the regulations not cited or not shown in underscoring or strike-through type are not changed.

SECTION 3. Chapter 4.16 of the Municipal Code, section 4.16.090 is hereby amended in its entirety to read as follows:

4.16.090 Exemptions.

No tax shall be imposed hereunder;

(1) On the rent for any occupancy or parking space in parking stations wherein the rent for such occupancy is paid by the deposit of a coin or coins in a parking meter owned or operated by the city and located adjacent to said parking space.

(2) On the rent for any occupancy or parking space in large truck parking stations where:

(a) The motor vehicle occupying said parking space is a commercial truck with a commercial truck classification in the United States of no less than Class 7 and a Gross Vehicle Weight Rating of 26,001 pounds or greater.

(b) Provided that one hundred per cent (100%) of the motor vehicles occupying spaces at the large truck parking station are motor vehicles described in subsection (a) of this section; and

(c) Provided that the large truck parking station operator submits, at the time the return required by this ordinance is due, a declaration under penalty of perjury verifying the facts necessary for this exemption as set forth in subsections (a) and (b).

SECTION 5. This ordinance is exempt from the California Environmental Quality Act (see e.g., CEQA Guidelines §§ 15378(d)(2), 15378(d)(4), 15378(d)(5), 15061(B)(3); 15162);

SECTION 6. This ordinance shall be effective on immediately, if passed by the affirmative vote of at least six City Council members; if this ordinance is passed by the affirmative vote of five City Councilmembers it will be effective seven days after final passage.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2009

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, PRESIDENT BRUNNER, KAPLAN, KERNIGHAN, NADEL, QUAN, REID AND DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the
Council of the City of Oakland, California

DATE OF ATTESTATION: _____