



Legislation Details (With Text)

File #: 2020-0023 **Version:** 1

Type: Ordinance **Status:** Passed Finally

File created: 1/10/2020 **In control:** Committee on Finance and Law

On agenda: 1/14/2020 **Final action:** 1/28/2020

Enactment date: 1/28/2020 **Enactment #:** 2

Effective date: 2/6/2020

Title: Ordinance amending the Pittsburgh Code at Title Two: Fiscal, Article VII: Business Related Taxes, Chapter 253: Parking Tax, Section 253.01: Definitions, to update language in the city code.

Sponsors:

Indexes: PGH. CODE ORDINANCES TITLE 02 - FISCAL

Code sections:

Attachments: 1. Summary 2020-0023, 2. 2020-0023 attachment

Date	Ver.	Action By	Action	Result
2/6/2020	1	Mayor	Signed by the Mayor	
1/28/2020	1	City Council	Passed Finally	Pass
1/22/2020	1	Standing Committees	Affirmatively Recommended	Pass
1/14/2020	1	City Council	Read and referred	

Ordinance amending the Pittsburgh Code at Title Two: Fiscal, Article VII: Business Related Taxes, Chapter 253: Parking Tax, Section 253.01: Definitions, to update language in the city code.

The Council of the City of Pittsburgh hereby enacts as follows:

Section 1. The Pittsburgh Code is hereby amended at Title Two: Fiscal, Article VII: Business Related Taxes, Chapter 253: Parking Tax, Section 253.01: Definitions, as follows:

CHAPTER 253: - PARKING TAX

§ 253.01 - DEFINITIONS.

As used in this Chapter, certain terms are defined as follows:

- (a) **PATRON.** Any person entering into a transaction to park or store a motor vehicle at a non-residential parking place for any period of time for consideration excluding any transaction involving Exempt Valet Parking Services.
- (b) **PERSON.** Any corporation, partnership, business trust, association, estate, trust, foundation, or natural person.
- (c) **NONRESIDENTIAL PARKING PLACE** or **PARKING PLACE.**
 - (1) Any place within the city, whether wholly or partially enclosed or open, at which vehicles are parked or stored for any period of time in return for a consideration not including any parking area or garage

to the extent that it is provided or leased to residents of the same or other premises; provided that the parking or storage of a vehicle by such resident is for use only in connection with, and as accessory to, the occupancy of a dwelling unit in the City; and

- (2) Any parking area or garage operated exclusively by an owner or lessee of a hotel, and apartment hotel, tourist court or trailer park, to the extent that the parking area or garage is provided to guests or tenants of the hotel, tourist court or trailer park for no additional consideration.
- (d) **DWELLING UNIT.** (As defined in the Zoning Title.)
- (e) **RESIDENCE.** Any building designed and used for family living or sleeping purposes other than a hotel, apartment hotel, tourist court or trailer park; and any dwelling unit located in a hotel or apartment. [**RESIDENT.** Any natural person who has occupied a dwelling unit within the City for a period of more than thirty (30) consecutive days.]
- (f) **HOTEL, APARTMENT HOTEL, TOURIST COURT, TRAILER PARK and DWELLING UNIT.** Hotel, apartment hotel, tourist court, trailer park and dwelling unit are used herein as defined in the Zoning Title.
- (g) **OPERATOR.** Any person conducting the operation of a parking place or receiving the consideration for the parking or storage of motor vehicles at parking places, including, but not limited to, any governmental body, governmental subdivision, municipal corporation, public authority, nonprofit corporation or any person operating as an agent of one (1) of the above.
- (h) **TRANSACTION.** The activity involved in the parking or storing of a motor vehicle at a nonresidential parking place for a consideration excluding Exempt Valet Parking Services within the geographic boundaries of the City of Pittsburgh [valet parking services as defined below.]
- (i) **CONSIDERATION.** The payment or compensation of any nature, received by the operator from the patron, upon an express or implied contract or under a lease or otherwise, whether or not separately stated, and whether paid in cash or credited to an account, for each transaction involving the parking or storing of a motor vehicle by the patron on whose behalf the motor vehicle is parked or stored by some other person. In the case of Taxable Valet Parking Services, consideration includes the payment of compensation of any nature, received by the provider from or on behalf of the Valet Parking Services Patron, upon an express or implied contract, whether or not separately stated and whether paid in cash or credited to an account. **CONSIDERATION** does not include the tax imposed and collected under this Chapter.
- (j) **MONTH.** A calendar month.
- (k) **VALET PARKING SERVICES.** [Where the area presents itself as having the need for it,] Valet Parking Services refers to a service providing attendants that take a patron's vehicle from the entrance of an establishment, park the vehicle in a facility that is owned or leased exclusively for use by the establishment, and later return the vehicle exclusively to the patron of the establishment. The parking facility must be open only during the hours of the establishment's operation, and the rate charged must be below the prevailing rate for comparable public lots in the area. [If the rate charged for this service is above the prevailing rate for the area, it will be assumed that a parking charge is being collected and the parking tax will be collected on the difference between the prevailing rate and the service charge.] A service providing attendants that take your vehicle from the entrance to an establishment and park the vehicle in a licensed, public facility, whether the facility is open to the public on a single fee transaction or a monthly fee basis, and pass along the charge for parking to the person whose vehicle they have taken, together with a service fee, the valet service shall not be liable for the parking tax but would be subject to business privilege tax on the service fee portion of the charge. Valet parking services shall not include a parking facility, open to the public, whether on a single fee transaction or monthly fee basis, where a patron drives his/her vehicle to the entrance of the parking facility and the attendant parks the vehicle. Any parking services provided to a patron that do not meet the definition of Exempt Valet Parking Services shall be

considered **Taxable Valet Parking Services**. For example: (a) for any parking service provided to a patron by a valet, if the rate charged for this service is not lower than the prevailing parking rate for the area the service shall be considered Taxable Valet Parking Services and the transaction shall be subject to the parking tax. It will be assumed that a parking charge is being collected as part of the service charge, and the parking tax shall be imposed, collected and remitted to the Treasurer based upon the prevailing parking rate in the area; and (b) if the parking facility is used by multiple business establishments, or is open for use during hours when the business establishment otherwise is closed, the service shall be considered Taxable Valet Parking Services and the consideration paid by the patron shall be subject to tax.

(Am. Ord. 40-1997, eff. 12-31-97; Ord. 16-2003, § 1, eff. 5-13-03; Ord. No. 47-2017, § 1, 12-8-17) § 253.02 - TAX LEVY AND RATE.

- (a) A tax for general revenue purposes is hereby imposed upon each parking transaction by a patron of a non-residential parking place, at the rate of thirty-one (31) percent effective January 1, 2004 and increased to fifty (50) percent effective February 12, 2004 of the consideration for each parking facility transaction. The tax shall be collected by the operator from the patron, and shall be paid over to the Treasurer as provided in this chapter. For all transactions occurring on or after January 1, 2007, the rate of tax shall be forty-five (45) percent. For all transactions occurring on or after January 1, 2008, the tax rate shall be forty (40) percent. For all transactions occurring on or after January 1, 2009, the tax rate shall be thirty-seven and one-half (37.5) percent.
- (b) All taxes collected by any operator in accordance with this Chapter shall constitute a trust fund for the benefit of the City and such trust shall be enforceable against the operator and any person receiving any part of such fund without consideration, or with knowledge that the operator is committing a breach of trust; provided however, that any person receiving payment of a lawful obligation of the operator from such fund shall be presumed to have received the same in good faith and without any knowledge of the breach of trust.
- (c) Any operator required under this Chapter to collect tax from a patron, who shall fail to collect the tax, shall be liable for the tax upon the full consideration received from the patron.

(Ord. 58-1991, eff. 1-1-92; Am. Ord. 40-1997, eff. 12-31-97; Ord. 43-2003, eff. 1-1-04; Ord. 1-2004, § 1, eff. 1-14-04; Ord. No. 27-2006, § 1, eff. 1-1-07; Ord. No. 28-2007, § 1, eff. 1-1-08; Ord. No. 31-2009, § 1, eff. 1-1-09) § 253.03 - REGISTRATION AND ANNUAL LICENSE.

- (a) Every operator who begins or intends to begin to operate a nonresidential parking place shall file with the Treasurer, before commencing operation of the parking place, a completed registration form prescribed by the Treasurer, and shall set forth therein his name, address, business location, identity of the owner of the property and other information as may be required.
- (b) No operator shall begin or continue to conduct the operation of a nonresidential parking place without obtaining for each parking place an annual license from the Superintendent of the Bureau of Building Inspection, as required under Chapter 763 of the Codified Ordinances. Any operator not possessing a license for each parking place for the current calendar year shall obtain a license within thirty (30) days after the effective date of this section, and any person who intends to begin conducting the operation of a nonresidential parking place thereafter shall obtain such a license before beginning the operation. Licenses shall not be transferable between one (1) operator and another or between one (1) parking place and another. Any operator who ceases to conduct the operation of a parking place shall notify the Treasurer and shall return the license applicable thereto to the Superintendent of the Bureau of Building Inspection. No operator shall conduct the transactions without complying with all of the provisions of this Chapter and without collecting the tax imposed herein and paying it over to the city.

(Ord. 11-1985, eff. 2-26-85) § 253.04 - RECORDS.

- (a) *In general.* Each operator shall maintain, separately with respect to each parking place, complete and accurate records of all transactions, reflecting the total amount of consideration received from all transactions and the total amount of tax collected on the basis of the considerations.
- (1) *Preservation of records.* All books, records, daily record sheets and ticket stubs shall be retained by the operator of a parking facility or facilities for a period of five (5) years subsequent to the year of the transaction. This requirement will apply to all cases unless advance written permission to destroy such data has been obtained from the Treasurer.
- (b) *Tickets.* Each operator shall issue to all patrons, except those as to whom space is reserved by means of lease, contract or other similar basis, written evidence of all parking transactions in the form of tickets, which shall be issued in numerical sequence, without interruption.
- (1) *Revenue Control Equipment.* Electro-mechanical devices which monitor and count the number of vehicles admitted to and leaving a nonresidential parking place or parking place.
- A. Type A shall be of the type that has entrance and exit gate arms; synchronized ticket dispenser; fee computer inclusive of printer and fee indicator; counters. This equipment shall have the capability of recording the date and time that a vehicle entered and left a non-residential parking place and the amount of consideration and parking tax collected by an operator and meets the specifications of the License Officer.
- B. Type B shall be of the type that counts every vehicle that enters and leaves a nonresidential parking lot; a count module; and computer and meets the specifications of the License Officer.
- (2) Before any operator required to collect the tax imposed by this Chapter may use any tickets in the conduct of any nonresidential parking place, such person shall certify in writing to the Treasurer, at least five (5) days prior to the use of such tickets, the beginning and ending serial numbers, the location of the nonresidential parking place at which such tickets will be used, the location at which such tickets may be inspected by the Treasurer, and any other identifying information required by the Treasurer.
- (3) It shall be unlawful for any person who operates a residential parking place to use any tickets for which the information required in § 253.04(a)(2) has not been delivered to the Treasurer at least five (5) days prior to the use of such tickets.
- (4) Tickets issued manually.
- A. Tickets issued manually shall reflect the number and date of the transaction.
- B. Written authorization of the Treasurer shall be required to change or alter the numerical sequence of any tickets.
- C. Tickets shall be arranged so that, as to each transaction, a portion of the applicable ticket, reflecting the number, date, parking period and either the consideration or the total charge (including the tax collected), shall be retained as part of the operator's records.
- D. When an operator conducts business at more than one (1) location, a separate set of tickets shall be issued for each parking place.
- E. When a flat rate and an hourly rate are charged at a parking place, a separate set of tickets shall be issued for each rate.
- F. When two (2) or more flat rates are charged at a parking place, a separate set of tickets shall be

issued for each rate.

G. Physical evidence of a parking transaction shall be prominently displayed on each vehicle which enters the parking place.

(5) Tickets issued by mechanical device.

A. Tickets issued by mechanical device shall reflect the number and date of the transaction, and where the parking rate is determined by units of time, the time of entry.

B. Written authorization of the Treasurer shall be required to change or alter the numerical sequence of any tickets.

C. Tickets shall be arranged so that, as to each transaction, a portion of the applicable ticket, reflecting the number, date, time of entry, time of exit and either the consideration or the total charge (including the tax collected), shall be retained as part of the operator's records.

D. The ticket ejector of any mechanical device shall be synchronized with the registering or counting apparatus.

E. The counting apparatus or meter shall operate so as to register every vehicle which enters the parking place, without exception, and no part of such apparatus shall be rendered inoperable by switch, button or other means.

(c) *Leases*. When space is reserved at a parking place by means of lease, contract or other similar basis, numbers shall be assigned to all leases or contracts in serial sequence, and physical evidence of the numbers shall be prominently displayed at all times upon all vehicles which enter the parking place. The evidence shall be in a form approved by the Treasurer.

(d) *Consideration not separately stated*. When consideration in a transaction is not separately stated, the operator shall maintain evidence and records necessary to segregate the consideration applicable to the transaction for the benefit of the patron and the Treasurer, and so that the proper amount of tax may be determined and collected.

(e) *Access to records*. Each operator shall afford the Treasurer and his or her designated agents access to all records and evidence at all reasonable times and shall provide verification or authentication of the same, as the Treasurer may require. The Treasurer and his or her agents are hereby authorized to examine the books, papers and records of any operator or suspected operator in order to verify the accuracy of any return made, or, if no return has been made, to estimate the tax due. Every operator is hereby required and directed to provide to the Treasurer and his designated agents the means, facilities and opportunity to conduct any examinations or investigations as are hereby authorized.

(Ord. 10-1985, eff. 2-26-85; Am. Ord. 40-1997, eff. 12-31-97) § 253.05 - RETURN AND PAYMENTS.

Each operator, on forms prescribed by the Treasurer, shall file by the fifteenth day of each month, returns for the preceding month showing the consideration received with respect to each parking place during the preceding month together with the amount of tax due and collected thereon. At the time of filing the return, the operator shall pay to the Treasurer all tax due and collected for the period to which the return applies. Each operator shall collect the tax imposed by this Chapter and shall be liable to the City as agents thereof for payment to the City Treasurer.

In addition, whenever any tickets or ticket stubs issued during the preceding month are missing or unaccounted for at the time of filing the return, the operator shall report, on a form prescribed by the Treasurer, the number of missing or unaccounted for tickets from the preceding month and shall pay to the Treasurer, by the fifteenth day of the subsequent month, a fee equal to the maximum daily rate for each ticket that is missing

or unaccounted for from the preceding month.

(Am. Ord. 40-1997, eff. 12-31-97) § 253.06 - COLLECTION.

The Treasurer shall collect by suit or otherwise all taxes, interests, costs, fines and penalties due under this Chapter and unpaid. If the operator neglects, refuses or fails to file any report or make any payment as herein required, an additional five (5) percent of the amount of the tax shall be added by the Treasurer and collected as a penalty for every month or fraction of a month that the tax remains unpaid, the penalty not to exceed fifty (50) percent.

(Ord. 52-1981, eff. 1-1-82) § 253.07 - VIOLATIONS.

In addition to any other fines, penalties or charges specified in this Title, any operator who violates any provisions of this Chapter shall be subject to an additional penalty of one thousand dollars (\$1,000.00) for the first occurrence, two thousand dollars (\$2,000.00) for the second occurrence, and three thousand dollars (\$3,000.00) for every occurrence thereafter.

(Ord. 40-1997, eff. 12-31-97)