



## AGENDA REPORT

**Meeting Date:** October 7, 2014

**Item Number:** F-1

**To:** Honorable Mayor & City Council

**From:** Chad Lynn, Assistant Director, Public Works Services   
Daniel E. Cartagena, Senior Management Analyst

**Subject:**

- A. AN URGENCY ORDINANCE OF THE CITY OF BEVERLY HILLS PROHIBITING TRANSACTIONS IN WHICH COMPENSATION IS PAID FOR THE PURPOSE OF FACILITATING A CHANGE IN THE OCCUPANCY OF A PUBLICLY OWNED PARKING SPACE, AND DECLARING THE URGENCY THEREOF
- B. AN ORDINANCE OF THE CITY OF BEVERLY HILLS PROHIBITING TRANSACTIONS IN WHICH COMPENSATION IS PAID FOR THE PURPOSE OF FACILITATING A CHANGE IN THE OCCUPANCY OF A PUBLICLY OWNED PARKING SPACE

**Attachments:**

- 1. Urgency Ordinance
- 2. Ordinance
- 3. Media Articles

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### **RECOMMENDATION**

Staff recommends that the City Council:

- A. Move to waive the full reading of the urgency ordinance entitled "An Urgency Ordinance of the City of Beverly Hills Prohibiting Transactions in which Compensation is Paid for the Purpose of Facilitating a Change in the Occupancy of a Publicly Owned Parking Space" and adopt the urgency ordinance by a 4/5<sup>ths</sup> vote by title only; and

- B. Move to waive the full reading of the ordinance and that the ordinance entitled “An Ordinance of the City of Beverly Hills Prohibiting Transactions in which Compensation is Paid for the Purpose of Facilitating a Change in the Occupancy of a Publicly Owned Parking Space” be introduced and read by title only.

## **INTRODUCTION**

The City of Beverly Hills operates approximately 2,700 on-street parking meters throughout the City and several thousand non-metered on-street parking spaces. Parking occupancy can reach over 90% in high demand areas of the City, with multiple users competing for access to public parking spaces.

In August 2014, after receiving a Cease and Desist Notice from the City of San Francisco, the developer of a smartphone application called MonkeyParking has announced and received media attention related to a product roll-up in Beverly Hills and Santa Monica that monetizes the use of parking spaces by creating a transaction between private parties seeking and vacating public parking spaces for a payment and fee.

The City Council is being asked to pass an ordinance and an urgency ordinance to preserve the peace, health and safety of the community, by restricting these types of transactions.

## **DISCUSSION**

The MonkeyParking application purports to ‘connect’ a user that is looking for a parking space with a user that is vacating a parking space through their application. The users ‘bid’ on the value of obtaining a soon-to-be vacated parking space, which is monetizing the access to the on-street public parking system for the benefit of both a single private user and the application developer.

The use of this application presents multiple concerns to the public peace, health and safety of the community. Since a ‘seller’ is only compensated if the ‘buyer’ seeking the parking space is able to successfully park their vehicle, an incentive is created to ‘reserve’ the parking space until it can be occupied by the ‘buyer.’ This behavior engineers conflict with public users of the parking system not involved in this transaction that may arrive at the soon-to-be vacated space prior to the arrival of the ‘buyer.’ Based on history, societal customs and general representations of local government, users of public parking spaces expect those spaces to be available on a “first come – first served” basis. The MonkeyParking application or any similar application(s) promotes entitlement to the ‘buyer’ seeking to occupy a public parking space by the transaction with a private party. These conflicting expectations will likely lead to conflicts that pose a threat to the public peace.

This transaction also encourages ‘sellers’ to occupy a public parking space for a longer period of time than necessary to complete their visit for the purpose of generating revenue by continuing to occupy the public parking space until the ‘buyer’ arrives.

Since the transaction is occurring between the ‘seller’ vacating the space and the ‘buyer’ seeking the parking space, it appears that the application encourages use of the application by drivers while engaged in the operation of their vehicles, leading to

potentially distracted driving by users of the application who are engaged in the transaction process.

In general, the MonkeyParking mobile application, and other applications that create these types of transactions and marketplaces, could deter and deprive the general public of an opportunity to park in an otherwise available space. This would instead allow someone to 'cut-in-line' by paying private parties for access to public assets.

The proposed urgency ordinance and ordinance prohibit the payment or receipt of compensation (whether monetary, in-kind, or in any other form) for reserving or vacating any public parking space. The ordinance also prohibits any person from providing or selling any mobile application or other technological tool that is intended to facilitate the exchange of compensation for the act of reserving or vacating any public parking space in the City of Beverly Hills.

These ordinances will not prohibit the efforts on the part of the City or other service providers to create systems that provide information to users of public parking systems of the occupancy and availability of parking spaces so they may make specific and informed parking choices. These systems simply measure and report availability of parking without creating transactions between private parties for the sale or monetization of public assets.

**FISCAL IMPACT**

There is no significant fiscal impact anticipated at this time.



George Chavez

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Approved By

# **Attachment 1**

ORDINANCE NO. 14-O-\_\_\_\_\_

AN URGENCY ORDINANCE OF THE CITY OF BEVERLY HILLS PROHIBITING TRANSACTIONS IN WHICH COMPENSATION IS PAID FOR THE PURPOSE OF FACILITATING A CHANGE IN THE OCCUPANCY OF A PUBLICLY OWNED PARKING SPACE, AND DECLARING THE URGENCY THEREOF

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS FOLLOWS:

Section 1. The City Council finds that it is necessary that this Ordinance take effect immediately for the preservation of the public peace, health, and safety. This Ordinance prohibits facilitating or participating in transactions in which any form of compensation is paid for the purpose of facilitating a change in the occupancy of a publicly owned parking space in the City of Beverly Hills, or in which compensation is contingent upon the occupancy of a publicly owned parking space in the City of Beverly Hills by a specified individual or vehicle. This Ordinance exempts transactions that occur in connection with a valid, City-issued valet parking permit.

Section 2. The City Council finds that this Ordinance is necessary for the immediate preservation of the public peace, health, and safety. The City has become aware of a recently launched mobile application that allows persons to receive compensation essentially for reserving or vacating a public parking space. This practice poses a threat to the public safety because the use of mobile applications that encourage persons to reserve or vacate a public parking space in a manner that allows a “buyer” to occupy the space encourages drivers to use their mobile phones while driving, which leads to unsafe driving in violation of California Vehicle Code Section 23123. Additionally, the act of conditioning payment to the “seller” of a parking space on a successful “buyer” occupying the space, whether through a mobile

application or otherwise, will result in conflicts between: (1) persons who have the expectation, based on history, societal custom, and the representations of the local government, that public parking spaces are available to any member of the public on a “first-come, first-served” basis without payment to private parties, and (2) the group of persons using this type of mobile application – i.e., the “sellers” who have an economic incentive to hold a space for a designated “buyer,” as well as the designated “buyer” who may believe that he or she is entitled to occupy a public parking place by virtue of an arrangement to make a payment to a private party for the privilege of occupying that space.

Section 3. The City Council therefore finds that it is necessary that this Ordinance take effect immediately and its urgency is hereby declared because without this Ordinance, the use of mobile parking applications would threaten the public peace and safety. As such, this Ordinance shall take effect immediately upon its adoption.

Section 4. A new section 7-3-416 is hereby added to Article 4 (Parking Meter Zones and Fees) of Chapter 3 (Standing, Stopping, Parking) of Title 7 (Traffic, Parking, and Public Transportation) of the Beverly Hills Municipal Code to read as follows:

“Section 7-3-416. Sale of Parking Opportunities Prohibited.

A. It shall be unlawful for any person to facilitate or participate in a transaction by any means (including, but not limited to, via a mobile application), in which any form of compensation is paid for the purpose of facilitating a change in the occupancy of a publicly owned parking space or in which compensation is contingent on the occupancy of a publicly owned parking space by a specified individual or vehicle.

B. This section shall not apply to any transaction that occurs in connection with an automobile parking and shuttle service operating pursuant to a valid valet parking permit issued pursuant to title 4, chapter 2, article 15 of this code during any time when such service is authorized to operate valet parking operations.”

Section 5. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Section 6. CEQA Findings. The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption and implementation of this Ordinance may have a significant effect on the environment. This Ordinance preserves the status quo and will not result in any changes to the physical environment. This Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

Section 7. Effective Date. This Ordinance, being an Urgency Ordinance adopted for the immediate protection of the public peace, health and safety, containing a declaration of the facts constituting the urgency, and passed by a minimum four-fifths (4/5) vote of the City Council, shall take effect immediately upon its adoption.

Section 8. Publication. The City Clerk shall certify to the adoption of this Ordinance and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

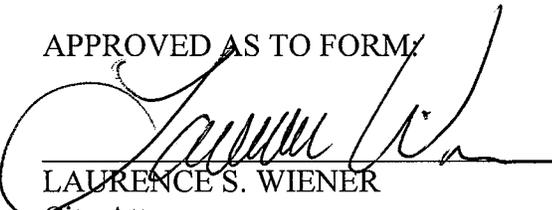
PASSED, APPROVED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
LILI BOSSE  
Mayor of the City of  
Beverly Hills, California

ATTEST:

\_\_\_\_\_  
(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
JEFFREY C. KOLIN  
City Manager

# **Attachment 2**

ORDINANCE NO. 14-O-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
PROHIBITING TRANSACTIONS IN WHICH COMPENSATION  
IS PAID FOR THE PURPOSE OF FACILITATING A CHANGE  
IN THE OCCUPANCY OF A PUBLICLY OWNED PARKING  
SPACE

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HERBY ORDAINS AS  
FOLLOWS:

Section 1. A new section 7-3-416 is hereby added to Article 4 (Parking Meter Zones and Fees) of Chapter 3 (Standing, Stopping, Parking) of Title 7 (Traffic, Parking, and Public Transportation) of the Beverly Hills Municipal Code to read as follows:

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B. This section shall not apply to any transaction that occurs in connection with an automobile parking and shuttle service operating pursuant to a valid valet parking permit issued pursuant to title 4, chapter 2, article 15 of this code during any time when such service is authorized to operate valet parking operations.”

Section 2. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections,

subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Section 3.     CEQA Findings. The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption and implementation of this Ordinance may have a significant effect on the environment. This Ordinance preserves the status quo and will not result in any changes to the physical environment. This Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

Section 4.     Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance and shall cause this Ordinance and the City Clerk's certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 5.     Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31<sup>st</sup>) day after its passage.

Adopted:  
Effective:

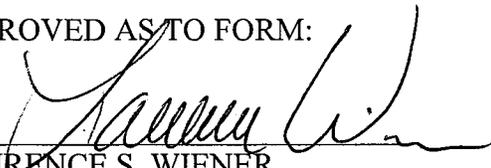
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LILI BOSSE  
Mayor

ATTEST:

\_\_\_\_\_ (SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:



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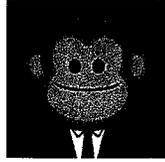
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

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JEFFREY C. KOLIN  
City Manager

# **Attachment 3**



# MonkeyParking Blog

This is why MonkeyParking is the solution of your on-street parking problem

## **And the winner is.... Southern California! (Santa Monica & Beverly Hills)**

Following the results of our Next City contest, we contacted early-MonkeyParkers around the world to get more info regarding the top 5 cities. We got a lot of precious insights... and a lot of support!

After being fighting like monkey warriors against any kind of accusation it makes you feel so good to find someone who is just on your side. We love you guys, really!

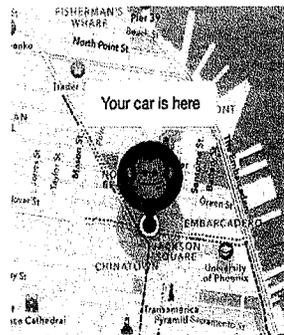
Taking into account Next City votes and information provided by early-MonkeyParkers we finally got a winner: Southern California! **We launched in Santa Monica and Beverly Hills on August 2014.** That's exciting...  
MonkeyParking strikes back!!!

MonkeyParking is the app that lets you...

... make some \$ by leaving on-street spots

#### BECOME A MONKEYPARKER AND MAKE SOME MONEY LEAVING ON-STREET PARKING SPOTS

Anyone can be a MonkeyParker: just download MonkeyParking, set the parking spot you are currently using and start receiving bids!



#### Park your car

Set the location of the spot where you parked your car



#### Start receiving alerts

Get notified about drivers willing to pay to know when you are about to leave



#### Get connected and leave the spot

Get connected to the highest bidder and get paid if he/she parks successfully

## iTunes Preview

[Overview](#)
[Features](#)
[iTunes Charts](#)

iTunes is the world's easiest way to organize and add to your digital media collection.

We are unable to find iTunes on your computer. To download the free app MonkeyParking by Paolo Dobrowolny, get iTunes now.

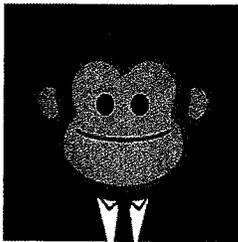
Already have iTunes? Click I Have iTunes to open it now.

[I Have iTunes](#)
[Free Download](#)

## MonkeyParking

By Paolo Dobrowolny

Open iTunes to buy and download apps.

[View More by This Developer](#)


**Free**

Category: Navigation

Updated: Sep 13, 2014

Version: 3.1.2

Size: 8.2 MB

Languages: English, Italian

Seller: Paolo Dobrowolny

© 2012 MonkeyParking

Rated 4+

**Compatibility:** Requires iOS 6.0 or later. Compatible with iPhone, iPad, and iPod touch. This app is optimized for iPhone 5.

### Customer Ratings

We have not received enough ratings to display an average for the current version of this application.

All Versions:

72 Ratings

### Description

MonkeyParking connects drivers looking for parking with people about to leave from a spot...creating a marketplace to provide all you need to park within minutes!

How it works:

GET A PARKING SPOT

- broadcast the price that you would pay to find parking
- get your bid accepted by a MonkeyParker
- find the info you need to park at the spot the MonkeyParker is about to leave
- be happy (we will handle the payment)

MAKE SOME MONEY

- set your car location
- get notified about drivers willing to pay to park quickly
- get connected to the highest bidder
- leave your spot & find the money in your bank account

Get rid of circling the block and make some money when you leave: enjoy!

**MonkeyParking Support**

### What's New in Version 3.1.2

All monkeys like to be clean so they have a barber monkey clean out their fur. The barber monkey's payment is the bugs in its customer's hair.

Oh and...

enjoy MonkeyParking in Santa Monica, share your love on Facebook and get \$5 to find parking easily!

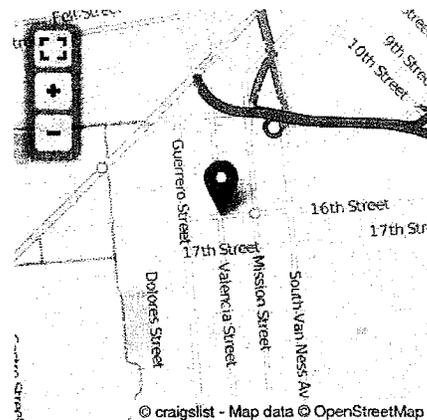
### iPhone Screenshot

CL > SF bay area > san francisco > all jobs > customer service jobs

[ account ]

contact prohibited [2] Posted: 4 days ago

★ Earn \$13.00 P/H Just To Park! (mission district)



16th street at Valencia  
(google map) (yahoo map)

compensation: \$13.00 per hour

part-time

Get paid \$13.00 per hour just to park!

Our company is launching an awesome app that rewards people to sell their on-street parking spots before leaving to people who need a spot.

To help us promote the app, we are looking for 20 people with cars and iPhones to park around the mission and use the app to offer their parking spots to people looking for parking.

The hours will be from 5:30-9:00pm Thurs-Sat starting June 26th.

This is how it works:

1. You download the app from the app store.
2. When you want to work, you will contact our field manager to check in.
3. The field manager will then instruct you as to what area and type of spot you are to park in.
4. You will then find a spot in the area and park.
5. Once you are parked, using the app, you will offer the spot for sale.
6. While you are waiting for someone to purchase the space, you will distribute postcards and promote the app.
7. Once someone purchases the spot, you will complete the transaction with the buyer and then find another space to park in and start the process all over again!

If you are interested, please click on the link below (Paste into your browser) and provide your information so we can contact you and get you started.

[https://docs.google.com/forms/d/1To5Ck5FrPBMrh35SvJp-WDRg0WDyvaLLyuo1\\_MS8pyV8/viewform?usp=send\\_form](https://docs.google.com/forms/d/1To5Ck5FrPBMrh35SvJp-WDRg0WDyvaLLyuo1_MS8pyV8/viewform?usp=send_form)

We look forward to working with you!

- Principals only. Recruiters, please don't contact this job poster.
- do NOT contact us with unsolicited services or offers

post id: 4524258999 posted: 4 days ago updated: 2 days ago [email to friend](#) [best of](#) [2]

## Get Paid To Park!

Earn \$13.00 Per Hour To Simply Park Your Car!  
Starts June 26, 2014



**Enter Your Full Name**

**Enter Your Cell Number**

**Enter Your Email Address**

**Are You 18 or Older?**

- Yes
- No

**Do You Have A Drivers License**

- Yes
- No

**Do You Have an Iphone?**

- Yes
- No

**Do You Have an Android Phone?**

- Yes
- No

**Can You Work Thur-Sat 5pm-8pm?**

- Yes
- No
- Only some of the time

**Are You Willing To Distribute Flyers and Stickers?**

- Yes
- No

**Submit**

Never submit passwords through Google Forms.

100%: You made it.

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