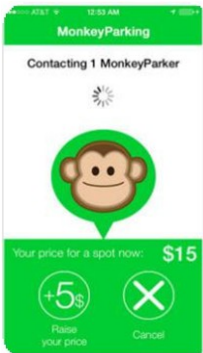


Are these two Apps Halachically Warranted?
Let's read some promotional literature we found about the two...

MONKEY PARKING



SAN FRANCISCO (KCBS)— San Francisco drivers have long been frustrated spending countless minutes trying to find a parking space, but a new app called 'Monkey Parking' allows drivers to buy a spot from someone who's already in it.

On Chestnut Street in the Marina, you need a lot more than parking karma to find a spot. One woman driving around said it's a desperate situation and that drivers do what they have to do.

So here's how it works the driver of a car, already parked in a busy neighborhood, connects with someone using the app who is in that dire situation of needed a parking spot. The one searching for a spot shows up and pays up to \$20 to take over their location.

'Monkey Parking' App Lets Drivers Desperate For Parking Pay Others For Their Space

... Others said 'bring it on'. One mom said she'd use Monkey Parking because with her kids, sometimes you need to be able to pop in and out of a space.

According to the city, there's half a million parking spots for a city of 750,000 people then the tens of thousands of visitors each day need to be factored in making for one hairy situation.

Others thought the \$20 price tag would be a bit of a stretch considering that's what drivers pay for parking at a football game, arguing that \$10 sounded more reasonable.

The City of San Francisco isn't sure if it's a good idea or even legal. The City Attorney's Office told the San Francisco Chronicle it is investigating whether MonkeyParking's business model of making a profit off public space is legal.

San Francisco Municipal Transportation Agency spokesman Paul Rose also told the Chronicle officials are also looking into concerns about the parking app.

SAN FRANCISCO (CBS SF) — San Francisco is putting the brakes on a mobile app that allows drivers to auction off their choice public parking spots to the highest bidder.

City Attorney Dennis Herrera Monday issued a cease-and-desist demand to Rome, Italy-based startup Monkey Parking and CEO Paolo Dobrowolny.

Herrera also sent a request to the legal department of Apple Inc. to immediately remove the mobile application from its App Store because Herrera said it violates Apple's own guidelines on legal requirements for apps.

The Monkey Parking app was launched in April and shortly after the city attorney's office said it would investigate whether the business model of profiting off a public space was legal.

In Monday's demand, Herrera cited a provision of San Francisco's police code "that specifically prohibits individuals and companies from buying, selling or leasing public on-street parking."

Herrera said if Monkey Parking continues to operate past July 11, it would face a lawsuit under California's strict Unfair Competition Law and civil penalties up to \$2,500 per violation.

I S S U E 2 2 6 : M O N K E Y P A R K I N G & S P O T P O G

Drivers who use the app also face a \$300 fine each time

they use the app, Herrera said.



SpotPog is a new way to help alleviate the parking challenge. Our innovative platform integrates public parking, private driveways, and commercial garages. We take the frustration out of parking by implementing efficiencies that reduce congestion, improve air quality, and directly aid local community-based organizations.

By working together with local civic associations, business groups, and elected officials, we're able to provide a win-win solution to drivers, businesses, residents, and our Community Partner organizations.



Find A Spot

- Open the app to find available spots.
- Use your Pogs to swap a free spot or send cash securely to a verified driveway owner using your SpotPog Wallet.
- Let the next driver know when you're leaving and receive a new Pog when you swap it again. Find out more about how to find a spot here.

Offer A Spot

- Open the app to offer a public spot you're leaving or list your driveway for a verified user to rent.

We're all about community. That's why we started SpotPog: to address the neighborhood issues related to parking and congestion. So when we built our app, we wanted to come up with further ways to positively impact the areas in which we operate.

Our solution? Each time you rent your driveway, you can designate whether you want to receive the cash directly or have it donated to one of our local Community Partners. We're selecting charities and non-profits in each of our designated neighborhoods to receive these funds, with an emphasis on issues that directly affect the local area.

Community Partnerships

- If you're listing a driveway, you can choose whether you want to receive cash directly or donate the payment to one of our local Community Partners.
- Feel good knowing that you're making your community better by reducing congestion and pollution from drivers circling for parking. Find out more about how to list your driveway here.

Fund Your Account

- When you register for SpotPog your account will receive 1 Pog to start to use in areas with free public parking by trading with other users for these spots. Pogs cannot be bought or transferred, so to earn more Pogs you must offer your spot when you're leaving as well. You can also get more Pogs by participating in promotions like referring other users to SpotPog.
- To rent a driveway, add cash to your SpotPog Wallet using your credit or debit card. Then you can place bids on driveways and other private spots.

Not only can you offer a parking spot to a neighbor; you can also make an immediate impact in your community. To know whether the proceeds from a spot are going to one of our Community Partners, look for the yellow halo around the parking icon.

☞ What's the Law?

I S S U E 2 2 6 : M O N K E Y P A R K I N G & S P O T P O G

THE ANSWER

Monkey Parking and SpotPog could invoke the following Halachos:

1. Subleasing or relending movable objects generally is forbidden unless the first user is certain that the owner does not mind for the secondary user to borrow/sublease it [Choshen Mishpat 342: 1].
2. In contrast, barring preconditions, as it is more difficult for one to destroy, or lose real estate than movable objects, one who borrows or leases the functionality of real estate for a specific period of time may generally sublease the property to another, provided that the second tenant does not prove more of a risk than the original tenant did to the structure of the property [Choshen Mishpat 316, 363: 10 see Nesivos Hamishpat & Ketzos HaChoshen].
3. When a borrower or renter legitimately subleases the borrowed/rented property, the proceeds belong to the renter [Choshen Mishpat 363: 10 Rema].
4. When a borrower or renter illegitimately subleases the borrowed/rented property, the proceeds belong to the owner [Choshen Mishpat 363: 10 Rema].
5. Additionally, were a renter or borrower to sublease the rented/borrowed real estate, when the owner retains the right to demand the termination of the initial loan/rental at whim, the proceeds of the secondary rental belong to the owner [Choshen Mishpat 316: Rema].
6. A head-hunter, real estate agent, and matchmaker may charge the beneficiary for having provided him/her information in accordance with local custom [Choshen Mishpat 185: 10].
7. A citizen of a country is obliged to comply with local civic laws enacted for the benefit of the government or its citizens [Choshen Mishpat 369: 11 Rema].
8. A Jew is required to adhere to common courtesy even when Halachic Law technically permits a particular activity [Rav Shimshon Rephael Hirsch Devarim 33:29].
9. Once one's fellow extends a significant effort into pursuing a piece of real-estate, purchase, job opportunity, it is evil for a second fellow to interfere with the first's pursued opportunity. Instead, the second individual is required to permit the first fellow to choose to consummate the pursuit and rather bother him/herself with attempting to pursue an alternative opportunity. According to the strict letter of the law, the second individual may attempt to overtake the first fellow's pursuit if the opportunity is one of a kind the likes of which the second fellow cannot find an alternative. Nonetheless, it is virtuous for one aspiring for holiness to permit the first fellow to consummate the pursuit even when no alternative exists for the second fellow to pursue for him/herself [Choshen Mishpat 237, Shulchan Aruch HaRav Ani Mehapech 13].
10. A debtor owes numerous creditors money and does not have enough funds to pay them all back. If one creditor grabs some of the debtor's property to cover the debt he/she is owed, he/she can keep it.
11. Were creditor 1 to grab property of which he/she has a claim upon, on behalf of Creditor 2 instead, Creditor 2 can keep it.
12. Since Creditor 1 could have grabbed it for him/herself, he/she can grab it for Creditor 2 instead.
13. However, Creditor 1 cannot grab funds which he/she has no right to grab for him/herself on behalf of Creditor 2 at the expense of the other creditors.

I S S U E 2 2 6 : M O N K E Y P A R K I N G & S P O T P O G

14. There is a discussion amongst the Poskim whether creditor 1 can grab funds which he/she has no right to grab for him/herself on behalf of creditor 2 at the expense of the other creditors when creditor 2 hired creditor 1 to do so [Choshen Mishpat 105: 1, 2].

APPLICATION

If you paid to park in a spot for two hours, can you leave early and give the spot to someone else? Yes. Can you rent it out to someone else? Yes – You rented the functionality of the spot for two hours. If you want you could put balloons there too!

The municipality effectively lends you a spot on the street to park your car. Before discussing specific municipal laws, say a friend lent or rented you a spot may you lend or rent out the spot that you borrowed? If your friend would lend it to you for a specified time period of which he/she could not indiscriminately force you to leave, you should generally be able to lend or rent out the spot during that duration of time so long as there is no reason to assume that the parking spot owner would not want the second individual in the spot. If your friend lent you the spot and allowed him/herself the right to kick you out at his/her discretion, any subletting earnings would belong to your friend

Though the municipality lends you the spot within which you could park your car, they could at any time issue an ordinance, suspend parking rights and order that your car be removed. As such, any “rent earnings” that you would garner from renting the spot should belong to the city.

Hence, earning money from renting out a free municipal parking spot is not an option. Theoretically, the same should apply to the “Pogs” one earns from swapping spots – it’s just that Pogs have no value to the city!

What about charging money for providing information? Theoretically, like a head hunter or real estate agent, one is permitted to charge money for providing a recipient with information. Similarly, as long as an individual is permitted to park in a specific spot, why can’t he/she charge another fellow to convince him/her to leave the spot?

As such, both receiving money or Pogs for providing information and agreeing to move out should be permissible.

Of course, Halacha requires one to abide by municipal civic laws enacted for the good of the government or society. As of the writing of this article, San Francisco has banned the use of Monkey Parking and levies hefty fines on transgressors. SpotPog on the other hand has been hailed by many New York politicians.

Thus, as of now, in San Francisco it is forbidden to use Monkey Parking and in New York it would be permitted to use SpotPog.

- ❖ *If you SpotPogged someone, drove up to his/her spot and found someone else waiting for the spot, may you jump ahead of him/her claiming that you SpotPogged?*
- ❖ *What should one do if he/she arranged to SpotPogg someone and sees his/her father passing by looking for a spot for himself?*
- ❖ *May you park in between two spots to save one for your married children?*

Before we discuss the technicalities of this dilemma, we will preface our remarks by stating that A Jew is required to adhere to common courtesy even when Halachic Law technically permits a particular activity [Rav Shimshon Rephael Hirsch Devarim 33:29].

More to come...