

Order 241-09/10
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CITY OF PORTLAND
IN THE CITY COUNCIL

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INCORPORATING AMENDMENTS PREPARED BY TRANSPORTATION COMMITTEE
TO
ORDER 241-09/10
AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14. LAND USE
ARTICLE III. ZONING
DIVISION 20. OFF-STREET PARKING

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:

1. *That sections 14-332 and 14-334 of the Portland City Code are hereby amended to read as follows:*

Section 14-332. Uses requiring off-street parking.

Except as provided in Section 14-332.1, 14-332.2 (exceptions) and 14-3345 (fee in-lieu of parking) of this division, for the uses listed below ~~In all zones where off street parking is required,~~ the following minimum off-street parking requirements shall be provided and maintained in the case of new construction, alternations which increase the number of units, and changes of use:

. . .

Sec. 14-334. To be located on lot with principal use in nonresidential zones; exceptions.

Required off-street parking in all nonresidential zones shall be located on the same lot with the principal building or use, or within one hundred (100) feet measured along lines of public access, ~~except that where off street parking cannot be provided within these limits, the Board of Appeals, or Planning Board when applicable, may permit such off-street parking located further than one hundred (100) feet from the principal building or use upon finding that such off-street parking meets the following standards:~~

(a) Distance from principal building or use site: Off-street parking shall ~~be~~ be located ~~a reasonable~~ distance no more than 1500 ft. from the principal

building or use site measured along lines of public access.

~~(b) Control by ownership or lease: if the premises to be used for parking shall be held under the same ownership as the principal building or use or by lease with a term of not less than five (5) years with an option to renew. Evidence of such control, either deed or lease, shall be required by showing for review and approval by City Corporation Counsel, at a minimum, a signed letter of intent, purchase and sale agreement, or option for sale or lease at the time of approval, and an executed deed or lease prior to issuance of any certificate of occupancy. For projects located in non residential zones on the Portland Peninsula, leased parking does not meet parking requirements established in sections 14 332, 14 332.1, and 14 332.2 above, and such off site parking shall be subject to the Fee In lieu of Parking provisions of section 14 345 of this Division.~~

The Planning Board may be substituted for the Board of Appeals only where an applicant is otherwise before the Planning Board for site plan approval.

. . . .

2. That sections 14-345, 14-346, 14-346.1 and 14-346.2 are hereby enacted to read as follows:

Section 14-345. Peninsula Fee In-Lieu of Parking

Any major or minor development subject to site plan review located in a non-residential zone on the Portland Peninsula shall either provide the required parking or pay a fee according to the provisions of (a) and (b) below.

(a) Provide the number of off street parking spaces according to the provisions of ~~section 14-332 of this Division (uses requiring off street parking).~~ Such parking spaces shall be provided on-site, or on a lot under common ownership with that of the principle building or use, subject to ~~and section 14-334 of this Division (off-site parking) of this division; or,~~

(b) ~~Shall pay~~ Pay a Fee In-lieu of Parking of not less than \$5,000.00~~10,000.00~~, as adjusted annually per (c) below, per space not provided or per space provided off-site on a lot not under common ownership with that of the principle building or use, subject to section 14-334 of this Division (off-site parking). Fees shall be deposited into the Sustainable Transportation Fund, as established in section 14-346 of this Division.

(c) The value of the fee shall be adjusted annually according to the Engineer's News Record construction index as published on January 1st of the current calendar year. The fee adjustment shall be calculated by taking the index amount published on January 1st, of the current year, divided by the index amount published on January 1, 2010 (8660~~current-#~~), multiplied by ~~(the fee amount from subsection (b) above)~~. The base fee, the adjustment index, or the calculation method may be otherwise amended by action of the City Council from time to time.

(d) The fee shall be paid on or before the date upon which a certificate of occupancy is issued. Payment shall be secured by a bond at the time the amount of the fee is set.

Sec. 14-346. Sustainable Transportation Fund Established

By act of the Portland City Council, the Sustainable Transportation Fund is hereby established.

Section 14-346.1 Sustainable Transportation Fund Purpose.

The purpose of the fund is to implement those provisions of the Peninsula Transit Study Report, and Action Plan, as adopted by the Portland City Council on August 3, 2009 as a component of the City's Comprehensive Plan, which ~~recommended~~ creation of a Sustainable Transportation Fund. The Peninsula Transit Study Report and Action Plan establish a goal to reduce the number and impact of single occupancy vehicle trips to and from the Portland Peninsula. Achieving this goal requires transportation choice for residents, businesses, and visitors to the Portland Peninsula. This ordinance establishes a funding source for broadening transportation choice and facilitating development with lower traffic impacts and reduced parking requirements.

~~This article also establishes a~~The mechanism and protocol for collecting fees and spending funds ~~are in a manner~~consistent with state requirements for utilizing transportation related impact fees.

Sec. 14-346.2. Deposits and Expenditures for the Sustainable Transportation Fund

(a) Deposits

~~1.~~ The City shall establish a Sustainable Transportation Fund to be set up as a separate account within the City. Deposits into the fund shall include:

- 1a. 100% of the revenue generated by the Fee In-lieu of Parking program, as established in Section 14-345 of the City Land Use Code;
- 2b. Funds appropriated ~~to befor~~ deposited into the fund by vote of the City Council;
- 3c. Voluntary contributions of money or other liquid assets to the fund; and,
- 4d. Any federal, state or private grant or loan funds provided to the fund.

Funds from 1 (Fee In lieu of Parking program, as established in Section 14 345 above) shall be individually collected and accounted for. Such funds shall be spent on eligible infrastructure and/or capital expenses, as outlined in (b) and (c) below, within 10 years of the date of collection. Any such funds not spent within this timeframe shall be returned to the contributor.

ii2. Accounting of Deposits by project and sub-district: Funds from ~~1~~ the ~~(Fee In-lieu of Parking program, as established in Section 14-345 above,)~~ shall be individually collected and accounted for by project and the geographic *Fee in Lieu of Parking Sub-district* in which it is located, as shown on the Portland Peninsula Fee In-Lieu of Parking ~~Application~~Sub-district Map ~~(cite location)~~on file with the Department of Planning and Urban Development.

iii3. —Funds to be used within 10 years of deposit: Funds collected under the Fee In-Lieu of Parking ordinance shall be spent on eligible infrastructure and/or capital improvements or expenses, as outlined in (b) and (c) below, within 10 years of the date of collection. Any such funds not spent within this timeframe shall be returned to the contributor. Any funds which are not so utilized and which exceed the City's actual costs of implementing the infrastructure improvement or improvements for which such fees were collected shall be refunded. Refunds shall be paid to the owner of records of the property for which the funds were collected, determined as of the date the refund is made.

iv4. Use of the funds by Sub-district: Funds ~~contributed~~collected under the Fee In-Lieu of Parking ordinance shall be spent on permitted expenditures of the fund, as outlined in (b) below, within the same geographic Fee In-Lieu of Parking Sub-district as the contributing project as depicted on the Portland Peninsula Fee In-Lieu

of Parking Sub-district Map on file with the Department of Planning and Urban Development recommended by the Planning Board. However, for projects located within two hundred fifty (250) feet of an abutting sub-district, contributed fees can be used for eligible infrastructure projects in either abutting sub-district.

(b) Permitted expenditures of the fund.

The Sustainable Transportation Fund may only be expended on the activities as described below:

1. Funds collected as Fees In-Lieu of Parking, according to (a) (1) above, shall be expended toward capital transportation improvements on the Portland Peninsula. Such capital improvements shall include but are not limited to the following:

a. Parking Infrastructure

- i. Shared-use, publicly accessible parking facilities;
- ii. Publicly accessible bicycle racks and bicycle parking shelters;

b. Transit Capital Improvements and Expenses

- i. Bus shelters, bus turnouts, transit signage and other transit amenities;
- ii. Buses and transit vehicles;
- iii. Transit and transportation information systems;
- iv. Fixed guide way and/or rail transit systems;

c. Pedestrian and Bicycle Infrastructure

- i. Multi-use trails, and non-vehicular transportation corridors;
- ii. Pedestrian infrastructure and amenities located on publicly accessible rights of way including, but not limited to cross walks, signalization, landscaping, street furniture, wayfinding signage, traffic calming, and lighting;
- iii. New public sidewalks and new bicycle lanes along publicly accessible rights of way or

corridors where such facilities are not previously provided; and,

d. Other such improvements intended to enhance transportation choice and promote transit and non-automotive transport on the Portland Peninsula.

2. Funds collected or appropriated by means other than from a Fee In-Lieu of Parking noted in (a)(1) above may be used for any of the capital transportation improvements listed above in (b)(1), and for any of the following uses:

ai. Transportation Demand Management program administration;

bii. On or off-peninsula transit and/or non-automotive transportation capital or see operating expenses;

ciii. Transit and/or non-automotive transportation promotion and education material;and

dii. Other such programs or improvements intended to enhance transportation choice and promote transit and non-automotive transport for the City of Portland.

(c) Annual Sustainable Transportation Plan and Appropriations Schedule:

Annually, the City Manager shall submit to the City Council a recommended Sustainable Transportation Plan and Appropriations Schedule, utilizing the revenues of the Sustainable Transportation Fund. The Transportation Committee of the City Council or such other committee as the Council shall designate shall recommend and refer the plan and appropriations schedule to the City Council for action.

*Editor's Note-The effect of Section 14-346.2(a)(iv)above is to establish the western boundary of the central sub-district as State Street, not High Street.

BE IT FURTHER ORDERED that the zoning map of the City of Portland, dated December 2000 as amended and on file in the Department of Planning & Development, and incorporated by reference into the Zoning Ordinance by Sec. 14-49 of the Portland City Code, is hereby amended to reflect and

include the Portland Peninsula Fee In-Lieu of Parking Sub-district Map as depicted on Exhibit A, attached hereto.