

Order 36-09/10  
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(Waxman, Skolnik absent)

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**CITY OF PORTLAND**  
IN THE CITY COUNCIL

JOHN COYNE (5)  
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**AMENDMENT TO PORTLAND CITY CODE  
CHAPTER 14 LAND USE  
ARTICLE III. ZONING  
DIVISION 20. OFF-STREET PARKING  
RE: B-2, B-2b and B-2c PARKING AMENDMENTS**

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

*That sections 14-332 and 14-343 of the Portland City Code are hereby amended to read as follows:*

**Sec. 14-332. Uses requiring off-street parking.**

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, alterations which increase the number of units, and changes of use:

(a) *Residential structures:*

1. For new construction, two, (2) parking spaces for each dwelling unit, plus one (1) additional parking space for every six (6) units or fraction thereof.
2. For alterations or changes of use in existing structures, which create new or additional dwelling units in such structures, and for accessory units pursuant to §§14-68,78,88, one (1) additional parking spaces for each such unit. Existing parking spaces shall not be used to meet the parking requirements of this paragraph, unless the existing parking spaces exceed one (1) space for each dwelling unit.
3. For residential development on the peninsula (area defined as southerly of I-295).

- a. One (1) space per unit;
- b. The required parking for multi-unit residential buildings may be partially met through provision of shared-use vehicles, which are vehicles owned and maintained by the owner/manager of the building and available for use on a fee basis to the residents of the building. One shared use vehicle shall be deemed to satisfy eight (8) required car spaces, but in no case shall more than 50% of the parking requirement be satisfied by shared vehicle use.
- c. The planning board may establish a parking requirement that is less than the normally required number of spaces upon a finding of unique conditions that result in a lesser parking demand, such as housing for persons who cannot drive, housing that participates in a travel demand management program, availability of transit, or housing which includes permanent restrictions on automobile usage, and which is permanently restricted from utilizing resident on-street parking stickers.

4. For residential development in the B-2, B-2b, B-2c zones:

- a. One (1) parking space per dwelling unit.

*(Intentionally omitted subparagraphs (b)-(i) as there are no changes proposed to these sections)*

- (j) *Offices; professional and public buildings: One (1) parking space for each four hundred (400) square feet, or major fraction thereof, of floor area exclusive of cellar not used for bulk storage.;* ~~except that in the B-2 and B-2b zones one (1) parking space for each three hundred and thirty four (334) square feet or major fraction~~

~~thereof, of floor area exclusive of cellar not used for bulk storage shall be required.~~

*(Intentionally omitted sub-paragraphs (k)-(w) as there are no changes proposed to these sections)*

(x) Change of Use in the B-2b zone:

1. A change of use of 10,000 sq. ft. or less of floor area of a building or a portion of a building need not provide parking for non-residential uses, provided that if the number of existing parking spaces serving the site is less than the requirements of this division, that number of parking spaces may not be reduced lower than the required amount prior to the change of use except:
  - a. To the extent necessary to meet the requirements of the Americans with Disability Act; or
  - b. To the extent it is a requirement or a condition of site plan review; or
  - c. To the extent the change of use requires less parking than the previous use and the total number of parking spaces serving the site exceeds the parking requirements of this division for all uses on the site including the change of use.
2. A newly constructed building, a building addition or a change of the use of a building exceeding 10,000 sq. ft. of floor area, shall provide the parking required by this division.

**Sec. 14-343. Either the Board of Appeals or the Planning Board may approve joint use.**

(a) Except as provided in subsection (b) below, the Board of Appeals may approve the joint use of a parking facility by two (2) or more principal buildings or uses where it is clearly demonstrated that the parking facility will substantially meet the intent of the requirements by

reason of variation in the probable time of maximum use by patrons or employees among such establishments. This section shall apply to residential uses in the B-1, B-1b, B-2, B-2c and B-3 zone which propose joint use of a parking facility with another principal use in the B-1, B-1b, B-2, B-2c and B-3 zone. 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.

Whenever any exception to the parking requirements under this section has been finally denied on its merits by either the Zoning Board of Appeals or the Planning Board, a second request for an exception seeking essentially the same relief, whether or not in the same form or on the same theory, shall not be brought before either body within one (1) year of such denial unless, in the opinion of the board before which it was initially brought, substantial new evidence is available or a mistake of law or fact significantly affected the prior denial.

(b) Requests for joint use of parking in the B-2b zone shall be reviewed and approved by the Zoning Administrator only in the following circumstances:

1. Residential uses above the first (1<sup>st</sup>) floor in ~~existing~~ buildings in the B-2b zone shall be permitted to share ~~one half (1/2)~~ parking spaces ~~(out of the required one and one half (1-1/2) parking spaces per dwelling unit) per dwelling unit~~ with commercial uses located in the same building; and
2. It is clearly demonstrated that the joint parking arrangement will substantially meet the intent of the parking requirements by reason of a variation in the probable time of maximum use by patrons or employees of the commercial establishment and tenants of the residential dwelling units; and
3. Parties involved in the joint use of parking shall provide evidence of a binding agreement for the joint use of parking. Any subsequent modifications to the structure or change in the tenant occupancy of the commercial use(s) shall require review by the Zoning Administrator for conformance with this section.

Any decision by the Zoning Administrator on shared parking requests may be appealed to the Zoning Board of Appeals as an interpretive appeal pursuant to 14-471(a).