

Sec. 14-330.15. Separate business entities.

Where two or more entertainment businesses operate on one site, and where each business entity requires or has a separate business license, or displays in a manner visible from public property separate business trademarks, logos, service marks or other mutually identifying names or symbols, each business entity shall be counted as a separate entertainment business for the purpose of this section.

(Ord. No. 164-06/07, 4-4-07)

Sec. 14-330.16. Conditions on after-hours food service in the downtown entertainment overlay zone.

(a) Following a hearing held pursuant to chapter 15, section 15-10, the clerk may impose conditions to maintain or improve public safety on the food service license of any business in the downtown entertainment overlay zone that operates between 1:00 a.m. and 4:00 a.m., following a written recommendation from the Portland police department that such conditions are necessary.

(b) The clerk's decision may be appealed to the city manager pursuant to section 15-9 of this code.

(c) Nothing in this section shall be construed to limit the clerk's authority in chapter 15 to deny, suspend or revoke any license pursuant to the standards and process in that chapter.

(Ord. No. 164-06/07, 4-4-07)

DIVISION 20. OFF-STREET PARKING

Sec. 14-331. Defined.

Off-street parking, either by means of open-air spaces or by garage spaces which meet the standards set forth in the City of Portland Technical Manual, as hereafter amended, in addition to being a permitted use in certain zones, shall be considered as an accessory use when required or provided to serve conforming uses in any zone.

(Code 1968, § 602.14.A; Ord. No. 272-77, 5-16-77; Ord. No. 389-89, § 1, 4-3-89; Ord. No. 278-09/10, 7-19-10)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

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

Except as provided in Section 14-332.1, 14-332.2 (exceptions) and 14-345 (fee in-lieu of parking) of this division, for the uses listed below 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.
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 in the B-2, B-2b, B-2c zones:
 - a. One (1) parking space per dwelling unit.

(b) Motel: One (1) parking space for each sleeping room.

(c) Hotels: One (1) parking space for each four (4) guest rooms.

(d) Schools providing instruction for students up to and including those fifteen (15) years of age: One (1) parking space for each room used for purposes of instruction.

(e) Schools providing instruction for students sixteen (16) years of age and over: One (1) parking space for each ten (10) seats or major fraction thereof, used for purposes of instruction; if no fixed seats, one (1) parking space for each one hundred (100) square feet or major fraction thereof used for purposes of instruction.

(f) Hospitals: One (1) parking space for each five hundred (500) square feet or major fraction thereof, of floor area, exclusive of cellar.

- (g) Auditoriums, theaters, assembly halls, funeral homes: One (1) parking space for each five (5) seats or for each one hundred (100) square feet, or major fraction thereof, of assemblage space if no fixed seats.
- (h) Retail stores: One (1) parking space for each two hundred (200) square feet of first floor area in excess of two thousand (2,000) square feet not used for bulk storage and one (1) parking space for each seven hundred (700) square feet, or major fraction thereof, for each floor above the first floor not used for bulk storage.
- (i) Restaurants or establishments constructed and intended for the dispensing of food and drink as the principal activity: One (1) parking space for each one hundred fifty (150) square feet, or major fraction thereof, of floor area not used for bulk storage or food preparation.
- (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.
- (k) Places of assembly (which includes private club and fraternal halls, places of religious assembly, and community halls): One (1) parking space for each one hundred and twenty five (125) square feet, or major fraction thereof, of floor area used for assembly area not including bathrooms, bulk storage, stairways, closets or other non-assembly areas.
- (l) For that part of every business, manufacturing, and industrial building not catering to retail trade and with floor area over three thousand (3,000) square feet: One (1) parking space for each one thousand (1,000) square feet of floor area, or major fraction thereof.
- (m) Hostels: One (1) parking space for each eight (8) beds, or major fraction thereof. This requirement may be reduced to one (1) parking space for each twelve (12) beds if the site is within one quarter (1/4) mile of a public transit stop.

- (n) Long-term, extended care and intermediate care facilities: One (1) parking space for each five (5) beds, or major fraction thereof, plus one (1) parking space per each employee normally present during one (1) weekday morning shift.
- (o) Lodging houses: One (1) parking space for each five (5) rooming units, except in the R-5 zone; in the R-5 zone, one (1) parking space for every two (2) rooming units.
- (p) Sheltered care group homes and emergency shelters: One (1) parking space for every two (2) employees.
- (q) Congregate care facilities: One (1) parking space for every three (3) living units.
- (r) Special needs independent living units: One (1) parking space per every four (4) living units, plus one (1) parking space for each staff member, if any, normally present at any one time.
- (s) Bed and breakfast:
 - 1. Except in the I-B zone: One (1) parking space for each two (2) guest rooms or fraction thereof for the first four (4) guest rooms; one (1) parking space for each additional guest room in excess of four (4).
 - 2. In the I-B zone: No off-street parking required.
- (t) Day care facilities: Off-street parking shall be provided on the site for all staff of the facility. Parking for the facility shall not interfere with access to or use of play areas. In residential zones parking spaces may be stacked or placed side by side in order to less their impact on the residential character of the lots and the neighborhood, and shall not be located closer than five (5) feet from the property line of any abutting residential use or residentially zoned site.
- (u) Private clubs: One (1) parking space for each one hundred fifty (150) square feet, or major fraction thereof, of floor area.

- (v) Neighborhood Centers: One (1) parking space for each 150 square feet, or major fraction thereof, of floor area, except for neighborhood centers which serve primarily clientele from the surrounding neighborhood, the parking requirement shall be one (1) parking space per 1,000 square feet, or major fraction thereof, of floor area.

(Code 1968, § 602.14.B; Ord. No. 268-77, 5-16-77; Ord. No. 431-82, § 2, 2-22-82; Ord. No. 575-86, §§ 1, 2, 5-19-86; Ord. No. 65-87, 11-2-87; Ord. No. 230-90, § 2, 3-5-90; Ord. No. 33-91, § 14, 1-23-91; Ord. No. 243-91, § 1, 3-11-91; Ord. No. 33A-91, § 8, 4-17-91; Ord. No. 125-97, § 10, 3-3-97; Ord. No. 232, §4, 3-15-99; Ord. No. 94-99, 11-15-99; Ord. No. 77-02/03, § 1, 10-21-02; Ord. No. 199-04/05, 4-4-05; Ord. No. 84-08/09, 10-20-08; Ord. No. 36-09/10, 8-17-09; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 240-09/10, 6-21-10; Ord. No. 241-09/10, 11-15-10; Ord. No. 149-10/11, 3-7-11; Ord. No. 279-09/10, 6-6-11; Ord. No. 73-14/15, 10-20-2014; Ord. 209-14/15, 5/4/2015)

Sec. 14-332.1. Zone specific off-street parking exceptions and modifications.

The off-street parking requirements established for uses, established above in section 14-332 of this division, are hereby modified for the following zones according to the provisions described below.

- (a) IR-3, Island Residential Zone, Off-street parking: Off-street parking shall not be required irrespective of the requirements of division 20 (off-street parking) of this article.
- (b) USM Overlay Zone, parking: The parking requirements of section 14-332 (division 2) shall not apply to university buildings. Instead, the amount of parking required for any university building or building addition shall be determined by the planning board during site plan review, based on an analysis of campus-wide parking demand and supply, pursuant to a comprehensive university parking management plan, and treating all contiguous land (including land on opposite sides of the street) owned by the university as one lot. In determining the amount of parking required for any university building, the planning board may take into account such factors as:
 - 1. The availability of off-campus parking and shuttle transportation to and from such off-campus facilities.

2. The ratio of commuter students to resident students.
 3. The use of centrally located on-campus parking facilities so situated that students, faculty, staff and visitors arriving on campus can reasonably be expected to park in the central facilities and walk to their various on-campus destinations during the course of a school day.
 4. Shared use of a single parking facility by two or more buildings when the peak parking demand period for such buildings do not overlap.
 5. Development and implementation of a parking management plan which discourages on-street parking. On-street parking shall not be used to satisfy the university's parking demand.
 6. Development and implementation of programs designed to reduce the number of automobiles parking on campus, such as ride share programs and incentives for use of bicycles and public transportation.
- (c) *Recreation open space zone:* Off-street parking adequate to serve projected employee and visitor needs shall be provided. Parking needs projections provided by the applicant or the planning department should be considered in the review.
- (d) Change of use in the B-2b or IS-FBC 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.
- (e) B-3 Zone: No off-street parking is required for changes of use.
 - (f) I-R1, Island Business Zone: Off-street parking shall be required at twenty-five (25%) percent of the required number of parking spaces for specified uses as provided in division 20 (off-street parking) of this article, except that residential uses shall meet the full parking requirement.
 - (g) B-5 Zone: No off-street parking shall be required.
 - (h) B-6 Eastern Waterfront Mixed Use Zone: Off-street parking for all projects regardless of size shall be governed by 14-332.2(c) of this article.
 - (i) B-7, Mixed Development District Zone: Off-street parking for all projects regardless of size, shall be governed by 14-332.2(c) of this article.
 - (j) Waterfront Zone parking requirements; Eastern Waterfront Port Zone; Waterfront Central Zone; Waterfront Port Development Zone; Waterfront Special Use Zone: Off-street parking is required at fifty (50%) percent of the required number of parking spaces for specified uses as otherwise provided in division 20 of this article.
 - (k) Residential development on the peninsula and in the R-6 and R-6A Zones, including new construction, alterations that increase the number of units, and changes of use:

1. Except as provided below, there shall be one (1) space per unit
2. 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.
3. 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. No parking shall be required for the first three units in the R-6 Residential Zone or the IS-FBC Zone.
5. For alterations of buildings containing three or more dwelling units in the R-6 zone no parking shall be required for the creation of one additional dwelling unit above existing conditions as of June 3, 2015. This exemption may be utilized one time.

(Ord. No. 240-09/10, 6-21-10; Ord. 209-14/15, 5/4/2015; (Ord. 83-15/16, 11-2-2015; Ord. No. 192-15/16, 4-4-2016)

Sec. 14-332.2. Categorical exceptions and modifications to off-street parking requirements.

Regardless of which zone a project of use is located, the following exceptions to the off-street parking requirements listed above in section 14-332 are additionally hereby established.

- (a) Home occupations, Section 14-410: Any need for parking generated by the conduct of a home occupation allowed under section 14-410 of this article shall be met off the street and other than in a required front yard.
- (b) Incentives for affordable housing- parking reductions: For each low-income or workforce housing unit for rent or sale within an eligible project under the Affordable Housing Ordinance established in Division 30 of this article, no more than one (1) parking space shall be required. The planning board may establish a parking requirement for affordable housing units for rent or sale within an eligible project that is less than one (1) parking space per affordable housing unit, regardless of the size of the structure.
- (c) Site plans over 50,000 square feet and projects in the B-6, B-7, and USM Overlay Zones: Where construction is proposed of new structures having a total floor area in excess of fifty thousand (50,000) square feet, the planning board shall establish the parking requirement for such structures. The parking requirement shall be determined based upon a parking analysis submitted by the applicant and upon the recommendation of the city transportation engineer.
- (d) Exception for historic structures: No parking in excess of that existing on or servicing the lot as of March 15, 1999 shall be required for any structure under Article IX of this chapter, as a contributing structure in a local or National Register historical district, or as a locally designated or National Register landmark building; however, parking may not be decreased from that existing on or servicing the lot on March 15, 1999 except to the extent necessary to meet the requirements of the Americans with Disabilities Act.

(Ord. No. 240-09/10, 6-21-10; Ord. 82-15/16, 10-19-2015)

Sec. 14-332.3. Uses requiring off-street bicycle parking.

In all zones where off-street motor vehicle parking is required, minimum off-street bicycle parking requirements shall be provided and maintained in the case of new construction, alterations and changes of use as specified in Section 14-526(a)(2) (Site Plan Standards).

(Ord. NO. 134-07/08, 2-4-08)

Sec. 14-333. To be located on lot with principal use in residential zones; exceptions.

Required off-street parking in all residential zones and accessory off-street parking in R-1 through R-5 zones shall be located on the same lot with the principal building or use, except that the Board of Appeals may permit such off-street parking to be located at a distance of not more than three hundred (300) feet from the principal building or use, measured along lines of public access where it cannot reasonably be provided on the same lot if the premises to be used for parking are held under the same ownership or lease as the building or use served and if said premises are located in the same or a less restricted zone as the building or use served. Evidence of such control, either deed or lease, shall be required. 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.

(Code 1968, § 602.14.C; Ord. No. 94-99, 11-15-99)

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 the Board of Appeals, or Planning Board when applicable, may permit 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 located no more than 1500 ft. from the principal building or use site measured along lines of public access.

(b) Control by ownership or lease: 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, 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.

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.

(Code 1968, § 602.14.D; Ord. No. 430-83, § 1, 4-25-83; Ord. No. 94-99, 11-15-99; Ord. No. 241-10/11, 11-15-10)

Sec. 14-335. Off-street parking restricted.

Off-street parking shall not include:

- (a) More than one (1) commercial motor vehicle in any residence zone, the R-P zone or any B-1 zone;
- (b) More than six (6) commercial motor vehicles in any B-2 zone;
- (c) Loading, sales, dead storage, repair, or servicing of any kind, except when customarily incidental or accessory to a conforming principal building or use when located in an I-2, I-2b, I-3 zone and I-3b zone;
- (d) Except in the case of a car dealer, more than one (1) unregistered motor vehicle stored outside for a period in excess of thirty (30) days in any residence zone, the R-P zone or any business zone;

- (e) Notwithstanding (1) above, any truck body, commercial trailer or similar commercial vehicles in any residence zone or the R-P zone.

(Code 1968, § 602.14.E; Ord. No. 298-88, 5-31-88)

Sec. 14-336. Location in residence zones for six or fewer vehicles.

(a) Where off-street parking for six (6) or fewer vehicles is required or provided in any residence zone, it shall not be located closer than fifty (50) feet to any street line if less than five (5) feet from any lot line and shall not be closer to any street line than the required depth of the front yard for the same lot, except on a corner lot where the minimum depth from the line of the side street shall be the minimum width of the side yard on the side street. Lots in the R-6 zone shall not be required to provide the five-foot setback required by this section, but parking in the R-6 zone shall meet the front yard setbacks set forth in this section.

(b) Parking shall be prohibited in the front yard of lots containing two (2) or more dwelling units, except within one (1) driveway on the lot. "Driveway," as used in this paragraph, shall not include any turnaround area.

(Code 1968, § 602.14.F; Ord. No. 231-90, § 1, 3-5-90; Ord. No. 310-98, § 2, 5-4-98)

Sec. 14-337. Location in residence zones for more than six vehicles.

Where off-street parking for more than six (6) vehicles is required or provided for nonresidential uses in residence zones, it shall not be located closer than twenty-five (25) feet to any residential structure on an adjoining lot.

(Code 1968, § 602.14.G)

Sec. 14-338. When located within required open yard areas in residence zones.

(a) Where off-street parking for more than six (6) vehicles is required or provided on a lot in a residence zone and vehicles are to be or may be parked within the area otherwise required to be kept open and unoccupied for front, side and rear yards in the zone in which such parking is located, the following requirements shall be met:

- (1) A continuous curb guard, rectangular in cross-section, at least six (6) inches in height and permanently

anchored, shall be provided and maintained at least five (5) feet from the street or lot line between such off-street parking and that part of the street or lot line involved; or a continuous bumper guard of adequate strength, the top of which shall be at least twenty (20) inches in height, shall be provided and maintained between such off-street parking and that part of the street or lot line involved so that bumpers of vehicles cannot project beyond its face toward the street or lot line involved, either above or below the impact surface.

- (2) Where such off-street parking shall abut a lot in residential use or an unoccupied lot which is located in a residence zone, a chain link, picket or sapling fence, not less than forty-eight (48) inches in height, shall be provided and maintained between such off-street parking and that part of the lot line involved.

(b) Notwithstanding the provisions of subsection (a) of this section, parking shall be prohibited in the front yard of lots containing two (2) or more dwelling units, except within one (1) driveway on the lot. "Driveway," as used in this paragraph, shall not include any turnaround area.

(Code 1968, § 602.14.H; Ord. No. 231-90, § 2, 3-5-90)

Sec. 14-339. When located adjacent to a street or a residential use.

Where off-street parking for more than six (6) vehicles is required or provided on a lot in any business zone, the following requirements shall be met:

- (a) Where vehicles are to be or may be parked within ten (10) feet of any street line, a continuous curb guard, rectangular in cross-section, at least six (6) inches in height and permanently anchored, shall be provided and maintained at least five (5) feet from the street line between such off-street parking and that part of the street line involved; or a continuous bumper guard of adequate strength, the top of which shall be at least twenty (20) inches in height, shall be provided and maintained between such off-street parking and that part of the street line involved so that bumpers of vehicles cannot project beyond its face toward the street line involved either above or below the impact

surface.

- (b) Where such off-street parking shall abut a lot in a residence zone or a lot in residential use, a chain link, picket or sapling fence, not less than forty-eight (48) inches in height, shall be provided and maintained between such off-street parking and that part of the lot line involved.

(Code 1968, § 602.14.1)

Sec. 14-340. Construction requirements when more than six vehicles parked.

Where off-street parking for more than six (6) vehicles is required or provided, the following construction requirements shall apply:

- (a) Appropriate driveways from streets or alleys, as well as maneuvering areas, shall be provided. Location and width of approaches over public sidewalks shall be approved by the traffic engineer.
- (b) The surface of driveways, maneuvering areas and parking areas shall be uniformly graded with a subgrade consisting of gravel or equivalent materials at least six (6) inches in depth, well compacted, and with a wearing surface equivalent in quantities of compaction and durability to fine gravel.
- (c) A system of surface drainage shall be provided in such a way that the waste run-off shall not run over or across any public sidewalk or street.
- (d) Where artificial lighting is provided, it shall be shaded or screened so that no light source shall be visible from outside the area and its access driveways.

(Code 1968, § 602.14.J; Ord. No. 96-88, § 1, 7-19-88)

*Editor's note—Ord. No. 96-88, § 1, adopted July 19, 1988, amended subsection (a) of this section to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 96-88.

Sec. 14-341. Aisles required for six or more spaces.

In parking facilities containing six (6) or more parking spaces, there shall be provided vehicular access by one (1) or more aisles. Aisle widths shall be in conformance with the standards set forth in the City of Portland Technical Manual, as hereafter amended.

(Code 1968, § 602.14.A; Ord. No. 272-77, 5-16-77; Ord. No. 389-89, § 2, 4-3-89; Ord. No. 278-09/10, 7-19-10)

Sec. 14-342. Reserved.

*Editor's note—Section 1 of Ord. No. 354-85, adopted Jan. 7, 1985, repealed § 14-342, relative to a reduction of requirements by the board of appeals, which derived from Code 1965, § 602.14.K.

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 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 (1st) floor in buildings

in the B-2b zone shall be permitted to share parking spaces 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).
(Code 1968, § 602.14.L; Ord. No. 243-91, § 2, 3-11-91; Ord. No. 94-99, 11-15-99; Ord. No. 36-09/10, 8-17-09)

Sec. 14-344. Either the Board of appeals or the Planning Board may authorize parking in certain residence zones.

In R-3 through R-5 zones, the Board of Appeals may permit off-street parking for passenger cars only accessory to a use located in and conforming with the provisions of a nearby business or industrial zone (except B-1 zones) if the lot on which the use is proposed is located wholly within three hundred (300) feet, measured along lines of public access, of the principal building of the use to which the proposed use would be accessory and provided further that:

- (a) The lot where the parking use is proposed shall be under the control of the owner of the use to which the parking use would be accessory. Evidence of such control by deed or lease shall be required before the certificate of occupancy is issued. If such control should be abrogated, the parking use thus allowed shall automatically revert to a nonconforming use in violation of this article and shall be terminated forthwith.
- (b) The Board of Appeals may impose such conditions as deemed necessary to insure development compatible with

that of the immediate neighborhood notwithstanding the provisions of any other section of this article and may at its discretion limit the period of such use.

- (c) 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.

(Code 1968, § 602.14.M; Ord. No. 541-84, 5-7-84; Ord. No. 94-99, 11-15-99)

Sec. 14-345. Peninsula fee-in-lieu of parking.

Any major or minor development subject to site plan review located in a non-residential zone or the IS-FBC 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 (uses requiring off-street parking) and section 14-334 (off-site parking) of this division; or,
- (b) Pay a fee-in-lieu of parking of not less than \$5,000.00 as adjusted annually per (c) below, per space not provided. 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), multiplied by (the fee amount from (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.

(Ord. No. 241-09/10, 11-15-10; Ord. 83-15/16, 11-2-2015)

Sec. 14-346. Sustainable transportation fund established.

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

(Ord. No. 241-09/10, 11-15-10)

Sec. 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.

The mechanism and protocol for collecting fees and spending funds are consistent with state requirements for utilizing transportation related impact fees.

(Ord. No. 241-09/10, 11-15-10)

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:
 - a. 100% of the revenue generated by the fee in lieu of parking program, as established in section n14-345 of the city Land Use Code;

- b. Funds appropriated for deposit into the fund by vote of the city council;
 - c. Voluntary contributions of money or other liquid assets to the fund; and,
 - d. Any federal, state or private grant or loan funds provided to the fund.
2. Accounting of deposits by project and sub-district: Funds from 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 sub-district map on file with the Department of Planning and Urban Development.
3. 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 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.
4. Use of funds by sub-district: Funds 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. 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 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 right-of-way including, but not limited to cross walks, signalization, landscaping, street furniture, wayfinding signage, traffic calming, and lighting;
 - iii. New public sidealks and new bicycle lanes along publicly accessible rights of way or corridors where such

facilities are not previously provided;

- 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 may be used for any of the capital transportation improvements listed above in (b) (1), and for any of the following uses:
 - a. Transportation Demand Management Program administration;
 - b. On or off-peninsula transit and/or non-automotive transportation capital or operating expenses;
 - c. Transit and/or non-automotive transportation promotion and education material; and
 - d. 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.

(Ord. No. 241-09/10, 11-15-10)

*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, no High Street.

Sec. 14-347. - Sec. 14-350 Reserved.