



# AGENDA ITEM REQUEST FORM

**Town Manager's Office**

**Bud Bentley**

Department

Assistant Town Manager

**Special  
COMMISSION MTG  
Meeting Dates - 7:00 PM**

**DEADLINE TO  
Town Clerk**

**ROUNDTABLE  
MEETING  
Meeting Dates - 7:00 PM**

**DEADLINE TO  
Town Clerk**

**March 8, 2011**

April 15 (5:00 pm)  
\*Subject to Change

April 12, 2011

April 1 (5:00 pm)

- |                                       |   |                                       |  |
|---------------------------------------|---|---------------------------------------|--|
| <input type="checkbox"/> Presentation | <input type="checkbox"/> Reports        | <input type="checkbox"/> Consent      | <input checked="" type="checkbox"/> <b>Ordinance</b> |
| <input type="checkbox"/> Resolution   | <input type="checkbox"/> Quasi-Judicial | <input type="checkbox"/> Old Business | <input type="checkbox"/> New Business                |

**SUBJECT TITLE: Second Reading of Ordinance 2011-01, Restaurant Parking Exemption Program and Other Parking Issues**

On February 22, 2011, the Commission held a workshop on the proposed parking exemption program and Ordinance 2011-01 that would implement it. At the regular meeting that followed, the Commission tabled second reading to a special meeting scheduled for March 8, 2011 and directed the following changes be made to the parking exemption ordinance:

1. Establish a 30 space cap on the number of parking spaces that would be exempted for any restaurant.
2. Provide a definition of an eligible restaurant to address how multiple restaurants in the same building or property would be handled.
3. Create two parking districts.
4. Suggest ways to give more incentive to restaurants to locate in the Commercial Business District.
5. Recommend the total number of spaces to be exempted in each parking district by resolution.
6. Program expires after 4 years or when the total number of exempt spaces for that parking district is exhausted, whichever comes first. Provide that, within the 4 year period, the total number of exempt spaces within a parking district could be increased - or the program reactivated in that district - because additional parking spaces have been added to the inventory available.
7. Add a disclaimer that the Commission can choose to end program early.
8. Require a report to immediately advise the Commission when only 30 spaces are left in a parking district, even if between biannual reports.
9. Clarify that any parking exemption approved under the proposed program are in addition to the 1995 parking credits a property may have.
10. Change staff annual reports to biannual.
11. Create a payment-in-lieu of providing required parking option for all businesses.



## AGENDA ITEM REQUEST FORM

The attached Ordinance 2011-02 (**Exhibit 1**) reflects the direction of the Commission with the following comments:

Ref Item 3 Above: The number of spaces that can be exempted for a restaurant in the Commercial Business District has been increased to 50 spaces, which would be sufficient for a 7,000 sq. ft. restaurant with about 4,200 square feet of customer service area with existing credits for retail space.

Ref Item 7 Above: Because of the Commission's strong interest in this program, the ordinance has been drafted to provide a report to the Commission whenever an applicant is allocated spaces and that report will calculate the remaining spaces in the parking district.

Ref Item 10 Above: The payment in lieu parking option needs additional research, including discussing options with our economic development advisors and people in the industry and then time for the Commission to consider staff's recommendations. **Exhibit 2** provides some background on the policy and implementation issues for payment-in-lieu programs.

**RECOMMENDATION: Adoption of the revised Ordinance 2011-01 on second reading.**

**EXHIBITS:**

- 1. Proposed Ordinance 2011-01 – Restaurant Parking Exemption Program and Other Changes.**
- 2. Payment-in-lieu of parking Report**

Reviewed by Town Attorney

Yes  No

Town Manager Initials

# Exhibit 1

## ORDINANCE 2011-01

1 AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA,  
2 AMENDING SECTION 30-272 "SETBACKS," IN THE B-1 DISTRICT, OF THE  
3 CODE OF ORDINANCES TO AMEND PARKING REQUIREMENTS;  
4 AMENDING SECTION 30-318 "MINIMUM PARKING REQUIREMENTS," TO  
5 REVISE PARKING REQUIREMENTS FOR PLACES OF PUBLIC ASSEMBLY,  
6 RESTAURANTS AND THEATRES; AMENDING SECTION 30-321  
7 "MODIFICATION OF PARKING REQUIREMENTS," TO PROVIDE  
8 PROCEDURES FOR MODIFICATION OF MINIMUM PARKING  
9 REQUIREMENTS; PROVIDING FOR SEVERABILITY, CONFLICTS,  
10 CODIFICATION, AND AN EFFECTIVE DATE

11  
12 **WHEREAS**, the Town Commission recognizes that changes to the adopted Code of  
13 Ordinances are periodically necessary in order to ensure that the Town's land development  
14 regulations are current and consistent with the Town's planning and regulatory needs; and

15 **WHEREAS**, the Town Commission desires to revise the regulations applicable to  
16 parking for restaurants and restaurant-type uses to spur economic development and  
17 redevelopment in the Town's business districts; and

18 **WHEREAS**, the Town Commission desires to revise the regulations applicable to  
19 parking for places of public assembly and theatres, to provide consistency and legal defensibility;  
20 and

21 **WHEREAS**, the Town Commission desires to provide new procedures to allow  
22 applicants to seek modifications to the minimum parking requirements; and

23 **WHEREAS**, Section 30-531 of the Code requires issuance of a Notice of Intent prior to  
24 the processing of any amendment to the land development regulations in Chapter 30 of the Code,  
25 and such notice was given of this amendment on November 9, 2010; and

26 **WHEREAS**, additional changes are being considered to the Town's parking and sign  
27 regulations under the November 9 Notice of Intent, and additional ordinances may be brought  
28 forward in the timeframe provided therein; and



# Exhibit 1

56 Shores Unit A, Plat Book 28, page 39, Broward County Public  
57 Records; Block E, Silver Shores Unit A, as the same appears on  
58 the Official Town Map prepared by Dolph Map Co., Inc.; and  
59 Blocks J and K, Silver Shores Unit B, Plat Book 31, page 3,  
60 Broward County Public Records, are as follows:

- 61 1. *Business and professional offices.* All business and  
62 professional offices shall have one parking space for each  
63 300 square feet of floor area of the building.
- 64 ~~2. Restaurants and bars in any B-1 location. All restaurants~~  
65 ~~and bars, including businesses serving food for~~  
66 ~~consumption on premises or to take out, shall have one~~  
67 ~~parking space for each 50 square feet of floor area utilized~~  
68 ~~for customer service.~~
- 69 32. *Retail stores.* One parking space for each 200 square  
70 feet of floor area of the store.
- 71 43. *Unplatted lots.* If off-street parking is not platted for a  
72 specific lot, then one parking space shall be required for  
73 each 700 square feet of floor area. Setback requirement  
74 areas may be utilized to comply with the parking  
75 requirements.  
76

77 **SECTION 3.** Amendment. Section 30-318 of the Code of Ordinances is hereby amended

78 as follows:

79 **Subdivision L. – Supplemental Regulations**

80 \* \* \* \* \*

81 **Sec. 30-318. - Minimum parking requirements.**

- 82
- 83 (a) *Dwellings, single-family, two-family and condominiums:* two parking spaces for  
84 each dwelling.
- 85 (b) *Dwellings, multiple-family:* 1½ parking spaces for each dwelling unit plus one  
86 guest space for every five units. If, in addition to dwelling units, there are other  
87 uses operated in conjunction with and/or as a part of the multiple dwelling,  
88 additional off-street parking spaces shall be provided for such other uses as  
89 would be required by this section, if such uses were separate from the multiple  
90 dwelling.
- 91 (c) *Hotels and motels, including clubs:* One parking space for each rentable unit. A  
92 rentable unit is defined as a unit with an outside entry door and bathroom which  
93 can be rented individually. The unit may or may not have kitchen facilities. For  
94 example, a two-bedroom unit that can be converted to two separate units, each  
95 with outside door and bathroom, is counted as two rentable units. A two-  
96 bedroom, one-bath unit with only one outside door is counted as one rentable  
97 unit. If, in addition to rentable units there are other uses operated in conjunction  
98 with and/or as part of the hotel/motel, additional off-street parking spaces shall be  
99 provided for such other uses as would be required by this section if such uses  
100 were separate from the hotel/motel.

# Exhibit 1

- 101 (d) *Hospitals, sanitariums, asylums, orphanages, convalescent homes, homes for*  
 102 *aged and infirm:* one parking space for each bed for patients plus one parking  
 103 *space for each two employees, including nurses, on the maximum shift.*
- 104 (e) *Places of public assembly, including assembly halls, private clubs, exhibition*  
 105 *halls, convention halls, dance halls, skating rinks, sports areas, community*  
 106 *centers, libraries and museums:* one parking space for each three fixed seats,  
 107 plus one parking space for each 200 square feet of floor area in assembly rooms  
 108 with movable seats or one parking space for each 200 ~~50~~-square feet of net floor  
 109 area utilized for seating or customer service. In places of assembly in which  
 110 occupants utilize benches, pews or other similar seating facilities, each 20 lineal  
 111 inches of such seating facilities shall be counted as one seat for the purpose of  
 112 computing off-street parking requirements.
- 113 (f) *Churches:* one parking space for each three fixed seats, plus one parking space  
 114 for each 200 square feet of floor area in assembly rooms with movable seats. In  
 115 churches in which occupants utilize benches, pews or other similar seating  
 116 facilities, each 20 lineal inches of such seating facilities shall be counted as one  
 117 seat for the purpose of computing off-street parking requirements.
- 118 (g) *Funeral homes:* one parking space for each four seats in public rooms.
- 119 (h) *Medical, dental lab, chiropractic, health studio, etc., clinics:* one parking space for  
 120 each 200 square feet of floor area.
- 121 (i) *Business, professional and governmental offices:* Parking space requirements  
 122 vary depending on the size in gross leasable area (GLA) according to the  
 123 following table:

Office Size (GLA)	1 Space for Each (Square Feet)
Less than 5,000	250
5,000 to <u>less than 20,000</u>	300
20,000 to 50,000	325
More than 50,000	350

- 125
- 126 (j) *Restaurants, including customer service areas of outside cafes on private property,*  
 127 *sandwich shops, coffee shops, and any establishment or portion of an*  
 128 *establishment dedicated to preparing and serving food to the public, ~~bars, beer~~*  
 129 *gardens, night clubs:* one parking space for each 50 square feet of floor area in  
 130 rooms for customer service, except that from March 8, 2011 until March 7, 2015  
 131 February 1, 2011 until January 31, 2015 and as further limited below, no parking  
 132 spaces shall be required for new restaurants or the expansion area of existing  
 133 restaurants. This suspension of the parking requirement shall be known as the  
 134 "Parking Exemption Program."
- 135 (1) Application required. To qualify for the Parking Exemption Program, a  
 136 Parking Exemption Application must be submitted, in a form to be approved  
 137 by the Town, with all supporting documentation. The parking spaces shall be  
 138 allocated on a first come, first serve basis, as measured by the Town's  
 139 receipt of a complete application package.
- 140 (2) Eligibility for program. The application, and all supporting documents,  
 141 including any applicable building permit or development approval  
 142 applications, for the construction of a new restaurant or for a restaurant

# Exhibit 1

143 expansion, shall have been submitted and deemed to be complete by the  
144 Town prior to the program deadlines February 1, 2015, and all required  
145 permits received and the restaurant subsequently built within the time periods  
146 specified in the Town's Code.

147 (3) Program guidelines.

148 (i) Districts. There are hereby created two separate and distinct Parking  
149 Exemption Districts as follows:

150 a. Oceanfront Center. The Oceanfront Center shall include all B-1 and  
151 B-1-A zoned land adjacent to State Road A1A or Commercial  
152 Boulevard, east of Seagrape and, for the purposes of determining  
153 underutilized spaces, shall include the El Prado and A1A parking lots.

154 b. Commercial Business District. The Commercial Business District  
155 shall include all B-1 and B-1-A zoned land adjacent to Commercial  
156 Boulevard, west of Seagrape.

157 (ii) Exemption maximum.

158 a. District Maximums. The maximum number of spaces available for  
159 exemption in each parking District shall be established by resolution  
160 of the Town Commission.

161 b. Oceanfront Center. There shall be a maximum exemption of thirty  
162 (30) parking spaces per eligible restaurant.

163 c. Commercial Business District. There shall be a maximum exemption  
164 of fifty (50) parking spaces per eligible restaurant.

165  
166 (ii) Eligible restaurant. An eligible restaurant shall be a commercial  
167 establishment, whether standing alone or accessory to another use,  
168 where food and beverages are ordered from individual menus, served at  
169 tables, and consumed on premises and serviced by its own kitchen. No  
170 restaurant kitchen may provide eligibility for parking exemption for more  
171 than one restaurant.

172 (iv) Program duration. The Parking Exemption Program shall last in each  
173 District for a period of four years, from March 8, 2011 to March 7, 2015, or  
174 until the maximum number of parking exemptions is allocated, whichever  
175 is earlier. However, during the four year period, but after the initial  
176 allocation of the maximum number of parking exemptions in a District, the  
177 Parking Exemption Program may be reactivated in that District if  
178 additional parking spaces are added to the total number of spaces  
179 available within the District, either by action of the Town Commission or  
180 expiration or loss of parking exemptions. Notwithstanding the foregoing,  
181 the Town Commission, may, for any reason and in its sole discretion,  
182 discontinue this Parking Exemption Program at any point during the four  
183 years.

184 (v) Effect on 1995 Exemption of Pre-Existing Buildings, Structures and Uses  
185 From the Parking Requirement. The Parking Exemption Program  
186 provided herein is supplemental to, and in no way changes the parking  
187 exemption established in 1995 in Section 30-314(b). Any parking space  
188 exemptions provided under the Parking Exemption Program are in  
189 addition to any parking credits that may exist under the 1995 program.

190 (4) Status following end of program.

# Exhibit 1

191 (i) *Nonconforming.* At the end of the Parking Exemption Program, all  
192 restaurants built under the Parking Exemption Program will become non-  
193 conforming uses, and shall be subject to the requirements of the non-  
194 conforming use provisions of the Town's Code of Ordinances.  
195 Notwithstanding the foregoing, restaurants or expansions of restaurants built  
196 under the Parking Exemption Program may be completely remodeled or  
197 rebuilt without providing additional parking, as originally permitted through the  
198 Parking Exemption Program, as long as the square footage of customer  
199 service area is not increased.

200 (ii) *Availability of exemptions to successor restaurants.* If an eligible  
201 restaurant has opened and is operating with any exemptions obtained  
202 pursuant to the Parking Exemption Program but is later shut down, the  
203 exemptions shall remain available for the location of that restaurant for a two  
204 year period after the restaurant closes, for the benefit of a new eligible  
205 restaurant.

206 (iii) *Increases in square footage.* Any increase in square footage of an  
207 eligible restaurant after the program has ended must comply with the parking  
208 requirements in effect at the time of construction of increased square footage.

209 (5) *Annual Reports.*

210 (i) *Notice prior to maximum utilization by District.* The Town Manager shall  
211 advise the Town Commission when spaces are allocated under this  
212 program, indicating the number of spaces allocated and the number of  
213 spaces available in each District.

214 (ii) *Bi-Annual Report.* The Town Manager shall provide a bi-annual report  
215 to the Commission that describes the utilization, effectiveness and  
216 impacts of the Parking Exemption Program.

217 (6) *Notice and hearing prior to expiration of program.* Following public notice, the  
218 Town Commission shall conduct a public hearing and evaluation of the  
219 program's impacts at least six months prior to its expiration on ~~March 7, 2015~~  
220 ~~January 31, 2015.~~

221 (k) *Retail stores:* one parking space for each 225 square feet of floor area.

222 (l) Reserved.

223 (m) *Furniture stores:* one parking space for each 500 square feet of floor area of the  
224 building.

225 (n) *Charter, sightseeing or fishing boats:* one parking space for each two seats or  
226 fraction thereof; required spaces shall be adjacent to the docks regularly used by  
227 the boat or within 400 feet thereof.

228 (o) *Uses not specifically mentioned:* The requirements of off-street parking for any  
229 uses not specifically mentioned in this section shall be one space for every 200  
230 square feet of gross floor area.

231 (p) *Marinas and yacht basins:* one parking space for each boat slip and one parking  
232 space for each employee.

233 (q) *Banks and savings and loan associations:* one parking space for each 235  
234 square feet of gross building floor area.

235 (r) *Gasoline service stations:* A minimum of three spaces plus one additional parking  
236 space for each 200 square feet of building or service floor area in excess of the  
237 first 600 square feet.

238 (s) *Leased and rental vehicles:* one space for each leased car maintained on  
239 premises plus one space for each employee.

# Exhibit 1

240 (t) *Shopping centers*: Parking space requirements vary depending on the size in  
 241 gross leasable area (GLA) and composition of the center according to the  
 242 following table:

Shopping Center Size in GLA	Base Rate (1 Space For Each) (Square Feet)	Special Uses Requiring Additional Spaces Above Base Rate
Less than 50,000	225	10 spaces for each 1,000 sf of food service
		3 spaces for each 100 cinema seats
		1 space for each 700 sf of office use >10% of GLA
50,000–100,000	250	10 spaces for each 1,000 sf of food service
		3 spaces for each 100 cinema seats
		1 space for each 700 sf of office use >10% of GLA
100,000–200,000	250	6 spaces for each 1,000 sf of food service
		3 spaces for each 100 cinema seats > 450 seats
		1 space for each 700 sf of office use > 10% of GLA
200,000–400,000	250	3 spaces for each 100 cinema seats > 750 seats
		1 space for each 700 sf of office use >10% of GLA
		3 spaces for each 100 cinema seats > 750 seats
400,000–600,000	225	3 spaces for each 100 cinema seats > 750 seats
		1 space for each 700 sf of office use > 10% of GLA
		3 spaces for each 100 cinema seats > 750 seats
600,000–1,200,000	200	3 spaces for each 100 cinema seats > 750 seats
		1 space for each 700 sf of office use >10% of GLA

- 243 (u) *Convenience stores, grocery stores*: one parking space for each 125 square feet  
 244 of floor area.
- 245 (v) *Personal service shops*: one parking space for each 200 square feet of service  
 246 floor area including barber shops and beauty shops.
- 247 (w) *Theaters, movies or otherwise*: one space for every three fixed seats, plus one  
 248 parking space for each 200 square feet of floor area in assembly rooms with  
 249 movable seats.

\* \* \* \* \*

250 **SECTION 4.** Amendment. Section 30-321 of the Code of Ordinances is hereby amended

252 as follows:

253 **Sec. 30-321. Modification of parking requirements.** ~~The Town Commission may~~  
 254 ~~approve a reduction in the minimum parking requirements after review and consideration~~  
 255 ~~of a recommendation from the Board of Adjustment when:~~

# Exhibit 1

~~(1) There is a public parking lot judged adequate to accommodate a portion of the parking demand of said use located within 400 feet straight line distance from the site; or~~

~~(2) There is on-street parking judged adequate to accommodate a portion of the present and probable future parking demand of the general area; or~~

~~(3) There are commercial or private lots located within 400 feet straight line distance that are judged adequate to accommodate a portion of the present and probable future parking demand of the general area.~~

~~Provided, however, the Board of Adjustment shall find that such reduction in the parking requirements will not create a parking problem due to customers or employees using on-street parking in the general area, and that the traffic problems in the general area will not be materially increased. A parking study prepared in a professional manner shall be submitted with requests to waive parking requirements, said study to address existing and future parking demands, parking availability and traffic circulation.~~

(1) *Reduction of Minimum Requirements.* Requests for a reduction in the minimum parking requirements for a commercial use may be considered by the Town upon receipt of an application in a form approved by the Town, from the owner of the site seeking the reduction, as follows:

(a) *Minor reductions.* Requests for a reduction of (i) 1 to 3 required parking spaces or (ii) up to 10% of the number of required parking spaces may be approved by the Town Manager. If the request is denied by the Town Manager, that decision may be appealed to the Town Commission.

(b) *Major reductions.* The Town Commission shall hear requests for reductions in parking in excess of the Town Manager's authority under subsection (a). Such requests shall be accompanied by a parking report, prepared by the Town, analyzing existing and future parking demands, the availability of underutilized public parking spaces, and traffic circulation.

(c) *Criteria for approval of major or minor reduction.* Requests for reduction may be approved, in whole or in part, upon a finding that there is sufficient available parking that is open to the public and is judged adequate to accommodate the parking reduction request within a reasonable walking distance of the subject property along a practical and usable pedestrian route.

**SECTION 5. Severability.** If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconditional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

**SECTION 6. Conflicts.** All ordinances or parts of Ordinances and all Resolutions or parts of Resolutions in conflict with the provisions of this Ordinance are hereby repealed.

**SECTION 7. Codification.** This Ordinance shall be codified.





## MEMORANDUM

TO: Bud Bentley, Assistant Town Manager, Town of Lauderdale by the Sea  
FROM: Fred Bredemeyer, Principal, ConsulPark, Inc.  
RE: Payment in Lieu of Parking  
Date: February 17, 2011

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This memo serves to summarize the basics of a Payment in Lieu of Parking (PILOP) program and provide examples of areas that have implemented such programs successfully.

The PILOP concept is the implementation of a municipal ordinance that allows developers or existing property owners to pay a fee “in lieu of” providing the zoning required number of parking spaces. The collected PILOP fees are aggregated and later used to partially fund a public parking facility available to both the general public and the payers of the PILOP fees.

The PILOP program provides the municipality a mechanism by which parking requirements are waived to allow a business to open while simultaneously creating funds to meet future parking requirements. The fee for these “virtual” parking spaces varies by area and can be collected in either a “lease or buy” scenario. In the lease scenario, the fee is generally lower and the property must pay for each month that a property operates under a parking deficit. The owner is required to pay these “temporary” parking waivers during the period in which the parking deficit exists.

The buy scenario is a flat fee for a permanent “space” that rides with property and is transferred with title (permanent certificates of waiver). In some ordinances, the City of Miami’s for example, the owner has the option to purchase permanent parking spaces via a lump sum payment or use an ordinance defined financing option. Copies of sample ordinances are attached.

Several cities in South Florida as well as nationally have implemented PILOP programs. The fees range from \$2,500 per space (one time fee often financed by the municipality) to \$50,994 per parking space. Locally, Miami and Miami Beach both have PILOP programs with the cost per space (permanent waivers) of \$5,400 and \$35,000 respectively. Miami’s fees for temporary waivers are \$540.00 per space per year.

The City of Miami’s PILOP program for the Coconut Grove area has seen the successful completion of a \$6 million parking structure that used \$2.5 million from the Coconut Grove Parking Trust Fund (PILOP fees) for the entire land acquisition cost. Today, the Parking Trust Fund retains \$3 million for a future garage that will further augment the parking supply in Coconut Grove.



Memo on Payment in Lieu of Parking  
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The benefits of a PILOP ordinance are the following:

- ❶ Provides immediate use of existing space that may not have the required number of parking spaces
- ❷ Multiple, small parking requirements are combined into a larger, future pool of parking spaces
- ❸ Creates shared parking uses that are potentially complimentary
- ❹ Provides for redevelopment of existing properties with focus on highest and best use of property instead of parking
- ❺ Provides funding for future public parking
- ❻ Creates a level playing field where all properties contribute and share in public parking

PILOP programs are not always implemented without issues. There are several factors that need to be considered. The following are some of the challenges that these programs have realized:

- ❶ Convincing developers and properties owners that funds will be collected and used for public parking projects in the reasonable future. The timing of future parking projects is crucial.
- ❷ Identifying site locations that meet the parking needs of those who have paid into the fund. Future parking locations must be in close enough proximity for the benefit of those who paid.
- ❸ Collecting sufficient amounts to substantially fund a future project. The rates must be sufficient to generate a reasonable portion of future financial needs.
- ❹ Determining what are the appropriate charges for fees in lieu of parking.

PILOP programs have been adopted in 11 US states as well as Canada. This type of program deserves serious consideration for the Town of Lauderdale by the Sea.

**Works Cited:**

Leonard Bier, Gerard Giosa, Robert Goldsmith, Richard Johnson, Linda Morga, Darius Sollohub. *Parking Matters – Designing, Operating, and Financing Structured Parking in Smart Growth Communities*. New Jersey, 2006



## SAMPLE MUNICIPAL ORDINANCES FROM MUNICODE

### Miami Beach, Florida, Code of Ordinances – Subpart B – Land Development Regulations – Chapter 30 Off-Street Parking

#### ARTICLE V. - FEE IN LIEU OF PARKING PROGRAM <sup>[159]</sup>

Sec. 130-131. - Generally.

Sec. 130-132. - Fee calculation.

Sec. 130-133. - Fee collection.

Sec. 130-134. - Deposit of funds; account.

Sec. 130-135. - Joint venture agreements.

Sec. 130-136. - Variances.

Secs. 130-137—130-160. - Reserved.

#### **Sec. 130-131. - Generally.**

A fee in lieu of providing parking may be paid to the city in lieu of providing required parking on-site, or within 1,200 feet of the site in the architectural district or otherwise within 500 feet of the site, only in the following instances, except that parking requirements for accessory commercial uses in newly constructed buildings within the Collins Waterfront Historic District in an area in the RM-2 zoning district that is bounded by 41<sup>st</sup> Street on the south and 44<sup>th</sup> Street on the north shall be satisfied by providing the required parking spaces, and may not be satisfied by paying a fee in lieu of providing parking:

(1)

New construction of commercial or residential development and commercial or residential additions to existing buildings whether attached or detached from the main structure within the architectural district or a local historic district.

(2)

When an alteration or rehabilitation within an existing structure results in an increased parking requirement pursuant to subsection 130-132(b).

(3)

New construction of 1,000 square feet or less, or additions of 1,000 square feet or less to existing buildings whether attached or detached from the main structure may fully satisfy the parking requirement by participation in the fee in lieu of providing parking program pursuant to subsection 130-132(a).

(4)

The creation or expansion of an outdoor cafe (except for those which are an accessory use to buildings described in subsection 130-31(b)).

(Ord. No. 89-2665, § 7-7, eff. 10-1-89; Ord. No. 93-2882, eff. 10-1-93; Ord. No. 98-3108, § 8(A), 1-21-98; Ord. No. 2004-3434, § 2, 1-14-04; Ord. No. 2010-3676, § 1, 3-10-10)

#### **Sec. 130-132. - Fee calculation.**

(a)

*New construction.* The fee in lieu of providing parking for new construction shall be satisfied by a one-time payment at the time of issuance of a building permit of \$35,000.00 per parking space. The amount of such fee may be changed in accordance with subsection (d) of this section.

(b)

*Existing structures and outdoor cafes.* When alteration or rehabilitation of a structure results in



increased parking requirement, or an outdoor cafe is created or expanded, the fee in lieu of providing parking shall be satisfied by one of the following:

(1)

A one time payment as set forth in subsection (a) of this section.

(2)

A yearly payment in the amount of three percent of the payment required by subsection (a) of this section which shall continue as long as the use exists. (The amount of such payment may vary from year to year in accordance with the determination set forth in subsection (d) of this section. However, in lieu of continued yearly payments, a one-time redemption payment may be made at any time of the full amount due pursuant to subsection (a) of this section; such amount shall be based upon the latest determination made pursuant to subsection (d) of this section as of the time of the redemption payment rather than upon the amount which would have been due if the fee had been paid at the time the work was done, regardless of the number of yearly payments made previously. However, when new floor area is added to the existing building, the impact fee shall be as set forth in subsection (a) of this section.

(c)

*Removal of existing parking spaces in a historic district.* Whenever an existing required parking space is removed or eliminated for any building that existed prior to October 1, 1993, which are located within the architectural district, a contributing building within a local historic district, or any individually designated historic building, a fee in lieu of providing parking shall be required if a replacement parking space is not provided on-site or within 500 feet of the site or within 1,200 feet of the site if in the architectural district. Such fee shall be satisfied as set forth in subsection (b), above. In no case shall the removal of parking spaces result in less than one parking space per residential unit or 50 percent of the required parking for commercial uses. This subsection shall not prohibit the removal of grade level parking spaces located within the front, side street or interior side yards of a lot which has a designated contributing building within a designated historic district, should those parking spaces be nonconforming. This subsection shall not prohibit the removal of grade level parking spaces located within the front yard or side yard facing a street of a lot which has a noncontributing building within a designated historic district, should those parking spaces be nonconforming. Any request for the removal of parking spaces under this subsection shall only be approved with the applicant's consent. The parking department shall advise the planning department and the joint design review/historic preservation board of the impact of the removal of any parking spaces.

(d)

*Annual evaluation.* The amount determined to be the city's total average cost for land acquisition and construction of one parking space shall be evaluated yearly by the planning and zoning director based upon the Consumer Price Index (CPI). If determined necessary, the fee structure shall be amended in accordance with chapter 118, article III, changes and amendments of these land development regulations.

(Ord. No. 89-2665, § 7-7(A), eff. 10-1-89; Ord. No. 93-2882, eff. 10-1-93; Ord. No. 98-3108, § 8(B), 1-21-98; Ord. No. 99-3226, § 2, 12-15-99; Ord. No. 2006-3545, § 1, 12-6-06; Ord. No. 2010-3676, § 1, 3-10-10)

### **Sec. 130-133. - Fee collection.**

(a)

*New construction; one time payment.* For new construction the fee in lieu of providing parking shall be paid in full at the time of application for the building permit. Such fee shall be refunded if construction does not commence prior to expiration of the building permit.

(b)

*Existing structures and those which elect yearly payment plan.* For existing structures and those which elect a yearly payment plan, the first fee-in-lieu payment shall be paid prior to the issuance of a building permit and shall be applied at the time the certificate of use is issued. If no building permit is needed, the first payment shall be due at the time the occupational license or certificate of use,



whichever is earlier, is issued. The second payment shall be due June 1 following the issuance of the occupational license or certificate of use, whichever is earlier, and the amount due shall be prorated. Subsequent annual payments shall be paid in full by June 1 as long as the use exists, the amount of the payment is set forth in subsection 130-132(b)(2).

(c)

*Existing structures; one time redemption payment.* For existing structures a one time redemption payment may be made at any time and shall be in the amount determined by application of the formula for one time payment as set forth in subsection 130-132(b)(2).

(d)

*Late payments.* For late payments monthly interest shall accrue on unpaid funds due to the city under the fee-in-lieu program at the maximum rate permitted by law. Additionally, a fee in the amount of two percent of the total due shall be imposed monthly to cover the city's costs in administering collection procedures.

(e)

*Failure to pay.* Any participant in the fee-in-lieu program who has failed to pay the required fee within three months of the date on which it is due shall be regarded as having withdrawn from the program and shall be required to provide all parking spaces required by these land development regulations or cease the use for which such spaces were required. Failure to comply shall subject such participant to enforcement procedures by the city and may result in fines of up to \$250.00 per day and liens as provided by law.

(Ord. No. 89-2665, § 7-7(B), eff. 10-1-89; Ord. No. 93-2882, eff. 10-1-93; Ord. No. 2010-3676, § 1, 3-10-10)

**Sec. 130-134. - Deposit of funds; account.**

(a)

Funds generated by the fee-in-lieu program pursuant to subsections 130-132(a) and (b) above, collected prior to March 20, 2010, shall be deposited in a city account (divided into three districts, for north, middle and south) specifically established to provide parking and related improvements in the vicinity (within the north, middle or south district, as applicable) of the subject property. Expenditures from these funds shall require city commission approval.

(b)

Funds generated by the fee-in-lieu program pursuant to subsection 130-132(a) and (b) above, collected after March 20, 2010, shall be deposited in a city account (divided into three districts, for north, middle and south) specifically established to provide parking, transportation and mobility related improvements and programs in the vicinity (within the north, middle and south district, as applicable) of the subject property. Expenditures from these funds shall require city commission approval.

(c)

Such parking, transportation and mobility related improvements and programs may include:

(1)

Parking garages and related facilities.

(2)

Transit capital funding:

a.

Purchase of buses for circulator routes.

b.

Bus shelters.

c.

Transit infrastructure.

(3)

Traffic improvements:



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- a. Traffic signals.
- b. Signal timing operations.
- c. Lane modifications.
- (4) Bicycle facilities:
  - a. Bicycle lanes and paths.
  - b. Bicycle racks and storage.
- (5) Intelligent transportation systems:
  - a. Electronic message boards.
- (6) Pedestrian improvements:
  - a. Crosswalks.
  - b. Traffic signals.
- (7) Pedestrian facilities:
  - a. Beachwalk.
  - b. Baywalk.
- (8) Other parking, transportation and mobility related capital projects as may be specifically approved by the city commission.
- (9) In addition, transit operational funding for newly introduced transportation enhancements and program expansions (limited to operational, nonadministrative costs only, i.e., drivers, fuel, maintenance and insurance) may be included if expressly approved by the city commission.
- (d) The planning department shall maintain a map which includes a listing of the north, middle and south districts and accounts.

*(Ord. No. 89-2665, § 7-7(C), eff. 10-1-89; Ord. No. 93-2882, eff. 10-1-93; Ord. No. 2010-3676, § 1, 3-10-10)*

**Sec. 130-135. - Joint venture agreements.**

The required number of parking spaces may be provided in a facility developed through a joint venture agreement with the city or by a private entity in which the required number of parking spaces in a parking facility is specifically reserved for use by the applicant. Agreements regulating privately owned parking facilities shall be approved by the city attorney; those relating to city owned property shall be approved by the city commission. All agreements pursuant to this section shall be recorded in the public records of the county.



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*(Ord. No. 89-2665, § 7-7(D), eff. 10-1-89; Ord. No. 93-2882, eff. 10-1-93)*

**Sec. 130-136. - Variances.**

No variances shall be granted from the requirements of this article.

*(Ord. No. 89-2665, § 7-7(E), eff. 10-1-89; Ord. No. 93-2882, eff. 10-1-93)*

**Secs. 130-137—130-160. - Reserved.**

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FOOTNOTE(S):

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<sup>(159)</sup> **Cross reference—** Finance generally, § 2-276 et seq. (Back)



City of Miami – Silver Bluff

**Sec. 35-251. - Established.**

There is hereby established a trust fund to be entitled the Silver Bluff commercial parking improvement trust fund (the "trust fund") to be maintained and administered by the department of off-street parking for the purpose of receiving and expending funds to facilitate public off-street parking to serve the Silver Bluff commercial overlay district through means which may include, but are not limited to the following:

- (1) Acquire fee simple or other interest in land and other real property for parking purposes;
- (2) Construct, maintain, operate, lease, manage, or otherwise provide off-street parking facilities for public use in conjunction with the Silver Bluff commercial off-street parking program;
- (3) Provide public information to enhance parking utilization including publicity campaigns, graphics and signage, and similar information devices;
- (4) Enter into agreements with owners of private off-street parking facilities for the use of such facilities when not needed by the owners;
- (5) Coordinate plans for parking facility improvements and expansion with public transportation plans and operations in the vicinity, particularly the joint facilities that might be operated in connection with Metrorail and any feeder services existing or future;
- (6) Perform such other related activities as may be appropriate to carry out the intent of this article.

*(Ord. No. 11104, § 1, 11-23-93; Code 1980, § 36-196)*

**Sec. 35-252. - Schedule of fees and charges.**

The schedule of fees and charges to be assessed and paid into the trust fund is as follows:

- (1) Fee in lieu of providing required off-street parking for the SD-21 zone, as provided for in article 6 of zoning Ordinance No. 11000 of the City of Miami: \$1,500.00 per space, which fee shall be inflation adjusted annually through the consumer price index—urban consumers (CPI-U). The fee may be paid either by a one-time payment, or by periodic payments calculated to yield the principal sum of the required fee in five years at the current DOSP interest rate.
- (2) Fees shall be payable to DOSP by lump sum or by execution of a periodic payment agreement in advance of the issuance of a certificate of occupancy or certificate of use, as applicable. If the applicant already holds a valid certificate of occupancy or certificate of use, payment shall be made within 30 days of approval of the requested waiver.
- (3) Fees in subsections (1) through (2) above shall be invoiced and payable either once, or at intervals, as appropriate. Fees not paid within 15 days of the due date shall be charged a late fee of five percent of the amount due. Fees not paid within 30 days of the due date shall be charged interest at the rate of ten percent per annum calculated monthly on the unpaid balance including applicable late fees.

*(Ord. No. 11104, § 1, 11-23-93; Code 1980, § 35-197; Ord. No. 11329, § 2, 12-7-95)*



**Sec. 35-220. - Required off-street parking and payment in lieu of required off-street parking.**

The minimum off-street parking requirements shall be as depicted herein and/or in the zoning ordinance of the city. Said minimum parking requirements may be satisfied by providing the parking as stated in the zoning ordinance or by payment in lieu of required off-street parking, as described herein. Notwithstanding any regulations in the zoning ordinance that may relax the parking requirements used to calculate the waivers granted herein, no parking requirements shall be diminished below that which was provided prior to the adoption of the Miami 21 Code, prior to October 22, 2009, within areas of the city for which a parking trust fund has been established and is in effect pursuant to this chapter.

- (1) Upon application to the planning director, the owner of a property may request a waiver of any or all of the eligible parking spaces, as specified in the zoning ordinance by substituting the payment of a fee per space in lieu of providing the required parking spaces.
- (2) If the application for the waiver of required off-street parking is approved by the planning director, the property owner shall pay the required fee per space to the department of off-street parking for deposit in a special fund, depending on the area for which the parking is located.
- (3) Except as otherwise permitted for required supplemental parking for those uses specified in the minimum required parking charts included in the zoning ordinance, payment of the required fee per space shall be made in the form of a payment of a fixed amount. The rental fee in lieu of required supplemental parking shall be paid in accordance with section 35-224, as long as the supplemental parking spaces for the specified use are required.
- (4) Fees for the parking waiver shall be as established by this chapter and the zoning ordinance.
- (5) If a property owner is entitled to pay a fee in lieu of providing required parking as provided for in this section, the initial payment, shall be made in advance to the Coconut Grove parking improvement trust fund, (the "Coconut Grove parking trust fund") as specified in the letter granting the waiver, and as a condition precedent to the issuance of a parking waiver certificate, and of a certificate of use. Failure to make any required payment shall cause the parking waiver and the certificate of use to be revoked.
- (6) Evidence of issuance of a waiver of required off-street parking shall be in the form of a certificate of waiver, recorded in the public records of Miami-Dade County, at property owner's expense issued in the name of the owner of the property for which the waiver is granted. The date on the certificate shall be the effective date of the waiver thereby granted. Such certificate shall carry a statement allowing the waiver to be transferred by the planning director to a new owner within 90 days of a written request to the director. Said transfer shall be granted, provided that all fees are current and other requirements have been satisfied. A certificate of use shall not be issued for the use of any property for which the parking requirements have not been satisfied as provided for herein.
- (7) The waiver of required off-street parking shall be applicable only to the structure and use for which it is issued. New development or additions, or any construction generating additional square footage of floor space or increasing the floor lot ratio, shall be required to comply with the parking requirements for said additions or obtain proper parking approvals. Certificates of parking waiver may be modified to include new square footage as long as the overall thresholds as specified in the zoning ordinance are not exceeded.
- (8)



A waiver of required supplemental off-street parking issued under the provisions of this section shall be revoked if any required fees remained unpaid for more than 90 days after the date due.

(Ord. No. 13185, § 2, 6-24-10)

**Sec. 35-221. - Coconut Grove Parking Improvement Trust Fund—Established.**

(a)

There is hereby established a trust fund to be entitled the Coconut Grove parking improvement trust fund, (the "Coconut Grove parking trust fund") to be maintained and administered by the department of off-street parking into which funds shall be deposited and from which funds shall be withdrawn pursuant to this chapter to facilitate public off-street parking, infrastructure improvements and maintenance and marketing to serve the area referred to herein as "Coconut Grove Village Center" generally bound by Oak Avenue and Tiger Tail Avenue to the North, S.W. 27th Avenue, South Bayshore Drive, both sides of McFarlane from Grand Avenue to South Bayshore Drive, both sides of Grand Avenue from Margaret Street to Mary Street, both sides of Grand Avenue from Hibiscus Street to Margaret Street, both sides of Main Highway from Grand Avenue to Commodore Plaza, both sides of Commodore Plaza, and the North side of Main Highway from Commodore Plaza to Franklin Avenue consisting of that portion of the area formerly known as the SD-2 zoning district east of Margaret Street, that portion of the area formerly known as of the SD-17 zoning district west of S.W. 27th Avenue, and that zone designated G/I in the city's official zoning atlas and bounded by Charles Avenue on the south and Main Highway on the east and presently occupied by the Coconut Grove Playhouse through means which may include, but are not limited to the following activities:

- (1) Acquire fee simple or other interest in land, and other real property for parking purposes;
- (2) Construct, maintain, operate, lease, manage, or otherwise provide off-street parking facilities for public use;
- (3) Provide public information to enhance parking utilization including publicity campaigns, graphics and signage, and other informational devices;
- (4) Coordinate plans for parking facility improvements and expansion with public transportation plans and operations in the vicinity, particularly the joint facilities that might be operated in connection with Metrorail and any feeder services existing or future;
- (5) Provide accessibility to off-street parking facilities by suitable means such as public shuttle, tram or trolley service and related physical improvements such as bus shelters and right-of-way modifications which may include the area from Bayshore Boulevard to the Coconut Grove Village Center;
- (6) Perform such other related activities as may be appropriate to carry out the intent of this article including, but not limited to, reimbursement of administrative costs, infrastructure improvements in the public right-of-way, contributing to maintenance of the public sidewalks within the business district defined herein, as well as destination marketing;
- (7) It is the intent of this article that at least 90 percent of the funds, as determined at the beginning of each fiscal year, in the trust fund shall be utilized for subsections (a)(1)—(6). At least ten percent of the funds must be maintained as reserves;
- (8) Any such shuttle, tram or trolley service, as mentioned in subsection (a)(5), shall be subject to yearly evaluation of the Coconut Grove business improvement district board.

(Ord. No. 12851, § 2, 9-28-06; Ord. No. 13059, § 3, 3-12-09; Ord. No. 13185, § 2, 6-24-10)

**Sec. 35-222. - Same—Funds made available; financial report.**

**General Parking Consulting Services – Owner Advisory Services – Parking Development Services**



- (a) Funds deposited in the Coconut Grove parking trust fund shall be made available to the Coconut Grove business improvement district board ("BID board") for the purposes set forth in section 35-221 and for administrative expenses.
- (b) A financial report on trust fund receipts and expenditures shall be prepared annually at the close of the fiscal year by the off-street parking department and presented to the BID board for its review and approval prior to filing with the city clerk.

*(Ord. No. 12851, § 2, 9-28-06; Ord. No. 13059, § 3, 3-12-09; Ord. No. 13185, § 2, 6-24-10)*

**Sec. 35-223. - Revocation of certificate of use for non-payment of parking waivers.**

Failure to make any payment required by this article shall cause the zoning administrator to revoke the parking waiver certificate and the certificate of use. The zoning administrator shall revoke a parking waiver certificate and a certificate of use if any required fees remain unpaid for more than 60 days after the date due. Said revocation of the parking waiver certificate and certificate of use shall be effective immediately upon the department of off-street parking's notification to the zoning administrator that the required fees remain unpaid for more than 60 days after the date due. The department of off-street parking shall notify the parking waiver certificate holder and certificate of use holder of the pending revocation by posting notice at the property, hand delivering a notice, or mailing a notice. A parking waiver certificate holder or certificate of use holder may reinstate the certificates by paying any unpaid fees. A parking waiver certificate holder or certificate of use holder may challenge the revocation by requesting a hearing with the zoning administrator within ten days of receiving notice. Upon presenting such evidence to the zoning administrator of proper payment, the zoning administrator shall immediately reinstate any revoked certificates.

The city shall not issue a certificate of use for the use of any property for which the parking requirements have not been satisfied as provided in this section.

*(Ord. No. 13185, § 2, 6-24-10)*

**Sec. 35-224. - Schedule of fees and charges for Coconut Grove parking trust fund.**

The schedule of fees and charges to be assessed and paid into the Coconut Grove parking trust fund is as follows:

- (1) Fee in lieu of providing required off-street parking for sidewalk cafes. In addition to the \$20.00 per square foot permit fee required by the public works department, as specified in section 54-223, there shall be paid an additional fee as set forth in subsections (3)c. and (3)e., in lieu of providing required off-street parking, said funds shall be paid monthly into the Coconut Grove parking trust fund.
- (2) All property owners currently in possession of base parking space waivers as provided in Ordinance 11052 shall pay \$540.00, per space per year, payable monthly (the "annual payment"). The annual payment shall be inflation adjusted once at the end of each five-year period. The first inflation adjustment commenced on January 1, 2007, reflecting the change from the prior year only, using the consumer price index urban consumers (CPI-U). All property owners currently in possession of base parking space waivers shall have the option of converting the existing waivers to conform to the provisions set forth in subsection (3).
- (3) Fee in lieu of providing required off-street parking for the area formerly known as the SD-2 zoning district herein described as the "Coconut Grove Central Commercial District," which consists of three general areas. Area A generally consists of both sides of S.W. 37th Avenue from Oak Avenue to Grand Avenue, and both sides of Grand Avenue from Brooker Street to Hibiscus Street. Area B is generally bound to the North by Oak Avenue from Allamanda Street to Mary Street, Mary Street to the East, includes both sides of



Grand Avenue from Margaret Street to Mary Street, both sides of McFarlane Road from Grand Avenue to South Bayshore Drive, both sides of Main Highway from Grand Avenue to Commodore Plaza including both sides of Commodore Plaza and Fuller Street. Area C includes the North Side of Main Highway from Charles Avenue to Franklin Avenue, shall be as follows:

a.

A purchase price of \$5,400.00 per parking space waiver (the "purchase price"). The purchase price shall be inflation adjusted once at the end of each five-year period. The first such adjustment occurred on January 1st, 2007, reflecting the change from the prior year only, using the consumer price index urban consumers (CPI-U). The purchase price shall be paid in either of the following two ways, at the option of the property owner:

1.

Permanent certificate of waiver. Payment of the purchase price may be made at the time of application for a permanent certificate of waiver. Upon receipt of the purchase price, the city shall issue a "permanent certificate of waiver," recorded at the property owner's expense in the public records of Miami-Dade County, Florida, to the property owner. The permanent certificate of waiver shall run with the land, and may be leased to another owner of real property within the area formerly known as SD-2 district, now known as the Coconut Grove Central Commercial District, with boundaries as described above.

2.

Installment payment program. The purchase price may be paid in installments over a self-amortizing period of 15 years, but with a balloon payment after ten years from date of execution of an installment payment agreement for permanent certificate of waiver (the "agreement"), with interest at one percent below the bank prime rate. Each installment shall be referred to as a "payment." Bank prime rate shall refer to the rate set by the banking institution used by the department of off-street parking (the "department"). Payments shall be due and payable on the first of each month (the "due date"). The property owner shall pay a late fee of five percent of each payment which is not received within 15 days of the due date. Payments not made within 30 days after the due date shall be charged interest at the rate of ten percent per annum calculated monthly on the unpaid balance, including applicable late fees. If any payment is returned because of insufficient or uncollected funds in addition to any other fee or charge due, the property owner shall be liable for a returned check charge in the amount of five percent of the amount of the check; in such event, the department of off-street parking may require that all future payments be made by cashier's check. In the event any payment is not received by the department of off-street parking within 90 days of the due date, the applicable certificate(s) of waiver shall be revoked by the zoning administrator, and the property owner shall forfeit any and all rights thereunder, and any amounts paid pursuant to the agreement, and shall not be entitled to participate further in the installment payment program, unless its to avail themselves of an alternate installment payment program that becomes available. Notwithstanding the foregoing, the property owner shall remain responsible for providing parking, or apply and pay for the necessary monthly parking space waivers or make full payment.

b.

Reserved.

c.

The rental fee in lieu of providing the supplemental off-street parking required for restaurants shall be \$600.00 per parking space, per year, to be paid on a monthly basis, until a reduction of waiver certificate is obtained.

d.



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Supplemental off-street parking spaces may be purchased for a fee, as set forth in subsections (3)a.1. or 2., as may be applicable.

e.

All payments set forth in this subsection (3) shall be inflation-adjusted once at the end of each five-year period, the first such adjustment commenced on January 1st, 2007, reflecting the change from the prior year only, through the consumer price index-urban consumers (CPI-U).

f.

Payment of the fees set forth in subsections (3)a., b., and d., hereinabove shall permanently exempt the respective property from the corresponding parking requirement for such use as specified in the certificate of waiver.

(4)

Security deposit; fees. At time of execution of the waiver application, except for those property owners participating in the installment payment agreement for permanent certificate of waiver, the property owner shall provide the department of off-street parking with a security deposit or with a performance bond in an amount sufficient to secure three months' payments under the waiver application. All documentation, including the form of the security deposit and the performance bond shall be subject to the approval of the city attorney as to form and correctness, and the performance bond shall be subject to the review and approval of the city's risk manager. In the event the property owner fails to make payments for a total of three consecutive months, the property owner shall forfeit any right and interest to the security deposit or performance bond, whichever may be applicable. Upon such default, the department of off-street parking shall retain the entire amount of the security deposit or performance bond.

(5)

Fees in subsections (1) through (3) shall be due and payable on the first of each month (i.e. due date). Fees not received within 15 days of the due date shall be charged a late fee of five percent of the amount due. Fees not received within 30 days of the due date shall be charged interest at the rate of ten percent per annum calculated monthly on the unpaid balance, including applicable late fees.

*(Ord. No. 12851, § 2, 9-28-06; Ord. No. 13059, § 3, 3-12-09; Ord. No. 13185, § 2, 6-24-10)*

### **Sec. 35-225. - Design District Parking Improvement Trust Fund—Established.**

(a)

There is hereby established a trust fund to be entitled the design district improvement trust fund, ("trust fund") to be maintained and administered by the department of off-street parking into which funds shall be deposited and from which funds shall be withdrawn pursuant to sections 35-226 and 35-227 to facilitate public off-street parking, infrastructure improvements and maintenance and marketing to serve the area consisting of the SD-8 zoning district through means which may include, but are not limited to the following activities:

(1)

Acquire fee simple or other interest in land, and other real property for parking purposes;

(2)

Construct, maintain, operate, lease, manage, or otherwise provide off-street parking facilities for public use;

(3)

Provide public information to enhance parking utilization including publicity campaigns, graphics and signage, and other informational devices;

(4)

Coordinate plans for parking facility improvements and expansion with public transportation plans and operations in the vicinity, particularly the joint facilities that might be operated in connection with Metrorail and any feeder services existing or future;

(5)

Provide accessibility to off-street parking facilities by suitable means such as public shuttle, tram or trolley service and related physical improvements such as bus shelters and right-of-way modifications;



(6)

Perform such other related activities as may be appropriate to carry out the intent of this article including, but not limited to, infrastructure improvements in the public right-of-way, contributing to maintenance of the public sidewalks within the business district defined herein, as well as destination marketing (only through providing matching funds.)

(b)

It is the intent of this article that at least 90 percent of the funds, as determined at the beginning of each fiscal year, in the trust fund shall be utilized for subsections (a)(1)—(6). At least ten percent of the funds must be maintained as reserves.

(c)

Any such shuttle, tram or trolley service, as mentioned in subsection (a)(6), shall be subject to yearly evaluation of the design district improvement committee.

*(Ord. No. 12851, § 2, 9-28-06)*

**Sec. 35-226. - Same—Funds made available; financial report.**

(a)

Funds deposited in the trust fund shall be made available to the city commission for the purposes set forth in section 35-225 and for administrative expenses after review and recommendation by the design district improvement committee ("committee") to the city commission and approval by the city commission following receipt and consideration of the committee's recommendation.

(b)

A financial report on trust fund receipts and expenditures shall be prepared annually at the close of the fiscal year by the off-street parking department and presented to the design district improvement committee for its review and approval prior to filing with the city clerk.

*(Ord. No. 12851, § 2, 9-28-06)*

**Sec. 35-227. - Same—Schedule of fees and charges.**

The schedule of fees and charges to be assessed and paid into the trust fund is as follows:

(1)

Fee in lieu of providing required off-street parking for sidewalk cafes: in addition to the \$20.00 per square foot permit fee required by the public works department, as specified in section 54-223, there shall be paid an additional fee as set forth in subsections (3)c. and (3)e., in lieu of providing required off-street parking, said funds shall be paid monthly into the design district improvement trust fund.

(2)

All property owners currently in possession of base parking space waivers as provided in Ordinance 11052, shall pay \$1,200.00, per space per year, payable monthly ("annual payment"). Notwithstanding the foregoing, the initial cost shall be \$800.00, per space per year, payable monthly, for the first year ("first year payment"). For the second year, the cost shall be \$1,000.00, per space per year payable monthly ("second year payment"). The annual payment shall be \$1,200.00 per space per year starting with the third year. The annual payment shall be inflation adjusted once at the end of each five-year period. The first inflation adjustment shall commence on January 1, 2011, reflecting the change from the prior year only, using the consumer price index urban consumers (CPI-U). All property owners currently in possession of base parking space waivers shall have the option of converting the existing waivers to conform to the provisions set forth in subsection (3).

(3)

Fee in lieu of providing required off-street parking for the SD-8 zoning district pursuant to article 6 of Ordinance No. 11000, as amended, the zoning ordinance No. 11000, as amended, the zoning ordinance of the city (the "zoning ordinance") shall be as follows:

a.

A purchase price of \$12,000.00 per parking space waiver (the "purchase price.")  
The purchase price shall be inflation adjusted once at the end of each five-year



period. The first such adjustment shall occur on January 1, 2011, reflecting the change from the prior year only, using the consumer price index urban consumers (CPI-U). The purchase price shall be paid in either of the following two ways, at the option of the property owner:

1.

Permanent certificate of waiver. Payment of the purchase price may be made at the time of application for a permanent certificate of waiver. Upon receipt of the purchase price, the city shall issue a "permanent certificate of waiver," recorded at the property owner's expense in the public records of Miami-Dade County, Florida, to the property owner. The permanent certificate of waiver shall run with the land, and may be leased to another owner of real property within the SD-8 district in accordance with section 602.10.4 of the zoning ordinance.

2.

Installment payment program. The purchase price may be paid in installments over a self-amortizing period of 15 years, but with a balloon payment after ten years from date of execution of an installment payment agreement for permanent certificate of waiver (the "agreement"), with interest at one percent below the bank prime rate. Each installment shall be referred to as a "payment." Bank prime rate shall refer to the rate set by the banking institution used by the department of off-street parking (the "department"). Payments shall be due and payable on the 1st of each month (the "due date"). The property owner shall pay a late fee of five percent of each payment which is not received within 15 days of the due date. Payments not made within 30 days after the due date shall be charged interest at the rate of ten percent per annum calculated monthly on the unpaid balance, including applicable late fees. If any payment is returned because of insufficient or uncollected funds in addition to any other fee or charge due, the property owner shall be liable for a returned check charge in the amount of five percent of the amount of the check; in such event, the department may require that all future payments be made by cashier's check. In the event any payment is not received by the department within 90 days of the due date, the applicable certificate(s) of waiver shall be revoked by the zoning administrator, and the property owner shall forfeit any and all rights thereunder, and any amounts paid pursuant to the agreement, and shall not be entitled to participate further in the installment payment program, unless its to avail themselves of an alternate installment payment program that becomes available. Notwithstanding the foregoing, the property owner shall remain responsible for providing parking, or apply and pay for the necessary monthly parking space waivers or make full payment.

b.

Reserved.

c.

The rental fee in lieu of providing the supplemental off-street parking required for restaurants, as specified in section 602.10.1 of the zoning ordinance. ("rental fee") for the first years, shall be \$800.00 per parking space, per year, to be paid on a monthly basis, until a reduction of waiver certificate is obtained. Beginning in year six, the rental fee shall be \$1,000.00 per parking space, per year, to be paid on a monthly basis, until a reduction of waiver certificate is obtained.

d.

Supplemental off-street parking spaces may be purchased for a fee, as set forth in subsections (3)a.1. or 2., as may be applicable.

e.

All payments set forth in this subsection (3) shall be inflation-adjusted once at the end of each five-year period, the first such adjustment shall commence on January 1, 2011, reflecting the change from the prior year only, through the consumer price index-urban consumers (CPI-U).



f.

Payment of the fees set forth in subsections (3)a., b., and d., hereinabove shall permanently exempt the respective property from the corresponding parking requirement for such use as specified in the certificate of waiver.

(4)

Security deposit; fees. At time of execution of the waiver application, except for those property owners participating in the installment payment agreement for permanent certificate of waiver, the property owner shall provide the department with a security deposit or with a performance bond in an amount sufficient to secure three months' payments under the waiver application. All documentation, including the form of the security deposit and the performance bond shall be subject to the approval of the city attorney as to form and correctness, and the performance bond shall be subject to the review and approval of the city's risk manager. In the event the property owner fails to make payments for a total of three consecutive months, the property owner shall forfeit any right and interest to the security deposit or performance bond, whichever may be applicable. Upon such default, the department shall retain the entire amount of the security deposit or performance bond.

(5)

Fees in subsections (1) through (3) shall be due and payable on the 1st of each month (i.e. due date). Fees not received within 15 days of the due date shall be charged a late fee of five percent of the amount due. Fees not received within 30 days of the due date shall be charged interest at the rate of ten percent per annum calculated monthly on the unpaid balance, including applicable late fees.

(6)

The city shall grant parking credit for buildings built prior to 1960 that have been demolished or may be demolished.

(7)

Upon enactment of a city ordinance pursuant to F.S. § 166.271, authorizing the collection and disbursement of parking surcharge fees for infrastructure and other purposes defined therein, the design district improvement trust fund would receive the same percentage as derived from parking surcharge revenues from the design district. Said distributions would be retained in a separate account to be used exclusively for the purposes set forth in the ordinance governing the use of parking surcharge funds.

(8)

Fees generated by the use of design district sidewalks for sidewalk cafes for the purpose of contributing to the maintenance of the public sidewalks and infrastructure within those sidewalks in the business district as defined herein.

(9)

Funds budgeted for the maintenance and repair of all capital improvements within the district as defined herein.

(10)

Such other fees as may from time to time be authorized by the city commission.

*(Ord. No. 12851, § 2, 9-28-06)*

**CASE STUDY 3.2  
OAK AVENUE GARAGE  
COCONUT GROVE, FLORIDA**

<b>Owner:</b>	City of Miami Parking Authority	<b>Financing:</b>	Park. Auth. Revenue Bonds
<b>Year on-line:</b>	1999	<b>Total Cost:</b>	\$5,849,700
<b>Capacity:</b>	416 spaces	<b>Guaranteed:</b>	no

***Project Description:***

**Background:**

The Coconut Grove neighborhood of the City of Miami has a rich history and past. Coconut Grove is a bay-front community noted for its relaxed atmosphere. It has lush landscaping and beautiful green parks on the water. Coconut Grove was known as an artist colony and today still maintains much of the same casual feeling. It was the location of the original Miami Pan Am Flying Boat Air Terminal, which today is in use as the Miami City Hall. Coconut Grove also is home to municipal/public and private marinas, as well as a convention center.



The Grove or Village, as it is often referred to, has undergone a significant renaissance, which includes new residential development, restaurants, shops, a performing arts theater, and a multiplex movie theatre. This growth and redevelopment generated a need for parking infrastructure to accommodate the new parking demand.

In 1993 the City of Miami adopted a zoning ordinance that would allow developers' variances on the number of parking spaces required for a particular use. The "Pay-in-Lieu" Parking Ordinance (Parking Trust Fund) was established with great success. The Pay-In-Lieu ordinance allowed for the funds paid by developers for parking waivers to be used for land acquisition and construction of new parking facilities.

**The Oak Avenue Garage:**

The Oak Avenue Parking Garage was designed and built with 416 parking spaces and 16,000 square feet of ground-floor retail. The Oak Avenue Garage was built as a perimeter interceptor garage at the NW edge of the retail section of the Grove. The garage was built in close proximity to 2 large shopping malls to provide additional Village parking as well as to divert traffic flow to ease congestion in the Village core. The Miami Parking Authority assembled the land and built the parking garage, which opened in the fall of 2000.

**The Finances:**

The total cost of the garage and retail project was \$9,356,700, of which \$6,900,000 was financed by a general obligation bond issued by the Parking Authority. The total 16,000 square feet of retail is leased to a Master Lessee for a 30-year term with a 30-year renewal option. The Master Lessee guarantees a monthly lease payment to the Parking Authority and is responsible for managing, maintaining, and leasing the individual retail units.

The Parking Authority is financially responsible for the debt service and operating expenses of the Oak Avenue Garage. All ground floor retail lease revenue and parking fees from the garage are utilized to pay operating and debt service expenses of the garage.

**CASE STUDY 3.2 (continued)**

The Parking Trust Fund contributed \$2.5 million dollars to the overall project cost. The Parking Trust Fund's contributions repaid land acquisition costs that had been advanced by the Parking Authority during the land assemblage phase of the project.

**Challenges:**

The Parking Authority is responsible for the management of the Coconut Grove Parking Trust Fund. Prior to the construction of the Oak Avenue Garage, the Parking Trust Fund had received a significant amount of parking variance fees. Based upon community redevelopment and the amount of funds held in trust, the time had arrived to find an appropriate site and demonstrate to the Village business community the Parking Trust Fund and the Parking Authority's commitment to building a public parking facility. Finding an appropriate site was difficult, and the Parking Authority negotiated many months to assemble the two lots where the parking garage was ultimately built.

Contact: Arthur Noriega 305-373-6789 x 242

**OAK AVENUE GARAGE, COCONUT GROVE, FLORIDA  
ACTUAL CONSTRUCTION EXPENSES  
416 PARKING SPACES, CITY OF MIAMI PARKING AUTHORITY, FLORIDA**

Construction Costs	Year 1998/99 Dollars
Hard Construction—Garage	
416 spaces @ \$8,000 per space	\$3,328,000.00
Revenue Control System, Cashier Booth & CCTV	
416 spaces @ \$250.00 per space	\$104,000.00
Hard Construction - Retail Raw Shell Space	
16,000 sq. ft @ \$100.00 per sq. ft	\$1,600,000.00
<b>Hard Construction—Total</b>	<b>\$5,032,000.00</b>
Construction Contingency @ +1–5.00% of Hard Total	\$251,600.00
Design, Supervision, Survey, Testing, Permitting and Project Management @ +1–11.25% of Hard Total	\$566,100.00
<b>Base Construction Costs</b>	<b>\$5,849,700.00</b>
Land Acquisition	\$2,500,000.00
Demo, Environmental & Tree Replacement	\$800,000.00
<b>Total Development Cost</b>	<b>\$9,149,700.00</b>
<b>Financing</b>	
Cost Of Issuance (estimate)0.02775	\$175,000.00
Gross Bond Insurance Premium (estimate)0.0094	\$22,000.00
Title Insurance (estimate)0.00253	\$10,000.00
Deposit to R&R Fund	\$0.00
Deposit to D/S Reserve Fund:	\$0.00
Deposit to Land Acquisition Fund	\$2,500,000.00
Deposit to (net funded) Construction Fund	\$5,849,700.00
Deposit to Site Demo & Environmental Fund	\$800,000.00
Unadjusted Development and Financing Costs	<b>\$9,356,700.00</b>
Coconut Grove Parking Trust Fund Payment:	<b>\$2,500,000.00</b>
Parking Authority Capital Contribution	\$0.00
Earned Interest on Bond Const. Funds (estimate).	\$15,000.00
Rounding Amount	\$58,300.00
Par Amount of Bonds	<b>\$6,900,000.00</b>
Annual Debt Service Payment	
30-year issue @ 4.50%, blended payment schedule	<b>\$419,536.44</b>
<b>Parking Facility Operating Expense</b>	
416 Garage spaces @ \$350.00 each / Year 1999	\$145,600.00
0 Surface Lot spaces @ \$0.00 each / year	\$0.00
<b>TOTAL ANNUAL DEBT SERVICE &amp; OPERATING EXPENSE ESTIMATE</b>	<b>\$565,136.44</b>



## CASE STUDY 2.3 (continued)

### **Project Financing:**

In order for the RPA to be able to afford the construction of the RTCCG, it was necessary for the RPA to negotiate a \$3 million advance parking lease payment from NJ Transit and guarantee that 300 parking spaces would be available daily for commuter monthly and transient parkers for a minimum of 30 years. In addition, the RPA contributed \$1,000,000 from the \$1,360,000 the RPA received from River Place LLC for the sale of development rights to parking Lots C and D, to pay for rather than capitalize RTCCG development soft costs and construction interest, and thereby reduce the amount of the bonds issued by the RPA to \$5.8 million to finance the project.

Parking fees generated by commuter monthly and daily parkers, as well as area shoppers who utilize the RTCCG, are not sufficient to cover the parking facility's operating expenses, renewal and replacement reserves, and debt service. The City of Rahway, by agreeing to the statutory tax-exempt status of the River Place residential development on Lots C and D, retains the parcel of land under the apartment complex; it remains the property of the RPA for 60 years and is ground-leased to the developer. This further subsidizes the RTCCG by directing the ground-lease payments received by the RPA from River Place LLC to the aforesaid annual expenses of the RTCCG.

The RPA, recognizing the redevelopment needs of Rahway's CBD, has adopted and instituted a policy whereby the RPA supports the reduction of parking required in association with a redevelopment plan in CBD to 1 parking space per residential dwelling unit and 2.5 parking spaces per 1,000 gross leaseable area (GLA) for office and retail space in the downtown.

However, in those instances where a development project is unable to meet the reduced parking requirements of 1-for-1 residential and/or 2.5 per 1,000 GLA for office or retail space, no waiver should be granted by the City of Rahway planning or zoning boards unless a Payment In-Lieu of Parking has been made to the RPA. Otherwise, the developer is burdening the municipal parking system and not contributing its fair share.

The purpose of the PILOP is to allow a developer to maximize a project's development potential without unreasonably burdening the available public parking supply. PILOP funds are paid by the developer to the RPA and deposited into a dedicated fund for parking studies, purchase of real estate and other costs associated with the construction and operation of parking facilities. The RPA in turn certifies that it has sufficient parking spaces in RPA facilities to accommodate the parking demand generated by the development project.

By putting the PILOP program in place, the RPA has created the opportunity for the planning and zoning boards to uniformly grant development parking waivers, require the developers to pay a fair share of the parking infrastructure costs generated by their projects' inability to meet already-reduced parking requirements, and create a dedicated fund to pay for parking improvements without burdening the municipal taxpayer.

The RPA has established the PILOP contribution to be \$2,500 for each parking space that a development project is unable to construct to satisfy the 1-for-1 residential parking requirement. Currently in negotiations for a PILOP contribution is the Carriage City Hotel and Condo Tower, which requires 209 residential parking spaces from the RPA to satisfy its planning board approval. Since the

**CASE STUDY 2.3 (continued)**

developer of this project was in direct negotiations with the Rahway Redevelopment Agency for a significant amount of time prior to the establishment of the RPA's PILOP Program and a redevelopment agreement had already been reached in principle by the RRA and developer, it has been agreed that the RRA will pay to the RPA the sum of \$522,500, from the Carriage City developer's fee paid to the RRA, which represents \$2,500 per parking space for 209 residential parking spaces. In return for the RRA's agreement to make the PILOP contribution, the RPA will enter into a parking-space lease agreement with the Carriage City developer that guarantees the availability of 209 parking spaces for lease by the residential condominium owners or residents of the Carriage City Tower, at the completion of construction and through the sales phase of the condominium units. Payment of the \$2,500 PILOP contribution by the RRA will be concurrent with the sale of each residential condominium unit and collected at closing.

<b>RAHWAY TRANSPORTATION CENTER GARAGE</b>	
<b>ACTUAL CONSTRUCTION EXPENSES, 524 PARKING SPACES, City of Rahway Parking Authority, New Jersey</b>	
<b>Construction Costs</b>	<b>Year 2004 Dollars</b>
Hard Construction – Garage	
524 spaces @ \$13,710 per space	\$7,184,040.00
Revenue Control System & CCTV 524 spaces @ \$422.00 per space	\$221,128.00
Hard Construction - RPA Admin. Office	
2,020 sq. ft @ \$200.00 per sq. ft	\$404,000.00
<b>Hard Construction – Total</b>	<b>\$7,809,168.00</b>
Construction Contingency @ +1 - 1.75% of Hard Total	\$136,660.44
Design, Supervision, Survey, Testing, and Project Management @ +1–8.00% of Hard Total	\$624,733.44
<b>Base Construction Costs</b>	<b>\$8,570,561.88</b>
Demo & Environmental	\$0.00
<b>Total Development Cost</b>	<b>\$8,570,561.88</b>
<b>Financing</b>	
Cost of Issuance 0.02775	\$194,314.10
Gross Bond Insurance Premium 0.0094	\$42,075.46
Title Insurance 0.00253	\$15,000.00
Deposit to R&R Fund	\$150,000.00
Deposit to D/S Reserve Fund: 1 Year Prin. & Interest Bond Payment	\$366,100.00
Deposit to (self-funded) Construction Interest Fund (12 months)	\$230,281.00
Deposit to (net-funded) Construction Fund	\$8,570,561.88
Deposit to Site Environmental Fund	\$0.00
Unadjusted Development and Financing Costs	<b>\$9,568,332.44</b>
NJ Transit Advance Lease Payment: \$3,000,000	<b>3,000,000</b>
Rahway Parking Authority Capital Contribution	<b>760,032</b>
Earned Interest on D/S Reserve Fund & Const. Funds	<b>8,300</b>
Rounding Amount	\$0.00
<b>Par Amount of Bonds</b>	<b>\$5,800,000.00</b>
<b>Annual Debt Service Payment</b>	<b>\$363,067.55</b>
30 year issue @ 4.75%, blended payment schedule	
<b>Parking Facility Operating Expense</b>	
524 spaces @ \$400.00 /garage space/ year	\$209,600.00
0 spaces @ \$0.00 /surface lot space/ year	\$0.00
<b>TOTAL ANNUAL DEBT SERVICE &amp; OPERATING EXPENSE ESTIMATE</b>	<b>\$572,667.55</b>