

RESOLUTION NO. PZ 10-20
Series of 2020

**A RESOLUTION RECOMMENDING APPROVAL OF AN ORDINANCE
AMENDING THE DILLON MUNICIPAL CODE REGARDING FEES IN
LIEU OF REQUIRED PARKING SPACES.**

WHEREAS, Chapter 16, Article VI of the Dillon Municipal Code (“Town Code”) requires the provision of off-street parking related to the development of projects throughout the Town in order to facilitate the parking needs of the community; and

WHEREAS, Section 16-6-50 of the Town Code provides land use applicants for non-residential developments within the Core Area zone district that desire not to provide all parking spaces as required by the Town’s zoning code may choose to enter into an agreement with the Town to pay the Town a fee per deficient space as set forth therein; and

WHEREAS, Chapter 19, Appendix 19-A of the Town Code establishes such fee as one hundred dollars (\$100.00) per deficient space; and

WHEREAS, the Town Council previously determined to undertake a parking study to assess the parking needs of the Town, and in particular in the Core Area, and to assist the Council in determining whether amendments to the required parking space and/or the fee in lieu of deficient space provisions of the Town Code are necessary; and

WHEREAS, to permit time to undertake the parking study and hold a parking retreat, the Town Council issued a temporary moratorium on the payment of fees in lieu of providing required parking spaces in the Core Area zone district; and

WHEREAS, the Town Council held a parking retreat on June 9, 2020, at which the Town Council received input on issues related to parking and solutions to the parking needs of the Town; and

WHEREAS, at such parking retreat, the Town Council instructed the Town Attorney to prepare an ordinance (i) to lift the temporary moratorium, and (ii) to set forth fees in lieu of deficient parking spaces in an amount sufficient to defray the impacts of development in the Core Area; and

WHEREAS, the Town Attorney has prepared the draft Ordinance attached hereto as Exhibit A in accordance with the direction received from the Town Council; and

WHEREAS, if adopted, the draft Ordinance would (i) lift the temporary moratorium on development applications proposing deficient parking in the Core Area, thus allowing developers to pay fees in lieu of required parking spaces, (ii) make various amendments to Chapters 16 and

19 of the Town Code regarding the fee in lieu of required parking spaces, and (iii) make various amendments to Chapters 11, 16, and 19 of the Town Code to adopt an annual fee to be paid by businesses located in the Core Area zone district to cover the Town's costs in maintaining, removing snow from, and overlaying, from time to time (estimated once every twelve years), parking spaces in Town-provided parking lots; and

WHEREAS, pursuant to Section 16-1-60 of the Town Code, the Planning Commission is charged with reviewing and studying proposed amendments to Chapter 16 of the Town Code after holding on public hearing on the same; and

WHEREAS, the Planning Commission held a duly-noticed public hearing on the draft Ordinance, at which hearing evidence and testimony were entered into the record; and

WHEREAS, based on the advice of Town staff and the documents made part of the record of the public hearing, the Planning Commission recommends the Town Council adopt the draft Ordinance setting forth the amendments to Chapter 16 of the Town Code, attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF DILLON, COLORADO, AS FOLLOWS:

Section 1. Pursuant to Section 16-1-60 of the Dillon Municipal Code, the Planning Commission hereby recommends that the City Council adopt the amendments to Chapter 16 of the Dillon Municipal Code proposed in the draft Ordinance attached to this resolution as Exhibit A.

APPROVED AND ADOPTED THIS 1ST DAY OF JULY, 2020, BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF DILLON, COLORADO.

**PLANNING AND ZONING COMMISSION,
TOWN OF DILLON**

By: _____
Teresa England, Chairperson

ATTEST:

Michelle Haynes, Secretary to the Commission

EXHIBIT A

**ORDINANCE NO. 14-20
Series of 2020**

AN ORDINANCE LIFTING THE TEMPORARY MORATORIUM ON REQUESTS FOR PAYMENT IN LIEU OF DEFICIENT PARKING SPACES, AND AMENDING CHAPTERS 16 AND 19 OF THE DILLON MUNICIPAL CODE REGARDING FEES IN LIEU OF REQUIRED PARKING SPACES.

WHEREAS, the Town Council found and determined in Ordinance No. 5, Series 2018 that developing and maintaining a robust downtown, including the availability of parking, is essential to the Town's policy goals and mission statement; and

WHEREAS, Chapter 16, Article VI of the Dillon Municipal Code requires the provision of off-street parking related to the development of projects throughout the Town in order to facilitate the parking needs of the community; and

WHEREAS, Section 16-6-50 of the Dillon Municipal Code provides land use applicants for non-residential developments within the Core Area zone district that desire not to provide all parking spaces as required by the Town's zoning code may choose to enter into an agreement with the Town to pay the Town a fee per deficient space as set forth therein; and

WHEREAS, Chapter 19, Appendix 19-A of the Dillon Municipal Code establishes such fee as one hundred dollars (\$100.00) per deficient space; and

WHEREAS, in Ordinance No. 05-18, Series 2018, the Town Council previously determined to undertake a parking study to assess the parking needs of the Town, and in particular in the Core Area, and to assist the Council in determining whether amendments to the parking requirements or the fee in lieu of deficient space are necessary; and

WHEREAS, during the time since the temporary moratorium was adopted, Town staff has researched and investigated issues related to parking and recommends the scope of the study be broadened to consider additional issues related to the development of the Town Center; and

WHEREAS, the Town Council found with Ordinance No. 14-18, Series 2018, that additional time was necessary to undertake and complete a broader study to include the development of the Town Center and any capital or infrastructure needs that may be necessary and desirable to serve the needs of the community, and thus extended the temporary moratorium to June 30, 2019; and

WHEREAS, the Town Council subsequently extended the temporary moratorium to February 29, 2020, by Ordinance No. 08-19, Series 2019, after finding that additional time to undertake and complete the broader study; and

WHEREAS, the Town Council then scheduled a parking retreat on March 19, 2020, at which the Town Council would have received input on issues related to parking and solutions to the parking needs of the Town, and the Town Council thus extended the temporary moratorium to September 30, 2020, by Ordinance No. 09-20, Series of 2020; and

WHEREAS, the Town Council was unable to hold the parking retreat on March 19, 2020, due to the Coronavirus/COVID-19 pandemic; and

WHEREAS, after determining the urgency, the Town Council decided to hold the parking retreat virtually on June 9, 2020; and

WHEREAS, at such parking retreat, the Town Council determined instructed the Town Attorney to prepare an ordinance (i) to lift the temporary moratorium, and (ii) to set forth fees in lieu of deficient parking spaces in an amount sufficient to defray the impacts of development in the Core Area; and

WHEREAS, the Town Council desires to amend Chapters 16 and 19 regarding fees in lieu of deficient parking spaces, to set fees at levels no greater than necessary to defray the impacts hereby determined by the Council to be directly related to the categories of land development listed; and

WHEREAS, the Town Council has determined that the main impact related to development providing deficient parking spaces in the Core Area zone district is the elimination of parking spaces from Town-provided parking lots (“Town Parking Pool”) that would need to be used to cure the deficiency; and

WHEREAS, the Town Council has determined that for each space lost in the Town Parking Pool, it would cost the Town \$5,000 to \$35,000 to construct another space, depending on whether the replacement space would be provided in a public surface lot or parking garage; and

WHEREAS, the Town Council desires to adopt fees in lieu of deficient parking in amounts that graduate based on the number of deficient spaces proposed in a development application; and

WHEREAS, the Town Council desires to adopt an annual fee to be paid by businesses located in the Core Area zone district to cover the Town’s costs in maintaining, removing snow from, and overlaying, from time to time (estimated once every twelve years), parking spaces in Town-provided parking lots.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DILLON, COLORADO:

Section 1. The foregoing recitals are hereby affirmed and incorporated herein by this reference as findings of the Town Council.

Section 2. The temporary moratorium on the submission, acceptance, processing, and approval of requests for payment in lieu of deficient parking spaces is hereby repealed.

Section 3. Section 16-6-50 of the Dillon Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Sec. 16-6-50. - Participation in future parking improvements and parking fees.

(a) In those instances where the applicant for a development permit within the Core Area, including a request for a change of use, cannot or desires not to provide all parking spaces required in this Chapter, he or she the applicant may request choose to enter into an agreement with the Town to provide the deficient parking spaces at a later date through participation in a special improvement district to pay (i) a fee per deficient parking space as set forth below, and (ii) the annual fee for a pro-rata share of the Town's costs in maintaining, removing snow from, and overlaying, from time to time, parking spaces in Town-provided parking lots, as set forth in Chapter 11 of this Code; such request may be granted or denied in the Town Council's sole discretion, and pay the Town a fee per deficient space as set forth below. Fees per deficient parking spaces shall only be charged for the number of required parking spaces a development is deficient, and no fee per deficient parking space shall be charged for parking spaces actually provided.

(b) The right of an applicant to request and, if granted, to enter into such an agreement and make such payments, and the authority of the Town to accept such payments, shall be subject to the following limitations:

(1) Not applicable to residential uses. ~~The choice~~ Requests to pay ~~the Town a fees~~ in lieu of providing ~~deficient~~ parking spaces in the amount required in this Chapter shall not apply to, and shall not be granted available for, parking as required for residential uses. ~~All~~ The full amount of parking spaces as required for residential uses must be provided on-site.

(2) Agreement. The agreement shall specify the number of spaces the project is deficient, shall indicate the applicant's agreement ~~not~~ to

~~protest pay the fee per deficient parking space and the annual fee formation of a special improvement district for the design and construction of future public parking facilities, and shall be entered into prior to the issuance of a building permit.~~

(3) Amount of fee per deficient parking space. The amount of the fee per deficient parking space shall be contingent on the number of parking spaces the project is deficient ~~multiplied by the dollar amount~~ as set forth in Chapter 19 of this Code.

(4) Payment of fee per deficient parking space. The fee per deficient parking space shall be paid in full to the Town prior to the issuance of a building permit for the project or, at the discretion of the Town, at another time as agreed to between the Town and applicant, if the fee is guaranteed by a letter of credit.

a. Except as provided in Subsection (~~67~~) below, fees paid to the Town are nontransferable and nonrefundable. Any fee paid in connection with the development of a particular lot, tract or parcel shall run with the land for which the fee is paid, and is nontransferable to any other lot, tract or parcel.

b. If the development permit for which a fee has been paid has expired, and a new application for a development permit is thereafter filed for the same parcel within five (5) years, the Town shall credit any previous payments of ~~in lieu~~ fees per deficient parking spaces toward any fees due for the new application.

c. If a change in use of a property results in a reduced requirement for off street parking under the provisions of this ~~e~~Chapter, no refund shall be paid by the Town with respect to off street parking spaces which are no longer required.

(5) Use of fees per deficient parking space by Town. The fees collected by the Town pursuant to this Section may be expended by the Town only for the following purposes:

a. Acquisition of real property for the construction of municipal parking facilities within the Core Area, or any area located within one ~~thousand (1,000) feet~~ one half mile of the Core Area if the Town Council determines that the Core Area will benefit from the provision of parking on such property.

b. Development, expansion, design or capital repair of municipal parking spaces or facilities within the Core Area, or any area located within two thousand (2,000) feet of the Core Area, including but not limited to, construction costs, surveying costs, engineering, design and similar expenses related thereto.

c. Payment of the principal, interest and other costs of bonds, notes and other obligations issued or undertaken by or on behalf of the Town to finance the acquisition, development, expansion or capital repair of municipal parking spaces and facilities within the Core Area or within two thousand (2,000) feet of the Core Area.

(6) Fees in lieu of deficient parking shall not be used to remedy any deficiency in capital facilities that exists without regard to the proposed development.

(67) Refund or credit of fees paid in lieu of providing parking.

a. Refund. Any fees in lieu of providing parking, or portion thereof, collected pursuant to this Section which have not been expended or which have not been committed for expenditure for eligible parking improvements or design within twenty-five (25) years from the date of payment shall be refunded, upon application, to the record owner of the property for which the fee was paid, together with interest thereon at the legal rate earned thereon by the Town from the date of collection to the date of refund.

b. Credit. In the event the Town forms a special improvement district for the purpose of providing public parking facilities within or adjacent to the Core Area, all parking fees (not including interest) paid within a ten-year time period immediately prior to the formation of the district shall be credited toward the assessments of each lot for which the fees were previously paid.

(78) Parking account.

a. The Finance Director shall establish an interest-bearing account into which all fees per deficient parking space collected by the Town pursuant to this Section shall be deposited. Interest earned on the account into which the fees are deposited shall be considered funds of the account and shall be used solely for eligible parking design and improvements as authorized in this Section. The fees collected and the interest earned thereon shall not be commingled with any other funds of the Town.

b. The Finance Director shall establish adequate financial and accounting controls to ensure that the fees per deficient parking space disbursed from the account are utilized solely for eligible parking design and improvements as authorized in this Section.

Section 4. Chapter 6 of the Dillon Municipal Article is amended to add a new Article XIV, to read as follows:

**ARTICLE XIV
Core Area Annual Parking Fee**

Sec. 6-14-10.- Core Area Annual Parking Fee

Sec. 6-14-10.- Core Area Annual Parking Fee.

(a) All businesses located in the Core Area zone district shall pay an annual fee in an amount set by resolution or ordinance of the Town Council, to offset the Town's costs in maintaining, removing snow from, and overlaying, from time to time, parking spaces in Town-provided parking lots in the Core Area zone district.

(b) Such fee shall be due and payable to the Town Clerk on January 1 of each year. The fee, if not paid as herein provided, shall become delinquent on January 2 of the same year. As to all persons engaged in business for a period of less than a year, the fee shall be due and payable prior to the time the person engages in business.

(c) No refund shall be made to any person who discontinues business during the taxable year.

(d) No fee payment shall be transferable.

(e) Interest shall accrue on all delinquent payments from the day of delinquency until paid or collected at the rate of one percent (1%) per month.

Section 5. The table in Appendix 19-A of Chapter 19 of the Dillon Municipal Code is hereby amended to add a fee per deficient parking space. The fee shall be referred to in the table as "Fee Per Deficient Parking Space" and shall be set as follows:

Number of Deficient Parking Spaces	Fee Per Deficient Parking Space
1-3	\$2,000
4-6	\$5,000

7-9	\$10,000
10-12	\$15,000
13-15	\$20,000
18-20	\$35,000

Section 6. The table in Appendix 19-A of Chapter 19 of the Dillon Municipal Code is hereby amended to add an annual fee to offset the Town’s costs in maintaining, removing snow from, and overlaying, from time to time, parking spaces in Town-provided parking lots. The fee shall be referred to in the table as “Annual Parking Fee” and shall be set at \$387.00.

Section 7. If any article, section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Town Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 8. The repeal or modification of any provision of any prior ordinance by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 9. All other ordinances or portions thereof inconsistent or conflicting with this ordinance, or any portion hereof, are hereby repealed to the extent of such inconsistency or conflict.

Section 10. Effective Date. This Ordinance shall take effect five days after publication following final passage.

**INTRODUCED, READ AND ORDERED PUBLISHED BY TITLE ONLY
THIS ___ DAY OF _____, 2020.**

**PASSED, ADOPTED AND APPROVED AND ORDERED PUBLISHED BY
TITLE ONLY THIS ___ DAY OF _____, 2020.**

TOWN OF DILLON,

a Colorado municipal corporation

Carolyn Skowyra, Mayor

ATTEST:

Adrienne Stuckey, Town Clerk