
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, the applicant may request to enter into an agreement with the Town to pay a fee per deficient parking space as set forth below; such request may be granted or denied in the Town Council's sole discretion. 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. Requests to pay fees in lieu of providing parking spaces in the amount required in this Chapter shall not be granted for parking as required for residential uses. 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 to pay the fee per deficient parking space, 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 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 (7) 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 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 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-half (½) 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.

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- 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.
 - (7) 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.
 - (8) 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.

(Ord. 05-99 §1; Ord. 02-02; Ord. 05-03 §2; Ord. 01-04 §§1-3; Ord. 14-20 §3; Ord. 13-21 §§4, 5)