

AN

ORDINANCE

of the City Council of the City of Berkley, Michigan to amend Section 14.04.B Payment In-lieu Fees of Chapter 138 Zoning of the City of Berkley Code of Ordinances to modify regulations for payment in-lieu of required parking spaces.

THE CITY OF BERKLEY ORDAINS:

SECTION 1: Section 14.05.B Payment In-lieu Fees of Chapter 138 Zoning of the Berkley City Code is amended to modify regulations for payment in-lieu of required parking spaces, as follows:

~~**B. *Payment In-lieu Fees.*** After using on-street, public parking, or municipal lot parking spaces towards the required parking, the Planning Commission may waive some of the remaining required parking for developments requiring a site plan, subject to the applicant's election to contribute a one-time fee to the City's Public Parking Fund in an amount established by resolution of City Council, in lieu of the number of spaces waived.~~

B. *Payment-In-Lieu of Parking (PILP) Option* After using on-street, public parking, or municipal lot parking spaces towards the required parking, the City may waive some of the remaining required parking for developments requiring a site plan, special land use permit, or business license application, subject to the applicant's election to contribute a one-time fee to the City's Public Parking Fund in an amount established by resolution of City Council.

1. *Purpose and Intent.* The purpose of the Payment-in-Lieu of Parking (PILP) option is to provide flexibility from minimum off-street parking requirements in order to promote the highest and best use of parking-constrained properties while balancing the potential impacts on surrounding residential neighborhoods. The PILP option is intended to:

- a. Encourage adaptive reuse and reinvestment in existing buildings;
- b. Support walkable, mixed-use development patterns;
- c. Reduce the need for excessive on-site parking; and
- d. Ensure that any reduction in required parking does not result in undue burden on adjacent residential areas.

2. *Applicability.*

- a. The PILP option may be considered for the following uses:
 - i. Non-residential uses.

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- ii. Residential uses only when part of a mixed-use development that contains non-residential uses.
- b. The PILP option must:
 - i. Be prioritized for adaptive reuse of existing buildings; and
 - ii. Not be available for standalone new construction projects, unless the Planning Commission determines that strict application of parking requirements would preclude reasonable use of the property due to site constraints.

3. Approval Process.

- a. Applications for PILP must be submitted as part of a site plan, special land use, or business license application.
- b. The Planning Commission must review the PILP request, including when it is an administrative approval for the business license application, and make a recommendation based on the criteria in subsection 5. Review Criteria.
- c. The City Council must make the final determination to approve, approve with conditions, or deny the PILP request.

4. Payment Structure.

- a. The City must establish, by resolution, a fee schedule for payment-in-lieu of required parking spaces.
- b. Payment is required prior to issuance of a building permit, or in the case of a business license, before issuance of a certificate of occupancy, unless otherwise approved by the City Council.
- c. All funds collected must be deposited into a dedicated account to be used for:
 - a. Public parking improvements;
 - b. Shared parking facilities; or
 - c. Mobility or transportation demand management strategies within the City.

5. Review Criteria. In making a recommendation and decision on a PILP request, the Planning Commission and City Council must consider the following:

- a. Whether the request supports the adaptive reuse of an existing building or otherwise facilitates reinvestment in a constrained site;
- b. The availability of on-street parking, public parking, or shared parking within reasonable walking distance;

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- c. The extent to which the proposed use is likely to generate parking demand during peak periods;
 - d. Potential impacts on adjacent residential neighborhoods, including spillover parking;
 - e. Whether the request is consistent with the City's Master Plan and parking strategies;
 - f. The feasibility of providing parking on-site and whether strict compliance would preclude a permitted use of the property; and
 - g. Whether any other mitigation measures, including shared parking agreements or transportation demand management strategies, are available or proposed.
- 6. *Conditions of Approval.*** The Planning Commission may recommend, and the City Council may impose reasonable conditions on a PILP approval, including but not limited to:
- a. Limiting the number of spaces eligible for payment-in-lieu;
 - b. Requiring participation in shared parking arrangements;
 - c. Requiring operational or design modifications to mitigate impacts.
- 7. *No Vested Right.*** Approval of a PILP request must not be construed as establishing a precedent or vested right for future applications.

SECTION 2: Savings

The amendments of the Berkley Code of Ordinances set forth in this ordinance do not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendments of the Berkley Code of Ordinances set forth in this ordinance.

SECTION 3: Severability Clause

Should any word, phrase, sentence, paragraph, or section of this Ordinance be held invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 4: Penalty

All violations of this ordinance shall be municipal civil infractions and upon determination of responsibility therefore shall be punishable by a civil fine of not more than \$500, and/or such other sanctions and remedies as prescribed in Article IX of Chapter 82 of the Code of Ordinances.

SECTION 5: Effective Date

This Ordinance shall become effective 30 days following the date of adoption.

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SECTION 6: Publication

The City Council directs the City Clerk to publish a summary of this ordinance in compliance with Public Act 182 of 1991, as amended, and Section 6.5 of the Berkley City Charter.

Introduced on the First Reading at the Regular City Council Meeting on _____ .

Adopted on the Second Reading at the Regular City Council Meeting on _____ .

Bridget Dean, Mayor

Attest:

Victoria E. Mitchell, City Clerk

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