

**ORDINANCE AMENDMENT REVIEW SHEET**

**Amendment:** C20-2013-009 PARD Parking

**Description:** Consider amendments to Chapter 8 and 25 of the City Code to authorize parking utilization agreements on under-used City parking lots.

**Proposed Language:** See attached draft ordinance.

**Staff Recommendation:** Staff recommends this amendment.

**Background:** Initiated by Council Resolution 20121206-071

In response to concerns behind limited parking opportunities for certain businesses, particularly near under-utilized park parking facilities, the City Council passed Resolution 20121206-071 directing the City Manager to develop an ordinance that allows businesses, under certain conditions, to use under-utilized parking lots on city parkland to satisfy minimum parking requirements in exchange for providing significant amenities or enhancements to serve the park.

**Board and Commission Actions**

**Planning Commission Subcommittee on Codes and Ordinances:** April 16, 2013 – Recommend denial of this item to full Planning Commission. Vote: 4-0; D. Anderson and J. Nortey absent.

**Planning Commission:** A public hearing has been set for May14, 2013.

**Council Action**

**City Council:** A public hearing at City Council has been set for June 6, 2013.

**Ordinance Number:** NA

**City Staff:** Ricardo Soliz

**Phone:** 974-9452

**Email:** ricardo.soliz@austintexas.gov



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## MEMORANDUM

**TO:** Planning Commission

**FROM:** Ricardo Soliz, Division Manager  
Parks and Recreation Department

**DATE:** May 6, 2013

**SUBJECT:** Amendments to Titles 25 and 8 of the City Code That Allow Businesses to Utilize City parkland to Satisfy Minimum Parking Requirements

The purpose of this memo is to provide background information on the proposed amendments to Titles 25 and 8 of the City Code and to gain support from the Committee to move forward to the full commission for a public hearing.

The amendments to Titles 25 and 8 (*Land Development*) of the City Code allows non-residential businesses, under certain conditions, to use currently under-utilized parking lots on city parkland to satisfy minimum parking requirements in exchange for funding to provide significant amenities or enhancements to serve the park.

Currently there are parks within our system that have parking facilities that are not heavily used during certain hours of the day or week located adjacent to non-residential businesses. Under certain criteria, the Director of Parks & Recreation Department, may recommend to the City Council to enter into a parking utilization agreement with non-residential businesses. If PARD's future plans require a change in use, the City can revoke the agreement at will, in which case, the applicant is responsible for complying with the minimum requirements of Chapter 25-6, Off-Street Parking and Loading requirements.

Each parking utilization agreement will require a public hearing under Chapter 26 of the Texas Parks and Recreation Code, along with a finding by the City Council that there is no feasible and prudent alternative to the non-park use of parkland and that all reasonable planning has been undertaken to minimize harm to the park resulting from the non-park use.

cc: Jesse Vargas, Assistant Director  
Kimberly McNeeley, Assistant Director  
Cora Wright, Assistant Director  
Ricardo Soliz, Division Manager  
George Zaplac, Planning & Development Review

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**RESOLUTION NO. 20121206-071**

**WHEREAS**, parts of Austin's central city are experiencing shortages of private, off-street parking; and

**WHEREAS**, city-owned parking lots may exist in those areas which are under-utilized, only utilized at certain times, or used illegally for non-city purposes; and

**WHEREAS**, vacant parking lots are an inefficient use of land and lack the aesthetic or recreational benefits of parkland or open space; and

**WHEREAS**, unique parkland amenities and public art installations enhance the character of surrounding neighborhoods; and

**WHEREAS**, due to limited resources and the need to channel parkland dedication funds into larger system-wide acquisitions and improvements, it is often difficult for the City to provide unique and innovative amenities and enhancements for individual parks; and

**WHEREAS**, meeting the City's minimum commercial parking requirements in the urban core poses a significant challenge for many businesses, particularly for smaller scale local businesses in densely developed areas; and

**WHEREAS**, allowing businesses to utilize under-used city parking lots in exchange for providing valuable amenities and enhancements would represent good urban planning, significant public benefit, and efficient use of public resources; **NOW, THEREFORE**,

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**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

1. The city council initiates amendments to Title 25 (*Land Development*) of the City Code and directs the city manager to develop an ordinance that allows businesses, under certain conditions, to use under-utilized parking lots on city parkland to satisfy minimum parking requirements in exchange for providing significant amenities or enhancements to serve the park.
2. In developing the ordinance, the city manager should use the following requirements and criteria as a starting point. Additional requirements or procedures may also be included based on further review and consultation with affected city departments.
  - (A) The ordinance should allow proposals to be accepted for review only from businesses located within 1,000 feet of a parking lot that is located on city parkland and, based on a determination by the Transportation Department, has an over-capacity of parking based on the parking demands for existing and planned park-related uses.
  - (B) To be considered for review, a proposal from an eligible business would have to include:
    - (i) proof that the business cannot provide the minimum number of parking spaces required under City Code Chapter 25-6 (*Transportation*); and

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- (ii) an offer to provide and maintain, at the business's own expense, a significant and innovative park amenity or improvement.
- (C) A proposal would be recommended to the city council for approval through the Chapter 26 process if the official designated to review the proposal concludes, at a minimum, that:
  - (i) the excess capacity of parking is sufficient to satisfy at least 75% of the applicant's parking deficiency for at least 75% of the time that the business is open; and
  - (ii) the proposed amenity or improvement would constitute a significant public benefit and enhance the character of the park or provide a substantial recreational benefit; and
  - (iii) use of the spaces will not unduly interfere with use of the park for park purposes.
- (D) Council approval of a proposal would be subject to the requirements of the Texas Parks and Wildlife Code, Chapter 26, and all other applicable ordinance, charter, and statutory requirements. In addition, approval would require execution of a park use agreement that:
  - (i) requires the applicant to provide for any necessary maintenance of the park amenity or improvement and the parking spaces covered by the agreement;
  - (ii) gives the City the unilateral right to revoke the agreement, without penalty, in which case an applicant would be

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required to fully satisfy the minimum parking standards under Chapter 25-6 (*Transportation*); and

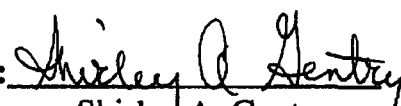
(iii) allows the city to utilize the parking spaces subject to the agreement.

(E) Nothing in this ordinance shall apply to the Mexican American Cultural Center and its master plan.

3. The City Manager is authorized to consider allowing a fee in lieu of providing and maintaining the proposed amenity and the evaluation process should include an assessment of the value of the amenity relative to the parking spaces.
4. This ordinance should come back to Council by March 31, 2013.

ADOPTED: December 6, 2012

ATTEST:

  
Shirley A. Gentry  
City Clerk

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ORDINANCE NO.

1 AN ORDINANCE AMENDING CITY CODE CHAPTERS 8-1 AND 25-6 TO  
2 AUTHORIZE PARKING UTILIZATION AGREEMENTS ON UNDER-USED  
3 CITY PARKING LOTS.  
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5 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:  
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7 **PART 1.** Subsection (A) of City Code Section 8-1-33 (*Restrictions on Parking*) is  
8 amended to read:

9 (A) Except as provided in Subsections (B) and (C), a person may park a motor  
10 vehicle in a park, playground, or nature preserve owned, operated or maintained by the  
11 city only:

12 (1) in a designated parking area;

13 (2) within 12 feet of the edge of a roadway where parking is authorized; [øø]

14 (3) at the direction of a police officer or park police officer; and

15 (4) in an area subject to an agreement approved under Section 8-1-35  
16 (Parking Utilization Agreements).  
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18 **PART 2.** City Code Chapter 8-1, Article 3 (*Restrictions on Use of Motor Vehicle in*  
19 *Park*) is amended to add a new Section 8-1-35 to read:

20 **§ 8-1-35 PARKING UTILIZATION AGREEMENTS.**

21 (A) This section authorizes the director to recommend to the city council approval  
22 of a parking utilization agreement authorizing the use of under-utilized parking on city  
23 parkland in exchange for a significant community benefit.

24 (B) An applicant may request that the director review a proposed parking utilization  
25 agreement under Subsection (C) if each of the requirements in this subsection is met.

26 (1) The applicant is a business or non-profit organization, other than a  
27 provider of residential housing, located within a 1,000 feet of a parking lot that is  
28 located on city parkland and does not serve an administrative building or  
29 recreational center.

30 (2) The director determines that the parkland associated with the lot is  
31 suitable for additional amenities or improvements that would add significant  
32 aesthetic or recreational value to the park.

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(3) The Transportation Department determines, in consultation with the director, that the parking lot is under-utilized for park-related events during normal hours of operation.

(4) The Planning & Development Review Department determines that:

(a) the under-utilized spaces would be sufficient to satisfy at least 75 percent of the applicant's minimum parking requirements under Chapter 25-6, Appendix A (*Tables Of Off-Street Parking And Loading Requirements*); and

(b) the applicant is unable to obtain sufficient parking due to lack of availability.

(5) A fee for the determinations required under Paragraphs (2), (3), and (4) of this subsection shall be established by separate ordinance.

(C) The director shall review a parking utilization proposal under this subsection only if it includes all of the elements required by Subsection (B). A decision by the director that a proposal does not warrant further review is final.

(1) The director may recommend a proposed parking utilization agreement to the city council for consideration if:

(a) no permanent change in operation of the park is anticipated that would significantly increase park-related demand for parking spaces;

(b) the applicant agrees that, if the agreement is approved by the city council, the applicant will:

(i) fund construction and maintenance of the amenities or improvements identified by the director under Subsection (B)(2); and

(ii) fees required for use of park property consistent with the process for implementing Chapter 26 of the Texas Parks & Wildlife.

(2) The director may require changes to a proposed parking utilization agreement as a condition to recommending council approval. A decision by the director not to recommend approval of a parking utilization agreement is final.

(D) If the director recommends approval of a parking utilization agreement under this section, the item shall be posted on the council agenda concurrent with approval of a determination under Chapter 26 of the Texas Parks & Wildlife Code. The council may approve, deny, or modify a proposed parking utilization agreement.



1 (E) In addition to all other requirements of this section, a parking utilization  
2 agreement:

3 (1) is conditioned on execution of a license agreement; and

4 (2) must include:

5 (i) an acknowledgement by the applicant that the City of Austin may  
6 revoke the agreement at will, in which case the applicant is responsible for  
7 complying with the minimum requirements of Chapter 25-6, Appendix A  
8 (*Tables Of Off-Street Parking And Loading Requirements*);

9 (ii) any other terms or conditions deemed necessary by the director to  
10 ensure compliance with this section and to protect public safety and welfare.

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12 **PART 3.** City Code Chapter 25-6, Division 1 (*General Regulations*) is amended to add a  
13 new Section 25-6-479 to read:

14 **§ 25-6-479 REDUCED PARKING APPROVED UNDER A PARKING**  
15 **UTILIZATION AGREEMENT.**

16 For a use that is subject to an agreement approved by the Director of Parks &  
17 Recreation under Section 8-1-35 (*Parking Utilization Agreements*), the minimum off-  
18 street parking requirement is 75% of that prescribed by Appendix A (*Tables Of Off-Street*  
19 *Parking And Loading Requirements*).

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21 **PART 4.** This ordinance takes effect on \_\_\_\_\_, 2013.

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23 **PASSED AND APPROVED**

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25 §  
26 §  
27 \_\_\_\_\_, 2013 § \_\_\_\_\_  
28 Lee Leffingwell  
29 Mayor

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32 **APPROVED:** \_\_\_\_\_  
33 Karen M. Kennard  
34 City Attorney

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**ATTEST:** \_\_\_\_\_  
Jannette Goodall  
City Clerk