

**ORDINANCE NO. 304**

**AN ORDINANCE AMENDING THE CITY CODE OF COLD SPRING BY ADDING SECTIONS 555 AND 510 PERTAINING TO PAYMENT-IN-LIEU-OF-PARKING**

THE CITY COUNCIL OF THE CITY OF COLD SPRING, STEARNS COUNTY, MINNESOTA HEREBY ORDAINS:

**SUBDIVISION 1.** A new section to the City Code of Cold Spring shall be added as Section 555 and read as follows.

Section 555 – PROVIDING FOR PAYMENT-IN-LIEU-OF-PARKING

Section 555.00. **Findings, Advantages and Disadvantages**

Subd. 1. **Findings of the City Council.** In areas of more intense activity or where the City Council wants to promote density, requiring each use to provide separate parking facilities can degrade the pedestrian environment, limit density, and encourage drivers to drive from one site to the next rather than parking once and walking between nearby destinations. One solution to this is to allow developers to pay fees into a municipal parking or traffic mitigation fund in lieu of providing the required parking on site. As used in this policy the term “public parking” does not imply parking spaces that are publicly owned and maintained, but rather it is a reference to parking spaces that have been given a dedicated public use right. The fees can then be used to provide public parking that is strategically located according to need. The City Council has considered how it may wish to establish this fund in such a way that it can also be used for transit, bicycle, and pedestrian improvements that can reduce parking demand. By consolidating parking in centralized public lots or structures and allowing developers an alternative to providing parking on-site, a fee-in-lieu system can encourage in-fill development and redevelopment in existing downtowns or historic buildings. It can also improve the overall efficiency of parking provision by addressing the needs of the area as a whole, rather than the needs of each individual site.

The City Council has learned that in other communities, in-lieu-of-parking fees have been established as a flat rate per parking space not provided, per square foot of floor area, or through a case-by-case determination for the development as a whole. The City Council has determined that uniform fees are much easier for the City to administer and developers to use. The City Council has determined that the first expectation is for the developer to create the off-street parking that is required; accordingly, it is necessary to avoid making payment of a fee more attractive to developers than providing that parking on site. The fee must be high enough to allow for development of public parking facilities or to make enough transit or non-motorized mode improvements to adequately address a parking demand.

Payment-in-lieu-of-parking fees should be linked to an index of construction costs, but should be reviewed and updated periodically, so that inflation and changing conditions will not distort them. In adopting this policy, the City Council has considered having graduated fees that are higher in areas where land values are greater or to reflect where a parking garage may be built rather than a surface lot. Although land cost is an intrinsic component of the cost of creating off-street parking, it was determined that the fees would be too exorbitant if included in this fee.

Developers may be concerned that the lack of on-site parking will make their development less attractive, especially if there is not much public parking available, or it is not convenient to the site. If developers are allowed to choose between providing parking on-site and paying the fee, those who most value on-site parking will build it, and those who don't will not be forced to. Another concern is that the parking may not be built where or when the developer would like it. Fees-in-lieu are more effective when there is sufficient concurrent development in a defined area to generate the funding to develop public parking, or when there is sufficient excess parking capacity in public lots already to absorb the demand from new developments until additional spaces can be built or non-auto improvements made.

Subd. 2. **Advantages of payment-in-lieu-of-parking.** A number of potential advantages of payment-in-lieu-of-parking fees have been identified by the City Council, including the following.

- A. **Flexibility for developers.** In-lieu fees give developers an alternative to providing rigid minimum off-street parking requirements in cases where providing all of those spaces would be unreasonably difficult or expensive.
- B. **Density.** The policy allows the City to encourage higher densities in specific commercial neighborhoods or nodes, where desired. For instance, the policy can be used to encourage a development along a major roadway in

downtown to consist of a more continuous storefront, rather than interrupting the streetscape with parking lot, and instead provide that parking in a more ideal location.

- C. **Shared parking.** Public parking spaces allow shared use among different sites where the peak parking demands occur at different times. Shared parking is more efficient than single-use private parking because fewer spaces are needed to meet the total peak parking demand. Public parking may also, to a small degree, encourage visitors to leave their cars and walk to various destinations.
- D. **Improved urban design.** Cities can put public parking lots and structures where they have the lowest impact on vehicle and pedestrian circulation. Less on-site parking allows continuous storefronts without “dead” gaps for adjacent surface parking lots.
- E. **Incentive creation.** Since one of the primary objectives of this policy is to use revenues collected to assist other businesses—in those areas identified as being in need of more public parking—in creating parking beyond the minimum quantities specified in the Zoning Ordinance, such flow of money can serve as an incentive for a developer to undertake a development or redevelopment project.
- F. **Pedestrian orientation.** There is a conflict that seldom arises, though the threat is ever-present, between the goal of the City to maintain or enhance the pedestrian orientation of a specific commercial node, while standing firm on off-street parking requirements. This policy provides the flexibility needed to further both objectives simultaneously.
- G. **Intensification of uses.** It is not uncommon for the City to encounter cases where a property owner wishes to create an addition to an existing business, or to change uses to one that has more intensive parking requirements; all while there isn’t adequate room for the creation of more to accommodate that use. This policy provides the developer with an alternative means of satisfying its obligations to the community to provide off-street parking, while keeping the City’s leadership out of the position of deciding between the merits of a project and its parking regulations.
- H. **Variations & equity.** Developers often request parking variances when providing the required parking would be difficult. These variances create unearned economic windfalls; granted to some, but denied to others. If developers are required to pay an equivalent sum rather than creating a certain number of parking spaces, the City is able to provide equity among developers while providing relief from parking requirements where warranted.
- I. **Reuse & preservation.** Payment-in-lieu-of-parking fees allow adaptive reuse of buildings where the new use requires additional parking that is difficult to provide. The policy, therefore, makes it easier to preserve and reuse existing buildings and rehabilitate neighborhoods.
- J. **Sustainability.** This policy promotes sustainability by allowing the opportunity for a mix of public and private car parking. Payment-in-lieu-of-parking enables public car parking to be provided in strategic locations, and assists in reducing the amount of private land that is given over to car parking, which could be used for other development.
- K. **Long-term savings.** Although the up-front capital cost to a project can be significant under this policy, there are some significant long-term financial savings for the developer. The property owner is relieved of the cost of maintaining, insuring and paying property tax for any spaces not created under the policy.

Subd. 3. **Disadvantages of payment-in-lieu-of-parking.** Although the advantages of this policy far outweigh the disadvantages it is important to note the disadvantages identified by the City Council, which include the following.

- A. **Lack of on-site parking.** Although the policy may allow the developer to overcome a hurdle in the immediate future, there is the potential for a long-term impairment to the site and to the community because of the on-site, owner-controlled spaces not created.
- B. **Timing & location of parking.** Although the property owner is paying for the creation of additional parking, there is no assurance when the parking will be constructed, or whether it will be in a location that will benefit that project. Collecting fees through assessments levied against the property will effectively match the timing of payments by the property owner with the creation of that parking by the City.
- C. **Fewer spaces overall.** Since it would likely be impractical to charge a developer for the full cost of land acquisition and construction of each space not created, it follows that the payment for a parking space not created on-site will likely not translate into a parking space that the City actually creates elsewhere. Except considering variances that the City would have otherwise been inclined to grant from time to time, the overall effect of this policy is that less parking will be created.

- D. **Long-term costs.** Since the property owner is relieved of the cost of maintaining, insuring and paying property tax for any spaces not created under the policy, this burden generally falls to the City or another property owner creating that parking. Although these adverse impacts to the community can be greatly mitigated by undertaking cooperative construction projects rather than providing municipally owned and operated parking, the shift occurs to some degree and in some fashion regardless of how the policy is administered.
- E. **Shift of parking shortage.** If the number of spaces provided on a site (after receiving a reduction to that number under this policy) are not sufficient to meet the *actual* needs, then the burden of that outcome is not only felt by the patrons of that business, but also by neighboring business owners. This may be true whether those vehicles are driven to neighboring private parking lots, or to on-street spaces.

Section 555:05. **Fee established.** All money paid in accordance with this policy shall be deposited into a special account known as the “Parking Improvement Fund” and the monies in this fund will be expended only in accordance with this policy. In recognition of the fact that the cost per stall will generally decrease as the number of stalls within the lot increases, the City Council has determined that the fees charged under this policy ought to reflect such efficiencies. Additionally, that generally the cost of construction will continually increase. The study conducted by the City Engineer shall serve as the basis for these fees.

The City Council shall periodically review the rates to determine the necessity for adjustments. The *Engineering News and Record* (ENR) index shall serve as a general guide as to changes in the cost of construction, and the City Council shall consider changes in market conditions with regard to the land cost component of the rates above.

Section 555:10. **Procedure for Collecting.** The opportunity for a property owner to make a payment-in-lieu-of-parking shall be permitted only in cases where the City Council deems that there is sufficient hardship upon that property owner for creating all of the required parking; or in cases where there City Council determines that there is a significantly greater good for the community, and that specific neighborhood in particular, in providing a payment in lieu of creating all of the required parking.

- Subd. 1. **Request initiated.** A payment-in-lieu-of-parking shall be initiated only by a formal written request of the property owner.
- Subd. 2. **Planning Commission review.** All requests for a payment-in-lieu-of-parking shall first be subject to review by the Planning Commission, who shall be afforded the opportunity to recommend action to the City Council.
- Subd. 3. **Simple majority required.** Authorization for a property owner to make a payment-in-lieu-of-parking shall require only a simple majority of the voting City Council members present at the meeting where said request is considered.
- Subd. 4. **Districts permitted.** The availability to make a payment-in-lieu-of-parking shall be available only to properties that are zoned (C-1) *Downtown Commercial* on the *Cold Spring Zoning Map*.
- Subd. 5. **Demand reduction.** One of the factors in determining whether a property shall be granted the right to make a payment-in-lieu-of-parking is whether they have demonstrated that they have first pursued measures that reduce parking demand, rather than increasing parking supply. Particularly if the Applicant is encouraging non-car alternatives such as bicycling, walking, motorcycling or public transit.
- Subd. 6. **Payment due.** A payment-in-lieu-of-parking must be paid in full prior to issuance of any permit for the project for which the exception is sought.
- Subd. 7. **Costs assessed.** If the amount of a fee prescribed by the policy is in excess of \$20,000 the property owner may petition to have the cost assessed against the parcel(s) upon which the project is proposed. The City Council shall have the authority to apply interest charges to the amount of the assessment at a rate that is in accordance with the rates of interest that would be customary for special assessments at that time. Interest charges shall begin to accrue from the date that a permit is issued for the proposed project.
- Subd. 8. **Maintenance fees.** The City Council shall have the authority to require an annual contribution towards the maintenance of parking with a public use right, when a property has been granted the right to make a payment-in-lieu-of-parking, but only as a condition of a Special Use Permit that is otherwise required for the project.

Section 555:15. **Targeting areas to receive monies from this fund.** The City Council shall develop parking with public use rights in a manner that optimizes efficiency, convenience, aesthetics, environmental sensitivity, and benefit to the community. In order to maximize the benefit derived from the Fund, the City shall proactively maintain physical and financial plans for the development of public parking facilities. This will allow the City to acquire property or participate in cooperative construction projects as opportunities arise, rather than in response to a critical need. In determining the blocks or nodes that will be targeted for projects involving the Fund, the City Council will consider the following factors.

- Subd. 1. **Greatest demand.** The primary consideration shall be determining which locations the City Council believes to have the greatest need for additional parking.
- Subd. 2. **Maximized use.** Where consistent with other planning objectives, the City shall encourage the creation of public parking facilities in areas where they are apt to have use throughout the entire day and week.
- Subd. 3. **Available opportunity.** The City Council's decision may be influenced by the order in which opportunities arise. For instance, the City Council may elect to undertake a project on a block that does not have the greatest need for parking because an opportunity has arisen to create parking on that block where no opportunity exists on a block of higher priority.
- Subd. 4. **Partnership arrangements.** The City Council shall seek to create parking for the public first through cooperative arrangements with another party; and create municipal parking lots only as a last resort.

In exchange for receiving a payment from the Parking Improvement Fund, the property owner shall cooperate in providing written documentation of the public's right to utilize specified parking spaces. The City Council shall have the authority to provide limitations on the public's use rights to parking spaces. For instance, which spaces within a parking lot are for public, or that public rights to parking spaces is limited to certain hours of the day. The City Council shall consider whether there is public benefit to that parking under such limited conditions, and the amount of participation from the fund that is commensurate with that public benefit.

Section 555:20. **Eligible uses of the Parking Reserve Fund.** The City Council may authorize expenditures from the Parking Improvement Fund only for the acquisition and/or development of off-street parking and related facilities, which are determined by the City Council to address the demand for parking within specific commercial blocks or nodes. The following shall be deemed eligible expenditures; however, it is noted that this is not an inclusive list. These expenditures shall be deemed eligible whether paid directly by the City, or paid to a third party who has incurred these expenses under a cooperative construction agreement approved by the City Council.

- Subd. 1. **Property acquisition** expenses, regardless of whether with existing parking constructed, vacant or occupied by structures, including related expense such as legal and close costs.
- Subd. 2. **Demolition and site preparation** expenses; in cases where there are structures, contaminated or unstable soils that must be removed from the site before constructing parking facilities.
- Subd. 3. **Engineering** expenses, including the cost of designing parking improvements.
- Subd. 4. **Construction** expenses, including paving, curb, landscaping, signage, stormwater improvements to the extent that they are specifically related to the parking lot improvements, and permitting fees.
- Subd. 5. **Lighting** expenses, whether undertaken as part of a larger improvement project, or independently.
- Subd. 6. **Fiscal** expenses, including the cost of issuing bonds, financial advisor and interest expense associated with financing improvements or internally from negative fund balances.
- Subd. 7. **Legal and auditing** expenses, whether incurred as a result of specific parking improvements, or for general administration of the Fund.

Section 555:25. **Ineligible uses of the Parking Reserve Fund.** The City Council has identified the following types of expenditures as being ineligible uses of the Parking Reserve Fund. Generally, the Fund will not be used for maintenance, unless as a payment to a third party in exchange for public use rights to that parking.

- Subd. 1. **Snow removal** expenses shall not be eligible, as the City Council deems them to be maintenance expenses.
- Subd. 2. **Stripping** expenses shall not be eligible unless such work is associated with other *eligible* improvement expenses, such as at the time of making the initial parking lot improvements.
- Subd. 3. **Insurance** expenses shall not be eligible, as they are seen as part of the ongoing operational cost of maintaining a parking facility.
- Subd. 4. **On-Street parking improvement** expenses shall not be eligible for funding through the fund even though these spaces serve to address the demand for parking.

Section 555:30. **Declarations Regarding Use of the Fund.** The City Council makes the following declarations regarding the intent of this policy.

- Subd. 1. A party making a payment-in-lieu-of-parking will enjoy no right of ownership in a parking space to the cost of which they have contributed.
- Subd. 2. There is no guarantee that the City will build a parking space at any particular time or that it will build it in a location that will be of advantage to the party paying into the Fund.
- Subd. 3. If the parking space is built near a use owned by a party that has paid into the Fund it will be utilized for public parking and will not be allocated to the individual use of that party in any way.

**SUBDIVISION 2.** Section 510, Subd. 3 of the City Code of Cold Spring shall be amended by adding a new subpart N, which shall read as follows, and the existing subparts shall be renumbered accordingly. Additionally, the existing “Fee Schedule” shall be amended by adding a fee of \$3,000.00 per stall for one to five stalls and a fee of \$2,000.00 per stall for six or more stalls.

W. **In-Lieu of Parking.** The fee required by Section 550 of City Code shall be as follows.

- 1. **Five or less stalls.** When payment-in-lieu-of-parking is made for five or less stalls, the cost per stall shall be based upon a study of the approximate cost of constructing parking facilities with ten stalls.
- 2. **Six or more stalls.** When payment-in-lieu-of-parking is made for a total of six or more stalls, the cost per stall for the first five stalls shall be as set in subpart W.1 above; and any stalls in addition to five shall be charged at rate per stall based upon a study of the approximate cost of constructing parking facilities with thirty.

**SUBDIVISION 3.** This Ordinance shall become effective upon its passage and publication. Changes to any of the fees prescribed above shall be effective upon the effective date of this Ordinance, unless otherwise specified herein.

PASSED AND ADOPTED by the City Council of the City of Cold Spring, Minnesota, this 29<sup>th</sup> day of December, 2008; published January 6, 2009.

SIGNED:

WITNESSED:

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Doug Schmitz, Mayor

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Larry Lahr, City Administrator

**(CITY SEAL)**