

Repealed by 3935

ORDINANCE NO. 2326

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE CENTRAL BUSINESS DISTRICT ESTABLISHING A FEE TO BE PAID TO THE CITY IN LIEU OF ON-SITE PARKING AND PROVIDING FOR THE PLANNING, DESIGN, ACQUISITION AND CONSTRUCTION OF PARKING FACILITIES TO BE FINANCED THROUGH PAYMENT OF SAID FEE IN LIEU OF PARKING.

BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1. Findings of the Kirkland City Council:
Studies and recommendations made to the City Council by the Central Business District Advisory Committee and Naramore, Bain, Brady & Johanson, consultants to the City in preparation of a Central Business District element for the City's Comprehensive Land Use Policy Plan, indicate that the Kirkland Central Business District area has special historic, cultural, economic and environmental significance.

The City Council of the City of Kirkland finds therefore, that the development of land use policies, goals, and regulations, as well as their implementation, including improvements, both public and private for the Central Business District involve identification and balancing of many inter-related factors, including economic, marketing, social, environmental, urban design and pedestrian and vehicular circulation.

The Council further finds:

1. Pedestrian access, circulation and orientation are necessary and desirable to the continued economic, social and environmental vitality of the Central Business District.
2. Nevertheless, there exists a need for some improvement in design and layout of on-site parking and for additional off-street parking as required by the Kirkland Zoning Ordinance in regard to the Central Business District.
3. Within certain areas of the Central Business District on-site location and development of such required additional off-street parking, is not in the public interest.
4. Development and improvement of off-street off-site parking facilities to be shared for the purpose of meeting the requirements, both public and private of off-street parking is a desirable and feasible alternative and improves

the safety and free flow of both pedestrian and vehicular traffic.

5. Development and improvement of municipal off-street parking facilities consistent with the plans for public improvements, including improvements in design and layout of some on-street parking as well as off-street parking and recommendations for private improvements embraced within the Central Business District element of the Comprehensive Land Use Policy Plan, and financing of such public improvements and facilities through payments made in lieu of required on-site off-street parking is a public purpose.

Section 2. Off-Street Parking Fund Created. There is hereby created a special fund in the City Treasury to be known as the Central Business District Off-Street Parking and Public Improvement Cumulative Reserve Fund. All payments in lieu of on-site parking required to be made to the City shall, upon receipt, be deposited in said fund. The City Council may, by unanimous vote from time to time, direct that other monies be transferred into the fund to be used for the purposes of the fund.

The fund shall be used exclusively for preliminary studies, preplanning, planning, acquisition, design, construction, development, financing, maintenance and operation of off-site parking facilities and the other interrelated public improvements within or immediately adjacent to the Central Business District, all consistent with the Comprehensive Plan for off-street parking facilities as adopted by Ordinance No. 2119 including any hereafter amendments hereto and with the Comprehensive Public Improvement Plan for the Central Business District as may hereafter be adopted by the City Council as an element of the Comprehensive Land Use Policy Plan. Provided, however, that prior to January 1, 1982, not less than eighty percent (80%) of the funds derived through the provisions of this ordinance shall be used or allocated for expenditures relating directly to off-site parking facilities or other interrelated public improvements within or immediately adjacent to the Central Business District. The remaining twenty percent (20%) may be used for preliminary studies, preplanning and design related to the provision of off-site and/or on-street parking facilities and other interrelated public improvements as provided herein, provided, however, that up to fifty percent (50%) of the total amount eligible for this purpose during the period prior to January 1, 1982, may be allocated for such use or uses within the first two calendar years subsequent to the enactment of this ordinance.

Within applicable constitutional limitations imposed upon the City and the City Council in regard to the creation of indebtedness, the fund may be used for the repayment of general or limited general obligation bonds, off-street parking revenue bonds or the acquisition of property by condemnation, purchase or lease for such parking facilities.

Ordinance No. 2326

Section 3. Duties of Advisory Committee. The Central Business District Advisory Committee heretofore established by Resolution No. 2213 shall, within 60 days after the effective date of this Ordinance, present recommendations to the City Council as to the following:

A. The dollar amount for the per stall payment in lieu of on-site parking.

B. The location and development plans for off-street parking facilities to be acquired, constructed or developed by the City.

C. The general type of parking facilities to be acquired, constructed or developed by the City.

D. Methods of providing additional off-street parking or on-street parking within the Central Business District.

Section 4. Duties of City Council - Establishment of Rate. The City Council shall, following recommendation from the Advisory Committee, establish by ordinance the rate per parking stall together with the procedures and terms for payment in lieu of on-site parking.

For the purpose of determining the amount of payment in lieu of on-site parking as to any additional parking stall deficiencies as may be determined from the annual certification required by Section 5, the City Council following review and recommendation by the Advisory Committee, not less often than once every three years, may adjust the amount of the per stall rate. An adjusted rate shall apply only to additional deficient parking stalls determined after the effective date of the adjustment. In making the adjustment, the City Council shall take into consideration factors deemed relevant which may include:

- A. The annual construction cost index.
- B. The annual real estate appreciation or depreciation.
- C. The prevailing local commercial rents.
- D. Prevailing current interest rates.
- E. Cost of operation and maintenance of off-street parking facilities.

Section 5. Certification of Use - Determination of Parking Stall Deficiency. Every owner of real property within the Central Business District shall, within sixty days of the adoption of this Ordinance and annually thereafter, on or before January 25th of each year certify by affidavit to the Director of Administration and Finance the actual use or uses to which such real property (including structures or other improvements) is currently being put, the amount of gross floor area allocated to each such use and the actual number of parking

stalls provided on-site for the use or uses as of the effective date of this Ordinance or the date of annual certification. From the information so certified, the City will determine the number of additional parking stalls required to bring the property and the uses into conformance with the requirements of Chapter 23.34 of Ordinance 2183.

Section 6. Duty to Eliminate Parking Stall Deficiency. Every owner of real property within the Central Business District, whose property has a deficiency in off-street parking required by Chapter 23.34 of Ordinance 2183, shall eliminate such off-street parking deficiency.

For each parcel of real property for which an owner's certificate is required, the City within 30 days of the certification date established in Section 5, shall, pursuant to the provisions of this Ordinance and Chapter 23.34 of Ordinance 2183:

1. Determine the number of deficient off-street parking stalls (hereinafter referred to as parking deficiency).
2. Make an initial allocation of parking deficiency which may be eliminated by installation of additional on-site parking and the parking deficiency to be eliminated by in lieu payment, based upon the property owner's election as provided in Chapter 23.34 of Ordinance 2183.
3. Notify the property owner in writing as to the number of deficient parking stalls and the allocation permissible between elimination by on-site parking and by in lieu payment.

Section 7. Appeal to Board of Adjustment - Standards of Appeal. Within thirty (30) days of receipt of the deficiency notice, any property owner may appeal the determination of parking deficiency of the allocation or both to the Board of Adjustment. Such appeal shall be in writing and filed with the City Clerk. Copies of the Appeal shall be delivered to the Department of Community Development and to the Central Business District Advisory Committee. Said Advisory Committee may participate as a party in any appeal taken.

The Board of Adjustment shall follow the procedures established in Chapter 23.58 of Ordinance 2183 for its review of administrative decisions. In considering the appeal, the Board of Adjustment shall be bound by the following standards of review:

1. Where an owner claims existing off-street parking to satisfy all or any part of a parking requirement, the Board must find that such parking stalls are clearly delineated on the site and are reasonably visible and accessible

for customer use.

2. If uncertainty exists as to the eligibility of a parking stall or stalls to meet any parking requirement, the Board shall require the property owner to physically and permanently identify such stalls prior to the Board undertaking its final consideration of the appeal.

3. On-street parking shall not be eligible to satisfy any part of a parking requirement.

4. Where a difference of opinion exists as to whether floor space should be excluded from consideration in the determination of a parking requirement, the Board shall consider such floor space only upon a property owner's verification that such floor space has previously been occupied or used for a business enterprise or residence or used in support of a business enterprise or residence. If the Board finds that such floor space has not previously been used as specified, then it shall not be considered in determination of a parking requirement.

5. If uncertainty exists in the computation of floor area, the Board's review of the administrative decision shall only be made subsequent to the filing of floor area measurements prepared at the cost of the appellant by a land surveyor licensed to practise in the State of Washington.

Section 8. Method of Payment - Credit Given for LID Assessment. Whenever an off-street parking deficiency is to be eliminated in whole or in part through payment in lieu of on-site parking, the amount of the in-lieu payment shall be the rate or rates established pursuant to Section 4 of this Ordinance, times the number of deficient parking stalls determined pursuant to Section 5 of this Ordinance. The amount of the in-lieu payment so established shall thereafter be adjusted only to reflect a subsequent increase in the number of deficient parking stalls resulting from a change of use of the premises, an increase in floor area as a result of remodeling or reconstruction of the premises or any increase in off-street parking required by _____ of Ordinance 2183.

Thirty (30) days after the date of any deficiency determination and establishment of the amount of in-lieu payment, such payment shall be paid to the City and it may be paid in equal quarter-annual installments over a period of not to exceed twenty (20) years together with such interest on the unpaid balance thereof as may be determined by the City Council.

Any parcel of real property within the Central Business District which is or becomes subject to a local improvement district assessment for improvements which include off-site parking facilities, shall be entitled to claim as an

off-set against any such in-lieu payment required of said real property, an amount equal to the amount of such local improvement district assessment.

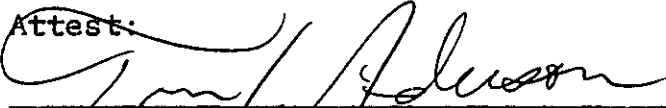
Section 9. Sanctions for Nonpayment. In the event a property owner fails to comply with the provisions of this Ordinance or the off-street parking requirements of the Zoning Code, the City may pursue any enforcement power it may have under the Zoning Ordinance of the City as now or hereafter amended to enforce the provisions of this Ordinance. In addition, the City may require the property owner and/or occupant, or proprietor located on such property to cease any operation thereon until the provisions of this Ordinance are complied with. In addition in the event that it is necessary for the City to bring any legal or equitable action to require compliance with this Ordinance, including the collection of payments in lieu of on-site parking, the property owner shall be liable for the attorneys' fees and costs incurred by the City. In the event an occupant or proprietor makes any payment or installment thereof required by this Ordinance as a result of the property owner's failure to comply with the provisions of this Ordinance, such occupant or proprietor shall be entitled to recover from the property owner, the amount of the payment so made, together with any costs, including attorney's fees as may be necessarily incurred by the occupant or proprietor in obtaining such recovery.

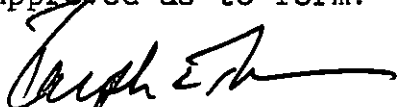
Section 10. Effective Date. This Ordinance shall be in force and take effect five days from and after its passage by the Council and the publication as required by law.

Passed by the City Council of the City of Kirkland, on the 20th day of September, 1976.

SIGNED in authentication thereof on the 20th day of September, 1976.


MAYOR

Attest:

Director of Administration & Finance
(ex officio City Clerk)

Approved as to form:

City Attorney