

REVISE PAY AND PARK & NON-PAY PRIVATE PARKING FACILITIES REGULATIONS

IF YOU WISH TO SPEAK TO CITY COUNCIL, PRINT YOUR NAME, ADDRESS, AND EMAIL.

NAME (print)	ADDRESS AND ZIP CODE	Email
<input checked="" type="checkbox"/> Mark Hotheins	U.C.A.R.E. United Co. Against Perkins Coie Repression for Equality	transgressionzink911@gmail.com
<input checked="" type="checkbox"/> Corinne Celko	1120 NW Conch St. 10 th Fl. PHd, OR 97212	cceiko@perkinscoie.com
<input checked="" type="checkbox"/> Crystal ELINSKI	PO Box 9973 PDX 97207	n/a

186267

Moore-Love, Karla

From: Krawczuk, Dana (Perkins Coie) [DKrawczuk@perkinscoie.com]
Sent: Tuesday, September 10, 2013 2:50 PM
To: Moore-Love, Karla
Cc: Jeff Ogle (CCP) (jogle@citycenterparking.com); Butler, Kathleen; Shibley, Gail; Kuhn, Hannah; Celko, Corinne S. (Perkins Coie)
Subject: [Approved Sender] Testimony related to Proposed Changes to PCC Chapter 7.25 -- Pay and Park Facilities -- September 18th Council Hearing
Attachments: 0489_001.pdf

Karla,

Please include the attached testimony in the record for the above referenced proceeding, and distribute to Mayor Hales and City Commissioners. We intend to testify at the September 18th Council hearing, and welcome the opportunity to respond to any questions prior to the hearing.

Thank you,
Dana

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9/10/2013

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September 10, 2013

AUDITOR 89-18-13 - 1/1/13

VIA EMAIL

Mayor Charlie Hales
Commissioner Nick Fish
Commissioner Amanda Fritz
Commissioner Steve Novick
Commissioner Dan Saltzman
City of Portland
1221 SW Fourth Avenue
Portland, OR 97204-1995

**Re: Proposed Changes to PCC Chapter 7.25 Pay and Park and Non-Pay Private
Parking Facilities -- September 18, 2013 City Council Hearing**

Dear Mayor Hales and City Commissioners:

We represent City Center Parking, the operator of over 33,000 pay and park spaces in the City of Portland. City Center Parking is an industry leader in technological and customer service upgrades. For example, City Center Parking has begun to offer mobile-payment options, which allow parkers to use their smartphones to pay for parking. One of the most popular features is the ability to add time remotely to avoid a ticket. Introducing this technology required a significant investment, but is expected to increase customer service.

City Center Parking has a good working relationship with the Department of Revenue, who oversees pay and park lots. We appreciate the Department of Revenue's outreach to stakeholders about the proposed pay and park amendments, and the opportunity to collaborate on the amendments. Over the past few months we have worked closely with the Department of Revenue, Commissioner Fish's office and the City Attorney on a few revisions to the proposed amendments to the pay and park regulations. We are pleased that we were able to reach agreement on one aspect of the amendments, but we remained concerned about PCC 7.25.080.C, which is a new provision that expands the changes to existing lots that the Department of

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Revenue may require. Attached please find City Center Parking's suggested amendment to PCC 7.25.080.C.

Current Regulations

The purpose of the pay and park regulations in Chapter 7.25 is to protect fairness and convenience for the parking public and to also have the regulations applied objectively. PCC 7.25.010. The essential elements of fairness and consumer protection are that parkers must understand when they have to pay, how much parking costs, and where to pay. The existing code addresses these issues by including detailed signage, lighting and lot configuration requirements in PCC 7.25.080.

For example, the existing code specifies the required content of pay and park lot signage ("PAY TO PARK POSTED HOURS"), the size of the sign, the size of the lettering, the location of the sign and required illumination. There are similar regulations for pay stations -- the code includes required content for signage ("PAY HERE" and detailed information about how proof of payment is displayed and how to contact the parking operator), and also regulates the location and size of pay station signage, and the size of lettering. See PCC 7.25.080.A, attached.

City's Proposed Addition of PCC 7.25.080.C.

The proposed amendment to PCC 7.25.080 is a significant expansion of the scope of regulations of pay lots, and provides the Director of the Department of Revenue unlimited discretion in modifying an existing parking lot. Specifically, a new provision, PCC 7.25.080.C, authorizes the Director to impose facility requirements, such as, but not limited to, restrictions on the hours during which penalties may be issued (e.g., fines for parking without paying), modifications to pavement markings, and additional lighting, signage and landscaping.

City Center Parking's Concerns with PCC 7.25.080.C and Proposed Solutions

City Center Parking recognizes that there is significant variety in the lot configurations and locations across the City, so at times it may be appropriate to require signage, lighting or other improvements in addition to the prescriptive requirements in Section 7.25.080.A and B. We also understand that given the variety of lots, it is difficult to predict or codify facility improvements that may be needed to protect the public. However, we think that the current draft goes too far. Our concerns and proposed solutions are explained below, and attached is a recommended amendment to PCC 7.25.080.C that addresses our concerns.

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- Concern -- The Director is provided unlimited discretion to require changes to existing parking facilities.
 - Solution -- Include language in the code that explains that changes to existing facilities required by the Director must be reasonably related to harm that the Director seeks to mitigate.
- Concern -- Of particular concern is that the changes to an existing facility may include a reduction in the existing number of parking spaces. Parking lot operators have financial performance expectations for lots that are dependent upon retaining the existing number of parking spaces.
 - Solution -- Include express language clarifying that changes to existing facilities required by the Director shall not result in the loss of parking spaces.
- Concern -- The proposed code provision expressly allows the Director to restrict the hours during which penalties may be assessed. The ability to assess penalties is the most effective method parking operators have to ensure that parkers pay the required fee. If the hours during which penalties may be assessed are limited by the City, we expect that many parkers will cease paying the required fees, which impacts the operator's financial expectations for the performance of lots and may result in operators increasing their reliance upon towing.
 - Solution -- Include express language clarifying that changes to existing facilities required by the Director shall not restrict the hours under which penalties may be issued.
- Concern -- As proposed, the discretion of the Director to require changes to existing lots is not limited by previously approved land use approvals (such as design review or Central City Parking Review) or other provisions of the City's code (e.g., Title 32's regulation of signs).
 - Solution -- Include express language clarifying that changes to existing facilities required by the Director shall not conflict with an existing land use approval.

Conclusion

The amendments to PCC 7.25.080.C recommended by City Center Parking retain significant authority and discretion for the Director to require additional signage, lighting or other improvements, but delete the new and more expansive regulation of hours in which penalties may be assessed and add a protection for the existing number of parking spaces. We have not

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recommended expressly prohibiting regulation of the circumstances under which penalties may be assessed (as opposed to the hours in which penalties may be assessed) so that the City and City Center Parking can continue the current practice of voiding a penalty in qualifying situations, such as when proof of payment is provided. We think that our proposed revisions strike an appropriate balance, as required by the purpose statement in PCC 7.25.010, and respectfully request that the City Council adopt our attached revisions to PCC 7.25.080.C.

Very truly yours,



Dana L. Krawczuk

DLK:dlk

Enclosures

cc: Jeff Ogle, City Center Parking (via email) (with encls.)
Kathleen Butler, Department of Revenue (via email) (with encls.)
Gail Shibley, Mayor Hales' Chief of Staff (via email) (with encls.)
Hannah Kuhn, Commissioner Fish's Chief of Staff (via email) (with encls.)

City Center Parking's Suggested Amendment to PCC 7.25.080.C

Strike-Though Version (deleted text shown as ~~strikethrough~~ and new text underlined)

C. Notwithstanding Section 7.25.080 A and B, if the Director determines that the requirements are not sufficient to protect the parking public due to a facility's site-specific conditions, configurations, or location, the Director may impose additional facility requirements reasonably related to the harm that the Director seeks to mitigate, consistent with other provisions of the City Code and that do not conflict with an existing land use approval. These requirements may include, but are not limited to, additional lighting, signage, landscaping, and pavement markings, but shall not result in the loss of parking space(s) or restrict ~~and restrictions on~~ the hours during which penalties may be issued.

Clean Version

C. Notwithstanding Section 7.25.080 A and B, if the Director determines that the requirements are not sufficient to protect the parking public due to a facility's site-specific conditions, configurations, or location, the Director may impose additional facility requirements reasonably related to the harm that the Director seeks to mitigate, consistent with other provisions of the City Code and that do not conflict with an existing land use approval. These requirements may include, but are not limited to, additional lighting, signage, landscaping, and pavement markings, but shall not result in the loss of parking space(s) or restrict the hours during which penalties may be issued.

Existing Requirements in PCC 7.25.080 + City's Proposed PCC 7.25.080.C**7.25.080 Signage Requirements.**

All signs required pursuant to this Section must be unobstructed, reflectorized and visible during all hours of operation. All signs required to be posted at a facility entrance must be no more than 10 feet from the entrance, must be located within 2 feet of the property line, and the center of such sign must be at least 4 feet from the ground.

A. Pay and Park Signage.

1. Pay and Park facilities must have a sign posted at each entrance (in letters at least 7 inches high) stating either "PAY TO PARK ALL HOURS," or "PAY TO PARK POSTED HOURS." For facilities with a "POSTED HOURS" sign, the sign must also state (in letters at least 3 inches high) the exact hours that the facility is operated as a pay and park facility.
2. At each facility containing a payment device, there must be a sign (in letters at least 9 inches high) visible from every vehicle entrance stating "PAY HERE," indicating the location of the payment device.
3. At each payment location there must be a sign(s) that states (in letters at least 2 inches high):
 - a. all applicable charges for parking including the posted hours at a "PAY TO PARK POSTED HOURS" facility;
 - b. that proof of payment must be displayed and clearly visible through the windshield;
 - c. the phone number for the release of vehicles if they are subject to being towed;
 - d. a warning that the facility may be monitored; and
 - e. that vehicles parked without valid proof of payment or permit are subject to a parking penalty.
4. In spaces reserved for parkers with a disabled person parking permit, the operator must attach a sticker or sign to the disabled parking sign at the front of each space that notifies the disabled parking customer that he/she is responsible for payment, regardless of having a disabled person parking permit.

B. Non-Pay Private Parking Signage.

1. Non-pay facilities must have a sign posted at each entrance stating:
 - a. that parking is prohibited, reserved or otherwise restricted;
 - b. who is authorized to park;
 - c. all limitations on parking;
 - d. the hours during which parking is restricted;
 - e. that the facility may be monitored; and
 - f. that parking in violation of posted restrictions may result in assessment of a penalty or towing and storage of a vehicle at the vehicle owner's expense.
2. If a private parking facility is shared by more than one business, the parking spaces must be marked (or signs posted) clearly indicating which spaces are reserved for each business.

C. Notwithstanding Section 7.25.080 A and B, if the Director determines that the requirements are not sufficient to protect the parking public due to a facility's site-specific conditions, configurations, or location, the Director may impose additional facility requirements. These requirements may include, but are not limited to, additional lighting, signage, landscaping, pavement markings, and restrictions on the hours during which penalties may be issued.