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# **PROCEDURES AND CRITERIA FOR THE ISSUANCE OF PARKING FREEZE PERMITS**



## **BOSTON AIR POLLUTION CONTROL COMMISSION ARTICLE 3: SOUTH BOSTON PARKING FREEZE**

Approved by vote of the Boston Air Pollution Control Commission, XX/XX/XXXX

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## **Section I. Introduction and Purpose**

### **A. Establishment of the Parking Freeze**

On March 15, 1993, the Massachusetts Department of Environmental Protection (“DEP”) adopted the City of Boston’s South Boston Parking Freeze Regulations, 310 Code of Massachusetts Regulations (“CMR”) 7.33. The Regulations were published in the Massachusetts Register on April 9, 1993, and became effective on that date.

The City of Boston’s South Boston Parking Freeze Regulations establish a freeze on the availability of motor vehicle parking spaces in two zones in South Boston: the Piers Zone and the Industrial/Commercial Zone. In addition, a freeze was placed on the availability of remote parking spaces in the South Boston Residential Zones.

### **B. Statement of Jurisdiction**

These Procedures and Criteria have been adopted by the Boston Air Pollution Control Commission (the “Commission”) under the provisions of M.G.L. Chapter 111, § 31C.

The Commission will coordinate and administer the Downtown Parking Freeze within Boston Proper. Other City agencies will work in cooperation with the Commission.

## **Section II. Definitions**

BOSTON TRANSPORTATION DEPARTMENT (BTD) means the agency within the City of Boston responsible for transportation and traffic-related activities, including the regulation of off-street parking spaces in the City under M.G.L. c. 148. s. 56.

COMMISSION means the Boston Air Pollution Control Commission.

FREEZE or PARKING FREEZE means the limitation on the number of Off-Street motor vehicle parking spaces available for a specific geographic area. The "South Boston Parking Freeze" is a limit on the availability of motor vehicle parking spaces within the South Boston Piers Zone and the Industrial/Commercial Zone and a freeze on the availability of remote parking spaces within the South Boston Residential Zone within the South Boston Parking Freeze Area (as defined, below).

FREEZE BANK as defined by 310 CMR 7.33 (5) means that part of the inventory of parking spaces for South Boston held by the Commission, which are not currently available for parking but which can be allocated by the Commission pursuant to these Procedures and Criteria.

MODIFICATION shall constitute any of the following changes:

- I. changes to the overall number of Parking Spaces;

- II. changes in the use of the Parking Spaces;
- III. changes in the layout of the Parking Spaces;
- IV. changes in the ingress or egress; or
- V. changes in ownership of the Parking Facility locus.

MOTOR VEHICLE means any equipment or mechanical device propelled primarily on land and licensed to travel on public ways by power other than muscular power, but does not include railroad and railway engines, railcars or rolling stock. This definition includes, but is not limited to, vehicles powered by gasoline and mixtures of simple alcohols and gasoline, diesel fuel and other petroleum products, or electricity.

MOTOR VEHICLE PARKING SPACE or PARKING SPACE means the area of public or private property that is designed or used for the parking or storage of a motor vehicle, excluding areas used for the temporary loading or unloading of goods.

NEW RESIDENTIAL SPACES means new residential spaces in excess of one (1) space per unit. Those seeking to build New Residential Spaces shall apply to the Commission for permits. These spaces must be allocated by the Commission from the Freeze Bank.

OFF-PEAK PARKING SPACES means motor vehicle parking spaces not available for use between the hours of 7:30 AM and 9:30 AM on weekdays.

OFF-STREET PARKING SPACES means parking spaces on private or public property adjacent to and/or with access to, but not located on a public roadway.

ON-STREET PARKING SPACES means legal parking spaces on public ways authorized by BTM. These spaces are not subject to the Parking Freeze and are not counted as part of the inventory.

PARCEL OF LAND means an area of land in one ownership, with definite boundaries. When an area of land is comprised of more than one lot, the lots share a common boundary and are owned or controlled by the same entity or individual(s), and the lots combined are used for the same purpose or enterprise, the Commission may consider the lots as a single merged lot for the purposes of applying the provisions herein.

PARKING FACILITY means any facility within the South Boston Parking Freeze Area that is subject to the requirements of the Freeze Bank and these Procedures and Criteria.

PARKING FREEZE PERMIT means any permit issued to an owner or operator of a

Parking Facility where the parking spaces are allocated from the Freeze Bank pursuant to Section V of these Procedures and Criteria.

PERSON shall be defined to include all federal, state, regional, and local political subdivisions, agencies, departments, authorities, and an individual, partnership, association, firm, syndicate, company, trust, corporation, or any other entity recognized by law as the subject of rights and duties.

REMOTE PARKING SPACES means any parking space which serves end uses outside of a parking freeze area including, but not limited to, parking for airport use, for Downtown Boston parking, and for remote employee parking.

RESIDENTIAL PARKING SPACES means off-street parking that is for the exclusive use of residents, guests, visitors, and/or staff of an adjacent residential structure or residential structure within the surrounding area.

RESTRICTED USE PARKING means temporary parking in excess of the permitted number of spaces. Such parking may only be provided in the parking freeze area administered by the Commission in the South Boston Piers Zone or the South Boston Industrial/Commercial Zone for up to ten days per year.

SOUTH BOSTON PARKING FREEZE AREA means the area as established in 310 CMR 7.33, and is divided into three zones defined as:

1. the South Boston Piers Zone;
2. the South Boston Industrial/Commercial Zone; and
3. the South Boston Residential Zone.

SURROUNDING AREA shall be defined as 300 feet from the development project's limit.

### **Section III. South Boston Freeze Area**

- A. South Boston Piers Zone: beginning at the point where Mount Washington Street meets the high water line of the Fort Point Channel and continuing in a westerly direction to the center point of the Channel; then northeasterly along the imaginary center line of the Channel to the Boston Inner Harbor; then continuing southeasterly along the high water line to the southern center point of the Reserved Channel and continuing westerly in a straight line along the Channel direction to a point where it meets Summer Street; then following Summer Street in a northwesterly direction to a point where it meets Fargo Street; then following Summer Street in a northwesterly direction to a point along Fargo Street where it meets B Street; then westerly

along an imaginary straight line back to the point where Mount Washington meets the high water line.

- B. South Boston Industrial/Commercial Zone: beginning at the point where Southamptton Street meets the railroad tracks and continuing northerly along the 5 railroad tracks, to the West Fourth Street Bridge; then southeasterly along the Bridge to the center point of the Fort Point Channel; then north and northeasterly along the center line of the Channel to the point where it meets the imaginary line extending to the point to the beginning of the Piers Zone to its end point where it meets the imaginary line extending easterly along the center line of Reserved Channel and then southerly in a straight line to the point where it meets the northeastern edge of the residential Zone boundary line; then following said boundary line westerly, northerly, and southerly back to the point where Southamptton Street meets the railroad tracks.
- C. South Boston Residential Zone: beginning at the point where Southamptton Street meets Dorchester Avenue, and continuing in a northerly direction along Dorchester Avenue, to West Second Street; then southeasterly along West Second Street, to B Street; then northwesterly along B Street to West First Street; then southerly along West First Street to the point where it meets East First Street and continuing along East First Street to the point where it meets Day Boulevard; then following along Day Boulevard in a southwesterly direction to the point where it meets Preble Street and continuing along Preble Street back to the point where Southamptton Street meets Dorchester Avenue.

#### **Section IV. Responsibilities of the Air Pollution Control Commission**

- A. The Commission is a five (5) member body established pursuant to the City of Boston Code, Ordinances, Chapter 7, Section 2. It is provided full jurisdiction to regulate and control atmospheric pollution under M.G.L. Chapter 111, § 31C and 310 CMR 7.33, and other applicable laws, ordinances, and regulations.
- B. The Commission shall, on behalf of the City of Boston, coordinate and administer the issuance of Parking Freeze Permits. In carrying out this responsibility, the Commission shall perform, or cause to be performed, the following duties, among others:
  - i. Maintain to the extent possible complete and accurate records that indicate the current inventory of allocated Parking Spaces located within the Freeze Area and the current number of Parking Spaces that

remain available for allocation pursuant to these Procedures and Criteria;

- ii. In accordance with the procedures set below, process all applications for Parking Freeze Permits; and
  - iii. Prepare an annual report to the Regional Administrator of the Environmental Protection Agency and Commissioner of the Commonwealth of Massachusetts Department of Environmental Protection.
- C. In carrying out these duties, the Commission shall consult with and seek the assistance of other appropriate agencies of the city, state, and federal governments, including requesting that the Boston Redevelopment Authority, doing business as the Boston Planning and Development Agency (the "BPDA") or any successor Agency, the BTD or any successor Department, analyze and make recommendations on applications for Parking Freeze Permits.
- D. The Commission shall, by majority vote, approve, disapprove, or approve with conditions all applications for Parking Freeze Permits, provided, however, that it may delegate its authority as provided herein.
- E. The Commission shall have the power to enforce the provisions of these Procedures and Criteria and the provisions of 310 CMR 7.33, as amended, and to modify, amend or rescind its approval of a Parking Freeze Permit.
- F. The Commission or its designee may, as far as it deems necessary in carrying out the provisions herein, enter upon any lands subject to a Parking Freeze Permit, at reasonable times and without prior notice, in order to conduct inspections related to compliance with the terms and conditions of a Parking Freeze Permit.

#### **Section V. General Provisions**

- A. Any owner or operator of a Parking Facility within the South Boston Parking Freeze Area, must maintain a valid Parking Freeze Permit pursuant to Section VI of these Procedures and Criteria.
- B. No Person shall commence construction or modification of a Parking Facility within the South Boston Parking Freeze Area without first obtaining a Parking Freeze Permit from the Commission pursuant to these Procedures

and Criteria.

- C. No Person within the South Boston Parking Freeze Area Piers Zone and the Industrial/Commercial Zone shall use, or allow to be used, real property or vessels under its ownership or control for the purpose of a motor vehicle parking space unless the real property or vessel containing such parking spaces has the applicable Parking Freeze Permit from the Commission issued under these Procedures and Criteria.
- D. No Person within the South Boston Parking Freeze Area Residential Zone shall use, or allow to be used, real property or vessel under its ownership or control for the purpose of a remote motor vehicle parking space unless the real property or vessel containing such parking spaces has the applicable Parking Freeze Permit from the Commission issued under these Procedures and Criteria.
- E. No Person within the South Boston Parking Freeze Area Piers Zone and the Industrial/Commercial Zone shall allow for the parking of motor vehicles in excess of the number of motor vehicle parking spaces established by the parking freeze under 310 CMR 7.33.
- F. No Person within the South Boston Freeze Area Residential Zone shall allow for the remote parking of motor vehicles in excess of the number of remote parking spaces established by the parking freeze under 310 CMR 7.33.
- G. Any modification of an existing Parking Facility that solely decreases the number of Parking Spaces at the existing Parking Facility or changes the layout of existing Parking Spaces, may be approved administratively by the Commission's designee. Section VI(A)(iii) and Section VI(D) shall not apply to such modifications.
  - i. The Commission's designee shall approve such modification, provided the permittee under the existing Parking Freeze Permit provides the Commission an up-to-date site plan and justification for such change or decrease, to be reflected in the Commission's records. Failure to do so shall constitute a violation of these Procedures and Criteria and may result in enforcement action pursuant to Section VIII. Said site plan must include, at a minimum, the existing conditions, the proposed project, grading and spot elevations, location of the facility, layout of all the spaces, entry and exit locations, and total square footage of the parking area.



- H. Any modification of an existing Parking Facility that solely changes the ownership of the existing Parking Facility may be approved administratively by the Commission's designee. Section VI(A)(iii) and Section VI(D) shall not apply to such modifications.
- i. The Commission's designee shall approve such proposed modification, provided the permittee provides notice to the Commission within fourteen (14) days of the change. Failure to do so shall constitute a violation of these Procedures and Criteria and may result in enforcement action pursuant to Section VIII. Notice shall include (i) a copy of the instrument evidencing the transfer of the rights and obligations under such Parking Freeze Permit to the successor-owner and assumption by the successor-owner of said rights and obligations and (ii) the name and address of the new permittee, to be reflected in the Commission's records.
- I. Any modification or closing of a permitted Parking Facility that reduces the number of parking spaces available at a specific site must be reported to the Commission in writing, and shall specify the exact number and location of spaces eliminated and the reasons for the elimination, pursuant to Section V(G). Failure to do so shall constitute a violation of these Procedures and Criteria and may result in enforcement action pursuant to Section VIII. All such spaces will then be added to the Freeze Bank and be available for allocation within the South Boston Parking Freeze Area pursuant to these Procedures and Criteria. Provided that the decrease in the number of Parking Spaces available at said Parking Facility is temporary and for less than one year, that after the interim period the original number of spaces is not exceeded and the entrances and the exits are not changed, and that the decrease and the date at which the decrease takes effect are noted in the facility's records in a detailed manner, the decrease need not be reported.
- J. Rights to eliminated parking spaces cannot be transferred by or between any person or entities, or between parcels of land but shall revert back to the City for listing and use as spaces available for allocation.
- K. Prior to requesting a modification to a Parking Freeze Permit, the holder of a Parking Freeze Permit may request a determination from the Commission as to whether any proposed change in the operation of the parking facility will require a modification to the Parking Freeze Permit.

- L. The Commission may establish a parking freeze bank which shall initially consist of an amount equal to 10% of the base inventory. Additionally, motor vehicle parking spaces which have been physically eliminated may be added to the parking freeze bank. The Commission may, by majority vote at a public hearing, permanently eliminate spaces from the Freeze Bank and South Boston Parking Freeze Inventory.
- M. Parking Spaces allocated to a Parking Facility pursuant to these Procedures and Criteria shall be returned to the Freeze Bank when the holder of a Parking Freeze Permit has failed to complete the construction or modification of the Parking Facility within three (3) years from the date of issuance, unless an extension has been granted by the Commission. If, at the end of the three-year period the project is not completed, an extension may be requested, in writing, from the Commission. Such request must show (a) good cause exists for the delay in proceeding, and (b) the holder of a Parking Freeze Permit has continued to pursue the project diligently in other forums in the intervening period; provided, however, that unfavorable financial circumstances shall not constitute good cause for delay. If an extension is not granted, any Parking Spaces associated with Parking Freeze Permit shall be returned to the Freeze Bank.
- N. Any holder of a Parking Freeze Permit must notify the Commission in writing, if, at the end of the construction or modification of the Parking Facility, the number of Parking Spaces in the Parking Facility is less than the number of Parking Spaces allocated in the Parking Freeze Permit. Such notification shall specify the exact number of Commercial or Residential Parking Spaces in the Parking Facility and request the Parking Freeze Permit be modified pursuant to Section V(G). Any returned Commercial Parking Spaces not included in the modified Parking Freeze Permit shall be returned to the Freeze Bank.
- i. Failure to report that the number of Parking Spaces in the Parking Facility is less than the number of Parking Spaces allocated in the Parking Freeze Permit, provided the decrease is not a temporary change recorded pursuant to Section V(I), shall constitute a violation of these Procedures and Criteria and may result in enforcement action pursuant to Section VIII, up to and including modification, suspension or revocation of the Parking Freeze Permit or Exemption Certification.
- O. Any construction or modification of a Parking Facility authorized pursuant to

a Parking Freeze Permit issued under these Procedures and Criteria shall be carried out in accordance with the site plan and design submitted with the application. Said site plan must include, at a minimum, the existing conditions, the proposed project, grading and spot elevations, location of the facility, layout of all the spaces, entry and exit locations, and total square footage of the parking area. Should the applicant wish to alter the site plan or design submitted with the application subsequent to issuance of the Parking Freeze Permit, the Commission must approve any change in said plan or design prior to the applicant undertaking such construction or modification.

- P. All Parking Facilities (excluding garages) shall comply with the City of Boston Transportation Department's Rules Regulating Open-Air Parking Spaces..
- Q. Restricted Use parking may only be provided in the South Boston Piers Zone or the South Boston Industrial/Commercial Zone for up to ten days per year on the conditions of 310 CMR 7.24 and pursuant to the procedures established in 310 CMR 7.33. The provision of restricted use parking shall require substantial documentation including demand management plans and programs to be provided to the Department of Environmental Protection by the Commission to explain such use and to document how such use will be avoided in the future.
- R. Restricted use parking spaces shall be subject to the following monitoring and reporting provisions:
  - i. On December 31 of each calendar year the Commission shall submit to the Department of Environmental Protection a letter containing an estimate of the number of days and dates on which the Commission anticipates the need over the following calendar year to invoke the use of restricted use parking spaces, including the estimated number and location of said spaces;
  - ii. The Commission shall monitor and track the use of these restricted use parking spaces continuously throughout the year and on March 1 of the following year shall submit a report to the Department of Environmental Protection describing actual dates, locations, and numbers of restricted use parking spaces used in the preceding calendar year.
- S. The Commission will grant initial permits to all property owners who have parking spaces displaced by the Central Artery Construction Project, as the

total number of 1) spaces documented in the Central Artery Final EIR as displaced and 2) spaces remaining on the property. (Final Supplement EIR Central Artery Third Harbor Tunnel Project, Summary of Changes to Appendices, Figure 2.4 South Boston/South Boston Bypass Road Area -Parking Impacts). Spaces permanently displaced by the project will be banked by the Commission and earmarked for the affected property owner for two (2) years after the opening of the Central Artery mainline to general traffic, after which time they will become part of the available motor vehicle parking freeze bank. Spaces temporarily displaced project will be banked by the Commission and earmarked for the affected property owner for one year after the property taken temporarily by the Central Artery Project is returned to the property owner's control, after which time they will become part of the available motor vehicle parking freeze bank.

- T. At such time as the Central Artery/Third Harbor Tunnel project is open for general public use, an inventory of existing motor vehicle parking spaces, available in the South Boston Piers Zone shall be submitted by the Commission to the DEP. Following DEP recertification of the parking freeze number for the South Boston Piers Zone, 10% of the inventory of all motor vehicle parking spaces, including remote and off-peak parking spaces, may, after public hearing and vote by the Commission, be added to the Bank.
- U. In the event that the Massachusetts Port Authority (Massport) acquires any interest in property in the South Boston Freeze Area, which interest shall include only the acquisition of property by purchase or a lease with a term of more than one year, the number of motor vehicle parking spaces on such property shall be deleted from the inventory of parking spaces, provided that Massport has provided the Commission with actual notice of said acquisition by way of a copy of the deed where the property is acquired by purchase or a copy of the lease where the property is acquired by lease. In the event that Massport conveys an interest in property in the South Boston Freeze Area, which interest shall include only the conveyance of property by sale, the number of motor vehicle parking spaces on such property shall be added to the inventory of parking spaces.
- V. The issuance of a Permit hereunder shall in no way be considered or construed to provide the owner, operator or tenant with any rights or approvals to use such parking spaces under any other law, ordinance or regulation and shall not be construed to confer a "property right".

## **Section VI. Applications and Public Hearings by the Air Pollution Control Commission**

### **A. Procedures for Obtaining or Modifying a Parking Freeze Permit**

- i. Any new Parking Facility is subject to these Procedures and Criteria and 310 CMR 7.33, and must submit an application for a Parking Freeze Permit prior to commencing construction or modification.
- ii. Every application for a Parking Freeze Permit shall be submitted on such a form as the Commission may, from time to time, designate. All information and required design and site plans shall be furnished. If an application is incomplete in any respect, it may be rejected.
- iii. Fees for processing applications for a Parking Freeze Permit shall be paid by check, made out to the City of Boston Air Pollution Control Commission, and submitted along with the application. No Parking Freeze Permit shall be issued until the application fee, as designated by the Commission in Appendix B, has been collected. In addition, the applicant shall be responsible for the costs of the advertising fees associated with the publication of the notice of hearing.
- iv. One (1) paper copy and one (1) electronic copy of every application for a Parking Freeze Permit, including the associated site plan, shall be submitted to the Boston Air Pollution Control Commission. Hard copies can be mailed or hand delivered to Boston City Hall, Room 709, Boston, MA 02201.

### **B. Procedures for Renewing a Parking Freeze Permit**

- i. A Parking Freeze Permit issued hereunder shall, unless said Parking Freeze Permit has been suspended or revoked, expire on the first day of July in the year succeeding the year in which it was issued. Every holder of a Parking Freeze Permit must annually renew said Parking Freeze Permit on or before the first day of July by submitting the renewal form as designated by the Commission.
- ii. The Commission, through its designee, will annually renew existing Parking Freeze Permits for a fee, as designated by the Commission in Appendix B, when the applicant certifies there have been no modifications to the Parking Freeze Permit.
- iii. After the first day of July, the Commission may allow a grace period of

up to 10 business days to allow any holders of a Parking Freeze Permit to renew their Parking Freeze Permit. Holders of a Parking Freeze Permit that fail to renew their Parking Freeze Permit on or before the first day of July or during the allotted grace period, shall be subject to enforcement proceedings listed in Section VIII of these Procedures and Criteria.

C. Renewal Requirements

- i. Any holder of a Parking Freeze Permit shall at the time of renewal, unless said Parking Freeze Permit has been suspended or revoked, submit a signed renewal form, as the Commission may, from time to time, designate, which shall report any reduction in the number of Parking Spaces available in the Parking Facility and the reasons for the elimination. All such spaces included within the reduction will then be added to the Freeze Bank and be available for allocation within the Freeze Area pursuant to these Procedures and Criteria.

A Parking Freeze Permit will not be renewed should an applicant fail to provide the renewal form or renewal fee.

D. Time Periods

- i. The Commission shall hold hearings regarding applications for Parking Freeze Permits at least quarterly on or about the 15th day of March, June, September, and December, provided there are Park and Fly or Rental Motor Vehicle Parking Spaces available for reallocation within the limits of the Freeze or provided there are applications for Parking Freeze Permits submitted by the filing deadline.
- ii. Only applications received at least thirty (30) days prior to the next scheduled hearing will be considered at that date, unless the Commission, at its discretion, has granted permission in writing for a late filing and the applicant is capable of meeting all notification requirements. All applications to request a new or modify an existing Parking Freeze Permit, not handled administratively pursuant to Section V(G) or Section V(H), will be considered in the order received.
- iii. The Commission shall provide the applicant a Notice of Public Hearing which must be published by the applicant, at its expense, in a newspaper of general circulation in the Freeze Area. The notice shall

be published at least fourteen (14) days, but not more than twenty-one (21) days in advance of the hearing and shall state the date, time, and place of such hearing, as well as a description of the premises, including a street address, if any, and a brief description of the request. The notice shall indicate that a copy of the application(s) is available for public inspection at the office of the City of Boston Environment Department. A copy of the notice, as published, and the date, page, and name of the publication shall be submitted to the Commission prior to the hearing date.

- iv. The applicant shall provide notification in writing, or by other means such as the Commission may determine, to all abutters of the affected premises with a copy of the public hearing notice at least fourteen (14) but not more than twenty-one (21) days prior to the hearing. Written notice shall be provided by hand delivery or certified mail (return receipt requested), or by certificates of mailing.. Evidence of these efforts shall be supplied to the Commission prior to the hearing date.
  - a. Abutters shall mean owners of land abutting the affected premises and owners of land directly opposite on any public or private street or way, and owners of land within 300 feet of the property line of the affected premises.
  - b. Abutter notices shall be sent in both English and the second most commonly spoken language(s) in the neighborhood(s) where the project is proposed, per the instructions outlined in the Commission's Filing Guide.
- v. Fourteen (14) days before the hearing date, the Commission's designee will complete a joint staff report, on such a form as the Commission may, from time to time, designate, that analyzes the application, presents transportation and planning facts and data relevant to the criteria set out in Section VII., and highlights any further information required in order to make a full assessment of the application, incorporating any additional information provided by BTM, the BPDA or the Mayor's Office.
- vi. An advance notice of the date of the next hearing will be published at least ten (10) days prior to said hearing by the Boston City Clerk.

- vii. A notice of all applications to be heard at the hearing shall be sent to the Regional Administrator, Environmental Protection Agency, and to the Commissioner, Massachusetts Department of Environmental Protection by the Commission's designee. Notice shall also be sent to the Office of Neighborhood Services and to each District City Councilor representing any part of the Freeze Area, at least ten (10) days prior to the hearing date.
- viii. Within thirty (30) days after the hearing, the Air Pollution Control Commission shall approve or disapprove the application for a Parking Freeze Permit based upon the criteria set forth in Section VII. and on consideration of the information contained in the application and presented at the public hearing. The Commission's findings and determination shall be in writing and shall indicate the location of the Parking Facility or and the number of Parking Spaces, including the special conditions, if any, upon which approval is given.

#### **Section VII. Criteria for the Issuance of a Parking Freeze Permit**

- A. The Commission may approve an application for a Parking Freeze Permit only if all requirements as set forth herein have been met including, without limitation:
  - i. That enough spaces are available for allocation.
  - ii. The proposed facility is currently and shall remain in compliance with all local, state, and federal permit requirements and applicable laws, including these Procedures and Criteria and any Parking Freeze Permit issued hereunder.
  - iii. The proposed facility will be consistent with the following transportation planning objectives:
    - a. it will not add off-street parking in an area that is already adequately served by existing parking facilities or that has adequate transit access;
    - b. it will not contribute significantly to traffic flows during peak traffic periods;
    - c. it is located and designed so that the surrounding sidewalks and streets are sufficient to accommodate pedestrians and vehicular movements;



- d. it directly serves development in the surrounding area; and
  - e. its design, including height, bulk, ground floor use, and landscaping, is in accordance with, and consistent with, architectural and land use patterns in the surrounding area and is itself aesthetically pleasing.
- iv. The proposed Parking Facility will be consistent with the requirements as adopted by the Commission, including but not limited to the electric vehicle readiness policy, the off-street bicycle parking guidelines, parking ratios as established by BTM, and any other sustainable mobility and travel demand management policies, as appropriate and as adopted at the time an application is filed with the Commission.
  - v. Any proposed facility in the South Boston Piers Zone must set aside 20% of their total parking supply for off-peak use, and it shall not be available for parking between 7:30AM and 9:30AM. Parking Facility owners or operators shall ensure the off-peak set aside through use of bollards and chains, gates, fencing or other means to physically block access to the off-peak spaces until after 9:30AM, or utilize a suitable electronic parking inventory control system to ensure the availability of the required off-peak spaces, subject to the approval of the Commission.
- B. The Commission shall consider the following factors in its review and approval or denial of Restricted Parking Spaces:
- i. the location of the facility,
  - ii. the anticipated number of vehicles and the times at which vehicles will enter and leave the facility during the course of the day,
  - iii. the turning movements required for vehicles that enter and leave the facility,
  - iv. the anticipated vehicular volumes on streets and intersections in the vicinity of the facility,
  - v. pedestrians volume counts in the vicinity of a facility, accident experience in the vicinity of a facility, and
  - vi. other factors including, without limitation, vehicle miles traveled by vehicles utilizing a parking facility, adverse impacts or contributions to air pollution or traffic congestion on local and arterial streets, the level

of support and commitment to implement available transportation alternatives and demand management programs and plans, and the commitment by the proponent to take appropriate actions to reduce the necessity of making requests for Restricted Use Parking in the future

- C. No remote parking spaces shall be allocated over and above the existing remote parking space inventory. Remote parking spaces returned to the Bank will be reallocated as motor vehicle parking spaces within the Piers or Industrial/Commercial zones. To this end, shuttle bus services, from Parking Facility to end uses outside the parking freeze area, may not be provided by Parking Facility operators or owners who do not hold a remote Parking Facility permit for that property.
- D. Spaces may only be moved from the Piers Zone to the Commercial Industrial Zone if they are not needed in the Piers area and, either:
  - i. are on contiguous or abutting parcels of land, or;
  - ii. the parking spaces were temporarily or permanently impacted or displaced by the CA/T project, and/or;
  - iii. the Commission determines that the relocation of the motor vehicle spaces will reduce adverse impacts or contributions to air pollution or traffic congestion on local and arterial streets.
- E. Parking Freeze Permit approval is subject to compliance with the provisions of these Procedures and Criteria, 310 CMR 7.33 and the terms and conditions in the Parking Freeze Permit, which shall include, without limitation, the maximum number of motor vehicle parking spaces allowed, conditions governing the use of the parking spaces, location of the parking facility, the location of the ingress and egress to said facility, landscaping, design and signage.

### **Section VIII. Enforcement Proceedings**

The provisions of these Procedures and Criteria and of 310 CMR 7.33, and the terms and conditions in the Parking Freeze Permits issued hereunder, shall be enforced by the Commission or its designee by way of the provisions provided herein or by filing an action in a court of competent jurisdiction in accordance with Massachusetts law. The Commission is not required to commence or complete the enforcement provisions provided herein prior to seeking enforcement by filing a court action.

The Commission or its designee may commence enforcement proceedings by issuing a Notice of Probable Violation (the "NOPV"), if the Commission or its designee has reason to believe that a violation of these Procedures and Criteria, of 310 CMR 7.33, or of the terms and conditions of a Parking Freeze Permits or Exemption Certification has occurred or is continuing to occur. The NOPV shall state the factual basis for the allegation of a violation and the proposed remedial action to be taken by the person served (the "Respondent") if the Commission or its designee finds a violation. The NOPV shall state that the Respondent must:

- A. reply in writing to the NOPV within fifteen (15) days from the date of the NOPV; and
- B. appear at an informal conference with the Commission or its designee on a designated day which is at least fifteen (15) days from the date of the NOPV.

The written reply must be filed with the Commission and must be signed by the Respondent or the Respondent's designee. It must include a complete statement of all relevant facts and authority, and a full description of the reasons that the Respondent disputes the violation(s) alleged in the NOPV. If the Respondent or his representative fails to file a written reply or to appear at the informal conference, the Respondent shall be deemed to have admitted the accuracy of the factual allegations and legal conclusions stated in the NOPV, and the Respondent shall be subject to the enforcement action proposed in the NOPV.

A hearing officer designated by the Commission shall conduct an informal review of the violation which shall consist of an informal conference and an analysis of the Respondent's written reply.

At any informal conference, the Respondent shall have the right to be represented by an attorney or other person, and shall have the right to present relevant documents to the hearing officer. The hearing officer shall make available to the Respondent any evidence in the Commission's possession which indicates that the Respondent may have committed a violation, and the Respondent or his representative shall have the opportunity to rebut this evidence. However, this informal conference shall not be construed to be an adjudicatory proceeding as defined in M.G.L. c. 30A.

The hearing officer shall make a decision in writing. If the Respondent is not satisfied with the decision, he may request a hearing by the Commission, provided that the Respondent makes such a request in writing within seven (7) calendar days of the date the decision is issued. Failure to request a hearing by the Commission will be considered an admission of the factual allegations and legal conclusion

stated in the hearing officer's decision, and the Respondent shall be subject to the enforcement action proposed in the NOPV.

A hearing before the Commission shall be de novo. The notice provisions provided in Section VI. shall not apply. At the hearing, the Respondent may be represented by an attorney or other person. Pursuant to City of Boston Code, Ordinances 7-2, the Commission may require the production of records and documents and compel the attendance and testimony of witnesses before it.

If the Commission finds, after a hearing, that the Respondent has committed a violation, it may take appropriate enforcement action including, but not limited to, rescinding or modifying the Parking Freeze Permit, issuing an administrative penalty or initiating an enforcement proceeding in a court of competent jurisdiction. Parking Freeze Permits may be suspended or revoked as set forth in this Section, provided, however, that where an alleged violation threatens the public health or welfare, Parking Freeze Permits may be suspended or revoked prior to initiating the procedures herein.

Enforcement measures shall take into consideration the severity and frequency of the violation. Where enforcement includes the suspension or revocation of the Parking Freeze Permit, it shall be implemented in a progressive manner, as follows:

- A. the first violation may result in a suspension or revocation of a Parking Freeze Permit for not more than five (5) days;
- B. the second violation may result in a suspension or revocation of a Parking Freeze Permit for not more than ten (10) days;
- C. the third violation may result in a suspension or revocation of a Parking Freeze Permit for not more than fifteen (15) days.
- D. Further violations may result in the indefinite suspension or revocation of the Parking Freeze Permit.

Following or in addition to the suspension or revocation of a Parking Freeze Permit, or in response to a violation of the provisions of these Procedures and Criteria or of 310 CMR 7.33, the Commission or its designee may undertake enforcement proceedings pursuant to M.G.L. Chapter 111, §31C, which states violations may be punishable:

- A. for the first offense, by a fine of not less than one thousand (\$1,000) nor more than five thousand dollars (\$5,000), and
- B. for a subsequent offense, by a fine of not less than five thousand (\$5,000) nor more than ten thousand dollars (\$10,000).

For the purpose of this Section, each day and part thereof on which a violation of such an order, rule or regulation occurs, whether such violation be continuous or intermittent, shall be construed as a separate and succeeding offense. Additionally, for the purpose of this Section, each Parking Space in violation of such an order, rule, or regulation, whether such violation be continuous or intermittent, shall be construed as a separate and succeeding offense. In addition, upon authorization by the Department of Environmental Protection, the Commission may issue penalties pursuant to 310 CMR 7.52 and M.G.L. Chapter 111, § 142B.

If the Commission or its designee takes cognizance of a violation of the provisions herein, including the terms and conditions of the Parking Freeze Permits issued hereunder or of 310 CMR 7.33, the Commission or its designee may, as an alternative to instituting criminal proceedings, utilize the procedures provided under M.G.L. Chapter 40, § 21D.

#### **Section IX. Amendments**

The Commission may, from time to time, amend these Procedures and Criteria by simple majority vote of a quorum of Commission members (a majority of members then in office) at a public hearing on the record. Such proposed amendments must be advertised in a newspaper of general circulation at least twenty-one (21) days in advance of the hearing date and a notice shall be posted with the Boston City Clerk.

Copies of the proposed amendments shall be made available to the public upon request. The Commission shall give the public an opportunity to be heard at the public hearing and shall consider testimony received in its deliberation on the proposed changes to the Procedures and Criteria. Upon adoption of any amendment, the revised version of the regulations shall be transmitted to the Massachusetts Department of Environmental Protection for approval and the U.S. Environmental Protection Agency Region 1 office in Boston.

#### **Section X. Severability**

The invalidity of any section or provision of these Procedures and Criteria shall not invalidate any other section or provision thereof, nor shall it invalidate any Parking Freeze Permit, Exemption Certification, approval, or determination which previously has been issued.

#### **Section XI. Effective Date**

These Procedures and Criteria shall take effect on January 1, 2021.

**Appendix A: South Boston Parking Freeze Area**



## **Appendix B: Fees**

### **A. Application Fees**

Pursuant to Section VI(A), the Commission is authorized to require an applicant pay a fee to cover the reasonable costs and expenses borne by the Commission in processing and evaluating the application. At the time of filing an application, the applicant shall pay a filing fee as specified below. No application shall be deemed complete or timely without the payment of all required fees.

The application fee is set at \$20 per space effective October 1, 2020.

### **B. Renewal Fees**

Pursuant to Section VI(B), the Commission, through its designee, will annually renew existing Parking Freeze Permits for a fee, so far as there is no change to the Parking Freeze Permit.

The renewal fee is set at \$20 per space effective July 1, 2021.