

CHAPTER 7

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DOWNTOWN PARKING DISTRICT

7.010. District Created. For financing and administering in the central business district of the City of Salem a program of economic promotion and a program of public parking for motor vehicles, in that part of the city described as follows, is hereby designated the Downtown Parking District, to wit:

"Beginning at the intersection of the north line of Marion Street NE and the west line of Front Street NE; thence easterly along the north line of Marion Street NE to the west line of Liberty Street NE; thence northerly along the west line of Liberty Street NE to the north line of Union Street NE; thence easterly along the north line of Union Street NE to the east line of High Street NE; thence southerly along the east line of High Street NE to a point which measures 207.39 feet more or less from the intersection of the southeast corner of Union Street NE and High Street NE; thence easterly to the west line of the alley between Union Street NE and Marion Street NE; thence northerly along the west line of said alley to a point which measures 96.44 feet more or less from the intersection of the south line of Union Street NE and the west line of said alley between Union Street NE and Marion Street NE; thence easterly to the east line of Church Street NE; thence southerly along the east line of Church Street NE to the south line of Trade Street SE; thence westerly along the south line of Trade Street SE to the west line of Front Street SE; thence northerly along the west line of Front Street SE to the point of intersection of the west line of Front Street SE and the north line of Ferry Street SE; thence westerly to a point on the top of the east bank of the Willamette Slough and River; thence northerly along the top of said bank to a point on the north line of Marion Street NE; thence easterly along the north line of Marion Street NE to the point of beginning; Save and except Block 60 of Salem Addition as recorded in Volume 1, page 20, Book of Town Plats, City of Salem, Marion County, Oregon." (Ord No. 117-76; Ord No. 91-77; Ord No. 68-86; Ord No. 34-88; Ord No. 72-88)

7.060. Grievances. Any person aggrieved by an action of the City Manager, or the City Manager's designee, regarding the administration of the Downtown Parking District, shall file a petition in writing to the City Manager, or the City Manager's designee. The City Manager, or the City Manager's designee, shall make a final decision on the matter within 60 days of receiving the petition. A person aggrieved by the final decision rendered by the City Manager, or the City Manager's designee, may appeal to Council by filing a notice of appeal with the City Manager, or the City Manager's designee, within ten days of the serving or the mailing of the notice of the final decision. The City Manager, or the City Manager's designee, shall transmit said notice of appeal, together with the file of said appealed matter to the Council who shall fix a time and place for hearing such appeal from the decision of the City Manager, or the City Manager's designee. The Council shall give the appellant not less than ten days written notice of the time and place of hearing of said appealed matter. Action by the Council on appeals shall be by resolution. (Ord No. 117-76; Ord No. 51-96; Ord No. 49-04)

7.070. Downtown Parking Fund. All proceeds from ad valorem and business-and-occupation taxes specially levied in the Downtown Parking District, and all proceeds from the sales of parking permits for parking within the Downtown Parking District, shall be credited to a fund known as the Downtown Parking Fund. (Ord No. 117-76; Ord No. 10-93; Ord No. 49-04)

7.080. Administrative Duties. Except as provided in SRC 7.150 - SRC 7.220 administration of the parking district shall be the responsibility of the City Manager, or the City Manager's designee. (Ord No. 117-76; Ord No. 10-93; Ord No. 49-04)

7.090. Definitions. As used in SRC 7.090 to 7.250:

(1) "Gross floor area" includes:

(a) The retail or office space occupied by the taxpayer for business, occupational, or professional use; and

(b) If such gross floor area lies within a multi-tenant building having a common entry way on the ground floor, such area shall also include that portion of the total common areas in said building which the taxpayer's square footage in said building bears to the other taxpayers' total square footage within the entire building.

(2) "Common areas" include those areas within a multi-tenant building which are outside the retail or office space occupied by the taxpayer such as stairways, hallways, restrooms, elevator areas, general unloading facility areas, and lunchroom areas.

(3) "Person" means individuals, corporations, associations, firms, or partnerships, controlling gross floor area by deed, contract, or rental agreement, written or otherwise.

(4) "Taxpayer" means any person subject to the tax imposed by this ordinance.

(5) "Fiscal year" or "tax year" means a 12-month year commencing July 1.

(b) As used in this ordinance the singular number may include the plural and the plural number the singular. (Ord No. 163-78; Ord No. 112-79)

7.100. Business-Occupation Tax Imposed. Each person who is not exempt under state law from municipal taxation and who engages in a profession, occupation, or business in the Downtown Parking District on or after September 1, 1978, shall pay to the City of Salem, Oregon, a tax for each tax year computed in the manner provided by SRC 7.090 to 7.250. (Ord No. 163-78; Ord No. 112-79)

7.110. Budget and Tax Rate.

(a) By August 31, 1978, and thereafter on or before June 30 of each year, the Council shall by resolution adopt a budget for the Downtown Parking District and set the tax for each fiscal year commencing July 1, to finance the operation and administration of the Downtown Parking District.

(b) Said resolution shall set forth (1) the rate of tax for the district, (2) the total tax levied for district, (3) the amount of total tax levied for district apportioned to parking structure operation and administration, (4) the percentage of total tax levied attributed to a public parking structure operation and administration, (5) the total customer parking demand, and (6) the minimum tax.

(c) The rate of tax is the tax per parking space. The rate of tax is computed by dividing the total tax required to operate and administer the Downtown Parking District for each fiscal year by the total customer parking demand by the taxpayers in the Downtown Parking District. The customer parking demand shall be reviewed for any adjustment each fiscal year the Council adopts the budgets for the district. The decision of the Council is final after taking into consideration the total customer demand by the taxpayers in the Downtown Parking District less

the number of free off-street customer parking spaces provided by the taxpayers within 200 feet of the district. (Ord No. 163-78; Ord No. 51-96; Ord No. 30-97; Ord No. 49-04)

7.120. Method of Computing Tax.

(a) Each person subject to SRC 7.100 shall compute the tax due to the city. Except as provided in paragraph (b) of this section, the amount of the tax shall be determined as follows:

(1) Divide the gross floor area of the taxpayer by 1,000.

(2) The quotient determined under paragraph (a)(1) of this subsection shall be multiplied by the taxpayer's applicable parking demand factor in accordance with the parking demand table set forth in SRC 7.140 to arrive at the gross number of parking spaces required by the taxpayer.

(3) The gross number of spaces determined under paragraph (a)(2) of this subsection shall be multiplied by the tax rate for each parking space as determined by ordinance passed by the council under SRC 7.110 to arrive at the basic tax due.

(b) If the taxpayer's business is a hotel or motel the amount of the tax shall be determined as follows:

(1) The number of hotel or motel units shall be multiplied by the taxpayer's applicable parking demand factor in accordance with the parking demand table set forth in SRC 7.140 to arrive at the gross number of parking spaces required by the taxpayer.

(2) The gross number of spaces determined under paragraph (b)(1) of this subsection shall be multiplied by the tax rate for each parking space as determined by ordinance passed by the council under SRC 7.110 to arrive at the basic tax due.

(c) A credit shall be allowed against the tax computed in paragraph (a) or (b) for the number of free off-street customer parking spaces provided by the taxpayer within the Downtown Parking District, or within 200 feet of the Downtown Parking District. The credit shall be computed by multiplying the number of free off-street customer parking spaces by the rate of tax.

(d) In addition to the tax determined under paragraphs (a) and (b) of this section, a taxpayer shall pay a tax based on an access factor for any sky bridges connecting the building the taxpayer occupies floor space in, to an off-street public parking structure. Said additional tax applies to any sky bridge under construction.

(e) Said additional tax required by paragraph (d) of this section shall be determined as follows:

(1) The percentage of the total tax levied attributed to the public parking structure as determined under SRC 7.110(c)(4) shall be multiplied by the taxpayer's basic tax due less any credit computed under paragraph (c) of this section.

(2) The amount thus obtained under paragraph (e)(1) of this subsection shall be multiplied by the sky bridge access factor set forth in the parking demand table in SRC 7.140 to arrive at the additional tax. (Ord No. 163-78; Ord No. 51-96; Ord No. 29-05)

7.130. Tax Credit.

(a) A taxpayer conducting a business or profession in the district for less than the full tax year shall receive a credit against the tax for that portion of the tax as the part of the fiscal year in which no profession, occupation, or business was conducted by said taxpayer within the Downtown Parking District bears to the whole of the fiscal year.

(b) If a taxpayer's category is retail or service and more than 40 percent of the occupied gross floor area is storage of materials and supplies as related to such retail or service, the taxpayer shall be allowed a credit against the tax otherwise due of the difference between the tax as computed on that portion of said gross floor area in storage that is in excess of said 40 percent and the tax on such storage area as computed with a 0.1 parking demand factor for every 1,000 square feet of gross floor area.

(c) Any taxpayer whose business is open to the public less than one day in each week or 20 hours in any one week between 9:00 a.m. and 7:00 p.m., shall receive a credit of 50 percent of the tax. (Ord No. 220-78; Ord No. 112-79; Ord No. 69-80)

7.135. Minimum Tax. Notwithstanding that a lower tax or no tax is due as determined under SRC 7.120 and 7.130(c) and (d), a taxpayer shall pay the minimum tax set forth in the budget resolution passed under SRC 7.110. However, a taxpayer subject to the minimum tax is entitled to the tax credit set forth in SRC 7.130(a) and (b) for engaging in a business or profession in the Downtown Parking District for less than the entire tax year. (Ord No. 112-79; Ord No. 69-80; Ord No. 69-81; Ord No. 39-83; Ord No. 58-86; Ord No. 45-92; Ord No. 30-97)

7.140. Parking Demand Table. The parking demand factor for each taxpayer computing the tax under SRC 7.120 is as follows:

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Category substantially related to taxpayer's profession, occupation or business:	Units 1,000 GFA*	Parking Demand Factor (customer spaces needed for every 1,000 square feet of gross floor area)
Manufacturing/Wholesale Warehousing	1,000 GFA	0.1
Auto Sales/Service	1,000 GFA	0.1
General Office/ Business Schools	1,000 GFA	0.4
Attorneys, Accountants, Stockbrokers	1,000 GFA	0.8
Service (Service and repair businesses also include florists, office supplies, printers, trust companies, theaters, travel, beauty schools, finance companies, barbers)	1,000 GFA	1.4
Retail Furniture	1,000 GFA	1.6

Restaurant/Tavern	1,000 GFA	1.8
Bank/Savings & Loan	1,000 GFA	2.0
Medical/Dental/Optical	1,000 GFA	2.4
Retail - General (including but not limited to wearing apparel, accessories, gifts, shoes, books, records, stationery, hobby, hardware, sporting goods, drugs, stereo, camera, music and musical instruments, jewelry, appliances, variety, antiques, plants, fabrics, paint, stamps and coins, bicycles, food sales, pharmacies, and department stores	1,000 GFA	2.6
Hotel/Motel	Units	1.0 per unit
Sky Bridge Access Factor		0.5
Health Club/Fitness Center	1,000 GFA	3.6

*GFA - Gross Floor Area

(Ord No. 163-78; Ord No. 112-79; Ord No. 73-95)

7.150. Due Date for Tax.

(a) The tax imposed by SRC 7.100 and SRC 7.135 shall be payable to the director of finance and due in accordance with the following minimum payment schedule:

TOTAL AMOUNT OF TAX	PAYMENT METHOD(S)	PAYMENT DUE (on or before)
\$100 or Less	Lump Sum (or)	July 20th
Equal Payment	Semi-Annual	July 20th-Jan 20th
\$100-\$400	Lump Sum (or)	July 20th
Equal Payment	Semi-Annual (or)	July 20th-Jan 20th
Equal Payment	Quarterly	July 20th-Oct 20th Jan 20th-Apr 20th
\$400 or More	Lump Sum (or)	July 20th
Equal Payment	Semi-Annual (or)	July 20th-Jan 20th
Equal Payment	Quarterly (or)	July 20th-Oct 20th Jan 20th-Apr 20th
Equal Payment	Monthly	20th of Each Month

(b) That for the initial fiscal year commencing July1, 1978, the July20 date for payment shall be September20 and for the ensuing fiscal year the due date shall be as stated in paragraph (a) of this section.

(c) If the taxpayer fails to make one or more payments of the tax according to paragraph (a) of this section the director of finance may recommend to the council and the council may declare that the full amount of the tax is immediately due and payable. (Ord No. 163-78; Ord No. 112-79)

7.160. Returns, Extensions.

(a) The return shall be filed in such form as the director of finance may prescribe for the payment of the tax. Returns shall show the amount of tax due for the reporting fiscal year. There shall be annexed to the return a statement verified by a written declaration of the taxpayer making the return to the effect that the statements contained therein are true.

(b) The taxpayer shall deliver the return, together with the remittance of the minimum payment amount of the tax due as provided in SRC 7.150 to the director of finance at his office either by personal delivery or by mail. If return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.

(c) For good cause, the director of finance may extend for not to exceed one month the time for making any return or payment of tax. No further extension shall be granted, except by the council. Any person to whom an extension is granted shall pay interest at the rate of 1 percent per month on the amount of tax due without proration for a fraction of a month. If a return is not filed and the tax and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties described elsewhere in this ordinance.

(d) A return shall be filed by the taxpayer with the director of finance 20 days immediately following September1, 1978, or the day the taxpayer becomes subject to the tax during the fiscal year, and thereafter July1 of each year. (Ord No. 163-78; Ord No. 51-96)

7.170. Penalties and Interest.

(a) Any taxpayer who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this ordinance prior to delinquency shall pay a penalty of 10 percent of the amount of the tax due in addition to the amount of the tax.

(b) If the director of finance determines that the nonpayment of any remittance due under this ordinance is due to fraud or intent to evade the provisions thereof, a penalty of 25 percent of the amount of the tax shall be added thereto in addition to the penalties stated in paragraph (a) of this section.

(c) In addition to the penalties imposed, any person subject to tax who fails to remit any tax imposed by this ordinance shall pay interest at the rate of 1 percent per month or fraction thereof without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(d) Every penalty imposed and such interest as accrues under the provisions of this section shall be merged with and become a part of the tax herein required to be paid.

(e) Any taxpayer who fails to remit the tax herein levied within the times herein stated shall pay the penalties herein stated provided, however, the taxpayer may petition the director of finance for waiver and refund of the penalty or any portion thereof and the director of

finance may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof. (Ord No. 163-78; Ord No. 112-79)

7.180. Collection. Any amount due the city as a tax under SRC 7.100 or as a penalty under SRC 7.170 shall constitute a debt of the person from whom the amount is due. The city may bring action in a court of competent jurisdiction to enforce payment of the debt. (Ord No. 163-78; Ord No. 29-91)

7.190. Deficiency Determinations - Fraud, Evasion, Taxpayer's Delay.

(a) If the director of finance determines that a return is incorrect, he shall compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within his possession or that may come into his possession. One or more deficiency determinations may be made of the amount due for one, or more than one period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in SRC 7.170.

(b) The director of finance shall give to the taxpayer a written notice of his determination. The notice may be served personally or by mail; if by mail, the notice shall be addressed to the taxpayer at his address as it appears in the records of the director of finance. In case of service by mail or any notice required by this ordinance the service is complete at the time of deposit in the United States Post Office.

(c) Except in the case of fraud or intent to evade this ordinance, every deficiency determination shall be made and notice thereof mailed within three years after the return is filed.

(d) Any determination shall become due and payable immediately upon receipt of notice and shall become final within 20 days after the director of finance has given notice thereof provided, however, the taxpayer may challenge the determination if a petition is filed before the determination becomes final as herein provided. (Ord No. 163-78)

7.200. Redeterminations.

(a) Notwithstanding SRC 7.060, any person aggrieved by a determination made under SRC 7.190 may file a petition for redetermination and refund with the Director of Finance. If a petition for redetermination and refund is not filed within the 20 days after the notice of determination is given by the Director of Finance under SRC 7.190(3), the determination becomes final.

(b) If a petition for redetermination and refund is filed within the allowable period, the Director of Finance shall reconsider the determination, and, if the person has so requested in the petition, shall grant the petitioner an oral hearing and shall give the petitioner ten days' notice of the time and place of the hearing.

(c) The Director of Finance may decrease or increase the amount of the determination as a result of the hearing. If an increase is determined such increase shall be payable immediately after the hearing.

(d) The order or decision of the Director of Finance upon a petition for redetermination and refund becomes final ten days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the Council within the ten days after service of such notice.

(e) No petition for redetermination and refund or appeal therefrom shall be effective for any purpose unless the taxpayer has first complied with the payment provisions of this ordinance. (Ord No. 163-78; Ord No. 51-96; Ord No. 49-04)

7.210. Rules, Inspections.

(a) The Director of Finance shall enforce provisions of this ordinance and shall have the power to adopt rules and regulations not inconsistent with this ordinance to aid in enforcement.

(b) The Director of Finance or any person authorized in writing by the Director may examine the floor area occupied by the taxpayer and any records related to the return during normal business hours, after notification to the taxpayer, in order to verify the accuracy of any return made, or if no return is made by the taxpayer, to ascertain and determine the amount required to be paid. (Ord No. 163-78; Ord No. 10-93; Ord No. 49-04)

7.220. Appeals to Council. Except as provided in SRC 7.200, any person aggrieved by any decision of the director of finance may appeal to the council by filing a notice of appeal with the director of finance within ten days of the serving or the mailing of the notice of the decision given by the director of finance. The director of finance shall transmit said notice of appeal, together with the file of said appealed matter to the council who shall fix a time and place for hearing such appeal from the decision of the director of finance. The council shall give the appellant not less than ten days written notice of the time and place of hearing of said appealed matter. Action by the council on appeals shall be by resolution. (Ord No. 163-78; Ord No. 51-96)

7.230. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance, or any part thereof, is for any reason held to be unconstitutional (or otherwise invalid), such decision shall not affect the validity of the remaining portions of this ordinance or any part thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional (or otherwise invalid). (Ord No. 163-78)

7.240. Failure to Furnish Returns; False Returns. It is unlawful for any person so required to fail or refuse to furnish any return required to be made or other data required by the director of finance under this ordinance or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this ordinance. (Ord No. 163-78)

7.250. Violations. Violation of any of the provisions of this chapter is an infraction. (Ord No. 163-73; Ord No. 193-79)