

ATTACHMENT 1

ORDINANCE

ORDINANCE NO. 13-O-____

ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING
BEVERLY HILLS MUNICIPAL CODE SECTION 10-3-3311
REGARDING IN-LIEU PARKING FEES

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS
FOLLOWS:

Section 1. On March 28, 2013, the Planning Commission held a duly noticed public hearing, at which the Planning Commission adopted Resolution No. 1677, recommending that the City Council amend the Zoning Code regarding alternative monthly in-lieu parking fee amounts for certain restaurant uses.

Section 2. The City Council considered this Ordinance at a duly noticed public hearing on May 7, 2013 and, at the conclusion of the hearing, introduced this Ordinance. Evidence, both written and oral, was presented during the hearing.

Section 3. This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the "Guidelines"), and the environmental regulations of the City. It has been determined that the adoption of this Ordinance is exempt from CEQA pursuant to Section 15305 of the Guidelines for minor alterations in land use limitations. The Class 5 exemption is applicable because this Ordinance makes minor changes to the City's in-lieu parking program, which is applicable only in the generally flat business triangle area of the City. The City Council has reviewed this determination of exemption, and based on its own independent judgment, concurs with this determination of exemption.

Section 4. The City Council hereby amends Section 10-3-3311 of Article 33 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows:

“10-3-3311: WAIVERS, ALTERNATIVE FEES, AND OTHER EXEMPTIONS:

- A. Pursuant to the requirements, limitations and procedures set forth in this section, the city council or the planning commission may allow a property owner to purchase in-lieu parking to serve a site area in excess of sixteen thousand (16,000) square feet and may waive, in whole or in part, the fees required by section 10-3-3310 of this article.
1. Eligible Uses: The city council or planning commission may only take action pursuant to this subsection A with regard to site areas occupied by, or fees imposed upon, the following uses:
 - a. Museum uses owned and controlled by a nonprofit, tax exempt entity.
 - b. Adaptive reuses of a building listed on the National Register of Historic Places.
- B. Pursuant to the requirements, limitations and procedures set forth in this section, and as an alternative to payment of the fees required by section 10-3-3310 of this article, the city council or the planning commission may allow a property owner or tenant to purchase alternative monthly in-lieu parking calculated at a rate of eighty-five percent (85%) of the lowest monthly parking rate offered at the City’s parking facilities, whether or not the site area exceeds sixteen thousand (16,000) square feet.
1. Eligible Uses: The city council or planning commission may only take action pursuant to this subsection B with regard to site areas occupied by the following uses:
 - a. Restaurant uses located on North Canon Drive with a total parking deficit of one hundred (100) or fewer parking spaces that provide (a) live evening musical entertainment at least four (4) days per week and (b) public benefits pursuant to an agreement approved by the City Council.
 2. Sunset: The alternative monthly in-lieu parking fee authorized by this subsection B is a pilot program. The city council or planning commission may take action pursuant to this subsection B on applications filed on or before October 31, 2013. Unless the City Council extends this subsection B, this subsection shall be repealed as of November 1, 2013. Any application filed before November 1, 2013 may be processed to conclusion.
- C. Findings Required: The city council or planning commission shall not take action pursuant to this section unless the city council or planning commission finds that:

1. Due to the nature of the proposed use, the proposed use will attract and serve potential retail sales customers to the in-lieu parking district; and
 2. The proposed use will not unreasonably deplete parking resources in the in-lieu parking district.
- D. **Reviewing Body:** The city council shall review an application filed pursuant to this section unless that application accompanies an application that otherwise requires review by the planning commission. If the application filed pursuant to this section accompanies an application that otherwise requires review by the planning commission, then the planning commission shall be the reviewing body for the application filed pursuant to this section.
- E. **Procedure:** An application filed pursuant to this section shall be submitted to the director of planning and community development. Upon receipt of such application, a hearing regarding the application shall be scheduled before the city council or the planning commission, as provided in subsection D of this section. Notice of the hearing shall be mailed to the applicant at least ten (10) days prior to such hearing.”

Section 5. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, this Ordinance shall be null and void.

Section 6. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance, and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 7. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:

Effective:

JOHN A. MIRISCH
Mayor of the City of Beverly Hills, California

ATTEST:

BYRON POPE
City Clerk

(SEAL)

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY C. KOLIN
City Manager



SUSAN HEALY KEENE
Director of Community Development