

## **Attachment A**

### **Finding of Adequacy on the City of Boston/South Boston Parking Freeze Inventory**

**and**

### **Conditional Finding of Adequacy on the City of Boston/South Boston Parking Freeze Plan**

#### **Overview and Public Review Process**

Pursuant to 310 CMR 7.33, on October 31, 2002, the Boston Air Pollution Control Commission (BAPCC) submitted to DEP a South Boston Parking Freeze Inventory, a Parking Freeze Plan, and text of amendments to the "Procedures and Criteria for Issuance of Parking Freeze Permits" (included as Attachment B). Prior to submitting the Parking Freeze Inventory and Plan to DEP, the BAPCC conducted numerous public meetings with property owners, developers and interested parties to solicit comments on the Parking Freeze Inventory and Parking Freeze Plan.

Based on DEP's review of the BAPCC's October 31, 2002 submittal, public comments received, and followup discussions between DEP and BAPCC, BAPCC submitted a revised parking inventory and Parking Freeze Plan dated June 20, 2003. DEP's findings are based on the June 20, 2003 submittal (included as Attachment C).

310 CMR 7.33 requires DEP to issue a finding of adequacy or inadequacy on the Parking Space Inventory and the Parking Freeze Plan. In order to consult with and solicit comments from interested parties and the public on the inventory and plan, DEP held a public hearing on the inventory and the plan on January 28, 2003. Notices of the public hearing were published in the Boston Globe and the South Boston Tribune and mailed to interested parties.

DEP issued a Draft Finding of Adequacy on the City of Boston/South Boston Parking Freeze Inventory and Draft Conditional Finding of Adequacy on the City of Boston/South Boston Parking Freeze Plan on January 23, 2004 and accepted public comments on these draft findings until February 23, 2004. A summary of comments and response to comments is included in Attachment D.

#### **Parking Space Inventory**

310 CMR 7.33 (3) requires the BAPCC to develop an inventory of motor vehicle parking spaces<sup>1</sup> in the South Boston Parking Freeze area. The inventory must specify all existing motor vehicle parking spaces as of 1994<sup>2</sup> and spaces which were part of any project submitted for review under the Massachusetts

---

<sup>1</sup> 310 CMR 7.00 defines "Motor Vehicle Parking Space" as any space which is used for the purpose of parking motor vehicles (whether or not demarcated as such), and whether or not a fee has been charged for its use; except those parking spaces used by residents, on street parking spaces, parking spaces designated by the City of Boston as parking for residents only shall not be considered as motor vehicle parking spaces. Nor shall parking spaces used for the purpose of the temporary storage of motor vehicles for sale, or parking spaces owned or operated by the Massachusetts Bay Transit Authority and used solely by transit users be considered motor vehicle parking spaces.

<sup>2</sup> 310 CMR 7.33 required a parking space inventory to be submitted not later than one-year from the effective date of 310 CMR 7.33. 310 CMR 7.33 was effective on April 9, 1993 upon publication in the Massachusetts Register.

Environmental Policy Act or the Federal Environmental Review Process as of August 1, 1990. The inventory must also include a map and descriptive material to identify the type, location, and quantity of parking spaces.

### *Inventory Documentation*

The BAPCC's inventory submitted to DEP on October 31, 2002 did not break down the types of parking into commercial, employee, remote, restricted use, off peak, and CA/T taken spaces, as required by the regulation. Further, the inventory was not accompanied by a map and descriptive materials identifying how the inventory was developed. However, the revised parking inventory dated June 20, 2003 includes this information.

### *Inventory Allocations*

Based on the October 31, 2002 inventory, numerous property owners commented on their specific inventory allocations during the January 2003 comment period. In response, BAPCC revised the inventory to reflect these comments, where appropriate. See Table 1 and Table 2 of the City's revised inventory, included in Attachment C. Properties that received revised inventory allocations include Casey and Hayes, Commonwealth of Massachusetts, Ryder Truck Rental, Federal Express, and Transpark LLC. In addition, Massport submitted information to DEP and BAPCC which resulted in a total of 121 spaces being transferred from the City's inventory to the Massport inventory.

## **Finding of Adequacy on the South Boston Parking Freeze Inventory**

DEP finds the Parking Freeze inventory to be adequate. After considering all of the relevant public comments on the inventory dated October 31, 2002, DEP increased the total inventory to 25,121, which is an increase of 1,634 spaces than previously noticed to the public. Therefore, the base inventory of motor vehicle parking spaces is established at 25,121 spaces of which 9,652 are located in the Industrial/Commercial Zone, 15,356 are located in the Piers Zone, and 113 are located in the Residential Zone. Of the 25,121 spaces, 8,894 are remote spaces<sup>3</sup>, 10,803 are commercial spaces, and 14,426 are employee spaces.

## **Parking Freeze Bank**

310 CMR 7.33 (5) allows for the creation of a parking freeze bank equal to 10% of the base inventory of motor vehicle parking spaces. Therefore, the parking freeze bank is established at 2,512 spaces. Additional spaces may be added to the parking freeze bank in the event that motor vehicle parking spaces are eliminated in the South Boston Parking Freeze Area. Motor vehicle parking spaces that are eliminated are not privately transferable.

310 CMR 7.33 (8) allows for an additional 10% of spaces to be added to the parking freeze bank for allocation in the Piers Zone at the completion of the Central Artery/Tunnel (CA/T) project. The additional 10% may be added following a DEP re-certification of the parking freeze inventory for the Piers Zone. DEP has defined the completion of the CA/T project for the purposes of 310 CMR 7.38, Certification of Tunnel Ventilation Systems in the Metropolitan Boston Air Pollution Control District, as

---

Therefore, the inventory must be based on existing parking in 1994. The City of Boston submitted a parking space inventory to DEP on April 11, 1994. DEP found this inventory inadequate on June 13, 1994.

<sup>3</sup> Remote Parking Space is defined in 310 CMR 7.00 as any parking space (whether or not defined as a "motor vehicle parking space" for the purpose of 310 CMR 7.00) which serves end uses outside of a parking freeze area including, but not limited to, parking for airport use, Downtown Boston parking, and for remote employee parking.

the time when the southern portion of I-93 Southbound (i.e., modifications to the existing Dewey Square Tunnel for its use as part of the I-93 Southbound Tunnel, projected to be open approximately 18 months from January 2004) is open for general public use and is fully operational and DEP hereby incorporates this as the time when the additional 10% of spaces may be added to the parking freeze bank.

## **Parking Freeze Plan**

310 CMR 7.33 (6) requires the BAPCC to adopt a Parking Freeze Plan, which establishes procedures by which the South Boston Parking Freeze will be implemented and enforced, as well as procedures for permitting parking facilities.

## **Conditional Finding of Adequacy on the Parking Freeze Plan**

DEP finds the Parking Freeze Plan to be adequate, conditional upon the BAPCC adopting the language specified below for Renewal permits. This language shall be adopted by the BAPCC within one year of this conditional finding on the Parking Freeze Plan. This conditional finding shall convert to a final finding upon the BAPCC's adoption of the language.

### *Renewal Permits*

During public review of the BAPCC's October 31, 2002 submittal, several commenters suggested revisions to the Renewal Permit procedures. As written in the October 31, 2002 procedures, permits would automatically expire on a yearly basis. Developers and property owners commented that this would result in uncertainty, which would make it difficult to receive construction financing.

To address this issue, the BAPCC's June 20, 2003 submission includes the following proposed revised language to replace Section III. D. (8) of the "Procedures and Criteria for Issuance of Parking Freeze Permits:"

*"Renewal Permits shall be issued by the Commission through the following procedure: The Commission shall notify each holder of a Permit that a Renewal shall be issued without any modification provided that within 30 days said owner provides written confirmation that no modifications constituting a change as provided in Section III. D. (6)(iii), above, have been made. Renewal permits shall be deemed to have been issued by the Commission upon receipt of such written confirmation together with any Renewal Permit fee then due. Any modification proposed by an owner that is a change as provided in (6) (iii), above, or any request for additional parking spaces, shall be considered as a Modified Permit and must comply with the procedures set forth in Section III. E., below. The Commission may refuse renewal of a permit only upon a finding of non-compliance with this section, (D)(8), or pursuant to an enforcement proceeding under Section III.J., below."*

## **Reporting Requirements**

310 CMR 7.33 (13) requires the BAPCC to submit a annual status report on June 15<sup>th</sup> of each year detailing the progress of each provision of the Parking Freeze, and an updated inventory every third year. The inventory required to be submitted following completion of the CA/T project establishes a new three-year cycle for updating the inventory. Accordingly, DEP requires the BAPCC to submit the first annual report on June 15, 2004. An updated inventory is required on June 15, 2007 or immediately following the completion of the CA/T project, whichever occurs first. In addition, as part of the annual report, DEP requires the BAPCC to include a listing of all New and Modified Parking Permits granted in the previous year and an accounting of the number of parking spaces remaining in the parking freeze bank.

As part of this conditional finding of adequacy on the Parking Freeze Plan, to ensure that the implementation of the South Boston Parking Freeze is supporting air quality goals and long-term planning for South Boston, DEP may, at any time, revise and/or modify the adequacy finding on the Parking Freeze Plan and permitting procedures.