

**COMMONWEALTH OF MASSACHUSETTS**

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**310 CMR 7.00 AIR POLLUTION CONTROL REGULATIONS**

**310 CMR 7.33 MB CITY OF BOSTON/SOUTH BOSTON PARKING FREEZE**

7.33: MB City of Boston/South Boston Parking Freeze

(1) Applicability.

(a) 310 CMR 7.33 is applicable to the Massachusetts Port Authority, the body politic and corporate, created by and existing pursuant to St. 1956, c. 456, as amended, hereafter referred to as Massport. Massport shall be responsible for administering the South Boston Parking Freeze on all Massport owned property.

(b) 310 CMR 7.33 is applicable to the City of Boston which shall be responsible for administering the South Boston Parking Freeze on all lands other than Massport owned property under the authority of the Boston Air Pollution Control Commission (BAPCC). Under M.G.L., c. 111, s. 31C, BAPCC is responsible for administering local air pollution control programs including parking freezes within the geographic and political boundaries of the City of Boston.

(c) 310 CMR 7.33 applies to the parking of motor vehicles in the South Boston Parking Freeze Area. The South Boston Parking Freeze area shall be 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. These geographic areas shall be bounded as follows:

The 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 most edge of the Boston Marine Industrial Park property; then easterly in a straight line to the center point of the Reserved Channel and continuing westerly in a straight line along the Channel to the 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.

The South Boston Industrial/Commercial Zone:

Beginning at the point where Southampton Street meets the railroad tracks and continuing northerly along the 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 of the beginning of the Piers Zone; then following along the southeast boundary line of the Piers Zone to its end point where it meets the imaginary line extending easterly along the center line of the 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 Southampton Street meets the railroad tracks.

The South Boston Residential Zone:

Beginning at the point where Southampton 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 southeasterly 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 O'Day Boulevard; then easterly along O'Day Boulevard to the high water line of Boston Harbor; then along the high water line of Boston Harbor around Castle Island to the point where it meets the rock jetty enclosing Pleasure Bay and continuing along to the point where it meets O'Day Boulevard; then following along O'Day Boulevard in a southwesterly direction to the point where it meets Preble Street and continuing along Preble Street back to the point where Southampton Street meets Dorchester Avenue.

(2) Definition of the Parking Freeze. There is hereby established a freeze 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. No owner, operator or tenant within the South Boston Parking Freeze Area Piers Zone and Industrial/Commercial Zones shall allow for the parking of motor vehicles in excess of the allowed number of motor vehicle parking spaces established by the parking freeze. No person within the South Boston Parking Freeze Area Residential Zone shall allow for the parking of motor vehicles in excess of the allowed number of remote parking spaces established by the parking freeze.

(3) Parking Space Inventory.

(a) Not later than one year from the date 310 CMR 7.33 is first published in the Massachusetts Register, the BAPCC and Massport shall each submit to the Department, an inventory of all existing motor vehicle parking spaces and motor

vehicle parking spaces which were part of any project submitted for review under the Massachusetts Environmental Policy Act process set forth in 301 CMR 11.00 or the Federal Environmental Review Process set forth in 42 U.S.C. 4321 et. seq. as of August 1, 1990 and remote parking spaces for each of their respective areas. Said inventory shall include a map and supportive descriptive material of sufficient detail to identify the type, location, and quantity of motor vehicle parking spaces, including parking spaces for commercial, remote, employee, restricted use, off-peak uses and parking spaces eliminated during the Central Artery/Third Harbor Tunnel project construction, located in the South Boston Parking Freeze Area.

(b) Within 60 days of receipt of said inventory, the Department shall, after review and consultation with interested parties, including but not limited to the BAPCC, Massport, Chairman of the Boston MPO, and the EPA, issue a finding of adequacy or inadequacy in writing. If found adequate, the number of motor vehicle parking spaces and remote parking spaces by zone shall be the Department-certified parking freeze base number for the South Boston Parking Freeze Area.

(c) If found inadequate, the BAPCC and/or Massport, in consultation with the Department, shall have an additional 60 days to resolve the inadequacies. If no agreement is reached, the Department shall, at the end of the second 60 day period, certify a parking freeze base number for the South Boston Parking Freeze Area in writing. If within 60 days of receipt of said initial inventory, the Department has not issued a finding of adequacy or inadequacy, the inventory shall be deemed adequate.

(d) Property Transfers. In the event that Massport acquires any interest in property in the South Boston Freeze area, Massport shall assume responsibility for administering the freeze on the properties acquired and shall amend the Parking Space Inventory submitted pursuant to 310 CMR 7.33(3).

(4) Elimination of Parking Spaces During Central Artery/Third Harbor Tunnel Construction. Motor vehicle parking spaces removed or eliminated permanently during the Seaport Access Road and Third Harbor Tunnel construction project shall be incorporated into the parking space inventory submitted pursuant to 310 CMR 7.33(3).

(5) Establishment of Parking Freeze Banks.

(a) The number of motor vehicle parking spaces in the South Boston Parking Freeze Area will be limited to the base inventory of all motor vehicle parking spaces in each zone. From this base inventory of motor vehicle parking spaces, parking freeze banks shall be created equal to 10% of the base inventory of motor vehicle parking spaces. The Parking freeze banks shall be administered

separately by the BAPCC and Massport and hereafter referred to as the BAPCC Bank and the Massport Bank.

(b) Motor vehicle parking spaces eliminated for use in the South Boston Parking Freeze Area shall be credited to the appropriate parking freeze bank for reallocation and are not privately transferrable.

(6) Parking Freeze Plan.

(a) Not later than one year from the date 310 CMR 7.33 is published in the Massachusetts Register, the BAPCC and Massport shall each submit a plan to the Department, with copies to the Governor, the Boston Metropolitan Planning Organization and the Environmental Protection Agency Region I, a South Boston Parking Freeze plan, developed in coordination and consultation with the Boston Zoning Board of Appeals, the Boston Department of Transportation, the Department and other city and state authorities as may be appropriate which sets forth the procedures by which the South Boston Parking Freeze shall be implemented and enforced and the permitting of parking facilities shall be administered. The plans shall, at a minimum, include the following elements:

1. identification of the city agencies, authorities or entities that will be responsible for the various components of the Freeze and authority and responsibilities of the City entities supporting the implementation and enforcement of each of the components of the South Boston Parking Freeze;
2. a description of modifications needed to local ordinances, rules, regulations and/or policies to enable the city and Massport to implement and enforce the freeze, and a schedule for their adoption;
3. procedures for allocation of motor vehicle parking spaces from the parking freeze banks which includes methods for determining the need for such spaces consistent with street and intersection capacity; consultation procedures between BAPCC and Massport for allocation of spaces; and incentives for High Occupancy Vehicle (HOV) parking;
4. proposed text of amendments to the current BAPCC “Procedures and Criteria for Issuance of Parking Freeze Permits” and similar procedures for Massport. These guidelines shall pertain to the permitting of parking facilities, taking into consideration land use, commitments to specific trip-reduction measures, and the availability of improved transit;
5. A procedure to relocate motor vehicle parking spaces from the South Boston Piers Zone to the South Boston Industrial/Commercial Zone.

6. A procedure to ensure that motor vehicle parking spaces designated as off-peak parking spaces pursuant to 7.33(4) are not being utilized between the hours of 7:30 AM and 9:30 AM. Said procedures shall be enforced by the BAPCC and Massport upon approval by the Department of the Parking Freeze Plan required by 310 CMR 7.33(6).

(b) Within 60 days of receipt of said Parking Freeze Plans, the Department, after review and a non-adjudicatory public hearing shall issue a finding of adequacy or inadequacy, depending upon the results of the review. If within 60 days of receipt of said Parking Freeze Plans, the Department has not issued a finding of adequacy or inadequacy, the Parking Freeze Plans shall be deemed adequate. If found inadequate, the BAPCC and/or Massport, in consultation with the Department, shall have an additional 60 days to resolve the inadequacies. Failure to submit an acceptable Parking Freeze Plan by the end of the second 60 day period may result in the Department issuing a Parking Freeze Plan which the BAPCC and Massport shall proceed to implement and enforce; provided, however that no parking spaces shall be allocated unless a Department-approved or Department-issued Parking Freeze Plan under 310 CMR 7.33 is in effect.

(c) Following approval by the Department, the Parking Freeze Plans and Permitting Procedures shall be implemented and enforced by the BAPCC and Massport.

(7) Off-Peak Parking.

(a) A minimum of 10% of the existing motor vehicle parking spaces available in the South Boston Piers Zone shall be designated for use as off-peak parking spaces and shall not be open for entering customers between 7:30 AM and 9:30 AM. At the opening of service of the South Boston Transitway, 20% of the existing motor vehicle parking spaces available in the South Boston Piers Zone shall be designated for use as off-peak parking spaces and shall not be open for entering customers between 7:30 AM and 9:30 AM.

(8) Completion of Central Artery/Third Harbor Tunnel.

(a) At such time that 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 BAPCC and Massport to the Department following the procedures in 310 CMR 7.33(2). Following Department re-certification of the parking freeze number for the South Boston Piers Zone, 10% of the inventory of motor vehicle parking spaces shall be added to the BAPCC bank in the South Boston Piers Zone. Nothing in 310 CMR 7.33(8) shall prohibit the Department from requiring Massport and/or BAPCC to submit an updated inventory at any time prior to the opening of the Central Artery/Third Harbor Tunnel Project.

(9) Restricted Use Parking.

(a) Restricted Use parking may only be provided in the parking freeze area administered by the BAPCC in the South Boston Piers Zone or the South Boston Industrial/Commercial Zone for up to ten days per year on the conditions of this section. Massport is prohibited from providing restricted use parking in the South Boston Freeze area for any purpose. The provision of restricted use parking shall require substantial documentation including demand management plans and programs to be provided to the Department by the BAPCC to explain such use and to document how such use will be avoided in the future. The documentation requirements will be detailed by the BAPCC in the "Procedures and Criteria for Issuance of Parking Freeze Permits".

(b) Restricted use parking spaces shall be subject to the following monitoring and reporting provisions:

1. On December 31 of each calendar year BAPCC shall submit to the Department a letter containing an estimate of the number of days and dates on which the BAPCC 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;

2. BAPCC 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 describing actual dates, locations, and numbers of restricted use parking spaces used in the preceding calendar year.

(c) Should the actual number of days when restricted use parking spaces is invoked by the BAPCC exceed six days by July 1 of any year, BAPCC shall submit to the Department on or before August 1, a report outlining strategies the BAPCC commits to undertake during the remainder of the calendar year so as not to have to invoke the use of the of restricted use parking spaces more than the four additional days that calendar year.

(d) Should the BAPCC invoke the use of restricted use parking spaces for more than ten days during the calendar year, BAPCC shall submit to the Department, on or before March 1 of the following year, a report containing:

1. an explanation of why the ten day limit on the use of restricted use parking spaces was exceeded;

2. a determination of whether this exceedance was temporary or may be expected to continue into future years and technical support for this determination;

3. a projection of future need to use restricted use parking spaces in terms of the number of days and the number of spaces;
4. a plan and a schedule for initiating actions which will reduce the projected need identified in 310 CMR 7.22(3);
5. a commitment from BAPCC to implement the identified actions.

(10) Relocation of Parking Spaces. Relocation of motor vehicle parking spaces is not allowed into the South Boston Residential Freeze Zone or into the Industrial/Commercial Freeze Zone from the South Boston Freeze Piers Zone. To ensure greater flexibility in land use planning and development, a procedure shall be developed by the BAPCC and Massport, which will enable the relocation of motor vehicle parking spaces from the South Boston Piers Zone to the South Boston Industrial/Commercial Zone.

(11) Remote Parking:

(a) Additional remote parking spaces over and above the existing remote parking space inventory established in the parking space inventory approved by the Department pursuant to 310 CMR 7.33(3) shall not be allowed or permitted in the South Boston Parking Freeze Area. Remote parking facilities already in use upon the effective date of 310 CMR 7.00 shall be allowed to continue.

(b) Remote parking spaces which are eliminated for any purpose shall not be transferred to other owners, operators or tenants within the South Boston Freeze Area and shall return to the BAPCC Bank and Massport Bank for reallocation as motor vehicle parking spaces.

(12) “Procedures and Criteria for Issuance of Parking Freeze Permits”

(a) Two years from the date 310 CMR 7.33 is published in the Massachusetts Register, the BAPCC shall amend the existing “Procedures and Criteria for Issuance of Parking Freeze Permits”, and submit these amendments to the Department for review and approval.

(b) Two years from the date 310 CMR 7.33 is published in the Massachusetts Register, Massport shall submit procedures and criteria for issuance of parking freeze permits to the Department for review and approval. Such procedures shall contain a process by which Massport shall consult with the BAPCC prior to allocating motor vehicle parking spaces from the Massport Bank, and shall provide BAPCC with a period of up to 30 days to comment on any proposed allocation of motor vehicle parking spaces from the Massport Bank. Massport shall respond in writing to any comments from BAPCC which Massport does not accept.

(13) Record Keeping and Reporting.

(a) On or before June 15 of each year following submission of the parking freeze inventory pursuant to 310 CMR 7.33(3), BAPCC and Massport shall each submit a report to the Department and EPA Region I detailing the progress and status of each provision of 310 CMR 7.33 during the preceding calendar year.

(b) Every third year following the promulgation of the regulation, the annual status report submitted to the Department shall include an updated inventory of parking spaces in the South Boston Parking Freeze Area. The inventory conducted immediately following the completion of the Central Artery/Third Harbor Tunnel project shall establish a new three year reporting cycle.

(c) Copies of local ordinances adopted or modified in support of the South Boston Parking freeze shall be submitted to the Department as they become effective.

(14) Prohibitions. In the event the BAPCC and/or Massport fails to submit “Procedures and Criteria for Issuance of Parking Freeze Permits” by the date required pursuant to 310 CMR 7.33(12) or fails to follow a procedure once approved, no person shall develop motor vehicle parking spaces regulated herein until such time that a parking freeze permit is obtained in accordance with a permit program adopted under 310 CMR 7.33.

(15) Enforcement.

(a) The Department may enforce this section under applicable law.

(b) The Department may enforce any requirement of 310 CMR 7.33, including but not limited to, the requirements of any Department approved parking freeze plan or parking freeze permit procedures adopted by BAPCC or Massport to satisfy the requirements of this section in the event the BAPCC or Massport fail to do so.

(c) The failure of BAPCC or Massport to adequately comply with the requirements of the section may be cause for the Department to make a finding of nonconformity under Section 176(c) of the Clean Air Act Amendments of 1990, 42 U.S.C. 7506(c).