

Public Parking Facilities

Section 231:114

231:114 Findings and Declaration of Necessity. – It is hereby found and declared:

I. That the free circulation of traffic of all kinds through the streets of the municipalities of this state is necessary for the rapid and effective fighting of fires, disposition of police forces, and transit of other emergency vehicles in said municipalities for the health, safety, morals and general welfare of the public, whether residing in or traveling to, through or from said municipalities in the course of lawful pursuits as well as for the sound economic development of such municipalities;

II. That in recent years the parking of motor vehicles of all kinds on the streets of said municipalities has so substantially impeded such free circulation of traffic as to constitute at the present time a public nuisance endangering the health, safety, morals and welfare of the general public, as well as endangering the economic life of said municipalities;

III. That such traffic congestion cannot be adequately abated except by provisions for sufficient off-street parking facilities; and that the enactment of laws to so provide off-street parking facilities is therefore a necessity in the public interest.

IV. That sufficient public funding sources are available to support construction, repair, renovation, and operating expenses for public parking facilities.

Source. RSA 252-A:1. 1969, 493:1. 1981, 87:1, eff. April 20, 1981.

Section 231:115

231:115 Definitions. – Terms used in this subdivision shall have the meanings set forth below, unless a different meaning is clearly apparent from the language or context, or is otherwise inconsistent with the manifest intention of this subdivision:

I. "Public parking facilities" shall mean any lots, garages, parking terminals and other structures of one or more levels, facilities and accommodations for the parking of motor vehicles off the street or highway and open to public use with or without charge and all facilities appurtenant thereto including ancillary waiting rooms, lockers, space for concessions, stores, and offices, terminal facilities for trucks and buses, facilities for the servicing of motor vehicles and for the sale of gasoline, oil and other accessories; and said term shall include structures over or under other structures which other structures may be owned by or leased to a person or corporation and used in whole or part for other than municipal purposes; and said term shall also include streets and ways constructed for access to or egress from such public parking facilities.

II. "Cost of construction" shall mean and include the purchase price of any public parking facility, the cost of construction, the cost of all labor, materials, machinery and equipment, the cost of improvements, the cost of all lands, property, rights, easements and franchises acquired, financing charges, interest prior to and during construction, cost of plans and specifications, surveys and estimates of cost and of revenues, cost of engineering and legal services, and all other expenses necessary or incident to determining the feasibility or practicability of such construction administrative expense and such other expenses as may be necessary or incident to the financing herein authorized.

III. "Operating expenses" shall mean and include any costs related to the maintenance, operation and repair of public parking facilities and shall include, without limiting the generality of the foregoing, ordinary and usual expenses of maintenance and repair, engineering expenses relating to operation, maintenance and repair, insurance premiums after completion of construction, administrative and legal expenses after such completion and the reasonable cost of policing public parking facilities. ***Operating costs shall also include, but not be limited to, expenses associated with labor, materials, supplies, services provided by contractors and vendors, administrative and management, overhead, monies dedicated to capitalization of reserve accounts, as well as costs associated with enforcement of regulations for public parking facilities.***

IV. "Municipality" or "municipalities" shall include any city or town in the state.

V. "Legislative body" shall mean the town meeting in towns and the mayor and aldermen in cities.

VI. "Governing board" shall mean the selectmen in towns and the mayor and aldermen in cities.

VII. "Repair" shall mean the repair, reconstruction, renovation, replacement or other improvements to an existing public parking facility.

Source. RSA 252-A:2. 1969, 493:1. 1971, 512:10. 1981, 87:1. 1993, 169:2, eff. July 23, 1993.

Section 231:116

231:116 Plan. –

I. When the legislative body of any municipality finds that the public health, safety, morals and general welfare so requires, it may undertake to study the question of providing public parking facilities. For the purpose of such study said legislative body may appoint or authorize its governing board to appoint an investigative and planning board or may contract with private planners or developers which investigative and planning board or private party shall study the parking needs and conditions in said municipality and shall propose a plan for providing one or more public parking facilities; and said legislative body may appropriate such sums of money as are reasonably necessary therefor. ***In addition to developing a plan for the construction of public parking facilities, a municipality may also commission a plan for the repair of existing public parking facilities, as well as the operation and maintenance of such existing facilities.***

II. The plans referred to in paragraph I of this section, in addition to providing a detailed proposal for the construction ***or repair*** of one or more public parking facilities shall show that there is a need for ***[public parking facilities] such undertakings, [that the facilities proposed therein are proposed with respect to that need],*** and shall include an estimate of construction costs and operating expenses and the method of financing and paying the same. Any such plan ***[shall] may*** provide that construction costs or operating expenses ***[shall]*** be raised by assessments as provided in RSA 231:120, and ***under this option*** the plan shall so indicate and shall determine the boundaries of any prescribed area within which special benefit assessments shall be levied, which area may, but need not be, coterminous with the municipality. ***[No such plan shall be adopted unless it provides that at least 50 percent of the construction costs and operating expenses shall be raised by assessments upon the owners or lessees of leasehold interests whose lands receive special benefits therefrom and such plan shall also provide that no more than 25 percent of such construction costs and operating expenses shall be raised from general revenues***

~~and no more than 25 percent of such construction costs and operating expenses shall be raised from motor vehicle permit fees as provided in RSA 261:154.]~~ ***Additionally, such plan may provide that the construction, repair, operating, or maintenance expenses be raised from motor vehicle registration permit fees as provided in RSA 261:154.***

III. The legislative body of a municipality may adopt the proposed plan with or without amendment and proceed with the construction of the public parking facilities. Nothing herein shall be construed to prevent the municipality from thereafter changing or amending the plan upon a finding by the legislative body that the public interest requires such change or amendment.

Source. RSA 252-A:3. 1969, 493:1. 1981, 87:1, eff. April 20, 1981; 146:5, XIII, eff. Jan. 1, 1982; 146:7, V, eff. May 22, 1981.

Section 231:117

231:117 Construction, Maintenance, Repair, and Operation. – Pursuant to a plan adopted under RSA 231:116 a municipality is empowered, subject to the fiscal and other pertinent requirements of law:

I. To construct, ***repair, and maintain public parking facilities,*** or contract for the construction of public parking facilities and shall have the right to acquire or agree to acquire when completed in the name and on behalf of the municipality, public parking facilities being constructed or to be constructed as part of a structure which when completed may include facilities to be used for other than municipal purposes and to participate or agree to participate in the construction of such public parking facilities and to make payments on account of such construction; provided, however, that no such acquisition or agreement to acquire or participation or agreement to participate in such construction shall be permitted except with respect to public parking facilities to be constructed on land or air rights owned by or under lease to the municipality for a period of not less than 40 years from the date on which such facilities are to be constructed or acquired. Subject as aforesaid, municipality is empowered to equip, maintain and operate such facilities;

II. To establish and collect reasonable off-street parking fees; to control, manage and operate such other facilities as are contained in any building or upon any property in or upon which public parking facilities are provided;

III. To adopt rules and regulations governing the operation of public parking facilities;

IV. To ***operate public parking facilities*** or lease the operation of public parking facilities to any individual, firm or corporation as the public interest may warrant.

Source. RSA 252-A:4. 1969, 493:1. 1981, 87:1, eff. April 20, 1981.

Section 231:118

231:118 Eminent Domain. – If the legislative body of a municipality which has adopted a plan as described shall determine to acquire pursuant to said plan any real property or interest therein, including air rights, necessary for or incidental to the construction, maintenance or operation of public parking facilities, it may proceed to take such real property or interest therein by an exercise of the power of eminent domain in the same manner as provided in this chapter, or it may exercise the power of eminent domain in the manner provided by any other applicable statutory provisions for the exercise thereof.

Source. RSA 252-A:5. 1969, 493:1. 1981, 87:1, eff. April 20, 1981.

Section 231:119

231:119 Borrowing Power. – Municipalities may finance the construction of public parking facilities by issuing bonds or notes, which bonds or notes shall conform to and be issued in accordance with the provisions of RSA 33 insofar as the same may be applicable. All such bonds or notes shall be issued for public parking facilities pursuant to a plan as provided in this subdivision which provides that an amount equal to at least 50 percent of the principal of such bonds or notes are to be assessed as provided in this subdivision, raised by motor vehicle permit fees as provided in RSA 261:154, or funded from the revenues of the parking system, or any combination thereof, shall at no time be included in the net indebtedness of the municipality for the purpose of ascertaining its borrowing capacity.

Source. RSA 252-A:6. 1969, 493:1. 1981, 87:1, eff. April 20, 1981; 146:5, XIV, eff. Jan. 1, 1982; 146:7, V, eff. May 22, 1981.

Section 231:120

231:120 Levying Assessments for Public Parking Facilities. –

I. The assessors of any municipality which has constructed public parking facilities *whereby said construction, maintenance, or operating costs are financed by assessments upon owners of real property shall*, upon direction from the legislative body and in accordance with the plan adopted, ~~shall~~ assess in the manner provided in paragraph II of this section upon the owners or lessees of leasehold interests, whose lands receive special benefits therefrom, their just share of the cost of construction of the same. All assessments thus made shall be valid and binding upon the owners or lessees of such land. The funds collected from assessments shall be used solely for the construction of public parking facilities or for the redemption of bonds or notes issued by the municipality to obtain funds for the construction of public parking facilities, including funds paid to a housing authority for the construction of public parking facilities.

II. The plan may provide that assessments shall be made:

(a) At one time and assessments so made may be prorated over a period not exceeding the number of years which the plan shall provide to defray the construction costs of the public parking facilities; or

(b) From year to year upon the owners or lessees of leasehold interests at the time such assessment is made, their just proportion of the construction costs which shall become due in that year, including the amount of principal and interest due during the year on any bonds or notes issued to provide funds to pay such construction costs.

Source. RSA 252-A:7. 1969, 493:1. 1981, 87:1, eff. April 20, 1981.

Section 231:121

231:121 Basis of Assessment. – *To the extent that assessments are used to finance the construction, repair, or operation of public parking facilities, said* ~~assessments~~ ^[A] assessments shall be levied according to a formula which shall be set forth in the plan and which shall be reasonable

and proportional to the benefits conferred upon the land or leasehold interest upon which such assessment is laid. Such formula may, but need not necessarily, be based on the number of off-street parking spaces required to be furnished by owners of land under any lawful zoning ordinances or bylaw in effect or which may be adopted by the municipality. If the formula based on a zoning ordinance requirement of off-street parking is used, the plan may provide for credit to those owners or lessees who have erected or constructed private parking structures, but need not provide credit for private parking lots.

Source. RSA 252-A:8. 1969, 493:1. 1981, 87:1, eff. April 20, 1981.

Section 231:122

231:122 Assessment for Operating Expenses. – In order to defray the costs of the operation and maintenance of such public facilities, the assessors may assess upon the owners and lessees whose land is benefited by such public parking facilities their just share of the annual operating expenses of the same. The assessors may establish a scale of assessments and prescribe the manner in which and the time at which such assessments are to be paid and to change such scale from time to time as may be deemed advisable.

Source. RSA 252-A:9. 1969, 493:1. 1981, 87:1, eff. April 20, 1981.

Section 231:123

231:123 Special Account. – The funds received from the collection of assessments provided in RSA 231:122 shall be deposited by the treasurer of the municipality in a special account which in any fiscal year shall be used only to pay the operating expenses of the public parking facilities. Any surplus in such account at the end of the fiscal year may be used for the enlargement or replacement of the public parking facilities but shall not be used for any other purpose than those above specified.

Source. RSA 252-A:10. 1969, 493:1. 1981, 87:1, eff. April 20, 1981.

Section 231:124

231:124 Lien for Assessment or Rentals. – All assessments under the provisions of RSA 231:120 and 122 shall create a lien upon the lands on account of which they are made, which shall continue until one year from October 1 following the assessment, and, in case an appeal has been taken and the assessment has been sustained in whole or in part upon such appeal, until the expiration of one year from such decision, whichever is later. Such assessments shall be subject to the interest and such other charges as are applicable to delinquent taxes. In the event that the assessments are payable over a period of years, then the assessment shall be prorated on an annual basis and the lien on said lands shall attach annually.

Source. RSA 252-A:11. 1969, 493:1. 1981, 87:1, eff. April 20, 1981.

Section 231:125

231:125 Collection of Assessments. – Assessments provided in RSA 231:120 and 122 shall be committed to the collector of taxes, with a warrant under the hands and seal of the assessors requiring him to collect them; and he shall have the same rights and remedies and be subject to the same liabilities in relation thereto as in the collection of taxes.

Source. RSA 252-A:12. 1969, 493:1. 1981, 87:1, eff. April 20, 1981.

Section 231:126

231:126 Abatement of Assessments. – For good cause shown, the assessors may abate any such assessment made by them or by their predecessors.

Source. RSA 252-A:13. 1969, 493:1. 1981, 87:1, eff. April 20, 1981.

Section 231:127

231:127 Petition to Court. – If the assessors neglect or refuse to abate any such assessments, any person aggrieved may apply by petition to the superior court for relief at any time within 90 days after notice of the assessment, and not afterwards; and the court shall make such order thereon as justice may require.

Source. RSA 252-A:14. 1969, 493:1. 1981, 87:1, eff. April 20, 1981.

Section 231:128

231:128 Correction of Assessments. – If any error is made in any such assessment it may be corrected by the assessors by making an abatement and a new assessment, or either, as the case may require; and the same lien, rights, liabilities and remedies shall attach to the new assessment as to the original.

Source. RSA 252-A:15. 1969, 493:1. 1981, 87:1, eff. April 20, 1981.

Section 231:129

231:129 Optional Referendum; Two-Thirds Vote of Legislative Body. –

I. Referendum. If the legislative body of a municipality affected by this subdivision desires to place the question of approving a plan formulated pursuant to this subdivision on a referendum, they may do so at any regular municipal election or at a special election called for the purpose. Should a referendum be held, the following question shall be submitted "Shall the legislative body of the city of () be instructed to approve the plan submitted to it concerning the construction of parking facilities?" The legislative body shall be bound by the outcome of the referendum.

II. Two-Thirds Vote. If the legislative body should decide not to place the question of

approving a plan formulated pursuant to this subdivision on a referendum, a 2/3 vote of the entire membership of the legislative body shall be necessary in order to approve such plan.

Source. RSA 252-A:16. 1969, 493:1. 1981, 87:1, eff. April 20, 1981.

Parking Meters

Section 231:130

231:130 Power to Install. – The city council of any city shall have the power to authorize the installation of parking meters on any street or public parking area and the power to establish reasonable charges for parking to be paid through such meters and the powers to make any incidental use of such meters for advertising as may be desirable, provided such use does not interfere with the regulation and control of traffic. Towns likewise may at any legal meeting vote to authorize the installation of parking meters and establish reasonable charges for parking to be paid through such meters and shall have the power to make any incidental use of such meters for advertising as may be desirable, provided such use does not interfere with the regulation and control of traffic.

Source. 1947, 74:1. 1951, 172:1. RSA 249:1. 1981, 87:1, eff. April 20, 1981.

Section 231:130-a

231:130-a Notification of Unpaid Fines. –

I. The legislative body of any municipality may adopt the provisions of this section. Each municipality which does so shall:

(a) Maintain a record in the office of the town or city clerk which shall contain a listing of all residents of such municipality who have outstanding parking violations incurred in municipalities which have adopted the provisions of this section.

(b) Notify the town or city clerk of any other municipality which has adopted the provisions of this section of any outstanding parking violations incurred by residents of such municipality within the limits of the notifying municipality.

(c) Notify the town or city clerk of any municipality which has adopted the provisions of this section of the payment of any outstanding parking violations incurred by residents of such municipality within the limits of the notifying municipality. Such action shall be taken within 10 days of the payment of the outstanding violation.

II. The town or city clerk of each municipality which has adopted the provisions of this section shall update and keep readily available the records required by RSA 231:130-a, I(a), in order that such records may be consulted at such time as residents of such municipalities apply for permits for the registration of motor vehicles pursuant to RSA 261:148.

III. The town or city clerk may provide the notifications permitted by subparagraphs I(b) and I(c) to electronic vehicle registration integrators operating under an agreement with the department of safety pursuant to RSA 261:74-s.

Source. 1987, 253:2, eff. July 17, 1987. 2011, 198:2, eff. June 15, 2011.

Section 231:131

231:131 Revenue. – The revenue derived from the use of such meters shall be expended to finance the purchase, maintenance and policing of such meters or to maintain and improve streets and highways, or to acquire, construct, improve, maintain and manage public parking areas and public transportation systems, or for any combination of the foregoing purposes, but for no purpose not expressly authorized in this section.

Source. 1947, 74:2. RSA 249:2. 1981, 87:1. 1993, 14:1, eff. May 25, 1993.

Section 231:132

231:132 Exeter Police Commission. – The police commission of the town of Exeter shall have the same powers as are granted to city councils of cities under the provisions of RSA 231:130. The provisions of RSA 231:130 requiring authorization of the installation of parking meters and of the fixing of reasonable charges by vote at a legal town meeting shall not apply to the town of Exeter. The provisions of RSA 231:131 shall apply to the town of Exeter.

Source. 1947, 74:3. RSA 249:3. 1981, 87:1, eff. April 20, 1981.

Section 231:132-a

231:132-a Parking Enforcement Provisions. – Notwithstanding any other provision of law, a municipality which installs parking meters pursuant to RSA 231:130, or which establishes other parking restrictions pursuant to RSA 41:11 or 47:17, or which seeks to enforce the stopping, standing and parking restrictions set forth in RSA 265:68-74, may utilize the following provisions in the enforcement of such parking restrictions and parking charges established through parking meters:

I. All violations of such parking restrictions and charges shall be deemed the responsibility of the registered owner of the vehicle. Such registration may be proven as set forth in RSA 261:60. Such registered owner shall be conclusively presumed to be in control of the vehicle at the time of the parking violation, and no evidence of actual control or culpability need be proved as an element of the offense. It shall be an affirmative defense that at the time of the infraction the vehicle was beyond the control of the registered owner as a result of a violation of RSA 262:12, 637:3 or 637:9 or a similar statute in another jurisdiction.

II. Municipalities may establish, by ordinance, systems for the administrative enforcement of parking violations and collection of penalties, to be utilized prior to the service of a formal summons and complaint. Such a system may be administered by a police department or other municipal agency. Such a system may include opportunities for persons who do not wish to contest parking violations to pay such penalties by mail. Such a system may also provide for a schedule of enhanced penalties the longer such penalties remain unpaid; provided, however, that the penalty for any separate parking offense shall in no case exceed the maximum penalty for a violation as set forth in RSA 651:2.

III. A written notice of violation containing a description of the parking offense and any applicable schedule of penalties, affixed to the vehicle at the time of the offense, shall be deemed adequate service of process on the vehicle owner for purposes of any administrative enforcement

system established under paragraph II.

IV. If the administrative enforcement system established under paragraph II is unsuccessful at resolving alleged parking violations, or in the case of municipalities which have not established such a system, a summons may be issued as in the case of other violations of RSA title XXI, including the use of the procedure for plea by mail set forth in RSA 502-A:19-b.

Notwithstanding any other provision of law, a complaint and summons for a parking offense may be served upon the defendant by postpaid certified mail, return receipt requested. Return receipt showing that the defendant has received the complaint and summons shall constitute an essential part of the service. If service cannot be effected by certified mail, then the court may direct that service on the defendant be completed as in other violation complaints.

Source. 1993, 339:1, eff. Aug. 30, 1993.

Section 231:132-b

231:132-b Alternate Revenues to Support Installation, Operation, Maintenance, and Enforcement of Parking Meters. – A municipality which installs parking meters pursuant to RSA 231:130, or which establishes other parking restrictions pursuant to RSA 41:11 or 47:17, or which seeks to enforce the stopping, standing and parking restrictions set forth in RSA 265:68-74, is hereby empowered to use revenues raised from motor vehicle permit fees as provided in RSA 261:154 to supplement the cost of installation, replacement, repair, maintenance, administration, and operation of parking meters or other parking control devices and equipment, including the cost of enforcement for such meters or other parking control devices or equipment. It is hereby found and declared that it is within the economic development interests of the State to allow municipalities to employ alternate sources of revenues to support the cost of installation, replacement, repair, administration, enforcement, operation, and maintenance of parking meters or other parking control devices and equipment so as municipalities may establish reasonable charges for parking that will not unduly discourage commerce and activity within downtowns and commercial centers.