

Chapter 844.

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Seventy

AN ACT RELATING TO PARKING FACILITIES IN THE CITY OF CAMBRIDGE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. It is hereby declared that the free circulation of traffic on and through the streets of the city of Cambridge is necessary for the rapid and effective fighting of fires and disposition of police forces in said city and for the health, safety and general welfare of the public, whether residing in said city or traveling to, through or from said city in the course of lawful pursuits; that in recent years the parking of motor vehicles in the streets of said city has so substantially impeded such free circulation of traffic as to constitute a public nuisance endangering the health, safety and welfare of the general public, as well as endangering the economic life of said city; that this parking nuisance is not capable of being adequately abated except by provision for conveniently located off-street parking facilities available to the public at reasonable cost; and that the establishment of sufficient public off-street automobile parking facilities within the city of Cambridge is a desirable and proper public and municipal purpose.

SECTION 2. As used in this act, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

"Bond", a bond or note issued hereunder for the purpose of financing a parking facility or parking system or portion thereof.

"City", the city of Cambridge.

"City council", the city council of the city of Cambridge.

"City manager", the city manager of the city of Cambridge.

"Construction", includes both construction and acquisition and the term "to construct" means and includes both to construct and to acquire.

"Cost of construction" and "cost", the cost of construction, improvement and acquisition of all lands, air rights, structures, rights-of-way, franchises, easements and other property rights and interests; the cost of demolishing, removing or relocating any buildings, structures or utilities on lands acquired or to be acquired, including the cost of acquiring any lands to which such buildings, structures or utilities may be moved or relocated; costs incurred for reimbursement or compensation for the reasonable moving expenses necessarily incurred and any actual, direct loss of property, except good will or profit, suffered by individuals, families, business concerns and nonprofit organization resulting from displacement reasonably required in connection with the construction or improvement of a parking facility or parking system or portion thereof; the cost of all labor, materials, machinery and equipment; interest on bonds prior to and during construction and for a period of not exceeding one year after completion thereof; the cost of engineering, architectural, financial and legal services, plans, specifications, studies, surveys, estimates of costs and of revenues and other expenses necessary or incidental to determining the feasibility or practicability of constructing a parking facility or parking system or portion thereof; administrative expenses and such other expenses as may be necessary or incidental to the construction or improvement of a parking facility or parking system or portion thereof, the financing thereof, placing the same in operation, and the issuance of bonds.

"Current expenses", the amount of reasonable and necessary current expenses in maintaining, repairing and operating any parking facility or parking system and shall in any event include, without limiting the generality of the foregoing, ordinary and usual expenses of maintenance and repair, including expenses not annually recurring, engineering expenses relating to operation and maintenance, insurance premiums after completion of construction, administrative and legal expenses after such completion, the reasonable costs of policing the parking facility or

system which may be expressed as a specified amount or percentage of parking fees from parking meters on public ways included in such system to be paid to the city treasurer and used to meet the cost of police supervision and any other expenses accruing after completion which are required to be paid by law.

"Federal agency", the United States of America, the President of the United States of America, and any department of or corporation, agency or instrumentality heretofore or hereafter created, designated or established by the United States of America.

"Fees", and "fees and other revenue", any fees, revenue or receipt of payment in exchange for the use, rental or lease of a parking facility or parking system or any part thereof.

"Improvement", reconstruction, remodeling, rehabilitation, extension, enlargement and improvement, and the term "to improve" includes "to reconstruct", "to remodel", "to rehabilitate", "to extend" and "to enlarge".

"Parking fund", the special fund of the city of Cambridge created pursuant to section three of this act.

"Parking facility", any land or any interest therein, structure or portion thereof, and improvements thereon, either single or multi-level and either at, above or below the surface, intended entirely or primarily for the off-street parking of motor vehicles, by the public, either with or without charge, and facilities incident to the operation of such properties for the parking of motor vehicles, including without limitation ancillary waiting rooms, lockers, space for concessions, offices, terminal facilities for buses or other vehicles used for public transportation, facilities for servicing motor vehicles and for the sale of gasoline, oil and other accessories, and all facilities appurtenant thereto and all property, rights, easements and interests relating thereto deemed necessary for the construction or operation thereof.

"Parking system", any parking facility or parking facilities, together with any public way or public parking area designated by the director of traffic and parking of the city as constituting part of such system, on which parking meters have been or may be installed or from which fees or charges have been or may be collected for the parking of motor vehicles.

SECTION 3. There may be established by the city of Cambridge a special fund, to be designated the parking fund, into which shall be deposited all fees and other revenue derived from or incident to the operation of parking facilities or parking systems or portions thereof, and any sums, including receipts from fines for parking violations, which the city council may appropriate to the parking fund. Moneys in the parking fund shall be expended only for (1) current expenses, (2) payment of the interest on and principal of bonds or notes issued hereunder, (3) the redemption price, including premium if any, of any bonds called for redemption pursuant to section eight, (4) administrative expenses incident to the purposes of this act, (5) the cost of construction of new parking facilities or parking system or portion thereof, or (6) any other expenses incurred pursuant to or in connection with the exercise of any of the powers granted under this act.

SECTION 4. The city manager is hereby authorized and empowered in the name and on behalf of the city:

(a) subject to appropriation of any necessary funds by the city council and to the other provisions of this act, to plan, design, acquire, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain and operate parking facilities and to lease parking facilities, either as lessee or lessor, wherever and to the extent that he deems such facilities to be necessary or desirable in the city, including such municipally owned or operated parking facilities as now exist, or hereafter may be constructed;

(b) subject to appropriation of any necessary funds and the approval of the city council, to acquire by purchase, gift or by eminent domain under chapter seventy-nine, seventy-nine A or chapter eighty A of the General Laws, or by lease, or otherwise, real property or any interest therein or water rights or air rights necessary for or incident to the acquisition, construction, improvement, reconstruction, enlargement or operation of parking facilities and to acquire such personal property as he may deem necessary in connection therewith;

(c) with the approval of the city council, to sell, lease, exchange or otherwise dispose of property and property rights acquired under this act, as the public interest may warrant; provided that no such lease shall be for a period, which exceeds twenty years, and that no more than twenty per cent of the floor area, exclusive of ramps or approaches, of any parking facility may be leased or used for any purpose other than parking, and that every lease shall contain, where applicable, schedules of maximum rates to be charged by the lessee for the use by the public of the property thereby demised, and also regulations with respect to the use, operation and occupancy of such property;

(d) to fix and revise from time to time and to collect rates, fees and other charges for the use of or for the services and facilities furnished by any parking facility or parking system within his jurisdiction, control or supervision and, subject to the provisions of any applicable lease, resolution or trust agreement, to control, manage and operate such other facilities as are contained in or upon any property in or upon which parking facilities are provided;

(e) subject to section two of chapter eighty-five of the General Laws, to make and enforce such rules and regulations as may be necessary or desirable for the efficient operation of any parking facility or parking system within his jurisdiction, control and supervision and for accomplishing the purposes of this act;

(f) subject to appropriation of any necessary funds by the city council and to chapter thirty, section twenty-nine of chapter forty-three and chapter one hundred forty-nine of the General Laws and to other provisions of this act, but notwithstanding any provision contained in the city charter to the contrary, in the name and on behalf of the city, to make and enter into all contracts and agreements and to employ such consulting and other engineers, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents as he may deem necessary or incidental to the performance of his powers under this act;

(g) to exercise jurisdiction, control and supervision over any parking facility or parking system within the city;

(h) to enter into contracts with any federal agency or with the commonwealth or any agency or instrumentality thereof, or with any other city, town, or district, private corporation, partnership, association or individual providing for or relating to any parking facility or parking system under his jurisdiction, control or supervision;

(i) to accept from any agency of the commonwealth or federal government loans or grants for the planning, construction or acquisition of a parking facility or part thereof and to enter into agreements with such agency respecting any such loans or grants, and to receive and accept aid and contributions from any source of either money, property, labor or other thing of value, to be held, used and applied only for the purposes for which such loans, grants and contributions may be made.

SECTION 5. (a) No lease or contract for the maintenance and operation of a parking facility for more than one year shall be awarded under this act unless proposals for the same shall have been invited by advertisement in at least one daily newspaper published or distributed in the city, once a week for at least three consecutive weeks, the last publication to be at least seven days before the time specified for the opening of said proposals, and then only to the highest responsible bidder as determined by the city manager. Such advertisements shall state the term of the lease or contract, the place where plans and specifications, if any, may be examined, and the time and place for opening the proposals in answer to such advertisements, and shall reserve to the city manager the right to reject any or all proposals. All proposals shall be opened in public. Every lease or contract made, as aforesaid, shall be accompanied by a bond with sureties satisfactory to the city manager, or by a deposit of money, certified check, or other security for the faithful performance thereof, and such bond or other security shall be deposited with the city treasurer until the lease has been carried out in all respects.

(b) Every proposal under this section shall be accompanied by cash or a certified check on, or a certificate of deposit issued by, a bank or trust company, payable to the city in such amount as the city manager may prescribe, provided, that the city manager may, at his option, prescribe and receive a bid bond in a form satisfactory to him in lieu of cash, certified check or certificate of deposit. All such bid deposits, except those of the three highest responsible and eligible bidders, shall be returned within five days, Saturdays, Sundays and holidays excluded, after the opening of proposal therefor. All bid deposits shall be returned upon the execution and delivery of the lease or contract, or, if no lease or contract is made, then at the expiration of ninety days after the opening of the bids therefor. Should any bidder to whom an award is made fail to enter into a lease or contract within such time as the city manager may fix, the amount so received from such bidder through his cash, certified check, bid bond or certificate of deposit as hereinbefore in this section provided shall become and be the property of the city as liquidated damages; provided, that in case of death, disability, bona fide clerical or mechanical error of a substantial nature, or other unforeseen circumstances affecting the bidder, such cash, certified check, bid bond or certificate of deposit may in the discretion of the city manager be returned to him.

SECTION 6. All amounts received from contracts or leases under this act or as a result of failure of faithful performance required in any such contract or lease shall, except as otherwise required by law, by the provisions of this act, be credited to the parking fund of the city and may be applied in accordance with the provisions of this act.

SECTION 7. The city shall not be assessed any tax upon any parking facility or parking system or part thereof, or upon the income therefrom, and the bonds issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the commonwealth, but nothing in this act contained shall exempt any lessee or person in possession of a parking facility or part thereof or the property leased or possessed from taxes or assessments payable under the General Laws.

SECTION 8. For the purposes of this act, the city may from time to time issue bonds or notes in an amount not to exceed, in the aggregate, four million dollars, which bonds or notes shall bear on their face the words, City of Cambridge, Parking Facilities Loan, Act of 1970. Each authorized issue shall constitute a separate loan, and such loans shall be payable in not more than twenty years from their dates. Debt incurred from time to time under this act shall be within the statutory limit of indebtedness prescribed in section ten of chapter forty-four of the General Laws, and shall, except as herein provided, be subject to other provisions of said chapter forty-four, exclusive of the limitation contained in the first paragraph of section seven thereof.

The city treasurer, with the approval of the city manager and the city council, may provide that any authorized issue of bonds issued under this act shall be redeemable before maturity, at the option of said treasurer with such approval, at such price or prices and under such terms and conditions as may be determined prior to the issuance of such bonds. No bonds shall be called for redemption before maturity unless funds sufficient to pay the principal thereof plus any redemption premium payable thereon and all interest accrued to the date fixed for redemption have been appropriated and are then available for said purposes or unless the city council has provided for the issuance of refunding bonds therefor as hereinafter authorized. The city council may provide for the issuance of refunding bonds of the city for the purpose of refunding at or prior to maturity any bonds issued under this act and then outstanding, including the payment of any redemption premium thereon, provided that any such refunding bonds shall be payable not later than twenty years from the date of the bonds being refunded thereby and provided further that the amount of such refunding bonds shall not be included within the statutory limit of indebtedness prescribed in section ten of chapter forty-four of the General Laws or the limit provided in this section until such bonds shall have been delivered and become outstanding and until and to the extent that the bonds being refunded thereby shall have been paid and cancelled or funds for the payment thereof shall have been deposited in trust for the purpose.

SECTION 9. The city manager is hereby authorized to fix, revise, charge and collect just and equitable fees for the use of any parking system or part thereof including any parking facility financed hereunder. The fees fixed or revised need not be uniform throughout the system but shall take into account the primary purpose of relieving traffic congestion and encouraging free circulation of traffic throughout the city.

When adequate parking facilities for the accommodation of traffic in the city have been provided and paid for, including the payment of bonds issued hereunder or otherwise, fees and charges for the use of any parking system or systems in the city shall be adjusted to provide funds for maintenance and operation only.

SECTION 10. Notwithstanding the provisions of section twenty-two E of chapter forty of the General Laws, the city manager, when authorized thereto by the city council, may lease, for such consideration as he may determine within such limits as the city council may establish, the whole or any part of the airspace above any parking facility constructed or to be constructed by the city, which the city manager shall determine is not required for the purposes of such facility, to the Cambridge Housing Authority for the construction thereon by said Authority of a housing project, without the necessity of advertisement for proposals for the use of such airspace. Any such lease may include such parts of the parking facility or the site thereof as may be necessary for structural supports and means of ingress and egress to and from the housing project. The cost of construction of the parking facility may include the whole or any part of the costs required for such structural supports and means of ingress and egress.

SECTION 11. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

SECTION 12. This act shall take effect upon its passage.

House of Representatives, August 21, 1970.

Passed to be enacted, *Paul Murphy*, Acting Speaker.

In Senate, August 21, 1970.

Passed to be enacted, *Mamie A. Donahue*, President.

August 31, 1970.

Approved,
at 2 o'clock and 35 minutes, P. M.

John Langston
Acting Governor.



CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 876-6800

OFFICE OF
THE CITY CLERK

September 14, 1970.

To the Honorable, the City Council,
Cambridge, Massachusetts.

Gentlemen:-

I am transmitting herewith a copy of Chapter 844, Acts of the year 1970, the same being "An Act relating to parking facilities in the City of Cambridge".

Truly yours,

Paul E. Healy,
Temporary City Clerk.

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224
Temporary

Communication from the City Clerk transmitting copy of Chapter 844, Acts of the year 1970, the same being "An Act relating to parking facilities in the City of Cambridge"

Copied

September 14, 1970

9/21/70
Placed on File

Copies sent

*No Acceptance
Required*