

CHAPTER 40-60

PROMOTION AND ACQUISITION OF MUNICIPAL PARKING FACILITIES

40-60-01. Reservation of areas for parking. To alleviate traffic congestion in municipalities, prevent the development of blight, and implement orderly plans for urban development and urban renewal, it is necessary that adequate and suitable space be reserved, particularly in central business areas, for parking facilities; which phrase is defined to include, but without limitation, all offstreet lots, sites, parking meters and other control devices, garages, ramps, and other structures and accessories, both aboveground and belowground, which are used or useful for the parking, delivery, fueling and servicing of automobiles and other motor vehicles, the collection of charges therefor, and the convenience of the patrons of the facilities. The withdrawal of a disproportionate amount of land for this purpose from use for commercial development and from the tax base of municipalities is undesirable and can be avoided, when the growth of business areas makes it economically feasible, by the construction of multilevel parking ramps and garages, and by making the space above, below, or adjacent thereto available for commercial development and use. It is the policy and purpose of the state to authorize and encourage municipal action, and cooperation of municipalities with public and private persons, firms, corporations, and limited liability companies in the acquisition, construction, improvement, development, extension, financing, operation, maintenance, and leasing of parking facilities, and of commercially usable space therein and adjacent thereto for the purposes and by the methods described in section 40-60-02.

40-60-02. Powers of municipalities pertaining to parking areas. Any municipality is authorized:

1. To acquire, construct, improve, develop, and extend parking facilities.
2. To provide funds for this purpose by the budgeting of current funds, the levy of taxes or special assessments, or the issuance of bonds or other obligations, or by any combination of these means, pursuant to and in accordance with the provisions of chapters 21-03, 40-22 to 40-27, 40-35, 40-40, and 40-57, and of all other applicable laws now in force or hereafter enacted.
3. To devote to this purpose any land, buildings, structures, and equipment which may be owned by the municipality, and are determined by its governing body to be useful therefor and not required for another municipal purpose, and whose use for this purpose is not restricted by the terms of any conveyance or judgment by which such properties were acquired.
4. To operate and maintain parking facilities and establish and collect rates, charges, and rentals for the use thereof by all public and private persons, firms, corporations, and limited liability companies.
5. To lease parking facilities, and any part thereof, to any public or private person, firm, corporation, or limited liability company upon such terms as the governing body may determine; provided, that:
 - a. No lease may be executed for a longer term, or shall be subject to extension at the option of the lessee for an additional term or terms, exceeding the maximum period prescribed by section 47-16-02.
 - b. Every lease shall provide that title to all real property, buildings, and improvements on real property or in buildings subject to the lease, whether or not previously owned or acquired, constructed or financed by the municipality, and title to all other real and personal property subject to the lease which was previously owned or is acquired, constructed or financed by the municipality, shall be and remain in the municipality.

- c. If the entire site of any parking facilities and all improvements constructed thereon are leased, the lease shall specify the amount of space to be operated and maintained exclusively for public parking of motor vehicles, and the area of such space shall be not less than two times the area of the space, if any, to be made available within the facilities for commercial use.
- d. Any lease may permit the sublease of part or all of the facilities, but the minimum parking space specified in accordance with subdivision c shall be used or subleased solely for public parking, and all other space in the facilities shall be used or subleased solely for commercial or industrial use furthering the policies and purposes declared in chapter 40-57, and may be so used notwithstanding any provisions of that chapter precluding the use of previously owned municipal property or of municipally operated property for the projects therein authorized.
- e. If under the terms of the lease the lessee is to construct and finance part or all of the parking facilities to be provided at the leased site, the lease may permit the lessee's interest therein to be mortgaged to secure the repayment of money borrowed by the lessee for this purpose, upon reasonable terms approved by the governing body of the lessor, and may allow the mortgagee a reasonable time to cure any default in the payment of rentals and the performance of covenants under the lease, prior to the termination thereof by the lessor.
- f. Every lease or part or all of the facilities at a particular site shall provide for the payment by the lessee of all costs of the operation and maintenance of the leased property, including all taxes and special assessments validly levied on the premises or leasehold, adequate insurance against loss of or damage to the leased property and loss or damage to other persons or property from any and all operations conducted thereon, and for payment by the lessee of net annual rentals at least sufficient to pay all principal and interest becoming due during the lease term on any amount of bonds issued by the municipality to pay capital costs of the leased property, and at least sufficient to reimburse the municipality for any other expenditure made by it to pay such capital costs, in annual amounts such that, if continued uniformly over the useful life of the facilities, the total amount of such investment would be repaid in full with interest at five percent per annum on the balance thereof from time to time remaining unpaid.
- g. The leasehold created by any such lease is classified as personal property, and any such portion of such premises not used solely for public parking of motor vehicles shall be subject to taxation.