

R-43-23

Public Water Access at the Wells Cove Inlet in Eastport

AMENDMENT 1– ALD. SAVIDGE

On page 1, in line 4 and in line 20, strike “enter” and insert “have ingress and egress to” and after “water to” strike "use small watercraft such as kayaks and paddleboards at the Wells Cove inlet" and insert " use watercraft, including but not limited to kayaks, stand-up paddleboards (SUPs), water taxis, dinghies, etc. at the Wells Cove Inlet public access waterfront easement".

On page 2, on line 31, after "3." strike the entirety of text on lines 31-33 and insert "The City takes steps to ensure the public's access to the easement, to the water, and to the main channel of Spa Creek are unimpeded per the judge's order. This may include, but is not limited to, revoking or modifying permits for structures or boats on the water or moving said structure or boats installed or placed subsequent to the execution of the 1992 easement and R-22-86."

As the change would look in the resolution:

..Title

Public Water Access at the Wells Cove Inlet in Eastport – For the purpose of ensuring the public can walk along the Wells Cove waterfront and ~~enter~~have ingress and egress to the water to ~~use small watercraft such as kayaks and paddleboards at the Wells Cove~~use watercraft, including but not limited to kayaks, stand-up paddleboards (SUPs), water taxis, dinghies, etc. at the Wells Cove Inlet public access waterfront easement.

..Body

CITY COUNCIL OF THE City of Annapolis

Resolution 43-23

**Introduced by: Alderman Savidge
Co-sponsored by: Aids. Arnett, Gay**

A RESOLUTION concerning

Public Water Access at the Wells Cove Inlet in Eastport

FOR the purpose of ensuring the public can walk along the Wells Cove waterfront and ~~enter~~have ingress and egress to the water to ~~use small watercraft such as kayaks and paddleboards at the~~

Explanation:

~~Strikethrough~~ indicates matter stricken from existing law.
Underlining indicates an amendment (change) to the City Code.

Amendments:

Underlining & black - copyediting or reformatting of existing law

Underlining & red - new matter added

Underlining & blue - change to an amendment (amendment to an amendment)

Wells Cove use watercraft, including but not limited to kayaks, stand-up paddleboards (SUPs), water taxis, dinghies, etc. at the Wells Cove Inlet public access waterfront easement.

WHEREAS, Eastport, located on a peninsula, is surrounded by water on three sides, namely Spa Creek, the Severn River, and the Chesapeake Bay and water access plays a vital role in the neighborhood's maritime heritage identity and lifestyle; and

WHEREAS, Although Eastport's waterfront is surrounded by numerous public and private marinas, boatyards and docking facilities, those businesses, along with waterfront private residential property, limit public access to water for Eastport residents; and

WHEREAS, In 1986, the Annapolis City Council approved Resolution 22-86 authorizing six residential units at the end of Boucher Avenue, now known as Blue Heron Cove Condominium Association, and setting numerous conditions, including "a 4 foot wide path for public access to the open space and waterfront areas, made of oyster shell or similar nonpaved material" and that it "shall be located between Boucher Avenue and Wells Cove"; and

WHEREAS, Blue Heron Cove Condominium closed off public access to the water at Wells Cove, an Eastport inlet, along their private property and as a result, two Annapolis residents sued the condominium and the City for rights to access the water; and

WHEREAS, Anne Arundel County Circuit Court Judge Elizabeth S. Morris ruled on April 5, 2023, in the lawsuit Jessica L. Pachler, et al. v. City of Annapolis, that Maryland case law provides clear guidance that an easement as written in the 1986 Resolution 22-86 "provides both (1) a right-of-way to the water and (2) a right to 'access' the water"; and

WHEREAS, Judge Morris further ruled that the public has an "independent right to access the headwaters for Wells Cove through the Path," which was required in Resolution 22-86 and included in 1992 land records of Anne Arundel County; and

WHEREAS, The public is allowed to enter the water while an appeal of Judge Morris' decision in Jessica L Pachler v. City of Annapolis moves through the Anne Arundel County Circuit Court due to Judge Morris denying an emergency Motion for Stay to block water access to Wells Cove; and

WHEREAS, The Eastport Civic Association, in an April 17, 2023 letter to Mayor Buckley and members of the Annapolis City Council, asks the City "to request the deed for this (Wells Cove waterfront walkway) land area and public right of way as soon as possible" because the 1992 Wells Cove agreed states that "such lands (are) to be deeded to the City of Annapolis upon request."

Explanation:

~~Strikethrough~~ indicates matter stricken from existing law.

Underlining indicates an amendment (change) to the City Code.

Amendments:

Underlining & black - copyediting or reformatting of existing law

Underlining & red - new matter added

Underlining & blue - change to an amendment (amendment to an amendment)

**NOW, THEREFORE,
BE IT RESOLVED BY THE ANNAPOLIS CITY COUNCIL** that:

1. The City Manager request the deed for this land area and public right of way;
2. A sign be added at the entrance of the easement informing the public of this water access point; and
3. ~~The City Manager direct the Harbor Master not to allow boats or other impediments to public access to the water at Wells Cove per Title 15 § 04, Management of City Waters.~~
The City takes steps to ensure the public's access to the easement, to the water, and to the main channel of Spa Creek are unimpeded per the judge's order. This may include, but is not limited to, revoking or modifying permits for structures or boats on the water or moving said structure or boats installed or placed subsequent to the execution of the 1992 easement and R-22-86.

Explanation:

~~Strikethrough~~ indicates matter stricken from existing law.
Underlining indicates an amendment (change) to the City Code.

Amendments:

Underlining & black - copyediting or reformatting of existing law
Underlining & red - new matter added
Underlining & blue - change to an amendment (amendment to an amendment)