



*City of Annapolis*

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## DEPARTMENT OF PLANNING AND ZONING

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**November 22, 2022**

### **MEMORANDUM**

**To: Planning Commission**

**From: Michael La Place, Director of Planning & Zoning**

**Re: Ordinance O-49-22: FOR the purpose of authorizing a parking fee in lieu for certain businesses required to provided parking spaces ZTA2022-006**

**Attachments: O-49-22 First Reader**

### **SUMMARY**

The purpose of this ordinance is to establish the fee recommended by Planning staff in their evaluation of O-9-22 which proposed eliminating the required minimum off-site parking for food establishments and would apply citywide.

The recommendation was that the legislation include a mechanism for committing new revenue from parking fees to specific improvements to the City's transit system, and bike and pedestrian infrastructure that could have a measurable improvement on transportation mode share in the city.

The Office of Law determined that the proposed fee would require separate legislation and could not proceed as an amendment to O-9-22. O-49-22 proposes retaining the existing parking requirements in section 21.66.130 of the City Code—Table of off-street parking requirements— and adding a footnote that allows the parking requirement to be waived:

*PARKING FEE IN LIEU OF MEETING OFF-STREET PARKING REQUIREMENTS.  
THIS USE IS ELIGIBLE FOR A PARKING REQUIREMENT WAIVER PURSUANT  
TO TITLE 21 § 66.035.”*

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The ordinance then proposes adding a new section to Chapter 21.66 of the City Code – Parking and Loading requirements:

**21.66.035 – PARKING FEE IN LIEU OF PROVIDING PARKING. OFF-STREET PARKING REQUIREMENTS MAY BE WAIVED UPON PAYMENT OF A FEE FOR CERTAIN USES IDENTIFIED IN THE "TABLE OF OFF-STREET PARKING REQUIREMENTS" IN TITLE 21 § 66.130.**

- A. *THE DIRECTOR OF PLANNING AND ZONING OR THEIR DESIGNEE IS AUTHORIZED TO GRANT SAID WAIVER AND SHALL PROMULGATE RULES AND REGULATIONS AS NEEDED TO IMPLEMENT THIS SECTION IN ACCORDANCE WITH TITLE 2 § 04.090.*
- B. *THE FEE SHALL BE ESTABLISHED BY ANNUAL RESOLUTION OF THE CITY COUNCIL EFFECTIVE APRIL 1, 2023, AND IT SHALL BE BASED ON:*
  - i. *PARKING SPACES THAT ARE REPURPOSED FOR OUTDOOR DINING; AND*
  - ii. *RESTAURANT SIZE.*
- C. *ALL FEES GENERATED AS A RESULT OF REQUESTS FOR WAIVING THE OFF-STREET PARKING REQUIREMENT SHALL BE DEPOSITED INTO THE CITY TRANSPORTATION FUND.*

**ANALYSIS AND RECOMMENDATION**

At the core of O-49-22 is a provision that would allow businesses and property owners the ability to use areas currently dedicated to off-street parking for other uses.

In their findings for the related ordinance O-9-22, Planning Commission stated: “The ordinance expresses a policy that businesses know best how to manage themselves with respect to how much parking is required to insure success of the business. For example, if a business owner finds he or she has extraneous parking and the parking footage could be better devoted to other uses (such as outdoor dining, the subject of separate but tangential legislation) or if a business owner intends to cater to people who do not arrive in automobiles, the decision of how much parking is appropriate is better made by the business owner than by rigid minimum requirements imposed by the City.” This same case can be applied to O-49-22.

However, unlike O-9-22, O-49-22 limits its provisions specifically to outdoor dining and restaurant expansion uses. The preservation and expansion of outdoor dining in Annapolis remains a central concern for the City’s economy, small business community, and is a priority for residents. The City Council adopted two resolutions in the past year, R-22-30 and R-30-22, specifically to extend the provision first enacted during the COVID-19 emergency declaration that restaurants can use their off-street parking for outdoor dining. An *Outdoor Dining Pilot Study*, authorized through R-22-30, was presented to City Council in October 2022 and confirmed the economic benefits of outdoor dining to the City. Nevertheless, outdoor dining is but one potential alternative use for off-street parking areas that could have a measurable benefit to the City. The Planning Commission recognized this its findings for O-

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9-22: “The effects, if passed, are difficult to forecast across all contexts in the City. There are numerous small, strip shopping centers and some parking in those places may be devoted to outdoor dining or to a small outdoor market or to the display of goods. If the absence of parking diminishes their business, they will return the space to parking. There are a few large, generously parked shopping centers and it has been argued these parking lots are rarely if ever fully occupied; they could be devoted either to more stand-alone businesses or even to housing on the outer edges. That land will then become more valuable to the City than used as parking.”

Staff recommends that the references to “*PARKING SPACES THAT ARE REPURPOSED FOR OUTDOOR DINING; AND RESTAURANT SIZE*” be removed from the legislation as they are not consistent with the original intent of the O-9-22 legislation or with the Planning Commission recommendation as to the reasons for elimination of required parking. They would unduly restrict a property owner in how they could utilize the parking should they choose to apply for a waiver.

As previously stated in the original analysis of O-9-22, the legislation would apply to approximately 159 food service businesses, which includes 124 active restaurants, 14 active delis, 5 active ice cream shops, 16 coffee shops, and 31 clubs, lodges meeting halls and non-commercial social clubs

The legislation will not eliminate the nominal need for parking associated with food service establishments. Businesses will still need to estimate the amount of available parking needed to satisfy their clients to ensure profitability. These needs will vary dramatically according to food service type, location, and clientele. Businesses are generally capable of making these decisions to satisfy their parking needs and budgeting the cost to address them. Thus, there is a legitimate case to be made for off-street parking regulated through dynamic market needs that may vary from business to business, and neighborhood to neighborhood, rather than more rigid code requirements, which are only minimally tailored to local circumstance.

### **CODE COMPLIANCE AND RECOMMENDATION**

Chapter 21.34 Zoning Text Amendments establishes the process for enacting amendments to the zoning code. It requires, in accordance with section 21.32.010 Purpose and Authority that amendments shall be in accordance with the following:

For the purpose of promoting the public health, safety, morals and general welfare, and conserving the value of property throughout the city, the city council, from time to time, in the manner set forth in this chapter, may amend the regulations imposed in the districts created by this title; provided, that in all amendatory ordinances adopted under the authority of this chapter, due allowance shall be made for existing conditions, the conservation of property values, the direction of building development to the best advantages of the entire city and the uses to which property is devoted at the time of the adoption of the amendatory ordinance.

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The 2009 Comprehensive Plan provides numerous principles in Chapter 4, Transportation, aimed at shifting the City's emphasis on auto-oriented development:

- Principle 1: Transportation plays a critical role in the achievement of personal and community goals.
- Principle 2: Transportation offers a significant opportunity to move toward a "Green" Annapolis.
- Principle 3: Transportation systems both lead and follow important changes in our city's land uses.
- Principle 4: Transportation investment and operating priorities in Annapolis must shift to transit, pedestrians, and bicycles first, automobiles second.
- Principle 5: Parking is key to transport system operation and funding.

The identified objectives for Principle 5 are: reduced environmental and land costs associated with auto use and storage within the city; Parking pricing and availability is managed by the City in a manner that maximizes the potential for people to choose non-auto alternatives; Parking revenues contribute to improvements in transit services and infrastructure.

The 2016 Eastport Transportation Study which aimed to advance the recommendations of the 2009 Comprehensive Plan provided the following recommendation:

*Assuming that Eastport and Downtown Annapolis continue to be desirable destinations and continue to grow, demand to drive to the area will only increase with time. Given that curbside parking is finite, there will ultimately be a need to manage this space, with preference given to residents and business owners/staff/patrons. Managing curbside space means allocating it to certain activities and charging for its use. Additionally, managing of curbside space should ideally be performed holistically – in other words, all of Eastport should be managed, because any unmanaged (free) block will quickly fill up to 100% capacity at all times.*

*Areas like Eastport, with a mix of commercial and residential and with a high demand for parking generally utilize a system that combines metered spaces and Residential Permit Parking (RPP) to manage and allocate curbside space. Metered spaces serve the commercial needs, while RPP permits are for residents. Other localities that have RPP include Washington, DC where the cost of RPP is \$35 per year per car, while in College Park the cost is \$10 per year. RPP blocks would be all block faces that have residential housing. Initially, the primary need for RPP would be east of State Street; adjacent blocks would be unmanaged but could apply for RPP on as-needed basis. Metered spacing would be relegated to commercial block faces, with the price-per-hour time-dependent and potentially free overnight. Commercially blocks represent potential for 140 to 160 metered spaces.*

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*Because the demand to access Eastport would still exist with metered and/or RPP, it is recommended that fees from RPP and from meters be used increase the frequency, service span, and stop amenities of Annapolis Transit bus service within Eastport, as well as improve pedestrian and bike facilities. Additionally, fees can be applied toward parking enforcement.*

*Other curbside parking recommendations include:*

- *Designate select curbside spots for 24-48 hour parking (e.g. overnight boat excursions), where a business owner can purchase the permit to buy long-term curbside access.*
- *Institute Visitor Parking Permit (VPP) program in conjunction with RPP, where RPP sticker holders also receive a complementary VPP sticker for the year and the ability to obtain additional monthly VPP passes. VPP allows residents without driveways to have visitors at non-metered spaces.*
- *Add Wayfinding signs for existing off-street public/overflow parking facilities.*

Based on the above recommendations and the analysis herein, the staff recommends the proposed O-49-22 be APPROVED with the following conditions:

- Strike references to "PARKING SPACES THAT ARE REPURPOSED FOR OUTDOOR DINING; AND RESTAURANT SIZE"

1 **..Title**

2 **Planning and Zoning - Parking and Loading Regulations - Parking fee-in-lieu of meeting**  
3 **off-street parking requirements.** – For the purpose of authorizing a parking fee-in-lieu for  
4 certain businesses required to provide parking spaces; and generally relating to off-street parking  
5 requirements.

6 **..Body**

7  
8 **CITY COUNCIL OF THE**  
9 **City of Annapolis**

10 **Ordinance 49-22**

11  
12 **Introduced by: Alderwoman Tierney**  
13 **Co-sponsored by: Ald. Arnett, Ald. Savidge**

14  
15 **Referred to**  
16 **Rules and City Government Committee**  
17 **Planning Commission**

18  
19 **AN ORDINANCE** concerning

20  
21 **Planning and Zoning - Parking and Loading Regulations - Parking fee-in-lieu of meeting**  
22 **off-street parking requirements.**

23  
24 **FOR** the purpose of authorizing a parking fee-in-lieu for certain businesses required to provide  
25 parking spaces; and generally relating to off-street parking requirements.

26  
27 **BY** Adding the following portion to the code of the city of Annapolis, 2022 edition  
28 21.66.035

29  
30 **BY** repealing and reenacting with amendments the following portions of the Code of the City  
31 of Annapolis, 2022 Edition  
32 21.66.130

33  
34 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**  
35 **COUNCIL** that the Code of the City of Annapolis shall be amended to read as follows:

36  
37 **Title 12 – PLANNING AND ZONING**  
38 **Chapter 12.66 – Parking and Loading Regulations**

39  
40 **21.66.035 – PARKING FEE IN LIEU OF PROVIDING PARKING.** OFF-STREET  
41 PARKING REQUIREMENTS MAY BE WAIVED UPON PAYMENT OF A FEE FOR  
42 CERTAIN USES IDENTIFIED IN THE "TABLE OF OFF-STREET PARKING  
43 REQUIREMENTS" IN TITLE 21 § 66.130.

44 A. THE DIRECTOR OF PLANNING AND ZONING OR THEIR DESIGNEE IS  
45 AUTHORIZED TO GRANT SAID WAIVER AND SHALL PROMULGATE RULES

1 AND REGULATIONS AS NEEDED TO IMPLEMENT THIS SECTION IN  
2 ACCORDANCE WITH TITLE 2 § 04.090.

3 B. THE FEE SHALL BE ESTABLISHED BY ANNUAL RESOLUTION OF THE CITY  
4 COUNCIL EFFECTIVE APRIL 1, 2023, AND IT SHALL BE BASED ON:

- 5 1. PARKING SPACES THAT ARE REPURPOSED FOR OUTDOOR DINING;  
6 AND  
7 2. RESTAURANT SIZE.

8 C. ALL FEES GENERATED AS A RESULT OF REQUESTS FOR WAIVING THE OFF-  
9 STREET PARKING REQUIREMENT SHALL BE DEPOSITED INTO THE CITY  
10 TRANSPORTATION FUND.

11  
12  
13 **Section 12.66.130 – Table of off-street parking requirements.**  
14

15 On Page 2 in the "Table of off-street parking requirements" in the "Bars and Taverns" section, in  
16 the "Bars and taverns" row, strike "30 percent" and replace with "30%" and after " persons." add  
17 after the period footnote "7".  
18

Use	Standard	Additional Provisions
Bars and taverns	Spaces equal to <del>30 percent</del> <u>30%</u> of the capacity in persons. <sup>7</sup>	

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22 On page 7 in the "Table of off-street parking requirements" in the "Restaurants and  
23 Delicatessens" section, in the "B1 District" row, strike "fifteen percent" and replace with "15%"  
24 and add after the period footnote "7"  
25

Use	Standard	Additional Provisions
<b>Restaurants and Delicatessens</b>		
B1 District	Spaces equal in number to <del>fifteen percent</del> <u>15%</u> of the seating and standing capacity in persons. <sup>7</sup>	Standing capacity is computed as one person per seven square feet in front of all counter and service areas. Seating capacity is computed as the number of seats provided.

1 On page 7 in the Table of off-street parking requirements in the "Restaurants and Delicatessens"  
2 section, in the "Other zoning districts" row, strike "thirty percent" and replace with "30%" and  
3 after the period add footnote "7".  
4

Use	Standard	Additional Provisions
<b>Restaurants and Delicatessens</b>		
Other zoning districts	Spaces equal in number to <del>thirty percent</del> 30% of the seating and standing capacity in persons . 7	Standing capacity is computed as one person per seven square feet in front of all counter and service areas. Seating capacity is computed as the number of seats provided.

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7  
8 On page 8 in the Table of off-street parking requirements in the "Restaurants and Delicatessens"  
9 section, in the "Social Clubs, noncommercial" row, strike "30 percent" and replace with "30%"  
10 and after the period add footnote "7"  
11

Use	Standard	Additional Provisions
<b>Restaurants and Delicatessens</b>		
Social clubs, noncommercial	One space per lodging room (if provided) plus spaces sufficient to serve <del>thirty percent</del> <u>30%</u> of the capacity in persons of the facility . 7	

12  
13  
14  
15 On page 10, line 39, add footnote  
16 "7. *PARKING FEE IN LIEU OF MEETING OFF-STREET PARKING REQUIREMENTS.*  
17 *THIS USE IS ELIGIBLE FOR A PARKING REQUIREMENT WAIVER PURSUANT*  
18 *TO TITLE 21 § 66.035."*  
19

20  
21 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**  
22 **ANNAPOLIS CITY COUNCIL** that this ordinance shall take effect from the date of its  
23 passage.  
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**Explanation:**

UPPERCASE indicates matter added to existing law.  
~~Strikethrough~~ indicates matter stricken from existing law.  
Underlining indicates amendments.