



Date of Council Meeting: December 8, 2014

**TOWN OF LEESBURG  
TOWN COUNCIL WORK SESSION**

**Subject:** Parking Payment in-Lieu

**Staff Contact:** Brian Boucher, Deputy Director, Planning & Zoning

**Council Action Requested:** A decision by Council is needed regarding whether or not the payment in-lieu option fee for parking in the H-1 Overlay District should be increased.

**Staff Recommendation:** Staff recommends that Council increase the current \$3,000 per space fee for the payment-in-lieu option permitted in the H-1, Old and Historic Overlay District to equal the increase in the Consumer Price Index and to adjust it on an annual basis per the Consumer Price Index.

**Commission Recommendation:** Not applicable.

**Fiscal Impact:** Any increase in the current payment in-lieu fee will have a positive impact on the ability of the Town to supply additional public parking facilities.

**Executive Summary:** The payment in-lieu option permitted in the H-1, Old and Historic Overlay District permits developers to pay \$3,000 to the Town instead of providing on-site required parking. The fee has not been increased since 1987 and does not cover the public cost of providing new parking facilities. An increase of the fee today to \$6,270.00 would make the fee equivalent to its original value in 1987. To put any new fee into effect would require adoption of a resolution by Council.

**Background:** On April 21, 2014 the Town Council held a work session to discuss the current fee and input from the Economic Development Commission. Council posed a number of questions about parking availability downtown and the approach to be used in determining an appropriate payment in-lieu fee.

Council members asked that staff consider certain factors that could affect the recommended payment in-lieu fee. These included the application of a mixed-use factor to the parking demand because visitors to the downtown area may transact business in more than one location, such as visiting a retail shop and a restaurant, which could mean charging the full cost of a space in a parking garage could be excessive. Second, whether the fee should be to pay for a space in a parking structure is premature until it has been determined that a structured parking facility should be planned. Third, a calculation of current total downtown parking capacity (including private spaces) applied to the square footage of actual uses downtown would give a clearer picture of parking needs.

Council members also discussed the possibility of an increase based on the Consumer Price Index change since 1987, when the current \$3,000/space fee was set. It was acknowledged that this would not equal the cost of providing a public parking space but it would at least capture more of the cost and leave less for the public to fund.

At the end of the discussion the Council directed staff to prepare this information for the broader discussion on the comprehensive parking program. Staff notes that a public input session on the comprehensive parking plan is scheduled in the future to seek input regarding additional parking options in the downtown area.

**Cost of Living Increase:** According to the Consumer Price Index, goods and services that cost \$3,000.00 in 1987 will cost \$6,270.24 as of September 2014. This is a general increase in inflation of 109% over the 27 years. The more specific Engineering News Record Construction Cost Index indicates that since 1987 the general cost of construction has gone up 121% over that same period. That is, the value of the \$3,000 payment in 1987 has decreased in actual purchasing power due to the rise in the cost of living to less than half of what was originally approved. To keep pace with adjustments in the Consumer Price Index, the fee should be automatically adjusted January 1 of each year to maintain the real value of the fee. Note that Town of Leesburg Zoning Ordinance (TLZO) Section 11.4.3 Payments In-Lieu states in part that *“Such payment shall be based on a one-time fee per parking space, as established from time to time by resolution of the Town Council.”* A draft resolution to this effect is attached for Council consideration.

**Possible Action:** An increase in the payment in-lieu fee to cover the rise in the Consumer Price Index since 1987 would restore the purchasing power of the fee to what it was 27 years ago. While this will cost developers more in today’s dollars it simply restores the fee to what was originally set and no more. Any additional increase beyond this CPI figure should be based on the result of further discussions regarding the comprehensive parking program and the information requested by Council and developed by staff.

**Additional Background Information:** The information below was provided in earlier memos on the payment in-lieu subject. This information is included below for the convenience of the Council.

**PC Input:**

**EDC Input:** The matter was discussed by the EDC at their March 5, 2014 meeting. As a result of the discussion, the EDC took no formal action but there was a consensus that they need more information about a Comprehensive Parking Program strategy before they could weigh in on an appropriate fee for parking payment in-lieu. Members asked questions about the current program but believed the ultimate figure for the pay in-lieu option should be based upon the actual goals of the Town. For example, is the Town looking to build a new parking garage in the future or will the public lots be surface parking lots? When, and how many? The consensus was that some increase may be necessary but they want to understand the master strategy, because the appropriate amount could depend on the plan. Also, the general consensus was that the idea of

raising the amount to a new figure of \$20,000 all at once was not favored due to the chilling impact it could have on downtown investment.

**Phasing:** Staff looked at several ways to alleviate the impact of an increased pay in-lieu fee on developers. Several options were considered:

- **Stagger the payment of the fee.** TLZO Sec. 11.4.3 currently requires the fee to be paid before a Zoning Permit is issued for the project. That means after the site plan is approved but before you can begin building the fee must be paid in full. To give a developer a respite, the time for paying the fee could be staggered or broken into multiple payments. One method would be to require a portion of the fee at the time of Zoning Permit issuance (on-half, for example) and then require the remainder to be paid at the time of issuance of the Occupancy Permit. The effect would be to require the full fee to be paid just prior to occupancy when he has a completed building to sell or rent. For obvious reasons, from a cash flow standpoint this is beneficial to the developer. Note that this option would require a Zoning Ordinance amendment.
- **Delay the payment of the fee until Occupancy Permit.** To give a developer a further respite from the cost of increased pay in-lieu fees, the time for paying the fee could be extended to prior to the issuance of the Occupancy Permit for the building. The effect would be to allow the developer to pay the fee when he has a completed building to sell or rent. Again, from a cash flow standpoint this is beneficial to the developer. If there are multiple buildings on the site this allows a developer to only have to pay for buildings as they become occupied – a significant change. Note that this option would require a Zoning Ordinance amendment.
- **Pro-Rata Fee.** Pro-rata arrangements are based upon some entity, either the public or a developer, building a facility that others can use. Later users pay back a proportionate share of the cost to the original entity that constructed the facility based on their proportionate use. The problem with a pro-rata arrangement for the payment in-lieu fee is that the payment is not connected to anything that has been constructed. The Town has no more zoning control over a use once the Occupancy Permit has been issued. That is, if we are to require a pro-rata fee for a parking structure, that structure must be in place with its actual costs determined. The actual construction cost per space in the garage could be determined and the pro-rata could be paid based on actual costs prior to Occupancy Permit issuance. However, at this time a pro-rata payment cannot be tied to an actual facility.

**Parking Fund Money:** Approximately \$200,000 is currently in the parking fund from money raised through the payment in-lieu option.

**Recommendation:** Staff notes in the report below that the probable cost of a single parking space in a garage constructed in the downtown area is \$19,000 to \$23,000 dollars. Anything less than the minimum figure means that to actually construct a garage funds must come from sources other than the payment in-lieu fee. The original \$3,000/space fee did not fully reflect the cost of a space in a garage in 1987; the passage of time has increased that imbalance today.

Note that the low fee was purposely set to stimulate renovation and investment in the downtown area, and was also set with intent to use the funds for a Town-owned parking facility. That strategy was successful for a period of time but recent purchase of parking spaces using the payment in-lieu option and potential growth have required that strategy to be revisited. In order to determine a fair and practical fee increase, the facilities that money will be used to build and maintain should be determined first. This gives assurance to developers that the increased fee will be used for the intended purpose while giving Council a better idea of what the fee should be. It will also open up options for paying the fee such as a pro-rata arrangement which cannot exist today. Therefore, Staff recommends that Council consider the following:

1. Decide on the number and type of parking facilities needed, then
2. Decide on funding sources, one of which may be parking payment in-lieu, or whether this is to be the sole source of funding future facilities, then
3. Determine what the payment in-lieu fee should be in light of the planned facility or facilities.

### **Further Background on Parking Fee and Construction Costs:**

**Introduction:** In the summer of 2010 Council instructed staff to investigate the \$3,000 payment in-lieu fee in order to determine how it compared to the actual cost of providing a parking space in the downtown area. Staff recommended that the payment in-lieu fee be increased to \$20,000 to cover the actual costs of design and construction of a typical structured parking space in the H-1 District. At its meeting on October 25, 2010 Council discussed the information regarding the impact of a fee increase on projects in the pipeline and how the recommended fee of \$20,000 was reached. No resolution to amend the fee schedule was initiated at that time.

This memo includes information on the history of the payment in-lieu option and information on the likely cost of building a parking structure in the downtown area today.

**When was Payment in-Lieu established?** On June 26, 1985, per Ordinance No. 85-O-14 the Town Council amended the Zoning Ordinance to permit developers in the H-1 Overlay District to make payments into a Parking Fund instead of providing all required off-street parking on-site. In Resolution No. 85-102 approved on the same date, the Council established a fee of \$1,600 per space. Seven months later, in Resolution No. 87-10 adopted on January 14, 1987, Council increased the fee to \$3,000 per space because the \$1,600 fee “was based on the cost of constructing a surface space and does not adequately reflect the cost of providing public structured parking in-lieu of required private spaces.”

**When and how can the Payment in-Lieu Option be used?** TLZO Section 11.4.3 Payments In-Lieu sets out the conditions that must be met to utilize the Parking Fund option. That section states:

*Rather than providing the required off-street parking on-site due to a change of use, expansion of an existing use or new construction, developers of land within the H-1 Overlay District may provide a portion or all of such parking by means of a payment to the*

*town's parking fund. Such payment shall be based on a one-time fee per parking space, as established from time to time by resolution of the Town Council. Any off-street parking satisfied in this matter shall run with the land, and any subsequent change in use that requires more off-street parking shall require subsequent action to satisfy additional parking requirements. No refund of such payment shall be made when there is a change of use to require less parking. Such payment shall be made to the town in one lump sum prior to the issuance of a zoning permit; however, this payment shall not guarantee the availability of parking for the fee-paying development. Funds derived from such payment shall be deposited by the town in a special parking fund and shall be used for acquiring and developing off-street parking facilities within the H-1 Overlay District. NOTE: This option is not available for residential uses or structures except as provided below.*

- A. On lots of record existing as of February 14, 2012 measuring 4,000 square feet or less, situated between Liberty Street and Church Street and between South Street and North Street a portion or all required parking for residential uses may be provided by payment in-lieu in accordance with this section.*

Prior decisions of the Zoning Administrator have held that “developing” off-street parking facilities can include making improvements to existing facilities, such as the Liberty Street lot, which qualifies as an “off-street” parking facility acquired by the town within the meaning of this section. Therefore, improvements to develop this facility can be paid for out of the special parking fund. Such improvements can include repaving, striping, installation of lights, etc.

**How many Spaces have been purchased?** Staff estimates 145 spaces were purchased by various developments before October 2010. Since then, 54 additional spaces have been purchased making a total of 199 spaces. In addition, there are five developments that have approved or pending site plans that do not provide all required parking on-site. Together, these sites will purchase at least 140 additional spaces in the coming years, for a total of about 320 spaces.

The list below includes those sites that have paid for parking *after* October, 2010, or which have approved or pending site plans that do not provide all required parking on-site.

#	Development	Number of Spaces Short	Amount	Status
1	116 E. Market Street	19	\$ 57,000	Paid
2	209-211 Church Street	14	\$ 42,000	Paid
3	Courthouse Commons	45	\$ 135,000	Unpaid
4	202 Church Street	12	\$ 36,000	Paid
5	Leesburg Central (2nd Phase)	9	\$ 27,000	Paid
7	Offices at Georgetown Park	70	\$210,000	Unpaid
8	104 Loudoun Street	8	\$ 24,000	Unpaid
9	204 South St. (MacDowell)	TBD*	TBD*	Unpaid
10	Courthouse Square	TBD*	TBD*	Unpaid

\*To Be Determined

**Is any Development “Grandfathered” at the \$3,000 Fee?** None of these five developments is “grandfathered” at the \$3,000 per space fee. TLZO Section 11.4.3 Payments In-Lieu states in part “*Such payment shall be made to the town in one lump sum prior to the issuance of a zoning permit . . .*” That means that a developer must have an approved site plan *before* the payment can be tendered to the Town. The reason for this is to prevent developers/owners from paying the current fee without any real effort or realistic plan to develop a site. An approved site plan shows that Town regulations have been met and the exact number of spaces that are provided on site. This also prevents developers/owners from submitting place-holder site plans they have no immediate intention to pursue to obtain a lower fee should the Council decide to increase it. But approval of a site plan alone does not grandfather the fee amount on the day the site plan was approved. *The fee amount due is whatever the adopted fee is at the time the fee is actually paid.* This is to prevent someone from obtaining site plan approval, then waiting years before obtaining a zoning permit and then paying an outdated and inadequate fee. The ordinance as written encourages developers/owners to obtain site plan approval and then to pay the fee. That puts the money into the pipeline so that the Town can use it immediately to plan for the parking improvements or to maintain existing public parking structures. *Note that once the fee is paid, it never has to be paid again, even if the fee is later increased.*

**What is the likely Cost of a Structured Parking Space?** Given that the fee has not been increased for over 27 years, an analysis has been made to determine what would constitute an appropriate fee today if the goal is to recapture the cost of an equivalent space in a public parking structure.

Determining the Cost: In 2010 staff contacted both public and private sector members to develop a reasonably accurate projected cost for a parking garage in downtown Leesburg. Since then few parking structures have been constructed in the area and none in Leesburg, though one is planned in the downtown as part of the Courthouse Square development. That structure will be partially underground and will have usable floors for office and retail use above the garage.

Since late 2010, the Engineering News Record Construction Cost Index indicates construction costs have increased a total of 11.24%. Because this figure is widely used in the building industry and by public entities, it has been applied to the 2010 figures to give a reasonable cost estimate.

Note that there are many variables that can affect the cost of a parking structure, including:

- cost of the land;
- whether there are any levels underground;
- the architectural requirements for the structure;
- the type of construction (reinforced concrete with a steel frame vs. face brick with concrete block back-up / Steel Frame, etc.);
- the size of the site, with a smaller site usually resulting in a higher cost;
- the size of the structure, with a larger structure resulting in better economies of scale and a lower cost per space;

- relocation of utility lines; and
- need for demolition of existing structures.

How these variables are combined can substantially affect the cost of a structure. Without a specific site and design for the structure, any fee can only be considered an estimate.

Baseline Cost: As a baseline starting price one can expect to pay \$11,000-\$13,000 per space to build a single above grade prefab concrete parking structure, including the cost of design and construction. What this figure does *not* include is the cost of the land, any architectural facing or landscaping; it is a “barebones” figure that will most likely increase based on the variables discussed above.

Costs of parking garages based on square footage can also be found. Assuming a 145,000 square foot five-story structure (10 feet per story) the cost can be expected to be \$9.4 million assuming high quality materials, or \$65 per square foot. This does not include the cost of land or demolition of existing structures.

Land Cost: In a well-developed urban downtown area such as Leesburg land costs are substantial. To build a structure with over 400 spaces will require approximately 0.75 acres. For example, the project known as Waterford at Leesburg proposed a 502 space parking structure on approximately 0.80 acres of land. A privately owned 0.77 acre lot on Loudoun Street currently used as a surface parking lot is assessed at \$898,000. Another 0.71 acre surface parking lot along Harrison Street is assessed at \$795,000. Assembling smaller parcels is even more expensive and few large, undeveloped parcels remain in the downtown core. Land costs per space can be expected to run well over \$2,000 per space if the Town seeks to purchase new land for parking use.

Parking Structure Cost Examples: In order to develop a cost estimate several parking decks that have been constructed recently were considered. Although some are private and some are public, all have multiple stories and some façade treatment. All of the decks cited have been partially “wrapped” which means at least some facades have been covered with office or retail space, or government services. As noted above, it is difficult to obtain a separate cost of the architectural treatment from the base cost of an unadorned garage in the examples studied.

**1. Manassas/Virginia Railway Express**

**(VRE):** Built in 2009, the five-story, 532-space facility located in Old Town Manassas cost \$12.7 million and the project was split 60-40 between VRE and the city. Approximately \$7.8 million of the total came from federal funds, \$1 million from the state and \$3.9 million from the city, \$2 million of which was used to buy the land. The cost per space was about \$23,870.



**Manassas/VRE Garage**

**2. Village at Leesburg:** There are four parking structures in the Village at Leesburg, containing 574 spaces (Deck A – Wegman’s), 625 spaces (Deck B), 591 spaces (Deck C) and 909 parking

spaces (Deck D adjacent to Route 7). These structures range from one to four stories. According to representatives of Kettler, co-developers of the site, the parking decks at Leesburg ranged from \$8000 to \$11,500 per space when built in 2009 and 2010. The number varied depending on the garage efficiency, size, finishes etc. This figure does not include the cost of the land or the design. The large size of the decks, the relatively unadorned facades, the pre-fab nature and the opportunity to build multiple decks simultaneously lowered the overall cost of construction and therefore the cost per space.



**Decks D (foreground), B (upper left)  
and C (upper right)**



**Deck C from Russell Branch Pkwy**

**3. City of Frederick, Maryland:** As part of a comprehensive review of parking in the Frederick City historic district the Frederick City Parking Task Force issued a report in 2002 that cited the need for construction of additional parking decks in the downtown area. One deck (Deck #4) consists of four stories of government office space along West Patrick Street as a façade to a parking structure with a 600-space capacity, with an additional office façade facing Carroll Creek. The façade, exterior fenestration and massing of the proposed deck are designed to be responsive to Historic District Commission Guidelines. The construction cost of the project was \$17,000,000. Subtracting approximately \$4,000,000 for the office add-ons and architectural details (a reasonable estimate but not precise), the average space cost approximately \$20,000.



**Frederick Deck #4**

A city-owned parking deck (Deck #5) was also constructed along Frederick's East Street corridor to stimulate commercial growth in the area. The seven-story deck has 385 spaces and opened in 2009. The \$11 million deck provides space to services including the Department of Social Services as well as the office and residential development planned for that area. Subtracting approximately \$3,000,000 for the office add-ons and architectural details (a reasonable estimate but not precise), the average space cost approximately \$20,779.

Note that the decks were initially funded by the city's capital improvement fund but will be paid off through the parking enterprise fund, a self-sufficient account that relies on revenue from space rental and other parking fees.

**4. City of Staunton, Virginia:** In 2004 Staunton completed a 100,000 square foot parking garage for 277 cars that is masked by detailed facades including three retail storefronts. The building was specifically designed to fit in with the surrounding architecture in its downtown location. Construction cost at that time averaged approximately \$18,000 per space and did not include the cost of the land.



**Staunton's Downtown Parking Deck**

**Summary:** Based on these parking structures built in downtown areas, all with some form of architectural control and some with at least one story of underground parking, a cost range for an equivalent structure in downtown Leesburg would be from \$19,000 to \$23,000. This may not actually approximate the final cost per space, but there is no reason to believe the cost per space will be substantially below or greater than that of other communities that have recently built public parking structures in an historic downtown area.

Attachments: Draft Resolution

PRESENTED December 9, 2014

RESOLUTION NO. \_\_\_\_\_

ADOPTED December 9, 2014

A RESOLUTION: AN AMENDMENT TO THE PAYMENT IN-LIEU PARKING FEE FOR PARKING REQUIREMENTS IN THE H-1, OLD AND HISTORIC OVERLAY DISTRICT

WHEREAS, adequate parking is essential to the viability of business and tourism in the downtown historic district; and

WHEREAS, Section 11.4.3 of the Leesburg Zoning Ordinance provides that developers within the H-1, Old and Historic Overlay District may provide a portion or all required off-street parking by means of an in-lieu payment to a town parking fund, such payment to be based on a fee established by resolution of the Town Council; and

WHEREAS, an in-lieu fee of \$1,600.00 per parking space was established on June 26, 1985, and subsequently increased to \$3,000.00 per parking space on January 14, 1987 to reflect the cost of constructing public parking in lieu of required private spaces; and

WHEREAS, Section 11.4.3 of the Leesburg Zoning Ordinance expressly states that the amount of the fee should be updated from time to time; and

WHEREAS, Town staff has analyzed the potential cost of providing public parking in the H-1 District and has determined that the cost of a parking space has risen substantially based on increased land and development costs in 2014; and

WHEREAS, the Consumer Price index has risen 109% between January 14, 1987 and September 1, 2014, meaning the value of \$3,000.00 in 1987 is equivalent to \$6,270.00 today; and

WHEREAS, an update to the established payment in-lieu fee is necessary to capture this rise in the cost of providing public parking under current costs and conditions based on the Consumer Price Index.

THEREFORE, RESOLVED, by the Council of the Town of Leesburg in Virginia that:

A RESOLUTION: AN AMENDMENT TO THE PAYMENT IN-LIEU PARKING FEE FOR PARKING REQUIREMENTS IN THE H-1, OLD AND HISTORIC OVERLAY DISTRICT

SECTION 1. The current fee of \$3,000.00 per parking space as a payment in-lieu for providing required off-street parking within the H-1 Old and Historic District is hereby amended to \$6,270.00 per parking space.

SECTION 2. The payment in-lieu fee shall be adjusted annually on January 1st of each year to reflect the latest Consumer Price Index figures.

SECTION 3. Funds derived from such fees shall be deposited by the Town in a special account to be used exclusively for the purpose of planning, designing, acquiring and developing public off-street parking facilities in the H-1, Old and Historic Overlay District.

PASSED this 9th day of December, 2014.

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Kristen C. Umstattd, Mayor  
Town of Leesburg

ATTEST:

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Clerk of Council

A RESOLUTION: AN AMENDMENT TO THE PAYMENT IN-LIEU PARKING FEE FOR  
PARKING REQUIREMENTS IN THE H-1, OLD AND HISTORIC  
OVERLAY DISTRICT