

**TOWN OF LEESBURG
NOTICE OF PUBLIC HEARING:
AN ORDINANCE TO INCREASE THE
PARKING PAYMENT IN-LIEU FEE
IN THE H-1 OVERLAY DISTRICT**

Pursuant to Sections 15.2-107 and 15.2-1427 of the Code of Virginia, the **Town of Leesburg** will hold a **Public hearing** on **Tuesday, January 27, 2015 at 7:30 p.m.** in the Town Council Chambers, 25 West Market Street, Leesburg, Virginia, 20176 at which time the public shall have the right to present written or oral testimony on the proposed ordinance to increase the payment in-lieu fee for parking in the H-1, Overlay, Old and Historic District. The payment in-lieu option permits developers to pay \$3,000 per parking space to the Town instead of providing required on-site parking. The proposal is to revise the fee to equal the rise in the cost of living based on the Consumer Price Index since the fee was last increased in 1987. The current \$3,000 per parking space fee is proposed to be increased to \$6,270.00 per parking space with an annual adjustment on January 1st of each year to reflect the latest Consumer Price Index figures.

Copies of the proposed ordinance and additional information are available for public examination prior to the public hearing at the Department of Planning and Zoning located on the second floor of the Leesburg Town Hall, 25 West Market Street, Leesburg, Virginia 20176 during normal business hours (Monday-Friday, 8:30 a.m. to 5:00 p.m.), or by calling 703-771-2765 and asking for Brian Boucher, Deputy Director of Planning and Zoning.

At this hearing all persons desiring to express their views concerning these matters will be heard. Persons requiring special accommodations should contact Lee Ann Green, Clerk of the Council at 703-771-2733, three days in advance of the hearing. For TTY/TDD service, use the Virginia Relay Center by dialing 711.

**Ad to Run:
1/15/15 & 1/22/15**



Date of Council Meeting: January 27, 2014

**TOWN OF LEESBURG
TOWN COUNCIL PUBLIC HEARING**

Subject: Parking Payment in-Lieu Fee Increase Public Hearing

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: On April 21, 2014 Town Council instructed staff to take the item to the Economic Development Commission (EDC). At the EDC meeting on March 5, 2014 the issue was discussed but no formal recommendation was made. See page 4 under “EDC Input” for a description of the discussion.

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. If the proposed rate of \$6,270.00 is adopted it will more than double the fee per parking space and those additional funds will be available for downtown parking facilities in the future.

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 an ordinance by Town Council.

Background: On December 9, 2014 Town Council adopted a resolution (Resolution No. 2014-130, Attachment 1) expressing an intent to amend the current \$3,000 per parking space fee to \$6,270.00 per parking space subject to an annual adjustment on January 1st of each year to reflect the latest Consumer Price Index figures. Section 15.2-107 of the Code of Virginia, 1950, as amended, requires any fee increase to be advertised with a public hearing by the Town Council. The increase must be adopted as an ordinance. The meeting on January 27, 2015 serves to satisfy this public hearing requirement.

On December 8, 2014 the Town Council held a work session to discuss the possibility of raising the fee for the payment in-lieu option in the H-1 Overlay District. This continued a discussion

from an April 21, 2014 work session regarding the fee which had 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 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.

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 last 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 ordinance to this effect is attached for Council consideration (see Attachment 3).

How will the Payment be used? Any funds must go to improving and/or maintaining parking facilities in the downtown area. TLZO Section 11.4 .3 Payments In-Lieu specifies that *“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.”*

Parking Fund Money: Approximately \$200,000 is currently in the general fund designated separately as money earned through the payment in-lieu option. Although not in a separate account for ease of administration, it is nevertheless earmarked for downtown parking and can be used for no other purpose.

Cost of a New Parking Space:

- **Garage Space:** Today 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 will mean that if a garage is constructed, most 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.
- **Surface Space:** Surface parking spaces are cheaper but also exceed the cost of the proposed payment in-lieu fee. The cost of an acre lot downtown is approximately \$1.1 million. The 162 square feet required for a standard 9’ x 18’ parking space (162 square feet) would cost \$4,090 *for the parking space land alone*. Add necessary travel aisles, construction and paving and a cost of \$9,000 - \$11,000 can be expected in the downtown area.

Impact of Fee Increase: 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.

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 and the general public.

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 a total of 199 spaces have been purchased. 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 could purchase at least 120 additional spaces in the coming years, for a total of about 310 spaces.

The list below includes those sites that have approved or pending site plans that do not provide all required parking on-site.

#	Development	Number of Spaces Short	Amount	Status
1	Courthouse Commons	35	\$ 105,000	Unpaid
2	Offices at Georgetown Park	70	\$210,000	Unpaid
3	104 Loudoun Street	8	\$ 24,000	Unpaid
4	204 South St. (MacDowell)	1	\$3,000	Unpaid
5	Courthouse Square	6	\$18,000	Unpaid

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.*

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.

Attachments:

1. Resolution No. 2014-130
2. Map of Area of Applicability of Payment in-Lieu Option
3. Draft Ordinance

The Town of
Leesburg,
Virginia

PRESENTED December 9, 2014

RESOLUTION NO. 2014-130

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.

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

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

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.

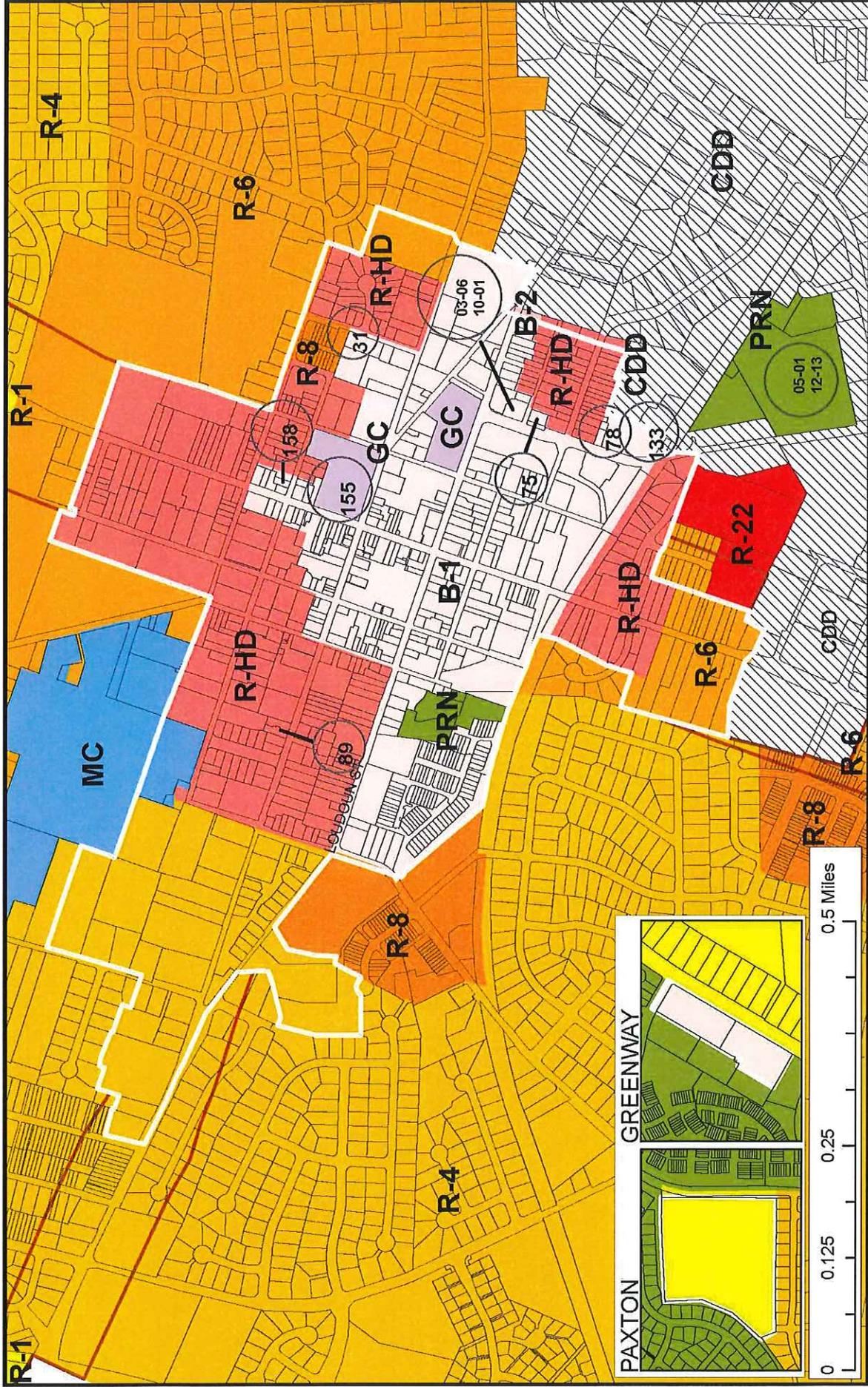
PASSED this 9th day of December, 2014.


Kristen C. Umstatt, Mayor
Town of Leesburg

ATTEST:


Clerk of Council

H-1 Overlay District (inside white outline)



PRESENTED January 27, 2015

ORDINANCE NO. _____

ADOPTED January 27, 2015

AN ORDINANCE: TO INCREASE 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.

WHEREAS, on January 27, 2015 the Town Council held a duly advertised public hearing to

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

consider the matter.

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

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

SECTION III. 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.

SECTION IV. All prior ordinances in conflict herewith are hereby repealed.

SECTION V. Severability. If a court of competent jurisdiction declares any provision of this ordinance invalid, the decision shall not affect the validity of the ordinance as a whole or any remaining provisions of the Leesburg Zoning Ordinance.

SECTION VI. This ordinance shall be effective upon its adoption.

PASSED this 27th day of January, 2015.

Kristen C. Umstattd, Mayor
Town of Leesburg

ATTEST:

Clerk of Council