

INTRODUCED BY:

MAYOR BROWN



ORDINANCE NO. 2023-10

**A BILL TO BE ENTITLED**

AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING AND REVISING CHAPTER 27 UNIFIED LAND DEVELOPMENT REGULATIONS; REVISING THE FOLLOWING ARTICLES: ARTICLE XIII - PARKING AND LOADING Section 27-541 PAYMENT IN-LIEU OF PROVIDING OFF-STREET PARKING IN THE CENTRAL BUSINESS DISTRICT; PROVIDING SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, pursuant to Section 2(b), Article VIII of the Florida Constitution and Chapter 166 of the Florida Statutes, the City of Neptune Beach possesses the powers to enact ordinances in order to protect the health, safety, and welfare of the City's citizens and residents; and

**WHEREAS**, the City Council of the City of Neptune Beach, Florida determines that it is in the best interest of its residents, businesses and visitors to enact sufficient land use regulations and land use plans to ensure their health, safety and welfare; and

**WHEREAS**, the City of Neptune Beach, Florida previously enacted Chapter 27 Unified Land Development Regulations and Code of Ordinances, of the City of Neptune Beach and;

**WHEREAS**, the City has received feedback from residents and stakeholders that it should be a priority to preserve the unique character of Neptune Beach through this process; and

**WHEREAS**, development contrary to the desires of residents, stakeholders, and the City Council would undermine the planning efforts undertaken and create irreparable harm to the scheme of development sought within the City; and

**WHEREAS**, prior efforts inconsistent with such desires, including costly litigation, could have been mitigated had the City of Neptune Beach Unified Land Development Code and/or Code of Ordinances contained provisions designed to clarify matters and protect the interests of the City and its residents; and

**WHEREAS**, the City Council previously adopted a new comprehensive plan; and

**WHEREAS**, the City Council subsequently undertook a process to analyze, revise, and refine the land development regulations contained in Chapter 27 of the City's Code to meet the goals set forth above and to ensure compliance with the comprehensive plan; and

**WHEREAS**, the City Council has hired the services of Dover, Kohl & Partners, an award-winning planning firm, to assist with the comprehensive plan and land development regulation revision process; and

**WHEREAS**, the information received from such efforts was used to develop proposed revisions to the City of Neptune Beach Unified Land Development Code and/or Code of Ordinances; and

**WHEREAS**, proper notice has been given of the public hearings of this proposed ordinance and of the public hearings in the City Council Chambers; and

**WHEREAS**, the public hearings were held pursuant to the published notice described at which hearings the parties in interest and all others had an opportunity to be and were, in fact, heard; and

**WHEREAS**, the City Council for the City of Neptune Beach, Florida finds and declares that this ordinance is in the best interest of the public health, safety and welfare of the citizens and residents of the City of Neptune Beach, Florida and that it advances a significant and important governmental interest; and

**WHEREAS**, in particular, the City Council of the City of Neptune Beach, Florida has determined that it is necessary and in the interest of the public welfare to amend the language contained in the attached **"EXHIBIT A"**.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA:**

**SECTION 1.** Chapter 27 Unified Land Development Regulations and the additional aforementioned chapters of the Code of Ordinances of the City of Neptune Beach is hereby revised as provided on **"EXHIBIT A"**.

**SECTION 2.** Severability. If any section, sentence, clause, phrase, or word of this Ordinance or **"EXHIBIT A"** is, for any reason, held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Ordinance or **"EXHIBIT A"**, and it shall be construed to be the legislative intent to pass this Ordinance or **"EXHIBIT A"** without such unconstitutional, invalid or inoperative part therein.

**SECTION 3.** Repeal of Laws in Conflict. All local laws and ordinances in conflict with any provision of this Ordinance are hereby repealed to the extent of any conflict.

**SECTION 4.** Effective Date. This Ordinance shall become effective immediately upon its passage by the City Council.



**VOTE RESULTS OF FIRST READING:**

Mayor Elaine Brown	YES
Vice Mayor Kerry Chin	YES
Councilor Josh Messinger	YES
Councilor Lauren Key	YES
Councilor Nia Livingston	YES


Passed on First Reading this 16<sup>th</sup> day of October, 2023.

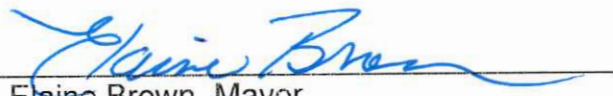
**VOTE RESULTS OF SECOND AND FINAL READING:**

Mayor Elaine Brown	YES
Vice Mayor Kerry Chin	YES
Councilor Josh Messinger	ABSENT
Councilor Lauren Key	YES
Councilor Nia Livingston	YES

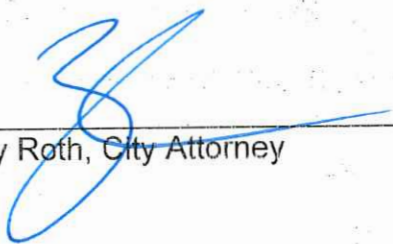
Adopted on Second and Final Reading this 6<sup>th</sup> day of November, 2023.

ATTEST:

  
Catherine Ponson, CMC, City Clerk

  
Elaine Brown, Mayor

Approved as to form and  
correctness:

  
Zachary Roth, City Attorney



## Exhibit A

### Article XIII

#### **Sec. 27-541. - Payment in-lieu of providing off-street parking in the Central Business District.**

In order to facilitate the improvement and redevelopment of properties in the Central Business District (CBD) in a manner that is consistent with the existing character of the neighborhood, the owner of a property may request a waiver for a portion or all of the required non-ADA off-street parking spaces through payment of a fee-in-lieu of providing required parking pursuant to section 27-540. Any required ADA spaces must still be provided on-site. Requests to use the payment-in-lieu of parking fee for alternative compliance with the off-street parking requirements shall be submitted to the community development department and may be reviewed by the Community Development Board and the Community Development Director, as applicable.

- (a) ***Fee calculation.*** The amount of the payment to the payment-in-lieu of parking program will allow the City of Neptune Beach to acquire land, finance, design, construct, and carry out maintenance and repairs to public parking facilities; and to perform other necessary and desirable actions to provide improvements to public off-street parking facilities, and to promote parking alternatives and nonvehicular transportation. The amount of the payment shall be a flat amount per space as established by resolution of the city council shall be determined by the average cost to the city for the construction of a parking space in a parking structure or parking area on a program-wide basis which shall be determined by the director of finance in coordination with the public services director and the community development director. The average cost shall include actual costs and fees for land acquisition, design and planning, legal, engineering, actual construction, and permit review and inspection. Additionally, the fee shall be calculated and paid for all required parking spaces for the use to receive a reduction in the number of parking spaces required.
- (1) ***New construction and existing structures substantial improvements, payment in full required.*** For new construction and expansion, alteration or rehabilitation, or change of use of an existing structure that results in an increased parking requirement as determined in accordance with the Code ~~substantial improvements to existing construction as defined in section 27-15,~~ the Payment in-Lieu of Parking fee shall be satisfied ~~by two (2) equal payments~~ as determined by the Community Development Department fee adopted by separate City Council resolution and updated from time to time. The first payment of 50% of the total fee shall be made to the Community Development Department prior to issuance of ~~a building permit for a principal building or structure on the lot. The second payment shall be made prior to the issuance of a building permit for construction of a principal building or structure on the lot or the first certificate of occupancy (whichever comes sooner). New construction and substantial improvements to existing construction shall not be qualified to participate in a payment in lieu of parking fee agreement. The 50% balance amount due may be spread out in paid in equal monthly payments for up to two (2) years pursuant to the agreement requirements and payment plan detailed in subsections (b) and (c) below.~~
- (2) ***Existing structures.*** When expansion, alteration or rehabilitation, or change of use of an existing structure which does not meet the definition of a substantial improvement to

existing construction as defined in section 27-15 results in an increased parking requirement as determined in accordance with the Code, the in-lieu fee shall be satisfied by one of the following methods:

- a. Two (2) equal payments as set by the Community Development Department fee schedule as adopted from time to time by resolution (certificate of use shall be substituted for certificate of occupancy for change of building use triggering an increase in parking requirements). Applicants who are required to contribute in-lieu of one (1) parking space must pay in full prior to the issuance of a certificate of use or a certificate of occupancy (whichever comes sooner).
- b. For applicants qualified to participate in an in-lieu of parking fee agreement, the amount due may be spread out into monthly payments for up to two (2) years pursuant to the agreement requirements and payment plan detailed in subsections (b) and (c) below.
- (b) ***In-lieu of parking fee agreement.*** ~~Existing structure applicants who are required to contribute in-lieu of two (2) or more required parking spaces but will not pay the entire in-lieu fee due prior to issuance of the certificate of occupancy or certificate of use, must enter into an in-lieu of parking fee agreement with the city.~~ The executed agreement shall be recorded by the community development department prior to the issuance of the building permit or certificate of occupancy or certificate of use, as applicable. The obligations imposed by the agreement shall constitute a restrictive covenant upon a property, and shall bind successors, heirs and assigns in favor of the city. The restrictive covenant shall be released by the city only upon full payment of the in-lieu parking fees due. In-lieu of parking fee agreements shall only be made between the city and the owner(s) of the subject property.
- (c) ***Fee collection for monthly payment plan.*** The first fee payment for applicants entering into an in-lieu of parking fee agreement shall be paid to the Community Development Department prior to the issuance of a building permit for construction of a principal building or structure on the lot. If no building permit is needed, the first payment shall be due and paid to the Community Development Department at the time the certificate of use, or certificate of occupancy (if required) is issued. The remaining amounts shall be paid in no more than twenty-four (24) monthly payments due on the first day of the first ~~month,~~ including month following the initial 50% payment, including plus interest ~~calculated~~ in the amount of ~~five (5) prime rate~~ percent per annum, until the city has received payment in full of the remaining balance. The prime rate shall be determined at the time of execution of the parking fee agreement and shall be based on the rate established by the Wall Street Journal. If such rate is not available, the city may use such other source as it determines appropriate in its reasonable discretion.
- (d) ***Administration.*** The Community Development Department shall administer the collection of in-lieu funds. The finance department shall administer the collection of monthly fees for applicants entered in an in-lieu of parking fee agreement using information provided in writing by the Community Development Department. Additional payments and procedures for late payments and failure to pay penalties shall be established within the in-lieu of parking fee agreement.



- (e) ***Deposit of payment-in-lieu program funds.*** Funds generated through the in-lieu fee program shall be deposited in the payment-in-lieu of parking fund, which may consist of one or more city accounts specifically established to provide parking and related transportation improvements within the ~~payment-in-lieu Central Business District districts and adjacent priority parking districts. The Mobility Management Director and the Community Development Board shall maintain a map which identifies priority parking districts, areas which are strategically located to provide future parking that is within walking distance of the Central Business District.~~
- (f) ***Use of payment-in-lieu program funds.*** The fee collected in the payment-in-lieu fund shall be used to fund the following activities ~~in order to~~<sup>which</sup> support the ~~development, regulation, maintenance, and operation of facilities and programs for the benefit of parking and traffic in the Central Business District~~<sup>provision of parking structures and facilities in commercial districts and for institutional uses:</sup>
- (1) Acquire, construct, or develop off-street and on-street parking and related facilities;
  - (2) Fund the capital costs associated with new, upgraded, or expanded off-street parking areas serving land uses within the priority parking districts.
  - (3) Acquisition of land for present and future mobility improvements or interim parking uses; or
  - ~~(4)~~ Reimburse capital costs or advances, or related financing costs, for spaces in existing facilities or to be constructed which are designated or set aside for the program.
  - ~~(5)~~ Perform necessary and desirable actions to provide safe, well-marked, accessible, and/or clean public off-street parking facilities.
  - ~~(6)~~ Promote nonvehicular transportation and transit.
  - ~~(7)~~ Promote parking alternatives, such as park and ride, or ride sharing.
  - ~~(4)(8)~~ Nothing herein shall be deemed to require the city to undertake the acquisition, construction, expansion, or development of any particular off-street parking facility.



**RESOLUTION NO. 2023-14**

**RESOLUTION ESTABLISHING PAYMENT IN-LIEU OF  
PROVIDING OFF-STREET PARKING IN THE CENTRAL  
BUSINESS DISTRICT AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City Council of the City of Neptune Beach, Florida has held a Public Hearing on the establishment of a Payment in-lieu of providing off-street parking in the Central Business District, and

**WHEREAS**, on August 1, 2022, the City Council adopted Ordinance No.2022-03 Chapter 27 Unified Land Development Code Article VIII Parking and Loading, Section 27-541 "Payment in-lieu of providing off-street parking in the Central Business District"; and,

**WHEREAS**, Section 27-541 (a) (1) Chapter 27 Unified Land Development Code Article VIII Parking and Loading, stipulates that a payment in-lieu of providing off-street parking in the Central Business District fee shall be established by the City Council,

**WHEREAS**, the City Council received information regarding fees for payment in-lieu in other municipalities, and analyzed other economic factors, including current rates of inflation and the cost of services for other projects being procured by the City, and has discussed what it believes to be an appropriate fee for this optional provision; and,

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA**, that a Payment in-lieu of providing off-street parking in the Central Business District fee be established at **\$12,500** per parking space. Fee shall be updated annually in October in accordance with the Consumer Price Index for All Urban Consumers (CPI-U), South Region, Other goods and services, as published by the Bureau of Labor Statistics.

This Resolution adopted by the City Council of Neptune Beach, Florida, at the Regular City Council Meeting held on this 6<sup>th</sup> day of November, 2023.

  
Elaine Brown, Mayor

ATTEST:

  
Catherine Ponson, City Clerk

Approved as to Form and Content:

  
Zachary Roth, City Attorney

