

# CITY OF NEWBURYPORT



IN CITY COUNCIL

**ORDERED:**

January 30, 2023

## **A ZONING ORDINANCE AMENDMENT TO REMOVE THE ALLOWANCE OF "ITIF" SPECIAL PERMITS FOR RESIDENTIAL USES**

Be it ordained by the City Council of the City of Newburyport as follows:

***Amend Section VII-A, entitled "Off-Street Parking Regulations" as follows, with deletions ~~double-stricken and italicized~~, and additions double-underlined and italicized:***

*New uses or development:* No use of any premises shall be authorized or extended and no building or structure shall be erected or enlarged, unless on-site or off-site parking is provided for such extension, erection, or enlargement, as provided herein; provided, however, that for any use or structure both (1) lawfully existing as of December 17, 2017, and (ii) currently located within three hundred (300) feet of a municipal parking lot and/or municipal parking structure that is located within the Downtown Overlay District (DOD), any lawful deficiency in the number or dimensions of accessory, off-street parking spaces that existed on December 17, 2017, may be continued at the same lot by right, notwithstanding any lawful extension, alteration, or change of such use or structure at such lot, such that off-street parking regulations of this ordinance shall apply only to those parking spaces newly required by such lawful extension, alteration, or change of use or structure. Any outdoor parking spaces shall be treated with a surface binder, gravel or crushed stone surface. Except as otherwise provided under section XXIV or, alternatively, through a special permit from the planning board as set forth below, all parking spaces shall be provided as follows:

- (1.) For non-residential uses parking spaces may be (i) on site; (ii) off-site within a private parking lot or a private parking structure within three hundred (300) feet of the principal building, structure or use on the premises, by right with evidence of lease or easement of the minimum duration, as provided below; or (iii) off-site within a municipal parking lot and/or structure that is located within the Downtown Overlay District (DOD), within three hundred (300) feet of the principal building, structure or use on the premises by special permit from the planning board with payment into the intermodal transportation improvement fund (ITIF), as provided below.
- (2.) For residential uses parking spaces may be (i) on-site; or (ii) off-site within a private parking lot or a private parking structure within three hundred (300) feet of the principal building, structure or use on the premises, by right with evidence of lease or easement of the minimum duration, as provided below; ~~or (iii) within a municipal parking lot and/or structure that is located within the Downtown Overlay District (DOD), within three hundred (300) feet of the principal building, structure or use on the premises by special permit from the planning board with payment into the ITIF, as provided below.~~

Notwithstanding the above, no development or use (residential or non-residential) may utilize, or obtain a special permit for use of, municipal parking lots and/or structures to meet the requirements of this section, where such development or use falls within the geographic boundaries of the Waterfront West Overlay District (WWOD).

When a private lot or parking structure is proposed to satisfy the parking requirements, a recordable lease or easement with a term of least five (5) years in duration must be provided to the permit granting authority.

The foregoing provisions regarding off-site parking are summarized in the following table:

	Private parking lot	<i>Private parking structure</i>	<i>Municipal parking lot that is located within the Downtown Overlay District (DOD)</i>	<i>Municipal parking structure that is located within the Downtown Overlay District (DOD)</i>
<b>Residential use (principal building, structure or use within three hundred (300) feet)</b>	By right, with evidence of lease or easement of minimum duration	By right, with evidence of lease or easement of minimum duration	<del>Not Permitted</del> <del>Special permit from planning board with payment into ITIF</del>	<del>Not Permitted</del> <del>Special permit from Planning Board with payment into ITIF</del>
<b>Non-residential use (principal building, structure or use within three hundred (300) feet)</b>	By right, with evidence of lease or easement of minimum duration	By right, with evidence of lease or easement of minimum duration	Special permit from planning board with payment into ITIF	Special permit from planning board with payment into ITIF

For the purposes of determining the distance requirement for off-street parking, the measurement shall be taken in a straight line from the appropriate lot line of the off-street parking lot or parking structure to a pedestrian entrance to the associated principal building, structure or use on the premises.

In the event a proposed development includes more than one use, the parking requirement shall be the sum total of the requirements for the individual uses.

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Notwithstanding the requirements of this section, "shared" parking areas may be allowed to meet the requirements of this section (for a reduction in total parking spaces) by a special permit granted by the planning board, pursuant to this section, for uses having different peak times of parking demand. Grant of a special permit from the planning board for such "shared" parking arrangements shall be issued only after planning board review and approval of a written parking demand analysis provided by the applicant. The planning board may, at its sole discretion, require a peer review of such analysis.

*Dimensional requirements:* Exclusive of driveways or aisles, an area consisting of eighteen (18) feet by nine (9) feet shall be considered as one off-street parking space. The minimum aisle width for ninety-degree parking shall be twenty-four (24) feet for two-way traffic. Angle parking shall require a one-way traffic aisle with an eighteen-foot aisle width for sixty-degree parking and thirteen (13) feet for forty-five-degree parking.

*Use of municipal lots:* The planning board shall act as special permit granting authority (SPGA) for the purposes of permitting use of municipal parking lots and/or structures for ~~residential and~~ non-residential uses to provide required off-street parking.

The use of municipal parking lot(s) and/or structures is permitted for all ~~residential and~~ non-residential uses to provide required off-street parking by special permit from the planning board and payment into the ITIF, as provided below. The special permit for use of municipal parking lots and/or structures shall require both compliance with the requirements of the ITIF and a determination that the requested use is essential and/or desirable to the public convenience or welfare.

*Intermodal transportation improvement fund (ITIF):* The city hereby creates a dedicated municipal revenue fund whose purpose is to provide for necessary funding to support transportation related improvements that are necessitated by use of municipal parking lots and structures by ~~residential and~~ non-residential uses. The improvements necessitated by such uses are intended: to increase the supply of available public parking spaces which would otherwise be available if not for use of the municipal parking lots and/or structures by such non-residential users; to allow for related improvements that are necessitated by the use of municipal parking lots and/or structures by such non-residential users; and to pay for increases in the cost of operating and maintaining municipal parking lots and/or structures which said costs can be directly attributed to the use of the municipal parking lots and/or structures by such non-residential users. It is intended that all property owners that request a special permit from the

SPGA to utilize a municipal parking lot(s) to meet their off-street parking requirements shall meet the requirements of this section.

Recognizing the particular intermodal transportation and parking needs of the relevant districts, the SPGA may allow an unmet parking need credit (UPNC) to be applied and deposited in the ITIF as a method of meeting the parking requirements of section VII for ~~residential and~~ non-residential uses. As provided in this section, the UPNC may only be requested by a property owner of a ~~residential or a~~ non-residential use within three hundred (300) feet of an off-street municipal parking lot and/or structure. Applications shall be administered by the SPGA as part of the special permit process and calculated using the table listed in the intermodal transportation improvement fund.

To calculate this credit, any unmet parking need shall be calculated by multiplying the required unmet parking need by a rate of seven thousand five hundred dollars (\$7,500.00) per space in a municipal parking lot and/or structure, plus an adjustment (increase) in accordance with the consumer price index (CPI) for construction issued by the United States Bureau of Labor Statistics. Prior to the issuance of a building permit, the resulting dollar amount shall then be deposited in the ITIF. The ITIF shall be used to provide support for transportation related improvements cited above, operations and shall be controlled and administered by the city council. The use of funds collected under this ITIF limited to the above noted improvements or such other improvements that are directly necessitated by use of municipal parking structures by ~~residential or~~ non-residential uses to provide required off-street parking.

SPGA approval for the use of nearby municipal parking lots and/or structures to meet the off-street parking requirements of this section shall not constitute a permanent or exclusive right or guarantee of access to such parking spaces by the applicant, associated residents, tenants or otherwise. Rather, such SPGA approval (with corresponding payment into the ITIF) shall enable the applicant to take credit for nearby public parking spaces in fulfilling the minimum parking calculations required under this section for proposed uses at the time of permitting. Unless otherwise permitted by the City of Newburyport, all such parking spaces located in municipal parking lots shall be considered shared parking spaces, available on a first come, first served basis.

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Councillor James J. McCauley