

EXHIBIT NO. 1

20
5-12-01

City of Alexandria, Virginia

17
~~5-8-01~~

MEMORANDUM

DATE: MAY 4, 2001

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER *PS*

SUBJECT: REVISED ORDINANCE ON RESIDENTIAL PARKING FOR PERSONS WITH DISABILITIES

ISSUE: City Council consideration of the ordinance implementing the residential parking policy for persons with disabilities.

RECOMMENDATION: That City Council pass the ordinance (Attachment 1) on first reading and set it for public hearing, second reading and final passage on Saturday, May 12. The ordinance incorporates the final recommendations of the City Manager's Committee on Residential Parking for Persons with Disabilities.

DISCUSSION: At the February 24 public hearing, City Council deferred action on the ordinance implementing the policy on Residential Parking for Persons with Disabilities which Council approved on November 18, 2000. Following the public hearing, I suggested that the issues raised at the public hearing be referred to the City Manager's Committee on Residential Parking for Persons with Disabilities for its recommendations. On March 20, the City Manager's Committee met to discuss, and act upon, the following issues.

1. The Commission on Persons with Disabilities recommended that for the block limit waiver provision (the block limit is one reserved parking space for one side of any street) be enlarged by making it available to persons with life threatening disabilities. Under the original waiver provision, a person with a severe mobility impairment who has a vehicle equipped to accommodate the mobility impairment could apply for a waiver of the block limit. As written, the original provision would not apply to a person with a life threatening disability such as congestive heart failure which qualifies as a severe mobility impairment, but does not require a vehicle that is equipped to accommodate the mobility impairment. The Manager's Committee unanimously adopted the following amended language (in bold) to extend eligibility for block limit waivers to persons with such life threatening disabilities: "Sec. 5-8-117(e)(1)(a)(i) The applicant demonstrates to the satisfaction of the City Manager that the applicant has a severe mobility impairment, and that **(1) the applicant or a resident of the applicant's household owns a motor vehicle especially equipped to permit operation by, or transport of, the applicant, or (2) the applicant has a life threatening condition, or....**"

2. At the public hearing, Elizabeth Barnes raised the issues she had outlined in her letter to the City Attorney (Attachment 2). The City Manager's Committee reviewed Ms. Barnes's letter. The majority of the members believed that the ordinance and the policy afford both the applicant applying for a reserved space and the neighborhood a fair and equitable process for dealing with the issues surrounding the designation of reserved parking spaces for persons with disabilities. In addition, the City Attorney has reiterated that the Americans with Disabilities Act, contrary to the statements in Ms. Barnes's letter, does not apply to the City's residential parking policy for persons with disabilities. As explained by the U.S. Department of Justice, reserved curbside parking for persons with disabilities offers such persons a service not generally available to the public. As such, the reserved parking is categorized as a special benefit, which goes beyond any reasonable accommodation required under the Act. See letter from John Wodatch (Attachment 3), Director, Public Access Section.

The Committee did approve two amendments related to Ms. Barnes's letter. The first involves Section 5-8-117(e)(2)(c), which addresses the conditions under which the City Manager is authorized to waive the requirement that legal parking must be available in front of the applicant's residence. Paragraph (2)(c) currently states that "If granted, a waiver shall be valid for a period of one year only, but the applicant may reapply for additional one year periods." The Committee, on a 6 to 1 vote, supported deleting paragraph (2)(c) in its entirety. The Committee's action resolves Ms. Barnes's objection to the language in the original proposed ordinance requiring a person, who receives a waiver, to reapply each year for the waiver. Under the Committee's proposed amendment, the applicant would have to respond to the annual re-certification letter that all residents with reserved spaces will receive from the City, asking each resident to verify that he or she still meets the eligibility criteria in the ordinance. It should be noted that applicants granted the waiver of the block face limit (one reserved parking space for one side of any street) would still have to apply for that waiver each year.

Deleting paragraph (2)(c) above requires that language be added to Subsection 5-8-117(h) to exempt from the annual re-certification requirements reserved spaces not located in front of the applicant's residence. The revised language as shown underlined on page 4 of the ordinance (Attachment 1) removes the requirement for re-certification of the subsection (b)(5) criterion for both existing spaces already approved in front of another's residence, and spaces which may in the future be approved in front of another's residence by the City Manager.

3. The final action by the Committee was to unanimously recommend to staff that the administrative regulations for the waiver process followed by the City Manager include the following provision: "If, during the review of the information submitted by the applicant for a waiver, the City Manager should discover information that challenges what the applicant has stated, the City Manager will so inform the applicant and the applicant will be given a reasonable amount of time to respond to any such challenge." The staff concurs with this recommendation, and will include it in the administrative procedures governing the waiver process.

The minutes from the Committee's March 20 meeting are attached (Attachment 4). The Commission on Persons with Disabilities, the Human Rights Commission and The Old Town Civic Association support the Committee's recommendations. The Lynhaven Civic Association, the Commission on Aging, the Warwick Village Citizens Association, and the Traffic and Parking Board has no objections to the recommendations.

FISCAL IMPACT: There will be administrative costs associated with the annual re-certification process, but that cost will not be known for certain until the first annual re-certification is completed. It is not anticipated that additional staff will be needed for this program.

ATTACHMENTS:

1. Proposed Ordinance implementing the Residential Parking Policy for Persons with Disabilities
2. Letter from Elizabeth Barnes to City Attorney Ignacio Pessoa
3. Letter from John Wodatch, Director, Public Access Section, U.S. Department of Justice
4. Minutes from the March 20, 2001, meeting of the City Manager's Committee on Residential Parking for Persons with Disabilities

STAFF: Beverly Steele, Special Projects Coordinator
Richard J. Baier, P.E., Transportation and Environmental Services Director
Douglas McCobb, P.E., Deputy Director

Attachment 1
~~17~~ 20
~~5-8-01~~ 5-12-01

Introduction and first reading: 5/08/01
Public hearing: 5/12/01
Second reading and enactment: 5/12/01

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE to amend Chapter 8 (PARKING AND TRAFFIC REGULATIONS) of Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES) of The Code of the City of Alexandria, Virginia, 1981, as amended, by adding thereto a new Section 5-8-117 (ESTABLISHMENT OF PARKING SPACES FOR PERSONS WITH A DISABILITY).

Summary

The proposed ordinance, as revised to incorporate the additional provisions relating to block limit waivers and annual re-certification of spaces recommended by the City Manager's Committee on Residential Parking for Persons with Disabilities on March 20, 2001, implements the new policy and procedure, adopted by City Council for the approval, in residential areas of the City, of on-street parking spaces reserved for the use of persons with disabilities.

Sponsor

Department of Transportation and Environmental Services

Staff

Richard Baier, Director, Transportation and Environmental Services
Beverly Steele, Special Projects Coordinator
Ignacio B. Pessoa, City Attorney

Authority

§ 2.04(g) Alexandria City Charter
§ 46.2-1236, Code of Virginia, 1950, as amended

Estimated Costs of Implementation

As stated in City Manager's Memorandum

Attachments in Addition to Proposed Ordinance and its Attachments (if any)

None

~~17/~~
~~5-8-01~~

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5-12-01

REVISED MARCH 20, 2001
ORDINANCE NO. _____

AN ORDINANCE to amend Chapter 8 (PARKING AND TRAFFIC REGULATIONS) of Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES) of The Code of the City of Alexandria, Virginia, 1981, as amended, by adding thereto a new Section 5-8-117 (ESTABLISHMENT OF PARKING SPACES FOR PERSONS WITH A DISABILITY).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 8 of Title 5 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by adding thereto a new Section 5-8-117 to read as follows:

[The following is all new language.]

Sec. 5-8-117 Establishment of parking spaces for persons with a disability.

(a) Preemption of other law. Notwithstanding any contrary provision in this code, reserved parking spaces in the public right-of-way in single-family, two-family and townhouse residential areas for use by persons with a disability shall be established and removed as provided in this section.

(b) Application requirements. An application for a reserved parking space for persons with disabilities in the public right-of-way in residential areas must comply with the following criteria in order to be considered:

(1) There must be no off-street parking at the applicant's residence, or the applicant must demonstrate, as provided in paragraph (6), that existing off-street parking is not feasible for use by the applicant.

(2) The applicant must have a valid Virginia DMV disabled parking license plate or placard.

(3) The applicant must reside at the address in front of which the space is requested.

(4) The applicant must demonstrate that a vehicle is registered in Alexandria to a person who resides at the address requested.

(5) Legal parking must be available in front of the applicant's address.

(6) Each applicant must supply a copy of the medical certification submitted to the Department of Motor Vehicles, or a new such certification, which demonstrates eligibility for a DMV disabled parking license plate or placard, and, where existing off-street parking exists, must supply additional medical evidence to demonstrate that such parking is not feasible for use by the applicant.

(c) Approval requirements. If an application fails to meet any of the criteria listed in subsection (b), it will not be approved, unless a waiver is sought and approved under subsection (e). If the application is denied, the applicant shall be notified in writing as to the specific reasons for the denial, and shall also be notified of any right to appeal provided under this section.

(d) Block Limits. No more than one reserved parking space for persons with disabilities will be authorized for one side of any street, between intersecting streets (block face).

(e) Waivers. The City Manager is authorized to waive:

(1) The block limits standard under the following conditions:

(a) (i) The applicant demonstrates to the satisfaction of the City Manager that the applicant has a severe mobility impairment, and that (1) the applicant or a resident of the applicant's household owns a motor vehicle especially equipped to permit operation by, or transport of, the applicant, or (2) the applicant has a life threatening condition, or

(ii) The applicant demonstrates to the satisfaction of the City Manager that the block on which the applicant resides is of unusual or exceptional length, and that permitting an additional space would be the functional equivalent of the application of the usual block limit standard; and

(b) The applicant demonstrates to the satisfaction of the City Manager that the applicant otherwise meets the criteria in subsection (b) of this section; and

(c) If granted, a waiver shall be valid for a period of one year only, but the applicant may re-apply for additional one year periods.

(2) The requirement that legal parking must be available in front of the applicant's address, under the following conditions:

(a)(i) There is a fire hydrant, city no-parking regulation, or other similar impediment to parking in front of the applicant's address, or the applicant's property is of insufficient width to accommodate the reserved space, and the applicant demonstrates to the satisfaction of the City Manager that installation of the reserved space at another location will not unduly burden any other person; or (ii) the owner of the property in front of which the reserved space is proposed to be located has consented, in writing, to such location, in which case the waiver shall be granted as a matter of course, and

(b) The applicant demonstrates to the satisfaction of the City Manager that the applicant otherwise meets the criteria in subsection (b) of this section; and

~~(c) If granted, a waiver shall be valid for a period of one year only, but the applicant may re-apply for additional one year periods.~~

(3) The City Manager may impose such conditions on any waiver as the manager deems reasonable.

(f) Use of reserved spaces. A parking space for persons with disabilities will be available for use by any eligible person with a DMV disabled license plate or placard on a first come, first served basis, and is not reserved for the exclusive use of the applicant. Only those vehicles used by, or to transport, a person with a disability may park in the reserved space, and the applicant's vehicle is expected to use the reserved space when parked in the neighborhood. Reserved spaces are not intended for use by companions except when transporting persons with disabilities, and displaying a DMV plate or placard. Use of the parking space by other persons when not transporting the person with a disability is a parking violation that carries a \$100 to \$500 fine, as provided in Section 10-4-19 of this code and Section 46.2-1249 of the Virginia Code.

(g) Administrative procedures. The Director of Transportation and Environmental Services shall be responsible for administering this section.

(1) All applications must be submitted to the Director for consideration and review. The Director will (a) evaluate satisfaction of eligibility criteria; (b) verify the validity of the disabled parking license plate or placard; (c) verify vehicle registration; (d) confirm residency; (e) determine availability of off-street and on-street parking; and (f) ensure conformance to the terms of this section in making a decision.

(2) Applications for a determination that an existing off-street parking space is not feasible for use by the applicant, and for a block limit or availability of parking waiver shall be submitted to the Director, for review and recommendation, and shall be decided by the City Manager.

(3) Any person aggrieved may appeal the Director's decision to the City Manager, by filing an appeal, in writing, with the Director, within 15 days of the Director's decision. The appeal shall be limited to the record upon which the Director based his decision, and such additional written submissions as the parties may provide. The Manager's decision on appeal, or on an application for a waiver, shall state the findings of fact and reasons for the decision, and shall be final and not appealable to City Council.

(4) The Director shall implement procedures to ensure the confidentiality of any medical information submitted by an applicant, including DMV medical certifications, which shall at minimum provide for the maintenance of such information in a sealed file, with access permitted only to Department employees or the City Manager on a need-to-know basis, during the

pendency of an application. Once a decision has been made on an application, access shall be permitted only on the written authorization of the Director or Acting Director. This information shall be held strictly confidential, and shall not be released to any individual or entity, other than the applicant, outside of the Department of T&ES, the City Manager or the Manager's designee appointed hereunder. All employees who have potential access to said information shall be trained on this policy and the strict confidentiality requirements adhered to. Medical information submitted by an applicant is exempt from mandatory disclosure under FOIA, and shall not be subject to discretionary release.

(h) Annual recertification. Each year the Director will mail a recertification form to each resident who received approval for the installation of a reserved parking space, including those parking spaces that were approved prior to [effective date of this ordinance]. In order to retain the reserved space, the resident must complete and execute the form affirming continued satisfaction of all of the eligibility criteria in subsection (b) of this section, except such criteria as may have been waived by the City Manager pursuant to subsection (e) of this section. The requirement of paragraph (b)(5) that the space be located in front of the applicant's residence, and ~~the~~ block limit requirement of subsection (d) shall not apply to the recertification of spaces approved prior to [effective date of this ordinance]. If the Director determines that the eligibility criteria are no longer satisfied, the resident will be notified in writing and must provide a response to the Director with proper evidence of compliance within 45 days of notification. Failure to provide the information in accordance with the requested deadline will result in a second letter and failure to respond to the second letter within 30 days shall result in the removal of the reserved space.

(i) Revocation. A reserved space is subject to revocation as follows:

(1) In the event that a complaint is made to the Director that the applicant no longer satisfies the eligibility criteria of subsection (b) of this section, or that the space is being repeatedly used in a manner contrary to subsection (f), by persons residing in or visiting the applicant's household, the Director will conduct a preliminary inquiry to determine if the complaint is supported by substantial and credible evidence. If the Director determines that the complaint is so supported, the applicant will be notified in writing of the nature and specifics of the complaint, and must provide a response within 45 days to the Director. The applicant and complainant(s) shall have the right to appear before the Director, upon 15 days written notice of the time and place of the hearing, and be heard in person or by counsel, but such hearing shall be conducted in an informal manner. The Director shall revoke a reserved parking space designation only if (i) the Director finds by a preponderance of the evidence that the applicant did not, or does not continue to, meet the criteria in subsection (b), or if (ii) the Director finds by clear and convincing evidence that the space is being repeatedly used in a manner contrary to subsection (f), by persons residing in or visiting the applicant's household. The Director shall notify all parties of the decision in writing, within 15 days of the close of the hearing. The decision shall state the findings of fact and the reasons for the decision. The notice shall inform the parties of their right to appeal the decision to the City Manager, and of the procedure for making such an appeal.

(2) Any person aggrieved may appeal the Director's decision to the City Manager, by filing an appeal, in writing, with the Director, within 15 days of issuance of the decision. The City Manager shall schedule a hearing on the matter within 30 days of the filing of the appeal, and shall give the parties 15 days notice of the time and place of the hearing. The Manager shall notify all parties of the Manager's decision in writing, within 15 days of the close of the hearing. The Manager's decision shall state the findings of fact and the reasons for the decision, and the decision shall be final and not appealable to City Council.

Section 2. That this ordinance shall become effective upon the date and at the time of its final passage.

KERRY J. DONLEY
Mayor

Introduction: 5/08/01
First Reading: 5/08/01
Publication: 5/10/01
Public Hearing: 5/12/01
Second Reading:
Final Passage:

N.B. Underlining is not part of the ordinance but denotes language that is new or amended since the previous draft of the ordinance. Strike-outs or dashes are not part of the ordinance, but denote material that has been deleted since the previous draft of the ordinance.

FROM : X

FAX NO. : 7035480344

Feb. 21 2001 08:41PM P1

Elizabeth Barnes
314 Prince Street
Alexandria, Virginia
22314

16
2-24-01

cc: MAYOR KERRY CONLEY

Ignacio Pessoa
City Attorney
City of Alexandria
P.O. Box 178 - City Hall
Alexandria, Virginia 22313

Dear Mr. Pessoa,

On Tuesday, February 13, 2001, I received and read the proposed ordinance to implement the "Residential Parking Policy for Persons with Disabilities." As you know, I also spoke to you on 2-13-01 regarding my concerns which you suggested I put in writing.

As a disabled person, I found our conversation and your comments not only to be limited in productivity, but extremely stressful and harmful to my health.

You made it a point to tell me that the City of Alexandria is not required to provide public parking in the public right of way. You were clearly implying that I should just be grateful that the city even bothered to have the few handicapped spaces that we do have. However, the Americans with Disabilities Act of 1990 (Act) Sec. 202. DISCRIMINATION, of the Act states that "no qualified individual with a disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity" Parking in the City of Alexandria, in as much as it has codified rules and regulations, is administered by a specific office, and has imputed benefits that have to be controlled and paid for via resident parking passes is certainly a service and a program.

You may want to contact the Department of Justice as I did and hear for yourself their opinion that the City of Alexandria is administering public right of way parking as a service, program, or activity of a public entity. Since other groups and categories of Alexandrians and non-Alexandrians are afforded special accommodations in the form of special loading zone spaces, taxi stand spaces, entrance way spaces, special Old Town parking for residents, three 20 minute parking meters for Burke and Herbert Bank (even though they have their own parking lot), etc., with no restriction of one per block and no requirement of annual recertification, no veto power by single property owners, then, in fact, the ordinance in question does become subject to Sec. 202 of the Act. Handicap spaces are being administered quite differently than other special spaces and the applicants for those spaces are being treated differently. No reason for this different treatment has been demonstrated or studied and appears to be highly discriminatory.

In our telephone conversation, I specifically asked you why, per Sec. 5-8(e)(2)(a)(i) and (ii) of the proposed ordinance, when the requested handicapped space cannot be in front of the applicant's

address because of a City action (fire hydrant, etc.), the owner of the property next door (absentee or not) is given the codified opportunity to consent or not to a waiver. I raised the question, because to my knowledge such parking space is owned and administered by the City parking program and not by the property owner. It should be the City, and not the property owner, who makes decisions on public programs and services. You said the property owner had the right to approve the decision because "they might have a good reason" and when I asked you what would be a good reason, you told me you "didn't know." You also told me in very strong terms that this section would not be changed. The purpose of a Public Hearing is to invite discussions that might lead to changes - I trust that will be the case. A property owner should not be granted the power to veto a proposed handicapped space due to the fact that fire hydrant, etc., exists in front of the applicant's home. The handicapped applicant should not have to bear the consequence of this fire hydrant alone. If a fire hydrant was necessary, then the consequence of that fire hydrant must be born by adjacent properties as well. All perceived dominion over the spaces should move down the line to accommodate a public safety need. Surely this is more fair and much more logical than only the house in front of the fire hydrant losing its dominion. The logic in the proposed ordinance is not consistent with a representative form of government. That's why we elect and hire and pay people to represent all of us. No one citizen can directly control another citizen's well being as is provided for in the ordinance. Corruption, bribery, intimidation is guaranteed - not just possible, but guaranteed.

The proposed ordinance allows for a waiver of this provision by the City Manager. When I asked you what the criteria were to be used by the City Manager you said a criterion might be the degree of the applicant's disability. When I asked you whether the City Manager was qualified to question a medical doctor's statement that a person was permanently and totally disabled and had mobility problems severe enough to warrant handicapped parking you said "everyone knows all the doctors routinely fill out and sign all those forms." Your obvious disdain for the process and bias as the City Attorney seems to border on abject discrimination of disabled persons. The City needs a sound analysis of your statement before this ordinance can be passed if that statement or belief is the basis of any aspect of this reactionary attempt to punish all for the sins of a few.

I also pointed out to you that Sec. 5-8 (e)(2)(a)(ii)(c) of the ordinance requires that such a waiver for a fire hydrant, etc. that necessitates that a handicap space be moved to a space not in front of the applicant's address shall be valid for one year only. I find this to be extremely punitive to require a permanently disabled person with a permanent mobility problem to have to ask for a waiver every year - after all the fire hydrant, etc. does not move.

The solution is that no waiver should even be necessary. The language should be changed to read, "Sec 5-8(e) (2)(a)(X) There is a fire hydrantthen the next adjacent space will be utilized as the handicapped space." This is entirely fair and can actually have a chance of being administered fairly. Concurrently, remove (2) under (e) Waivers.

As a disabled person, I want you to know that every day presents me with new difficulties and challenges that I would wish on no one. I have an incurable disease that will never improve but will only get worse over time. I am not able to enjoy the many daily activities that currently healthy people like yourself take for granted. I would gladly give my handicap license plate in

exchange for your current good health. It is quite unsettling to think that an ordinance mainly crafted to appease the non-handicap's illogical thought that they will gain more parking (the handicapped persons' cars will still be parked in the same number of spaces) may adversely impact on my ability to leave my house by their being deputized the power and authority to reject a proposed handicap space. The near certain prospect of abuse of this power is frightening, not just for me, but for the image and treasury of the City.

Anything less than the aforementioned is discriminatory against the handicapped form of special parking uses. No other types of special parking spaces need to seek approval from specific residents for their self-serving analysis of the "burden" as required in the proposed ordinance. In fact, "burden" has not even been defined by the ordinance.

Incredibly, the proposed ordinance in Sec 5-8, (e) (2) (a)(1), states that for a waiver of a fire hydrant, etc. necessitated moving of a handicapped space to take place, it is required that "the applicant demonstrates to the satisfaction of the City Manger that installation of the reserved space at another location will not unduly burden any other person:..." In fact, it should be the reverse. It should be the City Manger that must demonstrate that NOT locating a handicap spot next to applicant's property will not unduly burden the applicant. Certainly the burden of not having a handicapped parking space near the applicant's home should be analyzed and considered as equally as the concern of a resident's burden or perceived burden of having a handicapped space in front of their property. In fact, the handicapped burden should take precedence.

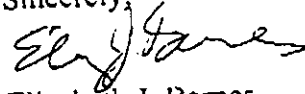
This is called "reasonable accommodation" under the Americans with Disabilities Act in the conduct of the programs and services of a public entity. It is the City Manger who should have to demonstrate the burden of NOT having a handicapped space to a person with severe mobility problems sufficient enough for the Commonwealth of Virginia to officially issue handicapped license plates with no annual recertification. What non-handicapped "burdens" could POSSIBLY take precedence over a handicapped person's burden of not being able to drag themselves to their car. Giving special precedence to the non-handicapped concerns of burden over the concerns of burden of the handicapped is unequal treatment and a violation of the intent and spirit of the law. The fact is that for no other types of special uses of parking spaces in the City parking program, e.g., loading zones, 20-minute banking parking, entrance no parking, fire hydrant spaces, do specific individual residents get such power and authority to have their burden unequally treated over others. In addition, no other special use parking is restricted to only one per block - NONE. The ordinance as proposed constitutes "exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities," ... as discussed in Sec. 2 (5) of the Americans with Disabilities Act. Burke and Herbert Bank does not have to hear from any specific individual about the "burden" of subsidizing their business by taking parking spaces out of inventory. Portners Restaurant never hears how their two spaces designated "entrance" may "burden" a specific resident. Trojan Antiques on Prince Street has two loading zones - TWO!!! Taxi zones for 5 cabs (5 lost parking spaces) in front of the Holiday Inn - the list and the unequal administration of a public entity parking program go on and on.

We can do better than this in Alexandria. Disability is an unfortunate reality that the City of

Alexandria must have the courage and leadership to both accept and prosper with. And it is not hard. Some handicapped people drive cars. They will park their cars in parking spaces. It is the same number of people and the same number of spaces regardless of whether they are designated handicapped or not. Limiting the number of handicapped spaces does not create or reduce the number of spaces - the proposed ordinance is a zero sum game. The incredible aspect of this proposed ordinance and all the embarrassment to the city and litigation that will come out of it is how little will be actually be accomplished by it and how little analysis was done to determine if in fact there even is a problem in the first place.

I hope that you and the City of Alexandria will make this process a fair and equitable one so that those disabled residents of Alexandria will not have to endure and participate in something punitive and specious. Please do not further complicate, "burden," and disrupt the lives of those of us who only want to keep our independence as long as we are able so that we may strive for a better quality of life such as those of you who are currently so fortunate to enjoy.

Sincerely,



Elizabeth J. Barnes

cc:

Kerry J. Donley
Philip Sunderland
Chairman, Traffic and Parking Board
Chair, Human Rights Commission
Chairman, Commission on Aging
Chair, Commission for Persons with Disabilities
William C. Cleaveland
Claire M. Eberwein
William D. Euille
Redella S. Pepper
David G. Speck
Joyce Woodson
Senator John Warner
Representative Jim Moran
State Senator Patsy Ticer

DJ 202-PL-267

NOV 3 1992

Tom Gallagher
Manager, Research and Planning
Department of Employment
P.O. Box 2760
Casper, Wyoming 82602

Dear Mr. Gallagher:

Your letter to the Architectural and Transportation Barriers Compliance Board requesting information about the Americans with Disabilities Act (ADA) was referred to this office for response.

The ADA authorizes the Department of Justice to provide technical assistance to individuals and entities having rights or obligations under the Act. This letter provides informal guidance to assist you in understanding the ADA's requirements; however, it does not constitute a legal interpretation and it is not binding on the Department.

Your letter describes an ordinance, adopted by the city of Casper, Wyoming, allowing certain individuals, including persons with disabilities, to purchase curbside parking rights on a monthly basis. Under this ordinance, persons with disabilities are allowed to park along a curb for up to eight hours a day for a monthly fee of \$25. Your letter questions whether some recourse is available to you because you believe that this ordinance is discriminatory. Included with your letter was a brochure describing the city's parking regulations in the downtown area of Casper, Wyoming.

The ADA prohibits State and local government entities from denying benefits or services to any person with a disability, if that person would otherwise be entitled to those benefits or services. 42 U.S.C. § 12132; 28 C.F.R. § 35.130. Furthermore,

[a] public entity may not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures ... that are required to provide that individual or group with nondiscriminatory treatment required by the Act or this part.

cc: Records, Chrono, Wodatch, Magagna, Friedlander, Nakata, FOIA
Udd:Nakata:202.PL.267.Gallagher

01-01686

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28 C.F.R. § 35.130(f).

According to the brochure included with your letter, the city of Casper allows free curbside parking for up to two hours in the downtown area. Ordinarily, curbside parking is not allowed beyond two hours. Because persons with disabilities are allowed to stay at the curbside for longer periods of time, the city is offering persons with disabilities a service not generally available to the public. The Department of Justice's regulation specifies that the ADA does not prohibit a local government from providing a benefit or service to persons with disabilities that goes beyond those required by the ADA. 28

C.F.R. □ 35.130(c).

Furthermore, the \$25 per month fee does not appear to be discriminatory. Long-term parking is provided in the city's Parking Garage Structure for a cost of \$.35 per hour after the first two hours. Therefore, a person working an eight-hour day in the downtown area could park along the curb for two hours, then move to the Parking Garage Structure, stay for free for two hours, then pay \$.35 for the remaining four hours. Therefore, a person could park in the downtown area for \$1.40 per day or \$28 per month (assuming a 20-day work month). Because the \$25 per month curbside parking fee for persons with disabilities is less than the parking fee that a non-disabled person would ordinarily have to pay for monthly parking in the downtown area, the \$25 fee does not appear to be a discriminatory surcharge.

Under certain circumstances, a city's parking policy might be discriminatory. For instance, if the monthly parking fee in the city's parking garages were higher for persons with disabilities than for persons without disabilities or if these garages did not provide adequate parking spaces for persons with disabilities, the city might be in violation of the ADA. These circumstances, however, are not indicated in your letter.

I have enclosed a copy of the Department's recently published Title II Technical Assistance Manual which may further assist you in understanding the obligations of public entities under the ADA. I hope this information is useful to you.

Sincerely,

John Wodatch
Director
Public Access Section

No enclosure

DATE: MARCH 23, 2001

TO: MEMBERS OF THE CITY MANAGER'S COMMITTEE ON RESIDENTIAL
PARKING FOR PERSONS WITH DISABILITIES

FROM: BEVERLY C. STEELE, SPECIAL PROJECTS COORDINATOR

SUBJECT: COMMITTEE ACTIONS

I want to thank everyone who came to the March 20 meeting. Below is a summary of what occurred. Let me know if any corrections are needed.

Voting members present: Chet Avery, Human Rights Commission; Rosa Byrd, Lynhaven Citizens Association; Alethea Taylor Camp, Warwick Village Citizens Association; Susan Dawson, Commission on Aging; Barbara Gilley, Commission on Persons with Disabilities; Jean Niebauer, Human Rights Office; C. Peter Schumaier, citizen; Converse M. West, Traffic and Parking Board.

Others present: Ignacio Pessoa, City Attorney; Doug McCobb, Deputy Director, Transportation and Environmental Services; Beverly Steele, Special Projects Coordinator.

Committee Actions:

1. The Committee, on a motion by Peter Schumaier and seconded by Rosa Byrd, unanimously adopted the proposed amendment (Attachment 1) authorizing a waiver from the block limit requirement for an applicant with a life threatening mobility impairment, who does not have a specially equipped transport vehicle.
2. With respect to Section 5-8-117 (e) (2) (a)(i) and (ii), regarding waiver under certain circumstances of the requirement that legal parking must be available in front of the applicant's address, Peter Schumaier moved and Rosa Byrd seconded that the ordinance remain as written. The committee discussed the meaning and intent of the provision in subsection (ii) for consent of the owner of the property in front of which the reserved space is proposed to be located.

A substitute motion was moved by Barbara Gilley and seconded by Chet Avery that the ordinance be amended as follows: the space next door is automatically awarded assuming the applicant meets the other criteria for a reserved space, and further that the applicant will not have to reapply for the waiver each year, but would only be required to comply with the recertification process. The substitute motion was defeated by a vote of 6 to 2, with Barbara Gilley and Chet Avery voting to support the substitute motion.

The committee returned to the main motion to support the ordinance as written. A substitute motion was moved by Chet Avery and seconded by Barbara Gilley to amend the main motion as follows: include in the main motion the requirement that the applicant, if granted a waiver of the

space in front of residence requirement only, would not be required to reapply for the waiver each year, but would only be required to comply with the recertification process. The substitute motion was approved by a vote of 6 to 1 (no vote by Barbara Gilley representing the position of the Commission on Persons with Disabilities) to 1 (abstention by Rosa Byrd). Waivers of the block face limit continue to require annual reapplication.

3. The Committee unanimously approved the proposed amendment to subsection 5-8-117(h) to exempt from the recertification requirements applicable to existing spaces the requirement of paragraph (b) (5) that the space be located in front of the applicant's house (Attachment 2). This is a technical amendment to make clear that the location of existing spaces that are not in front of the residence because a legal space in front of the residence was not available is treated as "grandfathered" during the annual recertification process.

4. The Committee also agreed that staff would include in the administrative regulations for the waiver process the following: If, during the review of the information submitted by the applicant for a waiver, the City Manager should discover information that challenges what the applicant has stated, the City Manager will so inform the applicant and the applicant will be given a reasonable amount of time to respond to any such challenge.

Mark Feldheim, President of The Old Town Civic Association, was out of town on business, but sent the attached letter to the Committee (Attachment 3) for its consideration.

Each member of the Committee will report the above actions to their respective groups, and, if there is a need, the Committee will reconvene (members are requested to notify Beverly Steele of the results of the meetings with each member's respective organization). If there is no need for the Committee to meet, the actions of the Committee will be forwarded to the City Manager. The ordinance will be docketed for City Council consideration in May.

Attachments

cc: City Manager Philip Sunderland
Transportation and Environmental Services Director Richard J. Baier, P.E.

PROPOSED AMENDMENT TO CLAUSE 5-8-117(e)(1)(a)(i) to authorize a waiver from the block limit requirement for an applicant with a life threatening mobility impairment, who does not have a specially equipped transport vehicle.

(a) (i) The applicant demonstrates to the satisfaction of the City Manager that the applicant has a severe mobility impairment, and that (1) the applicant or a resident of the applicant's household owns a motor vehicle especially equipped to permit operation by, or transport of, the applicant, or (2) the applicant has a life threatening condition, or

PROPOSED AMENDMENT TO SUBSECTION 5-8-117(h), to exempt existing spaces from recertification requirement that space be located in front of applicant's residence.

(h) Annual recertification. Each year the Director will mail a recertification form to each resident who received approval for the installation of a reserved parking space, including those parking spaces that were approved prior to [effective date of this ordinance]. In order to retain the reserved space, the resident must complete and execute the form affirming continued satisfaction of all of the eligibility criteria in subsection (b) of this section. The requirement of paragraph (b)(5) that the space be located in front of the applicant's residence and the block limit requirement of subsection (d) shall not apply to the recertification of spaces approved prior to [effective date of this ordinance]. If the Director determines that the eligibility criteria are no longer satisfied, the resident will be notified in writing and must provide a response to the Director with proper evidence of compliance within 45 days of notification. Failure to provide the information in accordance with the requested deadline will result in a second letter and failure to respond to the second letter within 30 days shall result in the removal of the reserved space.

The Old Town Civic Association

POST OFFICE BOX 21333
ALEXANDRIA, VIRGINIA 22320-2333

March 15, 2001

Ms, Beverly Steele
Special Projects Coordinator
City of Alexandria
301 King Street
Alexandria, VA 22314

Re: Residential Parking Policy for Persons with Disabilities

Dear Ms. Steele:

I regret that due to business travel I will not be able to attend the March 20, 2001 Committee meeting that has been scheduled on this matter. As you are well aware, I have continued to follow this matter closely in my capacity as the designated OTCA member on this committee.

Following the first reading of the proposed Ordinance I spoke with Ms. Barnes and explained the proposal in detail. I assured her that the committee was well-represented by all segments of the community and that the recommended changes were debated extensively and that the final work-product of the committee represented a fair, manageable and flexible standard that was capable of being administered in a rational and non-arbitrary manner. While I am sympathetic to her plight, I do not share her concerns that this proposed ordinance is discriminatory or that it places an undue burden upon her, or any other disabled individual who requires special parking accommodation.

The crux of the problem we face was succinctly stated by the gentleman who spoke at the public hearing and in responding to questioning by the Mayor, he did not dispute that some limitation on the number of spaces was appropriate; but, he could not specify a firm number, stating that was the function of the City Council. The real question we are asked to readdress is not the number of spaces limited under the proposal but, the fairness of the waiver procedure we have established.

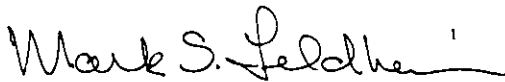
While the "life threatening condition" amendment proposed the Commission on Persons With Disabilities is well-intended, I do not believe it is sufficiently clear and unequivocal so as to permit the City Manager to make an informed decision on the need for a requested waiver. One could have a life threatening condition and still be able to ambulate without difficulty. The real issue is whether or not the "severe mobility

impairment" standard that was incorporated in our proposal is sufficient to trigger the waiver provision. I believe that it does just what we intended and that it is capable of being applied in the "fair and equitable" manner that Ms. Barnes seeks.

As I mentioned at the last public hearing, I am willing to consider anything that will make this procedure better, more fair or easier to administer. However, I remain of the opinion that the proposed Ordinance submitted to Council effectively and fairly accomplishes what was asked of us. The proffered amendment does not give the City Manager any additional guidance and is not required to resolve any of the concerns raised by Ms. Barnes.

Again I regret that I cannot be in attendance on Tuesday but would appreciate being kept apprised of you discussions.

Sincerely,

A handwritten signature in cursive script that reads "Mark S. Feldheim". The signature is written in dark ink and includes a long horizontal flourish at the end.

Mark S. Feldheim

~~5-8-01~~ ~~11-18-00~~ ~~10-24-00~~
City of Alexandria, Virginia

MEMORANDUM

20
5-12-01

DATE: OCTOBER 18, 2000

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER *PS*

SUBJECT: CITY COUNCIL CONSIDERATION OF REVISIONS TO THE
RESIDENTIAL PARKING POLICY FOR PERSONS WITH DISABILITIES

ISSUE : City Council consideration of a revised policy for residential parking for persons with disabilities.

RECOMMENDATION: That City Council:

1. Receive the revised policy for residential parking for persons with disabilities (Attachment 1), and schedule it for public hearing on November 18; and
2. At the conclusion of the November 18 public hearing, request the City Attorney to prepare the necessary ordinance to implement the policy as approved by Council.

BACKGROUND: In the spring of 1998, then Chairman of the Traffic and Parking Board Peter Schumaier asked then City Manager Vola Lawson (Attachment 2) to set up a committee, composed of members of the Traffic and Parking Board and the Commission on Persons with Disabilities and other interested parties, to discuss the issue of the number of on-street parking spaces for persons with disabilities allowed in neighborhoods throughout the City. This request was prompted by a discussion at the January 1998 Traffic and Parking Board meeting about capping the number of parking spaces for persons with disabilities in the Lynhaven neighborhood and by testimony (Attachment 2) given at the February 1998 Traffic and Parking Board meeting by Rosa Byrd, on behalf of the Lynhaven Citizens Association. Ms. Byrd endorsed limiting the number of parking spaces for persons with disabilities placed in the Lynhaven neighborhood, because Lynhaven is densely populated and on-street parking is at a premium. Lynhaven also expressed concern that some disabled spaces were being obtained by persons based not on need, but on "personal convenience." Ms. Byrd stated that, "While we understand and are amenable to the need for the truly handicapped to have convenient access to their property, the needs of the neighborhood as a whole should be taken into consideration, as well." Recognizing that the Board could not cap the number of spaces in the neighborhood, Lynhaven supported setting up a committee to study the issue and make recommendations to the City Manager.

In response to Mr. Schumaier's request, the City Manager appointed a committee that was composed of two representatives from the Traffic and Parking Board, two civic association representatives (Lynhaven and Old Town), one representative from the Commission on Persons with Disabilities and City staff. It was later expanded to include a representative from the Human Rights Commission, the Commission on Aging, a member of City Council, and additional civic associations. City Attorney Ignacio Pessoa worked with the staff and the Committee to develop the proposal. A list of the Committee members is attached (Attachment 3). The Committee began meeting in the fall of 1998 and continued meeting through the spring of 2000. Upon approval, the Committee forwarded the proposed policy to the City Manager for consideration.

DISCUSSION: The City has approximately 290 on-street parking spaces in residential areas reserved for persons with disabilities. Over the years, the City has added spaces as approved by the Traffic and Parking Board without systematic consideration of the cumulative impact on any individual neighborhood because the current policy does not address this issue. In addition, under the current policy, the only way a reserved space is removed is if someone, either the space applicant or a neighbor, tells the City that the space is no longer needed or used.

The proposed policy (Attachment 1) acknowledges that, "Although the Americans with Disabilities Act (ADA) does not require the provision of on-street parking in residential neighborhoods for persons with disabilities, the City of Alexandria recognizes the needs of these individuals." Thus, the proposed policy recommends a procedure for establishing such spaces "in those cases where the benefits of providing a reserved space will not unduly impact the number of parking spaces available to other residents, particularly in areas where parking is a premium."

Below is a brief summary of the current policy and the Committee's proposed policy, followed by a discussion of the need for an ordinance to implement any changes approved by City Council.

Current Policy

The current policy (which has been in operation for over 20 years) for persons wishing to obtain a reserved on-street disabled parking space in front of their residence is as follows: (1) an applicant submits a request to the Department of Transportation and Environmental Services (T&ES) and staff docket the request for consideration by the Traffic and Parking Board (T&PB); (2) T&ES staff verify that the applicant has a valid Virginia Department of Motor Vehicles (DMV) disabled parking plate or placard, and make a recommendation to the T&PB based on two criteria: a valid DMV plate or placard, and the lack of any off-street parking that is available to the applicant; (3) the T&PB holds a public hearing on the request, takes a vote and sends its recommendation to the Director of T&ES; (4) if the T&PB recommends approval, the Director installs the signs in front of the applicant's residence; if the T&PB recommends denial of the request, the applicant can ask City Council to review the matter.

Proposed Policy

The goal of the Committee, in developing the proposed policy (Attachment 1), was to establish an administrative process that balances the needs of neighborhoods with the needs of persons with disabilities. In addition to Lynhaven, there are other neighborhoods in the City where off-street parking is non-existent or scarce, making on-street parking an important commodity. On the other hand, there are persons who have physical disabilities that warrant accommodations for parking. The Committee's approach to addressing the needs of individuals and the concerns of neighborhoods is to limit the number of spaces which may be reserved for persons with disabilities to one on any block face, and to address the concerns of persons with disabilities by having a process that allows the City Manager to grant a waiver of this limit in the case of persons with particularly severe physical disabilities.

The Committee's proposal also expands the list of eligibility criteria, adding four new criteria to the two in the current policy. The four new criteria require that: (1) the applicant reside at the address where the requested parking space is requested to be placed; (2) the applicant demonstrates that a vehicle is registered in Alexandria to a person who resides at the applicant's address; (3) legal parking be available in front of the applicant's address; and (4) the applicant provide a copy of the medical certification submitted to the DMV which shows that the applicant is eligible for the DMV permit, or a new such certification, and, if necessary, additional medical evidence to demonstrate that existing off-street parking is not feasible for use by the applicant. This latter criterion expands upon the current criterion of no available off-street parking to say if off-street parking exists, the applicant must show that he or she cannot, because of his or her disability, use it. These additional criteria strengthen the requirements for obtaining a reserved space and address the concerns that Lynhaven has about persons using the space for "personal convenience."

The administration of the proposed policy rests with the Department of Transportation and Environmental Services. The Department will make the final decision on all applications, subject to appeal to the City Manager. The Traffic and Parking Board no longer has any role to play in this process. Applications that do not meet all of the eligibility criteria will not be approved by T&ES.

The proposed policy does allow for certain waivers and appeals which go to the City Manager for a final determination. There is no appeal to or review by City Council. The City Manager can waive the "one reserved space per block face" limit if the applicant has a severe mobility impairment and the applicant or a member of the applicant's household has a specially equipped transportation vehicle. In addition, if the applicant lives on a block of exceptional length, an exception can be made if allowing another reserved space would be equivalent to the usual block standard. If the waiver is granted, it is good for only one year, and the applicant must re-apply annually for this block face waiver. Waivers can also be given from the requirement of a legal parking space, if a legal space is not available.

The proposed policy institutes an annual re-certification process to ensure that the reserved spaces remain in use by persons who continue to meet the criteria for a reserved space. If not, the space will

be revoked. The proposed policy approved by the Committee stated that a re-certification form must be returned to the City within 45 days, and if not, the space would be revoked. Staff has inserted additional language into the policy which says the following: "Failure to provide the information in accordance with the requested deadline (45 days) will result in a second letter and failure to respond to the second letter within 30 days will result in removal of the reserved space." Staff believes that it would be better, especially for persons who may need additional time to respond because of age or disability, to send a second letter allowing an additional 30 days to return the re-certification form before revoking a space. A process has also been set up to revoke a reserved space because of abuse. Persons whose reserved space has been revoked by T&ES may appeal to the City Manager. The Manager's decision on such appeals is final.

The proposed policy also makes clear that reserved parking spaces for persons with disabilities may be used by certain persons in addition to the applicant. These spaces are available for any vehicle with a DMV-issued disability license plate or placard which can include a vehicle which is used to transport a person with a disability. Thus, companions may use the space when transporting persons with disabilities, so long as their vehicle contains a DMV placard. Companions may not use the space for any other person, and, if they do, they are subject to a fine of a \$100 to \$500.

Requirement for Ordinance

Existing law does not specifically address the establishment of residential parking spaces for persons with disabilities. Like other traffic and parking matters, under City Code §§ 5-8-3 and 10-2-8, such spaces are established by the Director of Transportation and Environmental Services, after public hearing and recommendation from the Traffic and Parking Board. In the event City Council wishes to adopt the proposed policy, Council should request the City Attorney to prepare an ordinance to remove the establishment of on street-handicapped parking spaces from the current procedure, and to implement the new procedures set forth in the policy as approved by Council.

FISCAL IMPACT: There will be a cost associated with the annual re-certification process, but that cost will not be known for certain until after the first annual re-certification is completed.

ATTACHMENTS :

1. Proposed Residential Parking Policy for Persons with Disabilities.
2. March 10, 1998 memorandum (with attachments) from Peter Schumaier, Chairman of the Traffic and Parking Board, to City Manager Vola Lawson.
3. List of Committee Members.

STAFF:

Beverly Steele, Special Projects Coordinator
Richard J. Baier, Director, Transportation and Environmental Services
Doug Mc Cobb, Division Chief, Transportation

Proposed Residential Parking Policy For Persons With Disabilities

Purpose

- 1) To establish uniform standards and eligibility requirements for the assignment of on-street reserved parking spaces for persons with disabilities in residential neighborhoods that balance the needs of these residents with the needs of their neighbors, particularly in areas where on-street parking is limited; and
- 2) To clarify the administrative procedures for processing requests for reserved parking for persons with disabilities.

Background

Although the Americans with Disabilities Act (ADA) does not require the provision of on-street reserved parking in residential neighborhoods for persons with disabilities, the City of Alexandria recognizes the needs of these individuals, and for many years has had a procedure in place for reserving on-street parking in such cases.

Under this city policy, the Department of Transportation and Environmental Services (T&ES), with guidance from the Traffic and Parking Board (T&PB), was responsible for administering the use of the public right of way, including assignment of parking in residential and commercial districts of the City. Residents with disabilities were permitted to request the establishment of on-street reserved parking at their residence. The request was submitted to T&ES staff and docketed for consideration by the T&PB. T&ES staff verified the validity of the State DMV disabled parking license plate or placard and submitted a staff recommendation to the T&PB to uphold or deny the request based on the availability of off-street parking at the requested location. The T&PB scheduled a public hearing and considered the staff recommendation and comments from the public in making their decision. The members of the T&PB voted on the request (simple majority) and forwarded their finding to the Director of T&ES. If approved, the Director of T&ES installed the requested parking sign. If denied, the resident had the right to appeal to the Director of T&ES. The criteria for evaluating a request related to the availability of off-street parking and possession of a valid disabled parking license plate or placard from the Commonwealth's Department of Motor Vehicles.

This policy has been in practice for over 20 years. During this time, there have been increasing numbers of reserved parking spaces for persons with disabilities in areas with limited on-street parking. As a result, a number of City civic associations have requested revisions to the current policy that would alleviate the frustrations with reserved parking by providing limits on the number of reserved parking spaces in a given block. A task force was established in 1998 to consider this issue and make policy recommendations.

The proposed policy establishes a new, staff-administered procedure for reserving on-street parking in residential neighborhoods for persons with disabilities, and attempts to provide standards for a reserved space so as not to unduly impact the number of spaces available to other residents, particularly in areas where parking is at a premium.

Proposed Policy Regulations

I. Eligibility Requirement - Applications for a reserved parking space for persons with disabilities in the public right-of-way in residential areas will be based upon satisfactory demonstration of the following criteria:

A. There must be no off-street parking at the applicant's residence, or the applicant must demonstrate, as provided in subsection F, that existing off-street parking is not feasible for use by the applicant.

B. The applicant must have a valid DMV disabled parking license plate or placard.

C. The applicant must reside at the address requested.

D. The applicant must demonstrate that a vehicle is registered in Alexandria to a person who resides at the address requested.

E. Legal parking must be available in front of the applicant's address.

F. Each applicant must supply a copy of the medical certification submitted to the Department of Motor Vehicles, or a new such certification which demonstrates eligibility for a DMV disabled parking license plate or placard, and where existing off-street parking exists, must supply additional medical evidence to demonstrate that such parking is not feasible for use by the applicant.

An application must meet all of the criteria to be considered. If an application fails to meet any of the criteria, it will not be approved. If the application is denied, the applicant shall be notified in writing as to the specific reasons for the denial.

II. Block Limits - No more than one reserved parking space for persons with disabilities will be authorized for one side of any street (block face).

III. Waivers - The City Manager is authorized to waive:

A. The block limits standard under the following conditions:

1. (a) The applicant demonstrates to the satisfaction of the City Manager that the applicant has a severe mobility impairment, and that the applicant or a resident of the applicant's household owns a motor vehicle especially equipped to permit operation by, or transport of, the applicant; or

(b) The applicant demonstrates to the satisfaction of the City Manager that the block on which the applicant resides is of unusual or exceptional length, and that permitting an additional space would be the functional equivalent of the application of the usual block limit standard; and
 2. The applicant demonstrates to the satisfaction of the City Manager that the applicant otherwise meets the criteria in Section I; and
 3. If granted, a waiver shall be valid for a period of one year only, but the applicant may re-apply for additional one year periods.
- B. The requirement that legal parking must be available in front of the applicant's address, under the following conditions:
1. (a) There is a fire hydrant, city no-parking regulation, or other similar impediment to parking in front of the applicant's address, or the applicant's property is of insufficient width to accommodate the reserved space, and the applicant demonstrates to the satisfaction of the City Manager that installation of the reserved space at another location will not unduly burden any other person; or

(b) The owner of the property in front of which the reserved space is proposed to be located has consented, in writing, to such location, in which case the waiver shall be granted as a matter of course, and
 2. The applicant demonstrates to the satisfaction of the City Manager that the applicant otherwise meets the criteria in Section I; and
 3. If granted, a waiver shall be valid for a period of one year only, but the applicant may re-apply for additional one year periods.
- C. The City Manager may impose such conditions on any waiver as are deemed reasonable.

- IV. Use of the Reserved Space - All Parking spaces for persons with disabilities will be available for use by any eligible person with a DMV plate or placard on a first come, first serve basis and are not reserved for exclusive use by the applicant. Only vehicles used by, or to transport, a person with a disability may park in the reserved space, and the applicant's vehicle is expected to be located in the reserved space when parked in the neighborhood. Reserved spaces are not intended for use by companions except when they are transporting persons with disabilities, and their vehicles display a DMV plate or placard. Otherwise, use of the parking space by other persons when not transporting the person with a disability is a parking violation that carries a \$100 to \$500 fine. City Code Section 10-4-19, Va. Code Section 46.2-1249.
- V. Administrative Procedures - The Department of T&ES will be responsible for administering these regulations. All applications must be submitted to the Department for consideration and review. The Department will: (1) evaluate satisfaction of eligibility criteria; (2) verify the validity of the disabled parking license plate or placard; (3) verify vehicle registration; (4) confirm residency; (5) determine availability of off-street and on-street parking; and (6) ensure conformity to the terms of the regulations in making a decision. Applications for a waiver by the City Manager, under Section III, shall be submitted to the Department, for review and recommendation to the Manager. Appeals of Department decisions may be made to the City Manager or the Manager's designee, and shall be limited to the Department record, and such additional written submissions as the parties may provide. The Manager's decision on any application for waiver and on any appeal shall be final, and not appealable to City Council. The Department shall implement procedures to ensure the confidentiality of any medical information submitted by an applicant, including DMV medical certifications, which shall at minimum provide for the maintenance of such information in a sealed file, with access permitted only to Department employees or the City Manager on a need-to-know basis, during the pendency of an application. Once a decision has been made on an application, access shall be permitted only on the written authorization of the Director of T&ES. This information shall be held strictly confidential, and shall not be released to any individual or entity, other than the applicant, outside of the Department of T&ES, the City Manager or the Manager's designee appointed hereunder. All employees who have potential access to said information shall be trained on this policy and the strict confidentiality requirements adhered to. Medical information submitted by an applicant is exempt from mandatory disclosure under FOIA, and shall not be subject to discretionary release.
- VI. Annual Re-Certification - Each year the Department of T&ES will mail a re-certification form to the persons who have received prior approval for the installation of a reserved parking space, including for parking spaces approved prior to the issuance of these regulations; however, the block limit requirement will not apply to re-certifications of spaces approved prior to the issuance of these regulations. To remain eligible for the space, the person must complete and execute the form affirming continued satisfaction of all of the eligibility criteria. If the City determines that any eligibility criteria are no longer satisfied, the resident

will be notified in writing and must provide a response to the Director of T&ES with proper evidence within 45 days of notification. Failure to provide the information in accordance with the requested deadline will result in a second letter and failure to respond to the second letter within 30 days will result in removal of the reserved space.

VII. Revocation - In the event that a complaint is received that the applicant no longer satisfies the eligibility criteria of these regulations, or that the space is being repeatedly used in a manner contrary to Section IV, by persons residing in or visiting the applicant's household, the Director of T&ES will conduct a preliminary inquiry to determine if the complaint is supported by substantial and credible evidence. If the Director determines that the complaint is so supported, the applicant will be notified in writing of the nature and specifics of the complaint, and must provide a response within 45 days to the Director. The applicant and complainant(s) shall have the right to appear before the Director, upon 15 days written notice of the time and place of the meeting, and be heard in person or by counsel, any such meeting shall be conducted in an informal manner. The Director shall revoke a reserved parking space designation only if (1) the Director finds by a preponderance of the evidence that the applicant did not, or does not continue to, meet the criteria in Section I, or if (2) the Director finds by clear and convincing evidence that the space is being repeatedly used in a manner contrary to Section III, by persons residing in or visiting the applicant's household. The Director shall notify all parties of the decision in writing, within 15 days of the close of the hearing. The decision shall state the findings of fact and the reasons for the decision. The notice shall inform the parties of their right to appeal the decision to the City Manager, and of the procedure for making such an appeal.

Any person aggrieved may appeal the Director's decision to the City Manager, by filing an appeal, in writing, with the Director, within 15 days of issuance of the decision. The City Manager shall schedule a meeting on the matter within 30 days of the filing of the appeal, and shall give the parties 15 days notice of the time and place of the meeting. The Manager shall notify all parties of the Manager's decision in writing, within 15 days of the close of the meeting. The Manager's decision shall state the findings of fact and the reasons for the decision, and the decision shall be final and not appealable to City Council.

City of Alexandria, Virginia

MEMORANDUM

DATE: MARCH 10, 1998

TO: VOLA LAWSON, CITY MANAGER

FROM: C. PETER SCHUMAIER, CHAIRMAN, TRAFFIC AND PARKING BOARD^{xt}

SUBJECT: AD HOC COMMITTEE TO STUDY PLACEMENT OF HANDICAPPED
PARKING SPACES ON STREETS

At the February 23, 1998 meeting of the Traffic and Parking Board, Rosa Byrd, speaking for the Lynhaven Citizens' Association, asked the Traffic and Parking Board to place limits on the number of handicapped spaces placed in their neighborhood and by implication for like situated other communities in the City. (Letter from Lynhaven Citizens' Association and the Traffic and Parking Board Agenda of February 23, 1998 attached).

The Board voted to have the Chairman write to the City Manager for advice on the type and composition of a committee to study and report on this issue.

Briefly stated, the Board finds itself being asked to grant a 20-25 foot handicapped parking space on the street in front of a 12-14 foot townhouse to a household that often has as many as three vehicles registered to that address. In places like Lynhaven, this may be having the effect of causing other households to ask their doctors for a handicapped certification and a similar handicapped parking space on the street in front of their house as a defensive measure. We on the Board and non-handicapped neighbors in places like Lynhaven are concerned about the equity of giving a large share of the scarce street parking space on streets in dense townhouse communities to people who have a car and a driving license and presumably adequate mobility to use that vehicle effectively in their lives at the many places that do not and cannot provide parking within a few feet of their destination.

Staff of T&ES suggested an informal sub-committee composed of members of the Traffic and Parking Board and Commission on Persons with Disabilities and other interested parties be formed to discuss the issue. It was the sense of the Board that this is a broad city problem and that it would be preferable to form a committee representative of a broader range of interests under the sanction of either your office or City Council with an officially approved city-wide agenda. Clearly, the City Attorney's Office should be involved because a resident of Old Town has been attending Traffic and Parking Board meetings and challenging the legal authority of the Board to authorize, and the City to erect, any handicapped parking only signs on public streets in residentially zoned areas in the City.

The Board will appreciate your advice and help on this issue.

Attachments

cc: Traffic and Park Board Members
Thomas F. O'Kane, Jr., Director, T&ES
Chet Avery, Member on Commission of Persons With Disabilities
Mark Horowitz, Administrative Officer, DHS

LYNHAVEN CITIZENS ASSOCIATION

P.O. BOX 2301

ALEXANDRIA, VIRGINIA 22305

February 23, 1998

Chairman Shumaier
Members of the Parking and Traffic Board

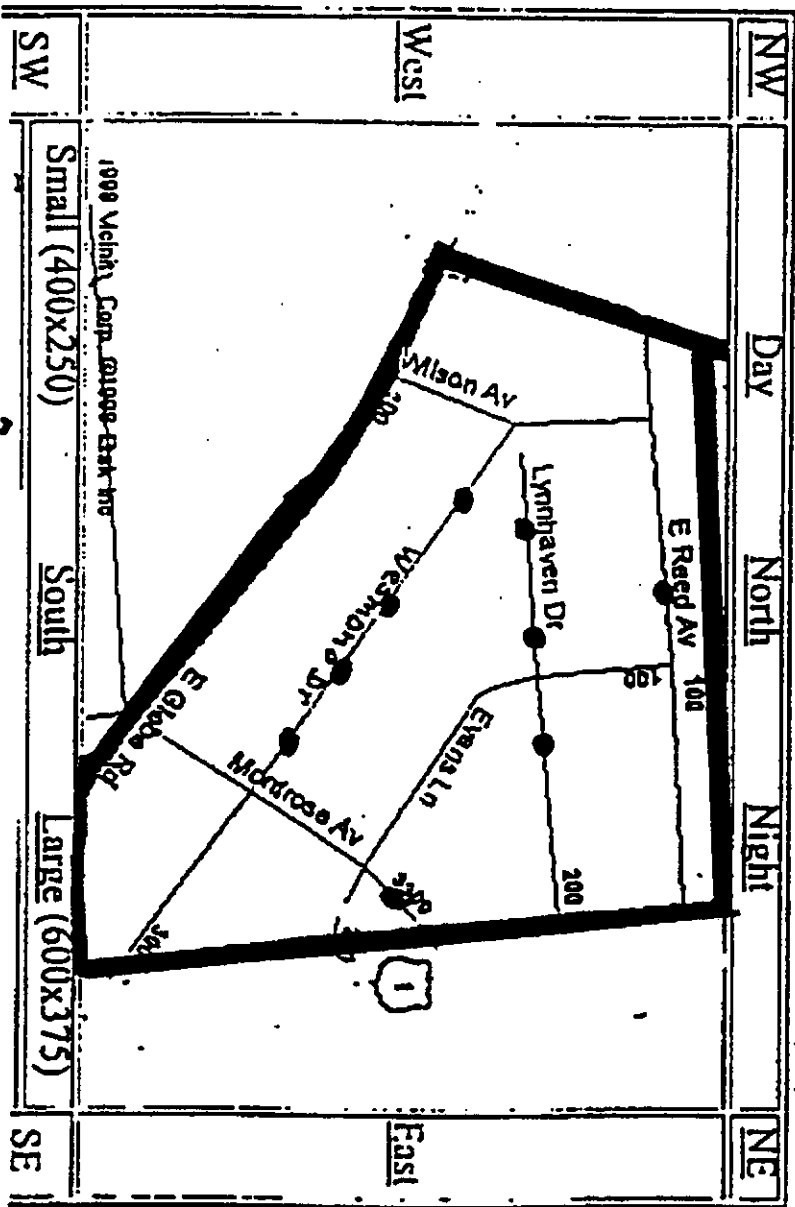
My name is Rosa Byrd, executive member of the Lynhaven Citizens Association. Our president, Ruby Tucker is unable to be here because she is a member of the Alexandria Redevelopment Housing Authority which is also meeting tonight.

During the January 26, 1998 meeting of the Traffic and Parking Board, while considering a request for the installation of a new handicapped parking space in Lynhaven, Mr Connie West commented that due to the number of existing handicapped parking spaces in Lynhaven, perhaps the board could look at placing a cap on the number of handicapped parking spaces in a defined area. In a follow-up telephone conversation with Chairman Shumaier, we were advised to write a letter to the board requesting this item be docketed for discussion. I am here to emphasize the importance of this matter to the Lynhaven Citizens community.

Parking is problematic in densely populated neighborhoods where most homes have multiple vehicles. However, these parking problems are being aggravated by the proliferation of handicapped parking spaces. Recent newspaper articles regarding the loss of revenue due to fraud and abuse of free parking meter privileges is a timely issue for us. We hope those in the disabled community and members of this board will explore another type of fraud and abuse - that of excessive handicapped spaces on residential streets perpetuated by some solely for "personal convenience."

Staff indicates that the Traffic and Parking Board is not empowered to put a cap on the number of handicapped parking spaces allowed on any residential street, therefore, we must support staff's recommendation that a committee be formed to review this process, and propose other ways of curtailing the exploitation of handicapped parking space privileges.

While we understand and are amenable to the need for the truly handicapped to have convenient access to their property, the needs of the neighborhood as a whole should be taken into consideration, as well. And even though it is extremely sensitive, we must face the possibility of further abuse, fraud and exploitation.



City of Alexandria

TRAFFIC AND PARKING BOARD MEETING

February 23, 1998

CITY COUNCIL CHAMBERS

DOCKET

- I. Announcement of deferrals and withdrawals.
- II. Request for approval of the minutes from the January 26, 1998 Traffic and Parking Board Meeting.
- III. **TAXICAB ISSUES:**

Consideration of a request from Diamond Cab Company and Yellow Cab Company for additional Certificates of Convenience. (Not a Public Hearing)

BOARD ACTION: _____

IV. ACTION ITEMS:

1. **PUBLIC HEARING:** Request for a handicap parking space at 820 South Washington Street.

BACKGROUND: There is no off-street parking at this site and the applicant has a valid handicap parking permit issued by the Virginia Department of Motor Vehicles. There is no parking permitted at 820 South Washington Street between 7:00 a.m. and 9:00 p.m., Monday through Friday to accommodate the HOV Lane.

STAFF RECOMMENDATION: Staff recommends that the Board approve the handicap parking space on the north side of the 600 block of Green Street near South Washington Street.

BOARD ACTION: _____

TRAFFIC & PARKING BOARD (Continued)

2. **PUBLIC HEARING:** Request for a handicap parking space at 516 South Fayette Street.

BACKGROUND: The applicant has handicap license plates issued by the Virginia Department of Motor Vehicles. There is off-street parking at the rear of this site.

STAFF RECOMMENDATION: Staff requests that the request be denied.

BOARD ACTION: _____

3. **PUBLIC HEARING:** Request for a handicap parking space at 1500 Mount Eagle Place.

BACKGROUND: The applicant has a valid handicap parking permit issued by the Virginia Department of Motor Vehicles. There is no off-street parking at this site.

STAFF RECOMMENDATION: Staff recommends that the request be approved.

BOARD ACTION: _____

4. **PUBLIC HEARING:** Request for two handicap parking spaces for 212 South Washington Street, on Sundays, 8:00 a.m. to 1:00 p.m.

BACKGROUND: There are no parking restrictions on Sundays at this location.

STAFF RECOMMENDATION: Staff recommends that the request be approved.

BOARD ACTION: _____

→ 5.

PUBLIC HEARING: Request from the Lynhaven Citizens' Association to place a moratorium on the installation of additional handicap parking spaces in the Lynhaven Area. The Traffic and Parking Board doesn't have the authority to place a moratorium.

STAFF RECOMMENDATION: Staff recommends that the Board appoint a sub-committee to meet with the Commission on Persons with Disabilities, representatives of Lynhaven and other interested parties to discuss the number of handicap spaces in Lynhaven and other neighborhoods in the City.

TRAFFIC & PARKING BOARD (Continued)

BACKGROUND: The Lynhaven Citizens' Association is concerned about the number of handicap spaces that have been installed in the Lynhaven area.

BOARD ACTION: _____

6. **PUBLIC HEARING:** Request for limited parking for dropping off and picking up children at St. Anthony's Day School, 321 First Street.

BACKGROUND: There is a request before the Planning Commission to permit an Early Education and Child Care Facility. On March 24, 1997, the Board approved "No Parking" adjacent to this site. Several months passed and the building remained vacant and neighbors began to complain. At the July 28, 1997 Board meeting, the Board instructed staff to investigate and if the building was going to remain vacant, staff was to have the "No Parking" signs removed until they were needed. The signs were then removed. The parking lot next to the building will be used by teachers and staff and the children will be dropped off and picked up in front of the building. The children will enter and leave the building through the front door. Parents, vendors and others will visit the school throughout the day. It is anticipated the day care facility will open in August 1998.

STAFF RECOMMENDATION: Staff recommends that the Board approve 20 minute parking 7:00 a.m. to 6:00 p.m., Monday through Friday, and that the signs be installed on August 3, 1998,

BOARD ACTION: _____

7. **PUBLIC HEARING:** Request to remove the "No Parking, Standing or Stopping" signs and install "No Parking, Loading Zone" signs in front of the loading area on the north side of Wythe Street which services 701 North Henry Street, 8:00 a.m. to 5:00 P.M., Monday through Friday..

BACKGROUND: Deliveries are currently hampered by vehicles parked in front of this loading area.

STAFF RECOMMENDATION: Staff recommends approval of "No Parking, Loading Zone" signs on the north side of the 1000 block of Wythe Street at the loading area at 701 North Henry Street.

BOARD ACTION: _____

TRAFFIC & PARKING BOARD (Continued)

8. **PUBLIC HEARING:** Request to remove the "Stop" signs on Jones Point Drive at the extension of South Fairfax Street.

BACKGROUND: These signs were approved by the Board when Jones Point Drive was extended to South Royal Street. These signs were to accommodate bikers and hikers entering Jones Point. The Bikers and Hikers now use the bike trail along the river.

STAFF RECOMMENDATION: Staff recommends that the Board approve the request to have the signs removed.

BOARD ACTION: _____

9. **PUBLIC HEARING:** Request for a traffic signal at the intersection of South Washington Street and Wolfe Street.

BACKGROUND: In a one-year period there were fifteen accidents that were of a type that may have been prevented by the installation of a traffic signal.

STAFF RECOMMENDATION: Staff recommends that the Board recommend that City Council approve the installation of a traffic signal at the intersection of South Washington and Wolfe Street.

BOARD ACTION: _____

10. **PUBLIC HEARING:** Request to install multi-way stop signs at the intersection of Mosby Street and Aspen Street.

BACKGROUND: If this request is approved, it will create a three-way STOP. This request is from the Warwick Village Citizens' Association. None of the warrants required for the installation of multi-way stop signs were met. If the signs are approved, there will be a loss of a parking space on Aspen Street.

STAFF RECOMMENDATION: Staff recommends that the request be denied.

BOARD ACTION: _____

TRAFFIC & PARKING BOARD (Continued)

11. **PUBLIC HEARING:** Request to install multi-way STOP signs at the intersection of Landover Street and Aspen Street.

BACKGROUND: This request is from the Warwick Village Citizens' Association. None of the warrants required for the installation of multi-way STOP signs were met. If this request is approved there will be a loss of a parking space on Landover Street.

STAFF RECOMMENDATION: Staff recommends that the request be denied.

BOARD ACTION: _____

12. **PUBLIC HEARING:** Request to install multi-way STOP signs at the intersection of Kennedy Street and Hickory Street.

BACKGROUND: This request is from the Warwick Village Citizens' Association. None of the warrants required for the installation of multi-way STOP signs were met.

STAFF RECOMMENDATION: Staff recommends that the request be denied.

BOARD ACTION: _____

13. **PUBLIC HEARING:** Request is to install multi-way STOP signs at the intersection of Landover Street and Sycamore Street.

BACKGROUND: This is from the Warwick Village Citizens' Association. None of the warrants required for the installation of multi-way STOP signs were met.

STAFF RECOMMENDATION: Staff recommends that the request be denied.

BOARD ACTION: _____

NOTE: The City of Alexandria complies with the terms of the ADA. An individual with a disability who wishes to request an accommodation may contact the Department of Transportation and Environmental Services at 838-4411 or TTY/TTD 838-5056. Please provide at least 7 calendar days advance notice. Amplified sound devices are available from the sound technician in the City Council Chamber.

RESIDENTIAL PARKING POLICY FOR PERSONS WITH DISABILITIES

COMMITTEE MEMBERS

Chet Avery, Commission on Persons with Disabilities
Rosa Byrd, Lynhaven Citizens Association
Alethea Camp, Warwick Village Citizens Association
Jane Cotton, Commission on Aging
Mark Feldheim, Old Town Civic Association
Peter Schumaier, Traffic and Parking Board
Brenda Smith, Hume Springs Citizens Association*
Jerry Tamanini, Traffic and Parking Board
Council Member Lois Walker
Converse West, Traffic and Parking Board
Rod Williams, Human Rights Commission

City Staff :

Bob Eiffert, Human Services
George Jivatode, Transportation and Environmental Services
Tom O'Kane, Transportation and Environmental Services
Meg O'Regan, Human Services
Ignacio Pessoa, City Attorney's Office
Dave Ruller, Transportation and Environmental Services
Beverly Steele, City Manager's Office
Rob Steindler, Human Relations

* Did not attend meetings

13
11-18-00

ALEXANDRIA OFFICE OF HUMAN RIGHTS
421 King Street, Suite 400
Alexandria, Virginia 22314
Tel. 703 838-6390
Fax 703 838-4976
November 16, 2000

Human Rights Commission Support of Revisions to the "Residential Parking Policy for Persons with Disabilities"

Mr. Mayor, Members of City Council, and Mr. City Manager, my name is Chet Avery and I speak today from the designated position of the Alexandria Commission On Persons With Disabilities (ACPD), where I serve as the Vice Chair of the Human Rights Commission (HRC), which supports the revisions to the Residential Parking Policy for Persons With Disabilities. I was a member of the committee appointed by the City Manager that was ably chaired by Beverly Steele and composed of two representatives from the Traffic and Parking Board, representatives from three civic associations, one representative from the Alexandria Commission on Persons with Disabilities, a representative from the Human Rights Commission, a representative from the Commission on Aging, representatives from Transportation and Environmental Services, a member of City Council, and City Attorney Ignacio Pessoa. This committee, under the outstanding leadership of Bev Steele, worked from the Fall of 1998 to the Spring of 2000 to develop the proposal you have before you today. As you can determine by the composition of the committee and the time it took to develop the revisions to the Residential Parking Policy for Persons With Disabilities, the policy is a carefully crafted compromise which balances the needs of persons with disabilities with the needs of neighborhood residents. It should be understood that the real issue driving this policy is the fact that the parking spaces are relatively fixed while families and households have increasing numbers of vehicles, usually two or more, that pose enormous parking problems for parking vehicles on some neighborhood streets in densely populated parts of the City.

This proposed Residential Parking Policy for Persons With Disabilities attempts to establish a balance between the needs of persons with disabilities and the needs of other residents in densely populated parts of the City.

The current policy (which has been in operation for over 20 years) precedes the ADA which has no civil rights guidance relating to the provision of residential parking spaces for persons with disabilities, is open ended and does not address the concerns of neighborhood residents. Under the current policy, persons wishing to obtain a reserved on-street parking space for an individual with a disability in front of their residence submits a request to the Department of Transportation and Environmental Services (T&ES) staff which docket the request for consideration by the Traffic and Parking Board (T&PT) after verifying that the applicant has a valid Virginia Department of

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Motor Vehicles (DMV) disabled parking plate or placard, and makes a recommendation to the T&PT based on two criteria: a valid DMV plate or placard, and the lack of any off-street parking that is available to the applicant. T&PT holds a public hearing on the request, takes a vote and sends its recommendation to the Director of T&ES who installs the signs in front of the applicants residence or, if the T&PT recommends denial of the request, the applicant can ask City Council for a reconsideration of this decision.

After a review of this current policy, the Committee decided to develop the proposed policy based upon an administrative process that balances the needs of neighborhoods with the needs of persons with disabilities. While there are parts of the city where off street parking is scarce, on the other hand, there are persons who have physical disabilities that warrant accommodations for parking. The Committee's approach to addressing the needs of individuals with disabilities and the concerns of neighborhoods was to limit the number of spaces which may be reserved for persons with disabilities to one on any block face, and to address the concerns of persons with disabilities by having a process that allows the City Manager to grant a waiver of this limit in the case of persons with particularly severe physical disabilities.

The Committee's proposal also expands the list of eligibility criteria, adding in addition to the possession of a handicapped placard or plate and no off street parking criteria of the current policy four new criteria, which require that: (1) the applicant resides at the address where the requested parking space is requested to be placed; (2) the applicant demonstrates that a vehicle is registered in Alexandria to a person who resides at the applicant's address; (3) legal parking be available in front of the applicant's address; and (4) the applicant provides a copy of the medical certification submitted to the DMV which shows that the applicant is eligible for the DMV permit, or a new such certification, and, if necessary, additional medical evidence to demonstrate that existing off-street parking is not feasible for use by the applicant. This last criterion expands upon the current criterion of no available off-street parking. To demonstrate if off-street parking exists, the applicant must show that he or she cannot, because of his or her disability, use it. These additional criteria strengthen the requirements for obtaining a reserved space.

Under this new policy, the Traffic and Parking Board is removed from the process, because the administration of this new policy is the responsibility of the Department of Transportation And

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Environmental Services, which will make the final decision on all applications, subject to appeal to the City Manager, rather than to City Council that was a part of current policy. Applications that do not meet all of the eligibility criteria will not be approved by T&ES.

The proposed policy does allow for certain waivers and appeals which go to the City Manager for a final determination. The City Manager can waive the "one reserved space per block face" if the applicant has a severe mobility impairment and the applicant or a member of the applicant's household has a specially equipped transportation vehicle. In addition, if the applicant lives on a long block, an exception can be made if allowing another reserved space would be equivalent to the usual block standard. If the waiver is granted, it is good for only one year, and the applicant must re-apply annually for this block face waiver. Waivers can also be given from the requirement of a legal parking space, if a legal space is not available.

The proposed policy institutes an annual re-certification process containing specified deadlines to ensure that the reserved spaces remain in use by persons who continue to meet the criteria for a reserved space. If not, the space will be revoked. The proposed policy approved by the Committee stated that a re-certification form must be returned to the City within a specified time period. A process has also been set up to revoke a reserved space because of abuse. Persons whose reserved space has been revoked by T&ES may appeal to the City Manager. The Manager's decision on such appeals are final.

The proposed policy also makes clear that reserved parking spaces for persons with disabilities are available for any vehicle with a DMV-issued disability license plate or placard which can include a vehicle which is used to transport a person with a disability. Companions may use the space when transporting persons with disabilities, so long as their vehicle contains a DMV placard. Companions may not use the space for any other person, and, if they do, they are subject to a fine of \$100 to \$500.

As you can see from a review of this revised Residential Parking Policy for Persons With Disabilities, a strong representative committee of advocacy Commissions, neighborhood organizations and city staff worked hard to come up with an acceptable policy relating the needs of persons with disabilities to those of residents in dense neighborhoods. By adopting this Revised Residential Parking Policy for Persons With Disabilities, you will approve an acceptable policy and procedure based upon

703 549 3532

Nov-16-00 08:49P Chet Avery

703-549-3532

P.1

-4-

compromises made by strong advocates for persons with
disabilities and advocates for the City's neighborhoods.

cc: Nancy Jenkins; Jean Niebauer

ORDINANCE NO. 4199

AN ORDINANCE to amend Chapter 8 (PARKING AND TRAFFIC REGULATIONS) of Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES) of The Code of the City of Alexandria, Virginia, 1981, as amended, by adding thereto a new Section 5-8-117 (ESTABLISHMENT OF PARKING SPACES FOR PERSONS WITH A DISABILITY).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 8 of Title 5 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by adding thereto a new Section 5-8-117 to read as follows:

Sec. 5-8-117 Establishment of parking spaces for persons with a disability.

(a) Preemption of other law. Notwithstanding any contrary provision in this code, reserved parking spaces in the public right-of-way in single-family, two-family and townhouse residential areas for use by persons with a disability shall be established and removed as provided in this section.

(b) Application requirements. An application for a reserved parking space for persons with disabilities in the public right-of-way in residential areas must comply with the following criteria in order to be considered:

(1) There must be no off-street parking at the applicant's residence, or the applicant must demonstrate, as provided in paragraph (6), that existing off-street parking is not feasible for use by the applicant.

(2) The applicant must have a valid Virginia DMV disabled parking license plate or placard.

(3) The applicant must reside at the address in front of which the space is requested.

(4) The applicant must demonstrate that a vehicle is registered in Alexandria to a person who resides at the address requested.

(5) Legal parking must be available in front of the applicant's address.

(6) Each applicant must supply a copy of the medical certification submitted to the Department of Motor Vehicles, or a new such certification, which demonstrates eligibility for a DMV disabled parking license plate or placard, and, where existing off-street parking exists, must supply additional medical evidence to demonstrate that such parking is not feasible for use by the applicant.

(c) Approval requirements. If an application fails to meet any of the criteria listed in subsection (b), it will not be approved, unless a waiver is sought and approved under subsection (e). If the application is denied, the applicant shall be notified in writing as to the specific reasons for the denial, and shall also be notified of any right to appeal provided under this section.

(d) Block Limits. No more than one reserved parking space for persons with disabilities will be authorized for one side of any street, between intersecting streets (block face).

(e) Waivers. The City Manager is authorized to waive:

(1) The block limits standard under the following conditions:

(a) (i) The applicant demonstrates to the satisfaction of the City Manager that the applicant has a severe mobility impairment, and that (1) the applicant or a resident of the applicant's household owns a motor vehicle especially equipped to permit operation by, or transport of, the applicant, or (2) the applicant has a life threatening condition, or

(ii) The applicant demonstrates to the satisfaction of the City Manager that the block on which the applicant resides is of unusual or exceptional length, and that permitting an additional space would be the functional equivalent of the application of the usual block limit standard; and

(b) The applicant demonstrates to the satisfaction of the City Manager that the applicant otherwise meets the criteria in subsection (b) of this section; and

(c) If granted, a waiver shall be valid for a period of one year only, but the applicant may re-apply for additional one year periods.

(2) The requirement that legal parking must be available in front of the applicant's address, under the following conditions:

(a)(i) There is a fire hydrant, city no-parking regulation, or other similar impediment to parking in front of the applicant's address, or the applicant's property is of insufficient width to accommodate the reserved space, and the applicant demonstrates to the satisfaction of the City Manager that installation of the reserved space at another location will not unduly burden any other person; or (ii) the owner of the property in front of which the reserved space is proposed to be located has consented, in writing, to such location, in which case the waiver shall be granted as a matter of course, and

(b) The applicant demonstrates to the satisfaction of the City Manager that the applicant otherwise meets the criteria in subsection (b) of this section; and

(3) The City Manager may impose such conditions on any waiver as the manager deems reasonable.

(f) Use of reserved spaces. A parking space for persons with disabilities will be available for use by any eligible person with a DMV disabled license plate or placard on a first come, first served basis, and is not reserved for the exclusive use of the applicant. Only those vehicles used by, or to transport, a person with a disability may park in the reserved space, and the applicant's vehicle is expected to use the reserved space when parked in the neighborhood. Reserved spaces are not intended for use by companions except when transporting persons with disabilities, and displaying a DMV plate or placard. Use of the parking space by other persons when not transporting the person with a disability is a parking violation that carries a \$100 to \$500 fine, as provided in Section 10-4-19 of this code and Section 46.2-1249 of the Virginia Code.

(g) Administrative procedures. The Director of Transportation and Environmental Services shall be responsible for administering this section.

(1) All applications must be submitted to the Director for consideration and review. The Director will (a) evaluate satisfaction of eligibility criteria; (b) verify the validity of the disabled parking license plate or placard; (c) verify vehicle registration; (d) confirm residency; (e) determine availability of off-street and on-street parking; and (f) ensure conformance to the terms of this section in making a decision.

(2) Applications for a determination that an existing off-street parking space is not feasible for use by the applicant, and for a block limit or availability of parking waiver shall be submitted to the Director, for review and recommendation, and shall be decided by the City Manager.

(3) Any person aggrieved may appeal the Director's decision to the City Manager, by filing an appeal, in writing, with the Director, within 15 days of the Director's decision. The appeal shall be limited to the record upon which the Director based his decision, and such additional written submissions as the parties may provide. The Manager's decision on appeal, or on an application for a waiver, shall state the findings of fact and reasons for the decision, and shall be final and not appealable to City Council.

(4) The Director shall implement procedures to ensure the confidentiality of any medical information submitted by an applicant, including DMV medical certifications, which shall at minimum provide for the maintenance of such information in a sealed file, with access permitted only to Department employees or the City Manager on a need-to-know basis, during the pendency of an application. Once a decision has been made on an application, access shall be permitted only on the written authorization of the Director or Acting Director. This information shall be held strictly confidential, and shall not be released to any individual or entity, other than the applicant, outside of the Department of T&ES, the City Manager or the Manager's designee appointed hereunder. All employees who have potential access to said information shall be trained on this policy and the strict confidentiality requirements adhered to. Medical information submitted by an applicant is exempt from mandatory disclosure under FOIA, and shall not be subject to discretionary release.

(h) Annual recertification. Each year the Director will mail a recertification form to each resident who received approval for the installation of a reserved parking space, including those parking spaces that were approved prior to [effective date of this ordinance]. In order to retain the reserved space, the resident must complete and execute the form affirming continued satisfaction of all of the eligibility criteria in subsection (b) of this section, except such criteria as may have been waived by the City Manager pursuant to subsection (e) of this section. The requirement of paragraph (b)(5) that the space be located in front of the applicant's residence, and the block limit requirement of subsection (d) shall not apply to the recertification of spaces approved prior to [effective date of this ordinance]. If the Director determines that the eligibility criteria are no longer satisfied, the resident will be notified in writing and must provide a response to the Director with proper evidence of compliance within 45 days of notification. Failure to provide the information in accordance with the requested deadline will result in a second letter and failure to respond to the second letter within 30 days shall result in the removal of the reserved space.

(i) Revocation. A reserved space is subject to revocation as follows:

(1) In the event that a complaint is made to the Director that the applicant no longer satisfies the eligibility criteria of subsection (b) of this section, or that the space is being repeatedly used in a manner contrary to subsection (f), by persons residing in or visiting the applicant's household, the Director will conduct a preliminary inquiry to determine if the complaint is supported by substantial and credible evidence. If the Director determines that the complaint is so supported, the applicant will be notified in writing of the nature and specifics of the complaint, and must provide a response within 45 days to the Director. The applicant and complainant(s) shall have the right to appear before the Director, upon 15 days written notice of the time and place of the hearing, and be heard in person or by counsel, but such hearing shall be conducted in an informal manner. The Director shall revoke a reserved parking space designation only if (i) the Director finds by a preponderance of the evidence that the applicant did not, or does not continue to, meet the criteria in subsection (b), or if (ii) the Director finds by clear and convincing evidence that the space is being repeatedly used in a manner contrary to subsection (f), by persons residing in or visiting the applicant's household. The Director shall notify all parties of the decision in writing, within 15 days of the close of the hearing. The decision shall state the findings of fact and the reasons for the decision. The notice shall inform the parties of their right to appeal the decision to the City Manager, and of the procedure for making such an appeal.

(2) Any person aggrieved may appeal the Director's decision to the City Manager, by filing an appeal, in writing, with the Director, within 15 days of issuance of the decision. The City Manager shall schedule a hearing on the matter within 30 days of the filing of the appeal, and shall give the parties 15 days notice of the time and place of the hearing. The Manager shall notify all parties of the Manager's decision in writing, within 15 days of the close of the hearing. The Manager's decision shall state the findings of fact and the reasons for the decision, and the decision shall be final and not appealable to City Council.

Section 2. That this ordinance shall become effective upon the date and at the time of its final passage.

KERRY J. DONLEY
Mayor

Final Passage: May 12, 2001

EXHIBIT NO. 2



Telephone:
(703) 838-6390
(V/TDD)

City of Alexandria, Virginia
Human Rights Commission
421 King Street, Suite 400
Alexandria, Virginia 22314

20
5-12-01



Fax:
(703) 838-4976

DATE: MAY 10, 2001

TO: MAYOR DONLEY AND MEMBERS OF CITY COUNCIL

FROM: HUMAN RIGHTS COMMISSION
Nancy O. Jenkins, Chair

A handwritten signature in cursive script, likely belonging to Nancy O. Jenkins.

SUBJECT: ORDINANCE

On Saturday, May 12, you will hold a public hearing and the second reading and final passage of an ordinance to add a new Section 5-8-117 to the City Code. This new ordinance will revise the procedures for approval, in residential areas, of on-street parking spaces reserved for the use of persons with disabilities. (Docket item 20) This matter was item 17 on the consent calendar for Tuesday, May 8.

The Human Rights Commission has been informed about the work and actions of the City Manager's Committee on Residential Parking for Persons With Disabilities by Chet Avery, committee member and Vice-Chair of the Commission. The Director of the Office of Human Rights has also been a voting member of the Committee.

The Human Rights Commission supports the compromise achieved and the language developed by the Committee which are embodied in the proposed ordinance. We recommend passage.

cc: Philip Sunderland
Michele Evans
Beverly Steele
Richard Baier

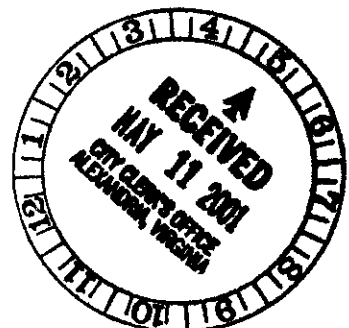


EXHIBIT NO. 3

Acpd

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5-12-01

Alexandria Commission on Persons with Disabilities

Voice 838-0710

Administration Unit No. 1
2525 Mt. Vernon Avenue
Alexandria, Virginia 22301

TDD 834-1493

May 11, 2001

Mayor Kerry J. Donley and
Members of Council
City Hall, 301 King Street
Alexandria, VA 22314

Dear Mayor Donley and Members of Council:

This letter acknowledges that the Alexandria Commission on Persons With Disabilities accepts, as a compromise at this time, the revised procedures for approval, in residential areas, of on-street parking spaces reserved for the use of persons with disabilities.

Sincerely,

Barbara A. Gilley
Barbara A. Gilley
Chair

cc: ACPD Members