

**CITY OF ANNAPOLIS
SPECIAL MEETING OF THE CITY COUNCIL
April 22, 2013 7:00 p.m.**

Call to Order
Invocation
Pledge of Allegiance
Roll Call

Mayor Cohen
Alderman Finlayson
Mayor Cohen
City Clerk Watkins-Eldridge

CITY COUNCIL CITATIONS

John O’Leary for the 2013 St. Patrick’s Day Parade
James Gregory for his service to the City of Annapolis

Mayor Cohen
Mayor Cohen

PETITIONS, REPORTS AND COMMUNICATIONS

Housing Authority of the City of Annapolis (HACA) Quarterly Meeting
Forest Conservation Act Working Group Presentation
Reports by Committees
Comments by the General Public

Hon. Joseph Manck, Chair

A person appearing before the City Council with a petition, report or communication shall be limited to a presentation of not more than three minutes.

PUBLIC HEARING

O-25-11 The Definition of a Two-family Dwelling – For the purpose of including “two-family dwelling” in the definition of “single-family attached dwelling.”

| LEGISLATIVE HISTORY | | | |
|----------------------|----------------|--------------------|-------------------|
| First Reading | Public Hearing | Fiscal Impact Note | 180 Day Rule |
| 11/28/11 | 4/22/13 | 1/7/12 | 5/25/12 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Rules and City Gov’t | 11/28/11 | | |
| Planning Commission | 11/28/11 | 3/8/13 | Favorable w/ amd. |

O-47-11 Fence Permits - For the purpose of amending the Code of the City of Annapolis with respect to the issuance of fence permits.

| LEGISLATIVE HISTORY | | | |
|----------------------|----------------|--------------------|-------------------|
| First Reading | Public Hearing | Fiscal Impact Note | 180 Day Rule |
| 9/26/11 | 4/22/13 | 2/17/12 | 3/23/12 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Economic Matters | 9/26/11 | | |
| Rules and City Gov’t | 9/26/11 | | |
| Planning Commission | 9/26/11 | 3/8/13 | Favorable w/ amd. |

- O-3-13 Bulk Regulations for Governmental Uses in the C1-A Zoning District –**
 For the purpose of specifying that lot size and width requirements for existing buildings with a governmental use in the C1-A zoning district shall be determined through the special exception process, pursuant to Chapter 21.26 of the City of Annapolis Code.

| LEGISLATIVE HISTORY | | | |
|---|----------------|--------------------|--------------|
| <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i> | | | |
| First Reading | Public Hearing | Fiscal Impact Note | 180 Day Rule |
| 1/28/13 | 4/22/13 | 1/30/13 | 7/26/13 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Rules and City Gov't | 1/28/13 | | |
| Planning Commission | 1/28/13 | 3/8/13 | Favorable |

Public Hearing on R-7-13 (Wayfinding and Signage Master Plan) continued from April 8, 2013 for the purpose of receiving written findings from the Planning Commission.

- R-7-13 Wayfinding and Signage Master Plan -** For the purpose of adopting the Draft Wayfinding and Signage Master Plan as an addendum to the 2009 Annapolis Comprehensive Plan.

| LEGISLATIVE HISTORY | | | |
|---|-------------------|--------------------|--------------|
| <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i> | | | |
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 2/11/13 | 4/8/13 4/22/13 | 2/25/13 | 5/10/13 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Rules and City Gov't | 2/11/13 | 4/15/13 | Favorable |
| Transportation | 2/11/13 | 4/11/13 | Favorable |
| Planning Commission | N/A | 1/3/13 | Favorable |
| Transportation Board | 2/11/13 | | |

LEGISLATIVE ACTIONS

CHARTER AMENDMENT, ORDINANCES and RESOLUTIONS – 2ND READER

- CA-2-12 Municipal Elections Coinciding with State of Maryland Elections in 2018 and Onward –** For the purpose of amending the Charter of the City of Annapolis to establish the dates of the primary and general elections to coincide with the State of Maryland in 2018 and extending the length of time in office for the incoming City Council in December 2013 an additional year to December 2018 in order to facilitate this transition period.

| LEGISLATIVE HISTORY | | | |
|---|----------------|--------------------|--------------------------------------|
| <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i> | | | |
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 9/24/12 | 10/22/12 | 10/13/12 | 12/21/12 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Rules and City Gov't | 9/24/12 | 11/13/12 2/4/13 | Favorable motion failed No action |

O-16-12 and R-34-12 were postponed to April 22, 2013 in order for the City Council to assess the efficacy of the Memorandum of Understanding with local newspaper publishers.

O-16-12 Distribution of Unsolicited Materials – For the purpose of establishing Section 11.36.025 of the Code of the City of Annapolis regarding the distribution of unsolicited materials.

| LEGISLATIVE HISTORY | | | |
|---|----------------|-------------------------------|-----------------------------------|
| <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i> | | | |
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 4/23/12 | 6/11/12 | 5/4/12 | 7/27/12 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Public Safety | 4/23/12 | 6/14/12 7/16/12 9/17/12 | Favorable Recommends postponement |

R-34-12 Establishing a Fine for Violations of Distributing Unsolicited Materials – For the purpose of establishing a fine for violations of distributing unsolicited materials.

| LEGISLATIVE HISTORY | | | |
|---|----------------|--------------------|-------------------------|
| <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i> | | | |
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 7/9/12 | 10/22/12 | 7/17/12 | 10/8/12 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Finance | 7/9/12 | N/A | N/A |
| Public Safety | 7/9/12 | 7/16/12 9/17/12 | Recommends postponement |

O-2-13 Lease of City Dock Space to Chesapeake Marine Tours – For the purpose of authorizing for fiscal year 2019 the lease of certain municipal property located at the City Dock to Chesapeake Marine Tours, Inc. for the docking and mooring of certain boats. *Alderswoman Finlayson, Alderman Paone, Alderswoman Hoyle, Alderman Arnett and Alderman Pfeiffer requested to be added as co-sponsors.*

| LEGISLATIVE HISTORY | | | |
|-----------------------|----------------|--------------------|--------------|
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 2/25/13 | 3/18/13 | 3/7/13 | 5/24/13 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Economic Matters | 2/25/13 | 3/20/13 | Favorable |
| Environmental Matters | 2/25/13 | 3/21/13 | Favorable |

O-17-13 Issuance of Bonds – For the purpose of authorizing and empowering the City of Annapolis (the “City”) to issue and sell, upon its full faith and credit, general obligation bonds in the aggregate principal amount not to exceed Fifteen Million Three Hundred Seventy Thousand Dollars (\$15,370,000), pursuant to Sections 31 through 39, inclusive, of Article 23A of the Annotated Code of Maryland (2011 Replacement Volume and 2012 Supplement), as amended, and Article VII, Section 11 of the Charter of the City of Annapolis, as amended, to be designated as “Public Improvements Bonds, 2013 Series” and said bonds to be issued and sold for the public purpose of financing and refinancing certain capital projects of the City as provided in this Ordinance; authorizing and empowering the City to issue and sell, upon its full faith and credit, general obligation bonds in the aggregate principal amount not to exceed Five Million One Hundred Thousand Dollars (5,100,000) pursuant to Sections 31 through 39, inclusive, of Article 23A of the Annotated Code of Maryland (2011 Replacement Volume and 2012 Supplement), as amended, Section 24 of Article 31 of the Annotated Code of Maryland (2010 Replacement Volume and 2012 Supplement), and Article VII, Section 11 of the Charter of the City of Annapolis, as amended, to be designated as “Public Improvements Refunding Bonds, 2013 Series”, for the public purpose of refunding all or a portion of certain outstanding general obligation bonds as provided in this Ordinance; prescribing the form and tenor of said bonds; determining the method of sale of said bonds and other matters relating to the issuance and sale thereof; providing for the disbursement of the proceeds of said bonds; covenanting to levy and collect all taxes necessary to provide for the payment of the principal of and interest on said bonds; and generally providing for and determining various matters relating to the issuance, sale and delivery of all said bonds.

| LEGISLATIVE HISTORY | | | |
|---|----------------|--------------------|-------------|
| <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council’s adopted minutes</i> | | | |
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 3/18/13 | 4/8/13 | 4/8/13 | 6/14/13 |

| Referred to | Referral Date | Meeting Date | Action Taken |
|-------------------------------|---------------|--------------|---------------|
| Economic Matters | 3/18/13 | 4/15/13 | No action |
| Finance | 3/18/13 | 4/16/13 | Favorable |
| Financial Advisory Commission | 3/18/13 | 4/1/13 | Comments/amd. |

R-17-13 A Revision to the Capital Improvement Budget and Program (Parking Meter Upgrade): FY 2013 to FY 2018 – For the purposes of revising the capital improvement budget for the Fiscal Year 2013 and the capital improvement program (parking meter upgrade) for the six-year period from July 1, 2012, to June 30, 2018.

| LEGISLATIVE HISTORY | | | |
|---|----------------|--------------------|--------------|
| <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i> | | | |
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 3/11/13 | 4/8/13 | 4/2/13 | 6/7/13 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Finance Committee | 3/11/13 | 4/16/13 | Favorable |
| Financial Advisory Commission | 3/11/13 | 4/18/13 | |

R-21-13 Recommendations of the Council Compensation Commission – For the purpose of providing for consideration, and the City Charter's required public hearing, of the recommendations of the Council Compensation Commission.

| LEGISLATIVE HISTORY | | | |
|---|----------------|--------------------|--------------|
| <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i> | | | |
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 3/18/13 | 4/8/13 | 4/4/13 | 6/14/13 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Finance | 3/18/13 | 4/16/13 | No action |

ORDINANCES and RESOLUTION – 1st READER

O-10-13 Compensation of Mayor, Aldermen/Alderwomen, and City Manager – For the purpose of specifying compensation and allowances to be paid to the Mayor and Aldermen/Alderwomen for the term of office commencing on the first Monday in December, 2013; and for specifying compensation and allowances to be paid to the City Manager.

| LEGISLATIVE HISTORY | | | |
|---|----------------|--------------------|--------------|
| <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i> | | | |
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 4/22/13 | | | 7/19/13 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Finance | 4/22/13 | | |
| Rules | 4/22/13 | | |

O-18-13 The Conveyance of Certain Portions of 908 and 914 Bay Ridge Avenue –
 For the purpose of conveying by deed the right, title, and interest of the City of Annapolis in a certain part of the land at 914 Bay Ridge Avenue to Ana Cortes; accepting the conveyance by deed of Ana Cortes' right, title, and interest in a certain part of the land at 908 Bay Ridge Avenue; and all matters relating to these conveyances.

| LEGISLATIVE HISTORY | | | |
|---|----------------|--------------------|--------------|
| <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i> | | | |
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 4/22/13 | | | 7/19/13 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Economic Matters | 4/22/13 | | |

O-20-13 Highly Compensated Employees in the Police and Fire Retirement Plan -
 For the purpose of establishing the definition of "highly compensated employee" within the Police and Fire Retirement Plan and authorizing such highly compensated employee participation in the Police and Fire Retirement Plan.

| LEGISLATIVE HISTORY | | | |
|---|----------------|--------------------|--------------|
| <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i> | | | |
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 4/22/13 | | | 7/19/13 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Rules and City Gov't | 4/22/13 | | |

R-23-13 Special Event Applications – II – For the purpose of authorizing City Council approval of selected special events per R-14-12, implementing a moratorium on administrative approvals for events at City Dock; designating specific dates for the sale of merchandise in the Historic District in

conjunction with only the approved special events; waiving docking fees for the Eastport Yacht Club Lights Parade; and the reimbursement of full fees to the City for the cost associated with the other approved events.

| LEGISLATIVE HISTORY | | | |
|---------------------|----------------|--------------------|--------------|
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 4/22/13 | | | 7/19/13 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Economic Matters | 4/22/13 | | |
| Finance | 4/22/13 | | |

BUSINESS and MISCELLANEOUS

1. Appointments
2. Budget revision

UPCOMING CITY COUNCIL EVENTS

Regular Meeting: Monday, May 13, 2013, 7:00 p.m. City Council Chambers
Work Session: Thursday, May 16, 2013, 1:30 – 4:30 p.m. City Council Chambers
Special Meeting: Monday, May 20, 2013, 7:00 p.m. City Council Chambers

Jessica Cowles
Legislative and Policy Analyst
City of Annapolis Office of Law
E) JCCowles@annapolis.gov
P) 410-263-1184
F) 410-268-3916

April 17, 2013

TO: The Capital Legal Notices: legalad@capgaz.com
FROM: Jessica Cowles, Legislative and Policy Analyst
RE: Notice of Public Hearing
PUBLISH: Please publish on: **Sunday, April 21, 2013 and Monday, April 22, 2013**

Please send bill and certificate of publication to the City of Annapolis Office of Law, 93 Main Street, 3rd Floor, Annapolis, MD 21401.

NOTICE OF ANNAPOLIS CITY COUNCIL PUBLIC HEARING

Notice is hereby given that the Annapolis City Council will hold a public hearing on Monday, April 22, 2013 at 7:00 p.m., in City Council Chambers, 160 Duke of Gloucester Street, Annapolis, for a public hearing on:

- O-25-11 **The Definition of a Two-family Dwelling**** – For the purpose of including “two-family dwelling” in the definition of “single-family attached dwelling.”
- O-47-11 **Fence Permits**** - For the purpose of amending the Code of the City of Annapolis with respect to the issuance of fence permits.
- O-3-13 **Bulk Regulations for Governmental Uses in the C1-A Zoning District**** – For the purpose of specifying that lot size and width requirements for existing buildings with a governmental use in the C1-A zoning district shall be determined through the special exception process, pursuant to Chapter 21.26 of the City of Annapolis Code.
- R-7-13 **Wayfinding and Signage Master Plan**** - For the purpose of adopting the Draft Wayfinding and Signage Master Plan as an addendum to the 2009 Annapolis Comprehensive Plan.

The above legislation on the City Council agenda for public hearing can be viewed on the City’s website at: <http://www.annapolis.gov/Government/Departments/LawOffice/PendingLegis.aspx>

1 CITY COUNCIL OF THE
2 City of Annapolis

3
4 Ordinance No. O-25-11

5 Introduced by: Alderman Kirby and Mayor Cohen
6
7

| LEGISLATIVE HISTORY | | | |
|----------------------|----------------|--------------------|--------------|
| First Reading | Public Hearing | Fiscal Impact Note | 180 Day Rule |
| 11/28/11 | | | 5/25/12 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Rules and City Gov't | 11/28/11 | | |
| Planning Commission | 11/28/11 | | |

8
9 **A ORDINANCE** concerning

10 **The Definition of a Two-family Dwelling**

11 **FOR** the purpose of including "two-family dwelling" in the definition of "single-family attached
12 dwelling."

13 **BY** repealing and re-enacting with amendments the following portions of the Code of the
14 City of Annapolis, 2011 Edition
15 Section 21.72.010
16
17

18 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**
19 **COUNCIL** that the Code of the City of Annapolis shall be amended to read as follows:

20 **21.72 - TERMS AND DEFINITIONS**

21
22 **21.72.010 - Terms.**

23
24 D. List of Definitions.

25
26 "Dwelling" means a building, or portion of a building, designed or used exclusively for
27 residential occupancy. Includes the following unit types:

- 28 a. Single-family detached dwellings,
29 b. Single-family attached dwellings,
30 c. Multifamily dwellings,
31 d. Two-family dwellings, and
32 e. Dwellings above the ground floor of nonresidential uses.
33

34 The term "dwelling" does not include house trailers and hotels.

35
36 Dwelling, Multi-Family. See illustration. "Multi-family dwelling" means a building, or
37 portion of a building, containing three or more dwelling units.

1
2 Dwelling, Single-Family Detached. See illustration. "Single-family detached dwelling"
3 means a building containing one dwelling unit that is surrounded entirely by open space on the
4 same lot.

5
6 Dwelling, Single-Family Attached. See illustration. "Single-family attached dwelling"
7 means one of a series of two three or more dwellings that can be is joined to another dwelling at
8 one or more sides by a party wall or walls, with each unit having its own separate exterior
9 entrance(s). For example, townhouse, rowhouse, two-family dwelling, and quadraplex units are
10 single-family attached dwellings.

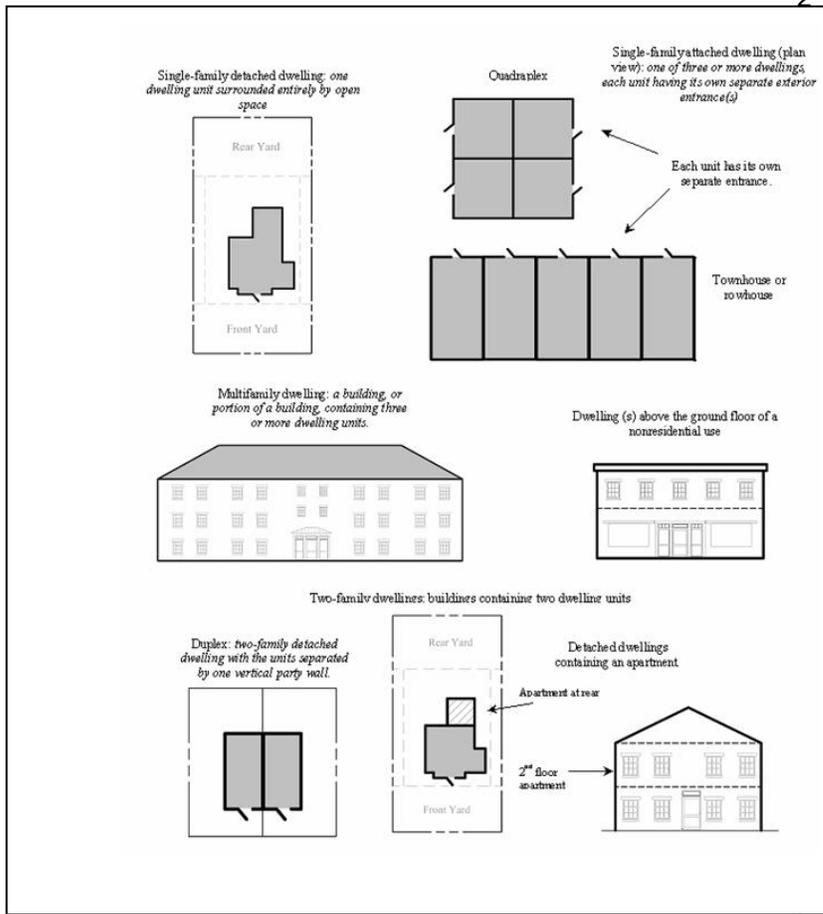
11
12 Dwelling, Two-Family. See illustration. "Two-family dwelling" means a building
13 containing two dwelling units. Examples:

14 a. A detached dwelling containing an apartment is a two-family detached
15 dwelling.

16 b. A duplex is a two-family detached dwelling with the units separated by one
17 vertical party wall without openings extending from the basement floor to the roof
18 along the dividing lot line.

19
20 "Dwelling unit" means any habitable room or a group of adjoining habitable rooms
21 located within a dwelling and forming a single unit with facilities which are used or intended to
22 be used for living, sleeping, cooking and eating of meals.

1 Illustrations for dwelling unit definitions



Single-family attached dwelling (plan view): one of ~~two~~ **three** or more dwellings, each unit having its own separate exterior entrance(s)

26

27
28
29
30
31
32
33
34

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this Ordinance shall take effect from the date of its passage.

ADOPTED this _____ day of _____, _____.

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

35
36
37
38
39
40

EXPLANATION:
Highlighting indicates matter added to existing law.
~~Strikeout indicates matter deleted from existing law.~~
Underlining indicates amendments.

Staff and Policy Report

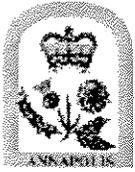
Ordinance O-25-11

The Definition of a Two-family Dwelling

The proposed ordinance revises the definition of “single-family attached dwelling” to include “two-family dwelling.” When Title 21 of the City Code was re-codified in 2005, two-family dwellings were excluded from the definition of “single-family attached dwelling” in order to allow for certain dwelling arrangements that did not fall into the category of single-family attached. For example, there was no category for a dwelling unit with an accessory apartment or for two units with one unit on top of the other. The code change in 2005 was meant to provide a specific category for these types of dwelling.

However, this change inadvertently excluded two-family dwellings from several zoning districts where this had been a use deemed conforming. In these districts, two-family dwellings were no longer listed as a use deemed conforming, although single-family attached and detached dwellings were specifically enumerated. In March 2010, there was a zoning text amendment adopted to correct this problem in the R2NC district. This currently proposed ordinance will restore two-family dwellings under the definition of single-family attached dwellings and correct this omission in the other zoning districts that were affected by the 2005 definition change.

Prepared by Sally Nash, Senior Comprehensive Planner in Planning and Zoning (SNash@annapolis.gov) and Jessica Cowles, Legislative and Policy Analyst in the Office of Law (JCCowles@annapolis.gov).



City of Annapolis
Committee Referral Action

Date: March 8, 2013

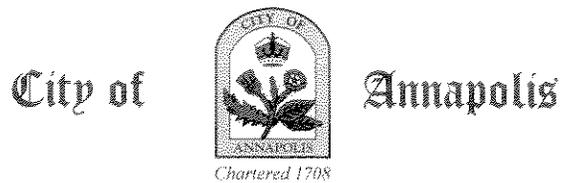
To: Jessica Cowles
Legislative & Policy Analyst

The Planning Commission has reviewed Ordinance O-25-11 and has taken the following action:

Favorable with amendments

Comments: See staff report for recommended changes

March 7, 2013
Meeting Date



PLANNING COMMISSION

(410)263-7961

145 GORMAN STREET, 3RD FLOOR
ANNAPOLIS, MARYLAND 21401

March 7, 2013

To: Annapolis City Council

From: Planning Commission

Re: Findings - O-25-11 Definition of a Two-family Dwelling

SUMMARY

O-25-11 proposes modifications to section 21.72.010 Terms to change the definition of "single-family attached dwelling" to include "two-family dwelling." When Title 21 of the City Code was re-codified in 2005, two-family dwellings were excluded from the definition of "single-family attached dwelling" in order to allow for certain dwelling arrangements that did not fall into the category of single-family attached. For example, there was no category for a dwelling unit with an accessory apartment or for two units with one unit on top of the other. The code change in 2005 was meant to provide a specific category for these types of dwelling.

STAFF RECOMMENDATION

At a regularly scheduled meeting on February 15, 2012, the Planning and Zoning staff presented their analysis and recommendations for revision of the legislation. The intent of the legislation is to correct a problem with "uses deemed conforming." In order to rectify the ambiguity throughout Title 21 that was caused by the change in the two-family dwelling definition in 2005, additional language should be added to Section 21.68.030 - Deemed conforming structures and uses. Changing the definition of a single-family attached dwelling to include a two-family dwelling could create unintended consequences for the types of uses allowed in certain zoning districts and the bulk requirements. Staff recommended instead that additional language be added to Section 21.68.030 (A) that reads "Notwithstanding any provisions of the individual zoning districts, for purposes of being classed as a use deemed conforming, the terms "single-family attached and detached dwellings" shall include "two-family dwellings."

PUBLIC HEARING AND DELIBERATION

In accordance with the Annapolis City Code, a public hearing was held on February 15, 2012 and the public was invited to comment on the proposed text amendment. After the close of the public hearing, the Planning Commission entered into deliberations.

The Planning Commission requested that staff meet with the Office of Law regarding their proposed amendments and obtain an opinion as to whether they would be acceptable. The legislation was tabled.

Staff discussed the proposed amendments with the Office of Law which concurred that the term "notwithstanding" created no confusion when read in the context of the proposed amendment. This

information was presented at the January 3, 2013 meeting of the Planning Commission. The public hearing was reopened and heard testimony from the public on the ordinance. A proposal to amend the uses for the individual zoning districts rather than to amend the definition in 21.68 through a general clause that applied to all zoning districts and included the term "notwithstanding." was discussed. The purpose of the later proposal was to eliminate any remote concern about a potential ambiguity in the language staff first had proposed. Planning Commission tabled the legislation and requested revised language amending the individual zoning districts be prepared.

The legislation was revised and new amendments presented to the Planning Commission at their regularly scheduled meeting on March 7, 2013.

RECOMMENDATION

Under section 21.32.010 Purpose and authority of the City Code, it states the following:

For the purpose of promoting the public health, safety, morals and general welfare, and conserving the value of property throughout the city, the city council, from time to time, in the manner set forth in this chapter, may amend the regulations imposed in the districts created by this title; provided, that in all amendatory ordinances adopted under the authority of this chapter, due allowance shall be made for existing conditions, the conservation of property values, the direction of building development to the best advantages of the entire city and the uses to which property is devoted at the time of the adoption of the amendatory ordinance.

The code further requires under section 21.32.020 that "Within thirty days after the commission has completed its review of the proposed amendment, but in no case longer than ninety days after the matter has been placed on the agenda of the commission, the commission shall submit its written recommendations to the city council".

Following a review of the staff report and consideration of staff and public comments, the Commission by a vote of recommends the proposed ordinance be revised in accordance with the staff recommendation as follows:

- add a provision for existing two family dwellings and to regulate bulk in the WMM Waterfront Mixed Maritime district; the WMI Waterfront Maritime Industrial district; the WME Waterfront Maritime Eastport district; the OCD Office and Commercial Design overlay district
- to amend the R2 Single-family Residence district to relocate language dealing with existing duplex units from the use tables to the uses deemed conforming section

The Planning Commission by a vote of 6 to 0 recommends adoption of the ordinance subject to the revisions recommended by staff in their February 27, 2013 Addendum to the Staff Report.

Adopted this 7th day of March, 2013



Dr. Eleanor Harris, Chair



City of Annapolis

DEPARTMENT OF PLANNING AND ZONING

145 Gorman Street, 3rd Floor, Annapolis, Maryland 21401

Chartered 1708 Annapolis 410-263-7961 • FAX 410-263-1129 • TDD 410-263-7943

JON ARASON, AICP
DIRECTOR

February 27, 2013

ADDENDUM TO STAFF REPORT

TO: Planning Commission
FROM: Jon Arason, Director of Planning and Zoning
Re: O-25-11 Definition of a Two-family Dwelling
Attachments: O-25-11 Staff Report January 3, 2013

BACKGROUND

O-25-11 was originally heard at a public hearing held by the Planning Commission at their February 16, 2012 meeting, as follows:

Ordinance O-25-11 was introduced to correct an ongoing problem with the code definition for two family dwelling units when the code was recodified in 2005. She identified the zoning designations that are impacted by the change in language. Staff recommended that additional language be added to Section 21.68.030 (A) that reads "Notwithstanding any provisions of the individual zoning districts, for purposes of being classed as a use deemed conforming, the terms "single-family attached and detached dwellings" shall include "two-family dwellings."

The Planning Commission requested that staff meet with the Office of Law regarding their proposed amendments and obtain an opinion as to whether they would be acceptable. The legislation was tabled.

Staff discussed the proposed amendments with the Office Of Law which concurred that the term "notwithstanding" created no confusion when read in the context of the proposed amendment. However, in the interim there was a proposal to amend the uses for the individual zoning districts rather than to amend the definition in 21.68 through a general clause that applied to all zoning districts and included the term "notwithstanding." The purpose of the later proposal was to eliminate any remote concern about a potential ambiguity in the language staff first had proposed.

As the notwithstanding language was already in use in the zoning code, staff brought the legislation back to the Planning Commission for further consideration. The original recommendation of staff that Section 21.68.030—Deemed conforming structures and uses, could be amended by adding a subsection 21.68.030 C. as follows:

C. Notwithstanding any provisions of the individual zoning districts, for purposes of being classified as a use deemed conforming, the terms "single-family attached and detached dwellings" shall include "two-family dwelling.

Chair Dr. Harris reopened the public testimony originally closed at the February 16, 2012. Alderman Arnett spoke on the legislation and expressed his concern about the language proposed by staff. No one else from the public spoke in favor of or in opposition of O-25-11. After discussion, the Planning Commission tabled voting on O-25-11 to request that staff prepare revised language and revisions to the bulk tables.

ANALYSIS

In accordance with the request of Planning Commission to revise the language and the bulk tables related to a two-family dwelling as a use deemed conforming, staff reviewed the existing language in the zoning code related to uses deemed conforming which will be discussed below.

However, it is important to first note that in 2009, the R2-NC Single-Family Residence Neighborhood Conservation district was amended under O-65-09 to correct the use deemed conforming status lost when the zoning code was recodified in 2005 and that a provision was also added to provide for bulk regulations to apply to the expansion of two-family dwellings (bold below).

21.40.060 - R2-NC Single-Family Residence Neighborhood Conservation district.

E.

1. The following uses are deemed to be conforming, pursuant to Section 21.68.030 of this Zoning Code, provided they were legally existing on November 19, 1990:
 - a. Single-family attached and detached dwellings,
 - b. **Two-family dwellings,**
 - c. Nonresidential uses, except for uses listed in subsection (E)(2) of this section, and
 - d. Multi-family dwellings of five or fewer units.
3. **Single-family attached and detached dwellings and two-family dwellings deemed conforming may be expanded for residential use if they otherwise meet the requirements of this district, including the setback and height limitations in accordance with single-family detached dwellings.** In the case of any alteration, expansion, or modification to a two-family dwelling, the front setback and elements of the front façade, including any single plane, with respect to each dwelling unit shall be retained or match those of the other unit.

There are eleven other zoning districts in the City which contain regulations related to uses deemed conforming. We have reviewed each one and offer recommended amendments where necessary.

THE FOLLOWING ZONING DISTRICTS WHICH CONTAIN PROVISIONS RELATED TO USES DEEMED CONFORMING DO NOT NEED TO BE AMENDED AS A TWO-FAMILY DWELLING IS AN ALLOWED USE IN THESE ZONES:

R3-NC2 General Residence Neighborhood Conservation 2 district.
R4-R General Residence Neighborhood Revitalization
C1-A Special Conservation Residence district.
PM Professional Mixed Office district.

THIS ZONE ONLY ALLOWS MARITIME AS A USE DEEMED CONFORMING AND DOES NOT NEED TO BE AMENDED: 21.46.020 - WMC Waterfront Maritime Conservation district.

THESE ZONING DISTRICTS NEED TO BE AMENDED TO BOTH ADD A PROVISION FOR TWO FAMILY DWELLINGS AND TO REGULATE BULK:

21.46.030 - WMM Waterfront Mixed Maritime district.

D. Uses Deemed Conforming. The following uses are deemed conforming pursuant to Section 21.68.030 of this Zoning Code:

1. Single-family residential attached and detached dwellings AND TWO-FAMILY DWELLINGS, lawfully existing on August 24, 1987, may be expanded for residential use if the expansion otherwise meet the requirements of the R2-NC Single-Family Residence Neighborhood Conservation district, INCLUDING THE SETBACK AND HEIGHT LIMITATIONS IN ACCORDANCE WITH SINGLE-FAMILY DETACHED DWELLINGS. Unlawful uses occupying such residences on August 24, 1987 are not deemed to be conforming.

2. SINGLE-FAMILY ATTACHED AND DETACHED DWELLINGS AND TWO-FAMILY DWELLINGS DEEMED CONFORMING MAY BE EXPANDED FOR RESIDENTIAL USE IF THEY OTHERWISE MEET THE REQUIREMENTS OF THIS DISTRICT, INCLUDING THE SETBACK AND HEIGHT LIMITATIONS IN ACCORDANCE WITH SINGLE-FAMILY DETACHED DWELLINGS

21.46.040 - WMI Waterfront Maritime Industrial district.

E. Uses Deemed Conforming. The following uses are deemed conforming pursuant to Section 21.68.030 of this Zoning Code:

1. Single-family residential attached and detached dwellings AND TWO-FAMILY DWELLINGS, lawfully existing on August 24, 1987 may be expanded for residential use if the expansion otherwise meetS the requirements of the R2 district, INCLUDING THE SETBACK AND HEIGHT LIMITATIONS IN ACCORDANCE WITH SINGLE-FAMILY DETACHED DWELLINGS. Unlawful uses occupying such residences on August 24, 1987 are not deemed to be conforming.

21.46.050 - WME Waterfront Maritime Eastport district

E. Uses Deemed Conforming. The following uses are deemed conforming pursuant to Section 21.68.030 of this Zoning Code:

1. Multifamily dwellings in structures of five units or less lawfully existing on August 24, 1987 if duly licensed in accordance with City codes and with an occupancy permit.
2. Single-family residential attached and detached dwellings **AND TWO-FAMILY DWELLINGS**, lawfully existing on August 24, 1987, may be expanded for residential use if the expansion otherwise meets the requirements of the R2-NC Single-Family Residence Neighborhood Conservation district, **INCLUDING THE SETBACK AND HEIGHT LIMITATIONS IN ACCORDANCE WITH SINGLE-FAMILY DETACHED DWELLINGS**; properties on Shipwright Street may be expanded for residential use if the expansion otherwise meets the requirements of the C1 Conservation Residence district, **INCLUDING THE SETBACK AND HEIGHT LIMITATIONS IN ACCORDANCE WITH SINGLE-FAMILY DETACHED DWELLINGS**. Unlawful uses occupying such residences on August 24, 1987 are not deemed to be conforming.

Chapter 21.58 - OCD Office and Commercial Design Overlay District

21.58.030 - Regulations. In the OCD district the following regulations apply:

F. **Uses Deemed Conforming.**

1. The following uses are deemed to be conforming, pursuant to Section 21.68.030 of this Zoning Code, provided they were legally existing on November 19, 1990:
 - a. Single-family attached and detached dwellings **AND TWO-FAMILY DWELLINGS**
3. Expansion of **Uses Deemed Conforming**.
 - a. Single-family attached and detached dwellings **AND TWO-FAMILY DWELLINGS** deemed conforming may be expanded for residential use if they otherwise meet the requirements of the underlying district, **INCLUDING THE SETBACK AND HEIGHT LIMITATIONS IN ACCORDANCE WITH SINGLE-FAMILY DETACHED DWELLINGS**.

THE R2 ZONE NEEDS TO BE AMENDED TO RELOCATE LANGUAGE DEALING WITH EXISTING DUPLEX UNITS FROM THE USE TABLES TO THE USES DEEMED CONFORMING SECTION

21.40.050 - R2 Single-Family Residence district. .

D. **Uses Deemed Conforming.**

1. A stadium is deemed to be conforming, pursuant to Section 21.68.030 of this Zoning Code, provided that it was legally existing on July 1, 2009, and may be altered or expanded subject to approval through the special exception process, pursuant to Chapter 21.22 of this Zoning Code
2. **DUPLEX UNITS EXISTING ON AUGUST 10, 1970, MAY BE ALTERED OR ENLARGED PROVIDED THAT THE ALTERATION OR ENLARGEMENTS OTHERWISE MEET THE PROVISIONS OF THE R2 ZONING DISTRICT INCLUDING THE SETBACK AND HEIGHT LIMITATIONS IN ACCORDANCE WITH SINGLE-FAMILY DETACHED**

DWELLINGS, EXCEPT THAT THE SHARED LOT LINE BETWEEN EACH HALF OF THE DUPLEX UNIT MUST MEET THE PROVISIONS OF THE R3, GENERAL RESIDENCE DISTRICT, AND SUBJECT TO MINOR SITE DESIGN PLAN REVIEW

And delete the following footnote from the use tables in 21.48.010 - Table of Uses—Residential Zoning Districts.

1 Duplex units existing on August 10, 1970, may be altered or enlarged provided that the alteration or enlargements otherwise meet the provisions of the R2 zoning district, except that the shared lot line between each half of the duplex unit must meet the provisions of the R3, General Residence District, and subject to minor site design plan review

THIS ZONING DISTRICT DOES NOT NEED TO BE AMENDED TO ADD A USE PROVISION FOR TWO FAMILY DWELLINGS. HOWEVER, IT DOES NEED TO BE AMENDED TO ADD A PROVISION FOR REGULATING BULK.

21.42.060 - BCE Business Corridor Enhancement district.

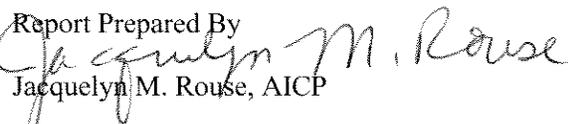
E. Uses Deemed Conforming. Uses existing on October 11, 1993 are deemed conforming for the purposes of expansion, pursuant to Section 21.68.030 of this Zoning Code. SINGLE-FAMILY RESIDENTIAL ATTACHED AND DETACHED DWELLINGS AND TWO-FAMILY DWELLINGS MAY BE EXPANDED FOR RESIDENTIAL USE IF THE EXPANSION OTHERWISE MEET THE REQUIREMENTS OF THE R2 DISTRICT, INCLUDING THE SETBACK AND HEIGHT LIMITATIONS IN ACCORDANCE WITH SINGLE-FAMILY DETACHED DWELLINGS.

RECOMMENDATION

Staff recommends approval of O-25-11 subject to the modifications discussed in the analysis to:

- add a provision for existing two family dwellings and to regulate bulk in the WMM Waterfront Mixed Maritime district; the WMI Waterfront Maritime Industrial district; the WME Waterfront Maritime Eastport district; the OCD Office and Commercial Design overlay district
- to amend the R2 Single-family Residence district to relocate language dealing with existing duplex units from the use tables to the uses deemed conforming section

Report Prepared By


Jacquelyn M. Rouse, AICP

Planning Administrator



City of Annapolis

DEPARTMENT OF PLANNING AND ZONING

145 Gorman Street, 3rd Floor, Annapolis, Maryland 21401

Chartered 1708

Annapolis 410-263-7961 • FAX 410-263-1129 • MD Relay (711)

JON ARASON, AICP
DIRECTOR

January 3, 2013

MEMORANDUM

To: Planning Commission
From: Jon Arason, Director of Planning and Zoning
Re: O-25-11 Definition of a Two-family Dwelling—Revised

Attachments: 1. Ordinance O-25-11
2. Dwelling unit definitions

SUMMARY

O-25-11 proposes modifications to section 21.72.010 Terms to change the definition of “single-family attached dwelling” to include “two-family dwelling.” When Title 21 of the City Code was re-codified in 2005, two-family dwellings were excluded from the definition of “single-family attached dwelling” in order to allow for certain dwelling arrangements that did not fall into the category of single-family attached. For example, there was no category for a dwelling unit with an accessory apartment or for two units with one unit on top of the other. The code change in 2005 was meant to provide a specific category for these types of dwelling.

BACKGROUND AND ANALYSIS

Ordinance O-25-11 would add two-family dwellings to the definition of single-family attached dwelling. The effect of this on the maritime zones would be that upon passage of O-25, duplexes would become ‘deemed conforming’ uses in these zones. This would grant duplexes the same rights currently enjoyed by single and multi-family (up to five) dwellings.

By way of history, when the maritime zones were adopted in 1987, among the list of permitted uses in all maritime zoning districts was as follows:

Single-family residential attached and detached dwellings, lawfully existing on the date of adoption of this amendment shall be deemed conforming and may be expanded for residential use if they otherwise meet the requirements of the R2, single-family residential district.

This language was carried more-or-less intact into the zoning code as it was recodified in 2005. The issue that has given rise to O-25-11 is that from 1987 until recodification a duplex fell into the category of ‘two family detached dwelling’ and was therefore was a use deemed conforming in the maritime zones. Upon recodification in 2005, a duplex was defined separately as a two-family dwelling and therefore not deemed conforming in the maritime zones as it was not ‘residential attached’. This definitional problem has also arisen in the R2-NC (formerly the Eastport Conservation Overlay) and has been rectified. O-25 would rectify this oversight in the maritime zones as well.

In the WME zone single-family and three-, four- and five-dwelling units are now deemed conforming, but not two-family. If passed, duplexes could be expanded provided they meet the R2-NC bulk requirements, critical areas regs, etc, but under no circumstances could the number of dwelling units be increased beyond the existing number. (Other properties in the Waterfront Maritime Zones that would

be affected are 14-16 Severn Avenue and 18-20 Severn Avenue.)

O-25 does not clarify existing law so much as it restores a property right inadvertently taken away in the 2005 recodification. I use the term 'inadvertently' because this right was lost due to a clarifying change in the definition of two-family dwelling (duplex) and not to address a specific land use issue with duplexes. The situation arose due to a site design review at 319 Chester. The owner had designed a mixed-use building containing maritime uses in support of the marina and two dwelling units. This was permitted because the dwelling units were deemed conforming. During review the recodification occurred and we had to notify the owner that either the duplex had to be removed and a maritime building built (because the property became a nonconforming residential use), or the duplex had to be renovated 'as is'—within its existing bulk.

When the Waterfront Maritime zoning districts were adopted, there were a number of dwelling units (single, duplex and multi-family) that would have been rendered nonconforming had they not been somehow excepted. In order to keep a consensus among property owners, the compromise arose to deem these existing residential uses conforming but not allow any more.

O-25-11 takes the approach it does for an across the board correction of a codification error that created an across the board discrepancy—or at least a discrepancy across a number of zones including R3-NC2, C1-A and the OCD Overlay District. No new rights are being conferred, only restoration of rights that had existed for as many as eighteen years. In that eighteen year period the presence of this right did not undermine the intent of the maritime or other zoning districts. Indeed, it prevented the construction of a maritime structure so it might be argued that the absence of the corrections in O-25 undermines the intent of the maritime districts.

RECOMMENDATION

The intent of the legislation is to correct a problem with "uses deemed conforming." In order to restore duplexes as such uses, O-25 proposes changing the definition of a "single-family attached dwelling" to include two-family dwellings. This would rectify the issue, but might require other amendments to the bulk tables.

As an alternative, Section 21.68.030—Deemed conforming structures and uses, could be amended by adding a subsection 21.68.030 C. as follows:

C. Notwithstanding any provisions of the individual zoning districts, for purposes of being classified as a use deemed conforming, the terms "single-family attached and detached dwellings" shall include "two-family dwelling."

The entire Section 21.68.030 would therefore read as follows:

A. As provided in Division III, which establishes regulations applicable to individual zoning districts, certain structures and uses that were lawfully in existence on the effective date of this Zoning Code shall be deemed to be conforming pursuant to the applicable district regulations. These structures and uses are listed in the "Uses deemed conforming" subsections under the individual zoning districts in Chapters 21.40, 21.42, 21.44, and 21.46

B. A structure or use that is deemed conforming may be altered or expanded if the alteration or expansion otherwise meets the requirements of the zoning district in which the structure or use is located.

C. *Notwithstanding any provisions of the individual zoning districts, for purposes of being classified as a use deemed conforming, the terms "single-family attached and detached dwellings" shall include "two-family dwelling."*

Report Prepared by Jon Arason and Jacquelyn M. Rouse, AICP

CITY COUNCIL OF THE
City of Annapolis

Ordinance No. O-25-11

Introduced by: Alderman Kirby and Mayor Cohen

| LEGISLATIVE HISTORY | | | |
|---|----------------------|--------------------|--------------|
| First Reading | Public Hearing | Fiscal Impact Note | 180 Day Rule |
| 11/28/11 | | | 5/25/12 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Rules and City Gov't Planning Commission | 11/28/11 11/28/11 | | |

A ORDINANCE concerning

The Definition of a Two-family Dwelling

FOR the purpose of including "two-family dwelling" in the definition of "single-family attached dwelling."

BY repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2011 Edition
Section 21.72.010

SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the Code of the City of Annapolis shall be amended to read as follows:

21.72 - TERMS AND DEFINITIONS

21.72.010 - Terms.

D. List of Definitions.

"Dwelling" means a building, or portion of a building, designed or used exclusively for residential occupancy. Includes the following unit types:

- a. Single-family detached dwellings,
- b. Single-family attached dwellings,
- c. Multifamily dwellings,
- d. Two-family dwellings, and
- e. Dwellings above the ground floor of nonresidential uses.

The term "dwelling" does not include house trailers and hotels.

Dwelling, Multi-Family. See illustration. "Multi-family dwelling" means a building, or portion of a building, containing three or more dwelling units.

1
2 Dwelling, Single-Family Detached. See illustration. "Single-family detached dwelling"
3 means a building containing one dwelling unit that is surrounded entirely by open space on the
4 same lot.

5
6 Dwelling, Single-Family Attached. See illustration. "Single-family attached dwelling"
7 means one of a series of ~~two~~ three or more dwellings that ~~can be~~ is joined to another dwelling at
8 one or more sides by a party wall or walls, with each unit having its own separate exterior
9 entrance(s). For example, townhouse, rowhouse, ~~two-family dwelling~~ and quadraplex units are
10 single-family attached dwellings.

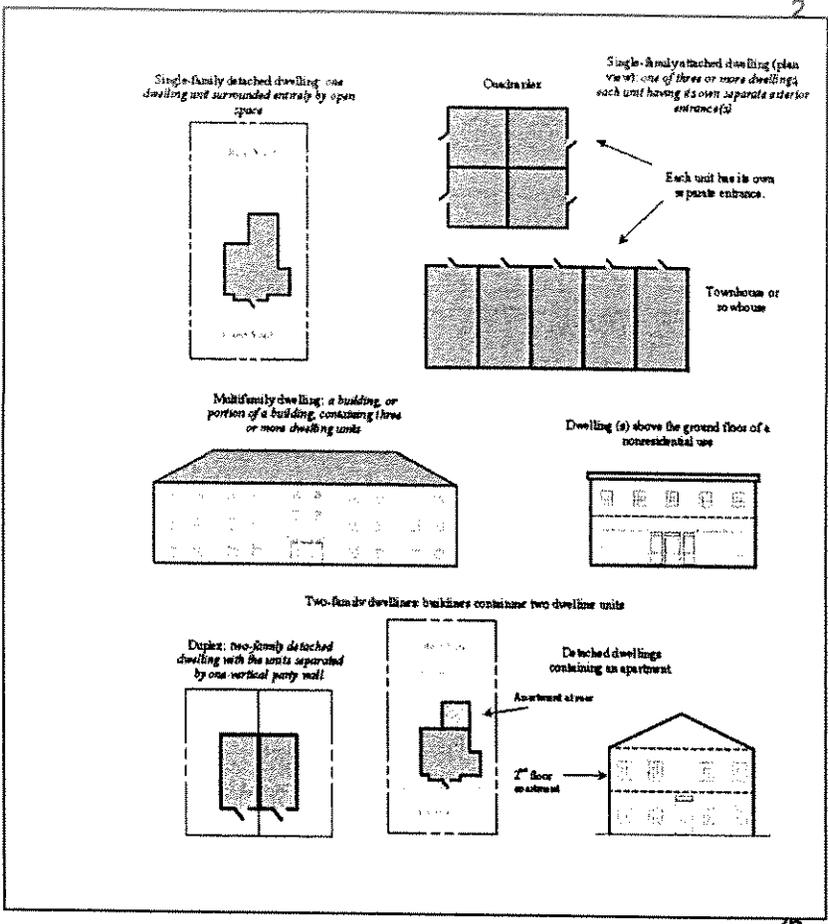
11
12 Dwelling, Two-Family. See illustration. "Two-family dwelling" means a building
13 containing two dwelling units. Examples:

14 a. A detached dwelling containing an apartment is a two-family detached
15 dwelling.

16 b. A duplex is a two-family detached dwelling with the units separated by one
17 vertical party wall without openings extending from the basement floor to the roof
18 along the dividing lot line.

19
20 "Dwelling unit" means any habitable room or a group of adjoining habitable rooms
21 located within a dwelling and forming a single unit with facilities which are used or intended to
22 be used for living, sleeping, cooking and eating of meals.

1 Illustrations for dwelling unit definitions



Single-family attached dwelling (plan view): one of two three or more dwellings, each unit having its own separate exterior entrance(s)

27
28
29
30
31
32
33
34

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this Ordinance shall take effect from the date of its passage.

ADOPTED this _____ day of _____, _____.

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

35
36
37
38
39
40

EXPLANATION:
 Highlighting indicates matter added to existing law.
 Strikethrough indicates matter deleted from existing law.
 Underlining indicates amendments.



City of Annapolis

DEPARTMENT OF PLANNING AND ZONING

145 Gorman Street, 3rd Floor, Annapolis, Maryland 21401

Chartered 1708

Annapolis 410-263-7961 • FAX 410-263-1129 • TDD 410-263-7943

JON ARASON, AICP
DIRECTOR

Dwelling Definition

Chapter 21.72 - TERMS AND DEFINITIONS

21.72.010 - Terms

"Dwelling" means a building, or portion of a building, designed or used exclusively for residential occupancy. Includes the following unit types:

- a. Single-family detached dwellings,*
- b. Single-family attached dwellings,*
- c. Multifamily dwellings,*
- d. Two-family dwellings, and*
- e. Dwellings above the ground floor of nonresidential uses.*

The term "dwelling" does not include house trailers and hotels.

Dwelling, Multi-Family. See illustration. "Multi-family dwelling" means a building, or portion of a building, containing three or more dwelling units.

Dwelling, Single-Family Detached. See illustration. "Single-family detached dwelling" means a building containing one dwelling unit that is surrounded entirely by open space on the same lot.

Dwelling, Single-Family Attached. See illustration. "Single-family attached dwelling" means one of a series of three or more dwellings that is joined to another dwelling at one or more sides by a party wall or walls, with each unit having its own separate exterior entrance(s). For example, townhouse, rowhouse, and quadraplex units are single-family attached dwellings.

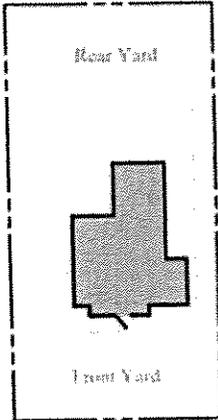
Dwelling, Two-Family. See illustration. "Two-family dwelling" means a building containing two dwelling units. Examples:

- a. A detached dwelling containing an apartment is a two-family detached dwelling.*
- b. A duplex is a two-family detached dwelling with the units separated by one vertical party wall without openings extending from the basement floor to the roof along the dividing lot line.*

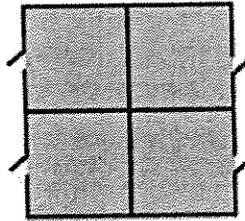
"Dwelling unit" means any habitable room or a group of adjoining habitable rooms located within a dwelling and forming a single unit with facilities which are used or intended to be used for living, sleeping, cooking and eating of meals.

Illustrations for dwelling unit definitions

Single-family detached dwelling: one dwelling unit surrounded entirely by open space

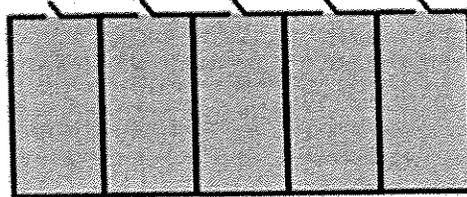


Quadruplex



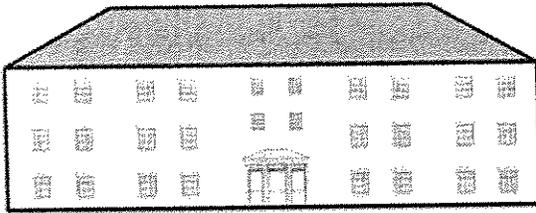
Single-family attached dwelling (plan view): one of three or more dwellings, each unit having its own separate exterior entrance(s)

Each unit has its own separate entrance.

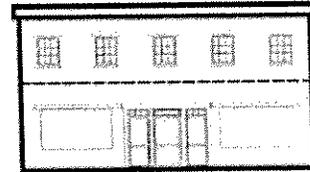


Townhouse or rowhouse

Multifamily dwelling: a building, or portion of a building, containing three or more dwelling units.

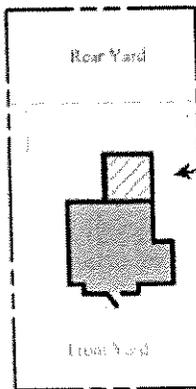
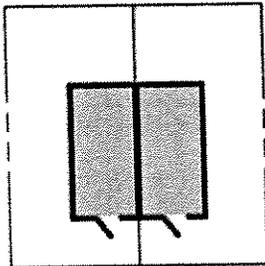


Dwelling(s) above the ground floor of a nonresidential use



Two-family dwellings: buildings containing two dwelling units

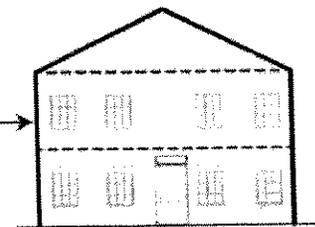
Duplex: two-family detached dwelling with the units separated by one vertical party wall.



Detached dwellings containing an apartment

Apartment at rear

2nd floor apartment





City of Annapolis

DEPARTMENT OF PLANNING AND ZONING

145 Gorman Street, 3rd Floor, Annapolis, Maryland 21401

Chartered 1708

Annapolis 410-263-7961 • FAX 410-263-1129 • TDD 410-263-7943

JON ARASON, AICP
DIRECTOR

February 7, 2012

MEMORANDUM

To: Planning Commission
From: Jon Arason, Director of Planning and Zoning
Re: O-25-11 Definition of a Two-family Dwelling

SUMMARY

O-25-11 proposes modifications to section 21.72.010 Terms to change the definition of "single-family attached dwelling" to include "two-family dwelling." When Title 21 of the City Code was re-codified in 2005, two-family dwellings were excluded from the definition of "single-family attached dwelling" in order to allow for certain dwelling arrangements that did not fall into the category of single-family attached. For example, there was no category for a dwelling unit with an accessory apartment or for two units with one unit on top of the other. The code change in 2005 was meant to provide a specific category for these types of dwelling.

BACKGROUND AND ANALYSIS

Prior to the 2005 recodification of the zoning code, the definition of "two-family dwelling" overlapped those of single-family residential attached and detached dwellings. However, the subsequent code specifically defines and identifies "two-family dwelling" as its own category of dwelling unit, distinct and separated from both single-family attached and detached dwellings. This change was made to correct the confusion that had previously existed with regard to the definitions of different types of dwelling units.

Attached is the section 21.72.10 that defines and illustrates the types of dwelling units. The new definitions effectively clarified the longstanding issues with regard to the definitions of dwellings, it had inadvertent consequences with regard to uses deemed conforming. In a number of zoning districts including the WMM Waterfront Mixed Maritime district, WMI Waterfront Maritime Industrial district, WME Waterfront Maritime Eastport district, R2-NC Single-Family Residence Neighborhood Conservation district, R3-NC2 General Residence Neighborhood Conservation 2 district, C1-A Special Conservation Residence district, OCD Office and Commercial Design Overlay district, single family detached and attached dwellings and multi-family dwellings of either five or four dwelling units or less had been a "use deemed conforming" under the prior code. As two-family dwelling was not a separate use, it was included in the single-family attached and detached dwelling category.

After the dwelling definitions changed in Section 21.72.010, "two-family dwelling" was not simultaneously added to sections of the above-referenced zoning districts as a "use deemed conforming". This resulted in creating a situation where although both single-family detached and attached dwellings and multi-family dwellings of five or four fewer units were uses deemed conforming in some zoning districts, but two-family dwellings were not because they were not specifically listed.

In 2010, the code was amended to correct this situation in the R2-NC District, but not in any of the other zoning districts.

The intent of the legislation is to correct a problem with "uses deemed conforming." In order to rectify the ambiguity throughout Title 21 that was caused by the change in the two-family dwelling definition in 2005, additional language should be added to Section 21.68.030 - Deemed conforming structures and uses. Changing the definition of a single-family attached dwelling to include a two-family dwelling could create unintended consequences in the use and bulk tables. Section 21.68.030 states:

- A. As provided in Division III, which establishes regulations applicable to individual zoning districts, certain structures and uses that were lawfully in existence on the effective date of this Zoning Code shall be deemed to be conforming pursuant to the applicable district regulations. These structures and uses are listed in the "Uses deemed conforming" subsections under the individual zoning districts in Chapters 21.40, 21.42, 21.44, and 21.46*
- B. A structure or use that is deemed conforming may be altered or expanded if the alteration or expansion otherwise meets the requirements of the zoning district in which the structure or use is located.*

Staff recommends that the following language be added to A above:

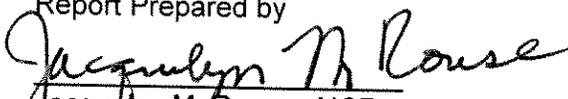
Notwithstanding any provisions of the individual zoning districts, for purposes of being classified as a use deemed conforming, the terms "single-family attached and detached dwellings" shall include "two-family dwelling."

This would correct the current inconsistency for "uses deemed conforming" without having the unintended consequences of impacting the use and bulk tables for all the zoning district which distinguish between single-family attached, single-family detached and two family dwellings.

RECOMMENDATION

Staff recommends that the definition of two-family dwelling not be revised as this could have unintended consequences on the types of uses allowed in certain zoning districts and the bulk requirements. Instead, as referenced above, Section 21.68.030 should be amended so that two-family dwellings are included in the "uses deemed conforming" sections throughout Title 21 where appropriate.

Report Prepared by


Jacquelyn M. Rouse, AICP
Planning Administrator

Chapter 21.72 - TERMS AND DEFINITIONS

21.72.010 - Terms

"Dwelling" means a building, or portion of a building, designed or used exclusively for residential occupancy. Includes the following unit types:

- a. Single-family detached dwellings,*
- b. Single-family attached dwellings,*
- c. Multifamily dwellings,*
- d. Two-family dwellings, and*
- e. Dwellings above the ground floor of nonresidential uses.*

The term "dwelling" does not include house trailers and hotels.

Dwelling, Multi-Family. See illustration. "Multi-family dwelling" means a building, or portion of a building, containing three or more dwelling units.

Dwelling, Single-Family Detached. See illustration. "Single-family detached dwelling" means a building containing one dwelling unit that is surrounded entirely by open space on the same lot.

Dwelling, Single-Family Attached. See illustration. "Single-family attached dwelling" means one of a series of three or more dwellings that is joined to another dwelling at one or more sides by a party wall or walls, with each unit having its own separate exterior entrance(s). For example, townhouse, rowhouse, and quadraplex units are single-family attached dwellings.

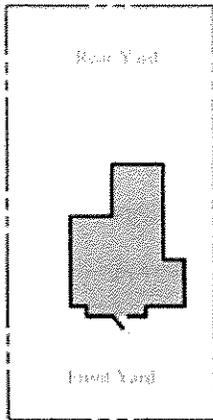
Dwelling, Two-Family. See illustration. "Two-family dwelling" means a building containing two dwelling units. Examples:

- a. A detached dwelling containing an apartment is a two-family detached dwelling.*
- b. A duplex is a two-family detached dwelling with the units separated by one vertical party wall without openings extending from the basement floor to the roof along the dividing lot line.*

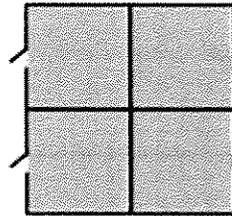
"Dwelling unit" means any habitable room or a group of adjoining habitable rooms located within a dwelling and forming a single unit with facilities which are used or intended to be used for living, sleeping, cooking and eating of meals.

Illustrations for dwelling unit definitions

Single-family detached dwelling: one dwelling unit surrounded entirely by open space

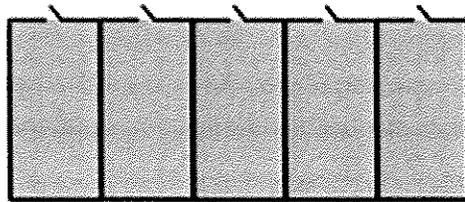


Quadrex



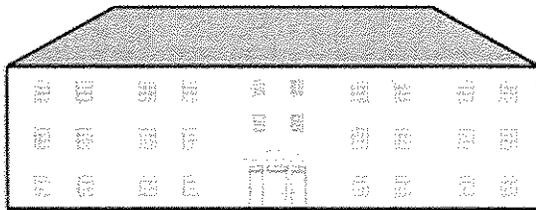
Single-family attached dwelling (plan view): one of three or more dwellings, each unit having its own separate exterior entrance(s)

Each unit has its own separate entrance.

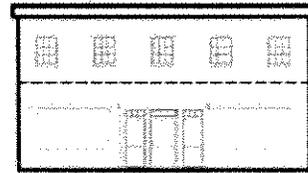


Townhouse or rowhouse

Multifamily dwelling: a building, or portion of a building, containing three or more dwelling units.

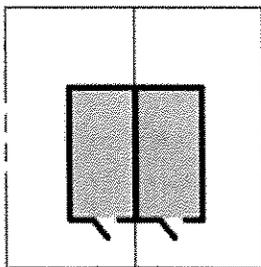


Dwelling (s) above the ground floor of a nonresidential use

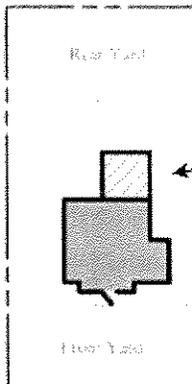


Two-family dwellings: buildings containing two dwelling units

Duplex: two-family detached dwelling with the units separated by one vertical party wall.

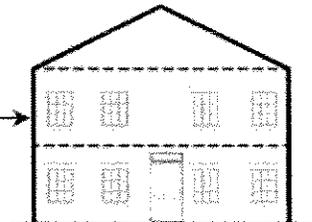


Detached dwellings containing an apartment



Apartment at rear

2nd floor apartment



FISCAL IMPACT NOTE

Legislation No: O-25-11

First Reader Date: 11-28-11

Note Date: 01-07-12

Legislation Title: **The Definition of a Two-family Dwelling**

Description: For the purpose of including “two-family dwelling” in the definition of “single-family attached dwelling,”

Analysis of Fiscal Impact:

This legislation produces no fiscal impact.

1 CITY COUNCIL OF THE
2 City of Annapolis

3 Ordinance No. O-47-11

4 Introduced by: Alderman Arnett
5
6
7

| LEGISLATIVE HISTORY | | | |
|----------------------|----------------|--------------------|--------------|
| First Reading | Public Hearing | Fiscal Impact Note | 180 Day Rule |
| 9/26/11 | | | 3/23/12 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Economic Matters | 9/26/11 | | |
| Rules and City Gov't | 9/26/11 | | |
| Planning Commission | 9/26/11 | | |

8
9 A ORDINANCE concerning

10 Fence Permits

11 FOR the purpose of amending the Code of the City of Annapolis with respect to the issuance
12 of fence permits.

13 BY repealing and re-enacting with amendments the following portions of the Code of the
14 City of Annapolis, 2011 Edition
15 Section 17.34.010
16 Section 17.34.020
17 Section 17.34.030
18 Section 21.60.070
19
20

21 SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY
22 COUNCIL that the Code of the City of Annapolis shall be amended to read as follows:

23 CHAPTER 17.34 – FENCE CODE.

24
25 17.34.010 - Fences, hedges or walls.

26 A. Permit Required.

27 1. No new fence, wall or hedge shall be erected and no existing fence or wall shall be altered or
28 replaced until a permit is obtained from the City. The nonrefundable application fee and permit
29 fee shall be in accordance with Section 17.12.056. The permit shall not be issued until the
30 drawings have been approved by the director or his or her designee.

31
32 ~~2. In approving or disapproving the drawings, consideration shall be given to the type of~~
33 ~~materials to be used, whether or not the fence, wall or hedge unduly obstructs light and air from~~
34 ~~neighboring properties or public ways, and whether or not the fence, wall or hedge unduly will~~
35 ~~obstruct visibility upon public streets. Materials used for fences, walls or hedges in residential~~
36 ~~zoning districts shall be in keeping with the character and purpose for which the fence, wall or~~

1 ~~hedge was intended. Except in connection with penal and correctional institutions and public~~
2 ~~utility and service uses, no fence, wall or hedge shall consist, in whole or in part, of barbed wire~~
3 ~~or similar materials designed or customarily utilized to inflict injury upon persons or animals.~~
4

5 3. Fences or walls may be installed up to, but not over the property line. It is the responsibility
6 of the applicant to assure that the proposed fence or wall will not be installed on property of
7 others. All property line disputes are between abutting property owners, not the City.
8

9 4. Work shall commence within thirty days from the date of the issuance of the permit and be
10 completed in one hundred twenty days after issuance.
11

12 B. Administrative Review.

13 ~~1. All fences or walls of four feet or less measured from the adjoining finished grade will be~~
14 ~~approved routinely unless an inspection of the property indicates that a fence or wall of this~~
15 ~~height unduly would obstruct light and air from neighboring properties or public ways, or unduly~~
16 ~~obstruct visibility upon public streets.~~
17

18 2 1. All fences or walls of more than four feet require notification to the neighbors. Only the
19 property owners abutting the proposed fence or wall shall be notified. This includes the owners
20 of vacant land, rental units and vacant buildings. The property owners shall be notified by mail
21 or hand delivery of the proposal and given ten calendar days to respond. It is the responsibility
22 of the applicant or his authorized agent to notify the abutting owners. Failure to respond
23 indicates no objection to the proposal.
24

25 ~~3. All new fences or walls and gates and all existing fences, walls and gates to be altered~~
26 ~~located in the historic district as defined in Title 21 of the City Code require the review and~~
27 ~~approval of the Historic Preservation Commission.~~
28

29 4 2. Unless approved otherwise, all fences or walls shall not be located in landscape buffers,
30 conservation easements, over utility easements, across walkway easements and or on public
31 rights of way.
32

33 5 3. Fences or walls shall not be located closer than at least three feet to away from a fire
34 hydrant.
35

36 ~~6. Fences or walls shall not alter or impede the natural flow of stormwater, nor divert the water~~
37 ~~onto the property of others.~~
38

39 4. All fences, hedges and walls shall be maintained in good condition at all times. All fences and
40 walls shall be neatly finished and repaired, including all parts and supports.
41

42 5. No fence or wall may be constructed in a manner or location which will interfere with natural
43 surface water run-off or which will result in a negative impact to any adjacent property by natural
44 surface run-off. All fences and walls must be constructed in a manner that is in harmony with
45 City drainage requirements and standards and in compliance with any approved drainage plans
46 on file with the City for the property upon which the fence or wall is constructed.
47

48 6. It shall be unlawful for any person to place or to allow to be placed on land they own a fence,
49 a hedge or a wall which creates an unsafe or dangerous obstruction or condition.
50
51

1 **17.34.020 - Appeals.**

2 A. A person aggrieved by an order from the director or the director's designee made pursuant
3 to this chapter, other than the issuance of a municipal citation, may appeal to the Building Board
4 of Appeals within fifteen calendar days of the date of the order. The petition for appeal shall be
5 in writing stating the grounds for appeal and shall be filed with the Department of Neighborhood
6 and Environmental Programs along with a nonrefundable fee in an amount established by the
7 City Council. Any right to appeal shall be waived if not timely filed.

8
9 B. Fifteen days' notice of the hearing also shall be given to persons owning property within two
10 hundred feet of the location of the proposed fence, wall or hedge by first-class mail, and to the
11 general public by a notice published in a newspaper of general circulation in the City. All
12 required notices shall be at the appellant's expense.

13
14 C. The Building Board of Appeals shall consider the appeal based upon the information
15 provided to the Department of Neighborhood and Environmental Programs at the time of the
16 order from which the appeal is taking. If the board finds that the order was in error or contrary to
17 the provisions of this code or other applicable law, the board may reverse or modify the order.
18 The decision of the board on all appeals shall be in writing and shall contain the factual findings
19 of the board and the reasons for the decision.

20
21 D. A person aggrieved by a decision of the Building Board of Appeals made pursuant to this
22 section may appeal that decision to the circuit court for Anne Arundel County pursuant to
23 Maryland Rule Title 7, Chapter 200 or its successor. For purposes of this subsection, a person
24 shall not be considered aggrieved by a decision of the board unless the person has appeared
25 as a party at the hearing before the board. An appeal under this section shall be taken within
26 thirty days of the date of the decision appealed and shall be the exclusive remedy of the
27 aggrieved party from that decision.

28
29
30 **17.34.030 - Violations.**

31 A person who violates this chapter is guilty of a municipal infraction and is subject to a fine of
32 one hundred dollars for any single, initial violation and a fine of two hundred dollars for each
33 repeat or continuing violation.

34
35
36 **CHAPTER 21.60 – SUPPLEMENTAL USE AND DEVELOPMENT STANDARDS**

37 **21.60.070 - Fences, walls, and plantings.**

38 A. For the purposes of this Section, the following definitions shall apply:

39 1. "Fence" means a fence, wall or hedge.

40
41 2. "Approved grade" means the elevation of the ground, or any paving or sidewalk built upon it,
42 which has been established on the basis of an engineered grading and drainage plan for the
43 property that has been reviewed and approved by the city for the property. When no engineered
44 grading and drainage plan is on file with the city, an established historic grade may be accepted
45 in-lieu-of the engineered plan, based on general information available, including, when
46 appropriate, a site inspection of the property by the city before the fence, hedge or wall is
47 constructed. In making a determination regarding historic grade, the city may, when deemed
48 necessary, require submission of current surveyed elevations of the property and other nearby

1 properties; or may require that an engineered grading and drainage plan be submitted by the
2 owner or occupant of the property.

3
4 3. "Fence section" means a portion or panel of fence construction, normally consisting of
5 pickets, planks or metal fabric attached to horizontal rails, and which is attached or constructed,
6 in more or less regular sequential intervals, to supporting vertical posts. In determining what
7 constitutes a fence section, the normal guideline shall be sequential sections of fence which are
8 eight feet in length.

9
10 4. "Hedge" means several plants planted in a sequence or pattern so that the branches and
11 stems of adjacent plants grow together in a manner that results in a meshing or intertwining of
12 stems and branches with little or no passable space left between the plants, thus effectively
13 forming a barrier or enclosure.

14
15 5. "Top of fence/top of wall" means the uppermost point on the edge or surface of a fence or
16 wall, but not including support posts or architectural features as described in section
17 18.48.070(A)(1)(d).

18
19 6. "Top of hedge" means the highest point on the uppermost branches or stems of a hedge
20 above which only leaves or needles naturally grow.

21
22
23 B. A fence, wall or hedge may be erected, placed, maintained or grown pursuant to a permit
24 issued in accordance with Section 17.34.010 of the Annapolis City Code. It is the purpose of
25 the provisions of this section to establish requirements for the height, location, and materials of
26 fences, hedges or walls. Fences shall be required to comply with the following standards and
27 requirements:

28
29 1. The height of a fence, or any combination of fences, is measured from the grade of the
30 public right-of-way or easement. In the case where there is a change in grade, at no point along
31 the length of the fence, or any combination thereof, shall the height exceed the limits
32 established in this Chapter.

33
34 2. The maximum height of a fence shall not include the support posts or ornamental features
35 included in the construction, provided that (a) the overall construction of such posts and
36 ornamental features does not exceed the limitations describing a limited solid material fence as
37 set forth in Section 21.60.070(A)(3), and (b) no posts or ornamental features extend more than
38 one foot above the top of the fence.

39
40 3. All fences which have a ratio of solid material to open space of not more than one to four
41 shall be considered limited solid material fences, and walls.

42
43 4. All fences which have a ratio of solid material to open space of more than one to four shall be
44 considered solid material fences, and walls.

45
46 5. All fences must be located within the boundary lines of the property owned by the person or
47 persons who construct and maintain them.

48
49 6. No barbed wire or other sharp-pointed fences shall be installed on any property, except
50 around storage yards in the I1 zoning district upon a specific finding by the Planning and Zoning
51 Department that such a fence is necessary to protect property or goods.

1 C. The maximum height of all fences shall be eight feet, except as hereafter provided:

2 1. Fences around tennis, squash racquet, squash tennis or badminton courts and publicly
3 owned recreation areas may exceed eight feet in height, provided, that the same are limited
4 solid material fences, and walls.

5
6 2. Limited solid material fences located in a front yard, or a yard adjacent to a public right-of-way
7 shall have a maximum height of four feet unless they meet the set back requirement(s) for the
8 principal structure.

9
10 3. Solid material fences located in a front yard or a yard adjacent to a public right-of-way shall
11 have a maximum height of forty-two inches unless the same meet the front setback requirement
12 of the zone in which it is located.

13
14 4. Other fences may not exceed eight feet in height.

15
16
17 D. A sight visibility triangle is established in Section 21.72.010. Where a public right-of-way
18 or easement dedicated for public access terminates at a waterway, a view cone shall be
19 provided. See Section 21.72.010 for definition and calculation of the view cone.

20
21 1. No fences, walls, or hedges with a height greater than forty-eight inches are allowed in a
22 view cone, except:

23 a. Fences and walls (including their component parts, such as handrails and guards)
24 that do not exceed six feet in height and are transparent above forty-eight inches. A
25 fence, wall, hand-rail, or guard is considered transparent if its opacity is twenty percent
26 or less. The percentage of opacity is measured by dividing the square footage of the
27 opaque portion of the subject structure by the square footage of the entire structure, and
28 multiplying the result by one hundred.

29 b. Trees maintained with a single clear trunk with all branches and pendulous branches
30 removed to a height of seven feet above the ground plane. Trees shall not be planted
31 closer than fifteen feet apart so as not to form a visual barrier.

32
33 2. All plantings, exclusive of trees referenced in subsection (D)(1)(b) of this section, located in a
34 view cone must be pruned or maintained to a height of forty-eight inches or less.

35
36
37 E. Other considerations

38
39 1. When in a fence is to be constructed that otherwise meets the requirements of this section,
40 but impedes an established view shed or a view of a waterway from adjoining public or private
41 properties, the Planning Department may require modifications to the materials or the ratio of
42 solid fencing to voids.

43 2. In approving or disapproving the drawings, consideration shall be given to the type of
44 materials to be used, and whether or not the fence, wall or hedge unduly will obstruct visibility
45 from public streets. Materials used for fences, walls or hedges in residential zoning districts shall
46 be in keeping with the character and purpose for which the fence, wall or hedge was intended.
47 Except in connection with penal and correctional institutions and public utility and service uses,
48 no fence, wall or hedge shall consist, in whole or in part, of barbed wire or similar materials
49 designed or customarily utilized to inflict injury upon persons or animals.

1 3. If located in the historic district as defined in this Title, all proposed new fences, walls and
2 gates and all proposed alterations to existing fences, walls and gates require the review and
3 approval of the Historic Preservation Commission.
4

5 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**
6 **ANNAPOLIS CITY COUNCIL** that this Ordinance shall take effect from the date of its passage.

7
8 **ADOPTED** this _____ day of _____, _____.
9

10
ATTEST:

THE ANNAPOLIS CITY COUNCIL

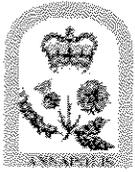
BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

11
12
13 **EXPLANATION:**

14 Highlighting indicates matter added to existing law.
15 ~~Strikeout indicates matter deleted from existing law.~~
16 Underlining indicates amendments.
17



City of Annapolis
Committee Referral Action

Date: March 8, 2013

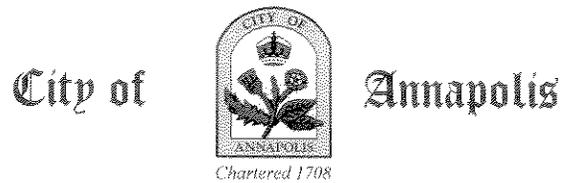
To: Jessica Cowles
Legislative & Policy Analyst

The Planning Commission has reviewed Ordinance O-47-11 and has taken the following action:

Favorable with amendments

Comments: See staff report for recommended changes

March 7, 2013
Meeting Date



PLANNING COMMISSION

(410)263-7961

145 GORMAN STREET, 3RD FLOOR
ANNAPOLIS, MARYLAND 21401

March 7, 2013

To: Annapolis City Council
From: Planning Commission
Re: Findings - O-47-11 Fence Permits

SUMMARY

O-47-11 proposes modifications to Chapter 17.34 Fence Code and to Chapter 21.60 Supplemental Use and Development Standards. The proposed ordinance would revise the Annapolis City Code with respect to the issuance of fence permits. Chapter 17.34 of the Annapolis City Code establishes the requirement for a fence permit application and permit fee.

Chapter 21.60 of the Annapolis City Code establishes supplemental use and development standards for fences. Examples of the proposed, additional supplemental use and development standards for fences in O-47-11 address the ratio of solid fence material to open space, the regulation of barbed wire fences, standards for fences affecting certain view cones, and the standards for Historic Preservation Commission review for fences, walls and gates in the historic district.

STAFF RECOMMENDATION

At a regularly scheduled meeting on March 7, 2013, the Planning and Zoning staff presented their recommendation on the legislation. A revised version of the legislation was presented to the Commission.

O-47-11 was introduced by Alderman Arnett in order to establish new procedures for the approval of fences, including design standards and to establish an appeal process for fence permits. It proposes to establish design criteria under Title 21 for review by the Department of Planning and Zoning. Any references to design would be removed from Chapter 17.34 and DNEP would deal only with construction methods and permitting for fences and appeals of fence permits to the Building Board of Appeals.

Staff, after reviewing the initial legislation, researched fence regulations in other jurisdictions and met with DNEP to evaluate the proposed legislation. This process identified a number of issues with the legislation and the decision was made to formulate revised regulations that would more clearly separate the two aspects of permit review: construction and design. The revised legislation has also been reviewed by the sponsor, Aldermen Arnett, who concurred with our recommended revisions.

PUBLIC HEARING AND DELIBERATION

In accordance with the Annapolis City Code, a public hearing was held on March 7, 2013 and the public was invited to comment on the proposed text amendment. After the close of the public hearing, the Planning Commission entered into deliberations.

RECOMMENDATION

Under section 21.32.010 Purpose and authority of the City Code, it states the following:

For the purpose of promoting the public health, safety, morals and general welfare, and conserving the value of property throughout the city, the city council, from time to time, in the manner set forth in this chapter, may amend the regulations imposed in the districts created by this title; provided, that in all amendatory ordinances adopted under the authority of this chapter, due allowance shall be made for existing conditions, the conservation of property values, the direction of building development to the best advantages of the entire city and the uses to which property is devoted at the time of the adoption of the amendatory ordinance.

The code further requires under section 21.32.020 that "Within thirty days after the commission has completed its review of the proposed amendment, but in no case longer than ninety days after the matter has been placed on the agenda of the commission, the commission shall submit its written recommendations to the city council".

Following a review of the staff report and consideration of staff and public comments, the Commission by a vote of 6 to 0 recommends adoption of the ordinance, as revised by staff.

Adopted this 7th day of March, 2013



Dr. Eleanor Harris, Chair



City of Annapolis

DEPARTMENT OF PLANNING AND ZONING

145 Gorman Street, 3rd Floor, Annapolis, Maryland 21401
Annapolis 410-263-7961 • FAX 410-263-1129 • MD Relay (711)

JON ARASON, AICP
DIRECTOR

February 28, 2013

MEMORANDUM

To: Planning Commission
From: Jon Arason, Director of Planning and Zoning
Re: **O-47-11 Fence Permits**
Attachments: **O-47-11**
O-47-11 REVISED

SUMMARY

O-47-11 proposes modifications to Chapter 17.34 Fence Code and to Chapter 21.60 Supplemental Use and Development Standards. The proposed ordinance would revise the Annapolis City Code with respect to the issuance of fence permits. Chapter 17.34 of the Annapolis City Code establishes the requirement for a fence permit application and permit fee.

Chapter 21.60 of the Annapolis City Code establishes supplemental use and development standards for fences. Examples of the proposed, additional supplemental use and development standards for fences in O-47-11 address the ratio of solid fence material to open space, the regulation of barbed wire fences, standards for fences affecting certain view cones, and the standards for Historic Preservation Commission review for fences, walls and gates in the historic district.

BACKGROUND AND ANALYSIS

Fences are currently regulated primarily through Chapter 17.34 Fence Code in the City under the purview of the Department of Neighborhood and Environmental Programs (DNEP).

Title 21 contains a cross-reference to Chapter 17.34 which states:

21.60.070 - Fences, walls, and plantings.

A fence, wall or hedge may be erected, placed, maintained or grown pursuant to a permit issued in accordance with Section 17.34.010 of the Annapolis City Code.

There are also several specific references to fences in the Zoning Code:

The first is in the Bulk Regulation Tables for the B1, B2, B3, B3-CD, PM , PM2, I1 and MX districts which allows that in transitional yards *"...screening such as with a wall, fence or densely planted compact plantings may be required, as determined through the site design plan review process."*

The second is requirements for fences, walls and plantings in view cones:

21.60.080 - View cones.

A. Where a public right-of-way or easement dedicated for public access terminates at a waterway, a view cone shall be provided. See Division VI for definition and calculation of the view cone.

B. Fences, Walls, and Plantings in View Cones.

1. No fences, walls, or plantings with a height greater than forty-eight inches are allowed in a view cone, except:

a. Fences and walls (including their component parts, such as handrails and guards) that do not exceed six feet in height and are transparent above forty-eight inches. A fence, wall, hand-rail, or guard is considered transparent if its opacity is twenty percent or less. The percentage of opacity is measured by dividing the square footage of the opaque portion of the subject structure by the square footage of the entire structure, and multiplying the result by one hundred.

b. Trees maintained with a single clear trunk with all branches and pendulous branches removed to a height of seven feet above the ground plane. Trees shall not be planted closer than fifteen feet apart so as not to form a visual barrier.

2. All plantings, exclusive of trees referenced in subsection (B)(1)(b) of this section, located in a view cone must be pruned or maintained to a height of forty-eight inches or less.

3. The height of a fence, wall or planting or any combination of these is measured from the grade of the public right-of-way or easement. In the case where there is a change in grade, at no point along the length of the fence, wall or planting or any combination thereof shall the height exceed the limits established in subsections (B)(1)(a) and (B)(1)(b) of this section.

Third is a reference in Section 21.72.010 to including fencing in the definition of "landscape elements" and excluding fences from the definition of "lot coverage".

And lastly, there is a requirement under Section 21.59.070 - Building design guidelines for the Eastport Conservation Gateway Overlay zone that *"...Design compatibility is to include aspects such as width, façades, articulation, glazing, materials, lighting, mass, roof forms, accessory structures, fencing, and signage."*

O-47-11 was introduced by Alderman Arnett in order to establish new procedures for the approval of fences, including design standards and to establish an appeal process for fence permits. It proposes to establish design criteria under Title 21 for review by the Department of Planning and Zoning. Any references to design would be removed from Chapter 17.34 and DNEP would deal only with construction methods and permitting for fences and appeals of fence permits to the Building Board of Appeals.

Staff, after reviewing the initial legislation, researched fence regulations in other jurisdictions and met with DNEP to evaluate the proposed legislation. This process identified a number of issues with the legislation and the decision was made to formulate revised regulations that would more clearly separate the two aspects of permit review: construction and design. The revised legislation has also been reviewed by the sponsor, Aldermen Arnett, who concurred with our recommended revisions.

O-47-11 was introduced at the same time that O-40-10 Amended was adopted. O-40-10 Amended revised the height restrictions for fences in residential and maritime districts. Due to the time overlap, O-47-11 was not written to amend the current Code, but rather the Code that was effect prior to the passage of O-40-10 Amended. This immediately necessitated a number of revisions to the legislation. O-47-11 also created standards and terminology that staff, after review, felt would be overly complicated to interpret, administer, and enforce.

Key aspects of the revised legislation proposed by staff are, as follows:

- The revised ordinance has been reformatted to integrate with the existing structure of Title 21.
- It clarifies the regulations and eliminates ambiguous terminology.
- DNEP, under Title 17, will administer regulations regarding permitting and construction for fences and walls.
- Planning and Zoning, under Title 21, will review fences and walls for design considerations including compatibility, height and location.

RECOMMENDATION

Staff recommends approval of O-47-11 REVISED.

Report Prepared by



Kevin Scott, ASLA
Senior Land Use & Development Planner

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

Prepared By:
Department of Planning and Zoning

Ordinance No. O-47-11 REVISED

Introduced by: Alderman Arnett

AN ORDINANCE concerning

Fence Permits

FOR the purpose of amending the Code of the City of Annapolis with respect to the issuance of fence permits.

BY repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2012 Edition:

17.34.010

17.34.020

21.18.030

21.60.070

21.60.080

21.60.090

21.72.010

BY adding the following new code sections:

21.60.065

21.60.075

SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the Code of Annapolis shall be amended to read as follows:

Chapter 17.34 – FENCE CODE PERMITS

17.34.010 - Fences, hedges or walls Fences and walls.

A. Permit Required.

1. ~~1. No new fence, wall or hedge shall be erected, placed, maintained or grown and no existing fence, wall, or hedge shall be altered or replaced~~
~~No new fence or wall shall be erected, placed, or maintained and no existing fence or wall shall be altered or replaced until a permit is obtained from the City Department of Neighborhood and Environmental Programs.~~
The nonrefundable application fee and permit fee shall be in accordance

1 with Section 17.12.056. The permit shall not be issued until the drawings
2 application and supporting documentation have been reviewed by the
3 appropriate City departments and approved by the Director or his or her
4 designee.
5

6 2. At a minimum, the permit application shall be accompanied by a scaled
7 drawing showing the proposed location and dimensions of the fence or
8 wall on the subject lot, and its relationship to the property lines, public
9 right-of-ways, easements, utilities, existing structures, existing trees, and
10 steep topography. The permit application shall also include construction
11 drawings, pictures or diagrams sufficient to illustrate the overall design
12 and materials to be used for the proposed fence or wall. The Director may
13 require the applicant to provide additional information as deemed
14 necessary by the City in order to review the proposed fence or wall for
15 conformity with the City Code.
16

17 3. Work shall commence within thirty days from the date of the issuance of
18 the permit and be completed in one hundred twenty days after issuance,
19 unless extended by the Director of Neighborhood and Environmental
20 Programs, or the permit will be revoked.
21

22 ~~4. In approving or disapproving the drawings, consideration shall be given to~~
23 ~~the type of materials to be used, whether or not the fence, wall or hedge~~
24 ~~unduly obstructs light and air from neighboring properties or public ways,~~
25 ~~and whether or not the fence, wall or hedge unduly will obstruct visibility~~
26 ~~upon public streets. Materials used for fences, walls or hedges in~~
27 ~~residential zoning districts shall be in keeping with the character of the~~
28 ~~neighborhood and purpose for which the fence, wall or hedge was~~
29 ~~intended. Except in connection with penal and correctional institutions and~~
30 ~~public utility and service uses, no fence, wall or hedge shall consist, in~~
31 ~~whole or in part, of barbed wire or similar materials designed or~~
32 ~~customarily utilized to inflict injury upon persons or animals.~~
33

34 ~~5. A fence, wall, or hedge erected, placed, maintained or grown in or abutting~~
35 ~~residential and maritime zoning districts is subject to the following height~~
36 ~~limitations: (a) six feet along a front yard lot line or in a front yard; (b) six~~
37 ~~feet along side yard lot lines or in a side yard, between the front yard lot~~
38 ~~line and façade plane of the principal structure; and (c) except as limited~~
39 ~~by (b), six feet along the side yard and rear yard lot lines and in side and~~
40 ~~rear yards.~~
41

42 ~~6. A fence, wall, or hedge may be installed up to, but not over the property~~
43 ~~line. It is the responsibility of the applicant to assure that the proposed~~
44 ~~fence or wall will not be installed on property of others. All property line~~
45 ~~disputes are between abutting property owners, not the City.~~
46

1 B. Restrictions.

- 2
- 3 7. 1. In addition to the provisions of this Section, fences and walls shall be
4 required to comply with the standards and requirements outlined in
5 Section 21.60.070 of the Zoning Code.
- 6
- 7 8. 2. No new fence or wall shall be erected, placed, or maintained and no
8 existing fence or wall shall be altered or replaced so as to encroach upon
9 a public right-of-way or easement area, without written approval from the
10 Director of Public Works or his or her designee. When any part of a
11 permitted fence or wall is installed within a public easement area, the City
12 or any agent of the City permitted to use the easement area shall be held
13 harmless by the owner of the property upon which the permitted fence or
14 wall is located for any and all claims for damage to the fence or wall that
15 might occur when work is performed in the public easement area, and
16 shall not be held responsible or liable for the reinstallation of any fence or
17 wall removed from the public easement.
- 18
- 19 9. 3. The area three feet in radius around fire hydrants, fire hose connections
20 and utility boxes shall be kept free of any fences or walls that could
21 impede use of the hydrant, hose connection or utility box.
- 22
- 23 10. 4. Fences and walls shall be installed so as not to disturb or damage
24 existing trees equal to or greater than five inches diameter at breast
25 height, unless otherwise approved by the City.
- 26
- 27 11. 5. Fences and walls shall not alter or impede the natural flow of
28 stormwater, nor divert the water onto the property of others.
- 29
- 30 12. 6. Fences and walls shall be assembled in accordance with the
31 manufacturer's requirements and be constructed of wood, masonry, stone,
32 wire, metal, plastic, or any other manufactured material or combination of
33 materials normally used for fences and walls, and that has been
34 manufactured for the purpose of fence or wall construction. The bottom of
35 fence posts and wall foundations shall be set at least 30" below finished
36 grade.
- 37
- 38 13. 7. Fences and walls shall be maintained in accordance with the City's
39 property maintenance code.

40

41

42 B. Administrative Review.

- 43
- 44 1. A fence, wall, or hedge of six feet or less measured from the adjoining
45 finished grade will be approved routinely unless an inspection of the
46 property indicates that a fence, wall, or hedge of this height unduly would

1 obstruct light and air from nearby and adjoining properties or public ways,
2 or unduly obstruct visibility upon public streets.
3

4 2. A proposed fence, wall, or hedge of more than six feet requires notification
5 prior to any approval. Property owners and occupants within 200 feet of
6 the property of the proposed fence or wall shall be notified in accordance
7 with Section 21.10.020(B) of the Zoning Code. This includes the owners of
8 vacant land, rental units and vacant buildings. The property owners and
9 occupants shall be notified by mail or hand delivery of the proposal and
10 given ten calendar days to respond. It is the responsibility of the applicant
11 or his authorized agent to notify. Failure to respond indicates no objection
12 to the proposal.
13

14 3. A new fence, wall, or hedge, and gates and all existing fences, walls,
15 hedges and gates to be altered located in the historic district as defined in
16 Title 21 of the City Code require the review and approval of the Historic
17 Preservation Commission.
18

19 4. Unless approved otherwise, all fences or walls shall not be located in
20 landscape buffers, conservation easements, over utility easements,
21 across walkway easements and public rights-of-way.
22

23 5. A fence, wall, or hedge shall not be located closer than three feet to a fire
24 hydrant.
25

26 6. A fence, wall, or hedge shall not alter or impede the natural flow of
27 stormwater, nor divert the water onto the property of others.
28

29 7. A fence, wall, or hedge shall not unduly obstruct the view of tidal
30 waterways from nearby residential properties.
31

32 17.34.020 - Appeals 33

34 A. A person aggrieved by a determination or an order from of the dDirector or
35 the dDirector's designee made pursuant to this chapter, other than the
36 issuance of a municipal citation, may appeal to the Building Board of
37 Appeals within fifteen calendar days of the date of the determination or
38 order. The notice of petition for appeal shall be in writing stating the
39 grounds for appeal and shall be filed with the Department of
40 Neighborhood and Environmental Programs along with a nonrefundable
41 fee in an amount established by the City Council. Any right to appeal shall
42 be waived if not timely filed.
43

44 B. Fifteen days' notice of the hearing also shall be given to persons or
45 entities owning property within two hundred feet of the location of the
46 proposed fence, wall or hedge fence or wall that is the subject of the

1 appeal. Notice shall be by first-class mail, and to the general public by a
2 notice published in a newspaper of general circulation in the City. All
3 required notices shall be at the appellant's expense.
4

5 C. The Building Board of Appeals shall consider the appeal based upon the
6 information and documentation provided to the Department of
7 Neighborhood and Environmental Programs at the time of the
8 determination or order from which the appeal is taking taken. If the
9 bBoard finds that the determination or order was in error or contrary to the
10 provisions of this eCode or other applicable law, the bBoard may reverse
11 or modify the determination or order. The decision of the bBoard on all
12 appeals shall be in writing and shall contain the factual findings of the
13 bBoard and the reasons for the decision.
14

15 D. A person aggrieved by a decision of the Building Board of Appeals made
16 pursuant to this section may appeal that decision to the eCircuit eCourt for
17 Anne Arundel County pursuant to Maryland Rule Title 7, Chapter 200 or
18 its successor, as may be amended from time to time. For purposes of this
19 subsection, a person shall not be considered aggrieved by a decision of
20 the bBoard unless the person has appeared as a party at the hearing
21 before the bBoard. An appeal under this section shall be taken within
22 thirty days of the date of the decision appealed and shall be the exclusive
23 remedy of the aggrieved party from that decision.
24
25

26 Chapter 21.18 – ADMINISTRATIVE ADJUSTMENTS

27

28 21.18.030 - Permitted administrative adjustments.

29

30 A. Administrative adjustments from the regulations of this Zoning Code may
31 be granted by the Planning and Zoning Director only in accordance with
32 the criteria established in this Chapter, and may be granted only for the
33 following:
34

- 35 1. Setbacks. To permit any yard or setback of up to twenty percent
36 less than a yard or a setback required by the applicable regulations.
37
- 38 2. Parking. To increase by not more than twenty percent the
39 maximum distance that required parking spaces are permitted to be
40 located from the use served.
41
- 42 3. Lot Coverage. To increase by not more than twenty percent the lot
43 coverage restrictions, except that administrative adjustments of lot
44 coverage restrictions shall not be permitted in the Critical Area
45 Overlay District.
46

- 1 4. Signs. To adjust the limitations for signs in the specific instances
2 set forth in Section 21.70.110
3
4 5. Fences and Walls. To permit certain fences and walls an additional
5 height allowance of up to four feet above the standard maximum
6 height limit specified in Section 21.60.070.
7
8 5- 6. Specific Zoning District Provisions. The zoning district provisions
9 applicable to specific zoning districts, as provided in Division III,
10 may authorize other permitted administrative adjustments. In
11 Chapter 21.54, Critical Area Overlay, these adjustments are
12 referred to as administrative variances.
13
14 B. The Director of Planning and Zoning may not approve administrative
15 adjustments in the R1, Single-Family Residence District when the
16 minimum lot width and area requirements for the affected property are not
17 met.
18
19

20 **Chapter 21.60 – SUPPLEMENTAL USE AND DEVELOPMENT STANDARDS**

21
22 **21.60.065 - Plantings.**

- 23
24 A. All plantings shall be installed and maintained in accordance with the
25 applicable provisions of Sections 21.62.030, 21.62.040 and 21.62.050.
26
27 B. Unless as otherwise may be required for planting mitigation or screening
28 purposes by a condition of approval for a development application,
29 plantings installed in the form of a boundary hedge, in-lieu-of or together
30 with a fence or wall, shall be pruned or maintained so as not to exceed the
31 height limits for fences and walls as outlined in Section 21.60.070.
32
33 C. In the event that the requirements of this section conflict with those in
34 Chapter 21.54, Critical Area Overlay, the Critical Area requirements shall
35 prevail.
36

37
38 **21.60.070 - Fences, walls, and plantings. Fences and walls.**

39
40 ~~A fence, wall or hedge may be erected, placed, maintained or grown pursuant to~~
41 ~~a permit issued in accordance with Section 17.34.010 of the Annapolis City~~
42 ~~Code.~~

43
44 Fences and walls as defined by this Title may be erected, placed, maintained,
45 altered or replaced pursuant to a permit issued in accordance with Section
46 17.34.010 of the Annapolis City Code. The following additional standards apply:

- 1
2 A. If located within the historic district as defined in this Title, all proposed
3 new fences and walls, and all proposed alterations to existing fences and
4 walls, require the review and approval of the Historic Preservation
5 Commission.
6
- 7 B. Fences and walls may be installed up to, but not over the property line. It
8 is the responsibility of the property owner to assure that the proposed
9 fence or wall is not installed on property of others. All property line
10 disputes are between abutting property owners, and they shall not seek or
11 have any remedy against the City.
12
- 13 C. Within required bufferyards adjacent to public streets, to the extent
14 practical in order to achieve proper screening, fences and walls shall be
15 located towards the interior edge of the landscape buffer, rather than at
16 the edge of the public right-of-way.
17
- 18 D. Except as permitted by this Title, fences and walls shall not obstruct view
19 cones or sight visibility triangles.
20
- 21 E. Fences and walls shall not be located to unduly obstruct light and air from
22 neighboring properties or public ways.
23
- 24 F. The overall design and materials used for fences and walls shall be in
25 keeping with the character and purpose for which the fence or wall is
26 intended, and shall be compatible with other similar structures in the
27 neighborhood.
28
- 29 G. All fences and walls shall be installed with the finished side facing out, so
30 that posts and lateral supports are not on the side of the fence or wall
31 which faces an adjacent property or public right-of-way, unless such
32 supporting members are exposed on both sides due to the specific design
33 of the fence or wall.
34
- 35 H. Except in connection with penal and correctional institutions and public
36 utility and service uses, no fence or wall shall consist, in whole or in part,
37 of barbed wire or similar materials designed or customarily utilized to inflict
38 injury upon persons or animals.
39
- 40 I. Standard Maximum Height.
41
- 42 1. In all zoning districts, the maximum height of fences and walls
43 enclosing outdoor tennis courts, baseball backstops, and other
44 fences and walls normally provided with recreation facilities, shall
45 be twelve feet or the minimum height required to protect public
46 safety, whichever is greater.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

2. In all non-residential zoning districts, except for the maritime districts, the maximum height of a fence or wall shall be eight feet, unless the fence or wall is located along a public street, in which case the maximum height of the fence or wall shall not exceed six feet.

3. In all residential and maritime zoning districts, the maximum height of a fence or wall shall be six feet, unless the fence or wall is located along a public street, in which case the maximum height of the fence or wall shall not exceed four feet.

4. Fences and walls shall not be considered as being located along a public street if they otherwise meet the same minimum front and corner-side yard setbacks that would be required for the principal structure on the subject property in the zoning district in which the fence or wall is located.

J. Allowance for Additional Height.

1. Up to two additional feet of height is allowed for decorative gates which do not exceed twenty-five feet in width for vehicular gates, or eight feet in width for pedestrian gates.

2. In accordance with the procedures for Administrative Adjustments set forth in Chapter 21.18, the Planning and Zoning Director may permit certain fences and walls an additional height allowance of up to four feet above the standard maximum height limit established by this section.

3. In addition to the review criteria in Section 21.18.040, the Director of Planning and Zoning shall make additional written findings based on the following:

a. The subject fence or wall will be compatible with other similar structures in the neighborhood and is required to mitigate impacts from adjacent land uses, the subject property's proximity to public right-of-ways, or safety concerns.

b. Within the intent and purpose of this Zoning Code, the proposed additional fence or wall height, if granted, is the minimum adjustment necessary to afford relief.

K. Notwithstanding the height limitations in this section, temporary fences and walls, incidental to construction on or development of the premises on

1 which the temporary fences and walls are located, shall be permitted
2 during the time construction or development is actively underway.
3

- 4 L. Lawfully existing fences and walls that do not conform to the bulk or other
5 development or design standards for the district in which the fence or wall
6 is located may be continued, if properly repaired and maintained as
7 provided in Chapter 21.68, Nonconforming Uses and Structures.
8 Nonconforming fences and walls which are structurally altered, relocated,
9 or replaced shall comply immediately with all provisions of this Title.
10

11
12 **21.60.075 Sight Visibility Triangle.**
13

14 In all districts, a sight visibility triangle, as defined in Section 21.72.010, shall be
15 provided at all intersections, including alleys and driveways, and shall be kept
16 free of obstructions to vision between the height of two and one-half feet and
17 twelve feet above the street. If, in the opinion of the Director of Planning and
18 Zoning with the concurrence of the Director of Public Works, this requirement
19 may be altered if such alteration will not result in a potential traffic hazard.
20 Where intersections occur on roadways under the jurisdiction of the State of
21 Maryland or Anne Arundel County, the sight visibility triangle required by the
22 State or County may be substituted in-lieu-of the requirements above.
23

24
25 **21.60.080 - View cones.**
26

- 27 A. Where a public right-of-way or easement dedicated for public access
28 terminates at a waterway, a view cone shall be provided. See Division VI
29 for definition and calculation of the view cone.
30
- 31 B. Fences, Walls, and Plantings in View Cones.
32
- 33 1. No fences, walls, or plantings with a height greater than ~~forty-eight~~
34 inches ~~four feet~~ are allowed in a view cone, except:
35
- 36 a. Fences and walls (including their component parts, such as
37 handrails and guards) that do not exceed six feet in height
38 and are transparent open above ~~forty-eight inches~~ ~~four feet~~.
39 A fence, wall, hand-rail, or guard is considered transparent
40 open if its opacity is ~~twenty~~ ~~fifty~~ percent or less. The
41 percentage of opacity is measured by dividing the square
42 footage of the opaque portion of the subject structure by the
43 square footage of the entire structure, and multiplying the
44 result by one hundred.
45

1 b. Trees maintained with a single clear trunk with all branches
2 and pendulous branches removed to a height of seven feet
3 above the ground plane. Trees shall not be planted closer
4 than fifteen feet apart so as not to form a visual barrier.
5

6 2. All plantings, exclusive of trees referenced in subsection (B)(1)(b)
7 of this section, located in a view cone must be pruned or
8 maintained to a height of forty-eight inches four feet or less.
9

10 3. ~~The height of a fence, wall or planting or any combination of these~~
11 ~~is measured from the grade of the public right-of-way or easement.~~
12 ~~In the case where there is a change in grade, at no point along the~~
13 ~~length of the fence, wall or planting or any combination thereof shall~~
14 ~~the height exceed the limits established in subsections (B)(1)(a)~~
15 ~~and (B)(1)(b) of this section.~~
16
17

18 **21.60.090 - Objects in required yards.**
19

20 The following are not obstructions when located in the required yards:
21

22 A. All Yards.

- 23 1. Open terraces, porches, and decks not over four feet above the
24 average level of the adjoining ground, but not including a
25 permanent roof-over terrace or porch. Handrails and guardrails
26 around terraces, porches, and decks within a view cone shall be
27 transparent open, pursuant to Section 21.60.080,
28 2. Awnings and canopies,
29 3. Steps four feet or less above grade which are necessary for access
30 to a permitted building or for access to a zoning lot from a street or
31 alley,
32 4. Grade-level walks and driveways,
33 5. Chimneys projecting two feet or less into a yard,
34 6. Recreational and laundry-drying equipment,
35 7. Arbors and trellises,
36 8. Flagpoles, and
37 9. ~~Fences, walls and plantings for which required permits have been~~
38 ~~issued in accordance with Chapter 17.34 of the City Code, except~~
39 ~~as prohibited under Section 21.60.080. Fences, walls and~~
40 ~~plantings, except as prohibited under Sections 21.60.075 and~~
41 ~~21.60.080.~~

42 B. Front Yards.

- 43 1. One-story bay windows projecting three feet or less into a yard,
44 2. Overhanging eaves and gutters projecting three feet or less into the
45 yard,

- 1 3. Fuel, air and water pumps in conjunction with motor vehicle service
2 stations; provided, that they are set back at least fifteen feet from
3 the front lot line, and
- 4 4. Canopies in conjunction with motor vehicle service stations subject
5 to the site design plan review requirements of Chapter 21.22
- 6 C. Rear Yards.
 - 7 1. Balconies,
 - 8 2. One-story bay windows projecting three feet or less into the yard,
9 and
 - 10 3. Overhanging eaves and gutters projecting three feet or less into the
11 yard;
- 12 D. Side Yards.
 - 13 1. Overhanging eaves and gutters projecting eighteen inches or less
14 into the yard, and
 - 15 2. Fuel, air and water pumps in conjunction with automobile service
16 stations; provided, that they are set back at least fifteen feet from
17 the side lot line.

20 **Chapter 21.72 – TERMS AND DEFINITIONS**

21 **21.72.010 - Terms.**

22 “Fences and walls” means an artificially constructed exterior barrier of
23 wood, masonry, stone, wire, metal, plastic, or any other manufactured material or
24 combination of materials, for which the primary purpose is to mark boundaries,
25 control access, or to screen views. For the purpose of this Title, the term “fences
26 and walls” does not include retaining walls.
27 and walls” does not include retaining walls.
28 and walls” does not include retaining walls.
29 and walls” does not include retaining walls.
30 and walls” does not include retaining walls.

31 “Fences and walls height” means the vertical distance, measured to the
32 nearest integral foot, from the elevation at grade directly below the structure to
33 the top of the structure, not including supporting posts. If the fence or wall has
34 been elevated through the use of a retaining wall, the creation of a berm or
35 another method for the primary purpose of increasing the overall height of the
36 fence or wall, then the fence or wall height shall be measured from the ground
37 elevation prior to the grade modification.
38 elevation prior to the grade modification.
39 elevation prior to the grade modification.

40 “Hedge, boundary” means a linear row of closely planted shrubs or low-
41 growing trees put in place to accomplish the same effect as a fence or wall.
42 growing trees put in place to accomplish the same effect as a fence or wall.
43 growing trees put in place to accomplish the same effect as a fence or wall.

44 “Height.”

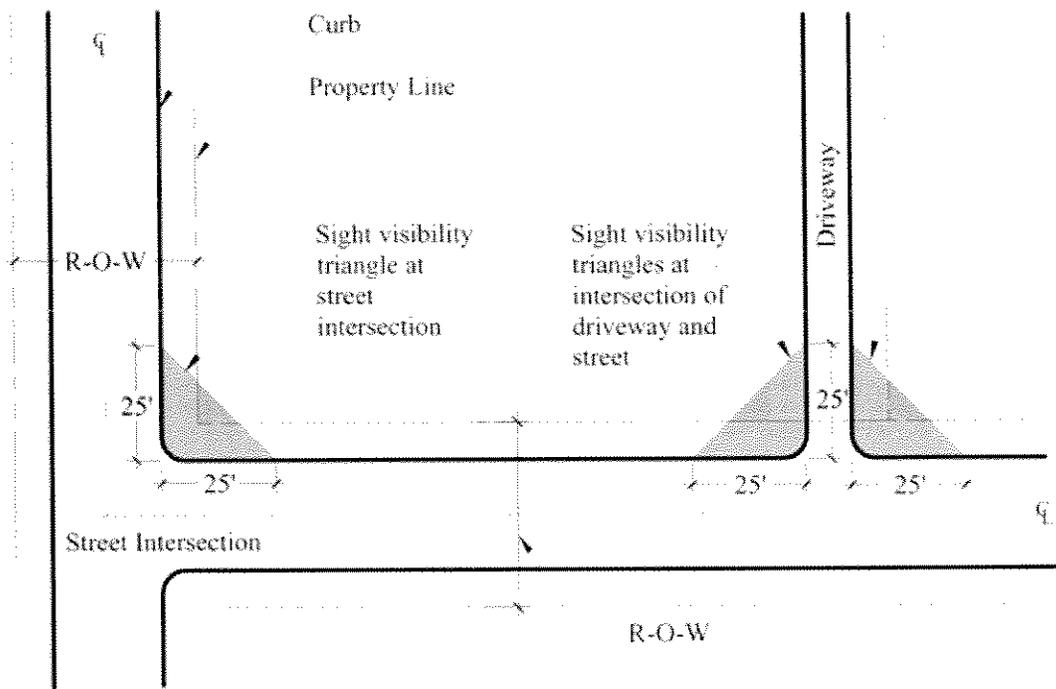
45 a. For buildings, see building height.

46 b. For fences and walls, see fences and walls height.

b. c. For signs, see Section 21.70.050(B).

Sight Visibility Triangle. See illustration. "Sight visibility triangle" means a triangular space provided across all property corners created by either the intersection of two streets or the intersection of a driveway and a street. The sight visibility triangle is determined by drawing a diagonal line across the corner of the lot measured from two points drawn twenty five feet back from the street or driveway intersections with a street.

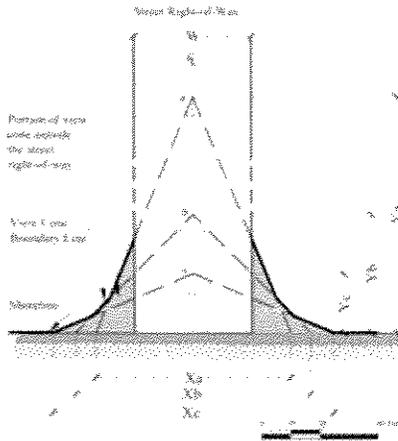
Sight Visibility Triangle. See illustration. "Sight visibility triangle" means a triangular area intended to remain free of visual obstructions to prevent potential traffic hazards across all property corners formed by two intersecting streets or the intersection of an alley and a street or the intersection of a driveway and a street. The sight visibility triangle is determined by drawing a diagonal line across the corner of the lot between two points each measured twenty-five feet back from the vertex of the extended curblines of the intersecting streets, alleys or driveways.



"View cone" means a space defined by two a series of projected lines from the centerline of a street right-of-way that is to be kept free of obstructions so as to preserve a distant view.

1 See illustration for calculation of view cone:

Calculations for a given right-of-way (W)



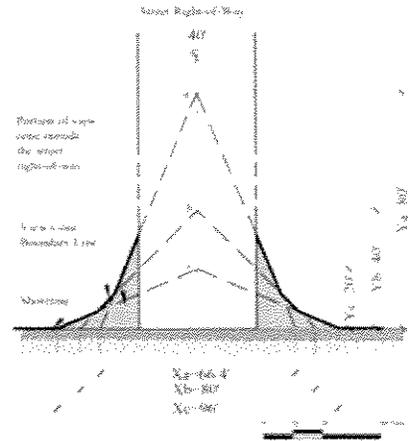
| Width of view cone at shoreline | Formula |
|--|----------------------------|
| X_a | $1.66 \text{ Stages } (W)$ |
| X_b | $1 \text{ Stage } (W)$ |
| X_c | $0.4 \text{ Stages } (W)$ |
| Distance from shoreline to apex of view cone | |
| Y_a | $1 \text{ Stage } (W)$ |
| Y_b | (W) |
| Y_c | $0.5 \text{ Stages } (W)$ |

Definitions

- W = Width of street right-of-way
- X_a, X_b, X_c = Width of view cone
- Y_a, Y_b, Y_c = Distance from shoreline to apex of view cone



Example Calculations for a 40-foot street right-of-way



| Width of view cone at shoreline | Formula | If Height of 'Step' = 4' |
|--|----------------------------|----------------------------|
| X_a | $1.66 \text{ Stages } (W)$ | $1.66 \text{ Stages } 40'$ |
| X_b | $1 \text{ Stage } (W)$ | $1 \text{ Stage } 40'$ |
| X_c | $0.4 \text{ Stages } (W)$ | $0.4 \text{ Stages } 40'$ |
| Distance from shoreline to apex of view cone | | |
| Y_a | $1 \text{ Stage } (W)$ | $1 \text{ Stage } 40'$ |
| Y_b | (W) | $40'$ |
| Y_c | $0.5 \text{ Stages } (W)$ | $0.5 \text{ Stages } 40'$ |

The view cone boundary is defined by the outer edges of three triangular view cones, which are labeled 'a', 'b', and 'c' in the diagram. The boundaries are drawn in plan (top-down) view. The cones widen progressively approaching the viewer's edge (as the observer's view widens). The depths and widths of view cones 'a', 'b', and 'c' are calculated relative to the width of the adjacent street right-of-way.

Steps

1. Determine width of street right-of-way (W)
2. Using graph paper, draw to scale the street right-of-way, marking the shoreline and the street centerline (CL).
3. Calculate the width (X_a) of view cone 'a' at the shoreline using the formula in the table. Draw a line on the graph paper showing this width, with the line centered on the street right-of-way centerline at the shoreline.
4. Calculate the depth (Y_a) of view cone 'a' from the shoreline using the formula in the table. Mark the depth on the graph paper on the street centerline (apex 'a' in the diagram).
5. Draw view cone 'a' by connecting the outer points of X_a (step 3) with point 'a' (step 4) to form a triangle.
6. Calculate and draw view cones 'b' and 'c' using the formula in the table for X_b , Y_b , X_c and Y_c .
7. The view cone boundary may now be drawn along the line that runs along the innermost extent from the street right-of-way of the three view cones (see heavy bold line in the diagram). The area within the view cone boundary, the shaded area in the diagram, is subject to Section 21.01(1)(b).

2
3

1 CITY COUNCIL OF THE
2 City of Annapolis

3
4 Ordinance No. O-47-11

5 Introduced by: Alderman Arnett
6
7

| LEGISLATIVE HISTORY | | | |
|----------------------|----------------|--------------------|--------------|
| First Reading | Public Hearing | Fiscal Impact Note | 180 Day Rule |
| 9/26/11 | | | 3/23/12 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Economic Matters | 9/26/11 | | |
| Rules and City Gov't | 9/26/11 | | |
| Planning Commission | 9/26/11 | | |

8
9 **A ORDINANCE** concerning

10 **Fence Permits**

11 **FOR** the purpose of amending the Code of the City of Annapolis with respect to the issuance
12 of fence permits.

13 **BY** repealing and re-enacting with amendments the following portions of the Code of the
14 City of Annapolis, 2011 Edition
15 Section 17.34.010
16 Section 17.34.020
17 Section 17.34.030
18 Section 21.60.070
19
20

21 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**
22 **COUNCIL** that the Code of the City of Annapolis shall be amended to read as follows:

23 **CHAPTER 17.34 – FENCE CODE.**

24
25 **17.34.010 - Fences, hedges or walls.**

26 A. Permit Required.

27 1. No new fence, wall or hedge shall be erected and no existing fence or wall shall be altered or
28 replaced until a permit is obtained from the City. The nonrefundable application fee and permit
29 fee shall be in accordance with Section 17.12.056. The permit shall not be issued until the
30 drawings have been approved by the director or his or her designee.

31
32 ~~2. In approving or disapproving the drawings, consideration shall be given to the type of~~
33 ~~materials to be used, whether or not the fence, wall or hedge unduly obstructs light and air from~~
34 ~~neighboring properties or public ways, and whether or not the fence, wall or hedge unduly will~~
35 ~~obstruct visibility upon public streets. Materials used for fences, walls or hedges in residential~~
36 ~~zoning districts shall be in keeping with the character and purpose for which the fence, wall or~~

1 ~~hedge was intended. Except in connection with penal and correctional institutions and public~~
2 ~~utility and service uses, no fence, wall or hedge shall consist, in whole or in part, of barbed wire~~
3 ~~or similar materials designed or customarily utilized to inflict injury upon persons or animals.~~

4
5 3. Fences or walls may be installed up to, but not over the property line. It is the responsibility
6 of the applicant to assure that the proposed fence or wall will not be installed on property of
7 others. All property line disputes are between abutting property owners, not the City.

8
9 4. Work shall commence within thirty days from the date of the issuance of the permit and be
10 completed in one hundred twenty days after issuance.

11
12 B. Administrative Review.

13 ~~1. All fences or walls of four feet or less measured from the adjoining finished grade will be~~
14 ~~approved routinely unless an inspection of the property indicates that a fence or wall of this~~
15 ~~height unduly would obstruct light and air from neighboring properties or public ways, or unduly~~
16 ~~obstruct visibility upon public streets.~~

17
18 2 1. All fences or walls of more than four feet require notification to the neighbors. Only the
19 property owners abutting the proposed fence or wall shall be notified. This includes the owners
20 of vacant land, rental units and vacant buildings. The property owners shall be notified by mail
21 or hand delivery of the proposal and given ten calendar days to respond. It is the responsibility
22 of the applicant or his authorized agent to notify the abutting owners. Failure to respond
23 indicates no objection to the proposal.

24
25 ~~3. All new fences or walls and gates and all existing fences, walls and gates to be altered~~
26 ~~located in the historic district as defined in Title 21 of the City Code require the review and~~
27 ~~approval of the Historic Preservation Commission.~~

28
29 4 2. Unless approved otherwise, all fences or walls shall not be located in landscape buffers,
30 conservation easements, over utility easements, across walkway easements and ~~or on~~ public
31 rights of way.

32
33 5 3. Fences or walls shall not be located closer than ~~at least~~ three feet to ~~away from~~ a fire
34 hydrant.

35
36 ~~6. Fences or walls shall not alter or impede the natural flow of stormwater, nor divert the water~~
37 ~~onto the property of others.~~

38
39 4. All fences, hedges and walls shall be maintained in good condition at all times. All fences and
40 walls shall be neatly finished and repaired, including all parts and supports.

41
42 5. No fence or wall may be constructed in a manner or location which will interfere with natural
43 surface water run-off or which will result in a negative impact to any adjacent property by natural
44 surface run-off. All fences and walls must be constructed in a manner that is in harmony with
45 City drainage requirements and standards and in compliance with any approved drainage plans
46 on file with the City for the property upon which the fence or wall is constructed.

47
48 6. It shall be unlawful for any person to place or to allow to be placed on land they own a fence,
49 a hedge or a wall which creates an unsafe or dangerous obstruction or condition.

1 **17.34.020 - Appeals.**

2 A. A person aggrieved by an order from the director or the director's designee made pursuant
3 to this chapter, other than the issuance of a municipal citation, may appeal to the Building Board
4 of Appeals within fifteen calendar days of the date of the order. The petition for appeal shall be
5 in writing stating the grounds for appeal and shall be filed with the Department of Neighborhood
6 and Environmental Programs along with a nonrefundable fee in an amount established by the
7 City Council. Any right to appeal shall be waived if not timely filed.

8
9 B. Fifteen days' notice of the hearing also shall be given to persons owning property within two
10 hundred feet of the location of the proposed fence, wall or hedge by first-class mail, and to the
11 general public by a notice published in a newspaper of general circulation in the City. All
12 required notices shall be at the appellant's expense.

13
14 C. The Building Board of Appeals shall consider the appeal based upon the information
15 provided to the Department of Neighborhood and Environmental Programs at the time of the
16 order from which the appeal is taking. If the board finds that the order was in error or contrary to
17 the provisions of this code or other applicable law, the board may reverse or modify the order.
18 The decision of the board on all appeals shall be in writing and shall contain the factual findings
19 of the board and the reasons for the decision.

20
21 D. A person aggrieved by a decision of the Building Board of Appeals made pursuant to this
22 section may appeal that decision to the circuit court for Anne Arundel County pursuant to
23 Maryland Rule Title 7, Chapter 200 or its successor. For purposes of this subsection, a person
24 shall not be considered aggrieved by a decision of the board unless the person has appeared
25 as a party at the hearing before the board. An appeal under this section shall be taken within
26 thirty days of the date of the decision appealed and shall be the exclusive remedy of the
27 aggrieved party from that decision.

28
29
30 **17.34.030 - Violations.**

31 A person who violates this chapter is guilty of a municipal infraction and is subject to a fine of
32 one hundred dollars for any single, initial violation and a fine of two hundred dollars for each
33 repeat or continuing violation.
34
35

36 **CHAPTER 21.60 – SUPPLEMENTAL USE AND DEVELOPMENT STANDARDS**

37 **21.60.070 - Fences, walls, and plantings.**

38 A. For the purposes of this Section, the following definitions shall apply:

39 1. "Fence" means a fence, wall or hedge.

40
41 2. "Approved grade" means the elevation of the ground, or any paving or sidewalk built upon it,
42 which has been established on the basis of an engineered grading and drainage plan for the
43 property that has been reviewed and approved by the city for the property. When no engineered
44 grading and drainage plan is on file with the city, an established historic grade may be accepted
45 in-lieu-of the engineered plan, based on general information available, including, when
46 appropriate, a site inspection of the property by the city before the fence, hedge or wall is
47 constructed. In making a determination regarding historic grade, the city may, when deemed
48 necessary, require submission of current surveyed elevations of the property and other nearby

1 properties; or may require that an engineered grading and drainage plan be submitted by the
2 owner or occupant of the property.

3
4 3. "Fence section" means a portion or panel of fence construction, normally consisting of
5 pickets, planks or metal fabric attached to horizontal rails, and which is attached or constructed,
6 in more or less regular sequential intervals, to supporting vertical posts. In determining what
7 constitutes a fence section, the normal guideline shall be sequential sections of fence which are
8 eight feet in length.

9
10 4. "Hedge" means several plants planted in a sequence or pattern so that the branches and
11 stems of adjacent plants grow together in a manner that results in a meshing or intertwining of
12 stems and branches with little or no passable space left between the plants, thus effectively
13 forming a barrier or enclosure.

14
15 5. "Top of fence/top of wall" means the uppermost point on the edge or surface of a fence or
16 wall, but not including support posts or architectural features as described in section
17 18.48.070(A)(1)(d).

18
19 6. "Top of hedge" means the highest point on the uppermost branches or stems of a hedge
20 above which only leaves or needles naturally grow.

21
22
23 **B.** A fence, wall or hedge may be erected, placed, maintained or grown pursuant to a permit
24 issued in accordance with Section 17.34.010 of the Annapolis City Code. It is the purpose of
25 the provisions of this section to establish requirements for the height, location, and materials of
26 fences, hedges or walls. Fences shall be required to comply with the following standards and
27 requirements.

28
29 1. The height of a fence, or any combination of fences, is measured from the grade of the
30 public right-of-way or easement. In the case where there is a change in grade, at no point along
31 the length of the fence, or any combination thereof, shall the height exceed the limits
32 established in this Chapter.

33
34 2. The maximum height of a fence shall not include the support posts or ornamental features
35 included in the construction, provided that (a) the overall construction of such posts and
36 ornamental features does not exceed the limitations describing a limited solid material fence as
37 set forth in Section 21.60.070(A)(3), and (b) no posts or ornamental features extend more than
38 one foot above the top of the fence.

39
40 3. All fences which have a ratio of solid material to open space of not more than one to four
41 shall be considered limited solid material fences, and walls.

42
43 4. All fences which have a ratio of solid material to open space of more than one to four shall be
44 considered solid material fences, and walls.

45
46 5. All fences must be located within the boundary lines of the property owned by the person or
47 persons who construct and maintain them.

48
49 6. No barbed wire or other sharp-pointed fences shall be installed on any property, except
50 around storage yards in the I1 zoning district upon a specific finding by the Planning and Zoning
51 Department that such a fence is necessary to protect property or goods.

1 C. The maximum height of all fences shall be eight feet, except as hereafter provided:
2 1. Fences around tennis, squash racquet, squash tennis or badminton courts and publicly
3 owned recreation areas may exceed eight feet in height, provided, that the same are limited
4 solid material fences, and walls.

5
6 2. Limited solid material fences located in a front yard, or a yard adjacent to a public right-of-way
7 shall have a maximum height of four feet unless they meet the set back requirement(s) for the
8 principal structure.

9
10 3. Solid material fences located in a front yard or a yard adjacent to a public right-of-way shall
11 have a maximum height of forty-two inches unless the same meet the front setback requirement
12 of the zone in which it is located.

13
14 4. Other fences may not exceed eight feet in height.

15
16
17 D. A sight visibility triangle is established in Section 21.72.010. Where a public right-of-way
18 or easement dedicated for public access terminates at a waterway, a view cone shall be
19 provided. See Section 21.72.010 for definition and calculation of the view cone.

20
21 1. No fences, walls, or hedges with a height greater than forty-eight inches are allowed in a
22 view cone, except:

23 a. Fences and walls (including their component parts, such as handrails and guards)
24 that do not exceed six feet in height and are transparent above forty-eight inches. A
25 fence, wall, hand-rail, or guard is considered transparent if its opacity is twenty percent
26 or less. The percentage of opacity is measured by dividing the square footage of the
27 opaque portion of the subject structure by the square footage of the entire structure, and
28 multiplying the result by one hundred.

29 b. Trees maintained with a single clear trunk with all branches and pendulous branches
30 removed to a height of seven feet above the ground plane. Trees shall not be planted
31 closer than fifteen feet apart so as not to form a visual barrier.

32
33 2. All plantings, exclusive of trees referenced in subsection (D)(1)(b) of this section, located in a
34 view cone must be pruned or maintained to a height of forty-eight inches or less.

35
36
37 E. Other considerations

38
39 1. When in a fence is to be constructed that otherwise meets the requirements of this section,
40 but impedes an established view shed or a view of a waterway from adjoining public or private
41 properties, the Planning Department may require modifications to the materials or the ratio of
42 solid fencing to voids.

43 2. In approving or disapproving the drawings, consideration shall be given to the type of
44 materials to be used, and whether or not the fence, wall or hedge unduly will obstruct visibility
45 from public streets. Materials used for fences, walls or hedges in residential zoning districts shall
46 be in keeping with the character and purpose for which the fence, wall or hedge was intended.
47 Except in connection with penal and correctional institutions and public utility and service uses,
48 no fence, wall or hedge shall consist, in whole or in part, of barbed wire or similar materials
49 designed or customarily utilized to inflict injury upon persons or animals.

1 3. If located in the historic district as defined in this Title, all proposed new fences, walls and
2 gates and all proposed alterations to existing fences, walls and gates require the review and
3 approval of the Historic Preservation Commission.
4

5 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**
6 **ANNAPOLIS CITY COUNCIL** that this Ordinance shall take effect from the date of its passage.
7

8 **ADOPTED** this _____ day of _____, _____.
9
10

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

EXPLANATION:

Highlighting indicates matter added to existing law.
Strikeout indicates matter deleted from existing law.
Underlining indicates amendments.

Policy Report

Ordinance O-47-11

Fence Permits

The proposed ordinance would revise the Annapolis City Code with respect to the issuance of fence permits. Chapter 17.34 of the Annapolis City Code establishes the requirement for a fence permit application fee and permit fee.

Chapter 21.60 of the Annapolis City Code establishes supplemental use and development standards for fences. Examples of the proposed, additional supplemental use and development standards for fences in O-47-11 address the ratio of solid fence material to open space, the regulation of barbed wire fences, standards for fences affecting certain view cones, and the standards for Historic Preservation Commission review for fences, walls and gates in the historic district.

Prepared by Jessica Cowles, Legislative and Policy Analyst in the City of Annapolis Office of Law at 410.263.1184 or JCCowles@annapolis.gov.

1 **Office of Law Working Draft for Second Reader**

2 *Editorial note: the purpose of this working draft is to 1) show the current*
3 *Code in effect that O-40-11 (Fence Permits) modified and was adopted at*
4 *the same Council meeting where O-47-11 was introduced and 2)*
5 *recommended amendments from the Planning Commission.*

6
7 **Ordinance No. O-47-11**
8

9 **EXPLANATION:**

10 Gray highlighting indicates text proposed to be added to law as it
11 existed at time ordinance was drafted.

12 Strikeout indicates text proposed to be deleted.

13 Yellow highlighting indicates text of current Code as revised by O-
14 40-11 adopted by Council action on the same date this ordinance
15 was introduced.

16 Underlining indicates amendments proposed by the Planning
17 Commission.

18 Blue highlighting indicates needed technical amendments.

19
20 **AN ORDINANCE** concerning

21
22 **Fence Permits**

23
24 **FOR** the purpose of amending the Code of the City of Annapolis with respect to
25 the issuance of fence permits.

26
27 **BY** repealing and re-enacting with amendments the following portions of the
28 Code of the City of Annapolis, 2011 2012 Edition:

29 17.34.010

30 17.34.020

31 21.18.030

32 21.60.070

33 21.60.080

34 21.60.090

35 21.72.010

36
37 **BY** adding the following portions to the Code of the City of Annapolis, 2012
38 Edition:

39 21.60.065

40 21.60.075

41
42
43 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE**
44 **ANNAPOLIS CITY COUNCIL** that the Code of Annapolis shall be amended to
45 read as follows:
46

1
2 **Chapter 17.34 – FENCE CODE PERMITS**

3
4 **17.34.010 - Fences, hedges or walls Fences and walls.**

5
6 A. Permit Required.

7
8 1. No new fence, or wall or hedge shall be erected, placed or, maintained or
9 grown and no existing fence, or wall or hedge shall be altered or replaced until a
10 permit is obtained from the City Department of Neighborhood and Environmental
11 Programs. The nonrefundable application fee and permit fee shall be in
12 accordance with Section 17.12.056. The permit shall not be issued until the
13 drawings application and supporting documentation have been reviewed by the
14 appropriate City departments and approved by the Director or his or her
15 designee.

16
17
18 ~~2. In approving or disapproving the drawings, consideration shall be given to the~~
19 ~~type of materials to be used, whether or not the fence, wall or hedge unduly~~
20 ~~obstructs light and air from neighboring properties or public ways, and whether or~~
21 ~~not the fence, wall or hedge unduly will obstruct visibility upon public streets.~~
22 ~~Materials used for fences, walls or hedges in residential zoning districts shall be~~
23 ~~in keeping with the character of the neighborhood and purpose for which the~~
24 ~~fence, wall or hedge was intended. Except in connection with penal and~~
25 ~~correctional institutions and public utility and service uses, no fence, wall or~~
26 ~~hedge shall consist, in whole or in part, of barbed wire or similar materials~~
27 ~~designed or customarily utilized to inflict injury upon persons or animals.~~

28
29 2. At a minimum, the permit application shall be accompanied by a scaled
30 drawing showing the proposed location and dimensions of the fence or wall on
31 the subject lot, and its relationship to the property lines, public right-of-ways,
32 easements, utilities, existing structures, existing trees, and steep topography.
33 The permit application shall also include construction drawings, pictures or
34 diagrams sufficient to illustrate the overall design and materials to be used for the
35 proposed fence or wall. The Director may require the applicant to provide
36 additional information as deemed necessary by the City in order to review the
37 proposed fence or wall for conformity with the City Code.

38
39
40 3. A fence, wall, or hedge erected, placed, maintained or grown in or abutting
41 residential and maritime zoning districts is subject to the following height
42 limitations: (a) six feet along a front yard lot line or in a front yard; (b) six feet
43 along side yard lot lines or in a side yard, between the front yard lot line and
44 façade plane of the principal structure; and (c) except as limited by (b), six feet
45 along the side yard and rear yard lot lines and in side and rear yards.

1 ~~3 5.~~ Work shall commence within thirty days from the date of the issuance of the
2 permit and be completed in one hundred twenty days after issuance, ~~unless~~
3 ~~extended by the Director of Neighborhood and Environmental Programs, or the~~
4 ~~permit will be revoked.~~

5
6 ~~4. A fence, wall, or hedge may be installed up to, but not over the property line. It~~
7 ~~is the responsibility of the applicant to assure that the proposed fence or wall will~~
8 ~~not be installed on property of others. All property line disputes are between~~
9 ~~abutting property owners, not the City.~~

10
11
12 B. Administrative Review.

13
14 1. ~~A fence, wall, or hedge of four~~ six feet or less measured from the adjoining
15 finished grade will be approved routinely unless an inspection of the property
16 indicates that a fence, wall, or hedge of this height unduly would obstruct light
17 and air from nearby and adjoining properties or public ways, or unduly
18 obstruct visibility upon public streets.

19
20 2. ~~A proposed fence, wall, or hedge of more than four~~ six feet requires
21 notification to the neighbors prior to any approval. ~~Only the abutting Property~~
22 ~~owners and occupants within 200 feet of the property of the proposed fence~~
23 ~~or wall shall be notified in accordance with Section 21.10.020(B) of the Zoning~~
24 ~~Code.~~ This includes the owners of vacant land, rental units and vacant
25 buildings. The property owners and occupants shall be notified by mail or
26 hand delivery of the proposal and given ten calendar days to respond. It is the
27 responsibility of the applicant or his authorized agent to notify ~~the abutting~~
28 ~~owners.~~ Failure to respond indicates no objection to the proposal.

29
30 3. ~~A new fence, wall, or hedge, and gates and all existing fences, walls, hedges~~
31 ~~and gates to be altered located in the historic district as defined in Title 21 of~~
32 ~~the City Code require the review and approval of the Historic Preservation~~
33 ~~Commission.~~

34
35 4. ~~Unless approved otherwise, all fences or walls shall not be located in~~
36 ~~landscape buffers, conservation easements, over utility easements, across~~
37 ~~walkway easements or on public rights-of-way.~~

38
39 5. A fence, wall, ~~or hedge~~ shall ~~not~~ be located at least three feet away from a fire
40 hydrant.

41
42 6. A fence, wall, ~~or hedge~~ shall not alter or impede the natural flow of stormwater,
43 nor divert the water onto the property of others.

44
45 7. A fence, wall, or hedge shall not unduly obstruct the view of tidal waterways
46 from nearby residential properties.

1
2 ~~8. All fences, hedges and walls shall be maintained in good condition at all times.~~
3 ~~All fences and walls shall be neatly finished and repaired, including all parts and~~
4 ~~supports.~~

5
6 ~~9. No fence or wall may be constructed in a manner or location which will~~
7 ~~interfere with natural surface water run-off or which will result in a negative~~
8 ~~impact to any adjacent property by natural surface run-off. All fences and walls~~
9 ~~must be constructed in a manner that is in harmony with City drainage~~
10 ~~requirements and standards and in compliance with any approved drainage~~
11 ~~plans on file with the City for the property upon which the fence or wall is~~
12 ~~constructed.~~

13
14 ~~10. It shall be unlawful for any person to place or to allow to be placed on land~~
15 ~~they own a fence, a hedge or a wall which creates an unsafe or dangerous~~
16 ~~obstruction or condition.~~

17
18
19 B. Restrictions.

20
21 1. In addition to the provisions of this Section, fences and walls shall be required
22 to comply with the standards and requirements outlined in Section 21.60.070 of
23 the Zoning Code.

24
25 2. No new fence or wall shall be erected, placed, or maintained and no existing
26 fence or wall shall be altered or replaced so as to encroach upon a public right-
27 of-way or easement area, without written approval from the Director of Public
28 Works or his or her designee. When any part of a permitted fence or wall is
29 installed within a public easement area, the City or any agent of the City
30 permitted to use the easement area shall be held harmless by the owner of the
31 property upon which the permitted fence or wall is located for any and all claims
32 for damage to the fence or wall that might occur when work is performed in the
33 public easement area, and shall not be held responsible or liable for the
34 reinstallation of any fence or wall removed from the public easement.

35 3. The area three feet in radius around fire hydrants, fire hose connections and
36 utility boxes shall be kept free of any fences or walls that could impede use of the
37 hydrant, hose connection or utility box.

38
39 4. Fences and walls shall be installed so as not to disturb or damage existing
40 trees equal to or greater than five inches diameter at breast height, unless
41 otherwise approved by the City.

42
43 5. Fences and walls shall not alter or impede the natural flow of stormwater, nor
44 divert the water onto the property of others.

1 6. Fences and walls shall be assembled in accordance with the manufacturer's
2 requirements and be constructed of wood, masonry, stone, wire, metal, plastic,
3 or any other manufactured material or combination of materials normally used for
4 fences and walls, and that has been manufactured for the purpose of fence or
5 wall construction. The bottom of fence posts and wall foundations shall be set at
6 least 30" below finished grade.

7
8 7. Fences and walls shall be maintained in accordance with the City's property
9 maintenance code.

10
11
12
13 **17.34.020 - Appeals**

14
15 A. A person aggrieved by a determination or an order ~~from of~~ the ~~d~~Director or
16 the ~~e~~Director's designee made pursuant to this chapter, other than the
17 issuance of a municipal citation, may appeal to the Building Board of
18 Appeals within fifteen calendar days of the date of the determination or
19 order. The notice of petition for appeal shall be in writing stating the
20 grounds for appeal and shall be filed with the Department of
21 Neighborhood and Environmental Programs along with a nonrefundable
22 fee in an amount established by the City Council. Any right to appeal shall
23 be waived if not timely filed.

24
25 B. Fifteen days' notice of the hearing ~~also~~ shall be given to persons or
26 entities owning property within two hundred feet of the location of the
27 proposed fence, wall or hedge fence or wall that is the subject of the
28 appeal. Notice shall be by first-class mail, and to the general public by a
29 notice published in a newspaper of general circulation in the City. All
30 required notices shall be at the appellant's expense.

31
32 C. The Building Board of Appeals shall consider the appeal based upon the
33 information and documentation provided to the Department of
34 Neighborhood and Environmental Programs at the time of the
35 determination or order from which the appeal is taking taken. If the
36 ~~b~~Board finds that the determination or order was in error or contrary to the
37 provisions of this ~~e~~Code or other applicable law, the ~~b~~Board may reverse
38 or modify the determination or order. The decision of the ~~b~~Board on all
39 appeals shall be in writing and shall contain the factual findings of the
40 ~~b~~Board and the reasons for the decision.

41
42 D. A person aggrieved by a decision of the Building Board of Appeals made
43 pursuant to this section may appeal that decision to the ~~e~~Circuit ~~e~~Court for
44 Anne Arundel County pursuant to Maryland Rule Title 7, Chapter 200 ~~or~~
45 its successor, as may be amended from time to time. For purposes of this
46 subsection, a person shall not be considered aggrieved by a decision of

1 the bBoard unless the person has appeared as a party at the hearing
2 before the bBoard. An appeal under this section shall be taken within
3 thirty days of the date of the decision appealed and shall be the exclusive
4 remedy of the aggrieved party from that decision.
5
6

7 **17.34.030 - Violations.**

8 A person who violates this chapter is guilty of a municipal infraction and is
9 subject to a fine of one hundred dollars for any single, initial violation and a fine
10 of two hundred dollars for each repeat or continuing violation.
11

12
13 **Chapter 21.18 – ADMINISTRATIVE ADJUSTMENTS**

14
15 **21.18.030 - Permitted administrative adjustments.**

16
17 A. Administrative adjustments from the regulations of this Zoning Code may
18 be granted by the Planning and Zoning Director only in accordance with
19 the criteria established in this Chapter, and may be granted only for the
20 following:
21

- 22 1. Setbacks. To permit any yard or setback of up to twenty percent
23 less than a yard or a setback required by the applicable regulations.
24
- 25 2. Parking. To increase by not more than twenty percent the
26 maximum distance that required parking spaces are permitted to be
27 located from the use served.
28
- 29 3. Lot Coverage. To increase by not more than twenty percent the lot
30 coverage restrictions, except that administrative adjustments of lot
31 coverage restrictions shall not be permitted in the Critical Area
32 Overlay District.
33
- 34 4. Signs. To adjust the limitations for signs in the specific instances
35 set forth in Section 21.70.110.
36
- 37 5. Fences and Walls. To permit certain fences and walls an additional
38 height allowance of up to four feet above the standard maximum
39 height limit specified in Section 21.60.070.
40
- 41 ~~5.~~ 6. Specific Zoning District Provisions. The zoning district provisions
42 applicable to specific zoning districts, as provided in Division III,
43 may authorize other permitted administrative adjustments. In
44 Chapter 21.54, Critical Area Overlay, these adjustments are
45 referred to as administrative variances.
46

- 1 B. The Director of Planning and Zoning may not approve administrative
2 adjustments in the R1, Single-Family Residence District when the
3 minimum lot width and area requirements for the affected property are not
4 met.
5
6

7 **Chapter 21.60 – SUPPLEMENTAL USE AND DEVELOPMENT STANDARDS**

8
9 **21.60.065 - Plantings.**

- 10
11 A. All plantings shall be installed and maintained in accordance with the
12 applicable provisions of Sections 21.62.030, 21.62.040 and 21.62.050.
13
14 B. Unless as otherwise may be required for planting mitigation or screening
15 purposes by a condition of approval for a development application,
16 plantings installed in the form of a boundary hedge, in-lieu-of or together
17 with a fence or wall, shall be pruned or maintained so as not to exceed the
18 height limits for fences and walls as outlined in Section 21.60.070.
19
20 C. In the event that the requirements of this section conflict with those in
21 Chapter 21.54, Critical Area Overlay, the Critical Area requirements shall
22 prevail.
23
24

25 **21.60.070 - ~~Fences, walls, and plantings.~~ Fences and walls.**

26
27 A fence, wall or hedge may be erected, placed, maintained or grown pursuant to
28 a permit issued in accordance with Section 17.34.010 of the Annapolis City
29 Code.
30

31 A. For the purposes of this Section, the following definitions shall apply:

32 1. "Fence" means a fence, wall or hedge.
33

34 2. "Approved grade" means the elevation of the ground, or any paving or
35 sidewalk built upon it, which has been established on the basis of an engineered
36 grading and drainage plan for the property that has been reviewed and approved
37 by the city for the property. When no engineered grading and drainage plan is on
38 file with the city, an established historic grade may be accepted in-lieu-of the
39 engineered plan, based on general information available, including, when
40 appropriate, a site inspection of the property by the city before the fence, hedge
41 or wall is constructed. In making a determination regarding historic grade, the city
42 may, when deemed necessary, require submission of current surveyed
43 elevations of the property and other nearby properties; or may require that an
44 engineered grading and drainage plan be submitted by the owner or occupant of
45 the property.
46

1 3. "Fence section" means a portion or panel of fence construction, normally
2 consisting of pickets, planks or metal fabric attached to horizontal rails, and
3 which is attached or constructed, in more or less regular sequential intervals, to
4 supporting vertical posts. In determining what constitutes a fence section, the
5 normal guideline shall be sequential sections of fence which are eight feet in
6 length.

7
8 4. "Hedge" means several plants planted in a sequence or pattern so that the
9 branches and stems of adjacent plants grow together in a manner that results in
10 a meshing or intertwining of stems and branches with little or no passable space
11 left between the plants, thus effectively forming a barrier or enclosure.

12
13 5. "Top of fence/top of wall" means the uppermost point on the edge or surface of
14 a fence or wall, but not including support posts or architectural features as
15 described in section 18.48.070(A)(1)(d).

16
17 6. "Top of hedge" means the highest point on the uppermost branches or stems
18 of a hedge above which only leaves or needles naturally grow.

19
20
21 B. A fence, wall or hedge may be erected, placed, maintained or grown pursuant
22 to a permit issued in accordance with Section 17.34.010 of the Annapolis City
23 Code. It is the purpose of the provisions of this section to establish
24 requirements for the height, location, and materials of fences, hedges or walls.
25 Fences shall be required to comply with the following standards and
26 requirements:

27
28 1. The height of a fence, or any combination of fences, is measured from the
29 grade of the public right of way or easement. In the case where there is a change
30 in grade, at no point along the length of the fence, or any combination thereof,
31 shall the height exceed the limits established in this Chapter.

32
33 2. The maximum height of a fence shall not include the support posts or
34 ornamental features included in the construction, provided that (a) the overall
35 construction of such posts and ornamental features does not exceed the
36 limitations describing a limited solid material fence as set forth in Section
37 21.60.070(A)(3), and (b) no posts or ornamental features extend more than one
38 foot above the top of the fence.

39
40 3. All fences which have a ratio of solid material to open space of not more than
41 one to four shall be considered limited solid material fences, and walls.

42
43 4. All fences which have a ratio of solid material to open space of more than one
44 to four shall be considered solid material fences, and walls.

1 5. All fences must be located within the boundary lines of the property owned by
2 the person or persons who construct and maintain them.

3
4 6. No barbed wire or other sharp pointed fences shall be installed on any
5 property, except around storage yards in the I1 zoning district upon a specific
6 finding by the Planning and Zoning Department that such a fence is necessary to
7 protect property or goods.

8
9 C. The maximum height of all fences shall be eight feet, except as hereafter
10 provided:

11 1. Fences around tennis, squash racquet, squash tennis or badminton courts and
12 publicly owned recreation areas may exceed eight feet in height, provided, that
13 the same are limited solid material fences, and walls.

14
15 2. Limited solid material fences located in a front yard, or a yard adjacent to a
16 public right-of-way shall have a maximum height of four feet unless they meet the
17 set back requirement(s) for the principal structure.

18
19 3. Solid material fences located in a front yard or a yard adjacent to a public right-
20 of-way shall have a maximum height of forty-two inches unless the same meet
21 the front setback requirement of the zone in which it is located.

22
23 4. Other fences may not exceed eight feet in height.

24
25
26 D. A sight visibility triangle is established in Section 21.72.010. Where a
27 public right-of-way or easement dedicated for public access terminates at a
28 waterway, a view cone shall be provided. See Section 21.72.010 for definition
29 and calculation of the view cone.

30
31 1. No fences, walls, or hedges with a height greater than forty-eight inches are
32 allowed in a view cone, except:

33 a. Fences and walls (including their component parts, such as handrails
34 and guards) that do not exceed six feet in height and are transparent
35 above forty-eight inches. A fence, wall, hand-rail, or guard is considered
36 transparent if its opacity is twenty percent or less. The percentage of
37 opacity is measured by dividing the square footage of the opaque portion
38 of the subject structure by the square footage of the entire structure, and
39 multiplying the result by one hundred.

40 b. Trees maintained with a single clear trunk with all branches and
41 pendulous branches removed to a height of seven feet above the ground
42 plane. Trees shall not be planted closer than fifteen feet apart so as not to
43 form a visual barrier.

1 ~~2. All plantings, exclusive of trees referenced in subsection (D)(1)(b) of this~~
2 ~~section, located in a view cone must be pruned or maintained to a height of forty-~~
3 ~~eight inches or less.~~

4
5
6 E. Other considerations

7
8 ~~1. When a fence is to be constructed that otherwise meets the requirements of~~
9 ~~this section, but impedes an established view shed or a view of a waterway from~~
10 ~~adjoining public or private properties, the Planning Department may require~~
11 ~~modifications to the materials or the ratio of solid fencing to voids.~~

12 ~~2. In approving or disapproving the drawings, consideration shall be given to the~~
13 ~~type of materials to be used, and whether or not the fence, wall or hedge unduly~~
14 ~~will obstruct visibility from public streets. Materials used for fences, walls or~~
15 ~~hedges in residential zoning districts shall be in keeping with the character and~~
16 ~~purpose for which the fence, wall or hedge was intended. Except in connection~~
17 ~~with penal and correctional institutions and public utility and service uses, no~~
18 ~~fence, wall or hedge shall consist, in whole or in part, of barbed wire or similar~~
19 ~~materials designed or customarily utilized to inflict injury upon persons or~~
20 ~~animals.~~

21 ~~3. If located in the historic district as defined in this Title, all proposed new~~
22 ~~fences, walls and gates and all proposed alterations to existing fences, walls and~~
23 ~~gates require the review and approval of the Historic Preservation Commission.~~

24
25
26 Fences and walls as defined by this Title may be erected, placed, maintained,
27 altered or replaced pursuant to a permit issued in accordance with Section
28 17.34.010 of the Annapolis City Code. The following additional standards apply:

29
30 A. If located within the historic district as defined in this Title, all proposed
31 new fences and walls, and all proposed alterations to existing fences and
32 walls, require the review and approval of the Historic Preservation
33 Commission.

34
35 B. Fences and walls may be installed up to, but not over the property line. It
36 is the responsibility of the property owner to assure that the proposed
37 fence or wall is not installed on property of others. All property line
38 disputes are between abutting property owners, and they shall not seek or
39 have any remedy against the City.

40
41 C. Within required bufferyards adjacent to public streets, to the extent
42 practical in order to achieve proper screening, fences and walls shall be
43 located towards the interior edge of the landscape buffer, rather than at
44 the edge of the public right-of-way.

1 D. Except as permitted by this Title, fences and walls shall not obstruct view
2 cones or sight visibility triangles.

3
4 E. Fences and walls shall not be located to unduly obstruct light and air from
5 neighboring properties or public ways.

6
7 F. The overall design and materials used for fences and walls shall be in
8 keeping with the character and purpose for which the fence or wall is
9 intended, and shall be compatible with other similar structures in the
10 neighborhood.

11
12 G. All fences and walls shall be installed with the finished side facing out, so
13 that posts and lateral supports are not on the side of the fence or wall
14 which faces an adjacent property or public right-of-way, unless such
15 supporting members are exposed on both sides due to the specific design
16 of the fence or wall.

17
18 H. Except in connection with penal and correctional institutions and public
19 utility and service uses, no fence or wall shall consist, in whole or in part,
20 of barbed wire or similar materials designed or customarily utilized to inflict
21 injury upon persons or animals.

22
23 I. Standard Maximum Height.

24
25 1. In all zoning districts, the maximum height of fences and walls
26 enclosing outdoor tennis courts, baseball backstops, and other
27 fences and walls normally provided with recreation facilities, shall
28 be twelve feet or the minimum height required to protect public
29 safety, whichever is greater.

30
31 2. In all non-residential zoning districts, except for the maritime
32 districts, the maximum height of a fence or wall shall be eight feet,
33 unless the fence or wall is located along a public street, in which
34 case the maximum height of the fence or wall shall not exceed six
35 feet.

36
37 3. In all residential and maritime zoning districts, the maximum height
38 of a fence or wall shall be six feet, unless the fence or wall is
39 located along a public street, in which case the maximum height of
40 the fence or wall shall not exceed four feet.

41
42 4. Fences and walls shall not be considered as being located along a
43 public street if they otherwise meet the same minimum front and
44 corner-side yard setbacks that would be required for the principal
45 structure on the subject property in the zoning district in which the
46 fence or wall is located.

1
2 **J. Allowance for Additional Height.**

- 3
4 1. Up to two additional feet of height is allowed for decorative gates
5 which do not exceed twenty-five feet in width for vehicular gates, or
6 eight feet in width for pedestrian gates.
7
8 2. In accordance with the procedures for Administrative Adjustments
9 set forth in Chapter 21.18, the Planning and Zoning Director may
10 permit certain fences and walls an additional height allowance of up
11 to four feet above the standard maximum height limit established by
12 this section.
13
14 3. In addition to the review criteria in Section 21.18.040, the Director
15 of Planning and Zoning shall make additional written findings based
16 on the following:
17
18 a. The subject fence or wall will be compatible with other
19 similar structures in the neighborhood and is required to
20 mitigate impacts from adjacent land uses, the subject
21 property's proximity to public right-of-ways, or safety
22 concerns.
23
24 b. Within the intent and purpose of this Zoning Code, the
25 proposed additional fence or wall height, if granted, is the
26 minimum adjustment necessary to afford relief.
27

28 **K. Notwithstanding the height limitations in this section, temporary fences**
29 **and walls, incidental to construction on or development of the premises on**
30 **which the temporary fences and walls are located, shall be permitted**
31 **during the time construction or development is actively underway.**
32

33 **L. Lawfully existing fences and walls that do not conform to the bulk or other**
34 **development or design standards for the district in which the fence or wall**
35 **is located may be continued, if properly repaired and maintained as**
36 **provided in Chapter 21.68, Nonconforming Uses and Structures.**
37 **Nonconforming fences and walls which are structurally altered, relocated,**
38 **or replaced shall comply immediately with all provisions of this Title.**
39

40
41 **21.60.075 Sight Visibility Triangle.**

42
43 **In all districts, a sight visibility triangle, as defined in Section 21.72.010, shall be**
44 **provided at all intersections, including alleys and driveways, and shall be kept**
45 **free of obstructions to vision between the height of two and one-half feet and**
46 **twelve feet above the street. If, in the opinion of the Director of Planning and**

1 Zoning with the concurrence of the Director of Public Works, this requirement
2 may be altered if such alteration will not result in a potential traffic hazard.
3 Where intersections occur on roadways under the jurisdiction of the State of
4 Maryland or Anne Arundel County, the sight visibility triangle required by the
5 State or County may be substituted in-lieu-of the requirements above.
6
7

8 **21.60.080 - View cones.**
9

10 A. Where a public right-of-way or easement dedicated for public access
11 terminates at a waterway, a view cone shall be provided. See Division VI
12 for definition and calculation of the view cone.
13

14 B. Fences, Walls, and Plantings in View Cones.
15

16 1. No fences, walls, or plantings with a height greater than ~~forty-eight~~
17 ~~inches~~ **four feet** are allowed in a view cone, except:
18

19 a. Fences and walls (including their component parts, such as
20 handrails and guards) that do not exceed six feet in height
21 and are ~~transparent open~~ above ~~forty-eight inches~~ **four feet**.
22 A fence, wall, hand-rail, or guard is considered ~~transparent~~
23 ~~open~~ if its opacity is ~~twenty fifty~~ percent or less. The
24 percentage of opacity is measured by dividing the square
25 footage of the opaque portion of the subject structure by the
26 square footage of the entire structure, and multiplying the
27 result by one hundred.
28

29 b. Trees maintained with a single ~~clear~~ trunk with all branches
30 and pendulous branches removed to a height of seven feet
31 above the ground plane. Trees shall not be planted closer
32 than fifteen feet apart so as not to form a visual barrier.
33

34 2. All plantings, exclusive of trees referenced in subsection (B)(1)(b)
35 of this section, located in a view cone must be pruned or
36 maintained to a height of ~~forty-eight inches~~ **four feet** or less.
37

38 ~~3. The height of a fence, wall or planting or any combination of these~~
39 ~~is measured from the grade of the public right-of-way or easement.~~
40 ~~In the case where there is a change in grade, at no point along the~~
41 ~~length of the fence, wall or planting or any combination thereof shall~~
42 ~~the height exceed the limits established in subsections (B)(1)(a)~~
43 ~~and (B)(1)(b) of this section.~~
44
45

46 **21.60.090 - Objects in required yards.**

1
2 The following are not obstructions when located in the required yards:
3

4 A. All Yards.

- 5 1. Open terraces, porches, and decks not over four feet above the
6 average level of the adjoining ground, but not including a
7 permanent roof-over terrace or porch. Handrails and guardrails
8 around terraces, porches, and decks within a view cone shall be
9 transparent open, pursuant to Section 21.60.080,
- 10 2. Awnings and canopies,
- 11 3. Steps four feet or less above grade which are necessary for access
12 to a permitted building or for access to a zoning lot from a street or
13 alley,
- 14 4. Grade-level walks and driveways,
- 15 5. Chimneys projecting two feet or less into a yard,
- 16 6. Recreational and laundry-drying equipment,
- 17 7. Arbors and trellises,
- 18 8. Flagpoles, and
- 19 9. Fences, walls and plantings for which required permits have been
20 issued in accordance with Chapter 17.34 of the City Code, except
21 as prohibited under Section 21.60.080. Fences, walls and
22 plantings, except as prohibited under Sections 21.60.075 and
23 21.60.080.

24 B. Front Yards.

- 25 1. One-story bay windows projecting three feet or less into a yard,
- 26 2. Overhanging eaves and gutters projecting three feet or less into the
27 yard,
- 28 3. Fuel, air and water pumps in conjunction with motor vehicle service
29 stations; provided, that they are set back at least fifteen feet from
30 the front lot line, and
- 31 4. Canopies in conjunction with motor vehicle service stations subject
32 to the site design plan review requirements of Chapter 21.22

33 C. Rear Yards.

- 34 1. Balconies,
- 35 2. One-story bay windows projecting three feet or less into the yard,
36 and
- 37 3. Overhanging eaves and gutters projecting three feet or less into the
38 yard;

39 D. Side Yards.

- 40 1. Overhanging eaves and gutters projecting eighteen inches or less
41 into the yard, and
- 42 2. Fuel, air and water pumps in conjunction with automobile service
43 stations; provided, that they are set back at least fifteen feet from
44 the side lot line.

1 **Chapter 21.72 – TERMS AND DEFINITIONS**

2
3 **21.72.010 - Terms.**

4 D. List of definitions.

5
6 “Fences and walls” means an artificially constructed exterior barrier of
7 wood, masonry, stone, wire, metal, plastic, or any other manufactured material or
8 combination of materials, for which the primary purpose is to mark boundaries,
9 control access, or to screen views. For the purpose of this Title, the term “fences
10 and walls” does not include retaining walls.

11
12
13 “Fences and walls height” means the vertical distance, measured to the
14 nearest integral foot, from the elevation at grade directly below the structure to
15 the top of the structure, not including supporting posts. If the fence or wall has
16 been elevated through the use of a retaining wall, the creation of a berm or
17 another method for the primary purpose of increasing the overall height of the
18 fence or wall, then the fence or wall height shall be measured from the ground
19 elevation prior to the grade modification.

20
21
22 “Hedge, boundary” means a linear row of closely planted shrubs or low-
23 growing trees put in place to accomplish the same effect as a fence or wall.

24
25
26 “Height.”

27 a. For buildings, see building height.

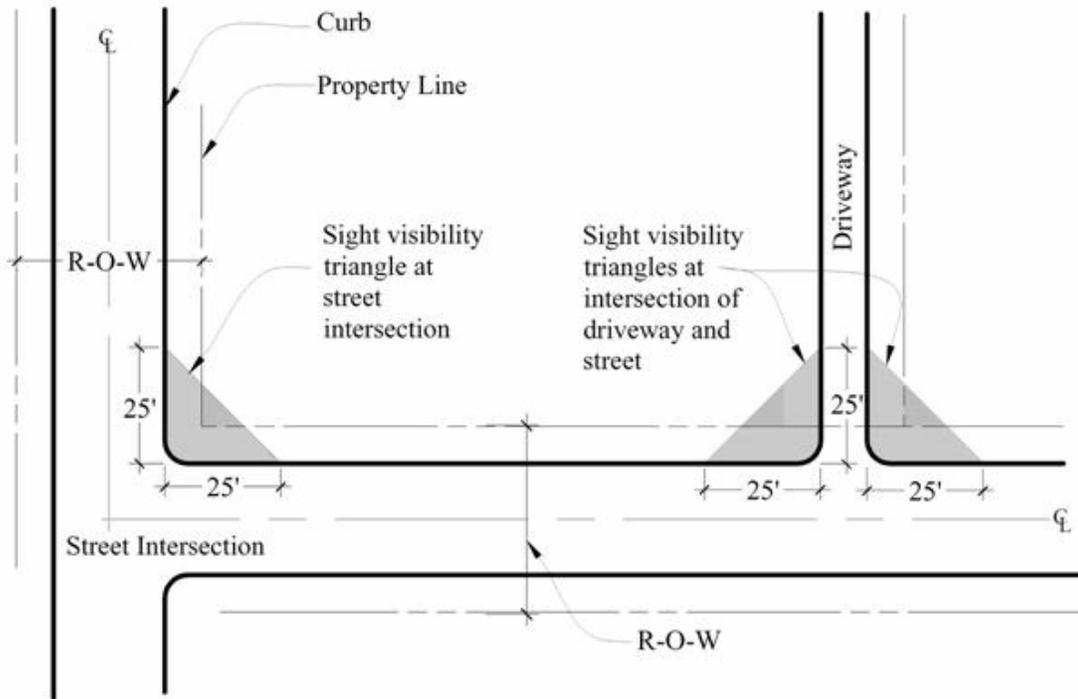
28 b. For fences and walls, see fences and walls height.

29 b. c. For signs, see Section 21.70.050(B).

30
31
32 ~~Sight Visibility Triangle. See illustration. “Sight visibility triangle” means a~~
33 ~~triangular space provided across all property corners created by either the~~
34 ~~intersection of two streets or the intersection of a driveway and a street. The sight~~
35 ~~visibility triangle is determined by drawing a diagonal line across the corner of the~~
36 ~~lot measured from two points drawn twenty-five feet back from the street or~~
37 ~~driveway intersections with a street.~~

38
39
40 Sight Visibility Triangle. See illustration. “Sight visibility triangle” means a
41 triangular area intended to remain free of visual obstructions to prevent potential
42 traffic hazards across all property corners formed by two intersecting streets or
43 the intersection of an alley and a street or the intersection of a driveway and a
44 street. The sight visibility triangle is determined by drawing a diagonal line
45 across the corner of the lot between two points each measured twenty-five feet

- 1 back from the vertex of the extended curblines of the intersecting streets, alleys
- 2 or driveways.

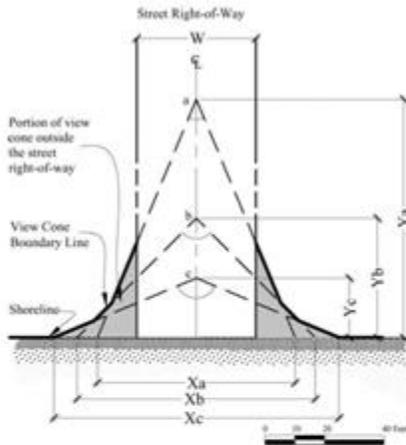


- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10

"View cone" means a space defined by two a series of projected lines from the centerline of a street right-of-way that is to be kept free of obstructions so as to preserve a distant view.

See illustration for calculation of view cone:

Calculations for a given right-of-way (W)



| Width of view cone at shoreline | Formula |
|--|----------------|
| Xa | 1.66 times (W) |
| Xb | 2 times (W) |
| Xc | 2.4 times (W) |
| Distance from shoreline to apex of view cone | |
| Ya | 2 times (W) |
| Yb | (W) |
| Yc | 0.5 times (W) |

Definitions

W = Width of street right-of-way
 Xa,b, or c = Width of view cone
 Ya,b, or c = Distance from shoreline to apex of view cone

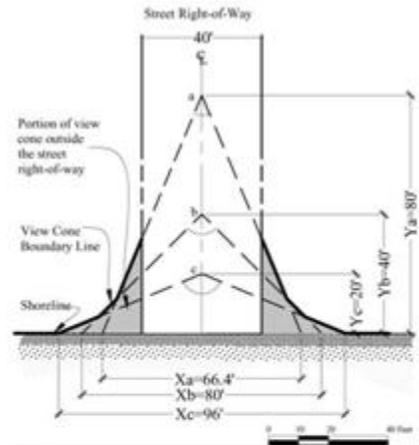


Example Calculations for a 40-foot street right-of-way

The view cone boundary is defined by the outer edges of three triangular view cones, which are labeled 'a', 'b', and 'c' in the diagram. The boundaries are drawn in plan (top down) view. The cones widen progressively approaching the water's edge (as the observer's view widens). The depths and widths of view cones 'a', 'b', and 'c' are calculated relative to the width of the adjacent street right-of-way.

Steps:

- Determine width of street right-of-way (W).
- Using graph paper, draw to scale the street right-of-way, marking the shoreline and the street centerline (CL).
- Calculate the width (Xa) of view cone 'a' at the shoreline using the formula in the table. Draw a line on the graph paper showing this width, with the line centered on the street right-of-way centerline at the shoreline.
- Calculate the depth (Ya) of view cone 'a' from the shoreline using the formula in the table. Mark this depth on the graph paper on the street centerline (point 'a' in the diagram).
- Draw view cone 'a' by connecting the outer points of Xa (step 3) with point 'a' (step 4) to form a triangle.
- Calculate and draw view cones 'b' and 'c' using the formulae in the table for Xb, Yb, Xc and Yc.
- The view cone boundary may now be drawn along the line that runs along the outermost extent from the street right-of-way of the three view cones (see heavy bold line in the diagram). The area within the view cone boundary, the shaded area in the diagram) is subject to Section 21.60.080.



| Width of view cone at shoreline | Formula | If Right-of-Way = 40' | |
|--|----------------|-----------------------|----------|
| Xa | 1.66 times (W) | 1.66 times 40' | Xa=66.4' |
| Xb | 2 times (W) | 2 times 40' | Xb=80' |
| Xc | 2.4 times (W) | 2.4 times 40' | Xc=96' |
| Distance from shoreline to apex of view cone | | | |
| Ya | 2 times (W) | 2 times 40' | Ya=80' |
| Yb | (W) | 40' | Yb=40' |
| Yc | 0.5 times (W) | 0.5 times 40' | Yc=20' |

1
2
3
4
5
6
7
8
9

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this Ordinance shall take effect from the date of its passage.

ADOPTED this _____ day of _____, _____.

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

10

FISCAL IMPACT NOTE

Legislation No: O-47-11

First Reader Date: 09-26-11

Note Date: 02-17-12

Legislation Title: Fence Permits

Description: For the purpose of amending the Code of the City of Annapolis with respect to the issuance of fence permits.

Analysis of Fiscal Impact: This legislation produces no significant fiscal impact.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

CITY COUNCIL OF THE
City of Annapolis
Ordinance No. O-3-13
Sponsor: Mayor Cohen

| LEGISLATIVE HISTORY | | | |
|---|----------------|--------------------|--------------|
| <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i> | | | |
| First Reading | Public Hearing | Fiscal Impact Note | 180 Day Rule |
| 1/28/13 | | | 7/26/13 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Rules and City Gov't | | | |
| Planning Commission | | | |

A ORDINANCE concerning

Bulk Regulations for Governmental Uses in the C1-A Zoning District

FOR the purpose of specifying that lot size and width requirements for existing buildings with a governmental use in the C1-A zoning district shall be determined through the special exception process, pursuant to Chapter 21.26 of the City of Annapolis Code.

BY repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2012 Edition
Section 21.50.130

SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the Code of the City of Annapolis shall be amended to read as follows:

CHAPTER 21.50 – BULK REGULATIONS TABLES

21.50.130 - Bulk Regulations Table C1-A District.

Important. The notes at the end of the table are as much a part of the law as the table itself.

| Permitted uses, special exception uses, and uses subject to specific standards | Floor Area Ratio (maximum) | Density (maximum, expressed as minimum sq. ft. of lot area per dwelling unit) | Lot Dimensions (minimum) Area (sq. ft. or acres) | Lot Dimensions (minimum) Width (ft) | Yards (minimum) Front (ft) | Yards (minimum) Interior Side (ft) | Yards (minimum) Corner Side (ft) | Yards (minimum) Rear (ft) | Height (maximum, feet) |
|--|----------------------------|---|--|-------------------------------------|----------------------------|------------------------------------|----------------------------------|---------------------------|------------------------|
| Bed and breakfast homes | 2.0 | | 3,600 | 25 | 1 | 2 | 3 | 30 | 4 |
| Dwellings, single-family detached | 2.0 | | 3,600 | 25 | 1 | 2 | 3 | 30 | 4 |
| Dwellings, two-family | 2.0 | 1,800 | 3,600 | 25 | 1 | 2 | 3 | 30 | 4 |
| Educational institutions | 2.0 | | 20,000 | 90 | 1 | 2 | 3 | 30 | 4 |
| Governmental uses | 2.0 | | 10,000 ⁶ | 70 ⁶ | 1 | 2 | 3 | 30 | 4 |
| Museums and art galleries | 2.0 | | 20,000 | 90 | 1 | 2 | 3 | 30 | 4 |
| Religious institutions | 2.0 | | 10,000 | 70 | 1 | 2 | 3 | 30 | 4 |
| Accessory Uses | | | | | | | | | |
| Accessory buildings | 2.0 | | Per the principal use | Per the principal use | 1 | 5 ⁵ | 3 | 2 | 4 |
| Mooring slip | | | | | No requirement | No requirement | No requirement | No requirement | |

- 1
2 Table Notes:
3 1. Front yards are not required, except in the case of an established front yard pursuant to
4 Chapter 21.38.
5 2. Side yards are not required, but where a side yard is provided it shall be not less than five
6 feet.
7 3. Corner side yards are not required, except in the case where there is an established front
8 yard in the remainder of the block. In those cases, the corner side yard shall be provided in
9 accordance with the established-front-yard regulations pursuant to Chapter 21.38.
10 4. In the historic district, special height measurement and limits requirements apply, see
11 Chapter 21.56.
12 5. Unless the entire accessory structure is located on the rear 25 percent of the lot, in which
13 case only two feet is required. See illustration at Section 21.60.100.
14 6. IN THE CASE OF EXISTING BUILDINGS, LOT SIZE AND WIDTH REQUIREMENTS
15 SHALL BE DETERMINED THROUGH THE SPECIAL EXCEPTION PROCESS, PURSUANT
16 TO CHAPTER 21.26.

1
2
3
4
5
6

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this Ordinance shall take effect from the date of its passage.

ADOPTED this _____ day of _____, _____.

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

7
8
9
10
11
12

EXPLANATION

CAPITAL LETTERS indicate matter added to existing law.
[brackets] indicate matter stricken from existing law.
Underlining indicates amendments.

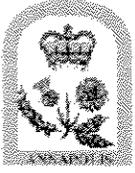
Policy Report

Ordinance O-3-13

Bulk Regulations for Governmental Uses in the C1-A Zoning District

The proposed ordinance would specify that lot size and width requirements for existing buildings with a governmental use in the C1-A zoning district shall be determined through the special exception process, pursuant to Chapter 21.26 of the City of Annapolis Code.

Prepared by Jessica Cowles, Legislative and Policy Analyst in the City of Annapolis Office of Law at 410.263.1184 or JCCowles@annapolis.gov.



City of Annapolis
Committee Referral Action

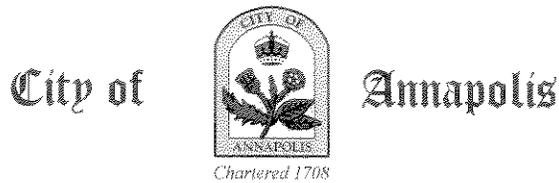
Date: March 8, 2013

To: Jessica Cowles
Legislative & Policy Analyst

The Planning Commission has reviewed Ordinance O-3-13 and has taken the following action:

 x Favorable

March 7, 2013
Meeting Date



PLANNING COMMISSION

(410)263-7961

145 GORMAN STREET, 3RD FLOOR
ANNAPOLIS, MARYLAND 21401

March 7, 2013

To: Annapolis City Council

From: Planning Commission

Re: Findings - O-3-13 Bulk Regulations for Governmental Uses in the C1-A Zoning District

SUMMARY

O-3-13 proposes to change the regulations regarding lot size and width requirements for **existing** buildings with a governmental use in the C1-A zoning district. Currently, under the Bulk Regulation table for the C1-A district, a lot size of 10,000 square feet and a lot width of 70 feet is required for governmental uses.

The proposed footnote would state:

IN THE CASE OF EXISTING BUILDINGS, LOT SIZE AND WIDTH REQUIREMENTS SHALL BE DETERMINED THROUGH THE SPECIAL EXCEPTION PROCESS, PURSUANT TO CHAPTER 21.26.

STAFF RECOMMENDATION

At a regularly scheduled meeting on March 7, 2013, the Planning and Zoning staff presented their recommendation on the legislation. The intent of the legislation is to allow for the adaptive reuse of such historic buildings, as the Maynard-Burgess House.

PUBLIC HEARING AND DELIBERATION

In accordance with the Annapolis City Code, a public hearing was held on March 7, 2013 and the public was invited to comment on the proposed text amendment. After the close of the public hearing, the Planning Commission entered into deliberations.

RECOMMENDATION

Under section 21.32.010 Purpose and authority of the City Code, it states the following:

For the purpose of promoting the public health, safety, morals and general welfare, and conserving the value of property throughout the city, the city council, from time to time, in the manner set forth in this chapter, may amend the regulations imposed in the districts created by this title; provided, that in all amendatory ordinances adopted under the authority of this chapter, due allowance shall be made for existing conditions, the conservation of property values, the direction of building development to the best advantages of the entire city and the uses to which property is devoted at the time of the adoption of the amendatory ordinance.

Annapolis City Council

Findings: O-3-13

March 7, 2013

Page 2

The code further requires under section 21.32.020 that "Within thirty days after the commission has completed its review of the proposed amendment, but in no case longer than ninety days after the matter has been placed on the agenda of the commission, the commission shall submit its written recommendations to the city council".

Following a review of the staff report and consideration of staff and public comments, the Commission by a vote of 6 to 0 recommends adoption of the ordinance.

Adopted this 7th day of March, 2013



Dr. Eleanor Harris, Chair



City of Annapolis

DEPARTMENT OF PLANNING AND ZONING

145 Gorman Street, 3rd Floor, Annapolis, Maryland 21401

Chartered 1708

Annapolis 410-263-7961 • FAX 410-263-1129 • TDD 410-263-7943

JON ARASON, AICP
DIRECTOR

February 27, 2013

MEMORANDUM

TO: Planning Commission

FROM: Jon Arason, Director of Planning and Zoning

Re: O-3-13 Bulk Regulations for Governmental Uses in the C1-A Zoning District

Attachments: Ordinance O-3-13

SUMMARY

O-3-13 proposes to change the regulations regarding lot size and width requirements for **existing** buildings with a governmental use in the C1-A zoning district. Currently, under the Bulk Regulation table for the C1-A district, a lot size of 10,000 square feet and a lot width of 70 feet is required for governmental uses.

The proposed footnote would state:

IN THE CASE OF EXISTING BUILDINGS, LOT SIZE AND WIDTH REQUIREMENTS SHALL BE DETERMINED THROUGH THE SPECIAL EXCEPTION PROCESS, PURSUANT TO CHAPTER 21.26.

This would allow for the adaptive reuse of such historic buildings, as the Maynard-Burgess House.

RECOMMENDATION

Staff recommends approval of O-3-13.

Jacquelyn Rouse
Report Prepared By

Jacquelyn M. Rouse, AICP

Planning Administrator

1
2
3
4
5
6
7

**CITY COUNCIL OF THE
City of Annapolis**

Ordinance No. O-3-13

Sponsor: Mayor Cohen

| LEGISLATIVE HISTORY <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i> | | | |
|---|----------------|--------------------|--------------|
| First Reading | Public Hearing | Fiscal Impact Note | 180 Day Rule |
| 1/28/13 | | | 7/26/13 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Rules and City Gov't | | | |
| Planning Commission | | | |

8
9 **A ORDINANCE** concerning

10 **Bulk Regulations for Governmental Uses in the C1-A Zoning District**

11 **FOR** the purpose of specifying that lot size and width requirements for existing buildings with
12 a governmental use in the C1-A zoning district shall be determined through the special
13 exception process, pursuant to Chapter 21.26 of the City of Annapolis Code.

14 **BY** repealing and re-enacting with amendments the following portions of the Code of the
15 City of Annapolis, 2012 Edition
16 Section 21.50.130
17

18
19 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**
20 **COUNCIL** that the Code of the City of Annapolis shall be amended to read as follows:

21
22 **CHAPTER 21.50 – BULK REGULATIONS TABLES**
23

24 **21.50.130 - Bulk Regulations Table C1-A District.**

25 **Important.** The notes at the end of the table are as much a part of the law as the table itself.
26
27
28
29
30

| Permitted uses, special exception uses, and uses subject to specific standards | Floor Area Ratio (maximum) | Density (maximum, expressed as minimum sq. ft. of lot area per dwelling unit) | Lot Dimensions (minimum) Area (sq. ft. or acres) | Lot Dimensions (minimum) Width (ft) | Yards (minimum) Front (ft) | Yards (minimum) Interior Side (ft) | Yards (minimum) Corner Side (ft) | Yards (minimum) Rear (ft) | Height (maximum, feet) |
|--|----------------------------|---|--|-------------------------------------|----------------------------|------------------------------------|----------------------------------|---------------------------|------------------------|
| Bed and breakfast homes | 2.0 | | 3,600 | 25 | ¹ | ² | ³ | 30 | ⁴ |
| Dwellings, single-family detached | 2.0 | | 3,600 | 25 | ¹ | ² | ³ | 30 | ⁴ |
| Dwellings, two-family | 2.0 | 1,800 | 3,600 | 25 | ¹ | ² | ³ | 30 | ⁴ |
| Educational institutions | 2.0 | | 20,000 | 90 | ¹ | ² | ³ | 30 | ⁴ |
| Governmental uses | 2.0 | | 10,000 ⁶ | 70 ⁶ | ¹ | ² | ³ | 30 | ⁴ |
| Museums and art galleries | 2.0 | | 20,000 | 90 | ¹ | ² | ³ | 30 | ⁴ |
| Religious institutions | 2.0 | | 10,000 | 70 | ¹ | ² | ³ | 30 | ⁴ |
| Accessory Uses | | | | | | | | | |
| Accessory buildings | 2.0 | | Per the principal use | Per the principal use | ¹ | ⁵ | ³ | 2 | ⁴ |
| Mooring slip | | | | | No requirement | No requirement | No requirement | No requirement | |

1

2 Table Notes:

- 3 1. Front yards are not required, except in the case of an established front yard pursuant to
4 Chapter 21.38.
5 2. Side yards are not required, but where a side yard is provided it shall be not less than five
6 feet.
7 3. Corner side yards are not required, except in the case where there is an established front
8 yard in the remainder of the block. In those cases, the corner side yard shall be provided in
9 accordance with the established-front-yard regulations pursuant to Chapter 21.38.
10 4. In the historic district, special height measurement and limits requirements apply, see
11 Chapter 21.56.
12 5. Unless the entire accessory structure is located on the rear 25 percent of the lot, in which
13 case only two feet is required. See illustration at Section 21.60.100.
14 6. IN THE CASE OF EXISTING BUILDINGS, LOT SIZE AND WIDTH REQUIREMENTS
15 SHALL BE DETERMINED THROUGH THE SPECIAL EXCEPTION PROCESS, PURSUANT
16 TO CHAPTER 21.26.

Policy Report

Ordinance O-3-13

Bulk Regulations for Governmental Uses in the C1-A Zoning District

The proposed ordinance would specify that lot size and width requirements for existing buildings with a governmental use in the C1-A zoning district shall be determined through the special exception process, pursuant to Chapter 21.26 of the City of Annapolis Code.

Prepared by Jessica Cowles, Legislative and Policy Analyst in the City of Annapolis Office of Law at 410.263.1184 or JCCowles@annapolis.gov.

FISCAL IMPACT NOTE

Legislation No: O-3-13

First Reader Date: 1/28/13

Note Date: 1/30/13

Legislation Title: **Bulk Regulations for Governmental Uses in the C1-A Zoning District**

Description: For the purpose specifying that lot size and width requirements for existing buildings with a governmental use in the C1-A zoning district shall be determined through the special exception process, pursuant to Chapter 21.26 of the City of Annapolis Code.

Analysis of Fiscal Impact: This legislation produces no significant fiscal impact.

1
2
3
4
5
6
7

**CITY COUNCIL OF THE
City of Annapolis**

Resolution No. R-7-13

Introduced by: Mayor Cohen

| LEGISLATIVE HISTORY | | | |
|---|----------------|--------------------|--------------|
| <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i> | | | |
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 2/11/13 | | | 5/10/13 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Rules and City Gov't | 2/11/13 | | |
| Transportation | 2/11/13 | | |
| Planning Commission | N/A | 1/3/13 | Favorable |
| Transportation Board | 2/11/13 | | |

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33

A RESOLUTION concerning

Wayfinding and Signage Master Plan

FOR the purpose of adopting the Draft Wayfinding and Signage Master Plan as an addendum to the 2009 Annapolis Comprehensive Plan.

WHEREAS, the Maryland Annotated Code, Land Use Article, Title 3, requires municipalities to adopt comprehensive plans, which are to include policies, statements, goals, and interrelated plans for private and public land use, transportation, and community facilities, and which are to be documented in texts and maps that constitute the guide for future development; and

WHEREAS, the Annapolis City Council adopted successive comprehensive plans for the City in 1975, 1985, 1998, and 2009; and

WHEREAS, on October 5, 2009 the Annapolis City Council adopted the 2009 Annapolis Comprehensive Plan pursuant to R-32-09 Amended; and

WHEREAS, the City of Annapolis received a grant from the Baltimore Metropolitan Council to improve its wayfinding and signage for vehicles, pedestrians, and bicyclists. Building on previous efforts, the Wayfinding and Signage Master Plan includes an inventory of existing wayfinding signage, preferred location and content for a comprehensive program of wayfinding signs, and a comprehensive wayfinding analysis that recommends future wayfinding technologies and strategies that will benefit the City; and

1 **WHEREAS,** one of the goals of the 2009 Annapolis Comprehensive Plan was to improve
2 circulation, accessibility, and mobility in the City by focusing on travel demand
3 management. One component of a travel demand management program is
4 marketing materials that inform people about travel choices; and
5

6 **WHEREAS,** better wayfinding has long been a key recommendation made by many groups
7 who look at parking and transportation in Annapolis. There have been previous
8 efforts to improve wayfinding in the City; however, this is the first time that there
9 has been a broad perspective that includes many different technologies and a
10 comprehensive framework of analysis.

11
12 **WHEREAS,** the proposed wayfinding system will: 1) help the City be flexible in adapting to
13 emerging wayfinding technologies; 2) aid in the creation of a cohesive program
14 of placemaking and wayfinding that identifies gateways, cultural districts, City
15 landmarks, and public services; and 3) influences travel behavior and promotes
16 multi-modal travel options.
17

18 **WHEREAS,** public input into the Wayfinding and Signage Master Plan involved the
19 formation of a 10-person steering committee, including the Executive Director
20 of the Four Rivers Heritage Area; the president & CEO of the Annapolis & Anne
21 Arundel County Conference & Visitors Bureau; the president & CEO of the
22 Annapolis Economic Development Corporation; the architect for the United
23 States Naval Academy; and City staff from the Departments of Transportation,
24 Public Works, Finance-MIT, and Planning and Zoning. Stakeholder interviews
25 over a two-day period in May 2012 and an open house in August 2012
26 completed the public input process; and
27

28 **WHEREAS,** the Planning Commission has recommended to the City Council the adoption
29 of a Wayfinding and Signage Master Plan as an addendum to the 2009
30 Annapolis Comprehensive Plan and transmitted the Draft Wayfinding and
31 Signage Master Plan to the Annapolis City Council on February 7, 2013; and
32

33 **WHEREAS,** the Wayfinding and Signage Master Plan, if adopted by the City Council by
34 passage of this Resolution, shall constitute an addendum to the 2009
35 Annapolis Comprehensive Plan which sets forth goals and a guide for future
36 development; and
37

38 **NOW, THEREFORE, BE IT RESOLVED BY THE ANNAPOLIS CITY** that the Draft Wayfinding
39 and Signage Master Plan is available online at:
40 <http://www.annapolis.gov/Government/Departments/PlanZone/Wayfinding.aspx> and is hereby
41 adopted; and
42

43 **BE IT FURTHER RESOLVED BY THE ANNAPOLIS CITY COUNCIL** that the Wayfinding and
44 Signage Master Plan be, and the same hereby, made part of the 2009 Annapolis
45 Comprehensive Plan. The Plan shall be known as the "Wayfinding and Signage Master Plan."
46

47 **BE IT FURTHER RESOLVED BY THE ANNAPOLIS CITY COUNCIL** that the adoption of the
48 Wayfinding and Signage Master Plan shall not be construed as an approval of individual
49 projects that may be recommended therein, and that the Annapolis City Council reserves the
50 right to consider, debate, oppose, or support specific actions that may come before the Council
51 and that are intended to implement specific elements of the Plan.

1
2
3
4
5

6
7
8
9
10
11
12
13
14
15

ADOPTED this _____ day of _____, _____.

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY _____

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

EXPLANATION

CAPITAL LETTERS indicate matter added to existing law.
[brackets] indicate matter stricken from existing law.
Underlining indicates amendments.

Policy Report

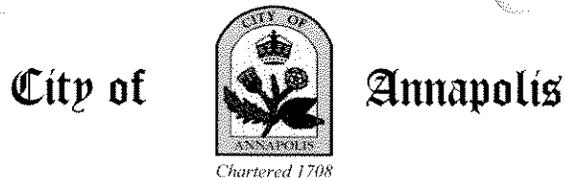
R-7-13

Wayfinding and Signage Master Plan

The proposed resolution would adopt the Draft Wayfinding and Signage Master Plan as an addendum to the 2009 Annapolis Comprehensive Plan. One of the goals of the 2009 Annapolis Comprehensive Plan was to improve circulation, accessibility, and mobility in the City by focusing on travel demand management. One component of a travel demand management program is marketing materials that inform people about travel choices.

Better wayfinding has long been a key recommendation made by many groups who look at parking and transportation in Annapolis. There have been previous efforts to improve wayfinding in the City; however, this is the first time that there has been a broad perspective that includes many different technologies and a comprehensive framework of analysis. The proposed wayfinding system will: 1) help the City be flexible in adapting to emerging wayfinding technologies; 2) aid in the creation of a cohesive program of placemaking and wayfinding that identifies gateways, cultural districts, City landmarks, and public services; and 3) influences travel behavior and promotes multi-modal travel options.

Prepared by Sally Nash, Senior Planner in the Department of Planning and Zoning at SNash@annapolis.gov or 410.263.7961 and Jessica Cowles, Legislative and Policy Analyst in the City of Annapolis Office of Law at JCCowles@annapolis.gov or 410.263.1184.



PLANNING COMMISSION

(410)263-7961

145 GORMAN STREET, 3RD FLOOR
ANNAPOLIS, MARYLAND 21401

February 7, 2013

To: Annapolis City Council

From: Planning Commission

Re: Wayfinding and Signage Master Plan

SUMMARY

The *Wayfinding and Signage Master Plan* includes an inventory of existing wayfinding signage, preferred location and content for a comprehensive program of wayfinding signs, and a comprehensive wayfinding analysis that recommends future wayfinding technologies and strategies that will benefit the City.

STAFF RECOMMENDATION

At a regularly scheduled meeting on January 3, 2013, the Planning and Zoning staff presented their analysis and recommendations for approval of the *Wayfinding and Signage Master Plan*.

Staff and the consultants reviewed the analysis and how public input was gathered to create the plan. This information was forwarded to the Planning Commission for review in a report dated December 18, 2012.

Staff stated that better wayfinding has long been a key recommendation made by many groups who look at parking and transportation in Annapolis. There have been previous efforts to improve wayfinding in the City; however, this is the first time that there has been a broad perspective that includes many different technologies and a comprehensive framework of analysis.

This framework several different elements, including existing pre-arrival technology / trip planning (such as the City's webpage or other websites with visitor information); in-place technology (such as pedestrian kiosks and mobile apps); environment / spaces (landmarks); and signage (pedestrian, vehicular, and interpretive). These elements function together to form an effective wayfinding system (see page 2.1, "Wayfinding Tools" from the Wayfinding Analysis). Some elements are already in place, while others need to be developed more efficiently to help people move throughout the City and discover new places to visit.

The proposed wayfinding system will help the City to be flexible and adapt to emerging wayfinding technologies. The plan should also help us in the creation of a cohesive program of placemaking and

wayfinding that not only identifies gateways, cultural districts, city landmarks, and public services, but influences travel behavior and promotes multi-modal travel options.

For example, better wayfinding can make it much easier for visitors to be able to locate available parking in a shorter period of time—thus eliminating the traffic caused by the roaming vehicle in search of a place to park. Improvements to pre-arrival technology, especially coordination across different websites and platforms, will encourage the use of downtown parking alternatives such as taking the Circulator or bicycling.

The *Wayfinding and Signage Master Plan* consists of four components. They are:

- Wayfinding Analysis
- Design Development
- Location Plans
- Message Schedule

The Wayfinding Analysis is the main focus of the Master Plan. It presents the objectives and philosophy behind the wayfinding program. It discusses wayfinding tools, how to address specific issues such as special event messaging, and how to maintain and manage the wayfinding signage. The Design Development describes the colors, typeface, and graphics to be used in the program, and shows an example of each sign type. The Location Plans are maps showing the location of each sign. The Message Schedule lists each sign and what it says. The Location Plans and Message Schedule will be reviewed by staff and finalized in the building permit process.

Compatibility with the Goals of the Comprehensive Plan and Other Studies

The planning commission finds that the *Wayfinding and Signage Master Plan* is consistent with the goals of the Comprehensive Plan, as well as other previous plans and studies that have touched upon the importance of wayfinding.

Public Input

A 10-person steering committee began meeting in April 2012 to guide the master plan process, including the public participation plan. The members of the steering committee include the executive director of the Four Rivers Heritage Area; the president & CEO of the Annapolis & Anne Arundel County Conference & Visitors Bureau; the president & CEO of the Annapolis Economic Development Corporation; the architect for the United States Naval Academy; and City staff from the Departments of Transportation, Public Works, Finance-MIT, and Planning and Zoning.

In February 2012, the City selected consultants Merje Design to lead the process of creating a schematic design for signage and for gathering information and soliciting feedback from the public. Merje has a holistic design approach that incorporates graphic design with the built environment. Their scope of work included creating an inventory of existing wayfinding signage, locating the preferred location and proposing content for a comprehensive program of wayfinding signs, and a wayfinding analysis that recommends future wayfinding technologies and strategies that will benefit the City.

Merje conducted a series of stakeholder interviews in early May 2012 to gather information about how visitors and residents find their way and move about Annapolis. The stakeholder meetings reviewed the

wayfinding process in detail, discussed potential criteria for vehicular and pedestrian signage locations, and began discussions on the overall identity development. An open house was also held to gather public input in August 2012. Merje explained the principles of wayfinding to the audience and asked the audience specific questions about the City's wayfinding needs.

PUBLIC HEARING AND DELIBERATION

A public hearing was held and the public was invited to comment on the proposed plan. Several individuals took the opportunity to speak.

At the close of the public hearing, the Planning Commission entered into deliberations. Comments were very favorable concerning the plan. Members of the Commission expressed that the Wayfinding and Signage Plan will be a great addition to the implementation of the Comp Plan and the City Dock Master Plan. The Commission concurred with staff.

RECOMMENDATION

A Motion was made to recommend approval of the plan. However, the motion was amended to add language indicating that the Planning Commission recommends that the use of dynamic signage be emphasized in the plan in regard to parking availability. The amended motion was approved by a vote of 7-0.

By a vote of 7-0, the Planning Commission voted to recommend that the *Master Wayfinding and Signage Plan* be forwarded to the City Council for approval and adoption.

Adopted February 7, 2013


Dr. Eleanor M. Harris, Chair



City of Annapolis City Council
Standing Committee Referral Action Report

Date: 4/15/13

To: Jessica Cowles,
City of Annapolis Office of Law,
Legislative and Policy Analyst

The Rules and City Government Committee has reviewed R-7-13 and
has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other

Comments:

Roll Call Vote:

Ald. Israel, Chair N/A

Ald. Hoyle yes Ald. Arnett yes
acting chair

Meeting Date 15 Apr. 13

Signature of Chair Ross H. Arnett



City of Annapolis City Council
Standing Committee Referral Action Report

Date: 4/11/13

To: Jessica Cowles,
City of Annapolis Office of Law,
Legislative and Policy Analyst

The Transportation Committee has reviewed R-7-13 and has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other

Comments:

Roll Call Vote:

Ald. Pfeiffer, Chair yes

Ald. Kirby yes

Ald. Arnett yes

Meeting Date 4/11/13

Signature of Chair [Signature]

FISCAL IMPACT NOTE

Legislation No: R-7-13

First Reader Date: 2/11/13

Note Date: 2/25/13

Legislation Title: **Wayfinding and Signage Master Plan**

Description: For the purpose of adopting the Draft Wayfinding and Signage Master Plan as an addendum to the 2009 Annapolis Comprehensive Plan

Analysis of Fiscal Impact: This legislation adopts the draft of an addendum to the 2009 Annapolis Comprehensive Plan and has no direct fiscal impact. However, wayfinding signs may improve garage usage and therefore revenues may improve.

1 CITY COUNCIL OF THE
2 City of Annapolis

3 Charter Amendment No. CA-2-12

4 Introduced by: Alderman Pfeiffer at the Request of the Charter Revision Commission
5
6
7

| LEGISLATIVE HISTORY | | | |
|---|----------------|--------------------|------------------|
| <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i> | | | |
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 9/24/12 | 10/22/12 | 10/13/12 | 12/21/12 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Rules and City Gov't | 9/24/12 | 11/13/12 | No action taken. |

8
9
10 **A CHARTER AMENDMENT** concerning

11 **Municipal Elections Coinciding with State of Maryland Elections in 2018 and Onward**

12 **FOR** the purpose of amending the Charter of the City of Annapolis to establish the dates of
13 the primary and general elections to coincide with the State of Maryland in 2018 and
14 extending the length of time in office for the incoming City Council in December 2013 an
15 additional year to December 2018 in order to facilitate this transition period.

16 **BY** repealing and re-enacting with amendments the following portions of the City Charter:
17 Article II, Section 2
18 Article II, Section 5
19

20 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**
21 **COUNCIL** that the Charter of the City of Annapolis shall be amended to read as follows:

22 **Sec. 2. - General election dates.**

23 The citizens and residents of the City of Annapolis qualified to vote for members of the General
24 Assembly of Maryland, and otherwise qualified by the registration and election laws for such
25 cases made and provided, shall elect by ballot, every four (4) years, beginning in [1985] 2018,
26 on the first Tuesday after the first Monday in November OR AS MAY BE DETERMINED BY
27 THE STATE OF MARYLAND BOARD OF ELECTIONS, a mayor; and the qualified voters, in
28 each ward shall at the same time elect by ballot one (1) resident of the ward as alderman.
29

30 **Sec. 5. - Primary election dates; municipal election dates; term dates.**

31 Nomination for a mayor and for one (1) alderman from each ward in the city shall be made by
32 direct vote of the respective political parties at primary elections to be held in the city for the
33 several candidates for mayor and, in each ward of the city, for the several candidates for
34 aldermen, on the third Tuesday of September in each year in which municipal elections in the
35 city are to be held OR AS MAY BE DETERMINED BY THE STATE OF MARYLAND BOARD
36 OF ELECTIONS. Municipal elections shall be held on the first Tuesday after the first Monday in
37 November in every fourth year, beginning with the year [1985] 2018 OR AS MAY BE

1 DETERMINED BY THE STATE OF MARYLAND BOARD OF ELECTIONS. However, in the
2 event an election will occur on the same day as the public observance of a religious holiday, or
3 in case of severe weather, the board of supervisors of elections shall have the authority to
4 reschedule the election to a day within one week of the day prescribed by this section OR AS
5 MAY BE DETERMINED BY THE STATE OF MARYLAND BOARD OF ELECTIONS. The mayor
6 and aldermen elected at each municipal election shall qualify in the manner prescribed by
7 Article II, Section 3 of this Charter, and shall take office on the first Monday in December of the
8 year in which they are elected and shall hold office until the first Monday in December in the
9 fourth year following, or until their successors are elected and qualify. IN ORDER FOR
10 MUNICIPAL ELECTIONS TO COINCIDE WITH STATE OF MARYLAND ELECTIONS, THE
11 CITY COUNCIL TERM FOR THE CITY COUNCIL BEGINNING ON THE FIRST MONDAY OF
12 DECEMBER 2013 WILL EXTEND AN ADDITIONAL YEAR TO THE FIRST MONDAY OF
13 DECEMBER 2018.

14
15 **SECTION II: AND BE IT FURTHER RESOLVED BY THE ANNAPOLIS CITY**
16 **COUNCIL** that the date of adoption of this Resolution is _____, 2012, and the amendments of
17 the Charter of the City of Annapolis, hereby enacted shall become effective on _____, 2012,
18 unless a proper petition for referendum hereon shall be filed as permitted by law within 40 days
19 of adoption, provided a complete and exact copy of this Resolution shall be continuously posted
20 on the bulletin board in the City Hall until _____, 2012, and provided further that a copy of the
21 title of this Resolution shall be published in "The Capital", a newspaper of general circulation in
22 the City of Annapolis, or in any other newspaper of such general circulation, once in each of the
23 weeks on, _____, 2012, _____, 2012, _____, 2012, and _____, 2012.
24

25 **SECTION III: AND BE IT FURTHER RESOLVED BY THE ANNAPOLIS CITY**
26 **COUNCIL** that the Mayor is hereby specifically commanded to carry out the provisions of
27 Section II hereof, and, as evidence of such compliance, the Mayor shall cause to be maintained
28 appropriate certificates of publication of the newspaper or newspapers in which the title of the
29 Resolution shall have been published and if a favorable referendum is held on the Charter
30 change, shall declare the Charter change hereby enacted to be effective on _____, 2012, by
31 affixing his signature hereto in the space provided on the effective date of change.
32

33 **SECTION IV: AND BE IT FURTHER RESOLVED BY THE ANNAPOLIS CITY**
34 **COUNCIL** that as soon as the Charter Amendment hereby enacted shall become effective,
35 either as provided herein or following a referendum, the Mayor shall send to the Maryland
36 Department of Legislative Services a copy of this Resolution showing the number of Aldermen
37 and Alderwomen voting for and against it and a report on the votes cast for or against the
38 amendment hereby enacted at any referendum thereon and the date of such referendum.
39

40 The above Charter Amendment was enacted by the foregoing Resolution which was
41 passed at a Meeting of the Annapolis City Council on _____, 2012; _____ voting in the
42 affirmative, _____ voting in the negative, _____ abstaining and _____ absent and the said
43 Resolution becomes effective in accordance with law on the ___ day of _____ 2012.
44
45
46
47

48 **ADOPTED** this _____ day of _____, _____.
49
50

1

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

2
3
4
5
6
7

EXPLANATION

CAPITAL LETTERS indicate matter added to existing law.

[brackets] indicate matter stricken from existing law.

Underlining indicates amendments.

1 **Policy Report**

2 **CA-2-12**

3 **Municipal Elections Coinciding with State of Maryland Elections in 2018**
4 **and Onward**

5
6
7
8 The proposed charter amendment would amend the Charter of the City of Annapolis to
9 establish the dates of the primary and general elections to coincide with the State of
10 Maryland in 2018 and extend the length of time in office for the incoming City Council in
11 December 2013 an additional year to December 2018 in order to facilitate this transition
12 period.

13 The proposed charter amendment is based on the recommendation of the 2011
14 Annapolis Charter Revision Commission that reported:

15 “City elections should be moved to coincide with state elections. There are two
16 primary reasons for doing this. First, it saves the City money to piggyback on the
17 state elections. Second, it will almost certainly improve voter turnout, which is
18 now embarrassingly low in City elections.”

19
20
21
22
23
24
25 Prepared by Jessica Cowles, Legislative and Policy Analyst, Office of Law at
26 JCCowles@annapolis.gov or (410) 263-1184.
27

**Proposed Amendment to CA-2-12
Municipal Elections Coinciding with State of Maryland Elections in 2018
and Onward**

Amendment #1

Insert "and Alderwoman" in all instances.

Page 1: Line 28, Line 31, Line 34

Page 2: Line 6



City of Annapolis City Council
Standing Committee Referral Action Report

Date: 11/13/12

To: Jessica Cowles,
City of Annapolis Office of Law,
Legislative and Policy Analyst

The Rules and City Government Committee has reviewed CA-2-12 and
has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other

Comments:

Motion failed

Roll Call Vote:

Ald. Israel, Chair NO

Ald. Hoyle absent Ald. Arnett YES

Meeting Date 11/13/12

Signature of Chair Richard Gordon

FISCAL IMPACT NOTE

Legislation No: CA-2-12

First Reader Date: 9/24/12

Note Date: 10/13/12

Legislation Title: Municipal Elections Coinciding with State of Maryland Elections in 2018 and Onward

Description: For the purpose of amending the Charter of the City of Annapolis to establish the dates of the primary and general elections to coincide with the State of Maryland in 2018 and extending the length of time in office for the incoming City Council in December 2013 an additional year to December 2018 in order to facilitate this transition period.

Analysis of Fiscal Impact: This legislation will postpone the costs incurred to conduct an election to the following year. Combining State of Maryland and City of Annapolis elections will provide a convenience to voters.

1 **CITY COUNCIL OF THE**
2 **City of Annapolis**

3 **Ordinance No. O-16-12**

4 **Introduced by: Mayor Cohen and Alderman Arnett**
5
6
7

| LEGISLATIVE HISTORY | | | |
|---|----------------|-------------------------------|--------------|
| <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i> | | | |
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 4/23/12 | 6/11/12 | 5/4/12 | 7/27/12 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Public Safety | 4/23/12 | 6/14/12 7/16/12 9/1//12 | Favorable |

8
9 **AN ORDINANCE** concerning

10 **Distribution of Unsolicited Materials**

11 **FOR** the purpose of establishing Section 11.36.025 of the Code of the City of Annapolis
12 regarding the distribution of unsolicited materials.

13 **BY** repealing and re-enacting with amendments the following portions of the Code of the
14 City of Annapolis, 2011 Edition
15 Section 11.36.010

16
17 **BY** adding to the following portions of the Code of the City of Annapolis, 2011 Edition
18 Section 11.36.025
19

20 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**
21 **COUNCIL** that the Code of the City of Annapolis shall be amended to read as follows:

22 **CHAPTER 11.36 – OFFENSES AGAINST PROPERTY.**

23 **11.36.010 - Advertising—Distribution in streets.**

24 No person shall distribute, or cause to be distributed, any pamphlets, dodgers, papers or other
25 advertising matter upon or about the streets or alleys, or fasten, or cause to be fastened, the
26 advertising matter to poles, or place, or cause them to be placed in or on automobiles. [This
27 section does not restrict the distribution of advertising matter from house to house; provided,
28 that it is so distributed that it will not be blown or cast into the street.]
29

30 **11.36.025 – LITTERING – UNSOLICITED MATERIALS.**

31 NO PERSON SHALL DISTRIBUTE, OR CAUSE TO BE DISTRIBUTED, ANY UNSOLICITED
32 MATERIALS UPON OR ABOUT THE STREETS, ALLEYS, RESIDENTIAL OR COMMERCIAL
33 PROPERTY, OR PUBLIC RIGHTS OF WAY. THIS SECTION DOES NOT RESTRICT THE
34 DISTRIBUTION OF UNSOLICITED MATERIALS (A) DELIVERED THROUGH THE U.S.

1 POSTAL SERVICE, (B) DEPOSITED ON RESIDENTIAL OR COMMERCIAL DOOR STEPS,
2 PORCHES, STOOPS OR (C) SECURED OR FASTENED THROUGH THE USE OF A DOOR
3 HANGER SO THAT THE MATERIALS WILL NOT BE BLOWN OR CAST INTO THE STREETS,
4 ALLEYS, RESIDENTIAL OR COMMERCIAL PROPERTY, OR PUBLIC RIGHTS OF WAY.
5

6 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**
7 **ANNAPOLIS CITY COUNCIL** that this Ordinance shall take effect from the date of its passage.
8

9 **ADOPTED** this _____ day of _____, _____.
10
11

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

12
13
14
15
16
17
18

EXPLANATION

CAPITAL LETTERS indicate matter added to existing law.
[brackets] indicate matter stricken from existing law.
Underlining indicates amendments.

Policy Report

O-16-12

Distribution of Unsolicited Materials

The proposed ordinance would prohibit the distribution of unsolicited materials upon or about the streets, alleys, residential or commercial property, or public rights of way. The proposed ordinance would not restrict the distribution of unsolicited materials (a) delivered through the U.S. Postal Service, (b) deposited on residential or commercial door steps, porches, stoops or (c) secured or fastened through the use of a door hanger so that the materials will not be blown or cast into the streets, alleys, residential or commercial property, or public rights of way.

Prepared by Jessica Cowles, Legislative and Policy Analyst in the City of Annapolis Office of Law at JCCowles@annapolis.gov or 410.263.1184.

Amendment to O-16-12
Distribution of Unsolicited Materials

Amendment #1 – *in the nature of a substitution:*

Strike from Page 1, Line 31 through Page 2, Line 2:

[NO PERSON SHALL DISTRIBUTE, OR CAUSE TO BE DISTRIBUTED, ANY UNSOLICITED MATERIALS UPON OR ABOUT THE STREETS, ALLEYS, RESIDENTIAL OR COMMERCIAL PROPERTY, OR PUBLIC RIGHTS OF WAY. THIS SECTION DOES NOT RESTRICT THE DISTRIBUTION OF UNSOLICITED MATERIALS (A) DELIVERED THROUGH THE U.S. POSTAL SERVICE, (B) DEPOSITED ON RESIDENTIAL OR COMMERCIAL DOOR STEPS, PORCHES, STOOPS OR (C) SECURED OR FASTENED THROUGH THE USE OF A DOOR HANGER SO THAT THE MATERIALS WILL NOT BE BLOWN OR CAST INTO THE STREETS, ALLEYS, RESIDENTIAL OR COMMERCIAL PROPERTY, OR PUBLIC RIGHTS OF WAY.]

Insert on Page 1, Line 31:

UNSOLICITED MATERIALS MAY BE DISTRIBUTED TO RESIDENTIAL OR COMMERCIAL PROPERTY ONLY IF SUCH UNSOLICITED MATERIALS ARE: (A) DELIVERED THROUGH THE U.S. POSTAL SERVICE, (B) DEPOSITED ON DOOR STEPS, PORCHES, OR STOOPS PROVIDED THAT THE MATERIALS WILL NOT BE BLOWN OR CAST INTO STREETS, ALLEYS, RESIDENTIAL OR COMMERCIAL PROPERTY, OR PUBLIC RIGHTS OF WAY OR (C) SECURED OR FASTENED TO A DOOR, HANDLE, OR ENTRANCE GATE.

Amendment #2

Page 2, Line 3: insert “A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MUNICIPAL INFRACTION AND IS SUBJECT TO A FINE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL.”



City of Annapolis City Council
Standing Committee Referral Action Report

Date: 9/17/12

To: Jessica Cowles,
City of Annapolis Office of Law,
Legislative and Policy Analyst

The Public Safety Committee has reviewed B-16-12 and has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other Postpone, request postponement by full council

Comments:

Roll Call Vote:

Ald. Finlayson, Chair yes

Ald. Paone yes

Ald. Silverman yes

Meeting Date 9/12/12

Signature of Chair Sheila M. Finlayson



City of Annapolis City Council
Standing Committee Referral Action Report

Date: 7/16/12

To: Jessica Cowles,
City of Annapolis Office of Law,
Legislative and Policy Analyst

The Public Safety Committee has reviewed 0-16-12 and has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other Postpone to September 24. Request the Law department work with the papers to create a MOU.

Comments:

Roll Call Vote:

Ald. Finlayson, Chair yes

Ald. Paone N/A

Ald. Silverman yes

Meeting Date 7/16/12

Signature of Chair Chela M. Finlayson



City of Annapolis City Council
Standing Committee Referral Action Report

Date: 6/14/12

To: Jessica Cowles,
City of Annapolis Office of Law,
Legislative and Policy Analyst

The Public Safety Committee has reviewed 0-16-12 and has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other

Comments:

Roll Call Vote:

Ald. Finlayson, Chair yes

Ald. Paone Recused

Ald. Silverman JLS

Meeting Date 6/14/12

Signature of Chair Sheila M. Finlayson

FISCAL IMPACT NOTE

Legislation No: O-16-12

First Reader Date: 4-23-12

Note Date: 5-4-12

Legislation Title: **Distribution of Unsolicited Materials**

Description: For the purpose of establishing Section 11.36.025 of the Code of the City of Annapolis regarding the distribution of unsolicited materials.

Analysis of Fiscal Impact:

This legislation produces no significant fiscal impact.

1
2
3
4
5
6
7

**CITY COUNCIL OF THE
City of Annapolis**

Resolution No. R-34-12

Introduced by: Mayor Cohen

| LEGISLATIVE HISTORY | | | |
|---|----------------|--------------------|-------------------------|
| <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i> | | | |
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 7/9/12 | 10/22/12 | 7/17/12 | 10/8/12 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Finance | 7/9/12 | | |
| Public Safety | 7/9/12 | 7/16/12 9/17/12 | Recommends postponement |

8
9
10
11
12
13
14
15
16
17
18
19
20
21

A RESOLUTION concerning

Establishing a Fine for Violations of Distributing Unsolicited Materials

FOR the purpose of establishing a fine for violations of distributing unsolicited materials.

WHEREAS, proposed ordinance O-16-12 amends the Code of the City of Annapolis by regulating litter caused by the distribution of unsolicited materials; and

WHEREAS, O-16-12 authorizes the City Council to establish a fine for violating the ordinance.

NOW THEREFORE BE IT RESOLVED BY THE ANNAPOLIS CITY COUNCIL that that the Fines Schedule is hereby amended as follows:

| Section in Code | Section Name | Fine for Initial Offense | Fine for Repeat or Continuous Violations |
|-----------------|-----------------------------------|------------------------------|--|
| 11.36.025 | LITTERING – UNSOLICITED MATERIALS | \$250 PER VIOLATION PER DAY. | \$250 PER VIOLATION PER DAY. |

22
23
24
25
26
27
28
29

AND, BE IT FURTHER RESOLVED BY THE ANNAPOLIS CITY COUNCIL that this resolution shall take effect on the date of adoption.

ADOPTED this _____ day of _____, _____.

1

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

2
3
4
5
6
7

EXPLANATION

CAPITAL LETTERS indicate matter added to existing law.
[brackets] indicate matter stricken from existing law.
Underlining indicates amendments.

Policy Report

R-34-12

Establishing a Fine for Violations of Distributing Unsolicited Materials

The proposed resolution would establish a fine for violations of distributing unsolicited materials. Proposed ordinance O-16-12 amends the Code of the City of Annapolis by regulating litter caused by the distribution of unsolicited materials and O-16-12 authorizes the City Council to establish a fine for violating the ordinance.

Prepared by Jessica Cowles, Legislative and Policy Analyst in the City of Annapolis Office of Law at JCCowles@annapolis.gov or 410.263.1184.



City of Annapolis City Council
Standing Committee Referral Action Report

Date: 9/17/12

To: Jessica Cowles,
City of Annapolis Office of Law,
Legislative and Policy Analyst

The Public Safety Committee has reviewed R-34-12 and has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other Postpone, request that fall council postpone

Comments:

Roll Call Vote:

Ald. Finlayson, Chair yes

Ald. Paone yes

Ald. Silverman yes

Meeting Date 9/17/12

Signature of Chair Sheila M. Finlayson



City of Annapolis City Council
Standing Committee Referral Action Report

Date: 7/16/12

To: Jessica Cowles,
City of Annapolis Office of Law,
Legislative and Policy Analyst

The Public Safety Committee has reviewed R-34-12 and has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other Postpone to September 24

Comments:

Roll Call Vote:

Ald. Finlayson, Chair yes

Ald. Paone N/A

Ald. Silverman yes

Meeting Date _____

Signature of Chair Heila M. Finlayson

FISCAL IMPACT NOTE

Legislation No: R-34-12

First Reader Date:

7-9-12

Note Date:

7-17-12

Legislation Title: Establishing a Fine for Violations of Distributing Unsolicited Materials

Description:

For the purpose of establishing a fine for violations of distributing unsolicited materials.

Analysis of Fiscal Impact:

This legislation provides for a fine of \$250 per violation per day for the initial offense and \$250 per violation per day for repeat or continuous violations of proposed O-16-12 which prohibits the distribution of unsolicited materials. The positive fiscal impact will depend on the number of violations.

1
2
3
4
5
6
7

**CITY COUNCIL OF THE
City of Annapolis**

Ordinance No. O-2-13 Amended

Introduced by: Mayor Cohen

| LEGISLATIVE HISTORY | | | |
|-----------------------|----------------|--------------------|--------------|
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 2/25/13 | | | 5/24/13 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Economic Matters | 2/25/13 | | |
| Environmental Matters | 2/25/13 | | |

8
9 **A ORDINANCE** concerning

10 **Lease of City Dock Space to Chesapeake Marine Tours**

11 **FOR** the purpose of authorizing for fiscal year 2019 the lease of certain municipal property
12 located at the City Dock to Chesapeake Marine Tours, Inc. for the docking and mooring
13 of certain boats.

14
15 **WHEREAS,** the City of Annapolis and Chesapeake Marine Tours, Inc., have entered into a
16 series of leases and amendments, the most recent being O-2-12, to lease
17 through June 30, 2018, certain docking space at the City Dock under certain
18 terms and conditions; and

19 **WHEREAS,** the Annapolis City Council believes that the proposed lease would benefit the
20 City; and

21
22 **WHEREAS,** a lease setting forth details of the rental has been prepared and is considered
23 satisfactory; and

24
25 **WHEREAS,** Article III, Section 8 of the Charter of the City of Annapolis requires the passage
26 of an ordinance to authorize a lease.

27
28 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**
29 **COUNCIL** that the proposed Lease, a copy of which is attached hereto and made a part hereof,
30 between the City of Annapolis and Chesapeake Marine Tours, Inc. d/b/a Watermark Cruises, is
31 hereby approved, and the Mayor is hereby authorized to execute the Lease on behalf of the
32 City. It is further expressly found by the City Council that the services to be provided as a result
33 of the Lease will benefit visitors and residents of the City, will generate tax revenues and
34 additional rental income to the City, and will better serve the public need for which the property
35 was acquired.

1 **AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**
2 **COUNCIL** that this Ordinance shall take effect from the date of its passage.

3
4 **ADOPTED** this _____ day of _____, 2013.

5
6
7
ATTEST: THE ANNAPOLIS CITY COUNCIL

Regina C. Watkins-Eldridge, MMC, City Clerk

BY _____
Joshua J. Cohen, Mayor

8
9
10 **EXPLANATION**
11 CAPITAL LETTERS indicate matter added to existing law.
12 [brackets] indicate matter stricken from existing law.
13 Underlining indicates amendments.

LEASE

This Lease is made this ____ day of _____, 2013, by and between the City of Annapolis, a municipal corporation of the State of Maryland, Lessor, and Chesapeake Marine Tours, Inc., a corporation of the State of Maryland, Lessee.

Whereas, the parties have entered into a succession of leases beginning in 1972 for purposes of permitting the Lessee to lease docking spaces at the Lessor's City Dock to dock its vessels and carry on its business of operating a cruise and water taxi service on the Chesapeake Bay and its tributaries;

Whereas, the existing Lease expires June 30, 2018;

Whereas, the parties entered into a Lease dated May 1, 2012 for the same purposes to provide for an additional leasing term from July 1, 2017 to June 30, 2018;

Whereas, the parties have agreed to this Lease for the same purposes and to provide for an additional leasing term of another one year period to run from July 1, 2018 to June 30, 2019;

Whereas, the Annapolis City Council has authorized this Lease pursuant to Ordinance - 2-13.

Now, therefore, in consideration of these premises and the terms stated below, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

1. Identification of Leased Docking Spaces

a. The Lessor hereby rents and leases to the Lessee, and the Lessee hereby rents and leases from the Lessor, for the term stated in paragraph 2, at the rent and upon the other terms set forth in this Lease, the following docking spaces at the City Dock, constituting two hundred sixty (260) linear feet of City Dock docking space:

1. The two end boat slips nearest the channel of Spa Creek known as Slips 21 and 22, both of which are suitable for boats not exceeding sixty five (65) feet in length;
2. The end of the dock adjacent to Slip 22 between two dolphins for a distance of not more than eighty feet (80'); and
3. Sixty feet (60') along the boardwalk adjacent to the Harbormaster's office.

2. Term

a. The term of this Lease shall be for a period of one year beginning July 1, 2018, and ending June 30, 2019.

3. Rent

a. The Lessee shall pay rent to the Lessor, for the lease of two hundred sixty (260) linear feet of City Dock docking space, for the FY period July 1, 2018, through June 30, 2019, at a rate of \$187.79 per linear foot, for a total amount of rent of \$48,825.40. This represents a 3% annual increase, using the same rate per linear foot, from the amount earned by the Lessor from the lease of one thousand four hundred twenty three (1,423) linear feet of total rented dock space at the City Dock during the 2010 calendar year. Annual rent shall be invoiced on or before June 1, 2018 by the City Harbormaster, which the Lessee shall pay not later than July 1, 2018. Payment shall be made directly to the City Harbormaster. If the Lessee fails to pay rent by July 5, 2018, the Lessor shall incur a late payment of 1% of the base rent, and an additional 1% of the base rent if unpaid by the fifth day of any subsequent month.

b. As additional rent for electricity service, the Lessee may, at its option and at its expense, arrange with Baltimore Gas & Electric to have its electric service separately metered and billed directly to the Lessee, or may pay monthly, by the first day of each month to the City Harbormaster the appropriate monthly winter electric rate, as set by the City Council in the Annual Fee Resolution applicable to the term of this Lease which, as it pertains to this Lease, for a one hundred amp outlet, shall be twice the rate set in the Annual Fee Resolution for a fifty amp outlet. If the Lessee chooses to pay pursuant to the monthly winter electric rate, the City Harbormaster shall invoice the Lessee and payment shall be due on the first day of the month after invoicing. If the Lessee fails to pay by the fifth day of any month, the Lessee shall incur a late payment calculated in accordance with the Annual Fee Resolution applicable to the term of this Lease.

c. As additional rent for refuse collection, the Lessee shall pay \$250.00 per month. by the first day of each month. The City Harbormaster shall invoice the Lessee and payment shall be due on the first day of the month after invoicing. If the Lessee fails to pay by the fifth day of any month, the Lessee shall incur a late payment calculated in accordance with the Annual Fee Resolution applicable to the term of this Lease.

d. As additional rent, the Lessee shall also pay from time to time all taxes and other charges or fees required by law.

4. Vessels Authorized at Docking Spaces

a. The Lessee shall have authority to dock an office barge at the leased docking spaces plus the passenger vessels Harbor Queen, No. 539448; Annapolitan II, No. 544467; Cabaret II, No. 1039051; Lady Sarah, No. 1160977; Miss Anne, No. 635636; Miss Anne II, No. 672686; Catherine Marie, No. 1082215; and four water taxi launches.

b. The Lessee may replace any vessel referenced above, provided that all replacement vessels are of the same size, or substantially the same size, and of the use, as Coast Guard certified passenger vessels. All replacement vessels shall be subject to the Lessor's final approval, which shall not be unreasonably withheld as long as all replacement vessels meet the standards of Coast Guard certified passenger vessels.

5. Use of Docking Spaces

a. The Lessee shall use the leased docking spaces solely as passenger vessels for sightseeing, boat charter and water taxi operations and for office space from which to conduct the business which this Lease authorizes at the Lessor's City Dock.

b. The Lessee shall notify the City Harbormaster whenever any of its vessels will be absent from any portion of the leased docking spaces for more than seventy-two (72) hours, during which time the Lessor may utilize any portion of the docking spaces so vacated for any lawful purpose whatsoever without any abatement of the rent due pursuant to this Lease. Whenever the Lessee vacates any portion of the leased space for more than seventy-two (72) hours, the Lessee shall give the Harbormaster twenty-four (24) hours written notice of the intended return to the docking spaces vacated.

c. The Lessee shall not discharge or board passengers at the plaza located at that portion of the City Dock closest to the Markethouse commonly known as the end of Ego Alley.

d. The Lessor shall attempt to keep the leased docking spaces free and clear of unauthorized vessels when the Lessee's vessels are away from the leased docking spaces, but shall be under no obligation or responsibility to do so, nor shall the Lessor assume or incur any liability for failing to do so, and the Lessee hereby unconditionally and completely waives and releases all complaints, claims, suits and actions of all types, both administrative and judicial, against the Lessor in connection therewith.

e. The Lessor shall have the right to remove from the leased docking spaces, without any liability whatsoever for so doing, and without prior or subsequent notice to the Lessee, any alterations made by the Lessee which are made without the express consent of the City Harbormaster. The cost of removal and/or repairs associated with the removal of any such unauthorized alterations, including any administrative costs incurred by the Lessor, shall be billed to the Lessee, and shall be due and payable by the Lessee promptly upon the Lessee's receipt of the invoice.

f. The Lessor shall have the right and privilege, with the consent of the Lessee, which consent shall not be unreasonably withheld, on not less than seven (7) days notice from the Lessor to the Lessee, to reclaim and use all or some of the leased docking spaces in order to meet prior contractual obligations relating to the annual sailboat and/or powerboat shows at or on the City Dock, and to accommodate certain special events, shows or programs conducted from time to time at or on the City Dock. In such event, the Lessee shall vacate designated leased docking spaces to which the consent applies and remove all of its vessels from the designated leased docking spaces during the period specified in the Lessor's notice.

g. If the Lessee vacates any of the leased docking spaces due to any events, shows or programs other than the annual sailboat and/or powerboat shows conducted at or on the City Dock, the Lessee shall be entitled to a pro rata abatement of the rent due pursuant to this Lease based on the ratio which the number of days of vacancy specified in the Lessor's notice to the Lessee bears to the total annual rent, and based on the docking spaces vacated.

h. The Lessee shall conduct its business in and about the City Dock in an orderly manner and shall keep its vessels neat and clean and shall maintain the area immediately adjacent to its mooring area and the leased spaces in a neat and clean manner.

6. Default, Breach and Termination

a. The Lessee shall be deemed to be in breach and default of this Lease if, within ten (10) days of the due date, the Lessee fails to pay the rent, the additional rent, or any other charges due under the terms of this Lease. In such event, the Lessor may declare this Lease

immediately terminated and the Lessor shall be entitled to all unpaid rent, additional rent and other charges due pursuant to this Lease, and to the immediate and exclusive use and possession of each of the leased docking spaces, without any notice or further demand for rent, additional rent and other charges due pursuant to this Lease, and without any notice to quit or vacate or other demand to recover use and possession of the leased docking spaces, or notice of intention to exercise its rights pursuant to this Lease, and the Lessee hereby expressly and unconditionally waives all such notice. In such event, the Lessee shall be responsible for all reasonable attorney fees and costs incurred by the Lessor to obtain eviction.

b. If the Lessee shall be in breach or default in the performance of any of the other terms of this Lease and fails to cure or remedy the breach or default within thirty days after the Lessor gives written notice to the Lessee of the breach or default, the Lessor may declare this Lease immediately terminated and the Lessor shall be entitled to all unpaid rent, additional rent and other charges due pursuant to this Lease, and to the immediate and exclusive use and possession of each of the leased docking spaces, without any notice or further demand for rent, additional rent and other charges due pursuant to this Lease, and without any notice to quit or vacate or other demand to recover use and possession of the leased docking spaces, or notice of intention to exercise its rights pursuant to this Lease, and the Lessee hereby expressly and unconditionally waives all such notice. In such event, the Lessee shall be responsible for all reasonable attorney fees and costs incurred by the Lessor to obtain eviction.

7. Signs

a. All signs which the Lessee desires to post must be approved by the Lessor and the Historic Preservation Commission of the City of Annapolis and any other agency if required by law.

8. Compliance with Law

a. The Lessee shall comply with all federal, state and municipal licensing laws and regulations to insure that the Lessee's vessels and crews are certified as appropriate and that the Lessee's operations are conducted in a safe and non-hazardous and lawful manner.

9. Insurance

a. The Lessee shall for the duration of this Lease maintain and pay the premiums for a policy of insurance covering liability for personal injury and property damage arising out of its business and operations pursuant to this Lease in the amount of no less than One Million Dollars (\$1,000,000.00) per person for bodily injury and property damage and Three Million Dollars (\$3,000,000.00) for each occurrence in the aggregate. The Lessee shall specifically name City of Annapolis and its Mayor, Aldermen and Alderwomen, employees, contractors and other agents as an additional insureds, and shall deliver a copy of such insurance policy and a certificate of insurance to the City Attorney at least ten days prior to the commencement of the lease term.

b. The Lessee shall have adequate workers' compensation insurance covering its employees who enter upon the access road leading to the Rental Area and the Rental Area itself and in no event shall the coverage in such policy be less than One Million Dollars (\$1,000,000.00) per person for accidental bodily injury and occupational disease. The Lessee shall specifically name City of Annapolis and its Mayor, Aldermen and Alderwomen, employees,

contractors and other agents as an additional insureds. The Lessee shall deliver a copy of its Worker's Compensation insurance policy and a certificate of insurance to the City Attorney at the time of the execution of this Lease and an updated certificate of insurance on the commencement date of each renewal term.

10. Indemnification

a. The Lessee shall indemnify, defend, and hold the City of Annapolis, its Mayor, Aldermen and Alderwomen, employees, contractors and other agents, harmless from all actions, causes of action, complaints, claims or demands, and all liability for injuries or damages to person or property, arising or alleged to arise as a result of any act or omission of the Lessee, its employees, contractors or other agents, whether or not the result of negligence or other fault, during the term of this Lease.

b. In the event the Lessee is required to defend any such actions, causes of action, complaints, claims or demands, the Lessee shall be entitled to participate in its defense, either in whole or in part as it so deems, and to select its own attorneys to provide a defense at the sole expense, for purposes of attorney fees and litigation costs, of the Lessee.

11. Immunities

a. The Lessor reserves and shall be entitled to enforce any and all immunities, partial or total, statutory or common law, in any proceeding that is initiated as a result of this Lease, whether initiated by the Lessor, the Lessee or any third party.

12. Assignment

a. The Lessee shall be entitled to assign its Lease obligations with the prior written consent of the Lessor, which the Lessor shall not unreasonably withhold, but any assignee, to the reasonable satisfaction of the Lessor, shall be financially able to meet the obligations of the Lease, including the payment of all rent due timely and the maintenance of the minimum insurance coverage required by this Lease, have the overall capability, expertise and resources to operate a waterfront tour and cruise business of a scale and quality comparable to that of the Lessee, or, in the alternative, to operate a maritime business that qualifies as an "amusement" under the Maryland State tax laws, and to otherwise perform the obligations of the Lease at the same level as the Lessee.

13. Absence of Agency

a. The Lessee acknowledges that it is an independent contracting party and not the agent or employee of the Lessor.

14. Notice

a. All notices pursuant to this Lease shall be by regular mail, fax or email, except notice of termination, which shall be by certified mail, return receipt requested.

b. Notice to the Lessor shall be to the City Attorney, 160 Duke of Gloucester Street, Annapolis, Maryland 21401.

c. Notice to the Lessee shall be to Debbie Gosselin at PO Box 3350, Annapolis, MD 21403.

d. The parties shall timely advise each other in writing of any change of address.

15. Venue, Waiver of Jury Trial and Governing Law

a. Venue for all judicial proceedings which result from this Lease shall be the courts of Anne Arundel County, Maryland.

b. The parties hereby expressly waive trial by jury in any such judicial proceeding.

c. The laws of the State of Maryland shall govern all matters relating to this Lease.

16. Modification or Amendment

a. This Agreement may not be modified or amended except in a writing signed by the parties and witnessed. No waiver of any provision of this Agreement shall be construed as a modification or amendment of this Agreement or valid unless in writing and signed by the parties and witnessed.

17. Integration

a. This Lease constitutes the entire agreement between the parties regarding the Lessee's lease of the Lessor's docking spaces. There are no other terms or understandings, oral or written, between the parties with respect thereto.

18. Binding Effect

a. The terms of this Lease shall be binding upon and shall be for the benefit of the parties and their successors and assigns.

Witness the signatures and seals of the parties.

Attest:

Lessor

Regina C. Watkins-Eldridge, MMC

By: _____
Joshua J. Cohen, Mayor (Seal)

Lessee

Witness

By: _____
Debbie Gosselin, President (Seal)

Approved for form and Legal Sufficiency:

Gary M. Elson, Assistant City Attorney
Date:

Policy Report

Ordinance O-2-13

Lease of City Dock Space to Chesapeake Marine Tours

The proposed ordinance would authorize for fiscal year 2019 the lease of certain municipal property located at the City Dock to Chesapeake Marine Tours, Inc. for the docking and mooring of certain boats.

Prepared by Jessica Cowles, Legislative and Policy Analyst in the City of Annapolis Office of Law at 410.263.1184 or JCCowles@annapolis.gov

**Technical Amendment to O-2-13
Lease of City Dock Space to Chesapeake Marine Tours**

Amendment #1

Page 1, Line 4: strike "Amended"



City of Annapolis City Council
Standing Committee Referral Action Report

Date: 3/21/13

To: Jessica Cowles,
City of Annapolis Office of Law,
Legislative and Policy Analyst

The Environmental Matters Committee has reviewed 0-2-13 and has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other

Comments:

Roll Call Vote:

Ald. Littmann yes

Ald. Paone yes

Ald. Pfeiffer yes

Meeting Date _____

Signature of Chair _____



City of Annapolis City Council
Standing Committee Referral Action Report

Date: 3/20

To: Jessica Cowles,
City of Annapolis Office of Law,
Legislative and Policy Analyst

The Economic Matters Committee has reviewed 0-2-13 and has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other

Comments:

Roll Call Vote:

Ald. Paone, Chair yes

Ald. Finlayson yes

Ald. Israel N/A

Meeting Date 3/20/13 Signature of Chair Richard M. Paone

FISCAL IMPACT NOTE

Legislation No: O-2-13 Amended

First Reader Date: 2/25/13

Note Date: 3/7/13

Legislation Title: Lease of City Dock Space to Chesapeake Marine Tours

Description: For the purpose of authorizing for fiscal year 2019 the lease of certain municipal property located at the City Dock to Chesapeake Marine Tours, Inc. for the docking and mooring of certain boats.

Analysis of Fiscal Impact:

This legislation would extend the City's current lease with Chesapeake Marine Tours for a period of one year, commencing July 1, 2018 and terminating June 30, 2019. This extension will provide the City with an estimated \$48,825.40 in rental revenue plus \$3,000.00 in refuse collection revenue in Fiscal Year 2019. The lessee may arrange with Baltimore Gas and Electric to have separately metered service billed directly to the lessee, or may pay to the City twice the appropriate monthly winter electric rate, as set by the City Council, for a fifty amp outlet. The current monthly winter rate for a fifty amp outlet is \$225 and if this method is selected the annual amount to be paid to the City for electricity would be \$5,400.

See below for actual revenues for FY2008 – FY2013 and estimated future revenues going forward through the period of this lease, assuming electricity is purchased through the City in FY2017 and FY2019. Unless specifically set by the leases, future years will consider the CPI-U in calculating revenues.

| Chesapeake Marine Tours | | | | | |
|-------------------------|-----------|-------------|----------|---------------------------------------|-----------|
| | Rent | Electricity | Refuse | Adjustment for dock restoration | Total |
| Past | | | | | |
| FY2008 | 39,148.68 | 2,018.28 | 725.85 | -20,881.14 | 21,011.67 |
| FY2009 | 40,753.78 | 2,101.03 | 755.61 | | 43,610.42 |
| FY2010 | 40,794.53 | 2,103.13 | 758.39 | | 43,656.05 |
| FY2011 | 41,895.98 | 2,159.91 | 776.79 | | 44,832.68 |
| FY2012 | 42,524.42 | 2,192.31 | 788.44 | | 45,505.17 |
| FY2013 | 43,800.15 | 2,258.08 | 812.09 | | 46,870.32 |
| Future | | | | | |
| FY2014 | 44,544.75 | 2,296.46 | 825.90 | | 47,667.11 |
| FY2015 | 44,544.75 | 2,296.46 | 825.90 | | 47,667.11 |
| FY2016 | 44,544.75 | 2,296.46 | 825.90 | | 47,667.11 |
| FY2017 | 48,825.40 | 5,400.00 | 3,000.00 | | 57,225.40 |
| FY2018 | 48,825.40 | 5,400.00 | 3,000.00 | | 57,225.40 |
| FY2019 | 48,825.40 | 5,400.00 | 3,000.00 | | 57,225.40 |

**CITY COUNCIL OF THE
City of Annapolis**

Ordinance No. O-17-13

Introduced By: Mayor Cohen

| LEGISLATIVE HISTORY | | | |
|---|----------------|--------------------|--------------|
| <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i> | | | |
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 3/18/13 | | | 6/14/13 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Economic Matters | 3/18/13 | | |
| Finance | 3/18/13 | | |
| Financial Advisory Commission | 3/18/13 | | |

AN ORDINANCE concerning

Issuance of Bonds

FOR the purpose of authorizing and empowering the City of Annapolis (the “City”) to issue and sell, upon its full faith and credit, general obligation bonds in the aggregate principal amount not to exceed Fifteen Million Three Hundred Seventy Thousand Dollars (\$15,370,000), pursuant to Sections 31 through 39, inclusive, of Article 23A of the Annotated Code of Maryland (2011 Replacement Volume and 2012 Supplement), as amended, and Article VII, Section 11 of the Charter of the City of Annapolis, as amended, to be designated as “Public Improvements Bonds, 2013 Series” and said bonds to be issued and sold for the public purpose of financing and refinancing certain capital projects of the City as provided in this Ordinance; authorizing and empowering the City to issue and sell, upon its full faith and credit, general obligation bonds in the aggregate principal amount not to exceed Five Million One Hundred Thousand Dollars (5,100,000) pursuant to Sections 31 through 39, inclusive, of Article 23A of the Annotated Code of Maryland (2011 Replacement Volume and 2012 Supplement), as amended, Section 24 of Article 31 of the Annotated Code of Maryland (2010 Replacement Volume and 2012 Supplement), and Article VII, Section 11 of the Charter of the City of Annapolis, as amended, to be designated as “Public Improvements Refunding Bonds, 2013 Series”, for the public purpose of refunding all or a portion of certain outstanding general obligation bonds as provided in this Ordinance; prescribing the form and tenor of said bonds; determining the method of sale of said bonds and other matters relating to the issuance and sale thereof; providing for the disbursement of the proceeds of said bonds; covenanting to levy and collect all taxes necessary to provide for the payment of the principal of and interest on said bonds; and generally providing for and determining various matters relating to the issuance, sale and delivery of all said bonds.

1 The Refunding Act authorizes the City to issue bonds for the purpose of refunding
 2 outstanding bonds issued by the City in order to (i) realize debt service savings on either a
 3 direct comparison or present value basis, or (ii) restructure debt that (1) in the aggregate effects
 4 such a reduction in the cost of debt service; or is determined to be in the best interests of the
 5 City, to be consistent with the City's long term financial plan, and to realize a financial objective
 6 including improving the relationship of debt service to a source of payment such as taxes,
 7 assessments or other charges.

8 The City has determined that it is in the best interest of the City to refund the Refunded
 9 Bonds in order to restructure its debt in order to realize the financial goals of the City consistent
 10 with the City's long term financial plan.

11 The Charter contains no limitations upon the rate at which *ad valorem* taxes may be
 12 levied by the City for the payment of the principal of and interest on said bonded indebtedness.

13 Since the adoption of Article XI-E as an amendment of the Constitution of Maryland, the
 14 General Assembly of Maryland has passed no law proposing a limitation upon the rate at which
 15 taxes may be levied by the City or a limitation upon the amount of bonded indebtedness which
 16 may be incurred by the City different from that set forth in the Charter.

17 NOW, THEREFORE, BE IT ESTABLISHED AND ORDAINED BY THE CITY COUNCIL,
 18 that:

19 SECTION 1. All terms used herein which are defined in the Recitals hereof shall have
 20 the meanings given such terms therein.

21 SECTION 2. It is in the best interest of the City to borrow money and incur indebtedness
 22 and the City is authorized and empowered to issue and sell, upon its full faith and credit, its
 23 general obligation, fully registered bonds in the aggregate principal amount not to exceed
 24 Fifteen Million Three Hundred Seventy Thousand Dollars (\$15,370,000) to be known as "Public
 25 Improvements Bonds, 2013 Series A" (the "Series A Bonds") or such other designation as
 26 deemed appropriate by the Mayor of Annapolis (the "Mayor") and City Manager of Annapolis
 27 (the "City Manager") for the purposes of financing and refinancing the costs of the public
 28 projects listed below (the "Projects"), including the costs of issuing the Series A Bonds.

| FUND | PROJECT NUMBER | PROJECT NAME | BOND FUNDING |
|--------------|----------------|------------------------|--------------|
| | | <i>GENERAL FUND</i> | |
| General Fund | 20004 | Maintenance Facilities | \$ 415,000 |
| | 20005 | City Hall Restoration | 1,310,000 |
| | 50008 | Truxtun Park Pool | 50,000 |
| | tbd | Fire Station Paving | 426,212 |
| | 40001 | General Roadways | 2,000,000 |

| | | | |
|--------------|-------|-----------------------------------|---------------------|
| | tbd | General Sidewalks | 600,000 |
| | tbd | Trail Connections | 150,000 |
| | 50006 | Truxtun Park Improvements (Trail) | 65,000 |
| | 74001 | City Dock Development | 315,000 |
| | | General Fund Total: | \$5,331,212 |
| | | <i>ENTERPRISE FUNDS</i> | |
| Water Fund | 71001 | Water Treatment Plant | \$5,000,000 |
| | 71003 | Water Distribution Rehab | 1,880,000 |
| | | Water Fund Total: | \$6,880,000 |
| Sewer | 72002 | Sewer Pump Station Rehab | \$ 614,000 |
| | 72004 | Sewer Rehab & Upgrades | 2,320,000 |
| | | Sewer Fund Total: | \$2,934,000 |
| Total | | | \$15,145,212 |

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

The costs of the Projects shall include (without limitation) the costs of the planning, construction, reconstruction, demolition, improvement, refurbishing, renovation, restoration, extension, alteration, installation, repair, acquisition, conversion and modernization of structures; the acquisition of structures and sites for structures; the acquisition of rights of way for roads; architectural and engineering services, including preparation of plans, drawings and specifications; and all customary and necessary furnishings and fixed permanent equipment for structures.

SECTION 3. It is in the best interest of the City to borrow money and incur indebtedness and the City is authorized and empowered to issue and sell, upon its full faith and credit its general obligation, fully registered bonds in the aggregate principal amount not to exceed Five Million One Hundred Thousand Dollars (\$5,100,000) to be known as "Public Improvements Refunding Bonds, 2013 Series A" (the "Refunding Bonds" and together with the Series A Bonds, the "Bonds") or such other designation as deemed appropriate by the Mayor and City Manager for the purposes of refunding all or a portion of the Refunded Bonds, and to pay the costs of issuing such bonds.

Any Bonds issued pursuant to this Ordinance may be issued as one or more series of Bonds, as deemed appropriate by the Mayor and City Manager.

SECTION 4. The City hereby covenants that any Bonds issued hereunder shall comply with all limitations of the Charter and that no Bonds shall be issued by the City if, by the issuance thereof, the total bonded indebtedness of the City incurred, less the amount of sinking

1 funds established for the retirement thereof, would then exceed ten per centum (10%) of the
2 assessed value of all real and personal property in the City taxable for municipal purposes.

3 SECTION 5. The Bonds authorized by this Ordinance shall be dated the date of their
4 delivery, shall be fully registered bonds without coupons in the denomination of Five Thousand
5 Dollars (\$5,000) each or any integral multiple thereof and shall bear interest at the interest rate
6 or rates fixed at the time of the awarding of the Bonds in accordance with an executive order of
7 the Mayor and the provisions of this Ordinance as hereinafter provided. Interest on the Bonds
8 shall be payable semi-annually on the dates and in the years as may be determined by the
9 Mayor in an executive order. The Bonds shall mature, subject to the option of prior redemption,
10 in annual installments, including any mandatory sinking fund installments, in the years as shall
11 be determined by the Mayor pursuant to an executive order; provided however, that the final
12 maturity of the Bonds shall not exceed 30 years from the date of delivery of the Bonds. Each
13 Bond shall bear interest from the interest payment date next preceding the date on which it is
14 authenticated, unless authenticated upon an interest payment date, in which event it shall bear
15 interest from such interest payment date, or unless authenticated prior to the first interest
16 payment date, in which event it shall bear interest from the date of the Bonds; provided,
17 however, that if at the time of authentication of any bond interest is in default, such bond shall
18 bear interest from the date to which interest has been paid.

19 SECTION 6. Certain of the Bonds may be subject to redemption prior to maturity as
20 may be determined by the Mayor in an executive order. With respect to the Bonds subject to
21 redemption, if any, the redemption dates and the redemption prices shall be specified in an
22 executive order by the Mayor.

23 The Bonds shall be redeemed only in integral multiples of \$5,000. If less than all of the
24 Bonds of any one maturity are called for redemption, the particular bonds to be redeemed from
25 such maturity shall be selected by lot by the bond registrar for the Bonds (the "Bond Registrar")
26 in such manner as the Bond Registrar in its sole discretion may determine or under the
27 procedures for book-entry bonds if the Bonds are under a book-entry system.

28 When less than all of a Bond in a denomination in excess of \$5,000 shall be so
29 redeemed, then upon the surrender of such Bond, there shall be issued to the registered owner
30 thereof, without charges, for the unredeemed balance of the principal amount of such Bond, at
31 the option of such owner, Bonds in any of the authorized denominations, the aggregate face
32 amount of such Bonds not to exceed the unredeemed balance of the Bond so surrendered, and
33 to bear the same interest rate and to mature on the same date as said unredeemed balance.

1 If the City elects to redeem all or a portion of the Bonds outstanding, it shall give a
2 redemption notice by first class mail, postage prepaid, at least 20 days prior to the date fixed for
3 redemption to each registered owner appearing on the books kept by the Bond Registrar.
4 Notwithstanding the foregoing, so long as all of the Bonds are registered in the name of Cede &
5 Co., as nominee for the Depository Trust Company, New York, New York ("DTC"), such notice
6 shall be given by a secure means (e.g. legible facsimile transmission, registered or certified mail
7 or overnight express delivery) in a timely manner designed to assure that such notice is in DTC
8 possession no later than the close of business on such 20th day; provided, however, that the
9 failure to mail the redemption notice or any defect in the notice so mailed or in the mailing
10 thereof shall not affect the validity of the redemption proceedings. The redemption notice shall
11 state (i) whether the Bonds are to be redeemed in whole or in part and, if in part, the maturities
12 and numbers of the Bonds to be redeemed, (ii) the date fixed for redemption and the
13 redemption price or prices, (iii) that the Bonds to be redeemed shall be presented for
14 redemption at the office of the Bond Registrar, (iv) that interest on the Bonds called for
15 redemption shall cease to accrue on the date fixed for redemption; and (v) other conditions, if
16 any, for the redemption on the date fixed for redemption, including but not limited to the
17 availability of funds for such redemption.

18 From and after the date fixed for redemption, if notice has been duly and properly given
19 and if funds sufficient for the payment of the redemption price of the Bonds called for
20 redemption plus accrued interest due thereon are available on such date, the Bonds so called
21 for redemption shall become due and payable at the redemption price or prices provided for
22 redemption of such Bonds on such date, interest on the Bonds shall cease to accrue and the
23 registered owners of the Bonds so called for redemption shall have no rights in respect thereof
24 except to receive payment of the redemption price plus accrued interest to the date fixed for
25 redemption. Upon presentation and surrender of a Bond called for redemption in compliance
26 with the redemption notice, the Bond Registrar shall pay the redemption price of such bond plus
27 accrued interest thereon to the date fixed for redemption. If bonds so called for redemption are
28 not paid upon presentation and surrender as described above, such bonds shall continue to
29 bear interest at the rates stated therein until paid.

30 SECTION 7. The Bonds shall be executed in the name of the City and on its behalf by
31 the Mayor. Such signature of the Mayor shall be imprinted on such Bonds by manual or
32 facsimile and a facsimile of the corporate seal of Annapolis shall also be imprinted thereon,
33 attested by the manual or facsimile signature of the City Clerk of Annapolis, all in accordance
34 with and pursuant to the authority of the Maryland Uniform Facsimile Signature of Public

1 Officials Act, being Sections 2-301 through 2-306 of the State Finance and Procurement Article
2 of the Annotated Code of Maryland.

3 In the event any official whose signature shall appear on such Bonds shall cease to be
4 such official prior to the delivery of the Bonds, or in the event any such official whose signature
5 shall appear on the Bonds shall have become such after the date of issue thereof, the Bonds
6 shall nevertheless be valid and legally binding obligations of Annapolis in accordance with their
7 terms.

8 All Bonds shall be issued as fully registered bonds without coupons and shall be
9 registered in the name or names of the owner or owners thereof; on books kept for such
10 purpose at the principal office of the Bond Registrar. The Bonds initially will be issued in book-
11 entry form without any physical distribution of certificates made to the public. DTC will act as
12 securities depository for the Bonds and the Bonds will be registered in the name of DTC's
13 partnership nominee, Cede & Co. The City reserves the right to terminate maintenance of the
14 Bonds in a book-entry only system and to issue fully certificated bonds. The Mayor or his
15 designee is hereby authorized to appoint a financial institution to act as the Bond Registrar and
16 as paying agent (the "Paying Agent") for the Bonds, unless the Mayor determines after
17 consulting with the financial advisor to the City (the "Financial Adviser") that the City shall act as
18 the Bond Registrar or the Paying Agent or both. Payment of the principal of and interest on the
19 Bonds shall be made to the person appearing on the registration books maintained by the Bond
20 Registrar as the registered owner thereof, such principal to be payable at the principal office of
21 the Paying Agent upon presentation and surrender of such bonds as the same become due and
22 payable, and such interest to be payable by check mailed by the Paying Agent to the persons in
23 whose names the bonds are registered on the regular record date which shall be the fifteenth
24 day of the month immediately preceding each regular interest payment date, or such other day
25 specified in the bond (the "Regular Record Date"), at the registered owner's address as shown
26 on the registration books maintained by the Bond Registrar.

27 SECTION 8. Any interest on any Bond which is payable but is not punctually paid or
28 provision for the payment of which has not been made ("Defaulted Interest") shall forthwith
29 cease to be payable to the registered owner on the relevant Regular Record Date solely by
30 virtue of such registered owner having been such registered owner; and such Defaulted Interest
31 may be paid by the City, at its election in each case, as provided in paragraph (1) or (2) below:

32 (1) The City may elect to make payment of any Defaulted Interest on the Bonds to
33 the persons in whose names such Bond is registered at the close of business on a record date
34 for the payment of such Defaulted Interest (the "Special Record Date"), which shall be fixed in

1 the following manner. The City shall notify the Paying Agent in writing of the amount of
2 Defaulted Interest proposed to be paid on the Bonds and the date of the proposed payment
3 (which date shall be such as will enable the Paying Agent to comply with the next sentence
4 hereof), and at the same time the City shall deposit or cause to be deposited with the Paying
5 Agent an amount of money equal to the aggregate amount proposed to be paid in respect of
6 such Defaulted Interest or shall make arrangements satisfactory to the Paying Agent for such
7 deposit prior to the date of the proposed payment, such money when deposited to be held in
8 trust for the benefit of the persons entitled to such Defaulted Interest as provided in this
9 paragraph. Thereupon the Paying Agent shall fix a Special Record Date for the payment of
10 such Defaulted Interest which shall be not more than fifteen (15) nor less than ten (10) days
11 prior to the date of the proposed payment after the receipt by the Paying Agent of the notice of
12 the proposed payment. The Paying Agent shall promptly notify the City of such Special Record
13 Date and, in the name of the City, shall cause notice of the proposed payment of such Defaulted
14 Interest and the Special Record Date therefore to be mailed, first-class postage prepaid, to each
15 registered owner at his address as it appears in the registration books maintained by the Bond
16 Registrar not less than ten (10) days prior to such Special Record Date. The Paying Agent
17 may, in its discretion, in the name of the City, cause a similar notice to be published at least
18 once in a newspaper of general circulation in Annapolis, Maryland but such publication shall not
19 be a condition precedent to the establishment of such Special Record Date. Notice of the
20 proposed payment of such Defaulted Interest and the Special Record Date therefore having
21 been mailed as aforesaid, such Defaulted Interest shall be paid to the registered owners of the
22 Bonds as of the close of business on such Special Record Date.

23 (2) The City may make payment of any Defaulted Interest in any other lawful manner
24 not inconsistent with the requirements of any securities exchange on which the Bonds may be
25 listed, and upon such notice as may be required by such exchange, if, after notice given by the
26 City to the Paying Agent of the proposed payment pursuant to this paragraph, such payment
27 shall be deemed practicable, and approved in writing, by the Paying Agent.

28 Except as provided hereinafter or in ordinances of the Mayor and Aldermen of the City of
29 Annapolis adopted prior to the issuance and delivery of the Bonds, all Bonds shall be
30 substantially in the following form, with appropriate insertions as therein indicated and such
31 other modifications as shall be approved by the Mayor, which form and all of the covenants
32 therein contained are hereby adopted by Annapolis as and for the form of obligation to be
33 incurred by Annapolis, and said covenants and conditions are hereby made binding upon
34 Annapolis, including the promise to pay therein contained:

No. R-_____
\$_____

(Form of Bond)

UNITED STATES OF AMERICA
STATE OF MARYLAND
CITY OF ANNAPOLIS, MARYLAND

GENERAL OBLIGATION BOND

PUBLIC IMPROVEMENTS BOND
2013 SERIES

Interest Rate Per Annum Maturity Date Date of Original Issue CUSIP

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT DOLLARS

CITY OF ANNAPOLIS (the "City"), a municipal corporation created and existing under the laws of the State of Maryland, hereby acknowledges itself indebted, and, for value received, promises to pay to the Registered Owner shown above or registered assigns or legal representatives on the Maturity Date shown above (unless this bond shall be redeemable, shall have been called for prior redemption and payment of the redemption price made or provided for), the Principal Amount shown above or so much thereof as shall not have been paid upon prior redemption in any coin or currency which, at the time of payment, is legal tender for the payment of public and private debts upon presentation and surrender of this bond on the date such principal is payable or if such date is not a Business Day (hereinafter defined) then on the next succeeding Business Day at the principal office of the Paying Agent, and to pay to the registered owner hereof by check or draft, mailed to such registered owner at his address as it appears on said registration books (the "Bond Register") maintained by the Bond Registrar interest on said principal amount at the Interest Rate shown above until payment of such principal amount, or until the prior redemption hereof, such interest being payable semi-annually on the first days of [_____] and [_____] in each year, in like coin or currency to the registered owner in whose name this bond is registered on the Bond Register as of the close of business on the regular record date, which shall be the fifteenth day of the month immediately preceding each regular interest payment date (the "Regular Record Date"). Any such interest not so punctually paid or duly provided for shall forthwith cease to be payable to the registered owner on the Regular Record Date, and may be paid to the person in whose name this bond is registered at the close of business on a date fixed by the Paying Agent for such defaulted interest payment (the "Special Record Date"), notice of which is given to the registered owner hereof not less than ten (10) days prior to such Special Record Date, or may be paid at any time in any other lawful manner not inconsistent with the requirement of any securities exchange on which the bonds of this series may be listed and upon such notice as may be required by such exchange.

"Business Day" means a day other than a Saturday, Sunday or day on which banking institutions under the laws of the State governing the Paying Agent are authorized or obligated by law or required by executive order to remain closed.

1
2 This bond shall not be valid or become obligatory for any purpose, until this bond shall have
3 been authenticated by an authorized officer of the Bond Registrar.
4

5 This bond is one of a duly authorized issue of general obligation bonds of the City aggregating
6 _____ Dollars (\$_____) in principal amount, which are in
7 denominations of \$5,000 or any integral multiple thereof, mature serially in installments on the
8 first day of August in each of the years 20_ to 20_, inclusive, and bear interest per annum as
9 follows:

| | | | | | | |
|----|-----------------|---------------|-------------|-----------------|---------------|-------------|
| 10 | Year of | Principal | Interest | Year of | Principal | Interest |
| 11 | | | | | | |
| 12 | <u>Maturity</u> | <u>Amount</u> | <u>Rate</u> | <u>Maturity</u> | <u>Amount</u> | <u>Rate</u> |
| 13 | | | | | | |
| 14 | | | | | | |
| 15 | | | | | | |
| 16 | | | | | | |
| 17 | | | | | | |
| 18 | | | | | | |

19 The bonds are numbered from one consecutively upwards prefixed by the letter "R" and are of
20 like tenor and effect except as to maturity, number, interest rate, denomination and redemption
21 provisions, and are issued pursuant to and in full conformity with the provisions of Sections 31
22 to 39, inclusive, of Article 23A of the Annotated Code of Maryland (2011 Replacement Volume
23 and 2012 Supplement), as amended, and Article VII, Section 11 of the Annapolis City Charter,
24 and by virtue of due proceedings had and taken by the Mayor and Aldermen of the City of
25 Annapolis particularly an Ordinance adopted on the _____ day of _____, 20__ (approved
26 _____ 20__) (the "Ordinance").
27

28 The bonds which mature on or before [_____] are not subject to redemption prior to their
29 maturities. The bonds which mature on or after [_____] are subject to redemption prior to
30 their maturities on or after [_____] at the option of the City either as a whole or in part at
31 any time, in any order of maturities, at a redemption price expressed as a percentage of the
32 principal amount of the bonds to be redeemed, set forth in the table below, together with interest
33 accrued to the date fixed for redemption:
34

| | | |
|----|---|-------------------------|
| 35 | <u>Redemption Period (both dates inclusive)</u> | <u>Redemption Price</u> |
| 36 | | |
| 37 | | |
| 38 | | |

39 If less than all of the bonds of any one maturity of this issue shall be called for redemption, the
40 bonds to be redeemed shall be selected by lot by the Bond Registrar in such manner as, in its
41 discretion, it shall determine.
42

43 When less than all of a bond in a denomination in excess of \$5,000 shall be so redeemed, then,
44 upon the surrender of such bond, there shall be issued to the registered owner thereof, without
45 charge, for the unredeemed balance of the principal amount of such bond, at the option of such
46 owner, bonds in any of the authorized denominations, the aggregate face amount of such bonds
47 not to exceed the unredeemed balance of the bond so surrendered, and to bear the same
48 interest rate and to mature on the same date as said unredeemed balance.
49

50 If the City elects to redeem all or a portion of the bonds outstanding, it shall give a redemption
51 notice by first class mail, postage prepaid, at least 20 days prior to the date fixed for redemption

1 to each registered owner appearing on the books kept by the Bond Registrar. Notwithstanding
2 the foregoing, so long as all of the Bonds are registered in the name of Cede & Co., as nominee
3 for the Depository Trust Company, New York, New York ("DTC"), such notice shall be given by
4 a secure means (e.g. legible facsimile transmission, registered or certified mail or overnight
5 express delivery) in a timely manner designed to assure that such notice is in DTC possession
6 no later than the close of business on such 20th day; provided, however, that the failure to mail
7 the redemption notice or any defect in the notice so mailed or in the mailing thereof shall not
8 affect the validity of the redemption proceedings. The redemption notice shall state (i) whether
9 the bonds are to be redeemed in whole or in part and, if in part, the maturities and numbers of
10 the bonds to be redeemed, (ii) the date fixed for redemption and the redemption price or prices,
11 (iii) that the bonds to be redeemed shall be presented for redemption at the office of the Bond
12 Registrar, (iv) that interest on the bonds called for redemption shall cease to accrue on the date
13 fixed for redemption, and (v) other conditions, if any, for the redemption on the date fixed for
14 redemption, including but not limited to the availability of funds for such redemption.
15

16 From and after the date fixed for redemption, if notice has been duly and properly given and if
17 funds sufficient for the payment of the redemption price of the bonds called for redemption plus
18 accrued interest due thereon are available on such date, the bonds so called for redemption
19 shall become due and payable at the redemption price or prices provided for redemption of such
20 bonds on such date interest on the bonds shall cease to accrue and the registered owners of
21 the bonds so called for redemption shall have no rights in respect thereof except to receive
22 payment of the redemption price plus accrued interest to the date fixed for redemption. Upon
23 presentation and surrender of a bond called for redemption in compliance with the redemption
24 notice, the Bond Registrar shall pay the redemption price of such Bond plus accrued interest
25 thereon to the date fixed for redemption. If bonds so called for redemption are not paid upon
26 presentation and surrender as described above, such bonds shall continue to bear interest at
27 the rates stated therein until paid.
28

29 This bond is transferable only upon the registration books kept at the principal office of the Bond
30 Registrar, by the registered owner hereof in person, or by his attorney duly authorized in writing,
31 upon surrender hereof together with a written instrument of transfer in the form attached hereto
32 and satisfactory to the Bond Registrar duly executed by the registered owner or his duly
33 authorized attorney, and thereupon, within a reasonable time, the City shall issue in the name of
34 the transferee a new registered bond or bonds of any authorized denominations in aggregate
35 principal amount equal to the principal amount of this bond or the unredeemed portion hereof,
36 and maturing on the same date and bearing interest at the same rate. Said new bond or bonds
37 shall be delivered to the transferee only after payment of any tax or governmental charge
38 required to be paid with respect to and any shipping expenses or insurance relating to, such
39 transfer and only after due authentication thereof by an authorized officer of the Bond Registrar.
40 The City shall not be required to issue, transfer or exchange any bond during the period
41 beginning fifteen days before any selection of bonds to be redeemed and ending on the day of
42 publication and mailing of the notice of redemption or to transfer or exchange any bond called or
43 being called for redemption in whole or in part. The City may deem and treat the person in
44 whose name this bond is registered as the absolute owner hereof for the purpose of receiving
45 payment of or on account of the principal or redemption price hereof and interest due hereon
46 and for all other purposes.
47

48 The full faith and credit and unlimited taxing power of the City are hereby irrevocably pledged to
49 the prompt payment of the principal of and interest on this bond according to its terms, and the
50 City does hereby covenant and agree to pay the principal of this bond and the interest thereon,

1 at the dates and in the manner mentioned herein, according to the true intent and meaning
2 hereof.
3

4 It is hereby certified and recited that all conditions, acts and things required by the Constitution
5 or statutes of the State of Maryland, the Charter and the Ordinance to exist, to have happened
6 or to have been performed precedent to or in the issuance of this bond, exist, have happened
7 and have been performed, and that the issue of bonds of which this is one, together with all
8 other indebtedness of the City, is within every debt and other limit prescribed by said
9 Constitution or statutes or Charter, and that due provision has been made for the levy and
10 collection of an *ad valorem* tax or taxes upon all legally assessable property within the corporate
11 limits of the City in rate and amount sufficient to provide for the payment, when due, of the
12 principal of and interest on this bond.
13

14 IN WITNESS WHEREOF, this bond has been executed by the facsimile signature of the Mayor
15 of the City, which signature has been imprinted hereon, a facsimile of the corporate seal of the
16 City has been imprinted hereon, attested by the manual or facsimile signature of the City Clerk
17 as of the first day of _____, ____.

18
19 ATTEST: CITY OF ANNAPOLIS

20
21
22
23 _____ By: _____
24 City Clerk Mayor

25
26
27
28 CERTIFICATION OF AUTHENTICATION

29
30 The undersigned hereby certifies that this bond is one of the registered bonds of the City of
31 Annapolis.
32

33 _____
34 _____
35 [Authorized Officer of Bond Registrar]

36
37 (Form of Assignment)

38
39 FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ the
40 within bond and all rights thereunder, and does hereby constitute and appoint
41 _____ to transfer the within bond on the books kept for the registration thereof,
42 with full power of substitution in the premises.
43

44 Dated: _____

45
46 In the presence of:
47
48 _____
49

- 1 Notice: The signature to this assignment must correspond with the name as it appears upon the
- 2 face of the within bond in every particular, without alteration or enlargement or any change
- 3 whatever.
- 4

1
2 SECTION 9. All of the Bonds authorized by this Ordinance may be sold by solicitation of
3 competitive sealed proposals at public sale in accordance with the provisions of the following
4 Notice of Sale at the principal office of the City, on such date as may be selected by the Mayor
5 pursuant to an executive order for cash at no less than par, to the bidder therefore whose bid is
6 deemed to be for the best interests of Annapolis. Bids shall be received as provided in the
7 Notice of Sale. The Bonds authorized by this Ordinance may also be sold, if the Mayor
8 determines that it would be in the best interest of the City, at private (negotiated) sale without
9 advertisement, publication, notice of sale, or solicitation of competitive bids. The Mayor shall
10 award the sale of the Bonds by executive order.

11 Unless a referendum petition shall be filed as provided hereinafter or the Bonds are sold
12 at private (negotiated) sale, the City Clerk of Annapolis is authorized and directed to publish a
13 notice of sale at least twice in a daily or weekly newspaper having general circulation in
14 Annapolis. The publication of such notice of sale shall be made once at least ten days prior to
15 the date of sale. The City Clerk may give such other notice of the sale of such Bonds, within or
16 without this State, by publication or otherwise, as the Mayor may deem appropriate.

17 The Director of Finance of Annapolis (the "Finance Director") is hereby authorized and
18 directed to make all necessary arrangements for the tabulation and comparison of the proposals
19 received, including the employment of specially qualified personnel, if necessary, so that he will
20 be able promptly to advise the Mayor as to the proposal which produces the lowest true interest
21 cost for the Bonds sold.

22 The Mayor, City Manager and Finance Director are hereby authorized to prepare and
23 distribute a preliminary official statement and final official statement in connection with the sale
24 of the Bonds.

25 The Notice of Sale if used for the issue of Bonds authorized by this Ordinance shall be in
26 substantially the form hereinafter set forth, with the insertions therein indicated. The terms and
27 conditions stated in such Notice of Sale are hereby adopted and approved as the terms and
28 conditions under which and the manner in which such Bonds shall be sold, issued and delivered
29 at public sale, subject to such insertions, alterations, additions or deletions as the Mayor may
30 deem advisable due to financial or market conditions prevailing at the time based upon the
31 advice of the Financial Advisor.

1
2 **NOTICE OF SALE**

3
4 \$ _____
5 **CITY OF ANNAPOLIS, MARYLAND**
6 **General Obligation Bonds**
7 **Public Improvements Bonds, 2013 Series**
8

9 Electronic bids via the BiDCOMP/Parity Competitive Bidding System ("PARITY") will be
10 received until ____ a.m., prevailing Eastern time, on _____ (unless postponed as
11 described herein) by City of Annapolis (the "City") for the City's General Obligation Bonds,
12 Public Improvements [Refunding] Bonds, 2013 Series [A] (the "Bonds").
13

14 **Terms of the Bonds**

15 The Bonds shall be dated the date of their delivery.

16 Interest on the Bonds is payable on _____ and semi-annually thereafter on
17 [_____ and _____] until maturity. The Bonds will mature on [_____] in the
18 following respective years and principal amounts:
19
20
21
22

| <u>Maturing</u> * | <u>Principal</u> <u>Amount*</u> | <u>Maturing</u> * | <u>Principal</u> <u>Amount*</u> |
|----------------------|------------------------------------|----------------------|------------------------------------|
| 2013 | | 2023 | |
| 2014 | | 2024 | |
| 2015 | | 2025 | |
| 2016 | | 2026 | |
| 2017 | | 2027 | |
| 2018 | | 2028 | |
| 2019 | | 2029 | |
| 2020 | | 2030 | |
| 2021 | | 2031 | |
| 2022 | | 2032 | |

23
24 _____
25 *Preliminary, subject to change. See "Adjustments of Principal Amounts."
26

27 The proceeds of the Bonds will be used to finance the costs of certain public projects of
28 the City and pay the costs of issuing the Bonds. The Bonds will be fully registered bonds without
29 coupons in the denomination of \$5,000 each or any integral multiple thereof.
30

31 **Authority**

32
33 The Bonds are issued pursuant to Sections 31 through 39, inclusive, of Article 23A of the
34 Annotated Code of Maryland (2011 Replacement Volume and 2012 Supplement), [Section 24 of
35 Article 31 of the Annotated Code of Maryland (2010 Replacement Volume and 2012
36 Supplement), and Article VII, Section 11 of the Charter of the City of Annapolis, as amended.
37 The Bonds are authorized pursuant to Ordinance O-____-12.
38

1 The Bonds are general obligations of the City, and will constitute an irrevocable pledge
2 of its full faith and credit and unlimited taxing power.

3
4 **Book-Entry System**

5
6 One bond representing each maturity of the Bonds will be issued to and registered in the
7 name of Cede & Co., as nominee of The Depository Trust Company, New York, New York
8 (“DTC”), as registered owner of the Bonds and each such bond shall be held in the custody of
9 DTC. DTC will act as securities depository for the Bonds. Individual purchases will be made in
10 book-entry form only, in the principal amount of \$5,000 or any integral multiple thereof.
11 Purchasers will not receive physical delivery of certificates representing their interest in the
12 Bonds purchased. The winning bidder, as a condition to delivery of the Bonds, will be required
13 to deposit the bond certificates representing each maturity with DTC.

14
15 Interest on the Bonds will be payable when due and the principal or redemption price of
16 the Bonds will be payable at maturity or upon earlier redemption to DTC or its nominee as
17 registered owner of the Bonds. Transfer of principal and interest payments to beneficial owners of
18 the Bonds by participants of DTC (“Participants”) will be the responsibility of Participants and other
19 nominees of beneficial owners. The City will not be responsible or liable for such transfers of
20 payments or for maintaining, supervising or reviewing the records maintained by DTC,
21 Participants or persons acting through Participants.

22
23 **Optional Redemption**

24
25 Bonds maturing on or before [_____] are not subject to redemption prior to their
26 stated maturities. Bonds maturing on or after [_____] are subject to redemption prior to
27 their maturities at the option of the City on or after [_____] either as a whole or in part at
28 any time in any order of maturity at the option of the City, at par plus accrued interest thereon to
29 the date fixed for redemption.

30
31 **Adjustments of Principal Amounts**

32
33 The preliminary aggregate principal amount of the Bonds and the preliminary principal
34 amount of each annual payment on the Bonds as set forth in this Notice of Sale (the
35 “Preliminary Aggregate Principal Amount” and the “Preliminary Annual Principal Amount”, and
36 collectively the “Preliminary Amounts”) may be revised before the receipt and opening of the
37 bids for their purchase. Such revisions may include the addition or deletion of maturities of the
38 Bonds. **ANY SUCH REVISIONS** made prior to the opening of the bids (the “Revised Aggregate
39 Principal Amount” and the “Revised Annual Principal Amount”, and collectively the “Revised
40 Amounts”) **WILL BE PUBLISHED ON THOMPSON MUNICIPAL MARKET MONITOR (“TM3”)**
41 **(www.tm3.com) NOT LATER THAN 9:30 A.M. (LOCAL BALTIMORE, MARYLAND TIME) ON**
42 **THE ANNOUNCED DATE FOR RECEIPT OF BIDS FOR THE BONDS.**

43
44 In the event that no such revisions are made, the Preliminary Amounts will constitute the
45 Revised Amounts. Bidders shall submit bids based on the Revised Amounts and the Revised
46 Amounts will be used to compare bids and select a winning bidder.

47
48 Such Revised Amounts, among other things, will be used by the City to calculate the final
49 aggregate principal amount of the Bonds and the final principal amount of each annual payment
50 on the Bonds (the “Final Aggregate Principal Amount” and the “Final Principal Amount” of each
51 annual payment, respectively, and collectively, the “Final Amounts”). In determining the Final

1 Amounts the City reserves the right to increase or decrease the aggregate amount of the Bonds
2 by an amount not to exceed twelve percent (12%) and correspondingly adjust the issue size, with
3 all calculations to be rounded to the nearest \$5,000.
4

5 In the event of any such adjustment, no rebidding or recalculation of the bid submitted will
6 be required or permitted. If necessary, the total purchase price of the Bonds will be increased or
7 decreased in direct proportion to the ratio that the adjustment bears to the aggregate principal
8 amount of the Bonds specified herein; and the Bonds of each maturity, as adjusted, will bear
9 interest at the same rate and must have the same initial reoffering yields as specified in the bid of
10 the successful bidder. However, the award will be made to the bidder whose bid produces the
11 lowest true interest cost, calculated as specified in the section entitled "Basis of Award" herein.
12 THE SUCCESSFUL BIDDER MAY NOT WITHDRAW ITS BID OR CHANGE THE INTEREST
13 RATES BID OR THE INITIAL REOFFERING PRICES AS A RESULT OF ANY CHANGES MADE
14 TO THE PRINCIPAL AMOUNTS WITHIN THESE LIMITS. IN READJUSTING THE PRINCIPAL
15 AMOUNT OF THE BONDS FOLLOWING THE AWARD, [THE CITY WILL HOLD CONSTANT
16 THE BIDDER'S GROSS SPREAD PER \$1,000 BONDS AS INDICATED IN THE ORIGINAL BID.]
17 In this process, however, the City reserves the right to adjust the actual dollar amount of Bidder's
18 gross spread resulting from an upward or downward adjustment of the principal amount of the
19 Bonds.

Change of Bid Date and Closing Date

20 The City reserves the right to postpone, from time to time, the date established for the
21 receipt of bids and will undertake to notify registered prospective bidders via notification published
22 on [TM3](#).
23

24 A postponement of the bid date will be announced via TM3 not later than 4:00 p.m.,
25 prevailing Eastern Time, on the last business day prior to any announced date for receipt of bids,
26 and an alternative sale date and time will be announced via TM3 at that time or at a later date.
27

28 On any such alternative date and time for receipt of bids, the City will accept electronic
29 bids for the purchase of the Bonds, such bids to conform in all respects to the provisions of this
30 Notice of Sale, except for the changes in the date and time for receipt of bids and any other
31 changes announced via TM3.
32

33 The City reserves the right to change the scheduled delivery date for the Bonds.
34

Bid Parameters

35 No bid of less than 100% of par or more than 112% on an "all-or-none" basis, no oral bid
36 and no bid for less than all of the Bonds described in this Notice of Sale, will be considered.
37

38 Bidders are requested to name the interest rate or rates in multiples of 1/8 or 1/20 of 1%,
39 and the highest rate may not exceed the lowest rate by more than 3% and no interest rate may
40 exceed 5.50%. A zero rate may not be named. No Bond shall bear more than one rate of
41 interest which rate shall be uniform for the life of the Bond.
42
43
44

Basis of Award

45 The Mayor of the City will not accept and will reject any bid for less than all of the Bonds.
46 The City will award all of the Bonds to one bidder. The City reserves the right to reject any and
47
48

1 all bids and to waive any irregularities in any of the bids. The judgment of the City shall be final
2 and binding upon all bidders with respect to the form and adequacy of any proposal received
3 and as to its conformity with the terms of this Notice of Sale.
4

5 The Bonds will be awarded to the bidder naming the lowest true interest cost (TIC) for
6 the Bonds in any legally acceptable proposal and offering to pay not less than par. The lowest
7 true interest cost with respect to the Bonds will be determined by doubling the semiannual
8 interest rate, compounded semiannually, necessary to discount the debt service payments from
9 the payment dates to the date of the Bonds and to the amount bid.
10

11 Where the proposals of two or more bidders result in the same lowest true interest cost
12 for any Bonds, such Bonds may be apportioned between such bidders, but if this shall not be
13 acceptable, the City shall have the right to award all of such Bonds to one bidder. There will be
14 no auction. The right is reserved to the City to reject any or all proposals and to waive any
15 irregularity or informality in any proposal. The City's judgment shall be final and binding upon all
16 bidders with respect to the form and adequacy of any proposal received and as to its conformity
17 to the terms of this Notice of Sale. Any award of the Bonds may be made as late as 4:00 p.m.,
18 prevailing Eastern Time, on the sale date. All bids remain firm until an award is made. Upon
19 notice of such award, the winning bidder shall advise the City of the initial reoffering prices to
20 the public of each maturity of the Bonds and the names of the members of the underwriting
21 groups.
22

23 **Procedures for Electronic Bidding**

24 ***Bidders to Submit Bids by PARITY***

25 Bids must be submitted electronically via PARITY pursuant to this Notice of Sale until
26 11:00 a.m., prevailing Eastern time, on the sale date but no bid will be received after the time for
27 receiving bids specified above. To the extent any instructions or directions set forth in PARITY
28 conflict with this Notice of Sale, the terms of this Notice of Sale shall control. For further
29 information about PARITY, potential bidders may contact i-Deal LLC at 1359 Broadway, 2nd
30 Floor, New York, New York 10018, telephone (212) 849-5021.
31
32
33

34 ***Disclaimer***

35 Each prospective electronic bidder shall be solely responsible to submit its bid via
36 PARITY as described above. Each prospective electronic bidder shall be solely responsible to
37 make necessary arrangements to access PARITY for the purpose of submitting its bid in a
38 timely manner and in compliance with the requirements of this Notice of Sale. Neither the City
39 nor PARITY shall have any duty or obligation to provide or assure access to PARITY to any
40 prospective bidder, and neither the City nor PARITY shall be responsible for proper operation
41 of, or have any liability for any delays or interruptions of, or any damages caused by PARITY.
42 The City is using PARITY as a communication mechanism, and not as the City's agent, to
43 conduct the electronic bidding for the Bonds. The City is not bound by any advice and
44 determination of PARITY to the effect that any particular bid complies with the terms of this
45 Notice of Sale and in particular the "Bid Parameters" set forth herein. All costs and expenses
46 incurred by prospective bidders in connection with their submission of bids via PARITY are the
47 sole responsibility of the bidders; the City is not responsible, directly or indirectly, for any of such
48 costs or expenses. If a prospective bidder encounters any difficulty in submitting, modifying, or
49 withdrawing a bid for the Bonds, such bidder should telephone i-Deal LLC at (212) 849-5021
50 and notify Davenport & Company LLC by facsimile at (866) 932-6660.
51

1
2 **Electronic Bidding Procedures**
3

4 Electronic bids must be submitted for the purchase of the Bonds (all or none) via
5 PARITY. Bids will be communicated electronically to the City at 11:00 a.m., prevailing Eastern
6 time, on [_____]. Prior to that time, a prospective bidder may (1) submit the proposed
7 terms of its bid via PARITY, (2) modify the proposed terms of its bid, in which event the
8 proposed terms as last modified will (unless the bid is withdrawn as described herein) constitute
9 its bid for the Bonds or (3) withdraw its proposed bid. Once the bids are communicated
10 electronically via PARITY to the City, each bid will constitute an irrevocable offer to purchase
11 the Bonds on the terms therein provided. For purposes of the electronic bidding process, the
12 time as maintained on PARITY shall constitute the official time.
13

14 **Good Faith Deposit**
15

16 A good faith deposit in the amount of \$_____ is required of the winning
17 bidder for the Bonds. The winning bidder for the Bonds is required to submit such good faith
18 deposit payable to the order of the City in the form of a wire transfer in federal funds as
19 instructed by the City's Financial Advisor, Davenport & Company LLC or a financial surety bond.
20 The winning bidder shall submit the good faith deposit not more than two hours after verbal
21 award is made. The winning bidder should provide as quickly as it is available, evidence of wire
22 transfer by providing the City the federal funds reference number. If the winning bidder fails to
23 comply with the good faith deposit requirement as described herein, that bidder is nonetheless
24 obligated to pay to the City the sum of \$_____ as liquidated damages due to the failure
25 of the winning bidder to timely deposit the good faith deposit.
26

27 A bidder may submit a financial surety bond from an insurance company acceptable to
28 the City, the claims paying ability of which is rated AAA by Standard & Poor's, a Division of the
29 McGraw-Hill Companies, Inc., or Aaa by Moody's Investors Service, Inc. and licensed to issue
30 such a bond in the State of Maryland and such surety bond must be submitted to the Director of
31 Finance of the City prior to 11:00 a.m., prevailing Eastern Time, on the date of sale. The financial
32 surety bond must identify each bidder whose good faith deposit is guaranteed by such financial
33 surety bond. If the Bonds are awarded to a bidder utilizing a financial surety bond, then the
34 successful bidder is required to submit its good faith deposit to the Director of Finance of the City
35 not later than 12:00 noon, prevailing Eastern Time, on the next business day following the award
36 either in the form of a wire transfer as described above in accordance with the City's instructions
37 to such successful bidder. If such good faith deposit is not received by that time, the financial
38 surety bond may be drawn by the City to satisfy the good faith deposit requirement.
39

40 ***Submission of a bid to purchase the Bonds serves as acknowledgement and acceptance***
41 ***of the terms of the good faith deposit requirement.***
42

43 The good faith deposit will be retained by the City until the delivery of the Bonds, at which
44 time the good faith deposit will be applied against the purchase price of the Bonds or the good
45 faith deposit will be retained by the City as partial liquidated damages in the event of the failure of
46 the successful bidder to take up and pay for such Bonds in compliance with the terms of this
47 Notice of Sale and of its bid. No interest on the good faith deposit will be paid by the City. The
48 balance of the purchase price must be wired in federal funds to the account detailed in the
49 closing memorandum, simultaneously with delivery of the Bonds.
50

1 **Approving Legal Opinion**
2

3 The approving legal opinion of McKennon Shelton & Henn LLP, Baltimore, Maryland,
4 Bond Counsel, will be furnished to the purchasers without cost. There will also be furnished the
5 usual closing papers and, in addition, a certificate signed by appropriate officers of the City,
6 certifying that there is no litigation pending or, to the knowledge of the signers of such
7 certificate, threatened affecting the validity of the Bonds and that on the date of the Official
8 Statement mentioned below and at the time of delivery of the Bonds the statements and
9 information contained in such Official Statement which are made and provided by the City are
10 and will be true, correct and complete in all material respects and the Official Statement does
11 not and will not omit any statement or information which is required to be stated therein or
12 necessary to make the statements and information therein, in the light of the circumstances
13 under which they were made, not misleading or incomplete in any material respect.
14

15 **Preliminary Official Statement; Continuing Disclosure**
16

17 The City has deemed the Preliminary Official Statement with respect to the Bonds dated
18 _____ (the "Preliminary Official Statement") to be final as of its date for purposes of
19 Rule 15c2-12 of the United States Securities and Exchange Commission (the "SEC"), except for
20 the omission of certain information permitted to be omitted by said Rule. The City agrees to
21 deliver to the successful bidder for its receipt no later than seven business days after the date of
22 sale of the Bonds such quantities of the final official statement as the successful bidder shall
23 request; provided, that the City shall deliver up to 300 copies of such official statement without
24 charge to the successful bidder.
25

26 The City has made certain covenants for the benefit of the holders from time to time of
27 the Bonds to provide certain continuing disclosure, in order to assist bidders for the Bonds in
28 complying with Rule 15c2-12(b)(5) of the SEC. Such covenants are described in the
29 Preliminary Official Statement.
30

31 **Delivery**
32

33 The Bonds will be delivered on or about [_____] (unless a notice of a change in
34 the delivery date is provided) through the facilities of DTC in New York, New York, against
35 payment therefore in federal or other immediately available funds.

36 **Reoffering Price Certificate**

37 SIMULTANEOUSLY WITH OR BEFORE DELIVERY OF THE BONDS, THE
38 SUCCESSFUL BIDDER SHALL FURNISH TO THE CITY A CERTIFICATE ACCEPTABLE TO
39 BOND COUNSEL TO THE EFFECT THAT (I) THE SUCCESSFUL BIDDER HAS MADE A
40 BONA FIDE PUBLIC OFFERING OF EACH MATURITY OF THE BONDS AT THE INITIAL
41 REOFFERING PRICES, (II) AS OF THE DATE OF THE SALE OF THE BONDS, THE
42 SUCCESSFUL BIDDER REASONABLY EXPECTED TO SELL A SUBSTANTIAL AMOUNT OF
43 EACH MATURITY OF THE BONDS TO THE PUBLIC (EXCLUDING BOND HOUSES,
44 BROKERS AND OTHER INTERMEDIARIES) AT THEIR RESPECTIVE REOFFERING
45 PRICES, AND (III) A SUBSTANTIAL AMOUNT OF EACH MATURITY OF THE BONDS WAS
46 SOLD TO THE PUBLIC (EXCLUDING BOND HOUSES, BROKERS AND OTHER
47 INTERMEDIARIES) AT THEIR RESPECTIVE INITIAL REOFFERING PRICES OR SUCH
48 OTHER FACTS REGARDING THE ACTUAL SALE OF THE BONDS AS BOND COUNSEL
49 SHALL REQUEST, AS DESCRIBED BELOW. Bond Counsel advises that (i) such certificate

1 must be made on the best knowledge, information and belief of the successful bidder, (ii) the
2 sale to the public of 10% or more in par amount of each maturity of the Bonds at the initial
3 reoffering prices would be sufficient to certify as of the sale of a substantial amount of the bonds
4 and (iii) reliance on other facts as a basis for such certification would require evaluation by Bond
5 Counsel to assure compliance with the statutory requirement to avoid the establishment of an
6 artificial price for the Bonds.

7
8 **Miscellaneous**

9
10 It is expected that CUSIP numbers will be printed on the Bonds. However, the validity,
11 sale, delivery or acceptance of the Bonds will not be affected in any manner by any failure to
12 print, or any error in printing, the CUSIP numbers on said Bonds, or any of them.

13
14 The right to reject any or all bids, or to waive any irregularity or informality in any bid, is
15 reserved.

16
17
18
19 CITY OF ANNAPOLIS, MARYLAND

20
21
22 By: /s/ _____
23 Mayor

24
25 By: /s/ _____
26 Director of Finance
27
28

1
2 SECTION 10. If any Bonds are sold pursuant to the foregoing Notice of Sale, the award
3 shall be made by order of the Mayor. Such action of the Mayor shall also fix the interest rate or
4 rates payable on the Bonds in accordance with the accepted proposal. The Mayor shall also be
5 authorized to make all changes necessary to the form of the Bond to comply with a book-entry
6 only system. The Bonds shall thereupon be signed as hereinabove provided and delivered to
7 the successful bidder upon payment of the balance of the purchase price thereof. The proceeds
8 of the Bonds shall be paid to the Finance Director. Upon approval of the appropriate vouchers,
9 in accordance with the established procedure of the City, the Finance Director shall pay, from
10 the proceeds of the Bonds in his hands, all expenses incurred in the issuance of the Bonds,
11 including costs of advertising, printing, document reproduction and counsel fees and expenses.
12 The balance of said proceeds shall be credited by the Finance Director to the several accounts
13 on his books for the Projects described above and the Finance Director shall make
14 disbursements for such Projects in accordance with the established procedure of Annapolis.
15 Prior to expenditure of such proceeds, the same or any part thereof shall be invested by the
16 Finance Director, with the approval of the Mayor, in any authorized investment of the City. If the
17 funds derived from the sale of the Bonds shall exceed the amount needed to finance any of the
18 Projects described in this Ordinance, or if the City Council determines that the public interest
19 requires a change in the capital improvements program of Annapolis, the funds so borrowed
20 and not expended for the public improvements provided by this Ordinance shall be set apart in a
21 separate fund by the Finance Director and applied in payment of the debt service on the Bonds,
22 unless the City Council shall adopt an ordinance allocating such funds to some other public
23 capital improvement project or projects of Annapolis.

24 SECTION 11. In order to provide for the payment of the principal of and interest on the
25 Bonds hereby authorized when due, there shall be appropriated in the next ensuing fiscal year
26 of Annapolis and in each fiscal year thereafter, so long as any of the Bonds are outstanding and
27 unpaid, or until a sufficient funds had been accumulated and irrevocably set aside for the
28 purpose, an amount sufficient to meet the debt service on the Bonds coming due in such fiscal
29 year and there shall be levied ad valorem taxes upon all property within the corporate limits of
30 the City subject to assessment for full City taxes, in rate and amount sufficient in each such year
31 to fund such appropriations and to provide for the payment when due of the principal of and
32 interest on all Bonds maturing in each such fiscal year. In the event the proceeds from the
33 taxes so levied in each such fiscal year shall prove inadequate for the above purposes,
34 additional taxes shall be levied in the subsequent fiscal year to make up any deficiency.

1 Thereafter, prior to each semi-annual interest payment date, the Finance Director shall deposit
2 with the Paying Agent, from the tax proceeds above described, the amounts needed to pay the
3 principal of and interest on the Bonds coming due on each such interest payment date. All
4 moneys so deposited with the Paying Agent shall be deemed and treated by the Paying Agent
5 as trust funds for the use and benefit of the holders from time to time of the Bonds hereby
6 authorized. Any such trust funds so held by the Paying Agent for the payment of particular
7 Bonds for periods of more than two (2) years from the dates of such Bonds, upon the expiration
8 of any such two-year period and the failure of the holders of said Bonds to present the same for
9 payment within such period, shall be returned by the Paying Agent to the City and, therefore,
10 the holders of any such Bonds shall have claims only against the City for payment of the
11 obligations held by them and the Paying Agent shall be relieved of the trust hereby imposed.

12 To assure the performance by the City of the provisions of this Section, the full faith and
13 credit and unlimited taxing power of the City are hereby irrevocably pledged to the payment to
14 maturity of the principal of and interest on the Bonds hereby authorized as and when the same
15 respectively mature and become payable and to the levy and collection of the taxes
16 hereinabove described as and when such taxes may become necessary in order to provide
17 sufficient funds to meet the debt service requirements of the Bonds hereby authorized to be
18 issued. This pledge is made hereby for the benefit of the holders, from time to time, of the
19 Bonds hereby authorized.

20 The City hereby solemnly covenants and agrees with each holder of any of the Bonds
21 hereby authorized to levy and collect the taxes hereinabove described and to take any other
22 action that may be appropriate from time to time during the period that any of such Bonds
23 remain outstanding and unpaid to provide the funds necessary to make principal and interest
24 payments thereon when due.

25 SECTION 12. This Ordinance and the question of the issuance of Bonds hereunder
26 shall not be submitted to a referendum of the registered voters of Annapolis, as permitted by
27 law, unless, within ten (10) days after the passage of this Ordinance, there shall be served upon
28 the Mayor a notice signed by not fewer than two hundred (200) of the registered voters of
29 Annapolis, advising that a petition for a referendum on the issuance of said bonds is being
30 circulated by one or more of the persons signing said notice and unless, within twenty (20) days
31 after the delivery of such notice, there shall also be filed with the Mayor a petition or petitions
32 requesting the holding of such a referendum, properly signed as required by the Charter, by not
33 fewer than twenty-five per centum (25%) of the registered voters of Annapolis, as shown by the

1 registered voters books of Annapolis, maintained by the Board of Supervisors of Elections of the
2 City (the "Board of Supervisors"). In view of the foregoing, no action shall be taken by
3 Annapolis pursuant to this Ordinance for a period of ten (10) days following its passage. If,
4 within such ten (10) day period, the notice above described is filed as aforesaid, then no action
5 shall be taken by Annapolis pursuant to this Ordinance for a period of twenty (20) days following
6 the filing of such notice. If, within such twenty (20) day period, a petition for referendum, as
7 above-described, shall be filed as aforesaid, then no action shall be taken by Annapolis under
8 this Ordinance unless and until the Mayor shall receive written advice from the City Attorney and
9 the Board of Supervisors that such referendum petition does not meet the requirements of the
10 Charter or unless and until the referendum requested in such petition shall be duly held in
11 accordance with law and the Board of Supervisors shall certify to Annapolis that, in the election
12 at which such referendum is held, a majority of the registered voters of Annapolis voting on the
13 question referred duly cast their ballots in favor of the issuance of the Bonds hereby authorized.
14 If this Ordinance shall be ratified or approved on any such referendum, then the Mayor and City
15 Clerk may proceed with the issuance of the Bonds hereby authorized, without further action by
16 Annapolis.

17 SECTION 13. That CUSIP numbers may be printed on the Bonds; provided, however,
18 that the printing of CUSIP numbers on the Bonds (even if incorrect) shall have no legal effect
19 and shall not in any way affect the enforceability or validity of any Bond. Any expenses in
20 relation to the printing of CUSIP numbers on the Bonds, including any CUSIP Service Bureau
21 charge for the assignment of such numbers, in the discretion of the Finance Director, may be
22 paid for by the City from the proceeds of the Bonds.

23 SECTION 14. In addition to the insertions and variations prescribed by this Ordinance,
24 the Mayor is hereby authorized to make such further modifications in such forms as will not alter
25 the substance of such forms. In connection with the issuance of any Bonds pursuant to this
26 Ordinance, the City is hereby authorized to enter into one or more agreements as the Mayor
27 shall deem necessary or appropriate for the issuance, sale, delivery or security of such Bonds,
28 which may include (without limitation) (i) underwriting, purchase or placement agreements for
29 Bonds sold at private (negotiated) sale in accordance with the provisions of this Ordinance; (ii)
30 trust agreements with commercial banks or trust companies providing for the issuance and
31 security of such Bonds; (iii) any dealer, remarketing or similar agreements providing for the
32 placement or remarketing of such Bonds; (iv) agreements providing for any credit or liquidity
33 facilities supporting any Bonds; (v) agreements with commercial banks or trust companies
34 providing for the deposit of proceeds of any Bonds; (vi) agreements with fiscal agents providing

1 for the issuance of Bonds, their authentication, registration, verification of amounts and earnings
2 set aside to pay the Refunded Bonds or payment or other similar services; and (vii) continuing
3 disclosure agreements, including any such agreements required to enable the underwriters of
4 any Bonds to meet the requirements of paragraph (b)(5) of Rule 15c2-12 promulgated by the
5 United States Securities and Exchange Commission. Each such agreement shall be in such
6 form as shall be determined by the Mayor by executive order. The execution and delivery of
7 each such agreement by the Mayor shall be conclusive evidence of the approval of the form of
8 such agreement on behalf of the City.

9 SECTION 15. The Mayor and the Finance Director shall be the officers of the City
10 responsible for the issuance of the Bonds within the meaning of the "Arbitrage Regulations"
11 (defined herein).

12 The Mayor and the Finance Director shall also be the officers of the City responsible for
13 the execution and delivery (on the date of issuance of the Bonds) of a certificate of the City (the
14 "Tax and Section 148 Certificate") which complies with the requirements of Section 148 of the
15 Internal Revenue Code of 1986, as amended ("Section 148"), and the applicable regulations
16 thereunder (the "Arbitrage Regulations"), and such officials are hereby authorized and directed
17 to execute the Tax and Section 148 Certificate and to deliver the same to Bond Counsel on the
18 date of the issuance of the Bonds.

19 The City shall set forth in the Tax and Section 148 Certificate its reasonable
20 expectations as to relevant facts, estimates and circumstances relating to the use of the
21 proceeds of the Bonds, or of any moneys, securities or other obligations to the credit of any
22 account of the City which may be deemed to be proceeds of the Bonds pursuant to Section 148
23 or the Arbitrage Regulations (collectively, "Bond Proceeds"). The City covenants with each of
24 the holders of any of the Bonds that the facts, estimates and circumstances set forth in the Tax
25 and Section 148 Certificate will be based on the City's reasonable expectations on the date of
26 issuance of the Bonds and will be, to the best of the certifying officials' knowledge, true and
27 correct as of that date.

28 In the event that Bonds are issued pursuant to this Ordinance with the expectation that
29 interest on such Bonds will be excludable from gross income for federal income tax purposes,
30 the City covenants with each of the registered owners of any of the Bonds that it will not make,
31 or (to the extent that it exercises control or direction) permit to be made, any use of the Bond
32 Proceeds which would cause the Bonds to be "arbitrage bonds" within the meaning of Section
33 148 and the Arbitrage Regulations. The City further solemnly covenants that it will comply with
34 Section 148 and the regulations thereunder which are applicable to the Bonds on the date of

1 issuance of the Bonds and which may subsequently lawfully be made applicable to the Bonds
2 as long as the Bonds remain outstanding and unpaid. The Mayor, the City Manager, and the
3 Finance Director are hereby authorized and directed to prepare or cause to be prepared and to
4 execute any certification, opinion or other document, including, without limitation, the Tax and
5 Section 148 Certificate, which may be required to assure that the Bonds will not be deemed to
6 be "arbitrage bonds" within the meaning of Section 148 and the regulations thereunder.

7 The City further covenants with each of the registered owners of any of the Bonds (i) that
8 it will not take any action or (to the extent that it exercises control or direction) permit any action
9 to be taken that would cause the Bonds or a portion of the Bonds to be "federally guaranteed"
10 within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended, and
11 (ii) that it will not make, or (to the extent that it exercises control or direction) permit to be made,
12 any use of the proceeds of the Bonds or a portion of such proceeds that would cause the Bonds
13 or a portion of the Bonds to be "private activity bonds" within the meaning of Section 141 of the
14 Internal Revenue Code of 1986, as amended.

15 In the event that the Bonds are being issued hereunder with the expectation that interest
16 on such Bonds will be excludable from gross income for federal income tax purposes, the Mayor
17 may make such covenants or agreements in connection with the issuance of such Bonds as he
18 shall deem advisable in order to assure the registered owners of such Bonds that interest
19 thereon shall be and remain excludable from gross income for federal income tax purposes and
20 such covenants or agreements shall be binding on the City so long as the observance by the
21 City of any such covenants or agreements is necessary in connection with the maintenance of
22 the exclusion of the interest on such Bonds from gross income for federal income tax purposes.
23 The foregoing covenants or agreements may include such covenants or agreements on behalf
24 of the City regarding compliance with the provisions of the Internal Revenue Code of 1986, as
25 amended, as the Mayor shall deem advisable in order to assure the registered owners of the
26 Bonds that the interest thereon is and shall remain excludable from gross income for federal
27 income tax purposes, including (without limitation) covenants or agreements relating to the
28 investment of Bond Proceeds, the payment of certain earnings resulting from such investment
29 to the United States, limitations on the times within which, and the purposes for which, Bond
30 Proceeds may be expended, or the use of specified procedures for accounting for and
31 segregating Bond Proceeds. Any covenant or agreement made by the Mayor pursuant to this
32 paragraph may be set forth in or authorized by the Tax and Section 148 Certificate or an order
33 executed by the Mayor.

1 SECTION 16. Bonds issued under this Ordinance are hereby specifically exempted
2 from the provisions of Sections 10 and 11 of Article 31 of the Annotated Code of Maryland
3 (2010 Replacement Volume).

4 SECTION 17. This Ordinance shall take effect from the date of its approval by the
5 Mayor, on or following the date of its final adoption and, thereafter, within not more than three
6 calendar days of such approval, notice of the adoption of this Ordinance shall be duly given by
7 publication of the title hereof at least once in "The Capital," or another newspaper published and
8 of general circulation in the City.

9 **ADOPTED** this _____ day of _____, 2013.
10
11

ATTEST:

THE ANNAPOLIS CITY COUNCIL

Regina C. Watkins-Eldridge, MMC,
City Clerk

BY: _____
Joshua J. Cohen, Mayor

12
13 **EXPLANATION**

14 CAPITAL LETTERS indicate matter added to existing law.

15 [brackets] indicate matter stricken from existing law.

16 Underlining indicates amendments.

Policy Report
Ordinance O-16-13
Issuance of Bonds

The proposed ordinance O-16-13 would authorize the City of Annapolis (the “City”) to 1) issue and sell, upon its full faith and credit, general obligation bonds not to exceed \$15,370,000 to be designated “Public Improvements Bonds, 2013 Series” for the purpose of financing the projects listed on Pages 3 and 4 and 2) issue and sell, upon its full faith and credit, general obligation bonds not to exceed \$5,100,000 to be designated “Public Improvements Refunding Bonds, 2013 Series” to refund all or a portion of certain outstanding general obligation bonds.

Prepared by Jessica Cowles, Legislative and Policy Analyst in the City of Annapolis Office of Law at 410.263.1184 or JCCowles@annapolis.gov.



City of Annapolis City Council
Standing Committee Referral Action Report

Date: 4/15/13

To: Jessica Cowles,
City of Annapolis Office of Law,
Legislative and Policy Analyst

The Economic Matters Committee has reviewed 0-17-13 and has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other

Comments:

Roll Call Vote:

Ald. Paone, Chair NO

Ald. Finlayson yes

Ald. Israel N/A

Meeting Date 4/15/13 Signature of Chair [Signature]



City of Annapolis City Council
Standing Committee Referral Action Report

Date: 4/16/13

To: Jessica Cowles,
City of Annapolis Office of Law,
Legislative and Policy Analyst

The Finance Committee has reviewed 0-17-13 and has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other

Comments:

Roll Call Vote:

Ald. Finlayson, Chair yes Ald. Arnett yes Ald. Pfeiffer yes

Meeting Date April 16, '13

Signature of Chair Sheila M. Gulajson

CITY OF ANNAPOLIS FINANCIAL ADVISORY COMMISSION
c/o Frederick C. Sussman, Esq., Chair
P.O. Box 2289
Annapolis, Maryland 21404-2289
(410) 268-6600
fsussman@cbknlaw.com

April 1, 2013

BY E-MAIL AND HAND DELIVERY
Mayor and City Council of the City of Annapolis
160 Duke of Gloucester Street
Annapolis, Maryland 21401

Re: Ordinance No. O-17-13 (Issuance of Bonds)

Dear Mayor Cohen and Members of the City Council:

I am writing to you on behalf of the City of Annapolis Financial Advisory Commission (“Commission”). Thank you for referring to us for review and comment Ordinance No. O-17-13 (Issuance of Bonds). This Ordinance would authorize the issuance of the City’s General Obligation Bonds, “Public Improvement Bonds, 2013 Series” in an amount up to \$15,370,000, and “Public Improvements Refunding Bonds, 2013 Series” in an amount up to \$5,100,000. The Commission received a briefing on the Ordinance from the City’s Finance Director on March 21.

The Commission does not recommend the adoption or defeat of Ordinance O-17-13. Rather the Commission offers the following comments and proposed amendments:

1. Several of the General Fund projects approved as part of the FY 2013 Capital Budget and identified in the table on pages 3 and 4 of the Ordinance to be funded by this bond issue are projects that constitute deferred maintenance, rather than capital improvements, which should be paid for from operating funds rather than long-term debt. The Commission urges the City to keep up with maintenance needs on an ongoing basis and for the City Council to provide sufficient PAYGO funding in the City’s annual operating budget for that purpose so that the City does not need to issue debt to pay for maintenance.

2. The first sentence of Section 5 of the Ordinance, on page 5 at lines 3-7, authorizes the Mayor to approve the rate of interest to be paid on the bonds at the time of sale of the bonds. The Ordinance contains no maximum rate of interest that the Mayor may approve. Because even small percentage increases in rates of interest payable on the bonds may substantially increase the debt burden to be paid by taxpayers, the Commission strongly urges that the Ordinance be amended to include a market-rate maximum rate of interest to which the Mayor may commit the City. The following amendment to Ordinance O-17-13 would be appropriate for this purpose:

“On page 5, line 7, immediately following “provided.” insert “The rate or rates of interest to be fixed by executive order may not exceed _____%.”

By making this amendment the City Council and taxpayers will be able to estimate the maximum financing and tax burden costs that could be incurred by the bond issuance.

3. The third sentence of Section 9, lines 7-9, on page 14 of the proposed Ordinance authorizes the Mayor to sell bonds at private sale without advertising, publication, notice of sale or solicitation of competitive bids. While there may be valid reasons for the City to engage in a private sale, the Commission strongly believes that the Mayor should not exercise this authority unilaterally. The Commission recommends that the Mayor be required to consult with the City Council’s Finance Committee before engaging in a sale of bonds by a private sale. The following amendment to Ordinance O-17-13 would be appropriate for this purpose:

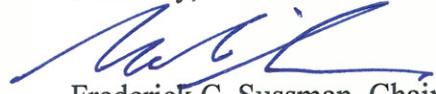
“On page 14, line 9, immediately following “bids” insert “, except that no bonds may be sold a private (negotiated) sale unless the Mayor first has consulted with the City Council’s Finance Committee regarding the terms and conditions of the sale and the benefit to the City of proceeding by private (negotiated) sale rather than public sale”.

4. The last sentence of Section 10, lines 16-23, on page 22 of the proposed Ordinance authorizes the City to use proceeds from the sale of the bonds for purposes other than those projects identified in the table on pages 3 and 4 of the Ordinance. While this may be standard bond ordinance text, the Commission is concerned that the City may borrow money, incur debt service obligations, and not need varying portions of the borrowed monies either at all or for extended periods of time for the purposes for which the bond was issued. The Commission strongly recommends that the City explore issuing bond anticipation notes or other short-term debt financing on an “as needed” basis to fund projects until such time as the projects may be financed for their useful lives by long-term debt. This will allow the City to borrow only as much as needed for projects, and in such increments as reasonably will be expended in a timely manner. This alternate type of funding could be expected to result in paying debt service on funds only as needed and to reasonably ensure that borrowed funds are used only for the purposes authorized by the City Council.

Last year Anne Arundel County recognized the wisdom of using Bond Anticipation Notes as a means of short term financing to initiate capital projects. The County’s bond authorization ordinance, Bill No. 60-2012, stated that part of the purpose of that Bill was “[t]o provide an adequate flow of funds for capital projects, to limit amounts borrowed to the costs incurred for such projects, and to facilitate the most advantageous times for the sale of bonds, bond anticipation notes may be sold for such projects from time to time, repayable from the proceeds of the appropriate series of such bonds, when issued.”

Thank you for the opportunity to comment on proposed Ordinance O-17-13.

Sincerely,

A handwritten signature in blue ink, appearing to read 'F. C. Sussman', written over a horizontal line.

Frederick C. Sussman, Chair

cc: Commission Members (By e-mail)
Michael Mallinoff, City Manager (By e-mail)
Bruce Miller, Finance Director (By e-mail)
Shirley S. Tripodi, Assistant Finance Director (By e-mail)
Hilary Raftovich, Boards and Commissions Coordinator (By e-Mail)
Jessica Cowles, Legislative and Policy Analyst (By e-mail)

FISCAL IMPACT NOTE

*Issuance of Bonds
Ordinance No 17-13
April 8, 2013*

Ordinance No. 17-13 seeks approval for \$15,370,000 in bond authorization. Below is a schedule reflecting the fiscal impact, including the tax rate impact the general fund, or its equivalent for the Water and Sewer Enterprise funds. The imbedded assumptions used for this analysis are; a 4% tax-exempt interest rate, an average 20 year/semi annual amortization structure and level payments.

| | Project Totals | Weighted Average | Underwriting | Total | Annual Debt Service | Tax Rate Impact / .01 = \$600,000 |
|--------------|----------------------|---------------------|--------------|---------------|---------------------------|---|
| General Fund | 5,331,212.00 | 35.20% | 79,126.82 | 5,410,338.82 | 270,516.94 | 0.45 |
| Water Fund | 6,880,000.00 | 45.43% | 102,114.22 | 6,982,114.22 | 349,105.71 | 0.58 |
| Sewer Fund | 2,934,000.00 | 19.37% | 43,546.96 | 2,977,546.96 | 148,877.35 | 0.25 |
| TOTAL | <u>15,145,212.00</u> | 1.00 | 224,788.00 | 15,370,000.00 | 768,500.00 | 1.28 |

| | |
|------------------------|----------------------|
| Total Authorization | 15,370,000.00 |
| Project Total | <u>15,145,212.00</u> |
| Underwriting | <u>224,788.00</u> |

1
2
3
4
5
6
7

**CITY COUNCIL OF THE
City of Annapolis**

Resolution No. R-17-13

Introduced by: Mayor Cohen

| LEGISLATIVE HISTORY | | | |
|---|----------------|--------------------|--------------|
| <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i> | | | |
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 3/11/13 | | | 6/7/13 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Finance Committee | 3/11/13 | | |
| Financial Advisory Commission | 3/11/13 | | |

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

A RESOLUTION concerning

**A Revision to the Capital Improvement Budget and Program
(Parking Meter Upgrade): FY 2013 to FY 2018**

FOR the purposes of revising the capital improvement budget for the Fiscal Year 2013 and the capital improvement program (parking meter upgrade) for the six-year period from July 1, 2012, to June 30, 2018.

WHEREAS, Section 6.16.030 of the Code of the City of Annapolis requires the Annapolis City Council to approve the capital improvement program and budget for each fiscal year on a six-year basis; and

WHEREAS, on April 30, 2012, the Annapolis City Council held a public hearing on capital improvement budget and program for the Fiscal Year 2013 to Fiscal Year 2018; and

WHEREAS, the capital improvement budget for the Fiscal Year 2013 and the capital improvement program for the six-year period from July 1, 2012 to June 30, 2018 was prepared and proposed by the Mayor and submitted to the Annapolis City Council for its consideration and approval; and

WHEREAS, on June 4, 2012, the Annapolis City Council considered and approved the capital improvement budget for the Fiscal Year 2013 and the capital improvement program for the six-year period from July 1, 2012, to June 30, 2018; and

WHEREAS, on _____ the Annapolis City Council shall hold a public hearing on a proposed revision to the capital improvement for the City of Annapolis for the

1 Fiscal Year 2013 and the capital improvement program (parking meter upgrade)
2 for the six-year period from July 1, 2012 to June 30, 2018 budget, which is
3 attached to this resolution.
4

5 **NOW, THEREFORE, BE IT RESOLVED BY THE ANNAPOLIS CITY COUNCIL** that pursuant
6 to the provisions of Section 6.16.030 of the Code of the City of Annapolis, it hereby adopts the
7 revision to the capital improvement budget for the Fiscal Year 2013, and the Capital
8 Improvement Program for the City of Annapolis for the six year period from July 1, 2012, to June
9 30, 2018, a copy of which is attached to this Resolution and is made part hereof.
10

11
12
13 **ADOPTED** this ____ day of _____, 2013.
14
15

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

16
17
18 **EXPLANATION**

19 CAPITAL LETTERS indicate matter added to existing law.

20 [brackets] indicate matter stricken from existing law.

21 Underlining indicates amendments.
22

PROPOSED CIP AMENDMENT (March 2013)

Capital Improvement Program

Project Detail

FY2013-FY2018

| | | | |
|---|------------------------|--|------------------------------|
| Project Title Parking Meter Upgrade | Project Number: | Initiating Department Transportation | |
| Asset Category | Asset Number | Priority Score Project not scored | |
| <p>Project Description The City currently has three hundred eighty four (384) individual meters throughout the City's historic district with five (5) pay & display multi-space meters covering an additional one hundred fifty (150) spaces. The need for new meter technology is critical to keep pace with the industry as well as securing continued revenue funds and providing enhanced payment opportunities for the community.</p> <p>The meters and systems must be capable of interfacing with credit card, debit card, cash and future Smart Card technology in order to be considered. The use of space sensors to interface with the meter technology is a component to aid enforcement activities.</p> <p>The proposed system must promote the overall efficiency, reliability, performance, and success of the City's on-street parking management program.</p> | |  | |
| Regulatory or Legal Mandates | | | Operational Necessity |
| Prior Funding | | Non-City sources of funding | |
| FY13 Budget commitment allows project stage: Installation | | Project Years | Total Project Budget |

| Appropriation Schedule | FY13 Budget Proposed Revision | 5-Year Capital Plan | | | | | Total FY13 - FY18 |
|--------------------------------|----------------------------------|---------------------|------------------|------------------|------------------|------------------|-------------------------|
| | | Proposed FY14 | Proposed FY15 | Proposed FY16 | Proposed FY17 | Proposed FY18 | |
| Land Acquisition | | | | | | | |
| Design Costs | | | | | | | |
| Construction Costs | | | | | | | |
| Construction Project Mgmt | | | | | | | |
| IT Costs | | | | | | | |
| Furniture/Fixtures/Equipment | 216,000 | | | | | | 216,000 |
| Legal Fees | | | | | | | |
| Contingencies | | | | | | | |
| Total | 216,000 | | | | | | 216,000 |
| Funding Schedule | | | | | | | |
| Bond funds | | | | | | | |
| Operating funds – Parking Fund | 216,000 | | | | | | 216,000 |
| Other | | | | | | | |
| Total | 216,000 | | | | | | 216,000 |

Policy Report

R-17-13

A Revision to the Capital Improvement Budget and Program (Parking Meter Upgrade): FY 2013 to FY 2018

The proposed resolution would revise the capital improvement budget for the Fiscal Year 2013 and the capital improvement program (parking meter upgrade) for the six-year period from July 1, 2012, to June 30, 2018. The installation of the parking meters allows more efficient capture of parking revenue.

Prepared by Jessica Cowles, Legislative and Policy Analyst in the City of Annapolis Office of Law at JCCowles@annapolis.gov or 410.263.1184.



City of Annapolis City Council
Standing Committee Referral Action Report

Date: 4/18/13

To: Jessica Cowles,
City of Annapolis Office of Law,
Legislative and Policy Analyst

The Finance Committee has reviewed R-17-13 and has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other

Comments:

Roll Call Vote:

Ald. Finlayson, Chair yes

Ald. Arnett yes

Ald. Pfeiffer yes

Meeting Date April 16, 13

Signature of Chair Sheila M. Finlayson

FISCAL IMPACT NOTE

Legislation No: R-17-13

First Reader Date: 3-11-13

Note Date: 3-27-13

Legislation Title: A Revision to the Capital Improvement Budget and Program (Parking Meter Upgrade): FY 2013 to FY 2018

Description: For the purpose of revising the capital improvement budget for the Fiscal Year 2013 and the capital improvement program (parking meter upgrade) for the six-year period from July 1, 2012 to June 30, 2018.

Analysis of Fiscal Impact: This legislation provides for parking meter upgrade project implementation. The cost of the equipment is estimated to be \$216,000. Once installed, parking meters can be programmed to charge the authorized parking rate. The new meters can offer payment options to customers. Calculated on FY12 parking meter revenues of \$784,480, new meters can be estimated to earn \$1,568,960 in one year's time at the currently authorized, but not yet implemented parking rate.

1
2
3
4
5
6
7

**CITY COUNCIL OF THE
City of Annapolis**

Resolution No. R-21-13

Introduced by: Mayor Cohen

| LEGISLATIVE HISTORY | | | |
|---|----------------|--------------------|--------------|
| <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i> | | | |
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 3/18/13 | | | 6/14/13 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Finance | 3/18/13 | | |

8
9

A RESOLUTION concerning

10

Recommendations of the Council Compensation Commission

11
12

FOR the purpose of providing for consideration, and the City Charter's required public hearing, of the recommendations of the Council Compensation Commission.

13

14
15
16

WHEREAS, pursuant to the Annapolis City Charter, Article II, Section 4, the City Council appointed the Council Compensation Commission via R-38-12 adopted on October 8, 2012; and

17

18
19
20
21

WHEREAS, the Council Compensation Commission provided a report containing recommendations on compensation for the Mayor, Aldermen/Alderwomen and the City Manager and the City Council accepted the attached report on January 28, 2013; and

22

23
24
25

WHEREAS, on _____ the Annapolis City Council held a public hearing on the recommendations of the Council Compensation Commission as required by the Charter.

26

27
28

NOW THEREFORE BE IT RESOLVED BY THE ANNAPOLIS CITY COUNCIL that the report of the Council Compensation Commission is attached.

29

30

31

ADOPTED this _____ day of _____, _____.

32

33

ATTEST:

THE ANNAPOLIS CITY COUNCIL

Regina C. Watkins-Eldridge, MMC, City Clerk

BY _____
Joshua J. Cohen, Mayor

1
2
3
4
5
6

EXPLANATION

CAPITAL LETTERS indicate matter added to existing law.
[brackets] indicate matter stricken from existing law.
Underlining indicates amendments.

Policy Report

R-21-12

Recommendations of the Council Compensation Commission

The proposed resolution would provide for consideration, and the City Charter's required public hearing, of the recommendations of the Council Compensation Commission.

Prepared by Jessica Cowles, Legislative and Policy Analyst in the City of Annapolis Office of Law at JCCowles@annapolis.gov or 410.263.1184.

January 28, 2013

Mayor Josh Cohen and
The Annapolis City Council
City Hall
160 Duke of Gloucester Street
Annapolis, Maryland 21401

Dear Mayor Cohen and Aldermen:

Enclosed is the Report and Recommendations, with Exhibits, of the Council Compensation Commission. We appreciate the opportunity to serve our fellow residents, and trust that you will find our recommendations useful. If you have any questions or would like to hear from us in person, we would be pleased to attend a City Council meeting, work session, or other forum as you see fit.

Very truly yours,

Dale P. Kelberman
Chairman
Annapolis City Council Compensation Commission

Cc w/ encl: Karen M. Hardwick, Esq., City Attorney

**REPORT AND RECOMMENDATIONS OF THE
2012-2013 ANNAPOLIS CITY COUNCIL
COMPENSATION COMMISSION**

I. Introduction

Pursuant to the City Charter, Article II Section 4, on October 22, 2012 and November 26, 2012, the City Council appointed the undersigned as the members of the 2012-2013 City Council Compensation Commission. The members were sworn in by Mayor Cohen at the first meeting of the full Commission on November 27, 2012. The Commission was charged with the responsibility of making recommendations to the City Council on the compensation to be paid to the Mayor and the Aldermen, and to formulate an “executive pay plan” to govern the compensation of the City Manager, to take effect after the next City election.

II. Meetings of the Commission

The Commission held public meetings on the following dates: November 5, 2012, November 27, 2012, December 4, 2012, December 11, 2012, January 8, 2013 and January 15, 2012, either at City Hall or the Gorman Street location. In addition, on December 18, 2012, the Commission held a public hearing to solicit the views of the citizens of Annapolis on the issues.

III. Documents and Witnesses Interviewed

The Commission obtained a variety of documents from different sources as part of its information gathering process. The Commission had access to, among other materials: (1) the Report and related data from the previous Compensation Commissions that made compensation recommendations in 2005 and 2009; (2) comparative charts of the compensation of similar officer holders and City Managers in other parts of Maryland; (3) descriptive information regarding the duties and responsibilities of the respective officials, their salaries and benefits; (4) the 2006 Civil Service Board Hendricks Classification and Compensation Study; (5) Consumer Price information data; (6) the present contract of the City Manager; (7) salary data for the present City supervisors.

The Commission also interviewed a number of relevant parties during several of its meetings. We heard from the City Manager, the City Finance Director, the head of the City’s Human Resources Department, the Mayor, and three Aldermen: Ms. Finalyson, Ms. Hoyle and Mr. Paone (all the Aldermen were invited to meet with the Commission or submit their comments in writing).

IV. Compensation Recommendations and Justification

a. The Mayor

Recommendation: The Mayor's salary should remain at \$98,000 per year.

In 2009, our predecessor Commission recommended that the Mayor's compensation be increased to \$120,000 per year. The City Council reduced that amount, and fixed the Mayor's compensation at \$78,000, \$88,000 and \$98,000, for the years 2010, 2011 and 2012, respectively. In addition, the Mayor receives other benefits similar to those of other senior personnel in the City, such as health insurance and participation in the State Retirement program. Those benefits cost the City approximately \$30,000 per year.

According to information from the Maryland Municipal League, the Mayor's salary is the highest in the State for comparable size cities. In addition, since the last Commission made its recommendations, the City has created the position of City Manager, which has altered the day-to-day responsibilities of the Mayor. The Mayor remains a full-time position that requires a great commitment of time and energy, as the Mayor remains the CEO of the City, and the City Manager reports to the Mayor. While it is difficult to determine the extent of the change in the Mayor's duties, at the very least his duties have shifted with the advent of the City Manager position, so that the Mayor now has more time to devote to policy-making issues.

Over the last three years, the Mayor's compensation has increased an average of 12% per year, while the other City employees have had no pay increases or cost of living adjustments (although they have received step increases).

We believe the Mayor's present compensation and benefits are fair and reasonable, and should remain unchanged.¹ In addition, we believe that the current compensation package for the Mayor is sufficient such that qualified applicants for this important elected position would not be discouraged from seeking the office.

b. The Aldermen

Recommendation: The Aldermen's compensation should be increased to \$13,500 per year. The allocation of \$1500 each, presently set aside for education and training, should be expanded to permit the use of those funds for City Council expenses, such as cell phones, postage, correspondence, office supplies, and the like.

Article IV, Section 2, of the City Charter sets out the duties and responsibilities of the Aldermen, as follows:

- (a) The city council shall be the legislative body of the City of Annapolis vested with the power to enact laws. The city council shall have the authority to enact all laws necessary

¹ We considered, but ultimately rejected, including a cost-of-living increase commensurate with other City employees for the Mayor.

or convenient for the exercise of the powers granted to the City of Annapolis for the proper functioning of the government of the city and for enforcement of these laws. Except as otherwise provided by the city council, all laws adopted by the council shall take effect upon the date of adoption.

(b) The powers and duties of the city council include the power and duty to conduct oversight of the expenditure of public money and the delivery of municipal services.

(c) The city council shall sit as the planning and zoning authority of the city, except for those functions delegated to the board of appeals, the planning commission or to the planning and zoning director.

(d) The city council shall perform such other functions as specified in this Charter or by ordinance, or as conferred upon local governing bodies by the laws of the State of Maryland.

Article 2.16.190 of the City Code establishes the various City Council committees, and the duties of each.

There are at least two schools of thought on the compensation for Aldermen. On the one hand, there are those who believe that the Aldermen are essentially volunteers performing an important and valuable civic function, and any compensation they receive should be viewed as a stipend. On the other hand, there are those who say that, while the position is part-time, Aldermen spend more and more time at Council meetings, committee hearings and meetings, ceremonial duties, and responding to constituent contacts and their compensation should reflect the increased time commitment of these positions.

In 2009, the previous Compensation Commission recommended that each Alderman's compensation be increased to \$18,000 per year, with a \$1500 per year allotment for each for training and educational purposes. The City Council reduced that amount, so that the Aldermen now receive an annual salary of \$12,600 per year, and there is an allotment of \$1500 per year for education and training expenses. The Aldermen participate in the State Retirement Pension plan, but receive no other benefits.

As the City has grown and become more complex, the duties and time devoted by Aldermen has also increased, and thus a modest increase in compensation is warranted. While only two citizens appeared at the Commission's public hearing, it is worth noting that both of them recommended increasing the compensation of Aldermen.

However, the Commission has found that, in each of the last three years, roughly two-thirds of the funds set aside for training and educational expenses have not been used. At the same time, Aldermen have been required to use their own funds to pay for such expenses as office supplies to communicate with their constituents and others. Now that the Aldermen will each have space in the newly-renovated City Hall,² we believe the City should expand the use of the training and

² Section 2.16.215 of the City Code now provides that Aldermen shall have their own "dedicated office space" within City Hall.

education allotment to permit the Aldermen to use those funds for cell phones, postage, and other office expenses, to the same extent as other City agencies.

c. Executive Pay Plan for the City Manager

Article VI, Section 2B of the City Code provides:

(d) The compensation of the city manager **shall be fixed by the mayor according to the provisions of an executive pay plan formulated by the Council Compensation Commission and adopted by ordinance.** If the city manager is hired during an interim year, the mayor and council shall determine the compensation based upon the recommendations from the Finance Committee. (emphasis added).

The Commission found this language, and the Resolution creating our body, ambiguous, as we were unable to determine whether the executive pay plan we were asked to draft was designed to govern the compensation for the present City Manager. In reviewing the present City Manager's contract, it appeared that there was a conflict between our duties and his contract, and provisions of the City Code. Consequently, we sought legal advice from the City Attorney. See Exhibit A, Letter to City Attorney. Because the City Attorney believed that she might have a conflict of interest, or the appearance of such, in responding, she engaged outside counsel, Fred Sussman, Esq., a former City Attorney, to provide a response. Mr. Sussman's letter of advice is enclosed as Exhibit B. In essence, Mr. Sussman advised the Commission to objectively formulate an executive pay plan for the position of City Manager, without regard to the present City Manager's contract or other provisions of the City Code, and to leave it to the City Council to reconcile any inconsistent provisions. Based upon Mr. Sussman's advice, we considered the following issues and formulated the recommended executive pay plan accordingly.

The Commission believes that the executive pay plan (the "plan") for the City Manager should be designed to fairly compensate the City Manager for the duties and responsibilities of his position. The City Manager reports to the Mayor, and oversees each of the City department heads, a task that requires 24/7 oversight of a City of approximately 38,000 residents, a budget in excess of \$75 million, and more than 670 employees. The plan should also be competitive in the market for such executive positions, in order to attract qualified candidates with the requisite training and experience to apply for the position. To the extent possible, the plan should also insulate the City Manager from the vicissitudes of political changes, and provide incentives for improved performance on the job. The City Manager position should be included as other supervisory positions in the City Budget, without the necessity for entering into a contract with the City Manager. The Manager should be subject to removal to the same extent as other supervisory personnel, but with severance pay under certain conditions. With these general objectives in mind, the Commission recommends the following be included in the executive pay plan:

1. Base Salary with incremental increases based upon performance evaluations: The plan should include a base salary ranging from \$120,000 to \$180,000 per year, with incremental increases based upon annual performance reviews conducted by the Mayor.

The initial base salary should be fixed within the above range based upon the City Manager's education and employment experience. The annual performance review should be based upon criteria established in advance by the Mayor and City Council, in cooperation with the Director of Human Resources. The base salary and increments should be subject to cost of living increases every two years, based upon COLAs awarded to other City supervisory personnel during the two year period. The City Manager's compensation should be subject to reduction to the same extent as other supervisory City employees, including reductions based upon furloughs or similar actions.

3. **Benefits:** The City Manager should be entitled to receive the same benefits as other City supervisory personnel, such as inclusion in the City's health care and retirement plans, in which the City and the employee contribute in the same proportion as other City supervisory employees. Because of the City Manager's general duties and responsibilities, the City should provide the Manager with a City vehicle, or additional compensation to reimburse him for the use of a vehicle.
4. **Severance pay:** The Commission believes that severance pay should be a part of the pay plan in order to provide the Manager with a sense of stability and confidence, and at the same time, provide the City with the opportunity to remove the Manager for poor performance or other nonpolitical reasons without too great a penalty. The pay plan should provide for three (3) months' severance pay of salary only for a City Manager who has been removed from his position without cause and no severance if the removal is for cause. Grounds for removal that constitute "cause" shall be established by the Mayor and City Council in writing as part of the pay plan. Removal for cause shall be mandatory for the conviction of any felony, and should be within the discretion of the City Council for any other violation of law or other misconduct.
5. **Other provisions:** The Commission recommends that any other components of the City Manager's compensation plan, including termination, be adopted and applied to the City Manager according to the provisions of the City Code, to the same extent as those provisions apply to other supervisory personnel.

V. Other Issues Considered

The Commission strongly urges the City Council, the Mayor, and the City Attorney to carefully review Mr. Sussman's letter of advice to the Commission, attached as Exhibit B. Mr. Sussman has identified a number of legal issues regarding the position of City Manager, such as conflicts between the City Charter, the Code and the present City Manager's contract, that should be addressed by the City to eliminate ambiguity and inconsistency.

The Commission wishes to express its appreciation to Hilary Raftovich for staffing our Commission and providing her valuable assistance during the course of performing our duties.

Respectfully submitted,

NICK BERRY

FRANK B. BRADLEY

AMY BURDICK

FAYE CURRIE

CANDACE DONOHO

RICHARD HILLMAN

DALE P. KELBERMAN, CHAIRMAN

Date: January 28, 2013

**Dale P. Kelberman
68 Southgate Avenue
Annapolis, MD 21401
443-482-2993
kelberman@verizon.net**

December 7, 2012

By Hand Delivery

Karen Hardwick, Esq.
City Attorney
Office of Law
93 Main Street
Annapolis, Maryland 21401

Dear Ms. Hardwick:

As the Chairman of the Annapolis City Council Compensation Commission, I am writing on behalf of our Commission to seek your legal advice regarding an issue that has arisen in the course of our deliberations, specifically with respect to the recommendations for compensation to the City Manager. As you know, our Commission's task is to recommend to the City Council the compensation to be paid to the Mayor and City Council representatives commencing after the next general election. City Code, Article II, Section 4.

In addition, according to Article VI, Section 2B of the City Code, we have a role in setting the compensation for the City Manager. That section provides:

(d) The compensation of the city manager **shall be fixed by the mayor according to the provisions of an executive pay plan formulated by the Council Compensation Commission and adopted by ordinance.** If the city manager is hired during an interim year, the mayor and council shall determine the compensation based upon the recommendations from the Finance Committee. (emphasis added).

In the course of gathering information for the purpose of making our recommendations, we have obtained a copy of the existing contract between the City and the present City Manager (the "contract"). That contract is dated December 22, 2010, and sets forth the compensation and duties of the City Manager, in addition to other important provisions. The contract, however, has no termination date, and thus appears to continue in existence indefinitely (although there is a *procedure* for termination spelled out in the contract.)

In addition to setting the present salary and benefits for the City Manager, the contract also has two other provisions that relate to the City Manager's compensation. Section 5 A provides: "Employer [the City] agrees to increase said base salary and/or benefits of employee in such amounts and to such extent as the Employer may determine that it is desirable to do so on the basis of an **annual salary review** of said employee made at the same time and in the same manner as similar consideration is given other employees generally." (emphasis added.) Section 6 A of the contract states that "The Mayor shall review and evaluate the performance of Employee annually . . . "

Section 18 of the contract, labeled "No reduction of Benefits," provides: "Employer shall not at any time during the term of this agreement reduce the salary, compensation, medical benefits or other financial benefits of Employee, except to the degree of such a reduction across the board for all employees of the Employer."

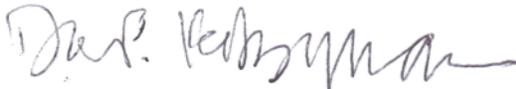
Thus, according to the contract, it appears that the City Manager's compensation may only be increased based upon an annual performance evaluation by the Mayor, and his compensation may not be decreased at all during the existence of the contract, which is indefinite in duration. Nothing in the contract makes reference to the executive pay plan we are required to formulate for the purpose of governing the City manager's salary. Conversely, if we are to avoid breaching the terms of the existing (and indefinite) contract,

our executive pay plan must conform, at the least, to the terms of the contract, thereby restricting our discretion.¹

The terms of the contract appear to be inconsistent with the Code provision requiring the City Manager's compensation to be set based upon an executive pay plan established by our Commission. Even though the City Manager was hired during an interim year, because his contract has an indefinite term with fixed procedures for increases and no decreases, we fail to see how any executive pay plan we formulate will ever have a bearing on the City Manager's compensation.

We would therefore appreciate your advice on how we should proceed with regard to any recommendations for the City Manager's compensation, and the executive pay plan we are charged with formulating. Our report and recommendations to the City Council are due by late January, 2013, so we would appreciate your advice at your earliest opportunity. Thank you for your consideration, and should you need any additional information from our Commission, please do not hesitate to contact me.

Very truly yours,



Dale P. Kelberman
Chairman
Annapolis City Council Compensation Commission

Cc: Michael D. Mallinoff, City Manager

¹ For example, any executive pay plan we formulate must include: (1) a provision that prohibits any reduction in compensation and benefits; and (2) an annual salary review by the Mayor (and *not* the City Council), in order to comport with the current City Manager's contract.

January 15, 2013

HAND DELIVERED

Dale P. Kelberman, Chair
Annapolis City Council Compensation Commission
Annapolis City Hall
160 Duke of Gloucester Street
Annapolis, MD 21401

Re: Recommendation for Compensation for City Manager

Dear Mr. Kelberman:

On December 7, 2012, you delivered a letter to the Annapolis City Attorney on behalf of the Annapolis City Council Compensation Commission ("Commission"). Your letter sought advice from the City Attorney regarding what the Commission perceived may be inconsistencies between the Annapolis City Code and Charter, the current City Manager's Employment Agreement ("Agreement"), and the Commission's charge to make recommendations for an executive pay plan for the position of City Manager. The City Attorney engaged me to respond to the Commission's inquiries because she perceived that she may have a conflict of interest in giving this advice to the Commission.

The Commission was formed by City Council Resolution No. R-38-12 Amended that was adopted on October 8, 2012.¹ This Resolution directed the Commission to make specific recommendations "on the salaries, fringe benefits, and allowable expenses, for the Mayor, eight City Council members, and City

¹ The Council Compensation Commission is provided for in Article II, Section 4, of the City Charter. This Section establishes a process for a commission appointed by the City Council at least one year before any general municipal election to recommend compensation to be paid to the Mayor and members of the Council in the next term of office. Section 4 does not refer to the commission making a recommendation for compensation for a City Manager. That additional duty is included in Article VI, Section 2B, of the City Charter. Section 2B does not refer to a City Manager's term of office.

Dale P. Kelberman, Chair

Page 2

Re: Recommendation for Compensation for City Manager

File No.: 17523.01

January 15, 2013

Manager that would be effective on December 2, 2013.” As I understand the Commission’s request for guidance, the Commission is concerned that its recommendation of an “executive pay plan”² for the City Manager may be inconsistent with existing provisions of law, and that implementation of the Commission’s recommendations may cause the City to breach the City Manager’s Agreement.

In summary, I believe that while various provisions of the Charter, Code and Agreement may not be entirely consistent, they generally can be harmonized. Furthermore, to the extent that any part of the Agreement is unconstitutional, invalid or unenforceable, the remainder of the Agreement remains in place. Finally, the Commission’s responsibility is to make a recommendation regarding compensation for the position of City Manager.³ The City Council will be responsible to receive and act upon the Commission’s recommendation. Action by the City Council to adopt an executive pay plan for the City Manager must be adopted by ordinance. Thereafter, the Mayor will be responsible to implement the City Council’s legislative determinations in accordance with law.⁴ I explain.

² As discussed later in this letter, the City Charter provides for the Council Compensation Commission to establish an “executive pay plan” to fix the compensation of the City Manager. The Charter does not define “executive pay plan.” The absence of a definition or description of an “executive pay plan” leaves to the reasonable discretion of the Commission to determine what components of compensation should be included in the plan. Resolution R-38-12 Amended which created your Commission directs the Commission to make recommendations regarding salary, fringe benefits and allowable expenses. While this may reflect the City Council’s conception of what should be included in an executive pay plan, I believe that the Commission has further latitude to include other items, if any, that the Commission determines reasonably may be related to a comprehensive package of compensation for a City Manager.

³ Even though Resolution No. R-38-12 Amended speaks in terms of salaries, fringe benefits and allowable expenses, a reasonable construction of the City Council’s intent in enacting this Resolution was to ask the Commission to prepare and present to the Council an executive pay plan for the City Manager as contemplated by Article VI, Section 2B, of the City Charter.

⁴ Article V, Section 2, of the City Charter charges the Mayor with the duty of seeing “that the actions of the city council are duly and faithfully executed....”

Dale P. Kelberman, Chair

Page 3

Re: Recommendation for Compensation for City Manager

File No.: 17523.01

January 15, 2013

Scope of Review and Assumptions

As part of the preparation of this letter of advice I have reviewed numerous provisions of the City Charter and City Code relating to the creation of the position of City Manager, the inclusion of the position of City Manager in the City's exempt service, terms and conditions of employment of members of the City's exempt service, minutes of meetings of the City Council and City Council's Finance Committee related to the hiring of the current City Manager, the Agreement, and other matters I deemed relevant.

For purposes of this advice I make three key assumptions – (i) that the Agreement is a lawful act of the City (subject to excising any specific provisions that may be unconstitutional, invalid or unenforceable); (ii) that the position of City Manager is not a “public officer” within the meaning of Article III, Section 35, of the Maryland Constitution (“...nor may the salary or compensation of any public officer be increased or diminished during his term of office except those whose full term of office is fixed by law in excess of 4 years”); and (iii) that the Charter Amendment that created the position of City Manager is a lawful and valid enactment.

Relevant Statutory Context

Your inquiries must be evaluated in the context of provisions of the Annapolis City Charter and Code that apply to the position of City Manager and the City Manager's compensation.

The position of City Manager was established by Charter Amendment CA-03-10, adopted on April 26, 2010, effective on June 15, 2010. This Charter Amendment amended Article VI, Section 2B, of the Charter to eliminate the position of City Administrator and to create a new position of City Manager within a modified structure of the City government.^{5,6} Section 2B(d) as amended by this

⁵ The position of City Administrator was established pursuant to Charter Amendment CA-4-96 Amended/Reconsidered adopted February 10, 1997, effective April 1, 1997.

Dale P. Kelberman, Chair

Page 4

Re: Recommendation for Compensation for City Manager

File No.: 17523.01

January 15, 2013

Charter Amendment established the process for setting the initial compensation for a City Manager that exists today:

The compensation of the city manager shall be fixed by the mayor according to the provisions of an executive pay plan formulated by the Council Compensation Commission and adopted by ordinance. If the city manager is hired during an interim year, the mayor and council shall determine the compensation based upon the recommendations from the Finance Committee.

The City Code contains additional provisions relating to the compensation of a City Manager. The City Manager is a member of the City's exempt service. City Code, § 3.08.010.3.⁷ Section 3.08.030 provides methods of determining salaries for members of the exempt service. Section 3.08.030.A.1. assigns all members of the exempt service, except for the City Manager, to a salary pay grade in the City's pay plan. However, with respect to the City Manager, Section 3.08.030.A.2. states that "[t]he salary of the City Manager shall be proposed and

⁶ The title to this Charter Amendment states that the purpose of the Charter Amendment is for "clarifying" the role of the City Manager, "enhancing" certain supervisory powers of the City Manager", and "providing" that the Mayor must approve the dismissal of the City Manager. The title to this Charter Amendment does not state that its purpose was to create the position of City Manager. Nevertheless, the City Clerk advised me that there was no prior Charter Amendment that created the position of City Manager.

⁷ The identification of the City Manager as a member of the exempt service was accomplished by Ordinance O-10-12 Amended, adopted June 4, 2012, effective from the date of its passage. The term "City Administrator" was changed to "City Manager." A corresponding provision in Article VIII, Section 2, of the Charter has not yet been amended to reflect the change from City Administrator to City Manager. However, the City Manager is a member of the exempt service by the catch-all provision in Section 2(9) that includes in the exempt service "[a]ll exempt service positions as established from time to time in Chapter 3.08 of the Annapolis City Code.

Dale P. Kelberman, Chair

Page 5

Re: Recommendation for Compensation for City Manager

File No.: 17523.01

January 15, 2013

approved by the Council at the time of the City Manager's confirmation hearing."⁸ Section 3.08.030.B.1., provides for salary increases for members of the exempt service. Section 3.08.030.B.1. applies to all exempt positions except for certain expressly named positions, none of which is the City Manager. Section 3.08.030.B.1. provides "B. Salary raises: 1. Shall be justified by either satisfactory or above satisfactory performance reviews by the Mayor and shall be entirely at the Mayor's discretion..."

In addition to addressing salaries, other provisions of Chapter 3.08 of the City Code address employment benefits for members of the exempt service. Each of these employment benefits applies to the City Manager as a member of the exempt service.⁹ As discussed later in this letter, the benefits afforded to the City Manager in Chapter 3.08 are not entirely consistent with the benefits provided to the City Manager in the Agreement.

Section 3.08.020 provides that members of the exempt service "are entitled to each employment benefit that is provided to employees in the civil service, except as provided in this chapter." Section 3.08.040 addresses annual, sick and personal leave for members of the exempt service, including annual leave after one or more continuous years of service with the City and sick leave on the basis of "reasonable need." Department directors (but not the City Manager) are not

⁸ My review of minutes of meetings of the City Council and its Finance Committee reflect that the process set forth in Article VI, Section 2B, of the Charter, and Section 3.08.030.A.2. generally were followed.

⁹ As the Commission has noted, there are inconsistencies between and among various legislative enactments, and between legislative enactments and the current City Manager's Agreement. As part of the Commission's report to the City Council, the Commission may want to consider recommending that the City Council review and eliminate these various inconsistencies, including enacting such further charter amendments and ordinances as may be necessary. The Commission also may want to consider whether the compensation of the City Manager, including salary and benefits, should be addressed in an employment agreement between the City and the Manager, rather than treating the Manager as a member of the exempt service for purposes of salary and benefit provisions on the City Code.

Dale P. Kelberman, Chair

Page 6

Re: Recommendation for Compensation for City Manager

File No.: 17523.01

January 15, 2013

entitled to personal leave to which civil service employees may be entitled. By virtue of Section 3.08.020 members of the exempt service are entitled to all other leave to which civil service employees are entitled.

Finally, Section 3.08.050 provides for severance pay under limited circumstances for members of the exempt service. Section 3.08.050 does not provide severance pay when employees in the exempt service, including the City Manager, are terminated for non-disciplinary reasons. Rather, an entitlement to severance pay in the amount of 1/8th of the employee's annual salary is payable when the exempt service employee has been terminated for disciplinary reasons.

Current City Manager's Employment Agreement

The provisions of the Agreement relevant to this analysis are as follows:

1. The City Manager is employed for an indefinite term, subject to termination by either party upon 45 days notice, subject to immediate termination by the City upon the City Manager's conviction of certain crimes, and further subject to termination by the City for certain disability or illness related reasons when the City Manager has remained off from work more than 4 weeks after using all of the City Manager's accrued sick leave.

2. The City Manager will receive severance benefits upon termination of employment by the City, except where termination is for conviction of certain crimes. The severance benefit is a lump sum payment equal to 180 days salary, plus health and life insurance continuation at City expense.¹⁰

3. The City Manager will be paid a salary in the amount of \$138,310 per year, except that for purpose of the City's contribution to State Retirement System

¹⁰ Note that under City Code Sections 3.08.050 and 3.16.140 exempt employees, including the City Manager, are entitled to severance pay in amount of 1/8th of salary if they are removed for disciplinary reasons.

Dale P. Kelberman, Chair

Page 7

Re: Recommendation for Compensation for City Manager

File No.: 17523.01

January 15, 2013

the salary will be deemed to be \$145,225.50, the rate of pay prior to the furlough based wage reduction in the City's FY 2011 budget. The City Manager also is entitled to salary or benefit increases in such amounts and to such extent as the City deems desirable on basis of an annual salary review in the same manner as similar consideration is given to other employees generally.

4. The City Manager is required to work a minimum of 35 hours per week.

5. The City Manager is entitled to 4 weeks annual leave per year, credited to his account at the time of employment as City Manager and thereafter at each anniversary date.¹¹

6. The City Manager is entitled to other leave, including sick leave, to the same extent as other employees in the exempt service.

7. The City Manager is entitled to disability, health and life insurance benefits on the same basis as provided for other full-time exempt employees.

8. Subject to availability of funds in the budget, the City will pay professional dues and subscriptions for the City Manager.

9. The City agrees to budget and pay for travel and expenses for the City Manager's professional development.

10. The City Manager has use, at the city's expense, of a City-provided vehicle in connection with performance of his duties.

11. The City Manager will be provided with a parking pass to park in the City's parking garage.

¹¹ Note that under City Code Section 3.08.040 an employee is not entitled to 4 weeks of annual leave until completing seven years of continuous service.

Dale P. Kelberman, Chair

Page 8

Re: Recommendation for Compensation for City Manager

File No.: 17523.01

January 15, 2013

12. The City will provide the City Manager use of a City computer and appropriate software.

13. The City will reimburse the City Manager for non-personal and job-related expenses in accordance with City rules, regulations and policies.

14. The City Manager is not entitled to any benefits, rights or privileges of City civil service employment except as specifically provided in the Agreement.

15. The City may not reduce the City Manager's salary, compensation, medical benefits or other financial benefits, except to the degree of such a reduction across the board for all employees.¹²

16. The Agreement contains a severability clause which says that if any part or provision of the Agreement is unconstitutional, invalid or unenforceable, the unconstitutionality, invalidity or unenforceability does not affect other provisions of the Agreement, which shall remain in full force and effect.

Discussion

The Commission is one of three cogs in the City's governing structure for setting and implementing compensation for a City Manager. The Commission performs an advisory function to the City Council. The Commission's charge by Resolution R-38-12 Amended is to provide a recommendation to the City Council "on the salaries, fringe benefits, and allowable expenses, for the Mayor, eight City Council members, and City Manager that would be effective on December 2, 2013." While this effective date is required by the Maryland Constitution and City Charter for compensation for the Mayor and members of the City Council, there is

¹² This provision is ambiguous to the extent that it is not clear as to whether the "no reduction" clause means that only the salary and benefits specified in the Agreement may not be reduced below those levels, or whether it proscribes a reduction of any enhanced salary or benefits that may be provided in future years.

Dale P. Kelberman, Chair

Page 9

Re: Recommendation for Compensation for City Manager

File No.: 17523.01

January 15, 2013

no similar proscription against altering the compensation of the City Manager before or after that date.¹³

Notwithstanding the reference in Resolution R-38-12 Amended to the salary, fringe benefits and allowable expenses for the City Manager being effective on December 2, 2013, the Resolution still must be read in the context of the City Charter and Code provisions that address the compensation of the City Manager and members of the exempt service. So that the Commission's recommendations regarding an executive pay plan may be effective for any compensation review of the current City Manager that the Mayor may make before December 2, 2013, or may be applicable to any new City Manager should a vacancy arise before that date, the Commission may want to consider recommending that any ordinance that the City Council adopts to approve an executive pay plan for the City Manager expressly provide that, from and after the effective date of the ordinance, the approved pay plan be used in making any compensation decisions for the current or any successor City Manager.

The Commission should not feel constrained in its deliberations and recommendations by existing provisions for salary, fringe benefits and expenses contained in the City Code for members of the City's exempt service or in the City

¹³ December 2, 2013, is the date on which the newly elected Mayor and members of the City Council will take office. According to Article II, Section 4, of the City Charter, recommendations of the Commission regarding Mayoral and Council member compensation take effect only for the next succeeding term of office, and that the salaries specified when the Mayor and members of the City Council take office may not be changed during the period for which they were elected. This is consistent with the prohibition in Article III, Section 35, of the Maryland Constitution which prohibits the salary or compensation of any public officer from being increased or diminished during his or her term of office except those whose full term of office is fixed by law in excess of 4 years. The absence of a similar proscription for the effective date of a change in compensation for the City Manager is based upon the assumption noted on page 3 of this letter – that the City Manager is not a “public officer”. If the City Manager is a public officer there could be no change in his compensation because he holds the position for an indefinite term. The City Manager does not hold a four year term coterminous with that of the Mayor and members of the City Council.

Dale P. Kelberman, Chair

Page 10

Re: Recommendation for Compensation for City Manager

File No.: 17523.01

January 15, 2013

Manager's Agreement. The Commission is expected to use its independent judgment in determining what the Commission believes are reasonable terms of an executive pay plan for the City Manager. In exercising that judgment the Commission may, and should, take into account the current salary, benefits and expenses, as they reflect the considered judgment of the Mayor and City Council when the City Manager was hired approximately two years ago. As discussed below, it will be the responsibility of the Mayor and City Council to address and reconcile differences between the Commission's recommendations, the City Code and the Agreement.

Once the Commission submits its recommendations, its task is completed. The City Council then must act by ordinance if it is to approve an executive pay plan for the position of City Manager. If this executive pay plan alters provisions relating to salary and benefits for the City Manager as a member of the exempt service as set forth in the City Code, the City Council likely would need to amend those provisions of the Code to the extent that they are inconsistent with the adopted executive pay plan.

After the City Council approves this executive pay plan the Mayor will be responsible to implement it consistent with law. To the extent that the current City Manager is employed under the Agreement, the Mayor will need to consider the provisions of the Agreement during the implementation of the pay plan. Part of this implementation may necessitate a legal review to determine whether certain provisions of the adopted executive pay plan may be implemented for the current City Manager in light of the Agreement.

If the terms of the executive pay plan are consistent with the Agreement the Mayor presumably would implement the pay plan according to its terms in order to carry out law as established by ordinance of the City Council. Several options do exist for the Mayor to address inconsistencies between the Agreement and the adopted executive pay plan - (i) determine that certain provisions of the Agreement are unconstitutional, invalid or unenforceable and implement provisions of the plan notwithstanding the Agreement, (ii) enter into an amendment to the Agreement

Dale P. Kelberman, Chair

Page 11

Re: Recommendation for Compensation for City Manager

File No.: 17523.01

January 15, 2013

with the City Manager to reflect the provisions of the new executive pay plan, or (iii) terminate the employment of the City Manager if the City Manager does not accept the provisions of the executive pay plan.

With respect to salary, Section 3.08.030.B.1. provides for salary increases for members of the exempt service, including a City Manager, at the Mayor's discretion based upon performance reviews. This is not inconsistent with the current City Manager's Agreement, which provides for salary increases based upon performance review by the Mayor. If the Commission recommends a salary or salary range for the City Manager position that is less than the salary contained in the City Manager's Agreement, the Mayor will need to consider the validity and enforceability of the "no reduction in compensation" clause in the Agreement. If the Mayor determines that the "no reduction in compensation" clause is valid and enforceable, the provisions of the executive pay plan relating to salary would apply to a succeeding City Manager. If the approved salary, or salary range, for the position of City Manager exceeds the salary in the current Agreement, the Mayor may use that salary as guidance when determining a salary increase for the current City Manager based upon performance review.

As the Commission concludes its deliberations I remind the Commission that Sections 3.08.020 and 3.08.050 of the City Code address for all members of the exempt service several elements discussed on pages 5-6 of this letter that the Commission may consider to be part of an executive pay plan. As examples, these Sections address severance pay, leave and all other benefits afforded to employees in the City's civil service, except as expressly restricted by Chapter 3.08.

The Commission should consider recommending to the City Council that, in conjunction with the Council's adoption of an executive pay plan for the City Manager, the Council should carefully review and amend those existing provisions of the City Code that may be inconsistent with the adopted executive pay plan. Additionally, it is commonplace in local government for city and town managers and administrators to be employed under employment agreements. The Commission should consider whether it may be more desirable to have all issues

Dale P. Kelberman, Chair

Page 12

Re: Recommendation for Compensation for City Manager

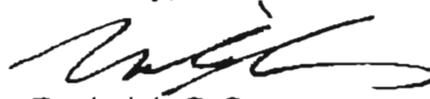
File No.: 17523.01

January 15, 2013

relating to the City Manager's compensation addressed in an employment agreement rather than in a patchwork of an agreement and provisions of the City Code. It is this patchwork that has led to the ambiguity, lack of clarity and inconsistencies that currently are presented. Placing the terms of the City Manager's employment in an agreement or the City Code, but not both, should eliminate opportunities for inconsistencies between the two. Finally, the Commission's work has revealed that the City Charter and Code provisions relating to establishment and alteration of salary and other compensation for a City Manager are ambiguous and lack clarity. The Commission should consider recommending a further review and revision of Charter and Code provisions relating to City Manager compensation to resolve these ambiguities and lack of clarity.

I trust that this letter provides the Commission with the guidance it is seeking. Please let me know if the Commission has any questions or would like me to clarify or elaborate upon the advice that I have given in this letter.

Sincerely,



Frederick C. Sussman

FCS:tbm
17523.01

FISCAL IMPACT NOTE

Legislation No: R-21-13

First Reader Date: 3-18-13

Note Date: 4-4-13

Legislation Title: Recommendations of the Council Compensation Commission

Description: For the purpose providing for consideration, and the City Charter's required public hearing, of the recommendations of the Council Compensation Commission.

Analysis of Fiscal Impact: This legislation provides recommendations on compensation for the positions of Mayor, Alderman/Alderswoman and City Manager. The negative fiscal impact will be \$10,271.02.

The Commission recommended no change in the Mayor's compensation.

The Commission recommended a salary increase from \$12,600 to \$13,500 for Council members, no change to the \$1,500 allotment for training and education expenses, but recommended allowing the allotment to be used for any City Council expense.

The Commission recommended that the City Manager salary range be set between \$120,000 and \$180,000, commensurate with experience and performance rather than the contractually agreed annual salary of \$145,225.50. Also recommended was three months severance pay for removal without cause. As part of the pay plan, the Mayor and City Council should establish in writing what constitutes cause. The current City Manager severance package includes 180 days pay and continuation of life and health insurance benefits.

See the chart below for a comparison of current costs and recommended changes assuming the City Manager salary is at the top of the play plan.

| | Mayor | Council Members | City Manager | |
|---|------------|--------------------|-----------------|-----------|
| <u>Current</u> | | | | |
| Salary | 98,000.00 | 100,800.00 | 145,225.50 | |
| Retirement Contribution (11.47% - FY2014 rate) | 11,240.60 | 11,561.76 | 16,657.36 | |
| FICA and Medicare | 7,497.00 | 7,711.20 | 11,109.75 | |
| Vehicle Benefit | | | 6,000.00 | |
| | 116,737.60 | 120,072.96 | 178,992.61 | |
| Expense Allotment | | 12,000.00 | | |
| Severance - 6 months salary, health, and life insurance | | | 84,729.01 | |
| | 116,737.60 | 132,072.96 | 263,721.62 | |
| <u>Recommended at Maximum</u> | | | | |
| Salary | 98,000.00 | 108,000.00 | 180,000.00 | |
| Retirement Contribution (11.47%) | 11,240.60 | 12,387.60 | 20,646.00 | |
| FICA and Medicare | 7,497.00 | 8,262.00 | 13,770.00 | |
| Vehicle Benefit | | | 6,000.00 | |
| | 116,737.60 | 128,649.60 | 220,416.00 | |
| Expense Allotment | | 12,000.00 | | |
| Severance (3 months salary) | | | 45,000.00 | |
| | 116,737.60 | 140,649.60 | 265,416.00 | |
| Difference | 0.00 | 8,576.64 | 1,694.38 | 10,271.02 |

1 CITY COUNCIL OF THE
2 City of Annapolis

3 Ordinance No. O-10-13

4 Sponsor: Mayor Cohen
5
6
7

| LEGISLATIVE HISTORY | | | |
|---|----------------|--------------------|--------------|
| <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i> | | | |
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 4/22/13 | | | 7/19/13 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Finance | 4/22/13 | | |
| Rules | 4/22/13 | | |

8
9 **A ORDINANCE** concerning

10 **Compensation of Mayor, Aldermen/Alderwomen, and City Manager**
11

12
13 **FOR** the purpose of specifying compensation and allowances to be paid to the Mayor and
14 Aldermen/Alderwomen for the term of office commencing on the first Monday in
15 December, 2013; and for specifying compensation and allowances to be paid to the City
16 Manager.

17
18 **BY** repealing and re-enacting with amendments the following portions of the Code of the
19 City of Annapolis, 2012 Edition:
20 Section 3.08.030

21
22 **WHEREAS,** in accordance with the provisions of Article II, Section IV of the Annapolis City
23 Charter, the City Council appointed a Council Compensation Commission via R-
24 38-12 on October 8, 2012 to review the compensation and allowances to be paid
25 to the Mayor and Aldermen/Alderwomen during the terms of office commencing
26 on the first Monday in December 2013, and compensation and allowances to be
27 paid to the City Manager; and

28
29 **WHEREAS,** pursuant to the requirements of the City Charter, the Commission submitted to
30 the City Council a report with the Commission's recommendations for
31 compensation and allowances to be paid to the Mayor, Aldermen/Alderwomen,
32 and City Manager; and

33
34 **WHEREAS,** prior to final adoption of this ordinance, a public hearing will have been held by
35 the City Council as required by the Charter.
36
37

38 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**
39 **COUNCIL** that the Code of the City of Annapolis shall be amended to read as follows:

CHAPTER 3.08 – EXEMPT SERVICE

3.08.010 - Positions included.

The exempt service includes:

1. All the elected officials;
2. All department directors;
3. City Manager;
4. Communications Officer;
5. City Attorney;
6. Assistant City Attorney;
7. Community Relations Specialist;
8. Human Services Officer and Ombudsman;
9. Administrative Assistant;
10. Assistant City Manager;
11. Public Information Officer and Quartermaster
12. Executive Office Associate;
13. Recruitment/Employee Relations Administrator;
14. Deputy Fire Chiefs; and
15. Police Major and Captains.

3.08.030 - Salary.

A. 1. For purposes of setting annual salaries, the following positions in the exempt service are assigned grades in the City's pay plan as indicated:

| Position | Grade |
|---|-------|
| Executive Office Associate | A10 |
| Recruitment/Employee Relations Administrator | A15 |
| Communications Officer | A18 |
| Deputy Fire Chief | F18 |
| Human Resources Director | A20 |
| Director of Transportation | A20 |
| Director of Neighborhood and Environmental Programs | A20 |
| Director of Recreation and Parks | A20 |
| City Attorney | A20 |
| Assistant City Attorney | A18 |
| Director of Finance | A20 |
| Director of Planning and Zoning | A20 |
| Human Services Officer and Ombudsman | A18 |
| Community Relations Specialist | A12 |
| Administrative Assistant | A8 |
| Assistant City Manager | A14 |
| Public Information Officer and Quartermaster | A12 |
| Fire Chief | F20 |
| Police Chief | P20 |
| Police Major | P18 |
| Police Captain | P17 |

| | |
|--------------------------|-----|
| Director of Public Works | A20 |
|--------------------------|-----|

1
2 2. THE SALARY OF THE MAYOR FOR THE TERM OF OFFICE COMMENCING ON
3 THE FIRST MONDAY IN DECEMBER, 2013, SHALL BE AN ANNUAL SALARY OF \$98,000
4 AND AN ENTITLEMENT TO THE BENEFITS AFFORDED TO THE CITY'S EXEMPT SERVICE
5 EMPLOYEES.

6
7 3. THE SALARY OF EACH ALDERMAN AND ALDERWOMAN FOR THE TERM OF
8 OFFICE COMMENCING ON THE FIRST MONDAY IN DECEMBER, 2013, SHALL BE AN
9 ANNUAL SALARY OF \$13,500. EACH ALDERMAN AND ALDERWOMAN SHALL BE
10 AFFORDED AN ANNUAL ALLOWANCE OF \$1,500 FOR EXPENSES RELATED TO
11 EXECUTING THE DUTIES ASSOCIATED WITH THEIR OFFICE; SUCH EXPENSES SHALL
12 INCLUDE THE COST OF CELL PHONES, POSTAGE, CORRESPONDENCE, OFFICE
13 SUPPLIES, AND EDUCATION AND TRAINING. ALDERMEN AND ALDERWOMEN SHALL
14 PARTICIPATE IN THE MARYLAND STATE RETIREMENT AND PENSION SYSTEM.

15
16 4. [2]. The salary of the City Manager shall be: [proposed and approved by the council
17 at the time of the City Manager's confirmation hearing].

18 I. **SALARY AND PERFORMANCE REVIEWS.** A BASE SALARY FOR THE CITY
19 MANAGER RANGING FROM \$120,000 TO \$180,000 PER YEAR, WITH
20 INCREMENTAL INCREASES BASED UPON ANNUAL PERFORMANCE
21 REVIEWS CONDUCTED BY THE MAYOR. THE INITIAL BASE SALARY
22 SHALL BE FIXED WITHIN THE PROVIDED RANGE BASED UPON THE CITY
23 MANAGER'S EDUCATION AND EMPLOYMENT EXPERIENCE. THE
24 ANNUAL PERFORMANCE REVIEW SHALL BE BASED UPON CRITERIA
25 ESTABLISHED IN ADVANCE BY THE MAYOR IN CONSULTATION WITH
26 THE DIRECTOR OF HUMAN RESOURCES. THE BASE SALARY AND
27 INCREMENTS SHALL BE SUBJECT TO COST OF LIVING INCREASES
28 (COLAS) EVERY TWO YEARS, BASED UPON COLAS AWARDED TO
29 OTHER CITY EXEMPT SERVICE EMPLOYEES DURING THE TWO-YEAR
30 PERIOD. THE CITY MANAGER'S COMPENSATION SHALL BE SUBJECT
31 TO REDUCTION TO THE SAME EXTENT AS OTHER CITY EXEMPT
32 SERVICE EMPLOYEES, INCLUDING REDUCTIONS BASED UPON
33 FURLOUGHS OR SIMILAR ACTIONS.

34
35 II. **BENEFITS.** THE CITY MANAGER IS ENTITLED TO RECEIVE THE SAME
36 BENEFITS AS OTHER CITY EXEMPT SERVICE EMPLOYEES, SUCH AS
37 INCLUSION IN THE CITY'S HEALTH CARE AND RETIREMENT PLANS, IN
38 WHICH THE CITY AND THE EMPLOYEE CONTRIBUTE IN THE SAME
39 PROPORTION AS OTHER CITY EXEMPT SERVICE EMPLOYEES.

40
41 III. **ALLOWANCES.** THE CITY SHALL PROVIDE THE CITY MANAGER WITH A
42 CITY VEHICLE, OR ADDITIONAL COMPENSATION TO REIMBURSE THE
43 USE OF A PERSONALLY-OWNED VEHICLE.

44
45 IV. **SEVERANCE PAY.** THREE (3) MONTHS' SEVERANCE PAY OF SALARY
46 ONLY FOR A CITY MANAGER WHO HAS BEEN REMOVED FROM THE
47 POSITION WITHOUT CAUSE AND NO SEVERANCE IF THE REMOVAL IS
48 FOR CAUSE. GROUNDS FOR REMOVAL THAT CONSTITUTE CAUSE

1 SHALL BE 1) CONVICTION OF A FELONY OR A CRIME OF MORAL
2 TURPITUDE; OR 2) MALFEASANCE OR MISFEASANCE IN OFFICE.
3
4

5 B. Salary raises FOR THE LIST OF POSITIONS INCLUDED IN THE TABLE IN SECTION
6 3.08.030 A.1.:

7 1. Shall be justified by either satisfactory or above satisfactory performance reviews by the
8 Mayor and shall be entirely at the Mayor's discretion, with the exception of those positions listed
9 in subsection (B)(2) of this section;

10 2. Shall be at the discretion of the Department Director for the following positions:

- 11 i. Deputy Fire Chiefs,
- 12 ii. Police Captains,
- 13 iii. Police Major,
- 14 iv. Recruitment/Employee Relations Administrator,
- 15 v. Assistant City Attorney,
- 16 vi. Executive Office Associate,
- 17 vii. Communications Officer,
- 18 viii. Human Services Officer and Ombudsman,
- 19 ix. Community Relations Specialist,
- 20 x. Administrative Assistant,
- 21 xi. Assistant City Manager,
- 22 xii. Public Information Officer and Quartermaster.

23 3. Shall not be awarded to an individual more frequently than once a year;

24 4. Shall not be for an amount exceeding one pay step in the grade range for the position as set
25 in subsection (A)(1) of this section;

26 5. Shall not cause an individual's salary to exceed the maximum salary of the assigned grade.
27

28 C. Longevity salary increases awarded to civil service employees shall not be a benefit of
29 the exempt service.
30

31 D. A City employee appointed to a position specified in subsection (A)(1) of this section
32 shall be assigned to a salary in the new pay grade which is at a minimum five percent higher
33 than the employee's salary prior to promotion or shall be assigned to the minimum of the new
34 grade, whichever is higher. In no case shall the new salary exceed the maximum salary of the
35 new grade.
36

37 E. For positions other than those specified in subsection (B)(2) of this section, the Mayor
38 may make an initial appointment at a salary greater than the first step of the assigned grade.
39 The appointment and initial salary is subject to confirmation by the City Council. For those
40 positions specified in subsection (B)(2) of this section, appointments made by Department
41 Director do not require City Council approval and initial appointments may be made at a salary
42 greater than the first step of the assigned grade subject to the availability of funding.
43

44 F. The Mayor shall report to the City Council on an annual basis the salaries of all positions
45 listed in subsection A of this section, and all increases in salary awarded since the prior report.
46
47

48 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**
49 **ANNAPOLIS CITY COUNCIL** that this Ordinance shall take effect from the date of its adoption.
50
51

Policy Report

Ordinance O-10-13

Compensation of Mayor, Aldermen/Alderwomen, and City Manager

In accordance with the provisions of Article II, Section IV of the Annapolis City Charter, the City Council appointed a Council Compensation Commission via R-38-12 to review the compensation and allowances to be paid to the Mayor, Aldermen/Alderwomen, and City Manager during the terms of office commencing on the first Monday in December 2013. Pursuant to the requirements of the City Charter, the Commission submitted to the City Council a report with the Commission's recommendations for compensation and allowances to be paid to the Mayor, Aldermen/Alderwomen, and City Manager. The report was attached to resolution R-21-13.

The proposed ordinance would specify compensation and allowances to be paid to the Mayor and Aldermen/Alderwomen for the term of office commencing on the first Monday in December, 2013 and would specify compensation and allowances to be paid to the City Manager in contracts negotiated after the adoption of ordinance O-10-13.

Prepared by Jessica Cowles, Legislative and Policy Analyst in the City of Annapolis Office of Law at 410.263.1184 or JCCowles@annapolis.gov.

1 CITY COUNCIL OF THE
2 City of Annapolis

3
4 Ordinance No. O-18-13

5 Sponsors: Alderman Arnett and Mayor Cohen
6
7

| LEGISLATIVE HISTORY | | | |
|---|----------------|--------------------|--------------|
| <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i> | | | |
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 4/22/13 | | | 7/19/13 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Economic Matters | 4/22/13 | | |

8
9 **A ORDINANCE** concerning

10 **The Conveyance of Certain Portions of 908 and 914 Bay Ridge Avenue**

11 **FOR** the purpose of conveying by deed the right, title, and interest of the City of Annapolis in a
12 certain part of the land at 914 Bay Ridge Avenue to Ana Cortes; accepting the
13 conveyance by deed of Ana Cortes' right, title, and interest in a certain part of the land at
14 908 Bay Ridge Avenue; and all matters relating to these conveyances.

15
16 **WHEREAS,** Ana Cortes is the owner of record of the land at 908 Bay Ridge Avenue,
17 Annapolis, Maryland 21401, shown as Parcel 1462 on Tax Map 52D, Grid 14,
18 described in a deed recorded among the Land Records of Anne Arundel County,
19 Maryland in Liber 9749 at folio 612; and
20

21 **WHEREAS,** the Mayor and the Alderpersons of the City of Annapolis are the owners of record
22 of the land at 914 Bay Ridge Avenue, Annapolis, Maryland 21401, shown as
23 Parcel 1463 on Tax Map 52D, Grid 14, described in a deed recorded among the
24 Land Records of Anne Arundel County, Maryland in Liber 1121 at folio 68; and
25

26 **WHEREAS,** Ana Cortes desires to convey to the City of Annapolis approximately 9,583
27 square feet of land from the property at 908 Bay Ridge Avenue, more particularly
28 described in Exhibit A and depicted on Exhibit C attached to this Ordinance and
29 incorporated herein; and
30

31 **WHEREAS,** in exchange for the conveyance of the aforementioned part of 908 Bay Ridge
32 Avenue, Ana Cortes proposes that the City of Annapolis convey to her
33 approximately 4,792 square feet of land from the property at 914 Bay Ridge
34 Avenue, more particularly described in Exhibit B and depicted on Exhibit C
35 attached to this Ordinance and incorporated herein; and
36

37 **WHEREAS,** by authorizing the deed attached to this Ordinance incorporated herein as Exhibit
38 D, Ana Cortes shall convey her right, title, and interest in that part of the property

1 at 908 Bay Ridge Avenue, more particularly described in the attached Exhibits A
2 and C, to the City of Annapolis; and
3

4 **WHEREAS,** by authorizing the deed attached to this Ordinance incorporated herein as Exhibit
5 E, the City of Annapolis shall convey its right, title, and interest in that part of
6 property at 914 Bay Ridge Avenue, more particularly identified in Exhibits B and
7 C, to Ana Cortes; and
8

9 **WHEREAS,** Article III, Section 7 of the Annapolis City Charter requires the passage of an
10 ordinance before the City of Annapolis may dispose of any property no longer
11 needed for public use.
12
13

14 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**
15 **COUNCIL** that it hereby approves and authorizes the conveyance, by deed, of the City's right,
16 title, and interest in that part of the property at 914 Bay Ridge Avenue, more particularly
17 identified in the attached Exhibits B and C, to Ana Cortes and, furthermore, that it hereby
18 accepts the conveyance, by deed, of Ana Cortes' right, title, and interest in that part of the
19 property at 908 Bay Ridge Avenue, more particularly identified in the attached Exhibits A and C,
20 subject to the following conditions:
21

- 22 1. That Ana Cortes shall bear all of the costs in connection with the conveyances
23 authorized by this Ordinance, including but not limited to attorneys' fees, document
24 preparation, survey expenses, title search, title insurance for her and for the City of
25 Annapolis, recordation and transfer fees and taxes, and all other costs and
26 expenses, if any, associated with the conveyances; and
27
- 28 2. That all property descriptions, surveys, and deeds shall be subject to the review and
29 approval of the City Attorney prior to final execution and recordation.
30
- 31 3. That recordation of Deeds shall be contingent upon administrative subdivision
32 approval pursuant to Title 21 of the City Code.
33
34

35 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**
36 **ANNAPOLIS CITY COUNCIL** that it hereby expressly finds that the interest of the City of
37 Annapolis in the property to be conveyed from the City of Annapolis is not needed for any public
38 use.
39
40

41 **SECTION III: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**
42 **ANNAPOLIS CITY COUNCIL** that this Ordinance shall take effect from the date of its passage.
43

44 **ADOPTED** this _____ day of _____, _____.
45

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

1
2
3
4
5
6

EXPLANATION

CAPITAL LETTERS indicate matter added to existing law.
[brackets] indicate matter stricken from existing law.
Underlining indicates amendments.

EXHIBIT "A"

DESCRIPTION OF 9,494 SQUARE FEET OR 0.2179 OF AN ACRE OF LAND
PART OF LIBER 9749 AT FOLIO 612
TAX MAP 52D GRID 14 PARCEL 1462
SIXTH (6TH) TAX DISTRICT
ANNE ARUNDEL COUNTY, MARYLAND

BEING a piece or parcel of land situated, lying, and being in the sixth (6th) tax district of Anne Arundel County, Maryland; the same being part of the conveyance from William W. Smith and Linda Marie Smith to Ana Cortes by deed dated April 25, 2000 and recorded among the Land Records of Anne Arundel County, Maryland in Liber 9749 at Folio 612; the same being more particularly described, in City of Annapolis Datum, as follows:

BEGINNING FOR THE SAME at a point on and distant 82.06 feet from the beginning of the third or South 75° 57' 40" East 426.41 feet line of said Liber 9749 at Folio 612; thence binding on part of said line, the following course as now surveyed

1. South 75° 57' 23" East 157.35 feet to a point; thence so as to cross and divide said Liber 9749 at Folio 612, the following course

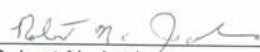
2. South 14° 02' 37" West 50.00 feet to a point on the first or North 75° 57' 40" West 490.84 feet line of said Liber 9749 at Folio 612; thence binding on part of said line and also binding reversely with part of the fourth or South 75° 57' 40" East 492.09 feet line of the conveyance from William H. Blades, widower, William Ralph Blades and Mary Belle Blades, his wife, and Cecil C. Blades, unmarried, to The Mayor and Aldermen of the City of Annapolis by deed dated May 17, 1957 and recorded among said Land Records in Liber 1121 at Folio 68, the following course as now surveyed

3. North 75° 57' 34" West 222.41 feet to a point; thence so as to cross and divide the parcel described in said Liber 9749 at Folio 612, the following course

4. North 66° 30' 08" East 82.06 feet to the point of beginning.

CONTAINING 9,494 square feet or 0.2179 of an acre of land, more or less, as now described.

I **HEREBY CERTIFY** to the best of my professional knowledge, information and belief, this description is correct based on deed and title information that I have been provided.


Robert N. Jordan
Property Line Surveyor
Md. Reg. No. 345



10/18/2012
Date

EXHIBIT "B"

DESCRIPTION OF 5,162 SQUARE FEET OR 0.1185 OF AN ACRE OF LAND
PART OF LIBER 1121 AT FOLIO 68
TAX MAP 52D GRID 14 PARCEL 1463
SIXTH (6TH) TAX DISTRICT
ANNE ARUNDEL COUNTY, MARYLAND

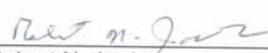
BEING a piece or parcel of land situated, lying, and being in the sixth (6th) tax district of Anne Arundel County, Maryland; the same being part of the conveyance from William H. Blades, widower, William Ralph Blades and Mary Belle Blades, his wife, and Cecil C. Blades, unmarried, to The Mayor and Aldermen of the City of Annapolis by deed dated May 17, 1957 and recorded among the Land Records of Anne Arundel County, Maryland in Liber 1121 at Folio 68; the same being more particularly described, in City of Annapolis Datum, as follows:

BEGINNING FOR THE SAME at a point on the east side of Jefferson Street, said point also being at the beginning of the third or North 65° 23' 30" East 71 feet line of said Liber 1121 at Folio 68; thence binding on said line, the following course as now surveyed

1. North 66° 30' 08" East 71.00 feet to a point; thence binding on part of the fourth or South 75° 57' 40" East 492.09 feet line of said Liber 1121 at Folio 68 and also binding reversely on part of the first or North 75° 57' 40" West 490.84 feet line of the conveyance to Ana Cortes by deed dated April 25, 2000 and recorded among said Land Records in Liber 9749 at Folio 612, the following course as now surveyed
2. South 75° 57' 23" East 82.06 feet to a point; thence so as to cross and divide the parcel described in said Liber 1121 at Folio 68, the following course
3. South 66° 30' 08" West 135.46 feet to intersect the second or North 24° 11' 30" West 192.50 feet line of said Liber 1121 at Folio 68; thence binding part of said line, the following course as now surveyed
4. North 24° 11' 13" West 50.00 feet to the point of beginning.

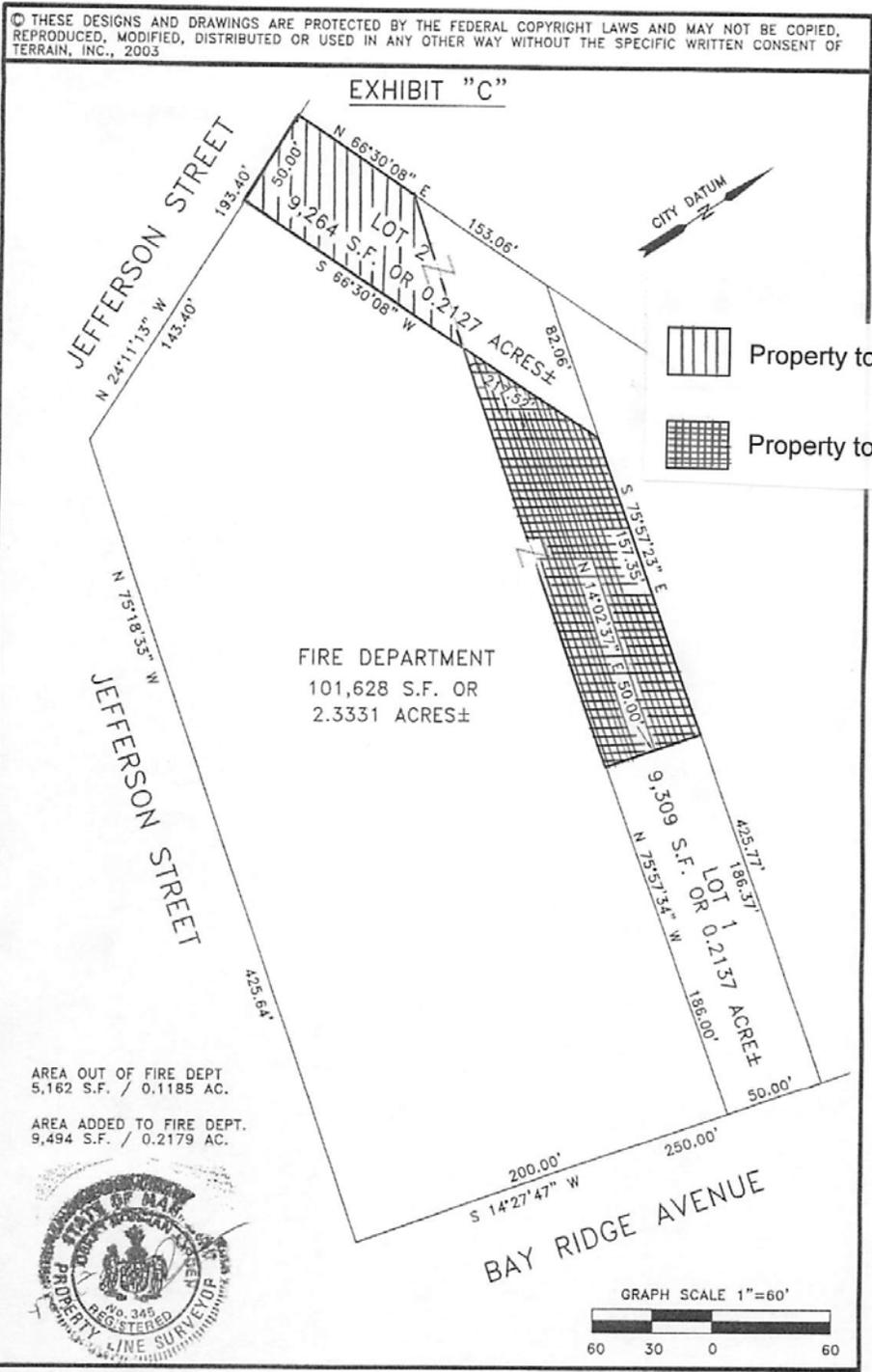
CONTAINING 5,162 square feet or 0.1185 of an acre of land, more or less, as now described.

I HEREBY CERTIFY to the best of my professional knowledge, information and belief, this description is correct based on deed and title information that I have been provided.


Robert N. Jorden
Property Line Surveyor
Md. Reg. No. 345



10-31-2012
Date



TERRAIN INC.
ENGINEERING AND DEVELOPMENT SERVICES

PH (410)266-1160
FAX (410)266-6129

106 OLD SOLOMONS ISLAND ROAD
ANNAPOLIS, MD 21401

C:\SURVEY\PLATS\2303-4.DWG

EXHIBIT D
No Consideration Deed
Tax Acct. No.: 06 000 04023600

DEED

THIS DEED is made ____ day of _____, 2013, by and between ANA CORTES (“Grantor”) and THE CITY OF ANNAPOLIS, a municipal corporation of the State of Maryland (“Grantee”).

WHEREAS, this Deed is authorized pursuant to Ordinance No. O-18-13 of the City Council of the City of Annapolis adopted on the ____ day of _____, 2013, by the Mayor and Aldermen.

NOW, THEREFORE, in consideration of these premises, and for consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which the Grantor and Grantee acknowledge, the Grantor hereby grants, conveys and assigns to the Grantee, its successors and assigns, in fee simple, forever, all of those parcels of land situate, lying and being in Anne Arundel County, Maryland, more particularly described as follows:

See attached Exhibit “A” and Exhibit “B”

Description of 9,494 square feet or 0.2179 of an acre of land

BEING or intending to be a portion of that conveyance from William W. Smith and Linda Marie Smith to Ana Cortes by Deed dated April 25, 2000, and recorded among the Land Records of Anne Arundel County, Maryland, in Book 9749 Page 612. .

TOGETHER with the buildings and improvements thereon erected, made or being and all of the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the above described parcels of land unto and to the proper use and benefit of the Grantee, its successors and assigns, in fee simple, forever.

THE GRANTOR covenants that she has not done or suffered to be done any act, matter or thing whatsoever to encumber the property hereby conveyed, that she will warrant specially the title to the property hereby conveyed, and that she will execute such further assurances of the same as may be requisite.

THE GRANTOR declares and affirms under the penalty of perjury that the consideration paid or to be paid for this conveyance, including the amount of any mortgage or deed of trust outstanding, is zero.

IN WITNESS WHEREOF, the Grantor has executed this Deed on the day and year first herein written.

WITNESS

(Seal)
Ana Cortes

IN WITNESS WHEREOF, the Grantee has executed this Deed on the day and year first herein written for the purpose of acknowledging its acceptance of this conveyance.

ATTESTATION, ACKNOWLEDGEMENT
AND ACCEPTANCE OF CONVEYANCE
AS TO ALL:

REGINA WATKINS-ELDRIDGE, City Clerk

CITY COUNCIL OF THE CITY OF ANNAPOLIS:

By: _____ (Seal)
JOSHUA J. COHEN, Mayor

_____, Alderman

FREDERICK M. PAONE, Alderman

CLASSIE GILLIS HOYLE, Alderwoman (Seal)

SHEILA M. FINLAYSON, Alderwoman (Seal)

JARED LITTMANN, Alderman (Seal)

KENNETH A. KIRBY, Alderman (Seal)

IAN PFEIFFER, Alderman (Seal)

ROSS H. ARNETT, Alderman (Seal)

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

GARY M. ELSON, Assistant City Attorney Date

Pursuant to the Annotated Code of Maryland, Real Property Article, Section 3-104, it is hereby certified that this Deed has been prepared by or under the supervision of an attorney admitted to practice before the Court of Appeals of Maryland.

PLEASE RETURN ORIGINAL TO:
Gary M. Elson
City of Annapolis Office of Law
160 Duke of Gloucester Street
Annapolis, Maryland 21401
Robert D. Miller, Esq.

Exhibit E
No Consideration Deed
Tax Acct. No.: 06 000 01407405

DEED

THIS DEED is made ____ day of _____, 2013, by and between the CITY OF ANNAPOLIS, a municipal corporation of the State of Maryland (“Grantor”) and ANA CORTES (“Grantee”).

WHEREAS, this Deed is authorized pursuant to Ordinance No. O-18-13 of the City Council of the City of Annapolis adopted on the ____ day of _____, 2013 by the Mayor and Aldermen.

NOW, THEREFORE, in consideration of these premises, and for consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which the Grantor and Grantee acknowledge, the Grantor hereby grants, conveys and assigns to the Grantee, her successors and assigns, in fee simple, forever, all of those parcels of land situate, lying and being in Anne Arundel County, Maryland, more particularly described as follows:

See attached Exhibit “A” and Exhibit “B”

Description of 5,162 square feet or 0.1185 of an acre of land

BEING or intending to be a portion of that conveyance from William H. Blades, Widower and Cecil C. Blades, unmarried, to The Mayor and Aldermen of the City of Annapolis by Deed dated May 17, 1957, and recorded among the Land Records of Anne Arundel County, Maryland, in Liber 1121 Folio 68. .

TOGETHER with the buildings and improvements thereon erected, made or being and all of the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the above described parcel of land unto and to the proper use and benefit of the Grantee, her successors and assigns, in fee simple, forever.

THE GRANTOR covenants that it has not done or suffered to be done any act, matter or thing whatsoever to encumber the property hereby conveyed, that it will

warrant specially the title to the property hereby conveyed, and that it will execute such further assurances of the same as may be requisite.

THE GRANTOR declares and affirms under the penalty of perjury that the consideration paid or to be paid for this conveyance, including the amount of any mortgage or deed of trust outstanding, is zero.

IN WITNESS WHEREOF, the Grantor has executed this Deed on the day and year first herein written.

ATTESTATION, ACKNOWLEDGEMENT
AND ACCEPTANCE OF CONVEYANCE
AS TO ALL:

REGINA WATKINS-ELDRIDGE, City Clerk

CITY COUNCIL OF THE CITY OF ANNAPOLIS:

By: _____ (Seal)
JOSHUA J. COHEN, Mayor

_____, Alderman

FREDERICK M. PAONE, Alderman

CLASSIE GILLIS HOYLE, Alderwoman

SHEILA M. FINLAYSON, Alderwoman

_____ (Seal)

JARED LITTMANN, Alderman

(Seal)

KENNETH A. KIRBY, Alderman

(Seal)

IAN PFEIFFER, Alderman

(Seal)

ROSS H. ARNETT, Alderman

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

GARY M. ELSON, Assistant City Attorney

Date

Pursuant to the Annotated Code of Maryland, Real Property Article, Section 3-104, it is hereby certified that this Deed has been prepared by or under the supervision of an attorney admitted to practice before the Court of Appeals of Maryland.

Robert D. Miller, Esq.

PLEASE RETURN ORIGINAL TO:

Robert D. Miller, Esq.
Hyatt & Weber, P.A.
200 Westgate Circle, Suite 500
Annapolis, Maryland 21401

Policy Report

Ordinance O-18-13

The Conveyance of Certain Portions of 908 and 914 Bay Ridge Avenue

The proposed ordinance would convey by deed the right, title, and interest of the City of Annapolis in a certain part of the land at 914 Bay Ridge Avenue to Ana Cortes and accept the conveyance by deed of Ana Cortes' right, title, and interest in a certain part of the land at 908 Bay Ridge Avenue.

The subject of the proposed ordinance is a land swap at the Eastport Fire Station with an adjoining property owner, Ana Cortez. Cortez would convey approximately 9,583 square feet from her property at 908 Bay Ridge Avenue to the City of Annapolis in exchange for 4,792 square feet of the City of Annapolis' property located at 914 Bay Ridge Avenue.

Prepared by Jessica Cowles, Legislative and Policy Analyst in the City of Annapolis Office of Law at 410.263.1184 or JCCowles@annapolis.gov.

1
2
3
4
5
6
7

**CITY COUNCIL OF THE
City of Annapolis**

Ordinance No. O-20-13

Sponsor: Mayor Cohen

| LEGISLATIVE HISTORY | | | |
|---|----------------|--------------------|--------------|
| <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i> | | | |
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| Referred to | Referral Date | Meeting Date | Action Taken |
| 4/22/13 | | | 7/19/13 |
| Rules and City Gov't | 4/22/13 | | |

8
9 **A ORDINANCE** concerning

10 **Highly Compensated Employees in the Police and Fire Retirement Plan**

11 **FOR** the purpose of establishing the definition of "highly compensated employee" within the
12 Police and Fire Retirement Plan and authorizing such highly compensated employee
13 participation in the Police and Fire Retirement Plan with the option of a retroactive
14 purchase of service credits at the actuarial value.

15 **BY** repealing and re-enacting with amendments the following portions of the Code of the
16 City of Annapolis, 2012 Edition
17 Section 3.36.020
18 Section 3.36.030

19
20 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**
21 **COUNCIL** that the Code of the City of Annapolis shall be amended to read as follows:

22
23 **CHAPTER 3.36 – POLICE AND FIRE RETIREMENT**

24
25 **3.36.020 - Definitions.**

26 A. The following words and phrases as used in this plan, unless a different meaning plainly is
27 required by the context, have the following meaning:

28 1. "Active service" means as follows:

- 29 a. Service before August 15, 1963: A member's active service before August 14,
30 1963 is that period of time, commencing with the member's most recent date of
31 hire and terminating on August 14, 1963, that the member was a full-time eligible
32 employee of the City's Police Department or Fire Department.
- 33 b. Service after August 14, 1963: A member's active service after August 14, 1963, is
34 that period of time, commencing with the later of August 15, 1963 or the member's
35 most recent date of hire, that the member (i) was a full-time eligible employee of
36 the City's Police Department or Fire Department and (ii) made all required

- 1 contributions to the City's police and fire retirement fund as specified in this
2 chapter.
- 3 c. Breaks in service: Except as set forth in this subparagraph, if a member terminates
4 employment with the City's Police Department or Fire Department for reasons
5 other than death, disability retirement or service retirement, the member will lose
6 all credit for active service earned before his/her employment terminated.
7 However, if the member is rehired and again becomes a member, and if when the
8 employee becomes a member again, the employee has vested rights to a pension
9 benefit under this plan, which rights derive from prior active service, then the
10 employee's prior active service will be reinstated and will be added to active
11 service earned after the employee's rehire. Furthermore, if a member terminates
12 employment with the City's Police or Fire Department but remains an employee of
13 the City, and if the employee subsequently becomes a member again without
14 having terminated employment with the City in the interim, the employee's active
15 service will include active service standing to the employee's credit when the
16 employment with the Police or Fire Department terminated unless the member
17 received a distribution of the member contributions, plus interest, attributable to
18 such service, in which event such service shall be disregarded. Furthermore, if a
19 member terminated employment with the City's Police Department before July 1,
20 1996 for reasons other than death, disability retirement or service retirement and
21 after such termination was rehired by the Police Department and again became a
22 member, the member shall be entitled to credit for any active service earned
23 before his/her employment terminated for which the member received, at the time
24 of termination, a distribution of the member's contributions, provided that, not later
25 than December 31, 1996, the member: (1) retires; (2) completes a claim for the
26 service credit in such form as the City's Human Resources Director may require;
27 (3) pays the retirement fund an amount equal to the distribution made to the
28 employee at the time of termination plus interest thereon calculated at a rate to be
29 determined by the Director of Finance in consultation with City pension
30 consultants, compounded on each July 1st and calculated from the date of
31 distribution through the date of payment hereunder. The provisions of the
32 preceding sentence shall apply whether or not the member was vested at the time
33 of the termination creating the break in service. Upon the foregoing payment to the
34 retirement fund, the member shall be deemed to have never withdrawn any
35 contribution as set forth in Section 3.36.020 (A)(16)(b).
- 36 d. Active service shall be computed, for the purpose of determining benefits to be
37 paid to the member from the retirement fund, to the nearest one-twelfth of a year.
- 38 e. Credit for military service: If a member's normal service retirement pension benefit
39 is determined under either Section 3.36.040(A)(2) or Section 3.36.040(C), service
40 on active duty with the Armed Forces of the United States will count as active
41 service under the following circumstances and subject to the following conditions
42 and limitations. Up to three years of active duty will be credited as active service if
43 the member is drafted or called to active duty and returns to service under this
44 plan within ninety days after becoming eligible for release from active duty. Active
45 duty, not to exceed three years, with the Armed Forces of the United States which
46 was completed honorable before employment began with the City will be counted
47 as active service; provided, however, that (i) military service will not count for
48 purposes of increasing the member's normal service pension benefit unless a
49 member has completed twenty years of actual active service with the City, (ii) no

- 1 military service credit will be awarded which would cause the member's total active
2 service to exceed any applicable plan maximum, and (iii) military service will not
3 count as active service for any purpose under the plan unless the member
4 provides written verification of the military service which is satisfactory to the City's
5 Human Resources Director.
- 6 2. "Annual earnings": A member's annual earnings shall equal twenty-six times the
7 member's straight-time biweekly pay period salary as that salary is in effect on the date
8 disability is incurred or death occurs.
- 9 3. "Credited interest" means the interest earned on member contributions for the number
10 of full months from the July 1st following the date the contribution was made to the date
11 to which interest is being computed. Member contributions made for the time period
12 ending June 30, 1980 shall accrue interest during the period described in the preceding
13 sentence at the rate of two percent per annum compounded on each July 1st. Member
14 contributions made for the time period beginning July 1, 1980 shall accrue interest
15 during the time period described in the first sentence of this subdivision at the rate of
16 five percent per annum compounded on each July 1st, except that the five percent per
17 annum interest rate may be modified, with the prior approval of the City Council.
- 18 4. "Disability retirement": Retirement granted pursuant to the provisions of Section
19 3.36.070
- 20 5. "Early service retirement date" of a member will be determined as follows:
- 21 a. If the member (i) was hired prior to August 1, 1972, and does not elect to be
22 covered by the normal service retirement pension formula described in Section
23 3.36.040(A)(2), (ii) was hired on or after August 1, 1972 but before August 1, 1979
24 and neither elects to be covered by subparagraph ii of paragraph c of subdivision
25 11 of this subsection (pertaining to normal service retirement after twenty-five
26 years of active service) nor to be covered by the normal service retirement pension
27 formula described in Section 3.36.040(A)(2) or (iii) was hired on or after August 1,
28 1979 but before July 1, 1980 and does not elect to be covered by subparagraph ii
29 of paragraph d of subdivision 11 of this subsection (pertaining to normal service
30 retirement after twenty-five years of active service), there shall be no provision in
31 the law for, nor shall the member have any right to, early service retirement.
- 32 b. If the member (i) was hired on or after August 1, 1972 but before August 1, 1979
33 and elects to be covered by subparagraph ii of paragraph c of subdivision 11 of
34 this subsection (pertaining to normal service retirement after twenty-five years of
35 active service) or elects to be covered by the normal service retirement pension
36 formula described in Section 3.36.040(A)(2), (ii) was hired on or after August 1,
37 1979, but before July 1, 1980, and elects to be covered by subparagraph ii of
38 paragraph d of subdivision 11 of this subsection (pertaining to normal service
39 retirement after twenty-five years of active service) or (iii) was hired on or after July
40 1, 1980, the member shall be eligible for early service retirement after twenty years
41 of active service.
- 42 6. "Eligible spouse" means a spouse to whom the member is married on the date of the
43 member's normal or early service retirement and to whom the member has been
44 married during the entire one-year period ending on that date. Additionally, an "eligible
45 spouse" is a spouse to whom the member is married as of the date a disability is
46 incurred if disability retirement benefits are awarded as a result of the disability. A

- 1 person will not qualify as an "eligible spouse" unless the marriage of the member to the
2 spouse was performed before proper civil or religious authority.
- 3 7. "Final earnings": A member's final earnings shall equal twenty-six times the average
4 straight-time salary of the highest consecutive seventy-eight biweekly pay periods
5 during the ten-year period preceding the date of the member's normal or early service
6 retirement or, if applicable, the date of the member's disability.
- 7 8. "Full time": A member shall be considered employed full time during any period in
8 which the member is carried as a full-time employee on the employment records of the
9 Police or Fire Department, as the case may be, or in which the member's straight-time
10 employment is at a rate which, if annualized, would equal at least two thousand eighty
11 straight-time hours per year.
- 12 9. "HIGHLY COMPENSATED EMPLOYEES" MEANS THE POLICE CHIEF AND FIRE
13 CHIEF.
- 14 10[9]. "Member" means a full-time employee of the City and either:
- 15 a. A sworn member of the police force of the Police Department, exclusive of parking
16 meter monitors but inclusive of police cadets; or
- 17 b. A member of the fire suppression force, fire prevention force or paramedic force of
18 the Fire Department.
- 19 11[10]. "Member contributions" means the amounts contributed by a member to the
20 retirement fund as set forth in this subdivision. Every member shall contribute to the
21 retirement fund as a condition of employment. The contribution shall be a percentage
22 of the member's straight-time salary determined as follows:
- 23 a. The contribution shall be three percent of straight-time salary for the following
24 categories of members: (i) members hired before August 1, 1972, who do not elect
25 to be covered under the normal service retirement pension formula described in
26 Section 3.36.040(A)(2), (ii) members hired on or after August 1, 1972 but before
27 August 1, 1979 who do not elect to be covered by subparagraph ii of paragraph c
28 of subdivision 11 of this subsection (pertaining to normal service retirement after
29 twenty-five years of active service) and who do not elect to be covered under the
30 normal service retirement pension formula described in Section 3.36.040 (A)(2)
31 and (iii) members hired on or after August 1, 1979 but before July 1, 1980 who do
32 not elect to be covered by subparagraph ii of paragraph d of subdivision 11 of this
33 subsection (pertaining to normal service retirement after twenty-five years of active
34 service). A member's contribution under the preceding sentence shall start with the
35 date of employment, but no earlier than July 1, 1966, and continue until the date of
36 service retirement, disability retirement, termination of service, or death while on
37 active service.
- 38 b. For (i) members hired on or after August 1, 1972 but before August 1, 1979 who
39 elect to be covered by subparagraph ii of paragraph c of subdivision 11 of this
40 subsection (pertaining to normal service retirement after twenty-five years of active
41 service) and who do not elect to be covered under the normal service retirement
42 pension formula described in Section 3.36.040(A)(2), (ii) members hired on or after
43 August 1, 1979 but before July 1, 1980 who elect to be covered by subparagraph ii
44 of paragraph d of subdivision 11 of this subsection (pertaining to normal service
45 retirement after twenty-five years of active service) and (iii) members hired on or
46 after July 1, 1980, the contribution shall be, starting with the date of employment

1 and continuing through June 30, 1980, three percent of the member's straight-time
2 salary, and, starting with July 1, 1980 and continuing until June 30, 1998, six and
3 one-half (6½) percent of the member's straight-time salary and starting with July 1,
4 1998 and continuing until the date of service retirement, disability retirement,
5 termination of service, or death while on active service, five and one-half percent
6 of the member's straight-time salary.

- 7 c. For members hired before August 1, 1979 who elect to be covered under the
8 normal service retirement pension formula described in Section 3.36.040(A)(2), the
9 contribution shall be, starting with October 1, 1991 (or, if earlier, the date the
10 member's election under Section 3.36.040(A)(2)) and continuing until the date of
11 service retirement, disability retirement, termination of service, or death while on
12 active service, five percent of the member's straight time salary. The contribution
13 for any such member prior to October 1, 1991 (or, if earlier, the date of the
14 member's election under Section 3.36.040(A)(2)) shall be determined under the
15 terms of the plan which applied to such member prior to that date.

16 12[11]. "Normal service retirement date" of a member will be determined as follows:

- 17 a. If the member was hired on or before July 31, 1967 the member, at the sole
18 determination of the City Council, may be permitted to retire after twenty years of
19 active service. There shall be no provision in the law under which a member may
20 apply for retirement or be retired at a certain age.
- 21 b. If the member was hired on or after August 1, 1967 but prior to August 1, 1972 the
22 member may elect either of the following:
- 23 i. The member, at the sole determination of the City Council, may be permitted
24 to retire after twenty years of active service. If the member elects the
25 preceding sentence, there shall be no provision in the law under which the
26 member may apply for retirement or be retired at a certain age.
- 27 ii. The member shall be eligible for retirement after completing twenty years of
28 active service and attaining the age of fifty-five.
- 29 c. If the member was hired on or after August 1, 1972 but prior to August 1, 1979, the
30 member may elect either of the following, the election to be accomplished in
31 writing with the City's Human Resources Director not later than June 30, 1981:
- 32 i. The member shall be eligible for retirement after completing twenty years of
33 active service and attaining the age of fifty-five.
- 34 ii. Upon payment to the retirement fund of a total of six and one-half percent of
35 the member's straight-time salary from July 1, 1980 to the date of election
36 (this amount to include payments made for that period under subdivision 10 of
37 this subsection pertaining to member contributions), and upon payment
38 thereafter of amounts required by paragraph b of subdivision 10 of this
39 subsection, the member shall be eligible for normal service retirement after
40 twenty-five years of active service.

41 If the member does not make an election in writing by June 30, 1981, the
42 member's retirement benefits shall be provided under subparagraph I of this
43 paragraph.

- 44 d. If the member was hired on or after August 1, 1979 but before July 1, 1980, the
45 member may elect either of the following, the election to be accomplished in
46 writing with the City's Human Resources Director not later than June 30, 1981:

- 1 i. The member shall be eligible for retirement after thirty years of active service
2 on an annual retirement income of five thousand dollars.
- 3 ii. Upon payment to the retirement fund of a total of six and one-half percent of
4 the member's straight-time salary from July 1, 1980 to the date of election
5 (this amount to include payments made for that period under subdivision 10 of
6 this subsection pertaining to member contributions), and upon payment
7 thereafter of amounts required by paragraph b of subdivision 10 of this
8 subsection, the member shall be eligible for normal service retirement after
9 twenty-five years of active service.

10 If the member does not make an election in writing by June 30, 1981, the
11 member's retirement benefits shall be provided under subparagraph I of this
12 paragraph.

- 13 e. If the member was hired on or after July 1, 1980, the member shall be eligible for
14 normal service retirement after twenty-five years of active service.
- 15 f. If a member elects to be covered under the normal service retirement pension
16 formula described in Section 3.36.040(A)(2), upon payment to the retirement fund
17 of a total of five percent of the member's straight time salary from October 1, 1991
18 through the date of election (this amount to include payments made for that period
19 under subdivision 10 of this subsection pertaining to member contributions) and
20 upon payment thereafter of amounts required by paragraph c of this subdivision 10
21 of this subsection, the member shall be eligible for normal service retirement after
22 twenty-five years of active service.
- 23 g. In determining a member's active service for purposes of eligibility for normal
24 service retirement under paragraphs a and b, subparagraph i of paragraph c, and
25 subparagraph i of paragraph d of this subdivision, a member shall receive credit
26 for one month of service for every twenty-two days of unused sick leave, to a
27 maximum of twenty months of service. Unused sick leave shall not be counted in
28 determining a member's eligibility for retirement benefits under subparagraph ii of
29 paragraph c, subparagraph ii of paragraph d, and paragraph e and paragraph h of
30 this subdivision.
- 31 h. This paragraph h shall apply only to members of the Police and Fire Departments
32 defined in Section 3.36.020(A)(9)(a) who retire on or after July 1, 1994. In addition
33 to being eligible for normal service retirement under paragraphs a through f of this
34 subdivision 11, such a member shall be eligible for normal service retirement after
35 twenty years of active service and attaining age fifty. The member contributions
36 and the normal service retirement pension that would have been applicable to
37 such a member had the member retired under another paragraph of this
38 subdivision 11 will continue to be applicable if the member retires under this
39 paragraph h.

40 13[12]. "Retired member" means a former member who has satisfied the criteria for
41 eligibility for service retirement or disability retirement.

42 14[13]. "Retirement fund" means the fund maintained by the City with a legal life reserve
43 insurance company, trustee, or other funding medium for the purpose of underwriting
44 this plan.

1 15[14]. "Salary" means earnings actually paid for normally scheduled duty hours of work
2 including authorized sick leave and annual leave, but excluding overtime hours or
3 emergency response hours while not on scheduled duty.

4 16[15]. "Social security integration level" means, with respect to the calendar year in
5 which a member retires or otherwise terminates employment, the average annual
6 amount of earnings for which old age and survivors benefits would be provided under
7 Title II of the Federal Social Security Act for a male employee sixty-five years old in
8 that calendar year, (a) computed as though for each year before that calendar year
9 annual earnings are at least equal to the maximum amount of annual earnings subject
10 to tax under the Federal Insurance Contributions Act and (b) using in computing such
11 average a maximum of thirty-five years and only years after calendar 1958. The
12 average annual amount of earnings shall be rounded to the next lower multiple of one
13 hundred dollars.

14 17[16]. "Vested rights" means the right of a member, upon termination of employment for
15 reasons other than retirement, disability or death, to receive a service retirement
16 pension at a certain age after completion of a certain number of years of active service.
17 "Vested rights" of a member are as follows:

18 a. If the member was hired before August 1, 1972, or if the member was hired on or
19 after August 1, 1972 but before August 1, 1979 and does not elect to be covered
20 by subparagraph ii of paragraph c of subdivision 11 of this subsection (pertaining
21 to normal service retirement after twenty-five years of active service), or if the
22 member was hired on or after August 1, 1979 but before July 1, 1980 and does not
23 elect to be covered by subparagraph ii of paragraph d of subdivision 11 of this
24 subsection (pertaining to normal service retirement after twenty-five years of active
25 service), the member shall have no vested rights. Accordingly, if he terminates
26 employment prior to retirement, disability or death, the member shall not be
27 entitled to any benefits under this plan, except for a refund of the member's
28 contributions, plus interest, as set forth in this chapter.

29 b. If the member was hired on or after August 1, 1972 but before August 1, 1979 and
30 elects to be covered by subparagraph ii of paragraph c of subdivision 11 of this
31 subsection (pertaining to normal service retirement after twenty-five years of active
32 service), or if the member was hired on or after August 1, 1979, but before July 1,
33 1980 and elects to be covered by subparagraph ii of paragraph d of subdivision 11
34 of this subsection (pertaining to normal service retirement after twenty-five years of
35 active service), or if the member was hired on or after July 1, 1980, the member
36 shall have full vested rights to a service retirement pension (calculated and
37 payable as set forth in this chapter) upon completion of ten years of active service,
38 but only as long as the member does not withdraw the member contributions.

39 18[17]. "Widow(er)" means a spouse to whom a member is married on the date of the
40 member's death while employed as a member, the marriage to have been performed
41 before proper civil or religious authority.

42 19[18]. "Yearly earnings" means the total amount of straight-time salary paid during the
43 twenty-six biweekly pay periods immediately preceding the date of retirement or death.

44 B. Other terms used in this chapter which are defined by Sections 1.04.020 or 1.04.030 shall
45 have the meanings assigned to them by that section.

46

1 **3.36.030 - Participation and application for benefits.**

- 2 A. Eligibility to Participate. Each member who participated in this plan on June 30, 1980 shall
3 continue to participate. Each other member will participate in and be covered by the
4 provisions of this plan effective with the member's date of hire. Participation in this plan is a
5 mandatory condition of employment.
- 6 B. Procedure to Establish Participation. A member shall obtain from, complete, and deliver to
7 the City's Human Resources Director those forms pertaining to participation in this plan as,
8 from time to time, may be prescribed.
- 9 C. Procedure for Obtaining Benefits. Any member who is eligible to receive benefits from the
10 plan shall obtain from, complete, and deliver to the City's Human Resources Director those
11 forms as, from time to time, may be prescribed.
- 12 D. Procedure for Withdrawal From Participation. Any member who withdraws from the plan
13 because of termination of employment prior to the accrual of retirement or vested rights,
14 shall obtain from, complete and deliver to the Human Resources Director those forms as,
15 from time to time, may be prescribed.
- 16 E. Procedure for Obtaining Widow(er) or Surviving Spouse Annuity Benefits. Any person
17 entitled to survivor's benefits under the plan, in order to obtain those benefits, shall obtain
18 from, complete, and deliver to the Human Resources Director those forms as, from time to
19 time, may be prescribed.
- 20 F. HIGHLY COMPENSATED EMPLOYEES SHALL HAVE THE OPTION TO PARTICIPATE
21 IN THIS PLAN. IN THE EVENT A HIGHLY COMPENSATED EMPLOYEE IS NOT A
22 MEMBER OF THE PLAN AT THE TIME OF HIS OR HER APPOINTMENT, HE OR SHE
23 MAY ELECT TO BECOME A MEMBER. IF HE OR SHE ELECTS TO BECOME A
24 MEMBER MORE THAN 30 DAYS AFTER HIS OR HER APPOINTMENT, THE HIGHLY
25 COMPENSATED EMPLOYEE MAY PURCHASE SERVICE CREDITS RETROACTIVE TO
26 THE DATE OF HIS OR HER APPOINTMENT. WHEN SUCH AN ELECTION IS MADE,
27 THE HIGHLY COMPENSATED EMPLOYEE (A) IS SOLELY RESPONSIBLE FOR THE
28 COST OF MAKING THE NECESSARY CONTRIBUTIONS TO THE PLAN TO PURCHASE
29 THE ADDITIONAL SERVICE CREDITS; (B) SHALL MAKE CONTRIBUTIONS IN AN
30 AMOUNT EQUAL TO THE ACTUARIAL COST OF THE SERVICE CREDITS, AS
31 DETERMINED BY THE PLAN'S ACTUARY; AND (C) SHALL PAY ANY ACTUARIAL FEE
32 ASSOCIATED WITH SUCH CALCULATION.

33

34 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**
35 **ANNAPOLIS CITY COUNCIL** that this Ordinance shall take effect from the date of its passage.

36

37 **ADOPTED** this _____ day of _____, _____.

38

39

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

40

41

1
2
3
4

EXPLANATION

CAPITAL LETTERS indicate matter added to existing law.

[brackets] indicate matter stricken from existing law.

Underlining indicates amendments.

Policy Report

Ordinance O-20-13

Highly Compensated Employees in the Police and Fire Retirement Plan

The proposed ordinance would establish the definition of “highly compensated employee” within the Police and Fire Retirement Plan and authorize such highly compensated employee participation in the Police and Fire Retirement Plan with the option of a retroactive purchase of service credits at the actuarial value.

Prepared by Jessica Cowles, Legislative and Policy Analyst in the City of Annapolis Office of Law at 410.263.1184 or JCCowles@annapolis.gov.

**CITY COUNCIL OF THE
City of Annapolis**

Resolution No. R-23-13

Introduced by: Mayor Cohen

| LEGISLATIVE HISTORY | | | |
|---------------------|----------------|--------------------|--------------|
| First Reading | Public Hearing | Fiscal Impact Note | 90 Day Rule |
| 4/22/13 | | | 7/19/13 |
| Referred to | Referral Date | Meeting Date | Action Taken |
| Economic Matters | 4/22/13 | | |
| Finance | 4/22/13 | | |

A RESOLUTION concerning

Special Event Applications - II

FOR the purpose of authorizing City Council approval of selected special events per R-14-12, implementing a moratorium on administrative approvals for events at City Dock; designating specific dates for the sale of merchandise in the Historic District in conjunction with only the approved special events; waiving docking fees for the Eastport Yacht Club Lights Parade; and the reimbursement of full fees to the City for the cost associated with the other approved events.

WHEREAS, the Annapolis City Council adopted R-14-12 on April 23, 2012 that enacted a moratorium on administrative approvals of major special events at City Dock; and

WHEREAS, R-14-12 shall expire on April 23, 2013 or on the effective date of a forthcoming comprehensive special event ordinance (see pending ordinance O-4-13); and

WHEREAS, Section 7.40.090 of the City Code allows the City Council to designate certain days when peddlers, hawkers and itinerant merchants may sell in the Historic District or a nonresidential area; and

WHEREAS, Section 6.04.210 of the City Code states that “whenever a person leases, uses or occupies a City facility, the person shall be charged and pay a minimum of full fees for the use of the facility.” Examples of City facilities include public spaces, grounds, parks, athletic facilities, fields, docks, piers, wet slips, moorings, developable waters, buildings, motor vehicles, equipment, structures, rooms or other parts of public buildings. Examples of City services include traffic control, crowd control, public safety support (police or fire), trash removal, sanitary services, recycling, bulk pick-up, the provision of water, sewer, electricity, communications or other utilities, transportation, and labor. Full fees “means the value of the right to lease, use or occupy the City facility as determined by the Finance Director in a fiscal impact note, plus all costs incurred by the City of Annapolis including, but not limited to, utility costs and costs associated with municipal services (public safety, public works, custodial, renovations, repairs, maintenance, transportation and parking).”

1
2 **WHEREAS,** the following applicants seek to hold special events in the City in 2013
3 (complete details are included in the attached staff report);
4 • ZOOMA Women’s Race Series (ZOOMA Annapolis Half Marathon and
5 10K: June 1)
6 • Corvette Annapolis (Corvettes on the Bay Car Show: June 15)
7 • Mid-Atlantic Plein Air Painters Association (Paint Annapolis 2013: June 26-
8 30)
9 • Chesapeake Bay Yacht Racing Association (CBYRA) (Annapolis Race
10 Week: August 31-September 2)
11 • Semper Fi Fund (John Ripley Memorial Race: November 10)
12 • Eastport Yacht Club (Lights Parade: December 14).
13

14 **NOW THEREFORE, BE IT RESOLVED BY THE ANNAPOLIS CITY COUNCIL** that the City
15 Council authorizes the above special events and exempts from the R-14-12 moratorium the
16 Corvette Annapolis Corvettes on the Bay Car Show, the Semper Fi John Ripley Memorial Race,
17 the Eastport Yacht Club Lights Parade and the ZOOMA Women’s Race Series Annapolis Half
18 Marathon and 10K.
19

20 **AND, BE IT FURTHER RESOLVED BY THE ANNAPOLIS CITY COUNCIL** that sales of
21 merchandise in the Historic District are allowed in conjunction only with the approved special
22 events (CBYRA Annapolis Race Week and Paint Annapolis 2013) and in the geographic
23 location(s) of the approved special events.
24

25 **AND, BE IT FURTHER RESOLVED BY THE ANNAPOLIS CITY COUNCIL** that there shall be
26 a waiver of docking fees for the Eastport Yacht Club Lights Parade.
27

28 **AND, BE IT FURTHER RESOLVED BY THE ANNAPOLIS CITY COUNCIL** that there shall be
29 no waiver of full fees for any other approved special event in this resolution. Notwithstanding
30 any other provision of law, the Director of Finance shall determine the full fees incurred by the
31 City government and the organizers of the event shall reimburse the City for full fees.
32

33 **AND, BE IT FURTHER RESOLVED BY THE ANNAPOLIS CITY COUNCIL** that a
34 representative of the City will be present to resolve matters relating to these special events and
35 his/her cell phone number shall be posted on the City’s website during the hours the event is
36 open to the public.
37

38 **ADOPTED** this _____ day of _____, _____.
39

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

EXPLANATION

CAPITAL LETTERS indicate matter added to existing law.
[brackets] indicate matter stricken from existing law.
Underlining indicates amendments.

40
41
42
43
44

Staff Report

R-23-13

Special Event Applications

The proposed resolution would authorize Council approval of the following special events under the three categories, below:

- Vendor Sales in the Historic District [Chapter 7.40.090 A.]
- Moratorium on Administrative Approvals of Major Special Events at City Dock [R-14-12]
- Waiver of fees [Chapter 6.04.210 D.4.]

CBYRA—Applicant

Event: CBYRA Annapolis Race Week

Council Action: Vendor Sales in Historic District

Sales: event related merchandise

Location: Susan Campbell Park

Date: Saturday-Monday, August 31-September 2, 2013

Event Time: Noon-9 p.m.

Property Use Time: Setup 8 a.m. Friday, August 30; Breakdown 12:00 p.m. Tuesday, September 3, 2013

Participants: CBYRA members and volunteers

Attendees: race participants and guests

Street closures: None

Post no parking: No

Admission fee: None

City Services: full cost paid

1) DNEP: Exempt peddlers permit to sell in Historic District

Police service provided within normal APD patrols; EMS service provided within normal AFD 911 service.

Mid-Atlantic Plein Air Painters Association—Applicant

Event: Paint Annapolis 2013

Council Action: Vendor Sales in Historic District

Sales: sale of paintings by artists

Location: Susan Campbell Park (for paint, show and sale of paintings); Hopkins Plaza (registration and welcome booth)

Dates: Wednesday-Sunday, June 26-30, 2013

Event Time: sunrise to sunset

Property Use Time: Hopkins Plaza Wednesday-Friday, 7 a.m.-7 p.m. and Saturday, 7 a.m.-2 p.m.; Susan Campbell Park, Saturday, June 29, 11:30 a.m.-1:30 p.m.

Participants: artists and volunteers

Attendees: visitors and residents of Annapolis

Admission fee: none

Street closures: none

Posted no parking: none

Amplified music: none

Food: none

City Services: full cost paid

1) DNEP: Exempt Peddlers permit to sell in the Historic District.

2) ADOT: Parking passes (Mayor to waive \$299; balance paid by applicant)

Police service provided within normal APD patrols; EMS service provided within normal AFD 911 service.

Corvette Annapolis—Applicant

Event: Corvettes on the Bay (Corvette car show) fundraiser, Arc of the Central Chesapeake Region

Council Action: Moratorium on Administrative Approvals (posted no parking)

Sales: none

Location: Susan Campbell Park; City Dock parking area

Date: Saturday, June 15, 2013

Event Time: 10 a.m.-4 p.m.

Property Use Time: 8 a.m.- 5 p.m.

Participants: Club members and Corvette owners

Attendees: visitors and residents of Annapolis

Admission fee: open to the public

Street closures: none

Posted no parking: between Susan Campbell Park and Harbormaster Building (island spaces only; Harbormaster and Dock Street parking will remain open)

Amplified music: yes (recorded music)

Food/Beverage: none

City Services: full cost paid

1) ADOT: Posting of no-parking signs and reimbursement of staff time and parking fees for time of Property Use

2) DNEP: Temporary Structures permit

3) City Clerk: Solicitors' Permit for sale of voting ballots to spectators as a fundraiser

Police service provided within normal APD patrols; EMS service provided within normal AFD 911 service.

Semper Fi Fund—Applicant

Event: 5th Annual John Ripley Memorial Race

Council Action: Moratorium on Administrative Approvals (road closure)

Sales: none

Posted no parking: none

Location: Navy-Marine Corps Stadium

Dates: Sunday, November 10, 2013

Event Time: 9-10 a.m.

Property Use Time: 6 a.m.-10:30 a.m.

Participants: Semper Fi Fund volunteers and event runners

Attendees: visitors and residents of Annapolis

Admission fee: public, none

Street closures: Route below; in City Dock: Randall Street from Main to Prince George Street

Amplified music: at Stadium only—pre-recorded music; announcements

Food: none served or for sale

City Services: full cost paid

1) APD: Police route management

2) AFD: EMS on site

RUN ROUTE: below (start and finish only in City)

Amplified music: none

Food: none

City Services:

- 1) ADOT: posting of 20 Circulator: normal route; adjusted times possible
- 2) Harbormaster: dockage fee waiver requested

Police service provided within normal APD patrols; EMS service provided within normal AFD 911 service.

Zooma Women's Race Series—Applicant

Event: ZOOMA Annapolis Half Marathon and 10K

Council Action: Moratorium on Administrative Approvals (road closure)

Street closures: Route below; in City Dock: Randall Street from Main to Prince George Street

Location: Navy-Marine Corps Stadium

Dates: Saturday, June 1, 2013

Event Time: 7:00 a.m.-10:30 a.m.

Property Use Time: 3:00 a.m.-11 a.m. (end time when roads open up)

Participants: applicant employees, volunteers and runners

Attendees: visitors and residents of Annapolis

Admission fee: \$70-105 to race participants; free to public

Sales: at Stadium only

Posted no parking: none

Amplified music: at Stadium only—pre-recorded music; announcements

Food: served at Stadium only

City Services: full cost paid

- 1) APD: Police route management
- 2) AFD: EMS on site
- 3) DNEP: peddlers permit

RUN ROUTE: below

Detailed Narrative Description

Exit Stadium West Parking lot and turn left onto Farragut Road

Turn left onto Cedar Park Rd.

Turn left onto Taylor Ave.

Turn Right onto Rowe Blvd. (Rt. 70)

Bear Right around East side of Church Circle

Bear Left off Church Circle onto Main St.

Turn Left onto Randall St.

Turn Right onto Dock St. Circle parking area, and turn north on Dock St.

Turn Right onto Randall St.

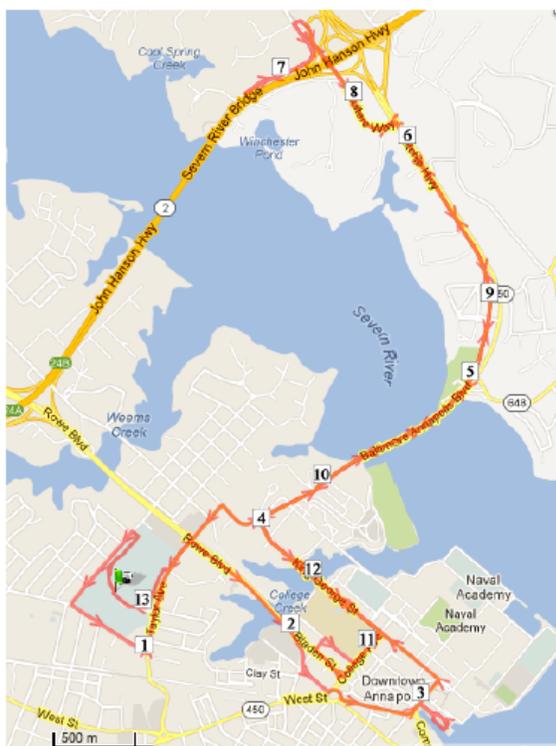
Turn Left onto King George St.

Turn Right onto Rt. 450, cross Naval Academy Bridge

Continue up right hand lane of southbound lanes of Route 450.
Turn left onto Boulters Way (right hand shoulder).
Turn left at Winchester Road. Proceed approx. ½ mile and turn around.
Turn Right onto Boulters Way (left hand shoulder) until Route 450.
Turn right on Route 450 (right hand lane, headed southbound.)
Cross Naval Academy Bridge.
Turn left onto King George St.(left hand lane).
Turn Left on College Ave.
Turn Right on Bladen St. (right hand lane only).
Turn right at Calvert St.
Turn Right at St Johns St.
Turn Left at College Ave.
Turn Left on King George St (left hand lane) to Baltimore Blvd.
Turn left onto Baltimore Blvd. Turn left on Taylor Ave.
Cross Rowe Blvd. and proceed to South Stadium entrance.
Turn Right into West Stadium Parking lot.
Race ends in front of the Stadium banquet facility on the West side.

ZOOMA Annapolis Half Marathon & 10K
Saturday, June 1, 2013

Contact: Brae Blackley, Event Director
brae@zoomarun.com | 202-744-9503



SUMMARY

Course starts and finishes at Navy Stadium.

Start time: 7:00 a.m.
Last runner finishes: 10:30 a.m.
(3.5 hour course time limit)

Course runs around Stadium and east on Rowe Blvd into downtown Annapolis. The last runner will exit downtown Annapolis via King George St. no later than 7:50 a.m.

Course continues in the southbound lane over the Naval Academy Bridge and north on Route 450 to Boulters Way and Winchester Road.

After turning around, the course follows its course south on Route 450 to the Bridge, then, after an out and back on King George St. up to College Ave. (which will already be closed), crosses Rowe Blvd to finish at Navy Stadium. Vehicles traveling east on Rowe Blvd. will detour around the Stadium.

Course has been reviewed and approved by the AAC Police and City of Annapolis Police, who will supply the required number of officers on race day.

Prepared by Michelle LeFurge, Special Events Coordinator at mmlefurge@annapolis.gov and Jessica Cowles, Legislative and Policy Analyst in the Office of Law at JCCowles@annapolis.gov



Chartered 1708

Joshua J. Cohen, Mayor
City of Annapolis
160 Duke of Gloucester Street
Annapolis, Maryland 21401

April 3, 2013

To: Alderpersons, City Of Annapolis

From: Mayor Joshua J. Cohen

Re: Civil Service Board

I respectfully submit for your approval the appointment of Mr. Samuel P. Callahan, Jr. to the Civil Service Board. Mr. Callahan is a resident of Ward 3 and this appointment fills a vacancy on the Commission. His resume is attached.

Samuel P. Callahan, Jr.
1979 Dominoe Road
Annapolis MD 21401
410-266-1490
SCJR1@verizon.net

Thank You.

JJC/hrr

| |
|--|
| Reviewed by: <u>Rules and City Government</u> |
| <input checked="" type="checkbox"/> Favorable <input type="checkbox"/> Unfavorable |
| <u>Chris H. Bennett, Jr.</u> <u>15 Apr 13</u> |
| Committee Chair Date |



City of Annapolis
Office of the Mayor
160 Duke of Gloucester Street
Annapolis, MD 21401-2517

Mayor@annapolis.gov • 410-263-7997 • Fax 410-216-9284 • www.annapolis.gov
Deaf, hard of hearing or speech disability - use MD Relay or 711

Boards and Commissions Application

Personal information

Name Samuel P. Callahan, Jr.

Address 1979 Dominoe Road

City Annapolis ST MD Zip 21401

Phone Home 410-266-1490 Other 443-223-3311

E-mail SCJR1@VERIZON.NET

Statement of interest – Why should you be appointed to this board/commission?

The City of Annapolis Civil Service Board has a responsibility to accurately and efficiently enforce the primary goals and objectives set forth by the City of Annapolis Charter, the Civil Service Board, as well as applicable elements of Collective Bargaining Agreements, State of Maryland Statutes and The United States Code. As a practicing CPA and a federal government accountant for many years, I have developed the qualifications needed to work with others in carrying forth such fiduciary responsibilities. The Civil Service Board has the authority to see that all employees in the classified service of the City are appointed solely on the basis of merit and fitness. I know that I can contribute as a member to the Board in such a capacity. I can further contribute to the Board concerning many major changes in the areas of regulations and recruitment which effect civil servants and ultimately the welfare of the City of Annapolis.

Are you a resident of the City of Annapolis? Yes No

Are you an employee of the City of Annapolis? Yes No

If yes, please state your job title, department & duties

Do you do business with the City of Annapolis? Yes No

If yes, please detail

Are you currently serving on any city boards or commissions? Yes No

If yes, please list board(s)

Work experience (titles and duties)

Administrative Office of the US Courts

Accountant

I work in the Accounting and Financial System Division, (AFSD). I journal entries and report preparation. I am involved with investments, deposits, disbursements, and amortization of premiums, discounts, prepaid and accrued interest, transferring funds, and preparation of the related Trial Balance. I have prepared a procedural manual for all US courts involving the IT system.

National Transportation Safety Board

Accountant

I served as a member of the management team. I helped in testing the implementation of the CFO financial accounting system. I oversaw the accounting operations branch of the CFO. As part of those functions I was the Certifying Officer, and handled payroll. Payroll duties included, Alternative Work Schedules, Compressed time, pay calculations, updating Employee Express applications, and understanding Human Resources practices, policies and procedures.

Educational background (certificates, diplomas, degrees, seminars, etc)

Education

Annapolis Senior High School Diploma June 1975, Annapolis, Maryland
PHD Degree, Business Administration December 2007 Warren University, Wyoming
M.A. Degree, Business Administration May 1987 Bowie State University, Bowie, Maryland
B.S. Degree, Accounting May 1984 Bowie State University, Bowie, Maryland

Other experience (volunteer experience, memberships etc)

References

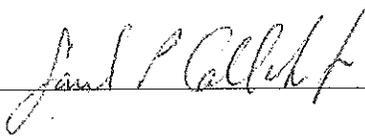
Name Rhonda Pindell Charles Phone 410-266-6857
Address 5 Dominoe Road Annapolis, Maryland 21401

Name Catherine Hicks Phone 410-626-2194
Address 1005 Smithville Street Annapolis, Maryland 21401

Name Talithia Lucas Phone 443-904-6486
Address 5933 Ayleshire Road Baltimore, Maryland 21239

Appointees are subject to the provisions of the City of Annapolis Ethics Code, Annapolis City Code Ch. 2.08. Appointees are strongly encouraged to review this Code and contact the City of Annapolis Office of Law and/or City of Annapolis Ethics Commission with all inquiries.

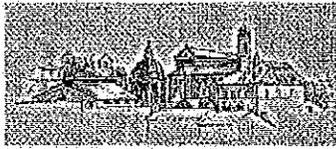
Signature



Date 12/26/2012

E-mail electronically completed form to Hilary Roggio Raftovich at hraftovich@annapolis.gov. Paper copies may be faxed to 410-216-8284 or mailed to the Mayor's Office address above, attention Boards and Commissions Coordinator.

The GREYSTONE CONSULTING GROUP



Facilitating individual & organization self-awareness, growth & transition.

432 Crane's Roost Court
Annapolis, MD 21409
Phone: 410 626 8989 Fax: 509 463 3857
Email: greystoneops@mac.com

Invoice

FEIN # 52-2169094

| |
|---------|
| Date |
| 4/21/11 |

| |
|---------------------|
| Greystone Invoice # |
| CoA-01 |

| |
|--|
| Bill To |
| City of Annapolis Kimla T. Milburn JD Director of Human Resources 145 Gorman Street, 2nd Floor Annapolis, MD 21401 |

| |
|-----------------------|
| Project Number |
| |

| |
|------------------------|
| Client P.O. No. |
| |

| |
|---------------------------|
| Prime Contract No. |
| |

| |
|------------------------------|
| Period of Performance |
| |

| |
|----------------|
| Terms |
| Due on receipt |

| Description | Qty/Days/Hours | Rate | Amount |
|---|----------------|----------|------------|
| Off-site development workshop, training sessions, and group interventions for the City of Annapolis's Executives, senior managers, and staff - April 20, 2011 | | 2,500.00 | 2,500.00 |
| Customer Total Balance | | | \$2,500.00 |

Handwritten signature: Kimla T. Milburn

| | |
|-------------------------|--------|
| Payments/Credits | \$0.00 |
|-------------------------|--------|

| |
|---|
| Direct deposit payments should be made to: Shadow Stone Publishing at Commerce First Bank, Inc Routing No. 055003366, Account number: 0113135401 |
|---|

| |
|--|
| Florence J. LaFrance Director of Operations |
|--|

www.whatmakesyoutickandwhatticksyouoff.com

Maria Muniz - Re: Fwd: FW: Open Invoice from 2011

From: Karl Roy
To: Bruce Miller; Maria Muniz
Date: 4/8/2013 1:48 PM
Subject: Re: Fwd: FW: Open Invoice from 2011

Hi Maria,

The April invoice for \$2,500 is open.

Karl

>>> Bruce Miller 4/8/2013 1:26 PM >>>
Maria/Karl;

Jim Harden provided several meetings in FY 2011. It looks like there were three invoices, see attached, only two where paid. Karl, please confirm payment history. Maria; if unpaid bills remain, please have Paul, or Mike M. approve payment then create a reserve transfer for Finance.

Thanks,
Bruce

Bruce T. Miller
Finance Director
City of Annapolis
O; 410-263-7952 x7812 C; 443-822-0423
btmiller@annapolis.gov

>>> "Florence LaFrance" <florencelafrance@greystoneconsulting.org> 4/8/2013 12:54 PM >>>

<<...>>

Hi Bruce -

Here is the unpaid invoice.

Florence J. LaFrance

Director of Operations

<<...>>

432 Crane's Roost Court

Annapolis, MD 21409

443.603.8087

florelafrance@greystoneconsulting.org

From: Florence LaFrance [<mailto:florelafrance@greystoneconsulting.org>]

Sent: Thursday, January 17, 2013 4:31 PM

To: 'btmiller@annapolis.gov'

Subject: Open Invoice from 2011

<<...>> <<...>>

Hi Bruce –

It was pleasure speaking with you this afternoon – although I wished it had been more on a social note.

As we discussed, I am attaching 3 invoices: 2 for December 2010 that have been paid and 1 for April 2011 that remains unpaid. I am not sure if the accounting department presumed that the later was a duplicate because of the close numbering of the invoices or if it had never been received the appropriate department for payment due to Kimla Milburn's departure. I had sent the invoice to her several times without response of email kickback. Note that each invoice reflects the appropriate date (s) and description of service.

Thank you in advance for your assistance.

Florence J. LaFrance

Director of Operations

<<...>>

432 Crane's Roost Court

Annapolis, MD 21409

443.603.8087

florelafrance@greystoneconsulting.org