

**CITY OF ANNAPOLIS  
REGULAR MEETING OF THE CITY COUNCIL**

October 14, 2013 7:00 p.m.

Call to Order  
Invocation  
Pledge of Allegiance  
Roll Call  
Approval of Agenda  
"The Star Spangled Banner"

Mayor Cohen  
Alderman Littmann  
Mayor Cohen  
City Clerk Watkins-Eldridge  
  
Josiah Fisher

**CITY COUNCIL CITATIONS**

Martha Wood Leadership Award to Josiah Fisher Mayor Cohen and Alderwoman Finlayson  
Honoring Dr. Wilford Scott for his years of service to the City of Annapolis

**PETITIONS, REPORTS AND COMMUNICATIONS**

Maritime Republic of Eastport Declaration of War  
Approval of Journal Proceeding

Regular Meeting September 9, 2013  
Special Meeting September 23, 2013  
Special Meeting September 30, 2013  
Special Meeting October 7, 2013

Reports by Committees  
Comments by the General Public

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

**PUBLIC HEARINGS**

**O-30-11 Deleting the Contiguous Lots Section of 21.40.020 – R1 Single Family Residence District** – For the purpose of amending Section 21.40.020 – R1 Single Family Residence District to delete Section D related to contiguous lots.

LEGISLATIVE HISTORY			
First Reading	Public Hearing	Fiscal Impact Note	180 Day Rule
7/11/11	10/14/13	1/7/12	1/13/12
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Gov't	7/11/11	10/15/13	
Planning Commission	7/11/11	10/3/13	Favorable w/ amd.

**O-19-13 Capacity of Schools in the Development Review Process** – For the purpose of adding current and projected school capacity of Annapolis Feeder System schools geographically located within the City of Annapolis to the list of development review criteria and findings; and specifying duties of the Director of Planning and Zoning regarding school capacity.

<p><b>LEGISLATIVE HISTORY</b> <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></p>
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First Reading	Public Hearing	Fiscal Impact Note	90 Day Rule
6/10/13	10/14/13	5/26/13	12/6/13
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Gov't	6/10/13	10/15/13	
Planning Commission	6/10/13	10/3/13	Unfavorable

**O-28-13**     **New Land Use Article References in the City Code** – For the purpose of updating the references to the former Article 66B of the Annotated Code of Maryland to the new title of “Land Use Article.”

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
7/8/13	10/14/13	8/30/13	1/3/14
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Gov't	7/8/13	10/15/13	
Planning Commission	7/8/13	9/5/13	Favorable

**O-33-13**     **Wastewater Conveyance and Treatment (Sewer Service) Contract with the Federal Government** – For the purpose of approving a new 10-year wastewater conveyance and treatment (sewer service) contract (Contract) with the Federal Government to adjust the rate as provided; and all matters related to said wastewater conveyance and treatment.

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
9/23/13	10/14/13	10/4/13	12/20/13
Referred to	Referral Date	Meeting Date	Action Taken
Finance	9/23/13	10/15/13	
Environmental Matters	9/23/13	10/17/13	

**O-34-13**     **Historic Preservation Tax Credit** – For the purpose of revising the provisions governing the historic preservation tax credit in the City of Annapolis.

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
9/9/13	10/14/13	9/16/13	12/6/13

Referred to	Referral Date	Meeting Date	Action Taken
Finance	9/9/13	10/15/13	
Economic Matters	9/9/13	10/21/13	
Historic Preservation Commission	9/9/13	9/26/13	

**LEGISLATIVE ACTION**  
**ORDINANCES AND RESOLUTION – 2<sup>nd</sup> READER**

**O-51-11Amd. Use and Redevelopment of Property in C2 Zoning Districts** – For the purpose of adding certain provisions governing use and redevelopment of property located in a C2 Zoning District. *Proposed to be postponed.*

LEGISLATIVE HISTORY			
First Reading	Public Hearing	Fiscal Impact Note	180 Day Rule
11/14/11	4/23/12	11/27/11	5/12/12
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Gov't	11/14/11	5/31/12	Unfavorable
Economic Matters	11/14/11	5/31/12	Favorable
Planning Commission	11/14/11 1/23/12	7/21/11	Favorable

**O-52-11Amd. Rezoning Parcels [1244] 1247 and 1255, Grid 20, Tax Map 52A** – For the purpose of rezoning parcels [1244] 1247 and 1255, Grid 20, Tax Map 52A to C2, "Conservation Business" Zoning District. *Proposed to be postponed.*

LEGISLATIVE HISTORY			
First Reading	Public Hearing	Fiscal Impact Note	180 Day Rule
11/14/11	4/23/12	11/27/11	5/12/12
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Gov't	11/14/11	5/31/12	Unfavorable
Economic Matters	11/14/11	5/31/12	Favorable
Planning Commission	11/14/11	7/21/11	Favorable

**O-33-12 Modifications to City Code on Refuse and Recycling Services** – For the purpose of modifying the City Code related to the City of Annapolis' provision of refuse and recycling services.

**LEGISLATIVE HISTORY**  
*Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes*

First Reading	Public Hearing	Fiscal Impact Note	90 Day Rule
9/10/12	10/8/12	8/30/13	12/7/12
Referred to	Referral Date	Meeting Date	Action Taken
Housing and Human Welfare	9/10/12	11/5/12	Favorable
Economic Matters	9/10/12	9/16/13	Favorable w/ amd.
Rules and City Gov't	1/14/13	9/10/13	Favorable w/ amd.
Environmental Matters	1/14/13	9/26/13	Favorable w/ amd.

**O-27-13 Sediment and Erosion Control** – For the purpose of adopting the State of Maryland’s required erosion and sediment control ordinance that meets the intent of the State’s sediment control laws and regulations.

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
7/22/13	9/9/13	8/30/13	10/18/13
Referred to	Referral Date	Meeting Date	Action Taken
Economic Matters	7/22/13	9/16/13	Favorable
Environmental Matters	7/22/13	9/26/13	Favorable

**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. *Postponed until 10/14/13.*

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	6/6/13	Favorable w/ amd.
Rules and City Gov't	9/26/11	5/23/13	Favorable
Planning Commission	9/26/11	3/8/13	Favorable w/ amd.

**RESOLUTION – 1<sup>st</sup> READER**

**R-38-13 Special Events - IV** – For the purpose of authorizing City Council approval of the National Sailing Hall of Fame Induction Ceremony 2013 on October 27, 2013 per R-14-12, implementing a moratorium on administrative approvals for events at City Dock, and waiving parking fees for 30 parking spaces immediately adjacent to Susan Campbell Park during the induction ceremony; and waiving fees associated with the Maritime Republic of Eastport Tug of War on November 2, 2013.

LEGISLATIVE HISTORY			
First Reading	Public Hearing	Fiscal Impact Note	90 Day Rule
10/14/13		10/7/13	1/10/14
Referred to	Referral Date	Meeting Date	Action Taken
Economic Matters	10/14/13		
Finance	10/14/13		
		Suspension of the rules requested to allow for a vote on 2 <sup>nd</sup> Reader	

**BUSINESS and MISCELLANEOUS**

1. Appointments

**UPCOMING CITY COUNCIL EVENTS**

Work Session: Thursday, October 17, 2013, 1:30 - 4:30 p.m. City Council Chambers  
Special Meeting: Monday, October 21, 2013, 7:00 p.m. City Council Chambers  
Special Meeting: Monday, October 28, 2013, 7:00 p.m. City Council Chambers

**DRAFT**  
**REGULAR MEETING**  
September 9, 2013

The Regular Meeting of the Annapolis City Council was held on September 9, 2013 in the Council Chamber. Mayor Cohen called the meeting to order at 7:15 p.m.

Present on Roll Call: Mayor Cohen, Aldermen Budge, Paone, Alderwomen Hoyle, Finlayson, Aldermen Littmann, Pfeiffer, Arnett

Staff Present: City Attorney Hardwick, City Manager Mallinoff, DNEP Director Broadbent, Planning Administrator Rouse, Development and Special Projects Coordinator Lefurge, Finance Director Miller, Chief of Environmental Programs Biba

Approval of Agenda

- Alderman Paone moved to approve the Regular Meeting Agenda as submitted. Seconded. CARRIED on voice vote.

**CITY COUNCIL CITATIONS**

Martha Wood Leadership Award

Mayor Cohen invited Aldermen Paone to present Veronica and Ryan Grant with the City Council Citation in recognition of being honored by the Housing Authority of the City of Annapolis as the thirty-eighth recipient of the prestigious Martha Wood Leadership Award.

**PETITIONS, REPORTS AND COMMUNICATIONS**

Approval of Journal Proceeding

- Alderman Budge moved to approve the Journal of Proceedings for the Regular Meeting July 8, 2013 and the Special Meeting July 22, 2013. Seconded. CARRIED on voice vote

Comments by the General Public

Robert Eades, 32 Pleasant Street, Annapolis, Maryland 21401 spoke on the administration, and the election season and children playing in the streets.

Frank Bradley, 815 Parkwood Avenue, Annapolis, Maryland 21403 spoke on the Constitution, the giving away of tax payer dollars and asked that everyone votes in the upcoming election.

- Mayor Cohen declared petitions, reports and communication closed.

**PUBLIC HEARINGS**

**O-24-13 Demolition Permits in the Neighborhood Conservation Districts – For the purpose of removing financial hardship from the review criteria for permit applications for demolition in the neighborhood conservation zoning districts.**

DNEP Director Broadbent gave a brief presentation on the ordinance and answered questions from Council. Planning Administrator Rouse was present and answered questions from Council.

Spoke on the ordinance:

McShane Glover, 124 1/2 Archwood Avenue, Annapolis, Maryland 21401  
Albert Graf, 22 Severn Avenue, Annapolis, Maryland 21401  
Jane Lawrence, 519 Burnside Street, Annapolis, Maryland 21403

Spoke in favor of the ordinance:

Anne Small, 730 Mills Way, Annapolis, Maryland 21403  
Arlene Wells, 112 Eastern Avenue, Annapolis, Maryland 21403

No one else from the general public spoke in favor of or in opposition to the ordinance.

- Mayor Cohen accepted into the record a Memorandum to the Annapolis City Council from the Planning Commission dated 7/18/13, and Memoranda from Jon Arason, Director, to the Planning Commission dated 10/7/13 and 10/8/13.
- Mayor Cohen declared the public hearing be held open for the purpose of receiving written comments until close of business 9/23/13.

**O-25-13 Office or Studio of a Professional Person in the C1 (Conservation Residence) Zoning District - For the purpose of eliminating the office or studio of a professional person as a special exception subject to standards in the C1 – Conservation Residence zoning district.**

Planning Administrator Rouse gave a brief presentation on the ordinance and answered questions from Council.

Spoke in favor of the ordinance:

Fredrick Broen, 74 East Street, Annapolis, Maryland 21401 representing Ward One Residents Association  
Doug Smith, 5 Revell Street, Annapolis, Maryland 21401 representing Frank and Pat Zeno

No one else from the general public spoke in favor of or in opposition to the ordinance.

- Mayor Cohen accepted into the record a Memorandum to the Annapolis City Council from the Planning Commission dated 7/18/13
- Mayor Cohen declared the public hearing closed.

**O-26-13 Pet Grooming Facilities – For the purpose of separately defining a “pet grooming facility” from a “personal care establishment,” and making a “pet grooming facility” a use subject to standards in all zoning districts that currently allow personal care establishments.**

Planning Administrator Rouse gave a brief presentation on the ordinance and answered questions from Council.

No one else from the general public spoke in favor of or in opposition to the ordinance.

- Mayor Cohen accepted into the record a Memorandum to the Annapolis City Council from the Planning Commission dated 7/18/13.
- Mayor Cohen declared the public hearing closed.

**O-27-13 Sediment and Erosion Control – For the purpose of adopting the State of Maryland’s required erosion and sediment control ordinance that meets the intent of the State’s sediment control laws and regulations.**

Chief of Environmental Programs Biba gave a brief presentation on the ordinance and answered questions from Council. DNEP Director Broadbent was also present and answered questions from Council.

No one else from the general public spoke in favor of or in opposition to the ordinance.

- Mayor Cohen declared the public hearing closed.

**O-32-13 Plumbing Permit Fees – Capital Facilities – For the purpose of authorizing applicants for a special exception or other development proposal, subject to the following group of plumbing permit fees (a connection charge, a capital facility charge, a capital facility assessment charge, and an installation charge), to be eligible for the fees levied at the time of such application rather than the fees at the time the permit may be issued; and making such provisions retroactive to July 1, 2011.**

DNEP Director Broadbent gave a brief presentation on the ordinance and answered questions from council.

No one else from the general public spoke in favor of or in opposition to the ordinance.

- Mayor Cohen declared the public hearing closed.

### **LEGISLATIVE ACTION**

#### **ORDINANCES AND RESOLUTIONS – 1<sup>st</sup> READER**

**O-34-13 Historic Preservation Tax Credit – For the purpose of revising the provisions governing the historic preservation tax credit in the City of Annapolis.**

- Alderman Paone moved to adopt O-34-13 on first reader. Seconded. CARRIED on voice vote

Referred to the Finance, Economic Matters Committees and the Historic Preservation Commission.

**O-35-13 Issuance of Bonds and Bond Anticipation Notes – For the purpose of authorizing and empowering the City of Annapolis (the “City”) to issue and sell, upon its full faith and credit, (i) general obligation bonds in the aggregate principal amount not to exceed \$11,500,000, 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, as amended (the “Charter”), and (ii) general obligation bond anticipation notes in anticipation of the issuance of such bonds in the maximum aggregate principal amount equal to the maximum aggregate principal amount of such bonds pursuant to Section 12 of Article 31 of the Annotated Code of Maryland (2010 Replacement Volume and 2012 Supplement), as amended, and Article VII, Section 11 of the Charter; prescribing the form and tenor of said bonds and notes; determining the method of sale of said bonds and notes and other matters relating to the issuance and sale thereof; providing for the disbursement of the proceeds of said bonds and notes; covenanting to levy and collect all taxes necessary to provide for the payment of the principal of and interest on said bonds and notes; and generally providing for and determining various matters relating to the issuance, sale and delivery of all said bonds and notes.**

Finance Director Miller gave a brief presentation and answered questions from Council.

- Alderman Arnett moved to adopt O-35-13 on first reader. Seconded. CARRIED on voice vote

Referred to the Economic Matters, Finance Committees and the Financial Advisory Commission.

- O-36-13 An Amendment to Lease of City Property: Boat Shows in Fall 2013 – For the purpose of authorizing an amendment (adding 20 City moorings in St. Mary’s Cove on Spa Creek for the Fall Brokerage Boat Show) to a lease of certain municipal property to the United States Sailboat Shows, Inc. and United States Powerboat Shows, Inc., to conduct boat shows for a certain period of time, including time in October 2013, subject to certain terms, provisions and conditions; and all matters relating to the amendment of the lease.**

Paul Jacobs, 3536 Saratoga Avenue, Annapolis, Maryland 21403 General Manager of the Boat Shows.

- Alderman Arnett moved to adopt O-36-13 on first reader. Seconded. CARRIED on voice vote.

Referred to the Economic Matters Committee.

- O-37-13 Lease of City Property: Boat Shows in Spring 2014 – For the purpose of authorizing a lease of certain municipal property located in the areas of Susan Campbell Park, Annapolis City Donner Parking Lot, Ego Alley Water Space, and Old City Recreation Center and other property and water locations as described in the lease to CRUISERS UNIVERSITY, INC., t/a Annapolis Spring Sailboat Show, in April 2014, to conduct boat shows.**

- Alderman Arnett moved to adopt O-37-13 on first reader. Seconded. CARRIED on voice vote

Referred to the Economic and Environmental Matters Committees.

- O-38-13 Amending Ordinance O-30-13, authorizing the Issuance of General Obligation Refunding Revenue Bonds, to Conform to Final Special Taxing and Tax Increment Financing District Boundaries – For the purpose of amending Ordinance O-30-13, adopted on July 22, 2013, which authorized the issuance of up to Twenty-Five Million Dollars (\$25,000,000) aggregate principal amount of general obligation refunding revenue bonds (the “Refunding Bonds”) of the City of Annapolis (the “City”) for the purpose of refunding the City’s Special Obligation Bonds (Park Place Project), Series 2005A and 2005B (the “Series 2005 Bonds”), in order to provide that (a) the Park Place Development District and Special Tax District (referred to in Ordinance No. O-30-13 as the “District”) include the four additional parcels of land and exclude the land described in Ordinance No. O-40-04, adopted on March 14, 2005, and (b) references in Ordinance No. O-30-13 to “the Resolution” and “the Original Ordinance” shall include Ordinance No. O-40-04, unless the context clearly indicates a different meaning.**

Finance Director Miller and Bob Dordan were present and answered questions from Council.

- Alderman Arnett moved to adopt O-38-13 on first reader. Seconded. CARRIED on voice vote

Referred to the Economic Matters and the Finance Committees.

**R-35-13 Re-Activating the State Commission on the Capital City – For the purpose of expressing the sense of the Annapolis City Council to ask the Governor of the State of Maryland to re-activate the State Commission on the Capital City to regularly connect key stakeholders in order to “study possible ways to preserve and improve Annapolis as the capital of the State,” (State Government Article, §9-406).**

- Alderman Pfeiffer moved to adopt R-35-13 on first reader. Seconded. CARRIED on voice vote.

Referred to the Rules and City Government Committee.

**R-36-13 Authorizing Two Vendors in the Historic District in Conjunction with the Fall Boat Shows – For the purpose of authorizing Uncle Bob’s Fudge Kitchen operating at 112 Main Street to sell lemonade and other complimentary food and non-alcoholic beverage items from a stand on the sidewalk in front of its retail store; and Cub Scout Pack 153 to sell popcorn and other complimentary non-alcoholic beverage items in Hopkins Plaza in conjunction with the 2013 Fall Boat Shows.**

Development and Special Projects Coordinator Lefurge gave a brief presentation and answered questions from Council.

- Alderman Budge moved to adopt R-36-13 on first reader. Seconded. CARRIED on voice vote.

Referred to Economic Matters

**R-37-13 Waiving a Contractor Parking Fee for the Hammond-Harwood House – For the purpose of waiving a contractor parking fee for the Hammond-Harwood House, a 501c(3) non-profit organization located at Maryland Avenue and King George Street, during roof work on the northeast wing of the historic museum.**

City Manager Mallinoff gave a brief presentation and answered questions from Council.

- Alderman Budge moved to adopt R-37-13 on first reader. Seconded. CARRIED on voice vote.

There being no voiced objection, the rules were suspended to allow passage of the resolution at the meeting of its introduction.

- Alderman Budge moved to adopt R-37-13 on second reading. Seconded.

A ROLL CALL vote was taken:

YEAS: Mayor Cohen, Aldermen Budge, Paone, Alderwomen Hoyle, Finlayson,  
Aldermen Littmann, Kirby, Pfeiffer

NAYS: Alderman Arnett

CARRIED: 8/1

Upon motion duly made, seconded and adopted, the meeting was adjourned at 9:24 p.m.

Regina C. Watkins-Eldridge, MMC  
City Clerk

**DRAFT**  
**SPECIAL MEETING**  
September 23, 2013

The Special Meeting of the Annapolis City Council was held on September 23, 2013 in the Council Chamber. Mayor Cohen called the meeting to order at 7:09 p.m.

Present on Roll Call: Mayor Cohen, Aldermen Budge, Paone, Alderwomen Hoyle, Finlayson, Aldermen Littmann, Kirby, Pfeiffer, Arnett

Staff Present: City Attorney Hardwick, Finance Director Miller, Harbor Master Walters, Planning and Zoning Director Arason, Chief Comprehensive Planning Nash

- Alderman Budge moved to approve the Special Meeting Agenda as amended to include R-36-13 on second reader. Seconded. CARRIED on voice vote.
- Alderman Budge moved to amend the order of the Special Meeting Agenda to have business and miscellaneous item #2 Appointments and Re-Appointment as the 1<sup>st</sup> item under legislative action and then R-36-13 on second reader. Seconded. CARRIED on voice vote.

**PETITIONS, REPORTS AND COMMUNICATIONS**

Honoring Dr. Wilford Scott for his years of service to the City of Annapolis on the Planning Commission

- Mayor Cohen postponed.

Approval of Journal Proceeding

- Alderman Arnett moved to approve the Special Meeting Minutes of July 25, 2013. Seconded. CARRIED on voice vote.

Comments by the General Public

Lew Bearden, 1301 Tar Cove Road, Pasadena, Maryland 2112 representing Board of Governors of the Fleet Reserve Club requested the Council not re-zone the property in front of the Fleet Reserve.

Claudia Lane, 2541 Steele Road, Apt A, Baltimore, Maryland 21209 representing Save Annapolis spoke on the City Dock Master Plan.

Richard Bonnett, 1451 Ridge Way, Arnold, Maryland 21012 representing the Fleet Reserve spoke on the City Dock Master Plan.

Ed Hartman, 980 Awald Road, Annapolis, Maryland 21403 spoke on the O-7-13 and requested the Council vote down the request to postpone O-7-13 on tonight's agenda.

Meg Moffat, 203 Chesapeake Avenue, Annapolis, Maryland 21403 spoke on the City Dock Master Plan and O-7-13.

Mark Croatti, 626 C Admiral Drive, #113, Annapolis, Maryland 21401 representing the National Continental Congress Center spoke on the goal of the Annapolis Continental Congress Society R-3-13.

Debbie Gosslin, 980 Awald Road, Annapolis, Maryland 21403 representing the Maritime Advisory Committee spoke in opposition to O-7-13.

Brian Bolter, 3 Daniel Court, Annapolis, Maryland 21401 spoke on the City Dock Master Plan and in favor of Alderman Budge's proposed amendment #2.

Beth Garaway, 904 Creek Drive, Annapolis, Maryland 21403 spoke on the City Dock Master Plan and in favor of Alderman Budge's proposed amendments.

Pete Chambliss, 110 Compromise Street, Annapolis, Maryland 21401 representing his tenants and properties spoke on parking and the postponing of O-7-13 and R-49-12.

John Giannetti, 23 Copley Court, Annapolis, Maryland 21401 representing Hillman Garage Committee presented the committees recommendations and requested the City begins a parking study.

- Mayor Cohen declared petitions, reports and communications closed.

PUBLIC HEARING

**O-36-13 An Amendment to Lease of City Property: Boat Shows in Fall 2013 – For the purpose of authorizing an amendment (adding 20 City moorings in St. Mary’s Cove on Spa Creek for the Fall Brokerage Boat Show) to a lease of certain municipal property to the United States Sailboat Shows, Inc. and United States Powerboat Shows, Inc., to conduct boat shows for a certain period of time, including time in October 2013, subject to certain terms, provisions and conditions; and all matters relating to the amendment of the lease.**

Harbor Master Walters gave a brief presentation on the ordinance and answered questions from Council.

Spoke on the ordinance:

Paul Jacobs, 3536 Saratoga Avenue, Annapolis, Maryland 21403 General Manager of the Boat Shows

No one from the general public spoke in favor of or in opposition to the ordinance.

- Mayor Cohen declared the public hearing closed.

**O-37-13 Lease of City Property: Boat Shows in Spring 2014 – For the purpose of authorizing a lease of certain municipal property located in the areas of Susan Campbell Park, Annapolis City Donner Parking Lot, Ego Alley Water Space, and Old City Recreation Center and other property and water locations as described in the lease to CRUISERS UNIVERSITY, INC., t/a Annapolis Spring Sailboat Show, in April 2014, to conduct boat shows.**

Harbor Master Walters gave a brief presentation on the ordinance and answered questions from Council.

Spoke on the ordinance:

Paul Jacobs, 3536 Saratoga Avenue, Annapolis, Maryland 21403

No one from the general public spoke in favor of or in opposition to the ordinance.

- Mayor Cohen declared the public hearing closed.

**O-23-13 Lease of City Property: Boat Shows in 2018 – For the purpose of authorizing a lease of certain municipal property located in the general harbor, Dock Street and Edgewood Road areas to United States Sailboat Shows, Inc. and United States Powerboat Shows, Inc., for a certain period of time in October 2018, to conduct boat shows.**

Harbor Master Walters gave a brief presentation on the ordinance and answered questions from Council.

Spoke on the ordinance:

Paul Jacobs, 3536 Saratoga Avenue, Annapolis, Maryland 21403

No one from the general public spoke in favor of or in opposition to the ordinance.

- Mayor Cohen declared the public hearing closed.

**O-35-13 Issuance of Bonds and Bond Anticipation Notes – For the purpose of authorizing and empowering the City of Annapolis (the “City”) to issue and sell, upon its full faith and credit, (i) general obligation bonds in the aggregate principal amount not to exceed \$11,500,000, 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, as amended (the “Charter”), and (ii) general obligation bond anticipation notes in anticipation of the issuance of such bonds in the maximum aggregate principal amount equal to the maximum aggregate principal amount of such bonds pursuant to Section 12 of Article 31 of the Annotated Code of Maryland (2010 Replacement Volume and 2012 Supplement), as amended, and Article VII, Section 11 of the Charter; prescribing the form and tenor of said bonds and notes; determining the method of sale of said bonds and notes and other matters relating to the issuance and sale thereof; providing for the disbursement of the proceeds of said bonds and notes; covenanting to levy and collect all taxes necessary to provide for the payment of the principal of and interest on said bonds and notes; and generally providing for and determining various matters relating to the issuance, sale and delivery of all said bonds and notes.**

Finance Director Miller gave a brief presentation on the ordinance and answered questions from Council. Will Taylor, Esq., 401 East Pratt Street, Suite 2315, Baltimore, Maryland 21202 representing Bond Counsel was present and answered questions from Council.

No one from the general public spoke in favor of or in opposition to the ordinance.

- Mayor Cohen declared the public hearing closed.

**O-38-13 Amending Ordinance O-30-13, authorizing the Issuance of General Obligation Refunding Revenue Bonds, to Conform to Final Special Taxing and Tax Increment Financing District Boundaries – For the purpose of amending Ordinance O-30-13, adopted on July 22, 2013, which authorized the issuance of up to Twenty-Five Million Dollars (\$25,000,000) aggregate principal amount of general obligation refunding revenue bonds (the “Refunding Bonds”) of the City of Annapolis (the “City”) for the purpose of refunding the City’s Special Obligation Bonds (Park Place Project), Series 2005A and 2005B (the “Series 2005 Bonds”), in order to provide that (a) the Park Place Development District and Special Tax District (referred to in Ordinance No. O-30-13 as the “District”) include the four additional parcels of land and exclude the land described in Ordinance No. O-40-04, adopted on March 14, 2005, and (b) references in Ordinance No. O-30-13 to “the Resolution” and “the Original Ordinance” shall include Ordinance No. O-40-04, unless the context clearly indicates a different meaning.**

Finance Director Miller gave a brief presentation on the ordinance and answered questions from Council. Robert L. Doory, Jr, 100 Light Street, Baltimore, Maryland 21202 representing Miles and Stockridge was present and answered questions from Council.

No one from the general public spoke in favor of or in opposition to the ordinance.

- Mayor Cohen declared the public hearing closed.

LEGISLATIVE ACTIONS  
ORDINANCES and RESOLUTIONS – 2<sup>ND</sup> READER

The order of the agenda was amended to allow for R-36-13 on second reader.

**R-36-13 Authorizing Two Vendors in the Historic District in Conjunction with the Fall Boat Shows – For the purpose of authorizing Uncle Bob’s Fudge Kitchen operating at 112 Main Street to sell lemonade and other complimentary food and non-alcoholic beverage items from a stand on the sidewalk in front of its retail store; and Cub Scout Pack 153 to sell popcorn and other complimentary non-alcoholic beverage items in Hopkins Plaza in conjunction with the 2013 Fall Boat Shows.**

- Alderman Budge moved to adopt R-36-13 on second reading. Seconded.
- Alderman Budge moved to amend R-36-13 as follows:

On page 1, in lines 13 and 22, after the word “Plaza” insert “and Club Scott Pack 422 to sell popcorn and accept donations in the City pocket park in front of 100 Compromise Street” Seconded. CARRIED on voice vote.

The main motion amended A ROLL CALL vote was taken:

A ROLL CALL vote was taken:

YEAS: Mayor Cohen, Aldermen Budge, Paone, Alderwomen Hoyle, Finlayson,  
Aldermen Littmann, Kirby, Pfeiffer, Arnett

NAYS:

CARRIED: 9/0

The order of the agenda was also amended to allow for:

BUSINESS AND MISCELLANEOUS

2. **Appointments and Re-appointments**

- Alderman Arnett moved to approve the Mayor's appointment and reappointments of the following individuals:

Financial Advisory Commission	Faye B. Currie
Board of Appeals	Derek Meyers
Historic Preservation Commission	Sara G. Phillips
Recreation Advisory Board	Michael Hughes Craig Harrison C. Taney Hamill
Planning Commission	Eleanor Harris
Heritage Commission	David Haight Jane McWilliams Robert Worden Linnell Bowen
Art in Public Places Commission	Michael Matthews Terry Averill David Arthur

Seconded. CARRIED on voice vote.

The order of the agenda was resumed.

LEGISLATIVE ACTIONS  
ORDINANCES and RESOLUTIONS – 2<sup>ND</sup> READER

- O-36-13 An Amendment to Lease of City Property: Boat Shows in Fall 2013 – For the purpose of authorizing an amendment (adding 20 City moorings in St. Mary’s Cove on Spa Creek for the Fall Brokerage Boat Show) to a lease of certain municipal property to the United States Sailboat Shows, Inc. and United States Powerboat Shows, Inc., to conduct boat shows for a certain period of time, including time in October 2013, subject to certain terms, provisions and conditions; and all matters relating to the amendment of the lease.**

Alderman Arnett moved to adopt O-36-13 on second reading. Seconded.

Harbor Master Walters was present and answered questions from Council. Paul Jacobs representing the Boat Shows was also present and answered questions from Council.

- Alderman Littmann moved to amend in the nature of a substitution O- 36-13 as follows:

**Second Amendment to Lease Agreement**

This Second Amendment to Lease Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_ 2013 by and between The City of Annapolis, a municipal corporation of the State of Maryland ("Lessor "), and United States Sailboat Shows, Inc. and United States Powerboat Shows, Inc. ("Lessee").

Whereas, the parties entered in a Lease Agreement dated January 21, 2009 and an Amendment to Lease Agreement dated February 13, 2013 for the lease of certain City property in connection with the Lessee’s boat shows in the City of Annapolis;

Whereas, the parties wish to further amend the Lease Agreement and Amendment to Lease Agreement referenced above;

Now, therefore, and in consideration of the terms stated below and the consideration cited in the Lease Agreement and Amendment to Lease Agreement referenced above, incorporating the recitals above, the sufficiency of which the parties acknowledge, the parties agree as follows:

1. All terms not otherwise defined are used as set forth in the Lease Agreement and the Amendment to the Lease Agreement.
2. Section 1.1 of the Amendment to Lease Agreement dated February 13, 2013 is hereby amended such that the stated term of “2013 – September 30 – October 15” is hereby deleted and is hereby replaced with “2013 – September 30 – October 16.”
3. Section 1.1 of the Lease Agreement is hereby amended so that the leased premises includes all twenty of the City boat moorings located in St. Mary’s Cove, Spa Creek, for the period of Monday, September 30, 2013, through Monday, October 7, 2013, inclusive, for use in the production of the first annual Annapolis Fall Brokerage Boat Show.
4. Section 1.1 of the Lease Agreement, Exhibit A is hereby amended to include non-exclusive use of the City-designated first floor space in the Old City Recreation Center and Parking Lot located at 9 St. Mary’s Street.

5. Section 1.3 of the Lease Agreement is hereby amended to add as rent for the additional St. Mary's Cove, Spa Creek leased premises in the amount of Eight Thousand Dollars (\$8,000.00), which the Lessee shall pay to the Lessor on or before September 29, 2013, by check payable to the City of Annapolis. The Lessee shall pay the City a monthly late fee of 1.5% (18% per annum) on any balance unpaid more than thirty days past due.
6. Section 1.3 of the Lease Agreement is hereby amended to add as rent for the Old City Recreation Center space and parking lot the amount of One Thousand Seventeen Hundred Fifty Dollars (\$1,750.00), which the Lessee shall pay to the Lessor on or before September 29, 2013, by check payable to the City of Annapolis. The Lessee shall pay the City a monthly late fee of 1.5% (18% per annum) on any balance unpaid more than thirty days past due.
7. Section 7.1 is hereby amended to provide that 1) the Lessee shall furnish an adequate and equal number of trash and recycling containers for its use within the boat show grounds during the entire use and occupancy period of the Premises and shall provide for the prompt removal of all such containers as necessary; and 2) the Lessee shall collect the same recycling materials that the Lessor collects in its curbside recycling service.
8. Except as expressly stated above, terms of the Lease Agreement and Amendment to Lease Agreement shall remain unchanged and in full force and effect.

Witness the signatures and seals of the parties.

ATTEST:

City of Annapolis

\_\_\_\_\_  
Regina Watkins-Eldridge  
City Clerk

By: \_\_\_\_\_  
Joshua J. Cohen, Mayor (Seal)

United States Sailboats Shows, Inc.  
United States Powerboat Shows, Inc.

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
C. E. Hartman (Seal)  
President

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Karen M. Hardwick, City Attorney

Financial Review:

\_\_\_\_\_  
Bruce T. Miller, Director of Finance

City Manager Review:

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Michael D. Mallinoff, City Manager

Seconded. CARRIED on voice vote.

The main motion as amended CARRIED on voice vote.

- Alderman Arnett moved to adopt O-36-13 amended on third reading. Seconded.

A ROLL CALL vote was taken:

YEAS: Mayor Cohen, Aldermen Budge, Paone, Alderwomen Hoyle, Finlayson,  
Aldermen Littmann, Kirby, Pfeiffer, Arnett

NAYS:

CARRIED: 9/0

**O-38-13 Amending Ordinance O-30-13, authorizing the Issuance of General Obligation Refunding Revenue Bonds, to Conform to Final Special Taxing and Tax Increment Financing District Boundaries – For the purpose of amending Ordinance O-30-13, adopted on July 22, 2013, which authorized the issuance of up to Twenty-Five Million Dollars (\$25,000,000) aggregate principal amount of general obligation refunding revenue bonds (the “Refunding Bonds”) of the City of Annapolis (the “City”) for the purpose of refunding the City’s Special Obligation Bonds (Park Place Project), Series 2005A and 2005B (the “Series 2005 Bonds”), in order to provide that (a) the Park Place Development District and Special Tax District (referred to in Ordinance No. O-30-13 as the “District”) include the four additional parcels of land and exclude the land described in Ordinance No. O-40-04, adopted on March 14, 2005, and (b) references in Ordinance No. O-30-13 to “the Resolution” and “the Original Ordinance” shall include Ordinance No. O-40-04, unless the context clearly indicates a different meaning.**

Finance Director Miller gave a brief presentation and answered questions from Council.

- Alderman Arnett moved to adopt O-38-13 on second reading. Seconded.

The Economic Matters and Finance Committees reported favorably on O-38 -13.

The main motion CARRIED on voice vote.

- Alderman Arnett moved to adopt O-38-13 on third reading. Seconded.

A ROLL CALL vote was taken:

YEAS: Mayor Cohen, Aldermen Budge, Paone, Alderwomen Hoyle, Finlayson,  
Aldermen Littmann, Kirby, Pfeiffer, Arnett

NAYS:

CARRIED: 9/0

**R-49-12            2012 City Dock Master Plan - For the purpose of adopting the Draft City Dock Master Plan as an addendum to the 2009 Annapolis Comprehensive Plan. “For the purpose of considering amendments”.**

Planning and Zoning Director Arason and Chief of Comprehensive Planning Nash were present and answered questions from Council.

Chris Jakubiak, 222 Courthouse Court, Suite 1 C, Towson, Maryland 21204 representing Jakubiak Town & City Planning was present and answered questions from Council.

Development Consultant Caroline Moore, 3430 2nd Street, Suite 320 Baltimore, MD 21225 representing Ekistics, LLC was present and answered questions from Council.

- Alderman Budge moved to adopt R-49-12 on second reading. Seconded.
- Alderman Arnett moved to amend R-49-12 as follows:

City Dock Master Plan Major Consideration Areas: DRAFT dated September 23, 2013, Staff Recommendation # 2 Management Entity on page 28, to delete Staff Amendment #2 as follows:

On page 28, strike

“A. Management Entity on City Dock

The creation of a management entity on City Dock was one of the six principles agreed to by the City Dock Advisory Committee and is therefore listed as the first supporting strategy. This Plan recommends that the Mayor and City Council create by ordinance a City Dock Management District and a Management Authority. The Authority should be run as a public-private organization authorized to raise and expend revenues within a City Dock Management District. A Board of governance should be composed of Annapolis citizens who share a commitment to the broad principles laid out by the City Dock Advisory Committee and are committed to implementing the City Dock Master Plan including representation of businesses on Dock and Market Streets. The Authority should work to promote the economic vitality and revitalization of City Dock.

The responsibilities of the Authority should include managing supplemental upkeep on City Dock. The Authority would not have primary responsibility for maintaining City Dock, which is a function of the City of Annapolis. However, some upkeep, such as seasonal planting or cleanup after special events, might readily be undertaken by the Authority. Second, the Authority could provide supplemental security of public and/or public-private spaces. Third, the Authority should manage and license events on City Dock. Fourth, the Authority should facilitate the installation of public art and arts programming in the public spaces on City Dock, along with others qualified to decide what public art should go where and when. Fifth, the Authority should have a voice in the management of parking on City Dock, being an advocate for the transition contemplated in this Plan toward parking management and public spaces. Lastly, the Authority should advocate for and educate the public about the City Dock Master Plan in support of its implementation and updating over time.

Possible sources of funding for the Authority, in support of a full time Executive Director and small staff, should include City and County general funds, the sale and lease of city owned properties on City Dock, a portion of Boat Show license fees, mooring and docking fees, license fees for events on City Dock, and approved commercial use or concessions on public spaces. The Authority should also raise revenues through a tax on property located within the District and through contributions, donations, grants and revenues from Authority sponsored special events. If the Authority, acting in concert with the City, were to acquire an interest in the Annapolis Boat Show, annual revenues could accrue to the public for ongoing improvements on City Dock. The full potential of this should be explored in the near term.”

And replace with Alderman Budge's Amendment 9:

“The management of City Dock should be coordinated year-round. The purview of any management function or entity should include the programming of public space, ensuring trash pick-up and cleanliness, reducing clutter, monitoring the progress of implementing visions for City Dock, collecting data, incorporating feedback, coordinating marketing, and supervising Market House operations. This management should support local businesses as well and help them to thrive. Furthermore, the management should advocate for City Dock and protect the historic core. The management of City Dock should receive input from and be responsive to the key stakeholder organizations in the City representing the business community, residents, visitors, and major property owners within the City Dock area.” Seconded. CARRIED on voice vote.

- Alderman Arnett moved to amend R-49-12 as follows:

City Dock Master Plan Major Consideration Areas: DRAFT dated September 23, 2013, Staff Recommendation # 4 Building height: Measuring height from flood protection elevation, Add "measure from flood protection elevation" and discuss 10% flexibility designated to HPC. Refer to page 11. Replace with Alderman Budge's Amendment # 8. Seconded. Withdrawn by Alderman Arnett.

- Alderman Arnett moved to amend R-49-12 as follows:

City Dock Master Plan Major Consideration Areas: DRAFT dated September 23, 2013, Staff Recommendation #5 Amortizing nonconforming billboards, on page 30, in the Annapolis City Dock Master Plan, A Framework to Guide Improvements & Redevelopment DRAFT dated December 2012, strike the last paragraph on page 30 as follows:

“The aim of one of the first zoning amendments for City Dock should be a provision that requires the removal of the non-conforming billboard sign on Dock Street after a reasonable amortization period, for instance, five years.”

And replace with the following text:

"The plan recommends a provision that requires the removal of the non-conforming billboard signs on Dock Street by appropriate legislation, as provided for under State Law". Seconded. CARRIED on voice vote.

- Alderman Arnett moved to postpone R-49-12 on second reader until the Special Meeting on September 30, 2013 at 7:00 p.m. Seconded. CARRIED on voice vote.

**O-7-13 Establishment of a New Zoning District: Waterfront City Dock, Phase One – For the purpose of implementing Phase One of the recommendations of the City Dock Master Plan by establishing a new zoning district - the Waterfront City Dock Zone.**

- Alderman Pfeiffer moved to postpone O-7-13 second reading until October 14, 2013. Seconded. CARRIED on voice vote.

**O-51-11Amd. Use and Redevelopment of Property in C2 Zoning Districts – For the purpose of adding certain provisions governing use and redevelopment of property located in a C2 Zoning District.**

- Alderman Pfeiffer moved to postpone O-51-11 amended on second reading until October 14, 2013. Seconded. CARRIED on voice vote

**O-52-11Amd. Rezoning Parcels [1244] 1247 and 1255, Grid 20, Tax Map 52A – For the purpose of rezoning parcels [1244] 1247 and 1255, Grid 20, Tax Map 52A to C2, “Conservation Business” Zoning District.**

- Alderman Pfeiffer moved to postpone O-52-11 amended on second reading until October 4, 2013. Seconded. CARRIED on voice vote.

**O-25-13 Office or Studio of a Professional Person in the C1 (Conservation Residence) Zoning District - For the purpose of eliminating the office or studio of a professional person as a special exception subject to standards in the C1 – Conservation Residence zoning district.**

Planning and Zoning Director Arason gave a brief presentation and answered questions from Council.

- Alderman Budge moved to adopt O-25-13 on second reading. Seconded.

The main motion CARRIED on voice vote.

- Alderman Budge moved to adopt O-25-13 on third reading. Seconded.

A ROLL CALL vote was taken:

YEAS: Mayor Cohen, Aldermen Budge, Paone, Alderwomen Hoyle, Finlayson, Aldermen Littmann, Kirby, Pfeiffer, Arnett

NAYS:

CARRIED 9/0

**O-26-13 Pet Grooming Facilities – For the purpose of separately defining a “pet grooming facility” from a “personal care establishment,” and making a “pet grooming facility” a use subject to standards in all zoning districts that currently allow personal care establishments.**

Planning and Zoning Director Arason gave a brief presentation and answered questions from Council.

- Alderman Arnett moved to adopt O-26-13 on second reading. Seconded.
- Alderman Budge moved to amend O-26-13 as follows:

Planning Commission Findings Page 14, in line 21 remove “ROUTINELY”  
Seconded. CARRIED on voice vote.

The main motion as amended CARRIED on voice vote.

- Alderman Arnett moved to adopt O-26-13 amended on third reading. Seconded.

A ROLL CALL vote was taken:

YEAS: Mayor Cohen, Aldermen Budge, Paone, Alderwomen Hoyle, Finlayson, Aldermen Littmann, Kirby, Pfeiffer, Arnett

NAYS:

CARRIED 9/0

- Alderman Littmann moved to consider new business after 11:00 p.m. Seconded. CARRIED on voice vote.

**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.**

- Alderman Arnett moved to adopt postpone until O-47-11 on second reading until October 14, 2013. Seconded. CARRIED on voice vote.

**R-3-13      Advocating for the City of Annapolis to be Named as the Home for a National Continental Congress Center – For the purpose of expressing the sense of the City Council that the City of Annapolis be named as the home for a National Continental Congress Center.**

- Alderman Littmann moved to adopt R-3-13 on second reading. Seconded.
- Alderman Paone moved to amend R-3-13 as follows:

Add the Eighth whereas clause that reads:

"Whereas, the shortcomings of the congresses that met under the articles of confederation are well known. However the successes are inadequately acknowledged. One success, as has already been noted, was that the congress that met in Annapolis established the principal of the military being subordinate to a civilian government; another was the enactment of the Northwest Ordinance of 1785. This enactment had two substantial and lasting benefits. The Northwest ordinance provided for the division of the Northwest lands into townships and included a provision to set aside land for the support of public education. The Northwest Ordinance also prohibited the practice of slavery in the Northwest Territories thus the states of Ohio, Indiana, Illinois, Michigan, and Wisconsin which were formed out of the Northwest Territories developed as free states, this greatly aided the union cause in the Civil War." Seconded. CARRIED on voice vote.

The main motion amended A ROLL CALL vote was taken:

YEAS: Mayor Cohen, Aldermen Budge, Paone, Alderwomen Hoyle, Finlayson, Aldermen Littmann, Kirby, Pfeiffer, Arnett

NAYS:

CARRIED 9/0

- Alderman Littmann intends to move for reconsideration of R-37-13 on second reader in accordance with §2.16.170 of the Annapolis City Code. Seconded.

A ROLL CALL vote was taken:

YEAS: Alderwomen Hoyle, Aldermen Littmann, Pfeiffer, Arnett

NAYS: Mayor Cohen, Aldermen Budge, Paone, Alderwoman Finlayson, Alderman Kirby

DEFEATED: 4/5

ORDINANCE – 1<sup>st</sup> READER

**O-33-13      Wastewater Conveyance and Treatment (Sewer Service) Contract with the Federal Government – For the purpose of approving a new 10-year wastewater conveyance and treatment (sewer service) contract (Contract) with the Federal Government to adjust the rate as provided; and all matters related to said wastewater conveyance and treatment.**

- Alderman Pfeiffer moved to adopt O-33-13 on first reader. Seconded. CARRIED on voice vote

Referred to the Environmental Matters and the Finance Committees.

BUSINESS AND MISCELLANEOUS

- Budge Revision Requests

Finance Director Miller was present and answered questions from Council.

The Finance Committee reported favorable on budget revision request GT-01-14.

- Alderman Arnett moved to approve budget revision request GT-01-14. Seconded. CARRIED on voice vote.

Upon motion duly made, seconded and adopted, the meeting was adjourned at 11:21 p.m.

Regina C. Watkins-Eldridge, MMC  
City Clerk

**DRAFT**  
**SPECIAL MEETING**  
September 30, 2013

The Special Meeting of the Annapolis City Council was held on September 30, 2013 in the Council Chamber. Mayor Cohen called the meeting to order at 7:06 p.m.

Present on Roll Call: Mayor Cohen, Aldermen Budge, Paone, Alderwomen Hoyle, Finlayson, Aldermen Kirby, Arnett

Absent on Roll Call: Alderman Littmann arrived at 8:35 p.m., and Alderman Pfeiffer arrived at 7:10 p.m.

Staff Present: Assistant City Manager Burke, City Attorney Hardwick, Planning Zoning Director Arason, Chief of Comprehensive Planning Nash

**PETITIONS, REPORTS AND COMMUNICATIONS**

**Comments by the General Public**

Grant Dehart, 138 Lafayette Avenue, Annapolis, Maryland 21401 spoke on the City Dock Master Plan Draft, and on Alderman Budge's proposed amendments.

Denise Worthen, 65 Southgate Avenue, Annapolis, Maryland 21401 representing Murray Hill Residents Association spoke on Alderman Budge's proposed amendments and the City Dock Master Plan Draft.

Lew Bearden 1301 Tar Cove Road, Pasadena, Maryland 21122 representing the Fleet Reserve Club spoke in favor of Alderman Budge's Amendments.

Dick Damato, 6 E. Lake Drive, Annapolis, Maryland 21403 representing Mr. Gary Jobson spoke on the City Dock Master Plan Draft and sea level rise. Alderman Budge's proposed amendments.

Bill Kardash, 1 Acton Place, Annapolis, Maryland 21401 spoke on budget issues and Mary O'Brien's report on workers' compensation.

Elly Tierney, 85 East Street, Annapolis, Maryland 21401 spoke on the Flood Mitigation Plan included in the City Dock Master Plan Draft and in favor of Alderman Budge's amendments.

Chip Johnson, 2020 12<sup>th</sup> Street, NW Washington, DC 20009 representing Annapolis Business Association spoke in favor of Alderman Budge's Amendments.

Ann Fligsten, 1337 Kin Loch Circle, Arnold, Maryland 21012 spoke on the City Dock Master Plan Draft and O-7-13.

Bevin Buchheister, 5 Wagner Street, Annapolis, Maryland 21401 spoke on the City Dock Master Plan Draft, Alderman Budge's amendments and requested the City Council include the public's input in the decision making process.

Michael Pantelides, 128 S. Southwood Avenue, Annapolis, Maryland 21401 spoke in opposition to the City Dock Master Plan Draft, and spoke on O-7-13.

Debbie Gosslin, 980 Awald Road, Annapolis, Maryland 21403 spoke on Alderman Budge's amendments and in opposition to the "T" Intersection proposed in the City Dock Master Plan Draft.

- Mayor Cohen declared petitions, reports and communications closed.

**LEGISLATIVE ACTIONS on RESOLUTION – 2<sup>ND</sup> READER**

**R-49-12            2012 City Dock Master Plan - For the purpose of adopting the Draft City Dock Master Plan as an addendum to the 2009 Annapolis Comprehensive Plan. *"For the purpose of considering amendments"***

Planning and Zoning Director Arason and Chief of Comprehensive Planning Nash were present and answered questions from Council.

Chris Jakubiak, 222 Courthouse Court, Suite 1 C, Towson, Maryland 21204 representing Jakubiak Town & City Planning was present and answered questions from Council.

Development Consultant Caroline Moore, 3430 2nd Street, Suite 320 Baltimore, MD 21225 representing Ekistics, LLC was present and answered questions from Council.

- Alderman Budge moved to adopt R-49-12 on second reading. Seconded.
- Alderman Arnett moved to amend R-49-12 as follows:

City Dock Master Plan Major Consideration Areas: DRAFT dated September 23, 2013, Staff Recommendation # 2 Management Entity on page 28, to delete Staff Amendment #2 as follows:

On page 28, strike

“A. Management Entity on City Dock

The creation of a management entity on City Dock was one of the six principles agreed to by the City Dock Advisory Committee and is therefore listed as the first supporting strategy. This Plan recommends that the Mayor and City Council create by ordinance a City Dock Management District and a Management Authority. The Authority should be run as a public-private organization authorized to raise and expend revenues within a City Dock Management District. A Board of governance should be composed of Annapolis citizens who share a commitment to the broad principles laid out by the City Dock Advisory Committee and are committed to implementing the City Dock Master Plan including representation of businesses on Dock and Market Streets. The Authority should work to promote the economic vitality and revitalization of City Dock.

The responsibilities of the Authority should include managing supplemental upkeep on City Dock. The Authority would not have primary responsibility for maintaining City Dock, which is a function of the City of Annapolis. However, some upkeep, such as seasonal planting or cleanup after special events, might readily be undertaken by the Authority. Second, the Authority could provide supplemental security of public and/or public-private spaces. Third, the Authority should manage and license events on City Dock. Fourth, the Authority should facilitate the installation of public art and arts programming in the public spaces on City Dock, along with others qualified to decide what public art should go where and when. Fifth, the Authority should have a voice in the management of parking on City Dock, being an advocate for the transition contemplated in this Plan toward parking management and public spaces. Lastly, the Authority should advocate for and educate the public about the City Dock Master Plan in support of its implementation and updating over time.

Possible sources of funding for the Authority, in support of a full time Executive Director and small staff, should include City and County general funds, the sale and lease of city owned properties on City Dock, a portion of Boat Show license fees, mooring and docking fees, license fees for events on City Dock, and approved commercial use or concessions on public spaces. The Authority should also raise revenues through a tax on property located within the District and through contributions, donations, grants and revenues from Authority sponsored special events. If the Authority, acting in concert with the City, were to acquire an interest in the Annapolis Boat Show, annual revenues could accrue to the public for ongoing improvements on City Dock. The full potential of this should be explored in the near term.”

And replace with Alderman Budge’s Amendment 9:

“The management of City Dock should be coordinated year-round. The purview of any management function or entity should include the programming of public space, ensuring trash pick-up and cleanliness, reducing clutter, monitoring the progress of implementing visions for City Dock, collecting data, incorporating

feedback, coordinating marketing, and supervising Market House operations. This management should support local businesses as well and help them to thrive. Furthermore, the management should advocate for City Dock and protect the historic core. The management of City Dock should receive input from and be responsive to the key stakeholder organizations in the City representing the business community, residents, visitors, and major property owners within the City Dock area.” Seconded. CARRIED on voice vote.

- Alderman Arnett moved to amend R-49-12 as follows:

City Dock Master Plan Major Consideration Areas: DRAFT dated September 23, 2013, Staff Recommendation #5 Amortizing nonconforming billboards, on page 30, in the Annapolis City Dock Master Plan, A Framework to Guide Improvements & Redevelopment DRAFT dated December 2012, strike the last paragraph on page 30 as follows:

“The aim of one of the first zoning amendments for City Dock should be a provision that requires the removal of the non-conforming billboard sign on Dock Street after a reasonable amortization period, for instance, five years.”

And replace with the following text:

"The plan recommends a provision that requires the removal of the non-conforming billboard signs on Dock Street by appropriate legislation, as provided for under state law". Seconded. CARRIED on voice vote.

Actions beginning 9/30/13:

- Alderman Budge moved to amend R-49-12 as follows with Alderman Budge's Amendment #6. Seconded.

On page 9, modify last sentence as follows:

This potential is ~~particularly~~ achievable, if the ~~opportunity to convert Memorial Circle to a more space-efficient T intersection is taken, as streetscape is modified by either the T intersection or the shift-circle option that are~~ discussed later in the Plan.

On page 13, delete last sentence of second paragraph:

Presently Market House and Hopkins Plaza together comprise 16,000 square feet. As proposed in this Plan, the total space would approximate 22,800 square feet. The square in front of market house could extend 150 feet from the edge of Market House toward Main Street and 100 feet across from Market Place to Randall Street. Businesses with sidewalk frontage could extend out into Market Space or at least onto the proposed wider sidewalks which would extend 24 to 30 feet from the building's edge. ~~Beginning at the approaches from all directions, the intersection would become a slow moving environment through the use of textured pavement and other means to calm traffic.~~

On page 16, amend first paragraph:

The most prominent example of transition toward balance can be found in the Plan's approach to the intersection of Compromise, Main, and Randall. While the City Dock Advisory Committee could not find consensus on how best to address this intersection, the Plan does recognize that ~~converting~~ shifting Memorial Circle or converting the Circle to a "T" intersection is an ~~are~~ opportunities to improve the pedestrian experience and create useable public spaces. Therefore the Plan ~~features a "T" intersection with Randall Street intersecting Compromise and Main at a right angle, while recognizing~~ that more community discussion will need to be devoted to this question. This adjustment to the physical layout of City Dock would reduce weekend traffic delays and back-ups during the spring and

~~summer months when traffic is heaviest and have other traffic flow benefits. More detail regarding how the “T” intersection operates is provided in Section F. Improving traffic flow at City Dock remains a challenge due to its dual nature: During the week cars drive through City Dock. On weekends visitors coming to City Dock are added to that traffic, creating a more congested environment. Changes that may improve one will impact the other. Improved traffic operations are not the only benefit of a new intersection; the main public benefit is the balance it brings to the flow of cars and pedestrians year round while allowing useable public space at Market House and the Alex Haley Memorial.~~

On page 16, append after the last paragraph:

However, several concerns have been cited regarding the “T” intersection. These include the increased automotive transit times through the intersection during normal operation, the elimination of most of the “ad hoc” loading zones in the Study Area, the elimination of a historical element of the streetscape, the introduction of traffic signals into the City’s most prominent viewshed, the elimination of the Veteran’s Memorial, and that the intersection and numerous traffic signals are out of character with the existing urban design of our baroque city plan. Some of these concerns might be addressed by the inclusion of a circular element in the design of the new Market Square.

On page 17, amend as follows:

As mentioned earlier, CDAC has not found consensus on how best to address the intersection. Other options were designed and studied, including a modification to the current roundabout. If the City adopted a Modified Circle option (shown on this page), the lanes entering and within the circle would be narrowed and the circle would be shifted northward on Main Street. This would free up space that could be added to Hopkins Plaza and along the water (shown in orange in the large exhibit below). The Circle has been proven as safe, as there have been no accidents during the study period. Most of the time traffic flows well and without delay. Backups can be addressed by improved crossings leading up to the circle. In addition the Modified Circle option recognizes that a circle at the intersection has been an element of the landscape for over 125 years and currently serves as a Memorial to our City’s military veterans. Traffic engineering evaluations of this option revealed it offered no improvements to existing traffic operations, ~~largely because a roundabout in an urban context like City Dock cannot account for the conflicting movements of pedestrians and vehicles and the variety of offsetting intersection approaches. As cars yield to pedestrians, traffic inevitably backs up into the circle.~~ Further, access to the parking along the buildings at the intersection ~~would~~ might have to be limited to right-hand turns from Green Street - this requires additional study.

The other option considered was a traditional traffic circle enclosing pedestrian space similar to Church Circle and State Circle. This option had the advantage of enclosing a large amount of public open space but was judged impractical because pedestrians would have to cross multiple lanes of traffic to enter the encircled public space. The option of doing nothing is also an option that the City may wish to take. The drawbacks of making no changes to the intersection are that there can be no gains in public space or improvements to the pedestrian environment. ~~New pedestrian crossings cannot be introduced under the currently configured circle without risking pedestrian safety.~~

In sum, because the main transition envisioned by the community is one toward balance and away from car dominance, the intersection of Compromise, Main, and Randall demands much attention. Getting to a balance does require physical changes to the intersection that must be evaluated further. ~~The most frequently cited concern about the “T” intersection is that it might create new or increased traffic congestion. The City’s consulting engineer Sabra Wang Associates, Inc. evaluated this and determined that a “T” intersection improves overall traffic conditions as discussed previously. The other concern raised about the “T”~~

~~intersection speaks to aesthetics, viewsheds, and historic context. These too are important concerns to embrace and, in so doing, one must recall how the current context in which a raised traffic island in the center of the intersection, planted with 14 foot tall trees, impedes views to and from the water. The current circle is a “within living memory” feature of City Dock.~~

The City will prepare, for Council approval, a plan for the two Randall Street intersections and crosswalks in the Study Area which considers the area’s dual role as both a destination and a throughway, gathering space for pedestrians, pedestrian and bicycle access to and through City Dock, wayfinding, bus and truck access, loading, and unloading, and the constraints of the historical context. This plan will include factors both inside and outside the Study Area that contribute to the congestion at City Dock such as the existing stoplights on Main and Randall Streets and the Spa Creek Drawbridge, and the potential impact of the plan’s implementation on routes outside the study area. This transportation plan is inextricably linked to “the parking plan described on page 20.”. Seconded. CARRIED on voice vote.

On page 13, of the City Dock Master Plan DRAFT, un-strike the last sentence of the second paragraph:

"Beginning at the approaches from all directions, the intersection would become a slow moving environment through the use of textured pavement and other means to clam traffic. Seconded. CARRIED on voice vote.

On page 13, of the City Dock Master Plan DRAFT, in the last sentence of the second paragraph strike "would" and insert the word "can." Seconded. CARRIED on voice vote.

On page 16, amend first paragraph of the City Dock Master Plan DRAFT amend as follows:

After the word “intersection” strike "operates" and insert "options" Seconded. CARRIED on voice vote.

- Alderman Arnett moved to amend Alderman Budge Amendment #6 as follows:

On page 16, amend first paragraph of the City Dock Master Plan DRAFT after the word “discussion” insert “, informed with the benefit of research,” Seconded. CARRIED on voice vote.

On page 13, of the City Dock Master Plan DRAFT in last sentence of the second paragraph delete the word “would” and insert “can” Seconded. CARRIED on voice vote.

- Alderman Budge moved his amendment #6 as follows:

On page 16, append after the last paragraph:

However, several concerns have been cited regarding the “T” intersection. These include the increased automotive transit times through the intersection during normal operation, the elimination of most of the “ad hoc” loading zones in the Study Area, the elimination of a historical element of the streetscape, the introduction of traffic signals into the City’s most prominent view shed, the elimination of the Veteran’s Memorial, and that the intersection and numerous traffic signals are out of character with the existing urban design of our baroque city plan. Some of these concerns might be addressed by the inclusion of a circular element in the design of the new Market Square. Seconded. CARRIED on voice vote.

- Alderman Budge moved his amendment #6, on page 16, amend the last

paragraph as follows:

On page 16, amend the last paragraph, to strike “by the inclusion of a circular element” Seconded. CARRIED on voice vote.

- Alderman Budge moved his amendment #6, on page 16, amend the last paragraph as follows:

After the word “concerns” strike “might” and insert “must”. Seconded. CARRIED on voice vote.

On page 17, top of the page, amend as follows:

In the first sentence strike after the word address “the”

To delete “The Circle has been proven as safe, as there have been no accidents during the study period. Most of the time traffic flows well and without delay. Backups can be addressed by improved crossings leading up to the circle. In addition the Modified Circle option recognizes that a circle at the intersection has been an element of the landscape for over 125 years and currently serves as a Memorial to our City’s military veterans.”

To strike the following language “, largely because a roundabout in an urban context like City Dock cannot account for the conflicting movements of pedestrians and vehicles and the variety of offsetting intersection approaches. As cars yield to pedestrians, traffic inevitably backs up into the circle.”

To strike after the word intersection “would”

To insert after the word Street “;” and delete “-” Seconded. CARRIED on voice vote.

- Alderman Budge moved his amendment #8.

To delete the last 2 paragraphs on page 23, and replace with:

The entire City Dock Study Area lies within an identified floodplain area. FEMA rules no longer allow for either major renovations or construction of ~~new buildings~~ habitable space within a floodplain. Although FEMA does not have jurisdiction over construction at City Dock, their rules mean habitable space built below the 100-year flood plain will be uninsured and ineligible for disaster assistance in future flood events. In order to allow rehabilitation of existing buildings and the creation of new ones, the Historic District’s height regulations should be modified to begin height measurement at grade or at the flood protection elevation, whichever is greater, and could allow a small ~~variance~~ tolerance for hazard mitigation within the floodplain. As now, the HPC should retain the authority to judge the height and bulk of individual proposals on a project-by-project basis in a fashion consistent with the Historic District Ordinance and the HPC’s Design Guidelines. Seconded. CARRIED on voice vote.

Over the long term however, the historic built environment of City Dock and the City’s infrastructure under Dock, Compromise and Randall Streets, and Market Space are threatened by sea level rise. The City will explore and present to the City Council for consideration several strategies for addressing the 100-year flood and sea level rise, including:

- Building a low, configurable seawall as depicted here,
- Building a seawall at the water’s edge or at the sidewalk’s edge,
- Raising buildings subject to the 100-year flood above the flood line,
- Other strategies which may be identified in the course of the study, and
- Allowing buildings to flood.

- “Avoid redevelopment and new building construction within the 100 year flood plane, and improve City Dock with larger pedestrian walkways, plazas, green space, and temporary events, including boat shows, concerts, farmers markets and parking, that can be relocated in advance of flooding and do not need flood insurance.”

The study of strategies for addressing sea level rise will include impacts on the historic fabric and infrastructure, visual impact, economic impact, engineering feasibility, insurability of structures, cost/benefit analysis, impact on the use of space in the City Dock area for other purposes, and relationship to the flood control measures and plans of the United States Naval Academy. Seconded.

CARRIED on voice vote.

- Alderman Budge moved his amendment #7.

Append to page 20:

There needs to be a comprehensive parking plan that addresses the current and future parking needs for the area. Before removing a significant number of parking spaces or formal or informal loading zone spaces in the City Dock study area, the City of Annapolis will develop and present to City Council for approval a Parking Management Relocation Plan which identifies and considers:

- The inventory of parking spaces and loading zones both within the Study Area and within walking distance.
- The parking spaces, loading zones, and parking management practices necessary to support a vibrant economy in the City Dock Study Area,
- Specific programs for relocating parking from within the Study Area to locations outside the Study Area. The parking relocation programs must meet the needs for success of existing and new businesses.
- The economic impacts of those relocation programs,
- The impacts of those relocation programs on parking elsewhere in the City, at other parking facilities and on-street in both business and residential areas,
- Alternatives to parking that will help City residents and visitors access City Dock without the need for a car,
- The costs and expected benefits of those programs,
- The provision of periodic evaluation of parking supply and demand in the study area, and;
- ~~And t~~ “T” he timing of those programs with respect to the anticipated reconstruction of the Hillman Garage. Seconded. CARRIED on voice vote.

- Alderman Budge moved his amendment #5.

To delete on page 14, paragraph 3, and; to remove the arrows from the graphic on page 14. Seconded. CARRIED on voice vote.

- Alderwoman Finlayson on page 19, of the City Dock Master Plan DRAFT as follows:

To delete in 1st paragraph, in 4th line delete sentence “The intersection of St. Mary’s Street should define the point of entry or gateway into the City Dock Area”. Seconded. CARRIED on voice vote.

Upon motion duly made, seconded and adopted, the meeting was adjourned at 11:24 p.m.

Regina C. Watkins-Eldridge, MMC  
City Clerk

**DRAFT**  
**SPECIAL MEETING**  
October 7, 2013

The Special Meeting of the Annapolis City Council was held on October 7, 2013 in the Council Chamber. Mayor Cohen called the meeting to order at 7:11 p.m.

Present on Roll Call: Mayor Cohen, Aldermen Budge, Paone, Alderwomen Hoyle, Finlayson, Aldermen Littmann, Kirby, Pfeiffer, Arnett

Absent on Roll Call: Alderman Littmann

Staff Present: City Manager Mallinoff, City Attorney Hardwick, Planning Zoning Director Arason, Chief of Comprehensive Planning Nash

PETITIONS, REPORTS AND COMMUNICATIONS

Comments by the General Public

Lew Bearden, 1301 Tar Cove Road, Pasadenda, Maryland 21122 representing the Fleet Reserve Club spoke in favor of the traffic circle and spoke on the traffic engineering and round-a-bouts.

Heather Hurtt, 820 Chesapeake Avenue, Annapolis, Maryland 21403 representing Connect Annapolis and spoke in favor of the City Dock Master Plan Draft.

Claudia Lane, 2541 Steele Road, Apt A, Baltimore, Maryland 21209 representing Tour Guides in Baltimore and Anne Arundel County spoke on the long list of amendments and request the public hearing on R-49-13 scheduled for 9/14/13 be rescheduled, and spoke in favor of the traffic circle.

Scarlett Breeding, 209 Main Street, Annapolis, Maryland 21401 spoke in favor of adding flexibility in the height guidelines described in the City Dock Master Plan Draft.

Chris Scheim, 15 Thompson Sreet, Annapolis, Maryland 21401 spoke to the issue of compatibility in the design, and in favor of the height tolerance.

Joe Rubino, 3133 Starboard Drive, Annapolis, Maryland 21403 spoke in favor of Alderman Budge's Amendments.

Steve Rogers, 139 Eastern Avenue, Annapolis, Maryland 21403 spoke on fire safety, the City's Transportation Plan, the preservation of the City and the offering of low cost loans to investors.

Debbie Gosslin, 980 Awald Road, Annapolis, Maryland 21403 representing Watermark spoke in favor of Alderman Budge's Amendments and requested there be no change in the Maritime Zones.

Brian Miller, 114 Market Street, Annapolis, Maryland 21401 asked the City Council "why are we in a hurry" and requested the process slow down a little, "why do we need 2 story buildings" "do we really need new development in the City of Annapolis" and spoke on the 2 a.m. licenses.

Grant Dehart, 138 Lafayette Avenue, Annapolis, Maryland 21401 spoke in favor of Alderman Budge's Amendments spoke in opposition to the height limits in the staff amendments.

Elly Tierney, 85 East Street, Annapolis, Maryland 21401 spoke on the height of buildings in Washington, DC.

Pete Chambliss, 110 Compromise Street, Annapolis, Maryland 21401 representing the Save Annapolis spoke on slowing down the process.

Bruce Chance, 110 Main Street, Annapolis, Maryland 21401 representing the Annapolis Business Association spoke in support of Alderman Budge's Amendments.

Bevin Buchheister, 5 Wagner Street, Annapolis, Maryland 21401 spoke on the 1 page charge to the Planning Committee from former Alderman Israel mandate to the 2009 Comprehensive Plan and requested the sidewalks be widened.

- Mayor Cohen declared petitions, reports and communication closed.

City Council Actions Beginning 9/23/13

LEGISLATIVE ACTIONS  
RESOLUTION – 2<sup>ND</sup> READER

**R-49-12            2012 City Dock Master Plan - For the purpose of adopting the Draft City Dock Master Plan as an addendum to the 2009 Annapolis Comprehensive Plan. For the purpose of considering amendments.**

Planning and Zoning Director Arason and Chief of Comprehensive Planning Nash were present and answered questions from Council.

Chris Jakubiak, 222 Courthouse Court, Suite 1 C, Towson, Maryland 21204 representing Jakubiak Town & City Planning was present and answered questions from Council.

Development Consultant Caroline Moore, 3430 2nd Street, Suite 320 Baltimore, MD 21225 representing Ekistics, LLC was present and answered questions from Council.

- Alderman Budge moved to adopt R-49-12 on second reading. Seconded.
- Alderman Arnett moved to amend R-49-12 as follows:

City Dock Master Plan Major Consideration Areas: DRAFT dated September 23, 2013, Staff Recommendation # 2 Management Entity on page 28, to delete Staff Amendment #2 as follows:

On page 28, strike

“A. Management Entity on City Dock

The creation of a management entity on City Dock was one of the six principles agreed to by the City Dock Advisory Committee and is therefore listed as the first supporting strategy. This Plan recommends that the Mayor and City Council create by ordinance a City Dock Management District and a Management Authority. The Authority should be run as a public-private organization authorized to raise and expend revenues within a City Dock Management District. A Board of governance should be composed of Annapolis citizens who share a commitment to the broad principles laid out by the City Dock Advisory Committee and are committed to implementing the City Dock Master Plan including representation of businesses on Dock and Market Streets. The Authority should work to promote the economic vitality and revitalization of City Dock.

The responsibilities of the Authority should include managing supplemental upkeep on City Dock. The Authority would not have primary responsibility for maintaining City Dock, which is a function of the City of Annapolis. However, some upkeep, such as seasonal planting or cleanup after special events, might readily be undertaken by the Authority. Second, the Authority could provide supplemental security of public and/or public-private spaces. Third, the Authority should manage and license events on City Dock. Fourth, the Authority should facilitate the installation of public art and arts programming in the public spaces on City Dock, along with others qualified to decide what public art should go where and when. Fifth, the Authority should have a voice in the management of parking on City Dock, being an advocate for the transition contemplated in this Plan toward parking management and public spaces. Lastly, the Authority should advocate for and educate the public about the City Dock Master Plan in support of its implementation and updating over time.

Possible sources of funding for the Authority, in support of a full time Executive Director and small staff, should include City and County general funds, the sale and lease of city owned properties on City Dock, a portion of Boat Show license fees, mooring and docking fees, license fees for events on City Dock, and approved commercial use or concessions on public spaces. The Authority should

also raise revenues through a tax on property located within the District and through contributions, donations, grants and revenues from Authority sponsored special events. If the Authority, acting in concert with the City, were to acquire an interest in the Annapolis Boat Show, annual revenues could accrue to the public for ongoing improvements on City Dock. The full potential of this should be explored in the near term.”

And replace with Alderman Budge’s Amendment 9:

“The management of City Dock should be coordinated year-round. The purview of any management function or entity should include the programming of public space, ensuring trash pick-up and cleanliness, reducing clutter, monitoring the progress of implementing visions for City Dock, collecting data, incorporating feedback, coordinating marketing, and supervising Market House operations. This management should support local businesses as well and help them to thrive. Furthermore, the management should advocate for City Dock and protect the historic core. The management of City Dock should receive input from and be responsive to the key stakeholder organizations in the City representing the business community, residents, visitors, and major property owners within the City Dock area.” Seconded. CARRIED on voice vote.

- Alderman Arnett moved to amend R-49-12 as follows:

City Dock Master Plan Major Consideration Areas: DRAFT dated September 23, 2013, Staff Recommendation #5 Amortizing nonconforming billboards, on page 30, in the Annapolis City Dock Master Plan, A Framework to Guide Improvements & Redevelopment DRAFT dated December 2012, strike the last paragraph on page 30 as follows:

“The aim of one of the first zoning amendments for City Dock should be a provision that requires the removal of the non-conforming billboard sign on Dock Street after a reasonable amortization period, for instance, five years.”

And replace with the following text:

"The plan recommends a provision that requires the removal of the non-conforming billboard signs on Dock Street by appropriate legislation, as provided for under state law". Seconded. CARRIED on voice vote.

City Council Actions Beginning 9/30/13:

- Alderman Budge moved to amend R-49-12 as follows with Alderman Budge's Amendment #6. Seconded.

On page 9, modify last sentence as follows:

This potential is particularly achievable, if the ~~opportunity to convert Memorial Circle to a more space-efficient T intersection is taken~~, as streetscape is modified by either the T intersection or the shift-circle option that are discussed later in the Plan.

On page 13, delete last sentence of second paragraph:

Presently Market House and Hopkins Plaza together comprise 16,000 square feet. As proposed in this Plan, the total space would approximate 22,800 square feet. The square in front of market house could extend 150 feet from the edge of Market House toward Main Street and 100 feet across from Market Place to Randall Street. Businesses with sidewalk frontage could extend out into Market Space or at least onto the proposed wider sidewalks which would extend 24 to 30 feet from the building’s edge. ~~Beginning at the approaches from all directions, the intersection would become a slow moving environment through the use of textured pavement and other means to calm traffic.~~

On page 16, amend first paragraph:

The most prominent example of transition toward balance can be found in the Plan's approach to the intersection of Compromise, Main, and Randall. While the City Dock Advisory Committee could not find consensus on how best to address this intersection, the Plan does recognize that ~~converting~~ shifting Memorial Circle or ~~converting the Circle to a "T" intersection is an~~ are opportunityies to improve the pedestrian experience and create useable public spaces. Therefore the Plan ~~features a "T" intersection with Randall Street intersecting Compromise and Main at a right angle, while~~ recognizinges that more community discussion will need to be devoted to this question. ~~This adjustment to the physical layout of City Dock would reduce weekend traffic delays and back-ups during the spring and summer months when traffic is heaviest and have other traffic flow benefits.~~ More detail regarding how the "T" intersection operates is provided in Section F. Improving traffic flow at City Dock remains a challenge due to its dual nature: During the week cars drive through City Dock. On weekends visitors coming to City Dock are added to that traffic, creating a more congested environment. Changes that may improve one will impact the other. Improved traffic operations are not the only benefit of a new intersection; the main public benefit is the balance it brings to the flow of cars and pedestrians year round while allowing useable public space at Market House and the Alex Haley Memorial.

On page 16, append after the last paragraph:

However, several concerns have been cited regarding the "T" intersection. These include the increased automotive transit times through the intersection during normal operation, the elimination of most of the "ad hoc" loading zones in the Study Area, the elimination of a historical element of the streetscape, the introduction of traffic signals into the City's most prominent viewshed, the elimination of the Veteran's Memorial, and that the intersection and numerous traffic signals are out of character with the existing urban design of our baroque city plan. Some of these concerns might be addressed by the inclusion of a circular element in the design of the new Market Square.

On page 17, amend as follows:

As mentioned earlier, CDAC has not found consensus on how best to address the intersection. Other options were designed and studied, including a modification to the current roundabout. If the City adopted a Modified Circle option (shown on this page), the lanes entering and within the circle would be narrowed and the circle would be shifted northward on Main Street. This would free up space that could be added to Hopkins Plaza and along the water (shown in orange in the large exhibit below). The Circle has been proven as safe, as there have been no accidents during the study period. Most of the time traffic flows well and without delay. Backups can be addressed by improved crossings leading up to the circle. In addition the Modified Circle option recognizes that a circle at the intersection has been an element of the landscape for over 125 years and currently serves as a Memorial to our City's military veterans. Traffic engineering evaluations of this option revealed it offered no improvements to existing traffic operations, ~~largely because a roundabout in an urban context like City Dock cannot account for the conflicting movements of pedestrians and vehicles and the variety of offsetting intersection approaches. As cars yield to pedestrians, traffic inevitably backs up into the circle.~~ Further, access to the parking along the buildings at the intersection ~~would~~ might have to be limited to right-hand turns from Green Street - this requires additional study.

The other option considered was a traditional traffic circle enclosing pedestrian space similar to Church Circle and State Circle. This option had the advantage of enclosing a large amount of public open space but was judged impractical because pedestrians would have to cross multiple lanes of traffic to enter the encircled public space. The option of doing nothing is also an option that the City may wish

to take. The drawbacks of making no changes to the intersection are that there can be no gains in public space or improvements to the pedestrian environment. ~~New pedestrian crossings cannot be introduced under the currently configured circle without risking pedestrian safety.~~

In sum, because the main transition envisioned by the community is one toward balance and away from car dominance, the intersection of Compromise, Main, and Randall demands much attention. Getting to a balance does require physical changes to the intersection that must be evaluated further. ~~The most frequently cited concern about the “T” intersection is that it might create new or increased traffic congestion. The City’s consulting engineer Sabra Wang Associates, Inc. evaluated this and determined that a “T” intersection improves overall traffic conditions as discussed previously. The other concern raised about the “T” intersection speaks to aesthetics, viewsheds, and historic context. These too are important concerns to embrace and, in so doing, one must recall how the current context in which a raised traffic island in the center of the intersection, planted with 14 foot tall trees, impedes views to and from the water. The current circle is a “within living memory” feature of City Dock.~~

The City will prepare, for Council approval, a plan for the two Randall Street intersections and crosswalks in the Study Area which considers the area’s dual role as both a destination and a throughway, gathering space for pedestrians, pedestrian and bicycle access to and through City Dock, wayfinding, bus and truck access, loading, and unloading, and the constraints of the historical context. This plan will include factors both inside and outside the Study Area that contribute to the congestion at City Dock such as the existing stoplights on Main and Randall Streets and the Spa Creek Drawbridge, and the potential impact of the plan’s implementation on routes outside the study area. This transportation plan is inextricably linked to “the parking plan described on page 20.”. Seconded. CARRIED on voice vote.

On page 13, of the City Dock Master Plan DRAFT, un-strike the last sentence of the second paragraph:

"Beginning at the approaches from all directions, the intersection would become a slow moving environment through the use of textured pavement and other means to clam traffic. Seconded. CARRIED on voice vote.

On page 13, of the City Dock Master Plan DRAFT, in the last sentence of the second paragraph strike "would" and insert the word "can." Seconded. CARRIED on voice vote.

On page 16, amend first paragraph of the City Dock Master Plan DRAFT amend as follows:

After the word “intersection” strike "operates" and insert "options" Seconded. CARRIED on voice vote.

- Alderman Arnett moved to amend Alderman Budge Amendment #6 as follows:

On page 16, amend first paragraph of the City Dock Master Plan DRAFT after the word “discussion” insert “, informed with the benefit of research,” Seconded. CARRIED on voice vote.

On page 13, of the City Dock Master Plan DRAFT in last sentence of the second paragraph delete the word “would” and insert “can” Seconded. CARRIED on voice vote.

- Alderman Budge moved his amendment #6 as follows:

On page 16, append after the last paragraph:

However, several concerns have been cited regarding the “T” intersection. These include the increased automotive transit times through the intersection during normal operation, the elimination of most of the “ad hoc” loading zones in the Study Area, the elimination of a historical element of the streetscape, the introduction of traffic signals into the City’s most prominent view shed, the elimination of the Veteran’s Memorial, and that the intersection and numerous traffic signals are out of character with the existing urban design of our baroque city plan. Some of these concerns might be addressed by the inclusion of a circular element in the design of the new Market Square. Seconded. CARRIED on voice vote.

- Alderman Budge moved his amendment #6, on page 16, amend the last paragraph as follows:

On page 16, amend the last paragraph, to strike “by the inclusion of a circular element” Seconded. CARRIED on voice vote.

- Alderman Budge moved his amendment #6, on page 16, amend the last paragraph as follows:

After the word “concerns” strike “might” and insert “must.” Seconded. CARRIED on voice vote.

On page 17, top of the page, amend as follows:

In the first sentence strike after the word address “the”

To delete “The Circle has been proven as safe, as there have been no accidents during the study period. Most of the time traffic flows well and without delay. Backups can be addressed by improved crossings leading up to the circle. In addition the Modified Circle option recognizes that a circle at the intersection has been an element of the landscape for over 125 years and currently serves as a Memorial to our City’s military veterans.”

To strike the following language “, largely because a roundabout in an urban context like City Dock cannot account for the conflicting movements of pedestrians and vehicles and the variety of offsetting intersection approaches. As cars yield to pedestrians, traffic inevitably backs up into the circle.”

To strike after the word intersection “would”

To insert after the word Street “;” and delete “-” Seconded. CARRIED on voice vote.

- Alderman Budge moved his amendment #8.

To delete the last 2 paragraphs on page 23, and replace with:

The entire City Dock Study Area lies within an identified floodplain area. FEMA rules no longer allow for either major renovations or construction of ~~new buildings~~ habitable space within a floodplain. Although FEMA does not have jurisdiction over construction at City Dock, their rules mean habitable space built below the 100-year flood plain will be uninsured and ineligible for disaster assistance in future flood events. In order to allow rehabilitation of existing buildings and the creation of new ones, the Historic District’s height regulations should be modified to begin height measurement at grade or at the flood protection elevation, whichever is greater, and could allow a small ~~variance~~ tolerance for hazard mitigation within the floodplain. As now, the HPC should retain the authority to judge the height and bulk of individual proposals on a project-by-project basis in a fashion consistent with the Historic District

Ordinance and the HPC's Design Guidelines. Seconded. CARRIED on voice vote.

Over the long term however, the historic built environment of City Dock and the City's infrastructure under Dock, Compromise and Randall Streets, and Market Space are threatened by sea level rise. The City will explore and present to the City Council for consideration several strategies for addressing the 100-year flood and sea level rise, including:

- Building a low, configurable seawall as depicted here,
- Building a seawall at the water's edge or at the sidewalk's edge,
- Raising buildings subject to the 100-year flood above the flood line,
- Other strategies which may be identified in the course of the study, and
- Allowing buildings to flood.
- “Avoid redevelopment and new building construction within the 100 year flood plane, and improve City Dock with larger pedestrian walkways, plazas, green space, and temporary events, including boat shows, concerts, farmers markets and parking, that can be relocated in advance of flooding and do not need flood insurance.”

The study of strategies for addressing sea level rise will include impacts on the historic fabric and infrastructure, visual impact, economic impact, engineering feasibility, insurability of structures, cost/benefit analysis, impact on the use of space in the City Dock area for other purposes, and relationship to the flood control measures and plans of the United States Naval Academy. Seconded. CARRIED on voice vote.

- Alderman Budge moved his amendment #7.

Append to page 20:

There needs to be a comprehensive parking plan that addresses the current and future parking needs for the area. Before removing a significant number of parking spaces or formal or informal loading zone spaces in the City Dock study area, the City of Annapolis will develop and present to City Council for approval a Parking Management Relocation Plan which identifies and considers:

- The inventory of parking spaces and loading zones both within the Study Area and within walking distance.
- The parking spaces, loading zones, and parking management practices necessary to support a vibrant economy in the City Dock Study Area,
- Specific programs for relocating parking from within the Study Area to locations outside the Study Area. The parking relocation programs must meet the needs for success of existing and new businesses.
- The economic impacts of those relocation programs,
- The impacts of those relocation programs on parking elsewhere in the City, at other parking facilities and on-street in both business and residential areas,
- Alternatives to parking that will help City residents and visitors access City Dock without the need for a car,
- The costs and expected benefits of those programs,
- The provision of periodic evaluation of parking supply and demand in the study area, and;
- ~~And t~~ “T” he timing of those programs with respect to the anticipated reconstruction of the Hillman Garage. Seconded. CARRIED on voice vote.

- Alderman Budge moved his amendment #5.

To delete on page 14, paragraph 3, and; to remove the arrows from the graphic on page 14. Seconded. CARRIED on voice vote.

- Alderwoman Finlayson on page 19, of the City Dock Master Plan DRAFT as follows:

To delete in 1st paragraph, in 4th line delete sentence “The intersection of St. Mary’s Street should define the point of entry or gateway into the City Dock Area”. Seconded. CARRIED on voice vote.

#### City Council Actions Beginning 10/7/13

- Alderman Budge moved to amend the Annapolis City Dock Master Plan Draft dated October 2013 on page 14, and 15 "in red" as follows:

The Plan envisions that redevelopment will occur on City Dock. Three opportunity sites are shown on the exhibit below. Each project has the ability to contribute to the context and setting of City Dock and indeed each has the potential to distract from it as well. **REDEVELOPMENT OF THE OPPORTUNITY SITES SHOULD RETAIN THE “SMALL TOWN FEEL” OF DOWNTOWN ANNAPOLIS.** The approximate footprint of the buildings are set outside of the principal viewsheds to and from the water. **IN ADDITION THE HARBORMASTER BUILDING, WHICH PRESENTLY FORMS A WALL ACROSS THE MIDDLE OF DOCK STREET, IS REMOVED.** ~~However, it will be imperative that viewshed analyses be undertaken during the plan-review process for any new development or major redevelopment projects on City Dock.~~

~~Apart from views, other important considerations should be made. For example, for the proposed redevelopment projects along Dock Street, strong building massing of three- to five-story heights facing the water will help activate and frame the open spaces. Such larger buildings also have the potential to distract from the architectural patterns established on Prince George Street. This is especially the case on that section of Prince George Street between Craig Street and Randall Street. New building forms facing Prince George Street at this location will need to fit harmoniously with a historic residential character.~~

On the former Fawcett’s site, the Plan’s principal objectives include setting new buildings back from the water’s edge by 45 to 55 feet. This allows space for the promenade and ample room for flood mitigation infrastructure while leaving space for outdoor use by the users of the building in ways that will energize and enliven this side of City Dock. **FOR SIMILAR REASONS, AND TO PROVIDE VIEWS TOWARD THE WATER FROM COMPROMISE STREET, THE BUILDING SHOULD BE SET BACK 20 TO 25 FEET FROM NEWMAN STREET.** It is recommended that the buildings have a ~~far~~ smaller setback along Compromise Street; 15 to 20 feet would be about enough to secure the proposed sidewalk width needed in this area. ~~The building would likely be developed in part on property presently owned by the City (the “Fleet” parking lot, located at the intersection of Newman and Compromise Streets.).~~ The massing of building(s) on the former Fawcett site should provide a beautiful enhance the historic character and provide a compatible backdrop to the proposed public space on the Donner Lot and help frame, in the distance, the proposed market square. Two ~~to three~~ **AND ONE-HALF** stories are recommended. **IT WILL BE IMPERATIVE THAT VIEWSHED ANALYSES BE UNDERTAKEN DURING THE PLAN-REVIEW PROCESS FOR ANY PROJECTS IN THIS OPPORTUNITY SITE.**

**WITH THE PROPOSED OPPORTUNITY SITES ALONG DOCK STREET, REMOVING THE HARBORMASTER BUILDING AND MOVING THE BUILDING FOOTPRINTS OUTWARD AS DEPICTED WILL ACTIVATE AND FRAME THE OPEN SPACE FACING THE WATER WITH BUILDINGS OF THREE STORIES. CURRENTLY THE HARBORMASTER BUILDING AND THE LARGE OFFSET TO THE OUTER DOCK STREET SIDEWALK PRESENT A VISUAL BARRIER THAT INHIBITS PEDESTRIAN FLOW OUT THE LANDWARD SIDE OF DOCK STREET. RECONFIGURING THE BUILDING FOOTPRINTS WOULD ALLOW THE BUILDINGS TO BE ON A CONTINUOUS SIGHTLINE, HELPFUL TO THE FLOW OF PEDESTRIAN RETAIL TRAFFIC. BRINGING THE ARCHITECTURE CLOSER TO THE WATER BRINGS THE PEOPLE CLOSER TO THE WATER AND GENERATES MORE VITALITY AND BUSINESS ACTIVITY.**

FLEXING OF FOOTPRINT AND HEIGHT THAT RESPECTS VIEWSHEDS AND SIGHT LINES MAY BE APPROPRIATE IN THE IMMEDIATE CONTEXT BECAUSE THERE ARE FEWER HISTORIC PROPERTIES IN THIS LOCATION AND THE USNA BACKDROP COMPROMISES THE STREETScape. AT THE SAME TIME WE MUST HONOR [ACKNOWLEDGE] THE PRESENT BUILDING LINE THAT DATES BACK AT LEAST AS FAR AS 1878. PRIOR TO ENACTING CHANGES IN THE DOCK STREET OPPORTUNITY SITES THE CITY MUST PREPARE A PROFESSIONAL CULTURAL LANDSCAPE REPORT THAT RECOGNIZES THE NATIONAL HISTORIC LANDMARK DESIGNATION AND APPLIES THE SECRETARY OF THE INTERIOR'S STANDARD'S FOR TREATMENT OF HISTORIC PROPERTIES IN ASSESSING THE SIGNIFICANT HISTORIC ASSETS IN THE VICINITY, CONDUCTING A VIEWSHED ANALYSIS, AND DETERMINING THE IMPACT OF THE PROPOSED DEVELOPMENTS ON THOSE PROPERTIES AND OTHER ASPECTS THAT MAY BE PERTINENT. THE STUDY MUST BE DONE UNDER THE DIRECTION OF CITY STAFF AND SPECIFICALLY THE CHIEF OF HISTORIC PRESERVATION TO INSURE ITS RELEVANCE TO PRESERVATION REQUIREMENTS.

- Alderman Arnett moved to approve on page 14, of the City Dock Master Plan Draft dated October 2013, to strike "~~HONOR~~" and insert "~~ACKNOWLEDGE~~". Seconded. CARRIED o voice vote.
- Alderman Arnett moved to approve on page 14, of the City Dock Master Plan Draft dated October 2013, insert after "~~REQUIREMENTS.~~" "The study results will be presented to the City Council and the Historic Preservation Commission for consideration." Seconded. CARRIED on voice vote.

THE PROPOSED CHANGES TO BUILDING FOOTPRINTS IN THE OPPORTUNITY SITES WILL HAVE IMPACTS ON THE BUSINESS CLIMATE IN THE AREA. THIS PLAN ENVISIONS THOSE CHANGES WILL BE POSITIVE, BUT THEY ARE NOT WITHOUT RISK. THE RESTRUCTURING OF THE BUILT ENVIRONMENT MUST NOT TAKE PLACE UNTIL THE CITY HAS ASSESSED TO COUNCIL'S SATISFACTION HOW THE DEVELOPMENT WILL AFFECT EXISTING BUSINESSES, INCLUDING THE BOAT SHOWS, AND THE ABILITY OF THE AREA TO SUPPORT NEW BUSINESSES GIVEN THE CONSTRAINTS OF SPACE, PARKING, AND TRANSPORTATION.

NEW CONSTRUCTION IN THE OPPORTUNITY SITES MUST PRESERVE THE DESIGN GUIDELINES AND ARCHITECTURAL PRINCIPLES FOUND THROUGHOUT THE HISTORIC LANDMARK DISTRICT WITH REGARDS TO SCALE, MASSING, AND RHYTHM AND REMAIN SUBJECT TO REVIEW AND APPROVAL BY THE HISTORIC PRESERVATION COMMISSION, AS IS PRESENTLY THE CASE.

- Alderman Pfeiffer moved to approve on page 15, after the word "~~CASE.~~" insert "IN ORDER TO FACILITATE NEW CONSTRUCTION IN THE OPPORTUNITY SITES, THE HPC, AS PART OF ITS REVIEW, SHOULD HAVE THE AUTHORITY TO GRANT SMALL TOLERANCES TO ALLOWABLE HEIGHT IF NEW CONSTRUCTION IS NOT OTHERWISE FEASIBLE." Seconded. CARRIED on voice vote.
- At 9:34 p.m., Mayor Cohen requested Alderman Arnett preside over the meeting during his absence.
- At 9:42 p.m., Mayor Cohen resumed the duties of the Chair.
- Alderman Budge moved to strike on page 29, of the City Dock Master Plan Draft dated October 2013, the last paragraph as the following:

“, AND COULD ALLOW A SMALL ~~VARIANCE~~ TOLERANCE FOR HAZARD MITIGATION WITHIN THE FLOODPLAIN.” Seconded. CARRIED on voice vote.

- Alderman Paone moved to recess the meeting until Thursday, October 10, 2013 at 2:00 p.m. Seconded. CARRIED on voice vote.

Upon motion duly made, seconded and adopted, the meeting was adjourned at 11:13 p.m.

Regina C. Watkins-Eldridge, MMC  
City Clerk

Jessica Cowles  
Legislative and Policy Analyst  
City of Annapolis Office of Law  
E) JCCowles@annapolis.gov  
P) 410-263-7954  
F) 410-268-3916

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October 9, 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, October 13, 2013 and Monday, October 14, 2013**

Please send bill and certificate of publication to the City of Annapolis Office of Law, 160 Duke of Gloucester, 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, October 14, 2013 at 7:00 p.m., in City Council Chambers, 160 Duke of Gloucester Street, Annapolis, for a public hearing on:

- O-30-11**      **Deleting the Contiguous Lots Section of 21.40.020 – R1 Single Family Residence District** – For the purpose of amending Section 21.40.020 – R1 Single Family Residence District to delete Section D related to contiguous lots.
  
- O-19-13**      **Capacity of Schools in the Development Review Process** – For the purpose of adding current and projected school capacity of Annapolis Feeder System schools geographically located within the City of Annapolis to the list of development review criteria and findings; and specifying duties of the Director of Planning and Zoning regarding school capacity.
  
- O-28-13**      **New Land Use Article References in the City Code** – For the purpose of updating the references to the former Article 66B of the Annotated Code of Maryland to the new title of “Land Use Article.”
  
- O-33-13**      **Wastewater Conveyance and Treatment (Sewer Service) Contract with the Federal Government** – For the purpose of approving a new 10-year wastewater conveyance and treatment (sewer service) contract (Contract) with the Federal Government to adjust the rate as provided; and all matters related to said wastewater conveyance and treatment.
  
- O-34-13**      **Historic Preservation Tax Credit** – For the purpose of revising the provisions governing the historic preservation tax credit in the City of Annapolis.

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 Ordinance No. O-30-11

4 Introduced by: Alderman Paone  
5  
6  
7

LEGISLATIVE HISTORY			
First Reading	Public Hearing	Fiscal Impact Note	180 Day Rule
7/11/11			1/13/12
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Gov't Planning Commission	7/11/11 7/11/11		

8  
9 **A ORDINANCE** concerning

10 **Deleting the Contiguous Lots Section of 21.40.020 – R1 Single Family Residence District**

11 **FOR** the purpose of amending Section 21.40.020 – R1 Single Family Residence District to  
12 delete Section D related to contiguous lots.

13 **BY** repealing and re-enacting with amendments the following portions of the Code of the  
14 City of Annapolis, 2010 Edition  
15 Section 21.40.020  
16

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

19 **Chapter 21.40 – RESIDENTIAL DISTRICTS.**

20 **21.40.020 - R1 Single-Family Residence district.**

21 A. Purpose. The R1 Single-Family Residence district provides for single-family detached  
22 dwellings at approximately six dwelling units per acre and other uses compatible with these  
23 single-family neighborhoods of the City.

24 B. Uses. Uses that may be permitted in the R1 Single-Family Residence district are set forth in  
25 the table of uses for residential districts in Chapter 21.48

26 C. Development Standards. Chapter 21.50 contains the bulk regulations table for the R1  
27 Single-Family Residence district.

28 ~~D. Contiguous Lots.~~

29 ~~1. Notwithstanding the provisions of Section 21.40.010(A), in the R1 District, except as~~  
30 ~~described in (D)(2) of this section, a lot of record that is contiguous to one or more lots of record~~  
31 ~~under single ownership or control on April 10, 2006, shall be considered part of a zoning lot, and~~  
32 ~~shall not be developed or ownership transferred as an individual lot, unless the owner can~~  
33 ~~demonstrate that the subject lot and each remaining lot or collection of lots in the zoning lot~~  
34 ~~complies with the current base zoning regulations including lot size, lot coverage and yard~~  
35 ~~setbacks.~~

36 ~~2. A lot of record that is contiguous to one or more lots of record under single ownership or~~  
37 ~~control can be developed in accordance with Section 21.40.010(A) if the land area and width of~~

1 the subject lot of record is not needed for the remaining contiguous lot(s) of record under single  
2 ownership or control to comply with the current base zoning regulations including lot size, lot  
3 coverage and yard setbacks.  
4 3. Upon application for any building permit in which the proposed improvements would have  
5 any impact on lot size, lot coverage or yard setbacks, the property owner shall submit such  
6 information as required by the Department of Planning and Zoning concerning the ownership of  
7 contiguous lots of record pursuant to compliance with this subsection.  
8

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

11 **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

12 ATTEST: THE ANNAPOLIS CITY COUNCIL

13  
14  
BY \_\_\_\_\_  
Regina C. Watkins-Eldridge, MMC, City Clerk Joshua J. Cohen, Mayor

15  
16  
17 **EXPLANATION:**  
18 Highlighting indicates matter added to existing law.  
19 Strikeout indicates matter deleted from existing law.  
20 Underlining indicates amendments.  
21

## **Policy Report**

### **Ordinance O-30-11**

#### **Deleting the Contiguous Lots Section of 21.40.020 – R1 Single Family Residence**

The proposed ordinance would delete 21.40.040 (D) of the Annapolis City Code relating to the contiguous lots provision in the R1 single-family residence zoning district. The Code currently provides that where contiguous lots of record are under single ownership, they are considered one zoning lot and cannot be built on separately unless they individually meet the lot area and width requirements of the R1 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](mailto:JCCowles@annapolis.gov).

PLANNING COMMISSION

(410)263-7961

145 GORMAN STREET, 3<sup>RD</sup> FLOOR  
ANNAPOLIS, MARYLAND 21401

October 3, 2013

**MEMORANDUM**

**To:** Annapolis City Council  
**From:** Planning Commission  
**Re:** Ordinance O-30-11 amending Section 21.40.020 by deleting subsection D. relating to contiguous lots

**SUMMARY**

Ordinance O-30-11 would delete Sections of the Code that prohibit lots lacking sufficient width or area from being found to be 'buildable' lots for the purpose of separate development. These prohibitions were put in place in 2006 via Ordinance O-23-05.

On April 10, 2006 the City Council adopted Ordinance O-23-05. This ordinance amended the R1, Single-family Residence District as follows:

- Prohibited the Planning and Zoning Director from granting administrative adjustments when the minimum lot width and area requirements of the affected property are not met
- Merged contiguous lots of record under single ownership or control to prevent transfer or development of individual lots unless it can be demonstrated that each lot so transferred or developed and the remaining lot(s) comply with the base district regulations including lot size, lot width, lot coverage and setbacks.
- Allows the development of a lot of record contiguous to one or more lots of record to be developed provided that the land area or width of the subject lot is not needed for the remaining contiguous lot(s) to be compliant with setbacks, area width or other base district requirements.

In the R1 zoning district, the minimum lot width is sixty (60) feet, and the minimum lot area is seven thousand (7,000) square feet. The original lots platted for Fairfax Road and Heritage exceed the current R1 requirements. In the R1 area of Murray Hill the original lots are either developed as platted or substantially developed with homes that are unlikely to be demolished for the purpose of exposing underlying lots. Admiral Heights is platted in lots that are 35' x 120' and none of these lots meet the minimum width or lot area. West Annapolis is platted into lots of 50' x 150' (7,500 sq. ft.) so these lots typically meet the minimum lot area but not the lot width.

**STAFF RECOMMENDATION**

At a regularly scheduled meeting on October 3, 2013 the Planning and Zoning staff presented their recommendation. Which was to amend and approve.

**PUBLIC HEARING AND DELIBERATION**

In accordance with the Annapolis City Code a public hearing was held on October 3, 2013. After the close of the public hearing, the Planning Commission began its deliberations.

**RECOMMENDATION**

Section 221.32.010 reads as follows:

*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 Zoning Code; 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.*

Following a review of the staff report and consideration of staff and public comments, the Commission by a vote of 5 to 0 recommend adoption of the ordinance with the following amendment:

*Maintain existing Section 21.40.020 D. as is except for the following:*

- 1. At the end of Section 21.40.020 D. 1.— add 'except lot width'*
- 2. Section 21.40.020 D. 2.—delete references to lot width*

This recommended amendment would only allow lots that meet the minimum lot size to be separately developed. The other restrictions would remain in place.

Adopted this 3<sup>rd</sup> day of October, 2013



Dr. Eleanor Harris,  
Chair

FISCAL IMPACT NOTE

**Legislation No:** O-30-11

**First Reader Date:** 07-11-11

**Note Date:** 01-07-12

**Legislation Title:** **Deleting the Contiguous Lots Section of 21.40.020 – R1 Single Family Residence District**

**Description:** For the purpose of amending Section 21.40.020 – R1 single Family Residence District to delete Section D related to contiguous lots.

**Analysis of Fiscal Impact:**

This legislation produces no significant fiscal impact.

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**CITY COUNCIL OF THE  
City of Annapolis**

**Ordinance No. O-19-13**

**Sponsors: Alderman Littmann, Alderman Arnett and Alderman Pfeiffer**

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
6/10/13			12/6/13
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Gov't	6/10/13		
Planning Commission	6/10/13		

8  
9 **A ORDINANCE** concerning

10 **Capacity of Schools in the Development Review Process**

11 **FOR** the purpose of adding current and projected school capacity of Annapolis Feeder  
12 System schools geographically located within the City of Annapolis to the list of  
13 development review criteria and findings; and specifying duties of the Director of  
14 Planning and Zoning regarding school capacity.

15  
16 **BY** repealing and re-enacting with amendments the following portions of the Code of the  
17 City of Annapolis, 2012 Edition  
18 Section 21.08.050  
19 Section 21.22.080  
20 Section 21.24.090  
21

22 **WHEREAS,** proposed developments with residential structures without age restrictions  
23 have the likelihood to create additional demand for public school resources;  
24 and  
25

26 **WHEREAS,** residents and the City of Annapolis are concerned about the capacity of the  
27 public schools in the Annapolis Feeder System and their ability to satisfactorily  
28 serve the projected increase in additional students from proposed non-age  
29 restricted residential developments; and  
30

31 **WHEREAS,** the Anne Arundel County School Board prepares an annual Educational  
32 Facilities Master Plan for the Annapolis Feeder System available at:  
33 <http://www.aacps.org/planning/annapolisfeeder.pdf> that details the current  
34 capacity and predicted capacity to 2021; and  
35

1 **WHEREAS,** the relevant Appendices of the Anne Arundel County School Board 2012  
2 Educational Facilities Master Plan that address state rated capacity and the  
3 school pupil generation factors yield per unit are attached to this ordinance;  
4 and

5  
6 **WHEREAS,** in evaluating a proposed development application, the City of Annapolis  
7 coordinates with the Anne Arundel County School Board for a determination of  
8 school capacity; and

9  
10 **WHEREAS,** it is in the best interest of the City of Annapolis to consider all available data  
11 regarding the impacts of a proposed development on school capacity before  
12 the City approves a proposed development.  
13

14  
15 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL**  
16 that the Code of the City of Annapolis shall be amended to read as follows:  
17

18 **CHAPTER 21.08 – DECISION MAKING BODIES AND OFFICIALS**

19 **21.08.050 - Planning and Zoning Director.**

20 A. Establishment. The position of Planning and Zoning Director is established as the manager  
21 of the Department of Planning and Zoning, with the authority to administer and enforce this  
22 Zoning Code.

23 B. Duties. The Planning and Zoning Director may delegate zoning administration and  
24 enforcement responsibilities to any deputy director, assistant director, or staff member of  
25 the Department of Planning and Zoning, or other individual designated by the Director. The  
26 Planning and Zoning Director has the following powers and duties:

- 27 1. Decide applications for demolition permits pursuant to the provisions of Chapter 21.14
- 28 2. Decide applications for administrative interpretations pursuant to the provisions of  
29 Chapter 21.16
- 30 3. Decide applications for administrative adjustments pursuant to the provisions of  
31 Chapter 21.18
- 32 4. Decide applications for major and minor site plan review pursuant to the provisions of  
33 Chapter 21.22
- 34 5. Decide applications for extensions of planned developments pursuant to the provisions  
35 of Chapter 21.24
- 36 6. Decide applications for determinations of nonconforming use status pursuant to the  
37 provisions of Chapter 21.68
- 38 7. Hear and decide applications for change of nonconforming use pursuant to the  
39 provisions of Chapter 21.68
- 40 8. Conduct inspections of buildings, structures and use of land to determine compliance  
41 with the terms of this Zoning Code.
- 42 9. Take appropriate enforcement action with regard to alleged violations of this Zoning  
43 Code.

- 1 10. Maintain permanent and current records made under this Zoning Code, including, but  
2 not limited to, all maps, amendments, planned developments, special exceptions,  
3 variances, appeals, use permits and applications.
- 4 11. Provide and maintain public information related to this Zoning Code.
- 5 12. Initiate or direct from time to time a study of the provisions of this Zoning Code, and  
6 make reports or recommendations to the Planning Commission not less frequently than  
7 once a year.
- 8 13. COORDINATE THE EXCHANGE OF INFORMATION BETWEEN THE CITY'S  
9 DEPARTMENT OF PLANNING AND ZONING AND THE ANNE ARUNDEL COUNTY  
10 SCHOOL BOARD TO FACILITATE ACCURATE AND TIMELY DATA ABOUT  
11 SCHOOL CAPACITY OF THOSE ANNAPOLIS FEEDER SYSTEM SCHOOLS  
12 GEOGRAPHICALLY LOCATED WITHIN THE CITY OF ANNAPOLIS.
- 13 14. PROVIDE INPUT INTO ANNE ARUNDEL COUNTY PLANNING DOCUMENTS ON  
14 SCHOOL CAPACITY AND MAKE NECESSARY RECOMMENDATIONS TO ANNE  
15 ARUNDEL COUNTY REGARDING ADDITIONAL SCHOOL FACILITIES OR CAPITAL  
16 IMPROVEMENTS TO EXISTING FACILITIES.
- 17 C. Tolling of approvals. Approvals granted by the Planning and Zoning Director pursuant to  
18 Section 21.08.050B of this Code and extensions thereof which are active and valid as of  
19 June 30, 2012, shall be tolled until June 30, 2014, so that all such approvals and  
20 extensions shall expire on, or any applicable extension request shall have been requested  
21 by, June 30, 2014.

22

## 23 **Chapter 21.22 – Site Design Plan Review**

### 24 **21.22.080 - Review criteria and findings.**

25 The decision of the Planning and Zoning Director shall be based on findings with respect to  
26 the following:

- 27 A. District Standards. The proposed design plan meets all of the requirements of the  
28 zoning district in which it is located, including but not limited to the site design  
29 standards set forth in Chapter 21.62
- 30 B. Design. The proposed design is in harmony with the character of the surrounding  
31 neighborhood and the Comprehensive Plan and achieves a maximum of compatibility,  
32 safety, efficiency, and attractiveness.
- 33 C. Compatibility. Each improvement, building and/or use is compatible with other uses  
34 and with existing and proposed developments on adjacent land.
- 35 D. Minimize Adverse Impacts. The proposed structures are sited in order to minimize any  
36 adverse impact upon the surrounding area by reason of: building location, height, bulk,  
37 shadows; location, intensity, direction and times of use of outdoor lighting or other  
38 similar characteristics.
- 39 E. Building Locations. The proposed locations of the buildings and structures, open  
40 spaces, landscape elements, and pedestrian and vehicular circulation systems are  
41 adequate, safe, and efficient.
- 42 F. Natural Features. The proposed design results in minimal modification of existing  
43 geological and topographic features where practicable.

- 1 G. Slopes and Soils. The proposed design minimizes degradation of unique or sensitive  
2 lands, such as steep slopes or highly erodible soils.
  - 3 H. Critical Area. The proposed design minimizes adverse impacts to resources in the  
4 Critical Area Overlay District, such as streams, wetlands, areas of aquifer recharge and  
5 discharge, areas with a high water table, mature stands of trees and wildlife habitat.
  - 6 I. CONSIDERATION OF SCHOOL CAPACITY. THE PROPOSED DESIGN  
7 CONSIDERS:
    - 8 1. HOW MANY SCHOOL-AGED CHILDREN ARE EXPECTED TO LIVE IN A  
9 PROPOSED DEVELOPMENT BASED ON THE SCHOOL PUPIL GENERATION  
10 FACTORS YIELD PER UNIT CONTAINED IN THE ANNE ARUNDEL COUNTY  
11 EDUCATIONAL FACILITIES MASTER PLAN;
    - 12 2. WHICH, AND TO WHAT DEGREE, ANNAPOLIS FEEDER SCHOOLS  
13 GEOGRAPHICALLY LOCATED WITHIN THE CITY OF ANNAPOLIS WOULD  
14 BE IMPACTED; AND
    - 15 3. THE CURRENT AND PROJECTED CAPACITY OF THOSE IMPACTED  
16 SCHOOLS TO ACCOMMODATE THE EXPECTED NUMBER OF SCHOOL-  
17 AGED CHILDREN AT PRESENT AND THE FORESEEABLE FUTURE BASED  
18 ON THE ANNE ARUNDEL COUNTY EDUCATIONAL FACILITIES MASTER  
19 PLAN.
- 20

## 21 **Chapter 21.24 – Planned Developments**

### 22 **21.24.090 - Planned development review criteria and findings.**

23 In deciding planned development applications the Planning Commission shall make written  
24 findings based on the following:

- 25 A. The planned development is compatible with the character of the surrounding  
26 neighborhood and the Comprehensive Plan and the purposes of planned  
27 developments.
- 28 B. The proposed locations of buildings, structures, open spaces, landscape elements, and  
29 pedestrian and vehicular circulation systems are adequate, safe, and efficient and  
30 designed to minimize any adverse impact upon the surrounding area.
- 31 C. The planned development will promote high quality design and will not result in greater  
32 adverse impacts to the surrounding area compared to the development that may  
33 otherwise be permitted pursuant to the Zoning Code if a planned development were  
34 not approved.
- 35 D. The planned development complies with the planned development use standards and  
36 bulk and density standards.
- 37 E. The planned development complies with the Site Design Plan Review criteria provided  
38 in Section 21.22.080
- 39 F. The planned development plan includes adequate provision of public facilities and the  
40 proposed infrastructure, utilities and all other proposed facilities are adequate to serve  
41 the planned development and adequately interconnect with existing public facilities.

1 G. CONSIDERATION OF SCHOOL CAPACITY. THE PROPOSED DESIGN  
2 CONSIDERS:

- 3 1. HOW MANY SCHOOL-AGED CHILDREN ARE EXPECTED TO LIVE IN A  
4 PROPOSED DEVELOPMENT BASED ON THE SCHOOL PUPIL GENERATION  
5 FACTORS YIELD PER UNIT CONTAINED IN THE ANNE ARUNDEL COUNTY  
6 EDUCATIONAL FACILITIES MASTER PLAN;
- 7 2. WHICH, AND TO WHAT DEGREE, ANNAPOLIS FEEDER SCHOOLS  
8 GEOGRAPHICALLY LOCATED WITHIN THE CITY OF ANNAPOLIS WOULD  
9 BE IMPACTED; AND
- 10 3. THE CURRENT AND PROJECTED CAPACITY OF THOSE IMPACTED  
11 SCHOOLS TO ACCOMMODATE THE EXPECTED NUMBER OF SCHOOL-  
12 AGED CHILDREN AT PRESENT AND THE FORESEEABLE FUTURE BASED  
13 ON THE ANNE ARUNDEL COUNTY EDUCATIONAL FACILITIES MASTER  
14 PLAN.

15  
16  
17 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**  
18 **ANNAPOLIS CITY COUNCIL** that this Ordinance shall take effect from the date of its passage.

19  
20  
21 **SECTION III: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**  
22 **ANNAPOLIS CITY COUNCIL** that this Ordinance shall apply to applications for site design  
23 review and applications for a planned development submitted to the Planning Commission after  
24 the date of passage of this Ordinance.

25  
26  
27 **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

28  
29  
ATTEST: THE ANNAPOLIS CITY COUNCIL

30  
31  
32 BY \_\_\_\_\_  
33 \_\_\_\_\_  
34 Regina C. Watkins-Eldridge, MMC, City Clerk Joshua J. Cohen, Mayor  
35

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

**Policy Report**  
**Ordinance O-19-13**

**Capacity of Schools in the Development Review Process**

The proposed ordinance would add current and projected school capacity of Annapolis Feeder System schools that are geographically located within the City of Annapolis to the list of development review criteria and findings. The proposed ordinance would also specify duties of the Director of Planning and Zoning regarding school capacity and coordination with Anne Arundel County.

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

**Alderman Littmann's Proposed Amendment to O-19-13  
Capacity of Schools in the Development Review Process**

**Amendment #1**

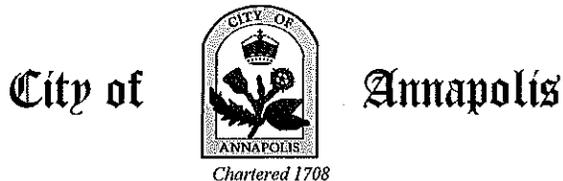
Page 1, line 12

Page 3, line 12

Page 4, line 13

Page 5, line 8

Strike "geographically located within" and insert "that serve the residents of"



## PLANNING COMMISSION

(410)263-7961

145 GORMAN STREET, 3<sup>RD</sup> FLOOR  
ANNAPOLIS, MARYLAND 21401

September 19, 2013

**To: Mayor & City Council**

**From: Planning Commission**

**Re: Ordinance O-19-13 — Addition of Projected Capacity of Annapolis High School Feeder System Schools to Development Review Criteria**

### SUMMARY

Ordinance O-19-13 amends certain sections of Title 21 of the city code to require a more consideration of school capacity issues in the review process for major development projects. These include

- Chapter 21.08.050, Planning & Zoning Director's Duties – adds coordination of the exchange of information between the Planning & Zoning Department and Anne Arundel County Board of Education to assure that both organizations have accurate and timely data regarding the effects of new developments upon school capacity and providing input to the Anne Arundel County Planning Department on school capacity issues along with recommendations concerning school facility expansions and new construction
- Chapter 21.22, Site Design Review and Chapter 21.24, Planned Developments – adds consideration of school capacity issues to the criteria that must be included in the review of site designs and planned developments, including how many school-aged children can be expected to live in the development based on the methods used in creating the Anne Arundel County Board of Education's Educational Facility Master Plan (EFMP), which schools are affected and to what extent, and the current and projected capacity of the affected schools at present and in the foreseeable future per the EFMP.

The EFMP serves as the County's yardstick for measuring existing school capacity and planning future expansions and facility capital improvements. It incorporates requirements set by state regulations, although these regulations do not stipulate specific improvements to be made or timetables for implementing them. Meanwhile, Anne Arundel County has adopted an Adequate Public Facilities Ordinance that restricts developments in areas where student populations exceed school facility capacity levels. The City also has Adequate Public Facilities regulations in effect. These exist within Title 22 and not Title 21, to which the Ordinance in question makes changes.

**STAFF RECOMMENDATION**

At the Planning Commission's regularly scheduled meeting on September 5, 2013, Planning & Zoning staff presented their report on the Ordinance. In addition, several officers of Anne Arundel County Schools attended the meeting gave a presentation explaining their methods and procedures for assessing school capacity needs, how they go about developing their EFMP and the state regulations that govern their efforts. Staff finds that this Ordinance imposes reasonable requirements with respect to improving information exchange with Anne Arundel County Schools and that these improvements would yield benefits in the form of more thorough consideration of school capacity issues in site design and planned development reviews. Staff recommends adopting the Ordinance.

**PUBLIC HEARING AND DELIBERATION**

In accordance with the Annapolis City Code a public hearing was held and the public was invited to comment on the application. Aldermen representing various wards and <sup>three</sup>~~two~~ members of the public spoke regarding this Ordinance. After the close of the public hearing, the Planning Commission asked questions of staff and the officers of Anne Arundel County Schools who attended the meeting. The Planning Commission then entered into deliberations.

**RECOMMENDATION**

Following deliberations, a motion to recommend approval of the Ordinance was made and seconded. The Planning Commission, by a vote of 3 – 3, did not vote in favor of this motion.

Adopted this <sup>3<sup>rd</sup></sup>~~1<sup>st</sup>~~ day of <sup>October</sup>~~September~~, 2013

  
Eleanor Harris, Ed.D., Chair

FISCAL IMPACT NOTE

**Legislation No:** O-19-13

**First Reader Date:** 5-20-13

**Note Date:** 5-26-13

**Legislation Title:** **Capacity of Schools in the Development Review Process**

**Description:** For the purpose of adding current and projected school capacity of Annapolis Feeder System schools geographically located within the City of Annapolis to the list of development review criteria and findings; and specifying duties of the Director of Planning and Zoning regarding school capacity.

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

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**CITY COUNCIL OF THE  
City of Annapolis**

**Ordinance No. O-28-13**

**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
7/8/13			1/3/14
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Gov't	7/8/13		
Planning Commission	7/8/13		

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**A ORDINANCE** concerning

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**New Land Use Article References in the City Code**

11  
12

**FOR** the purpose of updating the references to the former Article 66B of the Annotated Code of Maryland to the new title of "Land Use Article."

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

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- Section 6.04.240
- Section 17.11.020
- Section 21.02.020
- Section 21.08.030
- Section 21.08.040
- Section 21.08.060
- Section 21.30.030
- Section 21.56.010
- Section 21.56.140

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**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:

28

**Chapter 6.04 – FINANCE AND TAXATION GENERALLY**

29

**6.04.240 - Undergrounding Utilities Fund.**

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A. Purpose. The Director of Finance shall establish and maintain an Underground Utilities Fund and implement necessary procedures for the purpose of funding the undergrounding of utilities in the Historic District.

1 B. Revenue Source. The annual fees collected from utility providers for utility poles under  
2 Section 7.08.050 shall be deposited by the Director of Finance into a separate fund that may  
3 only be used to cover the costs incurred by the City in undergrounding utilities.

4 C. Implementation. Under [Section 8.16 of] the LAND USE Article [66B] of the Annotated Code  
5 of Maryland AS MAY BE AMENDED FROM TIME TO TIME, the City is adopting this section to  
6 require utility companies to relocate underground existing overhead lines and facilities within the  
7 Historic District when so requested by the Director of Public Works. The Director of Public  
8 Works shall direct the undergrounding of such utilities based on the availability of funding within  
9 the Undergrounding Utilities Fund and after giving consideration to various safety  
10 considerations.

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## **CHAPTER 17.11 – FLOODPLAIN MANAGEMENT**

### **17.11.020 - Statutory authorization.**

15 A. The Maryland General Assembly, in THE LAND USE Article [66B, Section 4, General  
16 Development Regulations and Zoning] (Annotated Code of Maryland) AS MAY BE  
17 AMENDED FROM TIME TO TIME, has established as policy of the State that the orderly  
18 development and use of land and structures requires comprehensive regulation through the  
19 implementation of planning and zoning control, and that planning and zoning controls shall  
20 be implemented by local government in order to, among other purposes, secure the public  
21 safety, promote health and general welfare, and promote the conservation of natural  
22 resources.

23 B. Therefore, the City Council of the City of Annapolis does hereby adopt the following  
24 floodplain management chapter of the City Code.

25

## **Chapter 21.02 - INTRODUCTORY PROVISIONS**

### **21.02.020 - Authority.**

28 The City Council of the City of Annapolis adopts this Zoning Code pursuant to THE LAND  
29 USE Article [66B], of the Annotated Code of Maryland, as amended, and other relevant  
30 authorities and provisions of Maryland statutory and common law.

## **Chapter 21.08 – DECISION MAKING BODIES**

### **21.08.030 - Planning Commission.**

33 A. Establishment. The Planning Commission is established under THE LAND USE Article  
34 [66B] of the Annotated Code of Maryland AS MAY BE AMENDED FROM TIME TO TIME.

35 B. Membership. The Planning Commission shall consist of seven residents of the City who  
36 have a demonstrated interest with regard to planning policy and with regard to land use

- 1 matters and procedures of the City. The members shall be appointed by the Mayor and  
2 confirmed by the City Council.
- 3 C. Term. The term of office of each member of the Planning Commission shall be as provided  
4 in THE LAND USE Article [66B] of the Annotated Code of Maryland AS MAY BE  
5 AMENDED FROM TIME TO TIME. The term of each member shall commence on July 1st  
6 of the year in the appointment is made.
- 7 D. Rules. The Planning Commission may adopt rules to assist the Commission in carrying out  
8 its duties under this Zoning Code.
- 9 E. Duties. The Planning Commission shall have the following powers and duties:
- 10 1. Review all proposed amendments to this Zoning Code and Zoning Map and to report to  
11 the City Council its findings and recommendations in the manner prescribed in this  
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- 13 2. Receive the Planning and Zoning Director's recommendations related to the  
14 effectiveness of this Zoning Code and report its conclusions and recommendations to  
15 the City Council not less frequently than once a year.
- 16 3. Hear and decide applications on planned developments pursuant to the provisions of  
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- 18 4. Execute all powers conferred to Planning Commissions under THE LAND USE Article  
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20 TIME.
- 21 5. On referral by the Director of Planning and Zoning of a major site design the Planning  
22 Commission shall hold a public hearing and make recommendations.
- 23 6. On referral by the Director of Planning and Zoning on structures greater than 3250  
24 square feet in R2-NC zoning districts the Planning Commission shall hold a public  
25 hearing and make recommendations.

26 **21.08.040 - Board of Appeals.**

- 27 A. Establishment. The Board of Appeals is established pursuant to and has the authority to  
28 execute all of the powers granted to Boards of Appeals by THE LAND USE Article [66B] of  
29 the Annotated Code of Maryland AS MAY BE AMENDED FROM TIME TO TIME.
- 30 B. Membership. The Board of Appeals shall consist of five members who shall be residents  
31 and registered voters of the City of Annapolis and who shall serve without compensation.  
32 The regular members and one alternate member shall be appointed by the Mayor and  
33 confirmed by the City Council and be removable for cause, upon written charges, and after  
34 public hearing. When an alternate member is absent, the Mayor with the confirmation of the  
35 City Council may designate a temporary alternate.
- 36 C. Term. The term of office of each member of the Board of Appeals shall be for three years,  
37 as provided in THE LAND USE Article [66B] of the Annotated Code of Maryland AS MAY  
38 BE AMENDED FROM TIME TO TIME. Vacancies shall be filled for the unexpired term of  
39 any member whose term becomes vacant.
- 40 D. Rules. The Board of Appeals shall adopt rules in accordance with the provisions of this  
41 section and in accordance with the provisions of THE LAND USE Article [66B] of the  
42 Annotated Code of Maryland AS MAY BE AMENDED FROM TIME TO TIME. The Board  
43 shall adopt and amend rules as follows:

- 1 1. After a public session to consider the proposed rules or amendments, the Board shall  
2 adopt and periodically amend rules of practice and procedure.
  - 3 2. The Board shall give reasonable notice of the date, time, and place of the public  
4 session and the category of rule or amendment to be considered at the session.
  - 5 3. After approval by the Board, the rules of the Board of Appeals shall be published and  
6 shall be available to the public through the Department of Planning and Zoning.
  - 7 E. Duties. The Board of Appeals shall have the following powers and duties:
    - 8 1. To hear and decide appeals, pursuant to the provisions of Zoning Code Chapter 21.30  
9 where it is alleged there is error in any order, requirement, decision or determination  
10 made by an administrative official or body in the enforcement of: (a) this Zoning Code;  
11 or (b) any ordinance adopted pursuant to this Zoning Code.
    - 12 2. To hear and decide applications for special exceptions pursuant to Chapter 21.26 of  
13 this Zoning Code.
    - 14 3. To hear and decide applications for variances from the terms of this Zoning Code,  
15 pursuant to the provisions of Chapter 21.28 and from the terms of Title 20 -  
16 Subdivisions, pursuant to the provisions of Chapter 20.32
    - 17 4. To hear and decide applications for zoning district boundary adjustments pursuant to  
18 the provisions of Zoning Code Chapter 21.20
    - 19 5. To hear and decide applications for physical alteration of a nonconforming use  
20 pursuant to the provisions of Chapter 21.68
    - 21 6. To hear and decide all matters referred to it or upon which it is required to decide by  
22 this Zoning Code, and as prescribed by THE LAND USE Article [66B] of the Annotated  
23 Code of Maryland AS MAY BE AMENDED FROM TIME TO TIME.
  - 24 F. Tolling of Approvals. Approvals granted by the Board of Appeals pursuant to Section  
25 21.08.040E of this Code and extensions thereof which are active and valid as of June 30,  
26 2012, shall be tolled until June 30, 2014, so that all such approvals and extensions shall  
27 expire on, or any applicable extension request shall have been requested by, June 30,  
28 2014.
  - 29 G. Meetings. The meetings of the Board of Appeals shall be held at the call of the chair and at  
30 other time determined by the Board. The Board shall provide public notice of any meeting  
31 by publication in at least one newspaper of general circulation in the City not less than  
32 seven days prior to the meeting. The chair or the acting chair may administer oaths and  
33 compel the attendance of witnesses. All meetings shall be open to the public. The Board  
34 shall make a transcript of all proceedings, showing the vote of each member on each  
35 question, or the member's absence or failure to vote. The board shall immediately file the  
36 transcript of its proceedings in the Office of Planning and Zoning. Each transcript shall be a  
37 public record. If a recording or a transcript of a recording is not prepared in the normal  
38 course of the Board's proceedings, the party who requests a copy of the recording or its  
39 transcript shall pay the cost of preparing the recording or transcript.
- 40 **21.08.060 - Historic Preservation Commission.**
- 41 A. Establishment. The Historic Preservation Commission is established to execute all of the  
42 powers conferred to it by this Zoning Code and pursuant to THE LAND USE Article [66B] of  
43 the Annotated Code of Maryland AS MAY BE AMENDED FROM TIME TO TIME.

- 1 B. Membership. The Historic Preservation Commission shall consist of seven members  
2 appointed by the Mayor and confirmed by the City Council. The members of the  
3 Commission shall be residents of the City. Each member shall possess a demonstrated  
4 special interest, specific knowledge, or professional or academic training in such fields as  
5 history, architecture, architectural history, planning, archaeology, anthropology, curation,  
6 conservation, landscape architecture, historic preservation, urban design, or related  
7 disciplines. In addition, the Commission membership shall comply with the following:
- 8 1. At least two members of the Commission shall possess professional or academic  
9 training in one or more of the above-listed fields in accordance with the minimum  
10 professional requirements of the United States Department of the Interior for certifying  
11 local governments under 36. C.F.R. Part 61.
  - 12 2. The criteria for Commission membership under the category of demonstrated special  
13 interest may be satisfied either by formal training in one or more of the fields listed in  
14 subsection (B) of this section or active membership in a preservation-related  
15 organization. The requirement for membership under the category of specific  
16 knowledge may be satisfied by formal post secondary education, employment or  
17 practical experience in one or more of the above-listed fields. The requirement for  
18 Commission membership under the category of professional or academic training may  
19 be satisfied by, at a minimum, two years experience as a professional or a bachelor's  
20 degree in one or more of the above-listed fields.
  - 21 3. The Commission shall elect, from its membership, a chairperson and vice chairperson.  
22 The terms of the chairperson and vice chairperson shall be for one year, with eligibility  
23 for re-election.
  - 24 4. Commission members shall serve without compensation, but may be reimbursed for  
25 actual expenses incurred in the performance of their duties, provided said expenses  
26 are permitted by the budget and approved in advance by the Director of Finance.
- 27 C. Term. The Commission members shall be appointed for terms of three years, except that  
28 the terms shall be staggered so that not more than three appointments shall expire in a  
29 given year. Commission members are eligible for reappointment. Any vacancy in the  
30 membership of the Commission caused by the expiration of a term, resignation, death,  
31 incapacity to discharge duties, removal for cause, or any other reason, shall be filled for a  
32 new term, or for the remainder of the term for which there is a vacancy, as the case may  
33 be, in the same manner as provided herein for the appointment and confirmation of the  
34 initial members of the Commission. Any vacancy of the Commission shall be filled within  
35 sixty days. In the case of expiration of terms, members may continue to serve until their  
36 successors are appointed and confirmed. Any absence of three consecutive meetings or  
37 four meetings within one calendar year shall constitute a vacancy.
- 38 D. Rules. The Historic Preservation Commission may adopt rules to assist the Commission in  
39 carrying out its duties under this Zoning Code. Any rules of procedure adopted by the  
40 Commission shall be consistent with the following procedures:
- 41 1. Any interested person, or person's representative, is entitled to appear and be heard at  
42 any public hearing conducted by the Commission.
  - 43 2. The Commission shall keep a record of its proceedings and actions which shall be on  
44 file for public view.
  - 45 3. Notice of Commission meetings shall appear in a newspaper with general circulation in  
46 the City seven days prior to the meetings.

- 1 4. Four members shall constitute a quorum and the vote of the majority present is  
2 necessary for a decision.
- 3 5. The chair, or the acting chair in the absence of the chair, may administer oaths and  
4 compel the attendance and testimony of witnesses and the production of documents  
5 on matters relating to the business of the Commission.
- 6 E. Duties. The Historic Preservation Commission shall have the following powers and duties:
  - 7 1. The Historic Preservation Commission shall hold no fewer than one regular meeting  
8 monthly to discharge its duties.
  - 9 2. Consistent with the City's policies and procedures, employees may be assigned to the  
10 Commission, and such services and facilities made available as are deemed  
11 necessary or appropriate for the proper performance of its duties.
  - 12 3. The Historic Preservation Commission shall annually file a report with the City Council  
13 summarizing the Commission's discharge of its responsibilities.
  - 14 4. The Historic Preservation Commission shall decide applications for Certificates of  
15 Approval pursuant to the provisions of Chapter 21.56
  - 16 5. The Historic Preservation Commission may accept and use gifts in the exercise of its  
17 functions, subject to any applicable City policies or procedures regarding acceptance  
18 or use of gifts by public officials.
  - 19 6. The Historic Preservation Commission may direct studies, reports, and surveys to  
20 identify historically, culturally, archaeologically, or architecturally significant landmarks,  
21 sites, structures, and districts that exemplify the cultural, social, economic, political, or  
22 architectural history of the City, State or Nation.
  - 23 7. The Historic Preservation Commission may adopt and utilize in its review of  
24 applications rehabilitation and new construction design guidelines and criteria for  
25 designated landmarks, sites, structures, and districts which are consistent with the U.S.  
26 Secretary of the Interior's standards for rehabilitation. Guidelines may include design  
27 characteristics intended to meet the needs of particular types of landmarks, sites,  
28 structures, and districts, and may identify categories of changes that, because they are  
29 minimal in nature, do not affect historic, cultural, archaeological, or architectural  
30 significance, and do not require review by the Commission.
  - 31 8. To adopt sidewalk café furniture guidelines for use by operating establishments located  
32 in the historic district, which hold permits issued pursuant to Chapter 7.42 of the  
33 Annapolis City Code. In adopting any such guidelines, the Historic Preservation  
34 Commission shall consider the requirements of Section 7.42.020(F) of the Annapolis  
35 City Code.
  - 36 9. Consistent with the City's Charter, ordinances, resolutions, local public law, policies,  
37 and procedures covering the acquisition of easements, to accept historic preservation  
38 easements, when deemed appropriate by the Commission, on designated landmarks,  
39 structures, or sites and on sites or structures located in, or adjacent to, a designated  
40 district, landmark, site, or structure.
  - 41 10. To under take any other action or activity necessary or appropriate to the  
42 implementation of its powers and duties or the implementation of the purpose of this  
43 Zoning Code.

44

1 **Chapter 21.30 - APPEALS**

2 **21.30.030 - Stay pending appeal.**

3 An appeal to the Board of Appeals pursuant to the preceding section shall stay all  
4 proceedings in furtherance of the action appealed only as provided by THE LAND USE Article  
5 [66B, Section 4.07] of the Annotated Code of Maryland (or its successors).

6  
7 **Chapter 21.56 – HISTORIC DISTRICT**

8 **21.56.010 - Authority and purpose.**

- 9 A. The Mayor and City Council of the City of Annapolis, Maryland, derives authority for this  
10 chapter by virtue of its conformance with provisions of the State of Maryland Enabling Act  
11 for Historic Area Zoning, THE LAND USE Article [66B, Zoning and Planning, Sections  
12 8.01—8.17], Annotated Code of Maryland, as amended.
- 13 B. The preservation of sites, structures, and districts of historical, cultural, archaeological, or  
14 architectural significance together with their appurtenances and environmental settings is a  
15 public purpose.
- 16 C. It is the further purpose of this article to preserve and enhance the quality of life and to  
17 safeguard the historical and cultural heritage of Annapolis by preserving sites, structures, or  
18 districts which reflect the elements of the City's cultural, social, economic, political,  
19 archaeological, or architectural history; to strengthen the local economy; to stabilize and  
20 improve property values in and around such historic areas; to foster civic beauty, and to  
21 preserve and promote the preservation and appreciation of historic sites, structures and  
22 districts for the education and welfare of the citizens of the City.

23 **21.56.140 - Statutory authority.**

24 The authorities for this law IS [are Section 4.01 et seq. and Section 8.01 et seq. of] THE  
25 LAND USE Article [66B] of the Annotated Code of Maryland AS MAY BE AMENDED FROM  
26 TIME TO TIME. Nothing in this law shall be construed to limit the authority of the Historic  
27 Preservation Commission of the City to review proposals with respect to height and bulk.

28

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

31

32 **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

\_\_\_\_\_  
Regina C. Watkins-Eldridge, MMC, City Clerk

\_\_\_\_\_  
Joshua J. Cohen, Mayor

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**EXPLANATION**

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

## **Policy Report**

### **Ordinance O-28-13**

#### **New Land Use Article References in the City Code**

The proposed ordinance would update the references to the former Article 66B of the Annotated Code of Maryland to the new title of “Land Use Article.”

Prepared by Jessica Cowles, Legislative and Policy Analyst in the City of Annapolis Office of Law at [JCCowles@annapolis.gov](mailto:JCCowles@annapolis.gov).



City of Annapolis  
Committee Referral Action

Date: September 10, 2013

To: Regina C. Watkins-Eldridge, City Clerk

The Planning Commission has reviewed Ordinance O-28-13 and has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other

Comments:

September 5, 2013  
Meeting Date

City of



Annapolis

**PLANNING COMMISSION**

(410)263-7961

145 GORMAN STREET, 3<sup>RD</sup> FLOOR  
ANNAPOLIS, MARYLAND 21401

September 5, 2013

**To: Annapolis City Council**

**From: Planning Commission**

**Re: Findings for O-28-13: For the purpose of updating the references to the former Article 66B of the Annotated Code of Maryland to the new title of "Land Use Article." – ZTA2013-013**

**SUMMARY**

O-28-13 updates the references in Title 21 from the former "Article 66B" of the Annotated Code of Maryland to the new title of "Land Use Article."

**STAFF RECOMMENDATION**

At a regularly scheduled meeting on September 5, 2013, the Planning and Zoning staff presented their analysis and recommendations for approval of the legislation.

Staff reviewed the background of the proposed regulations and then provided an analysis. This information was forwarded to the Planning Commission for review in a report dated August 9, 2013.

Staff stated that during the 2012 legislative session, the Maryland General Assembly ratified a code revision for Maryland's land use statutes previously codified in Articles 66B and 28. These two articles were combined into one unnumbered article, the "Land Use Article." The primary purpose of the code revision was modernization and clarification, not substantive change.

The new Land Use Article "conforms to the organization, form, and numbering system used in the previously revised articles. Accordingly, the article is a separate, unnumbered volume and is cited by name."

This proposed ordinance would update the Article 66B references in Title 21.

**Annapolis City Council**

**Findings: O-28-13**

**September 5, 2013**

Page 2

**PUBLIC HEARING AND DELIBERATION**

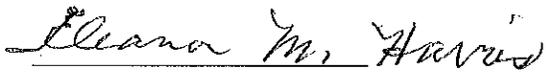
In accordance with the Annapolis City Code, a public hearing was held and the public was invited to comment on the proposed text amendment. No one spoke on the legislation.

At the close of the public hearing, the Planning Commission entered into deliberations. The Commission concurred with staff.

**RECOMMENDATION**

By a vote of 10-0, the Planning Commission voted to recommend approval of O-28-13.

Adopted September 5, 2013



Dr. Eleanor Harris, Chair



City of Annapolis

DEPARTMENT OF PLANNING AND ZONING

145 Gorman Street, 3<sup>rd</sup> Floor, Annapolis, Maryland 21401

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

JON ARASON, AICP  
DIRECTOR

August 9, 2013

**MEMORANDUM**

**To:** Planning Commission **3A**  
**From:** Jon Arason, AICP, Director of Planning and Zoning  
**Re:** O-28-13: For the purpose of updating the references to the former Article 66B of the Annotated Code of Maryland to the new title of "Land Use Article." – ZTA2013-013  
**Attachments:** O-28-13

**SUMMARY**

O-28-13 updates the references in Title 21 from the former "Article 66B" of the Annotated Code of Maryland to the new title of "Land Use Article."

**BACKGROUND AND ANALYSIS**

During the 2012 legislative session, the Maryland General Assembly ratified a code revision for Maryland's land use statutes previously codified in Articles 66B and 28. These two articles were combined into one unnumbered article, the "Land Use Article." The primary purpose of the code revision was modernization and clarification, not substantive change.

The new Land Use Article "conforms to the organization, form, and numbering system used in the previously revised articles. Accordingly, the article is a separate, unnumbered volume and is cited by name." "

This proposed ordinance would update the Article 66B references in Title 21.

**RECOMMENDATION**

Staff recommends that the terminology update proposed in O-28-13 be APPROVED.

Report Prepared by

Sally Nash, Ph.D., AICP  
Chief of Comprehensive Planning

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**CITY COUNCIL OF THE  
City of Annapolis**

**Ordinance No. O-28-13**

**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
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**Chapter 6.04 – FINANCE AND TAXATION GENERALLY**

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A. Purpose. The Director of Finance shall establish and maintain an Underground Utilities Fund and implement necessary procedures for the purpose of funding the undergrounding of utilities in the Historic District.

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## **CHAPTER 17.11 – FLOODPLAIN MANAGEMENT**

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22 resources.

23 B. Therefore, the City Council of the City of Annapolis does hereby adopt the following  
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## **Chapter 21.02 - INTRODUCTORY PROVISIONS**

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- 13 2. Receive the Planning and Zoning Director's recommendations related to the  
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- 23 6. On referral by the Director of Planning and Zoning on structures greater than 3250  
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- 27 A. Establishment. The Board of Appeals is established pursuant to and has the authority to  
28 execute all of the powers granted to Boards of Appeals by THE LAND USE Article [66B] of  
29 the Annotated Code of Maryland AS MAY BE AMENDED FROM TIME TO TIME.
- 30 B. Membership. The Board of Appeals shall consist of five members who shall be residents  
31 and registered voters of the City of Annapolis and who shall serve without compensation.  
32 The regular members and one alternate member shall be appointed by the Mayor and  
33 confirmed by the City Council and be removable for cause, upon written charges, and after  
34 public hearing. When an alternate member is absent, the Mayor with the confirmation of the  
35 City Council may designate a temporary alternate.
- 36 C. Term. The term of office of each member of the Board of Appeals shall be for three years,  
37 as provided in THE LAND USE Article [66B] of the Annotated Code of Maryland AS MAY  
38 BE AMENDED FROM TIME TO TIME. Vacancies shall be filled for the unexpired term of  
39 any member whose term becomes vacant.
- 40 D. Rules. The Board of Appeals shall adopt rules in accordance with the provisions of this  
41 section and in accordance with the provisions of THE LAND USE Article [66B] of the  
42 Annotated Code of Maryland AS MAY BE AMENDED FROM TIME TO TIME. The Board  
43 shall adopt and amend rules as follows:

- 1 1. After a public session to consider the proposed rules or amendments, the Board shall  
2 adopt and periodically amend rules of practice and procedure.
  - 3 2. The Board shall give reasonable notice of the date, time, and place of the public  
4 session and the category of rule or amendment to be considered at the session.
  - 5 3. After approval by the Board, the rules of the Board of Appeals shall be published and  
6 shall be available to the public through the Department of Planning and Zoning.
  - 7 E. Duties. The Board of Appeals shall have the following powers and duties:
    - 8 1. To hear and decide appeals, pursuant to the provisions of Zoning Code Chapter 21.30  
9 where it is alleged there is error in any order, requirement, decision or determination  
10 made by an administrative official or body in the enforcement of: (a) this Zoning Code;  
11 or (b) any ordinance adopted pursuant to this Zoning Code.
    - 12 2. To hear and decide applications for special exceptions pursuant to Chapter 21.26 of  
13 this Zoning Code.
    - 14 3. To hear and decide applications for variances from the terms of this Zoning Code,  
15 pursuant to the provisions of Chapter 21.28 and from the terms of Title 20 -  
16 Subdivisions, pursuant to the provisions of Chapter 20.32
    - 17 4. To hear and decide applications for zoning district boundary adjustments pursuant to  
18 the provisions of Zoning Code Chapter 21.20
    - 19 5. To hear and decide applications for physical alteration of a nonconforming use  
20 pursuant to the provisions of Chapter 21.68
    - 21 6. To hear and decide all matters referred to it or upon which it is required to decide by  
22 this Zoning Code, and as prescribed by THE LAND USE Article [66B] of the Annotated  
23 Code of Maryland AS MAY BE AMENDED FROM TIME TO TIME.
  - 24 F. Tolling of Approvals. Approvals granted by the Board of Appeals pursuant to Section  
25 21.08.040E of this Code and extensions thereof which are active and valid as of June 30,  
26 2012, shall be tolled until June 30, 2014, so that all such approvals and extensions shall  
27 expire on, or any applicable extension request shall have been requested by, June 30,  
28 2014.
  - 29 G. Meetings. The meetings of the Board of Appeals shall be held at the call of the chair and at  
30 other time determined by the Board. The Board shall provide public notice of any meeting  
31 by publication in at least one newspaper of general circulation in the City not less than  
32 seven days prior to the meeting. The chair or the acting chair may administer oaths and  
33 compel the attendance of witnesses. All meetings shall be open to the public. The Board  
34 shall make a transcript of all proceedings, showing the vote of each member on each  
35 question, or the member's absence or failure to vote. The board shall immediately file the  
36 transcript of its proceedings in the Office of Planning and Zoning. Each transcript shall be a  
37 public record. If a recording or a transcript of a recording is not prepared in the normal  
38 course of the Board's proceedings, the party who requests a copy of the recording or its  
39 transcript shall pay the cost of preparing the recording or transcript.
- 40 **21.08.060 - Historic Preservation Commission.**
- 41 A. Establishment. The Historic Preservation Commission is established to execute all of the  
42 powers conferred to it by this Zoning Code and pursuant to THE LAND USE Article [66B] of  
43 the Annotated Code of Maryland AS MAY BE AMENDED FROM TIME TO TIME.

- 1 B. Membership. The Historic Preservation Commission shall consist of seven members  
2 appointed by the Mayor and confirmed by the City Council. The members of the  
3 Commission shall be residents of the City. Each member shall possess a demonstrated  
4 special interest, specific knowledge, or professional or academic training in such fields as  
5 history, architecture, architectural history, planning, archaeology, anthropology, curation,  
6 conservation, landscape architecture, historic preservation, urban design, or related  
7 disciplines. In addition, the Commission membership shall comply with the following:
- 8 1. At least two members of the Commission shall possess professional or academic  
9 training in one or more of the above-listed fields in accordance with the minimum  
10 professional requirements of the United States Department of the Interior for certifying  
11 local governments under 36. C.F.R. Part 61.
  - 12 2. The criteria for Commission membership under the category of demonstrated special  
13 interest may be satisfied either by formal training in one or more of the fields listed in  
14 subsection (B) of this section or active membership in a preservation-related  
15 organization. The requirement for membership under the category of specific  
16 knowledge may be satisfied by formal post secondary education, employment or  
17 practical experience in one or more of the above-listed fields. The requirement for  
18 Commission membership under the category of professional or academic training may  
19 be satisfied by, at a minimum, two years experience as a professional or a bachelor's  
20 degree in one or more of the above-listed fields.
  - 21 3. The Commission shall elect, from its membership, a chairperson and vice chairperson.  
22 The terms of the chairperson and vice chairperson shall be for one year, with eligibility  
23 for re-election.
  - 24 4. Commission members shall serve without compensation, but may be reimbursed for  
25 actual expenses incurred in the performance of their duties, provided said expenses  
26 are permitted by the budget and approved in advance by the Director of Finance.
- 27 C. Term. The Commission members shall be appointed for terms of three years, except that  
28 the terms shall be staggered so that not more than three appointments shall expire in a  
29 given year. Commission members are eligible for reappointment. Any vacancy in the  
30 membership of the Commission caused by the expiration of a term, resignation, death,  
31 incapacity to discharge duties, removal for cause, or any other reason, shall be filled for a  
32 new term, or for the remainder of the term for which there is a vacancy, as the case may  
33 be, in the same manner as provided herein for the appointment and confirmation of the  
34 initial members of the Commission. Any vacancy of the Commission shall be filled within  
35 sixty days. In the case of expiration of terms, members may continue to serve until their  
36 successors are appointed and confirmed. Any absence of three consecutive meetings or  
37 four meetings within one calendar year shall constitute a vacancy.
- 38 D. Rules. The Historic Preservation Commission may adopt rules to assist the Commission in  
39 carrying out its duties under this Zoning Code. Any rules of procedure adopted by the  
40 Commission shall be consistent with the following procedures:
- 41 1. Any interested person, or person's representative, is entitled to appear and be heard at  
42 any public hearing conducted by the Commission.
  - 43 2. The Commission shall keep a record of its proceedings and actions which shall be on  
44 file for public view.
  - 45 3. Notice of Commission meetings shall appear in a newspaper with general circulation in  
46 the City seven days prior to the meetings.

- 1 4. Four members shall constitute a quorum and the vote of the majority present is  
2 necessary for a decision.
- 3 5. The chair, or the acting chair in the absence of the chair, may administer oaths and  
4 compel the attendance and testimony of witnesses and the production of documents  
5 on matters relating to the business of the Commission.
- 6 E. Duties. The Historic Preservation Commission shall have the following powers and duties:
  - 7 1. The Historic Preservation Commission shall hold no fewer than one regular meeting  
8 monthly to discharge its duties.
  - 9 2. Consistent with the City's policies and procedures, employees may be assigned to the  
10 Commission, and such services and facilities made available as are deemed  
11 necessary or appropriate for the proper performance of its duties.
  - 12 3. The Historic Preservation Commission shall annually file a report with the City Council  
13 summarizing the Commission's discharge of its responsibilities.
  - 14 4. The Historic Preservation Commission shall decide applications for Certificates of  
15 Approval pursuant to the provisions of Chapter 21.56
  - 16 5. The Historic Preservation Commission may accept and use gifts in the exercise of its  
17 functions, subject to any applicable City policies or procedures regarding acceptance  
18 or use of gifts by public officials.
  - 19 6. The Historic Preservation Commission may direct studies, reports, and surveys to  
20 identify historically, culturally, archaeologically, or architecturally significant landmarks,  
21 sites, structures, and districts that exemplify the cultural, social, economic, political, or  
22 architectural history of the City, State or Nation.
  - 23 7. The Historic Preservation Commission may adopt and utilize in its review of  
24 applications rehabilitation and new construction design guidelines and criteria for  
25 designated landmarks, sites, structures, and districts which are consistent with the U.S.  
26 Secretary of the Interior's standards for rehabilitation. Guidelines may include design  
27 characteristics intended to meet the needs of particular types of landmarks, sites,  
28 structures, and districts, and may identify categories of changes that, because they are  
29 minimal in nature, do not affect historic, cultural, archaeological, or architectural  
30 significance, and do not require review by the Commission.
  - 31 8. To adopt sidewalk café furniture guidelines for use by operating establishments located  
32 in the historic district, which hold permits issued pursuant to Chapter 7.42 of the  
33 Annapolis City Code. In adopting any such guidelines, the Historic Preservation  
34 Commission shall consider the requirements of Section 7.42.020(F) of the Annapolis  
35 City Code.
  - 36 9. Consistent with the City's Charter, ordinances, resolutions, local public law, policies,  
37 and procedures covering the acquisition of easements, to accept historic preservation  
38 easements, when deemed appropriate by the Commission, on designated landmarks,  
39 structures, or sites and on sites or structures located in, or adjacent to, a designated  
40 district, landmark, site, or structure.
  - 41 10. To under take any other action or activity necessary or appropriate to the  
42 implementation of its powers and duties or the implementation of the purpose of this  
43 Zoning Code.

44

1 **Chapter 21.30 - APPEALS**

2 **21.30.030 - Stay pending appeal.**

3 An appeal to the Board of Appeals pursuant to the preceding section shall stay all  
4 proceedings in furtherance of the action appealed only as provided by THE LAND USE Article  
5 [66B, Section 4.07] of the Annotated Code of Maryland (or its successors).

6  
7 **Chapter 21.56 – HISTORIC DISTRICT**

8 **21.56.010 - Authority and purpose.**

9 A. The Mayor and City Council of the City of Annapolis, Maryland, derives authority for this  
10 chapter by virtue of its conformance with provisions of the State of Maryland Enabling Act  
11 for Historic Area Zoning, THE LAND USE Article [66B, Zoning and Planning, Sections  
12 8.01—8.17], Annotated Code of Maryland, as amended.

13 B. The preservation of sites, structures, and districts of historical, cultural, archaeological, or  
14 architectural significance together with their appurtenances and environmental settings is a  
15 public purpose.

16 C. It is the further purpose of this article to preserve and enhance the quality of life and to  
17 safeguard the historical and cultural heritage of Annapolis by preserving sites, structures, or  
18 districts which reflect the elements of the City's cultural, social, economic, political,  
19 archaeological, or architectural history; to strengthen the local economy; to stabilize and  
20 improve property values in and around such historic areas; to foster civic beauty, and to  
21 preserve and promote the preservation and appreciation of historic sites, structures and  
22 districts for the education and welfare of the citizens of the City.

23 **21.56.140 - Statutory authority.**

24 The authorities for this law IS [are Section 4.01 et seq. and Section 8.01 et seq. of] THE  
25 LAND USE Article [66B] of the Annotated Code of Maryland AS MAY BE AMENDED FROM  
26 TIME TO TIME. Nothing in this law shall be construed to limit the authority of the Historic  
27 Preservation Commission of the City to review proposals with respect to height and bulk.

28

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

31

32 **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

33

34

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

\_\_\_\_\_  
Regina C. Watkins-Eldridge, MMC, City Clerk

\_\_\_\_\_  
Joshua J. Cohen, Mayor

35

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**EXPLANATION**

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

## **Policy Report**

### **Ordinance O-28-13**

#### **New Land Use Article References in the City Code**

The proposed ordinance would update the references to the former Article 66B of the Annotated Code of Maryland to the new title of “Land Use Article.”

Prepared by Jessica Cowles, Legislative and Policy Analyst in the City of Annapolis Office of Law at [JCCowles@annapolis.gov](mailto:JCCowles@annapolis.gov).

FISCAL IMPACT NOTE

**Legislation No:** O-28-13

**First Reader Date:** 7-8-13

**Note Date:** 8-30-13

**Legislation Title:** **New Land Use Article References in the City Code**

**Description:** For the purpose of updating the references to the former Article 66B of the Annotated Code of Maryland to the new title of "Land Use Article."

**Analysis of Fiscal Impact:** This legislation provides the Director of Finance with the authority to establish and maintain an Underground Utilities Fund and implement necessary procedures for the purpose of funding the undergrounding of utilities in the Historic District. The annual fees collected from utility providers for utility poles under Section 7.08.050 shall be deposited by the Director of Finance into a separate fund that may only be used to cover the costs incurred by the City in undergrounding utilities.

1 CITY COUNCIL OF THE  
2 City of Annapolis

3 Ordinance No. O-33-13

4 Sponsor: Mayor Cohen

5

6

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
9/23/13			12/20/13
Referred to	Referral Date	Meeting Date	Action Taken
Finance	9/23/13		
Environmental Matters	9/23/13		

7

8 **A ORDINANCE** concerning

9 **Wastewater Conveyance and Treatment (Sewer Service) Contract with the Federal**  
10 **Government**

11 **FOR** the purpose of approving a new 10-year wastewater conveyance and treatment (sewer  
12 service) contract (Contract) with the Federal Government to adjust the rate as provided;  
13 and all matters related to said wastewater conveyance and treatment.

14

15 **WHEREAS,** the current wastewater conveyance and treatment contract between the City of  
16 Annapolis and the Federal Government governing services rendered by the  
17 City of Annapolis to the United States Naval Academy (USNA) authorizes a  
18 rate renegotiation following a general rate increase; and

19

20 **WHEREAS,** the City of Annapolis recently commissioned a comprehensive water and sewer  
21 rate study. The City formed a Citizen's Advisory Committee (CAC) to garner  
22 input from key stakeholders during the course of the study. The CAC was  
23 comprised of individuals representing various key stakeholder groups including  
24 business owners, City Council members, and representatives from the USNA;  
25 and

26

27 **WHEREAS,** since the USNA is the City's only wholesale sewer customer, a meeting was  
28 held with the NAVFAC (Naval Facilities Engineering Command) contract and  
29 rates groups to review the study findings; and

30

31 **WHEREAS,** on June 20, 2011, the Annapolis City Council approved a water and sewer rate  
32 increase for all customers, excluding the USNA; and

33

34 **WHEREAS,** as a result of the rate study findings, representatives from the Federal  
35 Government and the City have agreed to adjust the rates paid by the Federal  
36 Government for wastewater conveyance and treatment pursuant to the  
37 Contract.

1 **SECTION I: NOW THEREFORE BE IT ESTABLISHED AND ORDAINED BY THE**  
2 **ANNAPOLIS CITY COUNCIL** that the charge for wastewater conveyance and treatment  
3 services rendered pursuant to the Contract shall be adjusted to \$4.21 per 1,000 gallons; this  
4 rate shall be applicable to all wastewater conveyance and treatment services under the terms of  
5 the Contract; this rate shall become effective retroactively to July 1, 2011 and shall remain in  
6 effect until a new rate is adjusted in accordance with the Contract terms.

7  
8 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS**  
9 **CITY COUNCIL** that the Mayor is hereby authorized to execute the Contract attached hereto.

10  
11  
12 **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

13  
14  
15  
16  
17  
ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

\_\_\_\_\_  
Regina C. Watkins-Eldridge, MMC, City Clerk

\_\_\_\_\_  
Joshua J. Cohen, Mayor

18  
19  
20 **EXPLANATION**

21 CAPITAL LETTERS indicate matter added to existing law.

22 [brackets] indicate matter stricken from existing law.

23 Underlining indicates amendments.

<b>AWARD/CONTRACT</b>		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		RATING	PAGE OF PAGES 1   26		
2. CONTRACT (Proc. Inst. Ident.) NO. N40080-12-C-0492		3. EFFECTIVE DATE 20 Jun 2012		4. REQUISITION/PURCHASE REQUEST/PROJECT NO.			
5. ISSUED BY NAVAL FACILITIES ENG COMMAND 1314 HARWOOD ST WASHINGTON DC 20374		CODE N40080	6. ADMINISTERED BY (If other than Item 5)		CODE		
		<b>See Item 5</b>					
7. NAME AND ADDRESS OF CONTRACTOR (No., street, city, county, state and zip code) CITY OF ANNAPOLIS 160 DUKE OF GLOUCESTER ST ANNAPOLIS MD 21401-2517				8. DELIVERY [ ] FOB ORIGIN [ X ] OTHER (See below)			
				9. DISCOUNT FOR PROMPT PAYMENT			
				10. SUBMIT INVOICES (4 copies unless otherwise specified) TO THE ADDRESS SHOWN IN:		ITEM	
CODE 0H082		FACILITY CODE					
11. SHIP TO/MARK FOR  <b>See Schedule</b>		CODE	12. PAYMENT WILL BE MADE BY		CODE		
13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: [ ] 10 U.S.C. 2304(c) [ ] 41 U.S.C. 253(c)				14. ACCOUNTING AND APPROPRIATION DATA			
15A. ITEM NO.	15B. SUPPLIES/ SERVICES		15C. QUANTITY	15D. UNIT	15E. UNIT PRICE	15F. AMOUNT	
<b>SEE SCHEDULE</b>							
<b>15G. TOTAL AMOUNT OF CONTRACT</b>						<b>\$0.00</b>	
<b>16. TABLE OF CONTENTS</b>							
(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)
<b>PART I - THE SCHEDULE</b>				<b>PART II - CONTRACT CLAUSES</b>			
X	A	SOLICITATION/ CONTRACT FORM	1	X	I	CONTRACT CLAUSES	13 - 25
X	B	SUPPLIES OR SERVICES AND PRICES/ COSTS	2	<b>PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS</b>			
X	C	DESCRIPTION/ SPECS./ WORK STATEMENT	3 - 5	X	J	LIST OF ATTACHMENTS	26
	D	PACKAGING AND MARKING		<b>PART IV - REPRESENTATIONS AND INSTRUCTIONS</b>			
X	E	INSPECTION AND ACCEPTANCE	6		K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	
X	F	DELIVERIES OR PERFORMANCE	7		L	INSTRS., CONDS., AND NOTICES TO OFFERORS	
X	G	CONTRACT ADMINISTRATION DATA	8		M	EVALUATION FACTORS FOR AWARD	
X	H	SPECIAL CONTRACT REQUIREMENTS	9 - 12				
<b>CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE</b>							
17. [ ] CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)				18. [ ] AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number _____			
				including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.			
19A. NAME AND TITLE OF SIGNER (Type or print)				20A. NAME OF CONTRACTING OFFICER			
				TEL: _____ EMAIL: _____			
19B. NAME OF CONTRACTOR		19C. DATE SIGNED		20B. UNITED STATES OF AMERICA		20C. DATE SIGNED	
BY _____ (Signature of person authorized to sign)				BY _____ (Signature of Contracting Officer)			

Section B - Supplies or Services and Prices

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	Clin 0001 FFP Waste Water Treatment Conveyance and Treatment Services from 1 July 2011 to 30 June 2021 for the US Naval Academy. FOB: Destination				\$0.00
NET AMT					\$0.00

CLIN 0001 CONT.

**WASTEWATER RATE SCHEDULE**

**United States Naval Academy  
Sewer (Wastewater) Rates  
City of Annapolis Fiscal Year (FY) 2012 through 2021**

Fiscal Year (July 1 through June 30)		Wastewater Rate (per 1,000 gallons)
2012	(07/01/2011- 06/30/2012)	\$4.21
2013	07/01/2012-6/30/2013	\$4.21

Note: Rates, charges and changes in rates are subject to the terms of subsection H5.2 Rates And Charges and H5.3 Change of Rates.

## Section C - Descriptions and Specifications

SPECIFICATIONS

1. **CONTRACTOR:** The term “Contractor” as used in this Contract and associated Clauses means the City of Annapolis, Maryland. However, it is understood that the City of Annapolis’s role under this contract is as a utility providing wastewater conveyance and treatment service through its’ existing sewer mains, pumping stations and co-owned treatment facility.
2. **WASTEWATER TREATMENT:** The City of Annapolis and Anne Arundel County, Maryland (“County.”) jointly-own the wastewater treatment facility known as the Annapolis Water Reclamation Facility (AWRF), The County is solely responsible for the Operation and Maintenance of the AWRF. The City and County have a joint use agreement that defines the City Capacity, which includes capacity for the Premises as defined below.
3. **CITY ON-BASE FACILITIES:** The City is responsible for the following on-base facilities:
  - City-owned sewers and sewer manholes
  - Flow meters and vaults at Points of Delivery listed below
4. **CONTRACTOR’S EFFECTIVE RATE:** \$4.21 per 1,000 gallons subject to the terms of **Subsection H5.2 Rates and Charges and H5.3 Changes of Rates.**

SPECIFICATIONS

1. **PREMISES TO BE SERVED:** U.S. Naval Academy  
Annapolis, MD 21401
2. **PREMISES ARE:** Government-Owned
3. **ESTIMATED SERVICE:**  
ESTIMATED FLOW: 360,000,000 gallons/year (1 Million gallons/day, MGD)  
AVERAGE WINTER FLOW: 0.94 MGD  
AVERAGE SUMMER FLOW: 1.1 MGD  
ESTIMATED MAXIMUM DAILY FLOW: 2.2 MGD  
(This estimate is based on historical usage. The Government shall not be restricted to minimum or maximum flow except as covered by the terms of subsection H5.5 and H5.6).  
TYPE OF SERVICE: Wastewater Conveyance and Treatment
4. **SERVICE TO BE RENDERED.** The Contractor shall provide wastewater services to convey and treat wastewater from the Premises. The Contractor shall operate the wastewater conveyance facilities in conformity with applicable laws, rules, and regulations promulgated by Federal, State, and local authorities.
5. **RESERVED CAPACITY.** The Contractor shall reserve a capacity of 1 MGD for the wastewater from the Premises in:
  - a. the City wastewater collection system, and
  - b. the “City Capacity” at the AWRF.
6. **POINTS OF DELIVERY.** The sewage shall be delivered to the Contractor by the Government at the following four locations. ( See Appendix A for more information).
  - (1) Gate #1: King George Street, South of Dorsey Creek  
Size of Sewer: 24 Inch Diameter
  - (2) Perry Center (Building #571): Tulip Street, North of Dorsey Creek

- Size of Sewer: 12 Inch Diameter
- (3) Water Treatment Plant: City of Annapolis Manhole No. 185 (SR 450 near Taylor Road)  
Size of Sewer: 12 Inch Diameter
- (4) Navy Family Housing (Buildings #500-520): Badger Road and Monroe Road  
Size of Sewer: 8 Inch Diameter
7. **METERING AND BILLING.** Billing will be determined by metered wastewater usage at Points of Delivery locations (1) and (2) listed above, and estimated at Points of Delivery locations (3) and (4) until meters are installed. (The Contractor, at the Government's expense, will install meters at the other two points in the future as directed by Contract Modification).
8. **NEW METERS AND CONNECTION POINTS.** All New Meters and Connections will be added by Contract Modification after a price has been determined/negotiated. The Contractor will be reimbursed for the cost of new connections and meters.

Section E - Inspection and Acceptance

Not Applicable

Section F - Deliveries or Performance

Not Applicable

Section G - Contract Administration Data

Not Applicable

Section H - Special Contract Requirements

SPECIAL CONTRACT REQUIREMENTS

**H1. Scope:** Subject to the terms and conditions hereinafter set forth, the Contractor shall furnish and the Government shall purchase the wastewater collection services for the premises so noted in the Specifications, included in Section C of the specifications and pursuant to the Contractor's Effective Rates as approved to the extent required by the appropriate regulatory body (Mayor, Aldermen and Alderwomen of the City of Annapolis.)

**H2 Term:** This Contract shall be for a term of 10 years from the effective date and thereafter, unless terminated at the option of the Government or the Contractor, *provided a suitable alternative exists for the Naval Academy*, by giving written notice to the other party not less than 360 days in advance of the effective date of the termination.

**H3 Superseded Contract(s):** The Contractor and the Government mutually agree, upon execution of this Contract, that Contract(s) # N62477-76-M-3603 and # N62477-76-C-3317 as amended, which has provided the Government with these services are hereby superseded and terminated at no cost to either party. The Contractor shall retain, for the purpose of providing dedicated services to the Government, those facilities previously described in the superseded contract, and paid for by the Government by means of a connection charge. At all times during the life of this Contract or any renewals thereof, said facilities shall be owned, operated and maintained by the Contractor at its expense.

**H4 Technical Provisions****H4.1 Measurement of Service**

- (a) All services furnished by the Contractor shall be measured by metering equipment of standard manufacture, furnished, installed, maintained, calibrated and read by the Contractor at its expense. In the absence of metering equipment, the sewage flow shall be estimated as agreed upon by both parties to the Contract. In the event a meter fails to register or registers incorrectly, the quantity of service delivered during the period of malfunction shall be determined and an equitable adjustment based thereon shall be made in the Government service invoices.
- (b) The Contractor shall read all meters at periodic intervals.
- (c) The Contractor, at its expense, shall periodically inspect and test its meters as installed, in accordance with the Contractor's standard practice. At the written request of the Contracting Officer, the Contractor, in the presence of a Government representative, shall make additional tests of any and all meters. The cost of these tests shall be borne by the Government unless the test reveals a percentage error greater than the meter manufacturer's standard.

**H4.2 Sewer Services**

- (a) The Contractor shall provide wastewater service that shall meet Specification 3, in Section C of this Contract.
- (b) The Contractor's wastewater conveyance and treatment facilities shall conform to all applicable Federal, State and local laws and ordinances, permits and regulations promulgated by any and all authorities having jurisdiction.

**H5 General Provisions****H5.1 Payments**

- (a) The Government shall pay the Contractor, upon the submission of proper invoices, at the rates or rate schedule specified within this contract for services delivered and accepted less any deductions or discounts provided for.
- (b) Payments shall be contingent upon the availability of appropriations and
- (c) shall not be made in advance.
- (d) Invoices for service rendered shall contain statements of the meter readings at the beginning and at the end of the billing period, consumption during the billing period, estimates per subsection H4.1 where meters have not been installed and other pertinent data as shall be required to fully understand the Invoice.
- (e) All invoices shall be submitted to:

Utility Invoice Processing Center  
 (Insert respective Government Account Number)  
 Box 159  
 9226 Third Avenue  
 Norfolk VA 23511-2313

At a frequency no more than monthly.

**H5.2 Rates And Charges****(a) Rates**

The Contractor hereby declares that the Government's specified rate or rate schedule is based on the June 2011 City of Annapolis Comprehensive Water and Sewer Rate Study, Cost of Service Analysis *and is the lowest rate for any non residential customer.*

**(b) Charges**

The parties agree to notify the other party upon discovery of deviations in flow that might indicate faulty operation of the Contractor's system. The Government and the Contractor shall mutually determine whether such deviations are causing the inaccurate recording of the Government's flow.

**H5.3 Change of Rates**

- (a)** No increase in rates shall be made to the Contract rate unless (i) the Contractor has placed into effect a general rate percentage increase to all other customers or (ii) based upon an updated Cost of Service Analysis. If the Contractor has placed into effect a general rate percentage decrease to all other customers, a corresponding decrease in the Contract rate shall be made.

**H5.4 Contractors Facilities**

- (a)** The Contractor, at its expense, unless otherwise provided for in this Contract, shall furnish, install, operate, and maintain all facilities required to furnish service hereunder, and measure, or to the extent permitted by this Contract, estimate such service at the points of delivery specified in the Specifications in Section C. Title to all such facilities shall remain with the Contractor and the Contractor shall be responsible for loss or damage to such facilities, except that the Government shall be responsible to the extent that loss or damage has been caused by the Government's negligent acts or omissions or otherwise wrongful acts.
- (b)** Notwithstanding any terms expressed in this clause, the Contractor shall obtain approval from the Contracting Officer prior to any equipment installation, construction, or removal for facilities required to furnish service hereunder. The Government hereby grants to the Contractor, free of any rental or similar charge, but subject to the limitations specified in this Contract, a revocable permit or license to enter the service location for any proper purpose under this Contract. This permit or license includes use of the site or sites agreed upon by the parties hereto for the installation, operation, maintenance, and repair of the facilities of the Contractor required to be located upon Government premises. All applicable taxes and other charges in connection therewith, together with all liability of the Contractor in construction, operation, maintenance and repair of such facilities, shall be the obligation of the Contractor.
- (c)** Authorized representatives of the Contractor will be allowed access to the facilities on Government premises at reasonable times to perform the obligations of the Contractor regarding such facilities. It is expressly understood that the Government may limit or restrict the right of access herein granted in any manner considered necessary (e.g., national security, public safety).
- (d)** Unless otherwise specified in this Contract, the Contractor shall, at its expense, remove such facilities and restore Government premises to their original condition as near as practicable within a reasonable time after the Government terminates this contract. In the event such termination of this Contract is due to the fault of the Contractor, such facilities may be retained in place at the option of the Government and at the Government's expense for a reasonable time while the Government attempts to obtain service elsewhere comparable to that provided for hereunder.
- (e)** Contractor Access – Contractor shall be provided with annual passes for designated City of Annapolis's, Officers, Employees, Agents, and equipment (list to be provided by the City) to access CITY ON-BASE FACILITIES as defined in the Description section of the Contract at no cost to the City.

**H5.5 Change in Volume or Character of Service**

- (a) The Contracting Officer or Contracting Officer's Representative shall give reasonable notice to the Contractor should any anticipated material changes in the volume or characteristics of the Utility Service be required at each location.
- (b) The Contractor shall give reasonable notice to the Government should any limitations to the Utility Service allowable maximum flow be required at each and/or all of the locations.
- (c) The Contractor and the Government shall operate their respective wastewater conveyance facilities in conformity with applicable laws, rules, and regulations promulgated by Federal, State, and local authorities, including, but not limited to, the applicable USNA Wastewater Discharge Permit.

**H5.6 Continuity of Service And Consumption**

- (a) The Contractor shall use reasonable diligence to provide a regular and uninterrupted service to the Government in accordance with the terms and conditions of this contract and the specification(s).
- (b) The Contractor shall use due diligence to cure or correct any cause or condition which so effects the continuity of utility service. The Contractor shall promptly commence and use due diligence to repair or replace any operational facilities and infrastructure rendered inoperable.
- (c) Upon notification of limitations to the Utility Service by the Contractor (as in the case of a 100 year storm or similar weather event), the Government shall use due diligence to cure or correct any cause or condition which so effects the limitation.

**H5.7 Multiple Service Location**

- (a) At any time by request, the Contracting Officer may designate any location within the service area of the Contractor at which utility service is needed or to be discontinued. Any changes to the Specifications in Section C shall be made a part of the Contract by the issuance of a contract modification to include the name and location of the service, specifying any different rate, the point of delivery, different specifications, and any other terms and conditions.
- (b) The applicable rate specified in this contract shall be equitably prorated from the period in which commencement or discontinuance of service at any service location designated under the Specifications shall become effective.

**H5.8 Conflicts**

To the extent of any inconsistency between the provisions of this Contract and the provisions of any schedule, rider, or exhibit incorporated in this Contract by reference or otherwise, the provisions of the Contract shall control.

**H.6. LOCATION**

The service shall be provided to various Naval activities in the **Annapolis, MD** area.

**H.7. PERIOD OF PERFORMANCE**

The contract term is from 1 July 2011 to 30 June 2021

**H.8 Contracting Officer's Representative**

\_\_\_\_\_The Contract will be administered by an authorized representative of the Contracting Officer. In no event, however, will any understanding or agreement, modification, change order, or other matter deviating from the terms of the Contract between the Contractor and any person other than the Contracting Officer be effective or binding upon the Government, unless formalized by proper contractual documents executed by the Contracting Officer prior to completion of this Contract. The authorized representative as indicated hereinafter:

\_\_\_\_\_The Contracting Officer's Representative (COR) will be designated by the Contracting Officer as the authorized representative of the Contracting Officer. The COR is responsible for monitoring performance and the technical management of the effort required hereunder, and should be contacted regarding questions or problems of a technical nature.

\_\_\_\_\_The designated Contract Specialist will be the Administrative Contracting Officer's representative on all other contract administrative matters. The Contract Specialist should be contacted regarding all matters pertaining to the contract or task/delivery orders.

## Section I - Contract Clauses

## CLAUSES INCORPORATED BY FULL TEXT

## 52.202-1 DEFINITIONS (JUL 2004)

(a) When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless--

- (1) The solicitation, or amended solicitation, provides a different definition;
- (2) The contracting parties agree to a different definition;
- (3) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning; or
- (4) The word or term is defined in FAR Part 31, for use in the cost principles and procedures.

(b) The FAR Index is a guide to words and terms the FAR defines and shows where each definition is located. The FAR Index is available via the Internet at <http://www.acqnet.gov> at the end of the FAR, after the FAR Appendix.

(End of clause)

## 52.204-7 CENTRAL CONTRACTOR REGISTRATION (APR 2008)

(a) Definitions. As used in this clause--

Central Contractor Registration (CCR) database means the primary Government repository for Contractor information required for the conduct of business with the Government.

Data Universal Numbering System (DUNS) number means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

Data Universal Numbering System +4 (DUNS+4) number means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same parent concern.

Registered in the CCR database means that--

- (1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and
- (2) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS), and has marked the record ``Active". The Contractor will be required to provide consent for TIN validation to the Government as a part of the CCR registration process.

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS +4" followed by the DUNS or DUNS +4 number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number--

(i) Via the Internet at <http://fedgov.dnb.com/webform> or if the offeror does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The offeror should indicate that it is an offeror for a U.S. Government contract when contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company Physical Street Address, City, State, and Zip Code.

(iv) Company Mailing Address, City, State and Zip Code (if separate from physical).

(v) Company Telephone Number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(d) If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(f) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(g)(1)(i) If a Contractor has legally changed its business name, “doing business as” name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of Subpart 42.12 of the FAR; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause, or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the “Suspension of Payment” paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the “Suspension of payment” paragraph of the EFT clause of this contract.

(h) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423, or 269-961-5757.

(End of clause)

#### 52.213-2 INVOICES (APR 1984)

The Contractor's invoices must be submitted before payment can be made. The Contractor will be paid on the basis of the invoice, which must state (a) the starting and ending dates of the subscription delivery, and (b) either that orders have been placed in effect for the addressees required, or that the orders will be placed in effect upon receipt of payment.

(End of clause)

#### 52.232-1 PAYMENTS (APR 1984)

The Government shall pay the Contractor, upon the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified in this contract, payment shall be made on partial deliveries accepted by the Government if--

(a) The amount due on the deliveries warrants it; or

(b) The Contractor requests it and the amount due on the deliveries is at least \$1,000 or 50 percent of the total contract price.

(End of clause)

## 52.232-23 ASSIGNMENT OF CLAIMS (JAN 1986)

(a) The Contractor, under the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereafter referred to as "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.

(b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.

(c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

(End of clause)

## 52.232-25 PROMPT PAYMENT (OCT 2008)

Notwithstanding any other payment clause in this contract, the Government will make invoice payments under the terms and conditions specified in this clause. The Government considers payment as being made on the day a check is dated or the date of an electronic funds transfer (EFT). Definitions of pertinent terms are set forth in sections 2.101, 32.001, and 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see paragraph (a)(4) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) Invoice payments--(1) Due date. (i) Except as indicated in paragraphs (a)(2) and (c) of this clause, the due date for making invoice payments by the designated payment office is the later of the following two events:

(A) The 30th day after the designated billing office receives a proper invoice from the Contractor (except as provided in paragraph (a)(1)(ii) of this clause).

(B) The 30th day after Government acceptance of supplies delivered or services performed. For a final invoice, when the payment amount is subject to contract settlement actions, acceptance is deemed to occur on the effective date of the contract settlement.

(ii) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date is the 30th day after the date of the Contractor's invoice, provided the designated billing office receives a proper invoice and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) Certain food products and other payments. (i) Due dates on Contractor invoices for meat, meat food products, or fish; perishable agricultural commodities; and dairy products, edible fats or oils, and food products prepared from edible fats or oils are--

(A) For meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), and as further defined in Pub. L. 98-181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but not later than, the 7th day after product delivery.

(B) For fresh or frozen fish, as defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), as close as possible to, but not later than, the 7th day after product delivery.

(C) For perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(D) For dairy products, as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressings, and other similar products, fall within this classification. Nothing in the Act limits this classification to refrigerated products. When questions arise regarding the proper classification of a specific product, prevailing industry practices will be followed in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the Contractor making the representation.

(ii) If the contract does not require submission of an invoice for payment (e.g., periodic lease payments), the due date will be as specified in the contract.

(3) Contractor's invoice. The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(3)(i) through (a)(3)(x) of this clause. If the invoice does not comply with these requirements, the designated billing office will return it within 7 days after receipt (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils), with the reasons why it is not a proper invoice. The Government will take into account untimely notification when computing any interest penalty owed the Contractor.

(i) Name and address of the Contractor.

(ii) Invoice date and invoice number. (The Contractor should date invoices as close as possible to the date of the mailing or transmission.)

(iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(v) Shipping and payment terms (e.g., shipment number and date of shipment, discount for prompt payment terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to notify in the event of a defective invoice.

(viii) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(ix) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision (e.g., 52.232-38, Submission of Electronic Funds Transfer Information with Offer), contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer--Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer--Other Than Central Contractor Registration), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(x) Any other information or documentation required by the contract (e.g., evidence of shipment).

(4) Interest penalty. The designated payment office will pay an interest penalty automatically, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(4)(i) through (a)(4)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday, the designated payment office may make payment on the following working day without incurring a late payment interest penalty.

(i) The designated billing office received a proper invoice.

(ii) The Government processed a receiving report or other Government documentation authorizing payment, and there was no disagreement over quantity, quality, or Contractor compliance with any contract term or condition.

(iii) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(5) Computing penalty amount. The Government will compute the interest penalty in accordance with the Office of Management and Budget prompt payment regulations at 5 CFR part 1315.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance is deemed to occur constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivers the supplies or performs the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. If actual acceptance occurs within the constructive acceptance period, the Government will base the determination of an interest penalty on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The prompt payment regulations at 5 CFR 1315.10(c) do not require the Government to pay interest penalties if payment delays are due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. The Government and the Contractor shall resolve claims involving disputes and any interest that may be payable in accordance with the clause at FAR 52.233-1, Disputes.

(6) Discounts for prompt payment. The designated payment office will pay an interest penalty automatically, without request from the Contractor, if the Government takes a discount for prompt payment improperly. The Government will calculate the interest penalty in accordance with the prompt payment regulations at 5 CFR part 1315.

(7) Additional interest penalty. (i) The designated payment office will pay a penalty amount, calculated in accordance with the prompt payment regulations at 5 CFR part 1315 in addition to the interest penalty amount only if--

(A) The Government owes an interest penalty of \$1 or more;

(B) The designated payment office does not pay the interest penalty within 10 days after the date the invoice amount is paid; and

(C) The Contractor makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(7)(ii) of this clause, postmarked not later than 40 days after the invoice amount is paid.

(ii)(A) The Contractor shall support written demands for additional penalty payments with the following data. The Government will not request any additional data. The Contractor shall--

(1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(2) Attach a copy of the invoice on which the unpaid late payment interest is due; and

(3) State that payment of the principal has been received, including the date of receipt.

(B) If there is no postmark or the postmark is illegible--

(1) The designated payment office that receives the demand will annotate it with the date of receipt, provided the demand is received on or before the 40th day after payment was made; or

(2) If the designated payment office fails to make the required annotation, the Government will determine the demand's validity based on the date the Contractor has placed on the demand, provided such date is no later than the 40th day after payment was made.

(iii) The additional penalty does not apply to payments regulated by other Government regulations (e.g., payments under utility contracts subject to tariffs and regulation).

(b) Contract financing payment. If this contract provides for contract financing, the Government will make contract financing payments in accordance with the applicable contract financing clause.

(c) Fast payment procedure due dates. If this contract contains the clause at 52.213-1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice.

(d) Overpayments. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall--

(1) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the--

(i) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(ii) Affected contract number and delivery order number if applicable;

(iii) Affected contract line item or subline item, if applicable; and

(iv) Contractor point of contact.

(2) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(End of clause)

## 52.233-1 DISPUTES. (JUL 2002)

- (a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).
- (b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.
- (c) Claim, as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.
- (d)(1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.
- (2)(i) The contractors shall provide the certification specified in subparagraph (d)(2)(iii) of this clause when submitting any claim exceeding \$100,000.
- (ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.
- (iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor.
- (3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.
- (e) For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.
- (f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.
- (g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the request.
- (h) The Government shall pay interest on the amount found due and unpaid from (1) the date the Contracting Officer receives the claim (certified, if required); or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in (FAR) 48 CFR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest

on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

(End of clause)

#### 52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004)

United States law will apply to resolve any claim of breach of this contract.

(End of clause)

#### 52.241-2 ORDER OF PRECEDENCE-UTILITIES (FEB 1995)

In the event of any inconsistency between the terms of this contract (including the specifications) and any rate schedule, rider, or exhibit incorporated in this contract by reference or otherwise, or any of the Contractor's rules and regulations, the terms of this contract shall control.

(End of clause)

#### 52.241-3 SCOPE AND DURATION OF CONTRACT (FEB 1995)

(a) For the period 1 July 2011 to 30 June 2021 the Contractor agrees to furnish and the Government agrees to purchase waste water conveyance and treatment service in accordance with the applicable tariff(s), rules, and regulations as approved by the applicable governing regulatory body and as set forth in the contract. The contractor shall furnish this service until 30 Jun 2021 or until substantial and lengthy non payment.

(b) It is expressly understood that neither the Contractor nor the Government is under any obligation to continue any service under the terms and conditions of this contract beyond the expiration date.

(c) The Contractor shall provide the Government with one complete set of rates, terms, and conditions of service which are in effect as of the date of this contract and any subsequently approved rates.

(d) The Contractor shall be paid at the applicable rate(s) under the tariff and the Government shall be liable for the minimum monthly charge, if any, specified in this contract commencing with the period in which service is initially furnished and continuing for the term of this contract. Any minimum monthly charge specified in this contract shall be equitably prorated for the periods in which commencement and termination of this contract become effective.

(End of clause)

#### 52.241-7 CHANGE IN RATES OR TERMS AND CONDITIONS OF SERVICE FOR REGULATED

## SERVICES (FEB 1995)

(a) This clause applies to the extent services furnished under this contract are subject to regulation by a regulatory body. The Contractor agrees to give 30 day written notice of (1) the filing of an application for change in rates or terms and conditions of service concurrently with the filing of the application and

(2) any changes pending with the regulatory body as of the date of contract award. Such notice shall fully describe the proposed change. If, during the term of this contract, the regulatory body having jurisdiction approves any changes, the Contractor shall forward to the Contracting Officer a copy of such changes within 15 days after the effective date thereof. The Contractor agrees to continue furnishing service under this contract in accordance with the amended tariff, and the Government agrees to pay for such service at the higher or lower rates as of the date when such rates are made effective.

(b) The Contractor agrees that throughout the life of this contract the applicable published and unpublished rate schedule(s) shall not be in excess of the lowest cost published and unpublished rate schedule(s) available to any other customers of the same class under similar conditions of use and service.

(c) In the event that the regulatory body promulgates any regulation concerning matters other than rates which affects this contract, the Contractor shall immediately provide a copy to the Contracting Officer. The Government shall not be bound to accept any new regulation inconsistent with Federal laws or regulations.

(d) Any changes to rates or terms and conditions of service shall be made a part of this contract by the issuance of a contract modification unless otherwise specified in the contract. The effective date of the change shall be the effective date by the regulatory body. Any factors not governed by the regulatory body will have an effective date as agreed to by the parties.

(End of clause)

## 52.243-5 CHANGES AND CHANGED CONDITIONS (APR 1984)

(a) The Contracting Officer may, in writing, order changes in the drawings and specifications within the general scope of the contract.

(b) The Contractor shall promptly notify the Contracting Officer, in writing, of subsurface or latent physical conditions differing materially from those indicated in this contract or unknown unusual physical conditions at the site before proceeding with the work.

(c) If changes under paragraph (a) or conditions under paragraph (b) increase or decrease the cost of, or time required for performing the work, the Contracting Officer shall make an equitable adjustment (see paragraph (d)) upon submittal of a "proposal for adjustment" (hereafter referred to as proposal) by the Contractor before final payment under the contract.

(d) The Contracting Officer shall not make an equitable adjustment under paragraph (b) unless--

(1) The Contractor has submitted and the Contracting Officer has received the required written notice; or

(2) The Contracting Officer waives the requirement for the written notice.

(e) Failure to agree to any adjustment shall be a dispute under the Disputes clause.

(End of clause)

52.249-4 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (SERVICES) (SHORT FORM)  
(APR 1984)

The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Government shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

(End of clause)

52.249-8 DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) (APR 1984)

(a)(1) The Government may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to--

- (i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;
- (ii) Make progress, so as to endanger performance of this contract (but see subparagraph (a)(2) of this clause); or
- (iii) Perform any of the other provisions of this contract (but see subparagraph (a)(2) below).

(2) The Government's right to terminate this contract under subdivisions (a)(1)(ii) and (1)(iii) of this clause, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Contracting Officer) after receipt of the notice from the Contracting Officer specifying the failure.

(b) If the Government terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Contracting Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the Government for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the Government may require the Contractor to transfer title and deliver to the Government, as directed by the Contracting Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Contracting Officer, the Contractor shall also protect and preserve property in its possession in which the Government has an interest.

(f) The Government shall pay contract price for completed supplies delivered and accepted. The Contractor and Contracting Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The Government may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect the Government against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Government.

(h) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

#### 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<http://farsite/hill.af.mil>

(End of clause)

#### 252.229-7000 INVOICES EXCLUSIVE OF TAXES OR DUTIES (JUNE 1997)

Invoices submitted in accordance with the terms and conditions of this contract shall be exclusive of all taxes or duties for which relief is available.

(End of clause)

#### 252.241-7001 GOVERNMENT ACCESS. (DEC 1991)

Authorized representatives of the Government may have access to the Contractor's on-base facilities upon reasonable notice or in case of emergency.

#### (h) **Inspection By Regulatory Agencies (JUN 1994)**

- (h) Work performed under this contract is subject by State and Federal Government Regulatory agencies including those described below.
- (i) Permission has been granted by the Navy permitting Federal and State occupational health and safety officials to enter Navy shore installations, without delay and at reasonable times, to conduct routine safety and health investigations. Permission also extends to safety and health investigations based on reports of unsafe conditions. Occupational Health and Safety Administration (OSHA) officials may

also investigate accidents or illnesses involving the Contractor's employees. Inspections may also be carried out by the Department of Labor to inspect for compliance with labor laws.

- (j) The Contractor shall cooperate with regulatory agencies and shall provide personnel to accompany the agency inspection or review teams. Contractor personnel shall be knowledgeable concerning the work being inspected, and participate in responding to all requests for information, inspection or review findings by regulatory agencies.

(END OF CLAUSE)

Section J - List of Documents, Exhibits and Other Attachments

Exhibit/Attachment Table of Contents

DOCUMENT TYPE	DESCRIPTION	PAGES	DATE
Attachment 1	Appendix A Diagram	1	

## **Staff Report**

### **Ordinance O-33-13**

#### **Wastewater Conveyance and Treatment (Sewer Service) Contract with the Federal Government**

The proposed ordinance would approve a new 10-year wastewater conveyance and treatment (sewer service) contract with the Federal Government to adjust the rate to \$4.21 per 1,000 gallons and become effective retroactively to July 1, 2011. The first page of the attached contract on introduction incorrectly states the effective date of June 20, 2012 due to an error in the Navy's contracting software; the effective date of July 1, 2011 is correctly used elsewhere in the contract.

The current wastewater conveyance and treatment contract between the City of Annapolis and the Federal Government governing services rendered by the City of Annapolis to the United States Naval Academy authorizes a rate renegotiation following a general rate increase. On June 20, 2011, the Annapolis City Council approved a water and sewer rate increase for all customers, excluding the Naval Academy.

Prepared by Thora Burkhardt, Civil Engineer in the Department of Public Works at 410-263-7949 and Jessica Cowles, Legislative and Policy Analyst in the Office of Law at 410-263-7954.

FISCAL IMPACT NOTE

**Legislation No:** O-33-13

**First Reader Date:** 9-23-13

**Note Date:** 10-04-13

**Legislation Title:** **Wastewater Conveyance and Treatment (Sewer Service)  
Contract with the Federal Government**

**Description:** For the purpose of approving a new 10-year wastewater conveyance and treatment (sewer service) contract (Contract) with the Federal Government to adjust the rate as provided; and all matters related to said wastewater conveyance and treatment.

**Analysis of Fiscal Impact:** This legislation produces significant positive financial impact, as the proposed ordinance would approve a new 10-year wastewater conveyance and treatment (sewer service) contract with the Federal Government to adjust the rate to \$4.21 per 1,000 gallons.

The average annual sewer flow from USNA in FY12 and FY13 was 320,000 Kgal. The USNA rate increase is from the current \$2.59/Kgal to \$4.21/Kgal. The financial impact will be approximately \$518,000 per year in increased revenue.

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**CITY COUNCIL OF THE  
City of Annapolis**

**Ordinance No. O-34-13**

**Sponsor: Alderman Budge**

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
9/9/13			12/6/13
Referred to	Referral Date	Meeting Date	Action Taken
Finance	9/9/13		
Economic Matters	9/9/13		
Historic Preservation Commission	9/9/13		

**A ORDINANCE** concerning

**Historic Preservation Tax Credit**

**FOR** the purpose of revising the provisions governing the historic preservation tax credit in the City Code of the City of Annapolis.

**BY** repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2012 Edition  
Section 6.04.230

**WHEREAS** the City of Annapolis provides to owners of contributing historic properties within the Annapolis Historic Landmark District a financial incentive that assists with the rehabilitation costs for exterior improvements to historic buildings in the District; and

**WHEREAS** originally enacted in 2004, the Historic Preservation Tax Credit Program benefits property owners and the community generally by reducing a property owner's real property tax bill through a direct, dollar-for-dollar offset of City of Annapolis real property taxes, thereby encouraging protection of landmarks through the promotion and recognition of historic structures, and increasing the value of preserved, restored, and rehabilitated property; and

**WHEREAS** the Historic Preservation Tax Credit tax credit is limited to 10% of documented qualifying expenses for labor and materials related to a preservation, restoration, and rehabilitation project for which there is a Certificate of Approval issued by the Historic Preservation Commission; and

**WHEREAS** the State of Maryland has recently granted municipalities the authority to increase the tax credit to 25%; and

1 **WHEREAS** the Historic Preservation Division within the Planning and Zoning Department,  
2 working with the City's leadership, is proposing a limited adoption of the 25%  
3 credit in order to remain within the \$150,000 cap established for the program by  
4 the City Council in 2004.  
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7 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**  
8 **COUNCIL** that the Code of the City of Annapolis shall be amended to read as follows:  
9

10 **CHAPTER 6.04 – FINANCE AND TAXATION GENERALLY**

11  
12 **6.04.230 - Historic Preservation Tax Credit.**

13 [A. Purpose. Subject to the provisions of this section there shall be allowed a tax credit on City  
14 real property taxes based upon the amount expended by a property owner for preservation,  
15 restoration and rehabilitation of any structure having historic or architectural value which is  
16 designated a City of Annapolis Landmark by resolution of the City Council based upon  
17 designation by the Annapolis Historic Preservation Commission. The total amounts of tax  
18 credits applied by the Director of Finance may not exceed one hundred fifty thousand  
19 dollars in any one fiscal year.]

20 [B. Eligibility. The tax credit shall be limited to those expenses having to do with exterior  
21 features of a structure only and not to expenses relating to the interior of a structure, which  
22 are not subject to the jurisdiction of the Annapolis Historic Preservation Commission. The  
23 tax credit shall be in an amount equal to ten percent of the owners expense for such  
24 restoration and preservation, as indicated by properly documented receipts. The total  
25 estimate for eligible expenses must exceed five thousand dollars per application. If property  
26 owner initiates an action that results in the loss of Landmark status within five years, then  
27 the owner must refund the entire amount of the tax credit to the City. If the loss of the  
28 Landmark status is not due to owner's actions, then no refund is required.]

29 [C. Project Approval. Once a structure has been designated a City of Annapolis Landmark, the  
30 property owner may submit an application for the Historic Preservation Tax Credit to the  
31 Historic Preservation Commission along with any other information requested by the  
32 Commission. The Historic Preservation Commission shall approve the application if it  
33 meets the criteria as set forth in this section, the Historic Preservation Commission Design  
34 Manual, and The Secretary of the Interior's Standards for Preservation, Restoration and  
35 Rehabilitation. Upon approval by the Historic Preservation Commission, the property owner  
36 must submit a tax credit application to the Chief of Historic Preservation. At the same time,  
37 the property owner must also submit any other necessary building and other permit  
38 requests to the Director of Neighborhood and Environmental Programs. All work must  
39 commence within one year of application approval by the Historical Preservation  
40 Commission.]

41 [D. Application of Credit. Within two years of approval by the Historic Preservation  
42 Commission, the property owner must submit appropriate receipts to the Chief of Historic  
43 Preservation. Upon notification by the Chief of Historic Preservation and the Director of  
44 Neighborhood and Environmental Programs that applicable laws have been met in the  
45 preservation, restoration and/or rehabilitation of the approved structure, the Director of  
46 Finance may apply the approved tax credit to the property owner's next tax bill. If the tax  
47 credit exceeds the property tax bill, the balance may be carried forward up to a total of five  
48 years.]

- 1 A. PURPOSE. SUBJECT TO THE PROVISIONS OF THIS SECTION, THE DIRECTOR OF  
2 FINANCE MAY ALLOW A TAX CREDIT ON CITY REAL PROPERTY TAXES BASED  
3 UPON THE AMOUNT EXPENDED BY A PROPERTY OWNER FOR PRESERVATION,  
4 RESTORATION AND/OR REHABILITATION OF ANY PROPERTY HAVING HISTORIC OR  
5 ARCHITECTURAL VALUE AND WHICH THE CITY COUNCIL DESIGNATES A  
6 LANDMARK PURSUANT TO CHAPTER 21.56 OF THE CITY OF ANNAPOLIS HISTORIC  
7 DISTRICT ZONING ORDINANCE. THE CHIEF OF HISTORIC PRESERVATION AND  
8 DIRECTOR OF FINANCE SHALL PROMULGATE RULES AND REGULATIONS TO  
9 IMPLEMENT THIS SECTION OF THE CITY CODE.  
10  
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- 12 B. QUALIFIED EXPENSES. THE TAX CREDIT SHALL BE APPLIED TO THOSE EXPENSES  
13 HAVING TO DO WITH EXTERIOR FEATURES OF A STRUCTURE AND ALL THOSE  
14 INTERIOR IMPROVEMENTS REQUIRED FOR LIFE/SAFETY OR HAZARD MITIGATION  
15 AS DETERMINED TO BE QUALIFIED BY THE CHIEF OF HISTORIC PRESERVATION IN  
16 CONSULTATION WITH THE DEPARTMENT OF NEIGHBORHOOD AND  
17 ENVIRONMENTAL PROGRAMS.  
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- 20 C. TAX CREDIT DEFINED. THE TAX CREDIT SHALL BE IN AN AMOUNT EQUAL TO:  
21 1. TEN PERCENT OF THE PROPERTY OWNER'S EXPENSES FOR QUALIFIED  
22 PRESERVATION, RESTORATION AND/OR REHABILITATION ON RESIDENTIAL  
23 PROPERTIES;  
24 2. TWENTY FIVE PERCENT ON INCOME-PRODUCING PROPERTIES AND  
25 RESIDENTIAL PROPERTIES WITH QUALIFIED INTERIOR IMPROVEMENTS  
26 REQUIRED FOR LIFE/SAFETY OR HAZARD MITIGATION;  
27 3. TWENTY FIVE PERCENT TAX CREDIT FOR QUALIFIED EXTERIOR  
28 RESTORATION WORK WHEN THERE IS REPLACEMENT OF A NON-HISTORIC  
29 FEATURE OR MATERIAL WITH A HISTORICALLY-APPROPRIATE FEATURE OR  
30 MATERIAL.  
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- 33 D. DOCUMENTATION. ALL EXPENSES SOUGHT TO BE QUALIFIED SHALL BE  
34 PROPERLY DOCUMENTED AND ATTESTED TO IN AN AFFIDAVIT ON THE REQUIRED  
35 FORM. THE TOTAL ESTIMATE OF ELIGIBLE EXPENSES MUST EXCEED FIVE  
36 THOUSAND DOLLARS PER APPLICATION FOR TAX CREDIT CONSIDERATION.  
37 1. A PROPERTY OWNER SEEKING TO QUALIFY EXPENSES FOR PROPERTY TAX  
38 CREDIT PURPOSES MUST EITHER HAVE ALREADY OBTAINED A  
39 CERTIFICATE OF APPROVAL FROM THE HISTORIC PRESERVATION  
40 COMMISSION OR CONCURRENTLY SUBMIT AN APPLICATION FOR A  
41 CERTIFICATE OF APPROVAL WITH THE TAX CREDIT APPLICATION.  
42  
43
- 44 E. REFUND. IF A PROPERTY OWNER INITIATES AN ACTION THAT RESULTS IN THE  
45 LOSS OF LANDMARK STATUS, AS DETERMINED BY THE CHIEF OF HISTORIC  
46 PRESERVATION, WITHIN FIVE YEARS AFTER RECEIVING A TAX CREDIT APPROVAL,  
47 THEN THE PROPERTY OWNER SHALL REFUND THE ENTIRE AMOUNT OF THE TAX  
48 CREDIT TO THE CITY. IF THE LOSS OF THE LANDMARK STATUS IS NOT DUE TO A  
49 PROPERTY OWNER'S ACTIONS, THEN NO REFUND IS REQUIRED.  
50  
51

1 F. PROJECT APPROVAL. ONCE A PROPERTY HAS BEEN DESIGNATED A LANDMARK  
2 PURSUANT TO CHAPTER 21.56 OF THE ANNAPOLIS CITY CODE, THE PROPERTY  
3 OWNER MAY SUBMIT AN APPLICATION FOR THE HISTORIC PRESERVATION TAX  
4 CREDIT TO THE CHIEF OF HISTORIC PRESERVATION WITH THE DOCUMENTATION  
5 AND INFORMATION REQUIRED BY THE CHIEF OF HISTORIC PRESERVATION.

6 1. THE HISTORIC PRESERVATION COMMISSION MAY AUTHORIZE THE CHIEF  
7 OF HISTORIC PRESERVATION TO CERTIFY THE HISTORIC TAX CREDIT  
8 APPLICATION IF IT MEETS THE CRITERIA SET FORTH IN THIS SECTION OF  
9 THE CITY CODE, THE HISTORIC PRESERVATION COMMISSION DESIGN  
10 MANUAL, AND THE SECRETARY OF THE INTERIOR'S STANDARDS FOR  
11 REHABILITATION. THE ISSUANCE OF A HISTORIC PRESERVATION  
12 COMMISSION CERTIFICATE OF APPROVAL FOR THE QUALIFIED  
13 PRESERVATION, RESTORATION OR REHABILITATION IS REQUIRED PRIOR  
14 TO SUBMISSION OF THE HISTORIC TAX CREDIT APPLICATION. THE  
15 PROPERTY OWNER SHALL ALSO CONCURRENTLY SUBMIT ANY OTHER  
16 NECESSARY BUILDING AND OTHER PERMIT APPLICATIONS TO THE  
17 DEPARTMENT OF NEIGHBORHOOD AND ENVIRONMENTAL PROGRAMS FOR  
18 ADJUDICATION OF THE APPLICATION.

19 2. ALL CERTIFIED HISTORIC TAX CREDIT WORK SHALL COMMENCE WITHIN SIX  
20 MONTHS AFTER THE DATE OF ISSUANCE OF THE ASSOCIATED  
21 CERTIFICATE OF APPROVAL.  
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24 G. APPLICATION OF CREDIT. WITHIN TWO YEARS OF CERTIFICATION OF THE  
25 HISTORIC TAX CREDIT APPLICATION, THE PROPERTY OWNER SHALL SUBMIT  
26 DOCUMENTATION, INCLUDING PHOTOGRAPHS OF THE COMPLETED WORK AND AN  
27 AFFIDAVIT, TO THE CHIEF OF HISTORIC PRESERVATION FOR FINAL CERTIFICATION  
28 OF THE HISTORIC TAX CREDIT EXPENSES. UPON DETERMINATION BY THE CHIEF  
29 OF HISTORIC PRESERVATION THAT ALL APPLICABLE LAWS HAVE BEEN MET IN  
30 THE PRESERVATION, RESTORATION AND/OR REHABILITATION OF THE APPROVED  
31 PROPERTY, AND CERTIFICATION OF QUALIFIED EXPENSES, THE DIRECTOR OF  
32 FINANCE MAY AUTHORIZE THE APPROVED TAX CREDIT TO BE APPLIED AS A  
33 CREDIT TO THE PROPERTY OWNER'S NEXT REAL PROPERTY TAX BILL.

34 1. IF THE TAX CREDIT EXCEEDS THE AMOUNT OF THE REAL PROPERTY TAX  
35 BILL, THE BALANCE MAY BE CARRIED FORWARD FOR UP TO FIVE YEARS.

36 2. THE TOTAL AMOUNT OF ALL HISTORIC TAX CREDITS THAT THE DIRECTOR  
37 OF FINANCE MAY APPROVE SHALL NOT EXCEED \$150,000 DOLLARS IN ANY  
38 ONE FISCAL YEAR.  
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41 H. EXTENSIONS. ANY EXTENSIONS OF DEADLINES IMPOSED BY THIS SECTION OF  
42 THE CITY CODE SHALL BE SUBMITTED FOR REVIEW AND ADJUDICATION BY THE  
43 CHIEF OF HISTORIC PRESERVATION AS AUTHORIZED BY THE HISTORIC  
44 PRESERVATION COMMISSION. EXTENSIONS MAY BE ALLOWED FOR GOOD CAUSE.  
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47 I. APPEALS. ANY PERSON AGGRIEVED OF A FINAL DECISION PURSUANT TO THIS  
48 SECTION OF THE CITY CODE MAY APPEAL TO THE CIRCUIT COURT OF ANNE  
49 ARUNDEL COUNTY.  
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**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 and applies to all pending historic preservation tax credit applications as of the date of passage.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

\_\_\_\_\_  
Regina C. Watkins-Eldridge, MMC, City Clerk

\_\_\_\_\_  
Joshua J. Cohen, Mayor

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**EXPLANATION**

CAPITAL LETTERS indicate matter added to existing law.

[brackets] indicate matter stricken from existing law.

Underlining indicates amendments.

## **Staff Report**

### **Ordinance O-34-13**

#### **Historic Preservation Tax Credit**

The proposed ordinance would revise the provisions of the City Code related to the historic preservation tax credit. Originally enacted in 2004, the Historic Preservation Tax Credit Program reduces a property owner's real property tax bill through a direct, dollar-for-dollar offset of City of Annapolis real property taxes, thereby encouraging protection of landmarks through the promotion and recognition of historic structures. The City of Annapolis, through the historic preservation tax credit, provides to owners of contributing historic properties within the Annapolis Historic Landmark District a financial incentive that assists with the rehabilitation costs for exterior improvements to historic buildings in the District.

The Historic Preservation Tax Credit tax credit is limited to 10% of documented qualifying expenses for labor and materials related to a preservation, restoration, and rehabilitation project for which there is a Certificate of Approval issued by the Historic Preservation Commission. The State of Maryland has recently granted municipalities the authority to increase the tax credit to 25%. The proposed ordinance provides a limited adoption of the 25% credit in order to remain within the \$150,000 cap established for the program by the City Council in 2004.

Prepared by Lisa Craig, Chief of Historic Preservation at 410-263-7941 and [LMCraig@annapolis.gov](mailto:LMCraig@annapolis.gov) and Jessica Cowles, Legislative and Policy Analyst in the City of Annapolis Office of Law at 410.263.1184 or [JCCowles@annapolis.gov](mailto:JCCowles@annapolis.gov).

## FISCAL IMPACT NOTE

**Legislation No:** O-34-13

**First Reader Date:** 9-9-13

**Note Date:** 9-16-13

**Legislation Title:** **Historic Preservation Tax Credit**

**Description:** For the purpose of revising the provisions governing the historic preservation tax credit in the City Code of the City of Annapolis.

**Analysis of Fiscal Impact:** This legislation produces a negative financial impact to the General Fund tax revenues up to, but not to exceed \$150,000, as adopted by the City Council in 2004. The City of Annapolis provides to owners of contributing historic properties within the Annapolis Historic Landmark District a financial incentive that assists with the rehabilitation costs for exterior improvements to historic buildings in the District. Originally enacted in 2004, the Historic Preservation Tax Credit Program benefits property owners and the community generally by reducing a property owner's real property tax bill through a direct, dollar-for-dollar offset of City of Annapolis real property taxes, thereby encouraging protection of landmarks through the promotion and recognition of historic structures, and increasing the value of preserved, restored, and rehabilitated property. The Historic Preservation Tax Credit tax credit is limited to 10% of documented qualifying expenses for labor and materials related to a preservation, restoration, and rehabilitation project for which there is a Certificate of Approval issued by the Historic Preservation Commission. The State of Maryland has recently granted municipalities the authority to increase the tax credit to 25%; which the Historic Preservation Division within the Planning and Zoning Department, working with the City's leadership, is proposing a limited adoption of the 25% credit in order to remain within the \$150,000 cap established for the program by the City Council in 2004.

**CITY COUNCIL OF THE  
City of Annapolis**

**Ordinance No. O-51-11 Amended**

**Introduced by: Mayor Cohen Alderwoman Finlayson,  
Alderwoman Hoyle and Alderman Kirby**

LEGISLATIVE HISTORY			
First Reading	Public Hearing	Fiscal Impact Note	180 Day Rule
11/14/11	4/23/12	11/27/12	5/12/12
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Gov't	11/14/11	5/31/12	Unfavorable
Economic Matters	11/14/11	5/31/12	Favorable
Planning Commission	11/14/11 1/23/12	5/31/12	Favorable

**A ORDINANCE** concerning

**Use and Redevelopment of Property in C2 Zoning Districts**

**FOR** the purpose of adding AN ADDITIONAL PERMITTED USE AND ADDING certain provisions governing use and redevelopment of property located in a C2 Zoning District.

**BY** repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2011 Edition  
Section 21.42.080  
SECTION 21.48.020

**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 21.42 – COMMERCIAL AND INDUSTRIAL DISTRICTS**

**21.42.080 - C2 Conservation Business district.**

- A. Purpose. The C2 Conservation Business district is designed to encourage the preservation of the old City by allowing a compatible mixture of business and home crafts and shops, unique to the early development of the City.
- B. Uses. Uses that may be permitted in the C2 district are set forth in the table of uses for commercial and industrial districts in Chapter 21.48
- C. Development Standards. Chapter 21.50 contains the bulk regulations table for the C2 district.

D. Additional Standards.

1. All business, servicing or processing in the C2 district, except for off-street parking or loading, shall be conducted within completely enclosed buildings.
2. Food service establishment restrictions apply in the C2 district, see Section 21.64.300
3. Off-street loading spaces are not required in the C2 district.
4. WATERFRONT PROPERTIES DESIGNATED AS PART OF THE C2 CONSERVATION BUSINESS DISTRICT SHALL PROVIDE A PUBLIC PEDESTRIAN ACCESS ACROSS THE WATERWAY FRONTAGE OF THE PROPERTY.
5. UPON REDEVELOPMENT OF A SITE IN THE C2 ZONING DISTRICT, THOSE SCENIC VIEWS RECOGNIZED IN THE ANNAPOLIS COMPREHENSIVE PLAN OR OTHER PLANS ADOPTED AS AMENDMENTS THERETO BY THE ANNAPOLIS CITY COUNCIL MUST BE RESTORED OR PRESERVED. FOR PURPOSES OF THIS SECTION, REDEVELOPMENT SHALL MEAN NEW CONSTRUCTION, ALTERATIONS OR RENOVATIONS TO THE EXTERIOR OF THE STRUCTURE(S) ON THE SITE, NOT INCLUDING DECKS, WINDOWS, DOORS AND FAÇADE TREATMENTS OR OTHER IMPROVEMENTS WITHIN THE EXISTING FOOTPRINT AND BUILDING ENVELOPE, IN EXCESS OF FIFTY PERCENT (50%) OF THE VALUE OF THE IMPROVEMENTS ON THE SITE AS OF THE DATE OF PERMIT REQUESTS.

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

**21.48 – USE TABLES**

**21.48.020 – Table of Uses – Commercial and Industrial Zoning Districts**

P = Permitted Use; S = Special Exception Use; -Std = Use Subject to Standards (Chapter 21.64); A = Accessory Use; Blank = Not Permitted

A use, including a special exception use, that is not normally permissible as a permitted use or use subject to standards in a zoning district may be permitted in that district as a planned development use pursuant to Section 21.24.020.

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

<u>USES</u>	<u>District B1</u>	<u>District B2</u>	<u>District B3</u>	<u>District B3-CD</u>	<u>District BCE</u>	<u>District BR</u>	<u>District C2</u>	<u>District C2A</u>	<u>District PM2</u>	<u>District I1</u>
<u>Boat Showrooms</u>			<u>P</u>	<u>P</u>	<u>P</u>					
<u>BOAT SHOWS</u>							<u>P<sup>5</sup></u>			



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**

### **Ordinance O-51-11**

#### **Use and Redevelopment of Property in C2 Zoning Districts**

The proposed ordinance would add two provisions governing the use and redevelopment of property located in the C2 Zoning District. The first provision of O-51-11 would require public pedestrian access across the waterway frontage of property in the C2 Conservation Business District.

The second provision of the proposed ordinance would require restoration or preservation of scenic views recognized in the Comprehensive Plan (or amendments to it) upon the redevelopment of a site in the C2 Zoning District. The proposed ordinance defines redevelopment to mean new construction, alterations or renovations to the exterior of the structure(s) on the site in excess of 50% of the value of the improvements on the site as of the date of permit requests, excluding decks, windows, doors and façade treatments, or other improvements within the existing footprint and building envelope.

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

## **Policy Report**

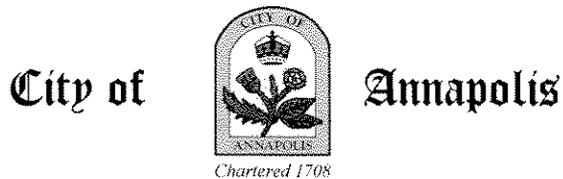
### **Ordinance O-51-11**

#### **Use and Redevelopment of Property in C2 Zoning Districts**

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



## PLANNING COMMISSION

(410)263-7961

145 GORMAN STREET, 3<sup>RD</sup> FLOOR  
ANNAPOLIS, MARYLAND 21401

March 1, 2012

### MEMORANDUM

**To:** Annapolis City Council

**From:** Planning Commission

**Re:** Findings on Ordinance O-51-11 concerning standards for the development and redevelopment of property in the C2, Conservation Residence District

#### Summary of Ordinance

This ordinance would require that development in the C2 district incorporate the following design characteristics:

1. If it is a waterfront property, it would be required to provide a pedestrian access along the waterway frontage of the property as illustrated on the next page.
2. Upon redevelopment of a site, those scenic views recognized in the Annapolis Comprehensive Plan or other plans adopted as amendments thereto must be restored or preserved.

Redevelopment means new construction, alterations or renovations to the exterior of a structure in excess of fifty percent of the value of the improvements on the site as of the date of permit requests. Decks, windows, doors or other improvements within the existing footprint are excluded.

This ordinance grew out of the Planning Commission's recommendation on the rezoning request for 110 Compromise Street (aka Fawcett's). Neither of these considerations can be attached to a rezoning of the property. Nevertheless, general amendments to the C2 zoning district will be proposed to address these considerations in conjunction with this rezoning request.

Since the original recommendation to the City Council, the CDAC did recommend the enhancement and maintenance of views from downtown across the harbor.

**Public Hearing**

At its regular meeting on March 1, 2012 the Planning Commission conducted a public hearing on this ordinance.

**Recommendation**

The Planning Commission recommends approval of Ordinance O-51-11 with the following amendments. The Planning Commission recommends two important amendments to the language of the suggested ordinance. As to paragraph 4, the Commission recommends:

“shall provide uninterrupted and unimpeded public pedestrian access...”

As to paragraph 5, the Commission recommends: “...redevelopment shall mean new construction, alterations or exterior renovations to the structures...”

The Commission retaining the scenic view now obstructed by 110 Compromise street is an important condition to progress towards a rejuvenated City Dock.

*Eleanor M. Harris*  
\_\_\_\_\_  
Dr. Eleanor M. Harris, Chair *gmh*



*City of Annapolis*  
**DEPARTMENT OF PLANNING AND ZONING**

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

JON ARASON, AICP  
DIRECTOR

March 1, 2012

**MEMORANDUM**

**To:** Planning Commission

**From:** Jon Arason *JA*  
Planning Director

**Re:** Ordinance O-51-11 concerning standards for the development and redevelopment of property in the C2, Conservation Residence District

Attachments: 1. Ordinance O-51-11  
2. Planning Commission findings from 110 Compromise zoning map amendment request

**Summary of Ordinance**

This ordinance would require that development in the C2 district incorporate the following design characteristics:

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Redevelopment means new construction, alterations or renovations to the exterior of a structure in excess of fifty percent of the value of the improvements on the site as of the date of permit requests. Decks, windows, doors or other improvements within the existing footprint are excluded.

This ordinance grew out of the Planning Commission recommendation on the rezoning request for 110 Compromise Street (aka Fawcett's). The staff report on the rezoning request contained the following:

There are two important considerations in the development/redevelopment of this site. A longstanding consideration is to maintain pedestrian access around City Dock. This is a key parcel for this pedestrian access.

Pedestrian access is not permitted by the Fleet Reserve Club, but the walkway adjacent to subject property links up to the Fleet Street street-end right-of-way avoiding a dead-end and creating pedestrian opportunities.

The second consideration has been brought up from time-to-time but not in the context of city policy. This has become an important consideration for the City Dock Advisory Committee (CDAC) and will probably be a part of their final report—the enhancement of the view down Main Street, across City Dock to the mouth of the Severn River and beyond. The structure now on subject property blocks a portion of this view and it is proposed that any significant redevelopment of this site be done in a manner that this view shed is restored.

Neither of these considerations can be attached to a rezoning of the property. Nevertheless, general amendments to the C2 zoning district will be proposed to address these considerations in conjunction with this rezoning request.

Since the writing of this report the CDAC did recommend the enhancement and maintenance of views from downtown across the harbor.

The Planning Commission agreed with this assessment and recommended code changes to address pedestrian access and enhanced views. The language of O-51-11 is the language recommended by the Planning Commission. It has been referred back to the Planning Commission because it was introduced as a new ordinance.

This amendment was recommended by staff and the Planning Commission and is consistent with City plans and policies. Staff recommends approval of Ordinance O-51-11.



*City of Annapolis*  
**DEPARTMENT OF PLANNING AND ZONING**

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

JON ARASON, AICP  
DIRECTOR

March 1, 2012

**MEMORANDUM**

**To:** Planning Commission

**From:** Jon Arason *JA*  
Planning Director

**Re:** Ordinance O-51-11 concerning standards for the development and redevelopment of property in the C2, Conservation Residence District

Attachments: 1. Ordinance O-51-11  
2. Planning Commission findings from 110 Compromise zoning map amendment request

**Summary of Ordinance**

This ordinance would require that development in the C2 district incorporate the following design characteristics:

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This ordinance grew out of the Planning Commission recommendation on the rezoning request for 110 Compromise Street (aka Fawcett's). The staff report on the rezoning request contained the following:

There are two important considerations in the development/redevelopment of this site. A longstanding consideration is to maintain pedestrian access around City Dock. This is a key parcel for this pedestrian access.

Pedestrian access is not permitted by the Fleet Reserve Club, but the walkway adjacent to subject property links up to the Fleet Street street-end right-of-way avoiding a dead-end and creating pedestrian opportunities.

The second consideration has been brought up from time-to-time but not in the context of city policy. This has become an important consideration for the City Dock Advisory Committee (CDAC) and will probably be a part of their final report—the enhancement of the view down Main Street, across City Dock to the mouth of the Severn River and beyond. The structure now on subject property blocks a portion of this view and it is proposed that any significant redevelopment of this site be done in a manner that this view shed is restored.

Neither of these considerations can be attached to a rezoning of the property. Nevertheless, general amendments to the C2 zoning district will be proposed to address these considerations in conjunction with this rezoning request.

Since the writing of this report the CDAC did recommend the enhancement and maintenance of views from downtown across the harbor.

The Planning Commission agreed with this assessment and recommended code changes to address pedestrian access and enhanced views. The language of O-51-11 is the language recommended by the Planning Commission. It has been referred back to the Planning Commission because it was introduced as a new ordinance.

This amendment was recommended by staff and the Planning Commission and is consistent with City plans and policies. Staff recommends approval of Ordinance O-51-11.

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**CITY COUNCIL OF THE  
City of Annapolis**

**Ordinance No. O-51-11**

**Introduced by: Mayor Cohen Alderwoman Finlayson,  
Alderwoman Hoyle and Alderman Kirby**

LEGISLATIVE HISTORY			
First Reading	Public Hearing	Fiscal Impact Note	180 Day Rule
11/14/11			5/12/12
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Gov't Planning Commission	11/14/11 11/14/11		

9  
10 **A ORDINANCE** concerning

11 **Use and Redevelopment of Property in C2 Zoning Districts**

12  
13 **FOR** the purpose of adding certain provisions governing use and redevelopment of property  
14 located in a C2 Zoning District.

15 **BY** repealing and re-enacting with amendments the following portions of the Code of the  
16 City of Annapolis, 2011 Edition  
17 Section 21.42.080  
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 **Chapter 21.42 – COMMERCIAL AND INDUSTRIAL DISTRICTS**

22 **21.42.080 - C2 Conservation Business district.**

23 A. Purpose. The C2 Conservation Business district is designed to encourage the preservation  
24 of the old City by allowing a compatible mixture of business and home crafts and shops, unique  
25 to the early development of the City.

26 B. Uses. Uses that may be permitted in the C2 district are set forth in the table of uses for  
27 commercial and industrial districts in Chapter 21.48

28 C. Development Standards. Chapter 21.50 contains the bulk regulations table for the C2  
29 district.

30 D. Additional Standards.

31 1. All business, servicing or processing in the C2 district, except for off-street parking or  
32 loading, shall be conducted within completely enclosed buildings.

33 2. Food service establishment restrictions apply in the C2 district, see Section 21.64.300

- 1           3.    Off-street loading spaces are not required in the C2 district.
- 2           4.    Waterfront properties designated as part of the C2 Conservation Business District shall
- 3           provide a public pedestrian access across the waterway frontage of the property.
- 4           5.    Upon redevelopment of a site in the C2 Zoning District, those scenic views recognized
- 5           in the Annapolis Comprehensive Plan or other plans adopted as amendments thereto by
- 6           the Annapolis City Council must be restored or preserved. For purposes of this section,
- 7           redevelopment shall mean new construction, alterations or renovations to the exterior of
- 8           the structure(s) on the site, not including decks, windows, doors and façade treatments or
- 9           other improvements within the existing footprint and building envelope, in excess of fifty
- 10          percent (50%) of the value of the improvements on the site as of the date of permit
- 11          requests.
- 12

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

15           ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

16           ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

\_\_\_\_\_  
 Regina C. Watkins-Eldridge, MMC, City Clerk

\_\_\_\_\_  
 Joshua J. Cohen, Mayor

19  
20  
21           **EXPLANATION:**

22           Highlighting indicates matter added to existing law.  
 23           Strikeout indicates matter deleted from existing law.  
 24           Underlining indicates amendments.  
 25



*City of Annapolis*  
**DEPARTMENT OF PLANNING AND ZONING**

Chartered 1708

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

JON ARASON, AICP  
DIRECTOR

October 19, 2011

**MEMORANDUM**

**TO:** City Council of Annapolis  
**FROM:** Planning & Zoning Commission  
**RE:** Zoning map amendment of 110 Compromise from WMC, Waterfront Maritime Conservation to C2, Conservation Business District. ZMA2011-001

**SUMMARY**

Subject property is the site of the former Fawcett's marine supply store. The property had been zoned C2, Conservation Business District until the adoption of the Waterfront Maritime Districts in 1987, at which time the property was zoned WMC. Before the property's use as a retail store specializing in marine hardware and operating under the Fawcett's name, the subject property had been used for general retail, including a grocery store. The WMC zone is more restrictive in that non-maritime retail and office uses are severely limited.

C2 is the prevalent zone downtown and is the only general commercial zone used in the historic district. Until 1987 this property had a C2 designation. Adjacent, developed properties affected by the 1987 rezoning had been zoned M1, Light Maritime before being rezoned to WMC.

The zoning map amendment rezones the property back to C2, Conservation Business District consistent with the non-waterfront properties downtown and consistent with the non-conforming uses of several of the neighboring waterfront properties.

**STAFF RECOMMENDATION**

At a regularly scheduled meeting on July 21, 2011, the Planning and Zoning staff presented their analysis and recommended approval of the rezoning request.

Staff reviewed the background of the request and analyzed the request based upon State law and the requirements of the City Code. In addition, staff analyzed the request based upon the Annapolis Comprehensive Plan recommendations and the recommendations of the City Dock Advisory Committee.

Staff found that there had been a change in the social and economic character of the area that would warrant approval of the request for rezoning. Staff also recommended additional legislative changes to the C2 zone. One change would require the provision of a pedestrian access along the water for waterfront properties. The other would require adherence to view cones for redeveloped properties.

**REQUIRED FINDINGS**

Article 66b is the State enabling legislation that grants local governments to power to regulate the use of land through zoning. Art. 66b, Section 4.05 establishes the 'change or mistake' rule wherein a zoning map amendment can only be granted based on a finding that there was a substantial change in the character of the neighborhood where the property is located, or that there was a mistake in the original zoning. Chapter 21.34 of the Annapolis City code sets forth the six criteria and findings that must be made in order to make the finding for change or mistake in considering a rezoning. They are as follows:

- A. Existing uses and zoning classification of properties within the general area of the property

that is the subject of the application.

In the vicinity of the property there are three zoning classifications. Subject property abuts land zoned C2 and WMC. In the area, but not abutting subject property there is land zoned C1, Conservation Residence District. The WMC zone on the other side of the water consists of the Natural Resources Police building, the Annapolis Harbormaster building, and a large car parking lot. The WMC zone on the side of the subject property consists of the Fleet Reserve building – which is essentially a social and dining club, the Marriott Hotel building – which has no maritime uses and includes a popular waterfront restaurant, the Annapolis Yacht marina, and the Annapolis Yacht Club – both of which are maritime. The Fleet Reserve and the Marriott Hotel are both nonconforming uses though both are in the WMC. The City of Annapolis also owns two small car parking lots in this portion of the WMC zone.

The C-1 zone contains the Annapolis Elementary School, an Anne Arundel Board of Education administration building, a car parking lot, and a playground. The school has coexisted for decades with the surrounding commercial activity. The entire area, known generally as the City Dock area, is intensively commercial.

The Commission finds that a general commercial zone for this will not be discordant with the general commercial tenor of the general area.

**B. The suitability of the property in question to the uses permitted under the existing zoning classification compared to the uses permitted under the proposed zoning classification.**

As mentioned earlier, the property was zoned from C2, Conservation Business to WMC, Waterfront Maritime Conservation in 1987, no doubt due, at least in part, to the presence of Fawcett's as a tenant. At the time of the WMC zoning, all of the properties abutting City Dock were zoned WMC irrespective of the extant use or whether the properties were or would be rendered nonconforming by the change.

For the non-maritime uses listed there are additional standards that must be met and size limitations for the use to be allowed in the WMC District.

The Planning & Zoning Commission heard testimony and had the benefit of staff expertise. The Commission finds that the nature of City Dock has changed dramatically from supporting the Chesapeake Bay seafood industry to becoming a destination for recreational boaters, land-based day trippers, and local and regional customers of the restaurant and retail establishments. These users of City Dock are not arriving downtown with the specific intent to purchase maritime-related goods. The Maritime Zones were created to concentrate maritime uses so each could take advantage of proximity to another. Current downtown maritime use consists of a marina and a yacht club, which do not create the synergies contemplated. A survey by BBP, LLC found that respondents felt there was a need for specialty food, sporting goods/hobby, clothing and limited service restaurants but not for maritime services and goods.

**C. The trend of development in the general area, including any changes in zoning classification of the subject property or other properties in the area and the compatibility with existing and proposed development for the area.**

As noted above area properties were rezoned in 1987 from C2 to WMC with the adoption of the maritime economic and land use strategy. As noted above the nature of City Dock has changed over time from watermen related uses to a visitor destination—both land based and water based. The mix of retail goods sold downtown has changed as well. The C2 zoning designation proposed for the property is consistent with zoning in the area since C2 is the predominant commercial zoning district downtown. City Dock is viewed as the focal point of Annapolis and trends in thinking envision the City Dock area as a gathering place for local residents, regional residents, state employees, county employees, City employees, and visitors who may or may not have business in the City. None of these populations support a maritime business. The mix of uses allowed in the C2 zoning can support visitor, resident and employment populations.

The Commission finds that the trend in development, including the proposed zoning change, will be compatible with current and proposed development in the general area.

**D. Whether there has been a substantial change in the character of the neighborhood where the property is located or that there was a mistake in the existing zoning classification.**

The Commission finds that since the adoption of the WMC zoning twenty-four years ago, the business mix and functions in the downtown have undergone change. The so-called hard maritime uses have become concentrated on the Eastport side of Spa Creek and on both sides of Back Creek. Other than the AYC (and the proposed National Sailing Hall of Fame) there are no maritime uses in the WMC zone. As noted above, uses around City Dock are changing to reflect its emerging role as a visitor destination. The Commission finds there has been a substantial change in the character of the neighborhood where the property is located.

**E. The availability of public facilities, present and future transportation patterns.**

The Commission finds there are adequate public facilities in place to support the requested rezoning. The Commission further finds the requested rezoning will have no impact on present or future transportation patterns.

**F. The relationship of the proposed amendment to the City's Comprehensive Plan.**

The Annapolis Comprehensive Plan recommends mixed-use development for this site. The proposed C2 zoning classification is consistent with the comprehensive plan recommendation. The Commission finds that the proposed zoning amendment is compatible with the Comprehensive Plan.

**Other Considerations**

As noted above, staff identified two additional and important considerations in the development/redevelopment of this site. Both can be resolved if the Council adopts two changes to Code requirements.

The first is a longstanding responsibility to maintain pedestrian access around City Dock. This goal is key to the primary recommendation of the City Dock Advisory Committee to make the general City Dock area a pedestrian-friendly place with as much pedestrian access to the water as possible. This parcel is a key parcel for pedestrian access. Pedestrian access is not permitted by the Fleet Reserve Club, but the walkway adjacent to subject property links up to the Newman Street street-end right-of-way, thereby avoiding a dead-end and creating some pedestrian opportunities.

Consequently, the Planning & Zoning Commission finds the following change to the zoning code is a necessary addition to its recommendation of approval of the zoning map amendment:

New Subsection 21.42.080 D.4.:

"Waterfront properties designated as part of the C2 Conservation Business District shall provide a pedestrian access across the waterway frontage of the property."

The second consideration has been brought up from time-to-time but not in the context of city policy. This is an important goal identified by the City Dock Advisory Committee (CDAC) and is a part of their final report—namely, the enhancement of the view down Main Street, across City Dock to the mouth of the Severn River and beyond. The structure now on the subject property blocks an important portion of this view. Any significant redevelopment of this site must be done in a manner that restores this significant viewshed.

Hence, the Planning & Zoning Commission finds the following change to the zoning code is a necessary addition to its recommendation of approval of the zoning map amendment:

New Subsection 21.42.080 D.5.:

Upon redevelopment of a site in the C2 Zoning District, those scenic views recognized in the Annapolis Comprehensive Plan or other plans adopted as amendments thereto by the Annapolis City Council must be restored or preserved. For purposes of this section, redevelopment shall mean new construction, alterations or renovations to the exterior

of the structure(s) on the site, not including decks, windows, doors and façade treatments or other improvements within the existing footprint and building envelope, in excess of fifty percent (50%) of the value of the improvements on the site as of the date of permit requests.

Neither of these considerations can be attached to a rezoning of the property. Nevertheless, general amendments to the C2 zoning district must be proposed to address these considerations in conjunction with this rezoning request.

Additionally, the Planning Commission voted to amend the rezoning map change request to include the city-owned parking lot adjacent to Newman Street, between 110 Compromise and the Fleet Reserve Club, parcel 1248.

**PUBLIC HEARING AND DELIBERATION**

The Planning Commission found that proper notification of the application and hearing was given. In accordance with the Annapolis City Code a public hearing was held and the public was invited to comment on the rezoning request. Additionally, the owner of the property and his agents made a presentation to the Planning Commission.

Upon the close of the public hearing the Planning Commission entered into deliberations. Based on the staff analysis, applicants' presentation and comments received from the public, the Commission found that the requisite findings were met. The Commission further found that the recommended code changes noted above were appropriate in furthering the normal and orderly development of the City and consistent with the Comprehensive Plan.

**RECOMMENDATION**

The Planning & Zoning Commission on July 21, 2011 by a vote of 6-0 held that the requirements of 21.34.040 have been met, that there has been a change in the social and economic character of the area that warrants approval of this request, and that the change in zoning classification will be compatible with current and proposed uses. The Commission by the same vote further recommends that the proposed code changes be enacted coincident with the zoning change.

Chair:



David DiQuinzio



City of Annapolis City Council  
Standing Committee Referral Action Report

Date: 5/31/12

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

The Rules and City Government Committee has reviewed 0-5/-11 and  
has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other

Comments:

Roll Call Vote:

Ald. Israel, Chair NO

Ald. Hoyle YES

Ald. Arnett NO

Meeting Date 5/31/12

Signature of Chair Richard E. Israel



City of Annapolis City Council  
Standing Committee Referral Action Report

Date: 5/31/12

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

The Economic Matters Committee has reviewed 0-51-11 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. Pfeiffer YES

Meeting Date 5/31/12 Signature of Chair Frederick M. Paone

FISCAL IMPACT NOTE

**Legislation No:** O-51-11

**First Reader Date:** 11-14-11

**Note Date:** 11-27-11

**Legislation Title: Use and Redevelopment of Property in C2 Zoning Districts**

**Description:**

For the purpose of adding certain provisions governing use and redevelopment of property located in a C2 Zoning District.

**Analysis of Fiscal Impact:**

This legislation will provide for a waterfront pedestrian access across the waterway frontage of property in the C2 Zoning District as well as restore and preserve scenic views. While the legislation produces no significant direct fiscal impact, it could lead to an increase in the tax base, thereby increasing tax revenues.

1 CITY COUNCIL OF THE  
2 City of Annapolis

3 Ordinance No. O-52-11 Amended

4 Introduced by: Alderwoman Finlayson, Alderwoman Hoyle and Alderman Kirby  
5  
6  
7

LEGISLATIVE HISTORY			
First Reading	Public Hearing	Fiscal Impact Note	180 Day Rule
11/14/11	4/23/12	11/27/12	5/12/12
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Gov't	11/14/11	5/31/12	Unfavorable
Economic Matters	11/14/12	5/31/12	Favorable
Planning Commission	11/14/11	7/21/12	Favorable
Maritime Advisory Board	1/5/12	12/20/11	Unfavorable

8  
9 A ORDINANCE concerning

10 Rezoning Parcels [1244] 1247 and 1255, Grid 20, Tax Map 52A

11  
12 FOR the purpose of rezoning parcels [1244] 1247 and 1255, Grid 20, Tax Map 52A to C2,  
13 "Conservation Business" Zoning District.

14 BY repealing and re-enacting with amendments the Zoning District Map contained in  
15 Section 21.06.020 of the Code of the City of Annapolis 2011 Edition, to reflect the  
16 rezoning of parcels [1244] 1247 and 1255, Grid 20, Tax Map 52A to C2 "Conservation  
17 Business" Zoning District.  
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 Chapter 21.06 – ZONING DISTRICTS AND MAPPING

22 21.06.020 - Zoning District Map.

23 The location and boundaries of the zoning districts of this Zoning Code are established as  
24 shown on the zoning map entitled "City of Annapolis Zoning District Map," which is incorporated  
25 in this section and made a part of this Zoning Code. The map, together with everything shown  
26 on the map and all amendments to the map, is as much a part of this Zoning Code as though  
27 fully set forth and described in this Zoning Code. (Amended during 2007 edition: Ord. O-30-05  
28 Revised Attach., 2006: Ord. O-11-05 Revised Amended § 1 (part), 2005: Ord. O-1-04 Revised  
29 (part), 2005). THE ZONING REFLECTED ON THE ZONING DISTRICT MAP IS AMENDED TO  
30 REFLECT THE ZONING OF PARCELS [1244] 1247 AND 1255, GRID 20, TAX MAP 52A AS  
31 C2 "CONSERVATION BUSINESS" ZONING DISTRICT LOCATED AT 110 COMPROMISE  
32 STREET IN ANNAPOLIS AS CONTAINED IN EXHIBIT A ATTACHED TO THIS ORDINANCE.  
33



1 The Planning & Zoning Commission heard testimony and had the benefit of staff expertise. The  
2 Commission finds that the nature of City Dock has changed dramatically from supporting the  
3 Chesapeake Bay seafood industry to becoming a destination for recreational boaters, land-  
4 based day trippers, and local and regional customers of the restaurant and retail  
5 establishments. These users of City Dock are not arriving downtown with the specific intent to  
6 purchase maritime-related goods. The Maritime Zones were created to concentrate maritime  
7 uses so each could take advantage of proximity to another. Current downtown maritime use  
8 consists of a marina and a yacht club, which do not create the synergies contemplated. A  
9 survey by BBP, LLC found that respondents felt there was a need for specialty food, sporting  
10 goods/hobby, clothing and limited service restaurants but not for maritime services and goods.

11  
12 **C. The trend of development in the general area, including any changes in zoning**  
13 **classification of the subject property or other properties in the area and the compatibility**  
14 **with existing and proposed development for the area.**

15 As noted above area properties were rezoned in 1987 from C2 to WMC with the adoption of the  
16 maritime economic and land use strategy. As noted above the nature of City Dock has changed  
17 over time from watermen related uses to a visitor destination--both land based and water based.  
18 The mix of retail goods sold downtown has changed as well. The C2 zoning designation  
19 proposed for the property is consistent with zoning in the area since C2 is the predominant  
20 commercial zoning district downtown. City Dock is viewed as the focal point of Annapolis and  
21 trends in thinking envision the City Dock area as a gathering place for local residents, regional  
22 residents, state employees, county employees, City employees, and visitors who may or may  
23 not have business in the City. None of these populations support a maritime business. The mix  
24 of uses allowed in the C2 zoning can support visitor, resident and employment populations.

25  
26 The Commission finds that the trend in development, including the proposed zoning change, will  
27 be compatible with current and proposed development in the general area.

28  
29 **D. Whether there has been a substantial change in the character of the neighborhood**  
30 **where the property is located or that there was a mistake in the existing zoning**  
31 **classification.**

32 The Commission finds that since the adoption of the WMC zoning twenty-four years ago, the  
33 business mix and functions in the downtown have undergone change. The so-called hard  
34 maritime uses have become concentrated on the Eastport side of Spa Creek and on both sides  
35 of Back Creek. Other than the AYC (and the proposed National Sailing Hall of Fame) there are  
36 no maritime uses in the WMC zone. As noted above, uses around City Dock are changing to  
37 reflect its emerging role as a visitor destination. The Commission finds there has been a  
38 substantial change in the character of the neighborhood where the property is located.

39  
40 **E. The availability of public facilities, present and future transportation patterns.**

41 The Commission finds there are adequate public facilities in place to support the requested  
42 rezoning. The Commission further finds the requested rezoning will have no impact on present  
43 or future transportation patterns.

44  
45 **F. The relationship of the proposed amendment to the City's Comprehensive Plan.**

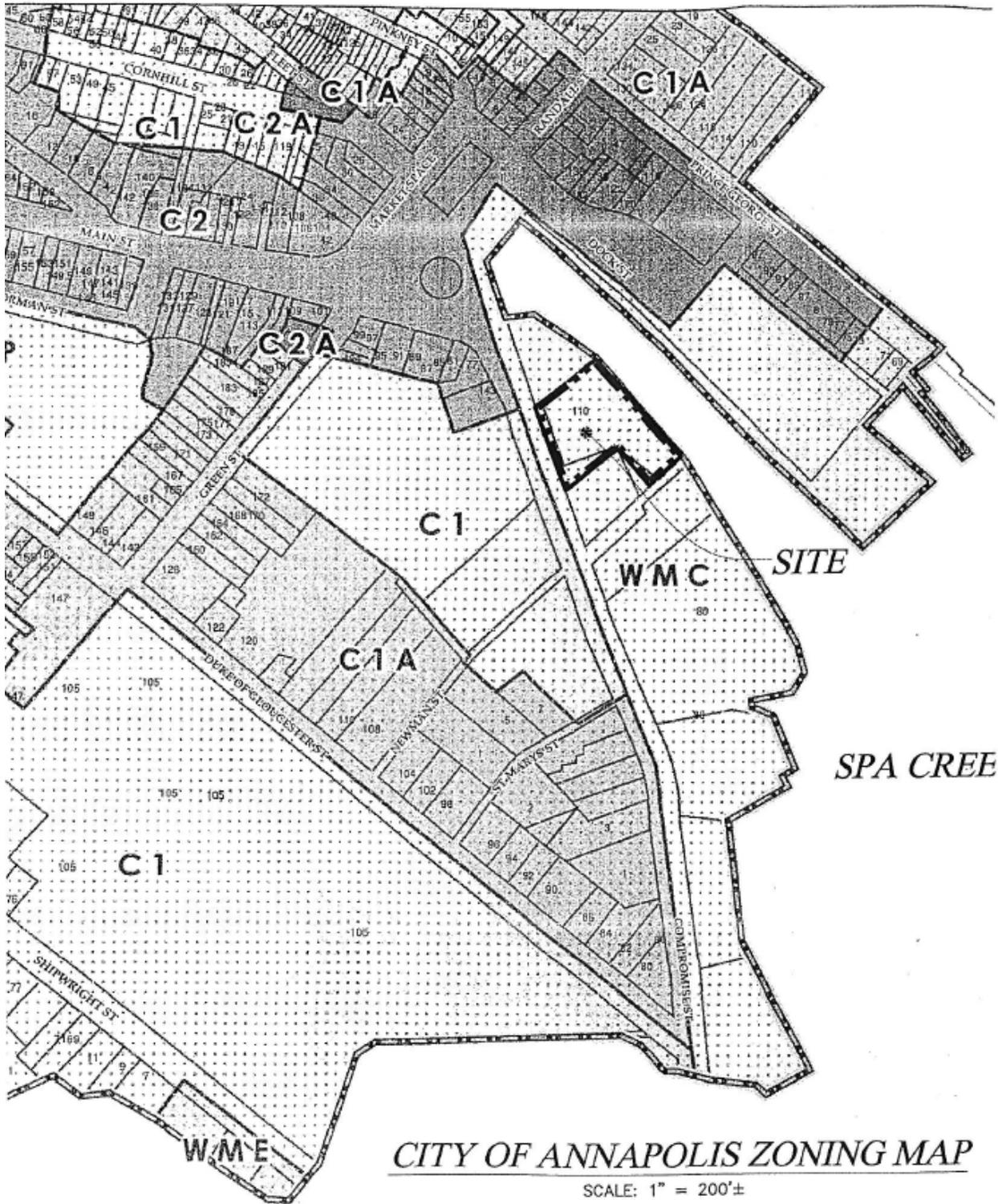
46 The Annapolis Comprehensive Plan recommends mixed-use development for this site. The  
47 proposed C2 zoning classification is consistent with the comprehensive plan recommendation.  
48 The Commission finds that the proposed zoning amendment is compatible with the  
49 Comprehensive Plan.



**Exhibit A**

EXHIBIT A (Revised)

O-52-11  
Page 5



## **Policy Report**

### **Ordinance O-52-11**

#### **Rezoning Parcels 1244 and 1255, Grid 20, Tax Map 52A**

The proposed ordinance would rezone parcels 1244 and 1255, Grid 20, Tax Map 52A from WMC (Waterfront Maritime Conservation) to C2 (Conservation Business) Zoning District.

Article 66B is the State enabling legislation that grants local governments the authority to regulate the use of land through zoning. Article 66B, Section 4.05 establishes the 'change or mistake' rule wherein a zoning map amendment can only be granted based on a finding that there was a substantial change in the character of the neighborhood where the property is located, or that there was a mistake in the original zoning.

Chapter 21.34 of the Annapolis City Code sets forth the six criteria and findings that must be made in order to make the finding for change or mistake in considering a rezoning. They are as follows:

- A. Existing uses and zoning classification of properties within the general area of the property that is the subject of the application.
- B. The suitability of the property in question to the uses permitted under the existing zoning classification compared to the uses permitted under the proposed zoning classification.
- C. The trend of development in the general area, including any changes in zoning classification of the subject property or other properties in the area and the compatibility with existing and proposed development for the area.
- D. Whether there has been a substantial change in the character of the neighborhood where the property is located or that there was a mistake in the existing zoning classification.
- E. The availability of public facilities, present and future transportation patterns.
- F. The relationship of the proposed amendment to the City's Comprehensive Plan.

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

## **Policy Report**

### **Ordinance O-52-11**

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- E. The availability of public facilities, present and future transportation patterns.
- F. The relationship of the proposed amendment to the City's Comprehensive Plan.

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*

**DEPARTMENT OF PLANNING AND ZONING**

145 Gorman Street, 3<sup>rd</sup> Floor, Annapolis, Maryland 21401

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

Chartered 1708

JON ARASON, AICP  
DIRECTOR

October 19, 2011

**MEMORANDUM**

**TO:** City Council of Annapolis

**FROM:** Planning & Zoning Commission

**RE:** Zoning map amendment of 110 Compromise from WMC, Waterfront Maritime Conservation to C2, Conservation Business District. ZMA2011-001

**SUMMARY**

Subject property is the site of the former Fawcett's marine supply store. The property had been zoned C2, Conservation Business District until the adoption of the Waterfront Maritime Districts in 1987, at which time the property was zoned WMC. Before the property's use as a retail store specializing in marine hardware and operating under the Fawcett's name, the subject property had been used for general retail, including a grocery store. The WMC zone is more restrictive in that non-maritime retail and office uses are severely limited.

C2 is the prevalent zone downtown and is the only general commercial zone used in the historic district. Until 1987 this property had a C2 designation. Adjacent, developed properties affected by the 1987 rezoning had been zoned M1, Light Maritime before being rezoned to WMC.

The zoning map amendment rezones the property back to C2, Conservation Business District consistent with the non-waterfront properties downtown and consistent with the non-conforming uses of several of the neighboring waterfront properties.

**STAFF RECOMMENDATION**

At a regularly scheduled meeting on July 21, 2011, the Planning and Zoning staff presented their analysis and recommended approval of the rezoning request.

Staff reviewed the background of the request and analyzed the request based upon State law and the requirements of the City Code. In addition, staff analyzed the request based upon the Annapolis Comprehensive Plan recommendations and the recommendations of the City Dock Advisory Committee.

Staff found that there had been a change in the social and economic character of the area that would warrant approval of the request for rezoning. Staff also recommended additional legislative changes to the C2 zone. One change would require the provision of a pedestrian access along the water for waterfront properties. The other would require adherence to view cones for redeveloped properties.

**REQUIRED FINDINGS**

Article 66b is the State enabling legislation that grants local governments to power to regulate the use of land through zoning. Art. 66b, Section 4.05 establishes the 'change or mistake' rule wherein a zoning map amendment can only be granted based on a finding that there was a substantial change in the character of the neighborhood where the property is located, or that there was a mistake in the original zoning. Chapter 21.34 of the Annapolis City code sets forth the six criteria and findings that must be made in order to make the finding for change or mistake in considering a rezoning. They are as follows:

**A. Existing uses and zoning classification of properties within the general area of the property**

**that is the subject of the application.**

In the vicinity of the property there are three zoning classifications. Subject property abuts land zoned C2 and WMC. In the area, but not abutting subject property there is land zoned C1, Conservation Residence District. The WMC zone on the other side of the water consists of the Natural Resources Police building, the Annapolis Harbormaster building, and a large car parking lot. The WMC zone on the side of the subject property consists of the Fleet Reserve building – which is essentially a social and dining club, the Marriott Hotel building – which has no maritime uses and includes a popular waterfront restaurant, the Annapolis Yacht marina, and the Annapolis Yacht Club – both of which are maritime. The Fleet Reserve and the Marriott Hotel are both nonconforming uses though both are in the WMC. The City of Annapolis also owns two small car parking lots in this portion of the WMC zone.

The C-1 zone contains the Annapolis Elementary School, an Anne Arundel Board of Education administration building, a car parking lot, and a playground. The school has coexisted for decades with the surrounding commercial activity. The entire area, known generally as the City Dock area, is intensively commercial.

The Commission finds that a general commercial zone for this will not be discordant with the general commercial tenor of the general area.

**B. The suitability of the property in question to the uses permitted under the existing zoning classification compared to the uses permitted under the proposed zoning classification.**

As mentioned earlier, the property was zoned from C2, Conservation Business to WMC, Waterfront Maritime Conservation in 1987, no doubt due, at least in part, to the presence of Fawcett's as a tenant. At the time of the WMC zoning, all of the properties abutting City Dock were zoned WMC irrespective of the extant use or whether the properties were or would be rendered nonconforming by the change.

For the non-maritime uses listed there are additional standards that must be met and size limitations for the use to be allowed in the WMC District.

The Planning & Zoning Commission heard testimony and had the benefit of staff expertise. The Commission finds that the nature of City Dock has changed dramatically from supporting the Chesapeake Bay seafood industry to becoming a destination for recreational boaters, land-based day trippers, and local and regional customers of the restaurant and retail establishments. These users of City Dock are not arriving downtown with the specific intent to purchase maritime-related goods. The Maritime Zones were created to concentrate maritime uses so each could take advantage of proximity to another. Current downtown maritime use consists of a marina and a yacht club, which do not create the synergies contemplated. A survey by BBP, LLC found that respondents felt there was a need for specialty food, sporting goods/hobby, clothing and limited service restaurants but not for maritime services and goods.

**C. The trend of development in the general area, including any changes in zoning classification of the subject property or other properties in the area and the compatibility with existing and proposed development for the area.**

As noted above area properties were rezoned in 1987 from C2 to WMC with the adoption of the maritime economic and land use strategy. As noted above the nature of City Dock has changed over time from watermen related uses to a visitor destination—both land based and water based. The mix of retail goods sold downtown has changed as well. The C2 zoning designation proposed for the property is consistent with zoning in the area since C2 is the predominant commercial zoning district downtown. City Dock is viewed as the focal point of Annapolis and trends in thinking envision the City Dock area as a gathering place for local residents, regional residents, state employees, county employees, City employees, and visitors who may or may not have business in the City. None of these populations support a maritime business. The mix of uses allowed in the C2 zoning can support visitor, resident and employment populations.

The Commission finds that the trend in development, including the proposed zoning change, will be compatible with current and proposed development in the general area.

**D. Whether there has been a substantial change in the character of the neighborhood where the property is located or that there was a mistake in the existing zoning classification.**

The Commission finds that since the adoption of the WMC zoning twenty-four years ago, the business mix and functions in the downtown have undergone change. The so-called hard maritime uses have become concentrated on the Eastport side of Spa Creek and on both sides of Back Creek. Other than the AYC (and the proposed National Sailing Hall of Fame) there are no maritime uses in the WMC zone. As noted above, uses around City Dock are changing to reflect its emerging role as a visitor destination. The Commission finds there has been a substantial change in the character of the neighborhood where the property is located.

**E. The availability of public facilities, present and future transportation patterns.**

The Commission finds there are adequate public facilities in place to support the requested rezoning. The Commission further finds the requested rezoning will have no impact on present or future transportation patterns.

**F. The relationship of the proposed amendment to the City's Comprehensive Plan.**

The Annapolis Comprehensive Plan recommends mixed-use development for this site. The proposed C2 zoning classification is consistent with the comprehensive plan recommendation. The Commission finds that the proposed zoning amendment is compatible with the Comprehensive Plan.

**Other Considerations**

As noted above, staff identified two additional and important considerations in the development/redevelopment of this site. Both can be resolved if the Council adopts two changes to Code requirements.

The first is a longstanding responsibility to maintain pedestrian access around City Dock. This goal is key to the primary recommendation of the City Dock Advisory Committee to make the general City Dock area a pedestrian-friendly place with as much pedestrian access to the water as possible. This parcel is a key parcel for pedestrian access. Pedestrian access is not permitted by the Fleet Reserve Club, but the walkway adjacent to subject property links up to the Newman Street street-end right-of-way, thereby avoiding a dead-end and creating some pedestrian opportunities.

Consequently, the Planning & Zoning Commission finds the following change to the zoning code is a necessary addition to its recommendation of approval of the zoning map amendment:

New Subsection 21.42.080 D.4.:

"Waterfront properties designated as part of the C2 Conservation Business District shall provide a pedestrian access across the waterway frontage of the property."

The second consideration has been brought up from time-to-time but not in the context of city policy. This is an important goal identified by the City Dock Advisory Committee (CDAC) and is a part of their final report—namely, the enhancement of the view down Main Street, across City Dock to the mouth of the Severn River and beyond. The structure now on the subject property blocks an important portion of this view. Any significant redevelopment of this site must be done in a manner that restores this significant viewshed.

Hence, the Planning & Zoning Commission finds the following change to the zoning code is a necessary addition to its recommendation of approval of the zoning map amendment:

New Subsection 21.42.080 D.5.:

Upon redevelopment of a site in the C2 Zoning District, those scenic views recognized in the Annapolis Comprehensive Plan or other plans adopted as amendments thereto by the Annapolis City Council must be restored or preserved. For purposes of this section, redevelopment shall mean new construction, alterations or renovations to the exterior

of the structure(s) on the site, not including decks, windows, doors and façade treatments or other improvements within the existing footprint and building envelope, in excess of fifty percent (50%) of the value of the improvements on the site as of the date of permit requests.

Neither of these considerations can be attached to a rezoning of the property. Nevertheless, general amendments to the C2 zoning district must be proposed to address these considerations in conjunction with this rezoning request.

Additionally, the Planning Commission voted to amend the rezoning map change request to include the city-owned parking lot adjacent to Newman Street, between 110 Compromise and the Fleet Reserve Club, parcel 1248.

#### **PUBLIC HEARING AND DELIBERATION**

The Planning Commission found that proper notification of the application and hearing was given. In accordance with the Annapolis City Code a public hearing was held and the public was invited to comment on the rezoning request. Additionally, the owner of the property and his agents made a presentation to the Planning Commission.

Upon the close of the public hearing the Planning Commission entered into deliberations. Based on the staff analysis, applicants' presentation and comments received from the public, the Commission found that the requisite findings were met. The Commission further found that the recommended code changes noted above were appropriate in furthering the normal and orderly development of the City and consistent with the Comprehensive Plan.

#### **RECOMMENDATION**

The Planning & Zoning Commission on July 21, 2011 by a vote of 6-0 held that the requirements of 21.34.040 have been met, that there has been a change in the social and economic character of the area that warrants approval of this request, and that the change in zoning classification will be compatible with current and proposed uses. The Commission by the same vote further recommends that the proposed code changes be enacted coincident with the zoning change.

Chair:



David DiQuinzio



City of Annapolis City Council  
Standing Committee Referral Action Report

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Date: 5/31/12

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

The Economic Matters Committee has reviewed B-52-11 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. Pfeiffer Yes

Meeting Date 5/31/12 Signature of Chair Richard M. Paone



City of Annapolis City Council  
Standing Committee Referral Action Report

Date: 5/31/12

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

The Rules and City Government Committee has reviewed 0-52-11 and  
has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other

Comments:

Roll Call Vote:

Ald. Israel, Chair Yes

Ald. Hoyle NO

Ald. Arnett Yes

Meeting Date 5/31/12

Signature of Chair Alderman Israel (for) th



City of Annapolis City Council  
Committee & Commission Referral Action Report

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Date: January 5, 2012

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

The Maritime Advisory Board has reviewed O-52-11, rezoning of Parcels 1244 and 1255 (Chandler, LLC) and has taken the following action:

Favorable

Favorable with amendments

Unfavorable (7-3)

No Action

Other

Comments:

The Board again recognized that substantive inconsistencies exist between the 4 maritime zoning districts which demonstrate the need for a comprehensive, not piecemeal, review of those zoning districts. Such a comprehensive review was recommended by the 1996 Comprehensive Plan<sup>1</sup> but not implemented. In the 2009 Comprehensive Plan, the Planning Commission and City Council in Land Use and Economic Development Policy 7 (p. 36) stated:

Acknowledging the importance of the Maritime Industry to Annapolis' character, identity and economy, strive to ensure the Maritime Industry's sustained health and viability.

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<sup>1</sup> 7C-3, page 59: "Maintain The Existing Maritime Zones And Evaluate Whether Any Changes Are Needed To Strengthen The Maritime Industry"; [T]he existing maritime zones could be evaluated to identify whether any adjustments should be made to enhance maritime businesses without altering the intent of the zoning."

Piecemeal elimination of maritime zoning, particularly where it is directed to single properties, is inconsistent with the mandates of the Comprehensive Plan and adversely affects the "character, identity and economy" of Annapolis.

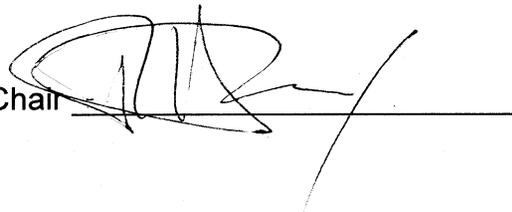
The Board also notes that Policy 6 of the 2009 Comprehensive Plan notes that a plan for the future of City Dock "must be developed with broad participation by the entire community". The City Dock Advisory Committee has not completed its recommendations and there is an on-going study of the Compromise Street corridor. Zoning changes to properties located along Compromise Street, and in the City Dock area, should only be done in conjunction with the implementation of broader plans for Compromise Street and the City Dock area.

The City must continue to act to preserve and promote the maritime industry, and the City's maritime character, so that it does not die by attrition. Accordingly, any change in the zoning (or a zoning text amendment) that affects properties in the maritime zones should only be undertaken in connection with a comprehensive review. The Board recommends that the appropriate City agencies commence that review within the next 120 days and make recommendations based upon that review to the Planning Commission and City Council within 180 days thereafter. Piecemeal changes should not be undertaken or approved.

cc: Members, Maritime Advisory Board

Legislative Referral - O-51-11 (Chandler rezoning)

Meeting Date: December 20, 2011      Signature of Chair

A handwritten signature in black ink, appearing to be "D. R. ...", is written over a horizontal line. The signature is stylized and somewhat illegible.

## FISCAL IMPACT NOTE

**Legislation No:** O-52-11

**First Reader Date:** 11-14-11

**Note Date:** 11-27-11

**Legislation Title:** **Rezoning Parcels 1244 and 1255, Grid 20, Tax Map 52A**

### **Description:**

For the purpose of rezoning parcels 1244 and 1255, Grid 20, Tax Map 52A

### **Analysis of Fiscal Impact:**

This legislation changes the zoning for this vacant commercial property, currently zoned Waterfront Maritime Conservation, to C2, " Conservation Business" Zoning District. The effect of the zoning change will allow non-maritime use of the property. According to the report and recommendations of the Planning Commission, the zoning change is not discordant with the general commercial tenor of the area and most users of the area are not arriving there with the intention of purchasing maritime-related goods. While the legislation produces no significant direct fiscal impact, by adding to potential uses, the City's tax base could increase, thereby increasing tax revenues.

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**CITY COUNCIL OF THE  
City of Annapolis**

**Ordinance No. O-33-12**

**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
9/10/12			12/7/12
Referred to	Referral Date	Meeting Date	Action Taken
Housing and Human Welfare	9/10/12		
Economic Matters	9/10/12		

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**AN ORDINANCE** concerning

**Modifications to City Code on Refuse and Recycling Services**

**FOR** the purpose of modifying the City Code related to the City of Annapolis' provision of refuse and recycling services.

**BY** repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2011 Edition  
Chapter 10.16  
Section 17.40.265  
Section 17.40.740

**BY** repealing the following portions of the Code of the City of Annapolis, 2011 Edition  
Chapter 10.18

**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 10.16 – [GARBAGE AND REFUSE] SOLID WASTE**

**Article I - General Provisions**

**10.16.005 - Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- A. ["Ashes" means the residue from the burning of wood, coal, coke or other combustible materials.] "APPROVED REFUSE CONTAINER" MEANS A CONTAINER MEETING THE REQUIREMENTS OF SECTION 10.16.030 AND USED FOR HOLDING

1 SOLID WASTE.

2 B. "BULK ITEMS" MEANS HOUSEHOLD ITEMS SUCH AS SOFAS, CHAIRS, TABLES,  
3 TOILETS, KITCHEN CABINETS, CARPETING, MATTRESSES, BOX SPRINGS,  
4 DRESSERS, LARGE TELEVISIONS, AND PICNIC TABLES. APPLIANCES AND METAL  
5 ITEMS SUCH AS BED FRAMES, REFRIGERATORS, STOVES, AND DISHWASHERS  
6 AND METAL OBJECTS OVER THREE FEET IN LENGTH OR WEIGHING MORE THAN  
7 20 POUNDS EACH ARE ALSO BULK ITEMS. BULK ITEMS SHALL NOT INCLUDE  
8 MATERIALS THAT ARE COLLECTED IN THE RECYCLING PROGRAM OR  
9 CONSTRUCTION MATERIAL/ REMODELING DEMOLITION DEBRIS.

10 C. "COMMERCIAL" MEANS OCCUPIED WITH OR ENGAGED IN COMMERCE OR  
11 WORK INTENDED FOR COMMERCE, INCLUDING NON-PROFIT AND RELIGIOUS  
12 ORGANIZATIONS.

13 D. "COMMINGLED" MEANS THAT PAPER, GLASS, PLASTIC, AND CANS MAY BE  
14 PLACED IN THE SAME CONTAINER.

15 [B] E. "Dead animals" means small dead animals, not exceeding [seventy] FIFTY pounds  
16 each in weight, which die in the normal course of community activity, and excluding  
17 condemned animals, animals from slaughterhouses and other animals normally  
18 considered as industrial refuse.

19 F. "DISPOSITION" MEANS THE TRANSPORTATION, PLACEMENT, OR  
20 ARRANGEMENT OF RECYCLABLE MATERIALS FOR ALL POSSIBLE END USES  
21 EXCEPT DISPOSAL AS REFUSE.

22 [C. "Garbage" means putrescible animal and vegetable wastes resulting from the  
23 handling, preparation, cooking or consumption of foods.]

24 G. "GENERATOR" MEANS THE LANDLORD OR MANAGEMENT COMPANY  
25 RESPONSIBLE FOR REMOVAL OF SOLID WASTE.

26 H. "GLASS" MEANS CLEAR AND COLORED GLASS BOTTLES AND CONTAINERS.  
27 GLASS SHALL NOT INCLUDE CRYSTAL, CERAMICS, LIGHT BULBS, PLATE  
28 WINDOWS, OR LAMINATED, WIRED, OR MIRRORING GLASS.

29 I. "MULTI-UNIT COMMUNITY" MEANS TEN OR MORE APARTMENTS,  
30 TOWNHOUSES OR CONDOMINIUMS LOCATED ON A SINGLE PROPERTY OR  
31 CONTIGUOUS PROPERTIES UNDER COMMON OWNERSHIP OR MANAGEMENT,  
32 INCLUDING PUBLIC-ASSISTED HOUSING. FOR THIS PURPOSE, "UNIT" MEANS AN  
33 ENCLOSED SPACE THAT CONSISTS OF ONE OR MORE ROOMS OCCUPYING ALL  
34 OR PART OF A FLOOR OR FLOORS IN A BUILDING OF ONE OR MORE FLOORS OR  
35 STORIES, BUT NOT THE ENTIRE BUILDING, AND THAT IS DESIGNED FOR USE AS A  
36 SINGLE RESIDENCE.

37 J. "PERSON" MEANS ANY INDIVIDUAL, FIRM, PARTNERSHIP, CORPORATION,  
38 ASSOCIATION, COOPERATIVE ENTERPRISE, TRUST, MUNICIPAL AUTHORITY,  
39 FEDERAL INSTITUTION OR AGENCY, STATE INSTITUTION OR AGENCY,  
40 MUNICIPALITY, OTHER GOVERNMENTAL AGENCY OR ANY OTHER ENTITY OR ANY  
41 GROUP OF SUCH PERSONS WHICH IS RECOGNIZED BY LAW AS THE SUBJECT OF  
42 RIGHTS AND DUTIES. IN ANY PROVISIONS OF THIS CHAPTER PRESCRIBING A  
43 FINE, PENALTY, OR IMPRISONMENT, THE TERM "PERSON" INCLUDES THE

1 OFFICERS AND DIRECTORS OF A CORPORATION OR OTHER LEGAL ENTITY  
2 HAVING OFFICERS AND DIRECTORS.

3 K. "PLASTIC" MEANS ITEMS MADE FROM MOLDABLE SYNTHETIC, NATURAL, OR  
4 ORGANIC MATERIALS AND FORMED INTO SHAPES, FURNITURE, TOYS, ETC.

5 L. "RECYCLABLE MATERIALS" MEANS THE FOLLOWING MATERIALS AND ANY  
6 FUTURE MATERIALS THAT HAVE A USEFUL PHYSICAL OR CHEMICAL PROPERTY  
7 INCLUDING, BUT NOT LIMITED, TO: NEWSPAPERS, MAGAZINES AND CATALOGS;  
8 BOOKS; CARDBOARD AND PAPER BOXES; FILE FOLDERS; PACKING PAPER;  
9 COLORED PAPER; WRAPPING PAPER; PIZZA BOXES; CORRUGATED BOXES;  
10 COMPUTER PRINTOUTS; OFFICE PAPERS; ENVELOPES; PAPER BAGS;  
11 TELEPHONE BOOKS; JUNK MAIL; ALUMINUM; GLASS BOTTLES; JARS; STEEL AND  
12 FERROUS CANS; AND CONTAINERS INCLUDING AEROSOL CANS, HDPE- NATURAL  
13 AND HDPE- COLORED, PET- HIGH GRADE. THE CITY WILL ENCOURAGE THE  
14 RECYCLING OF OTHER MATERIALS AS MARKETS DEVELOP AS DETERMINED BY  
15 THE DIRECTOR OF PUBLIC WORKS.

16 M. "RECYCLING" MEANS ANY PROCESS BY WHICH MATERIALS ARE COLLECTED,  
17 SEPARATED OR PROCESSED, AND RETURNED TO THE ECONOMIC MAINSTREAM  
18 IN THE FORM OF RAW MATERIALS OR PRODUCTS.

19 [D] N."Refuse" means all solid waste materials including garbage, [rubbish and ashes,]  
20 dead animals, street cleanings and solid market and industrial wastes, but not human  
21 excreta or building construction wastes.

22 O. "RESIDENTIAL" MEANS USED OR DESIGNED FOR RESIDENCE OR LIMITED TO  
23 RESIDENCES.

24 [E. "Rubbish" means nonputrescible solid wastes, excluding ashes, consisting of paper,  
25 cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, metals and similar  
26 materials. It also includes tree trimmings, yard and street sweepings and weeds.]

27 P. "SOLID WASTE" MEANS REFUSE, RECYCLABLES, YARD WASTE, AND OTHER  
28 WASTE MATTER, NOT TO INCLUDE EXPLOSIVES, POISONS, CORROSIVES,  
29 FLAMMABLE LIQUIDS, HOT ASHES AND COALS, MEDICAL WASTE, OR OTHER  
30 SIMILAR HAZARDOUS MATERIALS AND WASTES.

31 [F] Q."Wastes" means all unwanted materials, including liquid and solid materials.

32 R. "WASTE MINIMIZATION" MEANS THE VOLUNTARY REDUCTION BY THE  
33 CONSUMER OF THE VOLUME OF REFUSE ENTERING THE SOLID WASTE STREAM.

34 S. "YARD TRIMMINGS" MEANS GRASS CLIPPINGS, WEEDS, DISCARDED PLANTS,  
35 LEAVES, BRANCHES, BRUSH, AND TREE WOOD WASTE UP TO FOUR INCHES IN  
36 DIAMETER AND NO LONGER THAN FOUR FEET IN LENGTH.

37

38 **10.16.010 – CURBSIDE PLACING AND REMOVAL OF APPROVED REFUSE CONTAINERS**

39 APPROVED REFUSE CONTAINERS SHALL BE PLACED CURBSIDE BY 6:00 A.M. ON THE  
40 SCHEDULED COLLECTION DAY. RESIDENTS SHALL PLACE MATERIALS TO BE

1 COLLECTED IN AN APPROVED REFUSE CONTAINER OR PACKAGED AS OTHERWISE  
2 PERMITTED IN THIS SECTION AT THE CURB NO EARLIER THAN 6:00 P.M. PRECEDING  
3 THE SCHEDULED COLLECTION DAY. APPROVED REFUSE CONTAINERS SHALL BE BE  
4 REMOVED FROM THE SIDEWALK NO LATER THAN 12:00 A..M. FOLLOWING THE  
5 SCHEDULED COLLECTION DAY. IN THE HISTORIC DISTRICT, AS DEFINED IN SECTION  
6 21.56.030, APPROVED REFUSE CONTAINERS MUST BE REMOVED FROM PUBLIC VIEW.

7  
8 **10.16.015 – SOLID WASTE CONTRACT**

9 A. NOTHING CONTAINED IN THIS CHAPTER SHALL BE CONSTRUED TO INTERFERE  
10 WITH OR IN ANY WAY MODIFY THE PROVISIONS OF ANY EXISTING CONTRACT WHICH  
11 IS IN FORCE IN THE CITY ON THE EFFECTIVE DATE OF THE ORDINANCE CODIFIED IN  
12 THIS CHAPTER.

13 B. NO RENEWAL OF ANY EXISTING SOLID WASTE COLLECTION CONTRACT UPON  
14 THE EXPIRATION OF THE ORIGINAL TERM AND NO NEW CONTRACT FOR THE  
15 COLLECTION, TRANSPORTATION, PROCESSING OR PURCHASE OF SOLID WASTE OR  
16 RECYCLABLES SHALL BE ENTERED INTO AFTER THE EFFECTIVE DATE OF THE  
17 ORDINANCE CODIFIED IN THIS CHAPTER, UNLESS SUCH RENEWAL OR SUCH  
18 CONTRACT CONFORMS TO THE REQUIREMENTS OF THIS CHAPTER.

19 C. FAILURE OF A SOLID WASTE CONTRACTOR TO CONFORM TO THE  
20 REQUIREMENTS OF THIS CHAPTER SHALL RESULT IN THE IMPOSITION OF A FINE  
21 AUTHORIZED BY RESOLUTION OF THE CITY COUNCIL.

22  
23 **10.16.017 [10.16.150] - Compliance with placement requirements.**

24 SOLID WASTE [Refuse, rubbish, ashes and other material] placed for collection in a manner  
25 which does not meet the requirements outlined in [Article II of] this chapter [shall] MAY not be  
26 collected AT THE DISCRETION OF THE DIRECTOR OF PUBLIC WORKS.

27  
28 **Article II – [Accumulation and Storage] RESIDENTIAL REFUSE**

29 **10.16.020 - Containers—Providing for collection.**

30 For [an] areaS in which the City provides refuse collection, the owner [or occupant of every  
31 premises] OF UNITS [who wishes to have refuse from that premises collected] shall provide  
32 APPROVED refuse containers FOR STORAGE OF SOLID WASTE BETWEEN COLLECTIONS  
33 [at a place convenient and satisfactory to the Director of Public Works]. ON THE DAY OF  
34 COLLECTION, REFUSE SHALL BE PLACED AT THE CURB OR A LOCATION APPROVED  
35 BY THE DIRECTOR OF PUBLIC WORKS. The provisions of this article govern refuse  
36 containers, their use and placement. [Refuse shall be collected solely from premises which have  
37 complied with these provisions.]

1 **10.16.030 - Containers—Specifications[—Placement].**  
2

3 A. THE OWNERS OF RESIDENTIAL UNITS SHALL BE RESPONSIBLE FOR ENSURING  
4 APPROVED REFUSE CONTAINERS ARE PROVIDED WITH SUFFICIENT VOLUME TO  
5 STORE ALL SOLID WASTE BETWEEN COLLECTIONS.  
6

7 B. REFUSE SHALL BE:  
8

- 9 1. PLACED IN PLASTIC BAGS WITH ALL OPENINGS SECURELY CLOSED, AND  
10 2. SHALL BE STORED IN APPROVED REFUSE CONTAINERS AT ALL TIMES.

11 C. APPROVED Refuse containers shall:

12 [A] 1. Be durable;

13 [B] 2. Be rust-resisting;

14 [C] 3. Be easily washable and nonabsorbent;

15 [D] 4. Be watertight;

16 [E] 5. Have TIGHT[close]-fitting covers OR LIDS [in place];

17 [F] 6. Have adequate handles;

18 [G] 7. Have a maximum capacity PER CONTAINER of thirty-two gallons;

19 8. BE CLEARLY MARKED WITH MINIMUM 3" HIGH NUMBERS AND LETTERS  
20 INDICATING THE ADDRESS OF THE UNIT FOR WHICH REFUSE IS BEING  
21 COLLECTED;

22 [J] 11. Not be sold or furnished by the City or by its employees.

23 [H. Be placed on the sidewalk no sooner than twelve hours preceding the scheduled time  
24 for collection; provided, that a commercial establishment shall not place its container on  
25 the sidewalk until it has closed for business preceding the collection;]

26 [I. Be removed from the sidewalk no later than twelve hours following the scheduled  
27 time for collection; and in the historic district as defined in Section 21.56.030, be removed  
28 from view from a public way; however, a commercial establishment which is open for  
29 business shall remove its containers immediately following collection;]

30  
31 **10.16.035 [10.16.040] - Containers—Use of another's.**

32 The owner or occupant of any premises which is entitled to refuse collection shall not place  
33 refuse from the premises in the containers of another premises or in public containers.

34 **[10.16.060 - Rubbish.]**

35 [Rubbish may be stored in containers with garbage. Bulky rubbish, not contaminated with  
36 putrescible organic matter, such as tree trimmings, weeds and large cardboard boxes shall be  
37 cut and tied securely in bundles not to exceed four feet in length nor fifty pounds in weight.

1 Leaves, weeds, grass, shrubbery trimmings and other garden cuttings may be stored in open  
2 containers or synthetic bags made for that purpose.]

3

4 **[10.16.070 - Ashes.]**

5 [All ashes shall be placed in metal containers with close-fitting covers supplied for this purpose  
6 by the householder. Ashes will not be removed when the receptacle is filled so full that it cannot  
7 be carried without spilling nor when the combined weight of container and contents exceeds  
8 seventy-five pounds. Ashes containing hot embers shall not be placed out for collection.]

9

10 **10.16.040 [10.16.080] - Dead animals.**

11 All small dead animals, such as rodents, birds and kittens, shall be wrapped securely and  
12 placed in containers as specified for REFUSE [garbage and rubbish]. Larger dead animals,  
13 such as dogs and cats, shall not be disposed of with REFUSE [garbage and rubbish] but shall  
14 be removed AND DISPOSED OF BY [the County Animal Control Agency, Society for  
15 Prevention of Cruelty to Animals or by] the ANIMAL owner.

16

17 **10.16.050 - Out-of-Area Collection**

18

- 19 A. THE DIRECTOR OF PUBLIC WORKS MAY HAVE SOLID WASTE COLLECTED BY CITY  
20 EMPLOYEES OR BY INDEPENDENT CONTRACTORS.  
21 B. RESIDENTS RESIDING AT THE END OF CITY STREETS THAT MAY BE IN ANNE  
22 ARUNDEL COUNTY, BUT NOT WITHIN THE CITY'S SERVICE AREA, MAY REQUEST IN  
23 WRITING TO BE SERVICED BY THE CITY OF ANNAPOLIS AND TO PAY THE SAME  
24 RATE AS A CITY RESIDENT, IF APPROVED, AT THE DISCRETION OF THE DIRECTOR  
25 OF PUBLIC WORKS.  
26 C. THE ANNE ARUNDEL COUNTY RESIDENTS REFERENCED IN SECTION 10.16.050B  
27 ARE REQUIRED TO MEET ALL RESIDENTIAL REQUIREMENTS CONTAINED IN THIS  
28 CODE, AND A MUNICIPAL CITATION MAY BE ISSUED FOR NON-COMPLIANCE. NON-  
29 COMPLIANCE MAY RESULT IN TERMINATION OF CITY OF ANNAPOLIS SOLID WASTE  
30 COLLECTION SERVICES.

31

32 **10.16.060 [10.16.160] - Dwelling units.**

33 A. For [garbage and] refuse collection from dwelling units within the City, an annual charge as  
34 established by resolution of the City Council per dwelling unit shall be collected by the Director  
35 of Finance. This charge shall be shown upon the quarterly water bill of the property owner and  
36 shall be a lien upon the property.

37 B. For the purposes of this section, every apartment and condominium unit shall be  
38 considered a separate dwelling unit, even though one building may contain more than one unit.

39 C. Owners or operators of apartment and condominium developments consisting of ten or  
40 more dwelling units under one ownership or management may elect to furnish their own  
41 [garbage and] refuse collection service, provided satisfactory evidence of service by a private  
42 commercial refuse collection firm is provided to the City as set forth in Section 10.16.225.

1 D. For buildings with both residential and commercial uses, the property owner may elect to  
2 consolidate residential and commercial refuse collection by a private commercial refuse hauler  
3 licensed to operate in the City of Annapolis[;], provided[,] satisfactory evidence of service by the  
4 private commercial refuse collection firm is provided to the City as set forth in Section  
5 10.16.225.

6 E. Buildings with residential uses THAT elect to furnish their own [garbage and] refuse  
7 collection service as described in this section shall also provide for their own residential  
8 recycling collection service as defined in Section 10.16.020, and shall provide the Department of  
9 Public Works with satisfactory evidence of such recycling service.

10

11 **10.16.070 [10.16.240] - Special home pickups.**

12 The Director of Public Works may designate certain days during the year as a free pickup period  
13 and no charges for refuse pickup shall be made during those designated days.

14

15 **10.16.080 [10.16.130] - Garbage/refuse violation.**

16 A person who violates Sections 10.16.020, 10.16.030, 10.16.0[40]35, [10.16.050] and 10.16.100  
17 of this article is guilty of a municipal infraction and is subject to a fine as established by  
18 resolution of the City Council [for each repeat or continuing violation].

19

20 **[10.16.090 - Removal of unsatisfactory containers.]**

21 [The Director of Public Works, upon notification to the owner or occupant of the premises, shall  
22 remove unsatisfactory storage containers from the premises of residences and establishments,  
23 public and private, when the containers do not meet the requirements outlined in this article.]

24

25 **Article III – REFUSE – GENERAL [Collection]**

26 **10.16.090 [10.16.040] - Containers—Use of another's.**

27 The owner or occupant of any premises which is entitled to refuse collection shall not place  
28 refuse from the premises in the containers of another premises or in public containers.

29

30 **10.16.095 – REFUSE [10.16.050 – Garbage]**

31 [Garbage] REFUSE shall be drained and wrapped before storage in a refuse container. The  
32 liquid portion of garbage shall be drained into the sanitary sewer.

33 **10.16.100 - Notice to remove refuse accumulations.**

34 The Director of Neighborhood and Environmental Programs from time to time shall visit and  
35 inspect all premises, yards and alleys, and where the director observes accumulations of  
36 [rubbish or] refuse, shall serve notice on the [tenants or] owners of the premises to remove the

1 accumulations. Any [tenant or] owner who fails to comply with the notice within [ten] SEVEN  
2 days from the time the notice is given is guilty of a municipal infraction and subject to a fine as  
3 established by resolution of the City Council.

4

5 **10.16.110 - Inspections—Right of entry.**

6 The Director of Neighborhood and Environmental Programs may enter all premises, other than  
7 the interior of dwellings, at all reasonable hours for the purpose of inspecti[on]NG [of] refuse  
8 storage facilities and adjoining resting places and harborages of insects and rodents, and to  
9 apply or require chemical treatment for the temporary control of insects and rodents.

10

11 **10.16.120 - Uncontained accumulations.**

12 [A. No person shall permit refuse, except bulky rubbish, to accumulate on any premises or  
13 vacant lot except in containers as specified in this article. All persons shall provide a sufficient  
14 number of proper containers to hold all refuse accumulating between collections.]

15 [B. Neither from building construction and repair nor any other wastes shall be allowed to  
16 accumulate on any premises or vacant lot to create potential mosquito breeding places.]

17 A. NO PERSON SHALL PERMIT SOLID WASTE TO ACCUMULATE ON ANY PROPERTY  
18 THEY OWN, OCCUPY, OR CONTROL OR VACANT LOT EXCEPT IN CONTAINERS AS  
19 SPECIFIED IN THIS CHAPTER.

20

21 **10.16.130 [10.16.140] - Required—City direction.**

22 SOLID WASTE [Garbage, rubbish and other refuse, as defined in this chapter,] shall be  
23 removed from dwelling units, business places and other buildings within the City under the  
24 direction of the Director of Public Works, in accordance with the rules and regulations  
25 established pursuant to this chapter.

26

27 **10.16.140 [10.16.190] - Rules and regulations.**

28 A. The Director of Public Works shall promulgate rules and regulations, which shall be  
29 effective upon approval by the City Council, governing the placing and removing of SOLID  
30 WASTE [refuse, garbage, rubbish and ashes], the amounts to be collected, and providing for  
31 the assessment of charges for hauling or disposing of SOLID WASTE [refuse, garbage, rubbish,  
32 ashes or waste matter,] over and above a fixed amount.

33 B. The Director of Public Works shall publish the rules and regulations in a newspaper  
34 published in the City in at least two issues of general circulation within a period of five days  
35 before the effective date of the rules and regulations.

36 C. The [d]Director OF PUBLIC WORKS shall not direct or authorize the collection of SOLID  
37 WASTE [refuse, garbage, ashes or rubbish] over and above the FIXED amounts set by the  
38 [d]Director until [such] THE REQUIRED fees or assessments are paid IN ACCORDANCE WITH

1 THE APPLICABLE [according to the] rules and regulations.

2

3 **10.16.150 – Reserved**

4

5 **10.16.160 [10.16.210] - Unauthorized tampering or collecting.**

6 No person shall tamper with, collect, transport through the streets or interfere with the contents  
7 of any receptacle containing REFUSE [garbage, rubbish or ashes] except employees of the  
8 City, CITY SOLID WASTE CONTRACTORS, or other designated City officials, or those persons  
9 to whom special permits have been granted as provided for in Section 10.16.225.

10

11 **Article IV – RESIDENTIAL RECYCLING**

12 **10.16.170 – RECYCLING PROGRAM.**

13 THE CITY OF ANNAPOLIS RECYCLING PROGRAM AS DESCRIBED HEREIN SHALL,  
14 INSOFAR AS POSSIBLE, MEET OR EXCEED THE SOLID WASTE REDUCTION GOALS AS  
15 STATED IN THE ANNE ARUNDEL COUNTY SOLID WASTE MANAGEMENT PLAN  
16 THROUGH CONCERTED APPLICATION OF THE PRINCIPALS OF RECYCLING AND  
17 WASTE MINIMIZATION.

18

19 **10.16.180 - ESTABLISHMENT OF RESIDENTIAL CURBSIDE RECYCLING PROGRAM.**

20 A. THERE IS ESTABLISHED WITHIN THE CITY OF ANNAPOLIS A RESIDENTIAL  
21 CURBSIDE RECYCLING PROGRAM FOR THE COLLECTION OF RECYCLABLE  
22 MATERIALS FROM ALL RESIDENTS OF THE CITY WHOSE SOLID WASTE IS COLLECTED  
23 BY OR ON BEHALF OF THE CITY.

24 B. COLLECTIONS OF RECYCLABLE MATERIALS PURSUANT TO THIS CHAPTER SHALL  
25 BE MADE EVERY WEEK EXCEPT IN CASES WHERE THE COLLECTION DAY FALLS UPON  
26 HOLIDAYS RECOGNIZED BY THE CITY. ALL COLLECTIONS SHALL OCCUR IN  
27 ACCORDANCE WITH THE SOLID WASTE/ RECYCLING SCHEDULE PUBLICLY  
28 ADVERTISED BY THE CITY.

29 C. ALL RESIDENTS OF THE CITY WITHIN THE AREA SERVICED BY THE CURBSIDE  
30 PROGRAM SHOULD PLACE ALL RECYCLABLES MATERIALS INTO A CITY RECYCLING  
31 CONTAINER AND PLACE THEM AT THE CURB FRONTING THEIR RESIDENCE IN THE  
32 MANNER DESIGNATED BY THIS CHAPTER AND ON THE DATE SPECIFIED FOR  
33 COLLECTION ON THE SCHEDULE PUBLISHED BY THE CITY.

34 D. RECYCLABLES MAY BE COMMINGLED INTO APPROVED CITY RECYCLING  
35 CONTAINERS. PAPER AND CARDBOARD SHALL BE PLACED IN THE RECYCLING BIN, IN  
36 PAPER BAGS, OR TIED INTO BUNDLES NOT TO EXCEED THIRTY-FIVE POUNDS IN  
37 WEIGHT NOR EXCEED ONE FOOT IN THICKNESS.

1 E. CONTAINERS PLACED IN THE RECYCLING CONTAINER SHALL CONTAIN FIVE  
2 PERCENT OR LESS FOOD CONTAMINATION.

3

4 **10.16.190 - UNLAWFUL ACTIVITIES—NUISANCE.**

5 A. IT SHALL BE UNLAWFUL FOR:

6 1. ANY PERSON, OTHER THAN THOSE PERSONS AUTHORIZED BY THE CITY, TO  
7 COLLECT ANY DESIGNATED RECYCLABLE WHICH HAS BEEN PLACED AT THE  
8 CURB FOR COLLECTION OR WITHIN A RECYCLING DROPOFF PURSUANT TO THIS  
9 CHAPTER;

10 2. ANY PERSON TO VIOLATE OR TO CAUSE OR TO ASSIST IN THE VIOLATION  
11 OF ANY PROVISION OF THIS CHAPTER OR ANY PROVISION OF THE CITY PLAN  
12 CONCERNING RECYCLING;

13 3. ANY PERSON TO HINDER, TO OBSTRUCT, TO PREVENT OR TO INTERFERE  
14 WITH THE CITY OR ANY OTHER AUTHORIZED PERSONS IN THE PERFORMANCE  
15 OF ANY DUTY UNDER THIS CHAPTER OR IN THE ENFORCEMENT OF THIS  
16 CHAPTER.

17

18 **10.16.200 - OTHER MEANS OF DISPOSAL.**

19 NOTWITHSTANDING ANYTHING TO THE CONTRARY, ANY RESIDENT OF THE CITY MAY  
20 DONATE OR SELL ANY RECYCLABLE TO ANY OTHER PERSON, WHETHER OPERATING  
21 FOR A PROFIT OR NOT FOR PROFIT; PROVIDED, HOWEVER, THAT THE PERSON  
22 RECEIVING THE RECYCLABLES SHALL NOT, UNDER ANY CIRCUMSTANCES, COLLECT  
23 THE DONATED OR SOLD MATERIAL FROM AN ESTABLISHED RECYCLING COLLECTION  
24 ROUTE OR FROM A RECYCLING DROPOFF WITHOUT PRIOR WRITTEN PERMISSION  
25 FROM THE CITY FOR SUCH COLLECTION.

26 ALL SOLID WASTE OR RECYCLING ITEMS ARE THE PROPERTY OF THE CITY OF  
27 ANNAPOLIS ONCE PLACED AT THE CURB FOR COLLECTION. UNAUTHORIZED  
28 REMOVAL OF SOLID WASTE OR RECYCLING ITEMS CONSTITUTES A MUNICIPAL  
29 INFRACTION SUBJECT TO A FINE AUTHORIZED BY RESOLUTION OF THE CITY  
30 COUNCIL.

31

**ARTICLE V – RESIDENTIAL YARD TRIMMINGS**

32 **10.16.210 - ESTABLISHMENT OF A RESIDENTIAL CURBSIDE YARD TRIMMING**  
33 **RECYCLING PROGRAM.**

34 A. THERE IS ESTABLISHED WITHIN THE CITY OF ANNAPOLIS A RESIDENTIAL  
35 CURBSIDE YARD TRIMMING RECYCLING PROGRAM FOR THE COLLECTION OF YARD  
36 TRIMMINGS FROM ALL RESIDENTS OF THE CITY WHOSE SOLID WASTE IS COLLECTED  
37 BY OR ON BEHALF OF THE CITY.

38 B. COLLECTIONS OF YARD TRIMMINGS PURSUANT TO THIS CHAPTER SHALL BE  
39 MADE EVERY WEEK IN ACCORDANCE WITH THE SOLID WASTE/RECYCLING SCHEDULE

1 PUBLICLY ADVERTISED BY THE DIRECTOR OF PUBLIC WORKS.

2 C. ALL RESIDENTS OF THE CITY WITHIN THE AREA SERVICED BY THE CURBSIDE  
3 PROGRAM SHOULD PLACE ALL YARD TRIMMINGS INTO A CONTAINER AND PLACE  
4 THEM AT THE CURB FRONTING THEIR RESIDENCE IN THE MANNER DESIGNATED BY  
5 THIS CHAPTER AND ON THE DATE SPECIFIED FOR COLLECTION BY THE SCHEDULE  
6 PUBLISHED BY THE DIRECTOR OF PUBLIC WORKS.

7 D. YARD TRIMMINGS SHALL BE PLACED IN OPEN CONTAINERS, PLASTIC OR PAPER  
8 LAWN BAGS CLEARLY MARKED WITH AN "X". EACH CONTAINER SHALL NOT EXCEED  
9 FIFTY POUNDS IN WEIGHT.

10 E. BRANCHES AND BRUSH SHALL BE TIED WITH A NATURAL FIBER ROPE OR TWINE,  
11 AND THE FINISHED BUNDLE SHALL BE NO MORE THAN TWO FEET BY FOUR FEET IN  
12 SIZE, NOT EXCEED FIFTY POUNDS IN WEIGHT.

13 F. YARD TRIMMINGS SHALL NOT BE COLLECTED AS SOLID WASTE FOR DISPOSAL IN  
14 A LANDFILL.

15 **ARTICLE VI – COMMERCIAL REFUSE**

16 **10.16.220 [10.16.170] - Commercial establishments—Private collection.**

17 A. Municipal collection of refuse shall not be provided to commercial establishments or  
18 businesses within the City.

19 B. All commercial establishments or businesses within the City shall receive refuse collection  
20 from a [licensed] CITY-PERMITTED private commercial refuse collection firm.

21 C. The owner of each commercial establishment or business within the City shall notify the  
22 Department of Public Works not later than December 1st of each year, WITH the name and  
23 address of the firm, a complete description of services, the terms of the services and a copy of  
24 the contract for private refuse collection for the following year.

25 D. THE OWNER OF EACH COMMERCIAL ESTABLISHMENT OR BUSINESS WITHIN THE  
26 CITY SHALL PROVIDE SUFFICIENT SOLID WASTE CONTAINER STORAGE CAPACITY  
27 SUCH THAT THE COVERS OF SAID CONTAINERS SHALL BE COMPLETELY AND FIRMLY  
28 CLOSED AT ALL TIMES.

29 E. COMMERCIAL SOLID WASTE SHALL NOT BE SET OUT FOR COLLECTION EARLIER  
30 THAN 11:00 P.M. THE NIGHT PRECEDING A SCHEDULED COLLECTION DAY. APPROVED  
31 REFUSE CONTAINERS FROM COMMERCIAL ESTABLISHMENTS SHALL BE REMOVED  
32 FROM PUBLIC VIEW IMMEDIATELY FOLLOWING COLLECTION.

33  
34 F. THE CITY HAS THE RIGHT TO ESTABLISH A SYSTEM OF FRANCHISING FOR  
35 COMMERCIAL ESTABLISHMENTS WITHIN THE CITY OF ANNAPOLIS. THE CITY, BY  
36 ADOPTING AN ORDINANCE, MAY ESTABLISH DESIGNATED FRANCHISE AREAS WITHIN  
37 THE CITY THROUGH A COMPETITIVE PROCUREMENT TO AWARD AN EXCLUSIVE  
38 FRANCHISE UNDER A FRANCHISE AGREEMENT TO ONE QUALIFIED ORGANIZATION  
39 FOR THE COLLECTION OF NON-HAZARDOUS WASTE FROM COMMERCIAL  
40 ESTABLISHMENTS IN THOSE AREAS. THE FRANCHISE COULD BE FOR ONLY REFUSE,

1 REFUSE AND RECYCLING, OR ONLY RECYCLING. THE CITY WOULD RESERVE THE  
2 RIGHT TO TERMINATE OR MODIFY THE PRIVATE HAULERS SOLID WASTE COLLECTION  
3 PERMIT, WITH A 30-DAY WRITTEN NOTICE, SHOULD THE CITY DECIDE TO FRANCHISE  
4 PRIVATE HAULERS.

5

6

7 **[10.16.180 - Commercial establishments—Private collection.]**

8

9 **10.16.225 [10.16.200] - Permits for private collectors.**

10 A. No person shall engage in the collection of SOLID WASTE [refuse and garbage] from  
11 homes or businesses without first having received a permit from the Director of Public Works.

12 B. Granting of the permit shall be contingent upon the approval of collection equipment and  
13 disposal methods by the Director of Public Works, who may revoke any permit for cause.

14 C. An annual fee as established by resolution of the City Council shall be paid to the Finance  
15 Director for each permit.

16

17 **10.16.230 [10.16.220] - Littering during removal.**

18 A. No person engaged in the removal of any SOLID WASTE [garbage and refuse] of the City  
19 SHALL negligently [shall] permit any paper or other article to drop or be blown from [refuse  
20 removal] COLLECTION VEHICLES [trucks]. Every load of SOLID WASTE [garbage or refuse  
21 dumped from any refuse removal truck, whether dumped without or within the City, shall be  
22 dumped, and light articles in the load covered,] SHALL BE COVERED so that paper or OTHER  
23 light articles cannot be blown into the streets, lanes or alleys or away from any landfill.

24 B. Any person who violates this section is guilty of a municipal infraction and is subject to a  
25 fine as established by resolution of the City Council.

26

27 **[10.16.230 - City landfill charges.]**

28 [A. Charges for refuse delivered to the City landfill shall be established by resolution of the  
29 City Council.]

30

31 **ARTICLE VII – COMMERCIAL RECYCLING**

32 **10.16.240 - COMMERCIAL RECYCLING.**

33 A. THE DIRECTOR OF PUBLIC WORKS SHALL ESTABLISH A VOLUNTARY CURBSIDE  
34 COLLECTION SERVICE FOR RECYCLABLES FROM PERSONS WHOSE PROPERTY IS  
35 NOT OTHERWISE SUPPLIED WITH CURBSIDE COLLECTION SERVICE. THE DIRECTOR

1 MAY SET REASONABLE CRITERIA FOR DETERMINING ELIGIBILITY FOR PARTICIPATION  
2 IN THE SERVICE FOR THOSE WHO OWN, OPERATE, OR CONTROL COMMERCIAL  
3 ESTABLISHMENTS.

4 B. THERE IS A SERVICE CHARGE, TO BE DETERMINED BY THE DIRECTOR OF PUBLIC  
5 WORKS, ON A PROPERTY-BY-PROPERTY BASIS BASED ON THE COST OF COLLECTION  
6 FROM THAT PROPERTY, TO BE CHARGED TO EACH PERSON THAT PARTICIPATES IN  
7 THE VOLUNTARY CURBSIDE COLLECTION PROGRAM.

8 C. AN AGREEMENT SHALL BE SIGNED WITH COMMERCIAL ESTABLISHMENTS  
9 SEEKING VOLUNTARY COLLECTION SERVICE AND THE DIRECTOR OF PUBLIC WORKS  
10 SHALL BE RESPONSIBLE FOR ENFORCING SUCH AGREEMENTS.

11

12

## ARTICLE VIII – MULTI-UNIT COMPLEX RECYCLING

13

### 10.16.250 - MULTI-UNIT COMMUNITY RECYCLING PROGRAM.

14 A. ALL PROPERTY OWNERS OF MULTI-UNIT COMPLEXES WITHIN THE CITY OF  
15 ANNAPOLIS THAT ARE NOT SERVED BY THE RESIDENTIAL CURBSIDE PROGRAM  
16 ESTABLISHED PURSUANT TO THIS CHAPTER SHALL ARRANGE FOR RECYCLING  
17 COLLECTION FOR THEIR RESIDENTS IN ACCORDANCE WITH THE CITY RESIDENTIAL  
18 CURBSIDE RECYCLING PROGRAM FOR RECYCLABLE MATERIALS AND YARD  
19 RECYCLABLE MATERIALS.

20 B. THE ARRANGEMENT FOR COLLECTION OF RECYCLABLE MATERIALS FOR  
21 DISPOSITION SHALL BE THE RESPONSIBILITY OF THE PERSON WHO GENERATED THE  
22 RECYCLABLES ("GENERATOR"). THE ARRANGEMENTS MAY INCLUDE, WITHOUT  
23 LIMITATION, DIRECT MARKETING OF RECYCLABLES, DELIVERY TO A MATERIALS  
24 RECOVERY FACILITY, CONTRACTS WITH SOLID WASTE COLLECTOR/HAULERS FOR  
25 SEPARATE COLLECTION OF ANY OR ALL DESIGNATED RECYCLABLES OR CONTRACTS  
26 WITH OTHER PERSONS FOR SEPARATE COLLECTION OF ANY OR ALL DESIGNATED  
27 RECYCLABLES.

28 C. EACH MULTI-UNIT COMPLEX SHALL REPORT TO THE CITY, ON A SEMI-ANNUAL  
29 BASIS, THE TOTAL WEIGHT OF RECYCLABLE MATERIALS THAT HAVE BEEN DIVERTED  
30 FROM THE SOLID WASTE STREAM, AND THE TOTAL ESTIMATED WEIGHT OF SOLID  
31 WASTE COLLECTED FROM EACH MULTI-UNIT COMMUNITY. REPORTING SCHEDULES  
32 AND FORMS SHALL BE PROVIDED BY THE CITY.

33 D. EACH MULTI-UNIT COMPLEX SHALL HAVE ESTABLISHED PROCEDURES FOR THE  
34 COLLECTION OF RECYCLABLES AS DESCRIBED HEREIN AND SHALL FILE THESE  
35 PROCEDURES WITH THE DEPARTMENT OF PUBLIC WORKS WITHIN 180 DAYS OF THE  
36 EFFECTIVE DATE OF THE ORDINANCE FOR EXISTING COMPLEXES OR AT THE TIME A  
37 USE AND OCCUPANCY PERMIT IS ISSUED FOR NEW COMPLEXES.

38 E. EACH MULTI-UNIT COMPLEX RECYCLING PROGRAM MUST BE APPROVED BY THE  
39 DEPARTMENT OF PUBLIC WORKS PRIOR TO IMPLEMENTATION. EACH RECYCLING  
40 PROGRAM SUBMITTED TO THE DEPARTMENT OF PUBLIC WORKS SHALL INCLUDE  
41 COPIES OF EXECUTED RECYCLING AND SOLID WASTE CONTRACTS (EXCLUDING

1 CONTRACT COSTS).

2 F. VIOLATIONS OF THIS SECTION SHALL CONSTITUTE A MUNICIPAL INFRACTION  
3 SUBJECT TO A FINE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL.

4 **Article IX [IV] - Enforcement**

5 **10.16.260 [10.16.250] - Responsibilities.**

6 The enforcement of [all] sections 10.16.030, 10.16.035, 10.16.080, 10.16.100, 10.16.110,  
7 10.16.120, 10.16.170, 10.16.180, 10.16.220D. and 10.16.220 E. of this chapter are [is] the  
8 responsibility of the Director of Neighborhood and Environmental Programs [with the advice and  
9 consultation of the Health Officer]. VIOLATIONS OF THIS SECTION SHALL CONSTITUTE A  
10 MUNICIPAL INFRACTION SUBJECT TO A FINE AUTHORIZED BY RESOLUTION OF THE  
11 CITY COUNCIL.

12

13 **10.16.270 [10.16.260] - Violation—Notice.**

14 Whenever the City determines that COMPLIANCE CANNOT OCCUR IMMEDIATELY AND  
15 TIME IS NEEDED TO COMPLY WITH THIS CHAPTER (I.E., INSUFFICIENT CONTAINERS  
16 FOR SOLID WASTE VOLUME GENERATED AND REMOVAL OF ACCUMULATED  
17 MATERIAL) [there are reasonable grounds to believe that there has been a violation of any of  
18 the provisions of this chapter,] the City shall give notice of the alleged violation to the person  
19 responsible for the violation, as provided in this section. The notice shall:

20 A. Be in writing;

21 B. Include a statement of the reason why it is being issued;

22 C. Allow a reasonable time for the performance of any act it requires;

23 D. Be served upon the owner or the agent of the owner [or the occupant] of the premises  
24 on which the alleged violation occurred. The notice has been properly served when a copy  
25 of it has been served personally, or in accordance with any other method authorized or  
26 required under the laws of the state;

27 E. Contain an outline of remedial action which, if taken, will effect compliance with the  
28 provisions of this chapter;

29 F. State that, unless conditions or practices described in the notice are corrected within  
30 the reasonable time specified in the notice, the person involved will be subject to the  
31 penalty provided for violations of this chapter.

32

33 **10.16.280 - PENALTIES**

34 A. ANY PERSON ENGAGING IN UNLAWFUL CONDUCT AS DEFINED IN THIS CHAPTER  
35 SHALL CONSTITUTE A MUNICIPAL INFRACTION AND IN PROCEEDING BEFORE A  
36 COURT OF COMPETENT JURISDICTION SHALL BE SUBJECT TO A FINE OF NOT MORE  
37 THAN ONE THOUSAND DOLLARS AND NOT LESS THAN TWENTY-FIVE DOLLARS.

1 B. EACH CONTINUING DAY OF VIOLATION OF THIS CHAPTER SHALL CONSTITUTE A  
2 SEPARATE OFFENSE.

3

4 **10.16.290 - INJUNCTIONS—CONCURRENT REMEDIES.**

5 A. IN ADDITION TO ANY OTHER REMEDY PROVIDED IN THIS CHAPTER, THE CITY  
6 MAY INSTITUTE A SUIT IN EQUITY WHERE UNLAWFUL CONDUCT OR PUBLIC  
7 NUISANCE EXISTS AS DEFINED IN THIS CHAPTER FOR AN INJUNCTION TO RESTRAIN A  
8 VIOLATION OF THIS CHAPTER. IN ADDITION TO AN INJUNCTION, THE COURT MAY  
9 IMPOSE PENALTIES AS AUTHORIZED BY SECTION 10.16.290.

10 B. THE PENALTIES AND REMEDIES PRESCRIBED BY THIS CHAPTER SHALL BE  
11 DEEMED CONCURRENT. THE EXISTENCE OR EXERCISE OF ANY REMEDY SHALL NOT  
12 PREVENT THE CITY FROM EXERCISING ANY OTHER REMEDY PROVIDED BY THIS  
13 CHAPTER OR OTHERWISE PROVIDED AT LAW OR EQUITY.

14

15 **[Chapter 10.18 - RECYCLING PROGRAM]**

16 **[10.18.010 - Definitions.]**

17 [As used in this chapter, the following definitions shall apply:]

18 [A. "Act" means the Maryland Recycling Act, as amended.]

19 [B. "Commingled" means that paper, glass, plastic, and cans may be placed in the same  
20 container.]

21 [C. "Disposition" means the transportation, placement, or arrangement of recyclable  
22 materials for all possible end uses except disposal as solid waste.]

23 [D. "Generator" means the landlord or management company responsible for removal of  
24 solid waste.]

25 [E. "Glass" means clear and colored glass bottles and containers. Caps and lids should  
26 be removed. Glass shall not include crystal, ceramics, light bulbs, and plate window,  
27 laminated, wired, or mirrored glass.]

28 [F. "Multi-unit community" means ten or more apartments, townhouses or condominiums  
29 located on a single property or contiguous properties under common ownership or  
30 management, including public-assisted housing. For this purpose, "unit" means an  
31 enclosed space that consists of one or more rooms occupying all or part of a floor or floors  
32 in a building of one or more floors or stories but not the entire building, and that is designed  
33 for use as a single residence.]

34 [G. "Person" means any individual, firm, partnership, corporation, association,  
35 cooperative enterprise, trust, municipal authority, Federal institution or agency, State  
36 institution or agency, municipality, other governmental agency or any other entity or any  
37 group of such persons which is recognized by law as the subject of rights and duties. In  
38 any provisions of this chapter prescribing a fine, penalty, or imprisonment, the term

1 "person" includes the officers and directors of a corporation or other legal entity having  
2 officers and directors.]

3 [H. "Plastic" means plastic containers with symbols #1 and #2 with narrow necks, #3, #4,  
4 #5, #6, #7 with narrow necks and screw tops. Recycling symbols are generally found on  
5 the bottom of containers in the triangle. Caps and lids should be removed.]

6 [I. "Recyclable materials" means the following materials and any future materials that  
7 have a useful physical or chemical properties included but not limited to: paper products  
8 which include newspaper, magazines and catalogs; books; cardboard and paper boxes;  
9 file folders, packing paper, colored paper, wrapping paper, pizza boxes, corrugated boxes;  
10 computer printouts; office papers and envelopes; paper bags; telephone books; junk mail;  
11 aluminum, glass bottles, and jars, steel and ferrous cans and containers including aerosol  
12 cans, HDPE- natural and HDPE- colored, PET- high grade. The City will encourage the  
13 recycling of other materials as markets develop as determined by the Department of Public  
14 Works Director.]

15 [J. "Recycling" means any process by which materials are collected, separated or  
16 processed, and returned to the economic mainstream in the form of raw materials or  
17 products.]

18 [K. "Waste minimization" means the voluntary reduction by the consumer of the volume  
19 of refuse entering the solid waste stream.]

20 [L. "Yard recyclable materials" means grass clippings, weeds and discarded plants,  
21 leaves, branches and brush, tree wood waste up to four inches in diameter and no longer  
22 than two feet in length.]

23

24 **[10.18.020 - Recycling program.]**

25 [The City of Annapolis recycling program as described herein shall, insofar as possible, meet or  
26 exceed the solid waste reduction goals as stated in the Anne Arundel County Solid Waste  
27 Management Plan through concerted application of the principals of recycling and waste  
28 minimization.]

29 **[10.18.030 - Establishment of residential curbside recycling program.]**

30 [A. There is established, within the City of Annapolis, a residential curbside recycling program  
31 for the collection of recyclable materials as stated above in Section 10.18.010(I) from all  
32 residents of the City whose solid waste is collected by or on behalf of the City.]

33 [B. Collections of recyclable materials pursuant to this chapter shall be made every week  
34 except in cases where the collection day falls upon holidays recognized by the City. All  
35 collections shall occur in accordance with the Solid Waste/ Recycling schedule publicly  
36 advertised by the City.]

37 [C. All residents of the City within the area serviced by the curbside program, established  
38 pursuant to this chapter, participating in the recycling program shall place all recyclables  
39 materials into a City recycling container and place them at the side of the road fronting their  
40 residence in the manner designated by this chapter and on the date specified for collection by  
41 the schedule published by the City.]

1 [D. No material shall be placed at the roadside earlier than the evening of the day preceding a  
2 scheduled collection day. Material must be placed at the roadside by six a.m. on the scheduled  
3 collection day.]

4 [E. Paper and cardboard shall be placed in the recycling bin, in paper bags, or tied into  
5 bundles not to exceed thirty-five pounds in weight nor exceed one foot in thickness.]

6 [F. Containers placed in the recycling container shall contain five percent or less food  
7 contamination.]

8

9 **[10.18.040 - Establishment of a residential curbside yard recycling program.]**

10 [A. There is established, within the City of Annapolis, a residential curbside yard recycling  
11 program for the collection of recyclable materials as stated above in Section 10.18.010(L) from  
12 all residents of the City whose solid waste is collected by or on behalf of the City.]

13 [B. Collections of recyclable materials pursuant to this chapter shall be made every other week  
14 in accordance with the Solid Waste/Recycling schedule publicly advertised by the City.]

15 [C. All residents of the City within the area serviced by the curbside program, established  
16 pursuant to this chapter, participating in the program shall place all yard recyclable materials  
17 into a container and place them at the side of the road fronting their residence in the manner  
18 designated by this chapter and on the date specified for collection by the schedule published by  
19 the City.]

20 [D. No material shall be placed at the roadside earlier than the evening of the day preceding a  
21 scheduled collection day. Material must be placed at the roadside by six a.m. on the scheduled  
22 collection day.]

23 [E. The container used for yard recyclable materials shall be placed in open containers, large  
24 paper lawn bags, or cardboard boxes clearly marked with an "X". Each container shall not to  
25 exceed fifty pounds in weight.]

26 [F. Branches and brush shall be tied with a natural fiber rope or twine, and the finished bundle  
27 shall be no more than two feet by four feet in size, not exceed fifty pounds in weight.]

28 [G. Yard recyclable materials shall not be collected as solid waste for disposal in a landfill.]

29

30 **[10.18.050 - Multi-unit community recycling program.]**

31 [A. All persons within the City who are residents of multi-unit communities and who are not  
32 served by the residential curbside program established pursuant to this chapter shall provide  
33 recycling collection in accordance with the City residential curbside recycling program:

34 1. Recyclable materials as stated in Section 10.18.030

35 2. Yard recyclable materials as stated in Section 10.18.040]

36 [B. The arrangement for collection of recyclable materials for disposition shall be the  
37 responsibility of the person who generated the recyclables ("generator"). The arrangements

1 may include, without limitation, direct marketing of recyclables, delivery to a materials recovery  
2 facility, contracts with solid waste collector/haulers for separate collection of any or all  
3 designated recyclables or contracts with other persons for separate collection of any or all  
4 designated recyclables.]

5 [C. Each multi-unit community shall report to the City, on a semi-annual basis, the total weight  
6 of each recyclable material that has been diverted from the solid waste stream, and the total  
7 estimated weight of solid waste collected from each multi-unit community. Reporting schedules  
8 and forms shall be provided by the City. Failure to report same shall result in revocation of the  
9 rental permit or fines as stated in Section 10.18.080]

10 [D. Each multi-unit community shall have established procedures for the collection of  
11 recyclables as described herein and shall file these procedures with the Department of Public  
12 Works within ninety days from August 8, 1994. Further, each multi-unit community shall  
13 implement the procedures for the collection of recyclables as described above within one  
14 hundred eighty days from August 8, 1994.]

15 [E. Each multi-unit community recycling program must be approved by the Department of  
16 Public Works prior to implementation. Each recycling program submitted to the Department of  
17 Public Works shall include copies of executed recycling and solid waste contracts (excluding  
18 contract costs).]

19

20 **[10.18.055 - Commercial recycling.]**

21 [A. The Director of Public Works shall establish a voluntary curbside collection service for  
22 recyclables from persons whose property is not supplied with curbside collection service, and  
23 may set reasonable criteria for determining eligibility for participation in the service.]

24 [B. There is a service charge, to be determined by the Director of Public Works on a property-  
25 by-property basis based on the cost of collection from that property, to be charged to each  
26 person that participates in the voluntary curbside collection program.]

27

28 **[10.18.060 - Unlawful activities—Nuisance.]**

29 [A. It shall be unlawful for:

30 1. Any person, other than those persons authorized, to collect any designated recyclable  
31 which has been placed at the roadside for collection or within a recycling dropoff pursuant  
32 to this chapter;

33 2. Any person to violate or to cause or to assist in the violation of any provision of this  
34 chapter or any provision of the City plan concerning recycling;

35 3. Any person to hinder, to obstruct, to prevent or to interfere with the City or any other  
36 authorized persons in the performance of any duty under this chapter or in the  
37 enforcement of this chapter;

38 4. Any multi-unit community subject to the terms of this chapter to not enact a plan for  
39 recycling.]

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**[10.18.070 - Other means of disposal.]**

[Notwithstanding anything to the contrary, any resident of the City may donate or sell any recyclable to any other person, whether operating for a profit or not for profit; provided, however, that the person receiving the recyclables shall not, under any circumstances, collect the donated or sold material from an established recycling collection route or from a recycling dropoff without prior written permission from the City for such collection.]

**[10.18.080 - Noninterference with existing contracts.]**

[A. Nothing contained in this chapter shall be construed to interfere with or in any way modify the provisions of any existing contract which is in force in the City on the effective date of the ordinance codified in this chapter.]

[B. No renewal of any existing solid waste/ recycling collection contract upon the expiration of the original term and no new contract for the collection, transportation, processing or purchase of solid waste or recyclables shall be entered into after the effective date of the ordinance codified in this chapter, unless such renewal or such contract shall conform to the requirements of this chapter. Failure of a contract to conform to the requirements of this chapter shall result in the cancellation or withdrawal of a property owner's residential rental license or the imposition of a fine pursuant to Section 10.18.080 of this chapter.]

**[10.18.090 - Penalties.]**

[A. Any person who engages in unlawful conduct as defined in this chapter shall, upon conviction, in a proceeding before a court of competent jurisdiction be sentenced to pay a fine of not more than one thousand dollars and not less than twenty-five dollars.]

[B. Each continuing day of violation of this chapter shall constitute a separate offense.]

**[10.18.100 - Injunctions—Concurrent remedies.]**

[A. In addition to any other remedy provided in this chapter, the City may institute a suit in equity where unlawful conduct or public nuisance exists as defined in this chapter for an injunction to restrain a violation of this chapter. In addition to an injunction, the court may impose penalties as authorized by Section 10.18.080]

[B. The penalties and remedies prescribed by this chapter shall be deemed concurrent. The existence or exercise of any remedy shall not prevent the City from exercising any other remedy provided by this chapter or otherwise provided at law or equity.]

**[10.18.110 - Enforcement.]**

[Enforcement and administration of this chapter shall be the responsibility of the Director of

1 Public Works.]

2

3 **[10.18.120 - Appeals.]**

4 [Any person aggrieved by the requirements of this chapter as enforced by the Director of Public  
5 Works may direct an appeal to the building Board of Appeals.]

6

7 **Chapter 17.40 – Residential Property Maintenance Code**

8 17.40.265 – Property Maintenance Code.

9

10 A. The International Property Maintenance Code, 2012 Edition, as published by the  
11 International Code Council, Inc., a copy of which is on file in the Department of Neighborhood  
12 and Environmental Programs, is adopted as the Property Maintenance Code of the City of  
13 Annapolis in the State of Maryland for the control of buildings and structures with the following  
14 amendments:

15

16 1. In Section 101.1 for "[NAME OF JURISDICTION]" insert "City of Annapolis"

17

18 2. In Section 103.5 for "[APPROPRIATE SCHEDULE]" insert "Fees established by  
19 resolution of the City Council"

20

21 3. In Section 304.14 for "[DATES IN TWO LOCATIONS]" insert "April 15th -  
22 October 31st"

23

24 4. In Section 602.3 for "[DATES IN TWO LOCATIONS]" insert "April 15th - October  
25 31st"

26

27 5. In Section 602.4 for "[DATES IN TWO LOCATIONS]" insert "April 15th - October  
28 31st"

29

30 6. Strike the entire Section 404.5 Overcrowding and substitute Section 17.40.460 of  
31 the Code of the City of Annapolis.

32

33 7. IN SECTION 308, ADD THE FOLLOWING SUBSECTION TO READ AS  
34 FOLLOWS:

35

36 **308.4 CITY REQUIREMENTS.** COMPLIANCE WITH CHAPTER 10.16 OF THE CODE  
37 OF THE CITY OF ANNAPOLIS SHALL ALSO BE REQUIRED. WHERE THERE IS A  
38 CONFLICT BETWEEN THE PROVISIONS OF THIS SECTION AND THE CODE OF  
39 THE CITY OF ANNAPOLIS, THE CODE OF THE CITY OF ANNAPOLIS SHALL TAKE  
40 PRECEDENCE.

41

42

43 17.40.740 - Rubbish and garbage disposal—Generally.

44

45 A. Every occupant of a dwelling or dwelling unit shall dispose of all rubbish, ashes,  
46 garbage, and other organic waste in a clean and sanitary manner by placing it in approved  
47 storage or disposal facilities which are safe and sanitary.

1  
2 B. THE OWNER OF A DWELLING OR DWELLING UNIT [Every occupant] shall provide  
3 [these] THE STORAGE OR DISPOSAL facilities for and within the dwelling unit and shall  
4 maintain them in a clean and sanitary manner.

5  
6 C. The owner [or operator] of a multifamily dwelling shall be responsible for the clean and  
7 sanitary maintenance of common storage or disposal facilities.

8  
9 D. The owner [or operator] shall be responsible further for placing out for collection all  
10 common garbage and rubbish containers, except where the facilities are for the sole use of an  
11 occupant, under which circumstances it is the responsibility of the occupant to place those  
12 containers out for collection.

13  
14 E. COMPLIANCE WITH CHAPTER 10.16 OF THE CODE OF THE CITY OF ANNAPOLIS  
15 SHALL ALSO BE REQUIRED.  
16

17  
18 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**  
19 **ANNAPOLIS CITY COUNCIL** that this Ordinance shall take effect from the date of its passage.

20  
21 **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

22  
23 ATTEST: THE ANNAPOLIS CITY COUNCIL

24  
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30  
\_\_\_\_\_  
Regina C. Watkins-Eldridge, MMC, City Clerk

BY \_\_\_\_\_  
Joshua J. Cohen, Mayor

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

**O-33-12**

**Modifications to City Code on Refuse and Recycling Services**

**Policy Report**

The proposed ordinance would modify the City Code related to the City of Annapolis' provision of refuse and recycling services. The proposed ordinance would 1) combine refuse and recycling under one solid waste chapter of the City Code, Chapter 10.16; 2) provide consistency with the forthcoming solid waste contract; 3) implement best practices; and 4) begin to clarify programmatic and enforcement responsibilities between the Departments of Public Works and Neighborhood and Environmental Programs.

Prepared by: Cindy Tait, Department of Public Works, [CLT@annapolis.gov](mailto:CLT@annapolis.gov) or (410) 263-7949 and Jessica Cowles, City of Annapolis Office of Law, [JCCowles@annapolis.gov](mailto:JCCowles@annapolis.gov) or (410) 263-1184.

**Amendment in the Nature of a Substitute  
Ordinance No. O-33-12**

**EXPLANATION**

CAPITAL LETTERS indicate matter added to existing law on first reader.  
[brackets] indicate matter stricken from existing law on first reader.  
Underlining and Red text indicates amendments from the first reader.

**AN ORDINANCE** concerning

**Modifications to City Code on Refuse and Recycling Services**

**FOR** the purpose of modifying the City Code related to the City of Annapolis' provision of refuse and recycling services.

**BY** repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 201112 Edition  
SECTION 2.25.030  
Chapter 10.16  
Section 17.40.265  
Section 17.40.740

**BY** repealing the following portions of the Code of the City of Annapolis, 20112 Edition  
CHAPTER 10.18

**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 2.25 – DEPARTMENT OF NEIGHBORHOOD AND ENVIRONMENTAL PROGRAMS**

**2.25.010 - Composition.**

The Department Of Neighborhood and Environmental Programs shall consist of the Director of Neighborhood and Environmental Programs and other officers and employees as may be provided by the City Council.

**2.25.020 - Director.**

The Director of Neighborhood and Environmental Programs, before entering on the discharge of the duties of office, shall take the oath prescribed in the Charter.

**2.25.030 - Director—Powers and duties.**

A. The Director of Neighborhood and Environmental Programs shall have the following powers and duties:

- 1 1. To regulate the building and rebuilding of structures and other improvements;
- 2 2. To regulate the use of certain structures for housing;
- 3 3. To regulate activities impacting upon the environment, urban forestry, sewer
- 4 pretreatment, critical areas and storm water management;
- 5 4. To enforce building and housing rules and regulations governing the improvement and
- 6 use of land and structures;
- 7 5. To enforce rules and regulations governing environmental protection, urban forestry,
- 8 sewer pretreatment and storm water management;
- 9 6. To enforce rules and regulations governing the licensing and operation of certain
- 10 contractors and businesses;
- 11 7. To enforce certain specified rules and regulations governing certain violations of the
- 12 Zoning Code and use of property;
- 13 8. TO ENFORCE RULES AND REGULATIONS SPECIFIED IN CHAPTER 10.16 OF THE
- 14 CITY CODE GOVERNING REFUSE, RECYCLABLE MATERIALS, AND SOLID
- 15 WASTE.
- 16 [8] 9. To educate and inform the public concerning environmental protection, urban
- 17 forestry, and related subjects.

18 B. The Director of Neighborhood and Environmental Programs shall have all the power  
19 and authority insofar as it relates to violations of law pertaining to the Department of  
20 Neighborhood and Environmental Programs and shall be authorized to take appropriate  
21 enforcement action with regard to all such violations.

## 22 CHAPTER 10.16 – [GARBAGE AND REFUSE] SOLID WASTE

### 23 Article I - General Provisions

#### 24 10.16.005 - Definitions

25 For the purposes of this chapter, the following words and phrases shall have the meanings  
26 respectively ascribed to them by this section:

27 A. ["Ashes" means the residue from the burning of wood, coal, coke or other  
28 combustible materials.] "APPROVED REFUSE CONTAINER" MEANS A CONTAINER  
29 MEETING THE REQUIREMENTS OF [SECTION 10.16.030] THIS CHAPTER AND USED  
30 FOR HOLDING SOLID WASTE.

31 B. "BULK ITEMS" MEANS HOUSEHOLD ITEMS SUCH AS SOFAS, CHAIRS, TABLES,  
32 TOILETS, KITCHEN CABINETS, CARPETING, MATTRESSES, BOX SPRINGS,  
33 DRESSERS, LARGE TELEVISIONS, AND PICNIC TABLES. APPLIANCES AND METAL  
34 ITEMS SUCH AS BED FRAMES, REFRIGERATORS, STOVES, AND DISHWASHERS  
35 AND METAL OBJECTS OVER THREE AND A HALF FEET IN LENGTH OR WEIGHING  
36 MORE THAN [20]35 POUNDS EACH ARE ALSO BULK ITEMS. BULK ITEMS SHALL  
37 NOT INCLUDE MATERIALS THAT ARE COLLECTED IN THE RECYCLING PROGRAM  
38 OR CONSTRUCTION MATERIAL/ REMODELING DEMOLITION DEBRIS.

39 C. "COMMERCIAL" MEANS OCCUPIED WITH OR ENGAGED IN COMMERCE OR

1 WORK INTENDED FOR COMMERCE, INCLUDING NON-PROFIT AND RELIGIOUS  
2 ORGANIZATIONS.

3 D. "COMMINGLED" MEANS THAT PAPER, GLASS, PLASTIC, AND CANS MAY BE  
4 PLACED IN THE SAME CONTAINER.

5 [B] E."Dead animal[s]" means small dead animals not exceeding seventy [FIFTY] pounds  
6 each in weight, which die in the normal course of community activity] THE CARCASS OR  
7 REMAINS OF ANY NONLIVING, NONHUMAN, VERTEBRATE CREATURE. IT DOES  
8 NOT INCLUDE A [and excluding] condemned animal[s], an animal from A  
9 slaughterhouse[s], and [other] ANY animal[s] normally considered as industrial refuse.

10 F. "DISPOSITION" MEANS THE TRANSPORTATION, PLACEMENT, OR  
11 ARRANGEMENT OF RECYCLABLE MATERIALS FOR ALL POSSIBLE END USES  
12 EXCEPT DISPOSAL AS REFUSE.

13 [C. "Garbage" means putrescible animal and vegetable wastes resulting from the  
14 handling, preparation, cooking or consumption of foods.]

15 G. "GENERATOR" MEANS THE LANDLORD OR MANAGEMENT COMPANY  
16 RESPONSIBLE FOR REMOVAL OF SOLID WASTE.

17 H. "GLASS" MEANS CLEAR AND COLORED GLASS BOTTLES AND CONTAINERS.  
18 GLASS SHALL NOT INCLUDE CRYSTAL, CERAMICS, LIGHT BULBS, PLATE  
19 WINDOWS, OR LAMINATED, WIRED, OR MIRRORED GLASS.

20 I. "MULTI-UNIT COMMUNITY" MEANS TEN OR MORE APARTMENTS,  
21 TOWNHOUSES OR CONDOMINIUMS LOCATED ON A SINGLE PROPERTY OR  
22 CONTIGUOUS PROPERTIES UNDER COMMON OWNERSHIP OR MANAGEMENT,  
23 INCLUDING PUBLIC-ASSISTED HOUSING. [FOR THIS PURPOSE.]

24 J. "PERSON" MEANS AN[Y] INDIVIDUAL, FIRM, PARTNERSHIP, CORPORATION,  
25 ASSOCIATION, COOPERATIVE ENTERPRISE, TRUST, MUNICIPAL AUTHORITY,  
26 FEDERAL INSTITUTION OR AGENCY, STATE INSTITUTION OR AGENCY,  
27 MUNICIPALITY, OTHER GOVERNMENTAL AGENCY OR ANY OTHER ENTITY OR ANY  
28 GROUP OF SUCH PERSONS WHICH IS RECOGNIZED BY LAW AS THE SUBJECT OF  
29 RIGHTS AND DUTIES. IN ANY PROVISIONS OF THIS CHAPTER PRESCRIBING A  
30 FINE, PENALTY, OR IMPRISONMENT, THE TERM "PERSON" INCLUDES THE  
31 OFFICERS AND DIRECTORS OF A CORPORATION OR OTHER LEGAL ENTITY  
32 HAVING OFFICERS AND DIRECTORS.

33 K. "PLASTIC" MEANS AN ITEM[S] MADE FROM MOLDABLE SYNTHETIC, NATURAL,  
34 OR ORGANIC MATERIALS AND FORMED INTO SHAPES [, FURNITURE, TOYS, ETC].

35 L. "RECYCLABLE MATERIALS" MEANS THE FOLLOWING MATERIALS AND ANY  
36 FUTURE MATERIALS THAT HAVE A USEFUL PHYSICAL OR CHEMICAL PROPERTY  
37 INCLUDING, BUT NOT LIMITED, TO: NEWSPAPERS, MAGAZINES AND CATALOGS;  
38 BOOKS; CARDBOARD AND PAPER BOXES; FILE FOLDERS; PACKING PAPER;  
39 COLORED PAPER; WRAPPING PAPER; PIZZA BOXES; CORRUGATED BOXES;  
40 COMPUTER PRINTOUTS; OFFICE PAPERS; ENVELOPES; PAPER BAGS;  
41 TELEPHONE BOOKS; JUNK MAIL; ALUMINUM; GLASS BOTTLES; JARS; STEEL AND  
42 FERROUS CANS; AND CONTAINERS INCLUDING AEROSOL CANS, HDPE- NATURAL  
43 AND HDPE- COLORED, PET- HIGH GRADE. [THE CITY WILL ENCOURAGE THE

1 RECYCLING OF OTHER MATERIALS AS MARKETS DEVELOP AS DETERMINED BY  
2 THE DIRECTOR OF PUBLIC WORKS].

3 M. "RECYCLING" MEANS ANY PROCESS BY WHICH MATERIALS THAT WOULD  
4 OTHERWISE BECOME SOLID WASTE ARE COLLECTED, SEPARATED OR  
5 PROCESSED, AND RETURNED TO THE ECONOMIC MAINSTREAM IN THE FORM OF  
6 RAW MATERIALS OR PRODUCTS.

7 [D]N. "Refuse" means all solid waste materials including garbage, [rubbish and ashes,]  
8 dead animals, street cleanings and solid market and industrial wastes, but not human  
9 excreta or building construction wastes.

10 O. "RESIDENTIAL" MEANS USED OR DESIGNED FOR SINGLE RESIDENCE OR  
11 LIMITED TO RESIDENCES, SINGLE OR MULTIFAMILY DWELLING UNITS.

12 [E. "Rubbish" means nonputrescible solid wastes, excluding ashes, consisting of paper,  
13 cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, metals and similar  
14 materials. It also includes tree trimmings, yard and street sweepings and weeds.]

15 P. "SOLID WASTE" MEANS REFUSE, RECYCLABLE[S], YARD WASTE, AND OTHER  
16 WASTE MATTER, NOT TO INCLUDE EXPLOSIVES, POISONS, CORROSIVES,  
17 FLAMMABLE LIQUIDS, HOT ASHES AND COALS, MEDICAL WASTE, OR OTHER  
18 SIMILAR HAZARDOUS MATERIALS AND WASTES.

19 Q. "UNIT" MEANS AN ENCLOSED SPACE THAT CONSISTS OF ONE OR MORE  
20 ROOMS OCCUPYING ALL OR PART OF A FLOOR OR FLOORS IN A BUILDING OF  
21 ONE OR MORE FLOORS OR STORIES, BUT NOT THE ENTIRE BUILDING, AND THAT  
22 IS DESIGNED FOR USE AS A SINGLE RESIDENCE.

23 [F] Q] R. "Wastes" means all unwanted materials, including liquid and solid materials.

24 R.S. "WASTE MINIMIZATION" MEANS THE VOLUNTARY REDUCTION BY THE  
25 CONSUMER OF THE VOLUME OF REFUSE ENTERING THE SOLID WASTE STREAM.

26 S.T. "YARD TRIMMINGS" MEANS GRASS CLIPPINGS, WEEDS, DISCARDED PLANTS,  
27 LEAVES, BRANCHES, BRUSH, AND TREE WOOD WASTE UP TO FOUR INCHES IN  
28 DIAMETER AND NO LONGER THAN FOUR FEET IN LENGTH.

29  
30 [10.16.010 – CURBSIDE PLACING AND REMOVAL OF APPROVED REFUSE  
31 CONTAINERS]

32 [APPROVED REFUSE CONTAINERS SHALL BE PLACED CURBSIDE BY 6:00 A.M. ON THE  
33 SCHEDULED COLLECTION DAY. RESIDENTS SHALL PLACE MATERIALS TO BE  
34 COLLECTED IN AN APPROVED REFUSE CONTAINER OR PACKAGED AS OTHERWISE  
35 PERMITTED IN THIS SECTION AT THE CURB NO EARLIER THAN 6:00 P.M. PRECEDING  
36 THE SCHEDULED COLLECTION DAY. APPROVED REFUSE CONTAINERS SHALL BE BE  
37 REMOVED FROM THE SIDEWALK NO LATER THAN 12:00 A.M. FOLLOWING THE  
38 SCHEDULED COLLECTION DAY. IN THE HISTORIC DISTRICT, AS DEFINED IN SECTION  
39 21.56.030, APPROVED REFUSE CONTAINERS MUST BE REMOVED FROM PUBLIC VIEW.]

1 **10.16.015 – SOLID WASTE CONTRACT**

2 A. NOTHING CONTAINED IN THIS CHAPTER SHALL BE CONSTRUED TO INTERFERE  
3 WITH OR IN ANY WAY MODIFY THE PROVISIONS OF ANY EXISTING CONTRACT WHICH  
4 IS IN FORCE IN THE CITY ON THE EFFECTIVE DATE OF THE ORDINANCE CODIFIED IN  
5 THIS CHAPTER.

6 B. NO RENEWAL OF ANY EXISTING SOLID WASTE COLLECTION CONTRACT UPON  
7 THE EXPIRATION OF THE ORIGINAL TERM AND NO NEW CONTRACT FOR THE  
8 COLLECTION, TRANSPORTATION, PROCESSING OR PURCHASE OF SOLID WASTE OR  
9 RECYCLABLES SHALL BE ENTERED INTO AFTER THE EFFECTIVE DATE OF THE  
10 ORDINANCE CODIFIED IN THIS CHAPTER, UNLESS SUCH RENEWAL OR SUCH  
11 CONTRACT CONFORMS TO THE REQUIREMENTS OF THIS CHAPTER.

12 C. FAILURE OF A SOLID WASTE CONTRACTOR TO CONFORM TO THE  
13 REQUIREMENTS OF THIS CHAPTER SHALL [RESULT IN THE IMPOSITION OF A FINE  
14 AUTHORIZED BY RESOLUTION OF THE CITY COUNCIL] RESULT IN A PENALTY FOR  
15 NON-PERFORMANCE AS INDICATED IN THE SOLID WASTE CONTRACT AND SHALL BE  
16 SUBJECT TO PENALTIES PUSUANT TO SECTION 10.16.280 OF THE CITY CODE.

17

18 **10.16.017 [10.16.150] - Compliance with placement requirements.**

19 SOLID WASTE [Refuse, rubbish, ashes and other material] placed for collection in a manner  
20 which does not meet the requirements outlined in [Article II of] this chapter [shall] MAY not be  
21 collected AT THE DISCRETION OF THE DIRECTOR OF PUBLIC WORKS.

22 **Article II – [Accumulation and Storage] RESIDENTIAL REFUSE**

23

24 **10.16.020 - Containers—Providing for collection.**

25 For [an] AN area S in which the City provides refuse collection, the owner [or occupant of every  
26 premises] OF UNITS [who wishes to have refuse from that premises collected] shall provide  
27 APPROVED refuse containers FOR STORAGE OF SOLID WASTE BETWEEN COLLECTIONS  
28 [at a place convenient and satisfactory to the Director of Public Works]. ON THE DAY OF  
29 COLLECTION, REFUSE SHALL BE PLACED AT THE CURB OR A LOCATION APPROVED  
30 BY THE DIRECTOR OF PUBLIC WORKS. The provisions of this article govern refuse  
31 containers, their use and placement. [Refuse shall be collected solely from premises which have  
32 complied with these provisions.]

33

34 **10.16.030] 10.16.025 - Containers—Specifications[—Placement].**

35

36 A. THE OWNERS OF RESIDENTIAL UNITS SHALL BE RESPONSIBLE FOR ENSURING  
37 APPROVED REFUSE CONTAINERS ARE PROVIDED WITH SUFFICIENT VOLUME TO  
38 STORE ALL SOLID WASTE BETWEEN COLLECTIONS.

39

40 B. REFUSE SHALL BE:

41

- 1 1. **BE** PLACED IN PLASTIC BAGS WITH ALL OPENINGS SECURELY CLOSED, AND
- 2 2. **BE** SHALL BE STORED IN APPROVED REFUSE CONTAINERS AT ALL TIMES.

3 C. APPROVED **[R]**refuse containers shall:

4 [A] 1. Be durable;

5 [B] 2. Be rust-resist**[ing]ANT**;

6 [C] 3. Be easily washable and nonabsorbent;

7 [D] 4. Be watertight;

8 [E] 5. Have **TIGHT [close]** -fitting covers OR LIDS [in place];

9 [F] 6. Have **[adequate] FUNCTIONAL** handles;

10 [G] 7. Have a maximum capacity of thirty-two gallons **[PER CONTAINER] OR AN**  
11 **APPROVED TRASH CART WITH AN ATTACHED LID AND HAVE A MAXIMUM**  
12 **CAPACITY OF 96 GALLONS.**

13 8. BE CLEARLY MARKED WITH MINIMUM 3" HIGH NUMBERS **[AND LETTERS]**  
14 INDICATING THE ADDRESS OF THE UNIT FOR WHICH REFUSE IS BEING  
15 COLLECTED;

16 [J] [11] 9. Not be sold or furnished by the City or by its employees.

17 [H. Be placed on the sidewalk no sooner than twelve hours preceding the scheduled time  
18 for collection; provided, that a commercial establishment shall not place its container on  
19 the sidewalk until it has closed for business preceding the collection;]

20 [I. Be removed from the sidewalk no later than twelve hours following the scheduled  
21 time for collection; and in the historic district as defined in Section 21.56.030, be removed  
22 from view from a public way; however, a commercial establishment which is open for  
23 business shall remove its containers immediately following collection;]

24

25 **10.16.030 – CURBSIDE PLACING AND REMOVAL OF APPROVED REFUSE CONTAINERS**

26 **APPROVED REFUSE CONTAINERS SHALL BE PLACED CURBSIDE BY 6:00 A.M. ON THE**  
27 **SCHEDULED COLLECTION DAY. RESIDENTS SHALL PLACE MATERIALS TO BE**  
28 **COLLECTED IN AN APPROVED REFUSE CONTAINER OR PACKAGED AS OTHERWISE**  
29 **PERMITTED IN THIS CHAPTER AT THE CURB NO EARLIER THAN 6:00 P.M. PRECEDING**  
30 **THE SCHEDULED COLLECTION DAY. APPROVED REFUSE CONTAINERS SHALL BE BE**  
31 **REMOVED FROM THE SIDEWALK NO LATER THAN 12:00 A.M. FOLLOWING THE**  
32 **SCHEDULED COLLECTION DAY. IN THE HISTORIC DISTRICT, AS DEFINED IN TITLE 21,**  
33 **APPROVED REFUSE CONTAINERS MUST BE REMOVED FROM PUBLIC VIEW.**

34

35 **10.16.035 [10.16.040] - Containers—[Use of another's] UNAUTHORIZED USE.**

36 The owner or occupant of any premises [which is entitled to refuse collection] shall not place

1 refuse from the premises in [the] containers [of another] DESIGNATED FOR ANOTHER  
2 premises or in public containers.

3 **[10.16.060 - Rubbish.]**

4 [Rubbish may be stored in containers with garbage. Bulky rubbish, not contaminated with  
5 putrescible organic matter, such as tree trimmings, weeds and large cardboard boxes shall be  
6 cut and tied securely in bundles not to exceed four feet in length nor fifty pounds in weight.  
7 Leaves, weeds, grass, shrubbery trimmings and other garden cuttings may be stored in open  
8 containers or synthetic bags made for that purpose.]

9

10 **[10.16.070 - Ashes.]**

11 [All ashes shall be placed in metal containers with close-fitting covers supplied for this purpose  
12 by the householder. Ashes will not be removed when the receptacle is filled so full that it cannot  
13 be carried without spilling nor when the combined weight of container and contents exceeds  
14 seventy-five pounds. Ashes containing hot embers shall not be placed out for collection.]

15

16 **10.16.040 [10.16.080] – Dead animals - DISPOSAL**

17 A. [All small dead animals] A DEAD ANIMAL WEIGHING LESS THAN TEN (10) POUNDS IN  
18 WEIGHT, such as rodents, birds and kittens, shall be wrapped securely and placed in  
19 containers as specified for REFUSE [garbage and rubbish]. [Larger dead animals] A DEAD  
20 ANIMAL EXCEEDING TEN (10) POUNDS IN WEIGHT, such as dogs and cats, shall not be  
21 disposed of with REFUSE [garbage and rubbish] but shall be removed AND DISPOSED OF IN  
22 A PROPER AND LAWFUL MANNER BY [the County Animal Control Agency, Society for  
23 Prevention of Cruelty to Animals or by] the OWNER OF THE ANIMAL [owner] OR THE OWNER  
24 OF THE PREMISES.

25 B. REMOVAL OF A DEAD ANIMAL IN THE PUBLIC RIGHT-OF-WAY SHALL BE THE  
26 RESPONSIBILITY OF THE DEPARTMENT OF PUBLIC WORKS.

27

28 **10.16.050 - Out-of-Area Collection**

29

30 [A. THE DIRECTOR OF PUBLIC WORKS MAY HAVE SOLID WASTE COLLECTED BY CITY  
31 EMPLOYEES OR BY INDEPENDENT CONTRACTORS.]

32

33 [B]A. [RESIDENTS RESIDING] OWNERS OF PROPERTY LOCATED AT THE END OF A CITY  
34 STREET[S] THAT MAY BE LOCATED IN ANNE ARUNDEL COUNTY, BUT NOT WITHIN THE  
35 CITY'S SERVICE AREA, MAY REQUEST IN WRITING TO BE SERVICED BY THE CITY OF  
36 ANNAPOLIS AND TO PAY THE SAME RATE AS A CITY RESIDENT, IF APPROVED [, AT] BY  
37 THE [DISCRETION OF] THE DIRECTOR OF PUBLIC WORKS.

38

39 [C]B. THE ANNE ARUNDEL COUNTY RESIDENTS REFERENCED IN SECTION 10.16.050B  
40 ARE REQUIRED TO MEET ALL RESIDENTIAL REQUIREMENTS CONTAINED IN THIS  
41 CODE [ , AND A MUNICIPAL CITATION MAY BE ISSUED FOR NON-COMPLIANCE]. NON-  
42 COMPLIANCE MAY RESULT IN TERMINATION OF CITY OF ANNAPOLIS SOLID WASTE  
43 COLLECTION SERVICES.

1 C. ANNE ARUNDEL COUNTY RESIDENTS REFERENCED IN SECTION 10.16.050B SHALL  
2 BE BILLED BY INVOICE ON A QUARTERLY BASIS BY THE DIRECTOR OF FINANCE.  
3 NON-COMPLIANCE OR FAILURE TO PAY FOR REFUSE SERVICES FOR DEWELLING  
4 UNITS OUTSIDE THE CITY LIMITS SHALL RESULT IN A LIEN ON THE PROPERTY.

5  
6 **10.16.060 [10.16.160] - Dwelling units AND MULTIFAMILY DWELLINGS.**

7 A. For [garbage and] refuse collection from dwelling units within the City, an annual charge as  
8 established by resolution of the City Council per dwelling unit shall be collected by the Director  
9 of Finance.

10 B. Th[is]E charge shall be shown upon the quarterly water bill of the property owner and  
11 NON-COMPLIANCE OR FAILURE TO PAY shall RESULT IN [be] a lien upon the property.

12 [B]C. For the purposes of this section, every apartment and condominium unit shall be  
13 considered a separate dwelling unit, even though one building may contain more than one unit.

14 [C] D. Owners or operators of apartment and condominium developments consisting of ten or  
15 more dwelling units under one ownership or management may elect to [furnish] RETAIN [their  
16 own] A PRIVATE [garbage and] refuse collection service LICENSED TO OPERATE IN THE  
17 CITY OF ANNAPOLIS, provided THAT satisfactory evidence of service by a private commercial  
18 refuse collection firm is provided to the City as set forth in Section 10.16.225.

19 [D. For buildings with both residential and commercial uses, the property owner may elect to  
20 consolidate residential and commercial refuse collection by a private commercial refuse hauler  
21 licensed to operate in the City of Annapolis provided, satisfactory evidence of service by the  
22 private commercial refuse collection firm is provided to the City as set forth in Section  
23 10.16.225.]

24 E. FOR [B]uildings with residential uses, PROPERTY OWNERS THAT elect to [furnish]  
25 RETAIN [their own] A PRIVATE [garbage and] refuse collection service SHALL CONTRACT  
26 ONLY WITH FIRMS LICENSED TO OPERATE IN THE CITY OF ANNAPOLIS AND, [as  
27 described in this section] shall also provide for their own residential recycling collection service  
28 as defined in Section 10.16.020, and shall provide the Department of Public Works with  
29 satisfactory evidence of such recycling service.

30  
31 **10.16.065 MIXED USE PROPERTIES**

32 FOR BUILDINGS WITH BOTH RESIDENTIAL AND COMMERCIAL USES, THE PROPERTY  
33 OWNER MAY ELECT TO CONSOLIDATE RESIDENTIAL AND COMMERCIAL REFUSE  
34 COLLECTION BY RETAINING A PRIVATE COMMERCIAL REFUSE COLLECTION SERVICE  
35 LICENSED TO OPERATE IN THE CITY OF ANNAPOLIS, PROVIDED SATISFACTORY  
36 EVIDENCE OF SERVICE BY THE PRIVATE COMMERCIAL REFUSE COLLECTION FIRM IS  
37 PROVIDED TO THE CITY AS SET FORTH IN SECTION 10.16.225 OF THE CITY CODE.

38  
39 **[10.16.070] [10.16.240] – [Special home pickups] RESERVED.**

40 [The Director of Public Works may designate certain days during the year as a free pickup

1 period and no charges for refuse pickup shall be made during those designated days.]

2  
3 **[10.16.080] [10.16.130] – [Garbage/refuse violation] RESERVED.**

4 [A person who violates Sections 10.16.020, 10.16.030, 10.16.0[40]35, [10.16.050] and  
5 10.16.100 of this article is guilty of a municipal infraction and is subject to a fine as established  
6 by resolution of the City Council [for each repeat or continuing violation].]

7  
8 **[10.16.090 - Removal of unsatisfactory containers.]**

9 [The Director of Public Works, upon notification to the owner or occupant of the premises, shall  
10 remove unsatisfactory storage containers from the premises of residences and establishments,  
11 public and private, when the containers do not meet the requirements outlined in this article.]

12  
13 **Article III – REFUSE – GENERAL [Collection]**

14 **[10.16.090] [10.16.040] - Containers—Use of another's.]**

15 [The owner or occupant of any premises which is entitled to refuse collection shall not place  
16 refuse from the premises in the containers of another premises or in public containers.]

17  
18 **10.16.090 – COLLECTION – GENERAL**

19  
20 **THE DIRECTOR OF PUBLIC WORKS MAY HAVE SOLID WASTE COLLECTED BY CITY**  
21 **EMPLOYEES OR BY INDEPENDENT CONTRACTORS.**

22  
23 **10.16.095– REFUSE [10.16.050-Garbage]**

24 [Garbage] REFUSE shall be drained and wrapped before storage in a refuse container. The  
25 liquid portion of garbage shall be drained into the sanitary sewer.

26  
27 **10.16.100 - Notice to remove refuse accumulations.**

28 The Director of Neighborhood and Environmental Programs [from time to time shall visit and]  
29 MAY inspect all premises, yards, and alleys[.], [and where] IF the director observes  
30 accumulations of [rubbish or] refuse, THE DIRECTOR shall serve notice on the [tenants or]  
31 owners of the premises to remove the REFUSE accumulations. Any [tenant or] owner [who fails  
32 to] MUST comply with the notice within [ten] SEVEN days from the [time the] DATE OF the  
33 notice [is given is guilty of a municipal infraction and subject to a fine as established by  
34 resolution of the City Council].

1 **10.16.110 - Inspections—Right of entry.**

2 The Director of Neighborhood and Environmental Programs may enter [all] premises, other than  
3 the interior of dwellings, [at all reasonable hours] WITH REASONABLE NOTICE TO THE  
4 PROPERTY OWNER for the purpose of inspecti[on]NG [of] refuse storage facilities and  
5 adjoining resting places and harborages of insects and rodents, and to apply or require  
6 chemical treatment for the temporary control of insects and rodents.

7

8 **10.16.120 - Uncontained accumulations.**

9 [A. No person shall permit refuse, except bulky rubbish, to accumulate on any premises or  
10 vacant lot except in containers as specified in this article. All persons shall provide a sufficient  
11 number of proper containers to hold all refuse accumulating between collections.]

12 [B. Neither from building construction and repair nor any other wastes shall be allowed to  
13 accumulate on any premises or vacant lot to create potential mosquito breeding places.]

14 [A.] NO PERSON SHALL PERMIT SOLID WASTE TO ACCUMULATE ON ANY PROPERTY  
15 OR VACANT LOT THEY OWN, OCCUPY, OR CONTROL [OR VACANT LOT] EXCEPT IN  
16 CONTAINERS AS SPECIFIED IN THIS CHAPTER.

17

18 **10.16.130 [10.16.140] - Required—City direction.**

19 SOLID WASTE [Garbage, rubbish and other refuse, as defined in this chapter,] shall be  
20 removed from dwelling units, business places and other buildings within the City under the  
21 direction of the Director of Public Works, in accordance with the rules and regulations  
22 established pursuant to this chapter.

23

24 **10.16.140 [10.16.190] - Rules and regulations.**

25 A. The Director of Public Works [shall] MAY promulgate rules and regulations NECESSARY  
26 FOR THE IMPLEMENTATION OF THIS CHAPTER, which shall be effective upon approval by  
27 the City Council, governing the plac[ing]EMENT and remov[ing]AL of SOLID WASTE [refuse,  
28 garbage, rubbish and ashes], the amounts to be collected, and providing for the assessment of  
29 charges for hauling or disposing of SOLID WASTE [refuse, garbage, rubbish, ashes or waste  
30 matter,] over and above a fixed amount.

31 B. The Director of Public Works shall publish the rules and regulations APPROVED BY THE  
32 CITY COUNCIL in a newspaper published in the City in at least two issues of general circulation  
33 within a period of five days before the effective date of the rules and regulations.

34 C. The [d]Director OF PUBLIC WORKS shall not direct or authorize the collection of SOLID  
35 WASTE [refuse, garbage, ashes or rubbish] over and above the FIXED amounts set by the  
36 [d]Director until [such] THE REQUIRED fees or assessments are paid IN ACCORDANCE WITH  
37 THE APPLICABLE [according to the] rules and regulations.

1 **10.16.150 – Reserved**

2

3 **10.16.160 [10.16.210] - Unauthorized tampering or collecting.**

4 No person shall tamper with, collect, transport through the streets or interfere with the contents  
5 of any receptacle containing REFUSE [garbage, rubbish or ashes] except employees of the  
6 City, CITY SOLID WASTE CONTRACTORS, or other designated City officials, or those persons  
7 to whom special permits have been granted as provided for in Section 10.16.225.

8

9 **Article IV – RESIDENTIAL RECYCLING**

10 **10.16.170 – RECYCLING PROGRAM.**

11 THE CITY OF ANNAPOLIS RECYCLING PROGRAM [AS DESCRIBED HEREIN] SHALL,  
12 [INsofar AS] TO THE EXTENT POSSIBLE, MEET OR EXCEED THE SOLID WASTE  
13 REDUCTION GOALS AS STATED IN THE ANNE ARUNDEL COUNTY SOLID WASTE  
14 MANAGEMENT PLAN THROUGH CONCERTED APPLICATION OF THE PRINCIPLES OF  
15 RECYCLING AND WASTE MINIMIZATION.

16

17 **10.16.180 - ESTABLISHMENT OF RESIDENTIAL CURBSIDE RECYCLING PROGRAM.**

18 A. THERE IS ESTABLISHED [WITHIN] BY THE CITY OF ANNAPOLIS A MANDATORY  
19 RESIDENTIAL CURBSIDE RECYCLING PROGRAM FOR THE COLLECTION OF  
20 RECYCLABLE MATERIALS FROM ALL RESIDENTS OF THE CITY WHOSE SOLID WASTE  
21 IS COLLECTED BY OR ON BEHALF OF THE CITY.

22 B. COLLECTIONS OF RECYCLABLE MATERIALS [PURSUANT TO THIS CHAPTER]  
23 SHALL BE MADE [EVERY] ONCE A WEEK EXCEPT IN CASES WHERE THE COLLECTION  
24 DAY FALLS UPON A HOLIDAY[S] RECOGNIZED BY THE CITY. ALL COLLECTIONS SHALL  
25 OCCUR IN ACCORDANCE WITH THE SOLID WASTE [I] OR RECYCLING SCHEDULE  
26 PUBLICLY ADVERTISED BY THE CITY.

27 C. ALL RESIDENTS OF THE CITY WITHIN THE AREA SERVICED BY THE CURBSIDE  
28 PROGRAM [SHOULD] SHALL PLACE ALL RECYCLABLE [S] MATERIALS INTO A CITY  
29 APPROVED RECYCLING CONTAINER WHICH THE RESIDENT OR OCCUPANT SHALL  
30 [AND] PLACE [THEM] AT THE CURB FRONTING THEIR RESIDENCE IN THE MANNER  
31 DESIGNATED BY THIS CHAPTER AND ON THE DATE SPECIFIED FOR COLLECTION ON  
32 THE SCHEDULE PUBLISHED BY THE CITY.

33 D. RECYCLABLE [S] MATERIALS MAY BE COMMINGLED INTO CITY APPROVED [CITY]  
34 RECYCLING CONTAINERS. PAPER AND CARDBOARD SHALL BE PLACED IN THE  
35 RECYCLING [BIN] CONTAINER, IN PAPER BAGS, OR TIED INTO BUNDLES NOT TO  
36 EXCEED THIRTY-FIVE POUNDS IN WEIGHT AND NO [RIT] EXCEED ONE FOOT IN  
37 THICKNESS.

38 [E. CONTAINERS PLACED IN THE RECYCLING CONTAINER SHALL CONTAIN FIVE  
39 PERCENT OR LESS FOOD CONTAMINATION.]

1 **10.16.190 - UNLAWFUL ACTIVITIES—NUISANCE.**

2 **[A.] IT SHALL BE UNLAWFUL FOR:**

3 1. ANY PERSON, OTHER THAN THOSE PERSONS AUTHORIZED BY THE CITY, TO  
4 COLLECT ANY [DESIGNATED] APPROVED RECYCLABLE MATERIALS WHICH [HAS]  
5 HAVE BEEN PLACED AT THE CURB FOR COLLECTION OR WITHIN A RECYCLING  
6 DROPOFF SITE PURSUANT TO THIS CHAPTER;

7 2. ANY PERSON TO VIOLATE OR TO CAUSE OR TO ASSIST IN THE VIOLATION  
8 OF ANY PROVISION OF THIS CHAPTER OR ANY PROVISION OF THE CITY PLAN  
9 CONCERNING RECYCLING;

10 3. ANY PERSON TO HINDER, [TO] OBSTRUCT, [TO] PREVENT, OR [TO]  
11 INTERFERE WITH THE CITY OR ANY OTHER AUTHORIZED PERSONS IN THE  
12 PERFORMANCE OF ANY DUTY UNDER THIS CHAPTER OR IN THE ENFORCEMENT  
13 OF THIS CHAPTER.

14

15 **10.16.200 - OTHER MEANS OF DISPOSAL.**

16 NOTWITHSTANDING ANYTHING TO THE CONTRARY ANY RESIDENT OF THE CITY MAY  
17 DONATE OR SELL ANY RECYCLABLE MATERIAL TO ANY OTHER PERSON, WHETHER  
18 OPERATING FOR [A] PROFIT OR NOT FOR PROFIT; [PROVIDED, HOWEVER, THAT THE]  
19 A PERSON RECEIVING THE RECYCLABLE[S] MATERIAL SHALL NOT, UNDER ANY  
20 CIRCUMSTANCES, COLLECT THE DONATED OR SOLD MATERIAL FROM AN  
21 ESTABLISHED RECYCLING COLLECTION ROUTE OR FROM A RECYCLING DROPOFF  
22 SITE WITHOUT PRIOR WRITTEN PERMISSION FROM THE CITY [FOR SUCH  
23 COLLECTION].

24 ALL SOLID WASTE OR [RECYCLING] RECYCLABLE [ITEMS] MATERIALS ARE THE  
25 PROPERTY OF THE CITY OF ANNAPOLIS ONCE [PLACED AT] COLLECTED FROM THE  
26 CURB SIDE BY AUTHORIZED CITY PERSONNEL. UNAUTHORIZED REMOVAL OF SOLID  
27 WASTE OR [RECYCLING] RECYCLABLE [ITEMS] MATERIALS PLACED AT THE CURB FOR  
28 COLLECTION CONSTITUTES A MUNICIPAL INFRACTION SUBJECT TO A FINE  
29 AUTHORIZED BY RESOLUTION OF THE CITY COUNCIL.

30 **ARTICLE V – RESIDENTIAL YARD TRIMMINGS**

31 **10.16.210 - ESTABLISHMENT OF A RESIDENTIAL CURBSIDE YARD TRIMMING**  
32 **RECYCLING PROGRAM.**

33 A. THERE IS ESTABLISHED [WITHIN] BY THE CITY OF ANNAPOLIS A RESIDENTIAL  
34 CURBSIDE YARD TRIMMING RECYCLING PROGRAM FOR THE COLLECTION OF YARD  
35 TRIMMINGS FROM ALL RESIDENTS OF THE CITY [WHOSE] RECEIVING SOLID WASTE [IS  
36 COLLECTED] COLLECTION SERVICES BY OR ON BEHALF OF THE CITY.

37 B. COLLECTIONS OF YARD TRIMMINGS PURSUANT TO THIS CHAPTER SHALL BE  
38 MADE EVERY WEEK IN ACCORDANCE WITH THE SOLID WASTE/RECYCLING SCHEDULE  
39 [PUBLICLY] PUBLISHED [ADVERTISED] BY THE DIRECTOR OF PUBLIC WORKS.

40 C. ALL RESIDENTS OF THE CITY WITHIN THE AREA SERVICED BY THE CURBSIDE

1 PROGRAM SHOULD PLACE ALL YARD TRIMMINGS INTO A CONTAINER AND PLACE  
2 THEM AT THE CURB FRONTING THEIR RESIDENCE IN THE MANNER DESIGNATED BY  
3 THIS CHAPTER AND ON THE DATE SPECIFIED FOR COLLECTION BY THE SCHEDULE  
4 PUBLISHED BY THE DIRECTOR OF PUBLIC WORKS.

5 D. YARD TRIMMINGS SHALL BE PLACED IN OPEN CONTAINERS, PLASTIC OR PAPER  
6 LAWN BAGS CLEARLY MARKED WITH AN "X". EACH CONTAINER SHALL NOT EXCEED  
7 FIFTY POUNDS IN WEIGHT.

8 E. BRANCHES AND BRUSH SHALL BE TIED WITH A NATURAL FIBER ROPE OR TWINE,  
9 AND THE FINISHED BUNDLE SHALL BE NO MORE THAN TWO FEET BY FOUR FEET IN  
10 SIZE, NOT EXCEED FIFTY POUNDS IN WEIGHT.

11 F. YARD TRIMMINGS SHALL NOT BE COLLECTED AS SOLID WASTE FOR DISPOSAL IN  
12 A LANDFILL.

13 **ARTICLE VI – COMMERCIAL REFUSE**

14 **10.16.220 [10.16.170] - Commercial establishments—Private collection.**

15 A. Municipal collection of refuse shall not be provided to commercial establishments or  
16 businesses within the City.

17 B. All commercial establishments or businesses within the City shall receive refuse collection  
18 from a [licensed] CITY-PERMITTED private commercial refuse collection firm.

19 C. The owner of each commercial establishment or business within the City shall notify the  
20 Department of Public Works not later than December 1st of each year, [WITH] the name and  
21 address of the firm, a complete description of services, the terms of the services and a copy of  
22 the EXISTING contract for private refuse collection for the [following] year.

23 D. THE OWNER OF EACH COMMERCIAL ESTABLISHMENT OR BUSINESS WITHIN THE  
24 CITY SHALL PROVIDE SUFFICIENT SOLID WASTE CONTAINER STORAGE CAPACITY  
25 [SUCH THAT] WITH [THE] COVERS [OF SAID CONTAINERS] THAT SHALL BE  
26 COMPLETELY AND FIRMLY CLOSED AT ALL TIMES.

27 E. COMMERCIAL SOLID WASTE SHALL NOT BE SET OUT FOR COLLECTION EARLIER  
28 THAN 11:00 P.M. THE NIGHT PRECEDING A SCHEDULED COLLECTION DAY. APPROVED  
29 REFUSE CONTAINERS FROM COMMERCIAL ESTABLISHMENTS SHALL BE REMOVED  
30 FROM PUBLIC VIEW IMMEDIATELY FOLLOWING COLLECTION.

31  
32 F. THE CITY [HAS THE RIGHT TO] MAY ESTABLISH A SYSTEM OF FRANCHISING  
33 FOR COMMERCIAL ESTABLISHMENTS [WITHIN THE CITY OF ANNAPOLIS]. THE CITY, BY  
34 [ADOPTING AN] ORDINANCE, MAY ESTABLISH A SYSTEM OF SOLID WASTE  
35 COLLECTION SERVICE [DESIGNATED FRANCHISE AREAS WITHIN THE CITY] THROUGH  
36 A COMPETITIVE PROCUREMENT PROCESS TO AWARD AN EXCLUSIVE FRANCHISE OR  
37 FRANCHISES UNDER A FRANCHISE AGREEMENT TO ONE OR MORE QUALIFIED  
38 ORGANIZATIONS FOR THE COLLECTION OF NON-HAZARDOUS WASTE FROM  
39 COMMERCIAL ESTABLISHMENTS [IN THOSE AREAS]. [THE] A FRANCHISE [COULD] MAY  
40 BE AWARDED FOR ONLY REFUSE, REFUSE AND RECYCLING, OR ONLY RECYCLING.  
41 THE CITY [WOULD RESERVE THE RIGHT TO] MAY TERMINATE OR MODIFY THE SOLID

1 WASTE COLLECTION PERMIT OF A PRIVATE REFUSE COLLECTION SERVICE [HAULERS  
2 SOLID WASTE COLLECTION PERMIT], WITH AN ADVANCE 30-DAY WRITTEN NOTICE,  
3 [SHOULD] IF THE CITY DECIDES TO AWARD A FRANCHISE OR FRANCHISES [PRIVATE  
4 HAULERS].

5

6 **[10.16.180 - Commercial establishments—Private collection.]**

7

8 **10.16.225 [10.16.200] - Permits for private collectors.**

9 A. No person shall engage in the collection of SOLID WASTE [refuse and garbage] from  
10 homes or [businesses] COMMERCIAL ESTABLISHMENTS without first having received a  
11 permit from the Director of Public Works.

12 B. [Granting of the] [p]Permit APPROVAL shall be contingent upon A DETERMINATION BY  
13 THE DIRECTOR OF PUBLIC WORKS THAT ALL [the approval of] collection equipment and  
14 disposal methods OF THE PERMIT APPLICANT ARE SATISFACTORY [by the Director of  
15 Public Works, who may revoke any permit for cause].

16 C. THE DIRECTOR OF PUBLIC WORKS MAY REVOKE ANY PERMIT FOR CAUSE.

17 [C]D. An annual fee as established by resolution of the City Council shall be paid to the  
18 Finance Director for each permit.

19

20 **10.16.230 [10.16.220] - Littering during removal.**

21 A. No person [engaged] PERMITTED TO REMOVE [in the removal of any] SOLID WASTE  
22 [garbage and refuse] [of the City] SHALL [negligently] [shall] permit any paper or other article to  
23 [drop] FALL or be blown from [refuse removal] A REFUSE COLLECTION VEHICLE[S] [trucks].

24 B. Every load of SOLID WASTE [garbage or refuse] dumped from any refuse [removal truck]  
25 COLLECTION VEHICLE, [whether dumped without or within the City, shall be dumped, and  
26 light articles in the load covered,] SHALL BE COVERED [so that] TO PREVENT paper or  
27 OTHER light articles [cannot be blown into] FROM FALLING FROM THE REFUSE  
28 COLLECTION VEHICLE [the streets, lanes or alleys or away from any landfill].

29 [B]. [Any person who violates this section is guilty of a municipal infraction and is subject to a  
30 fine as established by resolution of the City Council.]

31

32 **[10.16.230 - City landfill charges.]**

33 [A. Charges for refuse delivered to the City landfill shall be established by resolution of the  
34 City Council.]

35

36 **ARTICLE VII – COMMERCIAL RECYCLING**

1 **10.16.240 - COMMERCIAL RECYCLING.**

2 A. THE DIRECTOR OF PUBLIC WORKS SHALL ESTABLISH A VOLUNTARY CURBSIDE  
3 COLLECTION SERVICE FOR RECYCLABLES FROM PERSONS WHOSE PROPERTY IS  
4 NOT OTHERWISE SUPPLIED WITH CURBSIDE COLLECTION SERVICE. THE DIRECTOR  
5 MAY SET REASONABLE CRITERIA FOR DETERMINING ELIGIBILITY FOR PARTICIPATION  
6 IN THE SERVICE FOR THOSE WHO OWN, OPERATE, OR CONTROL COMMERCIAL  
7 ESTABLISHMENTS.

8 B. THERE IS A SERVICE CHARGE, TO BE DETERMINED BY THE DIRECTOR OF PUBLIC  
9 WORKS, ON A PROPERTY-BY-PROPERTY BASIS BASED ON THE COST OF COLLECTION  
10 FROM THAT PROPERTY, TO BE CHARGED TO EACH PERSON THAT PARTICIPATES IN  
11 THE VOLUNTARY CURBSIDE COLLECTION PROGRAM.

12 C. AN AGREEMENT SHALL BE SIGNED WITH COMMERCIAL ESTABLISHMENTS  
13 SEEKING VOLUNTARY COLLECTION SERVICE AND THE DIRECTOR OF PUBLIC WORKS  
14 SHALL BE RESPONSIBLE FOR ENFORCING SUCH AGREEMENTS.

15

16 **ARTICLE VIII – MULTI-UNIT COMPLEX RECYCLING**

17 **10.16.250 - MULTI-UNIT COMMUNITY RECYCLING PROGRAM.**

18 A. ALL PROPERTY OWNERS OF MULTI-UNIT COMPLEXES WITHIN THE CITY OF  
19 ANNAPOLIS THAT ARE NOT SERVED BY THE RESIDENTIAL CURBSIDE RECYCLING  
20 PROGRAM ESTABLISHED PURSUANT TO THIS CHAPTER SHALL ARRANGE FOR  
21 RECYCLING COLLECTION FOR THEIR RESIDENTS IN ACCORDANCE WITH THE CITY  
22 RESIDENTIAL CURBSIDE RECYCLING PROGRAM FOR RECYCLABLE MATERIALS AND  
23 YARD RECYCLABLE MATERIALS] THIS CHAPTER.

24 B. THE ARRANGEMENT FOR COLLECTION] DISPOSITION OF RECYCLABLE  
25 MATERIALS FOR DISPOSITION] SHALL BE THE RESPONSIBILITY OF THE PERSON WHO  
26 GENERATED THE RECYCLABLES ["GENERATOR"]. THE ARRANGEMENTS MAY  
27 INCLUDE, WITHOUT LIMITATION, DIRECT MARKETING OF RECYCLABLES, DELIVERY TO  
28 A MATERIALS RECOVERY FACILITY, CONTRACTS WITH SOLID WASTE COLLECTORS ]  
29 OR HAULERS FOR SEPARATE COLLECTION OF ANY OR ALL DESIGNATED  
30 RECYCLABLES OR CONTRACTS WITH OTHER PERSONS FOR SEPARATE COLLECTION  
31 OF ANY OR ALL DESIGNATED RECYCLABLE] MATERIALS.

32 C. EACH MULTI-UNIT COMPLEX SHALL REPORT TO THE CITY, ON A SEMI-ANNUAL  
33 BASIS, THE TOTAL WEIGHT OF RECYCLABLE MATERIALS THAT HAVE BEEN DIVERTED  
34 FROM THE SOLID WASTE STREAM, AND THE TOTAL ESTIMATED WEIGHT OF SOLID  
35 WASTE COLLECTED FROM EACH MULTI-UNIT COMMUNITY. REPORTING SCHEDULES  
36 AND FORMS SHALL BE PROVIDED BY THE CITY.

37 D. EACH OWNER OF A MULTI-UNIT COMPLEX SHALL HAVE] ESTABLISHED]  
38 PROCEDURES FOR THE COLLECTION OF RECYCLABLE] MATERIALS [AS DESCRIBED  
39 HEREIN] AND SHALL FILE THESE] SUCH WRITTEN PROCEDURES WITH THE  
40 DEPARTMENT OF PUBLIC WORKS WITHIN 180 DAYS OF THE EFFECTIVE DATE OF THE  
41 ORDINANCE FOR EXISTING COMPLEXES OR PRIOR TO [AT] THE [TIME] ISSUANCE OF A

1 USE AND OCCUPANCY PERMIT [IS ISSUED] FOR NEW COMPLEXES.

2 E. EACH MULTI-UNIT COMPLEX RECYCLING PROGRAM MUST BE APPROVED BY THE  
3 DEPARTMENT OF PUBLIC WORKS PRIOR TO IMPLEMENTATION. EACH RECYCLING  
4 PROGRAM SUBMITTED TO THE DEPARTMENT OF PUBLIC WORKS SHALL INCLUDE  
5 COPIES OF EXECUTED RECYCLING AND SOLID WASTE CONTRACTS (EXCLUDING  
6 CONTRACT COSTS).

7 F. VIOLATIONS OF THIS SECTION SHALL CONSTITUTE A MUNICIPAL INFRACTION  
8 SUBJECT TO A FINE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL.

9 **Article IX [IV] - Enforcement**

10 **[10.16.260] [10.16.250] – [Responsibilities] RESERVED.**

11 [The enforcement of [all] sections 10.16.030, 10.16.035, 10.16.080, 10.16.100, 10.16.110,  
12 10.16.120, 10.16.170, 10.16.180, 10.16.220D. and 10.16.220 E. of this chapter are [is] the  
13 responsibility of the Director of Neighborhood and Environmental Programs] [with the advice  
14 and consultation of the Health Officer]. VIOLATIONS OF THIS SECTION SHALL  
15 CONSTITUTE A MUNICIPAL INFRACTION SUBJECT TO A FINE AUTHORIZED BY  
16 RESOLUTION OF THE CITY COUNCIL.]

17

18 **10.16.270 [10.16.260] - Violation—Notice.**

19 [Whenever the City determines that COMPLIANCE CANNOT OCCUR IMMEDIATELY AND  
20 TIME IS NEEDED TO COMPLY WITH THIS CHAPTER (I.E., INSUFFICIENT CONTAINERS  
21 FOR SOLID WASTE VOLUME GENERATED AND REMOVAL OF ACCUMULATED  
22 MATERIAL)] [there are reasonable grounds to believe that there has been a violation of any of  
23 the provisions of this chapter,] [t]The City shall give WRITTEN notice of [the alleged] A violation  
24 OF THIS CHAPTER to the person responsible for the violation[, as provided in this section]. The  
25 notice shall:

26 A. Be in writing;

27 B. Include a statement of the reason why it is being issued;

28 C. Allow a reasonable time for the performance of any act it requires;

29 D. Be served upon the owner or the agent of the owner [or the occupant] of the premises  
30 on which the alleged violation occurred. The notice [has been properly] SHALL BE served  
31 [when a copy of it has been served] personally[, ] or in accordance with any other method  
32 authorized [or required] under the laws of the state;

33 E. Contain an outline of remedial action which, if taken, will effect compliance with the  
34 provisions of this chapter;

35 F. State that, unless conditions or practices described in the notice are corrected within  
36 the reasonable time specified in the notice, the person involved will be subject to the  
37 penalty provided for violations of this chapter.

1 **10.16.280 – [PENALTIES] MUNICIPAL INFRACTIONS**

2 A. [ANY PERSON ENGAGING IN UNLAWFUL CONDUCT AS DEFINED IN] A VIOLATION  
3 OF ANY REQUIREMENTS OF THIS CHAPTER SHALL CONSTITUTE A MUNICIPAL  
4 INFRACTION AND [IN PROCEEDING BEFORE A COURT OF COMPETENT JURISDICTION  
5 SHALL] BE SUBJECT TO A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS [AND  
6 NOT LESS THAN TWENTY-FIVE DOLLARS].

7 B. EACH [CONTINUING] DAY [OF] A VIOLATION OF THIS CHAPTER CONTINUES SHALL  
8 CONSTITUTE A [SEPARATE OFFENSE] MUNICIPAL INFRACTION.

9

10 **10.16.290 - INJUNCTIONS—CONCURRENT REMEDIES.**

11 [A.] IN ADDITION TO ANY OTHER REMEDY PROVIDED IN THIS CHAPTER, THE CITY  
12 MAY INSTITUTE A SUIT [IN EQUITY WHERE UNLAWFUL CONDUCT OR PUBLIC  
13 NUISANCE EXISTS AS DEFINED IN THIS CHAPTER] FOR AN INJUNCTION OR OTHER  
14 EQUITABLE RELIEF TO RESTRAIN A VIOLATION OF THIS CHAPTER. [IN ADDITION TO  
15 AN INJUNCTION, THE COURT MAY IMPOSE PENALTIES AS AUTHORIZED BY SECTION  
16 10.16.290.]

17 [B. THE PENALTIES AND REMEDIES PRESCRIBED BY THIS CHAPTER SHALL BE  
18 DEEMED CONCURRENT. THE EXISTENCE OR EXERCISE OF ANY REMEDY SHALL NOT  
19 PREVENT THE CITY FROM EXERCISING ANY OTHER REMEDY PROVIDED BY THIS  
20 CHAPTER OR OTHERWISE PROVIDED AT LAW OR EQUITY.]

21

22 **10.18.110 - ADMINISTRATION AND ENFORCEMENT.**

23 A. ADMINISTRATION OF THIS CHAPTER SHALL BE THE RESPONSIBILITY OF THE  
24 DIRECTOR OF PUBLIC WORKS.

25 B. ENFORCEMENT OF THIS CHAPTER SHALL BE THE RESPONSIBILITY OF THE  
26 DIRECTOR OF NEIGHBORHOOD AND ENVIRONMENTAL PROGRAMS.

27

28 **10.18.120 - APPEALS.**

29 A PERSON AGGRIEVED IN THE ADMINISTRATION OF THIS CHAPTER MAY DIRECT A  
30 WRITTEN APPEAL TO BUILDING BOARD OF APPEALS.

31 1. THE WRITTEN NOTICE OF APPEAL SHALL BE FILED WITH THE DIRECTOR OF  
32 NEIGHBORHOOD AND ENVIRONMENTAL PROGRAMS WITHIN 15 DAYS AFTER  
33 THE DATE OF THE DETERMINATION.

34 2. APPEALS OF ANY ORDER BY THE BUILDING BOARD OF APPEALS SHALL BE  
35 NOTED TO THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY IN  
36 ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

37

1 **[Chapter 10.18 - RECYCLING PROGRAM]**

2 **[10.18.010 - Definitions.]**

3 [As used in this chapter, the following definitions shall apply:]

4 [A. "Act" means the Maryland Recycling Act, as amended.]

5 [B. "Commingled" means that paper, glass, plastic, and cans may be placed in the same  
6 container.]

7 [C. "Disposition" means the transportation, placement, or arrangement of recyclable  
8 materials for all possible end uses except disposal as solid waste.]

9 [D. "Generator" means the landlord or management company responsible for removal of  
10 solid waste.]

11 [E. "Glass" means clear and colored glass bottles and containers. Caps and lids should  
12 be removed. Glass shall not include crystal, ceramics, light bulbs, and plate window,  
13 laminated, wired, or mirrored glass.]

14 [F. "Multi-unit community" means ten or more apartments, townhouses or condominiums  
15 located on a single property or contiguous properties under common ownership or  
16 management, including public-assisted housing. For this purpose, "unit" means an  
17 enclosed space that consists of one or more rooms occupying all or part of a floor or floors  
18 in a building of one or more floors or stories but not the entire building, and that is designed  
19 for use as a single residence.]

20 [G. "Person" means any individual, firm, partnership, corporation, association,  
21 cooperative enterprise, trust, municipal authority, Federal institution or agency, State  
22 institution or agency, municipality, other governmental agency or any other entity or any  
23 group of such persons which is recognized by law as the subject of rights and duties. In  
24 any provisions of this chapter prescribing a fine, penalty, or imprisonment, the term  
25 "person" includes the officers and directors of a corporation or other legal entity having  
26 officers and directors.]

27 [H. "Plastic" means plastic containers with symbols #1 and #2 with narrow necks, #3, #4,  
28 #5, #6, #7 with narrow necks and screw tops. Recycling symbols are generally found on  
29 the bottom of containers in the triangle. Caps and lids should be removed.]

30 [I. "Recyclable materials" means the following materials and any future materials that  
31 have a useful physical or chemical properties included but not limited to: paper products  
32 which include newspaper, magazines and catalogs; books; cardboard and paper boxes;  
33 file folders, packing paper, colored paper, wrapping paper, pizza boxes, corrugated boxes;  
34 computer printouts; office papers and envelopes; paper bags; telephone books; junk mail;  
35 aluminum, glass bottles, and jars, steel and ferrous cans and containers including aerosol  
36 cans, HDPE- natural and HDPE- colored, PET- high grade. The City will encourage the  
37 recycling of other materials as markets develop as determined by the Department of Public  
38 Works Director.]

39 [J. "Recycling" means any process by which materials are collected, separated or  
40 processed, and returned to the economic mainstream in the form of raw materials or  
41 products.]

1 [K. "Waste minimization" means the voluntary reduction by the consumer of the volume  
2 of refuse entering the solid waste stream.]

3 [L. "Yard recyclable materials" means grass clippings, weeds and discarded plants,  
4 leaves, branches and brush, tree wood waste up to four inches in diameter and no longer  
5 than two feet in length.]

6

7 **[10.18.020 - Recycling program.]**

8 [The City of Annapolis recycling program as described herein shall, insofar as possible, meet or  
9 exceed the solid waste reduction goals as stated in the Anne Arundel County Solid Waste  
10 Management Plan through concerted application of the principals of recycling and waste  
11 minimization.]

12 **[10.18.030 - Establishment of residential curbside recycling program.]**

13 [A. There is established, within the City of Annapolis, a residential curbside recycling program  
14 for the collection of recyclable materials as stated above in Section 10.18.010(I) from all  
15 residents of the City whose solid waste is collected by or on behalf of the City.]

16 [B. Collections of recyclable materials pursuant to this chapter shall be made every week  
17 except in cases where the collection day falls upon holidays recognized by the City. All  
18 collections shall occur in accordance with the Solid Waste/ Recycling schedule publicly  
19 advertised by the City.]

20 [C. All residents of the City within the area serviced by the curbside program, established  
21 pursuant to this chapter, participating in the recycling program shall place all recyclables  
22 materials into a City recycling container and place them at the side of the road fronting their  
23 residence in the manner designated by this chapter and on the date specified for collection by  
24 the schedule published by the City.]

25 [D. No material shall be placed at the roadside earlier than the evening of the day preceding a  
26 scheduled collection day. Material must be placed at the roadside by six a.m. on the scheduled  
27 collection day.]

28 [E. Paper and cardboard shall be placed in the recycling bin, in paper bags, or tied into  
29 bundles not to exceed thirty-five pounds in weight nor exceed one foot in thickness.]

30 [F. Containers placed in the recycling container shall contain five percent or less food  
31 contamination.]

32

33 **[10.18.040 - Establishment of a residential curbside yard recycling program.]**

34 [A. There is established, within the City of Annapolis, a residential curbside yard recycling  
35 program for the collection of recyclable materials as stated above in Section 10.18.010(L) from  
36 all residents of the City whose solid waste is collected by or on behalf of the City.]

37 [B. Collections of recyclable materials pursuant to this chapter shall be made every other week  
38 in accordance with the Solid Waste/Recycling schedule publicly advertised by the City.]

1 [C. All residents of the City within the area serviced by the curbside program, established  
2 pursuant to this chapter, participating in the program shall place all yard recyclable materials  
3 into a container and place them at the side of the road fronting their residence in the manner  
4 designated by this chapter and on the date specified for collection by the schedule published by  
5 the City.]

6 [D. No material shall be placed at the roadside earlier than the evening of the day preceding a  
7 scheduled collection day. Material must be placed at the roadside by six a.m. on the scheduled  
8 collection day.]

9 [E. The container used for yard recyclable materials shall be placed in open containers, large  
10 paper lawn bags, or cardboard boxes clearly marked with an "X". Each container shall not to  
11 exceed fifty pounds in weight.]

12 [F. Branches and brush shall be tied with a natural fiber rope or twine, and the finished bundle  
13 shall be no more than two feet by four feet in size, not exceed fifty pounds in weight.]

14 [G. Yard recyclable materials shall not be collected as solid waste for disposal in a landfill.]

15

16 **[10.18.050 - Multi-unit community recycling program.]**

17 [A. All persons within the City who are residents of multi-unit communities and who are not  
18 served by the residential curbside program established pursuant to this chapter shall provide  
19 recycling collection in accordance with the City residential curbside recycling program:

20 1. Recyclable materials as stated in Section 10.18.030

21 2. Yard recyclable materials as stated in Section 10.18.040]

22 [B. The arrangement for collection of recyclable materials for disposition shall be the  
23 responsibility of the person who generated the recyclables ("generator"). The arrangements  
24 may include, without limitation, direct marketing of recyclables, delivery to a materials recovery  
25 facility, contracts with solid waste collector/haulers for separate collection of any or all  
26 designated recyclables or contracts with other persons for separate collection of any or all  
27 designated recyclables.]

28 [C. Each multi-unit community shall report to the City, on a semi-annual basis, the total weight  
29 of each recyclable material that has been diverted from the solid waste stream, and the total  
30 estimated weight of solid waste collected from each multi-unit community. Reporting schedules  
31 and forms shall be provided by the City. Failure to report same shall result in revocation of the  
32 rental permit or fines as stated in Section 10.18.080]

33 [D. Each multi-unit community shall have established procedures for the collection of  
34 recyclables as described herein and shall file these procedures with the Department of Public  
35 Works within ninety days from August 8, 1994. Further, each multi-unit community shall  
36 implement the procedures for the collection of recyclables as described above within one  
37 hundred eighty days from August 8, 1994.]

38 [E. Each multi-unit community recycling program must be approved by the Department of  
39 Public Works prior to implementation. Each recycling program submitted to the Department of  
40 Public Works shall include copies of executed recycling and solid waste contracts (excluding

1 contract costs).]

2

3 **[10.18.055 - Commercial recycling.]**

4 [A. The Director of Public Works shall establish a voluntary curbside collection service for  
5 recyclables from persons whose property is not supplied with curbside collection service, and  
6 may set reasonable criteria for determining eligibility for participation in the service.]

7 [B. There is a service charge, to be determined by the Director of Public Works on a property-  
8 by-property basis based on the cost of collection from that property, to be charged to each  
9 person that participates in the voluntary curbside collection program.]

10

11 **[10.18.060 - Unlawful activities—Nuisance.]**

12 [A. It shall be unlawful for:

13 1. Any person, other than those persons authorized, to collect any designated recyclable  
14 which has been placed at the roadside for collection or within a recycling dropoff pursuant  
15 to this chapter;

16 2. Any person to violate or to cause or to assist in the violation of any provision of this  
17 chapter or any provision of the City plan concerning recycling;

18 3. Any person to hinder, to obstruct, to prevent or to interfere with the City or any other  
19 authorized persons in the performance of any duty under this chapter or in the  
20 enforcement of this chapter;

21 4. Any multi-unit community subject to the terms of this chapter to not enact a plan for  
22 recycling.]

23

24 **[10.18.070 - Other means of disposal.]**

25 [Notwithstanding anything to the contrary, any resident of the City may donate or sell any  
26 recyclable to any other person, whether operating for a profit or not for profit; provided, however,  
27 that the person receiving the recyclables shall not, under any circumstances, collect the donated  
28 or sold material from an established recycling collection route or from a recycling dropoff without  
29 prior written permission from the City for such collection.]

30

31 **[10.18.080 - Noninterference with existing contracts.]**

32 [A. Nothing contained in this chapter shall be construed to interfere with or in any way modify  
33 the provisions of any existing contract which is in force in the City on the effective date of the  
34 ordinance codified in this chapter.]

35 [B. No renewal of any existing solid waste/ recycling collection contract upon the expiration of  
36 the original term and no new contract for the collection, transportation, processing or purchase

1 of solid waste or recyclables shall be entered into after the effective date of the ordinance  
2 codified in this chapter, unless such renewal or such contract shall conform to the requirements  
3 of this chapter. Failure of a contract to conform to the requirements of this chapter shall result in  
4 the cancellation or withdrawal of a property owner's residential rental license or the imposition of  
5 a fine pursuant to Section 10.18.080 of this chapter.]

6

7 **[10.18.090 - Penalties.]**

8 [A. Any person who engages in unlawful conduct as defined in this chapter shall, upon  
9 conviction, in a proceeding before a court of competent jurisdiction be sentenced to pay a fine of  
10 not more than one thousand dollars and not less than twenty-five dollars.]

11 [B. Each continuing day of violation of this chapter shall constitute a separate offense.]

12

13 **[10.18.100 - Injunctions—Concurrent remedies.]**

14 [A. In addition to any other remedy provided in this chapter, the City may institute a suit in  
15 equity where unlawful conduct or public nuisance exists as defined in this chapter for an  
16 injunction to restrain a violation of this chapter. In addition to an injunction, the court may  
17 impose penalties as authorized by Section 10.18.080]

18 [B. The penalties and remedies prescribed by this chapter shall be deemed concurrent. The  
19 existence or exercise of any remedy shall not prevent the City from exercising any other remedy  
20 provided by this chapter or otherwise provided at law or equity.]

21

22 **[10.18.120 - Appeals.]**

23 [Any person aggrieved by the requirements of this chapter as enforced by the Director of Public  
24 Works may direct an appeal to the building Board of Appeals.]

25

26

27 **Chapter 17.40 – Residential Property Maintenance Code**

28 17.40.265 – Property Maintenance Code.

29

30 A. The International Property Maintenance Code, 2012 Edition, as published by the  
31 International Code Council, Inc., a copy of which is on file in the Department of Neighborhood  
32 and Environmental Programs, is adopted as the Property Maintenance Code of the City of  
33 Annapolis in the State of Maryland for the control of buildings and structures with the following  
34 amendments:

35

36 1. In Section 101.1 for "[NAME OF JURISDICTION]" insert "City of Annapolis"

37

38 2. In Section 103.5 for "[APPROPRIATE SCHEDULE]" insert "Fees established by  
39 resolution of the City Council"

40

1 3. In Section 304.14 for "[DATES IN TWO LOCATIONS]" insert "April 15th -  
2 October 31st"

3  
4 4. In Section 602.3 for "[DATES IN TWO LOCATIONS]" insert "April 15th - October  
5 31st"

6  
7 5. In Section 602.4 for "[DATES IN TWO LOCATIONS]" insert "April 15th - October  
8 31st"

9  
10 6. Strike the entire Section 404.5 Overcrowding and substitute Section 17.40.460 of  
11 the Code of the City of Annapolis.

12  
13 7. IN SECTION 308, ADD THE FOLLOWING SUBSECTION TO READ AS  
14 FOLLOWS:

15  
16 **308.4 CITY REQUIREMENTS.** COMPLIANCE WITH CHAPTER 10.16 OF THE CODE  
17 OF THE CITY OF ANNAPOLIS SHALL ALSO BE REQUIRED. WHERE THERE IS A  
18 CONFLICT BETWEEN THE PROVISIONS OF THIS SECTION AND THE CODE OF  
19 THE CITY OF ANNAPOLIS, THE CODE OF THE CITY OF ANNAPOLIS SHALL TAKE  
20 PRECEDENCE.

21  
22  
23 17.40.740 – [Rubbish and garbage disposal] SOLID WASTE AND REFUSE —Generally.

24  
25 A. Every occupant of a dwelling or dwelling unit shall dispose of all [rubbish, ashes,  
26 garbage] SOLID WASTE AND REFUSE, and other organic waste in a clean and sanitary  
27 manner by placing it in approved storage CONTAINERS or disposal facilities which are safe and  
28 sanitary.

29  
30 B. THE OWNER OF A DWELLING OR DWELLING UNIT [Every occupant] shall provide  
31 [these] APPROVED STORAGE CONTAINERS OR DISPOSAL facilities for and within the  
32 dwelling unit and shall maintain them in a clean and sanitary manner.

33  
34 C. The owner [or operator] of a multifamily dwelling shall be responsible for the clean and  
35 sanitary maintenance of common storage or disposal facilities.

36  
37 D. The owner [or operator] OF A DWELLING, DWELLING UNIT, OR MULTIFAMILY  
38 DWELLING shall be responsible [further] for placing out for collection all common [garbage and  
39 rubbish] SOLID WASTE containers, except where [the facilities] SUCH are for the sole use of  
40 an occupant, under which circumstances it is the responsibility of the occupant to place [those]  
41 SAID containers out for collection.

42  
43 E. THE OWNER OF A DWELLING, DWELLING UNIT, OR MULTIFAMILY DWELLING  
44 SHALL ALSO COMPLY [COMPLIANCE] WITH CHAPTER 10.16 OF THE CODE OF THE CITY  
45 OF ANNAPOLIS [SHALL ALSO BE REQUIRED].



City of Annapolis City Council  
Committee & Commission Referral Action Report

Date: 11/05/12

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

The Housing and Human Welfare Committee has reviewed 0-33-12 and  
has taken the following action:

- Favorable
- Favorable with amendments
- Unfavorable
- No Action
- Other
- Comments:

Roll Call Vote:

Ald. Kirby, Chair yes    Ald. Hoyle yes    Ald. Silverman n/A

Meeting Date 11-5-12

Signature of Chair Kenneth A Kirby



City of Annapolis City Council  
Standing Committee Referral Action Report

Date: 9/16/13

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

The Economic Matters Committee has reviewed 0-33-13 and has taken the following action:

Favorable

Favorable with amendments *staff amendments*

Unfavorable

No Action

Other

Comments:

Roll Call Vote:

Ald. Paone, Chair yes

Ald. Finlayson yes

Ald. Budge yes

Meeting Date \_\_\_\_\_ Signature of Chair \_\_\_\_\_



City of Annapolis City Council  
Standing Committee Referral Action Report

Date: 9/10/13

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

The Rules and City Government Committee has reviewed 0-33-12 and  
has taken the following action:

Favorable

Favorable with amendments

*Staff amendments  
attached*

Unfavorable

No Action

Other

Comments:

Roll Call Vote:

Ald. Arnett, Chair yes

Ald. Hoyle yes

Ald. Budge yes

Meeting Date 10 Sept 13

Signature of Chair Ass't H. Arnett



City of Annapolis City Council  
Standing Committee Referral Action Report

Date: 9/26/13

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

The Environmental Matters Committee has reviewed 0-33-12 and has taken the following action:

Favorable

Favorable with amendments attached

Unfavorable

No Action

Other

Comments:

Roll Call Vote:

Ald. Littmann yes

Ald. Paone yes

Ald. Pfeiffer yes

Meeting Date 9/26/13

Signature of Chair

**Environmental Matters amendments to O-33-12**

**In 10.16.140 add language to require Public Works to distribute information about the residential and commercial recycling programns, oppertunities and schedule to all residents and businesses at least once a year, preferably every six months.**

**on page 6, line 30 to delete "BE". (beucuse there there are two "BE's")**

## FISCAL IMPACT NOTE

**Legislation No:** O-33-12

**First Reader Date:** 9-10-12

**Note Date:** 8-30-13

**Legislation Title:** **Modifications to City Code on Refuse and Recycling Services**

**Description:** For the purpose of modifying the City Code related to the City of Annapolis' provision of refuse and recycling services.

**Analysis of Fiscal Impact:** The following modifications to the legislation produce significant financial impact:

- Anne Arundel County residents who receive Residential Refuse collection shall be billed by invoice on a quarterly basis by the Director of Finance. Non-compliance or failure to pay for refuse services for dwelling units outside the city limits shall result in a lien on the property.
- Violations of Refuse legislation are guilty of municipal infractions and are subject to a fine as established by resolution of the City Council [for each repeat or continuing violation].
- No person shall engage in the commercial collection of Solid Waste from homes or businesses without first having received a permit from the Director of Public Works. Granting of the permit shall be contingent upon the approval of collection equipment and disposal methods by the Director of Public Works, who may revoke any permit for cause. The annual fee for said permit is to be established by a resolution of the City Council which shall be paid to the Finance Director for each permit. Charges for refuse delivered to the City landfill shall also be established by resolution of the City Council.

1  
2  
3  
4  
5  
6  
7

**CITY COUNCIL OF THE  
City of Annapolis**

**Ordinance No. O-27-13**

**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
7/22/13			10/18/13
Referred to	Referral Date	Meeting Date	Action Taken
Economic Matters	7/22/13		
Environmental Matters	7/22/13		

8  
9

**A ORDINANCE** concerning

10

**Sediment and Erosion Control**

11  
12

**FOR** the purpose of adopting the State of Maryland's required erosion and sediment control ordinance that meets the intent of the State's sediment control laws and regulations.

13  
14  
15  
16  
17

**BY** repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2012 Edition  
Chapter 17.04  
Chapter 17.08

18  
19  
20  
21  
22

**WHEREAS,** The Environment Article of the Annotated Code of Maryland requires the Maryland Department of the Environment (MDE) to implement a statewide erosion and sediment control program to control sediment-laden runoff from land disturbing activities; and

23  
24  
25  
26

**WHEREAS,** MDE's obligation in meeting this mandate includes adopting regulations that establish criteria and procedures for erosion and sediment control throughout Maryland; and

27  
28  
29  
30

**WHEREAS,** Each county and municipality, in turn, is required to adopt an erosion and sediment control ordinance that meets the intent of Maryland's sediment control laws and regulations.

31  
32  
33  
34

**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 17.04 – DEFINITIONS**

1 17.04.010 - Accessory/appurtenant structure.

2 "Accessory/appurtenant structure" means a structure which is on the same parcel of property as  
3 the principal structure, is no greater than three hundred square feet and one story, and the use  
4 of which is incidental to the use of the principal structure.

5

6 17.04.020 - Adverse impact.

7 "Adverse impact" means any deleterious effect on waters or wetlands, including their quality,  
8 quantity, surface area, species composition, aesthetics or usefulness for human or natural uses.  
9 Such deleterious effect is or potentially may be harmful or injurious to human health, welfare,  
10 safety or property, to biological productivity, diversity or stability; or unreasonably may interfere  
11 with the enjoyment of life or property, including outdoor recreation.

12

13 17.04.030 - Afforestation.

14 "Afforestation" means the establishment of a tree crop on an area from which it always has or  
15 very long has been absent, or the planting of open areas which are not presently in forest cover.

16

17 17.04.040 - Agricultural land management practices.

18 "Agricultural land management practices" means those methods and procedures used in the  
19 cultivation of land in order to further crop and livestock production and conservation of related  
20 soil and water resources. Logging and timber removal operations may not be considered a part  
21 of this definition.

22

23 17.04.050 - Applicant.

24 "Applicant" means an owner, developer or their authorized agent who executes the forms  
25 required for obtaining a permit pursuant to this title.

26

27 17.04.060 - Approved.

28 "Approved," as used in this title, means accepted by the Director of Neighborhood and  
29 Environmental Programs.

30

31 17.04.070 - As-built plans.

32 "As-built plans" means approved site plans that have been revised, if necessary, to represent  
33 the actual, physical characteristics of the completed site. All revisions shall be clearly marked,  
34 and shall include or reference any and all support calculations, measurements and information.

35

1 [17.04.080 - Base flood elevation.]

2 ["Base flood elevation" means an elevation 7.2 feet above mean sea level.]

3

4 [17.04.090 - Basement.]

5 ["Basement," for floodplain management purposes, means any area of a building having its floor  
6 sub-grade partly or completely below ground level.]

7

8 **17.04.095 – BEST MANAGEMENT PRACTICE (BMP)**

9 **“BEST MANAGEMENT PRACTICE” (BMP) MEANS A STRUCTURAL DEVICE OR**  
10 **NONSTRUCTURAL PRACTICE DESIGNED TO TEMPORARILY STORE OR TREAT**  
11 **STORMWATER RUNOFF IN ORDER TO MITIGATE FLOODING, REDUCE POLLUTION,**  
12 **AND PROVIDE OTHER AMENITIES.**

13

14 17.04.100 - Buffer.

15 "Buffer" means a naturally vegetated area or vegetated area established or managed to protect  
16 aquatic, wetland, shoreline and terrestrial environments from manmade disturbances.

17

18 17.04.110 - Canopy.

19 "Canopy" means the highest layer of woody vegetation.

20

21 17.04.120 - Certification.

22 "Certification" means a signed, written statement that specific construction, inspections or tests  
23 shall be or have been performed and that they comply with the applicable standard of this title.  
24 Certification shall be required by a registered professional of an appropriate discipline for the  
25 work performed, as determined by the Director of Neighborhood and Environmental Programs.

26

27 17.04.130 - City.

28 "City" means the City of Annapolis, Maryland.

29

30 17.04.140 - City Attorney.

31 "City Attorney" means the City Attorney of the City of Annapolis.

32

1 17.04.[160]150 - Clearing.

2 "Clearing" means any activity that removes the vegetative ground cover **WHILE LEAVING THE**  
3 **ROOT MAT INTACT.**

4

5 17.04.[150]160 - Coastal floodplain.

6 "Coastal floodplain" means those portions of the floodplain district subject to coastal or tidal  
7 flooding by a one-hundred-year flood, where detailed study data are available. The coastal  
8 floodplain appears on the "Flood Insurance Rate Maps" as Zones A, AE, and A1 through A30.

9

10 **17.04.165 – CONCEPT PLAN**

11 **“CONCEPT PLAN” MEANS THE FIRST OF THREE PLANS SUBMITTED UNDER THE**  
12 **COMPREHENSIVE REVIEW AND APPROVAL PROCESS REQUIRED BY THE**  
13 **STORMWATER MANAGEMENT ACT OF 2007 (ACT), AS MAY BE AMENDED FROM TIME**  
14 **TO TIME, AND DESCRIBED IN CODE OF MARYLAND REGULATIONS (COMAR) 26.17.02**  
15 **AND SHALL INCLUDE THE FOLLOWING INFORMATION NECESSARY TO ALLOW AN**  
16 **INITIAL EVALUATION OF A PROPOSED PROJECT, PER 17.08.065 OF THE CITY CODE.**

17

18 17.04.170 - Construction.

19 "Construction" means any activity on a site which in any way alters its physical character.

20

21 17.04.180 - Critical area.

22 "Critical area" means all lands and waters defined in Annotated Code of Maryland, Natural  
23 Resources Article, Section 8-1807 (or its successors).

24

25 17.04.190 - Cruising.

26 "Cruising" means any forestry activity by which estimates are made of timber size, density, and  
27 extent or value.

28

29 17.04.200 - Cutting.

30 "Cutting" means any act or the conditions resulting from any act by which soil or rock is cut into,  
31 dug, quarried, uncovered, removed, displaced or located.

32

1 17.04.210 - Demolition.

2 "Demolition" means the physical act of removing or razing a structure or group of structures that  
3 does not require clearing, stripping or grading of the site other than for access or for rubble  
4 removal or stabilization.

5

6 17.04.220 - Department.

7 "Department" means the Department of Neighborhood and Environmental Programs of the City  
8 of Annapolis.

9

10 17.04.230 - Design professional.

11 "Design professional" means a registered professional engineer, registered land surveyor, or a  
12 registered landscape architect.

13

14 17.04.240 - Detention structure.

15 "Detention structure" means a permanent structure for the temporary storage of surface water  
16 runoff which is designed not to create a permanent pool of water.

17

18 17.04.250 - Developed woodlands.

19 "Developed woodlands" means those areas one acre or more in size which predominantly  
20 contain trees and natural vegetation and which also include residential, commercial or industrial  
21 structures and uses.

22

23 17.04.260 - Developer.

24 "Developer" means any person or entity acting as a property owner or in behalf of a property  
25 owner to develop a site.

26

27 17.04.270 - Development.

28 "Development" means any manmade change to improved or unimproved real estate, including  
29 but not limited to any construction, reconstruction, modification, extension or expansion of  
30 buildings or other structures, placement of fill or concrete, construction of new or replacement  
31 infrastructure, dumping, mining, dredging, grading, paving, drilling operations, storage of  
32 materials, land excavation, land clearing, land improvement or landfill operation. This term also  
33 includes the subdivision of land.

34

1 17.04.280 - Diameter at breast height.

2 "Diameter at breast height" ("DBH") means the diameter of a tree measured at four and one-half  
3 feet above existing, natural grade.

4

5 17.04.290 - Director.

6 "Director" means the Director of Neighborhood and Environmental Programs of the City of  
7 Annapolis.

8

9 17.04.300 - Diversion.

10 "Diversion" means a channel, ditch or ridge, constructed across a slope, which intercepts and  
11 diverts surface water runoff.

12

13 17.04.310 - Drainage area.

14 "Drainage area" means that area contributing surface water runoff to a single point, as  
15 measured in a horizontal plane.

16

17 **17.04.315 – DRAINAGE WAY**

18 **“DRAINAGE WAY” MEANS ANY NATURAL OR ARTIFICIAL FLOW OR PATH, INCLUDING,**  
19 **BUT NOT LIMITED TO, STREAMS, RIVERS, CREEKS, PONDS, LAKES, DITCHES,**  
20 **CHANNELS, CANALS, CONDUITS, CULVERTS, DRAINS, WATERWAYS, GULLIES,**  
21 **RAVINES OR WASHES IN WHICH WATERS FLOW IN A DEFINITE DIRECTION OR**  
22 **COURSE, EITHER CONTINUOUSLY OR INTERMITTENTLY, AND INCLUDING ANY**  
23 **ADJACENT AREA WHICH IS SUBJECT TO INUNDATION BY REASON OF OVERFLOW OR**  
24 **FLOODWATERS.**

25

26 17.04.320 - Dredging.

27 "Dredging" means any act of excavating in a body of water below the level of mean high tide.

28

29 17.04.330 - Dripline.

30 "Dripline" means the area on the ground beneath a tree as defined by the circumference of the  
31 tree's branches.

32

1 [17.04.340 - Elevation certificate.]

2 ["Elevation certificate" means the official form as prepared and distributed by the Federal  
3 Emergency Management Agency, using mean sea level as established by the National  
4 Geodetic Vertical Datum of 1929.]

5

6 17.04.350 - Engineer.

7 "Engineer" means a "professional engineer" as defined in the Maryland Professional Engineers  
8 Act, Annotated Code of Maryland, Business Occupations and Professions Article, Title 14 (or its  
9 successors), who is in good standing and properly registered by the State of Maryland to  
10 practice engineering in accordance with the Act.

11

12 **17.04.355 – ENVIRONMENTAL SITE DESIGN (ESD)**

13 **“ENVIRONMENTAL SITE DESIGN” (ESD) MEANS USING SMALL-SCALE STORMWATER**  
14 **MANAGEMENT PRACTICES, NONSTRUCTURAL TECHNIQUES, AND SITE PLANNING TO**  
15 **MIMIC NATURAL HYDROLOGIC RUNOFF CHARACTERISTICS AND MINIMIZE THE**  
16 **IMPACT OF LAND DEVELOPMENT ON WATER RESOURCES.**

17

18 17.04.360 - Erosion.

19 "Erosion" means the process of wearing away of the land surface. Erosion may result from  
20 either natural processes or manmade activities.

21

22 17.04.370 - Erosion and sediment control.

23 "Erosion and sediment control" means a system of structural and vegetative measures that  
24 minimize soil erosion and off-site sedimentation.

25

26 17.04.380 - Erosion and sediment control plan.

27 "Erosion and sediment control plan" means a strategy or plan designed to minimize erosion and  
28 prevent off-site sedimentation by containing sediment on site or by passing sediment-laden  
29 runoff through a sediment control measure, prepared and approved in accordance with the  
30 specific requirements of the Anne Arundel soil conservation district and this title, and designed  
31 in accordance with the [1994 Maryland] Standards and Specifications [for Soil Erosion and  
32 Sediment Control and any subsequent revisions].

33

34 17.04.390 - Excavation.

35 "Excavation" means any act or the conditions resulting from any act by which soil or rock is cut  
36 into, dug, quarried, uncovered, removed, displaced or relocated.

1 **17.04.395 – EXEMPTION**

2 **“EXEMPTION” MEANS THOSE LAND DEVELOPMENT ACTIVITIES THAT ARE NOT**  
3 **SUBJECT TO THE EROSION AND SEDIMENT CONTROL REQUIREMENTS CONTAINED IN**  
4 **THIS CHAPTER.**

5

6 17.04.400 - Existing grade.

7 "Existing grade" means the vertical location of the existing ground surface prior to any grading  
8 activity.

9

10 17.04.410 - Facility.

11 "Facility" means a stormwater management design, and shall include all land, materials and  
12 appurtenances used in construction and operation of that design.

13

14 17.04.420 - Fill.

15 "Fill" means any act, or any resultant of the act, by which soil, earth, sand, gravel, rock or any  
16 similar material is deposited, placed, pushed, pulled or transported.

17

18 **17.04.425 – FINAL EROSION AND SEDIMENT CONTROL PLAN**

19 **“FINAL EROSION AND SEDIMENT CONTROL PLAN” MEANS, ALONG WITH THE FINAL**  
20 **STORMWATER MANAGEMENT PLAN, THE LAST OF THREE PLANS SUBMITTED UNDER**  
21 **THE COMPREHENSIVE REVIEW AND APPROVAL PROCESS REQUIRED BY CHAPTER**  
22 **17.10 OF THE CITY CODE AND DESCRIBED IN CHAPTER 17.08 OF THE CITY CODE.**  
23 **FINAL EROSION AND SEDIMENT CONTROL PLANS SHALL BE PREPARED AND**  
24 **APPROVED IN ACCORDANCE WITH THE SPECIFIC REQUIREMENTS OF THE ANNE**  
25 **ARUNDEL SOIL CONSERVATION DISTRICT, THE DIRECTOR, AND THIS CHAPTER AND**  
26 **DESIGNED IN ACCORDANCE WITH THE STANDARDS AND SPECIFICATIONS.**

27

28 17.04.430 - Finished grade.

29 "Finished grade" means the final grade or elevation of the ground surface conforming to the  
30 approved site plan, including all Department-approved modifications to the site plan. The intent  
31 for grading is to have grades that are not too steep or too flat for site conditions and to provide  
32 for drainage patterns.

33

34 [17.04.440 - Flood.]

35 ["Flood" means a temporary inundation of normally dry land areas.]

1  
2 17.04.450 - Flood-related erosion.  
3 "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or  
4 other body of water as a result of undermining caused by waves or currents of water exceeding  
5 anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body  
6 of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash  
7 flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which  
8 results in flooding.

9  
10 17.04.460 - Flood-related erosion-prone area.  
11 "Flood-related erosion-prone area" means a land area, adjoining the shore of a lake or other  
12 body of water, which, because of the composition of the shoreline or bank and high water levels  
13 or wind-driven currents, is likely to suffer flood-related erosion damage.

14  
15 [17.04.470 - Floodplain.]  
16 ["Floodplain" means (1) a relatively flat or lowland area, adjoining a river, stream or  
17 watercourse, which is subject to partial or complete inundation; (2) an area subject to the  
18 unusual and rapid accumulation of runoff or surface water from any source; or (3) an area  
19 subject to tidal surge or extreme tides.]

20  
21 [17.04.480 - Floodproofing.]  
22 ["Floodproofing" means any combination of structural and nonstructural additions, changes or  
23 adjustments of properties and structures which reduce or eliminate flood damage to lands,  
24 water and sanitary facilities, structures and contents of buildings.]

25  
26 17.04.490 - Forest.  
27 "Forest" means a biological community dominated by trees and other woody plants covering a  
28 land area of one acre or more. This also includes forests that have been cut, but not cleared.

29  
30 17.04.500 - Grading.  
31 ["Grading" means any act causing disturbance of the existing grade. This shall include, but is  
32 not limited to, any activities involving excavation, filling, stockpiling, dredging of earth materials,  
33 grubbing, root mat or topsoil disturbance.] **"GRADING" MEANS TO DISTURB EARTH BY,  
34 INCLUDING BUT NOT LIMITED TO, EXCAVATING, FILLING, STOCKPILING, DREDGING  
35 OF EARTH MATERIALS, GRUBBING, REMOVING ROOT MAT OR TOPSOIL, OR ANY  
36 COMBINATION THEREOF.**

1  
2 **17.04.503 – GRADING UNIT**  
3 **“GRADING UNIT” MEANS THE MAXIMUM CONTIGUOUS AREA ALLOWED TO BE**  
4 **GRADED AT A GIVEN TIME. FOR THE PURPOSES OF THIS CHAPTER, A GRADING UNIT**  
5 **IS 20 ACRES OR LESS.**

6  
7 **17.04.507 – HIGHLY ERODIBLE SOILS**  
8 **“HIGHLY ERODIBLE SOILS” MEANS THOSE SOILS WITH A SLOPE GREATER THAN 15**  
9 **PERCENT OR THOSE SOILS WITH A SOIL ERODABILITY FACTOR, K, GREATER THAN**  
10 **0.35 AND WITH SLOPES GREATER THAN 5 PERCENT.**

11  
12 17.04.510 - Housebarge.  
13 "Housebarge", as used in this title, means "housebarge" as that term is defined in Section  
14 15.02.030 of the code.

15  
16 17.04.511 - Impervious surfaces.  
17 "Impervious surfaces" means those areas which do not have a vegetated cover with a natural  
18 soil substrate or a stormwater management reservoir.

19  
20 17.04.520 - Land disturbing activity.  
21 "Land disturbing activity" means any action that results in the land surface or subgrade being  
22 either temporarily or permanently altered from its existing condition, whether that condition be of  
23 natural or manmade cover.

24  
25 17.04.530 - Landscaping.  
26 "Landscaping" means any act of planting, pruning, care or maintenance, or any other  
27 horticultural activity involving existing or transplanted vegetative material, including any  
28 associated digging or grading.

29  
30 17.04.535 - Like-kind.  
31 "Like-kind" means that the construction project is of the same nature or character. A mere  
32 difference in grade or quality does not disqualify the construction project.

33

1 [17.04.540 - Lowest floor.]

2 ["Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An  
3 unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or  
4 storage in an area other than a basement area is not considered a building's lowest floor,  
5 provided that the enclosure is not built in a manner as to render the structure in violation of the  
6 applicable nonelevation design requirements of the Federal Emergency Management Agency,  
7 National Flood Insurance Program.]

8

9 17.04.550 - Manufactured home or building.

10 "Manufactured home or building" means a structure, transportable in one or more sections,  
11 which is built on a permanent chassis and is designed for use with or without a permanent  
12 foundation when connected to the required utilities. For floodplain management purposes the  
13 term "manufactured home or building" also includes park trailers, travel trailers, and other  
14 similar vehicles placed on a site for more than one hundred eighty consecutive days.

15

16 [17.04.560 - Manufactured home park or subdivision.]

17 ["Manufactured home park or subdivision" means a parcel or contiguous parcels of land divided  
18 into two or more manufactured home lots for rent or sale.]

19

20 **17.04.565 – MAXIMUM EXTENT PRACTICABLE (MEP)**

21 **“MAXIMUM EXTENT PRACTICABLE” (MEP) MEANS DESIGNING STORMWATER**  
22 **MANAGEMENT SYSTEMS SO THAT ALL REASONABLE OPPORTUNITIES FOR USING**  
23 **ENVIRONMENTAL SITE DESIGN PLANNING TECHNIQUES AND TREATMENT**  
24 **PRACTICES ARE EXHAUSTED AND ONLY WHERE ABSOLUTELY NECESSARY IS A**  
25 **STRUCTURAL BEST MANAGEMENT PRACTICE IMPLEMENTED.**

26

27 [17.04.570 - Mean sea level.]

28 ["Mean sea level" is as defined by the National Geodetic Vertical Datum of 1929.]

29

30 17.04.580 - Natural vegetation.

31 "Natural vegetation" means those plant communities that develop in the absence of human  
32 activities.

33

34 [17.04.585 - New construction.]

35 ["New construction" is a structure for which the start of construction commenced on or after the  
36 effective date of the adoption of a floodplain management ordinance, and includes any

1 subsequent improvements.]

2

3 17.04.590 - Off-site facility.

4 "Off-site facility," with respect to any particular property, means a stormwater management  
5 facility serving, but not located on, that property.

6

7 17.04.600 - On-site facility.

8 "On-site facility," with respect to any particular property, means a stormwater management  
9 facility serving, and located on, that property.

10

11 17.04.610 - One-hundred-year storm event.

12 "One-hundred-year storm event" means the most severe storm of a twenty-four-hour duration  
13 expected within a one-hundred-year period. In any given year, the probability for that type of  
14 storm is one percent.

15

16 17.04.620 – Owner/**DEVELOPER**.

17 ["Owner" means any person who, alone jointly or severally with others, holds legal or equitable  
18 title to any property or parcel of land referenced in the permit application.]  
19 **“OWNER/DEVELOPER” MEANS A PERSON UNDERTAKING, OR FOR WHOSE BENEFIT,**  
20 **ACTIVITIES COVERED BY THIS CHAPTER ARE CARRIED ON. GENERAL**  
21 **CONTRACTORS OR SUBCONTRACTORS, OR BOTH, WITHOUT A PROPRIETARY**  
22 **INTEREST IN A PROJECT ARE NOT INCLUDED WITHIN THIS DEFINITION.**

23

24 17.04.630 - Permit and tolling.

25 A. "Permit" means written, authorized approval to perform the proposed work.

26 B. Permits and any permit application reviewed, approved, and ready for issuance pursuant  
27 to Title 17, and any extensions thereof which are active and valid as of June 30, 2012, shall by  
28 definition be tolled until June 30, 2014 so that all such permits, permit application approvals, and  
29 extensions shall expire on, or any applicable extension request shall have been requested by,  
30 June 30, 2014.

31 1. The City of Annapolis Code in force at the time construction commences shall apply  
32 to all such permit application approvals.

33

34 17.04.640 - Permittee.

35 "Permittee" means any person to whom a permit is issued pursuant to this title.

1  
2 17.04.650 - Person.  
3 "Person" means and includes the Federal Government, the State, any County, municipal  
4 corporation or other political subdivision of the State, or any of their units, or an individual,  
5 receiver, trustee, guardian, executor, administrator, fiduciary or representative of any kind, or  
6 any partnership, firm, association, public or private corporation, or any of their affiliates, or any  
7 other entity.

8  
9  
10 **17.04.655 – POLLUTANT**

11 **"POLLUTANT" MEANS ANY LIQUID, GASEOUS, SOLID, OR OTHER SUBSTANCES**  
12 **WHICH WILL CAUSE WATER POLLUTION OF A WATER RESOURCE OF THE CITY.**

13  
14 17.04.660 - Pre-development.

15 "Pre-development" means the United States Department of Agriculture (USDA) Soil  
16 Conservation Service classification for "meadow" in good hydrologic condition.

17  
18 17.04.670 - Principally above ground.

19 "Principally above ground" means that at least fifty-one percent of the actual cash value of a  
20 structure, less land value, is above ground as it pertains to the floodplain district.

21  
22 17.04.680 - Private stormwater management facility.

23 "Private stormwater management facility" means any stormwater management facility which is  
24 not to be owned and maintained by the City or any other government agency.

25  
26 17.04.690 - Pruning.

27 "Pruning" means any act of cutting or removing dead or living parts of branches of a tree or  
28 shrub in order to improve shape or growth.

29  
30 17.04.700 - Public stormwater management facility.

31 "Public stormwater management facility" means any stormwater management facility which is to  
32 be owned and maintained by the City or any other governmental agency.

33

1 17.04.710 - Responsible personnel.

2 "Responsible personnel" means any foreman, superintendent or project engineer who is in  
3 charge of on-site clearing and grading operations or sediment control associated with earth  
4 changes or disturbances.

5

6 17.04.720 - Retention structure.

7 "Retention structure" means a permanent structure that provides for the storage of surface  
8 water runoff by means of a permanent pool of water.

9

10 17.04.730 - Sediment.

11 "Sediment" means soils or other materials transported or deposited by the action of wind, water,  
12 ice, gravity or artificial means.

13

14 [17.04.740 - Sediment Control Inspection Agency.]

15 ["Sediment Control Inspection Agency" means the City of Annapolis, Department of  
16 Neighborhood and Environmental Programs.]

17

18 17.04.750 - Shrub layer.

19 "Shrub layer" means the lowest layer of woody vegetation.

20

21 17.04.760 - Site.

22 "Site" means that portion of land, lot or parcel of land or combination of contiguous lots or  
23 parcels of land upon which grading or other land-disturbing activity is to be performed as part of  
24 a unit, subdivision or project.

25

26 17.04.770 - Site design plan.

27 "Site design plan" means drawings that reflect a conceptual design for the physical  
28 characteristics of a site for planning purposes. The site design plan provides preliminary  
29 engineering which may be subject to the revisions during final engineering design.

30

31 17.04.780 - Site plan.

32 "Site plan" means drawings that reflect the physical characteristics of a site. These drawings  
33 include existing and proposed conditions.

1  
2 17.04.790 - Slope.

3 "Slope" means the inclined exposed surface of a fill, excavation or natural terrain, also the  
4 steepness or grade of that surface, expressed in terms of the ratio of horizontal distance to  
5 vertical rise, or in terms of a percentage.

6  
7 17.04.800 - Soil.

8 "Soil" means all earth material of whatever origin that overlies bedrock, including, but not limited  
9 to, the decomposed zone of bedrock which readily can be excavated by mechanical equipment.

10 17.04.810 - Specimen.  
11 "Specimen" means an individual tree uniquely representative of its species.

12  
13 17.04.820 - Stabilization.

14 ["Stabilization" means the prevention of soil movement by any of various vegetative or structural  
15 means.] **“STABILIZATION” MEANS THE PROTECTION OF EXPOSED SOILS FROM**  
16 **EROSION BY THE APPLICATION OF SEED AND MULCH, SEED AND MATTING, SOD,**  
17 **OTHER VEGETATIVE MEASURES, AND/OR STRUCTURAL MEANS.**

18  
19 17.04.825 - Standards and specifications.

20 "Standards and specifications" means the "[1994] **2011** Maryland Standards and Specifications  
21 for Soil Erosion and Sediment Control" or any subsequent revisions.

22  
23 17.04.830 - Steep slope.

24 "Steep slope" means a slope of greater than fifteen percent grade, which is characterized by  
25 increased runoff, erosion and sediment hazards.

26  
27 17.04.[850]**840** - Start of construction.

28 "Start of construction" means the date of issuance of the building permit for any development,  
29 including new construction and substantial improvements, provided that the actual start of the  
30 construction or improvement was within one hundred twenty days of permit issuance. The  
31 actual start of new construction means the initiation of any land-disturbing activity. For  
32 substantial improvement, the start of construction is the first alteration of any structural part of  
33 the building.

34

1 **17.04.850 – STORMWATER**

2 **“STORMWATER” MEANS WATER THAT ORIGINATES FROM A PRECIPITATION EVENT.**

3

4 17.04.860 - Stormwater management.

5 "Stormwater management" ("SWM") refers both to quantitative control: a system of vegetative  
6 and structural measures which control the increased volume and rate of surface runoff caused  
7 by manmade changes to the land and have the effect of maintaining the existing patterns of  
8 flood magnitude and frequency; and qualitative control: a system of vegetative, structural and  
9 other measures which control or treat pollutants carried by surface runoff.

10

11 **17.04.860 – STORMWATER MANAGEMENT SYSTEM**

12 **“STORMWATER MANAGEMENT SYSTEM” MEANS NATURAL AREAS, ESD PRACTICES,**  
13 **STORMWATER MANAGEMENT MEASURES, AND ANY OTHER STRUCTURE THROUGH**  
14 **WHICH STORMWATER FLOWS, INFILTRATES, OR DISCHARGES FROM A SITE.**

15

16 [17.04.870 - Stripping.]

17 ["Stripping" means any activity which removes the vegetative surface cover, including tree  
18 removal, clearing, grubbing and removal of topsoil.]

19

20 17.04.8[4]70 - Structure.

21 "Structure" means that which is built or constructed, to include but not limited to the following: a  
22 walled or roofed building, a gas or liquid storage tank, a building foundation, platform deck,  
23 swimming pool, bulkhead or greenhouse that is principally above ground and affixed to a  
24 permanent site or location.

25

26 17.04.880 - Subdivision.

27 "Subdivision" means the division or redivision of a lot, tract or parcel of land by any means into  
28 two or more lots, tracts, parcels or other divisions of land, including a change in existing lot  
29 lines, for the purpose, whether immediate or future, of lease, transfer of ownership, or building  
30 or lot development.

31

32 [17.04.885 - Substantial damage.]

33 ["Substantial damage" means damage of any origin sustained by a structure whereby the cost  
34 of restoring the structure to its before-damaged condition would equal or exceed fifty percent of  
35 the market value of the structure before the damage occurred.]

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17.04.890 - Substantial improvement.

"Substantial improvement" means:

[A. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:]

- [1. Before the improvement or repair is started, or]
- [2. If the structure has been damaged and is being restored, before the damage occurred; and]

[B. Is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term, however, does not include either:]

- [1. Any project for improvement of a structure to comply with existing State or local health, sanitary or safety code specifications which are necessary solely to assure safe living conditions, or]
- [2. Any alteration of a structure listed in the National Register of Historic Places or a State inventory of historic places.]

**ANY RECONSTRUCTION, REHABILITATION, ADDITION, OR OTHER IMPROVEMENT OF A BUILDING OR STRUCTURE, THE COST OF WHICH EQUALS OR EXCEEDS FIFTY PERCENT OF THE MARKET VALUE OF THE BUILDING OR STRUCTURE BEFORE THE START OF CONSTRUCTION OF THE IMPROVEMENT. THE TERM INCLUDES STRUCTURES WHICH HAVE INCURRED SUBSTANTIAL DAMAGE, REGARDLESS OF THE ACTUAL REPAIR WORK PERFORMED. THE TERM DOES NOT; HOWEVER, INCLUDE EITHER:**

- (1) ANY PROJECT FOR IMPROVEMENT OF A BUILDING OR STRUCTURE TO CORRECT EXISTING VIOLATIONS OF STATE OR LOCAL HEALTH, SANITARY, OR SAFETY CODE SPECIFICATIONS WHICH HAVE BEEN IDENTIFIED BY THE LOCAL CODE ENFORCEMENT OFFICIAL PRIOR TO SUBMISSION OF AN APPLICATION FOR A PERMIT AND WHICH ARE THE MINIMUM NECESSARY TO ASSURE SAFE LIVING CONDITIONS; OR**
- (2) ANY ALTERATION OF A HISTORIC STRUCTURE, PROVIDED THAT THE ALTERATION WILL NOT PRECLUDE THE STRUCTURE'S CONTINUED DESIGNATION AS A HISTORIC STRUCTURE.**

17.04.900 - Ten-year storm event.

"Ten-year storm event" means the most severe storm of a twenty-four-hour duration expected within a ten-year period. In any given year, the probability for that type of storm is ten percent.

1 17.04.910 - Trenching.

2 "Trenching" means any act of cutting, digging or excavating a trench for the emplacement of  
3 utilities.

4

5 17.04.920 - Two-year storm event.

6 "Two-year storm event" means the most severe storm of a twenty-four-hour duration expected  
7 within a two-year period. In any given year, the probability of that type of storm is fifty percent.

8

9 17.04.930 - Tunneling.

10 "Tunneling" means any act of cutting, digging or excavating a tunnel for the emplacement of  
11 utilities.

12

13 17.04.940 - Understory.

14 "Understory" means the intermediate layer of woody vegetation.

15

16 17.04.950 - Variance.

17 "Variance" means [modification of the criteria set forth in the standards and specifications.]  
18 **THE MODIFICATION OF THE MINIMUM EROSION AND SEDIMENT CONTROL**  
19 **REQUIREMENTS FOR EXCEPTIONAL CIRCUMSTANCES SUCH THAT STRICT**  
20 **ADHERENCE TO THE REQUIREMENTS WOULD RESULT IN UNNECESSARY HARDSHIP**  
21 **AND NOT FULFILL THE INTENT OF THIS CHAPTER.**

22

23 **17.04.955 – WATER POLLUTION**

24 **"WATER POLLUTION" MEANS ANY CONTAMINATION OR OTHER ALTERATION OF THE**  
25 **PHYSICAL, CHEMICAL, OR BIOLOGICAL PROPERTIES OF ANY WATERS, INCLUDING A**  
26 **CHANGE IN TEMPERATURE, TASTE, COLOR, TURBIDITY, OR ODOR OF THE WATERS**  
27 **OR THE DISCHARGE OR DEPOSIT OF ANY ORGANIC MATTER, HARMFUL ORGANISM,**  
28 **OR LIQUID, GASEOUS, SOLID, RADIOACTIVE, OR OTHER SUBSTANCE INTO ANY**  
29 **WATERS THAT WILL RENDER THE WATERS HARMFUL, OR DETRIMENTAL TO PUBLIC**  
30 **HEALTH AND SAFETY, LEGITIMATE BENEFICIAL USES, WILD ANIMALS, OR AQUATIC**  
31 **LIFE.**

32

33 [17.04.960 – Watercourse or drainage way.

34 "Watercourse or drainage way" means any natural or artificial flow or path, including, but not  
35 limited to, streams, rivers, creeks, ponds, lakes, ditches, channels, canals, conduits, culverts,  
36 drains, waterways, gullies, ravines or washes in which waters flow in a definite direction or

1 course, either continuously or intermittently, and including any adjacent area which is subject to  
2 inundation by reason of overflow or floodwaters. ]

3 **17.04.960 – WATER RESOURCE**

4 **"WATER RESOURCE" MEANS ANY WETLANDS, EPHEMERAL STREAMS,**  
5 **INTERMITTENT STREAMS, PERENNIAL STREAMS, OTHER BODIES OF WATER, AND**  
6 **ANY OTHER DRAINAGE WAY THAT MAY CONTINUOUSLY OR INTERMITTENTLY CARRY**  
7 **WATER TO ONE OF THESE WATER RESOURCES.**

8

9 17.04.970 - Watershed.

10 "Watershed" means the total drainage area contributing runoff to a specific water body, or to a  
11 specific point.

12

13 17.04.980 - Wetlands.

14 "Wetlands" means any area that has saturated soils or periodic high groundwater levels and  
15 vegetation adapted to wet conditions and periodic flooding, to include but not limited to land  
16 which is either considered "private wetland" or "State wetland" pursuant to Annotated Code of  
17 Maryland, Environment Article, Title 16 (or its successors), or defined as "wetland" by the U.S.  
18 Fish and Wildlife Service identification and classification procedures (or its successors).

19

20 17.04.990 - Wetland floodplain.

21 "Wetland floodplain" means those portions of land within the floodplain district subject to  
22 inundation by a one-hundred-year flood and determined to be "wetlands" as defined in this title.

23

24 17.04.1000 - Wildlife corridor.

25 "Wildlife corridor" means a strip of land having vegetation that provides habitat and a safe  
26 passageway for wildlife.

27

28 17.04.1010 - Work.

29 "Work" means any construction-related activity that leads to the performance of action provided  
30 by the grading or building permit.

31

32

1 **Chapter 17.08 - GRADING, EROSION AND SEDIMENT CONTROL**

2

3 **17.08.010 - Purpose.**

4 A. [The purpose of this chapter is to protect the public health, safety and property and the  
5 general welfare of the community by establishing minimum requirements for the stripping,  
6 excavating and filling of land, for dredging, and for the control of soil erosion and sediment.  
7 Minimizing soil erosion and off-site sedimentation will minimize damage to public and private  
8 property, and assist in the attainment and maintenance of water quality standards.] **THE  
9 PURPOSE OF THIS CHAPTER IS TO PROTECT, MAINTAIN, AND ENHANCE THE PUBLIC  
10 HEALTH, SAFETY, AND GENERAL WELFARE BY ESTABLISHING MINIMUM  
11 REQUIREMENTS AND PROCEDURES TO CONTROL THE ADVERSE IMPACTS  
12 ASSOCIATED WITH LAND DISTURBANCES. THE GOAL IS TO MINIMIZE SOIL EROSION  
13 AND PREVENT OFF-SITE SEDIMENTATION BY USING SOIL EROSION AND SEDIMENT  
14 CONTROL PRACTICES DESIGNED IN ACCORDANCE WITH THE CODE OF MARYLAND  
15 REGULATIONS (COMAR) 26.17.01, THE 2011 MARYLAND STANDARDS AND  
16 SPECIFICATIONS (STANDARDS AND SPECIFICATIONS) AND THE STORMWATER  
17 MANAGEMENT ACT OF 2007 (ACT) OR ITS SUCCESSORS. THIS CHAPTER WILL HELP  
18 REDUCE THE NEGATIVE IMPACTS OF LAND DEVELOPMENT ON WATER RESOURCES,  
19 MAINTAIN THE CHEMICAL, PHYSICAL, AND BIOLOGICAL INTEGRITY OF STREAMS,  
20 AND MINIMIZE DAMAGE TO PUBLIC AND PRIVATE PROPERTY.**

21 B. The provisions of this chapter are minimum requirements. They shall be conformed to in  
22 addition to, rather than in lieu of, all other legal requirements, and shall be construed liberally to  
23 accomplish the purposes set forth. No person shall allow and no landowner shall permit any  
24 work to be performed which violates this chapter.

25 C. The provisions of this chapter are adopted pursuant to Annotated Code of Maryland,  
26 Environment Article, Title 4, Subtitle 1 (or its successors), as well as the authority of the City  
27 Charter and the City Code and shall apply to all grading occurring within the City.

28

29 **17.08.020 - Liability for damages.**

30 The issuance of a permit under the provisions of this chapter or compliance with the provisions  
31 of this chapter does not relieve a person from responsibility for damage to persons or property  
32 otherwise imposed by law, or impose liability on the City for damages.

33

34 **17.08.030 - Grading permit—Required application.**

35 A. Except as set forth in Section 17.08.040, no person shall do and no owner allow, any  
36 grading of land without first having obtained a grading permit from the Director. Each permit  
37 shall authorize only the improvements set forth in the application and accompanying drawings,  
38 but each permit may cover any number of contiguous lots.

39 B. The application shall be filed with the Director or designee. Both the owner of the property  
40 and the contractor engaged to do the work are responsible equally for obtaining the required  
41 grading permit.

- 1 C. Each application for a grading permit shall be supported by the following:
- 2 1. Plans and specifications in accordance with Section 17.08.060
  - 3 2. The required fees in accordance with Section 17.08.080
  - 4 3. The written approval of appropriate State and Federal agencies, where applicable;
  - 5 4. A right-of-entry to the City for periodic inspection for compliance with this title;
  - 6 5. A bond in accordance with Section [18]17.08.092;
  - 7 6. Payment to the City Finance Director of all applicable school impact fees assessed by
  - 8 Anne Arundel County, or proof that the project is not subject to the County's school impact
  - 9 fees.

10

11 17.08.040 - Grading permit—[Exceptions.] **EXEMPTIONS**

12 **NO PERSON SHALL DISTURB LAND WITHOUT IMPLEMENTING SOIL EROSION AND**  
13 **SEDIMENT CONTROLS IN ACCORDANCE WITH THE REQUIREMENTS OF THIS**  
14 **CHAPTER AND THE STANDARDS AND SPECIFICATIONS EXCEPT AS PROVIDED WITHIN**  
15 **THIS SECTION.**

- 16 **A.** A grading permit is not required for the following **LIMITATIONS AS SET FORTH**  
17 **BY THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT'S MOST RECENT**  
18 **STANDARD SEDIMENT AND EROSION CONTROL PLAN LIMITATIONS**, provided that  
19 the other provisions of this chapter and of applicable State law are satisfied:

20 Land on which the following exist:

- 21 [1. Land-disturbing activities less than five thousand square feet, except for new  
22 single family homes for which a grading permit is required regardless of area  
23 disturbed,]
- 24 [2. The total excavation volume or fill volume of the site is less than one hundred  
25 cubic yards, and is above the established mean high water line,]
- 26 [3. Land-disturbing activities shall not include steep slope areas,]
- 27 [4. The owner, builder, developer or permittee is not the owner, builder, developer  
28 or permittee of any contiguous lots undergoing development,]
- 29 [5. The proposed grading will not impair existing surface drainage, constitute a  
30 potential erosion hazard, or act as a source of sedimentation to any adjacent land or  
31 watercourse, and]
- 32 [6. Grading will not take place within one hundred feet of the mean high water line.]

33 **1. AGRICULTURAL LAND MANAGEMENT PRACTICES AND AGRICULTURAL**  
34 **BMPS.**

35 **2. THE LOT WHERE THE WORK IS TO BE PERFORMED IS ON A PAVED,**  
36 **GRAVELED OR PUBLICLY MAINTAINED STREET WHERE STORM DRAINS**

- 1           **ARE IN OPERATION AND ROADSIDE DITCHES ARE STABILIZED.**
- 2           **3. NOT MORE THAN 5,000 SQUARE FEET OF GROUND SHALL BE DISTURBED;**  
3           **NO MORE THAN 2,000 SQUARE FEET FOR WATERFRONT LOTS.**
- 4           **4. CUTS AND FILLS SHALL NOT EXCEED 10 FEET IN DEPTH OR HEIGHT AND**  
5           **SHALL NOT EXCEED 100 CUBIC YARDS IN VOLUME.**
- 6           **5. SLOPES WITH A GRADE OF 15% OR GREATER SHALL NOT BE DISTURBED**  
7           **AND SLOPES STEEPER THAN 3:1 MAY NOT BE CREATED.**
- 8           **6. HIGHLY ERODIBLE SOILS SHALL NOT BE DISTURBED.**
- 9           **7. NO EARTH DISTURBANCE SHALL OCCUR WITHIN THE FOLLOWING WITH**  
10           **THE EXCEPTION OF SHORELINE STABILIZATION PROJECTS AND RETAINING**  
11           **WALL REPLACEMENTS IN KIND:**
  - 12           **a. THE LIMITS OF THE 100 YEAR FLOODPLAIN OF ANY STREAM;**
  - 13           **b. 100 FEET OF ANY PERENNIAL STREAM OR WATER BODY;**
  - 14           **c. 100 FEET LANDWARD OF THE MEAN HIGH WATER LINE OF ANY**  
15           **WATER BODY AFFECTED BY TIDAL ACTION (SUBJECT TO VARIANCE**  
16           **PROCEDURES IN TITLE 21 OF THE CITY CODE);**
  - 17           **d. 100 FEET FROM ANY TIDAL WETLAND OR BOG; OR**
  - 18           **e. 25 FEET OF ANY NON-TIDAL WETLAND EXCEPT FOR AN APPROVED**  
19           **BUFFER MANAGEMENT PLAN APPROVED BY THE CITY FOR**  
20           **CLEARING LESS THAN 5,000 SQUARE FEET OF VEGETATION.**
- 21           **8. THE OWNER, BUILDER OR DEVELOPER IS NOT THE SAME OWNER, BUILDER**  
22           **OR DEVELOPER OF ANY CONTIGUOUS LOTS UNDERGOING DEVELOPMENT.**
- 23           **9. THE PROPOSED CONSTRUCTION IS NOT A SINGLE FAMILY DWELLING OR**  
24           **AN ADDITION OR MODIFICATION THAT IS CLASSIFIED AS A SUBSTANTIAL**  
25           **IMPROVEMENT TO AN EXISTING SINGLE FAMILY DWELLING AS**  
26           **DETERMINED IN ACCORDANCE WITH CITY OF ANNAPOLIS CODE.**
- 27           **10. ANY PROPOSED GRADING WILL NOT IMPAIR EXISTING SURFACE**  
28           **DRAINAGE, CONSTITUTE A POTENTIAL EROSION HAZARD OR ACT AS A**  
29           **SOURCE OF SEDIMENTATION TO ADJACENT LAND OR WATER RESOURCE**  
30           **OR IMPACT AN EROSION AND SEDIMENT CONTROL PLAN PREVIOUSLY**  
31           **APPROVED BY THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT OR**  
32           **THE CITY OF ANNAPOLIS.**
- 33           **11. THE SITE CONDITIONS MUST BE SUCH THAT IT IS POSSIBLE TO SATISFY**  
34           **THE REQUIRED EROSION AND SEDIMENT CONTROL REQUIREMENTS BY**  
35           **THE USE OF REINFORCED SILT FENCE, A STABILIZED CONSTRUCTION**  
36           **ENTRANCE AND VEGETATIVE STABILIZATION.**
- 37           **12. THE APPLICANT HAS SUBMITTED A SITE PLAN ADEQUATELY SHOWING THE**  
38           **PROPERTY LINES, SITE CONDITIONS, AND THE PROPOSED WORK WHICH IS**  
39           **ATTACHED HERETO AND MADE A PART THEREOF.**

1           **13. FOR WORK IN THE CRITICAL AREA, THE APPLICANT HAS SUBMITTED A**  
2           **CRITICAL AREA WORKSHEET DETAILING EXISTING, AND PROPOSED LOT**  
3           **COVERAGE AND IMPERVIOUS COVER.**

4           **14. THE PROPOSED WORK DOES NOT REQUIRE A STATE WATERWAY OR**  
5           **WETLAND PERMIT EXCEPT WHERE THE PROJECT IS A SHORELINE**  
6           **STABILIZATION PROJECT.**

7           B. Land-disturbing activities that are subject exclusively to State approval and  
8           enforcement under State law and regulations.

9           **C. IF A GRADING PERMIT IS NOT REQUIRED UNDER SUB-SECTION A, A**  
10           **STANDARD SEDIMENT AND EROSION CONTROL PLAN SHALL BE ISSUED.**

11  
12   17.08.050 - Variances—Erosion and sediment control plan.

13   A.   The Director, based on written recommendations from the Anne Arundel Soil Conservation  
14   District, may grant a variance from the requirements of the ["1994 Maryland] Standards and  
15   Specifications [for Soil Erosion and Sediment Control," and any subsequent revisions], if strict  
16   adherence to the specifications will result in [unnecessary] **EXCEPTIONAL** hardship and not  
17   fulfill the intent of this chapter. The developer shall submit a written request for a variance to the  
18   **DIRECTOR AND THE** Anne Arundel Soil Conservation District. The request shall state the  
19   specific variances sought and reasons for requesting the variance. The Director shall not grant a  
20   variance unless and until sufficient specific reasons justifying the variance are provided by the  
21   owner/developer to the satisfaction of the Anne Arundel Soil Conservation District **AND THE**  
22   **DIRECTOR.**

23   B.   The granting of a variance as noted in this section does not in any way exempt the  
24   applicant from compliance with the other requirements of this chapter.

25  
26   17.08.060 - Permit—Plans and specifications.

27   [The grading permit application shall include site plans and specifications prepared by a design  
28   professional that provide, but shall not be limited to, the following information:]

29   [A.   An erosion and sediment control plan, on a scale not less than one inch equals forty  
30   feet, which meets the requirements of the Anne Arundel Soil Conservation District, this  
31   title, the State sediment control regulations, COMAR 26.17.01 and the "1994 Maryland  
32   Standards and Specifications for Soil Erosion and Sediment Control" and any subsequent  
33   revisions. The plan shall include sufficient information to evaluate the environmental  
34   characteristics of the affected areas, the potential impacts of the proposed grading on  
35   water resources, and the effectiveness and acceptability of measures proposed to  
36   minimize soil erosion and off-site sedimentation. The applicant shall certify on the drawings  
37   that all clearing, grading, drainage, construction and development shall be conducted in  
38   strict accordance with the plan. The plan shall include the following:]

39           [1. Applicant information: names, addresses and telephone numbers of the  
40           applicant, owner, contractor, developer, engineer, and person responsible for the  
41           proposed work,]

- 1 [2. Site location information: lot number, section, block, zone, property tax number,  
2 and address,]
- 3 [3. A vicinity sketch indicating north arrow, scale and other information necessary to  
4 locate the property easily,]
- 5 [4. A boundary line survey delineating the property lines of the site, or a copy of the  
6 officially recorded plat,]
- 7 [5. Existing and proposed topography for the site and the one-hundred-foot  
8 peripheral strip at contour intervals as determined by the slope:]
- 9 [a. Average three percent or less, contours shall have not more than one-foot  
10 interval,]
- 11 [b. Average more than three percent but less than fifteen percent, contours  
12 shall have not more than a two-foot interval, or]
- 13 [c. Average fifteen percent or more, contours shall have not more than a five-  
14 foot interval,]
- 15 [6. Location of existing and proposed buildings or structures, utilities, sanitary  
16 sewers, water mains, storm drainage systems, roadways, and fences on the site and  
17 within one hundred feet of the site,]
- 18 [7. The estimated disturbed surface area, volumes of cut, fill, borrow and spoil  
19 materials for the site and limits of grading,]
- 20 [8. Sequence of construction describing the relationship between the  
21 implementation and maintenance of erosion and sediment control measures,  
22 including permanent and temporary stabilization and the various stages or phases of  
23 earth disturbance and construction. The sequence of construction shall, at a  
24 minimum, include a schedule and time frame for the following activities:]
- 25 [a. Clearing and grubbing for those areas necessary for installation of  
26 perimeter controls,]
- 27 [b. Construction of perimeter controls,]
- 28 [c. Remaining clearing and grubbing,]
- 29 [d. Road grading,]
- 30 [e. Grading for remainder of site,]
- 31 [f. Utility installation,]
- 32 [g. Final grading, landscaping or stabilization, and]
- 33 [h. Removal of controls.]
- 34 [9. Erosion and sediment control measures that minimize on-site erosion and  
35 prevent off-site sedimentation, including:]
- 36 [a. Provisions to preserve topsoil and limit disturbance,]

1 [b. Details of grading practices,]

2 [c. Design details for structural controls that pertain to drainage, retaining  
3 walls, cribbing, vegetative practices, erosion and sediment control measures,  
4 and other protective devices to be constructed in connection with, or as part of,  
5 the proposed work, and]

6 [d. Details of temporary and permanent stabilization measures, including  
7 placement of the following statement on the plan:]

8 [Following initial soil disturbance or redisturbance, permanent or temporary stabilization  
9 shall be completed within:]

10 [i. Seven calendar days as to the surface of all perimeter dikes, swales, ditches, perimeter  
11 slopes, and all slopes greater than three horizontal to one vertical (3:1), and]

12 [ii. For all other disturbed or graded areas on the project site, not to exceed fourteen days if  
13 no backfilling takes place or immediately upon the backfilling of the foundation,]

14 [The requirements of subsections (A)(9)(d)(i) and (ii) of this section do  
15 not apply to those areas which are shown on the plan and currently  
16 are being used for material storage or for those areas on which actual  
17 active construction activities are being performed. Maintenance shall  
18 be performed as necessary to ensure that the stabilized areas  
19 continuously meet the appropriate requirements of the "1994  
20 Maryland Standards and Specifications for Soil Erosion and Sediment  
21 Control" and any subsequent revisions,]

22 [10. A statement shall be placed on the sediment and erosion control plan that states  
23 the following: "The developer/owner shall request that the Director approve work  
24 completed in accordance with the approved erosion and sediment control plan, the  
25 grading or building permit, and this title."]

26 [a. On all sites with disturbed areas in excess of two acres, approval of the  
27 Sediment Control Inspection Agency shall be requested upon completion of  
28 installation of perimeter erosion and sediment controls, but before proceeding  
29 with any other earth disturbance or grading. Other building or grading inspection  
30 approvals may not be authorized until this initial approval by the Director is  
31 made, and]

32 [b. Approval shall be requested upon final stabilization of all sites with  
33 disturbed areas in excess of two acres before removal of controls,]

34 [11. Certification by the developer/owner that any clearing, grading, construction or  
35 development, or all of these, will be done pursuant to this plan and that responsible  
36 personnel involved in the construction project will have a Certificate of Training at a  
37 Maryland Department of the Environment approved training program for the control of  
38 sediment and erosion before beginning the project. The Certification of Training for  
39 Responsible Personnel requirement may be waived by the Anne Arundel Soil  
40 Conservation District on any project involving four or fewer residential units,]

41 [12. A statement on the sediment and erosion control plan that indicates the  
42 permittee shall notify the Director forty-eight hours before commencing any land-

- 1           disturbing activity;]
- 2           [B. Adequate plans and specifications detailing:]
- 3           [1. Complete storm drainage information:]
- 4           [a. Drainage area map, and where applicable, subdrainage area boundaries,  
5           on a scale of not less than one inch to two hundred feet,]
- 6           [b. Hydrologic and hydraulic studies, as required by the Department, and]
- 7           [c. Requirements as stated in Chapter 17.10, Stormwater Management, of this  
8           code,]
- 9           [2. Requirements as stated in Chapter 17.11, Floodplain Management, of this  
10          code,]
- 11          [3. Profiles for the following, where required by the Department:]
- 12          [a. Roadways,]
- 13          [b. Storm drainage systems and drainage channels,]
- 14          [c. Sanitary sewers, and]
- 15          [d. Water lines,]
- 16          [4. Requirements as stated in Chapter 17.09, Trees in Development Areas, of this  
17          code,]
- 18          [5. An engineer's certification where determined to be necessary by the Director,]
- 19          [6. Supplemental reports, data or additional information as the Department may  
20          require to the adequacy of the proposed plan. This information may include, but is not  
21          limited to:]
- 22          [a. A record of field observations,]
- 23          [b. Field test data (such as behavior of adjacent or nearby structures, geologic  
24          history and origin of soil, test boring log giving classification, standard  
25          penetration data and water level observations, pile load test, plate load test, and  
26          others as necessary),]
- 27          [c. Laboratory test data (such as moisture density curves, grain size curves,  
28          shear strength tests, moisture content, and consolidation test results),]
- 29          [d. Project characteristics (such as those affecting soil and foundation design,  
30          sensitivity to settlement and design loads, factor of safety against failure,  
31          consequences of failure and merits of programmed maintenance, location of  
32          borrow pits on site or location where suitable fill will be obtained), and]
- 33          [e. An outfall survey that documents the preconstruction and post-construction  
34          conditions of the development site's drainage area outfall, and which may  
35          include a topographical or bathymetric survey, vegetation description,  
36          photographic or video documentation, and soil survey. Monitoring devices may

1 be required,]

2 [7. The Department may waive the filing of particular information wherever in its  
3 judgment the information will serve no useful purpose for the particular project and  
4 the waiver does not contravene the purposes of this title.]

5 **A. AN APPLICANT IS RESPONSIBLE FOR SUBMITTING EROSION AND SEDIMENT**  
6 **CONTROL PLANS THAT MEET THE REQUIREMENTS OF THE ANNE ARUNDEL SOIL**  
7 **CONSERVATION DISTRICT, THIS CHAPTER OF THE CITY CODE, CHAPTER 17.10 OF**  
8 **THE CITY CODE, THE STANDARDS AND SPECIFICATIONS, AND THE ACT. THE**  
9 **PLANS SHALL INCLUDE SUFFICIENT INFORMATION TO EVALUATE THE**  
10 **ENVIRONMENTAL CHARACTERISTICS OF THE AFFECTED AREAS, THE POTENTIAL**  
11 **IMPACTS OF THE PROPOSED GRADING ON WATER RESOURCES, AND THE**  
12 **EFFECTIVENESS AND ACCEPTABILITY OF MEASURES PROPOSED TO MINIMIZE**  
13 **SOIL EROSION AND OFF-SITE SEDIMENTATION.**

14 **B. AT A MINIMUM, AN APPLICANT SHALL SUBMIT THE FOLLOWING INFORMATION:**

15 **1. A LETTER OF TRANSMITTAL AND/OR APPLICATION;**

16 **2. NAME, ADDRESS, AND TELEPHONE NUMBER OF:**

17 **A. THE OWNER OF THE PROPERTY WHERE THE GRADING IS PROPOSED;**

18 **B. THE DEVELOPER; AND**

19 **C. THE APPLICANT;**

20 **3. A VICINITY MAP INDICATING NORTH ARROW, SCALE, SITE LOCATION, AND**  
21 **OTHER INFORMATION NECESSARY TO EASILY LOCATE THE PROPERTY;**

22 **4. DRAINAGE AREA MAP(S) AT A 1" = 200' MINIMUM SCALE SHOWING EXISTING,**  
23 **INTERIM, AND PROPOSED TOPOGRAPHY, PROPOSED IMPROVEMENTS,**  
24 **STANDARD SYMBOLS FOR PROPOSED SEDIMENT CONTROL FEATURES, AND**  
25 **PERTINENT DRAINAGE INFORMATION INCLUDING PROVISIONS TO PROTECT**  
26 **DOWNSTREAM AREAS FROM EROSION FOR A MINIMUM OF 200 FEET**  
27 **DOWNSTREAM OR TO THE NEXT CONVEYANCE SYSTEM;**

28 **5. THE LOCATION OF NATURAL RESOURCES, WETLANDS, FLOODPLAINS, HIGHLY**  
29 **ERODIBLE SOILS, SLOPES 15 PERCENT AND STEEPER, AND ANY OTHER**  
30 **SENSITIVE AREAS;**

31 **6. A GENERAL DESCRIPTION OF THE PREDOMINANT SOIL TYPES ON THE SITE,**  
32 **AS DESCRIBED BY THE APPROPRIATE SOIL SURVEY INFORMATION**  
33 **AVAILABLE THROUGH THE LOCAL SOIL CONSERVATION DISTRICT OR THE**  
34 **USDA NATURAL RESOURCES SOIL CONSERVATION SERVICE;**

35 **7. PROPOSED STORMWATER MANAGEMENT PRACTICES;**

36 **8. EROSION AND SEDIMENT CONTROL PLANS INCLUDING:**

37 **A. THE EXISTING TOPOGRAPHY AND IMPROVEMENTS AS WELL AS PROPOSED**  
38 **TOPOGRAPHY AND IMPROVEMENTS AT A SCALE BETWEEN 1" = 10' AND 1"**  
39 **= 50' WITH 2 FOOT CONTOURS OR OTHER APPROVED CONTOUR INTERVAL.**

- 1           **FOR PROJECTS WITH MORE THAN MINOR GRADING, INTERIM CONTOURS**  
2           **MAY ALSO BE REQUIRED;**
- 3           **B. SCALE, PROJECT AND SHEET TITLE, AND NORTH ARROW ON EACH PLAN**  
4           **SHEET;**
- 5           **C. THE LIMIT OF DISTURBANCE (LOD) INCLUDING:**
- 6               **I. LIMIT OF GRADING (GRADING UNITS, IF APPLICABLE); AND**  
7               **II. INITIAL, INTERIM, AND FINAL PHASES;**
- 8           **D. THE PROPOSED GRADING AND EARTH DISTURBANCE INCLUDING:**
- 9               **I. TOTAL DISTURBED AREA;**  
10              **II. VOLUME OF CUT AND FILL QUANTITIES; AND**  
11              **III. VOLUME OF BORROW AND SPOIL QUANTITIES;**
- 12           **E. STORM DRAINAGE FEATURES, INCLUDING:**
- 13               **I. EXISTING AND PROPOSED BRIDGES, STORM DRAINS, CULVERTS,**  
14               **OUTFALLS, ETC.;**
- 15               **II. VELOCITIES AND PEAK FLOW RATES AT OUTFALLS FOR THE TWO-YEAR**  
16               **AND TEN-YEAR FREQUENCY STORM EVENTS; AND**
- 17               **III. SITE CONDITIONS AROUND POINTS OF ALL SURFACE WATER**  
18               **DISCHARGE FROM THE SITE;**
- 19               **IV. DRAINAGE AREA MAP AND, WHERE APPLICABLE, SUBDRAINAGE AREA**  
20               **BOUNDARIES, ON A SCALE OF NOT LESS THAN ONE INCH TO TWO**  
21               **HUNDRED FEET;**
- 22               **V. HYDROLOGIC AND HYDRAULIC STUDIES, AS REQUIRED BY THE**  
23               **DEPARTMENT; AND**
- 24               **VI. REQUIREMENTS AS STATED IN CHAPTER 17.10, STORMWATER**  
25               **MANAGEMENT, OF THE CITY CODE;**
- 26           **F. EROSION AND SEDIMENT CONTROL PRACTICES TO MINIMIZE ON-SITE**  
27           **EROSION AND PREVENT OFF-SITE SEDIMENTATION INCLUDING:**
- 28               **I. THE SALVAGE AND REUSE OF TOPSOIL;**
- 29               **II. PHASED CONSTRUCTION AND IMPLEMENTATION OF GRADING UNIT(S)**  
30               **TO MINIMIZE DISTURBANCES, BOTH IN EXTENT AND DURATION;**
- 31               **III. LOCATION AND TYPE OF ALL PROPOSED SEDIMENT CONTROL**  
32               **PRACTICES;**
- 33               **IV. DESIGN DETAILS AND DATA FOR ALL EROSION AND SEDIMENT**  
34               **CONTROL PRACTICES; AND**

1 V. SPECIFICATIONS FOR TEMPORARY AND PERMANENT STABILIZATION  
2 MEASURES INCLUDING, AT A MINIMUM:

3 (A) THE "STANDARD STABILIZATION NOTE" ON THE PLAN STATING:  
4 "FOLLOWING INITIAL SOIL DISTURBANCE OR RE-DISTURBANCE,  
5 PERMANENT OR TEMPORARY STABILIZATION MUST BE COMPLETED  
6 WITHIN:

7 (I) THREE (3) CALENDAR DAYS AS TO THE SURFACE OF ALL  
8 PERIMETER DIKES, SWALES, DITCHES, PERIMETER SLOPES, AND  
9 ALL SLOPES STEEPER THAN 3 HORIZONTAL TO 1 VERTICAL (3:1);  
10 AND

11 (II) SEVEN (7) CALENDAR DAYS AS TO ALL OTHER DISTURBED OR  
12 GRADED AREAS ON THE PROJECT SITE NOT UNDER ACTIVE  
13 GRADING."

14 (B) DETAILS FOR AREAS REQUIRING ACCELERATED STABILIZATION;  
15 AND

16 (C) MAINTENANCE REQUIREMENTS AS DEFINED IN THE STANDARDS  
17 AND SPECIFICATIONS;

18 (D) THE "VERTICAL STABILIZATION NOTE" ON THE PLAN STATING:  
19 "BUILDING CONSTRUCTION MAY NOT PROCEED PAST THE GROUND  
20 FLOOR UNTIL THE FOUNDATION HAS BEEN BACKFILLED AND ALL  
21 REMAINING DISTURBED AREAS HAVE BEEN PERMANENTLY OR  
22 TEMPORARILY STABILIZED. ONCE THE SITE IS STABILIZED, WITH  
23 THE DEPARTMENT'S APPROVAL, FRAMING MAY COMMENCE ABOVE  
24 THE GROUND FLOOR. DURING BUILDING CONSTRUCTION BEYOND  
25 THE GROUND FLOOR, ALL DISTURBED AREAS MUST BE STABILIZED  
26 AT THE END OF EACH BUSINESS DAY;

27 G. A SEQUENCE OF CONSTRUCTION DESCRIBING THE RELATIONSHIP  
28 BETWEEN THE IMPLEMENTATION AND MAINTENANCE OF CONTROLS,  
29 INCLUDING PERMANENT AND TEMPORARY STABILIZATION, AND THE  
30 VARIOUS STAGES OR PHASES OF EARTH DISTURBANCE AND  
31 CONSTRUCTION. ANY CHANGES OR REVISIONS TO THE SEQUENCE OF  
32 CONSTRUCTION MUST BE APPROVED BY THE ANNE ARUNDEL SOIL  
33 CONSERVATION DISTRICT OR THE DEPARTMENT PRIOR TO PROCEEDING  
34 WITH CONSTRUCTION. THE SEQUENCE OF CONSTRUCTION, AT A MINIMUM,  
35 MUST INCLUDE THE FOLLOWING:

36 I. REQUEST FOR A PRE-CONSTRUCTION MEETING WITH THE  
37 APPROPRIATE ENFORCEMENT AUTHORITY;

38 II. CLEARING AND GRUBBING AS NECESSARY FOR THE INSTALLATION OF  
39 PERIMETER CONTROLS;

40 III. CONSTRUCTION AND STABILIZATION OF PERIMETER CONTROLS;

41 IV. REMAINING CLEARING AND GRUBBING WITHIN INSTALLED PERIMETER  
42 CONTROLS;

- 1           **V. ROAD GRADING;**
- 2           **VI. GRADING FOR THE REMAINDER OF THE SITE;**
- 3           **VII. UTILITY INSTALLATION AND CONNECTION TO EXISTING STRUCTURES;**
- 4           **VIII. CONSTRUCTION OF BUILDINGS, ROADS, AND OTHER CONSTRUCTION;**
- 5           **IX. FINAL GRADING, LANDSCAPING, AND STABILIZATION;**
- 6           **X. INSTALLATION OF STORMWATER MANAGEMENT MEASURES;**
- 7           **XI. APPROVAL OF THE SEDIMENT CONTROL INSPECTOR PRIOR TO**  
8           **REMOVAL OF SEDIMENT CONTROLS; AND**
- 9           **XII. REMOVAL OF CONTROLS AND STABILIZATION OF AREAS THAT ARE**  
10           **DISTURBED BY REMOVAL OF SEDIMENT CONTROLS;**
- 11       **H. A STATEMENT REQUIRING THE OWNER/DEVELOPER OR REPRESENTATIVE**  
12       **TO CONTACT THE DEPARTMENT AT THE FOLLOWING STAGES OF THE**  
13       **PROJECT OR IN ACCORDANCE WITH THE APPROVED EROSION AND**  
14       **SEDIMENT CONTROL PLAN, GRADING PERMIT, OR BUILDING PERMIT:**
- 15           **I. FORTY-EIGHT HOURS PRIOR TO THE START OF EARTH DISTURBANCE;**
- 16           **II. UPON COMPLETION OF THE INSTALLATION OF PERIMETER EROSION**  
17           **AND SEDIMENT CONTROLS, BUT BEFORE PROCEEDING WITH ANY**  
18           **OTHER EARTH DISTURBANCE OR GRADING;**
- 19           **III. PRIOR TO THE START OF ANOTHER PHASE OF CONSTRUCTION OR**  
20           **OPENING OF ANOTHER GRADING UNIT; AND**
- 21           **IV. PRIOR TO THE REMOVAL OF SEDIMENT CONTROL PRACTICES;**
- 22       **I. REQUIREMENTS AS STATED IN CHAPTER 17.11, FLOODPLAIN**  
23       **MANAGEMENT, OF THE CITY CODE;**
- 24       **J. REQUIREMENTS AS STATED IN CHAPTER 17.09, TREES IN DEVELOPMENT**  
25       **AREAS, OF THE CITY CODE;**
- 26       **K. AN ENGINEER'S CERTIFICATION WHERE DETERMINED TO BE NECESSARY**  
27       **BY THE DEPARTMENT;**
- 28       **L. SUPPLEMENTAL REPORTS, DATA OR ADDITIONAL INFORMATION AS THE**  
29       **DEPARTMENT MAY REQUIRE TO THE ADEQUACY OF THE PROPOSED PLAN.**  
30       **THIS INFORMATION MAY INCLUDE, BUT IS NOT LIMITED TO:**
- 31           **I. A RECORD OF FIELD OBSERVATIONS;**
- 32           **II. FIELD OR LABORATORY TEST DATA;**
- 33           **III. AN OUTFALL SURVEY THAT DOCUMENTS THE PRE-CONSTRUCTION**  
34           **AND POST-CONSTRUCTION CONDITIONS OF THE DEVELOPMENT**  
35           **SITE'S DRAINAGE AREA OUTFALL, AND WHICH MAY INCLUDE A**  
36           **TOPOGRAPHICAL OR BATHYMETRIC SURVEY, VEGETATION**

1 DESCRIPTION, PHOTOGRAPHIC OR VIDEO DOCUMENTATION, AND  
2 SOIL SURVEY. MONITORING DEVICES MAY BE REQUIRED;

3 M. THE DEPARTMENT MAY WAIVE THE FILING OF PARTICULAR INFORMATION  
4 WHEREVER IN ITS JUDGEMENT THE INFORMATION WILL SERVE NO USEFUL  
5 PURPOSE FOR THE PARTICULAR PROJECT AND THE WAIVER DOES NOT  
6 CONTRAVENE THE PURPOSES OF THIS TITLE;

7 N. CERTIFICATION BY THE OWNER/DEVELOPER THAT ANY CLEARING,  
8 GRADING, CONSTRUCTION, OR DEVELOPMENT WILL BE DONE PURSUANT  
9 TO THE APPROVED EROSION AND SEDIMENT CONTROL PLAN. THE  
10 CERTIFICATION MUST ALSO REQUIRE THAT THE RESPONSIBLE  
11 PERSONNEL INVOLVED IN THE CONSTRUCTION PROJECT HAVE A  
12 CERTIFICATE OF TRAINING AT A MARYLAND DEPARTMENT OF THE  
13 ENVIRONMENT (MDE) APPROVED TRAINING PROGRAM FOR THE CONTROL  
14 OF EROSION AND SEDIMENT PRIOR TO BEGINNING THE PROJECT. THE  
15 CERTIFICATE OF TRAINING FOR RESPONSIBLE PERSONNEL MAY BE  
16 WAIVED BY THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT ON ANY  
17 PROJECT INVOLVING FOUR OR FEWER RESIDENTIAL LOTS. ADDITIONALLY,  
18 THE OWNER/DEVELOPER SHALL ALLOW RIGHT OF ENTRY FOR PERIODIC  
19 ON-SITE EVALUATION BY THE ANNE ARUNDEL SOIL CONSERVATION  
20 DISTRICT, THE DEPARTMENT, AND/OR MDE;

21 O. CERTIFICATION BY A PROFESSIONAL ENGINEER, LAND SURVEYOR,  
22 LANDSCAPE ARCHITECT, ARCHITECT, OR FORESTER (FOR FOREST  
23 HARVEST OPERATIONS ONLY) REGISTERED IN THE STATE THAT THE  
24 PLANS HAVE BEEN DESIGNED IN ACCORDANCE WITH EROSION AND  
25 SEDIMENT CONTROL LAWS, REGULATIONS, AND STANDARDS, IF  
26 REQUIRED BY THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT, THE  
27 DEPARTMENT, OR THE MARYLAND DEPARTMENT OF THE ENVIRONMENT;

28 P. ANY ADDITIONAL INFORMATION OR DATA DEEMED APPROPRIATE BY THE  
29 DEPARTMENT.

30  
31 **17.08.065 – REVIEW AND APPROVAL OF EROSION AND SEDIMENT CONTROL PLANS**

32 A. A PERSON MAY NOT GRADE LAND WITHOUT AN EROSION AND SEDIMENT  
33 CONTROL PLAN APPROVED BY THE ANNE ARUNDEL SOIL CONSERVATION  
34 DISTRICT AND THE DEPARTMENT.

35 B. THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT AND THE DEPARTMENT  
36 SHALL REVIEW EROSION AND SEDIMENT CONTROL PLANS TO DETERMINE  
37 COMPLIANCE WITH THIS CHAPTER AND THE STANDARDS AND SPECIFICATIONS  
38 PRIOR TO APPROVAL. IN APPROVING THE PLAN, THE ANNE ARUNDEL SOIL  
39 CONSERVATION DISTRICT AND THE DEPARTMENT MAY IMPOSE SUCH  
40 CONDITIONS THAT MAY BE DEEMED NECESSARY TO ENSURE COMPLIANCE WITH  
41 THE PROVISIONS OF THIS CHAPTER, COMAR 26.17.01, THE STANDARDS AND  
42 SPECIFICATIONS, AND THE PRESERVATION OF PUBLIC HEALTH AND SAFETY.

43 C. THE REVIEW AND APPROVAL PROCESS SHALL BE IN ACCORDANCE WITH THE  
44 COMPREHENSIVE AND INTEGRATED PLAN APPROVAL PROCESS DESCRIBED IN

1 THE STANDARDS AND SPECIFICATIONS, CHAPTER 17.10 OF THE CITY CODE.

2 D. AT A MINIMUM, A CONCEPT PLAN MUST INCLUDE THE MAPPING OF NATURAL  
3 RESOURCES AND SENSITIVE AREAS INCLUDING HIGHLY ERODIBLE SOILS AND  
4 SLOPES GREATER THAN 15 PERCENT, WATER RESOURCES, AS WELL AS  
5 INFORMATION REQUIRED UNDER CHAPTER 17.10 OF THE CITY CODE, OR ANY  
6 OTHER INFORMATION REQUIRED BY THE DEPARTMENT. THESE AREAS ARE TO  
7 REMAIN UNDISTURBED OR AN EXPLANATION MUST BE INCLUDED WITH EITHER  
8 THE CONCEPT OR SITE DEVELOPMENT PLAN DESCRIBING ENHANCED  
9 PROTECTION STRATEGIES FOR THESE AREAS DURING CONSTRUCTION.

10 E. A SITE DEVELOPMENT PLAN SUBMITTAL MUST INCLUDE ALL CONCEPT PLAN  
11 INFORMATION AND INDICATE HOW PROPOSED EROSION AND SEDIMENT  
12 CONTROL PRACTICES WILL BE INTEGRATED WITH PROPOSED STORMWATER  
13 MANAGEMENT PRACTICES. THE LATTER IS TO BE DONE THROUGH A NARRATIVE  
14 AND AN OVERLAY PLAN SHOWING BOTH ESD AND EROSION AND SEDIMENT  
15 CONTROL PRACTICES. AN INITIAL SEQUENCE OF CONSTRUCTION AND  
16 PROPOSED PROJECT PHASING TO ACHIEVE THE GRADING UNIT RESTRICTION  
17 SHALL BE SUBMITTED AT THIS TIME.

18 F. AN APPLICANT SHALL SUBMIT A FINAL EROSION AND SEDIMENT CONTROL PLAN  
19 TO THE DEPARTMENT FOR REVIEW AND APPROVAL. THE PLAN MUST INCLUDE  
20 ALL OF THE INFORMATION REQUIRED BY THE CONCEPT AND SITE DEVELOPMENT  
21 PLANS AS WELL AS ANY INFORMATION IN 17.08.060 OF THE CITY CODE NOT  
22 ALREADY SUBMITTED, AND ANY OTHER INFORMATION REQUIRED BY THE  
23 DEPARTMENT.

24 G. A FINAL EROSION AND SEDIMENT CONTROL PLAN SHALL NOT BE CONSIDERED  
25 APPROVED WITHOUT THE INCLUSION OF THE SIGNATURE AND DATE OF THE  
26 ANNE ARUNDEL SOIL CONSERVATION DISTRICT ON THE PLAN.

27 H. APPROVED PLANS REMAIN VALID FOR 2 YEARS FROM THE DATE OF APPROVAL  
28 UNLESS EXTENDED OR RENEWED BY THE ANNE ARUNDEL SOIL CONSERVATION  
29 DISTRICT AND THE DEPARTMENT.

30 I. GRANDFATHERING OF APPROVED SEDIMENT & EROSION CONTROL PLANS:

31 1. ANY PLANS THAT RECEIVE FINAL APPROVAL AFTER JANUARY 9, 2013 MUST  
32 BE IN COMPLIANCE WITH THE REQUIREMENTS OF THIS ORDINANCE AND THE  
33 STANDARDS AND SPECIFICATIONS.

34 2. A PLAN THAT RECEIVES FINAL APPROVAL BY JANUARY 9, 2013 MAY BE  
35 REAPPROVED UNDER ITS EXISTING CONDITIONS IF GRADING ACTIVITIES HAVE  
36 BEGUN ON THE SITE BY JANUARY 9, 2015, WITH THE EXCEPTION OF  
37 STABILIZATION REQUIREMENTS.

38 3. STABILIZATION PRACTICES ON ALL SITES MUST BE IN COMPLIANCE WITH THE  
39 REQUIREMENTS OF THIS CHAPTER AND THE STANDARDS AND  
40 SPECIFICATIONS BY JANUARY 9, 2013 REGARDLESS OF WHEN AN APPROVED  
41 EROSION AND SEDIMENT CONTROL PLAN WAS APPROVED.

1 17.08.070 - Permit—Approvals.

2 No grading permit shall be issued unless:

3 A. The Department has reviewed and approved all site plans and specifications, and  
4 verified the estimated costs; and

5 B. An erosion and sediment control plan has been approved by the Anne Arundel Soil  
6 Conservation District. The approved plan shall include the signature and date of approval  
7 by the approval agency; and

8 C. All plans have received written approval by the appropriate State and Federal  
9 agencies, where applicable; and

10 D. Special exception or subdivision approval, as appropriate, has been obtained for land  
11 development projects; and

12 E. For a use which is designated under Title 21 as a permitted use subject to standards,  
13 the project first has been approved by the Department of Planning and Zoning in  
14 accordance with Chapter 21.64 of the code; and

15 F. All other provisions within the code have been satisfied, as required. The Department  
16 may impose such conditions as may be determined to be necessary to ensure compliance  
17 with the provisions of this title, the State sediment control regulations, COMAR 26.17.01,  
18 the ["1994 Maryland] Standards and Specifications [for Soil Erosion and Sediment Control"  
19 (or any subsequent revisions)], or for the preservation of public health and safety.

20

21 17.08.080 - Grading permit—Fees—Reinspection.

22 A. The fee for a grading permit shall be based upon the estimated cost of site work proposed,  
23 and includes the cost of materials and labor for installation and construction of such items as  
24 earthmoving, sediment control measures, storm drainage systems and stormwater management  
25 facilities, and roadways. Estimated costs and quantities shall be submitted to the Department.  
26 The fee shall be established by resolution of the City Council.

27 1. The application fee will not be refundable for any reason except if the permit  
28 application has been denied. The application fee will be applied to the final cost of the  
29 grading permit at the time of issuance per the procedures as established by the  
30 Department of Public Works.

31 B. Reinspection Fee. A fee as established by resolution of the City Council must be paid  
32 before another inspection is made if, for the original inspection, one or more of the following  
33 occurred:

34 1. Requesting party called for inspection, but work was not ready;

35 2. Requesting party was not on site;

36 3. Building was locked;

37 4. Safety features not on site;

1           5.   Approved drawings not on site;

2           6.   Permit not posted on site.

3

4   17.08.090 - Bonding—Purpose.

5   The purpose of the bond is to guarantee and insure, in the event of failure, that all work  
6   authorized by the permit will be completed satisfactorily, and that the site will be restored to a  
7   condition meeting the minimum requirements of this chapter.

8

9   17.08.092 - Bonding—Required.

10   A.   A performance bond shall be a prerequisite to obtaining a grading permit when:

11           1.   Greater than five thousand square feet is disturbed; or

12           2.   More than one [thousand] **HUNDRED** cubic yards are graded; or

13           3.   Any public facility or stormwater management facility is proposed.

14   B.   The bond amount shall be based upon the total estimated cost of labor and materials for  
15   construction and installation of:

16           1.   Earthmoving;

17           2.   Erosion and sediment control measures;

18           3.   Vegetative stabilization;

19           4.   Stormwater management systems and facilities;

20           5.   Public sanitary sewers and water mains;

21           6.   Roadways and roadway improvements; and

22           7.   Any other public improvements.

23   C.   A maintenance bond shall be required upon satisfactory completion of all requirements set  
24   forth in the grading permit. The maintenance bond shall represent a minimum of ten percent of  
25   the performance bond and is in effect for a minimum of one year. The Director or his or her  
26   designee may make adjustments based on current estimates or site conditions.

27   D.   Bonding estimates shall be certified by a registered engineer or land surveyor.

28   E.   Before acceptance, all bonds shall be approved by the Director or his or her designee and  
29   the City Attorney.

30   F.   In lieu of a bond, a cash deposit, certified check or an irrevocable letter of credit from a  
31   local bank or other accredited institution in like amount, may be filed with the Department  
32   subject to the same terms and conditions as applicable to a performance bond. All bonds and  
33   letters of credit shall be submitted in City format.

1 G. If a corporation bond is offered, it shall be executed by a surety or guaranty company  
2 qualified to transact business in the State, and if a cash bond is offered, it is to be deposited  
3 with the Director of Finance, who shall give an official receipt stipulating that the cash has been  
4 deposited in compliance with, and subject to, the provisions of this section.

5 H. If all work of the permit is not completed within the time specified in Section 17.08.140, or if  
6 any portion of the work violates any other terms or conditions, the cash deposit shall be  
7 forfeited, or if a bond or letter of credit has been posted, payment in full to the City will be  
8 ordered. The funds so received shall be used by the City for defraying the cost of contracting,  
9 including engineering and administration, for the restoration of the site to meet the minimum  
10 requirements of this chapter, with particular emphasis on stabilization, safety, drainage and  
11 erosion control. If those costs exceed that amount of deposit or bond or letter of credit, the  
12 excess constitutes a lien on the property, and the permittee continues to be bound firmly under  
13 a continuing obligation for payment of any and all costs and expenses of any nature incurred by  
14 the City. Any unused portion of moneys forfeited shall be returned. No money shall be returned  
15 to any surety or guaranty company if such funds were acquired, obtained or paid pursuant to a  
16 court order or judgment.

17  
18 17.08.100 - Permit—Bond provisions.

19 The bond or letter of credit shall include the following provisions:

20 A. The applicant shall comply with Section 17.09.092, this section and all other  
21 applicable laws and ordinances.

22 B. The applicant shall comply with all of the terms and conditions of the grading permit.

23 C. Any extension of completion time pursuant to the provisions of Section 17.08.140  
24 shall not release the applicant.

25 D. Upon default, the applicant shall continue to be bound firmly under a continuing  
26 obligation for payment of one of the following, at the election of the surety:

27 1. All costs and expenses necessary to complete the work in accordance with the  
28 approved plans and specifications (or any approved modification to the approved  
29 plans or specifications; or

30 2. All necessary costs and expenses or liabilities which may be incurred to stabilize  
31 in accordance with the stabilization plan for erosion control presented by the applicant  
32 to and approved by the City; or

33 3. Payment to the City in cash or by certified check in a sufficient amount to equal  
34 the cost of performing the necessary work. If the cost for restoration of a site to meet  
35 the minimum requirements of this section (with particular emphasis on stability,  
36 safety, drainage and erosion control) exceeds the amount of the cash or certified  
37 check, the permittee shall continue to be bound under a continuing obligation for  
38 payment of all excess costs and expenses incurred by the City.

39 E. The security shall remain in full force and effect until a certificate of completion has  
40 been issued by the Department of Neighborhood and Environmental Programs certifying  
41 that the work has been performed in accordance with the plans and specifications, or

1 certifying that the permit has been unused; provided, however, that the Director may  
2 increase or reduce security based on current estimates or site conditions. Upon issuance  
3 of this certificate, any unused portion of any cash or certified check shall be returned to the  
4 applicant, and the applicant and his/her surety shall be released from all further obligations  
5 under this section (provided default has not occurred). The certificate of completion shall  
6 be issued within sixty-days from the date the Department [of Neighborhood and  
7 Environmental Programs] receives written notice of completion, provided that during the  
8 sixty-day period, the Department inspects the work performed and is satisfied that the  
9 permittee has complied with the provisions of this section.

10

11 17.08.110 - Permit—Denial.

12 A. No permit authorizing grading shall be issued by the Director if it is found that the work  
13 proposed by the applicant is likely to endanger any property or public way, to pollute any water,  
14 or to damage wetlands or marine habitat. Factors to be considered by the Director include, but  
15 are not limited to, possible saturation by rains, earth movement, surface water runoff, soil  
16 erosion, sedimentation, siltation and subsurface conditions such as the stratification and faulting  
17 of rock, and the nature and type of soil and rock.

18 B. Failure of the Director or his or her designee to observe or recognize hazardous conditions  
19 or failure to deny the grading permit shall not relieve the owner or the owner's agent from  
20 responsibility for the conditions or damages resulting from the failures, and shall not result in the  
21 City or its officers or agents being responsible for the damages resulting from the failures.

22 C. No permits shall be issued to any applicant who has outstanding permit or code violations  
23 on other projects and activities within the City until those violations have been resolved  
24 satisfactorily as determined by the Director or his or her designee.

25

26 17.08.120 - Permit—Suspension or revocation.

27 [The Director or designee may suspend or revoke any grading permit for any violations of the  
28 approved sediment control plan, of the permit requirements, of the stop work order, or of this  
29 title, or any irregularities in grading, excavation or fill, or for unsafe or unworkmanlike operations  
30 or misrepresentation of facts, or for the purpose of inspection.] **THE DIRECTOR MAY  
31 SUSPEND OR REVOKE ANY GRADING OR BUILDING PERMITS AFTER PROVIDING  
32 WRITTEN NOTIFICATION TO THE PERMITTEE BASED ON ANY OF THE FOLLOWING  
33 REASONS:**

34 **A. ANY VIOLATION(S) OF THE TERMS OR CONDITIONS OF THE APPROVED EROSION  
35 AND SEDIMENT CONTROL PLAN OR PERMITS;**

36 **B. NONCOMPLIANCE WITH VIOLATION NOTICE(S) OR STOP WORK ORDER(S);**

37 **C. CHANGES IN SITE CHARACTERISTICS UPON WHICH PLAN APPROVAL AND PERMIT  
38 ISSUANCE WERE BASED; OR**

39 **D. ANY VIOLATION(S) OF THIS CHAPTER OR ANY RULES AND REGULATIONS  
40 ADOPTED UNDER IT.**

1 **E. ANY VIOLATION(S) OF THE PROCEDURES SET FORTH IN THE STANDARDS AND**  
2 **SPECIFICATIONS.**

3

4 17.08.130 - Plan modification.

5 [A. Major Modifications. Major modifications of the approved sediment and erosion control  
6 plans shall be submitted to the Director or designee and reprocessed as an initial application.]

7 [B. Minor Modifications.]

8 [1. The Anne Arundel Soil Conservation District shall develop a list of minor modifications  
9 of the approved erosion and sediment control plans that may be approved as field changes  
10 by the Director.]

11 [2. Field modifications of a minor nature may be authorized by the Director provided  
12 written authorization is given to the person performing the work.]

13 **A. THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT MAY REVISE APPROVED**  
14 **PLANS AS NECESSARY. MODIFICATIONS MAY BE REQUESTED BY THE**  
15 **OWNER/DEVELOPER OR DEPARTMENT IN ACCORDANCE WITH THE ANNE**  
16 **ARUNDEL SOIL CONSERVATION DISTRICT'S "MAJOR/MINOR CHANGE LIST FOR**  
17 **APPROVED SEDIMENT AND EROSION CONTROL PLANS." THE DIRECTOR MAY**  
18 **MAKE MINOR CHANGES TO APPROVED SEDIMENT AND EROSION CONTROL**  
19 **PLANS AS LISTED ON THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT**  
20 **RESOLUTION TITLED, "MAJOR/MINOR CHANGE LIST FOR APPROVED SEDIMENT**  
21 **AND EROSION CONTROL PLANS." MAJOR CHANGES MUST BE APPROVED BY THE**  
22 **ANNE ARUNDEL SOIL CONSERVATION DISTRICT.**

23

24 17.08.140 - Expiration, renewal, deadline extension and nontransferability.

25 A. The applicant has thirty calendar days after the Department's verbal or written notification  
26 of permit approval to claim the approved grading permit **FOR ISSUANCE, OTHERWISE THE**  
27 **PERMIT WILL BE CONSIDERED VOID.**

28 B. A grading permit expires if no work is commenced within ninety days after issuance. A  
29 one-time renewal is permitted within a period of six months after the date of expiration if the  
30 conditions under which the permit was issued originally have remained unchanged, except that  
31 the construction phase time schedule must be revised. **AN APPLICATION FOR PERMIT**  
32 **RENEWAL SHALL BE MADE AT LEAST TWO MONTHS PRIOR TO THE PERMIT**  
33 **EXPIRATION DATE, AND MUST BE RENEWED BY THE DEPARTMENT AND ANNE**  
34 **ARUNDEL SOIL CONSERVATION DISTRICT.** A permit may not be renewed more than once.

35 C. A grading permit and the approved erosion and sediment control plan shall be valid for two  
36 years from the date of issuance, unless a shorter time period is designated by the Director or  
37 designee.

38 D. If the applicant is unable to complete the work within the time specified in the approved  
39 application, the applicant shall present a written request for extension to the Director or  
40 designee within thirty days before the expiration of the permit. The extension request shall set

1 forth the reasons for the extension. Where, in the sole discretion of the Director or designee, the  
2 extension is warranted, the Director may allow additional time as may be necessary to complete  
3 the approved work.

4 E. No permit issued under this title is transferable without the concurrence of the Director or  
5 designee. A written request for the transfer shall be submitted by the original applicant and the  
6 transferee shall acknowledge acceptance of the conditions under which the original permit was  
7 issued.

8

9 17.08.150 - Floodplain.

10 Grading within the nontidal one-hundred-year floodplain within open drainage ways shall not be  
11 permitted, except at the discretion of the Director and only after approval by the appropriate  
12 State and Federal agencies. Grading within the tidal one-hundred-year floodplain shall comply  
13 with all provisions of this chapter and Chapter 17.11, Floodplain Management.

14

15 17.08.160 - Erosion and sediment control—General requirements.

16 A. Effective control of soil to prevent erosion shall include the following:

17 1. Development shall be fitted to the topography and soils to create the least erosion  
18 potential.

19 2. Natural vegetation shall be retained wherever possible.

20 3. The smallest practical area of land shall be exposed at any one period during  
21 development for the shortest practical period of time in order to reduce the amount of land  
22 area and the duration of soil exposure.

23 4. Temporary vegetation or mulching shall be used to protect soils exposed during the  
24 time of development.

25 5. Erosion-control practices consistent with [sections B, F, and G of the 1994 Maryland]  
26 Standards and Specifications [for Soil Erosion and Sediment Control] shall be installed to  
27 minimize soil and water losses.

28 6. During and after development, provisions shall be made to accommodate in an  
29 effective manner the increased water runoff caused by changes in soil and surface  
30 conditions and to avoid siltation of receiving streams.

31 7. Satisfactory cover shall be maintained during the life of the project and is subject to  
32 inspection.

33 **8. ROADS AND STREETS SHALL BE PLACED AS CLOSE TO THE PRE-EXISTING**  
34 **CONTOUR AS POSSIBLE IN ORDER TO MINIMIZE CUTTING OR FILLING.**

35 **9. ALL GRADED SURFACES, EROSION-CONTROL MEASURES, VEGETATIVE**  
36 **COVERS AND OTHER PROTECTIVE MEASURES DISTURBED OR DESTROYED**  
37 **DURING THE COURSE OF OPERATIONS SHALL BE REPAIRED, RESTORED AND**  
38 **MAINTAINED PROMPTLY IN ACCORDANCE WITH THE APPROVED PLANS AND**

1       **SPECIFICATIONS UNTIL PERMANENT MEASURES ARE ACCEPTED BY THE**  
2       **DEPARTMENT.**

3       **10. THE OWNER MUST PROVIDE CONTACT INFORMATION FOR A PERSON(S)**  
4       **WHOM IS RESPONSIBLE FOR THE MAINTENANCE OF THE SEDIMENT AND**  
5       **EROSION CONTROL MEASURES, WHOM IS AVAILABLE 24 HOURS A DAY AND 7**  
6       **DAYS A WEEK, AND WHOM CAN RESPOND IMMEDIATELY TO RESOLVE ANY**  
7       **EMERGENCY OR NECESSARY FIELD CORRECTION. IF SAID PERSON(S) IS**  
8       **UNREACHABLE VIA THE SUBMITTED CONTACT INFORMATION DURING AN**  
9       **EMERGENCY, OR UNABLE TO PERFORM REQUIRED CORRECTIVE ACTIONS, THE**  
10       **OWNER AND/OR CONTRACTOR MAY BE ISSUED A CITATION.**

11       B. The Department shall investigate complaints or accept complaints from any interested  
12       party and apply their enforcement procedure when violations are confirmed. Any erosion and  
13       sediment control complaint received shall be acted upon, routinely with three working days, and  
14       the complainant shall be notified of any action or proposed action routinely within seven working  
15       days after receipt of the complaint.

16  
17       [17.08.170 - Steep slope areas.]

18       [A. Development within natural steep slope areas is permitted subject to the provisions of this  
19       section.]

20       [B. Development may occur within steep slope areas, provided that a minimum of thirty  
21       percent of the lot or parcel on which the principal structure is to be situated is less than fifteen  
22       percent grade and is contiguous to a Department-approved standard road so that direct access  
23       by vehicle to the principal structure may be achieved. The extent of cutting and filling permitted  
24       on a lot shall be based on the soil conditions at the site and as determined by the Department  
25       acting upon the recommendations of the Anne Arundel Soil Conservation District.]

26       [C. Roads and streets shall be placed as close to the contour as possible in order to minimize  
27       cutting or filling.]

28  
29       17.08.180 – [Removal of debris.] **PROHIBITED DISCHARGES**

30       No debris, **SEDIMENT, WASTEWATER, LANDSCAPING/YARD WASTE, REFUSE**, or other  
31       [materials] **POLLUTANT** shall be deposited in floodplains, [watercourses] **WATER**  
32       **RESOURCES**, public streets, highways, sidewalks, **STORM DRAINS**, or other public  
33       thoroughfares **PER THIS CHAPTER OF THE CITY CODE, MARYLAND ENVIRONMENT**  
34       **TITLE 4 AS MAY BE AMENDED FROM TIME TO TIME, COMAR 26.08.04, UNLESS**  
35       **OTHERWISE PERMITTED BY THE CITY OF ANNAPOLIS OR THE MARYLAND**  
36       **DEPARTMENT OF THE ENVIRONMENT. SUCH MATERIALS SHALL BE STORED**  
37       **PROPERLY TO MINIMIZE ANY THREAT OF DISCHARGE.**

38  
39       [17.08.190 - Maintenance of protective measures.]

40       [All graded surfaces, erosion-control measures, vegetative covers and other protective

1 measures disturbed or destroyed during the course of operations shall be repaired, restored and  
2 maintained promptly in accordance with the approved plans and specifications until permanent  
3 measures are accepted by the Department.]

4

5 17.08.200 - State and Federal standards for erosion and sediment control.

6 [Technical] **THE** standards and specifications [have been] established by the Maryland  
7 Department of the Environment and **ANY OTHER STANDARDS AND PROCEDURES**  
8 **ESTABLISHED** by **THE** [USDA] **ANNE ARUNDEL** Soil Conservation **DISTRICT** [Service for  
9 procedures such as vegetative erosion-control measures, structural sediment-control measures,  
10 fills and classification, compaction, maximum slopes for cut and fill, drainage for surface water  
11 runoff and other topics as may be deemed necessary or appropriate. The established technical  
12 standards] supplement this chapter and establish minimum standards [both] for [cutting and  
13 filling operations and for] the control of soil erosion and sediment. Failure to comply with these  
14 standards **IS CONSIDERED A VIOLATION OF THIS CHAPTER AND** may lead to revocation of  
15 a grading permit in accordance with Section 17.08.110 **OF THE CITY CODE.**

16 17.08.210 - Drainage.

17 A. Surface water runoff shall be disposed of or conveyed in accordance with the provisions of  
18 this section.

19 B. Drainage facilities shall be designed to prevent erosion, uncontrolled overflow, and  
20 ponding when ponding is not an integral part of the design and function of the drainage facility.  
21 The water shall be conveyed to an acceptable outlet in accordance with the design criteria,  
22 standards and procedures required by the Department. The ponding of water is not permitted  
23 above a cut or fill slope. Adequate drainage facilities shall be provided to prevent ponding above  
24 a cut or fill slope.

25 C. Surface water or groundwater may not damage the face of a cut or fill. Each slope shall be  
26 protected from surface water runoff by a berm or swale. Suitable underdrains shall be installed  
27 to intercept and carry ground water seepage to an acceptable outlet.

28 D. Each area shall be graded to provide for positive drainage away from the building and  
29 toward the approved disposal area.

30 E. The construction of all structures shall be preceded by the installation of storm drainage  
31 systems and stabilization measures.

32 F. Stormwater management designs shall comply with Chapter 17.10, Stormwater  
33 Management, and Chapter 17.11, Floodplain Management.

34

35 17.08.220 - Inspections.

36 [A. Prior to initiating any work subject to this chapter, the permittee shall submit for approval,  
37 upon the request of the Department, a proposed inspection and construction control schedule. A  
38 preconstruction conference may be conducted, upon request of the Department, on the job site  
39 to review the procedures and control measures to be utilized. Participants shall include the  
40 permittee or the permittee's authorized agent, the design engineer and, the Department.]

1 [B]A. The permittee shall be responsible for maintaining a copy of the approved erosion  
2 and sediment control plans, and other approved site plans on site.

3 [C]B. The Director or designee may make additional inspections as he or she determines to  
4 be appropriate. No work approved in accordance with this chapter shall proceed beyond any  
5 one stage until the Director inspects the site and approves the work previously completed. Upon  
6 notification from the permittee the inspector shall inspect the site and notify the permittee of  
7 approval or rejection within forty-eight hours (exclusive of Saturdays, Sundays and legal  
8 holidays). If the inspector does not make an inspection within the specified time period, work  
9 may proceed. However, it will be without presumption of approval and at the sole risk of the  
10 permittee.

11 [D]C. Every active site having an approved erosion and sediment control plan should be  
12 inspected for compliance with the plan on the average of once every two weeks.

13 [E. Inspectors shall prepare written reports after every inspection. The inspection report shall  
14 describe:]

15 [1. The date and location of the site inspection;]

16 [2. Whether or not the approved plan has been implemented and maintained in a proper  
17 manner;]

18 [3. Any practice deficiencies or erosion and sediment control plan deficiencies;]

19 [4. The type of enforcement action taken to alleviate any existing violations.]

20 **D. A WRITTEN REPORT SHALL BE PREPARED BY THE DEPARTMENT AFTER EVERY**  
21 **INSPECTION. THE REPORT SHALL DESCRIBE:**

22 **1. THE DATE AND LOCATION OF THE SITE INSPECTION;**

23 **2. WHETHER THE APPROVED PLAN HAS BEEN PROPERLY IMPLEMENTED AND**  
24 **MAINTAINED;**

25 **3. PRACTICE DEFICIENCIES OR EROSION AND SEDIMENT CONTROL PLAN**  
26 **DEFICIENCIES;**

27 **4. IF A VIOLATION EXISTS, THE TYPE OF ENFORCEMENT ACTION TAKEN; AND**

28 **5. IF APPLICABLE, A DESCRIPTION OF ANY MODIFICATIONS TO THE PLAN.**

29 [F]E. The Director shall notify the on-site personnel, and the owner/developer in writing,  
30 when violations are observed, describing:

31 1. The nature of the violation;

32 2. The required corrective action; and

33 3. The time period in which to have the violation corrected.

34 [G]F. Department inspection notification is the responsibility of the permittee prior to the  
35 installation of any public improvements or stormwater management facilities.

36 [H]G. It is a condition of each grading permit that the City, its authorized agents have the

1 right of entry to the site in order to inspect periodically for compliance with **THE APPROVED**  
2 **PLAN AND** this title [and to undertake work in accordance with Sections 17.08.092 and  
3 17.08.100].

4 **[I]H.** In the event of a valid complaint concerning erosion and sediment control, an investigative  
5 inspection shall be made by the Department within three days of the complaint. A response to  
6 the complaint shall be made within seven days of the complaint.

7

8 17.08.230 - Supplemental testing and inspections.

9 A. When required by the Director or his or her designee, inspections and testing shall be  
10 performed under the direction of a professional engineer who shall certify all inspection reports  
11 and test results. The reports shall include certification by an engineer of the adequacy of:

- 12 1. Cleared areas and benched or keyed surfaces prepared to receive fills; and
- 13 2. Removal of unsuitable materials; and
- 14 3. Construction of erosion-control or drainage devices, buttress fills, underdrains,  
15 retaining walls, and other grading appurtenances; and
- 16 4. The degree of compaction where tests are performed.

17 B. All certified inspection reports and certified test results shall be submitted periodically to  
18 the Director during the performance of the work.

19

20 17.08.240 - Existing hazards.

21 Whenever the Director or his or her designee determines that any existing grade, excavation,  
22 embankment or fill endangers or adversely affects the safety, use or stability of any public or  
23 private property, or [watercourse] **WATER RESOURCE**, the owner of the property upon which  
24 the condition exists, or other person or agent in control of the property, upon receipt of notice in  
25 writing from the Director or his or her designee, within the period specified in the notice, shall  
26 repair or eliminate the conditions in order to eradicate the hazard.

27

28 17.08.250 - Appeals.

29 A. A person aggrieved by an order from the Director or the Director's designee made  
30 pursuant to this chapter, other than the issuance of a municipal citation or the charging of a  
31 misdemeanor, may appeal to the Building Board of Appeals within fifteen calendar days of the  
32 date of the order. The petition for appeal shall be in writing stating the grounds for appeal and  
33 shall be filed with the Department of Neighborhood and Environmental Programs along with a  
34 nonrefundable fee in an amount established by the City Council. Any right to appeal shall be  
35 waived if not timely filed.

36 B. The Building Board of Appeals shall consider the appeal based upon the information  
37 provided to the Department of Neighborhood and Environmental Programs at the time of the  
38 order from which the appeal is taking. If the board finds that the order was in error or contrary to

1 the provisions of this code or other applicable law, the board may reverse or modify the order.  
2 The decision of the board on all appeals shall be in writing and shall contain the factual findings  
3 of the board and the reasons for the decision.

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

11

12 17.08.260 - Enforcement and noncompliance.

13 A. Whenever a violation of this title is found on any site, whether or not a permit has been  
14 issued, the Department, or its authorized agent, shall notify the on-site personnel and the  
15 permittee of the violation, and describe the required corrective action and the time period in  
16 which to have the violation corrected.

17 B. If the violation persists after the date specified by the Department for corrective action,  
18 then the Department shall issue a stop work order to on-site personnel and place a stop work  
19 order on the property.

20 C. Within seven calendar days after the stop work order is issued or placed on site as  
21 described in this section, a copy of the order shall be sent by certified mail to the permittee and  
22 the owner. The Department shall determine the extent to which work is stopped, which may  
23 include all work on the site except that work necessary to correct a violation.

24 D. If, in the judgment of the Department, remedial action has not taken place within the  
25 required time specified in the certified notification described in this section, the permittee and  
26 the owner shall be guilty of a municipal infraction and shall be subject to a fine **AS SET BY**  
27 **RESOLUTION OF THE CITY COUNCIL** [of five hundred dollars for any single, initial violation  
28 and a fine of five hundred dollars for each repeat or continuing violation]. Each day after the  
29 deadline stated in the certified notification shall constitute a separate offense.

30 E. The City shall pursue violations that affect secured work as follows:

31 1. Whenever secured work does not comply with or conform to a permit or approved  
32 plans and specifications and if the City desires to obtain the security posted, a written  
33 notice of noncompliance shall be sent by certified mail to the permittee and the surety.

34 2. The notice shall set forth the nature of the corrections required and the time within  
35 which the corrections shall be made. If the permittee does not act on the notice within the  
36 time set forth, a stop-work notice shall be posted on the site and except as permitted by  
37 the Director, no further work is permitted on the site.

38 3. If the corrections are not commenced and pursued in a diligent manner within the  
39 time specified in the notice, the permittee is considered to be in default of the obligations  
40 imposed by this title, and the City may take immediate action to obtain the security posted.

41 F. The Department may seek an injunction against any person who violates or threatens to

1 violate any provision of this chapter.

2 G. In addition to any other sanction under this chapter, a person who fails to install or to  
3 maintain erosion and sediment controls in accordance with an approved erosion and sediment  
4 control plan is, under Section 4-116 of the Environment Article, Annotated Code of Maryland,  
5 guilty of a misdemeanor, and upon conviction in a court of competent jurisdiction is subject to a  
6 fine not exceeding ten thousand dollars or imprisonment not exceeding one year or both for  
7 each violation with costs imposed in the discretion of the court. Further, the City may bring a  
8 civil action against a person for a violation of this chapter, **IN AN AMOUNT EQUAL TO**  
9 **DOUBLE THE COST OF INSTALLING OR MAINTAINING THE CONTROLS OR OF ANY**  
10 **RESTORATION OF DAMAGE CAUSED TO THE ENVIRONMENT.**

11 H. Any governing authority that recovers damages in accordance with this subsection shall  
12 deposit them in a special fund, to be used solely for:

13 1. [The proper installation of erosion and sedimentation control measures;]  
14 **CORRECTING, TO THE EXTENT POSSIBLE, THE FAILURE TO IMPLEMENT OR**  
15 **MAINTAIN EROSION AND SEDIMENT CONTROLS, AND**

16 2. Administration of the sediment control program.

17 I. Failure to obtain a permit as required in this chapter shall result in a stop work order until  
18 the appropriate permits have been approved. All work, except for the installation of erosion and  
19 sediment control measures necessary to contain and stabilize the site, shall cease in  
20 compliance with the stop work order.

21 J. It shall be the responsibility of the owner, contractor or authorized agent to maintain  
22 erosion and sediment controls at all times during demolition, grading, construction and vacant  
23 land after hours, weekends and holidays.

24 K. Any step in the enforcement process can be taken at anytime, depending on the severity of  
25 the violation.

26 L. A person who fails to comply with any or all of the requirements or provisions of this  
27 chapter or any order or requirement of the Director or any other authorized employee of the City  
28 is guilty of a municipal infraction and is subject to a fine as established by resolution of the City  
29 Council for each repeat or continuing violation. Each day after the expiration of the allowed  
30 remedial work period shall constitute a separate offense. In addition, no other inspections shall  
31 be made by the Department for the project in question until remedial action has been  
32 satisfactorily completed and the subject fine has been paid in full.

33 17.08.270 - Emergencies.

34 A. Whenever, in the judgment of the Director or his or her designee, an emergency exists  
35 which requires immediate action to protect the public health, safety, property or general welfare,  
36 an order may be issued without notice, conference or hearing, directing the owner, occupant,  
37 operator or agent to take that action appropriate or necessary to correct or abate the  
38 emergency. If circumstances warrant, the Director or his or her designee may act to correct or  
39 abate the emergency.

40 B. The owner, occupant, operator or agent shall be granted a conference on the matter upon  
41 his or her request as soon as practicable, but the conference shall not stay the abatement or  
42 correction of the emergency.

1 17.08.280 - Records and as-built drawings.

2 Upon completion of work for which a grading permit was issued, the Department shall require  
3 the following:

4 A. As-built drawings;

5 B. Certification by the owner or the permittee, or, upon request by the Director, by a  
6 registered professional, on the as-built drawings that grading, drainage structures, utilities,  
7 roadways, systems and erosion and sediment control practices, including facilities and  
8 vegetative measures, have been completed in conformance with the approved plans and  
9 specifications; and

10 C. Upon request of the Director or his or her designee, a report summarizing the  
11 inspection reports, field and laboratory tests, and locations of test and field observations.

12 D. Surety will not be released until the as-built drawings have been reviewed and  
13 approved by the City.

14

15 17.08.290 - Severability.

16 If any portion, section, subsection, sentence, clause or phrase of this title is held invalid or  
17 unconstitutional for any reason by any court of competent jurisdiction, that portion shall be  
18 considered to be a separate, distinct and independent provision and the holding shall not affect  
19 the validity of the remaining portion of this title, it being the intent of the City that this title shall  
20 stand, notwithstanding the invalidity of any portion, section, subsection, sentence, clause or  
21 phrase.

22

23 17.08.295 - Grading, erosion, sediment control.

24 Unless noted otherwise, any person who violates any section of this chapter shall be guilty of a  
25 municipal infraction and is subject to a fine as established by resolution of the City Council. All  
26 fines must be paid in full prior to any continuation of work or prior to any further inspections. If a  
27 person or entity is found to have violated this section at one or more discrete sites within the  
28 City two or more times in any two-year period, such violation shall constitute a repeat violation.

29

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

32

33 **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

34

35

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

\_\_\_\_\_  
Regina C. Watkins-Eldridge, MMC, City Clerk

\_\_\_\_\_  
Joshua J. Cohen, Mayor

36

1  
2  
3  
4

**EXPLANATION**

CAPITAL LETTERS indicate matter added to existing law.

[brackets] indicate matter stricken from existing law.

Underlining indicates amendments.

## **Staff Report**

### **Ordinance O-27-13**

#### **Sediment and Erosion Control**

A statewide sediment control program was mandated in 1970 when the General Assembly passed the Sediment Control Law. Maryland's incentive for having an erosion and sediment control program is to prevent sediment from entering our waterways. Sediment negatively impacts our waterways because it contributes oxygen-depleting nutrients and kills oxygen-producing vegetation by blocking sunlight.

The Maryland Department of the Environment (MDE) has been mandated by the General Assembly to administer this Law. MDE's obligation in meeting this mandate includes adopting regulations that establish criteria and procedures for erosion and sediment control throughout Maryland. Each county and municipality, in turn, is required to adopt an erosion and sediment control ordinance that meets the intent of Maryland's sediment control laws and the regulations.

The proposed changes in this ordinance would bring the City of Annapolis' sediment control Code in line with the Environment Article, Title 4, Subtitle 1 of the Annotated Code of Maryland. The Department of Neighborhood and Environmental Programs has worked with the Maryland Department of the Environment in reviewing and approving the proposed changes in this ordinance.

The revisions include more stringent stabilization requirements and establishing grading unit criteria. Additionally, the Standards and Specifications now describe how an erosion and sediment control plan must be designed in concert with a site's stormwater management plan as required by the Stormwater Management Act of 2007 (Act). The Act requires an integrated review of erosion and sediment control plans and stormwater management plans via a comprehensive plan review process to ensure that environmental site design is implemented to the maximum extent practicable on all sites. The comprehensive review process is a three stage review process that includes concept, site design, and grading permit reviews.

The proposed ordinance would:

- Bring the City into compliance with the updated state law.
- Require more stringent stabilization measures.
- Establish grading unit criteria, where only 20 acres (one grading unit) can be disturbed at a time.
- Closely link the stormwater management Code with the sediment and erosion control Code.
- Implement a three-stage comprehensive plan review process that includes concept review, site design review, and grading permit review.
- Prohibit illicit discharges of pollutants (such as sediment) into our storm drains and creeks.

Prepared by Rob Savidge, Environmental Compliance Inspector, Department of Neighborhood and Environmental Programs; 410-263-9158.



City of Annapolis City Council  
Standing Committee Referral Action Report

Date: 9/16/13

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

The Economic Matters Committee has reviewed 0-27-13 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. Budge yes

Meeting Date \_\_\_\_\_ Signature of Chair \_\_\_\_\_



City of Annapolis City Council  
Standing Committee Referral Action Report

Date: 9/26/13

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

The Environmental Matters Committee has reviewed O-2713 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 9/26/13

Signature of Chair [Signature]

FISCAL IMPACT NOTE

**Legislation No:** O-27-13

**First Reader Date:** 7-22-13

**Note Date:** 8-30-13

**Legislation Title:** **Sediment and Erosion Control**

**Description:** For the purpose of adopting the State of Maryland's required erosion and sediment control ordinance that meets the intent of the State's sediment control laws and regulations.

**Analysis of Fiscal Impact:** Currently funding comes from the Stormwater Fund. This legislation produces no significant 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.

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

## **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](mailto:JCCowles@annapolis.gov).

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

2 *Editorial note: the purpose of this working draft is to show 1) 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*  
5 *2) the recommended amendments since introduction.*

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 Purple highlighting indicates amendments proposed by the  
20 Planning Commission.

21  
22 **AN ORDINANCE** concerning

23  
24 **Fence Permits**

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

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

31 17.34.010

32 17.34.020

33 21.18.030

34 21.60.070

35 21.60.080

36 21.60.090

37 21.72.010

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

41 21.60.065

42 21.60.075

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

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

4  
5 **17.34.010 - Fences, hedges or walls Fences and walls.**

6  
7 A. Permit Required.

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

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

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

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

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

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

11  
12  
13 B. Administrative Review.

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

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

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

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

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

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

1 ~~7. A fence, wall, or hedge shall not unduly obstruct the view of tidal waterways~~  
2 ~~from nearby residential properties.~~

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

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

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

19  
20  
21 B. Restrictions.

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

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

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

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

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

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

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

11  
12  
13  
14 **17.34.020 - Appeals**

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

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

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

42  
43 D. A person aggrieved by a decision of the Building Board of Appeals made  
44 pursuant to this section may appeal that decision to the eCircuit eCourt for  
45 Anne Arundel County pursuant to Maryland Rule Title 7, Chapter 200 or  
46 its successor, as may be amended from time to time. For purposes of this

1 subsection, a person shall not be considered aggrieved by a decision of  
2 the ~~b~~Board unless the person has appeared as a party at the hearing  
3 before the ~~b~~Board. An appeal under this section shall be taken within  
4 thirty days of the date of the decision appealed and shall be the exclusive  
5 remedy of the aggrieved party from that decision.  
6  
7

8 **17.34.030 - Violations.**

9 A person who violates this chapter is guilty of a municipal infraction and is  
10 subject to a fine of one hundred dollars for any single, initial violation and a fine  
11 of two hundred dollars for each repeat or continuing violation.  
12  
13

14 **Chapter 21.18 – ADMINISTRATIVE ADJUSTMENTS**

15  
16 **21.18.030 - Permitted administrative adjustments.**

17  
18 A. Administrative adjustments from the regulations of this Zoning Code may  
19 be granted by the Planning and Zoning Director only in accordance with  
20 the criteria established in this Chapter, and may be granted only for the  
21 following:  
22

23 1. Setbacks. To permit any yard or setback of up to twenty percent  
24 less than a yard or a setback required by the applicable regulations.  
25

26 2. Parking. To increase by not more than twenty percent the  
27 maximum distance that required parking spaces are permitted to be  
28 located from the use served.  
29

30 3. Lot Coverage. To increase by not more than twenty percent the lot  
31 coverage restrictions, except that administrative adjustments of lot  
32 coverage restrictions shall not be permitted in the Critical Area  
33 Overlay District.  
34

35 4. Signs. To adjust the limitations for signs in the specific instances  
36 set forth in Section 21.70.110.  
37

38 ~~5.~~ Fences and Walls. To permit certain fences and walls an additional  
39 height allowance of up to four feet above the standard maximum  
40 height limit specified in Section 21.60.070.  
41

42 ~~5.~~ 6. Specific Zoning District Provisions. The zoning district provisions  
43 applicable to specific zoning districts, as provided in Division III,  
44 may authorize other permitted administrative adjustments. In  
45 Chapter 21.54, Critical Area Overlay, these adjustments are  
46 referred to as administrative variances.

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

7  
8 **Chapter 21.60 – SUPPLEMENTAL USE AND DEVELOPMENT STANDARDS**  
9

10 **21.60.065 - Plantings.**  
11

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

25  
26 **21.60.070 - ~~Fences, walls, and plantings.~~ Fences and walls.**  
27

28 ~~A fence, wall or hedge may be erected, placed, maintained or grown pursuant to~~  
29 ~~a permit issued in accordance with Section 17.34.010 of the Annapolis City~~  
30 ~~Code.~~  
31

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

33 1. "Fence" means a fence, wall or hedge.  
34

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

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

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

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

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

20  
21  
22 B. A fence, wall or hedge may be erected, placed, maintained or grown pursuant  
23 to a permit issued in accordance with Section 17.34.010 of the Annapolis City  
24 Code. It is the purpose of the provisions of this section to establish  
25 requirements for the height, location, and materials of fences, hedges or walls.  
26 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  
30 grade of the public right-of-way or easement. In the case where there is a change  
31 in grade, at no point along the length of the fence, or any combination thereof,  
32 shall the height exceed the limits established in this Chapter.

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

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

43  
44 4. All fences which have a ratio of solid material to open space of more than one  
45 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. The Historic Preservation Commission has the authority to  
34 grant a waiver or exemption, if necessary, in order to comply with the  
35 Historic Preservation Commission Design Guidelines and the Secretary of  
36 the Interior's Standards for Rehabilitation.

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

43  
44 C. Within required bufferyards adjacent to public streets, to the extent  
45 practical in order to achieve proper screening, fences and walls shall be

1 located towards the interior edge of the landscape buffer, rather than at  
2 the edge of the public right-of-way.

3  
4 D. Except as permitted by this Title, fences and walls shall not obstruct view  
5 cones or sight visibility triangles.

6  
7 E. Fences and walls shall not be located to unduly obstruct light and air from  
8 neighboring properties or public ways.

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

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

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

25  
26 I. Standard Maximum Height.

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

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

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

44  
45 4. Fences and walls shall not be considered as being located along a  
46 public street if they otherwise meet the same minimum front and

1 corner-side yard setbacks that would be required for the principal  
2 structure on the subject property in the zoning district in which the  
3 fence or wall is located.

4  
5 **J. Allowance for Additional Height.**

6  
7 1. Up to two additional feet of height is allowed for decorative gates  
8 which do not exceed twenty-five feet in width for vehicular gates, or  
9 eight feet in width for pedestrian gates.

10  
11 2. In accordance with the procedures for Administrative Adjustments  
12 set forth in Chapter 21.18, the Planning and Zoning Director may  
13 permit certain fences and walls an additional height allowance of up  
14 to four feet above the standard maximum height limit established by  
15 this section.

16  
17 3. In addition to the review criteria in Section 21.18.040, the Director  
18 of Planning and Zoning shall make additional written findings based  
19 on the following:

20  
21 a. The subject fence or wall will be compatible with other  
22 similar structures in the neighborhood and is required to  
23 mitigate impacts from adjacent land uses, the subject  
24 property's proximity to public right-of-ways, or safety  
25 concerns.

26  
27 b. Within the intent and purpose of this Zoning Code, the  
28 proposed additional fence or wall height, if granted, is the  
29 minimum adjustment necessary to afford relief.

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

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

42  
43  
44 **21.60.075 Sight Visibility Triangle.**

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

10  
11  
12 **21.60.080 - View cones.**

- 13  
14 A. Where a public right-of-way or easement dedicated for public access  
15 terminates at a waterway, a view cone shall be provided. See Division VI  
16 for definition and calculation of the view cone.  
17  
18 B. Fences, Walls, and Plantings in View Cones.  
19  
20 1. No fences, walls, or plantings with a height greater than ~~forty-eight~~  
21 ~~inches~~ four feet are allowed in a view cone, except:  
22  
23 a. Fences and walls (including their component parts, such as  
24 handrails and guards) that do not exceed six feet in height  
25 and are ~~transparent~~ open above ~~forty-eight inches~~ four feet.  
26 A fence, wall, hand-rail, or guard is considered ~~transparent~~  
27 open if its opacity is ~~twenty~~ fifty percent or less. The  
28 percentage of opacity is measured by dividing the square  
29 footage of the opaque portion of the subject structure by the  
30 square footage of the entire structure, and multiplying the  
31 result by one hundred.  
32  
33 b. Trees maintained with a single ~~clear~~ trunk with all branches  
34 and pendulous branches removed to a height of seven feet  
35 above the ground plane. Trees shall not be planted closer  
36 than fifteen feet apart so as not to form a visual barrier.  
37  
38 2. All plantings, exclusive of trees referenced in subsection (B)(1)(b)  
39 of this section, located in a view cone must be pruned or  
40 maintained to a height of ~~forty-eight inches~~ four feet or less.  
41  
42 ~~3. The height of a fence, wall or planting or any combination of these~~  
43 ~~is measured from the grade of the public right-of-way or easement.~~  
44 ~~In the case where there is a change in grade, at no point along the~~  
45 ~~length of the fence, wall or planting or any combination thereof shall~~

1 ~~the height exceed the limits established in subsections (B)(1)(a)~~  
2 ~~and (B)(1)(b) of this section.~~  
3  
4

5 **21.60.090 - Objects in required yards.**  
6

7 The following are not obstructions when located in the required yards:  
8

9 A. All Yards.

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

29 B. Front Yards.

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

38 C. Rear Yards.

- 39 1. Balconies,
- 40 2. One-story bay windows projecting three feet or less into the yard,  
41 and
- 42 3. Overhanging eaves and gutters projecting three feet or less into the  
43 yard;

44 D. Side Yards.

- 45 1. Overhanging eaves and gutters projecting eighteen inches or less  
46 into the yard, and

- 1           2.     Fuel, air and water pumps in conjunction with automobile service  
2                   stations; provided, that they are set back at least fifteen feet from  
3                   the side lot line.  
4  
5

6     **Chapter 21.72 – TERMS AND DEFINITIONS**  
7

8     **21.72.010 - Terms.**

9     D. List of definitions.

10  
11           “Fences and walls” means an artificially constructed exterior barrier of  
12 wood, masonry, stone, wire, metal, plastic, or any other manufactured material or  
13 combination of materials, for which the primary purpose is to mark boundaries,  
14 control access, or to screen views. For the purpose of this Title, the term “fences  
15 and walls” does not include retaining walls.  
16

17  
18           “Fences and walls height” means the vertical distance, measured to the  
19 nearest integral foot, from the elevation at grade directly below the structure to  
20 the top of the structure, not including supporting posts. If the fence or wall has  
21 been elevated through the use of a retaining wall, the creation of a berm or  
22 another method for the primary purpose of increasing the overall height of the  
23 fence or wall, then the fence or wall height shall be measured from the ground  
24 elevation prior to the grade modification.  
25

26  
27           “Hedge, boundary” means a linear row of closely planted shrubs or low-  
28 growing trees put in place to accomplish the same effect as a fence or wall.  
29

30  
31           “Height.”

32           a. For buildings, see building height.

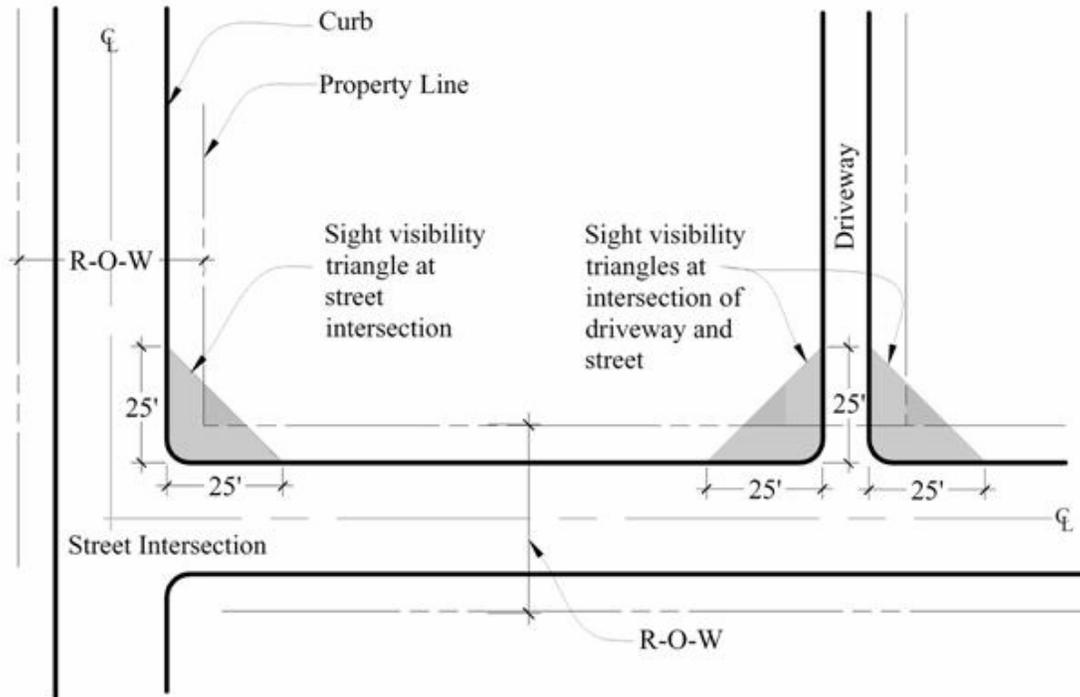
33           b. For fences and walls, see fences and walls height.

34           b. c. For signs, see Section 21.70.050(B).  
35

36  
37           ~~Sight Visibility Triangle. See illustration. "Sight visibility triangle" means a~~  
38 ~~triangular space provided across all property corners created by either the~~  
39 ~~intersection of two streets or the intersection of a driveway and a street. The sight~~  
40 ~~visibility triangle is determined by drawing a diagonal line across the corner of the~~  
41 ~~lot measured from two points drawn twenty-five feet back from the street or~~  
42 ~~driveway intersections with a street.~~  
43

44  
45           Sight Visibility Triangle. See illustration. "Sight visibility triangle" means a  
46 triangular area intended to remain free of visual obstructions to prevent potential

1 traffic hazards across all property corners formed by two intersecting streets or  
2 the intersection of an alley and a street or the intersection of a driveway and a  
3 street. The sight visibility triangle is determined by drawing a diagonal line  
4 across the corner of the lot between two points each measured twenty-five feet  
5 back from the vertex of the extended curblines of the intersecting streets, alleys  
6 or driveways.

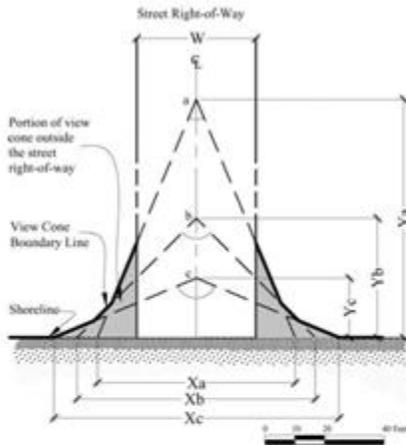


7  
8  
9  
10  
11  
12  
13  
14

"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

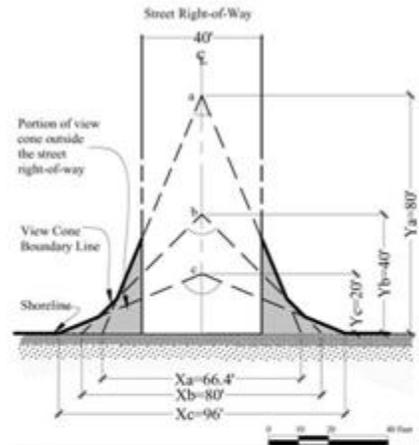


Example Calculations for a 40-foot street right-of-way

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

1 **Incorporating All Amendments Since Introduction**

2 *Editorial note: the purpose of this working draft is to show how the Code*  
3 *would read if all known amendments were adopted.*

4  
5 **Ordinance No. O-47-11**

6  
7 **AN ORDINANCE** concerning

8  
9 **Fence Permits**

10  
11 **FOR** the purpose of amending the Code of the City of Annapolis with respect to  
12 the issuance of fence permits.

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

- 16 17.34.010
- 17 17.34.020
- 18 21.18.030
- 19 21.60.070
- 20 21.60.080
- 21 21.60.090
- 22 21.72.010

23  
24 **BY** adding the following portions to the Code of the City of Annapolis, 2012  
25 Edition:

- 26 21.60.065
- 27 21.60.075

28  
29  
30 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE**  
31 **ANNAPOLIS CITY COUNCIL** that the Code of Annapolis shall be amended to  
32 read as follows:

33  
34  
35 **Chapter 17.34 – FENCE PERMITS**

36  
37 **17.34.010 - Fences and walls.**

38  
39 A. Permit Required.

- 40
- 41 1. No new fence or wall shall be erected, placed, or maintained and no existing
- 42 fence or wall shall be altered or replaced until a permit is obtained from the
- 43 Department of Neighborhood and Environmental Programs. The nonrefundable
- 44 application fee and permit fee shall be in accordance with Section 17.12.056.
- 45 The permit shall not be issued until the application and supporting documentation

1 have been reviewed by the appropriate City departments and approved by the  
2 Director or his or her designee.

3  
4  
5 2. At a minimum, the permit application shall be accompanied by a scaled  
6 drawing showing the proposed location and dimensions of the fence or wall on  
7 the subject lot, and its relationship to the property lines, public right-of-ways,  
8 easements, utilities, existing structures, existing trees, and steep topography.  
9 The permit application shall also include construction drawings, pictures or  
10 diagrams sufficient to illustrate the overall design and materials to be used for the  
11 proposed fence or wall. The Director may require the applicant to provide  
12 additional information as deemed necessary by the City in order to review the  
13 proposed fence or wall for conformity with the City Code.

14  
15  
16 3. Work shall commence within thirty days from the date of the issuance of the  
17 permit and be completed in one hundred twenty days after issuance, unless  
18 extended by the Director of Neighborhood and Environmental Programs, or the  
19 permit will be revoked.

20  
21  
22 B. Restrictions.

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

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

38  
39 3. The area three feet in radius around fire hydrants, fire hose connections and  
40 utility boxes shall be kept free of any fences or walls that could impede use of the  
41 hydrant, hose connection or utility box.

42  
43 4. Fences and walls shall be installed so as not to disturb or damage existing  
44 trees equal to or greater than five inches diameter at breast height, unless  
45 otherwise approved by the City.

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

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

10  
11 7. Fences and walls shall be maintained in accordance with the City's property  
12 maintenance code.

13  
14  
15  
16 **17.34.020 - Appeals**

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

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

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

43  
44 D. A person aggrieved by a decision of the Building Board of Appeals made  
45 pursuant to this section may appeal that decision to the Circuit Court for  
46 Anne Arundel County pursuant to Maryland Rule Title 7, Chapter 200, as

1 may be amended from time to time. For purposes of this subsection, a  
2 person shall not be considered aggrieved by a decision of the Board  
3 unless the person has appeared as a party at the hearing before the  
4 Board. An appeal under this section shall be taken within thirty days of  
5 the date of the decision appealed and shall be the exclusive remedy of the  
6 aggrieved party from that decision.  
7  
8

9 **17.34.030 - Violations.**

10 A person who violates this chapter is guilty of a municipal infraction and is  
11 subject to a fine of one hundred dollars for any single, initial violation and a fine  
12 of two hundred dollars for each repeat or continuing violation.  
13

14  
15 **Chapter 21.18 – ADMINISTRATIVE ADJUSTMENTS**

16  
17 **21.18.030 - Permitted administrative adjustments.**

- 18  
19 A. Administrative adjustments from the regulations of this Zoning Code may  
20 be granted by the Planning and Zoning Director only in accordance with  
21 the criteria established in this Chapter, and may be granted only for the  
22 following:  
23
- 24 1. Setbacks. To permit any yard or setback of up to twenty percent  
25 less than a yard or a setback required by the applicable regulations.  
26
  - 27 2. Parking. To increase by not more than twenty percent the  
28 maximum distance that required parking spaces are permitted to be  
29 located from the use served.  
30
  - 31 3. Lot Coverage. To increase by not more than twenty percent the lot  
32 coverage restrictions, except that administrative adjustments of lot  
33 coverage restrictions shall not be permitted in the Critical Area  
34 Overlay District.  
35
  - 36 4. Signs. To adjust the limitations for signs in the specific instances  
37 set forth in Section 21.70.110.  
38
  - 39 5. Fences and Walls. To permit certain fences and walls an additional  
40 height allowance of up to four feet above the standard maximum  
41 height limit specified in Section 21.60.070.  
42
  - 43 6. Specific Zoning District Provisions. The zoning district provisions  
44 applicable to specific zoning districts, as provided in Division III,  
45 may authorize other permitted administrative adjustments. In

1 Chapter 21.54, Critical Area Overlay, these adjustments are  
2 referred to as administrative variances.  
3

- 4 B. The Director of Planning and Zoning may not approve administrative  
5 adjustments in the R1, Single-Family Residence District when the  
6 minimum lot width and area requirements for the affected property are not  
7 met.  
8  
9

10 **Chapter 21.60 – SUPPLEMENTAL USE AND DEVELOPMENT STANDARDS**  
11

12 **21.60.065 - Plantings.**  
13

- 14 A. All plantings shall be installed and maintained in accordance with the  
15 applicable provisions of Sections 21.62.030, 21.62.040 and 21.62.050.  
16  
17 B. Unless as otherwise may be required for planting mitigation or screening  
18 purposes by a condition of approval for a development application,  
19 plantings installed in the form of a boundary hedge, in-lieu-of or together  
20 with a fence or wall, shall be pruned or maintained so as not to exceed the  
21 height limits for fences and walls as outlined in Section 21.60.070.  
22  
23 C. In the event that the requirements of this section conflict with those in  
24 Chapter 21.54, Critical Area Overlay, the Critical Area requirements shall  
25 prevail.  
26  
27

28 **21.60.070 - Fences and walls.**  
29

30 Fences and walls as defined by this Title may be erected, placed, maintained,  
31 altered or replaced pursuant to a permit issued in accordance with Section  
32 17.34.010 of the Annapolis City Code. The following additional standards apply:  
33

- 34 A. If located within the historic district as defined in this Title, all proposed  
35 new fences and walls, and all proposed alterations to existing fences and  
36 walls, require the review and approval of the Historic Preservation  
37 Commission. The Historic Preservation Commission has the authority to  
38 grant a waiver or exemption, if necessary, in order to comply with the  
39 Historic Preservation Commission Design Guidelines and the Secretary of  
40 the Interior's Standards for Rehabilitation.  
41  
42 B. Fences and walls may be installed up to, but not over the property line. It  
43 is the responsibility of the property owner to assure that the proposed  
44 fence or wall is not installed on property of others. All property line  
45 disputes are between abutting property owners, and they shall not seek or  
46 have any remedy against the City.

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

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

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

1 **21.60.075 Sight Visibility Triangle.**  
2

3 In all districts, a sight visibility triangle, as defined in Section 21.72.010, shall be  
4 provided at all intersections, including alleys and driveways, and shall be kept  
5 free of obstructions to vision between the height of two and one-half feet and  
6 twelve feet above the street. If, in the opinion of the Director of Planning and  
7 Zoning with the concurrence of the Director of Public Works, this requirement  
8 may be altered if such alteration will not result in a potential traffic hazard.  
9 Where intersections occur on roadways under the jurisdiction of the State of  
10 Maryland or Anne Arundel County, the sight visibility triangle required by the  
11 State or County may be substituted in-lieu-of the requirements above.  
12

13  
14 **21.60.080 - View cones.**  
15

- 16 A. Where a public right-of-way or easement dedicated for public access  
17 terminates at a waterway, a view cone shall be provided. See Division VI  
18 for definition and calculation of the view cone.  
19
- 20 B. Fences, Walls, and Plantings in View Cones.  
21
- 22 1. No fences, walls, or plantings with a height greater than four feet  
23 are allowed in a view cone, except:  
24
    - 25 a. Fences and walls (including their component parts, such as  
26 handrails and guards) that do not exceed six feet in height  
27 and are open above four feet. A fence, wall, hand-rail, or  
28 guard is considered open if its opacity is fifty percent or less.  
29 The percentage of opacity is measured by dividing the  
30 square footage of the opaque portion of the subject structure  
31 by the square footage of the entire structure, and multiplying  
32 the result by one hundred.  
33
    - 34 b. Trees maintained with a single trunk with all branches and  
35 pendulous branches removed to a height of seven feet  
36 above the ground plane. Trees shall not be planted closer  
37 than fifteen feet apart so as not to form a visual barrier.  
38
  - 39 2. All plantings, exclusive of trees referenced in subsection (B)(1)(b)  
40 of this section, located in a view cone must be pruned or  
41 maintained to a height of four feet or less.  
42  
43  
44

45 **21.60.090 - Objects in required yards.**  
46

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

3 A. All Yards.

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

20 B. Front Yards.

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

29 C. Rear Yards.

- 30 1. Balconies,
- 31 2. One-story bay windows projecting three feet or less into the yard,  
32 and
- 33 3. Overhanging eaves and gutters projecting three feet or less into the  
34 yard;

35 D. Side Yards.

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

41  
42  
43 **Chapter 21.72 – TERMS AND DEFINITIONS**

44  
45 **21.72.010 - Terms.**

46 D. List of definitions.

1  
2       “Fences and walls” means an artificially constructed exterior barrier of  
3 wood, masonry, stone, wire, metal, plastic, or any other manufactured material or  
4 combination of materials, for which the primary purpose is to mark boundaries,  
5 control access, or to screen views. For the purpose of this Title, the term “fences  
6 and walls” does not include retaining walls.  
7

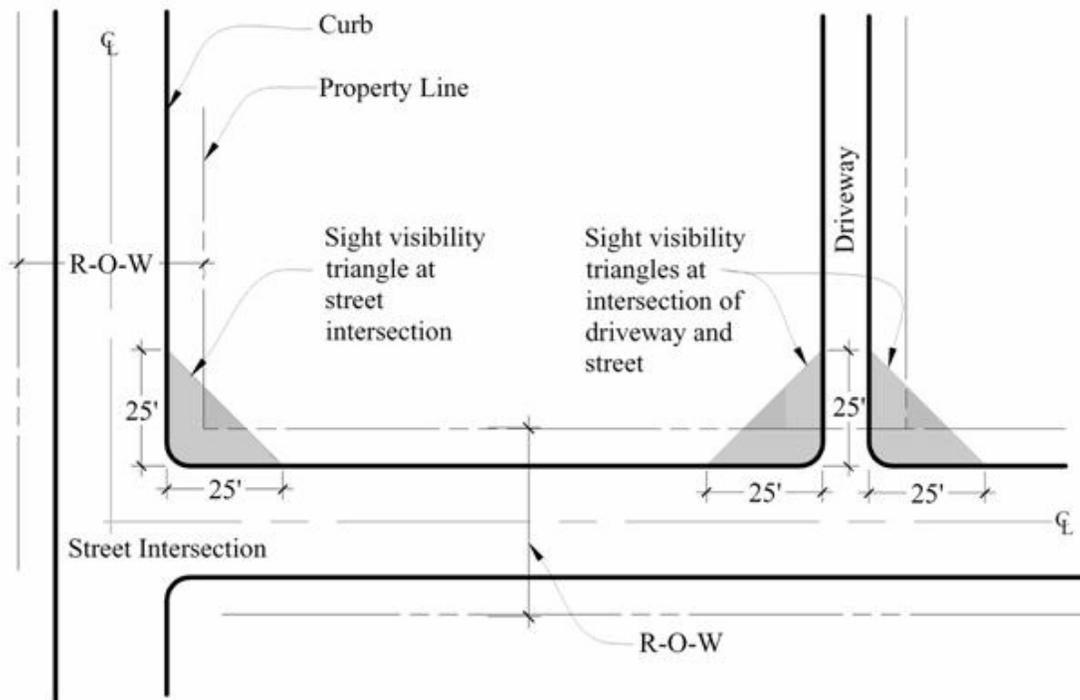
8  
9       “Fences and walls height” means the vertical distance, measured to the  
10 nearest integral foot, from the elevation at grade directly below the structure to  
11 the top of the structure, not including supporting posts. If the fence or wall has  
12 been elevated through the use of a retaining wall, the creation of a berm or  
13 another method for the primary purpose of increasing the overall height of the  
14 fence or wall, then the fence or wall height shall be measured from the ground  
15 elevation prior to the grade modification.  
16

17  
18       “Hedge, boundary” means a linear row of closely planted shrubs or low-  
19 growing trees put in place to accomplish the same effect as a fence or wall.  
20

21  
22       “Height.”

- 23       a. For buildings, see building height.  
24       b. For fences and walls, see fences and walls height.  
25       c. For signs, see Section 21.70.050(B).  
26

27  
28       Sight Visibility Triangle. See illustration. "Sight visibility triangle" means a  
29 triangular area intended to remain free of visual obstructions to prevent potential  
30 traffic hazards across all property corners formed by two intersecting streets or  
31 the intersection of an alley and a street or the intersection of a driveway and a  
32 street. The sight visibility triangle is determined by drawing a diagonal line  
33 across the corner of the lot between two points each measured twenty-five feet  
34 back from the vertex of the extended curblines of the intersecting streets, alleys  
35 or driveways.

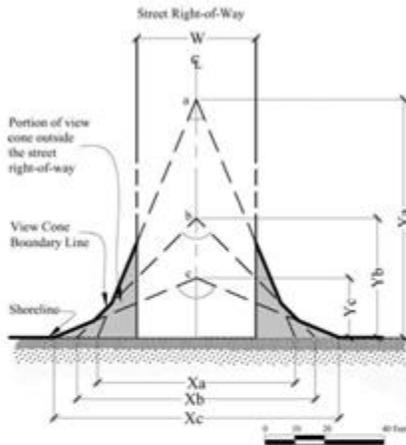


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"View cone" means a space defined by a series of projected lines from the centerline of a street right-of-way that is to be kept free of obstructions so as to preserve a distant view.

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

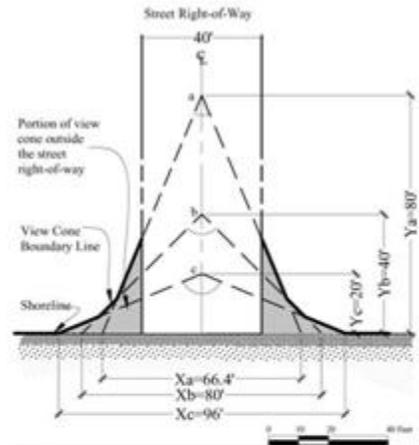


Example Calculations for a 40-foot street right-of-way

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'

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**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:

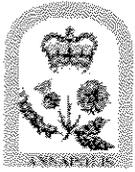
THE ANNAPOLIS CITY COUNCIL

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

10



City of Annapolis  
Committee Referral Action

**Date:** March 8, 2013

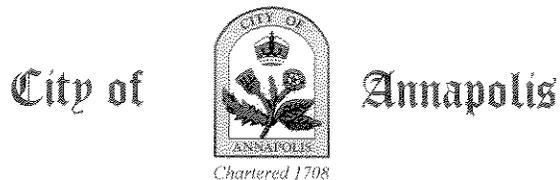
**To:** Jessica Cowles  
Legislative & Policy Analyst

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, 3<sup>RD</sup> 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 1 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**

Chartered 1708  
145 Gorman Street, 3<sup>rd</sup> 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 Prepared By:  
2 Department of Planning and Zoning

3  
4 **Ordinance No. O-47-11 REVISED**

5  
6 **Introduced by: Alderman Arnett**

7  
8  
9 **AN ORDINANCE** concerning

10  
11 **Fence Permits**

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

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

18 **17.34.010**

19 **17.34.020**

20 **21.18.030**

21 **21.60.070**

22 **21.60.080**

23 **21.60.090**

24 **21.72.010**

25  
26 **BY** adding the following new code sections:

27 **21.60.065**

28 **21.60.075**

29  
30 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE**  
31 **ANNAPOLIS CITY COUNCIL** that the Code of Annapolis shall be amended to  
32 read as follows:

33  
34  
35 **Chapter 17.34 – FENCE CODE PERMITS**

36  
37 **17.34.010 - Fences, hedges or walls Fences and walls.**

38  
39 **A. Permit Required.**

- 40  
41 1. ~~1. No new fence, wall or hedge shall be erected, placed, maintained or~~  
42 ~~grown and no existing fence, wall, or hedge shall be altered or replaced~~  
43 ~~No new fence or wall shall be erected, placed, or maintained and no~~  
44 ~~existing fence or wall shall be altered or replaced until a permit is obtained~~  
45 ~~from the City Department of Neighborhood and Environmental Programs.~~  
46 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 21.18.030 - Permitted administrative adjustments.

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

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

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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           and walls" does not include retaining walls.  
39           and walls" does not include retaining walls.  
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           and walls" does not include retaining walls.  
43           and walls" does not include retaining walls.  
44           **"Height."**

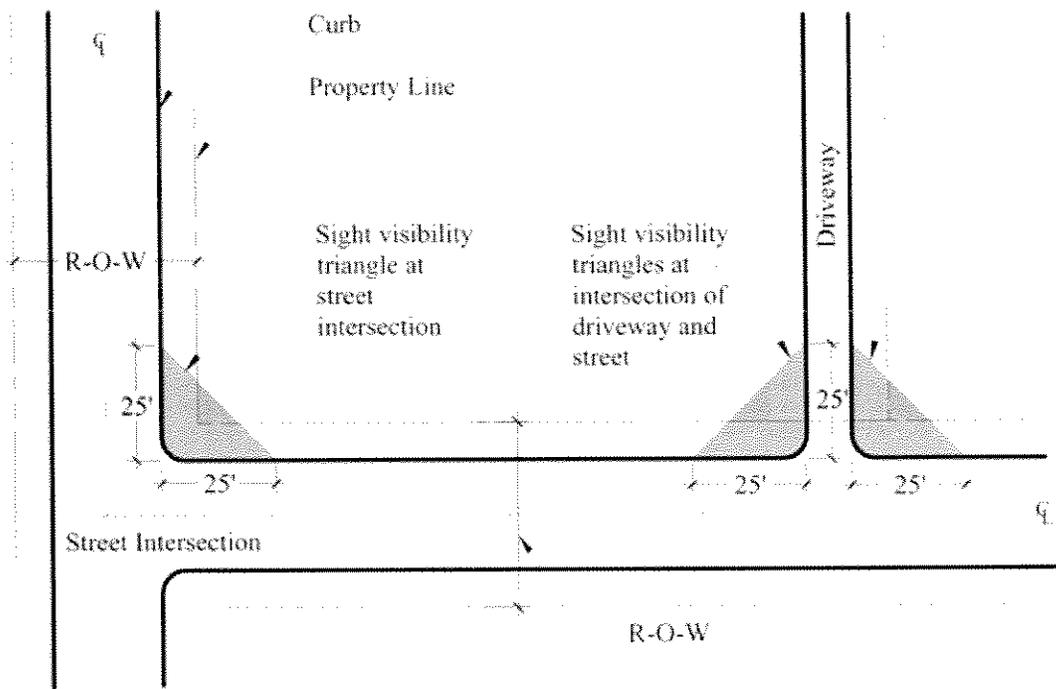
45           a. For buildings, see building height.

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

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

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3  
4 Sight Visibility Triangle. See illustration. "Sight visibility triangle" means a  
5 triangular space provided across all property corners created by either the  
6 intersection of two streets or the intersection of a driveway and a street. The sight  
7 visibility triangle is determined by drawing a diagonal line across the corner of the  
8 lot measured from two points drawn twenty five feet back from the street or  
9 driveway intersections with a street.

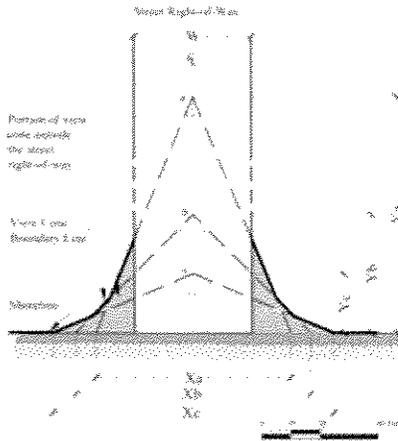
10  
11  
12 Sight Visibility Triangle. See illustration. "Sight visibility triangle" means a  
13 triangular area intended to remain free of visual obstructions to prevent potential  
14 traffic hazards across all property corners formed by two intersecting streets or  
15 the intersection of an alley and a street or the intersection of a driveway and a  
16 street. The sight visibility triangle is determined by drawing a diagonal line  
17 across the corner of the lot between two points each measured twenty-five feet  
18 back from the vertex of the extended curblines of the intersecting streets, alleys  
19 or driveways.



20  
21  
22  
23 "View cone" means a space defined by two a series of projected lines  
24 from the centerline of a street right-of-way that is to be kept free of obstructions  
25 so as to preserve a distant view.  
26

1 See illustration for calculation of view cone:

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



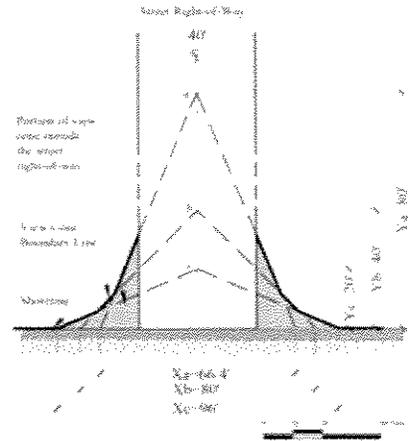
Width of view cone at shoreline	Formula
$X_a$	$1.66 \text{ Street CW}$
$X_b$	$1 \text{ Street CW}$
$X_c$	$0.4 \text{ Street CW}$
Distance from shoreline to apex of view cone	
$Y_a$	$1 \text{ Street CW}$
$Y_b$	$1.5W$
$Y_c$	$0.5 \text{ Street CW}$

**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 Eye = 4'
$X_a$	$1.66 \text{ Street CW}$	$1.66 \text{ Street CW}$
$X_b$	$1 \text{ Street CW}$	$1 \text{ Street CW}$
$X_c$	$0.4 \text{ Street CW}$	$0.4 \text{ Street CW}$
Distance from shoreline to apex of view cone		
$Y_a$	$1 \text{ Street CW}$	$1 \text{ Street CW}$
$Y_b$	$1.5W$	$60$
$Y_c$	$0.5 \text{ Street CW}$	$20$

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**

- 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 ( $X_a$ ) 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
- 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 (point 'a' in the diagram)
- Draw view cone 'a' by connecting the outer points of  $X_a$  (step 3) with point 'a' (step 4) to form a triangle
- Calculate and draw view cones 'b' and 'c' using the formula in the table for  $X_b, Y_b, X_c$  and  $Y_c$
- 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 21.01.080

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CITY COUNCIL OF THE  
**City of Annapolis**

Ordinance No. O-47-11

Introduced by: Alderman Arnett

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.

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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.

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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

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13 **EXPLANATION:**

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

## **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](mailto:JCCowles@annapolis.gov).

## Proposed Amendment to O-47-11

### I. Standard Maximum Height.

- ~~1. In all zoning districts, the maximum height of fences and walls enclosing outdoor tennis courts, baseball backstops, and other fences and walls normally provided with recreation facilities, shall be twelve feet or the minimum height required to protect public safety, whichever is greater.~~
- ~~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.
  1. In all residential and maritime zoning districts On properties within the R2-NC, R3-NC and R3-NC2 Residential Neighborhood Conservation 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.
  2. The height limits in subsection (l)(1) of this section shall also apply to properties within the WME and WMM Maritime Districts as well as the OCD Overlay District, only when a fence or wall is located along a lot line or public street that is contiguous with an adjacent property in the R2-NC District.
  3. 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.

**Economic Matters Amendment  
O-47-11 Fence Permits**

**Amendment #1**

Where it appears in the ordinance, strike the four-foot height restriction and insert a six-foot height restriction.



City of Annapolis City Council  
Standing Committee Referral Action Report

Date: 5/23/13

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

The Rules and City Government Committee has reviewed 0-47-11 and  
has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other

Comments:

*to give the HPC authority  
over fence approval in the  
historic District*

Roll Call Vote:

Ald. Arnett, Chair yes

Ald. Hoyle yes

Ald. Budge yes

Meeting Date \_\_\_\_\_

Signature of Chair *Jess H. Arnett*

**Historic Preservation Commission Amendment  
O-47-11  
Fence Permits**

Page 6, Line 3:

Insert: "The Historic Preservation Commission has the authority to grant a waiver or exemption from Section 21.060.070 subsections B.2., C.2., C.3., C.4., and D.1. if necessary in order to comply with the Historic Preservation Commission Design Guidelines and the Secretary of the Interior's Standards for Rehabilitation."

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.

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**CITY COUNCIL OF THE  
City of Annapolis**

**Resolution No. R-38-13**

**Introduced by: Mayor Cohen and Alderman Arnett**

LEGISLATIVE HISTORY			
First Reading	Public Hearing	Fiscal Impact Note	90 Day Rule
10/14/13			1/10/14
Referred to	Referral Date	Meeting Date	Action Taken
Economic Matters	10/14/13		
Finance	10/14/13		
		Suspension of the rules requested to allow for a vote on 2 <sup>nd</sup> Reader	

8

**A RESOLUTION** concerning

9

**Special Events - IV**

10

**FOR** the purpose of authorizing City Council approval of the National Sailing Hall of Fame Induction Ceremony 2013 on October 27, 2013 per R-14-12, implementing a moratorium on administrative approvals for events at City Dock, and waiving parking fees for 30 parking spaces immediately adjacent to Susan Campbell Park during the induction ceremony; and waiving fees associated with the Maritime Republic of Eastport Tug of War on November 2, 2013.

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**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

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**WHEREAS,** R-14-12 expired on April 23, 2013 but the City continues to follow the protocol set forth in R-14-12 pending adoption of O-4-13 or other disposition; and

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23

**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

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costs associated with municipal services (public safety, public works, custodial, renovations, repairs, maintenance, transportation and parking).”

**WHEREAS,** the National Sailing Hall of Fame seeks to hold the 2013 induction ceremony on October 27, 2013 from 11:00 a.m. – 3:00 p.m.; and

**WHEREAS,** the Annapolis City Council adopted R-26-13 Amended on July 22, 2013 that authorized the Maritime Republic of Eastport Tug of War event and vendor sales.

**NOW THEREFORE, BE IT RESOLVED BY THE ANNAPOLIS CITY COUNCIL** that the City Council authorizes the National Sailing Hall of Fame 2013 Induction Ceremony and exempts it from the R-14-12 moratorium.

**AND, BE IT FURTHER RESOLVED BY THE ANNAPOLIS CITY COUNCIL** that there shall be a waiver of parking fees for the National Sailing Hall of Fame 2013 Induction Ceremony and for the Maritime Republic of Eastport Tug of War 2013.

**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.

**Staff Report**

**R-38-13**

**Special Events - IV**

The proposed resolution would authorize City Council approval of the National Sailing Hall of Fame Induction Ceremony 2013 on October 27, 2013 per R-14-12, implementing a moratorium on administrative approvals for events at City Dock, and waiving parking fees for 30 parking spaces immediately adjacent to Susan Campbell Park during the induction ceremony; and waiving fees associated with the Maritime Republic of Eastport Tug of War on November 2, 2013.

**National Sailing Hall of Fame—Applicant**

**Event:** 2013 Induction Ceremony

**Council Action:** Moratorium—Reserve parking in excess of 10 parking spaces

**Sales:** none

**Location:** Susan Campbell Park and immediately adjacent parking

**Date:** Sunday, October 27, 2013

**Event Time:** 11:00am-3:00pm

**Property Use Time:** 6:00am, October 26-noon, October 28, 2013

**Participants:** 1,000 NSHOF guests and honorees

**Street closures:** None

**Post no parking:** yes, 30 spaces immediately adjacent to SCC Park

**Admission fee:** yes

**City Services:** request for fee waiver

1) ADOT: three rows of parking (30 spaces) immediately adjacent to SCC Park

**THE MARITIME REPUBLIC OF EASTPORT (MRE)**

**Event:** Tug of War

**Council Action:** Waiver of cost

**Sales:** food and beverages (alcoholic and non-alcoholic) and merchandise (approved for Historic District by Council in R-26-13)

**Location:** Susan Campbell Park/City Dock; 2nd St. from Spa Creek to Severn Ave., Eastport

**Date:** Saturday, November 2, 2013

**Event Time:** 10:00am-5:00pm

**Property Use Time:** Setup 8am; Breakdown 6:00pm

**Participants:** MainStreets Partnership and MRE volunteers; Tug participants

**Attendees:** open to the general public

**Street closures:** 2nd St. from Spa Creek to Eastern Ave.

**Post no parking:** metered parking spaces City Dock (approved under the moratorium, R-26-13) and 2<sup>nd</sup> St., Eastport

**Admission fee:** None

**Amplified music:** Susan Campbell Park; 2<sup>nd</sup> St., Eastport

**City Services:** request for waiver (see Fiscal Note)

1. ADOT: posting of no parking labor and recovered cost
2. APD: two officers on site at Susan Campbell Park and Eastport

**City Services:** full cost paid

1. DNEP: Exempt peddlers permit to sell in Historic District; temporary structures permit
2. ABC Board: liquor license

EMS service provided within normal 911 service.

Prepared by Michelle LeFurge, Special Events Coordinator at [mmlefurge@annapolis.gov](mailto:mmlefurge@annapolis.gov).

FISCAL IMPACT NOTE

**Legislation No:** R-38-13

**First Reader Date:** 10-14-13

**Note Date:** 10-7-13

**Legislation Title:** **Special Events - IV**

**Description:** For the purpose of authorizing City Council approval of the National Sailing Hall of Fame Induction Ceremony 2013 on October 27, 2013 per R-14-12, implementing a moratorium on administrative approvals for events at City Dock, and waiving parking fees for 30 parking spaces immediately adjacent to Susan Campbell Park during the induction ceremony; and waiving fees associated with the Maritime Republic of Eastport Tug of War on November 2, 2013.

**Analysis of Fiscal Impact:** If approved this legislation may result in significant fiscal impact. The City will be waiving parking fees and fees associated with the Maritime Republic of Eastport Tug of War, which in turn would negatively impact the City's net cash flows.



RECEIVED

1204 Maple Ave  
Annapolis Maryland 21401-3300

MAY 02 2013  
CITY OF ANNAPOLIS  
HUMAN RESOURCES DEPT

Mr. Paul M. Rensted  
Director of Human Resources  
145 Gorman Street  
Annapolis, Maryland 21401

Re: Human Relations Panel

Dear Mr. Rensted,

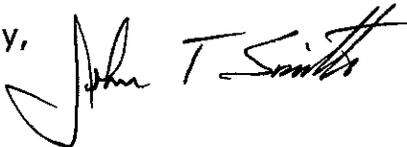
My name is John T. Smith. Having talked with member Helen Leitch, I am applying for the open position on the City Human Relations Commission.

I served ten years as rector of St Luke's Episcopal Church, Eastport; I retired September 2010. I now assist as needed at St. Anne's Parish, Annapolis. My background includes hospital chaplaincy in Austin, Texas, while in seminary and as Hospice Chaplain while in Payette Idaho between 1998 and 2002. I mention this because as chaplain, I did not and do not promote any religious denomination. For those who believe in a higher being, I encourage them to remain with their denomination of choice. For those who profess not to believe in a higher being, I give whatever moral support they may accept. Also, I have worked with boards addressing domestic violence. I have participated in anti-racism programs and am just finishing a study based on the book "Witnessing Whiteness," The Need to Talk About Race and How to do It" by Shelly Tochluk.

As a member of the Human Relations Board, I would not address religious beliefs but endorse the objectives of the commission regarding eliminating discrimination and promoting effective communication among people of different backgrounds and cultures.

If I can be of service, please contact me either by mail or my cell phone 443-454-5648 or at home 410-267-0883.

Respectfully,



The Rev. John T. Smith