

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

December 9, 2013 7:00 p.m.

Call to Order
Invocation
Pledge of Allegiance
Roll Call
Approval of Agenda

Mayor Pantelides
Mayor Pantelides
Mayor Pantelides
City Clerk Watkins-Eldridge

PETITIONS, REPORTS AND COMMUNICATIONS

Approval of Journal Proceeding

Regular Meeting October 14, 2013
Special Meeting October 21, 2013
Special Meeting October 28, 2013

Reports by Committees

Time Limitation for Petitions, Reports and Communications per Section 2.16.035 of the City Code

Comments by the General Public

LEGISLATIVE ACTION

1ST READER – ORDINANCE AND RESOLUTION

O-39-13 Appropriation of Property Tax Revenue Above Estimates to Fund a Cost of Living Adjustment for All City of Annapolis Employees at a Rate of 1% Retroactive to July 1, 2013 and 3% Effective January 1, 2014 and Other Employee Benefits Including Pension and Other Post Employment Benefits – For the purpose of appropriating property tax revenue above estimates to fund a Cost of Living Adjustment (COLA) for all City of Annapolis employees at a rate of 1% retroactive to July 1, 2013 and 3% effective January 1, 2014 and other employee benefits including pension and other post employment benefits (OPEB).

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
12/9/13			3/10/14
Referred to	Referral Date	Meeting Date	Action Taken
Finance Committee	12/9/13		
Financial Advisory Commission	12/9/13		

R-39-13 Authoring New Year's Eve Vendors in the Historic District – For the purpose of A. L. Goodies General Store at 112 Main Street and Hard Bean Coffee at 36 Market Space to sell non-alcoholic beverages, food and souvenirs from the sidewalk in front of 112 Main Street and 36 Market Space during the City of Annapolis' New Year's Eve celebration on December 31, 2013.

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
12/9/13			3/10/14
Referred to	Referral Date	Meeting Date	Action Taken
Economic Matters	12/9/13		

BUSINESS and MISCELLANEOUS

1. Appointments to City Council Standing Committees
2. City Council Meeting Dates in 2014

UPCOMING CITY COUNCIL EVENTS

Special Meeting: Monday, December 16, 2013 at 7:00 p.m. in City Council Chambers
 Regular Meeting: Monday, January 13, 2014 at 7:00 p.m. in City Council Chambers
 Special Meeting: Monday, January 27, 2014 at 7:00 p.m. in City Council Chambers

DRAFT
REGULAR MEETING
October 14, 2013

The Regular Meeting of the Annapolis City Council was held on October 14, 2013 in the Council Chamber. Mayor Cohen called the meeting to order at 7:00 p.m.

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

Absent on Roll Call: Alderman Pfeiffer

Staff Present: City Attorney Hardwick, City Manager Mallinoff, Planning and Zoning Director Arason, DNEP Director Broadbent, Public Works Director Jarrell, Chief of Historic Preservation Craig

Approval of Agenda

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

The Star Spangled Banner

Josiah Fisher

CITY COUNCIL CITATIONS

Martha Wood Leadership Award to Josiah Fisher

Mayor Cohen and Alderwoman Finlayson

Mayor Cohen invited Mayor Cohen and Alderwoman Finlayson to present Josiah Fisher with the City Council Citation in recognition of being honored by the Housing Authority of the City of Annapolis as the Thirty-Ninth recipient of the prestigious Martha Wood Leadership Award.

Service to the City of Annapolis

Mayor Cohen recognized Dr. Wilford Scott for his years of service to the Planning Commission.

PETITIONS, REPORTS AND COMMUNICATIONS

Maritime Republic of Eastport (MRE) "Declaration of War"

The Maritime Republic of Eastport by the power vested in and by the Maritime Republic of Eastport by unanimous vote of the Revolutionary Council, did declare (tug of) War against the United States, Maryland, The City of Annapolis, and all who remain loyal to them.

Approval of Journal Proceeding

- Alderman Pfeiffer moved to approve the Journal of Proceedings for the Regular Meeting September 9, 2013 and the Special Meeting of September 23, 2013, September 30, 2013 and the Special Meeting of October 7, 2013. Seconded. CARRIED on voice vote.

Comments by the General Public

Frank Bradley, 815 Parkwood Avenue, Annapolis, Maryland 21403 spoke on the racism, Carl Snowden and Cynthia Carter and the HACA Board.

John Weikel, 139 King George Street, Annapolis, Maryland 21401 spoke on the Royal Farms contract with the Steven's Hardware in downtown Annapolis.

Michael S Bowling, 1979 Fairfax Road, Annapolis, Maryland 21401 spoke on the last meeting of the Board of Supervisors of Elections, Campaign Fund Reports of a General Election Candidate and request that the law be upheld.
Fred Delavan, 130 Jennifer Road, Suite 240, Annapolis, Maryland 21401 representing the owners of 110 Compromise Street spoke on the Comprehensive Plan and spoke in favor of the postponement of O-51-11 Amended and O-52-11 Amended.

- Mayor Cohen declared petitions, reports and communications closed.

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.**

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

Spoke on the ordinance:

Charles Earnest, 403 Melvin Avenue, Annapolis, Maryland 21401

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 10/3/2013.
- Mayor Cohen declared the public hearing closed.

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.**

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

Spoke on the ordinance:

Alan Hyatt, 200 Westgate Circle, Annapolis, Maryland 21401 representing his Clients.

Charles F. Delavan, 170 Jennifer Road, Suite 240, Annapolis, Maryland 21401 representing his law firm.

Roger H. Kizer Ball, 9 Silopanna Road, Annapolis, Maryland 21403.

Gail Casale, 1206 Sterling Drive, Annapolis, Maryland 21403.

Earl Bradley, 940 Bay Forest Court, Apt 306, Annapolis, Maryland 21401 representing the Seira Club.

Spoke in favor of the ordinance:

Beth Oldfield, 1350 Moyer Road, Annapolis, Maryland 21403 representing her children.

Kari Oakes, 312 Boxwood Grove Lane, Annapolis, Maryland 21403 representing her children.

Janet Norman, 787 Old Annapolis Neck Road, Annapolis, Maryland 21403 representing Hillsmere Elementary School.
Rick Kissel, 717 Warren Drive, Annapolis, Maryland 21403 representing the Anne Arundel County Sierra Club.
Steven Conn, 1111 Van Buren Drive, Annapolis, Maryland 21403.
Danelle Brooks, 137 Lee Drive, Annapolis, Maryland 21403.
Patricia Mays, Masque Farm Road, Annapolis, Maryland 21401.
Andrew Bing, 1997 Annapolis Exchange Pkwy Suite 110, Annapolis, Maryland 21401.

Spoke in opposition to the ordinance:

Chuck Walsh, 12 Southgate Avenue, Annapolis, Maryland 21401 representing Annapolis Economic Development Corporation.

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 9/19/13, and Memoranda from Jon Arason, Director, to the Planning Commission dated 9/5/13.
- Mayor Cohen declared the public hearing closed.

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.”

Planning and Zoning Director 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 9/5/13, and Memoranda from Jon Arason, Director, to the Planning Commission dated 8/9/13.
- Mayor Cohen declared the public hearing closed.

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.

Public Works Director Jarrell gave a brief presentation on the ordinance 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-34-13 Historic Preservation Tax Credit – For the purpose of revising the provisions governing the historic preservation tax credit in the City of Annapolis.

Chief of Historic Preservation Craig gave a brief presentation on the ordinance

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. Letter from Lara

LEGISLATIVE ACTION

ORDINANCES AND RESOLUTION – 2nd 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.

- Alderwoman Finlayson moved to postpone O-51-11 amended on second reading until October 28, 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.

- Alderwoman Finlayson moved to postpone O-52-11 amended on second reading until October 28, 2013. Seconded. CARRIED on voice vote.

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.

Public Works Director Jarrell and DNEP Director Broadbent were present and answered questions from Council.

- Alderman Arnett moved to adopt O-33-12 on second reading. Seconded.
- Alderwoman Finlayson moved to amend O-33-12 as follows:

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, 2011~~12~~ 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, 2011~~12~~ 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. To regulate the building and rebuilding of structures and other improvements;
2. To regulate the use of certain structures for housing;
3. To regulate activities impacting upon the environment, urban forestry, sewer pretreatment, critical areas and storm water management;
4. To enforce building and housing rules and regulations governing the improvement and use of land and structures;
5. To enforce rules and regulations governing environmental protection, urban forestry, sewer pretreatment and storm water management;
6. To enforce rules and regulations governing the licensing and operation of certain contractors and businesses;
7. To enforce certain specified rules and regulations governing certain violations of the Zoning Code and use of property;
8. TO ENFORCE RULES AND REGULATIONS SPECIFIED IN CHAPTER 10.16 OF THE CITY CODE GOVERNING REFUSE, RECYCLABLE MATERIALS, AND SOLID WASTE.

[8] 2. To educate and inform the public concerning environmental protection, urban forestry, and related subjects.

B. The Director of Neighborhood and Environmental Programs shall have all the power and authority insofar as it relates to violations of law pertaining to the Department of Neighborhood and Environmental Programs and shall be authorized to take appropriate enforcement action with regard to all such violations.

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] THIS CHAPTER AND USED FOR HOLDING SOLID WASTE.

B. "BULK ITEMS" MEANS HOUSEHOLD ITEMS SUCH AS SOFAS, CHAIRS, TABLES, TOILETS, KITCHEN CABINETS, CARPETING, MATTRESSES, BOX SPRINGS, DRESSERS, LARGE TELEVISIONS, AND PICNIC TABLES. APPLIANCES AND METAL ITEMS SUCH AS BED FRAMES, REFRIGERATORS, STOVES, AND DISHWASHERS AND METAL OBJECTS OVER THREE AND A HALF FEET IN LENGTH OR WEIGHING MORE THAN 20³⁵ POUNDS EACH ARE ALSO BULK ITEMS. BULK ITEMS SHALL NOT INCLUDE MATERIALS THAT ARE COLLECTED IN THE RECYCLING PROGRAM OR CONSTRUCTION MATERIAL/REMODELING DEMOLITION DEBRIS.

C. "COMMERCIAL" MEANS OCCUPIED WITH OR ENGAGED IN COMMERCE OR WORK INTENDED FOR COMMERCE, INCLUDING NON-PROFIT AND RELIGIOUS ORGANIZATIONS.

D. "COMMINGLED" MEANS THAT PAPER, GLASS, PLASTIC, AND CANS MAY BE PLACED IN THE SAME CONTAINER.

[B] E. "Dead animal[s]" means [small dead animals not exceeding seventy [FIFTY] pounds each in weight, which die in the normal course of community activity] THE CARCASS OR REMAINS OF ANY NONLIVING, NONHUMAN, VERTEBRATE CREATURE. IT DOES NOT INCLUDE A [and excluding] condemned animal[s], an animal from a slaughterhouse[s], and [other] ANY animal[s] normally considered as industrial refuse.

F. "DISPOSITION" MEANS THE TRANSPORTATION, PLACEMENT, OR ARRANGEMENT OF RECYCLABLE MATERIALS FOR ALL POSSIBLE END USES EXCEPT DISPOSAL AS REFUSE.

[C. "Garbage" means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking or consumption of foods.]

G. "GENERATOR" MEANS THE LANDLORD OR MANAGEMENT COMPANY RESPONSIBLE FOR REMOVAL OF SOLID WASTE.

H. "GLASS" MEANS CLEAR AND COLORED GLASS BOTTLES AND CONTAINERS. GLASS SHALL NOT INCLUDE CRYSTAL, CERAMICS, LIGHT BULBS, PLATE WINDOWS, OR LAMINATED, WIRED, OR MIRRORED GLASS.

I. "MULTI-UNIT COMMUNITY" MEANS TEN OR MORE APARTMENTS, TOWNHOUSES OR CONDOMINIUMS LOCATED ON A SINGLE PROPERTY OR CONTIGUOUS PROPERTIES UNDER COMMON OWNERSHIP OR MANAGEMENT, INCLUDING PUBLIC-ASSISTED HOUSING. [FOR THIS PURPOSE.]

J. "PERSON" MEANS ANY] INDIVIDUAL, FIRM, PARTNERSHIP, CORPORATION, ASSOCIATION, COOPERATIVE ENTERPRISE, TRUST, MUNICIPAL AUTHORITY, FEDERAL INSTITUTION OR AGENCY, STATE INSTITUTION OR AGENCY, MUNICIPALITY, OTHER GOVERNMENTAL AGENCY OR ANY OTHER ENTITY OR ANY GROUP OF SUCH PERSONS WHICH IS RECOGNIZED BY LAW AS THE SUBJECT OF RIGHTS AND DUTIES. IN ANY PROVISIONS OF THIS CHAPTER PRESCRIBING A FINE, PENALTY, OR IMPRISONMENT, THE TERM "PERSON" INCLUDES THE OFFICERS AND DIRECTORS OF A CORPORATION OR OTHER LEGAL ENTITY HAVING OFFICERS AND DIRECTORS.

K. "PLASTIC" MEANS AN ITEM[S] MADE FROM MOLDABLE SYNTHETIC, NATURAL, OR ORGANIC MATERIALS AND FORMED INTO SHAPES [FURNITURE, TOYS, ETC].

L. "RECYCLABLE MATERIALS" MEANS THE FOLLOWING MATERIALS AND ANY FUTURE MATERIALS THAT HAVE A USEFUL PHYSICAL OR CHEMICAL PROPERTY INCLUDING, BUT NOT LIMITED, TO: NEWSPAPERS, MAGAZINES AND CATALOGS; BOOKS; CARDBOARD

AND PAPER BOXES; FILE FOLDERS; PACKING PAPER; COLORED PAPER; WRAPPING PAPER; PIZZA BOXES; CORRUGATED BOXES; COMPUTER PRINTOUTS; OFFICE PAPERS; ENVELOPES; PAPER BAGS; TELEPHONE BOOKS; JUNK MAIL; ALUMINUM; GLASS BOTTLES; JARS; STEEL AND FERROUS CANS; AND CONTAINERS INCLUDING AEROSOL CANS, HDPE-NATURAL AND HDPE-COLORED, PET-HIGH GRADE. [THE CITY WILL ENCOURAGE THE RECYCLING OF OTHER MATERIALS AS MARKETS DEVELOP AS DETERMINED BY THE DIRECTOR OF PUBLIC WORKS].

M. "RECYCLING" MEANS ANY PROCESS BY WHICH MATERIALS THAT WOULD OTHERWISE BECOME SOLID WASTE ARE COLLECTED, SEPARATED OR PROCESSED, AND RETURNED TO THE ECONOMIC MAINSTREAM IN THE FORM OF RAW MATERIALS OR PRODUCTS.

[D]N. "Refuse" means all solid waste materials including garbage, [rubbish and ashes.] dead animals, street cleanings and solid market and industrial wastes, but not human excreta or building construction wastes.

O. "RESIDENTIAL" MEANS USED OR DESIGNED FOR SINGLE RESIDENCE OR LIMITED TO RESIDENCES, SINGLE OR MULTIFAMILY DWELLING UNITS.

[E. "Rubbish" means nonputrescible solid wastes, excluding ashes, consisting of paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, metals and similar materials. It also includes tree trimmings, yard and street sweepings and weeds.]

P. "SOLID WASTE" MEANS REFUSE, RECYCLABLE[S], YARD WASTE, AND OTHER WASTE MATTER, NOT TO INCLUDE EXPLOSIVES, POISONS, CORROSIVES, FLAMMABLE LIQUIDS, HOT ASHES AND COALS, MEDICAL WASTE, OR OTHER SIMILAR HAZARDOUS MATERIALS AND WASTES.

Q. "UNIT" MEANS AN ENCLOSED SPACE THAT CONSISTS OF ONE OR MORE ROOMS OCCUPYING ALL OR PART OF A FLOOR OR FLOORS IN A BUILDING OF ONE OR MORE FLOORS OR STORIES, BUT NOT THE ENTIRE BUILDING, AND THAT IS DESIGNED FOR USE AS A SINGLE RESIDENCE.

[F] [Q] R. "Wastes" means all unwanted materials, including liquid and solid materials.

R.S. "WASTE MINIMIZATION" MEANS THE VOLUNTARY REDUCTION BY THE CONSUMER OF THE VOLUME OF REFUSE ENTERING THE SOLID WASTE STREAM.

S.T. "YARD TRIMMINGS" MEANS GRASS CLIPPINGS, WEEDS, DISCARDED PLANTS, LEAVES, BRANCHES, BRUSH, AND TREE WOOD WASTE UP TO FOUR INCHES IN DIAMETER AND NO LONGER THAN FOUR FEET IN LENGTH.

[10-16.010 - CURBSIDE PLACING AND REMOVAL OF APPROVED REFUSE CONTAINERS]

[APPROVED REFUSE CONTAINERS SHALL BE PLACED CURBSIDE BY 6:00 A.M. ON THE SCHEDULED COLLECTION DAY. RESIDENTS SHALL PLACE MATERIALS TO BE COLLECTED IN AN APPROVED REFUSE CONTAINER OR PACKAGED AS OTHERWISE PERMITTED IN THIS SECTION AT THE CURB NO EARLIER THAN 6:00 P.M. PRECEDING THE SCHEDULED COLLECTION DAY. APPROVED REFUSE CONTAINERS SHALL BE BE REMOVED FROM THE SIDEWALK NO LATER THAN 12:00 A.M. FOLLOWING THE SCHEDULED COLLECTION DAY. IN THE HISTORIC DISTRICT, AS DEFINED IN SECTION 21.56.030, APPROVED REFUSE CONTAINERS MUST BE REMOVED FROM PUBLIC VIEW.]

10.16.015 – SOLID WASTE CONTRACT

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 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 CONFORMS TO THE REQUIREMENTS OF THIS CHAPTER.

C. FAILURE OF A SOLID WASTE CONTRACTOR TO CONFORM TO THE REQUIREMENTS OF THIS CHAPTER SHALL [RESULT IN THE IMPOSITION OF A FINE AUTHORIZED BY RESOLUTION OF THE CITY COUNCIL] RESULT IN A PENALTY FOR NON-PERFORMANCE AS INDICATED IN THE SOLID WASTE CONTRACT AND SHALL BE SUBJECT TO PENALTIES PUSUANT TO SECTION 10.16.280 OF THE CITY CODE.

10.16.017 [10.16.150] - Compliance with placement requirements.

SOLID WASTE [Refuse, rubbish, ashes and other material] placed for collection in a manner which does not meet the requirements outlined in [Article II of] this chapter [shall] MAY not be collected AT THE DISCRETION OF THE DIRECTOR OF PUBLIC WORKS.

Article II – [Accumulation and Storage] RESIDENTIAL REFUSE

10.16.020 - Containers—Providing for collection.

For [an]AN area[S] in which the City provides refuse collection, the owner [or occupant of every premises] OF UNITS [who wishes to have refuse from that premises collected] shall provide APPROVED refuse containers FOR STORAGE OF SOLID WASTE BETWEEN COLLECTIONS [at a place convenient and satisfactory to the Director of Public Works]. ON THE DAY OF COLLECTION, REFUSE SHALL BE PLACED AT THE CURB OR A LOCATION APPROVED BY THE DIRECTOR OF PUBLIC WORKS. The provisions of this article govern refuse containers, their use and placement. [Refuse shall be collected solely from premises which have complied with these provisions.]

[10.16.030] 10.16.025 - Containers—Specifications[—Placement].

A. THE OWNERS OF RESIDENTIAL UNITS SHALL BE RESPONSIBLE FOR ENSURING APPROVED REFUSE CONTAINERS ARE PROVIDED WITH SUFFICIENT VOLUME TO STORE ALL SOLID WASTE BETWEEN COLLECTIONS.

B. REFUSE SHALL [BE]:

1. BE PLACED IN PLASTIC BAGS WITH ALL OPENINGS SECURELY CLOSED, AND
2. BE SHALL BE STORED IN APPROVED REFUSE CONTAINERS AT ALL TIMES.

C. APPROVED [R][refuse containers shall:

[A] 1. Be durable;

[B] 2. Be rust-resist[ing]ANT;

[C] 3. Be easily washable and nonabsorbent;

- [D] 4. Be watertight;
- [E] 5. Have TIGHT [close] -fitting covers OR LIDS [in place];
- [F] 6. Have [adequate] FUNCTIONAL handles;
- [G] 7. Have a maximum capacity of thirty-two gallons [PER CONTAINER] OR AN APPROVED TRASH CART WITH AN ATTACHED LID AND HAVE A MAXIMUM CAPACITY OF 96 GALLONS.

8. BE CLEARLY MARKED WITH MINIMUM 3" HIGH NUMBERS [AND LETTERS] INDICATING THE ADDRESS OF THE UNIT FOR WHICH REFUSE IS BEING COLLECTED;

[J] [11] 9. Not be sold or furnished by the City or by its employees.

[H. Be placed on the sidewalk no sooner than twelve hours preceding the scheduled time for collection; provided, that a commercial establishment shall not place its container on the sidewalk until it has closed for business preceding the collection;]

[I. Be removed from the sidewalk no later than twelve hours following the scheduled time for collection; and in the historic district as defined in Section 21.56.030, be removed from view from a public way; however, a commercial establishment which is open for business shall remove its containers immediately following collection;]

10.16.030 – CURBSIDE PLACING AND REMOVAL OF APPROVED REFUSE CONTAINERS

APPROVED REFUSE CONTAINERS SHALL BE PLACED CURBSIDE BY 6:00 A.M. ON THE SCHEDULED COLLECTION DAY. RESIDENTS SHALL PLACE MATERIALS TO BE COLLECTED IN AN APPROVED REFUSE CONTAINER OR PACKAGED AS OTHERWISE PERMITTED IN THIS CHAPTER AT THE CURB NO EARLIER THAN 6:00 P.M. PRECEDING THE SCHEDULED COLLECTION DAY. APPROVED REFUSE CONTAINERS SHALL BE REMOVED FROM THE SIDEWALK NO LATER THAN 12:00 A.M. FOLLOWING THE SCHEDULED COLLECTION DAY. IN THE HISTORIC DISTRICT, AS DEFINED IN TITLE 21, APPROVED REFUSE CONTAINERS MUST BE REMOVED FROM PUBLIC VIEW.

10.16.035 [10.16.040] - Containers—[Use of another's] UNAUTHORIZED USE.

The owner or occupant of any premises [which is entitled to refuse collection] shall not place refuse from the premises in [the] containers [of another] DESIGNATED FOR ANOTHER premises or in public containers.

[10.16.060 - Rubbish.]

[Rubbish may be stored in containers with garbage. Bulky rubbish, not contaminated with putrescible organic matter, such as tree trimmings, weeds and large cardboard boxes shall be cut and tied securely in bundles not to exceed four feet in length nor fifty pounds in weight. Leaves, weeds, grass, shrubbery trimmings and other garden cuttings may be stored in open containers or synthetic bags made for that purpose.]

[10.16.070 - Ashes.]

[All ashes shall be placed in metal containers with close-fitting covers supplied for this purpose by the household. Ashes will not be removed when the receptacle is filled so full that it cannot be carried without spilling nor when the combined weight of container and contents exceeds seventy-five pounds. Ashes containing hot embers shall not be placed out for collection.]

10.16.040 [10.16.080] – Dead animals - DISPOSAL

A. [All small dead animals] A DEAD ANIMAL WEIGHING LESS THAN TEN (10 POUNDS IN WEIGHT, such as rodents, birds and kittens, shall be wrapped securely and placed in containers as specified for REFUSE [garbage and rubbish]. [Larger dead

animals] A DEAD ANIMAL EXCEEDING TEN (10) POUNDS IN WEIGHT, such as dogs and cats, shall not be disposed of with REFUSE [garbage and rubbish] but shall be removed AND DISPOSED OF IN A PROPER AND LAWFUL MANNER BY [the County Animal Control Agency, Society for Prevention of Cruelty to Animals or by] the OWNER OF THE ANIMAL [owner] OR THE OWNER OF THE PREMISES.

B. REMOVAL OF A DEAD ANIMAL IN THE PUBLIC RIGHT-OF-WAY SHALL BE THE RESPONSIBILITY OF THE DEPARTMENT OF PUBLIC WORKS.

10.16.050 - Out-of-Area Collection

[A. THE DIRECTOR OF PUBLIC WORKS MAY HAVE SOLID WASTE COLLECTED BY CITY EMPLOYEES OR BY INDEPENDENT CONTRACTORS.]

[B]A. [RESIDENTS RESIDING] OWNERS OF PROPERTY LOCATED AT THE END OF A CITY STREET[S] THAT MAY BE LOCATED IN ANNE ARUNDEL COUNTY, BUT NOT WITHIN THE CITY'S SERVICE AREA, MAY REQUEST IN WRITING TO BE SERVICED BY THE CITY OF ANNAPOLIS AND TO PAY THE SAME RATE AS A CITY RESIDENT, IF APPROVED [A] BY THE [DISCRETION OF] THE DIRECTOR OF PUBLIC WORKS.

[C]B. THE ANNE ARUNDEL COUNTY RESIDENTS REFERENCED IN SECTION 10.16.050B ARE REQUIRED TO MEET ALL RESIDENTIAL REQUIREMENTS CONTAINED IN THIS CODE. AND A MUNICIPAL CITATION MAY BE ISSUED FOR NON-COMPLIANCE]. NON-COMPLIANCE MAY RESULT IN TERMINATION OF CITY OF ANNAPOLIS SOLID WASTE COLLECTION SERVICES.

C. ANNE ARUNDEL COUNTY RESIDENTS REFERENCED IN SECTION 10.16.050B SHALL BE BILLED BY INVOICE ON A QUARTERLY BASIS BY THE DIRECTOR OF FINANCE. NON-COMPLIANCE OR FAILURE TO PAY FOR REFUSE SERVICES FOR DEWELLING UNITS OUTSIDE THE CITY LIMITS SHALL RESULT IN A LIEN ON THE PROPERTY.

10.16.060 [10.16.160] - Dwelling units AND MULTIFAMILY DWELLINGS.

A. For [garbage and] refuse collection from dwelling units within the City, an annual charge as established by resolution of the City Council per dwelling unit shall be collected by the Director of Finance.

B. This[E] charge shall be shown upon the quarterly water bill of the property owner and NON-COMPLIANCE OR FAILURE TO PAY shall RESULT IN [be] a lien upon the property.

[B]C. For the purposes of this section, every apartment and condominium unit shall be considered a separate dwelling unit, even though one building may contain more than one unit.

[C] D. Owners or operators of apartment and condominium developments consisting of ten or more dwelling units under one ownership or management may elect to [furnish] RETAIN [their own] A PRIVATE [garbage and] refuse collection service LICENSED TO OPERATE IN THE CITY OF ANNAPOLIS, provided THAT satisfactory evidence of service by a private commercial refuse collection firm is provided to the City as set forth in Section 10.16.225.

[D. For buildings with both residential and commercial uses, the property owner may elect to consolidate residential and commercial refuse collection by a private commercial refuse hauler licensed to operate in the City of Annapolis provided, satisfactory evidence of service by the private commercial refuse collection firm is provided to the City as set forth in Section 10.16.225.]

E. FOR [B]uildings with residential uses, PROPERTY OWNERS THAT elect to [furnish] RETAIN [their own] A PRIVATE [garbage and] refuse collection service SHALL CONTRACT ONLY WITH FIRMS LICENSED TO OPERATE IN THE CITY

OF ANNAPOLIS AND, [as described in this section] shall also provide for their own residential recycling collection service as defined in Section 10.16.020, and shall provide the Department of Public Works with satisfactory evidence of such recycling service.

10.16.065 MIXED USE PROPERTIES

FOR BUILDINGS WITH BOTH RESIDENTIAL AND COMMERCIAL USES, THE PROPERTY OWNER MAY ELECT TO CONSOLIDATE RESIDENTIAL AND COMMERCIAL REFUSE COLLECTION BY RETAINING A PRIVATE COMMERCIAL REFUSE COLLECTION SERVICE LICENSED TO OPERATE IN THE CITY OF ANNAPOLIS, PROVIDED SATISFACTORY EVIDENCE OF SERVICE BY THE PRIVATE COMMERCIAL REFUSE COLLECTION FIRM IS PROVIDED TO THE CITY AS SET FORTH IN SECTION 10.16.225 OF THE CITY CODE.

[10.16.070] [10.16.240] – [Special home pickups] RESERVED.

[The Director of Public Works may designate certain days during the year as a free pickup period and no charges for refuse pickup shall be made during those designated days.]

[10.16.080] [10.16.130] – [Garbage/refuse violation] RESERVED.

[A person who violates Sections 10.16.020, 10.16.030, 10.16.040[35], [10.16.050] and 10.16.100 of this article is guilty of a municipal infraction and is subject to a fine as established by resolution of the City Council [for each repeat or continuing violation].]

[10.16.090 - Removal of unsatisfactory containers.]

[The Director of Public Works, upon notification to the owner or occupant of the premises, shall remove unsatisfactory storage containers from the premises of residences and establishments, public and private, when the containers do not meet the requirements outlined in this article.]

Article III – REFUSE – GENERAL [Collection]

[10.16.090] [10.16.040] - Containers—Use of another's.]

[The owner or occupant of any premises which is entitled to refuse collection shall not place refuse from the premises in the containers of another premises or in public containers.]

10.16.090 – COLLECTION – GENERAL

THE DIRECTOR OF PUBLIC WORKS MAY HAVE SOLID WASTE COLLECTED BY CITY EMPLOYEES OR BY INDEPENDENT CONTRACTORS.

10.16.095– REFUSE [10.16.050-Garbage]

[Garbage] REFUSE shall be drained and wrapped before storage in a refuse container. The liquid portion of garbage shall be drained into the sanitary sewer.

10.16.100 - Notice to remove refuse accumulations.

The Director of Neighborhood and Environmental Programs [from time to time shall visit and] MAY inspect all premises, yards, and alleys [..] [and where] IF the director observes accumulations of [rubbish or] refuse, THE DIRECTOR shall serve notice on the [tenants or] owners of the premises to remove the REFUSE accumulations. Any [tenant or] owner [who fails to] MUST comply with the notice within [ten] SEVEN days from the [time the] DATE OF the notice [is given is guilty of a municipal infraction and subject to a fine as established by resolution of the City Council].

10.16.110 - Inspections—Right of entry.

The Director of Neighborhood and Environmental Programs may enter [all] premises, other than the interior of dwellings, [at all reasonable hours] WITH REASONABLE NOTICE TO THE PROPERTY OWNER for the purpose of inspecti[on]NG [of] refuse

storage facilities and adjoining resting places and harborage of insects and rodents, and to apply or require chemical treatment for the temporary control of insects and rodents.

10.16.120 - Uncontained accumulations.

[A. No person shall permit refuse, except bulky rubbish, to accumulate on any premises or vacant lot except in containers as specified in this article. All persons shall provide a sufficient number of proper containers to hold all refuse accumulating between collections.]

[B. Neither from building construction and repair nor any other wastes shall be allowed to accumulate on any premises or vacant lot to create potential mosquito breeding places.]

[A.] NO PERSON SHALL PERMIT SOLID WASTE TO ACCUMULATE ON ANY PROPERTY OR VACANT LOT THEY OWN, OCCUPY, OR CONTROL [OR VACANT LOT] EXCEPT IN CONTAINERS AS SPECIFIED IN THIS CHAPTER.

10.16.130 [10.16.140] - Required—City direction.

SOLID WASTE [Garbage, rubbish and other refuse, as defined in this chapter,] shall be removed from dwelling units, business places and other buildings within the City under the direction of the Director of Public Works, in accordance with the rules and regulations established pursuant to this chapter.

10.16.140 [10.16.190] - Rules and regulations.

A. The Director of Public Works [shall] MAY promulgate rules and regulations NECESSARY FOR THE IMPLEMENTATION OF THIS CHAPTER, which shall be effective upon approval by the City Council, governing the plac[ing]EMENT and remov[ing]AL of SOLID WASTE [refuse, garbage, rubbish and ashes], the amounts to be collected, and providing for the assessment of charges for hauling or disposing of SOLID WASTE [refuse, garbage, rubbish, ashes or waste matter,] over and above a fixed amount.

B. The Director of Public Works shall publish the rules and regulations APPROVED BY THE CITY COUNCIL in a newspaper published in the City in at least two issues of general circulation within a period of five days before the effective date of the rules and regulations.

C. The [d]Director OF PUBLIC WORKS shall not direct or authorize the collection of SOLID WASTE [refuse, garbage, ashes or rubbish] over and above the FIXED amounts set by the [d]Director until [such] THE REQUIRED fees or assessments are paid IN ACCORDANCE WITH THE APPLICABLE [according to the] rules and regulations.

10.16.150 – Reserved

10.16.160 [10.16.210] - Unauthorized tampering or collecting.

No person shall tamper with, collect, transport through the streets or interfere with the contents of any receptacle containing REFUSE [garbage, rubbish or ashes] except employees of the City, CITY SOLID WASTE CONTRACTORS, or other designated City officials, or those persons to whom special permits have been granted as provided or in Section 10.16.225.

Article IV – RESIDENTIAL RECYCLING

10.16.170 – RECYCLING PROGRAM.

THE CITY OF ANNAPOLIS RECYCLING PROGRAM [AS DESCRIBED HEREIN] SHALL, [INsofar AS] TO THE EXTENT POSSIBLE, MEET OR EXCEED THE SOLID WASTE REDUCTION GOALS AS STATED IN THE ANNE ARUNDEL COUNTY SOLID WASTE MANAGEMENT PLAN THROUGH CONCERTED APPLICATION OF THE PRINCIPLES OF RECYCLING AND WASTE MINIMIZATION.

10.16.180 - ESTABLISHMENT OF RESIDENTIAL CURBSIDE RECYCLING PROGRAM.

A. THERE IS ESTABLISHED [WITHIN] BY THE CITY OF ANNAPOLIS A MANDATORY RESIDENTIAL CURBSIDE RECYCLING PROGRAM FOR THE COLLECTION OF RECYCLABLE MATERIALS FROM ALL RESIDENTS OF THE CITY WHOSE SOLID WASTE IS COLLECTED BY OR ON BEHALF OF THE CITY.

B. COLLECTIONS OF RECYCLABLE MATERIALS [PURSUANT TO THIS CHAPTER] SHALL BE MADE [EVERY] ONCE A WEEK EXCEPT IN CASES WHERE THE COLLECTION DAY FALLS UPON A HOLIDAY[S] RECOGNIZED BY THE CITY. ALL COLLECTIONS SHALL OCCUR IN ACCORDANCE WITH THE SOLID WASTE[] OR RECYCLING SCHEDULE PUBLICLY ADVERTISED BY THE CITY.

C. ALL RESIDENTS OF THE CITY WITHIN THE AREA SERVICED BY THE CURBSIDE PROGRAM [SHOULD] SHALL PLACE ALL RECYCLABLE[S] MATERIALS INTO A CITY APPROVED RECYCLING CONTAINER WHICH THE RESIDENT OR OCCUPANT SHALL [AND] PLACE [THEM] AT THE CURB FRONTING THEIR RESIDENCE IN THE MANNER DESIGNATED BY THIS CHAPTER AND ON THE DATE SPECIFIED FOR COLLECTION ON THE SCHEDULE PUBLISHED BY THE CITY.

D. RECYCLABLE[S] MATERIALS MAY BE COMMINGLED INTO CITY APPROVED [CITY] RECYCLING CONTAINERS. PAPER AND CARDBOARD SHALL BE PLACED IN THE RECYCLING [BIN] CONTAINER, IN PAPER BAGS, OR TIED INTO BUNDLES NOT TO EXCEED THIRTY-FIVE POUNDS IN WEIGHT AND NO[R]IT EXCEED ONE FOOT IN THICKNESS.

[E. CONTAINERS PLACED IN THE RECYCLING CONTAINER SHALL CONTAIN FIVE PERCENT OR LESS FOOD CONTAMINATION.]

10.16.190 - UNLAWFUL ACTIVITIES—NUISANCE.

[A.] IT SHALL BE UNLAWFUL FOR:

1. ANY PERSON, OTHER THAN THOSE PERSONS AUTHORIZED BY THE CITY, TO COLLECT ANY [DESIGNATED] APPROVED RECYCLABLE MATERIALS WHICH [HAS] HAVE BEEN PLACED AT THE CURB FOR COLLECTION OR WITHIN A RECYCLING DROPOFF SITE PURSUANT TO THIS CHAPTER;
2. ANY PERSON TO VIOLATE OR TO CAUSE OR TO ASSIST IN THE VIOLATION OF ANY PROVISION OF THIS CHAPTER OR ANY PROVISION OF THE CITY PLAN CONCERNING RECYCLING;
3. ANY PERSON TO HINDER, [TO] OBSTRUCT, [TO] PREVENT, OR [TO] INTERFERE WITH THE CITY OR ANY OTHER AUTHORIZED PERSONS IN THE PERFORMANCE OF ANY DUTY UNDER THIS CHAPTER OR IN THE ENFORCEMENT OF THIS CHAPTER.

10.16.200 - OTHER MEANS OF DISPOSAL.

NOTWITHSTANDING ANYTHING TO THE CONTRARY ANY RESIDENT OF THE CITY MAY DONATE OR SELL ANY RECYCLABLE MATERIAL TO ANY OTHER PERSON, WHETHER OPERATING FOR [A] PROFIT OR NOT FOR PROFIT; [PROVIDED, HOWEVER, THAT THE] A PERSON RECEIVING THE RECYCLABLE[S] MATERIAL SHALL NOT[] UNDER ANY CIRCUMSTANCES[] COLLECT THE DONATED OR SOLD MATERIAL FROM AN ESTABLISHED RECYCLING COLLECTION ROUTE OR FROM A RECYCLING DROPOFF SITE WITHOUT PRIOR WRITTEN PERMISSION FROM THE CITY [FOR SUCH COLLECTION].

ALL SOLID WASTE OR [RECYCLING] RECYCLABLE [ITEMS] MATERIALS

ARE THE PROPERTY OF THE CITY OF ANNAPOLIS ONCE [PLACED AT] COLLECTED FROM THE CURB SIDE BY AUTHORIZED CITY PERSONNEL, UNAUTHORIZED REMOVAL OF SOLID WASTE OR [RECYCLING] RECYCLABLE [ITEMS] MATERIALS PLACED AT THE CURB FOR COLLECTION CONSTITUTES A MUNICIPAL INFRACTION SUBJECT TO A FINE AUTHORIZED BY RESOLUTION OF THE CITY COUNCIL.

ARTICLE V – RESIDENTIAL YARD TRIMMINGS

10.16.210 - ESTABLISHMENT OF A RESIDENTIAL CURBSIDE YARD TRIMMING RECYCLING PROGRAM.

- A. THERE IS ESTABLISHED [WITHIN] BY THE CITY OF ANNAPOLIS A RESIDENTIAL CURBSIDE YARD TRIMMING RECYCLING PROGRAM FOR THE COLLECTION OF YARD TRIMMINGS FROM ALL RESIDENTS OF THE CITY [WHOSE] RECEIVING SOLID WASTE [IS COLLECTED] COLLECTION SERVICES BY OR ON BEHALF OF THE CITY.
- B. COLLECTIONS OF YARD TRIMMINGS PURSUANT TO THIS CHAPTER SHALL BE MADE EVERY WEEK IN ACCORDANCE WITH THE SOLID WASTE/RECYCLING SCHEDULE [PUBLICLY] PUBLISHED [ADVERTISED] BY THE DIRECTOR OF PUBLIC WORKS.
- C. ALL RESIDENTS OF THE CITY WITHIN THE AREA SERVICED BY THE CURBSIDE PROGRAM SHOULD PLACE ALL YARD TRIMMINGS INTO A CONTAINER AND PLACE THEM AT THE CURB FRONTING THEIR RESIDENCE IN THE MANNER DESIGNATED BY THIS CHAPTER AND ON THE DATE SPECIFIED FOR COLLECTION BY THE SCHEDULE PUBLISHED BY THE DIRECTOR OF PUBLIC WORKS.
- D. YARD TRIMMINGS SHALL BE PLACED IN OPEN CONTAINERS, PLASTIC OR PAPER LAWN BAGS CLEARLY MARKED WITH AN "X". EACH CONTAINER SHALL NOT EXCEED FIFTY POUNDS IN WEIGHT.
- E. BRANCHES AND BRUSH SHALL BE TIED WITH A NATURAL FIBER ROPE OR TWINE, AND THE FINISHED BUNDLE SHALL BE NO MORE THAN TWO FEET BY FOUR FEET IN SIZE, NOT EXCEED FIFTY POUNDS IN WEIGHT.
- F. YARD TRIMMINGS SHALL NOT BE COLLECTED AS SOLID WASTE FOR DISPOSAL IN A LANDFILL.

ARTICLE VI – COMMERCIAL REFUSE

10.16.220 [10.16.170] - Commercial establishments—Private collection.

- A. Municipal collection of refuse shall not be provided to commercial establishments or businesses within the City.
- B. All commercial establishments or businesses within the City shall receive refuse collection from a [licensed] CITY-PERMITTED private commercial refuse collection firm.
- C. The owner of each commercial establishment or business within the City shall notify the Department of Public Works not later than December 1st of each year, [WITH] the name and address of the firm, a complete description of services, the terms of the services and a copy of the EXISTING contract for private refuse collection for the [following] year.
- D. THE OWNER OF EACH COMMERCIAL ESTABLISHMENT OR BUSINESS WITHIN THE CITY SHALL PROVIDE SUFFICIENT SOLID WASTE CONTAINER STORAGE CAPACITY [SUCH THAT] WITH [THE] COVERS [OF SAID CONTAINERS] THAT SHALL BE COMPLETELY AND FIRMLY CLOSED AT ALL TIMES.
- E. COMMERCIAL SOLID WASTE SHALL NOT BE SET OUT FOR

COLLECTION EARLIER THAN 11:00 P.M. THE NIGHT PRECEDING A SCHEDULED COLLECTION DAY. APPROVED REFUSE CONTAINERS FROM COMMERCIAL ESTABLISHMENTS SHALL BE REMOVED FROM PUBLIC VIEW IMMEDIATELY FOLLOWING COLLECTION.

F. THE CITY [HAS THE RIGHT TO] MAY ESTABLISH A SYSTEM OF FRANCHISING FOR COMMERCIAL ESTABLISHMENTS [WITHIN THE CITY OF ANNAPOLIS]. THE CITY, BY [ADOPTING AN] ORDINANCE, MAY ESTABLISH A SYSTEM OF SOLID WASTE COLLECTION SERVICE [DESIGNATED FRANCHISE AREAS WITHIN THE CITY] THROUGH A COMPETITIVE PROCUREMENT PROCESS TO AWARD AN EXCLUSIVE FRANCHISE OR FRANCHISES UNDER A FRANCHISE AGREEMENT TO ONE OR MORE QUALIFIED ORGANIZATIONS FOR THE COLLECTION OF NON-HAZARDOUS WASTE FROM COMMERCIAL ESTABLISHMENTS [IN THOSE AREAS]. [THE] A FRANCHISE [COULD] MAY BE AWARDED FOR ONLY REFUSE, REFUSE AND RECYCLING, OR ONLY RECYCLING. THE CITY [WOULD RESERVE THE RIGHT TO] MAY TERMINATE OR MODIFY THE SOLID WASTE COLLECTION PERMIT OF A PRIVATE REFUSE COLLECTION SERVICE [HAULERS SOLID WASTE COLLECTION PERMIT], WITH AN ADVANCE 30-DAY WRITTEN NOTICE, [SHOULD] IF THE CITY DECIDES TO AWARD A FRANCHISE OR FRANCHISES [PRIVATE HAULERS].

[10.16.180 - Commercial establishments—Private collection.]

10.16.225 [10.16.200] - Permits for private collectors.

A. No person shall engage in the collection of SOLID WASTE [refuse and garbage] from homes or [businesses] COMMERCIAL ESTABLISHMENTS without first having received a permit from the Director of Public Works.

B. [Granting of the] [p]Permit APPROVAL shall be contingent upon A DETERMINATION BY THE DIRECTOR OF PUBLIC WORKS THAT ALL [the approval of] collection equipment and disposal methods OF THE PERMIT APPLICANT ARE SATISFACTORY [by the Director of Public Works, who may revoke any permit for cause].

C. THE DIRECTOR OF PUBLIC WORKS MAY REVOKE ANY PERMIT FOR CAUSE.

[C]D. An annual fee as established by resolution of the City Council shall be paid to the Finance Director for each permit.

10.16.230 [10.16.220] - Littering during removal.

A. No person [engaged] PERMITTED TO REMOVE [in the removal of any] SOLID WASTE [garbage and refuse] [of the City] SHALL [negligently] [shall] permit any paper or other article to [drop] FALL or be blown from [refuse removal] A REFUSE COLLECTION VEHICLE[S] [trucks].

B. Every load of SOLID WASTE [garbage or refuse] dumped from any refuse [removal truck] COLLECTION VEHICLE, [whether dumped without or within the City, shall be dumped, and light articles in the load covered.] SHALL BE COVERED [so that] TO PREVENT paper or OTHER light articles [cannot be blown into] FROM FALLING FROM THE REFUSE COLLECTION VEHICLE [the streets, lanes or alleys or away from any landfill].

[B]. [Any person who violates this section is guilty of a municipal infraction and is subject to a fine as established by resolution of the City Council.]

[10.16.230 - City landfill charges.]

[A. Charges for refuse delivered to the City landfill shall be established by resolution of the City Council.]

ARTICLE VII – COMMERCIAL RECYCLING

10.16.240 - COMMERCIAL RECYCLING.

A. THE DIRECTOR OF PUBLIC WORKS SHALL ESTABLISH A VOLUNTARY CURBSIDE COLLECTION SERVICE FOR RECYCLABLES FROM PERSONS WHOSE PROPERTY IS NOT OTHERWISE SUPPLIED WITH CURBSIDE COLLECTION SERVICE. THE DIRECTOR MAY SET REASONABLE CRITERIA FOR DETERMINING ELIGIBILITY FOR PARTICIPATION IN THE SERVICE FOR THOSE WHO OWN, OPERATE, OR CONTROL COMMERCIAL ESTABLISHMENTS.

B. THERE IS A SERVICE CHARGE, TO BE DETERMINED BY THE DIRECTOR OF PUBLIC WORKS, ON A PROPERTY-BY-PROPERTY BASIS BASED ON THE COST OF COLLECTION FROM THAT PROPERTY, TO BE CHARGED TO EACH PERSON THAT PARTICIPATES IN THE VOLUNTARY CURBSIDE COLLECTION PROGRAM.

C. AN AGREEMENT SHALL BE SIGNED WITH COMMERCIAL ESTABLISHMENTS SEEKING VOLUNTARY COLLECTION SERVICE AND THE DIRECTOR OF PUBLIC WORKS SHALL BE RESPONSIBLE FOR ENFORCING SUCH AGREEMENTS.

ARTICLE VIII - MULTI-UNIT COMPLEX RECYCLING

10.16.250 - MULTI-UNIT COMMUNITY RECYCLING PROGRAM.

A. ALL [PROPERTY] OWNERS OF MULTI-UNIT COMPLEXES WITHIN THE CITY OF ANNAPOLIS THAT ARE NOT SERVED BY THE RESIDENTIAL CURBSIDE RECYCLING PROGRAM [ESTABLISHED PURSUANT TO THIS CHAPTER] SHALL ARRANGE FOR RECYCLING COLLECTION FOR THEIR RESIDENTS IN ACCORDANCE WITH [THE CITY RESIDENTIAL CURBSIDE RECYCLING PROGRAM FOR RECYCLABLE MATERIALS AND YARD RECYCLABLE MATERIALS] THIS CHAPTER.

B. [THE ARRANGEMENT FOR COLLECTION] DISPOSITION OF RECYCLABLE MATERIALS [FOR DISPOSITION] SHALL BE THE RESPONSIBILITY OF THE PERSON WHO GENERATED THE RECYCLABLES [("GENERATOR")]. THE ARRANGEMENTS MAY INCLUDE, WITHOUT LIMITATION, DIRECT MARKETING OF RECYCLABLES, DELIVERY TO A MATERIALS RECOVERY FACILITY, CONTRACTS WITH SOLID WASTE COLLECTORS [/OR HAULERS FOR SEPARATE COLLECTION OF ANY OR ALL DESIGNATED RECYCLABLES OR CONTRACTS WITH OTHER PERSONS FOR SEPARATE COLLECTION OF ANY OR ALL DESIGNATED RECYCLABLES] MATERIALS.

C. EACH MULTI-UNIT COMPLEX SHALL REPORT TO THE CITY, ON A SEMI-ANNUAL BASIS, THE TOTAL WEIGHT OF RECYCLABLE MATERIALS THAT HAVE BEEN DIVERTED FROM THE SOLID WASTE STREAM, AND THE TOTAL ESTIMATED WEIGHT OF SOLID WASTE COLLECTED FROM EACH MULTI-UNIT COMMUNITY. REPORTING SCHEDULES AND FORMS SHALL BE PROVIDED BY THE CITY.

D. EACH OWNER OF A MULTI-UNIT COMPLEX SHALL [HAVE] [ESTABLISHED] PROCEDURES FOR THE COLLECTION OF RECYCLABLE[S] MATERIALS [AS DESCRIBED HEREIN] AND SHALL FILE [THESE] SUCH WRITTEN PROCEDURES WITH THE DEPARTMENT OF PUBLIC WORKS WITHIN 180 DAYS OF THE EFFECTIVE DATE OF THE ORDINANCE FOR EXISTING COMPLEXES OR PRIOR TO [AT] THE [TIME] [ISSUANCE OF A USE AND OCCUPANCY PERMIT [IS ISSUED]] FOR NEW COMPLEXES.

E. EACH MULTI-UNIT COMPLEX RECYCLING PROGRAM MUST BE APPROVED BY THE DEPARTMENT OF PUBLIC WORKS PRIOR TO IMPLEMENTATION. EACH RECYCLING PROGRAM SUBMITTED TO THE DEPARTMENT OF PUBLIC WORKS SHALL INCLUDE COPIES OF EXECUTED RECYCLING AND SOLID WASTE CONTRACTS (EXCLUDING CONTRACT

COSTS).

F. VIOLATIONS OF THIS SECTION SHALL CONSTITUTE A MUNICIPAL INFRACTION SUBJECT TO A FINE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL.

Article IX [IV] - Enforcement

[10.16.260] [10.16.250] – [Responsibilities] RESERVED.

[The enforcement of [all] sections 10.16.030, 10.16.035, 10.16.080, 10.16.100, 10.16.110, 10.16.120, 10.16.170, 10.16.180, 10.16.220D, and 10.16.220 E. of this chapter are [is] the responsibility of the Director of Neighborhood and Environmental Programs [with the advice and consultation of the Health Officer]. VIOLATIONS OF THIS SECTION SHALL CONSTITUTE A MUNICIPAL INFRACTION SUBJECT TO A FINE AUTHORIZED BY RESOLUTION OF THE CITY COUNCIL.]

10.16.270 [10.16.260] - Violation—Notice.

[Whenever the City determines that COMPLIANCE CANNOT OCCUR IMMEDIATELY AND TIME IS NEEDED TO COMPLY WITH THIS CHAPTER (I.E., INSUFFICIENT CONTAINERS FOR SOLID WASTE VOLUME GENERATED AND REMOVAL OF ACCUMULATED MATERIAL)] [there are reasonable grounds to believe that there has been a violation of any of the provisions of this chapter,] [t]he City shall give WRITTEN notice of [the alleged] A violation OF THIS CHAPTER to the person responsible for the violation[. as provided in this section]. The notice shall:

- A. Be in writing;
- B. Include a statement of the reason why it is being issued;
- C. Allow a reasonable time for the performance of any act it requires;
- D. Be served upon the owner or the agent of the owner [or the occupant] of the premises on which the alleged violation occurred. The notice [has been properly] SHALL BE served [when a copy of it has been served] personally[,] or in accordance with any other method authorized [or required] under the laws of the state;
- E. Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this chapter;
- F. State that, unless conditions or practices described in the notice are corrected within the reasonable time specified in the notice, the person involved will be subject to the penalty provided for violations of this chapter.

10.16.280 – [PENALTIES] MUNICIPAL INFRACTIONS

A. [ANY PERSON ENGAGING IN UNLAWFUL CONDUCT AS DEFINED IN] A VIOLATION OF ANY REQUIREMENTS OF THIS CHAPTER SHALL CONSTITUTE A MUNICIPAL INFRACTION AND [IN PROCEEDING BEFORE A COURT OF COMPETENT JURISDICTION SHALL] BE SUBJECT TO A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS [AND NOT LESS THAN TWENTY-FIVE DOLLARS].

B. EACH [CONTINUING] DAY [OF] A VIOLATION OF THIS CHAPTER CONTINUES SHALL CONSTITUTE A [SEPARATE OFFENSE] MUNICIPAL INFRACTION.

10.16.290 - 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 OR OTHER EQUITABLE RELIEF TO RESTRAIN A VIOLATION OF THIS CHAPTER. [IN ADDITION TO AN INJUNCTION, THE

COURT MAY IMPOSE PENALTIES AS AUTHORIZED BY SECTION 10.16.290.]

[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 - ADMINISTRATION AND ENFORCEMENT.

A. ADMINISTRATION OF THIS CHAPTER SHALL BE THE RESPONSIBILITY OF THE DIRECTOR OF PUBLIC WORKS.

B. ENFORCEMENT OF THIS CHAPTER SHALL BE THE RESPONSIBILITY OF THE DIRECTOR OF NEIGHBORHOOD AND ENVIRONMENTAL PROGRAMS.

10.18.120 - APPEALS.

A PERSON AGGRIEVED IN THE ADMINISTRATION OF THIS CHAPTER MAY DIRECT A WRITTEN APPEAL TO BUILDING BOARD OF APPEALS.

1. THE WRITTEN NOTICE OF APPEAL SHALL BE FILED WITH THE DIRECTOR OF NEIGHBORHOOD AND ENVIRONMENTAL PROGRAMS WITHIN 15 DAYS AFTER THE DATE OF THE DETERMINATION.

2. APPEALS OF ANY ORDER BY THE BUILDING BOARD OF APPEALS SHALL BE NOTED TO THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY IN ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

[Chapter 10.18 - RECYCLING PROGRAM]

[10.18.010 - Definitions.]

[As used in this chapter, the following definitions shall apply:]

- [A. "Act" means the Maryland Recycling Act, as amended.]
- [B. "Commingled" means that paper, glass, plastic, and cans may be placed in the same container.]
- [C. "Disposition" means the transportation, placement, or arrangement of recyclable materials for all possible end uses except disposal as solid waste.]
- [D. "Generator" means the landlord or management company responsible for removal of solid waste.]
- [E. "Glass" means clear and colored glass bottles and containers. Caps and lids should be removed. Glass shall not include crystal, ceramics, light bulbs, and plate window, laminated, wired, or mirrored glass.]
- [F. "Multi-unit community" means ten or more apartments, townhouses or condominiums located on a single property or contiguous properties under common ownership or management, including public-assisted housing. For this purpose, "unit" means an enclosed space that consists of one or more rooms occupying all or part of a floor or floors in a building of one or more floors or stories but not the entire building, and that is designed for use as a single residence.]
- [G. "Person" means any individual, firm, partnership, corporation, association, cooperative enterprise, trust, municipal authority, Federal institution or agency, State institution or agency, municipality, other governmental agency or any other entity or any group of such persons which is recognized by law as the subject of rights and duties. In any provisions of this chapter prescribing a fine, penalty, or imprisonment, the term "person" includes the officers and directors of a corporation or other legal entity having officers and directors.]

[H. "Plastic" means plastic containers with symbols #1 and #2 with narrow necks, #3, #4, #5, #6, #7 with narrow necks and screw tops. Recycling symbols are generally found on the bottom of containers in the triangle. Caps and lids should be removed.]

[I. "Recyclable materials" means the following materials and any future materials that have a useful physical or chemical properties included but not limited to: paper products which include newspaper, magazines and catalogs; books; cardboard and paper boxes; file folders, packing paper, colored paper, wrapping paper, pizza boxes, corrugated boxes; computer printouts; office papers and envelopes; paper bags; telephone books; junk mail; aluminum, glass bottles, and jars, steel and ferrous cans and containers including aerosol cans, HDPE- natural and HDPE-colored, PET- high grade. The City will encourage the recycling of other materials as markets develop as determined by the Department of Public Works Director.]

[J. "Recycling" means any process by which materials are collected, separated or processed, and returned to the economic mainstream in the form of raw materials or products.]

[K. "Waste minimization" means the voluntary reduction by the consumer of the volume of refuse entering the solid waste stream.]

[L. "Yard recyclable materials" means grass clippings, weeds and discarded plants, leaves, branches and brush, tree wood waste up to four inches in diameter and no longer than two feet in length.]

[10.18.020 - Recycling program.]

[The City of Annapolis recycling program as described herein shall, insofar as possible, meet or exceed the solid waste reduction goals as stated in the Anne Arundel County Solid Waste Management Plan through concerted application of the principals of recycling and waste minimization.]

[10.18.030 - Establishment of residential curbside recycling program.]

[A. There is established, within the City of Annapolis, a residential curbside recycling program for the collection of recyclable materials as stated above in Section 10.18.010(I) from all residents of the City whose solid waste is collected by or on behalf of the City.]

[B. Collections of recyclable materials pursuant to this chapter shall be made every week except in cases where the collection day falls upon holidays recognized by the City. All collections shall occur in accordance with the Solid Waste/ Recycling schedule publicly advertised by the City.]

[C. All residents of the City within the area serviced by the curbside program, established pursuant to this chapter, participating in the recycling program shall place all recyclables materials into a City recycling container and place them at the side of the road fronting their residence in the manner designated by this chapter and on the date specified for collection by the schedule published by the City.]

[D. No material shall be placed at the roadside earlier than the evening of the day preceding a scheduled collection day. Material must be placed at the roadside by six a.m. on the scheduled collection day.]

[E. Paper and cardboard shall be placed in the recycling bin, in paper bags, or tied into bundles not to exceed thirty-five pounds in weight nor exceed one foot in thickness.]

[F. Containers placed in the recycling container shall contain five percent or less food contamination.]

[10.18.040 - Establishment of a residential curbside yard recycling program.]

[A. There is established, within the City of Annapolis, a residential curbside yard recycling program for the collection of recyclable materials as stated above in Section 10.18.010(L) from all residents of the City whose solid waste is collected by or on behalf of the City.]

[B. Collections of recyclable materials pursuant to this chapter shall be made every other week in accordance with the Solid Waste/Recycling schedule publicly advertised by the City.]

[C. All residents of the City within the area serviced by the curbside program, established pursuant to this chapter, participating in the program shall place all yard recyclable materials into a container and place them at the side of the road fronting their residence in the manner designated by this chapter and on the date specified for collection by the schedule published by the City.]

[D. No material shall be placed at the roadside earlier than the evening of the day preceding a scheduled collection day. Material must be placed at the roadside by six a.m. on the scheduled collection day.]

[E. The container used for yard recyclable materials shall be placed in open containers, large paper lawn bags, or cardboard boxes clearly marked with an "X". Each container shall not to exceed fifty pounds in weight.]

[F. Branches and brush shall be tied with a natural fiber rope or twine, and the finished bundle shall be no more than two feet by four feet in size, not exceed fifty pounds in weight.]

[G. Yard recyclable materials shall not be collected as solid waste for disposal in a landfill.]

[10.18.050 - Multi-unit community recycling program.]

[A. All persons within the City who are residents of multi-unit communities and who are not served by the residential curbside program established pursuant to this chapter shall provide recycling collection in accordance with the City residential curbside recycling program:

1. Recyclable materials as stated in Section 10.18.030
2. Yard recyclable materials as stated in Section 10.18.040]

[B. The arrangement for collection of recyclable materials for disposition shall be the responsibility of the person who generated the recyclables ("generator"). The arrangements may include, without limitation, direct marketing of recyclables, delivery to a materials recovery facility, contracts with solid waste collector/haulers for separate collection of any or all designated recyclables or contracts with other persons for separate collection of any or all designated recyclables.]

[C. Each multi-unit community shall report to the City, on a semi-annual basis, the total weight of each recyclable material that has been diverted from the solid waste stream, and the total estimated weight of solid waste collected from each multi-unit community. Reporting schedules and forms shall be provided by the City. Failure to report same shall result in revocation of the rental permit or fines as stated in Section 10.18.080]

[D. Each multi-unit community shall have established procedures for the collection of recyclables as described herein and shall file these procedures with the Department of Public Works within ninety days from August 8, 1994. Further, each multi-unit community shall implement the procedures for the collection of recyclables as described above within one hundred eighty days from August 8, 1994.]

[E. Each multi-unit community recycling program must be approved by the Department of Public Works prior to implementation. Each recycling program submitted to the Department of Public Works shall include copies of executed recycling and solid waste contracts (excluding contract costs).]

[10.18.055 - Commercial recycling.]

[A. The Director of Public Works shall establish a voluntary curbside collection service for recyclables from persons whose property is not supplied with curbside collection service, and may set reasonable criteria for determining eligibility for participation in the service.]

[B. There is a service charge, to be determined by the Director of Public Works on a property-by-property basis based on the cost of collection from that property, to be charged to each person that participates in the voluntary curbside collection program.]

[10.18.060 - Unlawful activities—Nuisance.]

[A. It shall be unlawful for:

1. Any person, other than those persons authorized, to collect any designated recyclable which has been placed at the roadside for collection or within a recycling dropoff pursuant to this chapter;
2. Any person to violate or to cause or to assist in the violation of any provision of this chapter or any provision of the City plan concerning recycling;
3. Any person to hinder, to obstruct, to prevent or to interfere with the City or any other authorized persons in the performance of any duty under this chapter or in the enforcement of this chapter;
4. Any multi-unit community subject to the terms of this chapter to not enact a plan for recycling.]

[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.]

[10.18.120 - Appeals.]

[Any person aggrieved by the requirements of this chapter as enforced by the Director of Public Works may direct an appeal to the building Board of Appeals.]

Chapter 17.40 – Residential Property Maintenance Code

17.40.265 – Property Maintenance Code.

A. The International Property Maintenance Code, 2012 Edition, as published by the International Code Council, Inc., a copy of which is on file in the Department of Neighborhood and Environmental Programs, is adopted as the Property Maintenance Code of the City of Annapolis in the State of Maryland for the control of buildings and structures with the following amendments:

1. In Section 101.1 for "[NAME OF JURISDICTION]" insert "City of Annapolis"
2. In Section 103.5 for "[APPROPRIATE SCHEDULE]" insert "Fees established by resolution of the City Council"
3. In Section 304.14 for "[DATES IN TWO LOCATIONS]" insert "April 15th - October 31st"
4. In Section 602.3 for "[DATES IN TWO LOCATIONS]" insert "April 15th - October 31st"
5. In Section 602.4 for "[DATES IN TWO LOCATIONS]" insert "April 15th - October 31st"
6. Strike the entire Section 404.5 Overcrowding and substitute Section 17.40.460 of the Code of the City of Annapolis.
7. IN SECTION 308, ADD THE FOLLOWING SUBSECTION TO READ AS FOLLOWS:

308.4 CITY REQUIREMENTS. COMPLIANCE WITH CHAPTER 10.16 OF THE CODE OF THE CITY OF ANNAPOLIS SHALL ALSO BE REQUIRED. WHERE THERE IS A CONFLICT BETWEEN THE PROVISIONS OF THIS SECTION AND THE CODE OF THE CITY OF ANNAPOLIS, THE CODE OF THE CITY OF ANNAPOLIS SHALL TAKE PRECEDENCE.

17.40.740 – [Rubbish and garbage disposal] SOLID WASTE AND REFUSE – Generally.

- A. Every occupant of a dwelling or dwelling unit shall dispose of all [rubbish, ashes, garbage] SOLID WASTE AND REFUSE, and other organic waste in a clean and sanitary manner by placing it in approved storage CONTAINERS or disposal facilities which are safe and sanitary.
- B. THE OWNER OF A DWELLING OR DWELLING UNIT [Every occupant] shall provide [these] APPROVED STORAGE CONTAINERS OR DISPOSAL facilities for and within the dwelling unit and shall maintain them in a clean and sanitary manner.
- C. The owner [or operator] of a multifamily dwelling shall be responsible for the clean and sanitary maintenance of common storage or disposal facilities.
- D. The owner [or operator] OF A DWELLING, DWELLING UNIT, OR MULTIFAMILY DWELLING shall be responsible [further] for placing out for collection all common [garbage and rubbish] SOLID WASTE containers, except where [the facilities] SUCH are for the sole use of an occupant, under which circumstances it is the responsibility of the occupant to place [those] SAID containers out for collection.

E. THE OWNER OF A DWELLING, DWELLING UNIT, OR MULTIFAMILY DWELLING SHALL ALSO COMPLY [COMPLIANCE] WITH CHAPTER 10.16 OF THE CODE OF THE CITY OF ANNAPOLIS [SHALL ALSO BE REQUIRED].
Seconded. CARRIED on voice vote.

- Alderman Littman moved the amend O-33-12 as follows:

In 10.16.140 add language to require Public Works to distribute information about the residential and commercial recycling programs, opportunities and schedule to all residents and businesses at least every six months.

On page 200 of the City Council Packet. On page 6, in line 30, delete "BE".
Seconded. CARRIED on voice vote.

The main motion as amended CARRIED on voice vote

- Alderman Arnett moved to adopt O-33-12 amended on third reading.
Seconded.

A ROLL CALL vote was taken:

The main motion amended A ROLL CALL vote was taken:

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

NAYS:

CARRIED: 9/0

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 and answered questions from Council.

DNEP Director Broadbent was also present and answered questions from Council.

- Alderman Arnett moved to adopt O-27 -13 on second reading. Seconded.

The main motion as amended CARRIED on voice vote.

- Alderwoman Hoyle moved to adopt O-27-13 amended on third reading.
Seconded.

The main motion amended A ROLL CALL vote was taken:

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

NAYS:

CARRIED: 9/0

- Alderman Littmann left the meeting for the evening at 11:32 p.m.

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.

- Alderwoman Finlayson moved to postpone O-47-11 until 10/28/13 Special City Council Meeting. Seconded. CARRIED on voice vote.

RESOLUTION – 1st 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.

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

- Alderman Arnett moved to adopt R-38-13 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 Arnett moved to adopt R-38-13 on second reading. Seconded.
- Alderman Littman moved to strike on page 2, lines 12, 13 and 14. Seconded. DEFEATED on vice vote.

A ROLL CALL vote was taken:

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

NAYS:

CARRIED: 9/0

BUSINESS and MISCELLANEOUS

1. Appointments

- Alderwoman Hoyle moved approval of the Mayor's appointment of the following individuals:
10/14/13 Human Relations Commission John T. Smith. Seconded.
CARRIED on voice vote.

Upon motion duly made, seconded and adopted, the meeting was adjourned at 11:40 p.m.

Regina C. Watkins-Eldridge, MMC
City Clerk

DRAFT
SPECIAL MEETING
October 21, 2013

The Special Meeting of the Annapolis City Council was held on October 21, 2013 in the Council Chamber. Mayor Cohen called the meeting to order at 7:04 p.m.

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

Staff Present: City Attorney Hardwick, Chief of Comprehensive Planning Nash, Harbor Master Walters

- Alderman Littmann moved to amend the agenda to consider O-23-13 and O-37-13 on second reader. Seconded. CARRIED on voice vote.

PETITIONS, REPORTS AND COMMUNICATIONS

Comments by the General Public

Joey Tomassoni, 1620 Poplar Avenue, Annapolis, Maryland 21401 spoke on amending the City of Annapolis City Code to allow "Granney Flats" also known as in-law apartments in Ward 3.

Doug Smith, 5 Revell Court, Annapolis, Maryland 21401 representing the Main Street Partnership spoke on the Royal Farms Store proposed to be located at the former Stevens Hardware site.

Mary Ewenson, 612 Third Street, Suite 3-C, Annapolis, Maryland 21403 contractor to the Boat Shows.

Sveinn Storm, 130 Dock Street, Annapolis, Maryland 21401 spoke on the proposed Royal Farm Store at the former Stevens Hardware Site.

- Mayor Cohen declared petition, reports and communications closed.

PUBLIC HEARING

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. "As proposed to be amended"

Chief of Comprehensive Planning Nash gave a brief presentation and answered questions from Council.

Spoke on the resolution:

Robert Clark, 9 South Street, Annapolis, Maryland 21401 representing Historic Annapolis.

Ann Fligsten, 1337 Kinlock Circle, Annapolis, Maryland 21012.

Ed Hartman, 3rd, 1019 Omar Drive, Crownsville, Maryland 21032.

Paul Jacobs, 3536 Saratoga Avenue, Annapolis, Maryland 21403 representing the Boat Shows.

Kenneth Seamon, 42 Harness Creek View Court, Annapolis, Maryland 21403

Marcia Veploege-Lewis, 84 Conduit Street, Annapolis, Maryland 21401

Ted Weber, 1022 Park Avenue, Annapolis, Maryland 21403 representing the Annapolis Environmental Commission.

Mary Stewart-Taylor, 243 Prince George Street, Annapolis, Maryland 21401.

Anne Rutherford, 534 Hegritree Hill, Severna Park, Maryland 21146

Martha Hardesty, 171 King George Street, Annapolis, Maryland 21401

Debbie Gosselin, 980 Awald Road, Annapolis, Maryland 21403 representing Watermark

Denise Worthen, 65 Southgate Avenue, Annapolis, Maryland 21401 representing Murray Hill Residents Association

Whitney Chellis, 18 Lafayette Avenue, Annapolis, Maryland 21401

Steve Rogers, 139 Eastern Avenue, Annapolis, Maryland 21403
Jeff Schab, 110 Dock Street, Annapolis, Maryland 21401
Pete Chambliss, 119 Prince George Street, Annapolis, Maryland 21401
representing Robert Campbell Properties.
Dick Damato, 6 E. Lake Drive, Annapolis, Maryland 21403 representing the City Dock Committee.

Amanda Fegley, 238 Prince George Street, Annapolis, Maryland 21401
representing Ward One Residents Association.
Bevin Buccheister, 5 Wagner Street, Annapolis, Maryland 21401
Bruce Chance, 110 Main Street, Annapolis, Maryland 21401 representing
Annapolis Business Association
Pete Jewelyn, 1024 Blackwell Road, Annapolis, Maryland 21401
Richard Tarehorse, 110 Compromise Street, Annapolis, Maryland, 21401
representing the property at 110 Compromise Street
Gregory Guzzie, 110 Dock Street, Annapolis, Maryland 21401 representing
Guzzie Jewelers & Gifts
Sharrod Earl, West Street, Annapolis, Maryland 21401

Spoke in opposition to the resolution:

Mike Pantelides, 178 S. South Wood Avenue, Annapolis, Maryland 21401
Claudia Lane, 2541 Steele Road, Apt A, Baltimore, Maryland 21209 representing
Tour Guides in Baltimore and Anne Arundel County.

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

- Mayor Cohen declared the public hearing closed.

The order of the agenda was amended to allow for:

LEGISLATIVE ACTIONS ORDINANCES – 2ND READER

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 and answered questions from Council.

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

- Alderman Arnett moved to adopt O-23-13 on second reading. Seconded.

The Economic Matters and Environmental Committees reported favorably with amendments on O-23-13.

- Alderman Littmann moved to amend O-23-13 as follows:

Amendment in the Nature of a Substitute Lease
O-23-13

LEASE AGREEMENT

Authorized by O-23-13

This Lease is made this _____ day of _____, 2013, by and between City of Annapolis, a municipal corporation of the State of Maryland (“Lessor”), and the United States Sailboat Show, Inc., and the United States Powerboat Show, Inc. (jointly and severally “Lessee”).

Article I

Section 1.1. Premises and Term: Lessor hereby leases to Lessee, for the purpose of holding two boat shows, from October 1, 2018 at 12:01 a.m. (September 29, 2013 at 12:01 a.m. for the Fleet Parking Lot) through October 17, 2018 at 11:59 p.m., inclusive, that property and water shown and described in Exhibit A of this Lease ("Premises"). The Premises includes Lessor's right and interest in the "Fawcett's Lot" pursuant to an agreement between Lessor and Chandler, LLC, unless the agreement has been terminated for any reason prior to the lease period stated above, but does not include the sidewalk on Dock Street between Craig Street and the Stated owned property at the end of Dock Street, which are to be left open for public access subject to the terms of this Lease.

Section 1.2. Revisions to Premises: Lessor shall have the right to change the area of the Premises from time to time in order to reflect any change in ownership or infrastructure. If the total area of the Premises (exclusive of the Edgewood Road property referenced below) is reduced pursuant to this paragraph by five percent (5%) or more of the total area, Lessee shall be entitled to a pro rata reduction in the Base Rent. If the total area of the Premises is reduced pursuant to this paragraph by ten percent (10%) or more of the total area, Lessee shall have the right to a pro rata reduction in the Base Rent or to terminate the Lease. If the Base Rent is determined by using Ticket Sales Base Rent, then the reduction shall be calculated by reducing the fifty percent (50%) multiplier referenced in Section 1.3(a) to reflect the area reduction (e.g., if the Premises are reduced ten percent (10%), then the Base Rent shall equal $[50\% \times 90\%] \times$ gross ticket receipts. If the Base Rent is determined using Minimum Base Rent, then the reduction shall be determined by using Minimum Base Rent, and the reduction shall be calculated by reducing the Base Rent by the percentage of the reduction of the total area. For purposes of this Section, the Edgewood Road property referenced below shall not be included in Premises area calculations or in rent adjustments.

Section 1.3. Rent: Except as provided in Section 2.3, Base Rent shall be (a) the greater of (i) 50% of Lessee's gross receipts (after deduction of admission taxes) from the sale by Lessee of tickets for admission to the boat shows for the term stated above ("Ticket Sales Base Rent") or, (ii) Three Hundred Seventy-Five Thousand Nine Hundred Fifty Dollars (\$375,950.00) ("Minimum Base Rent"), plus (b) if the Lessee uses the Edgewood Road property, Two Thousand Sixty Dollars (\$2,060.00) each year used ("Edgewood Road Rent"). Lessee shall pay Lessor the Minimum Base Rent, in full, within thirty (30) days of the close of the boat shows. Any further monies over the Minimum Base Rent due to Lessor as a result of ticket sales shall be paid by Lessee to Lessor simultaneously with Lessee's payment of State admissions tax. Proof of gross receipts form ticket sales shall be supplied at that time by Lessee to the City of Annapolis Director of Finance in a form satisfactory to the Director of Finance. In addition to the Base Rent, Lessee shall pay Lessor Additional Rent equal to Twenty-Five Thousand Seven Hundred Fifty Dollars (\$25,750.00) toward the costs incurred by the City in providing electricity, water, inspections and public safety services to the boat shows and in providing increased public services during the boat shows. Lessee shall pay Lessor the Additional Rent and, if applicable, the Edgewood Road rent, in full, at the time Lessee pays the Minimum Base Rent.

Article II

Section 2.1. Number of Days: Lessor grants to Lessee the right to add one day at the end of either or both of the two boat shows for general public admission. Lessee shall have the right, in its sole discretion, to reduce the number of days of either or both of the boat shows. Lessee shall provide written notice of such intent no later than thirty (30) before the opening of the first boat show governed by this Lease.

Section 2.2. Other Boat Shows: Lessor shall not lease the Premises for the purpose of holding boat shows on the Premises from June 1 through November 30 in the year of 2018. Lessee may, within its sole discretion, provide written authority to waive these restrictions. These restrictions shall be deemed to be waived by Lessee

automatically as to either boat show reduced to less than one 10-hour day under Section 2.1.

Section 2.3. Adjustment to Rent: The Minimum Base Rent and Additional Rent shall be increased or reduced proportionately if Lessee exercises its rights to extend or shorten the number of days pursuant to Section 2.1. Notice of any such extension or shortening shall be given by Lessee in writing to Lessor by June 1, 2017. All of the other provisions of the lease shall remain in full force and effect.

Article III

Section 3.1. Facilities and Services: Lessee shall have the use of the following Lessor existing and normal street and harbor lighting, electricity, water supply, and police and fire protection, all without additional charge.

Section 3.2. Police Services: Lessor shall provide police services related to traffic control outside the Premises, security for the boat show office within the Premise, and liaison with Lessee's security guards inside the Premises without additional charge.

Section 3.3. Fire Services: Lessor shall provide fire protection as required without additional charge. Following the erection of all booths and other boat show structures as described in Section 7.1 of this Agreement, but before the boat shows open, the parties shall meet at the Premises to assure compliance with Fire Department regulations and accessibility of fire lanes and turning radius. No open flame devices or running of watercraft propulsion engines shall be permitted the Premises during the open hours of the boat shows.

Section 3.4. Utilities: Lessor shall provide water and electricity without additional charge. Lessee, at its own expense, shall install all temporary electrical equipment, lines and devices required to provide power to the Premises in compliance with National Electric Code. Lessee shall be responsible for refuse removal as provided under Section 8.1 hereof.

Section 3.5. Parking and Transportation: Lessee shall coordinate with the City of Annapolis Department of Transportation all plans for the provision of any intra-city mode of transportation during the course of the boat shows. Prior to the opening of the boat shows, Lessee shall furnish to Lessor a written transportation plan which includes a parking element.

Section 3.7. Pre-Show Meetings and Inspection: Prior to the opening of each boat show, representatives of Lessor's Department of Neighborhood and Environmental Programs, Police Department, Fire Department, Harbormaster, and Department of Public Works shall inspect the Premises and nearby areas with Lessee's representative to determine compliance with City requirements and for determination of the condition of the Premises. Written approval by representatives of these departments is required before Lessee may open either boat show. The opening of the boat show shall not be delayed by any department whose representative is not present for the pre-inspection. Lessor shall not refuse permission to open either boat show or any part of the show under this paragraph unless a threat to health or safety has been identified. Lessor shall make every effort to limit that part of the show not opened in the event of such threat and to allow Lessee to open the closed portion of the show as soon as the threat is abated to Lessor's satisfaction. All other federal, state or county permits which may be required shall be the responsibility of the Lessee.

Section 3.8. Transportation: The Lessee shall prepare and submit a written Transportation Plan with a Parking Element to Lessor's Director of Transportation. The Transportation Plan shall address matters specified by the Director and shall be submitted no later than August 15, 2018. Except for public ways within the Premises, the Transportation Plan shall not provide for the closure of any street or restrict parking to those associated with the boat shows. Moreover in publicizing the boat shows, Lessee shall direct all persons attending the event to park their vehicles at satellite lots and ride the shuttle to the site of the boat shows. Upon receipt of the Transportation Plan, the

Director shall make copies available to relevant agencies and to interested parties who have requested a copy.

Article IV

Section 4.1. Insurance: Lessee, at its own expense, shall obtain and keep in full force and effect comprehensive commercial general liability insurance of no less than Two Million Dollars (\$2,000,000.00) combined single limit, bodily injury and property damage, and Eight Million Dollars (\$8,000,000.00) umbrella policy, which shall be effective during the entire period of time during which the Lessee shall use or occupy the Premises or any part of the Premises.

The insurance policy or policies shall specifically name the City of Annapolis, and in their capacity as such, the officers, agents and employees thereof, as additional insureds, and insure against any and all loss, costs, damages, and expenses suffered by any person or to any property, including property owned by Lessor, due to or alleged to be due to an act, omission or the negligence of Lessee, its officers, agents, employees, vendors, subtenants or contractors, directly or indirectly, in connection with the use of the Premises or any part of the Premises by Lessee, its officers, agents, employees, vendors, subtenants or contractors.

Lessee's insurer or insurers shall be authorized to write the required insurance, approved by the Insurance Commissioner of the State of Maryland, and subject to the approval of Lessor's City Attorney. The form and substance of the Lessee's insurance policy or policies shall also be subject to reasonable approval by Lessor's City Attorney, and shall be submitted to the City Attorney for such approval not less than thirty (30) days prior to Lessee's occupancy of the Premises. The policy or policies of insurance shall then be secured by Lessee and filed with the City Attorney not less than fifteen (15) days prior to Lessee's occupancy of the Premises. No approval shall be unreasonably withheld.

The Certificate for each insurance policy shall contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, whether at the request of Lessee or for any other reason, except after thirty (30) calendar days advance written notice mailed by the insurer to Lessor's City Attorney, and that such notice shall be transmitted postage prepaid, return receipt requested.

The obligations of Lessee under this Article are part of but do not limit or satisfy Lessee's obligations under Article V.

Article V

Section 5.1. Indemnity: Lessee shall forever indemnify, defend and hold harmless Lessor, its officers, agents, and employees, from and against any and all claims, suits, actions, judgments, and liability for loss, injury, damages and/or expenses suffered or alleged to have been suffered during the lease term by any person or to any property due to or alleged to be due to an act, omission or the negligence of Lessee, its officers, agents, employees, vendors, subtenants or contractors, directly or indirectly, in connection with the use and occupancy of the Premises or any part of the Premises, by Lessee, its officers, agents, employees, vendors, subtenants or contractors.

Lessee shall reimburse Lessor, within thirty (30) days after demand for such reimbursement, for any damage done to Lessor's buildings, facilities, equipment or property caused by an act, omission or the negligence of Lessee, its officers, agents, employees, vendors, subtenants or contractors, during Lessee's use and occupancy of the Premises or any part of the Premises.

Article VI

Section 6.1. Security: Lessee shall contract with and pay, as independent contractors, security guards from an agency duly licensed by the State of Maryland, in

numbers sufficient to maintain security, peace and order at the boat shows inside the Premises during the lease term.

Article VII

Section 7.1. Interior Construction: Lessee shall have the right to construct, install or erect seats, platforms, booths, tanks, scaffolding, rigging, floating piers, pilings, docks, catwalks, tents, exhibits, and any other apparatus or structure which Lessee may deem necessary or desirable for the purpose of presenting the boat shows. Lessee shall have the right to erect and construct a temporary fence so as to enclose the Premises in such a manner as to limit entry onto the Premises through controlled entrances. Such fence shall not contain barbed wire, razor wire or any similar materials.

Section 7.2. Exterior Construction: Lessee shall erect and construct temporary wooden sidewalks, wherever necessary to provide for pedestrian traffic, outside of the Premises where the existing sidewalks are enclosed in the Premises by a temporary fence described in Section 7.1. All temporary sidewalks shall be handicap accessible and illuminated during hours of darkness and maintained by Lessee in a safe and secure condition.

Section 7.3. ADA and Other Permits: Lessee hereby assumes exclusive responsibility for compliance with any and all applicable provisions of the Americans with Disabilities Act of 1990, as amended from time to time, at the Premises, during the entire time Lessee uses or occupies the Premises or any part of the Premises. Subject to the inspection provisions of Section 3.7 of this Lease and to standard public safety and health approvals, any and all permits, licenses or authorizations required to be obtained from the City by Lessee during the term of this Lease for the purpose of constructing or erecting the temporary structures described in Sections 7.1 and 7.2 of this Lease or for operating the boat shows, shall be deemed granted and issued upon the execution of this Lease by Lessor and Lessee. All other federal, state or county permits, which may be required, shall be the responsibility of the Lessee.

Article VIII

Section 8.1. Trash: Lessee, at its own expense, shall provide an adequate number of trash 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, trash and refuse. The Lessee shall collect the same recycling materials that the Lessor collects in its curbside recycling service. Lessor, at its own expense, shall provide an adequate number of trash dumpsters outside the boat show grounds for the use of Lessee during the use and occupancy period and shall provide for the prompt removal of trash and refuse in these dumpsters.

Section 8.2. Cleanliness: Lessee shall be responsible for keeping the Premises free of debris, trash and refuse, which shall be placed in dumpsters or receptacles.

Section 8.3. Sanitation and Toilets: Lessee shall, at its own expense, provide adequate and sanitary toilet facilities throughout the Premises for use by the general public and others attending or participating in the boat shows.

Article IX

Section 9.1. Quiet Enjoyment: Lessor covenants with Lessee that at all times during the term of this Lease, Lessee shall peacefully hold and quietly enjoy the use and occupancy of the Premises without any disturbance or hindrance from Lessor or from any other person claiming through Lessor, except that Lessor or others claiming through Lessor may enter onto the Premises to effect necessary repairs to their own facilities as reasonably contemplated by the terms of this Lease, and to assure compliance with the terms of this Lease. Lessee shall cooperate with the Lessor to effect this access to the Premises.

Section 9.2. Trash and Public Safety Cooperation: The parties shall cooperate with each other and use their best efforts to ensure that there is prompt trash removal, public safety protection and adequate traffic control during the designated period of use and occupancy by Lessee of the Premises.

Article X

Section 10.1. Condition of Premises After Show: Following the lease term, Lessee, at Lessee's sole expense, shall return the Premises to Lessor in the same or superior condition than received, natural wear and tear excepted.

Section 10.2. Lessee's Equipment After Show: Prior to the expiration of the lease term, Lessee shall immediately remove all of its property, fixtures and chattels from the Premises. In the event that Lessee, its officers, agents, employees, vendors, subcontractors, fail to remove any item of property, Lessor reserves the right to remove and store any such property after the expiration or termination of the lease term at Lessee's expense or as an alternative, to leave the property at the Premises. In either case, Lessor shall charge Lessee per diem rental for storage of such property. Lessor shall bear no responsibility or liability for damage to or expense incurred as a result of property left, removed or stored under the provisions of this Section. Lessee shall pay to Lessor any expenses or charges under this Section billed to Lessee by Lessor within thirty (30) days after delivery of any such bill by Lessor to Lessee.

Section 10.3. Post-Show Inspection: Within ten (10) days following the expiration of the lease term, Lessee shall accompany Lessor during a tour of the Premises to determine the condition of the Premises. Items corrected or repaired by Lessor, deemed by Lessor to be the responsibility of Lessee, shall be billed by Lessor and paid by Lessee within thirty (30) days after receipt of such bill.

Article XI

Section 11.1. Remedies: All duties, liabilities and/or obligations imposed upon or assumed by Lessee and Lessor by or under this Lease shall be taken or construed as cumulative and the mention of any specified duty, liability or obligation imposed upon or assumed by Lessee or Lessor under this Lease shall not be taken or construed as a limitation or restriction upon any or all of the other duties, liabilities, or obligations imposed upon or assumed by Lessee under this Lease. The remedies provided for in this Lease shall be construed to be cumulative and in addition to any other remedies provided in law or equity which Lessor or Lessee would have in any case. Lessor shall have the right to seek and obtain in any court of competent jurisdiction an injunction, without the necessity of posting a bond, to restrain a violation or alleged violation by Lessee of any term of this Lease, anything to the contrary notwithstanding. In no case shall a waiver by either party of the right to seek relief under this provision constitute a waiver of any other or further violation. The remedies provided in this Lease shall not be deemed exclusive of other remedies not specified.

Article XII

Section 12.1. Impossibility of Performance: If, for any reason, an unforeseen event not the act of Lessor occurs, including but not limited to fire, casualty, act of God, labor strike or other unforeseen occurrence which renders impossible the fulfillment of any rental period of this Lease, Lessee shall have no right to claim damages not right to claim against Lessor for damages, but Lessee shall not be liable for the payment of rent for said rental period. However, if such impossibility relates to not more than five percent (5%) of the rental period, Base Rent, if determined under Section 1.3(A)(ii) of this Lease, shall be prorated to account for the number of scheduled hours the Show is not open to the public.

Article XIII

Section 13.1. Payment: Lessee shall make all payments due under this Lease by check, payable to the City of Annapolis. In addition to all other amounts due pursuant to

this Lease, Lessee shall pay Lessor a monthly late fee of 1.5% (18% per annum) of any payment more than sixty (60) days past due, until paid.

Article XIV

Section 14.1. Time is of the Essence: Time is of the essence in the performance of this Lease. The times and deadlines specified in this Lease shall not be extended for any reason, except as may be provided in this Lease, relating to the term of the Lease or the installation or removal of equipment, materials or displays from the Premises, without written consent of Lessor.

Article XV

Section 15.1. Assignment: Lessee shall not assign, transfer, or otherwise dispose of this Lease without the prior written consent of Lessor, but such consent shall not be unreasonably or arbitrarily withheld. The foregoing shall not prevent Lessee from subleasing portions of the Premises to boat show exhibitors, provided the portion of the Premises subleased to any exhibitor does not exceed twenty-five percent (25%) of the total area of the Premises.

Article XVI

Section 16.1. Independent Contractor: Lessee is an independent contractor and not the agent or employee of Lessor. Under no circumstances shall this Lease be considered to create an employee or agency relationship or a partnership or joint venture.

Article XVII

Section 17.1. Liens: Lessee hereby consents that Lessor shall have a lien upon all property of Lessee located from time to time upon the Premises for any and all unpaid charges which arise under this Lease. Lessee hereby consents to and Lessor shall have the power to impound and retain possession of such property until all such charges and late fees due under Article XIII have been paid, in full, to the satisfaction of Lessor. In the event such charges remain unpaid ten (10) days after the termination of this Lease, Lessor shall have the power to sell such property at public auction and apply the receipts from such auction to all such unpaid charges.

Article XVIII

Section 18.1. Compliance with all Laws: Lessee shall comply with all laws, ordinances, and statutes applicable to the Premises or any part of the Premises, and the use and occupancy thereof, and to pay all taxes or charges imposed by law in connection with Lessee's use and occupancy of the Premises. Lessee shall have a reasonable time to correct any violation.

Article XIX

Section 19.1. Other Leases: There are currently in effect leases between Lessor and Lessee for the Premises for boat shows for the years of 2010 through 2017. In the event Lessee should materially default in performance of its obligations in any one of the above years, such default shall also constitute a default in the leases for all years subsequent to 2017, including this Lease. If the default continues for more than thirty days (30) after Lessor has given written notice to Lessee of such default, Lessor shall have the right to terminate any of the leases for any one or more of the years remaining in the leases through 2017, and this Lease. Otherwise, execution of this Lease shall have no effect on leases for the years of 2010 through 2017.

Article XX

Section 20.1. Immunities: Nothing in this Lease shall be interpreted or construed to waive, in whole or in part, or to otherwise diminish, Lessor's statutory, common law or

other immunities in any action in tort, in contract or in any other form. The parties agree that if any duty assumed by Lessor under the terms of this Lease or any action taken by Lessor pursuant to any such term is construed to waive, in whole or in part, any such immunity, then the immunity shall nevertheless be fully restored, and shall bind and protect the parties as a contractual undertaking.

Article XXI

Section 21.1 Authority: This Lease is authorized by Ordinance O- 23-13 adopted by the City Council of the City of Annapolis.

Witness the signatures and seals of the parties.

Attest:
of Annapolis

City

Regina C. Watkins-Eldridge, MMC
City Clerk

By: Joshua J. Cohen, Mayor (Seal)

**United States Sailboat Show, Inc.,
United States Powerboat Show, Inc.**

Witness

By: C.E. Hartman, President (Seal)

Approved as to form and legal sufficiency:

Gary M. Elson, Assistant City Attorney

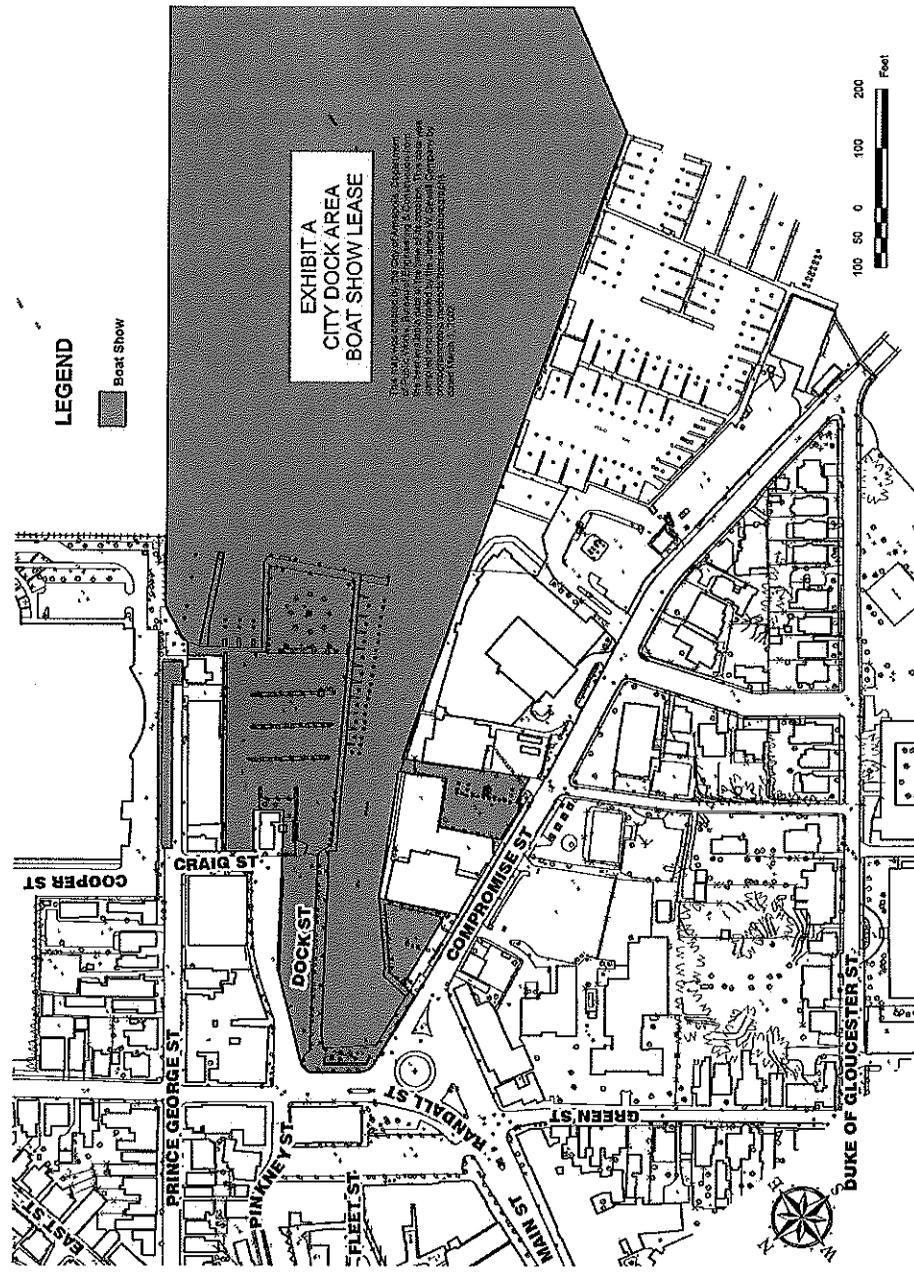
Approved for financial sufficiency:

Bruce T. Miller, Director of Finance

City Manager review:

Michael D. Mallinoff, City Manager

Exhibit A



Seconded. CARRIED on voice vote.

The main motion as amended CARRIED on voice vote.

- Alderman Arnett moved to adopt O-23-13 amended on third reading. Seconded.

A ROLL CALL vote was taken:

YEAS: Mayor Cohen, Alderwoman Finlayson, Aldermen Littmann, Kirby, Pfeiffer, Arnett, Budge, Paone, Alderwoman Hoyle
NAYS:
CARRIED: 9/0

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 and answered questions from Council.

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

- Alderman Paone moved to adopt O-37-13 on second reading. Seconded. The Economic Matters and Environmental Matters Committees reported favorably on O-37-13.
- Alderman Arnett moved to amend O-37-13 as follows:

Amendment #1

- Alderman Arnett moved to adopt O-37-13 amended on third reading.
Seconded.

A ROLL CALL vote was taken:

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

NAYS:

CARRIED: 9/0

Upon motion duly made, seconded and adopted, the meeting was adjourned at 11:43 p.m.

Regina C. Watkins-Eldridge, MMC
City Clerk

DRAFT
SPECIAL MEETING
October 28, 2013

The Special Meeting of the Annapolis City Council was held on October 28, 2013 in the Council Chamber. Mayor Cohen called the meeting to order at 7:03 p.m.

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

Staff Present: City Attorney Hardwick, City Manager Mallinoff, Human Resources Director Rensted, Finance Director Miller, Planning and Zoning Director Arason, Chief of Comprehensive Planning Nash, Chief of Historic Preservation Craig, Public Works Director Jarrell

Approval of Agenda

- Alderwoman Finlayson moved to amend the agenda to delete the approvals of the Journal of Proceedings. Seconded. CARRIED on voice vote.

PETITIONS, REPORTS AND COMMUNICATIONS

U.S. Postal Service on New Retail location within the City of Annapolis

Rick Hancock, PO Box 27497, Greensboro, NC 27498-103, Real Estate Specialist - C Facilities representing United States Postal Service gave a brief presentation on the possible relocation of the post office located at Church Circle in Annapolis.

Comments by the General Public

Nancy Williamson, 808 Chesapeake Avenue, Annapolis, Maryland 21403 spoke in opposition to R-49-12.

Mike Pantelides, 178 S. South Wood Avenue, Annapolis, Maryland 21401 spoke on the ratification of the union contracts, in opposition to R-49-12 and on the O-19-13.

Fredrik Broen, 74 East Street, Annapolis, Maryland 21401 representing Ward One Residents Association spoke in favor of Alderman Budge's Amendments to R-49-12.

Heather Hurtt, 820 Chester Avenue, Annapolis, Maryland 21401 representing Connect Annapolis spoke in favor of R-49-12.

Vanessa Kirby-Forte, 260 A Hilltop Lane, Apt 104, Annapolis, Maryland 21401 spoke on the founding fathers, the City of Annapolis and slavery.

Fred Delavan, Esq., 170 Jennifer Road, Suite 240, Annapolis, Maryland 21401 representing Blumenthal, Delavan & Williams, P.A., spoke on O-19-13.

Philip Dales, Esq., 200 Westgate Circle, Annapolis, Maryland 21401 representing Hyatt & Weber spoke on O-19-13.

Denise Worthen, 65 Southgate Avenue, Annapolis, Maryland 21401 spoke in favor of R-49-12 Amended.

Brian Cahalan, 49 West Street, Annapolis, Maryland 21401 thanked the Council for serving, spoke on the amendment regarding the promenade to the Draft City Dock Master Plan, parking and building height in Historic Districts.

Michel Fox, 20 Windwhisper Lane, Annapolis, Maryland 21403 spoke on O-47-11.

Pete Chambliss, 119 Prince George Street, Annapolis, Maryland 21401 spoke on R-49-12, bigger buildings and the tourist.

Janet Norman, 787 Annapolis Neck Road, Annapolis, Maryland 21401 spoke on City Election Process, Election Flyers in Ward 6, and the death threats made to an individual for questioning a Candidates Campaign Fund Report.

Malina Koerschner, 16 Thompson Street, Annapolis, Maryland 21401 spoke in favor of R-49-12, spoke on the circulator and the Bladen Street Parking Garage.

Lew Bearden, 100 Compromise Street, Annapolis, Maryland 21401 representing the Fleet Reserve Club spoke on R-49-12.

Doug Smith, 5 Revel Street, Annapolis, Maryland 21401 spoke on the report from the Historic Preservation Commission.

- Mayor Cohen declared petitions, reports and communications closed.

Honoring Alderwoman Classie Gillis Hoyle

Mayor Cohen on behalf of the City Council presented Alderwoman Classie Gillis Hoyle with a proclamation in recognition of her 12 years of service as Alderwoman of Ward 3.

BUSINESS and MISCELLANEOUS

Ratification of Proposed Union Memoranda of Understanding

City Manager Mallinoff gave a brief presentation on Interest Base Bargaining and answered questions from Council. Human Resources Director Renstedt was present and answered questions from Council.

Eric Paltell, 1823 York Road, Timonium, MD 21093-5119 representing Kollman & Saucier, P.A. was present and answered questions from Council.

- At 8:43 p.m., Mayor Cohen requested Alderwoman Finlayson preside over the meeting during his absence. At 8:56 p.m. Mayor Cohen resumed the duties of the Chair.
- Alderman Paone moved to postpone the vote to ratification of the proposed Understanding between the City of Annapolis and AFSCME LOCALS 3406 & 3162, IAFF LOCAL 1926, and UFCW LOCAL 400 until Wednesday, October 30, 2013. Seconded. DEFEATED on voice vote.
- Alderwoman Finlayson moved to ratify the Memoranda's of Understanding between the City of Annapolis and AFSCME LOCALS 3406 & 3162, IAFF LOCAL 1926, and UFCW LOCAL 400. Seconded. CARRIED on voice vote.
- Mayor Cohen accepted into the record a letter from the City of Annapolis Advisory Commission, c/o Frederick C. Sussman, Esq., Chair, P.O. Box 2289, Annapolis, Maryland 21404-2289 dated October 24, 2013.

Budget Revisions Requests

Finance Director Miller gave a brief presentation on the budget revision requests and answered questions from Council.

Planning and Zoning Director Arason was present and answered questions from Council.

The Finance Committee reported favorably on the budget revision requests.

GT-2-14 department of Planning and Zoning, Transfer to Contract Services \$31,800.00 Transfer from Salaries \$31,800.00

GT-3-14 department of Mayor's Office, Transfer to Special Projects \$4,554.00 Transfer from Community Grants \$ 4,554.00

GT-4-14 department of Fire, Increase Revenue County 508 Fund \$29,955.42 Increase Supplies \$29,955.42.

- Alderwoman Finlayson moved to approve budget revision requests GT-2-14, GT-3-14 and GT-4-14. Seconded. CARRIED on voice vote.

Appointments

- Alderman Pfeiffer moved to approve the Mayor's appointment or re-appointment of the following individuals:

10/28/13	Transportation Board	Alex Pline
10/28/13	Transportation Board	Ann Widener
10/28/13	Transportation Board	Elizabeth Dolezal
10/28/13	Transportation Board	Jennifer West-Miser
10/28/13	HACA Board of Commissioners	Richard Callahan
Seconded.	CARRIED	voice vote.

**LEGISLATIVE ACTION – 2nd READER
ORDINANCES AND RESOLUTIONS**

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.

Planning and Zoning Director Arason gave a brief presentation and answered questions from Council. Chief of Historic Preservation Craig was also 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. on 10/7/13
- Alderman Budge moved amendment #2 Management Entity to amend R-49-13 as follows:

On page 33, Amend the title of Section A so that it reads "Management Entity ~~on~~ OF City Dock"

Delete "or entity" from the second sentence of the last paragraph: "The purview of any management function or entity should include...." Seconded. CARRIED on voice vote.

The meeting was recessed at 10:17 p.m. and reconvened at 10:34 p.m.

- Alderman Budge moved amendment #3 A Building Height to amend R-49-13 as follows:
- 3. A. Building Height, on page 13, last sentence: replace "small tolerances" with "tolerances up to three feet".

"In order to facilitate new construction in the Opportunity Sites, the Historic Preservation Commission, as part of its review, should have the authority to grant ~~small~~ tolerances UP TO THREE FEET to allowable height if new construction is not otherwise feasible. Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Cohen, Aldermen Littmann, Pfeiffer, Arnett, Budge
NAYS: Alderman Kirby, Paone, Alderwomen Hoyle, Finlayson
CARRIED: 5/4

- Alderman Arnett moved to amend Budge amendment #3 A Building Height, on page 13, as follows:

To strike "tolerances up to three feet" and insert "tolerances up to 10 percent".
Seconded. DEFEATED on voice vote. A ROLL CALL vote was taken:

YEAS: Aldermen Litmann, Pfeiffer, Arnett, Budge

NAYS: Mayor Cohen, Alderman Kirby, Paone, Alderwomen Hoyle, Finlayson
DEFEATED: 4/5

- Alderman Budge moved amendment #3 B Parking to amend R-49-13 as follows:

3. B. Parking, on page 23, beginning of second sentence in third paragraph: Insert the word "permanently" and change "significant" to "10 percent", thus:

"Before PERMANENTLY removing a ~~significant number~~ TEN PERCENT OR MORE of THE CITY OWNED 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 Plan which identifies and considers...." Seconded. CARRIED on voice vote.

- Alderman Paone moved to amend Alderman Budge #3 B as follows:

3. B. Parking, on page 23, beginning of second sentence in third paragraph: Insert the word "permanently" and change "significant" to "5 percent", thus:

"Before PERMANENTLY removing a ~~significant number~~ FIVE PERCENT OR MORE of THE CITY OWNED 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 Plan which identifies and considers...." Seconded. DEFEATED on voice vote.

- Alderman Budge moved amendment #3 C Waterfront Set-Back to amend R-49-13 as follows:

On page 37, second sentence of second paragraph: replace "minimum 30 -foot" setback "50 to 55-foot".

"In order to accommodate these uses, the WMC District should incorporate a ~~minimum 30-foot~~ 50 to 55-FOOT setback from the water for primary structures, and a 20-foot setback from the Northwest side of Newman Street." Seconded. CARRIED on voice vote.

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

To move the following paragraph to the top of page 108, of the October 14, 2013: Annotated Draft after "Scale and New Buildings" insert the following:

"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. IN ORDER TO FACILITATE NEW CONSTRUCTION IN THE OPPORTUNITY SITES, THE HISTORIC PRESERVATION COMMISSION, 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.

- Alderman Arnett moved the Historic Preservation Commission amendment to amend R-49-12 as follows:

On pages 12-13, insert

“C. Language Remaining and /or Amended: “Two and One Half stories are recommended”. Similar logic used above applies to the use of this specific but undefined language, however even more so. The HPC makes the following observation: the Halsey field house is a one story building. Use of this type of descriptor in the content of evaluating the appropriateness of new construction that maintains the integrity of the District is not meaningful. **The HPC recommends this language be stricken for the Plan. If the Council wishes to retain the language, we recommend it be amended to read: “Two and one half stories are envisioned but subject to analysis of specific design proposals within the existing historic context.”** Seconded. CARRIED on voice vote.

- Alderman Arnett moved the Historic Preservation Commission amendment to amend R-49-12 as follows:

On page 12-13 insert

“D. Language Inserted: “The City must prepare a professional cultural landscape report that recognizes the National Historic Landmark Designation and applies the Secretary of Interior’s Standard 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 these properties and other aspects that may be pertinent.” The HPC supports this amendment and requests that the following changes to the language be made in order to clearly communicate that the possible move of the Dock Street buildings toward Market Slip must be studied. “The city must prepare a professional cultural landscape report that recognizes the National Historic Landmark Designation and applies the Secretary of Interior’s Standards for treatment of Historic Properties in assessing the significant historic assets in the vicinity, conducting a viewshed analysis, and determining **what, if any, adverse effect would occur on the integrity of the District if the proposed move of the existing building line from Dock Street towards Market Slip** Seconded. CARRIED on voice vote.

- Alderman Arnett moved the Historic Preservation Commission amendment to amend R-49-12 as follows:

PAGE 17:

- A. Language Inserted: “The City will prepare, for council approval, a plan for the intersections and crosswalks in the study area which considers the area’s dual role as both a destination and a thoroughway, 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”. **The HPC concurs with this amendment and asks for additional language to be inserted at the end of the sentence “(as determined by the cultural landscape report).”**

Seconded. CARRIED on voice vote.

- Alderman Arnett moved the Historic Preservation Commission amendment to amend R-49-12 as follows:

On page 17, insert “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 FLOODPLAIN 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, WHEN APPLICABLE COMMISSION REVIEW CRITERIA ARE MET AND COULD ALLOW A SMALL VARIANCE TOLERANCE FOR HAZARD MITIGATION WITHIN THE FLOODPLAIN. AS NOW, THE HISTORIC PRESERVATION COMMISSION 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 HISTORIC PRESERVATION COMMISSION'S DESIGN GUIDELINES." Seconded. CARRIED on voice vote.

- Alderman Arnett moved the Historic Preservation Commission amendment to amend R-49-12 as follows:

On page 28, A. The HPC recommends insertion of the following sentence in paragraph two: **Already underway is development of a Hazard Mitigation Plan to protect historic resources within the 100-year flood plain.** Seconded. CARRIED on voice vote.

- Alderman Littmann moved to amend of the October 14, 2013: Annotated Draft of the City Dock Master Plan as follows:

In the 3rd paragraph, 1st line of page 12, of the October 14, 2013: Annotated Draft strike "45-55 and insert "50-55 Feet". Seconded. CARRIED on voice vote.

- Alderman Budge moved to amend the October 14, 2013: Annotated Draft of the City Dock Master plan as follows:

On page 16, add the following text "It is the intention of this Plan that a promenade could extend around City Dock. The Plan recognizes that in the vicinity of the Fleet Reserve Club, Marriott Hotel and Yacht Basin existing ownership and development could preclude a publicly-owned promenade with the principal public elements as described in the Plan. Nevertheless, as properties redevelop the City should seek a continuous walkway through dedication or easement, of a width sufficient to promote public safety while not impinging on the redevelopment of affected properties. Seconded DEFEATED on voice vote.

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

On page 2, of the resolution, in line 17, after the words "that the" strike "Draft"
On page 2, of the resolution, in line 18, after the word Resolution strike ", is also available at
[http://www.annapolis.gov/Government/Departments/PlanZone/CityDockPlan/](http://www.annapolis.gov/Government/Departments/PlanZone/CityDockPlan/master plan. aspx) master plan. aspx." Seconded. CARRIED on voice vote.

The main motion amended A ROLL CALL vote was taken:

YEAS: Mayor Cohen, Aldermen Littmann, Kirby, Pfeiffer, Arnett, Budge, Alderwomen Hoyle, Finlayson
NAYS: Alderman Paone
CARRIED: 8/1

- Alderman Pfeiffer moved to consider new business items beyond 11:00 p.m. 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 Littmann moved to postpone O-51-11 amended indefinitely. 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 Littmann moved to postpone O-52-11 amended indefinitely. Seconded. CARRIED on voice vote.

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.

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

Lara L. Fritz, 200 Westgate Circle, #102, Annapolis, Maryland 21401 representing the AEDC was present and answered questions from Council.

Charles Delavan, 170 Jennifer Road, Suite 240, Annapolis, Maryland 21401 representing Blumenthal, Delavan & Williams P.A. was present and answered questions from Council.

Philip Daley, 200 Westgate Cir #500, Annapolis, Maryland 21401 representing Hyatt & Weber, P.A. was present and answered questions from Council.

- Alderman Arnett moved to adopt O-19-13 on second reader. Seconded.

- Alderman Littmann moved to amend O-19-13 as follows:

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”.
Seconded. CARRIED on voice vote.

- Alderman Littmann moved to amend O-19-13 as follows:

Amendment #3

Page 2, in Lines 10-12, amend the language as follows:

WHEREAS, it is in the best interest of the City of Annapolis to consider all available data regarding the impacts of a proposed development on school capacity before the City approves a proposed development, and the Council expressly recognizes that the review of school capacity is a complicated matter made more complex by the fact that, while the City collects development impact fees for schools from residential developers within the City of Annapolis in the amount set by Anne Arundel County and while the City remits such fees to Anne Arundel County in accordance with the requirements of the Maryland State Code, the City of Annapolis does not presently have the authority to control, direct, or influence how Anne Arundel County expends those fees, or how the County manages its public schools, or how the County funds public school construction, or how the County permits residential developments within the County which impact public schools within the jurisdictional limits of the City of Annapolis; and

WHEREAS, given the complexity of public school funding, school districting, and the allocation of school capacity by Anne Arundel County and its Board of Education, it is neither the intent of the Annapolis City Council nor the effect of this Ordinance for the provisions adopted herein to function as an automatic stop on residential development within the City of Annapolis, or to stop any particular residential project from moving forward in the City's administrative processes.

Effect of Amendment #3: The amendment would clarify the City Council's intent and the applicability of the law.

Rationale of Amendment #3: The amendment expresses the informational intent of the Ordinance, clarifies that it is not intended to be an automatic development moratorium, though it could justify stopping a development, and expresses the Council's effort to bring into focus the complicated but important matter of bi-jurisdictional school funding and capacity issues. Seconded. CARRIED on voice vote.

- Alderwoman Finlayson moved to amend Alderman Littmann's amendment # 3 to O-19-13 as follows:

Amendment #1

On Page 2, in Lines 10-12, amend the language as follows:

WHEREAS, it is in the best interest of the City of Annapolis to ~~consider~~ review all available data regarding the impacts of a proposed development on school capacity before the City approves a proposed development, and the Council expressly recognizes that the review of school capacity is a complicated matter made more complex by the fact that, while the City collects development impact fees for schools from residential developers within the City of Annapolis in the amount set by Anne Arundel County and while the City remits such fees to Anne Arundel County in accordance with the requirements of the Maryland State Code, the City of Annapolis does not presently have the authority to control, direct, or influence how Anne Arundel County expends those fees, or how the County manages its public schools, or how the County funds public school construction, or how the County permits residential developments within the County which impact public schools within the jurisdictional limits of the City of Annapolis; and

WHEREAS, given the complexity of public school funding, school districting, and the allocation of school capacity by Anne Arundel County and its Board of Education, it is neither the intent of the Annapolis City Council nor the effect of this Ordinance for the provisions adopted herein to function as a moratorium on residential development within the City of Annapolis, or to stop any particular residential project from moving forward in the City's administrative processes.

Effect of Amendment #1: The amendment would clarify the City Council's intent and the applicability of the law.

Rationale of Amendment #1: The amendment expresses the informational intent of the Ordinance, clarifies that it is not intended to be a *de facto* development moratorium, and expresses the Council's effort to bring into focus the complicated but important matter of bi-jurisdictional school funding and capacity issues. Seconded. DEFEATED on voice vote.

A Roll Call vote was taken:

YEAS: Alderwomen Hoyle, Finlayson

NAYS: Mayor Cohen, Aldermen Littmann, Kirby, Pfeiffer, Arnett, Budge, Paone
DEFEATED: 2/7

- Alderman Littmann moved to amend O-19-13 as follows:

Amendment #4

On page 4, in lines 6-7: strike "The proposed design" and insert

"UNLESS A DESIGN IS SUBJECT TO REVIEW AS A PLANNED DEVELOPMENT UNDER SECTION 21.24.090, THE PROPOSED SITE DESIGN MUST PROVIDE CONSIDERATION OF:" Seconded. CARRIED on voice vote.

- Alderwoman Hoyle moved to postpone indefinitely O-19-13 on second reading. Seconded. DEFEATED on voice vote.

A ROLL CALL vote was taken:

YEAS: Alderman Kirby, Alderwomen Hoyle, Finlayson

NAYS: Mayor Cohen, Aldermen Littmann, Pfeiffer, Arnett, Budge, Paone
DEFEATED: 3/6

- Alderman Littmann moved to amend O-19-13 as follows:

Amendment #2

Page 4, Line 20, and Page 5, Line 15, Insert (as compared to initial version):

If the City projects that a proposed residential development would either (1) impact a school that already exceeds its State-Rated Capacity in the current Anne Arundel County Educational Facilities Master Plan ("CAPACITY") or (2) cause the school to exceed its [State-Rated] Capacity WHEN THE DEVELOPMENT IS COMPLETE, then the developer may satisfy the requirements in Section 21.22.080 I. by [reaching agreement with the impacted governmental and educational organizations] INCLUDING AS A STIPULATION TO PROCEED WITH THE DEVELOPMENT, A REQUIREMENT to fund improvements that [result in total school enrollment as less than or equal to its current State-Rated Capacity] INCREASE CLASSROOM SIZE BY THE LESSER OF (1) TO THE EXTENT NECESSARY TO ACCOMMODATE THE PROSPECTIVE NUMBER OF CHILDREN FROM THE PROPOSED DEVELOPMENT OR (2) TO THE EXTENT NECESSARY TO RESULT IN TOTAL SCHOOL ENROLLMENT AS LESS THAN OR EQUAL TO ITS CURRENT STATE-RATED CAPACITY.

Page 4, Line 20, Insert (clean version):

If the City projects that a proposed residential development would either (1) impact a school that already exceeds its State-Rated Capacity in the current Anne Arundel County Educational Facilities Master Plan ("Capacity") or (2) cause the school to exceed its Capacity when the development is complete, then the developer may satisfy the requirements of Section 21.22.080 I. by including, as a stipulation to proceed with the development, a requirement to fund improvements that increase classroom size by the lesser of (1) to the extent necessary to accommodate the prospective number of children from the proposed development or (2) to the extent necessary to result in total school enrollment as less than or equal to its current state-rated capacity.

On page 5, Line 15: Same as paragraph above, but refer to Section 21.24.090, rather than 21.22.080. Seconded. Without objection, Aldermen Littman withdrew Amendment #2.

Effect of Amendment #2: The amendment would empower the developer to satisfy requirements of this law by building school capacity for the students added by its development.

Rationale of Amendment #2: This provision gives the developer some measure of control over the school capacity issue. It is a lenient provision in that it does not require the developer to address over-capacity beyond the enrollment increase from its own development, and it does not require the developer to provide for increased common areas, such as cafeteria space.

- Alderwoman Finlayson moved to amended as follows:

Amendment #3

On Page 4, delete Lines 6-19, and replace the deleted text with a new City Code Section 21.62.075 as follows:

Chapter 21.62 – Site Design Standards

21.62.075 SCHOOL CAPACITY.

AN APPLICANT SEEKING APPROVAL OF A DEVELOPMENT CONTAINING NON-AGE RESTRICTED DWELLING UNITS SHALL PROVIDE TO THE DEPARTMENT OF PLANNING AND ZONING THE FOLLOWING INFORMATION:

1. HOW MANY SCHOOL-AGED CHILDREN ARE EXPECTED TO LIVE IN A-THE PROPOSED DEVELOPMENT BASED ON THE SCHOOL PUPIL GENERATION FACTORS YIELD PER UNIT CONTAINED IN THE ANNE ARUNDEL COUNTY EDUCATIONAL FACILITIES MASTER PLAN;
2. WHICH, AND TO WHAT DEGREE, ANNAPOLIS FEEDER SCHOOLS GEOGRAPHICALLY LOCATED WITHIN THE CITY OF ANNAPOLIS WOULD BE IMPACTED; AND
3. THE CURRENT AND PROJECTED CAPACITY OF THOSE IMPACTED SCHOOLS TO ACCOMMODATE THE EXPECTED NUMBER OF SCHOOL AGED CHILDREN AT PRESENT AND THE FORESEEABLE FUTURE BASED ON THE ANNE ARUNDEL COUNTY EDUCATIONAL FACILITIES MASTER PLAN. Seconded. CARRIED on voice vote.

Effect of Amendment #3: The amendment would make no modifications to 21.22.080, “Review criteria and findings” for site design plan review applications. Instead, a requirement to provide school capacity information would be codified in a new Section within Chapter 21.62, “Site Design Standards.”

Rationale of Amendment #3: The vague “consideration” criterion that would have created problems and produced confusion is removed. The amended framework would require that school capacity information be provided by site design plan review applicants and, per 21.22.080 A., that such information must be deemed sufficient and reviewed by the Department of Planning and Zoning in its evaluation of site design plan review applications.

- Alderman Paone moved to amend Alderwoman Finlayson’s amendment # 3, Chapter 21.62 – Site Design Standards Sec. 21.62.075 SCHOOL CAPACITY #2 AS FOLLOWS:

AFTER THE WORD “ANNAPOLIS” STRIKE “WOULD BE IMPACTED”.
Seconded. CARRIED on voice vote.

- Mayor Cohen moved to amend O-19-13 as follows:

On page 4, strike “lines 6 though 19

On page 5, strike “lines 3 through 14. Seconded. CARRIED on voice vote.

The main motion as amended CARRIED on voice vote.

- Alderman Litmann moved to adopt O-19-13 amended on third reading. Seconded.

A ROLL CALL vote was taken:

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

NAYS: Aldermen Kirby, Arnett,

CARRIED: 7/2

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.

Paul Shelton, Esq., 401 E. Pratt Street, Suite 2315, Baltimore, Maryland 21202 representing McKennon Shelton & Henn LLP, was present and answered questions from Council.

- Alderman Arnett moved to adopt O-35-13 on second reading. Seconded.

The Finance and Economic Matters Committee and the Financial Advisory Commission reported favorably on O-35-13.

- Alderman Arnett moved to amend O-35-13 as follows:
Amendment #1

Page 1 (two instances), Page 9 and Page 13:

Strike “31 through 39, inclusive, of Article 23A” and “2011 Replacement Volume and 2012 Supplement” and “as amended” and “12 of Article 31 of the Annotated Code of Maryland (2010 Replacement Volume and 2012 Supplement), as amended”

Insert “19-301 through 19-301 of the Local Government Article” and “(the “Local Government Article”)” and “19-212(A) of the Local Government Article”

Amendment #2

Page 12, Line 1: Strike "7" and insert "8"

Amendment #3

Page 25 and Page 26

Strike "10 and 11 of Article 31 of the Annotated Code of Maryland (2010 Replacement Volume and 2012 Supplement)" and "12 of Article 31 of the Annotated Code of Maryland (2010 Replacement Volume and 2012 Supplement), as amended"

Insert "19-205 and 19-206 of the Local Government Article" and "19-212(A) of the Local Government Article" Seconded. CARRIED on voice vote.

- Alderman moved to amend O-35-13 as Follows:

1. On page 12, line 7, after "determines" insert ", after consultation with the City Council Finance Committee."

2. On page 25, line 26, after "or" insert ", after consultation with the City Council Finance Committee."

These amendments would require the Mayor to consult with the Finance Committee before deciding to sell bonds or bond anticipation notes at private sale. This would provide a measure of City Council oversight if there is a deviation from the authorization to sell at a publicly advertised sale. Seconded. CARRIED on voice vote.

The main motion as amended CARRIED on voice vote.

- Alderman Arnett moved to adopt O-35-13 amended on third reading. Seconded.

A ROLL CALL vote was taken:

YEAS: Mayor Cohen, Aldermen Kirby, Pfeiffer, Arnett, Budge, Alderwomen Hoyle, Finlayson
 NAYS: Alderman Littmann, Paone
 CARRIED: 7/2

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.

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

- Alderman Arnett moved to adopt O-47-11 on second reading. Seconded.
- Alderman Arnett moved to amend O-47-11 as follows:

Office of Law Working Draft for Second Reader

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

Ordinance No. O-47-11

EXPLANATION:

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

Strikeout indicates text proposed to be deleted.

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

Underlining indicates amendments proposed by the Planning Commission.

Blue highlighting indicates needed technical amendments.

Purple highlighting indicates amendments proposed by the Planning Commission.

AN ORDINANCE concerning

Fence Permits

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

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

- 17.34.010
- 17.34.020
- 21.18.030
- 21.60.070
- 21.60.080
- 21.60.090
- 21.72.010

BY adding the following portions to the Code of the City of Annapolis, 2012 Edition:

- 21.60.065
- 21.60.075

SECTION 1: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the Code of Annapolis shall be amended to read as follows:

Chapter 17.34 -- FENCE CODE PERMITS

17.34.010 - Fences, hedges or walls Fences and walls.

A. Permit Required.

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

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

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

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

~~3.5. Work shall commence within thirty days from the date of the issuance of the permit and be completed in one hundred twenty days after issuance, unless extended by the Director of Neighborhood and Environmental Programs, or the permit will be revoked.~~

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

~~B. Administrative Review:~~

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

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

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

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

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

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

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

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

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

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

B. Restrictions

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

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

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

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

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

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

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

17.34.020 - Appeals

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

B. Fifteen days' notice of the hearing ~~also~~ shall be given to persons or entities owning property within two hundred feet of the location of the proposed fence.

~~wall or hedge fence or wall that is the subject of the appeal. Notice shall be by first-class mail, and to the general public by a notice published in a newspaper of general circulation in the City. All required notices shall be at the appellant's expense.~~

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

D. A person aggrieved by a decision of the Building Board of Appeals made pursuant to this section may appeal that decision to the ~~e~~Circuit ~~e~~Court for Anne Arundel County pursuant to Maryland Rule Title 7, Chapter 200 ~~or its successor as may be amended from time to time~~. For purposes of this subsection, a person shall not be considered aggrieved by a decision of the ~~b~~Board unless the person has appeared as a party at the hearing before the ~~b~~Board. An appeal under this section shall be taken within thirty days of the date of the decision appealed and shall be the exclusive remedy of the aggrieved party from that decision.

17.34.030 - Violations.

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

Chapter 21.18 – ADMINISTRATIVE ADJUSTMENTS

21.18.030 - Permitted administrative adjustments.

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

1. Setbacks. To permit any yard or setback of up to twenty percent less than a yard or a setback required by the applicable regulations.
2. Parking. To increase by not more than twenty percent the maximum distance that required parking spaces are permitted to be located from the use served.
3. Lot Coverage. To increase by not more than twenty percent the lot coverage restrictions, except that administrative adjustments of lot coverage restrictions shall not be permitted in the Critical Area Overlay District.
4. Signs. To adjust the limitations for signs in the specific instances set forth in Section 21.70.110.

~~5. Fences and Walls. To permit certain fences and walls an additional height allowance of up to four feet above the standard maximum height limit specified in Section 21.60.070.~~

~~6. Specific Zoning District Provisions. The zoning district provisions applicable to specific zoning districts, as provided in Division III, may authorize other permitted administrative adjustments. In Chapter 21.54, Critical Area Overlay, these adjustments are referred to as administrative variances.~~

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

Chapter 21.60 – SUPPLEMENTAL USE AND DEVELOPMENT STANDARDS

21.60.065 - Plantings.

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

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

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.

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

1. "Fence" means a fence, wall or hedge.
2. "Approved grade" means the elevation of the ground, or any paving or sidewalk built upon it, which has been established on the basis of an engineered grading and drainage plan for the property that has been reviewed and approved by the city for the property. When no engineered grading and drainage plan is on file with the city, an established historic grade may be accepted in lieu of the engineered plan, based on general information available, including, when appropriate, a site inspection of the property by the city before the fence, hedge or wall is constructed. In making a determination regarding historic grade, the city may, when deemed necessary, require submission of current surveyed elevations of the property and other nearby properties, or may require that an engineered grading and drainage plan be submitted by the owner or occupant of the property.
3. "Fence section" means a portion or panel of fence construction, normally consisting of pickets, planks or metal fabric attached to horizontal rails, and which is attached or constructed, in more or less regular sequential intervals, to supporting vertical posts. In determining what constitutes a fence section, the normal guideline shall be sequential sections of fence which are eight feet in length.
4. "Hedge" means several plants planted in a sequence or pattern so that the branches and stems of adjacent plants grow together in a manner that results in a meshing or intertwining of stems and branches with little or no passable space left between the plants, thus effectively forming a barrier or enclosure.
5. "Top of fence/top of wall" means the uppermost point on the edge or surface of a fence or wall, but not including support posts or architectural features as described in section 18.48.070(A)(1)(d).
6. "Top of hedge" means the highest point on the uppermost branches or stems of a hedge above which only leaves or needles naturally grow.

B. A fence, wall or hedge may be erected, placed, maintained or grown pursuant to a permit issued in accordance with Section 17-24.010 of the Annapolis City Code. It is the purpose of the provisions of this section to establish requirements for the height, location and materials of fences, hedges or walls. Fences shall be required to comply with the following standards and requirements:

1. The height of a fence, or any combination of fences, 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, or any combination thereof, shall the height exceed the limits established in this Chapter.

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

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

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

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

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

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

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

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

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

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

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

1. No fences, walls, or hedges 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 (D)(1)(b) of this section, located in a view cone must be pruned or maintained to a height of forty-eight inches or less.~~

F. Other considerations

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

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

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

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

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

~~The Historic Preservation Commission has the authority to grant a waiver of enforcement of this section in order to comply with the Historic Preservation Commission's Design Guidelines and the Secretary of the Interior's Standards for Rehabilitation.~~

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

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

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

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

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

G. ~~All fences and walls shall be installed with the finished side facing out, so that posts and lateral supports are not on the side of the fence or wall which faces an~~

adjacent property or public right-of-way, unless such supporting members are exposed on both sides due to the specific design of the fence or wall.

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

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. 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 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.

21.60.075 Sight Visibility Triangle

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

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 four feet 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 open above forty-eight inches four feet. A fence, wall, hand-rail, or guard is considered transparent open if its opacity is twenty-fifty 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 four feet 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.~~

21.60.090 - Objects in required yards.

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

- A. All Yards.
 1. Open terraces, porches, and decks not over four feet above the average level of the adjoining ground, but not including a permanent roof-over terrace or porch. Handrails and guardrails around terraces, porches, and decks within a view cone shall be transparent open, pursuant to Section 21.60.080,

2. Awnings and canopies,
3. Steps four feet or less above grade which are necessary for access to a permitted building or for access to a zoning lot from a street or alley,
4. Grade-level walks and driveways,
5. Chimneys projecting two feet or less into a yard,
6. Recreational and laundry-drying equipment,
7. Arbors and trellises,
8. Flagpoles, and
9. Fences, walls and plantings for which required permits have been issued in accordance with Chapter 17.34 of the City Code, except as prohibited under Section 21.60.080. Fences, walls and plantings, except as prohibited under Sections 21.60.075 and 21.60.080.

B. Front Yards.

1. One-story bay windows projecting three feet or less into a yard,
2. Overhanging eaves and gutters projecting three feet or less into the yard,
3. Fuel, air and water pumps in conjunction with motor vehicle service stations; provided, that they are set back at least fifteen feet from the front lot line, and

4. Canopies in conjunction with motor vehicle service stations subject to the site design plan review requirements of Chapter 21.22

C. Rear Yards.

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

D. Side Yards.

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

Chapter 21.72 – TERMS AND DEFINITIONS

21.72.010 - Terms.

D. List of definitions.

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

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

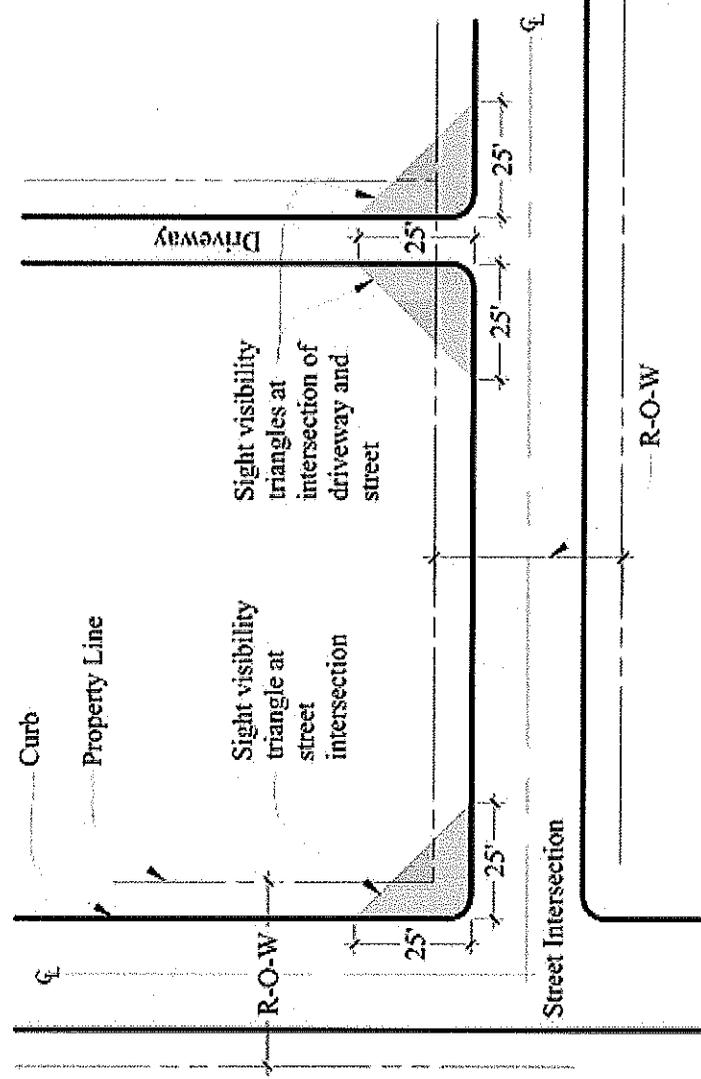
“Hedge, boundary” means a linear row of closely planted shrubs or low-growing trees put in place to accomplish the same effect as a fence or wall.

“Height.”

- a. For buildings, see building height.
- b. For fences and walls, see fences and walls height.
- b- c. For signs, see Section 21.70.050(B).

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

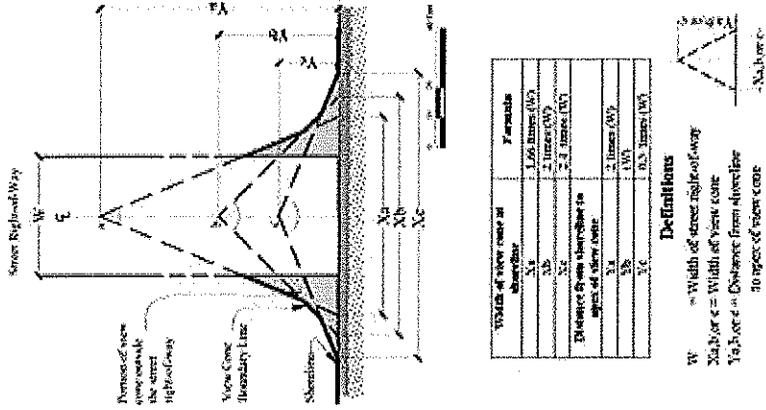
Sight Visibility Triangle. See illustration. "Sight visibility triangle" means a triangular area intended to remain free of visual obstructions to prevent potential traffic hazards across all property corners formed by two intersecting streets or the intersection of an alley and a street or the intersection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



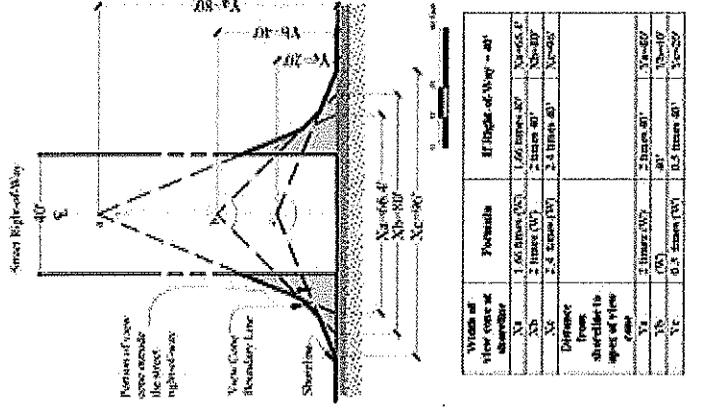
"View cone" means a space defined by two a series of projected lines from the centerline of a street right-of-way that is to be kept free of obstructions so as to preserve a distant view.

See illustration for calculation of view cone:

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



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 plain (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 (W) 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 (top) and Ya (bottom) to form a triangle.
- Calculate and draw view cones 'b' and 'c' using the formula in the table for Xb, Yb, Xc and Yc.
- The view cone boundary may now be drawn along the base 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.

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:

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

THE ANNAPOLIS CITY COUNCIL

Seconded. CARRIED on voice vote.

- Alderman Finlayson moved Economic Matters Amendment as follows:
Amendment #1

Where it appears in the ordinance, strike the four-foot height restriction and insert a six foot height restriction. Seconded. DEFEATED on voice vote.

- Mayor Cohen moved to amend O-47-11 as follows:

I. Standard Maximum Height.

- 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.
- 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.
- 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 (I) (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.

4. 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. Seconded. CARRIED on voice vote. A ROLL CALL vote was taken:

YEAS: Mayor Cohen, Aldermen Kirby, Paone, Alderwomen Hoyle, Finlayson
NAYS: Aldermen Littmann, Pfeiffer, Arnett, Budge
CARRIED: 5/4

The main motion as amended CARRIED on voice vote.

- Alderman Arnett moved to adopt O-47-11 amended on third reading. Seconded.

A ROLL CALL vote was taken:

YEAS: Mayor Cohen, Aldermen Littmann, Pfeiffer, Arnett, Budge, Paone, Alderwomen Hoyle
NAYS: Aldermen Kirby, Alderwoman Finlayson
CARRIED: 7/2

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.

- Alderman Arnett moved to adopt O-30-13 on second reading. Seconded.
- Alderman Arnett moved to amend O-30-13 as follows:

To delete strikethrough in Section 21.40.020 D.1.-add “except lot width”
Section 21.40.02 D.2.-delete references to lot width Seconded. CARRIED on voice vote.

The main motion as amended CARRIED on voice vote.

- Alderman Paone moved to adopt O-30-13 amended on third reading. Seconded.

A ROLL CALL vote was taken:

YEAS: Mayor Cohen, Aldermen Littmann, Kirby, Pfeiffer, Arnett, Budge, Paone, Alderwomen Hoyle, Finlayson
NAYS:
CARRIED: 9/0

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.”

- Alderman Pfeiffer moved to adopt O-28-13 on second reading. Seconded.

The main motion CARRIED on voice vote.

- Alderman Pfeiffer moved to adopt O-28-13 on third reading. Seconded.

A ROLL CALL vote was taken:

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

NAYS:

CARRIED: 9/0

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.

Chief of Historic Preservation Craig gave a brief presentation and answered questions from Council.

- Alderman Budge moved to adopt O-34-13 on second reading. Seconded.
- Alderman Paone moved to amend O-34-13 as follows:

Page 4, line 14: strike “submission” and insert to “PRELIMINARY CERTIFICATION.”

Page 4, Line 14: strike “application.”

Amendment #2

Page 3, Lines 20-30: substitute for the following:

C. TAX CREDIT DEFINED. THE TAX CREDIT SHALL BE IN AN AMOUNT EQUAL TO:

1. TEN PERCENT OF THE PROPERTY OWNER'S EXPENSES FOR QUALIFIED PRESERVATION, RESTORATION AND/OR REHABILITATION ON RESIDENTIAL PROPERTIES;
2. TWENTY-FIVE PERCENT OF QUALIFIED PRESERVATION, RESTORATION AND/OR REHABILITATION ON INCOME-PRODUCING PROPERTIES TO INCLUDE LIFE/SAFETY AND HAZARD MITIGATION;
3. RESIDENTIAL PROPERTIES MAY QUALIFY FOR A TWENTY-FIVE PERCENT TAX CREDIT ON QUALIFIED INTERIOR IMPROVEMENTS REQUIRED FOR LIFE/SAFETY OR HAZARD MITIGATION;
4. TWENTY-FIVE PERCENT TAX CREDIT FOR QUALIFIED EXTERIOR RESTORATION WORK WHEN THERE IS REPLACEMENT OF A NONHISTORIC FEATURE OR MATERIAL WITH A HISTORICALLY APPROPRIATE FEATURE OR MATERIAL ON BOTH RESIDENTIAL AND INCOME PRODUCING PROPERTIES. Seconded. CARRIED on voice vote.

- Alderman Budge moved TO amend O-34-13 as follows:

The Historic Preservation Commission supports the ordinance as drafted with one amendment. Incorporate the following proposed language at Page 4, Line 39: “C. The Director of Finance may not approve a tax credit that exceeds \$50,000 for any certificate of approval.” Seconded. CARRIED on voice vote.

The main motion as amended CARRIED on voice vote.

- Alderman Paone moved to adopt O-34-13 amended on third reading. Seconded.

A ROLL CALL vote was taken:

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

NAYS:

CARRIED: 9/0

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 and answered questions from Council.

- Alderman Budge moved to adopt O-32-13 on second reading. Seconded.

The Economic Matters and Finance Committees reported favorably on O-32-13.

The main motion CARRIED on voice vote.

- Alderman Arnett moved to adopt O-32-13 on third reading. Seconded.

A ROLL CALL vote was taken:

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

NAYS:

CARRIED: 9/0

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.

Public Works Director Jarrell gave a brief presentation and answered questions from Council.

- Alderman Pfeiffer moved to adopt O-33-13 on second reading. Seconded.

- Alderman Littmann moved to amend O-33-13 as follows:

On page 1, in Box #3, change date from “June 2012” and insert “1 July 2011”.
Seconded. CARRIED on voice vote.

The main motion CARRIED on voice vote.

- Alderman Pfeiffer moved to adopt O-33-13 on third reading. Seconded.

A ROLL CALL vote was taken:

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

NAYS:

CARRIED: 9/0

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 Arentt moved to adopt R-35-13 on second reading. Seconded.
- Alderman Pfeiffer moved to amend R-35-13 as follows:

Amendment #1

Page 2, Line 4: after “State” insert: “QUALITY AND CAPACITY OF EDUCATIONAL FACILITIES”. Seconded. CARRIED on voice vote.

- Alderman Littmann requested his name be added as sponsor to R-35-13.

A ROLL CALL vote was taken:

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

NAYS:

CARRIED: 9/0

Upon motion duly made, seconded and adopted, the meeting was adjourned at 3:12 a.m.

Regina C. Watkins-Eldridge, MMC
City Clerk

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**CITY COUNCIL OF THE
City of Annapolis**

Ordinance No. O-39-13

**Introduced by: Alderwoman Finlayson, Alderman Arnett, Alderman Pfeiffer, and
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
12/9/13			3/10/14
Referred to	Referral Date	Meeting Date	Action Taken
Finance Committee	12/9/13		
Financial Advisory Commission	12/9/13		

9
10 **A ORDINANCE** concerning

11 **Appropriation of Property Tax Revenue Above Estimates to Fund a Cost of Living**
12 **Adjustment for All City of Annapolis Employees at a Rate of 1% Retroactive to July 1,**
13 **2013 and 3% Effective January 1, 2014 and Other Employee Benefits Including Pension**
14 **and Other Post Employment Benefits**

15 **FOR** the purpose of appropriating property tax revenue above estimates to fund a Cost of
16 Living Adjustment (COLA) for all City of Annapolis employees at a rate of 1% retroactive
17 to July 1, 2013 and 3% effective January 1, 2014 and other employee benefits including
18 pension and other post employment benefits (OPEB).

19
20 **WHEREAS,** the City of Annapolis' actual tax levy exceeded appropriated property tax
21 revenue estimates; and

22
23 **WHEREAS,** the City Council of the City of Annapolis ratified agreements with the City's
24 collective bargaining units on October 28, 2013 that provided for Cost of
25 Living Adjustments (COLAs) of 1% retroactive to July 1, 2013 and 3%
26 effective January 1, 2014; and

27
28 **WHEREAS,** the City of Annapolis and its employees have agreed to increase their
29 respective pension and OPEB contributions; and

30
31 **WHEREAS,** consistent with past practice, the City of Annapolis has approved the same
32 COLA percentage for all other employees not covered under the collective
33 bargaining agreements; and
34

1 **WHEREAS,** the City Council intends to appropriate the property tax revenue above
2 estimates to employee COLAs in the amount of 1% retroactive to July 1,
3 2013 and 3% effective January 1, 2014.

4
5 **NOW THEREFORE:**

6
7 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**
8 **COUNCIL** that the Fiscal Year 2014 operating budget is amended as follows:
9 increase property tax revenues and all departmental salaries and benefits expenses accordingly
10 by \$1,324,892.80 per the table, below.

	FY 2014
Fire	208,786.37
Police	213,647.90
Subtotal	422,434.27
AFSCME	224,676.92
Civil Service	300,892.00
Exempt	85,443.98
Subtotal	611,012.90
Contract	66,258.09
Temporary	5,314.60
Subtotal	71,572.70
Total Salaries	1,105,019.87
P&O Impact*	219,872.93
Total Budgetary Impact	1,324,892.80

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33 *P&O stands for Pension and Other Post Employment Benefits.

34
35 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**
36 **ANNAPOLIS CITY COUNCIL** that this Ordinance shall take effect with respect to the 1%
37 COLA, retroactively to July 1, 2013; and with respect to the 3% COLA, on January 1, 2014.

38
39 **ADOPTED** this _____ day of _____, _____.

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ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Michael J. Pantelides, 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-39-13

Appropriation of Property Tax Revenue Above Estimates to Fund a Cost of Living Adjustment for All City of Annapolis Employees at a Rate of 1% Retroactive to July 1, 2013 and 3% Effective January 1, 2014 and other Employee Benefits Including Pension and Other Post Employment Benefits

The proposed ordinance would appropriate \$1,324,892.80 in property tax revenue above the amount appropriated in the Fiscal year 2014 operating budget to fund a Cost of Living Adjustment (COLA) for all City of Annapolis employees at a rate of 1% retroactive to July 1, 2013 and 3% effective January 1, 2014 and other employee benefits including pension and other post employment benefits (OPEB).

The proposed ordinance is intended to help solve long-term financial obligations. The current amount of unfunded pension liability is \$16,567,623, leaving the pension 90% funded. By 2027, it is expected that the pension would be 83% funded. The current amount of OPEB liability is \$35,521,000 and such liability is expected to increase to \$51,500,000 in the next 20 years.

Interest-Based Bargaining (IBB) Process

Representatives from the City of Annapolis and its four union locals worked during the last half of 2012 to study the Police and Fire pension plan, Other Post Employment Benefits (OPEB) and Deferred Retirement Option Plan (DROP). Their efforts developed into the interest based bargaining (IBB) process that occurred in 2013. The IBB process involved the teams from the City, AFSCME Locals 3162 and 3406, IAFF Local 1926 and UFCW Local 400. The City team consisted of the City Manager, Human Resources Director, Finance Director, Police Chief, Fire Chief, two members of the City Council, a representative from the City Financial Advisory Commission and the chair of the Employee Feedback Committee representing the non-union City employees.

The IBB teams collaboratively addressed specific subjects of bargaining, such as wage and benefit issues. The purpose was to enter into a collective problem-solving process in which the participants shared information and ideas while exploring solutions to challenges they had jointly identified in greater depth. By focusing on shared mutual interests to those challenges, the representatives for each unit were more able to satisfy the other parties' interests as well as their own and come to agreement on solution(s).

IBB Goals and Objectives

The primary goals and objectives that were either determined prior to the first IBB meeting or were the outgrowth of collective problem solving are as follows:

1. Adequately fund the Police and Fire Retirement Plan and OPEB based on actuarial calculations.
2. Secure a four-year agreement for each bargaining unit in order to fully implement all of the agreed upon changes during a single contract period.
3. Phase in funding for retiree health over the four years of the agreements.
4. Create an OPEB trust.

5. Create a Voluntary Employee Beneficiary Trust (VEBA) for non-public safety employees in order to pre-fund their retiree healthcare and eliminate that portion of OPEB liability.
6. Establish wage increases that are consistent across all collective bargaining agreements that utilize the City's available cash flow over the four years of the agreements and are consistent with surrounding jurisdictions.
7. Create a three-year DROP for Police and Fire that is cost neutral
8. Make appropriate health plan changes to cover employee costs towards funding of OPEB and VEBA.
9. Move to a Consumer Price Index model of COLA which is linked to employee performance.

IBB Results

1. Agreed upon phased in increases in employee and City contributions to the Police Fire Retirement Plan and several changes in the Plan which will have the Plan fully funded immediately and keep it at funding levels from 96% to 101% over the next 20 years.
2. Achieved a four-year agreement with all four bargaining units which allows for the full implementation of all aspects of the agreement.
3. Established retiree health funding rates of 3% for each of the four years of the agreements, which will enable the City to switch from PAYGO funding of retiree healthcare to paying from the OPEB Trust in 20 years.
4. Successfully created an OPEB trust for Public Safety employees and some current general employees in which the City will contribute 2% of total payroll annually and the employees will contribute an additional 1% through either savings via health plan redesign or new employee contributions of 1%.
5. Created a VEBA for all new non-public safety employees and for current employees who choose to enroll. These employees and Public Safety employees may also fund a VEBA through donations of annual leave in excess of a predefined limit. These employees will have their retiree healthcare pre-funded and will not be part of the City's future OPEB liability.
6. Wage increases from FY14 through FY16 will total 10% with a re-opener in the fourth year. The funding requirements work with the City's cash flow requirements.
7. A cost neutral DROP was created for Police and Fire that requires three years of participation.
8. IBB representatives chose health plan design changes that provided around \$375,000 in savings to cover current employees' 1 % contribution to OPEB or VEBA.
9. The re-opener for the fourth year will consider moving to a system tying COLAs to the Employment Cost Index (ECI) and linking such increases to an individual employee's performance.

Prepared by Paul Rensted, Human Resources Director, at PMRensted@annapolis.gov and 410-263-7998 and Bruce Miller, Finance Director, at BTMiller@annapolis.gov and 410-263-7952.

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

3
4 **Resolution No. R-39-13**

5
6 **Introduced by: Alderman Budge**
7

LEGISLATIVE HISTORY			
<i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i>			
First Reading	Public Hearing	Fiscal Impact Note	90 Day Rule
Referred to	Referral Date	Meeting Date	Action Taken
12/9/13			3/10/14
Economic Matters	12/9/13		

8
9 **A RESOLUTION** concerning

10 **Authoring New Year's Eve Vendors in the Historic District**

11 **FOR** the purpose of authorizing A. L. Goodies General Store at 112 Main Street and Hard
12 Bean Coffee at 36 Market Space to sell non-alcoholic beverages, food and souvenirs
13 from the sidewalk in front of 112 Main Street and 36 Market Space during the City of
14 Annapolis' New Year's Eve celebration on December 31, 2013.

15
16 **WHEREAS,** Section 7.40.090 of the City Code authorizes the City Council to designate
17 certain days when peddlers, hawkers and itinerant merchants may sell
18 merchandise in the Historic District or a nonresidential area; and
19

20 **WHEREAS,** the City of Annapolis will host a New Year's Eve celebration on December 31,
21 2013 and A. L. Goodies General Store at 112 Main Street and Hard Bean
22 Coffee at 36 Market Space are seeking to sell non-alcoholic beverages, food
23 and souvenirs from the sidewalk in front of 112 Main Street and 36 Market
24 Space during the celebration.
25

26 **NOW THEREFORE, BE IT RESOLVED BY THE ANNAPOLIS CITY COUNCIL** that A. L.
27 Goodies General Store and Hard Bean Coffee are authorized to sell non-alcoholic beverages,
28 food and souvenirs from the sidewalk in front of 112 Main Street and 36 Market Space from the
29 hours of 11:00 a.m. on December 31, 2013 to 12:00 a.m. on January 1, 2014.
30

31 **AND, BE IT FURTHER RESOLVED BY THE ANNAPOLIS CITY COUNCIL** that A. L. Goodies
32 General Store and Hard Bean Coffee shall name the City of Annapolis and its Mayor, elected
33 officials, employees and agents as additional insureds on a policy of commercial general liability
34 insurance approved by the City of Annapolis, and shall deliver it to the City of Annapolis Law
35 Office with a Certificate of Insurance no later than December 17, 2013.
36

37 **AND, BE IT FURTHER RESOLVED BY THE ANNAPOLIS CITY COUNCIL** that A. L. Goodies
38 General Store and Hard Bean Coffee shall indemnify, defend and hold the City of Annapolis and

1 its Mayor, elected officials, employees and agents harmless from all liability resulting from
2 personal injury or property damage in any manner associated with any sales authorized by this
3 Resolution.

4
5 **AND, BE IT FURTHER RESOLVED BY THE ANNAPOLIS CITY COUNCIL** that A. L. Goodies
6 General Store and Hard Bean Coffee shall not place any items for sale, tables, materials,
7 equipment, or other such items at a distance greater than five (5) feet from the storefront at 112
8 Main Street.

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

12
ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Michael J. Pantelides, Mayor

13
14 **EXPLANATION**

15 CAPITAL LETTERS indicate matter added to existing law.

16 [brackets] indicate matter stricken from existing law.

17 Underlining indicates amendments.

Staff Report

R-39-13

Authoring New Year's Eve Vendors in the Historic District

The proposed resolution would authorize A. L. Goodies General Store at 112 Main Street and Hard Bean Coffee at 36 Market Space to sell non-alcoholic beverages, food and souvenirs from the sidewalk in front of 112 Main Street and 36 Market Space during the City of Annapolis' New Year's Eve celebration on December 31, 2013.

Prepared by Jessica Cowles, Legislative and Policy Analyst, in the Office of Law at JCCowles@annapolis.gov and 410-263-1184.

Updated 12/4/2013
STANDING COMMITTEES
2013-2017
City Code Section 2.12.020D Powers and duties

The Mayor shall recommend to the City Council all appointments to aldermanic standing committees but all appointments shall be confirmed by a majority of the City Council.

ECONOMIC MATTERS COMMITTEE

The Economic Matters Committee shall consider matters affecting the economy of the City; make recommendations to the City Council on issues relating to the operation of the Market house and the regulation of the City Dock; study, independently and with private historic preservation organizations, issues concerning historic structures in the City; and study, consider and make recommendations regarding issues of cable television service to the City of Annapolis and its citizens. The Economic Matters Committee shall review all proposed amendments to Title 7 (Business Licenses, Taxes and Regulations) and Title 17 (Buildings and Construction) of this code.

Alderman Frederick M. Paone, Chair
Alderman Joe Budge
Alderwoman Sheila M. Finlayson

ENVIRONMENTAL MATTERS COMMITTEE

The Environmental Matters Committee shall consider matters affecting the natural environment of the City. The Environmental Matters Committee shall review all proposed amendments to Title 14 (Streets, Sidewalks and Public Places), Title 15 (Harbors and Waterfront Areas), and Title 16 (Public Services) of this code.

Alderman Jared S. Littmann, Chair
Alderman Ross Arnett III
Alderman Ian Pfeiffer

FINANCE COMMITTEE

The Finance Committee shall handle all matters relating to the review of the budget and continuous surveillance of the budget. The Finance Committee shall have power to review and make recommendations with regard to the Mayor's annual operating budget and shall submit recommendations with regard to the budget to the City Council not later than the second Monday in May of each year. The Finance Committee shall review all proposed amendments to Title 6 (Revenue and Finance) of this code.

Alderman Ian Pfeiffer, Chair
Alderman Ross H. Arnett, III
Alderman Frederick M. Paone

HOUSING AND HUMAN WELFARE COMMITTEE

The Housing and Human Welfare Committee shall consider issues of housing and matters affecting the general health, welfare and quality of life of the residents of the City. The Housing and Human Welfare Committee shall review all proposed amendments to Title 8 (Animals), Title 10 (Health and Safety), and Title 18 (Landlord and Tenant Relations) of this code.

Alderman Kenneth A. Kirby, Chair
Alderman Joe Budge
Alderman Jared S. Littmann

PUBLIC SAFETY COMMITTEE

The Public Safety Committee shall consider matters affecting public safety in the City. The Public Safety Committee shall review all proposed amendments to Title 11 (Public Peace, Morals and Welfare) and Title 12, (Vehicles and Traffic) of this code.

Alderwoman Sheila M. Finlayson, Chair
Alderman Frederick M. Paone
Alderwoman Rhonda Pindell Charles

RULES AND CITY GOVERNMENT COMMITTEE

The Rules and City Government Committee shall review and consider all proposed amendments to the Charter and all proposed amendments to Title 1 (General Provisions), Title 2 (Administration), Title 3 (Personnel), Title 4 (Elections), Title 20 (Subdivisions), Title 21 (Planning and Zoning) and Title 22 (Adequate Public Facilities) of this code.

Alderman Ross H. Arnett, III, Chair
Alderwoman Sheila Finlayson
Alderwoman Rhonda Pindell Charles

TRANSPORTATION COMMITTEE

The Transportation Committee shall consider matters affecting parking, public transportation, and vehicular traffic. The Transportation Committee shall review all proposed amendments to Title 12 (Vehicles and Traffic), Title 14 (Streets, Sidewalks and Public Places), and Title 22 (Adequate Public Facilities) of this Code.

Alderman Joe Budge, Chair
Alderman Kenneth A. Kirby
Alderman Ian Pfeiffer



City of Annapolis
Office of the City Clerk
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Annapolis, MD 21401-2535

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UPDATED – December 3, 2013

MEMORANDUM

TO: Mayor and Alder Persons

From: Regina C. Watkins- Eldridge, MMC
City Clerk

RE: Proposed City Council Meeting Dates Pursuant to City Code Sec. 2.16.010

January 13, 2014
January 27, 2014

July 14, 2014
July 28, 2014

February 10, 2014
February 24, 2014

August - *No Meetings*
(Pursuant to Charter, Article IV, Sec.4.(a))

March 10, 2014
March 24, 2014

September 8, 2014
September 22, 2014

April 14, 2014
April 21, 2014

October 13, 2014
October 27, 2014

(April 28, 2014 Jewish Holiday)

May 12, 2014
May 19, 2014

November 10, 2014
November 24, 2014

(May 26, 2014 Memorial Day)

June 16, 2014
(MML Conference June 8 thru 11, 2014)
June 23, 2014

December 8, 2014
December 22, 2014