



City of Annapolis

DEPARTMENT OF PLANNING AND ZONING

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

Chartered 1708 Annapolis 410-260-2200 FAX 410-263-9158 MD Relay (711)

CHRISTOPHER N. JAKUBIAK, AICP
DIRECTOR

July 11, 2025

MEMORANDUM

To: Planning Commission

From: Eric Leshinsky, Comprehensive Planner

Via: Christopher Jakubiak, Director

Re: Ordinance O-15-25: Accessory Dwelling Unit Requirements

Attachments:

- O-15-25 First Reader
- O-15-25 Fiscal Impact Report
- O-15-25 Staffing Impact Report

SUMMARY

O-15-25 amends the requirements for accessory dwelling units and short-term rental licenses in the following ways:

- It removes the requirement in Title 21 (Planning and Zoning) of the City Code that the owner of an accessory dwelling unit (ADU) reside on the property;
- It adds a definition of the term 'ownership' to Title 21 as follows "any individual or group of individuals, corporation, partnership, or association who, alone, jointly or severally with others, holds legal or equitable title to the property"; and
- It amends Title 17 (Buildings and Construction) to allow the owner of an ADU to license either the primary dwelling unit or the ADU as a short-term rental, but not both.

ANALYSIS

Occupancy requirements, such as those which the currently require that an owner leasing his/her ADU actually live on the property, generally: (1) minimize outside investor ownership of local housing stock, and (2) promote oversight by the resident owner of the rental property, its use, and its maintenance. The thinking is that a

resident owner will be able to better manage the property in keeping with the values of the neighborhood than a non-resident owner. O-15-25 lifts this owner residency requirement, allowing both the main house and its ADU to be rented at the same time.

By amending Title 17, the proposed legislation will also allow a property owner to license an ADU or the main house for a short-term rental. With the proposed legislation's first change--removing the residency requirement—and this second change—, O-15-25 would remove a barrier to the purchase and development of ADUs by non-resident investors. The proposed legislation may also encourage the conversion of owner-occupied housing units to renter occupied units and optimize the use of housing units by non-resident property owners for vacation rentals.

O-15-25 would not alter the procedures for licensing rentals except to make additional dwelling units eligible. Property owners will gain additional flexibility in licensing their ADUs as short-term rentals which in turn may benefit the city's hospitality sector and provide additional revenue to the City. On the other hand, the volume and concentration of short-term rentals does have a negative impact on availability and cost of long-term housing and can adversely impact neighborhoods. It should be noted that ADUs hold promise as an approach to improve the supply of affordable housing options. Legislation that facilitates their conversion or use for the short-term rental business does not improve housing options. The requirement that only one of the two dwelling units on the property be licensed as a short-term rental may help to partially mitigate these issues but at a potentially greater cost to the City's housing supply.

Conclusion

O-15-25 will help to optimize the value of ADUs and short-term rental licenses for both property owners and the city, through a change in ownership requirements. But it may also be expected to have adverse consequences for the housing market and neighborhoods that are associated with short-term rentals.

CODE COMPLIANCE AND RECOMMENDATION

The Department of Planning & Zoning cannot offer a favorable recommendation of O-15-25 because of the likelihood that the proposed legislation will work at cross purposes with the objective of creating and cultivating ADUs as a viable option for affordable housing.

Accessory Dwelling Unit Requirements

For the purpose of removing the residency requirement for property owners who have an Accessory Dwelling Unit (ADU) on their residential property; defining "ownership" in Title 21; limiting short-term rentals to one of the two dwelling units on an ADU property; and generally related to Accessory Dwelling Unit requirements of Titles 21 and 17.

City Council of the
City of Annapolis

Ordinance 15-25

Introduced by: Alderman Schandelmeier

Co-sponsored by:

Referred to: Planning Commission, Rules and City Government Committee

AN ORDINANCE concerning

Accessory Dwelling Unit Requirements

FOR the purpose of removing removing the residency requirement for property owners who have an Accessory Dwelling Unit (ADU) on their residential property; defining "ownership" in Title 21; limiting short-term rentals to one of the two dwelling units on an ADU property; and generally related to Accessory Dwelling Unit requirements of Titles 21 and 17.

BY repealing and reenacting with amendments the following portions of the Code of the City of Annapolis, 2025 Edition: **21.64.010, 21.72.010, 17.44.090.**

WHEREAS: An Accessory Dwelling Unit (ADU) is a separate living space on a lot that can take the form of an independent building, a basement, or an addition to a house. However, regulations in the City of Annapolis (§ 21.64.010) require that the property owner reside in either the primary unit or the ADU on the property. Under these requirements, if the homeowner were to move, they would not have the option of leasing the ADU and their primary residence to separate tenants; and

Explanation: ~~Strikethrough~~ indicates matter stricken from existing law.
 Underlining indicates a change to the City Code.
 Underlining & black - copyediting or reformatting of existing Code section
 Underlining & red - new matter added to the code.

WHEREAS: This ADU owner-occupancy rule limits the availability of rental housing in Annapolis, which suppresses housing supply, and increases rental costs because the City permits only one rental unit per lot;

WHEREAS Owner-occupancy regulations may restrict Federal Housing Administration (FHA) housing loans for properties with accessory dwelling units (ADUs):

- In November 2023, the FHA expanded its financing options to include loans for: purchasing properties that already have an ADU, building a new ADU, and renovating an existing dwelling to convert it into an ADU.
- To obtain loan approval, the FHA takes into account local restrictions that may adversely affect the rental income generated by both the primary dwelling and the accessory dwelling unit (ADU).

(U.S. Department of Housing and Urban Development, Mortgage Letter 2023-17, "Revisions to Rental Income Policies, Property Eligibility, and Appraisal Protocols for Accessory Dwelling Units," October 16, 2023);

WHEREAS: Owner-occupancy regulations may unfairly reduce home appraisals and property values:

- Appraisers rely on comparable sales; however, since accessory dwelling units (ADUs) are infrequent in Annapolis, appraisers are unlikely to include rental income from the ADU when determining a property's value.
- Furthermore, restricting both the primary and accessory dwellings from being rented ignores the potential total income that could be generated from a single lot, which in turn lowers both property valuations and city property tax revenue.

("A Taxonomy of State Accessory Dwelling Unit Laws 2024" by Emily Hamilton and Abigail Houseal, George Mason University's Mercatus Center);

WHEREAS: Eliminating the owner-occupancy rule can address local housing shortages by providing smaller, less expensive living spaces in Annapolis;

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:

**City Code Title 21 - PLANNING AND ZONING
Chapter 21.64 - Standards for Uses Subject to Standards**

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Section 21.64.010 Accessory dwellings.

- A. A maximum of one accessory dwelling unit may be established on any one lot.
- B. An accessory dwelling unit may be established within a principal structure or within an accessory structure.
- C. Each accessory dwelling unit shall have its own separate ingress and egress.
- D. The addition of an impervious surface shall not be allowed on any lot containing an accessory dwelling unit, unless:
 - 1. The Department has determined that the proposed surface will be treated or managed; or
 - 2. The equivalent coverage of impervious surface will be removed elsewhere on the property.
- E. The maximum size of any accessory dwelling unit that is not established within the existing footprint of the principal structure is ~~eight hundred fifty~~ 850 square feet of livable space.
- F. A rental license for any accessory dwelling unit is required in accordance with Chapter 17.44.
- G. An accessory dwelling unit and principal structure on any one lot shall be in common ownership ~~and the owner shall reside in either the accessory dwelling unit or the principal structure.~~

City Code Title 21 - PLANNING AND ZONING
Chapter 21.64 - Standards for Uses Subject to Standards

Section 21.72.010 - Terms

"Overlay district" means a district established to respond to special features or conditions of a land area, such as historic value, physical characteristics, location, or other circumstances. An overlay district supplements the regulations of the underlying zoning district.

"Ownership" means any individual or group of individuals, corporation, partnership, or association who, alone, jointly or severally with others, holds legal or equitable title to the property.

"Perennial stream" is a stream that flows continuously throughout the year.

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City Code Title 17 – BUILDINGS AND CONSTRUCTION
Chapter 17.44 – Rental Unit Licenses

Section 17.44.090 – Short-term rentals.

~~2. A licensee shall be allowed one short term license, which shall apply to only one dwelling unit.~~

2. A licensee shall be allowed one short-term license.

a. The short-term license shall apply to only one dwelling unit.

b. An owner of an Accessory Dwelling Unit (ADU) may license either the primary dwelling or the ADU, as defined in § 21.64.010, as a short-term rental, but not both at the same time.

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this ordinance shall take effect upon passage.

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FISCAL IMPACT NOTE

Ordinance: O-15-25

Title: Removing Accessory Dwelling Unit Owner-Residency Requirement

Date: June 13, 2025

This ordinance removes the residency requirement for property owners who have an Accessory Dwelling Unit on their residential property. The fiscal impact cannot be determined as it is unknown how many additional properties would become eligible as rentals.

Prepared by Jake Trudeau, Budget Manager



STAFFING IMPACT REPORT ON PROPOSED LEGISLATION

To: Mayor Gavin Buckley

From: Victoria Buckland, Acting City Manager

Date: May 21, 2025

Subject: O-15-25: Removing Accessory Dwelling Unit Owner-residency Requirement

Purpose of legislation

The purpose of this legislation is to remove the residency requirement for property owners who have an Accessory Dwelling Unit on their residential property; define “ownership” in Title 21; and generally related to accessory dwellings in the City.

Impact of legislation on staffing

Since this legislation does not alter the underlying rental licensing process, and the City is not expecting a large change in license volume, we do not expect a meaningful increase in the staffing needs of the City.

Prepared by Victoria Buckland, Acting City Manager