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City of Annapolis

DEPARTMENT OF PLANNING AND ZONING

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

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May 11, 2021

MEMORANDUM

To: Planning Commission
From: Sally Nash, Ph.D., AICP, Director of Planning and Zoning *SN*
Re: Ordinance O-9-21: Accessory Dwelling Units (ZTA2021-007) -- Accessory Dwelling Units – For the purpose of establishing accessory dwelling units as an accessory use in certain zoning districts that allow single family dwelling units; establishing the use and bulk requirements for accessory dwelling units; and establishing the procedural requirements for accessory dwelling units.
Encl: O-9-21

Purpose

The purpose of Ordinance O-9-21 is to allow accessory dwelling units (ADUs) in all residential zoning districts. An ADU is a smaller, independent residential dwelling unit located on the same lot as a stand-alone (i.e., detached) single-family home. ADUs go by many different names throughout the U.S., including accessory apartments, secondary suites, and granny flats. ADUs can be converted portions of existing homes, additions to new or existing homes, or stand-alone accessory structures.

Analysis

This ordinance requires that a report to the Planning Commission stating the number and location of established accessory dwelling units be provided once a year. The use is also governed by specific standards:

- A maximum of one accessory dwelling unit may be established on any one lot.
- An accessory dwelling unit may be established within a primary structure or within an accessory structure.
- Each accessory dwelling unit shall have its own separate ingress and egress.
- The maximum size of any accessory dwelling unit is 850 square feet of livable space.
- One off-street parking space is required for every accessory dwelling unit.
- A rental license for any accessory dwelling unit is required in accordance with Chapter 17.44.
- A short-term rental operating license pursuant to Chapter 17.44 may not be issued for the accessory dwelling unit or the principal structure.

It is proposed that the use would be permitted subject to standards in the following zoning districts: R1A, R1B, R1, R2, R3, R3-R, R4, and R2-R. It would be a permitted special exception use subject to standards in the conservation districts, which include: R2-NC, R3-NC, R3-NC2, C1, and C1A. The purposes of these conservation districts are included below with location maps.

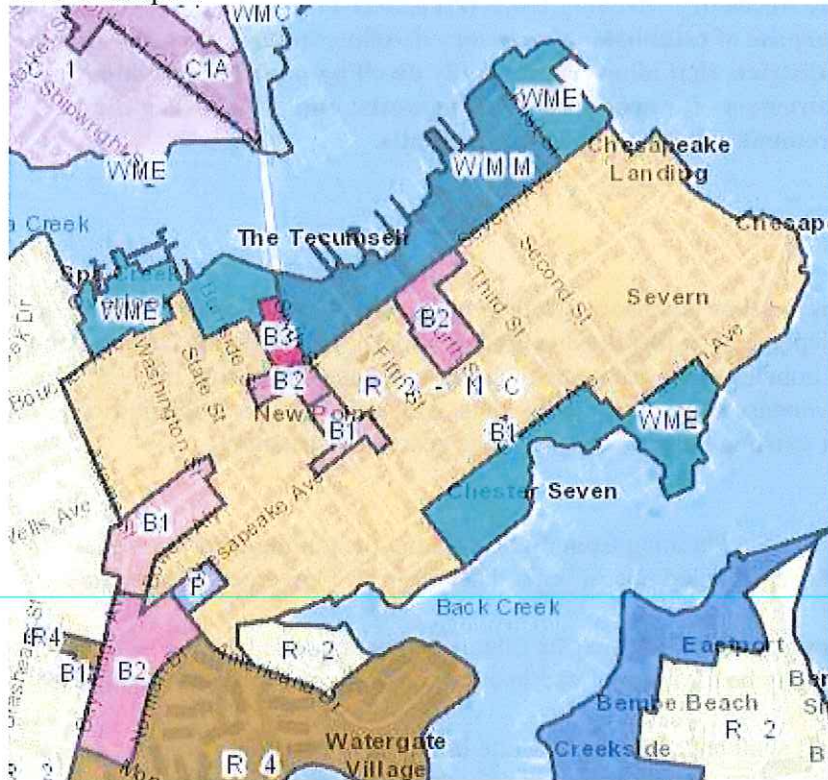
21.40.060 - R2-NC Single-Family Residence Neighborhood Conservation district.

Purpose. The purpose of the R2-NC Single-Family Residence Neighborhood Conservation district is to preserve patterns of design and development in residential neighborhoods characterized by a diversity of styles and to ensure the preservation of a diversity of land uses, together with the protection of buildings, structures or areas the destruction or alteration of which would disrupt the existing scale and architectural character of the neighborhoods. The general purposes include:

1. Protection of the architectural massing, composition and styles as well as neighborhood scale and

- character;
2. Compatibility of new construction and structural alterations with the existing scale and character of surrounding properties;
3. Encouragement of existing types of land uses that reflect the mixture and diversity of uses that have historically existed in the community; and
4. Preservation of streetscapes.

R2-NC/Eastport

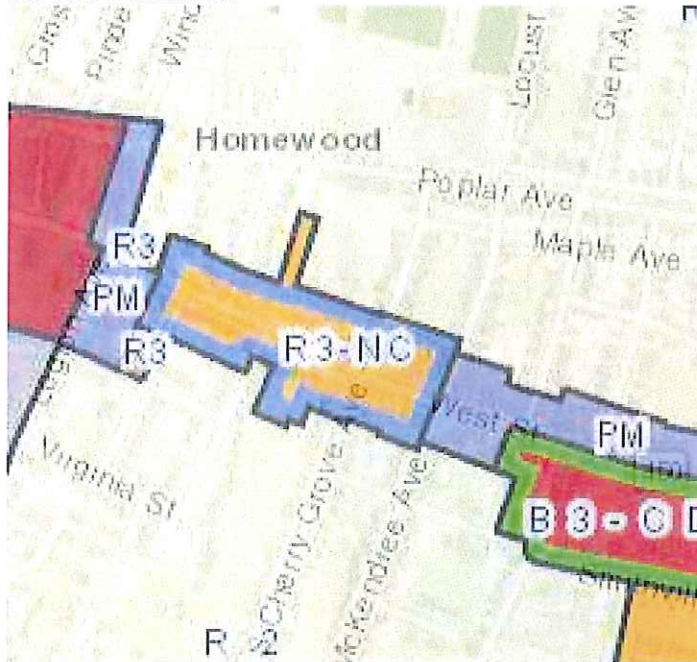


21.40.080 - R3-NC General Residence Neighborhood Conservation district.

The R3-NC General Residence Neighborhood Conservation district is designed to ensure the preservation of buildings, structures and areas, the destruction or alteration of which would disrupt the existing scale and architectural character of the neighborhood. This purpose includes:

1. Preserving, protecting and enhancing streetscapes, structures and areas of architectural, historic or cultural importance, although individual elements may not merit distinction;
2. Encouraging new construction, or alterations that are compatible with the existing scale and character of surrounding properties; and
3. Encouraging the rehabilitation and continued use of existing buildings rather than their demolition.

R3-NC/West Street

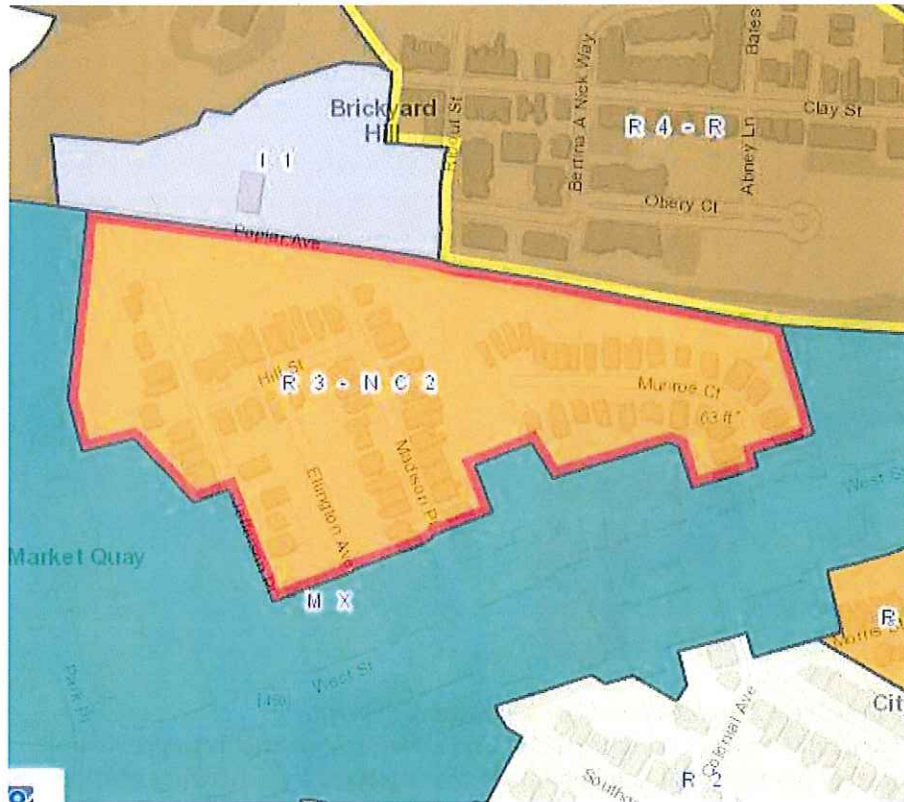


21.40.090 - R3-NC2 General Residence Neighborhood Conservation 2 district.

The purpose of the R3-NC2 General Residence Neighborhood Conservation 2 district is to preserve patterns of design and development in residential neighborhoods characterized by a diversity of styles and to ensure the preservation of a diversity of land uses, together with the protection of buildings, structures or areas the destruction or alteration of which would disrupt the existing scale and architectural character of the neighborhoods. The general purpose includes:

1. Protection of the architectural massing, composition and styles as well as neighborhood scale and character;
2. Assuring the compatibility of new construction and structural alterations with the existing scale and character of surrounding properties;
3. Encouragement of existing types of land uses that reflect the mixture and diversity of uses that have historically existed in the community; and
4. Preservation of streetscapes.

R3-NC2/President's Hill



21.40.130 - C1 Conservation Residence district.

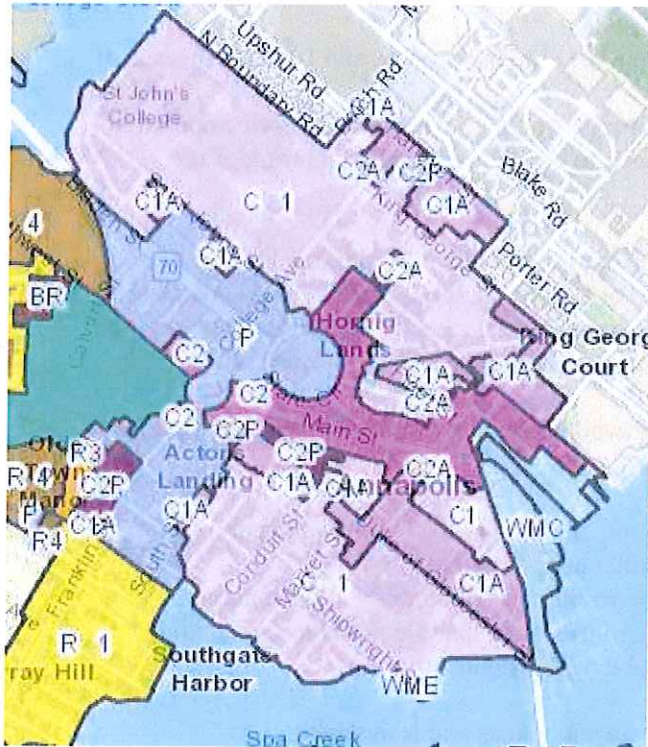
The C1 Conservation Residence district is designed to encourage the conservation of the educational, cultural and historic character of the old City.

21.40.140 - C1-A Special Conservation Residence district.

The C1-A Special Conservation Residence district is designed to preserve neighborhoods that have been identified as "at risk" in the Annapolis Comprehensive Plan as amended through and including amendments to the "Ward One Sector Study." At risk neighborhoods are identified as being significantly impacted by at least two of the following characteristics:

1. A growing number of nonconforming uses,
2. Unmaintained buildings or lots,
3. Traffic volumes inconsistent with strictly residential land uses due to through commercial traffic, and
4. Other adverse impact from nearby commercial uses.

C1 and C1A/Downtown



Special exception uses must go to the Board of Appeals for approval and the approval runs with the land. The review criteria for special exceptions is:

21.26.050 - Review criteria and findings.

The decision by the Board of Appeals must be based upon written findings with respect to the following:

- A. The establishment, maintenance or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, convenience or general welfare.
- B. The special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or substantially diminish and impair property values within the neighborhood.
- C. The establishment of the special exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- D. Adequate utilities, access roads, drainage and necessary facilities have been or are being provided.
- E. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion in the public streets.
- F. The special exception shall, in all other respects, conform to the applicable regulations of the district in which it is located, including any use provisions or standards set forth in Chapter 21.64 and be consistent with the Comprehensive Plan.
- G. In the case of food service establishments, the following additional standards for review apply. The review of the proposed food service operation shall be based upon an analysis of the proposed use's impact in the following areas
 1. Environmental:

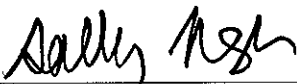
- a. Noise, including the noise of the mechanical equipment and of the patrons while on the premises,
 - b. Odors: control of odors from the cooking process and from the storage of garbage,
 - c. Trash and litter: the type of trash and garbage the food service operation will generate; the precautions to be taken to prevent littering of the streets.
2. Traffic:
- a. Streets: adequacy of the street system to handle additional traffic,
 - b. Loading/unloading: off-street loading facilities available and adequate to handle the intensity and the type of trucks needed to service the proposed use; if on-street loading facilities are used, whether the use will impede traffic flow,
 - c. Parking: adequate parking available either on-site or within the area for employees and patrons
3. Neighborhood:
- a. Hours: the hours of operation are compatible with the surrounding commercial and/or residential neighborhood,
 - b. Loitering: the measures the restaurant will employ to discourage loitering; whether the type of use is compatible with the surrounding commercial and residential neighborhood
4. Adequacy of public facilities:
- a. Water and sewer: excess capacity exists and is available,
 - b. Police: police coverage is available,
 - c. Fire: the Fire Department has access to the site; sufficient water pressure for firefighting purposes is available and the building meets life safety standards.
5. Community need: a community need for the use has been established.
- H. An appeal from a decision of the Board of Appeals shall be made to the Circuit Court of Maryland for Anne Arundel County.

Accessory Dwelling Units will be required to meet applicable sections of Title 21, and other sections of the City Code as well, such as Title 17. For example, Chapter 17.40 - *Residential Property Maintenance Code* includes basic sanitary facility requirements as well as code for required floor area. Section 17.40.460 - *Habitable floor area* states that:

Every dwelling unit shall contain at least one hundred fifty square feet of habitable floor area for the first occupant, at least one hundred square feet of additional habitable floor area for each of the next three occupants, and at least seventy-five square feet of additional habitable floor area for each additional occupant.

ADUs would be subject to this requirement.

Report Prepared by



Sally Nash, Ph.D., AICP
Director of Planning and Zoning

1 **..Title**

2 **Accessory Dwelling Units** – For the purpose of establishing accessory dwelling units as
3 an accessory use in certain zoning districts that allow single family dwelling units;
4 establishing the use and bulk requirements for accessory dwelling units; and establishing
5 the procedural requirements for accessory dwelling units.

6 **..Body**

7 **CITY COUNCIL OF THE**
8 **City of Annapolis**

9
10 **Ordinance 9-21**

11
12 **Introduced by: Alderman Schandelmeier**

13 **Co-Sponsored by: Alderman Gay**

14 **Referred to**

15 **Planning Commission**

16 **Rules and City Government Committee**

17 **Economic Matters Committee**

18 **Housing and Human Welfare Committee**

19 **180 Day Rule:** _____

20
21 **AN ORDINANCE** concerning

22
23 **Accessory Dwelling Units**

24
25 **FOR** the purpose of establishing accessory dwelling units as an accessory use in certain
26 zoning districts that allow single family dwelling units; establishing the use and
27 bulk requirements for accessory dwelling units; and establishing the procedural
28 requirements for accessory dwelling units.

29
30 **BY** repealing and re-enacting with amendments the following portions of the Code of
31 the City of Annapolis, 2021 Edition

32 21.08.050

33 21.38.020

34 21.48.010

35
36 **BY** adding and renumbering the following portions to the Code of the City of
37 Annapolis, 2021 Edition

38 21.64.005

39 21.64.010

40
41
42 **WHEREAS,** accessory dwelling units provide a source of affordable housing, housing
43 for aging and young adult family members; and
44

1 **WHEREAS**, accessory dwelling units provide a supplemental source of income to City
2 home owners, encourage neighborhood investment, and facilitate home
3 ownership for those with lower incomes; and
4

5 **WHEREAS**, the City Code currently provides restrictions on bulk regulations, lot
6 coverages, parking requirements; and
7

8 **WHEREAS**, amendments to the City Code are needed to allow use of the structures
9 already permitted by the City Code for use as accessory dwelling units.
10

11
12 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS**
13 **CITY COUNCIL** that the Code of the City of Annapolis shall be amended to read as
14 follows:
15

16 **TITLE 21 – PLANNING AND ZONING**

17 **Chapter 21.08 – DECISION MAKING BODIES AND OFFICIALS**

18 **Section 21.08.050 – Planning and Zoning Director.**
19

20 A. Establishment. The position of Planning and Zoning Director is established as the
21 manager of the Department of Planning and Zoning, with the authority to administer
22 and enforce this Zoning Code.
23

24 B. Duties. The Planning and Zoning Director may delegate zoning administration and
25 enforcement responsibilities to any deputy director, assistant director, or staff member
26 of the Department of Planning and Zoning, or other individual designated by the
27 Director. The Planning and Zoning Director has the following powers and duties:
28

- 29 1. Decide applications for demolition permits pursuant to the provisions of Chapter
30 21.14.
31
- 32 2. Decide applications for administrative interpretations pursuant to the provisions
33 of Chapter 21.16.
34
- 35 3. Decide applications for administrative adjustments pursuant to the provisions of
36 Chapter 21.18.
37
- 38 4. Decide applications for major and minor site plan review pursuant to the
39 provisions of Chapter 21.22.
40
- 41 5. Decide applications for extensions of planned developments pursuant to the
42 provisions of Chapter 21.24.
43
- 44 6. Decide applications for determinations of nonconforming use status pursuant to
45 the provisions of Chapter 21.68.
46

- 1 7. Hear and decide applications for change of nonconforming use pursuant to the
2 provisions of Chapter 21.68.
- 3
- 4 8. Conduct inspections of buildings, structures and use of land to determine
5 compliance with the terms of this Zoning Code.
- 6
- 7 9. Take appropriate enforcement action with regard to alleged violations of this
8 Zoning Code.
- 9
- 10 10. Maintain permanent and current records made under this Zoning Code, including,
11 but not limited to, all maps, amendments, planned developments, special
12 exceptions, variances, appeals, use permits and applications.
- 13
- 14 11. Provide and maintain public information related to this Zoning Code.
- 15
- 16 12. Certify adjustments to a zoning district line if more accurate parcel information
17 such as a sealed survey plat or a recorded plat becomes available and evidence
18 clearly indicates that the property boundary was intended to match the zoning
19 district line. The director shall provide written notice to all owners of property
20 who are impacted by the proposed line adjustment.
- 21
- 22 13. Initiate or direct from time to time a study of the provisions of this Zoning Code,
23 and make reports or recommendations to the Planning Commission not less
24 frequently than once a year.
- 25
- 26 14. Coordinate the exchange of information between the City's Department of
27 Planning and Zoning and the Anne Arundel County School Board to facilitate
28 accurate and timely data about school capacity of those Annapolis feeder system
29 schools that serve the residents of the City of Annapolis.
- 30
- 31 15. Provide input into Anne Arundel County planning documents on school capacity
32 and make necessary recommendations to Anne Arundel County regarding
33 additional school facilities or capital improvements to existing facilities.
- 34
- 35 16. PROVIDE NOT LESS THAN ONCE A YEAR A REPORT TO THE
36 PLANNING COMMISSION STATING THE NUMBER AND LOCATION OF
37 ACCESSORY DWELLING UNITS THAT HAVE BEEN ESTABLISHED IN
38 THE CITY.
- 39

40 **Chapter 21.38 – REGULATIONS APPLICABLE TO ALL DISTRICTS**

41 **Section 21.38.020 – Uses.**

- 42
- 43 A. Types of Uses. The following uses of land as listed in this division, are permitted in
44 the districts indicated under the conditions specified:
- 45 1. Permitted uses,

- 1 2. Special exception uses,
- 2 3. Uses subject to standards, and
- 3 4. Accessory uses.
- 4 B. Use of Land. No building or tract of land shall be devoted to any use other than those
- 5 listed in Subsection A of this section with the exception of the following:
- 6 1. Uses lawfully established on the date of adoption of this Zoning Code, and
- 7 2. Uses already lawfully established on or before the date of adoption of this Zoning
- 8 Code and rendered nonconforming by it. These uses are subject to Chapter 21.68.
- 9 C. Utility Lines and Fixtures Exempted. The following uses are exempted from the
- 10 provisions of this division and are permitted in any district: poles, wires, cables,
- 11 conduits, vaults, laterals, pipes, mains, valves, or any other similar distributing
- 12 equipment for telephone or other communication systems, electric power, gas, water
- 13 and sewer lines.
- 14 Antennas and telecommunication facilities are not exempted. See regulations in
- 15 Division V.
- 16 ~~D. Use of Accessory Buildings For Living Purposes. No accessory building or structure~~
- 17 ~~constructed on any lot prior to the time of construction of the principal building to~~
- 18 ~~which it is accessory shall be used for living purposes.~~
- 19 ~~E~~D. Trailers. A trailer shall not be considered to be permissible as an accessory building.
- 20 ~~F~~E. Tents. No tent may be erected, used or maintained for living quarters or long term
- 21 storage.

Chapter 21.48 – USE TABLES

Section 21.48.010 Table of Uses—Residential Zoning Districts.

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

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

Uses	District R1A	District R1B	District R1	District R2	District R2-NC	District R3	District R3-NC	District R3-NC2	District R3-R	District R4	District R4-R	District C1	District C1A
DWELLINGS, ACCESSORY	P-Std	P-Std	P-Std	P-Std	S-Std	P-Std	S-Std	S-Std	P-Std	P-Std	P-Std	S-Std	S-Std

REVISOR’S NOTE: In this section, the use “Dwellings, Accessory” is added.

No other changes are made.

1 **Chapter 21.64 – STANDARDS FOR USES SUBJECT TO STANDARDS**

2 **Section ~~21.64.010~~ 21.64.005 - Purpose and application of standards.**

- 3
- 4 A. This chapter lists the standards that apply to uses listed as subject to standards in the
5 use tables Chapter 21.48 of this Zoning Code.
- 6
- 7 B. In the case of a use requiring special exception approval, the standards for the use set
8 forth in this chapter must be met in addition to the general standards for approving a
9 special exception.

10

11 **SECTION 21.64.010 – ACCESSORY DWELLINGS.**

- 12
- 13 A. A MAXIMUM OF ONE ACCESSORY DWELLING UNIT MAY BE
14 ESTABLISHED ON ANY ONE LOT.
- 15
- 16 B. AN ACCESSORY DWELLING UNIT MAY BE ESTABLISHED WITHIN A
17 PRIMARY STRUCTURE OR WITHIN AN ACCESSORY STRUCTURE.
- 18
- 19 C. EACH ACCESSORY DWELLING UNIT SHALL HAVE ITS OWN SEPARATE
20 INGRESS AND EGRESS.
- 21
- 22 D. THE MAXIMUM SIZE OF ANY ACCESSORY DWELLING UNIT IS 850
23 SQUARE FEET OF LIVABLE SPACE.
- 24
- 25 E. ONE OFFSTREET PARKING SPACE IS REQUIRED FOR EVERY ACCESSORY
26 DWELLING UNIT.
- 27
- 28 F. A RENTAL LICENSE FOR ANY ACCESSORY DWELLING UNIT IS REQUIRED
29 IN ACCORDANCE WITH CHAPTER 17.44.
- 30
- 31 G. A SHORT-TERM RENTAL OPERATING LICENSE PURSUANT TO CHAPTER
32 17.44 MAY NOT BE ISSUED FOR THE ACCESSORY DWELLING UNIT OR
33 THE PRINCIPAL STRUCTURE.
- 34

35

36 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**
37 **ANNAPOLIS CITY COUNCIL** that the Revisor’s Notes contained in this Ordinance are
38 not law and may not be considered to have been enacted as a part of this Ordinance.

39

40 **SECTION III: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY**
41 **THE ANNAPOLIS CITY COUNCIL** that this ordinance shall take effect from the date
42 of its passage.

43

44 **EXPLANATION**

45 UPPERCASE indicates matter added to existing law.
46 ~~Strikethrough~~ indicates matter stricken from existing law.

1

Underlining indicates amendments.