



City of Annapolis

DEPARTMENT OF PLANNING AND ZONING

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August 24, 2021

MEMORANDUM

To: Planning Commission
From: Sally Nash, Ph.D., AICP, Director of Planning and Zoning
Re: Ordinance O-32-21 (ZTA2021-012): Use and Occupancy Permits. Zoning Code -- For the purpose of providing procedures for issuance of use and occupancy permits under the Zoning Code; providing timelines for the approval of a permit; requiring a maintenance bond; and generally relating to the use and occupancy permitting process.
Encl: O-32-21

Purpose

The purpose of this ordinance is to make sure Title 21 better coordinates with Title 17 for Use and Occupancy (U&O) permits. These permits are issued when building work is complete and the applicants may occupy the structure. Currently, in certain cases, these permits are issued before all site work is complete. The Department of Public Works would like to bring the grading permits into this process to help ensure full compliance before unconditional U&Os are approved. The two departments have begun to meet to determine the steps needed to implement this process. The code change will help ensure the durability of the new process.

Analysis

Staff from the Departments of Planning and Zoning and Public Works worked on Ordinance O-32-21 together. However since its introduction, staff has noted one item that needs tweaking.

P. 4, lines 3-6: There are often situations where there a commercial permits does not have a grading permit. Therefore, we proposes to add "AS APPLICABLE" after "PERMITS on line 4, as shown below:

E. UNLESS A CONDITIONAL USE AND OCCUPANCY PERMIT IS ISSUED IN ACCORDANCE WITH 21.12.040.C, GRADING AND BUILDING PERMITS AS APPLICABLE SHALL PASS THEIR RESPECTIVE FINAL INSPECTION PRIOR TO APPROVING A USE AND OCCUPANCY PERMIT.

Report Prepared by

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

1 **..Title**

2 **Zoning Code - Use and Occupancy Permits** – For the purpose of providing procedures for
3 issuance of use and occupancy permits under the Zoning Code; providing timelines for the
4 approval of a permit; requiring a maintenance bond; and generally relating to the use and
5 occupancy permitting process.

6 **..Body**

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

9 **Ordinance 32-21**

10 **Introduced by: Mayor Buckley**
11 **Co-sponsored by:**

12 **Referred to**
13 **Planning Commission**
14 **Rules and City Government**
15 **180 day Rule: _____**

16 **AN ORDINANCE** concerning

17 **Zoning Code - Use and Occupancy Permits**

18 **FOR** the purpose of providing procedures for issuance of use and occupancy permits under the
19 Zoning Code; providing timelines for the approval of a permit; requiring a maintenance
20 bond; and generally relating to the use and occupancy permitting process.

21 **BY** repealing and reenacting with amendments the following portions of the Code of the City
22 of Annapolis, 2021 Edition
23 21.12.020
24 21.12.030
25 21.12.040
26 21.12.060

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

29 **Title 21 – PLANNING AND ZONING**
30 **Chapter 21.12 - - USE AND OCCUPANCY PERMITS**

31 **Section 21.12.020 Application requirements.**

- 32 A. Applicability. A use and occupancy permit shall be obtained from the Planning and Zoning
33 Director before any person shall:
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- 1 1. Use or occupy, or permit or cause to be used or occupied, any building erected after the
- 2 effective date of this Zoning Code.
- 3 2. Change the use OR OCCUPANCY₂ or permit or cause a change in the use OR
- 4 OCCUPANCY₂ of any existing building or to make any change in a nonconforming
- 5 use.
- 6 3. Occupy or use any vacant land.
- 7 4. Enlarge any use with respect to the unit of measurement specified in this Zoning Code
- 8 as the basis for determining the amount of off-street parking, whether the same is
- 9 specified in terms of floor area, dwelling units, seats or any other element of size or
- 10 use.
- 11 5. WITH THE EXCEPTION OF SINGLE DWELLING UNITS, MAKE ANY CHANGE
- 12 IN OWNERSHIP OF A STRUCTURE OR BUSINESS.
- 13 6. IN ACCORDANCE WITH THE BUILDING CODE, UNDERTAKE ANY NEW
- 14 CONSTRUCTION OR ALTERATION FOR ANY STRUCTURE, AND
- 15 STRUCTURES UNDERGOING ALTERATIONS ARE FURTHER GOVERNED
- 16 BY THE APPLICABLE PROVISIONS OF SECTION 101.4 OF THE
- 17 INTERNATIONAL BUILDING CODE.
- 18 B. Eligible Applicants. No person may submit an application for a use and occupancy permit
- 19 if that person or if the owner, occupier or tenant of the subject property shall have been
- 20 issued any pending, unsatisfied, or unpaid citation for any municipal infraction or
- 21 misdemeanor provided by the City building laws or Zoning Code or Charter or if any such
- 22 person shall have not completed any remedial or corrective action ordered by any
- 23 department of the City charged with the enforcement of said laws. For the purposes of this
- 24 section, a building and/or Zoning Code citation or order pending before any City board,
- 25 commission, agency or department or before any court shall be considered pending,
- 26 unsatisfied, unpaid and not completed.
- 27 C. Affidavit of Eligibility. The applicant shall submit with its application for a use and
- 28 occupancy permit, an affidavit affirming under penalty of perjury that neither the applicant
- 29 nor any owner, occupier or tenant of the subject property has been issued any pending,
- 30 unsatisfied or unpaid citation, and that no such person has failed to complete any remedial
- 31 or corrective action ordered by a department of the City as described in Subsection B of
- 32 this section.
- 33 D. Waiver. The Director of Planning and Zoning, in consultation with the City Attorney, THE
- 34 DEPARTMENT OF PUBLIC WORKS, AND THE FIRE DEPARTMENT, may waive the
- 35 requirements of the Subsections B and C of this section after the Director makes a written
- 36 determination that for reasons set forth therein, such a waiver is in the best interest of the
- 37 City and does not imperil₂ or prolong an existing peril₂ to life or property.

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39 **Section 21.12.030 Procedures.**

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- 41 A. Application Procedures. All applications for a use and occupancy permit shall be submitted
- 42 to the Director of Planning and Zoning in accordance with the requirements established by
- 43 the Director of Planning and Zoning and the following requirements:
- 44 1. An application for a use and occupancy permit may be made in writing and be signed
- 45 by the property owner or applicant, if not the property owner, attesting to the truth and

1 exactness of all information supplied on the application form provided by the Director
2 of Planning and Zoning.

3 2. Application for a use and occupancy permit shall be made at the same time as the
4 application for a building permit and a written request for issuance shall be made to the
5 Director of Planning and Zoning after the completion of the work covered by the
6 building permit.

7 3. The Director of Planning and Zoning shall review an application for a use and
8 occupancy permit for the use of vacant land or for a change in the use of land or a
9 building, for a change in a nonconforming use, for the enlargement of a use, or for the
10 continuation of a use.

11 4. THE DIRECTOR OF PLANNING AND ZONING SHALL CONSULT WITH THE
12 DEPARTMENT OF PUBLIC WORKS AND THE FIRE DEPARTMENT TO
13 INCORPORATE, WHERE APPROPRIATE, THEIR REVIEW AND APPROVAL
14 INTO THE USE REQUIREMENTS SET FORTH IN THIS CHAPTER 21.12.

15 B. Review Procedures. The Director of Planning and Zoning shall inform the applicant in
16 writing of the Director's decision within thirty days of the determination of completeness
17 of the application.
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19 **Section 21.12.040 Review criteria; TIME OF ISSUANCE.**
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21 A. THE DIRECTOR OF PLANNING AND ZONING SHALL ISSUE A USE AND
22 OCCUPANCY PERMIT UPON FINDING THAT~~the~~ the proposed use is in conformity with
23 the provisions of this Zoning Code and all other applicable regulations, ~~the Director of~~
24 ~~Planning and Zoning shall issue a use and occupancy permit after~~ AND the structure has
25 passed all applicable final inspections by other City departments, including but not limited
26 to building, electrical, mechanical and fire inspections.

27 B. A USE AND OCCUPANCY PERMIT MAY NOT BE ISSUED UNTIL AFTER THE
28 DEPARTMENT OF PUBLIC WORKS, THE DEPARTMENT OF PLANNING AND
29 ZONING, THE FIRE DEPARTMENT, AND THE HEALTH DEPARTMENT, WHEN
30 APPLICABLE, HAVE INSPECTED THE SITE AND VERIFIED THAT THE
31 STRUCTURES AND THE SITE MEET CITY STANDARDS AND SPECIFICATIONS
32 AND ARE IN ACCORDANCE WITH THE APPROVED GRADING PERMIT AND
33 THE USE REQUIREMENTS SET FORTH IN THIS CHAPTER 21.12.

34 C. IN CONSULTATION WITH THE DEPARTMENTS LISTED IN SUBSECTION B
35 ABOVE, THE DIRECTOR OF PLANNING AND ZONING MAY ISSUE A
36 CONDITIONAL USE AND OCCUPANCY PERMIT THAT LISTS SPECIFIC ITEMS
37 THAT MUST BE COMPLETED AND A DEADLINE FOR FINAL INSPECTION.
38 WHEN ALL CONDITIONS RECEIVE APPROVAL THROUGH A FINAL
39 INSPECTION THE CONDITIONAL USE AND OCCUPANCY PERMIT WILL
40 AUTOMATICALLY BE ISSUED AS A STANDARD USE AND OCCUPANCY
41 PERMIT.

42 D. A FINAL LOCATION SURVEY SHALL BE SUBMITTED BY THE APPLICANT FOR
43 A NEW SINGLE DWELLING UNIT PRIOR TO A USE AND OCCUPANCY
44 INSPECTION. THE FINAL LOCATION SURVEY SHALL BE AN OFFICIAL
45 SURVEYOR'S DOCUMENT THAT DEMONSTRATES THE NEW SINGLE

1 DWELLING UNIT WAS BUILT AT THE CORRECT LOCATION IN ACCORDANCE
2 WITH THE APPROVED GRADING PERMIT.

3 E. UNLESS A CONDITIONAL USE AND OCCUPANCY PERMIT IS ISSUED IN
4 ACCORDANCE WITH 21.12.040.C, GRADING AND BUILDING PERMITS SHALL
5 PASS THEIR RESPECTIVE FINAL INSPECTION PRIOR TO APPROVING A USE
6 AND OCCUPANCY PERMIT.

7 F. WITHIN THE TIME AS MAY BE SPECIFIED IN THE CONDITIONAL USE AND
8 OCCUPANCY PERMIT AS OUTLINED IN 21.12.040.C AND IN ADDITION TO
9 THOSE REQUIREMENTS, ALL ITEMS SPECIFIED FOR GRADING PERMITS FOR
10 THE CONDITIONAL USE AND OCCUPANCY APPROVAL MUST BE
11 COMPLETED, INSPECTED, APPROVED AND AS-BUILT DRAWINGS, PREPARED
12 BY A REGISTERED PROFESSIONAL ENGINEER, SUBMITTED AND ACCEPTED.
13 FOLLOWING THAT APPROVAL AND ACCEPTANCE, A MAINTENANCE BOND
14 WILL BE HELD FOR ONE YEAR AT WHICH TIME A FINAL INSPECTION OF THE
15 WORK UNDER THE GRADING PERMIT WILL BE HELD AND IF APPROVED, THE
16 MAINTENANCE BOND WILL BE RELEASED.

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18 **Section 21.12.060 Violations.**

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20 No use and occupancy permit validates any violation of any provision of any law or ordinance.
21 On the final determination and serving of a notice of a violation of any provisions or requirements
22 with respect to any building or land or the use of any building or land, the use and occupancy
23 permit for the use ~~shall become~~ MAY BE DECLARED null and void BY THE DIRECTOR OF
24 PLANNING AND ZONING, and a new use and occupancy permit shall be required for the
25 building or land.

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

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32 **Explanation:**

33 UPPERCASE indicates matter added to existing law.

34 ~~Strikethrough~~ indicates matter stricken from existing law.

35 Underlining indicates amendments.