

Town of Somerset
Ordinance to Amend Building Regulations
(Projections)

Resolution No.: 11-21-2
Introduced: 11/15/21
Adopted: 2/7/2022
Effective Date: 3/15/2022

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES TO
AMEND AND CLARIFY THE EXEMPTIONS FROM SETBACKS FOR
PROJECTIONS

WHEREAS, Maryland Code, Local Government Article, Section 5-202, as amended, grants to the legislative body of every incorporated municipality in Maryland general power to pass such ordinances not contrary to the Constitution of Maryland, or the public general law, as deemed necessary in order to assure the good government of the municipality, to protect and preserve the municipality's rights, property, and privileges, to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort and convenience of the citizens of the municipality;

WHEREAS, Maryland Code, Local Government Article, Section 5-211, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to make reasonable regulations concerning buildings to be erected within the limits of the municipality, including a building code and the requirement for building permits;

WHEREAS, Maryland Code, Land Use Article, Section 20-509 grants to the legislative body of incorporated municipalities in the Maryland-Washington Regional District general power to adopt building regulations for the protection of the public health, safety, and welfare; the preservation, improvement, and protection of lands, water, and improvements in the municipal corporation; and to regulate the construction, repair, or remodeling of buildings on land zoned for single-family residential uses at it relates to fences, walls, hedges, and similar barriers; signs; residential parking; residential storage; the location of structures, including setback requirements; the dimensions of structures, including height, bulk, massing, and design; and lot coverage, including impervious surfaces;

WHEREAS, Section 83-17 of the Town Charter authorizes the Town Council to pass ordinances not contrary to the Constitution and laws of the State of Maryland or the Town Charter, as it may deem necessary for the good government of the Town; for the protection and preservation the Town's property, rights, and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger, or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the Town and visitors thereto and sojourners therein;

WHEREAS, to comply with Maryland Code, Land Use Article, Section 20-509, on the 29th day of November, 2021, a copy of following Ordinance was submitted to the Montgomery County Council for its comments;

WHEREAS, the Montgomery County Council indicated receipt of the draft on 21st day of December, 2021 and provided no comments;

WHEREAS, after proper notice to the public, and after at least thirty days from the date a copy of the following Ordinance was transmitted to the Montgomery County Council, the Town

Council considered the following Ordinance in public session assembled on the 7th day of February 2022;

WHEREAS, the Town Council finds that the exemptions for projections, which are based on historical forms of construction, are difficult at times to apply to contemporary forms of construction and should, therefore, be deleted; and

WHEREAS, upon consideration of the testimony and evidence presented at the public hearing, the Town Council finds that the ordinance as hereinafter set forth is necessary for the good government of the Town; for the protection and preservation the Town's property, rights, and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger, or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the Town and visitors thereto and sojourners therein.

NOW, THEREFORE, the Town Council does hereby adopt the foregoing Ordinance.

BE IT ORDAINED AND ORDERED, this 7th day of February, 2022, by the Town Council, acting under and by virtue of the authority given it by the Maryland Code and the Town Charter that the Code of Ordinances is hereby amended as follows:

* * *

Chapter 112
BUILDING CONSTRUCTION

* * *

§ 112-14 Building requirements.

* * *

(d) Exceptions for projections and appurtenant structures:

~~[1]—Steps, stoops, decks, terraces and porches, and their roofing, may extend not more than nine (9) feet into any minimum front or rear setback.~~

~~[2]—Bay windows, oriel entrances, vestibules and balconies.~~

~~[a]—Except as provided in Subsection C(1)(d)[2][b] below, a bay window, oriel entrance, or vestibule or balcony, ten (10) feet or less in width and not more than one story in height, may project not more than three (3) feet into any minimum front or rear setback.~~

~~[b]—No more than two (2) bay windows may project into any required setback.~~

~~[3]—Cornices, eaves, outside stairways, chimneys, air conditioners and heat/cool pumps.~~

~~[a]—Cornices and eaves may project two and one-half (2 1/2) feet or less into any minimum setback, but such projection shall be not less than two (2) feet from the vertical plane of any lot line.~~

~~[b]—Sills, leaders, belt courses, and similar ornamental features may project not more than six (6) inches into any minimum setback.~~

~~[c]—Outside stairways may project not more than five (5) feet into any minimum rear setback.~~

~~[d]—Chimneys may project not more than twenty four (24) inches into any minimum setback.~~

~~[e]—Chimneys used as walls of a building, or built within walls, may not project into any minimum setback.~~
[2] Steps, stoops, decks, terraces, porches, bay windows, oriel entrances, vestibules, balconies, outside stairways, chimneys, and similar projections may not project into any required setback.

~~[f]~~ **[3]** Air conditioners and heat/cool pumps may project not more than five (5) feet into any minimum front or rear setback. Additional projection may be permitted for the purpose of adding noise abatement devices. Nonconforming air conditioners or heat/cool pumps projecting into any minimum side setback prior to November 1, 2017, may be maintained, altered, repaired and replaced.

[4] **[4]** Access ramps and wheelchair lifts. An open and uncovered access ramp or wheelchair lift, and any handrails associated therewith, may project into any minimum front, side, or rear setback, provided the following conditions are met:

[a] The access ramp or wheelchair lift, and any handrails associated therewith, cannot reasonably be constructed without projecting into the required setback;

[b] The access ramp or wheelchair lift, and any handrails associated therewith, project into the required setback the minimum distance reasonably necessary to provide a person a reasonable accommodation; and

[c] The access ramp or wheelchair lift has the minimum dimensions reasonably necessary to comply with all applicable provisions of the Americans with Disabilities Act, as amended or replaced.”

* * *

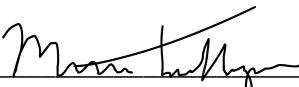
AND BE IT FURTHER ORDAINED AND ORDERED, by the Town Council, acting under and by virtue of the authority granted to it by the Maryland Code and the Town Charter, that:

1. If any part or provision of this Ordinance is declared by a court of competent jurisdiction to be invalid, the part or provision held to be invalid shall not affect the validity of the Ordinance as a whole or any remaining part thereof; and

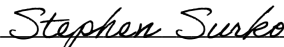
2. This Ordinance shall take effect on the 15th day of March, 2022 (36 calendar days after approval by the Mayor).

ATTEST:

TOWN OF SOMERSET

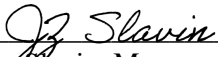


Matt Trollinger, Manager/Clerk-Treasurer
Town of Somerset



Stephen Surko, President
Town Council

Approved:



Jeffrey Slavin, Mayor
Town of Somerset

Date: 2/7/2022

Bold and Underline indicates new material
~~Strikethrough~~ indicates material deleted
* * * indicates material unchanged