

Town of Somerset
Ordinance to Amend Building Regulations
(Accessory Dwelling Units)

Resolution No.: 12-21-1
Introduced: January 3, 2022
Adopted: February 7, 2022
Effective Date: March 15, 2022

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES TO
REGULATE THE CONSTRUCTION OF ACCESSORY DWELLING
UNITS

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, due to narrow street widths, and the existing density and motor vehicle use and traffic in and around the Town, the Town Council finds that existing parking congestion and shortages would be exacerbated by the allowance of accessory dwelling units, unless sufficient measures are implemented to mitigate the impacts;

WHEREAS, the Town Council finds that the Town building regulations do not currently separately address accessory dwelling units and should therefore be amended;

WHEREAS, to comply with Maryland Code, Land Use Article, Section 20-509, on the 4th day of January, 2022, a copy of following Ordinance was submitted to the Montgomery County Council for its comments;

WHEREAS, the Montgomery County Council 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 seventh day of February 2022;

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

* * *

§ 112-2 Definitions.

As used in this Part 1, the words set forth below shall be defined as follows:

ACCESSORY DWELLING UNIT

A second dwelling unit that is located within a main building or an accessory building.

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DETACHED ACCESSORY DWELLING UNIT

A dwelling unit that is a detached accessory building or part thereof.

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DWELLING UNIT

A building or portion of a building providing complete living facilities for not more than one household, including, at a minimum, facilities for cooking, sanitation, and sleeping.

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§ 112-3 **Circumstances requiring building permits; exceptions.**

- A. Except as set forth herein, no building, air conditioner, heat/cool pump or generator located within the Town of Somerset shall be commenced, installed, constructed, extended, repaired, removed or altered, nor shall excavation for a building be commenced, without first obtaining a building permit from the Town of Somerset. **No accessory dwelling unit shall be erected or replaced, nor any existing structure modified, converted or renovated, or any part thereof, into an accessory dwelling unit, within the Town of Somerset, without first having obtained a permit from the Town of Somerset.** Before a Town permit will be issued, a Montgomery County permit, if required, must be delivered to the Clerk-Treasurer.

- B. No building permit from the Town of Somerset is required for:
 - (1) Ordinary repairs as defined in Montgomery County Code Section 8-3, as amended or replaced; or
 - (2) Repairs or changes that do not alter the three-dimensional exterior dimensions of the building.

* * *

§ 112-5. **Application form.**

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- C. County permit required. No building permit shall be issued in the absence of a valid building permit issued by Montgomery County for the identical work which is the subject of the Town permit. With respect to new construction, a permit must be sought from the Town before a permit is sought from the County, at the same time, or within 7 days after an application is filed with the County. The Town Council may approve a new construction permit application in the absence of a County permit but the Town permit shall not be issued by the Town until a copy of the County permit for the identical work is provided to the Town. **As a condition of a permit for construction related to an accessory dwelling unit, an applicant must submit a copy of the Montgomery County landlord license for the proposed accessory dwelling unit, if applicable, prior to approval of the final inspection of the project.**

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§ 112-6 **Documents to accompany application.**

An applicant for a Town of Somerset building permit shall submit the following materials with

the permit application; the application and all accompanying documents shall be available for public inspection at the Town Hall:

- A. A copy of the Montgomery County building permit granted by Montgomery County for the identical work for which the applicant seeks a permit from the Town of Somerset, **and, if applicable, a copy of the Montgomery County landlord license for any accessory dwelling unit.**

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§ 112-14 Building requirements.

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- D. Other requirements.

- (1) All new building construction shall comply with this section regardless of the date on which the lot, on which new building construction is proposed, was recorded or the date of construction of an existing building or structure.
- (2) Town grandfathering created. Any building existing on November 28, 1994, and which was lawfully constructed, may be extended to the rear, provided that the extension is no closer to the side property line than the existing building, excluding permissible projections, and the extension otherwise complies with this article. Except as provided in the previous sentence, new construction or an addition to an existing building must comply with this article.
- (3) Air conditioners, heat/cool pumps, and generators. Any permit for the installation of an air conditioner, heat/cool pump, or generator issued by the Town Council shall be conditioned to require that the equipment be subject to noise testing to assure compliance with the noise level standards of the Town Code.
- (4) **Parking for Accessory Dwelling Units. At the time of the erection of any detached accessory dwelling unit, or at the time any accessory structure is modified or renovated to include an accessory dwelling unit, or at the time any accessory dwelling unit is added to a main building, a minimum of one (1) on-site parking space shall be provided. Existing parking area in a driveway or an existing garage may serve as the required on-site parking space for an accessory dwelling unit provided a minimum of three (3) parking spaces exist on the property.**

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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

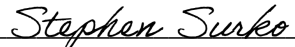
2. This Ordinance shall take effect on the 15th day of March, 2022 (36 calendar days after approval by the Mayor).

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