

**Town of Somerset
Ordinance to Amend Building Regulations
(Stormwater Drainage)**

Resolution No.: 6-21-1
Introduced: September 8, 2021
Re-Introduced: October 4, 2021
Adopted: November 1, 2021
Effective Date: December 7, 2021

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES TO REQUIRE A STORMWATER DRAINAGE PLAN FOR NEW CONSTRUCTION PROJECTS; TO ADD STORMWATER DRAINAGE PLAN REQUIREMENTS; TO ADD TO THE STATEMENT OF INTENTS AND PURPOSES; TO ADD DEFINITIONS; TO REQUIRE A PRE-PERMIT INFORMATIONAL MEETING; AND TO APPLY THE EXISTING VARIANCE PROCEDURES TO THE NEW STORM WATER DRAINAGE PLAN REQUIREMENTS

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, after proper notice to the public, the Town Council introduced the following Ordinance in an open meeting conducted on the 8th day of September, 2021, and re-introduced the Ordinance in an open meeting conducted on the 4th day of October, 2021;

WHEREAS, to comply with Maryland Code, Land Use Article, Section 20-509, on the 17th day of August, 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 20th day of October, 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 1st day of November, 2021;

WHEREAS, after receiving a recommendation from staff, and 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 first day of November, 2021, 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

Part 1
Building Code

ARTICLE I
Purpose and Definitions

§ 112-1. Purpose.

It is the purpose of this Part 1 to ensure public safety, health and welfare insofar as they are affected by building construction; to ensure the safety to life and property from all hazards incident to the design, erection, repair, removal, and demolition of buildings; to protect, maintain and enhance the public safety, health, and welfare by establishing minimum requirements to control the adverse impacts associated with stormwater runoff from developed and developing land; to reduce stream channel erosion, pollution, siltation and sedimentation, and local flooding; and to ensure compliance with all applicable Town, county, state and federal laws.

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§ 112-2. Definitions.

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

* * *

1-YEAR STORM EVENT - A storm resulting in at least 2.6 inches of rainfall within 24 hours.

* * *

NEW BUILDING CONSTRUCTION - The construction or erection of a new building including any appurtenant surfaces, such as a patio, walkway, parking pad, or driveway.

* * *

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

A. Except as set forth herein, no building, air conditioner, heat 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. Before a Town permit will be issued, a Montgomery County permit, if required, must be delivered to the Clerk-Treasurer.

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§ 112-4. Inapplicability of Montgomery County Code Section 8-24B(e).

Section 8-24B(e) of the Montgomery County Code shall not apply within the Town of Somerset. That section would otherwise require applicants for building permits from Montgomery County to obtain a building permit from the Town of Somerset prior to applying for a building permit from Montgomery County, Maryland, when the property for which the building permit is sought is located within the Town of Somerset.

§ 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.

* * *

E. Required information. The building permit application shall be submitted to the Clerk-Treasurer and shall contain the following minimum information, in addition to other information requested:

* * *

(e) The location and size of all facilities which conduct or discharge stormwater, including downspouts and pipes, to be located, constructed or altered pursuant to the project for which the building permit is sought, and a description, in written or diagram form, indicating the direction and approximate course on the applicant's lot of the stormwater from such facility ~~and for a new building on a recorded lot smaller than 15,000 square feet, or for any addition to a residential building that would increase the building lot coverage by more than 400 square feet, a plan providing for the safe conveyance or control of increased water runoff as required by Section 8-29B of the Montgomery County Code (2009).~~ Also, for new construction, or for the construction or replacement of a driveway, a stormwater drainage plan shall be submitted with the application;

* * *

G. For new construction, a code compliance informational meeting shall be required before a Town Building permit application will be processed. The Town Manager, or the Town Manager's designee, shall conduct the meeting with the prospective applicant. The meeting will be conducted for the purposes of exchanging information, receiving feedback, and informing the prospective applicant about Town building, stormwater, tree removal, and other requirements.

* * *

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.

B. A copy of the application for a building permit as submitted to Montgomery County for the identical work for which the applicant seeks a permit from the Town of Somerset, along with all site plans and architectural drawings submitted in connection with that application. For proposed work costing \$25,000 or more, the following are required: two full-size sets; eight additional full-size site plans; and eight sets, either 8 1/2 inches by 14 inches or 8 1/2 inches x 11 inches. **In addition, an electronic version of all documents, printable in either 8 1/2 inches by 14 inches or 8 1/2 inches x 11 inches, shall be submitted to the Town Manager.** The site plan must include:

- (1) Locations and dimensions of existing and proposed buildings, air conditioners, heat pumps and generators;
- (2) Removal of trees with a diameter of four inches or more, as measured four and one-half feet (4 1/2') feet above the ground (see requirements in § 182-6);
- (3) New curb cuts (see requirements in § 170-2B);
- (4) New fences and walls (see requirements in § 112-33);
- (5) Estimated location of exterior side, front and rear perimeters of existing buildings on directly adjoining properties; and
- (6) If the location of any proposed work will be within four feet (4') of a building restriction line, the site plan must be supported by a recent boundary survey with a margin of error of one inch (1") or less. The site plan must show the lot boundaries, driveways, and the locations and dimensions of existing and proposed buildings, air conditioners, heat pumps and generators, and the distances of the same to the lot lines.

* * *

K. For new construction, a copy of the pest control letter required by Montgomery County.

L. For new construction, or for the construction or replacement of a driveway, a stormwater drainage plan.

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§ 112-14. Building requirements; stormwater drainage.

* * *

D. Other requirements.

* * *

(3) Stormwater drainage.

(a) All new building construction must include a stormwater drainage plan. The plan must provide storage for all runoff from all rooftop surfaces. Storage must be provided for a 1-year storm event in devices such as drywells, raintanks, cisterns, green roofs, or other devices approved by the Town Council.

(b) All new or replacement driveways must be constructed of permeable materials. This requirement shall not apply to an apron in front of a garage entrance, measuring no more than 5 feet in length and 15 feet in width. This requirement shall also not apply to an apron within a public right-of-way.

E. Variance. The Town Council may grant a variance from the requirements of this section, subject to the following limitations:

(1) The Town Council finds after a duly noticed public hearing, based on the evidence before it, that good cause has been shown on either of the following grounds **set forth in subparagraphs (a) or (b):**

~~(a) The proposed new building construction would not unduly interfere with light and air between residences or other structures, would not be unduly incompatible with the scale, massing, and character of the Town or of nearby residences or other structures, and would otherwise not unduly adversely affect the use, enjoyment or value of nearby properties. In making such finding, the Council may consider such factors as:~~

~~[1] Size and location of proposed new building construction;~~

~~[2] Size and location of existing and potential buildings and other structures on nearby lots; and~~

~~[3] Topography and existing or planned vegetation of the lot on which the proposed new building construction will be located and of nearby lots. Should the~~

~~Council be requested to consider planned vegetation, the applicant for the variance shall submit a landscape plan with the variance application; or~~

(b) With respect to any variance, ~~the~~ strict and literal application of this section would result in peculiar or unusual practical difficulties to the owner of the lot on which the proposed ~~new building~~ construction is to be located due to exceptional narrowness, shallowness, shape, topographical conditions or other extraordinary situations or conditions peculiar to a specific parcel of property. The following do not constitute practical difficulty for the purposes of this section:

[1] The existence of nearby structures or buildings which do not comply with this section;

[2] The granting of a variance on other lots; or

[3] Any condition resulting from the conduct of the applicant or applicant's predecessor(s) in title; or

(b) With respect to a variance not concerning stormwater drainage requirements, the proposed construction would not significantly interfere with light and air between residences or other structures, would not be incompatible with the scale, massing, and character of the Town or of nearby residences or other structures, and would otherwise not unreasonably adversely affect the use, enjoyment or value of nearby properties. In making such finding, the Council may consider such factors as:

[1] Size and location of proposed construction;

[2] Size and location of existing and potential buildings and other structures on nearby lots; and

[3] Topography and existing or planned vegetation of the lot on which the proposed construction will be located and of nearby lots. Should the Council be requested to consider planned vegetation, the applicant for the variance shall submit a landscape plan with the variance application.

(2) The variance must be for the minimum reasonably necessary to avoid the above conditions or situations.

(3) The Town Council may impose, in granting a variance, such conditions as it deems in the public interest and necessary to effectuate the purposes of this section.

* * *

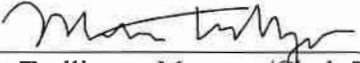
AND BE IT FURTHER ORDAINED AND ORDERED, by the Town Council, acting under and by virtue of the authority granted to it by the Maryland Code and the Town Charter, that:

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 7th day of December, 2021 (36 calendar days after approval by the Mayor).

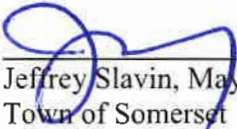
ATTEST:

TOWN OF SOMERSET


Matt Trollinger, Manager/Clerk-Treasurer
Town of Somerset


Stephen Surko, President
Town Council

Approved:


Jeffrey Slavin, Mayor
Town of Somerset

Date: 11/1/2021

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