

**Town of Chevy Chase
Accessory Dwelling Units Ordinance**

Ordinance No.:
Introduced: 11/11/20
Adopted:
Effective Date:

AN ORDINANCE TO AMEND CHAPTER 4 OF THE TOWN OF CHEVY CHASE MUNICIPAL CODE TO ADD BUILDING REQUIREMENTS APPLICABLE TO DETACHED ACCESSORY DWELLING UNITS AND TO AMEND CHAPTER 17 TO ADD A REQUIREMENT CONCERNING EXTERIOR LIGHTING.

WHEREAS, Maryland Code, Local Government Article, Section 5-202, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to pass ordinances that such legislative body deems necessary 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 301 of the Town of Chevy Chase Charter authorizes the Town Council to pass ordinances as it may deem necessary for the good government of the Town; for the protection and preservation of the Town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger and destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the resident(s) of the Town; and for such other police and health matters as it may deem necessary;

WHEREAS, after proper notice to the public, the Town Council introduced the following Ordinance in an open meeting conducted on the 11th day of November, 2020;

WHEREAS, to comply with Maryland Code, Land Use Article, Section 20-509, on the 9th day of November, 2020, 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 ___ day of _____, 2020;

WHEREAS, the Montgomery County Council, by Zoning Text Amendment 19-01, effective December 31, 2019, authorized the establishment and construction of detached accessory dwelling units in single-family zones;

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

WHEREAS, the purposes of the Town building regulations include maintaining privacy and space between properties, ensuring adequate light, air, and safe passageways between buildings; encouraging appropriately-sized construction in keeping with lot sizes and the character of the Town; minimizing the flow of stormwater from lots by encouraging the maintenance of open spaces and the reduction of impervious surfaces; and the preservation and perpetuation of neighborhood character;

WHEREAS, the Town Council finds that the allowance of detached accessory dwelling units would be detrimental to the purposes of the Town building regulations, unless sufficient measures are implemented to mitigate the impacts;

WHEREAS, 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 of the Town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger and destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the Town.

THEREFORE, BE IT ORDAINED AND ORDERED, this ___ day of _____, 2020, by virtue of the authority given to it by the Maryland Code and the Town of Chevy Chase Charter, the Town Council of the Town of Chevy Chase does hereby adopt the following ordinance.

SECTION 1. BE IT ORDAINED AND ORDERED, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the aforementioned authority, that the Town Code is hereby amended to read as follows:

* * *

Sec. 4-1. - Definitions.

- (a) In this chapter, the following terms shall have the meanings indicated.
- (b) Terms defined.

* * *

Accessory dwelling unit: A second dwelling unit that is subordinate to the principal dwelling unit and is located within a main building or an accessory building.

Detached accessory dwelling unit: An accessory dwelling unit that is located in a detached accessory building or part thereof.

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.

* * *

Gross floor area: The sum of the gross horizontal areas of the several stories (whether or not a floor has actually been laid) of all buildings on the lot with structural headroom or clear ceiling height of six (6) feet, six (6) inches or more. Gross horizontal areas are measured from the exterior faces of exterior walls. Areas with clear ceiling height (measured from floor to ceiling) greater than fourteen (14) feet shall count twice.

- (a) The term "gross floor area" includes:

- (1) Stairwells at each story;
- (2) Floor space used for mechanical equipment;
- (3) New attic space;
- (4) Screened or otherwise enclosed porches; and
- (5) The area of any accessory structure greater than two hundred forty (240) square feet.

- (b) "Gross floor area" does not include:

- (1) The first two hundred forty (240) square feet of one (1) accessory structure, per lot, **provided that the accessory structure does not contain or comprise a detached accessory dwelling unit;**
- (2) Unenclosed porches;
- (3) Basements;
- (4) Cellars; and
- (5) Attic space existing as of May 17, 2008, to the extent that the three-dimensional boundaries of the attic have not been expanded. If the three-dimensional boundaries of the attic

are expanded, the expanded area shall be included in "gross floor area". The roof over the attic space may be repaired or replaced. However, if the attic is demolished, the replacement attic space shall be considered new attic space not in existence as of May 17, 2008.

* * *

Main building: **A building in which the principal dwelling unit is located.** ~~A building in which the principal use of the lot is conducted. The residence shall be deemed to be the main building unless the lot is lawfully used exclusively for nonresidential purposes.~~

* * *

Sec. 4-2. - Building permit, in general.

(a) Unless a permit has been issued by the town manager, it shall be unlawful for any person to:

- (1) Erect any building;
- (2) Make any material structural alterations or additions to a building;
- (3) Demolish any building (in whole or in part);
- (4) Erect any fence, guardrail, handrail, wall, berm, or front-yard hedge, provided, however, a handrail may be erected along a walkway, steps, or outside stairway on private property without a permit;
- (5) Install any pool, outdoor therapeutic bath, or tennis court;
- (6) Disrupt any town right-of-way, including, but not limited to, streets, sidewalks, curbs, gutters and grassy areas;
- (7) Place any dumpster or portable storage unit on public or private property;
- (8) Construct an access ramp or wheelchair lift;
- (9) Install any overhead or underground wires, cables, hoses, pipes, and similar facilities on public property devoted to private use; ~~or~~
- (10) Construct, expand, replace, or remove a curb entrance, driveway, or driveway apron within a public right-of-way or on private property; **or**
- (11) add an accessory dwelling unit to any accessory building or modify, convert, or renovate an accessory building, or any part thereof, into an accessory dwelling unit.**

* * *

Sec. 4-5. - Accessory building construction; prohibitions.

(a) *Interior lot.* An accessory building shall:

- (1) Be located in the rear yard;
- (2) Not occupy more than twenty-five (25) percent of the rear yard;
- (3) Be set back from the front lot line a minimum of sixty (60) feet; and
- (4) Conform to the following setback requirements:

- a. An accessory building **that does not contain or comprise a detached accessory dwelling unit and that is** less than twelve (12) feet in height when measured from the average pre-development grade to the highest point shall be set back a minimum of five (5) feet from the rear lot line and the side lot lines.
- b. An accessory building **that does not contain or comprise a detached accessory dwelling unit and that is** twelve (12) feet or greater in height when measured from the average pre-development grade to the highest point shall be set back a minimum of seven and one-half (7½) feet from the rear lot line and the side lot lines.
- c. **An accessory building containing or comprising a detached accessory dwelling unit shall be set back the minimum distance from the side lot lines required for a new main building according to section 4-4(b), and shall be set back from the rear lot line a minimum of twenty (20) feet or fifteen (15) percent of the lot depth, whichever is greater.**

(b) *Corner lot.* An accessory building shall:

(1) Be located in the rear yard. For purposes of this section, the rear yard is the area that is behind both front building lines and is behind at least one of the rear building lines. For new construction the property owner may choose which yard is the rear yard, provided that the main building does not encroach into the rear yard setback for such rear yard.

(2) Not occupy more than twenty-five (25) percent of the rear yard;

(3) Conform to the following setback requirements:

- a. **An accessory building that does not contain or comprise a detached accessory dwelling unit shall be set back from the side lot line a minimum of five (5) feet, and shall be set back from the rear lot line a minimum of ten (10) feet; and**
- b. **An accessory building containing or comprising a detached accessory dwelling unit shall be set back from the side lot line a minimum of eight (8) feet and shall be set back from the rear lot line a minimum of twenty (20) feet or fifteen (15) percent of the lot depth, whichever is greater.**

~~(3) Be set back from the rear lot line a minimum of ten (10) feet; and~~

~~(4) Be set back from the side lot line a minimum of five (5) feet.~~

(c) **Increased setback based on height.** For any accessory building **that does not contain or comprise a detached accessory dwelling unit and that has** a height of twelve (12) feet or greater for a flat roof or fifteen (15) feet or greater when measured to the ridge of the roof, the required side and rear setbacks **for the accessory building** must be increased from the requirements ~~in subsections (a), and (b)~~ of this section at a ratio of one and one-half (1½) feet of additional setback for each foot of height in excess of twelve (12) feet for a flat roof or fifteen

(15) feet for any other type of roof. **The increased setback shall apply to the entire accessory building.**

(d) **Increased setback based on length.** The minimum setback from a rear or side lot line for any accessory building **that does not contain or comprise a detached accessory dwelling unit and that** has a linear dimension greater than twenty-four (24) feet along such side or rear lot line shall be increased from the requirements ~~under subsections (a), (b) and (c)~~ of this section at a ratio of one and one-half (1½) feet for each foot that the dimension exceeds twenty-four (24) linear feet. **The increased setback shall apply to the entire accessory building.**

(e) **Increased setback for detached accessory dwelling unit.** **If the increased setback based on height and/or length as calculated according to this section for a building that does not contain or comprise a detached accessory dwelling unit would be greater than the minimum required side or rear setback for a building that contains or comprises a detached accessory dwelling unit, the increased setback based on height and/or length shall apply.**

(f) The increased setbacks ~~required by subsection (d) of this section~~ **based on height and length shall apply cumulatively** ~~be in addition to any increased setback required by subsection (e) of this section, so that the required setback building shall be the total of the setbacks required by subsections (a) or (b) and (c) and (d) of this section.~~

* * *

Sec. 4-7. - Developmental nonconformities.

A developmental nonconformity may be maintained, altered and repaired, but not replaced, provided that it may not be enlarged beyond the dimensions that existed on May 17, 2008, **and further provided that a detached accessory dwelling unit may not be constructed within a non-conforming structure,** except in accordance with this chapter. Notwithstanding the foregoing, nonconforming porches, decks, stoops, steps, stairways, chimneys, bay and bow windows, and similar projections may be maintained, altered, repaired, or replaced provided that they may not be enlarged beyond the dimensions that existed on May 17, 2008, except in accordance with this chapter. **A building in which a detached accessory dwelling unit is constructed must meet the required setback and other requirements of this Chapter at the time of construction of the accessory dwelling unit.**

* * *

Sec. 17-3. Exterior Lighting of Buildings.

Exterior lighting on and appurtenant to a building shall be directed away from the windows of any dwelling unit on an abutting or confronting lot.

* * *

SECTION 2. AND BE IT FURTHER ORDAINED AND ORDERED, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the aforementioned authority, 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 ___ day of _____, 2020 (30 days after adoption).

ATTEST:

TOWN OF CHEVY CHASE

Ellen Cornelius Ericson, Secretary

Cecily Baskir, Mayor
Town of Chevy Chase

Bold and Underline indicates new material
~~Strike through~~ indicates material deleted
* * * indicates material unchanged