

ARTICLE 3 BUILDING CODE

Section 3.0 Definitions

The following terms used in this Article have the following meanings:

“Accessory dwelling unit” means a second dwelling unit that is located within a main building or an accessory building.

“Detached accessory dwelling unit” means a dwelling unit that is a detached accessory building or part thereof.

“Dumpster” means a large container, including, but not limited to, a detached wheeled trailer, designed or used to store rubbish, construction and/or demolition debris, or other material to be discarded.

“Dwelling unit” means 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.

“Heavy equipment” means vehicles and machinery used to perform tasks such as excavating, grading, heavy lifting, demolition, or removal of large trees, including, but not limited to, cranes, bulldozers, or other items which may damage the public right-of-way when placed upon or moved across the street surface, curb, or sidewalk.

“Height” means the vertical distance measured from the average elevation of the ground along the front of the structure to the highest point of the roof surface or parapet wall for a flat or shed roof, or, for a gable, hip, mansard, or gambrel roof, the mean height between the eaves and ridge of the roof. For the purpose of determining building height, the average front elevation used will be based on either the pre-development grade or the finished grade, whichever is lower. If the structure has no roof, height is measured to the highest point. The height does not include weather vanes, cupolas, or similar ornamental features.

“Portable storage unit” means a large portable container designed or used for the outdoor storage of personal property, including, but not limited to, portable containers that are leased for temporary use.

(Ord. No. 19-05, effective 2/5/20; Ord. No. 19-06, effective 2/5/20; Ord. No. 19-06, effective 2/5/20)

Section 3.1 Building Permits

A. Building Permit Required.

1. No structure of any kind or description shall be erected or replaced, nor any modification made to the exterior of any portion of an existing structure, within the corporate limits of the Town which requires a building permit from Montgomery County, without first having obtained a permit for same from the Town Clerk or Mayor.

2. 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 corporate limits of the Town, without first having obtained a permit for same from the Town Clerk or Mayor.

B. Application; Approval. An application for a building permit shall be submitted to the Town Clerk containing the following information. Additional information may be requested by the Mayor. Such application shall be filed with the Town Clerk no later than seven (7) calendar days after issuance of a building permit by Montgomery County for the identical work for which the applicant seeks a permit from the Town of Glen Echo. The Town Council may prepare and require an application form. An application may be denied by the Town Clerk or Mayor for failure to provide the requested information. The Town Clerk or Mayor, upon written request of the applicant, may waive the time period for submitting the application required pursuant to this paragraph. The application shall include:

1. The signature of the owner and/or his authorized agent;
2. The street address, of the lot upon which the proposed work is to be performed;
3. The full name and address of each owner;
4. A brief description of the work to be performed for which the building permit is requested;
5. An electronic copy of the building plans and all other documents submitted or anticipated to be submitted to Montgomery County as part of the application for building permit issued by Montgomery County. 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, prior to approval of the final inspection of the project;
6. A certification by the applicant that the applicant provided to the owners of adjoining and confronting private properties within the Town of Glen Echo, and to the occupants of said property if the owners are not the occupants (collectively, "neighbors"), a reasonable opportunity to inspect the building permit plans. The certification shall include an explanation of the steps taken to comply with these requirements and to identify those neighbors who have inspected the plans. Unless there are unusual circumstances, initials of those neighbors who have inspected the permit plans are required on the building permit application;
7. An application fee in the amount set forth on the fee schedule approved by the Town Council from time to time; and

8. Photographic proof of the condition of adjoining streets and sidewalks prior to the beginning of construction.

C. Criteria for Issuance of Permit. The Town Clerk or Mayor shall consider, in approving or disapproving an application, such factors as:

1. Whether the application is complete and conforms to the requirements of this Section; and,

2. Whether the proposed work complies with all other applicable Town ordinances, including but not limited to all of the provisions of this Article regarding setbacks, and all of the provisions of Article 17, Streets and Sidewalks, specifically including the provisions of Section 17.2 which require a separate permit. No permit for any building shall be issued by the Clerk or Mayor or Council unless the building complies with the setback requirements of the Montgomery County Zoning Code.

In making its findings, the Town Council may rely upon the findings of the County in the issuance of the County permit. The Town Council may impose conditions on a permit as deemed necessary to assure compliance with the Town Code and/or protect the public health, safety or welfare. Such conditions may include, but are not limited to: (a) prohibiting or limiting the parking of contractors' or other construction-related vehicles in the public right-of-way or on private property; (b) limiting the locations upon public and private property where materials, equipment, and dumpsters may be stored; (c) limiting the locations where portable toilets may be placed or maintained; (d) requiring tree protection measures to protect public and private trees during construction; and I limiting the permissible work hours.

At the request of any one of the following: the applicant, the adjoining or confronting property owners, or a member of the Town Council, a public hearing may be held on the application prior to the issuance of a building permit. In such case, the Town Council shall decide whether a building permit should be issued.

D. Permit Contingent on County Permit. The Town of Glen Echo building permit is effective and valid only for the identical work authorized by a valid building permit issued by Montgomery County, as may be modified by the terms and conditions of the Town permit. The Town of Glen Echo building permit is effective and valid only for that time period for which the Montgomery County permit is valid, or such other time as may be specified in the Town permit. The Town Clerk or Mayor may grant a request for an extension, upon such terms and conditions as the Town Clerk or Mayor may find necessary to protect the public health, safety, and welfare, upon a reasonable showing by the permittee that there has been no material change in circumstances since the issuance of the permit and despite due diligence by the permittee, additional time is necessary to accomplish the approved construction. Such a request shall be accompanied by the extension fee in the amount set forth on the fee schedule approved by the Town Council from time to time.

E. Permit Display and Enforcement.

1. Display. Upon issuance, the applicant shall promptly display the Town permit on the property in a manner visible to the public.
2. Enforcement.

(a) It shall be unlawful to conduct construction except in strict compliance with the applicable Town permit, the approved plans and specifications therefor, and any and all conditions imposed by the Town Council in connection therewith.

(b) The Town Council may suspend or revoke a building permit, or issue a stop work order, if construction has been undertaken in violation of an applicable Town permit, the approved plans and specifications, therefor, and any and all conditions imposed by the Town Council in connection therewith. A stop work order issued hereunder shall be posted on the property in a conspicuous location and shall be deemed sufficient service upon all persons physically on the property. If a stop work order is issued, it shall be unlawful to continue any construction activity until such time as the stop work order has been lifted by the Mayor, provided however, that any activity ordered to be undertaken by the Mayor in order to abate a violation may proceed as directed by the Mayor.

(c) It shall be unlawful to remove a posted stop work order except under the express authority of the Mayor.

(d) The Town Clerk or Mayor may grant a request for a modification to the approved permit, and the terms and conditions thereof, upon such further terms and conditions as the Town Clerk or Mayor may find necessary to protect the public health, safety, and welfare. Such a request shall be accompanied by the modification fee in the amount set forth on the fee schedule approved by the Town Council from time to time.

F. Judicial Review. Any person aggrieved by a decision of the Town Council with regard to an application for a building permit filed under the provisions of this Section and who appeared before the Town Council in person, by an attorney, or in writing, shall have the right to appeal the decision of the Town Council to the Circuit Court for Montgomery County, Maryland under the provisions of title 7, Chapter 200 of the Maryland Rules of Procedure.

G. Liability for Damage to Town of Glen Echo Property. As a condition for the grant of a permit, the permit holder shall be liable for any damage to Town of Glen Echo property and public rights-of-way and improvements thereon, including sidewalks, curbs, streets and green space. Permit holders shall be subject to the expense necessary to repair such damage as close to the original condition as possible. The Town may, by contract or otherwise and at the violator's expense, cause any necessary repairs to be made. The Town Council, in its discretion, may require as a precondition to issuance of a permit the posting of a bond or other security in a form satisfactory to the Mayor and in such amount as may be established by the Town Council by resolution from time to time, to be applied toward the cost of repair of damage caused to Town of Glen Echo property and public rights-of-way and improvements thereon.

(Ord. No. 04-01, effective 1/12/04; Ord. No. 06-02, effective 11/7/06; Ord. No. 16-02, effective 1/30/17; Ord. No. 18-01, effective 6/3/18; Ord. No. 19-06, effective 2/5/20)

Section 3.1.1 Setbacks and Building Requirements

A. Setbacks, Generally.

1. The front setback from all street lines for a building on a corner lot shall be at least twenty-five (25) feet, provided, however that the following exemptions shall be allowed:

- (a) Any unenclosed porch, deck, terrace, steps, or stoop may project a maximum of 9 feet. This encroachment includes an unenclosed roofed porch or terrace;
- (b) Any roofed and unenclosed steps or stoop may project a maximum of 9 feet. Any roof covering unenclosed steps or a stoop may project a maximum of 3 feet;
- (c) Any unenclosed balcony may project a maximum of 6 feet, if such projection is a minimum of 2 feet from the vertical plane of any lot line;
- (d) Any sill, leader, belt course, or similar ornamental feature may project a maximum of 6 inches;
- (e) Any chimney or flue may project a maximum of 2 feet, if such extension remains a minimum of 2 feet from the vertical plane of any lot line;
- (f) Any building eave, cornice, or light shelf may project a maximum of 2.5 feet, if such extension remains a minimum of 2 feet from the vertical plane of any lot line; and
- (g) Any bay window, oriel, entrance, vestibule, or balcony, 10 feet in width or less, may project a maximum of 3 feet, provided the total length of all bay windows and oriels on a building façade does not exceed a maximum of 50% of the linear footage of the façade.

2. The front setback from all street lines for a detached accessory dwelling unit on any lot shall be at least twenty-five (25) feet. The rear setback from a rear lot line for a detached accessory dwelling unit on any lot shall be at least twenty (20) feet. The side setback from a side lot line for a detached accessory dwelling unit on any lot shall be at least eight (8) feet. No exemption from setbacks is provided for projections, of any kind. 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, the building must meet the required setback and other requirements of this Article.

3. Setbacks are measured from the closest point of the building to the closest point of a lot line. A corner lot has two or more front lot lines. The interior lot lines can be designated by an owner as either the rear or side lot line so long as no existing structure is rendered non-conforming to the provisions of the Montgomery County Code or the Town Code.

B. This setback provision shall apply to: (i) a building for which a building permit is required from the Town of Glen Echo or Montgomery County or both and no such valid permit(s) was issued by the Town or the County or both as of January 12, 2004; or (ii) a building for which a building permit is required from the Town of Glen Echo or Montgomery County or both and for which all valid permits have been issued but actual physical commencement of some significant and visible construction has not occurred as of January 12, 2004.

C. Notwithstanding the provisions above, any main building existing as of January 12, 2004 on the effective date of this section situated closer than twenty-five (25) feet to the street line in accordance with §59-4.4.9.B.2, as amended, of the Montgomery County Zoning Code and which does not meet the setback requirements of this section, is a conforming building. Such a main building may be:

1. Reconstructed after a fire, flood or similar event provided that the footprint of the main building may not be closer to the street line to which this section is applicable than the pre-existing building or structure as of the effective date of this section; and

2. Altered, renovated, or enlarged provided that the location of such main building may not be closer to the street line to which the section is applicable than the pre-existing house as of the effective date of this section.

D. Additional Requirements for Accessory Dwelling Units.

1. Parking. 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) new dedicated on-site parking space shall be provided; provided, however, that no new space is required if a minimum of four (4) parking spaces exist on the property. Existing parking area in a driveway or an existing garage may not serve as the required on-site parking spaces for an accessory dwelling unit. Each automobile parking space provided according to this section shall not be less than one hundred eighty (180) square feet and the same shall be connected by an adequate driveway to a paved street.

2. Height. The height for any building containing an accessory dwelling unit, other than a main building, shall not exceed twenty (20) feet.

(Ord. No. 04-01, effective 1/12/04; Ord. No. 16-02, effective 1/30/17; Ord. No. 18-01, effective 6/3/18; Ord. No. 19-06, effective 2/5/20)

Section 3.1.2. Variances; Judicial Review

A. The Town Council may grant a variance of the requirements of Section 3.1 and 3.1.1 of this Article, 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:

a. The proposed 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:

- i.** Size and location of proposed construction;
- ii.** Size and location of existing and potential buildings and other structures on nearby lots; and
- iii.** Topography and existing or planned vegetation of the lot on which the proposed construction will be located and of nearby lots. Should the Town Council be requested to consider planned vegetation, the applicant for the variance shall submit a landscape plan with the variance application, or

b. That 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 construction is to be located due to exceptional narrowness, shallowness, shape, topographical conditions or other extraordinary situations or conditions peculiar to the specific parcel of property. The following do not constitute practical difficulties for the purposes of this section:

- i.** The existence of nearby structures or buildings on other parcels of property which do not comply with this section; or
- ii.** The granting of a variance on other lots.

2. The variance must be for the minimum reasonably necessary to avoid the above conditions or situations; and,

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 Article.

B. If any word, phrase, clause, item, sentence, paragraph, section or part in or of the provisions of the this Article shall judicially be declared to be invalid or the applicability thereof to any person or circumstances held invalid, the validity of the remainder of the provisions of this Article and the applicability thereof to other persons and circumstances shall not be affected thereby.

(Ord. No. 04-01, effective 1/12/04; Ord. No. 16-02, effective 1/30/17; Ord. No. 18-01, effective 6/3/18; Ord. No. 19-06, effective 2/5/20)

Section 3.1.3 Penalties

A. Violation of any requirement of Section 3.1 or 3.1.1 shall constitute a municipal infraction. Any person, including an owner of property, any authorized or unauthorized agent, any contractor for such owner, and any person performing work on or about the owner's property, that violates a provision of said sections shall be subject to a fine of Five Hundred Dollars (\$500.00) for each violation. Each day that the violation continues shall be considered a further and separate offense subject to such fine.

B. In addition to any other fine, penalty, or remedy, a violator may be required to remove or restore, within fifteen (15) days of the date of notification of the violation, any structure, alteration, addition or excavation, erected or commenced, and constituting the basis of the violation, and if so required, upon expiration of such fifteen (15) days, each additional day during which that person shall not have so removed or restored the same, shall constitute a further and separate violation subject to such fine.

C. Any person violating any of the provisions of Section 3.1 or 3.1.1 shall additionally be subject to the penalties and remedies stipulated under Article 21.

D. Misdemeanor. It shall be a misdemeanor, subject to the provisions of Article 21 of this Code, to commit any act in violation of Section 3.1 or 3.1.1 with respect to any structure for which a building permit was sought and denied; to commit any act in violation of said sections with respect to any structure for which a building permit is pending; to commit a second violation of a provision of said sections within a twelve (12) month period; to fail to comply with any condition of a building permit or a stop work order issued by the Town; and, to commit any other violation with actual knowledge that such act violates a provision of said sections.

(Ord. No. 16-02, effective 1/30/17; Ord. No. 18-01, effective 6/3/18; Ord. No. 19-06, effective 2/5/20)

Section 3.2 Gutterspouting

It shall be unlawful to have the gutterspouting of any house so arranged as to cast the water from the roof or eaves of the house across or into the adjoining lot of another property owner.

(Ord. No. 16-02, effective 1/30/17)

Section 3.3 Dumpsters, Portable Storage Units, and Heavy Equipment.

A. Dumpsters and Portable Storage Units. No person shall place or maintain a dumpster or portable storage unit on property within the Town without obtaining a permit from the Town Clerk or Mayor. The Town Clerk or Mayor may condition such permit upon such terms or restrictions as the Town Clerk or Mayor deem necessary to protect the public health, safety or

welfare, including, but not limited to, a limit on the number of consecutive days a dumpster or portable storage may be placed or maintained on private property, and that a dumpster be covered while work requiring the dumpster is not ongoing. Unless the Town Clerk or Mayor approves otherwise, no person shall place or maintain any portable storage unit or dumpster on public property or in the public right-of-way.

B. Heavy Equipment. No person shall place any heavy equipment upon or move any heavy equipment over an improved street surface, curb, or public sidewalk within the Town without obtaining a permit from the Town Clerk or Mayor. The Town Clerk or Mayor may condition such permit upon such terms or restrictions as the Town Clerk or Mayor deem necessary to protect the public health, safety or welfare.

C. Required Bond. No permit will be issued under this Section unless the permittee has deposited with the Town a bond or other security in a form satisfactory to the Mayor and in such amount as may be established by the Town Council by resolution from time to time, to be applied toward the cost of repair of damage caused to Town of Glen Echo property and public rights-of-way and improvements thereon, and that the placement and use of the dumpster, portable storage unit, or heavy equipment will be in accordance with the terms of the permit issued in connection therewith. The bond may be applied to repair or correct any damage or injury to public property, including treatment or replacement of trees and plantings, as the Town Clerk or Mayor in their discretion shall determine. Upon removal of the dumpster, portable storage unit, or heavy equipment for which the permit was issued, the balance of the bond, less any amounts retained by the Town pursuant to this subsection, shall be returned.

D. Permit Fee. An application for the placement or use of a dumpster, portable storage unit, or heavy equipment shall be submitted to the Town Clerk along with an application fee in the amount set forth on the fee schedule approved by the Town Council from time to time.

(Ord. No. 16-02, effective 1/30/17; Ord. No. 18-01, effective 6/3/18; Ord. No. 19-05, effective 2/5/20)

Section 3.4 Razing and Demolition

It shall be unlawful to engage in the razing, felling or demolition of any building, or structure having a surface area greater than two hundred (200) square feet, or a tree having a caliper greater than ten (10) inches measured at four (4) feet above the ground, before procuring a permit from the Town Clerk or Mayor. Said permit may be granted without fee upon approval by the Town Clerk or Mayor.

(Ord. No. 16-02, effective 1/30/17; Ord. No. 18-01, effective 6/3/18)

Section 3.5 Penalties, Generally

Except as otherwise provided in this Article, any person violating any of the provisions of this Article shall be subject to the penalties and remedies stipulated under Article 21.

(Ord. No. 16-02, effective 1/30/17)

