

Town of Glen Echo

**Ordinance
(Building Permit Approvals and Enforcement)**

Ordinance No.: 21-01
Introduced: January 11, 2021
Adopted: February 8, 2021
Effective Date: February 28, 2021

SUBJECT: AN ORDINANCE TO AMEND THE CODE OF ORDINANCES TO SET FORTH WHEN PERMIT APPLICATIONS ARE REVIEWED BY THE MAYOR OR THE TOWN COUNCIL; TO CLARIFY WHAT PERMIT CONDITIONS MAY BE IMPOSED BY THE MAYOR OR TOWN COUNCIL; AND TO AUTHORIZE THE MAYOR TO ISSUE STOP WORK ORDERS

WHEREAS, Maryland Code, Local Government Article, Section 5-202, as amended, grants to the legislative body of every incorporated municipality in Maryland, including the Town of Glen Echo, 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, Sections 413 and 415 of the Charter of the Town of Glen Echo authorize the Town Council to pass ordinances not contrary to the Constitution and laws of the State of Maryland or the Charter of the Town of Glen Echo (the "Town");

WHEREAS, after proper notice to the public, the Town Council introduced the following Ordinance in an open meeting conducted on the 11th day of January, 2021;

WHEREAS, after proper notice to the public, the Town Council considered the following Ordinance in public session assembled on the 8th day of February, 2021;

WHEREAS, the Town Council finds that the ordinance as hereinafter set forth is 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 Town, and otherwise advantageous and beneficial to the Town.

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

BE IT ORDAINED AND ORDERED, this 8th day of February, 2021, by the Town Council, acting under and by virtue of the authority given it by the Maryland Code and the Town of Glen Echo Charter, the Town Code be and is hereby amended as follows:

* * *

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 the same from the Town Clerk Council 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 Council or Mayor.

3. Building permit applications shall be reviewed by the Mayor, provided however, that at the request of any one of the following: the applicant, an adjoining or confronting property owner, the Mayor, or a member of the Town Council, a public hearing shall be held on a permit application. In such case, the Town Council shall decide whether a building permit should be issued and what conditions may be imposed.

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 Town Council or 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 Council or Mayor for failure to provide the requested information. The Town Clerk Council 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~~ **adopted** by the Town Council **by resolution** 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~~ **Council** 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~~ **Town Council** or Mayor ~~or Council~~ unless the building complies with the setback requirements of the Montgomery County Zoning Code.

3. In making its findings, the Town Council **or Mayor** may rely upon the findings of the County in the issuance of the County permit.

4. The Town Council **or Mayor, in their discretion,** may impose **such standard** conditions on a permit as **adopted by resolution of the Town Council from time to time as** deemed necessary to assure compliance with the Town Code and/or protect the public health, safety or welfare. Such **standard** 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~~ **(e)** limiting the permissible work hours. **The Town Council, in its discretion, may approve such other non-standard conditions on a permit as deemed necessary to assure compliance with the Town Code and/or protect the public health, safety or welfare.**

~~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~~ **Council** or Mayor may grant a request for an extension, upon such terms and conditions as the Town ~~Clerk~~ **Council** 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~~ **adopted** by the Town Council **by resolution** 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~~ **Mayor** 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 **Mayor or** 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~~ **Council** 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~~ **Council** 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~~ **adopted** by the Town Council **by resolution** 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 **or Mayor**, in its **their** 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 **Town Council or Mayor** and in such amount as may be **established adopted** 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.

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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~~ deems 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~~ deems 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 ~~adopted~~ **adopted** 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~~ **the Mayor's** 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~~ **adopted** by the Town Council **by resolution** from time to time.

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.

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ARTICLE 17 STREETS AND SIDEWALKS

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Section 17.2 Permit Required

A. Work. Requiring Permit.

1. It shall be unlawful for any person to begin to construct, reconstruct, install, repair, alter, dig up, cut, break, destroy, or grade any streets, sidewalks, curb, curb-cut driveway, pavement, culvert or drain pipe, ditch, traffic control sign or marking, streetlight, utility pole, or other structure or facility within a public right-of-way or other public place of the Town without obtaining a permit from the Town of Glen Echo. All permits to perform work in public places, **with the exception of curb cuts and driveway aprons, shall be authorized approved at a public hearing** by a majority vote of the Town Council and ~~shall be issued by the Town Clerk upon notification of such authorization by the Mayor.~~ **Permits for curb cuts and driveway aprons shall be approved by the Mayor.** Photographic proof of the condition of existing streets,

sidewalks and/or curbs shall be provided to the Town Clerk prior to the beginning of construction. Based on the Town Council or Mayor's review of the scope of the work, the Town Council or Mayor may require the execution of a license to use the right-of-way, or other instrument, in a form approved by the Town Council.

2. Curb Cuts and Driveway Aprons

- (a) Curb cuts. There shall be no more than one curb cut on any lot.
- (b) Driveway Aprons.

(1) Width. No driveway apron shall exceed twelve (12) feet in width. At the curb cut, a driveway apron may have an additional turning radius of five (5) feet in width on each side, for a total width of twenty-two (22) feet. Driveway width includes the width of any adjoining or adjacent surface.

(2) Construction standards. The Mayor Council shall grant a permit to construct or expand a curb cut, driveway, or driveway apron only if the proposed construction would comply with this Article and not negatively impact the character of the Town or interfere with the public health, safety, or welfare, as may be determined by the Mayor Council. In making such determination, the Mayor Council may consider the following:

- (i) Location of trees, hedges, berms, and shrubbery or other plant growth;
- (ii) Location of fences, walls, or other structures;
- (iii) Location of public utilities;
- (iv) Location of public and private improvements in the public right-of-way;
- (v) Possible obstruction of pedestrian and/or motorist visibility
- (vii) Compliance with applicable County design standards, acceptable to the Town Mayor Council; and
- (vi) Other factors as may be determined by the Mayor Council to be necessary to protect the public health, safety, or welfare.

(3) Initial construction. The applicant shall be responsible for all costs associated with initial construction and/or expansion of a curb cut or driveway apron.

(4) Maintenance. The Town shall maintain and repair lawfully-constructed curb cuts, driveway aprons, and public sidewalks located within a public right-of-way as necessary to address wear and tear from ordinary use, unless such maintenance or repair is necessitated by the actions of the property owner or the property owner's tenants, guests, or invitees. The use of a driveway apron by trucks or construction equipment shall not be considered ordinary use. Notwithstanding the foregoing, the Town shall not be obligated to maintain and repair any such curb cuts or driveway aprons that include betterments, or alternative materials, installed by property owners. Such betterments, or alternative materials, shall not be installed by property

owners without the permission of the Mayor Council. If, however, an owner wants to abandon a betterment, or alternative materials, and have the construction revert to standard construction, the Town may replace the curb cut or driveway apron in a manner consistent with Town standards, at such time as replacement is required, as determined by the Mayor Council.

(5) Removal. In the event a curb cut or driveway apron is removed, the property owner previously served by the curb cut or driveway apron shall restore the public right-of-way by installing a curb, sidewalk, grass or other ground cover and plantings consistent with the adjacent area as determined by the Mayor Council.

(6) Notwithstanding the above, curb cuts and driveway aprons exceeding the permissible width and existing before April 29, 2018 may be repaired or replaced in the same location and with the same dimensions.

(c) Waiver. The Town Council may waive the requirements of subsection (b) on a finding, after a public hearing, that the regulation would create an unusual practical difficulty or undue hardship, based on an extraordinary condition of the subject property.

B. Permit Fee; Performance Bond. The fee for a street and sidewalk permit under this Section shall be in the amount set forth on a fee schedule ~~approved~~ **adopted** by the Town Council **by resolution** from time to time, except that there shall be no fee for a street and sidewalk permit if the applicant files an application for such permit in connection with an application for a building permit under Article 3, Section 3.1 of this Code for which an application fee is paid. The ~~Mayor Town Council~~, in its **the Mayor's** discretion, may require as a precondition to issuance of a permit a liability insurance policy, naming the Town as an additional insured, and the posting of a bond or other security in a form and amount satisfactory to the Mayor (which amount shall not exceed twice the estimated cost of construction or repair of damage caused to Town of Glen Echo property and/or public rights-of-way, and improvements thereon), to be applied toward the cost of construction or repair of damage caused to Town of Glen Echo property and/or public rights-of-way, and improvements thereon.

1. Permit Fee for Connection to Natural Gas Line. No connection from a gas main in, on, or under a street or right-of-way in the Town to a private property shall be constructed or installed without a permit **from the Mayor**. The fee for this permit shall be in the amount set forth on a fee schedule ~~approved~~ **adopted** by the Town Council **by resolution** from time to time. An application for a permit shall be made by the property owner or his or her agent on the application form provided by the Town.

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Section 17.6 Obstruction of Streets

In addition to requirements contained elsewhere in this Article, it shall be unlawful for any person, other than the Town, to obstruct or close any street, sidewalk or other public right-of-way

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 deems necessary to protect the public health, safety or welfare, including, but not limited to requiring a bond or other security to ensure the restoration or repair of any damage to the public rights-of-way, sidewalks, curbs, or roadways and compliance with ~~with~~ the terms of the permit issued in connection therewith. An application for the obstruction or closure of a street, sidewalk or other public right-of-way shall be submitted to the Town Clerk along with an application fee in the amount set forth on the fee schedule ~~approved~~ **adopted** by the Town Council **by resolution** from time to time.

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Section 19.5 Driving Over Curbs, Sidewalks or Drainage Structures

It shall be unlawful for any person to drive or cause to be driven any motor vehicle on or over any curb, sidewalk or drainage structure without a special permit to do so from the Mayor ~~or Town Clerk~~; provided, that this Section shall not apply to sidewalk that is part of a driveway or in emergencies where suitable provision is made, by the laying of planking or otherwise, for the bridging of such curb, sidewalk or drainage structure in such a way that no damage will be done thereto.

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ARTICLE 25

SMALL WIRELESS TELECOMMUNICATIONS FACILITIES

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Section 25.3. Permit and Access Agreement Required

(a) No person shall construct, install, maintain, or perform any work in the public right-of-way related to a Communications Facility or any Tower, without first receiving a Permit **from the Mayor** and paying any applicable fee, as required under this Article. No permit shall be issued until the applicant has entered into a Right-of-Way Access Agreement in a form approved by the Town, according to this Article. A permit shall not be required for ordinary maintenance and repair, as determined by the Town.

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Section 25.4. Permit Application Requirements

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(b) The Town may require the posting of a bond to guarantee the prompt and proper restoration of the public right-of-way. The bond may be in such amount as the ~~Town Manager~~ **Mayor** deems necessary, in the ~~Town Manager~~ **Mayor's** discretion.

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(d) Any permit issued under this Article shall be valid for a period of twelve (12) months after issuance, and may be extended by the ~~Town Manager~~ **Mayor** for up to an additional twelve (12) months upon written request of the applicant, prior to permit expiration, if the failure to complete construction is as a result of circumstances beyond the reasonable control of the applicant.

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Bold Underline indicates new language
~~Strikethrough~~ indicates language deleted
Asterisks * * * indicate language unchanged

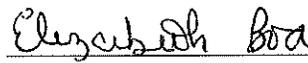
AND BE IT FURTHER ORDAINED AND ORDERED, by the Town Council, acting under and by virtue of the authority granted to it by the Maryland Code and the Town of Glen Echo Charter, that:

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, twenty (20) days after passage by the Council and approval of the Mayor.

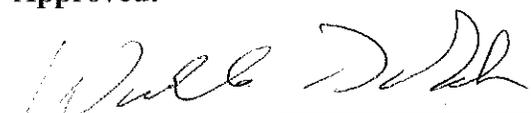
Attest:

I hereby attest that the above Ordinance was duly adopted by the Town Council on the 8th day of February, 2021, by a vote of 4 in favor and 0 in opposition.



Beth Boa, Clerk-Treasurer
Town of Glen Echo

Approved:



Willem Polak, Mayor
Town of Glen Echo

Date: 2/15/21