

Section 4.02a- Burkittsville Accessory Dwelling Unit

An Ordinance to Amend the Town Code to Authorize and Regulate Accessory Dwelling Units (ADUs) in Single-Family Residential Zones, and for Related Purposes

WHEREAS, the Maryland General Assembly enacted House Bill 1466 (2025) — Land Use and Real Property – Accessory Dwelling Units – Requirements and Prohibitions — directing local jurisdictions to adopt local laws authorizing accessory dwelling units (ADUs) in single-family residential zones and establishing minimum state standards for review, parking, fees, utilities, and restrictions; and

WHEREAS, the Town Council of Burkittsville finds that adopting local regulations consistent with HB 1466 will increase housing supply, provide additional housing options for residents, and implement the state policy encouraging ADUs while preserving public health and safety; and

WHEREAS, the Town Council intends this ordinance to comply with HB 1466 and to adopt objective, ministerial permitting procedures, reasonable development standards, and protections for owners and utilities as required by state law.

NOW, THEREFORE, the Town Council of Burkittsville ordains:

Section 1. Title

This ordinance shall be known and may be cited as the “Burkittsville Accessory Dwelling Unit Ordinance.”

Section 2. Authority and Purpose

(a) Authority: This ordinance is adopted pursuant to the Town’s zoning powers and to implement the requirements and policy of Maryland House Bill 1466 (2025).

(b) Purpose: To authorize and regulate accessory dwelling units (ADUs) in single-family residential zoning districts in a manner consistent with state law; to establish objective approval standards, streamlined permitting, reasonable parking rules, utility connection protections, equitable fee practices, and protections against unreasonable private restrictions.

Section 3. Applicability

This ordinance applies to all lots, parcels, and tracts in the Town of Burkittsville zoned for single-family detached residential use, except where development is demonstrably prohibited due to lack of safe drinking water, sewage disposal limitations, or acute public-safety hazards (e.g., documented flood or landslide zones where construction is restricted by other applicable law). This does not apply to any properties that are located in the Burkittsville Historic District as designated by the Maryland Historical Trust.

Section 4. Definitions

For purposes of this ordinance, the following terms have the meanings indicated. Unless the context requires otherwise, defined terms are capitalized.

1. Accessory Dwelling Unit (ADU). A secondary dwelling unit on the same lot, parcel, or tract as a primary single-family detached dwelling unit, constructed as one of the following:

- a.) an attached unit or conversion of a portion of the primary dwelling;
- b.) conversion of an existing accessory structure on the same lot;
- c.) a detached new building on the same lot.

An ADU must be subordinate in use to the primary dwelling and have a total gross floor area not greater than 75% of the primary single-family dwelling unit's gross floor area. (Consistent with HB 1466 §4-501).

2. Dwelling Unit. A single unit providing complete, independent living facilities for at least one individual, including permanent provisions for sanitation, cooking, eating, and sleeping. (Does not include a unit in a multifamily building.) The unit will need to have a permanent foundation.

3. Primary Dwelling Unit. The single-family detached dwelling on the lot that is the principal residence or principal permitted structure.

4. Accessory Structure. An existing non-residential structure (e.g., garage, barn) located on the same lot as the primary dwelling.

5. Utility. The dwelling unit would have to meet all County approved ordinances related to well and septic systems.

6. Complete Application. A permit submittal that satisfies the Town's ADU application checklist and contains all required documentation as listed in Section 7 of this ordinance.

Section 5. Permitted ADUs (By Right)

(a) ADUs are permitted by right in all single-family detached residential zones, subject only to the objective requirements of this ordinance and the Town, County, and State's building codes.

(b) Conversion of an accessory structure to an ADU is permitted provided the accessory structure and proposed ADU conform to the objective dimensional, safety, and health standards of this ordinance.

(c) [Density exclusion] The construction or conversion of an ADU shall be excluded from any calculation of residential density or application of residential growth limits applicable to the lot.

Section 6. Dimensional and Design Standards (Objective)

The following objective standards shall apply to all ADUs:

(a) Size: An ADU's total gross floor area shall be less than the total gross floor area of the primary dwelling and not greater than 75% of the primary dwelling's gross floor area.

(b) Setbacks:

1. If an ADU is created by converting an existing accessory structure and the proposed ADU's location and footprint are identical or smaller than the existing accessory structure, the Town shall not impose new side or rear setbacks beyond those that applied to the accessory structure.

2. For new detached ADUs, side and rear setbacks shall not exceed four (4) feet beyond the accessory structure setback standard otherwise applicable in the zone. (No

increased lot size requirement shall be imposed as a condition to ADU development.)

(c) Building Codes and Safety: ADUs must comply with all applicable building, electrical, mechanical, plumbing, fire, and health codes.

(d) Entrances and Massing: Conditions for permit approval may include objective measures of massing, square footage, and entrance locations (for example: main ADU entrance location relative to primary entrance, maximum ridge height relative to primary dwelling), but may not rely on subjective aesthetics or “neighborhood compatibility.”

(e) Timing of Construction: ADUs may be constructed before or during construction of the primary dwelling unless doing so would require a variance for the primary dwelling under local zoning.

Section 7. Application, Permit Review, and Time Limits

(a) Permit Required. A zoning/use permit is required before occupancy of an ADU. Building permits and other approvals required by the Town, county, and state agencies must be obtained.

(b) Complete Application. An applicant shall submit the Town’s ADU application with the following minimum items:

1. Completed ADU application form;
2. Site plan and architectural renderings showing lot lines, all structures, proposed ADU footprint and entrances, existing and proposed parking, and proximity to any alley or mass transit;
3. Floor plans showing gross floor area of primary dwelling and proposed ADU;
4. Evidence that applicant owns and has exclusive use rights of the property;
5. Verification from the Frederick County Health Department that the proposed ADU meets the standards for well and septic capacity
6. Any other documentation necessary to demonstrate compliance with building codes and objective standards.

(c) Timeline. The agency responsible for zoning decisions shall approve or deny a complete

application within 90 calendar days of receipt, unless tolled by an applicant-requested delay. Review shall be ministerial (no discretionary hearings) when the objective standards are satisfied. (See HB 1466 §4-505).

(d) Ministerial Action. Approval occurs if the application demonstrates compliance with the objective criteria in this ordinance. Denial must be in writing and must specify which objective standards were not met.

(e) Appeals. Nothing in this ordinance alters the right to judicial or administrative appeal under applicable law.

Section 8. Parking

(a) Outside Transit Radius. For ADUs located more than 0.75 miles from a mass transit facility, the Town may require no more than one (1) additional off-street parking space in connection with the ADU.

(b) Waiver and Flexibility. The Town shall provide an administrative waiver process for parking requirements considering:

1. Cost to construct parking;
2. On-street curb availability;
3. Stormwater/impervious surface impacts; and
4. Lot size variability.

(c) Further Parking Requirements. The Town may adopt more detailed parking requirements only after completing or relying on a parking study that assesses parking supply and demand within the Town and the impacts of ADU build-out. (If the Council later chooses to adopt more stringent parking rules, it must first complete a parking study as required under HB 1466 §4-504(E)(2)).

Section 9. Utilities and Meters

(a) Separate Connection Restrictions. Except for ADUs developed with a new or substantially renovated primary dwelling (as defined in state law), well and septic utilities may not require a separate connection from the ADU to the well or septic if the existing connection for the primary dwelling is sufficient to supply the ADU. A utility may, however, require separate connections under objective criteria adopted by the Town in consultation with the utility.

Section 10. Restriction on Private Covenants

(a) Consistent with HB 1466 §2-126 and state real property provisions, a provision in a deed, declaration, contract, covenant, HOA bylaws, or other recorded instrument shall not impose an unreasonable limitation on the ability of a property owner who has exclusive use rights and otherwise complies with law to develop or rent an ADU on property zoned single-family residential. An “unreasonable limitation” includes language that effectively prohibits ADU development or significantly increases the cost of development. (This section does not apply to historic property protections as described in state law.)

(b) The Town will not enforce deed restrictions that violate the state restriction on use provisions, but nothing in this ordinance nullifies private contract rights except as permitted by state law.

Section 11. Enforcement and Penalties

(a) It is unlawful to occupy an ADU without obtaining the required permits or to materially deviate from approved permits. Violations shall be subject to the Town’s usual code enforcement remedies, including stop-work orders, penalties, and the withholding of certificates of occupancy.

(b) The Town shall follow an administrative enforcement process that provides notice and an opportunity to cure for first-time minor infractions where public health and safety are not immediately at risk.

Section 12. Forms and Administrative Procedures

(a) The Town Clerk-Treasurer is authorized to adopt forms, checklists, fees (consistent with Section 10), and administrative rules necessary to implement this ordinance in a manner consistent with it.

(b) The Town Clerk-Treasurer shall publish the ADU application checklist and provide a streamlined intake process to facilitate ministerial review.

Section 13. Severability

If any provision of this ordinance is held invalid, the invalidity shall not affect other provisions that can be given effect without the invalid provision.

Section 14. Effective Date

This ordinance shall take effect on September 30, 2026 , which shall be no later than October 1, 2026, to ensure compliance with state deadline established in HB 1466.