



Town of Garrett Park

Incorporated 1898

To: Mayor and Town Council
From: Barbara B. Matthews, Town Manager
Subject: Ordinance No. 2023-1 for Introduction – Opting into County Code Chapter 29
Date: January 9, 2023

Background

On January 9, 2023, the Mayor and Town Council discussed the Town's exemption from Chapter 29 of the County Code (Landlord-Tenant Relations).

In the spring of 2022, a Town resident applied for and received a Town building permit for a requested one-story plus walkout basement addition and related interior alterations, mechanical, plumbing, and electrical work. During the County's review of the permit plans submitted to it by the resident, the County Department of Permitting Services noted that the basement portion of the project constituted an Accessory Dwelling Unit (ADU).

This determination triggered a requirement for the resident to register with the County Department of Housing and Community Affairs (DHCA), which administers the County's rental housing licensing program. Because the Town of Garrett Park opted out of County Code Chapter 29, Landlord-Tenant Relations, DHCA was unable to process the resident's application for an ADU. The resident has been unable to move forward with the desired ADU as a result.

As discussed at the Town Council meeting on January 9, 2023, information on the County website indicates that Chapter 29 applies in Brookville, Chevy Chase View, the Village of Chevy Chase Section 3, the Village of Chevy Chase Section 5, the Town of Chevy Chase, Glen Echo, Kensington, Martin's Additions, North Chevy Chase, Poolesville, Somerset, and Washington Grove. The following jurisdictions are exempt from Chapter 29: Barnesville, Chevy Chase Village, Gaithersburg, Garrett Park, Laytonsville, Rockville, and Takoma Park. Gaithersburg, Rockville, and Takoma Park have their own landlord-tenant laws.

At the conclusion of the discussion on January 9, 2023, the Mayor and Town Council agreed to have the Town Attorney draft an ordinance to allow the application of County Code Chapter 29 (Landlord-Tenant Relations) in the Town of Garrett Park. Attached is Ordinance No. 2023-1 for possible introduction on February 13, 2023.

As requested by the Mayor and Town Council, Ordinance No. 2023-1 incorporates a delayed effective date to allow more time for public outreach and transition. The proposed effective date of the ordinance is July 1, 2023.

Overview of Select Chapter 29 Provisions

The following information provides an overview of certain key provisions of County Code Chapter 29, Landlord-Tenant Affairs. It is not intended to provide an exhaustive list of all aspects of County law.

- Before a residential dwelling unit, personal property, or multifamily property can be offered for rent in Montgomery County, the owner must obtain a rental facility license from DCHA. Certain rentals are not covered, including, but not limited to, housing operated for religious or charitable

purposes and transient housing (such as a hotel, motel, or school dormitory). Room rentals are also exempt if someone who has an ownership interest in the property occupies it and rents out rooms.

- A property is exempt from licensing if it is occupied by the owner or partial owner. The property is also exempt if it is occupied by certain relatives of the owner. Property owners with relative or owner-occupied properties are required to register with DHCA.
- Currently, the annual rental license fee for a single-family detached house is \$114. A copy of the associated Rental Housing License Application is provided as Attachment 2.
- The current annual fee for a Class 3 ADU is \$111. In addition, there is a one-time filing fee of \$250 and a one-time sign fee of \$220. A copy of the associated Rental Housing License Application and information on standards for Class 3 ADUs are provided as Attachment 3. This information is applicable to ADUs approved after May 2013; prior to this date, ADUs were approved through the Special Exception zoning process.
- All rental properties built before January 1, 1978 are required to comply with the State of Maryland's Lead Poisoning Prevention Program standards in order to be licensed by the County. These property owners must provide DHCA with proof of their registration with the Maryland Department of Environment (MDE) and/or a copy of the MDE Lead Paint Certificate indicating that the property has passed inspection. Attachment 4 includes information from MDE's website regarding lead paint inspections and lead paint certificates.
- Any rent increase cannot occur until 90 days after the Landlord gives the tenant written notice of the increase. Landlords can increase a tenant's rent only once every 12 months.
- The Office of Landlord Tenant Affairs handles landlord and tenant disputes involving most residential properties in Montgomery County.
- Owners who live outside of Maryland or who use a P.O. Box must designate a Legal Agent who lives in Maryland for service of process.

Short-Term Leasing

Opting into Chapter 29 would allow licensure for standard leasing but not short-term leasing. Short-term licensing is administered under County Code Chapter 54. Per the letter labeled as Attachment 5, the Town's exemption from Chapter 54 would continue.

Recommendation

Staff recommends that the Town Council consider introduction of Ordinance No. 2023-1.

Attachments

- Attachment 1 – Ordinance No. 2023-1
- Attachment 2 – County Rental Licensing Application – Single Family and Condominium
- Attachment 3 – County Rental Licensing Application and Standards – Class 3 ADUs
- Attachment 4 – Information on State of Maryland's Lead Poisoning Prevention Program
- Attachment 5 – 2018 Letter to County Regarding Short-Term Rentals in Garrett Park

Ordinance No. 2023-1
Introduced:
Adopted:
Effective Date:

**TOWN OF GARRETT PARK
ORDINANCE NO. 2023-1**

**AN ORDINANCE TO ALLOW IN THE TOWN OF GARRETT PARK
THE APPLICATION OF CHAPTER 29 (LANDLORD-TENANT RELATIONS)
OF THE COUNTY CODE, REGARDING THE LEASING OF RENTAL HOUSING**

- WHEREAS, Maryland Code, Local Government Article, Sec. 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; and,
- WHEREAS, Maryland Code, Local Government Article, Sec. 4-111, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to designate by ordinance which provisions of County law apply in the Town; and,
- WHEREAS, this ordinance would eliminate the Town's current exemption to County Code Chapter 29, regarding landlord-tenant relations and require, among other things, the licensing by the County of rental housing and, thus, this ordinance would allow, among other things, the licensure of accessory dwelling units; and,
- WHEREAS, this ordinance would subject residential leasing to the jurisdiction of the County Commission on Landlord-Tenant Affairs, according to the provisions of County Chapter 29; and,
- WHEREAS, on the other hand, this ordinance would not alter the Town's current exemption to County Code Chapter 54, regarding short-term leasing; short-term leasing would continue to be disallowed, as noted by Jeff Zyontz, Senior Legislative Analyst to the Montgomery County Council, in his September 21, 2017 memorandum to the Planning, Housing, and Economic Development Committee, "Any municipality that opts out of Chapter 54 could not have licenses approved by the County within its jurisdiction. Under these circumstances ... the zoning ordinance would not allow a legal short-term rental..."; and,
- WHEREAS, Section 78-17 of the Charter of the Town of Garrett Park authorizes the Town Council to pass ordinances not contrary to the Constitution and laws of the State of Maryland or the Charter 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 or destruction; for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents and visitors in the Town and for such other police or health matters as it may deem

necessary; and,

WHEREAS, after proper notice to the public, the Town Council introduced this Ordinance in public session assembled on the ____th day of _____, 2023, and considered it on the ____th day of _____, 2023; and,

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 or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents and visitors in the Town.

NOW, THEREFORE, BE IT ORDAINED AND ORDERED, this ____th day of _____, 2023, by virtue of the authority given to it by the Maryland Code and the Town Charter, the Town Council does hereby adopt the following ordinance.

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

* * *

Section 108. Exemption from County Ordinances

Pursuant to the authority conferred by Article 23A of the Annotated Code of Maryland and by Section 2-96 of the Montgomery County Code, the Town of Garrett Park hereby exempts itself from all legislation heretofore or hereafter enacted by Montgomery County, Maryland relating to any subject with respect to which the Town of Garrett Park has a grant of legislative authority provided either by public general law or the charter of the Town of Garrett Park.

Section 109. Exception to General Exemption

The following chapters of the Montgomery County Code 1984, as amended and future amendments to these same chapters when adopted by Montgomery County, are exceptions to the above general exemption and shall be applicable within the Town of Garrett Park.

<u>CHAPTER</u>	<u>TITLE</u>
3	Air Quality
3A	Alarms
5	Animal Control
7	Bicycles
8	Buildings
8A	Cable Communications
10	Day-Care Centers
11	Consumer Protection
15	Eating and Drinking Establishments
17	Electricity
18	Elm Disease

19 Erosion and Sediment Control
21 Fire and Rescue Services
22 Fire Safety Code
23A Group Residential Care Facilities
24 Health and Sanitation
25 Hospitals, Sanitariums, Nursing, and Care Homes
26 Housing and Building Maintenance Standards
27 Human Relations and Civil Liberties
27A Individual Water Supply and Sewage Disposal Systems
29 Landlord-Tenant Relations
30A Montgomery County Municipal Revenue Program
30B Massage Establishments and Massage Technicians
32-17A Urination and Defecation in Public [Ord. 2005-05; 11/14/05]
34 Plumbing and Gas Fitting
36 Pond and Excavation Safety Standards
38A Radio, Television and Electrical Appliance Installation and Repair
39 Rat Control
40 Real Property
44 Schools and Camps
44A Secondhand Personal Property
45 Sewers, Sewage Disposal, and Drainage
46 Slaughterhouses
47 Vendors [Ord. 2004-04; 10/11/2004]
51 Swimming pools
52 Taxation
55 Unsafe Buildings

* * *

SECTION 2. AND BE IT FURTHER ORDAINED AND ORDERED, by the Council of the Town of Garrett Park, 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 July 1, 2023.

Attest:

I hereby attest that the above Ordinance was duly adopted by the Town Council on the ____th day of _____, 2023, by a vote of ___ in favor and ____ in opposition.

Barbara B. Matthews, Town Manager
Town of Garrett Park

Joanna R. Welch, Mayor
Town of Garrett Park

Date: _____

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



MONTGOMERY COUNTY
DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS



MAIL APPLICATION TO: Licensing and Registration • 1401 Rockville Pike, 4th Floor • Rockville, Maryland 20852
 Telephone 240-777-0311 • TTD 240-777-3679
www.montgomerycountymd.gov/dhcalicensing

**RENTAL HOUSING LICENSE APPLICATION
SINGLE FAMILY AND CONDOMINIUM**

<p>IMPORTANT INFORMATION (Read Carefully):</p> <ul style="list-style-type: none"> Incomplete applications will delay the license. Application MUST be signed. Application MUST include payment. Payment: Check or Money Order only Payable to: Montgomery County MD Refund requests must be made in writing within 90 days of payment and include documentation from bank institution 	<p>FEE is Not Prorated FEES EFFECTIVE JULY 1, 2019</p> <p>\$114.00 \$64.00</p> <p><input type="checkbox"/> Single Family <input type="checkbox"/> Garden Style Condo</p> <p><input type="checkbox"/> Townhouse/<input type="checkbox"/>Back to Back <input type="checkbox"/> High Rise Style Condo</p> <p><input type="checkbox"/> Duplex/<input type="checkbox"/>Quadrplex <input type="checkbox"/> Piggyback Townhouse</p> <p>[This is an annual fee] Fiscal Year: July 1 to June 30</p>	<p style="text-align: center;">OFFICE USE ONLY</p> <p>Entered By _____</p> <p>Date Entered _____</p> <p>Deposit By _____</p>
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RENTAL PROPERTY INFORMATION:

Name of Community Association _____
 I affirm that I am current on my homeowners or condominium dues and fees

Rental Street Address _____ Unit # _____

City _____ **MD** Zip Code _____ Date of Purchase (date) _____
{if within 6 months, include HUD-1/Closing Form}

Start Date of Rental _____ Rent \$ _____ Year Built _____

of Occupants _____ # of Kitchens _____ # of Bedrooms _____ # of Basement Bedrooms _____

Is Tenant Related to Owner? YES NO If so, how is tenant related? _____ Name of Relative _____

Is this a New Owner/Transfer of Existing License? YES NO - **\$10** Transfer Fee for New Owners assuming Licensed Property

OWNER INFORMATION: *Sole Ownership Trust ***Partnership/LLC Corporation**

Primary Owner (Salutation) _____

Street Address _____ **[A Legal Agent is Required if you use PO Box or Out of State]**

City _____ State _____ Country _____ Zip Code _____

Work Phone # _____ Home Phone # _____ Cellular Phone # _____
 Fax # _____

Email Address: (Please Print)

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Must provide contact information on **owners** and/or **general partner**. Please provide on separate sheet

CORPORATION INFORMATION: [Resident Agent is required for Corporate Ownership]

Corporation Name _____

Executive's Name _____

Street Address _____

City _____ State _____ Country _____ Zip Code _____

Office Phone # _____ Cellular Phone # _____ Fax # _____

Email Address: (Please Print)

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AGENT or MANAGEMENT INFORMATION: *Administrative Agent Management

Agent/Management Name _____ *(Administrative Agent will receive all renewal bills)

Company Name: _____

Street Address _____

City _____ State _____ Country _____ Zip Code _____

Work Phone# _____ Cellular Phone # _____ Fax Phone # _____

Email Address: (Please Print)

Grid for email address input

*Resident or Legal Agent:

***** Legal Agent REQUIRED – If owner does not live in the State of Maryland or using a PO Box*****

Resident/Legal Agent Name _____ (Must be any Maryland Resident – Cannot be Tenant)

Company Name: _____

Street Address _____

City _____ State MD Zip Code _____

Work Phone# _____ Cellular Phone # _____ Fax Phone # _____

Email Address: (Please Print)

Grid for email address input

Legal Agent's Signature Required _____ Date _____

MARYLAND DEPARTMENT OF ENVIRONMENT (MDE) LEAD POISONING PREVENTION

Maryland State law requires all owners renting residential properties to register the rental property with MDE. If the property was built before January 1, 1978, it is required to be tested for lead poisoning. [Statutory requirements of Article 24, Political Subdivisions, 19-103]

1. Is the property built before January 1, 1978? YES NO Year Built: _____

If answer to question #1 is NO, DO NOT answer questions 2, 3, & 4. You do not have to register your property with MDE.

If the answer is YES, please complete questions.

2. Is this property registered with MDE? YES NO Tracking #: _____ If NO, contact MDE 1-800-633-6101 to register.

3. Is the registration current? YES NO

4. What is the Lead Inspection Certificate # for current tenancy: _____

Mail a photocopy of lead inspection certificate with application. For more information on requirements for obtaining your lead inspection certificate, contact Maryland Department of Environment at 1-800-633-6101 ext. 4199 or 410-537-4199 or www.mde.state.md.us/lead.

AUTHORIZED SIGNATURE OF APPLICATION LICENSE:

By my signing this application, I am the owner or have authorization to sign on behalf of the owner. I understand that falsifying information can result in having this rental license application denied and the property will not be licensed to rent. I affirm under penalty of perjury that the information on this application is true to the best of my knowledge and belief. I also understand that if there are changes in property ownership, owner address, or agent/contact information that I must notify MC/DHCA Licensing and Registration within 10 day of the change. I also understand penalty can be assessed in a civil citation of \$500 if the rental property is not licensed.

X _____ Date _____ Authorized Signature

Print or Type Name of Person Signing

Please note: If your check is returned unpaid, your account will be debited electronically for the original check amount and electronically or via paper for the state's maximum allowable service fee. Payment by check constitutes authorization of these transactions.



MONTGOMERY COUNTY, MARYLAND
 DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
 LICENSING AND REGISTRATION UNIT

CLASS 3
Accessory Dwelling Unit Rental License Application

Office Use Only:
 License No. _____
 Received Date _____
 Evidence of OPR _____
 Apt/Driveway Sketch _____
 Residential Zone _____
 Meets requirements: Y / N

(Please Read All Instructions on Back Prior to Submitting Application)
 Fees Required at Application Submission:
 Application Fee: \$250.00
 Annual License Fee (7/1 - 6/30): \$111.00
 Sign Fee: \$220.00
 Total: \$581

Mail Application with Payments to:
 DHCA/Licensing and Registration Unit
 1401 Rockville Pike, 4th Floor
 Rockville, Maryland 20852
 Checks Payable to: Montgomery County, MD

PART A ACCESSORY DWELLING UNIT(ADU):

Address: _____
 Street Address City Zip

Is ADU under construction or will be? Y / N
*See #1 (a) ii on back Obtained Building Permit? Y / N
*See #1 (a) iii on back

Start Date of Rental: ___/___/___ Number of Occupants: _____
(18 years of age or older) Number of Kitchens: _____
(This includes main house kitchen)

ADU Detached? Y/N Lot Acreage: _____

Location of ADU: _____

Location of Entrance Door to ADU: _____

On-site Driveway dimensions: _____ Change to Original Floor Plan? Y / N
(If Yes, explain on separate paper)

*See 3 on back
 Sq. ft. of principal dwelling: _____ Sq. ft. of ADU: _____
 Date of Purchase: _____ (If within 6 months, include HUD-1/Closing form) Year ADU Built: _____
*See #7 on back

Is ADU approved by Homeowners Association? Yes / No / N/A
*See #8 on back

Is there an active special exception (SE) for your ADU? Y / N If so, SE #: _____ I want SE revoked: Yes / No

PART B OWNER INFORMATION:

*See 1 (b) on back

 First Owner's Name Second Owner's Name

 Full Street Address/State/Zip Full Street Address /State/Zip

 Primary Phone Cellular Phone Primary Phone Cellular Phone

 Email Address Email Address

I affirm under penalty of perjury that the above information is true to the best of my knowledge and belief. I also understand that if there are any changes in property ownership, owner address, or agent/contact information that I must notify Montgomery County Department of Housing and Community Affairs (DHCA), Licensing & Registration within 10 days of the change.

 Owner's Signature Date Second Owner's Signature Date

Class 3 Accessory Dwelling Unit Application Instructions

1. File Class 3 Accessory Dwelling Unit license application with Department of Housing and Community Affairs, Licensing and Registration Unit. You must mail or apply in person at the following address: Hours: 8:30 AM – 5 PM, Mon-Fri
DHCA/Licensing and Registration Unit, 1401 Rockville Pike, 4th Floor • Rockville, Maryland 20852
 - a. Part A: Accessory Dwelling Unit (ADU)
 - i. Full street address including city, state and zipcode.
 - ii. If the ADU is a new construction or under construction, select “Y” and a building permit is required. You will be able to apply for permits from the Department of Permitting Services by providing a copy of your initial inspection report from and stamped drawings from DHCA.
 - iii. If you have a building permit, select “Y”. If not, you will be able to apply for permits from the Department of Permitting Services by providing a copy of your initial inspection report and stamped drawings from DHCA. Submit copies of open permits with ADU application.
 - iv. Indicate the start date of rental and the number of occupants over the age of 18 years old.
 - v. If ADU is detached from main house, select “Y” and write the location of the ADU.
 - vi. Indicate how many kitchens are in all (main house, ADU, etc).
 - vii. Indicate location of the ADU entrance door. (i.e., right side of house, rear)
 - viii. Indicate the dimensions of the driveway.
 - ix. Indicate the lot acreage (i.e., 1 acre, half acre, etc).
 - x. Indicate the square footage of the entire house and the square footage of just the ADU alone.
 - xi. If there was a change in the original floor plan, select “Y” and indicate the change(s).
 - xii. If you purchased the property within the last 6 months, please include copy of the settlement form.
 - b. Part B: Owner Information
 - i. Write all owners’ full names and full street addresses, include primary phone numbers, cellular numbers and email addresses. All legal owners must sign the application. If needed, attach a separate sheet for additional owner information and signatures.
2. Show evidence of primary residence for all owners (select one below)
 - a. The owner’s most recent Maryland income tax return; or
 - b. The owner’s current Maryland’s driver’s license; or
 - c. The owner’s real estate tax bill for the address of the proposed accessory dwelling unit.
3. Provide detailed drawings with the dimensions of the proposed accessory dwelling unit and the driveway. Must be submitted on an 8 ½” x 11” paper. If blueprint, scale down to an 8 ½” x 11” sized paper. Must show entrance door, interior doors, windows, bathroom fixtures, kitchen appliances, each room labeled (kitchen, bathroom etc.), stairs or door to main house (if applicable).
4. Sign affidavit for attestation of the continued use of the property as the owner’s primary residence, attestation that the ADU will not be occupied by more than two persons 18 years age or older, the community association does not prohibit ADU, and owners are not more than 30 days past due on any common ownership community fees. Affidavit does not need to be notarized or signed in front of our staff. All legal owners must sign.
5. The filing fee, license application fee, and sign fee deposit are paid at time of submission. \$125 of the application fee is refundable if the DHCA Director finds the property does not meet zoning requirements.
6. Post Class 3 ADU public notice sign within 5 days of acceptance on the property in a place visible from each public road which abuts the property. Sign remains posted for 30 days or until initial inspection is completed, whichever is longer. \$110 of the sign fee deposit will be refunded when the sign is returned in a clean, undamaged, and reusable condition.
7. Is this property built before January 1, 1978? If YES, the ADU **MUST** be registered with Maryland Department of the Environment (MDE) and inspected for lead paint after construction is completed. ***Maryland law requires that all owners of residential rental property comply with the State Lead Poisoning Prevention requirements and that proof of compliance be provided to local government before authorizing a property be rented.*** For further information regarding Lead Poisoning Prevention and compliance, call MDE at 1-800-633-6101 or 410-537-4199. **Copies of Lead Inspection Certificates or MDE registration must be provided to our office with your Class 3 Accessory Dwelling Unit application.** This is not required if the property will not be rented, but you must then submit a signed statement with your application.
8. **Contact your homeowners’ association or see your association’s covenants or deed for their rules and regulations regarding accessory dwelling units. Any decisions by DHCA will not override the covenants or deed.**

Note: If your check is returned unpaid, your account will be debited electronically for the original check amount and electronically or via paper for the state’s maximum allowable service fee. Payment by check constitutes authorization of these transactions.

CLASS 3 ACCESSORY DWELLING UNIT

Homeowners in Montgomery County may be permitted to create and use or rent a Class 3 Accessory Dwelling Unit (ADU) in their primary residence. An ADU is a second dwelling unit that is part of a detached home or in separate accessory structure on the same lot that includes facilities for cooking, eating, sanitation and sleeping. ADUs must comply with requirements of Montgomery County Code: Chapter 26-Housing Standards, Chapter 29-Landlord/Tenant Relations, Chapter 59-Zoning Ordinance and all applicable laws.

CLASS 3 ACCESSORY DWELLING UNIT APPLICATION PROCESS

ADUs must be licensed regardless of whether they will be rented or not, and prior to being advertised for rent. To obtain a Class 3 ADU license, follow these steps:

1. Visit our website at www.montgomerycountymd.gov/dhcalicensing. Under Accessory Dwelling Unit, click the “More Information” tab. There you will find useful information including a link to apply online and a link to a PDF application if you wish to submit a paper copy.
2. Complete the Class 3 Accessory Dwelling application.
3. Submit the application with the required documentation and fees listed below:
 - Proof of residency and signed Affidavit of Attestation are required for all owners.
 - Two detailed drawings, each on an 8½” x 11” sheet of paper.
 - Drawing #1 is the proposed ADU - show the doors, windows, rooms (label), bathroom fixtures, kitchen appliances, stairs, location of main entrance, entrance to main house (if applicable), and dimensions of rooms or entire apartment.
 - Drawing #2 is of the driveway or off-street parking area with the dimensions.
 - Application Fee of \$581 (\$250 filing fee, \$220 public notice sign fee, \$111 Accessory Dwelling Unit annual license fee).
 - Properties located within the incorporated City of Takoma Park submit a \$470 payment (County rental license fee is exempt. Rental license is obtained through the City of Takoma Park).
 - Copy of the receipt showing the property is registered with the Maryland Department of Environment (MDE) and photocopy of the Lead Paint inspection certificate, if property was built before January 1, 1978. This is only required when construction is completed.
 - If you have a homeowner's association or community association, contact them to see if an ADU is allowed under its covenants or regulations. You must sign the affidavit attesting that an ADU is not prohibited by any of its governing documents and that you are not more than 30 days past due on any association or community fees.

4. Once the Licensing and Registration Section has received your application, it will be reviewed for completeness within 5 business days of receipt.
5. The Department will send written notification of the application's acceptance or will return the application and all fees with a written explanation regarding missing documents.
6. If the property does not meet the on-site parking requirement, you may still apply for an ADU license and file for a waiver with the Office of Zoning and Administrative Hearings (OZAH). Note – on-site parking is not required if your property is within one mile of any Metrorail, Purple Line, or MARC Rail Station.
7. Housing Code Enforcement and OZAH Examiner will each receive a copy of the accepted application with submitted documents.
8. Owner must post the public notice sign on yard within 5 days of acceptance of the application by the Department and remain posted for 30 days, minimum, and until the initial inspection is completed. The sign is to be returned, clean and undamaged, within 30 days after the end of the posting period.
9. Licensing will review the application for completion and Housing Code Enforcement will inspect the property for compliance with applicable codes.
10. The Director will issue a preliminary report after the initial inspection and Licensing review, and a final report after Housing Code's final inspection.
11. An ADU license will be approved 30 days after the issuance of the Director's Report. Additional time can be granted to applicants to bring their property into compliance with applicable codes.
12. Changes in information provided on the original ADU application must be reported to the Department of Housing and Community Affairs, Licensing/Registration Section immediately.
13. If your ADU application is denied after our inspection for a Class 3 Accessory Dwelling Unit, you can object to The Office of Zoning and Administrative Hearings (OZAH) by calling 240-777-6660 or going to 100 Maryland Avenue, Room 200, Rockville, MD 20850.

ACCESSORY DWELLING UNIT (ADU) REQUIREMENTS

- An ADU is a second dwelling unit that is part of a detached home or in separate accessory structure on the same lot that includes facilities for cooking, eating, sanitation and sleeping. An ADU must be on a single-family detached property – not permitted in townhouses, condominiums, duplexes or mobile homes.
- Either the principal dwelling or the proposed Accessory Dwelling, on the lot or parcel for the proposed ADU, must be the owner's primary residence.
- Parking: If there is an existing driveway, one on-site parking space is required in addition to any on-site parking space required for the principal dwelling (Montgomery County Zoning Ordinance 59.6.2.4B); however, if a new driveway must be constructed for the ADU requirement then two on-site parking spaces, total min. 320 sq. ft., shall be provided. If the property is located within one mile of any Metrorail, Purple Line or MARC Rail Station, no on-site parking space is required.
- The maximum footprint of an Accessory Dwelling Unit, in combination with other structures on site, cannot exceed the total lot coverage limit in the underlying zone and the maximum gross floor area of the unit; an ADU must comply with the setback, height, and building lot coverage standards of an accessory structure in the underlying zone, unless modified by the use standards for an ADU.
- The maximum gross floor area used for an Attached Accessory Dwelling Unit, including any floor area used for an ADU in a cellar, is 1,200 square feet; if only the basement or cellar is used, the maximum gross floor area for the ADU may equal the square footage of the basement or cellar.
- The maximum gross floor area for a Detached Accessory Dwelling Unit must be the least of:
 - 1) 50% of the footprint of the principal dwelling;
 - 2) 10% of the lot area; or
 - 3) 1,200 square feet of gross floor area.
- The Accessory Dwelling Unit must be the only additional living unit or residential use space on a lot or parcel. A registered living unit (RLU) is not permitted. In addition, no other tenants (this includes boarding house and guest room for rent), Airbnb's or short-term residential rentals are permitted.
- An ADU is to have the same street address as the main house.
- The Accessory Dwelling Unit may not be occupied by more than two adults (eighteen years or older) and total number of occupants must follow the square footage requirements under Chapter 26.
- Entrance/Egress: The Accessory Dwelling Unit must have a separate entrance located on the side yard or rear yard. An entrance at the front of the principal dwelling is allowable if it is a single entrance door for both the principal dwelling and the accessory unit. A front entrance solely for the ADU is allowed if the entrance door existed before May 20, 2013. A separate entrance must lead directly to the outside and cannot be through a garage.

- The entrance door shall be side-hinged and have a clear width of not less than 32 inches and a clear height of not less than 78 inches. Double-cylinder deadbolt locks are not permitted and must be replaced with a thumb-turned deadbolt.
- Exterior lighting must be provided for walkway to ADU and outside of ADU entrance door.
- Second floor Accessory Dwelling Units must have a safe unobstructed means of escape leading to open space at ground level; a unit door with exterior stairs leading to ground level with no obstructions.
- Stairs of four or more risers must have a handrail on at least one side. Handrails must have a minimum height of 34 inches and a maximum height of not more than 38 inches as measured vertically from the nosing (outside portion of stair treads).
- Porches, balconies, decks or raised floor surfaces located more than 30 inches above the floor or grade below must have guardrails not less than 36 inches in height. Open sides of stairs must have a guardrail installed to prevent passage of an object four or more inches in diameter.
- Permits: Construction, alternation or renovations cannot be started before the Department of Housing and Community Affairs preliminary inspection report is completed. Any opened permits must be finalized before license is issued. Contact Department of Permitting Services to obtain any required permits at 240-777-0311 or Washington Suburban Sanitary Commission to obtain required plumbing permits at 301-206-4003.
- Properties built before January 1, 1978, must comply with the Maryland Department of Environment (MDE) lead poisoning prevention law. The Accessory Dwelling Unit must be registered with MDE and inspected for lead paint by an accredited licensed inspector. A copy of the "passed" lead inspection certificate and copy of the receipt showing registration fees were paid to MDE must be submitted to Licensing and Registration before a license will be issued. For more information, contact MDE at 800-633-6101 or 410-537-4199.
- Basement Ceiling Heights: Accessory Dwelling Units located in finished basements or cellars must have a ceiling height of at least 6'8", except a beam, girder, duct or other obstruction may project to within 6'4" of the finished floor. Ceilings must also be constructed of finished drywall.
- Area for Sleeping Purposes: Every room used for sleeping purposes by one occupant must have at least 70 square feet of floor area and be at least 7 feet in width. Every room used for sleeping purposes by more than one person must contain at least 50 square feet of floor area for each occupant.
- Egress Windows: Every sleeping room must have at least one operable outside window or exterior door approved for emergency egress or rescue in accordance with the fire code. A window shall be at least 5 square feet of net clear opening for grade floor or below grade. Above grade windows shall be at least 5'7" square feet of net clear opening. The minimum height of the window opening must be at least 24 inches, the width shall not be less than 20 inches and the opening must achieve the required square footage. A window opening cannot be greater than 44 inches from the sleeping room floor.
- Window Bars: Required escape window must not be barred except with breakaway bar systems approved by the Fire Marshall.

- Kitchen Facilities: Each unit must be equipped with a kitchen stove 24-inch or wider (top burners and oven), a standard refrigerator, shelves for dry food storage and adequate counter space for food preparation with a 36-inch clear passageway.
- Kitchen stove/range must have vertical clearance above the cooking top of at least 30 inches to unprotected combustible material. Reduced clearances are permitted in accordance with the listing and labeling of the range hood or appliance.
- Screens: All operable windows must be screened.
- Outlets Required: Every habitable room must have electric service and outlets or fixtures, or both. Every cooking area must be supplied with two circuits rated for at least 20-amp service capacity. Each individual room air conditioning unit, regardless of its current rating, must be served by not less than an individual 20-amp circuit that terminates in a single receptacle. Outlets in bathrooms must be protected with GFI's on a 20-amp circuit.
- A sleeping room cannot be installed in an area that is adjacent to a utility room containing fuel burning furnaces and/or water heaters that use the area for combustion air; unless, separated by a solid weather-stripped door equipped with an approved self-closing device. All combustion air shall be taken from the outdoors in accordance with IRC Section G2407-6.
- Basement stairwells used as exit path shall be at least 36 inches wide. An existing stairwell may be 32 inches wide. A furnace may not be located under an exit stairwell.
- Smoke detectors: At least one (1) smoke detector shall be installed to protect each sleeping area. A sleeping area is defined as the area or areas of the family living unit in which the bedrooms (or sleeping rooms) are located. Where bedrooms or rooms ordinarily used for sleeping are separated by other-use areas (such as kitchens or living rooms, but not bathrooms or closets), they shall be considered as separate sleeping areas for the purposes of this section. At least one (1) smoke detector shall be installed in or near each stairway leading to an occupied area.
- Maryland Smoke Alarm Law: Maryland's new law requires the replacement of battery-only smoke alarms with new smoke alarms powered by 10-year, long-life, sealed-in batteries. Hard-wired smoke alarms must remain hard-wired.
- Carbon monoxide alarm or detector: The owner of a dwelling unit containing a fuel burning appliance or attached garage must install carbon monoxide detection and warning equipment. Carbon monoxide alarms or detectors must be installed as follows:
 - Outside of each separate dwelling unit sleeping area and in the immediate vicinity of the bedrooms; and on every occupiable level of a dwelling unit, including basements, excluding attics and crawl spaces. A carbon monoxide alarm or detector must be located on the wall, ceiling, or other location as specified in the manufacturer's published instructions that accompany the unit; and be installed and maintained under NFPA 720.

For more information regarding Class 3 Accessory Dwelling Unit process, contact Clifton Bouma, Program Specialist II, Licensing and Registration Unit at 240-777-0311.

Attachment 4

Enter search term

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Inspections for Rental Housing

Maryland laws and regulations regarding the reduction of lead risk in rental housing provide for inspections to be conducted at various times. A rental dwelling unit which was constructed prior to 1978 must, at a minimum, meet the Risk Reduction Standard. The property owner should review the available inspection options to select the inspection service which best suits their needs.

Lead Free Certification

A property which has been determined to be free of lead paint is exempted from annual registration fees and risk reduction inspection requirements.

Contact an accredited Lead Paint Inspection Contractor who has been approved by MDE to conduct lead paint surveys. An accredited Lead Paint Inspector Technician or Risk Assessor who is employed by that contractor will perform a detailed survey of all painted surfaces to determine that there is no lead paint.

A property which has no lead paint on interior surfaces but does have lead paint on exterior surfaces may qualify for a **Limited Lead Free certificate**. The inspector must determine that there is no chipping, peeling, or flaking paint on the exterior surfaces. Limited Lead Free Certificates are only good for two years. The exterior of the property must pass a Re-inspection, to ensure there is no chipping, peeling, or flaking exterior paint, by an accredited inspector prior to the expiration of the certificate. All work performed to meet the lead hazard reduction standards, including cleaning, must be conducted by an MDE accredited contractor or supervisor.

If the lead paint survey determines that lead paint is present, an accredited abatement supervisor/contractor can fully abate that paint. A Lead Paint Risk Assessor can issue a Lead Free certificate following a determination that the abatement has been satisfactorily completed. There is, however, no obligation under the law to fully remove or otherwise permanently abate all of the lead paint in a rental property.

Full Risk Reduction Certification

This inspection requires a Dust Inspection, which is generally conducted in a vacant unit prior to occupancy by a new tenant. This inspection must be done before a new tenant moves in. An inspector must collect dust samples from each room in the unit. Each dust sample must be analyzed by a qualified laboratory, and the results must fall below specified levels. In general, testing for lead contaminated dust is most likely to be successful in a clean, well maintained property. Flaking or chalking lead paint on windows, in particular, may be an important source of lead dust in a unit.

Modified Risk Reduction Certification

This inspection requires both a Visual Inspection and a Dust Inspection and is generally conducted in an occupied unit in response to either: (a) a notice of defective paint or related conditions which may increase the risk of lead exposure; or (b) a notice that a child or pregnant woman in the unit has a lead level of 10

Attachment 4

All work performed to meet the lead hazard reduction standards, including cleaning, must be conducted by an MDE accredited contractor or supervisor. After all work has been completed, an accredited Lead Paint Visual Inspector or Lead Paint Risk Assessor may verify that the necessary work has been satisfactorily completed and can then issue the certificate.

For additional information contact the Maryland Department of the Environment, Lead Poisoning Prevention Program at 410-537-3825 or 1-800-776-2706 (TDY 1-800-735-2258)



Larry Hogan
Governor

Boyd K. Rutherford
Lt. Governor



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The Maryland General Assembly's Office of Legislative Audits operates a toll-free fraud hotline to receive allegations of fraud and/or abuse of State government resources. Information reported to the hotline in the past has helped to eliminate certain fraudulent activities and protect State resources.

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1800 Washington Blvd., Baltimore, MD 21230
Phone: 410-537-3000
Maryland Relay TTY (711): 800-735-2258
Human Resources Fax: 410-537-3966



LEAD PAINT CERTIFICATES FOR RENTAL HOUSING

The Maryland Lead Risk Reduction in Housing Law (“Law”) requires inspections to be conducted at various times. A rental dwelling unit, which was constructed prior to 1978, **must** meet any applicable inspection standards. 2015 The Maryland Department of the Environment maintains lists of accredited lead paint inspection contractors. Only accredited inspectors are qualified to provide these inspection services. The Law also requires registration, fee payment and distribution of educational materials in addition to the inspection requirements.

RISK REDUCTION CERTIFICATION

A Full Risk Reduction inspection is generally conducted in a vacant unit prior to occupancy by a new tenant. An accredited inspection contractor may issue a certificate, which indicates that there is a reduced risk of lead exposure in a rental unit.

The Full Risk Reduction standard is met by passing the test for lead-contaminated dust, provided that that any chipping peeling, or flaking paint has been removed or repainted on interior and exterior of the rental dwelling unit. After verifying paint condition meets the standard the accredited inspector must collect dust samples from each room in the unit. Each dust sample must be analyzed by a qualified laboratory, and the results must fall below specified levels. In general, testing for lead contaminated dust is most likely to be successful in a clean, well maintained property.

A Modified Risk Reduction inspection is conducted in response to either (a) written notice from the tenant, or from any other source, of the presence of defects in the unit or (b) within 30 days of being notified a person at risk (pregnant woman or child under 6 years of age) has a blood lead level of 5 micrograms per deciliter or more and an Environmental Investigation has identified defects.

The Modified Risk Reduction standard is met when the Owner provides for the temporary relocation of tenants to a lead free dwelling unit or another dwelling unit that has met a risk reduction standard or by passing the test for lead contaminated dust and performing specific lead hazard reduction treatments. The lead hazard treatments must be performed and by an accredited contractor or supervisor.

LEAD FREE and LIMITED LEAD FREE CERTIFICATION

A rental dwelling unit which has been certified to be free of lead paint (XRF readings below 0.7mg/cm² or paint chip samples below 0.5% by weight) may be exempted from annual registration fees and from further risk reduction requirements. If the lead paint survey determines that lead paint is present in a unit, an accredited abatement supervisor or contractor can fully abate the lead paint. An accredited inspector can issue a Lead Free certificate following a determination that the abatement has been satisfactorily completed. There is, however, no obligation under the Law to fully remove or otherwise permanently abate all of the lead paint in a rental property.

If the lead paint survey determines that there is no lead paint on interior surfaces of the unit, but does have lead paint on exterior surfaces, that unit may qualify for a Limited Lead Free certificate. If the unit meets the Limited Lead Free Standard, the accredited inspector must visually inspect the exterior areas to ensure there is no chipping, peeling or flaking paint on those surfaces. The unit meeting the Limited Lead

Attachment 4

Free certificate must be re-inspected every two years on or before the date of the original certification. If the re- inspection does not occur in a timely manner the original certificate is no longer considered valid. When a the owner submits a lead free certification to the Department they are required to also submit a Lead Free Inspection Fee Payment with the appropriate processing fee. The processing fee is \$10 (per unit) for every unit represented by the certificate.

For more information on Rental Registration please visit the [Rental Registration Page](#) or call 410-537-4199 or toll free in Maryland 1-800-776-2706.

For more information on Compliance please visit the [Lead Program's Rental Owner Page](#) or call (410) 537-3825 or toll free in Maryland 1-800-633-6101, Ext. 3825.





August 23, 2018

Via email (clarence.snuggs@montgomerycountymd.gov) and first-class mail

Clarence Snuggs, Director
Department of Housing and Community Affairs
1401 Rockville Pike, 4th Floor
Rockville, MD 20852-1428

Re: Short-term leasing in the Town of Garrett Park (ZTA 17-03)

Dear Director Snuggs:

To assist the Licensing and Registration unit of the Department of Housing and Community Affairs in implementation of ZTA 17-03, effective July 1, 2018, we wish to provide confirmation to the unit that short-term leasing is currently not permitted in the Town of Garrett Park.

As noted by Jeff Zyontz, Senior Legislative Analyst to the Montgomery County Council, in his September 21, 2017 memorandum to the Planning, Housing, and Economic Development Committee, "Any municipality that opts out of Chapter 54 could not have licenses approved by the County within its jurisdiction. Under these circumstances ... the zoning ordinance would not allow a legal short-term rental..."* As further noted by Mr. Zyontz in the memorandum, the Town of Garrett Park is one of the municipalities that has opted out of Chapter 54.

We hope this helps. Please let us know whether there are any questions.

Sincerely,

A handwritten signature in blue ink that reads "Gene Swearingen". The signature is fluid and cursive.

Gene Swearingen, Manager
Town of Garrett Park

cc: Kacky Chantry, Mayor

* See: http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&clip_id=13820&meta_id=143337