

Sponsor: Bilbrough
Final Reading: 9/13/2021

ORDINANCE #59-21

AN ORDINANCE TO AMEND THE LAND USE AND DEVELOPMENT CODE OF THE TOWN OF WYOMING TO CLARIFY STANDARDS FOR CONSTRUCTING ACCESSORY STRUCTURES AND TO ENHANCE THE ENFORCEMENT AND PENALTY PROVISIONS

WHEREAS, the Town of Wyoming is authorized pursuant to 22 *Del. C.* Chapter 3 and Section 18.20 of the Town Charter to enact zoning regulations in the Town of Wyoming;

WHEREAS, the Town of Wyoming enacted zoning regulations by adopting the Land Use and Development Code of the Town of Wyoming on August 3, 2009;

WHEREAS, the Town of Wyoming is authorized pursuant to section 15-6 of its Land Use and Development Code to amend the text of the Land Use and Development Code after the amendment has been reviewed by the Planning and Zoning Committee and the Town Council has held a public hearing that was advertised in a newspaper of general circulation in the town at least 15 days prior to the hearing;

WHEREAS, in the opinion of the Town Council, it is necessary to amend the Land Use and Development Code to clarify the standards for constructing accessory structures and to enhance the enforcement and penalty provisions in order to further the health, safety, and welfare of the town;

WHEREAS, the Planning and Zoning Committee reviewed the proposed text amendment at its meeting held June 23, 2021, and recommended approval to the Town Council;

WHEREAS, a public hearing on the proposed text amendment was held before the Town Council on August 25, 2021, notice of which was published on August 4, 2021 in the Delaware State News (newspaper), being at least 15 days before the public hearing; and

WHEREAS, all members of the public were given an opportunity to comment on the proposed amendment to the Land Use and Development Code at the public hearing, and after hearing comments from the public and considering the proposed amendment to the text of the Land Use and Development Code, the Town Council believes it is in the best interest of the town to clarify the standards for constructing accessory structures and to enhance the enforcement and penalty provisions found in the Land Use and Development Code.

NOW THEREFORE, BE IT HEREBY ENACTED by the Town Council of the Town of Wyoming, a majority thereof concurring in council duly met, that the Land Use and Development Code of the Town of Wyoming is hereby amended as follows:

Section 1. Amend Section 4-2. (Accessory Uses and Structures) by making insertions as shown by underline and deletions as shown by strike through as follows:

§ 4-2. Accessory Uses and Structures

A. Definition—A use is an accessory use if it meets all of the following criteria.

1. It is incidental and subordinate to the principal use.
2. It is customary to the principal use.
3. It is operated and maintained under the same ownership and on the same lot as the principal use.
4. It does not include structures or structural features inconsistent with the principal use.
5. It does not include overnight lodging for anyone other than members of the household in which the accessory use is conducted.

B. Where Permitted—Except as otherwise provided, accessory uses and buildings are permitted in all zones.

1. Accessory buildings shall be permitted only on the same lot with the principal building to which they are accessory. All accessory uses shall be such as do not alter the character of the premises on which they are located or impair the neighborhood.
2. No more than two accessory buildings shall be permitted on any lot, no more than one of which may be a dog house.
3. Accessory buildings must be located at least ten feet from the principal building.

Section 2. Amend Section 5-1 (Basic Area Regulations) by making insertions as shown by underline and deletions as shown by strike through as follows:

§ 5-1. Basic Area Regulations

A. Residential Zones

Standard Zone and Dwelling Type	R-1 Zone	R-2 Zone		
	Single-Family Detached	Single-Family Detached	Semi-Detached	Townhouse
<i>Tract Standards</i>				
Tract Area	10,000 SF	5,000 SF	7,000 SF	20,000 SF
Maximum DUs Per Acre	4.0	8.0	12	15.0
Maximum DUs Per TH Row	N/A	N/A	2	6
Distance between Buildings or TH Rows (feet)	N/A	N/A	N/A	40
Street Frontage (feet)	In accordance with <i>Standards and Regulations for Subdivision Streets and State Highway Access</i> , Delaware Department of Transportation			
<i>Lot Standards</i>				
Lot Area Per DU (SF)	10,000	5,000	3,500	Interior = 2,000

				End = 3,000
Street Frontage (feet)	In accordance with <i>Standards and Regulations for Subdivision Streets and State Highway Access</i> , Delaware Department of Transportation			
Lot Width at Front Property Line (feet)	65	50	40	20
Setbacks (feet)				
Front Yard				
State-Maintained Roads	35	35	35	35
Other	25	20	20	20
Side Yard	10	7	7	Interior = 0 End = 10
Rear Yard	25	25	25	25
Maximum Building Height to Top of Building (feet)	35	35	35	35
Maximum Building Coverage (Percent of lot area)	30%	45%	45%	45%

Notes

1. All dimensions are minimum standards unless specified otherwise.
2. N/A means not applicable.
3. DU means dwelling unit.
4. SF means square feet.
5. EBL means established building line.
6. On a corner lot in the R-2 Zone, the rear setback may be reduced by 20% to allow for the "skewing" of a residential dwelling on the lot.
7. The total building coverage shall be calculated using the square footage of the building footprint of both the principal building and any accessory buildings.

* * *

C. Commercial (C) and Industrial (I) Zones.

Standard	C Zone	I-1 Zone
Minimum Tract Area	2,500 SF	1 acre
Street Frontage (feet)	In accordance with <i>Standards and Regulations for Subdivision Streets and State Highway Access</i> , Delaware Department of Transportation	
Lot Width at Front Property Line (feet)	20	50
Setbacks (feet)		
Front	15	50
Side	20	20
Rear		
Adjoining Residential Zone	15	20
Adjoining Non-Residential Zone	Same as adjacent zone	
Maximum Building Height to Top of Building (feet)	35	35

Maximum Building Coverage (% of Lot)	60%	50%
Green Area (% of Lot)		20%

Notes

1. All dimensions are minimum standards unless specified otherwise.
2. N/A means not applicable.
3. SF means square feet.
4. The total building coverage shall be calculated using the square footage of the building footprint of both the principal building and any accessory buildings.

Section 3. Amend Section 5-3. (Accessory Buildings and Structures) by making insertions as shown by underline and deletions as shown by strike through as follows:

§ 5-3. Accessory Buildings and Structures

Placement	One same lot as principal building or structure
Setbacks	
Front	Not permitted
Side	Not permitted
Rear	5 feet
Maximum Height	<u>24 feet</u> 20 feet

Section 4. Amend Section 15-7 (Violation and Penalties) by making insertions as shown by underline and deletions as shown by strike through as follows:

§ 15-7. Violation and Penalties

A. The Administrator is authorized and directed to institute any appropriate action to put an end to the following violations:

1. Where any building is erected, constructed, reconstructed, altered, repaired, or converted in a manner that violates the provisions of this Land Use and Development Code.
2. Where any building or land is used in violation of this Land Use and Development Code.

B. Pursuant to Section 18 of the Wyoming Town Charter, any person or corporation who shall violate any of the provisions of this Land Use and Development Code or fail to comply therewith, or with any of the requirements thereof, or who shall build or alter any building in violation of any detailed statement or plan submitted and approved by the Town shall be in violation of this Code and may be assessed a civil penalty of \$100.00 per offense. guilty of a misdemeanor and shall be liable to a fine of not more than \$500.00, or be imprisoned for not more than 10 days or both. All citations for violations of this Code shall be in written form and shall indicate that a property owner or other interested party may appeal the citation to the Board of Adjustment within 15 business days of the date the citation was mailed to the property's address and, if different, to the property owner's last known address on file with the town, which mailing shall be by both regular mail and certified mail, return receipt requested. If the appeals period expires without the violation being remediated or an appeal being filed, or if an appeal is filed and the Board of Adjustment affirms the citation and the property owner does not remediate the violation within 5 business days of the date of the Board's decision, the Town may impose civil penalties as prescribed herein. Pursuant to 25 Del. C. § 2901, civil penalties

assessed for violations of the Code and not paid within 30 days of may be added to the property tax bill for the property that was the subject of the violation.

C. Each and every day that a violation continues shall be deemed a separate offense.

Section 5. Amend Section 16 (Definitions) by making insertions as shown by underline immediately before the definition of Building Height:

BUILDING FOOTPRINT—The land area covered by a principal building or accessory building, including steps, porches, and decks, but not including heat pumps, heaters, or air-conditioning units, provided that such equipment shall be adjacent to the principal building.

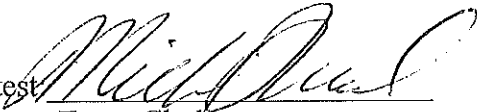
Section 6. Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that the Town Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with Town Council's intent.

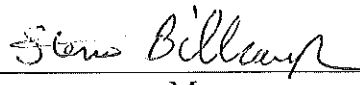
Section 7. Effective Date. This Ordinance shall become effective immediately upon its adoption by the Town Council.

Synopsis

This ordinance amends the Land Use and Development Code of the Town of Wyoming to clarify that accessory buildings must be located on the same lot as the principal use, must be at least 10 feet from the principal building, and are limited to two accessory buildings on any lot. Accessory buildings are included when calculating the total building coverage on a lot, and the maximum height of accessory buildings is reduced to 20 feet. The definition for building footprint is being added to the Code. This ordinance established a \$100 civil penalty for violations of the Land Use and Development Code, establishes appeals procedures, and provides that unpaid penalties can be added to the tax bill of the property in question.

This shall certify that this is a true and correct copy of the ordinance duly adopted by the Town Council of the Town of Wyoming at a duly-noticed and convened meeting at which a quorum was present on September 13, 2021.

Attest 
Town Clerk

So Certifies:

Mayor

This shall certify that a copy of this Ordinance was posted at the Town Hall on September 14, 2021.

9/14/2021
Date

So Certifies:
