

ORDINANCE NO. 2026-05

**THE MAYOR AND COUNCIL OF
THE TOWN OF NEW MARKET**

**FOR THE PURPOSE OF AMENDING THE LAND DEVELOPMENT ORDINANCE TO
ADD ARTICLE XIV. ACCESSORY DWELLING UNITS:**

WHEREAS, per Article III Section 3.1 of Ordinance 2009-01 states that "The Town Council may from time to time amend, supplement, change, modify, or repeal by ordinance the regulations of this Ordinance and any amendment may be initiated by resolution of the Town Council; and

WHEREAS, per Article III Section 3.4 Before taking any action on any proposed amendment, supplement, change, modification, or repeal, the Town Council shall submit the proposal to the Planning Commission for review and recommendation. The Planning Commission may hold a hearing on any proposed amendment, supplement, or change before submitting its recommendation to the Town Council; and

WHEREAS, the Planning Commission voted on August 6, 2026, to recommend approval of this proposal and had confirmed both that there is a public need for the proposed amendment and that the proposed amendment is consistent with the Comprehensive Plan as required by per Article III Section 3.4; and

WHEREAS, per Article III Section 3.5 the Town Council held a public hearing on September 10, 2026, to hear public comment on this amendment and has published notice of the time and place of the public hearing, together with a summary of the proposed regulation in at least one newspaper of general circulation within the Town, once a week for two successive weeks, with the first notice to be published at least 14 days before the hearing and the notices have indicated where the proposed amendment and documents relating to the amendment may be reviewed, which may include a reference to internet publication of documentation by the Town.

NOW, THEREFORE, The Mayor and Council of The Town of New Market ordains that the Land Development Ordinance is amended to provide a new article as follows:

ARTICLE XIV. ACCESSORY DWELLING UNITS

1.0 SCOPE OF ARTICLE. This Article applies to accessory dwelling units as defined in Section 2.1.

2.0 DEFINITIONS. Except as the context may otherwise indicate, the definitions in this Article apply only in this Article.

2.1 ACCESSORY DWELLING UNIT: A secondary dwelling unit that is on the same lot, parcel, or tract as an existing primary single-family detached dwelling unit, and not greater than 75% of the gross floor area of, and subordinate in use to, the existing primary single-family detached dwelling unit. An accessory dwelling unit may be separate from the primary single-family detached dwelling unit or attached as an addition to the primary single-family detached dwelling unit. A manufactured home which conforms to this definition may be an accessory dwelling unit. Accessory dwelling unit does not include a bed and breakfast.

2.2 ACCESSORY DWELLING UNIT SITE PLAN. A site plan administratively approved by the zoning administrator as complying with the requirements of this Article.

2.3 DWELLING UNIT: A single-family dwelling separate from the primary dwelling providing complete living facilities for at least one individual, including, at a minimum, provisions for sanitation, cooking, eating, and sleeping. "Dwelling unit" does not include a unit in an attached single-family dwelling, two-family dwelling or multifamily residential building.

2.4 GROSS FLOOR AREA: The residential dwelling area of the primary dwelling unit, as determined in accordance with the methodology and criteria adopted by the Maryland Department of Assessments and Taxation in the calculation of residential dwelling areas. With respect to the calculation of the gross floor area of an accessory dwelling unit, the same methodology and criteria adopted by the Maryland Department of Assessments and Taxation shall apply.

2.5 ON-STREET PARKING: Public parking spaces along public rights-of-way and in designated public parking lots and areas.

2.6 OFF-STREET PARKING SPACE: An all-weather, surfaced area, not in a street or alley, having an area of not less than 180 square feet, exclusive of driveways, permanently reserved for the temporary storage of one motor vehicle and connected with a street or alley by a paved driveway which affords ingress and egress for a motor vehicle without requiring another motor vehicle to be moved.

2.7 **PRIMARY DWELLING UNIT:** A building which is designed, configured and permitted by this Ordinance and all other applicable laws for single-family residential use, is not an accessory structure or accessory dwelling use and is the primary use on the lot, parcel, or tract.

2.8 **PUBLIC FACILITIES:** Water supply and distribution systems, sewage disposal systems, fire protection, streets, public schools and fire protection serving the lot, parcel, or tract.

2.9 **ZONING ADMINISTRATOR:** The zoning administrator specified in Article I, Section 8.0 of the Land Development Ordinance.

3.0 ACCESSORY DWELLING UNIT REQUIREMENTS

3.1 **Conversion of Existing Accessory Structures.** Except as provided in this section, no part of an existing accessory structure may be converted into an accessory dwelling unit if the only vehicular access to the accessory structure is from an alley. An accessory dwelling unit may be established on a lot, parcel, or tract having no vehicular access to the accessory dwelling unit except from an alley if the front boundary line of the lot, parcel, or tract is contiguous to Main Street and the rear boundary of the lot, parcel, or tract is contiguous to North or South Alley.

3.2 **Building Code Requirements; Development Agreements.** An accessory dwelling unit shall comply with all applicable Federal, Maryland and Town laws, statutes, ordinances, regulations and building, safety and fire prevention codes, including but not limited to building separation requirements of the Maryland Building Code, and the Americans with Disabilities Act. In the event the lot, parcel, or tract is subject to an annexation agreement, development rights and responsibilities agreement or similar contract restricting use or density, the accessory dwelling unit shall conform to such contractual criteria.

3.3 **Adequate Public Facilities.** An accessory dwelling unit may not be established if the public facilities serving the proposed accessory dwelling unit are inadequate. The standards enacted by Frederick County, Maryland establish relevant criteria for determining adequacy of water supply and distribution systems, sewage disposal systems and public schools. The adequacy of public facilities serving the proposed accessory dwelling unit may be considered by the zoning administrator in reviewing an application for an accessory dwelling unit and the accessory dwelling unit site plan.

3.4 **Parking.** Upon the completion of a parking study by the Town, no less than one off-street parking space shall be provided for the accessory dwelling unit. The Board of Appeals may grant a variance from the parking requirement as provided in section 4.2.1(v.) of this Ordinance. Before granting a variance, the Board of Appeals shall give consideration to any traffic study of the vicinity undertaken by or on behalf of the Town or the applicant, the existing land area for parking

available within the lot, parcel, or tract, available on-street parking, existing and potential parking congestion in the vicinity, whether there exists curb or frontage area along the front curb or boundary line of the lot, parcel, or tract suitable for on-street parking, the effect of any increase in impervious surface, and the effect on stormwater management, traffic and pedestrian safety, and if applicable, the cost of constructing off-street parking spaces. In considering the availability of on-street parking to accommodate a proposed accessory dwelling unit, the use of on-street parking and loading by nearby residential and nonresidential uses and the availability of on-street parking to support tourism shall also be considered by the Board of Appeals.

3.5 Minimum Setback Requirements. The setback requirements for an accessory dwelling unit shall not exceed the existing accessory structure setback requirements from the side and rear lot lines established pursuant to this Ordinance for the lot, parcel, or tract.

3.6 Historic and Architectural Review. An accessory dwelling unit shall comply with all applicable historic preservation ordinances and architectural guidelines enforceable by the Town.

3.7 Accessory Dwelling Unit Site Plan. An accessory dwelling unit may not be established unless the applicant has submitted and the zoning administrator has approved an accessory dwelling unit site plan, drawn to scale, prepared and certified by a licensed Maryland surveyor or engineer, and including the following:

- a. the boundaries of the lot, parcel or tract upon which the accessory dwelling unit is proposed;
- b. the location and dimensions of the primary dwelling unit;
- c. the gross floor area of the primary dwelling unit;
- d. the location and dimensions of the proposed accessory dwelling unit;
- e. the location and dimensions of any existing accessory structures on the lot, parcel, or tract;
- f. the gross floor area of the proposed accessory dwelling unit;
- g. The location of existing dwellings within 10 feet of the boundary of the lot, parcel, or tract on which the accessory dwelling unit is proposed;
- h. the distance between the proposed accessory dwelling unit and each existing dwelling on an adjacent lot within 10 feet of the boundary of the lot, parcel, or tract;
- i. the proposed vehicular access to the accessory dwelling unit;
- j. the proposed setbacks from side and rear lot lines;
- k. the location of existing and proposed vehicular parking areas on the lot;
- l. the proposed vehicular access to the accessory dwelling unit;
- m. the location of any on-street parking area proposed to serve the accessory dwelling unit;
- n. the number of bathrooms proposed for the accessory dwelling unit;
- o. a letter of availability of public water and sewerage to accommodate the accessory dwelling unit from each utility provider; and

- p. a certificate of appropriateness if the lot, parcel, or tract is subject to regulation by the Historic District Commission or Architectural Review Commission of the Town;

3.8 Front Yards. No accessory dwelling unit shall be located in a front yard.

3.9 Nonconforming Primary Dwelling Unit. An accessory dwelling unit use may be granted by the Board of Appeals as an expansion of an existing nonconforming use in accordance with Article XI of this Ordinance. The accessory dwelling unit shall be considered as part of a nonconforming use. In the event the nonconforming use of the primary dwelling unit ceases for more than one year as provided in Article XI, section 2.1, the accessory dwelling unit approved in accordance with Article XI and this Article shall thereafter become the primary dwelling unit on the lot, parcel, or tract.

3.10 Multiple Accessory Dwelling Units. Not more than one accessory dwelling unit shall be permitted for each primary dwelling unit on the same lot, parcel, or tract.

3.11 Height. The building height of an accessory dwelling unit shall be no greater than the height of the primary dwelling unit.

3.12 Existing Accessory Dwelling Units. Validly existing accessory dwelling units established prior to the enactment of this Article shall be considered nonconforming uses.

3.13 Reduction in Size of Primary Dwelling Unit. Subsequent to the approval of an accessory dwelling unit, if the gross floor area of the primary dwelling unit is reduced or determined to be less than 133.33 percent of the gross floor area of the accessory dwelling unit, the accessory dwelling unit shall cease to be a permitted use.

4.0 VIOLATIONS AND ENFORCEMENT.

4.1 Violation of Ordinance. The establishment or continuation of an accessory dwelling unit which is not in compliance with this Article is a violation of this Ordinance.

4.2 Enforcement. This Article may be enforced as provided in Article XII of this Ordinance.

AND, IT IS FURTHER ORDAINED, that this Ordinance shall become effective on the 30th day of September, 2026.

ATTEST:

**BY ORDER OF THE
MAYOR AND COUNCIL OF
THE TOWN OF NEW MARKET**

Town Clerk

Winslow F. Burhans, III, Mayor

Councilmembers:

Kevin DeLany

Nicole Moravy

Michaela Mueller

Kristina Trunnell

Howard Wilson

INTRODUCED: August 13, 2026

ENACTED: September 10, 2026

EFFECTIVE: September 30, 2026