

TOWN OF CHEVY CHASE
COUNCIL MEETING
TOWN HALL
March 19, 2018

FY19 BUDGET WORK SESSION (5 p.m.)

The Town Council will hold a work session to review the proposed FY19 budget that the Town Manager and Treasurer have prepared.

REGULAR MEETING (7 p.m.)

- I. GENERAL BUSINESS
 - A. Call to Order
 - B. Approval of Minutes of February 7, 2018 Public Forum and February 12, 2018 Council Meeting
 - C. Acceptance of February 2018 Financial Report
 - D. [Town Manager's Report](#)
 - E. Public Comments

- II. PUBLIC COMMENTS ON FY19 BUDGET PRIORITIES
The Town Council will hold a special public comment period to hear from residents about next year's budget and which new or ongoing initiatives they would like to see funded.

- III. VARIANCE HEARINGS
 - A. [Tewksbury, 7203 Oakridge Avenue, Driveway Width, Curb Entrance Width & Non-Vegetative Front Yard Coverage](#)
 - B. [Embrey, 7020 Beechwood Drive, Right-of-Way Fence and Trees](#)

- IV. PUBLIC HEARINGS
 - A. [Public Hearing on an Ordinance to Amend the Town Ethics Law](#)
 - B. [Public Hearing on an Ordinance to Amend the Town Building Code](#)

- V. COUNCIL ACTIONS
 - A. [Introduction of an Ordinance to Adopt the FY19 Budget and Tax Rates](#)
 - B. [Approval of an Agreement to Participate in the Montgomery County Disability Benefits Plan \(Long Term Disability Benefit for Town Employees\)](#)

- VI. DISCUSSIONS & PRESENTATIONS
 - A. [Purple Line Mitigation](#)

- VII. ADJOURNMENT

MEMORANDUM

I-D

TO: Town Council
FR: Todd Hoffman, Town Manager
RE: Town Manager's Report
DATE: March 19, 2018

This report highlights some of the initiatives undertaken by Town staff over the past month. In the interest of brevity, I have not included ongoing staff functions. Please let me know if you have any questions or need additional information.

- Continued coordination with Purple Line Mitigation Committee members on analysis of preliminary stormwater management plans.
- Met with PLTC official re. Purple Line pre-construction surveys and white papers.
- Met with MCDOT officials re. Capital Crescent interim trail.
- Met with Election Board and Ethics Commission members re. plans and procedures for 2018 Town election.
- Attended Climate and Environment advisory group meeting re. teaching garden project.
- Worked with Centennial Committee on preparations for Town centennial celebration.
- Met with County officials re. updates to hazard mitigation plan.
- Initiated multiple IT improvements to Town Hall and Town office.
- Assisted LRP with planning for MoCo District 1 Candidates forum.
- Continued preparation of FY19 budget.
- Continued oversight of WSSC infrastructure repairs.
- Processed requests for new street lights.
- Worked with Community Relations Committee on special events.

STAFF REPORT

III-A

TO: Town Council
FR: Todd Hoffman, Town Manager
RE: Tewksbury, 7203 Oakridge Avenue, Driveway Width, Curb Entrance Width, and Non-Vegetative Front Yard Coverage
DATE: March 19, 2018

Cindy and David Tewksbury, 7203 Oakridge Avenue, propose to widen the driveway on their property and in the public right-of-way and widen the shared driveway curb entrance.

The project requires variances as follows:

- The driveway is proposed to have a maximum width in the front yard of 21.5 feet. Town building regulations limit the width of a driveway in a front yard to not more than 10 feet; therefore, a variance of 11.5 feet is requested.
- The driveway is proposed to have a width in the public right-of-way of 20 feet. Town building regulations limit the width of a driveway in the public right-of-way to not more than 10 feet; therefore, a variance of 10 feet is requested.
- The shared driveway curb entrance is proposed to have a width at the street of 27 feet. Town building regulations limit the width of a shared driveway curb entrance at the street to not more than 25 feet; therefore, a variance of 2 feet is requested.
- The shared driveway curb entrance is proposed to have a width at the sidewalk of 24 feet. Town building regulations limit the width of a shared driveway curb entrance at the sidewalk to not more than 20 feet; therefore, a variance of 4 feet is requested.
- The project is proposed to increase the non-vegetative surface area in the front yard to 49%. Town building regulations limit the non-vegetative surface area in the front yard to not more than 35%; therefore, a variance is required.

Background:

For this property, the curb entrance is shared with the driveway serving 7205 Oakridge Avenue. A portion of the driveway serving 7205 Oakridge Avenue is located, with a recorded easement, in the front yard of 7203 Oakridge Avenue. No portion of this driveway is shared with 7203 Oakridge Avenue.

As of March 13, the Town has received one call from David Clark, 7205 Oakridge Avenue, supporting the requested variances.

Staff note: The following assertions summarize materials provided by the applicant in support of the variance request. Their inclusion in the Staff Report does not intend to convey staff support for the approval or denial of the variance request. The applicant should indicate to the Council if any arguments have been misrepresented. Council should consider the entire record in considering the variance request.

Applicants' Claims for the Variance Requests:

1. The variances are requested because the front yard of the property is exceptionally shallow, and the property is subject to extraordinary conditions. The applicants wish to be able to park two cars side-by-side in the driveway. The only on-street parking space in front of the applicants' property is often utilized by other cars. Because of the location and configuration of the existing house and driveway, when the applicants' cars are parked in tandem on the driveway, one of the cars extends partially over the sidewalk. One of the applicants' cars is an electric car that must be parked adjacent to the charging station in the driveway. In addition, the applicant has also had several tires destroyed by nails when parking on the street.

The front yard non-vegetative surface calculation includes a driveway serving 7205 Oakridge Avenue. The applicants do not have use of that area of the front yard.

2. Approval of the variances is requested because conforming to the Town's building ordinance would be impossible and impractical. Because of the location of the house and configuration of the driveway, there is not a location that would allow a wider driveway to be constructed by right.
3. The proposed driveway will not be detrimental to the use and enjoyment of neighboring properties. The driveway is not shared, and it is being expanded toward the center of the lot where it will not impact adjacent properties.
4. The request is the minimum necessary to overcome the exceptional condition that is causing the hardship. There is no other location available to create space for a second car to park off the street. The proposed expansion is the minimum necessary to allow for the cars to be parked as desired by the applicants. The applicants are requesting an even smaller expansion of the curb entrance and apron to preserve the available on-street parking.
5. The proposed driveway does not impair the general plan of the Town. Parking is allowed only on one side of Oakridge Avenue. By allowing the applicants to park two cars in the front yard, parking congestion on the street will be reduced.

STAFF REPORT

III-B

TO: Town Council
FR: Todd Hoffman, Town Manager
RE: Embrey, 7020 Beechwood Drive, Right-of-Way Fence and Trees
DATE: March 19, 2018

Diana Embrey and Todd Eardensohn, 7020 Beechwood Drive, propose to retain a recently installed 6' tall fence and 6 arborvitae trees that were placed in the public right-of-way adjacent to the property, as shown on the attached site plan.

The following variances are required:

- The fence extends 3.5 feet into the public right-of-way. Town building regulations do not allow fences to be placed in the public right-of-way; therefore, a variance is required.
- The arborvitae are located in the public right-of-way. Town building regulations do not allow shrubbery or trees to be placed in the public right-of-way; therefore, a variance is required.

Background:

The new fence replaced a non-conforming wooden fence of the same height and in the same location. As of March 13, the Town has not received any correspondence about the variance request.

Staff note: The following assertions summarize materials provided by the applicant in support of the variance request. Their inclusion in the Staff Report does not intend to convey staff support for the approval or denial of the variance request. The applicant should indicate to the Council if any arguments have been misrepresented. Council should consider the entire record in considering the variance request.

Applicants' Claims for the Variance Requests:

1. The variances are requested because the property is subject to extraordinary conditions. There is a large tree located on the property line preventing the fence from being placed in that location. The owners were not aware of the location of the property line when they replaced a dilapidated fence and plantings that were in the same location.
2. Approval of the variances is requested because conforming to the Town's building ordinance would cause peculiar practical difficulties and cause undue hardship. Relocating the fence to the property line would require removing a portion of an adjoining retaining wall, relocating a swing set, and working around the large tree. The plantings were expensive.
3. The improvements are not detrimental to the use and enjoyment of neighboring properties. The fence and plantings are more attractive than the previous fence and plantings. The width of the Pine Place trail remains adequate for pedestrians in the location of the improvements.

4. The request is the minimum necessary to overcome the exceptional condition that is causing the hardship. Because of the tree, swing set, and retaining wall in the rear yard, there is no alternative location for the fence and plantings near the property line.
5. The improvements do not impair the general plan of the Town. The fence and bushes do not create any safety risks and do not interfere with the use and enjoyment of the Pine Place trail.

Staff Note: If the variance request is approved, staff recommends that the Council require the applicants to sign a revocable right-of-way usage license.

**Town of Chevy Chase
Ordinance to Amend the Public Ethics Law
(2017 Legislative Session Amendments)**

Ordinance No.: 18-01
Introduced: January 10, 2018
Adopted:
Effective Date:

WHEREAS, the Maryland Code, Local Government Article, Section 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, Section 301 of the Town of Chevy Chase Charter authorizes the Town Council to pass ordinances 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 and destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare and happiness of the resident(s) of the Town; and for such other police and health matters as it may deem necessary; and

WHEREAS, the State Public Ethics Law, State Government Article, Section 15-803 of the Maryland Code, as amended, requires each municipal corporation to enact provisions, equivalent to the provisions applicable to State officials, to govern the public ethics of local officials relating to conflicts of interest, financial disclosure, and lobbying; and

WHEREAS, by letter dated January 25, 2013, the Town was granted partial exemption from the State Public Ethics Law, and need not adopt the requirements related to lobbying; and

WHEREAS, the Town of Chevy Chase adopted Ordinance No. 13-03, on November 13, 2013, to amend the Town Ethics Law to incorporate the requirements of the State Public Ethics Law, relating to conflicts of interest and financial disclosure; and

WHEREAS, the Town Council finds that further amendment of the Town Public Ethics Ordinance is necessary to incorporate certain mandatory changes and desirable to incorporate certain permissive changes to the State Ethics Law enacted during the 2017 Legislative Session, as described by the State Ethics Commission in its letter to the Town Ethics Commission dated October 3, 2017; 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 and destruction; and for the protection and

promotion of the health, safety, comfort, convenience, welfare and happiness of the resident(s) of the Town; and

WHEREAS, the Town Council introduced the following Ordinance on the 10th day of January, 2018 and after proper notice to the public, the Town Council conducted a public hearing at which it considered the following Ordinance in public session assembled on the 19th day of March, 2018; and

WHEREAS, the Town Council provided a copy of the introduced Ordinance to the State Ethics Commission for its review and, by letter dated March 1, 2018, the State Ethics Commission approved the Ordinance.

NOW, THEREFORE, the Town Council of the Town of Chevy Chase does hereby adopt the following ordinance:

SECTION 1. BE IT ORDAINED AND ORDERED, this ___ day of _____, 2018, by the Town Council of Town of Chevy Chase, acting under and by virtue of the authority granted to it by the State Government Article of the Maryland Code, and Section 301 of the Town Charter, that Chapter 2, Division 4 of the Town Code is hereby revised as follows:

Chapter 2

* * *

DIVISION 4. PUBLIC ETHICS

* * *

Sec. 2-53. Definitions.

* * *

Designated second home means:

- (1) **If an individual owns one second home, the individual's second home; or**
- (2) **If an individual owns more than one second home, any one second home the individual identifies to the commission as the individual's designated second home.**

* * *

Home address means the address of an individual's:

- (1) **Principal home; and**
- (2) **Designated second home, if any.**

* * *

Interest means:

(1) A legal or equitable economic interest, whether or not subject to an encumbrance or a condition, that is owned or held, in whole or in part, jointly or severally, directly or indirectly.

(2) For purposes of section 2-56 of this division, "interest" includes any interest held at any time during the reporting period.

(3) "Interest" does not include:

* * *

f. A mutual fund **or exchange-traded fund** that is publically traded on a national scale unless the ~~mutual~~ fund is composed primarily of holdings of stocks and interests in a specific sector or area that is regulated by the town.

* * *

Principal home means the sole residential property that an individual occupies as the individual's primary residence, whether owned or rented by the individual.

* * *

Second home means a residential property that:

(1) An individual occupies for some portion of the filing year; and

(2) Is not a rental property or a time share.

* * *

Sec. 2-55. - Conflicts of interest.

* * *

(d) *Post-employment limitations and restrictions.*

* * *

(2) ~~Until the conclusion of the next regular session that begins after the elected official leaves office,~~ a **A** former member of the town council may not assist or represent another party for compensation in a matter that is the subject of legislative action **in the Town for one calendar year after the elected official leaves office.**

* * *

(f) *Use of prestige of office.*

(1) An official or employee may not intentionally use the prestige of office or public position for the private gain of that official or employee or the private gain of another, **including, but not limited to, influencing the award of a town contract to a specific person.**

(2) This subsection does not prohibit the performance of usual and customary constituent services by an elected local official without additional compensation.

* * *

Sec. 2-56. - Financial disclosure—Local elected officials and candidates to be local elected officials.

* * *

(c) Public record.

* * *

(5) For statements filed after January 1, 2019, the commission or office designated by the commission may not provide public access to an individual’s home address that the individual has designated as the individual’s home address.

* * *

SECTION 2. AND BE IT FURTHER ORDAINED AND ORDERED, this ___ day of _____, 2018, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the authority granted to it by the Maryland Code and the Town 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 on the ___ day of _____, 2018.

ATTEST:

TOWN OF CHEVY CHASE

Cecily Baskir, Secretary

Mary Flynn, Mayor
Town of Chevy Chase

Bold and Underline indicates new material
~~Strike through~~ indicates material deleted
* * * indicates material unchanged

**Town of Chevy Chase
Ordinance to Amend Chapter 4**

Resolution No.: 18-02
Introduced: February 12, 2018
Adopted:
Effective Date:

AN ORDINANCE TO AMEND CHAPTER 4 OF THE TOWN OF
CHEVY CHASE MUNICIPAL CODE, AND MOVE ARTICLE II,
CONCERNING “SIGNS,” TO A NEW CHAPTER 5.

WHEREAS, Maryland Code, Local Government Article, Section 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;

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, Maryland Code, Land Use Article, Section 20-509 grants to the legislative body of incorporated municipalities in the Maryland-Washington Regional District general power to adopt building regulations for the protection of the public health, safety, and welfare; the preservation, improvement, and protection of lands, water, and improvements in the municipal corporation; and to regulate the construction, repair, or remodeling of buildings on land zoned for single-family residential uses at it relates to fences, walls, hedges, and similar barriers; signs; residential parking; residential storage; the location of structures, including setback requirements; the dimensions of structures, including height, bulk, massing, and design; and lot coverage, including impervious surfaces;

WHEREAS, Section 301 of the Town of Chevy Chase Charter authorizes the Town Council to pass ordinances 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 and destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the resident(s) of the Town; and for such other police and health matters as it may deem necessary;

WHEREAS, after proper notice to the public, the Town Council introduced the following Ordinance in an open meeting conducted on the 12th day of February, 2018;

WHEREAS, to comply with Maryland Code, Land Use Article, Section 20-509, on the 14th day of February, 2018, a copy of following Ordinance was submitted to the Montgomery County Council for its comments;

WHEREAS, the Montgomery County Council acknowledged receipt of the Ordinance by letter dated March 6, 2018, and indicated it had no comments;

WHEREAS, after proper notice to the public, and after at least thirty days from the date a copy of the following Ordinance was transmitted to the Montgomery County Council, the Town Council considered the following Ordinance in public session assembled on the 19th day of March, 2018;

WHEREAS, after receiving a report and recommendation from the Land Use Committee, dated January 5, 2018, compiled with the assistance of Town staff, and upon consideration of the testimony and evidence presented at the public hearing, 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 and destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the Town.

THEREFORE, BE IT ORDAINED AND ORDERED, this __ day of _____, 2018, by virtue of the authority given to it by the Maryland Code and the Town of Chevy Chase Charter, the Town Council of the Town of Chevy Chase does hereby adopt the following ordinance.

SECTION 1. BE IT ORDAINED AND ORDERED, this __ day of _____, 2018, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the aforementioned authority, that Chapter 4 of the Town Code is hereby amended to read as follows:

* * *

Sec. 4-1. - Definitions.

* * *

Berm: A **continuous linear earthen** mound of **varying length** ~~or bank of earth or gravel~~ measuring one (1) foot or more in height.

* * *

Building line: A line extending from lot line to lot line at the outermost **point of the** wall of a building **closest to the subject lot line.**

* * *

Depth of lot. The average (mean) length of the side lot lines. **If the rear lot line is less than ten (10) feet in length or the lot comes to a point in the rear, the length of the side lot lines shall be the distance from the front lot line to an imaginary line ten (10) feet in length between the side lot lines and parallel to the front lot line, or in the case of a curved front lot line, parallel to the chord of the arc of such lot line.** For a corner lot, the front lot line that intersects the rear lot line shall be considered a side lot line for the purpose of calculating the depth of the lot.

* * *

~~*Established building height:* A building height restriction line, which is the average height of all buildings that:~~

- ~~(a) Are within three hundred (300) feet of each side lot line of the lot in question (excluding corner lots);~~
- ~~(b) Are along the same side of the street;~~
- ~~(c) Are between intersecting streets or to the point where public thoroughfare is denied;~~
- ~~(d) Exist at the time the building application request is filed;~~
- ~~(e) Where constructed pursuant to a valid building permit;~~
- ~~(f) Were not constructed pursuant to a variance; and~~
- ~~(g) Are not the subject building.~~

~~For corner lots, a property owner may decide which adjoining street to use as reference for establishing building height.~~

* * *

Lot, corner: A lot abutting two or more streets at their intersection where the interior angle of the intersection does not exceed 135 degrees.

Lot, interior: Any lot other than a corner lot including a through lot.

Lot, through: An interior lot fronting on two streets, excluding a corner lot.

Lot lines: The outermost boundary lines of a lot.

Rear lot line: The lot line generally opposite or parallel to the front lot line, except in a through lot. For a lot with a rear lot line less than ten (10) feet in length or that comes to a point in the rear, the rear lot line shall be a line ten (10) feet in length lying entirely within

the lot, parallel to the front lot line, or in the case of a curved front lot line, parallel to the chord of the arc of such lot line.

Rear yard: The area defined by the rear lot line, the rear building line, and the side lot lines. **If the lot comes to a point in the rear, the rear yard shall be the area defined by the rear point, the rear building line, and the side lot lines.** In cases where no building exists, the rear building restriction line will be substituted for the rear building line.

* * *

Structure: An assembly of materials forming a construction including, but not limited to, buildings, antennas, open sheds, shelters, tennis courts, air conditioners, and swimming pools, but not including at-grade walkways, patios, ~~terraces~~ and driveways or egress windows, areaways or terraces that are less than twelve (12) inches above grade.

* * *

Width of lot: The distance from one side lot line to the other side lot line ~~measured at the established building line, or if there is no established building line, measured twenty five (25) feet from the front lot line.~~ For a corner lot, the front lot line that is opposite the chosen side lot line shall be considered a side lot line for the purpose of calculating the width of the lot.

* * *

Sec. 4-2. - Building permit, in general.

* * *

(b) Requirements for a preliminary plan and a pre-permit application consultation prior to filing a building permit application for certain work.

* * *

(2) The preliminary plan shall include at least the following:

- a. Schematic or conceptual floor plans and elevations for buildings, and for any planned decks, porches, or patios, drawn to scale;
- b. A preliminary site plan showing:
 - 1. The front, ~~back~~ **rear** and side setbacks; and
 - 2. The location of:
 - A. ~~Impacted~~ **T**rees that are regulated by Chapter 29 "Urban Forest";
 - B. Existing rights-of-way;
 - C. Planned walkways, driveways, driveway aprons, and other impervious surfaces;
 - D. Planned retaining walls; and
 - E. Other planned structures.

- c. A context sketch, photograph or other image showing the planned structures and front and rear elevations in relation to existing structures on adjoining ~~and confronting~~ lots; and
- d. Any other documents or information that the town manager may determine are necessary in order to evaluate the scope of the contemplated work.

* * *

(4) At least ten (10) days before the pre-permit application consultation:

- a. The applicant shall erect a sign, to be furnished by the town, on the subject property within ten (10) feet of the ~~boundary~~ **lot** line of ~~of~~ **along** each public road which abuts the property, facing in such manner as may most readily be seen by the public. ~~The bottom of the sign shall be not less than two and one-half (2½) feet from the ground.~~ The sign shall be of such material, color, height and width as the town shall specify, and shall state the nature of the plan, the file number, the telephone number of the town manager or other official who has custody of the plan and the date, time and location of the pre-permit application consultation.

* * *

(c) Requirement for a site management meeting prior to issuing a building permit for certain work.

* * *

(2) At least ten (10) days before the site management meeting required under this subsection:

- a. The town manager shall provide written notice of such meeting to the owners of all adjoining and confronting properties; and
- b. ~~The applicant shall amend the sign for the pre-permit application consultation to state the nature, time and place of the site management meeting.~~ **The applicant shall erect a sign, to be furnished by the town, on the subject property within ten (10) feet of the lot line along each public road which abuts the property, facing in such manner as may most readily be seen by the public. The sign shall be of such material, color, height and width as the town shall specify, and shall state the nature of the meeting, the file number, the telephone number of the town manager or other official who has custody of the plan and the date, time and location of the site management meeting.**
- c. The town manager shall post a notice of the site management meeting on the town's website.

(d) Application requirements:

(1) All applications for building permits shall be made to the town manager, and shall:

- a. Be submitted on a form provided by the town;**
- ab. State a date by which the building, alteration, and/or construction project shall be finished; ~~and~~

- bc. Be accompanied by plans and specifications of the work contemplated;
- d. Be accompanied by the fee for a permit as established by council resolution. All permit fees shall be payable to the town; and**
- e. Be accompanied by a performance bond or other surety in an amount established by council resolution to cover the cost of restoring the public right-of-way to its pre-construction condition.**

- (2) The town manager shall retain and file a copy of the application.
- (3) The plans and specifications for new construction shall be accompanied by a survey and a plat of the lot with the location of all existing structures and a plan of all proposed structures indicated thereon.
 - a. The plat required by this subsection (3) shall be prepared by a licensed Maryland surveyor, prepared to scale, showing the location of all currently existing improvements. The plat shall be accompanied by the property owner's certification that the plat accurately represents the current condition of the property with respect to the existence and location of all structures that are located on the property. The proposed construction shall be overlaid on the plat clearly and accurately showing the distances to the front, rear and side lot lines. A plat or survey must be of sufficient accuracy for the town manager to determine if any existing or proposed improvements encroach or may encroach into any required setback. If the proposed structure is to be located within one (1) foot of a setback line, a boundary survey, with accompanying plat, showing the distances of all existing structures from all boundaries with a margin of error of **one-tenth (0.1) of a foot** ~~one (1) inch or less,~~ is required. The location of a proposed structure must be determined by measuring from the boundary line to the proposed structure. ~~The boundary survey requirement may be waived by the town for a covering over a front door provided: (i) a house location survey or other plat, with a margin of error of two (2) feet or less, is provided and shows that the front of the main structure is currently set back at least twenty five (25) feet from the front property line and (ii) the covering does not exceed thirty (30) inches in depth and four (4) feet in width.~~
 - ~~b. For all new main buildings, additions with a footprint of over five hundred (500) square feet and new accessory buildings with a footprint of over one hundred fifty (150) square feet, a wall check shall be required.~~
 - eb.** The requirements of this subsection (3) shall not be applicable for applications solely to construct or widen a driveway and/or driveway apron.

* * *

- (e) The town manager shall issue a permit bearing the signature of the town manager and the mayor upon the town manager's approval of the plans and specifications.
 - (1) The town manager shall grant such approval only if the proposed work would comply with all town laws, rules, regulations and ordinances. The town manager may impose conditions on a permit that the town manager deems reasonably necessary to assure

compliance with this chapter and/or to protect the public health, safety or welfare. The conditions that the town manager may impose shall include, but are not limited to:

* * *

- e. Limiting the locations upon which construction debris may be stored, whether or not such debris is contained; **and**
- ~~f. Requiring a performance bond or other surety sufficient to cover the cost of restoring the right-of-way to its pre-construction condition; and~~
- ~~g.~~ Such other terms or conditions as may be determined by the town manager to be necessary to protect the public health, safety or welfare.

* * *

~~(k) The fee for a permit shall be as established by council resolution. All permit fees shall be payable to the town.~~

(k) The town manager may suspend or revoke a building permit or impose additional conditions on a permit as deemed reasonably necessary to protect the public health, safety or welfare. The conditions that the town manager may impose shall include, but are not limited to:

* * *

- (5) Limiting the locations upon which construction debris may be stored, whether or not such debris is contained; **and**
- ~~(6) Requiring a performance bond or other surety sufficient to cover the cost of restoring the right-of-way to its pre-construction condition; and~~
- ~~(7)~~ Such other terms or conditions as may be determined by the town manager to be necessary to protect the public health, safety or welfare.

* * *

(n) Prior to approval of a final inspection, the property owner and the permit holder shall be responsible for restoring any disrupted area of the public right-of-way. If the disrupted area of the public right-of-way is not restored within fifteen (15) days of demand by the town manager, the town may restore the area and charge the property owner and the permit holder and/or may claim the right-of-way bond to reimburse the town for the cost of restoration. If the bond is not sufficient to cover the costs, the property owner or the permit holder shall pay to the town any deficiency within fifteen (15) days of demand thereof. The cost of the restoration shall be a lien against the property and may be collected in the same manner as property taxes, by a suit for damages, or both. The unexpended balance of any bond shall be returned to the permit holder.

Sec. 4-3. – Building height, massing, and neighborhood compatibility.

* * *

(b) *Maximum height.*

- (1) ~~*Main building:*~~ The height of the main building shall not exceed the greater of [subsection] (a) or (b), except as provided in [subsection] (c) below:
- a. Thirty-three (33) feet when measured from the average pre-development grade in front of the structure to the highest point of roof surface regardless of roof type; or
 - b. Twenty-eight (28) feet when measured from the average pre-development grade in front of the structure to the mean height level between the eaves and ridge of a gable, hip, mansard, or gambrel roof.
- e. ~~Exceptions to height limits.~~
- 1. ~~The town manager may, upon finding that the established building height exceeds the greater of [subsection (b)(1)]a. or b., authorize construction of a building that meets the established building height, provided that no building may exceed the greater of the following:~~
 - i. ~~Thirty five (35) feet when measured from the average pre development grade in front of the structure to the highest point of roof surface regardless of roof type; or~~
 - ii. ~~Thirty (30) feet from the average pre development grade in front of the structure to the mean height level between the eaves and ridge of a gable, hip, mansard, or gambrel roof.~~
 - 2. ~~If the height of an existing main building exceeds the limits in subsections (b)(1)a. and b., an addition to such existing main building shall not exceed the height of the existing building.~~
- d. ~~It shall be the responsibility of the applicant seeking to build to the established building height, as provided for in subsection (b)(1)c., to document the established building height to the satisfaction of the town manager.~~

* * *

Sec. 4-4. - Building location requirements; prohibitions.

(a) *Front setback.*

- (1) ***New Main Buildings, Interior Lots:*** No **new** main building, or any part or projection thereof, may be erected or located nearer to any front lot line than the established building line or twenty-five (25) feet, whichever results in a greater setback. ~~Notwithstanding the foregoing, an addition may be constructed over a nonconforming one-story covered and enclosed structure in existence on February 22, 2006, and may encroach beyond the established building line setback, but not beyond the minimum twenty five foot setback, if the addition does not expand the footprint of the building.~~
- (2) ***Additions to Existing Main Buildings, Interior Lots:*** **No additions to existing main buildings, or any part or projection thereof, may be erected or located nearer to any front lot line than:**

a. the front building line of the existing main building; or

b. the established building line, if being used at the option of the applicant to determine the front setback.

In no event, however, shall the front setback for an addition be less than twenty-five (25) feet.

(23) **New Main Buildings, Corner Lots:** For corner lots, any and all lot lines bordering upon a street shall be considered a front lot line. No new main building, or any part or projection thereof, may be erected or located nearer to any front lot line than the established building line or twenty-five (25) feet, whichever results in a greater setback. Notwithstanding the foregoing, ~~in the case of a corner lot,~~ if there is no interior lot between the corner lot and the adjoining corner lot on one of the streets, ~~or if the adjoining lot is in a nonresidential zone,~~ the setback from that street shall be at least fifteen (15) feet.

(4) **Additions to Existing Main Buildings, Corner Lots:** For corner lots, any and all lot lines bordering upon a street shall be considered a front lot line. No additions to existing main buildings, or any part or projection thereof, may be erected or located nearer to any front lot line than:

a. the front building line of the existing main building; or

b. the established building line, if being used at the option of the applicant to determine the front setback.

In no event, however, shall the front setback for an addition be less than twenty-five (25) feet. Notwithstanding the foregoing, if there is no interior lot between the corner lot and the adjoining corner lot on one of the streets, the setback from that street shall be at least fifteen (15) feet.

* * *

(b) *Side setback.*

(1) **New Main Buildings, Interior Lots:**~~Generally.~~ No **new** main building, or any part or projection thereof, may be erected or located nearer to a side lot line than the following setbacks:

a. Sum of both sides, the greater of:

1. Thirty (30) percent of the width of the lot as measured at the established building line, or if there is no established building line, measured twenty-five (25) feet from the front lot line; or
2. Sixteen (16) feet.

b. One side, the greater of:

1. Eight (8) feet; or
2. Forty (40) percent of the total side setbacks as required in subsection 4a. of this paragraph.

(2) Additions to existing main buildings, Interior Lots: For additions to existing main buildings, no part or projection thereof may be erected or located nearer to a side lot line than the following setbacks.

a. Sum of both sides, the greater of:

- 1. Thirty (30) percent of the width of the lot as measured at either:**
 - a. the established building line, if the established building line is being used to determine the front setback for the addition, or**
 - b. twenty-five (25) feet from the front lot line; or**

2. Sixteen (16) feet.

b. One side, the greater of:

- 1. Eight (8) feet; or**
- 2. Forty (40) percent of the total side setbacks as required in subsection a. of this paragraph.**

(2) c. Exceptions for additions to buildings on interior lots in existence as of February 22, 2006.

- a. 1.** An addition may be constructed to a main building that is less than seven (7) feet from a side lot line without regard to the existing side setback for the sum of both sides of the main building, provided the addition independently complies with the required side setbacks.
- b. 2.** An addition may be constructed to a main building that is seven (7) feet or more from a side lot line without regard to the existing side setback for the sum of both sides of the main building, provided:
 - 1. a.** The addition is no closer to the side lot line than the wall of the existing main building on the non-conforming side;
 - 2. b.** The sum of the side setbacks equals or exceeds thirty (30) percent of the width of the lot measured at the location of the addition or sixteen (16) feet, whichever is greater; and
 - 3. c.** At least seventy (70) percent of the area of exterior walls in existence as of February 22, 2006 is retained (including only that area which is entirely above grade).
- e. d.** In the case of a building described in subsection ~~b.c.~~ above, for any construction that is permitted to encroach into the building setback pursuant to subsection ~~(e)~~**(d)**, the ~~minimum yard~~ **required setback** shall be calculated in accordance with subsection (b)~~(1)~~**(2)** above.

(3) New Main Buildings, Corner Lots: No main building, or any part or projection thereof, may be erected or located nearer to a side lot line than the following setbacks:

- 1. For lots seventy (70) feet or less in width measured at the established building line, there shall not be a required side setback; and**
- 2. For lots that are more than seventy (70) feet in width measured at the established building line, the side setback shall be eight (8) feet.**

(4) Additions to Main Buildings, Corner Lots: No addition to a main building, or any part or projection thereof, may be erected or located nearer to a side lot line than the following setbacks:

- 1. For lots seventy (70) feet or less in width measured:**
 - a. at the established building line, if the established building line is being used to determine the front setback of the addition, or**
 - b. twenty-five (25) feet from the front lot line,****there shall not be a required side setback; and**
- 2. For all other lots, the required side setback shall be eight (8) feet.**

(c) *Rear setback.*

(1) Main Buildings, Interior Lots: No main building, or any part or projection thereof, may be erected or located nearer to the rear lot line than the following setbacks:

- ~~(1)~~ **a.** For lots that are one hundred (100) feet or less in depth, twenty (20) feet;
- ~~(2)~~ **b.** For lots that are more than one hundred (100) feet in depth, but one hundred twenty (120) feet or less in depth, twenty (20) feet plus seventy (70) percent of the depth in excess of one hundred (100) feet, provided that the rear setback shall be reduced by one (1) foot for each foot that the established building line front setback for the lot exceeds thirty (30) feet, but in no event shall the rear setback for the lot be less than twenty (20) feet;
- ~~(3)~~ **c.** For lots that are more than one hundred twenty (120) feet in depth, but one hundred thirty-six (136) feet or less in depth, thirty-four (34) feet plus the depth in excess of one hundred twenty (120) feet, provided that the rear setback shall be reduced by one (1) foot for each foot that the established building line front setback for the lot exceeds thirty (30) feet, but in no event shall the rear setback for the lot be less than twenty (20) feet; and
- ~~(4)~~ **d.** For lots that are more than one hundred thirty-six (136) feet in depth, twenty-five (25) feet plus seventy (70) percent of the depth in excess of one hundred (100) feet, provided that the rear setback shall be reduced by one (1) foot for each foot that the established building line front setback for the lot exceeds thirty (30) feet, but in no event shall the rear setback for the lot be less than twenty-five (25) feet.

(2) Main Buildings, Corner Lots: No main building, or any part or projection thereof, may be erected or located nearer to the rear lot line than the following setbacks:

- a. **For lots that are one hundred twenty (120) feet or less in depth, twenty (20) feet.**
- b. **For lots that are more than one hundred twenty (120) feet in depth, twenty (20) feet plus seventy (70) percent of the depth in excess of one hundred twenty (120) feet, provided that the rear setback shall be reduced by one (1) foot for each foot that the established building line front setback for the lot exceeds thirty (30) feet, but in no event may the rear setback for the lot be less than twenty (20) feet.**

~~(d) Corner lots.~~

~~(1) The side and rear setbacks of subsections (b) and (c) of this section, shall not apply to corner lots.~~

~~(2) The following setbacks shall apply to corner lots:~~

~~a. *Side setback.* No main building, or any part or projection thereof, may be erected or located nearer to a side lot line than the following setbacks:~~

~~1. For lots seventy (70) feet or less in width, there shall not be a required side setback; and~~

~~2. For lots that are more than seventy (70) feet in width, the side setback shall be eight (8) feet.~~

~~b. *Rear setback.* No main building, or any part or projection thereof, may be erected or located nearer to the rear lot line than the following setbacks:~~

~~1. For lots that are one hundred twenty (120) feet or less in depth, twenty (20) feet.~~

~~2. For lots that are more than one hundred twenty (120) feet in depth, twenty (20) feet plus seventy (70) percent of the depth in excess of one hundred twenty (120) feet, provided that the rear setback shall be reduced by one (1) foot for each foot that the established building line required front setback for the lot exceeds thirty (30) feet, but in no event may the rear setback for the lot be less than twenty (20) feet.~~

~~(ed) Exemptions from yard requirements for projections.~~

~~(1) Steps, stoops, decks, terraces, and porches.~~

~~a. **Front or rear setback, unenclosed.** Open **Unenclosed** and uncovered steps, stoops, decks, terraces, and porches may extend not more than nine (9) feet into any **minimum required** front or rear setback, **provided, however, there may not be any encroachment into any required front setback of a corner lot when the required front setback is less than twenty-five (25) feet.**~~

~~b. On a corner lot having a minimum front yard twenty five (25) feet or more in width, open and uncovered steps, stoops, decks, terraces and porches may extend not more than nine (9) feet into any minimum front setback. There may not be any~~

~~encroachment into any minimum front setback of a corner lot when such yard is less than twenty five (25) feet in width.~~

~~e. Except in the case of a corner lot, open and uncovered steps, stoops, decks, terraces and porches roofing may extend not more than three (3) feet into any minimum side setback.~~

~~d.b. **Rear setback, roofs.** Steps, and stoops, decks, terraces, **and** porches and outside stairways which extend into the ~~minimum~~ required front ~~or~~ rear setback may be roofed but not enclosed; provided, that the roofing ~~may extend~~s not more than three (3) feet into the ~~minimum front or~~ **required** rear setback.~~

c. Front setback, roofs.

(i) Steps, stoops, decks, terraces, and porches, which extend into the required front setback may be roofed but not enclosed; provided, that the roofing may extend not more than three (3) feet into the required front setback.

(ii) Exception for main buildings existing as of _____, 2018: For additions to main buildings existing as of _____, 2018, unenclosed steps, stoops, decks, terraces, and porches which extend into the required front setback may be roofed; provided, that the roofing may extend not more than nine (9) feet beyond the established building line or twenty-five (25) feet from the front lot line, whichever is greater, provided:

1. the bottom of the eave of the roof is lower than the top of the first story ceiling joists, and

2. the porch roof is set back a minimum of thirteen (13) feet from each side lot line.

d. Side setback. Unenclosed steps, stoops, decks, terraces, and porches and their roofing may extend not more than three (3) feet into any required side setback, provided such extension remains a required of five (5) feet from the vertical plane of the side lot line.

* * *

(3) *Cornices, eaves, outside stairways, chimneys, air conditioners, and heat pumps.*

c. Outside stairways may project not more than five (5) feet into any minimum rear setback. **Outside stairways which extend into the required rear setback may be roofed but not enclosed; provided, that the roofing may extend not more than three (3) feet into the required rear setback.**

* * *

Sec. 4-5. - Accessory building construction; prohibitions.

* * *

- (c) For any accessory building with a height of twelve (12) feet or greater ~~for~~ ~~of~~ a flat roof ~~or~~ ~~of~~ fifteen (15) feet or greater when measured to the ridge of the roof, the **required** side yard and rear yard ~~minimum~~ setbacks must be increased from the requirements in subsections (a) and (b) of this section at a ratio of one and one-half (1½) feet of additional setback for each foot of height in excess of twelve (12) feet for a flat roof or fifteen (15) feet for any other type of roof.

* * *

Sec. 4-6. - Front-loading garages.

* * *

- (c) A front-loading garage shall be set back ~~or set forward~~ by a minimum of three (3) feet from all adjoining front wall planes of the main building. If an adjoining wall plane is not at least three (3) feet in width, the set back shall be measured from the depth of the nearest wall plane measuring at least three (3) feet in width. For purposes of this section, the wall planes to be considered include the wall planes to each side of the front-loading garage, between the grade elevation on the exterior wall and the roofline.

* * *

Sec. 4-8. - Protection of streets, sidewalks, etc.

* * *

- ~~(c) Where the construction involves excavation, alteration, modification or planting in the public right of way, the town manager may require a cash, surety or performance bond sufficient to cover the cost of restoring the right of way to its pre-construction state. The person to whom a building permit is issued shall be responsible for restoring the disrupted area. If the disrupted area is not restored or, as the case may be for a driveway and/or driveway apron, constructed or expanded in accordance with section 4-9, within fifteen (15) days of demand by the town manager, the town may restore the area and charge the permit holder and/or may claim the bond to reimburse the town for the cost of restoration. If the bond is not sufficient to cover the costs, the permit holder shall pay to the town any deficiency within fifteen (15) days of demand thereof. The unexpended balance of any bond shall be returned to the permit holder. The cost of the restoration shall be a lien against the property and may be collected in the same manner as property taxes, by a suit for damages, or both.~~

- (~~c~~) No person shall store or allow an accumulation of refuse, excavation or construction debris, or any construction materials on any public right-of-way including, but not limited to, streets, sidewalks, curbs, gutters and grassy areas. Accumulation of mud or dirt must be removed from the public right-of-way daily.

(ed) Any repair, alteration, modification to or closure of any street or sidewalk which prohibits the free passage of vehicles or pedestrians shall be clearly marked with barricades, safety barriers or both and may not exceed ten (10) days unless specifically authorized, in writing, by the town manager.

* * *

Sec. 4-11. - Building inspector authority.

- (a) The town manager or the town manager's designee shall act as the town's building inspector.
- (b) The building inspector's duty shall be to enforce, or cause to be enforced and observed, the development requirements of all ~~deeds of conveyances of properties and plats of subdivision situated within the town, and such~~ town building or other town regulations as are herein set forth or as may be adopted and approved.

* * *

(d) For all new main buildings, additions with a footprint of over five hundred (500) square feet and new accessory buildings with a footprint of over one hundred fifty (150) square feet, the building inspector shall require a certified wall check to be provided to the town by the permittee. For all new main buildings with a height that is within one (1) foot of the maximum allowed height, the building inspector shall require a certified height check to be provided to the town by the permittee.

- ~~(de)~~ The building inspector shall also have the authority to consult with experienced builders and architects regarding any plans and specifications that may be submitted to the building inspector in connection with applications for permits for the construction or expansion of, or alteration or addition to, any driveway, or driveway apron within a public right-of-way, or any building or buildings.
- ~~(ef)~~ The building inspector shall be required to maintain a file of all permits issued reflecting a summary of the location of the proposed buildings, alterations, additions, or driveway, or driveway apron construction or expansion within a public right-of-way, and the extent of the work involved in each case, together with plans and specifications where necessary.
- ~~(fg)~~ Wherever in this chapter the building inspector is authorized to take any action, the building inspector is authorized to do so through an appropriate designee.

* * *

Sec. 4-12. - Remedial action.

* * *

- (b) A stop work order issued under this chapter shall be posted on the property in a conspicuous location and shall be sufficient service upon all persons physically on the property. A posted notice may not be removed except under the authority of the town manager. A **notice detailing the violation** ~~copy of a stop work order~~ shall be **delivered to the permit holder**

or mailed to the permit holder's last known address. **If no permit has been issued, the notice of violation will be delivered or mailed to the property owner.**

* * *

Secs. 4-15—4-20. - Reserved.

ARTICLE II. – Signs **Reserved.**

(Sections 4-21 through 4-31, concerning signs, are hereby moved to new Chapter 5, SIGNS, Sections 5-1 through 5-11, and renumbered respectively. All internal citations within said sections are hereby amended to the new section designations, and all references to “this article” are changed to “this chapter.”).

* * *

Sec. 4-47. - Removal of structures, fences, guardrails, handrails, walls, wires, cables, hoses, pipes, and similar facilities, trees, earth berms, hedges, shrubbery and other plant growth in violation.

The town manager or designee shall order the removal of any structure, fence, guardrail, handrail, wall, wire, cable, hose, pipe, and similar facility, berm, tree, hedge, shrubbery and other plant growth erected or maintained in violation of this article. Ten (10) days' notice in writing shall be given to the owner of such structure, fence, guardrail, handrail, wall, wire, cable, hose, pipe, and similar facility, berm, tree, hedge, shrubbery, and other plant growth to remove the same or to bring it into compliance with this article. Upon failure to remove it or to comply with the notice, the town shall remove the structure, fence, guardrail, handrail, wall, wire, cable, hose, pipe, and similar facility, berm, tree, hedge, shrubbery, and other plant growth. The town may remove the same immediately and without notice if it reasonably appears that the condition of the structure, fence, guardrail, handrail, wall, wire, cable, hose, pipe, and similar facility, berm, tree, hedge, shrubbery, and other plant growth is such as to present an immediate threat to the safety of the public. Any cost of removal **or abatement** incurred by the town shall be assessed against the owner of the property on which such structure, fence, guardrail, handrail, wall, wire, cable, hose, pipe, and similar facility, berm, tree, hedge, shrubbery, and other plant growth is located and may be collected in the manner of an ordinary debt in the manner of taxes and such charge shall be a lien on the property.

Sec. 4-48. - ~~Permit application.~~ **Reserved**

~~All applications for a permit to construct or install plant a fence, guardrail, handrail, wall, front yard hedge, or berm, tree, hedge, shrubbery, or other plant growth may be filed at any time; however, no town permit shall be issued unless and until all applicable county permits for the same work have been issued. The application shall state the name of the applicant, address, location, and type of building materials for any fence, guardrail, handrail, wall, berm, tree,~~

hedge, shrubbery, or other plant growth to be installed. The fee for such permit shall be established by the town council by resolution. All fees shall be payable to the town.

* * *

Sec. 4-51. - Structures, walls, fences, guardrails, handrails, berms, ~~trees, hedges, shrubbery and other plant growth~~ **and plants**, on public property that are devoted to private use.

- (a) Excepted as provided below, no structure, wall, fence, guardrail, berm, ~~tree, hedge, shrubbery or any plant growth, except grass, ground cover, flowers, and similar plantings,~~ **or plant** shall be placed on public property devoted to private use.
- (b) ~~Notwithstanding the above, and s~~Subject to the provisions of **subsection (c) below and section 4-49**, the following private improvements may be allowed ~~provided that they do not extend into sidewalks or roadways so as to interfere in any manner with street trees other public or private improvements, public utilities, or pedestrian or vehicular traffic on any sidewalk or road, are maintained in such a manner and at such height that a clear and unobstructed view is available to approaching traffic, both pedestrian and vehicular, and otherwise do not interfere with the public health, safety, and welfare:~~
 - (1) Low growing plants that are not hedges, which are maintained at a height not to exceed eighteen (18) inches, may be installed within six (6) feet of a curb at the edge of a street, within (3) three feet of a sidewalk on the street side, and within two (2) feet of a sidewalk on the main building side;**
 - (2) Any shrubbery or plant growth, except trees, hedges, and bamboo, may be installed in areas not designated in (1) for low plantings;**
 - ~~(1)~~**(3)** Structures, **non-retaining** walls, fences, berms, ~~trees, hedges, shrubbery and other plant growth~~ **and plants** that are located on public property devoted to private use on July 13, 2007, may be maintained, altered, and repaired, but not enlarged or replaced;
 - ~~(2)~~**(4)** A retaining wall or guardrail located on public property devoted to private use, as of April 8, 2016, may be maintained, altered, repaired, and replaced, ~~provided the location is not changed and no dimension is~~ **but not** enlarged **or relocated**; and
 - ~~(3)~~**(5)** A handrail on public property devoted to private use may be installed, maintained, altered, repaired, or replaced.
- (c) **No private improvement in the public right-of-way may:**
 - (1) extend over the vertical plane of a sidewalk for a height of eight (8) feet or extend over the vertical plane of a paved roadway for a height of fourteen (14) feet,**
 - (2) interfere with street trees, public utilities, and other public improvements,**
 - (3) interfere with entry to and exit from vehicles at the curb,**
 - (4) obstruct pedestrian and vehicular sight lines needed for safety, or**
 - (5) otherwise interfere with the public health, safety, and welfare.**

~~(e)~~ **(d)** The town manager shall determine whether there is compliance with the provisions of this section.

Sec. 4-52. - Structures, walls, fences, guardrails, handrails, berms, trees, hedges, shrubbery and other plant growth on private property.

(a) Only low-growing plants, which are maintained at a height not to exceed eighteen (18) inches, may be installed within six (6) feet of a curb and within two (2) feet of the sidewalk on the main building side.

~~(a)~~**(b)** The property owner and the property occupant shall maintain walls, fences, guardrails, handrails, berms, structures, trees, hedges, shrubbery, and other plant growth located on private property so that they:

(1) Do not, at any time, exceed the maximum height as specified in this chapter;

(2) Do not extend and are maintained so as not to extend into the vertical plane of a sidewalk, for a height of eight (8) feet;

~~(2)~~**(3)** Do not project into any public right-of-way so as to interfere in any manner with pedestrian or vehicular traffic;

~~(3)~~**(4)** Do not obstruct the view of sightlines necessary for safety;

~~(4)~~**(5)** Do not present a risk of harm to pedestrians and/or vehicles; and

~~(5)~~**(6)** Do not otherwise present a risk of harm to the public health, safety and welfare.

(b) Front yard walls. No wall that is one (1) foot in height or higher may be constructed in a front yard, provided, however, a retaining wall that is less than thirty (30) inches in height may be constructed in a front yard provided that it is set back at least two (2) feet from the nearest public sidewalk the public right-of-way or, if there is no sidewalk, at least six (6) feet from the curb. In the event a wall is located within thirty (30) inches of another wall, as may be the case in terracing, the walls shall be considered one (1) wall and the height of the wall shall be measured cumulatively. Height is measured in accordance with subsection ~~(f)~~**(g)** below.

* * *

(f) No person shall erect or maintain any wall, fence or berm measuring more than six (6) feet, six (6) inches in height in any side or rear yard. No wall or berm measuring more than one (1) foot in height may be erected within two (2) feet of any side or rear lot line. Height is measured in accordance with subsection ~~(f)~~**(g)** below.

* * *

Sec. 4-53. - Nonconforming fences, walls, guardrails, handrails, berms, trees, hedges, shrubbery and other plant growth on private property.

* * *

(c) Nonconforming retaining walls on private property which are relocated, altered, or replaced shall comply with all provisions of this article, provided, however, a nonconforming retaining wall located in a front yard **or along a driveway in a side or rear yard** may be altered or replaced, if the location is not changed and no dimension is enlarged.

Secs. 4-54—4-59. - Reserved.

ARTICLE IV. - VARIANCES AND APPEALS

* * *

Sec. 4-61. - Appeals to the town council.

Any person aggrieved by a decision or action of the town manager under this chapter may file an appeal to the town council. Such appeal shall be filed within thirty (30) days after issuance of the decision **or action**. The town manager shall transmit to the town council all documents and papers pertaining to the appeal which shall constitute the record on appeal. The town council shall hold a public hearing on the appeal. At least fifteen (15) days prior to the public hearing, the town shall post the property and provide written notification to all adjoining and confronting property owners and to all council members. The effective date of any decision shall be the date the council issues its written decision.

* * *

SECTION 2. AND BE IT FURTHER ORDAINED AND ORDERED, this ___ day of _____, 2018, by the Town Council of the Town of Chevy Chase, 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 the ___ day of _____, 2018.

ATTEST:

TOWN OF CHEVY CHASE

Cecily Baskir, Secretary

Mary Flynn, Mayor
Town of Chevy Chase

Bold and Underline indicates new material

~~Strike through~~ indicates material deleted

* * * indicates material unchanged

**Town of Chevy Chase
Budget and Tax Rate Ordinance**

Resolution No.: 18-03
Introduced: March 19, 2018
Adopted:
Effective Date: July 1, 2018

SUBJECT: AN ORDINANCE TO ADOPT A BUDGET FOR FISCAL YEAR JULY 1, 2018 TO JUNE 30, 2019 AND TO LEVY A TAX ON CERTAIN REAL AND PERSONAL PROPERTY UNDER THE PROVISIONS OF SECTION 6-203 OF THE TAX-PROPERTY ARTICLE OF THE MARYLAND CODE, AS AMENDED

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 Chevy Chase, 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 5-205, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to spend money for any public purpose and to affect the safety, health, and general welfare of the municipality and its occupants;

WHEREAS, Maryland Code, Tax-Property Article, Section 6-203, as amended, grants authority to municipal corporations to levy a tax on personal property, land, and improvements thereon, within the municipal corporation;

WHEREAS, Section 301 of the Town of Chevy Chase Charter authorizes the Town Council to pass ordinances 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 and destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare and happiness of the resident(s) of the Town; and for such other police and health matters as it may deem necessary;

WHEREAS, pursuant to Section 501 of the Town of Chevy Chase Charter, the Town operates on an annual budget;

WHEREAS, Section 503(a) of the Town of Chevy Chase Charter authorizes the Town Council to levy and collect from the owners of real and/or taxable tangible personal property used in a trade or business in the town, tax on the assessed valuation of the real and/or taxable

tangible personal property used in a trade or business within the boundaries of the Town at a rate or rates set by the Town Council;

WHEREAS, the Town Council introduced the following Ordinance in public session assembled on the 19th day of March, 2018;

WHEREAS, the Town Council, after proper notice to the public, considered the following Ordinance at a public hearing held on the 1st day of May, 2018; 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 and destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare and happiness of the residents of the Town.

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

BE IT ORDAINED AND ORDERED, this ____ day of ____, 2018, by the Town Council, acting under and by virtue of the authority given it by the Maryland Code and the Town of Chevy Chase Charter, that the attached Budget be and is hereby adopted.

AND BE IT FURTHER ORDAINED AND ORDERED, that the Town Council of the Town of Chevy Chase, pursuant to the authority granted by the Town Charter and Section 6-203 of the Tax-Property Article of the Maryland Code, hereby levies a tax at the following rates:

- (i) zero dollars and one cent (\$0.01) per One Hundred Dollars of assessable value (fair market value) on real property subject to taxation;
- (ii) zero dollars and zero cents (\$0.00) per One Hundred Dollars of assessed value of assessable business-owned personal property subject to taxation; and
- (iii) zero dollars and sixty-six cents (\$0.66) per One Hundred Dollars of assessed value of assessable utility property subject to taxation.

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 Charter of the Town of Chevy Chase, that:

- (1) That the tax levied hereby be certified to the County Council for Montgomery County, Maryland;
- (2) 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

(3) This Ordinance shall take effect on the 1st day of July, 2018.

ATTEST:

TOWN OF CHEVY CHASE

Cecily Baskir, Secretary

Mary Flynn, Mayor
Town of Chevy Chase