

**Town of Chevy Chase
Ordinance to Amend Chapter 28 (Water Drainage)**

10-02
Resolution No.: ~~09-11~~
Introduced: February 18, 2010
Adopted: March 10, 2010
Effective Date: April 10, 2010

WHEREAS, Article 23A, Section 2(a) of the Maryland Code, 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, and 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, Article 23A, Section 2(b)(5) of the Maryland Code, 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; 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 General Assembly of the State of Maryland has declared that the management of stormwater runoff is necessary to reduce stream channel erosion, pollution, siltation and sedimentation, and local flooding, all of which have adverse impacts on the water and land resources of Maryland; and

WHEREAS, on November 8, 2006, the Town Council adopted a comprehensive Water Drainage Ordinance to, among other goals, reduce to the extent possible the adverse effects of water drainage from properties within the Town; and

WHEREAS, the Town Water Drainage Ordinance (Chapter 28) is supplemental to the stormwater management program implemented by the County under Montgomery County Code, Chapter 19, and made applicable in the Town according to Section 1-17(c)(16) of the Town Code, in satisfaction of the requirements of Environment Article, Section 4-201, et seq.; and

WHEREAS, the Town Council considered the following amendments in an open meeting conducted on the 27th day of January, 2010; and

WHEREAS, after proper notice to the public, the Town Council introduced the following Ordinance in an open meeting conducted on the 18th day of February, 2010; and

WHEREAS, the Town Council considered the following Ordinance in public session assembled on the 10th day of March, 2010; and

WHEREAS, upon consideration of the record before it, including the public hearing, the Town Council finds that: (1) issues have arisen as to whether several new construction products on the market are impervious or pervious and, thus, the definition of “imperious surface” should be clarified; (2) that construction methods and circumstances affect the “perviousness” of surface materials; and (3) “perviousness” is a matter of degree with various surfaces and systems falling along a continuum from very pervious to almost impervious; and

WHEREAS, the Town Council finds that the definition of “impervious surface” should be amended to include surfaces that are semi-impervious but that interfere with the infiltration of water, because such surfaces significantly contribute to post-development runoff and the detrimental impacts sought to be addressed by the Water Drainage Ordinance; and

WHEREAS, the Town Council finds that further clarification as to what surfaces and systems are pervious or impervious should be set forth in executive regulations as authorized by Section 28-15 of the Town Code; and

WHEREAS, the Town Council finds that, in order to provide additional notice to Town residents, Section 28-4 of the Town Code should be amended to require applicants to post a notice on the property when a water drainage plan is submitted for review; and

WHEREAS, the Town Council finds that Section 28-5 of the Town Code should be amended to clarify that the basic design criteria, methodologies, and construction specifications for water drainage systems shall be “consistent with” the Design Manual, as approved by the Town Engineer, but must not necessarily be “set forth” in the Design Manual as Section 28-5 currently states, because the Design Manual is not readily applied to the requirements of Chapter 28 under all residential circumstances; and

WHEREAS, the Town Council finds that the Town Engineer has developed certain engineering requirements in order to effectuate the provisions of the Water Drainage Ordinance and Chapter 28 should be amended to expressly incorporate those requirements; and

WHEREAS, the Town Council finds that, in order to effectuate the goals of the Water Drainage Ordinance, subparagraph (d) of Section 28-5 should be amended to require that the greater of the following be retained onsite: (1) the volume of all stormwater runoff from all new impervious surfaces for a three-month storm event; or (2) the volume by which post-construction runoff from new impervious surfaces exceeds pre-construction runoff for a ten-year storm event; and

WHEREAS, the Town Council finds that subparagraph (h) of Section 28-5, concerning the published “supplementary guidelines,” should be deleted to avoid implying that such guidelines are more than non-binding suggestions; 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.

THEREFORE, BE IT ORDAINED AND ORDERED this 10th day of March, 2010, that the Town Council of the Town of Chevy Chase, acting under and by virtue of the authority given to it by Article 23A of the Maryland Code and Section 301 of the Town of Chevy Chase Charter, does hereby adopt the following ordinance:

AN ORDINANCE TO AMEND CHAPTER 28 OF THE TOWN OF CHEVY CHASE MUNICIPAL CODE TO AMEND THE DEFINITION OF IMPERVIOUS SURFACE AND THE ON-SITE WATER RETENTION REQUIREMENTS, TO REQUIRE APPLICANTS TO POST NOTICE OF THE FILING OF A WATER DRAINAGE PLAN, TO DELETE THE REFERENCE TO SUPPLEMENTARY GUIDELINES, AND TO CLARIFY OTHER PROVISIONS.

SECTION 1.

BE IT ORDAINED AND ORDERED, this 10th day of March, 2010, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the authority granted to it by Article 23A of the Maryland Code and Section 301 of the Town Charter, that Chapter 28 of the Town Code is hereby amended to read as follows:

* * *

Sec. 28-2. Definitions.

(a) In this chapter the following terms shall have the meanings indicated.

(b) **Terms** [D]defined.

* * *

Impervious surface: A surface which [does not permit] **prevents or impedes** [the] infiltration [of water], **including, but not limited to, buildings, accessory structures, and concrete or asphalt sidewalks, walkways, stoops, stairways, patios, driveways, and parking pads, and other similar surfaces, but excluding surfaces designated as pervious by the town engineer pursuant to executive regulations adopted according to this Chapter.**

Infiltration: The passage or movement of water into the soil.

New impervious surface: Any impervious surface that is created by a development activity after March 8, 2007. If an impervious surface is removed and replaced, the replacement impervious surface shall be considered new impervious surface.

Pre-construction: The time prior to the commencement of development activity. The conditions immediately preceding the first development activity at the site after March 8, 2007,

shall establish the pre-construction condition for all subsequent development activities on the same property.

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(Res. No. 06-11, 11-8-06; Res. No. 00-00, 00-00-10)

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Sec. 28-4. Water drainage plan.

(a) *Procedures.*

(1) The applicant shall submit two (2) paper copies and an electronic version, in a format acceptable to the town manager, of a water drainage plan to the town manager for review and approval, unless the development activity is exempt from the requirements of this chapter.

(2) An applicant shall pay a water drainage plan application fee in an amount established by resolution of the town council.

(3) The water drainage plan shall contain the documents and information described in subsection (b) of this section.

(4) Within seven (7) days after [receipt] submission of a proposed water drainage plan, the applicant shall erect a sign on the property in a manner and format specified by the town, and the town manager shall:

a. Send a notice that a water drainage plan has been filed along with a summary of the water drainage plan to the owners of all adjacent and confronting properties; and

b. Post the notice on the town website and keep it on the website for at least thirty (30) days.

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(Res. No. 06-11, 11-8-06; Res. No. 00-00, 00-00-10)

* * *

Sec. 28-5. Water drainage criteria, methodologies, and construction specifications.

The basic design criteria, methodologies, and construction specifications shall be [those set forth in] consistent with the Design Manual [and], subject to the approval by the town engineer. In addition:

(a) Retention and detention open-water ponds shall not be allowed on residential property.

(b) During development activity, excavated soil used for foundation backfill shall be the only soil stored on the property. The applicant shall cover this soil to prevent migration onto adjacent properties.

(c) All overflow pipes from containment vessels or other mechanisms that discharge water into the street shall pass under sidewalks and through curbing.

(d) The applicant shall provide [water drainage measures] **a water drainage system** that retains **within the property the greater of the following: (1) the volume of all stormwater runoff from all new impervious surfaces [within the property for twenty-four (24) hours] for a three-month storm event; or (2) the volume by which post-construction site runoff from all impervious surfaces exceeds pre-construction site runoff from all impervious surfaces for a ten-year storm event.**

(e) For a storm event greater than a three-month storm event, but not more than a ten-year storm event, a water drainage system shall be designed and constructed so as not to allow site runoff to flow to any adjacent or nearby property at a rate greater than the pre-construction rate.

(f) An infiltration system shall be located at least five (5) feet from any property line, ten (10) feet from any proposed building on the subject property with a basement or cellar foundation, twenty (20) feet from any existing building on any adjoining property with a basement or cellar foundation, and five (5) feet from any existing and proposed building that does not have a basement or cellar foundation.

(g) An infiltration system may not receive runoff until the entire contributory drainage area to the infiltration system has received final stabilization and permission is granted by the town engineer. An infiltration system shall be installed as late as possible in the sequence of construction.

[(h) Supplementary guidelines for water drainage plans are contained in the document Town of Chevy Chase Water Drainage Plan Guidelines for Single Lot Residential Construction, which the town shall make available to the public during normal business hours at the town office and on the town's website.]

(Res. No. 06-11, 11-8-06; **Res. No. 00-00, 00-00-10**)

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SECTION 2.

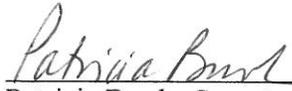
BE IT FURTHER ORDAINED AND ORDERED, this 10th day of March, 2010, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the authority granted to it by Article 23A of the Maryland Code and Section 301 of the Town Charter, that:

(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

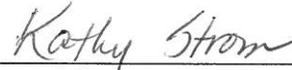
(2) This Ordinance shall take effect on the 10th day of April, 2010.

ATTEST:

TOWN OF CHEVY CHASE



Patricia Burda, Secretary



Kathy Strom, Mayor
Town of Chevy Chase

Bold and Underline indicates new material
[Bold Brackets] indicates material deleted
* * * indicates material unchanged