

**Town of Chevy Chase
Variance Expiration Ordinance**

Resolution No.: 08-06
Introduced: June 11, 2008
Adopted: September 10, 2008
Effective Date: October 11, 2008

WHEREAS, Article 23A, Section 2(a) of the Maryland Code, 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 public general law as they may deem 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; and

WHEREAS, Article 28, Section 8-115.1 of the Maryland Code authorizes the legislative body of a municipal corporation within the Regional District to regulate the construction, repair, erection or remodeling of single family residential houses, buildings or other structures on land zoned for single family residential use; and

WHEREAS, Section 301(a) of the Charter of the Town of Chevy Chase authorizes the Town Council to pass ordinances not contrary to the Constitution and laws of the State of Maryland or the Charter as it may deem necessary for the good government of the Town; for the protection and preservation of the Town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the Town and for such other police or health matters as it may deem necessary; and

WHEREAS, Chapter 4 of the Town Code sets forth restrictions on the construction, alteration, or expansion of and additions made to buildings and other structures, as well as restrictions on the location, size and features of fences, walls, trees and other forms of plant growth throughout the Town of Chevy Chase; and

WHEREAS, under Section 4-9(a) of the Town Code, the Town Council may grant a variance from the Town's building restrictions where a specific parcel of property is of such exceptional narrowness, shallowness, shape or subject to such limitations of record, topographical conditions or other extraordinary situations or conditions peculiar to that property that it would be impossible or impractical or would cause peculiar or unusual practical difficulties to, or undue hardship upon, the owner of that property to conform fully to the requirements set forth in Chapter 4 of the Town Code; and

WHEREAS under Section 4-50(a) of the Town Code, the Town Council may grant a variance from the Town's restrictions relating to the location, size and features of fences, walls, hedges, trees, and other forms of plant growth where a specific parcel of property is of such exceptional narrowness, shallowness, shape or subject to such limitations of record, or topographical conditions or other extraordinary situations or conditions peculiar to that property that it would be impossible or impractical or would cause peculiar or unusual practical difficulties to, or undue hardship upon, the owner of that property to conform fully to the requirements set forth in Chapter 4 of the Town Code; and

WHEREAS, under Section 4-50(e) of the Town Code, the Town Manager and Mayor may grant an administrative variance from the Town's restrictions relating to new or replacement front yard retaining walls; and

WHEREAS, the decision to grant a variance is based on circumstances in existence when the variance is granted; and

WHEREAS, with the passage of time circumstances may change so that a variance may no longer be justified; and

WHEREAS, processing variance requests requires the expenditure of considerable time and effort by Town officials and staff and such expenditures are justifiable only for projects that are likely to be promptly implemented; and

WHEREAS, the Town Council considered the following ordinance in public session assembled on the 10th day of September, 2008; and

WHEREAS, the Town Council finds that the ordinance as hereinafter set forth is necessary for the good government of the Town; for the protection and preservation of the Town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the Town.

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

AN ORDINANCE TO AMEND CHAPTER 4 OF THE
TOWN OF CHEVY CHASE MUNICIPAL CODE TO PROVIDE
THAT A VARIANCE APPROVAL EXPIRES TWELVE (12)
MONTHS AFTER THE EFFECTIVE DATE OF THE VARIANCE.

SECTION 1. BE IT ORDAINED AND ORDERED, this 10th day of September, 2008, 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 the Town Charter, that Section 4-9 of Chapter 4 of the Town Code is hereby amended to read as follows:

Sec. 4-9. Variances from requirements of building restrictions.

* * *

(f) Duration. A building permit for the construction authorized by the variance must be obtained within twelve (12) months of the effective date of the variance or the variance shall be void, unless an extension is granted in writing by the town manager. The town manager may grant an extension of the variance, upon such conditions as the town manager may set, upon a reasonable showing that there has been no material change in circumstances since the effective date of the decision approving the variance and despite due diligence by the recipient of the variance, additional time is necessary to secure a building permit.

(Res. No. 06-10, 7-12-06; Res. No. 08- , - -08)

SECTION 2. AND BE IT FURTHER ORDAINED AND ORDERED, this 10th day of September, 2008, 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 the Town Charter, that Section 4-50 of Chapter 4 of the Town Code is hereby amended to read as follows:

Sec. 4-50. Variances.

* * *

(f) Decision. The decision of the town council, or of the mayor and town manager in the case of an administrative variance, shall be in writing. The effective date of any decision shall be the date the council, or the mayor and town manager in the case of an administrative variance, approves the written decision.

(g) Duration. A building permit for the construction authorized by the variance must be obtained within twelve (12) months of the effective date of the variance or the variance shall be void, unless an extension is granted in writing by the town manager. The town manager may grant an extension of the variance, upon such conditions as the town manager may set, upon a reasonable showing that there has been no material change in circumstances since the effective date of the decision approving the variance and despite due diligence by the recipient of the variance, additional time is necessary to secure a building permit.

(Res. No. 87-003, 10-14-87; Res. No. 04-01, 1-14-04; Res. No. 08- , - -08)

SECTION 3. AND BE IT FURTHER ORDAINED AND ORDERED, this 10th day of September, 2008, 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 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 11th day of October, 2008.

ATTEST:

TOWN OF CHEVY CHASE



David Lublin, Secretary



Kathy Strom, Mayor
Town of Chevy Chase

Bold and Underline indicates new material

[] indicates material deleted

* * * indicates material unchanged