

**Town of Chevy Chase
Front Yard Improvements Ordinance**

Resolution No.: 08-07
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 including, but not limited to, fences, walls, hedges and similar barriers and to establish setback requirements; and

WHEREAS, Section 301(a) of the Charter of the Town of Chevy Chase authorizes the 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, the Town Council introduced the following ordinance in public session on the 11th day of June, 2008; and

WHEREAS, to comply with Article 28, Section 8-115.1 of the Maryland Code, the following ordinance was submitted to the Montgomery County Council on the 12th day of June 2008, for its comments; and

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

WHEREAS, it has been the intent of the Town to restrict front yard improvements so as to provide open vistas along streets, promote the free flow of light and air and to maintain the character of the neighborhood; and

WHEREAS, the Town Council finds that some of the existing provisions of the Town Code may be confusing and difficult to administer and that the following amendments to the Town Code to clarify the Council's intent will provide clearer guidance to property owners, their architects, builders and others as to what is required to comply with the Town's requirements; and

WHEREAS, the Town Council finds that this ordinance will provide clearer guidance to Town staff in the administration of the Town Building Code; and

WHEREAS, the Town Council finds that authorizing the Town Manager and Mayor to grant administrative variances for the replacement of front yard fences and walls one foot in height or greater will improve the efficient administration of the Town Building Code and avoid unnecessary expense and inconvenience to property owners, their architects, builders and others and to the Town; 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 DELETE A REQUIREMENT IN SECTION 4-56(a) THAT FENCES, EARTH BERMS, HEDGES AND WALLS MUST BE SET BACK TWO FEET FROM A PUBLIC RIGHT OF WAY BECAUSE SECTION 4-56(e) PROHIBITS ALL FRONT YARD FENCES, EARTH BERMS, HEDGES AND WALLS OF ONE FOOT OR MORE IN HEIGHT, AND TO CHANGE THE CASES IN WHICH THE TOWN MANAGER AND MAYOR ARE AUTHORIZED TO GRANT ADMINISTRATIVE VARIANCES BY AMENDING SECTION 4-50(e) SO THAT ADMINISTRATIVE VARIANCES MAY BE GRANTED FOR REPLACEMENT FENCES AND WALLS

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, Article 28, Section 8-115.1 of the Maryland Code, and the Town Charter, that Article III of Chapter 4 of the Town Code is hereby amended to read as follows:

* * *

Sec. 4-50. Variances

* * *

(e) *Administrative variances.*

(1) *Front yard [retaining] **fences and** walls.*

The town manager and mayor may grant variances for:

a. [n]New or replacement front yard retaining walls[.];

b. **Front yard fences and walls which replace an existing fence or wall provided the replacement fence or wall does not materially alter the location or increase the height or length of the fence or wall.**

(2) *Posting requirement.* Fifteen (15) days prior to the town manager and mayor acting upon the variance application, the town shall post the property and provide written notification to all adjoining and confronting property owners and to all councilmembers.

(3) *Appeal.* If prior to the expiration of the fifteen-day notice requirement, written objection to the variance application is filed with the town manager, the variance application shall be scheduled for public hearing and heard by the town council in accordance with the provisions of section 4-50 et seq., otherwise the town manager and mayor may approve the variance application with or without conditions.

(Res. No. 87-003, 10-14-87; Res. No. 04-01, 1-14-04; **Res. No. _____, § 1, _____**).

* * *

Sec. 4-56. Hedges, trees, fences, walls, etc., on private property.

(a) [Hedges, t] **Trees**[, fences, walls, earth berms,] **and** shrubbery or any other forms of plant growth located on private property shall be set back at least two (2) feet from the public right-of-way.

(b) Hedges, trees, fences, walls, earth berms, shrubbery or any other forms of plant growth located on private property shall not be permitted to extend into sidewalks, streets, avenues, or roadways so as to interfere in any manner with the pedestrian or vehicular traffic on such sidewalks, streets, avenues or roadways.

(c) All hedges, trees, fences, walls, earth berms, shrubbery or any other forms of plant growth on private property at any intersection shall be maintained by the landowner or occupant in such a manner and at such height that a clear and unobstructed view is available to approaching traffic, both pedestrian and vehicular. The town manager shall determine whether there is compliance with the provisions of this section.

(d) No person shall erect any fence, wall, earth berm, tree, hedge or other forms of plant growth along any sidewalk, street, avenue, or roadway without first obtaining a permit as provided in this article, or suffer or permit any hedges, trees, walls, earth berms, fences, shrubbery or other forms of plant growth along or parallel to any sidewalk, street, avenue or roadway to be more than six (6) feet, six (6) inches in height, provided that no fence or wall shall be erected or hedge or earth berm permitted between properties or at the rear of properties abutting on an alley or private property more than six (6) feet, six (6) inches in height. The measurement of the same shall be made from the surface of the ground next to the hedge, fence or wall and where the yards on the two (2) sides of the same differ in level, the measurements shall be made from the surface of the higher yard. Where lots are graded to conform with the street or alley grade abutting the property to be fenced, the measurement shall be made from the average grade on the building line extending to the party fence; provided, further, however, that with the written consent of the adjoining owner of the property to be fenced, a hedge, fence, earth berm or wall of a greater height than six (6) feet, six (6) inches may be erected or permitted with the approval of the town council pursuant to the variance procedures set forth in section 4-50.

(e) No fence, earth berm[[s]], hedge[[s]] or wall will be permitted to extend into the front yard that is beyond the house line running along the front of the house and extending to the side lot lines.

(f) Notwithstanding subsection (e) above, a wall that is less than one (1) foot in height shall be permitted to extend into the front yard **provided that it is set back at least two (2) feet from all public improvements such as sidewalks, paved streets, and curbs.** The measurement of the height of a wall shall be made from the surface of the ground next to the wall, and where the yards on the two (2) sides of the wall differ, the measurement shall be made from the surface of the lower yard. 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 wall and the height of the wall shall be measured cumulatively.

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(Res. No. 86-006, § 4, 10-8-86; Res. No. 88-002, 2-10-88; Ord. No. 90-004, 4-5-90; Res. No. 98-003, § 1, 5-13-98; Res. No. 98-006, 1-13-99; Res. No. 07-03, § 1, 5-9-07; **Res. No. _____, § 1, _____**).

* * *

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 Articles 23A and 28 of the Maryland Code and the Town Charter, that:

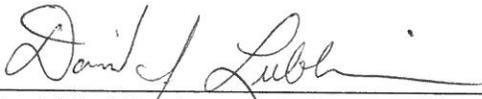
(1) If any part or provision of this ordinance is declared by a court of competent jurisdiction to be invalid, the part or provision held to be invalid shall not affect the validity of

the ordinance as a whole or any remaining part thereof; and

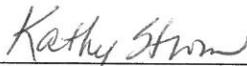
(2) This ordinance shall take effect on the 11th day of October, 2008.

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