

TOWN OF CHEVY CHASE
COUNCIL MEETING
TOWN HALL
March 12, 2020

COUNCIL WORK SESSION (6:00-7:00 p.m.)

The Town Council will hold a work session to discuss the regulation of accessory dwelling units in Town.

- I. GENERAL BUSINESS (7:00-7:15 p.m.)
 - A. Call to Order
 - B. Pledge of Allegiance
 - C. Approval of Minutes of February 2020 Council Meeting
 - D. Acceptance of February 2020 Financial Report
 - E. [Town Manager's Report](#)
 - F. Public Comments
 - G. Special Public Comment Period on FY21 Budget Priorities

- II. PUBLIC HEARINGS (7:15-8:00 p.m.)
 - A. [Public Hearing on an Ordinance to Establish a Special School Zone Speed Limit on West Avenue](#)
 - B. [Public Hearing on a Resolution to Implement a New Traffic and Parking Management Plan for West Avenue](#)
 - C. [Public Hearing on an Ordinance to Amend Chapter 26 \(Telecommunications\) of the Town Code](#)

- III. COUNCIL DISCUSSIONS (8:00-9:15 p.m.)
 - A. Zimmerman Park Amenities & Improvements
 - B. Discussion and Possible Introduction of an Ordinance to Regulate Accessory Dwelling Units
 - C. Discussion and Possible Introduction of an Ordinance to Clarify the Exemptions from the Required Side Setbacks for Certain Non-Conforming Buildings and to Amend the Exemptions from Required Setbacks for Certain Roofs
 - D. Bethesda Downtown Plan Implementation
 - E. Climate and Environment Committee Update on Recycling

- IV. ADJOURNMENT (9:15 p.m.)

TO: Town Council

FROM: Land Use Committee

RE: Town of Chevy Chase Building Code Changes for Consideration Winter/Spring 2020 – Accessory Dwelling Units

DATE: March 6, 2020

This memo presents the recommendations of the Land Use Committee (LUC) for certain limited and specific Town building code changes related to Accessory Dwelling Units (ADUs) in light of the recent changes to County rules regarding ADUs.

Background:

An Accessory Dwelling Unit (ADU) is a second dwelling unit located on a lot with a single-family house. An ADU is subordinate to the house. An attached ADU is one that is located inside the house, often in the basement. A detached ADU is one that is in an accessory building in a rear yard (e.g., a converted garage, a “tiny” house, a granny pod, a prefabricated unit).

The County recently made substantial changes to the rules governing ADUs. These changes set forth in Zoning Text Amendment 19-01 (ZTA 19-01) “Accessory Residential Uses – Accessory Apartments” and companion Bill 22-19 Accessory Dwelling Units – Licensing Requirements Amendments went into effect on December 31, 2019.

The purpose of the changes to ADU rules implemented by ZTA 19-01 and Bill 22-19 is to encourage the creation of more ADUs in single-family neighborhoods throughout the county. The County Council has stated that ADUs are a means of producing additional housing options, whether as housing for extended families or as a source of supplemental income. They also see ADUs as a means of increasing the supply of affordable housing, though ZTA 19-01 has no provisions to ensure affordability.

The most significant change included in the ZTA is that, for the first time, detached ADUs are allowed as a “Limited Use” in “small lot” neighborhoods like the Town. Formerly they were allowed as a “Limited Use” only in “large lot” zones (lots of 1 acre or more). Under the new rules, detached ADUs constructed in older buildings have no required setbacks from side and rear property lines. In the Town, older garages often sit on or very close to the side and/or rear property lines. Three other significant changes are that greater density of ADUs (one ADU per lot) is now allowed by right, both attached and detached ADUs are now allowed as part of new construction, and the property owner may live in the ADU.

The Town supported most of ZTA 19-01’s provisions. However, the Town Council consistently took the position that the 1,200 sq. ft. ADU maximum size limits should be retained and that existing accessory buildings converted to detached ADUs should not be exempt from setbacks. The testimony of Mayor Barney Rush on behalf of the Town at the Planning Board’s February 14, 2019 hearing and that of Council member Joel Rubin testified on behalf of the Town at the County Council’s February 26, 2019 public hearing included the Town’s position on these issues. Following the County Council’s June 2019 work session, the Town sent a letter expressing support for several of the changes made to the proposed ZTA arising from the work session review and again calling for setbacks for all detached ADUs.

Throughout the ADU hearing and adoption process, the Town's core position was that detached ADUs should comply with all setbacks required for houses by the County or local jurisdiction because they also are dwelling units. This position was based on the Town's long-held policy to:

- ensure adequate space between buildings to reduce risk of fire and to provide safe and adequate passageways between properties and the buildings for all emergency responders and necessary equipment;
- maintain space between properties so as to protect the privacy of neighbors as well as those of residents of detached ADUs;
- ensure adequate air and light between properties;
- minimize the flow of stormwater from lots by encouraging the maintenance of open spaces and tree canopy;
- protect the town's distinct character by encouraging the retention and maintenance of open space.

The Town's position that existing accessory buildings with nonconforming setbacks should not be converted to detached ADUs does not prevent a resident from having an ADU because a resident would still have the option to build an ADU in the house by right, to build a new building for a detached ADU or to seek a variance to convert a structure into a detached ADU in the location where the current structure is located under the Town's existing variance standards and procedures.

There are approximately 400-450 accessory buildings in the Town, nearly all of which are located very close to the side lot line. Most of these are too small to be converted into a detached ADU, but about 25 of them appear to be large enough.

The Town has the authority, granted by the State under Section 20-509, to impose additional or stricter building requirements than required by the State or County. This authority was granted to the Town and other municipalities because municipalities like the Town have unusual circumstances such as small lots and lots with varied dimensions, shapes and topography, rather than the uniform lots that exist in many communities developed in the 2nd half of the 20th century. The State recognized that there would be occasions when regulations passed by the County for the entire County would be too general or broad in relation to those unusual circumstances of local communities and it would be necessary and appropriate for the Town and other municipalities to adopt more stringent rules governing the location of structures and their required setbacks in order to protect the health, welfare, and safety of their residents.

The new ADU rules adopted by the County that allow conversion to ADUs of existing accessory buildings located extremely close to lot lines and construction of new detached ADUs located closer to lot lines than is allowed for principal dwelling units accessory buildings run counter to Town policy and are problematic given the small size of many Town lots and the proximity of homes to each other in the Town. The Town has the authority to enact additional setback requirements so that ADUs constructed in the Town will be consistent with Town goals, ensure safe passageways between properties and buildings and be compatible with Town regulations.

Summary of Current County Rules as of December 31, 2019 for ADUs in the Town and a Few Town Rules that Apply

Rules for attached & detached ADUs	Additional rules for attached ADUs	Additional rules for detached ADUs
Only 1 ADU per lot	ADU entrance must be located on side or rear of house	Must be in rear yard
ADU must be licensed by the County. A property with a licensed ADU cannot also have a short-term rental license	Size: Limited to 1,200 sq. ft., unless located in a basement that is larger.	Size: Limited to the smaller of: <ul style="list-style-type: none"> • 50% of the house footprint • 10% of the lot area • 1,200 sq. ft. • House + ADU must comply with county lot coverage limits • House + ADU must comply with Town FAR rules
Property owner must live in house or ADU		No setbacks for ADU in accessory building built before May 31, 2012 provided: <ul style="list-style-type: none"> • No dimension of building is enlarged • No windows added on nonconforming side.
No off-street parking spaces are required for the ADU		Setbacks for ADU in accessory building built after May 30, 2012: <ul style="list-style-type: none"> • Side: At least as great as required for house • Rear: At least 12 feet • Additional setback required if wall length greater than 24 feet or height greater than 15 feet.
Only 2 adults may live in an ADU; the number of children allowed is regulated by county housing rules.		Town limits height of an accessory building to 15 feet.

LUC Recommendations: Regarding Regulation of ADUs

The LUC recommends that the Town adopt only minimal provisions which will supplement the County’s ADU regulations. The LUC recommendation is that no additional Town Code provisions or regulations are needed for attached ADUs or for parking for ADUs. The LUC does recommend that the Town not allow nonconforming accessory buildings to be converted into detached ADUS and adopt an ordinance to require that setbacks for detached ADUs provide sufficient space between properties, in a manner similar to the existing setback requirements for main buildings on a lot. A summary of the proposed changes and explanation for recommendations of no change are provided below.

Attachment A contains the draft ordinance with the recommended building code changes.

A. LUC recommends that no additional Town code provisions be adopted for the following

1) No additional regulations for attached ADUs

The LUC concluded that, at this time, the Town does not need to adopt any additional Code provisions or regulations for attached ADUs. Attached ADUs are contained within a house and the Town already regulates the size and footprint of the house.

2) No off-street parking space requirements for ADUs

All properties in the Town are within one mile of the Metro or the Purple Line and therefore the County does not require that any of them provide off-street parking for an ADU. The LUC recognizes that there are parking issues within the Town, but does not think that the Town, at this time, should require provision of off-street parking spaces for ADUs. The reasons for this recommendation are:

- The number of cars per property and the number of cars a property parks on the street varies widely. It seems inequitable to require a property with an ADU to provide additional off-street parking without considering how many cars that property is parking on the street relative to how many cars the properties around it are parking on the street and whether the ADU tenant has a car.
- Some properties in the Town do not have driveways and construction of one may not be feasible.
- Many properties have driveways that could only accommodate multiple cars if they are parked tandem. For these properties, requiring an additional off-street parking space for an ADU would likely result in additional hardscaping on the property.
- Providing additional parking could lead to:
 - stormwater run-off problems for surrounding properties,
 - removal of trees and shrubbery,
 - creation of parking pads in front yards which the Town generally discourages, and
 - Additional driveway variance requests.

B. LUC recommends adoption of the following supplemental code provisions for ADUs

1) Modify Chapter 4 – Buildings, Section 4-1 Definitions. Modify to include the following changes:

Changes to County law require certain conforming changes to the Town Building Code as follows: Modify the definition of Main Building. This definition should be modified regardless of which regulations for ADUs are adopted.

- *Main building:* A building in which the ~~residence~~ principal dwelling unit is located shall be deemed to be the main building unless the lot is lawfully used exclusively for nonresidential purposes.

Add the following definitions:

- *Accessory dwelling unit:* A second dwelling unit that is subordinate to the principal dwelling unit and is located within a main building or an accessory building.

- Detached accessory dwelling unit: An accessory dwelling unit that is located in an accessory building or part thereof.
- Dwelling unit: A building or portion of a building providing complete living facilities for not more than one household, including, at a minimum, facilities for cooking, sanitation, and sleeping.

Modify the definition of gross floor area. This definition should be modified regardless of which regulations for detached ADUs are adopted.

Currently, the Gross Floor Area definition states the following:

Gross floor area: The sum of the gross horizontal areas of the several stories (whether or not a floor has actually been laid) of all buildings on the lot with structural headroom or clear ceiling height of six (6) feet, six (6) inches or more. Gross horizontal areas are measured from the exterior faces of exterior walls. Areas with clear ceiling height (measured from floor to ceiling) greater than fourteen (14) feet shall count twice.

(a) The term "gross floor area" includes:

- (1) Stairwells at each story;
- (2) Floor space used for mechanical equipment;
- (3) New attic space;
- (4) Screened or otherwise enclosed porches; and
- (5) The area of any accessory structure greater than two hundred forty (240) square feet.

(b) "Gross floor area" does not include:

- (1) The first two hundred forty (240) square feet of one (1) accessory structure per lot;
- (2) Unenclosed porches;
- (3) Basements;
- (4) Cellars; and
- (5) Attic space existing as of May 17, 2008, to the extent that the three-dimensional boundaries of the attic have not been expanded. If the three-dimensional boundaries of the attic are expanded, the expanded area shall be included in "gross floor area". The roof over the attic space may be repaired or replaced. However, if the attic is demolished, the replacement attic space shall be considered new attic space not in existence as of May 17, 2008.

Among the reasons for the exclusion of the first 240 square feet of an accessory building (in(b)(1)) was to encourage off street parking by allowing a resident to build a garage with space for a car without diminishing the square footage allowed for the house. The LUC recommends that if an accessory building is to be used as living space (detached ADU) the exclusion not apply as the space is no longer being used for parking but rather is part of the living space on the lot. Removal of this exclusion should occur regardless of any other regulations adopted for detached ADUs.

The underlined wording revises the definition of gross floor area to only exclude the first 240 square feet if an accessory building isn't to be used as a dwelling.

Gross floor area: The sum of the gross horizontal areas of the several stories (whether or not a floor has actually been laid) of all buildings on the lot with structural headroom or

clear ceiling height of six (6) feet, six (6) inches or more. Gross horizontal areas are measured from the exterior faces of exterior walls. Areas with clear ceiling height (measured from floor to ceiling) greater than fourteen (14) feet shall count twice.

(a) The term "gross floor area" includes:

- (1) Stairwells at each story;
- (2) Floor space used for mechanical equipment;
- (3) New attic space;
- (4) Screened or otherwise enclosed porches; and
- (5) The area of any accessory structure greater than two hundred forty (240) square feet.

(b) "Gross floor area" does not include:

- (1) The first two hundred forty (240) square feet of one (1) accessory structure, per lot, **provided that the accessory structure does not contain a detached accessory dwelling unit;**
- (2) Unenclosed porches;
- (3) Basements;
- (4) Cellars; and
- (5) Attic space existing as of May 17, 2008, to the extent that the three-dimensional boundaries of the attic have not been expanded. If the three-dimensional boundaries of the attic are *expanded, the expanded area shall be included in "gross floor area". The roof over the attic space may be repaired or replaced. However, if the attic is demolished, the replacement attic space shall be considered new attic space not in existence as of May 17, 2008.*

2) Side and rear setbacks for detached ADUs in existing accessory buildings. Existing accessory buildings with nonconforming setbacks should not be converted to detached ADUs.

The LUC recommends that The Town adopt a provision which prohibits conversion of an existing accessory building into a detached ADU if its side and rear setbacks are less than the side and rear setbacks the Town requires for new detached ADUs.

For all the reasons set forth above, The Town has consistently taken the position that allowing older accessory structures located close to property lines may not become detached ADUs unless they have conforming setbacks. The LUC reviewed recent ordinances for ADUs adopted by Chevy Chase View, Glen Echo, and Martin's Addition. All three nearby municipalities which also have smaller lots like the Town have adopted regulations for detached ADUs that prohibit converting an existing accessory building into a detached ADU if it does not meet the setbacks required for a new detached ADU.

There are some 400-450 accessory buildings in the Town, nearly all of which are located very close to the side lot line. Most of these are too small to be converted into a detached ADU, but about 25 of them appear to be large enough.

See Attachment A for the proposed Code provision to implement the recommendations.

3) Side setbacks for detached ADUs. Require a detached ADU to meet the Town's side setback requirements for a house. This setback requirement will apply to new as well as existing accessory buildings.

The LUC recommends that the side setbacks for detached ADUs be the same as those the Town requires for a new house on the lot. The LUC also recommends this requirement apply to both new and existing accessory structures.

This recommendation is consistent with the Town's position on the County's ADU regulations to maintain enough space between buildings to ensure safety from spread of fire from one property to the next, ensure safe passage of emergency responders and equipment between buildings, ensure privacy for residents, minimize stormwater run-off to neighboring properties, ensure adequate air and light between properties, and preserve Town character

See Attachment A for the proposed code provision to implement the recommendations.

4) Rear setback for detached ADUs. Require a detached ADU to have a minimum rear setback of 20% of the lot depth. This setback requirement will apply to new as well as existing detached ADUs.

LUC recommends that the minimum rear setback for a detached ADU be 20% of the lot depth, with a reduction of the setback if the house is set back from the front lot line more than is typical (with a minimum allowed rear setback of 20 feet). LUC also recommends this requirement apply to both new and existing accessory structures.

This recommendation is a modification of the Town's initial position that detached ADUs should comply with all setback requirements for houses mandated by the Town. For lots with a depth of 123 feet or more, the Town currently requires a house to have a rear setback of 30% of the lot depth. The rear setback is reduced if the house is set back from the front lot line more than is typical. After reviewing lot configurations, the LUC considers that a rear setback of 20% of the lot depth should be sufficient for a detached ADU, provided its height conforms to that required for an accessory building. Reducing the rear setback requirement from 30% to 20% allows a property owner more flexibility in configuring and locating a detached ADU.

The LUC's recommendation is consistent with the Town's long-held policy to maintain enough space between buildings to ensure safety from spread of fire from one property to the next, ensure safe passage of emergency responders and equipment between buildings, ensure privacy for residents, minimize stormwater run-off to neighboring properties ensure adequate air and light between properties, and preserve Town character.

See Attachment A for the proposed code provision to implement the recommendations.

5) Additional side and rear setbacks for detached ADUs.

The County requires increased side and rear setbacks for accessory buildings (including detached ADUs) if the wall length exceeds 24 feet and/ or the height exceeds 15 feet. The Town also requires increased setbacks for accessory buildings if the wall length exceeds 24 feet or the height exceeds 12 feet (for a flat roof) or 15 feet (for other roof types). The LUC recommends requiring increased side and rear setbacks for detached ADUS with wall lengths greater than 24 feet and heights greater than 12 feet (flat roof) or 15 feet (other roof types), but only to the extent needed to ensure that the side and rear setbacks for detached ADUS are not less than those required by the Town for other accessory buildings and not less than those required by the County for a detached ADU.

See Attachment A for the proposed code provision to implement the recommendations.

6) Require a property owner converting an existing accessory building to an ADU or building a new structure for a detached ADU to obtain a permit from the Town.

The LUC recommends that the rules regarding a Town building permit be modified to include the requirement for a building permit when a resident is converting an accessory building to an ADU or constructing a new accessory building for use as an ADU. This requirement would enable the Town to track when an accessory building is to be used as an ADU and ensure that Town setback requirements are met. LUC recommends that this building permit requirement be adopted regardless of which other regulations are adopted for detached ADUs.

See Attachment A for the proposed code provision to implement the recommendations.

The Town attorney has suggested that a condition of issuance of the Town permit for construction related to a detached ADU should be to require the applicant to submit a copy of the County’s landlord license prior to approval of the Town’s final inspection. This provision may aid in enforcement, given the relatively weak County enforcement efforts. This suggestion has not been incorporated into the draft ordinance, which is attached, but is included here for the Council’s consideration. Chevy Chase View, Glen Echo and Martin’s Additions have all adopted such a requirement.

7) Adopt the County regulations for exterior lighting

Chapter 26 of the County Code “Housing, building Maintenance”, Sec. 26-9(b)(6) states: *“Each owner must direct any exterior lighting away from the windows of any adjacent dwelling unit or individual living unit.”*

LUC recommends that the Town adopt the County’s exterior lighting regulation. The Town has adopted Chapter 26, so this county regulation applies in the Town. Explicitly adopting this provision would not increase the regulations Town residents are subject to, but would make it possible for the Town to enforce the existing County exterior lighting regulation which may be important to protect residents and address resident complaints and also make this County regulation more visible to Town residents. The Town attorney has recommended that it be included in the ordinance so that the Town would have the ability to directly enforce it (as part of permit processing and plan approval), instead of relying on County enforcement which typically is not as responsive to residents as the Town, as a housing standard – after construction has taken place.

C. Other recommendations related to ADUs

1) Publicize new ADU regulations

LUC recommends that the Town publicize the County and Town ADU regulations and encourage residents who have unlicensed apartments to apply for a County license.

2) Tracking ADUs in the Town

The County maintains a database listing licensed ADUs. The LUC recommends that the Town use this list to maintain a list of licensed ADUs in the Town. This will enable the Town to monitor ADU impacts on the Town.

MEMORANDUM

I-E

TO: Town Council
FR: Todd Hoffman, Town Manager
RE: Town Manager's Report
DATE: March 12, 2020

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.

- Assisted with obtaining information, and responding to resident complaints and inquiries, related to the Purple Line project.
- Assisted the Long-Range Planning Committee with tracking Bethesda redevelopment projects.
- Met with members of the Land Use Committee to draft ordinances related to setbacks and accessory dwelling units.
- Assisted the Public Services Committee with responding to resident requests and inquiries regarding public safety, traffic and street lighting.
- Oversaw maintenance and repairs to the sustainable garden in Zimmerman Park, and assisted the Sustainable Garden team with planning additional improvements.
- Deployed computer upgrades in the Town Office.
- Arranged for the replacement of the Town's parking meters.
- Continued oversight of Town-wide traffic study.
- Continued oversight of Zimmerman Park redevelopment project.
- Continued oversight of Washington Gas main replacement work.
- Worked with Community Relations Committee on special events.

Ordinance No.:
Introduced: February 19, 2020
Adopted:
Effective Date:

TOWN OF CHEVY CHASE

SUBJECT: AN ORDINANCE TO AMEND SECTION 15-4 OF THE TOWN CODE TO ESTABLISH A SPECIAL SCHOOL ZONE SPEED LIMIT ON THE BLOCK OF WEST AVENUE BETWEEN THE INTERSECTIONS OF BRADLEY LANE AND RIDGE STREET; AND TO AUTHORIZE THE TOWN MANAGER TO PROVIDE FOR THE ERECTION AND MAINTENANCE OF SPEED LIMIT SIGNS IN ACCORDANCE WITH THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES

WHEREAS, Section 5-202 of the Local Government Article 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 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; and

WHEREAS, Section 25-102(a)(10) and Section 21-803 of the Transportation Article of the Maryland Code grant the power to alter the speed limits specified in the Transportation Article, if, on the basis of an engineering and traffic investigation, a local authority determines that any maximum speed limit specified therein is greater or less than reasonable or safe under existing conditions on any part of a roadway in its jurisdiction; and

WHEREAS, Section 21-803 and Section 21-803.1 of the Transportation Article of the Maryland Code grant the power to establish a school zone and the maximum speed limit applicable in the school zone and to provide that fines are to be doubled for speeding violations within the school zone, and to decrease the maximum speed limit in a school zone to 15 miles per hour during school hours; and

WHEREAS, Section 25-106 of the Transportation Article of the Maryland Code authorizes the placement and maintenance of those traffic control devices that a local authority considers necessary to carry out the provisions of the Maryland Vehicle Law or local traffic ordinances or to regulate, warn, or guide traffic; and

WHEREAS, the Town's traffic consultant, Joseph Cutro, P.E., conducted an engineering and traffic investigation in the Town and, in collaboration with the Town Public Services Committee, has recommended that the Town Council establish the school zone and speed limit set forth in this Ordinance; 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, the Town Council introduced the following ordinance in public session assembled on the 19th day of February, 2020; and

WHEREAS, the Town Council held a public hearing on the following ordinance in public session assembled on the ____ day of _____, 2020; and

WHEREAS, upon consideration of Mr. Cutro's engineering and traffic investigation, the recommendation of the Public Services Committee, and the testimony and evidence presented at the public hearing, the Town Council finds that 30 miles per hour, which is the speed limit for Town roads under Section 12-801.1(b) of the Transportation Article of the Maryland Code, and 25 miles per hour which is the speed limit for Town roads under Section 15-3 of the Town Code are greater than reasonable and safe under existing conditions during school hours on the school-zone road on the block of West Avenue between the intersections of Bradley Lane and Ridge Street; and

WHEREAS, upon consideration of Mr. Cutro's engineering and traffic investigation and the testimony and evidence presented at the public hearing, the Town Council finds that 15 miles per hour is reasonable and safe under existing conditions during school hours on the block of West Avenue between the intersections of Bradley Lane and Ridge Street; and

WHEREAS, upon consideration of the report and recommendations of Mr. Cutro, and the Public Services Committee, and the testimony and evidence presented at the aforesaid hearing, the Town Council finds that it is appropriate, necessary and advisable for the public health, safety and welfare to establish the school zone and the speed limit set forth in this Ordinance and to erect speed limit signs at proper locations in accordance with the Manual on Uniform Traffic Control Devices; and

WHEREAS, the Town Council finds that the following ordinance 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:

SECTION 1. BE IT ORDAINED AND ORDERED, this ____ day of _____, 2020, 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 Section 15-4 of the Town Code is amended to add a new subsection 15-4(d)(7) to read as follows:

Sec. 15-4. - Special speed limits.

(a) The speed limit on the following roadways shall be twenty (20) miles per hour:

- (1) Curtis Road between Leland Street and Oakridge Avenue;
- (2) Lynn Drive between Oakridge Lane and Maple Avenue;
- (3) Oak Lane between Leland Street and Meadow Lane;
- (4) Oakridge Avenue between Curtis Road and Leland Street;
- (5) Oakridge Lane between Lynn Drive and Leland Street; and
- (6) Stanford Street between Oakridge Avenue and East Avenue.

(b) The speed limit on Pine Place between Ridgewood Avenue and Maple Avenue shall be fifteen (15) miles per hour.

(c) The speed limit on Ridgewood Alley east of Ridgewood Avenue shall be ten (10) miles per hour.

(d) The roadways described in this subsection (d) are hereby declared and designated as a school zone. Fines for violation of the speed limits in this subsection (d) shall be doubled. The speed limit on the following roadways shall be fifteen (15) miles per hour from 8:00 a.m. to 4:00 p.m. on school days:

- (1) Eastbound and westbound Rosemary Street between Meadow Lane and Maple Avenue;
- (2) Northbound and southbound Hillcrest Place between Bradley Lane and Sycamore Street;
- (3) Eastbound and westbound Stanford Street between Ridgewood Avenue and Rosemary Circle;
- (4) Northbound and southbound Meadow Lane between Rosemary Street and Sycamore Street;
- (5) Eastbound and westbound Beechwood Drive between Valley Place and Sycamore Street; and
- (6) Northbound and southbound Valley Place from Beechwood Drive to Meadow Lane.

(7) Northbound and southbound West Avenue between Ridge Street and Bradley Lane.

SECTION 2. AND BE IT FURTHER ORDAINED AND ORDERED, this ____ day of _____, 2020, 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 the

Town Manager is authorized to provide for the erection and maintenance of appropriate speed limit signs in accordance with the most recent edition of the “Manual on Uniform Traffic Control Devices for Streets and Highways;” provided that no such sign shall be erected on State highways without the approval of the State Highway Administration.

SECTION 3. AND BE IT FURTHER ORDAINED AND ORDERED, this ____ day of _____, 2020, 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, 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 _____, 2020.

ATTEST:

TOWN OF CHEVY CHASE

Wicca Davidson, Secretary

Barney Rush, Mayor
Town of Chevy Chase

Bold and Underline indicates new material

[] indicates material deleted

* * * indicates material unchanged

**Town of Chevy Chase
Parking Regulation and Order
(Portions of West Avenue)**

Resolution No.:
Introduced:
Adopted:
Effective Date:

SUBJECT: A RESOLUTION TO ADOPT REGULATIONS PROHIBITING PARKING ON CERTAIN SECTIONS OF WEST AVENUE, EXPANDING AN EXISTING PERMIT PARKING AREA ON THE BLOCK OF WEST AVENUE BETWEEN THE INTERSECTIONS OF BRADLEY LANE AND RIDGE STREET, AND CREATING A NEW PERMIT PARKING AREA ON THE 6800 BLOCK OF WEST AVENUE, AND TO AUTHORIZE THE TOWN MANAGER TO INSTALL AND MAINTAIN SIGNS IN COMPLIANCE WITH THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES AT APPROPRIATE LOCATIONS

WHEREAS, Section 26-301 of the Transportation Article of the Maryland Code grants to the legislative body of every incorporated municipality in Maryland, including the Town of Chevy Chase, general power to adopt regulations concerning the parking of vehicles; the impounding of vehicles parked in violation of regulations; and the issuance of a citation for a violation of a regulation adopted under said authority; and

WHEREAS, Section 25-106 of the Transportation Article of the Maryland Code authorizes the placement and maintenance of those traffic control devices that a local authority considers necessary to carry out the provisions of the Maryland Vehicle Law or to regulate, warn, or guide traffic; and

WHEREAS, Section 15-19 of the Town of Code authorizes the Town Council, by resolution, to regulate vehicular parking on public streets or other areas in the Town; and

WHEREAS, Section 15-31(a) of the Town of Code authorizes the Town Council, by written order or regulation, to designate roads, streets and other areas within the Town in which the parking of vehicles may be restricted, in whole or in part, during certain specified times, to vehicles displaying valid parking permits or guest cards; and

WHEREAS, Section 15-32 of the Town of Code authorizes the Town Manager, following the designation of a parking permit area, to issue appropriate parking permits and cause parking signs to be posted; and

WHEREAS, concerns have been expressed to the Town about traffic safety on West Avenue, traffic congestion, parking difficulties, and the risks posed to students of the Oneness-Family School, at St. John's Episcopal Church; and

WHEREAS, in response to said concerns, the Town's traffic consultant, Joseph Cutro, P.E., in collaboration with the Town Public Services Committee, and in consultation with affected residents and school and church officials, has conducted an investigation of the traffic concerns and has recommended that the Town Council adopt the regulations set forth in this Resolution to improve traffic flow, control, pedestrian and motorist safety, and alleviate parking concerns; and

WHEREAS, as depicted on the attached plan, Mr. Cutro, and the Public Services Committee, recommend the following: (1) designation of a no parking area on a portion of the west side of West Avenue between the intersections of Bradley Lane and Ridge Street to prohibit the parking of vehicles on Monday through Friday, from 7:00 am to 9:30 am and from 2:30 pm to 4:30 pm; (2) re-designating no parking areas on both sides of the West Avenue between the intersections of Bradley Lane and Ridge Street to prohibit parking at any time; and (3) establishing a new permit parking area on the west side of a portion of the 6800 block of West Avenue, and an area comprising two parking space located near the intersection of Bradley Lane and West Avenue, to prohibit the parking of vehicles without parking permits or guest cards, except on Sundays; and

WHEREAS, the Town Council held a public hearing on the following resolution in public session assembled on the ___ day of _____, 2020; and

WHEREAS, proper notice of the aforesaid public hearing was posted at the Town of Chevy Chase Town Hall on March 2, 2020, 10 days prior to the hearing, setting forth the purpose of the hearing, the exact location and boundaries of the proposed permit parking areas under consideration and the reasons why the restrictions on parking are proposed, and such notice was also delivered to each resident within the confines of the proposed permit parking areas; and

WHEREAS, upon consideration of the recommendation of Mr. Cutro and the Public Services Committee, and the testimony and evidence presented at the public hearing, and considering the criteria set forth in Section 15-31(b) of the Town Code, the Town Council finds that:

1. The block of West Avenue between the intersections of Bradley Lane and Ridge Street is the Town street nearest the pedestrian entrance to Oneness-Family School at St. John's Episcopal Church. Permit parking areas currently exist on the block of West Avenue between the intersections of Bradley Lane and Ridge Street, to address the intensive use of said block and the 6800 block of West Avenue for parking by non-residents employed at the church and school and for the stopping or standing of vehicles by non-residents dropping off or picking up students. Such use has created concerns relating to the safety of residents and children in the area, traffic congestion, as well as difficulty for residents to obtain adequate on-street parking adjacent to or close by their places of residence;

2. The institution of additional permit parking areas, including on the 6800 block of West Avenue, as proposed, is likely to alleviate current and anticipated problems of non-availability of residential parking spaces and safety and traffic control concerns;

3. An appropriate number of parking permits, as determined by the Town Manager, should be issued to the church and school;

4. The residents of the subject blocks of West Avenue have contributed to the cost of maintaining the subject street areas through the payment of property and income taxes; and

WHEREAS, based upon the foregoing findings, the Town Council concludes that implementing the recommendations detailed above will promote the public safety, peace, good order, comfort, convenience, health and welfare.

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

BE IT RESOLVED AND ORDERED, this ___ day of _____, 2020, by the Town Council of the Town of Chevy Chase, Maryland, acting under and by virtue of the authority given it by the Maryland Code and Section 15-31 of the Town Code, that, as depicted on the attached plan:

1. With respect to the west side of West Avenue, from the intersection of West Avenue and Stanford Street to a point 130 feet south of such intersection, the parking of vehicles in the aforesaid area shall be restricted to vehicles displaying valid parking stickers or guest cards issued pursuant to Chapter 15 of the Chevy Chase Town Code, at any time, except on Sundays; and

2. With respect to the east side of West Avenue from a point 39 feet south of the intersection of West Avenue and Ridge Street to a point 87 feet south of such intersection, the parking of vehicles in the aforesaid area shall be restricted to vehicles displaying valid parking stickers or guest cards issued pursuant to Chapter 15 of the Chevy Chase Town Code, except on Sundays; and

3. With respect to the west side of West Avenue from a point 71 feet south of the intersection of West Avenue and Ridge Street to a point 40 feet north of the intersection of West Avenue and Bradley Lane, the parking of vehicles in the aforesaid area shall be prohibited Monday through Friday, from 7:00 am to 9:30 am and from 2:30 pm to 4:30 pm; and

4. With respect to the west side of West Avenue from the intersection of West Avenue and Bradley Lane to a point 40 feet north of such intersection, the parking of vehicles in the aforesaid area shall be restricted to vehicles displaying valid parking stickers or guest cards issued pursuant to Chapter 15 of the Chevy Chase Town Code, at any time, except on Sundays; and

5. An appropriate number of parking permits, as determined by the Town Manager, may be issued to the church and school. One space shall be reserved for use by the church on the west side of West Avenue, immediately south of the existing handicapped parking space south of the intersection of West Avenue and Ridge Street; and

6. The Town Manager is hereby authorized and directed to implement and administer this regulation and order.

BE IT FURTHER RESOLVED, this ___ day of _____, 2020, by the Town Council of the Town of Chevy Chase, Maryland, acting under and by virtue of the authority given it by the Maryland Code and Section 15-19 of the Town Code, that:

1. The parking of vehicles on the west side of West Avenue from a point 44 feet south of the intersection of West Avenue and Ridge Street to a point 71 feet south of said intersection, is prohibited;

2. The parking of vehicles on the west side of West Avenue from a point 71 feet south of the intersection of West Avenue and Ridge Street to a point 40 feet north of the intersection of West Avenue and Bradley Lane, is prohibited Monday through Friday, from 7:00 am to 9:30 am and from 2:30 pm to 4:30 pm

3. The parking of vehicles on the east side of West Avenue from the intersection of West Avenue and Ridge Street to a point 39 feet south of said intersection, is prohibited; and

4. The parking of vehicles on the east side of West Avenue from a point 87 feet south of the intersection of West Avenue and Ridge Street to the intersection of West Avenue and Bradley Lane, is prohibited.

BE IT FURTHER RESOLVED that the foregoing resolution shall take effect upon its adoption, or as soon thereafter as signs are posted in accordance with this resolution.

I, Wicca Davidson, Secretary of the Town Council of the Town of Chevy Chase, hereby certify that the foregoing Resolution was adopted by the Town Council at its meeting on the ___ day of _____, 2020.

Wicca Davidson, Secretary

West Avenue Traffic and Parking Plan

Parking Legend:

1. Permit parking except Sunday (purple)
2. No Parking anytime (red)
3. No Parking anytime (black)*
3. Handicapped space (pink)
4. Space reserved for clergy (blue)
5. No parking M-F 7:00 a.m. to 9:30 a.m. and 2:30 p.m. to 4:30 p.m.
Parking not regulated other times (yellow)*

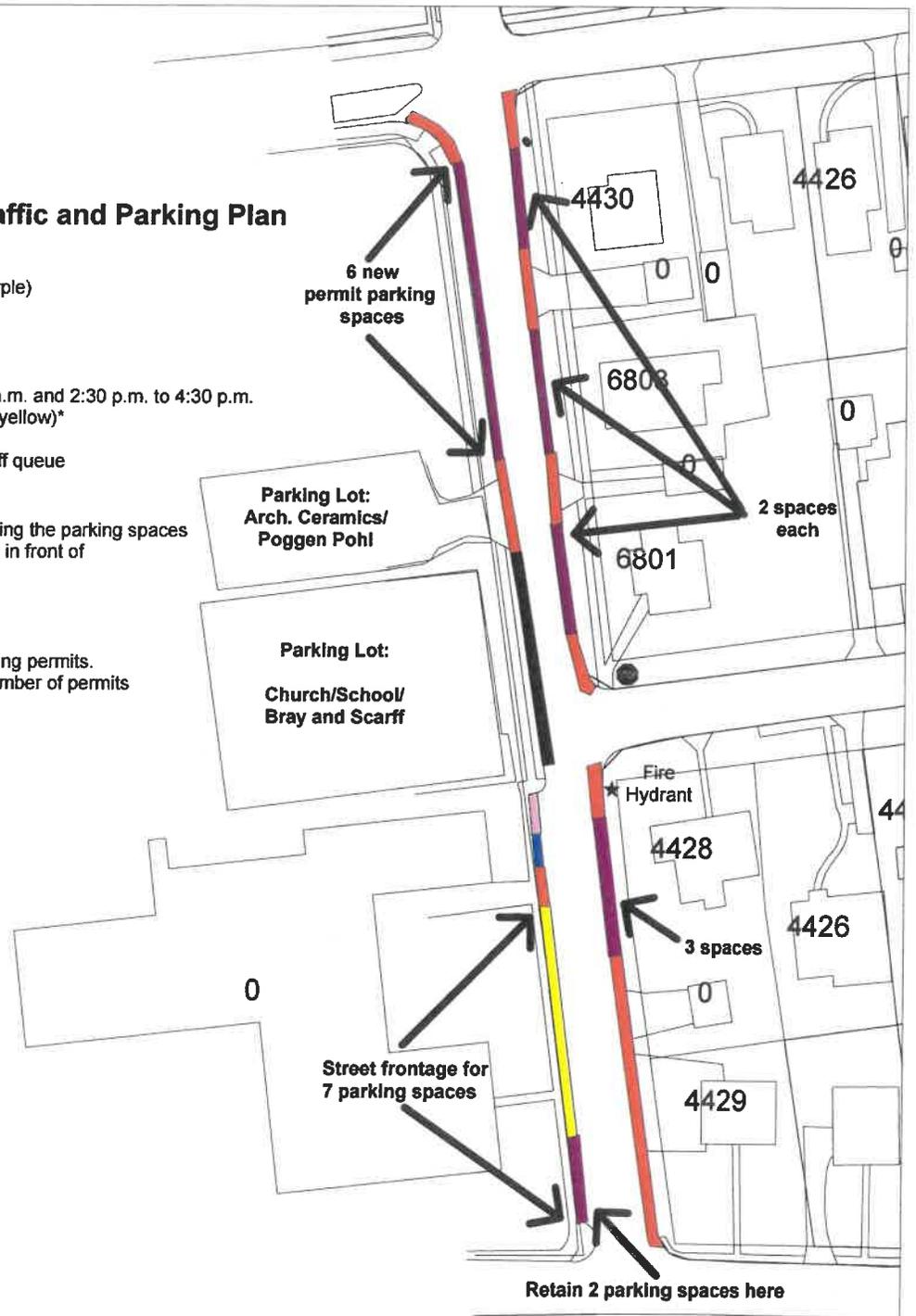
* Used for School pick-up and drop-off queue

Miscellaneous:

1. Install pavement markings delineating the parking spaces
2. Install hatched pavement markings in front of the curb entrance to the church

Permits:

The church is currently given 11 parking permits.
The school will be issued a limited number of permits to accommodate for lost spots.



Existing Conditions

Current Parking Restrictions

- 1. Permit parking except Sunday (purple)
- 2. No Parking anytime (red)
- 3. No Parking 8-4, M-F (magenta)
- Space reserved for the church (blue)
- 4. Permit parking only 9-5, M-F (green)
- 5. Handicapped space (light pink)
- 6. Authorized Parking 8-4 (yellow)



**Town of Chevy Chase
Ordinance to Add Variance and Appeal Provisions
for Small Wireless Telecommunications Facilities**

Resolution No.:
Introduced:
Adopted:
Effective Date:

**AN ORDINANCE TO AMEND CHAPTER 26, CONCERNING
SMALL WIRELESS TELECOMMUNICATIONS FACILITIES TO
ADD VARIANCE AND APPEAL PROCESSES.**

WHEREAS, Maryland Code, Local Government Article, Section 5-202, as amended, grants to the legislative body of every incorporated municipality in Maryland 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, United States Code, Title 47, Section 332, provides that a local government may exercise control regarding the placement, construction, and modification of personal wireless service facilities, provided the local government does not unreasonably discriminate among providers of functionally equivalent services; and does not prohibit the provision of personal wireless services;

WHEREAS, the Town of Chevy Chase holds and maintains the streets and highways within its municipal boundaries in trust for the benefit, use, and convenience of the general public;

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 residents 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 _____ day of February, 2020;

WHEREAS, after proper notice to the public, the Town Council considered the following Ordinance in an open meeting conducted on the _____ day of _____, 2020;

WHEREAS, 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.

NOW, THEREFORE, BE IT ORDAINED AND ORDERED, this ____ day of _____, 2020, by the Town Council, acting under and by virtue of the authority given it by the Maryland Code and the Town Charter, the Town Council does hereby adopt the foregoing Ordinance and amend the Town Code as follows:

* * *

Chapter 26.

TELECOMMUNICATIONS

* * *

Sec. 26-48. - Permit and access agreement required.

(a) No person shall construct, install, maintain, or perform any work in the public right-of-way related to a communications facility or any tower, without first receiving a permit and paying any applicable fee, as required under this article. No permit shall be issued until the applicant has entered into a right-of-way access agreement in a form approved by the town, according to this article. A permit shall not be required for ordinary maintenance and repair, as determined by the town. **A permit application shall be filed with the town no later than seven (7) calendar days after a permit application has been filed with County, Maryland, for the same work.**

(b) The right-of-way access agreement shall set forth, at a minimum, the following: (a) the maximum term of the agreement and the basis for termination; (b) the scope of the authority; (c) the operator's maintenance obligations; (d) the operator's indemnification and insurance requirements; (e) emergency contacts and required response to emergencies related to facilities; and (f) the town's right to access and inspect the operator's books and records.

(c) A right-of-way access agreement may be terminated by the town, in its sole discretion, if this chapter is amended or replaced. In such event, a new permit and right-of-way access agreement shall be required according to the requirements of the amended or replaced chapter.

* * *

Sec. 26-51. Variances.

(a) Authority of town council. The town council may grant variances from the requirements of this chapter, upon proof by a preponderance of the evidence that strict compliance would effectively prohibit the provision of service, and the variance is the minimum reasonably necessary to overcome the aforesaid prohibition and allow service.

(b) Procedure for granting variance. The procedure for applying for and obtaining a variance shall be as follows:

(1) Written request to town council. A written request for a variance from the requirements of this chapter shall be addressed to the town council and shall state all facts warranting the variance.

(2) Supporting data. Each application for a variance shall be accompanied by the following:

a. Surveys, plats or other accurate drawings showing boundaries, dimensions, area, topography, as well as the location and dimensions of all structures existing and proposed to be erected, and the distances of the structures from the nearest public right-of-way lines.

b. Plans, architectural drawings, photographs, elevations, specifications or other detailed information depicting fully the exterior appearance of existing and proposed construction involved in the application.

c. The lease, rental agreement or contract to purchase any utility pole involved in the application, to demonstrate the applicant's legal right to prosecute the application.

d. A summary of what the applicant expects to prove, including the names of applicant's witnesses, summaries of the testimonies of expert witnesses, and the estimated time for presentation of the applicant's case.

e. All additional exhibits which the applicant intends to introduce.

(3) Public hearings on applications. The town council shall hold a public hearing on all applications for the grant of a variance.

(4) Posting requirement. At least fifteen (15) days prior to the public hearing, the town shall post the area of the right-of-way involved in the application, and provide written notification to all adjoining and confronting property owners and to all council members.

(5) Conditions. In granting a variance, the town council may require such conditions, as will, in its judgment, secure substantially the objectives of the requirements so modified and protect the public interest.

(6) Decision. The decision of the town council shall be in writing. The effective date of any decision shall be the date the council approves its written decision. The decision shall be recorded among the Land Records of Montgomery County, Maryland, at the town's expense. The terms and conditions of the decision shall run with the land and be binding upon the applicant, and the applicant's successors and assigns. If the town is required to enforce the decision, the applicant, and the applicant's successors and assigns shall be responsible for all the town's costs to enforce, including reasonable attorneys' fees.

(7) Duration. A 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.

Sec. 26-52. - 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 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.

Sec. 26-53. - Appeals to the circuit court.

Any party aggrieved by the decision of the town council under this chapter may appeal within thirty (30) days to the Circuit Court for Montgomery County and thereafter to the appellate courts of this state within the time and manner prescribed within the Maryland Rules of Procedure relating to judicial review of administrative agency decisions. The time for appeals shall begin to run from the date of the written decision.

* * *

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 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 _____, 2020 (30 days after adoption).

ATTEST:

TOWN OF CHEVY CHASE

Wicca Davidson, Secretary

Barney Rush, Mayor
Town of Chevy Chase

Bold and Underline indicates new material

~~Strikethrough~~ indicates material deleted

* * * indicates material unchanged