Resolution No. 06-10
Introduced: April 27, 2006
Adopted: July 12, 2006
Effective Date: August 12, 2006

RESOLUTION
OF
TOWN OF CHEVY CHASE

SUBJECT: COMPREHENSIVE AMENDMENTS TO CHAPTER 4 OF THE TOWN CODE TO CLARIFY TERMINOLOGY, CODIFY AND ENHANCE PROCEDURES, MODIFY STRUCTURE LOCATION REQUIREMENTS, AND PROVIDE FOR PENALTIES, REMEDIAL ACTION AND EXECUTIVE REGULATIONS

WHEREAS, Article 23A, Section 2(b)(5) of the Maryland Code, authorizes municipalities in the State of Maryland to make reasonable regulations concerning buildings and signs to be erected within the limits of the municipality, including a building code and the requirement for building permits; and

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 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, Section 301(b)9. of the Town Charter authorizes the Town Council to make reasonable regulations in regard to buildings and barns to be erected, constructed, or reconstructed in the Town, and to grant building permits for them; to formulate a building code and a plumbing code and to appoint a building inspector and a plumbing inspector, and to require reasonable charges for permits and inspections; to authorize and require the inspection of all buildings and structures and to authorize the condemnation thereof in whole or in part when dangerous or insecure, and to require that such buildings and structures be made safe or be taken down; and

WHEREAS, the Town Council considered the following ordinance in public session assembled on the 27th day of April, 2006, the 14th day of June, 2006 and the 12th day of July, 2006; and

WHEREAS, to comply with Article 28, Section 8-115.1 of the Maryland Code, on April 28, 2006, the following ordinance was submitted to the Montgomery County Council for its comments; 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 CHEVY CHASE TOWN CODE TO CLARIFY TERMINOLOGY, CODIFY AND ENHANCE PROCEDURES, MODIFY STRUCTURE LOCATION REQUIREMENTS, AND PROVIDE FOR PENALTIES, REMEDIAL ACTION AND EXECUTIVE REGULATIONS

BE IT ORDAINED AND ORDERED, this 12th day of July, 2006, 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 Chapter 4 of the Town Code is hereby amended as follows:

Sec. 4-1. Definitions.

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

(b) Terms defined.

(1) *Accessory building:* A building subordinate to, and located on the same lot or lots with, a main building, the use of which is clearly incidental to that of the main building or to the use of the land and which is not attached by any part of a common wall or common roof to the main building.

(2) *Alley:* A right-of-way which provides secondary access for vehicles to the side or rear of abutting properties.

(3) *Building:* A structure having one (1) or more stories and a roof, designated primarily for the shelter, support or enclosure of persons, animals or property of any kind. The term "building" encompasses all parts of the structure including, but not limited to, projections such as steps, stoops, above-grade terraces and decks, porches, bay windows, cornices, eaves, exterior stairways, and chimneys, as well as appurtenant structures such as air conditioners, heat pumps and generators.

(4) *Building line:* A line extending from property line to property line at the outermost wall of a building.

(5) *Building restriction line:* The line established by the setback requirements, which separates the buildable portion of the lot from the portion into which non-exempt structures must not encroach.

(6) *Depth of lot.* The average (mean) length of the side lot lines. 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.

(7) *Developmental nonconformity:* An existing structure, which was lawful when established, but which no longer conforms to the requirements of this Code because of the amendment of this Code.

(8) *Established building line:* A front yard building restriction line, which is the average setback of all buildings that:

a. are within 300 feet of the 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. are not nonconforming, unlawfully constructed, or constructed pursuant to a lawfully granted variance; and

f. are not located on a pipestem or flag-shaped lot.

In calculating the setbacks of buildings to determine the established building line, the following shall be excluded:

a. buildings on the subject property

b. lots not meeting the minimum width at the minimum front setback

c. steps, stoops, terraces, decks and covered porches projecting not more than nine (9) feet from the building wall

d. bay windows and vestibules ten (10) feet or less in width and projecting not more than three (3) feet from the building wall

e. cornices, eaves, exterior stairways, chimneys, air conditioners, heat pumps and generators.

Corner lots have established building lines on both streets.

Open steps, stoops, terraces and covered porches projecting more than nine (9) feet from the building wall and bay windows and vestibules more than ten (10) feet in width or projecting more than three (3) feet from the building wall shall be included in the calculation of the setbacks of buildings to determine the established building line.

(9) Front lot line: The boundary line of a lot separating the lot from any and all streets.

(10) *Front yard:* Area located between the front lot line and the front building line, or, in cases where no building exists, the front building restriction line.

(11) Height of building: Building height is the vertical distance measured from the average elevation of the finished grades along the front of the building to either:

a. the highest point of roof surface regardless of roof type, or

b. the mean height level between the eaves and ridge of a gable, hip, mansard, or gambrel roof. However, for the purposes of determining building height and story, at no point may the finished grade be higher than the pre-development grade.

(12) *Lot:* The land designated as a separate and distinct lot or parcel of land on a legally recorded subdivision plat or deed filed among the land records of the county.

(13) *Lot coverage:* Portion of lot which may be covered by buildings or other raised structures, but not including structures that are not raised such as walkways, patios, terraces, driveways, swimming pools and tennis courts.

(14) *Main building:* A building in which the principal use of the lot on which it is situated is conducted. The residence shall be deemed to be the main building unless the lot is lawfully used exclusively for non-residential purposes.

(15) *Story:* That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, the space between the floor and the ceiling next above. A basement is counted as a story.

(16) *Street:* A public or dedicated right-of-way including, but not limited to, streets, roadways, parkways, avenues, highways or other public thoroughfares.

(17) *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.

(18) *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.

(Ord. No. 93-002, 3-16-93; Res. No. 98-002, § 1, 5-13-98)

Sec. 4-2. Reserved.

Sec. 4-3. Building permit, in general.

(a) Unless a permit has been issued by the town manager, it shall be unlawful for any person to:

(1) erect any building;

(2) make any material structural alterations or additions to a building;

(3) demolish any building (in whole or in part);

(4) erect any fence or wall;

(5) install any pool, outdoor therapeutic bath, or tennis court;

(6) disrupt any town right of way, including, but not limited to, streets, sidewalks, curbs, gutters and grassy areas; or

(7) place any dumpster on public or private property.

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

(1) A preliminary plan shall be filed with the town manager before a person may file a building permit application for:

a. a new building in excess of 500 square feet;

b. one or more addition(s) or alteration(s) to a building that individually or cumulatively increases the square footage of any floor of an existing building by more than 500 square feet; or

c. the demolition of more than fifty (50) percent of the exterior walls of a structure (measured in linear feet and including only that area which is entirely above grade).

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

a. schematic (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 and side setbacks; and

2. the location of:

A. impacted trees that are regulated by Chapter 29 "Urban Forest";

B. existing right-of-ways;

C. planned walkways, driveways, 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.

(3) a. Whenever a preliminary plan is filed, the town manager shall hold a pre-permit application consultation with the filer of the plan for the purposes of exchanging information, receiving feedback, and making and considering non-binding recommendations. The pre-permit application consultation shall be held prior to the filing of a building permit application.

b. Each pre-permit application consultation shall be attended by at least one representative of the town government, and shall be open to the public.

(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 line of 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 2 ½ 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.

b. the town manager shall provide written notice of the filing and the pre-permit application consultation (in a manner and format prescribed by the town manager) to owners of adjoining and confronting properties. Failure of the town manager to provide such written notice shall not invalidate any permit which may be issued by the town with respect to the subject property.

c. the town manager shall post a notice of the filing and pre-permit application consultation on the town's website.

(5) The pre-permit application consultation required by this subsection is separate and distinct from the requirement to hold a site management meeting under subsection (c) of this section.

(6) Subject to the requirements of this subsection, a town building permit application may be filed at any time; however, no town building permit shall be issued unless and until a County building permit for the same work has been issued and the applicant has held a site management meeting, if required by subsection (c) of this section.

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

(1) Any person required to file a preliminary plan under subsection (b) of this section shall hold a site management meeting with the town manager or the manager's designee for purposes of discussing site management issues and assisting the manager in establishing site management requirements, as a condition to the issuance of the building permit, as the town manager is authorized to impose under subsection (e) of this section to protect the public health, safety and welfare.

(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.

c. the town manager shall post a notice of the site management meeting on the town's website.

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

a. state a date by which the building or alteration shall be finished; and

b. be accompanied by plans and specifications of the work contemplated.

(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 paragraph (3) of this subsection 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 overlayed 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 inch or less, is required. The location of a proposed structure must be determined by measuring from the boundary line to the proposed structure.

b. For all variance requests, except for variances under articles II or III of this chapter, a boundary survey with a margin of error of one inch or less is required. For all new main buildings, additions with a footprint of over 500 square feet and new accessory buildings with a footprint of over 150 square feet, a wall check shall be required.

(e) (1) 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. The town manager shall grant such approval only if the proposed work would comply with all 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:

a. Prohibiting or limiting the parking of contractors or other construction-related vehicles in the public right-of-way;

b. Limiting the locations upon private property where contractors or other construction-related vehicles may be parked;

c. Limiting the locations upon which construction materials may be stored;

d. Limiting the locations upon which portable toilets may be placed or maintained, or prohibiting the placing or maintaining of portable toilets;

e. Limiting the locations upon which construction debris may be stored, whether or not such debris is contained; and

f. Such other terms or conditions as may be determined by the town manager to be necessary to protect the public health, safety or welfare.

The permit shall be issued in the name of the property owner who may authorize, in writing, an agent to represent the owner in connection with the application and any permit issued by the town manager.

(2) If the plans and specifications are not approved, they may, together with the application and reasons for requesting a reconsideration, be referred by the applicant to the town council for final decision.

(f) It shall be unlawful for any person to modify or alter any plans or specifications after they have been submitted and a permit issued thereon without the prior written approval of the town manager.

(g) No person or persons shall proceed with the building of any structure, material alteration or addition, except in accordance with the plans and specifications approved therefor, or in accordance with deviations or alterations approved by the town manager.

(h) Work on buildings, alterations, or additions must be commenced within six (6) months of date the permit is issued and shall be completed by the time stated in the application but not later than twelve (12) months from date the permit is issued, or the permit shall be void, unless an extension is granted in writing by the town manager. The town manager may grant an extension, upon such conditions as the town manager may set, upon a reasonable showing by the permittee that there has been no material change in circumstances since the issuance of the permit and despite due diligence by the permittee, additional time is necessary to accomplish the approved construction.

(i) A permit may be revoked by the town manager if the work has stopped for thirty (30) days.

(j) Failure to complete all work, in accordance with the terms of a building permit, by the expiration date of such building permit (as the same may be extended pursuant to subsection (h) above) shall be a violation of this chapter. Each day, after the permit expires, that such work is incomplete shall constitute a separate violation.

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

(l) 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:

(1) Prohibiting or limiting the parking of contractors or other construction-related vehicles in the public right-of-way;

(2) Limiting the locations upon private property where contractors or other construction-related vehicles may be parked;

(3) Limiting the locations upon which construction materials may be stored;

(4) Limiting the locations upon which portable toilets may be placed or maintained, or prohibiting the placing or maintaining of portable toilets;

(5) Limiting the locations upon which construction debris may be stored, whether or not such debris is contained; and

(6) Such other terms or conditions as may be determined by the town manager to be necessary to protect the public health, safety or welfare.

(m) It shall be unlawful to continue work when a permit has been revoked or suspended.

(Ord. No. 93-002, 3-16-93)

Charter references: Building permits, § 301(b)9.

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

(a) *Front setback.*

(1) No 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 (25) foot setback, if the addition does not expand the footprint of the building.

(2) For corner lots, any and all lines bordering upon a street, avenue, alley or parkway shall be considered a front lot line. Notwithstanding the foregoing, in the case of a corner lot, if the adjoining lot on one of the streets either does not front on that street or is in a nonresidential zone, the setback from that street line shall be at least fifteen (15) feet.

(b) *Side setback.*

(1) *Generally.* No 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 subparagraph 1. of this paragraph.

(2) *Buildings in existence as of February 22, 2006.*

a. A building that is less than seven (7) feet from a side lot line may be altered or enlarged only if the new construction complies with the general side setbacks set forth in paragraph (1) of this subsection.

b. A building that is seven (7) feet or more from a side lot line may be altered or enlarged if:

1. the new construction is no closer to the side lot line than the wall of the existing building;

2. the sum of the side setbacks equals or exceeds thirty (30) percent of the width of the lot at the location of the new construction or sixteen (16) feet, whichever is greater; and

3. at least seventy (70) percent of the existing exterior walls in existence as of February 22, 2006 are retained.

c. In the case of a building described in subparagraph b. of this paragraph, for any construction that is permitted to encroach into the building setback pursuant to subsection (f) of this section, the minimum yard shall be calculated in accordance with paragraph (1) of this subsection.

(c) *Rear setback.* No main building of any kind, 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 (100) feet or less in depth, twenty (20) feet;

(2) 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 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

(3) For lots that are more than one hundred twenty (120) 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 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.

(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 of any kind, 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 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.

(e) Accessory buildings may be erected only to the rear of the main building on a lot.

(f) *Exemptions from yard requirements for projections.*

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

a. Open and uncovered steps, stoops, decks, terraces and porches may extend into any minimum front or rear yard not more than nine (9) feet.

b. On a corner lot having a minimum side yard twenty-five (25) feet or more in width, open and uncovered steps, stoops, decks, terraces and porches may extend into the minimum side yard not more than nine (9) feet. There may not be any encroachment upon the minimum side yard of a corner lot when such yard is less than twenty-five (25) feet in width.

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

d. Steps and stoops, decks, terraces, porches and outside stairways which extend into the minimum required yards may be roofed but not enclosed; provided, that the roofing may extend into the minimum required yards not more than three (3) feet.

(2) *Bay windows, oriel entrances, vestibules and balconies.*

a. Except as provided in subparagraph b. of this paragraph, a bay window, oriel entrance, vestibule or balcony, ten (10) feet or less in width and not more than one (1) story in height, may project not more than three (3) feet into any minimum front or rear yard and not more than two (2) feet into any minimum side yard.

b. For buildings described in subsection (b)(2)b. of this section, a bay window, oriel entrance, vestibule or balcony must be at least six (6) feet from the side lot line. No more than two (2) bay windows may project into any required setback.

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

a. Cornices and eaves may project two and one-half (2 1/2) feet or less over yard, but such projection shall be not less than two (2) feet from the vertical plane of any lot line.

b. Sills, leaders, belt courses, and similar ornamental features may project not more than six (6) inches over any yard.

c. Outside stairways may project not more than five (5) feet over a minimum rear yard only.

d. Chimneys may project not more than twenty-four (24) inches into any minimum front, rear, or side yard.

e. Chimneys used as walls may not project into any minimum yard.

f. Air conditioners and heat pumps may project not more than five (5) feet into any minimum front or rear yard. Additional projection may be permitted for the purpose of adding noise abatement devices. Air conditioners or heat pumps existing within any minimum side yard prior to July 27, 1982, shall not be considered a nonconforming use, and may be continued and replaced.

(Ord. No. 93-002, 3-16-93; Res. No. 99-003, § 1, 9-8-99)

Sec. 4-5. Garage and accessory building construction; prohibitions.

(a) *Interior lot.* A detached garage or other accessory building shall:

(1) be located in the rear yard;

(2) not occupy more than twenty-five (25) percent of the rear yard; and

(3) be set back from the front lot line a minimum of sixty (60) feet.

a. A detached garage or other accessory building less than twelve (12) feet in height when measured to the highest point, shall be set back a minimum of five (5) feet from the rear lot line and the side lot lines.

b. A detached garage or other accessory building twelve (12) feet or greater in height when measured to the highest point, shall be set back a minimum of seven and one-half (7 ½) feet from the rear lot line and the side lot lines.

(b) *Corner lot.* A detached garage or other accessory building shall:

(1) be located in the rear yard;

(2) not occupy more than twenty-five (25) percent of the rear yard; and

(3) not be closer to the front lot line than a main building as:

a. set forth under section 4-4(b)(1) of this chapter; and

b. 1. If the adjoining lot has frontage on the side street then the setback from that side street line is twenty-five (25) feet and the setback from the rear lot line shall be at least ten (10) feet; or

2. If the adjoining lot does not have frontage on the side street then the setback from the side street is fifteen (15) feet and the setback from the rear lot line is ten (10) feet.

(c) For any garage or accessory building with a height, of twelve (12) feet or greater for a flat roof or fifteen (15) feet or greater when measured to the ridge of a roof other than a flat roof, the 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 (1 ½) 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.

(d) The minimum setback from the rear or side lot lines for a detached garage or accessory building with a length along a side or rear lot line, which has a linear dimension greater than twenty-four (24) feet, shall be increased from the requirements

under subsections (a), (b) and (c) of this section at a ratio of one and one-half (1 ½) feet for each foot that the dimension exceeds twenty-four (24) linear feet.

(e) The increased setback required by subsection (d) of this section shall be in addition to any increased setback required by subsection (c) of this section, so that the required setback shall be the total of the setbacks required by subsections (a) or (b) and (c) and (d) of this section.

(Ord. No. 93-002, 3-16-93; Res. No. 98-001, § 1, 3-11-98; Res. No. 04-02, 5-11-04)

Sec. 4-6. Dumpsters.

Any person placing or maintaining a dumpster within the town must first obtain a permit for such dumpster from the town manager. The town manager may condition the permit upon such terms or restrictions as the town manager deems necessary to protect the public health, safety or welfare.

Sec. 4-7. Developmental nonconformities.

A developmental nonconformity may be maintained, altered or repaired provided that it may not be enlarged beyond the dimensions that existed on February 22, 2006, except in accordance with this chapter.

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

(a) Any person intending to undertake construction, which may disrupt a town right of way, including but not limited to streets, sidewalks, curbs, gutters and grassy areas, whether the construction is for public or private use, shall first obtain a building permit. The application shall include a statement as to the reasons therefor and the purpose, mode and character of the proposed excavation or obstruction and the length of time it shall continue, and such other information as the town manager may require. The town manager may condition a permit upon such terms or restrictions as the town manager deems necessary to protect the public health, safety or welfare. Where the construction involves excavation, alteration, modification or planting in the town 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 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. The unexpended balance of any bond shall be returned to the permit holder. If the deposit is not sufficient to repair all damages and restore the public right of way, the permit holder shall reimburse the town for the full cost of restoration within fifteen (15) days of demand therefor. 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.

(b) 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.

(c) 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.

(Ord. No. 93-002, 3-16-93)

Cross references: Building permit generally, §4-3; protection of streets, etc., during excavations, etc., §23-1.

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

(a) *Authority of town council.* Where the property involved in an application filed under this chapter is of such exceptional narrowness, shallowness, shape or subject to such limitations of record, topographical conditions or other extraordinary situations or conditions peculiar to a specific parcel of property that it is impossible or impractical or would cause peculiar or unusual practical difficulties to or undue hardship upon the owner of such property to conform fully to this chapter, the town council may consider such a variance from the provisions of this chapter, as may be reasonably necessary to grant relief; provided that the variance:

(1) may not be detrimental to the use and enjoyment of adjoining or neighboring properties;

(2) is the minimum reasonably necessary to overcome the exceptional condition; and

(3) can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly adopted and approved master plan affecting the subject property in the town.

(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 and frontage of the property involved, 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 lot 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. If the applicant is not the owner of the property involved, the lease, rental agreement or contract to purchase by which the applicant's legal right to prosecute the application is established.

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

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

(d) *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.

(e) *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.

(Ord. No. 93-002, 3-16-93)

Sec. 4-10. Appeals.

Any party aggrieved by the decision of the town council under section 4-9 of this chapter may appeal within thirty (30) days to the circuit court for the 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 of approval or denial or from the date the application for variance was denied for want of the necessary total of affirmative votes.

(Ord. No. 93-002; 3-16-93)

Sec. 4-11. County building code requirements.

(a) The rules and regulations for the construction of buildings, known as the "Building Code of Montgomery County, Maryland," shall be followed and are hereby established and made a part hereof, and shall be followed and complied with by all persons where the rules and regulations are not in conflict with or different from the specific provisions of this chapter or the building restrictions incorporated in deeds of conveyance or subdivision plats within the town.

(b) Nothing in this chapter shall be construed to relieve any person from the requirement of first obtaining a building permit from the county department of environmental protection or its successor agencies prior to applying for a town building permit.

(Ord. No. 93-002, 3-16-93)

Sec. 4-12. 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 building or other regulations as are herein set forth or as may be adopted and approved.

(c) The building inspector shall have the authority to examine, or cause to be examined, any and all buildings, additions or alterations, or any work where a permit is required, as often and at such times as the building inspector deems necessary during the course of construction, alteration or repair, and to order, or caused to be ordered, any change or changes in the construction as the building inspector deems necessary to ensure compliance with the town code and regulations.

(d) 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 of, alteration or addition to, any building or buildings.

(e) 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 or additions, and the extent of the work involved in each case, together with plans and specifications where necessary.

(f) 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.

(Ord. No. 93-002, 3-16-93)

Sec. 4-13. Remedial action.

(a) Whenever the town manager finds that work is being performed or has been performed in violation of this chapter or in a manner that may jeopardize the public health or safety, the town manager may issue a stop work order to halt any activity that violates this chapter or jeopardizes the public health or safety and may order remedial action as appropriate.

(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 copy of a stop work order shall be mailed to the permit holder's last known address.

(c) It shall be unlawful for any person to continue work on a property after having been served with a stop work order, except such work as the town manager directs to remove a violation or to eliminate an unhealthy or unsafe condition.

(d) As a pre-requisite to lifting a stop work order, the town manager may require that the permit holder submit a written plan describing the actions that the permit holder will take to comply with this chapter and/or to protect the public health, safety or welfare. When lifting a stop work order, the town manager may impose additional conditions, terms or restrictions on the permit as the town manager deems necessary to assure compliance with this chapter and/or to protect the public health, safety or welfare.

(e) The town may institute injunctive or other appropriate action or proceedings at law or equity for the enforcement of this chapter in any court of competent jurisdiction.

(f) Any person violating or failing to comply with this chapter, in whole or in part, shall make or cause to be made such alteration or removal of construction equipment or work commenced or finished as may be necessary to remedy a condition which violates this chapter. If such remedy is not completed within fifteen (15) days from the date of notification of violation or such other date as may be specified in the notice of violation, the town may by contract or otherwise remove any equipment or demolish any construction work or parts thereof which violate this chapter, and the cost of such work shall be paid by the person upon demand of the town. If not paid within fifteen (15) days of the town's demand for payment, the cost of any remedial action shall be a lien against the property upon which the violation existed and collected in the same manner as property taxes or collected by a suit for damages.

Sec. 4-14. Penalties.

(a) Violation of any provision of this chapter shall be a municipal infraction unless otherwise specifically provided. Any person or persons guilty of a municipal infraction shall be subject to a fine in the amount specified below:

(1) First violation - $250.00;

(2) Second violation - $500.00;

(3) Third violation - $1,000.00.

(b) Violations of the following provisions of this chapter shall be misdemeanors and subject to a fine of $1,000.00 and imprisonment for 6 months:

(1) Section 4-3(a) – working without a permit;

(2) Section 4-3(l) - working when a permit has been revoked or suspended;

(3) Section 4-13(c) – violation of a stop work order.

(c) A fourth and subsequent violations of any provision of this chapter that would otherwise be a municipal infraction, within a two-year period, shall be a misdemeanor and subject to a fine of $1,000.00 and imprisonment for 6 months.

(d) Each day that a violation of this chapter exists shall constitute a separate violation.

(e) Any person who violates this chapter or directs or allows another to commit an act that would violate this chapter, the person's employer if the person acted in the course of his or her employment, and any property owner who allows a violation of this chapter on his or her property shall be guilty of a violation and shall be jointly and severally subject to the penalties provided in subsections (a) through (d). If a violation occurs, there shall be a rebuttable presumption that all owners of the property allowed the violation.

Sec. 4-15. Regulations.

(a) The town manager is hereby authorized to adopt:

(1) executive regulations that the town manager deems proper to effectuate the purpose and intent of this chapter; and

(2) rules and procedural requirements that the town manager deems proper for the efficient administration of this chapter.

(b) The town manager, in issuing any permit under this chapter, may impose such reasonable conditions as the town manager deems necessary to assure compliance with this chapter, the permit, and any executive regulations, rules or procedural requirements adopted pursuant to this chapter.

Sec. 4-16. Severability.

Should any part or provision of this chapter be 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 chapter as a whole or any remaining part thereof.

ATTEST: TOWN OF CHEVY CHASE

Kathy Strom, Secretary

Linna Barnes, Mayor
Town of Chevy Chas

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