

Resolution No. 05-03  
Introduced: 8/10/05  
Adopted: 8/10/05  
Effective: 8/10/05

**RESOLUTION  
OF THE  
TOWN OF CHEVY CHASE**

**SUBJECT: EMERGENCY ORDINANCE CREATING TEMPORARY MORATORIUM  
ON DEMOLITIONS, ADDITIONS AND NEW CONSTRUCTION**

**WHEREAS**, the Town of Chevy Chase possesses a Special Character, manifested by its variety of architecture, open space, sense of scale, mature tree canopy, and feeling of community, all of which has developed over its 87-year history; and

**WHEREAS**, due to increasing development pressure, there has been a sudden and dramatic rise in the number of single-family houses demolished, substantially demolished or new houses built on vacant but buildable lots and the number of large additions to the size of existing single-family houses in the Town; and

**WHEREAS**, the demolition and substantial demolition of these houses, and the resulting construction of significantly larger houses, as well as the construction of new houses on vacant but buildable lots, and the construction of additions with footprints that often exceed the footprint and height of the existing single-family house has had a negative and injurious impact on the Town's Special Character, and has also contributed to the loss of trees, green space, open space, dramatic increase in storm water run-off management problems, loss of privacy and peaceful enjoyment and use of certain properties, to the detriment of the best interests and general welfare of the Town and its residents; and

**WHEREAS**, the Town Council is considering measures that would address these concerns, including but not limited to (1) the initiation of a community visioning process; (2) the adoption of increased building setback requirements; (3) the initiation of proceedings with governmental authorities to (a) obtain overlay zoning and (b) resolve storm water management problems relating to storm drainage infrastructure capacity and increased impervious surface area; (4) the strengthening of provisions of the Town's Tree Ordinance; and (5) the review of Town building permit

enforcement processes and Town building construction rules;  
and

**WHEREAS**, the continued demolition or substantial demolition of single-family houses and resulting construction of substantially larger houses or the building of new houses on vacant but buildable lots or the expansion of the building foot print of existing single-family houses , during the pendency of these planning processes, will cause further erosion of the Town's Special Character and will exacerbate the negative and injurious impact these projects have had on the Town and its residents and may frustrate or prevent the Town from implementing measures to protect its Special Character; and

**WHEREAS**, the Town Council conducted a public hearing on July 6, 2005, pursuant to notice duly published, and continued such hearing on July 13, 2005, and left the public hearing record open until July 22, 2005, to receive comments on the possible implementation of a temporary moratorium on the issuance of permits for the demolition or substantial demolition of single-family houses, pending the adoption of measures; and

**WHEREAS**, the Town Council held a special public meeting on July 26, to consider all of the oral and written testimony and evidence presented at the public hearing or submitted to the Town. At this meeting, the Town Council, based upon the oral and written testimony of record, determined that it is in the best interest and general welfare of the Town and its residents to impose an emergency temporary moratorium on the issuance of permits for the demolition or substantial demolition of single-family houses or for the construction of new houses on vacant but buildable lots, or for the construction of certain additions to existing single-family houses, as more specifically set forth in this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CHEVY CHASE, MARYLAND, as follows:**

**Section 1. Recitals.**

The recitals listed above are incorporated in this Ordinance as the findings of the Town Council.

**Section 2. Temporary Moratorium.**

A. Establishment and Duration. Beginning on the effective date of this Ordinance, no application for a building permit, pursuant to Section 4-3 of the Town Code, shall be accepted or processed to completion by the Town, that would permit the demolition or substantial demolition of a single-family

house, the construction of an addition to an existing single-family house, or the construction of a new house on a vacant but buildable lot, except as otherwise provided in this Ordinance. This Ordinance shall expire the earlier of February 10, 2006 or the date this ordinance is repealed by the Town Council.

B. Substantial Demolition. For purposes of this Temporary Moratorium, a substantial demolition shall be defined as the act of demolishing more than fifty (50) percent of the exterior walls (measured in linear feet) of the existing single-family house. The term "exterior walls," includes only that area which is entirely above grade.

C. Exception. Notwithstanding the limitations set forth in Section 2 of this Ordinance, the following permits may be issued while the Temporary Moratorium is in full force and effect, provided the project complies with all other Town Ordinances, regulations and rules: (a) a permit for the demolition or substantial demolition of an existing single family house for which the Town building permit is approved on or before August 10, 2005; (b) a permit for the construction of an addition to an existing single-family house provided the foot print of the addition to the existing single-family house, does not exceed 500 square feet and the height of the addition does not exceed the height of the existing house; or (c) a permit for the demolition or substantial demolition of an existing single-family house that sustains or has sustained a total physical loss or a substantial physical loss ( 50% or more) due to accidental causes including but not limited to fire, storm, falling tree(s), flooding or natural disaster. If the property owner elects to build a replacement house during the Temporary Moratorium , the replacement house must (i) maintain the existing front and side building setbacks; (ii) the foot print shall not be more than 500 square feet larger than the previous foot print and (iii) not exceed the height of the previous house.

**Section 3. Waiver for Undue Hardship.**

A. General Rule and Procedure. Notwithstanding the limitations set forth in Section 2 of this Ordinance, an applicant for a permit for the demolition or substantial demolition of an existing single-family house or the construction of a new home on a vacant but buildable lot or the construction of an addition that exceeds the limitations set forth above, may seek relief from the Temporary Moratorium, on the grounds of undue hardship, by filing a request for a waiver with the Town Manager. Such request

shall be considered at a public hearing by the Town Council following notice in accordance with the process required for the granting of a variance under Section 4-7 of the Town Code. The Town Council, following receipt of the recommendations of the Town Manager, may grant the applicant a waiver to the provisions of the Temporary Moratorium, to the extent necessary to relieve that hardship, provided that the applicant has demonstrated by clear and convincing evidence, and the Town Council has determined, that undue hardship would otherwise result and that any such waiver could be granted without substantial impairment to the purposes and objectives of the Temporary Moratorium.

**B. Appeals.**

Any party aggrieved by the decision of the town council on an application for waiver under the above provisions of Section 3-A, above, 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 administrative appeals. The time for appeals shall begin to run from the date of the written decision of approval or denial or from the date the waiver was denied for want of the necessary total affirmative votes.

**Section 4. Prohibition on Removal of Trees.**

During the period of the Temporary Moratorium, no permit for the removal of any non-hazardous or non-nuisance tree greater than 48 inches in circumference shall be issued by the Town, except if deemed to be hazardous. Any person removing any such tree in violation of the Section or injuring any such tree with the intent of requiring such removal, shall be subject to a fine of \$1,000.00. Each tree removed shall be considered a separate infraction.

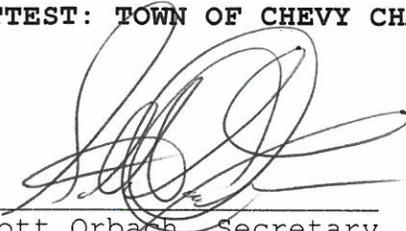
**Section 5. Effective Date.**

This Ordinance is adopted as emergency legislation shall take full force and effect on August 10, 2005, following its passage, approval, and publication in the manner provided by law.

**Section 6. Expiration Date.**

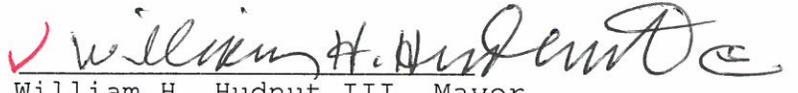
This Ordinance shall expire February 10, 2006 or the date this ordinance is repealed by the Town Council whichever occurs earlier.

ATTEST: TOWN OF CHEVY CHASE



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Scott Orbach, Secretary



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William H. Hudnut III, Mayor  
Town of Chevy Chase