

**Town of Chevy Chase
Driveway Ordinance**

Resolution No.: 07-01
Introduced: December 13, 2006
Adopted: January 10, 2007
Effective Date: February 10, 2007

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;

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

WHEREAS, the Town Council considered the following ordinance in public session assembled on the 13th day of December, 2006, and the 10th day of January, 2007; and

WHEREAS, the Town Council finds that clarification and codification of a permit process and standards for driveways in the public right of way as hereinafter set forth is necessary for the good government of the Town; for the protection and preservation of the Town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the Town.

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

**AN ORDINANCE TO AMEND CHAPTER 4 OF THE TOWN OF
CHEVY CHASE MUNICIPAL CODE TO CLARIFY AND CODIFY
A PERMIT PROCESS AND STANDARDS FOR DRIVEWAYS IN
THE PUBLIC RIGHT OF WAY**

SECTION 1. BE IT ORDAINED AND ORDERED, this 10th day of January, 2007, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the authority granted to it by Article 23A of the Maryland Code and the Town Charter, that Article I of Chapter 4 of the Town Code is hereby amended to read as follows:

Sec. 4-1. Definitions.

- (a) In this chapter, the following terms shall have the meanings indicated.
- (b) Terms defined.

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Apron: The portion of a driveway that widens near the driveway's intersection with a public roadway to support vehicular turning movements.

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Driveway: An improved surface that provides vehicular ingress to and egress from a property.

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Shared Driveway: A driveway that provides ingress to and egress from more than one property.

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

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

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- (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, **and/or construction project** 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 this subsection (3) 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 overlaid 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 (1) inch or less is required. For all new main buildings, additions with a footprint of over five hundred (500) square feet and new accessory buildings with a footprint of over one hundred fifty (150) square feet, a wall check shall be required.
 - c. The requirements of this subsection (3) shall not be applicable for applications solely to construct or widen a driveway.**

(4) For applications solely to construct or widen a driveway, the plans and specifications shall be accompanied by a house location plat.

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- (g) No person or persons shall proceed with the building of any structure, material alteration or addition, **and/or a construction project**, 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, **and/or a construction project**, 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.

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

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

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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, **including, but not limited to, construction or expansion of a driveway,** 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 **or, as the case may be for a driveway, constructed or expanded in accordance with subsection (d) of this section,** 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.

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(d) The construction or expansion of a driveway within a public right-of-way shall require a building permit and, in addition, be subject to the following

requirements:

- (1) there shall be no more than one driveway for a property;
- (2) a driveway shall be no wider than ten (10) feet, with up to an additional two and one-half (2 ½) foot radius apron on each side, for a total width of up to fifteen (15) feet at the public roadway;
- (3) in the event a property is served by a shared driveway, the property may not have an additional driveway;
- (4) notwithstanding subsection (d)(2) of this section, in the event a driveway is shared by more than one property, the driveway width for the shared driveway shall be no wider than twenty (20) feet, with up to an additional two and one-half (2 ½) foot radius apron on each side, for a total width of up to twenty-five (25) feet at the public roadway; and
- (5) a driveway shall be installed in accordance with county construction standards in effect when the permit is issued.

(e) The town manager shall grant a permit to construct or expand a driveway only if the proposed driveway would comply with all laws, rules, regulations, and ordinances, and would not interfere with the public health, safety, or welfare. In determining whether the driveway would interfere with the public health, safety, or welfare, the town manager shall consider the following:

- (1) location of street trees;
- (2) location of fences, walls, hedges, earth berms, and shrubbery or other forms of plant growth;
- (3) location of public utilities;
- (4) possible obstruction of visibility of or by pedestrian and/or vehicular traffic;
- (5) location of other public and private improvements in the public right-of-way;
- (6) water drainage; and
- (7) other factors as may be determined by the town manager to be necessary to protect the public health, safety, or welfare.

(f) (1) Construction. The applicant shall be responsible for all costs associated with initial construction and/or expansion of a driveway and/or apron.

(2) Maintenance. The town shall pay the cost of maintenance and repair of the portion of an existing driveway within a public right-of-way, including, but not limited to, maintenance and repair of an apron, unless such maintenance or repair is necessitated by the actions of the property owner or the property owner's guests or invitees, except for wear and tear from ordinary use. The use of a driveway, or apron, by trucks or construction equipment shall not be considered ordinary use.

(3) Removal. In the event a driveway within a public right-of-way and/or apron is removed, the owner(s) of the property previously served by the driveway and/or apron shall restore the portion of the area within the public right-of-way from which the driveway and/or apron was removed by installing a curb, sidewalk, grass or other ground cover and/or plantings consistent with the adjacent area.

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

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

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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, **driveway construction or expansion within a public right-of-way,** or any **other** 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 **or expansion** of, **or** alteration or addition to, any **driveway within a public right-of-way, or 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, **or driveway construction or expansion within a public right-of-way,** 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.

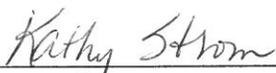
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SECTION 2. AND BE IT FURTHER ORDAINED AND ORDERED, this 11th day of January, 2007, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the authority granted to it by Article 23A of the Maryland Code and the Town Charter, that:

- (1) If any part or provision of this ordinance is declared by a court of competent jurisdiction to be invalid, the part or provision held to be invalid shall not affect the validity of the ordinance as a whole or any remaining part thereof; and
- (2) This ordinance shall take effect on the 10th day of February, 2007.

ATTEST:

TOWN OF CHEVY CHASE



Kathy Strom, Secretary



Linna Barnes, Mayor
Town of Chevy Chase

Bold and Underline indicates new material
[] indicates material deleted
* * * indicates material unchanged