

**Town of Chevy Chase  
Retaining Wall Ordinance**

Resolution No.: 07-03  
Introduced: March 14, 2007  
Adopted: May 9, 2007  
Effective Date: June 9, 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; 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, to comply with Article 28, Section 8-115.1 of the Maryland Code, on the 16<sup>th</sup> day of March, 2007, the following ordinance was submitted to the Montgomery County Council for its comments; and

WHEREAS, the Town Council considered the following ordinance in public session assembled on the 14<sup>th</sup> day of March, 2007, on the 11<sup>th</sup> day of April, 2007, and on the 9<sup>th</sup> day of May, 2007; and

WHEREAS, the Town Council finds that the ordinance as hereinafter set forth is necessary for the good government of the Town; for the protection and preservation of the Town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the Town.

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

the following ordinance:

AN ORDINANCE TO AMEND CHAPTER 4 OF THE TOWN OF  
CHEVY CHASE MUNICIPAL CODE TO MODIFY PROVISIONS  
RELATED TO WALLS ON PRIVATE PROPERTY

SECTION 1. BE IT ORDAINED AND ORDERED, this 9<sup>th</sup> day of May, 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, Article 28, Section 8-115.1 of the Maryland Code, and the Town Charter, that Section 4-56 of Chapter 4 of the Town Code is hereby amended to read as follows:

\* \* \*

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

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

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

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

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

council pursuant to the variance procedures set forth in section 4-50.

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

**(f) Notwithstanding subsection (e) above, a wall that is less than one (1) foot in height shall be permitted to extend into the front yard. The measurement of the height of a wall shall be made from the surface of the ground next to the wall, and where the yards on the two (2) sides of the wall differ, the measurement shall be made from the surface of the lower yard. In the event a wall is located within thirty (30) inches of another wall, as may be the case in terracing, the walls shall be considered one wall and the height of the wall shall be measured cumulatively.**

[(f)] **(g)** Front yard hedges.

(1) Notwithstanding the provisions of **subsection** (e) above, the town manager, in accordance with the provisions set forth below, may permit the following hedges (any dense row of shrubs, trees or other plant material), to be planted in the front yard, that is, beyond the house line running along the front of the house and extending to the side lot lines:

a. Hedges not to exceed a maximum of six (6) feet in height, at any time, may be permitted in the front yard of residences along Bradley Lane, East-West Highway and Connecticut Avenue;

b. Hedges not to exceed a maximum of three (3) feet in height, at any time, may be permitted in the front yard of all other residences.

(2) Any town resident interested in planting a front yard hedge must submit an application to the town manager, prior to planting. All approved hedges must be planted so that hedge plants at all times are at least five (5) feet from the curb, if there is no sidewalk, and hedge plants must at all times be at least two (2) feet from any existing sidewalk. No hedge approved by the town manager shall be permitted to extend into sidewalks, streets, avenues, or roadways so as to interfere in any manner with pedestrian or vehicle traffic on such sidewalks, streets, avenues, or roadways.

(3) It shall be the obligation of the town resident to maintain the approved hedge so that the hedge, at no time, exceeds the maximum permitted height described in (2) above, as measured in accordance with the provisions of (d) above, and at no time is closer to the applicable curb or sidewalk as provided in (2) above.

(4) It shall be the obligation of the town resident to maintain the approved hedge so that the hedge: (a) does not result in the obstruction of parked and/or moving vehicles; (b) will not cause injury to pedestrians and/or vehicles; (c) will not adversely affect the continued attractiveness of the town; and (d) will not otherwise affect the public health, safety and

welfare.

- (5) The town manager may approve the application for a front yard hedge subject to such other conditions as deemed appropriate by the town manager.
- (6) The town manager's approval shall be in writing and shall be recorded among the land records of Montgomery County, Maryland. The cost of preparation and recordation shall be paid for by the town resident.
- (7) The town council may revoke the approval for any front yard hedge where the town council, following a public hearing, determines [that:] (i) the provisions of this section or the conditions of approval have been violated; or (ii) the hedge must be removed to accommodate a public improvement. Notice of such revocation of approval shall be in writing and mailed to the town resident. Within ten (10) days of the mailing of such written notice, the town resident shall remove the hedge. If removal of the hedge does not occur within the ten-day period, the town may remove the hedge and the cost of such corrective action shall be borne by the town resident as provided for in section 4-52.

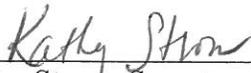
(Res. No. 86-006, § 4, 10-8-86; Res. No. 88-002, 2-10-88; Ord. No. 90-004, 4-5-90; Res. No. 98-003, § 1, 5-13-98; Res. No. 98-006, 1-13-99)

\* \* \*

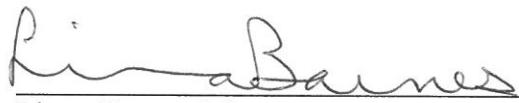
SECTION 2. AND BE IT FURTHER ORDAINED AND ORDERED, this 9<sup>th</sup> day of May, 2007, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the authority granted to it by Article 23A of the Maryland Code and the Town Charter, that:

- (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 9<sup>th</sup> day of June, 2007.

ATTEST:

  
\_\_\_\_\_  
Kathy Strom, Secretary

TOWN OF CHEVY CHASE

  
\_\_\_\_\_  
Linna Barnes, Mayor  
Town of Chevy Chase

**Bold and Underline** indicates new material

[ ] indicates material deleted

\* \* \* indicates material unchanged