

**Town of Chevy Chase
Ordinance**

Resolution No.: 07-04
Introduced: May 9, 2007
Adopted: June 13, 2007
Effective Date: July 13, 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, Maryland law authorizes the municipal corporations within the State to operate and maintain public rights of way within the corporate boundaries of such municipal corporations; 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, the Town Council considered the following ordinance in public session assembled on the 9th day of May, 2007, and the 13th day of June, 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 STRUCTURES, FENCES, WALLS, TREES,
HEDGES, SHRUBBERY AND OTHER PLANT GROWTH ON
PUBLIC PROPERTY DEVOTED TO PRIVATE USE

SECTION 1. BE IT ORDAINED AND ORDERED, this 13th day of June, 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 Section 4-55 of Chapter 4 of the Town Code is hereby amended to read as follows:

* * *

[Sec. 4-55. Hedges, trees, fences, earth berms, walls, etc., on public property devoted to private use.

- (a) No hedges, trees, fences, walls, earth berms, shrubbery, or any other forms of plant growth located on public property devoted to private use by abutting private landowners or occupants shall be permitted to extend into sidewalks, streets, avenues, or roadways so as to interfere in any manner with pedestrian or vehicular traffic on such sidewalks, streets, avenues, or roadways.
- (b) Any hedges, trees, fences, walls, earth berms, shrubbery, or any other forms of plant growth on public property devoted to private use by abutting private landowners or occupants at or near any intersection shall be maintained by such landowners or occupants in such a manner and at such height that a clear and unobstructed view is available by approaching traffic, both pedestrian and vehicular. The town manager is authorized and directed to determine whether there is compliance with this section.
- (c) No person shall erect or install on such public property devoted to private use any fence, wall, earth berm, hedge, tree or other forms of plant growth without first obtaining a permit as provided in this article.
- (d) No fence, wall, earth berm, hedge, shrubbery or other forms of plant growth shall be permitted on public property devoted to private use to exceed six (6) feet, six (6) inches in height. The measurements of the same shall be made from the surface of the ground next to the fence, wall, earth berm, hedge, shrubbery or other forms of plant growth and where the levels on the two (2) sides of the same differ, the measurements shall be made from the surface of the lower level of ground immediately under the fence, wall, earth berm, hedge, shrubbery or other forms of plant growth.
- (e) The town council may revoke the license to use public property by any person violating the provisions of this section. Upon revocation of such license, the former licensee will, upon the demand of the town manager, remove all plantings, plant growth, fences or walls on the public property so as to conform to this section. If such written notice of action is not taken within a period of ten (10) days after revocation of license by the town council is given to such licensee, the town manager will enter such public property and take steps as are necessary to return it to a

condition satisfying the provisions of this section. The cost of any corrective action taken by the town manager shall be borne by the licensee as provided for in section 4-52.

(Res. No. 86-006, § 3, 10-8-86; Ord. No. 90-004, 4-5-90)]

Sec. 4-55. Structures, walls, fences, trees, hedges, shrubbery and plant growth, on public property devoted to private use.

(a) No structure, wall, fence, tree, hedge, shrubbery or any plant growth, except grass, ground cover, flowers, and similar plantings, shall be placed on public property devoted to private use.

(b) Structures, walls, fences, trees, hedges, shrubbery and other forms of plant growth that are located on public property devoted to private use on July 13, 2007, may be maintained, but not enlarged, provided that they do not:

(1) extend into sidewalks or roadways so as to interfere in any manner with pedestrian or vehicular traffic on any sidewalk or road; and

(2) are maintained in such a manner and at such height that a clear and unobstructed view is available to approaching traffic, both pedestrian and vehicular.

(c) The town may revoke the license to use public property by any person violating the provisions of this section. Upon revocation of such license, the former licensee will, upon the demand of the town manager, remove all structures, walls, fences, trees, hedges, shrubbery and plant growth on the public property so as to conform to this section. If such action is not taken within a period of ten (10) days after revocation of a license by the town is given to such licensee, the town manager may enter such public property and take steps as are necessary to return it to a condition satisfying the provisions of this section. The cost of any corrective action taken by the town manager shall be borne by the licensee as provided for in section 4-52.

(Res. No. 86-006, § 3, 10-8-86; Ord. No. 90-004, 4-5-90; Ord. No. _____)

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SECTION 2. AND BE IT FURTHER ORDAINED AND ORDERED, this 13th day of June, 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 13th day of July, 2007.

ATTEST:

TOWN OF CHEVY CHASE



Lance Hoffman, Secretary

Rob Enelow, Vice Mayor
Town of Chevy Chase

Bold and Underline indicates new material

[] indicates material deleted

* * * indicates material unchanged