

**Town of Chevy Chase
Ordinance to Amend the Building Regulations**

Resolution No.: 12-03
Introduced: September 12, 2012
Adopted: October 10, 2012
Effective Date: November 10, 2012

WHEREAS, Article 23A, Section 2(a) of the Maryland Code, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to pass ordinances that such legislative body deems necessary 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 23A, Section 2(b)(5) of the Maryland Code, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to make reasonable regulations concerning buildings to be erected within the limits of the municipality, including a building code and the requirement for building permits; and

WHEREAS, Article 28, Section 8-115.1 of the Maryland Code authorizes municipal corporations in Montgomery County, such as the Town of Chevy Chase, to regulate the construction, repair, erection or remodeling of buildings or other structures; the location of structures, including setback requirements; the dimensions of structures, including height, bulk, massing, and design; and lot coverage, including impervious surfaces; and

WHEREAS, Section 301 of the Town of Chevy Chase Charter authorizes the Town Council to pass ordinances 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 and destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare and happiness of the resident(s) of the Town; and for such other police and health matters as it may deem necessary; and

WHEREAS, the Land Use Committee held public meetings and submitted a report to the Council recommending amendments to the Town Code; and

WHEREAS, the Town Council introduced the following Ordinance in an open meeting conducted on the 12th day of September, 2012; and

WHEREAS, to comply with Article 28, Section 8-115.1 of the Maryland Code, on the 7th day of September, 2012, a copy of the following Ordinance was submitted to the Montgomery County Council for its comments; and

WHEREAS, after proper notice to the public, and after at least thirty days from the date a copy of the following Ordinance was transmitted to the Montgomery County Council, the Town Council conducted a public hearing at which it considered the following ordinance in public session assembled on the 10th day of October, 2012; and

WHEREAS, upon consideration of the report and recommendation of the Land Use Committee and the record of the public hearing, the Town Council finds that portions of the Town Code pertaining to driveways, shared driveways, and driveway aprons should be clarified and amended to conform to existing Town practices; and

WHEREAS, upon consideration of the report and recommendation of the Land Use Committee and the record of the public hearing, the Town Council finds that portions of Chapter 4 should be amended to no longer allow bay windows to project into the side yard, in order to preserve sightlines, the flow of light and air, and spaces between houses; 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 and 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 MODIFY THE TOWN OF CHEVY CHASE MUNICIPAL CODE TO CLARIFY AND AMEND THE REGULATIONS PERTAINING TO DRIVEWAYS, SHARED DRIVEWAYS, AND DRIVEWAY APRONS TO CONFORM TO EXISTING TOWN PRACTICES, AND TO NO LONGER ALLOW BAY WINDOWS TO PROJECT INTO SIDE YARDS.

SECTION 1. BE IT ORDAINED AND ORDERED, this 10th day of October, 2012, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the authority granted to it by Articles 23A and 28 of the Maryland Code and Section 301 of the Town Charter, that 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.

* * *

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

* * *

Curb entrance: A depression in the curb that accommodates vehicular ingress to and egress from a lot, or where there is no curb, the intersection of the driveway apron and edge of the improved roadway.

* * *

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

Driveway apron: The improved surface between the paved roadway surface and the portion of the driveway that is within the public right-of-way, generally from the curb to the roadway-side edge of the public sidewalk, but including only that surface that extends no more than four (4) feet from the curb, or four (4) feet from the paved roadway surface if there is no curb.

* * *

Shared driveway: A driveway [that provides ingress to and egress from more than one (1) lot] **constructed for use by the residents of two or more adjoining lots.**

* * *

Sec. 4-2. Building permit, in general.

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

* * *

- (5) Install any pool, outdoor therapeutic bath, **or** tennis court[, or driveway];

* * *

- (10) Construct, expand, replace, or remove a curb entrance, driveway, or driveway apron within a public right-of-way or on private property.**

* * *

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

* * *

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

* * *

b. A preliminary site plan showing:

* * *

C. Planned walkways, driveways, **driveway aprons**, and other impervious surfaces;

* * *

(d) Application requirements:

* * *

(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.

* * *

c. The requirements of this subsection (3) shall not be applicable for applications solely to construct or widen a driveway **and/or driveway apron**.

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

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

* * *

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

* * *

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

a. Except as provided in subsection (e)(2)b. below, 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 setback [and not more than two (2) feet into any minimum side setback].

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.

* * *

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

- (a) Any person intending to undertake construction which may disrupt a public 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 **and/or driveway apron**, shall first obtain a building permit.

* * *

- (c) Where the construction involves excavation, alteration, modification or planting in the public 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 **and/or driveway apron**, constructed or expanded in accordance with section 4-9, 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 within fifteen (15) days of demand thereof. The unexpended balance of any bond shall be returned to the permit holder. 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.

Sec. 4-9. Driveways and Driveway Aprons.

- (a) The construction, expansion, or replacement of a driveway **or driveway apron** within a public right-of-way or on private property shall require a building permit and, in addition, be subject to the following requirements:

- (1) There shall be no more than one (1) driveway for a lot. **A driveway shall have no more than one (1) curb entrance at a street, provided however, that this limit shall not apply to a driveway on a lot requiring vehicular access to Bradley Lane, Connecticut Avenue, or East-West Highway. Except as provided above, in the event any portion of a shared driveway is located on a lot, the lot may not have an additional curb entrance.**

- (2) **Driveways in the public right-of-way.**

- (a) A driveway shall be no wider than ten (10) feet in the public right-of-way. [An additional two and one-half-foot-radius apron on each side, for a total

width of up to a maximum of fifteen (15) feet inclusive of the aprons shall be allowed at the paved roadway;]

(b) Notwithstanding the foregoing, a driveway in the public right-of-way that is wider than ten (10) feet as of May 17, 2008, may be maintained, altered, repaired, or replaced provided the width is not increased.

(c) At the curb entrance, the driveway apron may have an additional two and one-half (2 ½) foot radius on each side for a total width of up to a maximum of fifteen (15) feet. The driveway apron may have a maximum width of ten (10) feet where it intersects the sidewalk or four (4) feet from the paved street surface if there is no sidewalk.

(d) Notwithstanding the foregoing, a driveway apron that is wider than fifteen (15) feet, as of May 17, 2008, may be maintained, altered, repaired, or replaced provided the width is not increased.

(3) Driveways on private property.

(a) A driveway on private property shall be no wider than ten (10) feet in front of the front building line, except that this restriction shall not apply to lots with frontage on Bradley Lane, Connecticut Avenue or East West Highway.

(b) Notwithstanding the foregoing, a driveway **on private property** that is wider than ten (10) feet as of May 17, 2008, may be **maintained, altered, repaired, or replaced** [or repaired provided that such replacement or repair shall not increase the width of the driveway] **provided the width is not increased.**

[(4) In the event a lot is served by a shared driveway, the lot may not have an additional driveway];

[(5)4] **Shared Driveways.** [Notwithstanding subsection (a)(2) of this section, [in the event a driveway is shared by more than one (1) lot,]

(a) [the] **A shared** driveway [width for the shared driveway] **in the public right-of-way or on private property** shall be no wider than twenty (20) feet, **in front of the front building line farthest from the street, provided, however, that no more than ten (10) feet of the width shall be located on any one lot.**], with up to an additional two and one-half (2½) foot radius apron on each side, for a total width of up to twenty-five (25) feet at the public roadway; and]

(b) **Notwithstanding the foregoing, a shared driveway that is wider than twenty (20) feet in front of the front building line or ten (10) feet on**

one lot, as of May 17, 2008, may be maintained, altered, repaired, or replaced provided the width is not increased.

(c) At the curb entrance, the shared driveway apron may have an additional two and one-half (2 ½) foot radius on each side for a total width of up to a maximum of twenty-five (25) feet. The driveway apron may have a maximum width of twenty (20) feet where it intersects the sidewalk or four (4) feet from the paved street surface if there is no sidewalk.

(d) Notwithstanding the foregoing, a shared driveway apron that is wider than twenty-five (25) feet, as of May 17, 2008, may be maintained, altered, repaired, or replaced provided the width is not increased.

([6]5) A curb entrance, driveway apron, and any sidewalk at the intersection of the driveway shall be installed in accordance with county construction standards in effect when the town permit is issued.

(6) The measurement of the width of a driveway or driveway apron shall be made from one edge of the driveway or driveway apron to the other edge. Driveway and driveway apron width shall be measured parallel, or approximately parallel in the case of an oddly-shaped lot, to the front property line.

(7) Improved surfaces adjacent to a driveway or driveway apron are included in the driveway width unless there is an unimproved buffer of at least two (2) feet between the improved surface and the driveway or driveway apron. Notwithstanding the foregoing, up to four (4) feet of a public sidewalk and/or a private walkway may cross the unimproved buffer and intersect a driveway.

(b) The town manager shall grant a permit to construct or expand a curb entrance, driveway, driveway apron, or sidewalk only if the proposed [driveway] construction 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] construction 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, berms, and shrubbery or other 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.
- (c) Construction. The applicant shall be responsible for all costs associated with initial construction and/or expansion of a **curb entrance**, driveway, and/or **driveway apron**.
- (d) Maintenance. The town shall pay the cost of maintenance and repair of [the portion of] an existing **curb entrance**, driveway, **driveway apron**, and **public sidewalk** 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 **driveway apron**, by trucks or construction equipment shall not be considered ordinary use. **Notwithstanding the foregoing, the town shall not be obligated to pay the cost of maintenance and repair of any betterments, or alternative materials, installed by property owners.**
- (e) Removal. In the event a **curb entrance**, driveway, **or driveway apron** within a public right-of-way [and/or apron] is removed, the owner(s) of the lot previously served by the **curb entrance**, driveway, and/or **driveway apron** shall restore the portion of the area within the public right-of-way from which the **curb entrance**, driveway, and/or **driveway apron** was removed by installing a curb, sidewalk, grass or other ground cover and/or plantings consistent with the adjacent area **as determined by the town manager.**

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Sec. 4-11. - Building inspector authority.

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- (c) The building inspector shall have the authority to examine, or cause to be examined, any and all buildings, additions, alterations, driveway, **or driveway apron** 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 cause 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, **or driveway apron** 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, additions, or driveway, **or driveway apron** 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.

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SECTION 2. AND BE IT FURTHER ORDAINED AND ORDERED, this 10th day of October, 2012, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the authority granted to it by Articles 23A and 28 of the Maryland Code and Section 301 of 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 November, 2012.

ATTEST:

TOWN OF CHEVY CHASE



Albert Lang, Secretary



Patricia Burda, Mayor
Town of Chevy Chase

Bold and Underline indicates new material

[brackets] indicates material deleted

* * * indicates material unchanged