

**Executive Regulation
of
Town of Chevy Chase**

December 5, 2007

Subject: Final Regulation 2007-4; establishing building permit condition form and affidavit.

Effective Date: This final regulation shall become effective on December 20, 2007.

Authority: Article IV of Chapter 2 of the Municipal Code (“Code”) of the Town of Chevy Chase (the “Town”) generally authorizes the Town to adopt regulations. In addition, Section 4-15 of the Code authorizes the Town to adopt Executive Regulations deemed proper to effectuate the purpose and intent of Chapter 4 of the Code concerning buildings.

Legal Sufficiency: The Town Attorney has reviewed the final regulation for legal sufficiency on the 3rd day of December 2007.

TOWN OF CHEVY CHASE

David Podolsky, Town Attorney
Town of Chevy Chase

Summary: The final regulation would adopt a “Town of Chevy Chase Building Permit Conditions” form (the “Form”), which would outline general building permit requirements, both private and public property site management requirements, and building inspection schedule matters. In addition, the final regulation would require the applicant, by signing the Form, to acknowledge that the Form was read and that the applicant was made aware that failure to follow the Form’s enumerated requirements could lead to a stop work order, fines and/or a revocation of a building permit.

Notice: On December 5, 2007, this final regulation was published in the Chevy Chase Register, and the Town Manager posted notice of this final regulation at the Town Hall in a conspicuous place and on the Town Website. The Town Manager has also provided that notice be published in the December edition of *The Forecast*. The notice at the Town Hall, on the Town Website, and in *The Forecast* state where a copy of the final regulation may be reviewed, indicate the topic of the regulation, and the effective date of the regulation.

Consideration of Comments: The proposed regulation was published in the Chevy Chase Register on September 5, 2007. Notice was provided as set forth in Sections 2-403 and 2-404 of the Code and the deadline for submitting comments to the proposed regulation was October 22, 2007. Comments are available for review at the Town Hall.

The Town received three comments concerning the proposed regulation. Each of the comments was considered and certain modifications noted below were made within the text of the final regulation as a result.

1. The first set of comments raised several issues.

(A) First, the comments raised questions as to the need for regulations to “adopt a form” and recommended two modifications. In Section 4.3.01, it was suggested that language be added concerning compliance with the requirements set forth by the Town Manager. It was further suggested that a new Section 4.3.02 be added to “establish that the applicant must sign and date the form that lists” the enumerated conditions subject to penalties.

The Form lays out general conditions applicable to all building permits. The Form ensures that each applicant with an approved building permit is made aware of such conditions. Further, since Sections 4.3.01 and 4.3.02 already adequately incorporate the suggested language, although with slightly different verbiage, the suggested language was not included in the final regulation.

(B) The first set of comments also included a recommendation to add a sentence as part of the former first bullet (bullets in the proposed regulation were converted into numerals in response to a subsequent comment) on the Form under the heading “GENERAL” that would require each subcontractor to sign a log book acknowledging an understanding of the permit conditions.

This recommendation was rejected. Enforcement mechanisms, including the imposition of penalties, already exist in the Town Code against a subcontractor who violates Article I of Chapter 4 of the Town Code. Therefore, a subcontractor who violates a permit condition could be subject to enforcement actions without the necessity of requiring the subcontractor to sign a log book. In addition, Town staffing resources may be limited with respect to the additional task of monitoring and reviewing such log books if such log books were required as a condition. However, in the event there are cases of subcontractor non-compliance with the Town Code, this recommendation could be reconsidered at a later date.

(C) In the first set of comments, it was suggested that language be added in former bullet eight on the Form under the heading “GENERAL” concerning compliance with the “Montgomery County...Noise Ordinance.”

As a result of this recommendation, number eight on the Form under the heading “GENERAL” was modified to include the citation to “Chapter 31B of the Montgomery

County Code, entitled ‘Noise Control’.” The added language makes clear that compliance with the Montgomery County Code’s noise ordinance is a building permit condition.

(D) Another suggestion made within the first set of comments was to add two sentences at the end of the former first bullet on the Form under the heading “PRIVATE PROPERTY SITE MANAGEMENT” concerning the disposal of food.

As a result of this recommendation, number two under the same heading was made into two separate numbers and the following language was added: “Perishable waste shall be disposed in separate containers.” The added language makes clear that disposing food and other perishable waste in separate containers is a building permit condition.

(E) In the first set of comments, there was a recommendation to modify and include additional language within former bullet six on the Form under the heading “PUBLIC PROPERTY SITE MANAGEMENT” concerning construction equipment obstruction on public roads and potential noise impacts. Specifically, it was suggested that construction trailers and equipment should not be parked or stored on Town streets or rights-of-way between 6pm and 7am on weekdays and 9pm and 9am on weekends. In addition, it was suggested that workmen should not be permitted to load or unload equipment in a manner exceeding the County noise ordinance.

On the issue of time frames for parking construction trailers, Section 15-18 of the Town Code explicitly sets forth time frames. The final regulation includes the time frames mandated by Section 15-18 in number six on the Form. This is an issue that the Town Council could examine and make a determination of whether the Town Code should be amended for all circumstances and not solely for purposes as a building permit condition. On the issue of noise, the final regulation has been modified to make clear that compliance with the Montgomery County Code “Noise Control” provisions is a building permit condition. As a result, the applicant of an approved building permit is made aware that they must comply with the Montgomery County Code “Noise Control” provisions; therefore, it is not necessary to include further language enumerating such time frames in the suggested language offered under this set of comments.

2. The second set of comments also included numerous recommendations.

(A) First, it was suggested that the bullets be made into numbers for ease of administrative, enforcement, and record keeping purposes.

As a result of the recommendation, the bullets were converted into numbers.

(B) In addition, it was recommended that language be added in the former first bullet on the Form under the heading “PUBLIC PROPERTY SITE MANAGEMENT” concerning compliance with the Americans with Disabilities Act.

As a result, language was added to the Form to make clear that public property site management must be compliant with the Americans with Disabilities Act.

(C) Another recommendation called for similar changes as set forth in comment 1(E) above, which were similarly addressed as set forth above.

(D) It was also suggested that a bullet be added to the Form concerning portable generators and compressors and compliance with noise restrictions.

The issue is addressed by clarifying in the Form that there must be compliance with the County "Noise Control" provisions. A contractor or subcontractor cannot violate such County Code provisions already. In addition, to the extent noise from portable generators or compressors become a problem, the Town Manager continues to retain authority to impose additional conditions concerning site management.

(E) The final recommendation concerned outdoor spotlights. Concerns were raised that outdoor spotlights may impact neighboring properties.

The commenter raises a concern that could be examined more broadly than just for circumstances when a building permit is issued. It is an issue that the Town Council may wish to consider for applicability under all circumstances. In addition, the Town Manager continues to retain authority to impose additional conditions for those circumstances in which outdoor lighting may negatively impact neighbors. As a result, outdoor lighting issues are not mentioned in this final regulation.

3. The third comment, which was provided in an e-mail format, included within the e-mail a copy of the second set of comments noted above. The commenter expressed support for the second set of comments in their entirety and urged the adoption of them. The consideration of the second set of comments above in 2(A)-(E) is equally applicable in response to these comments.

Approval. The Mayor has reviewed and approved publication of the following final regulation on the ____ day of December 2007.

TOWN OF CHEVY CHASE

Linna Barnes, Mayor
Town of Chevy Chase

Final Regulation. Under the authority set forth above, the Town promulgates the following executive regulations:

Chapter 4

Article I Building Permits

Section 4.1	Reserved
Section 4.2	Purpose
Section 4.3	Building Permit – In General

* * *

Section 4.1 Reserved.

Section 4.2 Purpose.

The purpose of this article shall be to provide additional guidance for the implementation of article I of chapter 4 of the Code.

Section 4.3 Building Permit – In General.

.01 An applicant who has been issued a permit as set forth in article I of chapter 4 of the Code, shall, as a condition of such permit, sign and date the following “Town of Chevy Chase Building Permit Condition” form, which may be obtained from the town manager:

**Town of Chevy Chase
Building Permit Conditions**

These permit conditions are intended to highlight important building-related rules and regulations. They do not represent a comprehensive list of building laws. For additional information, please refer to the appropriate Town and County building ordinances.

GENERAL

1. The building permit shall be posted on the job site in public view, along with a list of standard and special permit conditions in English and Spanish.
2. After a permit has been issued, it shall be unlawful for any person to modify or alter any plans without the prior written approval of the Town Manager.
3. Work under any Town permit shall begin within 6 months and must be completed within 12 months after the permit is issued, unless an extension is granted in writing by the Town Manager.
4. A permit may be revoked by the Town Manager if work has stopped for 30 days.
5. It shall be unlawful to continue work when a permit has been suspended or revoked or when a stop work order has been issued.
6. The Town may examine the work and the building as often as necessary and may order any change in the work necessary to comply with Town regulations.
7. The Town must be notified 48 hours in advance of required building inspections.
8. Construction noise levels must conform to Chapter 31B of the Montgomery County Code, entitled “Noise Control”.

PRIVATE PROPERTY SITE MANAGEMENT

1. The building site shall be kept clear of all rubbish, including trash and construction-related debris.
2. The location and screening of all dumpsters and portable sanitation facilities shall be approved by the Town and noted on the site plan. No dumpsters or sanitation facilities shall be located on the public right-of-way.
3. Dumpsters may not be used as collection points for other construction sites or for discarding perishable waste. Perishable waste shall be disposed in separate containers.
4. Any required erosion and sediment control plan and/or tree protection plan must be maintained throughout the course of the permitted work.
5. Dust associated with demolition must be controlled by metered water spray. Dust associated with stone cutting must be controlled by a wet saw.
6. No commercial signs, except real estate signs, shall be posted on the site.

PUBLIC PROPERTY SITE MANAGEMENT

1. No person shall store or allow an accumulation of refuse, excavation or construction debris, or any construction materials on any public right-of-way including, but not limited to, streets, sidewalks, curbs, gutters and grassy areas. Accumulation of mud or dirt must be removed from the public right-of-way daily. Public sidewalks must be kept passable at all times unless otherwise approved by the Town.
2. Unattended construction pits and trenches in the public right-of-way shall be clearly marked and covered.
3. Any repair, alteration, modification to or closure of any street or sidewalk that prohibits the free passage of vehicles or pedestrians shall be clearly marked with barricades, safety barriers, or both and may not exceed ten (10) days unless specifically authorized, in writing, by the Town Manager.
4. No vehicles may be parked on Town sidewalks, driveway aprons or on any area between the curb and/or gutter and sidewalk.
5. Construction vehicles must park on the building site or on the side of the street directly in front of the building site, whenever possible.
6. No construction trailers or other equipment shall be parked or stored on Town streets or in the Town right-of-way between the hours of 10 p.m. and 6 a.m.
7. Public property site management shall be compliant with the Americans with Disabilities Act.

Affadavit

I have read the above requirements and am aware that not following them could lead to a stop work order, fines or revocation of my Town Building Permit.

Applicant's Signature	Print Name	Date
-----------------------	------------	------

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

.02 An applicant who fails to comply with the requirements of the “Town of Chevy Chase Building Permit Conditions” form as set forth in section 4.3.01 may be subject to a stop work order, fines, suspension or revocation of the permit, and/or any other penalties as set forth in section 4-14 of the Code.

* * *

L:\CLIENTS\C\CHEVY CHASE\ChevyChase\Regulations\Building Permit - Site Management\Final Regulation\Final Regulation -- Site Management (11-30-07) (3).doc