

Town of Chevy Chase
(Electric Vehicle Charging Stations and Right-of-Way Obstructions)

Ordinance No.: 25-02
Introduced: February 12, 2025
Adopted: March 12, 2025
Effective: April 11, 2025

AN ORDINANCE TO AMEND CHAPTER 4 OF THE TOWN OF
CHEVY CHASE MUNICIPAL CODE TO ALLOW THE
PLACEMENT OF ELECTRIC VEHICLE CHARGING STATIONS
IN THE RIGHTS-OF-WAY WITH A VARIANCE; AND TO
CLARIFY EXISTING PROVISIONS RELATED TO
OBSTRUCTIONS IN THE PUBLIC RIGHTS-OF-WAY

WHEREAS, Maryland Code, Local Government Article, Section 5-202, 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;

WHEREAS, Maryland Code, Local Government Article, Section 5-211, 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;

WHEREAS, the public rights-of-way located within the Town are held in trust for the benefit, use, and convenience of the public and the Town has the authority and duty to ensure that the public rights-of-way remain reasonably safe for pedestrian and vehicular travel and kept free from all nuisances, obstructions, and encroachments which may impair their use as public highways;

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;

WHEREAS, after proper notice to the public, the Town Council introduced the following Ordinance in an open meeting conducted on the 12th day of February, 2025;

WHEREAS, after proper notice to the public, the Town Council considered the following Ordinance in public session assembled on the 12th day of March, 2025;

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;

THEREFORE, BE IT ORDAINED AND ORDERED, this 12th day of March, 2025, by virtue of the authority given to it by the Maryland Code and the Town of Chevy Chase Charter, the Town Council of the Town of Chevy Chase does hereby adopt the following ordinance.

SECTION 1. BE IT ORDAINED AND ORDERED, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the aforementioned authority, that the Town Code is hereby amended to read as follows:

* * *

Sec. 23-1. - Obstructions, ~~excavations~~ to streets, roads, etc.

(a) It shall be unlawful for any person to ~~leave any obstruction or excavation on the~~ **any public** sidewalk or street, ~~avenue, road or parkway after sunset or before sunrise without having such obstruction or excavation denoted by at least two (2) warning lights placed in such a manner as to show the extent of such obstruction or excavation~~ **the prior written approval of the town. The town manager may condition approval upon such terms and conditions as the town manager deems necessary to protect the public health, safety or welfare.**

(b) **Violation of any provision of this section shall be punishable by a civil fine in accordance with the provisions of sections 1-6(f), (g), and (h).**

(Code 1964, § 24)

Cross reference— ~~Permit for certain excavations, etc., Protection of streets, sidewalks, etc. § 4-3 § 4-8.~~

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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.

(b) 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.

(c) 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.

(d) Any repair, alteration, modification to or closure of any street or sidewalk which 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.

* * *

Sec. 4-49. - Public property devoted to private use.

(a) The portion of the public right-of-way abutting private property, that is not improved with a sidewalk, paved roadway, or other public improvement, shall be under the immediate care and keeping of the abutting property owners. The town, by this article, grants to such abutting property owners, their successors, and assigns, a revocable license to continue to use such area, provided such usage does not violate the provisions of this chapter and provided that this license may be revoked at any time by the town in accordance with the provisions of this chapter.

(b) The town may revoke the license to use public property by any person violating the provisions of this chapter. Upon revocation of such license, the owner of the abutting property will, upon the demand of the town manager, remove all structures, walls, fences, guardrails, handrails, wires, cables, hoses, pipes, **electric vehicle charging stations**, and similar facilities, berms, trees, hedges, shrubbery, and other plant growth on the public property so as to conform to this chapter. If such action is not taken within a period of ten (10) days after the town gives notice of revocation of a license, the town manager or designee may enter such public property and take any steps that are necessary to bring it into compliance with this chapter. Any cost of any corrective action taken by the town manager or designee shall be borne by the owner of abutting property as provided for in section 4-47 of this chapter.

(c) The town may revoke the license to use public property by any person if needed to accommodate maintenance of the public right-of-way; the installation, construction, repair, replacement, or expansion of a public improvement; or such other reason deemed necessary in the discretion of the town.

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Sec. 4-50. - Overhead or underground wires, cables, hoses, pipes, and similar facilities on public property ~~devoted to private use.~~

(a) Sidewalks and Paved Streets. Except for telecommunication, electric transmission lines, and other facilities operated by a public utility or similar service, it shall be unlawful to place wires of any kind, cables, hoses, pipes, and similar facilities on, over, or under any public sidewalk or paved street surface.

~~(a) (b)~~ **Unimproved Portions of the Rights-of-Way.** It shall be unlawful for ~~a~~Any person or persons, firm or corporation desiring to string, lay, hang, suspend or in any manner place wires of any kind, cables, hoses, pipes, and similar facilities on, over, or under any **unimproved portion of a** street or other public right-of-way within the town including, but not limited to, **an** electronic pet containment and or sprinkler systems, **must prior to** obtaining a building permit from the town manager. **Upon application for approval,** ~~t~~The town manager ~~shall~~ **may** issue a building permit upon such terms and conditions as the town manager deems appropriate to protect the current and future use of the public right-of-way by the public and governmental and utility entities. ~~Such building permit shall contain a contract provision for holding the town harmless from loss, injury or damage related to any such facilities.~~

~~(b) (c)~~ A written revocable license to use the public right of way shall be required for the installation or replacement of wires, cables, hoses, pipes, and similar facilities installed on, over, or under any street or other public right of way, except for telecommunication, electric transmission lines, and other facilities operated by a public utility or similar service. **In connection with a permit issued under subparagraph (b) above,** ~~The~~ **the** town manager may ~~issue~~ **require execution of** a written license to use the public right-of-way upon such terms and conditions as the town manager deems appropriate to protect the current and future use of the public right-of-way by the public and governmental and utility entities. **The license may include a provision for holding the town harmless from loss, injury or damage related to any such facilities.**

Sec. 4-51. - ~~Structures, walls, fences, guardrails, handrails, berms, and plants,~~ Private improvements on public property ~~that are~~ devoted to private use.

(a) Excepted as provided below, no structure, wall, fence, guardrail, berm, **electric vehicle charging station,** or plant shall be placed on public property devoted to private use.

(b) Subject to the provisions of subsection (c) below and section 4-49, the following private improvements may be allowed:

(1) Low growing plants that are not hedges, which are maintained at a height not to exceed eighteen (18) inches, may be installed within six (6) feet of a curb at the edge of a street, within three (3) feet of a sidewalk on the street side, and within two (2) feet of a sidewalk on the main building side;

(2) Any shrubbery or plant growth, except trees, hedges, and bamboo, may be installed in areas not designated in (1) for low plantings;

(3) Except as otherwise provided in subsection (c) below, structures, non-retaining walls, fences, berms, and plants located on public property devoted to private use on July 13, 2007, may be maintained, altered, and repaired, but not enlarged or replaced;

(4) A retaining wall or guardrail located on public property devoted to private use, as of April 8, 2016, may be maintained, altered, repaired, and replaced, but not enlarged or relocated; and

(5) A handrail on public property devoted to private use may be installed, maintained, altered, repaired, or replaced.

(6) Electronic pet containment systems and sprinkler systems may be approved according to section 4-50.

(7) If approved by the town council by a variance, an electric vehicle charging station may be installed in a public right-of-way in accordance with such terms and conditions as may accompany the variance approval and such standards and restrictions as may be adopted by resolution of the town council from time to time.

(c) No structure, wall, fence, guardrail, handrail, berm, tree, hedge, shrubbery or other plant growth in the public right-of-way may:

(1) Extend into a public street or over a sidewalk so as to interfere in any manner with pedestrian or vehicular traffic;

(2) Interfere with street trees, public utilities, and other public improvements;

(3) Interfere with entry to and exit from vehicles at the curb;

(4) Obstruct pedestrian and motorist sight lines needed for safety; or

(5) Otherwise interfere with the public health, safety, and welfare.

(d) The town manager shall determine whether there is compliance with the provisions of this section.

(e) With respect to any private improvements on public property devoted to private use, the town manager may require execution of a written license to use the public right-of-way upon such terms and conditions as the town manager deems appropriate to protect the current and future use of the public right-of-way by the public and governmental and utility entities. The license may include a provision for holding the town harmless from loss, injury or damage related to any such facilities.

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Sec. 4-60. - Variances from requirements of building restrictions.

(a) *Authority of town council.* The town council may grant variances from the requirements of this chapter, upon proof by a preponderance of the evidence of the following.

* * *

(2) With respect to variances regarding private use of the public right-of-way:

a. The property abutting the public right-of-way involved in the application is of such exceptional narrowness, shallowness, shape or subject to such limitations of record, or topographical conditions or other extraordinary situations or conditions peculiar to the specific property and/or specific section of the public right-of-way, that is impossible or impractical or would cause peculiar or unusual practical difficulties to, or undue hardship upon, the owner of the abutting property to conform fully to this chapter;

b. The variance is reasonably necessary to grant relief;

c. The variance would not be detrimental to the public health, safety and welfare, or use and enjoyment of adjoining or neighboring properties or the public right-of-way;

d. The variance is the minimum reasonably necessary to overcome the aforesaid extraordinary situation or condition; and

e. The variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly adopted and approved master plan affecting the subject property.

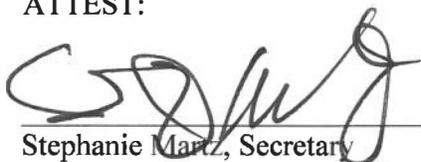
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SECTION 2. AND BE IT FURTHER ORDAINED AND ORDERED, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the aforementioned authority, that:

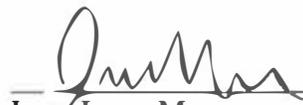
(1) If any part or provision of this ordinance is declared by a court of competent jurisdiction to be invalid, the part or provision held to be invalid shall not affect the validity of the ordinance as a whole or any remaining part thereof; and

(2) This ordinance shall take effect on the day of 11th day of April, 2025 (30 days after adoption).

ATTEST:


Stephanie Martz, Secretary

TOWN OF CHEVY CHASE


Irene Lane, Mayor
Town of Chevy Chase

Bold and Underline indicates new material
~~Strike-through~~ indicates material deleted
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