

**Town of Chevy Chase  
Building Regulations Ordinance**

Resolution No.:  
Introduced: November 13, 2013  
Adopted:  
Effective Date:

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, 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, Maryland Code, Land Use Article, Section 20-509 authorizes municipal corporations in Montgomery County, such as the Town of Chevy Chase, to regulate fences, walls hedges, and similar barriers;

WHEREAS, after proper notice to the public, the Town Council introduced the following Ordinance in an open meeting conducted on the 13<sup>th</sup> day of November, 2013;

WHEREAS, to comply with Maryland Code, Land Use Article, Section 20-509, on the 1<sup>st</sup> day of November, 2013, a copy of following Ordinance was submitted to the Montgomery County Council for its comments;

WHEREAS, the Montgomery County Council acknowledged receipt of the Ordinance by letter dated November 21, 2013, and indicated that the County Council had no comments;

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 considered the following Ordinance in public session assembled on the 11<sup>th</sup> day of December, 2013;

WHEREAS, after receiving input from the Land Use Committee, and upon consideration of the public hearing, the Town Council finds that, given the prevalence of front yard hedges in the Town and the practical difficulty in monitoring hedge height, building permits should not be required for front yard hedges and the height limitation should be removed;

WHEREAS, the Town Council finds that certain edits should be made to correct typographical errors and clarify existing provisions;

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 11th day of December and by virtue of the authority given to it by Maryland Code, Local Government Article, Section 5-202, Section 5-211, and Land Use Article, Section 20-509, and Section 301 of the Town of Chevy Chase Charter, does hereby adopt the following ordinance:

AN ORDINANCE TO AMEND CHAPTER 4 OF THE TOWN OF  
CHEVY CHASE MUNICIPAL CODE TO ELIMINATE THE

PERMIT AND HEIGHT REQUIREMENTS FOR HEDGES,  
CORRECT TYPOGRAPHICAL ERRORS, CLARIFY EXISTING  
PROVISIONS, AND IMPROVE INTERNAL CONSISTENCY.

SECTION 1. BE IT ORDAINED AND ORDERED, this 11<sup>th</sup> day of December, 2013, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the authority granted to it by Maryland Code, Local Government Article, Section 5-202, Section 5-211, and Land Use Article, Section 20-509, and Section 301 of the Town of Chevy Chase Charter, that Chapter 4 of the Town Code is hereby amended to read as follows:

\* \* \*

**Sec. 4-1. Definitions.**

\* \* \*

*Hedge:* A row of closely-planted shrubs, bushes, trees, or other plant material that has leaves at or below six (6) feet from the adjacent ground.

\* \* \*

**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:

\* \* \*

(4) Erect any fence, guardrail, handrail, wall, or berm, ~~or front yard hedge~~, provided, however, a handrail may be erected along a walkway, steps, or outside stairway on private property without a permit;

\* \* \*

(Res. No. 06-10, 7-12-06; Res. No. 07-01, 1-10-07; Res. No. 08-01, § 1, 4-16-08, eff. 5-17-08; Res. No. 09-02, § 1, 3-11-09, eff. 4-11-09; Ord. No. 10-06, § 1, 11-10-10, eff. 12-11-10; Res. No. 11-03, § 1, 10-9-11, eff. 12-9-11; Res. No. 12-02, § 1, 10-10-12, eff. 11-10-12; Res. No. 12-03, § 1, 10-10-12, eff. 11-10-12; **Res. No. 00-00, § 1, 12-11-13, eff. 1-10-14**)

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**Sec. 4-48. Permit application.**

All applications for a permit to construct ~~or plant~~ a fence, guardrail, handrail, wall, berm, ~~tree, hedge, shrubbery, or other plant growth~~ may be filed at any time; however, no town permit shall be issued unless and until all applicable county permits for the same work have been issued. The application shall state the name of the applicant, address, location, and type of building materials for any fence, guardrail, handrail, wall, or berm, ~~tree,~~

~~hedge, shrubbery, or other plant growth~~ to be installed. The fee for such permit shall be established by the town council by resolution. All fees shall be payable to the town.

(Res. No. 86-006, § 5, 10-8-86; Ord. No. 90-004, 4-5-90; Ord. No. 10-06, § 1, 11-10-10, eff. 12-11-10; Res. No. 11-03, § 1, 10-9-11, eff. 12-9-11; Res. No. 12-02, § 1, 10-10-12, eff. 11-10-12; **Res. No. 00-00, § 1, 12-11-13, eff. 1-10-14**)

**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 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~~ **subsection (b)**.

(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, 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.

(Res. No. 86-006, § 2, 10-8-86; Ord. No. 90-004, 4-5-90; Res. No. 10-03, § 1, 3-10-10, eff. 4-10-10; Ord. No. 10-06, § 1, 11-10-10, eff. 12-11-10; Res. No. 11-03, § 1, 10-9-11, eff. 12-9-11; Res. No. 12-02, § 1, 10-10-12, eff. 11-10-12; **Res. No. 00-00, § 1, 12-11-13, eff. 1-10-14**)

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**Sec. 4-52. Structures, walls, fences, guardrails, handrails, berms, trees, hedges, shrubbery and other plant growth on private property.**

(a)The property owner and the property occupant shall maintain walls, fences, guardrails, handrails, berms, structures, trees, hedges, shrubbery, and other plant growth located on private property so that they:

(1) Do not, at any time, exceed the maximum height as specified in this chapter;

- (2) Do not project into any public right-of-way so as to interfere in any manner with pedestrian or vehicular traffic;
- (3) Do not obstruct the view of sightlines necessary for safety;
- (4) Do not present a risk of harm to pedestrians and/or vehicles; and
- (5) Do not otherwise present a risk of harm to the public health, safety and welfare.

\* \* \*

(d) Front yard hedges.

~~(1) A hedge in a front yard must be maintained at a height not exceeding three (3) feet. Notwithstanding the foregoing, a hedge not exceeding six (6) feet in height may be maintained in a front yard adjoining Bradley Lane, East West Highway, or Connecticut Avenue.~~

~~(2)~~(1) The town may require removal of a front yard hedge if the town council, following a public hearing, determines that (i) any provision of this section ~~or any condition of the permit issued for the hedge~~ has been violated, or (ii) the hedge must be removed to accommodate a public improvement or other public use. At least fifteen (15) days prior to the public hearing, the town shall mail written notification to the owner of record and all adjoining and confronting property owners.

~~(3)~~(2) After any such determination by the town council which requires removal of a front yard hedge, notice of the requirement to remove a hedge shall be in writing and mailed to the property owner of record. Within ten (10) days of the date of mailing of such written notice, the property owner 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 assessed to the property owner according to section 4-47.

(f) No person shall erect or maintain any wall, fence or berm measuring more than six (6) feet, six (6) inches in height in any side or rear yard. No wall or berm measuring more than one (1) foot in height may be erected within two (2) feet of any side or rear lot line. Height is measured in accordance with subsection ~~(f)~~(g) below.

(g) The measurement of the height of walls, fences, or berms, ~~structures, hedges, shrubbery, or other plant growth~~ shall be made from the surface of the adjoining ground. Where the yards on the two (2) sides differ, the measurement shall be made from the surface of the lower yard.

\* \* \*

(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; Res. No. 07-03, § 1, 5-9-07; Res. No. 08-07, § 1, 9-10-08; Res. No. 10-03, § 1, 3-10-10, eff. 4-10-10; Ord. No. 10-06, § 1, 11-10-10, eff. 12-11-10; Res. No. 11-03, § 1, 10-9-11, eff. 12-9-11; Res. No. 12-02, § 1, 10-10-12, eff. 11-10-12; **Res. No. 00-00, § 1, 12-11-13, eff. 1-10-14**)

**Sec. 4-53. Nonconforming fences, walls, guardrails, handrails, and berms, ~~trees, hedges, shrubbery and other plant growth~~ on private property.**

(a) **Subject to the provisions of section 4-52,** ~~F~~fences, walls, ~~guardrails, handrails, trees, and~~ berms, ~~hedges, shrubbery, and other plant growth~~ on private property existing as of November 8, 1986, and not conforming to this article shall be regarded as nonconforming and may be maintained and repaired, but not relocated, altered, or replaced.

(b) Nonconforming fences, walls other than retaining walls, ~~guardrails, handrails, and~~ berms, ~~trees, hedges, shrubbery and other plant growth~~ on private property which are relocated, altered, or replaced shall comply with all provisions of this article.

(c) Nonconforming retaining walls on private property which are relocated, altered, or replaced shall comply with all provisions of this article, provided, however, a nonconforming retaining wall located in a front yard may be altered or replaced, if the location and materials are not changed and no dimension is enlarged.

(Res. No. 86-006, § 6, 10-8-86; Res. No. 90-004, 4-5-90; Ord. No. 10-06, § 1, 11-10-10, eff. 12-11-10; Res. No. 11-03, § 1, 10-9-11, eff. 12-9-11; Res. No. 12-02, § 1, 10-10-12, eff. 11-10-12; **Res. No. 00-00, § 1, 12-11-13, eff. 1-10-14**)

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SECTION 2. AND BE IT FURTHER ORDAINED AND ORDERED, this 11<sup>th</sup> day of December, 2013, 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 10<sup>th</sup> day of January, 2014.

ATTEST:

TOWN OF CHEVY CHASE

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Al Lang, Secretary

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Patricia Burda, Mayor  
Town of Chevy Chase

**Bold and Underline** indicates new material

~~Strike through~~ indicates material deleted

\* \* \* indicates material unchanged