

CHEVY CHASE VIEW MUNICIPAL CODE
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CHEVY CHASE VIEW MUNICIPAL CODE

Chapter 1. General Provisions

Sec. 1-100. Code designation.

The ordinances included in this and the following chapters shall constitute and be designated as the “Town of Chevy Chase View Municipal Code” and may be so cited, or also cited as the “Chevy Chase View Code” or “Town Code.”

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 1-101. General definitions.

Wherever the words “person” or “persons” occur in the Chevy Chase View Code they shall be construed as including firms or corporations. Wherever the word “lot” occurs it shall be construed to mean a duly platted and recorded lot as per plat or plats of Chevy Chase View or parts of Chevy Chase View of record. Wherever the word “Council” occurs it shall be construed as meaning “The Council of Chevy Chase View, Montgomery County, Maryland.” Wherever the word “municipal infraction” occurs it shall be construed as meaning a violation of the Town Code, which is a civil offense punishable as provided in Chapter 3.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 1-102. Specific Exemptions from Montgomery County laws.

The Town of Chevy Chase View is exempt from the following laws, and regulations pertaining thereto, as adopted and amended by Montgomery County, Maryland:

- | | | |
|----|--|-------------------------------|
| A. | Tree Canopy | Chapter 55* |
| B. | Buildings | Section 8-26(n) and 8-26(o) * |
| C. | Erosion, Sediment Control and Storm Water Management | Section 19-71* |
| D. | Streets and Roads | Chapter 49* |

**Editorial Note:* The above Chapters and Sections were exempted by Ordinance Nos. 60 and 61, adopted February 19, 2014, to exempt the Town from application of Montgomery County laws pertaining to canopy and roadside trees.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Chapter 2. Public Service and Police Regulations

Sec. 2-100 to 2-101. Reserved.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 2-102. Disturbing the peace, generally.

It shall be unlawful for any person or persons to disturb the public peace or safety by the discharge of firearms; by the discharge or explosion of any fireworks, bombs, torpedoes, or similar devices; by the throwing of stones or missiles in streets, vacant lots, or public places; by drunken, loud, or riotous conduct, noise, whooping, profanity, or vulgar language; by disorderly conduct or disorderly congregation; or by the commission of any nuisance in any manner whatsoever. The foregoing provision against the discharge of firearms shall be construed to prohibit the use of firearms for hunting.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 2-103. Disturbing legally constituted gatherings.

It shall be unlawful for any person or persons to molest or disturb any public meeting or gathering of any kind whatsoever, which may be lawfully congregated for any religious, social, political or public purpose.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 2-104. Loitering.

It shall be unlawful for any vagrant, tramp, beggar, to lie, recline or loiter or for any such persons to congregate in or about any street, avenue, parking area, sidewalk, road, vacant lot or public place or building, or to be found in, or upon, or around any private building or buildings, or property.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 2-105. Obstruction of the Council.

It shall be unlawful for any person or persons to knowingly obstruct or resist any member, officer or authorized agent of the Council, in the discharge of his or her duties, or to interfere with the performance of any work properly authorized by the Council.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 2-106. Littering of public byways, vacant lots, etc.

It shall be unlawful for any person or persons to throw, cast, deposit, scatter, drop, or leave in or upon any roadway any tacks, glass, or other material injurious to tires of vehicles; or to throw, cast, deposit, scatter, drop or leave in or upon any street, avenue, right-of-way, sidewalk, parkway, or gutter or upon any vacant lot or unoccupied property any garbage, sawdust, shavings, hay, straw, offal, vegetable matter, trees, brush, paper or refuse matter of any kind whatsoever, except that deposited for public collection as provided for by public notice of the Council, or except otherwise authorized or approved by the Council.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 2-107. Care of property to avoid public nuisance or fire hazard citation.

It shall be unlawful for the owner of any lot to allow dried grass, weeds, or other vegetable or animal matter, or brush or fallen timber, to accumulate thereon so as to become a public nuisance, or that the same shall constitute a fire hazard. If, in the judgment of the Council such condition shall exist on any lot, the Council or its agents or employees, after due notice to the owner and after an opportunity has been given to him or her to remedy said condition, may lawfully enter upon said lot to remove such nuisance or fire hazard, without liability for trespass to the real estate unless damage is done thereto unnecessarily, and the cost of the removal thereof shall be reimbursed to the Council by the owner of said lot. It shall be unlawful for any person to start or to maintain a fire under conditions likely to endanger adjoining property or without taking adequate precautions to prevent such fire from spreading.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 2-108. Defacing or destruction of public property.

It shall be unlawful for any unauthorized person or persons to remove, deface, or injure any street sign, signboard, fence, hedge, gate, railing, porch, building or other structure, public or private by painting, smearing, scratching, writing, cutting, burning or in any other manner whatsoever; or to deface, injure or remove any tree, shrubbery, or flowers, or any road material or surfacing or any portions of the rights-of-way, reservations, streets, highways, or any public or private property; or to break, injure, remove, or tamper with any street light or wiring and posts therefor, light globe, or fire plug; or to put out any street light or to interfere with same in any manner.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 2-109. Keeping of animals or fowl that disturb the peace.

It shall be unlawful for any person or persons to keep or harbor any pigs, hogs or cattle or any fowl or animals which in any manner disturb the comfort or quiet of the neighborhood; or for any person or persons to permit any fowl, cattle, horses, or ponies to be at large.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 2-110. Protection of birds.

It shall be unlawful for any person or persons to kill, trap, maim or destroy, or take or pursue with any contrivance or means whatsoever any song bird or other harmless bird.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 2-111. Belling of cats.

(1) It shall be the duty of all owners of cats within Chevy Chase View, and all persons keeping or harboring the same, to equip and securely attach to such animals before permitting them to roam and run at large within said area, belling devices capable of emitting sound of sufficient loudness and intensity to give warning of the approach and proximity of such animals to song birds and other forms of vulnerable bird life.

(2) Any resident of Chevy Chase View who finds a cat lacking such a belling device running at large on his property is hereby authorized to notify the Montgomery County Animal Shelter of that fact and arrange to have such animal picked up and taken to the Shelter and there held for disposition under the applicable laws of Montgomery County pertaining to such matters.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 2-112. Limitations on private improvements in and about the right-of-way.

It shall be unlawful to erect or maintain any private improvement in a public right-of-way without approval from the Town; or for a private hedge adjacent to any property line along a street or avenue, or extending thereto, to be trimmed or maintained so as to project nearer than six (6) inches to said line, or to erect a fence or plant or grow a hedge of any kind whatsoever at or near an intersection in such manner as to constitute a traffic hazard.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 2-113. Control of noxious materials, generally.

It shall be unlawful for any person or persons to cast or throw, discharge, or cause to flow into any street, avenue, right-of-way, sidewalk, parkway, or gutter, or on any lot, any foul or nauseous liquid or liquids, or other offensive matter of any kind whatsoever; to allow accumulations of any animal or vegetable matter, solid or liquid, or of stagnant water, or to permit the growth of rank vegetation dangerous or hurtful to the neighborhood or likely to become so, upon their property or properties; to allow anything to exist or to permit a condition to arise, upon their property or properties, from which odors or exhalations offensive to other residents of the community or dangerous to the public health shall be given off; or to perform or cause to be performed any act, or to allow any conditions under their control to exist, likely to endanger the public health; or to spread or cause to spread any poisonous matter in such manner as to endanger human beings or domestic animals; or to render the air, food, water, or other drinks unwholesome or unfit for use of man or beast.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 2-114. Restrictions on use of outbuildings for residential purposes.

It shall be unlawful for any person or persons to occupy any garage, shed, outbuilding or trailer for residence purposes without the consent of the Council, and the Council shall permit the same upon such restrictions or conditions as they shall deem requisite.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 2-115. Use of dumpsters and portable storage containers, non-construction.

It shall be unlawful for any person or persons to place on a lot, for non-construction related purposes, any dumpster, portable storage container, or similar receptacle, without a Town permit. In granting a permit for the same, the Town Council or its designee may impose such conditions as it deems necessary to protect the public health, safety, or welfare, including, but not limited to the posting of a cash performance bond to ensure the repair and/or replacement of facilities in the public right-of-way, including, but not limited to, paved street surfaces, curbs, driveway aprons, and sidewalks, if such facilities, trees, and/or other vegetation are damaged. The cash performance bond shall be in a form and amount, and subject to such terms and conditions, as may be established from time to time by the Council.

Cross Reference: See Chapter 13 regarding permits required for dumpsters and portable storage containers related to construction activities.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 2-116. Rental licensing.

It shall be unlawful for a property owner, or a property owner's agents, representatives, tenants, or assigns, to lease or rent to another any real property within Chevy Chase View without the rental license required according to the Montgomery County Code, as amended.

(Ord. No. 81, adopted December 18, 2019, effective December 18, 2019.)

Chapter 3. Penalties

Title 1. Violations of the Town Code

Sec. 3-100 to 3-101. Reserved.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 3-102. Violations, in general.

(a) Except as provided in Title 2, any person or persons guilty of violating any provision of the Town Code shall be guilty of a misdemeanor and subject to a fine not to exceed One Hundred Dollars (\$100.00), or imprisonment in the jail of Montgomery County, Maryland, for a term not to exceed ninety (90) days or both in the discretion of the Court having jurisdiction thereof.

(b) Notwithstanding subsection (a) above, the Town may prosecute any violation of any provision of the Town Code as a municipal infraction, in the Town's discretion, and, except as otherwise specified in the Town Code, such violations shall be punishable by a fine not to exceed One Hundred Dollars (\$100.00). Each violation shall constitute a separate infraction. Each day that a violation exists shall constitute a separate violation.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 3-103. Abatement by Town, generally.

Except as otherwise provided in Title 2, and in addition to any penalties that may be imposed, any person or persons violating or failing to comply with any provision of the Town Code, in whole or in part, shall take such action as may be necessary to remedy a condition which violates the provisions, and if such remedy is not completed within 10 days from the date of notification of violation, or such other period as the Council may specify, the Council may by contract or otherwise remove the violation and the cost thereof shall be paid immediately by such person or persons upon request of the Council. The Town may collect the cost: (1) as a lien against the land on the property tax bill; (2) in an action at law; or (3) in any other way legally available for collection of debts owed to the Town.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Title 2. Violations of Chapter 13 - Town Building Regulations.

Sec. 3-201. Abatement by Town, building regulations.

In addition to any penalties that may be imposed, any person or persons violating or failing to comply with any provision of Chapter 13, in whole or in part, shall make or cause to be made such alterations or removals of work commenced or finished as may be necessary to remedy a condition which violates the regulations, and if such remedy is not completed within 1 month from the date of notification of violation, or such other period as the Council may specify, the Council may by contract or otherwise remove or demolish such structure or parts thereof which violate the regulations and the cost thereof shall be paid immediately by such person or persons upon request of the Council. The Town may collect the cost: (1) as a lien against the land on the property tax bill; (2) in an action at law; or (3) in any other way legally available for collection of debts owed to the Town.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 3-202. Fines.

(a) Any person who violates any provision of Chapter 13 or directs or allows another to commit an act that would violate any provision of Chapter 13, the person's employer if the person acted in the course of his or her employment, and any property owner who allows a violation of any provision of Chapter 13 on his or her property shall be guilty of a municipal infraction and shall be jointly and severally subject to fines of:

(1) \$1,000.00 for any material misrepresentation in a building permit application or variance application or documents submitted in support thereof;

(2) \$1,000.00 for beginning construction, or continuing construction, without a Town building permit;

(3) \$1,000.00 per day for failing to cease construction, or continuing construction, following the issuance of a stop-work order;

(4) \$500.00 per day for failing to comply with any term or condition of a building permit, the plans and specifications approved therefore, or any applicable variance granted by the Council; and/or

(5) \$500.00 per day for any other violation of any other provision of Chapter 13.

(b) If a violation occurs, there shall be a rebuttable presumption that all owners of the property allowed the violation. Each violation shall constitute a separate infraction. Each day that a violation exists shall constitute a separate violation.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Chapters 4 – 12. Reserved.

Chapter 13. Building Regulations

Title 1. Purposes and Definitions.

Sec. 13-100. Statement of Purpose.

The building regulations set out in this Chapter are adopted for the purpose of protecting the public health, safety, and welfare of the present and future inhabitants of the Town, by preserving open vistas, sightlines, privacy, spacious appearance, and the character of the Town.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 13-101. Definitions.

- (1) **Accessory building:** A building subordinate to, and located on the same lot as a main building, the use of which is clearly incidental to that of the main building or to the use of the land and which is not attached by any part of a common wall or common roof to the main building, including, but not limited to a detached garage or shed.
- (2) **“Accessory dwelling unit”** means a second dwelling unit that is located within a main building or an accessory building.
- (3) **Bay Window:** A window, primarily made of glass that projects from the wall of a building and forms an alcove of a room. It may (i) have its foundation at the grade or a footing within in the ground, or (ii) be supported on corbels, brackets, or otherwise. A bay window may be rectangular, polygonal, or arc-shaped. An oriel window is a type of bay window that is cantilevered (does not have its foundation in the ground).
- (4) **Building:** A structure having one or more stories and a roof, designed primarily for the shelter, support or enclosures of persons, animals or property of any kind.
- (5) **Building line:** A line extending from lot line to lot line at the outermost wall of a building, excluding projections described in Section 13-404 of this Chapter.
- (6) **Building restriction line:** The line established by the setback requirements, which separates the buildable portion of the lot from the portion into which non-exempt structures must not encroach.
- (7) **County:** Montgomery County, Maryland.

- (8) **Curb cut:** A break in the continuity of the curb in a public right-of-way for allowance of vehicular access to an adjoining parcel, or where there is no curb, the intersection of the driveway and edge of the paved road surface.
- (9) **“Detached accessory dwelling unit”** means a dwelling unit that is an accessory building or part thereof.
- (10) **“Developmental nonconformity”** means a building which was lawful when constructed, but which no longer conforms to the requirements of this Chapter because of the adoption or subsequent amendment to this Chapter.
- (11) **Driveway apron:** The improved surface of a driveway located between the paved road surface and the front lot line.
- (12) **Dumpster:** A bulk solid waste receptacle placed temporarily to collect solid waste.
- (13) **“Dwelling unit”** means a building or portion of a building providing complete living facilities for not more than one household, including, at a minimum, facilities for cooking, sanitation, and sleeping.
- (14) **Established building line (EBL):** A front building line, which is the average front setback of nearby main buildings, as specified in this Chapter.
- (15) **Fence:** An upright construction of posts or stakes, made of masonry, wood, metal, or other material, joined together by boards, wire, rails, or other materials, and used to enclose or divide an area.
- (16) **Free-standing wall:** A linear structure made of masonry, wood, or other material used to enclose or divide an area
- (17) **Front lot line:** The property line running along the front of the lot separating it from the public right-of-way. Corner lots have two front lot lines.
- (18) **Frontage:** The length of the front property line of the lot, lots or tract of land abutting a public right-of-way.
- (19) **Front yard:** the yard area of a lot between the front lot line and the front of the main building. Corner lots have two front yards.
- (20) **“Height”** means the vertical distance measured from the average elevation of the ground along the front of the structure to the highest point of the roof surface or parapet wall for a flat or shed roof, or, for a gable, hip, mansard, or gambrel roof, the mean height between the eaves and ridge of the roof. For the purpose of determining building height, the average front elevation used will be based on either the pre-development grade or the finished grade, whichever is lower. If the

structure has no roof, height is measured to the highest point. The height does not include weather vanes, cupolas, or similar ornamental features.

- (21) **House location survey:** a survey that depicts the approximate location of a house on a lot, as typically required by a mortgage lender as part of a loan transaction.
- (22) **Lot:** The land designated as a separate and distinct lot or parcel of land on a legally recorded plat or deed filed among the land records of the County.
- (23) **Main building:** The principal building located on a lot.
- (24) **Non-conformity:** An existing structure which does not conform to a requirement of this Chapter.
- (25) **Non-vegetative surface:** Any surface that is not vegetative, including, but not limited to, asphalt, concrete, stone, gravel, sandstone pavers, and the like, and includes the area of any front porch, stoop, steps, and/or stairs.
- (26) **Outdoor kitchen:** An outdoor cooking area constructed of brick, stone, or other materials, and including a grill or other cooking facilities.
- (27) **Porch:** A roofed structure abutting an exterior main building wall with no obstruction on any other sides at the perimeter with the exception of support columns or pillars, or guardrails, as required by the County Code.
- (28) **Portable storage container:** A pre-fabricated structure, purchased or rented, used for temporary or long-term storage.
- (29) **Pre-development grade:** The grade that existed before the time of application for a building or demolition permit.
- (30) **Public right-of-way:** A publicly-dedicated thoroughfare or way, including improved and unimproved surfaces in front of a lot.
- (31) **Rear yard:** The yard area of a lot between the rear lot line and the rear of the main building.
- (32) **Retaining wall:** A structure containing any non-vegetative materials used to stabilize or retain soil.
- (33) **Setback:** The distance that a structure is set back from a lot line.
- (34) **Side yard:** The yard area of a lot between the side lot line and the side of the main building.
- (35) **Site plan:** A detailed scale drawing of a lot.

- (36) **Stoop:** An above-grade uncovered platform, with or without railing, at the entrance of a building.
- (37) **Structure:** That which is built or constructed.
- (38) **Town:** The Town of Chevy Chase View, a municipality in the State of Maryland located in Montgomery County.
- (39) **Wall plane:** A continuous horizontal wall surface, uninterrupted by an offset measuring at least three (3) feet in depth and five (5) feet in width.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015; Ord. No. 72, adopted May 17, 2017, effective May 17, 2017; Ord. No. 76, adopted September 19, 2018, effective September 19, 2018; Ord. No. 77, adopted January 16, 2019, effective January 16, 2019; Ord. No. 81, adopted December 18, 2019, effective December 18, 2019.)

Title 2. Permit Requirements

Sec. 13-201. Permits required.

(a) (1) It shall be unlawful for any person to construct, re-construct, erect, place, move, alter, repair, add to, enlarge, demolish, replace, or remove any structure, curb cut, driveway, or driveway apron, without a valid Town permit.

(2) It shall be unlawful for any person to construct, reconstruct, erect, place, move, alter, repair, add to, enlarge, demolish, replace, or remove any accessory dwelling unit, or to modify, convert, or renovate any existing structure, or any part thereof, into an accessory dwelling unit, without a valid Town permit.

(3) A structure includes, but is not limited to the following: the main building; an accessory building; a tree house; an open shed; a deck or terrace built above grade level; an in-ground swimming pool or outdoor spa; an above-ground swimming pool or outdoor spa that is not portable or is left in place when not in use; a tennis court; an outdoor kitchen; a fence or wall; a dumpster; a portable storage; a shelter; and a gazebo.

(4) A building permit will only be issued for proposed work that conforms to the requirements of this Chapter, unless the Town grants a variance.

(5) It shall be unlawful to commence any excavation before a required permit is issued by the Town.

(b) A building permit may be required from the Town even in instances where a permit is not required by the County.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015; Ord. No. 72, adopted May 17, 2017, effective May 17, 2017; Ord. No. 81, adopted December 18, 2019, effective December 18, 2019.)

Sec. 13-202. Exemptions from permit requirements.

A building permit from the Town is not required for the following:

(a) construction or installation of a: basketball pole and backboard; basketball or volleyball court constructed in a side or rear yard; putting green; play equipment; pet dog house; flagpole attached to a building or free-standing; mailbox; antenna; satellite dish; solar panel; generator; heat pump; air-conditioning unit; patio or walkway constructed in a side or rear yard; landscaping materials, such as timbers, edging, a trellis, or bench; steps and related handrails detached from a building at a change of grade; and portable objects for temporary use, such as a tent, awning, or inflatable wading pool;

(b) interior construction, renovation, or repairs that make no alteration in the existing exterior three-dimensional boundaries of the structure, provided, however that this exception shall not apply to interior construction, renovation, or repairs related to the establishment of an accessory dwelling unit;

(c) repair of an existing structure in the same location, at the same height, and with a similar style and materials, provided the repairs are completed within 12 months from the start of the removal of any exterior surface area and the repair does not alter the exterior 3-dimensional boundaries of the structure;

(d) repair or replacement of an existing fence or free-standing wall in the same location, at the same height, and with a similar style and materials;

(e) removal or demolition of a structure with a footprint of 250 square feet or less, or removal or demolition of a fence or free-standing wall; or

(f) repair or replacement of an existing driveway on private property in the same location and with the same dimensions.

(Ord. No. 72, adopted May 17, 2017, effective May 17, 2017; Ord. No. 76, adopted September 19, 2018, effective September 19, 2018; Ord. No. 81, adopted December 18, 2019, effective December 18, 2019.)

Title 3. Fences and Walls; Curb Cuts and Driveway Aprons

Sec. 13-301. Fences and free-standing walls.

(a) No fence or free-standing wall greater than 4 feet in height shall be erected in a front yard. Corner lots have 2 front yards.

(b) No fence or free-standing wall greater than 6.5 feet in height shall be erected in a rear or side yard.

(c) Fence height is measured from the lowest level of the ground immediately under the fence. Wall height is measured from the lowest adjoining grade.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015; Ord. No. 72, adopted May 17, 2017, effective May 17, 2017.)

Sec. 13-302. Non-conforming fences and free-standing walls.

Notwithstanding Section 13-301(a), existing fences and free-standing walls in a front yard exceeding 4 feet in height that were constructed on or before May 15, 2001 may be repaired or replaced in the same location at the same or lesser height, and with a similar style and materials.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 13-303. Curb Cuts and Driveway Aprons

(a) **Curb cuts.** There shall be no more than one curb cut on any lot.

(b) **Driveway Aprons.**

(1) **Width.** No driveway apron shall exceed twelve (12) feet in width. At the curb cut, a driveway apron may have an additional turning radius of five (5) feet in width on each side, for a total width of twenty-two (22) feet. Driveway width includes the width of any adjoining or adjacent surface.

(2) **Construction standards.** The construction of a curb cut or driveway apron shall comply with such construction and design standards as may be adopted by the Council by resolution. In addition, the Council shall grant a permit to construct or expand a curb cut, driveway, or driveway apron only if the proposed construction would comply with this Section and not negatively impact the character of Chevy Chase View or interfere with the public health, safety, or welfare, as may be determined by the Council. In making such determination, the Council may consider the following:

- (i) Location of trees, hedges, berms, and shrubbery or other plant growth;
- (ii) Location of fences, walls, or other structures;

- (iii) Location of public utilities;
- (iv) Location of public and private improvements in the public right-of-way;
- (v) Possible obstruction of pedestrian and/or motorist visibility; and
- (vi) Other factors as may be determined by the Council to be necessary to protect the public health, safety, or welfare.

(3) **Initial construction.** The applicant shall be responsible for all costs associated with initial construction and/or expansion of a curb cut or driveway apron.

(4) **Maintenance.** The Town shall maintain and repair lawfully-constructed curb cuts, driveway aprons, and public sidewalks located within a public right-of-way as necessary to address wear and tear from ordinary use, unless such maintenance or repair is necessitated by the actions of the property owner or the property owner's tenants, guests, or invitees. The use of a driveway apron by trucks or construction equipment shall not be considered ordinary use. Notwithstanding the foregoing, the Town shall not be obligated to maintain and repair any such curb cuts or driveway aprons that include betterments, or alternative materials, installed by property owners. Such betterments, or alternative materials, shall not be installed by property owners without the permission of the Council. If, however, an owner wants to abandon a betterment, or alternative materials, and have the construction revert to standard construction, the Town may replace the curb cut or driveway apron in a manner consistent with Town standards, at such time as replacement is required, as determined by the Council.

(5) **Removal.** In the event a curb cut or driveway apron is removed, the property owner previously served by the curb cut or driveway apron shall restore the public right-of-way by installing a curb, sidewalk, grass or other ground cover and plantings consistent with the adjacent area as determined by the Council.

(Ord. No. 72, adopted May 17, 2017, effective May 17, 2017.)

Sec. 13-304. Non-conforming curb cuts and driveway aprons.

Notwithstanding Section 13-303, curb cuts and driveway aprons exceeding the permissible width and existing before May 17, 2017 may be repaired or replaced in the same location and with the same dimensions.

(Ord. No. 72, adopted May 17, 2017, effective May 17, 2017.)

Title 4. Construction Standards and Requirements.

Sec. 13-401. Applicability of setbacks.

The setback requirements in this Title apply only to structures for which a building permit is required.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 13-402. Front setback.

(a) The front setback requirement for any structure on any lot within the Town is 35 feet, or the Established Building Line (EBL), whichever is greater, provided, however, the front setback requirement on the north side of Dresden Street, on the block between Connecticut Avenue and Summit Avenue, is 115 feet.

(b) Corner lots have two front yards and are subject to front setback requirements on both public rights-of-way.

(c) The EBL of a subject lot is calculated as the average setback of all main buildings, including the existing or most recently existing main building on the subject lot, that meet all of the following criteria:

- (1) are within 300 feet of a side property line of the subject lot (excluding main buildings on corner lots);
- (2) are along the same side of the street;
- (3) are between intersecting streets or to a point where the street terminates;
- (4) exist at the time the building application request is filed;
- (5) have at least a 35-foot front setback; and
- (6) are not unlawfully constructed or constructed pursuant to a Town variance.

(d) If the subject lot is the only lot that meets all the EBL criteria, the front setback requirement is 35 feet.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 13-403. Side and rear setbacks.

(a) **Main buildings.** The side setback requirement for a main building is 15 feet. The rear setback requirement for a main building is 25 feet. If an existing main building does not conform to a side or rear setback requirement, any addition to the main building must conform to the respective rear or side setback requirement.

(b) **Accessory buildings and other structures.** The side and rear setback requirement for any structure, other than a main building, is 7 feet, subject to the following provisions:

(1) **Detached Accessory Dwelling Units.**

(i) **Setbacks.** The side setback requirement for a detached accessory dwelling unit is 15 feet. The rear setback requirement for a detached accessory dwelling unit is 25 feet.

(ii) **Height.** The height for any building containing an accessory dwelling unit, other than a main building, shall not exceed twenty (20) feet.

(2) **Accessory buildings, in general.** The side and rear setback requirement for any structure, other than a main building or a building containing an accessory dwelling unit, is 7 feet, subject to the following provisions:

(i) Additional setback based on height. The side and rear setback requirement for any structure, other than a main building or a building containing an accessory dwelling unit, with a height greater than 15 feet shall be increased from 7 feet, by 1 foot of additional setback for each foot of height in excess of 15 feet.

(ii) Additional setback based on length. The side and rear setback requirement for any structure, other than a main building or a building containing an accessory dwelling unit, with a length or linear dimension greater than 24 feet shall be increased from 7 feet, by 1 foot of additional setback for each foot of length or linear dimension in excess of 24 feet. This increased setback requirement is in addition to any increased setback required based on height.

(3) **Additional setback based on length.** The side and rear setback requirement for any structure with a length or linear dimension greater than 24 feet shall be increased from 7 feet, by 1 foot of additional setback for each foot of length or linear dimension in excess of 24 feet. This increased setback requirement is in addition to any increased setback required based on height.

(c) **Swimming pools and spas, pool decks.** Notwithstanding the above provisions, the side and rear setback requirement for an in-ground or above grade swimming pool and an in-ground or above grade outdoor spa is 15 feet. The side and rear setback requirement for the deck of an in-ground swimming pool and an in-ground outdoor spa is 10 feet.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015; Ord. No. 81, adopted December 18, 2019, effective December 18, 2019.)

Sec. 13-404. Exemptions from setback requirements, projections.

(a) **Additions.** An addition to a non-conforming main building, existing as of February 25, 2015, may encroach into the required EBL front setback, provided the addition meets all of the following criteria:

(1) does not encroach into the required EBL front setback more than the existing main building;

- (2) is set back at least 35 feet from all front lot lines; and
- (3) conforms to the required side and rear setbacks for the lot.

(b) **Bay windows, oriels, and balconies.** A bay window, oriel, or balcony, 10 feet or less in width, may project no more than 3 feet into a required front or rear setback and no more than 2 feet into any required side setback. To apply the exemption provided by this Section, a bay window or oriel must meet the following requirements:

- (i) Comprise not more than one story, including any portion below grade;
- (ii) Have an exterior surface area comprising at least fifty-one (51) percent glass, excluding the exterior surface area of its roof and foundation; and
- (iii) Where more than one bay window or oriel are located on the same wall plane, the combined width of all bay windows and oriels on that wall plane can be no greater than fifty (50) percent of the length of that same wall plane.

(c) **Chimneys.** Chimneys that are 10 feet wide or less may project no more than 2 feet into any required setback.

(d) **Cornices and eaves.** Cornices and eaves, including any attached gutter, may project no more than 2.5 feet into any required front and rear setback, and no more than 2 feet into any required side setback.

(e) **Fences and free-standing walls.** A fence or free-standing wall that is less than 4 feet in height shall not be subject to the front setback requirements. A fence or free-standing wall that is less than 6.5 feet in height shall not be subject to the rear or side setback requirements.

(f) **Ornamental features.** Ornamental features, such as sills, may project no more than 6 inches into any required setback.

(g) **Porches, stoops, and steps.**

(1) A porch (including its roof) or stoop may project into a required front or rear setback no more than 5 feet, and into a required side setback no more than 2 feet. A porch roof gutter may project an additional 6 inches. Steps from a porch or stoop to ground level may project further as necessary.

(2) An existing non-conforming porch or stoop may be repaired or replaced, provided the repair or replacement does not increase the non-conforming dimensions of the porch or stoop.

(3) An existing non-conforming stoop may be covered to create an unenclosed porch, without regard to the required setbacks, so long as the roof projects no more than 5 feet from the abutting wall of the main building for a front or rear porch, and no more than 2 feet from the abutting wall of the main building for a side porch.

(h) **Portable storage containers.** A portable storage container that remains on a lot for less than 8 days shall not be subject to setback requirements.

(i) **Retaining walls.** A retaining wall not exceeding 1 foot in height above the finished grade shall not be subject to setback requirements.

(j) **Stairwells.** Outside stairwells and below-grade emergency egress wells, and their retaining walls and safety rails, may project no more than 5 feet into a required side or rear setback provided that the top of the retaining wall extends no more than 1 foot above the finished grade.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 13-405. 100-foot frontage requirement.

No dwelling or other structure shall be erected upon any lot of less than 100 feet frontage except upon a lot having a frontage of less than 100 feet according to a subdivision of lots recorded before December 8, 1925.

Sec. 13-406. Maximum non-vegetative surface coverage.

The non-vegetative surface coverage in a front yard shall not exceed thirty (30) percent of the area of the front yard. For corner lots, each front yard must individually comply with this requirement. This section shall not apply to a front yard abutting Connecticut Avenue or Cedar Lane.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015; Ord. No. 76, adopted September 19, 2018, effective September 19, 2018; Ord. No. 77, adopted January 16, 2019, effective January 16, 2019.)

Sec. 13-407. Developmental Nonconformities; Accessory Dwelling Units

Except as otherwise provided in this Chapter, a developmental nonconformity may be maintained, altered, or repaired, but not replaced, provided that it may not be enlarged in any manner, including but not limited to enlargement of any three-dimensional boundary that existed on October 17, 2019, and further provided that an accessory dwelling unit may not be constructed within a non-conforming structure, except in accordance with this Chapter. A building in which an accessory dwelling unit is constructed must meet the required setback and other requirements of this Chapter at the time of construction of the accessory dwelling unit.

(Ord. No. 81, adopted December 18, 2019, effective December 18, 2019.)

Title 5. Parking

Sec. 13-501. Parking for new construction.

(a) At the time of the erection of any main building, or at the time any main building is enlarged or increased in capacity, permanent off-street parking shall be provided and maintained, as follows: (i) a minimum of 2 automobile parking spaces shall be provided;

(b) At the time of the erection of any detached accessory dwelling unit, or at the time any accessory structure is modified or renovated to include an accessory dwelling unit, or at the time any accessory dwelling unit is added to a main building, a minimum of 4 off-street automobile parking spaces shall be provided and maintained for the lot.

(c) Each automobile parking space provided according to this section shall not be less than 180 square feet and the same shall be connected by an adequate driveway to a paved street, and each automobile parking space and driveway shall be so drained as to prevent damage to abutting properties, public and/or private, and shall be constructed of an erosion-resistant material.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015; Ord. 81, adopted December 18, 2019, effective December 18, 2019.)

Title 6. Building Permit Administration

Sec. 13-601. Building permit application.

(a) Application requirements, generally.

(1) When a building permit from the Town is required, an application for a building permit must be submitted to the Town, by all the owners of the property, on a form prescribed by the Town.

(2) The application shall be accompanied by the application fee, a site plan, and the plans and specifications for the project, and a stormwater drainage plan if the project includes an accessory dwelling unit. The plans and specifications must have sufficient clarity and detailed dimensions to show the nature and character of the work to be performed.

(3) A building permit shall not be issued unless and until (i) the Council approves the application, (ii) the applicant provides a copy of the County permit and corresponding permit plans, if a County permit is required, and (iii) the applicant satisfies any bond and pre-construction meeting requirements. Additionally, as a condition of a building permit, a copy of the Montgomery County landlord license for the proposed accessory dwelling unit must be submitted by the applicant to the Town prior to approval of the final inspection of the project, and the applicant must demonstrate compliance with the Montgomery County Fire Safety Code, as amended.

(4) Notwithstanding subparagraph (3)(i), a building permit application for a fence or free-standing wall may be processed by the Chair and Town Manager.

(b) **Application fee.** The Council shall adopt a schedule of building permit fees by resolution.

(c) **Site plan.**

(1) If the location of the proposed work will be within 4 feet of a building restriction line, the site plan must have a margin of error of +/- 0.10 feet, or better. Where possible, the site plan must reference 2 or more of the Town's control network concrete monuments.

(2) The site plan must show the lot boundaries, driveways, and the outlines of all existing and proposed structures and site improvements on the lot. In addition, it must indicate the minimum distances of existing and proposed improvements from the lot lines

(3) The site plan must have been prepared within the last 5 years, from the date of the application, by a surveyor or engineer licensed by the State of Maryland. A site plan of more than 5 years old may be used if it is the most recent survey or engineering plan reasonably available, it is otherwise prepared as provided above, and it includes the property owner's affirmation that the plan accurately represents the current condition of the property with respect to the position of the residence, and any accessory buildings, and their distances from all property lines.

(4) Instead of a site plan, a house location survey may be used if the proposed work will not be within 4 feet of a building restriction line.

(d) **Stormwater Drainage Plan.** No attached or detached accessory dwelling unit, including but not limited to the dedicated off-street parking spaces related thereto, shall create any new stormwater runoff to adjacent public or private property. A stormwater drainage plan, approved by the Town, shall be implemented and maintained to prevent any such stormwater runoff.

(1) The drainage plan must specify the design or provisions for the control or conveyance of any increase in runoff, including but not limited to runoff from the dedicated off-street parking spaces.

(2) The design or provisions for the control or conveyance of runoff can be met with dry wells, rain barrels, cisterns, natural topography or buffers, rain gardens, biofilters, storm drains, yard drains, swales, pervious pavers, rooftop gardens, or other measures approved by the Town Council. Conveyance to a public right-of-way shall be allowed only where onsite control is not feasible, as determined by the Town Council.

(3) The development and design of the drainage plan must be consistent with the format and requirements specified in the *Chevy Chase View Guidelines for Control of Water Runoff*, as amended, or other accepted design criteria approved by the Town Council.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015; Ord. No. 81, adopted December 18, 2019, effective December 18, 2019; Ord. No. 86, adopted July 15, 2020, effective July 15, 2020.)

Sec. 13-602. Performance bond.

(1) When required by the Council, a building permit applicant shall post a cash performance bond to ensure the repair and/or replacement of facilities in the public right-of-way, including, but not limited to, paved street surfaces, curbs, driveway aprons, and sidewalks, if such facilities, trees, and/or other vegetation are damaged in connection with the project for which the building permit is issued.

(2) The cash performance bond shall be in a form and amount, and subject to such terms and conditions, as may be established from time to time by the Council.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 13-603. Pre-construction meeting, permit conditions.

(a) In connection with any construction for which a cash performance bond is required, the applicant shall participate in a pre-construction meeting to be conducted by the Town building permit administrator at the subject property for the purpose of exchanging information and discussing building permit conditions and the procedures concerning the required cash performance bond.

(b) In connection with any building permit, the Council or its designee may impose conditions to protect the public health, safety, or welfare, including, but not limited to:

(1) prohibiting or limiting the parking of contractors' or other construction-related vehicles in the public right-of-way;

(2) limiting the locations upon private property where contractors' and other construction-related vehicles may be parked;

(3) limiting the location upon which construction materials may be stored;

(4) limiting or prohibiting the locations of portable toilets;

(5) limiting the locations upon which construction debris may be stored, whether or not such debris is contained;

(6) requiring the posting of a cash performance bond; and/or

(7) such other conditions as the Council or its designee determines are necessary to protect the public's health, safety, or welfare

(c) It shall be unlawful to perform construction, or allow construction to be performed on one's property, in violation of any permit condition.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 13-604. Authority to administer and enforce building regulations.

(a) The Council is hereby authorized to establish mandatory rules for the administration and enforcement of this Chapter by resolution as the Council deems appropriate.

(b) The Town has the right to on-premises inspection of construction to ensure compliance with this Chapter, the application submitted, and/or the Town permit issued.

(c) It shall be unlawful to impede an inspection by the Town of construction for which a Town permit is required.

(d) A stop work order may be issued if deemed necessary by the Council or its designee if any of the following apply: (i) a permit has not been issued for work being performed; (ii) work does not comply with the approved plans and specifications or any condition of the Town permit, and/or (iii) the Council or its designee otherwise deem a stop work order necessary to protect the public health, safety, or welfare.

(e) It shall be unlawful to perform construction, or allow construction to be performed on one's property, in violation of a stop work order, provided, however, such work may be performed as is directed by the Council or its designee to remove a violation of this Chapter or an unsafe condition.

(f) It shall be unlawful to remove a stop work order, except as directed by the Council or its designee.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 13-605. Time limits on initiation and completion of construction.

(a) An application for a permit for any proposed work will be deemed withdrawn 6 months after the application was filed, unless the application has been diligently prosecuted or a permit was issued. However, for reasonable cause shown, the Town Council may extend the time for the Council to consider an application for 1 or more additional periods which do not exceed 90 days each.

(b) Council approval of a building permit application will be deemed voided after 6 months if the applicant fails to provide a copy of the County permit and the permit plans, if a County permit is required, or if the applicant fails to satisfy any Town bond or pre-construction meeting requirements. However, for reasonable cause shown, the Council may extend the time

for the applicant to meet these requirements for 1 or more additional periods which do not exceed 90 days each.

(c) Work must be commenced within 6 months after a Town permit is issued, and must be completed within 1 year of the date that it was issued, or the permit shall be deemed expired. The Council may grant an extension to the commencement or completion of work, provided additional time is reasonably necessary to start or complete the construction; and circumstances have not otherwise changed since the issuance of the permit.

(d) It shall be unlawful to perform construction, or allow construction to be performed on one's property, after a Town permit has expired.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 13-606. Revision of approved plans.

(a) All construction shall strictly conform to the approved plans. Prior to making any change to approved permit plans, a request for modification must be made in writing to the Council. A request for modification to the approved plans may be approved only if the modification conforms to this Chapter or to a variance previously granted by the Council.

(b) It shall be unlawful to perform construction, or allow construction to be performed on one's property, that does not strictly conform to the plans approved by the Council.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 13-607. False statements, revocation of building permit.

(a) It shall be unlawful to make any false statement or misrepresentation of fact on any application or the plans on which the application is based. If a false statement or misrepresentation is made, the Town permit may be revoked.

(b) If a County permit is revoked, expired, or suspended, the Town permit for the same construction shall be deemed revoked, expired, or suspended, as the case may be.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 13-608. Variances.

(a) **Purpose.** The purpose of this Section is to provide a procedure for granting a variance from the strict application of the Town building regulations in specific cases where unusual conditions of a particular lot are such that the strict and literal enforcement of the building regulations would result in unusual or practical difficulties to, or exceptional or undue hardship on, the owner of the property.

(b) **Powers of Council.** In addition to any other powers it may have, the Council shall have the power to grant a variance from the requirements of the building regulations upon application by an interested person. With respect to the lot for which a variance is sought, the term “interested person” includes any owner, contract purchaser, or authorized agent of the owner or contract purchaser.

(c) **Standards to be applied.** No variance may be granted unless the Council finds, on the basis of the evidence of the record at a public hearing that good cause has been shown for relief from the strict application of the building requirements, according to the following standards,

(1) **Variance of setback requirements.** Because of the unusual dimensions, shape, topography, or other exceptional conditions of the lot, the lot cannot accommodate the structure sought to be erected if the restrictions of this Chapter are strictly enforced and:

(i) For front or rear setback requirements, the literal application of Chapter 13 would result in peculiar or unusual practical difficulties to, or exceptional hardship on, the owner of the property; or

(ii) For side setback requirements, the literal application of Chapter 13 would result in exceptional hardship and injustice to the owner of the property.

(2) **Variance of height limitation for front yard fences.** Because of unusual conditions of the property or of an adjacent property, strict enforcement of the 4-foot height limitation would create a hardship on the property owner, and granting the variance would not create a safety hazard or materially interfere with the existing sight lines.

(3) **Additional requirements.** In connection with any variance, the Council must also find that:

(i) The variance granted is the least departure from the requirements of this section that will give relief to the applicant;

(ii) The variance will not be contrary to the purposes and intent of the building regulations, which are to preserve open vistas, sight lines, privacy, spacious appearance, and character of Chevy Chase View;

(iii) The variance will not adversely affect the appearance, utility, or value of any contiguous or confronting property; and

(iv) The difficulty or hardship is not the result of the actions of the applicant.

(4) **Special circumstances.**

(i) If the alteration is required as a reasonable accommodation based upon a disability, as defined by Federal law, the variance may be granted, according to such regulations as may be adopted by the Council from time to time.

(ii) If the need for a variance is the result of the existing structure's non-conformance with the requirements of this Chapter, the exceptional conditions of the lot requirement is deemed to be met.

(iii) If the alteration does not increase the 2-dimensional footprint of the building, the Council may deem the hardship requirements to be met if it finds that the additional height of the non-conforming structure will not adversely affect the adjoining properties.

(d) **Procedures for variance.**

(1) An application fee, an application, and accompanying maps, plans or other information shall be submitted to the Town. The Town Manager shall place the matter on the Council agenda and announce a public hearing thereon, which shall be held at a regular or special meeting of the Council.

(2) (i) **Standard Application.** The Council shall give written notice of such hearing to interested persons and owners of abutting and confronting properties, at least 15 days prior to the meeting at which such application is to be considered.

(ii) **Reasonable Accommodation.** If a variance is requested as a reasonable accommodation based upon a disability, as defined by Federal law, the Chair may administratively grant the variance, according to such regulations as may be adopted by the Council from time to time. At least 15 days prior to acting upon the request, the Council shall give written notice of such application to interested persons and owners of abutting and confronting properties. If prior to the expiration of the 15-day notice period, written objection to the variance request is filed with the Town Manager, or if a Council member so instructs the Town Manager, the variance application shall be scheduled for a public hearing and heard by the Council according to the provision of this Section and such regulations as may be adopted by the Council from time to time.

(3) Within 5 days after the filing of an application for a variance the applicant shall erect a sign, to be furnished by the Council, on the subject property within 10 feet of the boundary line of each public road which abuts the property facing in such manner as may most readily be seen by the public. The bottom of the sign shall be not less than 2.5 feet from the ground. The sign shall be of such material, color, height and width as the Council shall specify, and shall state the nature of the application, the date of the scheduled hearing, the case number and the telephone number of the Town Manager or other official in custody of the application. If a variance is requested as a reasonable accommodation, the sign shall also state that the variance request may be granted without a public hearing if no written objection is submitted in accordance with this section.

(4) At the hearing, any party may appear in person, by agent or by attorney.

(5) The decision by the Council shall be made within 60 days following the hearing, or within 60 days from the filing of the application, in the case of a reasonable accommodation request.

(6) In exercising its powers, the Council may grant a variance as requested by the applicant, grant a variance to permit an encroachment less than that requested by the applicant, or may deny the application. In addition, the Council may grant a variance or partial variance upon such terms and conditions as it deems appropriate.

(7) For the conduct of any hearing on an application for a variance, a quorum shall be not less than 3 members of the Council, and in all instances an affirmative vote of 3 members of the Council shall be required to grant any variance.

(8) The Council or its designee shall keep minutes of all variance hearings, showing the vote of each Council Member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of each application and all material submitted for the record of the hearing, all of which shall be a public record.

(e) It shall be unlawful to perform construction, or allow construction to be performed on one's property, that does not strictly conform to a variance granted by the Council.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015; Ord. No. 82, adopted November 20, 2019; Ord. No. 81, adopted December 18, 2019, effective December 18, 2019.)

Sec. 13-609. Montgomery County requirements.

Nothing in this Chapter shall be construed to relieve any person from the requirement of obtaining a building permit, special exception, or variance from the County as may be required by the County.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 13-610. Work involving the public right-of-way.

It shall be unlawful for any person or persons to perform any work in a public right-of-way without first obtaining Town approval.

Cross Reference: Sec. 13-303 (standards for curb cuts and driveway aprons)

(Ord. No. 72, adopted May 17, 2017, effective May 17, 2017.)

Sec. 13-611. Placement of warning lights on obstructions, excavations in public right-of-way.

It shall be unlawful for any person or persons to leave any obstruction or excavation on or in the public right-of-way, between ½ hour after sunset and ½ hour before sunrise without having sufficient warning lights placed in such a manner as to show the location and extent of such obstruction or excavation.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Sec. 13-612. Placement of wires on, over, or under a public right-of-way.

Any person or persons desiring to string, lay, hang, suspend or in any manner place wires of any kind on, over or under the public right-of-way within Chevy Chase View shall, when required by the Council, and in any event when the setting of poles is involved, be required to secure the approval of the Council, and such approval shall contain a provision for and be contingent on saving the Town harmless from loss or damage.

(Ord. No. 64, adopted February 25, 2015, effective February 25, 2015.)

Cross Reference: Title 7 (small wireless telecommunications facilities)

Title 7. Small Wireless Telecommunications Facilities

Sec. 13-700. Intent and Purpose.

It is the intent of the Town Council to promote the Town's public health, safety, and general welfare by providing regulatory requirements for the installation, operation, and maintenance of small wireless telecommunications facilities in the public rights-of-way. The purpose of this Title is to regulate the same to enhance vehicular and pedestrian safety and avoid interference with motorist and pedestrian sightlines; to minimize damage to trees; to reduce visual clutter and prevent unsightly or out-of-character deployments; to preserve the value of property and the character of the neighborhood; and to otherwise protect the health, safety, and general welfare of the town and its residents, and the public at large.

(Ord. No. 78, adopted February 20, 2019, effective February 20, 2019; Ord. No. 93, adopted January 18, 2023, effective February 17, 2023.)

Sec. 13-701. Definitions.

"Base Station" means a structure or equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term does not include a Tower or any equipment associated with a Tower.

"Colocate" means to install or mount a Small Wireless Facility in the public right-of-way on an existing Support Structure, an existing Tower, or on an existing Pole. *"Colocation"* has a corresponding meaning.

"Communications Facility" means, collectively, the equipment at a fixed location or locations within the public right-of-way that enables Wireless Services, including: (i) radio transceivers, antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and (ii) all other equipment associated with any of the foregoing. The term does not include the Pole, Tower, or Support Structure to which the equipment is attached.

“*Pole*” means a legally constructed pole, such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal or other material, located or to be located within a public right-of-way. The term does not include a Tower or Support Structure.

“*Small Wireless Facility*” means a Wireless Facility that meets all of the following conditions:

- (1) The structure on which antenna facilities are mounted (i) is fifty (50) feet or less in height, including existing antennas, or (ii) is no more than ten (10) percent taller than other adjacent structures, or (iii) is not extended to a height of more than fifty (50) feet or by more than ten (10) percent above its preexisting height, whichever is greater; and
- (2) Each antenna associated with the deployment, excluding the associated equipment but including any enclosure containing an antenna, is no more than three (3) cubic feet in volume; and
- (3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than twelve (12) cubic feet in volume; and
- (4) The facility does not require antenna structure registration under Federal law; and
- (5) The facility does not result in human exposure to radiofrequency radiation in excess of applicable safety standards under Federal law.

“*Support Structure*” means a structure in a public right-of-way other than a Tower, including a Pole, to which a Wireless Facility is attached, or proposed to be attached.

“*Tower*” means any structure in a public right-of-way, within or outside the boundaries of the Town, built for the sole or primary purpose of supporting a Wireless Facility. A Tower does not include a Pole or a Support Structure.

“*Wireless Facility*” means the equipment at a fixed location or locations in the public right-of-way that enables Wireless Services. A Small Wireless Facility is a type of a Wireless Facility. The term does not include the Pole, Tower, or Support Structure on, under, or within which the equipment is located or colocated, or the coaxial, fiber-optic, or other cabling between Communications Facilities or Poles, or that is otherwise not immediately adjacent to or directly associated with a particular antenna. As used in this Chapter, “Wireless Facility” and “Communications Facility” are synonymous.

“*Wireless Service Provider*” means a person who provides Wireless Services.

“*Wireless Services*” means any wireless services using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public.

(Ord. No. 78, adopted February 20, 2019, effective February 20, 2019; Ord. No. 93, adopted January 18, 2023, effective February 17, 2023.)

Sec. 13-702. Only Small Wireless Facilities Permitted.

Unless otherwise require by law, no wireless facility other than a Small Wireless Facility may be installed or operated in the public rights-of-way.

(Ord. No. 78, adopted February 20, 2019, effective February 20, 2019; Ord. No. 93, adopted January 18, 2023, effective February 17, 2023.)

Sec. 13-703. Permit and Access Agreement Required.

(a) No person shall construct, install, maintain, or perform any work in the public right-of-way related to a Communications Facility, Support Structure, or any Tower, without first receiving a Permit and paying any applicable fee, as required under this Title. No permit shall be issued until the applicant has entered into a Right-of-Way Access Agreement in a form approved by the Town, according to this Title. A permit shall not be required for ordinary maintenance and repair, as determined by the Town.

(b) The Right-of-Way Access Agreement shall set forth, at a minimum, the following: (a) the maximum term of the agreement and the bases for termination; (b) the scope of the authority; (c) the operator's maintenance obligations; (d) the operator's indemnification and insurance requirements; (e) emergency contacts and required response to emergencies related to facilities; and (f) the Town's right to access and inspect the operator's books and records and facilities located in the right-of-way.

(c) A Right-of-Way Access Agreement may be terminated by the Town as set forth in the access agreement, or, in the event this Title is amended or replaced and the Town determines, consistent with applicable law, that termination is necessary. In such event, a new permit and right-of-way access agreement shall be required according to the requirements of the amended or replaced chapter.

(Ord. No. 78, adopted February 20, 2019, effective February 20, 2019; Ord. No. 93, adopted January 18, 2023, effective February 17, 2023.)

Sec. 13-704. Permit Application Requirements.

(a) An application for a permit under this Title must contain or be submitted with the following:

(1) The applicant's name, address, telephone number, and e-mail address, including emergency contact information for the Applicant;

(2) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filing of the Application;

(3) A description of the proposed work and the purposes and intent of the proposed facility sufficient to demonstrate compliance with the provisions of this Title;

(4) If applicable, a copy of the authorization for use of the property from the Pole, Tower, or Support Structure owner on or in which the Communications Facility will be placed or attached;

(5) Detailed construction drawings regarding the proposed facility;

(6) A representation as to whether the applicant contends that the application is an eligible facilities request within the meaning of 47 CFR Section 1.6100(b)(3), as amended or replaced, and, if so, drawings and an engineer's certification establishing the accuracy of that contention;

(7) A structural report performed by a duly licensed engineer evidencing that the Pole, Tower or Support Structure can adequately support the Colocation (or that the Pole, Tower, or Support Structure will be modified to meet structural requirements) in accordance with applicable codes;

(8) A detailed deployment plan describing all Communications Facilities, Poles, Towers, or Support Structures planned to be used or installed by the applicant for twenty-four (24) months following the permit application anywhere in the Town, and a description of any completed deployments within the Town;

(9) A certification by a radiofrequency engineer that the Communications Facility will comply with the radiofrequency radiation emission standards adopted by the Federal Communications Commission;

(10) The applicable application fee, bond, Right-of-Way Access Agreement, and right-of-way access fee, as may be adopted and amended by resolution of the Town Council; and

(11) An affidavit attesting that notice of the application, including a description of the proposed work, has been sent by the applicant to all property owners on both sides of the street that are within three hundred (300) feet in each direction of the proposed Communications Facility.

(b) The Town may require the posting of a bond to guarantee the prompt and proper restoration of the public right-of-way. The bond may be in such amount as the Town Manager deems necessary, at the Town Manager's discretion to allow the prompt and proper restoration of the public right-of-way.

(c) In exchange for the privilege of non-exclusive use of the public right-of-way, the applicant shall pay the Town such access fee as may be established and amended by the Town by resolution from time to time.

(d) Any permit issued under this Title shall be valid for a period of twelve (12) months after issuance, and may be extended by the Town Manager for up to an additional twelve (12)

months upon written request of the applicant, prior to permit expiration, if the failure to complete construction is as a result of circumstances beyond the reasonable control of the applicant.

(e) No work may be performed except in strict accordance with applicable law and the Town permit and all approved plans and specifications.

(f) No permit shall be issued except to a Wireless Service Provider with immediate plans for use of the subject Communications Facility. A permit issued under this Title may not be assigned or transferred.

(Ord. No. 78, adopted February 20, 2019, effective February 20, 2019; Ord. No. 93, adopted January 18, 2023, effective February 17, 2023.)

Sec. 13-705. Standards for Deployment in the Public Right-of-Way.

(a) *No Interference with Right-of-Way.* No person shall locate or maintain a Communications Facility, Pole, Support Structure, or any Tower, so as to interfere with the use of the public right-of-way by the Town, the general public, or other persons authorized to use or be present in or upon the public right-of-way, or otherwise hinder the ability of the Town to improve, modify, relocate, abandon or vacate a public right-of-way or any portion thereof. Unless otherwise approved by the Town, any Communications Facility must be located no closer than: (i) two (2) feet from any curb, sidewalk, or other improvement within the right-of-way; and (ii) five (5) feet from any driveway apron, and be otherwise located to avoid interference with pedestrian and motorist sightlines and use.

(b) *Compliance with Design Standards; Unsightly or Out-of-Character Deployments; Noise Abatement.* Unless otherwise approved by the Town as required by applicable law to prevent an effective prohibition of service, no person shall locate or maintain a Communications Facility, Pole, or any Tower except in accordance with the following design standards:

1. All Communications Facilities shall be located and designed so as to minimize visual impact on surrounding properties and from public rights-of-way.

2. All radio transceivers, antennas, power supply (including backup battery), and comparable equipment installed on a Tower, Pole, or other Support Structure shall be installed at a height of at least fifteen (15) feet above ground level.

3. No Wireless Facility in the right-of-way may be located closer than five hundred (500) feet of another Wireless Facility in the right-of-way.

4. No more than five (5) antennas may be located on any single Tower, Pole, or Support Structure.

5. All coaxial, fiber-optic, or other cabling and wires shall be contained inside the Tower, Pole, or other Support Structure or shall be flush-mounted and covered with a metal, plastic

or similar material matching the color of the Tower, Pole, or other Support Structure on which it is installed.

6. Unless otherwise approved by the Town as required by law to prevent an effective prohibition of service, Communications Facilities shall be colocated. A Tower or other Support Structure shall be constructed in a manner that allows colocation.

7. All Communications Facilities shall be constructed in a manner to allow the public rights-of-way to be maintained in compliance with the Americans with Disabilities Act, as amended or replaced.

8. Fans or other elements of a Communication Facility that emit noise shall be accompanied by noise abatement measures as are appropriate to prevent noise disturbances

9. All Communications Facilities shall comply with such additional design standards as may be set forth in administrative regulations issued by the Town.

(c) *Protection of Trees.* Unless otherwise approved by the Town as required by applicable law to prevent an effective prohibition of service, no person shall locate or maintain a Communications Facility, Pole, Support Structure, or any Tower, so as to interfere with the health of a tree. Trees may not be pruned to accommodate a Communications Facility, Pole, Tower, or Support Structure, except as minimally reasonably necessary.

(d) *Location Underground.* [Reserved].

(e) *Eligible facilities request.* The Town shall approve any request for a modification of an eligible existing Tower or base station that does not substantially change the physical dimensions of such Tower or base station, in accordance with Federal law. Any such approval, whether through affirmative action by the Town or by operations of law, shall be subject to the conditions that (i) the proposed modification as built does in fact qualify as an eligible facilities request under 47 CFR Section 1.6100(b)(3), as amended or replaced, and (ii) the facility as modified complies with all applicable provisions of this Chapter.

(f) *Restoration of Public Right-of-Way.* The applicant shall restore, repair, and/or replace any portion of the public right-of-way that is damaged or disturbed by the applicant's work, to the satisfaction of the Town. Such restoration work shall be completed no later than thirty (30) days following completion of the project, or termination of the Right-of-Way Access Agreement, and shall be warranted by the applicant for a period of one (1) year to be free from defects in materials and workmanship. In the case of Pole replacement, the original Pole shall be removed by the owner of the Pole no later than one hundred eighty (180) days following the installation of the new Pole.

(g) *Removal, Relocation, and Abandonment.* Within thirty (30) days following written notice from the Town, or such other time as the Town may reasonably require, the Town may require the owner, at its own cost and expense, to protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of all or any part of its Communications

Facilities, Poles, Support Structures or Towers within the public right-of-way, and restore the right-of-way as required by the Town, whenever either: (i) the Right-of-Way Access Agreement have been terminated as provide in the Right-of Way Access Agreement or this Chapter; (ii) the Communications Facility has not been used for a period of ninety (90) days, or has otherwise been abandoned or not maintained, or (iii) the Town has reasonably determined that such action is necessary for the construction, installation, repair, or maintenance of any public improvement or otherwise necessary for the public health, safety, or welfare. If the owner fails to take action as required by this section, the Town or its contractor may do so and the owner shall be responsible for all costs and expenses incurred by the Town related to such work.

(h) *Annual Certification.* Each year on July 1, a Wireless Service Provider shall submit an affidavit to the Town that shall list, by location, all Small Wireless Facilities it owns within the Town, and shall certify: (1) each such installation remains in use; (2) such in-use facility remains covered by required insurance; and (3) each such installation which is no longer in use.

(Ord. No. 78, adopted February 20, 2019, effective February 20, 2019; Ord. No. 93, adopted January 18, 2023, effective February 17, 2023.)

Sec. 13-706. Variances.

In addition to any other powers it may have, the Council shall have the power to grant a variance from the requirements of this Title upon application by an interested person. No variance may be granted unless the Council finds, on the basis of the evidence of the record at a public hearing that strict compliance would effectively prohibit the provision of service, and the variance is the minimum reasonably necessary to overcome the aforesaid prohibition and allow service. At least ten (10) calendar days prior to the public hearing, the Town shall provide written notification to all adjoining and confronting property owners and to all Council members, provided, however, that this posting requirement may be altered in order to comply with applicable Federal time limits. The effective date of any decision shall be the date the Town Council issues its written decision. The Town Council may impose, in granting a variance, such conditions as it deems in the public interest and necessary to effectuate the purposes of this Title.

(Ord. No. 93, adopted January 18, 2023, effective February 17, 2023.)

Un-codified Ordinances:

Resolution 1-81, adopted by the Council of Chevy Chase View on December 29, 1981, provided that "...there shall be imposed a penalty of 1% per month or any fraction of a month on the payment of all ordinary taxes which are overdue and in arrears. The penalty rate hereby established shall for all subsequent levies of all levy years apply to all ordinary taxes and charges collectable in the same manner as ordinary taxes, which are overdue and in arrears on or after October 1, 1982." This Resolution was passed with the same penalty provision as applies to ordinary taxes collected for the benefit of Montgomery County.