

Town of Chevy Chase
Ordinance to Amend the Building Regulations

Resolution No.: 11-03
Introduced: September 14, 2011
Adopted: November 9, 2011
Effective Date: December 9, 2011

WHEREAS, Article 23A, Section 2(a) of the Maryland Code, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to pass ordinances that such legislative body deems necessary to assure the good government of the municipality, to protect and preserve the municipality's rights, property and privileges, to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort and convenience of the citizens of the municipality; and

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

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

WHEREAS, Section 301 of the Town of Chevy Chase Charter authorizes the Town Council to pass ordinances as it may deem necessary for the good government of the Town; for the protection and preservation of the Town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger and destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare and happiness of the resident(s) of the Town; and for such other police and health matters as it may deem necessary; and

WHEREAS, the Land Use Committee held public meetings and submitted a report to the Council recommending several amendments to Chapter 4 of the Town Code; and

WHEREAS, the Town Council introduced the following Ordinance in an open meeting conducted on the 14th day of September, 2011; and

WHEREAS, to comply with Article 28, Section 8-115.1 of the Maryland Code, on the 12th day of September, 2011, a copy of the following Ordinance was submitted to the Montgomery County Council for its comments; and

WHEREAS, on the 23rd day of September, 2011, Montgomery County Council President Valerie Ervin provided comments indicating that she was pleased to see that the Ordinance is, in part, similar with a provision in the County Zoning Ordinance that excludes accessibility improvements from setback and lot coverage limitations if the size of the accessibility improvement does not exceed the minimum design specifications in the Maryland Accessibility Code and the Montgomery County Building Code; and

WHEREAS, after proper notice to the public, and after at least thirty days from the date a copy of the following Ordinance was transmitted to the Montgomery County Council, the Town Council conducted a public hearing at which it considered the following ordinance in public session assembled on the 12th day of October, 2011; and

WHEREAS, upon consideration of the report and recommendation of the Land Use Committee and the record of the public hearing, the Town Council finds that portions of Chapter 4 should be clarified or amended, certain definitions should be added, and certain new regulations should be added; and

WHEREAS, the Town Council finds that the Ordinance as hereinafter set forth is necessary for the good government of the Town; for the protection and preservation of the Town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger and destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare and happiness of the residents of the Town.

NOW THEREFORE, the Town Council of the Town of Chevy Chase does hereby adopt the following ordinance:

AN ORDINANCE TO AMEND CHAPTER 4 OF THE TOWN OF CHEVY CHASE MUNICIPAL CODE TO ADD DEFINITIONS; CLARIFY EXISTING PROVISIONS; AND ADD REQUIREMENTS PERTAINING TO BERMS, WHEELCHAIR LIFTS AND RAMPS, AND SAFETY RAILS.

SECTION 1. BE IT ORDAINED AND ORDERED, this 12th day of October, 2011, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the authority granted to it by Articles 23A and 28 of the Maryland Code and Section 301 of the Town Charter, that Chapter 4 of the Town Code is hereby amended to read as follows:

* * *

Sec. 4-1. Definitions.

- (a) In this chapter, the following terms shall have the meanings indicated.
- (b) Terms defined.

* * *

Access ramp: A ramp necessary to facilitate reasonable access to a building by a disabled person.

* * *

Berm: A mound or bank of earth or gravel measuring one (1) foot or more in height.

* * *

Fence: A construction measuring one (1) foot or more in height, made of posts or stakes joined together by boards, wire, rails, or other material to enclose or divide an area.

* * *

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.

* * *

Retaining Wall: A structure containing any nonvegetative materials to stabilize or retain soil.

* * *

Wall: An upright construction measuring one (1) foot or more in height, made of masonry, wood, or other material to enclose or divide an area.

* * *

Wheelchair lift: A lift necessary to facilitate reasonable access to a building by a disabled person.

* * *

(Res. No. 06-10, 7-12-06; Res. No. 07-01, 1-10-07; Ord. No. 07-05, § 1, 9-11-07; Res. No. 08-01, § 1, 4-16-08, eff. 5-17-08; Res. No. 09-12, § 1, 3-10-10, eff. 4-10-10; Res. No. 10-06, 11-10-10, eff. 12-11-10; **Res. No. 00-00, 00-00-00, eff. 00-00-00**).

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:

- (1) Erect any building;
- (2) Make any material structural alterations or additions to a building;
- (3) Demolish any building (in whole or in part);
- (4) Erect any fence, wall, **berm**, or front-yard hedge;
- (5) Install any pool, outdoor therapeutic bath, tennis court, or driveway;
- (6) Disrupt any town right-of-way, including, but not limited to, streets, sidewalks, curbs, gutters and grassy areas;
- (7) Place any dumpster or portable storage unit on public or private property;
- (8) [Erect or install any structure, tree, earth berm, hedge, shrubbery, or other plant growth along any sidewalk, street, or alley] **Construct an access ramp or wheelchair lift**;
or
- (9) Install any overhead or underground wires, cables, hoses, pipes, and similar facilities on public property devoted to private use.

* * *

(c) Requirement for a site management meeting prior to issuing a building permit [application] for certain work.
* * *

(d) Application requirements:

(1) All applications for building permits shall be made to the town manager, and shall:

a. State a date by which the building, alteration, and/or construction project shall be finished; and

b. Be accompanied by plans and specifications of the work contemplated.

(2) The town manager shall retain and file a copy of the application.

(3) The plans and specifications for new construction shall be accompanied by a survey and a plat of the lot with the location of all existing structures and a plan of all proposed structures indicated thereon.

a. The plat required by this subsection (3) shall be prepared by a licensed Maryland surveyor, prepared to scale, showing the location of all currently

existing improvements. The plat shall be accompanied by the property owner's certification that the plat accurately represents the current condition of the property with respect to the existence and location of all structures that are located on the property. The proposed construction shall be overlayed on the plat clearly and accurately showing the distances to the front, rear and side lot lines. A plat or survey must be of sufficient accuracy for the town manager to determine if any existing or proposed improvements encroach or may encroach into any required setback. If the proposed structure is to be located within one (1) foot of a setback line, a boundary survey, with accompanying plat, showing the distances of all existing structures from all boundaries with a margin of error of one (1) inch or less, is required. The location of a proposed structure must be determined by measuring from the boundary line to the proposed structure. **The boundary survey requirement may be waived by the town for a covering over a front door provided: (i) a house location survey or other plat, with a margin of error of two (2) feet or less, is provided and shows that the front of the main structure is currently set back at least twenty-five (25) feet from the front property line and (ii) the covering does not exceed thirty (30) inches in depth and four (4) feet in width.**

* * *

(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; Res. No. 10-06, 11-10-10, eff. 12-11-10; **Res. No. 00-00, 00-00-00, eff. 00-00-00**).

Note: Formerly § 4-3.

* * *

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

* * *

(b) Side setback.

(1) *Generally.* No main building, or any part or projection thereof, may be erected or located nearer to a side lot line than the following setbacks:

a. Sum of both sides, the greater of

1. Thirty (30) percent of the width of the lot as measured at the established building line, or if there is no established building line, measured twenty-five (25) feet from the front lot line, or

2. Sixteen (16) feet,

b. One side, the greater of

1. Eight (8) feet, or

2. Forty (40) percent of the total side setbacks as required in subsection 1 of this paragraph.

(2) *Buildings in existence as of February 22, 2006.*

a. An addition may be constructed to a main building that is less than seven (7) feet from a side lot line [may be altered or enlarged] **without regard to the existing side setback for the sum of both sides of the main building, provided the addition independently complies with the required side setbacks** [only if the new construction complies with the general side setbacks set forth in subsection (b)(1)].

b. An addition may be constructed to a main building that is seven (7) feet or more from a side lot line [may be altered or enlarged] **without regard to the existing side setback for the sum of both sides of the main building, provided** [if]:

1. The [new construction] **addition** is no closer to the side lot line than the wall of the existing **main** building **on the non-conforming side**;

2. The sum of the side setbacks equals or exceeds thirty (30) percent of the width of the lot **measured** at the location of the [new construction] **addition** or sixteen (16) feet, whichever is greater; and

3. At least seventy (70) percent of the area of exterior walls in existence as of February 22, 2006 is retained (including only that area which is entirely above grade).

* * *

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

(1) *Steps, stoops, decks, terraces and porches.*

a. Open and uncovered steps, stoops, decks, terraces and porches may extend not more than nine (9) feet into any minimum front or rear setback.

b. On a corner lot having a minimum [side] **front** yard twenty-five (25) feet or more in width, open and uncovered steps, stoops, decks, terraces and porches may extend not more than nine (9) feet into any minimum [side] **front** setback. There may not be any encroachment into any minimum [side] **front** setback of a corner lot when such yard is less than twenty-five (25) feet in width.

* * *

(3) *Cornices, eaves, outside stairways, chimneys, air conditioners, and heat pumps.*

* * *

f. Air conditioners and heat pumps may project not more than five (5) feet into any minimum front or rear setback. Additional projection may be permitted for the purpose of adding noise abatement devices. **Non-conforming** [A]air conditioners or heat pumps [existing within] **projecting into** any minimum side [yard] **setback** prior to July 27, 1982 [, shall not be considered a nonconforming use, and] may be [continued] **maintained, altered, repaired,** and replaced, **provided that they may not encroach into the side setback beyond the encroachment that existed on July 27, 1982, except in accordance with this chapter.**

(4) Access ramps and wheelchair lifts. An open and uncovered access ramp or wheelchair lift may project into any minimum front, side, or rear setback provided the following conditions are met:

(a) The access ramp or wheelchair lift cannot reasonably be constructed without projecting into the required setback;

(b) The access ramp or wheelchair lift projects into the required setback the minimum distance reasonably necessary to provide a person a reasonable accommodation; and

(c) The access ramp or wheelchair lift has the minimum dimensions reasonably necessary to comply with all applicable provisions of the Americans with Disabilities Act, as amended.

* * *

(Res. No. 06-10, 7-12-06; Res. No. 09-12, § 1, 3-10-10, eff. 4-10-10; Res. No. 10-06, 11-10-10, eff. 12-11-10; **Res. No. 00-00, 00-00-00, eff. 00-00-00**).

Sec. 4-6. Front-loading garages.

(a) The door of a front-loading garage shall not exceed nine (9) feet in width.

(b) There shall be not more than one (1) door for a front-loading garage per main building.

(c) A front-loading garage shall be set back or set forward by a minimum of three (3) feet from [the] **all** adjoining front wall planes of the main building. If an adjoining wall plane is not at least three (3) feet in width, the set back shall be measured from the depth of the nearest wall plane measuring at least three (3) feet in width. **For purposes of this section, the wall planes to be considered include the wall planes to each side of the front-loading garage, between the grade elevation on the exterior wall and the roofline.**

(Ord. No. 10-06, § 1, 11-10-10, eff. 12-11-10; **Res. No. 00-00, 00-00-00, eff. 00-00-00**).

* * *

Sec. 4-9. Driveways.

(b) The town manager shall grant a permit to construct or expand a driveway only if the proposed driveway would comply with all laws, rules, regulations, and ordinances, and would not interfere with the public health, safety, or welfare. In determining whether the driveway would interfere with the public health, safety, or welfare, the town manager shall consider the following:

- (1) Location of street trees;
- (2) Location of fences, walls, hedges, [earth] berms, and shrubbery or other plant growth;

* * *

(Ord. No. 10-06, § 1, 11-10-10, eff. 12-11-10; **Res. No. 00-00, 00-00-00, eff. 00-00-00**).

* * *

Sec. 4-13. Penalties.

* * *

(d) Any person who violates this chapter or directs or allows another to commit an act that would violate this chapter, the person's employer if the person acted in the course of the person's employment, and any property owner who allows a violation of this chapter on such owner's property or in the public right-of-way abutting such owner's property shall be guilty of a violation and shall be jointly and severally subject to the penalties provided in subsections (a) through (c) above. In any prosecution charging a violation of any provision of this chapter, proof that the particular building, fence, wall, [earth] berm, tree, hedge or other growth was placed or erected at the point where and during the time when the alleged violation occurred shall create a rebuttable presumption that such placement or erection was done or authorized by the property owner, or the owner's agent at the direction of the owner.

(Res. No. 06-10, 7-12-06; Ord. No. 10-06, § 1, 11-10-10, eff. 12-11-10; **Res. No. 00-00, 00-00-00, eff. 00-00-00**).

* * *

Sec. 4-46. 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 location, size and features of fences, walls, [earth] berms, trees, hedges, shrubbery or other plant growth. Frequently, the location, height and design of fences, walls, [earth] berms, trees, hedges, shrubbery or other plant growth in close proximity to the public right-of-way results in the obstruction of parked and moving vehicles and causes injury to pedestrians and vehicles. The purpose of this article is to regulate all fences, walls, [earth] berms, trees, hedges, shrubbery or other plant growth so as to alleviate, to the extent possible, the aforementioned conditions and to preserve the value of property, to assure the continued attractiveness of the town and to protect the public health, safety and welfare.

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

* * *

Sec. 4-47. Removal of structures, fences, walls, wires, cables, hoses, pipes, and similar facilities, trees, [earth] berms, hedges, shrubbery and other plant growth in violation.

The town manager or designee shall order the removal of any structure, fence, wall, wire, cable, hose, pipe, and similar facility, [earth] berm, tree, hedge, shrubbery and other plant growth erected or maintained in violation of this article. Ten (10) days' notice in writing shall be given to the owner of such structure, fence, wall, wire, cable, hose, pipe, and similar facility, [earth] berm, tree, hedge, shrubbery, and other plant growth to remove the same or to bring it into compliance with this article. Upon failure to remove it or to comply with the notice, the town shall remove the structure, fence, wall, wire, cable, hose, pipe, and similar facility, [earth] berm, tree, hedge, shrubbery, and other plant growth. The town may remove the same immediately and without notice if it reasonably appears that the condition of the structure, fence, wall, wire, cable, hose, pipe, and similar facility, [earth] berm, tree, hedge, shrubbery, and other plant growth is such as to present an immediate threat to the safety of the public. Any cost of removal incurred by the town shall be assessed against the owner of the property on which such structure, fence, wall, wire, cable, hose, pipe, and similar facility, [earth] berm, tree, hedge, shrubbery, and other plant growth is located and may be collected in the manner of an ordinary debt in the manner of taxes and such charge shall be a lien on the property.

(Res. No. 86-006, § 7, 10-8-86; Ord. No. 90-004, 4-5-90; Ord. No. 10-06, § 1, 11-10-10, eff. 12-11-10; **Res. No. 00-00, 00-00-00, eff. 00-00-00**).

Sec. 4-48. Permit application.

All applications for a permit to construct or plant a fence, wall, [earth] 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, wall, [earth] 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. 00-00, 00-00-00, eff. 00-00-00**).

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

* * *

(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, wires, cables, hoses, pipes, and similar facilities, [earth] berm, 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. 00-00, 00-00-00, eff. 00-00-00**).

* * *

Sec. 4-51. Structures, walls, fences, [earth] berms, trees, hedges, shrubbery and other plant growth, on public property that are devoted to private use.

(a) No structure, wall, fence, tree, hedge, shrubbery or any plant growth, except grass, ground cover, flowers, and similar plantings, shall be placed on public property devoted to private use.

(b) Structures, walls, fences, [earth] berms, trees, hedges, shrubbery and other plant growth that are located on public property devoted to private use on July 13, 2007, may be maintained, altered, repaired, but not enlarged or replaced, provided that they do not:

* * *

(Res. No. 86-006, § 3, 10-8-86; Ord. No. 90-004, 4-5-90; Res. No. 07-04, § 1, 6-13-07; Ord. No. 10-06, § 1, 11-10-10, eff. 12-11-10; **Res. No. 00-00, 00-00-00, eff. 00-00-00**).

Sec. 4-52. Structures, walls, fences, [earth] berms, trees, hedges, shrubbery and other plant growth on private property.

(a) [Trees and shrubbery or any other forms of plant growth, located on private property shall be set back at least two (2) feet from the public right-of-way.] **The property owner and the property occupant shall maintain walls, fences, 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 section;**
- (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.**

(b) [Structures, walls, fences, earth berms, trees, hedges, shrubbery and other plant growth located on private property shall not be permitted to extend into sidewalks, streets, or alleys so as to interfere in any manner with the pedestrian or vehicular traffic on such sidewalks, streets, or alleys.] **Front yard walls. No wall that is one (1) foot in height or higher may be constructed in a front yard. A wall that is less than one (1) foot in height may be constructed in a front yard provided that it is set back at least two (2) feet from the nearest public improvement within the public right-of-way. In the event a wall is located within thirty (30) inches of another wall, as may be the case in terracing, the walls shall be considered one (1) wall and the height of the wall shall be measured cumulatively. Height is measured in accordance with subsection (f) below.**

(c) [All structures, walls, fences, earth berms, trees, hedges, shrubbery and other plant growth on private property at any intersection shall be maintained by the landowner or occupant in such a manner and at such height that a clear and unobstructed view is available to approaching traffic, both pedestrian and vehicular. The town manager shall determine whether there is compliance with the provisions of this section.] **Front yard fences and berms. No fence or berm may be constructed in a front yard.**

(d) [No person shall erect, plant or maintain any wall, fence, earth berm, or hedge measuring more than six (6) feet, six (6) inches in height in any side or rear yard. The measurement of the height shall be made from the surface of the ground next to the wall, fence, earth berm, or hedge, and where the yards on the two (2) sides of a retaining wall differ, the measurement shall be made from the surface of the lower yard, provided, however, that with the written consent of the adjoining owner, a wall, fence, earth berm, or hedge of a height greater than six (6) feet, six (6) inches may be erected or permitted with the approval of the town council pursuant to the variance procedures set forth herein.] **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) 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) 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.

(e) [No fence, wall, earth berm or hedge will be permitted to extend into the front yard.] **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) below.**

(f) [Notwithstanding subsection (e) above, a wall that is less than one (1) foot in height shall be permitted to extend into the front yard provided that it is set back at least two (2) feet from all public improvements such as sidewalks, paved streets, and curbs. The measurement of the height of a wall shall be made from the surface of the ground next to the wall, and where the yards on the two (2) sides of the wall differ, the measurement shall be made from the surface of the lower yard. In the event a wall is located within thirty (30) inches of another wall, as may be the case in terracing, the walls shall be considered one (1) wall and the height of the wall shall be measured cumulatively.] **The measurement of the height of walls, fences, 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.**

[(i) Front yard hedges.

(1) Notwithstanding the provisions of subsection (e) above, the town manager, in accordance with the provisions set forth below, may permit the following hedges (any dense row of shrubs, trees or other plant material), to be planted in the front yard, that is, beyond the house line running along the front of the house and extending to the side lot lines:

a. Hedges not exceeding a maximum of six (6) feet in height, at any time, may be permitted in the front yards along Bradley Lane, East-West Highway and Connecticut Avenue;

b. Hedges not exceeding a maximum of three (3) feet in height, at any time, may be permitted in the front yards of all other lots.

(2) Any person interested in planting a front yard hedge must obtain a permit from the town manager, prior to planting. All approved hedges must be planted so that hedge plants at all times are at least two (2) feet from any existing sidewalk and if there is no sidewalk, at least (5) feet from the curb. No hedge approved by the town manager shall be permitted to extend into sidewalks, streets, or alleys so as to interfere in any manner with pedestrian or vehicle traffic on such sidewalks, streets, or alleys.

(3) It shall be the obligation of the property owner and the property occupant to maintain the approved hedge so that the hedge, at no time, exceeds the maximum permitted height described in (2) above, as measured in accordance with the provisions of (d) above, and at no time is closer to the applicable curb or sidewalk as provided in (2) above.

(4) It shall be the obligation of the property owner and the property occupant to maintain the approved hedge so that the hedge: (a) does not result in the obstruction of parked and/or moving vehicles; (b) will not cause injury to pedestrians and/or vehicles; (c) will not adversely affect the continued attractiveness of the town; and (d) will not otherwise affect the public health, safety and welfare.

(5) The town manager may approve the application for a front yard hedge subject to such other conditions as deemed appropriate by the town manager.

(6) The town council may revoke the approval for any front yard hedge where the town council, following a public hearing, determines (i) the provisions of this section or the conditions of approval have been violated; or (ii) the hedge must be removed to accommodate a public improvement. Notice of such revocation of approval shall be in writing and mailed to the town resident. Within ten (10) days of the mailing of such written notice, the town resident 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 borne by the town resident as provided for in section 4-47.]

(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. 09-12, § 1, 3-10-10, eff. 4-10-10; Res. No. 10-06, 11-10-10, eff. 12-11-10; **Res. No. 00-00, 00-00-00, eff. 00-00-00**).

Sec. 4-53. Nonconforming fences, walls, [earth] berms, trees, hedges, shrubbery and other plant growth on private property.

(a) Fences, walls, trees, [earth] berm, 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, [earth] berm, trees, hedges shrubbery and other plant growth on private property which are relocated, altered, or replaced shall comply with all provisions of this article.

* * *

(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. 00-00, 00-00-00, eff. 00-00-00**).

* * *

SECTION 2. AND BE IT FURTHER ORDAINED AND ORDERED, this 12th day of October, 2011, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the authority granted to it by Articles 23A and 28 of the Maryland Code and Section 301 of the Town Charter, that:

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

(2) This Ordinance shall take effect on the ____ day of _____, 2011.

ATTEST:

TOWN OF CHEVY CHASE

Albert Lang, Secretary

David Lublin, Mayor
Town of Chevy Chase

Bold and Underline indicates new material

[brackets] indicates material deleted

* * * indicates material unchanged