

**Town of Chevy Chase
Building Regulation Ordinance**

Ordinance No.: 20-05
Introduced: March 12, 2020
Adopted:
Effective Date:

AN ORDINANCE TO AMEND CHAPTER 4 OF THE TOWN OF CHEVY CHASE MUNICIPAL CODE TO CLARIFY THE EXEMPTIONS FROM THE REQUIRED SIDE SETBACKS FOR CERTAIN NON-CONFORMING BUILDINGS; TO AMEND THE EXEMPTION FROM REQUIRED SETBACKS FOR ROOFS AND TO CORRECT TYPOGRAPHICAL ERRORS AND OTHERWISE CLARIFY THE CODE

WHEREAS, Maryland Code, Local Government Article, Section 5-202, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to pass ordinances that such legislative body deems necessary to assure the good government of the municipality, to protect and preserve the municipality's rights, property and privileges, to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort, and convenience of the citizens of the municipality;

WHEREAS, Maryland Code, Local Government Article, Section 5-211, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to make reasonable regulations concerning buildings to be erected within the limits of the municipality, including a building code and the requirement for building permits;

WHEREAS, Maryland Code, Land Use Article, Section 20-509 grants to the legislative body of incorporated municipalities in the Maryland-Washington Regional District general power to adopt building regulations for the protection of the public health, safety, and welfare; the preservation, improvement, and protection of lands, water, and improvements in the municipal corporation; and to regulate the construction, repair, or remodeling of buildings on land zoned for single-family residential uses at it relates to fences, walls, hedges, and similar barriers; signs; residential parking; residential storage; the location of structures, including setback requirements; the dimensions of structures, including height, bulk, massing, and design; and lot coverage, including impervious surfaces;

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

WHEREAS, after proper notice to the public, the Town Council introduced the following Ordinance in an open meeting conducted on the 12th day of March, 2020;

WHEREAS, to comply with Maryland Code, Land Use Article, Section 20-509, on the 13th day of March, 2020, a copy of following Ordinance was submitted to the Montgomery County Council for its comments;

WHEREAS, the Montgomery County Council provided no comments;

WHEREAS, after proper notice to the public, and after at least thirty days from the date a copy of the following Ordinance was transmitted to the Montgomery County Council, the Town Council considered the following Ordinance in public session assembled on the __ day of _____, 2020;

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

THEREFORE, BE IT ORDAINED AND ORDERED, this __ day of _____, 2020, by virtue of the authority given to it by the Maryland Code and the Town of Chevy Chase Charter, the Town Council of the Town of Chevy Chase does hereby adopt the following ordinance.

SECTION 1. BE IT ORDAINED AND ORDERED, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the aforementioned authority, that Chapter 4 of the Town Code is hereby amended to read as follows:

* * *

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

(a) *Front setback.*

* * *

(4) *Additions to existing main buildings, corner lots:* For corner lots, any and all lot lines bordering upon a street shall be considered a front lot line. No additions to existing main buildings, or any part or projection thereof, may be erected or located nearer to any front lot line than:

a. the front building ~~time~~ line of the existing main building; or

* * *

(b) *Side setback.*

(1) *New main buildings, interior lots:* No new 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,~~ **Total side setback,** 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 a. of this paragraph.

(2) *Additions to existing main buildings, interior lots:* For additions to existing main buildings, no part or projection thereof may be erected or located nearer to a side lot line than the following setbacks.

a. ~~Sum of both sides,~~ **Total side setback,** the greater of:

1. Thirty (30) percent of the width of the lot as measured at either:
 - a. The established building line, if the established building line is being used to determine the front setback for the addition, or
 - b. 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 a. of this paragraph.

c. *Conforming Main Buildings:* For an addition to an existing main building that conforms to the required side setbacks, the setback for each side is measured from the wall of the main building or the proposed addition, whichever is closest to each side property line.

d. *Nonconforming Main Buildings:* ~~Exceptions for additions to buildings on interior lots in existence as of February 22, 2006.~~

1. An addition may be constructed to a **nonconforming** main building that is less than seven (7) feet from a side lot line **on both sides** ~~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.

For the purposes of this subsection, the side setback for each side is measured from the wall of any addition constructed after May 15, 2020 or the proposed addition, whichever is closest to each side property line. The setbacks are not measured from any wall constructed before May 15, 2020.

2. An addition may be constructed to a **nonconforming** main building that is seven (7) feet or more from a side lot line **on at least one side** ~~without regard to the existing side setback for the sum of both sides of the main building,~~ provided:

a. **i.** The addition is no closer to the side lot line than the wall of the existing main building on ~~the~~ **one** non-conforming side **that is seven (7) feet or more from a side lot line;**

b. **ii.** ~~The sum of the side setbacks equals or exceeds thirty (30) percent of the width of the lot measured at the location of the addition or sixteen (16) feet, whichever is greater~~ **total side setback of the addition meets the requirements of 4-4(b)(2)a. For the purposes of this subsection, the side setback for each side is measured from the wall of any addition constructed after May 15, 2020 or the proposed addition, whichever is closest to each side property line. The side setbacks are not measured from any wall constructed before May 15, 2020;** and

e. **iii.** At least seventy (70) percent of the **above grade** area of exterior walls in existence as of February 22, 2006 is retained (including only that area which is entirely above grade). **For additions that do not qualify for this exception because more than thirty (30) percent of the above grade area of exterior walls are proposed for removal, the addition must independently comply with the required side setbacks. For purposes of this subsection, the side setback for each side is measured from the wall of any addition constructed after May 15, 2020 or the proposed addition, whichever is closest to each side property line. The setbacks are not measured from any wall constructed before May 15, 2020.**

~~d.~~ **e.** In the case of a building described in subsection e. **4-4(b)(2)d.** above, for any construction that is permitted to encroach into the building setback pursuant to subsection (d), the required setback shall be calculated in accordance with subsection (b)(2) above.

* * *

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

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

a. *Front or rear setback, unenclosed.* Unenclosed and uncovered steps, stoops, decks, terraces, porches may extend not more than nine (9) feet into any required front or rear setback, provided, however, there may not be any encroachment into any required front setback of a corner lot when the required front setback is less than twenty-five (25) feet.

b. *Rear setback, roofs.* Steps, stoops, decks, terraces, and porches which extend into the required rear setback may be roofed but not enclosed; provided, that the roofing extends not more than three (3) feet into the required rear setback.

c. *Front setback, roofs.*

(i) Steps, stoops, decks, terraces, and porches, which extend into the required front setback may be roofed but not enclosed; provided;

1. that the roofing may extend not extends no more than three (3) feet into the required front setback, **and-**

2. the roofing may not encroach into any required front setback of a corner lot when the required front setback is less than twenty-five (25) feet.

(ii) Exception for main buildings existing as of April 9, 2018: For additions to main buildings existing as of *April 9, 2018*, unenclosed steps, stoops, decks, terraces, and porches which extend into the required front setback may be roofed; provided, that the roofing may extend not more than nine (9) feet beyond the established building line or twenty-five (25) feet from the front lot line, whichever is greater, provided:

1. The bottom of the eave of the roof is lower than the top of the first story ceiling joists, and

2. The porch roof is set back a minimum of thirteen (13) feet from each side lot line.

d. *Side setback.* Unenclosed steps, stoops, decks, terraces, and porches and their roofing may extend not more than three (3) feet into any required side setback, provided such extension remains a ~~required~~ of five (5) feet from the vertical plane of the side lot line.

* * *

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

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

(2) This ordinance shall take effect on the ___ day of _____, 2020 (30 days after adoption).

ATTEST:

TOWN OF CHEVY CHASE

Ellen Cornelius Ericson, Secretary

Cecily Baskir, Mayor
Town of Chevy Chase

Bold and Underline indicates new material

~~Strike through~~ indicates material deleted

* * * indicates material unchanged