

**Town of Chevy Chase
(Pesticides)**

Ordinance No.:
Introduced: September 9, 2021
Adopted:
Effective Date:

Subject: AN ORDINANCE TO MAKE COUNTY CODE CHAPTER 33B, CONCERNING PESTICIDES, APPLICABLE IN THE TOWN OF CHEVY CHASE, AND TO CLARIFY THE CODE CONCERNING THE APPLICABILITY OF OTHER CHAPTERS OF THE COUNTY CODE

WHEREAS, Maryland Code, Local Government Article, Section 5-202, as amended, grants to the legislative body of every incorporated municipality in Maryland general power to pass such ordinances not contrary to the Constitution of Maryland, or the public general law, as deemed necessary in order 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, Local Government Article, Section 4-111 of the Maryland Code authorizes a municipal corporation within the State, by charter amendment or ordinance, to determine what county legislation is applicable within the boundaries of the municipal corporation;

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 and for the protection and promotion of the health, safety, comfort, convenience, and welfare of the residents of the Town; and for such other police and health matters as it may deem necessary; and

WHEREAS, Montgomery County, Maryland adopted 2015 L.M.C., ch. 46 (Bill 52-14) to minimize the potential pesticide hazard to people and the environment, consistent with the public interest in the benefits derived from the safe use and application of pesticides, among other purposes, and although enforcement of the law was enjoined as preempted by, and in conflict with, State pesticide law in *Complete Lawn Care, Inc., et al. v. Montgomery County, Md.* (Cir. Ct. Mont. Cnty. Aug. 3, 2017; Nos. 427200V & 427253V), the law was been upheld by the Court of Special Appeals, on appeal, 240 Md.App. 664 (2019);

WHEREAS, after proper notice to the public, the Town Council introduced the following Ordinance in public session assembled on the 9th day of September, 2021; and

WHEREAS, after proper notice to the public, the Town Council considered the following Ordinance in public session assembled on the ____ day of _____, 2021; and

WHEREAS, after receiving a recommendation from the Town Climate & Environment Committee and upon consideration of the testimony and evidence presented at the public hearing, the Town Council finds that the ordinance as hereinafter set forth is necessary for the good government of the Town and for the protection and promotion of the health, safety, comfort, convenience, and welfare of the residents of the Town.

NOW, THEREFORE, the Town Council does hereby adopt the foregoing Ordinance.

SECTION 1. BE IT ORDAINED AND ORDERED, this ____ day of _____, 2021, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the aforementioned authority, that the Code of Ordinances is hereby amended as follows:

* * *

Sec. 1-7. - Applicability of county legislation within town.

(a) Except as provided in this section, the town council exempts the town from all legislation heretofore or hereafter enacted by the county, relating to any subject upon which the town council has heretofore or is hereafter granted legislative authority either by public general law or by the town charter.

(b) Subsection (a) of this section does not repeal or prohibit any town ordinance that specifically adopts or incorporates by reference any county legislation, and such county legislation adopted or incorporated as of the adoption of this section or incorporated by references into this Code in the future shall have full force and effect to the extent provided in the town ordinance adopting or incorporating the same.

(c) The following chapters of the Montgomery County Code, 1984, or portions thereof, enacted by the county, ~~as they now exist~~, are exceptions to the general exemption set forth in subsection (a) of this section and shall be applicable within the town until such time as the town council shall exempt the town from their application:

* * *

(32) Chapter 32, entitled "Offenses—Miscellaneous."

(33) Chapter 33A, entitled "Planning Procedures."

(34) Chapter 33B, entitled "Pesticides."

~~(34)~~**(35)** Chapter 34, entitled "Plumbing and Gas Fitting."

* * *

(Note: subsequent subparagraphs are renumbered accordingly).

(d) Any amendment to the provisions and chapters specified in subsection (c) of this section or the enactment of new chapters to the Montgomery County Code after June 11, 1988 **concerning the same subject matter**, shall be applicable within the corporate boundaries of the town until the town council adopts an ordinance which exempts such amendment or new chapter within the corporate boundaries of the town.

(e) The county is requested to enforce the chapters described in subsection (c) of this section within the town as county laws to the same extent and in the same manner that such county laws are enforced in unincorporated areas of the county.

* * *

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 upon adoption, this ____ day of _____, 2021.

ATTEST:

TOWN OF CHEVY CHASE

Joel Rubin, Secretary

Barney Rush, Mayor

Bold and Underline indicates new material

~~Strikethrough~~ indicates material deleted

* * * indicates material unchanged