

TOWN OF CHEVY CHASE
COUNCIL MEETING
June 10, 2020, 7 p.m.

- I. GENERAL BUSINESS (7:00-7:45 p.m.)
 - A. Call to Order
 - B. Approval of Meeting Minutes
 - C. Acceptance of May 2020 Financial Report
 - D. [Town Manager's Report](#)
 - E. Public Comments

- II. PUBLIC HEARINGS (7:45-8:00 p.m.)
 - A. [Public Hearing on an Ordinance to Clarify the Exemptions from the Required Side Setbacks for Certain Non-Conforming Buildings and to Amend the Exemption from Required Setbacks for Certain Roofs](#)

- III. COUNCIL DISCUSSIONS (8:00-9:00 p.m.)
 - A. Zimmerman Park Redevelopment
 - B. [Discussion and Possible Introduction of an Ordinance to Limit the Permissible Days of Operation of Gas-Powered Leaf Blowers](#)
 - C. [Elections Board Report on the 2020 Town Council Election](#)

- IV. OTHER BUSINESS (9:00-9:15 p.m.)

- V. ADJOURNMENT (9:15 p.m.)

[How to Join the Council Meeting via Zoom®](#)

Join Online:

<https://us04web.zoom.us/j/3016547144>

Meeting ID: 301 654 7144

Join by Phone:

301-715-8592

Meeting ID: 301 654 7144

MEMORANDUM

I-D

TO: Town Council
FR: Todd Hoffman, Town Manager
RE: Town Manager's Report
DATE: June 10, 2020

This report highlights some of the initiatives undertaken by Town staff over the past month. In the interest of brevity, I have not included ongoing staff functions. Please let me know if you have any questions or need additional information.

- Continued oversight of:
 - Town-wide traffic study.
 - Zimmerman Park redevelopment project.
 - Washington Gas main replacement work and related road repairs.
- Organized and attended Council work sessions on June 2 and June 8.
- Assisted with preparing and submitting testimony to the Montgomery County Planning Board.
- Organized and participated in new Councilmember orientation.
- Assisted the Elections Board with preparing its annual report to the Town Council.
- Met with Councilmember Lane about proposed community liaison initiatives.
- Assisted with organizing “Listening Sessions” by Councilmember Lane.
- Communicated with State Comptroller’s office about local income tax distributions.
- Prepared and submitted FY21 Program Open Space application.
- Met with SHA officials about traffic and pedestrian safety improvements on East West Highway.
- Met with Town’s household organic waste contractor to discuss programs and services.
- Continued enforcement of overgrown vegetation.
- Assisted the Long-Range Planning Committee with tracking Bethesda redevelopment projects.
- Assisted the Public Services Committee with responding to resident requests and inquiries regarding public safety, traffic, and street lighting.
- Assisted Community Relations Committee with planning for July 4 activities and other events.

**Town of Chevy Chase
Building Regulation Ordinance**

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

SUBJECT: 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 10th day of June, 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.

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

SECTION 1. BE IT ORDAINED AND ORDERED, this ____th day of _____, 2020, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the authority granted to it by the Maryland Code and the Town Charter, that the Town Code is 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 ~~line~~ 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

**Town of Chevy Chase
Leaf Blower Ordinance**

Ordinance No.: 20-06

Introduced:

Adopted:

Effective:

SUBJECT: AN ORDINANCE TO AMEND SECTION 15-40 OF THE TOWN CODE TO LIMIT THE PERMISSIBLE DAYS OF OPERATION OF GASOLINE-POWERED LEAF BLOWERS

WHEREAS, Section 5-202 of the Local Government Article of the Maryland Code grants to the legislative body of every incorporated municipality in Maryland, including the Town of Chevy Chase, general power to pass such ordinances not contrary to the Constitution of Maryland or 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; and

WHEREAS, the Town Climate and Environment Committee has recommended that the Town Council expand the quiet hours for gasoline-powered leaf blowers and consider a phased-in ban; and

WHEREAS, Section 301(a) of the Charter of the Town of Chevy Chase authorizes the Town Council to pass ordinances not contrary to the Constitution and laws of the State of Maryland or the Charter 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 or destruction; for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the Town and for such other police or health matters as it may deem necessary; and

WHEREAS, the Town Council introduced the following ordinance in public session assembled on the ____ day of ____, 2020; and

WHEREAS, the Town Council held a public hearing on the following ordinance in public session assembled on the ____ day of ____, 2020; and

WHEREAS, upon consideration of the recommendation of the Climate and Environment Committee, and the testimony and evidence presented at the public hearing, the Town Council finds that the permissible days of operation of gasoline-powered leaf blowers should be restricted; and

WHEREAS, the Town Council finds that the following ordinance 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 or 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:

SECTION 1. BE IT ORDAINED AND ORDERED, this ____ day of ____, 2020, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the authority granted to it by the Maryland Code and the Town Charter, that the Town Code is amended to read as follows:

* * *

Sec. 16-1 - Noise restrictions.

The following provisions shall apply in the Town of Chevy Chase in addition to the provisions of chapter 31B of the Montgomery County Code:

(1) **Construction.** It shall be unlawful to engage in construction activities before 7:00 a.m. on weekdays or 9:00 a.m. on weekends and all federal holidays, and after 7:00 p.m. on all days. As used herein, "construction activities" means temporary activities directly associated with site preparation, assembly, erection, repair, alteration, renovation, construction, or demolition of improvements, or other similar activities including, but not limited to, moving heavy equipment, delivering materials, loading or unloading, operating equipment with audible "back-up" warning devices, and allowing engines to idle.

(2) Landscaping.

a. Gasoline-powered.

- (i) It shall be unlawful to operate a gasoline-powered leaf blower **at any time on Sundays after September 1, 2020 and at any time on weekends and all federal holidays after January 1, 2021. On all other days, it shall be unlawful to use gasoline-powered leaf blowers** before 9:00 a.m. and after 7:00 p.m., ~~on all days.~~
- (ii) It shall be unlawful to operate other gasoline-powered landscaping equipment before 8:00 a.m. on weekdays, before 9:00 a.m. on weekends and all federal holidays, after 8:00 p.m. on weekdays, and after 7:00 p.m. on weekends and all federal holidays.

- b. Electric or Battery-powered. It shall be unlawful to operate electric or battery-powered landscaping equipment before 8:00 a.m. on weekdays, before 9:00 a.m. on weekends and all federal holidays, and after 8:00 p.m. on all days.
- c. As used herein, "landscaping equipment" means motorized equipment such as a lawn mower, chainsaw, leaf blower, weed trimmer, or other similar equipment operated outdoors. "Landscaping equipment" does not include motor vehicles or fixtures such as air conditioners, heat pumps, back-up generators and similar equipment attached to a building.

(3) **Penalties.** Violation of any provision of this chapter shall be a municipal infraction. Any person or persons guilty of a municipal infraction shall be subject to a fine in the amount specified below:

- a. First violation \$200.00
- b. Second violation \$400.00
- c. Third violation \$1,000.00

d. Any person who violates this chapter or directs or allows another to commit an act that violates this chapter, 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 this chapter on his or her property shall be guilty of a violation and shall be jointly and severally subject to the penalties provided in subsections a. through c. If a violation occurs, there shall be a rebuttable presumption that all owners of the property allowed the violation.

(4) **Enforcement.** An enforcement officer may issue a municipal infraction citation for any violation of this chapter if the enforcement officer:

- a. Witnesses the violations; or
- b. Receives written complaints from at least two (2) witnesses, who are not residents at the same address, of a noise disturbance. Complaints by two (2) witnesses are required to issue a citation under this paragraph but are not required to prove that a person violated this chapter. The complainants must be willing to testify in court, if required.

* * *

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 authority granted to it by the Maryland Code and the Town Charter that, that:

(1) To assist the public in understanding the permissible hours of operation for landscaping equipment, the following table may be published by the Town Manager:

	Permissible Hours	
Construction activities	<i>Weekdays</i>	<i>Weekends and Holidays</i>
	From 7:00 am to 7:00 pm	From 9:00 am to 7:00 pm
Landscaping equipment		
Gas-powered leaf blower	<i>Weekdays</i>	<i>Weekends and Holidays</i>
	From 9:00 am to 7:00 pm	From 9:00 am to 7:00 pm* *But not on Sundays, effective September 1, 2020, and not on weekends and federal holidays, effective January 1, 2021
All other gas-powered equipment	<i>Weekdays</i>	<i>Weekends and Holidays</i>
	From 8:00 am to 8:00 pm	From 9:00 am to 7:00 pm
All electric or battery-powered equipment	<i>Weekdays</i>	<i>Weekends and Holidays</i>
	From 8:00 am to 8:00 pm	From 9:00 am to 8:00 pm

Effective _____, ____ 2020

(2) 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

(3) 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

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 * * * indicates material unchanged

Elections Board Report to the Town Council on the 2020 Council Election

Following every election, according to the Town's ordinances, the Elections Board is required to submit to the Town Council a written report that includes results and any recommendations for the future. Following is our report on the 2020 council election.

We believe this was an interesting and successful election, our first universal mail-in vote, and we want especially to thank Town Manager Todd Hoffman, who skillfully managed the details and worked with the contractor, Electec Inc., to make this a model of how this type of election can be carried out.

Rob Enelow
Chris White
Chris Wright (Chair)

May 28, 2020

Overview:

- Due to the ongoing COVID-19 pandemic, the Town held its first-ever, universal vote-by-mail election in 2020. There was no in-person voting on May 5, election day. Instead, each registered Town voter received a ballot by mail and returned that ballot, once completed, in a stamped, self-sealing envelope provided by the Town.
- All ballot envelopes were required to be postmarked by May 5, 2020 and received by May 12, 2020 in order for the enclosed ballot to be counted. Electec Election Services, Inc. processed and counted the ballots for the 4th consecutive year.
- For more information on the conduct of the 2020 election, see the emergency resolution and operations plan approved by the Town Council on March 26, 2020.

Results:

- The 2020 Town Council election was uncontested as there were only three candidates for three open seats.
- Traditionally, prior to the election the Election Board hosts a "Candidates' Forum" in the Town Hall in which competing candidates respond to a set of questions posed by a moderator, for the past ten years Charles Duffy. This year, because assembly of more than 10 persons was prohibited due to the virus epidemic, the forum was held by "Zoom" videoconference on Tuesday, April 28

at 7 p.m. Over 50 Town residents “attended” the forum, more than have been known to attend the actual forum in years when the contest was uncontested.

- Similarly, voter “turnout” represented by votes cast was unusually high when compared to recent uncontested elections, (more than double any uncontested election since 2010). Out of approximately 2,687 registered Town voters, 722 cast ballots (about 27% of registered voters). Since six of the ballots cast were spoiled (e.g., ballots were blank or affidavits were unsigned), the number of valid ballots cast and counted was 716.
- Comparison of participation in uncontested elections since 2010 (number of ballots counted):
 - 2010: 158
 - 2012: 151
 - 2015: 309
 - 2017: 273
 - 2019: 184
 - 2020: 716

Recommendations:

- For future elections the Council may wish to consider a universal vote-by mail system like this one in which ballots are mailed to all registered voters. Voting by mail is significantly more convenient for voters (no need to request an absentee ballot or go to the poll on election day) and appeared to result in greater voter participation, especially considering this was an uncontested election.
- The cost was not prohibitively more: \$12,000 (mail-in) vs. \$7,000 (in person). The cost of postage and handling for a mail-in election is higher than the cost of sending two staff to monitor the in-person election. While voting in person on election day could be considered a treasured civic activity, it is possible that this is simply no longer practical.
- The Town received some complaints about the privacy of personal identification information on the return ballot envelopes. The resolution is either to provide return envelopes with a privacy flap/tab to cover the personal information, or to require only a voter’s signature and printed name on the return envelope. The latter procedure is currently being employed for Maryland’s June 2 presidential primary election. A state-wide standard for this may develop before the Town has another election.
- The Town received some reports of ballots addressed to former/deceased residents. This situation did not cause any election-related problems. The Town uses voter registration rolls provided by the state of Maryland, and maintaining the accuracy of these state rolls is a matter of national discussion. Establishing a separate voter registration system for the Town would require significant ongoing resources and is not recommended.