CODE OF ORDINANCES FOR THE VILLAGE OF NORTH CHEVY CHASE

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CHAPTER 3 BUILDING PERMITS

Article 1. General Provisions

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Section 3-101. Purpose

A. The provisions of this Chapter are hereby declared as necessary for the purpose of protecting and promoting the health, safety, and welfare of the present and future residents of the Village pertaining to the erection of buildings and the excavation and improvement of streets, sidewalks and/or public rights-of-way. This Chapter is not intended to be, nor shall the same be construed as, a zoning ordinance.
B. The provisions of this Chapter shall apply to the addition to, or erection, alteration, construction, re-construction, repair and improvement of the exterior of all buildings and accessory buildings, fences and structures, and to any activity which will, or may, result in the excavation or alteration or temporary closure or blockage of streets, sidewalks, and/or public rights-of-way within the boundaries of the Village.
C. The provisions of this Chapter, are supplemental to the provisions of Chapter 59 of the Montgomery County Code and do not affect or provide a substitute for the separate permit requirements of Montgomery County

Section 3-102. Definitions

As used in this or other Chapters of these Ordinances, the following words and phrases shall have the following meaning:

A. "Accessory building" means a building subordinate to and located on the same lot or lots with the main building thereon, the use of which is clearly incidental to the principal use of the main building or to the principal use of the land of said lot or lots, and which is not attached by any part of a common wall or roof with the main building.
B. “Accessory dwelling unit” means a second dwelling unit that is located within a main building or an accessory building.
C. "Adjoining or confronting property" means land which touches the boundary line of other property at least at one point, which may be a corner, or which

would do so except for an intervening street or right of way.

D. "Building" means a structure on a lot which has one or more stories and a roof and is designed primarily for the shelter, support or enclosure of persons or property of any kind.
E. “Detached accessory dwelling unit” means a dwelling unit that is a detached accessory building or part thereof.
F. "Emergency reconstruction, repair or excavation" means work necessitated by an actual, sudden, unanticipated and immediate danger of failure or collapse of any structure or any part thereof that would endanger life, disrupt vehicular traffic, or which, if not corrected immediately, poses a clear threat of injury to persons or property.
G. "Fences" means structures which are designed primarily to partially or wholly enclose a lot or a portion thereof. A hedge consisting of a row of closely planted trees, shrubs or bushes shall be considered a fence.
H. "Front yard" means the open space extending across the full width of the lot between the front lot line and the nearest line of the main building.
I. "Neighborhood" means the area that lies within a five hundred (500) foot radius of the subject property.
J. "Ordinary repairs or maintenance" means those repairs incidental to a continuation of existing uses and necessary to maintain a structure in good working order and in a safe and sanitary condition. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support or the removal or change of any required means of egress or rearrangement of parts of a structure affecting the exitway requirements. Ordinary repairs shall not include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work that would affect any Village right-of-way or public health or general safety.
K. "Person" means an individual, corporation, association, firm, partnership or the like.
L. "Side yard" means the open space between the side lot line and the nearest line of the main building extending from the front yard to the rear lot line.
M. “Site Management Conditions Agreement” means a binding document specifying the required actions of a home owner and any contractor or other responsible parties employed by the home owner to protect the Village right-of-way and the safety and security of Village residents during a permitted

activity. The agreement shall be signed by the property owner, primary contractor and Village officials prior to work commencing. The primary contractor shall be responsible for all subcontractor performance. Execution of a Site Management Conditions Agreement is a mandatory requirement in the case of the following permit applications: new home construction; building addition or modification over 250 square feet; building addition or modification under 250 square feet; sport courts; swimming pools; and garages. The Village Council in its discretion may require the execution of a Site Management Conditions Agreement in connection with permit applications that result in a potential disturbance of the Village right-of-way.

N. "Structure" means an assembly of materials forming a construction for occupancy or use, including, without limitation, buildings, accessory buildings, fences, sheds, shelters, garages, signs, pipelines, sewer lines, cable lines, fuel storage tanks, sidewalks, streets (including curbs and gutters) and the like.

Section 3-103. Applicable Requirements

All construction which requires a building permit under this Article must conform to the requirements set forth in these Ordinances and all applicable laws, codes, ordinances, rules and regulations established by Montgomery County, Maryland, and/or the State of Maryland including, without limitation, applicable zoning, building, electrical, Washington Suburban Sanitary Commission and plumbing laws, codes, ordinances, rules and regulations.

Article 2. Village Building Permits

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Section 3-201. Permits Required

A. Building Permits Generally – No person shall add to, erect, alter, construct, reconstruct, repair or improve any structure, make any excavation or temporarily close or block any street, sidewalk (including curbs and gutters) and/or public rights-of-way within the Village prior to the issuance of a building permit pursuant to this Chapter. No building permits shall be required for any of the above-described activities occurring entirely within the interior of a building, provided, however, that this exception shall not apply to interior construction, renovation, or repairs related to the establishment of an accessory dwelling unit, nor shall any building permit be required in the case of ordinary repairs or maintenance, as defined in Section 3-101(J).
B. Emergency re-construction, repair or excavation as defined in Section 3-101 (F) may be undertaken without first securing a building permit, except that such permit shall be applied for as soon as possible after the need for such activities becomes known.
C. Failure to apply for a permit may result in fine of up to $500 and/or the issuance of a stop-work order.
D. Accessory Dwelling Units – No person shall construct, re-construct, 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, prior to the issuance of an accessory dwelling unit building permit pursuant to this Chapter.
E. Dumpsters, Trash Trucks, Trailers – A separate permit must be applied for, except for in the case of a permit requiring the execution of a Site Management Conditions Agreement, for the placement within the Village of a dumpster, trash truck or trailer, including with respect to any activity occurring entirely within the interior of a building and not otherwise requiring a building permit. Dumpsters, trash trucks and trailers must be placed in the driveway or on the applicant's property and shall not be placed on the Village right-of-way or a Village street. Trash trucks and trailers may temporarily be placed on Village streets, but cannot remain on Village streets overnight.

F. PODs and Other Storage Containers: Upon submission of an appropriate application and the payment of the appropriate fee, a homeowner shall be permitted to place a POD or other similar storage container on the residential property for a time period not to exceed thirty days (except for new home construction and major alterations). At the end of any thirty-day period for which such authorization has been granted, the homeowner, upon payment of the appropriate fee, may re-apply for authorization to place a dumpster, POD or other similar storage container of the property for an additional thirty-day time period. In no event will a POD be allowed for more than 90 consecutive days within a 365-day period. Pods or other storage containers must be placed in the driveway or on the applicant's property and shall not be placed on the Village right-of-way or a Village street.

G. Tree Protection:
    a. All trees on private property measuring at least 24" in circumference at 4 ½ feet above the ground **or** measuring 30 feet or more in height must receive an approved permit prior to removal if such removal is in relation to demolition, new home construction, and/or additions or modifications to the exterior of a property. The permit must include an assessment of the tree(s) condition by a certified arborist. If the certified arborist does not find the tree(s) to be dead, in danger of falling, or hazardous, a permit may be issued with a condition that one reforestation tree - the species of which will provide similar or greater shade and stormwater support - be installed on the subject property for each tree removed or an impact fee be paid in accordance with the Village's Permit Fee schedule, set forth in the Village's Permit Application and approved by Council resolution. The Village Manager will consult with the applicant about their preference for reforestation or payment of an impact fee before the Council considers the permit application. In order to maintain Village canopy for neighbors affected by visual and other impacts of tree removal, reforestation is preferred.
    b. Before undertaking any activity that poses a potential risk to any canopy tree on the property in question, or poses a potential risk to any other tree, regardless of size or species, on an adjoining property or on the Village right-of-way, a property owner shall submit a tree protection plan for review and approval by the Village

Manager in consultation with a certified arborist. It is the responsibility of the property owner to ascertain whether a construction-related activity places any tree in jeopardy. Activities that pose a potential risk to trees include but are not limited to (i) the demolition, in whole or in part, of an existing home or structure; (ii) the construction of a new home or structure; (iii) the expansion of the footprint of an existing home or structure; (iv) the construction of a driveway, patio or other impervious surface; (v) the construction of walls, (vi) installation of underground utility lines, and (vii) regrading or excavating within the dripline of a tree.

H. To ensure fairness to neighbors, traffic flow within the Village and to allow other residents to proceed with permitted activities in a timely manner, permit applications shall include an estimated timeframe for completion of the permitted activity. The applicant shall notify the Village Manager at least one week in advance if the permitted activity needs to extend beyond the estimated completion date. If the new expected date of completion is less than thirty days from the original, the extension may be granted by Village Manager. If the revised date for completion extends more than thirty days from the original timeframe or the applicant must obtain a permit extension a second time, the permit fee will be assessed again and the permit will require another approval from the Village Council.
I. If all of the provisions of this Article have been satisfied and the permit application has been approved by Village Council, the Village Manager shall issue the permit. Permits may be issued subject to conditions deemed necessary to assure compliance with these Ordinances.

Section 3-202. Applications; Investigation and Inspections; Issuance

A. An application for a building permit shall be submitted in a form prescribed by the Village Council and shall be accompanied by:
    a. Evidence that the proposed activity complies with the applicable laws, codes, ordinances, rules and regulations of Montgomery County, Maryland, the Washington Suburban Sanitary Commission and/or any other governmental authority having jurisdiction over the proposed activity;
    b. Evidence that the proposed activity complies with these Ordinances, including, but not limited to, Sections 5-202 (Protection of Village Trees), and Section 5-204 (Protection of Village Trees During

Construction).

c. A copy of all covenants and/or easements recorded with respect to the property;
d. Such plats, plans, drawings, reports and other documentation as the Village Council deems necessary to determine whether the proposed construction activity would be in derogation of the health, safety, or welfare of the present of future residents of the Village; and
e. the fee required by schedule set forth in the Permit Application.

B. The application shall be signed by the owner of the property.
C. The applicant shall submit a copy of the Montgomery County Building Permit application for the proposed construction. If the County permit is not submitted with the application, the Village Council may authorize the Village Manager to issue a Village building permit upon receipt of a copy of the applicable County building permit.
D. Applications for building permits shall be referred to the Village Manager for review and such investigation as the Council deems necessary. The Village Manager shall promptly advise all members of the Village Council of any objections to the issuance of a permit.
E. The Council shall make a decision to grant or deny the permit by majority vote at its first regularly scheduled meeting after the timely submission of the permit application.
F. The Council shall not issue a permit for which a Site Management Conditions Agreement is required unless it has been submitted, including all supporting documentation, at least fourteen (14) days prior to the Council meeting at which it is to be considered.
G. The Council shall not issue a permit for which a Site Management Conditions Agreement is not required unless it has been submitted, including all supporting documentation, at least seven (7) days prior to the Council meeting at which it is to be considered.
H. The Village Council reserves the right to designate specific small projects not requiring a Site Management Agreement as “Fast-Tracked” and permitted by the Village Manager, per the Village’s Permit Application.
I. Residents shall be informed by newsletter or other electronically accessible means about permit applications at least five (5) days prior to consideration by the Village Council.
J. Decisions on applications for permits shall be communicated to the applicant electronically and all Village permits issued shall be prominently

posted at the subject residence.

Section 3-203. Deposit for Repairs in Public Areas

A. Repairs in Public Areas: No person shall commence any activity requiring adherence to the Village's Site Management Conditions Agreement, use of a dumpster or involving reconstruction, repair or excavation of, or cutting the curb along, any street, sidewalk, or public rights-of-way in the Village for which a permit is required by this Article unless such person has provided to the Village a cash deposit in the amount approved by the Village Council by resolution, from time to time. Cash deposit amounts shall be set forth in the Village's Permit Application. However, any emergency reconstruction, repair or excavation as defined in Section 3-101(F) of any street, sidewalk, or rights-of-way may commence without the cash deposit, provided that such security deposit is provided as soon as possible after the commencement of the activity.
B. All persons operating public utilities in the Village of North Chevy Chase under franchises granted by the Village or County and having the right either by general or special permission to perform any activity involving reconstruction, repair or excavation of any street, sidewalk, or public rights-of-way in the Village are exempt from Section 3-203(A) of these Ordinances.
C. The security deposit may be applied to repair or correct any damage or injury to public property, including repair of any damage to Village streets, sidewalks, curbs and gutters or rights-of-way and treatment or replacement of Village trees and plantings, as the Village Council in its discretion shall determine. Further, the cash deposit may be applied to any fines imposed pursuant to Chapter 1, Section 1-207 of these Ordinances. Upon completion of the activity for which the permit was issued, the balance of the deposit, less any amounts retained by the Village pursuant to this subsection, shall be returned to the person who made the deposit.

Section 3-204. Denial of Permit

An application for a building permit may be denied upon the determination by the Village Council that:

A. The provisions of this Article have not been satisfied;
B. The proposed activity does not conform to the applicable requirements contained in Section 3-202;
C. The proposed activity would damage, endanger, or adversely affect or

unacceptably interfere with the usage of Village owned or maintained property; or would adversely affect the health, safety, or welfare of the present or future inhabitants of the Village; or

D. The proposed construction activity would not be compatible with the neighborhood. Considerations may be based upon the size, shape, location, and orientation to the street or right-of-way of existing structures in the neighborhood.

Section 3-205. Additional Requirements for Fences

A. A fence erected within the Village shall be compatible with other fences in the neighborhood considering the height, material and style of existing fences. Where no fences exist within the neighborhood, as defined in Section 3-101(I), the characteristics of the fences existing within the Village shall be considered in determining the compatibility of any fence.
B. No fence shall be constructed either wholly or partially of barbed-wire.
C. No fence erected within the Village shall be higher than six feet.
D. Except as provided in subsection (e), no fence erected within any front yard or side yard abutting a street shall be higher than four feet; this shall include hedges.
E. The Village Council may issue a permit for a fence higher than four feet for good reason shown, provided that the proposed fence will not create a safety hazard and will be compatible with other fences in the area.
F. Fences which do not conform to the requirements and restrictions contained in these Ordinances shall be deemed to be non-conforming.
    a. No non-conforming fence, including hedges, may be extended, altered, expanded or replaced in kind, except that ordinary maintenance and repair may be performed so long as such repair or maintenance does not involve replacing more than 50 percent of the fence.
G. This section does not supersede the requirements of Chapter 51 of the Montgomery County code pertaining to the enclosure of swimming pools, except to the extent that the provisions of this section are more stringent.

Section 3-206. Additional Requirements for Accessory Dwelling Units
The following requirements shall apply in the case of any permit application for the construction of an accessory building:

A. Setbacks.

1. Side setback. The side setback requirement for an accessory building is ~~15~~ five (5) feet.
2. Rear setback. The rear setback requirement for an accessory building is five (5) feet.
3. Increased setback based on height. Both the required side and rear setbacks for an accessory building must be increased from the requirements of this section at a ratio of two (2) feet of additional setback for each foot of height, or portion thereof, in excess of twelve (12) feet for a flat roof or fifteen (15) feet for any other type of roof. The increased setbacks shall apply to the entire accessory building.
4. Increased setback based on length. Both the required side and rear setbacks for an accessory building must be increased from the requirements of this section at a ratio of one (1) foot of additional setback for each foot of the linear dimension, or portion thereof, of any side or façade of an accessory building that exceeds twenty-four (24) feet. The increased setbacks shall apply to the entire accessory building.

B. Height. The height for any building containing an accessory dwelling unit, other than a main building, shall not exceed twenty (20) feet. "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. With respect to non-conforming structures, an accessory dwelling unit may not be constructed within a non-conforming structure, except in accordance with this Chapter.

Section 3-207. Additional Requirements for Impervious Surfaces
Stormwater impacts of any newly-constructed impervious surface, including buildings and pavement, shall be mitigated by installation of one new canopy tree

on the property for every 180 square feet of surface covered. This provision is in addition to Section 5-105 reforestation and permit fee requirements for tree removal.

Section 3-208. Fees

No building permit application shall be processed until the applicant therefor has paid a non-refundable fee to the Village in the amount established by the Village Council by resolution, from time to time. The fees shall be set forth in the Village's Permit Application.

Section 3-209. Enforcement

A. Any person who commences any activity in violation of this Article may be enjoined from proceeding or subjected to a fine equivalent to the amount of the fee owed in addition to payment of the fee itself.
B. In addition to the other provisions set forth in these Ordinances:
    a. When the Village Council determines that work on any structure is being performed in violation of the provisions of this Article, including those conditions upon which the building permit was issued, or in a manner which threatens the safety, health, and welfare of the public, it may cause a stop-work order to be issued immediately for said work.
    b. The stop work order shall be issued in writing and posted at the work site.
    c. It shall be unlawful for any person to continue or permit the continuance of work in or about a structure after a stop work order has been posted on the structure, except such work as is directed to remove a violation or unsafe condition.
C. The Village Council may revoke a permit or approval issued under the provisions of this Chapter when the application or the plans on which the permit or approval is based contain a false statement or misrepresentation of fact or when any deviation from the approved plans or any violation of the conditions upon which such permit was issued occurs. The permittee shall be given an opportunity to be heard prior to any revocation of a permit under this section, except that a Village permit shall automatically be revoked upon revocation or lapse of the applicable Montgomery County permit.

Section 3-210. Commercial Signs

Signs indicating the performance or conduct of commercial or retail business

activities inconsistent with the zoning classification of Village property are not permitted.

Section 3-211. Exceptions
In special cases and for good cause shown upon written application, the Village Council, in its discretion may authorize a departure from any of the building permit application provisions of this Chapter provided that the spirit and intent of this Chapter shall be observed and public welfare and safety be assured.

Section 3-212. Property Ownership
The holders of title to all residential properties in the Village, whether in residence or absentee, are required to provide written notice to the Village Manager, indicating their name, mailing address, telephone number and email address, in order to allow the Village to make contact with the property owner if circumstances so require. In the event of change of ownership, any such change shall be reported to the Village Manager within 30 days of such change occurring. Information provided to the Village Manager pursuant to this Section will not be publicly disclosed or used for purposes other than official Village business absent the consent of the property owner providing the information. Failure to provide such information upon request of the Village Manager may result in a fine of up to $500.

Section 3-213. Rental Properties
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 the Village of North Chevy Chase on either a short-term or long-term basis without the rental license required according to the Montgomery County Code, as amended.