DRAFT
11/01/20

CODE OF ORDINANCES FOR SECTION 3 OF THE VILLAGE OF CHEVY CHASE

MONTGOMERY COUNTY

MARYLAND

~~MARCH 2017~~November 11, 2020

TABLE OF CONTENTS
(continued)

Page

CHAPTER 1 1
GENERAL PROVISIONS 1
Article 1. Codification 1
Section 1-101. Designation of Citation 1
Section 1-102. Titles of Sections 1
Section 1-103. Amendments 1
Section 1-104. Effect of Repeals 1
Article 2. Legal Construction 1
Section 1-201. Continuous Provisions 2
Section 1-202. Severability 2
Section 1-203. General Rules of Construction 2
Section 1-204. Definitions 2
Section 1-205. Computation of Time 3
CHAPTER 2 4
GOVERNMENT ADMINISTRATION 4
Article 1. Committees and Commissions 4
Section 2-101. Village Ethics Commission 4
Article 2. Personnel 4
Section 2-201. Rules and Regulations 4
Section 2-202. Creation or Termination of Positions 4
Article 3. Authorized Employees 4
Section 2-301. Village Manager 4
CHAPTER 3 5
CODE VIOLATIONS 5
Article 1. General 5
Section 3-101. Definitions 5
Section 3-102. General Misdemeanor Penalties 5
Section 3-103. General Municipal Infraction Penalties 5
Section 3-104. Responsible Parties; Continuing Violations 5
Section 3-105. Abatement of Public Nuisances 6

TABLE OF CONTENTS
(continued)

Page

Section 3-106. Additional Remedies 6
Article 2. Municipal Infraction Procedures 6
Section 3-201. Declaration of Municipal Infraction; Fines 6
Section 3-202. Issuance of Citation 6
Article 3. Specified Penalties 7
Section 3-301. Specified Misdemeanors 7
Section 3-302. Specified Municipal Infractions 7
CHAPTER 4 9
CONFLICT OF INTEREST 9
Article 1. General 9
Section 4-101. Intent and Application 9
Section 4-102. Definitions 9
Article 2. Procedures 9
Section 4-201. Duty to Disclose; Conflicts of Interest; Ex Parte Communications 10
Section 4-202. Disqualification Procedures; Complaints; Records 10
Section 4-203. Failure of Quorum; Substitute Appointment 11
Section 4-204. Orders 12
CHAPTER 5 13
COUNTY AND VILLAGE RELATIONS 13
Article 1. Village Authority 13
Section 5-101. Purpose 13
Section 5-102. Legislative Authority 13
Section 5-103. Specific Exemptions from County Laws 13
Article 2. County Authority 14
Section 5-201. Concurrent County Jurisdiction 14
Section 5-202. Adoption by Reference 14
Section 5-203. Prior Agreements 14
Article 3. Agreements 14
Section 5-301. Agreements Providing For County or State Enforcement of Village Laws 14

TABLE OF CONTENTS
(continued)

Page

Section 5-302. Cable Communications Systems 15

CHAPTER 6 16

LICENSES & PERMITS 16

Article 1. General Provisions 16

Section 6-101. Definitions 16

[Article 2. Intentionally Left Blank] 18

Article 3. Village Building Permits 18

Section 6-301. Purpose and Application 18

Section 6-302. Permits Required; Permitting Process 19

Section 6-303. Green Space Requirements 24

Section 6-304. Building Restriction Lines and Required Setbacks 25

Section 6-305. Fences and Walls 27

Section 6-306. Accessory Dwelling Units 28

Section 6-307. Applicable Standard; Appeals, Exceptions 29

Section 6-308. Restoration Bonds 29

Section 6-309. Compliance with Village, County and State Requirements; Enforcement; Stop Work Orders 30

Section 6-310. Variances 31

Section 6-311. Fees for Building and Demolition Permits and Various Applications 31

Article 4. Resident Parking Permits 32

Section 6-401. Resident Parking Permits 32

CHAPTER 7 39

PROPERTY REGULATIONS 39

Article 1. General 39

Section 7-101. Definitions 39

Section 7-201. Purpose 40

Section 7-202. Safe and Sanitary Dwelling Units 40

Section 7-203. Yards 41

Section 7-204. Vacant Structures and Land 41

Section 7-205. Greenway and Overgrowth 41

TABLE OF CONTENTS
(continued)

Page

Section 7-206. Junk Vehicles 41
Section 7-207. Historic Vehicles 41
Section 7-208. Vehicle Repairs 42
Section 7-209. Hedges and Trees 42
Section 7-210. Unremoved Snow or Ice 42
Section 7-211. Inspections 42
Section 7-212. Filing a Complaint 42
Section 7-213. Procedure Following Investigation 43
Article 3. Solid Wastes 43
Section 7-301. Purpose and Application 43
Section 7-302. Authority of the Council 43
Section 7-303. Refuse Disposal Sites 44
Section 7-304. Deposit at Other than Approved Place Prohibited 44
Section 7-305. Littering 44
Section 7-306. Advertisements and Handbills 44
Section 7-307. Leaving Garbage Vehicle Unattended 45
Section 7-308. Owner and Occupant Responsibilities 45
Section 7-309. Agreements and Contracts 45
Section 7-310. Hazardous Wastes 46
Section 7-311. Incinerators Prohibited 46
Section 7-312. Dumpsters and Temporary Storage Units 46
CHAPTER 8 47
PUBLIC SAFETY 47
Article 1. Violations of the Village Code 47
Section 8-101. Purpose and Application 47
Section 8-102. Tampering with Public or Private Structures 47
Section 8-103. Disturbing Meetings or Gatherings 47
Section 8-104. Loitering Upon Private Property; Violation of Village Code 47
Article 2. Traffic and Parking 47
Section 8-201. Purpose 48

TABLE OF CONTENTS
(continued)

Page

Section 8-202. Definitions 48
Section 8-203. Emergency Street Restrictions; Special Powers 48
Section 8-204. Snow Removal Restrictions 48
Section 8-205. Emergency Vehicles 48
Section 8-206. Traffic Signs and Regulations 49
Section 8-207. Vehicle Violations 49
~~CHAPTER 1. GENERAL PROVISIONS ..... 11~~
~~Article 1. Codification ..... 11~~
~~Section 1-101. Designation of Citation ..... 11~~
~~Section 1-102. Titles of Sections ..... 11~~
~~Section 1-103. Amendments ..... 11~~
~~Section 1-104. Effect of Repeals ..... 11~~
~~Article 2. Legal Construction ..... 11~~
~~Section 1-201. Continuous Provisions ..... 21~~
~~Section 1-202. Severability ..... 2~~
~~Section 1-203. General Rules of Construction ..... 2~~
~~Section 1-204. Definitions ..... 2~~
~~Section 1-205. Computation of Time ..... 32~~
~~CHAPTER 2. GOVERNMENT ADMINISTRATION ..... 43~~
~~Article 1. Committees and Commissions ..... 43~~
~~Section 2-101. Village Ethics Commission ..... 43~~
~~Article 2. Personal ..... 43~~
~~Section 2-201. Rules and Regulations ..... 43~~
~~Section 2-202. Creation or Termination of Positions ..... 43~~
~~Article 3. Authorized Employees ..... 43~~

TABLE OF CONTENTS
(continued)

Page

Section 2-301. Village Manager 43

CHAPTER 3. CODE VIOLATIONS 54

Article 1. General 54

Section 3-101. Definitions ..... **Error! Bookmark not defined.**4

Article 2. General ..... **Error! Bookmark not defined.**4

Section 3-101. Definitions 54

Section 3-102. General Misdemeanor Penalties 55

Section 3-103. General Municipal Infraction Penalties 55

Section 3-104. Responsible Parties; Continuing Violations 55

Section 3-105. Abatement of Public Nuisances 65

Section 3-106. Additional Remedies 65

Article 3. Municipal Infraction Procedures 65

Section 3-201. Declaration of Municipal Infraction; Fines 65

Section 3-202. Issuance of Citation 65

Article 4. Specified Penalties 76

Section 3-301. Specified Misdemeanors 76

Section 3-302. Specified Municipal Infractions 76

CHAPTER 4. CONFLICT OF INTEREST 97

Article 1. General 97

Section 4-101. Intent and Application 97

Section 4-102. Definitions 97

Article 2. Procedures 98

Section 4-201. Duty to Disclose; Conflicts of Interest; Ex Parte Communications 108

TABLE OF CONTENTS
(continued)

Page

~~Section 4-202. Disqualification Procedures; Complaints; Records ..... 108~~

~~Section 4-203. Failure of Quorum; Substitute Appointment ..... 119~~

~~Section 4-204. Orders ..... 1210~~

~~CHAPTER 5. COUNTY AND VILLAGE RELATIONS ..... 1310~~

~~Article 1. Village Authority ..... 1310~~

~~Section 5-101. Purpose ..... 1310~~

~~Section 5-102. Legislative Authority ..... 1310~~

~~Section 5-103. Specific Exemptions from County Laws ..... 1310~~

~~Article 2. County Authority ..... 1411~~

~~Section 5-201. Concurrent County Jurisdiction ..... 1411~~

~~Section 5-202. Adoption by Reference ..... 1411~~

~~Section 5-203. Prior Agreements ..... 1411~~

~~Article 3. Agreements ..... 1411~~

~~Section 5-301. Agreements Providing For County or State Enforcement of Village Laws ..... 1411~~

~~Section 5-302. Cable Communications Systems ..... 1511~~

~~CHAPTER 6. LICENSES & PERMITS ..... 1612~~

~~Article 1. General Provisions ..... 1612~~

~~Section 6-101. Definitions ..... 1612~~

~~Article 2. [Intentionally Left Blank] ..... 1813~~

~~Article 3. Village Building Permits ..... 1813~~

~~Section 6-301. Purpose and Application ..... 1813~~

~~Section 6-302. Permits Required; ;Application ..... 1814~~

~~Section 6-303. Building Code ..... 2316~~

TABLE OF CONTENTS
(continued)

Page

Section 6-304. Building Restriction Lines and Required Setbacks 2416

Section 6-305. Fences and Walls (formerly part of Section 7-209) 2517

Section 6-306. Process for Obtaining PermitsAccessory Dwelling Units 2617

Section 6-307. Applicable Standard; Appeals, Exceptions 2618

Section 6-308. Completion Restoration Bonds..... 2718

Section 6-309. Compliance with County and Village Requirements; Enforcement; Stop Work Orders Enforcement or Permits; Stop Work Orders..... 2718

Section 6-310. Variances (formerly Section 7-210) 2819

Section 6-311. Fees for Building and Demolition Permits and Various Applications 2819

Article 4. Resident Parking Permits..... 2920

Section 6-401. Resident Parking Permits..... 3020

CHAPTER 7. PROPERTY REGULATIONS..... 3222

Article 1. General..... 3622

Section 7-101. Definitions 3622

Article 2. Property Maintenance 3723

Section 7-201. Purpose 3724

Section 7-202. Safe and Sanitary Dwelling Units 3724

Section 7-203. Yards..... 3724

Section 7-204. Vacant Structures and Land..... 3824

Section 7-205. Greenway and Overgrowth..... 3824

Section 7-206. Junk Vehicles..... 3824

Section 7-207. Historic Vehicles 3824

Section 7-208. Vehicle Repairs..... 3824

TABLE OF CONTENTS
(continued)

Page

~~Section 7-209. Hedges and Trees~~ ..... ~~39~~25
~~Section 7-210. Unremoved Snow or Ice~~ ..... ~~39~~25
~~Section 7-211. Inspections~~ ..... ~~39~~25
~~Section 7-212. Filing a Complaint~~ ..... ~~39~~25
~~Section 7-213. Procedure Following Investigation~~ ..... ~~39~~25
~~Article 3. Solid Wastes~~ ..... ~~40~~26
~~Section 7-301. Purpose and Application~~ ..... ~~40~~26
~~Section 7-302. Authority of the Council~~ ..... ~~40~~26
~~Section 7-303. Refuse Disposal Sites~~ ..... ~~41~~27
~~Section 7-304. Deposit at Other than Approved Place Prohibited~~ ..... ~~41~~27
~~Section 7-305. Littering~~ ..... ~~41~~27
~~Section 7-306. Advertisements and Handbills~~ ..... ~~41~~27
~~Section 7-307. Leaving Garbage: Vehicle Unattended~~ ..... ~~42~~27
~~Section 7-308. Owner and Occupant Responsibilities~~ ..... ~~42~~28
~~Section 7-309. Agreements and Contracts~~ ..... ~~42~~28
~~Section 7-310. Hazardous Wastes~~ ..... ~~42~~28
~~Section 7-311. Incinerators Prohibited~~ ..... ~~43~~28
~~Section 7-312. Dumpsters and Temporary Storage Units~~ ..... ~~43~~29
~~CHAPTER 8. PUBLIC SAFETY~~ ..... ~~44~~29
~~Article 1. Violations of the Village Code~~ ..... ~~44~~29
~~Section 8-101. Purpose and Application~~ ..... ~~44~~29
~~Section 8-102. Tampering with Public or Private Structures~~ ..... ~~44~~29
~~Section 8-103. Disturbing Meetings or Gatherings~~ ..... ~~44~~29

TABLE OF CONTENTS
(continued)

Page

~~Section 8-104. Loitering Upon Private Property; Violation of Village Code.. 4430~~

~~Article 2. Traffic and Parking ..... 4430~~

~~Section 8-201. Purpose ..... 4530~~

~~Section 8-202. Definitions ..... 4530~~

~~Section 8-203. Emergency Street Restrictions; Special Powers ..... 4530~~

~~Section 8-204. Snow Removal Restrictions..... 4531~~

~~Section 8-205. Emergency Vehicles ..... 4531~~

~~Section 8-206. Traffic Signs and Regulations ..... 4631~~

~~Section 8-207. Vehicle Violations ..... 4631~~

CHAPTER 1

GENERAL PROVISIONS

ARTICLE 1. CODIFICATION

1-101 Designation and Citation

1-102 Titles of Sections

1-103 Amendments

1-104 Effect of Repeals

Section 1-101. Designation of Citation

The ordinances embraced in the following chapters and sections shall constitute and be designated as "The Code of Ordinances of Section 3 of the Village of Chevy Chase, Maryland," and may be so cited. The ~~code~~Code may also be cited as "The Section 3 Code."

Section 1-102. Titles of Sections

The titles of the several sections of this Code are intended as mere catchwords to indicate the contents of the sections and shall not be taken to be a part of such sections.

Section 1-103. Amendments

All ordinances passed subsequent to this Code of Ordinances which amend, repeal or in any way affect this Code of Ordinances, shall be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, such repealed portions shall be excluded from said Code by omission from reprinted pages.

All sections, articles, chapters or provisions of this Code desired to be repealed should be specifically repealed by section or chapter number, as the case may be.

Section 1-104. Effect of Repeals

The repeal of an ordinance or code section shall not revive any ordinance or code section in force before, or at the time the ordinance's repeal took effect. The repeal of an ordinance or code section shall not affect any punishment or penalty provided before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal.

ARTICLE 2. LEGAL CONSTRUCTION

1-201 Continuous Provisions

1-202 Severability

1-203 General Rules of Construction

1-204 Definitions

1-205 Computation of Time

Section 1-201. Continuous Provisions

Those provisions appearing in this ~~c~~Code, so far as they may be the same in substance as ordinances which existed at the effective date of this ~~code~~Code, shall be considered as continuations thereof and not as new enactments.

Section 1-202. Severability

It is hereby declared to be the intention of the Village Council that the sections, paragraphs, sentences, clauses, and words of this ~~c~~Code are severable~~.~~: and if any word, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or otherwise invalid by judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining words, clauses, sentences, paragraphs, and sections of this Code, since the same would have been enacted by the Village Council without the incorporation into this ~~c~~Code of any such unconstitutional or invalid word, clause, sentence, paragraph or section. If any controlling or preemptive State or County law or regulation is in conflict with the operation of this Code, such law or regulation shall prevail.

Section 1-203. General Rules of Construction

In the construction of this Code, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of this Code:

(a) Words and phrases specifically defined in this Code shall be construed and understood according to the definition provided. All other words and phrases shall be construed and understood according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

(b) The singular always includes the plural, and vice versa, except where such construction would be unreasonable.

(c) Unless otherwise provided in a particular section, all words in this Code ~~importing~~ indicating one gender include and apply to the other gender as well.

(d) Whenever a provision of this Code refers to any portion of a State or County law, the reference applies to any subsequent amendment to that law, unless the referring provision expressly provides otherwise.

(e) Unless otherwise provided, the term "shall" is mandatory and not optional or permissive. In interpreting and applying this Code, the requirements contained herein are declared to be the minimum requirements for the protection of the health, safety and general welfare of the public.

Section 1-204. Definitions

For the purposes of this Code, the following words and phrases shall have the following meanings:

(a) "Building Inspector" ~~has the meaning ascribed to it in the Village Charter~~means the Council member appointed to such office, according to the Village Charter. The Council may appoint one or more individuals to assist the Building Inspector in the performance of his or her duties, and the term "Building Inspector" as used in this Code includes any such person when acting within the scope of his or her designated responsibilities.

(b) "Chairman" means the Council member appointed to such office, according to the Village Charter~~has the meaning ascribed to it in the Village Charter~~, and is synonymous with "Chair."~~.~~

~~(a)~~(c) "Council" means the Village Council of Section 3 of the Village of Chevy Chase.

(d) "Village" means the municipal corporation known as Section 3 of the Village of Chevy Chase.

(e) "Person" means any natural person, association, or any business, legal or governmental entity.

~~(b)~~(f) "Village Charter" means the Charter of Section 3 of the Village of Chevy Chase, Maryland.

Section 1-205. Computation of Time

In computing any period of time prescribed or allowed by any applicable provision of this Code, the day of the act, event, or default, after which the designated period of time begins to run, is not to be included. The last day of the period so computed is to be included unless:

(a) It is a Saturday, a Sunday or a legal holiday in which event the period runs until the end of the next day that ~~, which~~ is neither a Saturday, a Sunday nor a legal holiday.

(b) When the period of time allowed is more than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be considered as other days; but if the period of time allowed is seven (7) days or ~~less~~fewer, intermediate Saturdays, Sundays and legal holidays shall not be counted in computing the period of time.

CHAPTER 2

GOVERNMENT ADMINISTRATION

ARTICLE 1. COMMITTEES AND COMMISSIONS

2-101 Village Ethics Commission

Section 2-101. Village Ethics Commission

There shall be a Village Ethics Commission, which shall be composed of three (3) members appointed by the Village Council. The Commission shall be advised by the Village attorney and shall have the following responsibilities:

(a) To provide advisory opinions to persons subject to the provisions of Chapter 4 of this Code as to its applicability to them.

(b) To make determinations as authorized by Chapter 4 of this Code.

ARTICLE 2. PERSONNEL

2-201 Rules and Regulations

2-202 Creation or Termination of Positions

Section 2-201. Rules and Regulations

The Village Council may from time to time make such rules and regulations as it deems necessary for the employment of all Village employees.

Section 2-202. Creation or Termination of Positions

The Village Council may add or abolish employee positions as may be consistent with the Village budget and as may be necessary to carry forth the intent and purpose of this Code.

ARTICLE 3. AUTHORIZED EMPLOYEES

2-301 Village Manager

Section 2-301. Village Manager

There shall be a Village Manager appointed by the Village Council.

(a) The Village Manager shall be assigned such duties as may be defined by a job description approved by the Village Council.

(b) The Village Manager shall serve at such compensation as the Village Council may determine.

(c) The Village Manager shall serve at the discretion of the Village Council and may be removed by a majority vote of all its members, subject to the provisions of a valid employment contract, if such a contract has been approved by a majority of all of the Village Council.

CHAPTER 3

CODE VIOLATIONS

ARTICLE 1. GENERAL

3-101 Definitions

3-102 General Misdemeanor Penalties

3-103 General Municipal Infraction Penalties

3-104 Continuing Violations

3-105 Abatement of Public Nuisances

3-106 Additional Remedies

Section 3-101. Definitions

For the purposes of this Chapter the following words and phrases shall have the meanings respectively ascribed to them by this section:

(a) "Misdemeanor" means ~~: T~~the violation of any ordinance, code or ~~s~~State statute provision which has been deemed to be a criminal offense not amounting to a felony and which has not been specifically declared to be a municipal infraction.

(b) "Municipal infraction" means ~~: A~~any violation of this Code which has been specifically designated as a municipal infraction. For the purposes of this Code a "municipal infraction" is a civil offense, and any finding of guilt thereof is not a criminal conviction.

(c) "Authorized code enforcement official" means the ~~:~~ Village Manager, Building Inspector, any member of the Village Council, or any other individual appointed by the Council to have code enforcement responsibilities under this Code.

Section 3-102. General Misdemeanor Penalties

Unless otherwise specified in this Code, any person found guilty of violating any provision of this Code for which violation is a "misdemeanor" shall be subject to a fine not to exceed one thousand dollars ($1,000~~.00~~) and imprisonment not to exceed six (6) months, or both such fine and imprisonment for each offense.

Section 3-103. General Municipal Infraction Penalties

The penalty for commission of a municipal infraction shall be two hundred dollars ($200~~.00~~) per infraction (or, in the case of continuing violations, two hundred dollars ($200~~.00~~) per day) unless this Code specifies a different penalty.

Section 3-104. Responsible Parties; Continuing Violations

If a violation of this Code occurs, there shall be a rebuttable presumption that all owners of the property to which the violation relates allowed the violation. Each violation of this Code shall constitute a separate infraction. Each day that a violation exists or continues shall constitute a separate violation ~~If someone violates this Code or~~

~~any Village Ordinance, and the violation continues for more than one (1) day, then each day shall be deemed a separate violation~~ for which a separate penalty may be imposed.

Section 3-105. Abatement of Public Nuisances

If any person shall fail to abate any public nuisance condition, after receipt of the Village's notice to abate and within a reasonable time as may be specified in such notice, the condition may be abated by the Village at the expense of the person named in such notice. The expense of abating the nuisance shall be assessed against the real property and the owner thereof, and shall be a lien on the property to be collected in the same manner that municipal taxes are collected. Abatement by the Village shall not bar the prosecution of the person responsible for the condition abated.

Section 3-106. Additional Remedies

(a) In addition to any other remedies provided for in this Code, where there is a violation of any provision of this Code, any court of competent jurisdiction may authorize a designee of the Village to enter onto the subject property and cause the violation to be corrected in accord with the court's order and to charge the costs and expenses, including legal expenses thereof, to the property owner and/or occupant responsible for the violation. Such costs and expenses may be collected by way of any appropriate legal proceeding.

(b) In addition to any other remedies provided for in this Code, the Village may institute injunctive or other appropriate actions or proceedings to correct any violation of this Code; any court of competent jurisdiction may issue such injunctions, restraining orders or other appropriate forms of relief.

ARTICLE 2. MUNICIPAL INFRACTION PROCEDURES

3-201 Declaration of Municipal Infractions; Fines

3-202 Issuance of Citation.

Section 3-201. Declaration of Municipal Infraction; Fines

The Village Council, by ordinance, shall determine which violations of this Code constitute municipal infractions and which violations constitute misdemeanors. Unless a violation is designated as a misdemeanor, it shall be deemed a municipal infraction. Notwithstanding the designation of any violation of this Code to be a misdemeanor, the Village may prosecute any violation of any provision of this Code as a municipal infraction, in the discretion of the authorized code enforcement official.

Section 3-202. Issuance of Citation

(a) Any authorized code enforcement official~~s~~ may serve a citation to any person who has committed a municipal infraction. A copy of the citation shall be retained by the Village and bear the certification of the issuing official attesting to the truth of the matter set forth in the citation or that the citation is based on affidavit.

(b) The citation shall contain the following information:

(i) Name and address of the person charged~~.~~;

(ii) The nature of the infraction~~.~~;

(iii) The location and time that the infraction occurred~~.~~;

(iv) The amount of the fine assessed~~.~~;

(v) The manner, location and time, in which the fine may be paid to the Village~~.~~:

(vi) The right of the recipient of the citation to elect to stand trial of the infraction~~.~~; and

(vii) The effect of failing to pay the assessed fine or demanding a trial within the prescribed time.

(c) Municipal infraction citations shall be processed in accordance with state law.

ARTICLE 3. SPECIFIED PENALTIES

3-301 Specified Misdemeanors

3-302 Specified Municipal Infractions

Section 3-301. Specified Misdemeanors

Violations of the following Code provisions are punishable as misdemeanors with the listed penalty:

Section	Fine
4-201~~, 4-202~~ (disclosures, conflict of interest, exparte communications)	$1,000
8-102 (tampering with structures or signs)	$ 200
8-103 (disturbing meetings or gatherings)	$ 200
8-104 (loitering on private property)	$ 200
8-203 (emergency street restrictions)	$ 200

Section 3-302. Specified Municipal Infractions

Violations of the following Code provisions are punishable as municipal infractions with the listed penalty:

Section	Fine
6-302 (building permits required)	$500
6-303 (green space requirements) ~~building code)~~	$500
6-304 (building restriction lines & setbacks)	$500
6-305 ~~(a), (b), (c), (e) & (f)~~ (fences & walls)	$500
6-306 (rental of unlicensed/unregistered ADU)	$500
6-308 (~~completion~~ restoration bonds)	$500
6-309 (compliance with Village, County and State requirements; enforcement of permits; stop work)	$500

Section	Fine
7-202 (safe and sanitary dwelling units)	$500
7-203 (yards)	$250
7-204 (vacant structures and land)	$500
7-205 (greenway and overgrowth)	$200
7-206 (junk vehicles)	$200
7-208 (vehicle repairs)	$200
7-209 (a), (b) and (c) (hedges & trees)	$200
7-210 (unremoved snow and ice)	$200
7-303 (refuse disposal sites)	$200
7-304 (refuse deposit prohibition)	$100
7-305 (littering)	$ 50
7-306 (advertisements and handbills)	$ 50
7-307 (leaving garbage, vehicle unattended)	$100
7-308 (owner and occupant responsibilities)	$100
7-310 (hazardous wastes)	$500
7-311 (incinerator prohibition)	$500
7-312 (dumpsters, temporary storage units)	$500
8-207 (vehicle violations)	$500

CHAPTER 4

CONFLICT OF INTEREST

ARTICLE 1. GENERAL

4-101 Intent and Application

4-102 Definitions

Section 4-101. Intent and Application

(a) This Chapter is not intended to be consistent with the Maryland Public Ethics Law, Article 40A of the Annotated Code of Maryland, from which Section 3 of the Village of Chevy Chase has been exempted.

(b) This Chapter is intended to provide criteria and informal procedures for determining the presence or absence of conflicts between private interests or relationships and public interests. An affirmative duty to disclose potential conflicts with a public interest, as provided in this Chapter, is intended to extend to and include private interests or relationships having an outward appearance of conflict with a public interest. The procedures herein are intended to preserve the privacy interests of persons subject to this Chapter and are intended to encourage voluntary disqualifications in the event of conflicts of interest under the provisions of this Chapter. This Chapter is not intended to require that private interests or relationships disclosed hereunder be made a part of the public record, except in the event of the imposition of any order or penalty under the provisions of Section 4-204 herein.

(c) The provisions of this Chapter shall apply to all officers and employees of the Village, and to the Village Council (all such officers and employees being herein collectively referred to as Officials).

(d) No part of this Chapter shall be construed to prohibit an Official from appearing in the pursuit of his or her private interests as a citizen; or from accepting or receiving any benefit by operation of law; or from prosecuting or pursuing any claim, right, privilege or remedy which is his or hers by operation of law.

Section 4-102. Definitions

For the purposes of this Chapter, the following words and phrases shall have the following meanings:

(a) "Commission" means the "Village Ethics Commission" as constituted and described in Section 2-101.

~~(b) "Council" means the "Village Council" as described in Section 1-204.~~

~~(c)~~(b) "Gift" means the transfer of any thing or service of value without identifiable and adequate consideration; "gift" does not mean or include any regulated campaign contribution.

~~(d)~~(c) "Private interest or relationship" has the meaning ascribed to it in Section 4-201(b) of this Chapter.

ARTICLE 2. PROCEDURES

4-201 Duty to Disclose; Conflicts of Interest; Ex Parte Communications

4-202 Disqualification Procedures; Complaints; Records

4-203 Failure of Quorum; Substitute Appointment

4-204 Orders

Section 4-201. Duty to Disclose; Conflicts of Interest; Ex Parte Communications

(a) Before participating, on behalf of the Village, in any debate or determination which may have a reasonable potential of thereafter affecting a public interest, any Official who is subject to this Chapter shall have an affirmative duty to disclose in writing to the Council or to the Village Ethics Commission (the "Commission") the receipt or solicitation of any gift in excess of $100 from anyone with a contractual relationship with the Village or any matter pending before the Council. The Official must report the existence of any private interest or relationship either having a reasonable potential of conflict with a public interest or having a reasonable potential of giving the outward appearance of conflict with a public interest.

(b) For the purposes of this Section, it shall be presumed that a "private interest or relationship" includes, without limitation, any existing or prospective interest in or relationship to a business, contract, creditor, obligee or employment nature in which an Official or an immediate family member, including spouse, father, mother, brother, sister, or child, has a direct or indirect financial interest and by which such Official or immediate family member has a reasonable potential of profiting or otherwise benefiting financially.

(c) An Official shall not consider any ex parte or private communication from any person, whether oral or written, which he/she knows is, or reasonably may be, intended to influence the decision on the merits of any matter where a determination is required by law to be made on a record after opportunity for a hearing to interested persons. Any such ex parte or private communication received and considered shall be reported in writing to the Village Council, which shall officially include such written disclosure as an exhibit to the minutes of the meeting wherein such disclosure was made.

Section 4-202. Disqualification Procedures; Complaints; Records

(a) After complying with the disclosure requirements of Section 4-201, the Official may either:

(i) Voluntarily disqualify himself/herself and withdraw from participating in further debates or determinations with respect to the public interest in conflict with the official's private interest or relationship or

(ii) Request that the Commission determine the presence or absence of a conflict of interest and advise as to an appropriate course of conduct.

(b) Any person alleging a violation of this Chapter may file a written complaint with the Commission. Upon the receipt of such complaint, the Commission shall send a written acknowledgment of its receipt and shall notify the Official of the allegation and shall request the Official to provide to the Commission such information as the Commission finds necessary to determine the presence or absence of a conflict of interest. A written complaint hereunder shall not require a formal hearing; such complaints shall be processed under the procedures described in subsections (c), (d), (e) and (f) of this Section. Upon final resolution of the matters alleged, the Commission shall provide a written summary of that resolution to the person having filed a complaint and the Official.

(c) Upon being advised by the Commission of the presence of a conflict of interest,

(i) the Official shall voluntarily disqualify himself/herself and so notify the Council or

(ii) failing such voluntary disqualification, the Commission shall mandate that the Official be disqualified from participating in further debates or determinations with respect to the public interest in conflict with the Official's private interest or relationship. For the purposes of this Section, the Commission may find and advise an absence of a conflict of interest when the Officials private interest or relationship is found to be too remote and insubstantial to affect the integrity of the Officials' public actions.

(d) Any Official who voluntarily disqualifies himself/herself shall notify the Council by a written statement of disqualification and shall therein provide a full description of the public interest subject matters about which the Official has withdrawn from participation in further debate or determination. A voluntary disqualification does not require a disclosure of the specific nature of a private interest or relationship considered to be in conflict; only the public interest object of conflict must be disclosed.

(e) The Commission shall notify the Council and the Official in writing of all mandated disqualifications and shall therein provide a full description of the public interest subject matters with which an Official has been found in conflict and about which such Official should be disqualified from participation in further debate or determination. The Commission shall mandate a disqualification for any Official who fails or refuses to provide the Commission with such information as the Commission finds necessary to determine the presence or absence of a conflict of interest.

(f) A record of any public interest description accompanying a voluntary or a mandated disqualification shall be maintained in the minutes of the Council meeting at which notification was received.

(g) The Commission shall meet in closed session

(i) to protect the privacy or reputation of individuals with respect to their private interests or relationships not related to the public business,

(ii) to discuss the discipline of an Official under the provisions of this Chapter,

(iii) to consult with counsel, or

(iv) to consult with staff, consultants or other individuals about pending or potential litigation.

(h) Any part of a public record maintained under the provisions of this Chapter shall be privileged and not subject to public inspection to the extent that such record contains any of the following information:

(i) information about the finances of an individual including assets, income, liabilities, net worth, bank balances, financial history or activities or credit worthiness,

(ii) any otherwise confidential financial information,

(iii) confidential commercial information, or

(iv) trade secrets; for the purposes of this Section, confidential or secret information shall be such information as is customarily regarded as confidential in business.

Section 4-203. Failure of Quorum; Substitute Appointment

If, because of a voluntary or mandatory disqualification under the provisions of this Chapter, less than a quorum of the Council is available to act upon any particular matter, or if a disqualified Official is required by law to act or is the only person authorized to act, either

(a) the disqualified Official shall be given an opportunity to disclose to the Council the nature and circumstances of the private interest or relationship and may thereafter participate or act, or

(b) failing such voluntary disclosure, the remaining Council member(s) shall constitute a quorum and shall have authority to transact any business to the extent permitted by law, including the appointment of a substitute Council member to act in the place of any disqualified Official being required by law to act or being the only person authorized to act; provided that nothing in this Chapter shall be construed to permit the transaction of business otherwise contrary to the provisions of State or other law.

Section 4-204. Orders

(a) The Council, upon the advice of the Commission, may issue a cease and desist order against any person found by the Commission to be in violation of this Chapter and may seek enforcement of this order in the Circuit Court of Montgomery County.

(b) An Official found by the Commission to be in violation of this Chapter may, upon the advice of the Commission, be subject to disciplinary or other appropriate personnel action, including suspension of Village salary or other compensation, as ordered by the Council.

CHAPTER 5

COUNTY AND VILLAGE RELATIONS

ARTICLE 1. VILLAGE AUTHORITY

5-101 Purpose

5-102 Legislative Authority

5-103 Specific Exemptions for County Laws

Section 5-101. Purpose

This Chapter establishes the applicability of Montgomery County laws and regulations within Section 3 of the Village of Chevy Chase and is intended to prevent conflicts between County and Village authority.

Section 5-102. Legislative Authority

No provision contained within this Chapter shall affect the authority of the Village Council to adopt legislation and regulations relating to any subject upon which the Village Council has legislative authority to act either by public general law or by Charter of Section 3 of the Village of Chevy Chase.

Section 5-103. Specific Exemptions from County Laws

Section 3 of the Village of Chevy Chase is exempt from the following legislation, and regulations pertaining thereto, as codified in the Montgomery County Code, 1984, as amended:

Subject	Provision
Cable Communications	Chapter 8A
Contracts, Purchases & Dispositions	Chapter 11B
Ethics	Chapter 19A
Finances	Chapter 20
Financial Disclosure	Chapter 20A
Legislative Oversight	Chapter 29A
Motor Vehicles & Traffic 31-16, 31-17, 31-19, 31-31-47 and 31-48	Chapter 31-2, 31-10, 31-12,
Personal	Chapter 33
Solid Waste	Chapter 48
Streets & Roads	Chapter 49

Subject	Provision
Transient Lodging Facilities	Chapter 54
Silver Spring, Bethesda, Wheaton Montgomery Hills Parking Lot (District (inclusive)	Chapter 60
City, Town and Village Charter	Chapter 71-84

ARTICLE 2. COUNTY AUTHORITY

5-201 Concurrent County Jurisdiction

5-202 Adoption by Reference

5-203 Prior Agreements

Section 5-201. Concurrent County Jurisdiction

Jurisdiction otherwise exercised by Montgomery County within Section 3 of the Village of Chevy Chase, not inconsistent with this Code and as authorized by law, shall be considered concurrent jurisdiction with the jurisdiction of the Village, unless reserved by State law exclusively to Montgomery County or to the Village.

Section 5-202. Adoption by Reference

Nothing contained in this Chapter shall limit or otherwise affect the Village's authority to adopt by reference any law or regulation of Montgomery County as its own law or regulation. Nor shall anything in this Chapter repeal any Village ordinance or regulation which specifically adopted or incorporated by reference any County legislation, unless and until so repealed by the act of the Village Council.

Section 5-203. Prior Agreements

Nothing contained in this Chapter shall repeal or impair any agreement or authorization previously executed between the Village and the County or any third party until and unless done so by consent of the Village and County.

ARTICLE 3. AGREEMENTS

5-301 Agreements Providing For County or State Enforcement of Village Laws

5-302 Cable Communications Systems

Section 5-301. Agreements Providing For County or State Enforcement of Village Laws

Nothing contained in this Chapter shall limit or otherwise affect the Village's authority, whether exercised previously or in the future, to request the enforcement of Village legislation or regulations in whole or in part by Montgomery County or the State of Maryland, and to enter into agreements providing for the same.

Section 5-302. Cable Communications Systems

(a) Chapter 8A of the Montgomery Code, entitled "Cable Communications," may be amended from time to time, is incorporated by reference and enacted as the cable communications ordinance of the Village with additions and amendments as set forth in paragraph (b) of this Section.

(b)

(i) Section 8A-17(d) is amended to provide that interest earned by the franchiser on advance payments of franchise fees shall not be considered a part of the franchise fee, but shall be considered as part of net revenues for the purpose of sharing franchise fees with the Village.

(ii) Section 8A- 17(d) is amended to provide that the Village may revoke its franchise and, with the approval of the Village Council, shall have the right to purchase all assets and property of the cable system located within the corporate limits of the Village and on terms as provided in Chapter 8A.

(c) The Village Council is authorized to enter into agreements with Montgomery County to enable the County to administer franchises granted by the Village.

CHAPTER 6

LICENSES & PERMITS

ARTICLE 1. GENERAL PROVISIONS

6-101 Definitions

Section 6-101. Definitions

For the purposes of this Chapter, the following words and phrases shall have the following meanings:

(a) "Access ramp" means a ramp used to facilitate reasonable access to a building.

~~(a)~~(b) "Accessory building" means a building subordinate to, and located on the same lot with, the main building thereon, the use of which is clearly incidental to the principal use of the main building on said lot or to the principal use of the land of said lot, and which is not attached by any part of a common wall or roof with the main building.

(c) "Accessory Dwelling Unit" means a second dwelling unit subordinate to the principal dwelling that includes facilities for cooking, eating, sanitation, and sleeping, and which may be attached to or detached from the main building.

~~(b)~~(d) "Adversely affect" means to have a deleterious effect on property that unreasonably interferes with the use or enjoyment of property.

~~(c)~~(e) "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, animals or property of any kind.~~.~~

~~(d)(a) "Building Inspector" has the meaning ascribed to it in the Village Charter.~~

~~(e)~~(f) "Building restriction lines" means the lines drawn according to the requirements of this Code beyond which a building or other non-exempt structure may not project. The building restriction lines provided in this Code define the area of the required setbacks. ~~the foundation wall or any deck or any enclosed or covered porch, vestibule or other enclosed or covered portion of a building or accessory building shall not project.~~

~~(f)(a) "Chairman" has the meaning ascribed to it in the Village Charter.~~

~~(g) "Council" has the meaning ascribed to it in Section 1-204.~~

(g) "Driveway" means a substantially flat outdoor structure suitable and intended for providing ingress and egress or the parking of one or more motor vehicles, constructed of gravel or other material.

(h) "Emergency re-construction, repair or excavation" means work necessitated by an actual and immediate danger of a failure or collapse of any structure or any part thereof which would endanger life or health, or which would disrupt vehicular traffic.

(i) "Fence~~s~~" means a man-made structure~~s~~ ~~which are~~that is designed primarily to partially or wholly enclose or define a lot or a portion thereof.

(j) "Front property line" means ~~the~~ a property line separating a lot ~~property~~ from ~~the~~ a street. A property may have more than one front property line. For a corner lot, all such lines shall be considered "front property lines."

~~(i)~~(k) "Front-loaded garage" means an attached garage the door of which is parallel (or approximately so) to the front building restriction line. An attached garage on a corner lot is deemed to be front-loaded if its door faces any street.

(l) "Front Yard" means the area of a lot which occupies the space bounded by the exterior wall of the main building, the front property line, and the side property lines.

(m) "Lot" means a parcel of land, whether or not improved, the fee simple title to which is, or may be, separate and distinct from that of any other land, and which is, or may be, described by metes and bounds or reference to recorded lot and block numbers.

~~(j)~~

~~(k)~~(n) "New house" means a structure intended primarily for habitation and constructed on a vacant lot or part of a construction project that includes the removal, replacement, expansion, enclosure, or alteration of fifty (50) percent or more of the exterior walls of the existing house, measured in surface area and including only that area entirely above grade.

(o) "Non-vegetative surface" means any surface that is not organic, including, but not limited to, asphalt, concrete, stone, gravel, sandstone pavers, and the like, and includes the area of any front porch, stoop, steps, and/or stairs, or accessory buildings.

~~(l)~~(p) "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, but 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 exit way requirements; ~~nor shall~~ however, "ordinary repairs or maintenance" does not include addition to, alteration of, replacement of 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 affecting public health or general safety.

~~(m) "Person" means an individual, corporation, association, firm, partnership or the like.~~

(q) "Patio" means a substantially flat outdoor structure suitable as a seating, dining, or recreational space, and may be constructed of either impervious or porous materials.

(r) "Property line" means a boundary line of a lot.-

(s) "Rear yard" means the area of a lot which occupies the space bounded by the exterior wall of the main building, the rear property line, and the side property lines.

(t) "Right-of-way" means the publicly accessible area running roughly parallel to a front property line of a lot and includes the street, sidewalk and area between the curb and the sidewalk.

~~(n)~~(u) "Sidewalk" means the portion of any street designed exclusively for passage of pedestrians.

~~(o)~~(v) "Street" means any public right-of-way by which pedestrian and vehicular traffic traverses over, through, across, into and/ or out of the Village~~, and/or under which any sewerline, pipeline or cable line or the like is located~~.

(w) "Structure" means an assembly of materials forming a construction on real property including, but not limited to, buildings, decks and porches, ~~accessory buildings,~~ fences, accessory buildings, sheds, shelters, garages, tennis courts, pools, parking lots, pipelines, sewer lines, telecommunication lines, patios, or driveways.

(x) ~~For purposes of Section 6-305,~~ "W~~w~~all", for purposes of Section 6-305, means a continuous vertical brick, stone or masonry structure that encloses or divides an area of land.

(y) "Wall plane" means a continuous wall surface.

(z) "Wall plane length" means the horizontal length along the face of any exterior ~~wall~~ of a building, including ~~any~~all portions of the face of the building that are not interrupted by ~~offsets less than~~ the minimum wall plane offset.

~~(p)~~(aa) "Wheelchair lift" means~~:~~ ~~A~~ a lift necessary to facilitate reasonable access to a building using a wheelchair or similar device.

~~(q) "Unrelated Persons" means anyone who is not a son, daughter, grandson, granddaughter, father, mother, grandfather, grandmother, brother, sister, stepmother, stepfather, stepson, stepdaughter, husband, wife or in-law of the owner, operator or lessee of the structure.~~

~~(r) "Vice Chairman" means the Vice Chairman of the Village Council.~~

~~(s) "Village" has the meaning ascribed to it in Section 1-204.~~

~~(t) "Village Charter" means the Charter of Section 3 of the Village of Chevy Chase, Maryland.~~

[ARTICLE 2. INTENTIONALLY LEFT BLANK]

ARTICLE 3. VILLAGE BUILDING PERMITS

6-301 Purpose and Application

6-302 Permits Required; ~~Application~~Permitting Process

6-303 Green Space Requirements ~~Building Code~~

6-304 Building Restriction Lines and Required Setbacks

6-305 Fences and Walls

6-306 ~~Process for Obtaining Permits~~Accessory Dwelling Units

6-307 Applicable Standard; Appeals; Exceptions

6-308 ~~Completion~~ Restoration Bonds

6-309 Compliance with Village, County and State Requirements; Enforcement; Stop Work Orders~~Enforcement of Permits; Stop Work~~

6-310 Variances

6-311 Fees for Building and Demolition Permits and Various Applications

Section 6-301. Purpose and Application

(a) This Article is intended to protect and promote the health, safety and welfare of the residents of the Village.

(b) The permitting requirements of this Article are in addition to ~~the~~ any requirements imposed by Montgomery County or the State of Maryland. Nothing in this Article shall be construed to relieve any person from the requirements of the County or State regarding ~~building~~ permits, environmental permits, or approvals required from any County or State agency.

Section 6-302. Permits Required; ~~Application~~Permitting Process

(a) Unless a permit has been issued by the Building Inspector, it shall be unlawful for any person to engage in any work for which a permit is required. A ~~Building~~ permit~~s issued by the Building Inspector are~~ is required ~~before~~ for the following work ~~can be started~~:

(i) Constructing, placing, materially altering~~, erecting~~ or demolishing any structure, including, but not limited to:

1. A new building (including a garage, accessory building, or shed);

2. An existing building (including a garage, accessory building, or shed) where such action would alter the existing three-dimensional boundaries or footprint or increase the height of such existing building;

3. A raised exterior deck or porch~~.~~;

4. A swimming pool, outdoor therapeutic bath, or hot tub~~.~~;

5. A tennis, basketball, or other sport court~~.~~;

6. Permanently anchored play equipment~~.~~;

7. A driveway or any material part thereof including an apron and curb cut~~.~~;

8. A walkway or any material part thereof;

9. A fence, wall or any material part thereof;

10. Any cell tower, telecommunication line, air conditioning compressor, generator, or heat pump, including the replacement of any such external feature;

11. Impermeable or permeable surfaces such as patios, terraces, or other paving such as parking areas;

12. Any sump pump or stormwater or drainage system; and

13. Any outdoor fireplace or installed fire pit.

~~(i) Constructing, rebuilding or reconstructing any off-street parking area;~~

(ii) Excavating, grading yards or installing a sump pump and/or a new sump pump discharge;

(iii) Constructing or renovating (but NOT re-surfacing or replacing an existing driveway) a driveway, driveway apron or curb cut;

(iv) Blocking or closing a street or sidewalk in connection with any construction activities;

~~(v) Constructing or altering a fence or wall;~~

(v) Use of dumpsters or temporary storage units (see also ~~Chapter~~ Section 7-312).

(vi) Any excavation, repair, or construction in any right-of-way.

(b) ~~Building~~ A permit is ~~are~~ not required for the following work:

(i) Ordinary repairs and maintenance to the exterior of a structure (including painting, gutter repair, roofing, and window replacement or repair);

~~(i)~~(ii) Interior construction or decoration of a building if such work does not affect structural elements, utilities or break an exterior wall of the building;

~~(ii)~~(iii) Emergency reconstruction, repair or excavation; or

~~(iii)~~(iv) Work performed on Village-owned property.

(c) Demolition of buildings:

(i) Before demolishing, razing or tearing down more than fifty percent (50%) of the exterior walls of a building or~~,~~ accessory building ~~or garage~~ within the Village, an owner must first obtain a permit from the Building Inspector for such demolition.

(ii) The ~~building~~ Building ~~inspector~~ Inspector shall issue a demolition permit only if he or she finds that such work will be carried out in a way that nearby property owners will not be adversely affected and that the public health, safety and welfare will not be jeopardized by such work.

~~(d) Use of public right-of-way by telecommunications providers, utilities and other users:~~

~~(i) Every person or firm including, but not limited to, any utility company or any provider of telecommunications or information services, (including but not limited to telecommunications companies, cable providers, internet providers or fiber optic providers) that seeks to install or erect any poles, installations, wires, equipment boxes or other equipment on, across or under any public right-of-way or public land (including greenway, streets, sidewalks, or parks) in the Village, shall obtain from the Building Inspector a permit prior to commencing any such construction or installation.~~

~~(ii) The Building Inspector shall not issue a permit under Section (d)(i) until the following conditions are met:~~

~~1. The applicant demonstrates that it has obtained any necessary approvals from all applicable County, State, or Federal agencies.~~

~~2. The applicant has provided the Building Inspector with a set of plans and specifications for the proposed work.~~

~~3. The applicant has tendered a check in an amount sufficient to cover the applicable application fees listed in Section 6-311. The check will not be cashed by the Village unless the permit is approved.~~

~~4. The applicant has provided a performance bond or damage security deposit or letter of credit (to be refunded at completion of construction if no damage is done to public areas) in an amount equal to five percent (5%) of the estimated total cost of construction, or such other amount as may be set forth on the permit fee schedule.~~

~~(iii) Nothing in this ordinance shall be deemed to override other provisions of law concerning the operation of utilities or telecommunications or information services nor shall the ordinance apply when there is a need for emergency action to prevent property damage or personal injury. This ordinance shall not be construed to require a building permit in order to connect an individual home to an existing telecommunications or utility structure if no new construction or installation is required in or under the public land or right-of-way.~~

(d) Permitting Process.

(i) County Letter of Acknowledgement. In order to obtain the County-required letter of acknowledgement from the Village, an applicant must be the owner of record. The applicant must submit to the Village a site plan indicating the size and location of the proposed work and distances to property lines as well as a preliminary set of building plans (regardless of the scope of the project). Plans should be in conformity with Village setbacks and other building regulations. Property owners are encouraged to meet with the Village Building Inspector to review their plans as some Village requirements differ from County Requirements.

~~(iv)~~(ii) ~~Section 3~~Village Building Permit. An ~~Applicants~~ applicant for a building permit~~s~~ must submit the following:

1. A copy of the Montgomery County b~~B~~uilding ~~P~~permit if one is required;~~.~~

~~(v) A copy of the house location survey with the addition or accessory structure clearly indicated. If any structure or improvement (including a fence) is to be placed within two (2) feet of any Section 3 building restriction line or property line, the applicant must submit a boundary survey executed by a licensed Maryland surveyor within the past five years showing the existing structures on the lot, the building restriction lines (setbacks) and the proposed improvements and their relationship to the restriction lines.~~

2. A copy of a full set of stamped County-approved plans if a County permit is required;

3. A final site plan showing the existing structures on the lot, the Village building restriction lines (required setbacks), and the proposed improvements and their relationship to the building restriction lines. If any structure or improvement (including a fence) is to be placed within two (2) feet of any Village building restriction line or property line, the applicant must submit a boundary survey executed by a licensed Maryland surveyor within the past ten (10) years.

~~1.~~4. A statement advising the Building Inspector whether any of the neighbors immediately impacted by the proposed construction oppose the construction. For purposes of this section, a neighbor whose property confronts or adjoins the lot of the proposed construction shall be deemed a neighbor immediately impacted by the proposed development.

~~2.~~5. For structures over one hundred forty-four (144) square feet, the applicant must file a drainage plan with current and proposed topographic contours for any construction (including a driveway). The Building Inspector may require consultation with a civil engineer and/or additional remediation before a drainage plan is approved and a permit is issued. The drainage plan must include a drawing prepared by a licensed engineer or landscape architect showing at least the following:

i. front, side, and rear yard ~~widths~~sizes, north point, and scale of plan; and~~;~~

~~ii. North point and scale of plan; andinformation (including but not limited to calculations) sufficient to show adequate water capture; and~~

ii. the location of any existing and proposed drainage structure, including any swale, and the general flow of water, indicated by arrows, to and from each structure; and ~~The applicant must file a drainage plan with current and proposed topographic contours for any construction (including a driveway) that would impact an existing condition or increase any impervious surface. The Building Inspector may require consultation with a civil engineer and/or additional remediation before a drainage plan is approved and a permit is issued.~~

iii. information (including but not limited to calculations) sufficient to show adequate water capture;

~~3.~~6. ~~a~~Any other evidence necessary to show that the proposed activity complies with all applicable Village, County and State laws and permitting requirements;

7. A ~~copy of the~~ completed ~~Section 3~~Village ~~Building~~ Permit Application form; and

~~4.~~8. ~~along with t~~The appropriate fee required by ~~. (See~~ Section 6-311.~~)~~

(e) False Statements. It shall be unlawful to make any false statement or willful misrepresentation in a permit application. The Village in its discretion may impose a fine or initiate prosecution against an applicant who makes a false statement or willful misrepresentation in connection with the permit application process. The Building Inspector may deny an application that is accompanied by a false statement or willful misrepresentation, and may revoke an issued permit that was obtained in whole or in part based on a false statement or willful misrepresentation.

~~(e)~~(f) Stormwater Drainage. A ~~Building~~ permit~~s~~ will not be granted ~~for any residential building, addition, or renovation or accessory structure, sump pump, new sump pump discharge or driveway~~ unless the property owner ~~can show that~~demonstrates that ~~the~~ resulting stormwater runoff will not adversely affect any adjacent property, public sidewalk, ~~and/or~~ street, or right-of-way~~s~~.

(g) Driveway Permeability. The building permit application for any proposed construction or renovation of any driveway shall demonstrate with a proposed construction substrate detail a maximum permeability ~~(~~of 80 to 100%~~)~~ as defined by the manufacturer or civil engineer's specifications or provide for adequate means of retaining stormwater on site so that drainage would not adversely affect any adjacent property, ~~or~~ public sidewalk, ~~or~~ street, or right-of-way.

(h) When the Building Inspector has received proof of compliance with the requirements of this section, he or she shall issue the building permit.

(i) Compliance with Plans and Permit Conditions.

(i) The Building Inspector or the Council may attach conditions to the permit to ~~assure~~protect the public health, safety, and welfare ~~of~~ of both the job site and the neighborhood, which conditions shall become part of the permit and enforceable under the terms of this Article, including, without limitation, the following:

1. Prohibiting or limiting the parking of contractor or other construction-related vehicles in the public right-of-way;

2. Limiting the locations upon private property where contractors or other construction-related vehicles may be parked;

3. Limiting the locations upon which construction materials may be stored;

4. Limiting the locations upon which portable toilets may be placed or maintained;

5. Limiting the locations upon which construction debris may be stored, whether or not such debris is contained;

6. Requiring tree protection measures to be maintained to protect and preserve Village and private trees during the course of construction; and

7. Such other terms or conditions as may be determined to be necessary to protect the public health, safety or welfare.

(ii) It shall be unlawful to conduct construction or work except in strict compliance with the plans and specifications approved by the Village and the terms and conditions of the permit issued by the Village.

(j) Restoration Bond. Pursuant to Section 6-308, the Building Inspector or Council may also require a restoration bond or other security for loss or damage to public property which may be caused by equipment (including dumpsters) used during the approved construction or demolition.

~~(f)~~(k) Strict compliance. It shall be unlawful to conduct construction or other activity except in strict compliance with the plans and specifications approved by the Building Inspector, and the terms and conditions of the permit.

~~(g)~~(l) Modifications. The Building Inspector is authorized to approve, in writing, non-material deviations in approved activity under this section without requiring a new permit.

(m) Time for Completion. Activity authorized by a Village permit shall commence within six (6) months after issuance of the permit and shall be completed within one (1) year from the date of issuance of the permit. The Building Inspector may in his or her discretion revoke any permit for which the authorized activity has not been begun within six (6) months after issuance of the permit. Is shall be unlawful to continue construction beyond the permit expiration date. Upon application, a permit deadline may be extended by the Village upon satisfactory proof that, despite due diligence by the applicant, additional time is required to commence or complete construction.

(n) Inspections. Upon reasonable notice, the Village shall have the right to on-premises inspection of construction to ensure compliance with this Code, the application and plans submitted, and/or the Village permit issued at such times during the course of the project as the Building Inspector or his or her designee deems necessary. The Building Inspector may perform a final inspection at the completion of the project to determine whether the activity conforms to the Village permit issued; whether any damage has been caused to the public right-of-way, public improvements, or Village trees; and whether the bond or any other security may be released.

(o) Wall Check. The applicant may be required to produce a wall check survey or such other documents or information that the Building Inspector deems necessary.

(p) Use of public right-of-way by telecommunications providers, utilities and other users:

(i) Every person or firm including, but not limited to, any utility company or any provider of telecommunications or information services, (including but not limited to telecommunications companies, cable providers, internet providers or fiber optic providers) that seeks to install or erect any poles, installations, wires, equipment boxes or

other equipment on, across or under any public right-of-way or public land (including greenway, streets, sidewalks, or parks) in the Village, shall obtain from the Building Inspector a permit prior to commencing any such construction or installation.

(ii) The Building Inspector shall not issue a permit until the following conditions are met:

1. The applicant demonstrates that it has obtained any necessary approvals from all applicable County, State, or Federal agencies.

2. The applicant has provided the Building Inspector with a set of plans and specifications for the proposed work.

3. The applicant has tendered a check in an amount sufficient to cover the applicable application fees. The check will not be cashed by the Village unless the permit is approved.

4. The applicant has provided a performance bond or damage security deposit or letter of credit (to be refunded at completion of construction if no damage is done to public areas) in an amount equal to five percent (5%) of the estimated total cost of construction, or such other amount as may be set forth on the permit fee schedule.

~~(i)~~(iii) Nothing in this ordinance shall be deemed to override other provisions of law concerning the operation of utilities or telecommunications or information services nor shall the ordinance apply when there is a need for emergency action to prevent property damage or personal injury. This ordinance shall not be construed to require a building permit in order to connect an individual home to an existing telecommunications or utility structure if no new construction or installation is required in or under the public land or right-of-way.

Section 6-303. ~~Building Code~~Green Space Requirements

~~All construction for which a building permit is required shall be performed to the standards set forth herein and in the Building Code of Montgomery County. All such construction shall be performed and completed in a safe and workmanlike manner and in compliance with all applicable County and State laws and regulations.~~

(a) Purposes.

(i) To maintain privacy and space between properties, ensure adequate air and light, and maintain safe passageways between buildings.

(ii) To minimize the flow of stormwater from lots by encouraging the maintenance of open spaces and tree canopy and reduced building and surface coverage.

(iii) To protect the Village's distinct character by encouraging the retention and maintenance of open space and shade trees on residential lots, and the preservation of existing houses and accessory structures.

(iv) To encourage the construction of additions to existing houses and new houses that are compatible with existing houses in terms of height, scale, massing, and arrangement.

(b) Maximum Non-Vegetative Surface in Front yards.

(i) The non-vegetative surface area in the front yard shall not exceed thirty-five (35) percent of the area of the front yard.

(ii) For through lots, the front yard that must comply with this requirement is the yard fronting the street from which the street address is recognized. For corner lots, all front yards must comply with this requirement.

(iii) Notwithstanding the requirements of this subsection, non-vegetative surface area in a front yard existing prior to November 11, 2020 may be maintained, repaired, or replaced, but may not be expanded beyond the maximum set forth in Section 6-303(b)(i).

(c) Wall Plane Length

(i) No side wall plane on any building shall exceed thirty (30) feet in length unless there is an offset or articulation in the entire wall plane that measures at least two (2) feet deep and five (5) feet long, so that no section of the wall plane continues for more than thirty (30) feet without the required minimum offset or articulation.

(ii) For Accessory Dwelling Units, no wall plane on any façade shall exceed twenty (20) feet in length unless there is an offset or articulation in the wall plane that measures at least two (2) feet deep and five (5) feet long, so that no section of wall plane continues for more than twenty (20) feet without the required minimum offset or articulation.

(iii) Exception for Certain Existing Buildings. A building in existence as of November 11, 2020 that does not comply with the wall plane length limitations of this subsection may be maintained, repaired, altered, renovated, or expanded without complying with the required wall plane length limitations provided that any expansion of such a building shall not increase the length of any non-conforming wall plane.

(d) Front-loaded Garages

(i) The door of an attached front-loaded garage shall not exceed ten (10) feet in width.

(ii) There shall be not more than one (1) door for an attached front-loaded garage per main building.

(iii) Exception for Certain Existing Garages. An attached front-loaded garage in existence as of November 11, 2020 that does not conform to the requirements of this subsection may be maintained, repaired, altered, or renovated but may not be expanded to increase the door width or the number of doors.

Section 6-304. Building Restriction Lines and Required Setbacks

(a) General Rule. Buildings ~~(including additions to existing buildings)~~ and any appurtenances and projections thereto (~~,~~ including, but not limited to, additions, cornices, eaves, vestibules, bay and bow windows, ~~steps,~~ stairways, decks, patios, porches, terraces, chimneys, air-conditioning units, generators, and the like)~~,~~ shall not be built closer than thirty (30) feet from any front property line, twenty (20) feet from ~~the~~ a rear property line and eight (8) feet from any side property line. The sum of the side setbacks shall be not less than eighteen (18) feet. In determining compliance with the 18-foot combined side setback requirement, the sum of the setbacks is calculated based on the actual setbacks of each side of the building, measured from the point of the building that is closest to the respective side property line.

~~(b) Exception for Certain Existing Buildings Not Conforming to the Required Side Setback. A building that is in existence as of April 14, 2004 and has been constructed five (5) feet or more from any side property line may be maintained, repaired, altered, renovated, or enlarged provided that any expansion of the three-~~

~~dimensional boundaries of such a building shall not be constructed any closer to the side property line than the existing wall of such building or eight (8) feet, whichever is less, and provided that the sum of the side setbacks equals at least eighteen (18) feet. This exception shall apply only if the wall plane of the portion of the building that is located five (5) feet or more from the side property line measures five (5) feet or more in length.~~

~~(c)~~(b) Rule for Corner Lots. ~~For a corner property, the terms front, rear and side property lines shall have the same meaning as front, rear and side lot lines as defined in the Montgomery County Zoning Ordinance, except as modified by this Chapter.~~ On a corner lot, no building (including an addition to an existing building) shall be erected any closer than thirty (30) feet from the front property lines, twenty (20) feet from the rear property line, or ten (10) feet from the side property line. A building that is in existence as of April 14, 2004 and that has been constructed five (5) feet or more from any side property line may be maintained, repaired, altered, renovated, or enlarged without complying with the required side setback, provided that any expansion of the ~~three-dimensional boundaries of such~~ building shall not be constructed any closer to the side property line than the existing wall of such building or ten (10) feet, whichever is less, and provided that the rear setback of such building shall be at least twenty (20) feet. This exception shall apply only if the wall plane of the portion of the building that is located five (5) feet or more from the side property line measures five (5) feet or more in length.

~~(d) Parking Facility. No parking space within an off-street parking facility containing six (6) or more parking spaces shall be constructed or maintained closer than thirty (30) feet from any front property line and twenty (20) feet from any abutting property that is improved with a single-family dwelling.~~

(c) Other structures. Structures other than buildings (including, but not limited to, pools, hot tubs, sport courts, shelters, freestanding decks, patios, gazebos, pergolas, outdoor kitchens, and outdoor fireplaces) shall not be built or installed closer than thirty (30) feet from any front property line, twenty (20) feet from a rear property line and eight (8) feet from any side property line. The sum of the side setbacks shall be not less than eighteen (18) feet. The location and size of the side setbacks on the property shall be determined as set forth in Section 6-304(a).

(d) Non-conforming Buildings and Other Structures. Buildings and other structures existing as of November 11, 2020 not complying with the provisions of this Section shall not be enlarged or extended without a new building permit and, further, shall not be renovated, replaced, or re-erected without compliance with this Section (except for such minor repairs necessary to keep the building or other structure from becoming a health or safety hazard, and except for after a fire or other casualty event).

(e) Exempt Buildings and Other Structures.

(i) Exception for Certain Existing Buildings Not Conforming to the Required Side Setback. A building that is in existence as of April 14, 2004 and has been constructed five (5) feet or more from any side property line may be maintained, repaired, altered, renovated, or enlarged without complying with the required side setback provided that any expansion of such a building shall not be constructed any closer to the side property line than the existing wall of such building or eight (8) feet, whichever is less, and provided that the sum of the side setbacks adjacent to such expansion equals at least eighteen (18) feet. This exception shall apply only if the wall plane of the portion of the building that is located five (5) feet or more from the side property line measures five (5) feet or more in length.

(ii) Sheds. Notwithstanding any other provision of this section, a shed with a floor area of one hundred forty-four (144) square feet or less may be constructed only in a rear yard and may be erected no closer than five (5-) feet from the rear and side property lines.

(iii) Driveways, walkways and steps. Notwithstanding any other provision of this section, a driveway, walkway or steps may be situated in a required front and/or rear setback provided they are not within five (5) feet of a side property line, and comply with the other provisions of this Code.

(iv) Any roofed but otherwise unenclosed steps or stoop may project a maximum of five (5) feet into any required front setback or rear setback.

~~(i)~~(v) The required setbacks shall not apply to minor structures that do not materially impact the purposes of this Article, as determined by the Building Inspector, including, but not limited to, as flag poles, play equipment, dog houses, arbors, and planter boxes.

(vi) Access ramps and wheelchair lifts. An open and uncovered access ramp or wheelchair lift, and any handrails or machinery associated therewith, may project into any required front, side, or rear setback provided the following conditions are met:

1. The access ramp or wheelchair lift, and any handrails or machinery associated therewith, cannot reasonably be constructed without projecting into the required setback;

2. The access ramp or wheelchair lift, and any handrails or machinery associated therewith, project into the required setback the minimum distance reasonably necessary to provide a person a reasonable accommodation; and

~~1.~~3. The access ramp or wheelchair lift has the minimum dimensions reasonably necessary to comply with any applicable provisions of the Americans with Disabilities Act, as amended.

Section 6-305. Fences and Walls ~~(formerly part of Section 7-209)~~

(a) General Rule. Fences or walls on private property shall not be permitted to extend into sidewalks, ~~or~~ streets, or rights-of-way or to interfere with pedestrian or vehicular traffic.

(b) Corner properties. For properties located at ~~the~~ an intersection ~~of two streets~~, fences or walls shall be maintained at a height not to exceed forty-eight (48) inches along the ~~street~~ front property lines and in a manner so that persons using the streets shall have an unobstructed view of pedestrian and vehicular traffic. Fences or walls cannot be higher than thirty-six (36) inches from curb level within fifteen (15) feet of ~~the corner in each direction~~an intersection, as measured from the property line.

~~(c)~~ Heights. A fence or wall, or portion thereof, ~~which runs~~ in a front yard ~~of the front house line~~ shall not exceed forty-eight (48) inches in height. All other fences or walls or portions thereof (including those ~~running with the rear property line or the~~in a rear or side ~~property line behind the front house line~~yard) shall not exceed seventy-two (72) inches in height.

~~(d)~~(c) ~~Heights — how measured.~~ In determining the height~~s~~ of a fence~~s~~ or wall~~s~~, the measurement shall be taken from the lowest point ~~beneath~~ at the base of the fence or wall. If the yards on either side of the fence or wall differ in level, the measurement shall be taken from the ground of the higher yard.

~~(e)~~(d) Construction. No person shall erect or maintain anywhere in the Village a fence or wall of unsound construction or in such disrepair as to present a danger or a hazard to the public or persons on adjacent properties, or a fence assembled with or having any barbed wire, spikes or similar device or a fence carrying electric charge sufficient to cause a shock. No Village building permit will be issued for any proposed fence specifying such material or mode of operation.

~~(f)~~(e) ~~Grandfather provision~~Non-conforming Fences and Walls. ~~The provisions of Section 6-305 shall not apply to fences or walls existing as of September 13, 1989.~~ Fences or walls existing as of September 13, 1989 not complying with the provisions of this Section shall not be enlarged or extended without a new building permit and, further, shall not be ~~restored,~~ replaced, or re-erected without compliance with the provisions of Section 6-305 (a-e) (except for such minor repairs necessary to keep the fence or wall from becoming a health or safety hazard).

Section 6-306. Accessory Dwelling Units ~~Process for Obtaining Permits~~

(a) Accessory Dwelling Unit (ADU) setbacks and lot coverage

(i) A detached ADU must be located a minimum of eighty (80) feet from a front property line. Except as otherwise provided in this Chapter, a detached ADU must comply with all applicable setback requirements

(ii) The floor area of a detached ADU may not exceed twenty-five percent (25%) of the gross area of the rear yard in which the ADU is located.

(b) Any property with a detached ADU must have a privacy fence at least seventy-two (72) inches in height along each of the rear and side property lines in the area in which the ADU is located.

(c) Any property with an ADU, whether attached or detached, must have a separate off-street parking space for the ADU resident(s) that (i) is accessible from the same curb cut as the off-street parking area associated with the main building; (ii) measures measure at least 180 square feet and (iii) allows for non-tandem parking with the main building driveway. Existing driveway area may not be counted as the required parking space for the newly-created ADU.

(d) Registration requirement. Any ADU within the Village must be licensed by Montgomery County and registered with the Village, regardless of whether it will be rented or not. It shall be unlawful to rent or advertise an ADU for rent prior to obtaining a license from the County and registering the ADU with the Village. To obtain a Village ADU registration, the property owner shall submit a written request on the form provided by the Village and submit the required registration fee. ADU registration cannot be completed absent proof of a valid and current Montgomery County ADU rental license, and that the ADU complies with all County and Village requirements, including but not limited to the requirements of this Section.

~~(g) Persons seeking a building permit shall complete an application in the form approved by the Council. The form may be obtained from the Building Inspector. Completed forms shall be delivered to the Building Inspector for review. (See Section 6311 for Fees for Building and Demolition Permits and Various Applications).~~

~~(h) Because some Village requirements differ from County requirements, applicants are encouraged to consult with the Building Inspector before obtaining County permits.~~

~~(i)~~(a) ~~At the time of the application, the applicant shall advise the Building Inspector whether any of the neighbors immediately impacted by the proposed construction oppose the construction. For purposes of this section, a neighbor whose property borders a proposed fence or wall or whose property confronts or adjoins the lot of the proposed construction shall be deemed a neighbor immediately impacted by the proposed development. The Building Inspector may refuse to process an application which does not comply with the requirements of this Section.~~

~~(j)~~(a) ~~The Building Inspector shall require from the applicant:~~

~~(i) evidence that the proposed activity complies with all applicable Village, County and State laws and permitting requirements; and~~

~~(ii)~~(i) ~~such plats, plans, drawings and other information as the Building Inspector deems necessary to determine that the proposed activity would not be in derogation of the health, safety and welfare of the residents of the Village.~~

~~(k)~~(a) ~~When the Building Inspector has received proof of compliance with the requirements of this section, he or she shall issue the building permit. The Building Inspector or the Council may attach conditions to the~~

~~permit to assure the health, safety and welfare of both the job site and the neighborhood, which conditions shall become part of the permit and enforceable under the terms of this Article. The Building Inspector or Council may also require a bond or other security for loss or damage to public or private property which may be caused by equipment (including dumpsters) used during the approved construction or demolition.~~

~~(l)(a) Activity authorized by Village permits shall be begun within six months after issuance of the permit and shall be completed within one year from the date of issuance of the permit. These time limits may be extended by the Council upon satisfactory proof that, despite due diligence by the applicant, additional time is required to complete construction.~~

~~(m) The Building Inspector is authorized to approve non-material deviations in approved activity under this section without requiring a new building permit. Otherwise, all activity for which a permit has been issued shall be completed in accordance with the plans and specifications approved by the Building Inspector.~~

Section 6-307. Applicable Standard; Appeals, Exceptions

(a) If the Building Inspector denies an application for a ~~building~~ permit, the applicant has thirty (30) days from the date of the denial in which to appeal the denial. Written notice of an intent to appeal shall be delivered to the Building Inspector. The Council shall promptly publish the notice of appeal in the Village newsletter (or other publication relied upon to give public notice of Council activities) and shall advise in that publication when and where the appeal shall be heard. The hearing on the appeal shall be held no later than sixty (60) days after the filing of the notice of appeal.

(b) An appeal shall be heard and decided by the Council de novo based upon a presentation by the Building Inspector and any evidence presented by the applicant and any other residents or property owners who appear in support or in opposition. The Chair of the Council shall preside at the appeal. All members of the Council who have heard the evidence, including the Building Inspector, shall vote on the appeal. The Council may vote to grant the permit (with or without conditions) or deny the permit.

Section 6-308. ~~Completion~~ Restoration Bonds

(a) No person shall begin any excavation, repair or construction in any street, ~~or~~ sidewalk, or right-of-way, place a dumpster or temporary storage unit on any property, or begin any other work for which the posting of a restoration bond or other security is required, unless such person has provided the ~~Council~~ Village with a ~~completion~~ restoration bond~~, letter of credit~~ or other security. The bond or other security shall be in a form and amount, and subject to such terms and conditions, as may be established from time to time by the Building Inspector or Council. The Village may waive the security requirement ~~No security shall be required~~ for emergency excavation, repair or construction of any street, including dedicated right-of-way, or sidewalk or for routine utility maintenance work.

(b) The permit holder shall be responsible for restoring any disrupted area of the public right-of-way (including but not limited to curbs, gutters, streets, driveway aprons, sidewalks, replacement of trees, grass or other plantings and signs or other improvements in the public right-of-way) that may be damaged or disrupted in connection with the permitted work. If the restoration is not completed within fifteen (15) days of demand by the Village, the Village may restore the area and charge the permit holder and/or may claim the right-of-way restoration bond to reimburse the Village for the cost of restoration. If the bond is not sufficient to cover the cost of restoration, the permit holder shall pay to the Village any deficiency within fifteen (15) days of demand thereof. The cost of the restoration shall be a lien against the property and may be collected in the same manner as property taxes, by a suit for damages, or both.

~~(b)~~(c) All work in the public right-of-way must be performed by a contractor approved by the Village.

Section 6-309. Compliance with Village, County and State Requirements; Enforcement ~~or Permits~~; Stop Work Orders

(a) All construction for which a building permit is required shall be performed to the standards set forth herein and in the Building Code of Montgomery County. All such construction shall be performed and completed in a safe and workmanlike manner and in compliance with all applicable County and State laws and regulations.

(b) It shall be unlawful for any work to be performed in violation of any provision of this Code, except as expressly permitted by a written variance.

~~(a) Any person who commences any addition, alteration, construction, reconstruction, repair or improvement in violation of this Chapter may be enjoined from proceeding. Any permittee who violates the terms of an issued building permit, including any conditions attached to the issuance of the permit, shall be deemed to have committed a municipal infraction.~~

(c) In addition to the other remedies set forth in this Code, the Building Inspector or the Village Council may revoke ~~the building~~ a permit if work is performed in violation of any provision of this Code, or any term or condition of the permit. ~~of any permittee who violates the terms of the permit, including any conditions attached to the issuance of the permit.~~

~~(b)~~(d) Notwithstanding the provisions of Section 6-307(a), the Building Inspector may withhold issuance of a ~~building~~ permit where the owner ~~and/or occupant~~ has had a previous ~~building~~ permit for the same or similar ~~construction~~ work revoked under the terms of this ~~paragraph~~ Section unless adequate assurances are provided that the causes of the revocation will not reoccur.

~~(c)~~(e) In addition to the other provisions set forth in this Article:

(i) Whenever the Building Inspector determines that work on any structure is being prosecuted in violation of the provisions of this Article, including those conditions upon which the ~~building~~ permit has been issued, or in a manner which threatens the safety, health, ~~and~~or welfare of the public, the Building Inspector may order such work be immediately stopped.

(ii) The stop work order described herein shall be issued in writing and posted at the work site.

(iii) It shall be unlawful for any person to continue or permit the continuance of construction or work ~~in or about a structure after having been posted with~~after a stop work order has been posted, except such work as the Building Inspector directs to be performed to remove a violation or ~~unsafe~~ condition that threatens the public safety, health, or welfare. The Building Inspector may impose new permit conditions in connection with a stop work order.

~~(d)~~(f) The Council or Building Inspector may revoke or amend a permit or approval issued under the provisions of this Article in the case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based, or in case of any deviation from the approved plans or any violation of the conditions upon which such permit was issued.

~~(e)~~(g) Within thirty (30) days after the date of revocation or issuance of a stop work order, a written notice of appeal may be filed with the Building Inspector; the appeal procedures for the denial of a ~~building~~ permit application shall apply.

Section 6-310. Variances ~~(formerly Section 7-210)~~

(a) Power to grant. Whenever an owner applying for a permit under this Code establishes that because of an extraordinary or unusual situation or condition ~~the extraordinary or unique condition~~ of the property, strict compliance with the provisions of the Code would create practical difficulties or an undue hardship for the owner, the Council may grant a variance from the provisions of Chapters 6 and 7 of the Code, provided that the variance (i) is reasonably necessary to grant relief, (ii) is narrowly tailored to overcome the aforesaid extraordinary or unusual situation or condition, (iii) would not adversely affect public health, safety or welfare, including the use and enjoyment of adjoining or neighboring properties, and ~~would be consistent with the overall purposes of the Code and would not unduly interfere with the use and enjoyment of other affected properties~~(iv) can be granted without substantial impairment to the intent, purpose and integrity of the Code.

(b) Procedures. An applicant shall submit a written request for a variance to the Building Inspector~~Council~~ on the form provided by the Village~~, along with a description of the facts supporting the need for the variance~~. The applicant shall also submit drawings, surveys and other information sufficient to inform the Council as to the locations, dimensions, property lines and other features of the property for which the variance is sought. Upon receipt of a request for a variance and payment of the required fee (*see* Section 6-311), the Building Inspector~~Council~~ shall promptly cause notice of the request to be published in the newsletter or shall cause other reasonable notice to be issued. The Council shall consider the variance request at an open ~~the next regularly scheduled~~ meeting at least seven (7) days after ~~following~~ publication of notice. In granting a variance, the Council may require conditions which will, in its judgment, secure the objectives of this Code and protect the public interest.

(c) Upon reasonable notice, the ~~Building Inspector~~Village shall have the right to on-premises inspection of construction ~~at an appropriate mid-point during the work and at the close of the work~~ to ensure compliance with any variance granted ~~.~~and/or the Village permit issued at such times during the course of the project as the Building Inspector or his or her designee deems necessary. The Building Inspector may perform a final inspection at the completion of the project to determine whether the activity conforms to the variance and Village permit issued; whether any damage has been caused to the public right-of-way, public improvements, or Village trees; and whether the bond or any other security may be released.

~~(b)~~(d) The decision of the Council shall be in writing. The effective date of any decision shall be the date the Council approves its written decision. A permit for the construction authorized by the variance shall be obtained from the Village within twelve (12) months of the date of the decision or the variance shall be void, unless an extension is granted in writing by the Village Manager. The decision shall be recorded among the Land Records of Montgomery County, Maryland. The terms and conditions of the decision shall run with the land and be binding upon the applicant, and the applicant's successors and assigns. If the Village is required to enforce the decision, the applicant, and the applicant's successors and assigns shall be responsible for all the Village's costs to enforce, including reasonable attorneys' fees.

Section 6-311. Fees for Building and Demolition Permits and Various Applications

An applicant shall pay to the Village the following fees upon submission of an application for a permit or variance:

(a)	Application for Variance (Section 6-310)	$25~~.00~~
(b)	Application for Demolition Permit (Section 6-302 (a) (i) and Section 6-302 (c))	$25~~.00~~
(c)	ADU registration fee (Section 6-306)	$50
(~~e~~d)	Construction or alteration of a fence or wall (Section 6-302 (a) (vi) and Section 6-305)	$50~~.00~~

(~~d~~e)	Excavating, grading yards or installing a sump pump and/or a new sump pump discharge (Section 6-302(a) (iii)	$50~~.00~~
(~~e~~f)	Constructing or renovating a driveway, driveway apron or curb cut (Section 6-302 (a) (iv) and Section 6-302 (g))	$50~~.00~~
(~~f~~g)	Use of a dumpster or temporary storage unit (Section 6-302 (a)(vii) and Section 7-312)	$50~~.00~~
(~~g~~h)	Constructing, rebuilding or reconstructing any off-street parking area (Section 6-302 (a)(ii) and Section 6-304(d))	$50~~.00~~
(~~h~~i)	Construction of a structure of 144 square feet or less (Section 6-301(a)(i) and Section 6-302 (e) (i, ii, iii, v)	$100~~.00~~
(~~i~~j)	Construction of a structure of more than 144 square feet, not including new houses (Section 6-302 (a)(i) and Section 6-302 (e))	$250~~.00~~
(~~j~~k)	New house construction (Section 6-101 (xi) Section 6-302(a)(i) and Section 6-302 (e)	$500~~.00~~
(~~k~~l)	Basic application fee for use of the public right-of-way by telecommunications providers, utilities and other users (Section 6-302 (d))	$2000~~.00~~
(~~l~~m)	Additional application fees:	
	(i) Installation of poles, per pole	$500~~.00~~
	(i) Overhead wires, per linear foot	$2.00
	(iii) Underground wires—street or sidewalk cuts, concrete or asphalt, per linear foot	$3.50
	(iv) Grass, per linear foot	$2.00
(n)	Permit amendment	50% of initial fee
(o)	Permit deadline extension	50% of initial fee

ARTICLE 4. RESIDENT PARKING PERMITS

6-401 Resident Parking Permits

Section 6-401. Resident Parking Permits

(a) The Council finds that the health, safety and welfare of many residents of the Village are adversely affected by burdens placed on them by virtue of major public and private facilities and programs created or authorized by governmental action. Frequently, the use of streets within residential areas for the parking of vehicles by persons using adjacent commercial, institutional, industrial, recreational and transit areas and other areas, facilities, programs and activities emanating from planning, zoning, permit approvals and other decisions by

the government results in hazardous traffic conditions, the overburdening of existing streets, roads and other facilities, air and noise pollution, conditions hazardous to pedestrians, interference with the use and enjoyment of private property and the inability of residents of certain areas to obtain adequate parking adjacent to or close by their places of residence. In order to reduce to the extent possible the aforementioned conditions, to foster the use of public transit facilities and alternative methods of transportation and to promote the safety, peace, good order, comfort, convenience, health and welfare of the residents of the Village, the Council deems it essential that the permit parking authorization provided for in this section be enacted.

(b) The Council is hereby authorized to designate by written order, roads, streets public ways and other areas within the Village in which the parking of vehicles may be restricted, in whole or in part during certain specified times, to holders of valid parking permits issued pursuant to this Section. The Council shall consider the institution of a permit parking system and restrictions upon petition by the residents of a given area or upon the Council's own initiative.

(c) The designation or withdrawal of a parking permit area shall take into account, among other things:

(i) The effect on the health, safety or welfare of residents of the area under consideration from intensive use by nonresidents for parking of vehicles.

(ii) The need of residents of the area to obtain adequate on-street parking adjacent to or close by their places of residence and the availability of adequate off-street parking to those residences.

(iii) The difficulty or inability of residents of the area to secure adequate on-street parking adjacent to or close by their places of residence because of widespread use of available parking spaces in that area by nonresident, transient motorists.

(iv) The impact of major public facilities and programs or other governmental actions on the health, safety and welfare of the residents of the area and any unreasonable or disproportionate burdens placed on those residents in securing adequate on-street parking and gaining access to their places of residence by virtue of such facilities, programs and governmental actions.

(v) The need for safe and convenient pedestrian access or the encouragement of alternative forms of transportation.

(vi) The likelihood of alleviating, by use of a permit parking system, any problem associated with or attributed to the non-availability of residential parking spaces.

(vii) The fact that the residents of a contemplated parking permit area have contributed to the costs of construction and/or improvement of streets and roads in such area to the extent such costs are reflected in purchase or rental prices paid by those residents.

(viii) The need for some parking spaces to be available in the area under consideration for use by visitors, service and delivery vehicles and the general public.

(ix) The desire of the residents in the area for the institution of a parking permit system or a determined public need for such a system in a given area.

(x) The average number of vehicles parked on such streets on the weekdays of any weekly or monthly period, compared to the total number of spaces on such streets.

(xi) Such other factors as may be deemed relevant.

(d) Following the designation of a permit parking area, the Council shall issue appropriate parking permits and shall cause parking signs to be posted in the area indicating the times, locations and conditions under which parking shall be by permit only. Subject to limitations deemed necessary by the Council, permits shall be issued only to persons residing on or owning property immediately adjacent to a street, road or other public way within the permit parking area. A permit shall remain valid for such time as the holder thereof continues to reside or owns property in the area for which the permit is issued. Parking permits issued under this section are non-assignable and nontransferable.

(e) Upon approval of an area as a permit parking area, any resident residing or property owner within the designated area who wishes to apply for a parking permit shall file an application with the Council or Village manager on forms provided for this purpose. The applicant's motor vehicle registration and valid operator's license must be presented at the time of application. The Council or Village manager may require other proof of residence or property ownership within a permit parking area in lieu of a motor vehicle registration and valid operator's license. Residents or property owners who have permits for their vehicles may request additional permits to accommodate guests or other visitors.

(f) The parking permit shall be displayed through either the windshield or rear window of the vehicle in plain view and legible from exterior of the vehicle.

(g) In the event that the motor vehicle on which the permit is displayed is sold, transferred, demolished or stolen and the permit is not removed from the vehicle, the person to whom the permit was issued may request and shall be issued a duplicate permit.

(h) There will be no fee for permits issued under this Section.

(i) The following vehicles are exempted from the provisions of this Section:

(i) Emergency or governmental vehicles.

(ii) Delivery or service vehicles being used for those purposes in connection with deliveries or services rendered to residents.

(j) The parking of any vehicle or the use of any parking permit in a manner contrary to the provisions of this Section is prohibited and shall be a municipal infraction.

Article 5. Small Wireless Telecommunications Facilities

6-501 Intent and Purpose

6-502 Definitions

6-503 Permit and Access Agreement Required

6-504 Permit Application Requirements

6-505 Standards for Deployment in the Public Right-of-Way

Sec. 6-501. Intent and Purpose.

It is the intent of the Village Council to promote the Village's public health, safety, and general welfare by providing regulatory requirements for the installation and maintenance of small wireless telecommunications facilities in the public rights-of-way. The purpose of this Article is to regulate the same to enhance vehicular and pedestrian safety and avoid interference with motorist and pedestrian sightlines; to minimize damage to trees; to reduce visual clutter and prevent unsightly or out-of-character deployments; to preserve the value of property and the character of the neighborhood; to encourage collocation of small wireless facilities on existing structures within the right-of-way, instead of the installation of new structures; and to otherwise protect the health, safety, and general welfare of the town and its residents, and the public at large.

Sec. 6-502. Definitions.

(a) "Base Station" means a structure or equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term does not include a Tower or any equipment associated with a Tower.

(b) "Collocate" means to install or mount a Small Wireless Facility in the public right-of-way on an existing Support Structure, an existing Tower, or on an existing Pole to which a Small Wireless Facility is attached at the time of the application. "Collocation" has a corresponding meaning.

(c) "Communications Facility" means, collectively, the equipment at a fixed location or locations within the public right-of-way that enables communications services, including:

(d) radio transceivers, antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and (ii) all other equipment associated with any of the foregoing. The term does not include the Pole, Tower, or Support Structure to which the equipment is attached.

(e) "Pole" means a legally constructed pole, such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal or other material, located or to be located within a public right-of-way. The term does not include a Tower or Support Structure.

(f) "Small Wireless Facility" means a Wireless Facility that meets all of the following conditions:

(i) The structure on which antenna facilities are mounted (i) is fifty (50) feet or less in height, including existing antennas, or (ii) is no more than ten (10) percent taller than other adjacent structures, or (iii) is not extended to a height of more than fifty (50) feet or by more than ten (10) percent above its preexisting height, whichever is greater; and

(ii) Each antenna associated with the deployment, excluding the associated equipment, is no more than three (3) cubic feet in volume; and

(iii) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than twenty-eight (28) cubic feet in volume; and

(iv) The facility does not require antenna structure registration under Federal law; and

(v) The facility does not result in human exposure to radiofrequency radiation in excess of applicable safety standards under Federal law.

(g) "Support Structure" means a structure in a public right-of-way other than a Pole or a Tower to which a Wireless Facility is attached at the time of the Application.

(h) "Tower" means any structure in a public right-of-way, within or outside the boundaries of the Village, built for the sole or primary purpose of supporting a Wireless Facility. A Tower does not include a Pole or a Support Structure.

(i) "Wireless Facility" means the equipment at a fixed location or locations in the public right-of-way that enables wireless telecommunications services. A Small Wireless Facility is a type of a Wireless Facility. The term does not include the Pole, Tower, or Support Structure on, under, or within which the equipment is located or collocated, or the coaxial, fiber-optic, or other cabling between Communications Facilities or Poles, or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

(j) "Wireless Service Provider" means a person who provides wireless services. "Wireless Services" means any wireless services using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public.

Sec. 6-503. Permit and Access Agreement Required.

(a) No person shall construct, install, maintain, or perform any work in the public right-of-way related to a Communications Facility or any Tower, without first receiving a Permit and paying any applicable fee, as required under this Article. No permit shall be issued until the applicant has entered into a Right-of-Way Access Agreement in a form approved by the Village, according to this Article. A permit shall not be required for ordinary maintenance and repair, as determined by the Village.

(b) The Right-of-Way Access Agreement shall set forth, at a minimum, the following: (a) the maximum term of the agreement and the bases for termination; (b) the scope of the authority; (c) the operator's maintenance obligations; (d) the operator's indemnification and insurance requirements; (e) emergency contacts and required response to emergencies related to facilities; and (f) the Village's right to access and inspect the operator's books and records.

Sec. 6-504. Permit Application Requirements.

(a) An application for a permit under this Article must contain or be submitted with the following:

(i) The applicant's name, address, telephone number, and e-mail address, including emergency contact information for the Applicant;

(ii) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filing of the Application;

(iii) A description of the proposed work and the purposes and intent of the proposed facility sufficient to demonstrate compliance with the provisions of this Article;

(iv) If applicable, a copy of the authorization for use of the property from the Pole, Tower, or Support Structure owner on or in which the Communications Facility will be placed or attached;

(v) Detailed construction drawings regarding the proposed facility;

(vi) A structural report performed by a duly licensed engineer evidencing that the Pole, Tower or Support Structure can adequately support the Collocation (or that the Pole, Tower, or Support Structure will be modified to meet structural requirements) in accordance with applicable codes;

(vii) A certification by a radiofrequency engineer that the Communications Facility will comply with the radiofrequency radiation emission standards adopted by the Federal Communications Commission; and

(viii) The applicable application fee, bond, Right-of-Way Access Agreement, and right-of-way access fee, as may be adopted and amended by resolution of the Village Council.

(b) The Village may require the posting of a bond to guarantee the prompt and proper restoration of the public right-of-way. The bond may be in such amount as the Village Manager deems necessary, in the Manager's discretion.

(c) In exchange for the privilege of non-exclusive use of the public right-of-way, the applicant shall pay the Village such access fee as may be established and amended by the Village Council by resolution from time to time.

(d) Any permit issued under this Article shall be valid for a period of twelve (12) months after issuance.

(e) No work may be performed except in strict accordance with applicable law and the Village permit and all approved plans and specifications.

(f) No permit shall be issued except to a wireless service provider with immediate plans for use of the subject Communications Facility. A permit issued under this Article may not be assigned or transferred.

Sec. 6-505. Standards for Deployment in the Public Right-of-Way.

(a) No Interference with Right-of-Way. No person shall locate or maintain a Communications Facility, Pole, Support Structure, or any Tower, so as to interfere with the use of the public right-of-way by the Village, the general public, or other persons authorized to use or be present in or upon the public right-of-way, or otherwise hinder the ability of the Village to improve, modify, relocate, abandon or vacate a public right-of-way or any portion thereof. Unless otherwise approved by the Village, any Communications Facility must not confront a driveway apron and must be located no closer than five (5) feet from any adjacent driveway apron, and be otherwise located to avoid interference with pedestrian and motorist sightlines and use.

(b) Compliance with Design Standards; Unsightly or Out-of-Character Deployments. Unless otherwise approved by the Village in order to prevent an effective prohibition of service, in violation of applicable law, no person shall locate or maintain a Communications Facility, Pole, or any Tower except in accordance with the following design standards:

(i) All Communications Facilities shall be located and designed so as to minimize visual impact on surrounding properties and from public rights-of-way, and so as to not interfere with motorist and pedestrian sightlines, especially at intersections.

(ii) All radio transceivers, antennas, power supply (including backup battery), and comparable equipment installed on a Tower, Pole, or other Support Structure shall be installed at a height of at least fifteen (15) feet above ground level.

(iii) No Tower may be located closer than one thousand (1,000) feet of another Tower.

(iv) No more than five (5) antennas may be located on any single Tower, Pole, or Support Structure.

(v) All coaxial, fiber-optic, or other cabling and wires shall be contained inside the Tower, Pole, or other Support Structure or shall be flush-mounted and covered with a metal, plastic or similar material matching the color of the Tower, Pole, or other Support Structure on which it is installed.

(vi) All Communications Facilities shall comply with such additional design standards as may be set forth in administrative regulations issued by the Village.

(c) Protection of Trees. Unless otherwise approved by the Village in order to prevent an effective prohibition of service, in violation of applicable law, no person shall locate or maintain a Communications Facility, Pole, Support Structure, or any Tower, so as to interfere with the health of a tree.

(d) Location Underground. [Reserved].

(e) Modification of Wireless Facilities. The Village shall approve any request for a modification of an eligible existing Tower or base station that does not substantially change the physical dimensions of such Tower or base station, in accordance with Federal law.

(f) Restoration of Public Right-of-Way. The applicant shall restore, repair, and/or replace any portion of the public right-of-way that is damaged or disturbed by the applicant's work, to the satisfaction of the Village. Such restoration work shall be completed no later than thirty (30) days following completion of the project, or termination of the Right-of-Way Access Agreement, and shall be warranted by the applicant for a period of one (1) year to be free from defects in materials and workmanship.

(g) Removal, Relocation, and Abandonment. Within thirty (30) days following written notice from the Village, or such other time as the Village may require, the Village may terminate a Right-of-Way Access Agreement or require other action in connection therewith, and the owner shall, at its own cost and expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any of its Communications Facilities, Poles, Support Structures or Towers within the public right-of-way, and restore the right-of-way as required by the Village, whenever either: (i) the terms of the Right-of-Way Access Agreement have been violated; (ii) the Communications Facility has not been used for a period of ninety (90) days, or has otherwise been abandoned or not maintained, or (iii) the Village has determined in its sole discretion that such action is necessary for the construction, installation, repair, or maintenance of any public improvement or otherwise necessary for the public health, safety, or welfare. If the owner fails to take action as required by this section, the Village or its contractor may do so and the owner shall be responsible for all costs and expenses incurred by the Village related to such work.

CHAPTER 7

PROPERTY REGULATIONS

ARTICLE 1. GENERAL

7-101 Definitions

Section 7-101. Definitions

(a) "Garbage" means ~~. A~~all organic waste, consisting of the residue of animal, fruit, or, vegetable matter, resulting from the preparation, cooking, handling, or storage of food, exclusive of human or animal feces.

(b) "Hazardous ~~Material~~material" means ~~. A~~any substance or material in a quantity or form that may pose an unreasonable risk to public health and safety of persons or property, including any material designated by the U.S. Department of Transportation as belonging to a hazard class, and including any explosive, flammable substance, corrosive or radioactive substance.

(c) "Historic ~~Vehicle~~vehicle" means ~~. A~~any vehicle that meets the definition of historic vehicle under State law, including any vehicle that

(i) is 25 years old or older and has not been substantially altered from the manufacturer's original design, or

(ii) has a unique interest or historic value including makes of motor vehicles no longer manufactured and models of motor vehicles produced in limited or token quantities and no longer manufactured.

(d) "Junk ~~Vehicle~~vehicle" means a~~. A~~ny vehicle which meets any of the following conditions:

(i) is in an abandoned condition;

(ii) is in such a rusted, wrecked, dismantled, partly dismantled or deteriorated or decayed condition so as not to be lawfully operable on public roads.;

(iii) is in such a rusted, wrecked, dismantled, partly dismantled or deteriorated or decayed condition, whether or not it is operable, so as to constitute a breeding ground for rats, mosquitoes or other vermin or insects.

(e) "Litter" means ~~. A~~all rubbish, waste matter, ashes, refuse, garbage, trash, dirt, debris, dead animals, or other discarded, hazardous or toxic materials of every kind and description.

(f) "Refuse" means ~~. G~~garbage, rubbish, junk, industrial waste, dead animals, and all other solid waste materials, including salvable waste.

(g) "Rubbish" means ~~. A~~all refuse other than garbage, whether combustible or noncombustible including but not limited to the following: rubbish from building construction or reconstruction, dead trees, uprooted tree stumps, trash, rubble, street refuse, abandoned automobiles, machinery, bottles, cans, waste paper, cardboard, sawdust piles and all other waste material.

(h) "Structure" has the meaning set forth in Section 6-101. ~~means any assembly of materials forming a construction on real property including, but not limited to, buildings, accessory buildings, decks and porches, fences, sheds, shelters, garages, tennis courts, pools, parking lots, pipelines, sewer lines, telecommunication lines, patios, driveways.~~

(i) "Toxic ~~Material~~material" means ~~. A~~any substance that can be poisonous if inhaled, swallowed, or absorb into the body through cuts, breaks in the skin, ingestion or bodily contact.

~~Weeds and Grass. All bushes, hedges, shrubs, grasses, poison oak, poison ivy or any other non-cultivated vegetation which attain a noxious or dangerous condition upon growth or accumulation so as to constitute a menace to public health or a fire hazard. A generalized growth of grasses, poison oak, poison ivy or other non-cultivated vegetation exceeding a height of twelve (12) inches is presumptively a noxious and dangerous condition. A generalized growth of bushes, hedges and shrubs extending into the vertical plane of any public way or abutting premises is presumptively a noxious and dangerous condition. Not included within this definition are trees, flowers, garden vegetables, compost piles or any plant necessary for soil stabilization purposes.~~

Article 2. Property Maintenance

7-201 Purposes

7-202 Safe and Sanitary Dwelling Units

7-203 Yards

7-204 Vacant Structures and Land

7-205 Greenway and Overgrowth

7-206 Junk Vehicles

7-207 Historic Vehicles

7-208 Vehicle Repairs

7-209 Hedges and Trees

7-210 Unremoved Snow or Ice

7-211 Inspections

7-212 Filing a Complaint

7-213 Procedure Following Investigation

Section 7-201. Purpose

The provisions of this Article are hereby declared to be for the purpose of securing the public safety, health and general welfare in the maintenance of dwelling units and yards within the Village.

Section 7-202. Safe and Sanitary Dwelling Units

It shall be unlawful for the owner of a dwelling unit or his or her designated agent or lessee to fail to maintain the structure and its exit ways in a safe and sanitary condition at all times. Every dwelling shall be kept sanitary, clean and free from unreasonable accumulation of rubbish, garbage or similar matter, and shall be kept free from vermin or rodent infestation. It shall be the duty of each occupant of the dwelling unit to keep in a clean condition that portion of the property which he or she occupies or over which he or she has control.

Section 7-203. Yards

It shall be unlawful for the owner of a yard or his or her designated agent or lessees to fail to maintain the yard free from all unsafe, hazardous or unsanitary conditions. Every yard shall be kept sanitary, clean and free from unreasonable accumulation of rubbish, garbage, refuse, and hazardous or toxic material.

It shall be unlawful for any person to park or allow to be parked on any property under his or her control any car, boat, bus, recreational vehicle, truck, ~~all~~ all-terrain vehicle, motorcycle or trailer on any surface other than a driveway for more than seventy-two (72) consecutive hours.

Section 7-204. Vacant Structures and Land

The owner of any vacant structure or land shall be responsible for keeping the structure and land in a clean, safe, secure and sanitary condition, consistent with the standards set forth in Sections 7-202 and 7-203. Vacant structures or land shall not be permitted to adversely affect public health and safety.

Section 7-205. Greenway and Overgrowth

~~The~~(a) Greenway. The area of the public right-of-way between the paved portion of a street and a front property line, excluding any curb, sidewalk, or other public improvement, shall be maintained by the abutting lot owner. In this area, an abutting lot owner may maintain non-woody and low-growing plantings, under twelve (12) inches in height, provided such plantings do not interfere with public travel. It shall be unlawful to install in a public right-of-way any permanent structure, such as a wall, fence, step, guardrail, or small cell communication tower, without permission of the Village. To maintain a private improvement in a public right-of-way, the Village may require the abutting lot owner to execute a right-of-way use agreement in a form required by the Village, and such agreement may be recorded among the land records of the County.

(b) Overgrowth.

(i) It shall be unlawful to allow grass, weeds, ~~and~~ or other vegetative growths on any property ~~shall be appropriately trimmed and maintained so that they are not~~ to be overgrown, hazardous, or ~~and~~ noxious. Overgrown as used herein~~th is defined as~~ means generalized growth of grasses, weeds, poison oak, poison ivy or other non-cultivated vegetation exceeding a height of twelve (12) inches, and is presumptively a hazardous and noxious condition.

(ii) It shall be unlawful to allow grass, weeds, shrubs, bushes, hedges, or other vegetative growths on any property to extend into the vertical plane of any public street or sidewalk; provided, however, that this prohibition does not apply to trees. The owner and/or occupant of any property shall be responsible for ensuring that lawns and yards are not overgrown.

Section 7-206. Junk Vehicles

It shall be unlawful to park or maintain a junk vehicle within the Village unless housed or stored in a completely enclosed building or unless otherwise authorized by this Chapter.

Section 7-207. Historic Vehicles

A junk vehicle which also meets the definition of a historic vehicle may be parked or maintained within the Village, without being housed or stored in a completely enclosed building, if placed behind the front building line and protected by a tight-fitting, weather-proof covering. For the purposes of the Article a carport does not constitute the required covering.

Section 7-208. Vehicle Repairs

The repairing, servicing, replacing of parts, or the performance of maintenance work on a vehicle on a public street is prohibited unless completed within fifteen (15) days after the commencement. The repair, servicing, replacement of parts or the performance of maintenance work is prohibited unless completed within thirty (30) days if outside of an enclosed building on any private premises, and thereafter the vehicle upon which the repairs are made is legally operable upon any public street or highway.

Section 7-209. Hedges and Trees

(a) General Rule: Hedges, trees, shrubbery or other growth on private property shall not be permitted to extend into sidewalks or streets or to interfere with pedestrian or vehicular traffic.

(b) Corner properties. For properties located at the intersection of two streets, hedges, trees, shrubbery or other growth shall be maintained at a height not to exceed forty-eight (48) inches along the street property lines and in a manner so that persons using the streets shall have an unobstructed view of pedestrian and vehicular traffic. Hedges, trees and shrubbery or other growth cannot be higher than thirty-six (36) inches within fifteen (15) feet of the corner in each direction.

(c) Heights. A hedge or line of shrubs which runs in front of the front house line shall not exceed forty-eight (48) inches in height. All other hedges or lines of shrubs (including those running with the rear property line or the side property line behind the front house line) shall not exceed seventy-two (72) inches in height.

(d) Heights-how measured. In determining the heights of hedges or shrubs, the measurement shall be taken from the lowest point beneath the hedge, or line of shrubs. If the yards on either side of the hedge or line of shrubs differ in level, the measurement shall be taken from the ground of the higher yard.

Section 7-210. Unremoved Snow or Ice

It shall be unlawful for any person to maintain or to neglect a hazardous condition resulting from an accumulation of snow or ice upon any sidewalk within the Village. The owners and occupants of properties abutting a sidewalk shall:

(a) Remove or cause the removal of snow and ice for a reasonable width for the entire length of any sidewalk abutting upon their property.

(b) Refrain from depositing or causing a deposit of removed snow or ice upon any public street.

(c) Remove or cause the removal of snow and ice within twelve (12) hours, or a reasonable time, after a snowfall.

(d) Be charged a removal cost in the event that the Village shall have caused the removal of accumulated snow and ice upon failure of the owner and occupant to comply with the Village's notification and order to remove such snow and ice.

Section 7-211. Inspections

The Building Inspector shall make inspections as are necessary to investigate a complaint filed under the provisions of this Article. A record of every such inspection shall be made.

Section 7-212. Filing a Complaint

Any person who has reason to believe a violation of this Article exists may file a complaint with the Building Inspector, which complaint shall state the address of the alleged violation and the particulars of the alleged violation.

Section 7-213. Procedure Following Investigation

(a) If the Building Inspector, in investigating a complaint, determines that there are no reasonable grounds to believe that a violation exists, the Building Inspector shall so inform the complainant, provided that no complaint shall be dismissed without a hearing of the Village Council if objection is made thereto by the complaining party.

(b) If the Building Inspector, in investigating a complaint, determines that there are reasonable grounds to believe that a violation exists, the Building Inspector shall attempt to conciliate the matter by methods of initial informal conference and persuasion with the alleged violators and such representatives as they may choose to assist them.

(c) If an apparent violation cannot be informally conciliated, or in the event that the Building Inspector's good faith efforts to contact the alleged violators are unsuccessful, the Building Inspector may issue a Municipal Infraction Citation.

ARTICLE 3. SOLID WASTES

7-301 Purpose and Application

7-302 Authority of the Council

7-303 Refuse Disposal Sites

7-304 Deposit at Other than Approved Place Prohibited

7-305 Littering

7-306 Advertisements and Handbills

7-307 Leaving Garbage, Vehicle Unattended

7-308 Owner and Occupant Responsibilities

7-309 Agreements and Contracts

7-310 Hazardous Wastes

7-311 Incinerators Prohibited

7-312 Dumpsters and Temporary Storage Units

Section 7-301. Purpose and Application

(a) The provisions of this Article are for the purpose of protecting and promoting the health, safety and welfare of the present and future inhabitants of the Village.

(b) The provisions of this Article shall apply to the control and regulation of the collection of refuse within the boundaries of the Village.

Section 7-302. Authority of the Council

(a) Council shall regulate and control the collection of refuse within all parts of the Village.

(b) The Council may enter into such agreements or contracts, including agreements or contracts with any political subdivision or public authority and including agreements regarding the recycling of newspapers of other disposed goods, as it deems advisable to cause the collection and disposal of all household waste.

(c) The Council or its designee may enforce all prohibitions and standards set forth in this Article, including, but not limited to, any action to remove or cause the removal of any garbage, litter, or rubbish improperly maintained upon written notice delivered to, and posted at the Village address of any violator of such prohibition or standard.

(d) The Council may establish and levy such fees as may be necessary to achieve the purposes of this Article, including, but not limited to, fees for the collection of any refuse generated by businesses located within the Village and fees for any removal authorized by this Article.

Section 7-303. Refuse Disposal Sites

It shall be unlawful for any person to establish, operate or maintain a place of final disposal for refuse within the Village or to permit an accumulation of refuse on property owned or occupied by such persons, with the following exceptions:

(a) Refuse stored in accordance with this Article and awaiting collection by the Village.

(b) Accumulation of matter intended for compost is permitted, provided that it does not exceed normal requirements of a home garden and does not attract vermin or produce offensive odors.

(c) Accumulation of firewood is permitted provided that the wood is cut into fireplace-size lengths and stacked so as not to be hazardous or attract vermin.

Section 7-304. Deposit at Other than Approved Place Prohibited

It shall be unlawful for any person to dispose, dump, deposit, or leave any refuse within the Village, except at a place of final deposit approved under this Article.

Section 7-305. Littering

(a) It shall be unlawful for any person or persons to dump, deposit, throw, or leave, or to cause or permit the dumping, depositing, placing, throwing, or leaving of litter on any public or private property in this Village, unless:

(i) Such property is designated by the Council for the disposal of such litter, and such person is authorized by the Council to use such property;

(ii) Such litter is placed into a litter receptacle or container installed on such property;

(b) It shall be unlawful for any person or persons to throw, dump, or deposit any trash, junk or other refuse upon any street, sidewalk, or public right-of-way.

(c) Leaves in paper bags deposited upon the sidewalk or street pending their removal as prescribed by the Council are an exception to this Section.

Section 7-306. Advertisements and Handbills

No person shall, throw, place or distribute any advertisements, circulars, handbills, newspapers or other materials within the Village in such a manner that they may be blown upon and into public streets, alleys or public places. It shall be unlawful to fail to remove a sign within the sooner of:

(a) seven (7) days of its posting if such a sign advertises either a sale of goods from a residential location or a loss of property, or

(b) twenty-four (24) hours of concluding the advertised sale or recovery of property.

Section 7-307. Leaving Garbage~~:~~ Vehicle Unattended

It shall be unlawful for any person to park or otherwise leave upon any public street within the Village any vehicle, motor or otherwise, used for the hauling or transporting of any garbage, trash, junk or other refuse for any period of time in excess of what is necessary for the loading or unloading of such vehicle.

Section 7-308. Owner and Occupant Responsibilities

(a) It shall be the responsibility of the occupant to provide a sufficient number of approved containers for the storage of refuse to prevent overflow between times of collection from single-family dwellings and to maintain the premises in accordance with the standards of this Article.

(b) It shall be the responsibility of the owner of vacant land to keep his or her property clear of refuse.

(c) It shall be the responsibility of the occupant to maintain the following container standards:

(i) All containers for the storage of refuse shall be vermin-proof, of non-corrodible metal or similar material, and shall be equipped with tight-fitting lids at all times. Containers recessed into the ground shall be permitted only if they are of such construction that they do not permit the entrance of waste material or water seepage into the non-removable parts.

(ii) All containers shall be accessible to the users at all times.

(iii) Containers and storage area surfaces shall be washed periodically so that no encrusted waste material is evident upon inspection.

(iv) The presence of refuse in places other than inside proper containers or disposal devices, the presence of sour odors, and the presence of insects, rodents, or other vermin or evidence of their presence shall constitute improper maintenance or lack of maintenance.

Section 7-309. Agreements and Contracts

(a) All agreements to collect and remove refuse from the Village shall require the vendor to remove all refuse in containers or bundles, in accordance with the approved written statement of service, from every point of pickup and to clean up spillage by the collector at pickup points and along the route from the point of pickup to the truck.

(b) All agreements to collect and remove refuse from the Village shall require the vendor to maintain regular- service in accordance with the written statement of service and to provide in writing prior notice of not less than thirty (30) days of any intent to discontinue service for any cause, except for nonpayment of service charges. A copy of such notice shall be provided to the Council.

(c) All agreements to collect and remove refuse from the Village shall require the vendor to provide at service within forty-eight (48) hours, or as otherwise provided in the Village contract, in the event of mishap or breakdown of regular equipment, or if collection service is missed for any reason.

Section 7-310. Hazardous Wastes

(a) It is hereby declared to be a nuisance and unlawful for any person to manufacture, accept shipment at an address in the Village, permit storage of, dump, deposit, throw, leave, or to cause or permit the dumping, depositing, placing, throwing or leaving of any hazardous or toxic material on any public or private property in the Village.

(b) No person shall spread or cause to be spread any poisonous matter in such manner as to endanger human beings or domestic animals.

Section 7-311. Incinerators Prohibited

No incinerators are allowed in the Village.

Section 7-312. Dumpsters and Temporary Storage Units

No person shall place a dumpster or other large receptacle for rubbish or solid waste on any street or sidewalk without ~~the prior consent~~obtaining a permit from ~~of~~ the Building~~s~~ Inspector. All temporary storage units or containers (e.g., ~~known as~~ PODS) shall be placed only on residential property with no portion protruding into public space. All such units or receptacles must be removed no later than thirty (30) days after their original placement. In extreme circumstances, the Building~~s~~ Inspector may grant a limited extension of that time. The Building Inspector or Council may require that a person seeking to place a dumpster or large receptacle on a street or sidewalk post a bond or other security with the ~~Council~~ Village in accordance with Section 6-308.~~in a form and amount approved by the Council to secure the Village as well as other property owners for any with respect to any costs incurred or damages caused by the placement, use, or removal of the dumpster.~~ Any person placing a dumpster on private property, along with the owner of the property, shall be responsible for compliance with the provisions of this Code concerning collection and disposal of refuse, maintenance of containers, and disposal devices, and protection of the public health and safety.

Anyone getting permission to place a temporary storage unit on his or her property does so with the full agreement that they will assume any costs incurred or damages caused by the placement, use, or removal of the temporary storage unit. It is further understood that the placement of the temporary storage unit should take into account the health and safety of the larger community, for example, it should never block the view of oncoming traffic.

CHAPTER 8

PUBLIC SAFETY

ARTICLE 1. VIOLATIONS OF THE VILLAGE CODE

8-101 Purpose and Application

8-102 Tampering with Public or Private Structures

8-103 Disturbing Meetings or Gatherings

8-104 Loitering Upon Private Property

Section 8-101. Purpose and Application

The provisions of this Chapter are declared as necessary for the purposes of protecting and promoting the public safety, preserving peace and good order, and securing persons and property from danger and destruction. The provisions of this Chapter are supplemental to the public safety provisions of the Montgomery County Code and the Annotated Code of Maryland. County or State ~~Law~~ law enforcement officers are authorized to enforce the provisions of this Chapter.

Section 8-102. Tampering with Public or Private Structures

Unless expressly authorized by the owner thereof, it shall be unlawful for any person to tamper with, remove, or otherwise interfere with the functioning of any lawfully erected public or private structure, including any barrier, storm drainage structure, sign, light, or flare indicating a need for caution, fence, hedge, shrubbery, tree, street light, fire hydrant or trash receptacle.

Section 8-103. Disturbing Meetings or Gatherings

(a) It shall be unlawful for any person or persons to interfere with or obstruct any meeting or gathering in the Village, of any kind whatsoever, which may be lawfully congregated for any social, political or public purpose.

(b) Any continued failure to comply with the provisions of this Section, after the arresting officer has first warned the person or persons of the violation and such person or persons has failed or refused to stop such violation, shall constitute a misdemeanor.

Section 8-104. Loitering Upon Private Property; Violation of Village Code

(a) It shall be unlawful for any person or persons to lie upon, recline upon, stand around upon, park upon, congregate upon, or remain upon the land or premises of any other person without such other person's permission.

(b) Any continued failure to comply with the provisions of this Section, after the arresting officer has first warned the person or persons of the violation and such person or persons has failed or refused to stop such violation, shall constitute a misdemeanor.

ARTICLE 2. TRAFFIC AND PARKING

8-201 Purpose

8-202 Definitions

8-203 Emergency Street Restrictions; Special Powers

8-204 Snow Removal Restrictions

8-205 Emergency Vehicles

8-206 Traffic Signs and Regulations

8-207 Vehicle Violations

Section 8-201. Purpose

This Article provides procedures for regulating traffic and parking so as to preserve peace and good order in the Village, and protect the health, comfort, and convenience of the citizens of the Village.

Section 8-202. Definitions

For the purposes of this Article, the words and phrases used herein shall, unless otherwise defined, have the meanings respectively ascribed to them in Chapter 31 of the Montgomery County Code.

Section 8-203. Emergency Street Restrictions; Special Powers

In the event of emergencies such as fires, riots, accidents or other events likely to attract crowds, or for the purpose of street maintenance, or crowd control and public safety, or for any other public purpose, the Chairman of the Village Council or his or her designee and the County Police may at any time:

(a) Designate any Village street or area as an emergency or temporary no parking zone;

(b) Temporarily prohibit the parking of vehicles;

(c) Temporarily prohibit vehicular and pedestrian traffic on such streets or areas;

(d) Authorize the ticketing, towing, and impoundment of vehicles

(i) parked in violation of this Code or Village parking regulations, or

(ii) abandoned as defined and controlled by the provision of Title 25, Subtitle 2 of the Transportation Article, Annotated Code of Maryland. The costs and expenses, including legal expenses, thereof shall be charged to the vehicle's owner and collected by way of any legal mean.

Section 8-204. Snow Removal Restrictions

During periods of snow accumulation, the Chairman of the Village Council or his or her designee may, upon giving such notice as is reasonable under the circumstances, restrict the parking of any vehicles in the street of the Village for the purposes of facilitating snow removal.

Section 8-205. Emergency Vehicles

Nothing contained in this Article shall prohibit the use of the Village's streets by emergency or other vehicles necessary for the protection of life and property.

Section 8-206. Traffic Signs and Regulations

The Village Council may authorize, by resolution:

(a) The erection of stop, speed limit, no standing, no parking, restricted parking and similar other traffic and parking control signs and devices on public streets and other areas of and in the Village. Provided, however, that no regulation issued and adopted by the Village shall, in any way, pertain to, and no such sign or device shall be erected on, state highways without approval of the State Highway Administration.

(b) The issuance and adoption of such regulations as are necessary to control vehicular or pedestrian traffic within the boundaries of the Village.

(c) The waiver of all fines, penalties, costs and other charges in instances where there has been a material error in the preparation of the notice of violation or when said charges have been improperly assessed.

(d) The refund of the amount of any overpayment of any charge paid in error to the Village or any such charge improperly assessed, provided that such refund can be made only if claimed within one (1) year from the date of payment.

Section 8-207. Vehicle Violations

No vehicle shall be operated or parked in violation of any notice or sign provided for in this Article or in violation of any regulation issued and adopted pursuant hereto, or both the owner and operator thereof shall be subject to the penalties provided for in this Code for any such violation.