Resolution No.: 04-01-12
Introduced: 04-09-12
Adopted: _____
Effective Date: _____

BOARD OF MANAGERS

For

Chevy Chase Village, MD

SUBJECT: AN ORDINANCE TO AMEND SECTION 8-13 OF THE CHEVY CHASE VILLAGE CODE TO AUTHORIZE THE BUILDING OFFICER AND VILLAGE MANAGER TO WAIVE THE 15-DAY NOTICE AND COMMENT PERIOD IN SECTION 8-13(d) FOR THE REPLACEMENT OF NON-CONFORMING EXTERNAL AIR CONDITIONERS, GENERATORS AND HEAT PUMPS UPON A SHOWING OF GOOD CAUSE

WHEREAS, Article 23A, Section 2(a) of the Maryland Code, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to pass ordinances that such legislative body deems necessary to assure the good government of the municipality; to protect and preserve the municipality's rights, property and privileges; to preserve peace and good order; to secure persons and property from danger and destruction; and to protect the health, comfort and convenience of the citizens of the municipality; and

WHEREAS, Section 77-14 of the Chevy Chase Village Charter authorizes the Board of Managers to pass ordinances as it may deem necessary for the health, safety and welfare of Chevy Chase Village; for the protection and preservation of Chevy Chase Village property,

rights and privileges; for the preservation of peace and good order; and for the suppression and abatement of all nuisances; and

WHEREAS, the Board of Managers has found that it frequently grants variances and special permits for replacement air conditioners, generators and heat pumps; and

WHEREAS, the Board of Managers has found that requiring applicants and the Village to incur the cost and inconvenience of public hearings on such "routine" matters can be avoided in many cases by authorizing a Board member and the Village Manager to grant variances and special permits administratively; and

WHEREAS, the Board of Managers finds that when an air conditioner, generator or heat pump breaks during a period of extreme heat, or extreme cold for a generator or heat pump, requiring a resident to wait 15 days to replace the broken equipment may impose a hardship on the resident; and

WHEREAS, the Board of Managers finds that the Village Code should be amended to authorize the Building Officer and Village Manager to waive the 15-day notice and comment period for administrative variances and special permits for the replacement of non-conforming external air conditioners, generators and heat pumps upon a showing of good cause; and

WHEREAS, the Board of Managers finds that the ordinance as hereinafter set forth is necessary to assure the good government of the Village; for the protection and preservation of the Village's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger and destruction; and for the protection and promotion of the health, comfort, and convenience of the residents of the Village.

NOW, THEREFORE, the Board of Managers of Chevy Chase Village does hereby adopt the following ordinance:

AN ORDINANCE TO AMEND SECTION 8-13 OF THE CHEVY CHASE VILLAGE CODE TO AUTHORIZE THE BUILDING OFFICER AND VILLAGE MANAGER TO WAIVE THE 15-DAY NOTICE AND COMMENT PERIOD IN SECTION 8-13(d) FOR THE REPLACEMENT OF NON-CONFORMING EXTERNAL AIR CONDITIONERS, GENERATORS AND HEAT PUMPS UPON A SHOWING OF GOOD CAUSE.

SECTION 1.

BE IT ORDAINED AND ORDERED, this 9th day of April, 2012, by the Board of Managers of Chevy Chase Village, acting under and by virtue of the authority granted to it by Article 23A of the Maryland Code and Section 77-14 of the Village Charter, that Section 8-13 of the Village Code is hereby amended as follows:

Sec. 8-13. Administrative variances and special permits and Building Officer.

(a) Notwithstanding anything in this Chapter to the contrary, variances and special permits that would otherwise be subject to approval by the Board of Managers may be granted administratively as provided in this Section.

(b) Annually, or at such other times as the Board of Managers may determine is in the public interest, the Board of Managers shall appoint a member of the Board of Managers to act as its designee (the "Building Officer") to perform the functions of the Building Officer as described in this Chapter.

(c) The Building Officer and the Village Manager, by joint action, may grant variances and special permits for the following construction.

(1) Replacement of an existing fence, provided that there are no material differences between the replacement fence and the existing fence with respect to location, height and materials and that the replacement fence does not block light and air to a greater extent than the existing fence.

(2) Replacement of an existing driveway, provided that the replacement driveway is not wider than the existing driveway and is in substantially the same location as the existing driveway.

(3) Replacement of an external air conditioner, generator or heat pump (collectively referred to as "equipment"), provided that the replacement equipment is not materially larger and does not encroach farther into any setback than the existing equipment.

(d) Administrative variance and special permit applications shall be processed as

follows. Upon receipt of a complete application, the Village Manager shall give written notice of the application to all abutting and confronting property owners and to all members of the Board of Managers. In addition, the property shall be posted with a sign which shall include the case number, nature of the application, and the date by which comments may be submitted. An abutting or confronting property owner, a member of the Board of Managers or an aggrieved resident, within 15 days of the date notices are issued, may submit written comments and/or may request that the application be submitted to the Board of Managers in accordance with Section 8-12 of this Chapter. The Building Officer and the Village Manager may, in their discretion, grant a request to have the application considered by the Board of Managers. The Building Officer and the Village Manager may, on their own initiative, refer the application to the Board of Managers. **Notwithstanding the foregoing, for special permits and variances for equipment described in Section 8-13(c)(3), the Building Officer and the Village Manager may waive the 15-day notice and comment period upon a showing of good cause.**

(e) The decision to grant or deny a request for an administrative variance or special permit shall be made in writing. The effective date of the decision shall be the date the written decision is approved by the Building Officer and the Village Manager. The decision shall promptly be provided to the applicant and to any other person who submitted comments and/or requested a hearing by the Board of Managers.

(f) The decision of the Building Officer and the Village Manager may be appealed to the Board of Managers within 15 days of the effective date of the decision. Any appeal to the Board of Managers from a decision to grant or deny an administrative variance or special permit shall be heard as a new application without deference to the administrative decision.

(No. 00-00-00, 00-00-00)

SECTION 2.

AND BE IT FURTHER ORDAINED AND ORDERED, this 9th day of April, 2012, by the Board of Managers of Chevy Chase Village, acting under and by virtue of the authority granted to it by Article 23A of the Maryland Code and Section 77-14(a) of the Village Charter, that:

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

(2) This ordinance shall take effect on the 24th day of April, 2012, provided the same is posted at the Village Office for fourteen (14) days prior thereto.

CHEVY CHASE VILLAGE

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Patricia S. Baptiste, Chair
Board of Managers
Chevy Chase Village

ATTEST:

_____

Allison W. Shuren, Secretary

Bold and Underline indicates new material
[Bold brackets] indicates material deleted
* * * indicates material unchanged