

Resolution No.: 02-01-20
Introduced: February 10, 2020
Adopted: February 10, 2020
Effective: February 24, 2020

BOARD OF MANAGERS
FOR
CHEVY CHASE VILLAGE, MD

SUBJECT: AN ORDINANCE TO AMEND CHAPTER 25, “PUBLIC RIGHTS-OF-WAY” ARTICLE I, “GENERAL PROVISIONS” TO REPEAL, REENACT, AND AMEND SEC. 25-8, “TREES IN THE PUBLIC RIGHT-OF-WAY”; SEC. CHAPTER 6, “PENALTIES, FEES AND FINES”, SEC. 6-2, “FEES AND CHARGES FOR PERMITS AND SERVICES” AND SEC. 6-3, “MUNICIPAL INFRACTION FINES”; CHAPTER 8, “BUILDINGS AND BUILDING REGULATIONS”, SEC. 8-10, “REVIEW PROCEDURES”; AND CHAPTER 17, “URBAN FOREST”, SEC. 17-4, “APPEALS”; TO PROVIDE A PROCEDURE FOR REMOVAL OF TREES IN THE VILLAGE RIGHTS-OF-WAY TO ACCOMMODATE PRIVATE IMPROVEMENTS ON ADJOINING PROPERTIES, TO SET FEES FOR APPLICATION, REFORESTATION, AND CONSERVATION, TO SET A FINE FOR NON-COMPLIANCE, TO REQUIRE THAT DECISIONS BE ISSUED PROMPTLY FOR APPEALS FILED UNDER CHAPTERS 8, 17 AND 25, AND TO MAKE CONFORMING CHANGES.

WHEREAS, §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, authorizes the Board of Managers to adopt such ordinances as it deems necessary to assure the good government of Chevy Chase Village; to protect and preserve the rights, property and privileges of the Village; to preserve peace and good order; to secure persons and property from danger and destruction; and to protect the health, comfort and convenience of Village residents; and

WHEREAS, Section 206 of the Chevy Chase Village Charter authorizes the Board of Managers to adopt such ordinances as it deems necessary for the safety and welfare of Chevy

CAPS	: Indicate matter added to existing law.
[Brackets]	: Indicate matter deleted from law.
Asterisks * * *	: Indicate matter remaining unchanged in existing law but not set forth in Ordinance
CAPS	:Indicate matter added in amendment
[Brackets]	:Indicate matter deleted in amendment

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 securing persons and property from violence, danger or destruction; and for the suppression and abatement of all nuisances; and

WHEREAS, Section 801 of the Village Charter authorizes the Board of Managers to do whatever it deems necessary to establish, operate, control, reconstruct, repair, maintain or close the public ways of the Village; and

WHEREAS, the Board has determined that it is in the public interest to adopt a procedure to consider removal of trees in the public rights-of-way when necessary to accommodate improvements on adjoining private property under certain circumstances; and

WHEREAS, after proper notice to the public, the Board of Managers conducted a public hearing at which it considered the following ordinance in public session assembled on the 10th day of February, 2020.

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

AN ORDINANCE TO AMEND CHAPTER 25, "PUBLIC RIGHTS-OF-WAY" ARTICLE I, "GENERAL PROVISIONS", TO REPEAL, REENACT, AND AMEND SEC. 25-8, "TREES IN THE PUBLIC RIGHT-OF-WAY"; CHAPTER 6, "PENALTIES, FEES AND FINES", SEC. 6-2, "FEES AND CHARGES FOR PERMITS AND SERVICES" AND SEC. 6-3, "MUNICIPAL INFRACTION FINES"; CHAPTER 8, "BUILDINGS AND BUILDING REGULATIONS", SEC. 8-10, "REVIEW PROCEDURES"; AND CHAPTER 17, "URBAN FOREST", SEC. 17-4, "APPEALS", TO PROVIDE A PROCEDURE FOR REMOVAL OF TREES IN THE VILLAGE RIGHTS-OF-WAY TO ACCOMMODATE PRIVATE IMPROVEMENTS ON ADJOINING PROPERTIES, TO SET FEES FOR APPLICATION, REFORESTATION AND CONSERVATION, TO SET A FINE FOR NON-COMPLIANCE, TO REQUIRE THAT DECISIONS BE ISSUED PROMPTLY FOR APPEALS FILED UNDER CHAPTERS 8, 17 AND 25, AND TO MAKE CONFORMING CHANGES.

SECTION 1

BE IT ORDAINED AND ORDERED this 10th day of February, 2020, by the Board of Managers of Chevy Chase Village, acting under and by virtue of the authority granted to it by §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, and Section 206 of the Village Charter that Chapter 25, “Public Rights-of-Way”, that Chapter 25, “Public Rights-of-Way”, Article I, “General Provisions”, Sec. 25-8, “Trees in the public right-of-way” be and is hereby repealed, reenacted, and amended to read as follows:

Sec. 25-8. Trees in the public right-of-way.

- A. PERMIT REQUIRED. No person shall remove or destroy, or cause the removal or destruction of, a tree or undertake any action that will substantially impair the health or growth of a tree of any size or description in the public right-of-way, INCLUDING TO ACCOMMODATE A PRIVATE IMPROVEMENT, without first obtaining AUTHORIZATION FOR a permit from the [~~Village Manager~~] BOARD OF MANAGERS, whose decision to issue or deny the permit shall be governed by THIS SECTION AND the requirements of State law and relevant Village right-of-way agreements. No person shall prune a tree in the Village Tree Inventory without first obtaining a permit from the Village Manager, who shall not grant a permit unless the Village Manager finds that such pruning is consistent with the Village tree pruning program.
- B. FEE IN LIEU. IN ADDITION TO ANY REQUIRED TREE REMOVAL AND SPECIAL PERMIT FEE, A FEE IN LIEU OF REFORESTATION SHALL BE PAID BEFORE ISSUANCE OF A PERMIT.
- C. TREE RELOCATION. WHERE VIABLE AND CONSISTENT WITH THE VILLAGE TREE PLAN, A TREE THAT IS REMOVED PURSUANT TO A PERMIT ISSUED UNDER THIS SECTION MAY BE REPLANTED IN A NEARBY LOCATION, AS DETERMINED BY THE VILLAGE.

- D. URBAN FOREST CONSERVATION. AN URBAN FOREST CONSERVATION FEE SHALL BE PAID BEFORE THE ISSUANCE OF A PERMIT, TO BE USED BY THE VILLAGE TO REPLACE ANY NEW OR RELOCATED TREES THAT FAIL WITHIN TWO YEARS OF PLANTING. SHOULD THE REPLACED OR RELOCATED TREE SURVIVE BEYOND TWO YEARS OF PLANTING, THE FEE WILL BE RETAINED BY THE VILLAGE IN SUPPORT OF THE VILLAGE'S TREE PLANTING PROGRAM.
- E. PERMIT STANDARDS. IN DETERMINING WHETHER TO AUTHORIZE ISSUANCE OF A PERMIT FOR TREE REMOVAL, THE BOARD WILL CONSIDER WHETHER THE:
1. TREE(S) PROPOSED FOR REMOVAL HAS SUCH OUTSTANDING QUALITIES THAT IT SHOULD NOT BE REMOVED;
 2. TREE REMOVAL IS THE MINIMUM NECESSARY TO ACCOMMODATE THE PRIVATE IMPROVEMENT;
 3. PROPOSED REMOVAL WILL DECREASE IMPERMEABLE SURFACE;
 4. TREE CANOPY IS ADVERSELY AFFECTED;
 5. PROPOSED REMOVAL CAN BE PERMITTED WITHOUT SUBSTANTIAL IMPAIRMENT OF THE PURPOSE AND INTENT OF THIS CHAPTER.
- F. ISSUANCE OF PERMIT. A MARYLAND DEPARTMENT OF NATURAL RESOURCES PERMIT MUST BE OBTAINED PRIOR TO ISSUANCE OF A PERMIT FOR TREE REMOVAL UNDER THIS SECTION.
- G. HEARING. A PUBLIC HEARING BEFORE THE BOARD OF MANAGERS WILL BE SCHEDULED FOR THE APPLICATION.

H. NOTICE OF HEARING. THE VILLAGE MANAGER SHALL GIVE WRITTEN NOTICE OF SUCH HEARING TO THE APPLICANT AND OWNER, AND TO ABUTTING AND CONFRONTING PROPERTY OWNERS AND ALL MEMBERS OF THE VILLAGE TREE COMMITTEE, AT LEAST TEN (10) DAYS PRIOR TO THE MEETING OF THE BOARD OF MANAGERS AT WHICH THE APPEAL IS TO BE HEARD. IN ADDITION, THE PROPERTY SHALL BE POSTED WITH A SIGN WHICH SHALL INCLUDE THE CASE NUMBER, NATURE OF THE APPLICATION, AND THE DATE, TIME AND PLACE OF THE HEARING. THE SIGN SHALL BE PLACED NO MORE THAN FIVE (5) FEET FROM THE SIDEWALK, IF ONE EXISTS, OR FIVE (5) FEET FROM THE CURB OR THE EDGE OF THE PAVED PORTION OF THE STREET IF THERE IS NO CURB. IN THE CASE OF A LOT ABUTTING MORE THAN ONE (1) STREET, A SIGN SHALL BE POSTED FOR EACH ABUTTING STREET. A NOTICE OF THE HEARING SHALL ALSO BE POSTED AT THE VILLAGE HALL.

I. HEARING PROCEDURES.

- (1) UPON THE FILING OF AN APPLICATION, THE VILLAGE MANAGER SHALL FORTHWITH TRANSMIT THE APPLICATION TO THE TREE COMMITTEE. THE TREE COMMITTEE SHALL RECOMMEND TO THE BOARD: I) WHETHER THE TREE(S) PROPOSED FOR REMOVAL HAS SUCH OUTSTANDING QUALITIES THAT IT SHOULD NOT BE REMOVED AND II) THE EFFECT OF SUCH A REMOVAL ON THE TREE CANOPY IN THE VILLAGE.
- (2) THE BOARD OF MANAGERS MAY DENY THE PERMIT, MAY DIRECT THE VILLAGE MANAGER TO ISSUE A PERMIT, OR MAY DIRECT THE VILLAGE

MANAGER TO ISSUE A PERMIT UPON SUCH CONDITIONS, TERMS OR RESTRICTIONS AS THE BOARD OF MANAGERS MAY DEEM NECESSARY. THE DECISION BY THE BOARD OF MANAGERS SHALL BE MADE PROMPTLY FOLLOWING THE HEARING.

SECTION 2

AND BE IT FURTHER ORDAINED AND ORDERED this 10th day of February, 2020, by the Board of Managers of Chevy Chase Village, acting under and by virtue of the authority granted to it by §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, and Section 206 of the Village Charter that Chapter 6, “Penalties, Fees and Fines”, Sec. 6-2, “Fees and charges for permits and services”, be and it is hereby repealed, re-enacted and amended to read as follows:

Sec. 6-2. Fees and charges for permits and services.

The Board of Managers hereby establishes the following fees and charges for permits, certificates and services performed by the Village:

(a) – (b) * * * * *

(b.1) Urban forest (Chapter 17) and Public Rights-of-Way (Chapter 25).

(1) Fee for tree permit for removal of tree pursuant to Sec. 173(a)(1), (2), (3), (4), (5) or (6).....	25.00 per tree 175.00 maximum per application
(2) Fee for tree permit for removal of tree pursuant to Sec. 17-3 (a)(7)	No fee
(3) Fee for tree permit for removal of tree pursuant to Sec. 10-24	No fee
(4) Appeal fee.....	250.00
(5) SPECIAL PERMIT APPLICATION FEE PURSUANT TO SEC. 25-8...	250.00
(6) REFORESTATION FEE PURSUANT TO SEC. 25-8	300.00 PER TREE
(7) URBAN FOREST CONSERVATION FEE	\$150.00 PER TREE

(c.) * * * * *

SECTION 3

AND BE IT FURTHER ORDAINED AND ORDERED this 10th day of February, 2020, by the Board of Managers of Chevy Chase Village, acting under and by virtue of the authority granted

to it by §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, and Section 206 of the Village Charter that that Chapter 6, “Penalties, Fees and Fines”, Sec. 6-3, “Municipal Infraction Fines”, be and it is hereby repealed, re-enacted and amended to read as follows:

Sec. 6-3, Municipal Infraction Fines.

The fines for violating the requirements of the following sections are:

(a) – (f) * * * * *

(g) Public rights-of-way (Chapter 25).

(1)	Sec. 25-3, disruption of Village streets or sidewalks	150.00
(2)	Sec. 25-4, overhead or underground wires, etc.	150.00
(3)	Sec. 25-5, driveways and walkways crossing public right-of-way	50.00
(4)	Sec. 25-6, structures, fences, walls, lamp posts, hand rails, etc. in public right-of-way	100.00
(5)	Sec. 25-7, removal of snow and ice from public sidewalks	50.00
(6)	Sec. 25-8, tree permit requirement (public right-of-way trees [at least twenty four (24) inches in circumference or larger])	1,000.00
[(7)	Sec. 25-8, tree permit requirement (public right-of-way trees, less than twenty four (24) inches in circumference)	200.00]
(78)	Sec. 25-9, maintenance of the public right-of-way	100.00 Repeat Violation 100.00 each
(89)	Sec. 25-11, violation of stop work order.....	500.00
(940)	Violation of article ii, sec. 25-14 through 25-23	150.00

(h) * * * * *

SECTION 4.

AND BE IT FURTHER ORDAINED AND ORDERED this 10th day of February, 2020, by the Board of Managers of Chevy Chase Village, acting under and by virtue of the authority granted to it by §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, and Section 206 of the Village Charter that that Chapter 8, “Buildings and Building Regulations”, Sec. 8-10, “Review Procedures”, be and it is hereby repealed, re-enacted and amended to read as follows:

Sec. 8-10 Review Procedures.

(a) – (c) * * * * *

(d) Decision. At the review hearing, any party may appear in person or by agent or attorney. In exercising its powers, the Board of Managers may reverse or affirm, wholly or in part, or may modify, the decision or action of the Village Manager as it deems appropriate. In any event, the decision of the Board of Managers may not expand the request originally advertised to the public. The decision of the Board of Managers shall be made in writing AND ISSUED PROMPTLY. The effective date of any decision of the Board of Managers shall be the date that notice of the board’s written decision is mailed to the appellant.

(e) – (f) * * * * *

SECTION 5.

AND BE IT FURTHER ORDAINED AND ORDERED this 10th day of February, 2020, by the Board of Managers of Chevy Chase Village, acting under and by virtue of the authority granted to it by §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, and Section 206 of the Village Charter that Chapter 17, “Urban Forest”, Sec. 17-4, “Appeals”, be and it is hereby repealed, re-enacted and amended to read as follows:

(a) – (e) * * * * *

(f) At the hearing, any party may appear in person or by agent or by attorney. The decision by the Board of Managers shall be made [~~within sixty (60) days~~] IN WRITING AND ISSUED PROMPTLY following the hearing.

(g) – (h) * * * * *

SECTION 6

AND BE IT FURTHER ORDAINED AND ORDERED, this 10th day of February, 2020, by the Board of Managers of Chevy Chase Village, acting under and by virtue of the authority granted to

it by §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, and Section 206 of the Village Charter that:

- (1) If any part of provision of this ordinance is declared by a court of competent jurisdiction to be invalid, the part of 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 February, 2020 provided the same is posted at the Village Office for fourteen (14) days prior thereto.

CHEVY CHASE VILLAGE

Elissa Leonard, Chair
Board of Managers
Chevy Chase Village

ATTEST:

Shana R. Davis-Cook, Village Manager