

Code of Ordinances for the Village of North Chevy Chase

KEY REVISIONS

(text changes have been highlighted in Yellow; formatting changes have not been highlighted):

Chapter 3 (Building Permits -- primary revisions to Sections 3-201, 3-202, 3-206, 3-212)

- Require a Site Management Conditions Agreement for certain permitted activities in order to protect the Village right-of-way and the safety and security of Village residents.
- Include overnight parking of trash trucks and trailers in permit requirements
- Address Accessory Dwelling Units and short- and long-term rental licensing
- Elaborate on tree protection
- Remove language related to non-conforming fences and hedges (noted in purple)

Chapter 4 (Residential Property Care and Management – primary revisions to Sections 4-202, 4-203)

- Clarify tree plantings in Village right-of-way
- Establish consistency with County fines for not removing and disposing of feces from a domestic animal and unwelcome or unsolicited threatening physical contact or close proximity from a domestic animal

Chapter 5 (Trees and Shrubs – primary revisions to 5-102, 5-205, 5-206)

- Include definition of canopy trees
- Elaborate on tree protection
- Expand on trimming and removal of trees on private property

Chapter 6 (Vehicles and Traffic – primary revisions to 6-102, 6-201, 6-302, 6-305)

- Clarify definition of commercial vehicles and parking requirements
- Add definition for junk vehicles and parking restrictions
- Include criteria for speed humps

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CODE OF ORDINANCES
FOR THE
VILLAGE OF NORTH CHEVY CHASE

Preamble

Pursuant to the Charter of the Village of North Chevy Chase, effective as of the time of its incorporation on January 12, 1996, and the authority conferred on it by Maryland Local Government Code Annotated, Articles 4 – 6 (2013), as may be amended from time to time, these Ordinances have been adopted by the Village Council of North Chevy Chase, Maryland on _____, 2020. It shall be incumbent upon all residents of the Village of North Chevy Chase, and upon all persons who may be in or about, or passing through the Village of North Chevy Chase, to abide by and be subject to these Ordinances.

CHAPTER I

GENERAL PROVISIONS

Article 1. Boundaries

Section 1-101. Village Boundaries

The area known as North Chevy Chase, to which these Ordinances apply, is included within the following boundaries:

On the South, the north line of Jones Bridge Road; on the West, the east line of Connecticut Avenue; on the North, a line approximately one hundred feet north of Husted Driveway extended west to Connecticut Avenue; on the East, the west side of Clifford Avenue extending from the North boundary to Jones Bridge Road, and inclusive of 8903, 8905, and 8911 Clifford Avenue, 3503, 3504, 3505, 3506, and 3507 Hutch Place and 8826 McGregor Drive, as annexed to the Village in 2009. The area is more fully described in Article II of the Charter of the Village of North Chevy Chase.

Article 2. Legal Construction

Section 1-201. Continuous Provisions

Section 1-202. Titles of Sections

Section 1-203. Severability

Section 1-204. General Rules of Construction

Section 1-205. Definitions

Section 1-206. Enforcement/Applicability of County Laws

Section 1-207. Enforcement/Penalties

Section 1-201. Continuous Provisions

Those provisions appearing in these Ordinances, so far as they may be the same in substance as provisions which existed at the effective date of these Ordinances, shall be considered as continuations thereof and not as new enactments.

Section 1-202. Titles of Sections.

The titles of the sections of these Ordinances are intended to be generally descriptive of the contents of the sections and shall not be taken to be a part of such sections.

Section 1-203. Severability

The sections, paragraphs, sentences, clauses, and words of these Ordinances 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 these Ordinances, since the same would have been enacted by the Village Council without the incorporation into these Ordinances 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 these Ordinances, such State or County law or regulation shall prevail.

Section 1-204. General Rules of Ordinance Construction

In the construction of these Ordinances and any future Ordinances the following rules shall be observed unless such construction would be inconsistent with the manifest intent of these Ordinances:

- A. All 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 these Ordinances importing gender apply equally to both genders.
- D. Whenever a provision of these Ordinances 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. The term "shall" is mandatory and not optional or permissive.

Section 1-205. Definitions

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

- A. "Chair" means the Chair of the Village Council of North Chevy Chase.
- B. "Council" means the Village Council of the Village of North Chevy Chase.
- C. "County" means Montgomery County, Maryland.

- D. "Court" means court of competent jurisdiction.
- E. "Fine" means a monetary sum imposed for an offense or violation of this chapter.
- F. "Infraction" means a violation of the Village Ordinances which shall constitute a civil offense.
- G. "Nuisance" means any condition or activity occurring on property within the Village constituting a violation of these Ordinances, or of county or state law or regulation, as well as any condition or activity constituting a nuisance at common law.
- H. "Penalty" means a monetary sum imposed in addition to the fine.
- I. "Right-of-way" means the entire width between the boundary lines of every public way and thoroughfare of any kind intended for vehicular or pedestrian traffic.
- J. "Roadway" means street or the paved portion of the public right-of-way lying between the curb lines or the lateral lines of a paved area where there is no curb and intended primarily for vehicular traffic.
- K. "Sidewalk" means the improved portion of the public right-of-way lying between a property line and curb line or lateral line of a roadway where there is no curb and intended primarily for pedestrian traffic.
- L. "Street" means roadway.
- M. "Unimproved right-of-way" means any grassy area between the property line and the street, not excepting any portion of that area traversed by a privately constructed driveway.
- N. "Written Notice" means communications to Village residents in an official publication issued by a Public Official and distributed via electronic or physical means.
- O. "Village" means the municipality known as the Village of North Chevy Chase.
- P. "Village Charter" means the Charter of the Village of North Chevy Chase, adopted pursuant to Resolution 13-367 of the Montgomery County Council, effective as of January 12, 1996 and as subsequently may be amended.

Section 1-206. Enforcement/Applicability of County Laws

- A. These Ordinances are supplemental to the laws and regulations enacted by Montgomery County which apply within the Village. To the extent that any County or state law, rule, or regulation provides for more stringent requirements than those set forth in these Ordinances, such more stringent requirements will control.

- B. These Ordinances may be enforced by the Village and/or the County. However, the Village shall have the responsibility, at its sole discretion, for enforcing those provisions of these Ordinances that are more stringent than County law on the same subject.
- C. The fact that any provision of these Ordinances may be similar to any County law, or may regulate a subject also regulated by County law, shall not preclude the County from, or relieve the County of, its responsibility for enforcing County laws within the Village.

Section 1-207. Enforcement/Penalties

- A. Except where otherwise provided, a violation of any provision or requirement of these Ordinances shall constitute an infraction which shall be a civil offense for which a monetary fine may be imposed. Unless otherwise provided, each day the violation continues shall constitute a separate and repeat offense or infraction.
- B. The Village Council may by resolution:
 - a) Establish fines not to exceed \$1000 for each infraction. In the event that an infraction results in damage to or destruction of Village property, in addition to the fine, the property owner shall be liable to the Village for the full amount of the damage incurred as a result of the infraction.
 - b) Establish an additional penalty to be imposed upon failure either to timely pay any fine imposed or to timely request a hearing on the charge. Said additional penalty shall not exceed an amount equal to the initial fine.
 - c) Establish a fine for any repeat infraction that is double the fine for an initial infraction provided that no fine for any one offense shall exceed \$1000, exclusive of any penalty imposed for non-payment of a fine.
- C. The Village shall have the authority to issue a civil citation charging the existence of an infraction, to be enforced in the District Court for Montgomery County.
 - a) The citation shall be in the form authorized by the Chief Judge of the Maryland District Court for the prosecution of violations of municipal laws. The citation shall include the amount of the fine imposed for the infraction and the manner in which it is to be paid, and notice of the right to elect to stand trial for the infraction.

- b) A person found to have committed an infraction is liable for the costs of the proceedings in the District Court, and for the costs to the Village of legal representation.
- c) Upon finding that a defendant is guilty of an infraction, the Court may:
 - i. Impose the fine assessed and any additional penalty established by the Village pursuant to subsection (b) of this section.
 - ii. Order the defendant to refrain from further violations of Village Ordinances.
 - iii. Order the defendant to correct or abate any violation of these Ordinances.
 - iv. Authorize the Village to correct, at the defendant's expense, any condition that violates these Ordinances.
 - v. Any fine or penalty collected by the District Court must be paid to the Village. The willful failure of a defendant to pay any fine, penalty, or costs imposed by the Court is punishable as contempt of Court.
- D. In addition to any other remedy provided for in these Ordinances, the Village Council may institute injunctive or other appropriate civil action or proceedings to seek enforcement, or to correct any violation, of these Ordinances, and any court of competent jurisdiction may issue such injunctions, restraining orders, or other appropriate forms of relief.
- E. In addition to, and/or in lieu of, any other remedy provided for in these Ordinances, if the Village Council, by written notice, directs the owner of property within the village to remove unsightly debris from, or abate any nuisance on, said property within a reasonable period of time, and the owner does not comply within said time set forth in the notice, the Village Council, through its agents, may enter upon said property and abate the nuisance and have the required work done, at a reasonable price, and may assess the cost against the property of the delinquent party, the same to become a lien against the property and to be collected in the same manner as County property taxes are collected and disbursed to the Village Treasurer.
- F. The provisions of these Ordinances may be enforced by any duly authorized employee, official, or representative of the Village Council and/or by any duly authorized police officer of Montgomery County or the State of Maryland.

CHAPTER 2

GOVERNMENT ADMINISTRATION

Article 1. General Provisions

Section 1-101. Purpose

Section 1-102. Definitions

Section 1-101. Purpose.

The purpose of this Chapter is to establish the terms applicable to the governance of the Village consistent with the terms of the Village Charter.

Section 1-102. Definitions.

- A. "Public Official" means a member of the Village Council or Village employee.
- B. "Qualified Voter" shall mean any resident of the Village of North Chevy Chase, Montgomery County, Maryland who has registered with Montgomery County Board of Supervisors of elections to vote shall be deemed eligible to vote in elections of the Village of North Chevy Chase.

Article 2. Village Council

Section 2-201. Composition

Section 2-102. Election

Section 2-103. Absentee Ballots

Section 2-101. Composition

The Village shall be governed by the Village Council, consisting of five Qualified Voters, each of whom shall be elected for two-year staggered terms. The Village Council shall elect from its members a Chair, one or more Vice Chairs, a Treasurer and a Secretary, having duties and responsibilities as set forth in Section 5.03 of the Village Charter.

Section 2-102. Election

The Village Council shall be elected in accordance with the procedures specified in Article 9 of the Village Charter.

Section 2-103. Absentee Ballots

Absentee ballots shall be made available, upon request, to any Qualified Voter requesting an absentee ballot. The request should be submitted verbally or in writing by a Qualified Voter to the individual designated as the Chair of the Nominating Committee, as established pursuant to Section 9.03 of the Village Charter, not less than one week before the scheduled election. The ballot shall be executed and returned to the Chair of the Nominating Committee sealed, and signed on the exterior where indicated in the envelope provided by the Chair at the time of request. Any such ballot shall be returned to the Chair of the Nominating Committee by no later than 2:00 pm on the date of the election.

Article 2. Village Employees

Section 2-201. Village Council Authority Over Village Employees

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

Section 2-202. Village Manager

The Village Council may employ a Village Manager who shall be assigned such duties as deemed appropriate by the Village Council.

Section 2-103. Creation or Termination of Other Positions

The Village Council may add or abolish other positions as may be consistent with the Village budget and as may be necessary to carry forth the intent and purpose of these Ordinances.

Article 3. Public Official Liability

Section 2-301 Immunity from Civil Liability Generally

Section 2-302 Liability for Negligence in Operation of Vehicle

Section 2-303 Defense for Officials

Section 2-304 Expenditure of Revenues

Section 2-301. Immunity from Civil Liability Generally

Public officials, while acting in a discretionary capacity, without malice, and within the scope of their authority are immune as officials or individuals from civil liability for any act or omission.

Section 2-302. Liability for Negligence in Operation of Vehicle

A public official is not immune from liability for negligence or any other tort arising from the operation of a vehicle except as to any claim for damages in excess of the limits of any applicable policy of vehicle liability insurance.

Section 2-303. Defense for Officials

- A. The Village of North Chevy Chase shall provide a defense for an official for any act or omission undertaken without malice and arising within the scope of the official's authority.
- B. The Village of North Chevy Chase shall provide a defense for its officials for negligence or any other tort arising from the operation of a vehicle on Village business only as to any claim for damages in excess of the limits of any applicable policy of vehicle liability insurance.

Section 2-304. Expenditure of Revenue

The Village of North Chevy Chase may expend revenue for the purposes set forth in this Article.

Article 4. Open Meetings

Section 2-401. General Provisions

- A. All meetings of the Village Council shall be open to the public.
- B. Residents of the Village shall have a reasonable opportunity to be heard at any meeting, subject to the ability of the Council Chair to maintain proper order and decorum at such meetings. Nothing contained herein shall be construed to prevent the Village Council from holding closed sessions, as provided by State Law, but no ordinance, resolution, rule or regulation shall be finally adopted at any such closed session.
- C. A representative of the news media may broadcast or televise the proceedings of the Council at an open session if the equipment used:
 - a. Is operated from a fixed position that does not block the view of any other person;
 - b. Is operated without any form of artificial light; and
 - c. Does not create a noise that disturbs members of the Council or other persons attending the session.
- D. Except with unanimous consent of all members of the Council, no microphone may be placed on tables used by members of the Council or its staff.

- E. A person may neither move about the room when using a recording device, camera, or broadcasting or television equipment, nor move any such device, camera or equipment from its initial location during the course of an open session, except during a recess.
- F. A representative of the news media who desires arrangements for the use of such device, camera or equipment in a manner consistent with the provisions of this section may request such arrangements in advance by contacting the Village Manager.
- G. A recording of an open session made by a member of the general public, or any transcript derived from such a recording, shall not be deemed a part of the record of any proceeding of the Council.

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CHAPTER 3

BUILDING PERMITS

Article 1. General Provisions

Section 3-101

Section 3-102 Definitions

Section 3-103 Applicable Requirements

Section 3-101. Purpose

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

Section 3-102. Definitions

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

- A. "Accessory building" means a building subordinate to and located on the same lot or lots with the main building thereon, the use of which is clearly incidental to the principal use of the main building or to the principal use of the land of said lot or lots, and which is not attached by any part of a common wall or roof with the main building.
- B. "Accessory dwelling unit" means a second dwelling unit that is located within a main building or an accessory building.

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

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

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

Section 3-103. Applicable Requirements

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

Article 2. Village Building Permits

Section 3-201 Permits Required

Section 3-202 Applications; Investigations and Inspections; Issuance

Section 3-203 Deposit for Repairs in Public Areas

Section 3-204 Denial of Permit

Section 3-205 Additional Requirements for Fences

Section 3-206 Additional Requirements for Accessory Dwelling Units

Section 3-207 Fees

Section 3-208 Enforcement

Section 3-209 Commercial Signs

Section 3-210 Exceptions

Section 3-211 Property Ownership

Section 3-212 Rental Properties

Section 3-201. Permits Required

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

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

G. Tree Protection:

a. All trees on private property measuring at least 24" in circumference at 4 ½ feet above the ground must receive an approved permit prior to removal if such removal is in relation to demolition, new home construction, and/or additions or modifications to the exterior of a property. The permit must include an assessment of the tree(s) condition by a certified arborist. If the certified arborist does not find the tree(s) to be dead, dying, in danger of falling, or hazardous, a permit may be issued with a condition that one reforestation tree - the species of which will provide similar shade and stormwater support - be installed on the subject property for each tree removed or an impact fee be paid in accordance with the Village's Permit Fee schedule, set forth in the Village's Permit Application and approved by Council resolution. The Village Manager will consult with the applicant about their preference for reforestation or payment of an impact fee before the Council considers the permit application.

b. Before undertaking any activity that poses a potential risk to any canopy tree on the property in question, or poses a potential risk to any other tree, regardless of size or species, on an adjoining property or on the Village right-of-way, a property owner shall submit a tree protection plan for review and approval by the Village Manager in consultation with a certified arborist. It is the responsibility of the property owner to ascertain whether a construction-related activity places any tree in jeopardy. Activities

that pose a potential risk to trees include but are not limited to (i) the demolition, in whole or in part, of an existing home or structure; (ii) the construction of a new home or structure; (iii) the expansion of the footprint of an existing home or structure; (iv) the construction of a driveway, patio or other impervious surface; (v) the construction of walls, (vi) installation of underground utility lines, and (vii) regrading or excavating within the dripline of a tree.

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

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

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

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

Section 3-203. Security Deposit

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

Section 3-204. Denial of Permit

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

- A. The provisions of this Article have not been satisfied;
- B. The proposed activity does not conform to the applicable requirements contained in Section 3-202;
- C. The proposed activity would damage, endanger, or adversely affect or unacceptably interfere with the usage of Village owned or maintained property; or would adversely affect the health, safety, or welfare of the present or future inhabitants of the Village; or

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

Section 3-205. Additional Requirements for Fences

- A. A fence erected within the Village shall be compatible with other fences in the neighborhood considering the height, material and style of existing fences. Where no fences exist within the neighborhood, as defined in Section 3-101(l), the characteristics of the fences existing within the Village shall be considered in determining the compatibility of any fence.
- B. No fence shall be constructed either wholly or partially of barbed-wire.
- C. No fence erected within the Village shall be higher than six feet.
- D. Except as provided in subsection (e), no fence erected within any front yard or side yard abutting a street shall be higher than four feet; this shall include hedges.
- E. The Village Council may issue a permit for a fence higher than four feet for good reason shown, provided that the proposed fence will not create a safety hazard and will be compatible with other fences in the area.
- F. Fences which do not conform to the requirements and restrictions^[SEP] contained in these Ordinances shall be deemed to be non-conforming.
 - a. Non-conforming fences, excluding hedges, which either existed prior to January 1, 1988, or which were constructed on or after January 1, 1986 and for which a Village building permit has been issued, shall be allowed to remain.
 - b. Non-conforming hedges existing on July 7, 1992 shall be allowed to remain, but may not exceed their height as of that date.
 - c. No non-conforming fence, including hedges, may be extended, altered, expanded or replaced in kind, except that ordinary maintenance and repair may be performed so long as such repair or maintenance does not involve replacing more than 50 percent of the fence.
- G. This section does not supersede the requirements of Chapter 51 of the Montgomery County code pertaining to the enclosure of swimming pools, except to the extent that the provisions of this section are more stringent.

Section 3-206. Additional Requirements for Accessory Dwelling Units

The following requirements shall apply in the case of any permit application for the construction of an accessory dwelling unit:

- A. Setbacks. The side setback requirement for a detached accessory dwelling unit is 15 feet, 8 feet on one side. The rear setback requirement for a detached accessory dwelling unit is 20 feet.
- B. Height. The height for any building containing an accessory dwelling unit, other than a main building, shall not exceed twenty (20) feet. "Height" means the vertical distance measured from the average elevation of the ground along the front of the structure to the highest point of the roof surface or parapet wall for a flat or shed roof, or, for a gable, hip, mansard, or gambrel roof, the mean height between the eaves and ridge of the roof. For the purpose of determining building height, the average front elevation used will be based on either the pre-development grade or the finished grade, whichever is lower. If the structure has no roof, height is measured to the highest point. The height does not include weather vanes, cupolas, or similar ornamental features. With respect to non-conforming structures, an accessory dwelling unit may not be constructed within a non-conforming structure, except in accordance with this Chapter.
- C. Off-Street Parking Spaces. At the time of the erection of any detached accessory dwelling unit, or at the time any accessory structure is modified or renovated to include an accessory dwelling unit, or at the time any accessory dwelling unit is added to a main building, a minimum of 2 off- street automobile parking spaces shall be provided and maintained. Each automobile parking space provided according to this section shall not be less than 180 square feet and the same shall be connected by an adequate driveway to a paved street, and each automobile parking space and driveway shall be so drained as to prevent damage to abutting properties, public and/or private, and shall be constructed of an erosion-resistant material.

Section 3-207. Fees

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

Section 3-208. Enforcement

- A. Any person who commences any activity in violation of this Article may be

enjoined from proceeding or subjected to a fine equivalent to the amount of the fee owed in addition to payment of the fee itself.

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

Section 3-209. Commercial Signs

Signs indicating the performance or conduct of commercial or retail business activities inconsistent with the zoning classification of Village property are not permitted.

Section 3-210. Exceptions

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

Section 3-211. Property Ownership

The holders of title to all residential properties in the Village, whether in

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

Section 3-212. Rental Properties

It shall be unlawful for a property owner, or a property owner's agents, representatives, tenants, or assigns, to lease or rent to another any real property within the Village of North Chevy Chase on either a short-term or long-term basis without the rental license required according to the Montgomery County Code, as amended.

CHAPTER 4

RESIDENTIAL PROPERTY CARE AND MAINTENANCE

Article 1. General Provisions

Section 4-101.

The provisions of this Article are declared necessary for the purpose of securing the public safety, health and welfare in the maintenance and care of public and private property, buildings and yards within the Village.

Section 4-102.

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

- A. "Domestic animals" means dogs, cats and other household pets.
- B. "Garbage" means all inorganic or organic waste, including the residue of animal, fruit or vegetable matter resulting from the preparation, cooking, handling or storage of food; wastepaper, newspaper and cardboard; cans; jars and bottles; and all other waste materials normally generated and accumulated in a household.
- C. "Hazardous material" means any substance or material in a quantity or form that may pose an unreasonable risk to health, safety or property, including any material designated by the U.S. Department of Transportation as belonging to a hazard class.
- D. "Lawn and garden debris" means all yard trash, including dead trees, tree limbs, stumps, bushes and leaves; and all other debris of the type normally generated and accumulated in gardening, lawn care and tree care.
- E. "Lot" means a parcel of land on a legally recorded subdivision plat filed among the records of Montgomery County Maryland.
- F. "Refuse" means garbage, lawn and garden debris or rubbish.
- G. "Rubbish" means all refuse other than garbage and lawn and garden debris; this includes ashes, rubble, junk and other solid waste materials.
- H. "Toxic material" means any substance that can be poisonous if inhaled, swallowed, or absorbed into the body through cuts, breaks in the skin, ingestion, or bodily contact.
- I. "Yard" means any open space lying between the building and the nearest lot or street line(s) on a lot that contains a residential building.

Article 2. Residential Property Care and Maintenance

Section 4-201. Maintenance of Buildings

Section 4-202. Maintenance of Yards and Vacant Lots

Section 4-203. Domestic Animals

Section 4-204. Snow and Ice Removal from Public Sidewalks

Section 4-205. Accumulation of Refuse

Section 4-206. Prohibition of Refuse on Public or Private Property

Section 4-207. Restrictions on Use of Public Trash Receptacles

Section 4-208. Advertisements and Handbills

Section 4-209. Recycling

Section 4-210. Unreasonable Operation of Outdoor Illumination Devices

Section 4-211. Penalties

Section 4-201. Maintenance of Buildings

- A. The owner of a building or his/her designated agent or lessee shall maintain the building and its exit ways in a safe and sanitary condition at all times. Every building shall be kept free from accumulation of refuse and shall be kept free from vermin or rodent infestation.
- B. Each occupant of a building shall keep in a safe and sanitary condition that portion of the property which he/she occupies or over which he/she has exclusive control. Keeping a safe and sanitary condition includes, but is not limited to, maintaining all exterior components of the house, foundation, walls, stairs, windows, doors and roofs in good repair, including protection of all wood surfaces against rot and decay.

Section 4-202. Maintenance of Yards and Vacant Lots

- A. The owner of a yard or vacant lot, or his/her designated agent or lessee, shall maintain such yard or lot in a safe and sanitary condition including the unimproved right-of-way abutting his/her property. Every yard and vacant lot shall be kept free on a timely basis from accumulation of rubbish, lawn and garden debris, or hazardous or toxic material, and shall be kept free of garbage. Nothing in this section shall require repair to public improvements in the right-of-way.
- B. The owner of a yard or vacant lot shall not permit or allow any grass (other than ornamental grasses) or weeds to grow on such yard or lot to a height in excess of **six (6) inches** above the ground, nor shall such owner permit any ground cover, bushes or hedges to extend into improved portions of the public

right-of-way.

- C. Any resident who would like to add a tree or shrub to the Village right-of-way shall notify the Village Manager in writing at least 2 weeks in advance in order that the Village can review the placement to ensure clearance from utility wires and other public safety considerations. Under these circumstances, the property owner assumes responsibility for care and treatment of the tree/shrub.

Section 4-203. Domestic Animals

- A. No person owning, harboring, keeping or in charge of any domestic animal, including but not limited to dogs and cats, shall immediately remove and dispose of all feces deposited by such domestic animal by any sanitary method approved by the County Department of Animal Control and Humane Treatment. Violation of this section will result in a fine of \$100 for the first offense and \$500 for each subsequent violation. This is in addition to any fines Montgomery County may enforce.
- B. Pet owners must prevent unwelcome or unsolicited threatening physical contact or close proximity to a person or a domestic animal that occurs outside the owner's property that may cause alarm in a reasonable person, such as biting, chasing, tracking, inhibiting movement, or jumping. Violation of this section will result in a \$500 fine for each offense.

Section 4-204 Snow and Ice Removal from Public Sidewalks

- A. The owner of a lot in the Village, or his designated agent or lessee, shall within twenty-four (24) hours after a snowfall ceases:
 - a. Remove, or cause the removal of, snow and ice from any sidewalk on such lot or on abutting public property that is normally used by the public.
 - b. Deposit or cause the deposit of, the removed snow or ice in a reasonably safe location and not upon any public roadway or sidewalk.
 - c. If said snow and ice cannot be removed because of hardening, make the sidewalk **reasonably safe for pedestrian** travel by spreading sand or a similar substance in sufficient amounts to make travel thereon reasonably safe and shall then, as soon thereafter as weather permits, cause the sidewalk to be thoroughly cleaned.
- B. If snow and ice is not removed, or the sidewalk is not made safe as required by this section, the Village Manager may, in his/her discretion, cause such work to

be done. The Village Manager shall ascertain and keep a record of the cost of all such work that he/she causes to be done in accordance with this subsection. Each person whose act or omission makes it necessary that the Village Manger cause the work to be done in accordance with this section shall be liable to the Village for the cost of such work, plus a penalty of fifty (50) percent of such work. These costs shall be assessed to the owner of the lot and collected in the same manner as provided for in Section 1-207(E).

- C. No person shall deposit or cause to be deposited any snow or ice on or against any fire hydrant or on any public sidewalk or street.

Section 4-205 Accumulation of Refuse

- A. The owner of a lot in the Village, or his designated agent or lessee, shall not cause or allow the accumulation of refuse on the lot, with the following exceptions:
 - a. Refuse stored in accordance with this Chapter and awaiting collection by the Village or a private trash disposal firm.
 - b. Matter intended for garden compost, provided it is not located in a front yard as defined in Section 3-102(H) and does not exceed normal requirements of a home garden and does not attract vermin or produce offensive odors.
 - c. Firewood, provided that it is not located in a front yard and is cut into
- B. fireplace-size lengths and stacked so as to not be hazardous or attract vermin.
- C. The owner of a lot in the Village or his designated agent or lessee shall store refuse in a manner designed to prevent it from being carried or deposited by the elements or animals upon any street or sidewalk or upon any other private property.

Section 4-206 Prohibition of Refuse on Public or Private Property

No person shall deposit refuse upon any street, public right-of-way, or private property within the Village. However, residents may deposit refuse temporarily in a manner prescribed by the Village, on the public right-of-way for collection by the Village or an agent of the Village in a manner that does not disrupt either vehicular or pedestrian traffic.

Section 4-207 Restrictions on Use of Public Trash Receptacles

No person shall deposit refuse in the trash receptacles provided by the Village, except for refuse normally and reasonably deposited by a pedestrian in lieu of

discarding it on public or private property in the Village.

Section 4-208. Advertisements and Handbills

No person shall cast, throw, place or distribute any advertisements, circulars, handbills, newspapers or other materials within the Village in such a manner that they may be blown into any roadway, public right-of-way, or private property within the Village. **No signs can be posted on any utility poles.**

Section 4-219. Recycling

Pursuant to its duties and responsibilities in connection with the collection of trash and refuse within the Village, the Village Council may by resolution adopt voluntary and/or mandatory programs for the recycling of various types of refuse and/or trash not inconsistent with County law.

Section 4-210. Unreasonable Operation of Outdoor Illumination Devices

It shall be unlawful to install or operate any outdoor artificial illumination device, **including in connection with the use of sports courts, pools or patios** on private property in such a manner as to interfere with the use or enjoyment of abutting or nearby properties.

Section 4-211 Penalties

In the event that the owner of a lot in the Village or his designated agent or lessee fails to maintain property in accordance with this Article, or otherwise comply with the requirement of this Article, the Village may issue a warning to order correction of the violation within 24 hours unless otherwise specified. Failure to correct said violation may result in a fine and/or penalty as specified in Section 1-206 of these Ordinances.

CHAPTER 5 TREES AND SHRUBS

Article 1. General Provisions

Section 5-101 Purpose

Section 5-102 Definitions

Section 5-101. Purpose

- A. The provisions of this Chapter are declared necessary for the purpose of regulating the planting, removal, maintenance and protection of trees and shrubs on public space; guarding against dangerous conditions caused by trees, which may result in injury to persons or property; promoting and enhancing the beauty of the Village; preventing damage to any public sewer main, street, sidewalk or other public property; protecting Village trees and shrubs from undesirable and unsafe practices; and guarding the Village trees against the spread of disease or pests.
- B. The Village Council may engage the services of a qualified contractor for work done on Village plantings. All such contractors shall be fully insured and indemnify and hold harmless said village.

Section 5-102. Definitions

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

- A. *“Canopy tree”*: A canopy tree is defined as a tree with a trunk that measures at least twenty-four (24) inches in circumference at four and one-half (4½) feet above ground and of one of the following species: Green Ash; White Ash; American Beech; English Elm; European Beech; Bald Cypress; American Elm; Franklinia; Ginkgo; Hackberry; Bitternut Hickory; Mockernut Hickory; Pignut Hickory; Shagbark Hickory; American Holly; Honeylocust; Katsura; American Linden; Southern Magnolia; Virginia Magnolia; Black Maple; Red Maple; Sugar Maple; London Planetree; Black Oak; Blackjack Oak; Chestnut Oak; Overcup Oak; Persimmon; Pin Oak; Post Oak; Northern Red Oak; Sawtooth Oak; Southern Red Oak; Scarlet Oak; Shingle Oak; White Oak; Swamp White Oak; Willow Oak; Tulip Poplar; American Sycamore; Sweetgum; Blackgum (Tupelo); Black Walnut; and Yellowwood.
- B. "Village tree" means (1) any tree or shrub, the center of whose trunk or stem at ground level is located on Village property or the public right-of-way and which was planted by or with consent from the Village, and (2) any tree or shrub on private property planted by or with the permission of the Village in agreement with the owner, for which the Village has assumed care and treatment. This does not include trees or shrubs planted by the property owner in which the Village has not assumed responsibility. The Village will maintain a list of trees for which it assumes responsibility for

care and treatment, which shall be made available to residents.

Article 2: Planting and Protection of Village Trees and Shrubs

Section 5-201 Planting of New Trees

Section 5-202 Protection of Village Trees

Section 5-203 Pruning of Village Trees by Utility Companies

Section 5-204 Protection of Village Trees During Construction

Section 5-205 Trimming and Removal of Trees on Private Property

Section 5-206 Tree Protection

Section 5-207 Entry on Private Property to Treat Village Trees

Section 5-201. Planting of New Trees

- A. The Village Council may develop an annual plan for planting Village trees.
- B. All new trees planted on the public right-of-way shall be free of disease and pests.
- C. Spacing and location of trees and shrubs planted on public space shall be based on recommended standards, taking into account the desires of the owners of adjoining property, the species, the tree plan, the requirements of Section 3-207, and proximity to intersections, driveways, utility poles, and fire hydrants.

Section 5-202. Protection of Village Trees.

It shall be unlawful for any person, unless authorized by the Village Council, to:

- A. Prune, remove, or injure, or cause to be pruned, removed or injured, any Village tree, including in connection with activities undertaken pursuant to any otherwise approved Village building permit.
- B. Attach any advertisement or notice to a Village tree.
- C. Hang any object on a Village tree.

Section 5-203. Pruning of Village Trees by Utility Companies

- A. When a public utility company finds it necessary to prune Village trees, the utility company must obtain and fully comply with all required permits, including any permit issued by the Maryland Department of Natural Resources, pursuant to Maryland Natural Resources Code Annotated, Section 5-406.
- B. The utility company must give at least two weeks' notice to the Village of its intent to prune Village trees and include with its notice a copy of the State-

issued permit. In circumstances where compliance with the notice requirement is impossible or highly impractical, the utility company shall provide notice as far in advance as is reasonably possible and in any event shall inform the Village by telephone prior to the commencement of work.

Section 5-204. Protection of Village Trees During Construction

During the erection, altering or repairing of any building or structure on a lot within the Village, the owner of such lot or his agent shall place guards, fences or barriers in such locations as determined by the Village Council, in consultation with a qualified contractor, to be necessary to prevent injury to Village trees.

Section 5-205. Trimming and Removal of Trees on Private Property

- A. The Village Council finds that it is in the interest of the residents of the Village of North Chevy Chase to preserve, protect, and maintain the Village's tree canopy. Because trees require the span of a human lifetime to mature and can be subject to disturbance at many points in their lives, the Village places a high value on the mature trees that have survived to form an intrinsic part of the fabric of our community and a defining feature of its character. Each mature tree in the Village plays a critical role in controlling stormwater runoff and supporting the biological and hydrological integrity of various watersheds, including the larger Chesapeake Bay watershed. Thus, the regulation of actions affecting the Village's tree canopy provides benefits to all Village residents and property owners and contributes to the greater good of the Suburban Maryland and Washington region. In order to allow the Village to monitor changes to its tree canopy as well as the overall health of trees in the Village, residents are requested to notify the Village Manager when a canopy tree is proposed for removal from private property, including the reason for such removal. Per the provisions of Section 3-201 (G), a permit is required for removal of any tree 24" in circumference at 4 ½ feet above the ground if such removal is in relation to demolition, new home construction, and/or additions or modifications to the exterior of a property.
- B. All trees and shrubs located on private property in the Village shall be maintained in a condition so as not to interfere with:
- a. The proper spread of light along a street from a streetlight;
 - b. The visibility of any traffic control sign, device or signal; or

- c. The required clearance over public sidewalks (8 feet) or streets (12 feet).
- C. All trees and shrubs located on private property in the Village shall be maintained in a condition so as not to constitute a hazard to persons or property on public space or to harbor pests or disease that constitute a threat to other trees within the Village.

Section 5-206. Tree Protection

- A) Before undertaking any activity that poses a potential risk to any canopy tree on the property in question, or poses a potential risk to any other tree, regardless of size or species, on an adjoining property or on the Village right-of-way, a property owner shall submit a tree protection plan for review and approval by the Village Manager in consultation with a certified arborist. It is the responsibility of the property owner to ascertain whether a construction-related activity places any tree in jeopardy.
- B) Activities that pose a potential risk to trees include but are not limited to (i) the demolition, in whole or in part, of an existing home or structure; (ii) the construction of a new home or structure; (iii) the expansion of the footprint of an existing home or structure; (iv) the construction of a driveway, patio or other impervious surface; (v) the construction of walls, (vi) installation of underground utility lines, and (vii) regrading or excavating within the dripline of a tree.

Section 5-207. Entry on Private Property to Treat Village Trees

Any agent or contractor authorized by the Village Council may enter upon and disturb private property when necessary for the purpose of inspecting or treating Village trees. However, any private property that was required to be disturbed for such purposes shall be returned expeditiously by the Village as nearly as possible to its original condition and any expenses incurred shall be borne by the Village. The Village Council shall attempt to notify the resident before entering the property.

CHAPTER 6

VEHICLES AND TRAFFIC

Article 1. General Provisions

Section 6-101. Purpose

Section 6-102. Definitions

Section 6-101. Purpose

This Chapter provides procedures for regulating traffic and parking so as to preserve peace and good order in the Village of North Chevy Chase and protect the health and safety of its citizens.

Section 6-102. Definitions

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

- A. "Abutting Roadway" means that part of the roadway between the extension of the property lines of the abutting private property and on the same side of the street (except that, where parking is prohibited there, the roadway on the opposite side of the street shall also be included.)
- B. "Commercial Vehicle" means any vehicle and any trailer or semitrailer designed and used for carrying freight or merchandise – including roof racks for carrying equipment - and every vehicle, trailer or semitrailer used in any way in the furtherance of any commercial enterprise, including the presence of markings on a vehicle intending to advertise a commercial enterprise. Such term does not include any vehicle owned by the County or other governmental agency.
- C. "Crosswalk" means
 - a. Any portion of a roadway indicated for pedestrian crossing by painted lines or other markings on the roadway surface.
 - b. That portion of a roadway included within the projection of the lateral lines of sidewalks at intersections.
- D. "Driver" or "Operator" means any person who is in actual control, or charged with the control, of a vehicle.
- E. "Driveway" means every way or place in private ownership used for vehicular travel.
- F. "Fire Lane" means that area of a *public* or private roadway or parking facility designated by official signs or markings and intended for the exclusive use of

- emergency vehicles.
- G. "Immobilize" means to take a vehicle into the custody of the County or Village by ^[1]~~SEP~~ restricting or otherwise impeding the movement of such vehicle from its parking place by means of a mechanical device and so holding it until all charges involving that vehicle are fully satisfied.
 - H. "Impound" means to take a vehicle or other property into the custody of the County by seizing it and removing it to a place of storage and there holding it until all charges involving that vehicle or property are fully satisfied.
 - I. "Intersection" means the area embraced within the projection of the lateral curb lines or, lacking same, the lateral boundary lines of the roadways of two (2) streets that join approximately at right angles.
 - J. "Junk Vehicle": Any 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.
 - K. "Off-Street Parking" means the parking of vehicles in designated areas, whether public or private, and not upon a public street.
 - L. "Officer" means any police officer or other person appointed by any jurisdiction and authorized to direct or regulate traffic or parking or to make arrests for violations of any provisions of law including other traffic and parking laws and Ordinances.
 - M. "Official Sign" means a sign posted by authority of the Village Council, County, or State for the purposes of guiding, warning, regulating, limiting or otherwise controlling the movement, stopping, standing or parking of vehicles upon the streets within the Village or upon any public or private parking facility.
 - N. "Official Traffic Control Devices" means all signs, signals, markings or other devices placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic or parking.
 - O. "On-Street Parking" means the parking of vehicles on a public street.
 - P. "One-Way Street" means a public street upon which vehicular traffic is permitted to move in one direction only. (b) "Park or Parking" means the stopping of a vehicle, even if occupied or attended, on a public street or public parking facility, except temporarily for the purpose of, and while

- actually engaged in, loading or unloading merchandise or passengers.
- Q. "Posted Time Limit" means the allowable time a vehicle may remain parked where limited by official signs.
 - R. "Stand" or "Standing" means the temporary stopping of an occupied or attended vehicle for the purpose of, and while actually engaged in, receiving or discharging passengers or merchandise.
 - S. "Stop" or "Stopping" means any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic control sign or signal.
 - T. "Traffic" means all vehicles, pedestrians, animals and any other conveyance using a street for purposes of travel.
 - U. "Trailer" means any cart, wagon or other object designed to be pulled by any motorized vehicle.
 - V. "Unregistered Vehicle" means any vehicle or trailer, except those exempt from registration by State law, that is without current registration plates, or with fictitious registration plates attached thereto, or otherwise not registered in compliance with State or County law.
 - W. "Vehicle" means any device in, on, or by which any individual or property is or might be transported or towed, including but not limited to automobiles, motorcycles, motorbikes, motor propelled carts and wagons, other vehicles propelled by an internal combustion engine or other source of power, or trailers.

Article 2. Traffic Control

Section 6-201. Authority to Erect Traffic Signs and Devices

Whenever, in the judgment of the Village Council it is deemed appropriate or necessary for the public good, safety, or convenience to control or regulate vehicular or pedestrian traffic or parking, the Council is authorized to provide by resolution for the erection of traffic control and parking restriction signs and devices designed to control and regulate traffic and parking on Village streets. The Village may either erect said signs and devices itself or may request the County Executive or the Executive's designee to erect, or authorize the erection of said signs and devices in accordance with the Council's resolution. All said signs and devices shall conform to the manual and specifications of the State Highway Administration.

A) Speed Hump Installation: With respect to speed humps, the Council will consider a speed hump for a particular street if a minimum of two (2) property owners householders from different properties request speed hump(s), provided they have not applied for the same location within the previous three (3) years. The Village Manager will engage a Traffic Engineer holding a Professional Engineer certification in the State of Maryland to evaluate the street segment(s) to identify and recommend appropriate locations, if any, for the potential speed hump(s).

1) Per best practices, speed humps may not be installed within 150 feet of an intersection or STOP sign, near a curve or a hill that obstructs a driver's view of a hump or pedestrians from less than 200 feet, on slopes having grades exceeding eight percent, or wherever they would abut or obstruct driveways, fire hydrants, storm grates, or water valves.

2) If the Traffic Engineer determines that there is a feasible location for speed humps, the Village will commission a traffic study, no less than a week in duration, to determine traffic volume and speed at the location of the requested hump(s). The street segment in question must generally meet either of the following criteria to qualify for the installation of the speed hump; however, the Council may approve installation of a speed hump that does not meet these requirements if they find significant mitigating factors in support of the request:

a) A minimum of 120 vehicles per day exceeding 30 mph, or

b) A minimum of 20 vehicles exceeding 30 mph during any hour of the day.

3) The results of the traffic study will be available to the public and will be incorporated into a questionnaire, to be sent to all households along the proposed street segment. The questionnaire will explain the costs and procedures for installing and removing humps. The questionnaire, to be returned to the Village Manager within one month, must be signed and completed by no more than one property owner per household and include his or her telephone number, home address and if possible an email address. The questionnaire will ask property owners to indicate approval or disapproval of hump installations or to indicate abstention from expressing a view. At least 75 percent of the property owners must express support for humps for the application to proceed. A refusal to sign the questionnaire is counted as disapproval. If in spite of reasonable efforts, the staff cannot reach property owners, that household will not be included in the calculation of household percentage approving or disapproving. The Village will also send advisory notices of a speed hump application to

Montgomery County Fire and Rescue services, and to all householders on those streets whose additional blocks are County owned (3600 block Dundee, 3600/3700 block Husted, 3600 block Inverness, 3600 block Kenilworth, and 3600 block Stewart). Their responses, if any, are informative and nonbinding but may be considered by the Village Council in approving or rejecting an application.

4) The Village Council will schedule a public hearing on the application during a regular monthly Council meeting within 60 days of receipt of the questionnaires. Following the public hearing, the Village Council will make a final decision as to the installation of the speed hump(s). The Town will notify residents residing in the street segment of the Council's decision.

B) Speed Hump Removal: The process for removing a speed hump shall follow the same procedure as outlined within Section 6-201 (A) above.

Section 6-202. Operation of Vehicle in Violation of Official Sign

No vehicle shall be operated in violation of any official sign or other traffic control or restriction duly authorized by the Village Council pursuant to this Chapter.

Section 6-203. Parking in Violation of Official Sign

No vehicle shall be parked in violation of any official sign regulating the parking of vehicles. Both the owner and the operator thereof shall be subject to any penalties provided in this Chapter for such violation.

Section 6-204. Driving Over Curbs, Sidewalks or Drainage Structure

It shall be unlawful for any person to drive any vehicle on or over any curb, traffic diverters, sidewalk or drainage structure except in emergencies.

Section 6-205. Restrictions During Snow Emergencies

In order to facilitate removal of snow from Village streets, the Village Council by resolution may restrict parking on, and the use of, Village streets during periods of snow accumulation. Any snow emergency route signs erected pursuant to this section shall be visually distinguishable from signs posted by Montgomery County snow emergency routes and shall indicate that they are posted by the authority of the Village of North Chevy Chase.

Section 6-206. Emergency Vehicles

Unless otherwise specifically stated and so indicated on the appropriate sign or device, none of the traffic or parking restrictions adopted pursuant to this Chapter

shall be applicable to any authorized emergency vehicle while on an emergency run.

Article 3. Stopping, Standing and Parking

Section 6-301. Vehicle Parking

Section 6-302. Parking of Commercial Vehicles

Section 6-303. Parking Over 24 Hours

Section 6-304. Repairing Vehicles on Streets

Section 6-305. Junk Vehicles

Section 6-306. Parking of Trailers, Boats and Recreational Vehicles

Section 6-307. Obstructing Entrances to Driveways

Section 6-308. Parking of Unregistered Vehicles

Section 6-309. Permit Parking

Section 6-310. Unregistered Vehicles on Private Property

Section 6-311. Enforcement

Section 6-301. Vehicle Parking

It shall be unlawful for anyone to park a vehicle on a Village street in a way that would impede the free flow of traffic, including emergency vehicles, or obstruct visibility at an intersection or street corner.

Section 6-302. Parking of Commercial Vehicles

- A. It shall be unlawful to park any commercial vehicle on any Village street, roadway, right-of-way, or driveway except when such vehicle is otherwise legally parked and the owner or operator is actively engaged in work on a nearby residence in the Village. This section shall not apply to:
- a. A vehicle involuntarily parked because of mechanical failure or other emergency, provided such vehicle is removed within a reasonable period of time; or
 - b. A single commercial vehicle, owned and used by a Village resident, except a bus or tow truck, with a gross vehicle weight of no more than 10,000 pounds and a manufacturer's rated capacity of no more than one ton; is not more than 21 feet long (including any object loaded onto the vehicle); and is not more than eight feet high (including racks, but not antennas). In the event that more than one commercial vehicle is registered as owned by the property owner at a single residential address in the Village, the property owner shall select only one

commercial vehicle to be parked in accordance with the requirements set forth above, and may not park any other commercial vehicle registered by that property owner on any Village street, roadway, right-of-way or driveway.

- B. It shall be unlawful to park any tow truck or bus on any Village street, roadway, right-of-way or any private driveway in the Village except when such vehicle is otherwise legally parked, and the owner or operator is actively engaged in loading or unloading.

Section 6-303. Parking Over 24 Hours

It shall be unlawful for any person not a resident or a guest of a resident to park a vehicle on the streets of the Village for a period longer than twenty-four (24) continuous hours.

Section 6-304. Repair and Storage of Vehicles

- A. It shall be unlawful to service, repair or store vehicles for the purpose of performing services or repairs on vehicles on a street, right of way, private driveway, or other private property within the Village.
 - a. Except that such service, repair and storage is permitted on private property if otherwise permitted by law and if performed behind the front building restriction line.
- B. This section shall not apply to emergency service or repair; resident vehicle owners performing minor service on their respective vehicles otherwise legally parked and operative; or the accommodation for the immediate transfer, exchange or removal of a vehicle to or from a garage, repair **shop, service** or parking facility.
 - a. Examples of minor repairs are - tune-up; oil/filter change (provided no public space is polluted or damaged); fixing a flat tire; replacing a battery, lights/bulbs, brakes; rotation of tires; flushing radiator system.

Section 6-305. 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 Article.

Section 6-306. Parking of Trailers, Boats and Recreational Vehicles

It shall be unlawful to park any trailer, recreational vehicle, motor home, or boat

on any Village street, roadway, right-of-way, or on that portion of any driveway between the house line and the front lot line, except

- A. For a period of up to forty-eight (48) hours, for the purpose of loading or unloading such vehicle;
- B. For a period of up to one (1) week, in the case of a non-resident visitor with the permission of the property owner; or
- C. For a period not to exceed two (2) weeks, in the case of a nonresident visitor with the permission of the property owner and if a temporary parking permit has been issued by the Council.

Section 6-307. Obstructing Entrances to Driveways

It shall be unlawful to park a vehicle on a public street of the Village in such a manner that any part of the vehicle overlaps or obstructs the entrance to any public or private driveway without the consent of the lot owner.

Section 6-308. Parking of Unregistered Vehicles

It shall be unlawful to park on the streets, roads and public property within the Village, any motor vehicle or trailer which is without registration plates, with expired registration plates, or with fictitious registration plates attached thereto.

Section 6-309. Permit Parking

- A. The Council may consider the institution of a parking permit system in a given area
 - a. Upon petition of at least eighty (80) percent of the households of a specific area requesting that such area be established as a parking permit area, or
 - b. Upon its own motion.
- B. Prior to the designation of a particular area as a parking permit area or prior to the withdrawal of such designation once it has been established, the Council shall conduct a public hearing at which time any interested persons shall be entitled to appear and be heard. Such hearing shall be held only after notice thereof has been published in an Official Village communication.
- C. The Village Council may by resolution establish additional Ordinances or procedures to implement the provisions of this section, including, but not limited to procedures for the issuance of appropriate parking permits and the collection of fees therefore, and for the posting of appropriate official signs.

Section 6-310. Unregistered Vehicles on Private Property

It shall be unlawful for any person to park or store an unregistered vehicle on private property for more than thirty (30) days unless:

- A. The vehicle is completely shielded from the view of individuals on adjoining property or public space - for example, by a 6-foot^{SEP} solid wood fence or dense evergreen hedge - and is stored within the building set back lines of the property; or
- B. A permit has been issued by the Village Council to allow such storage for a longer period of time. A permit issued under this section may be issued for a period of one year and may be renewed. A fee of twenty-five dollars (\$25.00) shall be paid for each year or part of a year for which a permit is issued.

Section 6-311. Enforcement

The provisions of this chapter consistent with Montgomery County law shall be enforced by any duly authorized officer, as defined herein, in accordance with the provision of Maryland Transportation Annotated Code, Section 26-201 and Chapter 31 of the Montgomery County Code. Provisions of this chapter that are more stringent than Montgomery County law may, at the sole discretion of the Village, be enforced by the Village and its agents.

CHAPTER 7 SMALL WIRELESS TELECOMMUNICATIONS FACILITIES IN RIGHTS-OF-WAY

Article 1. General Provisions

Section 7-101. Purpose

Section 7-102. Definitions

Sec. 7-101. 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 Chapter 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; and to otherwise protect the health, safety, and general welfare of the town and its residents, and the public at large.

Sec. 7-102. Definitions.

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

- 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 Pole, Tower, or Support Structure or any equipment associated with a Pole, Tower, or Support Structure.
- 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 Wireless Services, including: (i) 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.

- D. "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.
- E. "Small Wireless Facility" means a Wireless Facility that meets all of the following conditions:
- a. 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
 - b. Each antenna associated with the deployment, excluding the associated equipment, is no more than three (3) cubic feet in volume; and
 - c. 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
 - d. The facility does not require antenna structure registration under Federal law; and
 - e. The facility does not result in human exposure to radiofrequency radiation in excess of applicable safety standards under Federal law.
- F. "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.
- G. "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.

- H. “Wireless Facility” means the equipment at a fixed location or locations in the public right-of-way that enables Wireless 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.
- I. “Wireless Service Provider” means a person who provides Wireless Services.
- J. “Wireless Services” means any wireless services using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public.

Article 2: Permitting Terms

Section 7-201. Permit and Access Agreement Required

Section 7-202. Permit Application Requirements

Section 7-203. Standards for Deployment in the Public Right-of-Way

Sec. 7-201. 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 Chapter. 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 Chapter. 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.

- C. A Right-of-Way Access Agreement may be terminated by the Village, in its sole discretion, if this Chapter is amended or replaced. In such event, a new permit and Right-of-Way Access Agreement shall be required according to the requirements of the amended or replaced Chapter.

Sec. 7-202. Permit Application Requirements.

- A. An application for a permit under this Chapter must contain or be submitted with the following:
 - a. The applicant's name, address, telephone number, and e-mail address, including emergency contact information for the Applicant;
 - b. 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;
 - c. A description of the proposed work and the purposes and intent of the proposed facility sufficient to demonstrate compliance with the provisions of this Chapter;
 - d. 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;
 - e. Detailed construction drawings regarding the proposed facility;
 - f. 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;
 - g. 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
 - h. 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 Village 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 by resolution from time to time.
- D. Any permit issued under this Chapter shall be valid for a period of twelve (12) months after issuance, and may be extended by the Village Manager for up to an additional twelve (12) months upon written request of the applicant, prior to permit expiration, if the failure to complete construction is as a result of circumstances beyond the reasonable control of the applicant.
- 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 Chapter may not be assigned or transferred.

Sec. 7-203. 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, Tower or Support Structure, 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 be located no closer than: (i) two (2) feet from any curb, sidewalk, or other improvement within the right-of-way; and (ii) five (5) feet from any 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:

1. 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.
2. 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.
3. No Tower may be located closer than one thousand (1,000) feet of another Tower.
4. No more than five (5) antennas may be located on any single Pole, Tower or Support Structure.
5. All coaxial, fiber-optic, or other cabling and wires shall be contained inside the Pole, Tower or 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.
6. All Communications Facilities shall comply with such additional design standards as may be set forth in administrative Ordinances 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, Tower or Support Structure, 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, Towers or Support Structures 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.