

**CHAPTER 9
BUILDINGS AND BUILDING REGULATIONS**

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Sec. 9-100 County Building Code

The Building Code of Montgomery County, Maryland, and all amendments and regulations adopted pursuant thereto shall be applicable in Section 5 of the Village of Chevy Chase as a County ordinance and as an ordinance of Section 5 and shall be in addition to and not in lieu of the specific provisions of this chapter. Nothing in this chapter shall be construed to relieve any person from the requirement of obtaining a building permit from the County Department of Environmental Protection or its successor agencies, or from obtaining approval from any other county or state agency.

The Code Enforcement Officer (See Chapter 12) shall be responsible for enforcing or causing to be enforced this chapter.

Sec. 9-110 Building Permit

- (a) It shall be unlawful to perform any of the following work without obtaining the required permit from Section 5:
1. Erect, place, construct, expand, enlarge, alter, remove, repair, replace, or demolish any above-ground or in-ground structure, including, but not limited to, a house, accessory structure, garage, shed, gazebo, porch, deck, stoop, stairs, terrace, outdoor kitchen, or permanently anchored play equipment on private property or within a public right-of-way;
 2. Construct, expand, enlarge, alter, remove, repair, or replace a driveway, driveway apron, parking pad, or curb entrance on private property or within a public right-of-way;
 3. Construct, expand, enlarge, alter, remove, repair, or replace any patio, walkway, tennis court, basketball court, or other impervious surface on private property or within a public right-of-way;
 4. Construct, expand, enlarge, alter, remove, repair, or replace any in-ground or above-ground pool or spa, or pool or spa deck;
 5. Excavate or re-grade any area on private property or within a public right-of-way;
 6. Construct, expand, enlarge, alter, remove, repair, or replace any drainage system structure, drain inlet, or discharge for gutters, downspouts, or sump pumps on private property or within a public right-of-way;
 7. Erect, place, construct, expand, enlarge, alter, remove, repair, or replace any fence, guardrail, handrail, wall, retaining wall, or berm on private property or within a public right-of-way;

8. Plant or place any tree, shrub, hedge, or other landscaping, or irrigation system, within a public right-of-way, or plant any tree, shrub, or hedge on private property within 3 feet of a front property line;
 9. Place any dumpster or portable storage unit on private property or within a public right-of-way; or
 10. Disrupt any public right-of-way, including a street, sidewalk, or unimproved area, in connection with any construction, repair, or landscape work.
- (b) A permit from Section 5 is not required for any of the following work on private property:
1. Interior construction, renovation, or repairs that make no alteration in the existing exterior three-dimensional boundaries of a structure;
 2. Ordinary exterior repairs, using the same materials, without any change to the three-dimensional boundaries of a structure;
 3. Attachment or placement of decorative features to an existing structure;
 4. Full or partial demolition of any structure with an area less than 100 square feet;
 5. Construction or installation of any structure or equipment with a footprint of less than 12 square feet, and a height of less than 6 feet;
 6. Excavation or re-grading of an area less than 100 square feet;
 7. Repair or resurfacing less than 100 square feet of a section of an existing driveway;
 8. Repair or reconstructing less than 25 square feet of a section of an existing patio, walkway, or solid, impervious surface;
 9. Ordinary repairs to and replacement of existing roof gutters, down spouts, and splash blocks;
 10. Ordinary repairs of less than 25% of a fence or wall, using the same materials, without altering its size or appearance.
- (c) An application for a permit must be filed in writing in a format required by the Section 5 Manager.
1. The application for the permit shall be accompanied by the required permit fee and any required bond or deposit, as the Section 5 Council may from time to time establish by resolution.
 2. The application must include the following:
 - (i) plans and specifications of the project, drawn to scale, with sufficient clarity and detailed dimensions to show the nature and character of the work to be performed;
 - (ii) a site plan showing: the property upon which the proposed work is to be performed; the lot boundaries; lot and block numbers; name and width of abutting streets; location and dimensions of existing and proposed buildings and other structures on the lot; and the scale of the plan. The site plan must be accurate and reasonably current, as determined by the Section 5 Manager. If required by the Section 5 Manager, the application must be accompanied by a boundary survey with an acceptable margin of error, as determined by the Section 5 Manager; and
 - (iii) a stormwater drainage plan, if required according to subsection (d) below.
- (d) Any application for a building permit for a project that increases the existing impervious surface on a lot must include a storm water drainage plan.
1. The drainage plan must specify the design or provisions for the control or conveyance of any increase in runoff.

2. The design or provisions for the control or conveyance of runoff can be met with dry wells, rain barrels, cisterns, natural topography or buffers, rain gardens, biofilters, storm drains, yard drains, swales, pervious pavers, rooftop gardens, or other measures approved by the Section 5 Manager. Conveyance to a public right-of-way shall be allowed only where onsite control is not feasible, as determined by the Section 5 Manager.
 3. The development and design of the drainage plan must be consistent with the format and requirements specified in the *Section 5 Guidelines for Control of Water Runoff*, as amended, or other accepted design criteria approved by the Section 5 Manager.
 4. An application for the construction of a new primary structure must include an erosion and sediment control plan, including stormwater management design, prepared and certified by a professional engineer, land surveyor, or landscape architect licensed by the State of Maryland.
- (e) It shall be unlawful to block or close any street, sidewalk, or other public works or property, or to seriously obstruct the same, without obtaining a permit from the Section 5 Manager. A deposit, application and permit, all as outlined in this Chapter, shall be required, and the return of the deposit or unexpended balance thereof shall be made in the manner described in this Chapter.
 - (f) When the plans and specifications are approved by Section 5 Manager, they shall be signed by the Section 5 Manager and the building inspector and a permit shall issue.
 - (g) If the plans and specifications are not approved they may, together with the application and reasons for requesting a reconsideration, be referred by the applicant to the Council for final action.
 - (h) Work on buildings or alterations or additions must be commenced within six (6) months after the issuance of a permit. If all work on the project has ceased for thirty (30) days, the permit may be revoked.
 - (i) Permit fees. The fees for building permits shall be in the amounts as may be established from time to time by resolution of the Council.

Sec. 9-120 Altering Plans; Modifications to Plans

It shall be unlawful for any person to erase, modify or alter any plans or specifications after they have been submitted and a permit issued thereon. If during the progress of the work, it is desired to deviate materially from the approved plans and specifications, notice of such intention shall be given in writing to the Section 5 manager and his/her written approval thereof and assent thereto shall be obtained before such deviation or alteration is made. It shall be unlawful for any person or persons to proceed with any dwelling, building or alteration or addition, except in accordance with the plans and specifications approved therefor, or in accordance with deviations or alterations approved by the Section 5 manager.

Sec. 9-130 Deposit

- (a) A deposit is required for certain construction projects in order to cover the cost of any damage to streets, pavements, gutters, sidewalks, other public works, or the cost of removal of any obstruction or obstructions thereon;
- (b) The deposit will be returned to the person, firm or corporation depositing same when the building, additions, or alterations are completed and when the streets, sidewalks, pavements, gutters or other public works shall have been restored to a condition equal to that existing before being disturbed, or when the obstruction or obstructions have been satisfactorily removed, all to the satisfaction of the Section 5 manager and within the time set forth in the permit. Otherwise, the amount deposited will be used to defray the expense of the work involved as may be directed by the Section manager and the unexpended balance being returned to the party or parties having deposited same;
- (c) The deposit shall be in form and amount, and subject to such terms and conditions, as may be established from time to time by resolution of the Council.

Sec. 9-140 Utility Connections

In case any person, firm or corporation desires to make connections with the water, sewer, or gas systems, a written application to the manager shall be submitted with the application for a building permit, if building is involved, and separately if building work is not involved. The consent of the Section 5 manager shall be obtained in conjunction with the permit. If such water, sewer, or gas system is the property of a private party or public or private corporation, the written consent of such private party or corporation granting permission for such connection shall be obtained and filed with the Building Inspector when application is made for a building permit.

Sec. 9-150 Laying, Stringing, or Suspending Wire

Any person, firm or corporation desiring to string, lay, hang, suspend or in any manner place wires of any kind on, over, or under the public highways or streets within the jurisdiction of these regulations shall submit a written application to the Section 5 manager. If such application is approved, a permit will issue without charge and such permit shall contain a provision for saving Section 5 harmless from loss or damage.

Sec. 9-160 Maximum Non-Vegetative Surface Area

- (a) The non-vegetative surface area in a front yard shall not be increased to exceed thirty-five (35) percent of the area of the front yard.
- (b) Application - Subsection (a) shall not apply to:
 1. Construction projects for which a Montgomery County permit application was filed prior to the effective date of this Section; or
 2. Front yards adjacent to Connecticut Avenue or Brookville Road if exceeding the thirty-five percent threshold is necessary to allow construction of a driveway turn-around.

(c) Definition - Front Yard means:

1. The area defined by the front lot line, the front building line, and the side lot lines, excluding areas covered by porches (roofed or without roofs, enclosed or open), steps, stoops, decks, and terraces; and
2. For corner lots, both yards adjacent to a street

--Amended February 8, 2011--

Sec. 9-170 Variances from Requirements of Building Restrictions

(A) Authority of Council.

- (1) Where it is impossible or impractical or would cause peculiar or unusual practical difficulties or undue hardship upon the owner of such property to conform fully to this Chapter the Council may consider such a variance from the provisions of this chapter, as may be reasonably necessary to grant relief, provided that the variance:
 - (a) May not be detrimental to the use and enjoyment of adjoining or neighboring properties;
 - (b) Is the minimum reasonably necessary to overcome the exceptional condition and can be granted without substantial impairment to the intent purpose and integrity of the general plan or any duly adopted and approved master plan affecting the subject property in the village.
- (2) The Council also has the authority to hear and decide appeals arising from the granting or denial of a building permit or any allegation that there is an error in any requirement, determination or decision by the building inspector or Section manager in the administration or enforcement of this Section.

(B) Procedure for granting variances under subsection (A) (1) or hearing an appeal under subsection (A) (2). The procedure for applying for and obtaining a variance or obtaining a hearing for an appeal shall be as follows:

- (1) Application for variance. Application for a variance may be made by any applicant who has been denied a building permit for nonconformance with the requirements of this Chapter or by any applicant seeking a deviation from these requirements. The application and accompanying maps, plans or other information shall be submitted to the Section manager, who shall place the matter on the Council meeting agenda and announce a public hearing thereon which shall be held at a regular monthly or special meeting of the Council.
- (2) Supporting data. Each application shall be accompanied by the following:
 - (a) Surveys, plats, or other accurate drawings showing boundaries, dimensions, area, topography and frontage of the property involved, as well as the location and dimensions of all structures existing and proposed to be erected, and the distances of the structures from the nearest lot lines.
 - (b) Plans, architectural drawings, photographs, elevations, and specifications depicting fully the exterior appearance of the existing and that of the proposed construction involved in the application. Other detailed information may be provided as may be necessary for the Council to fully understand the need for a variance.

- (c) If the applicant is not the owner of the property involved, the lease, rental agreement or contract to purchase by which the applicant's legal right to prosecute the application is clearly presented and established.
 - (d) All additional exhibits which the applicant intends to introduce. A summary of what the applicant expects to prove, including the names of applicant's witnesses, summaries of the testimonies of expert witnesses, and the estimated time for presentation of the applicant's case.
- (3) Appeal Procedure. Any person aggrieved by a decision or action of the Section Manager or Building Inspector arising from the granting or denial of a building permit may file an appeal to the Council. Such appeal shall be filed within thirty (30) days after issuance of the decision or notice of action by the Section Manager or Building Inspector. The Section Manager shall transmit to the Council all documents and papers pertaining to the appeal which shall constitute the record on appeal.
- (4) Procedures. The Section Manager shall place the matter on the Council meeting agenda and announce a public hearing thereon which shall be held at a regular monthly or special meeting of the Council. The Section Manager shall give written notice of such hearing to the parties in interest and hand deliver to the abutting property owners at least ten (10) days prior to the meeting of the Council at which meeting such application is to be heard. The Section manager shall mail notice via USPS to Section residents at least ten (10) days prior to such Council meeting.
- (5) Public hearings on applications. The Council shall hold a public hearing on all applications for the grant of a variance and all appeals from requirements, determinations and decisions by the Section Manager or Building Inspector. For the conduct of any such review hearing, a quorum shall be no fewer than three (3) members of the Council and in all instances an affirmative vote of three (3) members of the Council shall be required to overrule any decision, ruling or determination of the Building Inspector or Section Manager or to approve any variance, provided that nothing in this section shall be construed to relieve any person from the requirements of obtaining a building permit, special permit or variance as the required by the County. At the hearing, any party may appear in person by agent or by attorney.
- (6) Conditions. In granting a variance, the Council may require such conditions as in its judgment secure substantially the objectives of the requirements so modified and protect the public interest. In exercising its powers the Council may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the Building Inspector or Section Manager as it deems appropriate.
- (7) Record of Decision. The decision of the Council shall be in writing and signed. Any decision shall be effective on the date the Council approves its written decision. The secretary of the Council shall keep minutes of all review hearings, showing the vote of each member, including whether the member was absent or declined to vote. These minutes and the Council's decision shall be filed in Section 5's office and shall be a public record.
- (8) Extension for variances. The Council may extend any time limit imposed as a condition of a variance upon a reasonable showing that there has been no material change in circumstance since the variance was granted and, despite due diligence by the permittee, additional time is necessary to accomplish the approved construction.

Sec. 9-180 Appeals

Any party aggrieved by the decision of the Council under Section 9-170 of this Chapter may appeal within thirty (30) days to the Montgomery County Circuit Court and thereafter to the appellate courts of Maryland within the time and manner prescribed within the Maryland Rules of Procedure relating to the judicial review of administrative agency decisions. The time for appeals shall begin to run from the date of the written decision of approval or denial or from the date the application for variance was denied for want of the necessary total of affirmative votes.

-- Amended February 8, 2008 --

Sec. 9-190 Sump Pump and Similar Discharges

No sump pump or similar drainage system shall be permitted to discharge onto a public right-of-way. Such drainage system existing as of December 3, 2017 may be maintained and repaired but not replaced, provided the discharge does not create pooling or otherwise present a potential hazard or nuisance as determined by the Section 5 Manager.