

Ordinance No.: 11-15-1
Introduced: November 19, 2015
Adopted:
Effective Date:

THE VILLAGE OF MARTIN'S ADDITIONS

SUBJECT: AN ORDINANCE TO COMPREHENSIVELY AMEND THE CODE OF ORDINANCES TO REORGANIZE AND CLARIFY THE CODE; DELETE THE PROVISION ALLOWING PUBLIC FUNDS TO BE EXPENDED FOR THE DEFENSE OF CRIMINAL ACTIONS; ALLOW SPECIAL COUNSEL TO BE APPOINTED; PROVIDE THAT VIOLATIONS MAY BE PROSECUTED AS CIVIL INFRACTIONS RATHER THAN MISDEMEANORS; SPECIFY FINES FOR CERTAIN SUBSEQUENT VIOLATIONS; ALLOW ABATEMENT OF VIOLATIONS TO BE UNDERTAKEN BY THE VILLAGE AND THE COST THEREOF TO BE ASSESSED TO THE VIOLATOR; REMOVE UNNEEDED AND DUPLICATIVE PROVISIONS; AMEND AND EXPAND DEFINITIONS; LIMIT THE REQUIREMENT FOR A PERMIT TO BUILDINGS AND APPURTENANCES; IMPOSE A REQUIREMENT FOR A BOUNDARY SURVEY FOR PERMITS AND VARIANCE REQUESTS; EXPAND THE LIST OF POSSIBLE PERMIT CONDITIONS; DELETE THE REQUIREMENT FOR A PERMIT TO INSTALL A FENCE OR WALL; CLARIFY HOW DRIVEWAY WIDTH IS MEASURED; REMOVE THE REGULATION OF TERRACES; IMPOSE A NOTICE REQUIREMENT FOR VARIANCE REQUESTS; SHIFT CERTAIN DUTIES FROM THE VILLAGE MANAGER TO THE CODE ENFORCEMENT OFFICER; CODIFY EXISTING POLICIES AND PRACTICES; IMPOSE A TERM OF SERVICE FOR THE TREE SUPERVISOR; AND OTHERWISE CLARIFY AND AMEND THE VILLAGE CODE

WHEREAS, Local Government Article, Section 5-202 of the Maryland Code grants to the legislative body of every incorporated municipality in Maryland, including the Village of Martin's Additions, general power to pass such ordinances not contrary to the Constitution of Maryland, or public general law, as they may deem necessary in order to assure the good government of the municipality, to protect and preserve the municipality's rights, property, and privileges, to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort and convenience of the citizens of the municipality;

WHEREAS, Maryland Code, Land Use Article, Section 20-509 grants to the legislative body of incorporated municipalities in the Maryland-Washington Regional District general power to adopt building regulations for the protection of the public health, safety, and welfare; the preservation, improvement, and protection of lands, water, and improvements in the municipal corporation; and to regulate the construction, repair, or remodeling of buildings on land zoned for single-family residential uses at it relates to fences, walls, hedges, and similar barriers; signs;

residential parking; residential storage; the location of structures, including setback requirements; the dimensions of structures, including height, bulk, massing, and design; and lot coverage, including impervious surfaces;

WHEREAS, Maryland Code, Local Government Article, Section 5-211 authorizes the legislative body of each municipal corporation in the State of Maryland to make reasonable regulations concerning buildings to be erected within the limits of the municipality, including a building code and the requirement for building permits;

WHEREAS, Maryland Code, Local Government Article, Section 6-102 authorizes the legislative body of each municipal corporation in the State of Maryland to provide that violations of any municipal ordinance shall be a municipal infraction unless the violation is declared to be a felony or a misdemeanor by State law;

WHEREAS, Section 501 of the Charter of the Village of Martin's Additions authorizes the Village Council to pass such ordinances as it may deem necessary for the preservation of the property, rights, and privileges of the Village and its residents;

WHEREAS, Village staff, legal counsel, and Council members have compiled proposed edits to the Village Code as issues have been identified over the years;

WHEREAS, the Village Council discussed the proposed edits to the Village Code, and additional amendments that have been identified during the discussions, at public meetings held on September 17, 2015, October 15, 2015, November 19, 2015, and December 17, 2015;

WHEREAS, the Village Council introduced the following Ordinance at a public meeting held on November 19, 2015;

WHEREAS, to comply with Maryland Code, Land Use Article, Section 20-509, on the 23rd day of November, 2015, a copy of following Ordinance was submitted to the Montgomery County Council for its comments;

WHEREAS, by letter dated _____ the Montgomery County Council submitted comments for the Village Council's consideration;

WHEREAS, after proper notice to the public, and after at least thirty days from the date a copy of the following Ordinance was transmitted to the Montgomery County Council, the Village Council considered the following Ordinance in public session assembled on the ____ day of _____, 2015;

WHEREAS, the Village Council finds that the foregoing Ordinance would assure the good government of the municipality, protect and preserve the municipality's rights, property, and privileges, preserve peace and good order, secure persons and property from danger and destruction, and protect the health, comfort and convenience of the citizens of the Village of Martin's Additions,

and is necessary for the preservation of the property, rights, and privileges of the Village and its residents.

NOW, THEREFORE, the Village Council does hereby adopt the following Ordinance.

BE IT ORDAINED AND ORDERED, this ____ day of _____, 2015, by the Village Council, acting under and by virtue of the authority given it by the Maryland Code and the Charter of the Village of Martin's Additions, that the Village Code is hereby amended as follows:

* * *

Section 1-205. Computation of Time

In computing any period of time prescribed or allowed by any applicable provision of this Code, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday or a federal ~~legal~~ holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday or a ~~legal~~ **federal** holiday. When the period of time allowed is more than ten (10) days, intermediate Saturdays, Sundays and ~~legal~~ **federal** holidays shall be counted as other days, but if the period of time allowed is ten (10) days or less, intermediate Saturdays, Sundays and ~~legal~~ **federal** holidays shall not be counted in computing the period of time.

(Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

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Section 2-301. Definitions

For purpose of this Article:

- (a) "Public official", or "official" means a member of the Village Council **and-**
- (b) ~~"Employee"~~ means any person who was employed by the Village at the time of the act or omission giving rise to potential liability against that person, and any Code Enforcement Officer as defined in Section 3-101(c). Only to the extent required by the Maryland Local Government Tort Claims Act or other relevant state law, ~~"employee"~~ **person who was employed by the Village** includes a volunteer who was providing services or performing duties at the request of a public official with authority to make such request, and under the control and direction of the official.
- (~~e~~)**(b)** "Actual malice" means ill will or improper motivation, and has the same meaning as in the Maryland Local Government Tort Claims Act.

(Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

Section 2-302 General Provisions

- (a) Subject to the provisions of section 2-303, the Village, when requested in writing by any public official ~~or employee~~, shall retain counsel to appear and defend any civil action or special proceeding instituted in the courts of any state or of the United States against the public official ~~or employee~~ by reason of any act arising within the scope of his employment or authority, or by reason of any act taken in the reasonable belief that such action was within the scope of his employment or authority. The defense of the case shall include the right to assert counterclaims and to engage in third party practice on behalf of the ~~officer or employee~~ official.
- (b) Notwithstanding the provisions of section (a) above, the Village may decline to provide representation for a public official ~~or employee~~ who retains private counsel or for whom counsel is provided without cost, e.g. under a policy of insurance, and shall not provide a defense for any public official ~~or employee~~ for negligence or any other tort arising from the operation of a motor vehicle as to any claim for damages which is within the limits of any applicable policy of motor vehicle liability insurance.
- (c) Nothing in this section shall be construed to deprive any public official ~~or employee~~ of the right to select counsel of his own choice at this own expense, nor does this article prevent the Village from retaining counsel to enter an appearance in a case to protect the interests of the Village even though no request for such appearance has been forthcoming from the public official ~~or employee~~ named as a defendant.
- (d) Notwithstanding the provisions of sub-section (a) and (b) hereof, the Village may temporarily waive the requirement that a written request be made for representation in those instances where a timely response to the action cannot be made before a written request for representation can be made.

(Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

Section 2-303 Investigation Before Providing Defense

Before undertaking any defense, the attorney retained by the Village shall conduct an investigation of the facts on which the civil action or special proceeding is based, and report his findings and recommendations to the Village Council. If the Council determines that the public official ~~or employee~~ was not acting within the scope of his employment or authority or with a reasonable belief that he was so acting, the Village shall provide no defense for the public official ~~or employee~~. If it appears that the public official ~~or employee~~ is covered by a policy of insurance under the terms of which the carrier is required to provide counsel in such actions or special proceedings, the Council may direct the attorney to terminate further investigation and provide no representation for the public official ~~or employee~~.

(Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

Section 2-304 Confidentiality

All information provided in the Village or to any attorney retained by the Village by a public official ~~or employee~~ pursuant to this Article shall be confidential and shall not be discoverable or

admissible as evidence in any legal action or proceeding and no reference thereto may be made in any trial or hearing.

(Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

Section 2-305 Reimbursement of Public Official's ~~or Employee's~~ Legal Expenses

If the Village Council determines, pursuant to section 2-303, not to assume the defense of a public official ~~or employee~~, and it is judicially determined that the injuries arose out of an act or omission of the public official ~~or employee~~ within the scope of his employment or authority or that the defense of sovereign immunity is available to the public official ~~or employee~~, the Village shall be liable to reimburse the public official or employee for reasonable expenses in prosecuting his own defense, including court costs and reasonable attorney's fees actually paid by the official ~~or employee~~, or which he has a legal obligation to pay, from his own personal funds.

(Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

Section 2-306 Reimbursement of Village

- (a) If it is judicially determined that;
 - (1) the public official ~~or employee~~ acted with actual malice in committing the act or omission complained of, or
 - (2) the injuries complained of did not arise out of an act or omission of the public official ~~or employee~~ occurring within the scope of his employment or authority, or by reason of an act taken in the reasonable belief that such act was within the scope of his employment or authority, and, it is also judicially determined that the defense of sovereign immunity as to the public official ~~or employee~~ is not available;
- ~~(b)~~ The Village, if the Village Council determines it appropriate, may require the public official ~~or employee~~ to reimburse the Village for all expenses, including court costs and reasonable attorney's fees. However, such reimbursement shall not be required if the information provided by the official ~~or employee~~ was complete and was neither false nor misleading. These costs constitute a debt due the Village and may be collected by appropriate judicial proceedings.
- ~~(e)~~ The Village shall not be obligated to pay any judgment entered against the public official ~~or employee~~ in such a proceeding, and the legal representation provided by the Village for a public official ~~or employee~~ shall not constitute an obligation on the part of the Village to pay the judgment or a settlement of a claim, except as provided for in ~~s~~Section 2-307 hereof, or by applicable State or ~~e~~County law.

(Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

Section 2-307 Compromise or Settlement of Claims

The attorney retained by the Village, shall not compromise or settle any claim against a public official ~~or employee~~ in his personal capacity without written consent of the public official ~~or employee~~. If the public official ~~or employee~~ does not consent to the compromise or settlement, the attorney may withdraw from the representation of the official ~~or employee~~, subject to the appropriate rules of court. In that event the Village shall not be responsible for any further costs whatsoever.

(Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

Section 2-308 Sovereign Immunity Not Waived

The consent of the Village to provide legal representation to defend actions or proceedings against public officials ~~and employees~~ may not be construed to deprive the Village or any of its agencies, boards, commissions, departments, officers, public officials or employees of sovereign immunity.

(Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

Section 2-309 Payment of Settlement or Judgment Against Public Official~~or Employee~~

- (a) The Village shall be required to pay:
 - (1) the amount of any settlement authorized by the Village on any claim against a public official ~~or employee~~ for which the Village has retained an attorney who has undertaken a defense; or
 - (2) any judgment for compensatory, general or special damages rendered by a court of competent jurisdiction against a public official ~~or employee~~ including court costs and reasonable attorney's fees, where a written finding has been made that the public official ~~or employee~~ was acting within the scope of his employment or authority.
- (b) The Village may reimburse a public official ~~or employee~~ for settlements of claims or actions for which it has not provided representation or a defense and may pay any judgment entered against a public official ~~or employee~~, including a judgment for punitive damages, only if:
 - (1) The Village, either independently or through counsel, has investigated the facts on which the action is based;
 - (2) The Village Council determines that the public official ~~or employee~~ was acting within the scope of his employment or authority; and
 - (3) The Village Council, in its discretion, determines that it is in the best interests of the Village to provide such payment or reimbursement, giving due consideration to the reasons for the official's ~~or employee's~~ actions, whether or not it appears that he acted in good faith, the need to encourage individuals to hold public office, and other relevant factors.
- (c) The payment of, or the authority to pay, any settlement or judgment shall not be construed to abrogate the sovereign immunity of the Village or deprive any agency, board, commission, department, officer, public official, or employee thereof of its

sovereign immunity. Nothing in this Chapter is intended to waive the rights of the Village under State law to assert sovereign immunity for judgments or settlements exceeding the maximum amounts for which a municipality may be held liable or be required to pay under state law, or the right of the Village to seek indemnification from a public official or employee who has acted with actual malice in committing the act or omission complained of.

(Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

Section 2-310—~~Criminal Actions Reserved.~~

- ~~(a) The Village may not provide representation to a Village employee in any investigation of him by a criminal law enforcement agency, or in any criminal action against him in a court of any state or of the United States. The Village may provide representation of a public official in an investigation of him by a criminal law enforcement agency, or in a criminal action against him in a court of any state or of the United States, only if:~~
- ~~(1) The Village, either independently or through counsel, has investigated the facts on which the action is based;~~
 - ~~(2) The Village Council determines that the public official was acting within the scope of his official duties; and~~
 - ~~(3) The Village Council, in its discretion, determines that it is in the best interests of the Village to provide legal representation for the official, giving due consideration to the reasons for the official's actions, whether or not it appears that he acted in good faith, the need to encourage individuals to hold public office, and other relevant factors.~~
- ~~(b) Subject to the limitations in subsection (c) below, the Village Council may reimburse a public official or employee for reasonable counsel fees incurred by him (1) in connection with a criminal investigation into conduct as an official or employee, if the investigation has concluded and criminal charges have not been filed against him; or (2) in defending against criminal charges related to conduct as an official or employee if final disposition of all the charges does not result in a plea of nolo contendere, a guilty plea, or a finding of guilt.~~
- ~~(c) The Village Council may not reimburse a public official or employee for expenses incurred in connection with a criminal investigation or defense unless (1) the official or employee submits a written application for reimbursement; and (2) the Council determines:~~
- ~~(1) In connection with a matter under criminal investigation, the official or employee discharged such public responsibilities in good faith, did not engage in unlawful conduct, and was reasonable in retaining counsel and incurring the counsel fees for which he requests reimbursement; or~~

- ~~(2) In connection with a matter which was the subject of criminal charges, the official or employee discharged his public responsibilities in good faith and incurred reasonable counsel fees.~~

(Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

Section 2-311 Cooperation by Public Official ~~or Employee~~

- (a) All rights and immunities granted to any public official ~~or employee~~ pursuant to this Article are contingent on the official's ~~or employee's~~ complete cooperation in the defense of any action. In the absence of such cooperation, said rights and immunities shall be forfeited.
- (b) Prior to providing representation to a public official ~~or employee~~, the official or employee shall enter into an agreement with the Village providing for reimbursement of the Village as provided in this Chapter.

(Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

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Section 2-502. Public Attendance.

- (a) At any open session of the Council, the general public is invited to attend and observe.
- (b) Except in instances when the presiding officer expressly invites public testimony, questions, comments, or other forms of public participation, or when public participation is otherwise authorized by law, no member of the public attending an open session may participate in the session.
- (c) The general public shall be provided a reasonable opportunity to be heard at the monthly meetings of the Council. At the discretion of the presiding officer, a time during a monthly meeting may be allocated for the general public to present testimony, questions, comments, or other forms of public participation. Upon being recognized by the presiding officer and being provided the opportunity to be heard, a person addressing the Council shall state their name, home address, and whether he or she is speaking as an individual or on behalf of some other person, group, organization, or entity. Time limits for the presentation of testimony, questions, comments, or other forms of public participation may be imposed at the discretion of the presiding officer. **Persons seeking to address the Council on specific subjects are encouraged to make a request prior to the Council meeting.**

(Ord. No. 4-09-1, adopted May 27, 2009, effective 6/16/2009; **Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015**)

Section 2-503. Disruptive Conduct.

- (a) A person attending an open session of the Council may not engage in any conduct, including visual demonstrations such as the waving of placards, signs, or banners, that disrupts the session or that interferes with the right of members of the public to attend and observe the session.
- (b) The presiding officer may order any person who persists in conduct prohibited by subsection (a) of this section or who violates any other regulation concerning the conduct of the open session, including the Council's rules and order of business, to be removed from the session and may request police assistance to restore order. The presiding officer may recess the session while order is restored.
- (c) **Any person who, after a warning to desist, willfully disturbs, interferes with, disrupts or impedes Council proceedings, may be removed from the premises and shall be guilty of a misdemeanor, and shall, upon conviction thereof by any court of competent jurisdiction, be subject to a fine of not more than one thousand dollars (\$1,000) or imprisonment for not more than thirty (30) days, or both.**

(Ord. No. 4-09-1, adopted May 27, 2009, effective 6/16/009; **Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015**)

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Section 3-102. ~~Conduct at Meetings~~ Reserved.

- ~~(a) Reasonable seating facilities shall be provided for the general public at all public meetings and hearings of the Village Council and at the annual meeting of Village citizens, and Village residents and other members of the public having an interest in the proceedings are encouraged to attend. During such proceedings, time may be provided at the discretion of the chairman, or upon request of a majority of Council members present, for members of the public to address the Council on pertinent matters. Persons seeking to address the Council on specific subject are encouraged to make a request prior to the council meeting. Persons addressing the Council shall state their name, home address and whether they are speaking as individuals or on behalf of some persons, organization, or group that has an interest in the subject matter. If it appears to the chairman or to a majority of Council members present that under all the circumstances a written statement may be more appropriate than an oral statement, the chairman or the Council may request that a written statement be submitted.~~
- ~~(b) At all times order and decorum shall be maintained in keeping with the dignity of the governmental process. No person or group shall disturb, interfere with, disrupt or impede this process, and the chairman and the Council shall take necessary steps required to maintain order and facilitate the progress of the meeting.~~
- ~~(c) Any person who, after a warning to desist, willfully disturbs, interferes with, disrupts or impedes Council proceedings, may be removed from the premises and shall be~~

~~guilty of a misdemeanor, and shall, upon conviction thereof by any court of competent jurisdiction, be subject to a fine of not more than one thousand dollars (\$1,000) or imprisonment for not more than thirty (30) days, or both.~~

(Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

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Section 3-104 Additional Remedies

- (a) In addition to any other remedies provided for in this Code, where there is a violation of any provision of this Code, any court of competent jurisdiction may authorize a designee of the Village to enter onto the subject property and cause the violation to be corrected in accord with the court's order and to charge the costs and expenses, including legal expenses, thereof to the property owner, the occupant, or both, responsible for the violation. Such costs and expenses may be collected by way of any appropriate legal proceeding.
- (b) In addition to any other remedies provided in this Code, the Village may institute injunctive or other appropriate action or proceedings to correct any violation of this Code, and any court of competent jurisdiction may issue such injunctions, restraining orders or other appropriate forms of relief.
- (c) Judicial proceedings pursuant to this Chapter shall not be initiated by the Village without the affirmative vote of at least **a minimum of** three (3) members of the Village Council.

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(Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

Section 3-201. Declaration of Misdemeanors and Municipal Infractions; Civil Penalties; Abatement by the Village

(a) The Village Council, by ordinance, shall determine which violations of this Code shall constitute municipal infractions and shall may set a specific civil penalty for each such violation. Unless otherwise specified in the Code, civil penalties shall not exceed one hundred dollars (\$100) for each violation. Notwithstanding the declaration of a violation of this Code as a misdemeanor, any violation of any provision of the Code may be prosecuted as a municipal infraction, at the Village's discretion, and, except as otherwise specified in this Code, such violations shall be punishable by a civil penalty not to exceed one hundred dollars (\$100) for each violation and two hundred fifty dollars (\$250) for any subsequent violation.

(b) The Council may by contract or otherwise abate a violation that is not abated after ten (10) days' notice of the violation, or such other period as the Council may specify. The cost of any abatement by the Council shall be paid immediately by such person or persons upon demand of the Council, in addition to any penalties that may be imposed. The Village may collect the cost: (1) as a lien on the property tax bill; (2) in an action at law; or (3) in any other way legally available for collection of debts owed to the Village.

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Section 3-301 General Municipal Penalties

Unless otherwise specified in this Code, any person found guilty of violating any provision of this Code for which violation is a misdemeanor shall be subject to a fine not to exceed One Thousand Dollars (\$1,000.00), and/or imprisonment of not more than six (6) months.

Section 3-302. General Municipal Infraction Penalties

Unless otherwise specified in the Code, the general penalty for commission of a municipal infraction shall be One Hundred Dollars (\$100.00).

Section 3-303. ~~Specified Municipal Infractions~~ Reserved.

~~Any violation of the Code provisions listed in Section 3-303 shall constitute and be punishable as a municipal infraction and shall be subject to the maximum penalty specified herein for such offense; if a maximum penalty is not specified herein, the general municipal infraction penalty in Section 3-302 shall apply.~~

~~Any violation of Chapter 4
As specified in Section 4-204(e) \$100.00~~

~~Chapter 6-311
(VMA Noise Ordinance) \$100.00 for first violation
\$250.00 for subsequent violations~~

(Ord. No. 1-22-15, adopted March 19, 2015, effective April 8, 2015; **Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015**)

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Section 4-101. Definitions

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

- (a) The “Committee” means the “Village Ethics Committee” as constituted and described in Section 2-101.
- (b) “Gift” means the transfer of any thing or service of value without identifiable and adequate consideration; “gift” does not mean or include any regulated campaign contribution.
- (c) **“Public Official” or “Official”** means all members of the Village Council and all employees of **persons employed by** the Village.

- (d) “Private interest or relationship” includes, without limitation, any existing or prospective interest or relationship of a business, contract, creditor, obligee or employment nature in which an Official or an immediate family member (including spouse, father, mother, brother, sister or child) has a direct or indirect financial interest and by which such Official or immediate family member has a reasonable potential of profiting or otherwise benefiting financially.

(Ord. No. 08-15-01, adopted 09/17/15, effective 10/7/15; **Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015**)

Section 4-102. Intent and Application

- ~~(a) — This Chapter is intended to fulfill the Village of Martin’s Additions’ obligations under the Maryland Public Ethics Law, Article 40A of the Annotated Code of Maryland.~~
- (ba)** This Chapter provides criteria for determining the presence or absence of conflicts between private interests or relationships and public interests. At the same time this Chapter establishes procedures for remedy when conflict has been determined. **Public** Officials have an affirmative duty to disclose potential conflicts with a public interest, as provided in this Chapter. Such duty extends to and includes private interests or relationships, the mere outward appearance of which suggests a possible conflict with a public interest. The procedures herein are intended both to preserve the privacy interests of persons subject to this Chapter and to encourage voluntary disqualifications in the event of conflicts of interest under the provisions of this Chapter. Private interests or relationships disclosed hereunder are not to be made a part of the public record, except in the event of the imposition of any order or penalty under the provisions of Section 4-204 herein.
- (eb)** The provisions of this Chapter shall apply to all Officials and to all persons or entities retained by the Village or who do or seek to do business with the Village.
- (ec)** No part of this Chapter shall be construed to prohibit an Official from appearing in the pursuit of his private interests as a citizen; or from accepting or receiving any benefit by operation of law, or prosecuting or pursuing any claim, right, privilege or remedy which is his by operation of law.

(Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

Section 4-201. Duty to Disclose; Solicitation Prohibited; Ex-Parte Communications

- (a) Before participating, on behalf of the Village, in any debate or determination that may have a reasonable potential of thereafter affecting a public interest, any **Public** Official who is subject to this Chapter shall have an affirmative duty to disclose in writing to the Council and the Committee the receipt of any gift and the existence of any private interest or relationship either having a reasonable potential of conflict with a public interest or having a reasonable potential of giving the outward appearance of conflict with a public interest.

- (b) No Official may solicit any gift or knowingly accept any gift, directly or indirectly, from any person whom the Official knows or has reason to know: (i) is doing or seeking to do business of any kind with the Village; or (ii) has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or non-performance of his or her official duty.
- (c) No Official may solicit any gift or knowingly accept any gift, directly or indirectly, from any person whom is engaged in activities that are regulated or controlled by the Village; except that unsolicited gifts having a value of less than fifty dollars (\$50.00) tendered for personal or social reasons may be accepted.
- (d) An Official shall not consider any ex-parte or private communication from any person, whether oral or written, that said Official knows is, or reasonably may be, intended to influence unlawfully the decision on the merits of any matter. Any such ex-parte or private communication shall be reported to the Village Council, which shall include such disclosure in the minutes of the meeting at which the matter was considered.

Section 4-202. Disqualification Procedures; Complaints; Records

- (a) After complying with the disclosure requirements of Section 4-201, the **Public** Official shall either (i) voluntarily disqualify himself and withdraw from participating in further debates or determinations with respect to the public interest in conflict with the Official's private interest or relationship, or (ii) request that the Committee determine the presence or absence of a conflict of interest and advise as to an appropriate course of conduct.
- (b) Any person alleging a violation of this Chapter may file a written complaint, under oath, with the Committee. Upon the receipt of such complaint, the Committee shall **review the complaint with the Village attorney, or special counsel appointed by the Village attorney. If, upon consultation with the Village attorney, the Committee determines that the complaint should be addressed by the Committee, the Committee shall** send a written acknowledgement of its receipt, notify the Official and the Council of the allegation, and shall request that the Official provide the Committee such information as the Committee finds necessary to determine the presence or absence of a conflict of interest. A written complaint shall not require a formal hearing; such complaints shall be processed under the procedures described in subsections (c), (d), (e), and (f) of this Section. Upon final resolution of the matters alleged, the Committee shall provide a written summary of the resolution to the Official, the Council and the person who filed the complaint.

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Section 5-103. Specific Exemptions from County Law

The Village of Martin's Additions is exempt from the following legislation, and regulations pertaining thereto, as codified in the Montgomery County Code, 1984, as amended:

Buildings	Sections 8-26(n) and 8-26(o)
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Contracts, Purchases & Dispositions	Chapter 11B
Erosion, Sediment Control and Storm Water Management	Section 19-71
Ethics	Chapter 19A
Finance	Chapter 20
Financial Disclosure	Chapter 20A
Legislative Oversight	Chapter 29A
Motor Vehicles and Traffic	Chapter 31, except the following: Sections 31-1; 31-5(a); 31-7; 31-8; 31-9; 31-9B; 31-14; 31-15; 31-16*; 31-18; 31-20; 31-21; and Article VII.
Personnel	Chapter 33
Solid Waste	Chapter 48
Streets and Roads	Chapter 49
Tree Canopy	Chapter 55
Silver Spring, Bethesda, Wheaton & Montgomery Hills	
Parking Lot Dist.	Chapter 60
City, Town and Village Charters	Chapter 71-86

(Ord. No. 2-14-1A, adopted April 17, 2014, effective May 7, 2014; Ord. No. 1-22-15, adopted March 19, 2015, effective April 8, 2015)

***(Note: Appendix A attached hereto contains the Sections of Chapter 31 of the Montgomery County Code that are applicable in the Village. Appendix A shall be revised as such Sections of Chapter 31 of the Montgomery County Code are amended from time to time.**

Interpretative Policy No. 3-19-15 - Parking Over 24 Hours. By Ordinance No. 1-22-15, effective April 8, 2015, the Village of Martin’s Additions made applicable in the Village certain provisions of the Montgomery County Motor Vehicles and Traffic Code (Chapter 31), including Section 31-16. Said Section provides that the parking of motor vehicles on public streets for more than 24 hours is prohibited except, where not otherwise prohibited, adjacent to the property lines of the vehicle owner’s residence or business.

The Village interprets this provision to allow parking on both sides of a street that is adjacent to the vehicle owner’s residence, where parking is otherwise allowed. As defined in the Montgomery County Zoning Ordinance, Article 59, Section 1.4.1, the Village interprets “adjacent” to mean “close to or nearby without requiring the sharing of a common boundary.”)

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Section 6-101. Definitions

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

- (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 **or in close proximity to the main building.**

* * *

- (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. **“Building” includes above-grade projections and appurtenances, including, but not limited to, porches, decks, breezeways, steps, stoops, exterior stairways, bay windows, oriel entrances, balconies, vestibules, air conditioners, heat pumps, and generators.**

* * *

- (h) **“Dumpster” means a large container, including, but not limited to, a detached wheeled trailer, designed or used to store rubbish, construction and/or demolition debris, or other material to be discarded.**

* * *

- (n) **“Non-vegetative surface” means any surface that is not vegetative, including, but not limited to, asphalt, concrete, stone, sandstone pavers, and the like.**

- (q) **“Portable storage unit” means a large portable container designed or used for the outdoor storage of personal property, including, but not limited to, portable containers that are leased for temporary use.**

* * *

- (~~q~~) “Structure” means an assembly of materials forming a construction for occupancy or use, including, without limitation, buildings, accessory buildings, fences, **walls,** sheds, shelters, garages, signs, pipelines, sewer lines, cable lines, fuel storage tanks, air conditioners, heat pumps, generators, dumpsters, portable storage units, driveways, sidewalks, **walkways, steps, stairs,** streets, and the like.

* * *

- (x) **“Village Tree” has the meaning set forth in Chapter 9.**

[Note: Existing definitions shall be re-lettered accordingly]

(Ord. No. 5-13-1, adopted September 19, 2013, effective October 10, 2013; **Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015**)

* * *

Section 6-204. Applicable Standards

- (a) The Council shall ~~not refuse to register a business activity unless (i)~~ **if** the provisions of this Article have ~~not been satisfied, or (ii) the business or its manner of operation would be in derogation of the health, safety, comfort or welfare of the present or future inhabitants of the Village or would constitute nuisance because of sidewalk or street traffic, interference with residential parking, noise or other noxious effects.~~

* * *

(Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

* * *

Section 6-301. Purpose and Application

* * *

- (b) The provisions of this article shall apply to the demolition of, addition to, or erection, 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 to, or alteration or temporary closure or blockage of streets, **curbs,** or sidewalks, **or the installation of structures thereon,** within boundaries of the Village.

* * *

(Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

* * *

Section 6-302 Permits Required.

- (a) Demolition of Buildings.

Any person intending to demolish, raze or tear down any portion of the exterior features of an existing building, garage or accessory building within the Village must first obtain a demolition permit from the ~~Village Manager~~ **Code Enforcement Officer** for such demolition in order to ensure that such work will be carried out in such a manner that abutting property owners will not be adversely affected and that the interests of the Village in public health, safety and welfare are not jeopardized by such work. When used throughout this Article 3, the term “building permit” shall include demolition permits.

- (b) Improvements.

Prior to the issuance of a building permit pursuant to the provisions of this Chapter, No person shall:

- 1) Add to, erect, install, replace, alter, construct, re-construct, repair or improve any structure **building**;**
- 2) Add to, install, replace, alter, construct, re-construct, repair or improve any non-vegetative surface in a front yard;**
- 3) Place any heavy equipment upon or move any heavy equipment over an improved street surface, curb, or sidewalk; **or****
- 4) Commence any activity involving reconstruction, repair, or excavation of any street, curb, or sidewalk, **or installation of any structure thereon**, or temporarily close or block any street or sidewalk within the Village ~~prior to the issuance of a building permit pursuant to this Chapter~~. No building permit for construction of a private improvements **structure** within the public right-of-way shall be issued until the owner of the abutting property has executed a revocable license to use the right-of-way in a form approved by the Village.**

(c) Repairs.

Notwithstanding paragraph (b) above, no building permit shall be required in the case of ordinary repairs or maintenance, as defined in Section 6-101, and no building permit shall be required for any of the above described activities occurring entirely within the interior of a building. Emergency re-construction, repair or excavation 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.

(d) Dumpsters and portable storage units.

- (1) No person shall place or maintain any portable storage unit or dumpster on public property or in the public right-of-way, provided, however, a portable storage unit may be placed on an unimproved portion of the public right-of-way upon the issuance of a permit by the Code Enforcement Officer upon such terms or restrictions as the Code Enforcement Officer deems necessary to protect the public health, safety or welfare, including, but not limited to, a limit on the number of consecutive days a portable storage unit may be placed or maintained in the public right-of-way.**
- (2) No person shall place or maintain a dumpster or portable storage unit on private property within the Village without obtaining a permit from the Code Enforcement Officer. The Code Enforcement Officer may condition such permit upon such terms or restrictions as the Code Enforcement Officer deems necessary to protect the public health, safety or welfare, including, but not limited to, a limit on the number of consecutive days a dumpster or portable storage may be placed or**

maintained on private property.

- (3) No person shall place or maintain a dumpster on private property within the Village for which a permit is required by this Article unless such person has deposited with the Council a deposit for repairs in the form of a bond, letter of credit or other security in such amount and/or form as the Council deems necessary or appropriate to insure the restoration or repair of any damage to the Village rights-of-way, sidewalks, curbs, or roadways and that the placement and use of the dumpster will be in accordance with the terms of the permit issued in connection therewith. The deposit may be applied to repair or correct any damage or injury to public property, including treatment or replacement of Village trees and plantings, as the Village Council in its discretion shall determine. Upon removal of the dumpster or portable storage unit 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.**

(Ord. No. 5-13-1, adopted September 19, 2013, effective October 10, 2013; **Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015**)

Section 6-303. Applications; Investigations and Inspection; Issuance

- (a) Any person planning to engage in an activity covered by this Article that requires a Montgomery County building permit shall apply for a Village building permit within three (3) days of applying for the County permit.
- (b) An application for a Village building permit shall be submitted in a form prescribed by the Council and shall be accompanied by (i) a copy of the **Montgomery County building permit or** application for a Montgomery County building permit for the activity and (ii) such plats, plans, drawings, reports and the like as the Council or Code Enforcement Officer deems necessary to determine whether the proposed activity would be in derogation of the health, safety, comfort or welfare of the present or future inhabitants of the Village. **For any construction that would be located within four (4) feet of a required setback, or within two (2) feet of a lot line, a site plan and boundary survey with a margin of error of +/- one-tenth (0.10) of a foot, or better, must be submitted depicting all existing and proposed buildings and their distances to the lot lines.** The application shall be signed by all the owners of the property ~~or an agent~~ and, where related to the erection or construction of, or addition to a building, shall also state the intended use of such building or addition thereto. The applicant may be required to provide a copy of all covenants recorded with respect to the property.

* * *

- (e) If at any time between the application for a Village building permit and the issuance of the Montgomery County building permit, the proposed activity differs significantly from that described in the original Village application either because of the initiative of the County or the applicant, **an amended building permit application shall be filed and** the applicant shall provide the Village with plans describing the significant changes within three (3) days of filing with Montgomery County and the residents of all Village properties that border or directly face the property for which the permit is sought will be notified and provided with plans describing the significant changes.
- (f) An applicant for a Village building permit shall provide the Village with a copy of the Montgomery County building permit within three (3) days of its issuance by the County. If the proposed activity described in the issued Montgomery County building permit differs significantly from that described in the original (or subsequent resubmission, if any) application for the Village building permit, **an amended building permit application shall be filed and** the residents of all Village properties that border or directly face the property with respect to which the permit is sought will be notified. A building permit issued by Montgomery County shall be prima facie proof of compliance with applicable County and State law.

* * *

- (j) **The Village shall have the right to on-premises inspection of construction to ensure compliance with the Village Code, the application and plans submitted, and/or the Village permit issued, at such times during the course of the project as the Code Enforcement Officer or his or her designee deems necessary. The Code Enforcement Officer may perform a final inspection at the completion of the project to determine whether the activity conforms to the Village Code, the application and plans submitted, and/or the Village permit issued; whether any damage has been caused to the public right-of-way, public improvements, or Village trees; and whether the bond, letter of credit, or other security may be released. To facilitate the final inspection, the applicant may be required to produce a wall check survey or such other documents or information that the Code Enforcement Officer deems necessary.**

(Ord. No. 5-13-1, adopted September 19, 2013, effective October 10, 2013; **Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015**)

Section 6-304. Deposit for Repairs

- (a) No person shall commence any activity for which a deposit for repairs is required as a permit condition pursuant to Section 6-306(b) unless such person has deposited with the Village a completion bond, letter of credit or other security. **The bond, letter of credit or other security shall be** in such amount and/or form as the Village deems necessary or appropriate, **and subject to such terms and conditions as may be established from time to time by the Village Manager and/or the Code Enforcement Officer.**

- (b) ~~However~~ **Notwithstanding subsection (a) above**, any emergency reconstruction, repair or excavation of any street or sidewalk may commence without the deposit of such bond, letter of credit or other security, provided that such security is deposited as soon as possible after the commencement of the activity or notice of the need for such activity.
- ~~(b)~~(c) The deposit and any interest thereon may be applied to repair or correct any damage or injury to public property, including treatment or replacement of Village trees and plantings, as the Village in its discretion shall determine.
- (d) Upon completion of **all of** the activity for which the permit was issued, **including but not limited to construction or installation of buildings, driveways, driveway aprons, and non-vegetative surfaces in a front yard, and associated excavation, grading, and landscaping, and the final inspection by the Code Enforcement Officer, the bond, letter of credit or other security shall be released** and the balance of the deposit, including any interest earned thereon, less any amounts retained by the Village pursuant to this subsection, shall be returned to the person who made the deposit.

(Ord. No. 5-13-1, adopted September 19, 2013, effective October 10, 2013; **Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015**)

* * *

Section 6-306. Applicable Standards; Permit Conditions

- (a) An application for a building permit shall not be denied unless it has been determined that: (i) the provisions of this Article have not been satisfied, or (ii) the proposed activity would otherwise be in derogation of the health, safety, comfort or welfare of the present or future inhabitants of the Village.
- (b) Building permits may be issued subject to conditions determined necessary by the Village for the protection of health, safety, comfort or welfare, **to protect Village trees**, or to protect against interference with sidewalk or street traffic, residential parking, noise or other noxious effects, including, without limitation, that the applicant provide a **bond or** deposit for repairs to insure the restoration or repair of any damage to a Village right-of-way, street, sidewalk, or curb, **caused by any work on the property or within the right-of-way**, and that such activity shall be completed in a safe and timely fashion and otherwise in accordance with the terms of the building permit issued in connection therewith.

(Ord. No. 5-13-1, adopted September 19, 2013, effective October 10, 2013; **Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015**)

* * *

Section 6-308. Enforcement

- (a) **It shall be unlawful for any person to conduct work without a building permit issued by the Village for which a permit is required. It shall be unlawful for any person to conduct work that is not in strict compliance with the plans and specifications approved by the Village and/or the building permit conditions.** Any person who commences any addition, erection, alteration, construction, reconstruction, repair or improvement in violation of this Article may be enjoined from proceeding.
- (b) In addition to the other provisions set forth in this Article:
- (i) When the **Code Enforcement Officer** ~~Chairman of the Village Council (or in his absence the Vice Chairman or other designated member of the 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, comfort and welfare of the public, he may order that the work be stopped immediately.
 - (ii) The stop work order shall be issued in writing and posted at the work site. **A stop work order does not extend the permit expiration date.**
 - (iii) 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 in the order to be performed to remove a violation or unsafe condition.
 - (iv) Any bond or deposit held by the Village may be withheld until such time as the stop work order is lifted and all permit conditions are satisfied.**
- (c) The Council may revoke a permit or approval issued under the provisions of this Article when the application or the plans on which the permit or approval was 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.

(Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

* * *

Section 6-402. Variances; Special Exceptions (Other Jurisdictions)

Before establishing a Village position with respect to any application for a variance, a special exception, or other similar matter, **requested by a third-party from Montgomery County or other authority**, the hearing procedures specified in Section 6-401(c) shall be followed.

(Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

* * *

Section 7-101. Definitions

For the purposes of this Chapter,

(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 land of said lot or lots, and which is not attached by any part of common wall or roof to the main building, **or in close proximity to the main building.**

(e) “Building” means a structure on a lot which has one or more stories and a roof and is designed primarily for the shelter, support or enclosure of persons or property of any kind. **“Building” includes above-grade projections and appurtenances, including, but not limited to, porches, decks, breezeways, steps, stoops, exterior stairways, bay windows, oriel entrances, balconies, vestibules, air conditioners, heat pumps, and generators.**

* * *

(n) “Established building line,” means the average front line of all buildings that are:

- a. within 300 feet of each side property line of the proposed construction site;
- b. on the same side of the street;
- c. between intersecting streets or to the point where public thoroughfare is denied;
- d. existing at the time the building permit application is filed;
- e. not nonconforming, unlawfully constructed, or constructed pursuant to a lawfully granted variance;~~and~~
- f. not located on a pipestem or flag-shaped lot; **and**
- g. not on the subject lot or a corner lot.**

Corner lots are subject to established building line standards on both of the adjoining streets.

* * *

(hh) **“Non-vegetative surface” means any surface that is not vegetative, including, but not limited to, asphalt, concrete, stone, sandstone pavers, and the like, and includes the area of any front porch, stoop, steps, and/or stairs.**

* * *

(ss) **“Structure” means an assembly of materials forming a construction for occupancy or use, including, without limitation, buildings, accessory buildings, fences, walls, sheds, shelters, garages, signs, pipelines, sewer lines,**

cable lines, fuel storage tanks, air conditioners, heat pumps, generators, dumpsters, portable storage units, driveways, sidewalks, walkways, steps, stairs, streets, and the like.

* * *

- (uu) **“Unenclosed” means not enclosed by a wall, window, screening, or other building element.**

[Existing definitions shall be re-lettered accordingly]

(Ord. No. 4-09-2, adopted 5/27/09, effective 6/16/09; Ord. No. 12-09-1, adopted 1/21/2010, effective 2/10/2010; **Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015**)

* * *

Section 7-204. Unremoved Snow and Ice

* * *

- (b) In the event that the owner of a lot in the Village or his designated agent or lessee fails to remove or cause the removal of snow and ice from a sidewalk or to render the sidewalk reasonably safe for pedestrian travel as required in this Section, the ~~Village Manager~~ **Code Enforcement Officer**, or his or her designee, may take such action as is necessary to return the sidewalk to a condition required by this Section. The cost of any corrective action may be specially assessed against the abutting private property and collected with the property taxes or collected by a suit for damages.

(Ord. No. 10-10-1, introduced 10/21/2010, adopted 12/16/2010 effective 1/5/2011; **Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015**)

Section 7-209. Maintenance of Public Right-of-Way

- (d) Any non-public structure, wall, fence, tree, hedge, shrubbery, or any other plant growth located within the public right-of-way in violation of any provision of this Section 7-209 shall be removed by and at the expense of the owner and occupant of the abutting private property upon the request of the ~~Village Manager~~ **Code Enforcement Officer**. The ~~Village Manager~~ **Code Enforcement Officer, or his or her designee**, may take such action as is necessary to return the right-of-way to a condition required by this Section. The cost of any corrective action may be specially assessed against the abutting private property and collected with the property taxes or collected by a suit for damages.

(Ord. No. 10-09-1, adopted 11-19-09, effective 12-9-09; **Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015**)

Cross References: Section 6-302(b); Section 7-204.

Section 7-210. ~~Dumpsters and portable storage units. Reserved.~~

- (a) ~~No person shall place or maintain any portable storage unit or dumpster on public property or in the public right of way, provided, however, a portable storage unit may be placed on an unimproved portion of the public right of way upon the issuance of a permit by the Village Manager upon such terms or restrictions as the Village Manager deems necessary to protect the public health, safety or welfare, including, but not limited to, a limit on the number of consecutive days a portable storage unit may be placed or maintained in the public right of way.~~
- (b) ~~No person shall place or maintain a dumpster or portable storage unit on private property within the Village without obtaining a permit from the Village Manager. The Village Manager may condition such permit upon such terms or restrictions as the Village Manager deems necessary to protect the public health, safety or welfare, including, but not limited to, a limit on the number of consecutive days a dumpster or portable storage may be placed or maintained on private property.~~
- (c) ~~No person shall place or maintain a dumpster on private property within the Village for which a permit is required by this Article unless such person has deposited with the Council a deposit for repairs in the form of a bond, letter of credit or other security in such amount and/or form as the Council deems necessary or appropriate to insure the restoration or repair of any damage to the Village rights of way, sidewalks, curbs, or roadways and that the placement and use of the dumpster will be in accordance with the terms of the permit issued in connection therewith. The deposit may be applied to repair or correct any damage or injury to public property, including treatment or replacement of Village trees and plantings, as the Village Council in its discretion shall determine. Upon removal of the dumpster or portable storage unit 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.~~

~~(Ord. No. 12-09-1, adopted 1-21-2010 effective 2-10-2010) Ord. No. 10-09-1, adopted 11-19-09, effective 12-9-09)~~

~~Cross References: Section 6-302(b); Section 7-204.~~

* * *

Section 7-402. Building Construction Standards

- (a) Building Height:

* * *

- (2) Flat roofs: Flat roofs on the front of a building, which are a part of the main structure **building**, shall not be permitted.

(b) Wall plane height: The height of any wall plane on any front, rear, or side of any main building ~~or accessory building~~ shall not exceed thirty-two (32) feet.

* * *

(b) Setbacks

- (1) Front: Except as otherwise set forth in this Chapter, no wall or projection of any main building shall be located closer to any front lot line than the established building line or twenty-five (25) feet, whichever is greater.
- (2) Rear: Except as otherwise set forth in this Chapter, no rear wall or rear projection of any main building shall be located farther than eighty (80) feet from the established building line, **or the twenty-five (25) foot front building restriction line, whichever is greater**, or closer to the rear lot line than twenty (20) feet.

* * *

(5) Projections (main buildings)

- (i) Bay windows, oriel entrances, balconies, and vestibules no greater than ten (10) feet wide, and cornices, eaves, and chimneys shall be permitted to project a maximum of two-and-one half (~~2-1/2~~**2.5**) feet into any setback area.
- (ii) Unenclosed porches, decks, breezeways, steps, stoops, **and** exterior stairways, ~~and terraces~~ may project nine (9) feet into the front or rear setback area and three (3) feet into any side setback area.
- (iii) Air conditioners, **generators**, and heat pumps may project five (5) feet into any front or rear setback area.

(f) Accessory buildings

- (1) Front setback: No wall or projection of any accessory building shall be located closer to the front lot line than sixty (60) feet. For corner lots (which have two front yards), this requirement shall apply only to one front yard. The front yard which is parallel to the side yard shall have a minimum setback equal to the established building line.
- (2) Rear setback: No wall or projection of any accessory building shall be located closer to the rear lot line than five (5) feet.

- (3) Side setback: No wall or projection of any accessory building shall be located closer to either side lot line than five (5) feet.
- (4) Height: The height of any accessory building shall not exceed twenty (20) feet to the highest point of roof surface regardless of roof type.
- (5) Wall plane length: The length of any wall plane of any accessory building shall not exceed twenty-five (25) feet.

* * *

- (i) No driveway on private property or within the public right-of-way shall exceed ten (10) feet in width in front of the front building line. Driveway width includes the width of any adjoining or adjacent surface comprised of the same material as the driveway. Notwithstanding the foregoing, a driveway that is wider than ten (10) feet as of June 16, 2009 may be replaced or repaired provided that such replacement or repair shall not increase the width of the driveway.

* * *

(Ord. No. 4-09-2, adopted 5/27/09, effective 6/16/09; Ord. No. 12-09-1, adopted 1/21/2010, effective 2/10/2010; Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

Section 7-404. Developmental Nonconformities

A developmental nonconformity may be maintained, altered, or repaired, **but not replaced**, provided that it may not be enlarged beyond the dimensions that existed on June 16, 2009, except in accordance with this Chapter.

(Ord. No. 4-09-2, adopted 5/27/09, effective 6/16/09; Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

Section 7-405. Variances

- (a) A property owner may apply to the Village Council for a variance from the strict application of the terms of this Article. The Council may authorize a variance from the strict application of any specific requirement of this Article when the standards described herein are met.
- (b) Processing and Public Hearing Requirement
 - (1) Applications for a variance shall be submitted to the Village Manager and shall include the following:
 - (i) Written application on the form provided by the Village Manager, including a statement detailing the specific provisions of this Article from which a variance is sought;

- (ii) Detailed information pertaining to the nature and extent of the variance sought, including the following: (a) ~~surveys, plats or other accurate drawings~~ **a boundary survey with a margin of error of +/- one-tenth (0.10) of a foot, or better,** showing boundaries, dimensions, area, topography, and frontage of the lot involved, as well as the location and dimensions of all ~~structures~~ **buildings** existing and proposed to be erected, and the distances of the ~~structures~~ **buildings** from the nearest lot lines; and (b) plans, architectural drawings, photographs, elevations, specification or other detailed information depicting fully the exterior appearance of existing and proposed construction;
 - (iii) A summary of what the applicant expects to prove at the hearing, 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; and
 - (iv) Any additional exhibits which the applicant intends to introduce at the hearing.
- (2) The Council shall hold a public hearing on all applications for the grant of a variance. **A minimum of twenty (20) days prior to the scheduled hearing, the Village Manager or his or her designee shall post notice of the hearing at the applicant's property that is the subject of the variance request and mail written notice to all adjoining and confronting property owners by first-class mail.**

* * *

- (f) Duration. A building permit for the construction authorized by the variance must be obtained within twelve (12) months of the effective date of the variance or the variance shall be void, unless an extension is granted in writing by the ~~Village Manager~~ **Code Enforcement Officer**. The ~~Village Manager~~ **Code Enforcement Officer** may grant an extension of the variance, upon such conditions as the ~~Village Manager~~ **Code Enforcement Officer** may set, upon a reasonable showing that there has been no material change in circumstances since the effective date of the decision approving the variance and despite due diligence by the recipient of the variance, additional time is necessary to secure a building permit.

* * *

(Ord. No. 4-09-2, adopted 5/27/09, effective 6/16/09; **Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015**)

* * *

Section 9-103. Tree Supervisor and Tree Committee

- (a) The Village Council shall appoint as Tree Supervisor one of its members, the Village Manager or Assistant Manager, or a resident serving in a volunteer capacity. **The Tree Supervisor shall serve until the end of the fiscal year in which he or she**

was appointed. In addition, the Village Council shall appoint a person from among those named immediately above to act temporarily in the absence or unavailability to the Tree Supervisor. The duties and responsibilities of the Tree Supervisor are to:

* * *

(Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

* * *

Section 9-107. 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 required by the Maryland Forest Service, pursuant to section 5-406 Natural Resources Article, Annotated Code of Maryland.
- (b) The utility company must give a least two (2) weeks' notice to the Village Manager of its intent to prune Village trees and include with its notice a copy of the State issued permit. Upon receipt of such notice, the Village Manager will notify the Tree Supervisor. In circumstances where compliance with the notice requirement is impossible or highly impractical, the utility company shall provide notices as far in advance as is reasonably possible and in any event shall inform the Village Manager ~~by phone~~ before commencing work.

(Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

Section 9-108. Protection of Village Trees During Construction

- (a) During the erection, alteration, or repair of any building or structure, guards, fences, or barriers shall be placed in such locations as are determined by the Tree Supervisor **or Code Enforcement Officer** to be necessary to prevent injury to Village trees. It shall be a violation to alter, damage, or remove such guards, fences, or barriers.

* * *

(Ord. No. 9-15-1, adopted ..., 2015, effective ..., 2015)

* * *

AND BE IT FURTHER ORDAINED AND ORDERED, by the Village Council, acting under and by virtue of the authority granted to it by the Maryland Code, and the Charter of the Village of the Village of Martin's Additions, that:

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

(2) This Ordinance shall take effect on the __ day of _____, 2015.

ATTEST:

THE VILLAGE OF MARTIN'S ADDITIONS

Tiffany Cissna, Secretary

Richard Krajeck, Chair
Village Council

Underline indicates new material
~~Strikethrough~~ indicates material deleted
* * * indicates material unchanged

Ordinance (comprehensive) v11.doc