



## VILLAGE OF MARTIN'S ADDITIONS

7013 Brookville Road (Second Floor, Suite B)

Chevy Chase, MD 20815-3263

Phone (301) 656-4112

[www.martinsadditions.org](http://www.martinsadditions.org)

### Agenda for Council Meeting

**Thursday, March 18, 2021, 7:30 PM**

*The Council may entertain a motion in open session to enter into a closed session, in accordance with Section 3-305(b) of the Open Meetings Act (Maryland Code, General Provisions Article).*

7:30 PM Call to Order: Fattig

7:31 PM Opportunity for Council to Hear Residents' Comments: Fattig

7:41 PM Committee Updates: Fattig

7:51 PM Building Administrator's Report: Lohmeyer §DJHV□

7:55 PM Approval of Minutes

8:00 PM Public hearing and Possible Adoption of Ordinance 2021-1-1 “an Ordinance to Expand the Jurisdiction of the Ethics Committee to Include Oaths of Service, And to Add Complaint Resolution Procedures” §DJHV□

8:30 PM Discussion and possible introduction of an Ordinance to “To adopt an urban forest program” §DJHV□

8:45 PM Financial Matters, including Treasurer's Report including Introduction of the Fiscal Year (FY) 2022 Budget Ordinance and Tax Rates Resolution: Alexander §DJHV□

9:00 PM Manager's Report: Anderegg §DJH□

9:05 PM Opportunity for Council to Hear Residents' Comments: Fattig

9: 10 PM Adjournment: Fattig

\*Please note: Listed times are approximate.



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### Virtual Meeting Information

Below is the information for those residents who wish to dial in remotely or video in to the Council meeting.

#### 1. Dial-In Option

Call: 1 301 715 8592

When prompted, enter the Meeting ID: **856 2107 1232#** (you must enter the "#")

Passcode: **025694**

#### 2. Web/Video Option:

- a. Go to the Zoom meeting link:

<https://us02web.zoom.us/j/85621071232?pwd=cldUeDRINGZNS1NjWTBjbUJXUETvQT09>

- b. It will take you to Zoom to download, which is free. Then the meeting will launch. You can view the meeting or just listen in and talk when prompted.

Meeting ID: **856 2107 1232**

Passcode: **025694**

Topic: VMA Council Meeting

Time: March 18, 2021 07:30 PM Eastern Time

**The Village of Martin's Additions  
(Ethics Committee Jurisdiction and Complaint Resolution Process)**

Ordinance No.: 2021-1-1  
Introduced: January 21, 2021  
Adopted:  
Effective Date:

**ORDINANCE TO EXPAND THE JURISDICTION  
OF THE ETHICS COMMITTEE TO INCLUDE OATHS OF SERVICE,  
AND TO ADD COMPLAINT RESOLUTION PROCEDURES**

WHEREAS, Maryland Code, Local Government Article, Section 5-202, as amended, grants to the legislative body of every incorporated municipality in Maryland general power to pass such ordinances not contrary to the Constitution of Maryland, or the public general law, as deemed 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, 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, after proper notice to the public, the Village Council introduced the following Ordinance in an open meeting conducted on the 21st day of January, 2021;

WHEREAS, after proper notice to the public, the Council considered this Ordinance in public session assembled on the \_\_\_\_ day of \_\_\_\_\_, 2021; and

WHEREAS, upon consideration of the testimony and evidence presented at the public hearing, and the recommendation of the Village Ethics Committee, 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 \_\_\_\_\_, 2021, 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 2-101. Village Elections Committee and Ethics Committee**

(a) There shall be a Village Elections Committee, which shall be composed of a minimum of three (3) members appointed by the Village Council. Members of the Elections Committee shall be qualified to vote in Village elections and shall not be members of the Village Council. The Elections Committee members shall serve until the end of the fiscal year in which they were appointed. The Elections Committee shall manage all Village elections as provided in Section 602 of the Charter of the Village of Martin's Additions.

(b) There shall be a Village Ethics Committee which shall be composed of a minimum of three (3) members appointed by the Village Council. Members of the Ethics Committee shall be qualified to vote in Village elections and shall not be members of the Village Council or the Elections Committee. The Ethics Committee members shall serve until the end of the fiscal year in which they were appointed. The Ethics Committee shall have the following responsibilities:

(1) To provide advisory opinions to persons subject to the provisions of Chapter 4 of this Code as to its applicability; and

(2) To make determinations as authorized by Chapter 4 of this Code.

\* \* \*

**CHAPTER 4  
CONFLICT OF INTEREST ETHICS**

**ARTICLE 1. GENERAL**

**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 anything or service of value without identifiable and adequate consideration; "gift" does not mean or include any regulated campaign contribution.
- (c) **"Impartiality" means making decisions based on objective criteria, rather than based on personal bias, prejudice, or favoritism. It requires that Officials be fair and not give preferential treatment to any persons or organizations in performing their duties on behalf of the Village.**

- (d) “Public Official” or “Official” means all members of the Village Council; **all members of any standing or temporary Village committee or task force; the Village Tree Supervisor;** and all persons employed by the Village.
- (e) “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 **without limitation** spouse, **domestic partner**, father, mother, brother, sister, ~~or~~ child, **or in-law**) 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. 11-15-1, adopted 1/21/16, effective 2/10/16)

**Section 4-102. Intent and Application**

- (a) This Chapter ~~establishes~~ ~~provides~~ **requirements to ensure the utmost ethical service by Officials, specifically that Officials** ~~criteria for determining~~ **(i) act with impartiality when executing their official duties (“duty of impartiality”), and (ii) avoid** ~~the presence or absence of conflicts between their~~ private interests or relationships and public **Village** interests **(“conflicts of interests”)**. At the same time this Chapter establishes procedures for remedy when **a breach of the duty of impartiality or a conflict of interest** has been **alleged**. ~~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.~~
- (b) ~~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.~~
- (e) 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. 11-15-1, adopted 1/21/16, effective 2/10/16)

**ARTICLE 2. PROCEDURES**

**Section 4-201. Duty to Disclose; Solicitation Prohibited; Ex-Parte Communications; Oath of Service**

- (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 to 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.
- (e) **Officials shall faithfully execute their duties with impartiality in accordance with their oath of service, the Village Charter, the Code of Ordinances, and any applicable rules or procedures adopted by the Village Council.**
- (f) Officials shall file with the Committee, ~~on an annual basis,~~ **upon their entering their positions and prior to executing any duties related to their positions, and thereafter** prior to the 1st day of August of each year, **(i) an oath of service, which includes a duty of impartiality, and (ii) a conflicts of interest disclosure in a form recommended by the Committee and approved by the Village Council.** Such filings shall be in addition to the filing required by the Village Charter, Section 903.
- (g) **Throughout their terms of service, Officials have an affirmative duty to update the disclosure form required by Section 4-201(f) and thereby disclose to the Council actual or potential conflicts of interest. Such updated disclosures shall be made expeditiously, and in any event before executing any duty that in reality or in the reasonable perception of others could be influenced by an actual or potential conflict of interest.**

(Ord. No. 08-15-01, adopted 09/17/15, effective 10/7/15; Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 6-17-1, adopted 7/17/17, effective 8/7/17)

**Section 4-202. Disqualification Procedures; Complaints; Records**

**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 send a written acknowledgement of its receipt, notify the Official and the Council of the allegation, and review the complaint with the Village attorney. If the Village attorney recommends that special counsel be appointed, special counsel shall be selected by the Committee and appointed by the Council. If, upon consultation with the Village attorney or special counsel, the Committee determines that the complaint should be addressed by the Committee, the Committee 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.~~
- ~~(c) — For the purposes of this Section, the Committee may find and advise an absence of a disqualifying conflict of interest when the Official's private interest or relationship is found to be too remote and insubstantial to affect the integrity of the Official's public actions. The intent of the foregoing is by no means to be construed as condoning a lax approach on the part of the Committee; rather, the intent is to discourage frivolous charges.~~
- ~~(d) — Upon being advised by the Committee of the presence of a conflict of interest, the Official shall voluntarily disqualify himself and so notify the Committee and the Council. If the Official does not voluntarily disqualify himself, the Committee shall mandate that the Official be disqualified from participating in further debates or determinations with respect to the public interest in conflict with the Official's private interest or relationship.~~
- ~~(e) — Any Official who voluntarily disqualifies himself shall notify the Council, providing a full description of the public interest matters from which the Official has withdrawn from participation. A voluntary disqualification does not require a disclosure of the specific nature of a private interest or relationship considered to be in conflict; only the public interest object of conflict must be disclosed.~~
- ~~(f) — The Committee shall notify the Council and the Official in writing of all mandated disqualifications and shall therein provide a full description of the public interest matters with which the Official has been found to be in conflict and~~

~~about which such Official is disqualified from participation. The Committee shall mandate a disqualification for any Official who fails or refuses to provide the Committee with such information as the Committee finds necessary to determine the presence or absence of a conflict of interest.~~

- ~~(g) Any disqualifications relating to any public interest description shall be recorded in the minutes of the Council meeting at which the matter was considered.~~
- ~~(h) The Committee shall meet in closed session (i) to protect the privacy or reputation of individuals with respect to their private interests or relationships not related to the public business, (ii) to discuss the discipline of an Official under the provisions of this Chapter, (iii) to consult with counsel or (iv) to consult with staff, consultants or other individuals about pending or potential litigation.~~
- ~~(i) The Village records maintained under the provisions of this Chapter shall be privileged and not subject to public inspection to the extent that such records contain any of the following: (i) information about the finances of an individual, (including assets, income, liabilities, net worth, bank balances, financial history or activities or credit worthiness), (ii) any otherwise confidential financial information, (iii) confidential commercial information, or (iv) trade secrets. For the purpose of this Section, confidential or secret information shall be such information as is customarily regarded as confidential in business.~~

**(a) *Voluntary Recusal/Request for Advisory Opinion.* After complying with the disclosure and oath-taking requirements of Section 4-201, an Official shall either: (1) voluntarily disqualify or recuse him/herself and withdraw from participating in further debates or determinations with respect to a conflict of interest or an inability to execute his/her duties with impartiality, or (2) request that the Council, with the assistance of the Committee, determine the presence or absence of a conflict of interest or an inability to execute duties with impartiality and advise the Official of an appropriate course of action. Any such recusal or advisement shall be relevant to, and may be dispositive of, the Committee's and/or the Council's consideration of a complaint filed under subsection (b) of this Section.**

**(b) *Complaints/Filing Requirements.* Any person alleging a violation of this Chapter must file with the Committee a signed written complaint, under oath, attesting that the complaint is based in fact, that the relevant facts are contained in the complaint, and that those facts are accurate and complete. In addition, the Council on its own motion may file a complaint alleging a violation of the title. Any complaint filed under this subsection must be filed within one year after the alleged violations occurred, as required by Maryland law applicable to municipal infractions.**

**(c) *Complaints/Initial Process.* Upon receipt of a complaint, the Committee shall undertake the following actions, which shall be taken both expeditiously and**



**with full regard for fairness and the development of a complete and accurate factual record:**

- (1) *Initial Assessment.* The Committee shall make an initial assessment of whether the complaint is consistent with the oath under which it must be filed (see subsection [c]) and whether the allegation(s) in the complaint, if true, constitute a consequential (see subsection [e]) conflict of interest or violation of the duty of impartiality. If the Committee determines that the complaint does not meet either or both of these standards, or if the committee determines the complaint is untimely (see subsection [b]) or moot (see subsection [d]), the complaint shall be dismissed, with written notice of the dismissal to the complainant;**
- (2) *Notice/Opportunity to Cure.* If the complaint is not dismissed under subsection (c)(1), the Committee will send to the person who filed the complaint (“complainant”) a written acknowledgment of its receipt, and shall notify the Official who is the subject of the complaint (“respondent”) and the Council of the allegation(s). The Committee shall dismiss the complaint, with written notice to the complainant and the respondent, if the respondent, within 15 days after receiving the notice, takes any action that may be available to cure the alleged violation(s), and the Committee determines that the cure is adequate and that dismissal is consistent with the purposes of this Chapter;**
- (3) *Legal Consultation.* If the complaint is not dismissed under subsections (c)(1) or (c)(2), the Committee shall review the complaint with the Village attorney. If the Village attorney recommends that special counsel be appointed, such special counsel shall be selected by the Committee and appointed by the Council;**
- (4) *Committee Process and Actions.* If, the complaint is not dismissed under subsections (c)(1) or (c)(2), the Committee shall:**
  - (a) provide the respondent an un-redacted copy of the complaint, with the exception of material that would identify and/or jeopardize the privacy of persons identified in the complaint. On request of the respondent, the Committee shall disclose the identity of the complainant to the respondent;**
  - (b) provide the respondent reasonable time to submit a written reply, which may include relevant evidence and suggested witnesses with relevant knowledge, and which shall be**

submitted under oath that the facts contained therein are accurate and complete;

- (c) request that the respondent and/or the complainant provide information the Committee reasonably finds necessary to investigate the complaint;
- (d) provide the respondent with an opportunity to review and respond to all evidence produced or developed in the course of the Committee's investigation;
- (e) determine whether there is clear and convincing evidence of a conflict of interest or a violation of the duty of impartiality, and produce a report of its investigation, including a full description of any conflicts-of-interest and/or violations of the duty of impartiality found by the Committee, and a recommended resolution, including the matters from which the respondent should be disqualified; and
- (f) provide the respondent with a copy of the report and a reasonable opportunity to respond. Except as prohibited by law, the report given to the respondent may be redacted by the Committee to protect the identity and privacy of individuals identified therein;

(5) *Committee Report.* At the conclusion of its investigation, the Committee shall provide a written report of its investigation, including a full record of the investigation, to the Council. The Committee report shall also be provided to the respondent and the complainant, with redactions necessary to protect the identity and privacy of individuals identified therein;

(6) *Council Actions after Receipt of Report/Final Decision.* If the respondent is not a Council member, and if the Council has a quorum after any recusals by Council members to act on the complaint, the Council, after receiving the Committee's written report of the investigation, shall (a) provide the respondent an opportunity to respond in writing and/or in person to the report, (b) conduct further investigation as the Council deems necessary, (c) and determine whether the respondent should be disqualified from all or certain of his/her responsibilities. If the Council determines that there is clear and convincing evidence of a conflict of interest or a violation of the duty of impartiality and that a disqualification is warranted, and the respondent does not voluntarily accept the disqualification, the Council shall make a final decision that the respondent be disqualified. If the Council does not make this determination, or if the

respondent voluntarily accepts the disqualification, the complaint shall be dismissed;

(7) *Committee Actions in Lieu of Council Actions/Final Decision.* If the respondent is a Council member, or if the Council does not have a quorum after recusals from Council members to act on the complaint, the Committee, based on its investigation and report, shall determine whether the respondent should be disqualified from all or certain of his/her responsibilities. If, under these circumstances, the Committee determines that a disqualification is warranted and the respondent does not voluntarily accept the disqualification, the Committee shall make a final decision that the respondent be so disqualified. If the Committee does not make this determination, or if the respondent voluntarily accepts the disqualification, the complaint shall be dismissed; and

(8) *Scope of Disqualification.* If the Council and/or the Committee recommends or determines that a disqualification of the respondent is warranted, the scope of the disqualification shall be tailored to remedy the conflict of interest or violation of the duty of impartiality that was determined to exist, so that the disqualification is not broader than necessary to ensure compliance with this Chapter.

(d) *Dismissal for Mootness.* If at any time during the Committee's and/or Council's investigations under this Section the respondent ceases to be an Official, the complaint shall be dismissed as moot.

(e) *Dismissal of Inconsequential Matters.* In the course of fulfilling their responsibilities under this Subsection, including but not limited to before a decision is made by the Committee to investigate a complaint (see subsection [c][1]), the Committee and/or the Council may find and advise or determine that the alleged conflict of interest or violation of the duty of impartiality is too remote or insubstantial to affect the integrity of the Official's actions, in which case the complaint shall be dismissed with no further action. The intent of this subsection is to discourage complaints about inconsequential matters; the intent is not to condone a lax approach to the ethical requirements established by this Chapter.

(f) *Informal Resolutions.* Throughout the process described in this Subsection, the Committee and/or the Council shall take reasonable steps to resolve the complaint without a formal determination of disqualification, including without limitation when a conflict of interest or violation of the duty of impartiality is determined to be the result of a mistake or inadvertence (but

not reckless disregard or deliberate ignorance of the applicable ethical requirements) on the part of the respondent.

- (g) *Confidentiality/Council and Committee.* To protect the privacy and reputation of the respondent, the complainant, any witnesses or people identified in the complaint, and any Official seeking advice, the Committee and the Council, when fulfilling their responsibilities under this Section, shall meet only in closed session and make no public disclosure regarding the complaint or the request for advice, except as required by law or court order, including without limitation when consulting with counsel, considering the allegations in the complaint, interviewing witnesses about the allegations in the complaint, and/or considering appropriate action(s) to be taken in response to the complaint. The Committee and/or the Council may disclose any information if the respondent agrees in writing to the release or if required by law or court order.
- (h) *Confidentiality/Parties.* The complainant and the respondent shall not disclose any information related to the complaint, except as may be necessary for the respondent to reply to the complaint or, except for the identity of witnesses, as respondent agrees in writing.
- (i) *Confidentiality/Records.* Records related to the actions of the Committee and/or Council under this Section shall be confidential and privileged and not subject to public inspection, except as required by law and/or court order.
- (i) *Import of Headings.* The headings in this Section are included solely for convenience of reference and shall not control the meaning or interpretation of any of the provision in this Section.

(Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 4-16-1, effective 7/6/16).

**Section 4-203. Failure of Quorum [Reserved]**

~~If, because of a voluntary or mandatory disqualification under the provisions of this Chapter, less than a quorum of the Council is available to act upon any particular matter, the matter shall be deferred until a quorum is assembled.~~

**Section 4-204. Enforcement**

- (a) The Council may file a petition for injunctive or other relief in a court of competent jurisdiction for the purpose of requiring compliance with this Chapter.

- ~~(b)~~ Any person who knowingly and willfully violates the provisions of this Chapter is guilty of a misdemeanor and, upon conviction, is subject to a fine of not more than \$1,000.00 or imprisonment for not more than one year, or both. If the person is a business entity and not a natural person, each officer and partner of the business entity who knowingly authorized or participated in the violation is guilty of a misdemeanor and, upon conviction, is subject to the same penalties as the business entity.
- ~~(c)~~ Any person who violates the provisions of this Chapter shall be guilty of a municipal infraction and shall be subject to a civil penalty of \$100.00.
- ~~(d)~~**(b)** In addition to any other enforcement provisions in this Chapter, **any member of any committee or task force, or the Tree Supervisor, who is found by the Committee, the Council, or a court to have violated this Chapter with respect to Oath of Service shall be subject to removal by the Council; and** any member of the Council who is found by the Committee or a court to have violated this Chapter shall be subject to recall, as provided in the Village Charter.
- ~~(e)~~**(c)** In addition to any other enforcement provisions in this Chapter, any employee found by the Committee, **the Council**, or a court to have violated this Chapter shall be subject to disciplinary or other appropriate action, including dismissal or suspension of compensation.

\* \* \*

*SECTION 2.* AND BE IT FURTHER ORDAINED AND ORDERED, by the Council of the Village of Martin's Additions, acting under and by virtue of the aforementioned authority, 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 \_\_\_\_\_, 2021 (at least 20 days after adoption).

ATTEST:

THE VILLAGE OF MARTIN'S ADDITIONS

\_\_\_\_\_  
Katya Hill, Secretary

\_\_\_\_\_  
Susan Fattig, Chair  
Village Council

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

**The Village of Martin's Additions  
(Urban Forest Ordinance)**

Ordinance No.: 2021-3-1  
Introduced:  
Adopted:  
Effective Date:

**ORDINANCE TO ADOPT AN URBAN FOREST PROGRAM**

WHEREAS, Maryland Code, Local Government Article, Section 5-202, as amended, grants to the legislative body of every incorporated municipality in Maryland general power to pass such ordinances not contrary to the Constitution of Maryland, or the public general law, as deemed 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, the Natural Resources Article, Title 5, Subtitle 4, Part IV of the Maryland Code authorizes a municipal corporation to implement a local urban and community forestry program within its jurisdiction;

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, trees are important natural resource and benefit the Village and its residents in many ways, including by filtering the air, capturing carbon dioxide, providing shade, buffering noise, harboring wildlife, controlling storm water runoff, and stabilizing soils, and the Village Council has determined that trees should be planted to help offset the impact of development activities; and

WHEREAS, after proper notice to the public, the Village Council introduced the following Ordinance in an open meeting conducted on the \_\_\_\_ day of \_\_\_\_\_, 2021;

WHEREAS, after proper notice to the public, the Village Council considered this Ordinance in public session assembled on the \_\_\_\_ day of \_\_\_\_\_, 2021; and

WHEREAS, upon consideration of the testimony and evidence presented at the public hearing, 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 \_\_\_\_\_, 2021, 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:

\* \* \*

## CHAPTER 6 REGISTRATIONS AND PERMITS

\* \* \*

### ARTICLE 3. VILLAGE BUILDING PERMITS

\* \* \*

#### 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, **(ii) a statement as to whether a Montgomery County sediment control permit is necessary for the project and, if so, whether the applicant intends to plant an Environmental Impact tree or pay the association fee according to Chapter 9 of this Code,** and (iii) 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 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. A permit for construction related to an accessory dwelling unit shall not be issued until the applicant has submitted a copy of the Montgomery County landlord license for the proposed accessory dwelling unit.

\* \* \*

## CHAPTER 9 URBAN FOREST; VILLAGE TREES

### Section 9-101. Definitions

For purposes of this Chapter:

**“Environmental Impact tree” mean a tree planted in accordance with the requirements of this Chapter, selected from a list of approved trees adopted by resolution of the Village Council, from time to time.**

“Village tree” means any tree, the center of whose trunk at ground level is located on public right of way and which was planted by or with the permission of the Village or for which the Village has assumed care and treatment.

### Section 9-102. Purpose

- (a) The tree canopy is an attractive, distinctive feature of the Village. Trees are part of a larger ecosystem and assist in the control of air, noise, and visual pollution. They moderate the climate and help conserve energy. **They filter air, capture carbon dioxide, provide shade, buffer noise, harbor wildlife, control storm water runoff, and stabilize soils.** They **help mitigate the impacts of the development of land and** play an important part in controlling water run-off and thus in maintaining the health of Rock Creek, the Potomac River, and the Chesapeake Bay. In addition to improving the quality of residents’ lives, trees positively affect the property values of the entire community. It is therefore in the interest of the Village, its residents, and its property owners to protect, preserve, and enhance the tree canopy.
- (b) The provisions of this Chapter are declared necessary for promoting and enhancing the beauty of the Village; **mitigating the impacts of development of private land by requiring the planting of Environmental Impact trees;** protecting Village trees from damage or destruction; regulating the planting, maintenance, and (when necessary) removal of Village trees; guarding against and eliminating any dangerous conditions caused by trees; and preventing damage to any public sewer main, street, sidewalk, or other public or private property.

### 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, subject to the approval of the Village Council or its designee, to:
  - (1) direct, manage, supervise, and control the planting, maintenance, protection, and (when necessary) removal of Village trees.



- (2) obtain all necessary permits or authorizations from the Maryland Forest Service for the maintenance or removal of Village trees.
- (3) (Reserved).
- (4) inspect all Village Trees with a Licensed Tree Expert at least once a year to determine their health and needs.
- (5) order the treatment, pruning, or removal of any Village tree that is deemed to be injurious to sewers, gas or water lines, or other public utilities; is infected with disease or pests; interferes with the visibility of any traffic-control device or signal; interferes with the proper spread of light along the street from a public street light; or impedes pedestrian or vehicular traffic.
- (6) obtain an opinion from a second Licensed Tree Expert before removing a tree unless the tree meets the conditions noted in subsection (5) above or presents an immediate hazard to people or property. Any Licensed Tree Expert providing a second opinion shall not be hired to perform the removal.
- (7) consult with utility companies concerning scheduling of their pruning of Village trees.
- (8) implement any Village tree plan approved by the Village Council.
- (9) make recommendations from time to time to the Village Council regarding what species of trees should be included on the Village's list of approved Environmental Impact trees.**
- (10) monitor compliance with the provisions of this Chapter concerning the required planting of Environmental Impact trees.**

- (b) The Village Council may appoint a Tree Committee to advise the Council and the Tree Supervisor on matters pertaining to trees in the Village, to assist the Tree Supervisor with tree inspections, and to participate in consultations regarding Village trees.

(Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 6-17-1, adopted 7/17/17, effective 8/7/17)

**Section 9-103.1 Requirement to Plant Environmental Impact Trees; Village Tree Planting Fund**

- (a) **In connection with any development activity on private property in the Village for which a sediment control permit is required by the Montgomery County Code, as amended, the permittee or property owner must plant at least one (1) Environmental Impact tree on the property. The Environmental Impact tree must be at least two (2) inches in diameter at the**

**time of installation. The Environmental Impact tree must be selected from the Village's list of approved Environmental Impact trees and be installed within six (6) months from the date of the commencement of the activity that requires the permit. The Environmental Impact tree must be installed in a location approved in advance by the Tree Supervisor.**

- (b) If the permittee or property owner concludes that a required Environmental Impact tree cannot be planted on the subject property because of a lack of sufficient open space or for any other reason, the permittee or property owner must pay a fee to the Village in the amount established by resolution of the Village Council, from time to time. The Village will use fees collected under this Section to implement this Chapter and to install Village trees.**

**Section 9-104. Planting a Tree on Public Right of Way**

- (a) Only the Village is authorized to plant trees on public right ways.
- (b) All new trees planted on public right of ways shall have a caliper of at least two (2) inches, shall have straight trunks, and shall be free of disease and pests.
- (c) Species, spacing, and exact location of trees planted on public right of ways shall be determined by the Tree Supervisor, taking into consideration any Village tree plan and the proximity of any sidewalks, streets, traffic-control devices, public utilities, and other pertinent factors. However, no tree shall be planted:
- (1) within thirty (30) feet of a street intersection, measured from the corner of the intersection curb nearest to where the tree is to be planted.
  - (2) within twenty (20) feet of a fire hydrant.
  - (3) within six (6) feet of a driveway or light pole.

**Section 9-105. Tree-Care Standards**

Treatment of Village trees shall be performed according to standards approved by the Tree Supervisor, the Maryland Forest Service, and any other State or County entity having authority over such work.

**Section 9-106. Protection of Village Trees**

Without prior approval from the Tree Supervisor, it shall be municipal infraction to:

- (a) remove (or cause to be removed) any Village tree.
- (b) injure or prune (or cause to be injured or pruned) any Village tree.
- (c) attach any sign, advertisement, notice, wire, or other object to a Village tree.

**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 before commencing work.

(Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16)

**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.
- b) It shall be a municipal infraction to remove, injure, or prune a Village tree in preparation for or during construction. The owner of the property under construction and the contractor performing the construction are jointly and severally liable for such actions.

(Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16)

**Section 9-109 Protection of Village Tree Roots**

All subsurface projects shall comply with the following requirements for the protection of the roots of Village trees and shall also comply with any requirements of the Maryland Forest Service, unless specific deviations are authorized by the Tree Supervisor, the Maryland Forest Service, or other entity with authority over such trees.

- (a) When persons, including any working under contract with the Village, encounter roots of a Village tree while conducting or engaging in a subsurface project, they shall modify the project to protect the tree's root system.
- (b) For trees less than 6 inches in diameter, as measured 4.5 feet above average ground level, all machine digging shall stop at the drip line of the tree. For trees 6 inches or more in diameter, as measured 4.5 feet above average ground level, all machine digging shall stop when roots over 1 inch in diameter are encountered. Roots over 1 inch in diameter may not be cut without the approval of the Tree Supervisor, the Maryland Forest Service, and any State, County, or other entity with authority over the tree.
- (c) It shall be a municipal infraction to damage or cut tree roots over 1 inch without permission of the Tree Supervisor, the Maryland Forest Service, or any State, County or other entity with authority over the tree.

**Section 9-110. Maintenance of Trees on Private Property Near Public Right of Way**

- (a) All trees and shrubs located on private property in the Village shall be maintained in a condition so as not to interfere with:
  - (1) the proper spread of light along a street from a streetlight;
  - (2) the visibility of any traffic-control sign, device, or signal; or
  - (3) the required clearance over public sidewalks (8 feet) or streets (12 feet).
- (b) 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 right of way or to harbor pests or diseases that constitute a threat to other trees within the Village.
- (c) The owners of property on which is located any tree or shrub that has been determined by the Tree Supervisor to be not in compliance with the provisions of subsections (a) or (b) above shall be notified of that determination in writing by hand delivery or certified mail and shall treat, trim, or remove and destroy the tree or shrub or portion thereof with such period as the Tree Supervisor may specify. The time specified for compliance shall be at least thirty (30) days unless a shorter period is indicated in the judgment of the Tree Supervisor.
- (d) An owner may appeal any determination by the Tree Supervisor to the Village Council. The appeal shall be made in writing and delivered to the Village Manager within ten (10) days of receipt of the notice [described in (c) above] or within the time specified for compliance, whichever is shorter. The nature and grounds for the appeal shall be specified, and any materials or information relied upon in support of the appeal shall be submitted with the appeal.
- (e) The Village Council shall consider the appeal at a public meeting at which any interested party may appear and participate. Written notice of the meeting shall be delivered or sent by certified mail to any owner who appealed at least five (5) days before the meeting. The Council may affirm, withdraw, or modify the notice and shall advise the appellants in writing of its decisions. If the notice is upheld in whole or in part, the Council shall specify a date for compliance.
- (f) If the owner fails to comply with a notice from the Tree Supervisor within the time specified, the Village may perform any work directed in the notice and shall bill the reasonable costs thereof to said owner. The Village may recover any expenses related to the performance of such work from the owner through any means available under law, including, but not limited to, as a lien on the property tax bill.
- (g) If the condition poses a clear hazard to persons or property and therefore requires more immediate corrective action, the Council may shorten any of the periods specified above and provide notice as soon as is practical under the circumstances.
- (h) The owners of property on which is located any tree or shrub near a public right-of-way shall periodically inspect the health of such vegetation. In the event a tree or shrub, or branch thereof, shall fall into a public right-of-way, the Village shall remove the fallen vegetation that obstructs the right-of-way. The owner shall be

responsible for removing that portion of the tree or shrub, or branches thereof, which fall onto the owner's private property. The Village and the owner may reach an agreement as to the cost-sharing for the removal. If no agreement is reached, the Village shall remove only that portion of the vegetation that has fallen into the right-of-way.

(Ord. No. 2019-09-2, adopted 11/21/19, effective 12/11/19)

**Section 9-111. Entry on Private Property to Treat Village Trees**

With prior notice to a private property owner, the Tree Supervisor and any agent or contractor of the Village may enter upon such private property when necessary for the purpose of inspecting or treating Village trees **or monitoring compliance with a requirement to plant an Environmental Impact tree.** However, any private property disturbed for ~~such purposes~~ **the purpose of inspecting or treating Village trees** shall be returned by the Village as nearly as possible to its original condition, and any expenses incurred shall be borne by the Village.

**Section 9-112. Interference with Tree Supervisor**

No person shall prevent, delay, interfere with, or otherwise obstruct the Tree Supervisor or any agent or contractor of the Village while engaged in planting, treating, caring for, or removing any tree as authorized in the Chapter. Any person violating this Section shall be guilty of a municipal infraction and shall be subject to penalties.

**Section 9-113. Enforcement**

- (a) It shall be a violation of this Chapter to:
  - 1) fail to comply with a notice from the Tree Supervisor.
  - 2) interfere with the Tree Supervisor or any agent or contractor of the Village in the performance of their duties and responsibilities under this Chapter.
  - 3) **fail to plant a Environmental Impact tree or pay the associated fee within six (6) months of the date of commencement of the activity that requires a Montgomery County sediment control permit.**
  - 4)** fail to comply with any other provision of this Chapter.
- (b) A violation of this Chapter shall constitute a municipal infraction for which a citation may be issued and a fine imposed.

\* \* \*

*SECTION 2.* AND BE IT FURTHER ORDAINED AND ORDERED, by the Council of the Village of Martin's Additions, acting under and by virtue of the aforementioned authority, 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 \_\_\_\_\_, 2021 (at least 20 days after adoption).

ATTEST:

THE VILLAGE OF MARTIN'S ADDITIONS

\_\_\_\_\_  
Katya Hill, Secretary

\_\_\_\_\_  
Susan Fattig, Chair  
Village Council

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

Ordinance No.: 2021-3-1  
Introduced: March 18, 2021  
Adopted:  
Effective Date: July 1, 2021

**THE VILLAGE OF MARTIN'S ADDITIONS**

**SUBJECT:** AN ORDINANCE TO ADOPT A BUDGET FOR FISCAL YEAR  
JULY 1, 2021 TO JUNE 30, 2022.

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, Local Government Article, Section 5-205, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to spend money for any public purpose and to affect the safety, health, and general welfare of the municipality and its occupants;

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, the Village Council introduced the following Ordinance in public session assembled on the 18<sup>th</sup> day of March, 2021;

WHEREAS, the Village Council, after proper notice to the public, considered the following Ordinance at a public hearing held on the \_\_\_\_ day of May, 2021;

WHEREAS, prior to adopting this Ordinance, the Village Council held a public meeting on the \_\_\_\_ day of May, 2021 to adopt tax rates for the forthcoming fiscal year and, by the attached Resolution, adopted the tax rates for the forthcoming fiscal year; and

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 foregoing Ordinance.

BE IT ORDAINED AND ORDERED, this \_\_\_\_ day of May, 2021, by the Village Council, acting under and by virtue of the authority given it by the Maryland Code and the Village Charter, that the attached Budget be and is hereby adopted.

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 Village Charter, that:

- (1) Pursuant Maryland Code, Local Government Article, Section 5-205(b)(4), the Village Council may spend money for a purpose different from the purpose for which the money was appropriated or spend money not appropriated in the attached Budget if approved by a two-thirds vote of the Village Council;
- (2) 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
- (3) This Ordinance shall take effect on the 1st day of July, 2021.

ATTEST:

THE VILLAGE OF MARTIN'S ADDITIONS

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Katya Hill, Secretary

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Susan Fattig, Chair  
Village Council



Resolution No.: 2021-3-2  
Introduced: March 18, 2021  
Adopted:  
Effective Date: July 1, 2021

**THE VILLAGE OF MARTIN'S ADDITIONS**

**SUBJECT:** A RESOLUTION TO APPROVE LEVYING A TAX ON CERTAIN REAL AND PERSONAL PROPERTY UNDER THE PROVISIONS OF SECTION 6-203 OF THE TAX-PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, AS AMENDED

WHEREAS, Section 6-203 of the Tax-Property Article, of the Annotated Code of Maryland (as amended), grants authority to municipal corporations to levy a tax on personal property, land, and improvements thereon, within the municipal corporation; and

WHEREAS, the Village of Martin's Additions is a municipal corporation within the meaning of Section 6-203 of the Tax-Property Article; and

WHEREAS, pursuant to Section 703 of the Village Charter, the Village Council has the authority to levy a tax on all real property in the Village at the rate determined in accordance with Section 703 of the Village Charter; and

WHEREAS, pursuant to Section 601 of the Village Charter, the Annual Meeting of the residents of Martin's Additions was held on the \_\_\_\_ day of May, 2021 after due notice and advertisement of the time and place of the meeting and said notice included the proposed budget for 2021-2022 and the proposed tax rates to be levied upon real and personal property; and

WHEREAS, after due deliberation and consideration of all information and testimony presented to the Village Council, the Village Council finds that the proposed tax rates on real and personal property will serve the best interests of the Village.

NOW, THEREFORE, be it:

RESOLVED: That the Village Council of the Village of Martin's Additions, pursuant to the authority granted by the Village Charter and Section 6-203 of the Tax-Property Article of the Annotated Code of Maryland, hereby levies a tax at the rate of five thousandths of a cent (\$.005) per One Hundred Dollars of assessable value (fair market value) on real property subject to taxation by the Village; fifty cents (\$.50) per One Hundred Dollars of assessed value of assessable personal property subject to taxation by the Village; and one dollar and forty-five cents (\$1.45) per One Hundred Dollars of assessed value of assessable utility property subject to taxation by the Village; and be it further

RESOLVED: That the tax levied hereby be certified to the County Council for Montgomery County, Maryland, and that Montgomery County, Maryland be, and hereby is, authorized and directed to collect and pay over said tax to the Village of Martin's Additions; and be it further

RESOLVED: That the Director of Finance for Montgomery County, Maryland be advised of this resolution.

I, Katya Hill, Secretary of the Village Council of the Village of Martin's Additions, hereby certify that the foregoing resolution was adopted by the Village Council at its meeting on \_\_\_\_ day of May, 2021.

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Katya Hill, Secretary