

**Village of Martin's Additions 7013 Brookville Road, Suite B,
Chevy Chase, MD 20815
Council Meeting Minutes June 17, 2021, VIA ZOOM
CONFERENCE CALL**

Council Members Present: Susan Fattig; Arthur Alexander; Todd Mann; Jeff Blander; Katya Hill; Village Manager: Niles Anderegg; Manager Assistant: Martha Fessenden; Building Administrator: Doug Lohmeyer; Village Attorney: Ron Bolt; Residents and other Attendees: Keith Allen (Turner Ln); Tiffany Cissna (Bradley Ln); Marty Langelan (Chestnut St); Paula Goldberg (Bradley Ln); ; Katie Filipczyk Howard (Taylor St); Susan Kahn (Bradley Ln); Andrew Kauders (Turner Ln); Alex Ghesquiere (Bradley Ln); George McAleese (Melville Pl); Jean Sperling (Shepherd St); Marc Efron (Raymond St); Mark Shaffer (Shepherd St); Bill Catherwood (Shepherd St); Michael Pratt (Montgomery County Police), Nicholas Picerno (Montgomery County Police)

7:32 PM Call to Order: Fattig

The meeting was called to order at 7:32 pm.

7:33 PM Opportunity for the Council to Hear Residents' Comments

Keith Allen (Turner Ln) gave his weather report.

Katie Filipczyk Howard expressed gratitude for the election outcome, for the work of the Election Committee, and for the service of the two outgoing Council members, Todd Mann and Katya Hill. She proposed a communications outreach committee and noted that she looks forward to a return to in-person Council meetings. She also asked about the American Rescue Plan. Niles Anderegg responded that the Village is applying for the American Rescue Plan funds. The Treasury Department has not yet issued an official final rule on how the money may be used but the Village may be able to improve infrastructure to make the Village more storm resilient. The Village may also be able to partner with Section 3 and the State to make improvements to Brookville Road. The money will come in two chunks, one this year, and one next year.

Susan Kahn (Bradley Ln) thanked the Election Committee volunteers and asked about the three uncounted ballots and whether any attempt had been made to “cure” the votes. She also requested that the Village register opposition to *Zoning Text Amendment (ZTA) 19-07* about 5G and offered to give a presentation to anyone who would like it.

On behalf of the Election Committee, Tiffany Cissna (Bradley Ln) responded that there were three ballot return envelopes that were blank on the outside: no printed name or street name to suggest the identity of the voter. Tiffany also praised Katya’s and Todd’s work on the Council and expressed an eagerness to return to in-person Council meetings.

Marty Langelan (Chestnut St) asked the Council to sign a letter opposing ZTA 19-07 and Niles to add information to the weekly wrap-up on how to reach County Council members regarding ZTA 19-07. She also expressed concern about the process for recruiting and retaining volunteers and requested that the incoming Council take plenty of time to recruit volunteers and openly appoint volunteers. Susan Fattig clarified that the same process was followed last year as in previous years with a separate Constant Contact message sent out to residents. The appointment of volunteers will be made by the incoming Council this year as in previous years.

Jeff Blander suggested that the call for volunteers be shared with Council members before it goes out and that the deadline be extended to July 13 to get more residents to step up and volunteer. He also recommended that the Council explore the option of hybrid meetings that combine in-person with Zoom and schedule an administrative meeting soon. He also expressed support for the Council to investigate 5G issues further. After some discussion, Susan directed Niles to extend the volunteer application deadline and to send out the revised Annual Call for Committee Volunteers to the incoming Council members before distributing it to residents.

Andrew Kauders (Turner Ln) thanked Todd and Katya for their service on the Council, Tiffany Cissna for her work on the election, Marc Efron for his leadership of the Ethics Committee, and the other candidates who ran for Council.

7:57 PM Update from VMA Contract Police Officers

Montgomery County Police Officer Michael Pratt encouraged residents to be vigilant. For example, a resident noticed a house slated to be torn down on Delfield that had an open front door and a chair by the window. The resident reported it to the Village Office, who contacted the builder to secure the building and the police who continue to monitor the site. Mike reminded residents that if they see suspicious activity in real time to call the non-emergency number, 301-279-9000, so an on-duty patrol officer can respond. He noted that there was a car theft incident last month and reminded residents of the importance of locking cars. Car theft is the #1 crime in Montgomery County. Officer Nick Picerno also noted that the County has seen an increase in carjackings and car running over the last several months. He encouraged people to always turn their cars off and lock the doors when they run errands. Katie Filipczyk Howard thanked Officer Pratt for his help after the theft of her car. Her car had been locked, but the thief stole the keys from inside her house. Katie said she got her stolen car returned in less than 24 hours and that Officer Pratt's visit with her family had made her daughters feel better.

Arthur Alexander asked Mike and Nick to talk about community policing and their role. Nick noted that they are present in the Village only 7% of the time, so they try to engage the community by coming to meetings, serving as a resource for the Village, and attempting to deter crime. Todd Mann asked about the relationship between Montgomery County and DC Police. Mike responded that their radio system helps them coordinate with DC and Montgomery County. Jeff Blander mentioned that the Public Safety Task Force's survey will provide more information on public perception of

crime. Katie noted that she saw the improved coordination within the region in action when her car was stolen, and it seemed very effective. Susan thanked Nick and Mike for their years of service to the Village.

8:09 PM Committee Updates: Fattig

Public Safety Task Force

The Village Council heard an update about the Public Safety Task Force. Chair Mark Shaffer reported that the Task Force is in the final stages of drafting a survey that will seek resident feedback on several public safety topics. The results will be published. The Task Force is an information service, not an advocacy service. They formed three groups: survey, safety, and health concerns. They are trying to understand what people are concerned about and how so that information can be shared with the community and priorities can be set for further research by the Task Force. The survey will go out on Monday, June 21, with two weeks given to respond. Jeff asked if the Council needed to approve the survey. Niles responded that the Task Force was following the same process as it did with the walkability survey, so no Council approval was necessary. Mark thanked the Task Force members for their work, and Jeff thanked him and the rest of the Task Force as well.

Community Engagement Committee

Chair Keith Allen reported on plans for the Fourth of July event. Niles noted that in the past some vendors were late and there wasn't enough food for everyone, so new vendors were chosen for this year based on resident recommendations. Other than that, the event will be quite similar to the 2019 Fourth of July festivities. Susan thanked Keith for making this eagerly-anticipated event happen. Jeff also thanked the Committee, which held an open meeting to plan the event.

Ethics Committee

Chair Marc Efron reported that the Ethics Committee met on May 17. The Committee requested that the Village staff clarify the language posted on the Village website so that all sections of the code reflect the final wording of the ordinance. The Committee would like the Council to consider member Lorie Mitchell's suggestion of staggered terms for Committee members, which would require a change in the VMA code. Marc also suggests that the Council and the new Ethics Committee should discuss holding a training session and developing instructional materials for Committee members, Council members, and employees who will be covered by the ethics ordinance. He thanked Niles and Lorie for walking the Committee through the process of developing a protocol for their email addresses. Susan thanked Marc for his hard work and noted the website language was reconciled without the Council needing to take any action. Jeff thanked Marc, Debbie, Niles, and Todd for being professional. He also asked Niles if staggered terms would affect the call for volunteers. Niles responded that the terms for the Election and Ethics Committees are written in the code so a new ordinance would be required to change the terms. Jeff asked if an ethics complaint goes to the Ethics

Committee and to the Council, would there be two separate investigations? Marc Efron responded that the Ethics Committee would go through the process laid out in the code and unless a Council member(s) is involved or the Council could not come up with a quorum, the Ethics Committee's recommendation would go to the Council for a final decision. Mark further noted that there is nothing that prohibits a complaint going to the Council directly at the same time, but then the Council would have to decide how it wanted to handle that.

8:43 pm Election Committee updates

Chair Tiffany Cissna and the Election Committee thanked the Council for the opportunity to serve. She also thanked George McAleese and Anna Meenan for their excellent work on the Committee. Of the 616 qualified voters on the voter roll, 424 ballot return envelopes were returned by the deadline and deemed valid by the Committee (a record for the Village and an almost 70% voter participation rate in the election). Only four were disqualified: three were unsigned and another arrived in the Village Office with no envelope at all. She congratulated the new Council members and thanked all the candidates for their willingness to run for office. She also thanked Niles Anderegg for his support of the Committee's work; by-mail elections are not necessarily less labor-intensive than in-person and may, in fact, be even more onerous for staff. Based on voter feedback, the Committee recommends a return to in-person voting next year and the past two-years of experience with by-mail election suggests possible processes to handle absentee ballots in the future. She noted that this year, in response to questions from individual candidates, the Election Committee responded to all candidates, not just the person who raised the question, to ensure that everyone got the same information. Lastly, she commented on the importance of regular communications with voters through official channels that can be audited. Susan congratulated the Committee on a successful and transparent process. Arthur also congratulated Andrew Kauders on receiving more votes in this election than any other candidate in Village history.

8:50 PM Building Administrator's Report: Lohmeyer

The Village Council received Building Administrator Douglas Lohmeyer' report on ongoing building projects in the Village. (See attached.) Arthur asked if he, as a neighbor of an owner requesting a variance, should recuse himself from hearing the variance. Ron Bolt encouraged him to recuse himself from consideration of the variance request to avoid an appearance of potential bias, but stated that Arthur may discuss the variance with the owner in his individual capacity, as a potentially impacted neighbor.

8:57 PM Public hearing and Possible Adoption of Ordinance (2021-3-1) "To adopt an urban forest program"

The Village Council held a public hearing on Ordinance 2021-3-1, "To adopt an urban forest program." Arthur Alexander described the ordinance as essentially "plant a tree or pay a fee." He also noted that it would put the Village back in line with County requirements. Marty Langelan (Chestnut St) spoke in favor of the change in the

ordinance and thanked Arthur for his work on this. She argued, however, that the fine undervalues the trees being lost, especially canopy trees. She expressed the hope that, in the future, there will be better incentives for keeping canopy trees, which take 50 years to grow to a large size.

Susan Kahn (Bradley Ln) asked who controls the air space between a tree and a 5G pole if a telecommunications company says a tree needs to be cut back because it interferes with the signal. Paula Goldberg (Bradley Ln) commended Arthur for his work on the ordinance, which she characterized as an important baby step.

Motion: Arthur Alexander moved to adopt Ordinance 2021-3-1. Todd Mann seconded. Motion passed unanimously.

Ron Bolt noted that the ordinance did not specify the fee amount. The Village maintains a fee schedule that can be amended by resolution so the Council could introduce a resolution to amend the fee schedule to reflect the new Urban Forest Program, Environmental Impact Fee.

Jeff Blander stated that he was abstaining from the vote even though he is in favor of the ordinance because he believes that a stand-alone public meeting should be held first.

Motion: Arthur Alexander moved to introduce a resolution 2021-06-01 to amend the Village fee schedule to set the Urban Forest Program, Environmental Impact fee at \$750 . Katya Hill seconded. Motion passed (four votes in favor: Jeff Blander abstained).

9:10 PM Public hearing and Possible Adoption of Ordinance (2021-4-1) to amend the code of ordinances to clarify the front-loading garage restrictions.

The Village Council held a public hearing on Ordinance 2021-4-1 to amend the code to clarify the front-loading garage door width limitation and the number (of doors) limitation that applies to both front yards of a corner lot. Ron Bolt explained that the ordinance clarifies the limitations currently in the code. No public comments were given. Jeff Blander raised the issue of whether a more flexible approach might be taken. Arthur noted that the variance process usually provides flexibility when needed.

Jeff Blander stated that he was abstaining from the vote because he believes that a stand-alone public meeting should be held first.

Motion: Arthur Alexander moved to adopt Ordinance 2021-4-1 to clarify the building code regarding front-loading garages on corner lots. Katya Hill Seconded. Motion passed (four votes in favor, Jeff Blander abstained)

9:17 PM Financial Matters, including Treasurer's Report: Alexander

The Village Council received a report from Village Treasurer Arthur Alexander on financial matters. While in the past, the Council has looked at 37 budget items line by

line at this point in the fiscal year, this year, based on recommendations from the Village's accountant, manager and attorney, the Council reviewed seven broad budget categories, all of which are in surplus. Therefore, no budget amendments are needed this year.

9:20 PM Manager's Report: Anderegg

Niles Anderegg delivered the Village Manager's report, which included an update on the American Rescue Plan funds as well as a discussion about the waste and recycling contract. Only one bid was received in response to the RFP for waste and recycling. The Council agreed to go forward with a contract with Waste Management as the vendor, and Village staff (Niles and Ron) will discuss potential changes to the contract with Waste Management, especially the limitations they would like to place on bulk trash. Katya Hill commented that she thinks it would be difficult to manage limiting residents to a quantity of and weight of items that they can put out for bulk trash pickup and spoke against agreeing to those limitations. Niles said recycling is about 20% of our bill and that Waste Management does not want to consider a twice per week pickup. Katya suggested seeking out other contractors for recycling if Waste Management is resistant to picking up recycling twice a week. Niles noted that a big reason that more vendors do not bid on the Village's contract is because of the requirement that trash be picked up at the sides and rears of residences. Niles will discuss this next week with vendors he meets at the [MML conference](#). Katya also noted that Waste Management increased its fees significantly in 2018, so even though the price increase was less this year, the Village is now paying much more for services than it did a few years ago.

Jeff Blander praised the volunteer appreciation reception that was held on June 13, but noted some residents who deserve some recognition might be included in some way in the future.

9:37 PM Opportunity for Council to Hear Residents' Comments: Fattig

Susan Kahn (Bradley Ln) recommended that exit interviews be held for outgoing Council members, other volunteers, and Village staff. As an example, she noted that she had mentioned a resource to enhance pedestrian and car safety on Brookville Road and Bradley to a former manager and wondered if that information had been passed on. She also cited the intersection at Brookville and Cummings that might be significantly negatively impacted by the placement of a cell tower in ZTA 19-07. She spoke against ZTA 19-07 as limiting the Village's ability to protect such intersections and encouraged the Council to get out in front of the issue.

Susan Fattig noted that Mark Shaffer had expressed some uncertainty about whether the Council had approved all of the recommendations in the walkability report. She clarified that the Council had approved the report and was investigating how to implement those recommendations. Niles addressed the concerns Susan Kahn raised about the intersection of Brookville and Bradley. The Village Office has requested that the State make the improvements to that intersection recommended in the walkability report. Jeff Blander suggested that he and Arthur work with Ron to get on top of the

issue of the ZTA and 5G. Ron attended a meeting with County Councilmember Andrew Friedson to discuss concerns raised by the Towns of Somerset and Chevy Chase. The Village Council directed Ron to work with Council members on research regarding the ZTA on 19-07.

Marty Langelan (Chestnut St) expressed appreciation of the Council paying attention to ZTA 19-07, especially the issue of 5G boxes blocking sight lines on Brookville Road. She called on the Council to sign a letter to the County written by several other municipalities on the issue and asked Niles to provide information to residents on how they can contact County officials. She thanked Ron for suggesting the County code be changed to give municipalities some authority to say “no” to telecom authorities and urged the incoming Council to follow up on this and thanked Susan Kahn for her expertise on the issue. Ron commented that federal law provides that the FCC can preempt local law with respect to telecommunications, but municipalities do have the authority to regulate the rights-of-way and impose reasonable aesthetic standards, although such standards must be established and written in advance. The Village Council did adopt an ordinance in chapter 10 of the code that imposes some requirements on telecommunications deployment, so the Village is not without any ability to regulate, although the ordinance may need to be updated. Susan Kahn stated that VMA does not have zoning authority; Ron agreed but added that the Village does have the authority to impose aesthetic requirements. She urged the Council not to accept ZTA 19-07 as a fait accompli and to take action instead. Arthur Alexander and Jeff Blander will meet with Ron Bolt about the issue and seek guidance from special telecommunications counsel. Jeff also recommended that a public forum be held on the issue.

Tiffany Cissna (Bradley Ln) noted that the tree ordinance had been discussed at 10 different meetings and commended the Council for taking action on it. On committee solicitation, she pointed out the notices that were sent in 2020. She also noted that in 2011 there was a piece in the minutes acknowledging a range of volunteer activities in the Village.

10:04 PM Adjournment: Fattig

Susan Fattig thanked Katya Hill and Todd Mann again for their service.

**Motion: Arthur Alexander moved to adjourn, seconded by Jeff Blander.
Motion passed unanimously.**



VILLAGE OF MARTIN'S ADDITIONS

COUNCIL MEETING APPENDIX

June 17, 2021

Materials included in this appendix were either included in the Council monthly meeting packet distributed before the meeting or submitted to the Council as part of the meeting. All materials appear as submitted.



VILLAGE OF MARTIN'S ADDITIONS

7013 Brookville Road (Second Floor, Suite B)

Chevy Chase, MD 20815-3263

Phone (301) 656-4112

www.martinsadditions.org

Agenda for Council Meeting Thursday, June 17, 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 Update from VMA Contract Police Officers

7:51 PM Committee Updates: Fattig

8:11 PM Building Administrator's Report: Lohmeyer

8:17 PM Public hearing and Possible Adoption of Ordinance (2021-3-1) to "To adopt an urban forest program"

8:31 PM Public hearing and Possible Adoption of Ordinance (2021-4-1) to amend the code of ordinances to clarify the front-loading garage restrictions

8:46 PM Financial Matters, including Treasurer's Report: Alexander

8:51 PM Manager's Report: Anderegg

8:56 PM Opportunity for Council to Hear Residents' Comments: Fattig

9:01 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: **883 3117 5094#** (you must enter the "#")

Passcode: **525784**

2. Web/Video Option:

- a. Go to the Zoom meeting

link: <https://us02web.zoom.us/j/88331175094?pwd=OFNvZkFzbnA4c0ovdWI4KzA1Q2JjUT09>

- 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: **883 3117 5094**

Passcode: **525784**

Topic: VMA Council Meeting

Time: June 17, 2021 07:30 PM Eastern Time

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

Ordinance No.: 2021-3-1
Introduced: March 18, 2021
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 18th day of March, 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.

- (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.: 2021-04-1

Introduced:

Adopted:

Effective Date:

THE VILLAGE OF MARTIN'S ADDITIONS

SUBJECT: AN ORDINANCE TO AMEND THE CODE OF ORDINANCES TO CLARIFY THE FRONT-LOADING GARAGE RESTRICTIONS

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, 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 Ordinance in an open meeting conducted on the ____ day of _____, 2021; and considered the Ordinance in an open meeting conducted on the ____ day of _____, 2021;

WHEREAS, to comply with Maryland Code, Land Use Article, Section 20-509, on the ____ day of _____, 2021, a copy of following Ordinance was submitted to the Montgomery County Council for its comments;

WHEREAS, the Montgomery County Council did not provide any comments;

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 _____, 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 6-101. Definitions

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

* * *

(17) "Front-loading garage" means a garage with a door that faces a front lot line.

* * *

(19) "Front lot line" means ~~the~~ a lot line running along the front of the lot separating it from ~~the~~ a street. **Corner lots have two or more front lot lines.**

* * *

(22) "Garage" means an accessory building or portion of a main building designed, arranged, or used for the housing of private motor vehicles.

(23) "Garage, front-loading" (see front-loading garage).

* * *

Section 7-402. Construction Standards and Requirements

* * *

(k) No more than one (1) front-loading garage shall be permitted on a lot. The door width of a front-loading garage shall not exceed ten (10) feet. **Corner lots are subject to these restrictions with respect to all street frontages.**

* * *

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 _____, 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