

Ordinance No.: 2023-11-1
Introduced: 12/14/23
Adopted: 1/18/24
Effective Date: 2/15/24

THE VILLAGE OF MARTIN'S ADDITIONS

SUBJECT: AN ORDINANCE TO AMEND THE CODE OF ORDINANCES TO ADD BUILDING REQUIREMENTS APPLICABLE TO ABOVE-GRADE STORMWATER COLLECTION AND DRAINAGE DEVICES

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 following Ordinance in an open meeting conducted on the on the 14th day of December, 2023;

WHEREAS, to comply with Maryland Code, Land Use Article, Section 20-509, on the 14th day of December, 2023, a copy of following Ordinance was submitted to the Montgomery County Council for its comments;

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

WHEREAS, with respect to a project in the Village, the Montgomery County Department of Permitting Services have indicated that certain stormwater drainage devices, including, but not limited to, micro-bioretenion planter boxes, are deemed exempt from County building regulations, including setbacks, even in situations where, due to sloping topography, such devices may be significantly above grade;

WHEREAS, the Village Council finds that the Village building regulations do not currently separately address such devices and should therefore be amended;

WHEREAS, the County Code, Sec. 59-4.1.7.B.5.b.ii, provides that “[a] permanent rainwater collection or harvesting system may project a maximum of 3 feet into any side street, side, or rear setback;”

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 18th day of January, 2024, 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:

* * *

(4) “Building” means a structure on a lot which has one or more stories and a roof and is designed primarily for the shelter, support or enclosure of persons or property of any kind. “Building” includes above-grade projections, elements, and appurtenances, and equipment, including, but not limited to, porches, decks, breezeways, steps, stoops, exterior stairways, bay windows, oriel entrances, balconies, vestibules, air conditioners, heat pumps, ~~and generators~~, and stormwater collection, harvesting, infiltration, and drainage devices, including but not limited to micro-bioretenion planter boxes.

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Section 7-101. Definitions

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(3) "Building" means a structure on a lot which has one or more stories and a roof and is designed primarily for the shelter, support or enclosure of persons or property of any kind. "Building" includes above-grade projections, elements, and appurtenances, and equipment, including, but not limited to, porches, decks, breezeways, steps, stoops, exterior stairways, bay windows, oriel entrances, balconies, vestibules, air conditioners, heat pumps, ~~and generators,~~ and stormwater collection, harvesting, infiltration, and drainage devices, including but not limited to micro-bioretenion planter boxes. "Building" includes all projections, elements, appurtenances, and equipment that are attached to or located within ten (10) feet of a building surface. "Building" excludes projections, elements, and appurtenances, and equipment that are constructed at or below grade, such as a stairwell or patio.

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Section 7-402. Construction Standards and Requirements

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(e) Setbacks

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(5) Projections, elements, appurtenances, and equipment (main buildings)

- (i) Bay windows, oriel entrances, balconies, and vestibules no greater than ten (10) feet wide, and cornices, eaves, and chimneys shall be permitted to project a maximum of two-and-one half (2.5) feet into any setback area.
- (ii) Unenclosed porches, decks, breezeways, steps, stoops, and exterior stairways may project a maximum of nine (9) feet into the front or rear setback area and three (3) feet into any side setback area.
- (iii) Air conditioners, generators, and heat pumps may project a maximum of five (5) feet into any front or rear setback area
- (iv) Stormwater collection, harvesting, infiltration, and drainage devices with a height not exceeding twelve (12) inches, including but not limited to micro-bioretenion planter boxes, may project a maximum of three (3) feet into any side or rear setback area. Height is measured from the surface of the adjoining ground, at the pré-construction or post-construction elevation, whichever is

lower. Where the elevations of adjoining grounds differ, the measurement shall be made from the surface of the lower ground.

(v) Any other projection, element, appurtenance, or equipment not expressly listed in this subparagraph (5) shall not be afforded an exception and must comply with the required setback for the building.

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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 15th day of February, 2024 (at least 20 days after adoption).

ATTEST:

THE VILLAGE OF MARTIN'S ADDITIONS



Susan Fattig, Secretary



Arthur Alexander, Chair
Village Council

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