

**The Village of Martin's Additions
(Ethics Ordinance – Definition of Official; Indemnification)**

Ordinance No.: 2023-9-1
Introduced: 9-21-2023
Amended 1-18-2024
Adopted: 2-15-2024
Effective Date: 3-6-2024

**ORDINANCE TO AMEND THE ETHICS ORDINANCE TO
EXPAND THE SCOPE TO INCLUDE MEMBERS OF ALL
COMMITTEES AND TO AMEND THE GOVERNMENT
ADMINISTRATION ORDINANCE TO PROVIDE INDEMNITY
FOR OFFICIALS SUBJECT TO ETHICS COMPLAINTS**

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 September, 2023;

WHEREAS, after proper notice to the public, the Council considered this Ordinance in public session assembled on the 15th day of February, 2024;

WHEREAS, on November 21, 2019, the Village Council adopted Policy No. 2019-10-2 requiring all committee members to execute an Oath of Service, but the Ethics Ordinance was not concurrently amended to reflect that requirement; 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 15th day of February, 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:

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**CHAPTER 2
GOVERNMENT ADMINISTRATION**

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ARTICLE 3. DEFENSE AND INDEMNIFICATION OF PUBLIC OFFICIALS AND EMPLOYEES

Section 2-301. Definitions

For purpose of this Article:

(a) "Public official", or "official" means a member of the Village Council; a member of the Election Committee; a member of the Ethics Committee; the Village Tree Supervisor; and any person who was employed by the Village all members of any other standing or ad-hoc committee or task force; and any Code Enforcement Officer as defined in Section 3-101(c).

(b) These definitions apply to persons who were in such positions at the time of the act or omission giving rise to potential liability against that person; ~~and any Code Enforcement Officer as defined in Section 3-101(e).~~ Only to the extent required by the Maryland Local Government Tort Claims Act or other relevant state law, "person who was employed by the Village" includes a volunteer who was providing services or performing duties at the request of a public official with authority to make such request, and under the control and direction of the official.

~~(b)~~ (c) "Actual malice" means ill will or improper motivation, and has the same meaning as in the Maryland Local Government Tort Claims Act.

Section 2-302 General Provisions

(a) Subject to the provisions of section 2-303, the Village, when requested in writing by any public official, shall retain counsel to appear and defend any civil action, ethics complaint, or special proceeding instituted in the courts of any state or of the United States, or before the Village Ethics Committee, against the public official by reason of any act arising within the scope of his employment or authority, or by reason of any act taken in the reasonable belief that such action was within the scope of his employment or authority. The defense of the case shall include the right to assert counterclaims and to engage in third party practice on behalf of the official.

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

Section 2-303 Investigation Before Providing Defense

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

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

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

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

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

Section 2-306 Reimbursement of Village

(a) If it is ~~judicially~~ determined by a court or the Ethics Committee that; (1) the public official, acted with actual malice in committing the act or omission complained of, or (2) the injuries or asserted ethics violation complained of did not arise out of an act or omission of the public official occurring within the scope of his employment or authority, or by reason of an act taken in the reasonable belief that such act was within the scope of his employment or authority, and, it is also ~~judicially~~ determined by a court or the Ethics Committee that the defense of sovereign immunity as to the public official is not available, the Village, if the Village Council determines it appropriate, may require the public official to reimburse the Village for all expenses, including court costs and reasonable attorney's fees. However, such reimbursement shall not be required if the information provided by the public official was complete and was neither false nor

misleading. These costs constitute a debt due the Village and may be collected by appropriate judicial proceedings.

(b) The Village shall not be obligated to pay any judgment entered against the public official, in such a proceeding, and the legal representation provided by the Village for a public official shall not constitute an obligation on the part of the Village to pay the judgment or a settlement of a claim, except as provided for in Section 2-307 hereof, or by applicable State ~~or County~~ law.

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

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CHAPTER 4 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.

* * *

- (d) “Public Official” or “Official” means all members of the Village Council; all members of the Election Committee; all members of the Ethics Committee; **all members of any other standing or ad-hoc committee or task force**; the Village Tree Supervisor; and all persons employed by the Village.

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(Ord. No. 08-15-01, adopted 9/17/15, effective 10/7/15; Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 2021-1-1, adopted 3/18/21, effective 4/7/21)

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) In addition to any other enforcement provisions in this Chapter, any member of either the Election Committee, ~~or~~ the Ethics Committee, **or any other standing or ad-hoc 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.

- (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.
- (d) A violation of this Chapter shall not constitute a civil or criminal infraction. Enforcement of this Chapter shall be limited to the provisions of this Chapter and shall not include the penalties set forth in Chapter 3 of this Code.

(Ord. No. 2021-1-1, adopted 3/18/21, effective 4/7/21)

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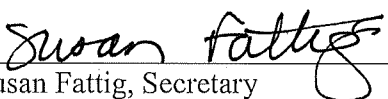
SECTION 2. AND BE IT FURTHER ORDAINED AND ORDERED, by the Council of the Village of Martin's Additions, acting under and by virtue of the aforementioned authority, that:


(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 6th day of March, 2024 (at least 20 days after adoption).

ATTEST:

THE VILLAGE OF MARTIN'S ADDITIONS


Susan Fattig, Secretary


Arthur Alexander, Chair
Village Council

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