

**Village of Martin's Additions**  
**7013-B Brookville Road, Chevy Chase, MD 20815**  
**Minutes for Council Meeting on**  
**October 15, 2015**

**Council Members Present:** Richard Krajeck, Arthur Alexander, Katya Hill, Tiffany Cissna, Susan Fattig **Village Manager:** Tori Hall; **Building Administrator:** Doug Lohmeyer

**Attorney:** Ron Bolt. **Residents and other attendees:** Josh Bowers (Summit Ave), Roberta Liebman (Thornapple St), Sally Maran (Turner Ln), Ted Stoddard (Turner Ln), Gordon Thompson (Shepherd St), Lynn Welle (Oxford St).

7:30 PM        Call to Order; Welcome and Introductions: Chairman Krajeck

7:30 PM        Acknowledge previous swearing in of Susan Fattig, new Council member:  
Chairman Krajeck

7:30 PM        Thanks to Ted Stoddard for serving on Elections Committee: Chairman Krajeck

7:30 PM        Resident Comments

Josh Bowers (Summit Ave): Tree Committee met and gave presentation to community October 8. He shared with the Council some tear down documents and invited them to review them. In the past 10 years we have had 70 tear downs with 30 of them for major construction. Large homes have eliminated the growing space. Invites Council to review the ordinances to see how it has worked out. Arthur Alexander said the Tree Committee agreed this should not be an avenue into building codes. Krajeck clarified it's ok to look at effects of the ordinances retroactively.

Bert Liebman (Thornapple St): Postal delivery has been poor. USPS is using temporary workers in our area that do not know the routes. Several examples of poor service included packages not being delivered and unable to be found at the post office. As the holiday season approaches, packages will go astray and be unable to be found. Some kind of association of the local municipalities could apply pressure to USPS. Krajeck says he has heard that there are so many USPS employees on vacation that they are dividing the routes resulting in mail arriving at different times of day or not at all.

Lynn Welle (Oxford St): Suggested inviting a USPS representative to meet with the Council to hear our issues.

Josh Bowers (Summit Ave): He solved a similar issue in DC by writing the Postmaster General. Perhaps ask our Congressman to write the Postmaster General.

Sally Maran (Turner Ln): Trees under utility wires are hacked by PEPCO. Will there be an ongoing Tree Committee to deal with this? She suggested that when trees are planted under the wires, there be a policy that they are planted as far back from the wires and close to the property line as possible. There is a policy that new trees planted under wires be smaller trees. Village

Manager informed all that the Village arborist, in coordination with the resident-Village Tree Supervisor, has just developed list of proposed tree plantings for this fall.

Lynn Welle (Oxford St): Contractors are parking blocking the sidewalk in the right of way. Council should consider including in building permits rules about parking and require contractors and homeowners to initial it. Sometimes construction vehicles are left over night or over the weekend. This is against the code of the county and Village. Krajeck added that they park on the no parking side of the street. Welle added that the no parking signs should say "strictly enforced." He would like to have the authority to cite these construction trucks.

7:40 PM        Introduction of Patrick W. Thomas of Funk & Bolton, P.A., selected to conduct the Village's legal compliance review: Cissna

Council put out RFP in August for a comprehensive legal compliance review to ensure our charter, code of ordinances and policies are all working together. Council has selected Funk & Bolton. They operate in MD, have a practice group that focuses on municipal government, and have experience with conducting compliance reviews.

Patrick Thomas, Attorney with Funk and Bolton, introduced himself. He works out of Chestertown, MD office. Village has not had the Charter formally reviewed since 1986 when it went into effect. They will make recommendations in 30 days. Make sure it conforms with state and the relevant portions of county law as well.

Arthur Alexander asked Patrick Thomas what are typical things he finds in compliance reviews. Thomas has found many municipalities used a basic form from 1966. Some references to state laws are outdated as statutes no longer exist. Also finds discrepancies about how violations of ordinances are treated.

Cissna spoke about the path forward. Tori Hall gave the applicable documents to Patrick Thomas for review. He will be working with Tori Hall and Ron Bolt (attorney for the Village). If report is ready it may be presented to the Council at the November meeting. May have to put it off to December. Council regulations and policies are now up on the Village website.

7:45 PM        Update from the Election Committee: Anderson

This item was postponed.

7:50 PM        Action on Council Meeting Minutes of September 17, 2015: Krajeck

Minutes were approved with Tiffany Cissna's changes. Alexander made motion to approve, Hill seconded and motion passed unanimously.

The minutes as approved are attached.

7:55 PM        Update from the Tree Committee after Open Meeting held on October 8, 2015:  
Alexander

Well attended meeting, about 20 people. Basic philosophy is to plant trees for future rather than try to control the taking down of trees today. Four recommendations in the July 2015 report: 1. Subsidize planting of trees on private property. 2. Require in a building site plan a list of trees that are coming down. 3. If canopy trees of certain size and species are taken down, they must be replaced by new trees 4. If there are no canopy trees on a property undergoing construction such trees must be planted.

Alexander said the Tree Committee has made recommendations in its report and they will be forwarded to the Council.

Pertaining to the Tree Committee's proposed tree subsidy, Alexander said that trees cost about \$500 to purchase and plant. When a neighboring municipality offered a tree subsidy, the first year there was a huge response of about 100 requests. Subsequent years they had about 10 requests/year. Council can subsidize and investigate nurseries and installers. Suggest start up budget of \$5000.

Question of whether this proposal would require an ordinance. Bolt says not necessary, could be done by policy if this is a trial program. Some policy proposals would need to be in the building code, specifically: Have in a building site plan a list of trees that are coming down; and if canopy trees of certain size and species are taken down that they be replaced by new trees.

Question of what changes the Council would need to make to implement this.

Administrative burden to ensure that builders are complying with requirements.

Cissna suggested having a work session to decide how to implement suggestions. Other option is to add it to the November agenda to discuss specific proposals.

8:10 PM      Presentation of the results of the First Annual Village Survey: Opened on September 15 and closed on September 30, 2015: Hill

This year Council started a new tradition of a Village survey. It was open for two weeks. To prepare for the survey Council met with a survey expert who volunteered his time. He gave some recommendations and advised we could expect a 30% response rate. The Council sent the survey to approximately 400 email addresses that represent over 90% of the Village households. Tori Hall Village Manager sent out numerous reminders through Constant Contact and the list serve. Paper surveys were also made available. Received a total of 106 responses, less than a dozen were paper. That represents over 30% of the Village residents.

Survey Results are posted on the Village website: Some answers were what we expected and others gave Council things to think about. Vast majority of residents are satisfied with what they receive and do not want to reduce services. Some suggestions for expanding services are: shoveling sidewalks for the elderly and additional police patrols. Significant positive response on new Village management. Some feel communication with residents could be improved, for example what happens at Council meetings although agenda and minutes are posted.

Hill suggested sending out emails with minutes within a week after the Council meeting should be the goal, but questioned whether possible with current staffing. Send a link to the recording of the Council meeting as well. Question of whether Council can approve minutes over email; noted that under current law approval by email can suffice.

Tori Hall Village Manager reported that preparing typed-up minutes takes many hours.

Hill reported that trash pickup service was ranked the highest in the survey. Community events were ranked the least important. Keep this in mind when budgeting. Residents want to move street lighting forward as well as repave streets and have better street cleaning. Residents also want to make sure trees are taken care of. Most respondents to the survey noted there was no need to reduce services by the Village.

Hill reported that some residents want the path to the park between the corner of Summit and Taylor reopened. This is private property. The owner previously allowed people to go through but because of trash, dog waste and other problems it was closed.

Suggestion was made that it be noted in Martin's Edition newsletter that this path is private property.

Hill reported that some residents would like to receive notification from Village Office of weather emergencies, utility outages. Cissna suggested we remind residents in newsletter about Montgomery County alert system to receive emails or texts about emergencies, since the alert system is a 24-7 operation and the Village Office is not.

Hill reported that regarding the Martin's Editions newsletter, some residents would like to learn about residents moving in and out, changes to trash schedule, more information on construction, and an annual report on goals and accomplishments.

Four residents volunteered as community organizers and event planners which would be helpful for the 100 year celebration.

Question by Arthur Alexander: do we want to continue with the tree committee? Some people have volunteered. Hill suggests we add it to the next Council meeting agenda.

Hill reported that three responders would like to volunteer as strategic planners in governance. We also have a lighting expert.

Hill reported that responders would like Village to foster a sense of community. Arthur Alexander noted that having residents involved in committees would help.

Council intends survey to be annual. Katya Hill will include article in October Martin's Edition newsletter about survey results.

Hill reported that the question about building permits was not a high priority to residents. May not include that question in the future.

Residents responded that they prefer to receive email communications from Village (92%).

Every street was represented in survey.

Summary of Results of 2015 Village Survey Attached

8:25 PM Continued discussion of various amendments to the Code of Ordinances collected over the years: Cissna

Staff recommendations were included with the binder of information.

Attorney Bolt discussed the policy recommendations.

Discussion followed about whether Council should pare down what type of projects require permits. Currently Village requires a permit for installation of any structure but does not regulate these structures. Village requires a permit for a fence or a retaining wall but does not regulate where it can be located or how tall it can be. Staff recommended changes would still require permit for construction of buildings (as defined as a structure with a roof designed for the occupancy of people), pools, air conditioners, etc. The policy question is should the Village require a permit for things Village Code does not regulate in terms of location. Since the County is requiring a permit as well, perhaps there is not enough accomplished at the Village level permit for these structures.

Discussion followed about concerns residents not get notification that a fence would be built next to them. Could Village keep notifying neighboring residents? Does Village need to be involved in notifying? Isn't that between neighbors?

Doug Lohmeyer clarified that in order for him to ensure fencing is within property boundary, he needs a boundary survey.

Krajeck: Concern about fence notification is that staff gets involved in disputes over putting up a fence.

Staff recommendation is that we eliminate permits for structures that we do not have substantive regulations on.

Staff confirmed that since 2009, Village receives automated notification of permits from County.

Krajeck: Council has discussed no permits on fences and walls per staff recommendation no. 4.

Attorney Bolt: Next step is to draft language with changes and hold a public hearing on draft ordinance.

Attorney Bolt explained staff recommendation on terraces. Currently Village does not regulate at-grade patios. Therefore, is there a reason to regulate the encroachment of a terrace? Village wants to maintain open spaces in rear yards. If we are not permitting retaining walls, question is

whether we should not permit terraces either. Language will be drafted from the staff recommendation to strike terraces.

Doug Lohmeyer: Currently Council does not have way of enforcing regulation of terraces so his suggestion is that Council either eliminate or more clearly define rules.

Attorney Bolt will draft that Council concurs with staff recommendations.

Attorney Bolt: Staff recommendations that driveway width code needs to be clarified. The maximum allowed width of the driveway is 10 feet to ensure uniformity of the streetscape.

If resident has walkway made of the same material as the driveway within two feet of driveway is it included in driveway width? Staff recommends that walkway material be required to differ from driveway material. Attorney Bolt will draft both options for Council discussion.

Action: Attorney Bolt will draw up an ordinance based on Council discussion of staff recommendations for Council review via email, public hearing.

Draft Amendments to the Code of Ordinances and Staff Recommendations Attached

8:50 PM      Building report: Doug Lohmeyer

Building Permit Status Report Attached

8:50 PM      Discussion of Street Light Improvement Projects next steps: Hill

Hill presented her report on the street light improvement project. Village has approximately 80 light poles, mostly incandescent and an old technology. PEPCO notified us that in the near future these fixtures will be discontinued so Village will not be able to replace lights that we currently have. Therefore the Village needs to replace lights soon. New technology is much more efficient. The Village lighting consultant, Scott Watson, has performed a study on the lights the Village has, created a map of where lights are located, and what type of lights they are. After his presentation two years ago to the Council, two sample lights were installed on Bradley Lane. Village is last jurisdiction with incandescent lights. High pressure sodium lights have been used in other jurisdictions but they cast an orange light and most people are not happy with them although they are very efficient.

Options for light replacement:

1. High pressure sodium: PEPCO can supply them. Widely used and provides high lumen output. However casts an orange glow and not a lot of light. The light output in lumens is the same as for other light technologies, but it is perceived differently
2. LED Lights: These are the sample lights on Bradley Lane. One is 55 watts and one is 38 watts. They appear to be light of the future. Downside for some is that it provides a “blue” color of light and some believe to have a very high glare when looking at the light.

The color temperature of LEDs can be varied to choice; some users prefer a bluish balance. Also provided by PEPCO.

3. Induction Light: As efficient as LEDs, have a 20 year life span. Scott Watson recommends them. They are installed in Garrett Park. There is one 55 watt light on Georgia Street in Section 3 between Raymond and Bradley. Also provided by PEPCO.

Next steps: Need to take into consideration the Dark Sky initiative, narrowness of Village streets, pricing options. Prepare document of options for Council to review. Send survey to Village residents with the options for fixtures. Need to get estimate from PEPCO on pricing on our options. It has been a month since Village requested this. After surveys, Village will bid it out to get chosen lights installed.

Installation: if PEPCO keeps delaying price quotes we can go with another installer. We only have to buy electricity from PEPCO. We can install on PEPCO poles.

Operation and maintenance costs: These are written up in reports based on LED lights but probably roughly the same.

9:10 PM      Financial matters, including Treasurer's Report: Hill

In September expenses exceeded income by about \$40,000. Expenses included payment to Pepco for street lights repair, professional fees as well as the usual monthly expenses: rent, salaries, office supplies, etc. Overall our expenses came in at or under budget in most categories. Exceptions were: 1. professional fees, specifically legal and building permit reviews, 2. Waste and recycling, and 3. Tree maintenance. The temporary increase in professional fees was due to the work performed on cleaning up VMA code ordinances and complicated permit applications this month.

Income totaled about \$34,500 and consisted of county revenue sharing, real estate property tax revenue, permit fees and interest income. The disparity between expenses and income in September is temporary and is due to the special projects under way that significantly increased the professional fees this month.

Our overall financial condition remains very healthy.

Discussion: Legal fees should decrease in the next month because Village is done with the bulk of work on cleaning up ordinances and variances.

Motion by Councilman Alexander to approve Treasurer's Report, seconded by Chairman Krajeck, Passed unanimously.

Treasurer's Report Attached

9:15 PM      Manager's Report: Hall

Traffic sign improvement project: The Village's consultant, Joe Cutro, drafted an initial report based on Thornapple Street which was included in the meeting packet. Some signs are not in compliance with highway standards or are worn out. Consultant graded signs "A" through "D." Hall will email copy of report to Council members. With signage it is important to consider: streetscape; uniformity of signs used; correct size of sign; wording; and replacing sign posts. Powder-coated sign posts now cost equivalent to galvanized posts.

Action: Chairman Krajeck states Council approves powder-coated sign posts and international signage to get cost estimate from consultant.

Discussion about budget: Consultant time was budgeted. Question whether sign improvement would be included in the Streets' budget.

Regarding "Tree City" Status, Village is no longer a Tree City so these signs can be removed as they wear out.

Street, Sidewalk and Curb Repair: Contractor (Chamberlain Contractors) and Manager Hall walked Village streets to identify repair needs. Contractor gave options of full milling, edge milling, etc. There is both concrete work and asphalt work needed. Asphalt work needs to happen in warm weather however this is done after concrete work, which can be done in the winter. Contractor can do this work.

This work must be bid out. There were four bidders in 2012 when similar "patchwork" was done.

Path forward: Wayne is documenting tripping hazards on sidewalks and asphalt. Asphalt pictures will be sent to U MD consultant engineer for advice on what Village should complete. He will follow up by visiting Village to view in person. Discussion that Precision had previously documented concrete work needed for Village in the spring, but Council did not go forward at that time as needed to make decision on what level Council wanted them to grind down and bid that out. Council members will do walk through to view repairs needed.

Tree Removal and Planting: Dan Gardner and Paul Wolfe II of Integrated Plant Care, Inc. reviewed planting sites and trees needing replacement. Village Manager Hall presented their recommendations.

Bidding on Street Cleaning/Snow Plowing/Sidewalk Shoveling: Two bids were received. Rolling Acres Landscaping was selected. Contract is in place. Hall will arrange street cleaning for this fall. Quincy Street gravel will be removed.

10:30 PM      Adjournment: Krajeck





## Constant Contact Survey Results

**Survey Name:** VMA Annual Survey 2015

**Response Status:** Completed

**Filter:** None

10/10/2015 5:43 PM EDT

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### TextBlock:

The Village Council is seeking resident input on Village services and operations. We plan to use the resident feedback to inform decision-making and priority setting. The survey should take less than 10 minutes to complete. So, please participate! Please submit the survey only once for each household. The survey will be open for 2 weeks from September 15th, 2015 to September 30th, 2015. Survey results will be shared in the October Council meeting and newsletter.

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### Overall, how satisfied are you with the Village operations?

Answer	0%	100%	Number of Response(s)	Response Ratio
Extremely satisfied			32	29.6 %
Somewhat satisfied			44	40.7 %
Neither satisfied nor dissatisfied			14	12.9 %
Somewhat dissatisfied			8	7.4 %
Extremely dissatisfied			3	2.7 %
No Response(s)			7	6.4 %
		<b>Totals</b>	<b>108</b>	<b>100%</b>

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If you selected somewhat dissatisfied or extremely dissatisfied in question 1, please describe your experience.

29 Response(s)

If you have contacted the Village office since July 1st, how quickly did the Village office staff respond to your request?






Answer	0%	100%	Number of Response(s)	Response Ratio
Within the same day			26	24.0 %
Within 3 business days			7	6.4 %
Within one week			4	3.7 %
Never received a response			2	1.8 %
N/A			64	59.2 %
No Response(s)			5	4.6 %
		<b>Totals</b>	<b>108</b>	<b>100%</b>

If you have contacted anyone on the Village Council since July 1st (the day new Council took office), how quickly did the Council Member(s) respond to your request?

Answer	0%	100%	Number of Response(s)	Response Ratio
Within the same day			9	8.3 %
Within 3 business days			4	3.7 %
Within one week			1	<1 %
Never received a response			1	<1 %
N/A			86	79.6 %
No Response(s)			7	6.4 %
		<b>Totals</b>	<b>108</b>	<b>100%</b>






Most of the Village budget is spent on providing our residents with services. Services listed below are an expansion of standard County services. Which services would you like the Village to continue to provide? Rank in order of importance to your family (1 being the most important and 5 being the least important).

1 = 5





Answer	1	2	3	4	5	Number of Response(s)	Ranking Score*
Trash pick up twice per week from side or backyard (as opposed to once per week at the curb)						101	1.8
Bulk trash pickup every other month						101	3.3
Yard waste pick up once per week						101	2.9
Police patrols (our current contract is with 2 Montgomery County police officers for combined 10 hours per week)						101	2.8
Village sponsored community events (Halloween parade, etc)						101	4.2

\*The Ranking Score is the weighted average calculated by dividing the sum of all weighted rankings by the number of total responses.

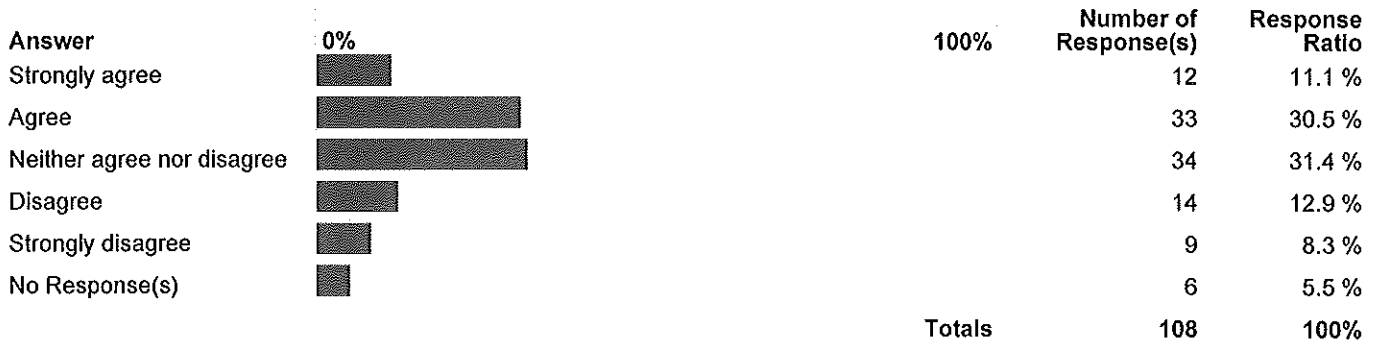
Please indicate any additional services you are interested in receiving from the Village.

Answer	0%	100%	Number of Response(s)	Response Ratio
Snow shoveling of sidewalks for elderly and disabled			51	50.4 %
Fall leaf vacuuming from the street			47	46.5 %
Additional police patrols (expansion of current service)			48	47.5 %
I do not wish to change any services the Village currently provides			13	12.8 %
Other			18	17.8 %
<b>Totals</b>			<b>101</b>	<b>100%</b>

Please indicate any reductions to services you are interested in pursuing in order to decrease the Village budget.

Answer	0%	100%	Number of Response(s)	Response Ratio
Reduce trash pick up to once per week.			20	38.4 %
Move trash pick up to the curb from the side/back of the house.			17	32.6 %
Eliminate additional police patrols.			5	9.6 %
Other			20	38.4 %
<b>Totals</b>			<b>52</b>	<b>100%</b>

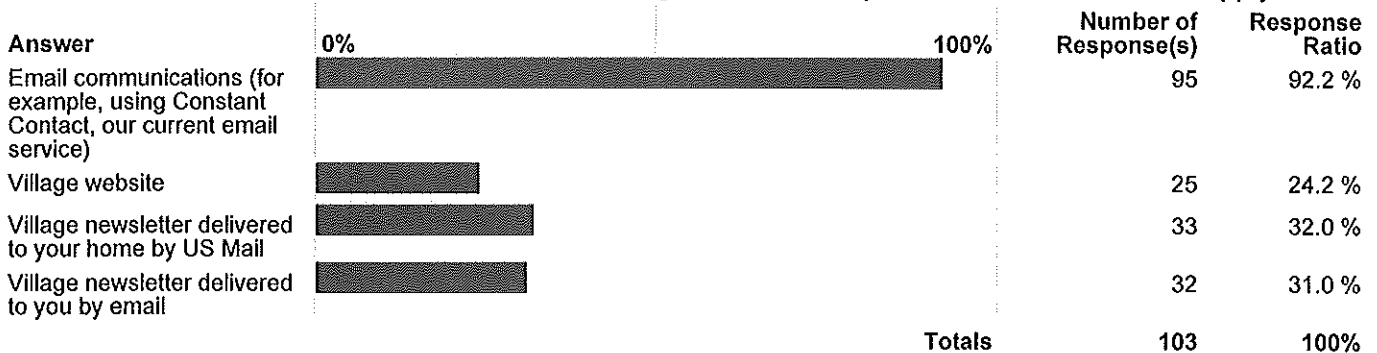
I believe the Village's building codes have been effective in maintaining the aesthetic character of the Village.



I believe the enforcement of the building codes has been fair and effective.






What is the most effective method of communicating information to you? Please select all that apply.



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What kind of information would you like to receive from the Village Office?

Answer	0%	100%	Number of Response(s)	Response Ratio
Notice of upcoming events			88	88.0 %
Notice of issues under consideration by the Council			87	87.0 %
Other			23	23.0 %
Totals			100	100%

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The greatest resource the Village has is it's residents. Many of you are experts in your respective fields. Would you be willing to offer your expertise to the Village on short-term or long-term basis? Enter the area of expertise below and the best way to contact you. Alternatively, you may send this information to the Council directly at [VMACouncil@googlegroups.com](mailto:VMACouncil@googlegroups.com). The Village Council may reach out to you, as needed, to get your input on major decisions affecting the Village.

25 Response(s)

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Do you have anything else you would like to share with the Village Council? For example, you could provide suggestions on what you would like to see more or less of in how we operate.

47 Response(s)

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\*Please select your street below.

Answer	0%	100%	Number of Response(s)	Response Ratio
Bradley Ln	<div></div>		8	7.4 %
Brookville Rd	<div></div>		8	7.4 %
Chestnut St	<div></div>		9	8.3 %
Cummings Ln	<div></div>		10	9.2 %
Delfield St	<div></div>		8	7.4 %
Melville Pl	<div></div>		2	1.8 %
Oxford St	<div></div>		3	2.7 %
Quincy St	<div></div>		7	6.4 %
Raymond St	<div></div>		13	12.0 %
Shepherd St	<div></div>		9	8.3 %
Summit Ave	<div></div>		9	8.3 %
Taylor St	<div></div>		4	3.7 %
Turner Ln	<div></div>		12	11.1 %
Thornapple St	<div></div>		6	5.5 %
No Response(s)	<div></div>		0	0.0 %
Totals			108	100%

Ordinance No.: 9-15-1  
Introduced: September 17, 2015  
Adopted:  
Effective Date:

**THE VILLAGE OF MARTIN'S ADDITIONS**

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

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

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

dimensions of structures, including height, bulk, massing, and design; and lot coverage, including impervious surfaces;

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

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

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

WHEREAS, the Village Council introduced the following Ordinance at a public meeting held on September 17, 2015;

WHEREAS, to comply with Maryland Code, Land Use Article, Section 20-509, on the \_\_\_\_ day of September, 2015, 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, after proper notice to the public, and after at least thirty days from the date a copy of the following Ordinance was transmitted to the Montgomery County Council, the Village Council considered the following Ordinance in public session assembled on the \_\_\_\_ day of \_\_\_\_\_, 2015;

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

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

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

\* \* \*

## Section 1-205. Computation of Time

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

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

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## Section 2-301. Definitions

For purpose of this Article:

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

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

## Section 2-302 General Provisions

- (a) Subject to the provisions of section 2-303, the Village, when requested in writing by any public official ~~or employee~~, shall retain counsel to appear and defend any civil action or special proceeding instituted in the courts of any state or of the United States against the public official ~~or employee~~ by reason of any act arising within the scope of his employment or authority, or by reason of any act taken in the reasonable belief that such action was within the scope of his employment or authority. The defense of the case shall include the right to assert counterclaims and to engage in third party practice on behalf of the ~~officer or employee~~ **official**.
- (b) Notwithstanding the provisions of section (a) above, the Village may decline to provide representation for a public official ~~or employee~~ who retains private counsel or for whom counsel is provided without cost, e.g. under a policy of insurance, and



shall not provide a defense for any public official ~~or employee~~ for negligence or any other tort arising from the operation of a motor vehicle as to any claim for damages which is within the limits of any applicable policy of motor vehicle liability insurance.

- (c) Nothing in this section shall be construed to deprive any public official ~~or employee~~ of the right to select counsel of his own choice at this own expense, nor does this article prevent the Village from retaining counsel to enter an appearance in a case to protect the interests of the Village even though no request for such appearance has been forthcoming from the public official ~~or employee~~ named as a defendant.
- (d) Notwithstanding the provisions of sub-section (a) and (b) hereof, the Village may temporarily waive the requirement that a written request be made for representation in those instances where a timely response to the action cannot be made before a written request for representation can be made.

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

#### **Section 2-303 Investigation Before Providing Defense**

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

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

#### **Section 2-304 Confidentiality**

All information provided in the Village or to any attorney retained by the Village by a public official ~~or employee~~ pursuant to this Article shall be confidential and shall not be discoverable or admissible as evidence in any legal action or proceeding and no reference thereto may be made in any trial or hearing.

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

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

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

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

**Section 2-306            Reimbursement of Village**

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

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

**Section 2-307            Compromise or Settlement of Claims**

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

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

**Section 2-308            Sovereign Immunity Not Waived**

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

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

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

- (a) The Village shall be required to pay:
  - (1) the amount of any settlement authorized by the Village on any claim against a public official ~~or employee~~ for which the Village has retained an attorney who has undertaken a defense; or
  - (2) any judgment for compensatory, general or special damages rendered by a court of competent jurisdiction against a public official ~~or employee~~ including court costs and reasonable attorney's fees, where a written finding has been made that the public official ~~or employee~~ was acting within the scope of his employment or authority.
- (b) The Village may reimburse a public official ~~or employee~~ for settlements of claims or actions for which it has not provided representation or a defense and may pay any judgment entered against a public official ~~or employee~~, including a judgment for punitive damages, only if:
  - (1) The Village, either independently or through counsel, has investigated the facts on which the action is based;
  - (2) The Village Council determines that the public official ~~or employee~~ was acting within the scope of his employment or authority; and
  - (3) The Village Council, in its discretion, determines that it is in the best interests of the Village to provide such payment or reimbursement, giving due consideration to the reasons for the official's ~~or employee's~~ actions, whether or not it appears that he acted in good faith, the need to encourage individuals to hold public office, and other relevant factors.
- (c) The payment of, or the authority to pay, any settlement or judgment shall not be construed to abrogate the sovereign immunity of the Village or deprive any agency, board, commission, department, officer, public official, or employee thereof of its sovereign immunity. Nothing in this Chapter is intended to waive the rights of the Village under State law to assert sovereign immunity for judgments or settlements exceeding the maximum amounts for which a municipality may be held liable or be required to pay under state law, or the right of the Village to seek indemnification from a public official or employee who has acted with actual malice in committing the act or omission complained of.

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

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

- ~~(a) The Village may not provide representation to a Village employee in any investigation of him by a criminal law enforcement agency, or in any criminal action against him in a court of any state or of the United States. The Village may provide representation of a public official in an investigation of him by a criminal law~~

enforcement agency, or in a criminal action against him in a court of any state or of the United States, only if:

(1) ~~The Village, either independently or through counsel, has investigated the facts on which the action is based;~~

~~(2) The Village Council determines that the public official was acting within the scope of his official duties; and~~

~~(3) The Village Council, in its discretion, determines that it is in the best interests of the Village to provide legal representation for the official, giving due consideration to the reasons for the official's actions, whether or not it appears that he acted in good faith, the need to encourage individuals to hold public office, and other relevant factors.~~

~~(b) Subject to the limitations in subsection (c) below, the Village Council may reimburse a public official or employee for reasonable counsel fees incurred by him (1) in connection with a criminal investigation into conduct as an official or employee, if the investigation has concluded and criminal charges have not been filed against him; or (2) in defending against criminal charges related to conduct as an official or employee if final disposition of all the charges does not result in a plea of nolo contendere, a guilty plea, or a finding of guilt.~~

~~(c) The Village Council may not reimburse a public official or employee for expenses incurred in connection with a criminal investigation or defense unless (1) the official or employee submits a written application for reimbursement; and (2) the Council determines:~~

~~(1) In connection with a matter under criminal investigation, the official or employee discharged such public responsibilities in good faith, did not engage in unlawful conduct, and was reasonable in retaining counsel and incurring the counsel fees for which he requests reimbursement; or~~

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

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

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

(a) All rights and immunities granted to any public official ~~or employee~~ pursuant to this Article are contingent on the official's ~~or employee's~~ complete cooperation in the defense of any action. In the absence of such cooperation, said rights and immunities shall be forfeited.

(b) Prior to providing representation to a public official ~~or employee~~, the official or employee shall enter into an agreement with the Village providing for reimbursement of the Village as provided in this Chapter.

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

\* \* \*

**Section 2-502.**      **Public Attendance.**

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

[Note: This sentence is moved, without change, from Section 3-102(a).]

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

**Section 2-503.**      **Disruptive Conduct.**

- (a) A person attending an open session of the Council may not engage in any conduct, including visual demonstrations such as the waving of placards, signs, or banners, that disrupts the session or that interferes with the right of members of the public to attend and observe the session.
- (b) The presiding officer may order any person who persists in conduct prohibited by subsection (a) of this section or who violates any other regulation concerning the conduct of the open session, including the Council's rules and order of business, to be removed from the session and may request police assistance to restore order. The presiding officer may recess the session while order is restored.
- (c) **Any person who, after a warning to desist, willfully disturbs, interferes with, disrupts or impedes Council proceedings, may be removed from the premises**

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

[Note: This section is moved, without change, from Section 3-102(c).]

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

\* \* \*

**Section 3-102. — Conduct at Meetings Reserved.**

- ~~(a) Reasonable seating facilities shall be provided for the general public at all public meetings and hearings of the Village Council and at the annual meeting of Village citizens, and Village residents and other members of the public having an interest in the proceedings are encouraged to attend. During such proceedings, time may be provided at the discretion of the chairman, or upon request of a majority of Council members present, for members of the public to address the Council on pertinent matters. Persons seeking to address the Council on specific subject are encouraged to make a request prior to the council meeting. Persons addressing the Council shall state their name, home address and whether they are speaking as individuals or on behalf of some persons, organization, or group that has an interest in the subject matter. If it appears to the chairman or to a majority of Council members present that under all the circumstances a written statement may be more appropriate than an oral statement, the chairman or the Council may request that a written statement be submitted.~~
- ~~(b) At all times order and decorum shall be maintained in keeping with the dignity of the governmental process. No person or group shall disturb, interfere with, disrupt or impede this process, and the chairman and the Council shall take necessary steps required to maintain order and facilitate the progress of the meeting.~~
- ~~(c) Any person who, after a warning to desist, willfully disturbs, interferes with, disrupts or impedes Council proceedings, may be removed from the premises and shall be guilty of a misdemeanor, and shall, upon conviction thereof by any court of competent jurisdiction, be subject to a fine of not more than one thousand dollars (\$1,000) or imprisonment for not more than thirty (30) days, or both.~~

[Note: This section is deleted as redundant with Section 2-502 and 2-503. Substantive regulations concerning meetings should be in Chapter 2, Article 5, rather than Chapter 3, which concerns “Code Violations”]

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

\* \* \*

**Section 3-104 Additional Remedies**

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

\* \* \*

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

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

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

[Note: This amendment would make this provision consistent with Section 3-302 and allow misdemeanors (which are crimes punishable by imprisonment and larger fines) to be prosecuted as municipal infractions instead (which are civil infractions), at the discretion of the Village.]

(b) In addition to any penalties that may be imposed, any person or persons violating or failing to comply with any provision of the Code, in whole or in part, shall take such action as may be necessary to abate the violation, and if such abatement is not completed within ten (10) days from the date of notification of the violation, or such other period as the Council may specify, the Council may by contract or otherwise abate the violation and the cost thereof shall be paid immediately by such person or persons upon demand of the Council. The Village may collect the cost: (1) as a lien on the property tax bill; (2) in an action at law; or (3) in any other way legally available for collection of debts owed to the Village.

## Section 3-301 General Municipal Penalties

### **Section 3-302. General Municipal Infraction Penalties**

**Section 3-303.——Specified Municipal Infractions Reserved.**

\* \* \*

**Section 4-101. Definitions**



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

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

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

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

[Note: This section is deleted as confusing. It suggests that the Village currently has obligations under the Maryland Public Ethics Law, as amended.]

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

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

- (a) Before participating, on behalf of the Village, in any debate or determination that may have a reasonable potential of thereafter affecting a public interest, any **Public**

Official who is subject to this Chapter shall have an affirmative duty to disclose in writing to the Council and the Committee the receipt of any gift and the existence of any private interest or relationship either having a reasonable potential of conflict with a public interest or having a reasonable potential of giving the outward appearance of conflict with a public interest.

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

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

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

\* \* \*

## **Section 5-103. Specific Exemptions from County Law**

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

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

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

\*(Note: **Appendix A attached hereto contains the Sections of Chapter 31 of the Montgomery County Code that are applicable in the Village.**

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

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

\* \* \*

## Section 6-101. Definitions

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

\* \* \*

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

\* \* \*

(u) “Village Tree” has the meaning as set forth in Chapter 9.

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

\* \* \*

## Section 6-204. Applicable Standards

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

[Note: This provision is deleted as it is likely to be deemed an impermissible attempt to engage in land use regulation.]

\* \* \*

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

\* \* \*

## Section 6-302 Permits Required.

- (a) Demolition of Buildings.

Any person intending to demolish, raze or tear down any portion of the exterior features of an existing building, garage or accessory building within the Village must first obtain a demolition permit from the ~~Village Manager~~ **Code Enforcement Officer** for such demolition in order to ensure that such work will be carried out in such a manner that

**Comment [BLL1]:** Per the Council’s discussion on the division of labor, certain building-related tasks would be shifted to the Code Enforcement Officer. The Council should confirm that any resulting increase in administrative costs is acceptable.

abutting property owners will not be adversely affected and that the interests of the Village in public health, safety and welfare are not jeopardized by such work. When used throughout this Article 3, the term “building permit” shall include demolition permits.

(b) Improvements.

No person shall add to, erect, install, replace, alter, construct, re-construct, repair or improve any structure, place any heavy equipment upon or move any heavy equipment over an improved street surface, curb, or sidewalk, or commence any activity involving reconstruction, repair, or excavation of any street, curb, or sidewalk, or temporarily close or block any street or sidewalk within the Village prior to the issuance of a building permit pursuant to this Chapter. No building permit for construction of private improvements within the public right-of-way shall be issued until the owner of the abutting property has executed a revocable license to use the right-of-way in a form approved by the Village.

**Comment [BLL2]:** The definition of “structure” is all-inclusive. As a result, a permit is needed for most any item. The Council may consider adding exceptions here, to eliminate the permit requirement for things that it does not care to regulate. The building regulations only apply to buildings (*i.e.*, a structure with roof). Thus, the Village may not have an interest in requiring a permit for a structure for which there are no regulations, such as setbacks (such as a decorative trellis or arbor, fence, retaining wall, *etc.*). (Unless the Village is performing safety reviews (building soundness and fire, *etc.*).

(c) Repairs.

Notwithstanding paragraph (b) above, no building permit shall be required in the case of ordinary repairs or maintenance, as defined in Section 6-101, and no building permit shall be required for any of the above described activities occurring entirely within the interior of a building. Emergency re-construction, repair or excavation may be undertaken without first securing a building permit, except that such permit shall be applied for as soon as possible after the need for such activities becomes known.

Alternatively, the Council may wish to add certain structures to the building regulations so that they are regulated as to location, *etc.*, such as outdoor kitchens, swimming pools, play equipment, *etc.*

Also, the Council may wish to impose height limits for fences. It is common to limit fence height in the front yard. See attached comparative building regulation table.

Alternatively, see the staff recommendation (attached).

**(d) Dumpsters and portable storage units.**

**(1) No person shall place or maintain any portable storage unit or dumpster on public property or in the public right-of-way, provided, however, a portable storage unit may be placed on an unimproved portion of the public right-of-way upon the issuance of a permit by the Code Enforcement Officer upon such terms or restrictions as the Code Enforcement Officer deems necessary to protect the public health, safety or welfare, including, but not limited to, a limit on the number of consecutive days a portable storage unit may be placed or maintained in the public right-of-way.**

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

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

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

[Note: the provisions concerning dumpster and portable storage units are moved from Section 7-402, without change (other than to change the references of “Village Manager” to “Code Enforcement Officer”), so that all the permit requirement provisions are together.]

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

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

addition thereto. The applicant may be required to provide a copy of all covenants recorded with respect to the property.

\* \* \*

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

\* \* \*

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

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

[Note: This amendment would clarify that a copy of the County permit can be provided (rather than the application), if already obtained. This section would also clarify when a boundary survey is required, rather than leaving it to a case-by-case determination as is the current practice.]

**Comment [BLL3]:** DL suggests that applicants submit wall check surveys (which may have already been prepared for the County, but for different setback requirements) and other documents as needed, such as approved sediment control plans, and County permit releases, to facilitate a final inspection by the Village. The Council may wish to consider what level of detail in the final review and plans is necessary, and what costs for obtaining additional surveys, etc., to be incurred by applicants, is acceptable.

**Section 6-304. Deposit for Repairs**

- (a) No person shall commence any activity for which a deposit for repairs is required as a permit condition pursuant to Section 6-306(b) unless such person has deposited with the Village a completion bond, letter of credit or other security. The bond, letter of credit or other security shall be in such amount and/or form as the Village deems necessary or appropriate, and subject to such terms and conditions as may be established from time to time by the Village Manager and/or the Code Enforcement Officer.
- ~~(b)~~ (b) ~~However~~ Notwithstanding subsection (a) above, any emergency reconstruction, repair or excavation of any street or sidewalk may commence without the deposit of such bond, letter of credit or other security, provided that such security is deposited as soon as possible after the commencement of the activity or notice of the need for such activity.
- ~~(b)(c)~~ (c) The deposit and any interest thereon may be applied to repair or correct any damage or injury to public property, including treatment or replacement of Village trees and plantings, as the Village in its discretion shall determine.
- (d) Upon completion of ~~all of~~ the activity for which the permit was issued, including but not limited to construction or installation of buildings, driveways, driveway aprons, fences, retaining walls, and other structures, and associated excavation, grading, and landscaping, and the final inspection by the Code Enforcement Officer, the bond, letter of credit or other security shall be released and the balance of the deposit, including any interest earned thereon, less any amounts retained by the Village pursuant to this subsection, shall be returned to the person who made the deposit.

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

\* \* \*

**Section 6-306. Applicable Standards; Permit Conditions**

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



completed in a safe and timely fashion and otherwise in accordance with the terms of the building permit issued in connection therewith.

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

[Note: This amendment would clarify the Village's ability to condition permit approval on compliance with a tree protection plan or other requirement aimed at protecting trees within the public right-of-way.]

\* \* \*

#### **Section 6-308. Enforcement**

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

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

[Note: This amendment would clarify the enforcement provisions and make certain violations more express.]

\* \* \*

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

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

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

[Note: This amendment would clarify that this provision applies to the variance and special exception proceedings of another jurisdiction.]

\* \* \*

#### **Section 7-101. Definitions**

For the purposes of this Chapter,

- (a) “Accessory Building” means a building subordinate to, and located on the same lot or lots with, the main building thereon, the use of which is clearly incidental to the principal use of the main building or to the principal use of land of said lot or lots, and which is not attached by any part of common wall or roof to the main building, **including but not limited to a walkway roof or covering.**
- (b) “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. **The term also means above-grade structures that are appurtenant to buildings including, but not limited to, an air-conditioning unit, generator, heat pump, gazebo, or outdoor kitchen. The term does not include a trellis, arbor, or similar landscaping feature, or play equipment.**

**Comment [U4]:** A detached garage may be attached to the main building by a covered walkway, with a roof. How does that apply?

**Comment [BLL5]:** This was derived from the County Code. A covered walkway would indeed be a common roof.

**Comment [BLL6]:** As noted above, the Council may wish to consider whether certain items should require a permit, when no substantive regulations, such as setbacks, apply, such as a trellis, arbor, or play equipment, and whether setbacks should apply to certain items, such as a gazebo or outdoor kitchen. This list of items is presented for discussion purposes and not meant to be exhaustive.

[Note: This amendment clarifies that air-conditioning units, generators, and heat pumps are “buildings” and therefore subject to setbacks. These items are currently regulated per Section 7-402(c)(5) and thus should be included in the definition of “building” or otherwise subjected to the setback regulations. This amendment would codify Policy No. 12-12-1.]

\* \* \*

- (n) “Established building line,” means the average front line of all buildings that are:
- within 300 feet of each side property line of the proposed construction site;
  - on the same side of the street;
  - between intersecting streets or to the point where public thoroughfare is denied;

- d. existing at the time the building permit application is filed;
- e. not nonconforming, unlawfully constructed, or constructed pursuant to a lawfully granted variance; ~~and~~
- f. not located on a pipestem or flag-shaped lot; and
- g. not on the subject lot or a corner lot.**

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

[Note: this amendment would codify the Village's current interpretative practice of excluding the subject lot and corner lots from the established building line calculation.]

\* \* \*

(ss) **"Unenclosed" means not enclosed by a wall, window, screening, or other building element.**

~~(ss)~~**(tt)** "Wall plan, front" (see front wall plane).

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

\* \* \*

#### **Section 7-204. Unremoved Snow and Ice**

\* \* \*

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

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

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

- (d) Any non-public structure, wall, fence, tree, hedge, shrubbery, or any other plant growth located within the public right-of-way in violation of any provision of this Section 7-209 shall be removed by and at the expense of the owner and occupant of the abutting private property upon the request of the ~~Village Manager~~**Code**

**Comment [BLL7]:** DL suggests that, for purposes of Sec. 7-402(e)(5)(ii), a definition is needed to clarify what constitutes, *e.g.*, an enclosed stairway, as a question arose as to whether screening is an enclosure. I conclude that it does. This amendment would provide that screening is an enclosure. The Council should consider whether a different approach should apply.

**Enforcement Officer.** ~~The Village Manager~~**Code Enforcement Officer, or his or her designee,** may take such action as is necessary to return the right-of-way to a condition required by this Section. The cost of any corrective action may be specially assessed against the abutting private property and collected with the property taxes or collected by a suit for damages.

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

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

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

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

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

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

[Note: the regulation is moved to Section 6-302 where the other permit regulations are located.]

\* \* \*

**Section 7-402. Building Construction Standards**

\* \* \*

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

[Note: the accessory building reference is unnecessary because height is limited to 20 feet.]

\* \* \*

(e) **Setbacks**

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

[Note: This provision is amended to include a minimum standard, to address lots that do not have an established building line.]

\* \* \*

(5) **Projections (main buildings)**

- (i) Bay windows, oriel entrances, balconies, and vestibules no greater than ten (10) feet wide, and cornices, eaves, and chimneys shall be permitted to project a maximum of two-and-one half (2-~~4~~**5**) feet into any setback area.
- (ii) Unenclosed porches, decks, breezeways, steps, stoops, **and** exterior stairways, **and terraces may project** nine (9) feet into the front or rear setback area and three (3) feet into any side setback area.
- (iii) Air conditioners, **generators,** and heat pumps may project five (5) feet into any front or rear setback area.

**Comment [BL18]:** DL suggests that a definition of terrace be added, to distinguish terraces from, e.g., patios. The Council will need to decide whether to continue to rely on an administrative interpretation, or whether to add an express definition. Either way, the Council should confirm for staff's benefit how to define terrace, i.e., whether a structure should be deemed a terrace if it is: (i) above grade; (ii) x feet above grade; (iii) involves re-grading; (iv) has piers for support; and/or (v) whether some other standard should apply.

Alternatively, terraces could be treated as patios, and not regulated.

(f) Accessory buildings

- (1) Front setback: No wall or projection of any accessory building shall be located closer to the front lot line than sixty (60) feet. For corner lots (which have two front yards), this requirement shall apply only to one front yard. The front yard which is parallel to the side yard shall have a minimum setback equal to the established building line.
- (2) Rear setback: No wall or projection of any accessory building shall be located closer to the rear lot line than five (5) feet.
- (3) Side setback: No wall or projection of any accessory building shall be located closer to either side lot line than five (5) feet.
- (4) Height: The height of any accessory building shall not exceed twenty (20) feet to the highest point of roof surface regardless of roof type.
- (5) Wall plane length: The length of any wall plane of any accessory building shall not exceed twenty-five (25) feet.

\* \* \*

(h) Maximum non-vegetative surface area

- a. The non-vegetative surface area in the front yard shall not exceed thirty (30) percent of the area of the front yard. For corner lots, both front yards must comply with this requirement. **For purposes of this subsection (h), and notwithstanding anything to the contrary contained in this Chapter, the non-vegetative surface area shall include the area of any front porch, stoop, steps, and/or stairs.**
- b. This subsection (h) shall not apply to front yards fronting on Brookville Road.

**Comment [U9]:** How does the Village consider porous pavers and pavement?

**Comment [BLL10]:** Such would be included because they are not vegetative. The focus is "green" coverage rather than impervious surface coverage.

[Note: this amendment clarifies that the non-vegetative surface area coverage calculation includes the area of any front porch, stoop, steps, and/or stairs.]

\* \* \*

- (i) **No portion of a driveway on private property or within the public right-of-way shall exceed ten (10) feet in width in front of the front building line. Driveway width includes the width of any walkway or other improved surface located within two (2) feet of the edge of the driveway. Notwithstanding the foregoing, up to four (4) feet of a public sidewalk or private walkway may cross and intersect a driveway.** Notwithstanding the foregoing, a driveway that is wider than ten (10) feet as of June 16, 2009 may be replaced or repaired provided that such replacement or repair shall not increase the width of the driveway.

**Comment [BLL11]:** The Council may also wish to consider special rules for shared driveways (e.g., a shared driveway can be up to 20 feet wide, with 10 feet on each lot).

**Comment [BLL12]:** This edit is in response to the recent argument raised that width should not include adjoining walkway area.

Alternatively, see the staff recommendation (attached).

[Note: this amendment clarifies that the width restriction applies in the right-of-way as well as on private property.]

\* \* \*

**(l) A fence or retaining wall shall not exceed four (4) feet in height in a front yard or six and one-half (6.5) feet in height in a side or rear yard. Height is measured from the surface of the lower ground. A fence or retaining wall must be set back a sufficient distance from any public improvement within a public right-of-way to avoid interfering with pedestrian and motorist use of the public right-of-way.**

**Comment [BLL13]:** As noted above, this amendment is proposed for discussion purposes.

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

#### **Section 7-404. Developmental Nonconformities**

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

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

[Note: this amendment clarifies that a developmental nonconformity may be maintained, altered, or repaired, but not replaced.]

#### **Section 7-405. Variances**

- (a) A property owner may apply to the Village Council for a variance from the strict application of the terms of this Article. The Council may authorize a variance from the strict application of any specific requirement of this Article when the standards described herein are met.

(b) Processing and Public Hearing Requirement

- (1) Applications for a variance shall be submitted to the Village Manager and shall include the following:

- (i) Written application on the form provided by the Village Manager, including a statement detailing the specific provisions of this Article from which a variance is sought;
- (ii) Detailed information pertaining to the nature and extent of the variance sought, including the following: (a) ~~surveys, plats or other accurate drawings~~ **a boundary survey with a margin of error of +/- one-tenth (0.10) of a foot, or better**, showing boundaries, dimensions, area, topography, and frontage of the lot involved, as well as the location and dimensions of all

structures existing and proposed to be erected, and the distances of the structures from the nearest lot lines; and (b) plans, architectural drawings, photographs, elevations, specification or other detailed information depicting fully the exterior appearance of existing and proposed construction;

- (iii) A summary of what the applicant expects to prove at the hearing, including the names of applicant's witnesses, summaries of the testimonies of expert witnesses, and the estimated time for presentation of the applicant's case; and
- (iv) Any additional exhibits which the applicant intends to introduce at the hearing.

- (2) The Council shall hold a public hearing on all applications for the grant of a variance. **A minimum of twenty (20) days prior to the scheduled hearing, the Village Manager or his or her designee shall post notice of the hearing at the applicant's property that is the subject of the variance request and mail written notice to all adjoining and confronting property owners by first-class mail.**

\* \* \*

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

\* \* \*

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

[Note: this amendment codifies Resolution No. 7-09-1 and specifies the pertinent notice requirements for processing variances.]

\* \* \*

#### **Section 9-103. Tree Supervisor and Tree Committee**

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



those named immediately above to act temporarily in the absence or unavailability to the Tree Supervisor. The duties and responsibilities of the Tree Supervisor are to:

\* \* \*

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

\* \* \*

**Section 9-107. Pruning of Village Trees by Utility Companies**

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

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

**Section 9-108. Protection of Village Trees During Construction**

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

\* \* \*

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

\* \* \*

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

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

(2) This Ordinance shall take effect on the \_\_ day of \_\_\_\_\_, 2015.

ATTEST:

THE VILLAGE OF MARTIN'S ADDITIONS

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Tiffany Cissna, Secretary

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Richard Krajeck, Chair  
Village Council

**Underline** indicates new material

**~~Strikethrough~~** indicates material deleted

\* \* \* indicates material unchanged

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## Staff Recommendations

The discussion of the draft ordinance will continue at page 15 (Sec. 6-302). The Council has asked that staff provide a recommendation as to certain amendments that were highlighted as policy considerations. Draft Code language will be prepared once the Council discusses the recommendations. The recommendations of staff on such items are as follows:

1. **Section 6-302. Permits Required.** Staff recommends that permits be required only for “buildings” and their appurtenances and projections.

Currently, permits are required for any “structure”. The definition of “structure” is all inclusive. As a result, permits are currently required for items that the Village does not regulate as to where they can be located, how big they can be, *etc.* (such as an arbor, trellis, swing set, flag pole, and the like). The Village has substantive requirements only for “buildings” (*i.e.*, a structure with a roof) and their appurtenances and projections (including porches, decks, air-conditioning units, generators, *etc.*).

The permit requirement allows the Village to know what is being constructed and to impose permit conditions for the safety and welfare of residents, including construction site protocol. However, staff finds that this benefit is outweighed by the administrative burden and enforcement cost to the Village, and the permit cost to applicants. Safety and welfare issues, including construction site protocol, can be adequately addressed by the County.

2. **Section 7-402 (b)(5). Terraces.** Staff recommends that “terraces” be deleted from the list of building projections that may encroach into a setback.

Currently, a terrace attached to a building is allowed to project 9 feet into a front or rear setback, or 3 feet into a side setback. At-grade patios, however, are not regulated. Staff finds that terraces are akin to patios and should not be regulated.

3. **Section 7-404 (i). Driveway Width.** Staff recommends that “driveway width” include the width of any adjoining surface comprised of the same material as the driveway.

Currently, the Code is not clear as to how to measure driveway width when a walkway is placed immediately adjacent to, or adjoining, the driveway. Staff finds that “driveway width” should include the width of any adjoining surface comprised of the same material as the driveway (*e.g.*, asphalt or concrete), but not if another material is used to designate the walkway (*e.g.*, sandstone pavers, *etc.*), as depicted in the attached photo.

4. **Fences and Walls.** Staff recommends that fences and free-standing walls, including retaining walls, not be regulated.

Currently fences and free-standing walls, including retaining walls, require a permit because they are “structures”, but the Village does not regulate the height or location of walls (other than prohibiting them in the right-of-way or a neighbor’s property, without the neighbor’s consent). Staff finds that to adequately confirm that such items are not installed in the right-of-way or a neighbor’s property, a boundary survey must be provided, at significant expense to the applicant. Rather than requiring this cost, the regulation of fences and walls could be left to the County and the Village could rely upon the Village-wide survey to verify that items are not placed within the right-of-way. The County’s regulations for fences and walls are summarized on the attached document.

MONTGOMERY CONSULTING  
MEMO

TO: Village of Martin's Additions Council

FROM: Doug Lohmeyer

DATE OF MEMO: Oct. 15, 2015

SUBJECT: Building Permit Status Report

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**3516 Bradley Lane**

A VMA Building Permit for a new covered front porch was issued on 6/19/15. The work has been completed.

**3414 Cummings Lane**

The Building Permit Application for the detached garage and driveway was issued and construction is underway.

**7218 Chestnut Street**

VMA has finalized the Building Permit and the applicant's Performance Bond has been returned.

**3509 Shepherd Street**

VMA has finalized the Building Permit and the applicant's Performance Bond has been returned.

**7309 Delfield St.**

Work is wrapping up on the house construction. The VMA staff observed that the contractor had built a retaining wall and graded beyond the limits of disturbance shown on the plans on file in the office. At the request of the Village, the applicant has submitted up to date, revised site and Sediment Control Plans, showing the recent site changes.

### **120 Quincy St.**

VMA Building Permits have been issued for the new deck and fence and work has begun.

### **3505 Raymond St.**

MCDPS has incorrectly issued a building permit. The applicant did not submit a Building Permit Application to the Village. VMA has notified the applicant, the architect, and the builder that an application is required before any work begins. No work has begun at the site. VMA will contact the staff at MCDPS to review the proper permitting procedure.

### **3513 Raymond Street**

The applicant has requested the Village release the applicant's performance bond.

The staff has determined that the existing, new steps, at the left rear of the house, are within the side yard setback. The applicant has agreed to modify the existing steps in order to remove them from the side yard setback. The modification is underway.

The applicant has installed a white fence on the front lawn, which was not included on the Building Permit Application or on the applicant's Site Plan. At the request of the staff, the applicant has amended the site plan on file at the office to reflect the new fence. The staff is preparing a right of way agreement for the applicant's signature, for the two fence posts built in the Raymond Street right of way.

### **3525 Raymond Street**

The owner is making internal improvements and a VMA Building Permit is not required. However, a permit for a dumpster has been issued by VMA.

### **3507 Turner Lane**

The public hearing for a variance has been scheduled for Nov. 5, 2015.

### **202 Oxford Street**

A right of way permit was issued for the new drainage inlet within the Oxford Street right of way. The work has been completed and the posted performance bond check has been voided.

# **Streetlight replacement project**

VMA Council Meeting

October 15, 2015

Presented by Katya Hill

## **Background**

Village of Martin's Additions has approximately 80 light posts with mostly incandescent lights. Some High Pressure Sodium lights are also present in the Village, mostly when old incandescent light fixtures are replaced. Pepco recommends replacing all incandescent light fixtures with more modern technology due to discontinuation of production on these fixtures in the near future. Incandescent lights are inefficient compared to newer light fixtures. Replacing lights could potentially save money on electricity in the future.

## **Work Done to Date**

Replacing outdated lights has been discussed in VMA since the late 1990s. In the last 6-7 years a more dedicated effort has been made to research available technology. VMA has hired a lighting consultant and introduced pilot lighting fixtures in the village.

Scott Watson, our lighting consultant, has studied the lights we currently have in the Village and presented his findings and recommendations about 2 years ago. This work resulted in installing 2 sample fixtures on Bradley Lane last summer.

## **Lights in Surrounding Jurisdictions**

VMA is the last jurisdiction in Chevy Chase/Chevy Chase DC to have incandescent light fixtures. Many jurisdictions, including Washington DC and Town of Chevy Chase upgraded to Mercury Vapor fixtures that are significantly more efficient. Subsequently, production of Mercury Vapor lights was outlawed by the EPA and most jurisdictions started replacing them with High Pressure Sodium fixtures. DC, Town of Chevy Chase, Section 3 and others are currently using High Pressure Sodium fixtures. Garrett Park upgraded their lights to Induction lights. LED lights are also used in most jurisdictions in some capacity.

The Town of Chevy Chase introduced a pilot program where multiple lights were made available throughout the town for residents to review. While this is a great resource to our Village, all lights in the Town are much higher wattages than what is recommended for streets 16-23 feet wide, such as the ones in VMA.

Section 3 has expressed their dislike of the orange glow and darkness from High Pressure Sodium Lights. As an example, there is an induction light on Georgia St which is the recommended wattage for narrow streets like ours.

## Options Available

	High Pressure Sodium	LED 38W-55W	LED 70W+	Induction 55W
<b>Pros</b>	Standard Lights, Widely Used, High Lumen Output	Standard Lights, appears to be light of the future at this time. 2 lights in VMA on Bradley In (one at 38W and one at 55W, both teardrop).	Standard Lights, appears to be light of the future at this time. Provides the most light of these options	Standard Lights, provides almost the same amount of light as LED with minimal glare. Even light distribution. Soft white light at lower lumens.
<b>Cons</b>	Orange glow, appears very dark to most people, some associate with high crime areas. VMA received a number of letters opposing this type of light in the past	Blue light that is sometimes associated with mall parking lots, high glare compared to other light fixture types. New technology that has a lot of room to evolve.	Very bright, too bright for narrow street recommendation by dark sky initiative. New technology that has a lot of room to evolve.	Future of this technology is unclear. In the recent years LED gained far more market share.
<b>Other Notes</b>	Most jurisdictions are unhappy with these lights. Town of Chevy Chase and Section 3 went through analysis on replacing these.	Tuning lumen output to 3,000 lumens reduces blue glow to white. Both pilot lights are at 3,000 lumens.	Town of Chevy Chase pilot program had mostly these lights, ranging from 70W to 100W	Section 3 has a sample light on Georgia st. The sample is 55W, 3,000 lumen teardrop.

**Next Steps/Recommended Approach**

Considering the significant amount of information on the lighting issue I recommend the decision be broken down into 2 steps (listed below) . We should solicit resident input at each step.

Getting resident input through an online survey would enable us to make a decision in a timely manner and would be in lieu of establishing a lighting committee.

At this time we are awaiting pricing information from Scott Watson. While we expect the pricing for all options to be similar, we need to wait to get the details to proceed with the following steps.

**Step 1:** Decide on which light fixture is preferred by Village Council and residents. Council will study the provided materials. A survey will go out to village residents. The survey will contain a summary of the same materials including the location of sample lights in the surrounding neighborhoods. The survey is to be open for 1 week. The Council will make a decision at the following Council meeting on which light fixture to purchase.

**Step 2:** Decide on the shape of the light fixture preferred by the Village Council and its residents. The survey will go out to residents providing information on available shapes of fixtures. The survey is to be open for one week. The Council will use the resident input to make a final decision on the shape of the lighting fixtures.



**Village of Martin's Additions  
Treasurer's Report  
September 2015**

	<b>Sep 15</b>	<b>Budget</b>	<b>Jul - Sep 15</b>	<b>YTD Budget</b>	<b>Annual Budget</b>
<b>Income</b>					
<b>4000 - Revenue</b>					
4010 - Permit Fees	400.00	1,666.66	2,626.00	4,999.98	20,000.00
4020 - Cable TV Franchise Fees	0.00	2,000.00	0.00	2,000.00	8,000.00
4040 - County Revenue Sharing	26,832.00	26,800.00	26,832.00	26,800.00	26,800.00
4050 - Highway Users Fees	0.00	16,253.00	0.00	16,253.00	20,000.00
4060 - Income Tax	0.00		0.00		600,000.00
4080 - Personal Property Tax	0.00	100.00	0.00	100.00	5,000.00
4090 - Real Property Tax	7,021.20	5,500.00	11,978.33	8,800.00	145,000.00
4095 - Utility Property Tax	0.00		0.00		12,300.00
4100 - Holiday Fund	0.00		0.00		6,500.00
4110 - Interest	133.02	300.00	261.96	900.00	4,000.00
4130 - Insurance Reimbursement	0.00		0.00		100.00
4135 - Other Revenue	14.10		14.10		
<b>Total 4000 - Revenue</b>	<b>34,400.32</b>	<b>52,619.66</b>	<b>41,712.39</b>	<b>59,852.98</b>	<b>847,700.00</b>
4200 - Prior Years Surplus	0.00		0.00	2,197,100.00	2,197,100.00
<b>Total Income</b>	<b>34,400.32</b>	<b>52,619.66</b>	<b>41,712.39</b>	<b>2,256,952.98</b>	<b>3,044,800.00</b>
<b>Expense</b>					
<b>5000 - General Government</b>					
5010 - Office Expenses	1,629.67	1,250.00	3,506.31	3,750.00	15,000.00
5025 - Office Furniture & Equipment	0.00	1,500.00	0.00	1,500.00	3,000.00
5030 - Insurance	-353.00		4,518.00	6,500.00	6,500.00
5040 - Printing & Mailing	0.00	833.00	0.00	2,499.00	10,000.00
5050 - Dues & Subscriptions/Conference	0.00		4,344.94	4,280.00	10,000.00
5055 - Storage Rental	519.20	375.00	755.20	1,125.00	4,500.00
5060 - Office Lease	5,726.62	5,879.00	9,684.62	9,837.00	30,000.00
5065 - Telephone	545.71	375.00	830.58	1,125.00	4,500.00
5080 - Holiday Fund	0.00		0.00		6,500.00
<b>Total 5000 - General Government</b>	<b>8,068.20</b>	<b>10,212.00</b>	<b>23,639.65</b>	<b>30,616.00</b>	<b>90,000.00</b>

**Village of Martin's Additions  
Treasurer's Report  
September 2015**

	<b>Sep 15</b>	<b>Budget</b>	<b>Jul - Sep 15</b>	<b>YTD Budget</b>	<b>Annual Budget</b>
<b>5100 · Salaries &amp; Benefits</b>					
<b>5110 · Managerial &amp; Office Salaries</b>	8,428.46	11,000.00	19,976.58	33,000.00	132,000.00
<b>5120 · Payroll Taxes &amp; Benefits</b>	656.10	1,916.00	1,803.62	5,748.00	23,000.00
<b>Total 5100 · Salaries &amp; Benefits</b>	9,084.56	12,916.00	21,780.20	38,748.00	155,000.00
<b>5200 · Professional Fees</b>					
<b>5210 · Accounting &amp; Auditing</b>	2,416.66	2,416.66	7,249.98	7,249.98	35,000.00
<b>5220 · Building &amp; Permitting</b>					
<b>5222 · Building Review &amp; Permits</b>	5,050.00	1,666.66	6,900.00	4,999.98	20,000.00
<b>5224 · Enforcement &amp; Oversight</b>	0.00	3,333.33	0.00	9,999.99	40,000.00
<b>5220 · Building &amp; Permitting - Other</b>	125.00		125.00		
<b>Total 5220 · Building &amp; Permitting</b>	5,175.00	4,999.99	7,025.00	14,999.97	60,000.00
<b>5230 · Legal</b>	23,511.50	3,333.33	27,801.43	9,999.99	40,000.00
<b>5240 · Police</b>	2,381.50	3,000.00	5,451.50	9,000.00	36,000.00
<b>5242 · Lighting Consultant</b>	0.00	2,000.00	0.00	2,000.00	8,000.00
<b>5244 · Traffic Engineering</b>	0.00		0.00		3,000.00
<b>5246 · Records Retention &amp; Disposal</b>	0.00		0.00		2,500.00
<b>Total 5200 · Professional Fees</b>	33,484.66	15,749.98	47,527.91	43,249.94	184,500.00
<b>5300 · Streets</b>					
<b>5305 · Streets - General</b>					
<b>5310 · Street Lighting - PEPCO</b>	1,123.05	1,333.33	2,193.85	3,999.99	16,000.00
<b>5322 · Street Cleaning - Fall/Spring</b>	0.00	6,000.00	0.00	6,000.00	12,000.00
<b>5324 · Street Maintenance - Other</b>	0.00	3,333.33	0.00	9,999.99	40,000.00
<b>Total 5305 · Streets - General</b>	1,123.05	10,666.66	2,193.85	19,999.98	68,000.00
<b>5349 · Snow Removal Services</b>					
<b>5350 · Snow Removal - Shoveling</b>	0.00		0.00		10,000.00
<b>5351 · Snow Removal - Plowing</b>	0.00		0.00		15,000.00
<b>Total 5349 · Snow Removal Services</b>	0.00		0.00		25,000.00
<b>Total 5300 · Streets</b>	1,123.05	10,666.66	2,193.85	19,999.98	93,000.00

**Village of Martin's Additions  
Treasurer's Report  
September 2015**

	<b>Sep 15</b>	<b>Budget</b>	<b>Jul - Sep 15</b>	<b>YTD Budget</b>	<b>Annual Budget</b>
<b>5400 - Waste &amp; Recycling</b>					
<b>5410 - Waste Collection &amp; Recycling</b>	14,039.40	7,500.00	27,892.86	22,500.00	90,000.00
<b>5420 - Leaf Bags</b>	0.00		0.00		10,000.00
<b>5425 - Recycling Bins</b>	0.00		0.00		5,000.00
<b>Total 5400 - Waste &amp; Recycling</b>	<u>14,039.40</u>	<u>7,500.00</u>	<u>27,892.86</u>	<u>22,500.00</u>	<u>105,000.00</u>
<b>5500 - Other</b>					
<b>5510 - Tree Maintenance</b>	8,730.00	3,333.33	8,730.00	9,999.99	40,000.00
<b>5515 - Tree Replacement</b>	0.00		0.00		8,000.00
<b>5518 - Right-of-Way Maintenance</b>	63.00	500.00	350.00	1,500.00	6,000.00
<b>5520 - Community Events</b>	250.00		250.00		25,000.00
<b>5530 - Website</b>	229.80	166.66	229.80	499.98	2,000.00
<b>Total 5500 - Other</b>	<u>9,272.80</u>	<u>3,999.99</u>	<u>9,559.80</u>	<u>11,999.97</u>	<u>81,000.00</u>
<b>5600 - FY2011 Initiatives</b>					
<b>5630 - Tree Planting Initiatives Prog.</b>	0.00		0.00		20,000.00
<b>Total 5600 - FY2011 Initiatives</b>	<u>0.00</u>		<u>0.00</u>		<u>20,000.00</u>
<b>5800 - Designated Funds</b>					
<b>5810 - Designated - Street</b>	0.00		0.00	500,000.00	500,000.00
<b>5811 - Designated Street Lighting</b>	0.00		0.00	500,000.00	500,000.00
<b>5812 - Designated - Sidewalk</b>	0.00		0.00	250,000.00	250,000.00
<b>Total 5800 - Designated Funds</b>	<u>0.00</u>		<u>0.00</u>	<u>1,250,000.00</u>	<u>1,250,000.00</u>
<b>5900 - Undesignated Fund Balance</b>	0.00		0.00	1,066,300.00	1,066,300.00
<b>Total Expense</b>	<u>75,072.67</u>	<u>61,044.63</u>	<u>132,594.27</u>	<u>2,483,413.89</u>	<u>3,044,800.00</u>
<b>Net Income</b>	<u><u>-40,672.35</u></u>	<u><u>-8,424.97</u></u>	<u><u>-90,881.88</u></u>	<u><u>-226,460.91</u></u>	<u><u>0.00</u></u>

**Treasurer's Report:**

In September expenses exceeded income by about \$40,000. Expenses included payment to Pepco for street lights repair, professional fees as well as the usual monthly expenses: rent, salaries, office supplies, etc. Overall our expenses came in at or under budget in most categories. Exceptions were: 1. professional fees, specifically legal and building permit reviews, 2. Waste and recycling, and 3. Tree maintenance. The temporary increase in professional fees was due to the work performed on cleaning up VMA code ordinances and complicated permit applications this month.

Income totaled about \$34,500 and consisted of county revenue sharing, real estate property tax revenue, permit fees and interest income. The disparity between expenses and income in September is temporary and is due to the special projects under way that significantly increased the professional fees this month.

Our overall financial condition remains very healthy.

October 12, 2015

TO:               Tori Hall, Village of Martinø Additions

FROM:           Joseph Cutro, P.E., Traffic Engineering Consultant

SUBJECT:       Traffic Sign Improvement Program ó Policy and Budget Considerations

As you know, Iøve completed an inventory of recommended traffic sign upgrades and repairs for a sample street ó in this case Thornapple Street ó as a means of demonstrating what we hope to accomplish with our improvement program. A copy of that inventory is attached. Youøve also asked me to assemble, based on the sample inventory, a listing of broader policy initiatives and ideas pertaining to the further use of traffic signs on Village streets. In the paragraphs that follow, I discuss several such concepts that would have Village-wide application. Some initiatives are needed to comply with more recent mandatory requirements or to align with current best practice. Other initiatives highlight design and appearance choices that have little or no bearing on public safety, but that might have budgetary impact or that otherwise suggest or require Council attention.

#### STOP signs

The national Manual on Uniform Traffic Control Devices (MUTCD) requires that all STOP signs at multi-way stop intersections be accompanied by an ALL WAY plate beneath the STOP sign. There are about a half-dozen of these intersections around the Village, mostly located along Thornapple and Taylor Streets. Almost no STOP signs have the required auxiliary plates, and those that do typically utilize an obsolete 3-WAY text on the plate. Purchasing and installing the plates should be undertaken ASAP.

Most of the Villageø STOP signs, particularly away from Brookville Road, are of a 24ø size. Many jurisdictions, however, including Montgomery County proper and the Town of Chevy Chase, have gone to a larger 30ø size in the interests of improving driver compliance and therefore public safety. Although not a requirement, I would recommend that the Village upgrade to all 30ø STOP signs.

#### Parking Control signs

There are two styles of -urbanøparking prohibition signs currently in use that comply with MUTCD design requirements. One contains four lines of text reading NO PARKING ANY TIME with a directional arrow on the 5<sup>th</sup> line. The second, the so-called øinternational typeø, has no text and shows a single large parking prohibition symbol with a directional arrow as appropriate at the bottom of the sign. The Village currently has a mix of the two types. The current professional consensus is that the text-type sign is better understood and achieves better compliance, while the international typeøø contemporary appearance looks better in the typical urban/suburban streetscape. For Martinø Additions, I would recommend settling on the international type for all future installations, if for no other reason than that a majority of the Villageø parking

prohibition signs (including all on Thornapple Street) are already of this type. There is no need, however, for an immediate wholesale replacement of existing text-type signs. Replacement through attrition should suffice. Such a strategy was recently adopted by the Town of Chevy Chase.

#### Fire Hydrant signs

These black-on-yellow signs show the locations of fire hydrants and are unique to Martinø Additions. While the signs are generally in fair condition, they are now òpast dueö on their expected service life of ten years and should be replaced (or removed) soon. The Village needs to determine if it wants to continue the use of these signs in an existing or modified design, with a post and sign located at each hydrant. The alternative would be to remove the posts/signs and replace them with one of the many hydrant marker devices now on the market. Such an option would serve to reduce the amount of sign clutter on Village streets while not significantly compromising EMS ability to locate hydrants. Many local jurisdictions, including the City of Rockville and Chevy Chase Section III now use these special markers, apparently with satisfactory results. At the same time, the existing signs are at least equally effective in identifying hydrant locations, are unobjectionable from a traffic safety viewpoint (unless say, obstructing other signs), and do help to distinguish Martinø Additions from its neighboring jurisdictions.

#### Block Numbers on Street Name Signs

In our Thornapple sample inventory, we noted that at four intersections, two had street name signs that included block numbers and two had street name sign assemblies containing no block numbers. Signs with numbers are very much preferred by emergency service providers and delivery services, but the signs have a more cluttered look, and often have to be larger and therefore more costly. In addition, the small block numbers can be difficult to read for many people, and the accompanying òascentö arrow is poorly understood by nearly all street users. [As used in Montgomery County, the arrow does not point to where the block number cited on the sign is located, but rather, points in the direction of ascending address number]. The block numbers and ascent arrow are used almost universally on streets within incorporated Montgomery County, but many municipalities, e.g., City of Rockville, have chosen not to use them at all. In some cases, such as in Kensington, block numbers canø be practically placed on that Townø decorative street name signs. While I have no particular preference from a traffic engineering/safety perspective, I would recommend that a consistent approach be adopted going forward. After consultation with emergency service providers, the Village should decide whether to go with block numbers or abandon them entirely. Again, implementation can be on an attritional basis.

### Village Entry Signs

These 18" x 24" signs have a white text on green background and read VILLAGE OF MARTIN'S ADDITIONS with a white logo. There are about a dozen of these located at various entry points around the Village. These signs are now well past their prime and are in very poor condition. Assuming the Village wants to "put its best foot forward"; all these signs should be replaced. Of course, a new or modified design can be considered. In addition, a different background color can be used, although certain background colors — red, orange, yellow, and white (with black text) — are reserved by the MUTCD for regulatory and warning signs and should be avoided.

There is a similar problem with the Village's TREE CITY USA signs — damage and old age have caught up with them, although they are in generally better shape than the Village Entry signs. There are only a few of these signs around the Village, perhaps only three or four in total.

### U-channel sign posts

The perforated U-channel post is the workhorse of traffic sign support in Martin's Additions and just about every other area jurisdiction. The Village also employs round pipe posts and perforated square tubing to a much lesser degree.

[Somewhat surprisingly, the Maryland State Highway Administration (SHA) has moved away from U-channel over the years. The SHA requires its sign supports to have breakaway capability on higher speed roads, and U-channel is not considered to be fully breakaway-capable. But as matter of economy, the SHA has elected to use "higher common denominator" post designs (e.g., perforated square tubing with ground anchor) even on lower speed roads like Brookville Road.]

Perhaps 75% of the Village's existing U-channel sign posts are composed of painted steel, with the remainder being galvanized steel. As we discovered from the Thornapple Street sample, most of the painted steel posts are badly rusted, physically damaged, or otherwise in need of replacement. This appears to be a Village-wide problem, with a resulting need for a large infusion of new replacement posts in the short term.

Going forward, the Village essentially has two choices by which to replace its U-channel sign posts, and "traditional" painted steel is not one of them. These require re-painting about every three years to prevent them from turning into "rust-bombs". More importantly, even regular repainting does not preserve the post below the ground surface. On Thornapple Street, for instance, two sign posts that needed re-plumbing snapped off below the surface with just the slightest pressure from the repair crew. Painted steel posts

TO: Village of Martin's Additions  
RE: Traffic Signs ó Policy and Budget Considerations

Page 4

remain available on the market, but given the current price of posts with better coatings, are no longer a viable economic option.

Galvanized posts are highly durable, lasting twenty years or more in the ground without showing discernable corrosion, even below the surface. But the public perception of them is that they are overly "industrial" looking in a residential setting. Brand new galvanized posts can look particularly jarring, having not yet developed the oxidized patina that softens their appearance somewhat.

The most promising recent development for finishing sign posts is the factory powder-coat. A number of area jurisdictions have begun using (green) powder-coated posts, and the Town of Chevy Chase, for example, now uses them exclusively to replace its older sign posts. Powder-coating promises greater durability than traditional paint and local examples of up to seven maintenance-free years in the field seem to be confirming that. The price for powder-coated has now fallen below that of galvanized, so even though they would not likely be as durable, the powder-coats are competitive in terms of overall cost-effectiveness. Perhaps more important to the Village, the colored powder-coats are perceived to be less obtrusive in appearance than the galvanized, making them more suitable for use in the residential streetscape. There are no traffic safety implications to consider in making the choice between the two coatings.



**Village of Martin's Additions: Sign Inventory**

Date: 09/23/15

Thornapple Street

(eastbound)

Sign	Con- dition	Sign/Support/Hardware Comments (Conformity, design, condition, age, etc.)	Recommended Actions (remove, replace, relocate, repair, etc.)	Materials Needed	
No Trucks symbol		outside VOMA			
SPEED LIMIT 25		outside VOMA			
Hydrant symbol	B	post/hardware OK			
TREE CITY USA/ VOMA entry	D	older signs in beat-up condition, rusty	1. replace post (12') and hardware	12' post, 4 bolt sets	10/08/15
	D	hardware: signs too low	2. replace signs	2 custom signs 24x30, 18x24	
NPAT <--> symbol	D	post OK, sign very dirty	clean or replace sign	NPAT sign, rivets	
STOP (24")		no ALL WAY plate, out-of-plumb	plumb post, install ALL WAY	ALL WAY plate, 2 bolt sets	partial
CHESTNUT ST	A	2-sided sign, no block #	none		
NPAT <--> symbol	B	sign dirty, post badly out-of-plumb	clean sign, re-install post (note bag dispenser)	rivets	10/08/15
NPAT <--> symbol	B/C	sign dirty	clean sign		10/08/15
STOP	A	no ALL WAY plate	install ALL WAY plate	ALL WAY plate, 2 bolt sets	
DELFIELD ST 7200>	B	2-sided sign, pointed wrong way	flip sign		
(NPAT <--> symbol)	n/a	gap in signing too long	add another NPAT sign this area	10' post, NPAT sign, rivets	
NPAT <--> symbol	A	rusty post	replace post, relocate eastward if sign ab	10' post, rivets	
NPAT <--> symbol	B/C	sign dirty, post rusty and out-of-plumb	replace post, clean sign	10' post, rivets	
SUMMIT AV	B/C	2-sided sign, no block #, sign dirty	clean sign		
STOP/3-WAY	A	3-WAY plate is obsolete	replace w/ ALL WAY plate	ALL WAY plate	
(no eastbound signs east of Summit Avenue)					

Thornapple Street

(westbound)

VOMA entry					
SUMMIT AV					
STOP		beneath SN signs			
No Trucks symbol	C	sign bent, dirty; rusty HW, post facing wrong wa	re-install post, repair and clean sign	2 bolt sets	
NPAT --> symbol	B	sign dirty	clean sign		
SPEED LIMIT 20	B/C	sign dirty and out-of-plumb, rusty hardware	re-install and clean sign, replace hardware	2 lag bolts (on utility pole)	
(NPAT <--)		NPAT sign needed for closure of existing NPAT zone and STOP sign clearance			
STOP (30")	A	post out-of-plumb, no ALL WAY plate	plumb post, install ALL WAY plate	ALL WAY plate, 2 bolt sets	
NPAT --> symbol	B	sign buried in overgrowth; post and HW OK	clear shrubbery overgrowth		10/08/15
NPAT <-- symbol	B	post rusty, out-of-plumb, and incorrectly angled	install new 10' post	10' post, rivets	10/08/15
DELFIELD ST 7300>	A	2-sided sign	none		
NO OUTLET >	A	2-sided sign	none		
NPAT --> symbol	B/C	sign dirty, post out-of-plumb	re-install post and clean sign	2 rivets	10/08/15
STOP (24")	B	sign too high, no ALL WAY plate, post OK	re-install post, install ALL WAY plate	ALL WAY plate, 2 bolt sets	partial



## VMA Sidewalk & Curb Repair: Fall/Winter 2015



Tree removed, install new currb & gutter section.



Crumbling, install new currb & gutter section.



Broken under pressure, wait to replace.



Crumbling, install new currb & gutter section.



## VMA Sidewalk & Curb Repair: Fall/Winter 2015



Sidewalk sections pitched by tree roots, grind raised portions.



Possible rodent or drainage issues, replace sidewalk sections including new backfill.



Tripping hazards & graffiti, replace sections.



## VMA Sidewalk & Curb Repair: Fall/Winter2015



Crumbling, replace sections.



Tripping hazards, grinding or replacement.



Damage requiring large or multiple section replacements.





Shepherd St &  
Brookville Rd

© VMA 2015

9/2/15  
5:30:47 PM



6705 Melville  
Place

© VMA 2015

9/8/15  
4:13:00 PM



3409 Taylor  
Street

© VMA 2015

9/10/15  
3:34:20 PM



3409 Taylor  
Street

© VMA 2015

9/10/15  
3:34:39 PM



Village of Martin's Additions <[martinsadditions@gmail.com](mailto:martinsadditions@gmail.com)>

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## FW: Budget Numbers - road work - Chamberlain Construction

1 message

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**Village Manager** <[martinsadditions@verizon.net](mailto:martinsadditions@verizon.net)>  
To: [martinsadditions@gmail.com](mailto:martinsadditions@gmail.com)

Tue, Oct 13, 2015 at 4:37 PM

-----Original Message-----

From: Dan Shaw [<mailto:dshaw@chamberlaincontractors.com>]  
Sent: Tuesday, October 13, 2015 3:46 PM  
To: Jean Sperling  
Subject: Budget Numbers

Hi Tori

Here are budget numbers for the various streets This includes a full 2 inch mill and pave and an allowance for some undercutting and for speed bumps. It would probably be wise to add 10% for some curb and gutter repairs. As you can see my numbers from yesterday were way off. That's why we are usually don't try to guesstimate At least I was wrong in a good direction I think I included all of the streets.

2000-2200 square yards. \$55,000 each

Quincy St  
Bradley  
Raymond  
Cummings  
Shepherd  
Turner  
Taylor  
Thornapple  
Summit

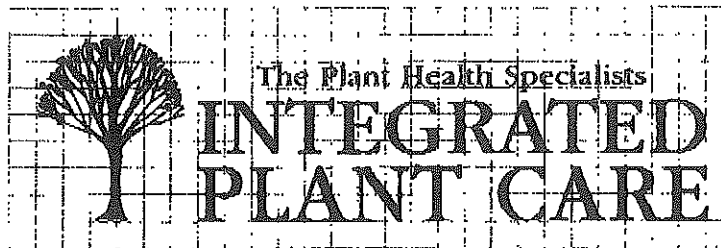
1500-1600 square yards \$40,000 each

Delfield  
Chestnut

800 square yards \$20,000 each

Melville  
Dead End Delfield

Dan Shaw  
President  
Chamberlain Contractors, Inc.



2279 Lewis Avenue □ Rockville, Maryland 20851

October 12, 2015

301-881-8130 □ Fax 301-881-3695

Ms. Tori Hall  
Village of Martin's Additions  
7013 B Brookville Rd.  
Chevy Chase, MD 20815

Dear Ms. Hall,

Dan Gardner and I reviewed possible planting sites within Martin's Additions earlier today and have found four locations where trees could be planted this fall. Listed below is each site and the recommended tree for that location.

1. 7401 Summit- Thornapple side- Ginkgo
2. 7200 Delfield- Taylor side- Kwansan cherry (no room for more than one tree)
3. 7218 Chestnut- Sweet gum
4. 6707 Melville- Zelkova- (Replacement tree at no expense to Martin's Additions)

In addition, there are two failing trees that should be taken down and replacement trees could be planted this fall.

5. 3402 Thornapple- Take down sugar maple, replace with sugar maple
6. 3519 Shepherd- Take down Kwansan cherry, replace with red oak.

A dead apple tree was recently taken down in front of 7210 Chestnut St. A new tree should go in this spot but there's been conversation that the house may either be torn down or extensive renovations occur. We recommend that the decision to replant be delayed.

Should you have any questions, please call.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul L. Wolfe, II".

Paul L. Wolfe, II  
President  
Integrated Plant Care, Inc.



October 13, 2015

2279 Lewis Avenue □ Rockville, Maryland 20851

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Ms. Tori Hall  
Village of Martin's Additions  
7013 B Brookville Rd.  
Chevy Chase, MD 20815

Dear Ms. Hall,

On our recent cruise through the community, Dan Gardner and I noted four trees that should be taken down this fall as they are failing. These include the following.

1. 3402 Thornapple St.- Sugar maple
2. 7308 Summit Ave.- Sugar maple
3. 7304 Summit Ave.- Sugar maple
2. 3519 Shepherd St.- Kwansan cherry

Two trees, both on Summit Ave., will require the assistance of Pepco as they are in the electrical wires. All four trees will require a permit from the State. If you would like, I can handle the permitting process for you.

Two other trees, an oak in front of 3409 Shepherd St. and a sugar maple in front of 7315 Summit Ave., are weak but I believe we can squeeze another year of service out of them.

Please let me know how I may be of service.

Sincerely,

A handwritten signature in dark ink, appearing to read "Paul L. Wolfe, II".

Paul L. Wolfe, II  
President  
Integrated Plant Care, Inc.