

**Village of Martin's Additions**  
**7013 Brookville Road, Suite B, Chevy Chase, MD 20815**  
**Minutes for Council Meeting on**  
**January 21, 2016**

**Council Members Present:** Arthur Alexander, Tiffany Cissna, Susan Fattig; **Village Manager:** Tori Hall; **Assistant Village Manager:** Beth Boa; **Attorney:** Ron Bolt; **Residents and other attendees:** Keith Allen (Turner Ln), Lee Ann Anderson (Quincy St), Marc Efron (Raymond St), Jimmy Joyce (Chestnut St.), Marty Langelan (Chestnut St), John McDonald (Summit Ave.), Naomi Naierman (Quincy St), Ted Stoddard (Turner Ln), Steve Trowern (Raymond St), and Natalie Straus Welle (Oxford St), Mike Zielinski (Turner Ln).

7:30 PM      Call to Order; Welcome and Introductions: Alexander

Councilmember Alexander reminded the Council and residents that Tori Hall is resigning as Village Manager as of January 29, 2016, and that Beth Boa will serve as Acting Village Manager after Tori leaves until the position is filled. Councilmember Alexander thanked Village Manager Hall for her service.

7:30 PM      Opportunity for Council to hear residents' comments: Alexander

Steve Trowern (Raymond St) spoke about the neighborhood Googlegroups listserv. Trowern was surprised to learn that this listserv is moderated by a Village resident and is not an official listserv of the Village office or Council. He is concerned that postings are being censored and asked that either the Council put rules into effect so that postings are not censored, or start its own uncensored listserv.

Council Vice-Chair Alexander gave background on the electronic communications in the Village. The Village office and Council use Constant Contact for official business. The Googlegroups listserv was started by and is moderated by a Village resident and is unaffiliated with Village government. Before the Village used Constant Contact it would post on the Googlegroups listserv. The Village website has information about how to join both the Googlegroups listserv and the Constant Contact email list, and it explains the difference between them. Councilmember Alexander said Council could think about starting a chat function moderated by the Council or Village staff.

Councilmember Cissna clarified that the Village Council and staff have no ownership of the Googlegroups listserv or who moderates it. The Village website was updated today to clarify that the neighborhood Googlegroups listserv is not an official communication tool of the Village Council or staff.

Marty Langelan (Chestnut St) added that her substantive posts to the Googlegroups listserv were censored by the moderator in 2013 and that she was removed from the listserv. The Village needs a conversational forum that is not censored by a private citizen. She asked if the Council could obtain a list of censored items from the Googlegroups listserv moderator.

Lee Ann Anderson (Quincy St) asked that it be clarified on the Village website that the Googlegroups listserv is maintained and moderated by a private citizen.

Marc Efron (Raymond St) is extremely concerned that posts are censored from the Googlegroups listserv. He suggested that while the Village website does make it clear that the Googlegroups listserv is separate from the Village Office and Council, the Googlegroups listserv should not be listed on the Village website at all.

Tori Hall (Village Manager) noted that there is major confusion between the Googlegroups listserv and Constant Contact emails and to better clarify the difference, both are listed on the Village website.

Mike Zielinski (Turner Ln), who could not remain for the entirety of the meeting, commented on the proposed amendments to the Code of Ordinances section 4-202(b). He wanted clarification on how ethics complaints would be reviewed by special counsel appointed by the Village Attorney, rather than being appointed by the Village Council.

Ron Bolt (Village Attorney) said that if the Council is being investigated for an ethics complaint, it may not be appropriate for the Council to select the investigating attorney. This approach is similar to the model code published by the Attorney General. The selection of special counsel could be made by the Ethics Committee, instead. Discussion ensued about how the language could be further modified. Consensus emerged that this proposed amendment would be removed from the current proposed ordinance changes and deferred for recommendation to the Ethics Committee.

Marc Efron (Raymond St), Chair of the Ethics Committee, said he would put this language on the Ethics Committee agenda.

Mike Zielinski (Turner Ln) commented on Charter Section 601. It provides that the annual meeting will be between March 1 and May 15 each year. However, there needs to be a list of candidates nominated for Village Council before then which may not be possible. Section 408 of the Charter states that if a Councilmember resigns more than 4 months before the elections then the Council has to elect a new Councilmember until the next regular election. This could occur close to the time of the election. The result could be an election of 4 or 5 Council members at the same time. This would not allow for the staggered terms of office. Since the Election Committee has turned its recommendations in to the Council, the Council will look at these sections.

7:55 PM      Update from the Election Committee: Anderson

Lee Ann Anderson (Quincy St), Chair, introduced the other four members of the Election Committee in attendance. The Election Committee drafted a report and recommendations for the elections process. The Election Committee has taken resident comments to make changes to section 602 of the Charter. The Election Committee is looking at the timeline of the elections process, to have the date of the elections closer to the start of the new Council term. The Election Committee also recommended the timeline so that candidates would have more time to inform residents about their qualifications, but the timeline of the elections cannot be changed this year. They recommended that hours of the Celebration on the Sidewalk be extended to 5-8 pm on a Thursday so residents would have more time to vote.

The Election Committee recommends that absentee ballots can be requested by email from the Election Committee and remain confidential. The Election Committee is looking into renting a post office box for cast absentee ballots. The confidentiality of absentee ballots would be maintained with a control number. Another recommendation is to accept absentee ballots at the Celebration on the Sidewalk. The Election Committee did not look into online voting at this point. Other issues to look at are conflict of interest of candidates with Village Council and staff. In addition to freeform statements, the Election Committee could provide some common questions for candidates to answer. Anderson said that this year's election is proposed for May 12, 2016. The Election Committee will meet again February 23.

Councilmember Cissna thanked the Election Committee and noted that the Council would need to hold a work session before the next Council meeting to discuss recommendations in the report in order for them to be introduced and finalized, as appropriate, timely.

Councilmember Alexander noted that changes to the Charter would be a different process than changing ordinances or changing procedures. Attorney Bolt said administrative procedural changes, that do not regulate conduct, can be adopted at the next Council meeting.

Elections Committee Report attached.

Elections Committee Process Recommendations attached.

8:10 PM      Update from the Centennial Celebration Committee: Naierman

Naomi Naierman, Centennial Celebration Committee Chair, (Quincy St) named the other members of the Centennial Celebration Committee: Michelle Malloy, Susan Fattig, and Richard Krajeck. The Centennial Celebration will be held April 17, 2016 at the Woman's Club of Chevy Chase from 2-5 pm. There will be entertainment for children. There will be presentations from 3-4 pm on the history of the Village by Paul Weller and the evolution of trees by Paul Wolfe. The Committee is looking for old photos or images of the Village to include in the presentation. Susan Fattig is interviewing residents.

The budget for the Centennial Celebration is \$15,000, not including videography and if it goes over \$20,000 the Committee will talk with the Council.

8:15 PM      Update from the Ethics Committee: Efron

Marc Efron, Chair, listed the other members of the Ethics Committee: Jimmy Joyce (Chestnut St) and Celeste Biagini (Taylor St). The Ethics Committee held its initial meeting January 13, 2015, to review its agenda for the year. The Committee reviewed the Funk & Bolton's Compliance Review Recommendations that included the ethics provisions and will review the special counsel appointment process. The Committee found that the conflict of interest rules need to be cleared up. They will review the model code from Maryland and other municipalities. There are definitional items that need to be cleaned up. They will review the current code against other models to make it a better code.

Councilmember Alexander raised the question of what other items need to be reviewed by the Ethics Committee besides gifts and conflicts of interest. Are there other items that need to be included? Is there a provision to remove a Council member who obstructs progress?

Attorney Bolt said State ethics law covers conflict of interest, financial disclosure, and lobbying. The Village is exempt from the State ethics law, but voluntarily maintains an ethics code similar to what other similarly-sized Maryland towns have. Actual conflicts of interest are very rare, in his experience. Financial disclosure is often disfavored for a small town because it can have a chilling effect on finding people to run for office. There can be removal provisions if a Council member is chronically absent from meetings but not for obstructing. An example of an ethics issue not addressed by the current code would be if a Council member, after leaving office, helped a resident get a variance.

Marc Efron suggested that the Ethics Committee could look at confidential proprietary information. Does the Village have a form to disclose candidates' conflicts of interest among the Council? The Ethics Committee may have incremental suggestions for the Council before the elections but not a comprehensive review.

In terms of who is selecting special counsel, the Council decided to remove this section of the larger amendment to the Code of Ordinances section 4-202(b) until the Ethics Committee looks at it and makes a recommendation.

The next meeting of the Ethics Committee is January 27, 2016, in the Village office.

8:30 PM      Action on Council Meeting Minutes of December 17, 2015: Alexander

Motion by Councilmember Fattig to approve the draft minutes for the Council meeting held on December 17, 2015; seconded by Councilmember Cissna. All in favor.

The minutes as approved are attached.

8:30 PM      Public Hearing on Introduced Ordinance No. 11-15-1 as amended at the 12/17/15 Public Hearing: Amendments to reorganize and clarify the Code of Ordinances: Cissna

Councilmember Alexander briefly summarized the meeting dates (September 2015 - January 2016) at which the introduced amendment to the Code of Ordinances have been considered.

Councilmember Cissna noted that comments came up at the December 17, 2015 public hearing and were addressed. This is not a comprehensive review of the ordinances.

Public Hearing followed:

John McDonald (Summit Ave) asked for clarification on whether an unpaid volunteer in the Village is considered an employee in Section 2-301. Attorney Bolt informed that this is already in the Code of Ordinances, and said that Village volunteers are “public employees” because the Village is obligated to provide insurance and defense for the volunteer if they are sued for providing services to the Village.

Marty Langelan (Chestnut St) Thanked the Council for its thoroughness in revising the amendments. She has planted a rain garden to catch run-off in the right-of-way (ROW) and wondered if she would need to dig it up since it is in the ROW. Attorney Bolt cited section 7-209 (A) that expects residents to maintain the ROW and the plantings are fine under 12” and as long as it doesn’t interfere with pedestrian or vehicular traffic.

Cissna moved to adopt Proposed Ordinance No. 11-15-1, as introduced on November 19, 2015, as amended with no change to section 4-202(b) as an amendment; Alexander seconded. All in favor.

The Proposed Ordinance No. 11-15-1, as introduced on November 19, 2015, as amended with no change to section 4-202 (B) is attached.

8:45 PM      Council Response to Compliance Review Recommendations by Funk & Bolton: Cissna

The Council reviewed Funk & Bolton’s Compliance Review Recommendations from October and developed a draft Council response to their recommendations. Many of their recommendations are addressed by Ordinance No. 11-15-1 or are part of the Ethics and Election Committees’ work.

Councilmember Alexander brought up the item about defining a qualified voter in the Village. Marty Langelan (Chestnut St) said the Election Committee defined qualified voter as inclusively as possible.

The Council will meet to review the draft Council response to Funk & Bolton's recommendations. Of note, in the draft, the Council may "agree" that an item needs to be addressed but not necessarily concur with Funk & Bolton's recommendation of how to address the matter.

Funk & Bolton's Compliance Review Recommendations attached.

Council response to Funk & Bolton's Review attached.

8:55 PM      Discussion of Street Light Improvement Projects, including outcome of initial survey: Cissna

Councilmember Cissna updated the Council on the selection of the shape of the light fixtures. The Council did not distribute a survey because, after consultation with the lighting consultant, the Council learned that there is really only one choice for the shape of lights, so the Council only has to decide whether to get them in black or green.

Background:

Councilmember Hill reviewed the documents we have collected over the years on the shape of light fixtures and it appeared that there are some options available to the Village.

The options are limited by our existing poles. These options would be:

1. Cobra head - a rather unattractive light used in most commercial parking lots and on highways
2. Traditional shape - such as the ones on Bradley Ln, Georgia St and in Garrett Park. These can be with a "skirt" and without. Bradley Ln and Georgia St lights both have skirt. Lights in Garrett Park do not. Because of our narrow streets and the concern of lights shining in people's front bedrooms, it is recommended that we proceed with the "skirt" option.
3. Traditional shape with extra finials. This one looks similar to the light in option 2, but with extra decorative finials.

The Council made the selection of induction lights in December and Councilmember Hill reached out to Scott Watson, Lighting Consultant, to get his thoughts on the light shape options the Village has. He clarified that option #3 is actually not available for the Village because there is a light sensor at the top where the finials would be mounted. Because the Village needs this light sensor to turn/off lights automatically, we cannot select extra decorative details in our lights. The Village lights therefore will be traditional shape with a skirt.

Given this information, the only decision before the Council is which color the Village would like the light fixtures to be: black or green. Councilmember Hill thought this would be a minor question for the survey and decided to forgo it altogether. The Council voted for black light fixtures.

\$330,497 is needed for light improvements from the FY16 budgeted amount of \$500,000. This amount consists of the \$300,452 quoted amount by Scott Watson and an extra 10 percent for project reserve which is standard practice. This includes funds for adding 7-8 lights in dark areas already identified in the Village.

Councilmember Alexander recommended that funds be allocated for locating new street lights where there are other dark areas on Village streets.

Councilmember Hill will move forward with Village staff and Scott Watson.

Councilmember Cissna noted that the Village will have to bid from whom to get lights and fixtures and develop a contract. Councilmember Alexander asked if Pepco would install the lights.

The text of the Street Lighting Report is attached.

The text of the Summary of Proposed Alternatives – Scott Watson Associates, Lighting Consultants is attached

9:03 PM Financial matters, including Treasurer's Report: Alexander

Village Manager Hall proposed four budget amendments for FY2016, drafts of which were previously circulated to the Council Members:

<u>Budget category</u>	<u>Description</u>	<u>Proposed Budget Amendment</u>
5222	Prof fees: Building Review and Permits	\$11,450
5230	Prof Fees: Legal	\$23,891
5322	Street cleaning	\$15,520
5420	Leaf bags	\$2,375

Professional fees for building review and permits are expected to exceed the original budget due to a variance hearing. Similarly, legal fees are exceeding the originally budgeted amount due to the variance hearing, as well as the legal compliance review completed by Funk & Bolton. While the Village had budgeted for four street cleanings in FY16, the more thorough street cleanings done this year will put the Village over-budget.

Motion by Councilmember Alexander to approve the budget amendments for building review and permits, legal fees, street cleaning, and leaf bags in amounts proposed; seconded by Councilmember Fattig. All in favor.

9:05 PM Discussion of Draft Data Protection Policy: Fattig

Councilmember Fattig announced that the Council is working on a draft Data Protection Policy for the Village to be compliant with State law. Edits will be made per the Council

and Attorney Bolt's input and a policy will be formally introduced at the February 18, 2016, Council meeting.

9:10 PM      Manager's Report: Hall

Village Manager Hall gave her report.

Administrative Matters:

- Staffing: Beth Boa, our Assistant Village Manager, will serve as Acting Village Manager after Tori leaves on Jan. 29th, and until the Council selects a new Village Manager. Emails to the Village Office may continue to be sent to [martinsadditions@gmail.com](mailto:martinsadditions@gmail.com) without interruption. Tori is currently training Beth on bill processing, building permit applications, and all other office business to ensure a smooth transition.
- Income Taxes: On Jan. 15, 2016, the Village Manager attended a meeting with other municipal Managers, Montgomery County, and the Maryland Comptroller's Office to discuss an apparent mis-assignment of some income tax returns among local jurisdictions, resulting in two municipalities owing an estimated total of \$15 million of income tax revenue to Montgomery County. The Comptroller's Office has arranged for an audit to review other jurisdictions, including the Village, going back to 2010. To improve accuracy in the future, residents should be sure to note on their State income tax return that they reside in the Village of Martin's Additions. Based on the average number of returns per household statewide, Hall expects the risk to the Village of owing a similar refund to the County or to neighboring municipalities is low. For FY17 budgeting planning purposes, the manager recommends that the Council assume neither a loss or refund from the pending audit. Regarding the Wynne decision and income tax refunds, if we budget conservatively, the Village may owe a total of \$150,000 over nine years, with the caveat that just one income tax return in a small municipality can significantly affect averages and the current estimate.
- Contracts: We now have a contract for lawn and landscaping services in certain public areas of the Village for 2016 with Abrahams Lawn Service, which submitted a highly competitive bid and came with excellent references. We sincerely thank all those who submitted proposals for the RFP: many of these companies and individuals work with current residents and also came with excellent recommendations. We appreciate all who took the time to submit proposals.
- Budget: staff prepared a proposed list of FY16 budget amendments for Council consideration.
- Records Retention Policy: The Maryland State Archives returned our draft policy for a third revision, now been tentatively approved by MSA pending submission of the necessary back-up forms. Once formally approved, we can begin archiving or destroying unneeded documents in the office.
- Data Protection Policy: staff prepared a first draft for Council consideration.
- Website: This month, among other changes, we have reorganized the main menu to highlight the Village Committees, updated the photos to highlight our coming Centennial Celebration, and refreshed links to Alert Montgomery, WSSC, and other key contacts.



- Newsletter: continues to be published monthly online. The office received one inquiry this month about purchasing advertising space in the Village newsletter; the newsletter currently includes no paid ads.

#### Safety and police:

- The State Highway Administration (SHA), which has jurisdiction over Brookville Road, is currently redesigning the intersection at Brookville Road and Taylor Street to improve safety. Their final design proposal should be completed by the end of January and SHA will present it at a public meeting in mid-February (date/time still TBD).

#### Utilities: WSSC

- The water main relocation/replacement is now virtually complete on Bradley Ln. and Melville Pl. The pressure tests and water quality tests have already been done, but the change over to the new pipes has been delayed due to the extreme cold weather. Once the change over on these streets is complete, there will be a break. The project will resume on Raymond and Quincy Streets on or about March 15, 2016.
- A recurring water main break on Summit Ave., outside the Village boundary, has caused intermittent water service disruption for some Village residents nearby.

#### Streets & Sidewalks:

- Preparing for snowstorm: a major accumulation is predicted starting Friday morning. The Village Office has been coordinating with Rolling Acres Landscaping, WSSC, and Wayne C. Fowler to plan for parking restrictions and locations where large amounts of snow can be moved. Please note that snow in the Village is moved, but not removed, under our contract with Rolling Acres, so parking restrictions are necessary to reserve a place for the snow.
  - o Residents are asked to keep cars off streets as much as possible to allow snow clearing to occur on as much of the roadway as possible.
  - o When clearing your own driveway, please move snow to the side and not into the street, or else the next pass of the plow may push it back into your driveway.
  - o County and municipal regulations require sidewalks to be cleared within 24 hours of a snowfall.
  - o We have had resident inquiries about resuming the practice of having the Village subsidize or cover the cost of clearing walkways for elderly or infirm residents. At present, the Village only takes care of the sidewalk along Brookville Rd. because the county plows push so much snow up onto the sidewalks there. The costs need to be considered.
- Sidewalk and curb repairs: After getting two estimates for a limited list of sidewalk repairs, and consulting with the arborist about how to do the repairs without damaging tree roots, we have scheduled with the Pavement Corporation for some sidewalk and curb repairs on Thursday, 1/28/2016, weather contingent. Repairs should take a day to complete. Please watch for parking restriction signs which will enable workmen to complete the project quickly and safely.
- Trees in the public right-of-way: All new tree plantings, tree removals (except one remaining on Brookville Rd.), stump grinding, and biennial fertilization of

trees with diameters < 6" has been completed as of December 2015. The fertilizer used by our arborist is Davey ArborGreen, which is mixed with water to make a liquid fertilizer and then injected into the ground throughout the root system of the tree. This is a slow-release fertilizer providing two years of nutrients, so we will not be fertilizing Village trees in 2016. New tree plantings will not occur until Fall 2016, with the possible exception of new trees (depending on the species) near 7302 and 7308 Summit.

- Street cleaning and catchment basin cleaning was completed in December 2015 by Rolling Acres Landscaping. The Spring 2016 street cleaning has not yet been scheduled.

Sanitation:

- Bulk trash was collected January 9th. As before, the Village coordinated with A Wider Circle for a pick-up the Friday before. Signs were also posted on light poles in advance. The next bulk trash collection will be on Saturday, March 12th, and the second Saturday of every other month throughout 2016.
- Pet waste bags: Sincere thanks to Friendship Animal Hospital for the donated dog waste bags for the Village's public dispensers, and to Chris Kohl and Dennis King for continuing to restock the dispensers.

Building Administration:

3505 Raymond Street has been issued a dumpster permit and demolition permit. They may need to revise drawings due to established building line (EBL).

Report from Doug Lohmeyer, our Building Administrator, attached.

Montgomery Consulting Memo on EBL Issues attached.

9:35 PM Ordinance Granting Non-Exclusive Franchise for the Operation of a Cable Television System: Alexander

Alexander introduced Attorney Bolt who discussed the Comcast agreement introduced at the December 17, 2015 Council meeting. The ordinance will not take effect unless and until the Montgomery County Council approves it.

Motion by Councilmember Alexander to adopt resolution 12-15-1 Ordinance Granting Non-Exclusive Franchise for the Operation of a Cable Television System as proposed; seconded by Councilmember Fattig. All in favor.

Text of Ordinance Granting Non-Exclusive Franchise for the Operation of a Cable Television System attached.

9:25 PM Adjournment: Alexander

# Report of the Election Committee

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January 21, 2016

On January 11, 2016, the Election Committee forwarded its recommendations to Council regarding proposed changes to Section 602 of the Charter as well as its proposed election process for the coming election cycle. This report describes those proposals as well as the process undertaken to develop them.

The Election Committee currently consists of five members: Lee Ann Anderson (chair), Marty Langelan, Naomi Naierman, Steve Trowern and Natalie Welle. The Election Committee was appointed by Council as provided in Section 602 of the Charter following a solicitation for volunteers. Every member of the Election Committee is a resident of the Village and is an unpaid volunteer who is volunteering his or her time to the Village. The Committee counts among its members new residents and people who have been residents for decades, and the Committee desired to create a process for its work whereby all residents would be encouraged to participate in developing election procedures that responded to past experiences and concerns of residents as well as maintaining procedures where residents believed they were working well.

The Committee solicited feedback on current election procedures and election experiences via e-mail as well as an electronic survey sent to resident. Two comments were received by e-mail and 28 residents responded to some or all of the survey questions. Those responses informed the Committee's proposed procedures as described below.

## **Part I**

### **Recommended Amendments to Charter Section 602**

*Charter amendments cannot be effected by the Election Committee. The Committee can recommend proposed changes to Council, which then must follow the procedures under Maryland law to amend the Charter. Council is not bound by the Election Committee's recommendations. None of the amendments proposed and described below will be effective for the next election, although Council is free to agree to procedures proposed by the Committee that do not conflict with the existing Charter. One example of a conflict that cannot be adopted this year is the proposed change to the date of the election.*

#### Date of Election

In response to a public comment at an open meeting, the Election Committee suggests amending the first paragraph of Section 602 to move Election Day closer to the day that new Council members take their seats, but that the date be set to ensure it happens before the end of school when many people leave for vacation. The Committee agreed with the public comment that newly elected members should be seated on Council in a shorter time frame than the charter currently provides. Under the existing charter, new Council members could be elected as early as March 1 yet not seated until July 1.

## Nominations, Declarations of Candidacy and Candidate Statements

In response to survey comments, e-mail comments and public meeting comments, the Committee proposed changes to paragraphs (a) and (b) of Section 602 to provide that the Election Committee could specify the format that candidate's statements of interest could take and could hold a public forum, and to clarify that these written statements would be provided or made accessible to residents. A number of the comments the Committee received requested more candidate information as well as standard questions that each candidate should respond to in addition to their general statements of interest. These changes were proposed in response to those comments.

In addition, the Committee made three other changes to paragraphs (a) and (b): First, the Committee suggested that it, rather than Council, should receive nominations. Second, the Committee provided "clean up" language to distinguish between candidates declaring their own candidacy and those nominating third parties and provided a mechanism for determining a nominee's interest on a timely basis. Third, in response to situations that have occurred previously, the Committee elected to set a deadline for declarations of candidacy and nominations and the receipt of written statements. The proposed provisions do not alter the ability to write in other candidates or to conduct a write-in campaign.

In paragraph (c), the Committee proposed that the Election Committee, rather than Council, should set the rules for absentee ballots and proposed deleting the language that only qualified voters who were unable to vote in person could vote by absentee ballot. As reflected in the comments received by the committee and as experienced in the past, travel plans of residents may change at the last minute for any number of reasons, including illness of a family member, work demands or other reasons. As a result, the Election Committee plans to provide a mechanism whereby voters who originally planned to be out of town could vote by absentee ballot at the polls.

In paragraph (e), the Committee proposed some clean up changes to the wording to reflect that new Council members, rather than new Councils, would be seated on July 1.

## **Part II**

### **Recommended Voting Procedures for 2016**

The e-mail comments, public comments and survey comments revealed several consensus views among residents.

First, the Village residents like the sidewalk celebration and in person voting, and the Committee has recommended its retention.

Second, the voting hours should be extended to allow people to vote after work, which the Committee has included in the procedures.

Third, residents would prefer the option to request absentee ballots by e-mail and desire more flexibility to vote by absentee ballot. The Election Committee

incorporated additional flexibility in the ways ballots could be returned and added e-mail as a way to request one.

Fourth, residents believe there should be procedures to keep absentee ballots and in person ballots should be kept private from VMA staff as well as the public. To that end, residents preferred that absentee ballots be submitted to the Election Committee. The proposed procedures incorporate both the privacy concerns and adopt a system whereby on the Election Committee handles completed absentee ballots.

Fifth, although there were some comments in both directions on this, the survey results revealed a strong majority consensus that residents believed that absentee ballots should be accepted at the polls on Election Day.

Sixth, there is not a consensus, and indeed some concern, about the idea of exploring online voting, so the Committee has not done so.

Seventh, although there is mild interest in Sunday voting, the majority of responders preferred the traditional Thursday voting.

Eighth, at least one voter wanted the candidates to certify that they had no conflict of interest such as undisclosed commercial ties to VMA, the Staff or Council. The Committee has incorporated this into the procedures.

### **Conclusion**

The Election Committee will be presenting its recommendations at the Council Meeting on January 21 at 7:30 p.m. and encourages all interested residents to attend. The recommendations, which were developed by your volunteer committee after solicitation of public comment and resident input, are intended to address the input received by residents. The recommendations have been posted by Village staff for your review.

Respectfully submitted,

Lee Ann Anderson

Chair, Election Committee

## Recommended Charter Provisions

### Section 602. Elections.

The election of Council members, which shall be by secret ballot, shall take place between June 1 and June 15 each year, taking into account the need for elections to take place prior to the end of the school year. Except for the transition election provided for in Section 409, Council members shall be elected to terms of two years. All elections shall be managed by an Election Committee. The Committee shall consist of a minimum of three people appointed by the Council from qualified voter volunteers openly and fairly solicited. The Council shall appoint the Committee upon taking office. The Committee shall serve through the succeeding election of Council members. The Committee shall operate according to rules and procedures adopted by the Council and set out in the Village by-laws. Exceptions to these provisions may be made for the transition election as provided for in Section 409.

(a) Not less than sixty (60) days prior to the election, the Election Committee shall request that declarations of candidacy or nominations of candidates be submitted in writing to the Election Committee. Any individuals who qualify under Section 402 may declare their candidacy or be nominated by another qualified voter. Nominations of candidates must be received in writing at least forty-five (45) days prior to the election, and the Election Committee will contact any person so nominated to determine such nominee's desire to be a candidate. Candidates' declaration of candidacy or confirmations of candidacy (if nominated by a qualified voter) and written statements of interest and qualifications must be received in writing by the Election Committee at least thirty (30) days prior to the election. The Election Committee may specify the format of candidates' written statements of interest. No nominations, declarations of candidacy or written statements of interest and qualifications will be accepted by the Election Committee following the deadlines set forth in this paragraph (a).

(b) At least two weeks prior to the election, the Election Committee shall give public written notice of the candidates for office and provide, or provide access to, the written statements of interest and qualifications and shall designate the date of the election, the polling place, and time. The Election Committee may, but is not required to, establish a format, date and time for a public forum for residents to hear from candidates in its sole discretion.

(c) Each qualified voter may cast a ballot on the day and at the time designated. Qualified voters may vote by absentee ballot. The Election Committee shall determine the rules for absentee voting from time to time.

(d) In the event that two or more candidates receive the same number of votes where only one can be elected, there shall be a runoff election within two weeks of the original election. The Council may choose to hold the runoff election by mail ballot.

(e) Those persons newly elected as Council member(s) shall take office on July 1 following the election. The term of former Council member(s) shall expire simultaneously with the taking of office by the new Council member(s).

Recommendations of the Election Committee  
January 11, 2016

(f) The Council is authorized to pass other regulations governing elections deemed necessary and consistent with this Section. (Char. Am. No. 2, 2-27-87; Char. Am. No. 3, 2-27-87.) »

## Village Council Elections: Procedures Manual

The Village of Martin's Additions is governed by a municipal Charter that provides for a five-member elected Council to set Village policy and work with the professional Village Manager. Council elections are held each Spring. The Election Committee maintains the voter rolls, accepts and makes nominations of candidates for the Village Council, and oversees the annual election. Any resident of the Village of Martin's Additions who is a qualified voter (18 years old as of the Village Election Day) may nominate another qualified resident or may declare his or her own candidacy.

### **Village Council Election Process**

As described in the Village Charter, the Election of Council members takes place on a date determined from year to year in accordance with Section 602 of the Charter. Council members are elected to terms of two years. The number of seats open on the Council alternates between two and three seats every other year. All elections are managed by the Election Committee. The Committee consists of a minimum of three, but preferably no less than five, people appointed by the Council from qualified voter volunteers. Each year the details of the election cycle for that year are published in the Village newsletter. The following guidelines apply:

- Not less than sixty days prior to the election, the Election Committee will request that declarations of candidacy or nominations of candidates be submitted in writing to the Election Committee. The Election Committee may specify in its request the format of candidates' written statements, including any standard questions to which all candidates are requested to respond. Nominations of candidates must be received in writing at least forty-five (45) days prior to the election, and the Election Committee will contact any person so nominated to determine such nominee's desire to be a candidate. Candidates' declaration of candidacy or confirmations of candidacy (if nominated by a qualified voter) and written statements of interest and qualifications must be received in writing by the Election Committee at least thirty (30) days prior to the election. No nominations, declarations of candidacy or written statements of interest and qualifications will be accepted by the Election Committee following the deadlines set forth in this paragraph. Candidates shall be required to certify in their written statements of interest that they have no disqualifying conflict of interest, as defined below.
- A "disqualifying interest" means that any person or an immediate family member, or such person's or family member's employer, has a direct or indirect relationship with the Village for business purposes, such as a contract to provide services to the Village.
- At least two weeks prior to the election, the Election Committee shall give public written notice of the candidates for office and provide, or provide access to, the written statements of interest and qualifications and shall designate the date of the election, the polling place, and time. The Election Committee may establish a format, date and time for a public forum for residents to hear from candidates.
- Each qualified voter may cast a ballot on the day and at the time designated. Qualified voters may vote by absentee ballot. The Election Committee shall determine the rules for absentee voting from time to time. The current rules are set forth under "Absentee Voting" below.



## **Recommendations of the Election Committee**

### **January 11, 2016**

- In the event that two or more candidates receive the same number of votes where only one can be elected, there shall be a runoff election within two weeks of the original election. The Council may choose to hold the runoff election by mail ballot.
- Each candidate may designate one person as an official observer to be present when the ballots are being counted, although such observer may not participate in or otherwise disrupt the counting of the ballots.

### **Who Can Vote?**

Any natural person who is 18 years of age or older as of Election Day, whether or not a United States citizen, and who resides in or owns real property in Martin's Additions or, in the case of students such as college or boarding school students, a student who resides elsewhere during the school year but who maintain a permanent address in Martin's Additions, is entitled to vote in the Village Council election. Voters in Martin's Additions need not be registered to vote in Montgomery County or in the State of Maryland. The Election Committee will utilize the most recent electronically available version of the Village Directory to verify residents' names and addresses. Any voter not listed in the Village Directory should be prepared to show a driver's license, a utility bill or other documentation acceptable to the Election Committee in its sole discretion showing his/her Martin's Additions address when he/she comes to the polls. Questions regarding eligibility to vote at the polls or otherwise should be directed to the Chair of the Election Committee, who will refer the matter to the Election Committee for determination.

### **Voting Locations**

Voting will be conducted from 5:00-8:00 PM on Election Day in front of the Village Office at 7013B Brookville Road, if weather permits. If the weather is inclement, voting will take place in the Olympia Coffee Shop. All qualified voters are encouraged to vote by casting their ballots in the polling area. Write-in candidates are permitted. All voting is by secret ballot and election procedures are designed to ensure that voters have the opportunity to cast ballots in privacy. A street festival, "Celebration on the Sidewalk," traditionally takes place during the voting.

### **Absentee Ballots**

Residents who are unable to come to the polls on Election Day are encouraged to apply for an absentee ballot. To ensure privacy, absentee ballots will be assigned randomized control numbers and will not reflect any voter information on the ballot. Control numbers will be maintained by the Election Committee and will be utilized by the Election Committee for purposes of authenticating absentee ballots received. Absentee ballots may be requested from the Election Committee using any of the following methods:

(1) by coming to the Village Office (7013 Brookville Road, Suite B) in person to complete an absentee ballot application, or

Recommendations of the Election Committee  
January 11, 2016

(2) by sending a request email to [VMAElections@gmail.com](mailto:VMAElections@gmail.com). Such email will be considered to be a ballot application and must contain the voter's full name and permanent address in Martin's Additions together with a stated preference for receiving the absentee ballot by mail or e-mail. If no such preference is stated, the request will be deemed to have specified a delivery preference of mail through the United States postal service. Following verification that the requester is a qualified voter by the Election Committee, an absentee ballot and instructions will be mailed or emailed, as specified, to the requesting voter.

Absentee ballots may be requested on an individual or household basis by the qualified voter or a member of his or her household; provided, that if the absentee ballot request states e-mail as a delivery preference, each voter for whom an absentee ballot is requested must have a separate individual e-mail address for receipt of such absentee ballot, and such e-mail address must be provided with the request for each such qualified voter. The Election Committee will not accept absentee ballot requests from any person or by any method except as described in this Absentee Ballots section.

Absentee ballots can be requested starting 21 days prior to election day.

Absentee ballots must be received by the Election Committee by election day by one of the methods below. The Election Committee takes no responsibility for late ballots. Completed absentee ballots must be returned to the Election Committee according to the following procedures:

- (1) by mailing via the United States postal service the completed ballot to the VMA Election Committee post office box as indicated on the absentee ballot instructions, to be received by 3 p.m. on election day.
- (2) by personally dropping the absentee ballot in the slot in the locked ballot box in the VMA office no later than 3:00 p.m. on the day of the election. The ballot must contain the assigned control number on the outer envelope to be considered eligible. Security of the locked ballot box will be maintained by the Election Committee and only designated members of the Election Committee will have access to the contents of the ballot box. Residents should not ask Village staff to handle completed ballots at any time.
- (3) by submitting the ballot in person at the polling place on Election Day during regular voting hours following verification by the Election Committee of the resident's identity and the ballot's control number.

### **Electioneering**

(1) Candidates' election materials: Residents may distribute candidates' information to Village households, provided that such distribution complies with United States postal service regulations (for example, no unstamped non-postal material in residents' mailboxes). Materials may be placed in mail door slots or inside screen doors.

Recommendations of the Election Committee  
January 11, 2016

(2) Yard signs: Residents may display candidates' yard signs, provided that the size, location, construction, and duration of such signs comply with the County's sign ordinance (Article 59-F of the Montgomery County Code).

(3) On Election Day, no electioneering is permitted within 100 feet of the polling place (ballot table). Sound amplification systems such as bullhorns will not be permitted.

**Village of Martin's Additions**  
**7013 Brookville Road, Suite B, Chevy Chase, MD 20815**  
**Minutes for Council Meeting on**  
**December 17, 2015**

**Council Members Present:** Richard Krajeck, Arthur Alexander, Katya Hill, Tiffany Cissna (arrived after 7:50 pm), Susan Fattig; **Village Manager:** Tori Hall; **Assistant Village Manager:** Beth Boa; **Attorney:** Ron Bolt; **Residents and other attendees:** Jimmy Joyce (Chestnut St.), John McDonald (Summit Ave.), Steve Schmal (Summit Ave.), Ted Stoddard (Turner Ln.), Steve Trowern (Raymond St.), and Natalie Straus Welle (Oxford St.).

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

Chairman Krajeck introduced Jimmy Joyce, a new member of the Ethics Committee, which also includes Marc Efron (Chair) and Celeste Biagini.

7:30 PM      Opportunity for Council to hear residents' comments: Chairman Krajeck

John McDonald (Summit Ave.) commented on Proposal 4 of the Tree Committee. He questioned why it requires the planting of a new tree if no trees have been removed during construction. He noted that the proposal required rather than encouraged the planting of a tree. Councilmember Alexander clarified that the objective is to require new planting by a resident doing major construction projects. There is an exemption if it is not possible for the resident to plant a new tree due to dry wells or other features.

7:40 PM      Introduction of Ordinance Granting Non-Exclusive Franchise for the Operation of a Cable Television System: Krajeck

Chairman Krajeck introduced Attorney Bolt who discussed the Comcast agreement. The Comcast franchise has expired. The County Office of Cable and Broadband Services is negotiating a renewal on behalf of the municipalities and itself. The Village wants to be on the same timeline as the County with this agreement. This is the same as the agreement negotiated by Montgomery County and will cover the next seven years. The Verizon agreement was renewed in 2006. The new Comcast agreement timeline will conclude at the same time as the Verizon agreement.

Attorney Bolt explained that the Village will receive a franchise fee which can be used for any purpose. Councilmember Alexander reported that the franchise fees paid to the Village from all cable companies has totaled about \$8000 per year. The Village also receives a public educational government grant for the administration of governmental cable programming which the Village allows to be paid to Maryland Municipal Cable.

Motion by Councilmember Alexander to introduce the Ordinance Granting Non-Exclusive Franchise for the Operation of a Cable Television System as proposed; seconded by Councilmember Fattig. All in favor.

Text of Ordinance Granting Non-Exclusive Franchise for the Operation of a Cable Television System attached.

7:45 PM      Update from the Tree Committee: Alexander

The Tree Committee met with Paul Wolfe (Village Arborist) to discuss planting native trees in the right-of-way (ROW). Wolfe recommended criteria for selecting trees. Tree Committee largely agreed with Wolfe's recommendations and Councilmember Alexander drafted a policy based on the meeting which provides that selecting native trees should be given priority whenever possible.

Motion by Councilmember Alexander to adopt a Tree Planting policy regarding planting native trees in the right-of-way when possible, using the Penn. State's Landscape Tree Factsheets 3<sup>rd</sup> Edition as a guide; seconded by Councilmember Krajeck. All in favor.

The text of the Tree Committee's policy on native trees is attached.

Councilmember Alexander discussed the steps to implement Proposal 1 from the Tree Committee Report. A list of native canopy trees will be developed with the arborist. The homeowner will apply for the program through the Village Office, pay \$100 toward the program, and agree to be responsible for watering the tree. The arborist will consult with the homeowner and inspect potential sites for suitability. If the tree dies it will not be replaced by the Village.

Councilmember Hill requested clarification on how the administrative cost estimate was developed. Village Manager Hall consulted with the arborist and Assistant Village Manager to estimate up-front costs to develop materials (list of trees, application), updating the website, answering inquiries about the program, arrange consultations with the arborist, and processing payments, for a total of about 30 hours at \$25/hour for the first group of 25 trees.

Attorney Bolt requested clarification on funding for the program. Chairman Krajeck indicated funding would be from the reserves for the first 25 trees.

Discussion ensued on timing of the program. Trees would be planted in the fall of 2016 but applications could be taken prior to then. Budgeting now would be for the first 25 trees and the continuation of the program would be considered for the next fiscal year which starts July 1, 2016. Councilmember Alexander noted there would be a review of the program at an early point.

Attorney Bolt suggested a written application with a description of program be developed, but the Council can approve budget amendment and program at current meeting.

Motion by Councilmember Alexander to approve the pilot program of 25 trees as amended to restrict the program to one native canopy tree per household, selected with the advice of the arborist from a list of acceptable trees; seconded by Councilmember Krajeck. All in favor.

Motion by Councilmember Fattig to amend the budget to appropriate \$12,125 from reserves for fiscal year 2016 for the pilot program; seconded by Councilmember Hill. All in favor.

July 14, 2015 Tree Committee Report attached.

The text of the Program to Promote Canopy Trees on Private Property is attached.

8:10 PM      Update from the Elections Committee, including outcome of survey:  
Trowern

Steve Trowern (Raymond St.) said that the Elections Committee conducted a survey in early December. There were 28 responses. The Elections Committee will meet Tuesday December 22, 2015 at 7p.m. at the Village office.

The survey responses indicate that most residents favor voting at the Celebration on the Sidewalk but about half would like to be able to vote online. This is something that is worth exploring. Residents need more information on how the process works, such as the candidates' forum. The Elections Committee will use the survey as input as well as input from residents at its meeting. The Committee conducted the survey and meeting to ensure it understood the residents' concerns.

Councilmember Alexander asked whether the Committee had identified problems or if there were routine adjustments that are not very big. Steve Trowern said that areas of concern are access to absentee ballots, when absentee ballots can be counted, how to include ballots that were invalid for a variety of reasons, and where the absentee ballots were delivered. Absentee ballots were invalid if they were not received by the deadline. If a resident requested an absentee ballot but came in person to vote, their vote was not counted. If a resident did not write their name on the ballot envelope the vote was invalid. The Elections Committee is considering ways to make the voting process confidential.

Councilmember Cissna asked about some of the written comments from survey respondents requesting to have more information on the candidates. Steve Trowern suggested that such concerns may be more of an education/awareness issue about the information that is out there like the Candidate's Forum rather than there being a lack of information. He confirmed that the Committee is looking at these concerns and hopes to help address them in their recommendations to the Council.

Trowern concluded that the Elections Committee will make a policy recommendation for some adjustments, not a major overhaul, to the process to the Council in January for its consideration.

Elections Committee Survey Results Attached.

8:20 PM      Update from the Centennial Committee: Krajeck

Chairman Krajeck named the members of the Centennial Committee: Naomi Naierman (Chair); Michelle Malloy, and Richard Krajeck. Susan Fattig has also volunteered to help. The Committee is still recruiting help in the areas of: communications (publicity and social media); stage design; and video production. If you are willing to volunteer your expertise in any of these areas, please contact Naomi Naierman at [nnaierman22@gmail.com](mailto:nnaierman22@gmail.com). The Committee has selected the Woman's Club of Chevy Chase as the venue for the celebration, which will take place Sunday, April 17, 2016.

Discussion ensued on contacting long-term residents for their histories of the Village. The program for the Celebration is under consideration.

8:25 PM      Update from the Ethics Committee: Krajeck

Chairman Krajeck listed the members of the Ethics Committee: Jimmy Joyce (Chestnut), Marc Efron, Chair (Raymond), and Celeste Biagini (Taylor).

Attorney Bolt will send the online link to the open meetings act training that is required of at least one member, but preferably all members. After completing the training the member should notify Bolt.

8:25 PM      Action on Council Meeting Minutes of November 19, 2015: Krajeck

Motion by Councilmember Alexander to approve the draft minutes for the Council meeting held on November 19, 2015; seconded by Councilmember Fattig. All in favor.

The minutes as approved are attached.

8:27 PM      Public Hearing on Introduced Ordinance No. 11-15-1: Amendments to reorganize and clarify the Code of Ordinances: Cissna

Councilmember Cissna briefly summarized the history of the introduced amendment to the Code of Ordinances. She noted that many of these amendments have been discussed on the record since September 2015, as well as noted in the November Martin's Edition newsletter and published on the Village website. Councilmember Cissna and Attorney Bolt have also considered the changes in Funk and Bolton's compliance review pertaining to the Code of Ordinances, which will be addressed at a later date.

Councilmember Cissa noted that the prior discussions are reflected in the minutes, on the audio recordings of the meetings, and another comment period will be provided at the January Council meeting.

Discussion ensued about the term “Code Enforcement Officer” in Section 3-101(c). Attorney Bolt clarified that the term means the Village Manager or such other designee, such as the Building Administrator, determined by the Council. The default is the Village Manager. Councilmember Cissna added that any notice of code violations comes from the Village office. Village Manager Hall noted that building permits are currently signed by both the Village Manager and the Building Administrator.

Discussion ensued on Section 2-311 as to the definition of a Public Official, clarified to be a Village *employee* (not contractor) or a member of the Village Council. This was made consistent throughout the Code of Ordinances.

Attorney Bolt clarified that no changes were made to fine amounts in the case of misdemeanors.

Councilmember Cissna noted that she had briefly spoken to former Councilmember Mike Zielinski about assisting with the review of the Code.

Public Hearing ensued:

Steve Schmal (Summit Ave.) presented his comments:

There needs to be a distinction between the authority of the Village Manager and a contractor of the Village. Decision-making should be limited to the Village Manager, although a contractor could be involved in the process.

He noted that some substantive changes were made, which was not made clear in the title of the proposed ordinance. This includes a requirement for a permit to fix a walkway per Section 6-302(b).

He stated that he does not believe that the Council should adopt the proposed ordinance as it stands.

He expressed concern that the proposed ordinance states the Village will not defend employees or Councilmembers. Attorney Bolt responded that case law provides that it is an improper use of public funds to defend employees or Councilmembers in a criminal action.

Attorney Bolt noted that the proposed ordinance would eliminate permit requirements for everything but buildings and their appurtenances, and non-vegetative surfaces. A permit is currently required to construct or repair any “structure,” including a non-vegetative surface in a front yard.



In Section 6-303(e) & (f) the word “significantly” has been deleted in cases where plans change after the permit issued. The word was deleted because the term can be debated. Attorney Bolt clarified that, in these cases, if Montgomery County requires new plans be submitted based on an amendment to a project, then the Village will as well.

Section 3-201(b) needs to be edited for clarity. Attorney Bolt will revise.

Further discussion ensued. Attorney Bolt noted 7-101(a) should be changed to match section 6-101(a). Village Manager Hall cited 6-101(a) does not define “close proximity.” Chairman Krajeck clarified that “close proximity” will be determined by the Village.

Section 6-101(d) “without limitation” should be changed to “including but not limited to.”

Discussion ensued on Section 6-204(a) regarding business activity in the Village. Attorney Bolt said the Village cannot regulate land use but can regulate parking and public nuisances. The business needs to notify the Village of its existence and if it is an impermissible use the Village can report the improper use to the County.

Schmal was concerned that the Council will delegate authority to contractors and Cissna clarified that it will not.

Village Manager Hall discussed Section 7-402(b)(2) which appears to allow a smaller rear setback. Staff needs to confer with Attorney Bolt on this item.

The Proposed Ordinance No. 11-15-1, as introduced on November 19, 2015, and amended at the December 17, 2015 meeting is attached.

Steve Schmal’s (Summit Ave.) written comments attached  
Frank Correl’s email attached

9:20 PM      Discussion of Street Light Improvement Projects, including outcome of initial survey: Hill

Councilmember Hill reported that there were 20 resident responses to the Council’s initial light survey. The 55W Induction option and the 55W LED option were favored over the 38W LED option. The survey results are one factor the Council will consider for its choice of lighting.

Discussion ensued about the options. Councilmember Alexander asked why the maintenance for the LED light is higher than the induction light. Hill noted that the LED lights burn out more often.

Adding light poles to seven sites would cost \$40,000 regardless of which type of light is chosen.

Although the 55W LED option was the most popular on the survey, due to budget concerns, the Council voted 3-2 for the 55W induction light option.

Hill stated that the next step will be a survey of residents in January on the options for the shape and color of the light skirt. The survey will note areas that are proposed to get new lights. The results will be presented at the January Council meeting.

The text of the Street Lighting Report is attached.

The text of the Summary of Proposed Alternatives – Scott Watson Associates, Lighting Consultants is attached

9:40 PM Village Office Layout proposal: Krajeck

Chairman Krajeck discussed the proposed Village office layout designed by The Studio of Sandra Ragan on a pro-bono basis. At this point the Council is looking at layouts and will give it budget consideration at the January Council meeting. It is intended to make the office more efficient. He noted that The Studio of Sandra Ragan could attend the meeting.

Discussion ensued on the proposal. Councilmember Alexander said the priority is for new office furniture which can be obtained through the GSA warehouse, and that the costs of the proposal need to be considered. Chairman Krajeck likes the idea of a telescoping conference table. Councilmember Hill said that the space should not feel smaller. Village Manager Hall proposed more modularity so that staff workspaces can be moved for meetings.

The office layout proposal from The Studio of Sandra Ragan is attached.

9:45 PM Financial matters, including Treasurer's Report: Hill

In November Village income exceeded expenses by over \$140,000. Main driver for increased income was almost \$200,000 disbursement from income tax, almost \$8,000 from real property tax, and almost \$1,200 from personal property tax. In addition to standard monthly expenses of office lease, office staff salaries and benefits, accounting and police expenses, we have also incurred \$6,325 in street cleaning fees (budgeted) and \$3,250 in building review and permits. The building review and permit expenses continue to be over budget, although they have come down over \$2,000 since October.

Legal fees have come down, given that the Ordinance review is coming to an end. November billing totaled \$7,500, which is only slightly over the projected spending on two months of legal fees.

Overall the village is in good financial state.

Village Manager Hall mentioned that the building review and permits expenses of \$3,250 were due to a variance hearing.

Councilmember Alexander noted that the Village should receive an income tax statement from the state with information about distributions. Village Manager Hall will ask the accountant if he has received this.

Councilmember Cissna noted that the Council needs to discuss budget amendments in some areas. These include legal expenses, building administrator, and lawn and landscaping expenses. This can be done in a meeting in January. The budget will go up in some areas and down in others.

Motion by Councilmember Alexander to approve the Treasurer's Report; seconded by Councilmember Cissna. All in favor.

Treasurer's Report as adopted is attached.

9:55 PM      Manager's Report: Hall

Village Manager Hall gave her report.

#### Administrative Matters:

- Staffing: Beth Boa, our Assistant Manager, has received her Commission to be a Notary Public in Maryland. Councilmember Cissna requested any Notarial Acts for Village residents be tracked in order to determine how much time this service may consume.
- Website: This month, we have checked all the broken links and updated committee pages. Please note that we update the website weekly, and sometimes daily, and we encourage all to take a fresh look at the website. Let us know if you have difficulty finding anything, or find other areas in need of update.
- Contracts: We have issued a new RFP for lawn and landscaping services in certain public areas of the Village for 2016. This will be posted on the website. Depending on the proposals received, we may need a budget amendment to cover this contract.
- Holiday Fund: more than 100 residents have contributed to the Holiday Fund for the trash collectors. Thank you all for your generosity. Gifts and notes will be distributed next week.
- The Building Permit Application has been updated and posted on the website. To address issues experienced in the past, a permit application strictly for new home construction has been added.

#### Safety and police:

- We found an abandoned bike on Summit Avenue and have contacted the police. It is currently parked on the rack in front of the grocery store. In general, when residents find items like this, please call 911 or the MCPD 24-hr non-emergency #: 301-279-8000 as soon as you see anything amiss.

- There is a vehicle parked on Thornapple which has not moved in some time. A gentle reminder to residents that the Village adopted a policy in March of 2015 that prohibits parking motor vehicles on public streets for more than 24 hours except adjacent to the property lines of the vehicle owner's residence or business. We attempted to notify the owner via a letter.

#### Utilities:

- WSSC: Water main relocation/replacement is underway on Bradley Ln. and about to start on Melville Pl. Once these streets are completed in early January, there will be a break. The project will begin again on Raymond and Quincy Streets on or about March 15, 2016. The WSSC project manager has told the Village Manager that WSSC will repave VMA streets curb to curb to the limits of disturbance as a result of the water main replacement and relocation, upon completion of this second phase of water line work. The work on Raymond and Quincy Streets will not commence until on or after March 15th.

#### Streets & Sidewalks:

- Street cleaning is mostly completed for December by Rolling Acres Landscaping. Weather permitting, they will finish and clean out catchment basins on Friday 12/18.
- The Maryland State Highway Administration (SHA) is currently redesigning the intersection at Brookville Road and Taylor Street (the crossing in front of the Brookville Market). However, SHA has not provided a timeline for work on this intersection.
- Streetlight outages: Two found and reported during an after-dark inspection by Blue Crab Contracting.
- Trees in the public right-of-way: Plantings for Fall 2016 have been completed. Gator bags will be placed on these trees in late Spring 2016.
- Basic maintenance on the Butterfly Garden, the flower beds around the commercial area, and several other public areas in the Village were completed by Abrahams Lawn Service this week. The plantings done in the flower beds should be self-sustaining: they will not require watering next year, and should self-propagate with minimal maintenance required.

#### Sanitation:

- The next bulk trash is Saturday, January 9th. We are again coordinating with A Wider Circle for a pick-up the Friday before, and we will post signs on light poles in advance of bulk trash day in early January.
- Pet waste bags: Friendship Animal Hospital has donated dog waste bags for the Village's public dispensers. Thank you to Chris Kohl and Dennis King for volunteering to restock the dispensers.

Building Administration: Doug Lohmeyer's report was submitted:

3414 Cummings Lane: The Building Permit Application for the detached garage and driveway was issued and construction is underway.

7210 Delfield Street

The property owner has recently built a new wooden fence around the front yard. That fence was not included in the original Village Building Permit, which has been closed. The property owner has been advised to submit a fence permit to the Village.

120 Quincy St.

The deck and fence construction is complete and the staff has done a final site inspection. The VMA Building Permits is being closed out.

3513 Raymond Street

The right of way license agreement has been recorded and the refund of the performance bond has been requested.

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.

3506 Taylor Lane

The existing house, front porch, and front steps were built prior to the current Code and are non-conforming because of the EBL setback. The property owner recently built a side porch, which was permitted by the Village. However, they also built a set of steps on the east side of that porch, which were not on the original building permit application and encroached into the side yard setback. After discussing this with the staff, the homeowner has removed the encroaching steps.

3507 Turner Lane

The public hearing for a variance was held on Nov. 5, 2015. The applicant has submitted a new application and plans to MCDPS and the Village and paid the additional fee. On Dec. 16th, the Village Building Permit was issued for the improvements included in the variance.

3511 Turner Lane

The homeowners applied for building permit for a fence along the frontage of their property. The applicants assumed they owned the land up to the edge of the existing sidewalk running parallel to Turner Lane. The staff has provided the homeowners with a copy of the Village's GIS map indicating the actual front property line is located several feet behind the sidewalk. The homeowners have the right of way license agreement and are executing the document. It will then be recorded in the land records.

#### WSSC Water Main Construction

The WSSC has awarded the contract for the new water main construction in Raymond St., Melvin Place, Bradley Lane, and Quincy Street. The contractor has almost completed the water main installation in Bradley Lane.

10:05 PM    Adjournment: Krajeck

Ordinance No.: 11-15-1  
Introduced: November 19, 2015  
Adopted: January 21, 2016  
Effective Date: February 10, 2016

## **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; LIMIT THE REQUIREMENT FOR A PERMIT TO BUILDINGS AND APPURTENANCES; IMPOSE A REQUIREMENT FOR A BOUNDARY SURVEY FOR PERMITS AND VARIANCE REQUESTS; EXPAND THE LIST OF POSSIBLE PERMIT CONDITIONS; DELETE THE REQUIREMENT FOR A PERMIT TO INSTALL A FENCE OR WALL; CLARIFY HOW DRIVEWAY WIDTH IS MEASURED; REMOVE THE REGULATION OF TERRACES; 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 AND AMEND 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 at it relates to fences, walls, hedges, and similar barriers; signs; residential parking; residential storage; the location of structures, including setback requirements; the

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

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

WHEREAS, 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, Village staff, legal counsel, and Council members have compiled proposed edits to the Village Code as issues have been identified over the years;

WHEREAS, the Village Council discussed the proposed edits to the Village Code, and additional amendments that have been identified during the discussions, at public meetings held on September 17, 2015, October 15, 2015, November 19, 2015, and December 17, 2015;

WHEREAS, the Village Council introduced the following Ordinance at a public meeting held on November 19, 2015;

WHEREAS, to comply with Maryland Code, Land Use Article, Section 20-509, on the 23<sup>rd</sup> day of November, 2015, a copy of following Ordinance was submitted to the Montgomery County Council for its 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 21<sup>st</sup> day of January, 2016;

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 21<sup>st</sup> day of January, 2016, 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. 11-15-1, adopted 1/21/16, effective 2/10/16)**

\* \* \*

#### **Section 2-301. Definitions**

For purpose of this Article:

- (a) "Public official", or "official" means a member of the Village Council **and**-
- ~~(b)~~ **(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.
- ~~(c)~~ **(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. 11-15-1, adopted 1/21/16, effective 2/10/16)**

#### **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. 11-15-1, adopted 1/21/16, effective 2/10/16)**

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

Before undertaking any defense, the attorney retained by the Village shall conduct an investigation of the facts on which the civil action 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. 11-15-1, adopted 1/21/16, effective 2/10/16)**

#### **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. 11-15-1, adopted 1/21/16, effective 2/10/16)**

**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. 11-15-1, adopted 1/21/16, effective 2/10/16)**

**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.
- ~~(c)~~ 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~~Section 2-307 hereof, or by applicable State or ~~e~~County law.

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

**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. 11-15-1, adopted 1/21/16, effective 2/10/16)**

## **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. 11-15-1, adopted 1/21/16, effective 2/10/16)**

## **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. 11-15-1, adopted 1/21/16, effective 2/10/16)**

**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. 11-15-1, adopted 1/21/16, effective 2/10/16)**

### **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. 11-15-1, adopted 1/21/16, effective 2/10/16)**

\* \* \*

### **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.**

(Ord. No. 4-09-1, adopted May 27, 2009, effective 6/16/2009; **Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16**)

### **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.

(Ord. No. 4-09-1, adopted May 27, 2009, effective 6/16/009; Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16)

\* \* \*

**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.~~

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

\* \* \*

**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. 11-15-1, adopted 1/21/16, effective 2/10/16)**

**Section 3-201. Declaration of Municipal Infractions and Misdemeanors; 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 ~~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.**

**(b) The Council may by contract or otherwise abate a violation that is not abated after ten (10) days' notice of the violation, or such other period as the Council may specify. The cost of any abatement by the Council shall be paid immediately by such person or persons upon demand of the Council, in addition to any penalties that may be imposed. 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.**

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

\* \* \*



### Section 3-301                      **General Municipal Penalties**

Unless otherwise specified in this Code, any person found guilty of violating any provision of this Code for which violation is a misdemeanor shall be subject to a fine not to exceed One Thousand Dollars (\$1,000.00), and/or imprisonment of not more than six (6) months.

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

Unless otherwise specified in the Code, the general penalty for commission of a municipal infraction shall be One Hundred Dollars (\$100.00).

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

~~———— Any violation of the Code provisions listed in Section 3-303 shall constitute and be punishable as a municipal infraction and shall be subject to the maximum penalty specified herein for such offense; if a maximum penalty is not specified herein, the general municipal infraction penalty in Section 3-302 shall apply.~~

~~———— Any violation of Chapter 4  
———— As specified in Section 4-204(e) ————— \$100.00~~

~~———— Chapter 6-311  
———— (VMA Noise Ordinance) ————— \$100.00 for first violation  
———— \$250.00 for subsequent violations~~

(Ord. No. 1-22-15, adopted March 19, 2015, effective April 8, 2015; **Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16**)

\* \* \*

### Section 4-101.                      **Definitions**

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

- (a) The “Committee” means the “Village Ethics Committee” as constituted and described in Section 2-101.
- (b) “Gift” means the transfer of any thing or service of value without identifiable and adequate consideration; “gift” does not mean or include any regulated campaign contribution.
- (c) **“Public Official” or “Official”** means all members of the Village Council and all ~~employees of~~ **persons employed by** 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. 11-15-1, adopted 1/21/16, effective 2/10/16**)

#### **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.~~
- (b)** 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.
- (e)** 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.
- (d)** No part of this Chapter shall be construed to prohibit an Official from appearing in the pursuit of his private interests as a citizen; or from accepting or receiving any benefit by operation of law, or prosecuting or pursuing any claim, right, privilege or remedy which is his by operation of law.

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

#### **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.

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

**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.

\* \* \*

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

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

\*(Note: **Appendix A attached hereto contains the Sections of Chapter 31 of the Montgomery County Code that are applicable in the Village. Appendix A shall be revised as such Sections of Chapter 31 of the Montgomery County Code are amended from time to time.**)

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:

- (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 the land of said lot or lots, and which is not attached by any part of a common wall or roof with the main building **or in close proximity to the main building.**

\* \* \*

- (d) "Building" means a structure on a lot which has one or more stories and a roof and is designed primarily for the shelter, support or enclosure of persons or property of any kind. **"Building" includes above-grade projections and appurtenances,**

including, but not limited to, porches, decks, breezeways, steps, stoops, exterior stairways, bay windows, oriel entrances, balconies, vestibules, air conditioners, heat pumps, and generators.

\* \* \*

- (h) “Dumpster” means a large container, including, but not limited to, a detached wheeled trailer, designed or used to store rubbish, construction and/or demolition debris, or other material to be discarded.

\* \* \*

- (n) “Non-vegetative surface” means any surface that is not vegetative, including, but not limited to, asphalt, concrete, stone, sandstone pavers, and the like.

- (q) “Portable storage unit” means a large portable container designed or used for the outdoor storage of personal property, including, but not limited to, portable containers that are leased for temporary use.

\* \* \*

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

\* \* \*

- (x) “Village Tree” has the meaning set forth in Chapter 9.

[Note: Existing definitions shall be re-lettered accordingly]

(Ord. No. 5-13-1, adopted September 19, 2013, effective October 10, 2013; **Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16**)

\* \* \*

## **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.~~

\* \* \*

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

\* \* \*

**Section 6-301. Purpose and Application**

\* \* \*

- (b) The provisions of this article shall apply to the demolition of, addition to, or erection, construction, re-construction, repair and improvement of the exterior of all buildings and accessory buildings, ~~fences and structures,~~ **and** to any activity which will, or may, result in the excavation to, or alteration or temporary closure or blockage of streets, **curbs,** or sidewalks, **or the installation of structures thereon,** within boundaries of the Village.

\* \* \*

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

\* \* \*

**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 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.

**Prior to the issuance of a building permit pursuant to the provisions of this Chapter, No person shall:**

- 1) ~~a~~Add to, erect, install, replace, alter, construct, re-construct, repair or improve any structure **building;** ;**
- 2) Add to, install, replace, alter, construct, re-construct, repair or improve any non-vegetative surface in a front yard;**
- 3) ~~p~~Place any heavy equipment upon or move any heavy equipment over an improved street surface, curb, or sidewalk; **or****

- 4)** ~~e~~Commence any activity involving reconstruction, repair, or excavation of any street, curb, or sidewalk, **or installation of any structure thereon**, 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 ~~a~~ private improvements **structure** 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.

(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.

**(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. 11-15-1, adopted 1/21/16, effective 2/10/16**)

**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 buildings 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~~ **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. 11-15-1, adopted 1/21/16, effective 2/10/16**)

**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) ~~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) 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, and non-vegetative surfaces in a front yard, 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. 11-15-1, adopted 1/21/16, effective 2/10/16)

\* \* \*

#### **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. 11-15-1, adopted 1/21/16, effective 2/10/16)

\* \* \*

#### **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. 11-15-1, adopted 1/21/16, effective 2/10/16)**

\* \* \*

**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. 11-15-1, adopted 1/21/16, effective 2/10/16)**

\* \* \*

**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, **or in close proximity to the main building.**
- (e) “Building” means a structure on a lot which has one or more stories and a roof and is designed primarily for the shelter, support or enclosure of persons or property of any kind. **“Building” includes above-grade projections and appurtenances, including, but not limited to, porches, decks, breezeways, steps, stoops, exterior**

**stairways, bay windows, oriel entrances, balconies, vestibules, air conditioners, heat pumps, and generators.**

\* \* \*

- (n) “Established building line,” means the average front line of all buildings that are:
- a. within 300 feet of each side property line of the proposed construction site;
  - b. on the same side of the street;
  - c. 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.

\* \* \*

- (hh) **“Non-vegetative surface” means any surface that is not vegetative, including, but not limited to, asphalt, concrete, stone, sandstone pavers, and the like, and includes the area of any front porch, stoop, steps, and/or stairs.**

\* \* \*

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

\* \* \*

- (uu) **“Unenclosed” means not enclosed by a wall, window, screening, or other building element.**

[Existing definitions shall be re-lettered accordingly]

(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. 11-15-1, adopted 1/21/16, effective 2/10/16**)

\* \* \*

#### **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. 11-15-1, adopted 1/21/16, effective 2/10/16**)

#### **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 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. 11-15-1, adopted 1/21/16, effective 2/10/16**)

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; **Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16**  
Cross References: Section 6-302(b); Section 7-204.

\* \* \*

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

- (a) Building Height:

\* \* \*

- (2) Flat roofs: Flat roofs on the front of a building, which are a part of the main structure **building**, shall not be permitted.

- (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.

\* \* \*

- (b) 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.

\* \* \*

- (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 (~~2-1/2~~**2.5**) 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.

(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.

\* \* \*

- (i) No 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**

**adjoining or adjacent surface comprised of the same material as the 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.

\* \* \*

(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. 11-15-1, adopted 1/21/16, effective 2/10/16**)

#### **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. 11-15-1, adopted 1/21/16, effective 2/10/16**)

#### **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~~ **buildings** existing and proposed to be erected, and the distances of the ~~structures~~ **buildings** 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. 11-15-1, adopted 1/21/16, effective 2/10/16**)

\* \* \*

### **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. 11-15-1, adopted 1/21/16, effective 2/10/16)**

\* \* \*

**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. 11-15-1, adopted 1/21/16, effective 2/10/16)**

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

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

\* \* \*

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

\* \* \*

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:

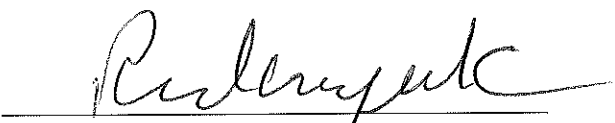
(1) If any part or provision of this Ordinance is declared by a court of competent jurisdiction to be invalid, the part or provision held to be invalid shall not affect the validity of the Ordinance as a whole or any remaining part thereof; and

(2) This Ordinance shall take effect on the 10<sup>th</sup> day of February, 2016.

ATTEST:

THE VILLAGE OF MARTIN'S ADDITIONS

  
Tiffany Cissna, Secretary

  
Richard Krajeck, Chair

## Village Council

**Underline** indicates new material

~~Strikethrough~~ indicates material deleted

\* \* \* indicates material unchanged



**FUNK & BOLTON**

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November 17, 2015

**PRIVILEGED and CONFIDENTIAL**

**VIA EMAIL AND HAND DELIVERY**

The Honorable Village Council of the Village of Martin's Additions  
Attn: The Honorable Tiffany Cissna, Council Member  
7013-B Brookville Road  
Chevy Chase, Maryland 20815

Re: Legal Compliance and Ethical Conflict of Interest Review

Dear Council Members:

We have completed our review of the Charter for Martin's Additions (the "Charter"), the Code of Ordinances of the Village of Martin's Additions (the "Code"), and the resolutions and policies that were provided to us. This letter sets forth our recommended amendments and potential strategies for the Village Council to address areas of noncompliance, existing and potential conflicts of interest, and areas of general improvement and clarification with respect to the foregoing.

**I. The Charter**

Section 101. For purposes of clarity and consistency, we recommend moving the abbreviation for the municipal corporation to Section 301. Whichever abbreviation is desired (i.e., "Martin's Additions" or "the Village") should be used consistently throughout the Charter and the Code. The abbreviation "the Village" is consistent with other municipal Charters that refer to their respective jurisdictions as "the Town" or "the City."

If the General Assembly has passed legislation abolishing the special taxing district as stated in Section 101, and the same has actually been abolished, then the last sentence of Section 101 can be deleted as outdated.

Section 201. Rather than specifically stating the boundaries of the municipality, it would be simpler to state as follows:

The courses and distances showing the exact corporate limits or boundaries of the Village shall be filed at all times with the Clerk of the Circuit Court for Montgomery County and with the Director of the Department of Legislative Reference of the Maryland General Assembly. Additionally, a copy of the courses and distances showing the exact corporate limits or boundaries of the Village and a map showing the same shall be maintained on file in the Village office and available for public inspection during normal business hours.

Not only is the foregoing language more concise, it obviates the need for a Charter Amendment Resolution in the event any land is annexed into the municipal boundaries of The Village of Martin's Additions (the "Village").

Section 301.

Certain definitions should be changed for consistency throughout the Charter. As noted above, "The Village of Martin's Additions" can be abbreviated to simply "the Village" and the term "Corporate body" should be changed to "corporate body." Also, the abbreviation of "Council" is designated for the Village Council, but the term "Village Council" is used throughout the Charter.

We also recommend deleting the definitions of "Qualified Voter" and "Resident" and adding a section to Article VI (Annual Meetings and Elections) entitled "Voters" or "Qualified Voters" and stating substantially as follows:

Every person who is a citizen of the United States, is at least 18 years of age, is a resident of Maryland that has resided continuously within the corporate limits of the Village for at least six (6) months preceding any Village election, and is registered in accordance with the provisions of this Charter shall be a qualified voter of the Village.

If the Council desires to delete the definitions of "Qualified Voter" and "Resident" as recommended, the Council may also consider simply deleting Section 301 altogether and adding a parenthetical after each term that is abbreviated in the Charter, such as the "hereinafter" parenthetical in Section 101.

Section 401. The numbers used in this Section and in some other sections do not have a parenthetical (*i.e.*, "six (6)"), though the numbers used in some other Sections do (*i.e.*, Section 301, in the definition of "Resident"). For consistency, we recommend spelling each number and then using a parenthetical or using a number for 1-10 and spelling the numbers from 11 and



thereafter throughout the Charter. Spelling the number and then using the parenthetical tends to eliminate confusion.

Section 402. This Section can be shortened to simply state, "Council members shall be qualified voters of the Village." It is redundant to state that a Council member shall continue to reside in the Village because residency is a requirement to be a qualified voter.

Section 403. The way Section 403 is currently written, the Treasurer is not specifically authorized to sign checks. In subsection (c), it is implied that if the Treasurer, Chairman, or Vice-Chairman is absent or incapacitated, then some other Council member may be authorized to sign checks. If the Council intends that the Vice-Chairman can sign only in the absence of the Chairman, then that intent should be made clear. If the Council intends that the Treasurer can sign checks, then that intent should also be made clear. Clarifying the Council's intent with respect to signing checks eliminates any confusion (including among the elected officials) as to whether a check was properly and validly issued, which is an issue we have encountered in other jurisdictions. We recommend deleting the language in Section 403 regarding signing checks and adding a new section under Article VII (Finances) that details how checks are to be signed and specifies which signatures are necessary for a check to be valid. For example:

The authorized signatories of all checks issued in payment of salaries or other municipal obligations shall be the Chairman, the Vice-Chairman and the Village Manager. All such checks must be signed by two of the three foregoing individuals in order to be valid.

In subsection (d), the Council should consider authorizing the appointment of another Council member to serve as the custodian and undertake the Secretary's duties in the Secretary's absence or incapacitation.

Lastly, it is unclear as to when the Village's officers are selected. Typically, a new legislative body holds an organizational meeting shortly after the election to appoint the appropriate officers from among its members. The Council should consider providing for an organizational meeting at which it selects its officers in Section 403.

Section 405. The reference to "Sections 501 and 502" is redundant and can be deleted. Additionally, the Council may wish to consider increasing the expenditure threshold from \$1,000 to \$5,000 or even \$10,000.

Section 406. This Section can simply state when the Council meets, particularly if the Council does not have bylaws, in which case the reference to "bylaws" can be deleted. The reference to the Vice-Chairman is redundant because it is covered under Section 403(b).



We also recommend revising the language of this Section to state that the Council's meetings shall be open to the public unless closed by the Council in accordance with the Maryland Open Meetings Act, Md. Code Ann. Local Gov't § 3-101, et seq., as amended from time to time (or simply "in accordance with State law"). Though frequently used, the term "executive session" is misleading and does not accurately convey the purpose of meeting in closed session. It would be better to state that the Council may meet in closed or special sessions from time to time in accordance with the Maryland Open Meetings Act. Additionally, the reference to "Article 76A" should be deleted, as it is outdated and refers to an old version of the Maryland Open Meetings Act.

Section 407. This Section can be amended to state that minutes shall be open to the public in accordance with the Village's public information policy (which, in turn, should incorporate the Maryland Public Information Act, as more fully discussed herein below) and the Maryland Open Meetings Act. Except in limited cases, closed session minutes are sealed and not open to the public.

Section 408. The Council may want to consider deleting the requirement that the Election Committee provide a list of three candidates to fill a vacancy on the Council. If the Village does not have an Election Committee, this requirement would be problematic. It would be more efficient for the Council to simply select a qualified candidate.

Section IV – Other Issues. The Charter does not provide for any salary or benefits for Council members. If the Council members receive salaries or benefits, the Charter should be amended to authorize the same, though it does not need to specify the amount of the salaries or the benefits provided. The actual amount of the Council salaries and specific benefits provided can be set forth in an ordinance or resolution. If the Council members do not presently receive salaries but may wish to do so in the future, please keep in mind that, under State law, such salaries can only take effect as to the next Council elected following the passage of the Charter Amendment Resolution authorizing the same.

Section 501. The meaning of the term "regulations" is unclear. Presumably, the term does not refer to resolutions, which are separate and distinct from ordinances, in which case the language "and regulations" can be deleted. If the term actually means "resolutions," it should be changed accordingly. However, resolutions are not subject to the same legislative requirements as ordinances because they are generally operating policies and procedures for the local government and may need to be adopted quickly. Resolutions do not generally regulate or otherwise affect public conduct; therefore, the need for public notice and an opportunity to be heard prior to adoption do not apply.



Section 502. See above regarding "regulations." Additionally, the requirement that no ordinance shall be passed until 30 days following the meeting at which it was introduced is burdensome. For flexibility, we recommend amending this language to provide that, at any regular or special meeting of the Council held not less than six nor more than 60 days following introduction of an ordinance, the Council may pass, pass as amended, reject, or defer consideration to a specified future date the ordinance. Additionally, the 20-day period between the date of passage and the effective date is unnecessary if there is no right to referendum of ordinances. In the absence of any right to referendum, ordinances should be effective immediately upon passage. If the Council wishes to hold a public hearing on an ordinance prior to passage, then it is burdensome to then make the ordinance subject to referendum or publish notice of the same following passage. Post-passage requirements and delayed effective dates when there is no referendum period waste money (publication costs) and time (delay in making ordinances effective). However, if the Council does not hold a public hearing on every ordinance (unless otherwise required by State law) then it is appropriate to publish notice of passage of an ordinance following passage.

If the Council wants to keep the post-publication passage requirement, then we recommend specifying the timeframe in which publication shall be made (*i.e.*, 20 days following passage). Of course, the timeframe will depend on newspaper publication requirements and should not be too stringent.

In subsection (d) it is unclear as to why there is a reference to written notice directed to residents at their properties. Written notice is defined to include publication. It is burdensome and costs postage to send written notice to each Village resident of every ordinance or resolution. It is unclear as to what this subsection is intended to address.

Section 602. Section 602 provides that Council members shall be elected annually between March 1 and May 15. Section 401 provides that each Council member's term starts on July 1 following the election. The Council may want to consider fixing the election date to be held in June and exclusive of the annual meeting so that the newly elected Council member(s) take office shortly after the election. If a new Council member is elected on March 1 but does not take office for four months, a lengthy (and potentially awkward or difficult) transition period is created that could potentially impair the Council's ability to conduct business. Having the new Council members take office at the meeting shortly after their election eliminates the problems that could arise from such a lengthy transition.

Section 602 should also be revised to state that the Election Committee shall operate according to those rules and procedures established by ordinance, not in by-laws. The Council will then need to pass an ordinance setting forth the rules and procedures for the Election Committee, which should be fairly brief.





Article VI – Other Issues. The Council may wish consider adding language regarding the duties of the Election Committee (to the extent not otherwise specified in the ordinance setting forth the Committee's rules and procedures), voter qualification and registration (as previously stated), absentee ballots, special elections, vote counting, preserving ballots, and penalties for election violations.

Section 701. The sentence "No Council member shall sell supplies of any kind to Martin's Additions or contract in any manner with the Council" could be deleted since such a transaction is addressed in the Village's Conflict of Interest Code.

Section 701 should also be specific as to what constitutes a "professional service contract." Professional services typically include legal, engineering, and accounting services, but this should be made clear. Additionally, there should be some basic procedures for other types of contracts in the amount of \$10,000 or less, whether set forth in Section 701 or in a procurement ordinance.

Section 702. The reference to "Sections 31-37 of Article 23A of the Annotated Code of Maryland" is outdated, as Article 23A was repealed in 2013. This reference should be changed to § 19-301, et seq. of the Local Government Article regarding the creation of public debt in municipalities.

The debt limit provision in subsection (a) is also outdated because many jurisdictions no longer have one. If the Council feels that the debt limit provision is necessary, we recommend taking a look at the real property assessable base that is actually subject to tax (e.g., not exempt) and determining what debt limit covers the outstanding general obligation debt, if any, plus general obligation anticipated in the next five years and a cushion. Also, any debt limit should be written so it is tested at the time new debt is issued so that the amount outstanding fits within whatever is determined to be the stated debt limit, not the amount issued in the aggregate.

In subsection (b), we recommend the ability to authorize general obligation debt first by a parameters ordinance specifying the maximum amount to be borrowed, identifying the purpose(s) for debt, pledging full faith and credit and unlimited taxing power to the payment of debt (although see below regarding Section 703), and stating that the details will be determined by resolution. We can provide samples if so desired. Our usual language also allows all details to be determined by ordinance when possible and delegated to the appropriate officials to finalize the details. Lastly, we recommend adding private sale authority so that the Village could sell to a bank. Given the Village's size, it would likely never do a public sale at a competitive bid. There is also no need to refer to tax exemption of obligations because only the State has the power to grant such exemptions.



In subsection (c), we have never seen anything like the prior approval vote requirement and would be surprised if the Village has debt outstanding based thereon. Accordingly, we recommend that this requirement be deleted. If the Village does not otherwise have a referendum right on ordinances and wants to give residents change to vote down debt, it would be better to: (1) require public hearings on bond ordinances before they are passed (after publication of notice of the public hearing at least 20 days prior to the public hearing); (2) require that notice of passage of a bond ordinance be published within the referendum period; and (3) provide for a 30-day referendum period on bond ordinances (and provide bond ordinances are not effective until 30 days following their passage).

Section 703. If the Council wants to make general obligation debt subject to the tax rate limit then Section 702 should make that clear. If the Council wants to be able to pledge its full faith and credit and unlimited taxing power to payment of general obligation debt, then an appropriate carve out needs to be made in this Section. Any tax limit affecting general obligation debt will make it harder for the Village to borrow.

The Council also needs to consider the appropriate tax rate limit for current and future budgets. The Maryland Truth in Taxation Act, Chapter 80 of the Laws of Maryland of 2000, which was passed after the adoption of the Charter Amendment Resolution that enacted Section 703, provided that debt limits and tax rate limits be construed as 40 percent of the stated amounts from and after effective date of that Act.

Article VII – Other Issues. The Council may also wish to add provisions regarding the chief financial officer of the Village (the Treasurer), preparation of the budget, the maintenance of an accounting system, the annual submission of a complete financial report, the designation of a fiscal year, appropriation of public money, the transfer of funds, budget amendments, over-expenditures, appropriations lapse, overdue taxes, and collection of taxes.

Section 801. The Council may wish to consider specifying the duties and responsibilities of the Village Manager or passing an Ordinance specifying the same.

Section 802. This Section can be combined with § 2-203 of the Code as stated below.

Article VIII – Other Issues. The Council may wish to consider adding provisions regarding compensation, benefits, and retirement systems for its employees.

Section 903. This Section can be deleted, especially if there are no bylaws. As discussed more fully below, the Village is exempt from having an ethics ordinance. For the good government of the Village, we recommend having an ethics ordinance (which the Village does). However, the requirement to make disclosures may be unduly burdensome and may dissuade



potential candidates from running for office, which can be problematic in a municipality of the Village's size.

Section 906. This Section can be deleted because the reference to Article 23A is outdated and this Section is otherwise unnecessary.

Article IX – Other Issues. The Council may wish to consider adding language regarding the effect of the Charter on existing ordinances stating that all ordinances or provisions of ordinances in conflict with the Charter are repealed to the extent of such conflict.

## **II. Code of Ordinances**

Chapter 1. The abbreviated terms should be reviewed for consistency. The terms “code,” “Code,” and “Code of Ordinances” are used interchangeably. We recommend using the abbreviated term “Village Code” in § 1-101 and revising the rest of Chapter 1 for consistency therewith. Section 1-204(a) uses the abbreviation “Council” for the Village Council but the term “Village Council” is used throughout Chapter 1. This should be revised for consistency throughout the Code.

Chapter 2. Chapter 2 should be amended to include the rules and procedures for the Elections Committee. The language regarding the term and qualifications for the Committee members should be changed to be consistent with the language in Section 602 of the Charter.

Section 2-203 can be incorporated into Section 802 of the Charter to read substantially as follows:

The Council may employ those whom it deems necessary to execute the powers and duties provided by this Charter and other local law, and State law, subject to the availability of budgeted funds.

Section 2-501 contains the same language as Section 407 of the Charter; therefore, it is redundant and can be deleted.

Chapter 3. We recommend removing § 3-102 and incorporating it into Chapter 2, Section 5 for consistency. We also recommend deleting the penalty set forth in § 3-102(c) or, at a minimum, changing the penalty to a municipal infraction. In our experience, Maryland courts disfavor misdemeanor punishments for municipal code violations, even though they are authorized under § 6-101 of the Local Government Article of the Maryland Annotated Code.

The references to Article 23A in § 3-207 are outdated and should be changed to Title 6 of the Local Government Article. The Council may wish to consider increasing the general penalty for commission of a municipal infraction as set forth in § 3-302 and elsewhere in the Code (e.g., § 6-311(c), § 3-303) or adopting a class schedule for municipal infractions and using uniform



language in each applicable Chapter of the Code providing that a violation thereof shall constitute a municipal infraction, as follows:

A violation of this Chapter shall constitute a Class (insert class of violation) municipal infraction and shall be punishable as set forth in Chapter 3 of the Code. Each day that a violation continues shall be deemed to be a separate infraction.

Chapter 4. The State Ethics Commission exempted the Village from adopting conflict of interest, financial disclosure, and lobbying provisions in 2012. Nonetheless, we recommend having a basic conflict of interest code and the Village's is sufficient. Section 4-102(a) can be deleted since the Village is exempt from adopting a public ethics law in compliance with Title 15, Subtitle 8 of the State Government Article of the Maryland Annotated Code. If the Council is inclined to keep § 4-102(a), the reference to Article 40 should be changed to Title 15, Subtitle 8 of the State Government Article.

Chapter 5. Chapter 5 is generally consistent with Md. Code Ann., Local Gov't § 4-111(b)(3), which provides that legislation enacted by a county does not apply in a municipality if the legislation relates to a subject on which a public general law or the municipal Charter grants the municipality legislative authority and the municipality, by ordinance or Charter amendment, specifically exempts itself from the legislation or generally exempts itself from county legislation covered by the type of grant of authority to the municipality. Section 5-103 sets forth the specific sections of the Montgomery County Code from which the Village has exempted itself, and all of those sections fall within the scope of the Village's legislative authority under the Charter.

Chapter 6. We have no recommended changes other than with respect to the municipal infraction language set forth in § 6-311(c).

Chapter 7. Article 2 makes no reference to the Maryland Minimum Livability Code ("MMLC"), which incorporates the most recent version of the International Property Maintenance Code ("IPMC") published by the International Code Council ("ICC"). Pursuant to the Code of Maryland Regulations ("COMAR") 05.02.03.04, the MMLC, including the IPMC, shall apply to residential structures used for human habitation, except: (1) owner-occupied single family housing units; (2) housing located in a political subdivision that has adopted a local housing code containing provisions that substantially conform to the provisions of the Code; or (3) housing exempted by the Maryland Department of Housing and Community Development.

Presumably, the vast majority of property in the Village consists of residential structures used for human habitation that are owner-occupied single family housing units, in which case those structures are not subject to the MMLC or the IPMC. However, the Council should be aware of the MMLC and the IPMC and consider whether it wishes to amend Article 2 to contain provisions that substantially conform to the MMLC and the IPMC. Alternatively, the Council could simply add language to Article 2 substantially stating as follows:



The provisions of this Article shall apply to all real property within the Village. Additionally, the provisions of the Maryland Minimum Livability Code, including the most current edition of the International Property Maintenance Code, as amended from time to time, shall apply to all real property within the Village consisting of residential structures used for human habitation that are not owner-occupied single family housing units and are not exempted by the Maryland Department of Housing and Community Development. In the event of any conflict between any provision of this Article and the Maryland Minimum Livability Code or the International Property Maintenance Code, the provisions of this Article shall control.

Article 2 also lacks penalties for violations other than for unremoved snow and ice and failing to maintain any public right-of-way. Rather than having penalty provisions in separate sections, we recommend having a single penalty section applicable to the entire Article.

Article 4 makes no mention of the Maryland Building Performance Standards ("MBPS"), which incorporates the current editions of the International Building Code ("IBC"), International Residential Code for One- and Two-Family Dwellings ("IRC"), and the International Energy Conservation Code ("IECC"), with amendments. Pursuant to COMAR 05.02.07.06, the MBPS applies to all buildings and structures within the State for which a building permit application is received by a local jurisdiction. However, pursuant to COMAR 05.02.07.05, local jurisdictions may modify provisions of the MBPS to address conditions peculiar to the local jurisdiction's community, so long as such modifications do not weaken the requirements of the IECC, Chapter 13 (Energy Efficiency) of the IBC, the automatic fire sprinkler system requirements for townhouses and one- and two-family dwellings (except in limited cases) contained in the MBPS, or the wind design and windborne debris provisions contained in the MBPS.

The Village does not need to delete its residential building standards set forth in Article 4, but we recommend adopting language similar to that above regarding Article 2 substantially stating as follows:

The provisions of this Article shall apply to all buildings and structures within the Village. Additionally, the provisions of the Maryland Building Performance Standards ("MBPS"), which incorporates the current editions of the International Building Code ("IBC"), International Residential Code for One- and Two-Family Dwellings ("IRC"), and the International Energy Conservation Code ("IECC"), with amendments, as amended from time to time, shall apply to all buildings and structures within the Village for which a building permit application is received. In the event of any conflict between any provision of this Article and the Maryland Building Performance Standards, the provisions of this Article shall control.



The ordinance enacting the following should state the conditions peculiar to the Village justifying the exceptions to the MBPS. One such condition is found in § 7-401(b), which states that the purpose of the Village's building standards is to encourage appropriately sized construction in keeping with lot sizes and character of the Village. Once passed, the ordinance must be sent to the Department of Housing and Community Development at least 15 days prior to the ordinance's effective date.

Lastly, we recommend that the Council consider adding a penalty section to Article 4, or simply rely on the penalty provisions set forth in the MBPS (*see, e.g.*, Chapter 1, Part 2 of the 2015 IBC).

Chapter 8. Section 8-103 provides that no regulatory traffic or parking control signs or other devices shall be erected on State highways without the approval of the State Highway Administration. Md. Code Ann., Transp. § 25-102 sets forth the powers of local authorities with respect to highways under their jurisdiction. Subsection (b) thereof provides that a local authority may not place or maintain any stop sign or traffic control signal that requires the traffic on any State highway to stop before entering or crossing any intersecting highways or place or maintain lighting along or at an intersection with a State highway. We recommend amending § 8-103 to be consistent with the foregoing State law.

Chapter 9. Chapter 9 contains several penalty sections (§§ 9-106, 9-108, 9-109, and 9-112). For purposes of clarity and consistency, the Council may want to consider consolidating these various penalty sections into one and provide that a violation of Chapter 9 shall be a municipal infraction and subject to the penalties set forth in Chapter 3 (as previously discussed). Furthermore, Md. Code Ann., Nat. Res. § 5-403(f) authorizes a county or municipality that adopts a local law or ordinance for the planting, care, and protection of roadside trees to issue a stop work order against any person that violates any provision of the local law or ordinance. Thus, the Council should consider adding the stop work provision to Chapter 9 as well.

### **III. Resolutions and Policies**

A Resolution to Establish a Schedule of Standard Completion Bonds Pursuant to Section 6-304 of the Code of Ordinances of the Village of Martin's Additions. This Resolution has no number and was not signed. Thus, it is not clear as to whether this Resolution was ever adopted. If the Resolution was adopted, the language in the first "Whereas" clause needs to be made consistent with the language in § 6-304 and the schedule of amounts for the security required under § 6-304 needs to be included.



Interpretative Policy No. 3-19-15. Generally, if the Council wishes clarify its intent with respect to a particular local law, it should just amend the law by ordinance to clearly state its intent. Otherwise, the argument could be made that the policy/resolution is an improper and illegal amendment to the Code. Accordingly, the interpretation of § 31-16 of the County Code would be more appropriate in an Ordinance.

Resolution No. 12-12-1. Like Interpretative Policy No. 3-19-15, it would be cleaner and safer to simply amend § 7-402(e)(5)(iii) by ordinance to apply to generators and auxiliary power units as well as air conditioners and heat pumps. The plain language of § 7-402(e)(5)(iii) specifically refers to air conditioners and heat pumps, which are separate and distinct from generators and auxiliary power units.

Resolution No. 4-10-2. The language in the policy attached to the Resolution should be added to Chapter 7 or 8 of the Code by ordinance.

Resolution No. 4-10-1. The language in the policy attached to the Resolution should be added to Chapter 7 or 8 of the Code by ordinance.

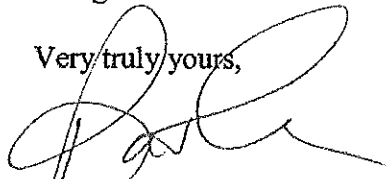
Policy No. 12-18-14. The language in this Policy should be added to Chapter 7 of the Code by ordinance.

Resolution No. 09-15-01. The Village's Public Information Act regulations are sufficient; however the Council may consider adding a provision stating that if the regulations conflict with the Maryland Public Information Act, Md. Code Ann., Gen. Prov. § 4-101, et seq., as amended, the MPIA shall control.

Overall, we believe that the Charter, the Code, and the resolutions and policies of the Village are legally sufficient, with the exceptions noted herein. Please do not hesitate to contact me with any questions or concerns regarding the foregoing or if we can be of further assistance as the Council and the Village Attorney develop a strategy for enacting any of the changes discussed herein.

We greatly appreciate the Council allowing us to assist it in this matter.

Very truly yours,



Patrick W. Thomas



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**VMA Council Response to Funk Bolton Recommendations**

#	Section	Funk & Bolton Recommendation Summary	Bolt Legal Counsel*	VMA Council Response**	Notes/Action Taken
1	I. The Charter, Section 101	Ensure consistency of abbreviation of VMA throughout.	Defer to VMA Council. Using both "Martin's Additions" and "Village" may not be an issue.	Agree	Make changes when Charter amendment is done.
2	I. The Charter, Section 101	Remove reference to special taxing district	Agree	Agree	Make changes when Charter amendment is done
3	I. The Charter, Section 201	Rather than specifically stating the VMA boundaries, refer to filings with State and County, to avoid having to amend Charter at later dates	Defer to VMA Council	Disagree	VMA will not be growing or annexing, as a result, the change is unnecessary
4	I. The Charter, Section 301	Ensure consistency of abbreviation of Village Council (and VMA, per #1) throughout.	Defer to VMA Council. Using both "Council" and "Village Council" may not be an issue.	Agree	Make changes when Charter amendment is done
5	I. The Charter, Section 301	Amend definitions of "Qualified Voter" and "Resident"	Agree	Agree	Make changes when Charter amendment is done. Counsel has advised on a voter qualification issue.
6	I. The Charter, Section 401	Recommend adding the Arabic numeral in a parenthesis after any number that is written out	Defer to VMA Council	Agree	Make changes when Charter amendment is done
7	I. The Charter, Section 402	Shorten to define who may run for Council	Disagree	Disagree	Counsel recommends no change. Although the provision could be simplified, the subject sentence clarifies an issue that may not be clear if the sentence were deleted.

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**VMA Council Response to Funk Bolton Recommendations**

8	I. The Charter, Section 403	Clarification about who has check signing authority	Defer to VMA Council	Agree	Make changes when Charter amendment is done, clarifying that 2 Council members have the authority to sign checks and updating who must be bonded in Section 902
9	I. The Charter, Section 403	Appoint another member of the Council to fulfill Secretary's custodial duties, if/as needed	Disagree	Disagree	The Village Manager has already been tasked with this (per Section 404).
10	I. The Charter, Section 403	Recommend that officer selection be done during a specific organizational meeting	Defer to VMA Council	Disagree	The Council handles this at the beginning of the first meeting of the new Council as the first order of business, after the Oath is given per Section 901.
11	I. The Charter, Section 405	Delete reference to "Sections 501 and 502" and increase expenditure threshold from \$1,000 to \$5,000 or \$10,000	Agree	Agree	Make changes when Charter amendment is done
12	I. The Charter, Section 406	Delete references to "by-laws"	Agree	Agree	Make changes when Charter amendment is done
13	I. The Charter, Section 406	Revise language of this section to say that Council meetings are open unless closed pursuant to Maryland Open Meetings Act and revise for updates to that Act	Agree	Agree	Make changes when Charter amendment is done
14	I. The Charter, Section 407	Revise to refer to and make the meeting minutes open pursuant to the Village's Public Information Policy	Defer to VMA Council	Disagree	Recommendation OBE as meeting audio recordings and minutes are posted on the Village website
15	I. The Charter, Section 408	Consider removing the requirement to have the Election Committee recommend 3 candidates in case of a Council Vacancy	Defer to VMA Council (but the current process provides a public benefit)	Disagree	Council believes that the process as originally set forth is best

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**VMA Council Response to Funk Bolton Recommendations**

16	I. The Charter, Section IV - Other issues	Recommendations based on if the Council were to ever draw pay	Defer to VMA Council	Disagree	Council does not believe the VMA Council will ever be more than resident-volunteers
17	I. The Charter, Section 501	Clarify the meaning of "regulation"	Disagree	Disagree	"Regulations" are not always ordinances or resolutions. They could be, <i>e.g.</i> , traffic orders under the Maryland Transportation Article.
18	I. The Charter, Section 502	Recommendation for making the Ordinance passage process less burdensome	Disagree	Disagree	Council believes that the process as originally set forth is best
19	I. The Charter, Section 602	Recommendation to change the Election Date to make more consistent with other meetings and facilitate transition. Also, notes need for rules and procedures to be adopted by the Council	Agree	Agree	Council referred comments to Election Committee for review and consideration.
20	I. The Charter, Section VI - Other issues	Council may consider other clarifying language on election procedures, qualified voters, etc.	Defer to VMA Council (Section 602 contemplates adoption of rules)	Agree	Council believes this will be resolved with Election Committee work and other proposed changes.
21	I. The Charter, Section 701	Recommend deleting redundant conflict of interest language regarding Council members	Defer to VMA Council (it may be best to retain because Code is amended more easily)	Agree	Make changes when Charter amendment is done
22	I. The Charter, Section 701	Recommend defining "professional services" contract and establishing some basic contract procedures	Agree (a procurement ordinance would be useful)	Disagree	Council concurs with the recommendations needing to be addressed, but will handle in the Code, not the Charter

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**VMA Council Response to Funk Bolton Recommendations**

23	I. The Charter, Section 702	Recommend further addressing of debt provision language	Defer to VMA Council	Disagree	The proposed amendment may be unnecessary. The Council could wait until such time as public debt borrowing is anticipated, before undertaking this edit.
24	I. The Charter, Section 703	Recommend further addressing of debt provision language, making it easier for the Village to borrow money	Defer to VMA Council	Disagree	The proposed amendment may be unnecessary. The Council could wait until such time as public debt borrowing is anticipated, before undertaking this edit.
25	I. The Charter, Section VII - Other issues	Council may consider adding provisions regarding the Treasurer's duties and responsibilities	Defer to VMA Council		The recommendations could be addressed in the Code, instead, if deemed necessary by the Council. The proposed edits may be deemed unnecessary (e.g., regarding budget preparation, the maintenance of an accounting system, budget amendments, etc.).
26	I. The Charter, Section 801	Consider specifying duties of the Manager	Disagree	Disagree	This is already handled in the Code
27	I. The Charter, Section 802	Combine with section in Code?	Agree (but delete Code Section 2-203 in favor of Charter, rather than <i>vice-versa</i> )	Agree	Address with Code amendment
28	I. The Charter, Section VIII - Other issues	Consider adding section on compensation and benefits of employees	Disagree (this should be covered by non-binding employment manual)	Disagree	Council does not believe such information needs to be in the Charter

**DRAFT - FOR DISCUSSION PURPOSES ONLY**

**DRAFT - FOR DISCUSSION PURPOSES ONLY**  
**VMA Council Response to Funk Bolton Recommendations**

29	I. The Charter, Section 903	Delete requirement for pre-election/pre-employment "disclosure."	Defer to Council (but reference to "bylaws" should be deleted. Disclosure may be deemed unnecessary based on conflicts of interest Code)	Agree	Make changes when Charter amendment is done
30	I. The Charter, Section 906	Recommend deleting reference to outdated Maryland Code	Defer to VMA Council	Agree	Make changes when Charter amendment is done
31	I. The Charter, Section IX - Other issues	Consider adding language regarding conflicts between Charter and existing ordinances	Disagree	Disagree	Council believes the Charter takes precedence by law
32	II. Code of Ordinances, Chapter 1	Review abbreviated terms for consistency	Defer to VMA Council	Agree	Make remaining changes when next Code amendment is done
33	II. Code of Ordinances, Chapter 2	Amend Chapter to include Elections procedures and make term language consistent with the Charter	Defer to Council (rules could be separately adopted, rather than added to the Code)	Agree	Make changes upon Council approval of Elections Committee recommendations
34	II. Code of Ordinances, Chapter 2	Incorporate Section 2-203 "council may employ..."	Disagree	Disagree	Recommendation has already been addressed
35	II. Code of Ordinances, Chapter 2	Delete 2-501 as redundant of Charter	Disagree	Disagree	Council has conferred with counsel and will leave in as consistent with the MD AG's model

**DRAFT - FOR DISCUSSION PURPOSES ONLY**

**DRAFT - FOR DISCUSSION PURPOSES ONLY**  
**VMA Council Response to Funk Bolton Recommendations**

36	II. Code of Ordinances, Chapter 3	Recommend moving 3-302 and incorporating it into Chapter 2, Section 5 for consistency	Agree	Agree	Recommendation has already been addressed by Ordinance No.: 11-15-1 (see Section 3-201)
37	II. Code of Ordinances, Chapter 3	Recommend updating 3207 to refer to Title 6 of the Local Government Article and adopting a penalty class schedule	Defer to VMA Council	Agree/Disagree	Recommendation has already been addressed regarding outdated reference. The Council finds that a more-detailed penalty class schedule is not needed at this time.
38	II. Code of Ordinances, Chapter 4	Update the Ethics Code with minor changes	Agree	Agree	Council referred comments to Ethics Committee for review and consideration.
39	II. Code of Ordinances, Chapter 5	No recommendation.	Counsel noted that VMA "opts-in" to County Code unless it specifically "opts-out"		Council may consider having a "holistic review" of County Code to ensure that the Village does not want to "opt-out" of anything else. County Code has changed significantly since the last time it was reviewed.
40	II. Code of Ordinances, Chapter 6	Recommended changes to the municipal infraction schedule	Defer to VMA Council	Disagree	The Council finds that a more-detailed penalty class schedule is not necessary at this time.
41	II. Code of Ordinances, Chapter 7	Recommendation about the MD Minimum Livability Code	Disagree (unless VMA wants to take on enforcement)	Disagree	Council believes best deferred to the County
42	II. Code of Ordinances, Chapter 7	Article 2: Add penalty section for the entire article	Disagree	Disagree	Currently, Section 3-302 is the default provision and imposes a fine of \$100 for any Code violation. If a different penalty is to be imposed for any specific violation, it can be separately provided as needed.

**DRAFT - FOR DISCUSSION PURPOSES ONLY**  
**VMA Council Response to Funk Bolton Recommendations**

43	II. Code of Ordinances, Chapter 7	Article 4: Recommendation about Maryland Building Performance Standards	Disagree (unless VMA wants to enforce)	Disagree	Council believes best deferred to the County
44	II. Code of Ordinances, Chapter 7	Recommend adding a penalty section to Article 4	Disagree	Disagree	Recommendation has already been addressed
45	II. Code of Ordinances, Chapter 8	Recommend making 8-103 consistent with State law restrictions for signs in State roads	Disagree	Disagree	This Section governs Village roads.
46	II. Code of Ordinances, Chapter 9	Consolidate penalty sections, clarify municipal infractions, and authorize issuance of a stop work order	Agree	Agree	Make remaining changes when next Code amendment is done
47	III. Resolutions and Policies, Establish Schedule of Completion Bonds	Confirm adopted and make language consistent with 6-304	Defer to VMA Council	Agree	Resolution could be re-adopted
48	III. Resolutions and Policies, Interpretive Policy re parking	Recommend clarifying intent in Code rather than in policy	Agree	Agree	Recommendation has already been addressed
49	III. Resolutions and Policies, generators and auxiliary power units	Recommend clarifying intent in Code rather than in policy	Agree	Agree	Recommendation has already been addressed

**DRAFT - FOR DISCUSSION PURPOSES ONLY**

**DRAFT - FOR DISCUSSION PURPOSES ONLY**  
**VMA Council Response to Funk Bolton Recommendations**

50	III. Resolutions and Policies, Policy on Objects in the ROW	Recommend clarifying intent in Code rather than in policy	Agree	Agree	Make remaining changes when next Code amendment is done
51	III. Resolutions and Policies, Policy on Sump Pump Charges in the ROW	Recommend clarifying intent in Code rather than in policy	Agree	Agree	Make remaining changes when next Code amendment is done
52	III. Resolutions and Policies, Block Party Policy	Recommend clarifying intent in Code rather than in policy	Defer to VMA Council	Disagree	Council believes that the process as originally set forth is best
53	III. Resolutions and Policies, VMA Public Information Act	Recommend clarifying that if there is conflict with State law/regs, defer to State law/regs	Defer to VMA Council	Agree	Make relevant changes when next Code amendment is done

\* Bolt Legal response "Agree" means the issue should be addressed, but not necessarily according to the recommendation. "Defer to Council" means a policy decision is involved, rather than a legal deficiency.

\*\* VMA Council Response (i.e. Agree/Disagree) does not mean that the Council agrees with the approach recommended by Funk & Bolton but rather whether the issue raised requires addressing.

**DRAFT - FOR DISCUSSION PURPOSES ONLY**

# Martin's Additions - Street Lighting Replacement Project

Summary of Proposed Alternatives - Scott Watson Associates, Lighting Consultants

November 17, 2015

## Previous History:

Several years ago, Scott Watson Associates was engaged by the Martins Additions Village Council to explore upgrading the existing street lighting system. This system consists of overhead lights, bracket-mounted to utility poles. Most of the existing street lights are incandescent, which produce light of acceptable brightness and a pleasant color but have a short life, resulting in frequent outages in the village. We had recently completed upgrading the street lighting in Garrett Park and Chevy Chase View to Teardrop-style decorative street lights using 55-watt Philips QL Induction lamps in 3000K color temperature, and the Council indicated that a similar solution would be welcomed in Martin's Additions.

Coincidentally, PEPCO had recently mounted a sample of this street light on Georgia Street, near Bradley Lane, so the residents could come out and see it. Based on the reaction of the community, we were given the go-ahead to design a new street-lighting system with these fixtures, using only the existing utility poles in one scenario, and adding some, in another scenario, to provide more sensible spacing of the fixtures on some streets.

We produced a layout with a couple of variations and obtained pricing from PEPCO to remove the existing lights, install new ones, and maintain them. The upgrade was not implemented at that time, however.

## Recent Work:

I was contacted recently by Jean Sperling, the former Village manager, and advised that the street lighting project was once again under discussion. I informed her that in the intervening years, the originator of the QL induction lamp, Philips Lighting Co., had changed its focus to LED lighting and had ceased to produce Induction lamps. The production of these lamps had not been licensed to a separate company. This made us question whether QL was still going to be the best solution for Martins Additions' street lighting.

Over the years, I had watched the development of LED street lights and had assessed and measured several installations, none of which was as comfortable as our installations in Garrett Park or Chevy Chase View. Although the light levels were often good, and the uniformity of lighting at street level was generally acceptable, I found that the glariness of the LED fixtures, at most viewing angles, was not acceptable, and the color of the light was very often too cool (blueish). Since Martin's Additions is used to incandescent light, I have always believed that the best upgrade would maintain an incandescent feel to the lighting, meaning a color temperature of 3000K (equivalent to halogen).

Last Fall, we were fortunate in that Chevy Chase Village had PEPCO install a mock-up of several LED fixtures in two styles and various spacings. I took a lighting tour with the Village Council and a few concerned citizens, and we came back with the impression that the Teardrop fixture, while somewhat brighter at certain viewing angles than the "cobra-head" alternative, produced a better quality of light. We agreed that the 4000K, 77-watt LEDs, which were on display, were too bright and



too cool-colored. Some people liked the presence of an external glare shield (referred to by the manufacturer as a “short skirt”) on the fixture, and some did not. We saw one installation where the street lights were mounted on every utility pole, which produced very even light that was much too bright, and we saw others where the lights are on every other pole, which is what we had originally proposed for Martins Additions. Although this results in areas of darkness between the pools of light under the light fixtures, the average light levels are about the same as what you have now, which we believe you would like to maintain.

Since the look and feel of the Induction light had been approved several years previously, I wanted any new fixture to match this look as closely as possible. It is often the case that LED fixtures do not exactly match, in every way, the output of the older-style fixtures they are designed to. Before considering a change from induction lighting to LED and risking the possibility of an unpleasant surprise, we asked PEPCO to hang two sample LED fixtures on Bradley Lane, east of Brookville Road, for us to see and measure. Both had a 38-watt LED source, but only one had the “short skirt” glare shield. These were hung last spring. I measured them, and some members of the Board came out to look at them and discuss them with me.

I was not happy with the distribution of the fixtures, which seemed to be asymmetrical, so we subsequently had PEPCO replace one of them with a different version, which uses 55 watts and is intended to spread the light better along the street, with less penetration into the yards across the street. Both fixtures are still hanging on Bradley Lane. The 55-watt version is closer to Brookville Road, and the 38-watt version is the next one to the east. Both have the “skirt” shield, since I believe this makes the fixture less glary when viewed from a distance or from the second-floor windows of the nearby houses.

The Board and concerned citizens can see these fixtures and compare them to an incandescent one on Brookville Road, opposite the end of the eastern portion of Bradley Lane, and you can also walk over to the QL induction sample on Georgia Street, a short distance away. We have sent charts comparing the output at street level and the luminance (brightness) of all the fixtures, and these show that the 55-watt LED lantern is close in output to the originally-approved 55-watt induction fixture. Therefore, either one could be considered for the upgrade.

The 3000K color temperature is appropriate and looks good to me, but both of the LED fixtures seem glarier to me than the Induction fixture. I think it might be helpful for the Board members to go out and decide for themselves, individually, which fixture they prefer. Then there can be a discussion and a vote on which one to use. If it turns out to be the induction fixture, PEPCO is still installing these and stocking replacement parts. The installations we designed for Garrett Park and Chevy Chase view have been running for many years, and there have only been a couple of replacements in each installation, apparently due to storm damage. The light levels are virtually the same as they were initially, and the installations look good. I think it would be beneficial for the Board to see these again.

Based on the longevity of these installations, I believe that if the Board were to install induction lighting now, it would be 20 years before the question would need to come up again. At that time, if induction lamps are still available and in plentiful supply, you could simply group-relamp with induction and wait another 20 years before thinking about it again. If induction lamps have become

less available by then, it is probable that LEDs will have improved considerably, so there could be a good retrofit that could be installed directly into the induction fixtures.

### **Summary of four available options:**

In the subsequent pages, please find cost estimates for four scenarios for upgrading your lighting:

- A. Replace, one-for-one, with HPS (high-pressure sodium) cobra-head lights, as was done in Section 3 about five years ago. This is PEPCO's standard lighting system upgrade. The light from these fixtures is yellowish white, and there are significant dark areas between fixtures. You can walk around in Section 3 to see how this looks. We do not recommend this option.
- B. Replace, one-for-one, with LED Cobra-heads. These will have a cool color temperature, 4000K (more blueish than incandescent), and depending on which version is used (full cut-off vs. drop lens), there will either be very dark areas on the streets between well-shielded fixtures, or the fixtures will be glary but the streets will look more evenly lit. We do not recommend any cobra-head option.
- C. Replace the existing with induction Tear Drops, per the sample on Georgia Street. The color will be 3000K, almost the same as the existing incandescent. A tour of Chevy Chase View will show basically how this will look. This is our preferred approach. We have broken this into two options. Option C is a system installed and maintained by PEPCO. Option C1 is a system installed by PEPCO but maintained by Martin's Additions. PEPCO's monthly maintenance fee is quite different for the two options.
- D. Replace the existing fixtures with LED Tear Drops, per the sample near the intersection of Bradley and Brookville. PEPCO has agreed to provide this option in 3000K color temperature, rather than their preferred 4000K, which we feel is too cool-colored for residential street lighting. Again, this is priced two ways - as a PEPCO-maintained installation and as one that is client-maintained.

### **Costs for new street lighting proposals:**

A brief summary and explanation of the costs is as follows, first regarding installation and second regarding recurring monthly costs. After this, you will find a chart that summarizes both sections, for easy comparison.

#### **Installation Costs:**

- A. **Standard upgrade:** Remove the existing fixtures and install 70-watt HPS cobra-head lights on the existing brackets (2200K - very yellowish - color temperature). Based on a quantity of 76 new fixtures at \$467 each, PEPCO will charge \$35,492 for this installation.
- B. **Enhanced standard upgrade:** Remove the existing fixtures and install "70-watt equivalent" LED cobra-head lights on the existing brackets (4000K - cool white - color temperature). Based on a quantity of 76 new fixtures at \$892 each, PEPCO will charge \$67,792 for this installation.

- C. **Induction Teardrop Upgrade:** Remove the existing fixtures and brackets and install Teardrop Esplanade decorative fixtures and brackets using 55-watt QL induction lighting systems (3000K - warm white- color temperature). Based on a unit price of \$3,427 each, PEPCO will charge \$260,452 for this installation. An alternative installation, where we would add up to seven poles to more evenly distribute the light along some streets, would add roughly \$40,000 to this price.
- D. **LED Teardrop Upgrade:** Remove the existing fixtures and brackets and install Teardrop Esplanade decorative fixtures and brackets using 55-watt LED lighting systems (3000K color temperature). Based on a unit price of \$3,627 each, PEPCO will charge \$275,652 for this installation. Again, an alternative installation, where we would add up to seven poles to more evenly distribute the light along some streets, would add roughly \$40,000 to this price.

### **Maintenance Costs:**

PEPCO's monthly price for operation and maintenance of a street lighting system consists of three components. One is Fixed Charges, the next is O&M (operating and maintenance) charges, which include an allowance for fixture replacement on PEPCO-maintained systems, and the last is the energy charge, at roughly 3¢ per kilowatt-hour. These are broken out in the chart at the end of this report.

Before considering the maintenance costs for the proposed lighting upgrades, we should first look at the maintenance costs for the present lighting system, which has 65 luminaires of three types:

11 HPS fixtures at \$7.21 per month = \$952 per year

38 incandescent globes at \$12.49 per month = \$5,695 per year

16 open incandescent fixtures at \$6.51 per month = \$1,250 per year

This comes to \$7,897 per year or \$157,940 for 20 years.

Below is a summary of the maintenance costs for the various proposed alternatives. Alternatives A and B are PEPCO-maintained. Options C and D are priced two ways - PEPCO-maintained and client-maintained. With PEPCO's maintenance, if anything happens to a lighting fixture, you call PEPCO and they fix it. With client maintenance, Martins Additions will need to have a PEPCO-approved contractor repair or replace a damaged fixture and/or bracket. It will also be prudent to have at least one, and perhaps two, replacement fixtures and brackets on hand, in storage, for immediate access, since it can take several weeks to have these fixtures made, and LED modules are constantly being upgraded, so there is no guarantee that a particular LED module will have an exact, easily-available replacement in the future. Based on the experience of Chevy Chase View and Garrett Park with QL induction fixtures, there should be very little maintenance expected over the anticipated 20-year life of the lamps. We have no experience with LED street-lighting maintenance over time, but the LED lighting systems themselves are rated for approximately the same life as QL.

- A. **Standard upgrade** with HPS cobra-heads: 76 HPS cobra-heads at \$6.81 per month, comes to \$6,211 per year.

- B. **Enhanced Standard Upgrade** with LED cobra-heads: 76 LED cobra-heads at \$1.58 per month, comes to \$1,441 per year.
- C. **QL Teardrop upgrade, PEPCO-maintained:** 76 QL Teardrops at \$4.83 per month comes to \$4,405 per year.
- C1. **QL Teardrop upgrade, client-maintained:** 76 QL Teardrops at \$1.26 per month comes to \$1,149 per year.
- D. **LED Teardrop upgrade, PEPCO-maintained:** 76 LED Teardrops at \$9.45 per month comes to \$8,618 per year.
- D1. **LED Teardrop upgrade, client-maintained:** 76 LED Teardrops at \$1.58 per month comes to \$1,441 per year (same as Option B, above).

Note that the monthly costs for PEPCO-maintained systems are considerably higher than for client-maintained, and in particular, the O&M cost for the LED Teardrop, which includes their "optional replacement coverage," is quite high.

Please see the table after this section for a summary of costs, over the 20-year expected life of a QL induction or LED lighting system. The costs are in today's dollars, figured at PEPCO's current rates. PEPCO's applicable rate charts are appended after the chart, for reference. Schedule MD-SL lists the energy charges; Schedule MD-SSL-OH lists other monthly charges for non-LED luminaires, and Schedule MD-SSL-OH-LED lists monthly charges for LED luminaires.

### **Conclusion:**

I hope I have explained the included street lighting options and their costs in an understandable way. All of the fixtures, as noted, are on display nearby. You can talk to Chevy Chase View and Garrett Park about their experience with the utility-pole-mounted induction street lights, and with Section 3 about their experience with HPS cobra-heads.

Respectfully submitted,



Scott M. Watson, IALD

# MARTINS ADDITIONS STREET LIGHTING SUMMARY

NOVEMBER 17, 2015

OPTIONS	DESCRIPTION	INSTALLATION	MONTHLY COST/ FIXTURE				YEARLY MAINT.	20 YRS MAINT.	TOTAL
			FIXED	O&M	ENERGY	TOTAL			
A	Standard upgrade to 70W HPS Cobra Heads (2200K)	\$35,492	4.43	1.84	0.54	6.81	6,211	124,220	\$159,712
B	Enhanced standard upgrade to 70W equivalent LED Cobra-heads (4000K)	\$67,792	0.38	0.78	0.42	1.58	1,441	28,820	\$96,612
C	Upgrade to QL Induction Teardrop Globes on decorative brackets, PEPCO-maintained	\$260,452	0.06	4.35	0.42	4.83	4,405	88,099	\$348,551
C1	Upgrade to QL Induction Teardrop Globes on decorative brackets, Client-maintained	\$260,452	0.06	0.78	0.42	1.26	1,149	22,980	\$283,432
D	Upgrade to LED Teardrop Globes on decorative brackets, PEPCO-maintained	\$275,652	0.38	8.65	0.42	9.45	8,618	172,360	\$448,012
D1	Upgrade to LED Teardrop Globes on decorative brackets, client-maintained	\$275,652	0.38	0.78	0.42	1.58	1,441	28,820	\$304,472
Existing	Existing installation	N/A	per description in report				7,897	157,940	\$157,940

NOTE: ALL NUMBERS ARE IN TODAY'S DOLLARS AT CURRENT PRICING.

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**STREET LIGHTING SERVICE****SCHEDULE "SL"****AVAILABILITY**

Available for Distribution Service and Standard Offer Service when modified by Rider "SOS" for street, highway and park lighting purposes in the Maryland portion of the Company's service area when owned by agencies of Federal, State and Municipal governments.

Also available for holiday lighting and seasonal street decoration lighting where the lights are in public space and where the only load supplied is lighting load. Schedule "SL" is not available for services that supply any load other than lighting and telecommunications network devices supplied under Rider "SL-TN".

**CHARACTER OF SERVICE**

Electricity supplied to multiple lights normally will be sixty hertz, single phase, 120 volts.

**MONTHLY RATE****Distribution Service Charge**

<b>Standard Night Burning</b>	\$0.02197 per kwhr
<b>24-Hour Burning</b>	\$0.02199 per kwhr

**Generation and Transmission Service Charges** - Customers who do not receive service from an alternative Electric Supplier as defined in the Company's General Terms and Conditions will receive Generation and Transmission Services from the Company under the provisions of Rider "SOS" – Standard Offer Service.

**Billing Credit** - A monthly billing credit in the amount of \$0.74 will be applied to the bill of each customer receiving a consolidated bill from an alternative supplier for services provided both by Pepco and by the alternative supplier.

The above charges do not include furnishing and/or maintaining street lighting equipment.

**MEASUREMENTS OF ELECTRICITY**

If electricity delivered for street lighting is unmetered, monthly kilowatt-hour consumption will be computed on the basis of manufacturers' wattage ratings of installed lamps, auxiliary devices where required, and scheduled 4,200 hours of burning time. If metered, watt-hour meters will be read to the nearest multiple of the meter constant and bills rendered accordingly.

Lights controlled for night burning only will be billed at the monthly rate for Standard Night Burning street lights. Lights not controlled for night burning only will be billed at the monthly rate for 24-Hour Burning street lights.

**METER READING**

Watt-hour meters will be read to the nearest multiple of the meter constant and bills rendered accordingly.

## MD - SL

Electric--P.S.C. Md. No. 1  
Fifteenth Revised Page No. 15.1

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### **GROSS RECEIPTS TAX**

A surcharge of 2.0408% is applied to the transmission and distribution components of the customer's bill to recover the amount attributable to the Gross Receipts Tax.

### **GENERAL TERMS AND CONDITIONS**

This schedule is subject in all respects to the Company's "General Terms and Conditions for Furnishing Electric Service" and the Company's "Electric Service Rules and Regulations."

### **APPLICABLE RIDERS**

Standard Offer Service – Type I Non-Residential  
Administrative Credit  
Telecommunications Network Charge  
Delivery Tax Surcharge  
Montgomery County Surcharge  
Maryland Environmental Surcharge  
Empower MD Charge  
Non-Residential Direct Load Control  
Demand Resource Surcharge  
Grid Resiliency Charge

**CHARGES FOR SERVICING  
STREET LIGHTS SERVED FROM OVERHEAD LINES  
SCHEDULE "SSL-OH"**

**AVAILABILITY**

Available in the Maryland portion of the Company's service area to Municipal, County, Federal and State Governmental Agencies for servicing street, highway and park lighting equipment mounted on Company-owned wooden poles or on poles of another utility with whom the Company has an attachment agreement, when the electricity supplied to such equipment is furnished by the Company from overhead lines.

Available only for lights having a manufacturer's nominal rating of:

Incandescent*	10,000 lumens or less
Mercury Vapor*	175, 250 and 400 Watts
High Pressure Sodium	70, 100, 150, 250 and 400 Watts
Induction QL	55 and 85 Watts

\*Not available for new installation or replacement of defective fixtures.

**CHARACTER OF SERVICE**

Service rendered under this schedule will consist of (1) furnishing, installing and maintaining street lighting luminaries and mounting arms or brackets, (2) furnishing, installing, connecting, operating and maintaining electric service circuits connecting the street lighting equipment to the Company's overhead distribution system, (3) group relamping, (4) washing of globes, (5) furnishing and installing replacement globes, lamps, ballasts and light sensitive switches as needed to maintain the system in an operating mode; all normally limited to standard items of equipment meeting ANSI Standards for street lighting equipment and accepted by the Company for maintenance.

If the Customer agrees in writing with the Company, the Customer may own their street lighting equipment at all locations to include the bracket, fixture, ballast, light sensitive switch unit, and lamp. The maintenance for which can be supplied by the customer or the Company. The supply circuits terminating at the luminaire would still be owned and maintained by the Company.

Street lights will be installed on existing Company-owned distribution poles or on existing poles owned by another utility where practicable.



## MD - SSL - OH

Electric--P.S.C. Md. No. 1  
Eleventh Revised Page No. 16.1

### MONTHLY RATE

	<u>FIXED CHARGES</u>	<u>O&amp;M CHARGES COMPANY MAINTAINED</u>	<u>O&amp;M CHARGES CUSTOMER- SUPPLIED MAINTENANCE</u>
<u>Incandescent Lights*</u> - Night Burning			
Without Globes - all sizes	\$ 0.48	\$5.27	\$0.78
With Globes - all sizes	\$ 6.46	\$5.27	\$0.78
Fire Alarm Designation	\$ 3.00	\$5.23	\$0.78
<u>Other:</u>			
Attachments to Poles Owned By Another Utility	\$ 0.16 each		
<u>Mercury Vapor Lights*</u> - Night Burning			
100 Watt	\$2.72	\$ 1.83	\$0.78
175 Watt	\$2.74	\$ 1.83	\$0.78
250 Watt	\$3.37	\$ 1.83	\$0.78
400 Watt	\$4.18	\$ 1.83	\$0.78
<u>High Pressure Sodium Lights</u> - Night Burning			
70 Watt	\$ 4.33	\$ 1.84	\$0.78
100 Watt	\$ 4.84	\$ 1.83	\$0.78
150 Watt	\$ 5.03	\$ 1.83	\$0.78
250 Watt	\$ 6.93	\$ 1.83	\$0.78
400 Watt	\$ 7.91	\$ 1.83	\$0.78
<u>Induction QL</u> - Night Burning			
55 Watt	\$ 0.06	\$ 4.35	\$0.78
85 Watt	\$ 0.06	\$ 4.35	\$0.78

\*Not available for new installation or replacement of defective fixtures.

The above charges will be separate from and in addition to charges for electricity supplied under the provisions of Schedule "SL".

### CONTRIBUTION-IN-AID-OF-CONSTRUCTION

The Company will install, remove, or convert each street light upon payment by the customer of a one-time contribution in aid of construction equal to the average estimated cost per street light during the most recent three year period available. This fee shall be updated annually.

For a new overhead street light, this cost shall normally include the following:

1. The luminaire including the lamp, ballast, globe, light-sensitive switch, and mounting arm or bracket; plus,
2. Connection of the street light to the Company owned low voltage (120 volts) overhead distribution system; plus,
3. Installation of replacement poles if required by either the Company or another utility; plus,
4. Tree trimming and adjusting Company owned facilities or the facilities of another utility, in order to provide adequate clearances for the street light.

As discussed under Character of Service, if the Customer agrees in writing with the Company, the Customer may install their own street light and mount. The contribution-in-aid-of-construction shall include only the estimated cost of connecting the new supply (items 2-4 above).

## MD - SSL - OH

Electric--P.S.C. Md. No. 1  
Eleventh Revised Page No. 16.2

For removing a street light, the contribution-in-aid-of-construction shall normally include the estimated reasonable cost of removing the existing luminaire (and/or bracket, if also removed). This removal charge shall not apply where the light is removed temporarily for repairs to the light or pole, or relocated in the immediate vicinity at the convenience of the Company (or other utility owning the pole on which the light is mounted).

For conversions from one size or wattage of light to another or one type of light to another, the contribution-in-aid-of-construction shall be the estimated reasonable cost of removing the existing equipment and the installation of the new equipment. This charge does not apply if the street light is converted at the convenience of the Company or if the street light is owned by the customer. The Customer is required to inform the Company of the date and characteristic of such conversions as soon as possible.

Beginning on the effective date of this schedule, the rates are as follows:

	<u>Luminare &amp; Mount</u>	<u>New Supply Connection</u>	<u>Type Conversion</u>	<u>Wattage Conversion</u>
<u>High Pressure Sodium</u>				
All Standard Wattages	\$ 915.00	\$ 1,415.00	\$ 467.00	\$ 496.00
<u>Induction QL</u>				
All Standard Wattages	\$ 3,242.00	\$ 1,415.00	\$ 3,336.00	\$ 3,254.00

The cost of removal only for all light types is \$ 196.00.

If the Customer requests that the Company provide facilities or an installation of excess of, or different than, those normally installed or if such excess installation is required by local, state, or federal ordinance, the total estimated additional cost shall be contributed by the Customer.

This contribution shall be in addition to any other service connection fee or contribution required under the "General Terms and Conditions." The contribution-in-aid-of-construction shall not be less than zero.

### NON-STANDARD EQUIPMENT

Non-standard equipment, including all equipment not meeting ANSI Standards, if accepted by the Company for maintenance, will be subject to special contract charges and arrangements.

### GROSS RECEIPTS TAX

A surcharge of 2.0408% is applied to the transmission and distribution components of the customer's bill to recover the amount attributable to the Gross Receipts Tax.

**MD - SSL- OH - LED**Electric--P.S.C. Md. No. 1  
Second Revised Page No. 17.3

**CHARGES FOR SERVICING**  
**STREET LIGHTS SERVED FROM OVERHEAD LINES**  
**SCHEDULE "SSL-OH-LED"**

**AVAILABILITY**

Available in the Maryland portion of the Company's service area to Municipal, County, Federal and State Governmental Agencies for servicing street, highway and park lighting equipment mounted on Company-owned wooden poles or on poles of another utility with whom the Company has an attachment agreement, when the electricity supplied to such equipment is furnished by the Company from overhead lines.

Available only for LED lights having a high pressure sodium (HPS) equivalent manufacturer's nominal rating of: 50, 70, 100, 150 and 250 Watts.

**CHARACTER OF SERVICE**

Service rendered under this schedule will consist of (1) furnishing, installing, and maintaining street lighting luminaires and mounting arms or brackets, (2) furnishing, installing, connecting, operating and maintaining electric service circuits connecting the street lighting equipment to the Company's overhead distribution system, (3) washing of globes, (4) furnishing and installing replacement globes, fixtures, and light sensitive switches as needed to maintain the system in an operating mode; all normally limited to standard items of equipment meeting ANSI Standards for street lighting equipment and accepted by the Company for maintenance.

If the Customer agrees in writing with the Company, the Customer may own its street lighting equipment at all locations to include the bracket, fixture, light sensitive switch unit, and lamp. The maintenance for which can be supplied by the Customer or the Company. The supply circuits terminating at the luminaire would still be owned and maintained by the Company.

Street lights will be installed on existing Company-owned distribution poles or on existing poles owned by another utility where practicable.

**MONTHLY RATE**

	<b><u>FIXED CHARGE</u></b>	<b><u>O&amp;M CHARGE</u></b>	<b><u>OPTIONAL REPLACEMENT CHARGE</u></b>
<u>Utility Grade</u>			
50 Watt	\$ 0.38	\$ 0.78	\$ 3.76
70 Watt	\$ 0.38	\$ 0.78	\$ 5.22
100 Watt	\$ 0.38	\$ 0.78	\$ 5.64
150 Watt	\$ 0.38	\$ 0.78	\$ 6.23
250 Watt	\$ 0.38	\$ 0.78	\$ 6.26

## MD - SSL - OH - LED

Electric--P.S.C. Md. No. 1  
Second Revised Page No. 17.4

### MONTHLY RATE (continued)

	<u>FIXED CHARGE</u>	<u>O&amp;M CHARGE</u>	<u>OPTIONAL REPLACEMENT CHARGE</u>
<u>Decorative Grade</u>			
70 Watt	\$ 0.38	\$ 0.78	\$ 7.87
100 Watt	\$ 0.38	\$ 0.78	\$ 7.95
150 Watt	\$ 0.38	\$ 0.78	\$ 8.69
250 Watt	\$ 0.38	\$ 0.78	\$ 9.50

The above charges will be separate from and in addition to charges for electricity supplied under the provisions of Schedule "SL".

### CONTRIBUTION-IN-AID-OF-CONSTRUCTION

The Company will supply for the Customer a luminaire (including lamp, globe and light-sensitive switch) mounting arm and/or bracket required, upon payment by the Customer of a one-time contribution-in-aid-of-construction equal to the estimated reasonable installed cost of such equipment agreed to by the Company and the Customer at the time of the installation.

For a new overhead street light, this cost shall normally include the following:

1. The luminaire including the lamp, globe, light-sensitive switch, and mounting arm or bracket; plus,
2. Connection of the street light to the Company owned low voltage (120 volts) overhead distribution system; plus,
3. Installation of replacement poles if required by either the Company or another utility; plus,
4. Tree trimming and adjusting Company owned facilities or the facilities of another utility, in order to provide adequate clearances for the street light.

As discussed under Character of Service, if the Customer agrees in writing with the Company, the Customer may install their own street light and mount. The contribution-in-aid-of-construction shall include only the estimated cost of connecting the new supply (items 2-4 above).

For removing a street light, the contribution-in-aid-of-construction shall normally include the estimated reasonable cost of removing the existing luminaire (and/or bracket, if also removed). This removal charge shall not apply where the light is removed temporarily for repairs to the light or pole, or relocated in the immediate vicinity at the convenience of the Company (or other utility owning the pole on which the light is mounted).

For conversions from one size or wattage of light to another or one type of light to another, the contribution-in-aid-of-construction shall be the estimated reasonable cost of removing the existing equipment and the installation of the new equipment. This charge does not apply if the street light is converted at the convenience of the Company or if the street light is owned by the Customer. The Customer is required to inform the Company of the date and characteristic of such conversions as soon as possible.

If the Customer requests that the Company provide facilities or an installation in excess of, or different than, those normally installed or if such excess installation is required by local, state, or federal ordinance, the total estimated additional cost shall be contributed by the Customer.

This contribution shall be in addition to any other service connection fee or contribution required under the "General Terms and Conditions." The contribution-in-aid-of-construction shall not be less than zero.

## **MD - SSL- OH - LED**

Electric--P.S.C. Md. No. 1  
Second Revised Page No. 17.5

In lieu of a one-time payment at the time of installation, the Customer may elect one of the following alternative payment options:

1. Finance the contribution-in-aid-of-construction through the Company, amortized over the number of years to be agreed upon by Pepco and the street light Customer at the applicable Commission-approved overall rate of return at the time of the installation, subject to update as approved in subsequent rate proceedings, if any.
2. A monthly service charge that amortizes the total cost of the installation or conversion, which will be based on the estimated reasonable cost of the LED installation or conversion at that time, over the depreciable life of the installed LED street lights at the applicable Commission-approved overall rate of return at the time of the installation, subject to update as approved in subsequent rate proceedings, if any.

The Customer may only choose a single payment option for all LED lights installed, unless otherwise agreed to by the Company.

### **REPLACEMENT OF EQUIPMENT**

When replacement of installed equipment is necessary, the Company will replace such installed equipment upon payment by the Customer of a contribution equal to the Company's reasonable cost to replace the equipment. If the Customer has chosen either of the alternative payment options for the initial installation of the equipment subject to replacement, the replacement contribution will be added to the unrecovered balance, if any, of the initial installation contribution and recovered consistent with the elected option.

In lieu of the contribution at the time of replacement, the Customer may elect to pay a monthly charge to cover the cost of future replacements (Optional Replacement Charge). The Optional Replacement Charge will be effective at the time of the initial installation of the equipment and will remain in effect to the time of equipment replacement. The monthly Optional Replacement Charge for future replacement are listed in the table of monthly rates.

The Customer may only choose a single replacement charge option for all lights installed.

### **NON-STANDARD EQUIPMENT**

Non-standard equipment, including all equipment not meeting ANSI Standards. If accepted by the Company for maintenance, will be subject to special contract charges and arrangements.

### **GROSS RECEIPTS TAX**

A surcharge of 2.0408% is applied to the transmission and distribution components of the customer's bill to recover the amount attributable to the Gross Receipts Tax.

MONTGOMERY CONSULTING  
MEMO

TO: Village of Martin's Additions Council

FROM: Doug Lohmeyer

DATE OF MEMO: January 21, 2016

SUBJECT: Building Permit Status Report

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**3413 Bradley Lane**

The applicant has submitted a building permit application to construct a shed in the back yard. The applicant may change the location of the proposed shed and the application is on hold.

**3414 Cummings Lane**

Construction of the detached garage and driveway is underway. We have requested the applicant provide surveyed information regarding the height of the garage now under construction in order to confirm that it meets the Code's height restrictions.

**7210 Delfield Street**

The applicant has submitted a permit application to construct a fence on the property. The permit is on hold until the MCDPS permit is issued.

**120 Quincy St.**

The deck and fence construction is complete and the staff has completed a final site inspection. The VMA Building Permits have been closed out and the refund of the performance bond has been requested.

**3505 Raymond Street**

The applicant has submitted a building permit application and the staff has completed the initial review of the application. We have asked the applicant for more information and we are waiting for the response.

### **3513 Raymond Street**

The right of way license agreement has been recorded and the refund of the performance bond has been requested.

### **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.

### **3405 Shepherd Street**

The permit for a new pool and fence has been closed out.

### **3507 Turner Lane**

The building permit has been issued but no work has begun.

### **WSSC Water Main Construction**

The WSSC contractor has completed the water main installation in Bradley Lane and Melville Place. The trenches have been backfilled with temporary asphalt. WSSC said the pressure test on the new mains was successful and they are awaiting the results of the bacteria test. The new lines are not in use yet. WSSC anticipates the new water connection will be made as soon as the weather permits.

MONTGOMERY CONSULTING  
MEMO

TO: Tori and Ron

FROM: Doug Lohmeyer

DATE OF MEMO: Jan. 15, 2016

SUBJECT: EBL Thoughts

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Since I have been building administrator, I have reviewed several permit application, which have included EBL issues.

As the old houses are demolished and new homes built in their place, the front setback for these new homes tends to move farther from the front property line. In my opinion this situation may penalize the neighbors who lives in the older homes and desires to make improvement to the front of their homes.

The EBL section of the Code seems like a concept with good intentions, but potentially poor results for the older homeowners. Is it fair to deny a homeowner the chance to add a front porch to their home because someone down the street built a new home farther back from the front property line? Ms. Smith can't sit on her new front porch and visit with her neighbors because Mr. Jones' recently built a new house. I don't believe the writers of the Code intended to create this situation.

I have thought about the EBL section an offer the following possible revision to the Code.

1. The EBL setback section should only apply to lots where the old, original house is demolished and a new house is constructed in its place.
2. Alteration to the original homes should be exempt from the EBL section.

The Montgomery County Code has a requirement similar to the Village's Code. Section 4.4.1(A) ( 1) States "The established building line applies only to new buildings in the R-200, R-90, or R-60 zones, and new detached house buildings in the R-40 zones and does not apply to an alteration or addition to an existing building."



Section 7-402 (e) (5) (ii) (Projections) allows for an unenclosed porch to extend into the front setback area up to 9 feet. On a lot with a 25 foot setback, a 9 foot deep porch covers 40% of the front yard setback.

If Section (ii) was replaced with:

“Unenclosed porches, decks .... may encroach into the front setback area no more than 20% of the distance from the closest, existing front wall of the house to the front property line.”

If a house is 25 feet from the front property line, an unenclosed porch can extend no more than 5 feet into the front setback area. If the house is 40 feet from the front property line, the unenclosed porch can be a maximum of 8 feet deep.

# MONT. CO. EBL :

## Division 4.4. Residential Zones

### Section 4.4.1. Standard Method Development

The RE-2, RE-2c, RE-1, R-200, R-90, R-60, R-40, TLD, TMD, THD, R-30, R-20, and R-10 zone allow development under the standard method.

#### A. Established Building Line

1. The established building line applies only to new buildings in the R-200, R-90, or R-60 zones, and new detached house buildings in the R-40 zone and does not apply to an alteration or addition to an existing building.
2. The 2 or more detached houses considered in determining the established building line must be:
  - a. within 300 feet of the side lot line of the proposed construction site measured along the street frontage;
  - b. along the same side of the street;
  - c. between intersecting streets or to the point where the street terminates;
  - d. in existence or approved by a building permit when the building permit application on the subject property is filed;
  - e. legally constructed; and
  - f. not on a through lot if the building on the through lot fronts on a street other than the street fronting the subject property.
3. The established building line applies if at least 2 buildings described in Section 4.4.1.A.2 and more than 50% of the buildings described in Section 4.4.1.A.2 are set back more than the minimum required by the zone. The established building line is equal to the average front setback of all the buildings described in Section 4.4.1.A.2, excluding those buildings:
  - a. in the R-200 zone that are or were ever served by well or septic;
  - b. on the subject property;
  - c. in a different zone than that of the subject property;
  - d. on a through lot that fronts on a street different than that of the subject property;
  - e. located on any pipestem, wedge-shaped, or flag-shaped lot; or
  - f. approved by permit for demolition, except if a building permit was also approved with the same setback.
4. If the established building line applies, the applicant may choose to use as the front setback:
  - a. the established building line;
  - b. the average front setback of the 2 abutting lots; or
  - c. the front setback of the existing detached house that was established before demolition, excluding any approved variance, if the existing building meets the minimum front setback of the zone.
5. All calculations must be based on a survey that is signed and sealed by a Maryland licensed engineer or surveyor.
6. If the established building line does not apply, the building must satisfy the minimum front setback of the zone.
7. A corner lot has 2 front setbacks and must satisfy established building line standards on both streets. At the option of the applicant, a corner lot may use front setbacks of the abutting buildings on both sides of the corner lot.

**The Village of Martin's Additions  
Ordinance Granting Non-Exclusive Franchise for the  
Operation of a Cable Television System**

Resolution No.:  
Introduced: December 17, 2015  
Adopted:  
Effective Date:

WHEREAS, Maryland Code, Local Government Article, Section 5-202, as amended, 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 the public general law, as deemed necessary in order to assure the good government of the municipality, to protect and preserve the municipality's rights, property, and privileges, to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort and convenience of the citizens of the municipality;

WHEREAS, Maryland Code, Local Government Article, Section 5-204(d) and Section 1-708(c), as amended, authorize the legislative body of each municipal corporation in the State of Maryland to grant a franchise for a cable television system;

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 of Martin's Additions (the "Village") and its residents;

WHEREAS, Comcast of Potomac, LLC has applied for renewal of its non-exclusive franchise for the operation of a cable television system within Montgomery County, Maryland, including within the corporate limits of the Village;

WHEREAS, on behalf of the Village and other participating municipalities, Montgomery County, Maryland negotiated a franchise agreement renewal with Comcast of Potomac, LLC, upon the terms and conditions set forth in that certain Cable Franchise Agreement by and between Montgomery County, Maryland and Comcast of Potomac, LLC, and conducted a public hearing on said Franchise Agreement on August 3, 2015 (the "Franchise Agreement");

WHEREAS, the Franchise Agreement was approved by the Montgomery County Council on \_\_\_\_\_, 2016;

WHEREAS, the Franchise Agreement is to be administered by Montgomery County, Maryland within the Village, according to Montgomery County Chapter 8A;

WHEREAS, the Village Council introduced the following Ordinance in public session assembled on the 17<sup>th</sup> day of December, 2015;

WHEREAS, the Village Council, after proper notice to the public, considered the following Ordinance at a public hearing held on the \_\_\_\_ day of \_\_\_\_\_, 2016; and

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

NOW, THEREFORE, the Village Council does hereby adopt the foregoing uncoded Ordinance.

BE IT ORDAINED AND ORDERED, this \_\_\_\_ day of \_\_\_\_\_, 2016, by the Village Council, acting under and by virtue of the authority given it by the Maryland Code and the Village Charter that a non-exclusive franchise for the operation of a cable communications system be and the same is hereby granted upon the following conditions:

1. Comcast of Potomac, LLC shall enter into an agreement with the Village upon the same terms and conditions as are set forth in the Franchise Agreement; and

2. The franchise within the Village shall be effective from the effective date of the Franchise Agreement until the end of the term of the Franchise Agreement in the unincorporated areas of Montgomery County.

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

1. The Chair of the Village Council be and is hereby authorized to execute any and all documents necessary to effectuate the intent and purpose of this Ordinance;

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

3. This Ordinance shall take effect on the \_\_\_\_ day of \_\_\_\_\_, 2016.

ATTEST:

THE VILLAGE OF MARTIN'S ADDITIONS

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Tiffany Cissna, Secretary

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Richard Krajeck, Chair  
Village Council