

## **CHAPTER 6 REGISTRATIONS AND PERMITS**

### **ARTICLE 1. GENERAL PROVISIONS**

#### **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.
- (b) “Adjoining and confronting property” means land which touches the boundary line of other property at least one point, which may be a corner, or which would do so except for an intervening street or right of way.
- (c) “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.
- (d) “Business” means every kind of private occupation, profession, calling, endeavor or operation of a private institution, whether carried on for profit or not, including any person who offers goods or services, or operates a group home.
- (e) “Chairman” means the Chairman of the Village Council of the Village of Martin’s Additions.
- (f) “Code Enforcement Officer” means an authorized code enforcement official within the meaning of Chapter 3, Section 3-101(c) of this Code.
- (g) “Council” means the Village Council of the Village of Martin’s Additions.
- (h) “Emergency re-construction, repair or excavation” means work necessitated by an actual, sudden, unanticipated and immediate danger of a failure or collapse of any structure or any part thereof that would endanger life, disrupt vehicular traffic, or which, if not corrected immediately, pose a clear threat of injury to persons or property.
- (i) “Fences” means man-made structures which are designed primarily to partially or wholly enclose a lot or a portion thereof.
- (j) “Group home” means a child care residence, group residence for developmentally disabled persons, a group residential facility, a tourist home, boarding house or any structure housing three or more unrelated persons or offering guest rooms for hire, but does not include a single family residence that is rented, or offered for rent, by the owner thereof to persons constituting a single family.

- (k) “Lot” means a parcel of land on a legally recorded subdivision plat filed among the records of Montgomery County Maryland.
- (l) “Ordinary repairs or maintenance” means those repairs incidental to a continuation of existing uses and necessary to maintain a structure in good working order and in a safe and sanitary condition; but such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support or the removal or change of any required means of egress or rearrangement of parts of a structure affecting the exitway requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.
- (m) “Person” means an individual, corporation, association, firm, partnership or the like.
- (n) “Sidewalk” means the portion of any street designed exclusively for pedestrian passage.
- (o) “Street” means any public or dedicated way or thoroughfare by which pedestrian or vehicular traffic traverses over, through, across, into or out of the Village.
- (p) “Structure” means an assembly of materials forming a construction for occupancy or use, including, without limitation, buildings, accessory buildings, fences, sheds, shelters, garages, signs, pipelines, sewer lines, cable lines, fuel storage tanks, sidewalks, streets, and the like.
- (q) “Unrelated person” means anyone who is not a son, daughter, grandson, granddaughter, father, mother, grandfather, grandmother, brother, sister, stepmother, stepfather, stepson, stepdaughter, husband or wife or in-law of the owner, operator or lessee of the main building on a lot.
- (r) “Village” means the Village of Martin’s Additions.
- (s) “Village Charter” means the Charter of the Village of Martin’s Additions.

**ARTICLE 3. VILLAGE BUILDING PERMITS**

<b>6-301</b>	<b>Purpose and Application</b>
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**6-311 Work Hours and Noise Control**

**Section 6-301 Purpose and Application**

- (a) The provisions of this article are hereby declared as necessary for the purpose of protecting and promoting the health, safety, comfort and welfare of the present and future inhabitants of the Village. This article is not intended to be, nor shall the same be construed as, a zoning ordinance.
- (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, to any activity which will, or may, result in the excavation to, or alteration or temporary closure or blockage of, streets or sidewalks within boundaries of the Village.
- (c) The provisions of this Chapter are supplemental to the provisions of Chapter 8 of the Montgomery Code and do not affect or provide a substitute for the separate permit requirements of Montgomery County.

**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 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.

No person shall add to, erect, alter, construct, re-construct, repair or improve any structure, make any excavation or temporarily close or block any street or sidewalk within the Village prior to the issuance of a building permit pursuant to this Chapter. No building permit for construction of private improvements within the public right-of-way shall be issued until the owner of the abutting property has executed a revocable license to use the right-of-way in a form approved by the Village Council.

- (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 reconstruction, 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.

**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 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. The application shall be signed by the owner 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.
- (c) Written notification of any application for a building permit shall promptly be hand delivered to all properties in the Village that border or directly face the property with respect to which the permit is sought. The notice shall include, at a minimum, a description of the proposed activity; the identity, address and phone number of the Code Enforcement Officer; and a statement that the full application is available for review through the Code Enforcement Officer. All applications for building permits and decisions thereon by the Code Enforcement Officer and the Council shall be published in the next edition of the Village's newsletter, except that application received and decisions made less than five (5) days prior to issuance may be published in the following issue. Decisions by the Council on applications for permits shall be communicated to the applicant in writing.
- (d) Applications for building permits shall be referred to the Code Enforcement Officer for review and such investigation as the Officer or the Council deems necessary. Any objections to issuance of the permit shall promptly be communicated to all members of the Council.
- (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, 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, the resident of all Village properties that border or directly fact 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.
- (g) If the Code Enforcement Officer determines that the requirements of this Article have been satisfied, the officer shall issue the permit. However, no permit shall be issued until at least seven (7) days after the Village's receipt of the Montgomery County building permit, and no permit shall be issued by the Code Enforcement Officer if two members of the Village Council advise, within the seven-day period, that the application should be considered by the Council. If the Code Enforcement Officer determines that the requirements of this Article have not been satisfied, the application shall be denied.
- (h) Whenever two members of the Village Council have advised that an application for a building permit should be considered by the Council, within twenty (20) days after receipt of the application, or receipt of any additional information requested from the applicant, whichever is later, the Code Enforcement Officer shall recommend to the Council whether or not the permit should be granted. The Council shall make a decision to grant or deny the permit at its first regularly scheduled meeting occurring more than ten (10) days after receipt of the recommendation and at least five (5) days after public notice (i.e., publication in the newsletter or special mailing) of the application and the intent of the Council to consider it at the meeting.
- (i) For purposes of this section, the term "differs significantly" refers to material increases in the height, width, footprint, and/or changes in the facade of the property for which the permit is sought.

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

- (a) No person shall commence any activity involving reconstruction, repair or excavation of any street or sidewalk in the Village for which a permit is

required by this Article unless such person has deposited with the Council a completion 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 such activity shall be completed in a safe and timely fashion and otherwise in accordance with the terms of any building permit issued in connection therewith. However, 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) 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 Council in its discretion shall determine. Upon completion of the activity for which the permit was issued, 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.

**Section 6-305.            Construction**

All construction which requires a building permit under this Article must conform to the standards set forth in this Code and all applicable laws, codes, ordinances, rules and regulations established by Montgomery County, Maryland, and/or the State of Maryland including, without limitation, applicable zoning, building, electrical, Washington Suburban Sanitary Commission and plumbing laws, codes, ordinances, rules and regulations.

**Section 6-306.            Applicable Standards**

- (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 related to the protection of health, safety, comfort or welfare, or to protect against interference with sidewalk or street traffic, residential parking, noise or other noxious effects.

**Section 6-307.            Fees**

No building permit application shall be processed until the applicant therefore has paid a non-refundable fee to the Village. The Council shall adopt a schedule of building permit fees by resolution. The schedule of fees may be amended from time to time by Council resolution.

**Section 6-308.        Enforcement**

- (a) Any person who commences any addition, erection, alteration, construction, re-construction, 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 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.
  - (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.
- (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.

**Section 6-309.        Exceptions**

In special cases and for good cause shown, the Council may authorize a departure from any of the building permit application provisions of this Article. After the issuance of a building permit, the Council may vary or modify any requirement where practical difficulties and undue hardships have been encountered by a permittee; provided that the permittee shall submit a written application for such variance or modification, and provided that the spirit and intent of this Chapter shall be observed and public welfare and safety be assured.

**Section 6-310.        Appeals**

Within thirty (30) days after the granting of a building permit, the denial of an application for a building permit by the Code Enforcement Officer, the revocation of a building permit or the issuance of a stop work order, an aggrieved party may file a written notice of appeal to the Village Council. The Council shall hold a public hearing on the appeal. Notice of the hearing shall be provided to all interested parties and to all residents of the Village at least five (5) days in advance of the hearing. The hearing shall

be conducted pursuant to regular Council procedures or regulations promulgated by the Council. The Council shall decide the appeal and advise the parties of its decision in writing. Decisions on appeals shall be published in the next issue of the newsletter, except that decisions made within five (5) days of publication may be published in the following issue.

**Section 6-311. Work Hours and Noise Control.**

- (a) No construction activities shall commence prior to 7:00 a.m. on Monday through Friday, and 9:00 a.m. on Saturdays, Sundays, and all federal holidays. Construction activities shall end no later than 9:00 p.m. on Monday through Thursday, and 7:00 p.m. on Friday through Sunday.
- (b) As used herein, “construction activities” means temporary activities directly associated with site preparation, assembly, erection, repair, alteration, renovation, construction, or demolition of improvements, or other activities, including but not limited to, moving heavy equipment onto or off the site, delivering materials, loading or unloading, operating equipment with audible “back-up” warning devices, allowing engines to idle, and any other indoor or outdoor activities which could reasonably be expected to be disturbing to persons beyond the boundary line of the property on which the construction activity is taking place.
- (c) The municipal infraction fine for violation of this Section 6-311 is \$100 for the first violation and \$250 for subsequent violations. Any person who violates this Section 6-311 or directs or allows another to commit an act that violates this Section 6-311, the person’s employer if the person acted in the course of his or her employment, and any property owner who allows a violation of this Section 6-311 on his or her property, shall be guilty of a violation and shall be jointly and severally subject to the penalties provided herein. If a violation occurs, there shall be a rebuttable presumption that all owners of the property allowed the violation.

## **ARTICLE 4. SUBDIVISION OF LAND; VARIANCES; SPECIAL EXCEPTIONS**

### **6-401 Subdivision; Notification; Procedure**

### **6-402 Variances; Special Exceptions**

#### **Section 6-401. Subdivision; Notification; Procedure**

- (a) No person shall subdivide any lot in the Village without prior notification to the Council. The notification shall be given by filing with the Village Manager a description, including a plat, of the lot to be subdivided and of each of the lots that comprise the subdivision. Such description shall be filed within five (5) days of the filing of a subdivision application for the property with the Maryland National Capital Park and Planning Commission (Commission). All documents filed by the applicant with the Commission shall also be filed with the Village Manager.
- (b) The Village will promptly provide written notification of any application for subdivision to residents of Village property within five hundred (500) feet of the property that is the subject of the application, and notice of all such applications shall be published in the next issue of the Village's newsletter, except that applications received within five (5) days of publication may be published in the following issue.
- (c) Before establishing a Village position with respect to an application for subdivision, the Council shall hold a public hearing at which any interested person may appear and address the Council. Notice of the hearing shall be provided to all Village residents at least five (5) days in advance of the hearing. The hearing shall be conducted pursuant to regular Council procedures or regulations promulgated by the Council. The Council shall establish a position at the hearing, transmit the position to the Commission or other appropriate agency, and publish it in the next issue of the newsletter, except that positions established within five (5) days of publication may be published in the following issue.

#### **Section 6-402. Variances; Special Exceptions**

Before establishing a Village position with respect to any application for a variance, a special exception, or other similar matter, the hearing procedures specified in Section 6-401(c) shall be followed.