

# CODE OF ORDINANCES



## VILLAGE OF MARTIN'S ADDITIONS CHEVY CHASE, MARYLAND

**March 2019**

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MICHAEL E. ZIELINSKI  
Chairman, Village Council  
June 14, 1989

<b>Amendments</b>	<b>Effective</b>
Municipal Funds.....	April 1999
Noise Ordinance.....	April 2004
Building Permit.....	December 2004
Demolition Permit.....	May 2005
Penalties and Fines.....	May 2005
Building Permit Fees (6-307).....	March 2007
Trash (7-304(a)) .....	July 2007
Trash (7-305(a)) .....	July 2007
Building Permit Right-of-Way (6-302).....	October 2007
Building Permit Noise (6-311).....	July 2008
Open Session Regulations.....	June 2009
Property Regulations, Ch. 7, Definitions.....	June 2009
Residential Building Standards, Ch. 7.....	June 2009
Maintenance of Public Right-of-Way, Ch. 7.....	December 2009
Permits for Dumpsters & Storage Units, Ch. 7.....	February 2010
Clarification of Required Side Setback (4-402).....	July 2010
Snow & Ice Removal & Fine Increase (7-204).....	January 2011
Permissible Expenditures/Donations (2-401).....	January 2012
Permits for Generators, Heavy Equipment, <i>etc.</i> , Ch. 6.....	October 2013
County Canopy and Roadside Tree Laws (5-103).....	May 2014
Traffic Laws (Ch. 8 and 5-103).....	April 2015
Size of Elections and Ethics Committee (2-101).....	July 2015
Separate Elections and Ethics Committee into two committees (2-101, <i>etc.</i> ).....	October 2015
Comprehensive amendments (numerous sections) .....	February 2016
Comprehensive amendments (numerous sections) .....	July 2016
Right-of-way licenses and non-conforming structures, Chs. 6 & 7.....	December 2016
Comprehensive amendments (numerous sections) .....	July 2017
Comprehensive amendments (numerous sections) Chs. 6 & 7.....	December 2018
Small Wireless Telecommunications Facilities, Ch. 10.....	March 2019

**CODE OF ORDINANCES  
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**CHAPTER 1  
GENERAL PROVISIONS**

**ARTICLE 1. CODIFICATION**

**1-101 Designation and Citation**

**1-102 Titles of Sections**

**1-103 Amendments**

**1-104 Effect of Repeals**

**Section 1-101. Designation and Citation**

The ordinances embraced in the following chapters and sections shall constitute and be designated as “The Code of Ordinances of the Village of Martin’s Additions,” and may be so cited. The code may also be cited as “the Martin’s Additions Code.”

**Section 1-102. Titles of Sections**

The titles of the several sections of this code are intended to be generally descriptive of the contents of the sections and shall not be taken to be a part of such sections.

**Section 1-103. Amendments**

- (a) All ordinances passed subsequent to this Code of Ordinances which amend, repeal or in any way affect this Code of Ordinances, shall be number in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, such repealed portions shall be excluded from said Code by omission from reprinted pages.
- (b) Amendments to any of the provisions of this Code shall be made by amending such provision of this Code in substantially the following language:

“Section \_\_\_\_\_ of the Code of Ordinances, is hereby amended to read as follows:  
\_\_\_\_\_” (Insert new provisions).

- (c) When the Village Council desires to enact an ordinance on a subject not heretofore existing in the Code, which the Village Council desires to incorporate into the Code, a section in substantially the following language shall be made a part of the ordinance:

Section \_\_\_\_\_. Codification

This ordinance shall become and be made a part of the Code of Ordinances, and the sections of this ordinance may be renumbered to accomplish such purpose.

**Section 1-104. Effect of Repeals**

The repeal of an ordinance or code section shall not revive any ordinance or code section in force before or at the time the ordinances' repeal took effect. The repeal of an ordinance or code section shall not affect any punishment or penalty provided for actions or events occurring before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal.

**ARTICLE 2. LEGAL CONSTRUCTION**

**1-201 Continuous Provisions**

**1-202 Severability**

**1-203 General Rules of Construction**

**1-204 Definitions**

**1-205 Computation of Time**

**Section 1-201. Continuous Provisions**

Those provisions appearing in this Code, so far as they may be the same in substance as provisions or ordinances which existed at the effective date of this Code, shall be considered as continuations thereof and not as new enactments.

**Section 1-202. Severability**

It is hereby declared to be the intention of the Village Council that the sections, paragraphs, sentences, clauses, and words of this Code are severable and if any work, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or otherwise invalid by judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining words, clauses, sentences, paragraphs, and sections of this Code, since the same would have been enacted by the Village Council without the incorporation into this Code of any such unconstitutional or invalid word, clause, sentence, paragraph or section. If any controlling or preemptive State or County law or regulation is in conflict with the operation of this Code, such law or regulation shall prevail.

**Section 1-203. General Rule of Construction**

In the construction of this Code, and any other Ordinances or Resolutions the following rules shall be observed unless such construction would be inconsistent with the manifest intent of this Code:

- (a) All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.
- (b) The singular always includes the plural, and vice versa, except where such construction would be unreasonable.
- (c) Unless otherwise provided in a particular section, all words in this Code importing gender apply equally to both genders.

- (d) Whenever a provision of this Code refers to any portion of a State or County law, the reference applies to any subsequent amendment to that law, unless the referring provision expressly provides otherwise.
- (e) The term “shall” is mandatory and not optional or permissive.

**Section 1-204.        Definitions**

- (a) “Council” means the Village Council of the Village of Martin’s Additions.
- (b) “Village” means the municipal corporation known as the Village of Martin’s Additions.

**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 holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday or a federal holiday. When the period of time allowed is more than ten (10) days, intermediate Saturdays, Sundays and 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 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)

**CHAPTER 2  
GOVERNMENT ADMINISTRATION**

**ARTICLE 1. COMMITTEES**

**2-101 Village Elections Committee and Ethics Committee  
2-102 Other Committees**

**Section 2-101. Village Elections Committee and Ethics Committee**

(a) There shall be a Village Elections Committee, which shall be composed of a minimum of three (3) members appointed by the Village Council. Members of the Elections Committee shall be qualified to vote in Village elections and shall not be members of the Village Council. The Elections Committee members shall serve until the end of the fiscal year in which they were appointed. The Elections Committee shall manage all Village elections as provided in Section 602 of the Charter of the Village of Martin's Additions.

(b) There shall be a Village Ethics Committee which shall be composed of a minimum of three (3) members appointed by the Village Council. Members of the Ethics Committee shall be qualified to vote in Village elections and shall not be members of the Village Council or the Elections Committee. The Ethics Committee members shall serve until the end of the fiscal year in which they were appointed. The Ethics Committee shall have the following responsibilities:

(1) To provide advisory opinions to persons subject to the provisions of Chapter 4 of this Code as to its applicability; and

(2) To make determinations as authorized by Chapter 4 of this Code.

(Ord. No. 4-23-15, adopted 6/18/15, effective 7/3/15; Ord. No. 08-15-01, adopted 09/17/15, effective 10/7/15)

**Section 2-102. Other Committees**

The Village Council may authorize or establish other committees to assist the Council in carrying out its responsibilities.

**ARTICLE 2. PERSONNEL**

**2-201 Rules and Regulations  
2-202 Village Manager  
2-203 Creation or Termination of Other Positions**

**Section 2-201. Rules and Regulations**

The Village Council may from time to time make such rules and regulations as it deems necessary for the employment of Village employees.

**Section 2-202. Village Manager**

There shall be a Village Manager appointed by the Village Council.

- (a) The Village Manager shall be assigned such duties as may be defined by a job description approved by the Village Council.
- (b) The Village Manager shall serve at such compensation as the Village Council may determine.
- (c) The Village Manager shall serve at the discretion of the Village Council and may be removed by a majority vote of all of its members, subject to the provisions of a valid employment contract, if such a contract has been approved by a majority of all the Village Council.

**Section 2-203. Creation or Termination of Other Positions**

The Village Council may add or abolish other employee positions as may be consistent with the Village budget and as may be necessary to carry forth the intent and purpose of this Code.

**ARTICLE 3. DEFENSE AND INDEMNIFICATION OF PUBLIC OFFICIALS AND EMPLOYEES**

- 2-301 Definitions**
- 2-302 General Provisions**
- 2-303 Investigation Before Providing Defense**
- 2-304 Confidentiality**
- 2-305 Reimbursement of Public Official’s Legal Expenses**
- 2-306 Reimbursement of Village**
- 2-307 Compromise or Settlement of Claims**
- 2-308 Sovereign Immunity Not Waived**
- 2-309 Payment of Settlement or Judgment against Public Official**
- 2-310 Reserved**
- 2-311 Cooperation by Public Official**

**Section 2-301. Definitions**

For purpose of this Article:

- (a) “Public official”, or “official” means a member of the Village Council and 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, “person who was employed by the Village” includes a volunteer who was providing services or performing duties at the request of a public official with authority to make such request, and under the control and direction of the official.
- (b) “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, 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 by reason of any act arising within the scope of his employment or authority, or by reason of any act taken in the reasonable belief that such action was within the scope of his employment or authority. The defense of the case shall include the right to assert counterclaims and to engage in third party practice on behalf of the official.
- (b) Notwithstanding the provisions of section (a) above, the Village may decline to provide representation for a public official 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 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 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 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 not acting within the scope of his employment or authority or with a reasonable belief that he was so acting, the Village shall provide no defense for the public official. If it appears that the public official is covered by a policy of insurance under the terms of which the carrier is required to provide counsel in such actions or special proceedings, the Council may direct the attorney to terminate further investigation and provide no representation for the public official.

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

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

All information provided in the Village or to any attorney retained by the Village by a public official 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 Legal Expenses**

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

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

**Section 2-306                    Reimbursement of Village**

- (a) If it is judicially determined that; (1)the public official 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 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 is not available, the Village, if the Village Council determines it appropriate, may require the public official to reimburse the Village for all expenses, including court costs and reasonable attorney’s fees. However, such reimbursement shall not be required if the information provided by the official was complete and was neither false nor misleading. These costs constitute a debt due the Village and may be collected by appropriate judicial proceedings.
- (b) The Village shall not be obligated to pay any judgment entered against the public official in such a proceeding, and the legal representation provided by the Village for a public official shall not constitute an obligation on the part of the Village to pay the judgment or a settlement of a claim, except as provided for in Section 2-307 hereof, or by applicable State or County law.

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

**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 in his personal capacity without written consent of the public official. If the public official does not consent to the compromise or settlement, the attorney may withdraw from the representation of the official, 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 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**

- (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 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 including court costs and reasonable attorney’s fees, where a written finding has been made that the public official was acting within the scope of his employment or authority.
- (b) The Village may reimburse a public official 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, 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 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 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** [Reserved]

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

**Section 2-311** **Cooperation by Public Official**

- (a) All rights and immunities granted to any public official pursuant to this Article are contingent on the official’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, 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)

## **ARTICLE 4. EXPENDITURES**

### **Section 2-401. Expenditures**

- (a) The Village Council may expend municipal funds for any public purpose, including but not limited to the following:
  - (1) Village sponsored celebrations;
  - (2) Membership in the Maryland Municipal League and other organizations relating to the business of the Village;
  - (3) Attendance of Village officials and employees at conferences, meetings, and seminars on matters relating to the business of the Village;
  - (4) Beautification of public places within the Village;
  - (5) Purchase of books, periodicals, and other publications relating to the business of the Village;
  - (6) Office equipment and supplies; or
  - (7) Except as otherwise expressly prohibited herein, any other purpose deemed to be public and to affect the safety, health, and general welfare of the Village and its occupants.
- (b) No expenditure may be made unless funds therefore have been properly appropriated. Funds not appropriated at the time of the annual levy shall not be expended, nor shall any funds appropriated be expended for any purpose other than that for which appropriated, except by a two-thirds vote of all members of the Village Council.
- (c) Notwithstanding anything to the contrary herein, no municipal funds may be expended for donations or contributions to public or private institutions, programs, facilities, or charities, whether or not such entities benefit the Village and/or its residents.
- (a) Nothing in this section shall preclude the Village Council from encouraging Village residents to support institutions, programs, facilities, charities, or other entities that benefit Village residents or from facilitating the work of such entities, for example, by mentioning them in the Village Newsletter or allowing the use of the Village office for meetings and functions.

(Ord. No. 10-11-1, adopted 12/12/11, effective 1/2/12)

## **ARTICLE 5. REGULATIONS FOR OPEN SESSIONS**

### **Section 2-501. Rules and Order of Business.**

The Council shall determine its own rules and order of business for open sessions.

(Ord. No. 4-09-1, adopted 5/27/09, effective 6/16/09)

**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 5/27/09, effective 6/16/09; 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 5/27/09, effective 6/16/09; Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16)

**Section 2-504. Recording, Photographing, and Broadcasting of Open Session.**

- (a) A member of the public, including any representative of the news media, may record discussions of the Council at an open session by means of a tape recorder or any other recording device if the device does not create an excessive noise that disturbs members of the Council or other persons attending the session.
- (b) A member of the public, including any representative of the news media, may photograph or videotape the proceedings of the Council at an open session by means of any type of camera if the camera:
  - (1) Is operated without excessively bright artificial light that disturbs members of the Council or other persons attending the session; and
  - (2) Does not create an excessive noise that disturbs members of the Council or other persons attending the session.
- (c) A representative of the news media may broadcast or televise the proceedings of the Council at an open session if the equipment used:
  - (1) Is operated without excessively bright artificial light that disturbs members of the Council or other persons attending the session; and
  - (2) Does not create an excessive noise that disturbs members of the Council or other persons attending the session.
- (d) Notwithstanding anything to the contrary in paragraphs (a), (b), and (c) above, prior advance notice must be given to the Village Manager for any recording, photographing, videotaping, or broadcasting where the set up of equipment is necessary, so that the Village Manager may make arrangements to maintain the orderly conduct of the meeting and avoid disruption.
- (d) Notwithstanding anything to the contrary contained in this Article, the Council may impose restrictions on the use of recording devices, cameras, or broadcasting or television equipment if such restriction is necessary to maintain the orderly conduct of the open meeting or is otherwise needed to protect the legitimate rights of others at the meeting.

(Ord. No. 4-09-1, adopted 5/27/09, effective 6/16/09)

**Section 2-505. Recording Not Part of Record.**

A recording of an open session made by a member of the public, or any transcript derived from such a recording, may not be deemed a part of the record of any proceeding of the Council.

(Ord. No. 4-09-1, adopted 5/27/09, effective 6/16/09)

## CHAPTER 3 CODE VIOLATIONS

### ARTICLE 1. GENERAL

#### 3-101 Definitions

#### 3-102 Conduct at Meetings

#### 3-103 Continuing Violations

#### 3-104 Additional Remedies

#### Section 3-101. Definitions

For the purposes of this Chapter:

- (a) “Misdemeanor” means any violation of this Code which has been specifically declared to be a misdemeanor.
- (b) “Municipal infraction” means a violation of this Code not specifically designated to be a misdemeanor. For the purposes of this Code a “municipal infraction” is a civil offense and any finding of guilt thereof is not a criminal conviction.
- (c) “Code Enforcement Officer” means the Village Manager or other official or employee of the Village who shall be empowered by the Village Council to have enforcement responsibilities under this Code.

#### Section 3-102. [Reserved]

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

#### Section 3-103. Violations

Any person who violates any provision of this Code or directs or allows another to commit an act that violates this Code, 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 Code on his or her property, shall be guilty of a violation and shall be jointly and severally subject to the penalties provided in this Code. If a violation occurs, there shall be a rebuttable presumption that all owners of the property allowed the violation. Each day a violation of this Code continues shall constitute a separate infraction. Each separate violation of a provision of this Code shall constitute a separate or repeat offense or infraction. Each day a violation of this Code continues shall, unless otherwise provided, constitute a separate or repeat offense or infraction.

(Ord. No. 4-16-1, effective 7/6/16).

#### 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 a minimum of three (3) members of the Village Council.
- (d) In addition to any other remedies provided in this Code, the Village 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 Village 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; Ord. No. 4-16-1; effective 7/6/16).

## **ARTICLE 2. MUNICIPAL INFRACTIONS**

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

#### **3-202 Issuance of Citation**

#### **3-203 Payment of Civil Penalty**

#### **3-204 Election to Stand Trial**

#### **3-205 Election to Request Waiver of Penalties**

#### **3-206 Failure to Pay Civil Penalty or Elect to Stand Trial or to Elect to Request Waiver of Penalties**

#### **3-207 Court Proceedings**

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

The Village Council, by ordinance, shall determine which violations of this Code shall constitute municipal infractions and may set a specific civil penalty for each such violation.

(Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 4-16-1, effective 7/6/16).

### **Section 3-202. Issuance of Citation**

- (a) Code Enforcement Officers may deliver a citation to any person who has committed a municipal infraction or may affix a citation in a conspicuous location on a vehicle or other object. A copy of the citation shall be retained by the Village and bear the certification of the issuing officer attesting to the truth of the matter set forth in the citation.
- (b) The citation shall contain the following information:

- (1) Name and address of the person charged or, in the case of a parking or motor vehicle violation, a complete description of the subject vehicle, including tag/license number and jurisdiction,
- (2) The nature of the infraction.
- (3) The location and time that the infraction occurred.
- (4) The amount of the civil penalty assessed for the municipal infraction.
- (5) The manner, location and time in which the civil penalty may be paid to the Village.
- (6) The right of the recipient of the citation to elect to stand trial for the infraction.
- (7) The right of the recipient of the citation to seek a waiver of penalties by the Council.
- (8) The effect of failing to pay the assessed fine, elect to stand trial or request waiver of penalties within the prescribed time.

**Section 3-204.            Election to Stand Trial**

A person receiving the citation for a municipal infraction may elect to stand trial for the offense by notifying the Village of such person's intention to stand trial for the municipal infraction. The notice shall be given in writing on or before the due date of payment as set forth in the citation. Upon receipt of a timely notice of intention to stand trial, the Village may forward to the District Court of Maryland for Montgomery County a copy of the notice from the person who received the citation indicating the intention to stand trial. Upon receipt of this citation, the District Court shall schedule the case for trial and notify the defendant and the Code Enforcement Officer who issued the citation of the trial date.

**Section 3-205.            Election to Seek Waiver of Penalties**

- (a) Upon a showing of good cause, the Village Council may waive all or part of any civil penalty imposed pursuant to this Code, or may waive the doubling of any penalty and accept the original penalty in satisfaction of a municipal infraction.
- (b) A person receiving the citation for a municipal infraction may elect to seek a waiver of penalties by the Village Council. The request for waiver must be made in writing on or before the due date of the payment as set forth in the citation. Upon a showing of inability to comply with the time requirement, the Council may allow additional time for the submission of the request.
- (c) A request for waiver may be made with or without tender of the civil penalty, at the option of the person seeking the waiver. Submission of a request for waiver of penalties deemed timely under this section, shall be considered by the Council at its next regularly scheduled meeting occurring more than ten (10) days following receipt of the request. The person making the request shall be notified of the Council's consideration at least five (5) days prior to the meeting. The Council shall notify the requestor of its determination in writing, return that portion of any tendered civil penalty which has been waived, or direct that any civil penalty remaining due be paid within ten (10) days of delivery of notice of the decision unless an election to stand trial is filed within that time period.

**Section 3-206. Failure to Pay Civil Penalty or Elect to Stand Trial or Elect to Request Waiver of Penalties**

- (a) If a person receiving a citation for a municipal infraction fails to pay the civil penalty imposed for the infraction by the date for payment set forth on the citation and fails to file a timely notice of intention to stand trial for the offense and fails to file a timely request for waiver of penalties, or fails to comply with a decision of the Council on a request for waiver of penalties, the offender shall be liable for an additional civil penalty, equal in amount to the original civil penalty, which shall be paid to the Village within fifteen (15) days of the sending of the formal notice described herein. A formal notice of the municipal infraction, the doubling of the civil penalty and the obligation to pay the original and additional civil penalties, shall be sent to the offender's last known address. For good cause shown, the Village Council may waive payment of the additional penalty imposed pursuant to this subsection and accept payment of the original penalty in full satisfaction of the citation.
- (b) The Village may request adjudication of any case through the District Court when a citation, including any doubled penalty, has not been satisfied within twenty-five (25) days of the mailing of the formal notice described in subpart (a). The District Court will schedule the case for trial and summon the person receiving the citation to appear. The defendant's failure to respond to the summons may constitute contempt of court.

**Section 3-207. Court Proceedings**

- (a) Court proceedings for a municipal infraction shall be governed by the provisions of Article 23A, Section 3 of the Annotated Code of Maryland, as amended, relating to municipal infractions; such provisions being hereby incorporated by reference as if set forth herein. In any case where a provision of this Chapter conflicts with a mandatory provision of Article 23A, Section 3 of the Annotated Code of Maryland, as amended, the provisions of such article shall prevail and shall be incorporated herein as if expressly set forth.
- (b) In any proceeding for a municipal infraction, the defendant shall generally have the same rights in District Court as are applicable to the trial of criminal cases or as otherwise set forth in Article 23A, Section 3 of the Annotated Code of Maryland.
- (c) Any person found by the District Court to have committed a municipal infraction shall be required to pay the civil penalty imposed by the citation, as well as any additional civil penalty imposed pursuant to Section 3-206 (a) of this Chapter and court costs permitted by law.
- (d) Whenever any person has been found guilty of a municipal infraction and willfully fails to pay the civil penalty imposed by the court or court costs, such willful failure may be treated as a contempt of Court, for which the defendant may be punished by the Court as provided by law in such cases.
- (e) All civil penalties or forfeitures collected by the District Court for municipal infractions shall be emitted directly to the Village.
- (f) Where a municipal infraction citation is issued for a violation of this Code by a government official of Montgomery County, the procedures for issuance process, trial and collection of civil penalty or fines shall be as provided for in the Montgomery County Code.

- (g) There shall be an additional administrative cost in the amount of twenty-five dollars (\$25.00) imposed in the event that a check tendered as payment of a municipal infraction is dishonored.

**ARTICLE 3. PENALTIES AND FINES**

**3-301 General Misdemeanors Penalties**

**3-302 General Municipal Infractions**

**3-303 [Reserved]**

**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, 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.

(Ord. No. 4-16-1, effective 7/6/16).

**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) for each violation and two hundred fifty dollars (\$250) for any subsequent violation.

(Ord. No. 4-16-1, effective 7/6/16).

**Section 3-303. [Reserved]**

(Ord. No. 1-22-15, adopted 3/19/15, effective 4/8/15; Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16)



## **CHAPTER 4 CONFLICT OF INTEREST**

### **ARTICLE 1. GENERAL**

#### **4-101 Definitions**

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

##### **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 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 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.
- (b) 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.

- (c) 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)

## **ARTICLE 2. PROCEDURES**

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

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

### **4-203 Failure to Quorum**

### **4-204 Enforcement**

#### **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 to 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.
- (e) Officials shall file with the Committee, on an annual basis, prior to the 30<sup>th</sup> day of April of each year, a conflicts of interest disclosure in a form recommended by the Committee and approved by the Village Council. Such filing shall be in addition to the filing required by the Village Charter, Section 903.

(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; Ord. No. 6-17-1, adopted 7/17/17, effective 8/7/17)

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

- (a) After complying with the disclosure requirements of Section 4-201, the Public Official shall either (i) voluntarily disqualify himself and withdraw from participating in further debates or determinations with respect to the public interest in conflict with the Official's private interest or relationship, or (ii) request that the Committee determine the presence or absence of a conflict of interest and advise as to an appropriate course of conduct.
- (b) Any person alleging a violation of this Chapter may file a written complaint, under oath, with the Committee. Upon the receipt of such complaint, the Committee shall send a written acknowledgement of its receipt, notify the Official and the Council of the allegation, and review the complaint with the Village attorney. If the Village attorney recommends that special counsel be appointed, special counsel shall be selected by the Committee and appointed by the Council. If, upon consultation with the Village attorney or special counsel, the Committee determines that the complaint should be addressed by the Committee, the Committee shall request that the Official provide the Committee such information as the Committee finds necessary to determine the presence or absence of a conflict of interest. A written complaint shall not require a formal hearing; such complaints shall be processed under the procedures described in subsections (c), (d), (e), and (f) of this Section. Upon final resolution of the matters alleged, the Committee shall provide a written summary of the resolution to the Official, the Council and the person who filed the complaint.
- (c) For the purposes of this Section, the Committee may find and advise an absence of a disqualifying conflict of interest when the Official's private interest or relationship is found to be too remote and insubstantial to affect the integrity of the Official's public actions. The intent of the foregoing is by no means to be construed as condoning a lax approach on the part of the Committee; rather, the intent is to discourage frivolous charges.
- (d) Upon being advised by the Committee of the presence of a conflict of interest, the Official shall voluntarily disqualify himself and so notify the Committee and the Council. If the Official does not voluntarily disqualify himself, the Committee shall mandate that the Official be disqualified from participating in further debates or determinations with respect to the public interest in conflict with the Official's private interest or relationship.
- (e) Any Official who voluntarily disqualifies himself shall notify the Council, providing a full description of the public interest matters from which the Official has withdrawn from participation. A voluntary disqualification does not require a disclosure of the specific nature of a private interest or relationship considered to be in conflict; only the public interest object of conflict must be disclosed.
- (f) The Committee shall notify the Council and the Official in writing of all mandated disqualifications and shall therein provide a full description of the public interest matters with which the Official has been found to be in conflict and about which such Official is disqualified from participation. The Committee shall mandate a disqualification for any Official who fails or refuses to provide the Committee with such information as the Committee finds necessary to determine the presence or absence of a conflict of interest.

- (g) Any disqualifications relating to any public interest description shall be recorded in the minutes of the Council meeting at which the matter was considered.
- (h) The Committee shall meet in closed session (i) to protect the privacy or reputation of individuals with respect to their private interests or relationships not related to the public business, (ii) to discuss the discipline of an Official under the provisions of this Chapter, (iii) to consult with counsel or (iv) to consult with staff, consultants or other individuals about pending or potential litigation.
- (i) The Village records maintained under the provisions of this Chapter shall be privileged and not subject to public inspection to the extent that such records contain any of the following: (i) information about the finances of an individual, (including assets, income, liabilities, net worth, bank balances, financial history or activities or credit worthiness), (ii) any otherwise confidential financial information, (iii) confidential commercial information, or (iv) trade secrets. For the purpose of this Section, confidential or secret information shall be such information as is customarily regarded as confidential in business.

(Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 4-16-1, effective 7/6/16).

**Section 4-203. Failure of Quorum**

If, because of a voluntary or mandatory disqualification under the provisions of this Chapter, less than a quorum of the Council is available to act upon any particular matter, the matter shall be deferred until a quorum is assembled.

**Section 4-204. Enforcement**

- (a) The Council may file a petition for injunctive or other relief in a court of competent jurisdiction for the purpose of requiring compliance with this Chapter.
- (b) Any person who knowingly and willfully violates the provisions of this Chapter is guilty of a misdemeanor and, upon conviction, is subject to a fine of not more than \$1,000.00 or imprisonment for not more than one year, or both. If the person is a business entity and not a natural person, each officer and partner of the business entity who knowingly authorized or participated in the violation is guilty of a misdemeanor and, upon conviction, is subject to the same penalties as the business entity.
- (c) Any person who violates the provisions of this Chapter shall be guilty of a municipal infraction and shall be subject to a civil penalty of \$100.00.
- (d) In addition to any other enforcement provisions in this Chapter, any member of the Council who is found by the Committee or a court to have violated this Chapter shall be subject to recall, as provided in the Village Charter.
- (e) In addition to any other enforcement provisions in this Chapter, any employee found by the Committee or a court to have violated this Chapter shall be subject to disciplinary or other appropriate action, including dismissal or suspension of compensation.

**CHAPTER 5**  
**COUNTY AND VILLAGE RELATIONS**

**ARTICLE 1. VILLAGE AUTHORITY**

**5-101 Purpose**

**5-102 Legislative Authority**

**5-103 Specific Exemptions from County Laws**

**Section 5-101. Purpose**

This Chapter establishes the applicability of Montgomery County laws and regulations within the Village of Martin's Additions and is intended to prevent conflicts between County and Village authority.

**Section 5-102. Legislative Authority**

No provision within this Chapter shall affect the authority of the Village Council to adopt legislation and regulations relating to any subject upon which the Village Council has legislative authority to act either by public general law or by the Charter of the Village of Martin's Additions.

**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 4/17/14, effective 5/7/14; Ord. No. 1-22-15, adopted 3/19/15, effective 4/8/15; 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.")

**ARTICLE 2. COUNTY AUTHORITY**

**5-201 Concurrent County Jurisdiction**

**5-202 Adoption by Reference**

**5-203 Prior Agreements**

**5-204 Agreements Providing for County or State Enforcement of Village Laws**

**Section 5-201. Concurrent County Jurisdiction**

Jurisdiction otherwise exercised by Montgomery County within the Village of Martin's Additions, not inconsistent with this Code and as authorized by law, shall be considered concurrent jurisdiction with the jurisdiction of the Village, unless reserved by State law exclusively to Montgomery County or to the Village.

**Section 5-202. Adoption by Reference**

Nothing contained in this Chapter shall limit or otherwise affect the Village's authority to adopt by reference any law or regulation of Montgomery County as its own law or regulation. Nor shall anything in this Chapter repeal any Village ordinance or regulation which specifically adopted or incorporated by reference any County legislation, unless and until so repealed by act of the Village Council.

**Section 5-203. Prior Agreements**

Nothing contained in this Chapter shall repeal or impair any agreement or authorization previously executed between the Village and the County or any third party until and unless done so by consent of the Village and County.

**Section 5-204. Agreements Providing for County or State Enforcement of Village Laws**

Nothing contained in this Chapter shall limit or otherwise affect the Village's authority, whether exercised previously or in the future, to request the enforcement of Village legislation or regulations in whole or in part by Montgomery County or the State of Maryland, and to enter into agreements providing for the same.

## 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 or in close proximity to 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. “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.
- (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) “Curb cut” means a break in the continuity of the curb in a public right-of-way for allowance of vehicular access to an adjoining parcel, or where there is no curb, the intersection of the driveway and edge of the improved roadway.
- (i) “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.
- (j) “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.
- (k) “Fences” means man-made structures which are designed primarily to partially or wholly enclose a lot or a portion thereof.

- (l) “Floor area” means the sum of all interior horizontal areas of the several stories of a building, whether or not a floor has actually been laid, with structural headroom or clear ceiling height of at least six (6) feet.
- (m) “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.
- (n) “Heavy equipment” means vehicles and machinery used to perform tasks such as excavating, grading, heavy lifting, demolition, or removal of large trees, including, but not limited to, cranes, bulldozers, or other items which may damage the public right-of-way when placed upon or moved across the street surface, curb, or sidewalk.
- (o) “Lot” means a parcel of land on a legally recorded subdivision plat filed among the records of Montgomery County Maryland.
- (p) “Non-vegetative surface” means any surface that is not vegetative, including, but not limited to, asphalt, concrete, stone, gravel, sandstone pavers, and the like.
- (q) “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.
- (r) “Person” means an individual, corporation, association, firm, partnership or the like.
- (s) “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.
- (t) “Sidewalk” means the portion of any street designed exclusively for pedestrian passage.
- (u) “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.
- (v) “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.
- (w) “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.
- (x) “Village” means the Village of Martin’s Additions.
- (y) “Village Charter” means the Charter of the Village of Martin’s Additions.



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

(Ord. No. 5-13-1, adopted 9/9/13, effective 10/10/13; Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 4-16-1, effective 7/6/16; Ord. No. 1-17-1, effective 4/5/17).

## **ARTICLE 2. BUSINESS REGISTRATION**

### **6-201 Purpose and Application**

### **6-202 Registration Required**

### **6-203 Application; Council Consideration**

### **6-204 Applicable Standards**

### **6-205 Term; Non-Transferability**

### **6-206 Fees**

### **6-207 Enforcement**

#### **Section 6-201. Purpose and Application**

The provisions of this Article are 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 by ensuring that the Village receives complete information concerning any business activity which may have a discernable impact upon public services provided by the Village or upon its residents and enabling the Village to provide complete information regarding the number and types of business activities conducted within the Village to those entities which have jurisdiction over land use matters. This Article is not intended to be, nor shall the same be construed as, a zoning ordinance.

#### **Section 6-202. Registration Required**

No person shall engage in any activity in respect to the operation of a business within the Village prior to obtaining a certificate of registration from the Village Council. However, no registration certificate shall be required for a lawful business activity having no impact upon other Village residents that is conducted solely by a Village resident. Business activities exempt from registration because of “no impact” shall not result in production of products for sale on the premise, produce business related pedestrian or vehicular traffic or produce any discernable effect, e.g., light, noise, vibration, waste discharge, etc., beyond the property line.

#### **Section 6-203. Applications; Investigations and Inspections; Council Consideration**

- (a) An application for registration of a business activity shall be submitted in a form prescribed by the Council and shall be accompanied by (i) evidence in the form of an affidavit or other documentation required by the Council that the business complies with the applicable laws, codes, ordinances, rules and regulations of Montgomery County, Maryland the State of Maryland and/or any other governmental authority having jurisdiction over the proposed business, including a copy of certification of any business license issued by the State or County, and (ii) information, reports and the like that the Council or Code Enforcement Officer deems necessary to determine whether the proposed business would be in derogation of the health, safety, comfort or welfare of the present or future inhabitants of the Village or whether the business would constitute a

nuisance because of sidewalk or street traffic, interference with residential parking, noise or other noxious effects.

- (b) Applications for registration of a business activity shall be referred to the Code Enforcement Officer for review and such investigation as the officer or the Council deems necessary. Within twenty days after receipt of an application, or within twenty days after receipt of any additional information requested from the applicant, whichever is later, the Code Enforcement Officer shall recommend the Council whether or not the business should be registered.
- (c) Written notification of any application for registration of a business activity shall promptly be provided by the Village to residents of Village property within five hundred (500) feet of the property described in the registration application. All applications for business registration and recommendations and decisions by the Council with respect thereto shall be published in the next edition of the Village's newsletter; except that applications received and decisions made less than five days prior to issuance may be published in the following issue. Decisions by the Council on applications for registration shall be communicated in writing to the applicant.
- (d) The Council shall make a decision to issue or deny a registration certificate at the first regularly scheduled meeting occurring more than twenty (20) 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.
- (e) At the Council meeting at which the application is considered, the Council may receive evidence from any interested party. The meeting shall be conducted in accordance with regularly followed procedures or regulations promulgated by the Council.

**Section 6-204.            Applicable Standards**

- (a) The Council shall register a business activity if the provisions of this Article have been satisfied.
- (b) The Council may impose conditions related to the protection of health, safety, comfort or welfare, or to protect against nuisances caused by 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 6-205.            Term; Non-Transferability**

- (a) Business registrations issued by the Council shall have a one-year term and shall be renewable upon submission of an application in the form as prescribed in Section 6-203(a).
- (b) Business registrations are non-transferable and are automatically suspended when the registrant ceases to operate the business or ceases to use any structure or lot for the non-residential purpose described in the registration. No person may resume operation of any business or non-residential use for which a registration has been suspended pursuant to this section without first securing issuance of a new registration certificate pursuant to this Article.

**Section 6-206.        Fees**

No application for registration of a business activity shall be processed until the applicant therefore has paid a non-refundable \$25.00 to the Village.

**Section 6-207.        Enforcement**

- (a) Any person who engages in any business in the Village in violation of this Article may be enjoined from proceeding.
- (b) Any business registration may be revoked by the Council at any time for violation of this Article or of any conditions under which the registration certificate was issued. Within 30 days after the date of revocation, a written notice of appeal may be filed with the Council; the procedures applicable to registration applications shall apply.
- (c) Any and all buildings, land or vehicles used by a business registered hereunder shall be subject to inspection for violation of this Article or State or County law, or any conditions under which the registration certificate was issued. Any inspection conducted hereunder shall be made at a reasonable time, upon reasonable notice and shall be limited to reasonable efforts to ascertain the extent of compliance with the requirements of this Article.

**ARTICLE 3. VILLAGE BUILDING PERMITS**

<b>6-301</b>	<b>Purpose and Application</b>
<b>6-302</b>	<b>Permits required</b>
<b>6-303</b>	<b>Applications; Investigations and Inspections; Issuance</b>
<b>6-304</b>	<b>Deposit for Repairs</b>
<b>6-305</b>	<b>Construction</b>
<b>6-306</b>	<b>Applicable Standards</b>
<b>6-307</b>	<b>Fees</b>
<b>6-308</b>	<b>Enforcement</b>
<b>6-309</b>	<b>Exceptions</b>
<b>6-310</b>	<b>Appeals</b>
<b>6-311</b>	<b>Work Hours and Noise Control</b>

**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, 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.

- (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.

(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 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) Add to, erect, install, replace, alter, construct, re-construct, repair or improve any building;
- 2) Add to, install, replace, alter, construct, re-construct, repair or improve any non-vegetative surface in a front yard;
- 3) Place any heavy equipment upon or move any heavy equipment over an improved street surface, curb, or sidewalk;
- 4) Add to, install, replace, alter, construct, re-construct, repair or improve any curb cut, driveway, or driveway apron; or
- 5) 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. No building permit for construction of a private 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. The Code Enforcement Officer may waive the requirement for a license for the alteration or replacement of stairs, guardrails, and walkways, if, in the discretion of the Code Enforcement Officer, the cost and inconvenience of the license exceeds the benefit to 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.

(e) Informational Meeting.

- (1) Prior to the commencement of a construction project meeting the criteria below, and as a condition of the building permit, the Code Enforcement Officer shall hold an informational meeting with the applicant. The informational meeting shall be open to the public and be conducted for the purposes of exchanging information, receiving feedback, and informing Village residents about construction schedules, parking, traffic, and the like. Such informational meeting shall be required for the following projects:
  - (i) A new building having more than five hundred (500) square feet of floor area;
  - (ii) One (1) or more addition(s) or alteration(s) to a building that individually or cumulatively, within a period of two (2) years, increase the floor area of an existing building by more than five hundred (500) square feet; or

- (iii) The demolition of more than fifty (50) percent of the exterior walls of a main building (measured in linear feet and including only that area which is entirely above grade).
- (2) At least seven (7) days before the informational meeting, the applicant shall erect a sign, to be furnished by the Village, on the subject property within ten (10) feet of the boundary line of each public road abutting the property, facing in such manner as may most readily be seen by the public. The bottom of the sign shall be not less than two and one-half (2½) feet from the ground. The sign shall specify any and all content that the Village may require. The Village Manager shall provide written notice of such meeting to the owners of adjoining and confronting properties. Failure to provide such signage or written notice shall not invalidate any permit which may be issued by the Village with respect to the subject property.

(Ord. No. 5-13-1, adopted 9/19/13, effective 10/10/13; Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 10-16-1, adopted 12/15/16, effective 1/4/17; Ord. No. 1-17-1, effective 4/5/17)

**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 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 will promptly be delivered by the Village 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 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 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 or plans differs from that described in the original (or subsequent resubmission, if any) application for the Village building permit, an amended building permit application shall be filed and the residents of all Village properties that border or directly face the property with respect to which the permit is sought will be notified. A building permit issued by Montgomery County shall be prima facie proof of compliance with applicable County and State law.
- (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.
- (j) 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. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 4-16-1, effective 7/6/16; Ord. No. 9-18-1, adopted 12/6/18, effective 12/26/18).

**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) 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.
- (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 9/19/13, effective 10/10/13; Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16)

**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; 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.
- (c) Permitted work must be commenced within six (6) months of the date of issuance of the building permit and shall be completed within twelve (12) months of the date of issuance of the building permit, or the permit shall be deemed revoked, unless an extension is granted in writing by the Code Enforcement Officer. Upon payment of the permit extension fee, the Code Enforcement Officer may grant an extension upon such conditions as the Code Enforcement Officer may find necessary for the public health, safety, or welfare, upon a reasonable showing by the permittee that there has been no material change in circumstances since the issuance of the building permit and, despite due diligence by the permittee, additional time is necessary to complete the approved construction. A permit may be revoked by the Code Enforcement Officer if work has stopped for a period of forty-five (45) days or more.

(Ord. No. 5-13-1, adopted 9/19/13, effective 10/10/13; Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 6-17-1, adopted 7/17/17, effective 8/7/17)

**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) 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, 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 Code Enforcement Officer 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.
  - (v) A stop work order will be lifted by the Code Enforcement Officer only once the violation is removed, abated, or otherwise satisfactorily addressed as determined by the Code Enforcement Officer.
- (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; Ord. No. 4-16-1, effective 7/6/16).

**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, and all federal holidays.
- (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.

(Ord. No. 4-16-1, effective 7/6/16).

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

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

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

#### **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 (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)

# CHAPTER 7 PROPERTY REGULATIONS

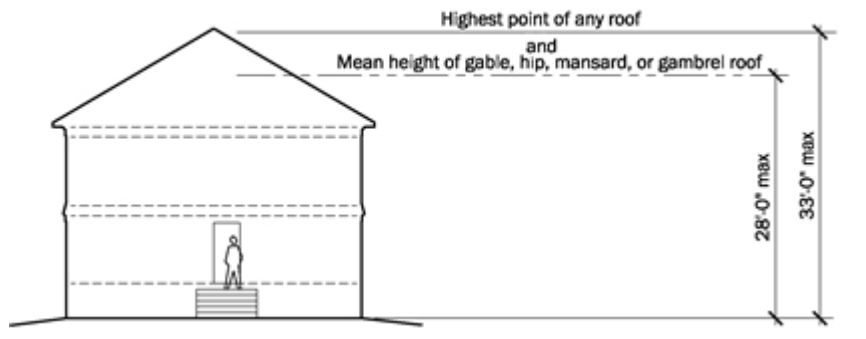
## ARTICLE 1. GENERAL

### 7-101 Definitions

#### 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.
- (b) “Building” means a structure on a lot which has one or more stories and a roof and is designed primarily for the shelter, support or enclosure of persons or property of any kind. “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. “Building” excludes projections and appurtenances that are constructed at or below grade, such as a stairwell or patio.
- (c) “Building coverage” means the area of a lot that is occupied by the main and accessory buildings, including (i) bay windows, oriel entrances, balconies, chimneys, and vestibules, and (ii) covered decks, porches, breezeways, and steps, but excluding cornices, eaves, air conditioners, and heat pumps.
- (d) “Building height” means the vertical distance measured from the average elevation of the grade along the front of the building to: (1) the highest point of roof surface regardless of roof type, and (2) the mean height level between the eaves and ridge of a gable, hip, pyramidal, mansard, or gambrel roof. Building height is separately measured on both street-facing sides of a corner lot. For the purpose of this definition, grade is either the finished development grade or the pre-development grade, whichever is lower.



- (e) Building height, established (see established building height).
- (f) “Building line” means a line, parallel to a lot line, extending from property line to property line at the outermost wall of the main building or any enclosed projection thereof.

- (g) “Building restriction line” means a line, parallel to a lot line, creating an area into which a structure must not project, except as otherwise provided in this Chapter.
- (h) Building line, established (see established building line).
- (i) “Code Enforcement Officer” means an authorized code enforcement official within the meaning of Chapter 3, Section 3-101(c) of this Code.
- (j) “Curb cut” means a break in the continuity of the curb in a public right-of-way for allowance of vehicular access to an adjoining parcel, or where there is no curb, the intersection of the driveway and edge of the improved roadway.
- (k) “Developmental nonconformity” means a building which was lawful when constructed, but which no longer conforms to the requirements of Article 4 of this Chapter because of subsequent amendments to this Code.
- (l) Dumpster: 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.
- (m) “Established building height” means a height building line, which is the average height of all buildings that are:
  - a. within 300 feet of each side property line of the proposed construction site;
  - b. along 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. conforming to the maximum building height restriction, not unlawfully constructed, and not constructed pursuant to a lawfully granted variance; or
  - f. not located on a pipestem or flag-shaped lot.

Corner lots are subject to the established building height of both of the streets.

- (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 streets that intersect the block or to the point where public thoroughfare is denied;
  - d. existing at the time the building permit application is filed;
  - e. conforming to the required front setback, not unlawfully constructed, and not constructed pursuant to a lawfully granted variance;
  - 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.

- (o) “Front-loading garage” means a garage with a door that faces a front lot line.
- (p) “Finished grade” means the grade following completion of the building or renovation, as established at spot elevations taken at intervals no greater than five (5) feet along the front of the building.
- (q) “Front lot line” means the lot line running along the front of the lot separating it from the street.
- (r) “Front wall plane” means the horizontal surface along the face of an exterior wall facing a front yard.
- (s) “Front yard” means the yard extending across the full width of the lot between the front lot line and the front building line. In cases where no main building exists, the front building restriction line will be substituted for the front building line.
- (t) “Garage” means an accessory building or portion of a main building designed, arranged, or used for the housing of private motor vehicles.
- (u) “Garage, front-loading” (see front-loading garage).
- (v) “Garbage” means all organic waste, including the residue of animal, fruit or vegetable matter, resulting from the preparation, cooking, handling or storage of food; wastepaper, newspaper and cardboard; cans; jars and bottles; and all other waste materials normally generated and accumulated in a household.
- (w) “Grade, finished” (see finished grade).
- (x) “Grade, pre-development” (see pre-development grade).
- (y) “Hazardous material” means any substance or material in a quantity or form that may pose an unreasonable risk to health, safety or property, including any material designated by the U.S. Department of Transportation as belonging to a hazard class.
- (z) “Lawn and garden debris” means all yard trash, including dead trees, tree limbs, stumps, bushes and leaves; and all other debris of the type normally generated and accumulated in gardening, lawn care and tree care.
- (aa) “Lot” means the land designated as a separate and distinct lot or parcel of land on a legally recorded subdivision plat or deed filed among the records of Montgomery County, Maryland.
- (bb) “Low growing plantings” means grass, ground cover, flowers, and similar plantings maintained at a height of twelve (12) inches or less.
- (cc) “Lot line, front” (see front lot line).
- (dd) “Lot line, rear” (see rear lot line).

- (ee) “Lot lines” means the lines bounding a lot.
- (ff) “Lot line, side” (see side lot line).
- (gg) “Main Building” means a building in which is conducted the principal use of the property on which it is situated. Any dwelling shall be deemed to be a main building on the lot on which it is located.
- (hh) “Non-vegetative surface” means any surface that is not vegetative, including, but not limited to, asphalt, concrete, stone, gravel, sandstone pavers, and the like, and includes the area of any front porch, stoop, steps, and/or stairs.
- (ii) “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.
- (jj) “Pre-development grade” means the grade that existed at the time of application for a building or demolition permit, as established at spot elevations taken at intervals no greater than five (5) feet along the front of the building, or if there is no building at the time of application, at locations along the front of the building to be constructed.
- (kk) “Rear lot line” means the lot line generally opposite or parallel to the front lot line. If the rear lot line is less than ten (10) feet long or the lot comes to a point at the rear, such rear lot line is assumed to be a line not less than ten (10) feet long lying wholly within the lot, parallel to the front lot line, or in the case of a curved front lot line, parallel to the chord of the arc of such front lot line.
- (ll) “Rear yard” means the yard extending across the full width of the lot between the rear lot line and the rear building line. In cases where no main building exists, the rear building restriction line will be substituted for the rear building line. Any portion of a rear yard that overlaps with a side yard shall be considered part of the side yard. In the case of a corner lot, any portion of a rear yard that overlaps with a front yard shall be considered part of the front yard.
- (mm) “Refuse” means garbage, lawn and garden debris or rubbish.
- (nn) “Rubbish” means all refuse other than garbage and lawn and garden debris; this includes ashes, rubble, junk and other solid waste materials.
- (oo) “Side lot line” means any lot line other than a front lot line or a rear lot line.
- (pp) “Setback” means the minimum distance that a building must be set back from a lot line, according to the requirements at the relevant provisions of this chapter.
- (qq) “Side wall plane” means the horizontal surface along the face of an exterior wall facing a side yard.
- (rr) “Side yard” means the yard between the side lot line and the side building line. Any portion of a side yard that overlaps with a front yard shall be considered part of the front yard.
- (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.

- (tt) “Toxic material” means any substance that can be poisonous if inhaled, swallowed, or absorbed into the body through cuts, breaks in the skin, ingestion, or bodily contact.
- (uu) “Unenclosed” means not enclosed by a wall, window, screening, or other building element.
- (vv) “Wall plane, front” (see front wall plane).
- (ww) “Wall plane, side” (see side wall plane).
- (xx) “Wall plane length” means the horizontal length along the face of an exterior wall of a building uninterrupted by a projection or inset of three (3) feet or more that extends a horizontal distance of five (5) feet or more.
- (yy) “Wall plane height” means the maximum vertical distance at any point on any exterior wall of a building between the highest point of a wall plane and the adjoining post-construction grade elevation, uninterrupted by a projection or inset of three (3) feet or more that extends a horizontal distance of five (5) feet or more. Dormers shall be considered part of the wall plane below unless they are recessed from the wall plane below by a minimum of three (3) feet.
- (zz) “Yard” means any open space on a lot with a building, or group of buildings, lying between the building (or the outer building or a group) and the nearest lot or street line and unoccupied and unobstructed from the ground upward, excluding projections allowed by this Chapter.
- (aaa) “Yard, front” (see front yard).
- (bbb) “Yard, rear” (see rear yard).
- (ccc) “Yard, side” (see side yard).

(Ord. No. 4-09-2, adopted 5/27/09, effective 6/16/09; Ord. No. 12-09-1, adopted 1/21/10, effective 2/10/10; Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 4-16-1, effective 7/6/16; Ord. No. 9-18-1, adopted 12/6/18, effective 12/26/18).

## **ARTICLE 2. PROPERTY MAINTENANCE**

### **7-201 Purpose**

### **7-202 Maintenance of Buildings**

### **7-203 Maintenance of Yards and Vacant Lots**

### **7-204 Unremoved Snow or Ice**

### **7-205 Accumulation of Refuse**

### **7-206 Prohibition of Refuse on Public or Private Property**

### **7-207 Restrictions on Use of Public Trash Receptacles**

### **7-208 Advertisements and Handbills**

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

### **7-210 [Reserved]**



**Section 7-201. Purpose**

The provisions of this Article are declared necessary for the purpose of securing the public safety, health and welfare in the maintenance of buildings and yards within the Village.

**Section 7-202. Maintenance of Buildings**

The owner of a building or his designated agent or lessee shall maintain the building and its exitways in a safe and sanitary condition at all times. Every building shall be kept free from unreasonable accumulation of refuse and shall be kept free from vermin or rodent infestation. Each occupant of a building shall keep in a safe and sanitary condition that portion of the property which he occupies or over which he has exclusive control.

**Section 7-203. Maintenance of Yards and Vacant Lots**

- (a) The owner of a yard or vacant lot, or his designated agent or lessee, shall maintain such yard or lot in a safe and sanitary condition. Every yard and vacant lot shall be kept free from unreasonable accumulation of rubbish, lawn and garden debris, or hazardous or toxic material, and shall be kept free of garbage.
- (b) The owner of a yard or vacant lot shall not permit or allow any grass or weeds to grow on such yard or lot to a height in excess of twelve (12) inches above the ground.

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

- (a) The owner of a lot in the Village, or his designated agent or lessee, shall within twenty-four (24) hours after a snowfall ceases:
  - 1) Remove, or cause the removal of, snow and ice from any sidewalk on such lot or on abutting public property that is normally used by the public.
  - 2) Deposit or cause the deposit of, the removed snow or ice in a reasonably safe location and not upon any public roadway or sidewalk.
  - 3) If said snow and ice cannot be removed because of hardening, make the sidewalk reasonably safe for pedestrian travel by spreading sand or a similar substance.
- (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 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.
- (c) Any person who violates any provision of this Section 7-204 or allows a violation of any provision of this Section on his or her property, shall be guilty of a municipal infraction and shall be jointly and severally subject to a penalty of One Hundred Dollars (\$100.00) for each day that a violation exists. If a violation occurs, there shall be a rebuttable presumption that all owners of the property allowed the violation.

(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 7-205. Accumulation of Refuse**

- (a) The owner of a lot in the Village, or his designated agent or lessee, shall not cause or allow the accumulation of refuse on the lot, with the following exceptions:
  - 1) Refuse stored in accordance with this Chapter and awaiting collection by the Village or a private trash disposal firm.
  - 2) Matter intended for garden compost, provided it is not located in a front yard and does not exceed normal requirements of home garden and does not attract vermin or produce offensive odors.
  - 3) Firewood, provided that it is not located in a front yard and is cut into fireplace-size lengths and stacked so as to not be hazardous or attract vermin.
- (b) The owner of a lot in the Village, or his designated agent or lessee, shall not store refuse in a manner that would permit it to be carried or deposited by the elements or animals upon any street or sidewalk or upon any other private property.

**Section 7-206. Prohibition of Refuse on Public or Private Property**

No person shall place refuse upon any street, public right-of-way, or private property within the Village, except that certain refuse may be deposited temporarily on the public right-of-way (but not on any roadway or sidewalk) for collection by the Village or a private trash disposal firm.

**Section 7-207. Restrictions on Use of Public Trash Receptacles**

No person shall deposit refuse in the trash receptacles provided by the Village, except for refuse normally and reasonably deposited by a pedestrian in lieu of discarding it on public or private property in the Village.

**Section 7-208. Advertisements and Handbills**

No person shall cast, throw, place or distribute any advertisements, circulars, handbills, newspapers or other materials within the Village in such a manner that they may be blown upon and into any roadway, public right-of-way, or private property within the Village. All notices posted within the public right-of-way shall be removed within five (5) days after the occurrence of the event referred to therein.

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

- (a) The owner of private property adjoining a public right-of-way shall maintain that portion of the right-of-way located between the private property line and the edge of the paved street in a safe and sanitary condition. Said owner shall not permit grass or weeds to grow within the right-of-way to a height in excess of twelve (12) inches above the ground. Nothing herein shall be deemed to require an owner of private property adjoining a right-of-way to repair sidewalks or curbs located within the right-of-way.
- (b) The owner of private property adjoining a public right-of-way shall not place any structure, wall, fence, tree, hedge, shrubbery, or any other plant growth, except low growing plantings, within the right-of-way without a license to use the right-of-way issued pursuant to Section 6-302. The Code Enforcement Officer may waive the requirement for a license for the placement of non-woody plant growth, if, in the discretion of the Code Enforcement Officer, the cost and inconvenience of the license exceeds the benefit to the Village. Any tree, hedge, shrubbery, or other plant growth located within the right-of-way on December 9th, 2009 may be maintained, but not

replaced, provided that it does not interfere in any manner with pedestrian or vehicular traffic and is maintained in such a manner and at such height that a clear and unobstructed view is available to pedestrians and vehicular traffic.

- (c) The owner of private property adjoining a public right-of-way shall not permit any structure, wall, fence, tree, hedge, shrubbery, or any other plant growth located on such owner's private property to extend into the right-of-way in such manner that interferes with pedestrian or vehicular traffic. Any structure, wall, fence, tree, hedge, shrubbery, or any other plant growth located on private property adjoining a right-of-way shall be maintained in such a manner and at such height that a clear and unobstructed view of the right-of-way is available to pedestrians and vehicular traffic.
- (d) Any structure, wall, fence, tree, hedge, shrubbery, or any other plant growth located within the public right-of-way, shall be removed by and at the expense of the owner and occupant of the abutting private property upon the request of the Code Enforcement Officer. The Code Enforcement Officer may request removal as a result of a violation of any provision of this Section 7-209 or when otherwise deemed necessary by the Code Enforcement Officer for the public health, safety, or welfare, or for the public use of the right-of-way. The Code Enforcement Officer, or his or her designee, may take such action as is necessary to restore the right-of-way or return the right-of-way to a condition required by this Section. The cost of any restoration or corrective action may be specially assessed against the abutting private property and collected with the property taxes or collected by a suit for damages.
- (d) Any person who violates any provision of this Section 7-209 or allows a violation of any provision of this Section on his or her property, shall be guilty of a municipal infraction and shall be jointly and severally subject to a penalty of One Hundred Dollars (\$100.00) for each day that a violation exists. If a violation occurs, there shall be a rebuttable presumption that all owners of the property allowed the violation.

(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; Ord. No. 10-16-1, adopted 12/15/16, effective 1/4/17)

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

**Section 7-210.** [Reserved]

(Ord. No. 12-09-1, adopted 1/21/10, 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)

### **ARTICLE 3. REFUSE COLLECTION**

**7-301 Purpose and Application**

**7-302 Authority of Council**

**7-303 Collection of Garbage**

**7-304 Collection of Lawn and Garden Debris**

**7-305 Special Collection of Rubbish**

**7-306 Commercial Establishments**

**Section 7-301. Purpose and Application**

- (a) The provisions of this Article are hereby declared necessary for the purpose of protecting and promoting the health, safety and welfare of the present and future inhabitants of the Village.
- (b) The provisions of the Article shall apply to the collection of refuse within the boundaries of the Village.

**Section 7-302. Authority of the Council**

- (a) The Council is authorized to control the collection of refuse within the Village.
- (b) The Council may enter into such agreements or contracts, including agreements or contracts with any political subdivision or public authority, as it deems advisable to cause the collection and disposal of all residential refuse.
- (c) The Council or a Code Enforcement Officer may enforce all prohibitions and standards set forth in this Article, upon written notice delivered to or posted at the Village address of any violation of such prohibition or standard.
- (d) The Council may establish and levy such fees as may be necessary to achieve the purposes of this Article, including fees for the collection and disposal of an refuse generated by businesses located within the Village that the owner and operator of the business does not remove or cause to be removed in a timely manner.

**Section 7-303. Collection of Garbage**

- (a) The Village will collect garbage twice weekly from the required locations for its storage at each residence in the Village, except when normal collection would occur on a holiday. The Village may exclude times within the definition of garbage from residential garbage service, may establish a different frequency for collection of excluded items, and may require that excluded items be placed at the curb or recycled.
- (b) All residential garbage shall be stored for collection in containers that meet the requirements of this Section. Such containers shall not be placed in a front yard or on the public right-of-way.
- (c) It shall be the responsibility of the occupant or owner to provide sufficient containers for storage of garbage to prevent overflow between collections.
- (d) All containers for the storage of garbage shall be vermin-proof and waterproof, of non-corrosive material, with tightly fitted lids in place at all times. Containers recessed into the ground shall be permitted only if they are of such construction that they do not permit waste or waste material seepage.
- (e) No garbage shall be placed in a container for collection unless it is secured in a leak-proof plastic bag or other leak-proof wrapping.

**Section 7-304. Collection of Lawn and Garden Debris**

- (a) The Village will collect lawn and garden debris from residences in the Village on a schedule to be determined by the Village Council. The Village may exclude certain items within the definition of lawn and garden debris from residential collection service.

- (b) The owner or occupant shall place such debris along the curb for collection. All such debris shall be placed in securely tied plastic bags. However, tree limbs, plant stalks and the like not exceeding four (4) feet in length or three (3) inches in diameter may be placed in containers or securely tied bundles.

**Section 7-305. Special Collection of Rubbish**

- (a) The Village will collect rubbish from residences in the Village on a schedule to be determined by the Village Council. Owners and occupants will be notified of the dates of such collections and where rubbish is to be placed for collection
- (b) The Village may exclude from special collection certain items within the definition of rubbish. The owner or occupant shall be responsible for the removal and disposal of such rubbish.

**Section 7-306. Commercial Establishments**

- (a) The owner, lessee, or person in control of any property in the Village upon which a commercial activity is operated shall keep such property, including any adjoining sidewalks and parking areas, free of litter and refuse.
- (b) Refuse shall be collected or removed from commercial establishments at least once a week or with such greater frequency as is necessary to keep all refuse in proper containers without producing overflow or objectionable odors.
- (c) Putrid waste shall be removed from commercial premises daily, unless the waste is immediately ground into the sewer system or is stored in refrigerated storage. The existence of objectionable odors at the nearest adjoining premises shall be evidence of insufficient removal frequency.
- (d) Containers for the storage of refuse shall be vermin-proof and water proof, of non-corrosive material, with tightly filled lids in place at all times. Containers accessible to the public and left unattended at night shall be locked.

**ARTICLE 4. RESIDENTIAL BUILDING STANDARDS**

- 7-401 Purpose and Application**
- 7-402 Construction Standards**
- 7-403 Exemptions for rebuilding**
- 7-404 Developmental nonconformities**
- 7-405 Variances**

**Section 7-401. Purpose and Application**

- (a) To maintain privacy and space between properties, ensure adequate light, and maintain safe passageways between buildings,
- (b) To encourage appropriately sized construction in keeping with lot sizes and character of the Village.
- (c) To minimize the flow of storm water from lots by encouraging the maintenance of open spaces and the reduction of impervious surfaces, and

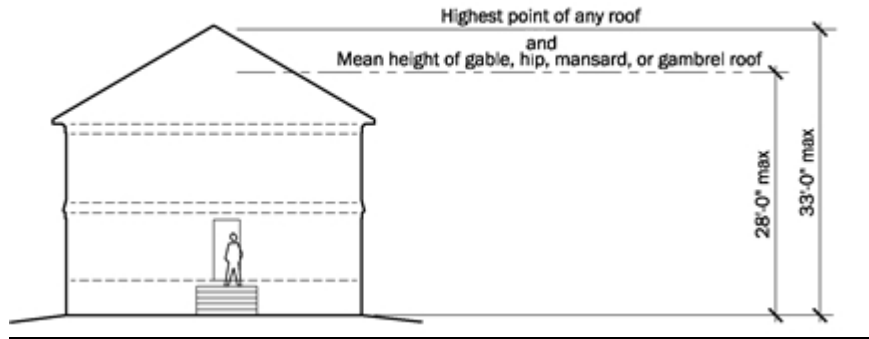
- (d) To encourage the preservation and perpetuation of neighborhood character.

(Ord. No. 4-09-2, adopted 5/27/09, effective 6/16/09)

**Section 7-402. Construction Standards and Requirements**

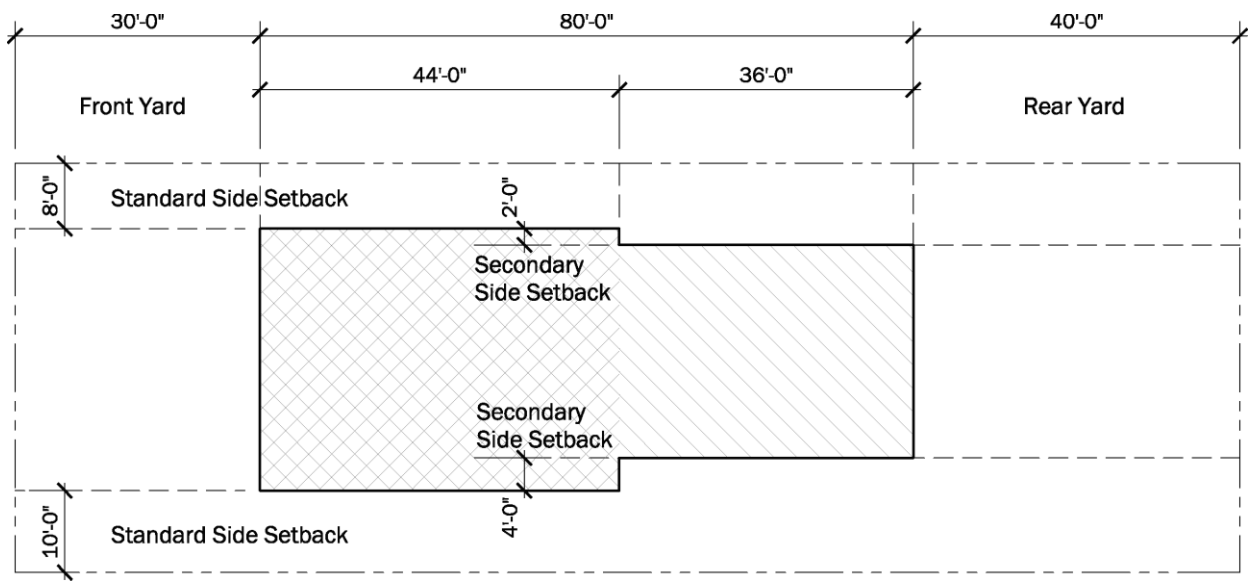
- (a) Building Height:

- (1) The height of the main building shall not be greater than thirty-three (33) feet to the highest point of roof surface regardless of roof type, and twenty-eight (28) feet to the mean height level between the eaves and ridge of a gable, hip, pyramidal, mansard, or gambrel roof.



- (2) Flat roofs: Flat roofs on the front of a building, which are a part of the main building, shall not be permitted.
- (3) Administrative exception: The code enforcement officer may, upon finding that the established building height exceeds the standards in paragraph (1) above, authorize construction of a building that meets the established building height provided that no building may exceed the following:
  - i) Thirty-five (35) feet when measured to the highest point of the roof surface, regardless of roof type, and
  - ii) Thirty (30) feet to the mean height level between the eaves and ridge of a gable, hip, pyramidal, mansard, or gambrel roof.
- (b) Wall plane height: The height of any wall plane on any front, rear, or side of any main building shall not exceed thirty-two (32) feet.
- (c) Wall plane length (front): The length of a front wall plane of any main building shall not exceed forty (40) feet.
- (d) Wall plane length (side): The length of any side wall plane of any main building shall not exceed forty-four (44) feet.
- (e) Setbacks

- (1) Front: Except as otherwise set forth in this Chapter, no wall or projection of any main building shall be located closer to any front lot line than the established building line or twenty-five (25) feet, whichever is greater.
- (2) Rear: Except as otherwise set forth in this Chapter, no rear wall or rear projection of any main building shall be located farther than eighty (80) feet from the established building line, or the twenty-five (25) foot front building restriction line, whichever is greater. In addition, no rear wall or rear projection of any main building shall be located closer to the rear lot line than twenty (20) feet.
- (3) Side
  - (i) Except as otherwise set forth in this Chapter, no side wall or side projection of any main building shall be located closer to any side lot line than the following setbacks:
    1. Sum of both sides: the greater of eighteen (18) feet or thirty (30) percent of the average lot width as measured at the front and rear building lines, and
    2. Each side: the greater of (8) eight feet or forty (40) percent of the sum of both sides.



- (ii) Additional side setback: a wall plane or projection of a main building that extends or is located forty-four (44) feet or more to the rear from a building's front building line shall be setback at least an additional:
  1. Sum of both sides: six (6) feet; and
  2. Each side: two (2) feet.
- (4) Corner lots: Each corner lot has two front yards and therefore requires a front setback from each street. Corner lots shall have one side and one rear yard, subject to side and rear setbacks as described herein. At the time a permit is requested for construction, the applicant may choose which interior lot lines will be considered the side and rear lot line,

provided that all existing and proposed construction would comply with the applicable setbacks.

(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 (2.5) feet into any setback area.
- (ii) Unenclosed porches, decks, breezeways, steps, stoops, and exterior stairways 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.

(g) Building Coverage. The maximum allowable building coverage shall vary by lot size as follows:

- (1) Lot area less than 6,000 square feet: thirty (30) percent.
- (2) Lot area equal to or greater than 6,000 square feet but less than 16,000 square feet: thirty (30) percent of the lot area, less 0.001 percent for every square foot of lot area exceeding 6,000 square feet.
- (3) Lot area equal to or greater than 16,000 square feet: twenty (20) percent of the lot area.

(h) Maximum non-vegetative surface area

- (1) The non-vegetative surface area in the front yard shall not exceed thirty (30) percent of the area of the front yard. For corner lots, both front yards must comply with this requirement.
- (2) This subsection (h) shall not apply to front yards fronting on Brookville Road.



(i) Curb cuts. There shall be no more than one curb cut on any lot, the width of which shall be no greater than twenty (20) feet, inclusive of the turning radii, provided however, that two (2) curb cuts shall be permitted on lots requiring vehicular access to Brookville Road to allow the construction of a circular driveway, the width of which shall be no greater than fourteen (14) feet at the curved portions of the driveway.

(j) Driveways and driveway aprons.

(1) 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.

(2) Permit considerations. Except as may be determined by the Code Enforcement Officer, the construction of a curb cut, driveway, or driveway apron shall comply with published Montgomery County design standards. In addition, the Code Enforcement Officer shall grant a permit to construct or expand a curb cut, driveway, or driveway apron only if the proposed construction would not interfere with the public health, safety, or welfare, as may be determined by the Code Enforcement Officer. In determining whether the construction would interfere with the public health, safety, or welfare, the Code Enforcement Officer may consider the following:

(i) Location of trees, hedges, berms, and shrubbery or other plant growth;

(ii) Location of fences, walls, or other structures;

(iii) Location of public utilities;

(iv) Location of public and private improvements in the public right-of-way;

(v) Possible obstruction of pedestrian and/or motorist visibility; and

(vi) Other factors as may be determined by the Code Enforcement Officer to be necessary to protect the public health, safety, or welfare.

(3) Initial construction. The applicant shall be responsible for all costs associated with initial construction and/or expansion of a curb cut, driveway, and/or driveway apron.

(4) Maintenance. The Village shall maintain and repair lawfully-constructed curb cuts, driveways, driveway aprons, and public sidewalks within a public right-of-way as necessary to address wear and tear from ordinary use, unless such maintenance or repair is necessitated by the actions of the property owner or the property owner's tenants, guests, or invitees. The use of a driveway or driveway apron by trucks or construction equipment shall not be considered ordinary use. Notwithstanding the foregoing, the Village shall not be obligated to maintain and repair any such curb cuts, driveways, or driveway aprons that include betterments, or alternative materials, installed by property owners. Such betterments, or alternative materials, shall not be installed by property owners without the permission of the Village, according to the provisions of Section 7-209. If, however, an owner wants to abandon a betterment, or alternative materials, and have the construction revert to standard construction, the

Village may replace the portion of the driveway or driveway apron within the public right-of-way, in a manner consistent with Village standards, at such time as replacement is required, as determined by the Code Enforcement Officer.

(5) Removal. In the event a curb cut, driveway, or driveway apron within a public right-of-way is removed, the property owner previously served by the curb cut, driveway, or driveway apron shall restore the public right-of-way by installing a curb, sidewalk, grass or other ground cover and plantings consistent with the adjacent area as determined by the Code Enforcement Officer.

- (k) No more than one (1) front-loading garage shall be permitted on a lot. The door width of a front-loading garage shall not exceed ten (10) feet.

(Ord. No. 4-09-2, adopted 5/27/09, effective 6/16/09; Ord. No. 4-10-1, adopted 6/17/10, effective 7/8/10; Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 1-17-1, effective 4/5/17; Ord. No. 9-18-1, adopted 12/6/18, effective 12/26/18)

#### **Section 7-403. Exemptions for rebuilding**

Notwithstanding any provision to the contrary contained in this Chapter, a main building or accessory building existing prior to June 16, 2009 that sustains a total physical loss or substantial physical loss (fifty (50) percent or more) due to accidental causes including, but not limited to, fire, storm, falling tree(s), flooding, other natural disaster, may be rebuilt or repaired provided that the replacement building (i) does not encroach farther into any setback area than the previous building, and (ii) is not enlarged in any manner, including but not limited to enlargement of any three-dimensional boundary of the building that existed on June 16, 2009.

(Ord. No. 4-09-2, adopted 5/27/09, effective 6/16/09; Ord. No. 10-16-1, adopted 12/15/16, effective 1/4/17)

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

A developmental nonconformity may be maintained, altered, or repaired, but not replaced, provided that it may not be enlarged in any manner, including but not limited to enlargement of any three-dimensional boundary that existed on June 16, 2009, except in accordance with this Chapter. As used in this Section, “maintained” and “repaired” shall have the same meaning as “ordinary repairs or maintenance”, as defined in Section 6-101.

(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; Ord. No. 10-16-1, adopted 12/15/16, effective 1/4/17; Ord. No. 9-18-1, adopted 12/6/18, effective 12/26/18)

#### **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) 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 buildings existing and proposed to be erected, and the distances of the 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.

(c) Standards for decision on variances: The Council may grant petitions for variances upon proof by the applicant by a preponderance of the evidence that:

(1) by reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to the lot, the strict application of this Article would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property;

(2) such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions; and

(3) such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.

(d) Conditions. In granting a variance, the Council may impose such conditions as it determines, in its judgment, are necessary to protect the public health, safety, and welfare.

(e) Decision. The decision of the Council granting or denying a variance shall be in writing and shall be final and effective as of the date the Council approves the written decision.

(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 Code Enforcement Officer. The Code Enforcement Officer may grant an extension of the variance, upon such conditions as the 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)

**CHAPTER 8**  
**MOTOR VEHICLES AND TRAFFIC**

**ARTICLE 1. TRAFFIC CONTROL GENERALLY**

- 8-101 Purpose
- 8-102 Definitions
- 8-103 Authority to Erect Traffic and Parking Control Signs
- 8-104 Operation of Vehicle in Violation of Official Sign
- 8-105 Parking in Violation of Official Sign
- 8-106 Driving Over Curbs, Sidewalks or Drainage Structures
- 8-107 Restrictions During Snow Emergencies
- 8-108 Emergencies – Special Powers
- 8-109 Emergency Vehicles

**Section 8-101. Purpose**

This Chapter provides procedures for regulating traffic and parking so as to preserve peace and good order in the Village of Martin’s Additions, and protect the health, safety, comfort and convenience of its citizens.

**Section 8-102. Definitions**

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

(a) Abandoned Vehicle

Any vehicle that is inoperative or otherwise left unattended on private property for more than forty-eight (48) hours without the consent of the owner or person in charge of the property, or a vehicle that has remained illegally parked on public property for a period of more than forty-eight (48) hours, or any impounded vehicle being held in the custody of the County or Village that is unclaimed after thirty (30) days.

(b) Abutting Roadway

That part of the roadway between the extension of the property lines of the abutting private property and on the same side of the street except, where parking is there prohibited, the roadway on the opposite side of the street shall also be included.

(c) Commercial Vehicle

Any motor vehicle and tandem axle trailer or semi-trailer designed and used for carrying freight or merchandise or used in furtherance of any commercial enterprise that has:

- (i) A gross vehicle weight (GVW) of more than 10,000 pounds;
- (ii) A manufacturer’s rated capacity of more than 1 ton;
- (iii) A length of more than 21 feet measured from the extremes of the vehicle, including any object loaded on the vehicle; or
- (iv) A height of more than 8 feet with properly inflated tires, measured from the ground to the highest part of the vehicle, including racks, but not antennas.

(d) Costs

Expense incurred by the County or the Village as a result of any extraordinary method of collection of delinquent and past due-fines and penalties for violations of the provisions of this Chapter and charged uniformly to such violators to offset or defer such expense.

(e) Court

The District Court of Maryland for Montgomery County.

(f) Crosswalk

1. Any portion of a roadway indicated for pedestrian crossing by painted lines or other markings on the roadway surface.
2. That portion of a roadway included within the projection of the lateral lines of sidewalks at intersections as required by Maryland Code, Transportation Article, Section 21-101, as amended.

(g) Driver or Operator

Any person who is in actual control or charged with the control of a vehicle.

(h) Driveway

Every way or place in private ownership or otherwise used for vehicular travel by the owner and those having expressed or implied permission from the owner.

(i) Enforcement Officer

Any duly appointed Code Enforcement Officer, as defined in Section 3-101(c) of this Code, or any person appointed under the regulations of the County Personnel Board and designated by the County Executive with authority to enforce the provisions of this Chapter.

(j) Fine

A monetary sum imposed as a civil penalty for an offense or violation of this Chapter.

(k) Fire Lane

Area of a public or private roadway or parking facility designated by official signs or markings and intended for the exclusive use of emergency vehicles.

(l) Immobilize

To take a vehicle into the custody of the County or Village by restricting or otherwise impeding the movement of such vehicle from its parking place by means of a mechanical device and so holding it until all charges involving that vehicle are fully satisfied.

(m) Impound

To take a vehicle or other property into the custody of the County or Village by seizing it and removing it to a place of storage and there holding it until all charges involving that vehicle or property are fully satisfied.

(n) Intersection

The area embraced within the projection of the lateral curb-lines or lacking same the lateral boundary lines of the roadways of two (2) streets that join approximately at right angles.

(o) Motor Vehicle

Any self-propelled vehicle by means of which any person or property is, or may be, transported upon a street.

(p) Off-Street Parking

The parking of vehicles in designated areas, whether public or private, and not upon a public street.

(q) Official Sign

A sign posted by authority of the Village Council for the purposes of guiding, warning, regulating, limiting or otherwise controlling the movement or stopping, standing and parking of motor vehicles upon the streets within the Village or upon any public or private parking facility.

(r) Official Traffic-Control Devices

All signs, signals, markings or other devices placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic or parking.

(s) On-Street Parking

The parking of vehicles on public street.

(t) One-Way Street

A public street upon which vehicular traffic is permitted to move in one direction only.

(u) Park or Parking

The stopping of a vehicle, even if occupied or attended, on a public street or public parking facility, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

(v) Parking Violation Notice

A form as prescribed by the Village upon which a Code Enforcement Officer, police officer or other authorized person cites a violation of the parking regulations and provisions of this Chapter. The form, when properly completed and affixed to an unlawfully park vehicle, or otherwise presented, serves as notice to the vehicle owner or operator of the violation and of the corresponding fine.

(w) Penalty

1. A monetary sum imposed in additions to the fine for failure to pay said fine within the stipulated time period.
2. Punishment in general, inclusive of all fines, penalties, costs and other charges, for violation of the provisions and regulations of this Chapter.

(x) Police Officer

Any officer appointed by any jurisdiction and authorized to direct or regulate traffic or parking or to make arrests for violations of any provisions of law including other traffic and parking laws and regulations.

(y) Posted Time Limit

The allowable time a vehicle may remain parked where limited by official signs.

(z) Roadway

That portion of a street between the curb-lines or shoulders or that part improved and intended to be used for vehicular traffic.

(aa) Sidewalk

That portion of a street between the curb-lines or lateral lines of a roadway and the adjacent property lines, improved and intended for use by pedestrians.

(bb) Stand or Standing

The temporary stopping of an occupied or attended vehicle for the purpose of and while actually engaged in receiving or discharging passengers.

(cc) Stop or Stopping

Any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid a conflict with other traffic or in compliance with the direction of a police officer or traffic control sign or signal.

(dd) Street

The entire width between the property lines of every way or thoroughfare of any kind used by the public for purposes of vehicular travel, whether or not dedicated to the public and accepted by the proper authorities.

(ee) Traffic

All vehicles, pedestrians, animals and any other conveyance using a street for purposes of travel.

(ff) Trailer

Any general use vehicle designed to be towed by a motor vehicle, including but not limited to the following: (a) homemade trailer; (b) small box trailer; (c) freight trailer; (d) semi-freight trailer; (e) boat trailer; (f) camping trailer; (g) tent trailer; (h) travel trailer; (i) flatbed trailer; and (j) horse trailer.

(gg) Unregistered Vehicle

Any motor vehicle or trailer, except those exempt from registration by State law, that is without current registration plates, or with fictitious registration plates attached thereto or otherwise not registered in compliance with State or County law.

(hh) Vehicle

Any appliance moved over a street on wheels of traction tread, including automobiles, motorcycles, motorbikes, motor-propelled carts and wagons, other vehicles propelled by an internal combustion engine, or trailers.

(Ord. No. 1-22-15, adopted 3/19/15, effective 4/8/15)

**Section 8-103. Authority to Erect Traffic and Parking Control Signs**

When it is deemed appropriate, necessary or advisable for the public good, safety and convenience to control or regulate vehicular or pedestrian traffic or parking, the Village Council may, by resolution, authorize the Village Manager to provide for the erection of regulatory traffic and parking



control signs and/or other devices on public streets-and spaces. However, no such sign or device shall be erected on State highways without the approval of the State Highway Administration.

(Ord. No. 1-22-15, adopted 3/19/15, effective 4/8/15)

**Section 8-104. Operation of Vehicle in Violation of Official Sign**

No vehicle shall be operated in violation of any official sign or other traffic control or restriction duly authorized by the Village Council pursuant to this Chapter.

**Section 8-105. Parking in Violation of Official Sign**

No vehicle shall be parked in violation of any official sign regulating the parking of vehicles. Both the owner and the operator thereof shall be subject to the penalties provided in this Code for such violation. Any vehicle parked in violation of an official sign may be impounded by the Village or its agents, and all costs of towing and storage shall be paid before the vehicle may be reclaimed by the owner.

(Ord. No. 1-22-15, adopted 3/19/15, effective 4/8/15)

**Section 8-106. Driving Over Curbs, Sidewalks or Drainage Structures**

It shall be unlawful for any person to drive any motor vehicle on or over any curb, sidewalk or drainage structure except in emergencies or over driveways constructed for such purpose.

**Section 8-107. Restrictions During Snow Emergencies**

- (a) The Village Council is hereby authorized to designate by resolution any Village street or portion thereof as a snow emergency route. These shall be clearly marked “Snow Emergency Route”.
- (b) Upon declaration of a snow emergency by the County Executive, and notice given to the public by newsletter, posting on the Village website, or otherwise as is practical under the circumstances, the following traffic and parking regulations shall be in effect and shall continue in effect until the end of the emergency as determined by the County Executive.
  - 1. It shall be unlawful for any vehicle to be parked and left unattended in the roadway or any portion of a roadway that has been designated as a snow emergency route.
  - 2. It shall be unlawful for a vehicle to be parked in violation of “Snow Emergency Route” signs.
  - 3. Any vehicle parked and left unattended on a snow emergency route in violation of this section may be impounded by the Village or its agents, and all costs of towing and storage shall be paid before the vehicle may be reclaimed by the owner.

(Ord. No. 1-22-15, adopted 3/19/15, effective 4/8/15)

**Section 8-108. Emergencies – Special Powers**

In the event of emergencies such as fires, riots, accidents or other events likely to attract crowds, or for the purpose of street maintenance, or crowd control and public safety, or for other public purpose, the Chairman of the Village Council or his designee or the County police may:

- (i) Designate any Village street or area as an emergency or temporary “no parking” zone;
- (ii) Temporarily prohibit parking of vehicles on such streets or areas; and/or
- (iii) Temporarily prohibit vehicular and pedestrian traffic on such streets or areas.

It shall be unlawful for any vehicle to be parked and left unattended in any emergency or temporary “no parking” zone or for any vehicle or pedestrian to use such streets or areas, where such use has been prohibited. Vehicles parked in violation of this Code may be impounded by the Village or its agents, and all costs of towing and storage shall be paid before the vehicle may be reclaimed by the owner. The cost and expense, including legal expenses, thereof shall be charged to the vehicle’s owner and collected by way of any legal means.

(Ord. No. 1-22-15, adopted 3/19/15, effective 4/8/15)

**Section 8-109. Emergency Vehicles**

Unless otherwise specifically stated and so indicated on the appropriate sign or device, none of the traffic or parking restrictions adopted pursuant to this Chapter shall be applicable to any authorized emergency vehicle while on an emergency run.

**ARTICLE 2. STOPPING, STANDING AND PARKING**

- 8-201 Parking of Commercial Vehicles
- 8-202 Reserved.
- 8-203 Repairing Vehicles on Streets
- 8-204 Parking of Trailers
- 8-205 Obstructing Entrances to Driveways
- 8-206 Parking of Unregistered Vehicles
- 8-207 Parking Prohibited Specifically
- 8-208 Parking in Marked Spaces
- 8-209 Unregistered Vehicles on Private Property

**Section 8-201. Parking of Commercial Vehicles**

It shall be unlawful to park any commercial vehicle on any street or roadway in the Village except for up to 18 hours when such vehicle is otherwise legally parked and the owner or operator is actively engaged in work on a nearby residence in the Village. This section shall not apply to a vehicle involuntarily parked because of mechanical failure or other emergency, provided such vehicle is removed within a reasonable period of time, not to exceed 48 hours.

(Ord. No. 1-22-15, adopted 3/19/15, effective 4/8/15)

**Section 8-202. [Reserved]**

(Ord. No. 1-22-15, adopted 3/19/15, effective 4/8/15)

**Section 8-203. Repairing Vehicles on Streets**

It shall be unlawful to park a vehicle on a street for the purpose of or while actually engaged in the performance of services or repairs. This section shall not apply to emergency service or repairs; vehicle owners performing minor service on their respective vehicles otherwise legally parked and operative; or the accommodation for the immediate transfer, exchange or removal of a vehicle to or from a garage, repair shop, service or parking facility.

**Section 8-204. Parking of Trailers**

It shall be unlawful to park a trailer upon streets or other public areas of the Village, except that trailers may be parked when not otherwise prohibited on a roadway abutting the owner's residence for a period not to exceed 48 hours.

**Section 8-205. Obstructing Entrances to Driveways**

It shall be unlawful to park a vehicle on a public street of the Village in such a manner that any part of the vehicle overlaps or obstructs the entrance to any public or private driveway without the consent of the owner.

**Section 8-206. Parking of Unregistered Vehicles**

It shall be unlawful to park, store or leave any unregistered vehicle or for the owner of any such vehicle to allow, permit or suffer the same to be parked, stored or left, whether attended or not, upon any public street or public parking lot within the Village.

(Ord. No. 1-22-15, adopted 3/19/15, effective 4/8/15)

**Section 8-207. Parking Prohibited Specifically**

No person shall:

- (a) Stop, stand or park a vehicle, whether occupied or not:
  - 1. In any manner that impedes the movement of traffic on a public street or constitutes a threat to public safety;
  - 2. On a sidewalk or over a curb;
  - 3. Within an intersection;
  - 4. On a crosswalk whether marked or unmarked; or
  - 5. On any public space not designed, improved and intended for vehicular traffic.
  
- (b) Stand or park a vehicle, whether occupied or not:
  - 1. Within fifteen (15) feet of a fire hydrant;
  - 2. Within twenty (20) feet of any crosswalk whether marked or unmarked, at an intersection, or at a location not at an intersection when the crosswalk is marked off by painted lines;
  - 3. Within thirty (30) feet of a stop sign;
  - 4. In any fire lane when posted by official sign or proper markings;
  - 5. With one or more of the side wheels more than twelve (12) inches from the curb;
  - 6. So as to prevent another legally parked vehicle from moving away; or

7. In a space or zone marked as restricted for the use of handicapped persons unless the vehicle displays special registration plates for disabled or handicapped persons or a special permit for such person issued by the Village, or any county, state, or political subdivision.

(Ord. No. 1-22-15, adopted 3/19/15, effective 4/8/15)

**Section 8-208. Parking Within Marked Spaces**

When the Village marks a space on a street for the parking of an individual vehicle, every vehicle there parked shall be parked completely within the lines bounding such space.

**Section 8-209. Unregistered Vehicles on Private Property**

It shall be unlawful for any person to park or store an unregistered vehicle on private property for more than thirty (30) days unless:

1. The vehicle is completely shielded from the view of individuals on adjoining property or public space – for example, by a 6-foot solid wood fence or dense evergreen hedge – and is stored within the building set back lines of the property; or
2. A permit has been issued by the Village to allow such storage for a longer period of time on the basis of serious hardship that prevents registration of the vehicle. A permit issued under this section may be issued for a period of one year and may be renewed. A fee of twenty-five dollars (\$25.00) shall be paid for each year or part of a year for which a permit is issued.

(Ord. No. 1-22-15, adopted 3/19/15, effective 4/8/15)

**ARTICLE 3. ADMINISTRATION AND ENFORCEMENT**

**8-301 Penalties**

**8-302 Presumption Regarding Violations of this Chapter**

**8-303 Immobilizing Vehicles for Repeated Violations**

**8-304 Impounding of Illegally Parked Vehicles**

**8-305 Sale of Abandoned Vehicles**

**8-306 Receipts Not Required for Payments by Mail**

**Section 8-301. Penalties**

Any violation of this Chapter shall be deemed a municipal infraction, except where specifically provided, and shall be enforced as set forth in Chapter 3 of this Code. Penalties are set forth in Section 3-303 of this Code.

**Section 8-302. Presumption Regarding Violations of this Chapter**

In any prosecution charging a violation of any provision of this Chapter, proof that a particular vehicle or trailer was the vehicle or trailer described in the notice of violation together with proof that the defendant named in the notice of violation was at the time of the alleged violation the registered owner of such vehicle or trailer shall constitute in evidence a prima facie assumption that the registered owner of such vehicle or trailer was the person who parked or placed such vehicle or trailer at the point where, and for the time during which, the violation occurred.

**Section 8-303. Immobilizing Vehicles for Repeated Violations**

- (a) Any parked vehicle that has been involved in or the subject of three (3) or more outstanding, past-due violations of this Chapter may be immobilized by a Code Enforcement Officer, a Montgomery County Police Officer, or any other duly authorized person, by use of a device that will cause no damage to the vehicle unless it is moved while the device is in place.
- (b) When a vehicle is immobilized pursuant to this section a notice shall be placed in a conspicuous location on the vehicle warning that any attempt to move the vehicle might result in damage to the vehicle. The notice shall further instruct the owner or operator of the procedure to follow to secure release of the vehicle.
- (c) In any case involving the immobilization of a vehicle pursuant to this section, the costs of shall be charged to the owner or operator of the vehicle in addition to all outstanding fines and penalties assessed pursuant to violations of this Chapter. All such fines, penalties, costs and charges shall be paid to the Village before the owner may reclaim or secure release of the vehicle.
- (d) It shall be unlawful for any person to tamper with, remove or attempt to remove the immobilization device without securing its lawful and authorized release pursuant to this section.

(Ord. No. 1-22-15, adopted 3/19/15, effective 4/8/15)

**Section 8-304. Impounding Illegally Parked Vehicles**

- (a) Any parked vehicle that has been involved in or the subject of three (3) or more outstanding, past-due violations of this Chapter, or is otherwise parked so as to constitute a hazard to public safety or is parked, stopped or standing so as to impede or obstruct the normal movement of traffic or pedestrians, may be impounded by a Code Enforcement Officer, a Montgomery County Police Officer, or any other duly authorized person.
- (b) When a vehicle is impounded pursuant to this section and the Village knows or is able to ascertain from the registration records in the vehicle, the records of the State Motor Vehicle Administration or other such records accessible by the Village, the name and address of the owner or lien-holder thereof, the Village shall notify the owner and lien-holder, by certified mail, of the impoundment, the reasons therefore and the procedure by which release of the vehicle can be secured. A copy of the notice shall be provided to the proprietor of the place where the vehicle is being held.
- (c) In any case involving the impoundment of a vehicle pursuant to this section, the costs shall be charged against the vehicle in addition to all outstanding fines and penalties assessed pursuant to violations of this Chapter. All such fines, penalties, costs and charges plus any towing and storage charges incurred shall be paid before the owner may reclaim or secure release of the vehicle.
- (d) It shall be unlawful for any person to remove or permit the removal of an impounded vehicle from the custody of the Village without first obtaining authorization from the Village, a court order, or paying of all fines, penalties, costs and other charges associated with the impoundment of said vehicle.

**Section 8-305. Sale of Abandoned Vehicles**

- (a) Any vehicle in the custody of the Village and whose owner or person entitled to possession thereof cannot be located or fails to claim such vehicle for a period of thirty (30) days after written notice was mailed to the last-known address of the owner, or sixty (60) days after such vehicle was impounded, whichever is later, may be disposed of by the Village, or its authorized agent, at public sale at some time and place convenient and accessible to the public. An advertisement of the time, place and terms of sale, together with a detailed description of the vehicle shall be inserted in at least one newspaper of general circulation in the County, at least once each week for two successive weeks prior to the sale. At least ten (10) days prior to the sale, a notice shall be sent by certified mail to the owner and lien-holder, if any, or the person entitled to possession of such vehicle if his address be known, or if it can be ascertained with reasonable diligence. The address of the owner, lien-holder or other person shall be that shown on the records of the Maryland Motor Vehicle Administration or other similar records available for such purposes. If such address cannot be ascertained then notice shall not be required.
- (b) A sales receipt as prescribed or approved by the Motor Vehicle Administration shall be issued to each purchaser of any such vehicle sold. The receipt shall constitute sufficient evidence of title to enable the purchaser of any vehicle so sold to obtain a certificate of title and registration from the Motor Vehicle Administration.
- (c) The proceeds of the sale of any vehicle pursuant to this Section shall be applied and distributed in the following order:
  - 1. payment of the expenses of the sale;
  - 2. payment of storage and transportation expenses;
  - 3. payment of costs imposed pursuant to this Section;
  - 4. payment of outstanding parking violations against the vehicle;
  - 5. payment of any liens;
  - 6. the balance, if any, to be paid to the owner as specified in subsection d).
- (d) The balance of the proceeds of any sale shall be held for a period of ninety (90) days. It shall be paid to any person who files a verified claim prior to the expiration of such period establishing that he was the owner or person entitled to the possession of such vehicle. If no such claim is filed within such period, the balance shall be transferred to the Village.

(Ord. No. 2-14-1A, adopted 4/17/4, effective 5/7/14; Ord. No. 1-22-15, adopted 3/19/15, effective 4/8/15)

## **CHAPTER 9 VILLAGE TREES**

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### **Section 9-101. Definitions**

For purposes of this Chapter:

“Village tree” means any tree, the center of whose trunk at ground level is located on public right of way and which was planted by or with the permission of the Village or for which the Village has assumed care and treatment.

### **Section 9-102. Purpose**

- (a) The tree canopy is an attractive, distinctive feature of the Village. Trees are part of a larger ecosystem and assist in the control of air, noise, and visual pollution. They moderate the climate and help conserve energy. They play an important part in controlling water run-off and thus in maintaining the health of Rock Creek, the Potomac River, and the Chesapeake Bay. In addition to improving the quality of residents’ lives, trees positively affect the property values of the entire community. It is therefore in the interest of the Village, its residents, and its property owners to protect, preserve, and enhance the tree canopy.
- (b) The provisions of this Chapter are declared necessary for promoting and enhancing the beauty of the Village; protecting Village trees from damage or destruction; regulating the planting, maintenance, and (when necessary) removal of Village trees; guarding against and eliminating any dangerous conditions caused by trees; and preventing damage to any public sewer main, street, sidewalk, or other public or private property.

### **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, subject to the approval of the Village Council or its designee, to:

- (1) direct, manage, supervise, and control the planting, maintenance, protection, and (when necessary) removal of Village trees.
  - (2) obtain all necessary permits or authorizations from the Maryland Forest Service for the maintenance or removal of Village trees.
  - (3) (Reserved).
  - (4) inspect all Village Trees with a Licensed Tree Expert at least once a year to determine their health and needs.
  - (5) order the treatment, pruning, or removal of any Village tree that is deemed to be injurious to sewers, gas or water lines, or other public utilities; is infected with disease or pests; interferes with the visibility of any traffic-control device or signal; interferes with the proper spread of light along the street from a public street light; or impedes pedestrian or vehicular traffic.
  - (6) obtain an opinion from a second Licensed Tree Expert before removing a tree unless the tree meets the conditions noted in subsection (5) above or presents an immediate hazard to people or property. Any Licensed Tree Expert providing a second opinion shall not be hired to perform the removal.
  - (7) consult with utility companies concerning scheduling of their pruning of Village trees.
  - (8) implement any Village tree plan approved by the Village Council.
- (b) The Village Council may appoint a Tree Committee to advise the Council and the Tree Supervisor on matters pertaining to trees in the Village, to assist the Tree Supervisor with tree inspections, and to participate in consultations regarding Village trees.

(Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 6-17-1, adopted 7/17/17, effective 8/7/17)

**Section 9-104. Planting a Tree on Public Right of Way**

- (a) Only the Village is authorized to plant trees on public right ways.
- (b) All new trees planted on public right of ways shall have a caliper of at least two (2) inches, shall have straight trunks, and shall be free of disease and pests.
- (c) Species, spacing, and exact location of trees planted on public right of ways shall be determined by the Tree Supervisor, taking into consideration any Village tree plan and the proximity of any sidewalks, streets, traffic-control devices, public utilities, and other pertinent factors. However, no tree shall be planted:
  - (1) within thirty (30) feet of a street intersection, measured from the corner of the intersection curb nearest to where the tree is to be planted.
  - (2) within twenty (20) feet of a fire hydrant.
  - (3) within six (6) feet of a driveway or light pole.

**Section 9-105. Tree-Care Standards**



Treatment of Village trees shall be performed according to standards approved by the Tree Supervisor, the Maryland Forest Service, and any other State or County entity having authority over such work.

**Section 9-106. Protection of Village Trees**

Without prior approval from the Tree Supervisor, it shall be municipal infraction to:

- (a) remove (or cause to be removed) any Village tree.
- (b) injure or prune (or cause to be injured or pruned) any Village tree.
- (c) attach any sign, advertisement, notice, wire, or other object to a Village tree.

**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 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.
- b) It shall be a municipal infraction to remove, injure, or prune a Village tree in preparation for or during construction. The owner of the property under construction and the contractor performing the construction are jointly and severally liable for such actions.

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

**Section 9-109 Protection of Village Tree Roots**

All subsurface projects shall comply with the following requirements for the protection of the roots of Village trees and shall also comply with any requirements of the Maryland Forest Service, unless specific deviations are authorized by the Tree Supervisor, the Maryland Forest Service, or other entity with authority over such trees.

- (a) When persons, including any working under contract with the Village, encounter roots of a Village tree while conducting or engaging in a subsurface project, they shall modify the project to protect the tree's root system.

- (b) For trees less than 6 inches in diameter, as measured 4.5 feet above average ground level, all machine digging shall stop at the drip line of the tree. For trees 6 inches or more in diameter, as measured 4.5 feet above average ground level, all machine digging shall stop when roots over 1 inch in diameter are encountered. Roots over 1 inch in diameter may not be cut without the approval of the Tree Supervisor, the Maryland Forest Service, and any State, County, or other entity with authority over the tree.
- (c) It shall be a municipal infraction to damage or cut tree roots over 1 inch without permission of the Tree Supervisor, the Maryland Forest Service, or any State, County or other entity with authority over the tree.

**Section 9-110. Maintenance of Trees on Private Property Near Public Right of Way**

- (a) All trees and shrubs located on private property in the Village shall be maintained in a condition so as not to interfere with:
  - (1) the proper spread of light along a street from a streetlight;
  - (2) the visibility of any traffic-control sign, device, or signal; or
  - (3) the required clearance over public sidewalks (8 feet) or streets (12 feet).
- (b) All trees and shrubs located on private property in the Village shall be maintained in a condition so as not to constitute a hazard to persons or property on public right of way or to harbor pests or diseases that constitute a threat to other trees within the Village.
- (c) The owners of property on which is located any tree or shrub that has been determined by the Tree Supervisor to be not in compliance with the provisions of subsections (a) or (b) above shall be notified of that determination in writing by hand delivery or certified mail and shall treat, trim, or remove and destroy the tree or shrub or portion thereof with such period as the Tree Supervisor may specify. The time specified for compliance shall be at least thirty (30) days unless a shorter period is indicated in the judgment of the Tree Supervisor.
- (d) An owner may appeal any determination by the Tree Supervisor to the Village Council. The appeal shall be made in writing and delivered to the Village Manager within ten (10) days of receipt of the notice [described in (c) above] or within the time specified for compliance, whichever is shorter. The nature and grounds for the appeal shall be specified, and any materials or information relied upon in support of the appeal shall be submitted with the appeal.
- (e) The Village Council shall consider the appeal at a public meeting at which any interested party may appear and participate. Written notice of the meeting shall be delivered or sent by certified mail to any owner who appealed at least five (5) days before the meeting. The Council may affirm, withdraw, or modify the notice and shall advise the appellants in writing of its decisions. If the notice is upheld in whole or in part, the Council shall specify a date for compliance.
- (f) If the owner fails to comply with a notice from the Tree Supervisor within the time specified, the Village may perform any work directed in the notice and shall bill the reasonable costs thereof to said owner. The Village may recover any expenses related to the performance of such work from the owner through any means available under law.

- (g) If the condition poses a clear hazard to persons or property and therefore requires more immediate corrective action, the Council may shorten any of the periods specified above and provide notice as soon as is practical under the circumstances.

**Section 9-111. Entry on Private Property to Treat Village Trees**

With prior notice to a private property owner, the Tree Supervisor and any agent or contractor of the Village may enter upon such private property when necessary for the purpose of inspecting or treating Village trees. However, any private property disturbed for such purposes shall be returned by the Village as nearly as possible to its original condition, and any expenses incurred shall be borne by the Village.

**Section 9-112. Interference with Tree Supervisor**

No person shall prevent, delay, interfere with, or otherwise obstruct the Tree Supervisor or any agent or contractor of the Village while engaged in planting, treating, caring for, or removing any tree as authorized in the Chapter. Any person violating this Section shall be guilty of a municipal infraction and shall be subject to penalties.

**Section 9-113. Enforcement**

- (a) It shall be a violation of this Chapter to:
  - 1) fail to comply with a notice from the Tree Supervisor.
  - 2) interfere with the Tree Supervisor or any agent or contractor of the Village in the performance of their duties and responsibilities under this Chapter.
  - 3) fail to comply with any other provision of this Chapter.
- (b) A violation of this Chapter shall constitute a municipal infraction for which a citation may be issued and a fine imposed.

**CHAPTER 10**  
**SMALL WIRELESS TELECOMMUNICATIONS FACILITIES**

**Sec. 10-100. Intent and Purpose.**

It is the intent of the Village Council to promote the Village's public health, safety, and general welfare by providing regulatory requirements for the installation and maintenance of small wireless telecommunications facilities in the public rights-of-way. The purpose of this Chapter is to regulate the same to enhance vehicular and pedestrian safety and avoid interference with motorist and pedestrian sightlines; to minimize damage to trees; to reduce visual clutter and prevent unsightly or out-of-character deployments; to preserve the value of property and the character of the neighborhood; and to otherwise protect the health, safety, and general welfare of the Village and its residents, and the public at large.

(Ord. No. 1-19-1, adopted 2/21/19, effective 3/13/19)

**Sec. 10-101. Definitions.**

*“Base Station”* means a structure or equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term does not include a Pole, Tower, or Support Structure or any equipment associated with a Pole, Tower, or Support Structure.

*“Collocate”* means to install or mount a Small Wireless Facility in the public right-of-way on an existing Support Structure, an existing Tower, or on an existing Pole to which a Small Wireless Facility is attached at the time of the application. *“Collocation”* has a corresponding meaning.

*“Communications Facility”* means, collectively, the equipment at a fixed location or locations within the public right-of-way that enables Wireless Services, including: (i) radio transceivers, antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and (ii) all other equipment associated with any of the foregoing. The term does not include the Pole, Tower, or Support Structure to which the equipment is attached.

*“Pole”* means a legally constructed pole, such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal or other material, located or to be located within a public right-of-way. The term does not include a Tower or Support Structure.

*“Small Wireless Facility”* means a Wireless Facility that meets all of the following conditions:

- (1) The structure on which antenna facilities are mounted (i) is fifty (50) feet or less in height, including existing antennas, or (ii) is no more than ten (10) percent taller than other adjacent structures, or (iii) is not extended to a height of more than fifty (50) feet or by more than ten (10) percent above its preexisting height, whichever is greater; and
- (2) Each antenna associated with the deployment, excluding the associated equipment, is no more than three (3) cubic feet in volume; and
- (3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than twenty-eight (28) cubic feet in volume; and

- (4) The facility does not require antenna structure registration under Federal law; and
- (5) The facility does not result in human exposure to radiofrequency radiation in excess of applicable safety standards under Federal law.

“*Support Structure*” means a structure in a public right-of-way other than a Pole or a Tower to which a Wireless Facility is attached at the time of the Application.

“*Tower*” means any structure in a public right-of-way, within or outside the boundaries of the Village, built for the sole or primary purpose of supporting a Wireless Facility. A Tower does not include a Pole or a Support Structure.

“*Wireless Facility*” means the equipment at a fixed location or locations in the public right-of-way that enables Wireless Services. A Small Wireless Facility is a type of a Wireless Facility. The term does not include the Pole, Tower, or Support Structure on, under, or within which the equipment is located or collocated, or the coaxial, fiber-optic, or other cabling between Communications Facilities or Poles, or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

“*Wireless Service Provider*” means a person who provides Wireless Services.

“*Wireless Services*” means any wireless services using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public.

(Ord. No. 1-19-1, adopted 2/21/19, effective 3/13/19)

**Sec. 10-102. Permit and Access Agreement Required.**

- (a) No person shall construct, install, maintain, or perform any work in the public right-of-way related to a Communications Facility or any Tower, without first receiving a permit and paying any applicable fee, as required under this Title. No permit shall be issued until the applicant has entered into a Right-of-Way Access Agreement in a form approved by the Village, according to this Title. A permit shall not be required for ordinary maintenance and repair, as determined by the Village.
- (b) The Right-of-Way Access Agreement shall set forth, at a minimum, the following: (a) the maximum term of the agreement and the bases for termination; (b) the scope of the authority; (c) the operator’s maintenance obligations; (d) the operator’s indemnification and insurance requirements; (e) emergency contacts and required response to emergencies related to facilities; and (f) the Village’s right to access and inspect the operator’s books and records.
- (c) A Right-of-Way Access Agreement may be terminated by the Village, in its sole discretion, if this Chapter is amended or replaced. In such event, a new permit and Right-of-Way Access Agreement shall be required according to the requirements of the amended or replaced Chapter.

(Ord. No. 1-19-1, adopted 2/21/19, effective 3/13/19)

**Sec. 10-103. Permit Application Requirements.**

- (a) An application for a permit under this Title must contain or be submitted with the following:

- (1) The applicant's name, address, telephone number, and e-mail address, including emergency contact information for the Applicant;
  - (2) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filing of the Application;
  - (3) A description of the proposed work and the purposes and intent of the proposed facility sufficient to demonstrate compliance with the provisions of this Title;
  - (4) If applicable, a copy of the authorization for use of the property from the Pole, Tower, or Support Structure owner on or in which the Communications Facility will be placed or attached;
  - (5) Detailed construction drawings regarding the proposed facility;
  - (6) A structural report performed by a duly licensed engineer evidencing that the Pole, Tower or Support Structure can adequately support the Collocation (or that the Pole, Tower, or Support Structure will be modified to meet structural requirements) in accordance with applicable codes;
  - (7) A certification by a radiofrequency engineer that the Communications Facility will comply with the radiofrequency radiation emission standards adopted by the Federal Communications Commission; and
  - (8) The applicable application fee, bond, Right-of-Way Access Agreement, and right-of-way access fee, as may be adopted and amended by resolution of the Village Council.
- (b) The Village may require the posting of a bond to guarantee the prompt and proper restoration of the public right-of-way. The bond may be in such amount as the Village Manager deems necessary, in the Village Manager's discretion.
- (c) In exchange for the privilege of non-exclusive use of the public right-of-way, the applicant shall pay the Village such access fee as may be established and amended by the Village by resolution from time to time.
- (d) Any permit issued under this Title shall be valid for a period of twelve (12) months after issuance, and may be extended by the Village Manager for up to an additional twelve (12) months upon written request of the applicant, prior to permit expiration, if the failure to complete construction is as a result of circumstances beyond the reasonable control of the applicant.
- (e) No work may be performed except in strict accordance with applicable law and the Village permit and all approved plans and specifications.
- (f) No permit shall be issued except to a Wireless Service Provider with immediate plans for use of the subject Communications Facility. A permit issued under this Title may not be assigned or transferred.

(Ord. No. 1-19-1, adopted 2/21/19, effective 3/13/19)

**Sec. 10-104. Standards for Deployment in the Public Right-of-Way.**

- (a) *No Interference with Right-of-Way.* No person shall locate or maintain a Communications Facility, Pole, Support Structure, or any Tower, so as to interfere with the use of the public right-of-way by the Village, the general public, or other persons authorized to use or be present in or upon the public right-of-way, or otherwise hinder the ability of the Village to improve, modify,

relocate, abandon or vacate a public right-of-way or any portion thereof. Unless otherwise approved by the Village, any Communications Facility must be located no closer than: (i) two (2) feet from any curb, sidewalk, or other improvement within the right-of-way; and (ii) five (5) feet from any driveway apron, and be otherwise located to avoid interference with pedestrian and motorist sightlines and use.

- (b) *Compliance with Design Standards; Unsightly or Out-of-Character Deployments.* Unless otherwise approved by the Village in order to prevent an effective prohibition of service, in violation of applicable law, no person shall locate or maintain a Communications Facility, Pole, or any Tower except in accordance with the following design standards:
1. All Communications Facilities shall be located and designed so as to minimize visual impact on surrounding properties and from public rights-of-way, and so as to not interfere with motorist and pedestrian sightlines, especially at intersections.
  2. All radio transceivers, antennas, power supply (including backup battery), and comparable equipment installed on a Pole, Tower or Support Structure shall be installed at a height of at least fifteen (15) feet above ground level.
  3. No Tower may be located closer than one thousand (1,000) feet of another Tower.
  4. No more than three (3) antennas may be located on any single Tower, Pole, or Support Structure.
  5. All coaxial, fiber-optic, or other cabling and wires shall be contained inside the Tower, Pole, or other Support Structure or shall be flush-mounted and covered with a metal, plastic or similar material matching the color of the Pole, Tower, or Support Structure on which it is installed.
  6. All Communications Facilities shall comply with such additional design standards as may be set forth in administrative regulations issued by the Village.
- (c) *Protection of Trees.* Unless otherwise approved by the Village in order to prevent an effective prohibition of service, in violation of applicable law, no person shall locate or maintain a Communications Facility, Pole, Tower, or Support Structure, so as to interfere with the health of a tree.
- (d) *Location Underground.* [Reserved].
- (e) *Modification of Wireless Facilities.* The Village shall approve any request for a modification of an eligible existing Tower or base station that does not substantially change the physical dimensions of such Tower or base station, in accordance with Federal law.
- (f) *Restoration of Public Right-of-Way.* The applicant shall restore, repair, and/or replace any portion of the public right-of-way that is damaged or disturbed by the applicant's work, to the satisfaction of the Village. Such restoration work shall be completed no later than thirty (30) days following completion of the project, or termination of the Right-of-Way Access Agreement, and shall be warranted by the applicant for a period of one (1) year to be free from defects in materials and workmanship.

(g) *Removal, Relocation, and Abandonment.* Within thirty (30) days following written notice from the Village, or such other time as the Village may require, the Village may terminate a Right-of-Way Access Agreement or require other action in connection therewith, and the owner shall, at its own cost and expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any of its Communications Facilities, Poles, Towers, or Support Structures within the public right-of-way, and restore the right-of-way as required by the Village, whenever either: (i) the terms of the Right-of-Way Access Agreement have been violated; (ii) the Communications Facility has not been used for a period of ninety (90) days, or has otherwise been abandoned or not maintained, or (iii) the Village has determined in its sole discretion that such action is necessary for the construction, installation, repair, or maintenance of any public improvement or otherwise necessary for the public health, safety, or welfare. If the owner fails to take action as required by this section, the Village or its contractor may do so and the owner shall be responsible for all costs and expenses incurred by the Village related to such work. A failure to take action as required by this section, shall be a municipal infraction punishable in accordance with Chapter 3.

(Ord. No. 1-19-1, adopted 2/21/19, effective 3/13/19)