

Ordinance No.: 9-18-1  
Introduced: September 20, 2018  
Adopted: December 6, 2018  
Effective Date: December 26, 2018

## **THE VILLAGE OF MARTIN'S ADDITIONS**

**SUBJECT:** AN ORDINANCE TO AMEND THE CODE OF ORDINANCES TO CORRECT TYPOGRAPHICAL ERRORS IN DIAGRAMS RELATING TO BUILDING HEIGHT; AMEND THE DEFINITION OF WALL PLANE HEIGHT; CLARIFY THE REQUIRED ADDITIONAL SIDE SETBACK; DEFINE "MAINTAIN" AND "REPAIR" WITH RESPECT TO DEVELOPMENTAL NONCONFORMITIES; AND OTHERWISE CLARIFY THE CODE

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

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

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

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

WHEREAS, after proper notice to the public, the Village Council considered the following Ordinance in an open meeting conducted on the 19<sup>th</sup> day of July, 2018 and introduced the following Ordinance in an open meeting conducted on the 20<sup>th</sup> day of September, 2018;

WHEREAS, to comply with Maryland Code, Land Use Article, Section 20-509, on the 25<sup>th</sup> day of September, 2018, a copy of following Ordinance was submitted to the Montgomery County Council for its comments;

WHEREAS, the Montgomery County Council did not submit any comments;

WHEREAS, the Village Building Permit Administrator, counsel, and staff, have made certain recommendations to the Village Council for amendment of the Village building regulations, including the removal of typographical errors and the addition and clarification of definitions and provisions, as discovered necessary through the ongoing implementation of the building regulations;

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

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

BE IT ORDAINED AND ORDERED, this 6<sup>th</sup> day of December, 2018, by the Village Council, acting under and by virtue of the authority given it by the Maryland Code and the Charter of the Village of Martin's Additions, that the Village Code is hereby amended as follows:

\* \* \*

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

\* \* \*

- (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.

\* \* \*

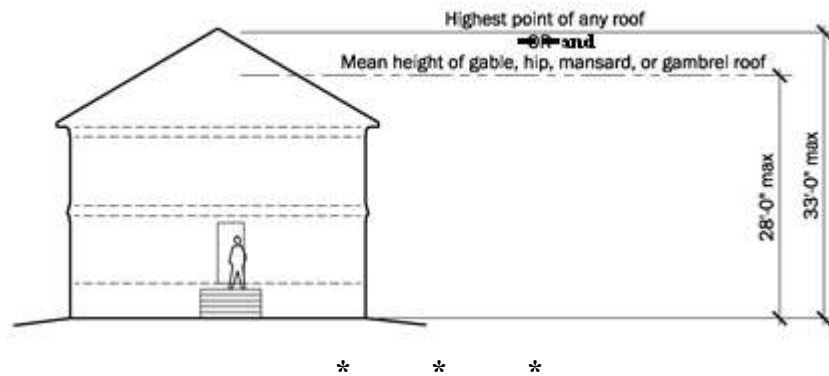
(Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 4-16-1, effective 7/6/16; **Ord. No. 9-18-1, adopted 12/6/18, effective 12/26/18**)

\* \* \*

**Section 7-101. Definitions**

\* \* \*

- (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.



- (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.** ~~For the purpose of this definition, grade is either the finished development grade or the pre-development grade, whichever is lower.~~ 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.

\* \* \*

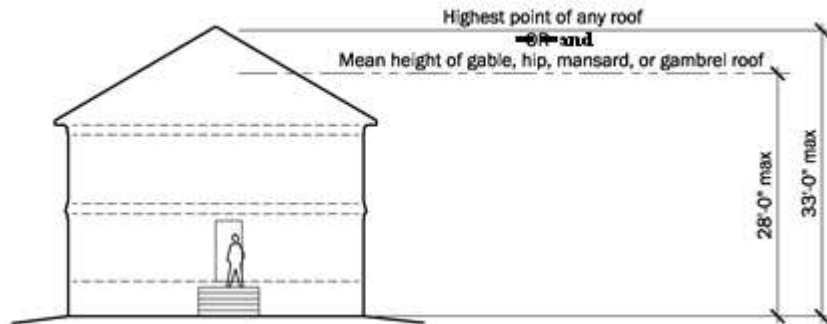
(Ord. No. 4-09-2, adopted 5/27/09, effective 6/16/09; Ord. No. 12-09-1, adopted 1/21/10, effective 2/10/10; Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 4-16-1, effective 7/6/16; **Ord. No. 9-18-1, adopted 12/6/18, effective 12/26/18**)

\* \* \*

**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.



\* \* \*

(e) Setbacks

\* \* \*

(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** ~~or~~ closer to the rear lot line than twenty (20) feet.

(3) Side

\* \* \*

(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 ~~the~~ **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 ~~from the side building line of the first forty-four (44) feet of the wall.~~

\* \* \*

(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**)

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**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**)

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

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

(2) This Ordinance shall take effect on the 26th day of December, 2018 (20 days after adoption).

ATTEST:

THE VILLAGE OF MARTIN’S ADDITIONS

\_\_\_\_\_  
Susan Fattig, Secretary

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Richard Krajeck, Chair  
Village Council

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