

**Village of Martin's Additions**  
**7013 B Brookville Road, Chevy Chase, MD 20815**  
**Council Meeting Minutes for December 20, 2012**

**COUNCIL MEMBERS AND VILLAGE REPRESENTATIVES PRESENT:** Council Members: Richard Krajeck, Michael Zielinski, Arthur Alexander, Tiffany Cissna, Jill Filipczyk. Village Manager: Jean Sperling. Village Attorney: Ron Bolt. Village Auditor: Joseph McCathern  
**RESIDENTS PRESENT:** Bill Catherwood, Keith Allen, Hanne and Frank Correl, Judy and Dennis King, Meredith King.

**CALL TO ORDER 7:30: Krajeck**

**FY 2012 AUDIT PRESENTATION: MR. JOSEPH MCCATHERN, auditing firm of LSWG**

Mr. McCathern presented the Village Council with the audit report for FY 2012. He reported that his firm found everything in order with the Village's finances. There were no changes in our practices, no violations, no disagreements with management and no issues during the audit.

The assets of the Village of Martin's additions exceeded its liabilities at the close of the fiscal year by \$1,564,973 (net assets). Of this amount \$1,360,994 (unrestricted net assets) may be used to meet the government's ongoing obligations. VMA's total net assets increased by \$303,849 in FY 2012. At the close of the fiscal year, the village of Martin's Additions governmental funds reported combined ending fund balances of \$1,360,623, an increase of \$281,917 in comparison with the prior year. Approximately 55% of this total amount, \$751,572, is available for spending at the government's discretion. Of the remaining balance of \$609,051, \$9,051 is nonspendable as it is a prepaid expense and \$600,000 is assigned for street improvements

Approximately 13% of the Village of Martin's Additions net assets reflect its investment in capital assets (e.g. land, buildings, machinery and equipment). The Village of Martin's Additions uses these assets to provide services to its citizens, consequently these assets are not available for future spending. Budgeted revenues were .4% over original budget estimates (\$145,000), and expenditures were \$140,000 under budget. The Village had budgeted for a slight loss or breakeven but actually came in on the plus side with a change in our fund balance of \$281,917. In FY 2011, expenditures exceed revenues by \$143,571.

Actual revenues and expenditures were very close to the final budget figures due to the continual management of the budget and frequent adjustments to the budget during the year. The major difference in revenues between the final budget and actual was attributed to a higher than expected collection of income taxes. Income taxes were budgeted at \$400,000 and actual collections totaled \$553,015. On the expenditure side \$100,000 budgeted for street light reserve that was not expended had the biggest impact on reducing spending. Lower spending of \$20,800 on the general government side reflects cost cutting efforts which also helped the bottom line budget.

Overall, FY2012 was a positive year. The Village maintained a conservative approach in formulating the FY 2013 budget to make sure that the Village maintains a healthy financial position into the future. LSWG conducts audits for 8 municipal governments in both Montgomery and Prince George's counties. All municipalities experienced an increase in revenues, up and average of about 57%--Martin's Additions increase was 56%, so we were right on target. Our Fund balance increased 26% in 2012 compared to an increase of 15% in 2011—showing that we are moving in the right direction of building and maintaining a strong fund balance. Our net assets are 3.5 times our annual expenditures-- an amount that is in line with most municipal governments-- up from 2.9 in 2011. LSWG opined that VMA budgeted its money properly and spends it well.

**Motion to Accept the FY 2012 Audit: Alexander; 2<sup>nd</sup> Filipczyk; Vote All in favor.**

**RESIDENTS' CONCERNS AND CONTRIBUTIONS**

*Keith Allen (Turner Lane-VMA resident weather man)* informed the Council and the residents in attendance that we would not have a white Christmas, although it will be windy. He also wanted to comment on the water line restoration project on Turner Lane. He extended kudos to every one of the men of Sagres Construction, the subcontractor, as well as WSSC for their most courteous and professional manner. Keith also thanked Municipal Operations Support Wayne Fowler for keeping his eyes on the project and Manager Sperling for keeping everyone so well informed.

**DISCUSSION OF ACCESSORY APARTMENT ZONING TEXT AMENDMENT-Bolt**

Attorney Bolt provided information about the Zoning Text amendment 12-11 that is now before the County Council promoting changes in the process for approving Accessory Apartments. Bolt suggested that the Village Council may want to consider submitting comments to the County Council on this amendment, which would change the rules for establishing Accessory Apartments. This ZTA in purportedly intended to promote the creation of more alternative forms of housing. They would no longer need to be granted a special exception in order to operate --they will be permitted as a matter of right under this amendment. Some have charged that the opponents of this effort are blowing

the impact of the proposal out of proportion; many people have argued that there is no data that suggests the County wide need for accessory apartments.

There are a number of issues that would be of concern to VMA as a R-60 zone with the relaxing of the requirements for approval-- the issue of parking and existing density, the number of residents that would be allowed to occupy an Accessory Apartments, the number of apartment that could be placed along any particular street, for example.

A licensing bill was recently introduced which is intended to enhance the notification process and license the homeowner as a landlord; it is hoped that this bill would also put limits on the impact of the accessory apartments by allowing objections to the granting of the license by neighbors and municipalities. One of our biggest concerns is the impact such apartments would have on street parking. Bolt felt that creating parking restrictions is a limited remedy, but can be considered if it becomes necessary. As a municipality in the Regional District, we do not have zoning authority so we can't dictate the use of property, but we can adopt select building regulations such as setbacks, massing and height and parking requirements; Perhaps parking regulations could be developed to handle many of these concerns about accessory apartments. The municipality and/or the neighbor can challenge the adequacy of parking under the rights included in the licensing bill. In a general discussion that followed, the Council raised a number of concerns about this ZTA and agreed that the concerns of the Village Council should be transmitted to the County Council. Councilmember Mike Zielinski agreed to review the ZTA and the licensing bill more closely and draft a letter to the County Council.

#### **POLICY RELATED TO GENERATORS IN THE VILLAGE OF MARTIN'S ADDITIONS: BOLT**

##### **Policy Discussion (No. 12-12-1) re: Code Interpretation for placement of generators.**

Attorney Bolt provided background information on the Village Code as it describes the placement of air conditioners and heat pumps on a lot. The code provides that they may project 5 feet into the front or rear set back area, but not the side setback. A question has come up about whether generators are to be treated the same as AC units and heat pumps. Montgomery County treats them all the same way. Clarity is needed for the VMA code because our setback requirements are not the same as the County and VMA does not define generators as "accessory structures" as the County does.

The option for clarifying the definition of placement of generators can be handled either by adopting interpretive policy, which can be done by resolution at this meeting, or by revising Village ordinances to include specific reference to generators. There was agreement that adopting a resolution that sets out interpretive policy would be adequate at this time. It would provide for the timely resolution of questions related to the placement of generators. Changes in the code itself can be implemented as a part of a bigger code review project which the Council agrees needs to be done in the near future.

Resident Denis King (7315 Summit Avenue) asked to speak to the Council about this topic since he has considerable experience with the subject. He added the issue of the mobility of any generator to the discussion, noting that not all generators are fixed generators. One can have small, hand carried generators which can run one light or a one small refrigerator; you can have a mobile one which is larger and can be run about 2/3 of a home. Other important factors include the size of the generator, the noise levels, buffering devices and fuel sources. The Council noted the importance of Mr. King's remarks and said it will take them under consideration when discussions were held on any regulating of generators. Right now, the County noise levels control the regulation of generators. Zielinski noted that the only thing that we are up against right now is the interpretation of the setbacks.

Sperling noted that Alan Beal had recommended the adoption of a resolution and interpretive policy. Councilmember Cissna inquired whether the interpretive policy was sufficient to clarify the issue at this time. Sperling felt it was.

The Council discussed whether the interpretive policy should provide a broader reference than just to generators—should it include a reference to other mechanical devices? The Council agreed that the policy include " generators that supply emergency power to residences, and other mechanical devices" in the wording.

Chairman Krajeck called for a motion to adopt the Resolution 12-12-1 to adopt interpretive policy, as amended, (12-12-1) regarding the applicability of Section 7-402(3)(5) (iii) generators.

**Moved: Alexander; 2<sup>nd</sup> Zielinski; Vote: All in favor.**

Policy No. 12-12-1: Interpretive Policy on the Applicability of Section 7-402(e)(5)(iii) to Generators, the Resolution to adopt this policy and an illustration are attached to these minutes.

**BUILDING ADMINISTRATOR'S REPORT: DECEMBER Council Meeting  
Activity in November 2012 and first 3 weeks of December.**

**Construction Update:**

**Completed:**

- 3409 Taylor St – Dumpster Permit
- 6707 Melville Pl – Bond returned

**New Permits Issued:**

- 3410 Cummings Lane – Revised Building Permit
- 3414 Cummings Lane –Building Permit
- 124 Quincy Street – Building Permit.

**Ongoing Construction Projects:**

- 3502 Cummings Lane - Accessory structure pool house carpentry, pool, landscaping.
- 163 Quincy Street –Windows installed, interior framing, wall check
- 3410 Cummings Lane –Framing, construction entrance review, wall check
- 3414 Cummings Lane –Framing, site graded, wall check

**New Permit Requests/Pending or In-process:**

- 124 Quincy Street – Building Permit issued
- 3502 Cummings Lane – Generator Permit

**Construction Inquiries/ Pending Building Issue:**

- Several inquiries about installing generators.
- 3502 Cummings Lane –Continued litigation over property line between 3418 & 3502.
- 205 Oxford Street –Addition, renovation. Still pending.
- 3401 Thornapple Street - Small rear deck and steps (Variance).Still pending.
- 7200 Summit Ave - Roof/skylight renovation.

**OTHER MUNICIPAL SUPPORT**

**Management:**

- Resident concerns – e.g. car and trash cans in front yard, stump grinding notice, fiber optic box closure, leaves in street.
- Ongoing supervision and progress reporting of construction projects.
- Work with Verizon, Comcast and RCN on transferring telecom lines to new poles.

- 163 Quincy: Special parking considerations monitored and enforced.
- 3410 & 3414 Cummings Ln: Special parking considerations monitored and enforced.
- WSSC on Turner Ln: Special parking considerations monitored and enforced.
- Construction project reviews and permit clearance (Alan).
- Investigate traffic counting equipment on Shepherd St.
- Leaf bag deliveries.
- Contact WSSC about leaking water meter at 110 Quincy St.
- Assist in investigating water meter issues and billing overage.
- No parking for move in/out; special events

**Response to construction complaints:**

- WSSC Turner Lane – Traffic and service outage
- WSSC Cummings Ln – Traffic
- WSSC meetings on process and logistics.
- Replace boulders at Quincy & Oxford Streets.

**Response to incidental issues and problems: (e.g.)**

- Follow up on and communicate with Residents during WSSC service outage on Turner Ln.

**ROW Maintenance:**

- Utility pole verification for traffic survey equipment.
- Boulder restoration at Quincy and Oxford corner.
- Follow up and clear graffiti from sidewalk repairs on Cummings Ln.
- Maintain inventory of ROW repairs needed following WSSC work.

**WSSC & WGL Replacement and Relocation Projects:**

- Ongoing documentation, supervision, Resident and Contractor information support.
- Assist with special parking considerations monitoring and enforcement.

**FINANCIAL MATTERS: Village of Martin’s Additions Report for the Month of November, 2012**

Arthur Alexander, Treasurer

**July 2012-November 2012**

**Actual Budgeted**

<b>Revenues</b>	<b>\$331,642</b>	<b>281,450</b>
<b>Expenses</b>	<b>192,933</b>	<b>225,243</b>
<b>Net Income</b>	<b>138,709</b>	<b>56,207</b>

Reserve account (current assets less designated allocations): \$786,185

The first major allotment to the Village from the state income tax arrived at the end of November. The regular quarterly distribution was \$95,100, compared to last year’s amount of \$90,000. In addition to the quarterly amount, the November payment included the fiscal year 2011 reconciliation; that is, the late payments, delinquent fees and receipts, and other odds and ends from the previous fiscal year. This amount was \$113,700, an unplanned windfall. Last year, the reconciliation came to an unusually high \$152,700. Based on this payment, the Village’s annual income appears to be solid. Other income is running about as budgeted.

Expenses are considerably below budgeted amounts. Road maintenance, office expenses, and professional fees account for the bulk of the savings so far this year.

The reserve account, equal to current assets minus funds set aside for capital expenditures, is greater than annual expenditures, giving us a cushion against unexpected occurrences.

**Action on All Financial Reports:**

**Motion: Zielinski; 2nd: Filipczyk; Vote: All in favor**

**ACTION ON MINUTES OF OCTOBER 2012 COUNCIL MEETING**

**Motion: to Accept: Zielinski; 2<sup>nd</sup>: Alexander; Vote: All in Favor**

**MANAGER'S REPORT: SPERLING: December 20, 2012**

**UTILITY SERVICES:**

- **WSSC:** Cummings Lane complete.
  - ❖ Street will receive a permanent (hot patch) now and then be milled and overlaid in the spring, unless WAS GAS gets their first.
  - ❖ Turner Lane well underway. Valve charge out on December 27th will require water shut off for a few hours. Lateral connections to homes to begin end of next week. Many compliments from residents.
  - ❖ Hydrants are also being replaced and in some cases relocated.
  - ❖ Taylor Street next; followed by Thornapple Street. Traffic direction management will likely be a challenge.
- **WASHINGTON GAS:** Raymond Cummings/Melville gas line replacement project still unscheduled.
- **PEPCO** No issues. New street light outage reporting system is working very well- 3 day turn around.

**ROADS/SIDEWALKS**

- ❖ WSSC contractor has been excellent—roads are repaired almost immediately—little use of steel plates. Mill and overlay will be performed in the spring. This will give us some flexibility to manage road repairs and coordinate with Washington Gas as they move through the community with their gas line upgrades.
- ❖ Sidewalk repairs were made by the Subcontractor and we again experienced vandalism of the concrete by teenagers. Wayne assisted in the identification of the problems.
- ❖ Streets received final cleaning for the fall. (we've done two)

**EMERGENCY AND STORM PREPAREDNESS**

- ❖ VMA has started its monthly exercises with the County's office of Emergency operations. A winter storm exercise has already been conducted.
- ❖ Streets have been cleared of leaves thus prepared for plowing.
- ❖ Sand buckets to be placed probably this week.
- ❖ Peyton ready for plowing
- ❖ Ianbelli will do the sidewalk shoveling of Brookville Road at the same price as Peyton did last year. Presume that the council wishes to proceed as we did last year. (Under 2" residents did Brookville Road; more than that we do it).
- ❖ Presume that the Snow Route decision we made last year will still apply this year
- ❖ **TREES:**
- ❖ 11 trees were planted. Integrated plant care was able to secure much larger trees for us than we had planned because of the end of the season opportunities that presented themselves. Unfortunately, as a consequence two men were needed to do the planting so it was delayed for a few days.
- ❖ State review of the trees in VMA to be communicated to PEPCO. As many as 10 trees may need to be removed with the approval of the Forester. The DNR (Department of Natural Resources) has granted us permission to remove several trees. Pepco will be able to assist us with the removal of several trees.
- ❖ Two very large trees were pruned on 6701 Melville (tulip Poplar) and 3416 Bradley (oak).
- ❖ Two trees on Shepherd Street were further evaluated by our arborist. One tree at 3508 appears solid but will continue on our watch list; the other tree at 3406 will be removed.
- ❖ As reported last month, the State Forester looked at the tree that was referenced in a report received from a resident's tree service on Raymond Street (at 3524). We have received the permit for this removal. Pepco has said that they will assist in that removal because it is under the wires.

**ADMINISTRATIVE WORK/ SERVICES**

- ❖ Last Yard Waste of the year was Monday December 17th
- ❖ Major snafu with recycling pick up this week. Schedule has been changed for Christmas week and New Year's
- ❖ Holiday fund to be wrapped up tomorrow. Good turnout this year; Toys for tots drive to be wrapped up

**10:00 PM      ADJOURNMENT**

Resolution No. \_\_\_\_\_  
Adopted: December 20, 2012  
Effective Date: December 20, 2012

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

**SUBJECT: RESOLUTION TO ADOPT INTERPRETIVE POLICY  
REGARDING THE APPLICABILITY OF SECTION 7-  
402(e)(5)(iii) TO GENERATORS**

WHEREAS, Article 23A, Section 2(b)(5) of the Maryland Code 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, Land Use Article, Section 20-509 of the Maryland Code authorizes municipal corporations in Montgomery County, such as the Village of Martin's Additions, to regulate the construction, repair, erection or remodeling of buildings or other structures; the location of structures, including setback requirements; the dimensions of structures, including height, bulk, massing, and design; and lot coverage, including impervious surfaces;

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

WHEREAS, pursuant to the above authority, the Village adopted Section 7-402(e)(5)(iii) of the Village Code, which provides, in pertinent part, "Air conditioners and heat pumps may project five (5) feet into any front or rear setback area." Air conditioners and heat pumps may not project into any side setback area;

WHEREAS, the Council of the Village of Martin's Additions finds that the generators and other auxiliary power units that supply emergency power to residences, and other mechanical devices, that are similar in size and appearance to air-conditioning units, are meant to be treated the same as air-conditioning units for purposes of the setback regulations;

WHEREAS, the Interpretive Policy attached hereto was introduced by the Council at its open meeting on December 20, 2012; and

WHEREAS, the Council finds that adopting the Policy attached hereto is necessary for the preservation of the property, rights, and privileges of the Village and its residents.

NOW, THEREFORE, it is, this 20<sup>th</sup> day of December, 2012, by the Village Council:

RESOLVED, that the Policy attached hereto (Policy No. 12-12-1) be and is hereby adopted, and it is further;

RESOLVED, that this Resolution shall become effective on this 20<sup>th</sup> day of December, 2012, and it is further,

RESOLVED, that a copy of this Resolution shall be permanently filed by the Secretary and kept available for public inspection.

I, Jill Filipczyk, Secretary of the Village Council, hereby certify that the foregoing Resolution was adopted by the Council at its open meeting on December 20, 2012.

  
Jill Filipczyk, Secretary

Village of Martin's Additions  
7013 B Brookville Road  
Chevy Chase, MD 20815  
301-656-4112 (Phone)  
301-656-0030 (Fax)

Policy No. 12-12-1

Interpretive Policy on the Applicability of Section 7-402(e)(5)(iii) to Generators

Pursuant to Section 7-402(e)(5)(iii) of the Village Code, "Air conditioners and heat pumps may project five (5) feet into any front or rear setback area." Air conditioners and heat pumps may not project into any side setback area. An issue commonly presented is whether this provision applies to generators.

The Village Council finds that generators that supply emergency power to residences, and other mechanical devices, that are similar in size and appearance to air-conditioning units, are meant to be treated the same as air-conditioning units for purposes of the setback regulations.

For this reason, it is the interpretive policy of the Village that Section 7-402(e)(5)(iii) of the Village Code applies to generators and other mechanical devices, as described herein. Such generators and mechanical devices may project five (5) feet into any front or rear setback area. Generators may not project into any side setback area. The attached diagram illustrates how such generators and mechanical devices may be located according to Section 7-402(e)(5)(iii).

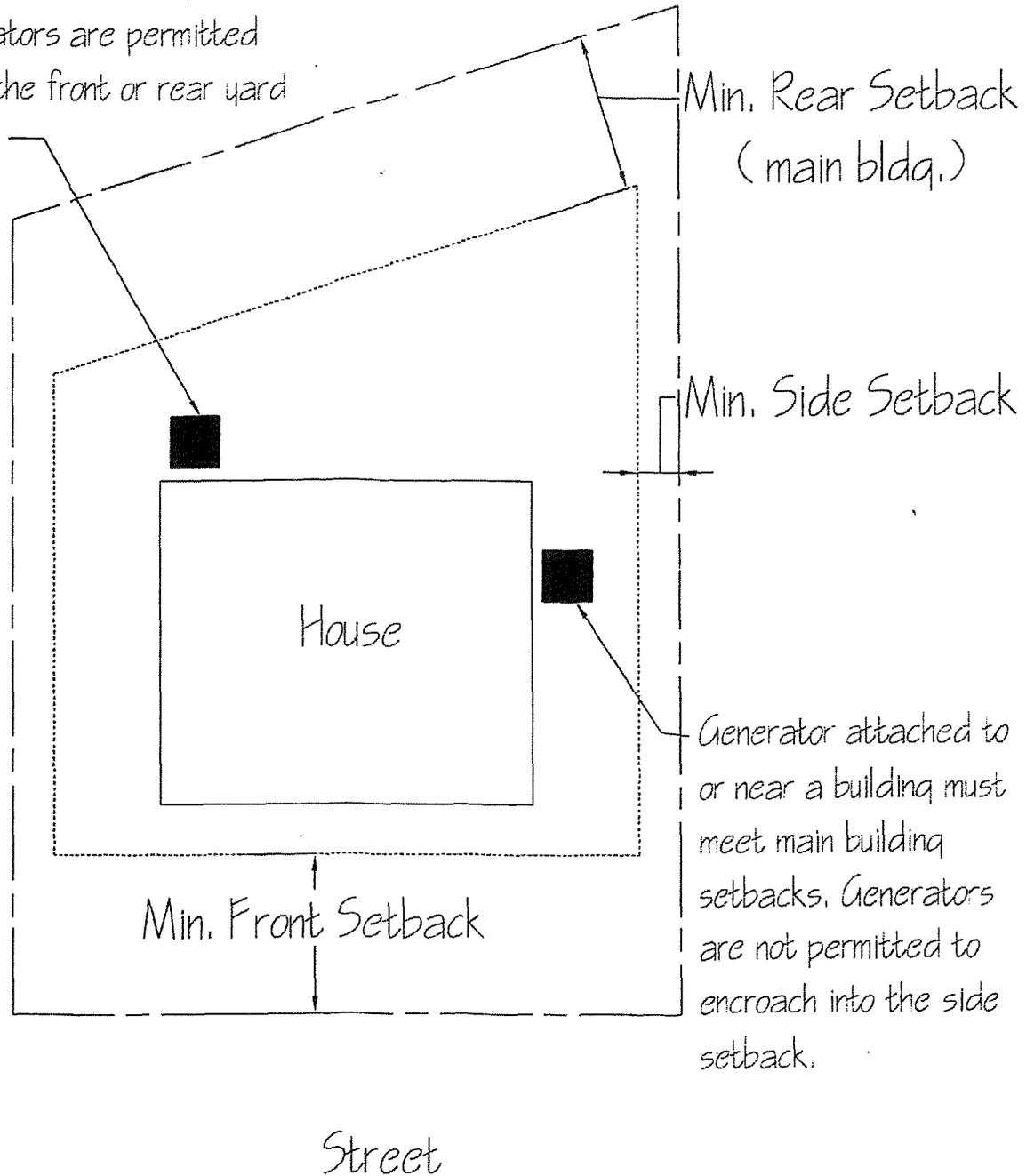
**Policy Number: 12-12-1**  
**Introduced: December 20, 2012**  
**Action/Adoption: December 20, 2012**  
**Effective Date: December 20, 2012**

**December 20, 2012**

# MINIMUM SETBACK REQUIREMENTS for GENERATORS

## Exemptions For Projections

Generator attached to or near a building must meet main building setbacks. Generators are permitted to encroach into the front or rear yard setback by 5 ft.



NOTE: Generators must comply with Noise Ordinance administered by D.E.P.