

Ordinance No.: 1-17-1
Introduced: February 16, 2017
Adopted: March 16, 2017
Effective Date: April 5, 2017

THE VILLAGE OF MARTIN'S ADDITIONS

SUBJECT: AN ORDINANCE TO AMEND THE CODE OF ORDINANCES TO FURTHER REGULATE THE CONSTRUCTION OF CURB CUTS, DRIVEWAYS, AND APRONS IN THE PUBLIC RIGHT-OF-WAY.

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, 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, the Village Council introduced the following Ordinance at a public meeting held on February 16, 2017;

WHEREAS, the Council has considered the construction, alteration, and replacement of curb cuts, driveways, and driveway aprons in the public right-of-way and finds that the Code of Ordinances should be amended to further regulate the same;

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 16th day of March, 2017, 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 6-101. Definitions

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

* * *

- (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.

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(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).

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Section 6-302. Permits Required.

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(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;
- ~~3)4)~~ Add to, install, replace, alter, construct, re-construct, repair or improve any curb cut, driveway, or driveway apron; or
- 4)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.

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(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)

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Section 7-402. Construction Standards and Requirements

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(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) Width. 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.

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(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)

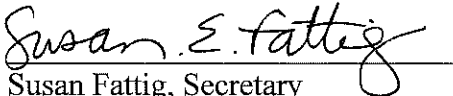
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AND BE IT FURTHER ORDAINED AND ORDERED, by the Village Council, acting under and by virtue of the authority granted to it by the Maryland Code, and the Charter of the Village of the Village of Martin's Additions, that:

- (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 5th day of April, 2017.

ATTEST:

THE VILLAGE OF MARTIN'S ADDITIONS


Susan Fattig, Secretary


Richard Krajeck, Chair
Village Council

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