BOARD OF COMMISSIONERS
FOR THE
THE TOWN OF UPPER MARLBORO

EMERGENCY ORDINANCE: 2015-02

SESSION: Regular

DATE: February 10, 2015

AN EMERGENCY ORDINANCE OF THE TOWN OF UPPER MARLBORO TO CONFER UPON THE TOWN, ITS DESIGNEES AND ASSIGNS, A RIGHT OF ENTRY UPON PRIVATE PROPERTY ADJACENT TO PUBLIC STREETS FOR THE PURPOSE OF CONSTRUCTION AND REPAIR OF STREETS, SIDEWALKS, DRAINAGE SYSTEMS, PUBLIC UTILITIES, STREET LIGHTS, AND LANDSCAPING

WHEREAS, in order to protect the health, safety, comfort, convenience and welfare of the Town, it has become necessary to initiate construction and repair of certain streets and sidewalks therein; and

WHEREAS, Section 5-217 of the Local Govt. Art., of the Md. Ann. Code states that a municipality may require the owners of property to keep the sidewalks on the property clean and free from snow, ice, or other obstructions; and

WHEREAS, Section 82-16(2)(ww) of the Town Charter further states that the Board of Commissioners of the Town of Upper Marlboro (the "Town") shall have, in addition to other delegated powers, the power to pass ordinances not contrary to the laws and Constitution of this State, for the specific purpose of regulating the use of sidewalks and all structures in, under or above the same; to require the owner or occupant of premises to keep the sidewalks in front thereof free from ice, snow or other obstructions; and to prescribe hours for cleaning sidewalks; and

WHEREAS, Section 82-63 of the Town Charter states the Town shall have control of all public ways (including all streets, avenues, roads, highways, public thoroughfares, lanes and alleys) in the Town except such as may be under the jurisdiction of the Maryland State Roads Commission or governing body for Prince George's County and subject to the laws of the State of Maryland and this Charter, the Town may do whatever it deems necessary to establish, operate, and maintain in good condition the public ways of the Town; and

WHEREAS, Section 82-65 of the Town Charter further states that the Town shall have the power: (a) To establish, regulate, and change from time to time the grade lines, widths, and construction materials of any sidewalks or part thereof on Town property along any public way or part thereof. (b) To grade, lay out, construct, reconstruct, pave, repave, repair, extend, or otherwise alter sidewalks on Town property along any public way or part thereof. (c) To require that the owners of any property abutting on a sidewalk keep the sidewalk clear of all ice, snow, and other obstructions. (d) To require and order the owner of any property abutting on any public

way in the Town to perform any projects authorized by this section at the owner's expense according to reasonable plans and specifications, and if after due notices the owner fails to comply with the order within a reasonable time, the Town may do the work, and the expense shall be a lien on the property and may be collected in the same manner as Town taxes; and

WHEREAS, Section 82-11 of the Town Charter states that in cases of emergency, the provision that an ordinance may not be passed at the meeting at which it is introduced may be suspended by unanimous vote of the Board of Commissioners; and

WHEREAS, said Section 82-11 further mandates that each ordinance shall be posted in the Town office, and each ordinance or a fair summary thereof, shall be published at least once, in a newspaper of general circulation in the Town; and

WHEREAS, the Board of Town Commissioners finds there is an urgent need to expedite the adoption of this emergency ordinance to promote the health, safety and welfare of the public.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE TOWN OF UPPER MARLBORO, STATE OF MARYLAND, DOES ORDAIN AND ENACT AS FOLLOWS:

Section 1: In order to protect the public health, safety, comfort, convenience and welfare of the Town of Upper Marlboro it has become necessary to initiate construction and repair of the streets and sidewalks.

Section 2: The required work shall consist of the construction and repair of the streets and sidewalks, the drainage systems, the various utility systems, including the location or relocation of water, sewer, electric, telephone and cable transmission lines, street and sidewalk lights, landscaping, as well as maintaining existing entrances from public and private property to the street and sidewalks, and to do all things necessary to accomplish same.

Section 3: To carry out the aforesaid street and sidewalk construction and repairs as duly authorized by the Town Charter and ordinances, and State Law, the Town employees, its agents and assigns, shall have the right of entry, for the purpose of accomplishing said work, at all reasonable hours, upon any premises in the Town which abuts a public street or sidewalk.

Section 4: Any restraint or hindrance offered to such entry by any owner, tenant, or person in possession, or the agent of any of them, or any other violation of the provisions of this ordinance shall constitute a municipal infraction. Each day the violation continues shall constitute a separate offense. The penalty for such municipal infraction shall be a $500 fine. Notwithstanding any penalty stated in this ordinance, the Town may further seek any other relief or remedy to enforce this ordinance as provided by law to include injunctive or declaratory relief.

AND BE IT FURTHER ENACTED AND ORDAINED by the Board of Commissioners of the Town of Upper Marlboro, Maryland that this Emergency Ordinance shall become effective immediately following approval by the Board of Commissioners.

AND BE IT FURTHER ENACTED AND ORDAINED by the Board of Commissioners of the Town of Upper Marlboro, Maryland that pursuant to the Town Charter this Emergency Ordinance shall be posted in the Town office and a fair summary of it shall be published once in a newspaper of general circulation in the Town.

AYES: 3 NAYES: Ø ABSENT: Ø

INTRODUCED and read in a public session of the Board of Commissioners on this 10th day of February, 2015.

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Town Clerk

ORDAINED, APPROVED AND finally passed by the Board of Commissioners of the Town of Upper Marlboro, Maryland on this 10th day of February, 2015, by:

THE TOWN OF UPPER MARLBORO,
BOARD OF COMMISSIONERS

_____

Stephen Sonnett, President

Attest:

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Larissa Ferrer, Commissioner

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Clerk

James Storey, Commissioner

I HEREBY CERTIFY that the foregoing Emergency Ordinance Number 2015-02 of the Town of Upper Marlboro, duly read, advertised and enacted in accordance with the applicable provisions of the Charter of the Town of Upper Marlboro.

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M. David Williams, Town Clerk

CLERK'S CERTIFICATION

I, M. David Williams, the duly appointed Town Clerk of The Town of Upper Marlboro, Maryland, do hereby certify that the foregoing is a full, true, and correct copy of Emergency Ordinance Number 2015-02 of the governing body of said municipal corporation, duly and regularly called and held in all respects as required by law, and the charter, bylaws or ordinances of said Town, at the office hereof on the 10th day of February, 2015 at which meeting a unanimous vote of the Board of Commissioners of said municipal corporation voted in favor of said emergency ordinance; and that said emergency ordinance is in full force and effect.

M. David Williams, Town Clerk