

Town of Upper Marlboro

14211 School Lane • Upper Marlboro, Maryland 20772

**BOARD OF COMMISSIONERS
FOR THE
THE TOWN OF UPPER MARLBORO**

2ND DRAFT

ORDINANCE: 2017-01
SESSION: Town Worksession
INTRODUCED: February 28, 2017

AN ORDINANCE OF THE TOWN OF UPPER MARLBORO TO BE ENTITLED “BUILDING & PERMITTING ORDINANCE” ESSENTIALLY AUTHORIZING THE TOWN TO ENFORCE THE COUNTY’S BUILDING CODES AS ITS OWN; THEREBY PROVIDING NEW SECTIONS OF TOWN LAW REGARDING THE ORDINANCE’S PURPOSE AND AUTHORITY; THE ROLE OF THE DEPARTMENT OF CODE ENFORCMENT; THE POWERS, DUTIES, & FUNCTIONS OF CERTAIN TOWN OFFICIALS; DESIGNATING THE COUNTY BUILDING CODE AS THE TOWN’S BUILDING CODE; ESTABLISHING CERTAIN ROLL OFF CONTAINER PERMITS; PROVIDING FOR CERTAIN PENALTIES AND LIENS FOR VIOLATIONS; PROVIDING A PROCESS TO PURSUE A RIGHT OF APPEAL; PROVIDING FOR THE PROMULGATION OF RULES & REGULATIONS; PROVIDING A SEVERABILITY PROVISION AND ESTABLISHING CERTAIN FINES, OR CHARGES PERMITTED TO BE MODIFIED BY RESOLUTION; AND GENERALLY RELATING TO THE ENFORCEMENT OF BUILDING CODES.

WHEREAS, pursuant to § 82-16(1) (General Powers) of the Town Charter, the Board of Commissioners shall have the power to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland or the Town Charter as it may deem necessary for the good government of the Town; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the Town and visitors thereto and sojourners therein; and

WHEREAS, pursuant to § 82-16(2)(i) of the Town Charter, the Board has the power to pass ordinances not contrary to the laws and Constitution of this State, for specific purposes and to make reasonable regulations in regard to buildings and signs to be erected, constructed, or reconstructed in the Town, and to grant building permits for the same; to formulate a building code and to appoint a building inspector, and to require reasonable charges for permits and inspections; to authorize and require the inspection of all buildings and structures and to authorize the condemnation thereof in whole or in part when dangerous or insecure, and to require that such buildings and structures be made safe or be taken down; and

WHEREAS, pursuant § 82-16(2) (hh) (Specific Powers; Liens) of the Charter the Board shall have the power to provide that any valid taxes, assessments or charges made against any real property within the Town shall be liens upon such property from the date they became payable; and

WHEREAS, pursuant to LG Art., § 5-205(d)(1) of the Annotated Code of Maryland, a municipality may establish and collect reasonable fees and charges associated with the exercise of a governmental or proprietary function exercised by the municipality.

NOW, THEREFORE, the Board of Commissioners of the Town of Upper Marlboro, State of Maryland, does ordain and enact as follows:

Building & Permitting Ordinance 2017-01

- SECTION 1:** SCOPE
- SECTION 2:** DEPARTMENT OF CODE ENFORCEMENT
- SECTION 3:** POWERS, DUTIES, & FUNCTIONS
- SECTION 5:** BUILDING CODE
- SECTION 6:** ROLL OFF CONTAINER PERMITS
- SECTION 7:** RIGHT OF APPEAL
- SECTION 8:** RULES & REGULATIONS
- SECTION 9:** VIOLATION
- SECTION 10:** SEPARABILITY
- SECTION 11:** FINES

1. SCOPE

This Ordinance applies to all residential and commercial properties within the corporate boundaries of The Town of Upper Marlboro (the “Town”).

2. TOWN CODE ENFORCEMENT

- A. The administration and enforcement of the provisions of this Ordinance is assigned to the Code Enforcement Official or designated representative.
- B. The Code Enforcement Official or designated representative shall be the authorized person responsible for the enforcement of the provisions of this Ordinance including the assessing of fines and penalties for violations of the provisions of the Ordinance.

3. POWERS, DUTIES, AND FUNCTIONS

The Code Enforcement Official or designated representative shall have the following powers, duties and functions:

- A. Upon issuance of a County building permit, the Code Enforcement Official or designated representative shall endeavor to monitor and may further inspect all construction projects and insure strict adherence to the approved plans and specifications.
- B. In the event of violation, deviation, or irregularity, the Code Enforcement Official or designated representative shall:
 - 1. Notify and consult with the Board of Town Commissioners
 - 2. Advise the property owner and/or contractor of the infraction and specify the time by which said infraction shall be corrected;
 - 3. Issue a stop-work order should the infraction not be corrected promptly;
 - 4. Remove stop-work order when reason for stop-work order has been corrected.
- C. The Code Enforcement Official, in accordance with the Town administration procedures, shall keep on file all applications, plans, and other pertinent building records associated with the issuance and active review by the Town of a building permit.
- D. The Code Enforcement Official or designated representative shall have the right, upon proper identification, to enter upon private property so far as is necessary for the performance of duties.

4. BUILDING CODE

The Building Code of the Town of Upper Marlboro shall be the current Building Code of Prince George's County. The official Building Code of Prince George's County substantially adopting the International Building Code, 2015 Edition, and other related codes together with the changes, deletions, or modifications prescribed in said codes [~~Building Officials and Code Administrators (BOCA) Energy Conservation Code or its successor Code~~], as amended from time to time, shall apply to all buildings being constructed in the Town of Upper Marlboro.

5. BUILDING PERMITS

- A. A Prince George's County Building Permit is required for all construction within the cooperate limits of the Town when required by County Code.
- B. For the purposes of this Ordinance, the issuance of a County building permit including any conditions placed on the permit for property located with Town by operation of law shall be considered the Town's building permit.
- C. County Building permits must be posted in full view on the property where work is being performed. Upon request, the permittee shall be obligated to provide the Town with copies of any other permit records, forms or plans that were submitted in support of the relevant County Building permit application.
- D. Except as stated herein, it shall be unlawful to deviate in any manner from the approved building permit unless written approval is obtained from the Code Enforcement Official or designated representative. Any post-issuance order or modification approved in writing by the County pertaining to a County Building permit shall be considered by operation of law to be an authorized modification of the Town Building permit.

- E. Failure to comply will result in a Town “Stop Work Order” notice being posted at the property by the Code Official, in which all construction shall immediately cease until the Order is lifted.

6. ROLL OFF CONTAINER PERMITS

- A. A Town of Upper Marlboro roll-off container permit shall not be required whenever a roll-off container (dumpster, portable storage unit, or other container) is placed on private commercial, industrial or residential property for less than fifteen (15) calendar days.
- B. Any roll-off container unit placed on Town property or Town right-of-way or any Town street shall require a permit prior to being placed. The permittee accepts all responsibility for any damage caused by placement of the container.
- C. If a roll-off container is to remain on the property for over fifteen (15) days, the owner must submit a Roll-Off Container permit application in a timely manner to the Town for review by the Board of Town Commissioners. If the permit is denied by the Board of Town Commissioners, the roll-off container [~~will need to~~] shall be removed immediately after fifteen (15) calendar days of being placed on the property.
- D. The property owner shall make the best attempt to have the unit sited on asphalt, concrete, gravel, or hard paved surface. The roll-off container cannot encroach on neighboring property or on Town property or on Town right-of-way, sidewalk or street without the prior approval of the Board of Town Commissioners and/or the neighboring property owner.
- E. The roll-off container unit may not be used as a transfer station to which building or construction debris, other materials or waste is brought from another site and deposited into the roll-off container unit sited on a property situated in the Town of Upper Marlboro.
- F. All roll-off units shall be in good condition, free of rust, peeling paint or other visible forms of deterioration.
- G. When a Town permit is issued after fifteen (15) days of the container being placed on the property, said permit shall be conspicuously visible from the street. Failure to obtain a permit after fifteen days shall result in a daily fine until the container is removed or a permit is obtained.

7. RIGHT OF APPEAL

- A. Any person or persons, firm or corporation aggrieved by a decision of the Code Enforcement Official or other designated representative authorized to enforce this Ordinance shall have a right of appeal to the Board of Town Commissioners.
- B. Any person affected by any notice of violation which has been issued in connection with the enforcement of any provision of this Ordinance may request and shall be granted a hearing on the matter by the Board of Town Commissioners, provided such person shall, within fifteen (15) calendar days after service of a notice of violation, files with the Board of Town Commissioners, a signed written notice of appeal, requesting a hearing and setting forth a brief statement of the reasons therefore. Upon receipt of such notice of appeal, the Board of Town Commissioners shall set a time and place for such hearing and shall decide appeals as promptly as practicable.
- C. The Board of Town Commissioners, with a quorum present, shall hear appeals. After such hearing, the Board of Town Commissioners may, by a majority of members present, affirm,

amend, modify or withdraw the notice of violation that has been appealed. Any person who shall fail, refuse or neglect to comply with the decision of the Board of Town Commissioners shall be guilty of violating the provisions of this Ordinance.

D. In the event a person wishes to contest the decision of the Board of Town Commissioners, he or she may notify the Town of his or her intent with ten (10) days after the rendering of the decision by the Board of Town Commissioners. In that event, the Town shall issue a municipal infraction citation to the aggrieved person who may request a hearing in the District Court of Maryland pursuant to the Municipal Infraction procedure found in Title 6 of the Local Government Article of Md. Ann. Code. The decision of the Board of Town Commissioners in such a case shall be stayed, pending a decision by the District Court.

E. To the extent of this Section of the Ordinance, all violations of this Ordinance will be considered municipal infractions of the Town.

8. RULES AND REGULATIONS

The Board of Town Commissioners may pass such rules and regulations from time to time as are consistent with the purpose, intent and enforcement of this Ordinance.

9. VIOLATIONS & ENFORCMENT

Violation of any provision of this Ordinance shall be subject to a fine and/or penalty, as laid out in this Ordinance. Failure to pay a fee(s), a fine(s), will result in the amount of any fine(s) incurred being recorded as a lien against the property and collected in the same manner as delinquent taxes after sixty calendar days (60) of issuance. It shall be the duty and responsibility of the Town to enforce the provisions of this Ordinance as herein provided.

10. SEPARABILITY

Should any part of this Ordinance be held invalid, the Board of Town Commissioners declares that it would have adopted all other provisions notwithstanding such illegality of a part and all remaining parts shall remain in effect.

11. FINES

A. Failure to obtain a Town Roll-Off container permit after fifteen (15) calendar days:

-\$25.00 per day the property remains in violation until container removal or permitted.

B. Failure to comply with a Town Issued “Stop Work Order”:

-\$150.00 per day construction continues.

AND BE IT FURTHER ENACTED AND ORDAINED by the Board of Commissioners of the Town of Upper Marlboro, Maryland that said Board may set the fines, penalties, and fees associated with violating this Ordinance from time to time by resolution.

AND BE IT FURTHER ORDAINED AND ENACTED, by the Board of Commissioners of the Town of Upper Marlboro, Maryland that any prior ordinances adopting and enacting any provision of this Ordinance or any other ordinance or resolution previously adopted pertaining to a subject or subjects embodied by the title of this Ordinance or the provisions found in conflict herein shall be deemed repealed and superseded by the provisions of this Ordinance, and should a

previously enacted ordinance cover a provision or subject that is not covered by this Ordinance, it shall remain in full force and effect unless it directly conflicts with the express language of this Ordinance.

AND BE IT FURTHER ORDAINED AND ENACTED, by the Board of Commissioners of the Town of Upper Marlboro, Maryland that this Ordinance shall become effective at the expiration of twenty (20) calendar days following approval by the Board of Commissioners.

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

Adopted this _____ day of _____, 2017.

THE TOWN OF UPPER MARLBORO,
BOARD OF COMMISSIONERS

Nancy C. Clagett, Commissioner

Linda Pennoyer, Commissioner

Attest:

Clerk

James Storey, President

Ordinance 2017-01 Schedule:

Introduction (informal)-	Tuesday February 14, 2017 (Town Meeting)
Resident Requested Input Due-	Monday February 27, 2017 by 12pm
Board Discussion/First Reading-	Tuesday February 28, 2017 (Board Worksession)
Second Reading/Approval/Board Vote-	Tuesday March 14, 2017 (Town Meeting)