

Town of Upper Marlboro

14211 School Lane • Upper Marlboro, Maryland 20772

**BOARD OF COMMISSIONERS
FOR THE
THE TOWN OF UPPER MARLBORO
3RD DRAFT**

ORDINANCE: 2017-03
SESSION: Town Work Session
INTRODUCED: August 8, 2017

AN ORDINANCE OF THE TOWN OF UPPER MARLBORO TO BE ENTITLED “COMMERCIAL PROPERTY STANDARDS ORDINANCE” AUTHORIZING THE TOWN TO ENFORCE CERTAIN STANDARDS PERTAINING TO THE UPKEEP AND MAINTENANCE OF COMMERCIAL PROPERTIES; THEREBY PROVIDING NEW SECTIONS OF TOWN LAW REGARDING THE ORDINANCE’S PURPOSE, AUTHORITY, DECLARATION OF INTEREST AND APPLICABILITY OF COUNTY LAW; STATING THE POWERS, DUTIES, & FUNCTIONS OF CERTAIN TOWN OFFICIALS; ADOPTING CERTAIN CODES BY REFERENCE; DEFINING CERTAIN TERMS; PROVIDING FOR CERTAIN PENALTIES AND LIENS FOR VIOLATIONS; PROVIDING A PROCESS TO PURSUE A RIGHT OF APPEAL OR WAIVER; 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 PROPERTY STANDARDS AND ABATING NUISANCES.

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) (u) (Filth) of the Charter the Board shall have the power to compel the occupant of any premises, building or outhouse situated in the Town, when the same has become filthy or unwholesome, to abate or cleanse the condition; and after reasonable notice to the owners or occupants to authorize such work to be done by the proper officers and to assess the expense thereof against such property, making it collectible by taxes or against the occupant or occupants; and

WHEREAS, pursuant to § 82-16(2) (nn) (Nuisances) of the Charter the Board shall have the power to prevent or abate by appropriate ordinance all nuisances in the Town whether the same within said Charter are therein specifically named or not; to regulate, to prohibit, to control the location of, or to require the removal from the Town of all trading in, handling of, or manufacture of any commodity which is or may become offensive, obnoxious, or injurious to the public comfort or health; and

WHEREAS, pursuant to § 82-16(2) (aa) (Garbage) of the Charter the Board shall have the power to prevent the deposit of any unwholesome substance either on private or public property, and to compel its removal to designated points; to require slops, garbage, ashes and other waste or other unwholesome materials to be removed to designated points, or to require the occupants of the premises to place them conveniently for removal; 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 § 82-18 (Enforcement) of the Charter to ensure the observance of the ordinances of the Town, the Board shall have the power to provide that violation thereof shall be a misdemeanor or municipal infraction, punishable as provided in Sec. 82–88 thereof; 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; and

WHEREAS, on June 14, 1988, the Board of Commissioners enacted Ordinance 88-1 concerning litter and weeds for the purpose of establishing provisions as to what constitutes an unsightly accumulation of litter and weeds, regulating the method of elimination of said litter and weeds, providing for payment of said elimination, and prescribing penalties for the violation of its provisions; and

WHEREAS, on April 9, 2002, the Board of Commissioners enacted Ordinance 02-5 (amended by Ordinance 08-03) providing for the establishment of certain procedures for residential (and commercial) refuse, trash and garbage removal and penalties for violations of these procedures; and

WHEREAS, the Town has made concerted efforts over the last two (2) years to persuade County officials to physically inspect and enforce their codes, which has been relatively unsuccessful; thereby, resulting in an undesirable, unattractive, and at times unhealthy environment in the Town due to the improper displacement of trash in containers among other code violations; and

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WHEREAS, the Board of Commissioners finds that the Town exists in a relative vacuum devoid of meaningful code enforcement despite the Town’s Sustainable Community’s and façade improvement programs in effect for over three (3) years, and that the adoption of this Commercial Property Standards Ordinance will make an improved and concerted effort to promote the health, safety and welfare of its citizens while minimizing a “bureaucracy of enforcement” that would otherwise result in onerous standards on property owners and businesses; and

WHEREAS, pursuant to § 82-11 (Ordinances) of the Town Charter, no ordinance shall be passed at the meeting at which it is introduced, and at any regular or special meeting of the Board of Commissioners held not less than six nor more than sixty days after the meeting at which an ordinance was introduced, it shall be passed, or passed as amended, or rejected, or its consideration deferred to some specified future date.

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

Commercial Property Standards Ordinance

SECTION 1: PURPOSE AND AUTHORITY

SECTION 2: APPLICABILITY OF THE ORDINANCE

SECTION 3: DECLARATION OF LEGISLATIVE INTEREST

SECTION 4: PRINCE GEORGE’S COUNTY ZONING ORDINANCE AND REGULATORY AGENCIES

SECTION 5: ADOPTION OF STANDARDS BY REFERENCE; SCOPE; CONFLICT OF PROVISIONS

SECTION 6: DEFINITIONS

SECTION 7: VIOLATIONS

SECTION 8: RENTAL PROPERTIES

SECTION 9: DUMPSTERS, SPECIALIZED TRASH AND GARBAGE RECEPTACLES

SECTION 10: ENFORCEMENT AND WAIVERS

SECTION 11: NOTICE OF VIOLATIONS; PENALTIES FOR VIOLATIONS; ABATEMENT AND SERVICE OF NOTICE

SECTION 12: REPEAT VIOLATIONS

[SECTION 13: VACANT COMMERCIAL PROPERTIES]

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SECTION [14]13: SNOW REMOVAL FROM SIDEWALKS

SECTION [15]14: RIGHT TO APPEAL

SECTION [16]15: INTERPRETATION [~~AND WAIVER~~]

SECTION [17]16: RULES AND REGULATIONS

SECTION [18]17: SEPARABILITY

SECTION [19]18: FINE SCHEDULE

SECTION 1. PURPOSE AND AUTHORITY

A. Purpose - The purpose of this Ordinance is designed to promote the economic well-being of the Town and to protect the health, safety, and welfare of Town residents, and individuals employed in or visitors to the Town from excessive accumulation of garbage, litter, refuse, rubbish and weeds on any improved or unimproved real property in the commercial [~~or industrial~~] zone as defined in the Prince George's County Zoning Ordinance or on any improved or unimproved real property assessed or taxed as commercial [~~or industrial~~] property; require owners of same to maintain the appearance, upkeep and good repair of structures on said property and the equipment on the structures and surrounding grounds; require owners to maintain the appearance, upkeep and good repair of surrounding grounds, parking lots, compactor, commercial garbage or refuse container or dumpster and garbage, refuse or recycling areas, enclosed or screened [~~or not~~], including the aprons, curb, gutter and sidewalk in the State, County or Town right-of-way, and the line striping of directional arrows, handicap parking stalls, parking stalls and painting of curbs on-site; and require owners to keep property free of abandoned, junked, wrecked, untagged or unlicensed motor vehicles.

B. Authority – The authority to provide for the protection of the health, safety, comfort, convenience, or welfare of the residents of and visitors to the Town is generally provided for in Section 82-16– General Powers of the Town Charter.

SECTION 2. APPLICABILITY OF THE ORDINANCE

The provisions herein shall apply to any improved or unimproved real property in the commercial [~~or industrial~~] zones located in corporate limits as defined in the Prince George's County Zoning Ordinance or to any improved or unimproved real property assessed or taxed as commercial [~~or industrial~~] property located within the corporate limits of the Town of Upper Marlboro including the abutting State, County or Town right-of-way.

SECTION 3. DECLARATION OF LEGISLATIVE INTEREST

The Board of Commissioners finds and determines that excessive accumulation of garbage, litter, refuse, rubbish and weeds on any improved or unimproved real property in the commercial [~~or~~

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~~industrial~~] zone as defined in the Prince George’s County Zoning Ordinance or any improved or unimproved real property assessed or taxed as commercial or industrial property; or failure to maintain the appearance, upkeep and good repair of structures on said property and the equipment on the structures and surrounding grounds; or failure to maintain the appearance, upkeep and good repair of surrounding grounds of said property, parking lots, compactors, commercial garbage or refuse containers or dumpsters and garbage, refuse or recycling areas, enclosed or screened or not, including the apron, curb, gutter and sidewalk in the State, County, or Town right-of-way and the on-site aprons, curbs, gutters, sidewalks, parking lots, storm water infrastructure, line striping of directional arrows, handicap parking stalls, parking stalls and painting of curbs; or failure to keep the property free of abandoned, junked, wrecked, untagged or unlicensed motor vehicles readily threatens or endangers the health, safety, comfort, convenience or welfare of the residents of and visitors to the Town and is hereby prohibited and declared to be a public nuisance subject to the penalties and procedures hereinafter prescribed.

SECTION 4. PRINCE GEORGE’S COUNTY ZONING ORDINANCE AND REGULATORY AGENCIES

A. All applicable provisions of the Prince George’s County Zoning Ordinance shall be taken into consideration when enforcing this Ordinance. The commercial zones in the Town of Upper Marlboro are C-O (Commercial Office), C-S-C (Commercial Shopping Center), and C-M (COMMERCIAL MISCELLANEOUS) [~~DDO (District Development Overlay)~~]. [~~The industrial zone in Town of Upper Marlboro is I-1 (Light Industrial) and the mixed use zone is M-X-T (Mixed Use Transportation Oriented).~~]

B. The uses permitted in the Commercial Zones are listed in the Uses Permitted Tables of Part 6, Section 27-461 of the Zoning Ordinance[; ~~for the Industrial Zones in the Uses Permitted Table of Part 7, Section 27-473; and for the Mixed Use for the Mixed Use—Transportation Oriented Zone in the Uses Permitted Table of Part 10, Section 27-547~~].

C. The rules and regulations of State or County agencies such as the Maryland State Department of the Environment AND THE PRINCE GEORGE’S COUNTY GOVERNMENT shall be taken into consideration when enforcing this Ordinance.

SECTION 5. ADOPTION OF STANDARDS BY REFERENCE; SCOPE; CONFLICT OF PROVISIONS

A. 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 the Maryland Rehabilitation Code, as amended from time to time, and as adopted by the State of Maryland, and other related codes INCLUDING THE PROVISIONS OF DIVISION 7 (PROPERTY STANDARDS AND

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MAINTENANCE) OF SUBTITLE 13 OF THE PRINCE GEORGE'S COUNTY CODE together with the changes, deletions, or modifications prescribed in said codes as amended from time to time, shall ~~[be the Official Building Codes]~~ BE AND WILL REMAIN EFFECTIVE WITHIN ~~[of]~~ the Town of Upper Marlboro.

B. THIS ORDINANCE ESTABLISHES THE MINIMUM STANDARDS AND REQUIREMENTS FOR COMMERCIAL PROPERTY MAINTENANCE WITHIN THE TOWN BUT DOES NOT REPLACE OR MODIFY REQUIREMENTS OTHERWISE ESTABLISHED FOR THE INITIAL CONSTRUCTION, REPAIR, ALTERATION, MAINTENANCE OR USE OF BUILDINGS, EQUIPMENT, OR FACILITIES, EXCEPT AS PROVIDED IN THIS ORDINANCE. NOTHING HEREIN SHALL BE CONSTRUED TO PREVENT THE JURISDICTION, APPLICABILITY OR ENFORCEMENT OF THE COUNTY'S ORDINANCES BY COUNTY OFFICIALS REGARDING PROPERTY MAINTENANCE OR NUISANCES WITHIN THE CORPORATE LIMITS OF THE TOWN.

C. IN ANY CASE WHERE A PROVISION OR DEFINITION OF THIS ORDINANCE IS FOUND TO BE IN CONFLICT WITH AN APPLICABLE PROVISION OF ANY BUILDING, FIRE, MECHANICAL, ELECTRICAL, ZONING, SAFETY OR HEALTH ORDINANCE OR CODE EXISTING ON THE EFFECTIVE DATE OF THIS ORDINANCE, THE PROVISION THAT ESTABLISHES THE HIGHER STANDARD FOR THE PROMOTION AND PROTECTION OF THE HEALTH AND SAFETY OF THE PEOPLE SHALL PREVAIL. IN ANY CASE WHERE A PROVISION OR DEFINITION OF THIS ORDINANCE IS FOUND TO BE IN CONFLICT WITH A PROVISION OR DEFINITION OF ANY OTHER COUNTY OR TOWN ORDINANCE OR CODE EXISTING ON THE EFFECTIVE DATE OF THIS ORDINANCE THAT ESTABLISHES A LOWER STANDARD FOR THE PROMOTION AND PROTECTION OF THE HEALTH AND SAFETY OF THE PEOPLE, THE PROVISIONS OR DEFINITIONS OF THIS ORDINANCE SHALL BE DEEMED TO PREVAIL.

SECTION 6. DEFINITIONS

In this Ordinance, the following words have the meanings indicated. Where terms are not defined, HEREIN OR IN ANY OTHER APPLICABLE TOWN ORDINANCES, they shall have their ordinarily accepted meanings such as the context may imply. Words used in the present tense include the future; words used in the masculine gender include feminine and neuter; and the singular includes the plural and the plural the singular.

A. Abandoned, Junked or Wrecked Motor Vehicles means any motor vehicle or not-over-the-road construction, grass cutting or like equipment, which is without current license tags; required registration documents, inoperable; dismantled; or wrecked.

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B. Accessory Structure means a building or structure, the use of which is incidental to that of the main building, which is located on the property and under control of the owners or operators of such premises.

C. Agent means a person authorized on behalf of the landlord/owner to make, contract for, and authorize repairs to a property; receive and comply with orders, notices and requests of the Town; and accept all communications, notices, orders and all types of service of process, including but not limited to municipal violations and infraction citations relating to the property. The agent may be, but need not be, the operator of the property.

D. Appurtenance or Appurtenant Structure means all exterior decorative, aesthetic or other devices such as, but not limited to, cupolas, flower boxes, signage, that are attached to walls or railings, other parts of the structure, and exterior of the structure, which shall be maintained in a safe and weather-resistant condition. ~~[All dumpsters shall be enclosed in accordance to Prince Georges Code Landscaping Manuel.]~~

E. Board of ~~[Town]~~ Commissioners means the sitting Board of ~~[Town]~~ Commissioners for Town of Upper Marlboro.

F. Dumpster means ~~[any receptacle larger than a normal trash can utilized for collecting of trash or recyclable materials from single family residential properties]~~ ANY CONTAINER, RECEPTACLE, COMPACTOR UNIT, TRAILER, ROLL-OFF, OR SIMILAR UNIT WITH OR WITHOUT WHEELS THAT IS USED FOR TEMPORARY STORAGE, CONTAINMENT, OR TRANSPORT OF REFUSE, DEBRIS, TRASH, GARBAGE, FOOD WASTE, SOLID WASTE, RECYCLABLE MATERIAL, OR OTHER DISCARDED OR LIKE MATERIALS.

~~[E.]~~ G. Extermination means the control and elimination of insects, rats or other pests by eliminating their harborage places: by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, and trapping; or by any other approved elimination methods.

~~[E.]~~ H. Exterior Property Areas means all areas on unimproved real property or external to principal structure on improved real property including State, COUNTY or Town right-of-way and adjacent street curb, gutter and sidewalk. This definition specifically ~~[excludes]~~ INCLUDES any trees along or in the State, COUNTY or Town right-of-way ~~[unless the property owner planted the trees]~~.

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I. Garbage means animal or human feces or animal, mineral or vegetable waste resulting from the cooking, handling, preparing and serving of foods OR AS OTHERWISE DEFINED IN ORDINANCES 88-1 AND 02-5.

J. Graffiti means the drawings or inscriptions that have been scratched, painted, rubbed, etched, gouged, cut, engraved, or built on property, buildings or any surface, public or private, usually so as to be seen by the public; which mar, blemish, deface, disfigure, blight (reduce in value), cause deterioration, damage, loss, erosion, mutilation, corrosion, or tarnish to said property, building or surface.

K. Infestation means the presence within, or contiguous to, a structure or premises of insects, rats, vermin or other pests.

L. Litter [~~and/or Rubbish~~] means [~~all combustible and noncombustible waste materials, except garbage; and the term shall include, but not be limited to, appliances and furniture, boxes, building and construction waste, cartons, excelsior, leather, metals, mineral matter, motor vehicle parts, packing material, paper, rags, rubber, yard and lawn clippings and trimmings, dead trees, tree branches and leaves, rubber, the residue from burning of wood, coal, coke, wood and other combustible materials~~] GARBAGE, RUBBISH OR REFUSE, AS DEFINED IN ORDINANCE 88-1 OR ORDINANCE 02-5 which: 1. Creates or tends to create a danger to the public health, safety, welfare or property, to the extent and in the manner that a lot, [~~parcel or~~] tract, [~~of~~] OR PARCEL OF land, is, or may REASONABLY become, infested or inhabited by rodents, vermin or wild animals; or 2. May reasonably cause disease; or 3. Adversely may affect and/or impair the economic welfare or status of adjacent property or the neighborhood; or 4. May reasonably constitute a present or potential fire hazard.

M. Owner means one who has complete dominion over particular property and who is the one in whom legal or equitable title rests, when applied to a building or land. Owner means any part owner, joint tenant in common, tenant by the entireties, or joint tenant, of the whole or part of such building or land.

N. Paved Area means any asphalt, bluestone, brick, brick paver, concrete, gravel or other hard rock or paved surface.

O. Person means any INDIVIDUAL OR ENTITY AS DEFINED IN ORDINANCE 88-1. [~~individual, natural person, legal entity, joint stock company, partnership, voluntary association, society, club, firm, company, corporation, business trust, organization, owner, occupant, or any other group acting as a unit, principal or agent, or the manager, lessor, lessee, agent, servant,~~

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~~partner, member, director, officer or employee of any of them including an executor, administrator, trustee, receiver, or other representative appointed according to law.]~~

P. Premises means a lot, plot or parcel of land including any structures thereon.

Q. Public Nuisance means ANY situation, condition or action whereby an agent, owner, occupant, property manager or tenant creates an environment that is unsafe or threatens the health and welfare of the surrounding area or disturbs the public peace. IN ADDITION TO ANY SPECIFIC PUBLIC NUISANCES AS DECLARED BY THE COMMON LAW OF MARYLAND OR ELSEWHERE IN THIS ORDINANCE, THE CONDITIONS AND VIOLATIONS ENUMERATED IN SECTION 7 OF THIS ORDINANCE ARE HEREBY DECLARED BY THE BOARD OF COMMISSIONERS TO BE PUBLIC NUISANCES PURSUANT TO THE AUTHORITY GRANTED BY SECTION 5-209(C) OF THE LOCAL GOVERNMENT ARTICLE OF MD. ANN. CODE AND SECTION 82-16(B)(NN) OF THE TOWN CHARTER.

R. Board of Commissioners means the sitting Town Board of Commissioners for Town of Upper Marlboro.

S. Weeds mean [~~brush, grass, weeds or any noxious growth. This excludes properly tended trees, ornamental shrubs, plants, flowers, vegetable plants, or undisturbed woodland, not otherwise in violation~~] GRASS, WEEDS, BRUSH, OR ANY NOXIOUS GROWTH, EXCLUDING TREES, ORNAMENTAL SHRUBBERY, PLANTS, FLOWERS, GARDEN VEGETABLES PROPERLY TENDED, CULTIVATED CROPS, OR UNDISTURBED WOODLAND, NOT OTHERWISE IN VIOLATION.

SECTION 7. VIOLATIONS

The following are considered violations of this Ordinance and subject to fines and penalties as set forth in Section [40] 18 of this Ordinance:

A. All exterior property areas shall be maintained in a clean, safe and sanitary condition, free from any accumulation of debris, garbage, litter, refuse or rubbish.

B. All premises and exterior property areas shall be properly maintained in an attractive, presentable appearance free from weeds, OR grass in excess of [~~six (6)~~] TEN (10) inches tall, AND VEGETATIVE GROWTH other than annual or perennial cultivated flowers and plants, bushes, shrubs, garden and yard plantings; and trees, properly maintained by the owner or occupant, shall be allowed to accumulate or grow on any private premises or property in the Town of Upper Marlboro. All noxious and bamboo plants shall be prohibited. No vegetation

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shall be allowed to grow in or into the apron, or sidewalk either on-site or in the State, County or Town right-of-way.

C. All structures, exterior premises, and surrounding grounds or property shall be kept free from rodent harborage and infestation. Where rodents or an infestation of insects, termites, vermin or other pests are found, they shall be promptly exterminated at owner's expense by any approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.

D. All premises and exterior property areas zoned as C-O, C-S-C, [~~D-D-O and M-X-T~~] AND C-M OR RESIDENTIAL PROPERTY PERMITTED TO BE USED FOR A COMMERCIAL PURPOSE as defined in the Prince George's County Zoning Ordinance shall be kept free of abandoned, junked, wrecked, untagged or unlicensed motor vehicles. No owner, lessee or occupant shall permit an abandoned, junked, wrecked, untagged or unlicensed motor vehicle to remain on such property except enclosed in a garage unless the vehicle is actively being inspected at a Maryland State Police authorized vehicle inspection station. [~~All premises and exterior property zoned I-1 shall not permit abandoned, junked, wrecked, untagged or unlicensed motor vehicle unless there are provisions to the contrary in the Prince George's County Zoning Ordinance or a County or State agency regulation.~~]

E. All aprons and sidewalks in the State, County, or Town right-of-way or EASEMENT IMMEDIATELY ABUTTING OR WITHIN PRIVATE PROPERTY shall be kept free of debris, litter, refuse, rubbish, vegetation, snow and ice.

F. All shrubbery located on exterior property areas shall be maintained in such a way so as not to pose a danger or obstruction to adjoining property, persons walking on designated walking areas or obstructs THE line-of-sight OF PASSING VEHICLES OR PEDESTRIANS at street intersections or along streets.

G. All bushes, shrubs, trees and other plantings on the premises or in the [~~State or Town~~] PUBLIC right-of-way shall be maintained [~~in an attractive, presentable appearance~~] AS NECESSARY TO PREVENT THEM FROM BECOMING OVERGROWN, DEAD, DECAYED OR DISEASED, AND TO PREVENT THEM FROM ENCROACHING ON STREETS, SIDEWALKS AND PARKING AREAS TO THE POINT WHERE THEY PREVENT FREE MOVEMENT THEREON OR OTHERWISE CREATE A HAZARD TO PERSONS USING THEM. TREES SHALL BE TRIMMED TO A MINIMUM HEIGHT OF FOURTEEN (14) FEET ABOVE THE STREET AND NINE (9) FEET ABOVE THE SIDEWALK.

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H. Grass areas, yard and other unpaved areas shall not be used for the parking of boats, motor vehicles, trailers or similar items except where permitted in the ~~[Industrial]~~ COMMERCIAL Zone by the Prince George's County Zoning Ordinance. Exempted are vehicle(s) for which a written permit for same shall have been obtained from the ~~[Town Administrator]~~ CHIEF OF POLICE or by action of the Board of Commissioners for a period not to exceed one year and such permit may be renewed only by action of the ~~[Town Administrator]~~ CHIEF OF POLICE or Board of Commissioners.

I. Exterior property areas shall not be utilized for the open storage of bathroom or kitchen fixtures, building construction materials, furniture, motor vehicle parts, or lawn and garden equipment, irrespective of age or condition, except for outdoor lawn furniture or table and chairs for active restaurant facilities, or materials used in construction or renovation projects with County and Town permits or where permitted.

J. The storage of wood and other materials not prescribed by this Ordinance including compost piles shall be accomplished in a manner designed to avoid rodents, termites and other insect infestation. All exterior property areas shall be kept free of debris to prevent infestation by insects, rodents, vermin and other pests. If rodents, termites or insect infestation are found, they shall be promptly exterminated by the property owner by acceptable processes at the owner's expense, which will not be injurious to the health of humans or animals.

K. It shall be the responsibility of any property owner, lessee, agent, or other occupant, who possess animals on any property in the Town of Upper Marlboro to keep said animals in a safe and sanitary condition.

L. All on-site aprons, curbs, gutters, sidewalks, parking lots, parking spaces, stairs, storm water infrastructure, walkways and similar areas shall be kept in a proper state of cleanliness, have a maintained appearance, be in good repair and structurally sound, and maintained free from hazardous conditions. The owner shall maintain the appearance and keep in good repair all on-site line stripping of directional arrows, handicap-parking stalls, parking stalls, painted curbs and signage.

M. All structures and accessory structures shall be kept in a proper state of cleanliness, have a maintained appearance, be in good repair and structurally sound, maintained free from hazardous conditions, OR GRAFFITI and painted, ~~[if]~~ AS appropriate, including all equipment on all structures, accessory structures and surrounding grounds and including, but not limited to, commercial garbage or refuse container or dumpster and garbage, refuse, recycling or rubbish areas, enclosed or screened ~~[or not]~~, compactor, fences, garages, and walls or retaining walls of any type. All commercial garbage or refuse container or dumpster, compactor, and garbage,

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refuse, recycling or rubbish areas are TO ~~[to]~~ be screened from view of adjoining properties or streetS in accordance with ~~[the Prince George's County Landscape Manual]~~ SECTION II.C. OF ORDINANCE 02-5 AND SECTION 9 OF THIS ORDINANCE.

N. No owner shall allow ~~[unattended]~~ UNINHABITED OR VACANT structures or property to become a public nuisance, safety or health hazard or condition to encourage trespassing.

O. All fences, walls, retaining walls and similar structures shall be of the height, size, type and location permitted by applicable Prince George's County Ordinances; be safe; have a maintained appearance; painted, if appropriate; in good repair and condition; and structurally sound[;].

P. All property owners are required to maintain the appearance, upkeep and in good repair all structures and accessory structures on the property and the equipment on the structures and on the surrounding grounds in accordance with the rules and regulations adopted from time to time by the Board of Commissioners and ~~[the]~~ ANY provisions of the ~~[International Code Council International Building Code of America]~~ BUILDING CODE OF PRINCE GEORGE'S COUNTY, as amended from time to time, and the Maryland Building Rehabilitation Code, as amended from time to time.

Q. All aprons and sidewalks in the State, County or Town right-of-way OR EASEMENT IMMEDIATELY ABUTTING OR WITHIN PRIVATE PROPERTY shall have a maintained appearance, be in good repair and structurally sound, and maintained free of hazardous conditions.

R. All premises shall be graded and maintained to prevent erosion of soil and to prevent the accumulation of stagnant water thereon or within any structure located thereon.

S.~~[Owner is required to comply with all provisions, limitations and conditions on uses as permitted in the Prince George's County Zoning Ordinance.]~~

~~[T-]~~ Identification. All premises shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property.

SECTION 8. RENTAL PROPERTIES

In order to ensure all Town residents and occupants, reside in a safe environment, the Town sets the below requirements for all rental properties USED AS DWELLINGS located in commercial zones:

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A. UPON PROVIDING NOTICE FOR ANY VIOLATION PURSUANT TO THIS ORDINANCE, IT SHALL BE THE DUTY OF THE CODE ENFORCEMENT OFFICER TO FURTHER VERIFY AND/OR REPORT THE LACK OF PROPER LICENSURE AS REQUIRED BY THE PRINCE GEORGE'S COUNTY CODE FOR ANY ~~[ALL]~~ RENTAL PROPERTIES USED FOR RESIDENTIAL HABITATION located in Commercially Zoned areas ~~[shall be properly licensed and inspected as required by Prince George's County Code].~~

B. ANY ~~[No]~~ property owner ~~[shall be allowed to]~~ WHO operates a rental unit USED AS A DWELLING ~~[without]~~ THAT FAILS TO COMPLY ~~[compliance]~~ WITH THIS ORDINANCE, SHALL BE REPORTED BY THE CODE ENFORCEMENT OFFICER TO THE COUNTY RENTAL HOUSING ENFORCEMENT OFFICIALS FOR APPROPRIATE REMEDIATION UNDER THE APPLICABLE PROVISIONS OF THE COUNTY CODE.

~~[C. It shall be the responsibility of Property Owners to provide adequate refuse collection services and parking to all tenants renting spaces in Commercially zoned properties within Town.]~~

SECTION 9. DUMPSTERS, SPECIALIZED TRASH AND GARBAGE RECEPTACLES

Specialized trash and garbage receptacles means any receptacle larger than or different from a receptacle utilized for the collection of trash or recyclable materials from a single-family home AS PRESCRIBED BY ORDINANCE 02-5, SECTION II.B(A).

- A. Enclosure required: All dumpsters including specialized/dedicated trash and garbage receptacles (including those that collect grease or other like material) shall be enclosed on all four (4) sides and sitting on a concrete slab OR PLACED IN A MANNER THAT AVOIDS DIRECT CONTACT BY THE CONTAINER WITH THE GROUND AND THE RUN OFF OR SEEPAGE OF LIQUIFIED WASTES INTO THE SOIL. SUCH ENCLOSURES OR SCREENS shall be opaque and the location of the dumpster or other specialized/dedicated trash/garbage receptacle shall not be visible from the exterior of said structure.
- B. Materials: All such ENCLOSURE structures OR SCREENS shall be made of either masonry, EVERGREEN VEGETATION or wood in accordance with the Prince George's County Landscape Manual. The choice of material and color SHALL BE DURABLE, LOW-MAINTENANCE MATERIALS COMPATIBLE WITH THE ARCHITECTURAL CHARACTER AND MATERIALS OF ADJACENT BUILDINGS ~~[be determined by the type of development surrounding the location of the enclosure, as well as the zoning of such properties].~~

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- C. Upkeep: Property owners are responsible for ensuring the dumpster AND enclosure OR SCREEN is in good repair, MAINTAINED, free from the accumulation of litter/debris, is regularly emptied, and properly secured at all times. ALL GARBAGE, AS DEFINED HEREIN AND IN ORDINANCES 88-1 AND 02-5, SHALL BE PLACED IN TRASH BAGS BEFORE BEING PLACED IN THE DUMPSTER OR OTHER SPECIALIZED/DEDICATED TRASH/GARBAGE RECEPTACLE.
- D. Existing dumpsters/dedicated trash/garbage receptacles: All existing dumpsters/ specialized dedicated trash/garbage receptacles shall be enclosed by a structure OR SCREEN as noted above which shall be completed by June 30, 2018. Extensions of this deadline may be granted for good cause by the Board of Town Commissioners. ~~[A site plan amendment may be approved administratively by the Town Code official. The Town Official shall review and approve such amendment which sites the structure in accordance with this Ordinance and the [Unified Land Development] Prince George's County Code.]~~ Appeals from any decision of the Town Code official shall be to the Board of Town Commissioners. ~~[No building permit will be issued, and no structure will be constructed except in conformity with the approved amended site plan.]~~

SECTION 10. ENFORCEMENT AND WAIVERS

A. It shall be the duty and responsibility of a sworn police officer or the appointed Code Enforcement Officer of the Town, to enforce the provisions of this Ordinance as herein provided.

B. The TOWN Board of ~~[Town]~~ Commissioners may waive applicability of this Ordinance to a property on application of the property owner if:

1. Adequate notice is given in a form and manner specified by the Town,
2. The owner is afforded an opportunity to comment on the complaint or matter either in writing or in person,
3. The waiver would not threaten the health or safety of any resident,
4. The strict application of this Ordinance would impose an unnecessary hardship on the owner,
5. The hardship results from conditions that are peculiar to the property, and
6. The hardship is not a self-created hardship.

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**SECTION 11. NOTICE OF VIOLATIONS [AND]; PENALTIES FOR VIOLATIONS;
ABATEMENT AND SERVICE OF NOTICE**

A. Whenever the Code Enforcement Official or designated representative determines that there are reasonable grounds to believe that there has been or is a violation of any provision of this Ordinance or of any rule or regulation adopted pursuant thereto, the Code Enforcement Official or designated representative shall give notice of such alleged violation to the person or persons responsible therefore, as hereinafter provided. Such notice shall:

1. Be in writing to both the property owner and tenant, if applicable;
2. Include a description of the real property sufficient for identification;
3. Include a statement of the reason why it is being issued;
4. Allow time, as set forth in this Ordinance, for the performance of any act it requires; and
5. Said notice shall contain an outline of remedial action, which, if taken, will effect compliance with the provisions of this Ordinance and with any rules and regulations adopted pursuant thereto.

B. In cases where the Code Enforcement Official or designated representative determines there has been a violation of Section 7.A., Section 7 B., Section 7 C., Section 7 D., Section 7.E., or Section 7.F. whereby all exterior areas are not in a clean, safe and sanitary condition, free from any accumulation of debris, garbage, litter or refuse, or rubbish; or grass is more than [~~six (6)~~] TEN (10) inches tall; or premises is not free of rodents or an infestation; or premises is not free of abandoned, junked, wrecked, untagged or unlicensed motor vehicles; or all aprons and sidewalks in the State, County, or Town right-of-way OR EASEMENT are not free of debris, litter, refuse, rubbish, vegetation, snow or ice; or if all shrubbery located on exterior property areas are not maintained in such a way as to not pose a danger or obstruction to adjoining property, persons walking on designated walking areas or obstructs line-of-sight at street intersections or along streets; such notice shall contain the requirement that the violation must be fully corrected within [~~five (5) days~~] TEN (10) DAYS from the date of the notice and that in the event the owner fails to do so within the [~~five (5)~~] TEN (10) day period, a second notice shall be sent advising the owner of the imposition of a charge or fine payable to the Town. In the event that the violation is not fully corrected within [~~five (5)~~] TEN (10) days of the date of the second notice, a third notice shall be sent advising the owner of the imposition of a further charge or fine. Each additional [~~five (5)~~] TEN (10) days thereafter that this violation exists will constitute an additional charge or fine. For each additional prescribed period that the violation is not fully corrected, notice will be issued of the fine amount as due and payable to the Town of Upper

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Marlboro. Fines for failure to take remedial action shall be established in this Ordinance and shall not exceed the amount of one thousand dollars (\$1,000.00) per violation. Failure to pay fine(s) will result in the amount of any fine(s) imposed being recorded as a lien against the property and collected in the same manner as delinquent Town taxes.

C. In cases where the Code Enforcement Official or designated representative determines there has been a violation of Section 7.G. through Section 7.K., such notice shall contain the requirement that the violation must be fully corrected within fifteen (15) days from the date of the notice and that in the event the owner fails to do so within the fifteen (15) day period, a second notice shall be sent advising the owner of the imposition of a charge or fine payable to the Town. In the event the violation is not fully corrected within fifteen (15) days of the date of the second notice, a third notice shall be sent advising the owner of the imposition of a further charge or fine. Each additional fifteen (15) days thereafter that this violation exists will constitute an additional charge or fine. For each additional prescribed period that the violation is not fully corrected, notice will be issued of the charge or fine amount as due and payable to the Town of Upper Marlboro. Fines for failure to take remedial action shall be established from time to time by resolution of the Board of Commissioners and shall not exceed the amount of one thousand dollars (\$1,000.00) per violation. Failure to pay fine(s) will result in the amount of any fine(s) imposed being recorded as a lien against the property and collected in the same manner as delinquent Town taxes.

D. In cases where the Code Enforcement Official or designated representative determines there has been a violation of Sections 7.L. through Section 7.S., such notice shall contain the requirement that the violation must be fully corrected within thirty (30) days from the date of the notice and that in the event the owner fails to do so within the thirty (30) day period, a second notice shall be sent advising the owner of the imposition of a charge or fine payable to the Town. In the event that the violation is not fully corrected within thirty (30) days of the date of the second notice, a third notice shall be sent advising the owner of the imposition of a further charge or fine. Each additional thirty (30) days thereafter that this violation exists will constitute an additional charge or fine. For each additional prescribed period that the violation is not fully corrected, notice will be issued of the charge or fine amount as due and payable to the Town of Upper Marlboro. However, the Code Enforcement Official is authorized to work with the property owner to develop a corrective action plan and compliance time schedule to correct all infrastructure and equipment violations set forth in Sections 7.L. through 7.S. above and beyond the thirty (30) day compliance schedule. Fines for failure to take remedial action shall be established from time to time by resolution of the Board of Commissioners and shall not exceed the amount of one thousand dollars (\$1,000.00) per violation. Failure to pay fine(s) will result in the amount of any fine(s) imposed being recorded as a lien against the property and collected in the same manner as delinquent Town taxes.

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E. Abatement of Original Violation by Town. EXCEPT IN CASES WHERE THE CONDITION POSES AN IMMINENT THREAT TO PUBLIC HEALTH OR SAFETY REQUIRING IMMEDIATE ACTION, ~~[F]~~The Town of Upper Marlboro shall have the right, after ten (10) calendar days of continued violation ~~[and one (1) calendar day of continued violation in the case of violations of Sections 7.A., 7.B., 7.C., 7.D., 7.E., or 7.F.,]~~ to enter onto the premises of the property in violation to abate any violation, the costs of which will be charged to the property owner. Failure to pay these costs within ~~[ten (10)]~~ THIRTY (30) days of the date of the notice will result in the filing of a lien against the property and collected in the same manner as delinquent Town taxes. Repeat violations may be abated in five (5) calendar days and any subsequent repeat violations may be abated immediately. Abatement by the Town does not constitute compliance as defined in Section 11 ~~[10. A.6., Section 10. A. 7., or Section 10. A.8].~~ Action for abatement of Section 7.N. may include the boarding up or razing of building(s) on premises, the costs of which will be charged to the property owner. Failure to pay these costs within ~~[ten (10)]~~ THIRTY (30) days of the date of the notice will result in the filing of a lien against the property and collected in the same manner as delinquent Town taxes.

~~[C.]~~ F. Service of notice that the premises or structure(s) is in violation shall be as follows:

1. By delivery to the owner or agent personally or by leaving the notice at the usual place of business of the owner or office of agent with a person of suitable age and discretion who shall be informed of the intent thereof; or
2. By certified or registered mail addressed to the owner or agent at the address provided to the Town by the owner as required by this Ordinance with postage prepaid thereon with return receipt requested, or if said letter is returned with receipt showing non-delivery, then
3. By posting a copy of the notice in a conspicuous place on the premises affected by such notice.

SECTION 12. REPEAT VIOLATIONS

A. Any violations reoccurring within a twelve (12) month period shall be considered a repeat of the original violation. It shall be the responsibility of any owner or responsible person duly notified under the provisions of this section to fully correct the repeat violation charged within ~~[five (5)]~~ TEN (10) calendar days from the date of the notice for the repeat violation. Any subsequent repeat violation will be cause for immediate fine. ~~[However, the Code Enforcement Official shall have the authority to issue an immediate fine for repeat violations within a twelve (12) month period of Sections 7.A., 7.B., 7.C., 7.D., 7.E. or 7.F.]~~

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B. Upon noncompliance with the violation notice within the time limits imposed in this Section, a second notice shall be issued, in accordance with the notice requirements of this Ordinance, advising the person found in violation of the imposition of a fine payable to the Town of Upper Marlboro. In the event that the violation has not been fully corrected within the period prescribed in the second notice, a third notice shall be issued, in accordance with the notice requirements of this Ordinance, advising the person found in violation of the imposition of a further charge or fine payable to the Town of Upper Marlboro. For each additional prescribed period that the violation is not fully corrected, notice will be issued of the fine amount as due and payable to the Town of Upper Marlboro. Fines for failure to take remedial action shall be established by resolution of the Board of Commissioners and shall not exceed the amount of one thousand dollars (\$1,000.00) per violation. Failure to pay fine(s) will result in the amount of any fine(s) imposed being recorded as a lien against the property and collected in the same manner as delinquent Town taxes.

C. Abatement of subsequent violations. The Town of Upper Marlboro shall have the right, after five (5) calendar days of continued violation~~[, and one (1) calendar day of continued violation of Sections 7.A., 7.B., 7.C., 7.D., 7.E., or 7.F.]~~ to enter onto the premises of the property in violation to abate any violation, the costs of which will be charged to the property owner. Failure to pay these costs within ~~[ten (10)]~~ THIRTY (30) days of the date of the notice will result in the filing of a lien against the property and collected in the same manner as delinquent Town taxes. Repeat violations may be abated in five (5) calendar days and any subsequent repeat violations may be abated immediately. Abatement by the Town does not constitute compliance as defined in Section 11 ~~[10. A.6. or Section 10. A.7. or Section 10. A. 8]~~. Action for abatement of violation of Section 7.N. may include the boarding up or razing of buildings on premises, the costs of which will be charged to the property owner and, if not paid, the filing of a lien against the property and collected the same as delinquent Town taxes.

[13. VACANT COMMERCIAL PROPERTIES

~~It is the responsibility of the property owner to meet all requirements after a business or tenant has vacated their property for over 30 days to ensure all tenant signage, and that the property is secure and in good repair.]~~

SECTION [44] 13. SNOW REMOVAL FROM SIDEWALKS

Snow and ice shall be removed from sidewalks by the owner or occupant within twenty-four (24) hours of the last snowfall.

SECTION [45] 14. RIGHT TO APPEAL

A. Any person affected by any notice of violation may elect to appeal to the Board of Commissioners.

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1. Any person affected by any notice of violation which had 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 Commissioners, provided that such person shall ~~[within ten (10) days]~~ ON OR BEFORE THE EXPIRATION DATE OF THE SUBJECT NOTICE OF VIOLATION AS DEFINED IN SECTIONS 11 AND 12 OF THIS ORDINANCE after service of a notice of violation, file with the Board of Commissioners a signed written notice of appeal, requesting a hearing and setting forth a brief statement of the reasons therefor. Upon receipt of such notice of appeal, the Board of Commissioners shall set a time and place for such hearing and shall determine appeals as promptly as practicable. The Board of ~~[Town]~~ Commissioners, with a quorum present, shall hear appeals, ACCORDING TO ANY RULES OF PROCEDURE THE BOARD MAY PRESCRIBE.

2. 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 Commissioners shall be guilty of violating the provisions of this Ordinance.

3. In the event a person wishes to contest the decision of the Board of Commissioners, he or she may notify the Town of his or her intent within ten (10) days after the rendering of the decision by the Board of 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 CITATION PROCEDURES AS FOUND IN TITLE 6 OF THE LOCAL GOVERNMENT ARTICLE OF THE MD. ANN. CODE. The decision of the Board of Commissioners in such a case shall be stayed, pending a decision by the District Court. To the extent of this Section of the Ordinance, all violations of this Ordinance will be considered municipal infractions of the Town.

B. Failure to pay after adjudication or request of adjudication by the Town will result in the amount of any fine AND COST OF ABATEMENT imposed being recorded as a lien against the property and collected in the same manner as delinquent Town taxes.

SECTION ~~[16]~~ 15. INTERPRETATION ~~[AND WAIVER]~~

The TOWN OF Upper Marlboro Board of ~~[Town]~~ Commissioners shall decide questions of interpretation of this Ordinance. Upon written request, the Board of Commissioners may waive or vary particular provisions of this Ordinance as provided in Section 10. ~~[to the extent that the waiver is not inconsistent with Annotated Code of Maryland if:
-Geographic differences or unique local conditions justify the waiver.]~~

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~~The waiver would not threaten the health or safety of a tenant or occupant.~~

~~The Board cannot grant a waiver that would violate Prince George's County Code of State of Maryland Laws.]~~

SECTION [47] 16. RULES AND REGULATIONS

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

SECTION [48] 17. SEPARABILITY

If any section or part of a section of this Ordinance shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance.

SECTION [49] 18. FINE SCHEDULE

Below is the fine schedule for violations within this Ordinance. Changes to the fine schedule OR ANY OTHER FINES, PENALTIES OR FEES must be made by the Board [via] PURSUANT TO an [Ø]Ordinance amendment OR FORMAL RESOLUTION PROVIDED THAT SAID RESOLUTION SHALL BE POSTED IN THE TOWN OFFICE FOR A PERIOD OF 30 DAYS, AND THE RESOLUTION, OR A FAIR SUMMARY THEREOF, SHALL BE PUBLISHED AT LEAST ONCE, IN A NEWSPAPER OF GENERAL CIRCULATION IN THE TOWN.

	Violations	1st Offense	2nd Offense	3rd Offense
1	Sec. [44]13, Sec. 7-A, B, C, D, E, F, G, H	\$50.00	\$75.00	\$100.00
2	Sec. 7-I, J, K, L, M. N. O. P, Q, R, S, T	\$100.00	\$150.00	\$200.00
3	[Sec. 8], Sec. 9[, Sec. 13]	\$150.00	\$200.00	\$250.00
If a violation is not specifically listed above, it falls under Violation Fine Type #1.				

~~[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~~

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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 2017-03 Schedule:

Introduction-	August 8, 2017 (Town Meeting)
Resident Requested Input Due-	August 21, 2017 by 12:00 p.m.
Board Discussion-	August 22, 2017 (Board Work Session)
Public Hearing-	August 31, 2017 (Special Meeting)
Second Reading/	September 26, 2017 /or TBD (Board Work Session)

**Above schedule subject to change by Board, check online or contact Town Hall for updates.*

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