

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

ORDINANCE: 2023-10

SESSION: Regular Town Meeting

INTRODUCED: August 22<sup>nd</sup>, 2023

APPROVED:

**AN ORDINANCE OF THE TOWN OF UPPER MARLBORO TO BE ENTITLED “THE PROPERTY STANDARDS ORDINANCE” THEREBY REPLACING AND REPEALING ORDINANCE 2016-03 (RESIDENTIAL PROPERTY STANDARDS) AND ORDINANCE 2017-03 (COMMERCIAL PROPERTY STANDARDS) PROVIDING NEW OR REVISED SECTIONS REGARDING THE ORDINANCE’S PURPOSE AND AUTHORITY; APPLICABILITY AND SCOPE; AUTHORIZING THE OFFICE AND DUTIES OF CODE ENFORCEMENT OFFICER; PROVIDING FOR CERTAIN DEFINITIONS; ESTABLISHING AND DESCRIBING CERTAIN PROPERTY CONDITIONS OR CIRCUMSTANCES TO BE VIOLATIONS OF THE ORDINANCE; PROVIDING FOR A SYSTEM OF NOTICES OF VIOLATION OF STANDARDS AND PENALTIES FOR SUCH VIOLATIONS AND REPEAT VIOLATIONS; PROVIDING A PENALTY FOR FAILURE TO REGISTER WITH THE STATE CERTAIN FORECLOSED PROPERTIES; PROVIDING FOR THE ABATEMENT OF CERTAIN VIOLATIONS RELATING TO REAL PROPERTY BY THE TOWN; ESTABLISHING A TIMEFRAME FOR NOTICES OF STANDARDS AND PENALTIES FOR THE VIOLATION THEREOF; DESCRIBING THE TREATMENT OF RENTAL PROPERTIES; AUTHORIZING THE TOWN TO ENFORCE CERTAIN STANDARDS PERTAINING TO THE UPKEEP AND MAINTENANCE OF COMMERCIAL PROPERTIES; DESCRIBING THE POWERS DUTIES AND FUNCTIONS OF CERTAIN TOWN OFFICIALS; ADOPTING CERTAIN CODES BY REFERENCE; DEFINING CERTAIN TERMS; PROVIDING FOR THE PROMULGATION OF RULES AND REGULATIONS; AND ESTABLISHING CERTAIN FINES, FEES & PROMULGATION OF FINE AND FEE SCHEDULES TO BE MODIFIED BY RESOLUTION; AND OTHER RELATED PROVISIONS; AND GENERALLY RELATING TO RESIDENTIAL AND COMMERCIAL PROPERTY MAINTENANCE.**

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

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**WHEREAS**, pursuant § 82-16(2)(hh)(Specific Powers; Liens) the Board of Commissioners 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 § 82-16(2)(nn) (Specific Powers; Nuisances) of the Town Charter, the Board is further empowered to prevent or abate by appropriate ordinances all nuisances in the Town whether the same be therein specifically named or not; and

**WHEREAS**, pursuant to §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 § 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**, the Board of Town Commissioners for the Town of Upper Marlboro approved a Residential Property Standards Ordinance 2016-03 on October 11<sup>th</sup>, 2016, along with a Commercial Property Standards Ordinance 2017-03, unanimously approved on October 10<sup>th</sup>, 2017; and

**WHEREAS**, the Board of Commissioners finds it to be in the best interest of the Town to adopt the current Prince George’s County Codes as the Town’s own codes regarding real property construction, maintenance, building and housing standards as much as practicable, and to adopt said provisions in a codified form as shown below in anticipation of the codification of all permanent ordinances of the Town; and

**WHEREAS**, the Board of Commissioners further finds it to be in the best interest of the Town to utilize the manuscript of the Town’s codified ordinances, including the various sections enumerated therein, as prepared by Mr. Roger D. Merriam of Civic Plus/Municode as contained in a file named “Upper Marlboro Word Proofs 04-27-2023.pdf,” evidencing the law of the Town as the basic text of this ordinance, which is to be readopted and amended below according the legend indicated in the footer of each page of this ordinance.

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

## **Chapter 6**

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**BUILDINGS, ~~AND BUILDING REGULATIONS~~ AND HOUSING AND PROPERTY STANDARDS.**

**ARTICLE I. IN GENERAL**

**ARTICLE II. BUILDING AND PERMITTING**

**Sec. 6-19. Scope.**

This article applies to all residential and commercial properties within the corporate boundaries of the town. (Ord. No. 2017-01, § 1, 3-14-2017)

**Sec. 6-20. Town code enforcement.**

(a) The administration and enforcement of the provisions of this article are 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 article, including the assessing of fines and penalties for violations of the provisions of the article.

(Ord. No. 2017-01, § 2, 3-14-2017)

**Sec. 6-21. Powers, duties, and functions.**

The code enforcement official or designated representative shall have the following powers, duties and functions:

- (1) 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 ensure strict adherence to the approved plans and specifications.
- (2) In the event of violation, deviation, or irregularity, the code enforcement official or designated representative shall:
  - a. Notify and consult with the board of commissioners;
  - b. Advise the property owner and/or contractor of the infraction and specify the time by which said infraction shall be corrected;
  - c. Issue a stop work order should the infraction not be corrected promptly;
  - d. Remove a stop work order when reason for said stop work order has been corrected.
- (3) 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.

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- (4) 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. (Ord. No. 2017-01, § 3, 3-14-2017)

**Sec. 6-22. Building code.**<sup>1</sup>

The building code of the town shall be the current building code of the county, as amended from time to time. ~~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, as amended from time to time, Such code~~ shall apply to all buildings being constructed in the town. (Ord. No. 2017-01, § 4, 3-14-2017)

**Sec. 6-23. Building permits.**

(a) A county building permit is required for all construction within the corporate limits of the town when required by the county code.

(b) For the purposes of this article, 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.

(Ord. No. 2017-01, § 5, 3-14-2017)

**Sec. 6-24. Roll-off container permits.**

(a) A town 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 15 calendar days.

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<sup>1</sup> Legal or Editorial Change: Ord. No. 2017-1. Building Code. Changed to reference only the Prince George's County reference.

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(b) Any roll-off container unit placed on town property or any town right-of-way or 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 any roll-off container is found to remain on the property for over 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 commissioners. If the permit is denied by the board of commissioners, the roll-off container shall be removed immediately after 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 a town right-of-way, sidewalk or street without the prior approval of the board of 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.

(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 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 15 days shall result in a daily fine until the container is removed or a permit is obtained.

(Ord. No. 2017-01, § 6, 3-14-2017)

**Sec. 6-25. ~~Right of appeal.~~ RESERVED**

~~(a) Any person, firm or corporation aggrieved by a decision of the code enforcement official or other designated representative authorized to enforce this article shall have a right of appeal to the board of commissioners.~~

~~(b) Any person affected by any notice of violation which has been issued in connection with the enforcement of any provision of this article may request and shall be granted a hearing on the matter by the board of commissioners, provided such person shall, within 15 calendar days 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 decide appeals as promptly as practicable.~~

~~(c) The board of commissioners, with a quorum present, shall hear appeals. After such hearing, the board of 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 article.~~

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~~(d) In the event a person wishes to contest the decision of the board of commissioners, such person may notify the town of said person's intent within ten 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 the state pursuant to the municipal infraction procedure found in Ann. Code of Md., Local Government article, § 6-101 et seq. The decision of the board of commissioners in such a case shall be stayed, pending a decision by the district court.~~

~~(e) To the extent of this section, all violations of this article will be considered municipal infractions of the town.~~

(Ord. No. 2017-01, § 7, 3-14-2017)

### **Sec. 6-26. Rules and regulations.**

The board of commissioners may pass such rules and regulations from time to time as are consistent with the purpose, intent and enforcement of this article.

(Ord. No. 2017-01, § 8, 3-14-2017)

### **Sec. 6-27. Violations and enforcement.**

- (A) Violation of any provision of this article shall be subject to a fine and/or penalty, as laid out in this article.
- (B) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION AND SECTION 6-28, VIOLATIONS OF THIS CHAPTER AND ANY TOWN BUILDING PERMIT ISSUED UNDER THIS CHAPTER ARE DECLARED TO BE MUNICIPAL INFRACTIONS, THE FINE FOR WHICH SHALL BE TWO HUNDRED FIFTY DOLLARS (\$250) FOR EACH OFFENSE.
- (C) EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE AND REPEAT OFFENSE.
- (D) UNLAWFUL CONTINUANCE OF WORK IN VIOLATION OF A STOP WORK ORDER ISSUED PURSUANT TO THIS ARTICLE SHALL BE SUBJECT TO A FINE OF ONE HUNDRED FIFTY (\$150). THE FINE FOR FAILURE TO COMPLY WITH A TOWN-ISSUED STOP WORK ORDER SHALL BE \$150.00 PER DAY CONSTRUCTION OR THE VIOLATION CONTINUES.
- (E) IN ADDITION TO THE PENALTIES SPECIFIED IN SUBSECTIONS (A) AND (B) OF THIS SECTION, THE TOWN MAY ENFORCE THE PROVISIONS OF THIS CHAPTER, AND ABATE VIOLATIONS OF THIS CHAPTER AND ANY PERMIT OR STOP WORK ORDER, BY JUDICIAL PROCEEDINGS FOR INJUNCTION OR OTHER APPROPRIATE CIVIL RELIEF.
- (F) Failure to pay a fee or a fine will result in the amount of any fines incurred being recorded as a lien against the property and collected in the same manner as delinquent taxes after 60 calendar days of issuance.

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(G) It shall be the duty and responsibility of the town to enforce the provisions of this article as herein provided.

(Ord. No. 2017-01, § 9, 3-14-2017)

**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.~~

~~(Ord. No. 2017-01, § 10, 3-14-2017)~~

**Sec. 6-28. ROLL-OFF CONTAINER Fines.**

~~(a) The fine for failure to obtain a town roll-off container permit after 15 calendar days shall be \$25.00 per day the property remains in violation until container removal or issuance of a permit.~~

~~(b) The fine for failure to comply with a town issued stop work order shall be \$150.00 per day construction continues.~~

(Ord. No. 2017-01, § 11, 3-14-2017)

**Sec. 6-29. Use of resolutions for fines, penalties and fees.**

The board of commissioners of the town may set the fines, penalties, and fees associated with violating this article from time to time by resolution.

(Ord. No. 2017-01, 3-14-2017)

**Secs. 6-30--6-47. Reserved.**

**ARTICLE III. RESIDENTIAL EXTERIOR PROPERTY STANDARDS**

**Sec. 6-47. Definitions.<sup>2</sup>**

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.~~

~~Abandoned, junked, wrecked, or non-road worthy motor vehicle means any motor vehicle which is unregistered, improperly registered, or which is without current state license tags unless:~~

- ~~(1) The state expressly exempts such vehicles from registration requirements;~~

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<sup>2</sup>Legal or Editorial Change: Ord. No. 2016-03, Residential Exterior Property Standards Ordinance, § 3. Definitions. In the definition of foreclosed property registry, corrected title of state official and state law reference. See Ann. Code of Md., Real Property article, § 7105.2(a)(2).

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- (2) ~~It bears the license tags of another vehicle;~~
- (3) ~~It is disabled or inoperable;~~
- (4) ~~It is dismantled or partially dismantled;~~
- (5) ~~It is substantially damaged or in disrepair; or~~
- (6) ~~It is unable to pass inspection by the state motor vehicle administration.~~

~~*Accessory structure* means a building or structure, retaining wall, wall or fence that is incidental to the main building located on the property.~~

~~*Agent* means any person or company designated by the property owner to act for said property owner.~~

~~*Board of commissioners* means the president and commissioners of the town.~~

~~*Debris, litter, or garbage* means any quantity or combination of: putrescible animal, food and vegetable wastes resulting from the cooking, handling, preparing and serving of foods; combustible and noncombustible waste materials; bulk refuse; electronics or electronic recyclables; hazardous material or waste; household refuse; refuse; trash; and yard waste, excluding organic compost piles, that is thrown, deposited or stored in or on private property or creates a nuisance or a threat to public health, safety and welfare.~~

~~*Exterior property area* means all areas external to improvements on the property or on unimproved property including the town right of way and adjacent street curb and gutter. The term "exterior property area" specifically excludes any trees along the town right of way.~~

~~*Foreclosed property registry* means the foreclosed property registry established by the Maryland Department of Labor, Licensing, and Regulation under the Maryland Annotated Code, Real Property Article, § 14-126.1. state commissioner of financial regulation under Ann. Code of Md., Real Property article, § 7-105.14.~~

~~*Hazard* means a situation, condition or action by a person that creates an environment that is unsafe or threatens public health, safety, or welfare.~~

~~*Paved parking area* means any asphalt, bluestone, bricks, brick pavers, pervious pavers, crushed gravel, poured concrete, other hard rock surface or other masonry-like material completed in a professional manner, rolled to a smooth or level surface and maintained free of loose materials or excessive vegetative growth, situated on the property behind the property line and located and accessed in accordance with the provisions of the county zoning ordinance. *Property owner* means one who has complete dominion over a particular property and in whom legal or equitable title rests, when applied to a building or land. The term "property owner" further means any part owner, joint tenant in common, tenant by the entireties, or joint tenant, of the whole or part of~~

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such building or land. The term "property owner" may also include the owner or possessor of a leasehold interest in real property.

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

~~Registry law means Ann. Code of Md., Real Property article, § 14-126.1 7-105.14.~~

~~Repeat violator means any person that has been noticed for two violations of this article in an 18-month period. Vacant property means a residence that is not occupied on a regular and habitual basis by the property owner or any other person for the usual and customary purposes for which the residence is designed and lawfully permitted. Weeds means brush, plants, or any noxious growth that is injurious to public health, agriculture, recreation, wildlife or property. The term "weeds" excludes properly tended trees, ornamental plants, flowers, vegetable plants, or undisturbed woodland not otherwise in violation of this article.~~

~~(Ord. No. 2016-03, § 5, 10-11-2016)~~

#### **Sec. 6-48. Purpose and authority.**

(a) The purpose of this article is to establish standards for the exterior maintenance of residential properties in the town, and to prevent conditions that threaten public health, safety or welfare of residents of, or visitors to, the town. This article ~~creates~~ RATIFIES the office of code enforcement officer for the enforcement of this article and other ordinances, and also establishes a system of notifications and penalties for violations to enforce the standards and a process to appeal any penalties imposed.

(b) The authority to provide for the general protection of health, safety, comfort, convenience, and welfare of town residents and visitors is provided in section 82-16(1) of the town Charter.

(c) The authority to enact such regulations is provided in section 82-16(vv) of the town Charter.

(d) The authority to impose fees and penalties for violating the regulations is provided in section 82-18 of the town Charter.

(e) The authority to create new offices and appoint officers is provided in section 82-59 of the town Charter. (Ord. No. 2016-03, § 1, 10-11-2016)

#### **Sec. 6-49. Applicability and scope of article.**

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(a)The provisions of this article shall apply to all residentially-zoned real property located within the corporate limits of the town, whether improved or unimproved.

(b) EXCEPT AS PROVIDED OTHERWISE IN SEC. 6-51 PERTAINING TO THE TOWN'S AMENDMENTS TO THE COUNTY HOUSING CODE, ~~The~~ THE county housing code adopting with amendment the International Property Maintenance Code, ~~2000~~ 2018 Edition, as found in subtitle 13 (HOUSING AND PROPERTY STANDARDS), DIVISION 1 (HOUSING CODE) of the county code and all SUBdivisions thereof as PREVIOUSLY enforced by county officials, AND CURRENTLY ENFORCED BY TOWN OFFICIALS, shall remain in full force and effect within the corporate limits of the town; provided, however, that any conflict between this article or any other ordinances of the town, and any provision of subtitles 4 (BUILDING) and 13 (HOUSING AND PROPERTY STANDARDS) of the county code shall be resolved in favor of the provision which establishes the higher standard for the promotion and protection of the health and safety of the people. Unless a provision of county legislation conflicts with a provision of this article, nothing herein shall be construed to prevent the jurisdiction, applicability or enforcement of the county's ordinances regarding property maintenance or nuisances within the corporate limits of the town.

(c)This article shall be construed liberally and justly to ensure ~~the~~ public health, safety and welfare insofar as it pertains to residential property maintenance standards.

(Ord. No. 2016-03, § 2, 10-11-2016)

**Sec. 6-50. Code enforcement officer.**

(a)This article shall be enforced by a sworn police officer or by an appointed code enforcement officer of the town. The office of code enforcement officer is hereby created, ratified and established by this article. The appointment of a code enforcement officer shall be approved by ordinance or written resolution. The code enforcement officer shall be responsible to the ~~president of the town board of commissioners~~ CHIEF OF POLICE OR THEIR DESIGNEE.

(b) A code enforcement officer, appointed by the president, with the approval of the board, shall have the following powers, authorizations, duties, qualifications and functions:

- (1) Subject to the requirements of the board of commissioners, the code enforcement officer shall, ~~in addition to such other duties as may be assigned to said code enforcement officer by the president,~~ enforce such laws and ordinances relating to property, buildings and structures as may be specifically provided.
- (2) The code enforcement officer shall not have any interest whatever, directly or indirectly, in the sale or manufacture of any material, process or device entering into or used in or in connection with property maintenance or building construction within the town.
- (3) The code enforcement officer may be authorized by the board of commissioners to enforce the town's ordinances and may deliver a municipal infraction citation, criminal

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misdemeanor violation summons, charging document or criminal citation to any person alleged to be committing or to have committed a municipal infraction or other violation.

- (4) The code enforcement officer shall examine premises and shall make necessary inspections to see that the provisions of applicable laws or ordinances are complied with and that maintenance or use therein is implemented pursuant to applicable laws. The code enforcement officer shall, when requested by the board or when the interests of the town so require, make investigations in connection with matters referred to within town ordinances and render written reports on the same. For the purpose of enforcing compliance with law, to remove illegal, nuisance or unsafe conditions, to secure the necessary safeguards, or to require adequate facilities in improved properties, the code enforcement officer shall issue notices or orders as may be necessary.
- (5) Unless posted or informed otherwise (i.e., no trespassing), the code enforcement or police officer shall have the right, upon proper identification, to routinely enter upon private property so far as is necessary for the performance of duties. The code enforcement officer's right of entry upon residential property shall be limited to entry for the purposes of obtaining consent from the owner or occupant to conduct an inspection or as otherwise permitted by law.
- (6) The president is hereby authorized and empowered to establish additional regulations and duties for any assigned code enforcement officer provided that said officer shall not be vested with police powers of arrest. Code enforcement officers are not authorized to carry firearms, and they shall not carry firearms while on duty. Said officers shall be assigned such duties as are civilian and administrative in nature that the president, from time to time, may direct, that are not inconsistent with the limitations and responsibilities set forth in town ordinances or state law and, in addition, the code enforcement officer shall be vested with the authority to issue parking citations, criminal citations and citations for municipal infractions as expressly provided for in each applicable provision or section of the town's ordinances.
- (7) The code enforcement officer shall keep careful and comprehensive records of applications, of relevant permits or certificates issued, of inspections made, of reports rendered, and of notices, citations or orders issued.

(c) In the absence or disability of the code enforcement officer, the president, with approval of the board, shall designate, by ordinance or written resolution, a qualified official or subordinate to discharge the duties of the code enforcement officer. Nothing in this section shall be construed to prevent the appointment of an existing town employee ~~and~~ or from having the additional or collateral duties of code enforcement officer. (Ord. No. 2016-03, § 3, 10-11-2016)

**Sec. 6-51. ~~Violations~~ AMENDMENTS TO THE COUNTY HOUSING CODE.**

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- (a) BUILDING OFFICIAL OR CODE OFFICIAL SHALL MEAN THE CODE ENFORCEMENT OFFICER, OR THE BOARD’S DULY AUTHORIZED REPRESENTATIVE;
- (b) CODE SHALL MEAN THE HOUSING CODE;
- (c) MUNICIPALITY OR CITY SHALL MEAN THE TOWN;
- (d) THE CODE ENFORCEMENT OFFICER OR THE BOARD’S DESIGNEE SHALL BE KNOWN AS THE CODE OFFICIAL;
- (e) EVERY PERSON IN VIOLATION OF THE HOUSING CODE SHALL BE GUILTY OF A MUNICIPAL INFRACTION AS PROVIDED IN ARTICLE 1 OF THIS CHAPTER;
- (f) ANY REFERENCE TO “COUNTY” DEPENDING ON THE CONTEXT, SHALL BE CHANGED TO “TOWN;”
- (g) THE OWNER OR OCCUPANT OR DULY AUTHORIZED AGENT MAY NOT APPEAL THE DECISION OF THE CODE OFFICIAL TO ANY OTHER BOARD OR COMMISSION OF THE TOWN BUT MAY CONTEST THE ENFORCEMENT OF THE VIOLATION IN THE DISTRICT COURT OF MARYLAND FOR PRINCE GEORGE’S COUNTY IN ACCORDANCE WITH TITLE 6 OF THE LOCAL GOVERNMENT ARTICLE OF MD. ANN. CODE; AND
- (h) SINCE THE TOWN DOES NOT REGULATE OR INSPECT RENTAL HOUSING, ANY REFERENCE TO MUNICIPALITY SHALL REFER TO THE COUNTY REGARDING RENTAL HOUSING INSPECTIONS FOR RENTAL HOUSING PROPERTIES.

The following are considered violations of this article:

- ~~(1) *Condition of exterior property areas.* All exterior property areas shall be maintained in a reasonably clean and sanitary condition, free from any accumulation of debris, litter, stagnant water, or garbage. If pests are found, the property owner shall initiate the extermination process, which shall not be injurious to the health of humans or domestic animals.~~
- ~~(2) *Tall grass and weeds.* All exterior property areas shall be properly maintained and no grass or weeds more than 12 inches tall, other than annual or perennial cultivated flowers, and plants, bushes, shrubs, garden and yard plantings, and trees properly maintained by the property owner or agent, shall be allowed to accumulate or grow on any private property. No vegetation shall be allowed to grow in, or into, the public curb, gutter or paved area of the right of way.~~
- ~~(3) *Discarded vehicles.* It shall be unlawful for any person to discard any vehicle on any residential lot within the corporate limits of the town.~~
- ~~(4) *Vehicle condition and storage.* No property owner or agent shall permit an abandoned, junked, wrecked, unregistered, or non road worthy motor vehicle as defined in this article to remain on such property, except when enclosed in a garage.~~

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- ~~(5) *Motor vehicle parts.* Exterior property areas shall not be utilized for the storage of motor vehicle parts.~~
- ~~(6) *Exterior property storage.* Exterior property areas shall not be utilized for the open storage of building materials, bathroom or kitchen fixtures, furniture, or lawn and garden equipment, irrespective of age or condition, except for routine garden maintenance equipment, outdoor lawn furniture, or materials used in construction or renovation projects with the appropriate county and town permits.~~
- ~~(7) *Wood storage.* The storage of wood and other materials not proscribed by this article, including organic compost piles, shall be accomplished in a manner designed to avoid rodents, termites and other insect infestation. Wood shall be stored at least six inches above the ground.~~
- ~~(8) *Vegetation.* All vegetation located on exterior property areas shall be maintained in such a way so as not to pose a danger or obstruction to adjoining property, pedestrians or vision of any motorist.~~
- ~~(9) *Parking surfaces.* A paved parking area must be accessed by a curb cut if the property has a curb installed along the street unless granted an exception by the board. The curb cut shall be constructed of poured concrete completed in a professional manner, situated totally within the public right of way, where applicable; constructed in accordance with the road ordinance or construction codes of the county and located in accordance with the county zoning ordinance. Grassy yards or other unpaved areas shall not be used for the parking of boats, motorcycles, motor vehicles of any type, trailers or similar items on a residential property except during a snow emergency. All wheels of said vehicle must be parked on an approved paved parking area in order to be in compliance with this article.~~
- ~~(10) *Building security.* No property owner or agent shall allow vacant structures or property to become a public nuisance, safety or health hazard, or be in a condition that could encourage trespassing.~~
- ~~(11) *Accessory structures.* No accessory structure shall pose a public health or safety hazard, or fall into disrepair. All accessory structures shall comply with county and town ordinances and any improvements to such accessory structures shall be duly permitted. A code enforcement officer or other town designated representative may require a property owner, at the property owner's expense, to repair or replace a fence not in compliance with the county zoning ordinance. Any fence repair or replacement shall comply with provisions regarding location, height, and material in the county zoning ordinance.~~
- ~~(12) *Premises 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.~~

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(Ord. No. 2016-03, § 6, 10-11-2016)

**Sec. 6-52. Notice of violation of standards and penalty for violation.**

(a) Except for violations of the registry law, whenever the code enforcement officer, a sworn police officer or other designated town representative determines that there are reasonable grounds to believe that there has been, or is, a violation of any provision of this article or of any rule or regulation adopted pursuant thereto, the code enforcement officer, sworn police officer or designated representative shall give notice of such alleged violation to the person responsible therefor, as hereinafter provided, unless otherwise noted in this article. Such notice shall:

- (1) Be in writing;
- (2) Include a description of the real property sufficient for identification;
- (3) Include a statement of the reason why the notice is being issued with reference to the section of this article violated;
- (4) Allow time, as set forth in this article, for the remedial action required to correct the violation; and
- (5) Contain:
  - a. An outline of the remedial action which, if taken, will effect compliance with the provisions of this article and with the rules and regulations adopted pursuant thereto, if any; and
  - b. The requirement that the violation must be fully corrected within the timeframe specified in section 6-55. 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. Fines for failure to take remedial action shall be established by resolution of the board of commissioners, but shall not exceed the amount of \$1,000.00. Failure to pay a fine may result in the amount of any fine imposed to be collected in the same manner as delinquent town taxes.

(b) Service of notice that a person and/or property is in violation shall be as follows:

- (1) By delivery to the property owner or agent personally or by leaving the notice at the usual place of abode  
of the property owner or office of the agent with a person of suitable age and discretion who shall be informed of the intent thereof; or
- (2) By appropriate means of mail addressed to the property owner or agent at the address provided to the town by the property owner or agent with postage prepaid thereon with return receipt requested; or

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- (3) If the letter provided for in section (b)(2) of this section is returned with receipt showing non-delivery, then by posting a copy of the notice in a conspicuous place on the premises affected by such notice INCLUDING A COURTESY CARD NOTIFICATION PLACED IN A CONSPICUOUS LOCATION ON THE PROPERTY. (Ord. No. 2016-03, § 7, 10-11-2016)

**Sec. 6-53. Town abatement.**

Provided that notice has been served pursuant to section 6-52, the town and its officials, employees and agents shall have the right, after 30 days of continued violation, to enter onto the premises of the property in violation to abate any violation. The costs of such abatement shall be charged to the property owner and, after attempting to deliver an invoice payable within 30 days to the property owner, may be collected in the same manner as delinquent town property taxes. If the property is vacant, upon serving notice, the town shall have the right to abate after 15 days of continued violation. ANY ENTRY INTO THE CURTILAGE OR THE INTERIOR OF A DWELLING ON THE PREMISES MAY REQUIRE AN ADMINISTRATIVE SEARCH WARRANT IF THE OWNER OR OCCUPANT DEMANDS SUCH A WARRANT BE OBTAINED.

(Ord. No. 2016-03, § 8, 10-11-2016)

**Sec. 6-54. Vacant and foreclosed properties.**

(a) In the event that a code enforcement officer, sworn police officer or other town-designated representative determines that the condition of a vacant property constitutes a violation, a responsible person or occupant shall be notified of the violation of this article by certified mail and have 15 calendar days to correct the violation. If, after 15 days from the date of notification, the violation has not been corrected, the town and its officials, employees and agents shall have the right to enter upon the premises of the property in violation to abate any and all violations. Failure of the property owner to pay the town within 30 days for the cost of abatement upon the town's reasonable attempt to deliver an invoice may result in collection in the same manner as delinquent town property taxes.

(b) All foreclosed properties within the town shall register with the state foreclosed property registry. Failure to register a property located in the town under the registry law shall be a municipal infraction punishable by a fine of up to \$1,000.00 or as otherwise established from time to time by resolution.

(c) The code enforcement officer shall obtain access to the foreclosed property registry and maintain an updated list of all known vacant residential properties, and corresponding contact information, located within the town.

(Ord. No. 2016-03, § 9, 10-11-2016)

**Sec. 6-55. Timeframe for notices of standards and penalties of violation.**

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The definitions below provide FOLLOWING ARE categories of timeframes for issuing the initial violation notice, a subsequent violation notice and assessment of penalties and fines:

- (1) *First offense.* FOR A FIRST OFFENSE, a person shall have ~~15~~ SEVEN (7) days from the time ~~the correction~~ OF THE COURTESY ~~notice~~ NOTIFICATION has been issued ~~to correct the violation~~ LEFT AT THE PROPERTY TO CORRECT THE VIOLATION. ~~If, after 15 days, the violation has not been corrected, another notice to correct which imposes a fine shall be issued.~~ IF THE VIOLATION IS NOT CORRECTED AFTER SEVEN DAYS FROM THE COURTESY CARD NOTIFICATION, THEN AN OFFICIAL NOTICE LETTER SHALL BE MAILED TO THE PROPERTY. A person shall have fifteen (15) days from the time the correction notice has been issued to correct the violation. If after 15 days, the violation has not been corrected, another notice to correct which imposes a fine shall be issued. A recurring or cumulative fine and subsequent notice to correct shall be issued in seven-day intervals thereafter until the violation is corrected. THE NOTICES IMPOSING A FINE SHALL ACCOMPANY OR INCLUDE A COMPLETED CITATION FORM AS REFERENCED IN TITLE 6 OF THE LOCAL GOVERNMENT ARTICLE OF MD. ANN. CODE.
- (2) *Repeat offender.* FOR REPEAT OFFENDERS AS DEFINED IN SECTION 6-56, a person shall have seven days from the time the correction notice was issued to correct the violation. If, after seven days, the violation has not been corrected, another notice to correct which imposes a fine shall be issued. THE SECOND NOTICE SHALL ACCOMPANY OR INCLUDE A COMPLETED CITATION FORM AS REFERENCED IN TITLE 6 OF THE LOCAL GOVERNMENT ARTICLE OF MD. ANN. CODE. A recurring fine and notice to correct shall be issued in seven-day intervals thereafter until the violation is corrected. (Ord. No. 2016-03, § 10, 10-11-2016)

**Sec. 6-56. Repeat violations.**

(a) Unless otherwise noted in this article, two violations of the same type occurring within an 18-month period shall be considered a repeat of any previous violation and the property owner or agent shall be deemed a repeat violator. Repeat violations are subject to town abatement if not corrected within 21 days. The costs of such abatement may be charged to the property owner and may be collected in the same manner as delinquent town taxes. A repeat violation may pertain to a subsequently noticed violation of the same or a different subsection of ~~section 6-54~~ the HOUSING CODE.

(b) Unless otherwise noted in this article, if a property is issued three or more notices for the same violation occurring within an 18-month period, the property shall become subject to immediate fines. (Ord. No. 2016-03, § 11, 10-11-2016)

**Sec. 6-57. ~~Right to appeal.~~ SNOW AND VEGETATION REMOVAL FROM SIDEWALKS AND THE PUBLIC RIGHT OF WAY**

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~~(a) Any person affected by any notice of violation and subjected to a fine may elect to appeal to the board of commissioners as follows:~~

~~(1) Any person affected by any notice of violation which had been issued in connection with the enforcement of any provision of this article and subject to a fine may request and shall be granted a hearing on the matter by the board of commissioners, provided that such person shall, within ten days after service of a notice of violation, file with the board of commissioners a signed written notice of administrative 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 such appeals as promptly as practicable. The board of commissioners, with a quorum present, shall hear such appeals.~~

~~(2) After such hearing, the board of commissioners may, by a majority of members present, affirm, amend, modify, rescind or withdraw the notice of violation with any assessed fine that has been appealed. Any person who shall fail, refuse or neglect to comply with the decision of the board of commissioners shall be deemed guilty of violating the provisions of this article.~~

~~(3) In the event a person affected by a notice of violation and subjected to a penalty wishes to contest the decision of the board of commissioners, such person may notify the town clerk or designee of such person's intent within ten days after the rendering of the decision by the board of commissioners. In such event, the town shall issue a municipal infraction citation to the affected person, who may request a de novo trial in the district court of the state for the county pursuant to Ann. Code of Md., Local Government article, § 6-101 et seq. The decision of the board of commissioners in such a case shall be stayed, pending adjudication of the matter by the district court of the state for the county. To the extent of this section, any notice of violation of this article previously issued and made subject to adjudication shall be considered a municipal infraction of the town.~~

~~(b) Failure to pay any fine and/or cost of abatement included in a judgment awarded pursuant to adjudication may result in the amount of any fine, fee or cost imposed or sanctioned by the court to be collected in the same manner as delinquent town property taxes.~~

~~(c) An appeal of an assessment or collection of any fee or cost to abate any violation as permitted by this article that was not awarded pursuant to adjudication by the court may be sought pursuant to the procedures provided in Ann. Code of Md., Tax General article, §§ 13-401 et seq., and 13-901 et seq.~~

**A. SNOW AND ICE SHALL BE REMOVED FROM SIDEWALKS BY THE ABUTTING OWNER OR OCCUPANT WITHIN 36 HOURS OF THE END OF THE SNOWFALL.**

**B. VEGETATION SHALL BE KEPT CLEAR OF SIDEWALKS AND ANY PUBLIC RIGHT OF WAY AND SHALL NOT OBSTRUCT VIEWS FOR TRAFFIC OR THE WALKING**

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PATH FOR PEDESTRIANS. IF A PROPERTY OWNER FAILS TO CLEAR WEEDS OR MAINTAIN TREES AND BUSHES OVERHANGING OR ENCROACHING UPON THE RIGHT OF WAY, THE TOWN AND ITS OFFICIALS, EMPLOYEES AND AGENTS SHALL HAVE THE RIGHT TO CLEAR THE RIGHT OF WAY AND SHALL NOT BE RESPONSIBLE FOR DAMAGE TO PLANTINGS THAT OVERHANG OR ENCROACH INTO THE PUBLIC RIGHT OF WAY.

(Ord. No. 2016-03, § 12, 10-11-2016)

**Sec. 6-58. Rental properties.**

All rental properties within the cooperate limits, regardless of zoning, shall be properly licensed and inspected, as required, by the county. The town shall notify the county in a timely manner of any unlicensed rental properties found as they are discovered. (Ord. No. 2016-03, § 13, 10-11-2016)

**~~Sec. 14. Severability.~~**

~~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.~~

~~(Ord. No. 2016-03, § 14, 10-11-2016)~~

**Sec. 6-59. Violation fines, fees and schedule.**

(a)Unless otherwise stated herein, violation of any provision of this article shall be subject to a fine and/or fee, which may be set or changed from time to time by ORDINANCE OR resolution of the board of commissioners. Failure to pay any fee, fine, late fee and/or costs to abate, or incurred to repair damage to town property such as aprons, curbs, gutters, sidewalks, or streets will result in the amount of any fine, late fee or repair costs incurred being recorded as a lien against the property and collected in the same manner as delinquent taxes.

(b) A late fee not to exceed \$25.00 may be assessed for any fine, charge or invoice for abatement that is left unpaid for more than 30 days. A late fee may not be assessed unless included in the judgment if the violation is adjudicated in the district court.

(c)The initial fine and fee schedule established by this article is ~~as follows:~~ \$50 FOR THE FIRST OFFENSE AND \$75 FOR REPEAT OFFENSES UNLESS AMENDED BY ORDINANCE OR RESOLUTION.

<i>Category of Violation</i>	<i>Fine</i>	
	<i>1st Offense</i>	<i>Repeat, Multiple Offense</i>
Condition of exterior property areas ( <del>section 6-51(1)</del> )	\$50.00	\$100.00

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<del>Tall grass and weeds (section 6-51(2))</del>	\$50.00	\$100.00
<del>Discarded vehicles (section 6-51(3))</del>	\$50.00	\$100.00
<del>Vehicle condition &amp; storage (section 651(4))</del>	\$50.00	\$100.00
<del>Motor vehicle parts (section 6-51(5))</del>	\$50.00	\$100.00
<del>Exterior property storage (section 651(6))</del>	\$50.00	\$100.00
<del>Wood storage (section 6-51(7))</del>	\$50.00	\$100.00
<del>Vegetation (section 6-51(8))</del>	\$50.00	\$100.00
<del>Parking surfaces (section 6-51(9))</del>	\$25.00/incident	\$25.00
<del>Building security (section 6-51(10))</del>	\$50.00	\$100.00
<del>Accessory structures (section 6-51(11))</del>	\$50.00	\$100.00
<del>Premises identification (section 6-51(12))</del>	\$50.00	\$100.00

(Ord. No. 2016-03, § 15, 10-11-2016)

**Sec. 6-60. Resolution to set fines, penalties and fees.**

The board of commissioners may set the fines, penalties, and fees associated with violating this article from time to time by resolution.

(Ord. No. 2016-03, 10-11-2016)

**Sec. 6-61. Territorial applicability.**

This article shall be fully effective throughout the corporate territory of the town, including any subdivision governed by a homeowners or condominium association as defined by the Maryland Condominium Act (Ann. Code of Md., Real Property article, § 11-101 et seq.) and the Maryland Homeowners Association Act (Ann. Code of Md., Real Property article, § 11B-101 et seq.).

(Ord. No. 2016-03, 10-11-2016)

**Secs. 6-62--6-80. Reserved.**

**ARTICLE IV. COMMERCIAL PROPERTY STANDARDS**

**Sec. 6-81. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Where terms are not defined herein, or in any other applicable town ordinance, they shall have their ordinarily accepted meanings such as the context may imply. ~~Words used in the present tense include the~~

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future; words used in the masculine gender include feminine and neuter; and the singular includes the plural and the plural the singular.

*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.

*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 the control of the owners or operators of such premises.

*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.

*Appurtenance or appurtenant structure* means all exterior decorative, aesthetic or other devices, such as, but not limited to, cupolas, flower boxes, and 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.

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

*Dumpster* means 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.

*Exterior property areas* means all areas on unimproved real property or external to principal structures on improved real property, including state, county or town rights-of-way and adjacent street curbs, gutters and sidewalks. The term "exterior property areas" specifically includes any trees along or in the state, county or town rights-of-way.

*Extermination* means the control and elimination of insects, rats or other pests by eliminating their harborage places:

- (1) By removing or making inaccessible materials that serve as their food;
- (2) By poison spraying, fumigating, and trapping; or
- (3) By any other approved elimination methods.

*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 article III of this chapter and chapter 16, pertaining to solid waste. *Graffiti* means the drawings or inscriptions that

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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.

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

*Litter* means garbage, rubbish or refuse, as defined in article III of this chapter or chapter 16, pertaining to solid waste, 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, tract, or parcel of land is, or may reasonably become, infested or inhabited by rodents, vermin or wild animals;
- (2) May reasonably cause disease;
- (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. *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. The term "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. *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.~~

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

*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 the state or elsewhere in this article, the conditions and violations enumerated in section 6-87 are hereby declared by the board of commissioners to be public nuisances pursuant to the authority granted by Ann. Code of Md., Local Government article, § 5-209(c) and section 82-16(2)(nn) of the town Charter.

~~R. Board of Commissioners means the sitting Town Board of Commissioners for Town of Upper Marlboro.~~ *Weeds* means 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. (Ord. No. 2017-03, § 6, 10-10-2017)

## **Sec. 6-82. Purpose and authority.**

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(a) *Purpose.* The purpose of this article is to:

- (1) Promote the economic well-being of the town and to protect the health, safety, and welfare of town residents, and individuals employed in or visiting the town from excessive accumulation of garbage, litter, refuse, rubbish and weeds on any improved or unimproved real property in the zone as defined in the county zoning ordinance or on any improved or unimproved real property assessed or taxed as commercial property;
- (2) 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;
- (3) Require owners to maintain the appearance, upkeep and good repair of surrounding grounds, parking lots, compactors, commercial garbage or refuse containers or dumpsters and garbage, refuse or recycling areas, enclosed or screened, including the apron, 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
- (4) 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 of the town Charter.

(Ord. No. 2017-03, § 1, 10-10-2017)

**Sec. 6-83. Applicability of county zoning ordinance.**

The provisions herein shall apply to any improved or unimproved real property in the commercial zones located in the corporate limits as defined in the county zoning ordinance or to any improved or unimproved real property assessed or taxed as commercial property located within the corporate limits of the town, including the abutting state, county or town rights-of-way.

(Ord. No. 2017-03, § 2, 10-10-2017)

**Sec. 6-84. Declaration of legislative interest.**

The board of commissioners finds and determines that:

- (1) Excessive accumulation of garbage, litter, refuse, rubbish and weeds on any improved or unimproved real property in the commercial zone as defined in the county zoning ordinance or any improved or unimproved real property assessed or taxed as commercial or industrial property; or
- (2) 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

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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, stormwater 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.

(Ord. No. 2017-03, § 3, 10-10-2017)

**Sec. 6-85. County zoning ordinance and regulatory agencies.**

(a) All applicable provisions of the county zoning ordinance shall be taken into consideration when enforcing this article. The commercial zones in the town are AS DEFINED IN THE COUNTY ZONING ORDINANCE AND THE COUNTY ZONING MAP:

- (1) ~~C-O (Commercial Office);~~
- (2) ~~C-S-C (Commercial Shopping Center); and~~
- (3) ~~C-M (Commercial Miscellaneous).~~

(b) The uses permitted in the commercial zones are listed in the uses permitted tables of section 27-461 of the county zoning ordinance.

(c) The rules and regulations of state or county agencies such as the state department of the environment and the county government shall be taken into consideration when enforcing this article.

(Ord. No. 2017-03, § 4, 10-10-2017)

**Sec. 6-86. Adoption of standards by reference; scope; conflict of provisions.<sup>3</sup>**

(a) The building code of the town shall be the current building code of the county as now or hereafter amended. The official building code of the county ~~substantially adopting the International Building Code, 2015 Edition~~, and the state rehabilitation code, as amended from time to time, and as adopted by the state, and other related codes, including the provisions of division 7 (Property Standards And Maintenance) of subtitle 13 of the county code, together with the changes, deletions, or modifications prescribed in said codes as amended from time to time, shall be and will remain effective within the town.

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<sup>3</sup> Legal or Editorial Change: Ord. No. 2017-1. Commercial Property Standards Ordinance. § 5. Adoption of standards by reference; scope; conflict of provisions. Altered to reference to county building code, deleting the obsolete IBC reference.

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(b) This article 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 article. 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 article 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 the ordinance from which this article is derived, 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 article 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 the ordinance from which this article is derived that establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions or definitions of this article shall be deemed to prevail.

(Ord. No. 2017-03, § 5, 10-10-2017)

**Sec. 6-87. Violations.**

The following are considered violations of this article and subject to fines and penalties as set forth in section 6-97:

- (1) 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.
- (2) All premises and exterior property areas shall be properly maintained in an attractive, presentable appearance free from weeds or grass in excess of ten 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. All noxious and bamboo plants shall be prohibited. No vegetation shall be allowed to grow in or into the apron or sidewalk, either on site or in the state, county or town rights-of-way.
- (3) 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 the 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.

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- (4) All premises and exterior property areas zoned as C-O, C-S-C, and C-M or residential property permitted to be used for a commercial purpose as defined in the 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 state police-authorized vehicle inspection station.
- (5) 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.
- (6) 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, to persons walking on designated walking areas or to the line of sight of passing vehicles or pedestrians at street intersections or along streets.
- (7) All bushes, shrubs, trees and other plantings on the premises or in the public right-of-way shall be maintained 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 14 feet above the street and nine feet above the sidewalk.
- (8) Grass areas, yards and other unpaved areas shall not be used for the parking of boats, motor vehicles, trailers or similar items except where permitted in the commercial zone by the county zoning ordinance. Exempted are vehicles for which a written permit for same shall have been obtained from the 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 chief of police or board of commissioners.
- (9) 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 tables and chairs for active restaurant facilities, or materials used in construction or renovation projects with county and town permits or where permitted.
- (10) The storage of wood and other materials not prescribed by this article, 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 infestations 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.

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- (11) It shall be the responsibility of any property owner, lessee, agent, or other occupant who possess animals on any property in the town to keep said animals in a safe and sanitary condition.
- (12) All on-site aprons, curbs, gutters, sidewalks, parking lots, parking spaces, stairs, stormwater 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 be maintained free from hazardous conditions. The owner shall maintain the appearance and keep in good repair all on-site line striping of directional arrows, handicap-parking stalls, parking stalls, painted curbs and signage.
- (13) 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, be maintained free from hazardous conditions or graffiti, and be painted, as appropriate, including all equipment on all structures, accessory structures and surrounding grounds and including, but not limited to, commercial garbage or refuse containers or dumpsters and garbage, refuse, recycling or rubbish areas, enclosed or screened, compactors, fences, garages, and walls or retaining walls of any type. All commercial garbage or refuse containers or dumpsters, compactors, and garbage, refuse, recycling or rubbish areas are to be screened from view of adjoining properties or streets in accordance with sections 6-89 and 16-3.
- (14) No owner shall allow uninhabited or vacant structures or property to become a public nuisance, safety or health hazard or condition to encourage trespassing.
- (15) All fences, walls, retaining walls and similar structures shall be of the height, size, type and location permitted by applicable county ordinances; be safe; have a maintained appearance; be painted, if appropriate; be in good repair and condition; and be structurally sound.
- (16) All property owners are required to maintain the appearance, upkeep and good repair of 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 any provisions of the building code of the county, as amended from time to time, and the state building rehabilitation code, as amended from time to time.
- (17) 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 be maintained free of hazardous conditions.
- (18) 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.
- (19) 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. (Ord. No. 2017-03, § 7, 10-10-2017)

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**Sec. 6-88. Rental properties.**

In order to ensure all town residents and occupants reside in a safe environment, the town sets the following requirements for all rental properties used as dwellings located in commercial zones:

- (1) Upon providing notice for any violation pursuant to this article, 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 county code for any rental properties used for residential habitation located in commercially zoned areas.
- (2) Any property owner who operates a rental unit used as a dwelling that fails to comply with this article 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.

(Ord. No. 2017-03, § 8, 10-10-2017)

**Sec. 6-89. Dumpsters, specialized trash and garbage receptacles.<sup>4</sup>**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

*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 section 162(a).

(b) *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 sides. 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 major thoroughfares, including Main Street (Route 725), Water Street (Route 717), Church Street, Elm Street, Pratt Street, Judges Drive and West Court Drive.

(c) *Materials.* All such enclosure structures or screens shall be made of either masonry, evergreen vegetation wood, PVC, ~~and or~~ chain link fence in accordance with the county landscape manual.

(d) *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, regularly emptied, and properly secured and locked at all times. All garbage, as defined in this article and in article

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<sup>4</sup> Legal or Editorial Change: Commercial Property Standards Ordinance, § 9. Dumpsters, specialized trash and garbage receptacles. Deleted subsection D as obsolete. Fines for violating this section are found below in Sec. 6-97.

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III of this chapter and chapter 16, pertaining to solid waste, shall be placed in trash bags before being placed in the dumpster or other specialized/dedicated trash/garbage receptacle.

~~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 within 180 days/6 months from the effective date of this Ordinance.~~

~~(Ord. No. 2017-03, § 9, 10-10-2017)~~

**Sec. 6-90. 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 article as herein provided.

(b) The town board of commissioners may waive applicability of this article 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 article 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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(Ord. No. 2017-03, § 10, 10-10-2017)

**Sec. 6-91. Notice of violations; 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 article 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 responsible therefor, 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 article, for the performance of any act it requires; and

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(5) Contain an outline of remedial action, which, if taken, will effect compliance with the provisions of this article 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 6-87(1), (2), (3), (4), (5), or (6) 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 ten 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, to persons walking on designated walking areas or to line of sight at street intersections or along streets, such notice shall contain the requirement that the violation must be fully corrected within ten days from the date of the notice and that, in the event the owner fails to do so within the ten 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 ten 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 ten 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. Fines for failure to take remedial action shall be established in this article and shall not exceed the amount of \$1,000.00 per violation. Failure to pay fines will result in the amount of any fines 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 6-87(7) through (11), such notice shall contain the requirement that the violation must be fully corrected within 15 days from the date of the notice and that, in the event the owner fails to do so within the 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 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 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. 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 \$1,000.00 per violation. Failure to pay fines will result in the amount of any fines 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 section 6-87(12) through (19), such notice shall contain the requirement that the violation must be fully corrected within 30 days from the date of the notice and that, in the event the owner fails to do so within the 30 day period, a second notice shall be~~

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~~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 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 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. 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 section 687(12) through (19) above and beyond the 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 \$1,000.00 per violation. Failure to pay fines will result in the amount of any fines imposed being recorded as a lien against the property and collected in the same manner as delinquent town taxes.~~

(B) THE DEFINITIONS BELOW PROVIDE FOLLOWING ARE CATEGORIES OF TIMEFRAMES FOR ISSUING THE INITIAL VIOLATION NOTICE, A SUBSEQUENT VIOLATION NOTICE AND ASSESSMENT OF PENALTIES AND FINES:

(1) FIRST OFFENSE. FOR A FIRST OFFENSE, A PERSON SHALL HAVE 15 SEVEN (7) DAYS FROM THE TIME THE CORRECTION OF THE COURTESY NOTICE NOTIFICATION HAS BEEN ISSUED TO CORRECT THE VIOLATION LEFT AT THE PROPERTY TO CORRECT THE VIOLATION. IF, AFTER 15 DAYS, THE VIOLATION HAS NOT BEEN CORRECTED, ANOTHER NOTICE TO CORRECT WHICH IMPOSES A FINE SHALL BE ISSUED. IF THE VIOLATION IS NOT CORRECTED AFTER SEVEN DAYS FROM THE COURTESY CARD NOTIFICATION, THEN AN OFFICIAL NOTICE LETTER SHALL BE MAILED TO THE PROPERTY. A PERSON SHALL HAVE FIFTEEN (15) DAYS FROM THE TIME THE CORRECTION NOTICE HAS BEEN ISSUED TO CORRECT THE VIOLATION. IF AFTER 15 DAYS, THE VIOLATION HAS NOT BEEN CORRECTED, ANOTHER NOTICE TO CORRECT WHICH IMPOSES A FINE SHALL BE ISSUED. A RECURRING OR CUMULATIVE FINE AND SUBSEQUENT NOTICE TO CORRECT SHALL BE ISSUED IN SEVEN-DAY INTERVALS THEREAFTER UNTIL THE VIOLATION IS CORRECTED. THE NOTICES IMPOSING A FINE SHALL ACCOMPANY OR INCLUDE A COMPLETED CITATION FORM AS REFERENCED IN TITLE 6 OF THE LOCAL GOVERNMENT ARTICLE OF MD. ANN. CODE.

(2) REPEAT OFFENDER. FOR REPEAT OFFENDERS AS DEFINED IN SECTION 6-92, A PERSON SHALL HAVE SEVEN DAYS FROM THE TIME THE CORRECTION NOTICE WAS ISSUED TO CORRECT THE VIOLATION. IF, AFTER SEVEN DAYS, THE VIOLATION HAS NOT BEEN CORRECTED, ANOTHER NOTICE TO CORRECT WHICH IMPOSES A FINE SHALL BE ISSUED. THE SECOND NOTICE SHALL ACCOMPANY OR INCLUDE A COMPLETED CITATION FORM AS REFERENCED IN

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TITLE 6 OF THE LOCAL GOVERNMENT ARTICLE OF MD. ANN. CODE. A RECURRING FINE AND NOTICE TO CORRECT SHALL BE ISSUED IN SEVEN-DAY INTERVALS THEREAFTER UNTIL THE VIOLATION IS CORRECTED.

(C) Abatement of original violation by town. Except in cases where the condition poses an imminent threat to public health or safety requiring immediate action, the town shall have the right, after ten calendar days of continued violation, 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 30 days of the date of the notice will result in the filing of a lien against the property and collection in the same manner as delinquent town taxes. Repeat violations may be abated in five calendar days and any subsequent repeat violations may be abated immediately. Abatement by the town does not constitute compliance as defined in this section. Action for abatement of section 6-87(14) may include the boarding up or razing of buildings on premises, the costs of which will be charged to the property owner. Failure to pay these costs within 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.

(D) Service of notice that the premises or structure is in violation shall be as follows:

- (1) By delivery to the owner or the agent personally or by leaving the notice at the usual place of business of the owner or office of the 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 article with postage prepaid thereon with return receipt requested; or
- (3) If the letter provided for in section (f)(2) of this section is returned with receipt showing non-delivery, then by posting a copy of the notice in a conspicuous place on the premises affected by such notice. (Ord. No. 2017-03, § 11, 10-10-2017)

**Sec. 6-92. Repeat violations.**

(a) Any violations reoccurring within a 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 ten calendar days from the date of the notice for the repeat violation. Any subsequent repeat violation will be cause for immediate fine.

(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 article, advising the person found in violation of the imposition of a fine payable to the town. 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 article, advising the person found in violation of the imposition of a further charge or fine payable to the town. For

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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. Fines for failure to take remedial action shall be established by resolution of the board of commissioners and shall not exceed the amount of \$1,000.00 per violation. Failure to pay fines will result in the amount of any fines 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 shall have the right, after five calendar days of continued violation, 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 30 days of the date of the notice will result in the filing of a lien against the property and collection in the same manner as delinquent town taxes. Repeat violations may be abated in five calendar days and any subsequent repeat violations may be abated immediately. Abatement by the town does not constitute compliance as defined in section 6-91. Action for abatement of violation of section 6-87(14) 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 collection in the same manner as delinquent town taxes.

(Ord. No. 2017-03, § 12, 10-10-2017)

### **Sec. 6-93. Snow removal from sidewalks.**

Snow and ice shall be removed from sidewalks by the owner or occupant within 24 hours of the last snowfall. (Ord. No. 2017-03, § 13, 10-10-2017)

### **Sec. 6-94. ~~Right to appeal.~~ RESERVED**

~~—(a)— Any person affected by any notice of violation may elect to appeal to the board of commissioners.~~

- ~~(1) Any person affected by any notice of violation which had been issued in connection with the enforcement of any provision of this article may request and shall be granted a hearing on the matter by the board of commissioners, provided that such person shall, on or before the expiration date of the subject notice of violation as defined in sections 6-91 and 6-92 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 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 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 article.~~

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(3) ~~In the event a person wishes to contest the decision of the board of commissioners, such person may notify the town of such person's intent within ten 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 the state pursuant to the municipal infraction citation procedures as found in Ann. Code of Md., Local Government article, title 6, 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, all violations of this article 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.~~

~~(Ord. No. 2017-03, § 14, 10-10-2017)~~

**Sec. 6-95. Interpretation.**

The town board of commissioners shall decide questions of interpretation of this article. Upon written request, the board of commissioners may waive or vary particular provisions of this article as provided in section 6-90. (Ord. No. 2017-03, § 15, 10-10-2017)

**Sec. 6-96. Rules and regulations.**

The board of commissioners may pass such rules and regulations as are consistent with the purpose, intent and enforcement of this article. (Ord. No. 2017-03, § 16, 10-10-2017)

**~~Sec. 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.~~

~~(Ord. No. 2017-03, § 17, 10-10-2017)~~

**Sec. 6-97. Fine schedule.**

In this section is the fine schedule for violations within this article. Changes to the fine schedule or any other fines, penalties or fees must be made by the board pursuant to an 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.

<i>Type #</i>	<i>Violations</i>	<i>1st Offense</i>	<i>2nd Offense</i>	<i>3rd Offense</i>
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1	Sections 6-93, 6-87(1)--(8)	\$50.00	\$75.00	\$100.00
2	Section 6-87(9)--(19)	\$100.00	\$150.00	\$200.00
3	Section 6-89	\$150.00	\$200.00	\$250.00
If a violation is not specifically listed above, it falls under violation fine Type #1.				

(Ord. No. 2017-03, § 18, 10-10-2017)

**Secs. 6-98--6-122. Reserved.**

## **ARTICLE V. VACANT PROPERTY REGISTRATION**

### **Sec. 6-123. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Lot* means an area of land designated as a separate parcel or unit of land on a legally recorded subdivision plat or deed filed among the land records of the county and assigned a property tax account identification number that is assigned to one or more such units or parcels of land.

*Occupied building or structure* means any building or structure wherein one or more persons actually conducts a business or resides in all or any part of the building as the business occupant, or as the legal or equitable owner/occupant or tenant on a permanent, non-transient basis, or any combination of the same. For purposes of this article, evidence offered to prove that a building is so occupied may include, but shall not be limited to, the regular receipt of delivery of regular mail through the United States Postal Service; proof of continual telephone, electric, gas, heating, water and sewer services; or a valid town business license.

*Owner* means any person, partnership, limited liability company, corporation or other entity who, alone or jointly with others, shall have legal title to any premises, with or without accompanying actual possession thereof; or who shall have charge, care or control of any dwelling unit as a cooperative shareholder or as executor, administrator, trustee, receiver or guardian of the estate or as a mortgagee in possession, title or control, including, but not limited to, a bank or lending institution, regardless of how such possession, title or control was obtained. *Vacant building or structure* means a building or structure where no person actually currently conducts a business or resides or lives in any part of the building or structure as the legal or equitable owner or tenant-occupant, or owner-occupant, or tenant on a permanent, non-transient basis.

*Vacant developed property* means a lot or parcel of land that has a vacant building except as provided in section 6-129.

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*Vacant lot* means a lot without a building or other valid and approved improvement which has an assessed value for taxation purposes as determined by the state department of assessments and taxation.

(Ord. No. 2022-05, § 1(B), 8-23-2022)

**Sec. 6-124. Intent and scope.**

The board of commissioners finds that the proliferation of vacant and abandoned buildings, structures, dwellings and lots in the town causes a deterioration of neighborhoods and areas within the town and has a negative impact on the value of property in close proximity to the vacant and abandoned buildings, structures, dwellings and lots. The board further finds that vacant and abandoned buildings, structures, dwellings and lots often cause a serious threat to the safety and welfare of the residents of the town and erode the quality of life of all who live and work in the town, and such properties are frequently places of infestation of rodents, vermin, insects, wild animals and other health-threatening creatures and diseases, provide shelter to criminals and vagrants who use such places to evade the police and to conduct illicit activities, and are a nuisance to children and adults alike.

(Ord. No. 2022-05, § 1(A), 8-23-2022)

**Sec. 6-125. Annual registration of vacant buildings or lots; local agent; registration fees.**

(a) *Vacant building or lot registration.* Any owner of any building or lot which has been vacant for more than 120 consecutive days shall file with the town administrator or designee a vacant building or lot registration. Said registration shall be in a form prescribed by the town administrator, which shall include the street address and parcel number of each such vacant building or lot, the names and addresses of all owners, in accordance with subsections (a)(1) through (7) of this section, and any other information deemed necessary by the town administrator. In no instance shall the registration of a vacant building or lot and the payment of registration fees be construed to exonerate the owner, agent or responsible party from responsibility for compliance with any other building code or town ordinance requirement. The registration fee, as required herein, shall be billed by the town treasurer or designee and shall be paid by January 1 of each year. For purposes of this article, the following shall also be applicable:

- (1) If the owner is a corporation, the names and addresses of the officers of the corporation shall be provided and shall be accompanied by the name of the resident agent filed with the state department of assessments and taxation;
- (2) If the owner is a limited liability company, the name and address of the managing member shall be provided;
- (3) If the owner is an estate, the name and address of the executor or administrator of the estate shall be provided;

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- (4) If the owner is a trust, the name and address of all trustees or grantors shall be provided;
- (5) If the owner is a partnership, the names and addresses of all partners with an interest of ten percent or greater shall be provided;
- (6) If the owner is any other form of unincorporated association, the names and addresses of all principals or co-owners with an interest of ten percent or greater shall be provided; or
- (7) If the owner is an individual person, the name and address of that individual person shall be provided.

(b) *Local agent.*

- (1) If none of the persons listed in subsections (a)(1) through (7) are within the state, the registration statement also shall provide the name and address of a person who resides within the state and who is authorized to accept service of process on behalf of the owners.
- (2) The registration statement shall designate a responsible, local party or agent for purposes of notification in the event of an emergency affecting the public health, safety or welfare.

(c) *Fee.*

- (1) The owner of any vacant property located within the corporate limits of the town shall be responsible to register and pay the annual nonrefundable registration fee of \$250.00; thereafter, said fee shall be billed by the town treasurer annually on November 1. The board may revise or increase registration fees established under this article by written resolution, provided such fee does not exceed \$750.00.
- (2) One vacant building or lot registration may be filed to include all vacant buildings situated upon a single property of an owner so registering or on a series of abutting or adjoining vacant lots. The fee of \$250.00 shall apply to the property upon which the buildings are situated or multiple vacant lots adjoining one another. A separate fee need not be paid for each building upon a single property or for more than one lot in a series of abutting or adjoining vacant lots.
- (3) Appeal rights. The owner shall have the right to appeal the imposition of the registration fees to the board of commissioners upon filing an application in writing to the town administrator no later than 30 calendar days from the date of the billing statement. On appeal, the owner shall bear the burden of providing proof that the building is occupied, or the lot is improved with a building or assessed structure. The decision of the board may not be appealed as an administrative agency decision by filing a petition for judicial review but shall be enforced pursuant to section 6-131.
- (4) One-time waiver of registration fee. A one-time waiver of the registration fee for up to 90 days may be granted by the town administrator upon application of the owner and upon review and advice of the town attorney, within 30 calendar days from the date of

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the bill for the registration fee, or if denied by the town ~~manager~~administrator, upon appeal to the board, if the owner:

- a. Demonstrates with satisfactory proof that said owner is in the process of demolition, rehabilitation, or other substantial repair of the vacant building; and demonstrates the anticipated length of time for the demolition, rehabilitation, or other substantial repair of the vacant building; or
- b. Demonstrates that said owner is actively attempting to sell or lease the property during the vacancy period; and
- c. Is current on all registration fees and all other financial obligations and/or debts owed to the town which are associated with the vacant property. (Ord. No. 2022-05, § 1(C), 8-23-2022)

**Sec. 6-126. One-year waiver.**

Upon application by the owner and satisfaction of section ~~e-above-6-125(c)(4)~~, the town administrator may grant a one-time, one-year waiver of the registration fee, or if denied by the town administrator, upon appeal to the board, if the owner is a nonprofit or tax-exempt organization.

(Ord. No. 2022-05, § 1(F), 8-23-2022)

**Sec. 6-127. Delinquent registration fees as a lien.**

(a)After the owner is given notice of the amount of the registration fee due, except for those owners that have properly perfected an appeal as provided in section 6-125(c)(3), and the owner fails to pay the amount due, said amount shall constitute a debt due and owing to the town.

(b) Any registration fees, when accrued or overdue, pursuant to this article, and any penalties assessed hereto shall be considered a lien in favor of the town on the applicable property and may be collected and enforced in the same manner as delinquent or accrued real property taxes.

(Ord. No. 2022-05, § 1(G), 8-23-2022)

**Sec. 6-128. Duty to amend registration statement.**

If the status of the registration information changes during the course of any calendar year, it is the responsibility of the owner, responsible party or agent for the same to contact the town administrator or designee within 30 days of the occurrence of such changes and advise the town ~~manager~~administrator in writing of those changes.

(Ord. No. 2022-05, § 1(H), 8-23-2022)

**Sec. 6-129. Exceptions.**

This article shall not apply to any building or lot owned by the United States, the state, the county, nor to any of their respective agencies or political subdivisions.

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(Ord. No. 2022-05, § 1(I), 8-23-2022)

**Sec. 6-130. Duty of town administrator to maintain and notify.**

The town administrator or designee shall maintain the vacant building or lot registrations in the normal course of business and shall notify the town chief of police who shall notify local fire and ambulance services of all locations on the registry.

(Ord. No. 2022-05, § 1(J), 8-23-2022)

**Sec. 6-131. Enforcement.**

(a) *Penalties for offenses.* Any owner, or agent of an owner acting on behalf of the owner, who fails to register a vacant building or lot or to pay any fees required to be paid pursuant to the provisions of this article, within 30 days after they become due, shall constitute a municipal infraction violation punishable, upon conviction thereof, by a fine in the amount of \$1,000.00 for each failure to register, or for each failure to pay a required vacant building or lot registration fee.

(b) *Other enforcement.* The registration of a vacant building or vacant lot or absence thereof shall not preclude action by the town to obtain a court order to force abatement, maintenance or removal of a public nuisance or any other violation found on any vacant lot or building pursuant to any other provisions of this Code or other law. The town shall have the right to remove litter, trash, noxious weeds, tall grass, or unsanitary or flammable waste materials and to do such other maintenance or work as is necessary to bring the property into compliance with the general ordinances of the town. The cost of these actions shall be paid for by the owner. The town shall send the owner an invoice or bill for the costs of such work by certified mail, return receipt requested, and by regular mail to the owner's last known address or by any other means reasonably calculated to bring the bill to the owner's attention. Should the owner fail to pay the bill within one month after it is presented or mailed, the costs shall be considered a lien against the property and may be collected in the same manner as real property taxes. Nothing in this article shall be construed to limit the town from seeking any other legal damages or equitable and declaratory relief permitted by law to enforce this Code in a court of competent jurisdiction in the state. (Ord. No. 2022-05, § 1(K), 8-23-2022)

**Sec. 6-132. Violations.**

Unless provided otherwise, any violation of this article shall be deemed a municipal infraction. The penalty for such violation shall be a \$250.00 fine for an initial offense together with a suspension of the license for no more than 90 days and \$500.00 for each repeat offense together with a revocation of the license. Each day any violation continues shall be a separate offense. (Ord. No. 2022-05, § 1(L), 8-23-2022)

...

AND BE IT FURTHER ORDAINED AND ENACTED, by the Board of Commissioners

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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 2023-10 upon taking effect shall replace and repeal Ordinances 2016-03 and 2017-03.

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.

**INTRODUCED** and **ADOPTED** in a public session of the Board of Commissioners on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**ORDAINED, APPROVED, AND FINALLY PASSED** by the Board of Commissioners of the Town of Upper Marlboro, Maryland on this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by:

Attest:

THE TOWN OF UPPER MARLBORO  
BOARD OF COMMISSIONERS

\_\_\_\_\_  
John Hoatson, Town Clerk

\_\_\_\_\_  
Sarah Franklin, President

Date: \_\_\_\_\_

\_\_\_\_\_  
Charles Colbert, Commissioner

\_\_\_\_\_  
Thomas Hanchett, Commissioner

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Karen Lott, Commissioner

\_\_\_\_\_  
Linda Pennoyer, Commissioner

Reviewed and Approved for Legal Sufficiency:

\_\_\_\_\_ Date: \_\_\_\_\_  
Kevin J. Best, Esq.

CERTIFICATION

I, HEREBY CERTIFY, as the duly appointed Town Clerk of the Town of Upper Marlboro, Maryland, that on the \_\_\_ day of November 2023 with \_\_\_ Aye votes and \_\_ Nay votes, the aforesaid Ordinance 2023-10 passed.

\_\_\_\_\_  
John Hoatson, Town Clerk

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