

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

ORDINANCE: 2024-04
SESSION: Regular Town Meeting
INTRODUCED: September 24, 2024
DATE ENACTED: _____, 2024
EFFECTIVE DATE: _____, 2024

AN ORDINANCE OF THE BOARD OF COMMISSIONERS FOR THE TOWN OF UPPER MARLBORO TO AMEND ALL ORDINANCES PREVIOUSLY ENACTED RELATING TO PROPERTY MAINTENANCE STANDARDS IN THE TOWN OF UPPER MARLBORO, AND TO ENACT THIS ORDINANCE, ORDINANCE 2024-04, ADOPTING PROPERTY MAINTENANCE STANDARDS FOR THE TOWN OF UPPER MARLBORO, AND REPEALING ALL PROVISIONS OF PRIOR TOWN ORDINANCES THAT ARE INCONSISTENT WITH THE PROVISIONS OF THIS ORDINANCE

WHEREAS, MD Code Ann, Local Gov't, § 5-202 authorizes the legislative body of a municipality to adopt ordinances to protect and preserve the municipality's rights, property and privileges and to protect the health, comfort and convenience of the residents of the municipality; and

WHEREAS, MD Code Ann., Public Safety, § 12-203 "Minimum Livability Code," requires each political subdivision to adopt by regulation a local housing code that sets minimum maintenance standards for housing within its jurisdiction;and

WHEREAS, pursuant to this authority, the Board of Commissioners for the Town of Upper Marlboro enacted various property maintenance standards for the Town; and

WHEREAS, the Board of Commissioners for the Town of Upper Marlboro has determined it to be in the best interest of the residents of the Town of Upper Marlboro to adopt the same property maintenance standards as Prince George's County to facilitate the County's assistance with Code enforcement issues, yet to retain some of its own requirements.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE TOWN OF UPPER MARLBORO, STATE OF MARYLAND, DOES ORDAIN AND ENACT a Building and Property Maintenance Code to read as follows:

BUILDING AND PROPERTY MAINTENANCE CODE

ARTICLE I. BUILDING CODE

CAPITALS : Indicate matter to be added to existing law

§ 1. ADMINISTRATION.

THIS ARTICLE SHALL BE ADMINISTERED AND ENFORCED BY A CODE OFFICIAL, AS DEFINED IN OTHER SECTIONS OF THIS CODE OR OTHER TOWN OFFICIALS AND EMPLOYEES AS DESIGNATED BY THE TOWN MANAGER.

§ 2. APPLICABILITY OF AND COMPLIANCE WITH COUNTY BUILDING CODE.

THE BUILDING CODE FOR PRINCE GEORGE'S COUNTY, SUBTITLE 4, DIVISION 1, OF THE CODE OF PRINCE GEORGE'S COUNTY, MARYLAND, AS AMENDED FROM TIME TO TIME, SHALL BE THE BUILDING CODE FOR THE TOWN.

§ 3. TOWN BUILDING PERMIT REQUIRED.

THE TOWN REQUIRES A TOWN BUILDING PERMIT AT ALL TIMES THAT PRINCE GEORGE'S COUNTY REQUIRES A COUNTY BUILDING PERMIT. A PERSON MAY NOT ERECT, RECONSTRUCT, REPAIR, OR REMOVE ANY BUILDING OR STRUCTURE WITHIN THE TOWN EXCEPT IN COMPLIANCE WITH THE BUILDING CODE OF PRINCE GEORGE'S COUNTY AND IN ACCORDANCE WITH BUILDING PERMITS ISSUED BY PRINCE GEORGE'S COUNTY.

§ 4. APPLICABILITY OF AND COMPLIANCE WITH CHAPTER.

IN ADDITION TO COMPLYING WITH § 3, A PERSON MAY NOT ERECT, CONSTRUCT, RECONSTRUCT, REPAIR, OR REMOVE ANY BUILDING OR STRUCTURE WITHIN THE TOWN FOR WHICH A PRINCE GEORGE'S COUNTY BUILDING PERMIT IS REQUIRED EXCEPT IN COMPLIANCE WITH THIS ARTICLE AND WITH A BUILDING PERMIT FROM THE TOWN ISSUED UNDER THIS ARTICLE.

§ 5. PERMIT APPLICATIONS.

(A) AFTER A BUILDING PERMIT FOR PROPOSED WORK HAS BEEN ISSUED BY PRINCE GEORGE'S COUNTY, AN OWNER OF A PROPERTY, OR THE OWNER'S AUTHORIZED AGENT, SHALL APPLY FOR A TOWN BUILDING PERMIT BY SUBMITTING AN APPLICATION UPON FORMS FURNISHED BY THE TOWN. EACH APPLICATION SHALL BE SIGNED UNDER PENALTY OF PERJURY THAT THE CONTENTS OF THE APPLICATION ARE TRUE AND CORRECT TO THE BEST OF THE APPLICANT'S KNOWLEDGE, INFORMATION AND BELIEF. EACH APPLICATION SHALL BE ACCOMPANIED BY A COPY OF THE PRINCE GEORGE'S COUNTY PERMIT APPLICATION, BUILDING PERMIT ISSUED BY PRINCE GEORGE'S COUNTY, AN ELECTRONIC AND/OR PHYSICAL COPY OF THE SITE PLAN, AND ALL OTHER PLANS AND SPECIFICATIONS APPROVED BY PRINCE GEORGE'S COUNTY AS PART OF THE COUNTY'S BUILDING PERMIT.

WHERE THE APPLICATION IS FOR A BUILDING PERMIT FOR A FENCE, THE APPLICATION SHALL DEMONSTRATE THAT THE PROPOSED FENCE COMPLIES WITH THE REQUIREMENTS OF THE TOWN OF UPPER MARLBORO. THE TOWN MAY WAIVE THE SUBMITTAL OF ALL OR PORTIONS OF OTHER PLANS AND SPECIFICATIONS ON A CASE-BY-CASE BASIS WHEN THE TOWN DETERMINES THAT THESE WILL NOT ASSIST THE TOWN IN DETERMINING WHETHER TO ISSUE A TOWN BUILDING PERMIT. EACH APPLICATION ALSO

SHALL BE ACCOMPANIED BY A NON-REFUNDABLE APPLICATION FEE OF \$50.

(B) AFTER RECEIVING AN APPLICATION AND APPLICATION FEE, THE TOWN SHALL REVIEW THE APPLICATION, PLANS AND ACCOMPANYING MATERIALS. THE TOWN'S REVIEW OF THE APPLICATION SHALL FOCUS ON THE COMPLETENESS AND ACCURACY OF THE APPLICATION AND ACCOMPANYING MATERIALS, WHETHER THE TOWN CONCURS WITH PRINCE GEORGE'S COUNTY'S APPROVAL OF THE COUNTY BUILDING PERMIT, AND WHETHER THERE ARE ANY TOWN-SPECIFIC REQUIREMENTS THAT MUST BE ADDRESSED. IF THE TOWN DETERMINES THAT A PRINCE GEORGE'S COUNTY BUILDING PERMIT SHOULD NOT HAVE BEEN ISSUED, THE TOWN SHALL IMMEDIATELY NOTIFY PRINCE GEORGE'S COUNTY AND THE APPLICANT.

§ 6. ACTION ON PERMIT APPLICATIONS.

(A) THE TOWN SHALL REVIEW EACH APPLICATION FOR A TOWN BUILDING PERMIT. AFTER REVIEW OF AN APPLICATION, THE TOWN SHALL NOTIFY THE APPLICANT IN WRITING THAT:

- (1) THE APPLICATION IS APPROVED AND AVAILABLE FOR ISSUANCE UPON PAYMENT OF THE APPLICABLE PERMIT FEE; OR**
- (2) THE TOWN IS WITHHOLDING APPROVAL OF THE APPLICATION UNTIL THE APPLICANT SUBMITS ADDITIONAL REQUIRED DOCUMENTATION TO THE TOWN; OR**
- (3) THERE ARE APPARENT ERRORS REGARDING PRINCE GEORGE'S COUNTY'S ISSUANCE OF THE COUNTY BUILDING PERMIT THAT THE APPLICANT MUST RESOLVE WITH THE COUNTY BEFORE THE TOWN WILL COMPLETE PROCESSING OF THE TOWN BUILDING PERMIT APPLICATION; OR**
- (4) THE APPLICATION HAS BEEN APPROVED WITH CONDITIONS OR RESTRICTIONS; OR**
- (5) THE APPLICATION HAS BEEN DENIED AND THE REASONS FOR THE DENIAL.**

§ 7. PERMIT ISSUANCE OR DENIAL.

THE TOWN SHALL ISSUE A PERMIT AFTER THE TOWN IS SATISFIED THAT THE APPLICATION IS COMPLETE, ALL REQUIRED APPLICATION MATERIALS HAVE BEEN SUBMITTED, ANY APPARENT ERRORS IN THE ISSUANCE OF THE PRINCE GEORGE'S COUNTY BUILDING PERMIT HAVE BEEN RESOLVED, PROVIDED THAT ALL DELINQUENT FEES AND FINES OWED TO THE TOWN RELATED TO THE PREMISES ARE PAID IN FULL.

§ 8. PERMIT FEES.

THERE SHALL BE A PERMIT APPLICATION FEE SUBMITTED WITH EACH BUILDING PERMIT APPLICATION. THE FEE SHALL BE ESTABLISHED BY THE BOARD OF COMMISSIONERS BY RESOLUTION

§ 9. PERMIT TO BE KEPT POSTED ON PREMISES.

A TOWN BUILDING PERMIT SHALL BE KEPT CONSPICUOUSLY DISPLAYED AT A LOCATION VISIBLE FROM THE STREET ON THE PREMISES ON WHICH THE WORK AUTHORIZED BY PERMIT IS BEING PERFORMED UNTIL THE WORK HAS BEEN COMPLETED.

§ 10. PERMIT EXPIRATION.

A TOWN BUILDING PERMIT SHALL BE VALID FOR SIX (6) MONTHS, STARTING FROM THE DATE CONSTRUCTION BEGINS AND/OR PURSUANT TO THE CONDITIONS OUTLINED IN THE CORRESPONDING PRINCE GEORGE'S COUNTY BUILDING PERMIT.

§ 11. PERMITTED CONSTRUCTION HOURS.

AUTHORIZED CONSTRUCTION HOURS FOR WORK CONDUCTED UNDER A TOWN BUILDING PERMIT ARE FROM 8 A.M. TO 7 P.M., MONDAYS THROUGH FRIDAYS AND FROM 9 A.M. TO 5 P.M. SATURDAYS AND SUNDAYS, EXCLUDING LEGAL HOLIDAYS. EXCEPTIONS TO THIS REQUIREMENT MAY BE GRANTED BY THE TOWN IN WRITING UPON APPLICATION ON A FORM PROVIDED BY THE TOWN AND UPON A SHOWING OF GOOD CAUSE.

§ 12. TOWN INSPECTIONS.

(A) THE TOWN PERIODICALLY MAY INSPECT ALL WORK SITES FOR WHICH THE TOWN ISSUED A BUILDING PERMIT. THE PURPOSE OF THE TOWN'S INSPECTIONS IS TO DETERMINE WHETHER A VIOLATION OF THE COUNTY BUILDING CODE MAY EXIST. IF A VIOLATION EXISTS, THE TOWN SHALL PROMPTLY NOTIFY APPROPRIATE PRINCE GEORGE'S COUNTY AUTHORITIES FOR SUCH AUTHORITIES TO TAKE SUCH ACTION AS MAY BE DEEMED APPROPRIATE.

(B) THE TOWN ALSO SHALL INSPECT SITES WHERE WORK IS BEING PERFORMED AND FOR WHICH A TOWN BUILDING PERMIT HAS NOT BEEN ISSUED. THE PURPOSE OF THESE INSPECTIONS IS TO DETERMINE WHETHER A TOWN BUILDING PERMIT IS REQUIRED FOR THAT WORK AND WHETHER THE CONDITIONS ARE IN VIOLATION OF ANY OTHER PROVISIONS OF THIS CODE.

§ 13. STOP WORK ORDERS.

(A) WHENEVER ANY WORK IS BEING DONE IN VIOLATION OF A TOWN ORDINANCE OR CODE PROVISION, WITHOUT A REQUIRED TOWN BUILDING PERMIT OR IN VARIANCE WITH THE TERMS OF ANY TOWN BUILDING PERMIT ISSUED FOR THE WORK, A CODE OFFICIAL MAY ORDER ALL OR A PART OF THE WORK STOPPED UNTIL THE VIOLATION OR VARIANCE IS ELIMINATED AND ANY WORK UNDERTAKEN IN VIOLATION OF THIS CHAPTER OR TOWN BUILDING PERMIT IS CORRECTED. A "STOP WORK" ORDER, IF ORAL, SHALL BE FOLLOWED BY A WRITTEN STOP WORK ORDER WITHIN TWENTY-FOUR (24) HOURS (EXCLUDING SATURDAYS, SUNDAYS, AND HOLIDAYS). A CODE OFFICIAL SHALL POST A COPY OF A WRITTEN "STOP WORK" ORDER ON THE PREMISES OR SITE TO WHICH THE ORDER APPLIES. THE POSTED ORDER SHALL NOT BE REMOVED UNTIL THE TOWN HAS LIFTED IT.

(B) A "STOP WORK" ORDER ISSUED BY PRINCE GEORGE'S COUNTY SHALL BE TREATED AS A STOP WORK ORDER ISSUED BY THE TOWN.

§ 14. PENALTIES AND ENFORCEMENT.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, VIOLATIONS OF

THIS ARTICLE AND ANY TOWN BUILDING PERMIT ISSUED UNDER THIS ARTICLE ARE DECLARED TO BE MUNICIPAL INFRACTIONS, THE FINE FOR WHICH SHALL BE TWO HUNDRED FIFTY DOLLARS (\$250) FOR EACH OFFENSE. EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE AND REPEAT OFFENSE.

(B) UNLAWFUL CONTINUANCE OF WORK IN VIOLATION OF A STOP WORK ORDER ISSUED PURSUANT TO § 15-13 SHALL BE SUBJECT TO A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS (\$1,000).

(C) 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.

§ 15 - § 19. RESERVED

ARTICLE II. PROPERTY MAINTENANCE STANDARDS

§ 20. ADOPTION OF PROPERTY MAINTENANCE STANDARDS BY REFERENCE

SUBTITLE 13, HOUSING AND PROPERTY STANDARDS, OF THE PRINCE GEORGE'S COUNTY CODE ("SUBTITLE 13"), DIVISION I "HOUSING CODE" AND DIVISION 7 "PROPERTY STANDARDS AND MAINTENANCE," AS THEY MAY FROM TIME TO TIME BE AMENDED, ARE HEREBY ADOPTED BY THE TOWN AS THE HOUSING AND PROPERTY STANDARDS CODE OF THE TOWN OF UPPER MARLBORO, MARYLAND, AS IF SET OUT IN FULL HEREIN. ALL OF THE POWERS, RIGHTS AND REQUIREMENTS OF COMPLIANCE IN SUBTITLE 13, DIVISIONS 1 AND 7 NOT IN CONFLICT WITH TOWN CHARTER, THIS CODE, OR TOWN REGULATIONS, MAY BE EXERCISED BY THE TOWN. HOWEVER, ALL REFERENCES IN CHAPTER 13 OF THE COUNTY CODE (OR THE INTERNATIONAL PROPERTY MAINTENANCE CODE WHICH THE COUNTY CODE CURRENTLY INCORPORATES) TO THE APPOINTMENT, DISCIPLINE, EMPLOYMENT AND TERMINATION OF ANY PROPERTY OR CODE ENFORCEMENT PERSONNEL OR TO A BOARD OF APPEALS SHALL NOT BE EFFECTIVE IN THE TOWN. IN THE EVENT OF A CONFLICT BETWEEN SUBTITLE 13, DIVISION 1 AND/OR DIVISION 7 AND ANY PROVISION OF A TOWN ORDINANCE OR CODE, SUCH CONFLICT SHALL BE RESOLVED IN FAVOR OF THE PROVISION THAT ESTABLISHES THE HIGHER STANDARD FOR THE PROMOTION AND PROTECTION OF THE HEALTH AND SAFETY OF THE PEOPLE.

§ 21. APPOINTMENT OF THE TOWN CODE OFFICIAL

THE CODE OFFICIAL SHALL BE THE CHIEF OF POLICE, THE CHIEF'S DESIGNEE OR ANY CODE ENFORCEMENT OFFICER OF THE TOWN.

§ 22. NOTICES AND ORDERS

A. NOTICE TO PERSON RESPONSIBLE. WHENEVER THE CODE OFFICIAL DETERMINES THAT THERE HAS BEEN A VIOLATION OF THIS CODE OR HAS GROUNDS TO BELIEVE THAT A VIOLATION HAS OCCURRED, NOTICE SHALL BE GIVEN IN THE MANNER PRESCRIBED IN §§ B AND C, IMMEDIATELY BELOW, TO THE

PERSON RESPONSIBLE FOR THE VIOLATION AS SPECIFIED IN THIS CODE. NOTICES FOR CONDEMNATION PROCEDURES SHALL ALSO COMPLY WITH § 68-2(C).

B. SUCH NOTICE PRESCRIBED IN § A SHALL BE IN ACCORDANCE WITH ALL OF THE FOLLOWING:

- (1) BE IN WRITING.**
- (2) INCLUDE A DESCRIPTION OF THE REAL ESTATE SUFFICIENT FOR IDENTIFICATION.**
- (3) INCLUDE A STATEMENT OF THE VIOLATION OR VIOLATIONS, WHY THE NOTICE IS BEING ISSUED AND THE DAY AND TIME THE VIOLATION WAS DISCOVERED.**
- (4) INCLUDE A CORRECTION ORDER ALLOWING A REASONABLE TIME TO MAKE THE REPAIRS AND IMPROVEMENTS REQUIRED TO BRING THE DWELLING UNIT OR STRUCTURE INTO COMPLIANCE WITH THE PROVISIONS OF THIS CODE.**
- (5) INFORM THE PROPERTY OWNER OF THE RIGHT TO APPEAL.**
- (6) INCLUDE A STATEMENT OF THE RIGHT OF THE CITY TO FILE A TAX LIEN.**

C. METHOD OF SERVICE. SUCH NOTICE SHALL BE DEEMED TO BE PROPERLY SERVED IF A COPY THEREOF IS:

- (1) DELIVERED PERSONALLY TO THE TENANT IF ANY, AND TO THE OWNER OF RECORD; OR**
- (2) SENT BY CERTIFIED MAIL ADDRESSED TO THE LAST KNOWN ADDRESS OF THE OWNER AND THE TENANT, IF ANY, SO LONG AS A COPY THEREOF SHALL BE POSTED IN A CONSPICUOUS PLACE OR ABOUT THE STRUCTURE AFFECTED BY SUCH NOTICE.**

D. PENALTIES. PENALTIES FOR NONCOMPLIANCE WITH ORDERS AND NOTICES SHALL BE AS SET FORTH IN SECTION _____.

E. TRANSFER OF OWNERSHIP. IT SHALL BE UNLAWFUL FOR THE OWNER OF ANY DWELLING UNIT OR STRUCTURE WHO HAS RECEIVED A COMPLIANCE ORDER OR UPON WHOM A NOTICE OF VIOLATION HAS BEEN SERVED TO SELL, TRANSFER, MORTGAGE, LEASE OR OTHERWISE DISPOSE OF SUCH DWELLING UNIT OR STRUCTURE TO ANOTHER UNTIL THE PROVISIONS OF THE COMPLIANCE ORDER OR NOTICE OF VIOLATION HAVE BEEN COMPLIED WITH, OR UNTIL SUCH OWNER SHALL FIRST FURNISH THE GRANTEE, TRANSFEREE, MORTGAGEE OR LESSEE A TRUE COPY OF ANY COMPLIANCE ORDER OR NOTICE OF VIOLATION ISSUED BY THE CODE OFFICIAL AND SHALL FURNISH TO THE CODE OFFICIAL A SIGNED AND NOTARIZED STATEMENT FROM THE GRANTEE, TRANSFEREE, MORTGAGEE OR LESSEE, ACKNOWLEDGING THE RECEIPT OF SUCH COMPLIANCE ORDER OR NOTICE OF VIOLATION AND FULLY ACCEPTING THE RESPONSIBILITY WITHOUT CONDITION FOR MAKING THE CORRECTIONS OR REPAIRS REQUIRED BY SUCH COMPLIANCE ORDER OR NOTICE OF VIOLATION.

§ 23. PENALTIES AND ENFORCEMENT.

(A) VIOLATIONS OF THIS ARTICLE ARE DECLARED TO BE MUNICIPAL INFRACTIONS, THE FINE FOR WHICH SHALL BE FIFTY DOLLARS (\$50) FOR THE FIRST OFFENSE AND ONE HUNDRED DOLLARS (\$100) FOR EACH SUBSEQUENT VIOLATION. EACH DAY A VIOLATION CONTINUES IS A SEPARATE AND REPEAT OFFENSE.

(B) IN ADDITION TO THE PENALTIES SPECIFIED ABOVE, THE TOWN MAY ENFORCE THE PROVISIONS OF THIS ARTICLE, AND ABATE VIOLATIONS OF THIS CHAPTER , BY JUDICIAL PROCEEDINGS FOR INJUNCTION OR OTHER APPROPRIATE CIVIL RELIEF.

AND BE IT FURTHER ENACTED AND ORDAINED by the Board of Commissioners of the Town of Upper Marlboro, Maryland that this Ordinance shall operate to repeal those Town Ordinances previously adopted that are inconsistent with the amended provision

AND BE IT FURTHER ENACTED AND ORDAINED by the Board of Commissioners of the Town of Upper Marlboro, Maryland that should any part of this Ordinance be held invalid, all remaining parts shall remain in effect.

AND BE IT FURTHER ENACTED AND ORDAINED by the Board of Commissioners of the Town of Upper Marlboro, Maryland that pursuant to the Town Charter, this Ordinance shall be posted in the Town office and a fair summary of it shall be published once in a newspaper of general circulation in the Town and effective 20 days after passage by the Board.

AYES: _____ NAYES: _____ ABSENT: _____

INTRODUCED in a public session of the Board of Commissioners on this _____ day of September, 2024.

ORDAINED, APPROVED, AND finally passed by the Board of Commissioners of the Town of Upper Marlboro, Maryland on this _____ day of _____, 2024, by:

Attest:

THE BOARD OF COMMISSIONERS OF THE TOWN
OF UPPER MARLBORO, MARYLAND

Clayton Anderson, Town Administrator

Sarah Franklin, President

Derrick Brooks, Commissioner

Charles Colbert, Commissioner

Karen Lott, Commissioner

Alma Prevatte, Commissioner

Reviewed and Approved for Legal Sufficiency

Karen Ruff, Esq., Town Attorney

Date: _____

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