

Introduction August 27, 2014
Public Hearing – September 10, 2014
Adopted – September 24, 2014
Effective - October 15, 2014

ORDINANCE NO. 452

AN ORDINANCE TO AMEND CHAPTER 285 (STREETS AND SIDEWALKS) OF THE CODE OF THE TOWN OF ST. MICHAELS (THE “CODE”) FOR THE PURPOSES OF PROHIBITING OBSTRUCTIONS ON SIDEWALKS, DEFINING CERTAIN TERMS IN CONNECTION THEREWITH, AMENDING THE PENALTIES ASSOCIATED WITH OBSTRUCTING SIDEWALKS, AND PROHIBITING THE DEFACING OF BRICK AND CEMENT SIDEWALKS; TO AMEND CHAPTER 340 – 40 (SIGNS), BY AMENDING SECTION (C)(1) BUILDING SIGNS TO INCLUDE [5] MOUNTED MENU BOARDS; BY DELETING PARAGRAPH 16 (MENU BOARDS) BY ADDING A NEW PARAGRAPH 16 (ON SITE PORTABLE SIDEWALK SIGNS) AND GENERALLY RELATING TO SIDEWALKS AND USES THEREON IN THE TOWN OF ST. MICHAELS.

WHEREAS, pursuant to Md. Code Ann., Local Gov’t § 5-217, The Commissioners of St. Michaels (the “Commissioners”) are authorized and empowered to require the owners of property to keep the sidewalks on the property clean and free from snow, ice or other obstructions; and

WHEREAS, pursuant to § C-72 of the Charter of the Town of St. Michaels (the “Charter”), the Commissioners are authorized and empowered to establish, regulate and change from time to time the grade lines, width and construction materials of any sidewalk, curb and/or gutters or part thereof on Town property along any public way or part thereof, and shall require that the owners of any property abutting on a sidewalk keep the sidewalk clear of all ice, snow and other obstructions; and

WHEREAS, pursuant to Md. Code Ann., Art. 2B §§ 19-104 and 19-201 and Chapter 80 of the Code of the Town of St. Michaels (the “Code”), the Commissioners are authorized and empowered to regulate the consumption of alcoholic beverages in public places and on public property within the corporate boundaries of the Town; and

WHEREAS, the Commissioners desire to update and amend Chapter 285 (Streets and Sidewalks) of the Code by making textual changes regarding the use and pedestrian access on public sidewalks within the Town; and

WHEREAS, the Commissioners recognize that they are charged with protecting the health, safety and welfare of the Town’s residents and guests; and

WHEREAS, the Commissioners recognize that in order to fulfill their obligation to protect the health, safety and welfare of the Town’s residents and guests and promote safety on the public sidewalks, certain guidelines for use and occupancy thereof must be established; and

WHEREAS, the Commissioners have determined the textual changes to Chapters 285 and 340 do not require Planning Commission review; and

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WHEREAS, all the requirements of the Annotated Code of Maryland (2012), as amended, and Article XII of Chapter 340 of the Code have been satisfied; and

WHEREAS, public notice was published on August 26th, 2014 and September 2, 2014 that a public hearing would be held by the Commissioners on September 10, 2014 concerning amendments to Chapters 285 and 340 of the Code substantially in the form as hereafter set forth; and

WHEREAS, after having given due public notice, the Commissioners conducted a public hearing on September 10, 2014 to receive public comment on the aforesaid amendments; and

WHEREAS, for the reasons stated above, the Commissioners deem it in the interest of the public health, welfare and safety of the citizens of the Town, and for the good government of the Town, to enact the following Ordinance.

SECTION 1. NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COMMISSIONERS OF ST. MICHAELS that Chapter 285 (Streets and Sidewalks) of the Code of the Town of St. Michaels be amended as follows, with new language shown in *italics* and underlined and deleted language shown in ((double parentheses)) and as a ~~strickthrough~~:

ARTICLE I: Obstructions

§ 285-1 Obstructions in pedestrian corridors and on public sidewalks prohibited. (Amendment effective March 1, 2015. ((No person shall obstruct the sidewalks with barrels, boxes, or any other obstruction whereby free passage shall be impeded or hindered.))

A. Unless expressly set forth elsewhere in this Chapter obstructions in pedestrian corridors are prohibited.

B. For purposes of this Chapter, the following definitions shall apply:

OBSTRUCTION – Any object whatsoever which completely or partially blocks a path of travel on a public sidewalk, including but not limited to all structures, appurtenances, fixtures and encumbrances attendant to a permitted use under this Chapter. No obstruction shall be permitted within any pedestrian corridor of a public sidewalk. This restriction does not apply to the installation of Town mandated structures which are installed to assure the health, safety and welfare of the residents of the Town.

PEDESTRIAN CORRIDOR – That portion of a public sidewalk which shall remain visually and physically unencumbered for a **minimum** of four and a half feet (4.5') in width. On those streets which are improved with town tree beds or utility poles, the pedestrian corridor will be measured from the building side of the tree bed or utility poles. Those areas between the curb line and tree beds/utility poles will not be considered in establishing the pedestrian corridor nor shall obstructions be permitted to be placed thereon. In those areas where there are no town tree

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beds or utility poles, the measurement will be taken from the curb line, edge of the gutter pan or street pavement on which the sidewalk abuts. Any object placed on the building side of the pedestrian corridor must be located on privately owned property.

PUBLIC SIDEWALK – A paved (concrete/brick) area adjacent to a town street which has been used historically or is intended to be used for pedestrian travel. Public sidewalks may be located on public or private property.

C. No obstructions shall be placed in any pedestrian corridor or on the public sidewalk after the effective date of this Ordinance. Obstructions existing in any pedestrian corridor or public sidewalk as of the effective date of this Ordinance shall be removed therefrom no later than March 1, 2015.

D. Menu Boards which were established in accordance with §340-16 (Menu Boards) of the Town Code, which are in use as of the effective date of this Ordinance, and which are not in compliance with the standards for such signs as set forth herein, shall be removed or modified no later than March 1, 2015.

285.2 Obstructions of Wharves and other water approaches prohibited. – UNCHANGED

§ 285-3 Violations and penalties.

Any person violating the provisions of this article shall be guilty of a municipal infraction, subject to a fine of ((~~\$25~~) \$200.00). Each day on which a violation exists shall constitute a separate offense. In addition to the monetary fines, three (3) written notices of violation will result in the nullification of the associated permit.

ARTICLE II. Construction Standards

§ 285-4 Paving of sidewalks; standards, maintenance, repair and replacement.

A. UNCHANGED

B. The Commissioners of St. Michaels may order and manage the installation, maintenance, repair and replacement of sidewalks, curbs and gutters.

(1) Installation of a new sidewalk:

(a) When, in the sole discretion of the Commissioners, a new sidewalk or section of sidewalk is ordered to be installed where none currently exists, and where the installation is at the request of a majority of the property owners of the street, the cost of installation may be apportioned on a proportional square-foot basis between the

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owners of properties located on both sides of the street on which the installation occurs and within the same block.

- (b) When, in the sole discretion of the Commissioners, a new sidewalk or section of sidewalk is ordered to be installed where none currently exists, and where the installation is at the request of the Commissioners, the cost may be borne by the Town.

(2) Maintenance, repair and replacement of an existing sidewalk:

- (a) The owners of any property adjoining a public sidewalk in the Town shall be responsible for the maintenance of that sidewalk
- (b) Subsection **B (2) (a)** of this section notwithstanding, the Commissioners may elect to perform repairs to or replacement of sidewalks at no cost to the adjoining property owner if, in the opinion of the Commissioners, such repairs or replacements are necessitated as a result of damage to the sidewalks, curbs and/or gutters caused directly or indirectly by the Town.
- (c) Subsection **B(2)(a)** of this section notwithstanding, in any further situation relating to safety or the public welfare, the Commissioners may elect to pay so much of the cost of a sidewalk replacement as they deem appropriate for the benefit of the community.
- (d) Subsection **B (2) (a)** of this section notwithstanding, subject to the availability of funds as may be set aside for such purpose from time to time, the Commissioners, at the request of abutting property owners and in accordance with the Town's needs and priorities, may elect to upgrade sidewalk sections from concrete to brick on payment by the abutting property owners of 50% of the replacement cost.
- (e) Provided such repair is not substantially in conflict with the Town's long-term goal of converting sidewalks from concrete to brick the Commissioners may remove, patch and replace minor sections of concrete sidewalks. Such concrete patchwork shall be deemed a repair and shall be paid for by abutting owners.
- (f) In order to minimize the financial burden to property owners in the transition from concrete to brick sidewalks, the Commissioners may negotiate such terms with the property owners as the Commissioners deem appropriate, including provisions allowing for deferral of payment plus interest on any assessment associated with the property owners' cost until the next transfer of title of the subject property.
- (g) Property owners may be held responsible for the repair and replacement of sidewalks adjoining their property.
- (h) Failure to comply with a Town order to repair or replace a sidewalk or section thereof to the Town's specifications within 60 days of such notice will be considered a

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municipal infraction and will result in a fine of \$50 per day, for each and every day the sidewalk is not repaired or replaced.

- (i) For use in this ((section § 285-4B only)) *Chapter*, the following terms are defined:

MAINTENANCE

To keep a sidewalk clear of all ice, snow, and other obstructions.

REPAIR

To remove, patch and/or replace sections of an existing sidewalk.

- (j) It is the responsibility of the adjoining property owners to notify the Town of any necessary repairs to the adjoining sidewalks.

§285-5 Failure to comply; work by Town; assessment of costs UNCHANGED

§285-6 Tearing up roads and sidewalks prohibited UNCHANGED

ARTICLE III Curbs and Gutters

§285-7 Construction liability for costs UNCHANGED

§285-8 Specifications UNCHANGED

§285-9 Gutters UNCHANGED

285-10 Posts and trees UNCHANGED

§ 285-11 Defacing cement/*brick* work prohibited.

Any person, who shall maliciously or recklessly destroy, damage or deface any curb, gutter, sidewalk or other cement/*brick* work in course of construction, or after completion, shall be guilty of a misdemeanor and shall be fined \$150.00 and the costs of repair or replacement.

§285 12 Violations and penalties UNCHANGED

§285-13 through §285-15 (Reserved) UNCHANGED

SECTION 2. AND BE IT FURTHER ORDAINED AND ENACTED that Chapter 340 (Zoning), Section 108 (Definitions) of the Code of the Town of St. Michaels be amended as follows, with new language shown in *italics* and underlined and deleted language shown in ((double parentheses)) and as a ~~strikethrough~~:

§ 340-108 Definitions.

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RESTAURANT

- A. A business open to the public whose **principal** activity is the preparation and sale of food and beverages for consumption on site. A restaurant provides indoor seating for customers and serves customers at their seats. A restaurant may also have an outdoor seating area, which in the CC, GC, and MC Zones is permitted subject to the following conditions:
- (1) An outdoor seating area shall exist only in conjunction with indoor seating that is under the same management, which operates the indoor and outdoor seating as a single business.
 - (2) The outdoor seating area shall be contiguous to the restaurant with which per Subsection A (2) above, it forms a single business. For restaurants/cafes providing a sidewalk dining area see Paragraph C. below.
 - (3) Customers in an outdoor seating area shall be seated at tables.
 - (4) The number of outdoor seats shall not exceed the number of indoor seats at tables.
 - (5) An outdoor seating area with more than two tables or eight seats shall provide table service.
 - (6) An outdoor seating area shall not include an outdoor bar.
 - (7) Customers in the outdoor seating area shall have access to the same indoor toilets as do customers seated indoors; portable toilets shall not be permitted.
 - (8) An outdoor seating area shall not be open for business during hours when the indoor restaurant is closed for business.
 - (9) No part of any outdoor seating area shall be within 75 feet of a residential zone.
 - (10) All illumination shall be directed within the outdoor seating area and not towards neighboring properties.

B. UNCHANGED

C. Restaurants/Cafes with outdoor dining abutting a public sidewalk

GENERAL REQUIREMENTS

1. An outdoor dining area, accessory to a restaurant/café, which abuts a public sidewalk may only be permitted in those zones where restaurants and cafes are otherwise permitted.

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2. A permit for the above noted outdoor dining shall be issued by the Town.
3. The Permit fee shall be as set out in the Town's Administrative Fee Schedule for a Zoning Certificate.
4. All chairs, benches, tables and service operations shall not extend beyond the privately held property on which the business is located and shall not extend into the pedestrian corridor as defined in §285-1 (Obstructions) of the Town Code.
5. No alcohol of any type may be served on public property or in violation of any license issued by the Talbot County Board of License Commissioners. Violation of this condition shall result in immediate termination of the use of the property for Outdoor Dining & Sidewalk Use Permit.
6. Only chairs, benches and tables shall be permitted in the Outdoor Dining Area.—For clarification purposes the temporary use of any commercial property for the sale of food or beverages when no seating is provided will not be considered outdoor dining and no permit shall be required.
7. The authority to grant, renew, revoke, or deny a permit for ~~an~~ outdoor dining abutting a public sidewalk ~~& Sidewalk Use Permit~~ rests with the Zoning Inspector/Codes Enforcement Officer.
8. The duration of the Permit shall be three hundred and sixty five days.
9. No structure or enclosure to accommodate the storage of trash or garbage shall be erected or placed on, adjacent to, or separate from the Outdoor Dining area on the public sidewalk or right-of-way. Outdoor Dining areas shall remain clear of litter at all times.
10. The hours of operation of the Outdoor Dining Area shall be limited to the hours of operation of the associated restaurant or café (~~other eating and drinking establishments or café~~).
11. Enforcement of these provisions is governed by the St. Michaels Police Department and/or Codes Enforcement Officer.
12. Violations of these conditions will be considered a municipal infraction and subject to a fine in the amount of \$200.00 per day.
13. The Zoning Inspector shall consider the issuance of any prior municipal infractions, and citations and unpaid fines relative to outdoor dining when reviewing permit renewal requests.

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SECTION 3. AND BE IT FURTHER ORDAINED AND ENACTED that Chapter 340 (Zoning) Section 40 (Signs) of the Code of the Town of St. Michaels be amended as follows, with new language shown in *italics* and underlined and deleted language shown in ((double parentheses)) and as a ~~strikethrough~~:

§ 340-40 Signs.

- C. Only those signs as set herein are permitted, provided that such signs conform to the following provisions, and are located on the same lot as said use unless exception from this requirement is specifically noted.

C (1) Building Signs

[5] MOUNTED MENU BOARDS. Each business whose primary use is the offering of food and beverage to the general public shall be permitted to display their menu by the posting of same on the wall or window of their business. Such board shall not exceed 4 square feet in total area.

~~((C 16) Menu board. Each business whose primary use is the offering of food and beverage to the general public shall be permitted to display during regular business hours their menu by the posting of same on the wall of their business or by the utilization of a freestanding display structure e.g., butler, A frame or pedestal stand). Said display shall be located on site and shall not exceed four feet in height nor exceed eight square feet in total area.))~~

C (16) On-Site Portable Sidewalk Signs - The purpose of such temporary signage is to offer businesses an opportunity to provide notice of sales or specials to those persons traveling on the public sidewalks

[1]PORTABLE SIDEWALK SIGN – A free standing or temporarily affixed wall mounted sign which offers a visual indicator of merchandise offered for sale within a commercial business. Such sign shall not exceed 6 sq. ft. per side and is limited to one sign per business. The sign shall be placed on the privately owned portion of the property and may not encroach into the pedestrian corridor. Such signage may only be displayed during ~~regular~~ business hours. Proof of permit issuance must be affixed to the sign.

[2] APPEARANCE

The above identified signs must be:

- constructed of materials that present a finished appearance (rough-cut plywood prohibited).
- Sign frame shall be painted or stained wood, composite materials, anodized aluminum or other metal.

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- Windblown devices, including balloons, may not be attached or otherwise made part of the sign.
- Signs may not be illuminated or have any moving parts.
- Signs shall have a writing surface that allows a business to write a message in wet or dry erasable markers or chalk.

SECTION 4. AND BE IT FURTHER ORDAINED AND ENACTED, that this Ordinance shall take effect twenty (20) days from the date of its enactment, having been read at two (2) meetings of The Commissioners of St. Michaels and having been passed by a yea and nay vote of The Commissioners of St. Michaels.

HAVING BEEN INTRODUCED, read for the first time and ordered posted on the Town bulletin board at the Public Meeting of The Commissioners of St. Michaels held on the 27th day of August, 2014, at 5:00'clock p.m., in the meeting room at the Town Office, St. Michaels, Maryland.

 (SEAL)
JEAN R. WEISMAN
Town Clerk/Manager


HAVING BEEN READ for the second time and passed by a yea and nay vote of The Commissioners of St. Michaels at a Public Meeting of The Commissioners of St. Michaels held on this 24th day of September, 2014, at 5:00 o'clock p.m., in the meeting room of the Edgar M. Bosley, Jr. Building (Town Office), St. Michaels, Maryland.

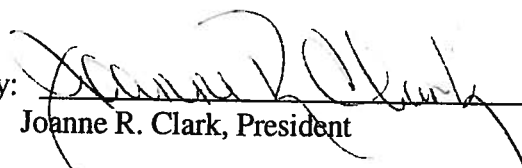
BORDERS	-	___yea___
CLARK	-	___yea___
HARROD	-	___yea___
MYERS	-	___yea___
WINDON	-	___yea___

I HEREBY CERTIFY that the above Ordinance No. 452 was passed by a yea and nay vote of The Commissioners of St. Michaels on the 24th day of September, 2014.

ATTEST:

THE COMMISSIONERS OF ST. MICHAELS

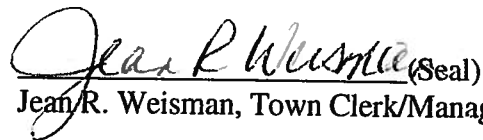

Jean R. Weisman, Town Clerk/Manager

By:  (Seal)
Joanne R. Clark, President

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I HEREBY CERTIFY that an exact copy of this Ordinance was posted from the 25th day of September, 2014, at 8:30 o'clock a.m. to the 14th day of October, 2014, at 4:30 o'clock p.m., on the bulletin board at the Town Office in St. Michaels, Maryland, and that a summary of the aforesaid Ordinance No. 452 the date of its passage, its effective date and the fact that the entire text of the Ordinance may be read on the bulletin board of the Town Office, St. Michaels, Maryland, for at least twenty (20) days following the passage, has been published at least once each week for two (2) consecutive weeks following the passage of said Ordinance in a newspaper having general circulation in the Town of St. Michaels.

Date: 10/16/14, 2014

 (Seal)
Jean R. Weisman, Town Clerk/Manager