

MAYOR AND TOWN COUNCIL OF COLMAR MANOR

EMERGENCY ORDINANCE NO. O -3- 2021

AN EMERGENCY ORDINANCE concerning drainage from private property onto the sidewalks, streets and public rights of way of the Town of Colmar Manor for the purpose of preventing stormwater, natural precipitation, ground water, or the flow from roof runoff, surface runoff, subsurface drainage, downspouts, eave troughs, rainspouts, yard drains, sump pumps, foundation drains, yard fountains, ponds, cistern overflows or water discharged from any air-conditioning unit or similar system from becoming a hazard to vehicles and persons utilizing such improvements in the rights of way of the Town and providing for penalties for the violation thereof.

Section 1. Declaration of Emergency.

The May and Town Council find that:

Ground water, rain or melting snow that does not soak into the ground has become a problem on the public ways of the Town of Colmar Manor. It flows from rooftops, over paved areas and bare soil, and through sloped lawns. Runoff collects and transports soil, pet manure, salt, pesticides, fertilizer, oil and grease, leaves, litter and other potential pollutants. In cold weather this water freezes causing danger to the public from slips and falls. Further it causes damage to public improvement in the right of way

Polluted storm water degrades our lakes, wetlands and rivers. Soil clouds water and degrades habitat for fish and water plants. Nutrients such as phosphorus and nitrogen promote the growth of algae, which crowds out other aquatic life. Toxic chemicals, such as antifreeze and oil from leaking cars, carelessly applied pesticides, and zinc from galvanized metal gutters and

downspouts, threaten the health of fish and other aquatic life. Bacteria and parasites from pet manure can make nearby lakes and bays unsafe for wading and swimming after storms.

That regulation to prevent ice accumulations, damage to public improvements in public rights of way, and those rights of way, together with great danger from ponded, and running water on public rights of way is a public emergency that requires immediate attention and action by the Mayor and Town Council.

Section 2. BE IT ENACTED by the Mayor and Town Council of Colmar Manor, Maryland that a new Section 9-108, et seq. entitled SUMP PUMPS, DOWNSPOUTS AND OTHER DRAINAGE WITHIN RIGHTS-OF-WAY be and the same is hereby enacted to read as follows:

**SECTION 9-108 SUMP PUMPS, DOWNSPOUTS AND OTHER DRAINAGE
WITHIN RIGHTS-OF-WAY.**

9-108 (A) DEFINITION

"CLEAR WATER DRAINAGE" FOR THE PURPOSE OF THIS SECTION IS DEFINED AS STORMWATER, NATURAL PRECIPITATION, GROUND WATER, OR FLOW FROM ROOF RUNOFF, SURFACE RUNOFF, SUBSURFACE DRAINAGE, DOWNSPOUTS, EAVE TROUGHS, RAINSPOUTS, YARD DRAINS, SUMP PUMPS, FOUNDATION DRAINS, YARD FOUNTAINS, PONDS, CISTERN OVERFLOWS OR WATER DISCHARGED FROM ANY AIR-CONDITIONING UNIT OR SIMILAR SYSTEM.

9-109 INSTALLATIONS

SUMP PUMPS MAY BE INSTALLED FOR THE PURPOSE OF DISCHARGING CLEAR WATER FROM FOUNDATION DRAINS AND GROUND INFILTRATION.

- (A) A SUMP PUMP SHALL DISCHARGE UNDERGROUND EITHER INTO AN APPROVED INFILTRATION TRENCH, NATURAL SWALE OR ONTO THE GROUND AT LEAST 10 FEET FROM THE TOWN RIGHT-OF-WAY OR ANY BUILDING AND ABOVE GRADE UNLESS A VALID PERMIT STATES OTHERWISE.**
- (B) ANY SUMP PUMP DISCHARGE OR OTHER CLEAR WATER DRAINAGE SHALL NOT BE ALLOWED TO FLOW ONTO OR ACROSS A PUBLIC STREET, RIGHT-OF-WAY OR SIDEWALK UNDER THE JURISDICTION OF THE TOWN, NOR SHALL ANY SUMP PUMP DISCHARGE OR SIMILAR DRAINAGE BE ALLOWED TO ACCUMULATE ON AN ADJOINING LOT.**
- (C) NO DOWNSPOUTS FROM EAVES OR ANY OTHER CLEAR WATER DRAINAGE SHALL BE ALLOWED TO DISCHARGE ONTO ANY PUBLIC STREET, RIGHT-OF-WAY OR SIDEWALK.**

9-110 ORDERS TO DISCONNECT OR RECONNECT; PERMIT; FEES.

- (A) ORDERS TO CEASE DISCHARGE. WHEN ORDERED BY THE TOWN OR ITS AUTHORIZED AGENT, A PROPERTY OWNER OR OCCUPANT SHALL CEASE TO DISCHARGE HIS OR HER SUMP PUMP LINE ONTO A TOWN STREET, SIDEWALK OR RIGHT-OF-WAY AND EITHER CONNECT TO A TOWN-INSTALLED INFILTRATION TRENCH, SWALE, DRAINAGE SYSTEM OR OTHER FEATURE LOCATED WITHIN THE TOWN RIGHT-OF-WAY OR A NATURAL SWALE LOCATED ON THE OWNER'S PROPERTY, OR OTHERWISE DISCHARGE THE SUMP PUMP LINE ABOVE GROUND WHOLLY ON THE OWNER'S PRIVATE PROPERTY.**

- (B) PERMITS. SHOULD A PROPERTY OWNER WISH TO CONNECT INTO ANY INFILTRATION TRENCH, SWALE, DRAINAGE SYSTEM OR OTHER FEATURE LOCATED WITHIN THE TOWN RIGHT-OF-WAY, THE OWNER OR OCCUPANT MUST FIRST OBTAIN A PERMIT FROM THE TOWN AND, UNLESS WAIVED BY THE TOWN, PROVIDE A DETAILED DRAWING OF THE PROPOSED INSTALLATION.**
- (C) PRIOR TO BACKFILLING THE LINE, THE CODE ENFORCEMENT OFFICER OR ANY MARYLAND CERTIFIED CIVIL ENGINEER SHALL INSPECT AND APPROVE THE LINE FOR PROPER INSTALLATION.**
- (D) THE COSTS OF CONNECTING FROM THE BUILDING OR RESIDENCE TO AN INFILTRATION TRENCH, SWALE, DRAINAGE SYSTEM OR OTHER FEATURE LOCATED WITHIN THE TOWN RIGHT-OF-WAY SHALL BE PAID BY THE OWNER. AN INFILTRATION TRENCH, DRAINAGE SYSTEM OR OTHER FEATURE DESIGNED AND INSTALLED BY THE TOWN SHALL BE PAID FOR BY THE TOWN.**
- (E) NO PERMIT SHALL BE REQUIRED IF THE OWNER OR OCCUPANT DISCHARGES CLEAR WATER DRAINAGE TO A NATURAL SWALE LOCATED WHOLLY ON THE OWNER'S PROPERTY, OR OTHERWISE DISCHARGES THE SUMP PUMP LINE OR OTHER DRAINAGE ABOVE GROUND WHOLLY ON THE OWNER'S PRIVATE PROPERTY SUCH THAT NO CLEAR WATER DRAINAGE SHALL BE ALLOWED TO ACCUMULATE OR FLOW ONTO ANY OTHER OWNER'S PROPERTY INCLUDING ANY PUBLIC RIGHT-OF-WAY.**

- (F) FEES. UNLESS THE FEE IS WAIVED FOR A DISCHARGE WITHIN THE RIGHT-OF-WAY THAT PRE-EXISTED THE EFFECTIVE DATE OF THIS SECTION, THE TOWN SHALL CHARGE A PERMIT FEE OF \$25 FOR ANY APPLICATION MADE UNDER THIS SECTION. THE MAYOR AND TOWN COUNCIL MAY MODIFY SAID FEE FROM TIME TO TIME.**
- (G) WAIVERS. THE STRICT REQUIREMENTS OF THIS SECTION INCLUDING ANY DEADLINE OR FEE REQUIRED BY THIS SECTION MAY, FOR GOOD AND SATISFACTORY CAUSE SHOWN, BE EXEMPTED, WAIVED OR OTHERWISE MODIFIED BY THE MAYOR AND TOWN COUNCIL FOR ANY DISCHARGE EXISTING PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.**
- (H) PERMIT APPLICATIONS. (1) A WRITTEN REQUEST FOR A PERMIT TO DISCHARGE CLEAR WATER DRAINAGE INTO A TOWN-DESIGNED INFILTRATION TRENCH, SWALE, DRAINAGE SYSTEM OR OTHER FEATURE LOCATED WITHIN THE TOWN RIGHT-OF-WAY SHALL DEMONSTRATE THAT THE OWNER'S OR OCCUPANT'S EXISTING DISCHARGE POINT PRODUCES A SIGNIFICANT VOLUME OF WATER DURING DRY PERIODS (I.E., NOT WITHIN 24 HOURS OF MEASURABLE RAINFALL) OR SOME OTHER RELATED CONDITION UNIQUE TO THE PROPERTY THAT WOULD PRESENT A PRACTICAL DIFFICULTY OR UNDUE HARDSHIP IN COMPLYING WITH THIS SECTION. SAID DOCUMENTATION SHALL FURTHER INCLUDE: PHOTOGRAPHS OF THE**

DISCHARGE, PHOTOGRAPHS MUST BE TIME STAMPED AND MUST NOT BE TAKEN WITHIN 24 HOURS OF RAINFALL;

(2) FOR SUMP PUMP PERMIT APPLICATIONS, PROVIDE THE CAPACITY OF ANY SUMP PUMPS, HOW OFTEN THE PUMP RUNS DURING DRY PERIODS, AND AN EXPLANATION OF THE NATURE OF THE DISCHARGE AND WHY IT IS NOT FEASIBLE FOR WATER TO BE DETAINED ON THE SUBJECT PROPERTY;

(3) FOR ROOF DRAIN PERMIT APPLICATIONS, PROVIDE AN EXPLANATION OF WHY IT IS NOT FEASIBLE TO DISCHARGE ONTO THE OWNER'S OWN LAWN OR TO INSTALL A CLEAR WATER DRAINAGE RETENTION SYSTEM;

(4) FOR ALL OTHER APPLICATIONS, PROVIDE A DETAILED EXPLANATION OF THE NATURE OF THE DISCHARGE AND WHY IT IS NOT FEASIBLE FOR WATER TO BE DETAINED ON THE SUBJECT PROPERTY;

9-111 NOTICE AND REVIEW.

PROVIDED THAT EACH OWNER OR OCCUPANT AFFECTED SHALL BE GIVEN AT LEAST 30 DAYS' WRITTEN NOTICE DELIVERED BY FIRST CLASS U.S. MAIL, POSTING ON THE PROPERTY IN A CONSPICUOUS LOCATION, OR PERSONAL DELIVERY AS CERTIFIED BY A TOWN OFFICIAL, THE MAYOR OR OTHER AUTHORIZED OFFICIAL OR AGENT MAY ORDER THE REMOVAL AND ABATEMENT OF ANY UNLAWFUL DISCHARGES WITHIN THE TOWN'S PUBLIC RIGHTS-OF-WAY.

9-112 DELIVERY TO THE CLERK-TREASURER

(A) ALL PETITIONS OR REQUESTS FOR A PERMIT, WAIVER OR MODIFICATION FILED PURSUANT TO THIS SECTION SHALL BE DELIVERED TO THE CLERK-TREASURER BY THE DEADLINE INDICATED ON THE PETITION OR APPLICATION FORM PREPARED AND DELIVERED BY THE TOWN OR AS OTHERWISE STATED IN THE ORDER OR WRITTEN NOTICE SUPPLIED TO THE OWNER OR OCCUPANT PURSUANT TO THIS SECTION.

(B) IN THE EVENT AN OWNER OR OCCUPANT FILES A TIMELY APPLICATION OR PETITION FOR A PERMIT, WAIVER OR MODIFICATION (I.E., WITHIN 30 DAYS) PURSUANT TO THIS SECTION AFTER THE TOWN HAS SERVED A CEASE AND DESIST ORDER REGARDING AN UNLAWFUL DISCHARGE, ENFORCEMENT OF SAID ORDER MAY BE STAYED UNTIL A DETERMINATION HAS BEEN MADE REGARDING THE APPLICATION OR PETITION.

9-113 APPROVAL BY MARYLAND CERTIFIED CIVIL ENGINEER.

EACH PETITION OR REQUEST FOR PERMITS, WAIVERS OR MODIFICATIONS SHALL BE REVIEWED AND APPROVED BY A MARYLAND CERTIFIED PROFESSIONAL CIVIL ENGINEER.

9-114 FINAL DETERMINATION' HEARING

(A) A FINAL DETERMINATION, INCLUDING ANY CONDITIONS, SHALL BE MADE AT A MAYOR AND TOWN COUNCIL FOLLOWING A PUBLIC HEARING OR A SUBSEQUENT TOWN MEETING HELD WITHIN 60 DAYS OF THE HEARING.

(B) NOTICE OF THE HEARING DATE FOR ONE OR MORE PROPERTIES SHALL BE SENT BY FIRST CLASS U.S. MAIL TO EACH APPLICANT OR PETITIONER AND EACH ADJOINING PROPERTY OWNER AT LEAST SEVEN (7) DAYS PRIOR TO THE HEARING. THE FINAL DETERMINATION OR DECISION SHALL BE IN WRITING STATING THE MAYOR AND TOWN COUNCIL'S FACTUAL FINDINGS AND LEGAL CONCLUSIONS WITHIN 90 DAYS OF THE HEARING.

9-115 APPEALS.

ANY APPLICANT, PETITIONER OR ABUTTING OWNER AGGRIEVED BY A DECISION OF THE MAYOR AND TOWN COUNCIL WITH REGARD TO A PETITION OR APPLICATION FOR A PERMIT, WAIVER OR MODIFICATION FILED UNDER THE PROVISIONS OF THIS SECTION AND WHO APPEARED BEFORE THE MAYOR AND TOWN COUNCIL IN PERSON, BY AN ATTORNEY, OR IN WRITING, SHALL HAVE THE RIGHT TO APPEAL THE DECISION OF THE MAYOR AND TOWN COUNCIL WITHIN 30 DAYS OF SUCH DECISION TO THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND.

9-116 PENALTY;

MUNICIPAL INFRACTION. THE FAILURE OF AN OWNER OR OCCUPANT TO OBSERVE AND COMPLY WITH THE DUTIES, ORDERS OR REQUIREMENTS OF THIS SECTION SHALL BE LIABLE FOR A MUNICIPAL INFRACTION CARRYING A FINE OF \$200.00. EACH ADDITIONAL 30 DAYS THAT A VIOLATION OF THIS SECTION EXISTS SHALL BE DEEMED A SEPARATE VIOLATION SUBJECT TO AN ADDITIONAL FINE OF \$200.00.

9-117 LIEN ON REAL PROPERTY.

PROVIDED THAT THE OWNER OF RECORD HAS RECEIVED OR BEEN MAILED NOTICE PURSUANT TO THIS SECTION, ANY CORRECTIVE ACTION OR ABATEMENT TAKEN BY THE TOWN PURSUANT TO COURT ORDER, AND ANY PENALTIES OTHERWISE ASSESSED BY ANY COURT ORDER PURSUANT TO THIS SECTION SHALL BE CONSIDERED A LIEN IN FAVOR OF THE TOWN ON THE SUBJECT PROPERTY AND MAY BE COLLECTED AND ENFORCED IN THE SAME MANNER AS DELINQUENT REAL PROPERTY TAXES.

Section 3. BE IT FURTHER ENACTED that this Ordinance shall take effect on the day of its enactment.

Introduced on the _____ day of _____ 2021.

Adopted on the _____ day of _____ 2021.

ATTEST:

MAYOR AND TOWN COUNCIL OF
COLMAR MANOR, MARYLAND

Daniel R. Baden
Clerk-Treasurer

Sadara B. Barrow
Mayor

Maliek Harding
Councilmember, Ward 1

Irina Hobbs
Councilmember, Ward 2

Douglas Bowles
Councilmember, Ward 3

Melinda Mendoza
Councilmember, Ward 4

I certify that the following motion was made at the meeting of the Mayor and Town Council of Colmar Manor held on _____,

Motion: Councilmember _____ moved that the Mayor and Town Council adopt Ordinance No. O - - 2021, as amended, enacting new Sections 9-108 - 9-117 of Article 9, Streets and Sidewalks of the Town Code, Traffic for the purpose of regulating, permitting and/or prohibiting the discharge of water onto the public rights of way of the Town and providing for penalties for the violation thereof.

Motion Seconded: Councilmember _____

Vote: Clerk-Treasurer to the Mayor and Town Council of Colmar Manor