

CITY OF FROSTBURG, MARYLAND
APPLICATION FOR CLOSING A PUBLIC WAY

Ordinance 2007-08, as adopted on December 21, 2007, sets for the method by which a property owner may petition the City Council for the closure of a public way, street or alley. Section XIII c, Step 3. of the Ordinance provides that the Petitioner must complete an Application in the form prescribe by the City Administrator.

Name of Petitioner:

Address of Petitioner:

Phone Number and Email of Petitioner:

Location of Public Way to be Closed:

Reason(s) for Requesting the Closing:

Signature of Petitioner:

Signature

Date

Required Attachments:

- (i) The names and addresses of all persons owning property adjacent to the portion of the public way to be closed and all persons who may have reasonably be expected to be affected by the closure of the public way;
- (ii) The affidavits or explanations as set forth in the Ordinance;
- (iii) A plat and property description meeting the specifications set forth in the Ordinance;
- (iv) A non-refundable \$300 processing fee.

Completed Applications including all the Required Attachments, must be submitted to the City Administrator at City Hall, 59 E. Main Street or at P.O. Box 440, Frostburg, Maryland 21532. Questions should be directed to the City Administrator at 301-689-6000, Ext. 25.

Ordinance 2007-08

AN ORDINANCE TO AMEND THE CITY CODE OF FROSTBURG TO PROVIDE FOR THE ADOPTION OF REGULATIONS TO IMPLEMENT THE PROCEDURE FOR THE CLOSING OF PUBLIC WAYS PURSUANT TO SECTIONS 908 THROUGH 910 OF ARTICLE IV OF THE CHARTER OF THE CITY OF FROSTBURG.

WHEREAS: The City of Frostburg is a municipal corporation of the State of Maryland, organized and operating under a charter ("Charter") adopted in accordance with Article XI-E of the Constitution of Maryland and Article 23-A of the Annotated Code of Maryland, as amended;

WHEREAS: Article IV of the Charter empowers the City of Frostburg to close its roads; and

WHEREAS: The Mayor and City Council of the City of Frostburg desire to adopt regulations for the establishment of a definitive procedure for the implementation of the aforesaid Charter provisions.

NOW, THEREFORE BE IT RESOLVED, that the Mayor and City Council of Frostburg, Maryland, in consideration of the foregoing, do hereby amend the City Code of the City of Frostburg as follows:

A new Article III, Section XIII, is inserted to read as follows:

SECTION XIII

- a) Short Title. This Ordinance is and shall be known as the Road Closing Ordinance of the City of Frostburg, Allegany County, State of Maryland.
- b) Purpose of Ordinance. The purpose of this Ordinance is to establish a definitive procedure for the implementation of the provisions of the Charter of the City of Frostburg relative to the closure of public ways.
- c) Procedure. The procedure to be followed with respect to the closure of public ways shall be as follows:
 1. Step 1. The property owner(s) requesting the closure of a public way (the "Petitioner") shall submit a petition therefore to the City Administrator. The petition shall contain the following information:
 - a. The Petitioner's name and address.
 - b. Identification of the public way and the portion thereof sought to be closed;
 - c. The address and deed liber and folio reference for all property owned by the Petitioner which is adjacent to the portion of the public way sought to be closed as well as copies of all deeds therefore; and
 - d. Proof that the public way has been accepted as a public way or is owned by the City of Frostburg.

2. **Step 2.** The City Administrator shall forward the petition to the Director of Public Works and the Community Development Director for preliminary approval and/or comments and concerns relative to the proposed closure of the subject public way.
3. **Step 3.** Upon receipt of the preliminary approval and/or comments and concerns of the Director of Public Works and the Community Development Director, the City Administrator shall provide the Petitioner with an application to be completed and returned. The application shall be in the form prescribed by the City Administrator. The application shall be returned to the City Administrator along with (i) the names and addresses of all persons owning property adjacent to the portion of the public way to be closed and all persons who may reasonably be expected to be affected by the closure of the public way, (ii) the affidavits or explanations described in Section (d) hereinafter, (iii) a plat and property descriptions meeting the specifications set forth in Section (e) hereinafter, and (iv) a non-refundable processing fee in the amount of \$300.00. The City Administrator may require the Petitioner to submit supplemental affidavits/explanations with respect to such additional persons the City Administrator believes may be affected by the closure of the public way
4. **Step 4.** Upon receipt of the application and the required submissions, the City Administrator shall forward the application and required submissions to the Director of Public Works and the Director of Community Development in order for their respective departments to make a determination as to whether existing or future public works facilities or public utilities will be affected, and whether the closure of the public way will be contrary to the City's interests, plans or regulations. The Director of Public Works and the Community Development Director will notify the City Administrator as to whether their respective departments have approved or denied the closure of the public way. Denials shall be accompanied by written explanations setting forth the bases therefore. In the event of a denial, the Petitioner may elect to abandon the request for the closure of the public way or to continue with the procedures set forth hereinafter.
5. **Step 5.** In the event the application is approved by the Director of Public Works and the Community Development Director or the Petitioner elects to proceed his or her request for the closure of the public way, an advertised public hearing before the Mayor and City Council shall be scheduled. No later than ten (10) days prior to the date of the public hearing, the City Administrator shall have a notice published in a newspaper of general circulation and mail notice of the date, time and purpose of the hearing to all property owners who own property adjacent to the portion of the public way to be closed, to each property owner who is reasonably expected to be affected by the closure of the public way, and to all utility companies known to have facilities or equipment in the immediate vicinity of the public way to be closed. The said notice shall also be posted at the City Hall and on the City's website within the aforesaid time frame.
6. **Step 6.** An advertised public hearing shall be held. At the public hearing, the Mayor and City Council shall consider such documentation and testimony as is presented with respect to the prospective closure of the public way and whether any damages will be caused by the closure of the public way, the amount of those damages and to whom those damages should be paid. At the conclusion of the

hearing, the Mayor and City Council shall make a determination as to whether to grant (with or without conditions) or deny the application. A resolution setting forth the decision of the Mayor and City Council shall be passed at the conclusion of the hearing.

7. Step 7. As provided for in Article IV, Section 910 of the Charter, any party aggrieved by the decision of the Mayor and City Council shall have the right to appeal that decision to the Circuit Court for Allegany County, Maryland no later than thirty (30) days from the date of the decision.
8. Step 8. If the Mayor and City Council approves the closure of the public way, the ordinance approving the closure shall be posted on the City's web site and on the City Hall entrance bulletin board no later than one (1) week from the date of the approval, said notice to be posted for the balance of the thirty (30) day period following the date of the passage of the ordinance.
9. Step 9. Upon the expiration of the thirty (30) day period following the Mayor and City Council's approval of the closure of the public way, the matter shall be referred to the City's municipal attorney for the preparation of quit claim deeds, conveying the portions of the public way to the Petitioner and the property owners owning property adjacent to the portion of the public way to be closed. Unless waived by the Mayor and City Council under special circumstances, all such deeds shall include utility easements for the benefit of the City of Frostburg for future utilities, said easements running the entire length and width of the portion of the public way being closed. Once the deeds are executed, they shall be recorded by the City. The Petitioner shall be responsible for paying all government recording fees for the recordation of all deeds, said fees to be paid to the City before the deeds shall be recorded. The Petitioner shall also be responsible for satisfying all conditions set forth in the ordinance approving the closure of the public way before the said deeds shall be recorded.

d) Affidavits/Explanations. The Petitioner shall obtain affidavits from all property owners with property adjacent to the portion of the public way sought to be closed and from such other persons (as determined by the Petition and the City Administrator) who may reasonably be expected to be affected by the closure of the public way stating whether they approve or disapprove of the requested closure of the public way. If affidavits cannot be obtained for all such property owners, the Petitioner shall provide written explanation as to why that is the case. The affidavits shall be in the following form.

PUBLIC WAY CLOSURE AFFIDAVIT

I, _____ (property owner name), am the owner of the real property located at _____, Frostburg, Maryland. The Petitioner has provided me with a copy of his/her/their Petition requesting the closure of a portion of _____ (name of public way). I approve/disapprove (circle one) of the closure of the said portion of the said public way. If I have any comments regarding this matter, they are set forth in the space provided below.

(leave space for comments)

I SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY that the contents of the foregoing affidavit are true and correct to the best of my knowledge, information and belief.

property owner signature

property owner printed name

property owner address

property owner telephone number

e) **Plat/Property Descriptions.** The plat and property descriptions to be submitted by the Petitioner with the application must be completed by a Maryland Registered Land Surveyor. They must be based on existing subdivisions in order to maintain uniformity with other City records.

1. The required property descriptions are as follows:

- a. Description (bearings and distances) of the entire portion of the public way to be closed; and
- b. Separate descriptions of each portion of the public way to be conveyed to adjacent property owners.

All descriptions shall include references to existing easements and a utility easement for the benefit of the City of Frostburg for future utilities running the entire length and width of the portion of the public way being closed.

2. At a minimum, the plat shall accurately depict and contain the following:

- a. The location of public way to be closed and each portion of public way to be closed;
- b. Adjoining properties and all related information;
- c. Subdivision references;
- d. Location of existing utilities;
- e. Location of existing and proposed easements;
- f. A signature block for the Director of Public Works' and Community Development Director's approval; and
- g. The Registered Land Surveyor's stamp.

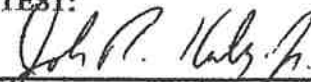
The plat shall be drawn to scale and it shall be submitted on paper measuring no less than 8.5" x 11".

Introduced: November 15, 2007
Second Hearing: December 20, 2007
Adopted: December 20, 2007
Effective: January 20, 2008

FROSTBURG MAYOR AND CITY COUNCIL

By: 
Arthur T. Bond, Mayor

ATTEST:


John R. Kirby, Jr. City Administrator

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