

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

ORDINANCE: 2019-02 **DRAFT-1**
SESSION: Regular Town Meeting
INTRODUCED: April 16, 2019

AN ORDINANCE TO AUTHORIZE AND PROVIDE FOR THE APPOINTMENT AND GOVERNANCE OF ALL COMMITTEES AND OTHER BODIES NOT OTHERWISE PRESCRIBED BY THE CHARTER OR OTHER LAW TO PROVIDE FOR CERTAIN PRACTICES, PROCEDURES AND GOVERNANCE OF SUCH BODIES; BY PRESCRIBING AND PROVIDING FOR THE MEMBERSHIP, CREATION AND COMPOSITION OF CERTAIN BODIES; BY PROVIDING FOR CERTAIN APPOINTMENT PROCEDURES, COMPENSATION AND BUDGETING, TERMS OF APPOINTMENT AND REMOVAL, CONDUCT OF MEETINGS, APPOINTEE LIABILITY AND INDEMNIFICATION, COMMUNICATIONS; AND GENERALLY RELATING TO THE PRACTICES, PROCEDURES AND REQUIREMENTS FOR APPOINTED BODIES OF THE TOWN OF UPPER MARLBORO

WHEREAS, the Board of Commissioners of the Town of Upper Marlboro has authority pursuant to state law and Section 82-17 (Exercise of Powers) of the Town Charter to create committees and other bodies to further the public interest of the Town; and

WHEREAS, Section 82-16(2)(p) (Departments) of the Town Charter authorizes the Board to create, change, and abolish offices, departments, or agencies, other than offices, departments, and agencies established by said Charter; to assign additional functions or duties to offices, departments or agencies, established by said Charter, but not including the power to discontinue or assign to any other office, department, or agency, any function or duty assigned by said Charter to a particular office, department, or agency; and

WHEREAS, Section 82-16(2)(l) (Community Services) of the Town Charter authorizes the Board to provide, maintain, and operate community and social services for the preservation and promotion of the health, recreation, welfare, and enlightenment of the inhabitants of the Town.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of The Town of Upper Marlboro sitting in regular session this _____ day of _____, 2019

the following:

**TOWN OF UPPER MARLBORO COMMITTEE AND OTHER APPOINTED BODIES
PRACTICES AND PROCEDURES ORDINANCE**

SECTION 1: AUTHORITY, PURPOSE, SCOPE AND DEFINITIONS.

A. Authority. Pursuant to Title 5, Subtitle 2 of the Local Government Article of the Md. Ann. Code, and Sections 82-16(2)(p) and 82-17 of the Town Charter, the Board of Commissioners and the President shall be authorized pursuant to this Ordinance or any other duly enacted ordinance to create and establish certain offices, committees and other appointive bodies as deemed necessary to serve the best interests of the Town.

B. Purpose. In addition to authority stated in Subsection A, the purpose of this Ordinance is to authorize and set forth the practices, procedures and requirements for all Town appointed bodies serving the Town. Every committee or other appointed body shall have a specific statement of purpose and function as approved by the Appointing Authority or otherwise prescribed by law. Unless otherwise prescribed by Charter, ordinance or resolution, the size of each body shall be dictated by its duties and responsibilities as determined by the appointing authority or bylaws approved by the Board of Commissioners.

C. Scope. Unless otherwise provided elsewhere in the ordinances of the Town, the Town Charter or by authorized resolution, the provisions of this Ordinance shall apply to all committees or other appointed bodies established by Charter, separate legislation of the Board of Commissioners, or by order of the President, as permitted by law.

D. Definitions. The following definitions shall apply to this Ordinance:

- (1.) “Appointing authority” means the Board of Commissioners or the President, as permitted by the Town Charter or State law.
- (2.) “Appointed official” means a person designated by an Appointing Authority to occupy a Town office or perform some delegated power, function or duty on behalf of the Town government.
- (3.) “Committee” means an ad hoc or standing body or individual to whom either the President or the Board of Commissioners have delegated or committed a particular duty in the expectation of their acts or recommendations being confirmed by the Appointing Authority. A committee’s purpose may be solely advisory in nature. A committee may also include a standing group of persons with managerial, supervisory, governmental, planning or investigatory functions having certain expressly delegated powers or functions.

SECTION 2: PRACTICES, PROCEDURES AND GOVERNANCE.

A. General. All appointees of the various committees and other appointed bodies of the Town, shall abide by the rules, policies and practices stated in this Ordinance or by any other duly approved ordinance, resolution, including any approved organizational bylaws, or order to ensure the proper conduct of Town business, proper administrative interaction with agencies outside of the municipality, and proper administration of employees, appointees and other bodies of the Town of Upper Marlboro.

B. Reports. At each Town regular or other designated meeting, a report from each committee or other appointed body shall be made by the chairperson or other proper designee to the Board of Commissioners.

C. Limitations. Unless otherwise provided by State law, the Town Charter, an ordinance or written resolution, including any organizational bylaws passed pursuant to this Ordinance, or another enabling ordinance, a committee or other appointed body shall not have any authority to act on behalf of the Board of Commissioners or the President, nor shall such committees or other appointed bodies conduct hearings or take testimony or public comment unless specifically authorized by resolution or recorded motion of the Board of Commissioners or as otherwise permitted by law. Organizational bylaws shall be approved by the Board of Commissioners.

D. Compensation and budget.

(1.) Appointed body members shall receive no compensation, although they may be reimbursed for actual expenses incurred in the performance of their duties in accordance with appropriations for the various bodies or purposes as made by the Board of Commissioners.

(2.) In general, an individual committee or other body may not always have a defined budget. If a committee or other appointed body anticipates a need to expend funds not currently budgeted, it may request such funds through the President's office. Such a request is subject to a review and evaluation of need, availability of funds, and approval by the President and Board. For those bodies having budgeted funds set aside for their purposes, no contract shall be entered into except as authorized by Town procurement law.

E. Qualifications. The President shall appoint all members of any appointed bodies created by ordinance or authorized resolution unless otherwise prescribed by other law. Unless prescribed otherwise by law including any approved bylaws of the body, all bodies shall have appointees who shall meet the following qualifications for appointment: (i.) A member shall be a resident of the Town, (ii.), a member shall not be a person employed by or under contract to the Town except as a non-voting member or liaison, and (iii.) a member shall not be a convicted felon, unless otherwise waived by a unanimous vote of the Board of Commissioners.

F. Terms of appointment and removal. Unless otherwise prescribed by law, the terms of appointment for the various appointed bodies shall generally be one year; however, certain appointments may be for two years. Bodies formed for specific purposes may not have definite terms and may exist only until the ordained or ordered purpose is accomplished. The following requirements shall also apply to terms of appointment, and removal or suspension of members:

- (1.) Upon appointment and as a condition thereof, an Appointed Official shall take and subscribe to the oath or affirmation of office as provided for in Section 82-85 of the Town Charter;
- (2.) Members are free to resign at any time, should their personal circumstances prevent continued effective service. A letter of resignation or other writing shall be submitted to the Town Clerk but the resignation shall not become effective until approved by the Appointing Authority; and
- (3.) Excessive absenteeism, excluding short term illness or necessary travel, is cause for removal of a committee member or other appointee. Unless otherwise prescribed by law, a body's appointee may be removed from office for cause or without cause by the President.

G. Meetings. The body or committee chairperson shall be responsible for setting the proposed meeting agenda, unless the body decides on another procedure. A commissioner may be assigned to coordinate with each body and may assist in drafting the agenda, scheduling meetings, and in the preparation and distribution of meeting materials. The following operating policies and procedures shall also apply:

- (1.) Except for those committees and other bodies that have adopted their own bylaws or rules of procedure, as approved by the Board of Commissioners, and unless otherwise specified by law, the most recent edition of Robert's Rules of Order shall generally be followed when conducting meetings;
- (2.) All committee and other body meetings shall be open to the public after reasonable notice is given and conducted in accordance with the State of Maryland's Open Meetings Law. A body may convene in closed session only for those reasons set forth in State Government Article, Section 10-508(a) of the Annotated Code of Maryland and a body should consult with the Town Clerk prior to considering doing so;
- (3.) Certain bodies may have standing meeting times, while others may meet on an "as needed" basis. Unless otherwise prescribed by law, each committee or body may meet as frequently as necessary to carry out its responsibilities. A body may also cancel a meeting from time to time if there are no agenda items in need of consideration or if a quorum cannot attend. A quorum for conducting business shall be a simple majority of the membership of the committee or other body;
- (4.) Minutes should be brief and essentially reflect decisions, motions, consensus, votes or recommendations of the body. A copy of the minutes should be sent to the Town Clerk for custodial purposes, who shall forward a copy to the Appointing Authority; and

(5.) The Board of Commissioners recognizes the importance of civil discourse at all levels of the government including for those who volunteer their time and services on behalf of the Town. Bodies and committees should conduct themselves so as to maintain public confidence in their municipal government and in the performance of the public trust. Disruptive behavior may result in removal by the chair of any person responsible for such behavior.

SECTION 3: LIABILITY AND INDEMNIFICATION; COMMUNICATIONS.

A. Member liability. Appointed officials or members of a Town appointed body are considered municipal officials, regardless of whether they receive compensation. Subject to certain exceptions and limitations, state law allows a municipality to indemnify its officials and employees from personal financial loss, while acting in a discretionary capacity, without malice, and within the scope of the official's authority. The Town has purchased liability insurance policies for this purpose and intends to indemnify and defend its duly appointed committee or other body members in substantially the same manner as its other appointed and elected officials.

B. Email usage. The use of electronic mail creates certain issues related to the state open meetings and public records laws. There is no distinction in the law between written and electronic records. As a result, it is likely that email messages written or received in the capacity of a committee or body member are public records which must be made available for public inspection in the same manner as hardcopy documents. Use of one's own home computer and personal email accounts may not exempt such communications depending on the context. Unless subject to a privilege provided for by law, employees and committee members acting in their official capacity should have no expectation of privacy in their use of electronic mail for town purposes. Appointees are encouraged to establish or obtain separate email accounts from the Town or another provider dedicated solely for their use as a Town official.

C. Public Speaking. An individual appointed member has a right to speak publicly as a private citizen but should not purport to represent the Town, the body or committee or exercise the authority of the body or committee except when specifically authorized by that body to do so. If members identify themselves as members when speaking as private citizens, it may be perceived that they speak for the body or committee. Such a perception should be avoided.

BE IT FURTHER ENACTED AND ORDAINED 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.

BE IT FURTHER ENACTED AND ORDAINED 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.

Adopted this _____ day of _____, 2019.

Attest:

THE TOWN OF UPPER MARLBORO,
BOARD OF COMMISSIONERS

Tonga Y. Turner, President

Linda Pennoyer, Commissioner

M. David Williams, Town Clerk

Wanda Leonard, Commissioner

Reviewed and Approved for Legal Sufficiency

Kevin J. Best, Esq.

Date: _____

Proposed Ordinance 2019-02 Timeline:

Introduction:	April Regular Town Meeting	04/16/2019
Public Comment & Board Discussion:	April Board Work Session	04/23/2019
Passage/Board vote:	May Regular Town Meeting	05/14/2019