

CHARTER AMENDMENT RESOLUTION NO. 01-2021

A CHARTER AMENDMENT RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE TOWN OF UPPER MARLBORO, MARYLAND AMENDING THE CHARTER OF THE TOWN OF UPPER MARLBORO, MARYLAND BY CREATING THE OFFICES OF TOWN ADMINISTRATOR AND CHIEF OF POLICE, AND BY PERMITTING THE OFFICIAL USE OF THE ALTERNATIVE TITLE OF MAYOR BY THE PRESIDENT OF THE BOARD OF COMMISSIONERS, AND MAKING CERTAIN STYLISTIC, GRAMMATICAL AND NON-SUBSTANTIVE CHANGES THERETO

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE TOWN OF UPPER MARLBORO, MARYLAND adopted pursuant to the authority of Article XI-E, § 4 of the Constitution of the State of Maryland and Title 4, Subtitle 3 of the Local Government Article of the Annotated Code of Maryland, to amend the Charter of the Town of Upper Marlboro, to formally create the offices of Town Administrator and Chief of Police, to include the title of Mayor in addition to that of President when referencing said office within the Charter and to make other stylistic, grammatical and non-substantive changes thereto.

WHEREAS, the General Assembly of Maryland passed HB 615 during the 2018 session effective July 1, 2018 (now codified as § 4-304(a)(2) of the LG Art. of Md. Ann. Code) requiring the legislative body of a municipality to hold a public hearing and give at least 21-days' notice by posting the notice in a public place before adopting a resolution initiated by the legislative body that proposes an amendment to the municipal charter.

Section 1. NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF UPPER MARLBORO on this ____ day of _____ 2021, that the Charter of the Town of Upper Marlboro, Maryland shall be and is hereby amended to read as follows:

Corporate Name

Section 82–1. (CORPORATE NAME)

The inhabitants of the town of Upper Marlboro are hereby continued a body corporate and a municipal corporation by the name of “The Town of Upper Marlboro” with all of the privileges thereof, by that name to sue and be sued, to plead and be impleaded in any court of law or equity, to have and use a common seal and to have perpetual succession.

* * *

The Board of Commissioners

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Section 82–7. (Board to be the Judge of Qualifications of [[it]] ITS Members).

The Board shall be the judge of the election and qualification of its members.

* * *

The President

Section 82–13. (Selection).

At their organizational meeting, a majority of the Commissioners shall elect one of their members President. The President shall preside at all meetings of the Board in accordance with the accepted rules of [[parliamentary]] PARLIAMENTARY procedure, except that he OR SHE may vote on any question before the Board. THE PRESIDENT SHALL BE THE CEREMONIAL MAYOR OF THE TOWN AND SHALL BE IDENTIFIED EITHER AS THE PRESIDENT OF THE BOARD OF COMMISSIONERS OR AS THE TOWN MAYOR.

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Registration, Candidates and Elections

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Section 82–32. (Vacancies).

In case of a vacancy on the Board of Commissioners for any reason, the Board of [[supervisors]] SUPERVISORS of Elections shall, pursuant to the provisions of Section 82–29, conduct a special election to elect some qualified person to fill such vacancy for the unexpired term, provided, however, any vacancy which occurs within 61 days of the next general election as provided for in Section 82–27 shall remain vacant until said general election. In case of a vacancy in the office of President for any reason, the Board shall elect one of its members to fill the vacancy

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[[Brackets]]	:	Indicate matter deleted from existing law
Asterisks * * *	:	Indicate that text is retained from existing law but omitted herein.

for the remainder of the unexpired term. Any vacancy in the office of the President shall be filled by the favorable votes of a majority of the members of the Board. The results of any such votes shall be recorded in the minutes of the Board.

* * *

Finance

* * *

Section 82-44. (Over-Expenditure Forbidden).

No officer or employee shall during any budget year expend or contract to expend any money or incur any liability or enter into any contract which by its terms involves the expenditure of money, for any purpose, in excess of the amounts appropriated for or transferred to that general classification of expenditure pursuant to this Charter. Any [[contact]] **CONTRACT**, verbal or written, made in violation of this Charter shall be null and void. * * *

Section [85-52.] 82-52. (Audit).

The financial books and accounts of the Town shall be audited annually if and when required by [[Section 40 of Article 19]] **SECTION 16-305 OF THE LOCAL GOVERNMENT ARTICLE** of the Annotated Code of Maryland [(1957 Edition)].

* * *

Section 82-53B. (Parking Facility).

(a) Without in any way limiting the generality of Section 82-53A, the Town of Upper Marlboro shall have the power to establish a parking facility within its corporate limits and, in connection therewith, to exercise any and all of its powers from whatever source derived, together with the power (without in any way limiting the generality of the foregoing):

* * *

(iii) To appoint any person, firm, or corporation (including without limitation, any governmental entity) as its agent for planning and construction of the parking facility, including without limitation [[,]]; (A) contracting for financial, architectural, consulting, engineering or legal services[[:]]; (B) developing plans, specifications, surveys, estimates or feasibility reports; (C) developing the site, including, without limitation, grading, road construction, and installation of water, sanitary sewers and storm sewers, and other utilities; (D) contracting for labor, materials and equipment and administrative services required for construction of the parking facility; and (E) supervising the construction of the parking facility and taking all actions necessary to place it in operation;

* * *

(d) If any part or parts of this section of the Charter shall be held to be illegal or unconstitutional, the illegality or unconstitutionality shall not affect the validity of the remaining parts of this section. The President and Board of Commissioners of Upper Marlboro hereby declare that they would have passed the remaining parts of this section if they had known that the part [of] OR parts thereof would be declared illegal or unconstitutional.

* * *

Section 82–56. (Purchasing and Contracts).

* * * All expenditures for contracts and purchases with an anticipated cost of more than ten thousand dollars (\$10,000) shall be subject to competitive sealed bidding unless the Board, by unanimous vote of the full Board, finds another method of procurement to be more advantageous. The Board shall [[advertize]] **ADVERTISE** for competitive sealed bids in such manner as shall be prescribed by ordinance for all such competitive sealed bids. Competitive sealed bidding contracts shall be awarded to the bidder who offers the lowest or best bid, quality of goods and work, time of delivery or completion, and responsibility of bidders being considered. * * *

Personnel

Section 82–57. (Clerk to the Board).

There shall be a clerk to the Board. The clerk shall be appointed by the President with the approval of the Board and shall serve at the pleasure of the President. The clerk shall attend every meeting of the Board and keep a full and accurate account of the proceedings of the Board. The clerk shall keep such other records and perform such other duties as may be required by this Charter or the Board. In the event that the clerk cannot be present for any meeting or meetings of the Board, the clerk shall have the authority, with the Board’s approval, to assign the responsibility of attending said Board meeting(s), and the taking of minutes, to a town administrative staff member as a temporary alternate. **THE CLERK TO THE BOARD SHALL BE IDENTIFIED EITHER AS THE CLERK TO THE BOARD OR AS THE TOWN CLERK.**

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Section 82–58. (Town Attorney).

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Section 82–59. (Authority to Employ Personnel).

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SECTION 82-59A. (TOWN ADMINISTRATOR).

THE PRESIDENT, WITH THE APPROVAL OF THE BOARD, MAY APPOINT AN OFFICER OF THE TOWN BY ORDINANCE OR RESOLUTION WHO SHALL HOLD THE TITLE OF TOWN ADMINISTRATOR AND SHALL HAVE THE POWERS AND PERFORM THE DUTIES AS MAY BE PROVIDED BY ANY APPLICABLE ORDINANCES OR RESOLUTIONS OF THE TOWN. UNDER THE SUPERVISION OF THE PRESIDENT, THE TOWN ADMINISTRATOR SHALL COORDINATE AND GUIDE THE ADMINISTRATION OF ALL DEPARTMENTS, OFFICES AND AGENCIES OF THE TOWN, EXCEPT AS OTHERWISE PROVIDED BY THIS CHARTER OR BY LAW. NEITHER THE PRESIDENT NOR ANY TOWN COMMISSIONER SHALL RECEIVE SUCH APPOINTMENT DURING THE TERM FOR WHICH HE OR SHE SHALL HAVE BEEN ELECTED, NOR WITHIN ONE YEAR AFTER EXPIRATION OF SAID TERM. NOTWITHSTANDING ANYTHING ELSEWHERE IN THIS CHARTER TO THE CONTRARY, THE TOWN ADMINISTRATOR SHALL BE CONSIDERED SUBORDINATE TO THE BOARD, AND AN AT-WILL EMPLOYEE SERVING AT THE PLEASURE OF THE BOARD.

SECTION 82-59B. (CHIEF OF POLICE).

THE PRESIDENT, WITH THE APPROVAL OF THE BOARD, MAY APPOINT AN OFFICER OF THE TOWN BY ORDINANCE OR RESOLUTION WHO SHALL HOLD THE OFFICE OF CHIEF OF POLICE. THE CHIEF OF POLICE SHALL ASSIST THE PRESIDENT IN THE ESTABLISHMENT AND MAINTENANCE OF A POLICE DEPARTMENT. THE POWER TO MANAGE AND OPERATE THE TOWN'S POLICE DEPARTMENT SHALL BE VESTED IN THE CHIEF OF POLICE, SUBJECT TO APPROVAL AND OVERSIGHT BY THE PRESIDENT AND BOARD OF TOWN COMMISSIONERS. IT SHALL BE THE FUNCTION OF THE UPPER MARLBORO POLICE DEPARTMENT TO ENFORCE THE LAWS OF THE TOWN AND, WHEN APPROPRIATE AND LAWFUL, THE LAWS OF PRINCE GEORGE'S COUNTY AND THE STATE OF MARYLAND. THE CHIEF OF POLICE SHALL ENSURE THAT THE POLICE DEPARTMENT ADEQUATELY AND COMPETENTLY FULFILLS ITS FUNCTION.

* * *

Water and Sewers

* * *

Section 82-73. (Private Systems).

The Town may by ordinance provide that no water supply, sewerage, or storm water drainage system, and no water mains, sewers, drains, or connections therewith, shall be constructed or operated by any person or persons, firm, corporation, institution, or community, whether upon private premises or otherwise, and may provide that cesspools or other private methods of sewage disposal shall be operated and maintained in such a manner that they do not and will not be likely

to affect adversely the public comfort and health and any cesspool or other private method of sewage disposal affecting or likely to affect adversely the public comfort and health may be deemed a nuisance and may be abated by the Town[[,]]. Any violation of an ordinance passed under the provisions of this section shall be made a misdemeanor.

* * *

Section 82-75. (Right of Entry).

Any employee or agent of the Town, while in the necessary pursuit of his official duties with regard to the water or sewage disposal systems operated by the Town, shall have the right of entry, for access to water or sewer installations, at all reasonable hours, and after reasonable advance notice to the owner, tenant, or person in possession, upon any premises and into any building in the Town or in the County served by the Town’s water or sewage disposal system. Any restraint or [[hinderance]] **HINDRANCE** offered to such entry by any owner, tenant, or person in possession, or the agent of any of them, shall be a misdemeanor.

* * *

Special Assessments

Section 82-79. (Power: Special Assessments).

The Town shall have the power to levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon such property by the installation, or construction of water mains, sanitary sewers, storm water sewers, curbs, and gutters and by the construction, and paving of public ways and sidewalks or parts thereof, and to provide for the payment of all or any part of the above projects out of the proceeds of such special assessments. The cost of any project to be paid in whole or in part by special assessments may include the direct cost thereof, the cost of any land acquired for the project, the interest on bonds, notes, or other evidences of indebtedness issued in connection with such project, a reasonable charge for the service of the administrative staff of the Town, and any other item of cost which may reasonably be attributed to the project.

* * *

Section 2. **BE IT FURTHER RESOLVED** that this Charter Amendment Resolution is adopted this _____ day of _____, 2021, and that upon adoption by the Board of Commissioners of the Town of Upper Marlboro, Maryland a complete and exact copy of this Charter Amendment Resolution shall be posted in the Town Office for a period of at least

forty (40) days following the date of its adoption. Additionally, a fair summary of the proposed Amendment shall be published in a newspaper of general circulation in the Town of Upper Marlboro not less than four (4) times at weekly intervals within the forty (40) days following the adoption **OF** this Charter Amendment Resolution.

Section 3. **BE IT FURTHER RESOLVED** that the Amendment initiated in this Charter Amendment Resolution shall take effect and shall become and be considered the Charter of the Town of Upper Marlboro, upon the fiftieth day after being so ordained or passed unless on or before the fortieth day after being so adopted and passed a referendum petition meeting the requirements of State law shall be presented to the Board of Commissioners of the Town of Upper Marlboro, Maryland or mailed to it by certified mail, return receipt requested, bearing a postmark from the United States Postal Service.

Section 4. **BE IT FURTHER RESOLVED** that when the Charter Amendment hereby initiated becomes effective, as provided herein, or following a referendum election, the Town Clerk shall send separately, by certified mail, return receipt requested, to the Department of Legislative Services within 10 days after the charter resolution becomes effective, the following information concerning the Charter Amendment: (i) the complete text of this Charter Amendment Resolution; (ii) the date of the referendum election, if any held with respect thereto; (iii) the number of votes cast for and against this Charter Amendment Resolution by the Board of Commissioners of the Town of Upper Marlboro, Maryland or a referendum election; and (iv) the effective date of the Charter Amendment.

Section 5. **BE IT FURTHER RESOLVED** that the Town Clerk of the Town of Upper Marlboro is specifically instructed to carry out the provisions of Sections 2, 3, 4, and 5 hereof, as

evidence of compliance herewith, the Town Clerk shall cause to be affixed to this Charter Amendment Resolution and to the Minutes of the Board of Commissioners Meeting in which it is adopted (i) an appropriate certificate of publication of the newspaper in which the summary of the Charter Amendment Resolution shall have been published and (ii) return receipts of the mailing referred to in Section 4, and shall further complete and execute the Certificate of Effect attached hereto.

INTRODUCED by the Board of Commissioners of the Town of Upper Marlboro, Maryland at a regular meeting on the _____ day of _____, 2021.

PASSED by the Board of Commissioners of the Town of Upper Marlboro, Maryland at a regular meeting on the _____ day of _____, 2021.

ATTEST:

BOARD OF COMMISSIONERS OF THE
TOWN OF UPPER MARLBORO,
MARYLAND

M. David Williams
Clerk

Linda Pennoyer, President

Sarah Franklin, Commissioner

Effective Date: _____

Janice Duckett, Commissioner

Reviewed and Approved for Legal Sufficiency

Kevin J. Best, Esq.

Date: _____

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CHARTER RESOLUTION CERTIFICATE

I, M. DAVID WILLIAMS, the duly appointed, and qualified Clerk to the Board of Commissioners of the Town of Upper Marlboro, a municipal corporation of the State of Maryland, do hereby certify that (i) the attached copy of Charter Amendment Resolution 01-2021 is true, correct and complete; (ii) Charter Amendment Resolution 01-2021 was duly adopted by the Board of Commissioners of the Town of Upper Marlboro at a regular meeting held on the _____ day of _____, 2021; (iii) said meeting was duly convened and a quorum was present and acting throughout; (iv) Charter Amendment Resolution 01-2021, after having been introduced and fully discussed, was duly adopted, all or a majority of Commissioners present voting in the affirmative; and (v) Charter Amendment Resolution 01-2020 has not been amended, modified or repealed and remains in full force and effect as of the date hereof.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of Town of Upper Marlboro this _____ day of _____, 2021.

(SEAL)

M. David Williams
Town Clerk

NOTICE OF HEARING	_____ 01/19/2021 _____
PUBLIC HEARING	_____ 02/09/2021 _____
DATE OF INTRODUCTION/PASSAGE:	_____ 03/09/2021 _____
40-DAY POSTING END DATE:	_____ 04/18/2021 _____
FAIR SUMMARY NEWSPAPER	
WEEKLY PUBLICATION DATES (x 4):	_____ 03/18/2021 _____
	_____ 03/25/2021 _____
	_____ 04/01/2021 _____
	_____ 04/08/2021 _____
EFFECTIVE (50 TH DAY) DATE:	_____ 04/28/2021 _____