

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

ORDINANCE: 2022-05 **DRAFT**
SESSION: Regular Town Meeting
INTRODUCED: August 23rd, 2022
DATE ENACTED: _____

AN ORDINANCE REQUIRING THE REGISTRATION OF CERTAIN VACANT BUILDINGS AND LOTS; REQUIRING CERTAIN OWNERS TO REGISTER A LOCAL AGENT; ALLOWING FOR CERTAIN EXCEPTIONS, WAIVERS AND APPEALS TO BE GRANTED; PROVIDING FOR CERTAIN ENFORCEMENT ACTIONS, LIENS AND PENALTIES; AND GENERALLY RELATING TO THE TAXATION, LICENSING AND REGISTRATION OF REAL PROPERTY AND ADOPTING A VACANT PROPERTY AND TAX CLASSIFICATION ORDINANCE; DEFINING VACANT DEVELOPED REAL PROPERTY FOR TAX CLASSIFICATION PURPOSES; AUTHORIZING THE REVISION OF ESTABLISHED FEES BY RESOLUTION; ALLOWING FOR CERTAIN EXCEPTIONS, WAIVERS AND APPEALS TO BE GRANTED; CREATING, DEFINING AND DESIGNATING CERTAIN TAX CLASSIFICATIONS FOR RESIDENTIAL, COMMERCIAL, VACANT DEVELOPED AND AGRICULTURAL USE REAL PROPERTY SITUATED WITHIN THE TOWN AND SUBJECT TO MUNICIPAL TAXATION; PROVIDING FOR CERTAIN ENFORCEMENT ACTIONS, LIENS AND PENALTIES; AND GENERALLY RELATING TO THE TAXATION, LICENSING AND REGISTRATION OF REAL PROPERTY

WHEREAS, The Town of Upper Marlboro is an incorporated municipality governed pursuant to Article XI-E of the Constitution of Maryland; and

WHEREAS, pursuant to LG Art., § 5-202 of said State Code, the Board of Commissioners has the authority to pass such ordinances as it deems necessary to assure the good government of the municipality, to protect and preserve the municipality's rights, to secure persons and property from danger and destruction, and to promote the health, comfort and convenience of the citizens of the municipality; and

WHEREAS, pursuant to LG Art., § 5-205(d)(1) of the Annotated Code of Maryland, the legislative body of the Town may establish and collect reasonable fees and charges for franchises, licenses, or permits granted by the municipality; or, associated with the exercise of a governmental or proprietary function exercised by a municipality; and

WHEREAS, pursuant to LG Art., § 5-205(d)(2) of said State Code, and § 82-16(2)(hh) of the Town Charter, the legislative body of the Town is further empowered to pass ordinances to provide that any valid taxes, assessments or charges made against any real property within the Town shall be liens upon such property from the date they became payable; and

WHEREAS, pursuant to Section 5-202 of the Local Government Article of Md. Ann. Code, the legislative body of a municipality in this State shall have general power to pass such ordinances, not contrary to the Constitution of Maryland or public general law, as they may deem necessary in order to assure the good government of the municipality, to protect and preserve the municipality's rights, property, and privileges, to preserve peace and good order, to secure persons and property from danger and

destruction, and to protect the health, comfort and convenience of the citizens of the municipality; and

WHEREAS, pursuant to Article 15 of the Maryland Declaration of Rights, as initially adopted in 1867, “every person in the State, or person holding property therein, ought to contribute his proportion of public taxes for the support of the Government, according to his actual worth in real or personal property;” and

WHEREAS, pursuant to Section 82-47 of the Charter of the Town of Upper Marlboro (the “Charter”), all real property and all tangible personal property within the corporate limits of the Town, or personal property which may have a situs there by reason of the residence of the owner therein, shall be subject to taxation for municipal purposes, and the assessment used shall be the same as that for State and County taxes, and that authority is given by said section to impose taxes only on property over which the Maryland Constitution or any act of the General Assembly grants taxing authority to the Town of Upper Marlboro or to any municipality in the State of Maryland; and

WHEREAS, below is an extract of the 2022-2023 list of county and municipal tax rates, and property tax rates in effect on July 18, 2022, published by the Maryland State Department of Assessments and Taxation (“SDAT”):

JURISDICTION	REAL PROPERTY TAX			PERSONAL PROPERTY TAX		
	Town	County	State	Town	County	State
Upper Marlboro - Noncommercial	0.3400	.9430	.1120	.5300	2.3530	.0000
Upper Marlboro - Commercial	0.5600	.9430	.1120	.5300	2.3530	.0000

All rates are shown per \$100 of assessment; the State Utility Tax rate is 0.2800 while Town’s and County’s is currently 2.1000; and

WHEREAS, property tax rates are set by each unit of government, such as the State, counties, and incorporated cities and towns, for properties assessed (i.e., valued) by the State enabling said governments to set tax rates at the level required to fund governmental services of which said rates may be increased, decreased, or remain the same from year to year; however, should a proposed tax rate increase the total property tax revenues for a given class of real property, the governing body must advertise that fact and hold a public hearing on the new tax rate pursuant to Tax-Property Article, §6-308 of the Md. Ann. Code, which is called the Constant Yield Tax Rate process; and

WHEREAS, pursuant to the Tax-Property Article, §6-303(a) of the Md. Ann. Code, if not otherwise prohibited by said Article, the governing body of a municipal corporation may set separate rates for any classes of property that is subject to the municipal corporation property tax, in each year after the date of finality (i.e., January 1) and before the following July 1, the governing body of each municipal corporation annually shall set the tax rate for the next taxable year on all assessments of property subject to municipal corporation property tax; and

WHEREAS, pursuant to the Tax-Property Article, §6-303(c) of the Md. Ann. Code, unless otherwise provided by the governing body of the municipal corporation there shall be a single municipal corporation property tax rate for all real property subject to municipal corporation property tax; and

WHEREAS, the Town currently has only two (2) classes of real property, despite having the authority to create multiple classifications as provided in the Tax-Property Article, §6-203(a) of the Md. Ann. Code whereby a “municipal corporation may impose municipal corporation property tax on those classes of property that it selects [i.e., the municipality itself is authorized to create and designate] to be subject to municipal corporation property tax;” and

WHEREAS, there are fourteen (14) administrative land use codes used by the Maryland State Department of Assessments and Taxation to describe every lot or parcel of real property as follows: agricultural, apartment, commercial, commercial condominium, commercial/residential, (residential) condominium, country club, exempt, exempt commercial, industrial, marsh, residential, residential/commercial, and town house; however, unlike the counties, the municipalities are not restricted to any enumerated statutory list or description when choosing to define classes of real property for municipal taxation purposes; and

WHEREAS, the Board finds that the City of Mount Rainier has created a vacant developed real property tax in order to facilitate and streamline the sale of vacant developed properties to new owners and the Town of Upper Marlboro wishes to enact a similar tax; and

WHEREAS, the Board further finds that residential property is a necessity of life to the inhabitant from which the owner-occupant or tenant derives little to no income, unlike commercial, agricultural, vacant developed, or industrial property, and that such a classification of real property is rationally related to an important governmental purpose in relieving the tax burden on residential property owners thereby making housing more affordable, and promoting the policies of making the Town a more sustainable, livable and family-oriented community.

NOW, THEREFORE, the Board of Commissioners of the Town of Upper Marlboro, State of Maryland, does ordain and enact the following:

Part 1 – VACANT PROPERTY REGISTRATION PROGRAM

Section 1. Vacant Property Registration.

A. Intent and scope. The Board of Commissioners (the “Board”) finds that the proliferation of vacant and abandoned buildings, structures, dwellings and lots in Upper Marlboro causes a deterioration of neighborhoods and areas within the Town and has a negative impact on the value of property in close proximity to the vacant and abandoned buildings, structures, dwellings and lots. The Board further finds that vacant and abandoned buildings, structures, dwellings and lots often cause a serious threat to the safety and welfare of the residents of the Town and erode the quality of life of all who live and work in the Town, and such properties are frequently places of infestation of rodents, vermin, insects, wild animals and other health-threatening creatures and diseases, provide shelter to criminals and vagrants who use such places to evade the police and to conduct illicit activities, and are a nuisance to children and adults alike.

B. Definitions.

For purposes of this section, the following words and phrases shall have the meanings respectively

ascribed to them as follows:

Lot means an area of land designated as a separate parcel or unit of land on a legally recorded subdivision plat or deed filed among the land records of Prince George's County and assigned a property tax account identification number that is assigned to one or more such units or parcels of land.

Occupied building or structure means any building or structure wherein one or more persons actually conducts a business or resides in all or any part of the building as the business occupant, or as the legal or equitable owner/occupant or tenant on a permanent, non-transient basis, or any combination of the same. For purposes of this section, evidence offered to prove that a building is so occupied may include, but shall not be limited to, the regular receipt of delivery of regular mail through the United States Postal Service; proof of continual telephone, electric, gas, heating, water and sewer services; or a valid Town business license.

Owner means any person, partnership, limited-liability company, corporation or other entity who, alone or jointly with others, shall have legal title to any premises, with or without accompanying actual possession thereof; or who shall have charge, care or control of any dwelling unit as a cooperative shareholder or as executor, administrator, trustee, receiver or guardian of the estate or as a mortgagee in possession, title or control, including but not limited to a bank or lending institution, regardless of how such possession, title or control was obtained.

Vacant building or structure means a building or structure where no person or persons actually currently conduct a business or reside or live in any part of the building or structure as the legal or equitable owner or tenant-occupant, or owner-occupant, or tenant on a permanent, non-transient basis.

Vacant developed property means a lot or parcel of land that has a vacant building except as provided in Section 3 (Exemptions) below.

Vacant lot means a lot without a building or other valid and approved improvement which has an assessed value for taxation purposes as determined by the State of Maryland, Department of Assessments and Taxation.

C. Annual registration of vacant buildings or lots; local agent; registration fees.

1. Vacant building or lot registration. Any owner of any building or lot which has been vacant for more than 120 consecutive days shall file with the Town Administrator or his designee a vacant building or lot registration. Said registration shall be in a form prescribed by the Town Administrator which shall include the street address and parcel number of each such vacant building or lot, the names and addresses of all owners, in accordance with Subsection C.1(a) through (g) below, and any other information deemed necessary by the Town Administrator. In no instance shall the registration of a vacant building or lot and the payment of registration fees be construed to exonerate the owner, agent or responsible party from responsibility for compliance with any other building code or Town ordinance requirement. The registration fee(s), as required herein, shall be billed by the Town Treasurer or designee and shall be paid by January 1 of each year. For purposes of this section, the following shall also be applicable:

(a) If the owner is a corporation, the names and addresses of the officers of the corporation shall be provided and shall be accompanied by the name of the resident agent filed with the Maryland Department of Assessments and Taxation;

(b) If the owner is a limited-liability company, the name and address of the managing member shall be

provided;

(c) If the owner is an estate, the name and address of the executor or administrator of the estate shall be provided;

(d) If the owner is a trust, the name and address of all trustees, or grantors shall be provided;

(e) If the owner is a partnership, the names and addresses of all partners with an interest of 10% or greater shall be provided;

(f) If the owner is any other form of unincorporated association, the names and addresses of all principals or co-owners with an interest of 10% or greater shall be provided; or

(g) If the owner is an individual person, the name and address of that individual person shall be provided.

2. Local agent.

(a) If none of the persons listed in Subsection C.1(a) through (g) above are within the State, the registration statement also shall provide the name and address of a person who resides within the State and who is authorized to accept service of process on behalf of the owners.

(b) The registration statement shall designate a responsible, local party or agent for purposes of notification in the event of an emergency affecting the public health, safety or welfare.

3. Fee.

(a) The owner or owners of any vacant property located within the corporate limits shall be responsible to register and pay the annual nonrefundable registration fee of \$250; thereafter, said fee shall be billed by the Town Treasurer annually on November 1. The Board may revise or increase registration fees established under this section by written resolution, provided such fee does not exceed \$750.

(b) One vacant building or lot registration may be filed to include all vacant buildings situated upon a single property of an owner so registering or on a series of abutting or adjoining vacant lots. The fee of \$250 shall apply to the property upon which the buildings are situated or multiple vacant lots adjoining one another. A separate fee need not be paid for each building upon a single property or for more than one lot in a series of abutting or adjoining vacant lots.

(c) Appeal rights. The owner shall have the right to appeal the imposition of the registration fees to the Board of Commissioners upon filing an application in writing to the Town Administrator no later than 30 calendar days from the date of the billing statement. On appeal, the owner shall bear the burden of providing proof that the building is occupied, or the lot is improved with a building or assessed structure. The decision of the Board may not be appealed as an administrative agency decision by filing a petition for judicial review but shall be enforced pursuant to Subsection k.

(d) One-time waiver of registration fee. A one-time waiver of the registration fee for up to 90 days may be granted by the Town Administrator upon application of the owner and upon review and advice of the Town Attorney, within 30 calendar days from the date of the bill for the registration fee, or if denied by the Town manager, upon appeal to the Board, if the owner:

1. Demonstrates with satisfactory proof that he/she is in the process of demolition, rehabilitation, or other

substantial repair of the vacant building; and demonstrates the anticipated length of time for the demolition, rehabilitation, or other substantial repair of the vacant building; or

2. Demonstrates he/she is actively attempting to sell or lease the property during the vacancy period; and

3. Is current on all registration fees and all other financial obligations and/or debts owed to the Town which are associated with the vacant property.

F. One-year waiver. Upon application by the owner and satisfaction of Subsection e above, the Town Administrator may grant a one-time, one-year waiver of the registration fee, or if denied by the Town Administrator, upon appeal to the Board, if the owner is a nonprofit or tax-exempt organization.

G. Delinquent registration fees as a lien.

1. After the owner is given notice of the amount of the registration fee due, except for those owners that have properly perfected an appeal as provided above, and the owner fails to pay the amount due, said amount shall constitute a debt due and owing to the Town.

2. Any registration fees, when accrued or overdue, pursuant to this Section, and any penalties assessed hereto shall be considered a lien in favor of the Town on the applicable property and may be collected and enforced in the same manner as delinquent or accrued real property taxes.

H. Duty to amend registration statement. If the status of the registration information changes during the course of any calendar year, it is the responsibility of the owner, responsible party or agent for the same to contact the Town Administrator or designee within 30 days of the occurrence of such changes and advise the town manager in writing of those changes.

I. Exceptions. This section shall not apply to any building or lot owned by the United States, the State, the County, nor to any of their respective agencies or political subdivisions.

J. Duty of Town Administrator to maintain and notify. The Town Administrator or his designee shall maintain the vacant building or lot registrations in the normal course of business and shall notify the Town chief of police who shall notify local fire and ambulance services of all locations on the registry.

K. Enforcement.

1. Penalties for offenses. Any owner, or agent of an owner acting on behalf of the owner, who fails to register a vacant building or lot or to pay any fees required to be paid pursuant to the provisions of this section, within 30 days after they become due, shall constitute a municipal infraction violation punishable upon conviction thereof by a fine in the amount of \$1,000 for each failure to register, or for each failure to pay a required vacant building or lot registration fee.

2. Other enforcement. The registration of a vacant building or vacant lot or absence thereof shall not preclude action by the Town to obtain a court order to force abatement, maintenance or removal of a public nuisance or any other violation found on any vacant lot or building pursuant to any other provisions of this code of ordinances or other law. The Town shall have the right to remove litter, trash, noxious weeds, tall grass, unsanitary or flammable waste materials and to do such other maintenance or work as is necessary to bring the property into compliance with the general ordinances of the Town of Upper Marlboro. The cost of these actions shall be paid for by the owner. The Town shall send the owner an invoice or bill for the costs of such work by certified mail, return receipt requested, and by regular mail to

the owner's last known address or by any other means reasonably calculated to bring the bill to the owner's attention. Should the owner fail to pay the bill within one (1) month after it is presented or mailed, the costs shall be considered a lien against the property and may be collected in the same manner as real property taxes. Nothing in this Section shall be construed to limit the Town from seeking any other legal damages or equitable and declaratory relief permitted by law to enforce this code of ordinances in a court of competent jurisdiction in this state.

L. Violations

Unless provided otherwise, any violation of this Part 1 shall be deemed a municipal infraction. The penalty for such violation shall be a \$250.00 fine for an initial offense together with a suspension of the license for no more than 90 days and \$500.00 for each repeat offense together with a revocation of the license. Each day any violation continues shall be a separate offense.

Part 2 - REAL PROPERTY TAXES AND CLASSIFICATIONS

Section 2. Real Property Classifications

A. Effective for the tax year beginning July 1, 2023, and for each tax year thereafter unless altered by a subsequent enactment of the Board of Commissioners, the classifications of property subject to municipal taxation, with respect to those properties, businesses or utilities located within the municipal boundaries of the Town of Upper Marlboro, shall be as follows:

<u>PROPERTY CLASSIFICATIONS</u>	<u>*FY '24 RATE/\$100</u>
1. COMMERCIAL REAL PROPERTY,	0.56
2. NONCOMMERCIAL REAL PROPERTY,	0.34
3. AGRICULTURAL USE REAL PROPERTY,	0.25
4. VACANT REAL PROPERTY,	1.25
5. BUSINESS PERSONAL PROPERTY, AND	0.53
6. PUBLIC UTILITY PROPERTY	2.10

(These rates may have been established by previous legislation and are indicated herein for informational purposes only. Prior to this ordinance, which shall apply beginning in FY '24 (July 1, 2023), all real property has been taxed at the same or different rates as two (2) classes distinguished as to commercial or noncommercial real property.)*

B. Real property that is lawfully used or leased substantially for residential dwelling purposes shall be classified as noncommercial real property. All other real property shall be classified as commercial real property, agricultural real property or vacant real property as defined by this ordinance or State law. Property that is exempt from taxation shall remain exempt regardless of classification by the Town.

C. The Treasurer or their designee shall notify the Special Assistant to the Director of the Maryland State Department of Assessments and Taxation of the action taken under the provisions of this ordinance and offer a copy hereof as soon as possible, but no later than December 1, 2022.

D. The Treasurer or their designee shall coordinate with the State Department of Assessments and Taxation regarding the requirement to obtain constant yield tax rate certifications for the net assessable real property base for the two (2) separate classes of real property created by this ordinance, no later than February 1, 2023, and each year thereafter.

Section 3. Vacant Developed Real Property Tax; Exemptions

- A. The definitions prescribed in Sections 1 and 2 above shall apply to this Section.
- B. The municipal tax rate for vacant developed property shall be the amount established by the ordinance setting the tax rate for that fiscal year on assessments of property subject to municipal property tax.
- C. A lot or parcel shall be subject to the vacant developed property tax rate if it has a building that is registered or designated by the Town Administrator as a vacant building in accordance with Section 1.
- D. For mixed-use commercial and residential properties with a vacant commercial portion, the vacant developed property tax rates shall apply only to the assessed value of the improved area containing the vacant commercial portion, which shall be determined by multiplying the total assessed value of the improvements by the percentage of the improved area consisting of the vacant commercial portion.
- E. The vacant developed property tax rates shall not apply to a lot or parcel with a vacant building if the property also has an occupied building that has an above grade area equal to or greater than that of a vacant building.
- F. Vacant developed property shall not be subject to the vacant developed property tax rate when it is under active construction or undergoing active rehabilitation, renovation or repair and there is a valid building permit to make the building fit for occupancy. The exemption from the vacant developed property tax rate under this paragraph shall not exceed a total of two years while the property remains under the ownership of one person, or related persons.
- G. The Town Administrator shall transmit to the Prince George's County tax assessor a list of the property subject to the vacant developed property tax by May 1st of each year, and the vacant developed property tax rate will be levied upon the properties the following fiscal year.
- H. When a property becomes occupied or exempt from the vacant developed property tax rate pursuant to Subsection F, the owner shall notify the Town Administrator of the matter as may be prescribed by regulation approved by formal resolution or ordinance. If the request for termination of the vacant developed property tax rate is approved, determination shall be effective the following fiscal year.
- I. If the vacant developed property tax rate is paid on the property because of an error on the part of the Town, the municipal property tax paid in excess of the taxes due under the regular municipal rate shall be refunded. Refunds pursuant to this subsection shall not exceed the value of the excess payment for the period of one year.
- J. The Town Administrator will, upon request, provide written notice to the lenders for prospective purchasers of vacant, developed property, that property will not be subject to the vacant. Develop property tax rate commencing the following fiscal year if the property is occupied or satisfies the requirements of Subsection E.

- K. Exemptions. A residential property that becomes vacant as a result of the death of an owner of the property who resided that property, for whom the property was their domicile at the time of their test, shall not constitute a vacant developed property for a period of two years after the date of death. To qualify for this death exemption, a representative of the estate of the deceased must provide the Town Administrator with a copy of the death certificate and proof that on the date of death, the deceased resided at the property, or the property was their domicile. Domicile means the place where a person has his or her true fixed permanent home, habitation and principal establishment without any present intention of removing there from and to which place he or she has the intent to return when absent.

- L. Temporary Exemptions for Accidental Damage. In occupied residential property that becomes uninhabitable as a result of a fire or flood, unless intentionally caused by the owner or his or her agent or natural death, disaster shall not constitute a vacant developed property for a period of two years after the incident that caused the property to become uninhabitable. To qualify for this exemption, the owner must provide satisfactory proof to the Town Administrator that the property is uninhabitable as a result of a fire, flood, or natural disaster and the date of the fire, flood, or natural disaster occurred. Examples of records that constitutes satisfactorily proof include, but are not limited to, police and fire reports, insurance company correspondence, and claims documentation, news and weather reports, photographs, videos and code enforcement inspection records.

AND BE IT FURTHER ENACTED AND ORDAINED by the Board of Commissioners of the Town of Upper Marlboro, Maryland that pursuant to the Town Charter, this Ordinance shall be posted in the Town office and a fair summary of it shall be published once in a newspaper of general circulation in the Town and effective 20 days after passage by the Board.

AYES: _____ NAYES: _____ ABSENT: _____

AND BE IT FURTHER ORDAINED AND ENACTED, by the Board of Commissioners of the Town of Upper Marlboro, Maryland that any prior ordinances adopting and enacting any provision of this Ordinance or any other ordinance or resolution previously adopted pertaining to a subject or subjects embodied by the title of this Ordinance or the provisions found in conflict herein shall be deemed amended, repealed and/or superseded by the provisions of this Ordinance, as applicable, and should a previously enacted ordinance cover a provision or subject that is not covered by this Ordinance, it shall remain in full force and effect unless it directly conflicts with the express language of this Ordinance.

INTRODUCED in a public session of the Board of Commissioners on this _____ day of _____, 2022.

ORDAINED, APPROVED AND finally passed by the Board of Commissioners of the Town of Upper Marlboro, Maryland on this _____ day of _____, 2022, by:

Attest:

THE TOWN OF UPPER MARLBORO
BOARD OF COMMISSIONERS

Sarah Franklin, President

Janice Duckett, Commissioner

Charles Colbert, Commissioner

Karen Lott, Commissioner

John Hoatson, Town Clerk

Thomas Hatchett, Commissioner

Reviewed and Approved for Legal Sufficiency

Kevin J. Best, Esq.

Date: _____