

# The Town of Upper Marlboro

14211 School Lane • Upper Marlboro, Maryland 20772

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

**DRAFT-2**

ORDINANCE: 2018-08  
SESSION: Regular Town Meeting  
INTRODUCED: September 25, 2018

**AN ORDINANCE OF THE TOWN OF UPPER MARLBORO CREATING, DEFINING AND DESIGNATING CERTAIN TAX CLASSIFICATIONS FOR RESIDENTIAL AND COMMERCIAL REAL PROPERTY SITUATED WITHIN THE TOWN AND SUBJECT TO MUNICIPAL TAXATION, AND GENERALLY RELATING TO MUNICIPAL TAXATION.**

**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 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

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

**WHEREAS**, below is an extract of the 2018-2019 list of county and municipal tax rates, and property tax rates in effect on July 1, 2018 published by the Maryland State Department of Assessments and Taxation ("SDAT"):

JURISDICTION	COUNTY RATE			TOWN/SPECIAL TAXING		
	REAL	PERSONAL	UTILITY	DISTRICT TAX RATE		
				REAL	PERSONAL	UTILITY
PRINCE GEORGE'S	1.00	2.50	2.50			
Upper Marlboro	0.921	2.314	2.314	0.24	0.45	--

All rates are shown per \$100 of assessment; 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 one (1) class 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 following municipalities have classified real property in the same or similar manner (i.e., commercial/noncommercial) as is to be adopted herein by this Ordinance: Forest Heights (commercial and noncommercial), North Brentwood (commercial and noncommercial), Colmar Manor (commercial and noncommercial), Berwyn Heights (commercial and noncommercial), Cheverly (apartment and other), Cottage City (commercial and noncommercial) and Pocomoke City (owner occupied and non-owner occupied); and

**WHEREAS**, the Board further finds that \$31,986,930 or 40% of the Town's current gross assessable real property tax base of \$78,913,365 is made up of commercial (i.e., taxable non-residential) properties; and

**WHEREAS**, the Board further finds that a one cent increase in the municipal tax rate on real property levied on commercial property in the Town would yield \$3,198.693 in revenues from commercial properties located within the Town; 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 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 REGARDING THE CLASSIFICATION OF REAL PROPERTY FOR PURPOSES OF ASSESSMENTS AND TAXATION:**

A. Effective for the tax year beginning July 1, 2019, 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 '18 RATE/\$100</u>
1. COMMERCIAL REAL PROPERTY,	0.24
2. NONCOMMERCIAL REAL PROPERTY,	0.24
3. BUSINESS PERSONAL PROPERTY, AND	1.35
4. PUBLIC UTILITY PROPERTY	0.00

(\* These rates were established by previous legislation and are indicated herein for informational purposes only. Prior to this ordinance, which shall apply beginning in FY '19 (July 1, 2019), all real property has been taxed at the same rate as one (1) class without distinction 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. Property that is exempt from taxation shall remain exempt regardless of classification by the Town.

C. The Treasurer or her 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, 2018.

D. The Treasurer or her 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, 2019 and each year thereafter.

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.

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 \_\_\_\_\_, 2018.

THE TOWN OF UPPER MARLBORO,  
BOARD OF COMMISSIONERS

\_\_\_\_\_  
Tonga Turner, President

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Linda Pennoyer, Commissioner

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M. David Williams, Town Clerk

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Wanda Leonard, Commissioner

Ordinance 2018-08 Schedule:

Board Work Session Discussion – 1st Reading	September 25, 2018
Board Discussion/Resident Input – Formal Intro	October 9, 2018
Resident Requested Input Due –	October 21, 2018
Board Work Session Discussion –	October 23, 2018
Second Reading/Approval/Board Vote –	November 13, 2018

CERTIFICATION

I, HEREBY CERTIFY, as the duly appointed Town Clerk of the Town of Upper Marlboro, Maryland, that on the \_\_\_\_ day of October 2018, with \_\_\_\_ Aye votes, and \_\_\_\_ Nay votes, the aforesaid Ordinance 2018-08 passed.

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M. David Williams, Town Clerk