

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

DRAFT

ORDINANCE: 2019-08

SESSION: Regular Town Meeting

INTRODUCED: November 12, 2019

AN ORDINANCE OF THE TOWN OF UPPER MARLBORO TO AUTHORIZE AND PROVIDE A PROCESS FOR THE POSING OF NONBINDING AND ADVISORY BALLOT QUESTIONS TO BE PLACED BEFORE THE VOTERS AT A TOWN ELECTION; AND GENERALLY RELATING TO TOWN ELECTIONS AND ELECTION PROCEDURES.

WHEREAS, pursuant to § 82-19 of the Town Charter, every person who (a) is a citizen of the United States, (b) is at least eighteen (18) years of age, (c) has resided within the corporate limits of the Town for thirty (30) days next preceding any Town election and (d) is registered in accordance with the provisions of said Charter shall be a qualified voter entitled to vote at any or all Town elections; and

WHEREAS, pursuant to § 82-22 of the Town Charter, the Board of Supervisors of Elections shall be in charge of the registration of voters, nominations and all Town elections; and

WHEREAS, pursuant to § 82-30 of the Town Charter, after the closing of the polls, the Board of Supervisors of Elections shall determine the vote cast for each candidate or question and shall, no later than 12:00 Noon on the Thursday immediately following the election, certify the results of the election to the clerk of the Town who shall record the results in the minutes of the Board of Commissioners (emphasis added); and

WHEREAS, pursuant to § 82-34 of the Town Charter, the Board of Commissioners shall have the power to provide by ordinance in every respect not covered by the provisions of said Charter for the conduct of registration, candidacy and elections and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud; and

WHEREAS, the Board finds that consistent with 88 Opinion of the Attorney General of Md., 156 (2003), before legally binding ballot questions (i.e., questions to approve legislation at the polls as proposed or initiated solely by the voters (a.k.a. an initiative), the Town Charter must first be amended to authorize such questions to be placed on the ballot provided such questions do not seek to amend the Charter (i.e., the structure and organization of town government), which is a process dictated by State law; and

WHEREAS, the Board further finds that it is authorized to legislate to authorize the placement of non-binding questions on the municipal ballot and that pursuant to a non-binding process, the voters of the Town should be queried and provide guidance as to various municipal

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.

questions involving the incorporation, organization, government and local affairs of the municipal government that the Board and/or the residents should pursue or consider regarding possible future amendments to the polices, ordinances or Charter provisions of the Town of Upper Marlboro.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE TOWN OF UPPER MARLBORO, STATE OF MARYLAND, DOES ORDAIN AND ENACT the following:

ELECTION AND BALLOT PROCEDURES

Section 1. Definitions. The following words and phrases have the meanings indicated below:

- A. “Advisory Question” means a ballot question commonly known as a “straw vote” placed on the ballot as a nonbinding vote taken to indicate the relative strength of public opinion and opposing issues or positions. Although nonbinding, an advisory question shall be initiated, pursuant to this Ordinance, by the voters essentially using the initiative process or by the legislative body essentially using the referendum process as provided herein.
- B. “Initiative” means a process that allows citizens to propose new laws (i.e., ordinances) or changes to existing laws and to enact or reject them at the polls. The initiative process for amending the Town Charter must follow the procedures set forth in Md. Ann. Code, LG Art., § 4-305 (Initiation of charter amendment by petition of voters). Any other binding initiative process must be authorized by the Town Charter.
- C. “Municipal Question” means an issue or question, relating to, or characteristic of a municipal corporation, and consisting of subject matter over which the Board has authority. The Board shall have sole discretion in determining whether an issue is a municipal question.
- D. “Petition” means a writing signed by a number of registered voters of the Town which is required by law to place a question or ordinance on the ballot or demand a recall election, as permitted by charter or statute. Such petitions for official action must be signed by a specified number of registered voters.
- E. “Referendum” means a process that allows voters to petition an enactment of a legislative body to a vote of the people. The referendum process for amending the Town Charter must follow the procedures set forth in Md. Ann. Code, LG Art., § 4-304 (Initiation of charter amendment by legislative body) *et seq.* Any other binding referendum process must be authorized by the Town Charter.

Section 2. Advisory Questions.

A. General.

- 1. An Advisory Question may be placed on the ballot at a regular or special Town election by petition of the voters or by a vote of the Board in conformity with the provisions of this Ordinance.

2. The Board shall not call a special election for the sole purpose of entertaining or placing an Advisory Question or questions on the ballot.
3. The number of ballot questions at any election shall not exceed seven (7) in number, and shall be succinct, grammatically correct and free of vulgarities or slang.

B. Initiated by the Board.

1. The Board upon its own action and without a formal petition may order by written resolution that an Advisory Question be placed on the ballot at any regular or special Town election, provided that the question involves a municipal question.
2. Said resolution shall fix the exact language to appear on the ballot and shall be approved at least fifteen (15) days before the subject election.

C. Initiated by the Voters.

1. A proposal to place an Advisory Question on the ballot at a regular or special municipal election of the Town may be presented to the Board on a petition signed by at least ten (10) registered voters of the Town.
2. Said petition signed by at least ten (10) registered voters shall be presented by the individual circulating the petition to the Board at a regular or special town meeting stating a desire to have the question placed on the ballot at the next election. The Board may but need not call or convene a special session solely to accept a petition under this Section. The Board may summarily reject the petition without further review if it finds that the sole question proposed, or all of the questions proposed within the petition are not deemed to be municipal questions.
3. The registered Town voters signing said petition shall sign the same as their names appear on the Town's election books, and under each signature shall be typed or printed each petitioner's name, and address where he or she is registered to vote in Town elections.
4. At the bottom of each page of said petition, the individual circulating the petition shall sign the same and make an affidavit before a notary public that he or she circulated the petition and saw each individual whose names appear thereon sign the same in his or her presence.
5. The Town Clerk shall transmit the petition to the Town Board of Election Supervisors, who shall have no more than thirty (30) days after receipt of such a petition to certify the signatures of the registered voters of the Town.
6. Upon certification of the signatures, the petition shall be presented to the Board for final approval before said election, provided that the question or questions to be so placed on the ballot involve a municipal question and otherwise meets the requirements of this Ordinance.
7. If finally approved by the Board, the Clerk working in cooperation with the Board of Supervisors of Elections shall cause the question or questions to be placed on the ballot at the

next regular municipal election held at least ten (10) days after such approval by the Board.

D. Post-election. The Chairman of the Board of Supervisors of Elections shall certify to the Clerk of the Town who shall record the results in the minutes of the Board of Commissioner and announce the results of the vote on the Advisory Question at the next regular or special meeting of the Commission.

AND BE IT FURTHER ORDAINED AND ENACTED, by the Board of Commissioners of the Town of Upper Marlboro, Maryland that the Board of Supervisors of Elections shall carry out the intent of this Ordinance.

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 repealed and superseded by the provisions of this Ordinance, 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.

AND BE IT FURTHER ORDAINED AND ENACTED, by the Board of Commissioners of the Town of Upper Marlboro, Maryland that the President shall be authorized to sign this Ordinance on behalf of the Board.

AND 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.

AND 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.

THE TOWN OF UPPER MARLBORO,
BOARD OF COMMISSIONERS

Wanda Leonard, President

Attest:

Linda Pennoyer, Commissioner

Clerk

Kai Bernal-LeClaire, Commissioner

Reviewed and Approved for Legal Sufficiency

Kevin J. Best, Esq.

Date: _____

Proposed Ordinance 2019-08 Timeline:

Introduction:	November Regular Town Meeting	11/12/2019
Public Comment & Board Discussion:	November Board Work Session	11/26/2019
Passage/Board vote:	December Regular Town Meeting	12/10/2019