

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

ORDINANCE: 2023-04
SESSION: Regular Town Meeting
INTRODUCED: April 25th, 2023
DATE ENACTED: May Town Meeting

AN ORDINANCE TO AMEND ORDINANCE 2022-02 TO RE-ESTABLISH AND CHANGE CERTAIN ASPECTS OF A PERSONNEL SYSTEM WITH CERTAIN GUIDELINES, PAYGRADES, SALARIES, STANDARDS, AND PROCEDURES FOR THE EMPLOYEES OF THE TOWN OF UPPER MARLBORO.

WHEREAS, Section 82–59 of the Town Charter (authority to employ personnel) states that the Town shall have the power to employ such officers and employees as it deems necessary to execute the powers and duties provided by this Charter or state law and to operate the Town government; and

WHEREAS, Section 82–60 of the Town Charter (Compensation of employees) states that the compensation of all officers and employees of the Town shall be set from time to time by an ordinance; and

WHEREAS, Section 82-15 of the Town Charter states the President, with the approval of the Board, shall appoint the heads of all offices, departments, and agencies of the Town government as established by this Charter or by ordinance, and all office, department, and agency heads shall serve at the pleasure of the President, and all subordinate officers and employees of the offices, departments, and agencies of the town government shall be appointed and removed by the President, in accordance with rules and regulations in any merit system which may be adopted by the Board; and

WHEREAS, the Board finds that a merit system is a personnel system created “...to secure the appointment of persons, after examination, suitable and qualified for the positions or offices to which they are applicants, and, second, when after appointment, their efficiency and worth are shown to exist, to place their removal beyond the control of the appointing power, who might, for political, ..., or other insufficient reasons, be disposed to remove them, and to appoint unsuitable and inefficient persons as their successors to the injury and detriment of the public...” *Lilly v. Jones*, 158 Md. 260, 148 A. 434 (1930); and

WHEREAS, the Board previously approved Ordinance 2020-03 on May 12, 2020 to establish a personnel system with certain guidelines, paygrades, salaries, standards, and procedures for the employees of the Town of Upper Marlboro, amended it on June 8th, 2021, with Ordinance 2021-04, and again on June 7th 2022 with Ordinance 2022-02 *and the Board intends to amend said ordinance*

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again as indicated below and in the legend placed in the bottom margin, and.

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

Section 1. Declaration of Policy

- A. This personnel or merit system is established for all present and future employees of the Town, and shall provide the means to recruit, select, develop, advance, and maintain an effective and responsive workforce on the basis of relative ability, knowledge requirements of the citizens of the Town.
- B. All personnel actions shall be taken without regard to race, sex, religion, national origin, or political affiliation and shall be based on merit and performance.

Section 2. Scope and Intent

- A. The classifications, definitions, policies, and procedures outlined in this ordinance apply to all regular Town staff positions. Regular Town staff positions include all Town positions, including, offices, except the following: elected officials, the Board of Supervisors of Elections, VOLUNTEERS (INCLUDING COMMITTEE MEMBERS), independent contractors, persons employed on projects of limited duration, unpaid volunteers (including interns and Town committee members), and other persons appointed to serve without pay.
- B. All employees who have served less than three (3) months, and all new employees of the Town except ~~the~~ SWORN police OFFICERS, will serve a probationary period of three (3) months. Police employees will serve a probationary period of one (1) year. The probationary period may be extended for cause as defined in the employee handbook by the Town. POLICE OFFICERS' PROBATIONARY PERIODS ARE PRESCRIBED BY GENERAL ORDER.
- C. This Ordinance shall be read in conjunction with any employee handbook as duly approved by the Board, and this Ordinance shall control or supersede any conflicting provision in said handbook.
- D. ~~Nothing~~ NOTHING IN this Ordinance shall be deemed to modify or alter the Town's at-will employment relationship with any employee, with the exception of an employment contract approved by the Board of Commissioners. This subsection shall not apply to any valid employment contracts approved prior to the effective date of ~~this~~ Ordinance 2020-03.
- E. No change to the Town handbook shall reduce the vacation accruals of any current employee.

Section 3. Regular Town Staff Positions

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The annual operating budget shall fund the PAID appointed offices and positions and authorize the staffing levels of all departments and positions. No other regular Town staff positions or appointed offices may be included or authorized in the annual operating budget unless approved within the budget ordinance or an amendment.–In addition to the Town Charter and any previously enacted ordinances in effect, the supervisory positions and named departments or heads thereof enumerated below are considered to be created and duly authorized by law or otherwise ratified by this Ordinance as existing in conformance with Subsection 82-15(b) of the Town Charter. The paygrades referenced in this Section are further described in Section 7, below, AND ENUMERATION OF THE POSITION AS “SUPERVISORY” MEANS THAT THE POSITION OR OFFICE MANAGES ONE OR MORE OTHER EMPLOYEES.

A. Positions within the Town General Government Department:

- Town administrator, *supervisory* (paygrade 7)
- Town clerk, *supervisory* (paygrade 5)
- Administrative assistant *deputy clerk & bookkeeper* (paygrade 2)
- Events coordinator (paygrade 3)
- Grant manager (contracted/agreement)

B. Positions within the Town’s Public Safety Department:

Please refer to annual budget Ordinance for the pay chart and positions.

C. Positions within the Town’s Public Works Department:

- Director of Public Works, *Supervisory* (Paygrade7)
- Forman, *Supervisory* (Paygrade 4)
- Crew leader (paygrade 2)
- Crewmembers (Paygrade 1)

Section 4. Hiring and Dismissal of Town Employees

- A. **Positions Requiring Board Approval:** Hiring for any regular Town staff position that entails the head of any office, department, or agency of the Town government as established by the Charter or by ordinance requires approval by a majority vote of the Board of Commissioners, as required by the Charter. The ~~President~~ APPROPRIATE DEPARTMENT HEAD WITH THE CONSENT OF THE PRESIDENT shall give the Board notice of the hiring of any non-regular position as listed in Section 2.A at least one week prior to the start date of the non-regular employee. If hiring for a position for which there is no board-approved position description the entire board must approve the position description before the position can be advertised.
- B. **The process for hiring regular Town staff positions that does not include the head of any office, department, or agency of the Town government is as follows:**

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- (1) Any opening for a regular Town Staff position should be advertised for at least thirty (30) days on a publicly accessible job-posting website, the Town website, and all Town social media sites. The position advertisement must include, at a minimum, the education and experience requirements for the position, the major responsibilities for the position as outlined in the Position Description, the salary range for the position, required documents to be submitted for an application, and the closing date for applications. All applications must be reviewed and ranked by at least the ~~cognizant~~ APPLICABLE department head and one Commissioner (or at least a Commissioner and the President in the case of a department-head position). Any commissioner expressing a desire to review and rank applications will notify the President and Town Administrator. Any commissioner notifying the President and Town Administrator that they wish to be part of this hiring process shall be incorporated into the process provided that the MD. Open Meetings Act is followed when required by law. Rankings shall be made without regard to race, sex, religion, national origin, or political affiliation.

- (2) If no applications meet the minimum education and experience requirements for the position, the position must be re-advertised for at least fourteen (14) days. If three or more applicants meet the education and experience requirements for the position, then at least the top three qualified applicants must be interviewed within thirty (30) days of the closing of the position advertisement UNLESS A CANDIDATE WITHDRAWS THEIR APPLICATION. If less than three (3) applicants meet the education and experience requirements, then all qualified applicants should be interviewed. Interviews must be conducted by at least one Commissioner and the cognizant department head. Any commissioner desiring to be present for interviews shall notify the President and Town Administrator. Any commissioner that has notified the President ~~and~~ OR Town Administrator shall be included in the interview process TO THE EXTENT THAT THEY MAKE THEMSELVES READILY AVAILABLE provided that the MD. Open Meetings Act is followed when required by law.

- (3) After conducting interviews, the interviewers must select an interviewee within 30 days of the last interview OR RESTART THE RECRUITMENT PROCESS. Once the individual selected has been notified of selection and accepted the position, the Town Administrator will oversee the verification of any educational or other certifications by the Town's Human Resources Firm. The Town Administrator must also ensure that all selected candidates undergo APPROPRIATE criminal background checks and drug screening procedures prior to starting employment.

- (4) All efforts will be made to ensure the hiring process is non-discriminatory on the basis of race, sex, religion, national origin, or political affiliation. Outside hiring assistance may be required to ensure current best practices in non-discriminatory hiring practices are followed.

Section 5. Political Activities

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- A. No regular Town staff employee shall hold an elected office or more than more than one (1) appointed office; however, nothing herein shall prevent an officer from holding an *ex officio* office or position. This section shall be further governed by the Maryland Anti-Hatch Act as codified in section 1-303 *et seq.* of the LG Art. of the MD. Ann. Code, and where applicable by the federal Hatch Act codified in 5 U.S.C. §§ 7321–7326.
- B. No official or employee of the Town shall solicit any contributions or service for any political purpose from any Town employee.
- C. Nothing herein contained shall affect the right of any employee to hold membership in the support of a political party, to vote as ~~he/she~~ THEY choose, to express ~~himself~~ THEMSELVES publicly or privately on all political subjects and candidates, to maintain political neutrality, and to actively participate in political meetings. Such activities must be engaged in as a private citizen and on the employee's own time.

Section 6. Unlawful Acts

- A. No person shall make any false statements with regard to any test, certification, or appointment made under any provisions of this Ordinance, or in any manner commit or attempt to commit any fraud preventing the impartial execution of this Ordinance and policies.
- B. No person shall, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for any appointment or employment under this Ordinance, or furnish to any person any special privileged information for the purpose of affecting the rights or prospects of any person with respect to employment with the Town.

Section 7. Compensation.

- A. The Board of Commissioners shall set the compensation of all regular Town staff positions by including a pay chart with the annual budget ordinance enacted in conjunction with the annual operating budget, in accordance with this Section. The pay chart will include ~~eight~~ (8) paygrades, with ~~ten~~ (10) steps in each paygrade. They shall be established by adding the COLA to the base every year. Notwithstanding this COLA increase, every two years the paygrade of each employee classification shall be reviewed in comparison to industry standards including consideration of mean, median, and mode for the geographic area and size of the municipality. Each step shall be established as 3% more than the step before it. Therefore step 1 shall be the base salary for the paygrade, step 2 shall be the base salary for that paygrade plus 3% more, continuing to step 10.
- B. The annual base pay (Step 1) for each Fiscal Year shall be presented in a pay chart and included in that Fiscal Year's Budget Ordinance.

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- C. Each fiscal year, the pay chart will be updated and included in the annual budget ordinance, beginning in Fiscal Year 2022, to include a cost-of-living adjustment (COLA) for all paygrades and steps. The Town COLA for each fiscal year will be equal to the total pay increase received at the beginning of the same calendar year by United States Government General-Schedule (GS) civilian employees in the Washington-Baltimore-Arlington-DC-MD-VA-WV-PA Locality Pay Area. If said GS total pay increase is less than 1%, the Town COLA will be 1% for that fiscal year. If said GS total pay increase exceeds 3%, the Town COLA will be 3% for that fiscal year.
- (1) Part-time employees will be paid by the hour, at an hourly rate (equal to 1/2080 of the annual rate), as a full-time employee with the same position. Part-time employees will have the same minimum and maximum salaries, eligibility for step and paygrade increases, and annual pay increases as their full-time counterparts for computing their hourly rate.
 - (2) Employee pay will increase by one step after completing a period of satisfactory service (in a particular paygrade and step) with the Town as follows: Increasing one step after one year of satisfactory service in steps 1 through 3, increasing one step after two years of satisfactory service in steps 4 through 6, and increasing one step after 3 years of satisfactory service in steps 7 through 9. Thus, an employee would take 18 total years to move from step 1 to step 10 within a paygrade.
 - (3) Town employees shall receive compensation only as outlined in this Section, and any other financial compensation including a pay increase, bonus, or incentive pay must be approved by a majority of the Board of Commissioners as appropriated in the annual budget ordinance and approved by the detailed budget document.
 - (4) Upon the approval of the Town's annual budget ordinance, each employee shall be issued a letter signed by the ~~President and Treasurer~~ DEPARTMENT HEAD stating the employee's annual salary, paygrade, step, and COLA increase for the upcoming fiscal year. A copy of this letter shall also be placed in the employee's personnel file. Employees will also receive such a letter when they receive a paygrade or step increase.
 - (5) When a new employee is hired, they should be hired at step 1 of their paygrade. If the employee is experienced, human resources, under the direction of the Town Administrator, can authorize the employee to be brought on up to step 4 in their paygrade depending on qualifications and/or experience. Board approval is required before bringing an employee on at step 4 or above.

Section 8. Penalties

Violation of any provision of this Ordinance may result in disciplinary action on the part of the Board of Commissioners up to and including dismissal.

Section 9. Town Employee Handbook

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The Board of Commissioners shall set further personnel policies and procedures through approval of the Town Employee Handbook. The handbook shall be reviewed annually and updated at least every three (3) years by Resolution.

Section 10. Position Descriptions and Organization Chart

The Board of Commissioners shall set, by Ordinance or written resolution, position descriptions for all regular town staff that include major duties, minimum education and experience requirements, and minimum, and maximum pay in accordance with the pay chart DESCRIBED in Section 7, as well as the organizational chain(s) of reporting and responsibilities, including supervisory and/or oversight responsibilities, for each position by separate Ordinance or written resolution adopted from time to time.

Section 11. Severability

Should any part of this Ordinance be held invalid, all remaining parts shall remain in effect.

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: _____

INTRODUCED in a public session of the Board of Commissioners on this 25 day of April, 2023.

ORDAINED, APPROVED, AND finally passed by the Board of Commissioners of the Town of Upper Marlboro, Maryland on this _____ day of _____, 2023, by:

Attest: THE TOWN OF UPPER MARLBORO
BOARD OF COMMISSIONERS

John Hoatson, Town Clerk

Sarah Franklin, President

Date: _____

Charles Colbert, Commissioner

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Thomas Hanchett, Commissioner

Karen Lott, Commissioner

VACANT, Commissioner

Reviewed and Approved for Legal Sufficiency

Kevin J. Best, Esq.

Date: _____

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