

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

ORDINANCE: 2023-02
SESSION: Regular Town Meeting
INTRODUCED: February 28, 2023
DATE ENACTED: _____

AN ORDINANCE TO REGULATE AND PROVIDE FOR THE CONDUCT OF VOTER REGISTRATION, MAINTENANCE OF RECORDS, CONDUCT OF ELECTIONS, CERTIFICATION OF ELECTION RESULTS, AND PENALTIES RELATED THERETO; AND GENERALLY RELATING TO TOWN ELECTIONS

WHEREAS, a division of the Town Charter is entitled “Registration, Candidates and Elections” and includes §82-19 (Voters) through §82-35 (Penalties); and

WHEREAS, Section 82–34 of the Town Charter (Regulation and Control) states that 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, Ordinance 2001-2 entitled “An ordinance to regulate and provide for the conduct of voter registration, maintenance of registration records, conduct of elections, certification of election results and penalties related thereto” was enacted on October 9, 2002; and

WHEREAS, Section § 4-108 of the LG Article of Md. Ann. Code states (i) that a qualified voter may vote in a municipal election by absentee ballot, (ii) that a municipality shall provide a procedure to vote by absentee ballot, (iii) that a municipality may not require an individual to provide a reason that the individual will be unable to vote in person on election day in order to vote by absentee ballot, and (iv) that a municipality may use any method to enable absentee voters to vote, including using any facilities to transmit and receive applications for absentee ballots; and

WHEREAS, Section § 4-108.1 of the LG Article of Md. Ann. Code states that as to voting in a municipal election: (1) a person is subject to the offenses and penalties related to voting specified under § 16-201 of the Election Law Article; and (2) the State Prosecutor or the State's Attorney for the county in which the municipal election was held and where the offense is alleged to have occurred may prosecute the person for the offense; and

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

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

ELECTIONS

Section 1. Purpose and Authority:

A. The purpose of this Ordinance is to set forth the rules and procedures for electing or selecting the five (5) Town Commissioners for the Board of Town Commissioners, and putting advisory or referendum questions before the voters, as well as to define the roles and responsibilities of the Board of Supervisors of Elections, the Town Clerk and other employees charged with managing the municipal election and registration processes.

B. The authority to hold municipal elections is contained in Article XI-E of the Constitution and the Local Government Article of the State of Maryland Annotated Code, as amended from time to time, and certain sections of the Charter of the Town of Upper Marlboro. Although the State Elections Article is not generally applicable to municipal elections, all Town election procedures shall be subject to the relevant and controlling provisions contained in the Annotated Code of Maryland.

Section 2. Applicability:

This Ordinance applies to the process of electing and selecting the members of the Board of Town Commissioners for the Town of Upper Marlboro and the conduct of registration, candidacy for office and elections in general and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud.

Section 3. Definitions:

- A. Absentee Voting: Voting in a location other than an official polling station using a ballot not typically used in a polling place.
- B. Ballot: The means by which a resident records their vote. It may be an Electronic Ballot (generated by a voting machine) or a Paper Ballot (designed by the Town Clerk or designated employee with approval of the Board of Election Supervisors).
- C. Ballot Question: Non-binding questions the sitting Board of Town Commissioners may chose to incorporate into the ballot to receive advice or input from the Town's voters on different topics. Such questions may also include referendum questions mandated by State law.
- D. Board of Supervisors of Elections: Is composed of at least three (3) members, with a maximum of five (5) members; who shall be appointed by the Board of Commissioners by the second Tuesday in September in odd years and serve for a term of two years.

- E. Duly Authorized Agent: A person at least 18 years of age, who is not a candidate on the ballot, and is designated in writing by a qualified voter as his or her agent in picking up and delivering an absentee ballot.
- F. Election Day: The 1st Tuesday in November of every odd-numbered year as established by Charter.
- G. Election Judges: Town residents who are otherwise eligible to vote in a Town election may be appointed as needed by the Board of Supervisors of Elections to assist with conducting the election. On Election Day Members of the Board of Supervisors of Elections shall also be considered to be Election Judges for the purpose of Section 8 of this ordinance.
- H. Election Procedures Manual: A reference manual for Town Commissioner and other Town elections containing detailed instructions on preparing and conducting an election as well as standard templates and relevant legal references. Said Manual is to be approved and updated from time to time by ordinance. This Manual shall have the force of law and is regarded as both substantive rulemaking and interpretive agency guidelines on existing laws and customs pertaining to 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.
- I. Prince George's County Board of Elections: the authority for conducting elections in Prince George's County under the State Election Code, which is generally inapplicable to municipal elections with certain exceptions.
- J. Provisional Voter: A resident not listed in the Voter Registration List, whose eligibility to vote must be established after casting a ballot.
- K. Public outreach: A systematic attempt and/or requirement to provide information, notice or services to a targeted group of people, such as posting to the Town website or in a newspaper of general circulation.
- L. Qualified Voter: An individual authorized under the Town Charter to vote in elections in the municipality. A qualified voter domiciled in the Town of Upper Marlboro may not generally vote in any other jurisdiction of the State using another residence.
- M. Registration: Recording one's name and other information on a list of qualified voters. See also Universal Registration and the Supplemental Voter Registration List.
- N. Sample ballot: A facsimile of a ballot used for informational purposes.
- O. Special Election: An election held on a date other than a regularly scheduled general election for the purpose of filling a Town Commissioner vacancy or conducting a referendum. A special election shall be held pursuant to the Charter or relevant State law not less than thirty (30) days and not more than forty-five (45) days after the vacancy is created.
- P. Spoiled ballot: A ballot that has been declared invalid by the Board of Supervisors of Elections, is endorsed as such by an election judge and ratified by vote of the Board of Supervisors of Elections and is excluded from the vote count in accordance with this ordinance and criteria detailed in the election procedures manual of the Town of Upper Marlboro.
- Q. Supplemental Voter Registration List: A list of voters registered to vote solely in Town elections.

- R. Town Clerk: A municipal employee and appointed official charged with a set of clerical and other responsibilities, including management of the municipal elections process. Election preparation and management may be carried out by another designated municipal employee unless the Town Charter states otherwise. Unless another employee or official is designated by written resolution of the Board, the Town Clerk shall serve as the municipal corporation liaison to the County Board of Elections and as clerk to the Town Board of Supervisors of Elections. The Town Clerk may accept documents on behalf of the Board of Election Supervisors.
- S. Universal registration: A system of qualifying voters based on residency in the State of Maryland and its political subdivisions to vote in Federal, State, County and Municipal elections by registering only once. The Town Charter also provides for the maintenance of a Supplemental Voter Registration List for those who wish to register only in Town elections.
- T. Voter Authorization Card (VAC): A card provided by the Prince George's County Board of Elections or the Town Board of Supervisors of Elections in conjunction with the voter registration lists that must be signed before a voter may proceed to cast a vote.
- U. Voter Registration List: Official primary voter registration list for the Town of Upper Marlboro obtained from the Prince George's County Board of Elections and maintained by the State of Maryland Board of Elections.
- V. Voting age: at least 18 years of age, per Section 82-19 of the Town Charter.
- W. Voting machine: A mechanical or electronic piece of equipment, including software, used to define ballots; to cast and count votes; to display and report election results; and to maintain an audit trail.
- X. Voting machine vendor: A business that sells or leases voting machines and provides the technical support to operate them.
- Y. Write-in Vote: The action of a voter permitted by the Charter to write-in the name of a person who is not a declared and certified candidate for Town Commissioner on the ballot.

Section 4. Voter Registration

- A. 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 Section 82-24 of the Town Charter shall be a qualified voter entitled to vote at any or all Town elections.
- B. An applicant for Town registration on the Supplemental Voter Registration List shall sign a form and verify by oath the following information: (i) full name, address, date of birth, citizenship status, and date of residency in Town. When a disabled applicant is unable to come to the Town offices or designated place to sign a registration form, a supervisor or the Town Clerk may visit the disabled applicant at that person's residence to secure the signature.

Section 5. Appointment and Duties of Board of Supervisors of Elections

A. The Board of Supervisors of Elections exercises general supervision of the Town elections in accordance with Section 80-20 of the Town Charter. The Board of Supervisors of Elections shall be appointed for a two-year term by the Mayor with the approval of the Board of Town Commissioners on or before the 2nd Tuesday in September in even numbered years or the year before the general Town election. The Board may be composed of three to five members including any additional member that may be designated to serve as an alternative or substitute member who shall act as a member in the absence of any one of the regularly appointed members.

B. Members of the Board of Supervisors of Elections shall meet the qualifications stated in Section 82-20 of the Town Charter and may be removed in accordance Section 82-21 of said Charter.

C. The Board of Supervisors of Elections shall appoint one of its members as chairperson. Vacancies on the said Board of Supervisors shall be filled by the Mayor with the approval of the Board of Commissioners for the remainder of the unexpired term as needed. All persons appointed to serve as a supervisor or election judge shall take the oath or affirmation administered by the Mayor as found in Section 82–85 of the Town Charter.

D. In addition to the duties enumerated in Section 82-22 of the Town Charter, it shall be the duty of the Board to become familiar with relevant State laws, Town charter and ordinances and the Election Procedures Manual that guide the electoral process by reading said documents and attending relevant training at the State, County or municipal level; review supplemental voter registration lists and absentee voter lists; prepare the polling station and supervise the election; and tally the votes and report the election results to the sitting Board of Town Commissioners.

E. The Board of Supervisors of Elections may also appoint election judges to assist with carrying out an election. All supervisors and election judges shall be qualified voters of the Town, and the Board of Supervisors of Elections shall submit the names of all appointed elections judges to the Town Clerk prior to the election.

F. The Board of Supervisors of Elections, Chairman, and election judges shall be compensated by the Town per election in the below amounts:

- Board of Supervisors of Elections Chair \$500 per election
- Board of Supervisors of Elections Member(s) \$350 per election
- Election Judge(s) \$250 per election
 - Elections Judges who do not work a full day at the polls shall receive a percentage of this pay equal to the percentage of the Election Day that they worked.

G. The Board of Commissioners may modify the above compensation established in this Section by written resolution. The Town Clerk shall ensure compensation is issued within seven (7) days after the election date. Expenditures for their compensation and to support the duties of the Board of Supervisors shall be determined by the Board of Commissioners annually in the budget.

Section 6. Preparing for Town Elections

Town elections take place on the second Tuesday in November of every odd-numbered year and in accordance with the following:

A. Election Schedule: In September prior to the Town election, the Town Clerk shall update the election schedule for publication on the Town website in October or other suitable means of public outreach. The schedule shall contain important dates and deadlines related to the election.

B. Registration:

1. No less than six (6) months prior to a Town election, the Town Clerk shall contact the Prince George's County Board of Elections and request the development of a plan and schedule to implement universal registration, including a voter registration list and the supporting materials for the Town election, pursuant to §3-403 of the Maryland Election Law Article, as may be amended. The Town's supplemental voter registration list shall be finalized by the Town Clerk thirty (30) days prior to the election date.
2. In accordance with Section 82-24 of the Town Charter, registration with the Prince George's County Board of Elections by a voter who resides in the corporate limits of the Town and whose address is reflected on the rolls as a Town resident shall be deemed registered for the Town elections. A person continues to have the choice to register only with the Town for its elections and not to register with the Prince George's County Board of Elections.
3. Persons desiring to register only with the Town may register at Town Hall during normal working hours daily; or upon request, may receive an application by mail. Registration shall be permanent (unless lawfully purged), and no person shall be entitled to vote in Town elections unless he is registered to vote with the Board of Supervisors upon the supplemental municipal voter registry maintained by the Town at least ten (10) days prior to the election or with the Prince George's County Board of Elections in accordance with state law. In accordance with Section 82-23 of the Town Charter, the Board of Election Supervisors shall give at least two weeks' notice of every registration day or the general availability of registering at the Town Hall in a newspaper of general circulation as stated in paragraph B(1) above.
4. It shall be the duty of the Board of Supervisors of Elections to keep the registration lists up to date by striking from the lists persons known to have died, to have moved out of the Town, or who have become otherwise disqualified by the Board of Supervisors or the County Board of Elections. An individual is not qualified to be a registered voter under state law and the Charter if the individual shall have been convicted of a disqualifying crime or be under guardianship for mental disability as provided in Section 3-102(b) of the Election Article of the Annotated Code of Maryland. The Board of Election Supervisors will not enter or maintain on the rolls maintained as town-only rolls any voter registered with the County system.

C. Board of Supervisors of Elections: Recruitment of potential members of the Board of Supervisors of Elections may begin in July and August a year prior to the election by publicizing the position in suitable means of public outreach and the Town Clerk shall ensure that all members of the Board of Supervisors of Elections receive a course of training in their duties. The training shall take place throughout the year prior to an election.

D. Town Commissioner Candidacy:

1. The Town Clerk shall provide notice of the filing deadline of an election by suitable means of public outreach no less than sixty 60 days before a general election, and no less than twenty days for a special election, as needed; provide Petitions of Candidacy and Written Intent Statement forms to residents wishing to file for Town Commissioner candidacy to be received no later than the second Monday in October of the election year; and receive and review the filed forms.
2. The Board of Election Supervisors shall prepare said forms for use by candidates in securing nominating signatures as required by § 82-28 of the Charter. Any statements of candidacy or petitions filed with a supervisor shall be promptly transmitted to the Clerk.
3. A candidate seeking to withdraw must submit to the Board of Election Supervisors a written, signed letter clearly stating the candidate's intent to withdraw within three (3) business days after the deadline for filing said forms and the names of all candidates not withdrawn in accordance with this section will remain on the ballot through the election.
4. As soon as practical after the deadline for filing of petitions and written intent statement forms, the Board of Supervisors of Elections will meet and review each one. The qualifications of the prospective candidate will be certified in accordance with the Charter. Each signature on the petition will be checked for qualified voter registration. If the petition or statement has any defects or missing information, the Chairman, another designated supervisor or the Clerk will advise the candidate of the findings. The candidate may withdraw the petition or statement, or correct the defects and resubmit the form before the filing deadline.
5. Each candidate may designate up to two (2) observers who may be present in the polling place during the period of the election and thereafter when the ballots are actually being counted and certified provided that the observer has written authorization from the candidate. Upon closing of the polls, the candidate may be one of the observers for the purposes of witnessing the vote count. A police officer may be allowed in the voting or canvassing room for purposes of order. Observers must not disrupt, or interfere with election activities and any observer including a candidate may be asked to leave by the Board of Election Supervisors if the observer is deemed to be disruptive or interfering with election activities.
6. The Town Clerk shall also advise candidates on all relevant election matters, including the election schedule, Candidates' Night, campaigning and other questions that may arise.

E. Campaign Materials and Electioneering: The Town Clerk shall inform Town Commissioner candidates of the Town's campaigning rules. Starting three weeks prior to the election, campaign literature may be distributed, and campaign signs and posters may be displayed on private property, including the Town maintained rights-of-way, with the abutting property owner's permission. No person may canvas, electioneer or post any campaign literature or material in a polling place or within a one hundred-foot radius from the entrance and exit of the building closed to that part of the building in in which voting occurs, nor shall anyone linger, be or remain within

said distance of one-hundred feet of the polls except election officials and peace officers, unless it be in approaching the polls to vote or in passing along the streets in the usual and orderly manner of travel.

Campaign signs shall:

1. Not be displayed until three (3) weeks prior to the election.
2. Not create a public safety hazard.
3. Be removed within two (2) days after the election.
4. Not be attached to utility poles.
5. Displayed on designated Town right of way locations determined by the Town Administrator together with the Director of Public Works and the Chief of Police in the August prior to each election. In a Special Election the locations used in the last general election shall apply.

F. Write-in Candidates: The Town Clerk shall ensure the ballots provide adequate spaces to permit the voter to write in the name or names of additional candidates not listed on the ballot. A write-in candidate may win an election if they meet all the qualifications to be elected and serve as a Commissioner and receive at least the 5th highest vote count in a general election or the highest vote to fill a vacancy in a special election.

G. Candidates' Night: The Town Clerk shall arrange for a Candidates' Night to be held in October prior to a Town election. All qualified candidates confirmed at that time may participate in this moderated public forum to introduce themselves, briefly state their platform, if any, and answer questions from residents. A third party group or organization may also assist with this event and preferably act as moderator. A reasonable attempt shall be made to ensure the date and time chosen allows all candidates a reasonable opportunity to participate.

H. Notice of Election: In accordance with Section 82-23 of the Charter, the Town Clerk shall give at least two (2) weeks' notice of every election in a paper of general circulation, or other suitable form of public outreach, and physically post the Election Notice in three (3) public places in the Town.

I. Election Supplies: The Town Clerk shall ensure that all necessary election supplies and materials are on hand on Election Day, either for voting by paper ballot or by voting machine.

Section 7 Absentee Ballots

An eligible voter may vote by absentee ballot in a Town election for any reason, pursuant to §4-108 of the Maryland Local Government Article, as may be amended. Subject to oversight by the Board of Elections Supervisors, the Town Clerk shall prepare absentee ballots and an absentee voter list to keep an accurate record of voters who request an absentee ballot.

- A. Application: A registered voter may request an absentee ballot as early as thirty (30) days prior to the election. The request can be made electronically or by mail. Absentee ballots and accompanying envelopes are made available to any eligible voter upon request until

the election, including ballots requested in writing by a duly authorized agent. Requests can be made up until the closing of the polls, however all ballots must be submitted prior to the polls being declared closed in order to be counted. Upon issuing an absentee ballot the Town Clerk shall cross that persons name off the voter registration list and mark “absentee ballot” next to the name.

B. Lost or Destroyed Absentee ballots: No voter who has been issued an absentee ballot for an election shall be authorized to cast their ballot in any manner other than by casting an absentee ballot. Should an absentee ballot be lost or destroyed, without being returned to the Town Clerk, a second ballot may be issued. The Town Clerk shall verify that one (1) ballot is being submitted for each absentee voter. If the Town Clerk finds a voter has cast more than one absentee ballot they shall challenge these ballots. Should the absentee ballot be challenged by the Town Clerk as to the ballot being cast by the person to whom it was issued or as to the ballot being obtained and returned in accordance with the provisions of this section, the Board of Supervisor of Elections shall determine the validity of any challenged absentee ballot.

C. When the Board of Supervisors of Elections determines from proof or investigation that any person who has marked and transmitted an absentee ballot has died before Election Day, such ballot of the deceased voter shall not be counted. However, if prior to the time of such counting and certification of the results, the Board of Supervisors of Elections shall not have determined that the absentee resident who makes a ballot had died before Election Day, such ballot shall be counted, and the fact that said absentee resident may later be shown to have been actually dead on Election Day shall not invalidate said ballot or said election after the results have been certified.

D. Mailed Ballot Collection: A Member of the Board of Supervisors of Elections shall go to the Board of Supervisors of Elections Post Office box at the closing of the polls. If any ballots are found within they shall be considered submitted or cast prior to the closing of the polls and shall be counted.

B. Qualified Agent: Any registered voter voting by absentee ballot may designate an agent to pick up and deliver an absentee ballot granted that they; are at least 18 years of age, are not a candidate on the ballot, sign an affidavit under penalty of perjury that the ballot was delivered to the voter who submitted the application, marked and placed in an envelope by the voter, or with assistance in the agent's presence without any undue influence; and returned to the Town by the agent.

C. Late Absentee Ballots: Any absentee ballots received after polling has closed will be handled as a spoiled ballot.

Runoff Elections: An attempt will be made to supply any voter who voted absentee with a absentee ballot for any runoff election as soon as official copies are available, and the above regulations shall substantially apply to any runoff election.

E. Storage of Absentee Ballots: Every absentee voter shall be listed on the absentee voter list that includes name, address, date of issuance of ballot and date of receipt of voted ballot. Voted ballots shall be kept sealed in their envelopes and stored in a secure location to be opened and tallied on Election Day.

F. Absentee Ballot Delivery: On elections day, prior to the closing of the polls the Town Clerk shall deliver the absentee ballots to the place designated by the Board of Supervisors of Elections and shall make an accounting for the purpose of counting absentee ballots as to the number of absentee ballots issued and the number returned. The Town Clerk shall keep such record of the absentee ballots in a secure place as is kept with other voting records.

Section 8 Election Day

On Election Day all members of the Board of Supervisors of Elections shall be considered Election Judges as well as being members of the Board of Supervisors of Elections. The preparation for and the conduct of an Election Day are described in detail in the Election Procedures Manual. The polls are open between 8:00 a.m. and 7:00 p.m.

A. Preparing the Polling Station: The Town Clerk shall meet the members of the Board of Supervisors of Elections and Election Judges before polls open at 8:00 a.m. on Election Day to prepare the polling station. Preparation of the polling station includes:

1. Posting sample ballots and instructions outside and inside the polling station for public view. The sample ballot shall show names of declared candidates and questions, if any.
2. Demarcating a one hundred (100') foot perimeter around the polling station structure as a "no electioneering" zone. No campaigning by candidates or their supporters will be allowed within this area. Candidates for election may cross this line only to cast their own vote.
3. Setting up a voter "check-in" station, including readying of the voter registration lists and Voter Authorization Cards.
4. Completing set up of voting booths. If voting machines are used, the Elections Chair, with assistance from the voting machine vendor, shall verify that they are ready for use and counters set to zero. If paper ballots are used, members of the Board of Supervisors of Elections shall ensure that each booth has a pen for marking the ballot.
5. Setting up ballot boxes if paper ballots are used. Ballot boxes must be empty and ready for use. The Town Clerk shall keep the ballot box key in secure storage until the polls close.

B. Polling Station Open:

1. The Board of Supervisors of Elections supervises the polling station and may assign Election Judges to their particular stations. Upon opening of the polls, all Election Judges shall take their assigned stations. At least one member of the Board of Supervisors of Elections shall remain at the polls at all times. At least two Election Judges shall staff the voter check-in/ registration tables. One Election Judge shall staff the voting booths and

one shall staff the ballot boxes, if paper ballots are used. Physically disabled voters shall be assisted in a manner substantially consistent with the relevant provisions found in the Maryland Election Law Article, as may be amended.

2. The Elections Supervisor Chair shall be responsible for provisional voting and ensure that residents, who are not on the voter registration list, are able to cast a provisional ballot. Provisional ballots are set aside for separate tallying. Votes remain provisional until the eligibility of the voter has been established by the Prince George's County Board of Elections and the Board of Elections Supervisors.

3. The Town Clerk shall announce the closing of polls five minutes before 7:00 p.m. on Election Day. Any resident wishing to observe the tallying may remain inside the polling station when the doors are locked. No one shall be permitted to enter or re-enter the polling station while tallying is in progress.

C. Vote Count Observation and Decorum: After the last voter has voted and the polls have closed, and before the canvassing or counting begins, candidates and members of the public may be permitted to enter the room where the votes will be counted. Once the counting begins, the door to the counting room will be closed and no one will be allowed to enter until the votes have been tallied. Once inside the room, anyone wishing to leave will not be readmitted until the counting has concluded. The use of electronic devices, other than those being used by the Board of Supervisors of Elections for counting, will not be permitted in the polling room during the counting of the votes. Anyone who violates the restrictions set forth herein may be, at the discretion of the election judges, ejected from the proceedings.

If paper ballots are used:

1. The ballot box key shall be returned to the Elections Supervisor Chair by the Town Clerk to open the ballot boxes.
2. The Elections Supervisor Chair shall remove ballots from the ballot box and organize them for tallying assisted by other members of the Board of Supervisors of Elections.
3. The Elections Chair shall read out aloud how each ballot was voted, including write-in votes and ballot questions (if any).
4. Two members of the Board of Supervisors of Elections will independently tally the votes cast for each candidate and results of each ballot question.
5. In the case of an irregular or potentially spoiled ballot, the Elections Supervisor Chair shall consult with two other members of the Board of Supervisors of Elections to determine if the ballot is valid or spoiled in accordance with criteria detailed in this ordinance and the election procedures manual of the Town of Upper Marlboro. If spoiled, the ballot shall be marked "void" and set aside. A designation of a voided ballot shall be ratified by a majority of all supervisors prior to certification and shown to any challenger but shall not leave the hand of the member of the Board of Supervisors of Elections.
6. When all regular ballots are tallied, the Elections Supervisor Chair shall open the sealed envelopes with absentee ballots and count them. The absentee ballots shall be added to the tally of regular ballots. The result is compared with the tallied check marks on the

County voter registration list and the Town supplemental voter list to ensure that the total number of voters agrees with the total number of ballots cast.

7. Provisional votes shall be tallied separately and set aside until the qualification of each provisional voter can be verified.
8. Voted ballots shall be placed in envelopes, sealed and signed across the seal by three members of the Board of Supervisors of Elections. Said envelopes, marked voter registration list and Voter Authorization Cards shall be kept in a secure place until they are delivered to the Prince George's County Board of Elections for certification.
9. Tally sheets shall be verified, signed and dated by the Elections Supervisor Chair and members of the Board of Supervisors of Elections. Tally sheets, together with spoiled ballots, those not distributed and not used shall be placed in envelopes, sealed, signed across the seal by at least three members of the Board of Supervisors of Elections and returned to the Town Clerk.

If voting machines are used:

1. The Elections Chair, with two other members of the Board of Supervisors of Elections, shall open the voting machines and unroll the tally sheets.
2. The machine count shall be verified by at least two members of the Board of Supervisors of Elections. Under the supervision of the Elections Chair, members of the Board of Supervisors of Elections shall tally record sheets from each voting machine once the machine votes have been tallied, the Elections Chair shall open the sealed envelopes with absentee ballots and count them. The absentee ballots shall be added to the tally of regular ballots. The result is compared with the tallied check marks on the County voter registration list and the Town supplemental voter registration list to ensure that the total number of voters agrees with the total number of ballots cast.
3. Provisional votes, cast by paper ballot, must be tallied separately, and returned separately to the Prince George's County Board of Elections to be certified.
4. Tally sheets shall be verified against the total count of the signed voter authorization cards, a count of check marks on the County voter registration list, and a count of checks on the Town supplemental registration list.
5. Voting machine tally sheets and absentee ballots shall be placed in envelopes, sealed, and signed across the seal by at least three members of the Board of Supervisors of Elections.
6. Voting machines shall be locked and sealed and keys placed in a sealed envelope for safekeeping until the voting machines are picked up by the vendor.

Canvassing absentee ballots:

1. The official receiving an absentee ballot shall note date and time of receipt and initial on the front of the envelope. If a date stamp is used, the stamp is endorsed with the initials of the person accepting receipt. The envelope shall not be opened by anyone at time of receipt. The ballots received prior to the closing of the polls will be placed in a locked file. Ballots received at the town office will be delivered to the custody of the Town Clerk as soon as practicable. The name of the person doing this will be entered in the register described below.

2. On election day, the Board of Election Supervisors will maintain all absentee ballots in a separate, secure file box with the related application materials until the polls close. No absentee ballot received by mail can be counted unless it was postmarked no later than Election Day.

D. Recount and Tie Votes: The Board of Commissioners has jurisdiction and power to hear and determine any appeals, to review and correct the actions of the Board of Election Supervisors and to order the recanvassing, recounting and re-certification of the results of any election. The Board of Supervisors of Elections may conduct a recount if it discovers or suspects a defect or error in its procedures prior to the deadline for certifying the results in accordance with the Charter. In the case of a tie vote, the Board of Commissioners shall order and provide a run-off election between the tied candidate within twenty-one (21) days of the initial election.

E. Announcement of Election Results: The Elections Supervisor Chair shall announce the five candidates receiving the highest number of votes as Commissioners-elect or the candidate in a special election with the highest vote. The Elections Supervisor Chair shall also announce the results of any Ballot Questions.

F. Statement of Election Results: 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 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 next Town Meeting of the Board of Commissioners. The five candidates for Commissioners receiving the highest number of votes in a general election shall be declared elected.

G. Certifying Election Results and Eligibility to Serve:

1. After tallying the votes, the voter registration lists, Voter Authorization Cards, and voted ballots, shall be retained by the Town for a period of at least six (6) months or in accordance with any approved and applicable records retention schedules.
2. The Charter does not confer upon the Board of Election Supervisors the power or responsibility for determining whether a successful candidate is qualified to serve, as distinct from initially determining whether a qualified candidate is qualified to stand for election at the time a petition is filed. Section 82-7 of the Charter empowers the Board of Commissioner to be the judge of the election and qualification of its members and Section 82-25 affords any person who feels aggrieved by the actions of the Board of Supervisors of Elections with the right to appeal the action to the Board of Commissioners. Therefore, the Board of Election Supervisors certifies elected candidates to the Clerk based exclusively upon the votes cast by registered voters qualified to vote, but certification is without prejudice to the jurisdiction of any other appropriate body or court to ascertain the eligibility of the successful candidate to serve in the capacity to which the individual was elected.

Section 9 Ballot Questions

Pursuant to Ordinance 2019-08, the sitting Board of Town Commissioners may, by Resolution or the qualified voters may petition to add non-binding questions to an election ballot to receive

advice or input from the Town's voters on different topics. Said Resolution should list each question and provide detailed background information and a statement as to why this topic is important. The Resolution should be approved no more than thirty (30) days prior to the election date. Ballot questions shall be included in the sample ballot and posted in a paper of general circulation, or other suitable form of public outreach.

Section 10 Additional Items, Meetings, Penalties and Disqualifications

A. Assistance To Voters: Any registered voter who requires assistance to vote by reason of blindness, disability, or inability to read the English language or write may be given assistance by a person of the voter's choice, not to include the voter's labor union or employer. Any person rendering assistance pursuant to this subsection shall execute a certification to be included in the instructions.

B. Voting Secrecy: The Board of Elections shall provide an enclosure to vote that ensures secrecy in the marking of the ballots and shall count the ballots only after the close of the polls as scheduled.

C. Meetings. The Board of Elections may meet at regular intervals and may hold special meetings as may be required and all such meetings shall be publicly advertised and open to the public in accordance with the Md. Open Meetings Act. The Board's internal deliberations are generally governed by Robert's Rules of Order, Revised.

D. Disputes and Appeals. Upon appeal of an action of the Board of Supervisors of Elections, the Board of Commissioners will attempt to resolve any disputes over candidate or voter qualifications, voter registration and related matters by hearing at which witnesses may be asked to appear and provided sworn testimony. Affected persons may be advised or accompanied by legal counsel. The Board may also draw upon the investigative unit of the Town Police for additional information it needs to develop facts for decision.

C. Penalties: Any person who shall violate any of the provisions of this Article shall, upon conviction, be sentenced to pay a fine of not more than one thousand dollars (\$1,000) or be sentenced to imprisonment for not more than six (6) months, or both, in the discretion of the court. Any person who:

(1) fails to perform any duty required of him or her under the provisions of the Town Charter, §§ 82-19 through 82-35, inclusive, or this Article passed thereunder, or

(2) in any manner willfully or corruptly violates any of the said provisions of the Charter or any ordinances passed thereunder pertaining to any registration, candidacy, or election, or

(3) willfully or corruptly does anything which will or will tend to affect fraudulently any registration, candidacy, or election, shall be deemed guilty of a misdemeanor, punishable as provided in this Section.

D. Disqualifications. Any officer or employee of the Town government who is convicted of a misdemeanor under the provisions of this Section shall immediately upon conviction thereof cease to hold such office or employment.

Section 10 Severability

If any section, subsection, paragraph, sentence, clause, or word contained in this Ordinance shall be declared invalid for any reason, such decision shall not affect the remaining portion of this Ordinance, which shall remain in full force and effect and to this end the provisions of the Ordinance are hereby declared to be severable.

AND BE IT FURTHER ORDAINED AND ENACTED, by the Board of Commissioners for the Town of Upper Marlboro, Maryland, that this Ordinance 2023-01 shall replace and repeal Ordinance 2001-02 (Elections).

Adopted this _____ day of _____, 2023.

ATTEST:

THE TOWN OF UPPER MARLBORO

John Hoatson, Town Clerk

Sarah Franklin, President

Date: _____

Charles Colbert, Commissioner

Janice Duckett, Commissioner

Thomas Hanchett, Commissioner

Karen Lott, Commissioner

CERTIFICATION

I, the undersigned, hereby certify that I am the Town Clerk of the Town of Upper Marlboro and that the Board of Town Commissioners of the Town of Upper Marlboro at a public meeting at which a quorum was present adopted this Ordinance, and that said Ordinance is in full force and effect and has not been amended or repealed.

In witness whereof, I have hereunto set my hand and seal of the municipal corporation, this _____ day of _____, 2023.

John Hoatson, Town Clerk