

CHARTER

OF THE

# **Town of Upper Marlboro**

PRINCE GEORGE'S COUNTY, MARYLAND

(Reprinted November 2008)

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# UPPER MARLBORO

[Corporate Name]

## Section 82-1.

The inhabitants of the town of Upper Marlboro are hereby continued a body corporate and a municipal corporation by the name of "The Town of Upper Marlboro" with all of the privileges thereof, by that name to sue and be sued, to plead and be impleaded in any court of law or equity, to have and use a common seal and to have perpetual succession.

## Corporate Limits

### Section 82-2. The corporate limits of the Town shall be as follows:

Commencing at the mouth of the Federal Spring Branch at its confluence with the Western Branch and running down with the meanders of the Western Branch on the south side thereof, and exclusive of said branch, to the stream beyond James B. Belt's meadow; then up and with said stream to the small bridge culvert on the road from Upper Marlboro to Rosaryville, back of the former residence of A. S. Brooke; then in an air or direct line across the land of Frederick Sasscer to the Federal Spring Branch at a point which will throw into the corporation all the land formerly purchased by Thomas E. Williams and C. C. Magruder, Jr., of the trustees of D. Benedict J. Gardiner; then down and with the meanders of said Federal Spring Branch on the south side thereof, and exclusive of said branch to its mouth, the beginning point aforesaid.

## The Board of Commissioners

### Section 82-3. (Number, Selection, Term).

All legislative powers of the Town shall be vested in a Board of Commissioners consisting of three Commissioners who shall be elected as hereinafter provided and who shall hold office for a term of two years and until the succeeding Board takes office. The regular term of the Commissioners shall expire on the first Monday following the election of their successors. The Commissioners holding office at the time this charter becomes effective shall continue to hold office for the term for which they were elected and until the succeeding Board takes office under the provisions of this charter.

### Section 82-4. (Qualification of Commissioners).

Commissioners shall have resided in the Town for at least two years immediately preceding their election, shall be qualified voters of the Town, and shall be at least 25 years of age. If, at any time such person shall remove from the town, his or her office shall automatically become vacant. (Res. No. 2-01, 9/26/01.)

*(revised 11/09)*

Section 82-5. (Salary of Commissioners).

Each Commissioner shall receive an annual salary which shall be equal for all Commissioners and shall be as specified from time to time by an ordinance passed by the Board in the regular course of its business, provided, however, that the salary specified at the time any Board takes office shall not be changed during the period for which that Board was elected. The ordinance making any change in the salary paid to the several Commissioners, either by way of increase or decrease, shall be finally ordained prior to the general election for the members of the next succeeding Board and shall take effect only as to the members of the next succeeding Board.

Section 82-6. (Meetings of the Board).

The newly elected Board shall meet at 8:00 p.m. on the first Monday following its election for the purpose of organization, after which the Board shall meet regularly at such times as may be prescribed by its rules but not less frequently than once each month. Special meetings may be called upon the request of the President or a majority of the members of the Board. All meetings of the Board shall be open to the public, except that the Board may, by majority vote, meet in closed session for any purpose then authorized by State law; and, the residents of the Town shall have a reasonable opportunity to be heard at any regular meeting in regard to any municipal question. (Res. No. 1-2008, 1-07-09.)

Section 82-7. (Board to be the Judge of Qualifications of it [its] Members).

The Board shall be the judge of the election and qualification of its members.

Section 82-8. (Quorum).

A majority of the members of the Board shall constitute a quorum for the transaction of business, but no ordinance shall be approved nor any other action taken without the favorable votes of a majority of the whole number of members elected to the Board.

Section 82-9. (Procedure of Board).

The Board shall determine its own rules and order of business. It shall keep a journal of its proceedings and enter therein the yeas and nays upon final action on any question, resolution, or ordinance, or at any other time if required by any one member. The journal shall be open to public inspection.

Section 82-10. (Vacancies in Board).

Vacancies in the Board shall be filled as provided in Section 82-32 of this charter.

Section 82–11. (Ordinances).

No ordinance shall be passed at the meeting at which it is introduced. At any regular or special meeting of the Board of Commissioners held not less than six nor more than sixty days



after the meeting at which an ordinance was introduced, it shall be passed, or passed as amended, or rejected, or its consideration deferred to some specified future date. In cases of emergency, the provision that an ordinance may not be passed at the meeting at which it is introduced may be suspended by unanimous vote of the Board of Commissioners. Every ordinance, unless it is passed as an emergency ordinance, shall become effective at the expiration of twenty (20) calendar days following approval of the Board of Commissioners. Each ordinance shall be posted in the Town office, and each ordinance, or a fair summary thereof, shall be published at least once, in a newspaper of general circulation in the Town. (Res. 5-77, 9/22/77.)

Section 82-12. (File of Ordinances).

The complete text of each and every ordinance and resolution passed by the Board shall be permanently filed by the clerk and shall be kept available for public inspection.

## **The President**

Section 82-13. (Selection).

At their organizational meeting, a majority of the Commissioners shall elect one of their members President. The President shall preside at all meetings of the Board in accordance with the accepted rules of parliamentary [parliamentary] procedure, except that he may vote on any question before the Board.

Section 82-14. (Salary of the President).

The President may receive an annual salary in addition to that received as a Commissioner, as set from time to time by an ordinance passed by the Board in the regular course of business. Provided, however, that no change shall be made in the salary for any president during the term for which he was elected. The ordinance making any change in the salary paid to the President, either by way of increase or decrease, shall be finally ordained prior to the general election to elect the next succeeding Board, and shall take effect only as to the next succeeding President.

Section 82-15. (Powers and Duties).

(a) The President shall see that the ordinances of the Town are faithfully executed and shall be the chief executive officer and the head of the administrative branch of the Town government.

(b) 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. All office, department, and agency heads shall serve at the pleasure of the President. 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.

(c) The President each year shall report to the Board the condition of municipal affairs and make such recommendations as he deems proper for the public good and the welfare of the Town.

(d) The President shall have complete supervision over the financial administration of the Town government. He shall prepare or have prepared annually a budget and submit it to the Board. He shall supervise the administration of the budget as adopted by the Board. He shall supervise the disbursement of all monies and have control over all expenditures to assure that budget appropriation are not exceeded.

(e) The President shall have such other powers and perform such other duties as may be prescribed by this charter or as may be required of him by the Board, not inconsistent with this charter.

## General Powers

### Section 82-16.

(1) *(General Powers)*. The Board shall have the power to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland or this charter as it may deem necessary for the good government of the Town; for the protection and preservation of the Town's property, rights, and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the Town and visitors thereto and sojourners therein.

(2) *(Specific Powers)*. The Board shall have, in addition, the power to pass ordinances not contrary to the laws and Constitution of this State, for the following specific purposes:

(a) *(Advertising)*. To provide for advertising for the purposes of the Town, for printing and publishing statements as to the business of the Town.

(b) *(Aisles)*. To regulate and prevent the obstruction of aisles in public halls, churches and place of amusement, and to regulate the construction and operation of the doors and means of egress therefrom.

(c) *(Amusements)*. To provide in the interest of the public welfare for licensing, regulating, or restraining theatrical or other public amusements.

(d) *(Appropriations)*. To appropriate municipal monies for any purpose within the powers of the Board.

(e) *(Auctioneers)*. To regulate the sale of all kinds of property at auction within the Town and to license auctioneers excepting that such power shall exclude authority over such sales conducted pursuant to judicial or foreclosure sales to be reported to the Circuit Court and sales made by any public official pursuant to the duties of his office.

(f) *(Band)*. To establish a municipal band, symphony orchestra or other musical organization, and to regulate by ordinance the conduct and policies thereof.

(g) *(Billboards)*. To license, tax and regulate, restrain or prohibit the erection or maintenance of billboards within the Town, the placing of signs, bills and posters of every kind and description on any building, fence, post, billboard, pole, or other place within the Town.

(h) *(Bridges)*. To erect and maintain bridges.

(i) *(Buildings)*. To make reasonable regulations in regard to buildings and signs to be erected, constructed, or reconstructed in the Town, and to grant building permits for the same; to formulate a building code and a plumbing code and to appoint a building inspector and a plumbing inspector, and to require reasonable charges for permits and inspections; to authorize and require the inspection of all buildings and structures and to authorize the condemnation thereof in whole or in part when dangerous or insecure, and to require that such buildings and structures be made safe or be taken down.

(j) *(Cemeteries)*. To regulate or prohibit the interment of bodies within the municipality and to regulate cemeteries.

(k) *(Codification)*. To provide for the codification of all ordinances and resolutions which have been or may hereafter be passed.

(l) *(Community Services)*. To provide, maintain, and operate community and social services for the preservation and promotion of the health, recreation, welfare, and enlightenment [enlightenment] of the inhabitants of the Town.

(m) *(Cooperative Activities)*. To make agreements with other municipalities, counties, districts, bureaus, commissions, and governmental authorities for the joint performance of or for cooperation in the performance of any governmental functions.

(n) *(Curfew)*. To prohibit the youth of the Town from being in the streets, lanes, alleys, or public places at unreasonable hours of the night.

(o) *(Dangerous Conditions)*. To compel persons about to undertake dangerous improvements to execute bonds with sufficient sureties conditioned that the owner or contractor will pay all damages resulting from such work which may be sustained by any persons or property.

(p) (*Departments*). To create, change, and abolish offices, departments, or agencies, other than offices, departments, and agencies established by this Charter; to assign additional functions or duties to offices, departments or agencies, established by this Charter, but not including the power to discontinue or assign to any other office, department, or agency, any function or duty assigned by this charter to a particular office, department, or agency.

(q) (*Disorderly Houses*). To suppress bawdy houses, disorderly houses and houses of ill fame.

(r) (*Dogs*). To regulate the keeping of dogs in the Town and to provide, whether the County does not license or tax dogs, for the licensing and taxing of the same; to provide for the disposition of homeless dogs and dogs on which no license fee or taxes are paid.

(s) (*Elevators*). To require the inspection and licensing of elevators and to prohibit their use when unsafe or dangerous or without a license.

(t) (*Explosives*). To regulate or prevent the storage of gunpowder, oil, or any other explosive or combustible matter; to regulate or prevent the use of firearms, fireworks, bonfires, explosives, or any other similar things which may endanger persons or property.

(u) (*Filth*). To compel the occupant of any premises, building or outhouse situated in the Town, when the same has become filthy or unwholesome, to abate or cleanse the condition; and after reasonable notice to the owners or occupants to authorize such work to be done by the proper officers and to assess the expense thereof against such property, making it collectible by taxes or against the occupant or occupants.

(v) (*Finances*). To levy, assess, and collect ad valorem property taxes; to expend municipal funds for any public purpose; to have general management and control of the finances of the Town.

(w) (*Fire*). To suppress fires and prevent the dangers thereof and to establish and maintain a fire department; to contribute funds to volunteer fire companies serving the Town; to inspect buildings for the purpose of reducing fire hazards, to issue regulations concerning fire hazards, and to forbid and prohibit the use of fire-hazardous buildings and structures permanently or until the conditions of Town fire-hazard regulations are met; to install and maintain fire plugs where and as necessary, and to regulate their use; and to take all other measures necessary to control and prevent fires in the Town.

(x) (*Food*). To inspect and to require the condemnation of, if unwholesome, and to regulate the sale of any food products.

(y) (*Franchises*). To grant and regulate franchises to water companies, electric light companies, gas companies, telegraph and telephone companies, transit

companies, taxicab companies, and any others which may be deemed advantageous and beneficial to the Town. No franchise shall be granted for longer period than fifty years.

(z) *(Gambling)*. To regulate, restrain or prohibit gambling.

(aa) *(Garbage)*. To prevent the deposit of any unwholesome substance either on private or public property, and to compel its removal to designated points; to require slops, garbage, ashes and other waste or other unwholesome materials to be removed to designated points, or to require the occupants of the premises to place them conveniently for removal.

(bb) *(Grants-in-Aid)*. To accept gifts and grants of federal or of state funds from the federal or state governments or any agency thereof, and to expend the same for any lawful public purpose, agreeably to the conditions under which the gifts or grants were made.

(cc) *(Hawkers)*. To license, tax, regulate, suppress and prohibit hawkers and itinerant dealers, peddlers, pawnbrokers and all other persons selling any articles on the streets of the Town, and to revoke such licenses for cause.

(dd) *(Health)*. To protect and preserve the health of the Town and its inhabitants; to appoint a public health officer, and to define and regulate his powers and duties; to prevent the introduction of contagious diseases into the Town; to establish quarantine regulations, and to authorize the removal and confinement of persons having contagious or infectious diseases; to prevent and remove all nuisances; to inspect, regulate, and abate any buildings, structures, or places which cause or may cause unsanitary conditions or conditions detrimental to health.

(ee) *(House Numbers)*. To regulate the numbering of houses and lots and to compel owners to renumber the same or in default thereof to authorize and require the same to be done by the Town at the owner's expense, such expense to constitute a lien upon the property collectible as tax monies.

(ff) *(Jail)*. To establish and regulate a station house or lock-up for temporary confinement of violators of the laws and ordinances of the Town or to use the County jail for such purpose.

(gg) *(Licenses)*. Subject to any restrictions imposed by the public general laws of the State, to license and regulate all persons beginning or conducting transient or permanent business in the Town for the sale of any goods, wares, merchandise, or services, to license and regulate any business, occupation, trade, calling, or place of amusement or business; to establish and collect fees and charges for all licenses and permits issued under the authority of this charter.

(hh) *(Liens)*. 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.

(ii) *(Lights)*. To provide for the lighting of the Town.

(jj) *(Livestock)*. To regulate and prohibit the running at large of cattle, horses, swine, fowl, sheep, goats, dogs or other animals; to authorize the impounding, keeping, sale and redemption of such animals when found in violation of the ordinance in such cases provided.

(kk) *(Markets)*. To obtain by lease or rent, own, construct, purchase, operate, and maintain public markets within the Town.

(ll) *(Minor Privileges)*. To regulate or prevent the use of public ways, sidewalks, and public places for signs, awnings, posts, steps, railings, entrances, racks, posting handbills and advertisement, and display of goods, wares, and merchandise.

(mm) *(Noise)*. To regulate or prohibit unreasonable ringing of bells, crying of goods or sounding of whistles, horns and speakers.

(nn) *(Nuisances)*. To prevent or abate by appropriate ordinance all nuisances in the Town whether the same be herein specifically named or not; to regulate, to prohibit, to control the location of, or to require the removal from the Town of all trading in, handling of, or manufacture of any commodity [commodity] which is or may become offensive, obnoxious, or injurious to the public comfort or health. In this connection the Town may regulate, prohibit, control the location of, or require the removal from the Town of such things as stockyards, junkyards, slaughterhouses, cattle or hog pens, tanneries, and renderies. This listing is by way of enumeration, not limitation.

(oo) *(Obstructions)*. To remove all nuisances and obstructions from the streets, lanes and alleys and from any lots adjoining thereto, or any other places within the limits of the Town.

(pp) *(Parking Facilities)*. To license and regulate and to establish, acquire by purchase, lease or other transfer, own, construct, operate, and maintain parking lots and other facilities for off street parking.

(qq) *(Parking Meters)*. To install parking meters on the streets and public places of the Town in such places as by ordinance may be determined, and by ordinance prescribe rates and provisions for the use thereof, except that the installation of parking meters on any street or road maintained by the State Roads Commission of Maryland must first be approved by the Commission.

(rr) *(Parks and Recreation)*. To establish and maintain public parks, gardens, playgrounds, and other recreational facilities and programs to promote the health, welfare, and enjoyment of the inhabitants of the Town.

(ss) *(Police Force)*. To establish, operate, and maintain a police force. All Town policemen shall, within the municipality, have the powers and authority of constables in this State.

(tt) *(Police Powers)*. To prohibit, suppress, and punish within the Town all vice, gambling, and games of chance; prostitution and solicitation therefor and the keeping of bawdy houses and houses of ill fame; all tramps and vagrants; all disorder, disturbances, annoyances, disorderly conduct, obscenity, public profanity, and drunkenness [drunkenness].

(uu) *(Property)*. To acquire by conveyance, purchase or gift, real or leasehold property for any public purpose; to erect buildings and structures thereon for the benefit of the Town and its inhabitants; and to sell, lease, convey or otherwise dispose of or encumber any real or leasehold property when no longer needed for the public use, after having given at least twenty days' public notice thereof; to control, protect and maintain public buildings, grounds and property of the Town.

(vv) *(Regulations)*. To adopt by ordinance and enforce within the corporate limits police, health, sanitary, fire, building, plumbing, traffic, speed, parking, and other similar regulations not in conflict with the laws of the State of Maryland or with this charter.

(ww) *(Sidewalks)*. To regulate the use of sidewalks and all structures in, under or above the same; to require the owner or occupant of premises to keep the sidewalks in front thereof free from ice, snow or other obstructions; to prescribe hours for cleaning sidewalks.

(xx) *(Sweepings)*. To regulate or prevent the throwing or depositing of sweepings, dust, ashes, offal, garbage, paper, trash or handbills, dirty liquids, or other unwholesome materials into any public way or onto any public or private property in the Town.

(yy) *(Taxicabs)*. To license, tax and regulate public hackmen, taxicab men, draymen, drivers, cabmen, porters and expressmen, and all other persons pursuing like occupations.

(zz) *(Vehicles)*. To regulate and license wagons and other vehicles not subject to the licensing powers of the State of Maryland.

(aaa) *(Voting Machines)*. To purchase, lease, borrow, install, and maintain voting machines for use in Town elections.

(bbb) *(Savings Clause)*. The enumeration of powers in this section is not to be construed as limiting the powers of the Town to the several subjects mentioned.

Section 82–17. (Exercise of Powers).

For the purpose of carrying out the powers granted in this charter, the Board may pass all necessary ordinances. All the powers of the Town shall be exercised in the manner prescribed by this charter, or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

Section 82–18. (Enforcement).

To ensure the observance of the ordinances of the Town, the Board shall have the power to provide that violation thereof shall be a misdemeanor or municipal infraction, punishable as provided in Sec. 82–88 hereof. (Res. No. 01–2009, 9/2/09).

### **Registration, Candidates and Elections**

Section 82–19. (Voters).

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 this Charter shall be a qualified voter entitled to vote at any or all Town elections. (Res. No. 1–01, 9/26/01.)

Section 82–19(A). (Voters, Non–Resident Property Owners).

(Repealed by Res. No. 1–77, 9/22/77.)

Section 82–20. (Board of Supervisors of Elections).

There shall be a Board of Supervisors of Elections, consisting of three members who shall be appointed by the President with the approval of the Board of Commissioners on or before the first Monday in November in every odd numbered year. The terms of members of the Board of Supervisors of Elections shall begin on the first Monday in November in the year in which they are appointed and shall run for two years. Members of the Board of Supervisors of Elections shall be qualified voters of the Town and shall not hold or be candidates for any elective office during their terms of office. The Board of Supervisors of Elections shall appoint one of its members as chairman. Vacancies on the said Board of Supervisors shall be filled by the President with the approval of the Board of Commissioners for the remainder of the unexpired term. The compensation of the members of the said Board of Supervisors shall be determined by the Board of Commissioners.

Section 82–21. (Removal).

Any member of the Board of Supervisors of Elections may be removed for good cause by the Board of Commissioners. Before removal, the member of the Board of Supervisors of

Elections to be removed shall be given a written copy of the charges against him and shall have a public hearing on them before the Board of Commissioners if he so requests within ten days after receiving the written copy of the charges against him.

Section 82–22. (Duties).

The Board of Supervisors of Elections shall be in charge of the registration of voters, nominations and all Town elections. The Board of Supervisors may appoint election judges, clerks or other employees to assist it in any of its duties. Any member of the Board of Supervisors of Elections shall not by virtue of his membership be disqualified to serve as a judge of election.

Section 82–23. (Notice).

The Board of Supervisors of Elections shall give at least two weeks notice of every registration day and every election by an advertisement published in a newspaper of general circulation in the Town.

Section 82–24. (Registration).

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 registration 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. 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, and no person shall be entitled to vote in Town elections unless he is registered to vote at least thirty (30) days prior to the election. 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, who have failed to vote in three successive general elections held in said Town, or who have become otherwise disqualified. The Board of Commissioners is hereby authorized and directed, by ordinance, to adopt and enforce any provisions necessary to establish and maintain a system of permanent registration and to provide for a re–registration, when necessary. (Res. No. 3–01, 9/26/01.)

Section 82–25. (Appeal).

If any person shall feel aggrieved by the action of the Board of Supervisors of Elections in refusing to register or in striking off the name of any person, or by any other action, such person may appeal to the Board of Commissioners. Any decision or action of the Board of Commissioners upon such appeals may be appealed to the Circuit Court for Prince George’s County within thirty days of the decision or action of the Board of Commissioners.

Section 82-26. (Candidates).

Any person qualified to hold the office of Commissioner and desiring to be a candidate for such office shall file with one of the Supervisors of Elections a written statement to that effect on or before the second Monday in December next preceding the election at which he desires to be a candidate or his name shall not be printed on the ballot.

The name of any qualified person may be certified for candidacy and shall be printed on the ballot upon a petition of 10 or more qualified voters of said Town filed with one of the Supervisors of Elections on or before the second Monday in December next preceding the election or his/her name shall not be printed on the ballot. (Res. No. 5-01, 9/26/01.)

Section 82-27. (Election of the Board of Commissioners).

On the first Monday which is not a legal holiday in January in every even numbered year, the qualified voters of the Town shall elect three persons as Commissioners to serve for term of two years or until their successors qualify.

Section 82-28. (Conduct of Elections).

It shall be the duty of the Board of Supervisors of Elections to provide for each special and general election a suitable place or places for voting and suitable ballot boxes and ballots or voting machines. In each general election, the ballots or voting machines shall show the name of each candidate, arranged in alphabetical order with no party designation of any kind and shall indicate in such terms as may by said Board be deemed appropriate, that three Commissioners are to be elected. The ballots and/or voting machines shall also provide a space or spaces to permit the voter to write in name or names of additional persons. The Board of Supervisors of Elections shall keep the polls open for a minimum of four (4) hours, such time to be selected and announced by the said Board of Supervisors of Elections, provided that these hours fall between 7:00 a.m. and 9:00 p.m. (Res. 3-77, 9/22/77.)

Section 82-29. (Special Elections).

All special Town elections shall be conducted by the Board of Supervisors of Elections in the same manner and with the same personnel, as far as practicable, as regular Town elections. In the event a special election is required pursuant to Section 82-32, the said special election shall be held not less than thirty (30) days and not more than forty-five (45) days after the vacancy is created. The newly elected Commissioner shall take office on the second Monday of the month following the special election. The vote count of a special election for Commissioner shall be the same as provided under Section 82-30 of this Charter, as amended. (Res. 4-77, 9/22/77.)

Section 82-30. (Vote Count).

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. The three candidates for Commissioners receiving the highest number of votes in a general election shall be declared elected. (Res. No. 4-01, 9/26/01.)

Section 82-31. (Preservation of Ballots).

All ballots and recording of votes used in any town election shall be preserved for at least six months from the date of the election.

Section 82-32. (Vacancies).

In case of a vacancy on the Board of Commissioners for any reason, the Board of supervisors [Supervisors] of Elections shall, pursuant to the provisions of Section 82-29, conduct a special election to elect some qualified person to fill such vacancy for the unexpired term, provided, however, any vacancy which occurs within 61 days of the next general election as provided for in Section 82-27 shall remain vacant until said general election. In case of a vacancy in the office of President for any reason, the Board shall elect one of its members to fill the vacancy for the remainder of the unexpired term. Any vacancy in the office of the President shall be filled by the favorable votes of a majority of the members of the Board. The results of any such votes shall be recorded in the minutes of the Board.

Section 82-33. (Women).

Women shall have equal privileges with men in registering, voting, and holding Town offices. Whenever the masculine gender has been used as to any registering, voting, or holding Town office, it shall be construed to include the feminine gender.

Section 82-34. (Regulation and Control).

The Board of Commissioners shall have the power to provide by ordinance in every respect not covered by the provisions of this 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.

Section 82-35. (Penalties).

Any person who (a) fails to perform any duty required of him under the provisions of this Charter or any ordinance passed thereunder, or (b) in any manner willfully or corruptly violates any of the provisions of this Charter or any ordinances passed thereunder, or (c) 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 or a municipal infraction, punishable as provided in sec. 82-88 hereof. 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. (Res. No. 01-2009, 9/2/09).

## Finance

### Section 83–36. [82–36.] (Treasurer).

There shall be a treasurer appointed by the President with the approval of the Board. He shall serve at the pleasure of the President. His compensation shall be determined by the Board. The treasurer shall be the chief financial officer of the Town. The financial powers of the Town, except as otherwise provided by this Charter, shall be exercised by the treasurer under the direct supervision of the President. The treasurer appointed may be a member of the Board.

### Section 82–37. (Powers and Duties of the Treasurer).

Under the supervision of the President, the treasurer shall have authority and shall be required to:

- (a) Prepare at the request of the President an annual budget to be submitted by the President to the Board.
- (b) Supervise and be responsible for the disbursement of all monies have control over all expenditures to assure that budget appropriations are not exceeded.
- (c) Maintain a general accounting system for the Town in such form as the Board may require, not contrary to State law.
- (d) Submit at the end of each fiscal year, and at such other times as the Board may require, a complete financial report to the Board.
- (e) Ascertain that all taxable property within the Town is assessed for taxation.
- (f) Bill for and collect all taxes, special assessments charges, license fees, liens, and all other revenues (including utility revenues) of the Town, and all other revenues for whose collections the Town is responsible, and receive any funds receivable by the Town.
- (g) Have custody of all public monies belonging to or under the control of the Town, except as to finds [fines] in the control of any set of trustees, and have custody of all bonds and notes of the Town.
- (h) Do such other things in relation to the fiscal or financial affairs of the Town as the Board may require or as may be required elsewhere in this Charter.

### Section 82–38. (Bond of Treasurer).

The treasurer shall provide a bond with such corporate surety and in such amount as the Board by ordinance may require.

Section 82–39. (Fiscal Year).

The Town shall operate on an annual budget. The fiscal year of the Town shall, from and after December 31, 1964, begin on the first day of July and shall end on the last day of June in each year. Such fiscal year shall constitute the tax year, the budget year, and the accounting year.

Section 82–40. (Budget).

The President on such date as the Board shall determine, but at least thirty days before the beginning of any fiscal year, shall submit a budget to the Board. The Budget shall provide a complete financial plan for the budget year and shall contain estimates of anticipated revenues and proposed expenditures for the coming year. The budget shall be a public record in the office of the treasurer, open to public inspection during normal business hours.

Section 82–41. (Budget Adoption).

Before adopting the budget the Board may hold a public hearing thereon upon such notice as may be deemed appropriate. The Board may increase, decrease or eliminate any item in the budget and may add new items thereto. The budget shall be adopted in the form of an ordinance. A favorable vote of at least a majority of the total elected membership of the Board shall be necessary for adoption.

Section 82–42. (Appropriations).

No public money may be expended without having been appropriated by the Board. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes named therein.

Section 82–43. (Transfer of Funds).

Any transfer of funds between major appropriations for different purposes by the President must be approved by the board before becoming effective.

Section 82–44. (Over–Expenditure Forbidden).

No officer or employee shall during any budget year expend or contract to expend any money or incur any liability or enter into any contract which by its terms involves the expenditure of money, for any purpose, in excess of the amounts appropriated for or transferred to that general classification of expenditure pursuant to this Charter. Any contract [contract], verbal or written, made in violation of this Charter shall be null and void. Nothing in this section contained, however, shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease, or for services for a period exceeding the budget year in which such contract is made when such contract is permitted by law.

Section 82-45. (Appropriations Lapse After One Year).

All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered. Any unexpended and unencumbered funds shall be considered as surplus at the end of the budget year and shall be included among the anticipated revenues for the next succeeding budget year.

Section 82-46. (Checks).

Except as otherwise stated herein, all checks issued in payment of salaries or other municipal obligations shall be issued and signed by the treasurer. The Board may further designate from time to time by ordinance or written resolution those person(s) in addition to the treasurer who shall be authorized to sign checks issued on behalf of the Town when the need arises and the treasurer is unavailable. Additional person(s) authorized to sign checks shall be bonded. The Board shall establish by ordinance or resolution a dollar amount above which all checks made payable by the Town shall be issued and signed by two persons, the treasurer and the President, or in either or both of their unavailability or incapacities, two other persons who shall be designated from time to time by resolution or ordinance of the Board, which at least one of whom shall be a Commissioner. (Res. No. 01-12, 10-31-12.)

Section 82-47. (Taxable Property).

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.

Section 82-48. (Tax Levy).

On or before the thirtieth day of June in each and every year, the Board shall determine the tax rate for the ensuing fiscal year, which determination shall constitute the tax levy for such year.

Section 82-49. (When Taxes are Overdue).

Ordinary Town taxes shall be due and payable on the first day of July in the year for which they are levied and shall be overdue and in arrears on the first day of the following October. They shall bear interest while in arrears at the rate of 1/2 of one per cent per month or fraction thereof until paid and in addition thereto, there shall be a penalty imposed for failure to make payment by or after that day of 1/2 of 1% for each month or fraction thereof until paid. All taxes not paid and in arrears after the first day of the following January may be collected as provided in Section 82-50 hereof or may be collected by action of assumpsit as provided in Section 206 to 211, inclusive, of Article 81 of the Annotated Code of Maryland (1957 Edition).

Section 82–50. (Sale of Tax Delinquent Property).

A list of all property on which the Town taxes have not been paid and which are in arrears as provided by Section 82–49 of this Charter shall be turned over by the treasurer to the official of the County responsible for the sale of tax delinquent property as provided in State law. All property listed thereon shall, if necessary, be sold for taxes by this County official, in the manner prescribed by State law.



Section 82–51. (Fees).

All fees received by an officer or employee of the Town government in his official capacity shall belong to the Town government and be accounted for to the Town.

Section 85–52. [82-52.] (Audit).

The financial books and accounts of the Town shall be audited annually if and when required by Section 40 of Article 19 of the Annotated Code of Maryland (1957 Edition).

Section 82–53. (Authorization To Borrow Money).

Notwithstanding any other provisions or limitation of public general or public local law, the Town shall have the power to borrow money for any public purpose and to evidence such borrowing by the issue and sale of its general obligation bonds, or notes issued in anticipation thereof, and shall likewise have authority to borrow money in anticipation of the receipt of current taxes and to evidence such borrowing by the issuance and sale of its tax anticipation notes, payable as to principal and interest from said taxes when received, all in the manner prescribed in Section 31–37, inclusive, of Article 23A of the Annotated Code of Maryland (1957 Edition, as amended) title “Municipal Corporations”, sub–title “Home Rule”, subheading “Creation of Municipal Public Debt”, provided, however, that no referendum shall be necessary for any issue of bonds made pursuant to the authority contained in this section so long as the total indebtedness of the Town shall not exceed 2% of the assessable base of real property located within said Town, and provided further that if the ordinance or ordinances authorizing the issuance and sale of any such bonds or notes shall so specify, said bonds or notes may be sold at private sale, without advertisement or publication of notice of sale or solicitation of competitive bids. In the event the Board considers it desirable to borrow in excess of the 2% limitation aforesaid, the ordinance proposing such exercise of borrowing power shall provide therein for a referendum if the same is petitioned by 20% of the qualified voters within 40 days of the adoption of said ordinance. In the event there is no petition for a referendum, the 2% debt limitation shall not apply except at no time shall the total indebtedness of the Town exceed 10% of the assessable base of real property located within said Town.

Section 82–53A. (Borrowing).

(a) In addition to any other borrowing powers which the Town of Upper Marlboro may possess (from whatever source derived) and notwithstanding any other provision of the Charter of the Town or limitation of law (to the extent such limitation may be removed or modified by this Charter provision), the Town shall have the power, by resolution or ordinance adopted from time to time, to borrow money to finance the cost (as defined herein) or projects for the accomplishment of any of the purposes, objects and powers of the Town of Upper Marlboro and in connection therewith to issue its revenue bonds, notes or other obligations (including revenue refunding bonds, notes or other obligations as provided in this section). The term “cost” shall include, but not be limited to, the cost of (i) acquiring, by lease or by purchase or otherwise, all interests in property in connection therewith; (ii) financial, architectural, consulting, engineering or legal services; (iii) plans, specifications, surveys, estimated or

feasibility reports; (iv) development of the property, including, without limitation, grading, road construction, and installation of water, sewers, storm drains and other utilities; (v) erection of structures, including labor, materials, equipment and administrative expenses, and any other expenses incidental thereto. Such revenue bonds shall not be general obligations of the Town of Upper Marlboro but shall be payable as to principal, interest and premium (if any) solely from and secured solely by a pledge of the tolls, receipts, rentals, and any other revenues of any type and kind whatsoever realized from or in connection with the project being financed. Such security may include, without in any way limiting the generality of the foregoing, a pledge of the revenues realized from the property, facilities, developments and improvements being financed by the revenue bonds and from existing facilities to which such new property, facilities, developments and improvements are related. The revenue bonds may be further secured by mortgage, pledge, assignment, or creation of any security interest of any kind and nature whatsoever as, in the judgment of the Commissioners of the Town, shall be appropriate.

Such revenue bonds shall not constitute an indebtedness of the Town of Upper Marlboro to which its faith and credit or taxing power are pledged, nor shall such bonds constitute a debt of the Town within the meaning of any constitutional, statutory or charter provision, and all such revenue bonds shall contain on their face a statement to that effect.

All revenue bonds, revenue refunding bonds, revenue bond anticipation notes, and other obligations issued by the Town in accordance with this section shall have and possess all the attributes of negotiable instruments as provided in Section 8 of Article 31 of the Annotated Code of Maryland, in accordance with Section 35 of Article 23A of the Annotated Code of Maryland. As also provided by Section 35 of Article 23A, the principal of and interest on any such revenue bonds, revenue refunding bonds, revenue bond anticipation notes or other obligations shall be and remain exempt from taxation of any kind or nature whatsoever by the State of Maryland and by any county, municipal corporation or other political subdivision thereof.

(b) The Town shall have absolute discretion by resolution or ordinance to determine with respect to the revenue bonds of any issue: (i) The date or dates of issue; (ii) The date or dates and amount or amounts of maturity, provided only that no revenue bond or any issue shall mature later than (40) years from the date of its issue; (iii) The rate or rates of interest payable thereon and the date or dates of such payment; (iv) The form or forms, denomination or denominations, manner of execution (which may be facsimile) and the place or places of payment thereof, and of the interest thereon, which may be at any bank or trust company within or without this state; (v) Whether such revenues [revenue] bonds or any part thereof shall be made redeemable before maturity and, if so, upon what terms, conditions and prices; (vi) Provisions for issuance in coupon or in registered form, or both, and for the registration of the principal only of revenue bonds having coupons attached, and for the reconversion of revenue bonds into coupon form if any such revenue bonds have been registered as to both principal and interest and for the replacement of revenue bonds which become mutilated or are lost or destroyed; and (vii) Any other matter relating to the form, terms, conditions, issuance and sale and delivery thereof.

(c) In case any officer whose signature or a facsimile of whose signature appears on any revenue bonds or coupons shall cease to be such officer before the delivery of such revenue

bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery.

(d) If the ordinance or ordinances authorizing the issuance of such revenue bonds shall so specify, such bonds may be sold at private sale without advertisement or publication of notice of sale or solicitation or competitive bids.

(e) If the proceeds of the revenue bonds of any issue shall, by reason of increased construction costs or error in estimates or otherwise, be less than the amount required for the purpose for which such revenue bonds are authorized, additional bonds may be like manner be issued to provide the amount of such deficiency and shall (if the authorizing resolution or ordinance for the revenue bonds first issued shall so provide or permit) be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the revenue bonds first issued. If the proceeds of such revenue bonds shall exceed the amount so required, such excess shall be deposited to the credit of any reserve fund for such revenue bonds or, if so provided in any trust agreement securing such revenue bonds, may be applied to the cost of any additional project.

(f) The Town may also provide by resolution or ordinance for the issuance and sale of its revenue refunding bonds for the purpose of refunding any revenue bonds issued under the provisions of this section, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such revenue bonds, and, if deemed advisable by the Town, for such additional purposes as may be provided or permitted by the authorizing resolution or ordinance for the revenue bonds being refunded. The issuance of such revenue refunding bonds and the details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Town in respect thereto, shall be governed by the provisions of this section relating to revenue bonds, insofar as they may be applicable.

(g) The Town may also provide by resolution or ordinance: (i) for the issuance, prior to the preparation of definitive bonds, of interim certificates or temporary bonds, with or without coupons, exchangeable for definitive bonds when such definitive bonds have been executed and are available for delivery; and/or (ii) for the issuance and sale of its revenue bond anticipation notes, the principal of, interest on and premium (if any) on said notes to be made payable to the bearer or registered holder thereof out of the first proceeds of sale of any revenue bonds issued under this section. Revenue bond anticipation notes may be issued in series as funds are required and provision may be made for renewal of such notes at maturity with or without resale. The issuance of such notes and the details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Town in respect thereto, shall be governed by the same provisions of this section relating to the issuance of revenue bonds in anticipation of the sale of which the notes were issued, insofar as those provisions may be applicable.

(h) (i) Revenue bonds issued under the provisions of this section may be secured by a trust agreement by and between the Town and a corporate trustee, which may be any trust company, or bank having trust powers, within or without the State. Such trust agreement may pledge or assign all or any part of the revenues from or arising in connection with any of the property, facilities or projects of the Town related to the undertaking being financed. Any such

trust agreement, or resolution or ordinance authorizing the issuance of revenue bonds, may contain such provisions for the protection and enforcement of the rights and remedies of bondholders as may be deemed reasonable and proper, including covenants setting forth the duties of the Town in relation to the financing or development of any undertaking of the Town and the extension, enlargement, improvement, maintenance, operation, repair and insurance of any undertaking of the Town and the custody, safeguarding and application of moneys. Such trust agreement may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action by bondholders. Such trust agreement may contain such other provisions as the Town may deem reasonable and proper for the security of the bondholders, including, without limitation, covenants pertaining to the issuance of additional parity revenue bonds upon conditions stated therein consistent with the requirements of this section. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of financing the undertaking of the Town in connection with which such revenue bonds have been issued.

(ii) Revenue bonds issued under the provisions of this section may be additionally secured by the pledge, mortgage, assignment, or creation of other security interest or right in, any project, the revenues derived from a project, or from any existing facilities to which such project is related.

(iii) The proceeds of the sale of revenue bonds shall be paid to the trustee under any trust agreement securing such revenue bonds and shall be disbursed in such manner and under such restrictions, if any, as may be provided in such trust agreement.

(i) Any holder of revenue bonds issued under this section or of any coupons thereto appertaining, and the trustee, except to the extent the rights herein given may be restricted by the trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of this State or granted hereunder or under the trust agreement or the resolution or ordinance authorizing the issuance of such revenue bonds, and may enforce and compel the performance of all duties required by this section or by the trust agreement to be performed by the Town or by any officer thereof, including the fixing, charging and collecting of rentals, rates, fees, tolls and other charges.

(j) No referendum shall be necessary for any issue of revenue bonds made pursuant to the authority contained in this section.

(k) If any part or parts of this section of the Charter shall be held to be illegal or unconstitutional, the illegality or unconstitutionality shall not affect the validity of the remaining parts of this section. The President and Board of Commissioners of Upper Marlboro hereby declare that they would have passed the remaining parts of this section if they had known that the part or parts thereof would be declared illegal or unconstitutional. (Res. 1-1974, 11/12/74.)

Section 82-53B. (Parking Facility).

(a) Without in any way limiting the generality of Section 82-53A, the Town of Upper Marlboro shall have the power to establish a parking facility within its corporate limits and, in

connection therewith, to exercise any and all of its powers from whatever source derived, together with the power (without in any way limiting the generality of the foregoing):

(i) To finance (in such manner as it may deem appropriate including, without limitation, the issuance of its revenue bonds in accordance with the provisions of Section 82-53A of the Charter) the cost of establishing the parking facility, including, without limitation, the acquisition and development of the land on which the parking facility will be situated, the acquisition and construction of the parking facility structure, and the acquisition and construction of all necessary appurtenant structures, roads, approaches and other facilities necessary or reasonably related to such parking facility.

(ii) To purchase or to lease from any person, firm or corporation (including, without limitation, any governmental entity) the land on which the parking facility is to be situated;

(iii) To appoint any person, firm, or corporation (including without limitation, any governmental entity) as its agent for planning and construction of the parking facility, including without limitation, (A) contracting for financial, architectural, consulting, engineering or legal services; (B) developing plans, specifications, surveys, estimates or feasibility reports; (C) developing the site, including, without limitation, grading, road construction, and installation of water, sanitary sewers and storm sewers, and other utilities; (D) contracting for labor, materials and equipment and administrative services required for construction of the parking facility; and (E) supervising the construction of the parking facility and taking all actions necessary to place it in operation;

(iv) To lease to any person, firm or corporation (including, without limitation, any governmental entity) all or any part of the completed parking facility or the land on which it is situated, or both;

(v) To sublease from, or to otherwise contract with, any person, firm or corporation (including, without limitation, any governmental entity), upon such terms as the town deems appropriate, for space within the parking facility for such public purposes as the Board of Commissioners of the Town may deem appropriate;

(vi) To fix, revise, charge and collect fees, rents and other charges of any kind and nature whatsoever from any firm, person or corporation (including, without limitation, any governmental entity) leasing or otherwise using all or any part of the parking facility and to make mandatory the payment of such fees, rents and charges; and

(vii) To convey all of its right, title and interest in the parking facility and/or the land on which it is situated to any person, firm or corporation (including, without limitation, any governmental entity), at such times and upon such terms as the Board of Commissioners may deem appropriate.

(b) Without in any way limiting the generality of the foregoing, the Town shall have the power to convey, assign, mortgage, pledge, or otherwise transfer its interest in all or any part

of the parking facility (including, without limitation, its right to receive fees, rents, charges and any other revenues of any kind and nature whatsoever in connection with the parking facility) as security for the revenue bonds, notes, or other obligations issued under Section 82–53A of the Charter to finance the cost of such parking facility.

(c) It is the purpose and intent of this section to authorize the Town of Upper Marlboro to undertake the acquisition and construction of a parking facility in order to relieve the serious shortage of adequate parking facilities within the corporate limits of the Town of Upper Marlboro, particularly in view of the construction of the county office building in the Town of Upper Marlboro. It is hereby found and determined that the acquisition and construction of a parking facility by the Town of Upper Marlboro, by itself or acting in conjunction with any other person, firm or corporation (including, without limitation, any governmental entity) will serve the essential public purposes of (i) relieving traffic congestion within the corporate limits of the Town of Upper Marlboro; (ii) providing adequate parking facilities to accommodate the existing parking needs of the Town of Upper Marlboro and parking needs resulting from the construction of the new county office building; (iii) facilitating the free flow of traffic within the Town of Upper Marlboro; and (iv) thus promoting the public health, welfare and safety of the residents of the Town of Upper Marlboro.

It is the purpose and intent of this section to authorize the Town of Upper Marlboro to accomplish the acquisition or construction of a parking facility in conjunction with Prince George’s County, Maryland, or in in any other way which the Board of Commissioners of Upper Marlboro may deem appropriate. In connection with such acquisition and construction, it shall not be necessary or required, notwithstanding any other provision of the Charter of the Town of Upper Marlboro:

(i) To take competitive bids in connection with the acquisition of land or the acquisition and construction of the parking facility or otherwise in connection with the parking facility project, or

(ii) To conduct any referendum in connection therewith; provided, however, that the Commissioners of Upper Marlboro shall determine, by resolution or ordinance, that the procedures adopted for the acquisition and construction of the parking facility are in the best interests of the citizens of Upper Marlboro.

(d) If any part or parts of this section of the Charter shall be held to be illegal or unconstitutional, the illegality or unconstitutionality shall not affect the validity of the remaining parts of this section. The President and Board of Commissioners of Upper Marlboro hereby declare that they would have passed the remaining parts of this section if they had known that the part of [or] parts thereof would be declared illegal or unconstitutional. (Res. 2–1974, 11/12/74.)

Section 82–54. (Payment of Indebtedness).

The issuance or sale of general obligation bonds, or notes in the anticipation thereof, or tax anticipation notes, authorized by Section 82–53 hereof shall constitute a pledge of the full faith and credit of the Town to the prompt payment, when due, from ad valorem taxes and such

other revenues as may be described in the authorizing ordinance or ordinances, of the principal of and interest on such bonds or notes. The maturing principal of and interest on any general obligation bonds may be paid in whole or in part, from the proceeds of such benefit assessments or charges, or any combination thereof, as the Board may impose and collect during the life of said bonds, power and authority so to do being hereby specifically granted where appropriate to the public purpose for which said bonds may be issued, notwithstanding any limitation contained in this Charter or in any other law; but, in any event, the Town shall, if and when necessary, annually levy upon all property subject to taxation within its corporate limits ad valorem taxes sufficient to provide for the payment of the maturing principal of and interest on any such bonds or notes, without limitation as to rate or amount notwithstanding the limitation of any other law, and the issuance and sale of any such bonds or notes shall constitute a covenant to that effect.

Section 82–55. (Previous Issues).

All bonds, notes, or other evidence of indebtedness issued by the Town previous to the effective date of this Charter and all ordinances passed concerning them are hereby declared to be valid, legal, and binding and of full force and effect as if herein fully set forth.

Section 82–56. (Purchasing and Contracts).

All purchases and contracts for the Town government shall be authorized by the Board or the President as provided herein. The President, as prescribed by ordinance, may be authorized to make individual purchases and execute contracts up to \$2,000 in cost so long as the duration of the purchase or contract is one year or less without prior Board approval if such contracts or purchases were previously authorized by a budget ordinance or approved within any detailed budget documents supporting said budget ordinance. The Board shall provide by ordinance for rules and regulations regarding the use of sealed competitive bidding, request for proposals, negotiated proposals, negotiated bids and other forms of bids or offers, as appropriate, for all Town purchases and contracts in keeping with good procurement practices and fiscal responsibility. All expenditures for contracts and purchases with an anticipated cost of more than ten thousand dollars (\$10,000) shall be subject to competitive sealed bidding unless the Board, by unanimous vote of the full Board, finds another method of procurement to be more advantageous. The Board shall advertize [advertise] for competitive sealed bids in such manner as shall be prescribed by ordinance for all such competitive sealed bids. Competitive sealed bidding contracts shall be awarded to the bidder who offers the lowest or best bid, quality of goods and work, time of delivery or completion, and responsibility of bidders being considered. All such competitive sealed bidding contracts shall be approved by the Board before becoming effective. The Board shall have the right to reject all bids and re-advertise. The Town, at any time in its discretion, may employ its own force for the construction or reconstruction of public improvements without advertising for (or re-advertising for) or receiving bids. All contracts may be protected by such bonds, penalties and conditions as the Town may require. For each fiscal year ending in a five or zero, the Board may adjust by ordinance the dollar amount the President is authorized to contract for or the dollar amount subject to competitive sealed bidding in an amount that may not exceed the cumulative Consumer Price Index for all urban consumers published by the United States Department of Labor for the preceding five or ten year period, or

since the last adjustment was otherwise established by ordinance pursuant to this section. (Res. No. 01–2010, 9/29/10.)

## Personnel

### Section 82–57. (Clerk to the Board).

There shall be a clerk to the Board. He shall be appointed by the President with the approval of the Board and shall serve at the pleasure of the President. He shall attend every meeting of the Board and keep a full and accurate account of the proceedings of the Board. He shall keep such other records and perform such other duties as may be required by this Charter or the Board.

### Section 82–58. (Town Attorney).

The President with the approval of the Board may appoint a Town Attorney. The Town Attorney shall be a member of the bar of the Maryland Court of Appeals. The Town Attorney shall be the legal adviser of the Town and shall perform such duties in this connection as may be required by the Board or the President. His compensation shall be determined by the Board. The Town shall have the power to employ such other legal consultants as it deems necessary from time to time.

### Section 82–59. (Authority to Employ Personnel).

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.

### Section 82–60. (Compensation of Employees).

The compensation of all officers and employees of the Town shall be set from time to time by an ordinance.

### Section 82–61. (Retirement System).

The Town shall have the power to do all things necessary to include its officers and employees, or any of them, within any retirement system or pension system under the terms of which they are admissible, and to pay the employer's share of the cost of any such retirement or pension system out of the general funds of the Town.

## Public Ways and Sidewalks

### Section 82–62. (Definition of Public Ways).

The term “public ways” as used in this Charter shall include all streets, avenues, roads, highways, public thoroughfares, lanes and alleys.

### Section 82–63. (Control of Public Ways).

The Town shall have control of all public ways in the Town except such as may be under the jurisdiction of the Maryland State Roads Commission or the County Commissioners for Prince George’s County. Subject to the laws of the State of Maryland and this Charter, the Town may do whatever it deems necessary to establish, operate, and maintain in good condition the public ways of the Town.



**Section 82–64. (Public Ways Powers).**

The Town shall have the power: (a) To establish, regulate, and change from time to time the grade lines, width, and construction materials of any Town public way or part thereof, bridges, curbs, and gutters. (b) To grade, lay out, construct, open, extend, and make new Town public ways. (c) To grade, straighten, widen, alter, improve, or close up any existing Town public way or part thereof. (d) To pave, surface, repave, or resurface any Town public way or part thereof. (e) To install, construct, reconstruct, repair, and maintain curbs and/or gutters along any Town public way or part thereof. (f) To construct, reconstruct, maintain, and repair bridges. (g) To name Town public ways. (h) To have surveys, plans, specification [specifications], and estimates made for any of the above activities or projects or parts thereof.

**Section 82–65. (Sidewalks: Powers).**

The Town shall have the power: (a) To establish, regulate, and change from time to time the grade lines, widths, and construction materials of any sidewalks or part thereof on Town property along any public way or part thereof. (b) To grade, lay out, construct, reconstruct, pave, repave, repair, extend, or otherwise alter sidewalks on Town property along any public way or part thereof. (c) To require that the owners of any property abutting on a sidewalk keep the sidewalk clear of all ice, snow, and other obstructions. (d) To require and order the owner of any property abutting on any public way in the Town to perform any projects authorized by this section at the owner's expense according to reasonable plans and specifications. If after due notices the owner fails to comply with the order within a reasonable time, the Town may do the work, and the expense shall be a lien on the property and may be collected in the same manner as Town taxes.

## **Water and Sewers**

**Section 82–66. (Powers).**

The Town shall have the power to acquire, establish, design, construct, reconstruct, expand, extend, alter, improve, operate, maintain and repair a water supply and distribution system, a sanitary sewer system, a storm water drainage system and a sanitary disposal plant, system or stabilization lagoon, within or without the corporate limits of the Town, and to take any and all action necessary or appropriate thereto, including the making of surveys, plans, specifications and estimates.

**Section 82–67. (Placing Structures in Public Ways).**

Any public service corporation, company, or individual, before beginning construction of or placing of or changing the location of any main, conduit, pipe, or other structure in the public ways of the Town, shall submit plans to the Town and obtain written approval upon such conditions and subject to such limitations as may be imposed by the Town. Any public service corporation, company, or individual violating the provisions of this section shall be guilty of a

misdemeanor. If any unauthorized main, conduit, pipe, or other structure interferes with the operation of the water, sewerage, or storm water systems, the Town may order it removed.

Section 82–68. (Obstructions).

All individuals, firms, or corporations having mains, pipes, conduits, or other structures, in, on, under, or over any public way in the Town or in the County which impede the establishment, construction, or operation of any Town sewer or water main shall, upon reasonable notice, remove or adjust the obstructions at their own expense to the satisfaction of the Town. If necessary to carry out the provisions of this section, the Town may use its condemnation powers provided in Section 82–82. Any violation of an ordinance passed under the provisions of this section shall be made a misdemeanor.

Section 82–69. (Entering on County Public Ways).

The Town may enter upon or do construction in, on, under, or over any County public way for the purpose of installing or repairing any equipment or doing any other things necessary to establish, operate, and maintain the water system, water plant sanitary sewerage system, sewage treatment plant, or storm water sewers provided for in this Charter. Unless required by the County the Town need not obtain any permit or pay any charge for these operations, but it must notify the County of its intent to enter on the public way and must leave the public way in a condition not inferior to that existing before.

Section 82–70. (Connections).

The Town may provide a connection with water and sanitary sewer mains for all property abutting on any public way in which a sanitary sewer or water main is laid. When any water main or sanitary sewer is declared ready for operation by the Town, all abutting property owners after reasonable notice shall be required to connect all fixtures with the water or sewer main. The Town may require that, if it considers existing fixtures unsatisfactory, satisfactory ones be installed and may require that all cesspools, sinkdrains, and privies to be abandoned, filled, removed or left in such a way as not to injure public health. All wells found to be polluted or a menace to health may be ordered to be abandoned and closed. Any violation of an ordinance passed under the provisions of this section shall be made a misdemeanor.

Section 82–71. (Charge for Connections).

The Town may make a charge, the amount to be determined by the Board, for each connection made to the Town's water or sewer mains. This charge shall be uniform throughout the Town, but may be changed from year to year and subject to such reasonable classification of connections as the Board by ordinance may determine. Arrangements for the payment of this charge shall be made before the connection is made.

Section 82–72. (Improper Uses).

In order to prevent any leakage or waste of water or other improper use of the Town’s water system or sewage disposal system, the Town may require such changes in plumbing, fixtures, or connections as it deems necessary to prevent such waste or improper use.

Section 82–73. (Private Systems).

The Town may by ordinance provide that no water supply, sewerage, or storm water drainage system, and no water mains, sewers, drains, or connections therewith, shall be constructed or operated by any person or persons, firm, corporation, institution, or community, whether upon private premises or otherwise, and may provide that cesspools or other private methods of sewage disposal shall be operated and maintained in such a manner that they do not and will not be likely to affect adversely the public comfort and health and any cesspool or other private method of sewage disposal affecting or likely to affect adversely the public comfort and health may be deemed a nuisance and may be abated by the Town.[.] Any violation of an ordinance passed under the provisions of this section shall be made a misdemeanor.

Section 82–74. (Extensions Beyond Boundaries).

The Town shall have the power to extend its water or sewerage systems beyond the Town limits.

Section 82–75. (Right of Entry).

Any employee or agent of the Town, while in the necessary pursuit of his official duties with regard to the water or sewage disposal systems operated by the Town, shall have the right of entry, for access to water or sewer installations, at all reasonable hours, and after reasonable advance notice to the owner, tenant, or person in possession, upon any premises and into any building in the Town or in the County served by the Town’s water or sewage disposal system. Any restraint or hinderance [hinderance] offered to such entry by any owner, tenant, or person in possession, or the agent of any of them, shall be a misdemeanor.

Section 82–76. (Pollution of Water Supply).

No person shall do anything which will discolor, pollute, or tend to pollute any water used or to be used in the Town water supply system. Any violation of the provisions of this section shall be a misdemeanor.

Section 82–77. (Contracts for Water).

The Town, if it deems it advisable, may contract with any party or parties, inside or outside the Town, to obtain or provide water or to provide for the removal of sewage.

Section 82–78. (Charges).

The Town shall have the power to charge and collect such service rates, water rents, ready-to-serve charges, or other charges as it deems necessary for water supplied and for the removal of sewage. These charges are to be billed and collected by the treasurer, and if bills are unpaid within thirty days, the service may be discontinued. All charges shall be a lien on the property and may be collected in the same manner as Town taxes.

### **Special Assessments**

Section 82–79. (Power: Special Assessments).

The Town shall have the power to levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon such property by the installation, or construction of water mains, sanitary sewers, storm water sewers[,] curbs, and gutters and by the construction, and paving of public ways and sidewalks or parts thereof, and to provide for the payment of all or any part of the above projects out of the proceeds of such special assessments. The cost of any project to be paid in whole or in part by special assessments may include the direct cost thereof, the cost of any land acquired for the project, the interest on bonds, notes, or other evidences of indebtedness issued in connection with such project, a reasonable charge for the service of the administrative staff of the Town, and any other item of cost which may reasonably be attributed to the project.

Section 82–80. (Procedure).

The procedure for making special assessments shall be as follows: (a) The cost of the project being charged for shall be assessed according to the front foot rule of apportionment or some other equitable basis determined by the Board. (b) The amount assessed against any project or improvement shall not exceed the value of the benefits accruing to the property therefrom. (c) When desirable, the affected property may be divided into different classes to be charged different rates, but, except for this, any rate shall be uniform. (d) All special assessment charges shall be levied by the Board by ordinance. Before levying any special assessment charges, the Board shall hold a public hearing. The treasurer shall cause notice to be given stating the nature and extent of the proposed project, the kind of materials to be used, the estimated cost of the project, the portion of the cost to be assessed, the number of installments in which the assessment may be paid, the method to be used in apportioning the cost, and the limits of the proposed area of assessment. The notice shall also state the time and place at which all persons interested, or their agents or attorneys, may appear before the Board and be heard concerning the proposed project and special assessment. Such notice shall be given by sending a copy thereof by first class mail to the person in whose name the property is assessed for taxation purposes and by publication of a copy of the notice at least once in a newspaper of general circulation in the Town. The treasurer shall present at the hearing a certificate of publication and mailing of copies of the notice, which certificates shall be deemed proof of notice, but failure of any owner to receive the mailed copy shall not invalidate the proceedings. The date of hearing shall be set at least ten and not more than thirty days after the treasurer shall have completed publication and

service of notice as provided in this section. Following the hearing, the Board, in its discretion, may vote to proceed with the project and may levy the special assessment. (e) Any interested person feeling aggrieved by the levying of any special assessment under the provisions of this Charter shall have the right to appeal to the Circuit Court for Prince George's County within ten days after the levying of any special assessment by the Board. (f) Special assessments may be made payable in annual or more frequent installments over such period of time and in such manner as the Board may fix and determine. The Board shall determine on what date installments shall be due and payable. Interest may be charged on installments at a rate or rates to be determined by the Board. (g) All special assessment installments shall be overdue six months after the date on which they become due and payable. If any one installment becomes overdue, the entire amount of the special assessment shall be deemed to be overdue. All special assessments shall be liens on the property and may be collected in the same manner as Town taxes. (h) All special assessments shall be billed and collected by the treasurer.

## **Town Property**

### Section 82–81. (Acquisition, Possession, and Disposal).

The Town may acquire real, personal, or mixed property within or without the corporate limits of the Town for any public purpose by purchase, gift, bequest, devise, lease, condemnation, or otherwise and may sell, lease, convey, or otherwise dispose of or encumber any property belonging to the Town. All municipal property, funds, and franchises of every kind belonging to or in possession of the Town (by whatever prior name known) at the time this Charter becomes effective are vested in the Town, subject to the terms and conditions hereof.

### Section 82–82. (Condemnation).

The Town shall have the power to condemn any interest in property or franchise connected therewith, in fee or as an easement, within the corporate limits of the Town, for any public purpose. Any activity, project, or improvement authorized by the provisions of this Charter or by any State law applicable to the Town shall be deemed to be a public purpose. The manner of procedure in case of any condemnation proceeding shall be that established in Article 33A of the Annotated Code of the Public General Laws of Maryland (1957 Edition, as amended), title "Eminent Domain".

### Section 82–83. (Town Buildings).

The Town shall have the power to acquire by lease or purchase to construct, operate, and maintain any buildings and structures it deems necessary for the operation of the Town government.

### Section 82–84. (Protection of Town Property).

The Town shall have the power to do whatever may be necessary to protect Town property and to keep the same in good condition.

## General Provisions

### Section 82–85. (Oath of Office).

(a) Before entering upon the duties of their offices, the President, the Commissioners, the Clerk, the Treasurer, the members of the Board of Supervisors of Election, and all other persons elected or appointed to any office of profit or trust in the Town government shall take and subscribe the following oath or affirmation: “I, ..... do swear (or affirm, as the case may be), that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and Laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of ..... according to the Constitution and Laws of this State.”

(b) The Board of Commissioners shall take and subscribe this oath or affirmation before the clerk of the Circuit Court for the County or before one of the sworn deputies of the clerk. All other persons taking and subscribing the oath shall do so before the President.

### Section 82–86. (Official Bonds).

The treasurer and such other officers or employees of the Town as the Board or this Charter may require, shall give bond in such amount and with such surety as may be required by the Board. The premiums on such bonds shall be paid by the Town.

### Section 82–87. (Prior Rights and Obligations).

All right, title, and interest by the Town or any other person or corporation at the time this Charter is adopted, in and to any lien acquired under any prior Charter of the Town, are hereby preserved for the holder in all respects as if this Charter had not been adopted, together with all rights and remedies in relation thereto. This Charter shall not discharge, impair, or release any contract, obligation, duty, liability, or penalty whatever existing at the time this Charter becomes effective. All suits and actions, both civil and criminal, pending, or which may hereafter be instituted for causes of action now existing or offenses already committed against any law or ordinance repealed by this Charter, shall be instituted, proceeded with, and prosecuted to final determination and judgment as if this Charter had not become effective.

### Section 82–88. (Violations).

(a) Every act of omission which is made or designated a misdemeanor by this Charter or by ordinance passed hereunder shall, unless otherwise provided, be punishable upon conviction before any Judge of the District Court of Maryland or in the Circuit Court of Prince George’s County by a fine or imprisonment in the County correctional center, or both, for a period of incarceration, fine, or both not exceeding the maximum penalty allowed by State law as determined in the discretion of the Circuit Court or the District Court Judge. The party

aggrieved shall have the right to appeal as is now provided under the general laws of the State. Where the act of omission is of a continuing nature and is persisted in, a conviction for one offense shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction.

(b) The Board of Commissioners may provide that violation of any municipal ordinance shall be a municipal infraction unless that violation is declared to be a felony or misdemeanor by the laws of the State or other ordinance. For purposes of this section, a municipal infraction in a civil offense.

(c) A fine not to exceed the maximum allowable under State law may be imposed for each conviction of a municipal infraction. Repeat offenders may be assessed a fine not to exceed the maximum allowable under State law for each repeat offense, and each day a violation continues shall constitute a separate offense. (Res. No. 01–2009, 9/2/09).

Section 82–89. (Effect of Charter on Existing Ordinances).

(a) All ordinances, resolutions, rules, and regulations in effect in the Town at the time this Charter becomes effective which are not in conflict with the provisions of this Charter shall remain in effect until changed or repealed according to the provisions of this Charter.

(b) All ordinances, resolutions, rules, and regulations in effect in the Town at the time this Charter becomes effective which are in conflict with the provisions of this Charter be and the same hereby are repealed to the extent of such conflict.

Section 82–90.

The County Commissions for [Council of] Prince George’s County are hereby authorized and directed to levy six hundred dollars (\$600.00) annually for the Town of Upper Marlboro and to pay the same to the Town Commissioners of said Town; the said funds to be expended in such manner and for such purposes as the Commissioners of said Town, in their discretion deem expedient.

Section 82–91. (Separability).

If any section or part of any section of this Charter, or the application thereof to any person or circumstances, shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining parts or sections or any other application of this Charter which can be given effect without the invalid provisions or application, and to this end the provisions of this Charter are declared to be severable.