

## The Town of Upper Marlboro

RESOLUTION: 2022-10  
SESSION: Regular Town Meeting  
DATED: April 26<sup>th</sup>, 2022

### **A RESOLUTION AND ORDER ESTABLISHING DATES, TIMES, LOCATIONS, AND REGULATIONS REGARDING ANNEXATION REFERENDA ELECTIONS FOR AREA 2 & AREA 3 ANNEXATIONS OF THE TOWN OF UPPER MARLBORO PURSUANT TO ANNEXATION RESOLUTION 01-2021 AND THE VALIDATION OF CERTAIN PETITIONS FOR REFERENDA**

**WHEREAS**, on December 28, 2021, the Board of Commissioners for the Town of Upper Marlboro enacted Annexation Resolution 01-2021 regarding the annexation of certain properties consisting of two separate annexation areas located west and east of the present corporate limits of the Town of Upper Marlboro including an area to be known as the “2nd Annexation Area” since incorporation which includes the Maryland Route 4 right-of-way and lands east to the existing corporate limits in the vicinity of the Show Place Arena and all parcels or lots located north of said MD 4 and east of Ritchie Marlboro road lying south of the Federal Spring Branch of the Patuxent River and abutting the Town; and

**WHEREAS**, said Annexation Resolution 01-2021 also annexed an additional annexation area known as the “3rd Annexation Area” since incorporation which includes the Maryland Route 725 right-of-way proceeding east to the US-301 right of way, and the Maryland Route 202 right-of-way proceeding north to the Wurtz and Weeks Tract Resubdivision near Perseus way (undeveloped) and Largo Road (MD 202) as more particularly described in Annexation Resolution 01-2021 and the Map of said Second and Third Annexations attached thereto; and

**WHEREAS**, Md. Ann. Code, LG Article, § 4-408(a) (Petition for referendum--By residents of area to be annexed) provides that subject to § 4-413 of Subtitle 4. (Annexation) of Title 4 of said Article at any time within 45 days after enactment of an annexation resolution, at least 20% of the registered voters who are residents in the area to be annexed may petition the chief executive and administrative officer of the municipality in writing for a referendum on the resolution; and

**WHEREAS**, Md. Ann. Code, LG Article, § 4-408(b) requires that after a petition is presented to the chief executive and administrative officer, the officer shall verify: (1) the signatures on the petition; and (2) that the petition meets the requirements of subsection (a) of this section; and

**WHEREAS**, Md. Ann. Code, LG Article, § 4-408(c) requires that after verifying compliance with the requirements of said section, the chief executive and administrative officer, by proclamation, shall suspend the effectiveness of the annexation resolution pending the results of the referendum; and

**WHEREAS**, on February 11, 2022, the President received two transmittal letters from Robert C. Sanders of the Law Office of Robert C. Sanders containing petitions for a Referenda for both Annexation Area #2 and #3; and

**WHEREAS**, on March 8, 2022, the President of the Board of Town Commissioners issued a Proclamation and Order entitled “Guidelines for Validation and Verification of Referendum Petitions and Signatures Submitted Pursuant to the Local Government Article of the Md. Ann. Code for Annexation Areas Regarding Annexation Resolution 01-2021, and Interpretive Rules for the Conduct and Administration of any Referendum Election,” and

**WHEREAS**, on April 15, 2022, the President of the Board of Town Commissioners issued a Proclamation and Order entitled “A Proclamation and Order of the President of the Board of Town Commissioners of the Town of Upper Marlboro in the matter of: The Verification of Annexation Referenda Petitions for Annexation Resolution 01-2021, which found that the two sets of petitions for Annexation Areas #2 and #3 were deficient and not fully in conformance with the law; however, verification of both sets or groups of petitions for the two areas proposed to be annexed was nonetheless declared to be in the interest of the orderly management of the elections and referenda.

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED**, by the Board of Commissioners for The Town of Upper Marlboro, sitting in regular session this 26th day of April, 2022, that the Town Board of Commissioners acknowledges and approves the below dates, times, locations, conditions, and regulations of annexation referendum elections for Area 2 & Area 3 annexations of the Town of Upper Marlboro, as follows:

**A. DATES, TIMES, VOTING AND POLL LOCATIONS.**

**Annexation Referendum Phase/Area 2**

When: Wednesday May 18<sup>th</sup>, 2022,

Where: Providence St. John Baptist Church 5607 Old Crain Hwy, Upper Marlboro, MD 20772,

Polling Hours: 10am-2pm,

Who Can Vote: Since there are fewer than 20 residents in the area, each property may have one representative or collective vote (e.g., one parcel, one vote). Registered voters in county elections residing in the area who are not voting as landowners may also vote under the one person, one vote rule. See below.

**Annexation Referendum Phase/Area 3**

When: Saturday May 21<sup>st</sup>, 2022

Where: Parking Lot of St. Mary of the Assumption School 4610 Largo Rd, Upper Marlboro, MD 20772

Polling Hours: 8am-12pm

Who Can Vote: All registered voters in county elections living in Area #3. See below.

**B. SPECIAL CONDITIONS AND REGULATIONS:**

1. Election Authority. Since these referenda elections are not solely governed by the Town Charter but are authorized by § 4-412 of the LG Article of Md. Ann. Code, the Town’s Board of

Supervisors of Elections will have first right of refusal to conduct these annexation referenda elections. If the Board of Supervisors of Elections declines to conduct the above-mentioned referenda elections, then the elections will be carried out by the Town Clerk's office of the Town of Upper Marlboro and the Mayor shall be authorized to engage assistants, contractors or volunteers as election judges to further support the Clerk. The Board of Supervisors shall decide to execute the right of first refusal no later than May 2, 2022, and report same to the Mayor immediately. The election authority shall obtain appropriate copies of assessment rolls and/or SDAT Information, and voter registration lists from the County.

2. Notices for the Elections. Notices shall be published twice at not less than weekly intervals in a newspaper or newspapers of general circulation in the municipal corporation and the area to be annexed. The notices shall specify the time and place or places at which the referendum will be held; and the place or places shall be within the limits of the area to be annexed for the referendum within that area.
3. Manner of voting. Taxable land owned jointly or by entities (i.e., an unnatural person) in areas with fewer than 20 residents is entitled to vote "equal" to a natural person who is qualified (i.e., registered) to vote. A person who is qualified to vote in county elections and who is also a landowner in the area proposed for annexation may either vote as a registered voter (i.e., one person, one vote) or as a landowner (one property, one vote or one collective vote) but if choosing to vote as a joint landowner, the joint owner is entitled to one vote per lot, parcel or estate of land. The elections to be held in each Annexation Area will allow one person, one vote as provided for the registered voters and there will be one vote per parcel, lot or subdivided unit of land provided for the landowners permitted to vote in Area #2 as indicated above. Joint or entity owners must vote using a legal representative.
  - a. Definitions. "Legal Representative" means an officer or other person or persons appointed to serve in that capacity by a landowner or business entity such as a receiver, trustees, guardian, personal representative, fiduciary, partnership, firm, corporation or other entity as defined in §1-101(h) of the LG Article of Md. Ann. Code. "Landowner" means the holder of title or evidence of title to land within an annexation area.
  - b. Joint tenants, tenants by the entireties, and tenants-in-common: Any spouse, joint tenant or tenant in common shall be presumed to have authority to cast all votes for the parcel, lot or estate of land so held upon filing with the Town's election authority a certification under penalty of perjury identifying the spouse, joint tenants or tenants-in-common for whom the votes are to be cast. A form of certificate for this purpose may be prepared by the Town's election authority and it will be made available by the referendum election authority by May 10, 2022, and at the designated polls. The election authority should make a note on each ballot and in the assessment roll of the number of owners for a given parcel voter.

- c. Corporate, Firm and Partnership Landowners: A legal representative (see definition above) upon filing with the election authority an appropriate certificate under penalty of perjury identifying the principal and the authority of the legal representative, shall be presumed to have authority to cast all votes (i.e., full or fractional votes) for the principal identified in the certification.
  - d. Guardians, conservators, receivers, trustees, personal representative, fiduciary, executors, administrators, attorneys in fact, representative of any kind and other persons holding land in a trust capacity under appointment of court or power of attorney: Such persons holding land in a trust capacity may vote without obtaining special authority therefore from a court unless required by superior law or decree. Such a Guardian, attorney-in-fact, conservator etc. would still need to present proof of their appointment as such in the form of a copy of letters testamentary or of conservatorship or guardianship from the court, a valid Maryland power of attorney, or a copy of a decree of distribution in the case of a testamentary trustee, unless the ownership shown on the appropriate assessment roll already shows the name and capacity of the conservator, executor, etc.
  - e. Absentee/Mail in ballots. Absentee/Mail in ballots may be requested by registered voters, legal representatives and landowners, provided a form of certificate for legal representatives as described above is filed with the application, in substitutionally the same manner and under existing rules and regulations pertaining to qualified voters of the Town voting in Town special and general elections. Registered voters and legal representatives may vote by absentee ballot similar to qualified voters of the municipality when voting in regular or special Town elections. An application for absentee/mail in ballot shall be requested and received by the Election Authority no later than 10 days before the referendum election.
  - f. Parties to Pre-Annexation Agreements. Those landowners and/or registered voters who are parties to a relevant Pre-Annexation Agreement and who have agreed to vote in favor of the subject Annexation Resolution have waived any ballot confidentiality. The election authority shall ensure it keeps a list of said parties and shall mark or identify each party's ballot as "Not Confidential by Agreement" or words to that effect along with the party's name and address to facilitate proper canvassing and certification of the election.
4. The ballots shall be prepared by the election authority and will conform to § 4-412(c) of the LG Article of Md. Ann, Code. The ballots or the voting machines, as the case may be, shall contain a fair summary of the resolution, with suitable provision for the voter to indicate a choice for or against it. The ballots shall be reviewed for legal sufficiency by the Town Attorney. Corporate owners, persons holding land in a trust capacity, and joint owners of jointly owned property shall cast ballots identifiable as such.

5. No Electioneering is to take place within 300 feet of the polling place.
6. The Town's existing election laws, ordinances and regulations shall substantially apply in all cases or circumstances not covered by this Resolution.

**AND BE IT FURTHER RESOLVED AND ORDERED**, by the Board of Commissioners tasks the Town Clerk's office with mailing election information to property owners and registered voters in Area #2 and registered voters in Area #3.

**AND BE IT FURTHER RESOLVED AND ORDERED**, by the Board of Commissioners for The Town of Upper Marlboro that absentee ballots may be accepted for this referendum election as stated above.

**ATTEST:**

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

**MARYLAND**

  
\_\_\_\_\_  
John Hoatson, Clerk

  
\_\_\_\_\_  
Sarah Franklin, President

  
\_\_\_\_\_  
Charles Colbert, Commissioner

  
\_\_\_\_\_  
Janice Duckett, Commissioner

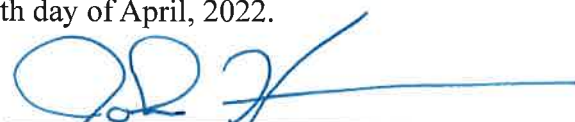
  
\_\_\_\_\_  
Thomas Hanchett, Commissioner

  
\_\_\_\_\_  
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 Resolution and Order, and that said Resolution and Order 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 26th day of April, 2022.

  
\_\_\_\_\_  
John Hoatson, Clerk