

For:

Introduction 3/4/19  
Public Hearing N/A  
Adoption \_\_\_\_\_

**THE TOWN OF MOUNT AIRY, MARYLAND**

**ORDINANCE NO. 2019-2**

**AN ORDINANCE TO AMEND PART I  
OF THE CODE OF THE TOWN OF MOUNT AIRY  
ENTITLED "ADMINISTRATIVE LEGISLATION",  
CHAPTER 4 ENTITLED "BEAUTIFICATION COMMISSION",  
SECTION 4-1 ENTITLED "ESTABLISHMENT; TERMS; APPOINTMENTS;  
COMPOSITION"; CHAPTER 8 ENTITLED "ECONOMIC DEVELOPMENT  
COMMISSION", SECTION 8-1 ENTITLED "CREATION; MEMBERSHIP; TERMS;  
APPOINTMENTS; COMPENSATION"; CHAPTER 25 ENTITLED "PLANNING  
COMMISSION", ARTICLE I ENTITLED "ESTABLISHMENT; MEMBERS; POWERS  
AND DUTIES", SECTION 25-1 ENTITLED "REESTABLISHMENT; JURISDICTION",  
SECTION 25-2 ENTITLED "MEMBERSHIP; TERMS; QUORUM; COMPENSATION",  
AND SECTION 25-3 ENTITLED "POWERS, FUNCTIONS AND DUTIES"; CHAPTER  
31 ENTITLED "RECREATION AND PARK BOARD", SECTION 31-1 ENTITLED  
"CREATION; COMPOSITION; TERMS; COMPENSATION"; CHAPTER 32  
ENTITLED "RECYCLING AND SANITATION COMMISSION", SECTION 32-1  
ENTITLED "CREATION; MEMBERSHIP; TERMS; COMPENSATION"; CHAPTER  
36 ENTITLED "STREETS AND ROADS COMMISSION", SECTION 36-1 ENTITLED  
"CREATION; MEMBERS; TERMS; COMPENSATION"; CHAPTER 36A ENTITLED  
"SUSTAINABLE MOUNT AIRY COMMISSION", SECTION 36A-1 ENTITLED  
"CREATION; MEMBERS; TERMS; COMPENSATION"; AND CHAPTER 38  
ENTITLED "WATER AND SEWER COMMISSION", SECTION 38-1 ENTITLED  
"CREATION; MEMBERSHIP; TERMS"**

**WHEREAS**, the Town's practice has been for the Mayor to appoint Town Council members to Town Commissions who serve not only as liaisons to the Commissions, but who serve as full-fledged members of the Commissions with full voting rights; and

**WHEREAS**, with respect to the Town Code provisions relating to certain Commissions, the practice with respect to Councilmembers as full members of the Commissions are not entirely consistent with the current Town Code provisions, and none of the Town Code provisions relating to Councilmembers serving on Commissions expressly state whether Councilmembers have the right to vote on Commission decisions; and

**WHEREAS**, the Town Council has determined that it is in the best interest of the Town and its residents to clarify the current Town Code provisions to have them conform to the Town's long-standing practice of having Councilmembers appointed by the Mayor serve as full, voting members of the Commissions, subject to the Town Council's approval of the Mayor's appointments of Councilmembers to Commissions; and

**WHEREAS**, with respect to certain the Code provisions relating to the Planning Commission, the Code should be clarified so as to require that Planning Commission members be Town residents, and the Code references to the Maryland Code, and former Article 66B, should be updated to refer to the Land Use Article provisions related to Planning Commissions.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF MOUNT AIRY:**

Section 1. That Part I of the Town Code is hereby amended to repeal and reenact with changes Chapter 4, Sections 4-1 of the Code as follows:

**§4-1. Establishment; terms; appointments; composition.**

There is hereby created a Beautification Commission of the Town of Mount Airy which shall consist of seven members, at least five of whom shall be residents of the Town and one of whom shall be a member of the Council of the Town of Mount Airy who shall have a vote on Commission decisions subject to recusal for an immediate personal or financial interest in the subject matter of a vote. In the event that the Council member recuses himself/herself from a vote, such recusal and the reasons therefor shall be disclosed. All members of the Commission, except for the Council member, who shall serve for his elected term of office, shall be appointed for terms of three years commencing from July 1 of the year of appointment or until their successors are appointed; provided, however, that with respect to the members of the Commission first appointed, three shall be designated to serve for the initial terms of three years, two shall be designated to serve for the initial terms of two years, and one ~~two~~ shall be designated to serve for the initial terms of one year, or until their successors are appointed. All appointments, including those required by any vacancies, shall be made by the Mayor with the approval of the Council. All members of the Commission shall serve without compensation except that they may be reimbursed for actual expenses incurred to the extent authorized in the budget.

Section 2. That Part I of the Town Code is hereby amended to repeal and reenact with changes Chapter 8, Sections 8-1 of the Code as follows:

**§8-1. Creation; membership; terms; appointments; compensation.**

This ~~ere~~ is hereby created the Economic Development Commission of the Town of Mount Airy, which shall consist of no fewer than five and no more than nine members, one of whom shall be a member of the Council of the Town of Mount Airy who shall have a vote on Commission decisions subject to recusal for an immediate personal or financial interest in the subject matter of a vote. In the event that the Council member recuses himself/herself from a vote, such recusal and the reasons therefor shall be disclosed. All members of the Commission, except for the Council member, who shall serve for his elected term of office, shall be appointed for terms of four years commencing from the first day of July of the year of appointment or until their successors are appointed; provided, however, that with respect to the members of the Commission first appointed, three shall be designated to serve for initial terms of four years,

three shall be designated to serve for initial terms of three years, and two ~~three~~ shall be designated to serve for initial terms of two years.

- A. ~~The Economic Development Commission shall be advised by a liaison who shall be a member of the Town Council, and may be advised by representatives from the Mount Airy Planning and Zoning Commission and any other Town commissions, as may be appropriate.~~
- BA. The Mayor, with the approval of the Council, shall make all appointments, including those required by any vacancies. It is not required that members be residents of the Town, but shall have either residency, some business or economic interest, or both in the Town and/or nearby region. All members of the Commission shall serve without compensation, except that they may be reimbursed for actual expenses to the extent authorized in the budget.

Section 3. That Part I of the Town Code is hereby amended to repeal and reenact with changes Chapter 25, Article I, Sections 25-1, 25-2 and 25-3 of the Code as follows:

**§25-1. Establishment; terms; appointments; composition.**

By authority of the Land Use Article 66B, § 3-01, §2-101 of the Annotated Code of Maryland (1973 Edition), there is hereby reestablished a Mount Airy Planning Commission, hereinafter referred to as the "Commission." Its territorial jurisdiction shall extend over the incorporated area of the Town of Mount Airy.

**§25-2. Membership; terms; quorum; compensation.**

- A. The Commission shall consist of seven members, all of whom shall be residents of the Town. One Member of the Town shall be a member of the Council of the Town of Mount Airy who shall serve *ex officio* and shall have a vote on Commission decisions subject to recusal for an immediate personal or financial interest in the subject matter of a vote. In the event that the *ex officio* member recuses himself/herself from a vote, such recusal and the reasons therefor shall be disclosed. Each member of the Commission, except for the Council member, who shall serve for his elected term of office, ~~to~~ shall serve for five years or until his or her successor takes office, except that the terms of members first appointed are staggered such that the first person appointed serves for one year, the second appointed for two years, the third appointed for three years, the fourth appointed for four years and the fifth member appointed serves for a term of five years. The sixth member appointed shall serve three years, ~~and the seventh member appointed shall serve five years.~~ An alternate member, who shall be a resident of the Town, may be appointed who may take part in Commission discussions and who shall serve in the absence or recusal of any of the seven regular members.
- B. The presence of four members shall constitute a quorum for any meeting.

- C. All members shall serve with such compensation as the Mayor and Council deem appropriate and may be removed by the Mayor and Council for inefficiency, neglect of duty or malfeasance in office. All members shall be eligible for reappointment.

**§25-3. Powers, functions and duties.**

The Commission shall have all the powers, functions and duties provided for in the Land Use Article 66B, § 3-012-101, et seq., of the Annotated Code of Maryland ~~(1973 Edition)~~.

Section 4. That Part I of the Town Code is hereby amended to repeal and reenact with changes Chapter 31, Sections 31-1 of the Code as follows:

**§31-1. Creation; composition; terms; compensation.**

There is hereby created a Board of Recreation and Parks of the Town of Mount Airy which shall consist of not fewer than five nor more than nine members, all of whom shall have been legal residents of the Town for a period of one year next preceding their appointment and one of whom shall be a member of the Council of the Town of Mount Airy who shall have a vote on Commission decisions subject to recusal for an immediate personal or financial interest in the subject matter of a vote. In the event that the Council member recuses himself/herself from a vote, such recusal and the reasons therefor shall be disclosed. All members of the Board, except for the Council member, who shall serve for his elected term of office, shall be appointed for terms of three years from the first day of January of the year of their appointment or until their successors are appointed; provided, however, that with respect to the members of the Board first appointed, except for the Council member, two shall be designated to serve for terms of three years and two shall be designated to serve for terms of two years, or until their successors are appointed. All appointments, including those required to fill vacancies, shall be made by the Mayor with the approval of the Council. All members of the Board shall serve without compensation except that they may be reimbursed for actual expenses incurred to the extent authorized in the annual budget of the Town.

Section 5. That Part I of the Town Code is hereby amended to repeal and reenact with changes Chapter 32, Sections 32-1 of the Code as follows:

**§32-1. Creation; membership; terms; compensation.**

There is hereby created the Recycling and Sanitation Commission of the Town of Mount Airy, which shall consist of nine members, at least seven of whom shall be residents of the Town, including one member of the Town Council who shall have a vote on Commission decisions subject to recusal for an immediate personal or financial interest in the subject matter of a vote. In the event that the Council member recuses himself/herself from a vote, such recusal and the reasons therefor shall be disclosed. All members of the Commission shall be appointed for terms of three years commencing from the first day of July of the year of appointment or until their successors are appointed; provided, however, that with respect to the members of the Commission first appointed, three shall be designated to serve for initial terms of three years, three shall be designated to serve for initial terms of two years, two shall be designated to serve

for initial terms of one year, and the Council member shall serve for the balance of his term, or until their successors are appointed. All appointments, including those required by any vacancies, shall be made by the Mayor with the approval of the Council. All members of the Commission shall serve without compensation, except that they may be reimbursed for actual expenses incurred to the extent authorized in the budget.

Section 6. That Part I of the Town Code is hereby amended to repeal and reenact with changes Chapter 36, Sections 36-1 of the Code as follows:

**§36-1. Creation; members; terms; compensation.**

There is hereby created the Streets and Roads Commission of the Town of Mount Airy, which shall consist of up to seven members, including one member of the Town Council who shall have a vote on Commission decisions subject to recusal for an immediate personal or financial interest in the subject matter of a vote. In the event that the Council member recuses himself/herself from a vote, such recusal and the reasons therefor shall be disclosed. All members of the Commission must be residents of the Town and shall be appointed for terms of three years commencing from the first day of July of the year of appointment or until their successors are appointed; provided, however, that with respect to the members of the Commission first appointed, three shall be designated to serve for initial terms of three years, three shall be designated to serve for initial terms of two years, one shall be designated to serve for an initial term of one year, and the Council member shall serve for the balance of his term, or until their successors are appointed. The Mayor, with the approval of the Council, shall make all appointments, including those required by any vacancies. It is intended that membership of the Commission should, to the extent possible, reflect all residential or commercial areas of the Town. All members of the Commission shall serve without compensation, except that they may be reimbursed for actual expenses to the extent authorized in the budget.

Section 7. That Part I of the Town Code is hereby amended to repeal and reenact with changes Chapter 36A, Sections 36A-1 of the Code as follows:

**§36A-1. Creation; members; terms; compensation.**

There is hereby created the Sustainable Mount Airy Commission of the Town of Mount Airy, which shall consist of up to nine members, including one member of the Town Council who shall have a vote on Commission decisions subject to recusal for an immediate personal or financial interest in the subject matter of a vote. In the event that the Council member recuses himself/herself from a vote, such recusal and the reasons therefor shall be disclosed. All members of the Commission must be residents of the Town and shall be appointed for terms of three years commencing from the first day of July of the year of appointment or until their successors are appointed: provided, however, that with respect to the members of the Commission first appointed, three shall be designated to serve for initial terms of three years, three shall be designated to serve for initial terms of two years, two shall be designated to serve for an initial term of one year, and the Council member shall serve for the balance of his term, or until their successors are appointed. An alternate member may be appointed who may take part in Commission discussions and who shall serve in the absence or recusal of any of the seven

regular members. The alternate shall likewise serve a term of three years commencing from the first day of July of the year of the appointment or until his/her successor is appointed: provided, however, that the first alternate appointed shall serve an initial term of either three, two or one years as the Mayor designates in the appointment of the first alternate. The Mayor, with the approval of the Council, shall make all appointments, including those required by any vacancies. It is intended that membership of the Commission should, to the extent possible, reflect all residential or commercial areas of the Town. All members of the Commission shall serve without compensation, except that they may be reimbursed for actual expenses to the extent authorized in the budget.

Section 7. That Part I of the Town Code is hereby amended to repeal and reenact with changes Chapter 38, Sections 38-1 of the Code as follows:

**§38-1. Creation; membership; terms.**

There is hereby created the Water and Sewer Commission of the Town of Mount Airy, which shall consist of seven members all of whom shall be residents of the Town and include one member of the Town Council who shall have a vote on Commission decisions subject to recusal for an immediate personal or financial interest in the subject matter of a vote. In the event that the Council member recuses himself/herself from a vote, such recusal and the reasons therefor shall be disclosed. Each member is to serve for four years or until his or her successor takes office, except that the terms of members first appointed are staggered such that the first person appointed serves for one year, the second appointed for two years, the third appointed for three years, the fourth appointed for four years, the fifth appointed for one year and the sixth appointed for two years or until their successors are appointed. All appointments, including those required by any vacancies, shall be made by the Mayor with the approval of the Council.

BE IT ENACTED AND ORDAINED BY THE AUTHORITY AFORESAID, that  
this Ordinance shall take effect retroactively to the \_\_\_\_ day of \_\_\_\_\_, 2019.

Introduced this \_\_\_\_ day of \_\_\_\_\_, 2019.

Enacted this \_\_\_\_ day of \_\_\_\_\_, 2019 by a vote of \_\_\_\_ in favor and \_\_\_\_ opposed.

ATTEST:

\_\_\_\_\_  
Jason Poirier, Secretary

\_\_\_\_\_  
Peter R. Helt, President of the Town Council

Approved this \_\_\_\_ day of \_\_\_\_\_, 2019.

ATTEST:

\_\_\_\_\_  
Jason Poirier, Secretary

\_\_\_\_\_  
Patrick T. Rockinberg, Mayor

REVIEWED AND APPROVED AS TO LEGAL FORM AND SUFFICIENCY.

This \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Thomas V. McCarron, Town Attorney

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