

ORDINANCE NO. 2012-01

Town of Rising Sun

Cecil County, Maryland

AN ORDINANCE OF THE TOWN OF RISING SUN, ("TOWN") CECIL COUNTY, MARYLAND, AMENDING AND ADDING LANGUAGE TO CHAPTER 2, TITLED ADMINISTRATION & GOVERNMENT OF THE CODE OF ORDINANCES OF THE TOWN OF RISING SUN, IN ORDER TO REDEFINE THE CREATION OF A PLANNING COMMISSION AND BOARD OF ZONING APPEALS; COMPOSITION OF MEMBERSHIP, PROCESS OF APPOINTMENT; LENGTH OF TERMS; REMOVAL; VACANCIES; ALTERNATES; AND MINIMUM EDUCATION REQUIREMENTS; AND TO REPEAL ANY AND ALL OTHER ORDINANCES AND PARTS OF THE ORDINANCES IN CONFLICT THEREWITH.

WHEREAS, the Town, located in Cecil County, Maryland is a municipality organized under and governed by Article 23A of the Annotated Code of Maryland; and

WHEREAS, the Town is proclaimed as a perpetual entity with the right to pass laws; and

WHEREAS, pursuant to section § 2.01. titled Grant of power, of article 66B titled Land Use, of the Annotated Code of Maryland, the orderly development and use of land and structures requires comprehensive regulation through the implementation of planning and zoning controls and such Planning and Zoning controls shall be implemented by local government; and

WHEREAS, the Code of Ordinances of the Town, contains Chapter 2, titled ADMINISTRATION & GOVERNMENT, which establishes the general guidelines associated with the proper administration of affairs and business for the Town of Rising Sun, Maryland, in accordance with the Town Charter and other applicable Federal and State Laws; and

WHEREAS, this Chapter, contains Article 2, titled ADMINISTRATIVE DEPARTMENTS CREATED, which establishes the various departments and positions that handle the day to day administration of the Town Government under the auspices of the Mayor and Commissioners; and

WHEREAS, this Article, contains Section 2-209, titled PLANNING COMMISSION, which establishes the creation of a planning commission, the composition of membership, process of appointment, designation of a chairman, length of terms, removal and vacancies; and

WHEREAS, the Code of Ordinances of the Town, contains Chapter 12, titled TOWN OF RISING SUN ZONING CODE, which contains Article 11, titled Board of Appeals, section 12-1100, titled BOARD OF APPEALS CREATED, which establishes a Board of Zoning Appeals for the Town of Rising Sun in accordance with section § 4.07. titled Board of Zoning Appeals, of article 66B titled Land Use, of the Annotated Code of Maryland; and

WHEREAS, the Town desires to repeal, amend, modify and add additional language to these two chapters, in order to more effectively regulate these conditions.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Town Commissioners of the Town of Rising Sun, Cecil County, Maryland, and it is hereby enacted and ordained by its authority that this Chapter and Article shall be modified as follows:

SECTION 1

Chapter 12 titled Town of Rising Sun Zoning Code, section 12-1100, titled Board of Appeals Created, currently reads as follows:

The Board of Zoning Appeals is hereby created. The Board of Appeals shall consist of three (3) members appointed by the Mayor and confirmed by the Town Commissioners, and removable for cause, upon written charges, and after public hearing. Members shall be appointed for terms of three (3) years each. Vacancies shall be filled by appointment for the unexpired term. The Town Commissioners shall designate one (1) alternate member for the Board of Appeals who may be empowered to sit with the board in the absence of any member of the board, and when the alternate is absent the town Commissioners may designate a temporary alternate.

SECTION 2

Chapter 12 titled Town of Rising Sun Zoning Code, section 12-1100, titled Board of Appeals Created, shall be deleted in its entirety and shall be replaced to read as follows:

In accordance with Chapter 2 of the Town Code, there shall be a Board of Zoning Appeals whose Powers and Duties shall be as outlined in the Town's Zoning Code and in accordance with article 66B titled Land Use, of the Annotated Code of Maryland

SECTION 3

Chapter 2 titled Administration and Government, Article 2, titled Board of Organization and Procedure, section 2-209 titled Planning Commission, , currently reads as follows:

Section 2-209. Planning Commission

- (1) Membership. *The Planning Commission shall consist of seven (7) members. A commissioner of the Town, selected by the Commissioners, shall serve as an ex officio member and shall have the power to vote on all matters before the Planning Commission. The remaining six (6) members shall be appointed by the Mayor and approved by the Board of Commissioners of Rising Sun.*
- (2) Term of Office. *The ex officio member shall serve for the term of his elective office. Each member shall serve for a period of five (5) years or until his successor takes office. Each appointed member is eligible of reappointment. Members of the Planning Commission shall serve without compensation.*

- (3) Vacancy. A vacancy occurring otherwise than by expiration of term shall be filled by appointment by the Commissioners of Rising Sun for the unexpired term.
- (4) Procedures. The Mayor, with the approval of the Board of Commissioners, shall appoint a chairman from one of the appointed members and create and fill such other offices as may be determined. The term of chairman shall be one year, with eligibility for reappointment. The chairman shall also serve as the Zoning Inspector for the Town. The Planning Commission shall adopt rules for transactions of business and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record.
- (5) Employees and Expenditures. The Planning Commission may appoint such employees as it may deem necessary for its work, and may also contract with planners, engineers, architects, and other consultants for such services as it may require. The expenditures of the commission, exclusive of gifts, shall be under such conditions and within the amounts appropriated for the purpose by the Commissioners of Rising Sun by resolution.
- (6) Powers and Duties. The Planning Commission shall have the powers and duties as now or hereafter provided in Article 66B, Annotated Code of Maryland (1957 edition, as amended) and the Ordinances of the Town of Rising Sun. The Chairman shall approve all building permits. He may forward a request for a building permit to the Cecil County Building Inspector's Office for further review prior to approving any building permit pursuant to Chapter 5 of this Code. He shall also respond to all requests concerning the present zoning classification of any property within the Town.

SECTION 4

Section 2-209 titled Planning Commission, shall be deleted in its entirety to include the title and will be replaced to read as follows:

Section 2-209. Creation and Administration of a Planning Commission and Board of Zoning Appeals

(A) Planning Commission

In accordance to section § 3.01. titled Grant of power, of article 66B titled Land Use, of the Annotated Code of Maryland, the Town of Rising Sun hereby creates a Planning Commission, who shall have the powers and duties as now or hereafter provided in Article 66B, Annotated Code of Maryland, as amended from time to time, and the Ordinances of the Town of Rising Sun.

- (1) Membership. The Planning Commission shall consist of seven (7) members, who shall be bona fide residents of the Town of Rising Sun and shall serve at the discretion of the Mayor and Commissioners. The Mayor shall select a commissioner from the Board of Town Commissioners to serve as an ex officio member, who shall have the power to vote on all matters before the Planning Commission. The remaining six (6) members shall be appointed by the Mayor to serve the set terms of office as established below. All appointments to the Planning Commission must be approved by the Board of Commissioners of Rising Sun.
- (2) Term of Office. The ex officio member shall serve for the term of his elective office unless replaced by the Mayor and approved by the Board of Commissioners. All other members shall serve for a period of five (5) years or until his successor takes office. The terms of the members of a planning commission, not to include the ex officio, shall be staggered and shall run until June 30th of the final year of the term. Each appointed member is

eligible for reappointment. Members of the Planning Commission shall serve without compensation.

- (3) Removal. The Planning Commission by majority vote; and or the Mayor by recommendation to the Board of Commissioners, may seek removal of any member of the Planning Commission for inefficiency, neglect of duty, malfeasance in office, or lack of meeting attendance if such member misses 3 consecutive meetings or 33% or more of the meetings held in one calendar year without just cause. Removal from the Board will be by majority vote of the Board of Commissioners of Rising Sun at a public hearing. A written statement from the Mayor and Commissioners, stating the reasons for the removal of any member of the Planning Commission shall be filed with the Town Clerk.
- (4) Vacancy. A vacancy occurring otherwise than by expiration of term shall be filled by appointment by the Mayor, and approved by the Commissioners of Rising Sun for the unexpired term.
- (5) Organization, Chairperson & Meetings.
 - (a) Organization; Chairperson. At the first regularly scheduled meeting in July of each year, the planning commission shall elect a chairperson from among its membership to serve for 1 year, and shall create and fill its other offices as it determines appropriate. The chairperson and other officers may be reelected.
 - (b) Meetings. The planning commission shall hold at least one regular meeting each month, however if there is no business before the planning commission, the chairperson may cancel the monthly meeting upon majority consent of the membership of the planning commission.
 - (c) Rules and records. The planning commission shall adopt rules for transacting business and shall keep records of its resolutions, transactions, findings, and determinations, which record shall be a public record.

(B) Board of Zoning Appeals

In accordance to section § 4.07. titled Board of Zoning Appeals, of article 66B titled Land Use; of the Annotated Code of Maryland, the Town of Rising Sun hereby creates a Board of Zoning Appeals, who shall have the powers and duties as now or hereafter provided in Article 66B, Annotated Code of Maryland, as amended from time to time, and the Ordinances of the Town of Rising Sun.

- (1) Membership. Effective February 28, 2012 The Board of Zoning Appeals shall be increased from three (3) members to five (5) members, who shall be bona fide residents of the Town of Rising Sun, and shall serve at the discretion of the Mayor and Commissioners. All members shall be appointed by the Mayor and approved by the Board of Commissioners of Rising Sun.
- (2) Phase in Term of Office. In order to achieve staggered terms of office, all members of the Board of Appeals will be appointed on February 28, 2012, and shall serve in accordance to the following table:

2 members appointed with terms set to expire June 30, 2015
2 members appointed with terms set to expire June 30, 2014
1 member appointed with terms set to expire June 30, 2013

- (3) Terms of Office. After the initial phase in of additional board members, each member shall serve for a period of three (3) years or until his successor takes office. The terms of the members of a Board of Zoning Appeals shall be staggered and shall run until June 30th of the final year of the term. Each appointed member is eligible for reappointment. Members of the Board of Zoning Appeals shall serve without compensation.
- (4) Removal. The Board of Zoning Appeals by majority vote; and or the Mayor by recommendation to the Board of Commissioners, may seek removal of any member of the Board of Zoning Appeals for inefficiency, neglect of duty, malfeasance in office, or lack of meeting attendance if such member misses 3 consecutive meetings or 33% or more of the meetings held in one calendar year without just cause. Removal from the Board will be by majority vote of the Board of Commissioners of Rising Sun at a public hearing. A written statement from the Mayor and Commissioners, stating the reasons for the removal of any member of the Board of Zoning Appeals shall be filed with the Town Clerk.
- (5) Vacancy. A vacancy occurring otherwise than by expiration of term shall be filled by appointment by the Mayor, and approved by the Commissioners of Rising Sun for the unexpired term.
- (6) Organization, Chairperson & Meetings.
 - (a) Organization; Chairperson. At the first regularly scheduled meeting in July of each year, the Board of Zoning Appeals shall elect a chairperson from among its membership to serve for 1 year, and shall create and fill its other offices as it determines appropriate. The chairperson and other officers may be reelected.
 - (b) Meetings. The Board of Zoning Appeals shall hold a reorganizational meeting in July of each year and shall schedule other meetings as needed to hear any appeals of the Town's Zoning Code.
 - (c) Rules and records. The Board of Zoning Appeals shall adopt rules for transacting business and shall keep records of its resolutions, transactions, findings, and determinations, which record shall be a public record.

(C) Employees and Expenditures

- (a) Use of Employees. The Planning Commission & Board of Zoning Appeals may request the Town Administrator to appoint or delegate such employees as necessary to carry out their projects and initiatives.
- (b) Plan and Application Review. The Town budget shall include provisions for all land development and zoning applications to be reviewed by the Town's engineer, attorney, architects, consultants or other experts needed to properly review an application. The use of such expert opinions shall be at the discretion of the Town Administrator, and all cost associated therewith, reimbursable to the Town by the applicant.
- (c) Special Consultants and Experts. Upon approval of the Board of Commissioners, the Planning Commission and Board of Zoning Appeals may contract with planners, engineers, architects, consultants and other experts for other special projects as it may require. The expenditures of such services shall be under such conditions and within the amounts appropriated for the purpose by the Commissioners of Rising Sun.

(D) Education and Minimum Training Required.

- (a) *Per article 66B titled Land Use, of the Annotated Code of Maryland, a member of the Planning Commission and Board of Zoning Appeals, within 6 months of appointment, shall complete an education course that includes education on:*
 - (i) *The role of the comprehensive plan;*
 - (ii) *If applicable, proper standards for special exceptions and variances; and*
 - (iii) *The jurisdiction's zoning ordinances and regulations, planned development ordinances and regulations, subdivision ordinances and regulations, and other land use ordinances and regulations.*
- (b) *The failure of a member to complete an education course may not:*
 - (i) *Invalidate a decision of the commission; or*
 - (ii) *Be construed to create a private cause of action by any person.*

SECTION 5.

All ordinances or parts thereof inconsistent herewith are repealed, rescinded, canceled and annulled.

SECTION 6.

Should any provision, section, paragraph or subparagraph of this Ordinance, including any code or text adopted hereby, be declared null and void, illegal, unconstitutional, or otherwise determined to be unenforceable for a court having jurisdiction, the same shall not affect the validity, legality, or enforceability of any other provision, section, paragraph or subparagraph hereof, including any code text adopted hereby. The Town of Rising Sun hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared null and void, illegal, unconstitutional, or otherwise determined to be unenforceable. Each such provision, section, paragraph or subparagraph is expressly declared to be and is deemed severable.

SECTION 7.

That nothing in this ordinance hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

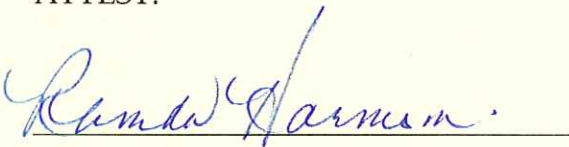
SECTION 8.

That the Rising Sun Town Clerk is hereby ordered and directed to cause this ordinance to be published in a newspaper in general circulation.

SECTION 9.

NOW THEREFORE BE IT FURTHER RESOLVED that this ordinance was introduced for consideration on this 24 day of January, 2012 and will hold this ordinance over for final consideration at the next Special or Regularly scheduled Town Meeting.

ATTEST:



Rhonda Harmison,
Town Clerk

SECTION 10.

NOW THEREFORE BE IT FURTHER RESOLVED that the Mayor and Commissioners of the Town of Rising Sun passed, approved and adopted this ordinance on this 14th day of February, 2012

AYES: Commissioner Pierson, Commissioner Naughton, Commissioner Osborne, Commissioner Callahan .

NAYS: None .

ABSTAINED: None .

THE MAYOR AND COMMISSIONERS
OF THE TOWN OF RISING SUN

ATTEST:

BY: Thomas S. Mumey
Thomas S. Mumey- Mayor

Rhonda Harmison

Rhonda Harmison,
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

THIS 14th DAY OF FEBRUARY, 2012

BY: Jack A. Gullo, Jr.
Jack A. Gullo, Jr., - Town Attorney