

ORDINANCE NO. 2012-5

Town of Rising Sun
Cecil County, Maryland

Titled: **REVISED TOWN OF RISING SUN ETHICS POLICY**

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 UPDATE THE TOWN OF RISING SUN'S ETHICS POLICIES IN ORDER TO BE IN COMPLIANCE WITH SUBTITLE 8 OF THE STATE OF MARYLAND PUBLIC ETHICS LAW; AND TO CREATE RULES AND REGULATIONS FOR CAMPAIGN FINANCING; 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, 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 6, titled ETHICS POLICY, which establishes general limitations and policies prohibiting elected officials, employees and appointees of the Town from participating directly or indirectly in any services or materials provided to the Town, or receiving any emoluments or profits from such services or materials provided to the Town, beyond the salary of which such official, employee or appointee is paid; and

WHEREAS, the Town desires to amend, modify and add additional language to this article, in order to establish more broad and comprehensive standards for their ethical conduct in compliance with Subtitle 8 of the Maryland Public Ethics Law; and

WHEREAS, this Chapter, also contains Article 7, titled HISTORIC PRESERVATION, which establishes a Historical Preservation Commission to include membership, board of directors and core mission of the commission; and

WHEREAS, the Town desires to renumber this article to article 8 and hereby establish a new Article 7 to be titled CAMPAIGN CONTRIBUTIONS AND EXPENDITURES.

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 Articles 6, 7 & 8 of chapter 2 shall be modified, renumbered and created as follows:

SECTION 1

Chapter 2 titled Administration and Government of the Code of Ordinances of the Town of Rising Sun contains Article 6, titled Ethics Policy, which currently reads as:

Article 6 Ethics Policy

Section 2-601 Applicability.

The provisions of this article apply to all elected or appointed officials and employees of the Town or Rising Sun except as hereafter provided

Section 2-602 Ethics Board.

There shall be a Town of Rising Sun Ethics Board, which shall be composed of three (3) members appointed by the Mayor with the approval of the Commissioners. The Board shall be advised by the Town of Rising Sun Attorney and shall have the following responsibilities:

- a. To devise, receive and maintain all forms generated by this article;*
- b. To provide published advisory opinions to persons subject to the article as to the applicability of the provisions of this article to them;*
- c. To process and make determinations as to complaints filed by any person alleging violations of this article; and*
- d. To conduct a public information program regarding the purposes and application of this article.*
- e. To adopt rules of procedures*
- f. To issue subpoenas, and compel attendance of witnesses and production of documents in proceedings.*

Section 2-603 Conflicts of Interest and Prohibited Activities.

Town of Rising Sun officials and employees who are subject to this article shall not:

- a. Participate on behalf of the Town of Rising Sun in any matter which would, to their knowledge, have a direct financial impact, as distinguished from the public generally, on them, their spouse or dependent child, or a business entity with which they are affiliated.*
- b. Hold or acquire an interest of either one thousand dollars (\$1,000) or ten percent (10%) or greater in a business entity that has or is negotiating a contract of one thousand dollars (\$1,000) or more with the Town of Rising Sun except as exempted*

by the Ethics Board pursuant to Section 2-607 of this article and except that this subsection shall not apply to any official or employee who shall disqualify himself from consideration of any matter before the Town or regulated by the Town relating to said business entity.

- c. Be employed by a business entity that has or is negotiating a contract of more than five thousand dollars (\$5,000) with the Town of Rising Sun, except as exempted by the Ethics Board pursuant to Section 2-607 of this article and except that this subsection shall not apply to any official or employee who shall disqualify himself from consideration of any matter before the Town or regulated by the Town relating to said business entity.
- d. Hold any outside employment relationship that would impair their impartiality or independence of judgment.
- e. Represent any party, whether or not for a fee, before the Board of Commissioners or any board or commission of the Town.
- f. Within 1 year following termination of Town of Rising Sun service, act as a compensated representative of another in connection with any specific matter in which he/she participated substantially as a Town of Rising Sun official or employee.
- g. Gifts
 - 1. Solicit any gift or accept gifts of greater than twenty five dollars (\$25) in value, from any person that has or is negotiating a contract with the Town of Rising Sun or is regulated by the Town. . For purposes of this section, gift includes any benefit, thing, act or service with monetary value in excess of twenty-five dollars (\$25.00) or combination of benefits, things, acts or services received from any person or entity within one-calendar year period with a monetary value in excess of \$150.
 - 2. Unless a gift of any of the following would tend to impair the impartiality and the independence of judgment of the official or employee receiving it , or if of significant value, would give the appearance of doing so, or if of significant value, the recipient official or employee believes or has reason to believe that it is designed to do so, this section shall not apply to:
 - a. Reasonable expenses for food, travel, lodging and scheduled entertainment of the official or employee for a meeting which is given in return for participation in a panel or speaking engagement at the meeting;
 - b. Campaign contribution; or
 - c. Any other gift that would not present a conflict of interest as determined by the Board of Ethics?
- h. Use the prestige of their office.

1. Use the prestige of his or her office to advance his or her own private interest or the private interest of another. For purposes of this section, "use of the prestige of an office" shall include, but not be limited to:
 - a. The acting, and/or creating the appearance of acting, on behalf of the Town by making any policy statement, and/or by promising to authorize or to prevent any official action of any nature, when the official or employee is not authorized to make such a statement;
 - b. Representing his or her personal opinion to be the official position of the Town;
 - c. Using and/or attempting to use his or her official position improperly to unreasonably request, grant, and/or obtain in any manner any unlawful and/or unwarranted privileges, advantages, benefits and/or exemptions for him or herself or others;
 - d. Using, for immediate private financial gain and/or advantage, his or her Town time and/or the Town staff, facilities, equipment and/or supplies, to secure privileges and/or exemptions for himself or herself and/or others.
2. The performance of usual and customary constituent services, without additional compensation, does not constitute the "use of the prestige of office" within the meaning of this Section.
 - i. Without proper legal authorization, use or disclose confidential information that is not available to the public, acquired in their official Town of Rising Sun position for their own benefit or that of another.
 - j. Cause or advocate a member of their family to be hired, employed, promoted, transferred, appointed or advanced to any type of employment, board or commission with the Town. No Town official or employee shall participate in an action relating to the discipline of a member of the Town official's or employee's family.

Section 2-604 Disclosure of conflicts of interest.

All elected officials and candidates for elective office shall disclose, either in writing or orally in open meeting, the substance of any transaction, anticipated transaction or the action which falls within the scope of Section 2-603 of this article. Any written disclosures so filed shall be available for inspection as required and in accordance with applicable state law.

Section 2-605 Financial Disclosure.

- a. The Town of Rising Sun officials and employees listed in Paragraph (c) of this section shall file annually not later than January 31 of each calendar year during which they hold office, a statement with the Board disclosing any gifts received during the preceding calendar year from any person having a contract with the Town of Rising Sun or any person regulated by the Town. The statement shall identify the donor of the gift and its approximate retail value at the time of receipt.

- b. *Candidates for elective offices listed in Paragraph (c) of this section shall file statements consistent with the requirements of Subsection (a) of this section at the time that they file their certificate of candidacy.*
- c. *Officials and employees required to file a financial disclosure include:*
 - 1. *The Mayor and Board of Commissioners;*
 - 2. *All officers and department heads; and*
 - 3. *Members of any Town commissions or boards.*
- d. *All Town of Rising Sun officials and employees or candidates for elective office to positions subject to this section shall file a statement with the Board disclosing any interest or employment, the holding of which would require disqualification from participation pursuant to section 2-603 of this article, sufficiently in advance of any anticipated action to allow adequate disclosure to the public.*
- e. *Disclosure statements filed pursuant to this section shall be forwarded to the Town Clerk as public records available for public inspection and copying.*

Section 2-606 Lobbying Disclosure.

- a. *Any person who personally appears before any Town of Rising Sun official or employee with the intent to influence that person in performance of his official duties, and who, in connection with such intent expends or reasonably expects to expend in a given calendar year in excess of one hundred dollars (\$100) on food, entertainment or other gifts for such officials, shall file a registration statement with the Board not later than January 15 of the calendar year or within 5 days after first making these appearances.*
- b. *The registration statement shall include complete identification of the registrant and of any other person on whose behalf the registrant acts. It shall also identify the subject matter on which the registrant proposes to make these appearances, and shall cover a defined registration period not to exceed one calendar year.*
- c. *Registrants under this section shall file a report within 30 days after the end of any calendar year during which they were registered, disclosing the value, date, and nature of any food, entertainment or other gift provided to a Town of Rising Sun official or employee. When a gift or series of gifts to a single official or employee exceed twenty-five dollars (\$25) in value, the official or employee shall also be identified.*
- d. *The registrations and reports filed pursuant to this section shall be maintained by the Board as public records available for public inspection and copying.*

Section 2-607 Exemptions and Modifications.

The Board may grant exemptions and modifications to the provisions of Sections 2-603 and section 2-605 of this article if it determines that application of those provisions would:

- a. *Constitute an unreasonable invasion of privacy;*
- b. *Significantly reduce the availability of qualified persons for public service;*
- c. *Not be required to preserve the purposes of this article.; and*
- d. *Not require strict enforcement where it is found that the interest of the official and/or employee is too remote or insubstantial to affect the integrity of his or her public act.*

Section 2-608 Enforcement.

- a. *With respect o any person found to be in violation of this article, the Ethics Board shall have the following powers:*
 - 1. *Issue a cease and desist order against*
 - 2. *Impose a fine in an amount not to exceed \$500.00.*
 - 3. *Order restitution.*
- b. *The Ethics Board may seek compliance with an order by filing an action for injunctive or other appropriate relief in the Circuit Court of Cecil County, Maryland.*
- c. *A Rising Sun Town Official or employee found to have violated this article may be subject to disciplinary or other appropriate personnel action, which may include termination from employment, and including suspension of salary or other compensation.*

Section 2-609 Removal of Ethics Board member.

A member of the Ethics Board may be removed by the majority vote of the Board of Town Commissioners after a hearing for:

- a. *Neglect of duties;*
- b. *Misconduct in office;*
- c. *A disability that makes the member unable to discharge the powers and duties of office; or*
- d. *A violation of this Article.*

>> END OF CURRENT CODE LANGUAGE <<

SECTION 2

This ordinance will modify this article by deleting the article in its entirety, to include the title and replacing it to read as follows:

ARTICLE 6. ETHICS PROVISIONS

Section 2-601. Applicability.

The provisions of this article shall apply to all officials, employees and appointees to boards, commissions and committees of the Town unless otherwise specified.

Section. 2-602. Ethics Board.

- A. *Membership; terms.* *There shall be a Town Ethics Board, hereby within referred to as the "Ethics Board" or "Board" which shall be composed of three (3) members appointed by the Commissioners of Rising Sun. The Ethics Board shall not hold any other office in the Town government during their term of office. The term of office for each Board member appointed shall be three (3) years. These terms of office shall be staggered and initially created as follows: One member shall be appointed for a one (1) year term beginning on July 1, 2013; one member shall be appointed for a two (2) year term beginning on July 1, 2013; and one member shall be appointed for a three (3) year term beginning on July 1, 2013.*
- B. *Chairperson.* *The Ethics Board shall elect a chairperson from among its members. The term of the chairperson shall be for one (1) year. The chairperson shall be eligible for re-election.*
- C. *Counsel.* *The Ethics Board shall be advised by the Town Attorney except in instances where the potential for conflict of interest exists.*
- D. *Responsibilities and Authority.* *The Board shall have the following responsibilities and authority:*
 - 1. *To devise, receive and maintain all forms required by this article;*
 - 2. *To provide published advisory opinions to persons subject to this article as to the applicability of the provisions of this article to them;*
 - 3. *To process and make determinations as to complaints filed by any person alleging violations of this article;*
 - 4. *To conduct informational programs regarding the purposes and application of this article;*
 - 5. *To grant exemptions and modifications to the conflict of interest and financial*

disclosure provisions set forth in Sections 2-603 and 2-604 as authorized by Section 2-605;

- 6. To conduct investigations relative to violations of this article and investigate any incident occurring within two (2) years prior to the time such incident is called to the Board 's attention where there is reasonable grounds to believe there may be a violation of this article.*
- 7. To conduct hearings, issue summonses and subpoenas, and administer oaths and affirmations. Summonses and subpoenas may be served by certified mail, by private process server or by anyone who could lawfully serve said subpoenas and summonses in a judicial proceeding of a civil nature. Summonses and subpoenas shall be enforced by legal action in a court of competent jurisdiction, to compel the attendance of parties and witnesses and to require the production by them of books, papers, documents and other materials relevant to any case under consideration.*
- 8. To adopt regulations and establish procedures to implement this article;*
- 9. To develop appropriate forms and instructions for the making of financial disclosure and other functions of the Board, and to cause same to be timely distributed to those persons required to file same; and*
- 10. To initiate complaints and/or investigations on its own motion where it has reason to believe the provisions of this Ordinance have been violated.*
- 11. To certify to the State Ethics Commission on or before October 1 of each year that the Town is in compliance with the requirements of the State Government Article, Title 15, Subtitle 8 of the Annotated Code of Maryland.*
- 12. To determine if changes to this Article are required to be in compliance with the requirements of the State Government Article, Title 15, Subtitle 8 of the Annotated Code of Maryland, and forward any recommended changes and amendments to the Rising Sun Board of Commissioners.*
- 13. To adopt any other policies and procedures to assist the Board in the performance of its duties.*

E Removal of Ethics Board member. A member of the Ethics Board may be removed by the majority vote of the Board of Town Commissioners after a hearing for:

- 1. Neglect of duties;*
- 2. Misconduct in office;*
- 3. A disability that makes the member unable to discharge the powers and duties of office; or*
- 4. A violation of this Article.*

Section. 2-603. Conflict of interest.

- A. All Town elected officials, officials appointed to Town boards and commissions, employees and committees are subject to this section.
- B. Participation prohibitions. Except as permitted by Commission regulation or opinion, individuals subject to this Section may not participate in:
1. Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter, any matter in which, to the knowledge of the individual, the individual or a qualified relative of the individual, has an interest.
 2. Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, any matter in which any of the following is a party:
 - a. A business entity in which the individual has a direct financial interest of which the individual may reasonably be expected to know;
 - b. A business entity for which the individual or qualified relative of the individual is an officer, director, trustee, partner or employee;
 - c. A business entity with which the individual or a qualified relative is negotiating employment or has any arrangement concerning prospective employment.
 - d. A business entity that is a party to an existing contract with the individual or qualified relative which could reasonably be expected to result in a conflict between the private interests of the individual and the official duties of the individual.
 - e. An entity doing business with the Town in which a direct financial interest is owned by another entity in which the individual has a direct financial interest, if the individual may be reasonably expected to know of both direct financial interests.
 - f. A business entity that the individual knows is a creditor or obligee of the individual or a qualified relative of the individual with respect to a thing of economic value; and as a creditor or obligee, is in a position to directly and substantially affect the interest of the individual or qualified relative of the individual.
 - g. In this subsection the term "qualified relative" means a spouse, parent, child, stepchild or sibling.
 - h. In this subsection the term, "business entity" means any for profit or not for profit enterprise, including a corporation, general or limited partnership, sole proprietorship, joint venture, association, firm institute, trust, or foundation. It shall also include entities such as independent fire departments, rescue squads, homeowners associations, condominium associations, religious and civic organizations.

3. *An individual who is disqualified from participating under paragraph (1) or (2) of this subsection shall disclose the nature and circumstances of the conflict and may participate or act if:*
 - a. *The disqualification leaves the body with less than a quorum capable of acting;*
 - b. *The disqualified individual is required by law to act; or*
 - c. *The disqualified individual is the only person authorized to act.*
4. *The prohibitions of paragraph (1) and (2) of this subsection do not apply if participation is allowed by regulation or opinion of the Commission.*

C. *Employment and financial interest restrictions.*

1. *Except as permitted by regulation of the Commission when the interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an individual may not:*
 - a. *Be employed by or have a financial interest in an entity subject to the authority of the individual or the Town agency, board or commission with which the individual is affiliated; or that is negotiating or has entered a contract with the agency, board or commission with which the individual is affiliated.*
 - b. *Hold any other employment relationship that would impair the impartiality or independence of judgment of the individual.*
2. *This prohibition does not apply to:*
 - a. *An individual who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the Town's authority be represented in appointments to said authority.*
 - b. *An individual whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted by and in accordance with regulations adopted by the Commission.*
 - c. *Employment or financial interests allowed by regulation of the Commission if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.*

D. *Post-employment limitations and restrictions.*

1. *A former elected official, appointee to a board or commission or employee may not assist or represent any party other than the Town for compensation in a case, contract or other specific matter involving the Town if that matter is one in which the former official, appointee or employee significantly participated as an official, appointee or employee.*

2. For a period of one (1) year following the termination of service to the Town, a former member of the Board of Commissioners may not assist or represent another party for compensation in a matter that is the subject of legislative or regulatory action by the Town.
- E. Contingent Compensation. Except in a judicial or quasi-judicial proceeding, an individual may not assist or represent a party for contingent compensation in any matter before or involving the Town.
- F. Use of Prestige of Office.
1. An individual may not intentionally use the prestige of office or public position for the private gain of that individual or the private gain of another.
 2. The subsection does not prohibit the performance of usual and customary constituent services by an elected official without additional compensation.
- G. Solicitation and acceptance of gifts.
1. An individual may not solicit any gift.
 2. An individual may not directly solicit or facilitate the solicitation of a gift on behalf of another person, from an individual that is a regulated lobbyist.
 3. An individual may not knowingly accept a gift, directly or indirectly, from a person that the individual knows or has the reason to know:
 - a. Is doing business with or seeking to do business with the Town.
 - b. Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of the individual.
 - c. Is engaged in an activity regulated or controlled by the Town.
 - d. Is a registered lobbyist with the Town.
 4. Notwithstanding paragraph (3) of this subsection the individual may accept the following:
 - a. Meals and beverages consumed in the presence of the donor or sponsoring entity.
 - b. Ceremonial gifts or awards that have insignificant monetary value.
 - c. Unsolicited gifts of nominal value that do not exceed \$20.00 in cost or trivial items of informational value.
 - d. Reasonable expenses for food, travel, lodging, and scheduled entertainment of the individual at a meeting which is given in return for the participation of the individual in a panel or speaking engagement at the meeting.

- e. Gifts of tickets or free admission extended to an elected official to attend a charitable, cultural or political event, if the purpose of the gift or admission is a courtesy or ceremony extended to the elected official's office with the Town.
- f. A specific gift or class of gifts that the Commission exempts from the operation of this subsection upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the Town and that the gift is purely personal and private in nature.
- g. Gifts from a person related to the individual by blood or marriage, or any other individual who is a member of the household of the individual.
- h. Honoraria for speaking to or participating in a meeting, provided that the offering of the honorarium is not related in any way to the individual's position with the Town.

5. Paragraph (4) of this subsection does not apply to gifts:

- a. That would tend to impair the impartiality and the independence of judgment of the individual receiving the gift.
- b. Of significant value that would give the appearance of impairing the impartiality and independence of judgment of the individual.
- c. Of significant value that the recipient individual believes or has reason to believe is designed to impair the impartiality and independence of judgment of the individual.

H. Disclosure of Confidential Information. Other than in the discharge of official duties, an individual may not disclose or use confidential information, that the individual acquired by reason of the individual's position and that is not available to the public, for economic benefit of the individual or that of another person.

I. All individuals subject to this Section shall not use any Town facilities, vehicles, equipment, materials, or personnel for private purposes or profit, or facilitate or permit such use by others, unless the use of such facilities, property, vehicles, equipment, materials or personnel is:

- 1. generally available to the public; or
- 2. authorized by a Town law or regulation; or
- 3. use of Town telephones for reasonably necessary personal local calls, or for long distance calls in emergencies with permission of the Town Administrator or his designee and reimbursement to the Town.

J. All individuals subject to this Section shall not solicit business from any individual or organization having a decision before a Town Board or Commission; or

- K. All individuals subject to this Section shall not make representations to other governmental organizations that are portrayed as the position of the Town Government unless such positions have been approved in advance by a majority vote of the Board or Commission or unless such representations are a legitimate exercise of specific authorities identified in the Code of the Town of Rising Sun. Nothing herein shall be construed as a limitation of the right of officials and employees to attend, participate and speak at public and/or private forums of their choice in the individual's private capacity.
- L. An individual shall disclose employment and interests that raise conflicts of interest or potential conflicts of interest in connection with a specific proposed action by the individual or Town sufficiently in advance of the action to provide adequate disclosure to the public and Commission.
- M. Participation in Procurement.
1. An individual or entity which assists the Town in the drafting of specifications, invitations for bids, requests for proposals for a procurement, or who has been retained or performed work for any party which has a potential adverse interest to the Town, may not submit a bid or proposal for said procurement or subject matter, nor may that individual or entity assist or represent another person, directly or indirectly, who is submitting a bid or proposal for procurement.
 2. The Commission may establish exemptions from the requirements of Section M for providing descriptive literature, sole source procurements, and written comments solicited by the Town.

Section. 2-604. Financial disclosure.

- A. This section applies to all local elected officials, candidates for local elected office, and the following appointed officials and employees:
1. The Town Administrator
 2. All members of the Rising Sun Planning Commission
 3. All members of the Rising Sun Board of Zoning Appeals
 4. All members of the Parks and Recreation Board
 5. All members of the Ethics Board
 6. All members of the Elections Board
 7. The Town Clerk
 8. The Town Treasurer
 9. The Town Utility Billing Secretaries

10. Police Citation/Billing Clerk
 11. The Director of Public Works
 12. The Code Enforcement Officer
 13. The Chief of Police
 14. The Town appointed members to the Historic Commission
- B. All individuals subject to the Section shall file a financial disclosure statement required by this Section with the Commission, on the form provided by the Commission, under oath or affirmation.
- C. Deadlines for Filing Statements.
1. An incumbent local elected official, appointed officials and employees subject to this section shall file a financial disclosure statement annually no later than January 31 of each year, for the activity of the preceding calendar year.
 2. An individual who is appointed to fill a vacancy in position subject to this Section shall file a financial disclosure statement for the activity of the preceding calendar year within thirty (30) days after appointment.
 3. An individual who, other than by reason of death, leaves office for which a statement is required shall file a statement within sixty (60) days after leaving office covering the year immediately preceding the year in which the individual left office, unless such a statement has already been filed, and the portion of the current calendar year during which the individual held office.
- D. Candidates for Local Elected Office. Candidates for local elected office shall file a financial disclosure statement at the time that they file their certificate of candidacy and each year thereafter through the year of the election, pursuant to the deadlines established in this Section, or they are deemed to have withdrawn their candidacy. The Board of Elections may not accept any certificate of candidacy unless a financial disclosure statement has been filed in proper form.
- E. Public Record.
1. The Commission shall maintain all financial disclosure statements filed under this Section.
 2. Financial disclosure statements shall be made available during normal office hours for examination and copying by the public subject to the fees established by the Town.
 3. If an individual examines or copies a financial disclosure statement, the Commission shall record the name and address of the individual reviewing or copying the statement and the name of the person whose financial disclosure statement was examined or copied.

4. Upon the request by the official whose financial disclosure statement was examined or copied, the Commission shall provide the official with a copy of the name and address of the person who reviewed the official's financial disclosure statement.
5. The Commission shall retain financial disclosure statements for a minimum of seven (7) years from the date of receipt.

F. Content of Statement.

1. Interests in Real Property.

- a. A statement filed under this section shall include a schedule of all interests in real property wherever located, both domestic and international.
- b. For each interest in real property, the schedule shall include:
 - i. The nature of the property and the location by street address, mailing address, or legal description of the property.
 - ii. The nature and extent of the interest held, including any conditions and encumbrances on the interest.
 - iii. The date when acquired, the manner in which the interest was acquired, and the identity of the person from whom the interest was acquired.
 - iv. The nature and amount of consideration given in exchange for the interest, or if acquired other than by purchase, the fair market value of the interest at the time acquired.
 - v. If any interest was transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and the identity of the person to whom the interest was transferred.
 - vi. The identity of any other person with an interest in the property.

2. Interests in corporations and partnerships

- a. A statement filed under this section shall include a schedule of all interests in any corporation, partnership, limited liability partnership or limited liability corporation, regardless of whether the entity does business with the Town. An interest shall also include any stock options in a corporate entity.
- b. For each interest reported under this Section, the schedule shall include:
 - i. The name and address of the principal office of the entity.
 - ii. The nature and amount of the interest held, including any conditions and encumbrances on the interest.

- iii. *If any interest was transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and if known the identity of the person to whom the interest was transferred.*
- iv. *The date the interest was acquired, the manner in which it was acquired and the identity of the person from whom the interest was acquired and the nature and amount of consideration given in exchange for the interest or if acquired other than by purchase, the fair market value of the interest at the time acquired.*
- c. *An individual may satisfy the requirement to report the amount of the interest held under this Section by reporting instead of a dollar amount, the number of shares held or the percentage of equity interest held.*

3. Interests in business entities doing business with the Town.

- a. *A statement filed under this Section shall include a schedule of all interests in any business entity that does business with the Town, other than interest reported under paragraph (2) of this Section.*
- b. *For each interest reported under this Section, the schedule shall include:*
 - i. *The name and address of the principal office of the business entity.*
 - ii. *The nature and amount of the interest held, including any conditions to and encumbrances in the interest.*
 - iii. *If any interest was transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and if known the identity of the person to whom the interest was transferred.*
 - iv. *The date the interest was acquired, the manner in which it was acquired and the identity of the person from whom the interest was acquired and the nature and amount of consideration given in exchange for the interest or if acquired other than by purchase, the fair market value of the interest at the time acquired.*

4. Gifts

- a. *A statement filed under this Section shall include a schedule of each gift in excess of \$20.00 in value or a series of gifts totaling \$100.00 or more received during the reporting period from or on behalf of, directly or indirectly, any one person who does business with or is regulated by the Town.*
- b. *For each gift reported, the schedule shall include:*
 - i. *A description of the nature and value of the gift.*

- ii. *The identity of the person from whom, or on behalf of whom, directly or indirectly, the gift was received.*

5. *Employment with or interests in entities doing business with the Town.*

- a. *A statement filed under this Section shall include a schedule of all offices, directorships and salaried employment by the individual or member of the immediate family of the individual held at any time during the reporting period with entities doing business with the Town.*
- b. *For each position reported under this Section, the schedule shall include:*
 - i. *The name and address of the principal office of the business entity.*
 - ii. *The title and nature of the office, directorship or salaried employment held and the date it commenced.*
 - iii. *The name of each Town agency with which the entity is involved.*

6. *Indebtedness to entities doing business with the Town.*

- a. *A statement filed under this Section shall include a schedule of all liabilities, excluding retail credit accounts, to persons doing business with the Town owed at any time during the reporting period by the individual or by a member of the individual's immediate family if the individual was involved in the transaction giving rise to the liability.*
- b. *For each liability reported under this Section, the schedule shall include:*
 - i. *The identity of the person to whom the liability was owed and the date the liability was incurred.*
 - ii. *The amount of the liability owed as of the end of the reporting period.*
 - iii. *The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year.*
 - iv. *The security given, if any, for the liability.*

7. *Family Members Employed by Town.* *The statement filed under this Section shall include a schedule of immediate family members of the individual, employed by the Town in any capacity, at any time during the reporting period.*

8. *Sources of Earned Income.*

- a. *A statement filed under this Section shall include a schedule of the name and address of each place of employment and of each business entity of which the individual or a member of the individual's immediate family was a sole or partial owner and from which the individual or member of the individual's immediate family received earned income, at any time during the reporting period.*

2. Significantly reduce the availability of qualified persons for public service; and
3. Not be required to preserve the purpose of this article.

Section. 2-606. Complaints, Investigations, Hearings and Decisions

A. Complaint.

1. Any person may file a confidential complaint with the Ethics Board. A complaint shall be made under oath, in writing, and be signed by the complainant; however, this does not preclude the Ethics Board from investigating unsigned or anonymous complaints in its discretion. It shall allege reasonable grounds to believe that a violation of this Article may have occurred within two (2) years prior to the filing of the complaint.
2. If the complaint fails to allege facts sufficient to state a violation of this Article, the Ethics Board may dismiss the complaint. The Ethics Board must provide the complainant with an explanation of its decision to dismiss the complaint and shall inform the subject of the complaint that the complaint was filed and dismissed, but shall not disclose the identity of the complainant.

B. Investigation.

1. The Ethics Board shall investigate a complaint that meets the requirement of A.1 of this Section. The Ethics Board may investigate any circumstances that come to its attention from any source, which may involve a violation of this Article. An investigation may include all reasonable sources of relevant information, including the subject of the complaint. In conducting its investigation, the Ethics Board shall utilize its own membership and/or Town staff and private investigators as may be authorized by the Ethics Board. The Ethics Board's investigation and deliberations, including the name of the complainant, the subject of the complaint, and any witness, shall be confidential except as further provided in this Section. All persons involved in the investigation of any complaint shall be bound by the confidentiality provisions of this Section.
2. The Ethics Board shall prepare a written summary of the results of its investigation. It shall provide the subject of the complaint with a copy of its investigation summary but shall not include the identity of the complainant or any witness. If the Ethics Board finds insufficient evidence to conclude, by a preponderance of the evidence, that a violation has occurred, it shall dismiss the complaint. If the Ethics Board finds sufficient facts to conclude that a violation has occurred, it shall advise the subject of the complaint that he/she has a right to request, within thirty (30) days, a hearing before the Ethics Board.

C. Hearing. If a hearing is requested, the following procedures shall apply:

1. The subject of the complaint shall be provided with a copy of the Ethic Commission's investigation summary which identifies the complainant and all sources of information on which the Ethics Board relies.

2. *The Ethics Board may rely on the facts stated in the investigation summary or may call witnesses and present other evidence at the hearing.*
 3. *The subject of the complaint may request that subpoenas be issued by the Ethics Board pursuant to Section 2-602 D. of this Code. The Ethics Board shall issue subpoenas for any reasonably relevant witnesses and evidence.*
 4. *The rules of evidence used in judicial hearings do not apply to hearings before the Ethics Board. The Ethics Board may admit and give appropriate weight to evidence, including hearsay that possesses probative value commonly accepted by reasonable and prudent persons.*
 5. *A hearing is closed to the public. However, the Ethics Board may, in its sole discretion, open the hearing to the public if the subject of the complaint so requests.*
 6. *The Ethics Board must make written findings based on the record made at the hearing. If after a hearing the Ethics Board finds that no violation of this Article has occurred, the Ethics Board must dismiss the complaint.*
- D. *Decision. If the Ethics Board finds that a violation of this Article has occurred and no hearing is requested within thirty (30) days, the Ethics Board may issue an appropriate order under this Article based on the results of its investigation. Unless the Ethics Board dismisses the complaint without holding a hearing the order and investigation summary, except for the identity of the complainant and the witnesses, shall be public information.*

Section 2-607 Enforcement

- A. *To enforce compliance with the provisions of this Article the Commission may:*
1. *Assess a late fee of \$2.00 per day up to a maximum of \$250.00 for a failure to timely file a financial disclosure statement required under this Article.*
 2. *Access a late fee of \$10.00 per day up to a maximum of \$250.00 for failure to file a timely lobbyist registration or lobbyist report required under this Article.*
 3. *Issue a cease and desist order against any person found to be in violation of this Article.*
- B. *Upon finding a violation of any provision of this Article, the Commission may:*
1. *Issue an order of compliance directing the respondent to cease and desist from the violation.*
 2. *Issue a reprimand.*
 3. *Recommend to the appropriate authority other appropriate discipline of the violator, including censure or removal if such is authorized by law, termination, suspension or other personnel action, including suspension of salary or other compensation.*

C. Upon the request of the Commission, the Town may file a petition for injunctive or other relief in any court having proper venue for the purpose of requiring compliance with the provisions of this Article.

D. A finding of a violation of this Article by the Commission shall be considered public information under the terms of the applicable State statute.

Section. 2-608. Appeals and reconsideration.

A final decision of the Commission on a complaint or request for a waiver may be appealed to the circuit court under the applicable Maryland Rules of Procedure governing administrative appeals. An appeal does not stay the effect of the Commission's decision unless the court hearing the appeal orders a stay.

SECTION 3.

Chapter 2 titled Administration and Government of the Code of Ordinances of the Town of Rising Sun contains Article 7, titled Historic Commission, which shall remain unchanged but will be renumbered Article 8.

SECTION 4.

A new Article 7 will be added to Chapter 2 titled Administration and Government of the Code of Ordinances of the Town of Rising Sun. This new Article will be titled Campaign Contributions and Expenditures and will read as follows:

ARTICLE 7. CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

Section. 2-701. Reporting of contributions and expenditures – Candidates.

Every candidate for election to any elective office provided for in the Town Charter shall file with the Town Ethics Board written reports in accordance with this Article of all cash and in-kind contributions received, or by any other person acting on the candidate's behalf and known to the candidate, for use in connection with the candidate's campaign for election, and any expenditures made, or known to have been made by any person other than the candidate on the candidate's behalf, in connection with such election. If actual costs for an expenditure is not available when a report is due, this must be documented on the report and an estimate must be

provided. An in-kind contribution shall be considered anything of value, other than a gift of money, donated to any candidate or representative, or a representative of any political committee, to promote or assist any candidate or political committee.

Section. 2-702. Time and manner of reporting—Candidates.

- A. The first report of a candidate in an election shall be filed with the Town Ethics Commission on the same day the candidate files intent to run for elected office and every thirty days thereafter, leading up to the last day to file for elected office.*
- B. The next or second report of such a candidate shall be filed with the Town Ethics Board on the last day to file for elected office, unless the candidate filed their intent within the preceding (7) seven days , in which case their next reporting period will be as listed in C below.*
- C. The next or third report of such a candidate shall be filed with the Town Ethics Board seven (7) days before the election.*
- D. The next or fourth report of such a candidate shall be filed with the Town Ethics Board the day of the election.*
- E. The next report of every candidate, whether elected or not, shall be filed on the last day of the month following the month in which the election was conducted.*
- F. Thereafter, every candidate shall annually file by December 31 a report of any contributions received or expenditures made by the candidate or any other person on the candidate's behalf from the day of filing of the last prior report and any balance remaining in the account. No report shall be required after all receipts and disbursements have been entirely accounted for and no balance shall remain in the account.*
- G. The first report filed by any candidate shall include any balance remaining at the expiration of the last reporting period from any prior election and any contributions received and any expenditures made since the date of this last prior report, through the day immediately preceding the date of the filing of such first report. Each subsequent report by any candidate shall include all contributions received and expenditures made from the day of the filing of the last prior report through the day preceding the filing of the subsequent report.*
- H. The Town Ethics Board may extend the filing deadline of any report required by this section due to exigent circumstances.*
- I. Every such report shall be available for inspection by any person at the Town offices during regular business hours.*
- J. If the last day of the month on which any report is due shall fall on a Saturday, Sunday or a legal holiday, then such report shall be required to be filed on the next following day when Town offices are open for regular business.*
- K. Any candidate who shall fail to timely file a report required by this section shall be subject to a fine of one hundred dollars (\$100.00).*

Section. 2-703. Reporting of contributions and expenditures—Political committees.

Any political committee making independent expenditures in excess of one hundred dollars (\$100.00) of monetary or in-kind contributions, to assist in the promotion of the success or defeat of any candidate or slate of candidates for Town elective office shall file with the Town Ethics Board reports in accordance with this Article of all monetary and in-kind contributions received and expenditures made. If actual costs for an expenditure is not available when a report is due, this must be documented on the report and an estimate must be provided. An in-kind contribution shall be considered anything of value, other than a gift of money, donated to any candidate or representative, or a representative of any political committee, to promote or assist any candidate or political committee. Expenditures by a political committee may not be coordinated with any candidate or group of candidates.

Section. 2-704. Time and manner of reporting—Political committees.

- A. A political committee shall file a report within three (3) days of collecting or expending the first one hundred dollars (\$100.00) or more to assist in the promotion of the success or defeat of any candidate or slate of candidates for Town elective office and every thirty (30) days thereafter, except as follows.
- B. A political committee shall file a report with the Town Ethics Board twenty-nine (29) days before the election.
- C. A political committee shall file a report with the Town Ethics Board fifteen (15) days before the election.
- D. A political committee shall file a report with the Town Ethics Board eight (8) days before the election.
- E. The next report of such political committee shall be filed on the last day of the month following the month in which the election was conducted.
- F. Thereafter, every such political committee shall file monthly, a report of any contributions received or expenditures made to assist in the promotion of the success or defeat of any candidate or slate of candidates for Town elective office. No report shall be required after all receipts and disbursements have been entirely accounted for and no balance shall remain in the account.
- G. The first report filed by any such political committee shall include any balance remaining at the expiration of the last reporting period from any prior election and any contributions received and any expenditures made to assist in the promotion of the success or defeat of any candidate or slate of candidates for Town elective office since the date of this last prior report, through the day immediately preceding the date of the filing of such first report. Each subsequent report by any political committee shall include all contributions received and expenditures made from the day of the filing of the last prior report through the day preceding the filing of the subsequent report.
- H. Every such report shall be available for inspection by any person at the Town offices during regular business hours.

- I. *If the last day of the month on which any report is due shall fall on a Saturday, Sunday or a legal holiday, then such report shall be required to be filed on the next following day when Town offices are open for regular business.*

Section. 2-705. Failure to file report - Candidate.

- A. *Any candidate who shall fail to file the first report required by this Article on or before the last day to file for elected office or who shall fail to file any report required by this article within two (2) business days of its due date shall not be eligible for election and his or her name shall not appear on the ballot for such election.*
- B. *Any candidate elected to the office to which he or she seeks, who shall fail to file any report required by this Article to be filed before an election or fails to pay any fine imposed under this Article shall not be administered the oath of office and permitted to serve until such report has been filed and the fine has been satisfied.*

Section. 2-706. Custody of reports.

All reports required by this Article shall be retained by the Town and maintained by the Town Ethics Board in a separate filing system as provided by the Town for not less than seven (7) years after the election to which they pertain.

Section. 2-707. Restrictions on campaign contributions.

- A. *No candidate may accept, in connection with any election, a monetary or in-kind contribution in excess of one hundred dollars (\$100.00), or a combination thereof, from any one person.*
- B. *No person may contribute or promise to contribute in the aggregate, more than one hundred dollars (\$100.00) in monetary, or in-kind contributions, valued at more than one hundred dollars (\$100.00), to any one candidate in connection with any one election.*
- C. *No person may contribute or promise to contribute in the aggregate, more than one hundred dollars (\$100.00) in monetary, or in-kind contributions, or combination thereof, valued at more than one hundred dollars (\$100.00) per candidate, to any one political committee.*
- D. *No candidate shall accept any contribution in excess of twenty-five dollars (\$25.00) in cash unless it be by check, money order or other written or electronic instruments.*
- E. *No candidate or political committee shall accept any anonymous contributions. Any anonymous contribution received by a candidate or a political committee shall be promptly paid over to the Town to be used for any lawful purpose.*
- F. *The contributions of a candidate or the candidate's spouse to the candidate's own campaign are not subject to the limitations of this section, but monetary contributions must pass through the candidate's campaign account and be reported as required in other provisions of this Chapter.*

- G. Any campaign contributions received by a candidate or political committee must be deposited in a separate account with a financial institution. Campaign contributions must not be commingled with any other funds.

Section. 2-708. Loans to candidates.

- A. A loan to a candidate is considered a contribution in the amount of the outstanding principal balance of the loan unless:
1. The loan is from a financial institution or other entity in the business of making loans; or
 2. The loan is to a candidate and:
 - a. Repayment of the loan is personally guaranteed by the candidate; and
 - b. Repayment of the loan is required within one year from the date of the loan.
- B. A loan by a candidate or the candidate's spouse to a candidate is exempt from the requirements of paragraph (a) of this section.
- C. The total amount of all loans to a candidate for one election cycle shall not exceed thousand dollars (1000.00).

Section. 2-709. Prohibition on use of campaign contributions.

No candidate or political committee may pay a fine issued for violations of this Article with campaign contributions.

Section. 2-710. Definition of election.

For the purposes of this Article, a run-off election, if required, shall not be deemed as an election separate and apart from the general election which it follows.

Section. 2-711. Requirements concerning advertising.

Any broadcasting, publication or printing, including sample ballots, paid for by a candidate must purport on its face to be a paid political advertisement, and the candidate or candidates who paid therefore shall be identified in the broadcast, publication or printing.

Section. 2-712. Restrictions.

No person other than a candidate, treasurer or other agent of such candidate, or political committee, shall make an expenditure to aid or promote the success or defeat of a candidate. No person may avoid the limitations on permitted campaign contributions by making an expenditure to aid or promote the success or defeat of a candidate. However, any individual may pay for the cost of publishing his or her own personal views as to a candidate. A person shall be identified if campaign materials are prepared or authorized by a candidate, treasurer of the candidate, political committee or done in coordination with a candidate, a candidate's treasurer or political committee.

Section. 2-713. Contributors.

Any corporation, business, other legal entity or a natural person shall have the right to make any contribution to or expenditure on behalf of a candidate, and any candidate may accept a contribution from the above named sources in accordance with the provisions of the Town Code.

Section. 2-714. Disposition of surplus funds.

After an election, a candidate or political committee may retain surplus funds or surplus funds may be disposed of as follows:

- 1. Returned, pro rata, to the contributors by the treasurer; or*
- 2. Paid to a charitable organization registered pursuant to Article 41, Section 103B, of the Annotated Code of Maryland, as amended, or to a charitable organization exempt from such registration pursuant to Article 41, Section 103 of the Annotated Code of Maryland, as amended; or*
- 3. Paid to a local board of education or to a recognized nonprofit organization providing services or funds for the benefit of pupils or teachers; or*
- 4. Paid to any public or private institution of higher education in the state for scholarship or loan purposes.*

Section. 2-715. Violations; injunctive relief.

- A. Any person who willfully violates any other provision of this Article shall be guilty of a municipal infraction and upon conviction may be fined in an amount not to exceed one thousand dollars (\$1,000.00). Any officer or employee of the Town government who is convicted of a misdemeanor under the provisions of this Article shall immediately upon conviction thereof cease to hold such office or employment.*
- B. In addition thereto, the Town may institute injunctive, mandamus or any other appropriate action or proceedings at law or equity for enforcement of this Article or to correct violations of this Article, any court of competent jurisdiction shall have the right to issue restraining order, temporary or permanent injunctions or mandamus or other appropriate form of remedy or relief.*

>> END OF PROPOSED CODE LANGUAGE CHANGES <<

SECTION 5.

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

SECTION 6.

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. 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 unconstitutional.

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.

NOW THEREFORE BE IT FURTHER RESOLVED that this ordinance was introduced on this 11th day of September, 2012, and was accepted for submittal to state for review and approval.

SECTION 9.

NOW THEREFORE BE IT FURTHER RESOLVED that this ordinance was re-introduced on this 13th day of November, 2012.

SECTION 10.

NOW THEREFORE BE IT FURTHER RESOLVED that upon approval of the State of Maryland Ethics Commission, that the Mayor and Commissioners of the Town of Rising Sun passed, approved and adopted this ordinance on this 27th day of November, 2012

AYES: Commissioner Osborne, Commissioner Marion, Commissioner Naughton

NAYS: _____.

ABSTAINED: _____.

ATTEST:

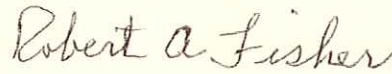
ON BEHALF OF
THE MAYOR AND COMMISSIONERS
OF THE TOWN OF RISING SUN

BY:



Rhonda Harmison
Town Clerk

BY:



Mayor/Vice-Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

THIS 27TH DAY OF NOVEMBER, 2012

BY:



Jack A. Gullo, Jr., - Town Attorney