

ORDINANCE NO. 2023-05

Town of Rising Sun
Cecil County, Maryland

AN ORDINANCE OF THE TOWN OF RISING SUN, ("TOWN") CECIL COUNTY, MARYLAND, AMENDING THE GENERAL LAWS OF THE TOWN OF RISING SUN BY AMENDING AND ADDING LANGUAGE TO CHAPTER 11 TITLED RISING SUN SUBDIVISION REGULATIONS, FOR THE PURPOSES OF OUTLINING THE SEQUENCE OF PLAN SUBMITTALS FOR THE REVIEW AND APPROVAL OF ANY DEVELOPMENT PLANS, 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 the provisions of the Maryland Constitution and governed under the provisions of the Local Government Article of the Annotated Code of Maryland; and

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

WHEREAS in June of 2019, the Town of Rising Sun adopted a document titled TOWN OF RISING SUN COMPREHENSIVE PLAN ("Comprehensive Plan"), with the general purpose of guiding and accomplishing the coordinated, adjusted, and harmonious development of the Town, and to promote best practices for health, safety, morals, order, convenience, prosperity, and general welfare, and shall serve as a guide to public and private actions and decisions to ensure the development of public and private property in appropriate relationships; and

WHEREAS part of this process is to ensure that proposed subdivisions and development of land is consistent with the intent of the Comprehensive Plan and requires the enactment of Subdivision Regulations to ensure that the objectives and goals of the Comprehensive plan are met; and

WHEREAS as provided for in the LAND USE Article of the Annotated Code of Maryland, Division 1 titled SINGLE-JURISDICTION PLANNING AND ZONING [Titles 1-13], Title 5 titled SUBDIVISION, Subtitle 1 titled POWERS, §5-102 titled SUBDIVISION REGULATIONS establishes that Subdivision regulations shall be for the health, safety, welfare and common interest of the citizens of the local jurisdiction and shall contain among other things, provision for the purpose of properly managing growth and development; and

WHEREAS, the Code of Ordinances of the Town, contains Chapters 11, titled RISING SUN SUBDIVISION REGULATIONS with the stated purposes of regulating and controlling the division of land within the Town of Rising Sun in order to promote the public health, safety, morals, and general welfare of the Town; and

WHEREAS the Mayor and Commissioners having monitored, supported, and fostered the Town of Rising Sun Planning Commission's efforts to update and amend the Comprehensive Plan, have reviewed their recommendations for the below stated changes; and

WHEREAS, this requested subdivision regulation change was put before the Town of Rising Sun's Planning Commission on May 18, 2023, as required and comments on this proposed rezoning were provided to the Mayor and Commissioner for their review and consideration of this ordinance; and

WHEREAS the Mayor and Commissioners gave public notice as required by law and held a public hearing on May 30, 2023, to receive public input and comment.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the authority of the Mayor and Commissioners of the Town of Rising Sun, Cecil County, Maryland, that Chapter 11 of the Codified Ordinance of the Town of Rising Sun, titled RISING SUN SUBDIVISION REGULATIONS shall be modified as follows:

SECTION 1

The Code of Ordinances for the Town of Rising Sun contains Chapter 11 titled Rising Sun Subdivision Regulations, Article 4 titled Procedure, §11-400 titled Introduction, §11-401 titled Purpose and §11-402 through §11-413

Amendment 1

Article 4 titled Procedure and §11-400, shall be deleted in their entirety and replaced to read as follows:

Article 4. PLAN SUBMITTAL STAGES AND SEQUENCE

Section 11-400. Introduction

The procedure hereinafter specified provide not only for the conditional approval of a concept, preliminary plat and approval of a final plat for both Minor and Major Subdivisions, but it also provides for opportunities for the developer to appear before the planning commission as part of an Administrative Technical Review (ATR) phase and a Sketch Plan Review (SPR) phase, both at the discretion of the applicant. Although the ATR and SPR phases are optional to the applicant and are not a prerequisite to the approval of the final plat. These optional phases are strongly recommended because it provides the developer with an opportunity to secure guidance on how to best approach their land development project, resolve problems early in the proceedings and to make necessary modifications and revisions prior to incurring the expense of preparing a concept, preliminary and final plat. The code also provides for developers with smaller less detailed projects, with limited density and intensity of use to submit their projects for review and approval as part of an internal Administrative Review Process and as defined in Article 2 of this document.

Amendment 2

A new §11-401, shall be inserted to read as follows:

Section 11-401 Formal Project Review and Escrow Fees.

Prior to any formal review of any subdivision or land development projects, the applicant shall submit the required applications and fees related to a formal review of any drawings, plans or documents. The applicant shall also be required to submit escrow fees in the form of an escrow fee agreement to cover the cost of any legal, engineering, or other consultant fees. The drawdown of escrow fees shall include any fees incurred by the Town (legal, engineering and consultants) prior to the submittal of any formal applications. The applicant will be provided with an itemized list of these fees as they occur.

Amendment 3

A new §11-402, titled shall be inserted to read as follows :

Section 11-402 Submittal Stages and Sequence.

PART 1 Administrative Subdivision Review and Single lot development. As defined in Article 2, the following development projects can be submitted as part of an internal Administrative Review Process that will also require compliance with all applicable Town Zoning code, Stormwater Management Codes and other applicable land development processes and regulations.

1. Lot Consolidation – (as defined)
2. Lot Line Adjustment – (as defined)
3. Subdivision and development of one single family residence and accessory buildings.
4. The development of land or construction directed toward the occupancy of such land, or the occupancy of any building, building structure, or structures thereon, or on any parcel thereof by no more than one business, professional, personal service, or industrial establishments, or construction undertaken for any buildings (other than a single-family dwelling) with less than 10,000 or more square feet of total gross floor area, that does not significantly change the use type, intensity of use or density of development and or is located on undeveloped and not previously approved subdivision parcels where no new streets or other public improvements are involved. This shall include developments and subdivisions whose previous approvals were declared null and void under the Town's land development sunset provisions.
5. Projects involving the provision of stormwater management or construction of roads, driveways and road access; dumping, extraction, dredging, grading, paving, storage of materials or equipment, green energy projects, land excavation, land clearing, land improvement, landfill operation, or any combination thereof as described under development below, that are limited to no more than 20,000 square feet of developed or improved area.

PART 2 : Minor and Major Subdivisions. The development of Minor and Major Subdivision as defined in Article 2 in the Town of Rising Sun shall be submitted for review, comment and approval, to include all required information as set forth in Appendix A of this code in the following stages:

Stage A - Administrative Technical Review – At the pleasure of the developer

Stage B - Tentative Sketch Plan – At the pleasure of the developer.

Stage C - Concept Plan – Required

Stage D - Preliminary Plan – Required

Stage E - Final Plan - Required

Amendment 4

The current §11-401 titled *Purpose*, shall remain intact, to include the text above “Part A TENTATIVE SKETCH PLAN” but the section shall be renumbered §11-403. The remaining §11-402 through §11-413, shall be renumbered accordingly.

Amendment 5

A new §11-416 shall be inserted to read as follows:

Section 11-416 Land Development Approvals, Sunset Provisions and Extensions of Time.

Land Development approvals are tied to commitments of resources and allocations on the part of the town that can prove to be problematic for the Town and inhibit the Town’s economic growth due to the commitment allocation of town resources to an inactive development project. Therefore, all development recommendations and approvals shall have an expiration date known as a Sunset Provision as follows:

- 1. Duration of Land Development Phase Approvals. Any approvals or recommendation secured from the Town at any phase of the Land Development and Subdivision review and approval process as detailed in section 400 above, shall become null and void if the applicant does not submit a complete and approved application to the Planning Commission within 6 months of the last phased approval, unless an extension of time for “just cause” is granted by the Planning Commission.*
- 2. Administrative Review and Final Subdivision Approvals. Final Approvals secured as part of the Administrative Review, Minor or Major Subdivision process shall become null and void if a final plan/plat is not submitted for proper signatures and recorded among the local land records of Cecil County, unless an extension of time for “just cause” is granted by the Planning Commission.*
- 3. Failure to commence or complete construction. Final Approvals secured as part of the Administrative Review, Minor or Major Subdivision process shall become null and void if these projects are not commenced and completed as follows:*
 - a. Administrative Review and Minor Subdivisions. Within 2 years of final land development plan approval, all roads, stormwater, and public utilities must be installed, operational, approved and dedicated; and all dwelling units and buildings proposed to be completed and approved for occupancy.*
 - b. Major Subdivisions. Within 2 years of final land development plan approval, all roads, stormwater, and public utilities must be installed, operational, approved and dedicated; and 25% of all dwelling units, buildings, and tenant spaces complete and approved for occupancy.*
 - c. Land Development Phased Projects. Land Development and Subdivisions approved by the Town as a phased development shall have all roads, stormwater and public utilities installed, operational, and approved, and 25% of the dwelling units and buildings of that phase complete and approved for occupancy, within 2 years of the start of each phase.*

- d. Final Project Completion and Dedication. Within 5 years of final land development plan approval, all roads, stormwater and public utilities must be installed, operational, approved and dedicated; and all dwelling units and buildings proposed to be completed and approved for occupancy.
4. Developers Rights and Responsibilities Agreement and Extensions of Time. The above sunset provisions may be modified by a Developers Rights and Responsibilities agreement between the Town and Developer. The Mayor and Commissioners may also grant a reasonable extension of time, if the developer presents satisfactory evidence that difficulties have prevented the work from being initiated and/or diligently pursued and the request for an extension is submitted, in writing, prior to the date of expiration of the approval. The Mayor and Commissioners are permitted to apply reasonable conditions on any extension of time. The Town Administrator shall give written notice to the developer within 30 days of the date of expiration of the final approvals (Sunset Provision). Any construction which occurs after notices from the Town Administrator shall constitute a violation of this chapter and shall be subject to the enforcement remedies of this code.

SECTION 2.

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

SECTION 3.

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 4.

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 8 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this ordinance.

SECTION 5.

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

SECTION 6.

BE IT FURTHER ENACTED that this Ordinance shall become effective twenty (20) days after its adoption.

SECTION 7.

NOW THEREFORE BE IT RESOLVED that this ordinance was introduced on this 9th Day of May 2023.

SECTION 8.

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 30th day of May 2023.

AYES: (3) Commissioner Kleiner, Commissioner Braun and Commissioner Pierson

NAYES: (0)

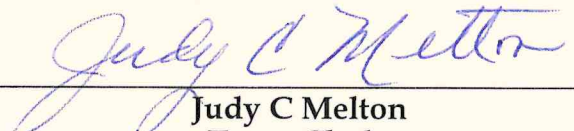
ABSTAIN: (0)

PASSED


THE MAYOR AND COMMISSIONERS OF
THE TOWN OF RISING SUN

BY: 
Travis Marion, Mayor

ATTEST:


Judy C Melton
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
THIS 19th DAY OF MAY 2023

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

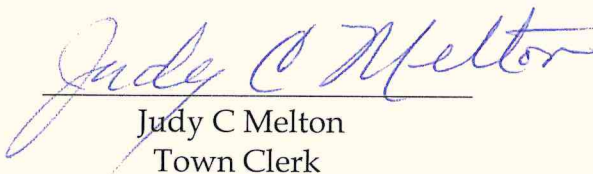
STATE OF MARYLAND)
COUNTY OF CECIL)
TOWN OF RISING SUN)

SS:

CERTIFICATE

I, Judy C Melton, Town Clerk for the Town of Rising Sun, Maryland, do hereby certify that the above and foregoing Ordinance is a true, perfect and complete copy of the Resolution adopted by the Mayor and Commissioners of the Town of Rising Sun, Maryland, and is identical to the original thereof appearing in the official records of the Town of Rising Sun, Maryland and the same has not, since its adoption, been rescinded or amended in any respect.

IN TESTIMONY WHEREOF, I have hereunto set my hand and have affixed the seal of the Town of Rising Sun as of this 31st day of May 2023.


Judy C Melton
Town Clerk