

ORDINANCE NO. 2025-01

Town of Rising Sun
Cecil County, Maryland

AN ORDINANCE OF THE TOWN OF RISING SUN ("TOWN"), CECIL COUNTY, MARYLAND, ADDING LANGUAGE TO THE TOWN'S ZONING CODE TO ADDRESS RECOMMENDED CHANGES AND UPDATES TO ARTICLE 1, TITLED PURPOSE AND AUTHORITY; ARTICLE 4, TITLED NON-CONFORMING LOTS, NON-CONFORMING USES OF LAND, NON-CONFORMING STRUCTURES, AND NON-CONFORMING USES OF STRUCTURES AND PREMISES; AND ARTICLE 23, TITLED DEFINITIONS; AND REPEALING ANY AND ALL OTHER ORDINANCES OR PARTS OF 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 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 4 titled ZONING, Subtitle 1 titled POWERS, §4-101 titled STATEMENT OF POLICY establishes as a statement of policy that that the orderly development and use of land and structures requires comprehensive regulation through the implementation of planning and zoning controls and that those controls shall be implemented by local government; and

WHEREAS in addition to the above, §4-202 titled ZONING REGULATIONS - ADOPTION; PURPOSES, provides the Mayor and Commissioners with the authority to adopt zoning regulations in accordance with the Town's Comprehensive Plan and with reasonable considerations for, among other things, the character of the district or zone and its suitability for particular uses and with a view to conserving the value of property and encouraging orderly development and the most appropriate use of land; and

WHEREAS the Code of Ordinances of the Town, contains Chapters 12, titled TOWN OF RISING SUN ZONING ORDINANCE which establishes the intent and authority of the zoning ordinance to promote the orderly development of the Town of Rising Sun, Maryland, in accordance with the Rising Sun Comprehensive Plan; and

WHEREAS the Town of Rising Sun has been actively engaged in a meticulous process to modernize and refine its zoning code, a key component of the town's Code of Ordinances. This initiative is rooted in the town's commitment to fostering structured and harmonious development, as outlined in the chapters dedicated to the Town of Rising Sun Zoning Code. These chapters not only establish the foundational intent and authority behind the zoning regulations but also align closely with the strategic vision set forth in the Rising Sun Comprehensive Plan; and

WHEREAS in pursuit of this goal, the town has embarked on a phased approach to enhance its code. This effort aims to address and rectify inconsistencies in the language used, provide clearer explanations of the Zoning Code's objectives, and introduce updated provisions that

better accommodate the evolving landscape of land development processes. Such revisions are crucial for ensuring that the zoning code remains relevant and effective in guiding the town's growth in a manner that is both orderly and beneficial to the community; and

WHEREAS central to this endeavor is the diligent work undertaken by the Planning Commission, that has been instrumental in proposing amendments to the zoning code, a task that includes the creation of new zoning districts and the comprehensive update of definitions and tables. These proposed changes are reflective of the commission's recommendations and are designed to incorporate contemporary planning practices and principles into the town's zoning framework and are modeled after the Town's Comprehensive Plan; and

WHEREAS through these concerted efforts, the Town of Rising Sun is not only reaffirming its dedication to strategic, well-organized development but also reinforcing its commitment to adapting its regulatory environment to meet the current and future needs of its residents and stakeholders. This ongoing process of updating the zoning code, guided by the insights and expertise of the Planning Commission, underscores the town's proactive stance in shaping a vibrant and sustainable future for all who call it home; and

WHEREAS it has been recognized that Article 1, titled "Authority," Article 4, titled Non-conforming Lots, Non-conforming Uses of Land, Non-conforming Structures and Non-conforming Uses of Structures and Premises and Article 23, titled Definitions, which all require revisions to eliminate ambiguities and enhance clarity regarding the scope, intent, and authority of the Zoning Code; and these modifications are essential to ensure the Code is clearly structured, its purpose easily identifiable, and its provisions readily accessible; and

WHEREAS the Mayor and Commissioners instructed the staff to incorporate these recommendations as part of a change to the Town's Zoning Code and has submitted the proposed ordinance to the Planning Commission for their review and consideration and a meeting of the Planning Commission was held to discuss these changes on January 13th, 2025; and

WHEREAS the comments of the Rising Sun Planning Commission on these changes were given to the Mayor and Commissioners and incorporated into this final document for their review and consideration; and

WHEREAS the Mayor and Commissioners gave public notice as required by law and held a public hearing on February 27th, 2025, 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 12 of the Codified Ordinance of the Town of Rising Sun, titled TOWN OF RISING SUN ZONING ORDINANCE shall be modified as follows:

SECTION 1

This ordinance contains an attached document 1 titled Article 1 – Purpose and Authority, which depicts both the existing code language and proposed new code language with new text language highlighted in red with underline. Words or text that have been deleted are indicated with a strikethrough line.

SECTION 2

This ordinance contains an attached document 2 titled Article 4 – Non-conforming Lots, Non-conforming Uses of Land, Non-conforming Structures and Non-conforming Uses of Structures and Premises, which depicts both the existing code language and proposed new code language with new text language highlighted in red with underline. Words or text that have been deleted are indicated with a strikethrough line.

SECTION 3

The current Zoning Code contains Article 23 titled Definitions. The current zoning code positions its definitions within Article 23, situated towards the document's end, marking a departure from the organizational structure observed in other Town Codes. Notably, the Town's Subdivision and Land Development Codes, Stormwater Management Code, Building Codes, and Property Maintenance and Minimum Housing Codes adopt a more intuitive arrangement by placing definitions immediately after the initial articles or chapters that outline legislative authority, process, scope, purpose, and intent. Additionally, some definitions in the current Zoning Code are scattered throughout the document, making them difficult to locate and potentially easy to overlook. This reorganization will consolidate all definitions into a single section, aligning the structure of the Zoning Code with other Town Codes to ensure consistency, enhance clarity, and improve accessibility across the regulatory framework.

Amendment 1

The definitions contained in Article 23 shall be relocated to a revised Article 2 that will be renamed and titled Definitions. The remaining articles will be renumbered accordingly.

Amendment 2

The newly inserted Article 2 titled Definitions will also have the following subsections that will be worded to read as follows:

Section 12-200. Scope

Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

Section 12-201. Interchangeability

Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

Section 12-202. Terms defined in other codes.

Where terms are not defined in this code but are defined in the Town's Zoning Code or any other Town Code; such terms shall have the meanings ascribed to them as in those codes and references.

Section 12-203. Terms in Conflict.

Where there is a conflict between terms, the terms in this code shall prevail.

Section 12-204. Terms not defined.

Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

Section 12-205. General Definitions.

Amendment 3

All definitions currently contained within this code, including those scattered throughout various sections, shall be consolidated and relocated to Article 2, specifically Section 12-205. Where necessary, corresponding language will be added or modified in this code to direct readers to Article 2 for definitions. This relocation and cross-referencing are intended to ensure consistency and ease of use in accessing definitions

SECTION 4.

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

SECTION 5.

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 6.

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 7.

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 8.

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

SECTION 9.

NOW THEREFORE BE IT RESOLVED that this ordinance was introduced on this 14th. Day of January 2025.

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 27th day of February 2025.

AYES:

NAYES:

ABSTAIN:

**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 16th DAY OF JANUARY 2025**

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

Article 1. Purpose and Authority

Section 12-100. Short Title

This Ordinance shall be known, cited, and referred to as the Town of Rising Sun Zoning Code.

Section 12-101. Legislative Authority

This Code is enacted under the authority granted by the General Assembly of Maryland, as provided in The Land Use Article ~~66B~~ of the, Annotated Code of Maryland, and as amended from time to time.

Section 12-102. Intent/Authority

1. Intended for Orderly Development. This Code is intended to promote the orderly development of the Town of Rising Sun, Maryland, in accordance with the Rising Sun Comprehensive Plan or any of the component parts thereof and in compliance with Land Use Article ~~66B~~ of the Annotated Code of Maryland, as amended. It is also the intent of this Code that the extent of its applicability shall be automatically changed in accordance with the provisions hereof or with any provision of State Law which may hereinafter affect the applicability of this Code.
2. Implementation of Town Comprehensive Plan. The purpose of this Zoning Code is to implement the Comprehensive Plan for the Town of Rising Sun, Maryland in order to promote the health, safety, order, convenience and general welfare of the citizens of the Town in accordance with present and future needs as expressed in the Comprehensive Land Use Plan. It is the further purpose of this Zoning Code to provide for economic and efficient land development, encourage the most appropriate use of land, provide convenient and safe movement of people and goods, control the distribution and density of population to areas where necessary public service can be provided, protect historic and environmental areas, encourage good civic design, and provide for adequate public utilities, facilities, and services.
3. Maryland Growth Management, Resource Protection and Economic Development Act. It is also the objective of this Code to implement the "Visions" contained in the Maryland Growth Management, Resource Protection and Economic Development Act, namely:
 - a. Development is concentrated in suitable areas.
 - b. Sensitive areas are protected.
 - c. In rural areas, growth is directed to existing population centers and resource areas are protected.
 - d. Stewardship of the Chesapeake Bay and the land is a universal ethic.
 - e. Conservation of resources, including a reduction in resource consumption, is practiced.
 - f. To assure the achievement of (a) through (e) above, economic growth is encouraged, and regulatory mechanisms are streamlined.
 - g. Funding mechanisms are in place to achieve all other visions

4. Based upon historical reviews, the Town's original zoning code dates back to 1974 and has been updated from time to time as needed.
5. The Town's Zoning Code was recodified ~~The regulations and provisions contained in this Zoning Code were adopted and~~ **became effective February 10, 2004.** (See Appendix X for list of amendments)

Section 12-103. Jurisdiction

This Code shall be effective throughout the Town of Rising Sun, Maryland's planning jurisdiction. The town's planning jurisdiction comprises all areas within the corporate boundaries of the Town of Rising Sun, Maryland.

Section 12-104. Severability

It is hereby declared to be the intention of the Town Commissioners that the sections, paragraphs, sentences, clauses, and phrases of this Code are severable, and if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Code since the same would have been enacted without the incorporation into this Code of such unconstitutional or invalid section, paragraph, sentence, clause, or phrase.

Section 12-105. Adequate Public Facilities Requirements (Ordinance)

The objective of an Adequate Public Facilities Ordinance (APFO) is to ensure that new development aligns with a community's capacity to provide essential public services and infrastructure. As a critical tool for managing growth, the APFO enables the Town to promote responsible development while maintaining a high quality of life for residents. By serving as a safeguard for sustainable and well-planned growth, the ordinance helps prevent overburdening infrastructure and services. Additionally, APFOs foster collaboration among local governments, developers, and residents by setting clear expectations about the pace, scale, and location of future development. In summary, the APFO acts as a regulatory safeguard to balance development with infrastructure capacity, ensuring that growth occurs in a way that benefits the entire community.

1. Key Objectives of an APFO:

a. Ensure Infrastructure Capacity:

- Align the timing and scale of new development with the availability of public facilities, such as roads, schools, water and sewer systems, parks, and emergency services.
- Prevent development that would overwhelm existing infrastructure or result in service deficiencies.

b. Promote Sustainable Growth:

- Guide development to areas where infrastructure is already in place or planned for expansion.
- Discourage sprawl and encourage development in areas that can support growth.

c. Protect Public Safety and Welfare:

- Ensure that essential services like fire, police, and emergency medical response are adequate to meet the needs of existing and new residents.

d. Encourage Smart Investments in Infrastructure:

- Prioritize infrastructure spending in areas designated for growth, reducing inefficiencies and minimizing the need for costly retrofitting.

e. Support Comprehensive Planning Goals:

- Integrate infrastructure planning with land-use policies outlined in a municipality's comprehensive plan.
- Ensure that development patterns are consistent with long-term planning objectives.

f. Prevent Overburdened Services:

- Avoid scenarios where rapid development results in overcrowded schools, traffic congestion, insufficient water supply, or inadequate sewer capacity.

2. Benefits:

- Promotes balanced and predictable growth.
- Protects the community's quality of life.
- Reduces public costs by avoiding overextension of infrastructure and services.
- Encourages responsible development aligned with community needs and capacities.

2. Mechanisms.

a. Confirmation of Adequate Facilities.

- a.1 The applicant shall submit with any subdivision concept plan, preliminary plan or major development plan, sufficient information and data to demonstrate the expected impact on and use of the public facilities by the residents or occupants of the proposed subdivision or major development.
- a.2 No preliminary plan for a subdivision or other major development shall be approved unless the Town first determines that adequate facilities are available to support and service the proposed subdivision or major development. The applicant will be responsible for any cost associated with determining the status of adequate facilities.

- ~~1. No concept or plan for a subdivision or other major development shall be approved unless the Planning Commission first determines that adequate facilities are available to support and service the proposed subdivision or major development.~~
- ~~2. The applicant shall submit with any subdivision concept plan or major development plan sufficient information and data to demonstrate the expected impact on and use of the public facilities by the residents or occupants of the proposed subdivision or major development.~~

b. Inadequate Facilities: If existing facilities are determined to be inadequate:

- b.1 Development can be delayed until infrastructure improvements are made.
- b.2 Mitigation measures (e.g., developer-funded upgrades) may be required to address deficiencies.

(insert APFO draft ordinance)

Section 12-106. No Use or Sale of Land or Buildings Except in Conformity With Ordinance Provisions

1. Change or Use and Occupancy Permits. No person may use, occupy, or sell any non-single family dwelling, land or buildings or authorize or permit the change of use, change of tenant, change of occupancy, or sale of any such land or buildings under his-their control except in accordance with all of the applicable provisions of this-any Town Code. A certificate of occupancy must be obtained prior to any such use, tenant change, occupancy or sale. Such a certificate shall only be issued after compliance with all required inspections, applicable codes and regulations.
2. For the purposes of this section, the "use" or "occupancy" of a building or lands relates to anything and everything that is done to, on, or in that building or land.

Section 12-107. Violations and Penalties

Violation of this Code shall be punishable as provided in Article 20.

~~Section 12-108. Relationship to Existing Zoning, Subdivision, and Flood Control Ordinances~~

~~To the extent that the provisions of this Code are the same in substance as the previously adopted provisions that they replace in the Town's Zoning Code or Subdivision Regulations, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, nonconforming situation under the previously adopted Zoning Code does not achieve lawful, nonconforming status under this Code merely by the repeal of the Zoning Code.~~

Section 12-~~109~~108. Fees

Fees established in accordance with Town of Rising Sun procedures shall be paid upon submission of a signed application or notice of appeal, unless otherwise determined by the Planning Commission. Additional reasonable fees may be charged by the Town to cover Town expenses related to the review of development plans, i.e., site plans and subdivision plats, and related improvement plans. These fees may include the consulting services of an independent engineer, architect and/or landscape architect to assist the Town in the review of development and improvement plans.

Section 12-~~110~~109. Official Zoning Map

1. The incorporated areas of the Town are hereby divided into zones, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Code.
2. The Official Zoning Map shall be identified by the signatures of the Town Commissioners attested by the Town Clerk, and bearing the seal of the Town under the following words: "This is to certify that this is the Official Zoning Map referred to in Article 1 of the Zoning Code of the Town of Rising Sun, Maryland", together with the date of the adoption of this Code.
3. When changes are approved by the Town Commissioners in Zone Boundaries and other matters, entry will be made promptly on the Official Zoning Map as follows: on (date), by official action of the Town Commissioners, the following (change or changes) were made in the Official Zoning: (brief description of nature of change)", which entry shall be signed by the Town Commissioners and attested by the Town Clerk. The amending Code shall provide that such changes or amendments shall not become effective until they have been duly entered upon the Official Zoning Map. No amendment to this Code which involves matters portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.

4. No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Code. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Code and punishable as provided under Article 16 of this Code.
5. Regardless of the existence of purported copies of the Official Zoning Map which may for time to time be made or published, the Official Zoning Map which shall be located in the office of the Town Clerk, shall be the final authority as the current zoning status of land and water areas, buildings, and other structures in the Town.

Section 12-44110. Replacement of Official Zoning Map

1. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature of changes and additions, the Town Commissioners may by resolution adopt a new Official Zoning Map which shall supersede the prior Zoning Map.
2. In the case of annexations, the property owner, applicant or developer shall bear the cost of reimbursing the Town for the updating of the zoning map to include the new development. ~~All updates shall use the necessary coordinates provided by the town engineer with the approval of a final plat by the town engineer and the Planning and Zoning Commission.~~
3. ~~In the case of annexations, the developer shall bear the cost of updating the Zoning Map to include the new development. All updates shall use the necessary coordinates provided by the Town Engineer with the approval of a final plat by the Town Engineer and the Planning and Zoning Commission.~~

Article 4. Non-conforming Lots, Non-conforming Uses of Land, Non-conforming Structures and Non-conforming Uses of Structures and Premises

Section 12-400. Intent

1. Legal Non-conforming. Within the zones established by this Codes dated 1974 or amendments that may later be adopted there exist lots, structures and uses of land and structures which were lawful before this Code was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Code or future amendment.
2. Policy on Nonconformities - Discouraging Incompatibility. It is the intent of this Code not to encourage the survival of non-conformities. Such uses are declared by this Code to be incompatible with permitted uses in the zones involved.
3. Restrictions on Expanding Nonconformities. A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land shall not be extended, ~~or enlarged~~ or intensified after passage of this Code or any amendments unless such changes bring the use into full compliance with the current Code.
4. Protection for Lawfully Initiated Construction Projects. To avoid undue hardship, nothing in this Code shall be deemed to require a change in plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Code and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

Section 12-401. Transition to Updated Codes and Amendments

1. Relationship to Existing Zoning, Subdivision & Land Development, Floodplain and Stormwater Management Codes.

In updating the Town's Zoning Code, Subdivision & Land Development Code, or the Floodplain and Stormwater Management Codes, provisions that are substantively identical to those in the prior codes shall be regarded as continuations of the existing regulations, not as new enactments, unless explicitly stated otherwise. Compliance with the Zoning Code includes adherence to related requirements in the Subdivision & Land Development Code, or the Floodplain and Stormwater Management Codes where such requirements directly pertain to zoning compliance. This provision does not extend to enforcing unrelated regulations within the Subdivision & Land Development Code, or the Floodplain and Stormwater Management Codes. An activity, use, development, or disturbance that was not recognized as a lawful,

Document 2 titled: Article 4. Non-conforming Lots, Non-conforming Uses of Land, Non-conforming Structures and Non-conforming Uses of Structures and Premises

nonconforming use or condition under those prior codes does not achieve lawful or legal, nonconforming status simply because the prior code has been repealed or replaced.

2. Illegal Activities in Floodplains and Protected Areas.

Similarly, activities, uses, developments, or disturbances in floodplains or environmentally protected areas that were illegal under those prior Codes remain in violation and subject to all penalties and enforcement actions outlined in those Codes. No such illegal activity, use, development, or disturbance shall become lawful unless it fully complies with all applicable requirements and conditions of the new Zoning Code, Subdivision & Land Development Code, or the Floodplain and Stormwater Management Codes, including restrictions on activities within designated floodplain areas to mitigate risks to public safety and environmental health.

3. Treatment of Legal Nonconforming Uses and Illegal Activities Under Updated Codes.

By contrast, uses and developments that were lawful when established but no longer comply with the new Zoning Code, Subdivision & Land Development Code, or the Floodplain and Stormwater Management Codes may be treated as legal nonconforming uses, subject to the limitations and conditions outlined in those Codes and compliance with any substantial damage or substantial improvement provisions set forth in the Floodplain Management Code. This distinction ensures that:

- a. Illegal activities, uses, developments or disturbances remain violations and are subject to enforcement, ensuring accountability and adherence to Town Zoning Codes and other Town regulations designed to protect public safety, property, and natural resources.
- b. Lawful nonconforming activities, uses, developments or disturbances, including structures or developments within floodplain areas, retain their protected status under any new Zoning Code revisions, provided they adhere to all applicable nonconforming use provisions and do not exacerbate flood risks or environmental harm.

4. Preservation of Regulatory Integrity and Transition to Updated Codes Summary.

The above approach maintains the integrity of Zoning Code, Subdivision & Land Development Code, or the Floodplain and Stormwater Management Codes, and prevents unintended legalization of unlawful uses or disturbances, and ensures a seamless transition to the updated ordinances while safeguarding the Town from unnecessary flood risks and environmental degradation.

Section 12-402. Exceptions for Nonconforming Single-Family Residential Lots
Non-Conforming Lots of Record

In any zone in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Code, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date (1974) of adoption or amendment of this Code. ~~This provision shall apply even though such~~, even if the lot fails to meet the requirements for area, or width, or both, that are generally applicable in the zone, provided that yard dimensions shall conform to the regulations for the zone in which such lot is located. If yard setbacks cannot be met, ~~Any a~~ variance of yard requirements shall be obtained only through action of the Board of Zoning Appeals.

Section 12-402~~403~~. Non-Conforming Uses of Land

Where, at the effective date (1974) of adoption or amendment of this Code, lawful use of land exists that is made no longer permissible under the terms of this Code as enacted or amended, such use may be continued, subject to the elimination of certain non-conformities as detailed in ~~provisions of Section 12-405~~ 406 of this Article, so long as it remains otherwise lawful.

Section 12-403~~404~~. Non-Conforming Structures

1. Where a lawful structure exists at the effective date (1974) of adoption or amendment of this Code that could not be built under the terms of this Code by reasons of restrictions on area, lot coverage, heights, yards, or other characteristics of the structure or its location on the lot, such structure may be continued subject to the elimination of certain non-conformities as detailed in Section 12-405 ~~406~~ of this Article, so long as it remains otherwise lawful.
2. Any dwelling lawfully existing at the effective date (1974) of adoptions or amendment of this Code, not located on a lot having frontage on a road as required herein, may be continued and may be enlarged provided no such addition shall extend closer to the road than the existing building or the set-back line for the district.

Section 12-404~~405~~. Non-Conforming Uses of Structures

If a lawful use of a structure or of a structure and premise in combination, exists at the effective date (1974) of adoption or amendment of the Code, that would not be allowed in the zone under the terms of this Code, the lawful use may be continued subject to paragraph 6 of this section, so long as it remains otherwise lawful subject to the following provisions:

1. Conformance Required - Except as hereinafter specified, no land, building, structure or premises shall hereafter be used, and no building, or part thereof or other structure shall be located, erected, reconstructed, extended, enlarged, converted, or altered, except in conformity with the regulations herein specified for the district in which it is located.

2. Continuing Existing Uses - Except as provided in Section 12-405~~405~~⁴⁰⁶, any lawful use, building, or structure existing at the time of the enactment of this Code (1974) (including seasonal use) may be continued even though such use, building, or structure may not conform with the provisions of this Code for the district in which it is located.
3. Non-Conforming Uses - No existing building or premises devoted to use not permitted by this Code in the district in which such building or premises is located except when required to do so by law or order, shall be enlarged, extended, substituted, or structurally altered unless the use thereof is changed to a use permitted in the district in which such building or premises is located, except as follows:
4. Substitutions:
 - (a) If no structural alternations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or of a more restricted classification.
 - (b) Whenever a non-conforming use has been changed to more restricted use or to a conforming use, such use shall not thereafter be changed back to a less restricted use.
 - (c) When authorized by the Board of Appeals according to the provisions of Article 9 of this Code, a non-conforming use of land may be changed to another non-conforming use or a non-conforming use of a building may be changed to one of less restricted classification.
5. Discontinuance - No building, structure or premises where a non-conforming use has ceased for one (1) year or more shall again be put to a non-conforming use regardless of any reservation of intent not to abandon or to resume actual operation or continued use.
6. Exceptions:
 - (a) A building devoted to a non-conforming use or a dwelling lawfully existing at the time of enactment of this Code may be extended, added to, or accessory use structures erected in accordance with the provisions of this Code; when:
 - (i) Literal interpretation of the provisions of this Code would deprive the owner of rights commonly enjoyed by other properties in the same zone under the terms of this Code.
 - (ii) The granting approval of such a request, would not adversely affect the public health, safety, security, morals, or general welfare, or would result in dangerous traffic conditions, or would jeopardize the lives or property of the people living in the neighborhood.
 - (b) Provisions to address the needs of handicapped persons will be met.

7. Unsafe Buildings - Nothing in this Code shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by a proper authority.

Section 12-405~~406~~406. Elimination of Certain Non-Conformities

1. Within not more than two (2) years from the effective date of this Code or amendment of this Code by which a use becomes non-conforming, the right to maintain the following non-conformities shall terminate and such non-conformities shall no longer be operated:
 - (a) Any junk yards;
2. Within not more than five (5) years from the effective date of this Code or amendment of this Code all non-conforming off-site signs shall be removed.

Section 12-406~~407~~407. Repairs and Maintenance

Nothing in this Code shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared ~~unsafe~~ to be in non-compliance by an official charged with protecting the public safety, or any other applicable town codes, upon order of such official, provided such work does not increase the nonconformity.

Section 12-408. Restoration of Structures Damaged by Fire or Other Causes

1. Applicability.

This section applies to all structures, including those with nonconforming uses, that are damaged or destroyed by fire, flood, explosion, or other catastrophic events.

2. Restoration of Conforming Structures.

Any structure conforming to the current zoning code that is damaged or destroyed may be restored or rebuilt, provided:

- a. The restoration does not increase the degree of noncompliance with applicable regulations (e.g., setbacks, height, or lot coverage).
- b. The structure must meet all applicable building codes and permit requirements for new construction under the Town's building codes.

3. Restoration of Legal Nonconforming Land or Structures.

A legal nonconforming structure or use that is damaged or destroyed may be restored or rebuilt subject to the following conditions:

- a. If the structure is determined to be structurally sound or can be reasonably repaired, based on a certified structural engineer's report, it may remain on the same footprint with the same lot coverage, density, and yard setbacks. However, the structure must comply with current zoning code requirements for height limitations and permitted uses, unless a variance for those nonconformities is obtained from the Board of Zoning Appeals. Additionally, the structure must meet all applicable building codes and permit requirements for new construction under the Town's building codes.
- b. If a structure is determined to be structurally unfit by a certified structural engineer, has burned down to the foundation, or requires the demolition of 50% or more of the building as part of the restoration, the structure may only be rebuilt on the same footprint with the same lot coverage, density, yard setbacks, and height limitations upon obtaining a variance for each of those nonconformities from the Board of Zoning Appeals. Additionally, a certified structural engineer's report must confirm that the existing foundation can be utilized in the restoration of the structure. If the foundation cannot be utilized, then the entire structure must be brought into conformance with the current zoning codes. In either case, the structure must meet all applicable building codes and permit requirements for new construction under the Town's building codes.
- c. The nonconforming use or structure may not continue to pose an existing threat to public health, safety, or welfare.

4. Time Limit for Reconstruction.

Reconstruction of a nonconforming structure must commence within [24 months] of the date of the damage and be diligently pursued to completion. Failure to initiate reconstruction within this timeframe will result in the loss of nonconforming status, and all future developments must comply with current zoning regulations, unless a waiver is granted for a 6-month extension of time. Reconstruction of such structures shall also conform to time limits posed on the issuance of Building Permits.

5. Approval Process.

- a. Any reconstruction of nonconforming structures requires submission of land development plans, building and zoning permits to the Town Building Department for review and approval.
- b. Compliance with all other applicable permits, inspections, and safety standards is required.

6. Exceptions.

In the case of damage to a small degree, nothing in this section shall prevent the repair or restoration of structures declared unsafe by a proper authority, provided such work does not cause land or structure to be in nonconformance or increase the nonconformity of any legally non-conforming structure.

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 _____ day of _____ 2025.

Judy C Melton
Town Clerk