

ORDINANCE NO. 429

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2  
3 AN ORDINANCE OF THE COMMISSIONERS OF THE TOWN OF ST.  
4 MICHAELS AMENDING CHAPTER 22 (ETHICS, CODE OF) OF THE  
5 CODE OF THE TOWN OF ST. MICHAELS TO INCORPORATE  
6 CHANGES TO THE STATE ETHICS LAW ADOPTED BY THE  
7 MARYLAND GENERAL ASSEMBLY DURING THE 2010 LEGISLATIVE  
8 SESSION; TO AMEND TOWN CODE, §22-2 “DEFINITIONS AND  
9 WORD USAGE” TO ADD DEFINITIONS OF WORDS ASSOCIATED  
10 WITH THE NEW PROVISIONS; TO AMEND TOWN CODE, §22-4  
11 “ETHICS COMMISSION” TO REFLECT CHANGES IN STATE LAW;  
12 TO ADD §22-5 “ADVISORY OPINIONS”; TO ADD §22-6 “PROCEDURES  
13 FOR ADJUDICATING ALLEGED VIOLATIONS”; TO (SUBJECT)  
14 ESTABLISH CERTAIN CONFLICT OF INTEREST STANDARDS FOR  
15 TOWN ELECTED OFFICIALS AND TOWN EMPLOYEES  
16 (CANDIDATES FOR ELECTED OFFICE TO CERTAIN CONFLICT OF  
17 INTEREST STANDARDS); TO ESTABLISH CERTAIN FINANCIAL  
18 DISCLOSURE REQUIREMENTS FOR TOWN ELECTED OFFICIALS  
19 AND CANDIDATES FOR ELECTED OFFICE (AND FINANCIAL  
20 DISCLOSURE REQUIREMENTS) THAT ARE EQUIVALENT TO THE  
21 STATE REQUIREMENTS; (TO SUBJECT ALL TOWN EMPLOYEES  
22 AND APPOINTEES TO TOWN BOARDS AND COMMISSIONS TO  
23 CONFLICT OF INTEREST PROVISIONS THAT ARE SIMILAR TO THE  
24 STATE REQUIREMENTS;) TO (SUBJECT) ESTABLISH CERTAIN  
25 FINANCIAL DISCLOSURE REQUIREMENTS FOR TOWN  
26 EMPLOYEES AND APPOINTEES TO TOWN BOARDS AND  
27 COMMISSIONS (TO FINANCIAL DISCLOSURE REQUIREMENTS)  
28 THAT ARE SIMILAR TO THE STATE REQUIREMENTS; (TO  
29 INCORPORATE CHANGES TO THE TOWN LOBBYING PROVISIONS;)  
30 TO AMEND THE ENFORCEMENT PROVISIONS OF TOWN CODE,  
31 CHAPTER 22 TO REFLECT CHANGES IN STATE LAW; AND ALL  
32 MATTERS GENERALLY RELATING TO PUBLIC ETHICS.

33  
34 WHEREAS, Md. Code Ann., State Gov’t, Title 15 requires that local governments,  
35 including municipal corporations, enact and enforce codes of ethics; and

36  
37 WHEREAS, pursuant to this authority the Town of St. Michaels adopted a Public  
38 Ethics Ordinance, which is codified in Town Code, Chapter 22 “Ethics, Code of” (the  
39 “Ordinance”): and

40  
41 WHEREAS, Md. Code Ann., State Gov’t, Title 15 was amended by the Maryland  
42 General Assembly during the 2010 legislative session to require that local governments adopt  
43 certain conflict of interest standards and financial disclosure requirements for their elected  
44 officials, candidates to be elected officials, employees and appointees to boards and  
45 commissions; and

47 WHEREAS, in accordance with the changes to Md. Code Ann., State Gov't, Title 15,  
48 the State Ethics Commission adopted revised Local Government Ethics Regulations that  
49 became effective April 18, 2011; and  
50

51 WHEREAS, State law requires that local governments adopt the necessary changes  
52 required by the revisions to Md. Code Ann., State Gov't, Title 15 prior to October 1, 2011;  
53 and  
54

55 WHEREAS, the Commissioners believe that it would be in the best interests of the  
56 Town and the good governance thereof if the new ethics requirements were incorporated into  
57 the Town Code.  
58

59 SECTION 1  
60

61 NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE  
62 COMMISSIONERS OF ST. MICHAELS that Chapter 22 (Ethics, Code of ) of the Code of the  
63 Town of St. Michaels is hereby amended as follows, with new language shown in *italics* and  
64 underlined and deleted language shown in (parenthesis) and with a ~~strikethrough~~:  
65

66  
67 **CHAPTER 22, PUBLIC ETHICS, CODE OF**  
68

69 **§ 22-1. Title.**  
70

71 This chapter shall be known and may be cited as the “Public Ethics Ordinance.”  
72

73 **§ 22-2. Definitions and word usage.**  
74

75 A. When not consistent with the context, the words used in the present tense include the  
76 future, words used in the plural number include the singular number, and words used in the  
77 singular number include *the* plural number. The word “shall” is always mandatory and not  
78 merely directory.  
79

80 B. For ~~(the)~~ purposes of this chapter, the following words, terms, phrases, and their  
81 derivations shall have the meanings given herein:  
82

83 **BUSINESS ENTITY**

84 "Business entity" means a person engaged in business, whether profit or nonprofit,  
85 regardless of form.  
86

87 **COMMISSION**

88 There is a Town Ethics Commission which consists of three members appointed by the  
89 Commissioners of St. Michaels.  
90

91 ~~(DEPARTMENT HEAD)~~

92 ~~A Town employee directly in charge of the St. Michaels Police Department and the~~  
93 ~~Town employee directly in charge of the St. Michaels Public Works Department.)~~

94  
95 FINANCIAL INTEREST

96 "Financial interest" means:

97 (1) ownership of an interest as the result of which the owner has received  
98 within the past 3 years, is currently receiving, or in the future is entitled to receive,  
99 more than \$ 1,000 per year; or

100 (2) (a) ownership of more than 3% of a business entity by:

101 i. an official;

102 ii. an employee; or

103 iii. the spouse of an official or employee; or

104 (b) ownership of securities of any kind that represent, or are convertible  
105 into, ownership of more than 3% of a business entity by:

106 i. an official;

107 ii. an employee; or

108 iii. the spouse of an official or employee.

109  
110 GIFT

111 The transfer of anything of economic value, regardless of form without adequate and  
112 lawful consideration. The term does not include the solicitation, acceptance, receipt,  
113 or regulation of political campaign contributions regulated in accordance with the  
114 provisions of the Elections Article, Annotated Code of Maryland, or any other  
115 provision of State or local law regulating the conduct of elections or the receipt of  
116 political campaign contributions.

117  
118 INTEREST

119 (1) "Interest" means a legal or equitable economic interest that is owned or held  
120 wholly or partly, jointly or severally, or directly or indirectly, whether or not the  
121 economic interest is subject to an encumbrance or condition.

122 (2) "Interest" does not include:

123 (a) an interest held in the capacity of agent, custodian, fiduciary, personal  
124 representative, or trustee, unless the holder has an equitable interest in the  
125 subject matter;

126 (b) an interest in a time or demand deposit in a financial institution;

127 (c) an interest in an insurance policy, endowment policy, or annuity  
128 contract by which an insurer promises to pay a fixed amount of money in a  
129 lump sum or periodically for life or a specified period; or

130 (d) a common trust fund or a trust that forms part of a pension or a profit-  
131 sharing plan that:

132 i. has more than 25 participants; and

133 ii. is determined by the Internal Revenue Service to be a qualified  
134 trust or college savings plan under the Internal Revenue Code.

138 TOWN  
139 The municipal corporation known as “The Commissioners of St. Michaels” which  
140 constitutes the government of the Town of St. Michaels, Maryland.

141  
142 TOWN EMPLOYEE  
143 A person employed by the Town on a full-time or part-time basis, rather than a  
144 consulting basis.

145  
146 TOWN INSPECTOR  
147 The Town(~~s~~) Building Inspector, Health Officer, and Zoning Inspector.

148  
149 TOWN OFFICIAL  
150 Persons elected or appointed to the position of membership upon that public body of  
151 the Town known as “The Commissioners of St. Michaels,” or upon any administrative  
152 board or commission of the Town having decision-making authority, whether or not  
153 compensated.

154  
155 C. Any term not defined herein shall have the meaning attributed it in Md. Code Ann.,  
156 State Gov’t, Title 15.

157  
158 **§ 22-3. Applicability.**

159  
160 Generally, unless otherwise stated, the provisions of this chapter shall apply to every Town  
161 Elected (~~official~~) Official, Town (~~inspector~~) Inspector, and Town (~~employee~~) Employee and  
162 appointees to any boards or commissions of the Town of St. Michaels.

163  
164 **§ 22-4. Ethics Commission.**

165  
166 There shall be a Town Ethics Commission (~~which~~) that shall be composed of three members,  
167 all of whom shall be either property owners in or residents of the Town, who shall serve at the  
168 pleasure of and be appointed by resolution of The Commissioners of St. Michaels, which  
169 resolution shall become effective immediately upon reading and passage at a single meeting  
170 by The Commissioners of St. Michaels. The Commission shall be advised by the Town  
171 Attorney, unless a complaint is filed against a sitting Town Commissioner, in which case the  
172 Town Ethics Commission shall engage independent counsel. As used herein, the term “Ethics  
173 Counsel” shall refer to both the Town Attorney and any independent counsel engaged to  
174 represent the Ethics Commission. In the event that independent counsel must be engaged, the  
175 Town Ethics Commission shall consult with the Town Clerk/Manager to ensure that such  
176 engagement is in keeping with the Town budget. The Commission(~~and~~) shall have the  
177 following responsibilities:

- 178  
179 A. To devise, receive and maintain all forms generated by this chapter;  
180  
181 B. To provide (~~published~~) advisory opinions to persons subject to this chapter as to the  
182 applicability of this chapter to (~~them~~) that person;  
183

184 C. To process and make determinations as to complaints filed by any person alleging  
185 violations of this chapter;

186  
187 D. To conduct a public information program regarding the purposes and application of this  
188 chapter; and

189  
190 E. To certify to the State Ethics Commission on or before October 1 of each year that the  
191 Town is in compliance with the requirements of the State Government Article, Title 15,  
192 Subtitle 8, of the Annotated Code of Maryland for elected officials; and

193  
194 F. To recommend to the Commissioners of St. Michaels changes to this Chapter and to  
195 review any changes to this Chapter referred to it by the Commissioners of St. Michaels; and

196  
197 G. To adopt other policies and procedures to assist in the implementation of the  
198 Commission's programs established in this Chapter, with the approval of the Town  
199 Commissioners.

200  
201 **§ 22-5. Advisory opinion.**

202  
203 A. Procedure. Any person subject to this chapter may request from the Commission an  
204 advisory opinion concerning the application of the provisions of this chapter. Such request  
205 shall be in writing. The Commission shall respond to the request within 60 days, or as soon  
206 thereafter as is practical. The Commission's interpretation of these provisions shall be based  
207 on the facts provided or reasonably available to it.

208  
209 B. Issues. In an advisory opinion, the Commission shall limit its findings to matters of law.  
210 The Commission shall not make any findings of fact regarding the conduct or intent of any  
211 person in an advisory opinion.

212  
213 C. Effect. Until amended or revoked, an advisory opinion shall be binding on the Town, the  
214 Town Commissioners and the Ethics Commission in any subsequent actions concerning the  
215 person who sought the opinion and who acted on it in good faith, unless material facts were  
216 omitted or misstated in the request for the opinion. Such opinion shall not be binding in any  
217 court action initiated by any private citizen.

218  
219 D. Confidentiality. Copies of the advisory opinion shall be submitted to the Commissioners  
220 of St. Michaels and be made available to the public within five working days after the opinion  
221 has been rendered. However, the name of the person requesting the opinion and the names of  
222 all persons or business entities mentioned in the opinion shall be redacted and deemed  
223 confidential information and shall not be disclosed by the members of the Commission unless  
224 each person or business entity waives such confidentiality.

225 **§ 22-6. Procedures for adjudicating alleged violations.**

226 The investigation and adjudication of alleged violations of this chapter shall proceed as  
227 follows:

228 A. Complaint.

229 (1) Who may file. Any person may file a complaint with the Commission alleging a  
230 violation of any of the provisions of this chapter. The Commission may also consider possible  
231 violations of this chapter on its own initiative.

232 (2) Contents. The complaint must assert facts that if proven true would constitute a  
233 violation of the provisions of this chapter. It is not necessary that the complaint cite the Code  
234 provisions allegedly violated, but such citation is advised. All complaints shall be in writing  
235 and signed under oath. If a complaint is not signed under oath it shall be deemed incomplete  
236 and shall be returned to the person who submitted it for signature. Complaints initiated by  
237 the Commission shall be signed by the Chair. If a complaint does not allege facts that would  
238 support a reasonable person in concluding that a violation of this chapter may have occurred,  
239 the Commission shall dismiss the complaint. The Commission shall inform the complainant of  
240 its decision to dismiss the complaint within 30 days of receiving a complaint. Otherwise, the  
241 Commission shall transmit a copy of the complaint to its Ethics Counsel for investigation and  
242 review.

243 (3) Ethics Counsel review. Ethics Counsel shall review the complaint and prepare an  
244 investigative report for the Commission. Ethics Counsel shall ensure that the Commission  
245 has adequate notice of the specific Code provisions alleged to have been violated and has  
246 relevant factual information. Such report shall be submitted to the Commission within 30  
247 days of receipt of the complaint by Ethics Counsel or as soon as practicable thereafter.

248 (4) Limitation on actions. No complaint shall be processed if filed more than one  
249 year from the date of the action alleged to constitute a violation.

250

251 B. Ethics Commission review. If upon review of Ethics Counsel's report the Commission  
252 determines that there is a reasonable basis for believing a violation has occurred, then a copy  
253 of the complaint shall be transmitted to the subject of the complaint, also referred to herein as  
254 the respondent, who shall be afforded an opportunity for a hearing conducted on the record.  
255 Upon making such a determination hereunder, the Commission shall advise the complainant  
256 and the respondent thereof. However, upon review of Ethics Counsel's report, the  
257 Commission may dismiss a complaint if the complaint does not allege conduct which would  
258 be a violation of this chapter, in which case an order of dismissal shall be sent to the  
259 complainant and to the respondent forthwith.

260 In the event the matter is referred for a hearing, the Commission shall notify the  
261 complainant and the respondent of the hearing date. Any matter referred for a hearing shall  
262 be referred to the Town Attorney or independent counsel for investigation. Prior to referring  
263 evidence to the Commission, the Town Attorney or independent counsel shall notify the  
264 complainant and respondent. If, within 15 days of the notice, the respondent takes an action  
265 which may be available to cure all alleged violations, the complaint shall be dismissed by a  
266 signed order if the Commission finds such action is not contrary to the purposes of this Article  
267 and is consistent with applicable law.

268

269 C. Hearing.

270 (1) Timing. A hearing shall be held within 30 days, or as soon thereafter as practical,  
271 following the preliminary inquiry and review by the Commission set out in Sections A and B  
272 Above. The Commission may grant postponements to the complainant and to the respondent.  
273 Each postponement shall not exceed 15 days.

274 (2) The hearing shall not be open to the public unless both parties consent in writing.

275 (3) At the hearing, the Town Attorney or independent counsel shall present to the  
276 Commission all evidence available relating to the complaint. All witnesses shall make their  
277 statements under oath. The respondent may be represented by counsel. The respondent  
278 charged in the complaint has the right to attend the hearing, the right to make a statement, the  
279 right to be present and cross-examine witnesses. Ethics Counsel may recommend to the  
280 Commission such disposition of the complaint as appears appropriate. An audio or video  
281 recording of the hearing shall be retained by the Commission.

282 (4) Standard of proof. The issue at a final hearing shall be whether a violation of this  
283 Chapter has occurred. The Commission shall make its determination based on the  
284 preponderance of the evidence in the record of such hearing.

285 (5) Decision. After consideration of the evidence, the Commission shall prepare a  
286 written report setting forth its findings of fact and conclusions of law with respect to each of  
287 the alleged violations. Upon a finding of a violation, the Commission may take any  
288 enforcement action provided for in this Chapter. If at any time during the hearing, the  
289 Commission determines that there is an ambiguity in the law that prevents it from making a  
290 determination of whether a violation has occurred, and that there was no apparent intent to  
291 violate the Public Ethics Ordinance, the complaint shall be dismissed. In this event, the  
292 Commission shall report its determination that an ambiguity exists to the Town Attorney or  
293 independent counsel and the Commissioners of the Town of St. Michaels. A copy of the report  
294 shall be mailed or delivered to the complainant and the respondent within five working days  
295 from the date of the decision. The report shall be made available to the public and a copy  
296 submitted to the Commissioners of the Town of St. Michaels within 10 working days from the  
297 date of the decision.

298

299 D. Appeals. Any respondent aggrieved by a decision or action of the Ethics Commission  
300 under this section shall have the right to appeal such decision or action to the Circuit Court  
301 of Talbot County, Maryland. Jurisdiction to hear and determine such appeals is hereby  
302 conferred upon the Circuit Court.

303

304 **§ 22-(5) 7. Conflicts of Interest.**

305

306 ~~(No Town official, Town inspector or Town employee shall:~~

307

308 ~~A. Participate on behalf of the Town in any matter which would, to their knowledge, have a~~  
309 ~~direct financial impact, as distinguished from the public generally, on them, their spouse or~~  
310 ~~dependent child, or a business entity with which they are affiliated.~~

311

312 ~~B. Hold or acquire an interest of either \$5,000 or 25% or greater in a business entity that has~~  
313 ~~or is negotiating a contract of \$5,000 or more with the Town or is regulated by their agency,~~  
314 ~~except as exempted by the Commission where the interest is disclosed pursuant to § 22-6 of~~  
315 ~~this chapter.~~

316

317 ~~C. Be employed by a business entity that has or is negotiating a contract of more than \$5,000~~  
318 ~~with the Town or is regulated by their agency, except as exempted by the Commission~~  
319 ~~pursuant to § 22-6 of this chapter.~~

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~~D. Hold any outside employment relationship that would impair their impartiality or independence of judgment.~~

~~E. Represent any party, for a contingent fee, before any Town body.~~

~~F. Within one year following termination of Town service, act as a compensated representative of another in connection with any specific matter in which he or she participates substantially as a Town official or employee.~~

~~G. Solicit any gift or accept gifts of greater than \$25 in value from any person that has or is negotiating a contract with the Town or is regulated by their agency, except when these gifts would not present a conflict of interest as determined by the Commission. For the purposes of this section, "gift" includes the transfer of anything of economic value, regardless of form without adequate and lawful consideration.~~

~~H. Use the prestige of their office for their benefit or that of another.~~

~~I. Use confidential information acquired in their official Town position for their own benefit or that of another.)~~

A. Town Officials and Town Employees may not participate in:

(1) Any matter in which, to the knowledge of the Official or Employee, the Official or Employee, or a spouse, parent, child or sibling of the Official or Employee has an interest; except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter.,

(2) Any matter in which any of the following is a party:

(a) A business entity in which the Official or Employee has a direct financial interest of which the Official or Employee may reasonably be expected to know;

(b) A business entity for which the Official or Employee, or a spouse, parent, child or sibling of the Official or Employee is an officer, director, trustee, partner or employee;

(c) A business entity with which the Official or Employee or, to the knowledge of the Official or Employee, or his/her spouse, parent, child or sibling, is negotiating employment or has any arrangement concerning prospective employment;

(d) If the contract reasonably could be expected to result in a conflict between the private interests of the Official or Employee and the Official duties of the Official or Employee, a business entity that is a party to an existing contract with the Official or Employee, or which, to the knowledge of the Official or Employee, is a party to a contract with a spouse, parent, child or sibling of the Official or Employee.

(e) An entity, doing business with the Town in which a direct financial interest is owned by another entity in which the Official or Employee has a direct financial interest, if the Official or Employee may be reasonably expected to know of both direct financial interests; or

(f) A business entity that:

365 [1] The Official or Employee knows is a creditor or obligee of the  
366 Official or Employee or a spouse, parent, child or sibling of the Official or  
367 Employee with respect to a thing of economic value; and

368 [2] As a creditor or obligee, is in a position to directly and  
369 substantially affect the interest of the Official or Employee or a spouse, parent,  
370 child or sibling of the Official or Employee.

371 (g) The prohibitions of (a) – (f) above do not apply to the exercise of an  
372 administrative or ministerial duty that does not affect the disposition or  
373 decision with respect to the matter.

374 (3) A person who is disqualified from participating under paragraphs A or B of this  
375 subsection shall disclose the nature and circumstances of the conflict and may participate or  
376 act if:

377 (a) The disqualification leaves a body with less than a quorum capable of  
378 acting;

379 (b) The disqualified Official or Employee is required by law to act; or

380 (c) The disqualified Official or Employee is the only authorized person to act.

381 (4) The prohibitions of this subsection do not apply if participation is allowed by  
382 regulation or opinion of the Commission.

383

#### 384 B. Employment and Financial Restrictions.

385 (1) Except as permitted by regulation of the Commission when the interest is  
386 disclosed or when the employment does not create a conflict of interest or appearance of  
387 conflict, a Town Official or Employee may not:

388 (a) Be employed by or have a financial interest in an entity:

389 [1] Subject to the authority of the Town; or

390 [2] That is negotiating or has entered into a contract with the Town; or

391 (b) Hold any other employment relationship that would impair the impartiality  
392 or independence of judgment of the Official or Employee.

393 (2) This prohibition does not apply to:

394 (a) A member of a Board or Commission in regard to a financial interest or  
395 employment held at the time of appointment, provided the financial interest or employment is  
396 publicly disclosed to the appointing authority and the Commission; or

397 (b) Employment or financial interest allowed by regulation of the Commission  
398 if employment does not create a conflict of interest or the appearance of a conflict of interest  
399 or the financial interest is disclosed.

400

#### 401 C. Post-employment limitations and restrictions

402 (1) A former Town Official or Employee may not assist or represent any party other  
403 than the Town for compensation in a case, contract, or other specific matter involving the  
404 Town if that matter is one in which the former Town Official or Employee significantly  
405 participated as an Official or Employee.

406 (2) Within one year following termination of Town service, act as a compensated  
407 representative of another in connection with any specific matter that is the subject of  
408 legislative action.

409

410 D. A Town Official or Employee may not assist or represent any party for a contingent fee in  
411 any matter before any Town body or in any matter involving the Town.

412

413 E. Use of Prestige of Office.

414 (1) A Town Official or Town Employee may not intentionally use the prestige of their  
415 office or public position for the private gain of that Official or Employee or the private gain  
416 of another.

417 (2) This subsection does not prohibit the performance of usual and customary  
418 constituent services by an elected Town Official without additional compensation.

419

420 F. Solicitation or acceptance of gifts.

421 (1) A Town Official or Employee may not solicit any gift.

422 (2) A Town Official or Employee may not directly solicit or facilitate the solicitation  
423 of a gift, on behalf of another person, from an individual regulated lobbyist.

424 (3) A Town Official or Employee may not knowingly accept a gift, directly or  
425 indirectly, from any person that he knows or has reason to know:

426 (a) Is doing business with or is seeking to do business with the Town;

427 (b) Has financial interests that may be substantially and materially affected, in  
428 a manner distinguishable from the public generally, by the performance or nonperformance  
429 of his official duty;

430 (c) Is engaged in an activity regulated or controlled by the Town of St.  
431 Michaels; or

432 (d) Is a lobbyist with respect to matters within the jurisdiction of the Town.

433 (4) Notwithstanding paragraph 3 above, a Town Official or Employee may accept the  
434 following:

435 (a) Meals and beverages received and consumed by the Town Official or  
436 Employee in the presence of the donor or sponsoring entity;

437 (b) Ceremonial gifts or awards which have insignificant monetary value;

438 (c) Unsolicited gifts of nominal value that do not exceed \$20 in cost or trivial  
439 items of informational value;

440 (d) Reasonable expenses for food, travel, lodging, and scheduled entertainment  
441 of the Official or Employee for a meeting which is given in return for participation in a panel  
442 or speaking engagement at the meeting;

443 (e) Gifts of tickets or free admission extended to an elected Official or  
444 Employee to attend a charitable, cultural, or political event, if the purpose of this gift or  
445 admission is a courtesy or ceremony extended to the office;

446 (f) A specific gift or class of gifts which the Commission exempts from the  
447 operation of this section upon a finding, in writing, that acceptance of the gift or class of gifts  
448 would not be detrimental to the impartial conduct of the business of the Town and that the gift  
449 is purely personal and private in nature;

450 (g) Gifts from a person related by blood or marriage, or any other individual  
451 who is a member of the household of the Town Official or Employee; or

452 (h) Honoraria for speaking to or participating in a meeting, provided that the  
453 offering of the honorarium is not related in any way to the Official or Employee's official  
454 position.

455 (5) Notwithstanding the provisions of paragraph 4 above, a Town Official or Town  
456 Employee may not accept any gift if acceptance would tend to impair the impartiality and the  
457 independent judgment of the Town Official or Town Employee; if acceptance would give such  
458 an appearance; or if the Town Official, Town Inspector or Town Employee has reason to  
459 believe the gift was given for the purpose of impairing his or her impartiality and independent  
460 judgment; or has significant value that would give the appearance or impairing the  
461 impartiality and independence of judgment of the Official or Employee.

462  
463 G. No Town Official or Employee may disclose confidential information acquired in their  
464 official Town position for their own benefit or that of another.

465  
466 H. No member of the Commissioners of St. Michaels may assist the Town of St. Michaels in  
467 the drafting of specifications, an invitation for bids, or a request for proposals for a  
468 procurement or employ an individual to do so and submit a bid or proposal for that  
469 procurement, or assist or represent another person, directly or indirectly, who is submitting a  
470 bid or proposal for the procurement; the Commission may establish exemptions from the  
471 requirements of this section for providing descriptive literature, sole source procurements,  
472 and written comments solicited by the procurement agency.

473  
474 **§ 22-(6) 8. Financial Disclosure - Elected Officials and Candidates to be Elected Officials.**

475  
476 ~~(A. The Town Clerk, Town Manager, and every Town official, Town inspector and~~  
477 ~~department head shall annually, not later than January 31 of each calendar year during which~~  
478 ~~he or she holds office beginning on January 31, 1983, file a statement with the Commission~~  
479 ~~disclosing any gifts received during the preceding calendar year from any person known by~~  
480 ~~said Town Clerk, Town Manager, Town official, Town inspector or department head to have~~  
481 ~~a contract with the Town or any person is regulated by his or her agency. The statement shall~~  
482 ~~identify the donor of the gift and its approximate retail value at the time of receipt.~~

483  
484 ~~B. Candidates seeking election as a member of The Commissioners of St. Michaels shall file~~  
485 ~~statements consistent with the requirements of Subsection A of this section at the time they~~  
486 ~~file their certificate of candidacy.~~

487  
488 ~~C. All officials and employee to whom this chapter is applicable and all candidates for~~  
489 ~~elective office to positions subject to this chapter shall file a statement with the Commission~~  
490 ~~disclosing any interest or employment the holding of which would require disqualification~~  
491 ~~from participation pursuant to § 22-5 (Conflicts of interest) of this chapter, sufficiently in~~  
492 ~~advance of any anticipated action to allow adequate disclosure to the public.~~

493  
494 ~~D. Disclosure statements filed pursuant to this section shall be maintained by the~~  
495 ~~Commission as public records available for public inspection and copying.)~~

496  
497 A. This section applies to all Elected Officials and candidates to be Elected Officials.

498 (1) Except as provided in subsection B of this section, an Elected Official or a  
499 candidate to be an Elected Official shall file with the Commission the financial disclosure

500 statement required under this section on a form provided by the Commission. The disclosure  
501 statement shall be under oath or affirmation

502 (2) Deadlines for filing statements:

503 (a) An incumbent Elected Official shall file a financial disclosure statement  
504 annually no later than January 31 of each year for the preceding calendar year.

505 (b) An individual who is appointed to fill a vacancy in an office for which a  
506 financial disclosure statement is required and who has not already filed a financial disclosure  
507 statement shall file a statement for the preceding calendar year within 30 days after  
508 appointment.

509 (c) An individual who, other than by reason of death, leaves an office for which  
510 a statement is required shall file a statement within 60 days after leaving the office.

511 (3) The statement shall cover:

512 (a) The calendar year immediately preceding the year in which the individual  
513 left office, unless a statement covering that year has already been filed by the individual; and

514 (b) The portion of the current calendar year during which the individual held  
515 the office.

516

517 B. Candidates to be Town Elected Officials.

518 (1) Except for an Official who has filed a financial disclosure statement under another  
519 provision of this section for the reporting period, a candidate to be an Elected Official shall  
520 file a financial disclosure statement each year beginning with the year in which the certificate  
521 of candidacy is filed through the year of the election.

522 (2) A candidate to be an Elected Official shall file a statement required under this  
523 section with the Town Clerk/Manager:

524 (a) In the year the certificate of candidacy is filed, with the filing of the  
525 certificate of candidacy;

526 (b) In the year of the election, if it is different from the year the certificate of  
527 candidacy is filed, on or before March 20; and

528 (c) In all other years for which a statement is required, on or before January  
529 31.

530 (3) If a candidate fails to file a financial disclosure statement with the certificate of  
531 candidacy as required in subsection (2)(a) above, the certificate of candidacy will be deemed  
532 incomplete and will not be accepted. If a candidate fails to file a financial disclosure  
533 statement required by subsection (2)(b) or (c) of this section, the candidate is deemed to have  
534 withdrawn his or her candidacy.

535 (4) The Town Clerk/Manager may not accept any certificate of candidacy unless a  
536 financial disclosure statement has been filed in proper form.

537 (5) Within 10 days of the receipt of a statement required under this section, the Town  
538 Clerk/Manager shall forward the statement to the Commission.

539

540 C. Public record.

541 (1) The Town Clerk/Manager shall maintain all financial disclosure statements filed  
542 under this section on behalf of the Commission.

543 (2) Financial disclosure statements shall be made available during normal office  
544 hours for examination and copying by the public subject to reasonable fees and  
545 administrative procedures established by the Commission.

546 (3) If an individual examines or copies a financial disclosure statement, the  
547 Commission or Town Clerk/Manager shall record:

548 (a) The name and home address of the individual reviewing or copying the  
549 statement; and

550 (b) The name of the person whose financial disclosure statement was examined  
551 or copied.

552 (4) Upon request by the Official or Employee whose financial disclosure statement  
553 was examined or copied, the Commission or the Town Clerk/Manager shall provide the  
554 Official with a copy of the name and home address of the person who reviewed the Official's  
555 financial disclosure statement within five (5) calendar days of the request.

556  
557 D. The Town Clerk/Manager on behalf of the Commission shall retain financial disclosure  
558 statements for four years from the date of receipt.

559  
560 E. Disclosure statements shall include:

561 (1) Interests in real property.

562 (a) A statement filed under this section shall include a schedule of all interests  
563 in real property located in Talbot County, Maryland.

564 (b) For each interest in real property, the schedule shall include:

565 [1] The nature of the property and the location by street address,  
566 mailing address, or legal description of the property;

567 [2] The nature of the interest held;

568 [3] The date when and the identity of the person from whom the interest  
569 was acquired; and

570 [4] If any interest was transferred, in whole or in part, at any time  
571 during the reporting period, a description of the interest transferred, and the  
572 identity of the person to whom the interest was transferred.

573 (2) Interests in corporations and partnerships.

574 (a) A statement filed under this section shall include a schedule of all interests  
575 in any corporation, partnership, limited liability partnership, or limited liability corporation,  
576 that does business with the Town of St. Michaels.

577 (b) For each interest reported under this paragraph, the schedule shall  
578 include:

579 [1] The name and address of the principal office of the corporation,  
580 partnership, limited liability partnership, or limited liability corporation;

581 [2] The nature and amount of the interest held;

582 [3] With respect to any interest transferred, in whole or in part, at any  
583 time during the reporting period, a description of the interest transferred, and,  
584 if known, the identity of the person to whom the interest was transferred; and

585 [4] With respect to any interest acquired during the reporting period  
586 the date when, and the identity of the person from whom the interest was  
587 acquired.

588 (3) Gifts.

589 (a) A statement filed under this section shall include a schedule of each gift in  
590 excess of \$20 in value or a series of gifts totaling \$100 or more received during the reporting

591 period from or on behalf of, directly or indirectly, any one person who does business with or  
592 is regulated by the Town of St. Michaels.

593 (b) For each gift reported, the schedule shall include:

594 [1] A description of the nature and value of the gift; and

595 [2] The identity of the person from whom, or on behalf of whom,  
596 directly or indirectly, the gift was received.

597 (5) Employment with or interests in entities doing business with the Town of St.  
598 Michaels.

599 (a) A statement filed under this section shall include a schedule of all offices,  
600 directorships, and salaried employment by the individual or member of the immediate family  
601 of the individual held at any time during the reporting period with entities doing business with  
602 the Town of St. Michaels.

603 (b) For each position reported under this paragraph, the schedule shall  
604 include:

605 [1] The name and address of the principal office of the business entity;  
606 and

607 [2] The title and nature of the office, directorship, or salaried  
608 employment held and the date it commenced.

609 (6) Indebtedness to entities doing business with the Town of St. Michaels.

610 (a) A statement filed under this section shall include a schedule of all  
611 liabilities, excluding retail credit accounts, to persons doing business with the Town of St.  
612 Michaels owed at any time during the reporting period:

613 [1] By the individual; or

614 [2] By a member of the immediate family of the individual if the  
615 individual was involved in the transaction giving rise to the liability.

616 (b) For each liability reported under this paragraph, the schedule shall include  
617 the identity of the person to whom the liability was owed and the date the liability was  
618 incurred.

619 (7) A statement filed under this section shall include a schedule of the immediate  
620 family members of the individual employed by the Town of St. Michaels in any capacity at any  
621 time during the reporting period.

622 (8) Sources of earned income.

623 (a) A statement filed under this section shall include a schedule of the name  
624 and address of each place of employment and of each business entity of which the individual  
625 or a member of the individual's immediate family was a sole or partial owner and from which  
626 the individual or member of the individual's immediate family received earned income, at any  
627 time during the reporting period.

628 (b) A minor child's employment or business ownership need not be disclosed if  
629 the agency that employs the individual does not regulate, exercise authority over, or contract  
630 with the place of employment or business entity of the minor child.

631 (9) A statement filed under this section may also include a schedule of additional  
632 interests or information that the individual making the statement wishes to disclose.

633

634 F. The following interests are considered to be the interests of the individual making the  
635 statement:

636 (1) An interest held by a member of the individual's immediate family, if the interest  
637 was, at any time during the reporting period, directly or indirectly controlled by the  
638 individual.

639 (2) An interest held by a business entity in which the individual held a 30% or greater  
640 interest at any time during the reporting period.

641 (3) An interest held by a trust or an estate in which, at any time during the reporting  
642 period:

643 (a) The individual held a reversionary interest or was a beneficiary; or

644 (b) If a revocable trust, the individual was a settlor.

645

646 G. Review.

647 (1) The Commission shall review the financial disclosure statements submitted under  
648 this section for compliance with the provisions of this section and shall notify an individual  
649 submitting the statement of any omissions or deficiencies.

650 (2) The Commission may take appropriate enforcement action to ensure compliance  
651 with this section.

652

653 **§ 22-9. Financial disclosure - Employees and Appointed Officials.**

654

655 A. This section only applies to the following Employees and Appointed Officials:

656 (1) Town Clerk/Manager

657 (2) Zoning Inspector

658 (3) Chief of Police

659 (4) Director of the Department of Public Works

660 (5) Members of the following Boards and Commissions:

661 (a) The Ethics Commission

662 (b) The Planning Commission

663 (c) The St. Michaels Tourism Board

664 (d) The Board of Zoning Appeals

665 (e) The Historic District Commission

666

667 B. A statement filed under this section shall be filed with the Commission under oath or  
668 affirmation on forms provided by the Commission.

669

670 C. On or before January 31 of each year during which an Appointed Official or Employee  
671 holds office, an Appointed Official or Employee shall file a statement disclosing gifts received  
672 during the preceding calendar year from any person that contracts with or is regulated by the  
673 Town of St. Michaels, including the name of the donor of the gift and the approximate retail  
674 value at the time of receipt.

675

676 D. An Appointed Official or Employee shall disclose employment and interests that raise  
677 conflicts of interest or potential conflicts of interest in connection with a specific proposed  
678 action by the Employee or Appointed Official sufficiently in advance of the action to provide  
679 adequate disclosure to the public.

680

681 E. The Commission shall maintain all disclosure statements filed under this section as public  
682 records available for public inspection and copying as provided in §22-8(C) of this chapter.

683  
684 **§ 22-(7) 10. Exemptions and modifications.**

685  
686 The Commission may grant exceptions and modifications to the provisions of § 22-(5) Z.  
687 (Conflicts of interest) (of this chapter and), § 22-(6) 8. (Financial Disclosure - Elected  
688 Officials and Candidates to be Elected Officials) and § 22-9. (Financial disclosure -  
689 Employees and Appointed Officials) of this chapter if it determines that the application of  
690 those provisions would:

- 691  
692 A. Constitute an unreasonable invasion of privacy; or  
693  
694 B. Significantly reduce the availability of qualified persons for public service; and  
695  
696 C. Not be required to preserve the purposes of this chapter.

697  
698 **§ 22-(8) 11. Enforcement.**

699  
700 ~~(A. The Commission may issue a cease and desist order against any person found to be in~~  
701 ~~violation of this chapter and may seek enforcement of this order in the Circuit Court for~~  
702 ~~Talbot County. The court may issue a cease and desist order and may also impose penalties~~  
703 ~~pursuant to § C-21A of the Charter for any violation of the provisions of this chapter.~~

704  
705 ~~B. A Town (official or employee) Official, Town Inspector or Town Employee found to have~~  
706 ~~violated this chapter may be subject to disciplinary or other appropriate personnel actions,~~  
707 ~~including suspension of the Town salary or other compensation.)~~

708  
709 A. The Town may assess a late fee of \$2 per day up to a maximum of \$250 for a failure to  
710 timely file a financial disclosure statement required under §22-8 or §22-9 of this chapter; and

711  
712 B. Upon a finding of a violation of any provision of this chapter, the Commission may:  
713 (1) Issue an order of compliance directing the respondent to cease and desist from the  
714 violation;

715 (2) Issue a reprimand; or

716 (3) Recommend to the appropriate authority other appropriate discipline of the  
717 respondent, including censure or removal if that discipline is authorized by law.

718  
719 C. Upon request of by the Commission, the Ethics Counsel may file a petition for injunctive  
720 or other relief in the Circuit Court of Talbot County, or in any other court having proper  
721 venue for the purpose of requiring compliance with the provisions of this chapter.

722 (1) The court may:

723 (a) Issue an order to cease and desist from the violation;

724 (b) Except as provided in subparagraph (2) of this paragraph, void an official  
725 action taken by an Official or Employee with a conflict of interest prohibited by this chapter  
726 when the action arises from or concerns the subject matter of the conflict and if the legal

727 action is brought within 90 days of the occurrence of the official action, if the court deems  
728 voiding the action to be in the best interest of the public; or

729 (c) Impose a fine of up to \$5,000 for any violation of the provisions of this  
730 chapter, with each day upon which the violation occurs constituting a separate offense.

731 (2) A court may not void any official action appropriating public funds, levying taxes,  
732 or providing for the issuance of bonds, notes, or other evidences of public obligations.

733  
734 D. In addition to any other enforcement provisions in this chapter, a person who the  
735 Commission or a court finds has violated this chapter:

736 (1) Is subject to termination or other disciplinary action; and

737 (2) May be suspended from receiving payment of salary or other compensation  
738 pending full compliance with the terms of an order of the Commission or a court.

739  
740 E. A Town Official or Employee found to have violated this chapter is subject to disciplinary  
741 or other appropriate personnel action, including removal from office, disciplinary action,  
742 suspension of salary, or other sanction.

743  
744 F. Violation of § 22-8 or § 22-9 of this chapter shall be a misdemeanor subject to a fine of up  
745 to \$5,000.

746  
747 G. A finding of a violation of this chapter by the Commission is public information.

748  
749  
750 SECTION 2.

751  
752 AND BE IT FURTHER ORDAINED AND ENACTED, that this Ordinance shall take effect  
753 twenty (20) days from the date of its enactment, having been read at two (2) meetings of The  
754 Commissioners of St. Michaels and having been passed by a yea and nay vote of The  
755 Commissioners of St. Michaels.

756  
757 HAVING BEEN INTRODUCED, read for the first time and ordered posted on the Town  
758 bulletin board at the Public Meeting of The Commissioners of St. Michaels held on the  
759 \_\_\_\_\_ day of \_\_\_\_\_, 2011, at \_\_\_\_\_ o'clock \_\_\_\_m., in the meeting room at  
760 the Town Office, St. Michaels, Maryland.

761  
762 \_\_\_\_\_(SEAL)  
763 Jean R. Weisman  
764 Acting Town Clerk\Manager

765  
766 HAVING BEEN READ for the second time and passed by a yea and nay vote of The  
767 Commissioners of St. Michaels at a Public Meeting of The Commissioners of St. Michaels held  
768 on this \_\_\_\_\_ day of \_\_\_\_\_, 2011, at \_\_\_\_\_ o'clock \_\_\_\_m., in the meeting room of  
769 the Town Office, St. Michaels, Maryland.

770  
771 BRADY - \_\_\_\_\_

772  
 773 CLARK - \_\_\_\_\_  
 774  
 775 DUPONT - \_\_\_\_\_  
 776  
 777 HUNT - \_\_\_\_\_  
 778  
 779 VLAHOVICH - \_\_\_\_\_  
 780

781  
 782 I HEREBY CERTIFY that the above Ordinance No. 429 was passed by a yea and nay vote of  
 783 The Commissioners of St. Michaels on the \_\_\_\_ day of \_\_\_\_\_, 2011.  
 784

785 ATTEST: THE COMMISSIONERS OF ST.  
 786 MICHAELS  
 787  
 788 By: \_\_\_\_\_(Seal)  
 789 Michael W. Brady, President  
 790 \_\_\_\_\_  
 791 Jean R. Weisman  
 792 Acting Town Clerk/Manager  
 793

794 I HEREBY CERTIFY that an exact copy of this Ordinance was posted from the \_\_\_\_  
 795 day of \_\_\_\_\_, 2011, at \_\_\_\_ o'clock \_\_.m. to the \_\_\_\_ day of \_\_\_\_\_,  
 796 2011, at \_\_\_\_ o'clock \_\_.m., on the bulletin board at the Town Office in St. Michaels,  
 797 Maryland, and that a summary of the aforesaid Ordinance No. 429, the date of its passage, its  
 798 effective date and the fact that the entire text of the Ordinance may be read on the bulletin board  
 799 of the Town Office, St. Michaels, Maryland, for at least twenty (20) days following the passage,  
 800 has been published at least once each week for two (2) consecutive weeks following the passage  
 801 of said Ordinance in a newspaper having general circulation in the Town of St. Michaels.  
 802

803  
 804 Date: \_\_\_\_\_, 2011 \_\_\_\_\_(Seal)  
 805 Jean R. Weisman  
 806 Acting Town Clerk/Manager  
 807