

CHAPTER 2

GOVERNMENT ORGANIZATION

Article 1. Board Organization and ProcedureSection 2-101. Regular Meeting: Time and Place

The Town Board shall hold regular meetings the second and fourth Wednesday of each month at 7:00 P.M., except when a legal holiday falls on the second or fourth Wednesday. In such a case the Town Board shall hold its regular meeting on the second or fourth Thursday of the month. All regular Board meetings shall be held at the Town Hall. *(Effective 06/12/07 by Ordinance 2007-05-01)*

Section 2-102. Special Meetings

Special meetings shall be called by the Clerk-Treasurer upon the request of the President or a majority of members of the Board. Notice shall also be posted in the Town Hall prior to such meetings.

Section 2-103. The Presiding Officer: Duties

The President shall serve as chairman of the Board. The chairman of the Board shall be the Presiding Officer. The Presiding Officer shall preserve strict order and decorum at all regular and special meetings of the Board. He shall state every question coming before the Board, announce the decision of the Board on all subjects and decide all questions of order, subject, however, to an appeal of the Board, in which event a majority vote of the Board shall govern and conclusively determine such questions of order. The President may take part in all discussions and shall have a vote only in case of a tie. He shall sign all ordinances and regulations adopted by the Board in his presence.

Section 2-104. Roll Call

Before proceeding with the business of the Board, the Town Clerk shall call the roll of the members, and the names of those present shall be entered into the minutes.

Section 2-105. Quorum

A majority of all the members elected to the Board shall constitute a quorum at any regular or special meeting of the Board. In the absence of a quorum, the Presiding Officer may compel the attendance of absent members.

Section 2-106. Order of Business

All meetings of the Board shall be open to the public. Promptly at the hour set on the day of each regular meeting, the members of the Board, the Town Clerk, and the President shall take their regular stations in the Town Hall and the business of the Board shall be taken up for consideration and disposition in the following order:

1. Call to order.
2. Roll call.
3. Approval of minutes of previous meeting.
4. Petitions, remonstrances and communications.
5. Introduction and adoption of resolutions and ordinances.
6. Report of Officers - Boards - Committees.
7. Unfinished Business.
8. New Business.
9. Miscellaneous.
10. Appropriations.
11. Adjournment.

Section 2-107. Rules of Debate

1. Presiding Officer. The President, or such other member of the Board as may be presiding, may move, second and debate from the chair, subject only to such limitations of debate as are by these rules imposed on all members and shall not be deprived of any of the rights and privileges of a Board member by reason of his action as Presiding Officer, except as provided in Section 2-103.

2. Getting the floor - improper references to be avoided. Every member desiring to speak shall address the Chair, and, upon recognition by the Presiding Officer, shall confine himself to the questions under debate, avoiding all personalities and indecorous language.

3. Interruptions. A member, once recognized, shall not be interrupted when speaking unless it be to call him to order, or as herein otherwise provided. If a member, while speaking, be called to order, he shall cease speaking until the question of order be determined, and, if in order, he shall be permitted to proceed.

4. Privilege of closing debate. The Board member moving the adoption of an ordinance or resolution shall have the privilege of closing the debate.

5. Remarks of Board Member When Entered in Minutes. A Board member may request, through the Presiding Officer, the privilege of having an abstract of his statement on any subject under consideration by the Board entered in the minutes. If the Board consents thereto, such statement shall be entered in the minutes.

6. Synopsis of debate when entered in minutes. The Town Clerk may be directed by the Presiding Officer, with consent of the Board, to enter in the minutes a synopsis of the discussion on any questions coming regularly before the Board.

Section 2-108. Addressing the Board.

Any person desiring to address the Board shall first secure the permission of the Presiding Officer to do so; provided, however, that under the following headings of business, unless the Presiding Officer rules otherwise, any qualified person may address the Board without securing such prior permission:

1. Written Communications. Interested parties or their authorized representatives may address the Board by written communications in regard to matters then under discussion.
2. Oral Communications. Taxpayers or residents of the Town, or their authorized legal representatives, may address the Board by oral communications on any matter concerning the town business, or any matter over which the Board has control: provided, however, that preference shall be given to those persons who may have notified the Town Clerk in advance of their desire to speak in order that the same may appear on the agenda of the Board.

Section 2-109. Addressing the Board after Motion Made.

After a motion is made by the Board, no person shall address the Board without first securing the permission of the Presiding Officer to do so.

Section 2-110. Manner of Addressing Board: Time Limit

Each person addressing the Board shall step up to the Board table, shall give his name and address in an audible tone of voice for the records, and unless further time is granted by the Board, shall limit his address to five minutes. All remarks shall be addressed to the Board as a body and not to any member thereof. No person, other than the Board and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Board, without permission of the Presiding Officer. No question shall be asked a Board member except through the Presiding Officer. No question shall be asked a Board member except through the Presiding Officer. The foregoing shall not apply to members of the Board or the President.

Section 2-111. Decorum

1. By Board Members. While the Board is in session, the members must preserve order and decorum, and a member shall neither by conversation or otherwise, delay or interrupt the proceedings or the peace of the Board nor disturb any member while speaking or refuse to obey the orders of the Board or its presiding Officer, except as otherwise herein provided.

2. By persons. Any persons making personal, impertinent, or slanderous remarks or who shall become boisterous while addressing the Board shall be forthwith, by the Presiding Officer, barred from further audience before the Board, unless permission to continue be granted by a majority vote of the Board.

Section 2-112. Special Committees

All special committees shall be appointed by the Board unless otherwise directed by the Board.

Section 2-113. Members May File Protests Against Board Action

Any member shall have the right to have the reasons for his dissent from, or protest against, any action of the Board entered in the minutes.

Section 2-114. Claims Against the Town

No account or other demand against the Town shall be allowed until the same has been considered and reported upon by the Board.

Section 2-115. Reports and Resolutions to be Filed with Town Clerk

All reports, ordinances, and resolutions shall be filed with the Town Clerk and entered in the minutes.

Section 2-116. Adjournment

A motion to adjourn shall always be in order and decided without debate.

Article 2. Organization of Government

Section 2-201. Statement of Policy

The benefits of proper organization and the allied benefits of clear lines of authority and responsibility within an organization are many. In order that such benefits shall accrue to the Town of North East, it is the policy and intent of the Town Board that a suitable form of organization be adopted for the government of the Town, and that henceforth the general operation of the Town be carried forth within the framework of said form of organization.

Section 2-202. General Form of Organization

The general form of organization for the government of the Town shall be as follows:

1. The President and Town Board shall share final authority and responsibility over all the affairs of the Town.
2. The Town Administrator shall be the Chief Agent of the Town Board and shall be responsible for the general operation and management of the Town government.
3. Such Citizens' Advisory Boards as may be established from time to time shall be directly responsible to the President and shall also act in an advisory capacity to the President and Town Board.
4. The Town Attorney shall be directly responsible to the Town Board and shall also act in an advisory capacity to the President, as well as any town department heads or commission chairmen.

Section 2-203. Duties of Town Clerk

Under the required supervision, the Town Clerk possesses the authority to:

1. Serve as Clerk of the Board.
2. Attend every Board meeting and keep a full and accurate account of the proceedings of the Board.
3. Keep other such records and perform other such duties as may be required elsewhere in the Town Charter or by the Board.

Section 2-204. Duties of Town Attorney

The Town Attorney shall be the legal advisor of the Town and shall perform such duties in this connection as may be required by the Town Charter or by the Board.

Section 2-205. Duties of Town Treasurer
(Repealed 04/03/2018 in its entirety by Ordinance 2018-02-01)

Section 2-205. Duties of Town Police Chief

The Town Police Chief shall be responsible for maintaining law and order within the Town and shall perform such duties in this connection as may be required by the Town Charter or by the Board. *(Renumbered 04/03/2018 from Section 2-207 by Ordinance 2018-02-01)*

Section 2-206. Duties of Town Tax Collector
(Repealed 04/03/2018 in its entirety by Ordinance 2018-02-01)

Section 2-206. Duties of Town Engineer

The Town Engineer shall be responsible for the efficient operation and maintenance of all physical facilities required for the proper welfare of the Town and shall perform such duties in this connection as may be required by the Town Charter or by the Board. *(Renumbered 04/03/2018 from Section 2-208 by Ordinance 2018-02-01)*

Section 2-207. Duties of Town Administrator

The Town Administrator shall be the chief agent of the Town Board and shall be responsible for the general operation and management of the Town Government. *(Renumbered 04/03/2018 from Section 2-209 by Ordinance 2018-02-01)*

Section 2-208. Prerogatives of the Town Board

The Town Board reserves the right to add or abolish positions within the plan of organization as may be necessary to carry forth the intent and purpose of this Article. *(Renumbered 04/03/2018 from Section 2-210 by Ordinance 2018-02-01)*

Section 2-209. Use of Personnel

The Mayor shall have the authority to employ personnel in dual capacities on an interdepartmental basis if such employment shall be deemed necessary in the interests of economy and efficiency. *(Renumbered 04/03/2018 from Section 2-211 by Ordinance 2018-02-01)*

Section 2-210. Applicability

The provisions of this Article shall not be construed in such a manner as would render them in conflict with the provisions of the Town Charter. *(Renumbered 04/03/2018 from Section 2-212 by Ordinance 2018-02-01)*

Article 3. Planning Commission

Section 2-301. Composition; Appointment; Term of Members; Vacancies; Compensation

The Commission shall consist of five (5) members. Four members of the Commission shall be appointed by the President, subject to confirmation by the Town Commissioners. The terms of all members shall be five years or until their successors take office, and the terms of the four members first appointed by the President shall be two, three, four, and five years respectively, from the effective date of creation of the Commission, and shall be specified by the President at the time of appointment. The remaining member shall be, pursuant to the provisions of Article 66B of the Annotated Code of Maryland (1957 Edition), a member of the Town Board and shall be appointed by the Town Board.

The term of the member first appointed by the Town Board shall be for one year. Notwithstanding the foregoing, the term of the member appointed by the Town Board shall cease whenever his official tenure as a member of the President and Commissioners terminates. A vacancy occurring prior to the expiration of the term for which a member of the Commission is appointed shall be filled in a like manner for the remainder of the unexpired term for which his predecessor was appointed. The four members of the Commission appointed by the President shall serve without compensation. The member appointed by the Town Board from its own membership shall serve without additional compensation.

Section 2-302. Election of a Chairman

The Commission shall elect a Chairman from among the members appointed by the President.

Section 2-303. Powers and Duties of the Commission

The Commission shall have the Powers and Duties provided for in Article 66B as now or hereafter amended, of the Annotated Code of Maryland (1957 Edition) and as set forth in the Zoning Ordinance and Subdivision Regulations.

ARTICLE 4. Public Ethics

Section 2-401. Short Title

This Article may be cited as the Town of North East (hereafter "Town") Public Ethics Ordinance.

Section 2-402. Applicability

The provisions of this Article apply to all Town elected officials, employees, and appointees to boards and commissions of the Town.

Section 2-403. Definitions

In this Article, the following terms have the meanings indicated.

1.
 - a. "Business entity" means a corporation, general or limited partnership, sole proprietorship, joint venture, unincorporated association or firm, institution, trust, foundation, or other organization, whether or not operated for profit.
 - b. Business entity does not include a governmental entity.
2. "Commission" means the Town Ethics Commission established under Section 2-404 of this Article.
3.
 - a. "Compensation" means any money or thing of value, regardless of form, received or to be received by any individual covered by this Article from an employer for service rendered.
 - b. For the purposes of Section 2-408 of this Article, if lobbying is only a portion of a person's employment, "compensation" means a prorated amount based on the time devoted to lobbying compared to the time devoted to other employment duties.
4. "Doing business with" means:
 - a. Having or negotiating a contract that involves the commitment, either in a single or combination of transactions, of \$5,000.00 or more of Town controlled funds;
 - b. Being regulated by or otherwise subject to the authority of the Town.
 - c. Being registered as a lobbyist under Section 2-408 of this Article.
5. "Elected official" means any individual who holds an elective office of the Town.
6.
 - a. "Employee" means an individual who is employed by the Town.
 - b. "Employee" does not include an elected local official.

7. "Financial interest" means:
- a. Ownership of any interest as the result of which the owner has received, within the past 3 years, or is presently receiving, or in the future is entitled to receive, more than \$1,000.00 per year; or
 - b. Ownership, or the ownership of securities of any kind representing or convertible into ownership, of more than 3 percent of a business entity by a Town official or employee, or the spouse of an official or employee.
8. a. "Gift" means the transfer of anything of economic value, regardless of the form, without adequate and lawful consideration.
- b. "Gift" does not include a political campaign contribution regulated under Election Law Article, Annotated Code of Maryland, or any other provision of State or local law regulating the conduct of elections or the receipt of political campaign contributions.
9. "Immediate family" means a spouse and dependent children.
10. a. "Interest" means a legal or equitable economic interest, whether or not subject to an encumbrance or a condition, that is owned or held, in whole or in part, jointly or severally, directly or indirectly.
- b. For purposes of Section 2-406 of this Article, "interest" includes any interest held at any time during the reporting period.
- c. "Interest" does not include:
- (i) An interest held in the capacity of a personal agent, custodian, fiduciary, personal representative, or trustee, unless the holder has an equitable interest in the subject matter;
 - (ii) An interest in a time or demand deposit in a financial institution;
 - (iii) An interest in an insurance policy, endowment policy, or annuity contract under which an insurer promises to pay a fixed amount of money either in a lump sum or periodically for life or a specified period;
 - (iv) A common trust fund or a trust which forms part of a pension or profit sharing plan which has more than 25 participants and which has been determined by the Internal Revenue Service to be a qualified trust under the Internal Revenue Code; or
 - (v) A college savings plan under the Internal Revenue Code.
11. "Lobbyist" means a person required to register and report expenses related to lobbying under Section 2-408 of this Article.

12. "Lobbying" means:

- a. Communicating in the presence of a Town official or employee with the intent to influence any official action of that official or employee; or
- b. Engaging in activities with the express purpose of soliciting others to communicate with a Town official or employee with the intent to influence that official or employee.

13. "Official" means an elected official, an employee of the Town, or a person appointed to or employed by the Town or any Town board, commission, or similar entity:

- a. Whether or not paid in whole or in part with Town funds; and
- b. Whether or not compensated.

14. "Person" includes an individual or business entity.

15. "Qualified relative" means a spouse, parent, child, brother, or sister.

Section 2-404. Ethics Commission

1. There shall be a Town Ethics Commission consisting of three (3) members, all of whom shall be residents of the Town of North East. All three members shall be appointed by the Mayor and Commissioners. Members shall be appointed for a term of three (3) years or until their successors are appointed. Vacancies shall be filled by appointment by the Mayor and Commissioners for the unexpired term only. Members of the Ethics Commission shall serve without compensation. A majority of the membership (excluding vacant seats) shall constitute a quorum for the transaction of business. Should a member have to recuse himself or herself they shall be counted as present for purposes of determining whether a quorum is present. The meetings of the Commission shall be held at the call of the chairperson and at other times determined by the Commission. *(Amended 04/02/13 by Ordinance 2013-02-01)*

2. The Commission shall:

- a. Elect by the 31st day of May each year a chairperson and vice-chairperson from among the members who shall serve for one year. If the Commission fails to elect a chairperson by the 31st day of May each year, the Mayor and Commissioners will appoint a chairperson. The chairperson and vice-chairperson may take part in all deliberations and vote on all issues; *(Added 04/02/13 by Ordinance 2013-02-01)*
- b. Keep minutes of all proceedings; *(Added 04/02/13 by Ordinance 2013-02-01)*

- c. Devise, receive, and maintain all forms required by this Article; *(Renumbered 04/02/13 by Ordinance 2013-02-01)*
 - d. Develop procedures and policies for advisory opinion requests and provide published advisory opinions to persons subject to this Article regarding the applicability of the provisions of this Article to them; *(Renumbered 04/02/13 by Ordinance 2013-02-01)*
 - e. Develop procedures and policies for the processing of complaints to make appropriate determinations regarding complaints filed by any person alleging violations of this Article; and *(Renumbered 04/02/13 by Ordinance 2013-02-01)*
 - f. Conduct a public information program regarding the purposes and application of this Article. *(Renumbered 04/02/13 by Ordinance 2013-02-01)*
3. The Town Attorney shall advise the Commission.
 4. The Town Administrator shall serve as secretary to the Commission. *(Added 04/02/13 by Ordinance 2013-02-01)*
 5. The Commission shall certify to the State Ethics Commission on or before October 1 of each year that the Town is in compliance with the requirements of State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland, for elected local officials. *(Renumbered 04/02/13 by Ordinance 2013-02-01)*
 6. The Commission shall determine if changes to this Article are required to be in compliance with the requirements of State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland, and shall forward any recommended changes and amendments to the Town Board for enactment. *(Renumbered 04/02/13 by Ordinance 2013-02-01)*
 7. The Commission may adopt other policies and procedures to assist in the implementation of the Commission's programs established in this Article. *(Renumbered 04/02/13 by Ordinance 2013-02-01)*

Section 2-405. Conflicts of Interest

1. In this section, "qualified relative" means a spouse, parent, child, or sibling.
2. All Town elected officials, officials appointed to Town boards and commissions subject to this Article, and employees are subject to this section.

3. Participation prohibitions. Except as permitted by Commission regulation or opinion, an official or employee may not participate in:

a. Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter, any matter in which, to the knowledge of the official or employee, the official or employee, or a qualified relative of the official or employee has an interest.

b. Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, any matter in which any of the following is a party:

(i) 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;

(ii) A business entity for which the official, employee, or a qualified relative of the official or employee is an officer, director, trustee, partner, or employee;

(iii) A business entity with which the official or employee or, to the knowledge of the official or employee, a qualified relative is negotiating employment or has any arrangement concerning prospective employment;

(iv) 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 qualified relative;

(v) 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

(vi) A business entity that:

(A) The official or employee knows is a creditor or obligee of the official or employee or a qualified relative of the official or employee with respect to a thing of economic value; and

(B) As a creditor or obligee, is in a position to directly and substantially affect the interest of the official or employee or a qualified relative of the official or employee.

c. A person who is disqualified from participating under paragraphs (3)(a) or (3)(b) of this subsection shall disclose the nature and circumstances of the conflict and may participate or act if:

- (i) The disqualification leaves a body with less than a quorum capable of acting;
- (ii) The disqualified official or employee is required by law to act; or
- (iii) The disqualified official or employee is the only person authorized to act.

d. The prohibitions of paragraph (3)(a) and (3)(b) of this subsection do not apply if participation is allowed by regulation or opinion of the Commission.

e. A former regulated lobbyist who is or becomes subject to this chapter as an employee or official, other than an elected official or an appointed official, may not participate in a case, contract, or other specific matter as an employee or official, other than an elected official or appointed official, for one calendar year after the termination of the registration of the former lobbyist if the former regulated lobbyist previously assisted or represented another party for compensation in the matter. *(Added 11/13/18 by Ordinance 2018-10-01)*

4. Employment and financial interest restrictions.

a. Except as permitted by regulation of the Commission when the interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:

- (i) Be employed by or have a financial interest in any entity:
 - (A) Subject to the authority of the official or employee or the Town board, commission with which the official or employee is affiliated; or
 - (B) That is negotiating or has entered a contract with the board, or commission with which the official or employee is affiliated; or
- (ii) Hold any other employment relationship that would impair the impartiality or independence of judgment of the official or employee.

b. This prohibition does not apply to:

- (i) An official or employee who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that

persons subject to the jurisdiction of the authority be represented in appointments to the authority;

(ii) Subject to other provisions of law, a member of a board or commission in regard to a financial interest or employment held at the time of appointment, provided the financial interest or employment is publicly disclosed to the appointing authority and the Commission;

(iii) An official or employee whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted by and in accordance with regulations adopted by the Commission; or

(iv) Employment or financial interests allowed by regulation of the Commission if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

5. Post-employment limitations and restrictions.

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

b. Until the conclusion of the next regular session that begins after the elected official leaves office, a former member of the Town Board may not assist or represent another party for compensation in a matter that is subject of legislative action.

c. A former elected official may not assist or represent another party for compensation in a matter that is subject of legislative action for one calendar year after the elected official leaves office. *(Added 11/13/18 by Ordinance 2018-10-01)*

6. Contingent compensation. Except in a judicial or quasi-judicial proceeding, an official or employee may not assist or represent a party for contingent compensation in any matter before or involving the Town.

7. Use of prestige of office.

a. An official or employee may not intentionally use the prestige of office or public position for the private gain of that official or employee or the private gain of another.

b. This subsection does not prohibit the performance of usual and customary constituent services by an elected local official without additional compensation.

8. Solicitation and acceptance of gifts.

a. An official or employee may not solicit any gift.

b. An official or employee may not directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual regulated lobbyist.

c. An official or employee may not knowingly accept a gift, directly or indirectly, from a person that the official or employee knows or has the reason to know:

(i) Is doing business with or seeking to do business with the Town office, board, or commission with which the official or employee is affiliated;

(ii) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of the official or employee;

(iii) Is engaged in an activity regulated or controlled by the official's or employee's governmental unit; or

(iv) Is a lobbyist with respect to matters within the jurisdiction of the official or employee.

d. Paragraph (e) of this subsection does not apply to a gift:

(i) That would tend to impair the impartiality and the independence of judgment of the official or employee receiving the gift;

(ii) Of significant value that would give the appearance of impairing the impartiality and independence of judgment of the official or employee; or

(iii) Of significant value that the recipient official or employee believes or has reason to believe is designed to impair the impartiality and independence of judgment of the official or employee.

e. Notwithstanding paragraph (8)(c) of this subsection, an official or employee may accept the following:

(i) Meals and beverages consumed in the presence of the donor or sponsoring entity;

- (ii) Ceremonial gifts or awards that have insignificant monetary value;
- (iii) Unsolicited gifts of nominal value that do not exceed \$20.00 in cost or trivial items of informational value;
- (iv) Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official or the employee at a meeting which is given in return for the participation of the official or employee in a panel or speaking engagement at the meeting;
- (v) Gifts of tickets or free admission extended to an elected local official to attend a charitable, cultural, or political event, if the purpose of this gift or admission is a courtesy or ceremony extended to the elected official's office;
- (vi) A specific gift or class of gifts that the Commission exempts from the operation of this subsection upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the Town and that the gift is purely personal and private in nature;
- (vii) Gifts from a person related to the official or employee by blood or marriage, or any other individual who is a member of the household of the official or employee; or
- (viii) Honoraria for speaking to or participating in a meeting, provided that the offering of the honorarium is in not related in any way to the official's or employee's official position.

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

10. Participation in procurement.

a. An individual or a person that employs an individual who assists the Town in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement may not submit a bid or proposal for that procurement or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement.

b. The Commission may establish exemptions from the requirements of this section for providing descriptive literature, sole source procurements, and written comments solicited by the procuring agency.

Section 2-406. Financial Disclosure — Local Elected Officials and Candidates to be Local Elected Officials

1. a. This section applies to all local elected officials and candidates to be local elected officials.
 - b. Except as provided in subsection (2) of this section, a local elected official or a candidate to be a local elected official shall file the financial disclosure statement required under this section:
 - (i) On a form provided by the Commission;
 - (ii) Under oath or affirmation; and
 - (iii) With the Commission.
 - c. Deadlines for filing statements.
 - (i) An incumbent local elected official shall file a financial disclosure statement annually no later than April 30 of each year for the preceding calendar year.
 - (ii) An individual who is appointed to fill a vacancy in an office for which a financial disclosure statement is required and who has not already filed a financial disclosure statement shall file a statement for the preceding calendar year within 30 days after appointment.
 - (iii) (A) An individual who, other than by reason of death, leaves an office for which a statement is required shall file a statement within 60 days after leaving the office.
 - (B) The statement shall cover:
 - (1) The calendar year immediately preceding the year in which the individual left office, unless a statement covering that year has already been filed by the individual; and
 - (2) The portion of the current calendar year during which the individual held the office.
2. Candidates to be local elected officials.
 - a. Except for an official who has filed a financial disclosure statement under another provision of this section for the reporting period, a candidate to be an elected local official shall file under a financial disclosure statement each year beginning with the year in which the certificate of candidacy is filed through the year of the election.

b. A candidate to be an elected local official shall file a statement required under this section:

(i) In the year the certificate of candidacy is filed, no later than the filing of the certificate of candidacy;

(ii) In the year of the election, on or before the earlier of April 30 or the last day for the withdrawal of candidacy; and

(iii) In all other years for which a statement is required, on or before April 30.

c. A candidate to be an elected official:

(i) May file the statement required under Section 2-406(2)(b) of this Article with the Town Administrator or Board of Election Supervisors with the certificate of candidacy or with the Commission prior to filing the certificate of candidacy; and

(ii) Shall file the statements required under Section 2-406 (2)(b) with the Commission.

d. If a candidate fails to file a statement required by this section after written notice is provided by the Town Administrator or Board of Election Supervisors at least 20 days before the last day for the withdrawal of candidacy, the candidate is deemed to have withdrawn the candidacy.

e. The Town Administrator or Board of Election Supervisors may not accept any certificate of candidacy unless a statement has been filed in proper form.

f. Within 30 days of the receipt of a statement required under this section, the Town Administrator or Board of Election.

Supervisors shall forward the statement to the Commission or the office designated by the Commission.

3. Public record.

a. The Commission or office designated by the Commission shall maintain all financial disclosure statements filed under this section.

b. Financial disclosure statements shall be made available during normal office hours for examination and copying by the public subject to reasonable fees and administrative procedures established by the Commission.

(i) For statements filed after January 1, 2019, the Commission or the office designated by the Commission may not provide public

access to an individual's home address that the individual has designated as the individual's home address. (*Added 11/13/18 by Ordinance 2018-10-01*)

c. If an individual examines or copies a financial disclosure statement, the Commission or the office designated by the Commission shall record:

(i) The name and home address of the individual reviewing or copying the statement; and

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

d. Upon request by the official or employee whose financial disclosure statement was examined or copied, the Commission or the office designated by the Commission shall provide the official with a copy of the name and home address of the person who reviewed the official's financial disclosure statement.

4. Retention requirements. The Commission or the office designated by the Commission shall retain financial disclosure statements for four years from the date of receipt.

5. Contents of statement.

a. Interests in real property.

(i) A statement filed under this section shall include a schedule of all interests in real property wherever located.

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

(A) The nature of the property and the location by street address, mailing address, or legal description of the property;

(B) The nature and extent of the interest held, including any conditions and encumbrances on the interest;

(C) The date when, the manner in which, and the identity of the person from whom the interest was acquired;

(D) The nature and amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired;

(E) If any interest was transferred, in whole or in part, at any time during the reporting period, a description of the

interest transferred, the nature and amount of the consideration received for the interest, and the identity of the person to whom the interest was transferred; and

(F) The identity of any other person with an interest in the property.

b. Interests in corporations and partnerships.

(i) A statement filed under this section shall include a schedule of all interests in any corporation, partnership, limited liability partnership, or limited liability corporation, regardless of whether the corporation or partnership does business with the Town.

(ii) For each interest reported under this paragraph, the schedule shall include:

(A) The name and address of the principal office of the corporation, partnership, limited liability partnership, or limited liability corporation;

(B) The nature and amount of the interest held, including any conditions and encumbrances on the interest;

(C) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and, if known, the identity of the person to whom the interest was transferred; and

(D) With respect to any interest acquired during the reporting period:

(1) The date when, the manner in which, and the identity of the person from whom the interest was acquired; and

(2) The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

(iii) An individual may satisfy the requirement to report the amount of the interest held under item (B)(ii) of this paragraph by reporting, instead of a dollar amount:

(A) For an equity interest in a corporation, the number of shares held and, unless the corporation's stock is publicly traded, the percentage of equity interest held; or

(B) For an equity interest in a partnership, the percentage of equity interest held.

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

(i) A statement filed under this section shall include a schedule of all interests in any business entity that does business with the Town, other than interests reported under paragraph (2) of this subsection.

(ii) For each interest reported under this paragraph, the schedule shall include:

(A) The name and address of the principal office of the business entity;

(B) The nature and amount of the interest held, including any conditions to and encumbrances in the interest;

(C) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received in exchange for the interest, and, if known, the identity of the person to whom the interest was transferred; and

(D) With respect to any interest acquired during the reporting period:

(1) The date when, the manner in which, and the identity of the person from whom the interest was acquired; and

(2) The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

d. Gifts.

(i) A statement filed under this section shall include a schedule of each gift in excess of \$20.00 in value or a series of gifts totaling \$100.00 or more received during the reporting period from or on behalf of, directly or indirectly, any one person who does business with or is regulated by the Town.

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

(A) A description of the nature and value of the gift; and

(B) The identity of the person from whom, or on behalf of whom, directly or indirectly, the gift was received.

e. Employment with or interests in entities doing business with the Town.

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

(ii) For each position reported under this paragraph, the schedule shall include:

(A) The name and address of the principal office of the business entity;

(B) The title and nature of the office, directorship, or salaried employment held and the date it commenced; and

(C) The name of each Town employee, department, board or commission with which the entity is involved.

f. Indebtedness to entities doing business with the Town.

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

(A) By the individual; or

(B) By a member of the immediate family of the individual if the individual was involved in the transaction giving rise to the liability.

(ii) For each liability reported under this paragraph, the schedule shall include:

(A) The identity of the person to whom the liability was owed and the date the liability was incurred;

(B) The amount of the liability owed as of the end of the reporting period;

(C) The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year; and

(D) The security given, if any, for the liability.

g. A statement filed under this section shall include a schedule of the immediate family members of the individual employed by the Town in any capacity at any time during the reporting period.

h. Sources of earned income.

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

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

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

6. For the purposes of Section 2-406 (7)(a) and (7)(b) of this Article, the following interests are considered to be the interests of the individual making the statement:

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

b. An interest held by a business entity in which the individual held a 30% or greater interest at any time during the reporting period.

c. An interest held by a trust or an estate in which, at any time during the reporting period:

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

(ii) If a revocable trust, the individual was a settler.

7. a. The Commission shall review the financial disclosure statements submitted under this section for compliance with the provisions of this section and shall notify an individual submitting the statement of any omissions or deficiencies.

b. The Town Ethics Commission may take appropriate enforcement action to ensure compliance with this section.

Section 2-407. Financial Disclosure — Employees and Appointed Officials

1. This section only applies to the following appointed officials and employees:

Clerk-Treasurer; Town Administrator; Chief of Police; Director of Planning; all members of the Board of Appeals; all members of the Planning Commission; all members of the Board of Supervisors of Elections; all employees.

2. A statement filed under this section shall be filed with the Commission under oath or affirmation.

3. On or before April 30 of each year during which an official or employee holds office, an official or employee shall file a statement disclosing gifts received during the preceding calendar year from any person that contracts with or is regulated by the Town, including the name of the donor of the gift and the approximate retail value at the time of receipt.

4. An official or employee shall disclose employment and interests that raise conflicts of interest or potential conflicts of interest in connection with a specific proposed action by the employee or official sufficiently in advance of the action to provide adequate disclosure to the public.

5. The Commission shall maintain all disclosure statements filed under this section as public records available for public inspection and copying as provided in Section 2-406 (5) and (6) of this Article.

Section 2-408. Lobbying

1. A person shall file a lobbying registration statement with the Commission if the person:

a. Personally appears before a Town official or employee with the intent to influence that person in performance of the official duties of the official or employee; and

b. In connection with the intent to influence, expends or reasonably expects to expend in a given calendar year in excess of \$100.00 on food, entertainment, or other gifts for officials or employees of the Town.

2. A person shall file a registration statement required under this section on or before the later of January 15 of the calendar year or within 5 days after first performing an act that requires registration in the calendar year.

3. a. The registration statement shall identify:

(i) The registrant;

(ii) Any other person on whose behalf the registrant acts; and

(iii) The subject matter on which the registrant proposes to make appearances specified in subsection (a) of this section.

b. The registration statement shall cover a defined registration period not to exceed one calendar year.

4. Within 30 days after the end of any calendar year during which a person was registered under this section, the person shall file a report with the Commission disclosing:

a. The value, date, and nature of any food, entertainment, or other gift provided to a Town official or employee; and

b. If a gift or series of gifts to a single official or employee exceeds \$20.00 in value, the identity of the official or employee.

5. The Commission shall maintain the registrations and reports filed under this section as public records available for public inspection and copying for four years after receipt by the Commission.

Section 2-409. Exemptions and Modifications

The Commission may grant exemptions and modifications to the provisions of Section 2-405 and Section 2-407 of this Article to employees and to appointed members of Town Boards and Commissions, when the Commission finds that an exemption or modification would not be contrary to the purposes of this Article, and the application of this Article would:

1. Constitute an unreasonable invasion of privacy; and
2. Significantly reduce the availability of qualified persons for public service.

Section 2-410. Enforcement

1. The Commission may:
 - a. Assess a late fee of \$2.00 per day up to a maximum of \$250.00 for a failure to timely file a financial disclosure statement required under Section 2-406 or 2-407 of this Article;
 - b. Assess a late fee of \$10.00 per day up to a maximum of \$250.00 for a failure to file a timely lobbyist registration or lobbyist report required under Section 2-408 of this Article; and
 - c. Issue a cease and desist order against any person found to be in violation of this Article.
2. a. Upon a finding of a violation of any provision of this Article, the Commission may:
 - (i) Issue an order of compliance directing the respondent to cease and desist from the violation;
 - (ii) Issue a reprimand; or

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

b. If the Commission finds that a respondent has violated Section 2-408 of this Article, the Commission may:

(i) Require a respondent who is a registered lobbyist to file any additional reports or information that reasonably related to the information that is required under Section 2-409 of this Article;

(ii) Impose a fine not exceeding \$5,000.00 for each violation;
and

(iii) Suspend the registration of an individual registered lobbyist if the Commission finds that the lobbyist has knowingly and willfully violated Section 2-408 of this Article or has been convicted of a criminal offense arising from lobbying activities.

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

b. (i) The court may:

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

(B) Except as provided in subparagraph (ii) of this paragraph, void an official action taken by an official or employee with a conflict of interest prohibited by this Article when the action arises from or concerns the subject matter of the conflict and if the legal action is brought within 90 days of the occurrence of the official action, if the court deems voiding the action to be in the best interest of the public; or

(C) Impose a fine of up to \$5,000.00 for any violation of the provisions of this Article, with each day upon which the violation occurs constituting a separate offense.

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

4. In addition to any other enforcement provisions in this Article, a person who the Commission or a court finds has violated this Article:

a. Is subject to termination or other disciplinary action; and

b. May be suspended from receiving payment of salary or other compensation pending full compliance with the terms of an order of the Commission or a court.

5. A Town official or employee found to have violated this Article is subject to disciplinary or other appropriate personnel action, including removal from office, disciplinary action, suspension of salary, or other sanction.

6. Violation of Section 2-408 of this Article shall be a misdemeanor subject to a fine of up to \$10,000.00 or imprisonment of up to one year.

7. A finding of a violation of this Article by the Commission is public information.

(Article 4 Repealed and Re-enacted 12/13/2011 by Ordinance 2011-09-01)

Article 5. Economic Development Commission

Section 2-501. Creation

There may be an Economic Development Commission for the purpose of supporting and encouraging industrial, commercial and residential development within and nearby the Town of North East through programs and activities, to develop economic opportunities pertaining to commerce, manufacturing, tourism, and recreation. The Commission will provide assistance to existing industries and businesses, will promote and encourage the establishment and location of new businesses and industries in the Town of North East and will pursue such other matters as shall foster and develop gainful employment and the general welfare of all the residents in the vicinity of the Town of North East. *(Repealed and Re-enacted 06/08/03 by Ordinance 2003-04-02)*

Section 2-502. Composition; Appointment; Terms

1. The Commission shall consist of not fewer than five (5) nor more than eight (8) members, who shall be appointed by the Mayor and approved by the Commissioners of the Town of North East. The members shall represent a cross-section of the economic composition of the Town of North East and shall be selected because of their known experience and interest in the development of the Town. The Town Administrator shall be a non-voting member of the Commission however the Town Administrator shall constitute a member for the purpose of establishing a quorum as provided in Section 2-503. *(Amended 04/09/95 by Ordinance 95-3-1)*

2. The standard term shall be for two (2) years with one-half of the Commission appointed each year. Any current Commission member who was appointed to a three-year term shall not have the term reduced by virtue of this Amendment.

3. The tenure of the Town Administrator on this Commission shall be perpetual for so long as said person maintains his or her position as Town Administrator. *(Amended 04/09/95 by Ordinance 95-3-1)*

4. All vacancies on the Commission shall be appointed by the Mayor subject to confirmation by the Commissioners of the Town of North East.

5. The Commission has the power to establish and appoint advisory groups and committees to assist in its program. Membership in such groups and committees is not restricted solely to members of the Commission.

6. A member of the Commission may be replaced by the Mayor and Commissioners if such member fails to attend three (3) or more consecutive meetings or fifty percent (50%) or more of the meetings in any calendar year.

Section 2-503. Organization and Procedures

1. The members of the Commission shall select from its membership each year, a Chairman and a Vice-Chairman who may not serve in these capacities for more than two (2) consecutive years. The Chairman shall preside over meetings, or, in the absence of the Chairman, the Vice-Chairman shall preside. No one shall be eligible for the position of the Chairman or Vice-Chairman while holding the office of President of the North East Chamber of Commerce. The current Chairman shall not be affected by virtue of this Amendment.

2. Unless specifically stated otherwise herein, Roberts Rules of Order will control the conduct of all meetings and decisions by the Commission.

3. A quorum shall consist of a majority of the appointed members.

Section 2-504. Powers and Duties of the Commission

The Commission may:

1. Investigate and assemble information pertinent to the Economic resources and industrial opportunities of the Town.
2. Encourage location of new industrial enterprises in the Town and the expansions of present enterprises.
3. Encourage development of recreational areas and encourage tourist business in the Town.
4. Advise the Mayor and Commissioners on any and all matters related to the economic conditions, growth and development of the Town.
5. Review and make recommendations when requested concerning any businesses before the Mayor and Commissioners or any other Town Boards and Commissions which would have an impact upon economic development.
6. Seek and identify any Federal, State or other funds, grants or loans that may be available to encourage and assist the revitalization of the Commercial and Residential Districts of the Town of North East. They shall also recommend to the Mayor and Commissioners uses for all such funds acquired.
7. The Commission shall have the power to:
 - a. Recommend establishment of the boundaries of Commercial, Industrial and Residential Districts; of designated zones within any Districts; and the appropriation of sums for each zone.

However, any of said appropriation by zone shall be in equal amounts.

- b. The Commission shall have the power to monitor and collect, on behalf of the Town, all loans previously granted by the Downtown Revitalization Commission.
- c. The Commission shall draft a set of Regulations recommending the qualifications and requirements for the obtainment of funds by property and business owners in the designated Industrial, Commercial and Residential Districts. Specifically, these Regulations shall set forth the conditions for repayment, including, but not limited to: interest rate, time for repayment and any required security. These regulations shall be drafted to be non-discriminatory in nature and have a non-discriminatory impact in application. After approval by the Mayor and Commissioners, copies of the Regulations shall be kept on file at the Town Office and shall be made available to the public upon request.
- d. The Financial Committee of the Economic Development Commission shall recommend specific loans, applying the Rules and Regulations established above, and subject to the approval of the Town Board.

Section 2-505. Payment to Commission Members

All Commission members will serve without compensation. Further, no Commission member shall be eligible for any loan, grant or any other fund source for which the approval or recommendation of the Commission is required or solicited. *(Repealed and re-enacted effective 04/25/93 by Ordinance 93-3-1)*

ARTICLE 6. – Purchasing Policy

(Repealed 04/03/18 in its entirety by Ordinance 2018-02-01)

ARTICLE 6. – Finance and Administration

(Enacted 04/03/18 by Ordinance 2018-02-01)

2-601. Definitions

As used in this article, the following terms shall be defined as follows:

Advertisement

A notice published on the Town's website and in one or more newspapers, qualified to accept legal advertising, of general circulation in Cecil County.

Bid

The tender, proposal or quotation submitted by a potential vendor in response to a solicitation for prices for goods or services required by the Town.

Bid Protest Board

The Bid Protest Board consists of the Mayor, a Commissioner selected by the Mayor, Town Administrator, and the Director of Finance and Administration.

Board

The Mayor and Commissioners of the Town of North East.

Contract

An agreement, enforceable by law, between two or more competent parties, to do or not to do something lawful, for a consideration. A contract includes supplemental agreements of original contracts.

Cooperative Purchasing

Competitive procurement conducted by one or more public procurement agencies. Involves the ability to jointly contract using intergovernmental cooperative purchasing agreements.

Director

The Director of Finance and Administration

Electronic Funds Transfer

Automated Clearing House payments or FED Wire transactions issued through a financial institution.

Emergency

The development of a dangerous condition caused by a breakdown in machinery or a threatened termination of essential services; or any unforeseen circumstance causing curtailment or diminution of an essential service or which presents an imminent threat to public safety, welfare, or the environment.

Enterprise Fund

The fund of the Town which is used to account for business-type activities such as water services.

Expedited Procurement Process

A process detailed in the Purchasing Manual to facilitate or hasten delivery of goods or services, generally according to contract terms, in response to a situation that is not an emergency, but where the Board determines that prompt action best serves the public interest.

Filed

Received by the Town Administrator on or before the date required to be submitted and received pursuant to 2-607 10) (iii).

Fiscal Emergency

An unexpected drop in revenues or increase in expenditures as a result of a natural disaster or service delivery costs that are short-term or temporary in nature which would adversely affect the level of service the Town provides.

General Fund

The main operating fund of the Town. It accounts for all financial resources and activities not accounted for in another fund.

Interested Party

An actual or prospective bidder, offeror or contractor who is aggrieved or who has an interest in the outcome in connection with the solicitation or the award of a contract.

Local Bidder

An individual or business that maintains a place of business or maintains an inventory of merchandise and/or equipment in Cecil County, is licensed by Cecil County and/or the State of Maryland if required, and is subject to Cecil County real and/or personal property taxes.

Professional Services

The services of attorneys, physicians, architects, engineers, accountants, or other individuals or organizations providing services which require specialized knowledge and skills and involve the application of specialized knowledge and intellectual skills in the performance of the services.

Purchasing Manual

A document describing the specific procedures to be followed when goods or services are required by the Town. It is adopted and amended by resolution of the Board.

Sole Source

A supply or service that is only available from one supplier, usually because of its technological, specialized, unique or proprietary character.

Technical Services

The services which require special and practical knowledge, usually of mechanical or scientific nature, obtained through a combination of training and hands-on experience, i.e. electricians, mechanics, software specialists, etc.

Town

The Town of North East, including the Mayor and Commissioners and any department, commission, board, committee, agency, government corporation or official of the Town of North East.

Vendor

A generic term for a person, persons, company, or other legal entity who provides goods and services to the Town.

2-602. Department of Finance and Administration

- (1) There is a Department of Finance and Administration established in the governmental structure of the Town of North East, which shall be directed by the Director of Finance and Administration who shall serve at the discretion of the Board and shall be an at-will employee and a department head in accordance with the Personnel Policies and Procedures Manual as from time to time is in place. The Department shall have such responsibilities, budget, employees and duties as the Board shall from time to time determine. The Department shall be responsible generally for accounting, cash management, internal controls, risk management, and purchasing and procurement functions of the Town.
- (2) The Director of Finance and Administration shall perform the following duties:
 - a. Implement or supervise the implementation of the provisions of this article and any subsequent regulations.
 - b. Prepare an annual budget to be submitted to the Board.
 - c. Supervise and be responsible for collection and disbursement of all monies and have control over all expenditures to assure that appropriations are not exceeded.
 - d. Maintain a general accounting system for the Town in such form as the Board may require, not contrary to State law or Generally Accepted Accounting Principles as promulgated by the Governmental Accounting Standards Board.
 - e. Coordinate the annual audit of the Town's financial statements by an independent Certified Public Accountant in accordance with state law and auditing standards generally accepted in the United States of America.
 - f. Submit to the Board at the end of each fiscal year, and at such other times as the Board may require, a complete financial report.
 - g. Have custody of all public monies, belonging to or under the control of the Town, except as to funds in the control of any set of trustees, and have custody of all bonds and notes of the Town in accordance with the Town's Investment Policy as approved by the State Treasurer.

- h. Maintain a system of internal controls to ensure public funds are protected from waste, fraud, and abuse.
- i. Maintain and prescribe such forms as are reasonably necessary for the operation of this article.
- j. Coordinates and supervises the bid process as described in this article.
- k. Have any other such duties as the Board may assign from time to time.

2-603. Payment of Town Obligations

- (1) The Director shall have the authority to make all payments for principal and interest payments due for bonds and notes which have previously been issued by the Board and backed by the full faith and credit of the Town's taxing authority.
- (2) The Director shall have the authority to make all payments for routine utility bills as well as leases of real or personal property.
- (3) Accounts Payable
 - a. The Director shall determine a procedure for departments to request payments to their vendors for purchases which have been made in accordance with this article and other policies as may be in effect from time to time.
 - b. The Department shall prepare a payment report for presentation to the Mayor and Commissioners at each meeting. The report shall contain all payments regardless of the method of payment which have been issued since the last meeting, except payments to employees for regular payroll.
- (4) Electronic Funds Transfers
 - a. The Director, upon approval of the Board, may establish or continue a plan or program for the use of electronic funds transfers to pay vendors in lieu of issuing physical checks to vendors.
 - b. Any electronic funds transfer program shall provide for:
 - i. Restrictions on the nature or types of payments which may be made.
 - ii. Provisions for the periodic review of and assessment of electronic fund transfers
 - iii. Other criteria as may be from time to time determined by the Director or required by the Board.
- (5) Purchasing Cards
 - a. The Director, upon approval of the Board, may establish or continue a plan or program for the use of purchasing cards to facilitate the purchase of goods and services by authorized individuals on behalf of the Town.

- b. Any purchasing card program shall provide for:
 - i. The specific positions or categories of positions which may utilize purchasing cards.
 - ii. The spending limits for purchasing cards by categories or positions.
 - iii. Restrictions on the nature or types of purchases which may be made, restrictions as to particular vendors or categories of vendors from whom goods or services may be purchased, and other restrictions as the Director shall determine.
 - iv. Provisions for the periodic review of and assessment of purchasing card performance including any required or recommended auditing standards or processes.
 - v. Other criteria as may be from time to time determined by the Director or required by the Board.
- c. In no event shall the purchasing card plan or program or the use of purchasing cards be used to circumvent the spending limits and other restrictions contained in this article.

2-604. Appropriations

- (1) The legal level of control for appropriations made by the Board shall be the department level. Department Heads may request the Director make adjustments to their department's budget between line items within that department.
- (2) Should it be necessary to move appropriations between departments a request should be made in writing to the Director and signed by the affected department head(s). The Director will prepare a budget amendment for the Board to approve.
- (3) In the event that additional revenues are expected to be received that were not anticipated when the Budget was adopted a budget amendment will be prepared to account for the additional revenues and expenditures for the Board to approve.
- (4) Each year's operating budget for both the General and Enterprise Funds shall contain a line for Contingency which shall be no less than one and a half percent (1.5%) of the total projected expenditures in each fund. This line should be used for unexpected increases in expenditures or decreases in revenues in order to avoid adversely affecting the Town's operations with prior approval of the Board.

2-605. Fund Balance

- (1) Use of Fund Balance

- a. Whenever applicable the Town shall use the highest level of fund balance first.
- b. Unrestricted or Unassigned fund balances shall only be used to pay for non-recurring one time expenditures.

(2) Minimum Fund Balance

- a. The Town shall maintain a minimum unrestricted or unassigned fund balance in both the General and Enterprise funds equal to ninety (90) days operating expenses.
- b. In the event that unrestricted or unassigned fund balance falls below the threshold established in 2-605 (2) (a), the Board shall develop a plan to replenish the unrestricted or unassigned fund balance within one year from the shortfall.

2-606. Budgetary Stabilization Fund

- (1) The Town shall maintain a budgetary stabilization fund as part of its fund balance in the amount of ten percent (10%) of the upcoming year's budget in both the General and Enterprise Funds. This amount shall be used in the event of a Fiscal Emergency as defined in 2-601 Emergency and declared by the Mayor.
- (2) A fiscal emergency shall not include any event which was foreseen or should have been foreseen at the time the annual budget was adopted.
- (3) In the event the Budgetary Stabilization funds are used, a plan shall be submitted to the Board for approval which will detail how the funds are to be spent, what will be done long term to correct any ongoing or underlying issues that caused the funds to be used, and a plan to replenish the funds.
- (4) If a fiscal emergency is declared, the Town shall have no more than two years to replenish the fund.

2-607. Purchasing

(1) Purchase Authority

The Board has purchasing authority within the provisions of this article, and they are authorized to delegate this responsibility to certain Town employees. Such authority includes the right and responsibility to question specific quantities, quality and necessity of items requested, in order for the best interest of the Town to be served.

(2) Unauthorized Purchases

- a. Except as otherwise provided in this article, it shall be unlawful for any Town official or employee to purchase, contract for, or order goods,

services, or construction for which funds have not been appropriated by the Board.

- b. Liability for an unauthorized purchases may be assumed by the Board upon a finding by them, on record, that:
 - i. The purchaser made the purchase in the good faith belief that it was authorized and;
 - ii. The goods or services purchased are of use and value to the Town.
- c. Failure to follow the regulations contained in this section or the Purchasing Manual by an employee of the Town is a violation of the Town's Personnel Policies and Procedures Manual and may result in disciplinary action in accordance with that document. In addition to disciplinary action, employees who violate this code may be held financially responsible for any unauthorized purchases.

(3) Governing Law

All contracts for goods or services entered into by or on behalf of the Town shall be subject to and interpreted in accordance with the laws of the State of Maryland, without regards to conflicts of laws principles. Jurisdiction and venue shall lie only in the state or federal courts located in the geographic limits of the State of Maryland.

(4) Mistakes in Purchasing

Mistakes made by Town officials or employees during the purchasing process which do not substantially affect the purchase, but which are contrary to the provisions of this article may be waived by the Board at their discretion. Mistakes shall not include unauthorized purchases.

(5) Budgetary Appropriations

- a. No Town purchase shall be made without a sufficient budgetary appropriation of funds.
- b. All unexpended Town appropriations lapse at the end of each fiscal year.

(6) Vendor Requirements

- a. Any person or legal entity required to be registered with the State Department of Assessments and Taxation shall be registered and qualified to do business in the State of Maryland in compliance with the Corporations and Associations Article of the Annotated Code of Maryland. The Town will only do business with entities that are properly licensed under state and county law.

- b. As a condition of doing business with the Town, the Town may require insurance coverage for vendors as deemed reasonably necessary to protect the interests of the Town. The insurance shall be in the form and amount as specified by the Purchasing Manual or as required in the bid solicitation. The vendor shall provide evidence of insurability during the solicitation phase and, unless otherwise specified, shall provide a conforming certificate of insurance within five (5) days of such request from the Town. The vendor shall keep the insurance in force for the duration of the contract.
- c. Subcontractors shall adhere to the same requirements listed in subsections (a) and (b).
- d. No payments shall be issued to vendors who do not have a valid IRS Form W-9 on file with the Town.

(7) Solicitation Process

- a. It is the Town's policy to procure its required goods and services in a manner that is most cost effective, efficient and practical. Therefore, subject to the provisions of this article and the Purchasing Manual, the Town shall employ a competitive process wherever practical and accept the lowest responsive/responsible bid or bids, the kind, quality, and materials being equal. The Town shall retain the right to reject any or all bids or to select a single item or items from any bid.
- b. All procurement functions for goods or services purchased with funding other than Town funds or in conjunction with funding from an outside source will be coordinated with the agency providing the external funds and will follow the rules and procedures of the grant or loan.

(8) Exceptions

The Board may exempt certain items from the competitive bid process. The following are excluded from the competitive requirement set forth in 2-607 (7). Additional exceptions may be included by resolution in the Purchasing Manual. Town employees will adhere to the Town's Purchasing Manual for specific procedures pertaining to exceptions to this code.

- a. Lease/Rental of real property
- b. Purchase of patented or manufactured products offered for sale in a noncompetitive market or solely by a manufacturer's authorized dealer (sole source).
- c. Purchases made through a state, county, municipal, cooperative purchasing, or federal purchase contract when such contract has been

awarded as a result of a competitive procurement process, provided such price is deemed to be competitive and the vendor agrees to extend the same price to the Town. The vendor must be qualified to do business in the state of Maryland as provided in 2-607 (6).

- d. Contracts with public utility services companies under tariffs on file with the Public Service Commission.
- e. Professional or technical services as defined in 2-601 Professional Services and Technical Services.
- f. An emergency situation as defined in 2-601 Emergency.
- g. Contracts involving policies of insurance or surety company bonds.
- h. Previously owned capital equipment
- i. Playground equipment
- j. Situations where the Board determines that an expedited procurement as defined in 2-601 Expedited Procurement Process is deemed in the best interest of the Town.

(9) Local Preference

- a. When the funding source does not preclude the Town from doing so, it may show preference to local bidders in the procurement process. The amount shall not exceed six percent (6%) of the amount bid or quoted or \$60,000 whichever is less.
- b. No local bidder in default on payment of any Town, county, or state tax or license shall be eligible to receive preference until all taxes or licenses due are paid.
- c. Specific procedures related to the local preference shall be included in the Purchasing Manual.

(10) Bid Protest

- a. Filing of protest.
 - i. An interested party may protest to the Town Administrator against the solicitation, award, or the proposed award of a bid contract, subject to this section, except a contract exempted under section 2-607 (8) Exceptions.

- ii. The protest shall be in writing, addressed and sent to the Town Administrator electronically, via facsimile or via conventional mail as required to ensure receipt in accordance with 2-607 (10) (iii).
- iii. Time for filing. A protest must be received by the Town Administrator within five (5) calendar days from the date the bid is awarded. Any protest received after the time limit shall not be considered.
- iv. Upon receipt of a protest the Town Administrator shall assemble the Bid Protest Board and forward the protest to members for review. The Bid Protest Board may request additional information which will be used during the review process and may set time limits to receive such information. Failure to respond to the Bid Protest Board may result in a resolution of the protest without consideration of any response to the request.
- v. The Town Administrator shall consult with the Town Attorney prior to the release of any information pertaining to a filed protest.
- vi. The Bid Protest Board may conduct discussions and (if appropriate) conduct negotiations with the protester or other interested parties. The agreement shall be in writing and reviewed by the Town Attorney prior to issuance. Such settlement shall be considered final.
- vii. Decision by Bid Protest Board
 - (1) If an agreement by all parties cannot be reached, the Bid Protest Board shall meet and conduct a hearing at a place and time determined by the Bid Protest Board. The Town Administrator shall notify all interested parties, via certified mail, return receipt, of the hearing within 30 calendar days after the protest is filed.
 - (2) The protester and other interested parties shall appear in person to present arguments.
 - (3) The Bid Protest Board shall render its decision as expeditiously as possible after conclusion of the hearing and forward the decision to the Town Attorney for review prior to issuance.
 - (4) The decision shall be issued by the Town Administrator to all interested parties who participated in the hearing.

(5 The decision of the Bid Protest Board shall be final and not subject to any further appeal or review.

viii. While a protest is pending, the contract may be awarded or executed by the Mayor on approval of the Board if the Board finds that performance of the contract without delay is necessary to protect a substantial Town interest.

(11) Disposal of Town Assets

- a. Disposal of any and all Town property must be approved by the department head of the using department and the Town Administrator and coordinated through the Department of Finance and Administration to determine whether the equipment will be offered for sealed bid, auction, or scrapped and sent to the landfill. Assets purchased with grant funds shall be disposed of in compliance with the terms of the grant. To avoid the appearance of favoritism or other impropriety, surplus assets will not be donated to outside organizations.
- b. Disposal of real property will occur in accordance with applicable State laws in effect at the time of the disposal.