

ORDINANCE NO. 409

AN ORDINANCE OF THE COMMISSIONERS OF THE TOWN OF ST. MICHAELS AMENDING CHAPTER 22 (ETHICS, CODE OF) OF THE CODE OF THE TOWN OF ST. MICHAELS TO COMPLY WITH GIFT PROVISIONS CONTAINED IN THE MODEL ETHICS CODE PROMULGATED BY THE STATE ETHICS COMMISSION; PROVIDING THAT CERTAIN LOBBYING ACTIVITIES MUST BE DISCLOSED TO THE TOWN ETHICS COMMISSION; AND RELATING GENERALLY TO MATTERS OF ETHICS IN TOWN GOVERNMENT IN THE TOWN OF ST. MICHAELS, MARYLAND.

WHEREAS, the Commissioners of the Town of St. Michaels (the "Commissioners") are empowered by Article 23A, § 2 of the Annotated Code of Maryland (the "State Code"), as amended, and by the Charter of the Town of St. Michaels to enact ordinances for securing persons and property from danger, and for the protection of the health, safety, comfort, convenience, welfare, and happiness of the residents of the Town; and

WHEREAS, Title 15 of the State Government Article of the State Code requires that local subdivisions, including municipal corporations, enact and enforce codes of ethics that are in certain respects similar or substantially similar to the provisions governing State agencies and employees;

WHEREAS, the Commissioners have duly enacted an ordinance known as the "Public Ethics Ordinance" (the "Ordinance"): and

WHEREAS, the Ordinance regulates gifts to Town Officials and Town Employees, but lacks certain exceptions contained in the model ethics code promulgated by the State Ethics Commission; and

WHEREAS, the Commissioners believe that it would be in the best interests of the Town and the good governance thereof if the gift provisions of the model ethics code were incorporated into the Ordinance; and

WHEREAS, the Ordinance currently does not provide for the disclosure of certain lobbying activities that seek to influence the performance of official duties, and the Commissioners believe that it would be in the best interest of the Town and the good governance thereof if the Ordinance provides for their disclosure.

SECTION 1

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

CHAPTER 22, ETHICS, CODE OF

§ 22-1 Title.

This chapter shall be known and may be cited as the "Public Ethics Ordinance."

§ 22-2 Definitions and word usage.

A.

When not consistent with the context, the words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include plural number. The word "shall" is always mandatory and not merely directory.

B.

For the purpose of this chapter, the following words, terms, phrases, and their derivations shall have the meanings given herein:

DEPARTMENT HEAD

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

GIFT

The transfer of anything of economic value, regardless of form without adequate and lawful consideration. The terms does not include the solicitation, acceptance, receipt, or regulation of political campaign contributions regulated in accordance with the provisions of the Elections 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.

TOWN

The municipal corporation known as "The Commissioners of St. Michaels" which constitutes the government of the Town of St. Michaels, Maryland.

TOWN EMPLOYEE

A person employed by the Town on a full-time or part-time basis, rather than a consulting basis.

TOWN INSPECTOR

The Town's Building Inspector, Health Officer, and Zoning Inspector.

TOWN OFFICIAL

Persons elected or appointed to the position of membership upon that public body of the Town known as "The Commissioners of St. Michaels," or upon any administrative board or commission of the Town having decision making authority.

§ 22-3 Applicability.

Generally, unless otherwise stated, the provisions of this chapter shall apply to every Town (~~official~~) Official, Town (~~inspector~~) Inspector, and Town (~~employee~~) Employee.

§ 22-4 Ethics Commission.

There shall be a Town Ethics Commission which shall be composed of three members who shall serve at the pleasure of and be appointed by resolution of The Commissioners of St. Michaels, which resolution shall become effective immediately upon reading and passage at a single meeting by The Commissioners of St. Michaels. The Town Ethics Commission shall be advised by the Town Attorney and shall have the following responsibilities:

A.

To devise, receive and maintain all forms generated by this chapter;

B.

To provide published advisory opinions to persons subject to this chapter as to the applicability of this chapter to them;

C.

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

D.

To conduct a public information program regarding the purposes and application of this chapter.

§ 22-5 Conflicts of Interest.

No Town (~~official~~) Official, Town (~~inspector~~) Inspector or Town (~~employee~~) Employee shall:

A.

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

B.

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

C.

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

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~~) Official, Town Inspector or Town 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.)~~

1. Solicit any gift.

2. Knowingly accept any gift, directly or indirectly, from any person that he knows or has the reason to know:

(a) Is doing business with the Commissioners of St. Michaels, as to members thereof, or, as to other officials or employees, with their office, agency, board, or commission; or

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

3. Subparagraph G(2) of this subsection does not apply to:

(a) Meals and beverages;

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

(c) Unsolicited gifts of nominal value or trivial items of informational value;

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

(e) Gifts of tickets or free admission extended to an elected official or employee to attend a professional or intercollegiate sporting event or charitable, cultural, or political events, if the purpose of this gift or admission is a courtesy or ceremony extended to the office;

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

(g) Gifts from a person related by blood or marriage, or a spouse, child, ward, financially dependent parent, or other relative who shares the official's legal residence, or a child, ward, parent, or other relative over whose financial affairs the person has legal or actual control; or

(h) Honoraria.

4. Notwithstanding Subparagraph G(2) of this subsection, a Town Official, Town Inspector or Town Employee may not accept any gift if acceptance would tend to impair the impartiality and the independent judgment of the Town Official, Town Inspector or Town Employee; if acceptance would give such an appearance; or if the Town Official, Town Inspector or Town Employee has reason to believe the gift was given for the purpose of impairing his or her impartiality and independent judgment.

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

§ 22-6 Financial Disclosure.

A.

The Town Clerk, Town Manager, and every Town (~~official~~) *Official*, Town (~~inspector~~) *Inspector* and (~~department head~~) *Department Head* shall annually, not later than January 31 of each calendar year during which he or she holds office (~~beginning on January 31, 1983~~), file a statement with the *Town Ethics* Commission disclosing any (~~gifts~~) *gift exceeding \$25*, received during the preceding calendar year from any person known by said Town Clerk, Town Manager, Town (~~official~~) *Official*, Town (~~inspector~~) *Inspector* or (~~department head~~) *Department Head* to have a contract with the Town, *or to be negotiating such a contract*, or (~~any person~~) *who* is regulated by his or her agency. The statement shall identify the donor of the gift and its approximate retail value at the time of receipt.

B.

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

C.

All (~~officials and employees~~) *Town Officials, Town Inspectors and Town Employees* (~~to whom this chapter is applicable~~) and all candidates for elective office to positions subject to this chapter shall file a statement with the *Town Ethics* Commission disclosing any interest or employment the holding of which would require disqualification from participation pursuant to § 22-5 (Conflicts of interest) of this chapter, sufficiently in advance of any anticipated action to allow adequate disclosure to the public.

D.

Disclosure statements filed pursuant to this section shall be maintained by the *Town Ethics* Commission as public records available for public inspection and copying.

§ 22-7 Lobbying Disclosure.

A.

Any person who personally appears before any Town Official, Town Inspector or Town Employee with the intent to influence that person in the performance of his or her official duties, and who, in connection with such intent, expends or reasonably expects to expend in a given calendar year in excess of \$125 for all food, entertainment or other gifts for such Town Official, Town Inspector or Town Employee, shall file a registration statement with the Town Ethics Commission not later than January 15 of the calendar year or within 5 days after first making these appearances.

B.

The registration statement shall include complete identification of the registrant and of any other person on whose behalf the registrant acts. It shall also identify the subject matter on which the registrant proposed to make these appearances, and shall cover a defined registration period not to exceed one calendar year.

C.

Registrants under this section shall file a report within 30 days after the end of any calendar year during which they were registered, disclosing the value, date, and nature of any political contribution, food, entertainment or other gift provided to a Town Official, Town Inspector or Town Employee. When a political contribution, gift or series of gifts to a single individual exceeds \$100 in value, the Town Official, Town Inspector or Town Employee shall also be identified.

D.

The registrations and reports filed pursuant to this section shall be maintained by the Commission as public records available for public inspection and copying.

§ (22-7) 22-8 Exemptions and modifications.

The Town Ethics Commission may grant exceptions and modifications to the provisions of § 22-5 (Conflicts of interest) (~~of this chapter and~~), § 22-6 (Financial disclosure) and § 22-7 (Lobbying disclosure) of this chapter if it determines that application of those provisions would:

A.

Constitute an unreasonable invasion of privacy;

B.

Significantly reduce the availability of qualified persons for public service; and

C.

Not be required to preserve the purposes of this chapter.

§ (22-8) 22-9 Enforcement.

A.

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

B.

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

SECTION 2.

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

HAVING BEEN INTRODUCED, read for the first time and ordered posted on the Town bulletin board at the Public Meeting of The Commissioners of St. Michaels held on the _____ day of _____, 2010, at _____ o'clock ____m., in the meeting room at the Town Office, St. Michaels, Maryland.

_____(SEAL)
CHERIL S. THOMAS
Town Clerk\Manager

HAVING BEEN READ for the second time and passed by a yea and nay vote of The Commissioners of St. Michaels at a Public Meeting of The Commissioners of St. Michaels held on this _____ day of _____, 2010, at _____ o'clock ____m., in the meeting room of the Town Office, St. Michaels, Maryland.

BRADY - _____
CLARK - _____
DINKEL - _____
HUNT - _____
SNYDER - _____

I HEREBY CERTIFY that the above Ordinance No. 409 was passed by a yea and nay vote of The Commissioners of St. Michaels on the _____ day of _____, 2010.

ATTEST:

THE COMMISSIONERS OF ST.
MICHAELS

Cheril S. Thomas, Town Clerk\Manager

By: _____(Seal)
Michael W. Brady, President

I HEREBY CERTIFY that an exact copy of this Ordinance was posted from the _____ day of _____, 2010, at _____ o'clock ____m. to the _____ day of _____, 2010, at _____ o'clock ____m., on the bulletin board at the Town Office in St. Michaels, Maryland, and that a summary of the aforesaid Ordinance No. ____, the date of its passage, its effective date and the fact that the entire text of the Ordinance may be read on the bulletin board of the Town Office, St. Michaels, Maryland, for at least twenty (20) days following the passage, has been published at least once each week for two (2) consecutive weeks following the passage of said Ordinance in a newspaper having general circulation in the Town of St. Michaels.

Date: _____, 2010

_____(Seal)
Cheril S. Thomas, Town Clerk\Manager