

CITY OF BRUNSWICK ETHICS COMMISSION
PROCEDURES AND POLICIES

I. MEMBERSHIP, POWERS AND DUTIES

The establishment, membership, powers and duties of the City of Brunswick Ethics Commission (the “**Commission**”) are set forth in Article 3 entitled, “CODE OF ETHICS” (the “**Ethics Ordinance**”) of the Code of Ordinances of the City of Brunswick, as amended (the “**Code**”). The Ethics Ordinance was enacted in accordance with Section 5-202 of the Local Government Article and Title 5, Subtitle 8 of the General Provisions Article of the Annotated Code of Maryland (the “**State Ethics Law**”).

II. COMPOSITION OF MEMBERS

- A. Number: The Commission shall consists of no fewer than three (3) and not more than five (5) members all of whom must be residents of the City of Brunswick, Maryland (the “**City**”) and registered to vote in accordance with the Code (collectively, the “**Members**” or individually “**Member**”).
- B. Appointment: Members are appointed by the Mayor (the “**Mayor**”) and approved by the Council (the “**Council**”) of the Mayor and Council of Brunswick (the “**City**”) as provided in §2-3102 of the Code, entitled, “Ethics Commission”.
- C. Term: The term of each Member is three (3) years.
- D. Chair: The Commission shall annually elect a chairperson from one of its Members to serve a term of one (1) year (the “**Chair**”). The Chair shall preside at meetings of the Commission, may call special meetings of the Commission, may administer oaths and compel the attendance of witnesses through subpoena.
- E. Vice-Chair: The Commission shall annually elect a vice-chair from one of the Members to serve a term of one (1) year (the “**Vice-Chair**”). The Vice-Chair shall preside over meetings of the Commission in the absence of the Chair and may call special meetings of the Commission, may administer oaths and compel the attendance of witnesses through subpoena when the Chair is unable to do so under the circumstances.
- F. Records: The Commission shall cause an employee of the City (the “**Commission’s Designee**”) to prepare a transcript record of its proceedings including the votes of the Members and file it in the Commission’s records maintained at the City office.

III. COMMISSION RESPONSIBILITIES

The Ethics Ordinance delegates to the Commission the following responsibilities:

- A. Devise, receive, and maintain all forms required by the Ethics Ordinance;
- B. Develop procedures and policies for advisory opinion requests and provide published advisory opinions to persons subject to the Ethics Ordinance regarding the applicability of the provisions of the Ethics Ordinance to them;
- C. Develop procedures and policies for the processing of complaints to make appropriate determinations regarding complaints filed by any person alleging violation of the Ethics Ordinance;
- D. Conduct a public information program regarding the purpose and application of the Ethics Ordinance;
- E. Issue an annual report of compensation and spending in connection to lobbying activity by registered lobbyists;
- F. Certify by October 1 of each year to the State Ethics Commission that the City is in compliance with the requirements of State Ethics Law for “local elected officials” as defined in §5-804 of the General Provisions Article of the Maryland Annotated Code;
- G. Make recommendations for changes to the Ethics Ordinance when needed in order to comply with the State Ethics Law;
- H. Develop policies and procedures as needed to assist in implementing the Ethics Ordinance;
- I. Request funds for outside counsel and other services, as required;
- J. Approve spending budgeted funds upon approval by a majority vote of the Commission; and
- K. Provide required annual training to local elected officials on the Ethics Ordinance.

IV. **FINANCIAL DISCLOSURE FORMS**

- A. The annual financial disclosure forms required by the Ethics Ordinance will be drafted by the City Attorney, acting as legal advisor to the Commission and in consultation with the City Administrator, and approved by the Members.
- B. The Commission’s Designee will send the annual financial disclosure forms in and around January of each year to the officials and employees of the City as required in the Ethics Ordinance.
- C. The annual financial disclosure forms are to be completed and returned to the City Office by **March 30th** each year. The City Office will send reminders and notify the City Administrator of the persons who have not returned their forms in a timely manner. The

Commission may assess a late fee of \$2 per day up to a maximum of \$250 for failure to timely file a financial disclosure statement.

- D. The Commission will review the completed annual financial disclosure forms and take appropriate action based on the information contained in the forms. The Commission may ask the City Attorney or City Administrator to obtain additional information if the information provided on the annual financial disclosure form is incomplete, unclear or raises questions under the Ethics Ordinance.

V. **CONDUCT AND VOTING OF THE COMMISSION MEMBERS**

- A. Speaking for the Commission: A Member shall not appear to speak for the Commission except as authorized, directed or agreed to amongst the Members. In all matters, Members will carefully indicate whether they are speaking for the Commission or for themselves individually.
- B. Gratuities and Entertainment: In addition to the restrictions imposed by the Ethics Ordinance, Members shall not accept any gifts or compensation from any persons involved in matters which have come before the Member while sitting on the Commission or in the case where it is reasonable to assume the matter may come before the Commission.
- C. Privileged Information: Members shall not engage in any business transaction in regard to which they have an advantage because of information gained through membership on the Commission.
- D. Conduct at Meetings: Members shall conduct themselves at Commission meetings in a fair, impartial, understanding and gracious manner. They shall seek to be considerate of all individuals, attitudes and differences of opinion involved in official Commission business.
- E. Voting and Quorum: The Commission will decide all matters by a majority vote of a quorum of the Members present at the meeting or hearing where the Commission's Complaint Decision (as hereinafter defined) is made. A quorum of the Commission shall consist of no less than a majority of the Members appointed by the Mayor and approved by the Council.

VI. **REQUESTS FOR ADVISORY OPINIONS**

- A. Requests: The Commission issues Advisory Opinions to provide guidance on compliance with the requirements of the Ethics Ordinance. Advisory Opinions are typically issued in response to requests from elected and appointed City officials, candidates for City elected and appointed offices, employees or their supervisors (the "**Requester**") and are intended to serve as a guide to the persons immediately affected, as well as to others who may face similar questions in the future ("**Request**" or "**Requests**"). Advisory Opinions are issued in advance of the contemplated action and provide guidance on how to comply with the Ethics Ordinance. The Commission may also issue Advisory Opinions as an alternative to formal enforcement action. (The enforcement options available to the Commission are found in Section 2-3501 of the Ethics Ordinance)

entitled, “**Enforcement**”). Requests are generally directed to the Commission by the Commission’s Designee.

- B. Required Information: Requests shall be made in writing. Requests shall contain the Requester’s name, signature, home and (if applicable) email addresses, telephone numbers, and a detailed statement of the facts and circumstances giving rise to the Request.
- C. Notice and Consideration of Request: The Commission’s Designee will circulate each Request to the Members. Upon notice that a Request has been received, each Member will promptly advise the Chair as to whether the Member has any conflict of interest regarding the issue presented to the Commission in the Request. Upon receipt of a notice that a Request has been received, each Member will promptly advise the City Attorney or City Administrator as to whether the Request should be discussed at the next Commission meeting. The Requester or other persons with information material to the Request may be invited to meet with the Commission at the Commission’s discretion. The Commission’s Designee shall notify the Requester in writing when a Request is accepted by the Commission as complete.
- D. Confidentiality: The name of the person who is the subject of the Advisory Opinion should remain confidential as provided in subsection F. below.
- E. State Open Meetings Act: Meetings to discuss the application of the Ethics Ordinance to Requests or to Requests for exemption from the Ethics Ordinance will be considered as administrative function meetings under the State Open Meetings Act and, as such, need not be open to the public.
- F. Commission Response: After the Commission makes findings of fact and a decision on the Request (“**Commission Decision**”) and the Commission Decision has been reviewed by the City Attorney, it will issue a written “**Advisory Opinion.**” The person who is the subject of the Request will not be identified in the Advisory Opinion. The Commission’s Advisory Opinion to a Request shall be reviewed by the City Attorney before delivery to the Mayor and Council of the City and to the Requester. The Commission’s Advisory Opinion should generally be provided within sixty (60) days of the Commission’s acceptance of the complete Request as set forth in the Commission’s Designee’s written notice of acceptance of the complete Request. The time for the Commission Decision may be extended by the Commission, when necessary and in its discretion. The Commission’s Designee shall provide copies of the Advisory Opinion to the subject of the Request and the Requester.
- G. As an alternative to subsection E above, when a Request presents facts and raises issues that have been addressed in a previously issued Advisory Opinion, the Commission may transmit the prior Advisory Opinion as an expedited informal response to the Request.
- H. Reconsideration: Requests for reconsideration of an Advisory Opinion will only be accepted when the person requesting the reconsideration provides material and substantive new facts or circumstances to support the request.

VII. COMPLAINTS Jurisdiction: The Commission only has jurisdiction to consider violations of the specific provisions of the Ethics Ordinance or State Ethics Ordinance. General allegations that conduct is “unethical” cannot be considered unless the conduct would constitute a violation of the Ethics Ordinance or State Ethics Law itself.

A. Requirements: A complaint alleging a violation of the Ethics Ordinance (“**Complaint**” or “**Complaints**”) may be filed by any person (the “**Complainant**”) with the Commission or the Commission’s Designee and shall meet the following requirements before being accepted by the Commission:

1. Complaints must be against an official (elected or appointed), employee or lobbyist under the jurisdiction of the Commission (the “**Subject of the Complaint**”) and allege facts that would support a reasonable person in concluding that a violation of the Ethics Ordinance or State Ethics Ordinance has occurred.

2. Complaints shall be in writing, signed and made under oath by Complainant.

3. Complaints shall contain the Complainant’s name, signature, home and (if applicable) email addresses, telephone numbers, and a detailed statement of the facts and circumstances giving rise to the Complaint.

4. The Complainant or other persons with information material to the Complaint may be invited to meet with the Commission, at the Commission’s discretion.

5. The Complaint must allege a violation of the Ethics Ordinance on the part of an official or employee or lobbyist who is subject to the Ethics Ordinance and the jurisdiction of the Commission (i.e., the Subject of the Complaint). The Complaint must specify the specific sections of the Ethics Ordinance or State Ethics Law that are alleged to have been violated by the Subject of the Complaint.

6. Anonymous or unsigned Complaints will not be accepted by the Commission.

7. A Complaint must be filed within two (2) years after the date of the alleged violation by the Subject of the Complaint.

B. Outside Legal Counsel

If any Complaint involves the Mayor, a Councilmember or appointed official of the City as the Subject of the Complaint, the City Attorney will determine whether a conflict of interest exists on the part of the City Attorney due to the fact that the City Attorney is the attorney for and is employed by the City and the Mayor and Council are the governing body of the City. If the City Attorney determines that a conflict of interest exists or could exist, and the Commission determines that an “outside” attorney is needed to advise the Commission, it will request to the City to employ “outside” counsel for that matter.

C. Notice to the parties of the filing of the Complaint

Upon receipt of a Complaint or the initiation and submission of a Complaint by the Commission, the Commission or Commission’s Designee will notify the Subject of the

Complaint that it has been made and will provide that person with a copy of the Complaint.

D. Confidentiality

1. Once a Complaint is filed or initiated and submitted by the Commission, the proceedings, meetings, and activities of the Commission, the Commission's Designee and City staff in connection with the Complaint shall be conducted in a confidential manner. The Commission, the Commission's Designee and City staff, the Complainant and the Subject of the Complaint, should not disclose any information relating to the Complaint, including the identity of the Subject of the Complaint or the Complainant.

2. The Complaint shall remain confidential until the Commission makes its determination that the Ethics Ordinance has been violated or refers the matter for prosecution.

3. If the Complaint is dismissed by the Commission or if the Commission finds that no violation of the Ethics Ordinance has occurred, it will issue a written decision including findings of fact and conclusions of law ("**Commission's Complaint Decision**") on the Complaint. The name of the Subject of the Complaint will remain confidential and will not be included in the Commission's Complaint Decision.

E. Procedures

1. When the Commission receives a Complaint, the Commission will make an initial determination as to whether the facts set forth in the Complaint support further action by the Commission. If so determined by the Commission, the options available to the Commission include, but are not limited to the following:

- a. Issue the Commission's Complaint Decision;
- b. Direct the City Attorney to investigate the allegations to aid the Commission in its initial evaluation of the Complaint;
- c. If the Commission finds that the facts alleged in the Complaint would not constitute a violation of the Ethics Ordinance, the Commission may dismiss the Complaint without further investigation; or
- d. The Commission may meet with the Complainant and/or the Subject of the Complaint on an informal basis to ascertain the facts related to the Complaint and then issue Commission's Complaint Decision. If at any time the Commission determines that a hearing is warranted, the Commission may schedule a hearing on the Complaint.

2. If the allegations in the Complaint or the facts obtained during the Commission's investigation suggest that criminal conduct may have occurred, the Commission will refer the matter to the City Attorney for determination as to whether a criminal investigation is warranted. Once a referral for possible criminal prosecution is made, the Commission will not act on the Complaint until the referral is resolved.

3. The Commission's Complaint Decisions should generally be issued within ninety (90) days of receipt of the Complaint. The time for the Commission's Complaint Decision may be extended by the Commission, if necessary, in its discretion.

F. Right to legal representation and participation

1. Before making a decision adverse to the person that is the Subject of the Complaint, the Subject of the Complaint has the right to be heard by the Commission.

2. The Subject of the Complaint has the right to be represented by legal counsel in his/her meeting(s) with the Commission and in any hearings conducted by the Commission. The Subject of the Complaint is solely responsible for payment of any legal fees associated with its attorney's representation.

3. At the formal hearing on the Complaint, the Complainant and the Subject of the Complaint shall each be given the opportunity to present evidence and cross-examine witnesses. All testimony at the hearing shall be taken under oath but formal rules of evidence shall not apply.

G. Commission's Complaint Decision

1. The Commission's Complaint Decision will include findings of fact and conclusions of law for each violation alleged in the Complaint.

2. If the Commission decides to dismiss the Complaint or makes a decision on the merits of the Complaint, it will provide a copy of the Commission's Complaint Decision to the Complainant and to the Subject of the Complaint.

3. A Commission's Complaint Decision shall be signed by the Chair or other designated Member on behalf of the Commission.

4. If the Commission finds that the Subject of the Complaint has violated the Ethics Ordinance, it may take such steps and enforcement actions as are allowed in the Ethics Ordinance.

VIII. **Rules not Jurisdictional**

These Procedures and Policies do not constitute jurisdictional requirements. Failure of the Commission, the Commission's Designee or City staff, or any party to comply with any provision(s) of these Procedures and Policies shall not invalidate any otherwise valid Commission Decision, Advisory Opinion or Commission's Complaint Decision or action of the Commission.