

RULES OF PROCEDURE CITY OF ROCKVILLE ETHICS COMMISSION

I. AUTHORITY

These rules are adopted pursuant to § 16-3 of Chapter 16, Public Ethics, of the Rockville City Code ("Ethics Ordinance").

II. GENERAL PROCEDURES FOR ETHICS COMMISSION MEETINGS

1. Regular meetings of the City of Rockville Ethics Commission ("the City") are subject to the Maryland Open Meetings Act ("Act") and are, generally, public meetings. However, the Ethics Commission may, at its discretion, hold executive sessions in accordance with the provisions of the Act.

2. Each regular meeting shall be noticed in writing, by posting the agenda on the City web site.

3. A quorum shall consist of at least four members of the Ethics Commission.

4. Motions put to a vote must be seconded and shall be decided by a simple majority of the members present and voting. The Commission requires at least four members to vote either for or against a motion in order to decide a motion. An abstention does not count as a vote. If due to abstentions there is a lack of a quorum to vote on a motion, the motion fails.

5. Proxy voting shall not be allowed.

6. A tie vote by the Ethics Commission shall be interpreted as a defeat of the motion upon which the vote was taken.

III. COMMISSIONERS – PROCEDURES

1. The Ethics Commission shall elect a Chairperson, approved by a majority vote of the Ethics Commission at the beginning of each fiscal year. The chair serves a term of one (1) year and is eligible for reelection. In the absence of the Chairperson, a temporary Chairperson shall be elected to preside at the meeting by a majority of the Commissioners present. The temporary Chairperson's designation ends at the conclusion of the meeting at which he or she was elected.

2. The duties of the Chairperson shall be as follows:

a. Preside at all meetings of the Ethics Commission;

b. Decide on all points of order and procedure subject to these rules unless overruled by a majority of Commissioners present;

c. Participate in discussions and vote on motions, however, the Chairperson cannot make or second any motion;

d. Have the right to designate Commissioners to write opinions; and

e. Have the authority to postpone a meeting for good cause.

3. A Commissioner will not appear before any group or body to speak for the Ethics Commission except as authorized by the Ethics Commission. In any public or private statement concerning Ethics Commission affairs, Commissioners will expressly indicate whether they are speaking for the Ethics Commission or for themselves.

4. Any Commissioner who has a conflict of interest with respect to any pending matter to be considered by the Ethics Commission shall abstain from any and all discussion, review, and analysis of such matter.

5. No Commissioner shall publicly comment on the merits of a matter before the Ethics Commission, or a matter that can be reasonably expected to appear before the Ethics Commission, prior to the release of a decision on that matter.

IV. REQUESTS FOR ADVISORY OPINIONS

1. An advisory opinion is a formal, written opinion issued by the Ethics Commission that provides an interpretation of the Ethics Ordinance.

2. The Ethics Commission issues advisory opinions to provide guidance on compliance with the requirements of the Ethics Ordinance. Advisory opinions may be requested by any official or person subject to the provisions of the Ethics Ordinance and are intended to serve as a guide to the persons immediately affected, as well as others who may face similar situations in the future. The Ethics Commission may also issue advisory opinions as an alternative to formal enforcement action.

3. An individual requesting an advisory opinion should visit the Ethics Commission's web site at <http://www.rockvillemd.gov/index.aspx?nid=1312> and click on the "Request for Advisory

Opinion” Form link or contact the City Clerk’s Office at 240.314.8280 or clerk@rockvillemd.gov for a paper copy of the form. Once the requestor has completed the Request for Advisory Opinion Form, it should be returned in a sealed envelope and marked “Request for Advisory Opinion to Ethics Commission,” either via hand-delivery or first-class mail to the City of Rockville, Attn: City Clerk’s Office, 111 Maryland Avenue, Rockville, Maryland 20850.

4. Requests must be signed by the requestor and contain the requestor’s name, home and email addresses, telephone number(s) and a statement of the facts and circumstances giving rise to the request.

5. The City Attorney will review the completed Request for Advisory Opinion Form and determine whether the required information has been provided. If additional information is needed, the requestor will be contacted for the additional information. A Request for Advisory Opinion will not be processed until all required information is provided.

6. Once the Request for Advisory Opinion Form is complete, the City Attorney will circulate the request to the members of the Ethics Commission. The Chairperson will determine when the request shall be placed on the Ethics Commission’s agenda for discussion. The requestor or other persons with information material to the request may be invited by any member of the Ethics Commission to address the Ethics Commission.

7. When the Ethics Commission makes a decision on the request, it will issue a written advisory opinion. The person who is the subject of the request will not be identified in the opinion. A copy of the opinion will be given to the person making the request. The advisory opinion will be available on the City’s web site.

8. When a request presents facts and raises issues that have been addressed in a previously issued advisory opinion, the Ethics Commission may transmit the prior advisory opinion as a response to the request.

9. The name of the person who is the subject of the advisory opinion will remain confidential to the extent provided by law.

V. COMPLAINTS

1. A complaint is a written document, signed under oath, alleging a specific violation of the Ethics Ordinance. Any person may file a complaint. The complaint must be filed within one hundred and eighty (180) days of the time the person filing the complaint either knew or, in the exercise of reasonable care, should have known of the violation.

2. Any person wishing to file a complaint with the Ethics Commission should visit the Ethics Commission's website at <http://www.rockvillemd.gov/index.aspx?nid=1312> and click on the "Ethics Complaint" Form link or contact the City Clerk's Office at 240.314.8280 or clerk@rockvillemd.gov for a paper copy of the form. Once the complainant has completed the Ethics Complaint Form, it should be returned in a sealed envelope and marked "Ethics Complaint," either via hand-delivery or first-class mail to the City of Rockville, Attn: City Clerk's Office, 111 Maryland Avenue, Rockville, Maryland 20850.

3. Complaints must be in writing, signed under oath and contain the complainant's name, mailing and email addresses, telephone number, and a statement of the facts and circumstances giving rise to the complaint.

4. The complaint must allege a violation of the Ethics Ordinance, on the part of the employee or official who is subject to the jurisdiction of the Ethics Commission and should identify the provision(s) of the Ethics Ordinance that was allegedly violated.

5. Anonymous complaints will not be processed.

6. The City Attorney will review the complaint to determine whether the required information has been provided and will notify the Ethics Commission of the complaint and whether the complaint is complete. The Chairperson shall determine when the complaint will be placed on the Ethics Commission's agenda for discussion.

7. The Ethics Commission may initiate a complaint on its own if deemed necessary by the Ethics Commission.

8. Upon receipt of a complaint or the initiation of a complaint by the Ethics Commission, the Ethics Commission will notify the subject of the complaint that a complaint has been made and will provide that person with a copy of the complaint.

9. Once the Ethics Commission reviews the complaint it may:

- a. dismiss the complaint without further investigation;
- b. direct the City Attorney or designee to investigate the allegations to aid the Ethics Commission in its initial evaluation of the complaint; and/or
- c. set a hearing on the complaint.

10. The Ethics Commission shall notify the complainant in writing of its initial determination. The Ethics Commission may also meet with the complainant and/or the subject of the complaint to seek clarification regarding the facts related to the complaint.

11. If a hearing is scheduled, the complainant and the person who is the subject of the complaint will be given the opportunity to attend the hearing and present evidence and cross-examine witnesses. All testimony shall be taken under oath. Commission hearings are administrative hearings and do not strictly conform to the rules of evidence and procedure that govern judicial hearings. The Commission may consider any evidence presented which, based on its experience and expertise, the Commission finds relevant and assists it in reaching a decision. Hearsay evidence, if relevant, may be accepted. The Chairperson may exclude from evidence any irrelevant, immaterial or unduly repetitive material.

12. Commission hearings are conducted on the record and are recorded.

13. The Ethics Commission may issue subpoenas and compel the attendance of witnesses and production of documents.

14. At the conclusion of the hearing and after deliberation, the Ethics Commission will issue a formal written decision that includes findings of fact and conclusions of law based on the evidence presented. The written decision will be sent to the subject of the complaint and the complainant, and it will be available for public inspection and copying.

15. Upon a finding of a violation of the Ethics Ordinance, the Ethics Commission may issue an

order and impose a fine in accordance with the provisions of Section 16-4 of the Ethics Ordinance.

1. CONFIDENTIALITY

- i. Once a complaint is filed or initiated by the Ethics Commission, the proceedings, meetings, and activities of the Ethics Commission and staff in connection with the complaint shall be conducted in a confidential manner. The Ethics Commission, its staff, and the parties should not disclose any information relating to the complaint, including the identity of the subject of the complaint or the identity of the complainant. The complaint remains confidential unless and until the Ethics Commission finds that the Ethics Ordinance has been violated.
- ii. If the Ethics Commission makes a determination that there was no violation, the Ethics Commission will issue a written decision. The names of the complainant and the individual who was the subject of the complaint will remain confidential and will not be included in the decision.

2. RIGHT TO LEGAL REPRESENTATION AND PARTICIPATION

- i. The subject of a complaint has the right to be represented by legal counsel at all meetings with, and hearings conducted by, the Ethics Commission. The subject of the complaint is responsible for any and all legal fees associated with the legal representation.
- ii. The subject of the complaint has the right to be heard by the Ethics Commission before any decision adverse to the subject of the complaint may be rendered.

VI. OUTSIDE LEGAL COUNSEL

If any matter filed with the Ethics Commission involves an individual that would pose a conflict of interest for the City Attorney, the Ethics Commission, in consultation with the City Attorney, will

determine whether to employ outside counsel for that matter.

VII. ASSESSMENT OF LATE FEES

When assessing late fees pursuant to Section 16-4(a) of the Ethics Ordinance because a person failed to timely file a financial disclosure statement, lobbyist registration, or lobbyist report, the Ethics Commission may begin assessing the late fee on any day after the financial disclosure statement, lobbyist registration, or lobbyist report was required to be filed.

VIII. PARLIAMENTARY RULES

Parliamentary procedure in a meeting of the Ethics Commission is informal. However, if required to keep order, the Chairperson may apply Robert's Rules of Order to resolve any parliamentary issue not specifically covered by these rules.

IX. AMENDMENTS

Amendments to these rules of procedure may be introduced at any meeting of the Ethics Commission and voted on at any subsequent meeting.