The St. Michaels Ethics Commission

Frequently Asked Questions and Answers on Filing Ethical Complaints & Obtaining Advisory Ethical Opinions

The Commissioners of St. Michaels holds invaluable the ethical obligations that the Code of Ethics of St. Michaels places upon all of the Town's officials and employees. To aid in the enforcement of the Code, the St. Michaels Ethics Commission was created in order to provide published advisory opinions to persons subject to the Ethics Code and to process and make determinations as to complaints filed by any person alleging violations of the Ethics Code. This document is designed to answer some of the most frequently asked questions regarding proceedings before the Ethics Commission.

WHO MAY FILE AN ETHICS COMPLAINT?

Any person may file a written Complaint alleging a violation of any of the provisions of the Code of Ethics. **http://ecode360.com/7036447**. The Complaint must be in writing and filed with the Town Manager at 300 Mill Street, P. O. Box 206, St. Michaels, MD 21663. In the event that the Complaint asserts a violation of ethical conduct on the part of the Town Manager, the Complaint shall be filed with the Town Attorney: Charles D. MacLeod, Esq., Funk & Bolton, P.A., 210 S. Cross Street, Chestertown, Maryland 21620.

WHAT MUST BE CONTAINED IN THE COMPLAINT?

The Complaint must assert sufficient clear and detailed *facts* that if proven true would constitute a violation of the provisions of the Ethics Code. The alleged wrongful conduct must be alleged to have occurred within one (1) year from the date of the filing of the Complaint, unless the alleged violation is continuing in nature. The Complaint shall cite, to the extent possible, the specific Code provisions allegedly violated. The Complaint must be executed under oath, *i.e.* before a notary public (available free of charge at the Town office).

WHAT HAPPENS AFTER I FILE A COMPLAINT?

The Town Manager or Town Attorney will forward all Complaints to our Ethics Counsel for preliminary review. If the Complaint is not executed under oath, or fails to allege facts that would support a reasonable person in concluding that a violation of the Code of Ethics may have occurred, the Ethics Counsel will recommend within thirty (30) days that the Commission dismiss the Complaint. If the Ethics Counsel and the Commission determine that there is a reasonable basis for believing that a violation has occurred, then a copy of the Complaint shall be mailed to the person that is the subject of the Complaint and the matter will be set for a hearing within forty-five (45) days.

Prior to the hearing date, the Ethics Counsel may provide the person charged with the alleged wrongful conduct with an opportunity to take corrective action which may be available to cure all violations alleged in the Complaint. If within fifteen (15) days of said notice, the party takes the corrective action suggested by Ethics Counsel, the Complaint may be dismissed.

WHAT SHOULD I EXPECT AT THE HEARING?

The hearing will not be open to the public unless all parties consent. All testimony and evidence will be offered under oath. The Commission will retain an audio or video recording of the hearing.

At the hearing, Ethics Counsel will present to the Commission all evidence available relating to allegations of the Complaint. The person charged with the ethical violation will probably be represented by counsel, and will have the right to present testimony and evidence in support of their defense and cross-examine witnesses, including the person that has filed the Complaint. While the proceedings are not a formal court

proceeding, the Commission will adhere to the Maryland Rules of Evidence in response to any objections during the course of the proceedings. Closing arguments may be made upon the conclusion of all testimony and evidence and the hearing will conclude. No decision will be announced at the conclusion of the hearing.

WHAT SHOULD I EXPECT AFTER THE HEARING?

The Commission will meet and determine whether a violation of Chapter 22 of the Code of Ethics has occurred. The determination will be made on the evidentiary standard of the "preponderance of the evidence." In other words, is it more likely than not, that the violation has occurred? The Commission will prepare written findings of fact and conclusions of law with respect to each of the alleged violations and upon a finding of a violation, the Commission may take any enforcement action provided in Code of Ethics. A copy of the findings will be mailed to the parties within five (5) business days from the date of the decision and made available to the public and the Commissioners of the Town of St. Michaels within ten (10) business days from the date of the decision.

WHAT IF I DISAGREE WITH THE DECISION OF THE ETHICS COMMISSION?

Any person aggrieved by a final determination of the Ethics Commission has the right to appeal that determination to the Circuit Court of Talbot County, Maryland. The appeal must be noted within thirty (30) days from the date of the final decision.

WHAT IS AN ADVISORY OPINION AND WHO CAN OBTAIN ONE?

An advisory opinion is available upon written request and is *only* available to individuals that are actually subject to the Code. Of Ethics. An advisory opinion is a written determination by the Ethics Commission whether or not specific actual or contemplated conduct violates the provisions of the Code of Ethics. A letter to the Ethics Commission at the address on the back of this brochure is all that is required to request an opinion. If the advisory opinion involves any conduct that may involve the Town Manager, the letter requesting the advisory opinion may be directed to Ethics counsel for the St. Michaels Ethics Commission: Mark A. Barondess, Esq., Funk & Bolton, P.A., 200 Duke of Gloucester Street, Annapolis, Maryland, 21401 or via email, **mbarondess@fblaw.com**.

WHAT IS AN ADVISORY OPINION BASED UPON?

An advisory opinion is solely based on the facts provided by the person submitting the request or reasonably known to the Commission. The Commission does not make any findings of fact regarding the intent of any person. The Commission does not institute any investigation into the facts set forth in the letter other than that which is presented by the person requesting the opinion.

WHAT IS THE EFFECT OF THE ADVISORY OPINION?

Until it is amended or revoked, an advisory opinion is binding on the Town, the Town Commissioners and the Ethics Commission in any subsequent actions concerning the person who sought the opinion and who acted on it in good faith, unless material facts were omitted or erroneously presented in the request for the opinion. The advisory opinion is not binding in any court action initiated by any private citizen, or upon the State in any criminal prosecution.

IS AN ADVISORY OPINION CONFIDENTIAL?

Partially. Copies of the advisory opinion will be submitted to the Commissioners of St. Michaels and made available to the public within five (5) working days after the opinion has been rendered. However, the name of the person requesting the opinion and the names of all persons or business entities mentioned in the opinion are redacted and deemed confidential information and will not be disclosed by the members of the Commission unless each person or business entity waives such confidentiality. However, depending on the facts of the situation, and given the small size of our community, it may be relatively simple for someone to determine the parties discussed in an advisory opinion, even with redactions made.

WHAT IF I HAVE MORE QUESTIONS?

You are encouraged to feel free to contact the Town Manager or Ethics Counsel with any questions regarding the procedures described herein. The Town Manager, Jean Weisman (410-745-9535) and Ethics Counsel, Mark A. Barondess, Esq. (410-269-1554) cannot provide legal advice to you, and you should consult with your own legal counsel regarding any other queries.

The St. Michaels Ethics Commission

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