

## **St. Michaels Ethics Commission Rules of Procedure**

### **§ 1 Advisory opinion.**

A. Procedure. Any person subject to the Code of Ethics may make a written request to the Commission for an advisory opinion concerning the application of the provisions of this chapter, specifically, whether or not specific conduct violates the provisions of the Ethics Code. The Commission shall respond to the request within ninety (90) days of its receipt, or as soon thereafter as is practical.

B. Issues. In an advisory opinion, the Commission shall limit its findings to matters of law. The Commission's interpretation of these provisions and its opinion shall be based on the facts provided by the person or reasonably known to the Commission. The Commission shall not make any findings of fact regarding the intent of any person in an advisory opinion.

C. Effect. Until amended or revoked, an advisory opinion shall be 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 shall not be binding in any court action initiated by any private citizen, or upon the State in any criminal prosecution.

D. Confidentiality. Copies of the advisory opinion shall be submitted to the Commissioners of St. Michaels and be 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 shall be redacted and deemed confidential information and shall not be disclosed by the members of the Commission unless each person or business entity waives such confidentiality.

### **§ 2 Procedures for adjudicating alleged violations.**

The investigation and adjudication of alleged violations of the Code of Ethics shall proceed as follows:

#### **A. Complaint.**

(1) Who may file. Any person may file a written Complaint, executed under oath, with the Commission alleging a violation of any of the provisions of the Code of Ethics. The Commission may also consider possible violations of the Code of Ethics on its own initiative. The Complaint shall be filed with the Town Manager. 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.

(2) Contents. The Complaint must assert sufficient clear and detailed facts that if proven true would constitute a violation of the provisions of the Code of Ethics. The Complaint shall cite, to the extent possible, the specific Code provisions allegedly violated. Complaints initiated by the Commission shall be signed by the Chair. The Town Manager or Town Attorney shall forward all Complaints to Ethics Counsel for preliminary review. If a Complaint is not executed under oath or fails to allege facts that would support a reasonable person in concluding that a violation of this chapter may have occurred, Ethics Counsel shall recommend that the Commission dismiss the Complaint. The Commission shall inform the Complainant of its decision to dismiss the complaint within thirty (30) days of receiving a Complaint.

(3) Limitation on actions. No Complaint shall be processed if filed more than one (1) year from the date of the action alleged to constitute a violation, unless the alleged violation is continuing in nature.

B. Ethics Commission review. If 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 subject of the Complaint ("the Complainant"), who shall be afforded an opportunity for a hearing conducted on the record. Upon making a determination hereunder, the Commission shall advise the person making the Complaint and the person the subject thereof ("the Respondent").

(1) In the event the matter is referred for a hearing, the Commission shall notify the parties of the hearing date.

(2) Prior to the hearing date the Ethics Counsel may provide the Respondent with an opportunity to take corrective action which may be available to cure all violations alleged in the Complaint, provided that the Ethics Counsel finds such action is not contrary to the purposes of this Article and is consistent with applicable law. If, within fifteen (15) days of said notice, the Respondent takes the corrective action suggested by Ethics Counsel, the Complaint may be dismissed.

B. Hearing.

(1) Timing. A hearing shall be held within forty-five (45) days, or as soon thereafter as practical, following the determination by the Ethics Counsel or Commission that there exists a reasonable basis for believing an ethical violation may have occurred. The Commission may grant postponements for good cause.

(2) The hearing shall not be open to the public unless both parties consent. All testimony and evidence shall be offered under oath. An audio or video recording of the hearing shall be retained by the Commission.

(3) At the hearing, the Ethics Counsel shall present to the Commission all evidence available relating to allegations of the Complaint. The Respondent may be represented by counsel. The Respondent charged in the Complaint has the right to attend the hearing, to make a statement, to present evidence and testimony, and to cross-examine witnesses. The Commission shall adhere to the Maryland Rules of Evidence in response to any objections raised during the course of the proceedings.

(4) Standard of proof. The issue at a final hearing shall be whether a violation of the Code of Ethics has occurred. The Commission shall make its determination based on the preponderance of the evidence in the record of such hearing. Ethics Counsel may recommend to the Commission such disposition of the Complaint as appears appropriate.

(5) Decision. After consideration of the evidence, the Commission shall prepare written findings of fact and conclusions of law with respect to each of the alleged violations. Upon a finding of a violation, the Commission may take any enforcement action provided in the Code of Ethics. If at any time during the hearing, the Commission determines that there is an ambiguity in the law that prevents it from making a determination of whether a violation has occurred, and that there was no apparent intent to violate the code, the Complaint shall be dismissed. In this event, the Commission shall report its determination that an ambiguity exists to the Town Attorney and the Commissioners of the Town of St. Michaels. A copy of the report shall be mailed to the Complainant and Respondent within five (5) business days from the date of the decision. The report shall be made available to the public and a copy submitted to the Commissioners of the Town of St. Michaels within ten (10) business days from the date of the decision.

D. Appeals. Any Respondent aggrieved by a final determination of the Ethics Commission shall have the right to appeal such final determination to the Circuit Court of Talbot County, Maryland. The notice of appeal must be filed within thirty (30) days of the date of the written decision of the Ethics Commission.