



## ETHICS COMMISSION RULES OF PROCEDURE

### **Introduction**

These Rules of Procedure are adopted pursuant to the Middletown Public Ethics Ordinance, Section 4.12.020 of the Middletown Municipal Code.

### **Section 1 – Meetings and Hearings**

- a. Meetings of the Commission shall occur as needed.
- b. The Chair or, in his/her absence, the Vice-Chair shall preside at all meetings and hearings of the Commission. The presiding officer shall decide on all points of order and procedure, subject to these Rules, unless otherwise directed by the majority of the Commission members.
- c. The order of business shall be in accordance with the agenda prepared by the Town Administrator in consultation with the Chair or, in his/her absence, the Vice-Chair. The order of the agenda may be amended at the meeting by affirmative vote of the majority of the Commission members.

### **Section 2 - Voting**

- a. A quorum consists of three Commission members.
- b. A member shall not vote on a matter in which he or she has a conflict of interest.
- c. Items put to a vote are decided by a majority of the members. The Chair may make motions and vote on all items.
- d. In order to be put to a vote, a motion must have a second. Members' votes shall be recorded on each motion.

### **Section 3 - Requests for Advisory Opinions**

a. Definition: An Advisory Opinion is a formal, written opinion, issued by the Ethics Commission that provides an interpretation of the Ethics Ordinance.

b. Request for Advisory Opinion: If a Town employee or official questions whether an activity, conduct, or action violates the Ethics Ordinance, that individual should contact the Town Administrator to receive a Request for Advisory Opinion Form. Once the requestor has completed the Request for Advisory Opinion Form, it should be returned in a sealed envelope marked "Request for Advisory Opinion," either via hand-delivery or first-class mail to the Town of Middletown Ethics Commission, Middletown Municipal Center, 31 West Main Street, Middletown, Maryland 21769. The Town Administrator will review the Request Form to determine whether the required information has been provided, notify the Ethics Commission Chair, and schedule the matter to be heard by the Ethics Commission.

c. Process:

1. Once the Ethics Commission decides it has sufficient information, a meeting may be scheduled at the Commission's sole discretion. The requestor will attend the meeting to explain the facts surrounding the request, and to answer questions from the Commission.

2. After deliberation, the Commission will provide an interpretation of the applicability of the provisions of the Ethics Ordinance to the requestor based on the facts provided by the requestor. The Commission's interpretation shall be rendered as a formal, written Advisory Opinion, and shall be sent to the requestor.

3. All Advisory Opinions shall be written without disclosing the names of any persons involved in order to maintain confidentiality.

4. Once the Advisory Opinion has been released to the requestor, it is available to the public.

#### **Section 4 – Filing a Complaint**

a. Definition: A Complaint is a written statement, signed under oath, alleging a specific violation of the Ethics Ordinance. Any person may file a Complaint. The Complaint must be filed within one year of the time the person filing the Complaint either knew, or in the exercise of reasonable care should have known, of the violation.

b. Filing a Complaint: If a person believes that an activity, conduct, or action violates the Ethics Ordinance, that person should contact the Town Administrator to obtain an Ethics Complaint Form. Once the complainant has completed the Ethics Complaint Form, it should be returned in a sealed envelope marked "Ethics Complaint," either via hand-delivery or first-class mail to the Town of Middletown Ethics Commission, Municipal Center, 31 West Main Street, Middletown, Maryland 21769. The Town Administrator will review the Complaint Form to determine whether the required information has been provided, notify the Ethics Commission Chair, and schedule the Complaint to be heard by the Ethics Commission.

c. Process:

1. Once the Ethics Commission reviews the Complaint, the Commission may either dismiss the Complaint, investigate the allegations to aid the Commission in its initial evaluation of the Complaint, or set a formal hearing on the Complaint. The Ethics Commission shall notify the complainant in writing of its initial determination.
2. All actions regarding a Complaint are confidential until a final determination is made by the Commission.
3. In the event the Commission decides to hold a hearing on the complaint, the Commission will send out a written notice to the complainant and the subject of the complaint 30 days before the hearing date.
4. At the formal hearing on the Complaint, the complainant and Town employee or official named in the Complaint shall be given the opportunity to be represented by counsel, present evidence, and cross-examine witnesses. All testimony shall be taken under oath.
5. At the formal hearing on the Complaint, the standard of proof shall be the preponderance of the evidence.
6. At the conclusion of the hearing, the Commission will issue a formal written Decision that includes findings of fact and conclusions of law based on the evidence presented. The written Decision shall be sent to the complainant and the subject of the complaint within 30 days of the Decision.
7. Upon a finding of a violation of the Ethics Ordinance, the Commission may issue an order to cease and desist, seek judicial enforcement for compliance, or impose any other penalty provided for under the Middletown Public Ethics Ordinance.
8. Once a final determination is made by the Commission on a Complaint, the formal Decision of the Commission is available for public inspection and copying.

#### **Section 5 - Conduct of Commission Members**

- a. Only the Chair of the Commission has the authority to represent the Commission in speaking on behalf of the Commission on any matter outside of any Commission meeting or hearing.
- b. No Commission member shall publicly comment on the merits of a matter currently before the Commission, or a matter that can reasonably be expected to appear before the Commission, prior to the final adjudication and notice to the complainant and the subject of the complaint.
- c. The Ethics Commission recognizes that impartiality and fair-mindedness is critical to the decision-making and integrity of the Commission. The Commission must remain neutral since even the appearance of bias threatens the integrity of the Commission and compromises its effectiveness. Therefore, members of the Commission shall not use the Commission for political purposes, either to benefit themselves or another.
- d. Sanctions for violations of Sections 5(a)-(c) include:
  1. private reprimand;

2. public reprimand; and
3. request by the Commission for the removal of a Commission member by the Burgess and Board of Commissioners.

#### **Section 6 - Amendments**

Amendments to these Rules of procedures may be introduced at any meeting of the Commission and voted on at any subsequent regular meeting.

#### **Section 7 - Suspension of Rules**

Any provision of these Rules not governed by the Middletown Municipal Code may be temporarily suspended by an affirmative vote of a majority of the Commission members present. The vote of any such suspension shall be taken and entered into the record.

Adopted on this 26<sup>th</sup> day of March, 2015.



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Saundra Nickols, Chair