

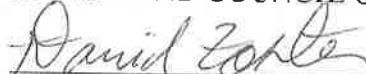
ORDINANCE NO. 02-2024

CHAPTER 12: PUBLIC ETHICS LAW

BE IT ORDAINED this 4th day of March, 2024 by the Mayor and Council of Chestertown, Maryland that the following Chapter 12 of the Town of Chestertown is repealed in its entirety and re-adopted as provided in Exhibit A attached hereto and incorporated herein.

This Ordinance having been introduced on the 20th day of February, 2024 will be adopted on the 4th day of March, 2024 and effective on March 29, 2024.

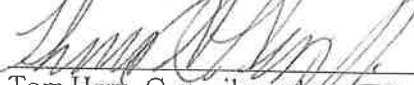
MAYOR AND COUNCIL OF CHESTERTOWN



David Foster, Mayor



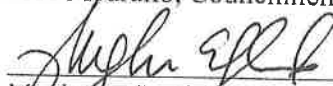
Tim O'Brien, Councilmember



Tom Herz, Councilmember



Jose Medrano, Councilmember



Meghan Efland, Councilmember

Witness:



Larry DiRe, Town Manager

EXHIBIT A

CHAPTER 12: PUBLIC ETHICS LAW

§12-1 Short title	§12-7 Financial disclosure - elected officials and candidates
§12-2 Statement of purpose and policy	§12-8 Financial disclosure - employees and appointed officials
§12-3 Definitions	§12-9 Lobbying disclosure
§12-4 Administration	§12-10 Enforcement
§12-5 Rules of procedure - Commission meetings	§12-11 Penalties cumulative
§12-6 Prohibited conduct and interests	§12-12 Liberal construction of chapter

HISTORY: Adopted by the Mayor and Council of the Town of Chestertown 11/5/2012 by Ord. 06-2012 noted where applicable.]

GENERAL REFERENCES

State Government Article §§ 10-601 -10-608 of the Maryland Public Information Law

§§ 401 and 501 of the Internal Revenue Code of 1954

Election Law Article of the Annotated Code of Maryland

§ 12-1 SHORT TITLE.

This chapter may be cited as the Town of Chestertown Public Ethics Law.

§ 12-2 STATEMENT OF PURPOSE AND POLICY.

(A) The town, recognizing that our system of representative government is dependent in part upon the people maintaining the highest trust in their public officials and employees, finds and declares that the people have a right to be assured that the impartiality and independent judgment of the public officials and employees will be maintained.

(B) It is evident that this confidence and trust is eroded when the conduct of the town's business is subject to improper influence and even the appearance of improper influence.

(C) For the purpose of guarding against improper influence, the Mayor and Council enact this Public Ethics Law to require town officials and employees to disclose their financial affairs and to set minimum standards for their conduct of town business.

(D) It is the intention of the Mayor and Council that this chapter be liberally construed to accomplish this purpose.

§ 12-3 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. Use of the masculine shall include the feminine. All italicized terms used in the definition of any other term shall have their meaning as otherwise defined in this § 12-3. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meanings unless the context suggests otherwise. When a right or duty pertains to the holder of a specific position, such as the Mayor, Town Manager or Town Clerk, the same right or duty pertains to any designee to whom the holder of the position may lawfully delegate the right or duty.

APPOINTING AUTHORITY. The Town Manager, Mayor, Mayor and Council, or any other person who appoints a person to a public position.

ASSOCIATED. When used with reference to a business or an organization, includes any business or organization in which a public servant or a public servant's partner in interest is a director, officer or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least 30% of the outstanding equity, or any business or organization in which a public servant or a partner in interest has a personal interest.

BUSINESS. An activity, association, commercial entity, corporation, enterprise, firm, franchise, holding company, joint stock company, organization, partnership, receivership, self-employed individual, sole proprietorship, trust or other legal entity established to earn or otherwise obtain money, whether for profit or non-profit, excluding a municipal corporation or governmental entity.

BUSINESS ENTITY. Any corporation, limited liability company, limited liability partnership, general or limited partnership, sole proprietorship (including a private consultant operation), joint venture, unincorporated association or firm, institution, trust, foundation or other organization, whether or not operated for profit.

BUSINESS WITH WHICH A PUBLIC SERVANT IS ASSOCIATED. A business in which any of the following applies:

(1) The public servant is an owner, member, partner, director, officer, employee or independent contractor in relation to the business; or

(2) A public servant's partner in interest is an owner, partner, director or officer; or

(3) Any business, regardless of ownership or value, by whom or for whose benefit a decision maker is influenced to act in the hope or expectation of obtaining a personal benefit for the public servant or for a partner in interest of the public servant.

CANDIDATE. An individual who is a candidate for an elective town office, as defined in Article II of the Town Charter.

COMMISSION. means the Town of Chestertown Ethics Commission established pursuant to § 12-4(a).

COMPENSATION. Any money or thing of value, regardless of form, received or to be received by any individual covered by this chapter from an employer for service rendered or to be rendered. If lobbying is only a portion of a person's employment, **COMPENSATION** means a prorated amount based on the time devoted to lobbying compared to the time devoted to other employment duties. For reporting purposes, a prorated amount shall be labeled as such.

COMPLAINANT. A person who files a complaint with the Commission regarding an alleged violation of this chapter by any person.

CONFIDENTIAL INFORMATION. Information which has been obtained in the course of holding public office, employment, an independent contract or otherwise acting as a public servant, and which information is not available to members of the public under the Maryland Public Information Law, State Government Article, §§ 10-601 -10-608, Annotated Code of Maryland, as amended from time to time, or other law or regulation and which the public servant is not authorized to disclose, including:

(1) Any written information that could lawfully be excepted from disclosure pursuant to state law, unless the public servant disclosing it is authorized to do so by state law, or pursuant to some other pertinent law, policy or procedure; and

(2) Any non-written information which, if it were written, could be excepted from disclosure under state law, unless the public servant disclosing it is authorized to do so by the state law, or pursuant to some other pertinent law, policy or procedure; and

(3) Information which was obtained in the course of or by means of a record or oral report of a lawful executive or closed session, whether or not the disclosure of the information would violate state law, unless the public servant disclosing it is authorized by state law to do so, or unless the public servant disclosing it has been properly authorized to disclose it pursuant to an applicable law, policy or procedure; however, when such information is also available through channels which are open to the public, this provision does not prohibit public servants from disclosing the availability of those channels.

CONFLICT OF INTEREST. Not only a personal interest, as defined in this chapter, but also a professional or non-pecuniary interest, such as arises when the Town Attorney is precluded from representing one public servant because of the Town Attorney's preexisting attorney-client relationship with another public servant.

DECISION MAKER. Any public servant or group of public servants empowered to act in a discretionary manner on behalf of the town in any capacity whatsoever, including the making of recommendations. **DECISION MAKER** includes, but is not limited to, any town agency, bureau, department, division, office, administrator or person who is charged with implementing and administering particular legislation or executive or administrative decisions, and, to the extent this chapter is applicable to them, any volunteer or independent contractor who is empowered to exercise any discretionary power which could influence a public servant in the performance or nonperformance of an official action. In this chapter, the term **DECISION MAKER** is used to represent any and every public servant who could take any discretionary action regarding a matter in which a public servant or a partner in interest has or may have a conflict of interest, or as a result of which a public servant might receive a personal benefit.

DOING BUSINESS WITH.

- (1) Having or negotiating a contract that involves the commitment (either a single or combination of transactions) of \$2,000 or more of town or town-controlled funds; or
- (2) Being regulated by or otherwise under the authority of a Town agency; or
- (3) Being registered as a lobbyist in accordance with § 12-9 of this chapter.

EMPLOYEE. A person, other than an elected public officer, employed and paid a salary to work for the town, whether under civil service or not, whether full-time, part-time, or on a contract basis, and including those officially selected but not yet serving; but does not include an independent contractor; and, for purposes of establishing ethical obligations under this chapter and for no other purpose, the term **EMPLOYEE** includes volunteers, notwithstanding the fact that they are unpaid.

FINANCIAL INTEREST.

- (1) Ownership of any interest as the result of which the owner has received, within the past three years, or is presently receiving, or in the future is entitled to receive, more than \$1,000 per year; or
- (2) Ownership, or the ownership of securities of any kind representing or convertible into ownership, of more than 3% of a business entity.

GIFT. Any benefit or thing or act of value which is conveyed to or performed for the benefit of a public servant or a partner in interest, including any advance, award, contract, contribution, deposit, employment, favor, forbearance, gift, gratuity, honorarium, loan, payment, service, subscription, or the promise that any of these things or acts of value will be conferred in the future, if such thing or act of value is conferred or performed without the lawful exchange of consideration which is at least equal in value to the thing or act conferred or performed. **GIFT** does not include the solicitation, acceptance, receipt, or regulation of a political contribution that is regulated in accordance with:

- (1) The Election Law Article of the Annotated Code of Maryland; or

- (2) Any other state law regulating:
 - (a) The conduct of elections; or
 - (b) The receipt of political contributions.

IMMEDIATE FAMILY.

- (1) a public servant's spouse;
- (2) a public servant's relative by marriage, lineal descent or adoption;
- (3) A public servant's parents, parents-in-law, sisters, sisters-in-law, brothers, brothers-in-law, stepparents, stepbrothers, stepsisters or wards; and
- (4) An individual claimed by the public servant or the public servant's spouse as a dependent under the United States Internal Revenue Code.

INTEREST. Any personal benefit accruing to a public servant or the public servant's partner in interest, whether in the public servant's own name or the name of any person or business from which the public servant is entitled to receive any personal benefit, as a result of a matter which is or which is expected to become the subject of an official action by or with the town. In proper context, ***INTEREST*** also means any legal or equitable economic interest, whether or not subject to an encumbrance or a condition, which was owned or held, in whole or in part, jointly or severally, directly or indirectly. For purposes of §§ 12-7 and 12-8 of this chapter, ***INTEREST*** applies to any interests held at any time during the calendar year for which a required statement is to be filed. ***INTEREST*** does not include:

- (1) An interest held in the capacity of a personal agent, representative custodian, fiduciary, or trustee, unless the holder has an equitable interest therein;
- (2) An interest in a time or demand deposit in a financial institution;
- (3) An interest in an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed number of dollars either in a lump sum or periodically for life or some other specified period; or
- (4) A common trust fund or a trust which forms part of a pension or profit sharing plan which has more than 25 participants and which has been determined by the Internal Revenue Service to be a qualified trust under §§ 401 and 501 of the Internal Revenue Code of 1954.

LOBBYING.

- (1) Communicating in the presence of a town official or employee with the intent to influence any official action of that official or employee; or
- (2) Engaging in activities having the express purpose of soliciting others to communicate with a town official or employee with the intent to influence that official or employee.

LOBBYIST. A person required to register and report expenses related to lobbying under § 12-9 of this chapter.

MATTER. Unless the context of this chapter indicates otherwise, any act, action, agenda item, allegation, application, amendment, auction, bill, business, case, charge, claim, consideration, contract, controversy, decree, deed, deliberation, discussion, hearing, issue, lease, license, measure, offer, order, ordinance, permit, personnel action, petition, policy, presentation, procedure, privilege, proceeding, project, proposal, proposition, purchase, recommendation, regulation, rental, request, resolution, sale, subject, transaction, use, variance or other discretionary choice pending before a town decision maker when a public servant or a partner in interest has a personal interest in the outcome of the decision, or the decision may result in a personal benefit to a public servant or a partner in interest.

MINISTERIAL DUTY or **MINISTERIAL ACTION.** An action that a public servant performs in a given set of circumstances in a prescribed manner in obedience to the mandate of legal authority, without regard to the exercise of the public servant's own judgment as to the propriety of the action being taken.

NEGOTIATING CONCERNING PROSPECTIVE EMPLOYMENT. One or more discussions between a public servant and a potential employer other than the town concerning the possibility of the public servant or a partner in interest considering or accepting employment with the employer, in which discussion(s) the public servant responds in a positive way.

OFFICE. Any of the following:

- (1) An elective position within the government of the town;
- (2) An appointive town position in which a public servant serves for a specified term, except a position limited to the exercise of ministerial functions or a position filled by an independent contractor; or
- (3) An appointive town position which is filled by the Mayor, the Mayor and Council, or the Town Manager, and in which the incumbent serves at the pleasure of the appointing authority, except a clerical position, a position limited to the exercise of ministerial functions or a position filled by an independent contractor.

OFFICER. Any person elected or appointed to hold an office, as defined in this chapter.

OFFICIAL. An elected official, an employee of the town, or a person appointed to or employed by the town or any town agency, board, commission, or similar entity, whether or not paid in whole or in part with town funds and whether or not compensated.

OFFICIAL ACTION. Any act, action, approval, decision, denial, directive, disapproval, inaction, order, performance, nonperformance, recommendation, vote, or other direct result of a public servant's exercise of discretionary authority in connection with the public servant's public position.

OFFICIAL DUTY. Any official action or ministerial action which a public servant is obligated or authorized to perform by virtue of being a public servant.

OFFICIAL RECORDS. Any minutes, papers, documents, completed forms, or other records maintained by a public servant for the purpose of fulfilling the disclosure requirements of this chapter.

PARTNER IN INTEREST. When used in this chapter in connection with a public servant, as in the phrase "a public servant or a partner in interest", any and all of the following:

- (1) A member of the public servant's immediate family;
- (2) A business with which the public servant or a member of the public servant's immediate family is associated; or
- (3) Any other person with whom the public servant or a member of his immediate family is in business, or is negotiating or has an agreement concerning future employment or the future conferring of any personal benefit, whether in the public servant's own name or the name of any business or person from whom the public servant is entitled, or expects to become entitled, to receive any personal benefit, as a result of a contract or transaction which is, or which is expected to become, the subject of an official action by or with the town. The term **PARTNER IN INTEREST** does not imply or require any form of legal partnership or formal agreement.
- (4) When used in the phrase "a public servant or a partner in interest," the term **PARTNER IN INTEREST** refers only to a partner in interest of the public servant to whom reference is being made, and not to any other person's partner in interest.

PERSON. Includes an individual or business entity.

PUBLIC SERVANT. Any member of the governing body or of any town agency, board, commission, committee, or other voting body, and any agent, department head, employee, official, supervisor, volunteer, or other person, whether elected or appointed, or legally authorized by contract or in any other manner to act in any capacity under the authority of the town.

QUALIFIED RELATIVE. A spouse, parent, child, or sibling.

QUASI-GOVERNMENTAL ENTITY. An entity that is created by state statute, that performs a public function, and that is supported in whole or in part by the State but is managed privately.

RESPONDENT. A person who, in a complaint filed with the Commission, is alleged to have committed a violation of this chapter.

STATEMENT. When used in reference to the financial disclosure requirements established by this chapter, means the prescribed form(s) for fulfilling the financial disclosure requirements.

VOLUNTEER. An individual who is permitted by the town, or by a person authorized to act on behalf of the town, to assist public servants in performing any kind of official duty or action,

including actions which are clerical, menial or merely advisory, without any expectation of receiving compensation.

VOTING BODY. The governing body and any other town authority, board, commission, committee, council or group, regardless of whether its function is legislative, administrative, quasi-administrative or quasi-judicial or any combination thereof, which, in order to take any official action, even if the action is merely advisory, must act as a body on the basis of a vote of some or all of its members.

§ 12-4 ADMINISTRATION.

(A) There is created a Town Ethics Commission consisting of five members who are residents of the town, of whom one shall be designated by the Commission its Chairman, and two alternate members, appointed by the Mayor with the concurrence of a majority vote of the Town Council. Members of the Commission shall serve without compensation unless the Council provides otherwise. Members of the Commission shall not be elected officials, persons appointed to elective office, full-time appointed officials whether exempt or non-exempt, or Town employees, nor shall they be currently serving on any other town board or commission. The Commission shall be assisted in carrying out its responsibilities by the Commission Attorney, who shall be a lawyer, other than the Town Attorney, who is admitted to practice law in Maryland. The Commission Attorney shall be appointed by the Mayor with the concurrence of a majority vote of the Town Council.

(B) The Commission shall be the advisory body responsible for interpreting this chapter and advising persons subject to it as to its application.

(C) The Commission's deliberations and actions upon requests shall be in meetings not open to the public.

(D) The Commission shall be responsible for hearing and deciding, on advice of the Commission Attorney, any complaint filed regarding an alleged violation of this chapter by any person or on the Commission's own motion. Any such complaint must be in writing, contain the name and address of the complainant, and a signed statement that the contents of the complaint are affirmed under the penalties of perjury to be true to the best of the complainant's knowledge, information and belief.

(E) The Commission Attorney may:

(1) Administer oaths and affirmations; and

(2) Subject to the supervision of the Chairman, issue subpoenas to compel the attendance and testimony of witnesses or for the production of books, papers, records, documents, other tangible objects, e-mails or other electronic evidence.

(F) The Commission may:

(1) On its own or through its designee, administer oaths and affirmations;

(2) On its own motion or upon the request of a complainant or a respondent, issue subpoenas to compel the attendance and testimony of witnesses or for the production of books, papers, records, documents, other tangible objects, e-mails or other electronic evidence.

(G) The Commission may dismiss a complaint in a signed order based on any of the following grounds:

(1) The complaint does not allege facts sufficient to constitute a violation of this chapter; or

(2) The Commission has no jurisdiction over the matter; or

(3) Failure of the Complainant to cooperate in the Commission's review and consideration of the complaint; or

(4) The complaint is defective in a manner which results in the Commission being unable to make any sound determination; or

(5) The respondent, within 15 days after receiving notice of the complaint, takes any action which may be available to cure each alleged violation, and the Commission finds that dismissal is not contrary to the purposes of the chapter; or

(6) The Commission determines that no violation of this chapter has occurred.

(H) If a complaint is dismissed under division (G) of this section, the Commission shall promptly send a copy of the order to the complainant and the respondent.

(I) The Commission may determine that further information must be obtained in order for the Commission to determine whether the complaint alleges facts sufficient to constitute a violation of this chapter; and

(1) Conduct its own investigation with respect to any alleged violation;

(2) Request the Commission Attorney to investigate the complaint and report all findings back to the Commission;

(3) Schedule the complaint for further review and consideration at a future time certain, in which case the Commission shall promptly send written notice of such determination to the complainant and to the respondent;

(4) Refer the complaint to any appropriate authorities for criminal investigation or prosecution; or

(5) Refer the complaint, along with the Commission's findings and conclusions, to any appropriate administrative authority for disciplinary action or other suitable remedial action; the Commission may make any recommendation to any town administrator at any level of supervision, if the Commission finds that the recommendation will advance the objective of this chapter; whether to implement the recommendation may be decided by whatever decision maker is authorized under the circumstances; if it is determined that misconduct or malfeasance has occurred, the Commission may take any enforcement action it is authorized to take in accordance

with § 12-10 of this chapter or refer the matter to the Town Attorney or to the Mayor and Council, as circumstances warrant.

(J) The Commission may determine that the complaint alleges facts sufficient to constitute a violation of this chapter, and that the Commission will conduct a hearing, in which case the Commission shall promptly send written notice of such determination to the complainant, and to the respondent.

(K) The complainant and respondent may, as set forth in division (F) of this section, use the subpoena power of the Commission in preparation for any hearing to be held in accordance with this chapter.

(L) Complainant or respondent subpoenas pursuant to division (F) of this section shall be issued only in response to a written request received by the Commission not later than ten working days before the date set for the hearing.

(M) Subpoenas pursuant to division (F) of this section may be issued by the Commission or by the Commission Chairman acting on behalf of the Commission.

(N) Service and enforcement of any complainant or respondent subpoena pursuant to division (F) of this section is the responsibility of the complainant, the respondent or other person acting on their behalf, not of the Commission or its staff.

(O) Subpoenas issued pursuant to this section are judicially enforceable.

(P) A violation of this chapter must be proven by clear and convincing evidence admitted at the hearing. After it has made its final determination, the Commission shall issue its written findings of fact, conclusions of law, and order, and may issue any additional reports, opinions and recommendations as it deems advisable under the circumstances. All such reports shall be in compliance with all state and town laws governing confidentiality, open government, and torts. All such reports shall be reviewed by the Commission Attorney prior to their issuance.

(Q) *Limitations on Commission's power.* The Commission does not have the authority to reverse or otherwise modify a prior action of the Mayor, the Mayor and Council, or a public servant of the town. If the Commission finds a prior action of the Mayor, the Mayor and Council, or public servant to have been ethically improper, the Commission may advise the appropriate party or parties that the action should be reconsidered. Upon such advice by the Commission, the action shall be reconsidered by the appropriate person or public body. If the Commission determines an existing town contract to be ethically improper, after such determination and advice from the Commission, the town may void or seek termination of the contract if legally permissible. The Commission may refer the matter to the Town Attorney for review and consideration for appropriate action. Upon completion of the review and consideration, the Town Attorney shall report his findings to the Commission.

(R) The Commission or an office designated by the Commission shall be the custodian of all forms submitted by any person in accordance with this chapter.

(S) The Town Clerk shall serve as Recording Secretary to the Commission and shall provide such administrative services to the Commission as may be necessary.

(T) The Commission shall be responsible for conducting a public information and education program regarding the purposes and implementation of this chapter.

(U) Any public servant or other person subject to the provisions of this chapter may ask the Commission for an advisory opinion concerning the application of this chapter. The Commission shall respond promptly to these requests, providing interpretations of this chapter based on the facts provided or reasonably available to it. Copies of these interpretations, with the identity of the subject deleted, shall be published and otherwise made available to the public in accordance with any applicable state or town law regarding public records.

(V) The Commission shall certify to the State Ethics Commission on or before October 1 of each year that the town is in compliance with the requirements of State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland, for elected local officials.

(W) The Commission shall determine if changes to this chapter are required to be in compliance with the requirements of State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland, and shall forward any recommended changes and amendments to the Town Council for enactment.

(X) The Commission may adopt other policies and procedures to assist in the implementation of the Commission's programs established in this chapter.

§ 12-5 RULES OF PROCEDURE - COMMISSION MEETINGS.

The Commission shall, in addition to its other duties, adopt written rules governing its procedures for the holding of Commission meetings and hearings, which rules shall be subject to the approval of the Mayor and Council; a copy of the rules shall be filed with the Town Clerk.

§ 12-6 PROHIBITED CONDUCT AND INTERESTS.

(A) *Participation prohibitions.* Except as permitted by Commission opinion, a public servant may not participate in:

(1) Any matter, except in the exercise of an administrative or ministerial duty which does not affect the disposition or decision with respect to that matter, if, to his or her knowledge, the public servant or a partner in interest has an interest therein.

(2) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, any matter in which any of the following is a party:

(a) A business entity in which the official or employee has a direct financial interest of which the official or employee may reasonably be expected to know;

(b) A business entity for which the official, employee, or a qualified relative of the official or employee is an officer, director, trustee, partner, or employee;

(c) A business entity with which the official or employee or, to the knowledge of the official or employee, a qualified relative is negotiating employment or has any arrangement concerning prospective employment;

(d) If the contract reasonably could be expected to result in a conflict between the private interests of the official or employee and the official duties of the official or employee, a business entity that is a party to an existing contract with the official or employee, or which, to the knowledge of the official or employee, is a party to a contract with a qualified relative;

(e) An entity, doing business with the town, in which a direct financial interest is owned by another entity in which the official or employee has a direct financial interest, if the official or employee may be reasonably expected to know of both direct financial interests; or

(f) A business entity that:

1. The official or employee knows is a creditor or obligor of the official or employee or a qualified relative of the official or employee with respect to a thing of economic value; and

2. As a creditor or obligee, is in a position to directly substantially affect the interest of the official or employee or qualified relative of the official or employee.

(B) *Duty to leave meeting.* To avoid the appearance of impropriety, after any public servant or a partner in interest is determined to have a conflict of interest or a potential conflict of interest in any matter, and once all questions relating to the conflict of interest have been answered to the satisfaction of the decision maker, the public servant shall immediately leave the meeting room, except that if the matter is being considered at a public meeting, the public servant may remain in the area of the room occupied by the general public. If a public servant who has a conflict of interest in a matter is present as a member of a body which is to consider the matter, the public servant shall leave his or her regular seat as a member of the body, and not return to it until deliberation and action on the matter is completed. Nothing herein shall require members of voting bodies to leave their seats while action is taken regarding any item contained on a "consent agenda" on which there is no deliberation, the public servant's conflict has been disclosed, and the public servant abstains from voting on the item.

(C) If a disqualification pursuant to divisions (A) or (B) of this section leaves any body with less than a quorum capable of acting, or if the disqualified public servant is required by law to act or is the only person authorized to act, the disqualified public servant shall disclose the nature and circumstances of the conflict and may participate or act.

(D) A former regulated lobbyist who is or becomes subject to this chapter as an employee or official, other than an elected official or an appointed official, may not participate in a case, contract, or other specific matter as an employee or official, other than an elected official or appointed official, for one calendar year after the termination of the registration of the former

regulated lobbyist if the former regulated lobbyist previously assisted or represented another party for compensation in the matter.

~~(D)~~ (E) *Employment restrictions.*

(1) (a) Except as permitted by decision of the Commission when such interest is disclosed or when this employment does not create a conflict of interest or appearance of conflict, a public servant may not:

1. Be employed by, or have a financial interest in, any entity subject to his or her authority or that of the town agency, board, or commission with which he or she is affiliated or any entity which is negotiating or has entered a contract with that agency, board, or commission; or

2. Hold any other employment relationship which would impair the impartiality or independence of judgment of the public servant.

(b) This prohibition does not apply to:

1. A public servant who is appointed to a regulatory licensing authority pursuant to a requirement that persons subject to the jurisdiction of the authority be represented in appointments to it;

2. Subject to other provisions of law, including §§ 12-7 and 12-8 of this chapter, a member of a board or a commission in regard to a financial interest or employment held at the time of appointment, provided it is publicly disclosed to the appointing authority and the Commission; or

3. A public servant whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted and in accordance with regulations adopted by the Commission.

(2) A former public servant may not assist or represent another party other than the town for compensation in a case, contract, or other specific matter involving the town if that matter is one in which he or she significantly participated as a public servant.

(3) A former public servant may not assist or represent another party for compensation in a matter that is the subject of legislative action for one calendar year after the public servant leaves office.

~~(3)~~ (4) A public servant may not assist or represent a party for contingent compensation in any matter before or involving the town other than in a judicial or quasi-judicial proceeding, provided, however, that nothing herein shall preclude a public servant from assisting or representing a party for contingent compensation in any matter before or involving entities where fees are established by law.

(4) (5) An individual or a person that employs an individual who assists a town agency in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement may not submit a bid or proposal for that procurement or assist or represent another person,

directly or indirectly, who is submitting a bid or proposal for the procurement. The Commission may establish exemption from the requirements of this section for providing descriptive literature, sole source procurements, and written comments solicited by the procuring agency.

~~(F)~~ (F) *Use of prestige of office.* A public servant may not intentionally use the prestige of his or her office for his or her own private gain or that of another. The performance of usual and customary constituent services by an elected official, without additional compensation, does not constitute the use of the prestige of office for a public servant's private gain or that of another.

~~(F)~~ (G) *Solicitation or acceptance of gifts.*

(1) An official or employee may not solicit any gift.

(2) An official or employee may not directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual regulated lobbyist.

(3) An official or employee may not knowingly accept a gift, directly or indirectly, from a person that the official or employee knows or has reason to know:

(a) Is doing business with or seeking to do business with the town office, agency, board, or commission with which the official or employee is affiliated;

(b) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of the official or employee,

(c) Is engaged in an activity regulated or controlled by the official's or employee's governmental unit; or

(d) Is a lobbyist with respect to matters within the jurisdiction of the official or employee; or

(e) Is an association, or any entity acting on behalf of an association that is engaged only in representing counties or municipal corporations.

(4) Division ~~(F)~~(G)(5) of this section does not apply to a gift:

(a) That would tend to impair the impartiality and the independence of judgment of the official or employee receiving the gift;

(b) Of significant value that would give the appearance of impairing the impartiality and independence of judgment of the official or employee; or

(c) Of significant value that the recipient official or employee believes or has reason to believe is designed to impair the impartiality and independence of judgment of the official or employee.

(5) Notwithstanding division ~~(F)~~(G)(3) of this section, an official or employee may accept the following:

- (a) Meals and beverages consumed in the presence of the donor or sponsoring entity;
- (b) Ceremonial gifts or awards that have insignificant monetary value;
- (c) Unsolicited gifts of nominal value that do not exceed \$20 in cost or trivial items of informational value;
- (d) Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official or the employee at a meeting which is given in return for the participation of the official or employee in a panel or speaking engagement at the meeting;
- (e) Gifts of tickets or free admission extended to an elected local official to attend a charitable, cultural, or political event, if the purpose of this gift or admission is a courtesy or ceremony extended to the elected official's office;
- (f) A specific gift or class of gifts that the Commission exempts from the operation of this division upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the town and that the gift is purely personal and private in nature;
- (g) Gifts from a person related to the official or employee by blood or marriage, or any other individual who is a member of the household of the official or employee; or
- (h) Honoraria for speaking to or participating in a meeting, provided that the offering of the honorarium is not related in any way to the official's or employee's official position.

~~(G)~~ (H) *Disclosure of confidential information.* No public servant or former public servant shall divulge to any unauthorized person confidential information acquired in the course of holding his or her position or former public position in advance of the time prescribed by the governing body, administrators, or other applicable law for its release to the public.

~~(H)~~ (I) Members of a voting body shall avoid ex parte contact with applicants or potential applicants, or potential interested persons who may come before the voting body requesting approval or disapproval of a particular application or project, and shall refrain from discussing with such persons applications or projects which they have reason to believe will come before them in their official capacity. The public has a right to expect that decisions are made by evidence and exhibits presented on the record. Ex parte communications received in violation of this division ~~(H)~~(I) shall be placed in the record and disclosed to all parties, who shall then have ten days within which to rebut them.

(J) An official or employee may not retaliate against an individual for reporting or participating in an investigation of a potential violation of the local ethics law or ordinance.

~~(H)~~ (K) *Exemptions and waivers.* The Commission may recommend to the Mayor and Council that it grant exemptions to or modifications of this § 12-6 as to public servants serving as members of town boards and commissions, when the Commission finds that the application of § 12-6 would constitute an unreasonable invasion of privacy and would significantly reduce the

availability of qualified persons for public service, and that the exemption or modification would not be contrary to the purposes of this chapter.

§ 12-7 FINANCIAL DISCLOSURE - ELECTED OFFICIALS AND CANDIDATES.

(A) (1) This section applies to all local elected officials and candidates to be local elected officials.

(2) Except as provided in division (B) of this section, a local elected official or a candidate to be a local elected official shall file the financial disclosure statement required under this section:

- (a) On a form provided by the Commission;
- (b) Under oath or affirmation; and
- (c) With the Commission.

(3) *Deadlines for filing statements.*

(a) An incumbent local elected official shall file a statement annually no later than April 30 of each year for the preceding calendar year.

(b) An individual who is appointed to fill a vacancy in an office for which a statement is required and who has not already filed a statement shall file a statement for the preceding calendar year within 30 days after appointment.

(c) 1. An individual who, other than by reason of death, leaves an office for which a statement is required shall file a statement within 60 days after leaving the office.

2. The statement shall cover:

- a. The calendar year immediately preceding the year in which the individual left office, unless a statement covering that year has already been filed by the individual; and
- b. The portion of the current calendar year during which the individual held the office.

(B) *Candidates to be local elected officials.*

(1) Except for an official who has filed a statement under another provision of this section for the reporting period, a candidate to be an elected official shall file a statement each year beginning with the year in which the certificate of candidacy is filed through the year of the election.

(2) A candidate to be an elected official shall file a statement required under this section:

(a) In the year the certificate of candidacy is filed, no later than the filing of the certificate of candidacy;

(b) In the year of the election, on or before the earlier of April 30 or the last day for the withdrawal of candidacy; and

(c) In all other years for which a statement is required, on or before April 30.

(3) A candidate to be an elected official:

(a) May file the statement required under § 12-7(B)(2)(a) of this chapter with the Town Clerk or Board of Election Supervisors with the certificate of candidacy or with the Commission prior to filing the certificate of candidacy; and

(b) Shall file the statements required under § 12-7(B)(2)(b) and (c) with the Commission.

(4) If a candidate fails to file a statement required by this section after written notice is provided by the Town Clerk or Board of Election Supervisors at least ~~20~~ 8 days before the last day for the withdrawal of candidacy, the candidate is deemed to have withdrawn the candidacy.

(5) The Town Clerk or Board of Election Supervisors may not accept any certificate of candidacy unless a statement has been filed in proper form.

(6) Within 30 days of the receipt of a statement required under this section, the Town Clerk or Board of Election Supervisors shall forward the statement to the Commission or the office designated by the Commission.

(C) *Public record.*

(1) The Commission or office designated by the Commission shall maintain all statements filed under this section.

(2) Statements shall be made available during normal office hours for examination and copying by the public subject to reasonable fees and administrative procedures established by the Commission.

(3) If an individual examines or copies a statement, the Commission or the office designated by the Commission shall record:

(a) The name and home address of the individual reviewing or copying the statement; and

(b) The name of the person whose statement was examined or copied.

(4) Upon request by the official or employee whose statement was examined or copied, the Commission or the office designated by the Commission shall provide the official with a copy of the name and home address of the person who reviewed the official's statement.

(5) For statements filed after January 1, 2019, the Commission or Town Clerk may not provide public access to an individual's home address that the individual has designated as the individual's home address.

(6) The Commission or Town Clerk shall not provide public access to information related to consideration received from The University of Maryland Medical Systems; A governmental or quasi-governmental entity of the State or a local government in the State.

(D) *Retention requirements.* The Commission or the office designated by the Commission shall retain statements for four years from the date of receipt.

(E) An individual who is required to disclose the name of a business under this section shall disclose any other names that the business is trading as or doing business as

~~(E)~~ (F) *Contents of statement.*

(1) *Interests in real property.*

(a) A statement filed under this section shall include a schedule of all interests in real property wherever located.

(b) For each interest in real property, the schedule shall include:

1. The nature of the property and the location by street address, mailing address, or legal description of the property;

2. The nature and extent of the interest held, including any conditions and encumbrances on the interest;

3. The date when, the manner in which, and the identity of the person from whom the interest was acquired;

4. The nature and amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired;

5. If any interest was transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and the identity of the person to whom the interest was transferred; and

6. The identity of any other person with an interest in the property.

(2) *Interests in corporations and partnerships.*

(a) Statements filed under this section shall include a schedule of all interests in any business entity, regardless of whether the business entity does business with the town.

(b) For each interest reported under this paragraph, the schedule shall include:

1. The name and address of the principal office of the business entity;

2. The nature and amount of the interest held, including any conditions and encumbrances on the interest;

3. With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the

consideration received in exchange for the interest, and, if known, the identity of the person to whom the interest was transferred; and

4. With respect to any interest acquired during the reporting period:

a. The date when, the manner in which, and the identity of the person from whom the interest was acquired; and

b. The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

c. An individual may satisfy the requirement to report the amount of the interest held under division ~~(E)~~(F)(2)(b)2. of this section by reporting, instead of a dollar amount:

1. For an equity interest in a corporation, the number of shares held and, unless the corporation's stock is publicly traded, the percentage of equity interest held; or

2. For an equity interest in a partnership, the percentage of equity interest held.

(3) *Interests in business entities doing business with the town.*

(a) A statement filed under this section shall include a schedule of all interests in any business entity that does business with the town, other than interests reported under division ~~(E)~~(F)(2) of this section.

(b) For each interest reported under this paragraph, the schedule shall include:

1. The name and address of the principal of the business entity;

2. The nature and amount of the interest held, including any conditions to and encumbrances on the interest;

3. With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received in exchange for the interest, and, if known, the identity of the person to whom the interest was transferred; and

4. With respect to any interest acquired during the reporting period:

a. The date when, the manner in which, and the identity of the person from whom the interest was acquired; and

b. The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

(4) *Gifts.*

(a) A statement filed under this section shall include a schedule of each gift in excess of \$20 in value or a series of gifts totaling \$100 or more received during the reporting period from or on behalf of, directly or indirectly, any one person who does business with or is regulated by

the town or from an association, or any entity acting on behalf of an association that is engaged only in representing counties or municipal corporations.

(b) For each gift reported, the schedule shall include:

1. A description of the nature and value of the gift; and
2. The identity of the person from whom, or on behalf of whom, directly or indirectly, the gift was received.

(5) *Employment with or interests in business entities doing business with the town.*

(a) A statement filed under this section shall include a schedule of all offices, directorships, and salaried employment by the individual or member of the immediate family of the individual held at any time during the reporting period with business entities doing business with the town.

(b) For each position reported under this paragraph, the schedule shall include:

1. The name and address of the principal office of the business entity;
2. The title and nature of the office, directorship, or salaried employment held and the date it commenced; and
3. The name of each town agency with which the entity is involved.

(6) *Indebtedness to business entities doing business with the town.*

(a) A statement filed under this section shall include a schedule of all liabilities, excluding retail credit accounts, to persons doing business with the Town owed at any time during the reporting period:

1. By the individual; or
2. By a member of the immediate family of the individual if the individual was involved in the transaction giving rise to the liability.

(b) For each liability reported under this paragraph, the schedule shall include:

1. The identity of the person to whom the liability was owed and the date the liability was incurred;
2. The amount of the liability owned as of the end of the reporting period;
3. The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year; and
4. The security given, if any, for the liability.

(7) A statement filed under this section shall include a schedule of the immediate family members of the individual employed by the Town in any capacity at any time during the reporting period.

(8) *Sources of earned income.*

(a) A statement filed under this section shall include a schedule of the name and address of each place of employment and of each business entity of which the individual or a member of the individual's immediate family was a sole or partial owner and from which the individual or member of the individual's immediate family received earned income, at any time during the reporting period.

(b) A minor child's employment or business ownership need not be disclosed if the agency that employs the individual does not regulate, exercise authority over, or contract with the place of employment or business entity of the minor child.

(c) For a statement filed on or after January 1, 2019, the Commission or Town Clerk may not provide public access to an individual's home address that the individual has designated as the individual's home address.

(d) If the individual's spouse is a lobbyist regulated by the Town, the individual shall disclose the entity that has engaged the spouse for lobbying purposes.

(9) *Relationship with University of Maryland Medical System, State or Local Government, or Quasi-Governmental Entity.*

(a) An individual shall disclose the information specified in General Provisions Article §5-607(j)(1), Annotated Code of Maryland, for any financial or contractual relationship with:

1. The University of Maryland Medical System;
2. A governmental or quasi-governmental entity of the State or a local government in the State; or

(b) For each financial or contractual relationship reported, the schedule shall include:

1. A description and subject matter of the relationship; and
2. The consideration.

~~(9)~~(10) A statement filed under this section may also include a schedule of additional interests or information that the individual making the statement wishes to disclose.

(F) For the purpose of § ~~12-7(E)~~(F)(1), (2), and (3) of this chapter, the following interests are considered to be the interests of the individual making the statement:

(1) An interest held by a member of the individual's immediate family, if the interest was, at any time during the reporting period, directly or indirectly controlled by the individual.

~~(2)~~ (a) An interest held by a business entity in which the individual held a ~~30~~ 10% or greater interest at any time during the reporting period.

(b) An interest held by a business entity described in section (a) of this subsection in which the business entity held a 25% or greater interest.

(c) An interest held by a business entity described in section (b) of this subsection in which the business entity held a 50% or greater interest; and

(d) An interest held by a business entity in which the individual directly or indirectly, though an interest in one or a combination of other business entities, holds a 10% or greater interest.

(3)(2) An interest held by a trust or an estate in which, at any time during the reporting period:

(a) The individual held a reversionary interest or was a beneficiary; or

(b) If a revocable trust, the individual was a settlor.

(G) The statements submitted pursuant to this § 12-7 shall be reviewed by the Commission Attorney for compliance with the provisions of this section, and public servants and candidates shall be notified of any omissions or deficiencies. The Commission Attorney shall refer evidence of any non-compliance with this § 12-7 to the Commission or Mayor and Council for appropriate action. The Commission may take appropriate enforcement action to ensure compliance with this section.

§ 12-8 FINANCIAL DISCLOSURE - EMPLOYEES AND APPOINTED OFFICIALS.

(A) This section only applies to the following appointed officials and employees.

(1) The Town Manager.

(2) The Housing Administrator.

(3) The Utilities Manager.

(4) The Recreation Commission Chairman.

(5) The Members of the Planning Commission.

(6) The Members of the Historic District Commission.

(7) The Members of the Board of Appeals.

(B) A statement filed under this § 12-8 shall be filed with the Commission under oath or affirmation.

(C) On or before April 30 of each year during which an official or employee holds office, an official or employee shall file a statement disclosing gifts received during the preceding calendar year from any person that contracts with or is regulated by the town, including the name of the donor of the gift and the approximate retail value at the time of receipt.

(D) An official or employee shall disclose employment and interests that raise conflicts of interest or potential conflicts of interest in connection with a specific proposed action by the

employee or official sufficiently in advance of the action to provide adequate disclosure to the public.

(E) The Commission shall maintain all disclosure statements filed under this § 12-8 as public records available for public inspection and copying as provided in § 12-7(D) of this chapter.

(F) The Commission may recommend to the Mayor and Council that, after consultation with the Town Attorney, the Mayor and Council grant exemptions to or modifications of this § 12-8 as to public servants serving as members of the town boards and commissions, where it finds that the application of § 12-8 would constitute an unreasonable invasion of privacy and would significantly reduce the availability of qualified persons for public service, and also finds that the exemption or modifications would not be contrary to the purposes of this chapter.

§ 12-9 LOBBYING DISCLOSURE.

(A) A person shall file a lobbying registration statement with the Commission if the person:

(1) Personally appears before a town official or employee with the intent to influence that person in performance of the official duties of the official or employee; and

(2) In connection with the intent to influence, expends or reasonably expects to expend in a given calendar year in excess of \$250 on food, entertainment, or other gifts for officials or employees of the town.

(B) A person shall file a registration statement required under this section on or before the later of January 15 of the calendar year or within five days after first performing an act that requires registration in the calendar year.

(C) (1) The registration statement shall identify:

(a) The registrant;

(b) Any other person on whose behalf the registrant acts; and

(c) The written authorization of any person on whose behalf the lobbyist acts (if this is a business entity, the authorization may be executed by any authorized officer or agent, who is not the lobbyist);

(d) The subject matter on which the registrant proposes to make appearances specified in division (A) of this section.

(2) The registration statement shall cover a defined registration period not to exceed one calendar year.

(D) Within 30 days after the end of any calendar year during which a person was registered under this section, the person shall file a report with the Commission disclosing:

(1) The value, date, and nature of any food, entertainment, or other gift provided to a town official or employee; and

(2) If a gift or series of gifts to a single official or employee exceeds \$250 in value, the identity of the official or employee.

(E) The Commission may require submission of such other reports as it deems necessary.

(F) All registrations and reports filed pursuant to this § 12-9 shall be maintained by the Commission, or an office designated by it, and shall be made available during normal office hours, for examination and copying by the public, subject, however, to such reasonable fees and administrative procedures as may be established by the Town Council or by the Commission. The forms shall be retained for four years from the date of receipt.

(G) The registrations and reports filed pursuant to this § 12-9 shall be reviewed by the Commission Attorney for compliance with the provisions of this § 12-9, and persons engaging in lobbying activities shall be notified of any omissions or deficiencies. The Commission Attorney shall refer evidence of noncompliance with this section to the Commission, the Town Council, or to the State's Attorney for appropriate action.

(H) The provisions of this § 12-9 do not apply to the following acts:

(1) Professional services in drafting bills or in advising and rendering opinions to clients as to the construction and effect of proposed or pending Town Council actions when these services do not otherwise constitute lobbying activities.

(2) Appearances before the Mayor and Council upon its specific invitation or request but only if the person engages in no further or other activities in connection with the passage or defeat of Mayor and Council actions.

(3) Actions as part of the official duties of a trustee, an administrator, or a faculty member of a non-profit independent college or university in the state, if the official duties of the individual do not consist primarily of attempting to influence legislative action or executive action.

(4) Appearances as part of the official duties of a duly elected or appointed official or employee of the State or a political subdivision of the state, or of the United States, and not on behalf of any other entity.

(5) Actions of a publisher or working member of the press, radio, or television in the ordinary course of the business of disseminating news or making editorial comment to the general public who does not, however, engage in further or other lobbying that would directly and specifically benefit the economic, business, or professional interests of himself or herself or his or her employer.

(6) Appearances by an individual before the Mayor and Council at the specific invitation or request of a registered lobbyist, provided no other lobbying act is undertaken, and provided the

witness identifies himself or herself to the Mayor and Council as testifying at the request of the lobbyist.

(7) The representation of a bona fide religious organization solely for the purpose of protecting the right of its own members to practice the doctrine of the organization.

(8) Appearances as part of the official duties of an officer, director, member, or employee of an association engaged exclusively in lobbying for counties and municipalities and not on behalf of any other entity.

(a) A person who would otherwise be required to file a registration and submit reports pursuant to divisions (A), (B) and (D) of this section is not required to file if he or she reasonably believes that all expenses incurred in connection with his or her lobbying activities will be reported pursuant to division (D) of this section by a properly registered person acting on his or her behalf. The authorization required by division (C)(1)(c) of this section shall be completed by these individuals as to persons acting on their behalf. Persons exempted herein, however, become subject to the provisions of § 12-9 immediately upon failure of the registrant to report any information required by § 12-9.

§ 12-10 ENFORCEMENT.

(A) The Commission may:

(1) Assess a late fee of \$2 per day up to a maximum of \$250 for a failure to timely file a financial disclosure statement required under §§ 12-7 or 12-8 of this chapter;

(2) Assess a late fee of \$ 10 per day up to a maximum of \$250 for a failure to file a timely lobbyist registration or lobbyist report required under § 12-9 of this chapter; and

(3) Issue a cease and desist order against any person found to be in violation of this chapter.

(B) (1) Upon a finding of a violation of any provision of this chapter, the Commission may:

(a) Issue an order of compliance directing the Respondent to cease and desist from the violation;

(b) Issue a reprimand; or

(c) Recommend to the appropriate authority other appropriate discipline of the respondent, including censure or removal if that discipline is authorized by law.

(2) If the Commission finds that a respondent has violated § 12-9 of this chapter, the Commission may:

(a) Require a respondent who is a registered lobbyist to file any additional reports or information that reasonably related to the information that is required under § 12-9 of this chapter;

(b) Impose a fine not exceeding \$5,000 for each violation; and

(c) Suspend the registration of an individual registered lobbyist if the Commission finds that the lobbyist has knowingly and willfully violated § 12-9 of this chapter or has been convicted of a criminal offense arising from lobbying activities.

(D) *When the Commission recommends action against the respondent.*

(1) If a recommendation that the respondent be removed or suspended from office is filed by the Commission with the Mayor and Council, the Mayor and Council may issue a reprimand, or conduct a hearing to determine whether removal from office is warranted under the applicable provisions of the state and local laws. Failure of an official to file the required financial disclosure statement may constitute grounds for removal from office.

(2) Any hearing by the Mayor and Council shall be conducted in accordance with the following provisions:

(a) The Respondent must be given at least 20 days notice of the hearing date.

(b) The rules of evidence shall apply to the hearing. All evidence, including certified copies of records and documents which the Mayor and Council considers shall be fully offered and made part of the record in the case.

(c) Each party shall be afforded adequate opportunity to rebut or offer countervailing evidence, and to cross-examine witnesses.

(d) During the entire hearing conducted under the provisions of this chapter, the respondent or any person whose activities are under investigation shall be entitled to be represented by counsel of his or her choosing. The Mayor and Council shall immediately disclose and forward to the respondent or his or her counsel any evidence which it possesses that may tend to clear the respondent.

(e) The respondent or his or her representative shall have an adequate opportunity to examine all documents and records to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing, to bring witnesses to establish all pertinent facts and circumstances, and to question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses. Upon the request of the respondent, the Mayor and Council shall subpoena named individuals to appear as witnesses at the hearing, if such action is necessary to compel their attendance. Subpoenas issued pursuant to this § 12-10 shall be judicially enforceable.

(f) The Mayor and Council shall have the power to compel the attendance of witnesses and to issue subpoenas for books, records, documents or papers therein to be designated under the authority granted to it by state law.

(g) The Mayor and Council may request of the Maryland Comptroller permission to have a designated public officer examine the income tax returns of the person whose conduct or

activities are under consideration by the Mayor and Council. The examination of the person's income tax returns shall be in accordance with state law.

(E) *Mayor and Council action.* The Mayor and Council shall, by majority vote, determine what, if any, action shall be taken against the respondent. The Mayor and Council may take any action which it is lawfully entitled to take, including, but not limited to, any one or combination of the following which the Mayor and Council deems appropriate under the circumstances: public admonition; public reprimand, suspension; demotion; forfeiture or removal from office, termination from employment and a cease and desist order, which must be enforced by a court of competent jurisdiction.

(F) Upon direction by the Commission or the Mayor and Council, the Commission Attorney may file a petition for injunctive or other relief in the Circuit Court for Kent County, or in any other court having proper venue for the purpose of requiring compliance with the provisions of this chapter. The court may:

(1) Issue an order to cease and desist from the violation; or

(2) Void an official action taken by a public servant with a conflict of interest prohibited by this chapter when the action arises from or concerns the subject matter of the conflict and if the legal action is brought within 90 days of the occurrence of the official action, if the court deems voiding the action to be in the best interest of the public, provided, however, that the court may not void any official action appropriating public funds, levying taxes, or providing for the issuance of bonds, notes, or other evidences of public obligation; or

(3) Impose a fine of up to \$5,000 for any violation of the provisions of this chapter, each day upon which the violation occurs constituting a separate offense.

(G) In addition to any other enforcement provisions in this chapter, a person who is subject to the provisions of this chapter and who is found by the Commission, Mayor and Council, or a court to have violated its provisions may be subject to termination or such other disciplinary action as may be warranted, or may be suspended from receiving payment of salary or other compensation pending full compliance with the terms of an order of the Commission, Mayor and Council, or a court.

(H) Any person who is subject to the provisions of this chapter shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to complete and substantiate any reports, statements, or records required to be made pursuant to this chapter for three years from the date of filing the report, statement, or record containing these items. These papers and documents shall be available for inspection upon request by the Commission or the Mayor and Council after reasonable notice.

(I) *Duties.*

(1) All public servants shall respond fully and truthfully to any inquiries by the Town Attorney, the Commission or its attorney in connection with the investigation of an alleged or potential violation of this chapter. All public servants shall cooperate fully in any investigation

by the Town Attorney, the Commission or its attorney, and shall locate, compile and produce for them such information as they may request, unless the information requested is exempt from disclosure under other applicable law.

(2) All public servants have a general duty to report any ethical violations of this chapter of which they have knowledge. Any person may report a violation of this chapter to any town officer or employee, who shall forward the report to a public servant whose specific official duties include the receipt and further processing of such reports.

(3) *Duty to comply with other laws.* In addition to being a violation of other laws, it is also a violation of this chapter for any public servant to:

(a) Be convicted of any felony or misdemeanor involving moral turpitude, whether or not the crime relates directly to the duties of the public servant's position in public service; or

(b) Be found guilty of violating any federal, State or Town law prohibiting discrimination against any protected class; or

(c) Be found guilty of violating any federal, state or town laws prohibiting sexual harassment; or

(d) Be found guilty of violating any federal, state or town laws prohibiting retaliation against public servants who assert a lawful claim of any nature or otherwise engage in lawfully protected activity; or

(e) Be found guilty of violating any state laws governing lobbying activities conducted by the public servant; or

(f) Be found guilty of violating any federal, state or town laws or policies regulating political activity.

(J) Any person who knowingly and willfully violates the provisions of § 12-9 of this chapter is guilty of a misdemeanor and upon conviction in a court of law is subject to a fine of not more than \$1,000 or imprisonment for not more than one year, or both.

(K) *Statute of limitations.* No action may be taken on any complaint which is filed later than one year after a violation of this chapter is alleged to have occurred, and a complaint alleging a violation must be filed within six months from the date the complainant(s) knew or should have known of the action alleged to be a violation.

§ 12-11 PENALTIES CUMULATIVE.

The penalties prescribed in this chapter shall be cumulative and not exclusive of each other or of any other penalties which may be imposed pursuant to any other laws or policies.

§ 12-12 LIBERAL CONSTRUCTION OF CHAPTER.

The provisions of this chapter are to be construed liberally, to the end that the public interest be fully protected, and shall be construed in a manner consistent with all applicable federal and state laws and applicable provisions of the Town Charter. In the event of a conflict between any provision of this chapter and any applicable federal, state or town charter provision which does not expressly provide otherwise, the federal, state or town charter provision shall control. To the extent permitted by law, all ordinances, resolutions or rules, and parts of ordinances, resolutions or rules inconsistent with this chapter are hereby repealed.