

## **ABERDEEN ETHICS COMMISSION PROCEDURES**

**Approved July 2, 2013**

**Amended July 8, 2013**

### **Advisory Opinions**

#### **A. Initiation of Request.**

(1) Any person subject to Chapter 43 (Ethics) of the Aberdeen City Code may request the Ethics Commission for an advisory opinion concerning the prospective application of the provisions of Chapter 43 to that person. Additionally, an official or employee of the City may request an advisory opinion concerning another official or employee under the requestor's supervision.

(2) Each request shall be in writing, and shall include the signature, address and telephone number of the requestor. A request shall identify any time-sensitive considerations regarding the request.

(3) Each request shall set forth non-speculative material facts that would be relevant to the Commission's issuance of an opinion on the issues presented by the requestor.

(4) A person may not request an advisory opinion from the Commission regarding conduct that already has occurred.

(5) All requests shall be addressed to the Aberdeen Ethics Commission and filed with the City Clerk at Aberdeen City Hall.

**B. Acknowledgment of Request.** The Commission will acknowledge in writing the Commission's receipt of each request for an advisory opinion. Each acknowledgment will advise the requestor of the requestor's right to be represented by counsel during the advisory opinion review process.

#### **C. Formal Consideration of Request.**

(1) The Commission will consider an advisory opinion request at a meeting of the Commission held in closed session.

(2) The Commission may request the attendance of the requestor, and the individual who is the subject of the request if that person is not the requestor, if the Commission determines that the presence of the requestor or other person may assist the Commission in rendering its opinion. A requestor, and the individual who is the subject of the request, if not the requestor, may request to attend the meeting of the Commission at which the request will be scheduled for formal consideration. The Commission also may request the presence of any other person who may be able to provide information relevant to the Commission's determination. A requestor or

other person who is the subject of the request may be represented by counsel at the meeting when the Commission formally considers the request.

(3) As part of the Commission's consideration of a request the Commission may ask the requestor to supplement the facts presented if the Commission believes that such supplementation will help the Commission fully respond to the request.

D. Issuance of Opinion.

(1) The Commission will issue an advisory opinion as soon as practicable after the Commission receives a request and any supplementary facts that the Commission may have requested. If the requestor has identified a time-sensitivity in the request, the Commission will endeavor to attempt to issue the opinion in a timely manner to accommodate the time-sensitivity.

(2) The Commission, promptly after it issues an advisory opinion, will deliver the opinion by first class mail to the requestor at the address that the requestor set forth on the request. Within five working days after the opinion has been issued, and subject to the provisions of Paragraph F below, the Commission also will provide copies of each advisory opinion to the Mayor, City Council and City Manager, and will make the opinion available to the public by delivering a copy to the City Manager for posting on the City's website.

E. Basis of Opinion. Each advisory opinion will be based upon the facts presented and additional facts reasonably available to the Commission, and will assume the truth of the facts presented to it by the requestor and otherwise relied upon by the Commission. The Commission will not make any findings of fact regarding the conduct or intent of any person in an advisory opinion. In an advisory opinion, the Commission will limit its findings to matters of law.

F. Confidentiality.

(1) The name of a person requesting an advisory opinion, the name of the person who is the subject of the opinion if different from the requestor, and the names of all other persons or business entities mentioned in an opinion are confidential information and will not be disclosed by the members of the Commission unless each person or business entity waives this confidentiality.

(2) In order to preserve confidentiality, and unless each person or business entity waives confidentiality, before providing and making copies of opinion available the Commission will redact from the opinion the names of the requestor and all other persons and business entities mentioned in the opinion.