

**AMENDMENT 3-5-19**

**OLD SAYBROOK ETHICS COMMISSION PROCEDURES FOR COMPLAINTS  
AND ADVISORY OPINIONS**

The following procedures shall be observed by the Old Saybrook Ethics Commission with regard to receiving and processing of all complaints made to it for a claimed violation of the Old Saybrook Code of Ethics and all applications for advisory opinions:

**Section 1 – Definitions**

A. “Commission” means the Ethics Commission of the Town of Old Saybrook, its commissioners, and any person duly authorized to act on behalf of the Commission.

B. “Hearing” means that portion of the Commission’s procedures in the disposition of matters delegated to its jurisdiction by law wherein an opportunity for presentation of evidence and argument occurs, which is preceded by due notice.

C. “Party” means each person named or admitted by the Commission as a party to a contested case, or properly seeking and entitled as of right to be admitted as a party. Each respondent shall be a party in all contested cases arising out of a complaint filed with the Commission.

D. “Person” includes any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character, or group of persons.

E. “Complainant” refers to any person who has filed a complaint with the Commission.

F. “Respondent” means any person against whom a complaint has been filed with the Commission or issued by the Commission.

**Section 2 – Complaints**

A. Filing: all Complaints made to the Commission shall be in writing on a form approved by the Old Saybrook Ethics Commission. Every Complaint must be signed by the Complainant under the penalties of false statement. All Complaints shall be mailed to the Chairman of the Old Saybrook Ethics Commission, Old Saybrook Town Hall, 302 Main Street, Old Saybrook, Connecticut 06475, by certified mail, return receipt requested. Except as otherwise provided herein, all Complaints shall be considered to have been “received” by the Commission when presented to the Commission by the

Chairman at its next regularly scheduled meeting, or at a special meeting of the Commission called for the purpose of receiving such Complaint.

B. Preliminary Review of Complaints: Upon receipt of a Complaint, the Commission shall review the Complaint in an Executive Session of the Commission. The Commission shall evaluate the Complaint to decide whether the allegations would constitute a violation if true, and whether it would be more appropriate to refer the matter to another administrative or judicial authority. Based on this evaluation, it may, in its discretion, deny further action upon the Complaint, or refer the Complaint to another authority and shall return notice to the Complainant of its reasons for the action taken.

If the Commission accepts the Complaint, acknowledgment of receipt shall be sent to the Complainant within five (5) days thereafter, and a copy of the Complaint shall be sent to the Respondent, certified mail, return-receipt requested, and any other means to insure receipt by the respondent.

Notice to the Respondent shall contain a copy of the Complaint, and a copy of the procedures adopted by the Commission for the handling of such Complaints. The notice shall provide the Respondent fifteen (15) days next from the date of mailing of the notice, to file a written response to said Complaint, if the Respondent chooses to do so. Said notice shall provide date of commission's next scheduled meeting to review the complaint.

### Section 3 – Investigation by Commission

A. The Commission shall have the right to investigate the circumstances of any Complaint filed with it as the Commission, in its sole judgment, may deem appropriate. An investigation conducted prior to a probable cause finding shall be confidential except upon the request of the Respondent. If the investigation is confidential, the allegations in the Complaint and any information supplied to or received from the Ethics Commission in conjunction therewith shall not be disclosed during the investigation to any third party by a Complainant, Respondent, witness, designated party, or Commission member.

### Section 4 – Review of Complaint

A. Following the date of acceptance of any Complaint pursuant to Section 2.B., the Commission shall hold a meeting or meetings to determine whether or not there is probable cause to believe that the Respondent has violated any of the provisions of the Code of Ethics of the Town of Old Saybrook. Said determination shall be made by the Commission within a reasonable time following acceptance of any Complaint, not to exceed sixty (60) days from the date of acceptance of the Complaint.

B. Such meeting or meetings shall be held by the Commission, in Executive Session, and not in public, except if the Respondent requests in writing at least 10 days in advance of the scheduled meeting, that said meeting shall be a public hearing. At said meeting or meetings, the Commission shall review the contents of the Complaint, any written response thereto by the Respondent, and any information secured by members of the Commission as a result of its independent investigation of the alleged violation.

C. If the Commission determines that there is no probable cause to believe that a violation has occurred, it shall dismiss the Complaint, the investigation shall be terminated and no further action shall be taken thereon. Not later than ten (10) days after the determination of no probable cause, the Commission shall inform the Complainant and the Respondent of its finding and provide them a summary of its reasons for making that finding. The Ethics Commission shall publish its finding upon the Respondent's request and may also publish a summary of its reasons for making such finding. If the Commission makes a finding of no probable cause, the Complaint and the record of the Commission's investigation shall remain confidential, except upon the request of the Respondent and except that some or all of the record may be used in subsequent proceedings. No Complainant, Respondent, witness, designated party, or Ethics Commission member shall disclose to any third party any information learned from the investigation, including knowledge of the existence of a Complaint, which the disclosing party would not otherwise have known. If such a disclosure is made, the Commission may, after consultation with the Respondent if the Respondent is not the source of the disclosure, publish its finding and a summary of the Commission's reasons therefor.

D. In the event that the Commission determines that there is probable cause that there has been a violation of the Code of Ethics of the Town of Old Saybrook by the Respondent, it shall notify both the Complainant and the Respondent of that fact, in writing, certified mail, return receipt requested, within ten (10) days of the date of such determination and the entire record of the investigation shall then become public.

E. The Commission shall, in such probable cause notice, designate a hearing date which shall be not less than fifteen (15), nor more than thirty (30) days of the date of said notice. The decision of the Commission and the establishment of the public hearing date, together with all other information with respect to said Complaint and the action of the Commission thereon, shall become public information five (5) days after the date of notification to the respondent of such determination of probable cause.

#### Section 5 – Right of Representative

At all stages with respect to proceedings before the Commission, all parties, including the Commission itself, shall have the right to be represented by counsel, and in the case of Complainants or Respondents, by other appropriate representatives.

## Section 6 – Public Hearing

A. The Commission shall conduct the public hearing established and noticed under the provisions in Section 4 above.

B. At the hearing, all parties shall be given full and ample opportunity to present, by themselves, by third-party witness, or through counsel or representatives, evidence appropriate to the matter.

C. All witnesses before the Commission shall be sworn prior to their giving testimony. Rules and evidence, as established by the Courts of the State of Connecticut, shall not apply. All rules of due process in the conduct of the hearing shall pertain, including the right to cross-examine witnesses by all parties.

D. Any evidence acquired by the Commission or its members as a result of its independent investigation, if any, shall be presented and included as part of the testimony and record evidence at the public hearing.

E. The Commission shall have discretion with reference to granting reasonable requests for continuance of the hearing, or as to the date of its initial scheduling.

F. The hearing shall be recorded and a transcript of the hearing in the form of the recording thereafter provided and adequate safeguards for the securing of exhibits shall be observed by the Commission. Following the close of the hearing, the parties shall be afforded the opportunity to file summaries, memoranda or briefs on relevant issues upon the request of any party.

## Section 7 – Decision

A. Time for Decision: Within forty-five (45) days of the date of conclusion of the hearing before the Commission under the provisions of the preceding paragraph, the Commission shall render its decision on the Complaint. Notice of said decision, and the decision itself, shall be given to all parties, in writing, mailed certified mail, return receipt requested, to their last known address, within ten (10) days of the date of the decision.

B. Action by the Commission: It is recognized by the Commission, under the provisions of the Charter of the Town of Old Saybrook, as amended, that all decisions of the Commission shall be in the form of recommendation only, and cannot include any punitive action, such as fines, suspensions, or disciplinary action. When appropriate, the Commission will forward copies of the Complaint, its findings and decision, together with the recommendation of the Commission to the Board of Selectmen and to the appropriate authority, board or commission which may have jurisdiction to take action as

the result of any violation of the Old Saybrook Code of Ethics. The recipients of said report shall report back to the Commission within sixty (60) days as to the action or actions taken by such authority, board or commission having jurisdiction in the matter.

#### Section 8 – Limitation Re: Filing of Complaint

All complaints for violation of the Old Saybrook Code of Ethics against any person shall be filed within two (2) years next following the date of any such alleged violation. No complaint shall be filed for any claimed violation of the Old Saybrook Code of Ethics for any event occurring prior to the effective date of the enactment of the Old Saybrook Code of Ethics.

#### Section 9 – Time Limitations

A. All days or time limitations set forth in this document shall be deemed to be calendar days.

#### Section 10 – Advisory Opinions

In accordance with the provisions of Chapter 23 Section 6 of the Code -of Ethics Town of Old Saybrook, the Old Saybrook Ethics Commission has adopted the following regulations and procedures for the filing of requests for advisory opinions from the Commission.

A. Any town official or employee of the Town of Old Saybrook, including, but not limited to Board of Education officials and employees, may request and receive an advisory opinion from the Old Saybrook Ethics Commission as to whether certain proposed conduct by such officials or employees complies with the Old Saybrook Code of Ethics.

B. Advisory opinions shall be limited to possible future actions. They will not be accepted concerning a current, past, or ongoing action.

C. A request for an advisory opinion shall be in writing, on a form provided to applicants, which form shall include, but not necessarily be limited to, the following information:

- 1) a general description of the conduct involved, together with copies of any supporting documentation requested, to be reviewed by the Commission.
- 2) Name and address of the applicant, and position held in Town.
- 3) The specific section or sections of the Old Saybrook Code of Ethics which are involved in the request.

- 4) A general statement as to the purpose of the request.
- 5) The request shall be signed by the applicant under the penalties of false statement.

#### Section 11 – References

A. The Old Saybrook Ethics Commission is established under the enabling provisions of Section 7-148h of the General Statutes of Connecticut entitled “Ethics Commission; Establishment and Powers.” The local enabling enactment is as set forth in Chapter 6, Section 5, of the Charter of the Town of Old Saybrook, and Chapter 8, Section 65 of the Town Code entitled “Ethics Commission.” Also, it should be further noted that the Old Saybrook Code of Ethics incorporates as a prohibited practice certain provisions of Old Saybrook Town Ordinance Chapter 12 entitled “Conflicts of Interest.” Said “Conflict of Interest” ordinance was established under the provisions of Section 7-479 of the General Statutes of Connecticut.