

ETHICS COMMISSION
AMENDED BYLAWS AND PROCEDURES
May 17, 2023

I. PURPOSE and AUTHORITY

Tennessee Code § 8-17-103 requires municipalities to adopt a code of ethics by ordinance which apply to elected and appointed officials of the city. The purpose of these bylaws and procedures is to provide for the orderly disposition of the business of the Ethics Commission (hereafter known as the Commission). Pursuant to Franklin Municipal Code Title 2, Chapter 3, the Commission is empowered to hear complaints filed by interested persons of alleged violations of the City's Code of Ethics (Franklin Municipal Code, Title 1, Chapter 8). Further, the Commission is empowered to establish any procedures, rules and regulations governing its internal organization and conduct of its affairs, including, but not limited to, scheduling meetings as needed, to receive and hear complaints of violations of standards required by the ethics code, to make investigations as it deems necessary to determine whether any person has violated this ethics code, but only after the affirmative vote of majority of the ethics commission have voted to conduct the investigation, to take such action as provided in the ethics code as deemed appropriate because of any violation of this ethics code, to make proposals or recommendations to the board of mayor and aldermen for the adoption of any revisions or amendments to this ethics code, to receive and review ethics reports, and to perform any other function authorized by the ethics code.

II. MEMBERS

1. APPOINTMENT

The Commission is created by the Board of Mayor and Alderman as a Commission of (5) members. Their terms of office, succession, removal, filling of vacancies, and their powers and duties, shall be as provided in the Municipal Code.

2. CONDUCT

A. Ex Parte Communication. At no time shall two or more Commission Members meet to discuss any issues to be heard before the Commission without first complying with Tennessee Code Annotated, Section 8-44-101, et. seq. Nothing in this section shall be construed as to require a chance meeting of two or more Commission Members to be considered a public meeting as long as the Commission Members do not use the meeting to decide or deliberate any issues pending before the Commission. Further, Commissioners shall refrain from talking with anyone regarding the merits of the matter prior to the matter being discussed at a scheduled meeting.

B. Direct Economic Conflict of Interest. Any Commission Member who personally has or has an immediate family member who has any economic stake in any item that is to be heard before the Commission must make known the conflict and excuse him or herself from discussion or voting on the item. At no time may a Commission

Member derive or attempt to derive any unjustified enrichment from his office through the solicitation or acceptance of any bribe, gift or other economic benefit, which the Commission Member believes or should believe was intended to influence his or her vote or other action to be taken in his capacity. Commission Members shall not accept any gift or other economic benefit granted because of any vote or other action in his official capacity already taken by him.

C. Indirect Conflict of Interest. Any Commission Member who has an indirect interest in any item that is to be heard by the Commission may vote on the matter if the member informs the body immediately before the matter is heard that he has a conflict of interest but that he declares that he will vote his conscience to fulfill his obligation to the citizens that the body represents. Indirect Conflict shall mean any contract in which the Commission Member may have an interest but will not derive a direct benefit from the action.

III. OFFICERS AND THEIR DUTIES

1. OFFICERS

Officers of the Commission shall consist of a Chair, a Vice Chair, and a Secretary. The officers shall be elected from among the appointed members of the Commission at the first meeting of each year. The procedures for election of officers are as follows:

- A. The election meeting shall be presided over by the current Chair, or in his/her absence, the Vice Chair. If neither the Chair nor Vice Chair is present, the Secretary shall call for an election to appoint a temporary chair.
- B. Nominations shall be made by members of the Commission.
- C. The candidate for each office receiving a majority vote of the entire membership of the Commission shall be declared elected.
- D. The Chair, Vice Chair and Secretary shall be elected for a one (1) year term and shall be eligible to succeed themselves.

2. VACANCIES

Vacancies in office shall be filled for an unexpired term at the next regularly scheduled meeting of the Commission.

3. DUTIES

- A. The Chair shall preside at all meetings and hearings of the Commission and have duties normally conferred by the parliamentary usage on such officers. The Chair shall have the privilege of discussing all matters before the Commission and to vote thereon.

- B. The Vice Chair shall preside at any meeting or hearing not attended by the Chair and shall assume all of his/her privileges and duties.
- C. The Secretary shall be an employee of the City and shall ensure that a full record is kept of all proceedings of the Commission, including minutes and votes in the official minutes.
- D. The staff of the Law Department shall work with the Chair in the preparation of the agenda for regular and special meetings, provide notice of meetings to Commission members, arrange proper legal notice of hearings, attend to correspondence of the Commission members, and such other duties as are deemed appropriate.

IV. MEETINGS

1. Regular meetings shall not be required.
2. Special meetings may be called by the City Attorney or the Chair, when he/she receives a timely filed complaint, when he/she deems it expedient, or when it is so requested by a majority of the Commission membership. The notice of such meeting shall be given no less than three (3) days prior to the meeting and shall specify the purpose of such a meeting and no other business may be considered.
3. The presence of three (3) voting members of the Commission shall constitute a quorum, and a quorum must be present to conduct a public hearing where action of the Commission is requested. A concurring vote of a majority of the voting members present shall be necessary to make recommendations after public hearing.
4. Every meeting of the Commission shall be open to the public pursuant to the Tennessee Open Meetings Act, Tennessee Code Annotated Section 8-44-101, et seq.

V. ETHICS COMPLAINTS FILED AGAINST ELECTED AND APPOINTED OFFICIALS

1. The Commission is authorized to hear and decide complaints pursuant to the Franklin Municipal Code Title 1, Chapter 8, and Title 2, Chapter 3.
2. A complaint to the Commission shall be filed with the City Recorder within thirty (30) days of the alleged violation said to have occurred, or in case of concealment or nondisclosure within six (6) months of the date the alleged violation should have been discovered after due diligence. The Commission shall not hear untimely complaints.
3. The complaint shall be based on personal knowledge, set forth such facts as would be admissible in evidence, and shall show affirmatively that the complainant is competent to testify to the matters stated therein. All documents referred to in the complaint shall be attached to the complaint.

4. The Commission shall have the authority to initiate an investigation on its own cognizance as it deems necessary to fulfill its obligations under Title 2, Chapter 3.

VI. INITIAL DETERMINATION HEARING

1. The Commission will meet at an agreed upon date and time, but no later than thirty (30) days after the filing of a complaint, to make an initial determination whether the complaint alleges facts sufficient to constitute an ethical claim, if proven, or whether there are deficiencies to the complaint, or whether the complaint is incomplete.
2. Should the Commission determine that the complaint fails to allege any facts that, if proven, constitute an ethical complaint, the Commission may dismiss the complaint. The complaint may be refiled so long as the refiled complaint is timely pursuant to Franklin Municipal Code 2-310.
3. Should the Commission determine that there are technical deficiencies to the complaint or that the complaint is incomplete, the Commission shall submit a list of deficiencies to the complainant and offer the complainant the opportunity to correct the deficiencies within seven (7) days prior to the Commission's investigatory review of the complaint.
4. If the Commission holds that the complaint states facts sufficient to move forward, the official against whom the complaint was filed shall reply in writing. Such reply shall be filed within thirty (30) days of the date the official received the complaint from the City Recorder. The Commission, however, may shorten or extend the reply deadline as the Commission deems necessary. The official's response must be based on personal knowledge, must set forth such facts as would be admissible in evidence, and must show affirmatively that the official is competent to testify to the matters stated therein. All documents referred to in the response should be attached to the response. However, to ensure the right to a fair hearing and the right of the accused against self-incrimination, the Commission shall not schedule a hearing for the violation of any law while criminal investigation is in progress or while criminal charges are pending. Once criminal proceedings are final, the Commission need not be bound by the conclusions of the court and may hold a censure hearing.
5. If a complaint is refiled or amended after the initial determination hearing, the complaints will be deemed new and the timeframes set forth in this document restart.

VII. HEARING PROCEDURE

1. Within sixty (60) days of receipt of a complaint, the Commission shall conduct a formal public hearing in accordance with the requirements of due process. The Commission is authorized to subpoena and swear witnesses.
2. Order of Presentation and Public Hearing Session

- A. A brief explanation of why the application is before the Commission, including presentation of a report by the City Attorney or outside counsel, if one is prepared.
- B. The Chair is authorized to place time limits on the presentation of testimony and proof in any and all cases.
- C. After the staff introduction, the complainant shall present his/her case and shall provide:
 - i. The applicant's name; and
 - ii. A statement of the alleged violation that the complainant believes has occurred; and
 - iii. Any witnesses in support of the complaint.
- D. The official shall then present his/her case to the Commission.
- E. After the complainant and official presents their case, the Public Hearing Session shall be opened. The Public Hearing Session of each meeting shall consist of a public hearing of each complaint which is docketed for consideration on that day, unless the Commission believes that complaints are similar in nature and that the official(s) are the same.
- F. Anyone appearing in support of or in opposition to the complaint shall present his/her case during the Public Hearing Session and shall include:
 - i. The public member's name; and
 - ii. A statement of why the public member believes alleged violations did or did not occur and if there was a violation.
- G. All exhibits presented to the Commission for consideration must be submitted as evidence and made a part of the official record unless the Commission otherwise provides.
- H. Cross examination of any party by another party shall generally not be permitted. All such comments shall be addressed to the Commission.
- I. Any member of the Commission may directly question the Staff, the complainant, official, public members who spoke during the Public Hearing Session, or witnesses appearing before the Commission at any time during the testimony.

- J. After each individual complaint (unless combined by the Commission) is heard, the Public Hearing Session on that complaint shall be closed, and the Commission will move on that complaint before proceeding to the next complaint.
- K. Upon the conclusion of all the testimony and proof, the public hearing shall be closed, and no further evidence admitted except as the Commission may permit on special motion or request for good cause.
- L. The Commission shall then consider the applications based upon the evidence and testimony provided. No further testimony will be heard, and all questions and discussion shall be by members of the Commission.
- M. If after reviewing the complaint the Commission by majority vote determines that no specific, substantiated evidence from a credible source(s) exists to support a reasonable belief that there has been a violation of the ethics code or determines that no violation occurred, it may dismiss the complaint. If the Commission determines that specific, substantiated evidence from a credible source(s) exists to support a reasonable belief that there has been a violation of the ethics code, then it shall render a written decision stating facts supporting that finding, conclusions of law and censure, as appropriate.

VIII. POST HEARING

1. Any party against whom a decision of the ethics commission is rendered may obtain judicial review of the decision by writ of certiorari. The application for the writ must be filed within 30 days from the date of the decision. Judicial review shall be based upon the record. No party shall be entitled to a de novo appeal.
2. Upon failure to timely request judicial review of the decision by writ of certiorari as provided in this section, the decision shall be binding and final upon all parties.

VIII. PARLIAMENTARY PROCEDURE

Whenever a parliamentary matter arises that is not covered in these By-Laws, the current edition of Robert's Rules of Order shall apply.

IX. AMENDMENTS

The Bylaws of this Commission may be amended at regular or special called meetings, but no amendment shall be adopted unless at least five (5) days' notice has been given all members of the Commission. A favorable vote of a majority of the entire membership of five (5) members shall be required to effect a change in these Bylaws.

Adopted by the City of Franklin Ethics Commission on this
the 17th day of May, 2023.

Approved by:



Jim Martin, Chair
City of Franklin Ethics Commission