

RULES OF PROCEDURE  
MOUNT RAINIER ETHICS COMMISSION  
Approved July 29, 2025

The Rules of Procedure set forth below are adopted for the purpose of orderly and efficient proceedings before the Mount Rainier Ethics Commission under the Commission's authority set forth in Chapter 1D of the City Code.

§ 1. Officers.

- a. The Chair of the Ethics Commission is chosen by the Mayor and Council. The Ethics Commission shall elect a Vice Chair from among its members at its first meeting of each year.
- b. The Vice Chair shall perform the duties of the Chair in the absence, disability or disqualification of the Chair.

§ 2. Quorum.

A majority of members of the Ethics Commission is a quorum for the transaction of business, but the Commission may meet for informational purposes without a quorum.

§ 3. Staff.

- a. The City Clerk, or other individual designated by the City Manager shall serve as staff to the Ethics Commission.
- b. Staff to the Ethics Commission shall be responsible for:
  1. Maintaining all forms submitted to the Commission.
  2. Ensuring that notice of Ethics Commission meetings is provided to members of the Commission and to the public
  3. Scheduling Commission meetings.
  4. Recording and transcribing minutes of Commission meetings.
  5. Maintaining the record of all hearing conducted by the Commission.
  6. Disseminating communications from the Commission.
  7. Coordinating training for members of the Commission.
  8. Arranging for publication of notice of Commission meetings.
  9. Disseminating agendas and other meeting materials to members of the Commission.
  10. Performing such other duties as directed by the Commission.
- c. The City Clerk shall be the custodian of the Commission's records. The Commission's records shall be kept on file by the City Clerk. Any minutes or records of the Ethics Commission confidential under the Maryland Public Information Act shall be maintained separately in a secure manner and not subject to disclosure except as directed by the Commission.

§ 4. Duties.

The Ethics Commission shall have those duties and responsibilities as set forth in the Mount Rainier Public Ethics Ordinance, Chapter 1D of the City Code.

## § 5. Meetings.

a. The Ethics Commission shall meet at the call of the Chair, or upon request of a majority of the members of the Commission, after at least 48 hours' notice to members of the Commission, unless shorter notice is required because of exigent circumstances.

b. The Ethics Commission shall provide reasonable public notice of the time, place and agenda for the Commission's meetings.

c. Meetings of the Ethics Commission shall be held at City Hall or at such other public location or virtually as the Chair of the Commission determines.

d. The Chair shall set the agenda and preside and regulate conduct at all meetings and hearings of the Commission.

e. Meetings of the Ethics Commission shall be open to the public unless the Commission meets in closed session as authorized by law.

f. Meetings of the Commission shall be conducted according to the following order, subject to the right of the Commission to modify this order:

1. Roll call and determination of quorum.
2. Approval or revision of meeting agenda.
3. Approval of prior meeting minutes.
4. Unfinished Business.
5. Public Hearings.
6. New Business.
7. Other business.
8. Adjournment.

## § 6. Conflicts of Interest of Commission Members.

a. An Ethics Commission member who will be unable to render a fair and impartial decision based on the facts presented in a matter due to a financial or personal conflict in a case, or who is the subject of a complaint before the Commission, shall not participate in a case prior to becoming involved in a hearing or voting on a case.

b. If an Ethics Commission member recognizes a conflict or the appearance of a conflict, the member shall state this conflict before any proceeding and physically remove himself or herself from the room and avoid discussion of the matter until the Commission renders a decision.

## §7. Hearings.

In addition to procedures established by the Ethics Commission for complaints alleging violations of the City's Ethics Ordinance, hearings before the Commission shall be conducted according to the following:

1. The Chair shall conduct and regulate the course of the hearing.
2. The Chair may establish reasonable time limits for the presentation of evidence and testimony.
3. The Chair shall rule on the admissibility of evidence and other evidentiary questions.
4. The Chair shall administer oaths to witnesses. Any witness appearing at a hearing before the Commission shall be administered the following oath: "Do you swear or affirm

under the penalty of perjury that the testimony you shall give will be the truth."

5. The Commission is not bound by formal rules of evidence but may apply rules of evidence as to what is admissible in judicial proceedings so that probative evidence may be conveniently brought forth. The Commission may exclude immaterial or unduly repetitious testimony or evidence and may limit the number of witnesses when testimony is cumulative in nature.

#### § 8. Record of Proceedings.

a. The Ethics Commission shall keep an official record of its proceedings in each case. This record shall include all filings, correspondence, testimony, exhibits, a recording of the proceedings and other matters that the Commission deems necessary. The Commission shall maintain this record for a period of four (4) years after a final decision in a case. A final decision is one in which no further appeal can be taken.

b. The Ethics Commission shall provide for an audio recording to be made of each hearing. The Ethics Commission may provide for a stenographer or court reporter to record the proceedings of the Commission at the prior written request and expense of a party to a proceeding.

c. After the filing of a petition for judicial review of a decision of the Commission, the Ethics Commission shall provide a transcript of testimony at a hearing if requested by the appealing party and upon payment, in advance, of the cost of the transcription. In all other situations the Complainant and Respondent in a proceeding before the Commission may review an audio or written transcript of a proceeding at City Hall at a time convenient to the City Clerk and no copies may be made except in case of a judicial review or otherwise by Court Order.

d. Members of the Ethics Commission may review an audio recording or a transcript of testimony of a hearing as necessary to perform their duties. For such purposes Commission members may receive a copy of an audio recording or transcript from the City Clerk upon request. Each Commission member shall be responsible for the confidentiality and safekeeping of any such audio recording or transcript, shall not make any further copies of the audio recording or transcript, and shall return all audio recordings and transcripts to the City Clerk promptly after completion of the Commission member's review.

#### § 9. Actions of the Commission.

a. The Ethics Commission may act only on the affirmative vote of at least a majority of its members.

b. In a matter involving a complaint alleging of a violation of Chapter 1D, a Commission member may not participate in the consideration, including the hearing, deliberations and vote, on that matter unless the member has participated in all preliminary matters related to the complaint and attended all hearings relating to that matter, except that where a matter involves a hearing over multiple days, a Commission member who is absent for one day of the hearings may participate in future hearings, the deliberations and vote on the matter if the member:

1. Participated in all preliminary matters related to the complaint;
2. Attends all other days of hearings;
3. Prior to the next day of hearings listens to the audio recording (or views the video recording if available) of the day of the hearing from which the member was absent;

4. Prior to the next day of hearings reviews all exhibits presented at the hearing from which the member was absent; and
5. States on the record prior to commencement of the next day of hearings, or prior to the commencement of deliberations if hearings have concluded, that the member listened to the audio or video recording and reviewed all exhibits as required by paragraphs 3 and 4.

c. The Chair shall sign all communications and decisions of the Ethics Commission, except that the Chair may authorize staff to sign communications of the Ethics Commission in the name of the Chair.

d. Decisions of the Ethics Commission shall be signed by all members of the Commission voting in favor of the decision. A member of the Commission who does not vote in favor of the Commission's decision may issue a dissenting opinion.

e. Staff shall disseminate copies of any Commission action or decision to all relevant parties and individuals.

#### § 10. Commission Spokesperson.

The Chair of the Ethics Commission shall act as the Commission's spokesperson.

#### § 11. Appearances before Commission.

a. The following individuals may appear before the Commission:

1. An individual appears on his or her own behalf.
2. A member of a partnership who represents the partnership.
3. A duly authorized representative of an individual, corporation, trust, or association who represents the individual, corporation, trust or association.
4. Duly authorized representatives or employees of the City.

b. A respondent in a proceeding may be represented by an attorney admitted to practice law before the Maryland Supreme Court. Before the hearing begins, the attorney shall give the Commission his or her name, address, and telephone number, and identify those persons that he or she is representing.

#### § 12. Amendments.

These Rules of Procedure may be amended by a vote of a majority of the entire membership of the Commission provided that notice of the proposed change is given to each member at least 15 days before the meeting at which the Commission acts on the amendment.

#### § 13. Advisory Opinions

##### A. Initiation of Request.

(1) Any person subject to Chapter 1D (Mount Rainier Public Ethics Ordinance) of the Mount Rainier City Code may request the Ethics Commission for an advisory opinion concerning the prospective application of the provisions of Chapter 1D 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 Mount Rainier Ethics Commission and filed with the City Clerk at 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 and City Council and City Administrator and will make the opinion available to the public by delivering a copy to the City Administrator 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.

### § 14. Complaint Procedures

#### A. Timeliness and sufficiency.

(1) All complaints shall be in writing and signed under oath on a Complaint Form approved by the Commission. Complaints initiated by the Commission shall be signed by the Chair. The Complaint Form must be:

a. signed under oath upon penalty of perjury;

b. notarized; and

c. submitted by delivering a copy in person, by mail or by email (ethics@mountrainiermd.org) to the City Clerk. The Complainant may provide a *courtesy copy* by email to the Ethics Commission members. The Complaint will be deemed “received” on the date received by the City Clerk.

(2) A complaint must assert facts that if proven true would constitute a violation of the provisions of Chapter 1D, Public Ethics, of the Mount Rainier City Code (“Ethics Ordinance”)

and include:

- a. name, address, telephone number and email address of the person making the complaint (“Complainant”);
- b. name, title and address of the employee, board, committee, or commission member or elected officials against whom the complaint is asserted;
- c. the section(s) or provision(s) of the Ethics Ordinance the employee, elected official, board, committee or commission member is alleged to have violated;
- c. a concise statement of the conduct or action describing how the employee, elected officials, board, committee or commission member violated the Ethics Ordinance; and
- d. copies of any documents supporting the allegations (copies will not be returned to the Complainant).

(3) A complaint must be filed within six months from the later of:

- (a) The date of the act or omission alleged to constitute a violation; or
- (b) The date that the act or omission alleged to constitute a violation became, or reasonably should have become, known to the complainant or the general public.

B. Notice.

Within ten (10) business days after the Commission receives a complaint, the Commission shall provide the complainant with written acknowledgment of receipt of the complaint.

C. Evaluation of complaint.

(1) Upon receipt of the complaint, the City Clerk shall determine whether the Complaint has met the technical requirements and whether the Complainant needs to provide additional information. Technical requirements means that the form contains all the required information, including the section of the Ethics Ordinance that the Complainant believes has been violated, concerns a person over whom the Ethics Commission has jurisdiction, and is properly signed under oath and notarized. The Complainant may supplement his or her complaint, including providing additional information no later than ten (10) days from a request by the Commission.

(2) Once the Complaint is deemed technically complete, the City Attorney will review for legal sufficiency and provide comments for consideration by the Commission. The Commission, without further proceedings, may dismiss a complaint that is untimely or does not assert sufficient facts to enable the Commission to evaluate whether the facts, if proven, would be a violation of Chapter 1D. If the Commission determines that the Complaint is not legally sufficient, the matter will be closed and a written record of the vote of the Commission making

such determination shall be provided to the parties. Legal sufficiency means that the Complaint, as filed, contains facts to support a violation of the Ethics Ordinance. If the Commission concludes that the facts alleged in the Complaint (with the supporting documentation) are insufficient, the Complaint will be dismissed. Nothing additional outside of the Complaint and supporting documentation will be considered at this stage.

(3) If the Complainant withdraws the Complaint, prior to an answer from the Respondent, the Complaint will be dismissed.

(4) A copy of the signed and dated order dismissing the Complaint and grounds therefore shall be delivered to the Complainant at the address and method indicated on the Complaint Form.

(5) If the Commission determines that a complaint is insufficient on its face, the Respondent may amend his or her Complaint once within fifteen (15) business days of the date of notice of dismissal from the Commission. If the Commission again decides that the complaint is insufficient, the complainant may not file another complaint with respect to the same underlying facts.

D. Responding to a Sufficient Complaint.

1. Once the Commission determines that the Complaint alleges sufficient facts to avoid dismissal, the Commission shall give notice of the Complaint to the Respondent as soon as practical of its decision to allow Complainant to proceed. Such notice shall be sent both by Certified Mail, Restricted Delivery and U.S. first class mail postage paid and shall include a copy of the Complaint, any documents submitted by Complainant, and a statement that Respondent may submit a written response to the City, attaching any supporting documents, within fifteen (15) days of the Notice date. The Notice shall also contain a hearing date.

2. Any party may request one extension of the hearing date, up to fifteen (15) days. No further extensions will be granted unless hardship is shown to the satisfaction of the Ethics Commission.

E. Extension of deadlines.

The Commission may, in its sole discretion, extend any or all deadlines included in this Section 14. for good cause.

E. Representation by counsel.

(1) The Complainant and the Respondent shall have the right to be represented by counsel at any hearing. The Commission will be represented by Ethics Counsel.

(2) The Commission may determine that an attorney other than the City Attorney should serve as Ethics Counsel because of potential conflicts of interest or appearances of impropriety. If the Commission makes such a determination, the Commission will request the

City Council to retain a qualified attorney.

(3) In the case of a complaint initiated by the Commission, the Commission shall have separate counsel appointed to present evidence and otherwise advocate to the Commission in support of the complaint. In such cases the Commission will request the City Council to retain a qualified attorney.

F. Administrative hearing.

(1) Notice of the date of an administrative hearing on the merits shall ordinarily be sent to the parties within ten (10) business days of the Commission's determination that a complaint is sufficient, or as soon thereafter as practicable.

(2) An administrative hearing shall be conducted within forty-five (45) days of the Commission's receipt of a complaint that is timely and sufficient, or as soon thereafter as practicable. The Commission may grant one postponement each to the complainant and to the respondent. Each postponement shall not exceed 30 days.

(3) If, after proper notice of the hearing, a complainant fails to attend a final hearing, the Commission may proceed without the presence of the complainant or may dismiss the complaint if the complainant has material evidence or testimony necessary to the Commission's decision regarding the complaint. However, if the complainant provides reasonable cause, in advance, for a failure to attend the hearing, the Commission may reschedule the hearing.

(4) If, after proper notice of the hearing, the respondent fails to attend a final hearing without reasonable cause the respondent will be deemed in default and the hearing may proceed without the respondent's presence. If the respondent provides reasonable cause, in advance, for a failure to attend the hearing, the Commission may reschedule the hearing.

(5) An audio or video recording of the hearing shall be made and retained by the Commission. The Chair will begin the hearing by reading into the record the names of the Complainant(s) and the Respondent(s) and the alleged Ethics Ordinance violations.

(6) The hearing will be closed to the public unless the Respondent requests that the hearing be open to the public. If there are more than one Respondent and one Respondent requests that the hearing be open, but the other Respondents do not consent, the Commission will conduct separate hearings. Witnesses, including the Complainant, who are not Respondents may be present only during their own testimony.

(7) Each party may present an opening statement of no more than five (5) minutes.

(8) Each party may present witness testimony in addition to their own testimony. All testimony is to be under oath administered by the Chair. Witnesses may be questioned by the members of the Commission or its counsel.

(9) The Complainant(s) and the Respondent(s) may submit additional documents in support of their respective point but should refrain from submitting voluminous documents or documents already attached to their papers. In the event new documents are submitted, particularly large or complex documents, the Commission may recess the hearing in order to review the documents.

(10) The Commission hearing is not a judicial proceeding so that the rules of evidence

do not apply. The Commission will determine the reasonableness or probative value of evidence or testimony, except that the rules of privilege or capacity will be recognized. The Commission may also decline to consider evidence that is duplicative, excessive, or immaterial to the facts at issue.

(11) By failing to attend a properly noticed hearing, such party waives his or her right to a hearing.

#### G. Decision.

(1) Upon a finding by the Commission that the Complainant demonstrated by clear and convincing evidence a violation of the Ethics Code, the Commission shall issue an order of such finding and may impose any of the penalties set forth in Ethics Ordinance, Sec. 1D-9.

(2) If Complainant fails to prove a violation of clear and convincing evidence, the Complaint shall be dismissed.

(3) In either case, the Commission's decision shall be in writing, dated, and signed by the Chair briefly stating the findings of fact and conclusions of law and stating the reasons for the Commission's decision.

(4) If there is a finding of a violation, the decision shall be delivered to the Respondent(s) by their preferred means of communication plus a copy shall be mailed to their last known addresses. If the Commission finds that there has been no proven violation, a copy of the decision shall be mailed to the Respondent(s) only. The Complainant(s) will be advised only that no violation was found and that he or she must not disclose any information about the proceeding or the findings, which remain confidential.

(5) After mailing to the parties, a decision that a Respondent has violated the City's Ethics Ordinance is public information and is available for public inspection and copying.

#### H. Confidentiality.

Upon the filing of a complaint, all meetings and activities of the Commission in connection with the complaint and any hearing will be conducted in a confidential manner and closed to the public, except that:

(1) The Commission may release information at any time if the respondent has agreed in writing.

(2) The Commission may conduct a hearing in open session if requested by a respondent.

(3) The Commission may release information to a prosecuting authority if the Commission believes that criminal conduct may have occurred.

§15. Participation of Members.

Commission members are expected to attend Commission meetings and promptly respond to emails and inquiries. If a Commission member fails to respond to Commission communications within two days on two or more occasions in a one year period or misses two consecutive meetings without prior notice, the Chair or City Clerk will send the member a letter or email reminding the member that meeting and communication participation is a requirement and that their membership will be reviewed at the next meeting, where the Commission may recommend to the Mayor and City Council that the member be removed.