

## OPERATING RULES AND REGULATIONS BRUNSWICK ETHICS BOARD

These Rules and Regulations are adopted pursuant to this Board's authority under Section 6.06 of the Charter of the City of Brunswick.

### **Section 1 - Definitions**

As used in these Rules and Regulations:

- A. "Advisory Opinion" means an opinion adopted and issued by the Brunswick Ethics Board pursuant to its authority under Section 6.06(b)(2) of the Brunswick City Charter.
- B. "Board" means the Brunswick Ethics Board created by Section 6.06(a) of the Brunswick City Charter.
- C. "Chairman" means the Board member duly elected by the Board as its Chairman at a meeting of the Board pursuant to the Brunswick City Codified Ordinances, Section 165.06(a).
- D. "Charter" means the duly adopted and current Charter of the City of Brunswick, unless otherwise specified.
- E. "City" means the City of Brunswick.
- F. "Complainant" means any person filing a complaint with the Board pursuant to Section 6.06(b)(1) of the Charter.
- G. "Member" includes any one of three members of the Brunswick Ethics Board appointed pursuant to Section 6.06(b) of the Brunswick City Charter.
- H. "Requestor" means any person requesting an "Advisory Opinion" of the Board.
- I. "Respondent" means a person against whom a complaint has been filed with the Board pursuant to Charter § 6.06(b)(1).
- J. "Day" means calendar day.

### **Section 2 - Board Procedures**

- A. Action at Meetings. The Board shall act only at a meeting, which shall be either its Annual Meeting or a Special Meeting.
- B. Annual Meeting. The Board shall conduct at least one Annual Meeting, each September, at which it shall elect its Officers and conduct any other procedural business it deems appropriate.

C. Special Meetings. The Board may conduct as many Special Meetings as it deems appropriate to perform its responsibilities. Special Meetings may be called by the Board's Chairman or by a majority of the Board's Members.

1. Notice - Date, Time and Place of Special Meetings. The date, time and place of any Special Meeting may be established either:

a. Predetermined Schedule: by a predetermined schedule of Special Meetings adopted by the Board at either its Annual Meeting or at any duly noticed Special Meeting, provided that the earliest meeting date established in the Schedule is at least five (5) calendar days after the date the Board adopts the Schedule; or

b. Individual Special Meetings: upon at least five (5) calendar days advance notice of such Special Meeting.

2. Posting of Notice of Special Meetings. Notice of the date, time, and place of any Special Meeting of the Board shall be posted at the City's Official website and in the lobby at City Hall at least five (5) calendar days before the date of such Special Meeting. Posting of notice of a Predetermined Schedule of Meetings adopted by the Board shall be required only once at least five (5) days before the first of the Special Meetings dates contained in the Schedule.

3. Continuance Without Notice and Posting. The Board may at any duly noticed Special Meeting elect to continue the business of that Special Meeting's agenda to a date, time and place of its choosing, without regard to the timing, notice and posting requirements this Section otherwise makes applicable to the calling of Special Meetings.

4. Waiver of Notice. Notice of any Special Meeting may be waived by any Member(s) either before or after the Special Meeting occurs, and attendance at any Special Meeting by a Member shall constitute that Member's waiver of notice unless he shall, at or promptly after the beginning of such Special Meeting, object to the proceedings on the ground of lack of or insufficiency of notice.

5. Additional Notice Requirements. The following are in addition to the foregoing notice and posting requirements and where they conflict with the foregoing, the following shall control:

a. As to any Special Meeting which involves Board action upon any Complaint received by it pursuant to Charter § 6.06(b)(1), separate notice of such Special Meeting shall be given to the Complainant and Respondent at least ten (10) calendar days in advance of such Special Meeting.

b. As to any Special Meeting which involves Board action upon a Requestor's request for an Advisory Opinion pursuant to Charter § 606(b)(2), a separate notice of such Special Meeting shall be given to the Requestor at least five (5) calendar days in advance of such Special Meeting.

c. As to any Special Meeting during which a hearing as described in Section 3 (C) below will be conducted, in whole or in part, separate notice of such Special Meeting shall be given to the Complainant and Respondent at least twenty (20) calendar days in advance of such Special Meeting. Such notice shall be by certified mail, return receipt requested. As to Respondent, such notice shall also include a brief statement of the charges and law directly involved, shall inform Respondent of his right against self-incrimination, his right to be represented by counsel, or to have counsel appointed if he is unable to afford counsel without undue hardship, his right to examine evidence against him, to confront his accusers and to cross examine witnesses, and his right to produce evidence and to call and subpoena witnesses in his defense.

d. Notice shall be deemed given as of the date of its postmarking, if sent by regular U.S. Mail, but may also be delivered personally, or sent electronically or by facsimile transmission.

D. Quorum. A majority of the Board Members shall constitute a quorum. No action shall be taken by the Board without a concurrence of a majority of the Board Members.

E. Officers. The officers of the Board shall be a Chairman and Vice Chairman. The Chairman shall preside at any meeting at which he is present and, in his absence, the Vice Chairman shall preside. In the event the Chairman is unable to perform his duties, the Chairman or secretary shall notify the Vice-Chairman to act in his place during that time period. A secretary duly appointed pursuant to City of Brunswick Charter shall all keep the minutes of the proceedings at all Board meetings and the ledger of all Board actions concerning Complaints. The Officers shall serve a term of one year or shall serve until successor Officers are elected, whichever is later.

F. Agenda. The Chairman shall prepare an agenda for the Annual Meeting and for any Special Meetings the Chairman calls. The Board Members calling a Special Meeting of the Board shall prepare an agenda for such Special Meeting. Agendas shall be distributed to all Board Members at least five (5) days prior to the Annual Meeting or to any Special Meeting. A copy of the notice posted for any Special Meeting shall be attached to the agenda distributed to the Board Members.

G. Timing Any time requirements stated in these operating rules and regulations do not toll or continue to run until such time as all seats on the Board of Ethics are filled.

### **Section 3 – Disposition of Complaints (Charter § 6.06(b)(1))**

The Board shall receive, investigate and dispose of complaints submitted to it pursuant to Charter § 6.06(b)(1) in accordance with the following rules.

A. Complaints. Every Complaint shall comply with the following requirements:

1. Form of the Complaint. A Complaint submitted to the Board shall be in writing, sworn in the form of an affidavit, made upon personal knowledge and be given subject to the penalties of perjury. Any Complaint received by the Board which does not comply with these

requirements shall be rejected without further consideration and returned to the Complainant with a brief statement of the Complaint's deficiencies.

2. Necessary Allegations: The Complaint shall state with specificity the date(s), time(s) and place(s) where and when the alleged misconduct complained of occurred, the person(s) alleged to be involved and their specific actions at issue, and the Charter provision(s), or other law(s), ordinances(s), standard(s), or regulation(s) alleged to have been violated by such conduct. The Complaint shall also state with specificity the basis for the Board's jurisdiction to consider the misconduct and violations alleged.

3. Failure to Comply: Any Complaint received by the Board which does not sufficiently state the necessary allegations, or which fails to state a valid basis for the Board's jurisdiction, shall be rejected without further consideration and returned to the Complainant with a brief statement of the Complaint's deficiencies.

4. Docketing of Complaints: A Complaint that complies with the requirements of this Section A shall be docketed, assigned a serial number and be logged, by number, into a permanent ledger. All subsequent action taken on the docketed Complaint shall be recorded in the ledger following the appropriate serial number.

5. Timing: The Board Chairman shall make the determinations stated in this Section A within ten (10) days of receiving a Complaint.

B. Probable Cause Determination. After a Complaint is docketed, the full Board shall first evaluate it to determine whether probable cause exists to conclude that the actions attributed by the allegation to the Respondent(s) constitute a violation of the provisions alleged to have been violated.

1. Scope of Probable Cause Determination: The Board may conduct its probable cause determination at a separate Special Meeting devoted to this purpose and may make this determination based solely upon the allegations in the Complaint. The Chairman may first assign to a Board Member the responsibility to conduct such investigation as may be deemed necessary to evaluate the probable cause question. Following such investigation, the investigating Board Member shall file a written report and recommendation with the Board on the probable cause question for the Board's further consideration.

2. Dismissal: If the Board determines that probable cause does not exist, or that the Complaint is otherwise frivolous, it shall so find and state on the record and dismiss the Complaint without further action.

3. Timing: The Board shall make the probable cause determinations stated in this Section B within sixty (60) days of receiving a Complaint.

C. Hearing. Upon the Board's finding that probable cause does exist, a hearing shall be scheduled before the Board at a Special Meeting to determine whether the facts alleged in the

Complaint are true and established by a preponderance of the evidence and that the facts constitute a violation of the provisions alleged to have been violated.

1. Timing: The Board shall conduct this hearing at a Special Meeting within ninety (90) days after the receipt of a Complaint unless a continuance is requested and granted.

2. Continuances: The Board may grant a continuance of the hearing within the ninety-day period stated in Section C(1) only if the interests of justice so require. The Board may also grant such continuance at the request of the Respondent or the Complainant if such request is filed in writing with the Board no later than five (5) day before a scheduled hearing, and sets forth a brief written statement of the good cause for such continuance. Continuances must be to a date and time certain. Board members and interested parties shall be notified before a request for continuance is acted upon.

3. Place: All hearings shall be conducted in the Brunswick City Hall unless otherwise determined by the Board.

4. Procedure: A stenographic record of all hearings shall be made. All hearings and Board deliberations shall be closed to the public, subject to the requirements of the Public Meetings Act, R.C. 121.22. The Chairman of the Board shall conduct the hearing and establish reasonable guidelines and time limits for the presentation of evidence.

5. Required Findings: Within twenty (20) days of the conclusion of the hearing, the Board shall report in writing to City Council one of the following determinations which the Board shall have made:

a. that the Board has determined, by a preponderance of the substantial, probative, competent evidence, certain or all of the facts alleged in the Complaint to be true and that such facts constitute a violation of one or more of the provisions(s) alleged in the Complaint to have been violated;

b. that the Board has determined, by a preponderance of the substantial, probative, competent evidence, that the facts alleged in the Complaint are true but that such facts do not constitute a violation of any of the provision(s) alleged in the Complaint to have been violated, and had dismissed the Complaint accordingly; or

c. that the Board has determined that the truth of the facts alleged in the Complaint has not been established by a preponderance of the substantial, probative, competent evidence and, thus, the Board has reached no conclusion regarding the existence or not of the alleged violations in the Complaint and has dismissed the Complaint accordingly.

6. Report and Disposition: The Board's report to City Council shall include sufficient particularity regarding the Board's factual and legal findings to enable Council to take such further actions regarding the same as Council deems appropriate. The report may be returned to the Board by Council with a request for greater detail in any regard, and the Board's response to such requests shall be due within twenty (20) days.

7. Failure to Act: If the Board fails to make a final report to Council within sixty (60) days after the hearing is concluded, the record of the hearing shall be transmitted to Council for further proceedings according to Council's discretion.

8. Confidentiality of the Record: Except as otherwise required by the Ohio Public Records Act, R.C. Chapter 149, the record of any hearing shall be kept confidential unless the Respondent consents to its being made public.

#### **Section 4 – Processing Request for Advisory Opinions (Charter § 6.06(b)(2))**

The Board shall initiate, or receive, process and respond to request for, advisory opinions made pursuant to Charter § 6.06(b)(2) in accordance with the following rules.

A. Scope of Advisory Opinions: As stated in Charter § 6.06(b)(2), advisory opinions issued by the Board may relate to “questions concerning ethics, conflicts of interest or other matters involving performance of official duties.”

B. Form for Requesting Advisory Opinions: Requests for Advisory Opinions shall be submitted to the Board in writing and include:

1. Name of Requestor.
2. Address of Requestor.
3. Phone Number of Requestor
4. Date.
5. Nature of Request.

C. Journalization: The Chairman shall within ten (10) days of receipt of a request for an Advisory Opinion acknowledge such receipt in writing to the Requestor and log the request in a journal kept for that purpose. Each such request shall be assigned a Request Number and shall be tracked and referenced in the Board's records by the “Request No.,” which shall be composed of the two-digit year reference, a hyphen, and a serial number assigned to the requests received for that year. The resulting Advisory Opinion shall also be designated by the same Request No.

D. Investigation: The Board shall determine within its discretion the procedures it chooses to employ regarding any research, investigation or work required to prepare its Advisory Opinions.

E. Format of Advisory Opinions: All Advisory Opinions rendered by the Board shall be in the following format:

1. A syllabus containing the specific advice requested of and given by the Board;
2. A detailed statement of facts upon which the opinion was based. However, such facts need not disclose the names of any individual; and
3. A discussion of the facts and law which conclude in the advice given in the syllabus.

F. Compilation of Advisory Opinions: The Board shall maintain a compilation of all Advisory Opinions it issues. The Board shall make public all Advisory Opinions and such Advisory Opinions shall be considered a public record with, subject to the Ohio Public Records Act, such deletions as may be necessary to prevent disclosure of the identity of persons.

**Section 5 – Recommendations Concerning Standards of Conduct (Charter § 6.06(b)(3))**

The Board shall fulfill its role in making recommendations concerning legislation about standards of conduct pursuant to Charter § 6.06(b)(3) in accordance with the following rules.

The Board shall recommend legislation, and amendments thereof, to Council relating to standards of conduct for members of Council, officers and employees of the City, and members of any board or commission of the City with respect to interests in the following:

- A. Contracts,
- B. Work or services with or for the City,
- C. Representation of private interests before Municipal agencies and courts,
- D. Disclosure of interest in legislation before Council,
- E. Acceptance of gifts and favors,
- F. Disclosure of confidential information,
- G. Holding of investments in conflict with official duties,
- H. Incompatible employment,
- I. Future employment, and
- J. Such other standards of conduct as it may deem advisable.

**Section 6 – Continuing Ethics Education (Charter § 6.06(b)(4))**

The Board shall fulfill its role in furthering education on ethics and conflicts of interest issues under Charter § 6.06(b)(4) in accordance with the following rules.

In cooperation with the City Manager and Council, the Board may provide a continuing program of education and information for members of Council, officers and employees of the City, and members of any board or commission of the City with regard to ethics, conflicts of interest and other matters involving performance of official duties.