



**City of Clarksville
Ethics Commission
September 16, 2020, 10:00 a.m.
City Hall Conference Room
1 Public Square, 4th Floor**

AGENDA

**This meeting will be conducted in person
and via Google Meets.**

Commission Members:

Elizabeth Carmichael
Bridgett Childs
Dr. Kay Drew
Bishop Calvin Lockett
Pat Young

1. Welcome and Introduction – Saul Solomon
2. Approval of Electronic Meeting

“In order to comply with the technical aspects of the Governor’s Executive Order regarding holding open meetings in a forum other than in the open and in public, this commission determines that meeting electronically is necessary to protect the health, safety, and welfare of its citizens due to the COVID-19 outbreak.”

3. Election of Officers – Saul Solomon
 - a. Chairperson
 - b. Vice-Chairperson
 - c. Secretary

4. Review and Adoption of Bylaws – Saul Solomon
5. Review of City of Clarksville Code of Ethics
 - a. Summary of the role of the ethics commission – Paige Lyle
 - b. Summary of the role of counsel – Saul Solomon
 - c. Summary of ethics complaints filed to date – Paige Lyle
 - d. Review of procedures related to an ethics complaint – Paige Lyle
6. Next Steps – Commission Chairperson
7. Scheduling of Subsequent Meeting
8. Other Business
9. Adjournment

**BYLAWS
OF THE
CITY OF CLARKSVILLE ETHICS COMMISSION**

Article I – THE COMMISSION

Section 1: Name of the Commission. The City of Clarksville Ethics Commission (hereinafter referred to as the “Commission”)

Section 2: Office of the Commission. The Commission shall meet at One Public Square, Clarksville, Tennessee 37040, but the Commission may change its official meeting location to any other such place it may designate by appropriate notice.

Section 3: Authority, Statutory Requirements. The Commission shall comply with all applicable laws, including, but not limited to, the Charter of the City of Clarksville (hereinafter the “Charter”) and the Official Code of the City of Clarksville (hereinafter the “City Code”).

Article II – BOARD OF COMMISSIONERS

Section 1: Number, Appointing Authority, and Qualifications. The Commission shall consist of five (5) voting members, who shall be appointed by the Mayor, subject to City Council approval by majority vote of the members present and voting. The members of the Commission shall have been residents of the city for not less than two (2) years prior to any vote of the City Council on their appointment. Residency within the city shall be a requirement for continued membership on the Commission. No elected or appointed office or employee of the city, other than a member of any federal military reserve or state national guard force while not on active duty, or of any other governmental entity, to include national, state or local government, other than a member of any federal military reserve or state national guard force while not on active duty, nor any candidate for any public office, to include national, state, or local government, nor any member of any other city board, commission, authority, or other city entity, may serve as a member of the Commission. Legally separate, private non-profit organizations or entities that receive city funding shall not be construed as a city entity.

Section 2: Jurisdiction. The Commission shall have jurisdiction over all ethics complaints made against any member or members of the City Council, to include the Mayor, the City Judge, the City Attorney(s), the City Clerk, the Director of Finance, the Director of Internal Audit, and all other department heads of the city, as well as all members of any city boards, commissions, authorities, or other like body established by the city.

Section 3: Term of Appointment. Terms for each member of the Commission shall be for a period of three (3) years. No member may serve more than two (2) consecutive terms. With regard to initial terms for members, two (2) such members shall serve an initial term of three (3)

years each; two (2) other such members shall serve an initial term of two (2) years each; and one (1) other such member shall serve an initial term of one (1) year. A term shall begin to run from the date of the first Commission meeting held after appointment.

Section 4: Officers. The members of the Commission shall elect officers for the Commission. One member shall be elected to serve as Chairperson of the Commission; one member to serve as Vice-Chairperson of the Commission; and one member to serve as Secretary for the Commission.

Section 5: Chairperson. The Chairperson shall preside over all meetings of the Commission. Nothing in these bylaws shall be construed to limit the authority of the Chairperson to perform tasks as may be reasonably necessary to promote the mission, goals, and objectives of the Commission.

Section 6: Vice-Chairperson. The Vice-Chairperson shall perform the duties and responsibilities that may be delegated by the Chairperson, and the assignments traditionally assigned to that office. In the absence or disability of the Chairperson, the Vice-Chairperson shall perform the duties prescribed to the Chairperson.

Section 7: Secretary. The Secretary shall keep the minutes of all meetings of the Commission and shall keep a record of all matters as deemed advisable by the Chairperson. The Secretary shall give or arrange for the giving of notice of all meetings and keep a roll of the members. Also, the Secretary shall draft the Commission's final decision in any matter heard before it and submit it to the Mayor, the City Council, and to the parties. If for any reason, the Secretary is not in attendance at any meeting, the presiding officer of such meeting may appoint any other Commission member to perform the duties of the Secretary for such meeting.

Section 8: Vacancy. If any member ceases to be a resident of the city, or qualifies as a candidate for any public office, or is elected or appointed to any public office other than a member of any federal military reserve or state national guard force while not on active duty, or accepts employment with or for any governmental entity other than a member of any federal military reserve or state national guard office while not on active duty, or refuses to continue service on, resigns from, or otherwise ceases to be a member of the Commission for any reason before the expiration of his or her term, or fails to attend and participate in at least three (3) consecutive meetings or fails to attend at least two-thirds (2/3) of all properly called meetings of the Commission within any calendar year period, a new member shall be appointed by the Mayor, subject to City Council approval, to serve the remainder of the former member's unexpired term. Service during any unexpired term shall count as a term for the purpose of computing the limit on consecutive terms.

Article III - MEETINGS

Section 1: Commission Meeting to Determine If a Violation Exists. Upon receipt of an ethics complaint from the City Clerk and after review by the City Attorney, the Chairperson shall call a meeting of the Commission which shall convene as soon as practicable. The meeting shall be open to and noticed to the public. At the meeting, the Commission shall, in accordance with the provisions of the City Code, evaluate the allegations of the ethics complaint and make a determination as to whether the allegations would constitute an ethics violation if the facts alleged in the ethics complaint were true.

Section 2: Hearings. As provided in the City Code, upon a determination by the Commission that a hearing should be held on an ethics complaint, the City Clerk shall schedule the hearing date, time, and location to be no more than thirty (30) days from the date of the determination. Such date and time may be extended beyond such thirty days by the Commission for good cause. Any hearing held by the Commission shall proceed in accordance with the provisions of the City Code regarding the Commission. A vote of at least four (4) members of the Commission shall be required to find that the ethics complaint is with merit.

Section 3: Quorum. A majority of Commissioners shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, but a smaller number may adjourn from time to time until a quorum is obtained. When a quorum is in attendance, action may be taken by the Commissioners upon a vote of a majority of the Commissioners present, except for such votes that require a minimum number of votes as outlined in Section 2 of this Article, or pursuant to the City Code.

Section 4: Voting. The voting on all questions coming before the Commissioners shall be by voice vote, unless a roll call is requested by any Commissioner prior to the vote, in which case the vote shall be by roll call, and the ayes and noes of any roll call shall be entered upon the minutes of such meeting.

Section 5: Ex Parte Communications. No Commission member shall communicate, either directly or indirectly, with any person concerning an ethics complaint which is pending before the Commission. If a Commission member receives an ex parte communication concerning a pending matter, such communication shall be disclosed at the next meeting of the Commission. A notation of the substance of the communication and the identity of the individual(s) making the communication shall be made a part of the minutes of the meeting.

Section 6: Conduct of Meetings. All meetings shall be conducted in accordance with Robert's Rules of Order unless otherwise provided for in these Bylaws.

Article IV – AMENDMENTS TO BYLAWS

The Bylaws of this Commission shall be amended only with the approval of at least four of the Commissioners at any scheduled meeting.

Sec. 1-601. - Applicability.

This chapter serves as the code of ethics for employees of the City of Clarksville, Tennessee (hereinafter, "city"). Employees, in the context of this chapter, includes all full time and part time elected or appointed officials and employees, whether compensated or not, including those of any separate board, council, commission, committee, authority, corporation, or other instrumentality appointed or created by the city.

The maintenance of high standards of honesty, integrity, impartiality, and conduct by employees and agents of the city is essential to ensure the proper performance of government business and the maintenance of confidence by citizens in their government. Moreover, the avoidance of misconduct and conflicts of interest on the part of employees of the city is indispensable to the maintenance of these standards. Therefore, this chapter shall be construed at all times in accordance with these goals.

All employees will review this chapter annually and be briefed on any issues of interest related to this chapter. Employees will sign a form of understanding and agreement (to be provided) during the annual review. The signed form will be retained in employee records. New employees will review and sign the form as part of their human resources in-processing. The city attorney and human resources will coordinate and develop the review/signature/filing processes.

(Ord. No. 72-6006-07, § 1, 2-1-07; Ord. No. 22-2007-06, § 1, 9-6-07)

Sec. 1-602. - Employee responsibilities.

Each employee shall avoid any action, whether or not specifically prohibited by statute, regulation, or this chapter, which might result in or create the appearance of:

- (1) Using public office for private gain;
- (2) Giving preferential treatment to any person or organization;
- (3) Impeding government efficiency or economy;
- (4) Losing complete independence or impartiality;
- (5) Making a government decisions outside official channels;
- (6) Affecting adversely the confidence of the public in the integrity of the government;
- (7) Elected officials being in joint business ownership or in a joint consultant/management of a business with any other city employee. For the purposes of this subsection, appointed officials shall be specifically excluded from the definition of "city employee" and this subsection shall not prohibit an elected official from being in joint business ownership or in a joint consultant/management of a business with an appointed official;
- (8) Elected officials, including any immediate family member, and employees, including any immediate family member, co-owning or otherwise being principal stockholders in the same corporation. For the purposes of this subsection, appointed officials shall be specifically excluded from the definition of "city employee" and this subsection shall not prohibit an elected official, including any immediate family member, from co-owning or otherwise being principal stockholders in the same corporation, with an appointed official, including any immediate family member of an appointed official.

(Ord. No. 72-6006-07, § 2, 2-1-07; Ord. No. 22-2007-06, § 2, 9-6-07)

Sec. 1-603. - Gifts and gratuities.

No employee shall solicit or accept, directly or indirectly, on behalf of himself or herself or any member of the employee's household, any gift, including but not limited to any gratuity, service, favor, food, entertainment, lodging, transportation, loan guarantee or any other item of monetary value, from any person or entity that:

- (1) Has, or is seeking to obtain, contractual or other business or financial relations with any department of city government;
- (2) Conducts operations or activities with the city; or
- (3) Has interests that may be substantially affected by the performance or non-performance of the employee's official duties.

(Ord. No. 72-6006-07, § 3, 2-1-07; Ord. No. 22-2007-06, § 3, 9-6-07)

Sec. 1-604. - Exceptions.

The prohibition on accepting gifts in section 1-603 does not apply to:

- (1) A gift given by a member of the employee's immediate family, or by an individual if the gift is given for a non-business purpose and is motivated by a close personal friendship and not by the position of the employee;
- (2) Informational materials in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication;
- (3) Unsolicited tokens or awards of appreciation, honorary degrees, or bona fide awards in recognition of public service in the form of a plaque, trophy, desk item, wall memento or other similar items; provided, that any such item shall not be in a form which can be readily converted to cash;
- (4) Food, refreshments, foodstuffs, entertainment, or beverages provided as part of a meal or other event, if the value of such item does not exceed fifty dollars (\$50.00) per occasion, per employee attending the event. There may be circumstances where refusal or reimbursement of a gift or dining with a value exceeding fifty (\$50.00) dollars may be awkward and contrary to the larger interests of the city. In such circumstances, the employee shall disclose the gift/dinner, including a description, estimated value, the person or entity providing the gift/dinner and additional explanations as needed within fourteen (14) calendar days of the occurrence to the internal auditor or director of finance and administration. A form for this purpose will be provided by the internal auditor;
- (5) Food, refreshments, meals, foodstuffs, entertainment, beverages or intrastate travel expenses that are provided in connection with an event where an employee is a speaker or part of a panel discussion at a scheduled meeting of an established or recognized membership organization which has regular meetings;
- (6) Loans from established financial institutions made in the ordinary course of business on usual and customary terms, so long as there are no guarantees or collateral provided by any person described in section 1-603;
- (7) Money, goods or any other commodity donated to any employee for distribution to any segment of the general public. For example, money donated to the Fraternal Order of Police by private retailers

for the purpose of selecting identified under privileged children, transporting them to area stores and buying them Christmas gifts; or

- (8) Sample merchandise, promotional items, and appreciation tokens, if they are routinely given to customers, suppliers, or potential customers or suppliers in the ordinary course of business.

(Ord. No. 72-6006-07, § 4, 2-1-07; Ord. No. 22-2007-06, § 4, 9-6-07)

Sec. 1-605. - Financial interests.

- (a) Except as hereinafter provided, no employee shall enter into or derive any benefit, directly or indirectly, from any contractual arrangement with the city or any of its agencies. In recognition of the fact that many husbands and wives have separate careers, the normal employment compensation of a spouse whose regular ongoing employer or business has a contractual arrangement with the city shall not be considered a "benefit" to the employee, provided the contract with the city was procured without any participation assistance, or influence by the employee, and that employee disclose such contracts. Moreover, this prohibition shall not be construed to prohibit any member of any appointed board, commission, committee, authority, corporation, or other instrumentality appointed or created by city from benefiting, either directly or indirectly, from any contractual arrangement with the city or any of its agencies so long as such member complies with the provisions of subsection (b). No member of any appointed board, commission, committee, authority, corporation, or other instrumentality appointed or created by city shall vote on any matter where the member or member's immediate family would benefit, either directly or indirectly, from any contractual arrangement with the city or any of its agencies.
- (b) No employee shall have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his or her governmental duties or responsibilities. The employee will disclose any known financial interests related to any topic, subject, or program that has city government interest or involvement. If a possible conflict could arise, the employee will disclose these concerns and interests and abstain from any decision-making processes or votes. "Indirect financial interest" in this case includes a substantial interest on the part of parent, spouse, or minor child of the employee. This subsection shall not apply to interests that have been placed into a "blind trust" arrangement pursuant to which the employee does not have knowledge of the retention or disposition of such interests. If, at the time the employee begins employment with the city or at any subsequent time during city employment, the employee acquires such direct or indirect financial interests prohibited by subsections (a) or (b), that interest shall be disclosed to the director of finance within fourteen (14) calendar days in a form to be provided by the internal auditor.

(Ord. No. 72-6006-07, § 5, 2-1-07; Ord. No. 22-2007-06, § 5, 9-6-07)

Editor's note— Ord. No. 22-2007-06, § 5, adopted September 6, 2007, enacted provisions intended for use as subsections (1) and (2). To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as subsections (a) and (b).

Sec. 1-606. - Use of information.

No employee shall, directly or indirectly:

- (1) Use, disclose, or allow the use of official information which was obtained through or in connection

with his or her government employment and which has not been made available to the general public for the purpose of furthering the private interest or personal profit of any person, including the employee, or

- (2) Engage in a financial transaction as a result of, or primarily relying upon, information obtained through his or her government employment.

(Ord. No. 72-6006-07, § 6, 2-1-07; Ord. No. 22-2007-06, § 6, 9-6-07)

Sec. 1-607. - Use of city property.

No employee shall make use of the facilities, equipment, personnel, or supplies of the city or its agencies for private use or gain, except to the extent that the use is incidental or de minimus or is lawfully available to the general public.

(Ord. No. 72-6006-07, § 7, 2-1-07; Ord. No. 22-2007-06, § 7, 9-6-07)

Sec. 1-608, 1-609. - Reserved.

Editor's note— Ord. No. 67-2012-13, § 1, adopted April 4, 2013, repealed the former sections 1-608 and 1-609 in their entirety, which pertained to ethics complaints and violations, respectively, and derived from Ord. No. 72-2006-07, §§ 8, 9, adopted February 1, 2007; Ord. No. 22-2007-06, §§ 8, 9, adopted September 6, 2007.

Sec. 1-610. - Ethics commission—Creation.

There is hereby established an "ethics commission" for the city.

(Ord. No. 67-2012-13, § 1, 4-4-13)

Sec. 1-611. - Same—Organization, membership requirements, terms.

- a. *Organization, number.* The ethics commission shall be composed of five (5) voting members, who shall be appointed by the mayor, subject to city council approval by majority vote of the members present and voting.
- b. *Membership requirements.* The members of the ethics commission shall have been residents of the city for not less than two (2) years prior to any vote of the city council on their appointment. Residency within the city shall be a requirement for continued membership on the ethics commission. No elected or appointed official or employee of the city, other than a member of any federal military reserve or state national guard force while not on active duty, or of any other governmental entity, to include national, state or local government, other than a member of any federal military reserve or state national guard force while not on active duty, nor any candidate for any public office, to include national, state or local government, nor any member of any other city board, commission, authority, or other city entity, may serve as a member of the ethics commission. For purposes of this section, legally separate, private non-profit organizations or entities that receive city funding shall not be construed as a city entity.
- c. *Term.*
 - (1) Terms for each member shall be for a period of three (3) years, except for initially appointed members, whose initial terms shall be as provided below to allow for staggered terms. No member may serve more than two (2) consecutive terms.

- (2) With regard to initial terms for members, two (2) such members shall serve an initial term of three (3) years; two (2) other such members shall serve an initial term of two (2) years each; and one other such member shall serve an initial term of one (1) year.
- (3) If any member, ceases to be a resident of the city, or qualifies as a candidate for any public office, or is elected or appointed to any public office other than a member of any federal military reserve or state national guard force while not on active duty, or accepts employment with or for any governmental entity other than a member of any federal military reserve or state national guard force while not on active duty, or refuses to continue service on, resigns from, or otherwise ceases to be a member of the ethics commission for any reason before the expiration of his or her term, or fails to attend and participate in at least three (3) consecutive meetings or fails to attend at least two-thirds (2/3) of all properly called meetings of the ethics commission within any calendar year period, a new member shall be appointed by the mayor, subject to city council approval, to serve the remainder of the former member's unexpired term. Service during any unexpired term shall count as a term for the purpose of computing the limit on consecutive terms.

(Ord. No. 67-2012-13, § 1, 4-4-13)

Sec. 1-612. - Same—Member compensation.

Members of the ethics commission shall not receive any monetary compensation for their service on the commission.

(Ord. No. 67-2012-13, § 1, 4-4-13)

Sec. 1-613. - Same—Officers.

The members of the ethics commission shall elect officers for the commission. One member shall be elected to serve as chairman of the commission; one member to serve as vice-chairman of the commission; and one member to serve as secretary for the commission. Officers may not hold more than one office on the commission at the same time. Officers shall hold office for one-year periods. The city clerk shall serve as custodian of records for the commission. The city attorney shall provide legal advice to the commission as may be required, and may select outside counsel to provide advice in cases where the city attorney determines he has a conflict of interest or as he may otherwise determine is required.

(Ord. No. 67-2012-13, § 1, 4-4-13)

Sec. 1-614. - Same—By-laws.

The commission shall adopt and make public by-laws to govern the dates, times, and places for meetings, rules of procedure not otherwise inconsistent with the provisions herein, and any other matters appropriately addressed therein.

(Ord. No. 67-2012-13, § 1, 4-4-13)

Sec. 1-615. - Same—Removal of members.

Any member of the ethics commission may be removed as a member of the commission prior to the expiration of their term in cases of permanent disability, or misfeasance, malfeasance, or nonfeasance in relation to their duties as a member of the commission, or for other just cause, by resolution approved by a three-fourths ($\frac{3}{4}$) majority vote of the city council. Prior to any such vote on removal of any member from the commission, said member shall have an opportunity to be heard on the issue of their removal in person, through counsel, and/or by submission of relevant written or other evidentiary materials, and may cross examine any witnesses against them who shall be required to testify under oath, and may request the city council to issue a subpoena compelling the attendance and testimony under oath of any witnesses with relevant knowledge as to any material issue, but the city council may deny said request upon a majority vote. The date, time and place for said hearing, and the requirements for submission of the resolution for removal to the city council, shall be the same as and in accordance with the requirements for consideration of other legislative matters as set forth in the City Code.

(Ord. No. 67-2012-13, § 1, 4-4-13)

Sec. 1-616. - Reserved.

Sec. 1-617. - Same—Open records and open meetings.

All records of the ethics commission shall be open and subject to public inspection in accordance with the Tennessee "Open Records" Law, T.C.A. § 10-7-503, et seq., as same may be amended from time to time; and all meetings of the commission shall comply with the Tennessee "Open Meetings" Law, T.C.A. § 8-44-101, et seq., as same may be amended from time to time.

(Ord. No. 67-2012-13, § 1, 4-4-13)

Sec. 1-618. - Same—No authority to contract or obligate city.

The ethics commission shall have no authority to contract or be contracted with or to bind or obligate the city in any way and shall not have authority to appropriate city funds for any purpose.

(Ord. No. 67-2012-13, § 1, 4-4-13)

Sec. 1-619. - Same—Jurisdiction.

The ethics commission shall have jurisdiction over all ethics complaints made against any member or members of the city council, to include the mayor, the city judge, the city attorney, the city clerk, the director of finance, the director of internal audit, and all other department heads of the city, as well as all members of any city boards, commissions, authorities, or other like body established by the city, including entities having a separate corporate or other legal existence other than those that have their own ethics policy. The determination as to whether any individual is a department head shall be determined by the director of the department of human resources, in consultation with the city attorney.

(Ord. No. 67-2012-13, § 1, 4-4-13)

Sec. 1-620. - Same—Duties.

The ethics commission shall have the following duties:

- a. To receive ethics complaints within its jurisdiction, and to hold hearings and conduct investigations in connection therewith as may be required pursuant to the provisions herein;
- b. To make recommendations regarding any alleged ethics complaints within the jurisdiction of the ethics commission as provided herein; and
- c. To maintain records of its investigations, inquiries and proceedings.

(Ord. No. 67-2012-13, § 1, 4-4-13)

Sec. 1-621. - Procedures for filing and evaluation of ethics complaints.

a. *Complaint procedures.*

- (1) Any individual real person may submit an ethics complaint alleging that any one or more city officials, whether elected or appointed, or an employee, have violated the code of ethics.
- (2) Any ethics complaint must be in writing, signed and sworn to by the complainant, under oath, as properly evidenced by a notary public, and shall contain the following:
 - (a) The complainant's legal name and current mailing address, and in addition may include an email address and/or phone number;
 - (b) The name of any person or persons who are alleged to have committed an ethics violation;
 - (c) A brief summary of the facts giving rise to the alleged ethics complaint; and
 - (d) An explanation of why those facts allegedly constitute a violation of the city code of ethics (which may include citation to specific sections and/subsections).
- (3) Any ethics complaint that does not contain the above requirements shall not be considered, except that upon receipt of any deficient ethics complaint, the city attorney may, but is not required to, contact the complainant to inform them of the deficiency, whereupon the complainant may have a reasonable time, not to exceed ten (10) days, within which to submit an amended complaint meeting the requirements herein.
- (4) All ethics complaints shall first be filed with the city clerk. Upon receipt, the city clerk shall annotate the date and time of receipt on the ethics complaint, and log the receipt of the complaint into a running journal kept for the purpose of keeping track of the receipt of ethics complaints and showing the name of the person making the complaint, the date and time of receipt of the ethics complaint, and the name(s) of the person or persons against whom the complaint is made, and any other information that will enable the city clerk to keep accurate records pertaining to ethics complaints. The city clerk will thereupon provide a copy of the ethics complaint to the person or persons against whom the ethics complaint is made, and to the city attorney.
- (5) The city attorney shall determine if the ethics complaint is made against a person within the jurisdiction of the ethics commission, except for any ethics complaint alleged against the city attorney, which shall always be provided by the city clerk to the ethics commission for action. If the ethics complaint alleges an ethics violation against any person within the jurisdiction of the ethics commission, as determined by the city attorney, then the city clerk shall also provide a copy of the ethics complaint to the ethics commission for action as set forth herein. If the ethics complaint does

not allege an ethics violation against any person within the jurisdiction of the ethics commission, but against one or more employees not within the jurisdiction of the ethics commission, then the city attorney shall inquire into the matter, conduct such investigation as he deems appropriate, and make a determination as to the merits of the alleged ethics complaint, and make a recommendation to the department head of any department in which the employee works regarding his findings, and a recommendation as to any action to be taken to stop the conduct, if still occurring, or to prevent the conduct from occurring in the future, and to remedy any harm or recover any loss that may have occurred through any means deemed appropriate by the city attorney, and to make any recommendation regarding any disciplinary action against the employee. The decision to impose disciplinary action, if any, shall be made by the department head, in accordance with the provisions of the City Code pertaining to personnel and disciplinary action.

- (6) If an ethics complaint alleges an ethics violation against any person within the jurisdiction of the ethics commission, as determined by the city attorney, then the ethics commission, upon receipt of the ethics complaint from the city clerk, shall thereupon take action as provided herein.
 - (a) The chairman of the ethics commission shall call a meeting of the commission, which meeting shall be open to and noticed to the public. The city clerk shall also provide notice of the meeting to the complainant, and to the person(s) alleged to be in violation of the ethics code and named in the ethics complaint.
 - (b) At the commission meeting, the commission shall evaluate the allegations of the ethics complaint, and make a determination as to whether the allegations would constitute an ethics violation, if the facts alleged in the ethics complaint were true. If the commission determines that the alleged facts, even if true, would not be a violation of the ethics code, the commission may dismiss the complaint, or may request additional information from the complainant, or any other person the commission deems to have material information, in its sole discretion, to determine whether a hearing should be held to determine the merits of the ethics complaint. If the commission determines that the alleged facts, if true, could constitute a violation of the ethics code, then the commission shall hold a hearing to determine whether the ethics complaint has merit.

b. *Hearing procedures.*

- (1) If the ethics commission determines that a hearing should be held on an ethics complaint, the hearing shall be conducted as follows:
 - (a) The hearing shall be noticed to and open to the public;
 - (b) Notice of the hearing shall be provided to the complainant and to the elected or appointed official(s) named in the complaint (together, the "parties"); and
 - (c) The parties may, but are not required to, submit evidentiary material to the commission. If a party does wish to submit such evidentiary material to the commission, the party must file the material with the city clerk, with a copy to the city attorney, and provide a copy of the same to the other parties, at least seven (7) calendar days prior to the hearing, unless, for good cause shown, the commission amends the time requirement. The city clerk shall provide a copy of all evidentiary materials to the commission members.
 - (d) The parties shall have a full and fair opportunity, but are not required, to present their

positions and facts to the commission at the hearing. Each party shall be allotted a reasonable amount of time to make its presentation to the board.

- (e) Each party shall have the right to represent themselves, and to have the assistance of legal counsel at their own expense, but may not be represented by non-attorneys.
 - (f) All parties may call witnesses to give testimony at the hearing, which testimony shall be given under oath, with the witnesses stating their legal names. All witnesses shall be subject to cross-examination.
 - (g) Each party must file with the city clerk, and provide a copy of same to the city attorney, a list of the witnesses that the party intends to call at the hearing, and provide a copy of the same to the other parties, at least seven (7) calendar days prior to the hearing. At the hearing, no party shall be permitted to call upon any person to give testimony if that person's name was not included on such list; however, the commission may permit such an unlisted witness to be called by a party, if in the commission's discretion, there was good cause for not timely naming the witness and the other parties would not be unduly prejudiced.
 - (h) Commission members may ask questions of any party, counsel, or witness at any time during the hearing, but the chairman shall conduct the hearing and determine the order in which commission members may pose questions.
 - (i) The committee may, in the exercise of its discretion, permit interested persons present at the hearing to offer testimony under oath, even if those persons were not called as witnesses by any party, and upon majority vote of the members, may cause the city clerk to issue subpoenas for documents and things or for testimony of persons within the jurisdiction of the city to the maximum extent permitted by law.
 - (j) The committee may continue any hearing to a later date.
 - (k) The city attorney, or an attorney appointed by the city attorney, shall be present during the hearing to advise the commission as may be necessary on all legal issues.
- c. *Decision to be in writing.* Whether or not the commission holds a hearing on the ethics complaint, or dismisses the complaint, it shall issue a decision in writing. If the commission holds a hearing on the ethics complaint, it shall state in writing whether it finds the ethics complaint to have merit, and if so, which section and subsection as applicable of the ethics code has been violated and by whom.
- d. *Vote required to find violation; burden of proof.* Any decision of the commission finding an ethics complaint to have merit shall require the affirmative vote of at least four (4) members of the commission. The complainant shall bear the burden of proof to prove a violation by a preponderance of the evidence, and the person alleged to have violated the ethics code shall not be required to prove the absence of a violation.
- e. *Prohibition on outside communications.* Once an ethics complaint has been received by the members of the commission, and until a written decision has been issued by the commission, no member of the commission shall participate in any communication regarding the allegations or merits of the complaint, outside of the commission's public meetings or hearings.
- f. *Report of decision.* The decision of the commission shall be submitted to the mayor, the city council, the complainant, and to the person(s) alleged to have violated the ethics code as named in the ethics complaint.

(Ord. No. 67-2012-13, § 1, 4-4-13)

Sec. 1-622. - Commission action upon finding of violation.

- a. Report of decision. The decision of the commission shall be submitted to the mayor, the city council, the complainant, and to the person(s) alleged to have violated the ethics code as named in the ethics complaint.
- b. If the ethics commission decides that an official, whether elected or appointed, or an employee, within its jurisdiction has violated the code of ethics, then the ethics committee shall take one or more of the following actions, as decided by affirmative vote of at least four (4) of its members:
 - (1) Report to the city council that a determination has been made that the code of ethics has been violated, setting forth which section and subsection, as applicable, of the ethics code has been violated and by whom. The ethics commission may also make recommendations to the city council regarding any appropriate remedial action, including censure, that the city council should consider; and/or
 - (2) Make a recommendation to the violator that he or she resign from their respective position; and/or
 - (3) Make a recommendation as to any action to be taken to stop the conduct, if still occurring, or to prevent the conduct from occurring in the future, and to remedy any harm or recover any loss that may have occurred through any means deemed appropriate by the city attorney, and to make any recommendation regarding any disciplinary action against the employee.
 - (4) Refer the matter to the city attorney with a request that appropriate civil action be instituted by the city for restitution, and/or for such other relief as the commission deems appropriate, and/or a request that the city attorney refer the matter to the local district attorney general, or other state or federal law enforcement authority, for appropriate action under general criminal law.

(Ord. No. 67-2012-13, § 1, 4-4-13)

Sec. 1-623. - Ethics commission member questionnaire.

Each ethics commission nominee will fill out the following questions for review by members of the city council. The questionnaire results will be provided to council members one week (seven (7) calendar days) before a confirmation vote. Nominees will attend the confirmation vote meeting to introduce themselves and provide answers or further information as requested by council members.

1. Nominee Name
2. Home Address
3. Occupation
4. Employment Firm/Company and Address
5. Have you lived (day-to-day residence) within the city limits of Clarksville and been a registered voter of the council ward you are assigned to for at least the past two years? Yes: ____ No: ____ If no, explain.
6. Have you or any immediate family members (spouse and other family that reside at your home address) been associated with or participate in the formation, membership, financial

donation/fundraising, management, financial oversight, political planning or membership activities of any Political Action Committee or lobby/labor organization that campaigned for or against any sitting member of the City Council? Yes: ___ No: ___ If yes, explain.

7. Are you or any immediate family members (spouse and other family that resides at your home address) and the companies you may own, work for or have any financial or management interest in, currently working any professional (non-competitive bid) contracts for the City of Clarksville? Yes: ___ No: ___ If yes, explain.
8. Have you or any immediate family members (spouse and other family that resides at home address) proved money/in-kind donations or given personal time to the campaigns of any current sitting council member or those that ran as opponents against sitting council members? Yes: ___ No: ___ If yes, explain.
9. Are you or any immediate family members (spouse and other family that resides at home address) currently an employee of the city or appointed as a representative of the city to any board, commission, company, authority, task force or other activity? Yes: ___ No: ___ If yes, explain. Have you served in such a capacity in the past? Yes: ___ No: ___ If yes, explain.
10. Are you a board member, employee or volunteer worker for a non-profit that receives funding from the City of Clarksville? Yes: ___ No: ___ If yes, explain.
11. Are you an elected official for any other local, state or federal function? Yes: ___ No: ___ If yes, please explain.
12. Have you ever been arrested and convicted or been found in violation of ethically standards with any activities you worked with or participated in? Yes: ___ No: ___ If yes, explain.
13. Is there any other information or activities that you may be involved in that will assist the council in reviewing your nomination?

The undersigned certifies that all of the information that has been provided is true, correct and complete to the best of my knowledge.

Signature:

Date:

(Ord. No. 67-2012-13, § 1, 4-4-13)