



**NORTH BEACH ETHICS COMMISSION
REGULATIONS RELATING TO COMPLAINTS
OF VIOLATIONS OF CHAPTER 9, ETHICS OF THE TOWN
CODE**

Approved: November 21, 2022; Amended December 19, 2022

Investigation and adjudication of alleged violations of Chapter 9 (Code of Ethics) of the North Beach Town Code will be undertaken as set forth below.

A. Timeliness and sufficiency.

(1) All complaints shall be in writing and signed under oath. The Commission may consider violations of Chapter 9 on its own initiative. Within ten days of the Commission's decision to consider a possible violation, or as soon thereafter as is practicable, the Commission shall draft a written complaint specifying the section(s) of Chapter 9 alleged to have been violated and transmit a copy of such complaint to the Town Attorney or other counsel representing the Commission. Complaints initiated by the Commission shall be signed by the Chair. A complaint must assert facts that if proven true would constitute a violation of the provisions of Chapter 9, Public Ethics, of the North Beach Town Code.

(2) A complaint must be filed within 180 days 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.

(3) 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 9. A decision to dismiss a complaint as untimely or insufficient shall be made within thirty (30) days of receipt of the complaint.

B. Notice.

(1) 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, and shall provide the respondent with copies of the complaint by certified mail, return receipt requested and by first class mail.

(2) If the Commission determines that a complaint is untimely or insufficient on its face and should be dismissed, it shall promptly notify the parties.

C. 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 Town Attorney should serve as Ethics Counsel because of potential conflicts of interest or appearances of improprieties. If the Commission makes such a determination, the Commission will request the Town 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 Town Council to retain a qualified attorney.

D. Amendment of complaint.

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.

E. 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 receipt of a complaint that is timely and 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) Copies of each document that a party intends to introduce as evidence at a hearing shall be provided by that party to the Commission and all other parties at least 7 days prior to the hearing. All such documents shall be confidential and not disclosed by any party to any person who is not a party to the proceeding. Except as allowed by the Commission for good cause shown or in the interests of justice, a party may not use a document as evidence unless the document has been provided to all other parties as provided in this paragraph.

(4) 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.

(5) 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.

H. Confidentiality.

Following 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.