

AMENDMENT NO. 2 TO
COUNTY ORDINANCE NO. 05-04

AN AMENDMENT TO
A BILL ENTITLED

AN ACT CONCERNING the Repeal and Readoption of the Queen Anne's County Public Ethics Ordinance, Chapter 8 of the Code of Public Local Laws of Queen Anne's County;

FOR THE PURPOSE of incorporating the revisions to pending County Ordinance 05-04 recommended by the State Ethics Commission; revising the provisions in pending County Ordinance 05-04 dealing with Coverage (or Jurisdiction over County Officials and Employees), Conflicts of Interest, Financial Disclosure, Lobbying Disclosure and Administration;

BY AMENDING pending County Ordinance 05-04 (as previously amended by Amendment No. 1 adopted May 17, 2005);

SECTION I

BE IT ENACTED BY THE COUNTY COMMISSIONERS OF QUEEN ANNE'S COUNTY, MARYLAND that pending County Ordinance 05-04 be amended so that the proposed new Chapter 8 of the Code of Public Local Laws of Queen Anne's County shall read as set forth on the attached.

SECTION II

BE IT FURTHER ENACTED, that this Amendment shall be effective immediately upon its adoption.

INTRODUCED BY: Mike Koval

DATE: November 1, 2005

VOTE: _____ Yea _____ Nay

DATE OF ADOPTION: Not Adopted

CHAPTER 8. PUBLIC ETHICS

Article I. General Provisions

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Article I. Definitions

- 8-1. Commission Defined.

In this Chapter, Commission means the Queen Anne s County Ethics Commission.

8-2. Short Title.

This Chapter may be cited as the Queen Anne s County Public Ethics Law.

8-3. Authority.

This Chapter is adopted under the authority and in conformance with the provisions of Subtitle 8, §§15-801, et seq. of the State Government Article of the *Annotated Code of Maryland*, as amended.

8-4. Statement of Purpose and Policy.

(a) Queen Anne s County, recognizing that our system of representative government is dependent in large measure upon the people having trust and confidence in their public officials and employees, finds and declares that the people have a right to be assured that the impartiality and independent judgment of public officials and employees will be maintained.

(b) This confidence and trust is eroded when the conduct of Queen Anne s County business is subject to improper influence or even the appearance of improper influence.

(c) The people have a right to be assured that the financial interests of holders of and candidates for public office and public officials and employees present no conflict with the public interest.

(d) This Chapter establishes ethical standards for County officials and employees, financial disclosure requirements for certain County officials, employees, and members of Boards and Commissions, and disclosure requirements for lobbyists.

(e) For the purpose of guarding against improper influence and setting minimum standards for the ethical conduct of public business,

the Board of County Commissioners of Queen Anne s County enacts this Public Ethics Law.

(f) The policy goal is the maintenance of a system that liberally construes this Chapter, except its provisions for criminal sanction.

8-5. Applicability.

The provisions of this Chapter shall be applicable as follows:

(a) Elected County officials. The elected Board of County Commissioners shall be subject to the provisions of this Chapter.

(b) Officials and employees. All County Administrators, Managers and Supervisors at Grade 12 or above in the Classified Service, all Professional and Executive Service Employees, and the following positions shall be subject to the provisions of this Chapter:

Accountant(s)
Analyst(s)
Benefits Counselor
County Attorney
County Contract Attorneys

Also included are all other department heads or division chiefs of County government not specifically mentioned herein.

(c) Boards and commissions. Members of the following boards and commissions shall be subject to the provisions of this Chapter:

Agricultural Preservation Board
Animal Control Commission
Board of Appeals
Bay Bridge Airport Commission
Board of Building Appeals
Ethics Commission
Queen Anne s County Housing Authority
Kent Narrows Development Foundation Board of

Directors

Board of Liquor License Commissions

Queen Anne s County Planning Commission
Any other board or commission which may be
determined

by the Ethics Commission to have
decision-making
authority

(d) Exempt County Officials. The following County
officials are covered under the provisions of the Maryland
Public Ethics Law:

State's Attorney
Deputy State's Attorney
Assistant State's Attorney
Clerk of the Circuit Court
Judges of the Orphans Court
Judge of the Circuit Court
Judge of the District Court
Register of Wills
Sheriff
Deputy Sheriffs

(e) Queen Anne s County officials and employees. In
addition to the
officials and employees, and members of boards and commissions
identified in subsections (a), (b), and (c) of this section,
all other officials and employees of Queen Anne s County,
Maryland, who have decision making authority and all members of
County boards and commissions **which** have advisory authority,
shall be subject to the provisions of § 8-11, Conflicts of
Interest, and 8-12, Gifts, of this Chapter.

8-6. Definitions.

The words used in this Chapter shall have their normal,
accepted meanings except as set forth below:

(a) *Business entity*: Any corporation (including any
parent, subsidiary, or affiliated corporation or business
entity), general or limited partnership, sole proprietorship
(including a private consultant operation), **LLC s**, joint
venture, unincorporated association or firm, institution,
trust, foundation, or other organization, whether or not
operated for profit.

(b) *Compensation*: Any money or thing of value regardless of form, received or to be received by any individual covered by this Chapter for service rendered. If lobbying is only a portion of a person's employment, "compensation" means a prorated amount based on the time devoted to lobbying compared to the time devoted to other employment duties.

(c) *Doing business with*: Having or negotiating a contract that involves the commitment (either in a single transaction or combination of transactions) of one thousand dollars (\$1,000.00) or more of funds controlled by Queen Anne's County **in a calendar year.**

(d) **Executive action: Any action taken by the County Commissioners in an executive capacity.**

(e) *Family Member*: Any parents, children, stepchildren, siblings, and the spouse of an official or employee who reside in the same household with the official or employee.

(f) *Gift*: The transfer of anything of economic value, regardless of form, without adequate and lawful consideration. Gift does not include the solicitation, acceptance, receipt, or regulation of political campaign contributions regulated under Chapter 13 of the Election Law Article ("Fair Election Practices") of the *Annotated Code of Maryland*, or under any other State or local law regulating the conduct of elections or the receipt of political campaign contributions.

(g) *Interest*: Any economic interest, either legal or equitable, whether or not subject to an encumbrance or a condition, owned or held, in whole or in part, jointly or severally, directly or indirectly. "Interest" does not include:

(1) An interest held in the capacity of a personal agent, representative, custodian, fiduciary or trustee, unless the holder has an equitable interest therein; or

(2) An interest in a time or demand deposit in a financial institution, a money market fund, publicly traded

mutual fund, or retirement fund, including any County or State retirement or pension fund; or

(3) An interest in an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed number of dollars, whether in a lump sum or periodically for life or some other specified period; or

(4) A common trust fund or a trust fund which forms part of a pension or profit sharing plan which has been determined by the Internal Revenue Service to be a qualified trust under sections 401 and 501 of the Internal Revenue Code of 1954, as amended.

(h) *Legislative action*: Introduction, sponsorship, debate, amendments, passage, defeat, approval, veto or any other official action or non-action on any bill, resolution or amendment.

(i) *Lobbying*: Communicating with any official or employee, for the purpose of influencing any executive or legislative action, by a person required to register pursuant to the provisions of § 8-14 "Lobbying Disclosure" of this article. Lobbying does not include:

(1) Drafting bills; or

(2) Advising and rendering opinions to clients as to the construction and effect of proposed or pending legislative or executive actions; or

(3) Actions of a publisher or working member of the press (including radio and television) in the ordinary course of disseminating news or making editorial comment; or

(4) Communication from a bona fide religious organization solely for the purpose of protecting the right of its own members to practice the doctrine of the organization; or

(5) Communication as a witness at specific invitation or request of an official, employee or registered lobbyist; or

(6) Communication by any public official or

employee as part of his/her official duties.

(j) *Lobbyist*: Any person lobbying, **as defined by 8-6 (i)**, if such person:

(1) Spends or intends to spend one hundred dollars (\$100.00) or more on food, entertainment, services, or gifts for officials or employees or their spouses, or dependent children during a calendar year; or

(2) Is compensated five hundred dollars (\$500.00) or more in a calendar year for lobbying or

(3) Spends five hundred dollars (\$500.00) or more in a calendar year to compensate another person or persons for lobbying to influence legislative or executive action.

(4) **Spends at least two thousand dollars (\$2000.00) or more in a calendar year, for salaries, contractual employees, postage, telecommunications services, electronic services (including the creation and/or maintenance of an Internet web site), advertising, printing, and delivery services for the express purpose of soliciting others to communicate with an official to influence legislative or executive action.**

(k) *Official/employee*: Means any person elected to, appointed to, or employed by Queen Anne s County or any county agency, board or commission.

(l) *Person*:

(1) An individual; or

(2) A business entity.

Article II. Ethics Commission.

8-7. Established.

There is a Queen Anne s County Ethics Commission.

8-8. Membership and Terms.

(a) *Membership*. The Commission shall consist of five members appointed by the County Commissioners, each of whom:

(1) Is a resident of Queen Anne s County;

(2) Does not hold nor is a candidate for office of the United States Government, State Government, a political subdivision, or municipality;

(3) Is not an employee of Queen Anne s County Government;

(4) Is not an employee of any political party;
and

(5) Is not and no family member is a registered lobbyist or a member of an organization required to register under the provisions of §8-14 of this Chapter.

(b) Terms. The County Commissioners shall appoint one member to serve a one-year term, one member to serve a two-year term, one member to serve a three-year term, one member to serve a four-year term and one member to serve a five-year term. Thereafter, all members shall serve a term of five years. The County Commissioners may remove any member of the Ethics Commission for incompetence or improper conduct.

(c) Vacancies. If a vacancy occurs on the Commission, the Board of County Commissioners shall appoint a qualified individual to serve the remainder of that term.

(d) Meetings.

(1) Actions to be public. All final actions of the commission shall be taken at a public meeting. The commission shall keep a formal record of each public meeting.

(2) Executive session. This section does not prohibit the commission from meeting and deliberating in executive session provided that all action is taken at a public meeting.

8-9. Counsel.

The Commission shall be advised by an attorney appointed by the County Commissioners.

8-10. Administration; powers and duties.

(a) The Commission shall select its Chairman in January of each year by majority vote. A member shall serve until a successor has been appointed. The Commission, upon request, shall be assisted in carrying out its responsibilities by the attorney designated by the County Commissioners.

(b) This Commission shall be the advisory body responsible for interpreting this Chapter and advising persons subject to it as to its application.

(c) The Commission shall be responsible for hearing and deciding any written complaint filed regarding an alleged violation of this Chapter.

(d) The Commission shall be the custodian of all statements, registrations, reports and complaints submitted in accordance with this Chapter.

(e) The Commission shall be responsible for conducting information and education programs regarding the purpose and implementation of this Chapter.

(f) **Advisory Opinions.** Any person may make a request to the Commission for an advisory opinion concerning application of this Chapter. The Commission shall respond within a reasonable time to the requests of persons governed by this Chapter, provided that the facts are furnished or reasonably available to it. The Commission shall also respond to such requests from persons not specifically governed by this Chapter. Copies of the responses shall be made available to the public subject to any applicable state or county law regarding public records. Information which may identify the person who is the subject of the opinion shall be deleted to the fullest extent possible from advisory opinions.

(g) **Complaints.** Any person including, by majority vote, the Ethics Commission may file, under oath, a written signed complaint with the Commission alleging a violation of any of the provisions of this Chapter. **The complaint must be filed within one year of the alleged violation. Complaints after one year may be considered if the delay in the discovery of the alleged violation is caused by deception or the attempt to hide the violation. The Commission shall promptly acknowledge the receipt of the complaint to the Complainant AND WITHIN TEN (10) DAYS OF RECEIPT OF THE COMPLAINT, SHALL DISMISS THE COMPLAINT IF PLAINLY FRIVOLOUS OR LEGALLY INSUFFICIENT, OTHERWISE IT SHALL PROVIDE a copy of the Complaint to the Respondent. THE RESPONDENT SHALL BE NOTIFIED OF THE RIGHT TO SUBMIT A WRITTEN RESPONSE TO THE COMPLAINT, ALONG WITH ANY ACCOMPANYING DOCUMENTATION AND/OR STATEMENTS**

(SWORN OR UNSWORN) SUPPORTING THE RESPONDENT S CONTENTION THAT NO VIOLATION OCCURRED. THE RESPONDENT SHALL BE ADVISED IN THE INITIAL NOTICE OF A COMPLAINT THAT HE/SHE HAS THE RIGHT TO COUNSEL.

AFTER REVIEWING THE COMPLAINT, AS WELL AS ANY RESPONSE SUBMITTED BY OR ON BEHALF OF THE RESPONDENT, THE COMMISSION MAY:

(1) Dismiss the complaint if deemed plainly frivolous or if the facts alleged do not indicate a violation of this Chapter.

(2) Conduct an investigation into the allegations of the complaint or refer the complaint to the County Attorney, State s Attorney, or other legal counsel for investigation and report. Counsel shall refer the evidence collected to the Commission for its disposition.

(3) Based upon the Commission's investigation or the investigation and report of other counsel, the Commission may, if appropriate, proceed as follows:

(i) Dismiss the complaint.

(ii) Notify the complainant and the respondent that if action is taken by the respondent to cure the violation or violations within a time period specified by Commission regulations, the complaint may be dismissed if such dismissal is not contrary to the purposes of this Chapter, or

(iii) If not dismissed pursuant to Subsection (g) (3) (i) or (ii) above, the Commission shall hold a closed hearing on the complaint.

(h) Hearing.

(1) The respondent may be represented by counsel, and the proceedings shall be conducted in accordance with regulations governing hearings as adopted by the Commission.

(2) The burden of proof at such a hearing is on the Commission to demonstrate, by a preponderance of the evidence, that the Respondent or Respondents have engaged in a violation of the Queen Anne s County Ethics Code.

(3) Any final determination resulting from the hearing shall include written findings of fact, conclusions of law and recommendations. Any such reports or decisions shall be maintained by the Commission as public records and will be redacted to protect personally identifiable information as the Commission deems appropriate. If a violation is found, the Commission may take and/or recommend any enforcement action provided for by § 8-16 *et. seq.* of this Chapter.

(4) If aggrieved by a final order of the Commission, the respondent may request judicial review in accordance with the provisions of Rules 7-201 through 7-210 of the Maryland Rules of Procedure, and any final order of the Commission shall be stayed automatically until the time for requesting judicial review has expired. If a timely appeal for judicial review is filed, the final order may be stayed by either the Ethics Commission or the reviewing court until final disposition by the reviewing court.

(5) If in the course of considering any complaint filed with it or made upon its own motion, the Commission has reasonable grounds to believe that the respondent named in the complaint may have committed a criminal offense, the matter shall be promptly referred to the appropriate prosecuting authority. All pertinent evidence under the control of the Commission shall be made available to the prosecuting authority.

(6) Following the filing of a complaint and unless and until the matter is referred for prosecution or a finding of a violation has been made, the proceedings of the Commission in connection with the complaint shall be conducted in a confidential manner, unless such confidentiality is waived by the respondent.

(i) The Commission may grant exemptions and modifications to the provisions of this Chapter as provided in § 8-15.

(j) The Commission may develop and publish rules, regulations, and

reporting forms in order to carry out the provisions of this Chapter; provided, however, that prior to the issuance of such rules, regulations, or forms, the Commission notifies the Board of County Commissioners and the public through appropriate means and affords the public no less than fourteen days within which to comment on such proposed rules, regulations, and forms.

Article III. Ethics Regulation.

8-11. Conflicts of Interest.

Queen Anne s County officials, board and commission members, and employees as provided in Section 8-5 shall be prohibited from the following:

(a) Acting on behalf of the County in any matter which would, to their knowledge, have a direct financial impact, as distinguished from the public generally, on them or a family member, or a business entity in which any of the aforesaid have an interest.

(b) Being employed by or having a financial interest in an entity subject to the authority of that official or employee or of the governmental unit with which the official or employee is affiliated.

(c) Holding any other employment relationship if that employment relationship would impair the impartially and independent judgment of the official or employee.

(d) Representing any party, for a contingent fee, or lobbying, for compensation, before any County body.

(e) Soliciting or accepting gifts prohibited by § 8-12.

(f) Acting within two (2) years following termination of County service as a compensated representative of another person in connection with any specific matter in which he/she participated substantially as a County official or employee.

(g) Intentionally using the prestige of their office, or confidential information acquired in their official County position, for their own private gain, or that of another. **The performance of usual and customary constituent services, without additional compensation, is not prohibited under this section.**

8-12. Gifts.

(a) Gifts from specified persons prohibited.

Subject to subsection (b) of this section, a County official or employee may not accept any gift of more than \$20.00 in value (or cumulative gifts totaling more than \$100.00 in any one year) from any person who has a contract with, or is negotiating a contract with, the County or who is subject to regulation by the official or employee's agency unless the Commission determines that the gift would not present a conflict of interest.

(b) Gifts allowed include:

- (1) meals or beverages in the presence of the donor not to exceed \$20.00 in value;
- (2) ceremonial gifts or awards of insignificant monetary value;
- (3) unsolicited gifts of nominal value;
- (4) trivial items of informational value;
- (5) tickets or free admission extended to an elected official from the person sponsoring or conducting the event, as a courtesy or ceremony to the office, to attend a charitable, cultural, or political event; and
- (6) gifts from family members.

(c) Gifts generally prohibited

A County official or employee may not accept a gift

- (1) if the gift would tend to impair the impartiality and independent judgment of the official or employee receiving the gift; or
- (2) it would give the appearance of impairing

the impartiality and independent judgment of the official or employee receiving the gift; or

(3) the official or employee receiving the gift believes, or has reason to believe, that it is designed to impair the impartiality and independent judgment of the official or employee receiving the gift.

8-13. Financial Disclosure.

(a) The Board of County Commissioners and the boards, commissions and committees, including *ad hoc* committees and task forces appointed by the Board of County Commissioners, as identified in § 8-5(c) of this Chapter, or appointed by any other board or commission, and the officials and employees as identified in § 8-5(b) and candidates for office as such when the positions are elective, are required to file the financial disclosure statements as provided in this section. If the official title of any of the boards, commissioners or individuals listed in § 8-5 of this Chapter is changed, those persons fulfilling the same function shall be required to file financial disclosure statements as provided in this section.

(b) Any person who is newly appointed to an employee position referred to in the preceding subsection shall, together with acceptance of employment, file a financial disclosure statement containing the necessary information for the calendar year immediately preceding the official appointment date.

(c) All members of boards, commissions and committees listed in subsection (a) above as identified in § 8-5(c) of this Chapter, and all members of *ad hoc* committees and task forces providing advice and/or recommendations regarding acquisition, zoning or designation of land, whether appointed by the Board of County Commissioners or appointed by other local government boards or commissions authorized to make such appointments, shall, together with the member's acceptance letter, submit a financial disclosure statement which shall include disclosure of any and all potential conflicts of interest that may be foreseeable as a result of accepting the board, commission or committee appointment.

(d) Candidates for elected office shall file a financial disclosure statement simultaneously with the

candidate's registration of candidacy for office with the Queen Anne s County Elections Board.

(e) Thereafter, all officials, candidates, appointees and employees identified in subsection (a) shall file the required statement with the Ethics Commission on or before the 31st day of January of each year for the immediately preceding calendar year during any part of which the official, appointee or employee held an office or position or was a candidate for office.

(f) Upon leaving office:

(1) Any official or employee who leaves an office identified in subsection (a) for any reason other than death, shall, within thirty (30) days after the departure date, file a financial disclosure statement covering any period or periods for which the official or employee has not filed such a statement, including all required information up to the date of departure.

(2) An official or employee who leaves an office identified in subsection (a) for another such office shall not be required to file a financial disclosure statement if the official or employee has filed the currently required statement in the former position or office.

(g) All financial disclosure statements required by this section shall be on a form provided by the Commission, shall be signed under oath by the person required to file, and shall disclose the following information concerning the interests of said person:

(1) Interests in real property and business entities

(i) All of their real estate holdings or interests in Queen Anne s County, excluding their personal residence and up to one (1) acre surrounding that residence; whether held individually, jointly, in partnership, or corporately; and with whom the property is owned; and

(ii) The identity of any other person with

an interest in the property.

(iii) The name and address of all business entities operating in Queen Anne's County, including parent, subsidiary, or associated entities, in which a financial interest was held at any time during the reporting period, whether or not the business entity does business with the County or is subject to regulation by the County, except financial interests in businesses publicly traded on a national stock exchange.

(2) Any office, directorship, partnership or salaried employment in any business entity held by them or their spouse during the reporting period.

(3) The name and address of any person doing business with or subject to regulation by the County to which the official or employee was indebted at any time during the reporting period. For the purpose of this subsection, indebtedness does not include retail credit accounts, any liability of less than one thousand dollars (\$1,000.00), or mortgage indebtedness on a primary residence.

(4) Gifts of more than \$20 in value, or a series of gifts totaling more than \$100 in value, received during the reporting period from any person or business entity doing business with the County or subject to regulation by the County, and as to each such gift the nature and value thereof, the identity of the donor from whom or on behalf of whom, directly or indirectly, it was received, and if given to another person at the direction of the official or employee required to file, the identity of the donor.

(h) When January 31 or any other deadline for filing in this section falls on a Saturday, Sunday or legal holiday, the financial disclosure filing date shall be extended to the next working day.

8-14. Lobbying disclosure.

(a) Registration.

A person identified as a Lobbyist within the meaning of Section 8-2(k) of this Chapter shall file with the Commission a registration

statement:

(1) within five days of first acting as a lobbyist; and

(2) for each subsequent year, on or before January 31; and

(3) within five days of a change in the content of the statement set forth in (b) below.

(b) Same - Contents.

(1) A registration statement shall include:

(i) a complete identification of the lobbyist;

(ii) a complete identification of any other person or entity on whose behalf the lobbyist acts; and

(iii) the subject matters on which the lobbyist proposes to lobby.

(2) The registration period may not exceed one year and must end by December 31.

(c) Year-end report.

(1) A lobbyist shall file a report with the Commission within 31 days after the close of a calendar year during which the lobbyist was registered.

(2) The report shall disclose:

(i) the value, date, and nature of any food, entertainment, or other gift provided to a County official or employee; and

(ii) the identification of the official or employee or their spouse or dependent children receiving one or more gifts with an aggregate value of \$25 or more.

(iii) the amount and source of all compensation paid to the lobbyist.

(iv) for any lobbyist qualifying under Section 8-6(j)(4), a breakdown of expenditures on the activities described therein.

(d) Public access.

The Commission shall maintain registrations and reports filed under this section as public records available for public inspection and copying.

8-15. Exemptions; modifications.

The Commission may grant exemptions and modifications to the requirements of §§ 8-11, 8-12, and 8-13 of this Chapter if the Commission determines that applying the provisions would:

- (1) constitute an unreasonable invasion of privacy;
- (2) significantly reduce the availability of qualified persons for public service; and
- (3) not be required to preserve the purposes of this Chapter.
- (4) apply to part-time elected officials or members of local boards and commissions or to ministerial officials or employees when the outside employment would not affect their official duties.

Article IV. Enforcement; Penalties

8-16. Cease and desist order.

The Commission may:

(1) issue a cease and desist order against any person it finds in violation of this Chapter; and

(2) seek enforcement of the order in the Circuit Court of Queen Anne's County.

8-17. Disciplinary action.

A County official or employee found by the Ethics Commission to have violated this Chapter shall be referred to the County Human Resources Office for the determination of appropriate disciplinary action.

8-18. Criminal penalty

A person who knowingly and willfully violates any provision of §§ 8-11 through 8-14 of this Chapter is guilty of a civil violation and on conviction is subject to a fine not exceeding \$1,000.00.

8-19. Other lobbyist sanction

A lobbyist who violates any provision of §§ 8-11 through 8-14 of this Chapter, may, in addition to any other sanction, be barred from any compensated lobbying activities in Queen Anne s County for a period of up to one (1) year.