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Town of Chesapeake Beach Date of Public Notice: 6/11/17

Pursuant to §5-812(a)(1) of the Maryland Public Ethics Law (Md. Code Ann., Gen Prov. Title 5 (Supp. 2016))("Public Ethics Law"), the State Ethics Commission advises the public and the Town of Chesapeake Beach that the jurisdiction has not complied with and has not made good faith efforts toward compliance with the requirements of Subtitle 8 of the Public Ethics Law.

The Town of Chesapeake Beach adopted its local ethics ordinance (Ordinance 0-16-11) on July 21, 2016 and forwarded a copy of Ordinance No. 0-16-11 the State Ethics Commission for review and approval on July 22, 2016. The Commission reviewed Ordinance 0-16-11 at its August 25, 2016 meeting and determined that the Town of Chesapeake Beach's local ethics law, as adopted, was not compliant with the requirements of Subtitle 8 of the Public Ethics Law and COMAR 19A.04. The Commission previously approved a draft ethics ordinance for the Town of Chesapeake Beach on December 11, 2014. The Town of Chesapeake Beach did not adopt this previously approved draft ethics ordinance. On April 14, 2016, the Commission issued a Public Notice of the Town of Chesapeake Beach's failure to adopt and enact a local ethics ordinance in compliance with the Maryland Public Ethics Law. The April 2016 Public Notice was removed from the Commission's website after the Commission received and reviewed the Town of Chesapeake Beach's Ordinance 0-16-11, and the Commission provided the jurisdiction with the necessary changes to Ordinance 0-16-11 for compliance with the requirements of Subtitle 8 of the Public Ethics Law and COMAR 19A.04 following the Commission's August 2016 meeting. On October 3, 2016, the Commission forwarded a letter to the Town of Chesapeake Beach's Town Attorney outlining recommendations on required changes and suggested language for revisions to the Town of Chesapeake Beach's Ethics Ordinance in order for the local ethics law to be approved by the State Ethics Commission as compliant with the requirements of Subtitle 8 of the Public Ethics Law and COMAR 19A.04. At its April 6, 2017 meeting, the State Ethics Commission authorized the issuance of this Public Notice after it did not receive any correspondence or response from the Town of Chesapeake Beach outlining its plan or action toward compliance.

The State Ethics Commission advised the Town of Chesapeake Beach by letter on October 3, 2016 that its local ethics ordinance did not receive the Commission's approval. The State Ethics Commission's October 3, 2016 letter also provided notice to the Town of Chesapeake Beach of several changes to the local ethics ordinance required in order to be approved by the State Ethics Commission as compliant with Subtitle 8 of the Public Ethics Law and COMAR 19A.04. The Town of Chesapeake Beach's enacted ethics ordinance does not meet the requirements of Subtitle 8 of the Public Ethics Law and COMAR 19A.04 in the following areas:

1. Section 25-1(a)(3)-(4) limits the application of the conflict of interest provisions of the local ethics law to the Town Administrator, Town Treasurer, Town Clerk, Code Enforcement Officer, Planning and

Zoning Administrator, Members of the Board of Elections, the Planning and Zoning Commission, the Zoning Board of Appeals, the Ethics Commission and other such employees and appointees of the Town who may from time to time be designated by the Town Council as appointed officials for the purposes of ethics ordinance. COMAR 19A.04.02.02A requires that a local ethics law include conflict of interest provisions for all nonelected local officials and employees, as well as local elected officials. The proposed language is inconsistent with the Model B language regarding the application of local conflict of interest provisions. A local jurisdiction may limit the application of the local financial disclosure provisions to certain local employees and local appointed officials, but conflict of interest provisions should be applicable to all local elected officials, local employees and local appointed officials. In order to be approved, the conflict of interest provisions should apply to all Town elected officials, appointed officials and Town employees.

2. The enacted Chesapeake Beach Ethics Ordinance does not contain provisions on either prohibited outside employment or prohibited financial interests as required by COMAR 19A.04.02.04C and D. The Commission recommends that Chesapeake Beach incorporate the language of Model B or §5-502 of the Public Ethics Law in its local ethics ordinance to address this deficiency.
3. The enacted Chesapeake Beach Ethics Ordinance does not contain a provision on the prestige of office restriction as required by COMAR 19A.04.02.04F. The Commission recommends that Chesapeake Beach incorporate the language of Model B or §5-506 of the Public Ethics Law in its local ethics ordinance to address this deficiency.
4. Section 25-3(a) does not contain sufficient participation restrictions as required by COMAR 19A.04.02.04B. The enacted ethics ordinance only restrictions participation in representing a party in a matter before or involving the Town or participating in a decision made by the Town. Participation restrictions should be broader and include all forms of participation. The current enacted participation provision does not include all necessary restrictions and Chesapeake Beach should incorporate the language of Model B or §5-501 of the Public Ethics Law in its local ethics ordinance to address this deficiency.
5. Section 25-3(b) does not contain sufficient post-employment restrictions as required by COMAR 19A.04.02.04E. The enacted ethics ordinance limits the application of the post-employment restrictions for a period of one year after an official or officer leaves office. The State provision does not include a time limit on the application of this restriction, but rather focuses on whether the former employee or official is working on the same case, contract or specific matter they significantly participated in as a government employee. Additionally, the enacted local ethics ordinance limits the type of prohibited post-employment activity to representing any party in an adverse position to the Town for compensation. The State provision does not include such a limitation and applies to all compensated work for an entity other than the State government. The enacted Chesapeake Beach post-employment provision is less strict than the State requirements for both elected officials and employees. The Commission recommends that

Chesapeake Beach incorporate the language of Model B or §5-504(d) of the Public Ethics Law in its local ethics ordinance to address this deficiency.

6. Section 25-3(c) does not contain sufficient gift solicitation and gift acceptance restrictions as required by COMAR 19A.04.02.04H. The Commission recommends separating the restrictions on gift solicitation and gift acceptance similar to both COMAR 19A.04.02.04H and §5-505 of the Public Ethics Law. The gift solicitation prohibition does not include exceptions like the gift acceptance provision. Also, the Commission recommends that Chesapeake Beach use the definition of “gift” as a mechanism to clarify that political contributions are not to be considered to be a gift for the purposes of the local ethics law rather than including the language in Section 25-3(c)(3). The definition of gift in the enacted local ethics ordinance includes anything with a value of \$20 or more. This is not consistent with State law, the definition of gift should “include the transfer of any thing or service of value without identifiable and adequate compensation,” as required in COMAR 19A.04.02.04H(4). Specific gift exception provisions should be included to allow the acceptance of specific gifts by elected local officials, appointed officials and employees and the Commission recommends including the language of Model B or §5-505(c) of the Public Ethics Law in its local ethics ordinance to address this deficiency. The enacted provision of Section 25-3(c)(2) does not include the required, specific gift exceptions necessary for the Commission to approve the gift provisions as both at least equivalent to State provisions for local elected officials and similar to State provisions for local appointed officials and local employees.
7. Section 25-4 does not require that any Town employees or appointed officials file a financial disclosure statement. While the Commission recognizes that designating which Town employees or appointed officials must file a financial disclosure statement is within the Town’s discretion, the Commission recommends that the Town consider requiring a financial disclosure statement for high-level Town employees and appointed officials and that the Town follow the specific financial disclosure requirements for local employees and appointed officials outlined in COMAR 19A.04.02.05C, which only requires that local employees and officials disclose gifts received from entities contracting with or regulated by the municipality and disclose interests that raise conflicts of interest or potential conflicts of interest in connection with a specific proposed action by the employee or appointed official, sufficiently in advance of the action to provide adequate disclosure to the public.
8. Section 25-4(c) does not contain sufficient financial disclosure requirements for the local elected officials and candidates for elected office for Chesapeake Beach. Only the disclosure requirement in Section 25-4(c)(4) related to gift disclosures met the requirements of COMAR 19A.04.02.05 and Subtitle 6 of the Public Ethics Law. The remaining enacted financial disclosure provisions in the Chesapeake Beach local ethics law are not at least equivalent to State law and must be amended in order to meet State requirements and be approved by the Commission. Chesapeake Beach’s financial disclosure requirements for interests in real property, interests and offices, directorships and employment held by local elected officials and candidates in business entities doing business with the Town and sources of earned income for local elected officials and candidates are not sufficient and were not approved as at least equivalent to

State financial disclosure requirements. The enacted financial disclosure provisions fail to include information related to all interests held in corporations, sources of earned income and business ownership by the elected official/candidate and their immediate family members, debts owed to entities doing business with the Town, and immediate family members employed with the Town. The Commission recommends that Chesapeake Beach amend its financial disclosure provisions for local elected officials and candidates to include the Model B language or §5-607 of the Public Ethics Law in its local ethics ordinance to address this deficiency.

9. Section 25-5 of the Chesapeake Beach Ethics Ordinance allows the local ethics commission to grant exemptions and modifications to the conflict of interest and financial disclosure provisions for local elected officials and candidates for local office. Although State law allows for modifications of the application of ethics law provisions for employees and appointed officials, modifications are not permitted for elected officials. Local elected officials are to be subject to ethics provisions that are at least equivalent to State law pursuant to Subtitle 8 of the Public Ethics Law and COMAR 19A.04.02. The Commission recommends that Chesapeake Beach amend Section 25-5 to include the exemption and modification language of Model B, which only allows modifications to the application of provisions for local employees and appointed officials. Additionally, the Commission has not approved modified financial disclosure provisions for local elected officials and candidates for local office in any other jurisdiction based on the General Assembly's direction to the Commission that such financial disclosure requirements should be at least equivalent to the State law in order to provide sufficient transparency to the citizens of the local jurisdiction.

The State Ethics Commission advised the Town of Chesapeake Beach by letter on October 3, 2016 of the required revisions to the enacted local ethics law and requested a revised draft ethics law for review and approval. The Commission sent letters to the jurisdiction's Town Attorney on December 5, 2016, February 10, 2017 and March 16, 2017 and requested a revised local ethics ordinance for review or a written outline of steps toward compliance in this matter. The Commission has not received any correspondence or a revised local ethics ordinance for review for the Town of Chesapeake Beach since its October 3, 2016 letter informing the jurisdiction that the local ethics law does not meet the requirements of Subtitle 8 of the Maryland Public Ethics Law and COMAR 19A.04. The Town of Chesapeake Beach has not provided the State Ethics Commission with a revised local ethics ordinance incorporating the recommended changes and has failed to make a good faith effort toward compliance with the requirements of Subtitle 8 of the Maryland Public Ethics Law and COMAR 19A.04.