

COUNCIL OF THE CITY OF ABERDEEN
Ordinance No. 11-O-02

Introduced By:	Mayor Michael E. Bennett
Date Introduced:	August 22, 2011
Date Adopted:	October 10, 2011
Date Effective:	October 30, 2011

ORDINANCE NO. 11-O-02

PUBLIC ETHICS ORDINANCE
CHAPTER 43, CODE OF THE CITY OF ABERDEEN

1 **SECTION 1. Be it resolved by the Mayor and Council** that Chapter 43, §§ 43-1 through 43-
2 10 of the Code of the City of Aberdeen be repealed and replaced with the following City of
3 Aberdeen Public Ethics Ordinance by authority of State Government Article, §§ 15-205, 15-206,
4 and Title 15, Subtitle 8, Annotated Code of Maryland.

5 **§ 43-1. Applicability.**

6 All provisions of this chapter shall apply to all City elected officials, employees, and appointees
7 to certain boards and commissions of the City of Aberdeen (City).

8 **§ 43-2. Ethics Commission.**

- 9 A. There is an Aberdeen Ethics Commission (Ethics Commission) that consists of five
10 members appointed by the Mayor and confirmed by the Council, who shall serve a
11 term of three years each.
- 12 B. The Ethics Commission shall:
- 13 (1) Receive and maintain all forms required by this chapter;
- 14 (2) Develop procedures and policies for advisory opinion requests and provide
15 published advisory opinions to persons subject to this chapter regarding the
16 applicability of the provisions of this chapter to them;
- 17 (3) Develop procedures and policies for the processing of complaints to make
18 appropriate determinations regarding complaints filed by any person alleging
19 violations of this chapter; and
- 20 (4) Conduct a public information program regarding the purposes and application of
21 this chapter.
- 22 C. The City Attorney shall advise the Ethics Commission.
- 23 D. The Ethics Commission shall certify to the Maryland State Ethics Commission on or
24 before October 1 of each year that the City is in compliance with the requirements of

- 25 State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland, for
26 elected City officials.
- 27 E. The Ethics Commission shall determine if changes to this chapter are required in
28 order to be in compliance with the requirements of State Government article, Title 15,
29 Subtitle 8, Annotated Code of Maryland, and shall forward any recommended
30 changes and amendments to the Council for enactment.
- 31 F. The Ethics Commission may adopt other policies and procedures to assist in the
32 implementation of the Ethics Commission's programs established in this chapter.

33 **§ 43-3. Conflicts of interest.**

- 34 A. In this section, the term "qualified relative" means a spouse, parent, child, or sibling.
- 35 B. All City elected officials, officials appointed to City boards and commissions subject
36 to this chapter and employees are subject to this section.
- 37 C. Participation prohibitions. Except as permitted by the Ethics Commission's regulation
38 or opinion, an official or employee may not participate in:
- 39 (1) Any matter in which, to the knowledge of the official or employee, the official or
40 employee or a qualified relative of the official or employee has an interest. This
41 Subsection C(1) does not regulate the official or employee specified in Subsection
42 B above if that person is exercising an administrative or ministerial duty that does
43 not affect the disposition or decision of the matter in question.
- 44 (2) Any matter, in which any of the following is a party:
- 45 (a) A business entity in which the official or employee has a direct financial
46 interest of which the official or employee may reasonably be expected to
47 know.
- 48 (b) A business entity for which the official, employee, or a qualified relative of
49 the official or employee is an officer, director, trustee, partner, or employee.
- 50 (c) A business entity with which the official or employee or, to the knowledge of
51 the official or employee, a qualified relative is negotiating or has any
52 arrangement concerning prospective employment.
- 53 (d) A contract that reasonably could be expected to result in a conflict between
54 the private interests of the official or employee and the official duties of the
55 official or employee, a business entity that is a party to an existing contract
56 with the official or employee, or which, to the knowledge of the official or
57 employee, is a party to a contract with a qualified relative.
- 58 (e) An entity, doing business with the City in which a direct financial interest is
59 owned by another entity which the official or employee has a direct financial
60 interest, if the official or employee may be reasonably expected to know both
61 direct financial interests.
- 62 (f) A business entity that:
- 63 [1] The official or employee knows is a creditor or obligee of the official or
64 employee or a qualified relative of the official or employee with respect to
65 a thing of economic value; and

66 [2] As a creditor or obligee, is in a position to directly and substantially affect
67 the interest of the official or employee or a qualified relative of the official
68 or employee.

69 (g) Subsection C(2) above does not regulate the official or employee as specified
70 in Subsection B if that person is exercising an administrative or ministerial
71 duty that does not affect the disposition of the matter in question.

72 (3) A person who is disqualified from participating under Subsection C(1) or (2) of
73 this section shall disclose the nature and circumstances of the conflict and may
74 participate or act if:

75 (a) The disqualification leaves a body with less than a quorum capable of acting;

76 (b) The disqualified official or employee is required by law to act; or

77 (c) The disqualified official or employee is the only person authorized to act.

78 (4) The prohibitions of Subsection C(1) and C(2) of this section do not apply if
79 participation is allowed by regulation or opinion of the Ethics Commission.

80 D. Employment and financial interest restrictions.

81 (1) Except as permitted by regulation of the Ethics Commission, when the interest is
82 disclosed or when the employment does not create a conflict of interest or
83 appearance of conflict, an official or employee may not:

84 (a) Be employed by or have a financial interest in any entity:

85 [1] Subject to the authority of the official or employee or the City agency,
86 board, commission with which the official or employee is affiliated; or

87 [2] That is negotiating or has entered a contract with the agency, board, or
88 commission with which the official or employee is affiliated; or

89 (b) Hold any other employment relationship that would impair the impartiality or
90 independence of judgment of the official or employee.

91 (c) This prohibition does not apply to:

92 [1] An official or employee who is appointed to a regulatory or City licensing
93 board or commission pursuant to a statutory requirement that appointees of
94 that board or commission have certain professional and educational
95 qualifications needed to bring relevant expertise to that board or
96 commission;

97 [2] A member of a board or commission who held a financial interest or
98 employment regulated by the chapter held at the time of appointment,
99 provided the financial interest or employment is publicly disclosed to the
100 Mayor and Council;

101 [3] An official or employee whose duties are ministerial, if the private
102 employment or financial interest does not create conflict of interest or the
103 appearance of a conflict of interest, as permitted and in accordance with
104 regulations adopted by the Ethics Commission; or

105 [4] Employment or financial interests allowed by regulation of the Ethics
106 Commission if the employment does not create a conflict of interest or the
107 appearance of a conflict of interest or the financial interest is disclosed.

108 E. Post-employment limitations and restrictions.

109 (1) A former official or employee may not assist or represent any party other than the
110 City for compensation in a case, contract, or other specific matter involving the

- 111 City if that matter is one in which the former official or employee significantly
112 participated as an official or employee.
- 113 (2) Until the conclusion of the next regular term that begins after the elected official
114 leaves office, a former member of the Council may not assist or represent another
115 party for compensation in a matter that is the subject of legislation action.
- 116 F. Contingent compensation. Except in a judicial or quasi-judicial proceeding, an
117 official or employee may not assist or represent a party for contingent compensation
118 in any matter before or involving the City.
- 119 G. Use of prestige of office.
- 120 (1) An official or employee may not intentionally use the prestige of office or public
121 position for the private gain of that official or employee or the private gain of
122 another.
- 123 (2) This subsection does not prohibit the performance of usual and customary
124 constituent services by an elected official without additional compensation.
- 125 H. Solicitation and acceptance of gifts.
- 126 (1) An official or employee may not solicit any gift;
- 127 (a) That would tend to impair the impartiality and the independence of judgment
128 of the official or employee receiving the gift;
- 129 (b) Is of \$100 or more, or is of significant value that would give the appearance of
130 impairing the impartiality and independence of judgment of the official or
131 employee; or
- 132 (c) Is of \$100 or more, or is of significant value that the recipient official or
133 employee believes or has reason to believe is designed to impair the
134 impartiality and independence of the official or employee.
- 135 (2) An official or employee may not directly solicit or facilitate the solicitation of a
136 gift, on behalf of another person, from an individual regulated lobbyist.
- 137 (3) An official or employee may not knowingly accept a gift, directly or indirectly,
138 from a person that the official or employee knows or has the reason to know:
- 139 (a) Is doing business with or seeking to do business with the City office, agency,
140 board or commission with which the official or employee is affiliated;
- 141 (b) Has financial interests that may be substantially and materially affected, in a
142 manner distinguishable from the public generally, by the performance or
143 nonperformance of the official duties of the official or employee;
- 144 (c) Is engaged in an activity regulated or controlled by the official's or
145 employee's governmental unit; or
- 146 (d) Is a lobbyist with respect to matters within the jurisdiction of the official or
147 employee.
- 148 (4) Notwithstanding Subsection H(3) above, an official or employee may accept the
149 following:
- 150 (a) Meals and beverages consumed in the presence of the donor or sponsoring
151 entity;
- 152 (b) Ceremonial gifts or awards that have insignificant monetary value;
- 153 (c) Unsolicited gifts of nominal value that do not exceed \$20 in cost or trivial
154 items of informational value;

- 155 (d) Reasonable expenses for food, travel, lodging, and scheduled entertainment of
156 the official or the employee at a meeting which is given in return for the
157 participation of the official or the employee in a panel or speaking
158 engagement at the meeting;
- 159 (e) Gifts of tickets or free admission extended to an elected local official to attend
160 charitable, cultural, or political events, if the purpose of this gift or admission
161 is a courtesy or ceremony extended to the elected official's office;
- 162 (f) A specific gift or class of gifts that the Ethics Commission exempts from the
163 operation of this subsection upon finding, in writing, that acceptance of the
164 gift or class of gifts would not be detrimental to the impartial conduct of the
165 business of the City and that the gift is purely personal and private in nature;
- 166 (g) Gifts from a person related to the official or employee by blood or marriage,
167 or any other individual who is a member of the household of the official or
168 employee; or
- 169 (h) Honoraria for speaking to or participating in a meeting, provided that the
170 offering of the honorarium is in not related in any way to the official's or
171 employee's official position.
- 172 I. Disclosure of confidential information. Other than in the discharge of official duties,
173 an official or employee may not disclose or use confidential information that the
174 official or employee acquired by reason of the official's or employee's public position
175 and that is not available to the public, for the economic benefit of the official or
176 employee or that of another person.
- 177 J. Participation in procurement.
- 178 (1) An individual County, City, or Town or a person that employs an individual who
179 assists a City agency in the drafting or specifications, an invitation for bids, or a
180 request for proposals for a procurement, may not submit a bid or proposal for that
181 procurement, or assist or represent another person, directly or indirectly, who is
182 submitting a bid or proposal for the procurement.
- 183 (2) The Ethics Commission may establish exemptions from the requirements of this
184 section for providing description literature, sole source procurements, and written
185 comments solicited by the procuring agency.

186 **§ 43-4. Financial disclosure - local elected officials and candidates to be local elected**
187 **officials.**

- 188 A. Elected officials.
- 189 (1) This section applies to all local elected officials and candidates to be local elected
190 officials.
- 191 (2) Except as provided in Subsection B of this section, a local elected official or
192 candidate to be a local elected official shall file the financial disclosure statement
193 required under this section:
- 194 (a) On a form which is part of this chapter;
- 195 (b) Under oath or affirmation; and
- 196 (c) With the Ethics Commission.
- (3) Deadlines for filing statements.

- 197 (a) An incumbent local elected official shall file a financial disclosure statement
198 annually no later than January 31 of each year for the preceding calendar year.
199 (b) An individual, who is appointed to fill a vacancy in an office for which a
200 financial disclosure statement is required, and who has not already filed a
201 financial disclosure statement, shall file a statement for the preceding calendar
202 year within 30 days after appointment.
203 (c) An individual who, other than reasons of death, leaves an office for which a
204 statement is required shall file a statement within 60 days after leaving the
205 office. The statement shall cover:
206 [1] The calendar year immediately preceding the year in which the
207 individual left office, unless a statement covering that year has already
208 been filed by the individual; and
209 [2] The portion of the current calendar year during which the individual
210 held the office.
- 211 B. Candidates to be local elected officials.
212 (1) A minor child's employment or business ownership need not be disclosed if the
213 agency that employs the individual does not regulate, exercise authority over, or
214 contract with the place of employment or business entity of the minor child.
215 (2) A statement filed under this section may also include a schedule of additional
216 interests or information that the individual making the statement wishes to
217 disclose.
- 218 C. For the purposes of § 43-4A of this chapter, the following interests are considered to
219 be the interests of the individual making the statement:
220 (1) Any interest held by a member of the individual's immediate family, if the
221 interest was, at any time during the reporting period, directly or indirectly
222 controlled by the individual.
223 (2) An interest held by a business entity in which the individual held a 30% or greater
224 interest at any time during the reporting period.
225 (3) An interest held by a trust or an estate in which, at any time during the reporting
226 period:
227 (a) The individual held a reversionary interest or was a beneficiary; or
228 (b) If a revocable trust, the individual was a settler.
- 229 D. The Ethics Commission shall review the financial disclosure statements submitted
230 under this section for compliance with the provisions of this section and shall notify
231 an individual submitting the statement of any omissions or deficiencies. The Ethics
232 Commission may take appropriate enforcement action to ensure compliance with this
233 section.

234 **§ 43-5. Financial disclosure - employees and appointed officials.**

- 235 A. This section only applies to the following appointed officials and employees:
236 City Manager, Director of Public Works, Chief of Police, City Clerk, City Treasurer,
237 Director of Planning and Community Development, and the City Attorney. This
238 section applies to the members of the Planning Commission, the Board of Appeals,
239 and the Board of Elections.

- 240 B. A statement filed under this section shall be filed with the Ethics Commission
241 under oath or affirmation.
242 C. On or before January 31 of each year during which an official or employee holds
243 office, an official or employee shall file a statement disclosing gifts received
244 during the preceding calendar year from any person that contracts with or is
245 regulated by the City, including the name of the donor of the gift and the
246 approximate retail value at the time of receipt.
247 D. An official or employee shall disclose employment and interests that raise
248 conflicts of interest or potential conflicts of interest in connection with a specific
249 proposed action by the employee or official sufficiently in advance of the action
250 to provide adequate disclosure to the public.
251 E. The City Clerk shall maintain all disclosure statements filed under this section as
252 public records available for public inspection and copying as provided in § 43-4A
253 of this chapter.

254 **§ 43-6. Lobbying.**

- 255 A. A person shall file a lobbying registration statement with the Ethics Commission if
256 the person:
257 (1) Personally appears before a City official or employee with the intent to influence
258 that person in performance of the official duties of the official or employee; and
259 (2) In connection with the intent to influence expends or reasonably expects to
260 expend in a given calendar year in excess of \$100 on food, entertainment or other
261 gifts for officials or employees of the City.
262 B. A person shall file registration statement required under this section on or before the
263 latter of January 15 of the calendar year or within five days after first performing an
264 act that requires registration in the calendar year.
265 C. Contents.
266 (1) The registration statement shall identify:
267 (a) The registrant;
268 (b) Any other person on whose behalf the registrant acts; and
269 (c) The subject matter on which the registrant proposes to make appearances
270 specified in Subsection A of this section.
271 (2) The registration statement shall cover a defined registration period not to exceed
272 one calendar year.
273 D. Within 30 days after the end of any calendar year during which a person was
274 registered under this section, the person shall file a report with the Ethics Commission
275 disclosing:
276 (1) The value, date, and nature of any food, entertainment or other gift provided to a
277 City official or employee; and
278 (2) If a gift or series of gifts to a single official or employee exceeds \$100 in value,
279 the identity of the official or employee.

280 E. The City Clerk shall maintain the registrations and reports filed under this section as
281 public records available for public inspection and copying for four years after the
282 receipt by the City Clerk.

283 **§ 43-7. Exemptions and modifications.**

284 The Ethics Commission may grant exceptions and modifications to the provisions of §§ 43-3 and
285 43-5 of this chapter to employees and to appointed members of the City boards and
286 commissions, when the Ethics Commission finds that an exemption or modification would not be
287 contrary to the purposes of this chapter, and the application of this chapter would:

- 288 A. Constitute an unreasonable invasion of privacy; and
289 B. Significantly reduce the availability of qualified persons for public service.

290 **§ 43-8. Enforcement.**

291 A. The Ethics Commission may:

- 292 (1) Assess a late fee of \$2 per day up to a maximum of \$250 for a failure to timely
293 file a financial disclosure statement required under §§43-4 or 43-5 of this chapter.
294 (2) Assess a late fee of \$10 per day up to a maximum of \$250 for failure to file a
295 timely lobbyist registration or lobbyist report required under § 43-6 of this
296 chapter; and
297 (3) Issue a cease and desist order against any person found to be in violation of this
298 chapter.

299 B. Penalties.

300 (1) Upon a finding of a violation of any provision of this chapter, the Ethics
301 Commission may:

- 302 (a) Issue an order of compliance directing the respondent to cease and desist from
303 the violation;
304 (b) Issue a reprimand; or
305 (c) Recommend to the appropriate authority other appropriate discipline of the
306 respondent, including censure or removal if that discipline is authorized by
307 law.

308 (2) If the Ethics Commission finds that a respondent has violated § 7 of this chapter,
309 the Ethics Commission may:

- 310 (a) Require a respondent who is a registered lobbyist to file any additional reports
311 or information that reasonably related to the information that is required under
312 § 7 of this chapter;
313 (b) Impose a fine not exceeding \$5,000 for each violation; and
314 (c) Suspend the registration of an individual registered lobbyist of the Ethics
315 Commission finds that the lobbyist has knowingly and willfully violated § 43-
316 6 of this chapter or has been convicted of a criminal offense arising from
317 lobbying activities.

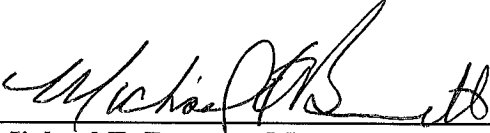
318 C. Other remedies.

319 (1) Upon request of the Ethics Commission, the City Attorney may file a petition for
320 injunctive or other relief in the Circuit Court of Harford County, or in any other court

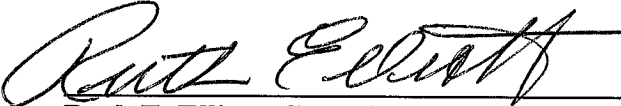
- 321 having proper jurisdiction, for the purpose of requiring compliance with the
322 provisions of this chapter.
- 323 (2) Court actions.
- 324 (a) The court may:
- 325 [1] Issue an order to cease and desist from the violation;
- 326 [2] Except as provided in Subsection C(2)(b) of this section, void an official
327 action taken by an official or employee with a conflict of interest
328 prohibited by this chapter when the action arises from or concerns the
329 subject matter of the conflict and if the legal action is brought within 90
330 days of the occurrence of the official action, if the court deems voiding the
331 action to be in the best interest of the public; or
- 332 [3] Impose a fine of up to \$5,000 for any violation of the provisions of this
333 chapter, with each day upon which the violation occurs constituting a
334 separate offense;
- 335 (b) A court may not void any official action appropriating public funds, levying
336 taxes, or providing for the issuance of bonds, notes, or other evidences of
337 public obligations.
- 338 D. In addition to any other enforcement provisions in this chapter, a person who the
339 Ethics Commission or a court finds has violated this chapter:
- 340 (1) Is subject to termination or other disciplinary action; and
- 341 (2) May be suspended from receiving payment of salary or other compensation
342 pending full compliance with the terms of an order of the Ethics Commission or a
343 court.
- 344 E. A City official or employee found to have violated this chapter is subject to
345 disciplinary or other appropriate personnel action, including removal from office,
346 disciplinary action, suspension of salary, or other sanction.
- 347 F. Violation of § 43-6 of this chapter shall be a misdemeanor subject to a fine of up to
348 \$10,000 or imprisonment of up to one year.
- 349 G. A finding of a violation of this chapter by the Ethics Commission is public
350 information.

351 **SECTION 2. Be it further resolved by the Mayor and Council** that this ordinance shall be
352 effective twenty (20) days after adoption.

COUNCIL OF THE CITY OF ABERDEEN



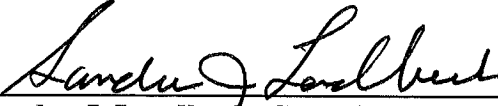
Michael E. Bennett, Mayor



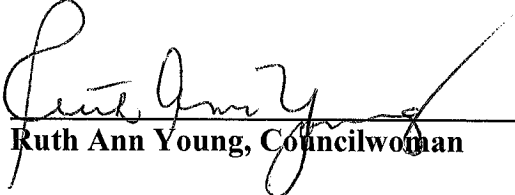
Ruth E. Elliott, Councilwoman



Bruce E. Garner, Councilman



Sandra J. Landbeck, Councilwoman



Ruth Ann Young, Councilwoman

ATTEST:

SEAL:



Monica A. Correll, City Clerk

Date October 10, 2011

City of Aberdeen Ethics Disclosure Form

Pursuant to the requirements outlined in Chapter 43 of the Code of the City of Aberdeen, all elected officials, certain appointed officials, members of the Aberdeen Planning Commission, members of the Aberdeen Board of Appeals, and members of the Aberdeen Board of Elections must provide certain information and make certain disclosures as outlined in the chapter. Please complete the appropriate questionnaire below.

Person Filing

Name: _____

Position with the City of Aberdeen: _____

Calendar Year of this Report: _____

Section A. Definitions

1. *Qualified relative*: means the spouse, parent, child or sibling of the designated official filing this report filing this report.
2. *Designated official*: All City of Aberdeen officials that are subject to regulation and disclosure under Chapter 43 to include the Mayor, City Council members, all members of the Planning Commission, all members of the Board of Appeals, all members of the Board of Elections, City Manager, City Clerk, Director of Public Works, Chief of Police, City Treasurer, Director of Planning and Community Development, City Attorney.

Section B. Designated Official Disclosure Questionnaire

A designated official must disclose conflicts of interest. Have you in the past year:

1. Participated in any City matter which you or a qualified relative had a financial interest?

___ Yes

___ No

(If yes, explain)

2. Participated in any City matter in which any of the following is a party: (1) a business entity which you had a financial interest; (2) a business entity in which you or a qualified relative is an officer, director, trustee, partner or employee; (3) a business entity which you or a qualified relative is negotiating or has any arrangement concerning prospective employment; (4) a contract that reasonably could be expected to result in a conflict between your private interests and your interests as an elected official; (5) a business entity that is a party to an existing contract with the

City; (6) an entity doing business with the City which you have direct financial interest; (7) a business entity that you or a qualified relative is a creditor or obligee?

Yes
 No
(If yes, explain)

Section C. Solicitation and Acceptance of Gifts Questionnaire

A designated official may not solicit certain gifts. Have you in the past year:

1. Solicited a gift that would: (1) tend to impair your partiality or judgment; (2) be of significant value that might give the appearance of impairing your impartiality and independence of judgment?

Yes
 No
(If yes, explain.)

2. Solicited or facilitated the solicitation of a gift from a lobbyist?

Yes
 No
(If yes, explain.)

3. Accepted a gift, directly or indirectly from a person who is: (1) doing business or is seeking to do business with the City; (2) has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of you in your official position with the City; (3) is engaged in an activity that is regulated or controlled by you; (4) is a lobbyist for someone engaged in any matter with the City?

Yes
 No
(If yes, explain.)

(In answering questions in Section C, please refer to Section 43-3H(4) to see what gifts you are allowed to accept. Those gifts need not be disclosed.)

Section D. Additional Disclosure

If the designated official has anything additional to disclose, please provide below.

Oath

I, _____, do by affirm that the statements made on this disclosure are complete and truthful to the best of my knowledge.

Signature

Date

City of Aberdeen Lobbying Registration Statement

Pursuant to the requirements outlined in Chapter 43, Section 6 of the Code of the City of Aberdeen, all persons who engage in lobbying activity as described in the chapter must file a Registration Statement of such activity. For those who have engaged in lobbying as described in this chapter, please complete the questionnaire below.

Section A. Requirement to Register

Anyone who engaged in the activities listed below during the calendar year in question must complete this Registration Statement:

1. Has personally appeared before a City official or employee with the intent to influence that person in the performance of the official duties of the official or employee, and
2. Has expended or intends to expend in excess of \$100 (one hundred dollars) on food, entertainment or other gifts for officials or employees of the City.

Person (Registrant) Filing

Name: _____

Address: _____

Firm or Company: _____

Calendar Year of this Statement: _____

Section B. Information to Be Registered

1. Name of Registrant: _____
2. Other persons on whose behalf the registrant acts:
3. Subject matter on which the registrant proposes to make appearances before the City official or employee and engage in the activity as specified in Section A of this Statement.

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Attachment

4. The value, date and nature of any food, entertainment or other gift provided to a City official or employee.

5. The gift or series of gifts to a single official or employee that exceeds \$100 (one hundred dollars) in value provided by the Registrant and the name(s) of the official or employee that received the gift(s).

Oath

I, _____, do by affirm that the statements made on this Registration Statement are complete and truthful to the best of my knowledge.

Signature

Date

Section A of this Statement must be filed with the Aberdeen Ethics Commission before the commencement of lobbying activity by the Registrant. Sections A and B of this Statement must be filed with the Ethics Commission by January 30 following the calendar year for which the lobbying activity took place.