

## Chapter 2.24 PUBLIC ETHICS COMMISSION

### 2.24.010 Creation.

Oakland City Charter Section 603 establishes the Public Ethics Commission (Commission) and proscribes its role and function, Commissioner qualifications and appointment process, enforcement and investigative authority, and staff resources, among other provisions.

( Ord. No. 13628 , § 2, 12-15-2020; Ord. 11961 § 1, 1997)

### 2.24.020 Commission operations.

- A. Implementation of City Charter enumerated role, functions, and duties. The Commission shall adopt policies, procedures, and regulations for the conduct of its business by a majority vote of the members present.
- B. Process. A majority vote of the Commission is required for the adoption of any motion or resolution.
- C. Transmittal. The Commission shall transmit to the City Council any rules, regulations, or procedures adopted by the Commission within seven (7) calendar days of adoption. A rule, regulation or procedure adopted by the Commission shall become effective sixty (60) days after the date of adoption by the Commission unless, before the expiration of the sixty (60) day period, two-thirds ( $\frac{2}{3}$ ) of all the members of City Council vote to veto the rule, regulation, or procedure.
- D. Policies and Procedures. Policies and procedures include, but are not limited to, operations policies to guide the Commission's general operations, and complaint procedures to establish the administrative process for the investigation and enforcement of potential violations of government ethics, transparency, and campaign finance laws or policies.

( Ord. No. 13628 , § 2, 12-15-2020)

### 2.24.030 Commission structure.

- A. Role of the Commission. The Commission, as a whole, is responsible for establishing Commission policies and priorities, promoting government ethics and transparency, and serving as a quasi-judicial body that adjudicates enforcement matters brought to the Commission by staff.
- B. Commission Staff. The Executive Director reports to the Commission Chair and the Commission and is responsible for establishing staff priorities in consultation with the Chair and consistent with policy direction provided by the Commission. The Executive Director leads and supervises Commission staff and has the authority to hire and remove employees within constraints set by the Civil Service Commission, the Department of Human Resources, and the Commission's budget.

( Ord. No. 13628 , § 2, 12-15-2020)

### 2.24.040 Election of chairperson and meetings.

- A. Election of Chair and Vice-Chair. At the first regular meeting of each year, the members shall elect a chairperson and a vice-chairperson.

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- B. Meetings. The Commission shall hold regular meetings at an established time and place suitable for its purpose. Other meetings scheduled for a time or place other than for regular meetings shall be designated special meetings. Written notice of special meetings shall be provided the members, the Council, and the public press at least seventy-two (72) hours before the meeting is scheduled to convene.

( Ord. No. 13628 , § 2, 12-15-2020; Ord. 11961 § 6, 1997)

#### **2.24.050 Staff assistance.**

The City Manager, or designees thereof, shall provide the Commission with staff assistance as necessary to permit the Commission to fulfill the functions and duties as set forth in the City Charter and in ordinances within the Commission's jurisdiction.

( Ord. No. 13628 , § 2, 12-15-2020; Ord. 12101, 1998: Ord. 11961 § 8, 1997)

#### **2.24.060 Legal assistance.**

The City Attorney is the Commission's legal advisor. The City Attorney shall provide the Commission with legal assistance, to the extent such assistance does not constitute a conflict. In the event of a conflict, the City Attorney shall retain outside counsel.

( Ord. No. 13628 , § 2, 12-15-2020; Ord. 11961 § 9, 1997)

#### **2.24.070 Procedures for imposing administrative fines.**

- A. Purpose. This section establishes standard procedures for the imposition, enforcement, collection, and administrative review of fines and penalties for violation of any law or ordinance under the purview of the Commission. The procedures set forth in this section are adopted pursuant to Government Code Section 53069.4 and the City of Oakland's power to govern municipal affairs under Article 11 of the California Constitution. By adopting this section, the City does not intend to limit the ability of the City to use any other remedy, civil or criminal, that may be available in a particular case. The City may use the procedures set forth in this section as an alternative to, or in conjunction with, any other available remedy.
- B. Complaint Procedures. The Commission shall adopt procedures to establish the administrative process for the investigation and enforcement of violations of the laws within the Commission's jurisdiction. These procedures shall dictate the process for receiving, initiating, and reviewing complaints, conducting investigations or audits, and resolving cases prior to an administrative hearing.
- C. Administrative Hearing Process.
1. Selection of Hearing Panel or Examiner. If the Commission decides to schedule a hearing, the Commission may either sit as a hearing panel or delegate authority to one (1) or more members or to an independent hearing examiner.
  2. Pre-Hearing Process and Submissions. The Commission must provide notice of the hearing to the responding party and may define reasonable time limits and other requirements for submission of any proposed subpoenas, resolution of any procedural or preliminary matters not related to the truth or falsity of the factual allegations, and submission of any written materials.
  3. Conduct of Hearings. The Commission may define reasonable terms for the conduct of hearings, receipt and rules of evidence, presentation of testimony, and order of oral arguments. The Commission also may establish a process for hearing a matter in which the responding party refuses or otherwise fails to appear at a properly noticed hearing.

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4. Action Upon Conclusion of Hearing. The Commission may define reasonable time limits and other requirements for preparation and submission of findings of fact and conclusions by the hearing panel or examiner and any procedure for requesting re-hearing.

The Commission's order following a hearing may determine that any violation of law occurred only if the weight of the evidence shows that it was more likely than not that a violation occurred.

The Commission's order and any findings of facts and conclusions adopted by the Commission may include orders for corrective, remedial or punitive actions, and any appropriate fines. The Commission's decision following a hearing shall be final and shall constitute closure of the administrative process with respect to any complaint.

- D. Payment of Administrative Fines. Any fines imposed by a final order of the Commission will be required to be paid by the due date identified in the order, but no sooner than thirty (30) days after the order is issued. Fines that remain unpaid after the due date will be subject to a late payment penalty of ten percent plus interest at a rate of one (1) percent per month on the outstanding balance.
- E. Remedies for Non-Payment. The amount of any fine not paid within the time required under this Chapter, including the amount of any applicable late payment charges, constitutes a debt to the City. The City may file a civil action or pursue any other legal remedy to collect such money. In any civil action to obtain payment of the fine, and any late payment penalties, the City shall be entitled to obtain a judgment for the amount of the unpaid fines and penalty payments and, in addition, for the costs and attorneys' fees incurred by the City in bringing any civil action to enforce the provisions of this Section.
- F. Right to Judicial Review. Any person aggrieved by the action of the hearing officer taken pursuant to this Chapter may obtain review of the administrative decision by filing a petition for review in accordance with the timelines and provisions set forth in California Government Code Section 53069.4.

If a final order of a court of competent jurisdiction determines that the City has not properly imposed a fine pursuant to the provisions of this Chapter, and if the fine has been deposited with the City during the course of the legal proceeding, the City shall promptly refund the amount of the deposited fine, consistent with the court's determination, together with interest at the average rate earned on the City's portfolio for the period of time that the City held the fine amount.

( Ord. No. 13628 , § 2, 12-15-2020)

### **2.24.100 Protection against retaliation.**

- A. No officer or employee of the city shall use or threaten to use any official authority or influence to effect any action as a reprisal against a city officer or employee for acting in good faith to report or otherwise bring to the attention of the Commission or other appropriate agency, office or department, information regarding the violation of any regulation or ordinance over which the Commission has authority.
- B. No officer or employee of the city shall use or threaten to use any official authority or influence to discourage, restrain or interfere with any other person for the purpose of preventing such person from acting in good faith to report or otherwise bring to the attention of the Commission or other appropriate agency, office or department, information regarding the violation of any regulation or ordinance over which the Commission has authority.

( Ord. No. 13628 , § 2, 12-15-2020; Ord. 11961 § 10, 1997)