

## Chapter 2.24 - PUBLIC ETHICS COMMISSION

## 2.24.010 - Creation.

Oakland City Charter Section 202 has established the Public Ethics Commission.

(Ord. 11961 § 1, 1997)

## 2.24.020 - Functions and duties.

It shall be the function and duty of the Public Ethics Commission, for and on behalf of the city, its elected officials, officers, employees, boards and commissions:

- A. Oversee compliance with the city Campaign Reform Ordinance.
- B. Oversee compliance with the city Code of Ethics.
- C. Oversee compliance with conflict of interest regulations as they pertain to city elected officials, officers, employees, and members of boards and commissions.
- D. Oversee the registration of lobbyists in the city should the City Council adopt legislation requiring the registration of lobbyists.
- E. Oversee compliance with any ordinance intended to supplement the Brown Act or Public Records Act.
- F. Review all policies and programs which relate to elections and campaigns in Oakland, and report to the City Council regarding the impact of such policies and programs on city elections and campaigns.
- G. Make recommendations to the City Council regarding amendments to the city Code of Ethics, Campaign Reform Ordinance, Conflict of Interest Code, any ordinance intended to supplement the Brown Act or Public Records Act, and lobbyist registration requirements should the City Council adopt lobbyist registration legislation, and submit a formal report to the City Council every two years concerning the effectiveness of all local regulations and local ordinances related to campaign financing, conflict of interest, lobbying, the Brown Act, the Public Records Act, and public ethics.
- H. Set compensation for the office of City Councilmember which shall be reviewed by the Commission and adjusted as appropriate, in odd-numbered years. In 1997, the Commission shall first establish a base salary for the Office of Councilmember at a level which shall be the same or greater than that which is currently received. Thereafter, the Commission shall fix City Councilmember compensation at a level not to exceed ten percent above the base salary as adjusted.
- I. Each year, and within the time period for submission of such information for the timely

completion of the city's annual budget, provide the City Council with an assessment of the Commission's staffing and budgetary needs.

- J. Make recommendations to the City Council regarding the imposition of fees to administer and enforce local ordinances and local regulations related to campaign financing, conflict of interest, registration of lobbyists, supplementation of the Brown Act and Public Records Act and public ethics.
- K. Make recommendations to the City Council regarding the adoption of additional penalty provisions for violation of local ordinances and local regulations related to campaign financing, conflict of interest, registration of lobbyists, and public ethics.
- L. Issue oral advice and formal written opinions, in consultation with the City Attorney when necessary, with respect to a person's duties pursuant to applicable campaign financing, conflict of interest, lobbying, and public ethics laws.
- M. Prescribe forms for reports, statements, notices, and other documents related to campaign financing, conflict of interest, lobbying, and public ethics.
- N. Develop campaign financing, conflict of interest, lobbying, Brown Act, Public Records Act and public ethics informational and training programs, including but not limited to:
  - 1. Seminars, when appropriate, to familiarize newly elected and appointed officers and employees, candidates for elective office and their campaign treasurers, lobbyists, and government officials, with city, state and federal laws related to campaign financing, conflicts of interest, the Public Records Act, the Brown Act, lobbying, and public ethics.
  - 2. Preparation and distribution of manuals to include summaries of ethics laws and reporting requirements applicable to city officers, members of boards and commissions, and city employees, methods of bookkeeping and records retention, instructions for completing required forms, questions and answers regarding common problems and situations, and information regarding sources of assistance in resolving questions. The manual shall be updated when necessary to reflect changes in applicable city, state and federal laws related to campaign financing, conflicts of interest, lobbying, and public ethics.
- O. Perform such other functions and duties as may be prescribed by the Oakland Code of Ethics, conflict of interest regulations, ordinances as they may be adopted to supplement the Brown Act and the Public Records Act or to require the registration of lobbyists in the city and Campaign Reform Ordinance.

In prescribing the above duties and functions of the Commission, it is not the intent of the Council to duplicate or overlap the functions, duties, or responsibilities heretofore or hereafter assigned to any other city board or commission or to a city department. As to such functions or responsibilities of another board or commission or of a department of the city, the Commission will render assistance and

advice to such board, commission or department as may be necessary. Nothing in this section shall be construed to prevent city officers, employees, and elected or appointed officials from seeking advice directly from the City Attorney, or, when appropriate, the Fair Political Practices Commission, concerning regulations and ordinances related to campaign financing, conflicts of interest, lobbying, and public ethics.

(Ord. 11961 § 2, 1997)

#### 2.24.030 - Authority.

In furtherance of the above enumerated duties and functions, the Oakland Public Ethics Commission is authorized to:

- A. Conduct investigations, audits and public hearings.
- B. Issue subpoenas to compel the production of books, papers and documents and take testimony on any matter pending before the Commission. The Commission may find a person in contempt as provided by the general law of the state for failure or refusal to appear, testify, or to produce required books, papers and documents.
- C. Impose penalties and fines as provided for by ordinance. The Commission's decision to impose penalties and fines for violation of any regulation or ordinance over which the Commission has authority shall be appealable to a mutually agreed upon arbitrator whose decision shall be final. The decision of the arbitrator is not appealable to the City Council.

(Ord. 11961 § 3, 1997)

#### 2.24.040 - Composition—Terms of office.

- A. The Oakland Public Ethics Commission shall consist of seven members. The Commission shall be appointed as follows: Three members who represent local civic organizations with a demonstrated history of involvement in local governance issues shall be nominated for appointment by the Mayor, with confirmation by the City Council, pursuant to Section 601 of the City Charter. Four members shall be appointed, following a public recruitment and application process by the unanimous vote of the three representatives appointed by the Mayor with confirmation by the City Council. The four members so appointed shall reflect the interests of the greater Oakland neighborhood and business communities. Commissioners shall serve without compensation. Prior to appointment of a Commission member or members, by the Mayor, each member of the City Council may provide the Mayor with a list of up to three individuals qualified by experience and background to serve on the Commission. In appointing members to the Commission, the Mayor shall consider the recommendations of the City Council.

- B. Four members shall constitute a quorum.
- C. Members of the Commission shall be appointed to overlapping terms, to commence upon date of appointment, except that an appointment to fill a vacancy shall be for the unexpired term only. Members of the Commission shall serve for a term of three years, except that for terms commencing immediately preceding adoption of the ordinance codified in this chapter, two members shall be appointed for a one-year term, two members shall be appointed for a two-year term, and three members shall be appointed for a three-year term. No member may serve more than one consecutive three-year term.
- D. A vacancy on the Commission will exist whenever a member dies, resigns, or is removed, or whenever an appointee fails to be confirmed by the Council within fourteen (14) days of appointment. A vacancy shall be filled no sooner than thirty (30) days and no later than sixty (60) days from the date that such vacancy occurs. Any member of the City Council who chooses to recommend a person or persons to fill a vacancy of a position appointed by the Mayor and confirmed by the City Council pursuant to subsection A of this section shall forward such recommendation to the Mayor for consideration no later than thirty (30) days from the date that a vacancy occurs.
- E. A member appointed by the Mayor may be removed pursuant to Section 601 of the Charter. A member appointed by the unanimous vote of the three members appointed by the Mayor and confirmed by the Council may be removed by the unanimous vote of the three members appointed by the Mayor and confirmed by the Council. Among other things, conviction of a felony, misconduct, incompetence, inattention to or inability to perform duties, or absence from three consecutive regular meetings except on account of illness or when absent from the city by permission of the Commission, shall constitute cause for removal.

(Ord. 11961 § 4, 1997)

#### 2.24.050 - Qualifications.

Each member of the Commission shall be a resident of Oakland and registered to vote in Oakland elections. During his or her tenure, and for one year thereafter, no member of the Commission shall:

- A. Be employed by the city or have any direct and substantial financial interest in any work or business or official action by the city.
- B. Seek election to any other public office, or participate in or contribute to an Oakland municipal campaign.
- C. Endorse, support, oppose, or work on behalf of any candidate or measure in an Oakland election.

(Ord. 11961 § 5, 1997)

#### 2.24.060 - Election of chairperson and meetings.

At the first regular meeting of each year the members shall elect a chairperson and a vice-chairperson. 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. 11961 § 6, 1997)

#### 2.24.070 - Rules, regulations and procedures.

The Commission shall establish rules, regulations and procedures for the conduct of its business by a majority vote of the members present. The Commission must vote to adopt any motion or resolution. The Commission shall transmit to the City Council any rules, regulations and procedures adopted by the Commission within seven 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 this sixty (60) day period two-thirds of all the members of the City Council vote to veto the rule, regulation or procedure.

(Ord. 11961 § 7, 1997)

#### 2.24.080 - 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 above.

(Ord. 12101, 1998; Ord. 11961 § 8, 1997)

#### 2.24.090 - 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. 11961 § 9, 1997)

#### 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. 11961 § 10, 1997)