

SECTION NO. 38

FILING AND INVESTIGATION OF COMPLAINTS

- (A) All complaints alleging any violation of the provisions of this Ordinance shall be submitted to the City of Glasgow Ethics Board, or the administrative official designated by the Ethics Board. All complaints shall be in writing, signed by the complainant, and shall meet any other requirements established by the Board. The Board shall acknowledge receipt of a complaint to the complainant within ten (10) working days from the date of receipt. The Board shall forward within ten (10) working days to each officer or employee of the City or City agency who is the subject of the complaint a copy of the complaint and a general statement of the applicable provisions of this Ordinance.
- (B) The Ethics Board may, on its own initiative, determine through an inquiry into informal allegations or information provided directly to the Board, by referral, in the public news media, or otherwise that a violation of this code may exist and prepare a complaint of its own. The Ethics Board may also amend a complaint that has been filed with it by adding further allegations, by adding respondents involved in the same conduct, directly or indirectly, by action or inaction, or by deleting allegations that would not constitute a violation of this code, have been made against persons or entities not covered by this code, or do not appear to be supported by the facts. The Ethics Board may also consolidate complaints where the allegations are materially related. Amended complaints must be sent to the complainant and respondent by the Ethics Board.
- (C) Within thirty (30) days of the receipt of a proper complaint, the Ethics Board shall conduct a preliminary inquiry concerning the allegations contained in the complaint. The Board shall afford a person who is the subject of the complaint an opportunity to respond to the allegations in the complaint. The person shall have the right to be represented by counsel, to appear and be heard under oath, and to offer evidence in response to the allegations.
- (D) The person who is the subject of the complaint (respondent) may file with the Ethics Board a response to the complaint within thirty (30) days after his or her receipt of the complaint. The response, if any, must be sent to the person filing the original complaint (complainant) by the Ethics Board within five (5) days after its filing. Within fifteen (15) days after receipt, the complainant may also file with the Ethics Board a response to the respondent's response, which the Ethics Board must send to the respondent within five (5) days after its filing.
- (E) Extensions of time to any of the time limitations specified in this section may be granted by the Ethics Board upon a vote of the majority of the members. If no meeting can be held before such time limit runs out, the chair may extend the time frame until the following meeting. The Ethics Board must give written notice of any extension(s) of time to the respondent and the complainant.
- (F) All proceedings and records relating to a preliminary inquiry being conducted by the Ethics Board shall be confidential until a final determination is made by the Board, except:
1. The Board may turn over to the Commonwealth's Attorney or County Attorney evidence which may be used in criminal proceedings.
 2. If the complainant or alleged violator publicly discloses the existence of a preliminary inquiry, the Board may publicly confirm the existence of the inquiry, and, at its discretion, make public any documents which were issued to either party.
- (G) The Board shall make a determination based on its preliminary inquiry whether the complaint is within its jurisdiction and, if so, whether it alleges a minimal factual basis to constitute a violation of this

Ordinance. If the Board concludes that the complaint is outside of its jurisdiction, frivolous or without factual basis, the Board shall immediately terminate the inquiry, reduce the conclusion to writing, and transmit a copy of its decision to the complainant and to all officers or employees against whom the complaint was filed.

- (H) If the Ethics Board concludes, based upon its preliminary inquiry, that the complaint is within its jurisdiction and contains allegations sufficient to establish a minimal factual basis to constitute a violation, the Board shall notify the officer or employee who is the subject of the complaint and may initiate a hearing to determine whether there has been a violation.
- (I) If a complaint is accepted or prepared pursuant to subsection (A), the Ethics Board must conduct an investigation. From this point on, the complainant may not withdraw his or her complaint, although he or she may request that the Ethics Board either make a finding of no probable cause or no violation.
- (J) In conducting an investigation, the Ethics Board may administer oaths or affirmations, subpoena witnesses, compel their attendance, and require the production of any books or records it deems relevant and material. The Police Department and all City agencies, bodies, officials, and employees are required to respond fully and truthfully to all inquiries and cooperate with all requests of the Ethics Board or its agents relating to an investigation. It is a violation of this code for any [official or employee](#) to deny access to information requested by the Ethics Board in the course of an investigation or a public hearing, except to the extent that such denial is required by federal, state, or local law.
- (K) Nothing in this section may be construed to permit the Ethics Board to conduct an investigation of itself or of any of its members or staff. If the Ethics Board receives a complaint alleging that the Board or any of its members or staff has violated any provision of this code, or any other law, the Board must promptly transmit to the legislative body a copy of the complaint.
- (L) Any person who knowingly files with the Board a false complaint alleging a violation of any provision of this Ordinance by an officer or employee of the City or any City agency shall be guilty of a Class A misdemeanor.

SECTION NO. 39

NOTICE OF HEARINGS

If the City of Glasgow Ethics Board determines that a hearing regarding allegations contained in the complaint is necessary, the Board shall issue an order setting the matter for a hearing within thirty (30) days of the date the order is issued, unless the alleged violator petitions for and the Board consents to a later date. The order setting the matter for hearing, along with a copy of any pertinent regulations of the Board relating to the hearing shall be sent to the alleged violator within twenty-four (24) hours of the time the order setting a hearing is issued.

SECTION NO. 40

HEARING PROCEDURE

- (A) The Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence shall not apply to hearings conducted by the City of Glasgow Ethics Board; however, the hearings shall be conducted in accordance with this section and in accordance with any additional rules and regulations adopted by the Board so as to afford all parties the full range of due process rights required by the nature of the proceedings.
- (B) Prior to the commencement of the hearing, the respondent, or his or her representative, shall have a reasonable opportunity to examine all documents and records obtained or prepared by the Board in

connection with the matter to be heard. The Board shall inform the alleged violator, or his or her representative, of any exculpatory evidence in its possession.

- (C) All testimony in a Board hearing shall be taken under oath, administered by the presiding officer. All parties shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses, to submit evidence, and to be represented by counsel. All witnesses shall have the right to be represented by counsel.
- (D) Any person whose name is mentioned during the hearing and who may be adversely affected thereby may appear personally before the Board, with or without counsel, to give a statement regarding the adverse mention, or may file a written statement regarding the adverse mention for incorporation into the record of the proceeding.
- (E) All hearings of the Ethics Board shall be public unless the members vote to go into executive session in accordance with KRS61.810.
- (F) After the conclusion of the hearing, the Ethics Board shall, as soon as practicable, begin deliberations in executive session for the purpose of reviewing the evidence before it and making a determination whether a violation of this Ordinance has been proven. Within thirty (30) days after completion of the hearing, the Board shall issue a written report of its findings and conclusions.
- (G) If the Board concludes in its report that no violation of this Ordinance has occurred, it shall immediately send written notice of this determination to the officer or employee who was the subject of the complaint and to the party who filed the complaint.
- (H) If the Board concludes in its report that in consideration of the evidence produced at the hearing there is clear and convincing proof of a violation of this Ordinance, the Board shall within fifteen (15) days:
 - 1. Issue an order requiring the violator to cease and desist the violation.
 - 2. In writing, publicly reprimand the violator for the violations and provide a copy of the reprimand to the executive authority and legislative body of the City or governing body of the City agency with which the violator serves.
 - 3. In writing, recommend to the executive authority and the legislative body or governing body of the City agency, that the violator be sanctioned as recommended by the Board, which may include a recommendation for discipline or dismissal, or removal from office.
 - 4. Issue an order requiring the violator to pay a civil penalty of not more than one thousand dollars (\$1,000).
 - 5. Refer evidence of criminal violations of this Ordinance or state laws to the County Attorney or Commonwealth's Attorney of the jurisdiction for prosecution.

SECTION NO. 41
APPEALS

Any person who is found guilty of a violation of any provision of this Ordinance by the City of Glasgow Ethics Board may appeal the finding to the Circuit Court of the county within thirty (30) days after the date of the final action by the Ethics Board by filing a petition with the court against the Board. The Board shall transmit to the clerk of the court all evidence considered by the Board at the public hearing.

SECTION NO. 42
LIMITATION OF ACTIONS

Except when the period of limitation is otherwise established by state law, an action for a violation of this Ordinance must be brought within one (1) year after the violation is discovered.

SECTION NO. 43
ADVISORY OPINIONS

- (A) The City of Glasgow Ethics Board may render advisory opinions concerning matters under its jurisdiction, based upon real or hypothetical facts and circumstances, upon its own initiative, or when requested by any officer or employee of the City or a City agency who is covered by this Ordinance.
- (B) An advisory opinion shall be requested in writing and shall state relevant facts and ask specific questions. The request for an advisory opinion shall remain confidential unless confidentiality is waived, in writing, by the requestor.
- (C) The Board may adopt regulations, consistent with the Kentucky Open Records Law, to establish criteria under which it will issue confidential advisory opinions. All other advisory opinions shall be public documents, except that before an advisory opinion is made public, it shall be redacted so that the identity of any person associated with the opinion shall not be revealed.
- (D) The confidentiality of an advisory opinion may be waived either:
 - 1. In writing by the person who requested the opinion.
 - 2. By majority vote of the members of the Board, if a person makes or purports to make public the substance or any portion of an advisory opinion requested by or on behalf of the person. The Board may vote to make public the advisory opinion request and related materials.
- (E) A written advisory opinion issued by the Board shall be binding on the Board in any subsequent proceeding concerning the facts and circumstances of the particular case if no intervening facts or circumstances arise which would change the opinion of the Board if they had existed at the time the opinion was rendered. However, if any fact determined by the Board to be material was omitted or misstated in the request for an opinion, the Board shall not be bound by the opinion.
- (F) A written advisory opinion issued by the Board shall be admissible in the defense of any criminal prosecution or civil proceeding for violations of this Ordinance for actions taken in reliance on that opinion.
- (G) Advisory opinions will be indexed and maintained on file by the Ethics Board, the City Clerk and will also be available on the city website, with unnecessary financial and personal details redacted. Officers, employees, and businesses should be notified about advisory opinions that may directly affect their conduct.

SECTION NO. 44
REPRISALS AGAINST PERSONS DISCLOSING VIOLATIONS PROHIBITED

- (A) No officer or employee of the City or any City agency shall subject to reprisal, or directly or indirectly use, or threaten to use, any official authority or influence in any manner whatsoever which tends to discourage, restrain, deter, prevent, interfere with, coerce, or discriminate against any person who in good

faith reports, discloses, divulges, or otherwise brings to the attention of the City of Glasgow Ethics Board or any other agency or officer of the City or the Commonwealth any facts or information relative to an actual or suspected violation of this Ordinance.

(B) This section shall not be construed as:

1. Prohibiting disciplinary or punitive action if an officer or employee of the City or any City agency discloses information which he or she knows:
 - a. To be false or which he or she discloses with reckless disregard for its truth or falsity.
 - b. To be exempt from required disclosure under the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884.
 - c. Is confidential under any other provision of law.

SECTION NO. 45

PENALTIES

- (A) Except when another penalty is specifically set forth in this Ordinance or by state or federal law, any officer or employee of the City or any City agency who is found by the City of Glasgow Ethics Board to have violated any provision of this Ordinance shall be deemed guilty of a civil offense and may be subject to a civil fine imposed by the Ethics Board not to exceed one thousand dollars (\$1,000), which may be recovered by the City in a civil action in the nature of debt if the offender fails to pay the penalty within a prescribed period of time.
- (B) In addition to all other penalties which may be imposed under this Ordinance, any officer or employee of the City or any City agency who is found by the Ethics Board to have violated any provision of this Ordinance shall forfeit to the City or the City agency an amount equal to the economic benefit or gain which the officer or employee is determined by the Board to have realized as a result of the violation. The amount of any forfeiture may be recovered by the City in a civil action in the nature of debt if the offender fails to pay the amount of the forfeiture within a prescribed period of time.
- (C) In addition to all other penalties which may be imposed under this Ordinance, a finding by the Ethics Board that an officer or employee of the City or any City agency is guilty of a violation of this Ordinance shall be sufficient cause for removal, suspension, demotion, or other disciplinary action by the executive authority of the City or City agency, or by any other officer or agency having the power of removal or discipline. Any action to remove or discipline any officer or employee for a violation of this Ordinance shall be taken in accordance with all applicable Ordinances and regulations of the City and all applicable laws of the Commonwealth.