

**CITY OF HIGHLAND HEIGHTS, KENTUCKY**

**ORDINANCE NO. 01-2023**

**AN ORDINANCE AMENDING THE CITY OF HIGHLAND HEIGHTS CODE OF ORDINANCES CHAPTER 36: CODE OF ETHICS**

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HIGHLAND HEIGHTS, KENTUCKY AS FOLLOWS:

Section I

City of Highland Heights Ordinances Chapter 36 is amended to as follows:

Section 36.05: ETHICS COMMISSION INTERLOCAL AGREEMENT: NORTHERN KENTUCKY REGIONAL ETHICS AUTHORITY

~~(A) An Ethics Commission is created which shall have the power to enforce all provisions of the Code of Ethics adopted in this chapter.~~

~~(B) The Commission shall be composed of three members appointed by the Mayor with the approval of the City Council. Members must be at least 21 years of age.~~

~~(C) Decisions of the City Ethics Commission regarding violations may be appealed to the County Circuit Court.~~

~~(D) The Ethics Commission shall receive, hear and investigate complaints concerning violations of this Code of Ethics. Any instance in which the Commission finds that violation of the Code of Ethics exists, it may impose the appropriate penalty. In hearing and investigating complaints concerning violations of this Code of Ethics, the Commission shall have the power to subpoena witnesses, administer oaths, take testimony and require other production of evidence.~~

A. Interlocal Cooperation Agreement

(1) The City adheres to the provisions herein; so adopted as to meet requirements set forth by KRS 65.003.

(2) Attached hereto and incorporated herein by reference is an Interlocal Cooperation Agreement authorized by KRS 65.210, et seq., which the Mayor is hereby authorized and directed to sign on behalf of the City and provisions of this ordinances shall be enforced by the Northern Kentucky Regional Ethics Authority, herein referred to as NKREA, and the Northern Kentucky Ethics Enforcement Committee according to the provisions thereof.

B. Retaliation

(1) No Official, Board member or Employee of the City or any City agency shall subject to reprisal retaliation , 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 Northern Kentucky Ethics Enforcement Committee or any other agency or official of the City or the Commonwealth any facts or information relative to an actual or suspected violation of this ordinance.

(2) This section shall not be construed as prohibiting disciplinary or punitive action if an Official, Board member, or Employee of the City or any City agency discloses information which he or she knows to be false or which he or she discloses with reckless disregard for its truth, or falsity.

#### C. Severability

If any provision of this ordinance is deemed by a court of competent jurisdiction to be unenforceable or unconstitutional, the remaining provisions of this ordinance shall continue in full force and effect.

#### D. Conflicting Ordinances Repealed

All other ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.

#### Section 36.06 FILING AN INVESTIGATION COMPLAINT.

~~—(A) All complaints alleging any violation of the provisions of this chapter shall be submitted to the Ethics Commission. All complaints shall be in writing, signed by the complainant, and shall meet any other requirements established by the Commission. The Commission shall, within a reasonable time, acknowledge receipt of a complaint to the complainant and forward a copy of the complaint to any officer or employee who is the subject of the complaint.~~

~~—(B) Within 30 days of the receipt of the complaint, the Commission shall conduct a preliminary inquiry. The Commission shall afford a person who is the subject of the complaint an opportunity to respond. 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.~~

~~—(C) The Commission shall make a determination based on its preliminary inquiry whether the complaint is within its jurisdiction and, if so, whether there is reasonable cause to believe that the officer or employee has violated this chapter. If the Commission finds that the complaint is outside its jurisdiction, frivolous or without factual basis, the Commission 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.~~

~~—(D) If the Commission concludes, based upon its preliminary inquiry, that the complaint is within its jurisdiction and there is reasonable cause to believe that a violation occurred, the Commission shall notify the officer or employee who is the subject of this complaint and shall initiate a hearing to determine whether there has been a violation.~~

Pursuant to the Interlocal Agreement referenced in Section 36.06, the Northern Kentucky Regional Ethics Authority, hereinafter NKREA, will establish the Northern Kentucky Ethics Enforcement Committee, hereinafter NKEEC. The NKEEC is hereby designated all powers and authorities necessary to organize itself and adopt rules of procedures as deemed necessary to

accomplish these responsibilities which includes, but is not limited to, filing an investigation complaint.

#### Section 36.07 NOTICE OF HEARING

~~—If the Commission determines that a hearing regarding allegations contained in the complaint is necessary, the Commission shall issue an order, and mail it to the alleged violator within a reasonable time, setting the matter for a hearing within 30 days of the date the order is issued, unless the alleged violator petitions the Commission for a later date.~~

Pursuant to the Interlocal Agreement referenced in Section 36.06, the Northern Kentucky Regional Ethics Authority, hereinafter NKREA, will establish the Northern Kentucky Ethics Enforcement Committee, hereinafter NKEEC. The NKEEC is hereby designated all powers and authorities necessary to organize itself and adopt rules of procedures as deemed necessary to accomplish these responsibilities which includes, but is not limited to, notice of any hearing set before the NKEEC.

#### Section 36.08. HEARING PROCEDURE.

~~—(A) The State Rules of Civil Procedure and the State Rules of Evidence shall not apply to hearings conducted by the Commission; however, the hearing shall be conducted in accordance with this section and in accordance with any additional rules and regulations adopted by the Commission 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 Commission hearing, the alleged violator, or his or her representative, shall have a reasonable opportunity to examine all documents and records prepared by the Commission in connection with the matters to be heard. The Commission shall inform the alleged violator, or his or her representative, of any exculpatory evidence in its possession.~~

~~—(C) All testimony in a Commission 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 Commission, 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) The Commission may, upon its own motion or that of any party, grant a continuance of a hearing for the receipt of taking of further evidence. However, the Commission shall make all efforts to complete the hearing and taking of the evidence at the earliest possible time so as to not unduly burden the alleged violator or any other interested party.~~

~~—(F) After conclusion of the hearing, the shall, as soon as practicable, begin deliberations for purpose of reviewing the evidence in making a determination of whether a violation of this chapter has been proven. Within 30 days after the conclusion of the hearing, the Commission shall issue a written report of its findings and conclusions.~~

~~—(G) If the Commission concludes in its report that no violation has occurred, it shall immediately send written notice of this determination to the officer or employee who was the subject of the complaint, to the party who filed the complaint, to the Mayor, and to the City Council or the governing board of the appropriate city agency.~~

~~—(H) If the Commission concludes in its report that, based upon the evidence, there is clear and convincing proof of a violation, the Commission may do one or more of the following:~~

~~—(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 Mayor, City Council and the governing board of the appropriate city agency;~~

~~—(3) In writing, recommend to the Mayor and City Council that the violator be sanctioned as recommended by the Commission, which may include discipline, dismissal or removal from office;~~

~~—(4) Issue an order requiring the violator to pay, within a specified period of time, a civil penalty, as set forth in this chapter; and/or~~

~~—(5) Refer evidence of criminal violation of this chapter or state law to the County Attorney or Commonwealth's Attorney of the jurisdiction for prosecution.~~

Pursuant to the Interlocal Agreement referenced in Section 36.06, the Northern Kentucky Regional Ethics Authority, hereinafter NKREA, will establish the Northern Kentucky Ethics Enforcement Committee, hereinafter NKEEC. The NKEEC is hereby designated all powers and authorities necessary to organize itself and adopt rules of procedures as deemed necessary to accomplish these responsibilities which includes, but is not limited to, any establishing a hearing procedure.

#### Section 36.09. Appeals.

~~Any person who is found guilty of a violation may appeal the finding to the Circuit Court within 30 days after the date of the final action of the Ethics Commission by filing a petition with the court against the Commission.~~

Pursuant to the Interlocal Agreement referenced in Section 36.06, the Northern Kentucky Regional Ethics Authority, hereinafter NKREA, will establish the Northern Kentucky Ethics Enforcement Committee, hereinafter NKEEC. The NKEEC is hereby designated all powers and authorities necessary to organize itself and adopt rules of procedures as deemed necessary to accomplish these responsibilities which includes, but is not limited to, any appeal process.

Section II

That this Ordinance shall be signed by the Mayor, attested by the City Clerk/Treasurer and recorded. Same shall be in effect at the earliest time provided by law.

First reading this 17th day of January, 2023.

Second reading this 7th day of February, 2023.

  
MAYOR GREGORY V. MEYERS

ATTEST:

  
JEANNE M. PETTIT  
CITY CLERK/TREASURER  
Ord 01-2023