

1 **CHAPTER 2-7. - ETHICS AND FINANCIAL DISCLOSURE.**

3 **ARTICLE 1. - GENERAL PROVISIONS.**

5 **§ 2-7-1 - DECLARATION OF POLICY.**

6 (A) It is the policy of the City that the proper operation of democratic government requires that public  
7 officials and employees be independent, impartial and responsible to the people; that governmental  
8 decisions and policy be made in proper channels of the governmental structure; that public office not  
9 be used for personal gain; and that the public have confidence in the integrity of its government. In  
10 recognition of these goals, a code of ethics for all City officials and employees is adopted.

11 (B) This code has the following four purposes:

- 12 (1) To encourage high ethical standards in official conduct by City officials and employees;
- 13 (2) To establish guidelines for ethical standards of conduct for all such officials and employees by  
14 setting forth those acts or actions that are incompatible with the best interests of the City;
- 15 (3) To require disclosure by such of official and employees of private financial or other interests in  
16 matters affecting the City; and
- 17 (4) To serve as a basis for disciplining those who refuse to abide by its terms.

18 (C) The provisions of this chapter shall not apply to political contributions, loans, expenditures, reports  
19 or regulation of political campaigns or the conduct of candidates in such campaigns.

20 Source: 1992 Code Section 2-3-1; Ord. 031204-9; Ord. 031211-11.

21 **§ 2-7-2 - DEFINITIONS.**

22 In this chapter:

- 23 (1) **AFFECTED** means in the case of a person, entity or property, means reasonably likely to be  
24 subject to a direct economic effect or consequence, either positive or negative, as a result of the  
25 vote or decision in question. For instance, a person or entity owning real property, entering into  
26 a contract with the City, or seeking a permit or franchise is "affected" by votes or decisions such  
27 as zoning of the property, approval of the contract, or granting of the permit. Affected does not  
28 include those persons or entities who are subject to an indirect or secondary effect from official  
29 action. Creditors, independent contractors, or guarantors of a person "affected" by a vote or  
30 decision are not also deemed to be "affected" by virtue of their relationship with the affected  
31 person. The vote or decision need not be the only producing cause of the economic effect or  
32 consequence reasonably likely to result. In determining whether a person, entity or property is  
33 or was "affected by" a vote or decision, it shall not be necessary to prove the actual existence or  
34 occurrence of an economic effect or consequence if such effect or consequence would be  
35 reasonably expected to exist or occur. Additionally, a vote or decision to place a matter on a  
36 ballot is deemed to affect a person, entity or property to the same extent that the results of the  
37 election would effect the person, entity or property.
- 38 (2) **CITY EMPLOYEE** or **EMPLOYEE** means any person employed by the City but does not  
39 include independent contractors hired by the City.

- (3) CITY OFFICIAL or OFFICIAL, unless otherwise expressly defined, means the mayor, members of the city council, municipal court judges (including substitute judges), city manager, assistant city managers, city clerk, deputy city clerks, city attorney, deputy city attorneys, all department heads or deputy department heads, whether such person is salaried, hired or elected, and all other persons holding positions designated by the City Charter, as it may be amended from time to time. City official, unless otherwise expressly defined, includes individuals appointed by the mayor and city council to all City commissions, committees, boards, task forces, or other City bodies unless specifically exempted from this chapter by the city council.
- (4) DECISION means any ordinance, resolution, contract, franchise, formal action or other matter voted on by the city council or other City board or commission, as well as the discussions or deliberations of the council, board, or commission which can or may lead to a vote or formal action by that body. A decision of a City employee means any action in which the employee exercises discretionary authority, including but not limited to the issuance of permits, imposition or collection of fines or fees, authorizations for expenditures, and other non-ministerial acts.
- (5) DISCRETIONARY AUTHORITY means the power to exercise any judgment in a decision or action.
- (6) ENTITY means a sole proprietorship, partnership, limited partnership, firm, corporation, professional corporation, holding company, joint stock company, receivership, trust or any other entity recognized by law through which business may be conducted, but does not include a governmental body.
- (7) HARM means anything reasonably regarded as loss, disadvantage, or injury, including harm to another person in whose welfare the person affected is interested.
- (8) INCIDENTAL INTEREST means an interest in a person, entity or property which is not a substantial interest and which has insignificant value, or which would be affected only in a de minimis fashion by a decision. This chapter does not establish dollar limits on the terms "insignificant value" and "de minimis," which shall have their usual meanings and be subject to interpretation on a case by case basis.
- (89) MINISTERIAL ACT means an act performed in a prescribed manner and not requiring the exercise of any judgment or discretion.
- (109) REMOTE INTEREST means an interest of a person or entity, including a City official or employee, who would be affected in the same way as the general public. The interest of a councilmember in the property tax rate, general City fees, City utility charges, or a comprehensive zoning ordinance or similar decisions is incidental to the extent that the councilmember would be affected in common with the general public.
- (1140) SUBSTANTIAL INTEREST means an interest in another person or an entity if: the interest is ownership of five percent or more of the voting stock, shares or equity of the entity or ownership of \$5,000 or more of the equity or market value of the entity; or funds received by the person from the other person or entity either during the previous 12 months or the previous calendar year equaled or exceeded \$5,000 in salary, bonuses, commissions or professional fees or \$20,000 in payment for goods, products or nonprofessional services, or 10 percent of the person's gross income during that period, whichever is less; the person serves as a corporate officer or member of the board of directors or other governing board of the for-profit entity other than a corporate entity owned or created by the city council; or the person is a creditor, debtor, or guarantor of the other person or entity in an amount of \$5,000 or more except that a home mortgage loan for the person's homestead or a loan or lease of a personal automobile shall

not be deemed a substantial interest in the creditor or guarantor if entered into at a market rate with a commercial lending institution before the previous 12 months.

(1244) SUBSTANTIAL INTEREST IN REAL PROPERTY means an interest in real property which is an equitable or legal ownership with a market value of \$5,000 or more.

Source: 1992 Code Section 2-3-2; Ord. 031204-9; Ord. 031211-11; Ord. 20110428-047.

## ARTICLE 2. - ETHICS REVIEW COMMISSION.

### § 2-7-26 - FUNCTIONS.

The Ethics Review Commission has jurisdiction over this chapter; Section 2-1-24 (Conflict of Interest and Recusal); Chapter 2-2 (Campaign Finance); Chapter 4-8 (Regulation of Lobbyists); Article II, Section 9, of the City Charter (Interference in Personnel Matters); and Article III, Section 8, of the City Charter (Limits on Campaign Contributions and Expenditures). The commission shall hear and rule on sworn complaints alleging violations of the provisions within the commission's jurisdiction. The city manager shall provide funding for all necessary and reasonable functions of the commission in fulfilling its duties.

Source: 1992 Code Section 2-3-26; Ord. 031204-9; Ord. 031211-11; Ord. 20080214-012; Ord. 20120426-084.

### § 2-7-27 - LIMIT ON THE COMMISSION'S JURISDICTION.

Notwithstanding any other provision of the City Code, the Ethics Review Commission may not hear or initiate a sworn complaint alleging a violation of Article 4 (Code of Ethics) against a member of the City's classified municipal civil service system or a member of a state civil service system.

Source: Ord. No. 20150129-021, Pt. 1, 2-9-15.

### § 2-7-28 - COMMISSION ACTION ON INFORMATION RECEIVED FROM THE AUDITOR.

If the commission receives information from the city auditor under Subsections (I) or (J) of Section 2-3-6 (Powers and Duties), the commission shall consider the information at the next feasible meeting of the commission. The chair of the commission shall cause a notice to be sent to the person who is the subject of the investigation and any person or entity mentioned or referenced as being involved in the alleged inappropriate conduct no later than the 14th day before the date scheduled for the meeting. The person who is the subject of the investigation or any person or entity mentioned or referenced as being involved in the alleged inappropriate conduct may present sworn testimony and other information relating to the investigation at the meeting. A commission member may not receive an ex parte communication regarding the information, and shall treat the matter in the same manner as a sworn complaint under Section 2-7, Article 3 (Violations: Complaints and Hearing Procedures). The commission may take any action on the information that is within its jurisdiction, including dismissing the matter. The commission shall forward notification of its findings and action to the city manager or appropriate authority. The city manager or appropriate authority has sole authority to determine disciplinary action.-

Source: Office of the City Auditor with Law edits, 11/06/2015

122 § 2-7-29 - REPORTS; OPINIONS.

123 The commission shall receive reports of briefings regarding this chapter of newly appointed and  
124 employed board and commission members and employees and copies of public opinions related to this  
125 chapter that have been issued by the city attorney since the last meeting.

126 Source: 1992 Code Section 2-3-29; Ord. 031204-9; Ord. 031211-11; Ord. 20080214-012.

127 § 2-7-30 - DUTIES.

128 (A) The Ethics Review Commission shall, in addition to its other duties:

- 129 (1) prescribe forms for reports, statements, notices, and other documents required by the provisions  
130 within the commission's jurisdiction;
- 131 (2) prepare and publish materials explaining the duties of individuals subject to the provisions  
132 within the commission's jurisdiction;
- 133 (3) review all statements and reports filed with the commission in order to obtain compliance with  
134 the provisions within the commission's jurisdiction;
- 135 (4) accept and file any information voluntarily supplied that exceeds the requirements of the  
136 provisions within the commission's jurisdiction;
- 137 (5) preserve statements and reports filed with the commission for a period of five years from the  
138 date of receipt;
- 139 (6) review the provisions within the commission's jurisdiction and make appropriate  
140 recommendations to the city council concerning the provisions within the commission's  
141 jurisdiction, and perform an annual review and evaluation of the dollar limits established in  
142 Chapter 2-2 (Campaign Finance) and make recommendations to the city council as to those  
143 limits;
- 144 (7) review all public opinions related to the provisions within the commission's jurisdiction that are  
145 issued by the city attorney;
- 146 (8) conduct hearings in accordance with the provisions of this chapter and the commission's rules  
147 on sworn complaints alleging violations of the provisions within the commission's jurisdiction;
- 148 (9) schedule and oversee the forums among candidates in City elections provided for in Chapter 2-2  
149 (Campaign Finance).

150 (B) The commission may:

- 151 (1) prepare reports and studies to advance the purposes of the provisions within the commission's  
152 jurisdiction;
- 153 (2) request the city council and city manager to provide such assistance as it may require in the  
154 discharge of its duties; and
- 155 (3) make recommendations to the city manager concerning the role of the ombudsman concerning  
156 this chapter.

157 Source: 1992 Code Section 2-3-30; Ord. 031204-9; Ord. 031211-11; Ord. 20120426-084.

158 § 2-7-31 - STAFFING.

- 159 (A) The Ethics Review Commission shall be assigned staff by the city attorney to assist in its duties.
- 160 (B) When complaints are filed related to the mayor, city councilmembers, city manager, city attorney,  
161 department heads and deputies, independent legal counsel shall be utilized to advise the commission  
162 and participate in hearings.
- 163 (C) (1) Any City official, employee or candidate for City elective office may request, and the city  
164 attorney shall thereupon promptly issue, a written opinion concerning the meaning or effect of  
165 any section, word, or requirement of this chapter as it affects such official, employee or  
166 candidate. At the request of such official, employee or candidate the city attorney shall render a  
167 confidential opinion, not subject to public disclosure.
- 168 (2) If a complaint is subsequently filed with the commission about any specific action, omission, or  
169 alleged conflict of interest which has been the subject, whole or in part, of a city attorney's  
170 opinion, the independent legal counsel shall act as commission attorney on said complaints.
- 171 (D) The city clerk shall make the reporting and complaint forms and information developed by the  
172 Commission available to the public and shall assist citizens in complying with filing procedures.

173 Source: 1992 Code Section 2-3-31; Ord. 031204-9; Ord. 031211-11; Ord. 20060209-003.

174 § 2-7-32 - RULES.

175 The Ethics Review Commission may adopt, amend, and rescind rules of procedure to carry out the  
176 provisions of this chapter. Such rules shall be consistent with this chapter and other applicable law.

177 Source: 1992 Code Section 2-3-32; Ord. 031204-9; Ord. 031211-11.

178 ARTICLE 3. - VIOLATIONS; COMPLAINT AND HEARING PROCEDURES.

179

180 § 2-7-41 - COMPLAINTS.

181 (A) In this article:

- 182 (1) COMPLAINANT means a person filing a sworn complaint; and
- 183 (2) RESPONDENT means a person who is alleged in a sworn complaint to have violated a  
184 provision within the jurisdiction of the Ethics Review Commission.

185 (B) A sworn complaint alleging a violation of a provision within the jurisdiction of the Ethics Review  
186 Commission shall specify each code section or charter provision alleged to have been violated.

187 (C) A complaint alleging a violation of ~~a provision within the jurisdiction of the commission Sections 2-~~  
188 ~~7-62 (Standards of Conduct) through 2-7-65 (Substantial Interest of Relative)~~ must be filed with the  
189 city clerk within two years from the date of the action alleged as a violation, and not afterward.

190 (D) On the sworn complaint of any person filed with the city clerk's office or on the commission's own  
191 initiative, the commission shall consider possible violations of a provision within the jurisdiction of  
192 the commission by City officials and employees, former City officials and employees, candidates for  
193 election to City offices, and other persons subject to the provisions set forth in Section 2-7-26  
194 (Functions). The commission may not consider complaints against its own members.

195 (E) Not later than ~~three~~ five working days after the city clerk receives a sworn complaint, the city clerk  
196 shall acknowledge the receipt of the complaint to the complainant and provide a copy of the

| Source: Office of the City Auditor with Law edits, 11/06/2015

complaint to the city attorney, the chair of the commission, and the respondent. The city clerk shall also send a copy of the complaint to any person or entity identified as involved in the alleged inappropriate conduct if the person or entity's name and contact information is listed on the complaint form.

(F) Not later than five working days after receipt of a complaint from the city clerk, the chair of the commission shall make an initial determination as to whether the complaint is within the commission's jurisdiction.

(1) If the chair determines that a complaint is within the commission's jurisdiction, the chair shall set the complaint for preliminary hearing at the next feasible commission meeting. At least 10 working days prior to the meeting, the chair shall cause a written notice of the date of the preliminary hearing to be sent to Not later than the 10th working day after receipt of a complaint by the chair, the commission shall notify in writing the complainant and the respondent, of a date for a preliminary hearing. If the commission does not hold a preliminary hearing within 20 working days of receipt of the complaint by the chair, it shall notify the complainant of the reasons for the delay and shall subsequently give the complainant the appropriate notification. For good cause, the chair may grant a postponement request made by the complainant or the respondent.

(2) If the chair determines that a complaint is not within the commission's jurisdiction, the commission shall review the chair's jurisdictional determination at the next feasible commission meeting and may overturn the chair's determination.

(a) Not later than five working days after the chair determines that a complaint is not within the commission's jurisdiction, the chair shall cause a written notification of such initial determination to be sent to the complainant and the respondent.

(b) If the commission determines that a complaint is not within its jurisdiction but is within the city auditor's investigatory jurisdiction, the commission shall refer the complaint to the city auditor for possible investigation.

(c) If the commission determines that a complaint is not within its jurisdiction, the chair shall cause a written notification of the commission's final jurisdictional determination to be sent to the complainant and the respondent. If applicable, the notification shall state that the commission has referred the complaint to the city auditor for possible investigation.

(d) If the commission overturns the chair's initial determination and determines that a complaint is within the commission's jurisdiction, the complaint shall be set for preliminary hearing in accordance with the procedures set forth in Subsection (F)(1).

(G) The commission may consider a possible violation of a provision within the jurisdiction of the commission on the commission's own initiative. Within seven-10 working days of the commission's decision to consider a possible violation, the commission shall draft a written complaint specifying each code section or charter provision alleged to have been violated, shall file a copy of the complaint with the city clerk, and shall provide a copy of the complaint to the city attorney and to the respondent. A complaint initiated by the commission need not be sworn. The chair shall set the complaint for preliminary hearing at the next feasible commission meeting. At least 10 working days prior to the meeting, the chair shall cause a written notice to be sent to the respondent notifying the respondent of the date of the preliminary hearing. For good cause, the chair may grant a postponement request made by the respondent. Not later than the 15th working day after the drafting of the complaint, the commission shall notify in writing the respondent of the date for the preliminary hearing.

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242 ~~Editor's note — As set forth in Ord. 20120426-084. Intended text is probably "...a copy of the~~  
243 ~~complaint." Future legislation will correct the provision if needed.~~

244 Source: 1992 Code Section 2-3-41; Ord. 031204-9; Ord. 031211-11; Ord. 20120426-084.

245 § 2-7-62 - STANDARDS OF CONDUCT.

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- 246 (A) No City official or employee shall transact any business in his official capacity with any entity in  
247 which he has a substantial interest.
- 248 (B) No City official or employee shall formally appear before the body of which the official or employee  
249 is a member while acting as an advocate for himself or any other person, group, or entity.
- 250 (C) No salaried City official or employee shall represent, for compensation, any other person, group or  
251 entity before any department, commission, board or committee of the City.
- 252 (D) No salaried City official or employee shall represent, directly or indirectly, any other person, group  
253 or entity in any action or proceeding against the interests of the City, or in any litigation in which the  
254 City or any department, commission, or board or committee thereof is a party; provided, however,  
255 that nothing herein shall limit the authority of the city attorney and his staff to represent the City, its  
256 boards, commissions, committees and officers and particularly the Human Rights Commission in the  
257 discharge of their duties, including equal employment opportunity cases.
- 258 (E) No salaried City official or employee shall represent, directly or indirectly, any person, group or  
259 entity in any action or proceeding in the municipal courts of the City which was instituted by a City  
260 official or employee in the course of official duties.
- 261 (F) No City official shall represent any person, group or entity in any action or proceeding in the  
262 municipal courts of the City which was instituted by or arising from a decision of a board,  
263 commission, committee, task force or other body on which the official serves.
- 264 (G) No City official or employee shall accept or solicit any gift or favor, that might reasonably tend to  
265 influence that individual in the discharge of official duties or that the official or employee knows or  
266 should know has been offered with the intent to influence or reward official conduct
- 267 (H) (1) No City official or employee shall solicit or accept other employment to be performed or  
268 compensation to be received while still a City official or employee, if the employment or  
269 compensation could reasonably be expected to impair independence in judgment or performance of  
270 City duties.
- 271 (2) If a City official or employee accepts or is soliciting a promise of future employment from any  
272 person or entity who has a substantial interest in a person, entity or property which would be  
273 affected by any decision upon which the official or employee might reasonably be expected to  
274 act, investigate, advise, or make a recommendation, the official or employee shall disclose that  
275 fact to the board or commission on which he serves or to his supervisor and shall take no further  
276 action on matters regarding the potential future employer.
- 277 (I) No salaried City official or employee shall use his official position to secure a special privilege or  
278 exemption for himself or others, to harm another, or to secure confidential information for any  
279 purpose other than official responsibilities.
- 280 (J) No City official or employee shall use City facilities, personnel, equipment or supplies for private  
281 purposes, except to the extent such are lawfully available to the public.
- 282 (K) No City official or employee shall accept remuneration, directly or indirectly, for campaign work  
283 relating to an item placed on the ballot if that individual served on the body which exercised

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284 discretionary authority in the development of the ballot item and participated in the discussion or  
285 voted on the item.

286 (L) No salaried City official and certain City employees to include the mayor, councilmembers, the city  
287 manager, assistant city managers, the city clerk, deputy city clerks, council aides, municipal court  
288 clerk, deputy municipal court clerks, municipal judges (including substitute judges), the city auditor,  
289 assistants to the city auditor, the city attorney, deputy city attorneys, assistant city attorneys,  
290 purchasing agents and those employees with the authority to purchase or contract for the City, all  
291 department heads, deputy department heads, and the spouse of each of the above, shall solicit nor  
292 propose on a contract, enter into a contract or receive any pecuniary benefit from any contract with  
293 the City. This prohibition does not include any employment contract which may be authorized for  
294 the official, a contract of sale for real property or a contract for services which are available to all  
295 citizens.

296 (M) For a period of two years after leaving office, a former mayor or councilmember may not solicit or  
297 propose on a contract with the City or enter into a contract with the City for the sale to the City of  
298 any goods or services other than real estate. This subsection does not apply to a former mayor or  
299 councilmember who had a business relationship with the City in the six months immediately  
300 preceding taking the office of mayor or councilmember if the solicitation or proposal is on behalf of  
301 the same business.

302 (N) For a period of two years after leaving office, a former mayor or councilmember, members of their  
303 family, or anyone acting on their behalf, may not sell or lease any real estate to the City unless the  
304 city council has designated the property for acquisition and would otherwise have to acquire the  
305 property through its power of eminent domain.

306 (O) No City official or employee shall engage in fraud or abuse, as those terms are defined in Chapter 2-  
307 3 of City Code (City Auditor).

308 Source: 1992 Code Section 2-3-62; Ord. 031204-9; Ord. 031211-11; Ord. 20110428-047.

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312 **There are no proposed changes to the remainder of Chapter 2-7, and these sections are therefore**  
313 **omitted.**