

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING CITY CODE CHAPTERS 2-3 AND 2-7  
RELATING TO THE DUTIES AND FUNCTIONS OF THE CITY AUDITOR  
AND THE ETHICS REVIEW COMMISSION, THE CODE OF ETHICS, AND  
FINANCIAL DISCLOSURE; AND CREATING AN OFFENSE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** Subsection (B) of City Code Section 2-3-4 (*Independence, Objectivity, and Audit Standards*) is amended to read:

(B) The city auditor:

- (1) shall organize the city auditor's office as necessary to perform the city auditor's responsibilities and duties under this chapter;
- (2) may not be actively involved in a campaign for a City elective office [~~partisan City political activity~~];
- (3) may not conduct or supervise or allow an employee to conduct or supervise an audit of an activity for which the person was responsible or in which the person was employed during the two years before the date of the audit;
- (4) shall follow:
  - (a) ~~[adhere to]~~ government auditing standards established by the Comptroller General of the United States to conduct the city auditor's work and be independent as defined by the standards; and
  - (b) accepted industry standards to conduct investigative work such as the general and qualitative standards under the "Quality Standards for Investigations" established by the Council of the Inspectors General on Integrity and Efficiency; and
- (5) is responsible for selection of an audit area and may consider requests from council and the city manager in selecting an audit area.

**PART 2.** City Code Section 2-3-5 (*Powers and Duties*) is amended to read:

1       **§ 2-3-5 POWERS AND DUTIES.**

2       (A) In this section:

3           (1) ABUSE means the use of a City office, employment, contract, or other  
4           position with the City to obtain personal gain or favor from a citizen or  
5           other City employee or vendor.

6           (2) FRAUD includes, but is not limited to:

7               (a) the unauthorized use of a City resource for personal gain by  
8               deception, including by forgery or by altering a document;

9               (b) the misappropriation of funds, supplies, or other City resources,  
10              through methods including, but not limited to theft, embezzlement,  
11              or misrepresentation;

12              (c) the intentional improper handling of or reporting of money or a  
13              financial transaction;

14              (d) the intentional improper destruction or removal of records or other  
15              City resources; or

16              (e) the use of official City information for personal benefit.

17          (3) WASTE means:

18              (a) the grossly inefficient or uneconomical use of a City asset or  
19              resource; or

20              (b) the unnecessary incurring of costs to the City as a result of a grossly  
21              inefficient practice, system, or control.

22          (4) PERSONAL BENEFIT means anything reasonably regarded as economic  
23          gain or advantage, including benefit to another person in whose welfare the  
24          beneficiary is interested.

25          (B) [(A)] The city auditor shall examine City operations to identify an opportunity  
26          to reduce costs, increase efficiency, quality, and effectiveness, or otherwise  
27          improve management of a City function, program, service, or policy.

28          (C) [(B)] The city auditor shall communicate directly with the council audit  
29          committee and the council, attend council audit and finance committee  
30          meetings, and regularly meet with council.

1        (D) ~~[(C)]~~ The city auditor shall establish audit policies and procedures consistent  
2                with government auditing standards established by the Comptroller General of  
3                the United States, and applicable law and regulation.

4        (E) ~~[(D)]~~ The city auditor may conduct a performance or financial-related audit,  
5                investigation, and other audit work to determine if:

6                (1) a current City function, program, service, or policy:

7                        (a) is authorized by the council or other legal authority; and

8                        (b) is conducted to accomplish its intended objective;

9                (2) a function, program, service, or policy is effective in achieving its stated or  
10                intended result or benefit, including the level of effectiveness;

11                (3) an audited function, program, service, or policy effectively, economically,  
12                and efficiently acquires, protects, and uses its resources, including  
13                personnel, property, and space;

14                (4) a function, program, service, or policy complies with a mandate regarding  
15                efficiency, economy, effectiveness, or expenditure of public funds adopted  
16                by council or other legal authority;

17                (5) management for a function, program, service, or policy has adopted an  
18                administrative and accounting control system to effectively, economically,  
19                and efficiently carry on the function or program; and

20                (6) a function, program, service, or policy is providing financial and  
21                performance reports that accurately, fully, and fairly disclose all  
22                information required by law or other criteria necessary to:

23                        (a) ascertain the nature and scope of the function, program, service, or  
24                        policy; and

25                        (b) establish a proper basis for evaluating the results of the function,  
26                        program, service, or policy.

27        (F) ~~[(E)]~~ When required or implied by audit objectives, the city auditor shall  
28                determine the cause of an inefficient, uneconomical, or ineffective function,  
29                program, service, or policy.

30        (G) ~~[(F)]~~ The city auditor may conduct follow-up review determined to be  
31                necessary by the city auditor to verify a report or plan from the city manager in

1 response to an audit recommendation. The city auditor shall review a follow-  
2 up report or plan from the city manager in response to an audit  
3 recommendation.

4 (H) [(G)] If the city auditor determines that a city employee or official may have  
5 violated the law, or may be reasonably anticipated to commit a violation, the  
6 city auditor shall:

7 (1) consult with and obtain advice from the city attorney;

8 (2) promptly ~~immediately~~ report the suspected violation to the appropriate  
9 authority; and

10 (3) if the suspected violation is criminal, notify the appropriate chief  
11 prosecuting authority.

12 (I) [(H)] The city auditor may hire a certified or registered public accountant,  
13 qualified management consultant, or other professional expert necessary to  
14 perform the city auditor's duties, in compliance with the City's procurement  
15 requirements.

16 (J) The city auditor shall manage a reporting system through which a City  
17 employee or a member of the public may submit an allegation of wrongdoing.  
18 The person making an allegation is not required to provide the person's name.  
19 An allegation may include an allegation of:

20 (1) fraud, waste, or abuse;

21 (2) a violation of personnel policy; or

22 (3) a violation of law, including a violation of City Code Chapter 2-7 (*Ethics*  
23 *and Financial Disclosure*).

24 (K) This subsection applies to an allegation of a violation of City Code Chapter 2-  
25 7, Article 4 (*Code of Ethics*) or City Charter Article II, Section 9 (*Interference*  
26 *in Personnel Matters*) by a member of the city council, a member of a council  
27 member's direct staff, or the city manager.

28 (1) The city auditor shall hire an external party to investigate the allegation if  
29 the city auditor finds that an allegation merits an investigation.

30 (2) The city auditor shall submit the results of a substantiated external  
31 investigation to the Ethics Review Commission by filing a sworn

1 complaint with the commission under City Code Section 2-7-41  
2 (Complaints).

3 (a) Not later than the fifth working day prior to filing the complaint with  
4 the Ethics Review Commission, the city auditor shall send a written  
5 notice to the person who is the subject of the investigation and to any  
6 person mentioned or referenced as being involved in the alleged  
7 inappropriate conduct informing the person that the city auditor  
8 intends to file a complaint with the commission.

9 (b) The Ethics Review Commission shall make the final determination  
10 on the allegation.

11 (L) If the city auditor investigates an allegation of a violation of City Code Chapter  
12 2-7, Article 4 (Code of Ethics) by a person listed in this subsection, the city  
13 auditor shall submit the results of a substantiated investigation to the Ethics  
14 Review Commission by filing a sworn complaint with the commission under  
15 City Code Section 2-7-41 (Complaints).

16 (1) Not later than the fifth working day prior to filing the complaint with the  
17 Ethics Review Commission, the city auditor shall send a written notice to  
18 the person who is the subject of the investigation and to any person  
19 mentioned or referenced as being involved in the alleged inappropriate  
20 conduct informing the person that the city auditor intends to file a  
21 complaint with the commission.

22 (2) The Ethics Review Commission shall make the final determination on the  
23 allegation.

24 (3) This subsection applies to an investigation of:

25 (a) the city clerk;

26 (b) the clerk of the municipal court;

27 (c) a person appointed by the mayor or the city council to a City board,  
28 task force, or similar body; or

29 (d) a City employee who is neither a member of the classified municipal  
30 civil service system nor of a state civil service system.

31 (M) The city auditor may conduct an investigation of an allegation of a violation of  
32 law or policy by a City employee who is a member of the classified municipal  
33 civil service system or of a state civil service system.

1           (1) The city auditor must conduct an investigation of an employee covered by  
2           a civil service system in a manner that is consistent with the applicable law  
3           and with an applicable labor agreement.

4           (2) The following provisions apply to an investigation under this subsection.

5                   (a) If the city auditor obtains sufficient evidence to indicate that a  
6                   violation has occurred, the city auditor shall provide a copy of the  
7                   results of an investigation under this section to the city manager or  
8                   other appropriate authority.

9                   (b) The city manager or appropriate authority may conduct a separate  
10                  investigation. The city manager or appropriate authority has the  
11                  authority to determine that a violation has occurred and to take  
12                  appropriate disciplinary actions.

13                  (c) For each investigation in which the city auditor obtains sufficient  
14                  evidence that a violation has occurred, the city auditor shall prepare a  
15                  draft investigative report and deliver the draft report to the person  
16                  who is the subject of the investigation and a person mentioned or  
17                  referenced as being involved in the alleged inappropriate conduct.

18                  (d) The person who is the subject of the investigation and a person  
19                  mentioned or referenced as being involved in the alleged  
20                  inappropriate conduct may submit a written response to the draft  
21                  report by the 20th working day after the date the person receives the  
22                  report.

23                  (e) The city auditor shall deliver a copy of the final report, including a  
24                  response submitted, to the appropriate authority, the person who is  
25                  the subject of the investigation, a person mentioned or referenced as  
26                  being involved in the alleged inappropriate conduct, the council, and  
27                  the city manager.

28                  (f) The city auditor shall retain a copy of the report in the city auditor's  
29                  office for the applicable retention period under the City's records  
30                  management program.

31           (N) A person who is the subject of an investigation by the city auditor may bring a  
32           representative or advisor of the person's choice to an interview with the city  
33           auditor.

1       (O) The city auditor shall refer an allegation enumerated in this subsection to the  
2       city manager. The city manager shall design a process to inform the city  
3       auditor of the disposition of the referred allegations for recordkeeping  
4       purposes. The allegations covered by this subsection are those related to:

5           (1) a personnel issue;

6           (2) an operational issue;

7           (3) a *de minimus* fraud, waste, or abuse violation;

8           (4) a public safety issue that is not related to fraud, waste, or abuse; and

9           (5) an issue that the city auditor is not authorized to investigate and that is not  
10          within the jurisdiction of the Ethics Review Commission.

11       (P) City employees and officials shall cooperate with city auditor investigations.

12       (Q) The city manager shall produce a report on the status of investigations  
13       regarding fraud, waste, and abuse conducted by the city manager at least twice  
14       a year to the Council Audit and Finance Committee.

15       **PART 3.** Subsection (D) of City Code Section 2-3-7 (*Annual Audit Plan and Special*  
16       *Audits*) is amended to read:

17           (D) The city auditor may initiate, conduct, or expand the scope of an audit or  
18           investigation[;] if the city auditor determines that:

19               (1) fraud, waste, or abuse, as defined in Section 2-3-5 (*Powers and Duties*) may  
20               have occurred or is occurring; or

21               (2) illegality may have occurred or is occurring; or

22               (3)[(2)] an audit finding requires expansion of the scope of an audit or investigation  
23               in progress.[; and

24               ~~(3) notify the council audit and finance committee of action take under this~~  
25               ~~section.]~~

26       **PART 4.** City Code Section 2-3-8 (*Report Preparation and Release*) is amended to add  
27       a new Subsection G to read:

28           (G) The city auditor shall prepare a summary of the reporting program's activities  
29           at least twice a year for presentation to the Council Audit and Finance  
30           Committee.

**PART 5.** City Code Section 2-7-2 (*Definitions*) is amended to add a new definition (7), and to renumber the subsequent definitions accordingly. The new definition reads:

- (7) HARM means anything reasonably regarded as loss, disadvantage, or injury, including harm to another person in whose welfare the person affected has an interest.

**PART 6.** City Code Section 2-7-26 (*Functions*) is amended to read:

**§ 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 the commission's [its] duties.

**PART 7.** City Code Section 2-7-29 (*Reports; Opinions*) is repealed and replaced as follows:

**§ 2-7-29 REPORTS.**

On an annual basis, the city manager shall provide a report to the commission of training regarding this chapter that is provided to newly appointed board and commission members and to newly employed City employees.

**PART 8.** City Code Section 2-7-30 (*Duties*) is amended to read:

**§ 2-7-30 DUTIES.**

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

- (1) prescribe forms for reports, statements, notices, and other documents required by the provisions within the commission's jurisdiction;
- (2) prepare and publish materials explaining the duties of individuals subject to the provisions within the commission's jurisdiction;
- (3) ~~[review all statements and reports filed with the commission in order to obtain compliance with the provisions within the commission's jurisdiction;]~~



1           ~~[(4)]~~ accept and file any information voluntarily supplied that exceeds the  
2 requirements of the provisions within the commission's jurisdiction;

3           (4) ~~[(5)]~~ preserve statements and reports filed with the commission for a period of  
4 five years from the date of receipt;

5           (5) ~~[(6)]~~ review the provisions within the commission's jurisdiction and make  
6 appropriate recommendations to the city council concerning the provisions  
7 within the commission's jurisdiction, and perform an annual review and  
8 evaluation of the dollar limits established in Chapter 2-2 (*Campaign*  
9 *Finance*) and make recommendations to the city council as to those limits;

10           ~~[(7)] review all public opinions related to the provisions within the~~  
11 ~~commission's jurisdiction that are issued by the city attorney;~~

12           (6) ~~[(8)]~~ conduct hearings in accordance with the provisions of this chapter and the  
13 commission's rules on sworn complaints alleging violations of the  
14 provisions within the commission's jurisdiction; and

15           (7) ~~[(9)]~~ schedule and oversee the forums among candidates in City elections  
16 provided for in Chapter 2-2 (*Campaign Finance*).

17           (B) The commission may:

18                   (1) prepare reports and studies to advance the purposes of the provisions  
19 within the commission's jurisdiction;

20                   (2) request the city council and city manager to provide such assistance as it  
21 may require in the discharge of its duties; and

22                   (3) review statements and reports filed under provisions within the  
23 commission's jurisdiction in order to obtain compliance with the  
24 provisions. ~~[make recommendations to the city manager concerning the~~  
25 ~~role of the ombudsman concerning this chapter.]~~

26           **PART 9.** Subsection (C)(1) of City Code Section 2-7-31 (*Staffing*) is amended to read:

27                   (C) (1) A [Any] City official or[,] ~~employee [or candidate for City elective office]~~  
28 may request, and the city attorney shall thereupon promptly issue, a  
29 confidential written opinion concerning the meaning or effect of a [any]  
30 section, word, or requirement of this chapter as it affects the [such] official  
31 or[,] ~~employee [or candidate]~~, except that the city attorney will not issue a  
32 written opinion regarding a matter related to a complaint currently pending  
33 before the commission. ~~[At the request of such official, employee or~~

1 candidate the city attorney shall render a confidential opinion, not subject  
2 to public disclosure.]

3 **PART 10.** Subsections (A) through (F) of City Code Section 2-7-41 (*Complaints*) are  
4 amended to read:

5 (A) In this article:

6 (1) COMPLAINANT means a person filing a sworn complaint. [~~;~~ and]

7 (2) RESPONDENT means a person who is alleged in a sworn complaint to  
8 have violated a provision within the jurisdiction of the Ethics Review  
9 Commission.

10 (3) IDENTIFIED PERSON means a person, other than the respondent, who is  
11 identified by name in a sworn complaint as being involved in the alleged  
12 inappropriate conduct.

13 (B) A [~~sworn~~] complaint alleging a violation of a provision within the jurisdiction  
14 of the Ethics Review Commission shall specify each code section or charter  
15 provision alleged to have been violated. A complaint must state that the facts  
16 alleged are true and factual to the best knowledge of the person filing the  
17 complaint and be sworn to before a person authorized by law to administer an  
18 oath.

19 (C) A complaint alleging a violation within the jurisdiction of the commission [~~of~~  
20 ~~Sections 2-7-62 (Standards of Conduct) through 2-7-65 (Substantial Interest of~~  
21 ~~Relative)~~] must be filed with the city clerk not later than the second  
22 anniversary of [~~within two years from~~] the date of the action alleged as a  
23 violation, and may not be filed afterward.

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

31 (E) Not later than the fifth [~~three~~] working day[s] after the city clerk receives a  
32 sworn complaint, the city clerk shall acknowledge the receipt of the complaint  
33 to the complainant and provide a copy of the complaint to the city attorney, the  
34 chair of the commission, and the respondent. The city clerk shall also send a

1 copy of the complaint to any identified person whose contact information is  
2 listed on the complaint form. [Not later than the 10th working day after receipt  
3 of a complaint, the commission shall notify in writing the complainant and the  
4 respondent of a date for a preliminary hearing. If the commission does not hold  
5 a preliminary hearing within 20 working days of receipt of the complaint, it  
6 shall notify the complainant of the reasons for the delay and shall subsequently  
7 give the complainant the appropriate notification.]

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

11 (1) If the chair determines that a complaint is within the commission's  
12 jurisdiction, the chair shall set the complaint for a preliminary hearing not  
13 later than the 60th day after the chair's initial determination, unless agreed  
14 to by the parties or by a vote of the commission. The commission may  
15 overturn the chair's initial jurisdictional determination at the preliminary  
16 hearing.

17 (a) Not later than the 10th working day prior to the meeting, the chair  
18 shall cause a written notice of the date of the preliminary hearing to  
19 be sent to the complainant, the respondent, and any identified person  
20 whose contact information is listed on the complaint form or is  
21 reasonably ascertainable.

22 (b) For good cause, the chair may postpone a scheduled preliminary  
23 hearing on the request of the complainant, the respondent, or an  
24 identified person.

25 (2) If the chair determines that a complaint is not within the commission's  
26 jurisdiction, the commission shall review the chair's determination and  
27 may overturn the chair's determination.

28 (a) Not later than the fifth working day after the chair determines that a  
29 complaint is not within the commission's jurisdiction, the chair shall  
30 cause a written notification of the initial determination to be sent to  
31 the complainant, the respondent, and any identified person whose  
32 contact information is listed on the complaint form or is reasonably  
33 ascertainable.

34 (b) If the commission determines that a complaint is not within its  
35 jurisdiction, not later than the 10th working day after the  
36 commission's determination, the chair shall cause a written

notification of the commission's final jurisdictional determination to be sent to the complainant, the respondent, and any identified person whose contact information is listed on the complaint form or is reasonably ascertainable.

(i) If the commission determines that a complaint is not within the commission's jurisdiction, the commission may refer the complaint to the city auditor for possible investigation.

(ii) If the commission refers a complaint to the city auditor under this subsection, the written notification required under subsection (F)(2)(b) shall state that the commission has referred the complaint to the city auditor for possible investigation.

(c) If the commission overturns the chair's initial determination and determines that a complaint is within the commission's jurisdiction, the chair shall set the complaint for a preliminary hearing not later than the 60th day after the commission's determination, unless agreed to by the parties or by a vote of the commission. Subsection (F)(1)(a) and (b) shall govern the sending of notices and granting of postponements.

(G) ~~(F)~~ The commission may consider a possible violation of a provision within the jurisdiction of the commission on the commission's own initiative. Not later than the 10th working day after ~~[Within seven 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, and any identified person whose contact information is obtained by the commission. A complaint initiated by the commission need not be sworn. ~~[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.]~~

(1) The chair shall set the complaint for preliminary hearing not later than the 60th day after the complaint is filed with the city clerk, unless agreed to by the respondent or by a vote of the commission.

(2) Not later than the 10th working day prior to the meeting, the chair shall cause a written notice of the date of the preliminary hearing to be sent to the respondent and to any identified person whose contact information has been obtained by the commission.

- 1                   (3)   For good cause, the chair may postpone a scheduled preliminary hearing  
2                               under this subsection on the request of the respondent or an identified  
3                               person.

4   **PART 11.** Subsection (G) of City Code Section 2-7-41 (*Complaints*) is amended to  
5 read:

- 6       (H) ~~[(G)]~~ A member of the commission may not take any part in a deliberation, vote, or  
7               decision regarding a sworn complaint alleging a violation by the council  
8               member that nominated the commission member.

9   **PART 12.** Subsection (D) of City Code Section 2-7-44 (*Preliminary Hearing*) is  
10 amended to read:

- 11       (D) At the conclusion of the preliminary hearing, the commission shall decide  
12           whether a final hearing should be held. If the commission determines that there  
13           are reasonable grounds to believe that a violation ~~[of a provision]~~ within the  
14           jurisdiction of the commission has occurred, the commission shall schedule a  
15           final hearing. If ~~[a majority of the membership]~~ the commission does ~~[do]~~ not  
16           determine that there are reasonable grounds to believe that a violation has  
17           occurred, the complaint is ~~[shall be automatically]~~ dismissed. A decision to  
18           conduct a final hearing is not a finding that a violation has occurred.

19   **PART 13.** City Code Section 2-7-45 (*Final Hearing*) is amended to read:

20   **§ 2-7-45 FINAL HEARING.**

- 21       (A) Unless otherwise agreed to by the parties or by a vote of the commission, the  
22           [The] final hearing shall be held not later than the 60th day after ~~[within 30~~  
23           ~~days following]~~ the determination by the commission ~~[Ethics Review~~  
24           ~~Commission]~~ that there are reasonable grounds to believe that a violation ~~[of a~~  
25           ~~provision]~~ within the jurisdiction of the commission has occurred.
- 26       (B) For good cause, the chair ~~[The commission]~~ may postpone a scheduled final  
27           hearing ~~[grant two postponements, not to exceed 15 days each]~~ on the request  
28           of the complainant, the respondent, or an identified person.
- 29       (C) The complainant and respondent must attend a final hearing. If the respondent  
30           fails to attend, the commission may proceed with the final hearing at the  
31           commission's discretion.
- 32       (D) ~~[(B)]~~ The issue at a final hearing shall be whether a violation ~~[of a provision]~~ within  
33           the jurisdiction of the commission has occurred. The commission shall make

1 its determination based on the preponderance of the credible evidence in the  
2 record. All parties and witnesses shall make their statements under oath.

3 (E) If the commission determines that a violation has occurred, the commission  
4 shall state the commission's findings in writing, shall identify each code  
5 section or charter provision that has been violated, and, not later than the 10th  
6 ~~[within five]~~ working day[s,] after the final hearing, the chair shall cause  
7 ~~[deliver]~~ a copy of the commission's findings to be sent to the complainant, if  
8 any, to the respondent, to any identified person whose contact information is  
9 listed on the complaint form or is reasonably ascertainable, and to the city  
10 clerk.

11 **PART 14.** City Code Section 2-7-46 (*Oaths and Requests for Information*) is amended  
12 to read:

13 **§ 2-7-46 OATHS AND REQUESTS FOR INFORMATION.**

- 14 (A) If a complaint proceeds to a final hearing, the commission ~~[Ethics Review~~  
15 ~~Commission]~~ may subpoena or request witnesses to attend and testify,  
16 administer oaths and affirmations, take evidence, and subpoena or request the  
17 production of books, papers, records, or other evidence needed for the  
18 performance of the commission's duties or exercise of its powers, including its  
19 duties and powers of investigation.
- 20 (B) The commission may request assistance from the city auditor with the  
21 investigation of allegations in a complaint.
- 22 (C) The commission may consider the city auditor's investigation at a final hearing  
23 on a complaint.

24 **PART 15.** City Code Section 2-7-47 (*Prosecution*) is amended to read:

25 **§ 2-7-47 PROSECUTION.**

26 If the Ethics Review Commission determines that a violation of a provision subject  
27 to a criminal penalty ~~[Sections 2-7-66 (*Misuse of Official Information*), 2-7-67~~  
28 ~~(*Restrictions on Providing Representation of Others*), or Article 5 (*Financial*~~  
29 ~~*Disclosure*)]~~ has occurred, the commission shall deliver a copy of the commission's  
30 findings to the complainant, if any, the respondent, and the city attorney and may  
31 recommend ~~[recommending]~~ prosecution or set ~~[setting]~~ forth requirements to be  
32 complied with in order that voluntary compliance may be had and final  
33 determination obtained.

1 **PART 16.** Subsection (F) of City Code Section 2-7-49 (*Campaign and Lobbying*  
2 *Violations*) is amended to read:

3 (F) The commission may draft and publish a letter of notification, a letter of  
4 admonition, a reprimand, or a letter of censure to a respondent found to have  
5 violated a provision subject to this section. The Commission shall apply the  
6 criteria in Section 2-7-48 (*Sanctions*) to determine the appropriate sanction to  
7 impose.

8 **PART 17.** Subsection (I) of City Code Section 2-7-62 (*Standards of Conduct*) is  
9 amended to read:

10 (I) A [No] salaried City official or employee may not [shall] use the official's or  
11 the employee's [his] official position to secure a special privilege or exemption  
12 for the official or the employee [himself], to secure a special privilege or  
13 exemption for another person [or others], to harm another person, or to secure  
14 confidential information for a [any] purpose other than official responsibilities.

15 **PART 18.** City Code Section 2-7-62 (*Standards of Conduct*) is amended to add a new  
16 subsection (O) to read:

17 (O) A City official or employee may not engage in fraud or abuse, as defined in  
18 City Code Chapter 2-3 (*City Auditor*).

19 **PART 19.** Subsection (A) of City Code Section 2-7-72 (*Reports*) is amended to read:

20 (A) Not later than [By the last Friday of ] April 30 of each year, each City  
21 official[s] shall file with the city clerk a public statement of financial  
22 information covering [which shall cover the previous year which is defined as]  
23 January 1 through December 31 of the previous calendar year. Not later than  
24 July 31 of each year, the [The] mayor and members of the city council and  
25 spouses shall also file with the city clerk an updated statement of financial  
26 information [by the last Friday of July] which shall cover [for the previous  
27 period of] January 1 through June 30 of the current calendar year. The [Such]  
28 updated statement shall only include any change in a "substantial interest" or  
29 "substantial interest in real property" as defined in Section 2-7-2 (*Definitions*)  
30 since the last filed statement. For an outgoing mayor or council member who  
31 has not been re-elected, not later than the 30th day after the end of a mayor's or  
32 council member's term, the mayor or council member shall file with the city  
33 clerk a statement of financial information covering January 1 through  
34 December 31 of the previous calendar year.

35 **PART 20.** City Code Section 2-7-76 (*Filing Dates for Statements*) is amended to read:

**PART 21.** City Code Section 2-7-99 (*Penalty*) is repealed and replaced with a new Section 2-7-99 to read:

- (A) A person commits an offense if the person fails to comply with a subpoena under Section 2-7-46 (*Oaths and Requests for Information*).
- (B) A person commits an offense if the person violates Section 2-7-66 (*Misuse of Official Information*), Section 2-7-67 (*Restrictions on Providing Representation of Others*), or Article 5 (*Financial Disclosure*) of this Chapter.
- (C) An offense under this section is punishable as a Class C misdemeanor as provided in Section 1-1-99 (*Offenses; General Penalty*).
- (D) A culpable mental state is not required, and need not be proved, for an offense under this section.

\_\_\_\_\_, 2017

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Steve Adler  
Mayor

**ATTEST:** \_\_\_\_\_  
Jannette S. Goodall  
City Clerk