

## Summary of Changes to City Code related to the City Auditor and Ethics Review Commission

### Chapter 2-3 – City Auditor

- Adding definitions of fraud, waste, abuse, and personal benefit
- Adding a clause that investigative work will follow industry standards
- Clarifying that we manage an anonymous reporting system for wrongdoing and what that entails
- Clarifying the types of allegations that will be referred to the City Manager for resolution
- Adding reporting at least twice annually to the Council Audit and Finance Committee from the City Auditor and the City Manager regarding investigations of fraud, waste, or abuse
- Specifies process for reporting on substantiated investigations including:
  - Subject's right to representation
  - Subject and any involved party ability to review the draft report and provide a response to be included in the final report
- Defines separate processes for employees covered by a civil service system and City officials who are not covered by a civil service system:
  - City Auditor conducts the investigation and provides results to management for employees covered by a civil service system
    - Determination of a violation made by management for these employees
  - City Auditor conducts the investigation and provides the results to the Ethics Review Commission for certain employees not covered by a civil service system (this includes City executives and select Council appointees—City Clerk, Court Clerk, Commission members)
    - Determination of a violation made by the Ethics Review Commission for these employees
- *Proposals for handling allegations involving City Council and appointees/direct hires of the City Council:*
  - *Proposal A:  
City Auditor refers any material allegations against City Council members, City Council staff, the City manager, or the City Auditor to the Ethics Review Commission for investigation (may utilize outside counsel to investigate) and final determination*
  - *Proposal B:  
City Auditor hires outside expertise to investigate any material allegations against a City Council member, City Council staff, or the City Manager*

### Chapter 2-7 – Ethics and Financial Disclosure

- Specifies process for handling complaints and referrals that the Ethics Review Commission receives from the City Auditor
- Updates timelines and responsibilities for sworn complaints
- Establishes a referral process from the Ethics Review Commission to the City Auditor

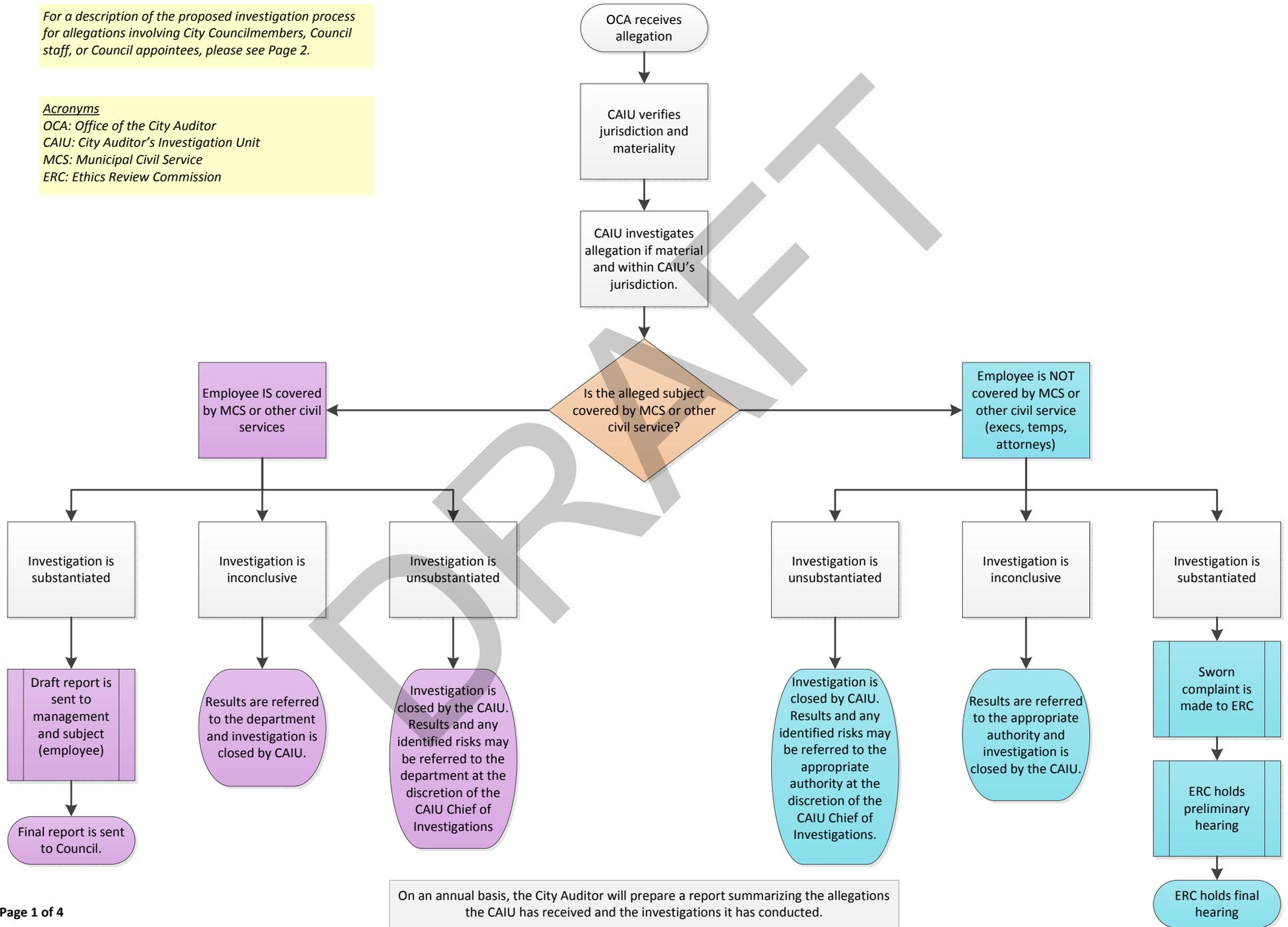
## Revised Investigation Process for Ethics Complaints Involving City Employees (Excluding Council Staff and Council Appointees)

Per proposed revisions to Ch. 2-7 of the City Code (v. 9/18/2015)

For a description of the proposed investigation process for allegations involving City Councilmembers, Council staff, or Council appointees, please see Page 2.

### Acronyms

OCA: Office of the City Auditor  
 CAIU: City Auditor's Investigation Unit  
 MCS: Municipal Civil Service  
 ERC: Ethics Review Commission



On an annual basis, the City Auditor will prepare a report summarizing the allegations the CAIU has received and the investigations it has conducted.

## Revised Investigation Process for Ethics Complaints Involving City Council, Council Office Staff and Council Appointees

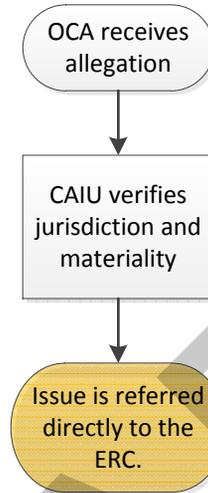
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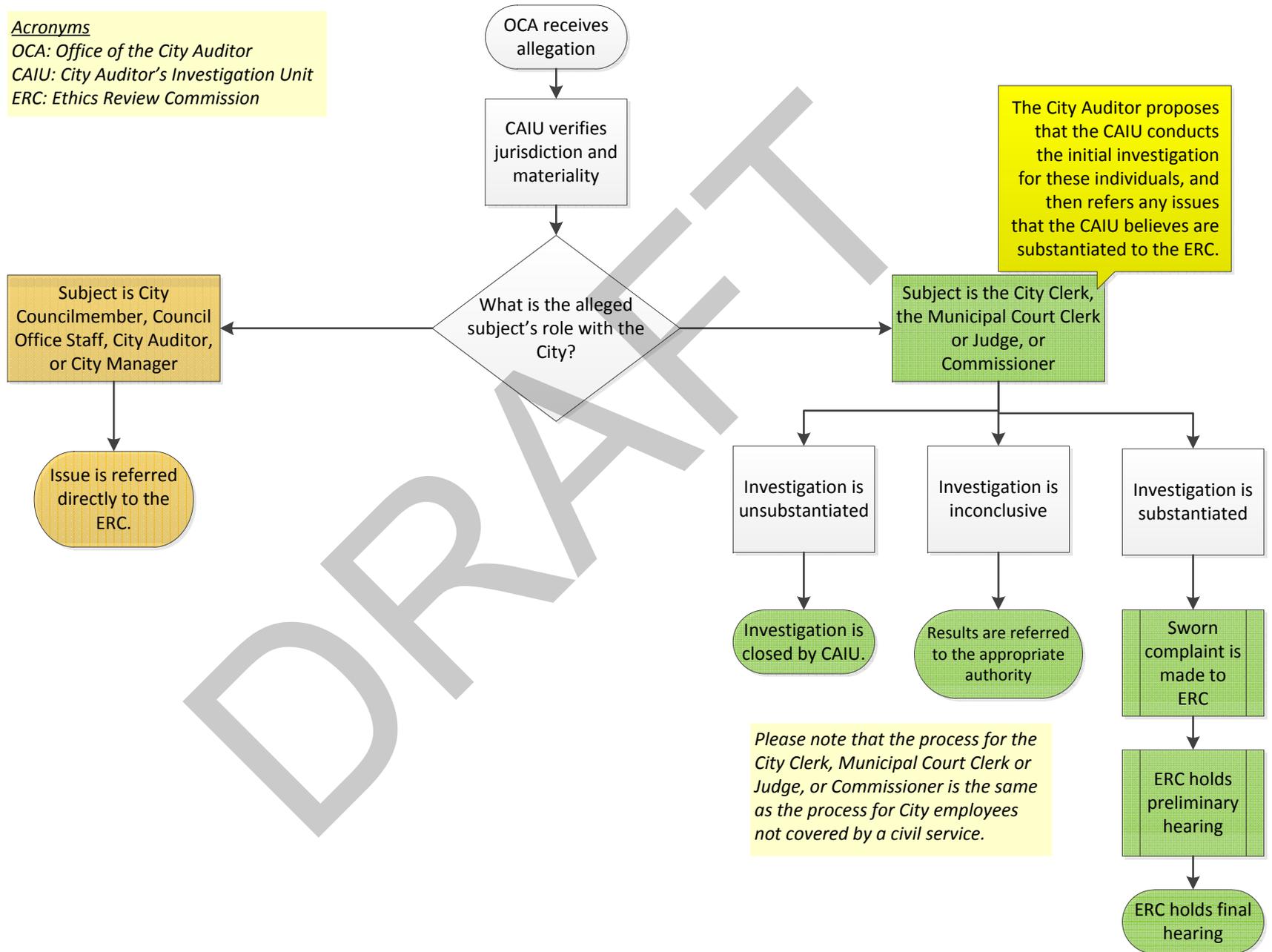
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On an annual basis, the City Auditor will prepare a report summarizing the allegations the CAIU has received and the investigations it has conducted.

### Proposal A: Investigation Process for Alleged Violations of City Code Involving City Council, Council Office Staff and Council Appointees

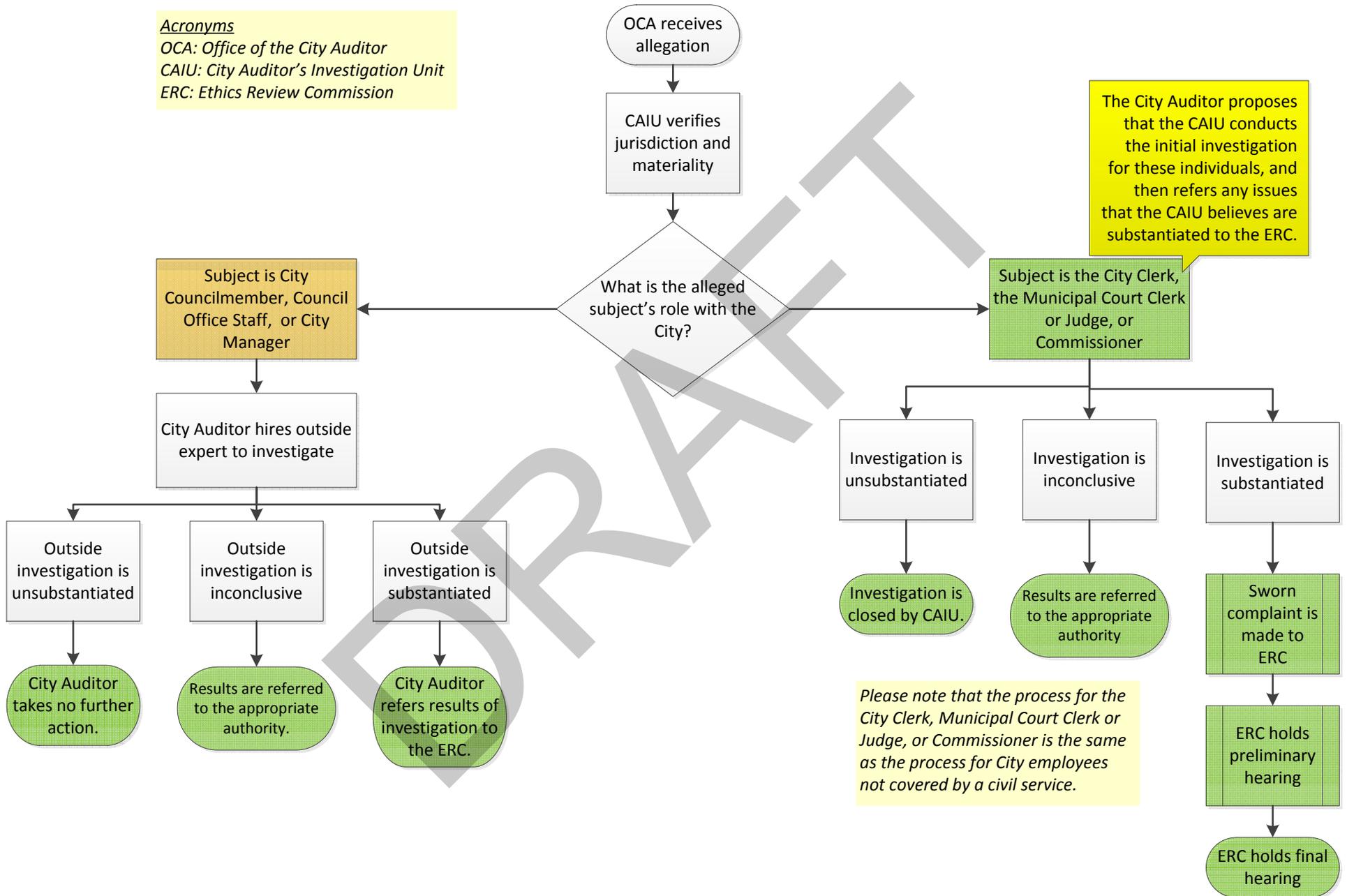
**Acronyms**  
OCA: Office of the City Auditor  
CAIU: City Auditor's Investigation Unit  
ERC: Ethics Review Commission



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## Proposal B: Investigation Process for Alleged Violations of City Code Involving City Council, Council Office Staff and Council Appointees

**Acronyms**  
 OCA: Office of the City Auditor  
 CAIU: City Auditor's Investigation Unit  
 ERC: Ethics Review Commission



The City Auditor proposes that the CAIU conducts the initial investigation for these individuals, and then refers any issues that the CAIU believes are substantiated to the ERC.

Please note that the process for the City Clerk, Municipal Court Clerk or Judge, or Commissioner is the same as the process for City employees not covered by a civil service.

On an annual basis, the City Auditor will prepare a report summarizing the allegations the CAIU has received and the investigations it has conducted.

1 **CHAPTER 2-3. - CITY AUDITOR.**

2 **§ 2-3-1 – DEFINITIONS.**

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

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

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

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11 misrepresentation;

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

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

17 (3) WASTE means:

18 (a) the grossly inefficient or uneconomical use of City assets or resources; or

19 (b) the unnecessary incurring of costs to the City as a result of grossly inefficient  
20 practices, systems, or controls.

21 (4) PERSONAL BENEFIT means:

22 (a) anything reasonably regarded as economic gain or advantage, including  
23 benefit to any other person in whose welfare the beneficiary is interested.

24 **§ 2-3-2 - APPOINTMENT.**

25 (A) The office of the city auditor is created under Section 17 (City Auditor) of Article VII (Finance) of the Charter.  
26 A majority of the council shall appoint a city auditor in accordance with the procedure established in Section 2-  
27 3-3 (Selection Process; City Auditor Vacancy).

28 (B) The council may not appoint as city auditor a person who:

29 (1) has served as the City's mayor, a council member, or city manager within five years before the date of the  
30 appointment; or

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32 city manager.

Proposal A: ERC Handles Council and Staff Investigations

33 (C) The council shall provide the city auditor with a discrete budget sufficient to perform the auditor's  
34 responsibilities and duties under this chapter.

35 (D) A majority vote of the members of the council is required to remove the city auditor as provided by Section 17  
36 (City Auditor) of Article VII (Finance) of the City Charter.

37 Source: 1992 Code Sections 2-8-1(A), and 2-8-2(A), (C), and (J); Ord. 031204-9; Ord. 031211-  
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39 **§ 2-3-3 - SELECTION PROCESS; CITY AUDITOR VACANCY.**

40 (A) The council shall appoint a nominating committee to recommend candidates for city auditor. The committee  
41 shall consist of five members, including:

42 (1) three council members appointed by the council;

43 (2) the state auditor; and

44 (3) the city manager.

45 (B) Not later than the 15th day after its members are appointed, the nominating committee shall hold its first  
46 meeting to consider applicants for city auditor. The committee shall select a chair and vice chair by majority  
47 vote.

48 (C) Not later than the 90th day after its first meeting, the nominating committee shall recommend to the council  
49 three candidates selected by a majority of the committee members.

50 (D) Not later than the 15th day after the council receives the nominating committee's recommendation, the council  
51 shall select a city auditor from the recommended candidates.

52 (E) If the city auditor's position is vacated, the auditor's first assistant shall serve as acting city auditor during the  
53 vacancy.

54 Source: 1992 Code Section 2-8-8; Ord. 031204-9; Ord. 031211-11; [Ord. No. 20150129-026, Pt. 8, 2-9-](#)  
55 [15](#).

56 **§ 2-3-4 - QUALIFICATIONS FOR CITY AUDITOR.**

57 The city auditor must:

58 (1) be knowledgeable in performance and financial auditing, public administration, and public financial and  
59 fiscal practices;

60 (2) be licensed as a certified public accountant or certified internal auditor; and

61 (3) exercise due professional care in carrying out the auditor's duties, and ensure that due professional care is  
62 employed to conduct an audit.

63 Source: 1992 Code Section 2-8-1(B); Ord. 031204-9; Ord. 031211-11.

64 **§ 2-3-5 - INDEPENDENCE, OBJECTIVITY, AND AUDIT STANDARDS.**

65 (A) The city auditor shall organize and administer the auditor's office to operate without interference or influence  
66 that might adversely affect an independent and objective judgment of the auditor.

67 (B) The city auditor:

68 (1) shall organize the auditor's office as necessary to perform the auditor's responsibilities and duties under  
69 this chapter;

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- 70 (2) may not be actively involved in partisan City political activity;
- 71 (3) may not conduct or supervise or allow an employee to conduct or supervise an audit of an activity for
- 72 which the person was responsible or in which the person was employed during the two years before the
- 73 date of the audit;
- 74 (4) shall adhere to government auditing standards established by the Comptroller General of the United
- 75 States to conduct the auditor's work and be independent as defined by the standards; and
- 76 (5) shall follow accepted industry standards to conduct the auditor's investigative work, such as the general
- 77 and qualitative standards under the "Quality Standards for Investigations" established by the Council of
- 78 the Inspectors General on Integrity and Efficiency; and
- 79 ~~(6)~~ is responsible for selection of an audit area and may consider requests from council and the city manager
- 80 in selecting an audit area.

81 Source: 1992 Code Section 2-8-2(B) and (D) through (G); Ord. 031204-9; Ord. 031211-11.

82 **§ 2-3-6 - POWERS AND DUTIES.**

- 83 (A) The city auditor shall examine City operations to identify an opportunity to reduce costs, increase efficiency,
- 84 quality, and effectiveness, or otherwise improve management of a City function, program, service, or policy.
- 85 The auditor shall manage a reporting system through which a City employee or a member of the public may
- 86 submit an allegation of wrongdoing. The person making an allegation need not provide the person's name. An
- 87 allegation may include:
- 88 (1) an allegation of fraud, waste or abuse;
- 89 (2) a violation of personnel policy; or
- 90 (3) a violation of law, including a violation of Chapter 2-7 (Ethics and Financial Disclosure)
- 91 (B) The city auditor shall communicate directly with the council audit committee and the council, attend council
- 92 audit and finance committee meetings, and regularly meet with council.
- 93 (C) The city auditor shall establish audit policies and procedures consistent with government auditing standards
- 94 established by the Comptroller General of the United States, and applicable law and regulation.
- 95 (D) The city auditor may conduct a performance or financial-related audit, investigation, and other audit work to
- 96 determine if:
- 97 (1) a current City function, program, service, or policy:
- 98 (a) is authorized by the council or other legal authority; and
- 99 (b) is conducted to accomplish its intended objective;
- 100 (2) a function, program, service, or policy is effective in achieving its stated or intended result or benefit,
- 101 including the level of effectiveness;
- 102 (3) an audited function, program, service, or policy effectively, economically, and efficiently acquires,
- 103 protects, and uses its resources, including personnel, property, and space;
- 104 (4) a function, program, service, or policy complies with a mandate regarding efficiency, economy,
- 105 effectiveness, or expenditure of public funds adopted by council or other legal authority;
- 106 (5) management for a function, program, service, or policy has adopted an administrative and accounting
- 107 control system to effectively, economically, and efficiently carry on the function or program; and
- 108 (6) a function, program, service, or policy is providing financial and performance reports that accurately,
- 109 fully, and fairly disclose all information required by law or other criteria necessary to:
- 110 (a) ascertain the nature and scope of the function, program, service, or policy; and
- 111 (b) establish a proper basis for evaluating the results of the function, program, service, or policy.

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- 112 (E) When required or implied by audit objectives, the auditor shall determine the cause of an inefficient,  
113 uneconomical, or ineffective function, program, service, or policy.
- 114 (F) The city auditor may conduct follow-up review determined to be necessary by the city auditor to verify a report  
115 or plan from the city manager in response to an audit recommendation. The city auditor shall review a follow-  
116 up report or plan from the city manager in response to an audit recommendation.
- 117 (G) If the city auditor determines that a city employee or official may have violated the law, or may be reasonably  
118 anticipated to commit a violation, the auditor shall:
- 119 (1) consult with and obtain advice from the city attorney;
- 120 (2) ~~promptly immediately~~ report the suspected violation to the appropriate authority; and
- 121 (3) if the suspected violation is criminal, notify the appropriate chief prosecuting authority.
- 122 (H) The city auditor may hire a certified or registered public accountant, qualified management consultant, or other  
123 professional expert necessary to perform the auditor's duties, in compliance with the City's procurement  
124 requirements.
- 125 (I) ~~Notwithstanding any other provision of the City Code, the auditor may not investigate or make any~~  
126 ~~determination concerning an allegation alleging a violation of City Code Chapter 2-7, Article 4 (Code of~~  
127 ~~Ethics), by a member of the city council, a member of a council member's direct staff, the city manager, the city~~  
128 ~~clerk or the city auditor. the clerk of the municipal court, a municipal court judge, or a person appointed by the~~  
129 ~~mayor or the city council to a City board, task force, or similar body. The auditor shall verify the jurisdiction~~  
130 ~~and materiality of the allegation, and then submit any material allegation to the Ethics Review Commission,~~  
131 ~~which shall conduct an investigation and make the final determination on the allegation.~~
- 132 (J) If the auditor conducts an investigation of an allegation alleging a violation of Chapter 2-7, Article 4 (Code of  
133 Ethics) by the city clerk, the clerk of the municipal court, a municipal court judge, a person appointed by the  
134 mayor or the city council to a City board, task force or similar body, or by a City employee who is not either a  
135 member of the classified municipal civil service system or of a state civil service system the auditor shall submit  
136 the results of any substantiated investigation to the Ethics Review Commission, which shall make the final  
137 determination on the allegation. ~~The auditor shall not make a determination on the allegation.~~
- 138 (K) The auditor may conduct an investigation of an allegation alleging a violation of law or policy by a City  
139 employee who is a member of the classified municipal civil service system or of a state civil service system. If  
140 the auditor conducts an investigation of an employee covered by a civil service system, the investigation must  
141 be done in a way that is consistent with the law and any applicable labor agreement. If the auditor obtains  
142 evidence that indicates that a violation has occurred, the auditor shall provide a copy of the result of an  
143 investigation under this section to the city manager or other appropriate party. The city manager or appropriate  
144 party may conduct a separate investigation. The city manager or appropriate party has the authority to determine  
145 that a violation has occurred and the appropriate disciplinary action.
- 146 (L) A person who is the subject of an investigation by the auditor may bring to any interview with the auditor a  
147 representative or advisor of the person's choice. ~~Before the auditor issues a final report on the investigation, the~~  
148 auditor must provide the person with an opportunity to respond in writing to any allegation made against the  
149 person.
- 150 (M) For each investigation in which the auditor obtains evidence that indicates that a violation has occurred, the  
151 auditor shall prepare a draft investigative report and deliver the draft report to the person who is the subject of  
152 the investigation and any person or entity mentioned or referenced as being involved in the alleged  
153 inappropriate conduct. The person who is the subject of the investigation and any person or entity mentioned or  
154 referenced as being involved in the alleged inappropriate conduct may submit a written response to the draft  
155 report within 20 working days after receiving the report. The auditor shall deliver a copy of the final report,  
156 including any response submitted, to the appropriate authority, the person who is the subject of the  
157 investigation, any person or entity mentioned or referenced as being involved in the alleged inappropriate  
158 conduct, the council, and the city manager. The auditor shall retain a copy of the report in the auditor's office  
159 for the applicable retention period under the City's records management program.

160 (N) The city auditor shall refer an allegation enumerated in this subsection to the city manager. The city manager  
161 shall design a process to inform the city auditor of the disposition of the referred allegations for recordkeeping  
162 purposes. The allegations covered by this subsection are those related to:

- 163 (1) A personnel issue;  
164 (2) An operational issue;  
165 (3) A de minimus fraud, waste or abuse violation;  
166 (4) A public safety issue that is not related to fraud, waste or abuse; and  
167 (5) An issue that the auditor is not authorized to investigate, and that is not within the jurisdiction of the Ethics  
168 Review Commission.

169 (O) City employees and officials shall cooperate with auditor investigations.

170 (P) The city manager shall produce a quarterly report on the status of investigations regarding fraud, waste, and  
171 abuse conducted by the city manager at least twice annually to the Council Audit and Finance Committee.

172 Source: 1992 Code Sections 2-8-1(B)(3), 2-8-3(B), and 2-8-6; Ord. 031204-9; Ord. 031211-11.

173 **§ 2-3-7 - EMPLOYEES.**

- 174 (A) Except the city auditor and an assistant otherwise designated by the city auditor, an appointee or employee of  
175 the city auditor's office is in the City's classified personnel service.
- 176 (B) The city auditor has the authority to appoint, employ, and terminate an assistant or other personnel as necessary  
177 to operate the city auditor's office, independently of the direction of the city manager or the council, subject to  
178 the budget approval process and personnel policy established by the council for each City department.
- 179 (C) The city manager or council may not direct the city auditor to appoint, employ, or terminate an assistant city  
180 auditor or other auditor's office personnel, subject to the City's grievance procedure.

181 Source: 1992 Code Sections 2-8-2(H) and (I); Ord. 031204-9; Ord. 031211-11.

182 **§ 2-3-8 - ANNUAL AUDIT PLAN AND SPECIAL AUDITS.**

- 183 (A) Not later than the 30th day before the beginning of a calendar year, the city auditor shall submit an annual audit  
184 plan to the council for review and comment through the council audit and finance committee.
- 185 (B) An annual audit plan under this section shall identify the scope of each audit the city auditor intends to  
186 conduct, including:
- 187 (1) the department, organization, service, program, function, and policy to be audited; and  
188 (2) each potential audit objective to be addressed.
- 189 (C) If the city auditor notifies the council audit and finance committee and obtains comments from the committee,  
190 an annual audit plan may be amended by the city auditor. The city auditor may request an amendment  
191 independently, or at the request of the council audit and finance committee or the city manager.
- 192 (D) The city auditor may initiate, conduct, or expand the scope of an audit or investigation if the auditor determines  
193 that fraud, waste, abuse, or illegality may have occurred or is occurring, or if an audit finding requires  
194 expansion of the scope of the audit or of an investigation in progress. The auditor shall notify the council audit  
195 and finance committee of an action under this section, if the auditor determines that:
- 196 (1) fraud, abuse, or illegality may have or is occurring; or

Proposal A: ERC Handles Council and Staff Investigations

- 197 | ~~(2) an audit finding requires expansion of the scope of an audit or investigation in progress; and~~  
198 | ~~(3) notify the council audit and finance committee of action take under this section.~~  
199 | (E) The city auditor shall distribute the results of a special audit in accordance with Section 2-3-9 (Report  
200 | Preparation and Release).

201 | Source: 1992 Code Section 2-8-2(G)(1) through (3); Ord. 031204-9; Ord. 031211-11.

202 | **§ 2-3-9 - REPORT PREPARATION AND RELEASE.**

- 203 | (A) The city auditor shall prepare a draft audit report for each audit and deliver the report to the city manager.  
204 | (B) The city manager shall send the city auditor written comment on the reported audit findings and a written  
205 | response to each recommendation on or before a date agreed to by the city manager and the city auditor. The  
206 | city manager's response shall:  
207 | (1) state whether the city manager agrees or disagrees with each recommendation;  
208 | (2) include the reason for a disagreement; and  
209 | (3) describe the action, if any, that will occur in response to a recommendation.  
210 | (C) If the city manager's response is timely delivered to the city auditor, the city auditor shall include a copy of the  
211 | response in the city auditor's final report.  
212 | (D) The city auditor shall file a final audit report with the council and the city manager, and retain a copy in the  
213 | city auditor's office as a permanent record.  
214 | (E) An audit report prepared under this section shall adhere to the reporting standards for financial-related and  
215 | performance audits prescribed by government audit standards.  
216 | (F) If appropriate, the city auditor may issue other advisory reports to provide information to the city manager and  
217 | council.  
218 | (G) The auditor shall prepare a summary of the reporting program's activities at least twice annually for  
219 | presentation to the council audit and finance committee.

220 | Source: 1992 Code Section 2-8-5; Ord. 031204-9; Ord. 031211-11.

221 | **§ 2-3-10 - COUNCIL AUDIT AND FINANCE COMMITTEE.**

- 222 | (A) The council audit and finance committee shall assist the council in oversight of and responsibility for the City's  
223 | financial and performance reporting practices, internal controls, compliance with applicable law and  
224 | regulation, and initiatives to improve service.  
225 | (B) The committee shall:  
226 | (1) review and make a recommendation to the full council regarding the city auditor's annual audit plan;  
227 | (2) monitor the city auditor's audit results and follow-up activity;  
228 | (3) monitor the City's internal controls through external audits and the city auditor's audits and other activity;  
229 | (4) provide reasonable assurance to the council that the City is in compliance with applicable law and  
230 | regulation, is conducting its affairs ethically, and is maintaining effective internal controls against a  
231 | conflict of interest or fraud;  
232 | (5) meet with the director of the Finance and Administrative Services Department on financial questions and  
233 | to review:  
234 | (a) the City's financial reports, including a comparison between actual financial performance and the  
235 | approved budget;

Proposal A: ERC Handles Council and Staff Investigations

- 236 (b) the City's fiscal policy, internal control policy, investment policy, debt management policy, and  
237 other financial management policies; and
- 238 (c) the status of the capital improvement program and related projects;
- 239 (6) recommend to the full council an external auditor to conduct the City's annual financial audit; and
- 240 (7) meet with the external auditor approved by the council as necessary, and review financial statements,  
241 auditors' opinion, and management letters resulting from the City's annual financial audit.

242 Source: 1992 Code Section 2-8-3; Ord. 031204-9; Ord. 031211-11; Ord. 20060824-060; Ord.  
243 20090806-032; [Ord. No. 20150129-026, Pt. 5, 2-9-15](#).

244 **§ 2-3-11 - PEER REVIEW.**

- 245 (A) The city auditor is subject to peer review not less than once every three years by a professional, non-partisan,  
246 objective person or group, including an auditor or other professional with appropriate government auditing  
247 expertise and experience.
- 248 (B) Peer review shall determine compliance by the city auditor with government auditing standards and the quality  
249 of the auditor's audit effort and reporting, including:
- 250 (1) general standards, including staff qualifications, due professional care, and quality assurance;
- 251 (2) fieldwork standards, including planning, supervision, and audit evidence; and
- 252 (3) reporting standards, including report content, presentation, and timeliness.
- 253 (C) After the council audit and finance committee has reviewed and approved the written peer review report, the  
254 committee shall provide a copy of the written peer review report to each member of the council.
- 255 (D) The city auditor shall pay the cost of the peer review, including reasonable travel and living expenses, from the  
256 city auditor's budget.

257 Source: 1992 Code Section 2-8-7; Ord. 031204-9; Ord. 031211-11.

258 **§ 2-3-12 - ACCESS TO RECORDS AND PROPERTY.**

- 259 (A) Each City officer and employee shall provide the city auditor with free and open access to and furnish copies  
260 of information in any medium, including a record, book, account, internal or external memorandum, tape,  
261 report, file, diskette, computer data, money, fund, or other information.
- 262 (B) Each City officer and employee shall provide the city auditor with free and open access to property, equipment,  
263 facilities, and operations for inspection or observation by the auditor.

264 Source: 1992 Code Section 2-8-4; Ord. 031204-9; Ord. 031211-11.

265 ~~§ 2-3-13 - REQUEST FOR LEGAL SERVICES.~~

1 **CHAPTER 2-3. - CITY AUDITOR.**

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24 **§ 2-3-2 - APPOINTMENT.**

25 (A) The office of the city auditor is created under Section 17 (City Auditor) of Article VII (Finance) of the Charter.  
26 A majority of the council shall appoint a city auditor in accordance with the procedure established in Section 2-  
27 3-3 (Selection Process; City Auditor Vacancy).

28 (B) The council may not appoint as city auditor a person who:

29 (1) has served as the City's mayor, a council member, or city manager within five years before the date of the  
30 appointment; or

31 (2) is related, by affinity or consanguinity within the second degree, to the mayor, a council member, or the  
32 city manager.

Proposal B: Auditor Utilizes Outside Investigator for Council

33 (C) The council shall provide the city auditor with a discrete budget sufficient to perform the auditor's  
34 responsibilities and duties under this chapter.

35 (D) A majority vote of the members of the council is required to remove the city auditor as provided by Section 17  
36 (City Auditor) of Article VII (Finance) of the City Charter.

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42 (1) three council members appointed by the council;

43 (2) the state auditor; and

44 (3) the city manager.

45 (B) Not later than the 15th day after its members are appointed, the nominating committee shall hold its first  
46 meeting to consider applicants for city auditor. The committee shall select a chair and vice chair by majority  
47 vote.

48 (C) Not later than the 90th day after its first meeting, the nominating committee shall recommend to the council  
49 three candidates selected by a majority of the committee members.

50 (D) Not later than the 15th day after the council receives the nominating committee's recommendation, the council  
51 shall select a city auditor from the recommended candidates.

52 (E) If the city auditor's position is vacated, the auditor's first assistant shall serve as acting city auditor during the  
53 vacancy.

54 Source: 1992 Code Section 2-8-8; Ord. 031204-9; Ord. 031211-11; [Ord. No. 20150129-026, Pt. 8, 2-9-](#)  
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56 **§ 2-3-4 - QUALIFICATIONS FOR CITY AUDITOR.**

57 The city auditor must:

58 (1) be knowledgeable in performance and financial auditing, public administration, and public financial and  
59 fiscal practices;

60 (2) be licensed as a certified public accountant or certified internal auditor; and

61 (3) exercise due professional care in carrying out the auditor's duties, and ensure that due professional care is  
62 employed to conduct an audit.

63 Source: 1992 Code Section 2-8-1(B); Ord. 031204-9; Ord. 031211-11.

64 **§ 2-3-5 - INDEPENDENCE, OBJECTIVITY, AND AUDIT STANDARDS.**

65 (A) The city auditor shall organize and administer the auditor's office to operate without interference or influence  
66 that might adversely affect an independent and objective judgment of the auditor.

67 (B) The city auditor:

68 (1) shall organize the auditor's office as necessary to perform the auditor's responsibilities and duties under  
69 this chapter;

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- 70 (2) may not be actively involved in partisan City political activity;
- 71 (3) may not conduct or supervise or allow an employee to conduct or supervise an audit of an activity for
- 72 which the person was responsible or in which the person was employed during the two years before the
- 73 date of the audit;
- 74 (4) shall adhere to government auditing standards established by the Comptroller General of the United
- 75 States to conduct the auditor's work and be independent as defined by the standards; and
- 76 (5) shall follow accepted industry standards to conduct the auditor's investigative work, such as the general
- 77 and qualitative standards under the "Quality Standards for Investigations" established by the Council of
- 78 the Inspectors General on Integrity and Efficiency; and
- 79 (6) is responsible for selection of an audit area and may consider requests from council and the city manager
- 80 in selecting an audit area.

81 Source: 1992 Code Section 2-8-2(B) and (D) through (G); Ord. 031204-9; Ord. 031211-11.

82 **§ 2-3-6 - POWERS AND DUTIES.**

- 83 (A) The city auditor shall examine City operations to identify an opportunity to reduce costs, increase efficiency,
- 84 quality, and effectiveness, or otherwise improve management of a City function, program, service, or policy.
- 85 The auditor shall manage a reporting system through which a City employee or a member of the public may
- 86 submit an allegation of wrongdoing. The person making an allegation need not provide the person's name. An
- 87 allegation may include:
- 88 (1) an allegation of fraud, waste or abuse;
- 89 (2) a violation of personnel policy; or
- 90 (3) a violation of law, including a violation of Chapter 2-7 (Ethics and Financial Disclosure)
- 91 (B) The city auditor shall communicate directly with the council audit committee and the council, attend council
- 92 audit and finance committee meetings, and regularly meet with council.
- 93 (C) The city auditor shall establish audit policies and procedures consistent with government auditing standards
- 94 established by the Comptroller General of the United States, and applicable law and regulation.
- 95 (D) The city auditor may conduct a performance or financial-related audit, investigation, and other audit work to
- 96 determine if:
- 97 (1) a current City function, program, service, or policy:
- 98 (a) is authorized by the council or other legal authority; and
- 99 (b) is conducted to accomplish its intended objective;
- 100 (2) a function, program, service, or policy is effective in achieving its stated or intended result or benefit,
- 101 including the level of effectiveness;
- 102 (3) an audited function, program, service, or policy effectively, economically, and efficiently acquires,
- 103 protects, and uses its resources, including personnel, property, and space;
- 104 (4) a function, program, service, or policy complies with a mandate regarding efficiency, economy,
- 105 effectiveness, or expenditure of public funds adopted by council or other legal authority;
- 106 (5) management for a function, program, service, or policy has adopted an administrative and accounting
- 107 control system to effectively, economically, and efficiently carry on the function or program; and
- 108 (6) a function, program, service, or policy is providing financial and performance reports that accurately,
- 109 fully, and fairly disclose all information required by law or other criteria necessary to:
- 110 (a) ascertain the nature and scope of the function, program, service, or policy; and

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- 111 (b) establish a proper basis for evaluating the results of the function, program, service, or policy.
- 112 (E) When required or implied by audit objectives, the auditor shall determine the cause of an inefficient,  
113 uneconomical, or ineffective function, program, service, or policy.
- 114 (F) The city auditor may conduct follow-up review determined to be necessary by the city auditor to verify a report  
115 or plan from the city manager in response to an audit recommendation. The city auditor shall review a follow-  
116 up report or plan from the city manager in response to an audit recommendation.
- 117 (G) If the city auditor determines that a city employee or official may have violated the law, or may be reasonably  
118 anticipated to commit a violation, the auditor shall:
- 119 (1) consult with and obtain advice from the city attorney;
- 120 (2) ~~promptly~~ immediately report the suspected violation to the appropriate authority; and
- 121 (3) if the suspected violation is criminal, notify the appropriate chief prosecuting authority.
- 122 (H) The city auditor may hire a certified or registered public accountant, qualified management consultant, or other  
123 professional expert necessary to perform the auditor's duties, in compliance with the City's procurement  
124 requirements.
- 125 (I) Notwithstanding any other provision of the City Code, the auditor shall hire an external party to investigate any  
126 material allegation alleging a violation of City Code by a member of the city council, a member of a council  
127 member's direct staff, or the city manager. The auditor shall submit the results of any substantiated external  
128 investigation to the Ethics Review Commission, which shall make the final determination on the allegation.
- 129 (J) If the auditor conducts an investigation of an allegation alleging a violation of Chapter 2-7, Article 4 (Code of  
130 Ethics) by the city clerk, the clerk of the municipal court, a municipal court judge, a person appointed by the  
131 mayor or the city council to a City board, task force or similar body, or by a City employee who is not either a  
132 member of the classified municipal civil service system or of a state civil service system, the auditor shall  
133 submit the results of any substantiated investigation to the Ethics Review Commission, which shall make the  
134 final determination on the allegation. ~~The auditor shall not make a determination on the allegation.~~
- 135 (K) The auditor may conduct an investigation of an allegation alleging a violation of law or policy by a City  
136 employee who is a member of the classified municipal civil service system or of a state civil service system. If  
137 the auditor conducts an investigation of an employee covered by a civil service system, the investigation must  
138 be done in a way that is consistent with the law and any applicable labor agreement. If the auditor obtains  
139 evidence that indicates that a violation has occurred, the auditor shall provide a copy of the result of an  
140 investigation under this section to the city manager or other appropriate party. The city manager or appropriate  
141 party may conduct a separate investigation. The city manager or appropriate party has the authority to determine  
142 that a violation has occurred and the appropriate disciplinary action.
- 143 (L) A person who is the subject of an investigation by the auditor may bring to any interview with the auditor a  
144 representative or advisor of the person's choice. ~~Before the auditor issues a final report on the investigation, the~~  
145 ~~auditor must provide the person with an opportunity to respond in writing to any allegation made against the~~  
146 ~~person.~~
- 147 (M) For each investigation in which the auditor obtains evidence that indicates that a violation has occurred, the  
148 auditor shall prepare a draft investigative report and deliver the draft report to the person who is the subject of  
149 the investigation and any person or entity mentioned or referenced as being involved in the alleged  
150 inappropriate conduct. The person who is the subject of the investigation and any person or entity mentioned or  
151 referenced as being involved in the alleged inappropriate conduct may submit a written response to the draft  
152 report within 20 working days after receiving the report. The auditor shall deliver a copy of the final report,  
153 including any response submitted, to the appropriate authority, the person who is the subject of the  
154 investigation, any person or entity mentioned or referenced as being involved in the alleged inappropriate  
155 conduct, the council, and the city manager. The auditor shall retain a copy of the report in the auditor's office  
156 for the applicable retention period under the City's records management program.

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157 (N) The city auditor shall refer an allegation enumerated in this subsection to the city manager. The city manager  
158 shall design a process to inform the city auditor of the disposition of the referred allegations for recordkeeping  
159 purposes. The allegations covered by this subsection are those related to:

160 (1) A personnel issue;

161 (2) An operational issue;

162 (3) A de minimus fraud, waste or abuse violation;

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

164 (5) An issue that the auditor is not authorized to investigate, and that is not within the jurisdiction of the Ethics  
165 Review Commission.

166 (O) City employees and officials shall cooperate with auditor investigations.

167 (P) The city manager shall produce a quarterly report on the status of investigations regarding fraud, waste, and  
168 abuse conducted by the city manager at least twice annually to the Council Audit and Finance Committee.

169 Source: 1992 Code Sections 2-8-1(B)(3), 2-8-3(B), and 2-8-6; Ord. 031204-9; Ord. 031211-11.

170 **§ 2-3-7 - EMPLOYEES.**

171 (A) Except the city auditor and an assistant otherwise designated by the city auditor, an appointee or employee of  
172 the city auditor's office is in the City's classified personnel service.

173 (B) The city auditor has the authority to appoint, employ, and terminate an assistant or other personnel as necessary  
174 to operate the city auditor's office, independently of the direction of the city manager or the council, subject to  
175 the budget approval process and personnel policy established by the council for each City department.

176 (C) The city manager or council may not direct the city auditor to appoint, employ, or terminate an assistant city  
177 auditor or other auditor's office personnel, subject to the City's grievance procedure.

178 Source: 1992 Code Sections 2-8-2(H) and (I); Ord. 031204-9; Ord. 031211-11.

179 **§ 2-3-8 - ANNUAL AUDIT PLAN AND SPECIAL AUDITS.**

180 (A) Not later than the 30th day before the beginning of a calendar year, the city auditor shall submit an annual audit  
181 plan to the council for review and comment through the council audit and finance committee.

182 (B) An annual audit plan under this section shall identify the scope of each audit the city auditor intends to  
183 conduct, including:

184 (1) the department, organization, service, program, function, and policy to be audited; and

185 (2) each potential audit objective to be addressed.

186 (C) If the city auditor notifies the council audit and finance committee and obtains comments from the committee,  
187 an annual audit plan may be amended by the city auditor. The city auditor may request an amendment  
188 independently, or at the request of the council audit and finance committee or the city manager.

189 (D) The city auditor may initiate, conduct, or expand the scope of an audit or investigation if the auditor determines  
190 that fraud, waste, abuse, or illegality may have occurred or is occurring, or if an audit finding requires  
191 expansion of the scope of the audit or of an investigation in progress. The auditor shall notify the council audit  
192 and finance committee of an action under this section, if the auditor determines that:

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- 193 | ~~(1) fraud, abuse, or illegality may have or is occurring; or~~  
194 | ~~(2) an audit finding requires expansion of the scope of an audit or investigation in progress; and~~  
195 | ~~(3) notify the council audit and finance committee of action take under this section.~~  
196 | (E) The city auditor shall distribute the results of a special audit in accordance with Section 2-3-9 (Report  
197 | Preparation and Release).

198 Source: 1992 Code Section 2-8-2(G)(1) through (3); Ord. 031204-9; Ord. 031211-11.

199 **§ 2-3-9 - REPORT PREPARATION AND RELEASE.**

- 200 (A) The city auditor shall prepare a draft audit report for each audit and deliver the report to the city manager.  
201 (B) The city manager shall send the city auditor written comment on the reported audit findings and a written  
202 response to each recommendation on or before a date agreed to by the city manager and the city auditor. The  
203 city manager's response shall:  
204 (1) state whether the city manager agrees or disagrees with each recommendation;  
205 (2) include the reason for a disagreement; and  
206 (3) describe the action, if any, that will occur in response to a recommendation.  
207 (C) If the city manager's response is timely delivered to the city auditor, the city auditor shall include a copy of the  
208 response in the city auditor's final report.  
209 (D) The city auditor shall file a final audit report with the council and the city manager, and retain a copy in the  
210 city auditor's office as a permanent record.  
211 (E) An audit report prepared under this section shall adhere to the reporting standards for financial-related and  
212 performance audits prescribed by government audit standards.  
213 (F) If appropriate, the city auditor may issue other advisory reports to provide information to the city manager and  
214 council.  
215 (G) The auditor shall prepare a summary of the reporting program's activities at least twice annually for  
216 presentation to the council audit and finance committee.

217 Source: 1992 Code Section 2-8-5; Ord. 031204-9; Ord. 031211-11.

218 **§ 2-3-10 - COUNCIL AUDIT AND FINANCE COMMITTEE.**

- 219 (A) The council audit and finance committee shall assist the council in oversight of and responsibility for the City's  
220 financial and performance reporting practices, internal controls, compliance with applicable law and  
221 regulation, and initiatives to improve service.  
222 (B) The committee shall:  
223 (1) review and make a recommendation to the full council regarding the city auditor's annual audit plan;  
224 (2) monitor the city auditor's audit results and follow-up activity;  
225 (3) monitor the City's internal controls through external audits and the city auditor's audits and other activity;  
226 (4) provide reasonable assurance to the council that the City is in compliance with applicable law and  
227 regulation, is conducting its affairs ethically, and is maintaining effective internal controls against a  
228 conflict of interest or fraud;  
229 (5) meet with the director of the Finance and Administrative Services Department on financial questions and  
230 to review:

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- 231 (a) the City's financial reports, including a comparison between actual financial performance and the  
232 approved budget;
- 233 (b) the City's fiscal policy, internal control policy, investment policy, debt management policy, and  
234 other financial management policies; and
- 235 (c) the status of the capital improvement program and related projects;
- 236 (6) recommend to the full council an external auditor to conduct the City's annual financial audit; and
- 237 (7) meet with the external auditor approved by the council as necessary, and review financial statements,  
238 auditors' opinion, and management letters resulting from the City's annual financial audit.

239 Source: 1992 Code Section 2-8-3; Ord. 031204-9; Ord. 031211-11; Ord. 20060824-060; Ord.  
240 20090806-032; [Ord. No. 20150129-026, Pt. 5, 2-9-15.](#)

241 **§ 2-3-11 - PEER REVIEW.**

- 242 (A) The city auditor is subject to peer review not less than once every three years by a professional, non-partisan,  
243 objective person or group, including an auditor or other professional with appropriate government auditing  
244 expertise and experience.
- 245 (B) Peer review shall determine compliance by the city auditor with government auditing standards and the quality  
246 of the auditor's audit effort and reporting, including:
- 247 (1) general standards, including staff qualifications, due professional care, and quality assurance;
- 248 (2) fieldwork standards, including planning, supervision, and audit evidence; and
- 249 (3) reporting standards, including report content, presentation, and timeliness.
- 250 (C) After the council audit and finance committee has reviewed and approved the written peer review report, the  
251 committee shall provide a copy of the written peer review report to each member of the council.
- 252 (D) The city auditor shall pay the cost of the peer review, including reasonable travel and living expenses, from the  
253 city auditor's budget.

254 Source: 1992 Code Section 2-8-7; Ord. 031204-9; Ord. 031211-11.

255 **§ 2-3-12 - ACCESS TO RECORDS AND PROPERTY.**

- 256 (A) Each City officer and employee shall provide the city auditor with free and open access to and furnish copies  
257 of information in any medium, including a record, book, account, internal or external memorandum, tape,  
258 report, file, diskette, computer data, money, fund, or other information.
- 259 (B) Each City officer and employee shall provide the city auditor with free and open access to property, equipment,  
260 facilities, and operations for inspection or observation by the auditor.

261 Source: 1992 Code Section 2-8-4; Ord. 031204-9; Ord. 031211-11.

262 ~~§ 2-3-13 - REQUEST FOR LEGAL SERVICES.~~

## Proposed Changes to Chapter 2-7

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

2

### 3 ARTICLE 1. - GENERAL PROVISIONS.

4

### 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.

## Proposed Changes to Chapter 2-7

- 40 (3) CITY OFFICIAL or OFFICIAL, unless otherwise expressly defined, means the mayor,  
41 members of the city council, municipal court judges (including substitute judges), city manager,  
42 assistant city managers, city clerk, deputy city clerks, city attorney, deputy city attorneys, all  
43 department heads or deputy department heads, whether such person is salaried, hired or elected,  
44 and all other persons holding positions designated by the City Charter, as it may be amended  
45 from time to time. City official, unless otherwise expressly defined, includes individuals  
46 appointed by the mayor and city council to all City commissions, committees, boards, task  
47 forces, or other City bodies unless specifically exempted from this chapter by the city council.
- 48 (4) DECISION means any ordinance, resolution, contract, franchise, formal action or other matter  
49 voted on by the city council or other City board or commission, as well as the discussions or  
50 deliberations of the council, board, or commission which can or may lead to a vote or formal  
51 action by that body. A decision of a City employee means any action in which the employee  
52 exercises discretionary authority, including but not limited to the issuance of permits,  
53 imposition or collection of fines or fees, authorizations for expenditures, and other non-  
54 ministerial acts.
- 55 (5) DISCRETIONARY AUTHORITY means the power to exercise any judgment in a decision or  
56 action.
- 57 (6) ENTITY means a sole proprietorship, partnership, limited partnership, firm, corporation,  
58 professional corporation, holding company, joint stock company, receivership, trust or any other  
59 entity recognized by law through which business may be conducted, but does not include a  
60 governmental body.
- 61 (7) INCIDENTAL INTEREST means an interest in a person, entity or property which is not a  
62 substantial interest and which has insignificant value, or which would be affected only in a de  
63 minimis fashion by a decision. This chapter does not establish dollar limits on the terms  
64 "insignificant value" and "de minimis," which shall have their usual meanings and be subject to  
65 interpretation on a case by case basis.
- 66 (8) MINISTERIAL ACT means an act performed in a prescribed manner and not requiring the  
67 exercise of any judgment or discretion.
- 68 (9) REMOTE INTEREST means an interest of a person or entity, including a City official or  
69 employee, who would be affected in the same way as the general public. The interest of a  
70 councilmember in the property tax rate, general City fees, City utility charges, or a  
71 comprehensive zoning ordinance or similar decisions is incidental to the extent that the  
72 councilmember would be affected in common with the general public.
- 73 (10) SUBSTANTIAL INTEREST means an interest in another person or an entity if: the interest is  
74 ownership of five percent or more of the voting stock, shares or equity of the entity or  
75 ownership of \$5,000 or more of the equity or market value of the entity; or funds received by  
76 the person from the other person or entity either during the previous 12 months or the previous  
77 calendar year equaled or exceeded \$5,000 in salary, bonuses, commissions or professional fees  
78 or \$20,000 in payment for goods, products or nonprofessional services, or 10 percent of the  
79 person's gross income during that period, whichever is less; the person serves as a corporate  
80 officer or member of the board of directors or other governing board of the for-profit entity  
81 other than a corporate entity owned or created by the city council; or the person is a creditor,  
82 debtor, or guarantor of the other person or entity in an amount of \$5,000 or more except that a  
83 home mortgage loan for the person's homestead or a loan or lease of a personal automobile shall  
84 not be deemed a substantial interest in the creditor or guarantor if entered into at a market rate  
85 with a commercial lending institution before the previous 12 months.

## Proposed Changes to Chapter 2-7

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

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

89 ARTICLE 2. - ETHICS REVIEW COMMISSION.

90

91 § 2-7-26 - FUNCTIONS.

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

98 Source: 1992 Code Section 2-3-26; Ord. 031204-9; Ord. 031211-11; Ord. 20080214-012; Ord. 20120426-  
99 084.

100 § 2-7-27 - LIMIT ON THE COMMISSION'S JURISDICTION.

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

104 Source: [Ord. No. 20150129-021, Pt. 1, 2-9-15.](#)

105 § 2-7-28 - **COMMISSION ACTION ON INFORMATION RECEIVED FROM THE AUDITOR.**

106 If the commission receives information from the city auditor under Subsections (I) or (J) of Section 2-3-6  
107 (Powers and Duties), the commission shall convene not later than the 30<sup>th</sup> day after the date the chair of  
108 the commission receives the information. The commission shall consider the information at that meeting.  
109 The chair of the commission shall cause a notice to be sent to the person who is the subject of the  
110 investigation and any person or entity mentioned or referenced as being involved in the alleged  
111 inappropriate conduct no later than the 20<sup>th</sup> day before the date scheduled for the meeting. The person  
112 who is the subject of the investigation or any person or entity mentioned or referenced as being involved  
113 in the alleged inappropriate conduct may present sworn testimony and other information relating to the  
114 investigation at the meeting. A commission member may not receive an ex parte communication  
115 regarding the information, and shall treat the matter in the same manner as a sworn complaint under  
116 Section 2-7, Article 3 (Violations: Complaints and Hearing Procedures). The commission may take any  
117 action on the information that is within its jurisdiction, including dismissing the matter. The commission  
118 shall forward notification of its findings and action to the city manager or appropriate party. The city  
119 manager or appropriate party has sole authority to determine disciplinary action.-

120 § 2-7-29 - REPORTS; OPINIONS.

## Proposed Changes to Chapter 2-7

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

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

125 § 2-7-30 - DUTIES.

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

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

148 (B) The commission may:

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

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

156 § 2-7-31 - STAFFING.

157 (A) The Ethics Review Commission shall be assigned staff by the city attorney to assist in its duties.

## Proposed Changes to Chapter 2-7

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

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

### 172 § 2-7-32 - RULES.

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

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

### 176 ARTICLE 3. - VIOLATIONS; COMPLAINT AND HEARING PROCEDURES.

177

### 178 § 2-7-41 - COMPLAINTS.

- 179 (A) In this article:
- 180 (1) COMPLAINANT means a person filing a sworn complaint; and
- 181 (2) RESPONDENT means a person who is alleged in a sworn complaint to have violated a  
182 provision within the jurisdiction of the Ethics Review Commission.
- 183 (B) A sworn complaint alleging a violation of a provision within the jurisdiction of the Ethics Review  
184 Commission shall specify each code section or charter provision alleged to have been violated.
- 185 (C) A complaint alleging a violation of Sections 2-7-62 (Standards of Conduct) through 2-7-65  
186 (Substantial Interest of Relative) must be filed with the city clerk within two years from the date of  
187 the action alleged as a violation, and not afterward.
- 188 (D) On the sworn complaint of any person filed with the city clerk's office or on the commission's own  
189 initiative, the commission shall consider possible violations of a provision within the jurisdiction of  
190 the commission by City officials and employees, former City officials and employees, candidates for  
191 election to City offices, and other persons subject to the provisions set forth in Section 2-7-26  
192 (Functions). The commission may not consider complaints against its own members.
- 193 (E) Not later than ~~three~~ five working days after the city clerk receives a sworn complaint, the city clerk  
194 shall consult with the city attorney to determine if the complaint is under the jurisdiction of the  
195 commission. If the complaint does not appear to be under the commission's jurisdiction, and if the

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196 complaint appears to be under the city auditor's jurisdiction, the city clerk shall send the complaint to  
197 the city auditor. If the complaint is under neither the jurisdiction of the commission or the auditor,  
198 the city clerk shall retain a copy of the complaint but take no further action on the complaint. If the  
199 complaint does not appear to be under the commission's jurisdiction, the city clerk shall advise the  
200 complainant of the disposition of the complaint. If the complaint appears to be under the  
201 commission's jurisdiction, the city clerk shall acknowledge the receipt of the complaint to the  
202 complainant and provide a copy of the complaint to the city attorney, the chair of the commission,  
203 ~~and~~ the respondent, and any person or entity identified as involved in the alleged inappropriate  
204 conduct. Not later than the 10th working day after receipt of a complaint by the chair, the  
205 commission shall notify in writing the complainant and the respondent of a date for a preliminary  
206 hearing. If the commission does not hold a preliminary hearing within 20 working days of receipt of  
207 the complaint by the chair, it shall notify the complainant of the reasons for the delay and shall  
208 subsequently give the complainant the appropriate notification.

209 (F) The commission may consider a possible violation of a provision within the jurisdiction of the  
210 commission on the commission's own initiative. Within seven days of the commission's decision to  
211 consider a possible violation, the commission shall draft a written complaint specifying each code  
212 section or charter provision alleged to have been violated, shall file a copy of the complaint with the  
213 city clerk, and shall provide a copy the complaint\* to the city attorney and to the respondent. Not  
214 later than the 15th working day after the drafting of the complaint, the commission shall notify in  
215 writing the respondent of the date for the preliminary hearing.

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

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

219

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