

NOTE: THE FOLLOWING AMENDMENTS HAVE BEEN RECOMMENDED BY ERC CHAIR AUSTIN KAPLAN BUT HAVE NOT YET BEEN VOTED ON BY THE FULL ERC WORKING GROUP.

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;

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

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

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

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[1] - APPOINTMENT.**

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

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

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
36 Section 17 (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. 031211-11.

38 **§ 2-3-~~3~~^[2] - SELECTION PROCESS; CITY AUDITOR VACANCY.**

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

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

42 (2) the state auditor; and

43 (3) the city manager.

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

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

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

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

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

55 **§ 2-3-~~4~~^[3] - QUALIFICATIONS FOR CITY AUDITOR.**

56 The city auditor must:

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

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

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

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

63 **§ 2-3-~~5~~^[4] - INDEPENDENCE, OBJECTIVITY, AND AUDIT STANDARDS.**

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- 64 (A) The city auditor shall organize and administer the auditor's office to operate without interference or
65 influence that might adversely affect an independent and objective judgment of the auditor.
- 66 (B) The city auditor:
- 67 (1) shall organize the auditor's office as necessary to perform the auditor's responsibilities and
68 duties under this chapter;
- 69 (2) may not be actively involved in partisan City political activity;
- 70 (3) may not conduct or supervise or allow an employee to conduct or supervise an audit of an
71 activity for which the person was responsible or in which the person was employed during the
72 two years before the date of the audit;
- 73 (4) shall adhere to government auditing standards established by the Comptroller General of the
74 United States to conduct the auditor's work and be independent as defined by the standards; and
- 75 (5) shall follow accepted industry standards to conduct the auditor's investigative work, such as the
76 general and qualitative standards under the "Quality Standards for Investigations" established
77 by the Council of the Inspectors General on Integrity and Efficiency; and
- 78 (6) [(5)] is responsible for selection of an audit area and may consider requests from council and
79 the city manager in selecting an audit area.

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

81 **§ 2-3-6[(5)] - POWERS AND DUTIES.**

- 82 (A) The city auditor shall examine City operations to identify an opportunity to reduce costs, increase
83 efficiency, quality, and effectiveness, or otherwise improve management of a City function, program,
84 service, or policy. The auditor shall manage a reporting system through which a City employee or a
85 member of the public may submit an allegation of wrongdoing. The person making an allegation
86 need not provide the person's name. An allegation may include:
- 87 (1) an allegation of fraud, waste, or abuse;
- 88 (2) a violation of personnel policy; or
- 89 (3) a violation of law, including a violation of Chapter 2-7 (Ethics and Financial Disclosure)
- 90 (B) The city auditor shall communicate directly with the council audit committee and the council, attend
91 council audit and finance committee meetings, and regularly meet with council.
- 92 (C) The city auditor shall establish audit policies and procedures consistent with government auditing
93 standards established by the Comptroller General of the United States, and applicable law and
94 regulation.
- 95 (D) The city auditor may conduct a performance or financial-related audit, investigation, and other audit
96 work to 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;

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- 100 (2) a function, program, service, or policy is effective in achieving its stated or intended result or
101 benefit, including the level of effectiveness;
- 102 (3) an audited function, program, service, or policy effectively, economically, and efficiently
103 acquires, 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
107 accounting control system to effectively, economically, and efficiently carry on the function or
108 program; and
- 109 (6) a function, program, service, or policy is providing financial and performance reports that
110 accurately, fully, and fairly disclose all information required by law or other criteria necessary
111 to:
- 112 (a) ascertain the nature and scope of the function, program, service, or policy; and
113 (b) establish a proper basis for evaluating the results of the function, program, service, or
114 policy.
- 115 (E) When required or implied by audit objectives, the auditor shall determine the cause of an inefficient,
116 uneconomical, or ineffective function, program, service, or policy.
- 117 (F) The city auditor may conduct follow-up review determined to be necessary by the city auditor to
118 verify a report or plan from the city manager in response to an audit recommendation. The city
119 auditor shall review a follow-up report or plan from the city manager in response to an audit
120 recommendation.
- 121 (G) If the city auditor determines that a city employee or official may have violated the law, or may be
122 reasonably anticipated to commit a violation, the auditor shall:
- 123 (1) consult with and obtain advice from the city attorney;
- 124 (2) promptly [immediately] report the suspected violation to the appropriate authority; and
125 (3) if the suspected violation is criminal, notify the appropriate chief prosecuting authority.
- 126 (H) The city auditor may hire a certified or registered public accountant, qualified management
127 consultant, or other professional expert necessary to perform the auditor's duties, in compliance with
128 the City's procurement requirements.
- 129 (I) Notwithstanding any other provision of the City Code, the auditor shall hire an external party to
130 investigate any material allegation of a violation of Article 4 of Chapter 2-7 of City Code (*Code of*
131 *Ethics*) or Section 9 of Article II of the City Charter (*Interference in Personnel Matters*) by a member
132 of the city council, a member of a council member's direct staff, or the city manager. The auditor
133 shall submit the results of any substantiated external investigation to the Ethics Review Commission,
134 which shall make the final determination on the allegation.
- 135 (J) If the auditor conducts an investigation of an allegation of a violation of Article 4 of Chapter 2-7 of
136 City Code (*Code of Ethics*) by the city clerk; the clerk of the municipal court; a municipal court
137 judge; a person appointed by the mayor or the city council to a City board, task force, or similar body;
138 or a City employee who is neither a member of the classified municipal civil service system nor of a
139 state civil service system, then the auditor shall submit the results of any substantiated investigation to
140 the Ethics Review Commission, which shall make the final determination on the allegation.

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- 141 (K) The auditor may conduct an investigation of an allegation of a violation of law or policy by a City
142 employee who is a member of the classified municipal civil service system or of a state civil service
143 system. If the auditor conducts an investigation of an employee covered by a civil service system, the
144 investigation must be done in a way that is consistent with the law and any applicable labor
145 agreement. If the auditor obtains sufficient evidence that indicates that a violation has occurred, the
146 auditor shall provide a copy of the result of an investigation under this section to the city manager or
147 other appropriate authority. The city manager or appropriate authority may conduct a separate
148 investigation. The city manager or appropriate authority has the authority to determine that a violation
149 has occurred and to take appropriate disciplinary action.
- 150 (L) A person who is the subject of an investigation by the auditor may bring to any interview with the
151 auditor a representative or advisor of the person's choice.
- 152 (M) For each investigation in which the auditor obtains sufficient evidence that indicates that a violation
153 has occurred, the auditor shall prepare a draft investigative report and deliver the draft report to the
154 person who is the subject of the investigation and any person or entity mentioned or referenced as
155 being involved in the alleged inappropriate conduct. The person who is the subject of the
156 investigation and any person or entity mentioned or referenced as being involved in the alleged
157 inappropriate conduct may submit a written response to the draft report within 20 working days after
158 receiving the report. The auditor shall deliver a copy of the final report, including any response
159 submitted, to the appropriate authority, the person who is the subject of the investigation, any person
160 or entity mentioned or referenced as being involved in the alleged inappropriate conduct, the council,
161 and the city manager. The auditor shall retain a copy of the report in the auditor's office for the
162 applicable retention period under the City's records management program.
- 163 (N) The city auditor shall refer an allegation enumerated in this subsection to the city manager. The city
164 manager shall design a process to inform the city auditor of the disposition of the referred allegations
165 for recordkeeping purposes. The allegations covered by this subsection are those related to:
- 166 (1) A personnel issue;
167 (2) An operational issue;
168 (3) A de minimus fraud, waste, or abuse violation;
169 (4) A public safety issue that is not related to fraud, waste, or abuse; and
170 (5) An issue that the auditor is not authorized to investigate and that is not within the jurisdiction of
171 the Ethics Review Commission.
- 172 (O) City employees and officials shall cooperate with auditor investigations.
- 173 (P) The city manager shall produce a report on the status of investigations regarding fraud, waste, and
174 abuse conducted by the city manager at least twice annually to the Council Audit and Finance
175 Committee.

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

177 **§ 2-3-7[6] - EMPLOYEES.**

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

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

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

187 **§ 2-3-8[7] - ANNUAL AUDIT PLAN AND SPECIAL AUDITS.**

- 188 (A) Not later than the 30th day before the beginning of a calendar year, the city auditor shall submit an
189 annual audit plan to the council for review and comment through the council audit and finance
190 committee.
- 191 (B) An annual audit plan under this section shall identify the scope of each audit the city auditor intends
192 to conduct, including:
- 193 (1) the department, organization, service, program, function, and policy to be audited; and
194 (2) each potential audit objective to be addressed.
- 195 (C) If the city auditor notifies the council audit and finance committee and obtains comments from the
196 committee, an annual audit plan may be amended by the city auditor. The city auditor may request an
197 amendment independently, or at the request of the council audit and finance committee or the city
198 manager.
- 199 (D) The city auditor may initiate, conduct, or expand the scope of an audit or investigation if the auditor
200 determines that fraud, waste, abuse, or illegality may have occurred or is occurring, or if an audit
201 finding requires expansion of the scope of the audit or of an investigation in progress. The auditor
202 shall notify the council audit and finance committee of an action under this section.~~[if the auditor~~
203 ~~determines that:~~
- 204 ~~(1) fraud, abuse, or illegality may have or is occurring; or~~
205 ~~(2) an audit finding requires expansion of the scope of an audit or investigation in progress; and~~
206 ~~(3) notify the council audit and finance committee of action take under this section.]~~
- 207 (E) The city auditor shall distribute the results of a special audit in accordance with Section 2-3-9[8]
208 (Report Preparation and Release).

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

210 **§ 2-3-9[8] - REPORT PREPARATION AND RELEASE.**

- 211 (A) The city auditor shall prepare a draft audit report for each audit and deliver the report to the city
212 manager.

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

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

230 **§ 2-3-~~10~~⁹ - COUNCIL AUDIT AND FINANCE COMMITTEE.**

- 231 (A) The council audit and finance committee shall assist the council in oversight of and responsibility for
232 the City's financial and performance reporting practices, internal controls, compliance with
233 applicable law and regulation, and initiatives to improve service.
- 234 (B) The committee shall:
- 235 (1) review and make a recommendation to the full council regarding the city auditor's annual audit
236 plan;
- 237 (2) monitor the city auditor's audit results and follow-up activity;
- 238 (3) monitor the City's internal controls through external audits and the city auditor's audits and
239 other activity;
- 240 (4) provide reasonable assurance to the council that the City is in compliance with applicable law
241 and regulation, is conducting its affairs ethically, and is maintaining effective internal controls
242 against a conflict of interest or fraud;
- 243 (5) meet with the director of the Finance and Administrative Services Department on financial
244 questions and to review:
- 245 (a) the City's financial reports, including a comparison between actual financial performance
246 and the approved budget;
- 247 (b) the City's fiscal policy, internal control policy, investment policy, debt management policy,
248 and other financial management policies; and
- 249 (c) the status of the capital improvement program and related projects;

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- 250 (6) recommend to the full council an external auditor to conduct the City's annual financial audit;
251 and
- 252 (7) meet with the external auditor approved by the council as necessary, and review financial
253 statements, auditors' opinion, and management letters resulting from the City's annual financial
254 audit.

255 Source: 1992 Code Section 2-8-3; Ord. 031204-9; Ord. 031211-11; Ord. 20060824-060; Ord. 20090806-
256 032; [Ord. No. 20150129-026, Pt. 5, 2-9-15](#).

257 **§ 2-3-~~11~~[10] - PEER REVIEW.**

- 258 (A) The city auditor is subject to peer review not less than once every three years by a professional, non-
259 partisan, objective person or group, including an auditor or other professional with appropriate
260 government auditing expertise and experience.
- 261 (B) Peer review shall determine compliance by the city auditor with government auditing standards and
262 the quality of the auditor's audit effort and reporting, including:
- 263 (1) general standards, including staff qualifications, due professional care, and quality assurance;
264 (2) fieldwork standards, including planning, supervision, and audit evidence; and
265 (3) reporting standards, including report content, presentation, and timeliness.
- 266 (C) After the council audit and finance committee has reviewed and approved the written peer review
267 report, the committee shall provide a copy of the written peer review report to each member of the
268 council.
- 269 (D) The city auditor shall pay the cost of the peer review, including reasonable travel and living
270 expenses, from the city auditor's budget.

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

272 **§ 2-3-~~12~~[11] - ACCESS TO RECORDS AND PROPERTY.**

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

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

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