

1 communication by a city employee with the commission in the performance of the city
2 employee's official duties.

3 **PART 3.** City Code Section 2-7-46 (*Oaths and Requests for Information*) is amended to
4 amend Subsection (A), add new Subsections (B), (C), (D) and (E), and to re-letter the
5 remaining subsections:

6 **§ 2-7-46 OATHS AND REQUESTS FOR INFORMATION.**

7 (A) Subject to the limitations in this section, [F]if a complaint proceeds to a final
8 hearing, the commission may subpoena or request witnesses to attend and
9 testify, administer oaths and affirmations, take evidence, and subpoena or
10 request the production of books, papers, records, or other evidence needed for
11 the performance of the commission's duties or exercise of its powers,
12 including its duties and powers of investigation.

13 (B) Before the commission may issue a subpoena, the commission shall submit a
14 written request for a person to appear before them, for the production of
15 documents, or for any other evidence. All city officials and employees will
16 cooperate with the commission to assist it in carrying out its charge, and must
17 supply requested testimony and documents if the documents are public
18 records as set forth in the Public Information Act (Chapter 552 of the *Texas*
19 *Government Code*) or other applicable law. Identifying information about any
20 informant or witness in documents provided to the commission must be
21 redacted.

22 (C) The commission may issue a subpoena on its own or upon request of a
23 complainant or respondent. If requested by a party to the complaint, the party
24 must make a sworn request and state that the party in good faith believes that
25 such item or testimony exists. The party must provide a detailed description
26 of any requested items or testimony sufficient to be able to identify the items
27 or information; must state that the party has attempted to obtain such items or
28 information otherwise; and, that the party in good faith believes that the
29 person or entity whose name and address is specified in the sworn request
30 does possess or control the requested item or information.

31 (D) Any subpoena issued by the commission is subject to the following
32 requirements:

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- 2 (1) the subpoena may only be served within the Austin-Round Rock
3 Metropolitan Statistical Area defined as Travis, Williamson, Bastrop,
4 Hays, Burnet, and Caldwell;
- 5 (2) may not be served on a current City employee;
- 6 (3) may not be served on current or former staff in the Law Department or
7 outside legal counsel retained by the City; and,
- 8 (4) may not include a request for documentation which the city could
9 withhold under the Public Information Act (Chapter 552 of the *Texas*
10 *Government Code*).

11 (E) Objection to subpoena. If a subpoena is issued upon the request of a party to
12 the complaint, a person may object to a subpoena within seven working days after
13 receiving the subpoena. Objections to subpoenas must be in writing and submitted
14 to the city clerk. Not later than the fifth working day after the city clerk receives the
15 objection, the city clerk shall acknowledge the receipt of the objection to the
16 subpoena and provide a copy of the objection to the city attorney, the chair of the
17 commission, the complainant and the respondent. If the commission issued the
18 subpoena upon request of the complainant or respondent, the complainant or
19 respondent shall within three working days after receipt of the objection provide a
20 written response to the city clerk. The city clerk shall provide notice of receipt of a
21 response to the objection in the same manner as receipt of an objection as set forth
22 in this subsection. The commission shall rule on the objection. If a person to whom
23 the subpoena is properly issued fails to object to a subpoena within the time specified
24 in this section, the person waives any objection to the subpoena.

25 **PART 4.** Subsection (B) of City Code Section 2-7-48 (*Sanctions*) is amended to read as
26 follows:

27 **§ 2-7-48 SANCTIONS.**

- 28 (B) If the Ethics Review Commission determines that a violation of Sections 2-7-
29 62 (*Standards of Conduct*), 2-7-63 (*Prohibition on Conflict of Interest*), 2-7-
30 64 (*Disclosure of Conflict of Interest*), and 2-7-65 (*Substantial Interest of*
31 *Relative*) occurred, it shall proceed directly to determination of the appropriate

1 sanction(s). A violation of Sections 2-7-62 (*Standards of Conduct*), 2-7-63
2 (*Prohibition on Conflict of Interest*), 2-7-64 (*Disclosure of Conflict of*
3 *Interest*), [~~and~~] 2-7-65 (*Substantial Interest of Relative*), 2-7-46 (*Oaths and*
4 *Requests for Information*), and subsection (D) of Section 2-7-41(*Complaints*)
5 shall not be subject to criminal penalties under the City Code. The commission
6 may receive additional testimony or statements before considering sanctions
7 but is not required to do so. If the respondent acted in reliance upon a public
8 written opinion of the city attorney, the commission shall consider that fact.

9 **PART 5.** This ordinance takes effect on _____, 2018.

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11 **PASSED AND APPROVED**

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15 _____, 2018

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Steve Adler
Mayor

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20 **APPROVED:** _____
21 Anne L. Morgan
22 City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk