

ORDINANCE NO.

AN ORDINANCE AMENDING SECTION 2-3-5 (POWERS AND DUTIES) AND SECTION 2-7-27 (LIMITS ON THE COMMISSION'S JURISDICTION) OF THE CITY CODE RELATING TO COMPLAINTS ALLEGING A VIOLATION OF THE CODE OF ETHICS

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

PART 1. Section 2-3-5 (*Powers and Duties*) is amended to read:

§ 2-3-5 POWERS AND DUTIES.

(L)(1) If the city auditor investigates an allegation of a violation of City Code Chapter 2-7, Article 4 (Code of Ethics) by a ~~[person listed in this subsection]~~ member of the city council or their direct staff; a person appointed by the city council pursuant to the City Charter; or a person appointed by city council to a City board, task force, or similar body, the city auditor shall submit the results of a substantiated investigation to the Ethics Review Commission by filing a sworn complaint with the commission under City Code Section 2-7-41 (Complaints).

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

~~[(2)](b)~~ The Ethics Review Commission shall make the final determination on the allegation.

~~[-(3)-~~ This subsection applies to an investigation of:

~~(a) the city clerk;~~

~~(b) the clerk of the municipal court;~~

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

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

(2) If the city auditor investigates an allegation of a violation of City Code Chapter 2-7, Article 4 (Code of Ethics) by a City official or employee, not listed in Subsection (1) above, and who is neither a member of the City's classified municipal

34 civil service system nor of a state civil service system, the city auditor shall prepare
35 a draft investigative report of a substantiated investigation. The draft report shall
36 include any information tending to negate guilt or mitigate the seriousness of the
37 offense.

38 (a) The city auditor shall deliver the draft investigative report to the person
39 who is the subject of the investigation and any person mentioned or referenced
40 as being involved in the alleged inappropriate conduct. The person who is the
41 subject of the investigation or a person mentioned or referenced as being
42 involved in the alleged inappropriate conduct may submit to the city auditor
43 a written response to the draft report by the 20th working day after the person
44 receives the report.

45 (b) The city auditor shall include any written responses received, and
46 deliver the draft report to the city manager. The city manager shall provide
47 written comment on the draft investigative report, including any action that
48 has occurred in response to findings in the draft investigation report by the
49 10th working day after the city manager receives the report.

50 (c) The city auditor shall include any written comment received from the
51 city manager, and finalize the report.

52 (d) The city auditor shall, pursuant to standard reporting procedures,
53 deliver the report to city council.

54 **PART 2.** Section 2-7-27 (*Limit on the Commission's Jurisdiction*) is amended to read:

55 Notwithstanding any other provision of the City Code, the Ethics Review
56 Commission may not hear or initiate a sworn complaint alleging a violation of
57 Article 4 (*Code of Ethics*) against an employee described in Section 2-3-5(L)(2),
58 including a member of the City's classified municipal civil service system or a
59 member of a state civil service system.

60 **PART 3.** This ordinance takes effect on _____, 2019.

PASSED AND APPROVED

_____, 2019 § _____

Steve Adler
Mayor

APPROVED: _____

Anne L. Morgan
City Attorney

ATTEST: _____

Jannette S. Goodall
City Clerk