

28 **PART 3.** City Code Section 2-3-2 (*Selection Process; City Auditor Vacancy*) is
29 amended to read:

30 **§ 2-3-2 - SELECTION PROCESS; CITY AUDITOR VACANCY.**

31 (A) The members of the council audit and finance committee shall serve as~~[The~~
32 ~~council shall appoint]~~ a nominating committee to recommend candidates for
33 city auditor. The chair and vice chair of the council audit and finance
34 committee will hold the same positions on the nominating committee.~~[The~~
35 ~~committee shall consist of five members, including:~~

- 36 (1) ~~three council members appointed by the council;~~
37 (2) ~~the state auditor; and~~
38 (3) ~~the city manager.]~~

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

42 ~~(B)~~(C)Not later than the 90th day after the city auditor position is vacated, ~~[its first~~
43 ~~meeting,]~~the nominating committee shall recommend to the council three
44 candidates selected by a majority of the committee members.

45 ~~(C)~~(D)Not later than the 30~~[15]~~th day after the council receives the nominating
46 committee's recommendation, the council shall select a city auditor from the
47 recommended candidates.

48 ~~(D)~~(E)If the city auditor's position is vacated, the auditor's first assistant shall serve
49 as acting city auditor during the vacancy.

50 **PART 4.** City Code Section 2-3-5 (*Powers and Duties*) is amended to read:

51 **§ 2-3-5 - POWERS AND DUTIES.**

52 (A) In this section:

- 53 (1) ABUSE means the use of a City office, employment, contract, or
54 other position with the City to obtain personal gain or favor for the
55 City official or employee or another person from a citizen or other

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City employee or vendor.

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

- (a) the unauthorized use of a City resource for personal gain by deception, including by forgery or by altering a document;
- (b) the misappropriation of funds, supplies, or other City resources, through methods including, but not limited to theft, embezzlement, or misrepresentation;
- (c) the intentional improper handling of or reporting of money or a financial transaction;
- (d) the intentional improper destruction or removal of records or other City resources; or
- (e) the use of official City information for personal benefit.

(3) WASTE means:

- (a) the grossly inefficient or uneconomical use of a City asset or resource; or
- (b) the unnecessary incurring of costs to the City as a result of a grossly inefficient practice, system, or control.

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

- (B) The city auditor shall examine City operations to identify an opportunity to reduce costs, increase efficiency, quality, and effectiveness, or otherwise improve management of a City function, program, service, or policy.
- (C) The city auditor shall communicate directly with the council audit committee and the council, attend council audit and finance committee meetings, and regularly meet with council.
- (D) The city auditor shall establish audit policies and procedures consistent with government auditing standards established by the Comptroller General of the

84 United States, and applicable law and regulation.

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

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

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

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

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

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

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

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

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

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

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

109 (F) When required or implied by audit objectives, the city auditor shall
110 determine the cause of an inefficient, uneconomical, or ineffective function,
111 program, service, or policy.

- 112 (G) The city manager shall provide an update on the status of all audit
113 recommendations to the city auditor at least twice a year. The city auditor
114 may conduct a follow-up review [determined to be necessary by the city
115 auditor] to verify a report or plan from the city manager in response to an
116 audit recommendation. [The city auditor shall review a follow-up report or
117 plan from the city manager in response to an audit recommendation.]
- 118 (H) If the city auditor determines that a city employee or official may have
119 violated the law, or may be reasonably anticipated to commit a violation, the
120 city auditor shall:
- 121 (1) consult with and obtain advice from the city attorney;
 - 122 (2) promptly report the suspected violation to the appropriate authority;
123 and
 - 124 (3) if the suspected violation is criminal, notify the appropriate chief
125 prosecuting authority.
- 126 (I) The city auditor may hire a certified or registered public accountant,
127 qualified management consultant, or other professional expert necessary to
128 perform the city auditor's duties, in compliance with the City's procurement
129 requirements.
- 130 (J) The city auditor shall manage a reporting system through which a City
131 employee or a member of the public may submit an allegation of
132 wrongdoing. The person making an allegation is not required to provide the
133 person's name. An allegation may include an allegation of:
- 134 (1) fraud, waste, or abuse;
 - 135 (2) a violation of personnel policy; or
 - 136 (3) a violation of law, including a violation of City Code Chapter 2-
137 7 (*Ethics and Financial Disclosure*).
- 138 (K) In response to a subpoena or request for investigative materials from a City
139 board, commission, task force, or similar body, the city auditor shall not
140 disclose any information that qualifies as an audit working paper under the
141 Public Information Act (Chapter 552, Texas Government Code), including

142 information that identifies any informant or witness. [~~This subsection applies~~
143 ~~to an allegation of a violation of City Code Chapter 2-7, Article 4 (Code of~~
144 ~~Ethics) by a member of the city council, a member of a council member's~~
145 ~~direct staff, or the city manager.~~

146 (1) ~~The city auditor shall hire an external party to investigate the~~
147 ~~allegation if the city auditor finds that an allegation merits an~~
148 ~~investigation.~~

149 (2) ~~The city auditor shall submit the results of a substantiated external~~
150 ~~investigation to the Ethics Review Commission by filing a sworn~~
151 ~~complaint with the commission under City Code Section 2-7-~~
152 ~~41 (Complaints).~~

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

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

162 (L) [(1)]If the city auditor receives[~~investigates~~] an allegation of a violation of
163 City Code Chapter 2-7, Article 4 (*Code of Ethics*) by a member of the city
164 council or their direct staff; a person appointed by the city council pursuant
165 to the City Charter; or a person appointed by the city council to a City board,
166 task force, or similar body, and finds that the allegation merits an
167 investigation the city auditor shall:

168 (1) hire an external party to investigate the allegation if the alleged
169 violation is by a member of the city council or their direct staff or a
170 person appointed by the city council pursuant to the City Charter; and

171 (2) submit the results of a substantiated investigation to the Ethics Review
172 Commission by filing a sworn complaint with the commission under

173 City Code Section 2-7-41 (*Complaints*).

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

181 (b) The Ethics Review Commission shall make the final
182 determination on the allegation.

183 ~~(M)~~~~(2)~~ If the city auditor investigates an allegation of a violation of City
184 Code Chapter 2-7, Article 4 (*Code of Ethics*) by a City official or
185 employee~~(s)~~ not listed in Subsection (~~L~~~~(1)~~)~~(above)~~, and who is neither a
186 member of the City's classified municipal civil service system nor of a state
187 civil service system, the city auditor shall prepare a draft investigative report
188 of a substantiated investigation. The draft report shall include any
189 information tending to negate guilt or mitigate the seriousness of the offense.

190 ~~(1)~~~~(a)~~ The city auditor shall deliver the draft investigative report to the
191 person who is the subject of the investigation and any person
192 mentioned or referenced as being involved in the alleged
193 inappropriate conduct. The person who is the subject of the
194 investigation or a person mentioned or referenced as being involved in
195 the alleged inappropriate conduct may submit to the city auditor a
196 written response to the draft report by the 20th working day after the
197 person receives the report.

198 ~~(2)~~~~(b)~~ The city auditor shall include any written responses received, and
199 deliver the draft report to the city manager. The city manager shall
200 provide written comment on the draft investigative report, including
201 any action that has occurred in response to findings in the draft
202 investigation report by the 10th working day after the city manager
203 receives the report.

204 ~~(3)~~~~(e)~~ The city auditor shall include any written comment received from the

205 city manager, and finalize the report.

206 (4[~~d~~]) The city auditor shall, pursuant to standard reporting procedures,
207 deliver the report to city council.

208 (N[M])The city auditor may conduct an investigation of an allegation of a violation
209 of law or policy by a City employee who is a member of the classified
210 municipal civil service system or of a state civil service system.

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

214 (2) The following provisions apply to an investigation under this
215 subsection:

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

220 (b) The city manager or appropriate authority may conduct a
221 separate investigation. The city manager or appropriate
222 authority has the authority to determine that a violation has
223 occurred and to take appropriate disciplinary actions.

224 (c) For each investigation in which the city auditor obtains
225 sufficient evidence that a violation has occurred, the city auditor
226 shall prepare a draft investigative report and deliver the draft
227 report to the person who is the subject of the investigation and a
228 person mentioned or referenced as being involved in the alleged
229 inappropriate conduct.

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

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

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

243 (O[N]) A person who is the subject of an investigation by the city auditor
244 may bring a representative or advisor of the person's choice to an interview
245 with the city auditor.

246 (P[Θ]) The city auditor shall refer an allegation enumerated in this subsection
247 to the city manager. The city manager shall design a process to inform the
248 city auditor of the disposition of the referred allegations for recordkeeping
249 purposes. The allegations covered by this subsection are those related to:

250 (1) a personnel issue;

251 (2) an operational issue;

252 (3) a de minimis fraud, waste, or abuse violation;

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

254 (5) an issue that the city auditor is not authorized to investigate and that is
255 not within the jurisdiction of the Ethics Review Commission; and

256 (6) a secondary employment matter that the city auditor determines does
257 not interfere with or impede the job performance or productivity of a
258 City official or employee; does not interfere with or impede the City's
259 conduct of official business; and is too small, minor, or insignificant
260 to have an economic impact on City operations.

261 (Q[P]) City officials and employees [~~and officials~~] shall cooperate with city auditor
262 audits, investigations, and any other work specified in this section.

263 (R) The city auditor shall distribute the results of an audit in accordance with

264 City Code Section 2-3-8 (Report Preparation and Release).

265 (S[Q])The city manager shall produce a report on the status of investigations
266 [regarding fraud, waste, and abuse]conducted by the city manager at least
267 once per [twice a] year to the c[C]ouncil a[A]udit and f[F]inance
268 c[C]ommittee.

269 **PART 5.** City Code Section 2-3-7 (*Annual Audit Plan and Special Audits*) is amended
270 to read:

271 **§ 2-3-7 - ANNUAL AUDIT PLAN[~~AND SPECIAL AUDITS~~].**

272 (A) [~~Not later than the 30th day before the beginning of a calendar year, the~~]The
273 city auditor shall submit an annual audit plan to the council for review and
274 comment through the council audit and finance committee.

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

277 (1) the department, organization, service, program, function,
278 or[and] policy to be audited; and

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

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

285 (D) The city auditor may initiate, conduct, or expand the scope of an audit or
286 investigation if the city auditor determines that:

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

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

290 (3) an audit finding requires expansion of the scope of an audit or
291 investigation in progress.

292 (E) ~~The city auditor shall distribute the results of a special audit in accordance~~
293 ~~with Section 2-3-8 (Report Preparation and Release).~~

294 **PART 6.** City Code Section 2-3-8 (*Report Preparation and Release*) is amended to
295 read:

296 **§ 2-3-8 - REPORT PREPARATION AND RELEASE.**

- 297 (A) The city auditor shall prepare a draft audit report for each audit and deliver
298 the report to the city manager.
- 299 (B) The city manager shall send the city auditor written comment on the
300 reported audit findings and a written response to each recommendation on or
301 before a date agreed to by the city manager and the city auditor. The city
302 manager's response shall:
- 303 (1) state whether the city manager agrees or disagrees with each
304 recommendation;
 - 305 (2) include the reason for a disagreement; and
 - 306 (3) describe the action and timeframe, if any, that will occur in
307 response to a recommendation.
- 308 (C) If the city manager's response is timely delivered to the city auditor, the city
309 auditor shall include a copy of the response in the city auditor's final report.
- 310 (D) The city auditor shall provide[file] a copy of the[final] audit report to the
311 Austin History Center for retention[with the council and the city manager,
312 and retain a copy in the city auditor's office] as a permanent record.
- 313 (E) The city auditor shall communicate the final audit report publicly by:
- 314 (1) posting on a website or via other electronic means;
 - 315 (2) providing a hard copy upon request; and
 - 316 (3) providing a summary to the council audit and finance committee.

317 (F[E]) An audit report prepared under this section shall adhere to the reporting
318 standards for financial-related and performance audits prescribed by

319 government audit standards[-] established by the Comptroller General of the
320 United States. Any adjustments to a final report will follow the requirements
321 in those government auditing standards regarding material errors or
322 misstatements.(G[F])If appropriate, the city auditor may issue other advisory
323 reports to provide information to the city manager and council.

324 (H[G])The city auditor shall prepare a summary of the reporting program's
325 activities at least twice a year for presentation to the c[~~C~~]ouncil a[A]udit and
326 f[F]inance c[~~C~~]ommittee.

327 **PART 7.** City Code Section 2-3-10 (*Peer Review*) is amended to read:

328 **§ 2-3-10 - PEER REVIEW.**

329 (A) The city auditor must obtain an external peer review[is subject to peer
330 review] in accordance with [not less than once every three years]the
331 government auditing standards established by the Comptroller General of the
332 United States.[by a professional, non-partisan, objective person or group,
333 including an auditor or other professional with appropriate government
334 auditing expertise and experience.]

335 [(B) Peer review shall determine compliance by the city auditor with government
336 auditing standards and the quality of the auditor's audit effort and reporting,
337 including:

338 (1) general standards, including staff qualifications, due professional care,
339 and quality assurance;

340 (2) fieldwork standards, including planning, supervision, and audit
341 evidence; and

342 (3) reporting standards, including report content, presentation, and
343 timeliness.]

344 (B[~~C~~]) The city auditor[After the council audit and finance committee has
345 reviewed and approved the written peer review report, the committee] shall
346 provide a copy of the final[written]peer review report to each member of the
347 council and make a copy of the final report publicly available.

348 (C[~~D~~]) The city auditor shall pay the cost of the peer review[~~, including~~

349 reasonable travel and living expenses,] from the city auditor's budget.

350 **PART 8.** City Code Section 2-3-11 (*Access to Records and Property*) is amended to
351 read:

352 **§ 2-3-11 - ACCESS TO RECORDS AND PROPERTY.**

353 (A) Each City officer and employee shall provide the city auditor with free and
354 open access to, and furnish copies of, all information in any medium,~~;~~
355 ~~including a record, book, account, internal or external memorandum, tape,~~
356 ~~report, file, diskette, computer data, money, fund, or other information.~~]

357 (B) Each City officer and employee shall provide the city auditor with free and
358 open access to all property, equipment, facilities, and operations for
359 inspection or observation.~~[by the auditor.]~~

360 **PART 9.** Subsection (C) of City Code Section 2-7-64 (*Disclosure of Conflict of*
361 *Interest*) is amended to read:

362 **§ 2-7-64 - DISCLOSURE OF CONFLICT OF INTEREST.**

363 (C) ~~[To comply with this section, a]~~A City employee shall notify in writing his
364 supervisor of any substantial interest he may have in a natural person, entity
365 or property which would be affected by an exercise of discretionary
366 authority by the City employee or that he serves as a corporate officer or
367 member of the board of directors of a nonprofit entity for which a decision
368 regarding funding by or through the City is being considered, and a
369 supervisor shall reassign the matter.

370 **PART 10.** City Code Section 2-7-65 (*Substantial Interest of Relative*) is amended to
371 add a new Subsection (A), to renumber existing Subsection (A) as Subsection (B) and to
372 renumber the remaining subsections accordingly, to read:

373 **§ 2-7-65 - SUBSTANTIAL INTEREST OF RELATIVE.**

374 (A) For purposes of this section, SPOUSE of a City official or employee
375 includes a domestic partner, which means an individual who lives in the
376 same household and shares common resources of life in a close, personal,
377 intimate relationship with the City official or employee if under Texas law
378 the individual would not be prevented from marrying the City official or

379 employee on account of age, consanguinity, or prior undissolved marriage to
380 another. A domestic partner may be of the same, or opposite, gender as the
381 City official or employee.

382 (B[A]) A substantial interest of a spouse of a City official or employee shall
383 be deemed to apply to that official or employee for the purposes of
384 Sections 2-7-63 (*Prohibition on Conflict of Interest*) and 2-7-64 (*Disclosure*
385 *of Conflict of Interest*) concerning disclosure and recusal or reassignment.

386 (C[B]) If the spouse of a City official or employee does business through a
387 partnership or other entity, the substantial interests of that partnership or
388 entity shall not be deemed under Section 2-7-61 (*Conducting Business*
389 *Through Partnerships, Professional Corporations, and Other Entities*) to
390 apply to the City official or employee.

391 (D[E]) A City official or a City employee may not participate in a vote or
392 decision affecting a substantial interest of a person to whom the official or
393 employee is related in the first or second degree of consanguinity or affinity.
394 This subsection does not apply to a substantial interest of a relative based on
395 the relative's employment by a governmental body.

396 (E[D]) For the purposes of Subsection (D[E]): A relative other than a spouse
397 has a substantial interest if:

- 398 (1) the person owns 10 percent or more of the voting stock or shares of
399 the entity or owns either 10 percent or more or \$15,000 or more of the
400 fair market value of the entity; or
- 401 (2) funds received by the person from the entity exceed 10 percent of the
402 person's gross income for the previous year; or
- 403 (3) the person has a substantial interest in real property if the interest is an
404 equitable or legal ownership in real property with a fair market value
405 of \$2,500 or more.

406 **PART 11.** City Code Section 25-9-286 (*Auditor Review; Release of Official Statement*)
407 is amended to read:

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- (A) An independent certified public~~[The city]~~ auditor shall review the preliminary and final official statements of the water district that include the City's financial statements and audited opinion.
- (B) Until the independent certified public~~[city]~~ auditor completes the required review, an official statement described in Subsection (A) may not be disclosed to a person, other than:
 - (1) an employee of the City; or
 - (2) a consultant who is assisting the water district to structure the issuance of a water district bond.

PART 12. This Ordinance takes effect on _____, 2024.

PASSED AND APPROVED

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_____, 2024 §

Kirk Watson
Mayor

APPROVED: _____
Anne L. Morgan
City Attorney

ATTEST: _____
Myrna Rios
City Clerk