

## **DIVISION 2. CITY COUNCIL POLICIES AND OPERATING PROCEDURES**

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### ***Sec. 2-90. Procedures for Councilmember Inquiry and City Council Investigation***

Section 39 of the City Charter provides that Councilmembers have the power to inquire into the conduct of any office, department, agency, or officer of the city and that the City Council as a body has the power to make investigations into municipal affairs. These procedures apply in the case that a Councilmember makes an inquiry or the majority of the City Council requests an investigation pursuant to the Charter.

- (a) Procedure for a Councilmember Conducting an Inquiry
  1. Initiation of Inquiry: If a Councilmember receives credible information or complaints about the conduct of any city office, department, agency, or officer, the Councilmember may initiate an inquiry. If the inquiry involves staff members, it should be submitted to the City Manager.
  2. Preliminary Review: The Councilmember or City Manager, as appropriate, reviews the information to ascertain if there's a basis for the concerns. This review should be conducted in a fair and impartial manner. Individual councilmembers should not directly question non-Department or Division heads during this process.
  3. City Manager's Response: If the inquiry involves staff members and has been submitted to the City Manager, the City Manager should respond within 14 days.
  4. Report to the City Council: The Councilmember or City Manager prepares a report detailing the findings from the preliminary review and submits it to the City Council.
  5. City Council Decision: Upon review of the report, a Councilmember may request that the item be placed on a future agenda pursuant to Sec. 1-20 (b). If the item is placed on an agenda, the City Council may decide by a majority vote whether a full investigation is warranted. The Council may also decide on other actions as deemed appropriate.
  
- (b) Procedure for a Full Council Investigation
  1. Initiation of Investigation: An investigation must be authorized by a majority vote of the City Council during a public meeting. This vote follows the review of a report submitted by a Councilmember or the City Manager, or the receipt of other credible information that raises concerns about the conduct of any city councilmember, city office, department, agency, or officer.
  2. Definition of Investigation: The purpose and scope of the investigation should be clearly defined during the meeting at which an investigation is authorized, to include:
    - A. Estimated Duration of Investigation
    - B. Name and title of each person complained about,
    - C. Nature of alleged violation, including, if possible, the specific provision of the Charter, law, rule or regulation alleged to have been violated,
    - D. A statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred.If a person is being investigated, that person shall be given a copy of any complaint and/or the statement of facts constituting the alleged violation and be informed that the person has 10 business days to file a response with the City Secretary to be provided to the City Council.
  3. Conducting the Investigation: The City Council, or an appointed investigation team, will conduct the investigation in an impartial, fair, and respectful manner.

An appointed investigation team may:



- A. Request from the City Manager the production of books, papers, and other evidence material to the investigation,
  - B. Interview Department and Division heads on matters related to the scope of the investigation, and
  - C. Submit a report and make recommendations to City Council.
- The City Council may:
- A. Administer oaths (Mayor will administer oaths),
  - B. Subpoena witnesses (The City Council or person being complained about must provide names of witnesses employed by the City to the City Secretary at least ten working days prior to the hearing so that she will have sufficient time to notify the witnesses at least five working days prior to the hearing),
  - C. Compel the production of books, papers, and other evidence as needed,
  - D. Conduct hearings,
  - E. Hire independent legal counsel to advise and represent the Council, when appropriate to avoid a conflict of interest, and
  - F. Hire a third party to conduct any necessary investigation.
4. Hearing Procedures: If City Council conducts a hearing, the format for such hearing will be as follows:
- A. Introduction of hearing by Mayor. All parties introduce themselves for the record. The Councilmember who initiated the investigation by moving to authorize the investigation shall outline the nature of the allegation, charter or ordinance provisions involved, and issued to be determined by the Council.
  - B. Presentation of Evidence by the Councilmember who initiated the investigation. The Councilmember presents evidence including any testimony, witnesses, documents or tangible items. Witnesses may be cross-examined by any person being complained about and by members of the Council.
  - C. Presentation of Evidence by person being complained about. Person being complained about may present evidence including any testimony, witnesses, documents or tangible items. Witnesses may be cross-examined by members of the Council.
  - D. Summation remarks by initiating Councilmember. (Max: 10 minutes)
  - E. Summation remarks by person being complained about. (Max: 10 minutes)
  - F. City Council Decision. The City Council will decide by preponderance of the evidence whether any violations were committed and decide on appropriate actions to be taken. Actions may include but are not limited to: changes to policies or procedures, referral of City employee to City Manager for disciplinary action in accordance with personnel rules, institution of civil lawsuit for damages or injunctive relief, letter of admonition, letter of reprimand, or referral to external agencies.
5. Reporting: Upon conclusion of the investigation where no hearing is held, a report detailing the process, findings, and recommendations will be prepared and submitted to the City Council.
6. Review and Action: If no hearing is held and a report is submitted to City Council, the City Council will review the report in a timely manner and decide on the appropriate action to be taken. Actions may include but are not limited to: changes to policies or procedures, referral of City employee to City Manager for disciplinary action in accordance with personnel rules, institution of civil lawsuit for damages or injunctive relief, letter of admonition, letter of reprimand, or referral to external agencies.
7. Forfeiture of Council Office: Pursuant to Section 23 of the City Charter, a member of the council ceasing to possess any of the qualifications for elective office as established in the Texas Elections Code or residency requirements, failing to attend three consecutive regular



meeting of the council without being excused by the council, or convicted of a felony while in office shall immediately forfeit the office. In the case of an alleged forfeiture of office pursuant to Section 23 of the Charter, the City Council may vote on the forfeiture and on the affirmative vote of at least five members of City Council, declare the office of said office holder to be forfeited and vacant.