

Eugene City Charter and Ordinance Sections on Civilian Oversight

Charter:

Section 15-A. External Review of Police.

(1) The city council shall hire, supervise and specify the salary of an independent police auditor to oversee investigations of complaints involving police employees. Notwithstanding section 16 of this charter, the city council shall authorize the auditor to: (a) receive, classify and route complaints about sworn police officers and civilian police employees; (b) contract with persons or entities to perform outside investigations of such complaints; (c) monitor the city's internal investigations, including but not limited to access to all evidence developed as part of the investigation and participation in investigative interviews related to such complaints, and require the city to undertake additional investigation; (d) make recommendations to the city manager or designee following the investigation; (e) prepare reports on complaint trends and police practices in general; and (f) act as a liaison to and provide staff support for the civilian review board.

(2) The city council shall appoint a civilian review board of not more than seven members to review investigations of complaints involving sworn police officers. Notwithstanding section 16 of this charter, the city council shall authorize the civilian review board to: (a) review the completed investigation and adjudication of complaints filed against sworn police officers; (b) require that the city re-open an investigation; (c) provide comments on an investigation, including recommendations to the independent police auditor, city manager or designee about the investigation; (d) review trends and statistics of complaints against sworn police officers and civilian employees, and provide reports and recommendations to the city council; and (e) oversee and evaluate the work of the independent police auditor.

City Code Sections: Civilian Review Board

2.240 Civilian Review Board – Established.

(1) There is hereby established a civilian review board of not to exceed seven members, whose goal shall be to increase the transparency of, and public confidence in, the police complaint process. In general, the civilian review board shall evaluate the work of the independent police auditor, and may review completed complaint investigations involving sworn police employees to provide comment, from a civilian perspective, about whether the complaint was handled fairly and with due diligence.

(2) It is intended that sections [2.240](#) through [2.246](#) and [2.450](#) through [2.456](#) will provide a system of independent oversight of the police complaint process and implement section 15-A of the Eugene Charter of 2002 as adopted by the city electorate on November 8, 2005.

(3) Except where the context requires otherwise, the definitions contained in section [2.452](#) of this code govern the words and phrases used in sections [2.240](#) through [2.246](#) of this code.

(4) The civilian review board shall serve as an advisory body to the city council.

(Section 2.240 added by Ordinance No. 20374, enacted December 13, 2006, effective January 12, 2007.)

2.242 Civilian Review Board – Qualifications and Appointments.

(1) Qualifications.

(a) Members of the civilian review board shall be volunteers appointed by the city council, who immediately prior to appointment shall be:

1. A resident of the city;
2. Of the age of 18 years or older; and
3. Able to pass a background investigation consistent with investigations conducted for other city volunteers who have similar access to police records and/or facilities.

(b) The following characteristics shall be considered by the city council when appointing members to the civilian review board:

1. A demonstrated ability to be fair, impartial and unbiased;
2. An absence of any real or perceived bias, prejudice or conflict of interest;
3. A record of community involvement;
4. An ability to build working relationships and communicate effectively with diverse groups; and
5. A demonstrated commitment to the purpose of sections [2.240](#) through [2.246](#) and [2.450](#) through [2.456](#).

(c) Appointments to the civilian review board shall not be made on the basis of constituency or representation of any particular group. A candidate selection process that includes a community panel to review applications and recommend qualified candidates for city council consideration shall be developed by the mayor, in consultation with the police auditor, to help achieve a balanced membership.

(d) Members of the civilian review board shall neither be a current employee of the city nor an immediate family member of a current city police employee.

(e) Civilian review board members shall participate in a training program to be developed by the police auditor.

(f) Members of the civilian review board shall agree in writing to a Statement of Principles and Code of Conduct, to be developed by the police auditor and reviewed and maintained in collaboration with the civilian review board.

(g) It is the intent that civilian review board members be free from personal liability for acts taken within the course and scope of carrying out their official duties and functions. The city will therefore defend and indemnify members to the maximum extent permitted under the Oregon Tort Claims Act and other applicable law.

(2) *Terms and Vacancies.* Initial appointments shall be staggered as follows: If there are seven (7) members appointed, four (4) members shall be appointed to serve for two (2) years and three (3) members shall be appointed to serve for three (3) years; if there are five (5) members appointed, three (3) members shall be appointed to serve for two (2) years and two (2) members shall be appointed to serve for three (3) years. Except for the initial appointment, the term of each member of the civilian review board shall be three (3) years. No member shall serve more than three (3) consecutive terms. A vacancy that occurs during the term of a member shall be filled in the same manner as the original appointment, and the appointee shall serve for the remainder of the unexpired term.

(3) Removal from Office.

(a) A member of the civilian review board may be removed from office by the city council prior to the normal expiration of his/her term for consistent failure to perform civilian review board member duties, or violation of the Statement of Principles/Code of Conduct.

(b) Membership on the civilian review board shall terminate automatically if a member ceases to meet the qualification requirements as described in [\(1\)\(a\)1](#), [\(1\)\(a\)3](#), and [\(1\)\(d\)](#) above subsequent to his/her appointment.

(Section 2.242 added by Ordinance No. 20374, enacted December 13, 2006, effective January 12, 2007.)

2.244 Civilian Review Board – Powers and Duties.

(1) In collaboration with the police auditor, the civilian review board shall establish policies, procedures and operating principles for the civilian review board.

(2) The civilian review board may review the completed investigation and adjudication of complaints filed against sworn police officers at the request of a complainant, upon the recommendation of the police auditor, or at its own discretion upon a majority vote of its members.

(a) The civilian review board shall develop criteria to decide whether to accept a case for review. However, the civilian review board may not accept a completed case that was previously reviewed as a community impact case as described in subsection [\(4\)](#) below.

(b) All materials concerning the completed investigations of cases the civilian review board has selected to review shall be made available to members for their confidential review.

(c) The civilian review board shall, at one of its regularly scheduled meetings, report on such case(s), which may include comments on the handling of the complaint, the fairness and thoroughness of the investigation, and the reasonableness of the adjudication.

(d) The comments and any related policy or procedural issues identified by the civilian review board in the course of its case review shall be provided to the police auditor for further consideration.

(3) The civilian review board may review a random selection of closed cases.

(4) Upon the adjudication of a complaint that the police auditor has identified and the civilian review board has accepted as a community impact case, members of the civilian review board shall be provided all materials concerning the case for their confidential review. Within 14 days of receiving the case, the civilian review board shall meet to discuss and present its determinations on the case. Within 30 days of receiving the case the civilian review board shall do one or more of the following:

(a) Concur with the case adjudication;

(b) Develop recommendations regarding the handling of the complaint and the investigation process, and/or identify other relevant policy or procedural issues for further consideration;

(c) Require the city to reopen the investigation if it finds either:

1. The investigation was incomplete or inadequate, and the civilian review board has reason to believe that additional investigation is likely to reveal facts that could change the case adjudication; or

2. The adjudication reached by the city is not supported by substantial evidence.

When the civilian review board has voted to re-open a community impact case, the police auditor shall inform the civilian review board of the subsequent investigation conducted and the final adjudication decision.

(5) The civilian review board shall notify complainant(s) and involved employee(s) of its decisions on whether to accept a case for review, and shall inform the complainant of its conclusions on the case.

(6) The civilian review board shall review trends and statistics of complaints against sworn police officers and civilian police employees and may develop recommendations to improve the complaint intake and handling process.

(7) The civilian review board shall evaluate the work of the auditor's office. In that regard the civilian review board:

- (a) Shall establish criteria by which to evaluate the work of the police auditor;
 - (b) Shall review, comment on, and assist in maintaining policies, procedures and operating principles for the auditor's office and the civilian review board;
 - (c) Shall monitor status reports from the police auditor; and
 - (d) May conduct periodic evaluations of the complaint intake and handling system to identify process improvements and/or ensure complaints are being treated fairly and with due diligence.
- (8) The civilian review board may provide a forum to gather community concerns about incident-specific police actions and may receive and forward complaint information to the auditor's office for processing.

(Section 2.244 added by Ordinance No. 20374, enacted December 13, 2006, effective January 12, 2007.)

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- (2) The civilian review board may review the completed investigation and adjudication of complaints filed against sworn police officers at the request of a complainant, upon the recommendation of the police auditor, or at its own discretion upon a majority vote of its members.
 - (a) The civilian review board shall develop criteria to decide whether to accept a case for review. However, the civilian review board may not accept a completed case that was previously reviewed as a community impact case as described in subsection (4) below.
 - (b) All materials concerning the completed investigations of cases the civilian review board has selected to review shall be made available to members for their confidential review.
 - (c) The civilian review board shall, at one of its regularly scheduled meetings, report on such case(s), which may include comments on the handling of the complaint, the fairness and thoroughness of the investigation, and the reasonableness of the adjudication.
 - (d) The comments and any related policy or procedural issues identified by the civilian review board in the course of its case review shall be provided to the police auditor for further consideration.
- (3) The civilian review board may review a random selection of closed cases.
 - (4) Upon the adjudication of a complaint that the police auditor has identified and the civilian review board has accepted as a community impact case, members of the civilian review board shall be provided all materials concerning the case for their confidential review. Within 14 days of receiving the case, the civilian review board shall meet to discuss and present its determinations on the case. Within 30 days of receiving the case the civilian review board shall do one or more of the following:
 - (a) Concur with the case adjudication;
 - (b) Develop recommendations regarding the handling of the complaint and the investigation process, and/or identify other relevant policy or procedural issues for further consideration;
 - (c) Require the city to reopen the investigation if it finds either:
 - 1. The investigation was incomplete or inadequate, and the civilian review board has reason to believe that additional investigation is likely to reveal facts that could change the case adjudication; or
 - 2. The adjudication reached by the city is not supported by substantial evidence.

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(7) The civilian review board shall evaluate the work of the auditor's office. In that regard the civilian review board:

(a) Shall establish criteria by which to evaluate the work of the police auditor;

(b) Shall review, comment on, and assist in maintaining policies, procedures and operating principles for the auditor's office and the civilian review board;

(c) Shall monitor status reports from the police auditor; and

(d) May conduct periodic evaluations of the complaint intake and handling system to identify process improvements and/or ensure complaints are being treated fairly and with due diligence.

(8) The civilian review board may provide a forum to gather community concerns about incident-specific police actions and may receive and forward complaint information to the auditor's office for processing.

(Section 2.244 added by Ordinance No. 20374, enacted December 13, 2006, effective January 12, 2007.)

City Code Sections: Police Auditor

2.450 Office of Police Auditor – Established.

(1) The office of the police auditor, hereafter auditor's office, is hereby established to provide an independent location to lodge complaints involving police employees, monitor internal investigations to ensure objective, thorough and high quality investigations, and develop recommendations to improve police services.

(2) The auditor's office shall be headed by a full-time professional police auditor who is hired by and accountable to the city council. The city council shall hire, supervise, and specify the salary of the independent police auditor, who shall serve at the pleasure of the city council. All city council decisions regarding the auditor will be made by a simple majority vote of the city council.

(3) The independent police auditor shall have exclusive authority to hire, supervise, and to make all other employment decisions regarding the auditor's support staff. No change relating to the authority to hire and supervise the auditor's staff shall be made without formal action of the city council.

(4) Any findings, recommendations and actions taken shall reflect the police auditor's independent judgment. No person shall use his/her political or administrative position to attempt to unduly influence or undermine the independence of the police auditor, or his/her staff or agent, in the performance of his/her duties and responsibilities.

(5) The city manager shall include in his/her recommended budget an allocation sufficient for the auditor and the auditor's office to carry out their duties and responsibilities under the Eugene Charter of 2002 and the Eugene Code, including sufficient funds to contract for external investigations.

(6) The physical location of the auditor's office shall be separate from the police department, but in close proximity so as to facilitate a close working relationship with others involved in the complaint investigation

process, and easily accessible to the public. The auditor shall have complete, unrestricted and direct access to the internal affairs area during office hours.

(7) It is intended that sections [2.450](#) through [2.456](#) and [2.240](#) through [2.246](#) will provide a system of independent oversight of the police complaint process and implement section 15-A of the Eugene Charter of 2002 as adopted by the city electorate on November 8, 2005.

(Section 2.450 added by Ordinance No. 20374, enacted December 13, 2006, effective January 12, 2007; and amended by Ordinance No. 20435, enacted August 10, 2009, effective September 11, 2009.)

2.452 Office of Police Auditor – Definitions.

Words and phrases used in sections [2.240](#) through [2.246](#) and [2.450](#) through [2.456](#) have the following meanings.

Chief of police. The person designated by the city manager as the chief of police.

Community impact case. A complaint involving sworn police officer(s) that alleges excessive force, bias, disparate treatment or violation of constitutional rights, which the police auditor determines should be reviewed by the civilian review board in accordance with section [2.244\(3\)](#) and [2.244\(4\)](#) of this code.

Complaint. An expression of dissatisfaction, allegation of misconduct, or question about a police employee's conduct, police services provided or not provided, or police department policies or practices in general.

Conclusion of any criminal investigation or conclusion of any such criminal investigation. A criminal investigation is deemed concluded when the appropriate criminal prosecutor decides either to press charges or to not press charges.

Critical incident. An occurrence involving a significant police action including, but not limited to, a civil disturbance or riot, an officer-involved shooting, or other action by a sworn police officer resulting in serious physical injury or death.

Facilitated conversation. A discussion guided by a third party, trained facilitator, between the complainant and a department representative, most often the named employee's supervisor or internal affairs staff.

Immediate family member. A person's spouse or domestic partner, a parent, step-parent, grandparent, child, stepchild, grandchild, sibling, half-sibling or step-sibling of the person or of the person's spouse or domestic partner.

Internal affairs. The police employees designated by the chief of police to investigate allegations of misconduct against police employees.

Mediation. A voluntary, confidential complaint resolution option that is an alternative to the investigation, adjudication and disciplinary process. It is a structured process guided by a neutral, third-party, professionally-trained mediator enabling direct communication between the complainant and employee.

Police auditor or auditor. Police auditor or designee if authorized by the auditor to undertake a certain function.

Police employee. A city employee who reports directly or through others to the chief of police.

Preliminary investigation. As used in section [2.456\(1\)\(c\)](#), an initial inquiry by the police auditor or the auditor's designee into the facts and circumstances of a complaint for purposes of deciding how to classify and route the complaint.

Service complaint. A complaint about police employee performance or demeanor, customer service and/or level of police service.

Substantial evidence. Evidence that, considering the record as a whole, a reasonable person would rely upon to conclude that something is true. For purposes of section [2.244\(4\)](#), an adjudication is supported by substantial evidence when the civilian review board reasonably could reach the same finding after considering all the evidence in the record, whether or not the board actually agrees with the adjudication.

Sworn police officer. A police employee who is also certified and employed as a peace officer under the laws of this state.

(Section 2.452 added by Ordinance No. 20374, enacted December 13, 2006, effective January 12, 2007; and amended by Ordinance No. 20435, enacted August 10, 2009, effective September 11, 2009.)

2.454 Office of Police Auditor – Powers and Duties.

- (1) The police auditor is the administrative head of the auditor's office and shall:
- (a) Oversee the operations of the auditor's office, establish program priorities and objectives, and manage the implementation and evaluation of work programs;
 - (b) Develop and maintain operating procedures for the auditor's office, including protocols for handling complaints and monitoring investigations;
 - (c) Establish standards of professional conduct and provide necessary training for staff in the auditor's office.
 - (d) Act as liaison and provide staff support to the civilian review board. In collaboration with the civilian review board, the police auditor shall:
 - 1. Establish and maintain policies, procedures and operating principles for the civilian review board's functions; and
 - 2. Conduct education and outreach activities to inform the community about the process for filing complaints and commendations about police employees, and develop and disseminate information and forms regarding the police complaint handling and review system.
 - (e) Receive and process complaints concerning police employees; monitor the complaint investigation and review process as set forth in sections [2.456\(1\)](#) and [\(2\)](#); and review a selection of service complaints.
 - (f) Perform a quality assurance function with the goal of identifying systemic changes that will improve police services to the community. These activities include:
 - 1. Analyzing complaint trends and recommending changes to police policy, practices and training;
 - 2. Reviewing risk and tort claims and developing recommendations to reduce risk and liability;
 - 3. Reviewing and reporting trends in completed police employee disciplinary decisions.
 - (g) Provide status reports to the civilian review board and city council and provide recommendations relevant to police policies and practices to the police commission.
 - (h) Develop and present to the civilian review board and city council annual public reports describing the activities of the auditor's office, its findings and recommendations, the police department's response to its recommendations, and any other information pertinent to assessing the performance of the auditor's office.
 - (i) Provide the city council with any other reports deemed necessary or requested by the city council. All public reports shall strive to protect the privacy of all individuals and shall not contain the names of parties to a complaint (employees, complainants and/or witnesses) not previously disclosed.
 - (j) Determine whether applicants for the civilian review board meet the requisite qualifications in section [2.242\(1\)\(a\)1.](#) and [2.242\(1\)\(d\).](#)

(2) The police auditor shall receive timely notification of critical incidents to enable him/her, or a qualified designee, to report to the scene of critical incidents. The police auditor and chief of police shall develop necessary protocols for summoning the police auditor to the incident for purposes of first-hand observation.

(3) The police auditor shall participate in use of force review boards.

(4) All case adjudication and employee discipline decisions shall be made by the chief of police. The police auditor may develop adjudication recommendations, but is not authorized to recommend the level of discipline for police employees.

(5) For purposes of this subsection, an "allegation" is a report or claim that the chief of police has committed a crime, violated any provision of sections [2.240](#) to [2.246](#) or [2.450](#) to [2.456](#), violated a person's civil rights, or failed to perform non-administrative duties in accordance with professional law enforcement standards applicable to Eugene's sworn officers.

(a) If the auditor receives an allegation against the chief of police, the auditor shall forward a copy of the allegation to the city manager. The city manager shall notify the council, and investigate the allegation. The manager shall keep the auditor informed of the progress of the investigation.

(b) Upon completion of the investigation, but prior to the finalization of the investigation report, the city manager shall provide the auditor with a draft of the report. The auditor shall review the draft report and provide comments about the draft to the manager within seven days of receiving the draft. The manager shall consider any comments received from the auditor and finalize the report within seven days. Once the city manager issues a decision on the allegation, the manager shall inform the council of the manager's decision related to the allegation.

(Section 2.454 added by Ordinance No. 20374, enacted December 13, 2006, effective January 12, 2007; and amended by Ordinance No. 20435, enacted August 10, 2009, effective September 11, 2009.)

2.456 Office of Police Auditor – Complaint Processing.

(1) *Complaint intake.*

(a) Any person may lodge a complaint or commendation with the auditor's office about the conduct of, or services provided by, a city police employee;

(b) The auditor's office is the intake center for all community complaints about police employees. City employees may choose to lodge complaints against another employee through either internal affairs or the auditor's office. The auditor's office shall document all contacts and complaints received from any source. The auditor's office may refer a complainant to another department in the city or another agency that would be more appropriate to address the complaint.

(c) If the city receives a claim for damages that alleges that a police employee caused the damage, a copy of the claim shall be forwarded to the auditor's office for a determination as to whether the claim should also be classified and processed as a complaint.

(d) The auditor's office conducts the preliminary investigation of all complaints lodged with the auditor's office or internal affairs to appropriately classify and route the complaint and any accompanying information accordingly. The auditor has exclusive authority to classify, route and reclassify complaints. The auditor may reclassify a complaint if, upon further investigation and receipt of additional information that was not available at the time of intake, but before the completion of the investigation, the auditor finds reclassification is warranted.

(e) If a complaint is received that alleges criminal conduct on the part of the employee, the police auditor shall forward the complaint and any associated information to the chief of police.

(f) The auditor's office may determine whether a complaint is appropriate for mediation or facilitated conversation, and upon the voluntary agreement of the involved parties and approval of the chief of police, shall coordinate the resolution of such cases.

1. Mediation is an alternative to the investigation, adjudication and disciplinary process; if the parties agree to mediation, the investigation, adjudication and disciplinary process will end.

2. A facilitated conversation may, but does not necessarily, result in termination of the investigation, adjudication and disciplinary process.

(g) The auditor's office classifies complaints that will be treated as community impact cases and provides support to the civilian review board in its review of those cases and other cases accepted by the civilian review board.

(h) The auditor's office shall provide timely updates on the status of a complaint and notification to the complainant of its final disposition.

(i) The auditor's office may dismiss a complaint if upon review, it meets criteria that the auditor has established for such action, including reporting delays and/or insufficient information from which to take further action.

(j) The auditor may review and process a complaint not filed directly with the auditor's office if the auditor determines that concerns have been expressed about conduct of a police employee(s).

(k) Except for good cause, complaints of minor misconduct involving courtesy, communications, and minor rules violations that might be handled as service complaints shall be filed within 60 days of the incident.

(l) Except for good cause, complaints of serious misconduct including, for example, excessive force that causes substantial physical injury, egregious acts of disparate treatment, or major rules violations shall be filed within 6 months of the incident.

(2) *Complaint Investigations.*

(a) Except as provided in paragraph (b) of this subsection, administrative investigations of complaints shall not commence until after the auditor has received, classified and routed the complaint. The investigation shall commence upon classification or as soon as possible after classification.

(b) Paragraph (a) of this subsection shall not preclude preliminary investigations by the auditor's office, or a police supervisor's attempt to address a service complaint, provided that the supervisor prepares and forwards to the auditor within 24 hours a report identifying the complainant and contact information for the complainant, and explaining the nature of the service complaint and the outcome of the supervisor's conversation with the complainant.

(c) If the chief of police determines that all or a part of an administrative investigation should be postponed in order to avoid jeopardizing a criminal investigation or prosecution, the chief of police shall request the auditor's agreement on postponement. If the auditor and chief of police are unable to agree on the postponement, then they shall present in writing their respective positions to the municipal court judge, who shall then decide whether all or part of an administrative investigation will be postponed.

(d) The police auditor shall actively monitor internal investigations to ensure a thorough, objective, and timely investigation, and is authorized to:

1. Participate in complainant, employee and witness interviews;
2. Require the city to undertake additional investigation.

(e) The police auditor may require, and is authorized to contract for, an external investigation when the police auditor determines that an external investigation is appropriate.

(f) The police auditor will not be directly involved in any criminal investigations, but shall be kept apprised of the status of such investigations involving police employees. The police auditor shall have access to the case file relevant to the administrative portion of such investigations.

(g) All case files shall be provided to the police auditor upon conclusion of the investigation for review and a determination that the investigation was thorough and complete. Once the investigation is deemed complete, the involved employee's immediate supervisor will confer with the police auditor and develop a case adjudication recommendation that will be forwarded through the chain of command to the chief of police for final adjudication. If the police auditor disagrees with the supervisor's recommendation, his/her disagreements and comments will be documented and forwarded to the chief of police as well. The immediate supervisor and police auditor will use their best efforts to complete this process in a timely manner and without unreasonably delaying the final adjudication of the case. If the investigation reveals evidence of criminal conduct not previously known, the auditor may refer the matter to the appropriate criminal prosecutor for his/her consideration.

(h) The auditor's office will make every reasonable effort to notify the complainant that an investigation has been conducted, summarize the case findings, and provide an opportunity for the complainant to comment or ask questions about the process.

(i) The auditor's office shall return all case file materials to internal affairs for retention, but shall have subsequent access to closed cases.

(j) The police auditor shall maintain an on-going status report on the work of the auditor's office and case investigations and shall share it with the civilian review board.

(3) *Access to Records and Materials.*

(a) Except to the extent that a specified state or federal law provides to the contrary, or where information resides on a restricted database governed by a contract that does not allow access beyond certain law enforcement employees:

1. The auditor shall have complete and unrestricted access to all complaints, investigative records and information obtained or developed by the internal affairs investigator related to an administrative investigation of a complaint, whether the information exists in electronic format or hard copy, including information stored on an internal affairs database;

2. The auditor shall be provided any other information identified by the auditor that is relevant to a complaint; and

3. The identity of any individual involved in an event giving rise to a complaint shall not be withheld from the auditor.

(b) When legally required or requested by the chief of police, the auditor shall keep confidential the name of any such individual involved in a complaint and other information leading to the name of the individual.

(c) Except as provided in section [2.456\(2\)\(f\)](#), the police auditor shall not have access to a criminal investigation file until the conclusion of any such criminal investigation.

(d) The police auditor shall supervise the development and implementation of a case management system to track all complaints received in coordination with the internal affairs unit, report case statistics and trends, and provide performance indicators to evaluate the effectiveness of the auditor's office.

(e) The chief of police and police auditor shall develop cooperative interdepartmental procedures and any necessary infrastructure to coordinate the flow of information and communication between the auditor's office and the police department.

(Section 2.456 added by Ordinance No. 20374, enacted December 13, 2006, effective January 12, 2007; and amended by Ordinance No. 20435, enacted August 10, 2009, effective September 11, 2009.)