

**CHAPTER 2.12 - REGULATION OF
LOBBYING ENTITIES**

(Chapter added by Ordinance No. 179843, effective
April 1, 2006.)

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2.12.110 Auditor's Duties.

(Amended by Ordinance No. 187854, effective September 1, 2016.) In carrying out the provisions of this Chapter, the City Auditor:

- A. Shall prescribe forms for registrations, statements and reports, and provide such forms to persons required to register and to file such statements and reports;
- B. Shall accept registrations and reports in an electronic format;
- C. Shall accept and file any information voluntarily supplied that exceeds the requirements of this Chapter;
- D. Shall make registrations, statements and reports filed available for public inspection and copying during regular office hours, and make copies available. The Auditor may charge fees to recover the cost of retrieval and copying;
- E. May audit whether registrations and reports required by this Chapter have been completed properly and within the time frames specified in this Chapter;
- F. May initiate investigations and accept and investigate complaints of alleged violations of this Chapter;
- G. May make such inquiries and obtain such reasonable assistance and information, including records, from any office or person as the Auditor shall require for enforcement purposes, including requests to produce documentary or other evidence that is reasonably relevant to the matters under investigation;
 - 1. For information and records sought from City offices, employees or officials, the Auditor or any agent or employee of the Auditor employed for the purpose of auditing or investigating the City may obtain confidential and legally privileged information and records held by the City so long as privilege is not waived as to third parties. The Auditor shall not disclose confidential or legally privileged information and records and shall be subject to the same penalties as the legal custodian of records for any unlawful or unauthorized disclosure.
- H. May recover all reasonable costs incurred in enforcement in this Chapter, including but not limited to attorney's fees.

- I. Is authorized to adopt administrative rules to carry out the duties and to administer the provisions of this Chapter.

2.12.120 Penalties.

(Amended by Ordinance No. 187854, effective September 1, 2016.) A person who violates any provision of this Chapter or fails to file any report, registration or statement or to furnish any information required by this Chapter shall be subject to a civil penalty in an amount not to exceed \$3,000 per violation. By administrative rule, the Auditor shall establish enforcement criteria with increased fines for repeated violations. In the name of the City, the Auditor may seek civil penalties and enforcement of any provision of this Chapter in Multnomah County Circuit Court or other appropriate venue. The Auditor may bring such an action through independent legal counsel retained or employed by the Auditor, or may request that the City Attorney provide such representation. At the request of the Auditor, the City Attorney may seek civil penalties and enforcement of any provision of this Chapter in Multnomah County Circuit Court or other appropriate venue.

**CHAPTER 2.14 - REPORTING BY
POLITICAL CONSULTANTS**

(Chapter added by Ordinance No. 187689, effective
May 20, 2016.)

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2.14.080 City Auditor's Duties.

The City Auditor is authorized to adopt, amend and repeal administrative rules, policies, procedures and forms for the regulation and enforcement of this Chapter, including but not limited to prescribing forms for registration and reporting, determining the method for filing, conducting appropriate inquiry and audit of reports or statements for completeness and accuracy, establishing fees for late filing or non-filing, and imposing civil penalties for non-compliance.

For information and records sought from City offices, employees or officials, the Auditor or any employee or agent of the Auditor employed for the purpose of auditing or investigating the City may obtain confidential and legally privileged information and records held by the City so long as privilege is not waived as to third parties. The Auditor shall not disclose confidential or legally privileged information and records and shall be subject to the same penalties as the legal custodian of records for any unlawful or unauthorized disclosure.

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2.14.100 Enforcement.

If facts supporting an enforcement action exist, the City Auditor, in the name of the City, may initiate action in Multnomah County Circuit Court to enforce the provisions of this Chapter, including collection of any unpaid fees or civil penalties. The Auditor may bring such an action through independent legal counsel retained or employed by the Auditor, or may request that the City attorney provide such representation. The City Auditor may request that the City Attorney initiate action in Multnomah County Circuit Court to enforce the provisions of this Chapter, including collection of any unpaid fees or civil penalties. Upon such a request by the Auditor, the City Attorney shall make a determination of whether facts supporting a prima facie enforcement action exist. If so, the City Attorney shall either initiate an enforcement action on behalf of the City or shall retain outside counsel to work with the Auditor to do so. The City may seek enforcement of all provisions of this Chapter in the enforcement action, including but not limited to recovery of all fees and civil penalties assessed under this Chapter as well as enforcement of any other provision of this Chapter. In any enforcement action, the City shall be entitled to recover any costs and attorneys' fees incurred as a result of the violation of this Chapter.

CHAPTER 3.05 - CITY AUDITOR'S AUDIT SERVICES DIVISION

(Chapter replaced by Ordinance No. 170381, effective August 16, 1996.)

Sections:

- 3.05.010 Independence.
- 3.05.020 Scope of Audits.
- 3.05.030 Annual Audit Plan.
- 3.05.035 Special Audits.
- 3.05.040 ~~Access to Information.~~ Access to Records and Property.
- 3.05.045 Confidential Information.
- 3.05.050 ~~Response to Audit.~~ Bureau Response.
- 3.05.060 Audit Reports.
- 3.05.065 Report of Irregularities.
- 3.05.070 Contract Auditors, Consultants and Experts.
- 3.05.080 External Quality Control Review.

3.05.010 Independence.

- A. The Audit Services Division is ~~established hereby created~~ within the City Auditor's Office, answerable directly to the City Auditor in accordance with City Charter.
- B. The Audit Services Division will adhere to generally accepted government auditing standards in conducting its work and will be considered independent as defined by those standards.
- C. If the Audit Services Division conducts an audit of an activity for which the City Auditor is or was responsible, the audit scope will state that the auditors are not organizationally independent with regard to the entity being audited.

3.05.020 Scope of Audits.

- A. The Auditor shall conduct financial and performance audits of all departments, bureaus, offices, boards, activities, functions and administrative agencies of the City of Portland to independently determine whether:
 1. Activities and programs being implemented have been authorized by City Charter or Code, state law or applicable federal law or regulations;
 2. Activities and programs are being conducted in a manner contemplated to accomplish the objectives intended by City Charter or Code, state law or applicable federal law or regulations;
 3. The activities or programs efficiently and effectively serve the purpose intended by City Charter, Code, state law or applicable federal law or regulations;

4. Activities and programs are being conducted and funds expended in compliance with applicable laws;
5. Revenues are being properly collected, deposited and accounted for;
6. Resources, including funds, property and personnel, are adequately safeguarded, controlled and used in a faithful, effective and efficient manner;
7. Financial and other reports are being provided that disclose fairly and fully all information that is required by law, that is necessary to ascertain the nature and scope of programs and activities and that is necessary to establish a proper basis for evaluating the programs and activities;
8. There are adequate operating and administrative procedures and practices, systems or accounting internal control systems and internal management controls which have been established by management; or
9. Indications of fraud, abuse or illegal acts are identified for further investigation.

- B.** Audits shall be conducted in accordance with Government Auditing Standards for financial and performance audits issued by the Comptroller General of the United States.

3.05.030 Annual Audit Plan.

- A.** By the beginning of each fiscal year, the Auditor shall submit an annual audit plan to Council for review and comment. The plan shall include the departments, bureaus, offices, boards, activities, functions and administrative agencies scheduled for audit during the year. This plan may be amended during the year after review with Council members affected by the change. Additionally, the Auditor may spontaneously initiate and conduct any other audit deemed necessary to undertake.
- B.** In accordance with independence provisions of generally accepted government auditing standards, the authority for selection of audit areas shall reside solely with the City Auditor.

3.05.035 Special Audits.

- A.** Council members may request that the Auditor perform special audits that are not included in the annual audit plan. After consultation with Council members whose work would need to be postponed, special audits may become amendments to the annual audit plan.
- B.** Special audit reports will be handled the same as regular audit reports, except that in personnel matters of a confidential nature, reporting of results may be limited to the Commissioner in Charge and the Mayor.

3.05.040 Access to ~~Records and Property~~ Information.

In accordance with City Charter, subject to collective bargaining obligations to the City's recognized bargaining units, the Auditor shall have timely access to all employees, information and records required to conduct an audit or otherwise perform audit duties, including confidential and legally privileged information and records so long as privilege is not waived as to third parties. All officers and employees of the City of Portland shall timely furnish the Auditor with requested information and records within their custody regarding powers, duties, activities, organization, property, financial transactions and methods of business required to conduct an audit or otherwise perform audit duties. In addition, they shall provide timely access for the Auditor to inspect all property, equipment and facilities within their custody. If such officers or employees fail to timely produce the aforementioned information, then the Auditor, subject to Council approval, may, without fee, cause a search to be made and exhibits to be taken from any book, paper or record of any such official or employee, excepting personal information, and every office having the custody of such records shall make a search and forward such requested exhibits to the Auditor.

3.05.045 Confidential Information.

(Added by Ordinance No. 183217, effective October 30, 2009.) The Auditor shall not disclose confidential or legally privileged information and records and shall be subject to the same penalties as the legal custodian of records for any unlawful or unauthorized disclosure. The Auditor shall maintain the confidentiality of information submitted in confidence and the identity of the provider of such information to the extent allowed by law, except as the Auditor deems necessary to discharge the Auditor's duties or as directed by the District Attorney pursuant to a public records request or by a court of competent jurisdiction.

3.05.050 ~~Bureau~~ Response to Audit.

A final draft of each audit report will be forwarded to the ~~audited bureau~~ auditee and the Commissioner in Charge for review and comment before it is released. The ~~bureau~~ auditee must respond in writing specifying agreement with audit findings and recommendations or reasons for disagreement with findings and/or recommendations, plans for implementing solutions to identified problems and a timetable to complete such activities. The response must be forwarded to the Auditor within the time frame specified by the Auditor. The Auditor will include the full text of ~~bureau~~ auditee and Commissioner responses in the report.

3.05.060 Audit Reports.

- A. Each audit will result in a written report.
- B. Reports are to be issued promptly so as to make information available for timely use by Council, management and other interested parties.
- C. The Auditor will submit each audit report to the Council and will retain a copy ~~in his/her office~~ as a permanent record.

- D.** If appropriate, the audit report shall contain the professional opinion of the Auditor or the contract auditor concerning the financial statements issued by the ~~bureau, board or agency~~ auditee or if the audit is a performance audit, the report will contain the professional conclusions of the audit regarding the management activities audited.
- E.** Audit reports issued by the Auditor shall contain:
1. A statement of audit objectives and a description of the audit scope and methodology;
 2. A statement that the audit was performed in accordance with generally accepted government auditing standards;
 3. A description of all significant instances of non-compliance and abuse and all instances of illegal acts found during or in connection with the audit;
 4. A full discussion of audit findings and conclusions, including the cause of problem areas and recommendations for necessary or desirable action;
 5. A statement of all significant management controls that were assessed and any significant weaknesses found;
 6. Pertinent views of responsible officials concerning audit findings, conclusions and recommendations;
 7. A listing of any significant issues needing further study and consideration;
 8. A description of noteworthy accomplishments of the ~~audited organization~~ auditee.

3.05.065 Report of Irregularities.

If the Auditor detects apparent violations of law or apparent instances of malfeasance or nonfeasance by an officer or employee or information that indicates derelictions may be reasonably anticipated, the Auditor shall report the irregularities to the Commissioner in Charge and the Mayor. If the irregularity is criminal in nature, the Auditor shall immediately notify the City Attorney and the District Attorney in addition to those previously cited.

3.05.070 Contract Auditors, Consultants, and Experts.

Within budget limitations, the Audit Services Division may obtain the services of certified public accountants, qualified management consultants, or other professional experts necessary to perform audit services. An audit that is performed by contract must be conducted by persons who have no financial interests in the affairs of the governmental unit or its officers. The Auditor's Audit Services Division will coordinate and monitor auditing performed by public accounting or other organizations employed under contract by the City of Portland to assist with audit related activities.

In choosing the outside independent auditors to conduct the City's annual financial statement audit, the Auditor will convene a committee of at least three City bureau managers, including the Auditor or ~~his/her~~ the Auditor's representative to prepare a request for proposal and to screen applicants. The Auditor's selection of a certified public accounting firm for the annual financial audit must be approved by Council. Normally, this contract will be for a three to five year period.

3.05.080 External Quality Control Review.

The Audit Services Division of the City Auditor's Office shall be subject to peer review at least once every three years by a professional, non-partisan objective group utilizing guidelines adopted by the National Association of Local Government Auditors. The review will evaluate compliance with generally accepted government auditing standards. A copy of the written report of any such independent review shall be furnished to each member of the City Council.

**CHAPTER 3.21 - CITY AUDITOR'S
INDEPENDENT POLICE REVIEW**

(Chapter replaced by Ordinance No. 175652;
amended by Ordinance No. 188331, effective May
19, 2017.)

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3.21.040 Director Selection.

(Amended by Ordinance No. 186416, effective February 7, 2014.) The City Auditor shall select the Director of IPR in accordance with the Auditor's human resource policies and rules and any other applicable civil service regulations and other laws. The Director shall be a person of recognized judgment, objectivity and integrity who is well-equipped to analyze problems of administration, and public policy, and shall have a working knowledge in criminal justice commensurate to the powers and duties of the office.

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3.21.060 Office Facilities and Administration.

- A. The City shall provide suitable office facilities for the Director and staff in a location convenient for the public but separate from the Bureau.
- B. The IPR office shall be located within the City Auditor's office, and be accountable to the City Auditor. The Director shall comply with Citythe Auditor's purchasing procedures but shall have sole discretion in choosing consultants to assist with investigations.

3.21.070 Powers and Duties of IPR.

(Amended by Ordinance Nos. 176317, 183657, 185076, 186416, 188331 and 188547, effective September 8, 2017.) The Director's powers and duties are the following:

- A. Intake. IPR shall receive complaints and select the appropriate manner to address the complaint.
- B. Report on complaint activities. IPR shall track and report on the disposition of complaints to the public, IAD, the Chief, and the Council and monitor and report measures of activity and performance of IAD and IPR. IPR will also monitor and track trends relating to member history and complaint type as well as frequency, consistency and adequacy of discipline imposed. In performing these duties, IPR shall have access to Bureau data and records, including but not limited to raw data, tabulated summary statistics, other source materials, and any other format source necessary for IPR to perform its duties. IPR shall also have direct access to original database sources as permitted by state and federal law.

- C. Access to Police data and data sources. IPR shall have access to Bureau data and records, including but not limited to raw data, tabulated summary statistics, other source materials, and any other format source necessary for IPR to perform its duties. IPR shall also have direct access to original database sources as permitted by state and federal law.
- D. Initiate, monitor and conduct investigations. IPR is authorized to initiate, monitor and conduct administrative investigations. IPR is authorized to identify complaints or incidents involving members that are of community concern which merit additional involvement of the Director and to review evidence and IAD investigation efforts, participate in investigations with IAD investigators, or conduct the investigations in conjunction with or independent of the Bureau.
1. For investigations conducted by IPR, investigation reports will include recommended findings.
 2. The Bureau shall notify the Director that it intends to conduct an administrative investigation into misconduct before initiating the investigation.
- E. Compel review. In accordance with the procedures of Code Section 3.20.140, the Director may compel review by the Police Review Board of any RU Manager's or Commanding Officer's proposed findings and discipline resulting from a Bureau or IPR administrative investigation of a member. The Director may compel review by the Police Review Board on the basis of recommended discipline whether or not discipline was recommended as a result of the investigation.
- F. Communicate with Complainants. IPR will be the primary contact with the complainant regarding the status and results of the complaint; to assist IAD in communicating with the Member.
- G. Arrange hearings of appeals. IPR will explain the appeal options to complainants and schedule hearings before the Committee and Council.
- H. Recommend policy changes. IPR will evaluate complaint and other information and investigation practices to make recommendations to the Chief to prevent future problems. Policy change recommendations shall be published for public review.
- I. Outreach. IPR will widely distribute complaint forms in languages and formats accessible to citizens, educate them on the importance of reporting complaints, and hold public meetings to hear general concerns about police services.
- J. Access to information. Notwithstanding any other provision of City law, IPR shall have access to and be authorized to examine and copy, without payment of a fee, any bureau information and records, including confidential and legally privileged information and records so long as privilege is not waived as to third parties, and police databases, subject to any applicable state or federal laws. The Director shall not disclose confidential or legally privileged information or records and shall be

~~subject to the same penalties as the legal custodian of the information or records for any unlawful or unauthorized disclosure. Access to records. Notwithstanding any other provision of City law, IPR shall have access to and be authorized to examine and copy, without payment of a fee, any bureau records, including records which are confidential by city law, and police databases, subject to any applicable state or federal laws. The Director shall not have access to legally privileged documents held by the City Attorney or Attorney-Client communications held by the City Attorney clients. The Director shall not disclose confidential records and shall be subject to the same penalties as the legal custodian of the records for any unlawful or unauthorized disclosure.~~

- K. Adoption of rules. IPR shall adopt, promulgate, amend and rescind rules and procedures required for the discharge of the Director's duties, including policies and procedures for receiving and processing complaints, conducting investigations, and reporting findings, conclusions and recommendations. However, the Director may not levy any fees for the submission or investigation of complaints.
- L. Review of closed investigations. IPR shall hire a qualified person to review closed investigations pertaining to officer-involved shootings and deaths in custody on an ongoing basis. IPR shall issue reports on an annual basis identifying any policy-related issues or quality of investigation issues that could be improved. The Director and the Citizen Review Committee shall address any policy-related or quality of investigation issues that would warrant further review.
- M. Additional public reports. The Director may issue public reports related to member misconduct trends and Bureau disciplinary practices.
- N. Conduct investigative interviews of Bureau employees.
- O. All Bureau employees shall be truthful, professional and courteous in all interactions with IPR. No member shall conceal, impede or interfere with the filing, investigation or adjudication of a complaint.
- P. ~~The Auditor may retain or employ independent legal counsel. The Auditor may work through the City Attorney's Office to hire outside counsel when the Auditor and City Attorney agree that outside legal advice is necessary and advisable.~~

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3.21.110 Intake.

(Amended by Ordinance Nos. 179162, 186416 and 188331, effective May 19, 2017.)

- A. The Director shall receive complaints from any source concerning alleged member misconduct. The Director shall make reasonable accommodation when complainants cannot file their complaint at the IPR office. All allegations of use of excessive force shall be subject to a full and completed investigation resulting in

findings, unless there is clear and convincing evidence to IPR that the allegation has no basis in fact.

1. A community member may file a complaint or commendation regarding alleged member misconduct with IPR, Internal Affairs, a Police Bureau Precinct, the Police Commissioner, or with any Bureau member.
 - a. All complaints regardless of intake point will be forwarded to IPR or Internal Affairs and entered into the Administrative Investigation Management database.
 - b. All Bureau facilities will have complaint and commendation forms available in areas accessible to the public.
 - c. All Bureau issued business cards intended to be given to community members during calls for service will have IPR's phone number and email address printed on them.
2. All complaints of alleged member misconduct will be investigated as either:
 - a. Formal administrative investigations conducted by either Internal Affairs or IPR.
 - b. Supervisory investigations conducted by a supervisor assigned to the same responsibility unit as the involved member.
 - (1) Supervisory investigations will only be used for non-disciplinary complaints, such as those related to quality of service or minor rule violations.
 - (2) All supervisory investigations will include a recommended disposition.
 - (3) All completed supervisory investigations must be reviewed by Internal Affairs and IPR.
 - (4) Completed supervisory investigations will not be subject to appeal.
3. The Director will be notified in a timely manner by either the Assistant Chief of Investigations, Captain of IAD, or a member of the Police Commissioner's staff upon their knowledge that a member has engaged in conduct that may be subject to criminal and/or administrative investigation.
4. IPR may request that the Bureau open an administrative deadly force investigation into any incident where IPR believes the physical force used by a member was such that it was readily capable of causing death or serious physical injury.

5. When members of the public make complaints that do not allege member misconduct but do raise issues of a broader systemic nature, IPR may conduct reviews of Bureau policies and practices.

- B. The Director shall develop procedures for handling complaints and appeals involving matters currently in litigation or where a notice of tort claim has been filed. The Director shall not initiate a case where a grievance or other appeal has been filed under a collective bargaining agreement or City personnel rules; or with respect to employee or applicant discrimination complaints.

- C. The Director, when requested, shall protect the confidentiality of complainants, members or witnesses consistent with the requirements of the Oregon Public Records Law, except insofar as disclosures may be necessary to enable the Director to carry out ~~his or her~~ their duties, or to comply with applicable collective bargaining agreements, or the disclosure of records is directed by the District Attorney. When considering a request for public records, the Director shall consult with appropriate Bureau personnel and obtain approval from the Bureau prior to disclosure of records under the Oregon Public Records Law.

- D. No member of the community or the Police Bureau shall face retaliation, intimidation, coercion, or any adverse action for reporting misconduct or cooperating with a misconduct investigation.

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CHAPTER 3.77 - OFFICE OF THE OMBUDSMAN

(Chapter added by Ordinance No. 175568, effective July 1, 2001.)

Sections:

- 3.77.010 Purpose.
- 3.77.020 Definitions.
- 3.77.030 Office of the Ombudsman.
- 3.77.040 Ombudsman Selection.
- 3.77.050 Qualifications and Prohibitions.
- 3.77.060 Reserved.
- 3.77.070 Removal.
- 3.77.080 Staff and delegation.
- 3.77.090 Reserved.
- 3.77.100 Office Facilities and Administration.
- 3.77.110 Powers and Duties.
- 3.77.120 Investigations of Complaints.
- 3.77.130 Communications with Agency.
- 3.77.140 Communications with Complainant.
- 3.77.150 Procedure after Investigation.
- 3.77.160 Informing ~~Citizens~~ Community Members.
- 3.77.170 Reports.
- 3.77.180 Reserved.
- 3.77.190 Duty to Cooperate.
- 3.77.200 Ombudsman Immunities.
- 3.77.210 Reprisals Prohibited.
- 3.77.220 Relationship to Other Laws.
- 3.77.230 Effective Date.

3.77.010 Purpose.

The Office of the Ombudsman is an independent, impartial office, readily available to the public, responsible to the City Auditor, empowered to investigate the administrative acts of City departments, bureaus and other administrative agencies, issue reports and recommend appropriate changes toward the goals of safeguarding the rights of persons and of promoting higher standards of fairness, competency, efficiency and justice in the provision of city services.

~~The City hereby establishes, in addition to other remedies or rights of appeal, an independent, impartial office, readily available to the public, responsible to the City Auditor, empowered to investigate the administrative acts of city agencies and to recommend appropriate changes toward the goals of safeguarding the rights of persons and of promoting higher standards of competency, efficiency and justice in the provision of city services. This office shall be known as the Office of the Ombudsman.~~

3.77.020 Definitions.

In this chapter:

- A. "Administrative act" means an action, failure to act, omission, decision, recommendation, practice, policy or procedure.
- B. "Agent or agency" includes any department, bureau, office, institution, corporation, authority, board, commission, committee of the city, and any officer, employee, or member of the foregoing entities acting or purporting to act in the exercise of their official duties. EXCEPTING: elected officials and their personal staff.
- C. "City Auditor" refers to the elected City Auditor.
- D. "City" refers to the City of Portland.
- E. "City Council" refers to the City's legislative body comprised of five elected officials, the Mayor, and four City Commissioners.
- F. "Ombudsman" means the public official appointed by the City Auditor to receive and investigate ~~citizen~~ the public's complaints against administrative acts of City government.
- G. "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, and/or the manager, lessee, agent, servant, officer, or employee of any of them;
- H. "Record" means all records, documents, books, papers, files, photographs, microfilms, sound recordings, video recordings, magnetic storage media, computer data and all other materials, regardless of physical form or characteristics, created, generated, recorded, received, possessed or controlled by or on behalf of any agency.
- I. "State" refers to the State of Oregon.

3.77.030 Office of the Ombudsman.

There is established in accordance with City Charter Section 2-509 the Office of Ombudsman.

~~There is established by the City Council the Office of Ombudsman.~~

3.77.040 Ombudsman Selection.

The City Auditor shall select the Ombudsman in accordance with the Auditor's human resource policies and rules and other applicable laws.

~~The City Auditor shall select the Ombudsman in accordance with any applicable civil service regulations and other laws.~~

3.77.050 Qualifications and Prohibitions.

- A. The Ombudsman shall be a person of recognized judgment, objectivity and integrity who is well-equipped to analyze problems pertaining to City regulations, administration, and public policy, and shall have a working knowledge in local government commensurate to the powers and duties of the office. The Ombudsman

shall be a registered voter of the United States, and shall hold a degree from an accredited college/university, or its equivalent in service to local government.

- B. No person may serve as Ombudsman while engaged in any other occupation, business, or profession likely to detract from the full-time performance of ~~his or her~~their duties as Ombudsman or to result in a conflict of interest or an appearance of impropriety or partiality. All laws and requirements generally applicable to public employees are applicable to the Ombudsman.

3.77.060 Reserved.

3.77.070 Removal.

- A. The Ombudsman is an at-will employee and may be removed from office by the City Auditor. ~~The Ombudsman may be removed from office during his or her term by the City Auditor.~~
- B. If the position becomes vacant for any reason, the Deputy Ombudsman shall serve as acting Ombudsman until a new Ombudsman has been appointed.

3.77.080 Staff and Delegation.

- A. The Ombudsman may appoint a deputy who is accountable to the Ombudsman and other personnel necessary to carry out the provisions of this chapter, when in keeping within the adopted budget for the Ombudsman's Office.
- B. The Ombudsman may delegate to staff members any of the Ombudsman's duties, unless otherwise specified in this chapter. ~~The Ombudsman may delegate to his or her staff members any of his or her duties, unless otherwise specified in this chapter.~~
- C. The deputy shall succeed to all duties and responsibilities of the Ombudsman, including those specified by ordinance, when ~~he or she is~~ serving as the acting Ombudsman.

3.77.090 Reserved.

3.77.100 Office Facilities and Administration.

- A. The City shall provide suitable office facilities for the Ombudsman and staff in a location convenient for the public.
- B. The Ombudsman shall annually recommend a budget proposal for submission to the City Auditor, who shall in turn include it in the Auditor's budget submission to the Mayor and City Council.
- C. The Ombudsman shall be located within the City Auditor's office, and be accountable to the City Auditor. The Ombudsman shall have sole discretion in choosing consultants to assist with investigations, and in hiring staff. All

administrators shall retain the authority to deny any request which is otherwise contrary to ordinance or which exceeds the city council-adopted budget for the office.

3.77.110 Powers and Duties.

The Ombudsman's powers and duties include, but are not limited to the following:

- A. To investigate, on complaint or on the Ombudsman's own initiative, any administrative act of an agency, without regard to the finality of the administrative act, if ~~he or she~~ the Ombudsman reasonably believes that it is an appropriate subject for review;
- B. To undertake, participate in or cooperate with persons and agencies in such general studies, conferences, inquiries, meetings, or studies which might improve the functioning of agencies or lessen the risks that objectionable administrative acts will occur;
- C. To make such inquiries and obtain such reasonable assistance and information from any agency or person as the Ombudsman shall require for the discharge of the Ombudsman's duties; and ~~he or she~~ may without prior notice enter and inspect the premises of any agency. Agencies shall not restrict the Ombudsman's access to agency ~~personnel~~ employees, subject to collective bargaining obligations to the City's recognized bargaining units;
- D. In accordance with City Charter, subject to collective bargaining obligations to the City's recognized bargaining units, to have timely access to and to examine and copy, without payment of a fee, any agency information and records, including confidential and legally privileged information and records so long as privilege is not waived as to third parties, subject to any applicable state or federal laws. The Ombudsman shall not disclose confidential or legally privileged information or records and shall be subject to the same penalties as the legal custodian of the information or records for any unlawful or unauthorized disclosure; ~~Notwithstanding any other provision of city law, to have access to and to examine and copy, without payment of a fee, any agency records, including records which are confidential by city law, subject to any applicable state or federal laws. Except, the Ombudsman shall not have access to legally privileged documents held by the City Attorney or Attorney-Client communications held by the City Attorney clients. The Ombudsman shall not disclose confidential records and shall be subject to the same penalties as the legal custodian of the records for any unlawful or unauthorized disclosure;~~
- E. To request any person or agency to give sworn testimony or to timely produce documentary or other evidence that is reasonably relevant to the matters under investigation;
- F. To maintain confidential any matter related to complaints and investigations to the extent allowable by law, except as the Ombudsman deems necessary to discharge

the Ombudsman's duties or as directed by the District Attorney pursuant to a public records request;

- G. To take appropriate measures to enforce the provisions of this chapter, including issuing reports, submitting recommendations, or seeking Council authorization for legal recourse if necessary to carry out the duties of the Office of the Ombudsman Office;
- H. To adopt, promulgate, amend and rescind rules and regulations required for the discharge of the Ombudsman's duties, including policies and procedures for receiving and processing complaints, conducting investigations, and reporting findings, conclusions and recommendations. However, the Ombudsman may not levy any fees for the submission or investigation of complaints;
- I. To insure that a budget for the Office of the Ombudsman is well prepared and administered.

3.77.120 Investigations of Complaints.

- A. The Ombudsman shall receive complaints from any source concerning any administrative act. ~~He or she~~ The Ombudsman may conduct a suitable investigation of a complaint that is an appropriate subject for investigation. An appropriate subject for investigation by the Ombudsman includes any administrative act that the Ombudsman believes might be:
 1. contrary to, law, regulation or agency practice;
 2. unreasonable, unfair, oppressive, arbitrary, an abuse of discretion, or unnecessarily discriminatory even though in accordance with law;
 3. based on mistaken facts or irrelevant considerations;
 4. unclear or not adequately explained;
 5. performed in an inefficient or discourteous manner;
 6. otherwise erroneous or objectionable.
- B. The Ombudsman, at the Ombudsman's discretion, may decide not to investigate a complaint because:
 1. the complainant could reasonably be expected to use, or is using, another remedy or channel, or tort claim, for the grievance stated in the complaint;
 2. the complaint relates to a matter that is outside the jurisdiction of the Ombudsman;
 3. the complaint has been too long delayed to justify present examination;

4. the complainant does not have a sufficient personal interest in, or is not personally aggrieved by, the subject matter of the complaint;
 5. the complaint is trivial, frivolous, vexatious or not made in good faith;
 6. the resources of the Ombudsman's Office are insufficient for adequate investigation;
 7. other complaints are more worthy of attention.
- C. The Ombudsman shall not investigate matters currently in litigation; covered by collective bargaining agreement grievance procedures; or, employee or applicant discrimination complaints.
 - D. The Ombudsman's declining to investigate a complaint shall not bar the Ombudsman from proceeding on ~~his or her~~their own initiative to investigate an administrative act whether or not included in the complaint.
 - E. The Ombudsman shall protect the confidentiality of complainants or witnesses coming before ~~him or her~~them consistent with the requirements of the Oregon Public Records Law, except insofar as disclosures may be necessary to enable the Ombudsman to carry out ~~his or her~~their duties or the disclosure of records is directed by the District Attorney. (See Subsection 3.77.110 F.)
 - F. The Ombudsman shall have the authority to pursue administrative review of responses to complaints through higher authorities within the City.

3.77.130 Communications with Agency.

- A. The Ombudsman may make recommendations to an agency for the resolution of complaints and inquiries in accordance with this ~~chapter~~Chapter and City Charter.
- B. In seeking a resolution to a complaint or inquiry the Ombudsman may draw the matter to the attention of any ~~bureau~~agency head or division manager, the City Auditor, Mayor, City Commissioner, or the public.
- C. Before formally issuing a report with a conclusion or recommendation that is significantly critical or adverse to an agency, the Ombudsman shall have consulted with that agency and permitted the agency reasonable opportunity to reply. The Ombudsman may require an agency to notify ~~him or her~~them within a reasonable specified time of any action taken on a conclusion or recommendation. The Ombudsman will provide the opportunity to include with a final report a brief statement by the agency.

3.77.140 Communications with Complainant.

- A. After the Ombudsman has decided whether or not to investigate a complaint, the Ombudsman shall inform the complainant.

- B. The Ombudsman shall, if requested by the complainant, report the status of his or her investigation to the complainant.
- C. After investigation of a complaint, the Ombudsman shall inform the complainant of his or her conclusion or recommendation and, if appropriate, any action taken or to be taken by the agency involved.

3.77.150 Procedure after Investigation.

- A. If, after investigation, the Ombudsman is of the opinion that an agency should:
 1. consider the matter further,
 2. modify or cancel an act,
 3. alter a regulation, ruling, practice, policy or procedure;
 4. explain more fully the act in question,
 5. rectify an omission, or take any other action,

the Ombudsman shall state any conclusions, recommendations and reasons therefor to the agency. If the Ombudsman so requests, the agency shall, within the time specified, inform the Ombudsman about the action taken on recommendations or the reasons for not implementing them.

- B. After a reasonable period of time has elapsed, the Ombudsman may issue ~~his or her~~ final conclusions or recommendations to the Auditor, the Mayor and City Commissioners, a grand jury, the public, or any other appropriate authority. The Ombudsman shall include any brief statement the agency may provide if an opportunity to reply is required by this Chapter.
- C. If the Ombudsman believes that an action has been dictated by laws whose results are unfair or otherwise objectionable, and could be revised by City Council action, the Ombudsman shall notify the City Council and the agency of a desirable statutory change.
- D. If the Ombudsman believes that any agency official or employee has acted in a manner warranting criminal or disciplinary proceedings, the Ombudsman shall refer the matter to the appropriate authorities without notice to that person.

3.77.160 Informing ~~Citizens~~ Community Members.

The Ombudsman shall post notices or use other appropriate means to inform ~~citizens~~ community members of their rights, protections, and availability of services provided for under this Chapter and City Charter Section 2-509. These notices may include posted notices in public areas; or, electronic postings or links through Internet web sites, including the City web site. Nothing in this section is to be construed as repealing any other provisions of contract, ordinance or law.

3.77.170 Reports.

The Ombudsman may from time to time and shall annually report ~~his or her~~ the Office of the Ombudsman's activities to the Auditor and City Council, or any of its committees, to the public and, in the Ombudsman's discretion, to agencies.

3.77.180 Reserved.**3.77.190 Duty to Cooperate.**

City employees shall cooperate with the Ombudsman in the exercise of ~~his or her~~ their powers, and shall not mislead or attempt to mislead an Ombudsman's inquiry.

3.77.200 Ombudsman Immunities.

To the extent allowable by law, the Ombudsman and staff shall not be compelled to testify or produce evidence in any judicial or administrative proceeding with respect to any matter involving the exercise of their official duties except as may be necessary to enforce this Chapter and City Chapter Section 2-509.

3.77.210 Reprisals Prohibited.

No person who files a complaint or participates in any investigation or proceeding pursuant to this chapter shall be subject to any penalties, sanctions or restrictions in connection with his or her employment or be denied any right, privilege, or benefit because of such action.

3.77.220 Relationship to Other Laws

The provisions of this Chapter are in addition to and do not in any manner limit or affect any other provisions of law under which any remedy or right of appeal is provided for any person, or any procedure is provided for the inquiry into or investigation of any matter. The powers conferred on the Ombudsman may be exercised notwithstanding any provision of law to the effect that any administrative action shall be final or unappealable.

3.77.230 Effective Date

This Act shall take effect on July 1, 2001.