

**IMPACT STATEMENT**

**Legislation title:** Authorize changes to City Code to update oath of office requirements (Ordinance; amend Code Chapter 3.74 and Code Sections 3.20.190 and 3.20.240)

**Contact name:** Joshua McNeal, Business Operations Manager

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**Presenter name:** Mary Hull Caballero, City Auditor

**Purpose of proposed legislation and background information:**

Oregon law does not require City officials or employees to take an oath of office. City Charter Section 2-205 requires elected officials—but not employees—to take an oath. City Code Chapter 3.74 establishes oath requirements for various City employees (including board and commission members).

This housekeeping legislation proposes changes to Chapter 3.74 to clarify oath administration and timing requirements, more closely mirror the oath language set forth in the Charter, eliminate gender-specific terms and outdated language, and provide flexibility for board and commission member oaths. Key proposed changes include:

- A. Section 3.74.010 currently requires various “employees” to take an oath, including: “Each elected or appointed officer or deputy of the City, including members of boards and commissions.”
1. The proposed legislation lists the specific City employees required to take an oath. For example, parking code enforcement supervisors and officers currently take oaths, and are therefore specifically listed in the proposed legislation.
  2. Board and commission members are not “employees,” and oath requirements for board and commission members are not consistently followed or enforced. The proposed legislation therefore allows the Council or a board or commission to determine whether the board or commission’s members must take an oath (and if so, to determine the form of the oath, who should administer it, and where the oath is filed). This change seeks to balance the symbolic importance of oaths with the administrative burden of requiring oaths for *all* board and commission members.
- B. Section 3.74.010 requires elected officials and employees to take oaths before performing their duties.<sup>1</sup> Coordinating the administration of oaths on the first day of work can be challenging (especially if elected officials take office on New Year’s Day).

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<sup>1</sup> See also Charter § 2-205 (“Every official appointed or elected to elective office before entering upon the performance of his or her duties shall take an oath or affirmation”).

1. Code § 2.08.120 C. states: “No candidate shall take the oath of office before receiving a certificate of election from the City Elections Officer.” The proposed legislation therefore clarifies that elected officials can take their oath *any time after* receiving a certificate of election from the City Elections Officer *and before* entering upon the discharge of their duties.
  2. The proposed legislation requires non-elected employees to take an oath “before entering upon the discharge of their duties or as soon as possible thereafter.”
- C. Sections 3.74.020 and 3.74.030 govern the “form of oath” for elected officials and employees, but the provisions are not consistent with Charter Section 2-205 or with each other. The proposed legislation therefore seeks to promote more uniform oath requirements and consistency with the Charter.

NOTE: Section 3.74.020 requires elected officials to swear or affirm that they “have no undisclosed financial interest in any business located in Portland or having contracts with the City.” This language is not included in Charter Section 2-205, but the proposed legislation does not delete this language.

- D. Chapter 3.74 includes differing requirements for the administration of oaths, including:
1. Section 3.74.020 requires the Auditor’s oath to “be administered by a person having statutory authority under the laws of Oregon to administer oaths.”
  2. The Code doesn’t specify who administers oaths for other elected officials.
  3. Section 3.74.030 requires employee oaths to be administered by the Auditor, a deputy auditor, a notary public, or magistrate.

The proposed legislation therefore creates a new section 3.74.040, which permits all oaths to be administered by the Auditor, a deputy auditor, a notary public, or a judge or magistrate.<sup>2</sup>

This legislation also proposes changes to Code Sections 3.20.190 and 3.20.240, including to eliminate gendered terms, remove outdated references to “substitute policemen,” “regular” police officers, “special duty” police reserve, “women’s protective division,” and “police matrons,” and to delete an outdated requirement for reserve officers to provide their own equipment. These changes were initially recommended by the City Attorney’s Office and have been reviewed and approved by the Police Bureau and City Attorney’s Office.

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<sup>2</sup> ORS 44.320 permits every court, judge, clerk of a court, justice of the peace, certified shorthand reporter, or notary public to administer oaths.

**Financial and budgetary impacts:**

No impact.

**Community impacts and community involvement:**

None.

**100% Renewable Goal:**

No impact.

**Budgetary Impact Worksheet****Does this action change appropriations?** **YES:** Please complete the information below. **NO:** Skip this section

<b>Fund</b>	<b>Fund Center</b>	<b>Commitment Item</b>	<b>Functional Area</b>	<b>Funded Program</b>	<b>Grant</b>	<b>Sponsored Program</b>	<b>Amount</b>



P O R T L A N D  
CITY AUDITOR

Mary Hull Caballero

**DATE:** July 12, 2018

**TO:** City Council

**FROM:** Mary Hull Caballero, Auditor

**SUBJECT:** Amendment request for Council Agenda Item 664

**Amend City Code to update oath of office requirements (Ordinance;  
amend Code Chapter 3.74 and Code Sections 3.20190 and 3.20.240)**

*Second reading: July 24, 2019*

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**Amendment:** Also delete "private" from Code 3.74.010 A.1, which lists the types of police officers required to take an oath of office. As amended, the provision would read:

"Every officer and member of the Bureau of Police, including ~~private,~~  
~~special,~~ temporary, and ~~substitute policemen-reserve officers;~~"

**Explanation:** At the 7/10/19 Council meeting, Commissioner Hardesty expressed concern that the ordinance, as originally proposed, failed to delete "private" from Code 3.74.010 A.1. The Police Bureau and City Attorney's Office have since reported that "private" is an outdated term and that they have no objection to its deletion.

NOTE: The proposed ordinance retains reference to temporary and reserve officers because the Code provides for the appointment of temporary officers in an emergency (Code 3.20.120) and for the use of reserve officers (Code 3.20.180 – 3.20.210; Code 3.18.010).

