

CHARTER OF THE CITY OF PORTLAND, OREGON

CHAPTER 2

GOVERNMENT

ARTICLE 5. THE AUDITOR.

Section 2-501. Office of the Auditor. To ensure an open and accountable City government, the Office of the Auditor is established. The Office shall be under the supervision and control of the Auditor of the City of Portland.

Section 2-5012. Qualifications and Restrictions on Other City Candidacy. There shall be an Auditor of the City of Portland who shall possess the same qualifications required of a Commissioner, and in addition, shall at the time of filing a declaration of candidacy, or a nominating petition for the office of Auditor be a Certified Public Accountant, Certified Internal Auditor, or Certified Management Accountant and remain certified as such throughout the term of office, if elected. The Auditor shall be elected at the general municipal election and shall serve for a term of four (4) years. If an Auditor shall be elected without such qualifications or shall cease to have the same, the office shall immediately become vacant. The Auditor shall not run for election to any other City office during his or her term. The act of filing for another City office will be the same as a resignation, which shall be effective as of the date of such filing.

Section 2-503. Independent Authority. The Auditor and the Office of the Auditor are administratively independent of the Mayor, City Council, and City departments, bureaus and other administrative agencies in the exercise of the Auditor's duties under this Charter.

Section 2-5024. Salary. Effective January 1, 2019, the salary of the Auditor shall be fixed by the Council the same as a City Commissioner.

Section 2-505. Budget. The Auditor shall prepare a requested budget and any budget cycle reports and submit them to the Mayor and City Council in accordance with state law and on a schedule consistent with the City's budget process. The Auditor's requested budget and budget cycle reports are not subject to review by a City department, bureau or other administrative agency prior to their submission to the Mayor and City Council. After their submission, the Mayor or City Council may consult with a department, bureau or other administrative agency about the Auditor's requested budget and budget cycle reports. The Mayor or City Council may modify the Auditor's budget. In doing so, the Mayor and Council should consider the Auditor's priorities and duties.

Section 2-506. Administrative Powers.

- (a) Administrative Authority. The Auditor may establish such rules for the Office of the Auditor as the Auditor determines necessary to carry out the duties of the Auditor under this Charter. Prior to the adoption, amendment or repeal of any rule, the Auditor shall provide reasonable public notice and opportunity for comment. The Auditor may adopt interim rules without prior notice upon finding that failure to act promptly will result in prejudice to the public interest and shall be effective for a period of not more than 180 days.
- (b) ~~Section 2-503.~~ Deputies and Employees. The Auditor may appoint and remove one chief deputy who shall serve at the pleasure of the Auditor. In addition, the Auditor may deputize other staff in the Auditor's Office to perform duties required by the Council or the Charter. ~~The deputies shall have power to do and perform any act or duty required of the Auditor, and the Auditor shall be responsible for their conduct. The compensation to be paid to all of the Auditor's Office staff shall be determined by Council as part of the City's general compensation plan.~~ The Auditor may appoint employees and establish their compensation. The Auditor may determine the number of employees necessary for the efficient and economic performance of the Office of the Auditor, subject to funding by Council. Employees may perform any act or duty required by the Auditor, and the Auditor shall be responsible for their conduct. The Auditor shall establish and administer human resources policies and rules for the Office of the Auditor that are consistent with City human resource policies and rules, including classification and compensation, except where the Auditor determines in writing that a City human resources policy or rule impairs the Auditor's independence or ability to carry out the Auditor's duties under this Charter. The Auditor's human resource policies and rules shall provide functionally equivalent protections as the Classified Service, including for-cause disciplinary review procedures for all Auditor's Office employees with the exception of the Chief Deputy Auditor, Ombudsman, and Audits Director; employees hired under Section 2-507(a)(6) of this Charter who are designated by Council as at-will; and employees subject to a collective bargaining agreement.
- (c) Internal Controls and Periodic Review. The Auditor shall ensure that the Office of the Auditor has adequate internal controls, complies with all applicable laws, and operates efficiently. The Auditor shall contract periodically, but no less than every four years, with outside service providers to conduct organizational efficiency and compliance assessments, the results of which shall be made public.
- (d) Procurement. The Auditor has all authority granted to a contracting agency under state law to procure or supervise the procurement of goods, services

and personal services the Auditor finds necessary for the proper functioning of the Office. The Auditor shall adopt administrative rules governing the Auditor's procurement practices and procedures that are consistent with City procurement policies and rules, except where the Auditor determines in writing that a City procurement policy or rule impairs the Auditor's independence or ability to carry out the Auditor's duties under this Charter.

- (e) Legal Services. The Auditor may obtain legal advice and representation from the City Attorney or may retain or employ independent legal counsel. If the Auditor retains or employs independent legal counsel, the Office of the Auditor shall be the client and is entitled to the benefits and privileges thereof.
- (f) The Auditor may obtain advice, services and assistance from any City department, bureau, administrative agency, officer, employee or agent in the performance of the Auditor's duties under this Charter or as may be prescribed by ordinance.

Section 2-5047. Duties in General.

- (a) The Auditor ~~shall be~~ is responsible for the following activities:
1. ~~Performance of~~ Performing financial and performance audits of the City, including audits of its boards and commissions, franchises and contracts as provided in Section 2-5058 of this Charter;
 2. ~~Supervision of~~ Supervising City elections as provided by state law and Chapter 3 of this Charter;
 3. ~~Maintenance of~~ Maintaining all official records, including records of the various bureaus, records regarding the City Charter and City Code, and all other records regarding City business;
 4. ~~Provision of~~ Providing official certifications as required by this Charter; and
 5. Investigating the actions of a City department, bureau or other administrative agency, and the official conduct of any City officer, employee or agent as provided in Section 2-509 of this Charter; and
 56. Other duties as prescribed by this Charter or as may be assigned by the Council with the consent of the Auditor, or as prescribed by Charter.
- (b) ~~The Auditor may delegate,~~ Subject to the Auditor's supervision, the Auditor may delegate any of these duties to other City officials or may contract with

outside service providers. The Auditor shall remain responsible for the provision of these services performing the duties. The Council shall provide staffing, funding, and facilities for the Auditor to carry out these duties.

Section 2-5058. Audits.

- (a) The Auditor shall conduct financial and performance audits of City government in accordance with generally accepted governmental auditing standards, and shall appoint, coordinate and monitor the annual audit of the City's financial statements by an independent licensed public accountant.
- (b) The Auditor shall appoint and may remove the Audits Director.
- ~~(b)~~(c) City ~~bureau managers~~ departments, bureaus and administrative agencies shall respond to audit recommendations made by the Auditor, through the Commissioner In Charge, to the Auditor, in writing within the time specified by the Auditor. All audit reports and responses shall be made available to the public. The Auditor shall retain workpaper files concerning all audit reports issued for at least six years.
- ~~(e)~~(d) The Auditor shall make the final determination of acceptability and legitimacy of all claims for payment made against the City.
- ~~(d)~~(e) The Auditor may require at any time that any or all demands upon the City for payment of money out of the treasury be presented to the Auditor before it can be paid in order to determine whether the money is legally due and payable, and the fund from which it should be paid. Any ordinance or resolution of the City Council providing for the payment of any demand out of the treasury, whether from public funds or private funds shall be construed as allowing the auditing of the demand by the Auditor, either before payment or as part of the financial audit. The Auditor shall keep an official record of all demands audited by the Auditor showing the number, date, amount, name of the payee, the appropriation if any against which it was drawn and the fund from which it was paid.
- ~~(e)~~(f) 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. The Auditor shall maintain the confidentiality of all confidential and legally privileged information and records except as required by state law or authorized by the City Council.

Section 2-509. Office of the Ombudsman.

- (a) The Office of the Ombudsman is established within the Office of the Auditor. The Office of the Ombudsman shall be under the supervision and control of the Auditor, who is solely responsible for its operation and management. The purpose of the Ombudsman is to provide an impartial office, readily available to the public, that is authorized to investigate the administrative acts of City departments, bureaus and other administrative agencies, issue reports and recommend changes with the goals of safeguarding the rights of persons and promoting high standards of fairness, competency, efficiency and justice in the provision of City services.
- (b) The Auditor shall appoint and may remove the Ombudsman.
- (c) The Office of the Ombudsman shall be guided by generally accepted standards for government ombudsmen offices serving the public.
- (d) Pursuant to a complaint or on the Ombudsman's own initiative, the Ombudsman is authorized to investigate any administrative act of a City department, bureau or other administrative agency, including the Office of the Auditor; recommend changes to City policy, practice or procedures; and issue public reports.
- (e) The Ombudsman shall not investigate the acts of an elected official or the official's personal staff, matters currently in litigation, matters subject to collective bargaining agreement grievance procedures, or a discrimination complaint from an employee or applicant for employment.
- (f) Subject to collective bargaining obligations to the City's recognized bargaining units, the Ombudsman shall have timely access to all employees, information and records required to investigate or otherwise perform the Ombudsman's duties, including confidential and legally privileged information and records so long as privilege is not waived as to third parties. The Ombudsman shall maintain the confidentiality of any confidential or legally privileged information and records except as required by state law or authorized by the City Council.
- (g) A City department, bureau and agency director or manager shall respond in writing to Ombudsman recommendations within the time specified by the Ombudsman.
- (h) The powers and duties of the Ombudsman may be further prescribed by ordinance in consultation with the Auditor. The powers and duties of the Ombudsman shall not be exercised in contravention of any collective bargaining obligations of the City.

Section 2-50610. Auditor's Duties as Clerk of the Council. The Auditor shall serve as the Clerk of the Council and shall maintain a journal of its proceedings and all of the public records in connection with the Council's official business. The Auditor shall produce an agenda for all formal meetings of the Council; maintain a record of the Council's actions; and make the records available for public inspection as provided by the State Public Records laws. As Clerk of the Council, the Auditor shall maintain and make available current versions of the City Charter and Code and maintain a record of Charter and Code revisions.

Section 2-50711. Charter Arrangement and Corrections. Subject to Council approval, the Auditor shall have authority to rearrange, renumber, reletter, capitalize, punctuate and divide provisions of this Charter, and to correct clerical errors and omissions and insert captions in accordance with the meaning and intent of the provisions of this Charter, from time to time, and may delete provisions which have become inoperative or any provision ruled invalid by a court of competent jurisdiction. The Auditor may substitute any current title of an officer, bureau, department, or commission in lieu of the title originally appearing in the Charter provision, in accordance with the changes of title or duties subsequently made by law.

Section 2-50812. Deletion of Charter Terms Referring to Masculine or Feminine Gender. Future amendments to the City Charter shall require the use of terms which are neither masculine nor feminine, unless the context of such Charter provision shall require otherwise.

The City Auditor, with approval of the City Attorney, shall be authorized to change the provisions of the City Charter to delete use of terms which are masculine or feminine, unless the context of such Charter provisions shall require otherwise.

Section 2-50913. Official Oaths and Certifications and Custodian of the City Seal.

- (a) The Auditor, and each of the Auditor's deputies, are authorized to administer an oath and certify any acknowledgement authorized or required to be taken by City ordinance, or law of this State, and the Auditor may require any person presenting for settlement an account or claim of any kind against the City to be sworn before him or her regarding such account or claim, and when so sworn, to answer orally or in writing as to any facts relative to the merits or justice of such account or claim.
- (b) The Auditor shall cause his or her signature to be affixed to all warrants, contracts, bonds, and other official documents of the City as affirmation that the document and the action it represents have been duly authorized as required by this Charter and that the signatures of the other City officials on the document are true and duly authorized.
- (c) The Auditor shall be the custodian of the City's seal.

CHARTER OF THE CITY OF PORTLAND, OREGON

CHAPTER 4

CIVIL SERVICE

ARTICLE 2. MERIT SYSTEM.

Section 4-201. Merit System. Consistent with all applicable federal and state laws, the City Council shall provide by ordinance for the establishment, regulation, and maintenance of a merit system governing personnel policies and rules necessary for effective administration of the employees of the City's offices, bureaus, and agencies, other than the Office of the Auditor, including but not limited to classification and pay plans, recruitment, examinations, disciplinary actions, types of appointments, relationships with employee organizations, and appeals and hearings. Such ordinances shall be consistent with the merit principles in Article 1. Employees in the Office of the Auditor shall be subject to the policies and rules established by the City Auditor under Chapter 2, Article 5 of this Charter.

ARTICLE 3. CLASSIFIED SERVICE.

Section 4-301. Classified Service. The classified service in the City shall consist of all positions in the government of the City except all officers chosen by popular election or by appointment by the City Council, all administrative staff of each City Council member, ~~the Chief Deputy City Auditor,~~employees in the Office of the Auditor, the deputies of the City Attorney, members of all boards and commissions, and all bureau directors hired after December 31, 2000. In addition, at the recommendation of the person responsible for administration of personnel issues, and with approval of Council by ordinance, employees may be excluded from classified service if they are in a classification with a major role in the formulation of policy that requires the exercise of independent judgment and are hired after the effective date of such ordinance.

The Mayor shall appoint and may remove the Chief of Police.

BALLOT TITLE

CAPTION:

Amends Charter: Increases Auditor's independence from audited agencies, adds duty.

QUESTION:

Shall Charter be amended to increase City Auditor's independence from audited agencies and include Auditor's authority to investigate City agencies?

SUMMARY:

The measure changes Charter provisions regarding the elected City Auditor, which were last updated in 1994. The Auditor's responsibilities have expanded since then to include more oversight functions, such as the ombudsman and lobbyist registration. Currently, the Auditor relies on and sometimes must seek permission from City agencies subject to the Auditor's oversight for legal, personnel, procurement, and budget services.

The measure increases the Auditor's independence by: allowing the Auditor to seek advice from independent legal counsel, giving the Auditor more autonomy over staffing decisions, designating the Auditor as a contracting agency, and authorizing the Auditor to submit budget requests directly to the City Council without review by an audited City agency. The measure requires periodic external reviews of the Auditor's Office.

The measure also establishes in Charter the Auditor's ombudsman function, which conducts impartial investigations into the public's complaints against City agencies. Currently, the ombudsman operates under authority granted in code. It has been in the Auditor's Office since 2001 and is a core component of the Auditor's oversight responsibilities.

Other provisions.