

## **ORDINANCE No.**

Amend City Code to update oath of office requirements (Ordinance; amend Code Chapter 3.74 and Code Sections 3.20.190 and 3.20.240)

The City of Portland ordains:

Section 1. The Council finds:

1. Section 2-205 of the City Charter requires every official “appointed or elected to elective office” to take an oath of office.
2. City Code Chapter 3.74 sets forth oath of office requirements for Police officers, Fire & Rescue officers, and elected and appointed City officers and deputies, including members of boards and commissions.
3. Oaths of office are also addressed in Code Sections 3.20.190 (Police Reserves) and 3.20.240 (Police Bureau Membership).
4. Code provisions governing oaths of office should be amended 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requirements, more closely mirror the oath language set forth in the Charter, eliminate gender-specific terms and outdated language, and provide flexibility for board and commission member oaths.

NOW, THEREFORE, the Council directs:

- a. Code Chapter 3.74 and Code Sections 3.20.190 and 3.20.240 are amended as follows in Exhibit A.

Passed by the Council:

City Auditor Mary Hull Caballero  
Prepared by: Jennifer Amriott  
Date Prepared: June 25, 2019

**Mary Hull Caballero**  
Auditor of the City of Portland  
By

Deputy

1. Amend Chapter 3.74 – Oaths of Office

**3.74.010 Persons Required to Take Oath.**

(Amended by Ordinance No. 180917, effective May 26, 2007.)

A. Each of the following employees shall be required to take an oath of office ~~before entering upon the discharge of his duties~~, which oath shall be subscribed by the person taking it and shall be filed and preserved in the office of the City Auditor;

~~A.1.~~ Every officer and member of the Bureau of Police, including private, ~~special~~, temporary, and ~~substitute policemen~~ reserve officers;

2. Parking code enforcement supervisors and officers;

~~B.3.~~ Each officer and member of Portland Fire & Rescue serving ~~on~~ full time and devoting ~~his~~ labor exclusively to the interests of the City; ~~and~~

~~C.4.~~ Each elected ~~or appointed officer or deputy of the City, including members of boards and commissions~~ City official;

5. The City Attorney and every deputy City Attorney; and

6. Each deputy City Auditor who administers oaths.

B. The City Council or a City board or commission may require the members of the board or commission to take an oath of office. If an oath of office is required, the Council or the board or commission shall establish requirements for the form, administration, and filing of the oath.

**3.74.020 Form of Oath for Mayor, Commissioner, and City Auditor.**

(Amended by Ordinance No. 168343, effective January 7, 1995.) The form of oath to be taken by the elected officials of the City, after receiving a certificate of election from the City Elections Officer and before entering upon the discharge of their duties, shall be substantially as follows:

State of Oregon \_\_\_\_\_)  
County of Multnomah \_\_\_\_\_) ss.  
City of Portland \_\_\_\_\_)

I, (name), do solemnly (affirm or swear) that I will support the Constitutions of the United States and of the State of Oregon; and the Charter of the City of Portland and its laws; I will faithfully, honestly and ethically perform my duties as (Mayor/Commissioner/City Auditor); I have no undisclosed financial interest in any business located in Portland or having contracts with the City; I hold no other office or position of profit; and I am not a member of any ~~partisan political committee of any political party~~ (; so help me God).

\_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Auditor of the City  
of Portland, Oregon

\_\_\_\_\_  
Deputy

The oath of the Auditor shall be administered by a person having statutory authority under the laws of Oregon to administer oaths.

Additional language may be added for ceremonial purposes but shall not be considered part of the official oath of office.

**3.74.030 Form of Oath for ~~Other Officer or~~ Non-Elected City Employees.**

(Amended by Ordinance Nos. 139501 and 168343, effective January 7, 1995.) The form of oath to be taken by ~~appointed City officials~~ non-elected City employees, before entering upon the discharge of their duties or as soon as possible thereafter, shall be substantially as follows:

I, (name), do solemnly (affirm or swear) ~~that~~ I will support the Constitutions of the United States and of the State of Oregon, and the Charter of the City of Portland and its laws; and I will faithfully, honestly and ethically perform my duties as (office) ~~during my continuance therein.~~

Additional language may be added for ceremonial purposes but shall not be considered part of the official oath of office. ~~The wording of the oath may vary, as officials are sworn according to the ceremonies of their own religion or in such manner as each deems binding on his or her conscience.~~

**3.74.040 Administering Oaths.**

When an oath is required by this Chapter:

A. The oath may be administered by the City Auditor, a deputy auditor ~~City Auditor,~~ a notary public, or a judge or magistrate of any court of record in the United States, within their respective jurisdictions.

B. Oaths shall be in writing and signed by the persons taking and administering the oath. Whenever the oath is administered by a person other than the City Auditor or a deputy City Auditor, the credentials of the person administering the oath shall appear ~~thereon the document,~~ and the oath shall be sent immediately to the City Auditor, ~~who shall attest to receipt of the oath.~~

2. Amend Section 3.20.190

**3.20.190 Application, Oath of Office, Compensation and Equipment of Police Reserves.**

(Amended by Ordinance Nos. 143623 and 164223, effective May 29, 1991.)

- A.** Each new sworn member of the police reserve shall ~~make complete~~ an application ~~on a blank form~~ provided by the Chief of Police, giving such data concerning ~~his~~ their age, weight, identification, residence, occupation, previous experience in police work, if any, citizenship, and other data as the Chief of Police may find necessary or convenient, including fingerprinting for better identification.
- B.** ~~Sworn m~~Members of such police reserve shall not be ~~entitled to no compensation compensated~~ unless specifically authorized and provided by the Council.
- C.** Upon appointment each sworn member of the police reserve shall take an oath of office ~~similar to the oath required of regular members of the Bureau of Police,~~ and such oath shall be filed with the City Auditor.
- D.** ~~Regular~~ Sworn members of the police reserve shall serve ~~during at~~ the pleasure of the Chief of Police and shall wear a uniform prescribed by the Chief of Police. They shall perform the duties and take training as directed by the Chief of Police. They shall observe the rules of department and conduct applicable to regular paid police officers. They shall, in the performance of their duties, be subject to the orders of commanding officers ~~of the regular and reserve police force of the City as designated by the Bureau of Police.~~ They shall, at all times, cooperate with regular paid police officers in the performance of their duties. While on any authorized assignment, they shall be covered by the City's self-insurance, as authorized under the provisions of the Oregon State Workers' Compensation Act. The insurance shall be in a form approved by the City Attorney. It is unlawful for any person whose appointment has been terminated, to retain possession of or refuse to return any badge, identification or equipment issued to such person after demand for the return has been made by the Mayor, Chief of Police or anyone acting under and by the authority of the Mayor or Chief of Police. Sworn mMembers of the ~~special duty~~ police reserve shall be subject to police duty only when ~~special occasion therefor arises authorized by the Chief of Police or~~ designee. ~~Each member shall provide his own equipment, subject to the approval of the Chief of Police, and shall make such reports as the Chief of Police may require.~~

### 3. Amend Section 3.20.240

#### **3.20.240 Membership.**

(Amended by Ordinance No. 136679, effective July 1, 1973.) The Bureau of Police shall consist of: a Chief of Police, ~~and all other full time paid members, and members of the police reserve. of the regular police force, and shall include all members of the women's protective division, and police matrons; and all such members shall be classed and considered as regular members of the Bureau of Police. All members of the Women's Protective Division, and all police matrons, are hereby required to comply with the rules and regulations of the Civil Service Board respecting physical examinations. The present~~

EXHIBIT A

~~police matrons shall (if they have not already done so) take and file with the City Auditor the oath of office required of members of the Bureau of Police, before they shall have full status as such members.~~

## 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

**Contact phone:** (503) 823-3610

**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>