



ARA 15.03 REGULATION OF LOBBYING ENTITIES: ENFORCEMENT AND CIVIL PENALTIES

A. Purpose

The City of Portland established a lobbying entity regulation program in 2005 to preserve the integrity of the City's decision-making process by requiring entities that engage in efforts to influence City officials to report their lobbying efforts to the public. The program also requires City officials to disclose activities related to lobbying, and restricts lobbying by former City officials and employees. This rule outlines the City Auditor's decision-making criteria for assessing violations of [Chapter 2.12 of the Portland City Code](#) and establishing civil penalties for violations.

B. Authority

Code Section 2.12.120 requires the City Auditor to establish enforcement criteria for the City's lobbying entity regulation program, and authorizes the City Auditor to seek civil penalties for violations. In addition, Section 2-506 of the Portland City Charter authorizes the City Auditor to adopt, amend, and repeal administrative rules to carry out the Auditor's Office's duties, and Code Section 2.12.110 I. authorizes the City Auditor to adopt administrative rules to administer the provisions of the City's lobbying entity regulation program.

C. Fees for Late Filings

Timely reporting and disclosure are vital to the administration of the City's lobbying entity regulation program, and help maintain the reporting cycle and overall availability of information to the public.

1. If a lobbying entity or City official fails to file or make public any information as required by City Code 2.12, the Auditor's Office will send the entity or City official a warning notice.
2. If a lobbying entity or City official fails to file or make public any information as required by City Code 2.12 within 24 hours after the deadline, the Auditor's Office may assess a late fee of \$10 per day, up to a maximum of \$500.

D. Investigating and Identifying Violations; Notice

1. Complaints of alleged violations of Code Chapter 2.12 may be filed:
 - a. With the Auditor's Office's [Lobbying Regulations and Political Consulting Reporting Program](#) (Phone: (503) 823-3546; Email: lobbyist@portlandoregon.gov; Address: 1221 SW 4th Avenue, Room 130, Portland, OR 97204); or
 - b. Anonymously through the Auditor's Office's [Fraud Hotline](#) (Phone: (866) 342-4148). See [Auditor's Office Administrative Rule 10.01 – Fraud Hotline](#) for the rules and procedures that apply to complaints filed through the Fraud Hotline.
2. The Auditor's Office will conduct an initial review of each complaint received.
3. Following an initial review, the Auditor's Office will take appropriate action to address the complaint, which may include but is not limited to:
 - a. Requesting additional information from the person who filed the complaint.
 - b. Conducting an independent and impartial investigation into the complaint. During an investigation, the Auditor's Office may:
 - i. Take any other action needed to investigate, review, and/or respond to the complaint; or
 - ii. Determine that no further action is required and close the case.
4. The Auditor's Office may also initiate an investigation into possible violations on its own initiative, without receiving a complaint.
5. Following an investigation, the Auditor's Office will issue a written decision, which may be in the form of a warning or violation notice.
 - a. The written decision will identify whether a violation of Code Chapter 2.12 occurred and the basis for the decision.
 - b. If the Auditor's Office finds that a violation of Code Chapter 2.12 occurred, the written decision will state whether the Auditor's Office is issuing a civil penalty. In lieu of or in conjunction with finding a violation and imposing a civil penalty, the

Auditor's Office may issue a written letter of reprimand, a warning, or an explanation, and may suggest training.

- c. If a civil penalty is imposed, the written decision will provide instructions for paying the civil penalty and for requesting reconsideration.
 - d. The written decision will become final 10 business days after the date of the written decision, unless a request for reconsideration is received by the deadline.
6. To protect the integrity of the investigatory process, complaints and information related to complaints, initial reviews, and investigations are confidential and will not be disclosed until the written decision is issued or the case is otherwise closed, except as may be needed to conduct the investigation or as ordered by the District Attorney or a court of law.
 7. The Auditor's Office will provide notice of the outcome of any initial review or investigation to the individual or entity investigated and to those individuals that request the information.

E. Repeated Violations

The Auditor's Office may choose to treat repeated, similar actions occurring during the same time period, which would otherwise be considered distinct violations, as aggravating circumstances under a single violation.

For example: A lobbying entity omits a lobbyist from a quarterly report and does not amend the report within the amendment period. The lobbyist was present and engaged in several reportable lobbying contacts during the quarter on behalf of a lobbying entity. The Auditor's Office may choose to consider this to be one violation with aggravating circumstances, rather than a violation for each individual contact in which the lobbyist was not disclosed.

F. Civil Penalty Criteria

1. The Auditor's Office may assess civil penalties up to \$3,000 per violation, commensurate with the severity of the violation.

2. In determining whether to impose a penalty and the amount of any penalty, the Auditor's Office will consider the nature and extent of the violation. In addition, the Auditor's Office may consider the following mitigating or aggravating factors:
 - a. Any benefits to the lobbying entity or City official, economic or otherwise, because of the violation.

For example: The Auditor's Office may consider City resources awarded or otherwise allocated to a lobbying entity in connection with a violation, such as receipt of a tax exemption, to be an aggravating factor.

- b. The budget and overall staff or resources available to an entity.

For example: The Auditor's Office may consider the limited resources of an entity that engages in lobbying activities through volunteers to be a mitigating factor.

- c. Whether the violation was repeated and continuous, or isolated and temporary.

For example: The Auditor's Office may consider violations that occur in multiple quarters to be continuous and therefore an aggravating factor.

- d. Whether the violation appears to be willful (characterized primarily by purposeful acts of commission or omission). The Auditor's Office's determination regarding whether a violation is willful will be based on relevant circumstances and available records.

- e. Whether individuals and entities involved were offered or received training regarding the lobbying entity regulation program's requirements within the previous year.

- f. The individual or entity's level of cooperation during the investigation, including providing relevant and timely information as requested.

- g. Any other applicable factors the Auditor's Office deems relevant.

G. Paying Civil Penalties; Interest

1. Civil penalties are payable to the City of Portland Auditor's Office, and must be paid:

- a. After the Auditor's Office issued the written decision described in Section (D)(5);
and
 - b. No later than 30 calendar days after the civil penalty becomes final.
2. Limits on penalties imposed under this rule do not include interest. Penalties are subject to interest at a rate of 9 percent per annum beginning on the 31st calendar day after the date the civil penalty becomes final.

H. Reconsideration; Appeals

1. Any person or entity against whom a civil penalty has been assessed under Code Section 2.12.120 may request reconsideration.
 - a. The request for reconsideration must be in writing and received by the City Auditor within 10 business days of the date of the written decision described in Section (D)(5).
 - b. Supporting information may be included with the request for reconsideration.
2. If no request for reconsideration is received by the deadline, the Auditor's Office's written decision becomes final 10 business days after the date of the decision.
3. If a request for reconsideration is filed by the deadline, the City Auditor will reconsider the decision and/or the amount of the civil penalty. No hearing will be conducted.
4. Upon reconsideration, the City Auditor may affirm, withdraw, or modify the written decision and/or adjust the amount of the civil penalty, in the City Auditor's discretion.
5. The City Auditor's decision on reconsideration becomes final on the day it is issued, and is the final decision on behalf of the City. The City Auditor's decision on reconsideration may be appealed by *writ of review* to the Multnomah County Circuit Court, as provided in [ORS 34.010-34.100](#).

I. Collection of Delinquencies

Among other enforcement actions, the City Auditor may ask the City Attorney or other legal counsel to institute legal proceedings, in the name of the City, to collect any unpaid civil penalty, interest, or fee.

J. Cost Recovery

1. Recoverable costs of enforcement of Code Chapter 2.12 to the Auditor's Office may include but are not limited to City Attorney's Office costs, outside attorney's fees, and administrative costs to the Auditor's Office.
2. All moneys received in civil penalties for violations of Code Chapter 2.12 must be paid to the City Auditor.

Auditor's Office Administrative Rule Information and History

Questions about this administrative rule may be directed to the [Lobbying Regulations and Political Consulting Reporting Program](#).

Adopted by the City Auditor and filed in the PPD on September 28, 2016.

Last revised by the City Auditor on November 26, 2019.