



Ballot Measure 20-283

CAPTION: Amends Charter: establishes office, duties of independent elected City Auditor.

QUESTION: Shall City Charter be amended to establish office of elected City Auditor to independently audit city operations and activities?

SUMMARY: This Charter amendment establishes new Office of Independent City Auditor, led by elected City Auditor. City Auditor must be certified; and have five years' relevant experience. Election held every four years. Auditor and auditor's office are independent, not subject to City Council or Manager direction or supervision.

Auditor has authority to perform financial, performance, compliance, or other audits of any city funded operation; may oversee other city audits. Auditor must establish whistleblower hotline, conduct investigations of reports of fraud, waste, abuse, mismanagement, or illegal activity.

City officers and employees must cooperate with auditor's office, provide unrestricted access to documents, people, other information, facilities necessary for audits. Auditor's activities subject to outside peer review. All audit reports and peer reviews posted on auditor's website.

City must fund Auditor's office at not less than 0.1% of City's total budget (approximately \$677,000 for FY18) which includes auditor compensation. Auditor paid at least 70% of averaged salaries of Eugene and Salem City Managers and EWEB General Manger (approximately \$153,000 in 2017), plus same benefit package as Eugene City Manager.

EUGENE CHARTER – CITY AUDITOR

The people of the City of Eugene amend the City Charter to create an Office of the Independent Auditor led by an elected City Auditor as set forth in this new Section 55 of the Eugene Charter:

SECTION 1. Findings

1. Public officials, government managers, and private citizens want and need to know whether city funds are handled properly and whether public programs are cost effective.
2. Independent audits, conducted according to Generally Recognized Government Auditing Standards, provide objective, timely, and accurate information about city operations. Audits promote improved government decision-making, service delivery, and cost savings. Finally, audits improve transparency and accountability to the public for city operations.
3. To ensure that audits of city operations are conducted independently and in a manner accountable to the public, the City Auditor shall be elected and lead an Office of the Independent Auditor.

SECTION 2. Duties and Responsibilities of City Auditor

1. The Office of the Independent Auditor is hereby established and shall be headed by an elected City Auditor.
2. The City Auditor shall have the authority and responsibility to conduct, or cause to be conducted, financial, compliance, performance, special studies, or other audits of all aspects of the City of Eugene's government operations. In addition, the City Auditor shall have the authority to oversee any audits contracted for and funded by the City directly (*i.e.* not through the City Auditor), including the comprehensive annual financial report.
3. The City Auditor shall have the authority to conduct audits of all city operations and activities, including but not limited to: departments, offices, boards, activities, agencies, contracts, franchises, projects, and programs to determine whether:
 - a. the City is acquiring, documenting, managing, protecting, and using its resources economically, efficiently, equitably, and effectively;
 - b. the intended outcomes of the activity are achieved;
 - c. the public is benefited by the activity;
 - d. further investigation or corrective action is necessary to address evidence of potential fraud, waste, abuse, or illegal acts.
 - e. financial and other reports are unbiased and disclose all relevant information fully and accurately; and
 - f. the City Council is informed of problems in a timely manner.
4. The City Auditor shall:

- a. establish and maintain a public website linked to the City’s website to make audits, annual reports, schedules, and other items of public interest publicly accessible;
 - b. establish procedures, including a “Whistleblower Hotline” for receiving and investigating anonymous or non-anonymous reports of fraud, waste, abuse, mismanagement, or illegal activity and shall publicize the availability of that hotline to employees, city officials, vendors, and the public;
 - c. maintain the confidentiality of information received during an audit consistent with state and federal law
 - d. maintain auditor working records and documents consistent with state law, but for at least ten years;
 - e. provide audit or non-audit services requested by the City Council or the City Manager, when consistent with available funding and priorities as determined by the City Auditor.
5. The City Auditor shall have authority to interpret the requirements of this Charter amendment and to promulgate rules and policies as necessary to carry out the duties of the Office of the Independent Auditor.

SECTION 3. Election of City Auditor

1. The City Auditor shall be elected pursuant to Section 20 of this Charter and state law.
2. The position is full time and non-partisan.
3. Qualifications. Notwithstanding Section 19 of this Charter, the City Auditor must possess at least a bachelor’s degree and at least one of the following certifications: Certified Internal Auditor (CIA): Certified Public Accountant (CPA): or Certified Government Auditing Professional (CGAP). The auditor must also have at least five years of recent auditing, evaluation, analysis, or otherwise comparable experience. The City Auditor shall be a qualified elector in the United States. The Auditor must remain certified and qualified as such throughout the term of office.
4. The election for City Auditor will be conducted city wide and will occur every four years, two years opposite the election cycle of the Mayor.
 - a. The candidates for city Auditor shall file to be a candidate under the same procedures as other candidates for elected city position. In addition, they must file a resume or other statement which they affirm as accurate, documenting that they meet the qualifications for City Auditor set forth herein. That statement shall be published in the Voters’ Pamphlet.
 - b. The term of office of a person elected shall commence on the first Monday in January following the election, unless one candidate receives a majority vote in the primary election, in which case the term shall commence as soon as is reasonably feasible but no later than July 1 of the same year.
 - c. The City Auditor will serve until a successor is elected and qualified.

- d. The office of the City Auditor becomes vacant upon the incumbent's death, recall, resignation, adjudicated incompetence, or conviction of an offense pertaining to the office. The City Council shall appoint an interim auditor within 90 days of a vacancy occurring.
 - e. If a deputy in the Office of the Independent City Auditor meets the qualifications herein, then that person shall be appointed by the City Council to serve as the interim City Auditor until the successor to the office is elected and takes office as set forth in Section (4) of this charter amendment.
 - f. If the office of the City Auditor becomes vacant more than 100 calendar days before the May election, the election to fill that vacancy shall be conducted at the next May election of the same year. If the vacancy occurs less than 100 days before the next May election, the election to fill that vacancy shall be conducted at the May election of the following year. If an election to complete the term of the vacated position coincides with the regularly scheduled primary election for the City Auditor position, then only the regularly scheduled primary election shall proceed.
 - g. If a City Auditor elected under this Charter Section (55) would serve a term of less than one and one half (1.5) years, that auditor's term shall be extended to encompass the four (4) years of the next term without an additional election. Thereafter, the election cycle will resume as stated herein.
 - h. In the event this Charter amendment is approved by voters on or before the May 2018 election, then the first election for the office of City Auditor shall be held at the regularly scheduled November 2018 election. The candidate who receives the most votes will win and take office in January 2019. Thereafter, the election cycle will resume as stated herein.
5. The City Auditor will take the oath or affirmation as provided for the City Councilors and Mayor, and shall be subject to recall pursuant to Article II, section 18 of the Oregon Constitution.

SECTION 4. City Council and City Auditor Cooperation

- 1. The City Manager and city administration must cooperate with the City Auditor and the auditor's office to achieve the objectives of this charter amendment.
- 2. The City Auditor shall prepare a budget for the Office of the Independent Auditor, which will be submitted to the Budget Officer, with a copy provided directly to the City Council. As part of the City's annual budget process, the City must provide the City Auditor's office with the facilities, equipment, and staffing necessary for the office to perform its duties. At a minimum, the budget for the Office of the Independent Auditor, including the City Auditor's compensation, must be funded at a level not less than 0.1 % of the City's total adopted annual budget.
- 3. The City Council shall provide total compensation for the City Auditor as follows: a benefit package equal to that provided to the Eugene City Manager and a salary that is not less than 70% of the average of the salaries of the (a) Eugene City Manager; (b) Salem City Manager, and (c) the Eugene Water and Electric Board's General Manager.

4. The City Auditor and auditor's employees are independent of the City Council and City Manager, and are not subject to the authority of the City Manager under Section 16 of this charter or otherwise. The City Auditor has authority to appoint, evaluate, promote, and remove employees in the Auditor's office, and to prescribe their duties and compensation. All such employees serve at the pleasure of the City Auditor.
5. The City Auditor shall have authority to consult, contract with or hire independent professionals to assist the auditor's office in fulfilling its duties including, but not limited to, certified public accountants, management consultants, and legal counsel.
6. Every City contract, agreement or grant must contain a "right-to-audit" clause that obligates the recipient of city funds to provide the City Auditor access to employees and to all financial and performance records, property, and equipment, purchased in whole or part with public funds, as needed to complete the audit.
7. The City Auditor must submit both a short term (one year) and long term (four year) audit plan and schedule to the City Council, City Manager and the public for review and comment, but not approval. This annual audit plan shall be completed within 30 days of the end of each fiscal year. The City Auditor has authority to select all audits planned and implemented and determine or amend audit schedules.
8. The City Auditor shall be provided time on the City Council agenda for public hearing or discussion, whenever requested.
9. City officers and employees must provide the City Auditor (and designees) with unrestricted and timely access to all employees, information, data, and records (including electronic data) that are within their custody and that the auditor believes necessary or useful to complete the audit. City officers and employees must also provide unrestricted access for the auditor to inspect all city property, equipment and facilities. The City cannot charge the auditor's office for producing or copying this information, data or records.
 - a. If access is unreasonably delayed or withheld, the City Auditor shall have authority to initiate a search and examine records. In addition, the City Auditor shall have authority to issue subpoenas to complete the audit.
 - b. If any person subpoenaed as a witness or compelled to produce records fails or refuses to comply, then the proper court, upon the request of the City Auditor, shall have power to compel a response and to punish as contempt of court refusals to comply.
10. The City Auditor has the authority to retain its own legal counsel.

SECTION 5. Audit Standards

1. Each audit will be conducted in accordance with the "Generally Accepted Government Auditing Standards" issued by the Comptroller General of the United States.
2. The City Auditor will provide a draft of each audit report to the City Manager and senior administrator for the audited program for review and response before making the audit report

public. The **City Manager** and/or administrator will provide a written response within a reasonable time **frame** specified by the auditor. That response shall be included in the audit report in whole or in a summary. If no response is received, the auditor will document that fact and release the audit report.

3. Each audit shall result in a written report that is provided to the City Council and City Manager and posted on the City Auditor's website. The report shall contain relevant background information, findings, and recommendations.
4. The City Auditor shall prepare an annual report that describes the audits completed, major findings, and recommended corrective actions. The report shall be submitted to the City Council and made available to the public.
5. The City Auditor shall follow-up on audit recommendations as practical to determine if corrective action has been taken. The City Auditor may request periodic status reports from audited agencies regarding corrective actions taken.
6. The activities of the City Auditor's office shall be subject to peer review in accordance with Generally Accepted Government Auditing Standards and by a professional, nonpartisan objective group utilizing generally recognized guidelines specific to local government auditing. The City Auditor shall pay for the costs of the peer review from the City Auditor's budget. A copy of the written report of this independent review shall be furnished to the City Council and be made available to the public.

SECTION 6. Miscellaneous

1. If there are conflicts between the provisions of this Charter amendment (Section 55) and any provisions of other sections of the Eugene Charter, the provisions of this Charter amendment (Section 55) shall prevail.
2. If any part, section or provision of this Charter amendment is found unconstitutional, illegal or invalid, such a finding will affect only that part, section or provision of the ordinance and the remaining parts, sections or provisions shall remain in full force and effect.