

# CHARTER COMMISSION



**Bureau & Office  
Subcommission  
Meeting**

August 18, 2022



# Agenda

Section	Time
<b>Welcome &amp; subcommittee business</b>	10 min
<b>8.11.22 Subcommission Meeting Debrief</b>	5 min
<b>Review Technical Bureau Proposed Amendments</b>	5 min
<b>Follow up of Bureau Proposed Amendments</b>	20 min
<b>Auditor Proposed Updates Discussion</b>	45 min
<b>Next Steps &amp; Closing</b>	5 min
<b>Adjourn</b>	

# Potential timeline for referral directly to voters

Election date for Commission-referred proposal for 2024	May 21 or Nov 5
Subcommittee Develops Recommendations with Community and Stakeholder input	Aug/Sept.
Full Commission Meeting	Aug. 30th
Community Listening Sessions	Sept 12th –17th
Subcommittees reconvene to revise proposals based on community input	Sept 19th –26th
Subcommittee Presents Recommendations to the Full Commission for its Consideration	Oct. 3rd.
Commission work session – deliberate and vote on recommendations to send for drafting	Oct. 10 <sup>th</sup> – 14 <sup>th</sup>
Commission meets to review the redlined version	Oct. 17 <sup>th</sup>
Ballots mailed for November 2022	Oct. 19 <sup>th</sup>
Notice of public hearings (two weeks before public hearing)	Nov. 3th
Election	Nov. 8 <sup>th</sup>
Release draft charter amendments (one week before public hearing)	Nov. 9 <sup>th</sup>
Public hearings	Nov. 16 <sup>th</sup> & 19 <sup>th</sup>
Public comment closes	Nov. 28 <sup>th</sup>
Commission reconvenes to deliberate based on public input – send revisions to City Attorney	Nov. 29 <sup>th</sup>
Commission final vote	Dec. 3 <sup>rd</sup> .
City of Portland Auditor's Office Tracks and Ensures Charter Recommended Amendments are on the 2024 ballot.	2023-2024

# Recap of August 11 Subcommittee Meeting

## **OMF - Division of Risk Management Charter Section 1-106 (To Full Commission)**

- Conditional: If Phase I charter proposals are approved by voters, then subcommittee recommends OMF's proposal to increase the Division's settlement authority to \$25,000 and require City Council approval by ordinance for settlements exceeding \$25,000. If Phase I charter proposals are not approved, then no change.

## **Bureau of Planning and Sustainability (To Full Commission)**

- Recommend to delete Charter Section 1-108, therefore allowing BPS to have the flexibility to create responsive policy around energy efficiency and weatherization.

## **Portland Parks and Recreation (To Full Commission)**

- Recommend to update Charter Section 12-101, Parks and Recreational Areas and Facilities, to describe current role of Parks & Recreation.

## **Bureau of Environmental Services**

- Recommend amendments to Charter Sections 2-105(a)(63) & 11-301 to give specific power to the city to protect and manage natural features that convey, store, retain, infiltrate, clean, or evaporate water in a manner that is necessary for the management of sewage and storm drainage. **(To Full Commission)**
- Do not recommend adding a new section to Chapter 2, Article 6 that states elected and appointed officials will consider the City's Core Values in decision-making **(Does not move forward)**



# Bureau Proposed Amendments – “Technical Fixes”

## **Bureau of Development Services (memo package on pages 19-26)**

### **Remove Reference to Offensive Businesses (Charter Chapter 2, Section 2-105(a), item 36)**

- The reference to “offensive” trades, occupations, or businesses is undefined and vague. The use of the term creates an opportunity for abuse and may not be legally defensible, Remove the words “are offensive or” from the text. (pg 19, 20)

### **Remove Reference to Street Roaming (Charter Chapter 2, Section 2-105(a), item 50)**

- The terms “roaming the streets” and “unseasonable hours” are undefined, vague, and open to interpretation and misuse or abuse, Delete Section 2-105(a), item 50 in its entirety (pg 21, 22)

### **Add Reference to Building/Structure Design (Charter Section 2-105(a), item 35)**

- The Charter gives the Council authority to regulate the construction, care, use, and management of buildings and structures in the City. The City also regulates the design of those buildings and structures. Referencing building design in the Charter provides a more complete picture of the Council’s regulatory authority. Add “design” to the list of elements of buildings and structures regulated by Council. (pg 25, 26)

# Bureau Proposed Amendments – “Technical Fixes”

## Office of Equity and Human Rights

### **Proposed Amendment to Chapter 2 sec 2-110 (memo package pp. 10-11)**

- The use of disability here is not necessary and ableist. Someone can be or become disabled and still serve office. I think what they are trying to say is if someone is unable to perform their duty do to absence, or illness. I do not believe absence needs to have a clarifier. If the Mayor is absent whether for a vacation, health concern, or family crisis there will be a substitute.

### **Proposed Amendment Chapter 2 sec 2-206 (memo package pp. 12-13)**

- The use of crippling disability here is not necessary and ableist. The passage seems to be speaking to the death or other circumstances that would keep an elected official from performing their duty. There can be several reasons and it is not necessary to call out disability nor emphasize it with the derogatory term crippling.

### **Proposed Amendment Chapter 12 sec 1-102 (memo package p. 14)**

- The City is beholden to Civil Rights laws: Civil Rights Title VI (identified here), ADA Title II (not acknowledged) and Title 23 (Not identified The Council or the Commissioner to whom authority has been delegated may make regulations and impose restrictions on public use of parks, recreational areas and facilities as found needed and appropriate, may exclude some or all kinds of vehicles from all or particular areas of any park or facilities, may limit to a particular class or classes of persons those permitted to use any particular area or facility if the limitation is not based on race, color, creed or national origin, disability, gender identity, sexual orientation or religious affiliation and may restrict the kinds and times of public use.

# Bureau Proposed Amendments – “Technical Fixes”

## **Bureau of Development Services (memo package on page 19-26)**

### **Make List of Protected Categories Consistent (Charter Chapter 12, Section 12-102)**

- The Charter elsewhere specifies a longer list of protected categories: race, religion, gender, marital and family status, national origin, age, mental or physical disability, sexual orientation, gender identity, source of income, and such other criteria as determined by the Council by ordinance. (pg 23, 24)

# Protected Classes

There are currently three sections of the Charter which refer to protected classes. Two have lists of protected classes but the lists do not match.

Charter Locations for review and/or update:

Section	Wording
Section 2-1008	(b) All complaints of force that result in injury, discrimination against a protected class, violations of federal or state constitutional rights.
Section 4-101 Merit Principle (Civil Service)	All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination or other objective evidence of competence. Such appointments and promotions shall provide fair and equal opportunity without regard to race, religion, gender, marital and family status, national origin, age, mental or physical disability, sexual orientation, gender identity, source of income, and such other criteria as determined by the City Council by ordinance. The goal of the merit system is a workforce that reflects the aspirations and values of the City it serves.
Section 12-102 Regulations and Restrictions (Recreation areas)	The Council or the Commissioner to whom authority has been delegated may make regulations and impose restrictions on public use of parks, recreational areas and facilities as found needed and appropriate, may exclude some or all kinds of vehicles from all or particular areas of any park or facilities, may limit to a particular class or classes of persons those permitted to use any particular area or facility if the limitation is not based on race, color, creed or national origin, and may restrict the kinds and times of public use. [New sec. Nov. 8, 1966.]



# Protected Classes

There are currently three sections of the Charter which refer to protected classes. Two have lists of protected classes but the lists do not match.

- Race
- Color
- Religion or creed
- National origin or ancestry
- Sex (including gender, gender identity, and pregnancy)
- Sexual orientation
- Age (for employment-related items: if individual is 18 years of age or older)
- Physical or mental disability
- Veteran status
- Genetic information
- Citizenship
- Marital status
- Family status
- Individual's juvenile record that has been expunged
- Limited English proficiency
- Income (or source of income)

**Sources** - Code Chapter 3.100 Equal Opportunity, Code Chapter 23.01 Civil Rights, ADM 18.01 – City of Portland Civil Rights Title VI Plan, ADM 18.32 – Civil Rights Title VI and ADA Title II Compliance, TRN 12.01 – PBOT Title VI Civil Rights Program, State of Oregon, and Federal

# Follow up from August 11 Meeting - OCT

## Office of Community Technology – Proposed amendments to remove outdated, burdensome and redundant requirements for franchise agreements (Sections 10-205, 10-207, 10-208, 10-212, 10-213)

### Additional information from OCT Director Elisabeth Perez

- Section 10-207 and 10-208 outline a detailed formal process pending franchises. The requirements are outdated, burdensome, and are not needed. The current Charter process takes a high amount of staff time to complete with very little impact. The process for Council consideration of ordinances is already explained in the Charter, Code and administrative rule. The Office for Community Technology and the Auditor's Office propose deleting these requirements.
- The Office for Community Technology and the Auditor's Office proposes **deleting Section 10-212** in its entirety, which sets forth requirements for written acceptances because this language does not reflect current processes. This level of detail does not need to be included in the Charter.
- Section 10-213 references fines for franchisees. The fine amounts are obsolete, and this level of detail does not need to be included in the Charter. Finally, the Office for Community Technology and the Auditor's Office propose deleting the final sentence of Section 10-213 as these record retention requirements are obsolete. Ordinances have their own records retention requirements.

# Follow up from August 11 Meeting - BRFS

## **Office of Management & Finance**

Revenue Division of BRFS, Scott Karter BFRS Accounting Division

Proposed Amendments to Charter Section 1-102, 2-105 and 7-113

- 1) In Section 1-201, replace or supplement the language establishing the City's general authority with language that has judicial precedent.
- 2) Remove the reference to license(s) in Section 2-105 as it could appear to some to be a limitation in powers.
- 3) Remove the 5% cap on Transient Lodgings Tax in Section 7-113. The proposed amendments are attached

# OMF – Amendment

## **Office of Management & Finance**

Michael Jordan, Chief Administrative Officer, Office of Management and Finance

Remove Time Limits on City Contracts (Charter Sec, 2-105(a)(3) and (6))

Delete the five-year initial contract term and extension limit. Following these deletions, the amended Charter would read, “To provide for entering into contracts by the City and the extension or renewal thereof by option or otherwise.”

# Auditor Proposed Updates Discussion

# Auditor's Office Proposals (1-3)

## 1. Vacancies in elected offices (2-206).

- a) Add that a vacancy may exist because of an elected official's failure to satisfy the qualifications for office
- b) Amend filling vacancies to require (1) if the vacancy occurs more than 2 years into the vacating officer's term, Council shall appoint a person to serve for the remainder of the vacated term; or (2) if the vacancy occurs less than 2 years into the vacating officer's term, the successor shall be elected at the next election and Council shall adopt an ordinance to describe the election process
- c) Clarify the resignation process by adding that Council must accept and approve a resignation by resolution and requiring that the resolution set forth the process for filling the vacancy
- d) Replace the outdated titles in subsection (g)

## 2. Change name of Office of the Auditor (2-501, other references). Replace "Office of the Auditor" with "City Accountability Office" throughout the Charter.

## 3. Remove signature requirement on Bonds (7-203 and 15-106). Delete the term "facsimile signature" because the term is outdated. Delete the requirement that bonds bear the signature of the Auditor and Mayor because the Auditor isn't involved in bond processes and the level of detail isn't necessary.



# Auditor's Office Proposals (4-6)

4. **Clarify damage and fair-and-moral claims** (1-106 and 1-107). Section 1-107 is outdated and confusing. Merge 1-106 and 1-107 to maintain the values behind them and to allow the Council to direct the payment of claims when it is undisputed that the City caused the injury.
5. **Enforcing the Auditor's powers and independence** (2-503). Add language to explicitly grant the Auditor the authority to seek a judicial remedy, such as an injunction or writ of mandamus, to enforce the Auditor Office's powers and responsibilities.
6. **Auditor – budget and administrative powers** (2-505 and 2-506).
  - Establish a funding level for the Auditor's Office that requires the Auditor to manage spending below the cap – without Council authority over the Auditor's line-item budget decisions. The funding cap would increase annually, but the Auditor would be required to decline surplus funds when they are not needed, and the maximum funding level could be adjusted in fiscal emergencies.
  - Change the Auditor authority to obtain legal services from the City Attorney's Office “or” independent legal counsel to “and.”

# Auditor's Office Proposals (7-8)

## 7. Eliminate and modernize outdated Auditor Duties (2-507 and 2-508).

- Delete 2-508(d) – the duty to make the final determination of acceptability and legitimacy of all claims for payment made against the City – and 2-508(e) – the discretion to review transactions before they are paid. The Bureau of Revenue and Financial Services performs these functions.
- 2-507(a)(4) requires the Auditor to provide official certifications “as required by this Charter.” The Charter includes only limited requirements for Auditor certifications. Propose requiring the Auditor to provide certifications “as needed for the conduct of City business.”
- 2-508(f) gives the Auditor access to City information to conduct audits. Propose moving this provision to section 2-507. Also delete reference to 2-509 (Ombudsman) from 2-507(a)(5) because the Auditor’s Office investigates in other capacities.

## 8. Limit or eliminate Auditor Duties to sign all official documents (2-513). Instead of requiring the Auditor’s signature on “all warrants, contracts, bonds, and other official documents,” revise 2-513(b) to require the Auditor’s signature on an official document only “as needed.” Or delete section altogether. Auditor’s Office conferred with the City Attorney’s Office and the City Treasurer in preparing these proposed amendments.

# Auditor's Office Proposals (9-11)

## 9. Update and align contract authority (8-104).

- Adding "or Charter" after "authorized by an ordinance and "authorized by Council" to reflect the Auditor's independent contracting authority that was not updated in the 2017 Charter amendment. The Auditor has independent authority to enter into contracts without additional Council approval.

## 10. Simplify Charter to accurately reflect clerical duties performed by the PBOT (Chapter 9 2-105, 204, 304, 306, 308, 403,501, 602)

- Replace reference to the auditor with reference to appropriate office or official with "the City official designated by ordinance" which is the current term in the various sections under Local Improvements: Assessments; Collections.

## 11. Align with OCT process for giving notice of franchises (10-207)

- Deleting section process for giving notice of potential franchises, which are embodied in ordinances because the process for Council consideration of ordinances is already explained in charter, code, and administrative rule. The language does not reflect current processes.

# Auditor's Office Proposals (12-13)

## **12. Update and simplify Article 3 – Campaign Finance in Candidate Elections (3-301-308)**

- Language throughout article 3 made implementation, compliance and enforcement difficult for the Auditor's office around the small donor's program and campaign finance. Propose simplifying (redlining) article 3 to make campaign finance disclosures, limits and enforcement mandatory in City elections, while leaving regulatory details in code.

## **13. Modernize terms used in Chapter 2 Government**

- Propose changing "council" to keep a journal of proceedings to "Auditor" for consistency with the Auditor's office managing council records. (2-510)
- "Journal" and "Summary" are outdated terms. (2-112)

# Small Donor's Program

## **ARTICLE 2.**

### **Section 3-201. Independent Portland Elections Commission.**

The Independent Portland Elections Commission is hereby authorized and established upon City Council's adoption of an implementing Ordinance.

Independently houses Portland Elections Commission, not under an elected-in-charge

### **Section 3-202. Duties of the Portland Elections Commission.**

The Commission shall implement the City's public financing of elections program as adopted in City Code and in accordance with the vision and goals as set forward by the Council. #1: Independently houses Small Donor Elections program under the Portland Elections Commission, not under an elected-in-charge

### **Section 3-203. Powers of the Portland Elections Commission.**

The Commission shall have the authority to employ and discharge a Director for the public financing program and any other functions the Commission implements, adhering to all relevant employment laws and City personnel policies.

### **Section 15-204 Budget and Reports.**

The Commission shall annually notify the Mayor and Council of the amount of funding required to ensure the solvency of the public financing program and other programs and duties carried out by the Commission

# Community Engagement

## Community Engagement Approach

- **For community listening session – In the packet of materials for community we would provide an explanatory document with all the bureau proposed amendments with their rationale.**
- **We will share explanatory documents online and other public engagement outreach communications.**
- **Community and public can weigh in through public comment channels, community listening session all through public hearings with drafted language.**





# Next Steps

<b>Meetings</b>	<b>Dates</b>
<b>Bureau &amp; office proposals subcommittee meeting</b>	<b>Aug 18</b>
<b>Climate &amp; environmental justice subcommittee meeting</b>	<b>Aug 23</b>
<b>Charter Commission meeting</b>	<b>Aug 30</b>
<b>Community listening sessions</b>	<b>Sept 12<sup>th</sup> – 17<sup>th</sup></b>
<b>Subcommission Next Meeting</b>	<b>Sept 19<sup>th</sup> -26<sup>th</sup></b>