

# Portland City Charter 101

---

March 9, 2021

Maja K. Haium, Deputy City Attorney

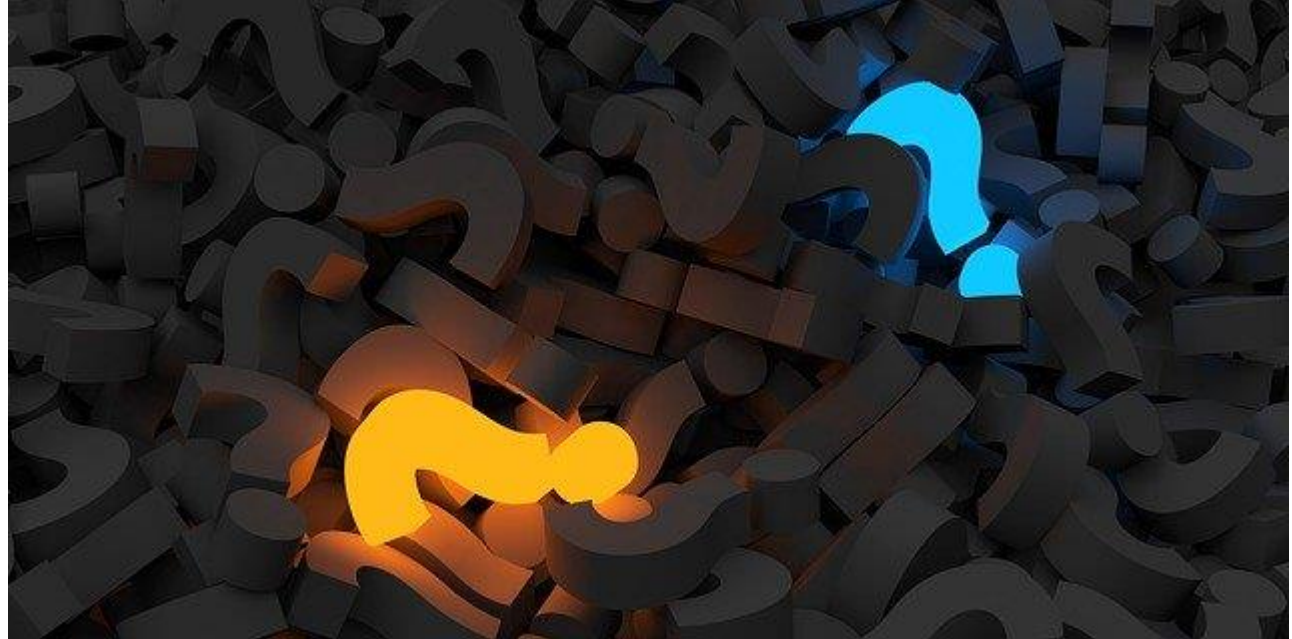


CITY OF  
**PORTLAND, OREGON**  
OFFICE OF THE CITY ATTORNEY

# Agenda

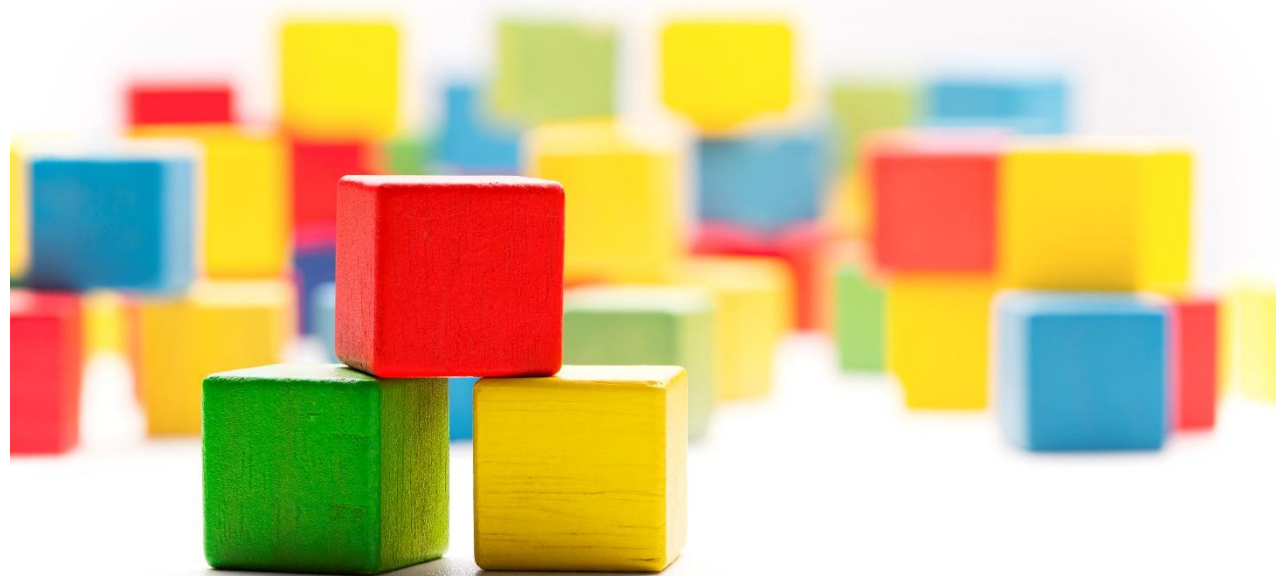
---

- I. Future Topics
- II. City Charters
- III. Portland's Charter
- IV. Charter Commission



# I. Future Topics

---



CITY OF  
**PORTLAND, OREGON**  
OFFICE OF THE CITY ATTORNEY

# Future Topics

---

- Previous Charter Commission.
- City authority: elections, redistricting, expanding voter rights, bonding, land rights, water rights, preemption, etc.
- Neighborhood associations: history and role.
- Policy accountability: history and recent Charter amendment.



# II. City Charters



CITY OF  
**PORTLAND, OREGON**  
OFFICE OF THE CITY ATTORNEY

# City Charters

---

## Model Charter (i.e. best practices)

- Function as city's constitution
- Basic, broad fundamentals of city government
- Concise:
  - Avoid need for frequent amendment



# Model Charter: League of Oregon Cities

---

## Provisions

- Names and Boundaries
- Powers
- Council
- Legislative Authority
- Administrative Authority
- Quasi-Judicial Authority
- Elections
- Appointive Officers
- Personnel
- Public Improvements
- Miscellaneous



# Charter v. Code

---

## Oregon Constitution; Oregon Statutes Portland Charter; Portland Code

### Function of Charter

- Creates city as legal entity
- Authorizes city powers
- Amended by city voters

### Function of Code

- Day-to-day operations
- Generally regulates public health, safety, and welfare
- Amended by city council





# City Government: Source of Power

---

## **Two sources of city power**

- Derived from states – Dillon’s Rule
- Derived from people – Home Rule



# City Government: Source of Power

---

## Dillon's Rule

- US Constitution does not explicitly acknowledge local governments
- US Supreme Court
  - Cities lack inherent powers
  - Possess only those powers delegated by the state
- Dominated 19th and early 20th centuries
- OR Supreme Court adopted in 1882



# City Government: Source of Power

---

## Home Rule

- Populist movement across nation to redistribute power over local government to people
- 1906: Oregon voters amend OR Constitution to grant cities “home rule”
  - **Article XI, section 2**
    - “The Legislative Assembly shall not enact, amend or repeal any charter or act of incorporation for any municipality, city or town. The legal voters of every city and town are hereby granted power to enact and amend their municipal charter, subject to the Constitution and criminal laws of the state of Oregon.”
  - **Article IV, section 1(5)**
    - The initiative and referendum powers are “reserved to the qualified voters of each municipality and district as to all local, special and municipal legislation of every character in or for their municipality or district.”



# Oregon Home Rule Today

---

## United States

- ~40 Dillon's Rule States
- ~10 Home Rule States
- Oregon arguably has strongest home rule authority in nation, although courts continue to evolve home rule doctrine

All 241 Oregon cities have home rule charters



CITY OF  
**PORTLAND, OREGON**  
OFFICE OF THE CITY ATTORNEY

# Questions on city charters?



CITY OF  
**PORTLAND, OREGON**  
OFFICE OF THE CITY ATTORNEY

# III. Portland's Charter

*City Council. First Meeting.*  
Doth remember, that on the fourteenth day of April  
A. D. 1851. Hugh L. Edgout who had been declared elected  
as Mayor, William S. Caldwell who had been declared  
elected as Recorder, and Robert Thompson, Shubrick Terry,  
Thomas A. Robinson, George A. Barnes, and Loren B. Hastings  
who had been declared elected as Councilmen at an  
election held on the seventh day of April A. D. 1851 in  
Portland in the County of Washington, Territory of Oregon,  
said election having been held in pursuance of an Act of  
the Legislative Assembly of Oregon Territory entitled "an act  
to incorporate the City of Portland in Washington County."  
The said Mayor, Recorder and Councilmen having taken  
and subscribed to an Oath, to support the Constitution of  
the United States, the laws of Congress, and of the Territory  
of Oregon, and to faithfully discharge their duties as  
prescribed in the act aforesaid entitled "An act to incor-  
porate the City of Portland in Washington County."  
The aforesaid persons constituting the City Council  
of said City, held a meeting in said City on the  
day and year aforesaid, at which the following  
proceedings were had, to-wit:  
To-wit: The Mayor presided,  
The Act of the Legislative Assembly of Oregon Territory, entitled  
"An Act to incorporate the City of Portland in Washington  
County" was read,



CITY OF  
**PORTLAND, OREGON**  
OFFICE OF THE CITY ATTORNEY

# Model Charter: League of Oregon Cities

---

## Provisions

- Names and Boundaries
- Powers
- Council
- Legislative Authority
- Administrative Authority
- Quasi-Judicial Authority
- Elections
- Appointive Officers
- Personnel
- Public Improvements
- Miscellaneous



# Model Charter: League of Oregon Cities

---

## Portland's Charter Roughly Follows Model

Form of Government:

- City Manager v. Commission

Day-to-day operations:

- Accounting procedures
- Utility franchising procedures
- Portland Development Commission
- Charter review process



CITY OF  
**PORTLAND, OREGON**  
OFFICE OF THE CITY ATTORNEY



# Portland Charter

---

## Chapters

- Corporate Existence and Powers
- Government
- Nominations and Elections
- Civil Service
- Fire and Police Disability, Retirement and Death Benefit Plan
- Finance
- Advertising and Contracts
- Local Improvements; Assessments; Collections
- Public Utilities and Franchises
- Special Services
- Public Facilities and Works
- Charter Revision and Interpretation
- Prosper Portland



# Evolution of Portland Charter

---

- **1851:** Portland first incorporated by the territory of Oregon
  - 1859: Oregon granted statehood
  - OR Supreme Court adopted Dillon's Rule in 1882
- 1906: Oregon voters adopt home rule constitutional amendments
- 1913: Portland voters approve new charter, adopt commission form of government



# Evolution of Portland Charter

---

- 1851: Portland first incorporated by the territory of Oregon
  - Governed by Council consisting of Mayor, Recorder and five Councilmen.
  - Power to build streets, sidewalks, public levees.
  - Property owners required to repair public improvements adjacent to their property.
  - Section 21. The Mayor and City Council shall have power to require, by ordinance, each able-bodied male person, over the age of twenty-one years, resident within said corporation, to perform labor upon the streets and alleys of the same, not exceeding two days in any one year, which shall be in lieu of one day's labor required under the present laws regulating roads and highways; and upon refusal or neglect to perform such work under the proper supervisor, the delinquent shall be liable to the same penalties as are provided by law, against persons refusing or neglecting to perform the two days labor required in said law.



# Evolution of Portland Charter

---

- 1851: Portland first incorporated by the territory of Oregon
  - 1859: Oregon granted statehood
  - OR Supreme Court adopted Dillon's Rule in 1882
- **1906**: Oregon voters adopt home rule constitutional amendments
- 1913: Portland voters approve new charter, adopt commission form of government



# Evolution of Portland Charter

---

- 1903: Oregon Legislature passed resident-drafted and voter-approved new charter
  - Council membership increased to 15:
    - 10 elected from wards
    - 5 at-large
- 1906: Oregon voters adopt home rule constitutional amendments
  - 9 different charters; 25 separate amendments to those charters



# Evolution of Portland Charter

---

- 1851: Portland first incorporated by the territory of Oregon
  - 1859: Oregon granted statehood
  - OR Supreme Court adopted Dillon's Rule in 1882
- 1906: Oregon voters adopt home rule constitutional amendments
- **1913**: Portland voters approve new charter, adopt commission form of government



# Evolution of Portland Charter

---

- 1912: Prominent residents commissioned an independent evaluation of Portland city government, in anticipation of proposing a new commission form of government at the 1913 election.
- Independent evaluation findings:
  - City “still managing its affairs in much the same manner” as it had in 1891
  - Existing ward system pitted neighborhood against neighborhood
  - 15-member council too big for clear accountability



# Evolution of Portland Charter

---

- 1913: Portland voters adopt Commission form of government
  - Galveston Plan:
    - Great Storm of 1900; Galveston, TX effectively obliterated
    - City government reorganized as a commission to facilitate ease of rebuilding, with each Commissioner responsible for one bureau
    - ~500 U.S. cities adopted commission government by 1920
    - Fell out of favor after WWII
    - Galveston switched to council-manager government in 1960
    - Portland adopted in 1913
      - Of 30 most populous cities in U.S., only Portland continues to have commission form of government





# Past Votes on Portland Form of Government

Election Date	Ballot Title Subject	Votes
May 3, 1913	Provide Commission Form of Government	YES: 17,317 NO: 17,025
June 4, 1917	Abolish Commission Form of Government	YES: 14,196 NO: 32,086
November 2, 1927	Simplify & Retain Commission Form of Government	YES: 27,388 NO: 29,087
June 28, 1927	Simplify & Retain Commission Form of Government	YES: 7,459 NO: 38,454
May 16, 1958	Council-Manager Form of Government	YES: 55,283 NO: 61,821
May 24, 1966	Changing Form of City Government	YES: 41,848 NO: 68,158
May 21, 2002	Changing Form of City Government	YES: 29,730 NO: 94,179
May 15, 2007	Changing Form of City Government	YES: 18,880 NO: 60,608



# History of Specific Charter Sections

---

## **Section 1-108. Mandatory Weatherization for Existing Buildings Requires Vote of the People.**

Except for the provisions of the Building Code of the City of Portland in effect on September 1, 1979, the Council of the City of Portland shall not pass or enforce any ordinance, resolution, law or program mandating weatherization for any building or structure built in the City of Portland prior to September 1, 1979, unless such ordinance, resolution, law or program is referred to the citizens of Portland for a vote. [Add. Nov. 4, 1980.]

- City of Portland Auditor Website, Elections History (1942-present):  
<https://www.portlandoregon.gov/auditor/27119>
- Multnomah County, Voters' Pamphlet, Elections History (1993-present):  
<https://multco.us/elections/november-9-1993-special-election>



# Portland and other Governments

---

## **Multnomah County**

- Circuit Court/Criminal Justice
- Health Department
- Property Taxation
- Library

## **Metro**

- Region's Land Use
- Region's Solid Waste System
- Parks/Venues
  - Oregon Convention Center, Zoo, Expo Center, Portland's 5 Centers for the Arts

## **Tribes**

- City of Portland Tribal Relations Director, Laura John



# Questions on Portland's Charter?

*City Council. First Meeting.*  
Doth remember, that on the nineteenth day of April  
A. D. 1851. Hugh L. Edgout who had been declared elected  
as Mayor, William S. Caldwell who had been declared  
elected as Recorder, and Robert Thompson, Shubrick Terry,  
Thomas A. Robinson, George A. Burns, and Loren B. Hastings  
who had been declared elected as Councilmen at an  
election held on the seventh day of April A. D. 1851 in  
Portland in the County of Washington, Territory of Oregon,  
said election having been held in pursuance of an Act of  
the Legislative Assembly of Oregon Territory entitled "an act  
to incorporate the City of Portland in Washington County."  
The said Mayor, Recorder and Councilmen having taken  
and subscribed to an Oath, to support the Constitution of  
the United States, the laws of Congress, and of the Territory  
of Oregon, and to faithfully discharge their duties as  
prescribed in the act aforesaid entitled "An act to incor-  
porate the City of Portland in Washington County."  
The aforesaid persons constituting the City Council  
of said City, held a meeting in said City on the  
day and year aforesaid, at which the following  
proceedings were had, to-wit:  
To-wit: The Mayor presided,  
The Act of the Legislative Assembly of Oregon Territory, entitled  
"An Act to incorporate the City of Portland in Washington  
County" was read,



CITY OF  
**PORTLAND, OREGON**  
OFFICE OF THE CITY ATTORNEY

# IV. Charter Commission

---



CITY OF  
**PORTLAND, OREGON**  
OFFICE OF THE CITY ATTORNEY

# Charter Commission (Charter mandate effective in 2009)

---

- Council convenes Commission at least every 10 years
- Council may request review of specific Charter sections, but Commission's work is not limited to Council's requests
- 20 Commissioners, serve no less than two years and term can be extended
- Commission determines its own rules of procedure:
  - *Rules of Procedure*
    - How often Commission meets
    - How are meeting agendas set
    - Should Commission have officers and, if so, which ones
    - Should recommendations be made to Council intermittently or all at once
    - Process for resident education and participation
      - Stimulate interest and thought
  - *Not Rule of Procedure*
    - Scope of Commission's authority



# Charter Commission (Charter mandate effective in 2009)

---

- Vacancy on Commission:
  - Resignation
  - Death
  - Inability to serve
  - Commissioner, without cause, fails to attend three successive regular Commission meetings



# Charter Commission (Charter mandate effective in 2009)

---

- Report of Commission's findings shall be presented to Council
- Submission of Recommendations to Voters
  1. Affirmative vote of 15, 16, 17, 18, 19 or 20 Commissioners (i.e. Super Majority)
    - Public hearing process prescribed by Council
    - Submitted to voters at the next primary or general election that is at least 120 days after recommendations are presented to Council
  2. Affirmative vote of 11, 12, 13 or 14 Commissioners (i.e. Simple Majority)
    - Recommendations presented to Council
    - Council may, but is not required to, refer recommendations to voters





# Charter Commission

---

## Purpose

- Charter
  - Defines powers and authority of the city, granted by the people
- Ensure city charter reflects needs of the community the charter serves:
  - Overhaul of charter needed?
- Ensure city charter is up to date:
  - Any housekeeping amendments needed?



# Charter Commission

---

- Meaning of independence
  - Propose broad set of amendments that essentially overhauls Charter;
  - Propose narrow amendments on specific areas; OR
  - Propose both types of amendments
- Limits on authority
  - Cannot create new bureaus – no independent legislative authority
  - Unfettered speech as individual
    - Limits when speaking on behalf of Commission or City



# Charter Commission

---

Commission recommendations are headed to ballot. Now what?

- ORS 260.432 prohibits public employees (including appointed officials when acting in their official capacity) from promoting or opposing a ballot measure after it is certified.
- May prepare and distribute impartial written material or make an impartial presentation.
- ORS 260.432 does not directly address personal expression of a public employee's political views.



# Questions on Charter Commission?

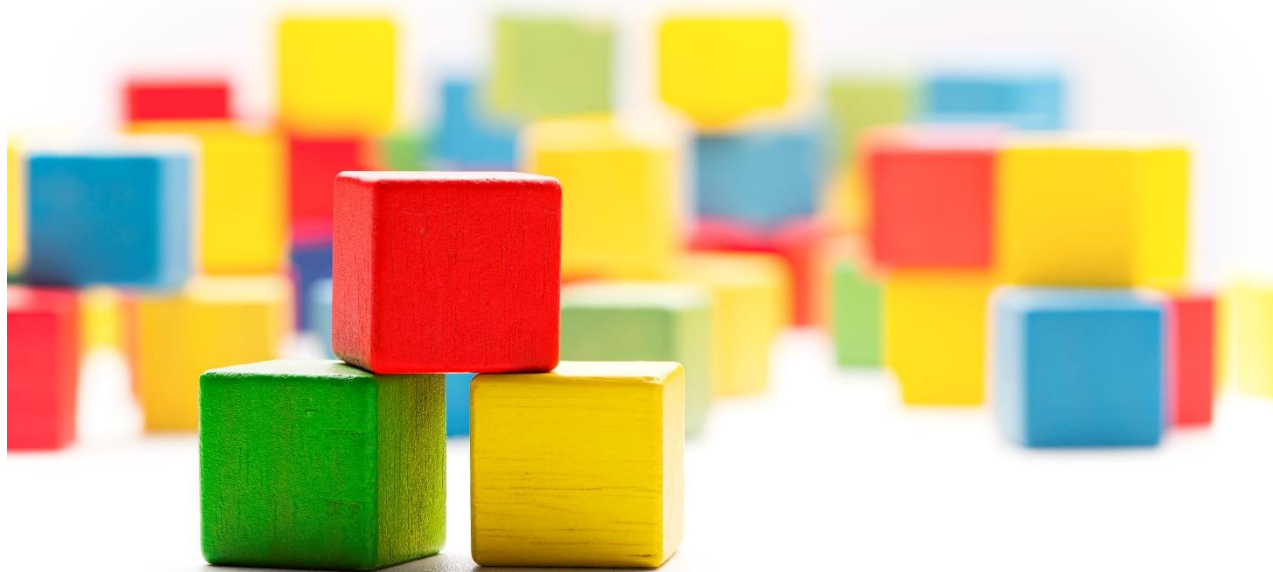
---



CITY OF  
**PORTLAND, OREGON**  
OFFICE OF THE CITY ATTORNEY

# I. and V. Future Topics

---



CITY OF  
**PORTLAND, OREGON**  
OFFICE OF THE CITY ATTORNEY

# Future Topics

---

- Previous Charter Commission.
- City authority: elections, redistricting, expanding voter rights, bonding, land rights, water rights, preemption, etc.
- Neighborhood associations: history and role.
- Policy accountability: history and recent Charter amendment.



# Resources and Information

---

- City of Portland, Archives & Records Management
  - Historical Timeline:  
<https://www.portlandoregon.gov/archives/article/284506>
  - City Facts:  
<https://www.portlandoregon.gov/archives/69439>
- Portland: People, Politics, and Power (1851-2001) by Jewel Lansing
- Oregon Historical Society



# Thanks for listening!



CITY OF  
**PORTLAND, OREGON**  
OFFICE OF THE CITY ATTORNEY