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**ARA 4.01 VIOLATION OF THE RULES OF CONDUCT: EJECTION AND EXCLUSION FROM THE OFFICES OF THE AUDITOR'S OFFICE**

**A. Purpose and Authority**

Chapter 3.18 of the Portland City Code sets forth rules governing the conduct of all persons on City property. The rules of conduct are intended to maintain an environment that promotes orderly administrative and business operations and protects the health, welfare, and safety of all persons. Code Chapter 3.18 applies to and shall be enforced in all offices of the Auditor's Office.

Portland City Charter Section 2-506(a) authorizes the City Auditor to establish rules for the Auditor's Office. This rule addresses violations of the rules of conduct in the offices of the Auditor's Office, including violations of the rules of conduct set forth in Code Section 3.18.020 B., and violations of any additional rules of conduct adopted by the City Auditor or that otherwise apply to the offices of the Auditor's Office.

**B. Delegation of Person-in-Charge Authority**

Code Chapter 3.18 authorizes a designated "Person-in-Charge" to eject a person from City property for violating a rule of conduct. Persons-in-Charge include peace officers, security personnel, property and facility managers, the Mayor, and the City Auditor.

The Auditor's Office has offices in several locations. To help ensure that a duly-authorized Person-in-Charge is on site and available to act when needed, the City Auditor also authorizes the following employees to exercise Person-in-Charge authority in the offices of the Auditor's Office:

City Hall, Room 130: Council Clerk/Contracts Supervisor. In the absence of the City Auditor and the Council Clerk/Contracts Supervisor: Council Clerk.

City Hall, Room 140: Independent Police Review (IPR) Director. In the absence of the City Auditor and the IPR Director: IPR Assistant Director.

City Hall, Rooms 310 and 320: Chief Deputy Auditor. In the absence of the City Auditor and the Chief Deputy Auditor: Ombudsman or Audit Services Director.

Hearings Office (1900 SW 4th Avenue, Suite 3100): Chief Hearings Officer. In the absence of the City Auditor and the Chief Hearings Officer: Hearings Officer.

Portland Archives and Records Center (1800 SW 6th Ave., Suite 550): City Archivist. In the absence of the City Auditor and the City Archivist: Archives and Records Management Coordinator III.

### **C. Violations of the Rules of Conduct**

1. All employees of the Auditor's Office are encouraged to be alert to the possibility of violence in the workplace. Employees must make safety their highest concern and shall immediately report any acts or threats of violence to their supervisor.
2. When a person violates a rule of conduct in an office of the Auditor's Office, the Person-in-Charge shall take reasonable and prudent actions to protect the health, welfare, and safety of all persons and property and minimize the disruption of operations. These actions may include but are not limited to:
  - a. Asking the person to stop the disruptive conduct;
  - b. Asking the person to use alternate methods to conduct business with the office (such as in writing or by telephone);
  - c. Ejecting the person from the Auditor's Office for the remainder of the day;
  - d. Excluding the person from the office for up to one year; and/or
  - e. Requesting assistance from building security personnel or law enforcement.

### **D. Ejection and Exclusion: Definitions**

For purposes of this rule:

- a. "Ejection" means the act of directing a person to leave the offices of the Auditor's Office for the remainder of the day.
- b. "Exclusion" means the act of prohibiting a person from entering a specific office of the Auditor's Office for up to one year.

## E. Ejection and Exclusion Policies

The Auditor's Office recognizes that the City works best when community members and the government work as partners, and that an accessible Auditor's Office helps to promote an open and accountable government. Nevertheless, access to the Auditor's Office may be limited to maintain a safe environment and prevent the disruption of operations. It is the policy of the Auditor's Office that:

1. When a person violates a rule of conduct, ejection shall be preferred over exclusion.
2. To promote the protection of all Auditor's Office employees, an ejected person may not enter or remain in any office of the Auditor's Office for the remainder of the day of the ejection. However, a person who has been ejected from the Auditor's Office may conduct business with the Auditor's Office via alternate means (such as in writing or by telephone) on the day of the ejection.
3. A person who violates a rule of conduct may be ejected and also excluded for up to one year. A person may be excluded only if the Person-in-Charge finds that exclusion is needed:
  - a. To protect health, welfare, or safety because the person's rule violation poses a credible threat to the health, welfare, or safety of one or more persons or to property; or
  - b. To prevent future disruptions because the person's rule violation has disrupted operations significantly or on more than one occasion.
4. If the Person-in-Charge determines that exclusion is needed to protect health, welfare, or safety or prevent future disruptions, the length of the exclusion shall be reasonable, based on the following factors:
  - a. The seriousness of the conduct;
  - b. Any prior violations of rules of conduct by the person on City property;
  - c. The availability of alternative means for the person to conduct business with the Auditor's Office; and
  - d. Any other relevant facts or circumstances.

5. A person who is excluded from an office of the Auditor's Office:
  - a. May not enter or remain in that office during the exclusion period, but may access other offices of the Auditor's Office;
  - b. May conduct business with the office via alternate means (such as in writing or by telephone) during the exclusion period; and
  - c. May submit a written exclusion modification request to the Person-in-Charge to seek permission to enter the office to conduct specific business. The request must identify good cause for the desired modification.

#### **F. Ejection Notices**

1. Whenever possible, the Person-in-Charge shall provide an ejected person with a written ejection notice. A sample ejection notice is attached as Appendix A.
2. Ejection notices cannot be appealed to the Hearings Office.
3. As soon as possible after an ejection, the Person-in-Charge shall provide Management Services with a written description of the incident.
  - a. Management Services shall maintain a record of all ejections issued by the Auditor's Office.
  - b. Management Services shall notify the building's security personnel and all employees of the ejection.

#### **G. Notice of Exclusion**

1. When a person is excluded from an office of the Auditor's Office, the Person-in-Charge shall provide the person with a written notice of exclusion. The Person-in-Charge shall:
  - a. Issue the notice of exclusion as soon as possible, but no later than three business days after the rule violation warranting exclusion;
  - b. Send the notice of exclusion to the excluded person by certified mail, with return receipt requested or electronic delivery confirmation; and

- c. Take other reasonable steps to deliver the notice of exclusion when:
  - i. The Person-in-Charge does not know and cannot reasonably obtain the excluded person's address;
  - ii. The Person-in-Charge has good cause to believe that a different delivery method is more likely to give the excluded person actual notice of the exclusion; or
  - iii. The notice of exclusion provided by mail is returned as undeliverable or the delivery confirmation indicates that the notice was not delivered.

2. The notice of exclusion shall:

- a. State the office from which the person has been excluded and the dates of the exclusion period.
- b. Provide a short, plain statement describing the basis for the exclusion, including a citation to this rule, Code Chapter 3.18, and the specific rule(s) of conduct violated.
- c. State that the excluded person may be subject to arrest for trespass if the person enters the office in violation of the exclusion.
- d. State that the excluded person may appeal to the Hearings Office, in writing, to have the notice of exclusion rescinded, in accordance with Code Chapter 22.10. The notice shall state:
  - i. The phone number, address, and website of the Hearings Office;
  - ii. That the deadline for filing an appeal with the Hearings Office is five days from the date the notice of exclusion is issued, but that the deadline may be extended by the Hearings Officer for good cause shown;
  - iii. The fee for requesting an appeal, if any; and
  - iv. That the exclusion will be in effect pending resolution of the appeal.
- e. Include a copy of the Hearings Office's appeal form, a second copy of the notice of exclusion, and a copy of Code Chapters 3.18 and 22.10.

- f. State that the excluded person may submit a written modification request to the Person-in-Charge to seek permission to conduct specific business with the office, and that the request must identify good cause for the desired modification.
    - g. If the person has been excluded from the Hearings Office: state that the Hearings Office will contract with an outside Hearings Officer to hear the appeal or explain any other alternative appeal processes.
3. The Person-in-Charge issuing a notice of exclusion shall:
  - a. Record the date, time, and method of delivery of the notice of exclusion, and retain all relevant delivery confirmation information.
  - b. Forward a copy of the notice of exclusion and all attachments to the City Auditor.
  - c. Notify the building's security personnel of the exclusion.
4. If the excluded person appeals the exclusion, the notice of exclusion shall serve as the Auditor's Office's evidence before the Hearings Office. Auditor's Office employees will not testify at the exclusion appeal hearing before the Hearings Office unless the excluded person requests their testimony.

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### **Auditor's Office Administrative Rule Information and History**

Questions about this administrative rule may be directed to the [Auditor's Office's Management Services Division](#).

Adopted by the City Auditor November 30, 2018.

## APPENDIX A: SAMPLE EJECTION NOTICE

### EJECTION NOTICE

You have violated the rules of conduct that apply in the City Auditor's Office. Pursuant to Portland City Code Chapter 3.18 and Auditor's Office Administrative Rule 4.01:

**You are directed to leave this property immediately. You may not enter or remain in any office of the Auditor's Office for the remainder of the day.**

If you do not leave immediately, or if you enter or remain in any office of the Auditor's Office today, you may be subject to removal and arrest for trespass.

**DATE:** \_\_\_\_\_

***You may not enter any Auditor's Office office for the remainder of the day, including:***

**City Hall, Rooms 130 and 140:**

Council Clerk / Contracts (503-823-4082)

Independent Police Review (503-823-0146)

**City Hall, Rooms 310 and 320:**

Office of the Ombudsman (503-823-0144)

Audit Services (503-823-4005)

Management Services (503-823-4079)

Elections and Lobbying Registration (503-823-3546)

**Hearings Office, 1900 SW 4th Ave., Suite 3100** (503-823-7307)

**Archives and Records Center, 1800 SW 6th Ave., Suite 550** (503-865-4100)

*If you wish to conduct business with any of these offices today,  
please call the office to arrange an alternate method of communication.*

## APPENDIX B: SAMPLE NOTICE OF EXCLUSION

**TO:** Click to enter name

**DATE:** Click to enter date

**ADDRESS:** Click to enter address

### **NOTICE OF EXCLUSION:**

You are excluded from the Click to enter office name, located at Click to enter office address, for Click to enter number of days days.

**You may not re-enter the office until: Click to enter date.**

If you enter the office in violation of this exclusion, you may be subject to removal and arrest for trespass.

**REASON FOR EXCLUSION:** You have been excluded to protect health, welfare, or safety or to prevent future disruptions, pursuant to Portland City Code Chapter 3.18 and Auditor's Office Administrative Rule 4.01 (enclosed), because of the following conduct:

Click to enter specific reasons for exclusion and explain why exclusion is needed to protect health, welfare, or safety, or to prevent future disruptions. If the exclusion is based on an additional rule that applies to the Auditor's Office, cite the rule here and include a copy of the rule with the notice of exclusion.

**RIGHT TO APPEAL:** You may appeal, in writing, to have the notice of exclusion rescinded. ***The appeal must be filed with the Hearings Office within 5 days of from the date of this notice.***

- If you need more time to file an appeal, you may contact the Hearings Office to request an extension. The Hearings Officer may extend the deadline for good cause shown.
- The form for requesting an appeal is enclosed. A 2<sup>nd</sup> copy of this notice, to file with the appeal, is also enclosed.
- There is no fee for filing an appeal.
- If you appeal, the exclusion will be in effect until the appeal is resolved.
- Portland City Code Chapter 22.10 (enclosed) provides more information about appeals.



**HEARINGS OFFICE CONTACT INFORMATION:**

Phone: 503-823-7307 / Fax: 503-823-4347

Mailing Address: 1900 SW 4th Ave., Room 3100, Portland, OR 97201

Web: <https://www.portlandoregon.gov/hearings/26645>

**RIGHT TO REQUEST MODIFICATION:** If you need to conduct specific business with the Click to enter name of office in person, you may send me a written request to modify the exclusion. Your request must provide a good reason for the modification.

**NOTICE ISSUED BY:**

\_\_\_\_\_ (signature)

Name and Title: Click to enter name and title

Phone: Click to enter phone number / Email: Click to enter email address

Mailing Address: Click to enter address

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**Enclosures:**

- Portland City Code Chapter 3.18
- Auditor's Office Administrative Rule 4.01
- Portland City Code Chapter 22.10
- Hearings Office's appeal form
- 2<sup>nd</sup> copy of this notice