

# ORDINANCE NO. 744

## AN ORDINANCE AMENDING TITLE 2, ADMINISTRATION AND PERSONNEL, OF THE TROUTDALE MUNICIPAL CODE.

### THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. The City's administrative practices have evolved over time.
2. The provisions in Title 2 regarding the City's administrative practices need to be updated.


### NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TROUTDALE

- Section 1. Chapter 2.04 is hereby amended to read as set forth in Attachment 1
- Section 2. Chapter 2.06 is hereby amended to read as set forth in Attachment 2.
- Section 3. Chapter 2.12 is hereby repealed.
- Section 4. Chapter 2.16 is hereby amended to read as set forth in the Attachment 3.
- Section 5. Chapter 2.32 is hereby repealed.
- Section 6. Chapter 2.44 is hereby repealed.
- Section 7. Chapter 2.60 is hereby amended to read as set forth in the attachment 4.

YEAS: 6

NAYS: 0

ABSTAINED: 0

  
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Paul Thalhoffer, Mayor  
February 17, 2004  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Debbie Stickney, City Recorder

Adopted: February 10, 2004

**Chapter 2.04  
CITY ADMINISTRATOR**

- 2.04.010 Appointment--General responsibilities.
- 2.04.060 Salary.
- 2.04.070 Performance review and evaluation.

**2.04.010 Appointment--General responsibilities.**

**A.** The city administrator shall be the principal management position as the appointed administrative officer, responsible to the mayor and council for all city functions. The administrator shall be appointed by the council upon the recommendation of the mayor and under the general direction of the mayor shall be responsible for the supervision and coordination of all city departments. The city administrator shall serve at the direction and pleasure of the city council.

**B.** The administrator shall be responsible for:

- 1.** Preparing, overseeing and implementing the city budget, as the budget officer, within the guidelines defined by state budget laws, provided however, that the administrator may delegate this budget officer authority to the finance director. The city administrator shall have authority to freeze or to administratively reduce appropriations within any department as deemed necessary for the proper fiscal management of the city;
- 2.** Appointing and supervising the city's department heads and administering the provisions in Chapter 2.36 as the city's personnel officer, except that the administrator shall have no line authority over the municipal judge or city attorney.
- 3.** Executing contracts on behalf of the city to purchase goods and services, as the city's purchasing agent, provided the expenditure is consistent with the council adopted budget or policy; and

**4.** Overseeing the development, implementation and enforcement of city ordinances, resolutions and policies; developing policy recommendations, community goals and city priorities; making or directing studies that are necessary to the internal operations and efficiency of the city; and representing the city in intergovernmental and public relations.

**5.** Develop administrative rules that are necessary for the efficient operation of city programs.

**C.** In processing adopted resolutions and ordinances, the city administrator or designee shall not alter the sense, meaning, effect or substance of any ordinance, but with such limitations, may renumber sections and parts of sections, change capitalization for the purpose of uniformity, correct any clerical, typographical or similar non-substantive errors.

**D.** The city administrator shall perform any other duties that are required by this code, ordinance, resolution or the council.

**E.** The city administrator may delegate duties that are required to fulfill the administrator's responsibilities but shall remain responsible for these functions as the council appointed officer of the city. (Ord. 435-O § 1, 1984)

**2.04.060 Salary.**

Compensation for the city administrator shall be determined by the city council, generally through negotiations of an employment agreement. Salary increases beyond general increases to city employees shall be based upon satisfactory performance evaluations. The city administrator shall, however, not receive less than any increases granted to general employees of the city. (Ord. 435-O § 2, 1984)

**2.04.070 Performance review and evaluation.**

The city council and the city administrator shall establish performance standards that shall be the basis of annual reviews by the city council. These annual reviews shall be the basis for yearly salary increases above the amount awarded general employees and shall be used as the standard for continued employment. (Ord. 435-O § 3, 1984)

**Chapter 2.06  
CITY ATTORNEY**

- 2.06.010 Appointment .
- 2.06.020 General responsibilities.
- 2.06.030 Salary.
- 2.06.040 Performance review and evaluation.

**2.06.040 Performance review and evaluation.**

The city council and the city attorney shall establish performance standards that shall be the basis of annual reviews by the city council. The annual reviews shall be the basis for yearly salary increases above the amount awarded general employees and shall be used as the standard for evaluating continued employment.

**2.06.010 Appointment.**

The city attorney shall be appointed by the council upon the recommendation of the mayor. The city attorney shall serve at the direction and pleasure of the council.

**2.06.020 General responsibilities.**

The city attorney shall be legal counsel for the city, responsible for the following:

1. Providing legal advice to the mayor, council, city committees, department managers and their staff.
2. Representing the city in legal matters, including but not limited to criminal and code enforcement cases that are prosecuted in Troutdale Municipal Court.
3. Coordinate the use of outside legal counsel employed by the city.
4. Reviewing city contracts, ordinances, resolutions and policies.
5. Providing training on legal topics for the city council, city committees and city departments.

**2.06.030 Salary.**

Compensation for the city attorney shall be determined by the city council, generally through negotiations of an employment agreement and amendments thereto. Salary increases beyond general increases to city employees shall be based upon satisfactory performance evaluations. The city attorney shall, however, not receive less than any increases granted to general employees of the city.

**Chapter 2.16  
MUNICIPAL COURT**

- 2.16.010 Appointment of municipal judge.
- 2.16.020 General responsibilities.
- 2.16.030 Salary.
- 2.16.040 Performance review and evaluation.
- 2.16.050 Misdemeanors and traffic offenses.
- 2.16.060 Failure to appear.
- 2.16.065 Right to counsel
- 2.16.070 Appointment of counsel.
- 2.16.080 Witness fees.
- 2.16.090 Trial by jury.
- 2.16.100 Request for jury trial, waiver and exception.
- 2.16.110 Jury list--Establishment procedures.
- 2.16.120 Jury list--Court clerk powers.
- 2.16.130 Jury list--Disqualified or exempt individuals.
- 2.16.140 Jury list--Secured jury box.
- 2.16.150 Selection of jurors--Procedure--Alternates.
- 2.16.160 Selection of jurors--Organization procedures.
- 2.16.170 Jury trials--Verdict.
- 2.16.180 Jurors--Compensation.
- 2.16.190 Jurors--Notification
- 2.16.200 Inspection warrant.
- 2.16.210 Grounds for issuing inspection warrant.
- 2.16.220 Inspections without warrant.

**2.16.010 Appointment of municipal judge.**

The municipal judge shall be appointed by the council upon the recommendation of the mayor. The municipal judge shall serve at the direction and pleasure of the council.

**2.16.020 General responsibilities.**

**A.** The municipal judge shall be the judicial officer of the city and shall hold court within the city known as the Troutdale Municipal Court. The judge shall exercise original jurisdiction over all crimes and offenses committed in the city and made punishable by the Troutdale Municipal Code.

**B.** The municipal judge shall have all the inherent and statutory powers that are permitted by law to be conferred on the judge, including but not limited to, issuing process for the arrest of any person charged with committing an offense, committing persons to jail for committing an offense, ordering restitution, requiring a person to post bail pending trial, issuing subpoenas, compelling witnesses to appear and testify in court, compelling obedience of court orders, issuing any process to carry into effect the judgment of the court, punishing people for contempt of court and issuing warrants.

**C.** The municipal judge shall perform the essential functions contained in the job description that is approved and amended by the council and any other functions set forth in the Troutdale Municipal Code or directed by council.

**D.** The municipal judge may delegate the authority conferred upon the judge in this chapter to a judge pro tempore. The judge pro tempore shall act only when the municipal judge is unable to perform his/her duties by reason of absence from the city, illness, vacation, disqualification as provided by ORS 221.353, or as otherwise determined by the council. Pro tempore judges shall be compensated in the same manner as the municipal judge and may be removed from office by the council.

**2.16.030 Salary.**

Compensation for the municipal judge shall be determined by the city council, generally through negotiations of an employment agreement and amendments

thereto. Salary increases shall be based upon satisfactory performance evaluations.

#### **2.16.040 Performance review and evaluation.**

The city council and the municipal judge shall establish performance standards that shall be the basis of annual reviews by the city council. The annual reviews shall be the basis for salary increases.

#### **2.16.050 Misdemeanors and traffic offenses.**

Misdemeanors and traffic offenses, as defined in state law, that are committed in the city, or outside the city but that state law authorizes the city to prosecute, are offenses against the city that are subject to the municipal court's jurisdiction and punishable in accordance with state law and this code.

#### **2.16.060. Failure to appear.**

It shall be unlawful for any person who has been served with a lawful summons, a citation that conforms with state law, or a subpoena, to willfully, or without a prior excuse that is based upon good cause and approved by the municipal court, fail to appear as required in the citation, summons or subpoena. A violation of this section is a Class A misdemeanor subject to the same penalties for Class A misdemeanors that are provided for in state law.

#### **2.16.065 Right to counsel.**

Any person charged with an offense for which the person may, if convicted, be sentenced to jail, shall have the right to an attorney. The municipal judge shall allow a person charged with such an offense a reasonable time and opportunity to obtain counsel.

#### **2.16.070 Appointment of counsel.**

The municipal judge shall appoint suitable legal counsel for a person that is charged with an offense for which the person may, if convicted, go to jail, provided that it appears to the judge that the person charged is without means to obtain legal counsel and the person charged with the offense:

1. Requests appointment of legal counsel;
2. Files a verified financial statement and provides other information under oath showing that the person is unable financially to retain legal counsel;
3. Provide any information requested by the court regarding the persons inability to obtain legal counsel;
4. Agrees to pay the court appointed attorneys fees as part of the person's sentence, if the person is convicted.

#### **2.16.080 Witness fees.**

The municipal court shall pay witnesses the per diem and mileage payment that is paid in accordance with state law for justice of the peace courts. The number of defense witnesses that shall be paid by the municipal court shall be limited in accordance with state laws for justice of the peace courts.

#### **2.16.090 Trial by jury.**

Any person accused of any offense defined and made punishable as a crime by the Charter, any ordinance of this city or laws of this state, shall have the right to trial by jury in the municipal court. The jury shall consist of six persons, selected as provided in this chapter.

#### **2.16.100 Request for jury trial, waiver and exception.**

**A.** A person that is entitled to a jury trial under this section, or the person's attorney, shall request a jury trial in writing, or in open court, not more than ten days after the date that the person enters a plea.

**B.** The right to a jury trial shall be deemed waived if the defendant fails to comply with the requirements in subsection A above. The municipal court shall, after the time provided for requesting a jury trial has passed with no such request having been submitted, set the matter for a trial without a jury.

**C.** Notwithstanding the provisions in subsection A, the municipal judge may, upon good cause shown and in the interest of justice, set a matter for a jury trial if a special request is made at least 30 days prior to the previously set trial date.

#### **2.16.110 Jury list--Establishment procedures.**

**A.** The clerk of the court shall, each month, compile a jury list from persons within the corporate limits of the city to serve as jurors. These jurors shall serve until a new list is selected. The jurors shall be selected from voter registration lists of residents of the city. The list shall contain the names of no less than forty persons.

#### **2.16.120 Jury list--Court clerk powers.**

The court clerk is authorized to select and make this jury list.

#### **2.16.130 Jury list-Disqualified or exempt individuals.**

**A.** In preparing the jury list, names drawn of persons known or believed to be disqualified as jurors, or who are exempt from jury duty under the provisions of the laws of the state, or who are believed to be unavailable, shall be discarded.

**B.** A person is disqualified to act as a juror if the person:

1. Is not a citizen of the United States;
2. Does not live within the corporate limits of the city;
3. Is less than eighteen years of age; or
4. Has had rights and privileges withdrawn as an effect of a felony conviction which

rights and privileges have not been restored.

**C.** A person is exempt from jury duty if:

1. Over 70 years of age
2. Pregnant or nursing

#### **2.16.140 Jury list--Secured jury box.**

The municipal judge or, under his/her direction, the court clerk, shall keep a secured jury box. After the jury list has been made, the municipal judge or the court clerk shall prepare separate ballots or slips containing the name and place of residence of each person on the jury list. The ballots or slips shall be deposited in the secured jury box.

#### **2.16.150 Selection of jurors--Procedure--Alternates.**

When a jury is requested, the municipal judge or, under his/her direction, the court clerk, shall draw twelve ballots or slips from the jury box, in the presence of the defendant and/or their attorney and in the presence of the city attorney. Ballots or slips shall be drawn until twelve of the people on the jury list that are in attendance have been selected from the jury box. Each of the twelve jurors shall be assigned a sequential number beginning with the number one. Jurors one through six will be seated in the jury box.

#### **2.16.160 Selection of jurors--Organization procedures.**

When twelve potential jurors have been selected, the defendant and the city will select the jury by each striking up to three potential jurors, alternately, commencing with the defendant. In case either party does not exercise all three peremptory challenges, the jury may be summoned from among the names remaining. The six jurors that are summoned shall be seated in the jury box. The municipal court may appoint alternate jurors from any of the

twelve jurors who were not stricken or by drawing from the jury box. No alternate juror shall be summoned to serve at the trial of the action except when six principals are not available.

**2.16.170 Jury trials--Verdict.**

All jurors selected to try any cause must concur to render a verdict.

**2.16.180 Jurors--Compensation.**

Jurors who appear at the trial shall receive as compensation for such services the sum of four dollars for each day of attendance upon the municipal court.

**2.16.190 Jurors--Notification--**

When a jury is drawn, summons shall be issued by the municipal court clerk and shall be served by the U. S. Mail.

**2.16.200 Inspection warrant.**

An inspection warrant is an order signed by the municipal judge directed to an official charged with the responsibility for enforcing the provisions in Titles 5, 8, 9, 12 or 15 of this code, or the Troutdale Development Code. An Inspection warrant authorizes the official to conduct an inspection of private property.

**2.16.210 Grounds for issuing inspection warrant.**

An inspection warrant shall be issued upon finding probable cause to believe that a violation of the provisions in Titles 5, 8, 9, 12 or 15 of this code, or the Troutdale Development Code may exist. The finding of probable cause shall be based upon an affidavit, signed by the public official that has been charged with the responsibility for enforcing the provisions in the above referenced titles and code, describing the place to be inspected and the purpose of the inspection. The affidavit shall also contain a statement that the owner of the place to be inspected has refused to

consent to the investigation, or the circumstances reasonably justifying the failure to seek consent.

**2.16.220 Inspections without warrant.**

Nothing in section 2.16.200 or 2.16.210 shall be construed as prohibiting an inspection without a warrant in an emergency situation or prohibiting inspections in accordance with the state and federal laws.



**Chapter 2.60  
CRIMINAL HISTORY RECORD  
CHECKS FOR CITY VOLUNTEERS**

on or after October 1, 2000 and to everyone who is volunteering for the city thirty days after the date the ordinance codified in this chapter is adopted. (Ord. 692 § 3, 2000)

**Sections:**

- 2.60.010 Criminal conduct prohibited.
- 2.60.020 Criminal history check required.
- 2.60.030 Effective date.

**2.60.010 Criminal conduct prohibited.**

Anyone who has violated any federal or state criminal statute, or any city or county charter or ordinances, shall not be allowed to volunteer for the city, if the Troutdale police department concludes that the volunteer presents a danger to public property, safety, health or general welfare. (Ord. 692 § 1, 2000)

**2.60.020 Criminal history check required.**

To implement Section 2.60.010 of this chapter, the Troutdale police department may review the Oregon State Police computerized criminal history information on everyone who applies for a volunteer position in the city or who volunteers for the city. If the Troutdale police department discovers that an applicant or volunteer has violated any federal or state criminal statutes, or any city or county charter or ordinances, and concludes that the applicant or volunteer presents a danger to public property, safety, health or general welfare, the Troutdale police department will notify the city administrator, or the administrator's designee, that the applicant or volunteer has a criminal history that prohibits them from volunteering. (Ord. 692 § 2, 2000)

**2.60.030 Effective date.**

The provisions of this chapter apply to all volunteer applications that are submitted