

**ORDINANCE NO. 5861**

**AN ORDINANCE REVISING THE COMPASS INDEPENDENT AUDIT PROGRAM BY AMENDING CHAPTER 2.95 TO THE RAPID CITY MUNICIPAL CODE.**

WHEREAS, the City previously adopted an ordinance establishing an independent audit program for the City; and

WHEREAS, since adoption of the ordinance creating the independent audit program, the City has hired a Chief Auditor; and

WHEREAS, the City's Chief Auditor and Audit Committee have reviewed the ordinance and have made recommendations on revisions to improve the previously adopted ordinance; and

WHEREAS, the City Council of the City of Rapid City deems that it is in the best interests of the City to implement the proposed revisions recommended by the Chief Auditor and the Audit Committee to the City's independent audit program by amending Chapter 2.95 to the Rapid City Municipal Code.

NOW THEREFORE, BE IT ORDAINED, by the City of Rapid City, that Chapter 2.95 of the Rapid City Municipal Code be amended to read as follows:

**2.95.010 Audit Committee.**

A. There is hereby created an Audit Committee for the City of Rapid City. The Audit Committee shall be comprised of ~~the~~ two City Council members and three citizens-at-large residing within the corporate limits of Rapid City. ~~The City Council members shall be appointed by the Council leadership.~~ Prospective citizen members of the committee shall submit an application to the City Council. The City Council will appoint a three member sub-committee to review the applications and forward names to the full City Council for approval. The Council Leadership will be responsible for forwarding the names of two City Council members to serve on the Audit Committee. Members of the Audit Committee shall be appointed by a majority vote of the City Council. The City's Human Resources Division shall keep on file all applications for committee membership which are received by the City and forward them to the three member sub-committee any time there is a vacancy on the Audit Committee. Upon selection by the sub-committee to have their name forwarded to the City Council for approval, all citizen applicants shall be subject to a criminal and financial background check. As part of their application to be on the Audit Committee, all applicants shall specifically consent to a criminal and financial background check. Members of the Audit Committee are part of an independent advisory committee of the City Council and are not officers of the City. The citizen members of the Audit Committee shall have relevant experience and expertise in the field(s) of business, finance, operations of governmental or other large organizations, auditing and/or public accounting. The citizen members shall not be employed by the City or serve on any other City boards and/or committees. Members of the Audit Committee must disclose any potential conflicts of interest prior to appointment, or after appointment as they arise. For new members of the Audit Committee the City Council can choose to waive any potential conflict it deems to

be minor or insignificant. Audit Committee members will refrain from participating in any audit or issue in which they have a conflict of interest. If the Audit Committee member's conflict of interest will be an ongoing conflict, the Council may remove the member if it determines the ongoing conflict impedes the member's ability to fulfill their duties on the committee. The City Council members shall serve a one (1) year term with no limitation on reappointment to the committee. The citizen committee members shall serve three (3) year terms with no limitation on reappointment to the committee. The terms of the citizen committee members will be staggered. At the first meeting, the committee shall draw lots to determine which member receives the one-year term, which receives the two-year term, and which receives the three-year term. After the terms established by lot have been served, all terms shall be for a period of three (3) years. For purposes of calculating the terms of the committee members, the appointments shall be deemed to run from July 1<sup>st</sup> of the year they were appointed. For the purpose of calculating terms for the members of the first audit committee, the appointments shall be deemed to start on July 1, 2012. Members of the committee shall remain on the committee until a successor has been appointed. The City Council may remove any member of the Audit Committee prior to the expiration of their term by majority vote. The committee shall elect a chair and vice-chair during the first meeting to occur after July 1<sup>st</sup>. The chair shall run the meetings. In the absence of the chair, the vice-chair shall run the meetings. The committee may adopt by-laws or other rules to govern the conduct of its meetings.

B. The Audit Committee shall be authorized to hire an independent Lead Chief Auditor— subject to the City Council's authority to approve staffing levels and appropriate funds. Within the limits of the funds which have been appropriated by the City Council, the Audit Committee may hire up to Step D of the City's compensation scale for the Chief Auditor position. The committee shall establish protocols for audits and annually adopt an audit ~~program~~ plan for the ensuing year. The annual audit program plan approved by the committee shall be submitted to the City Council for its approval. The committee will cause audit reports to be prepared on the items identified in the approved annual audit ~~program~~ plan. The committee shall review and comment on the audit reports and after reviewing them forward them to the Mayor and City Council. Based on its review of the audit reports, the committee may make formal recommendations to the Mayor and City Council for changes in the City's financial practices, contracts, operations, programs and/or services.

#### **2.95.020 Lead Chief Auditor and Staff.**

The Lead Chief Auditor will be hired based upon professional qualifications and experience and may be removed from office by a majority vote of the Audit Committee. The staff of the Chief Auditor may be hired and may be removed by the Lead Chief Auditor. Compensation for the Lead Chief Auditor and auditor's staff shall be recommended to the City Council by the audit committee subject to the provisions of the executive employee compensation policy and compensation shall be set by the City Council. The Lead Chief Auditor and ~~their~~ audit staff will be employees of the City and shall be entitled to benefits, such as retirement, vacation, holiday and sick leave normally provided to City employees and subject to the provisions contained in the Non-Union Employee Information Guide. The office of the Lead Chief Auditor ~~and auditor staff~~ will adhere to Government Auditing Standards issued by the Comptroller General of the United States in conducting its work and will be considered

independent as defined by those standards. The ~~Lead~~ Chief Auditor and audit staff shall not be actively involved in partisan political activities or the political affairs of the City. Subject to available resources, the ~~Lead~~ Chief Auditor shall be provided a separate budget sufficient to carry out the responsibilities and functions established in this article.

### **2.95.030 Duties of the ~~Lead~~ Chief Auditor.**

The ~~Lead~~ Chief Auditor has the following duties:

(1) Planning, conducting, evaluating, and monitoring results of management, performance and financial audits of city operations, programs, policies, and procedures as identified in the annual audit ~~program~~ plan. This work involves evaluating organizational efficiency and effectiveness; evaluating compliance with legal and administrative requirements; testing the adequacy of internal financial and management controls; and assessing waste, loss and abuse of resources.

(2) Develops annual audit ~~program~~ plans and timelines that incorporate identified Audit Committee and City Council priorities.

(3) Selects and develops the appropriate audit methods to carry out assignments. Conducts surveys of potential audit areas and audits city programs and operations to determine if established objectives, outcomes and expected performances are achieved.

(4) Evaluates whether resources are used economically and efficiently; tests for legal sufficiency or compliance; conducts special financial evaluations of city accounts, systems and records; and identifies areas of improvement with an emphasis on potential solutions.

(5) Gathers, interprets and analyzes information using statistical software and other tools. Prepares narrative audit reports.

(6) Prepares and makes presentations to the Audit Committee and City Council and, if deemed necessary, executive management team, advisory committees, and other city staff and public.

(7) Present proposed Office of the ~~Lead~~ Chief Auditor budget to the Audit Committee and City Council for review and comment as part of the annual city budget.

(8) Submit quarterly reports through the Audit Committee to the City Council concerning the status of all pending audits and projects and the status or progress of any implementation recommendations.

### **2.95.040 Scope of Audits.**

The ~~Lead~~ Chief Auditor shall have authority to conduct performance or other audits of all departments, offices, activities, functions, programs, and subcontractors of the city in order to independently and objectively determine whether:

- (1) activities and programs being implemented have been authorized by city code, state law, or applicable federal law or regulations;
- (2) activities and programs are being conducted in a manner contemplated to accomplish the objective intended by city code, state law or applicable federal law or regulations;
- (3) activities or programs efficiently and effectively serve the purpose intended by city code, state law, or applicable federal law or regulations;
- (4) agencies, departments, activities and programs are achieving the desired benefits or results;
- (5) activities and programs are being conducted and funds expended in compliance with applicable laws and regulations with an emphasis on economic efficiencies;
- (6) revenues are being properly collected, deposited, and accounted for;
- (7) resources, including funds, property, and personnel are adequately safeguarded, controlled, and used in an effective and efficient manner;
- (8) financial and other reports are being provided that disclose fairly and fully all information required by law, necessary to ascertain the nature and scope of programs and activities, and necessary to establish a proper basis for evaluating the programs and activities;
- (9) there are adequate operating and administrative procedures and practices, systems or accounting internal control systems, and internal management controls established by management; or
- (10) there are indications of fraud, abuse or illegal acts that need further investigation.

#### **2.95.050 Non-Audit Services.**

To ensure the ~~Lead~~ Chief Auditor's independence is not impaired by providing certain services, the ~~Lead~~ Chief Auditor, or ~~their~~ the audit staff, shall not provide non-audit (consulting) services. The ~~Lead~~ Chief Auditor, or ~~their~~ the audit staff, shall decline to provide non-audit services based on two overarching principles as defined in Government Auditing Standards. First, audit organizations should not provide non-audit services that involve performing management functions or make management decisions. Second, audit organizations should not audit their own work or provide non-audit services in situations where the non-audit services are significant/material to the subject matter of audits. The ~~Lead~~ Chief Auditor, or ~~their~~ the audit staff, may provide routine activities that are considered insignificant to the subject matter of future audits and that are exempt from the independence safeguards of the Government Auditing Standards that apply to non-audit service. The following are some of the activities that can be provided by the ~~Lead~~ Chief Auditor, or ~~their~~ the audit staff, without impairing independence and requiring the Chief Auditor to apply non-audit safeguards:

(1) serving on committees or taskforces in a purely advisory capacity to advise the city on issues related to the knowledge and skills of the Chief Auditor;

(2) providing advice to assist programs, establish internal controls, or implement audit recommendations;

(3) answering technical questions or providing training on auditing, management, organizational, or other topics; and

(4) providing tools or methodologies such as best practice guides, benchmarking studies, or internal control assessments.

### **2.95.060 Annual Audit Plan.**

At the beginning of each fiscal year, the Chief Auditor shall submit an annual audit plan to the Audit Committee for review and comment. The proposed plan for auditing shall include the departments, divisions, offices, activities, functions, programs, projects and contractors identified for audit during the year. This plan may be amended during the year after consultation with the Audit Committee. ~~Additionally, the Auditor may spontaneously initiate and conduct any other audit deemed necessary.~~ In consultation with the Audit Committee, the Chief Auditor will select topics based on potential for cost savings and service improvements, level of public and City Council interest, evidence of problems or wrongdoing, risk of loss or abuse, and availability of audit staff and resources. After review and approval by the Audit Committee, the annual audit plan shall be presented to and approved by the City Council.

### **2.95.070 Special Audits.**

The City Council may request the ~~Lead~~ Chief Auditor perform special audits that are not included on the annual audit plan. Such requests shall be directed to the Audit Committee Chair. ~~After consultation with~~ approval by the Audit Committee and the City Council, the Chief Auditor may amend the annual audit plan to include the special audit. Special audit reports will be handled in the same manner as regular audit reports except that if the audit involves matters that are confidential, privileged, or are otherwise exempt from disclosure under applicable state or federal law, reporting and/or disclosure of results may be limited to the City Council or as required by law.

### **2.95.080 Access to Employees, Records, and Property.**

All city officers, employees, ~~and~~ authorized agents and contractors of the city shall furnish the Chief Auditor with reasonable access to employees, information, and records (including automated data) within their custody necessary or required to conduct an audit or otherwise perform audit duties. In addition, they shall provide reasonable access for the Chief Auditor to inspect all property, equipment, and facilities within their custody. If such officers, employees, contractors, or agents fail to permit access and/or provide the requested information, the Chief Auditor may, without fee, cause a search to be made and exhibits to be taken from any

book, paper, or record (including automated electronic data systems) of any such official or employee, or outside contractor or subcontractor, except as governed by statute, and every office having the custody of such records shall make a search and forward such requested exhibits to the Chief Auditor. The Chief Auditor shall also be provided reasonable access to the records of outside contractors providing goods or services to the city that is in any way related to the performance of the contract with the city, including all relevant financial records. All city contracts shall contain provisions acknowledging the auditor's right to such access. The Chief Auditor shall not disclose any information received during an audit involving matters that are confidential, privileged, or are otherwise exempt from disclosure under applicable state or federal law. Disclosure and/or reporting in such cases may be limited to the City Council or as required by law.

### **2.95.090 Audit Reports.**

Each audit will result in a written report containing relevant background information, findings, and recommendations. The report shall be provided to the City Council, Audit Committee, and the Mayor. In addition to the written report, the Chief Auditor shall meet with the Audit Committee to orally review the audit report. The City Finance Office shall retain the original audit report as a permanent record. The Chief Auditor shall also retain a copy of the report together with the supporting materials necessary to complete the audit for a period of five (5) years. The audit report shall be a public record, unless it contains information that is exempt from disclosure under South Dakota law. The City Council can authorize public access to the report even if it is otherwise exempt from disclosure or may direct that the report be redacted to prevent disclosure of the exempted information and authorize the balance of the report released.

### **2.95.100 Views of Responsible Officials.**

Prior to public disclosure of an audit, a final draft of each audit report will be forwarded to the official responsible for the audited project or program and the Mayor for review and comment regarding factual content of the report. The responsible official and/or Mayor must respond in writing specifying agreement or disagreement with audit findings and recommendations, reasons for disagreement with findings and/or recommendations, plans for implementing solutions to issues identified, and a timetable to complete such activities. The response must be received by the Chief Auditor within 14 working days, unless an extension of time is granted. The final audit report will include the views of the responsible official of the audited programs concerning the Chief Auditor's findings, conclusions, and recommendations, as well as planned corrective actions. If the responsible official does not respond within the specified timeframe, the Chief Auditor will note that fact in the audit report. In the case of contracted audits, audits may be released without inclusion of a response.

### **2.95.110 Audit Follow-up.**

The Chief Auditor shall follow-up on audit recommendations as practical to determine if administrative managers are implementing corrective action. The Chief Auditor may request periodic status reports from audited programs regarding actions taken to address reported deficiencies and audit recommendations.

#### **2.95.120 Retention of Records.**

Complete files of each audit report and each report of other examinations, investigations, surveys and reviews made under the ~~Lead~~ Chief Auditor's authority shall be retained for a minimum of five (5) years, or longer if so required by state law.

#### **2.95.130 Annual Report.**

The Chief Auditor shall submit an annual report to the City Council each year indicating audits completed in the preceding fiscal year, major findings, corrective actions taken by administrative managers, cost savings and avoidances (when possible), and significant findings that have not been fully addressed by management.

#### **2.95.140 Report of Irregularities.**

If during an audit, the Chief Auditor becomes aware of apparent abuse or illegal acts or indications of such acts that could affect the City, the Chief Auditor shall report the irregularities to the City Council, ~~the Audit Committee~~ and the Mayor. The Chief Auditor shall inform the Audit Committee that such a report has been made. If it appears that the irregularity is criminal in nature, the Chief Auditor shall also immediately notify the City Attorney and, if appropriate, the chief prosecuting authority.

#### **2.95.150 Contract Auditors, Consultants, and Experts.**

Within budget limitations and with the consent of the City Council, the Audit Committee or Chief Auditor may obtain the services of certified public accountants, qualified management consultants, or other professional experts necessary to perform the Chief Auditor's duties. An audit that is performed by contract must be conducted by persons who have no financial interests in the affairs of the governmental unit or its officers. The Audit Committee or Chief Auditor will coordinate and monitor audits performed by public accounting firms or other organizations employed under contract. In contracting for the external audit, the Chief Auditor will ensure that the city's contracting processes are followed.

#### **2.95.160 External Quality Assurance Reviews.**

The audit activities of the Chief Auditor's Office shall be subject to quality review in accordance with applicable Government Auditing Standards by a professional, non-partisan objective group utilizing guidelines endorsed by Association of Local Government Auditors. A copy of the written report of this independent review shall be provided to the City Council and made available to the public. The quality control review shall determine compliance with Government Auditing Standards and the quality of the audit effort and reporting, including:

(1) general standards such as independence, staff qualifications, due professional care, and quality assurance;

(2) fieldwork standards such as planning, supervision, and audit evidence; and

(3) reporting standards such as report content, presentation, and timeliness.

The quality control review shall be conducted within three years of the start of the audit function and at least once every three years thereafter. The quality control review shall be specifically budgeted as part of the Auditor's budget in the relevant years, or more frequently as may be warranted.

**2.95.170 Severability Clause.**

If any provision, section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional, void, invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance shall not be affected thereby, it being the intent of the City Council that no portion thereof or provision contained herein shall become inoperative or fail by any reason of unconstitutionality or invalidity of any other portion or provision.

CITY OF RAPID CITY

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Sam Kooiker, Mayor

ATTEST:

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Pauline Sumption, Finance Officer

(SEAL)

First Reading:

Second Reading:

Published:

Effective: