

ORDINANCE NO. 4173

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES AT CHAPTER 2 TO ESTABLISH THE OFFICE OF INDEPENDENT AUDITOR; PROVIDING FOR POWERS AND DUTIES OF THE AUDITOR; CREATING AN AUDIT COMMITTEE AND ESTABLISHING SUCH POWERS AND DUTIES OF THE COMMITTEE; REQUIRING AN AUDIT PLAN AND ANNUAL REPORT FROM THE AUDITOR; PROVIDING THE AUDITOR ACCESS TO CITY STAFF, RECORDS AND PROPERTY; REQUIRING PEER REVIEWS OF THE INDEPENDENT AUDITOR'S OFFICE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Institute of Internal Auditors, the Association of Local Government Auditors and the Government Accountability Office, through the Government Auditing Standards, mandate that an auditing function must be independent from an audited entity; and

WHEREAS, public officials, government managers, and private citizens want and need to know not only whether government funds are handled properly and in compliance with laws and regulations, but also whether public programs are achieving the purposes for which they were authorized and funded, and, whether they are doing so efficiently, effectively, and equitably; and

WHEREAS, an independent auditing function can provide objective information on the operations of government programs, assist managers in carrying out their responsibilities, and help ensure full accountability to the public; and

WHEREAS, recognized government auditing standards provide a framework for improved government decision making, oversight and accountability; and

WHEREAS, the independence and public accountability of the Auditor can be assured by provision of an Auditor.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA THAT:

SECTION 1. The foregoing recitals are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

SECTION 2. The Code of Ordinances of the City of Riviera Beach, Florida is hereby amended at Chapter 2. ADMINISTRATION, ARTICLE V. to read as follows:

ARTICLE V. OFFICE OF THE INDEPENDENT AUDITOR

Sec. 2-231. Establishment of the Office of the Independent Auditor

The Office of the Independent Auditor is hereby established.

(a) Purpose

The Office of the Independent Auditor's purpose is to provide independent, objective assurance and consulting services designed to improve and add value to the City's operations.

(b) Appointment and Reporting

The Auditor shall be appointed and removed by the City Manager; the Auditor shall report to the Audit Committee and the City Manager.

(c) Qualifications

The Auditor shall possess adequate professional proficiency for the job, demonstrated by a Bachelor's Degree in Accounting, Business Administration, Economics or a related field, Certified Public Accountant (CPA) or Certified Internal Auditor (CIA) certification, and ten (10) years of progressively responsible experience in municipal auditing, accounting, or finance, with five (5) to seven (7) years of supervisory experience.

(d) Funding

Sufficient funds shall be proposed and approved to carry out the responsibilities specified herein.

(e) Standards

Audits shall be conducted in accordance with recognized Government Auditing Standards.

Sec. 2-232. Duties and Responsibilities of the Independent Auditor

(a) The Auditor and his or her staff shall have authority to conduct financial, operational and compliance audits of the City in order to independently and objectively determine whether:

1. Activities and programs being implemented have been authorized by the Charter or Code, state law or applicable federal law or regulations and are being conducted and funds expended in compliance with applicable laws;
2. The City is acquiring, managing, protecting, and using its resources, including public funds, personnel, property, equipment, and space, economically, efficiently, equitably, and effectively and in a manner consistent with the objectives intended by the authorizing entity or enabling legislation;
3. The City, its programs, activities, functions, or policies are effective, including the identification of any causes of inefficiencies or uneconomical practices;
4. The desired result or benefits are being achieved;
5. Financial and other reports are being provided that disclose fairly, accurately, and fully all information required by law, to ascertain the nature and scope of programs and activities, and to establish a proper basis for evaluating the programs and activities including the collection of, accounting for, and depositing of, revenues and other resources;
6. City management has established adequate operating and administrative procedures and practices, systems or accounting internal control systems and internal management controls; and
7. Investigate allegations of fraud, abuse or illegal acts.

Each audit will result in a report, written or in some other retrievable form. The report shall communicate the audit results, through the City Manager, to the Audit Committee, City Council, the Mayor, the City Attorney and the public.

- (b) The Auditor shall establish a "hotline" to receive complaints, from either anonymous or identified persons.
- (c) If the Auditor becomes aware of abuse or illegal acts or indications of such acts that could affect the governmental entity, the Auditor shall report the irregularities to the Audit Committee and the City Manager immediately, who shall report them to City Council and the Mayor. If the City Manager is believed to be a party to abuse or illegal acts, the Auditor shall report the acts to the Audit Committee, City Council, the Mayor and City Attorney.

- (d) If the Auditor suspects possible mismanagement of a contract (misuse or loss exceeding \$5,000), fraud, theft, bribery, or other violation of law which appears to fall within the jurisdiction of the Palm Beach County Office of the Inspector General, the Auditor shall notify the Inspector General.
- (e) If the Auditor suspects a possible violation of any state, federal or local law, he or she shall notify the appropriate law enforcement agencies.
- (f) The Auditor may obtain the services of professional experts necessary to perform audit work through the City procurement process. An audit that is performed by contract must be conducted by persons who have no financial interests in the affairs of the City or its officers.
- (g) The Auditor and his or her staff shall engage in prevention and outreach activities, including, but not limited to, developing public awareness and informing government officials and staff, as well as the general public, of the powers and duties of the Auditor and his or her staff.
- (h) In addition to the functions described above, the Auditor and his or her staff shall:
 - 1. Serve as a liaison between the City and outside auditors including the Palm Beach County Office of the Inspector General;
 - 2. Provide available staff or other assistance to the independent audit firm in order to reduce the cost of the city-wide audit;
 - 3. Assist in resolving items in the independent audit firm's management letter;
 - 4. Provide advice and assistance in the preparation of policy and procedures to all departments and review the adequacy of policies and procedures relating to financial controls. In order to maintain independence, the Auditor shall have no responsibility for the actual preparation of the policies and procedures; and
 - 5. Aid, through the City Manager, City Council, the Mayor, the City Attorney and department directors in identifying and recommending improvements in internal control.

The Auditor and his or her staff shall not assume any non-audit duties or responsibilities except as described within this document.

Sec. 2-233. Audit Plan

- (a) By September 1st of each calendar year, the Auditor shall submit a one year audit plan, developed using risk-based methodology, to the Audit Committee and the City Manager for review and comment. The plan shall include the proposed plan and the rationale for the selections. The plan may be amended after the review with the Audit Committee and/or City Council, the Mayor and the City Manager, but the Auditor shall have final authority to select the audits planned.
- (b) In the selection of audit areas, the determination of audit scope, objectives and timing of audit work, the Auditor shall consult with federal and state auditors, the independent audit firm and the Palm Beach County Office of the Inspector General so that the desirable audit coverage is provided and audit effort is properly coordinated.
- (c) The annual audit plan may be amended, as deemed necessary. Requests shall be addressed to the Auditor and shall be evaluated for validity.

Sec. 2-234. Access to Staff, Records and Property

All staff of the City of Riviera Beach, including elected officials, shall furnish to the Auditor and his or her staff free and unrestricted access to staff, information and records (including electronic data) within their custody regarding powers, duties, activities, organization, property, financial transactions, contracts and methods of business required to conduct an audit or otherwise perform audit duties. In addition, they shall provide access for the Auditor and his or her staff to inspect all property, equipment and facilities within their custody. Further, all contracts with outside contractors and subcontractors shall contain a “right-to-audit” clause and provide for Auditor access to the contractor’s staff and to all financial and performance related records, property, and equipment purchased in whole or in part with governmental funds.

Sec. 2-235. Annual Report

By October 1st of each calendar year, the Auditor shall submit an annual report, through the City Manager, to the Audit Committee and/or City Council and the Mayor. The annual

report shall include a list of completed audits, major findings, corrective actions taken by management, and significant issues which have not been fully addressed.

Sec. 2-236. Peer Reviews

(a) The audit activities of the Office of the Independent Auditor shall be subject to a peer review in accordance with applicable Government Auditing Standards by a professional, nonpartisan objective group utilizing guidelines endorsed by the Association of Local Government Auditors (ALGA). A copy of the written report of this independent review shall be furnished, through the City Manager, to each member of the Audit Committee, City Council, and the Mayor.

(b) The peer review will use applicable Government Auditing Standards to evaluate the quality of audit effort and reporting.

Specific quality review areas shall include staff qualifications, adequacy of planning and supervision, sufficiency of work paper preparation and evidence, and the adequacy of systems for reviewing internal controls, fraud and abuse, program compliance, and automated systems. The peer review will also assess the content, presentation, form, timelines, and distribution of audit reports. The City of Riviera Beach shall pay for the costs of the peer review from the Auditor's budget.

Sec. 2-237. Establishment of the Audit Committee

The Audit Committee is hereby established.

a) Purpose

The Audit Committee's purpose is to ensure the independence of the audit function, to monitor internal controls and compliance with respect to the City of Riviera Beach operations and related laws and regulations, to oversee the risk management process, the accounting and financial reporting process, and the audits of the City of Riviera Beach financial statements by an independent audit firm.

b) Membership

The Audit Committee shall consist of five (5) voting members; one (1) City Council member and four (4) independent at-large members appointed by City Council. The

four (4) independent at-large members shall be residents and/or business owners within the City of Riviera Beach, selected based on their qualifications and willingness to serve.

The Audit Committee chair shall be selected from among the five (5) City Council members. The Chair shall serve until his or her term expires.

c) Qualifications

The Audit Committee members shall, through education and experience, possess the following attributes, (i) knowledge of the industry, (ii) an understanding of Generally Accepted Accounting Principles (GAAP) and financial statements; (iii) experience in auditing; (iv) an understanding of internal controls; and (v) experience in business and financial risk management.

At least one member of the Audit Committee shall be a Certified Public Accountant (CPA) or Certified Internal Auditor (CIA).

d) Term

An Audit Committee member's term shall mirror the term of the City Council member who appointed him or her. All Audit Committee members shall continue to serve until their successors are duly appointed.

Sec. 2-238. Powers and Duties

- (a) The Audit Committee shall meet, at least quarterly, to perform its duties and shall:
1. Review and concur in the appointment, replacement, reassignment, or dismissal of the Auditor;
 2. Provide oversight and general direction to the Auditor by:
 - a. Reviewing the Auditor's annual audit plan; providing suggestions and comments;
 - b. Reviewing and approving the Auditor's reports before the final reports are made available to City Council and the general public;
 - c. Monitoring follow-up on reported findings to assure corrective action is taken by management;

- d. Reviewing any difficulties the Auditor and his or her staff encounter such as conflicts or delays;
- e. Reporting, through the City Manager, to City Council on problems or problem areas at such times as deemed appropriate;
- f. The Chairperson, in collaboration with the City Manager, will perform regular evaluations of the Auditor; and
- g. Evaluating the findings and recommendations of the peer review.
- 3. Conduct and oversee the requests for proposal and selection process for an independent audit firm required to complete the City's annual financial statement audit;
- 4. Provide oversight to the independent audit firm by:
 - a. At least annually, meeting separately with the City Manager, the Auditor, the Finance Director, and the independent audit firm, to evaluate the condition of the entity's controls, systems and risk, and to discuss other matters staff and the independent audit firm desire or are required to bring to the Audit Committee's attention such as fraud, illegal acts, and financial and control weaknesses;
 - b. Reviewing with management and the independent audit firm the effect of any new regulatory and accounting initiatives;
 - c. Reviewing with management and the independent audit firm all critical accounting policies and practices used by the City of Riviera Beach, all alternative treatments of financial information, and all material written communications between the independent audit firm and management, such as any management letter or schedule of unadjusted differences;
 - d. Reviewing with management and the independent audit firm the City of Riviera Beach annual financial statements and related footnotes, the independent audit firm's audit of the financial statements and their report, any significant changes required in the independent audit firm's audit plan and any serious difficulties or disputes with management encountered during the audit;
 - e. Reviewing with the Auditor and the independent audit firm the adequacy of the City of Riviera Beach internal controls including computerized information system controls and security, and any related significant findings, recommendations and management responses of the independent auditors and internal audit;

- f. Review the corrective actions taken by management to address any management letter comments; and
- g. Evaluating the independent audit firm.

The Finance Director and City Attorney, or their designees, and such other City staff having technical knowledge, as deemed necessary, shall attend Audit Committee meetings.

SECTION 3: **Repeal of Law in Conflict.** That all sections or parts of sections of the Code of Ordinances, all Ordinances or parts of Ordinances, and all Resolutions or parts of Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

SECTION 4: **Severability.** If any portion of this Ordinance is determined by any Court to be invalid, the invalid portion shall be stricken, and such striking shall not affect the validity of the remainder of the Ordinance. If any Court determines that this Ordinance, or any portion hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies), or circumstances(s), such determination shall not affect the applicability hereof to any other individual, group, entity, property, or circumstance.

SECTION 5: **Codification.** Specific authority is hereby granted to codify this Ordinance.

SECTION 6: **Effective Date.** This Ordinance shall be in full force and effect immediately upon its final passage and adoption.

PASSED AND APPROVED on first reading this ____ day of _____,
2021.

PASSED AND ADOPTED on second and final reading this ____ day of
_____, 2021.

APPROVED:

**RONNIE L. FELDER
MAYOR**

**SHIRLEY D. LAINER
CHAIRPERSON**

ATTEST:

**CLAUDENE L. ANTHONY
CERTIFIED MUNICIPAL CLERK
CITY CLERK**

**KASHAMBA MILLER-ANDERSON
CHAIR PRO TEM**

**TRADRICK MCCOY
COUNCILPERSON**

**JULIA A. BOTEL, Ed.D
COUNCILPERSON**

**DOUGLAS A. LAWSON
COUNCILPERSON**

REVIEWED AS TO LEGAL SUFFICIENCY

DAWN S. WYNN, CITY ATTORNEY

DATE: _____

1ST READING

MOTIONED BY: _____

SECONDED BY: _____

T. MCCOY _____

K. MILLER-ANDERSON _____

S. LAINER _____

J. BOTEL _____

D. LAWSON _____

2ND & FINAL READING

MOTIONED BY: _____

SECONDED BY: _____

T. MCCOY _____

K. MILLER-ANDERSON _____

S. LAINER _____

J. BOTEL _____

D. LAWSON _____

REVIEWED AS TO LEGAL SUFFICIENCY

DAWN S. WYNN, CITY ATTORNEY

DATE: _____