

THE CHARTER



OF THE
CITY OF PORTLAND,
OREGON

**THE CHARTER
OF THE
CITY of PORTLAND, OREGON**

**Recodification Adopted
by the Council
of the
City of Portland, Oregon**

by

**Ordinance 76832, passed March 11, 1942
and revised in part by subsequent amendments
through May 18, 1994**

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SUMMARY OF CONTENTS

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EXPLANATORY NOTES

Charter History. The City of Portland was incorporated in 1851 by the territory of Oregon, eight years prior to the year Oregon was granted statehood, 1859. In 1903, the State of Oregon granted a new Charter to the City of Portland. An extensive revision to that Charter, which established a commission form of government, was approved by the voters in 1913. In May 1966, a Charter change which would have established a strong Mayor form of government was defeated by the voters.

Deletion of Masculine and Feminine Charter Terms. A measure approved by the voters in May 1984 provided for the elimination from the Charter of terms which were masculine or feminine unless the context of the Charter required otherwise. This edition of the Charter incorporates appropriate changes to comply with that measure.

Use of Brackets. Brackets enclose material inserted by the editor. Insertions, when made within the body of the sections, clarify the context, translate former section numbers into new numbers, and set forth present titles of departments, etc. The notes in brackets at the end of each section provide references to former revisions and publications of the Charter.

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THE CHARTER
of the
CITY OF PORTLAND, OREGON

"AN ACT

To incorporate the City of Portland, Multnomah County, State of Oregon, and to provide a Charter therefor, and to repeal all acts or parts of acts in conflict therewith," approved by the Governor and filed in the Office of the Secretary of State January 23, 1903 as amended by the Legislative Assembly of the State of Oregon 1905, and as amended by the legal voters of the City of Portland at subsequent elections."

CHARTER, CITY OF PORTLAND, OREGON

CHAPTER 1

CORPORATE EXISTENCE AND POWERS

ARTICLE 1. POWERS, RIGHTS AND LIABILITIES.

Section 1-101. Continuation and Grant of Corporate Powers. The municipal corporation now existing and known as the City of Portland shall remain and continue a body politic and corporate by the name of the City of Portland, shall have perpetual succession, may sue and be sued, plead and be impleaded in all courts of justice and in all actions, suits or proceedings; may have and use an official seal and may alter the same; may purchase, or acquire by the exercise of the right of eminent domain or otherwise, receive and hold property, both real and personal, within or without said City for municipal purposes, and shall have the right of possession, use and control of all public parks and levees, buildings and property, and of all tracts of land and rights or easements in land belonging to said City, and other property which has been or may be hereafter dedicated to the City or to the public, or in any manner obtained, for public or corporate purposes of said City, and may lease, sell, terminate the dedication or otherwise dispose of the same for the benefit of the City; may receive or reject bequests, gifts, grants and donations of money or any kind of property, or interest in property, conditionally or unconditionally, in trust or otherwise, for charitable or other purposes, and may do all acts necessary to carry out the purposes or to fulfill the conditions of said gifts, requests, grants and donations, and may manage, sell, lease or otherwise dispose of the same in accordance with the terms of the gift, bequest, grant or trust, or absolutely in case such gift, bequest, grant or trust be unconditional; and shall have all general and specific powers granted to the City by any general or special law of the State of Oregon, or by the 1903 Legislative Charter of the City. All previously existing legal rights or powers of the City held or accruing to it shall continue as though no amendment of this Section had been made, and all duties and liabilities accrued or accruing to others at the time of this amendment from acts or agreements of the City shall not be affected by this amendment. [Ch. 1903, sec. 2; rev. 1914, sec. 2; 1928 pub., sec. 2; 1942 recod., sec. 1-102; rev. May 18, 1962.]

Section 1-102. Grant of General Powers. The City of Portland shall be invested within its corporate limits and within the limits of property it holds or occupies outside its corporate limits, with authority to perform all public and private services, including those of an educational or recreational character as well as others, with all governmental powers except such as are expressly conferred by law upon other public corporations within such limits and subject to the limitations

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prescribed by the constitution and laws of the State, and with authority to acquire by purchase, condemnation or otherwise property within and without its limits, and to perform any function or service or to have any authority permitted by law outside its limits. [Ch. 1903, sec. 3; am. May 3, 1913, sec. 2; rev. 1914, sec. 3; 1928 pub., sec. 3; 1942 recod., sec. 1-103; rev. May 18, 1962.]

Section 1-103. Legal Proceedings. Suits, actions and proceedings whether civil or criminal may be brought in the name of the City of Portland for the recovery of any property, for enforcement of any rights of the City or the public for whom the City may act, arising in contract or otherwise, and for the enforcement of City laws, whether arising, accruing or enacted before or after the adoption of this amendment. [Ch. 1903, sec. 5; rev. 1914, sec. 5; 1928 pub., sec. 5; 1942 recod., sec. 1-105; rev. May 18, 1962.]

Section 1-104. Alienability of Public Places and Property and Limitations Thereon. The City of Portland may not divest itself of title it has or may acquire in and to water front, wharf property, land under water and made land built upon same, or any lands on the water side of the high water or meander lines of navigable waters as established by the original United States surveys and conformed to by the original plats of the City of Portland, or any landing, wharf, dock, highway, bridge, avenue, street, alley, lane, park or any other public place, or like property that it may now own or hereafter may acquire, except as set forth in this Charter or as provided by statute.

The City may vacate street area if such vacation would not interfere with reasonable access to the water front or any transportation terminal. Favorable vote of at least four-fifths of all members of the Council shall be required for any ordinance of vacation. The Council may impose such conditions upon the street vacation as it deems appropriate in the public interest. This Section shall not be deemed to prevent replatting of subdivisions wherever situated, nor relocation of streets.

A street shall be held to fulfill its function as a street by being used in any way for the purpose of travel, transportation or distribution by or for the public; and where a street abuts or terminates against a waterway or connects with a railroad terminal it may be occupied by any structure or machinery facilitating or necessary to travel, transportation or distribution, or facilities for the protection of persons or property, which does not prevent access of the public to uses provided; and this clause shall include and apply to all structures necessary in the improvement of the public docks.

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Wharves, docks, port and harbor facilities and other City-owned property or structures may be rented, leased or pledged, provided that the present or future right of the public to use thereof is preserved or will be promoted.

No dedication by the City of any park, playground or public place shall be terminated unless the Council finds that such dedicated area is no longer needed for the dedication purpose, or that another public use has a greater need for such property, or that another location would further the public use. When such dedication is terminated, the property may be leased, sold or exchanged.

The Council may rent or lease area below or above parks, public places, streets, viaducts, tunnels and other facilities, where the public use is preserved.

The City may sell, dispose of or exchange any buildings, structures or property, real or personal, which it owns or may acquire not needed for public use, by negotiation, bid, auction or any other method the Council finds appropriate. Favorable vote of at least four-fifths of all members of the Council shall be necessary for any ordinance authorizing such sale, disposal or exchange. The City may sell property on contract for such term as the Council finds appropriate, notwithstanding any term limit elsewhere prescribed in the Charter. In cases where property to be exchanged is held by the City upon any trust (including property held as security for bond issues) the property received in exchange shall be similarly held and any net income therefrom shall be applied to such trust.

The City may rent or lease property which will not be needed for public use during the term of the rental or lease for any term permitted by statute. [Ch. 1903, part of sec. 93; am. June 5, 1911, part of sec. 93; am. Nov. 2, 1912, part of sec. 93; am. May 3, 1913, part of sec. 66; rev. 1914, sec. 7; am. June 7, 1921; 1928 pub., sec. 7; 1942 recod., sec. 1-107; new sec. Nov. 2, 1948; rev. May 18, 1962.]

Section 1-105. Nonliability for Defective Sidewalks, Etc. No recourse shall be had against the City for damage or loss to person or property suffered or sustained by reason of the defective condition of any sidewalk, curb, street, avenue, lane, alley, court or place, or by reason of the defective condition of any sewer, or by reason of any defective drainage, whether any of said defects originally existed, or whether they were occasioned by construction, excavation or embankment; nor shall there be any recourse against the City for want of repair of any sidewalk, curb, street, avenue, lane, alley, court or place, or by want of repair of any sewer; nor shall there be any recourse against the City for damage to person or property suffered or sustained by reason of accident on sidewalk,

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curb, street, avenue, lane, alley, court or place or by falling from any embankment thereon or into any excavation therein; but in such case the person or persons on whom the law may have imposed the obligation to repair such defect in the sidewalk, curb, street, or public highway, or in the sewer, and also the officer or officers through whose official negligence such defect remains unrepaired shall be jointly and severally liable to the party injured for the damage sustained. [Ch. 1903, sec. 8; rev. 1914, sec. 281; 1928 pub., sec. 281; 1942 recod., sec. 1-110; rev. May 18, 1962.]

Section 1-106. Damage Claims, Insurance. Notice of and claims for damages arising out of the alleged torts of the City and those of its officers, employees and agents acting within the scope of their employment or duties, must be presented to the City Attorney within the time prescribed by law. The Council shall establish a Loss Reserve Fund and shall annually budget an amount sufficient to maintain such Fund on an actuarially sound basis. The monies in such Fund may be invested and reinvested in the like manner with other City funds and the earnings from such investment and reinvestment shall be credited to the Fund. Payments may be made from the Loss Reserve Fund to pay claims against the City, its officers, employees and agents, procure insurance against such liability, and pay costs related to the payment of claims including but not limited to payment of investigative, legal and administrative expenses. In the event the Council shall deem it advantageous to procure insurance against claims, the existence of insurance shall be considered in determining the funding necessary to maintain the Loss Reserve Fund on an actuarially sound basis. The Commissioner In Charge may negotiate, compromise and settle any claims and may authorize the payment of any claim in an amount not to exceed five thousand dollars (\$5,000). Payment exceeding five thousand dollars (\$5,000) for any claim must be authorized by an ordinance. [Ch. 1903, sec. 9; rev. 1914, sec. 282; 1928 pub., sec. 282; 1942 recod., sec. 1-111; rev. May 18, 1962; rev. Nov. 2, 1976; am. May 20, 1986.]

Section 1-107. Certain Fair and Moral Obligations May Be Paid. To the end that the Council may provide for paying claims which it finds to be fair and moral obligations of the City but limited to claims that are barred by Charter exemption or by reason of governmental immunity or that are asserted by employees for the replacement of personal property damaged in the course of performing their employment duties, it may in its discretion direct payment or settlement, provided that an affidavit of the claimant or person representing the claimant and having knowledge of the facts is filed with the City Attorney within thirty (30) days after the event which caused the claim (unless the Council, upon proof of a good excuse, permits later filing) showing therein the name, age, and address of the claimant,

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the time and facts which give rise to the claim, the persons present, if any, able to substantiate the facts and circumstances, the name of the City officer or employee first contacted with reference to the claim, the name and address of the physician and/or surgeon who attended the claimant if the claim be based on personal injury treated by a physician or surgeon, a description of the injuries if personal injury was sustained, a particular statement of the damage, if real and/or personal property was damaged, the places of residence and address of the claimant during three (3) years preceding the claim, a detail of the expense constituting the claim, in so far as expense shall have been and/or probably will be incurred, and such other data as will give the City an opportunity to readily ascertain the facts, extent of injury, cost resulting therefrom and the integrity of the claimant. When insurance (covering the claimant, the City or the City employee involved) applies, the claim shall not be allowed as to any portion covered by the insurance. No claim shall be allowed the enforcement of which would be barred by the statute of limitations, and no payment shall be made unless the claimant accepts the amounts allowed as in full compromise and settlement of all amounts claimed or to be claimed against the City, its officers or employees arising from the same facts. In the event that no settlement is made, nothing herein contained or done hereunder shall prejudice the City in any defense that it may have in any suit or action. Nothing contained herein shall be construed as giving any right to institute or maintain any suit or action which would not otherwise exist. [May 17, 1946, new sec., 1-112; recod., May 18, 1962; am. May 20, 1980; am. May 20, 1986.]

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.)

ARTICLE 2. BOUNDARIES AND ANNEXATION.

Section 1-201. Boundaries. All property surrounded by the corporate limits of the City of Portland as described and officially filed from time to time as set forth in this Section is hereby embraced within the City of Portland. Within ten (10) days after this amendment becomes effective and the official canvass of votes is completed and results of election on this amendment are proclaimed, the Council

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shall adopt a resolution describing such boundaries. Certified copies of such resolution shall be filed with the Secretary of State and the librarian of the Supreme Court of the State of Oregon, with the County Commission or county court of each county in which a portion of the City is located, and with the Clerk, Assessor, Surveyor, Engineer, Elections Officer, and Tax Supervising and Conservation Commission, if any, of each such county, and such other official as may be required by statute. [Ch. 1903, sec. 12; rev. 1914, sec. 9; 1928 pub., sec. 9; 1942 recod., sec. 1-201; am. May 18, 1962; am. May 20, 1986.]

Section 1-202. Annexations. The City of Portland may annex additional territory and other cities or areas may be consolidated or merged with the City in any manner permitted by statute. [Ch. 1903, sec. 13; rev. 1914, sec. 10; 1928 pub., sec. 10; 1942 recod., sec. 1-202; am. May 18, 1962.]

Section 1-203. Boundary Changes. Within ten (10) days after the effective date of any annexation or ten (10) days after the proclamation of results of any election on merger or consolidation, if such merger or consolidation is successful, the Council shall adopt a resolution describing the new boundaries, certified copies of which shall be filed as set forth in Section 1-201 of this Charter. [Ch. 1903, sec. 17; rev. 1914 sec. 14; 1928 pub., sec. 14; 1942 recod., sec. 1-206; rev. May 18, 1962.]

CHARTER, CITY OF PORTLAND, OREGON

CHAPTER 2

GOVERNMENT

ARTICLE 1. THE COUNCIL.

Section 2-101. Municipal Powers Vested In Council. The power and authority given to the municipal corporation of the City of Portland hereby is vested in a Council, subject to the initiative and referendum and other powers reserved to the people by the constitution of the State of Oregon as defined and prescribed by the provisions of the constitution and general laws relating thereto, and by the provisions of this Charter. [May 3, 1913, new sec. 6; rev. 1914, sec. 20; 1928 pub., sec 20; 1942 recod., sec. 2-101; am. Nov. 6, 1962.]

Section 2-102. City Council. The City Council of the City of Portland shall consist of a Mayor and four (4) Commissioners. [1942 recod., sec. 2-101; rev. Nov. 6, 1962.]

Section 2-103. Boards and Commissions. The Council may create and establish such boards and commissions as it may deem necessary in addition to boards and commissions established by this Charter, and may abolish or alter from time to time any boards or commissions it has established or may establish. All powers and duties of abolished boards and commissions shall be exercised and performed by the Council. [1942 recod., sec. 2-102; sec. 2-103; am. Nov. 6, 1962.]

Section 2-104. General Powers. The Council shall have and exercise all powers and authority conferred upon the City of Portland by this Charter or by general law, except where such power is herein expressly bestowed upon some other officer, board or commission to the exclusion of the Council. The Council may delegate any of its nonlegislative functions or powers to subordinate officers, boards or commissions as it may find appropriate. [May 3, 1913, part of new sec. 56; rev. 1914, sec. 18; 1928 pub., sec. 18; 1942 recod., sec. 2-104; am. Nov. 6, 1962.]

Section 2-105. Continuation of Specific Powers. The City of Portland by its Council has power and authority, subject to the provisions, limitations and restrictions contained in this Charter or in statute, to exercise any power or authority granted to the City by statute, general or special, or by this Charter, and may do any other act necessary or appropriate to carry out such authority, or exercise any other power implied by the specific power granted. [Ch. 1903, sec.

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73; May 3, 1913, new sec. 34; rev. 1914, sec. 34; 1928 pub., sec. 34; 1942 recod., sec. 2-105; am. Nov. 6, 1962.]

(a) Among such specific powers, the City has power and authority:

1. To exercise within the City and City-owned property, all the powers commonly known as the police power to the same extent as the State of Oregon has or could exercise said power within said areas, and to make and enforce within said areas all necessary or appropriate water, local, police, sanitary and safety laws and regulations.
2. To secure the protection of persons and property and to provide for the health, cleanliness, ornament, peace, safety and good order of the City.
3. To provide for entering into contracts by the City for a period not exceeding five (5) years and the extension or renewal thereof by option or otherwise, for not to exceed an additional five (5) years, except as to property contracts which may extend for more than five (5) years, or as otherwise permitted by this Charter or by statute.
4. To enter into agreements without limitation as to term, as the Council finds appropriate, for cooperation, consolidation of services, joint acquisition or ownership and maintenance of facilities or services, with any other public corporation or unit of government.
5. To establish, construct, maintain, equip and alter buildings and facilities found necessary or appropriate for administration of government or for use by or for the public.
6. To purchase, or acquire by condemnation or otherwise, or to lease, for such term as the Council may find appropriate, which need not be limited to five (5) years, such property, real and personal, as may be needed for public use; in purchasing property, to enter into lease-purchase agreements or other contracts of purchase which may extend for more than a five (5) year period; to obtain options; and to mortgage for the term of the purchase as security for the purchase price the property being purchased. In exercising this power and authority, only the payments to be made during the year in which the purchase, condemnation, lease, lease-purchase, option, or purchase price mortgage is entered into shall be considered for purposes of applying Section 7-102 thereto. [Am. Nov. 4, 1980.]

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- 7.** To provide for the purchase of property levied upon under execution in favor of the City.
- 8.** To purchase, take and hold real or personal property when sold for a delinquent tax or assessment levied or imposed under the authority of the City of Portland, and to sell and convey the same. But the sum bid by the City on or for any such property so sold for a delinquent tax or assessment, shall not exceed the amount of all taxes and assessments plus interest and penalties, and the necessary costs and expenses.
- 9.** To sell by bid or public auction abandoned or impounded and unclaimed property, and property for which storage charges and removal charges, if any, have not been paid.
- 10.** To provide a seal for the City and seals for the several boards and officers thereof.
- 11.** To establish and regulate the fees and compensation of all officers of the City, and for all official services not otherwise provided for in this Charter.
- 12.** To fix by ordinance the hours during which all offices and departments of the City shall be kept open for business.
- 13.** To appropriate money to pay the debts, liabilities and expenditures of the City or any part or item thereof.
- 14.** To appropriate annually to the Mayor two thousand dollars (\$2,000) as and for a secret service Fund, for which the Mayor need furnish no vouchers, and such appropriation shall be made.
- 15.** To issue City bonds authorized by this Charter or statute or expressly authorized by vote of the City electors, certificates, warrants, checks and other evidences of indebtedness, but otherwise the City shall not have the power to issue its bonds for any indebtedness or for any purpose, or to increase the bonded indebtedness of the City in any amount or for any purpose whatsoever.
- 16.** To fix fees for establishing street grades, surveying and marking the boundaries of streets, lots or blocks, granting permits for the opening or temporary use of street surfaces, planning of improvements, laying sidewalks,

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vacating street area, processing of all types of applications, erection and inspection of buildings or facilities, and any special services or functions performed by the City or bureaus thereof.

17. To grant licenses with the object of raising revenue or of regulation, or both, for any and all lawful acts, things or purposes, and to fix by ordinance the amount to be paid therefor, and to provide for the revoking of the same. No license shall be granted to continue for a longer period than one year from the date thereof.

18. To provide for the opening, laying out, establishing, altering, extending, widening, enlarging, vacating and closing, or for establishing and changing the grades, of streets, squares, parks or public places, and to provide for the improving and repairing of streets, squares, parks and public places or of any land over which any right of way has been obtained or granted for any purpose of public travel or use, by means of any kind of work, improvement or repair which the Council finds necessary or appropriate.

19. To provide for lighting the streets, public grounds, buildings and places, and furnishing the City with light, heat and power, by contract or by means of its own plant.

20. To provide for surveying the blocks and streets of the City and for marking the boundary lines of such blocks and streets; to change by ordinance the number, letter or designation of any lot, block or tract of land within the City which may be conflicting or otherwise unsuitable and to give by ordinance a designation to any tract of land within the City not numbered, lettered or designated. A certified copy of such ordinance shall be transmitted by the Auditor to the recording officer of the County, who shall record the same in the record of plats of said County and shall make a reference to the record of such ordinance upon the recorded plat on file. No charge shall be made by the recording officer.

21. To set apart as a boulevard or boulevards any street or streets, or portion thereof.

22. To regulate the numbering of houses and lots on the streets, boulevards and avenues and the naming of streets, boulevards and avenues.

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23. To regulate and control for any and every purpose the use of streets, highways, alleys, sidewalks, public thoroughfares, and public places within the City and City parks and properties within or without the City, and to regulate the use of streets, roads, highways and public places for transportation or use of every description, and for installation of any kind.

24. To provide or require conduits under the streets, lanes, alleys and public places of the City or any part or parts thereof for the use of telephone, telegraph, electric light and other wires, or for other purposes, either by constructing said conduits itself or authorizing or requiring their construction by others upon such terms and conditions as the Council may impose, and to regulate and control the use of such conduits, and to prescribe and establish reasonable rentals to be paid by any person or company using any of said conduits by whomsoever the same may be constructed for the use thereof, and to provide for the collection of such rentals, in addition to the ordinary processes, by such summary methods as it may deem proper. If any such grant be made to any person, firm or corporation, such grantee shall not have power to sublet the same or the use of the same to any person, firm or corporation engaged in selling, hiring, leasing or otherwise receiving any income from the business or purpose for which it desires to use such conduits, without such person, firm or corporation first obtaining, as provided in this Charter, a franchise for such business, purpose or use.

25. To regulate, restrain and prevent obstructions within the public streets, sidewalks and places and to make all needful regulations to keep and maintain the public streets, sidewalks and places in a clean, open and safe condition for public use; to provide for the removal, impounding and sale or other disposition of such obstructions, and to make the cost of removal a lien upon any property from which such obstruction originated or to which such obstruction was attached, to be placed upon the lien docket and collected as the Council may direct.

26. To control and limit traffic and classes thereof, and vehicles and classes thereof on the streets, avenues and elsewhere.

27. To prevent and prohibit planting of trees or shrubbery which may be detrimental to sewers, streets, sidewalks, utilities lines, fire hydrants, or use thereof, or which may interfere with safe travel or vision or may constitute a nuisance, and to cause such trees or shrubbery to be cut down or removed and to make the cost of such cutting or removal a lien upon the property, to

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be placed upon the lien docket and collected as the Council may direct.

28. To prescribe rates to be charged for transportation of passengers or property within the City and area outside the City over which City jurisdiction is authorized or recognized by statute, by means of vehicles of every description.

29. To provide for the establishment of market houses and places, and transportation terminals, and to regulate the location and management thereof.

30. To provide for the location, construction, repair and maintenance in or outside the City, of any ditch, canal, pipe or other facility for the impoundment, storage or conduct of water, and any drain, sewer or culvert or other facility in or outside the City for conduct, storage or treatment of storm or sanitary drainage or both, as it may deem necessary or convenient; for such purpose to enter upon any land for the purpose of examining, locating and surveying the line or location of such water or sewer facility, doing no unnecessary damage thereby; to appropriate said land or so much thereof as may be necessary for the construction or installation of said facility in any manner permitted by the laws of this State; to appropriate and divert from its natural course or channel temporarily or permanently, any spring or stream of water; and to compel the extension of utility connections from the main line or pipe to the curb line, property line or the sidewalks of all public streets, as the Council may determine.

31. To provide for furnishing the City and its residents with water, and to sell water to or for nonresidents.

32. To regulate the plumbing, drainage and sewerage of buildings and structures and the installation and use of appliances or facilities for heat, light, cooling and energy; to provide for the registration and qualification of specialists in trades or in installation or use of appliances and facilities; to provide inspection for such installation or use.

33. To compel all persons erecting or maintaining privies, water closets or other toilets or cesspools, septic tanks or private sanitary sewerage systems within one hundred (100) feet or one-half block, whichever is greater, of any street in which a public sewer has or may hereafter be constructed, to connect the same therewith; and where a public sewer is not available, to

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prescribe disposal so as to protect the public, property, health and welfare.

34. To regulate, restrain and prohibit use of public sewers for any substance which may be harmful or detrimental to the sewers, to sewage disposal and treatment, or hazardous to workers, to property or to the public.

35. To regulate the construction, care, use and management of buildings and structures in the City for the better protection of the lives and health of persons dwelling in or using the same or of the public, and for the public welfare.

36. To regulate, restrain and to provide for the exclusion from the City, or any part thereof, of trades, occupations or businesses which are offensive or may in the opinion of the Council create or constitute a nuisance, and to regulate uses of land and structures within the City.

37. To prevent the erection or cause the removal, demolition or repair of buildings or structures wherever situated, found to be unsafe or dangerous to the occupants, to passers-by or to other property, or which are found to obstruct a street, and to make the cost of such removal, tearing down or repair a lien upon the property, which liens may upon the order of the Council be entered into the docket of City liens and thereafter collected in such manner as the Council may direct.

38. To regulate or prevent the moving of buildings or structures over City streets and limit the locations to which such buildings or structures may be moved.

39. To define and classify the fire limits and to prohibit the erection or repair of buildings constructed of particular materials within all or any such fire limits.

40. To regulate or limit the height, construction, size, materials, setbacks, yards, inspection and repair of all private and public buildings, structures, and fences within the City and to provide City inspection thereof.

41. To require adequate fire escapes, apparatus and appliances for protection against fire, to be provided in buildings and structures, or in connection with specific uses.

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- 42.** To make regulations to prevent the introduction of contagious diseases into the City, and to remove persons afflicted with such diseases to suitable hospitals which the City may designate or provide for that purpose either within or without said City; and to regulate such hospitals.
- 43.** To provide a standard of weights and measures and to authorize inspection of weights, measures, food, beverages, and fuel; to regulate the commodity, size, weight and ingredients of food or beverage products and fuel, and to prevent the sale of adulterated, unhealthful or unwholesome food and beverages, and to provide for the seizure and forfeiture of food or food products, beverages and fuel offered for sale or sold contrary to said regulations.
- 44.** To prevent and remove nuisances, to declare what shall constitute the same, to punish persons committing or suffering nuisances, to provide the manner of removal of nuisances, and to make the cost of such removal a lien upon the property where such nuisance existed; and to fill up or drain any lots, blocks or parcels of land subject to flood or where any stagnant water stands, to declare the same a nuisance, and to make the cost of filling up or draining the same a lien upon the property so filled or drained. Liens for abatement of nuisances may upon the order of the Council be entered in the docket of City liens and thereafter collected in such manner as the Council may direct.
- 45.** To regulate or prevent the storage, manufacture, sale, use and transportation of dangerous, explosive, radioactive or combustible materials or weapons, and to provide for the inspection of the same, and to prevent by all proper means risks of injury or damage therefrom.
- 46.** To regulate, prevent and prohibit loud or unnecessary noise.
- 47.** To prevent trespassing and punish trespassers upon real and personal property.
- 48.** To restrain and punish intoxication, fighting and quarreling in the City, and any disturbance, riot or riotous assemblage or participation therein, or any unlawful or indecent practice, and to define what shall constitute the same.
- 49.** To prevent and suppress gaming and gambling houses, lotteries or

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places where any game in which chance predominates is played for anything of value, and to punish any person who engages in such game, or keeps or frequents such houses or sets up or promotes lotteries or sells lottery tickets; to prevent and suppress bawdy houses or places where fornication is practiced, and to punish any inmate, keeper or frequenter thereof; to prevent and suppress use of narcotics and dangerous drugs and houses and places kept therefor, and to punish any keeper of such house or place, or person who frequents the same.

50. To prevent the sale, circulation, display and disposition of obscene matter, including books, papers, prints, pictures, films and other material, and of obscene advertisements of any kind, and to punish any person who sells or offers for sale, displays or who circulates or disposes of such literature, books, papers, prints, pictures, films, advertising matter and other material, and to define and declare from time to time what literature, books, papers, prints, pictures, films, advertising matter and other material are obscene within the purposes and province of this provision.

51. To define what constitutes vagrancy, and to provide for the support, restraint, punishment and employment of vagrants and paupers.

52. To prohibit persons from roaming the streets at unseasonable hours.

53. To prohibit and prevent cruelty to children and animals; to appropriate such sums as may be paid into the treasury from fines collected on conviction of persons charged with cruelty to animals or children, and to authorize the payment of the same or any part thereof to any person or society that shall have officially aided in such conviction.

54. To prohibit the exhibition of deformed or crippled persons, and to prohibit all persons from begging upon the streets or in public places.

55. To provide for the punishment by fine of not less than twenty-five dollars (\$25) nor more than one thousand dollars (\$1,000), or by imprisonment not exceeding two (2) years, or both, of any person or persons who may injure, deface, interfere with or destroy any property belonging to the City or in which the City has any interest, right or estate, and to provide that the district court or the circuit court of the State of Oregon for the County of Multnomah shall have jurisdiction to enforce such punishment or punishments.

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56. To establish, change, discontinue, or re-establish City jails, prisons, police stations, workhouses and houses of detention, punishment, confinement or rehabilitation, within or without the City.
57. To regulate and restrain the keeping of all pets, birds, fowl, reptiles, and animals of any kind, and to prevent any and all animals from running at large within the City or any part thereof, and to punish persons who allow animals to run at large or to be unlicensed; to provide for impounding, sale and disposition when found at large, or when kept against City regulations or when no license has been obtained or tax paid as provided by the Council.
58. To regulate, prevent and prohibit the erection, maintenance or display of signboards, billboards, signs, posters and advertisements designed to attract the attention of persons on sidewalks, streets or public places.
59. To regulate and prohibit the exhibition and hanging of material in or across the street or from houses or other buildings or structures.
60. To regulate and control water-borne commerce and recreational uses within the City, and uses of and activities in or upon bodies of water within the City.
61. To provide for the removal of obstructions, debris and deleterious matter from waters within the City limits and to prohibit putting or negligently or willfully suffering the same to be put therein.
62. To regulate the building of wharves, and the driving of piles in any body of water or watercourse within the limits of the City and to establish lines beyond which wharves shall not be built nor piles be driven.
63. To provide for the construction and regulation of public facilities and landings at the foot of the streets terminating at a watercourse or body of water within the City.
64. To appropriate money for the deepening, widening, docking, covering, walling, altering or changing channels, water, or watercourses within the City, and to provide for the construction and maintenance of canals, slips, public landing places, wharves, docks and levees, and all such other work as may be required for the accommodation of commerce or recreation; to control and regulate the use thereof and to provide for the acquisition by condemnation

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or otherwise of all such work or works by the City, and for the construction, maintenance and ownership of the same by the City.

65. To provide for entering into contracts by the City with publicly or privately owned utilities or other governmental agencies for a period not exceeding forty (40) years for the transmission, sale or exchange of the capacity of and electric power generated by hydroelectric power generating facilities owned by the City and for operation and maintenance of the facilities.

Section 2-106. Enumeration of Powers not a Limitation. The foregoing or other enumeration of particular powers granted to the Council in this Charter shall not be construed to impair any grant of power herein contained, express or implied, nor to limit any such general grant to powers of the same class or classes as those so enumerated. The City Council may exercise any power or authority granted by Oregon statute to municipal corporations at any time and also to cities of a class which includes the City of Portland. [Ch. 1903, sec. 74; rev. 1914, sec. 36; 1928 pub., sec. 36; 1942 recod., sec. 2-120; rev. Nov. 6, 1962.]

Section 2-107. Punishment for Ordinance Violations. The Council has power and authority, subject to the provisions, limitations and restrictions contained in this Charter, to provide for the punishment of a violation of any ordinance of the City by a fine or by imprisonment, or by both. Such imprisonment shall be for a term not exceeding six (6) months. In addition to the foregoing penalties, forfeiture of property or license of any kind may be provided. The limitations as to length of sentence contained in this Section shall not apply to any offense for which different limitations are fixed elsewhere in this Charter. [Ch. 1903 subdn. 3, sec. 73; rev. May 3, 1913, effective in July; new sec. June 2, 1913; subdn. 3, sec. 73; rev. 1914; sec. 35; 1928 pub., sec. 35; 1942 recod., sec. 2-106; rev. Nov. 6, 1962; am. Dec. 14, 1971; am. May 20, 1980.]

Section 2-108. Emergency Fund. There shall be annually appropriated and set apart the sum of five thousand dollars (\$5,000) to be known as the Emergency Fund of the Council and the Council may use and expend such Fund, or any part thereof, in its discretion for any purpose it may deem proper or advantageous to the public welfare, and shall not be required to furnish vouchers showing the purposes for which such expenditures were made. No part of such Fund shall be used as compensation or additional salary or for the personal benefit of the Mayor or any Commissioner. [May 3, 1913, new sec. 33; rev. 1914, sec. 31; 1928 pub., sec. 31; 1942 recod., sec. 2-117; rev. Nov. 6, 1962.]

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Section 2-109. Investigations. The Council, or a committee of the Council duly authorized by it, may investigate any board or department of the City government, and the official acts and conduct of any City officer, employee, or agent; and for the purpose of ascertaining facts in connection with such investigation, shall have full power to compel the attendance and testimony of witnesses, to administer oaths, and to examine such persons as it may deem necessary, and to compel the production of books, documents, and other evidence. Willful false swearing in such investigations and examinations shall be perjury, and punishable as such under the laws of the State of Oregon. [Ch. 1903, sec.47; rev. 1914, sec. 32; 1928 pub., sec. 32; 1942 recod., sec. 2-118; rev. Nov. 6, 1962.]

Section 2-110. Organization. At its first regular meeting each calendar year, or oftener at its option, the Council shall elect a President by majority vote. The Mayor shall preside at all meetings of the Council. In the Mayor's absence or disability, the President of the Council shall perform the duties of the Mayor. In the absence or disability of both President and Mayor, the other members of the Council shall select one of their number to perform the duties of President and Mayor during such absence. [May 3, 1913, new sec. 35; rev. 1914, sec. 37; 1928 pub., sec. 37; 1942 recod., sec. 2-121; rev. Nov. 6, 1962.]

Section 2-111. Rules of Procedure. The Council shall determine its own rules of procedure, may punish its members for disorderly conduct, and may compel the attendance of members. [May 3, 1913, new sec. 19; rev. 1914, sec. 41; 1928 pub., sec. 41; 1942 recod., sec. 2-122; am. Nov. 6, 1962.]

Section 2-112. Meetings and Journal. All regular and special meetings of the Council shall be public. It shall hold one regular legislative meeting each week, and such other meetings as it may prescribe. The Council shall keep a journal of its proceedings which shall be a public record. [May 3, 1913, new sec. 20; rev. 1914, sec. 42; 1928 pub., sec. 42; 1942 recod., sec. 2-123; rev. Nov. 6, 1962.]

Section 2-113. Calendar. The Auditor shall produce for distribution at least twenty-four (24) hours before each legislative session a summary of all matters to come before the Council at the next regular legislative session. Only matters contained in said summary shall be considered at such legislative session unless four (4) members of the Council shall vote to consider otherwise. [May 3, 1913, new sec. 30; rev. 1914, sec. 38; 1928 pub., sec. 38; 1942 recod., sec. 2-124; rev. Nov. 6, 1962; am. May 19, 1994.]

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Section 2-114. Quorum. At any meeting of the Council a majority of the total number shall constitute a quorum, but a lesser number may adjourn or recess from time to time, and may compel the attendance of absent members. [May 3, 1913, new sec. 21; rev. 1914, sec. 43; 1928 pub., sec. 43; 1942 recod., sec. 2-125; rev. Nov. 6, 1962.]

Section 2-115. Privilege in Debate. A member of the Council for words uttered in debate therein shall not be questioned in any other place. [May 3, 1913, new sec. 32; rev. 1914, sec. 40; 1928 pub., sec. 40; 1942 recod., sec. 2-126; rev. Nov. 6, 1962.]

Section 2-116. Aye and Nay Vote. Upon the request of any member the ayes and nays shall be taken and recorded upon any action or resolution. [May 3, 1913, new sec. 31; rev. 1914, sec. 39; 1928 pub., sec. 39; 1942 recod., sec. 2-127; rev. Nov. 6, 1962.]

Section 2-117. Transaction of Business. In the transaction of legislative or judicial business the Council shall act only by the ordinance. The ayes and nays shall be taken upon the passage of all ordinances and entered upon the journal of the proceedings of the Council. Every member when present must vote, unless the remainder of the Council approves the member's excuse for disqualification, and every ordinance shall require the affirmative vote of three (3) members. [May 3, 1913, new sec. 22; rev. 1914, sec. 44; 1928 pub., sec. 44; 1942 recod., sec. 2-128; rev. Nov. 6, 1962.]

Section 2-118. Ordinances, Subject. No ordinance, except one making an appropriation, shall contain more than one general subject; ordinances making appropriations shall be confined to the subject of appropriations. [May 3, 1913, new sec. 23; rev. 1914, sec. 45; 1928 pub., sec. 45; 1942 recod., sec. 2-129; rev. Nov. 6, 1962.]

Section 2-119. Ordinances, Enacting Clause. The enacting clause of all ordinances shall be the words "The City of Portland ordains." [May 3, 1913, new sec. 24; rev. 1914, sec. 46; 1928 pub., sec. 46; 1942 recod., sec. 2-130; rev. Nov. 6, 1962.]

Section 2-120. Ordinances, Passage. Every ordinance except an emergency ordinance shall have two (2) public readings of its title or the effect thereof. At least five (5) days shall elapse between the introduction and final passage of any ordinance and no ordinance shall be amended within five (5) days of its final

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passage except in the case of an emergency ordinance. An emergency ordinance shall have one public reading of its title or the effect thereof and may be enacted upon the date of its introduction, providing that it contains the statement that an emergency exists and specifies with distinctness the facts or reasons constituting such emergency. The unanimous vote of all members of the Council present, and of not less than four (4) members shall be required to pass an emergency ordinance. [May 3, 1913, new sec. 25; rev. 1914, sec. 47; 1928 pub., sec. 47; 1942 recod., sec. 2-131; rev. Nov. 6, 1962; am. May 20, 1980.]

Section 2-121. Ordinances, Amendments and Repeals. Amendments or repeals of ordinances, or sections thereof, shall also be by ordinance. [May 3, 1913, new sec. 28; rev. 1914, sec. 50; 1928 pub., sec. 50; 1942 recod., sec. 2-132; rev. Nov. 6, 1962.]

Section 2-122. Ordinances, Attestation. An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor. [May 3, 1913, part of new sec. 29; rev. 1914, sec. 51; 1928 pub., sec. 51; 1942 recod., sec. 2-133; rev. Nov. 6, 1962; am. May 20, 1980; am. May 18, 1994.]

Section 2-123. Ordinances, Effective Date. Ordinances (a) making appropriations and the annual tax levy, (b) relative to local improvements and assessments thereof, and (c) emergency ordinances, shall take effect immediately upon their passage, or any special date less than thirty (30) days after passage, specifically fixed in such ordinance. All other ordinances enacted by the Council shall take effect thirty (30) days after their passage unless a later date is fixed therein, in which event they shall take effect at such later date, subject to referendum if legislative, and subject to the provisions of this Charter relating to objections. [May 3, 1913, new sec. 26; rev. 1914, sec. 48; 1928 pub., sec. 48, 1942 recod., sec. 2-134. rev. Nov. 6, 1962.]

Section 2-124. Ordinances, Objections. At any time within ten (10) days after the passage of any ordinance which shall not take effect immediately, any member of the Council may file, in writing, objections to said ordinance, which shall be considered and voted upon by the Council at its next regular meeting. If a majority shall vote to sustain such objections, the ordinance shall be deemed repealed and shall not take effect unless again passed in the same manner as a new ordinance. If a majority shall vote not to sustain such objections, the same shall have no effect on the ordinance. The objections, together with the vote thereon, shall be preserved on record. [May 3, 1913, part of new sec. 29; rev. 1914, sec. 52; 1928

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pub., sec. 52; 1942 recod., sec. 2-135; rev. Nov. 6, 1962.]

Section 2-125. Ordinances, Continuance of Existing. All existing ordinances of the City of Portland, in force when this Charter revision takes effect and not inconsistent herewith, or constituting a contract between the City and another person, shall be and remain in full force until repealed or until they expire by limitation contained therein. [Ch. 1903, sec. 52; rev. 1914, sec. 53; 1928 pub., sec. 53; 1942 recod., sec. 2-136; rev. Nov. 6, 1962.]

Section 2-126. Promotion of Industry. The City Council shall have authority to promote industrial growth and assist in securing additional business and industry within the City, and to that end the Council may make appropriations and expenditures from the General Fund for advertising the advantages of the City, for assisting private industry and business enterprises in obtaining contracts or business, for assisting new business or industry to find locations in or adjacent to the City, and for such other promotional activities as the Council may find appropriate. The Council may cooperate with any non-profit organization or other governmental agency in carrying out the purposes of this Section. [May 16, 1952; sec. 2-137, new sec.; rev. Nov. 6, 1962.]

Section 2-127. Consent Agenda. Notwithstanding the provisions of Sections 2-116, 2-117, and 2-120 of this Charter, the Council by rule may publish a procedure under which any ordinance, resolution or other action may be placed on a consent agenda. At any meeting at which there is a consent agenda on the calendar, the ayes and nays shall be taken upon the passage of all items on the consent agenda by a single Council vote. It shall not be necessary that there be a reading or readings of the titles or the effect of the items on a consent agenda or that time elapse between the introduction and final passage of the items. The unanimous vote of all members of the Council present, and of not less than four (4) members, shall be required to pass a consent agenda. All items to be contained in a consent agenda shall be so listed in the summary of matters to come before the Council prepared under Section 2-113 of this Charter. Items on a consent agenda shall not be subject to amendment or debate. Any item shall be removed from a consent agenda on the request of a Council member, or on the request of any person who wished to be heard on the item, provided the request is made prior to taking the ayes and nays on the consent agenda. An item so removed from a consent agenda shall be treated as a regular calendar item for the meeting for which it was on the consent agenda. [May 20, 1980.]

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ARTICLE 2. ELECTIVE OFFICES.

Section 2-201. Elective Officers. There shall be no elective officers of the City of Portland other than the Mayor, four (4) Commissioners and the Auditor. All said officers shall be elected at large by the legal voters of the City of Portland and for a term of four (4) years, except as otherwise provided. [May 3, 1913, new secs. 7 and 8; rev. 1914, sec. 21; 1928 pub., sec. 21; 1942 recod., sec. 2-107; rev. Nov. 6, 1962.]

Section 2-202. Qualifications. Each elected official shall be a citizen of the United States and of the State of Oregon, and a registered voter who shall have been a resident of the City of Portland or of an area which has become part of the City prior to filing the declaration of candidacy or petition for nomination, for a period of not less than one (1) year immediately preceding the nominating election. If any officer shall be elected without such qualifications or shall cease to have the same, the office shall immediately become vacant. [May 3, 1913, new sec. 9; rev. 1914, sec. 22; 1928 pub., sec. 22; 1942 recod., sec. 2-108; rev. Nov. 6, 1962; am. Dec. 18, 1984.]

Section 2-204. City Business, Time Devoted to. No official appointed or elected to elective office shall, during his or her term of service, hold any other office or position of profit, or pursue any other business or vocation, or serve on or under any committee of any political party. [May 3, 1913, new sec. 14; rev. 1914, sec. 26; 1928 pub., sec. 26; 1942 recod., sec. 2-112; rev. Nov. 6, 1962.]

Section 2-205. Oath of Office. Every official appointed or elected to elective office before entering upon the performance of his or her duties shall take an oath or affirmation that he or she will support the Constitutions of the United States and of the State of Oregon, and will faithfully and honestly discharge his or her duties; that the official holds no other office or position of profit, and that the official is not a member of any committee of any political party. If such oath or affirmation be false in any particular, it shall be deemed a delinquency in office on the part of such official. [May 3, 1913, new sec. 15; rev. 1914, sec. 27; 1928 pub., sec. 27; 1942 recod., sec. 2-113; rev. Nov. 6, 1962.]

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Section 2-206. Vacancies in Office, Filling of Vacancies.

(a) A vacancy in office shall exist when the Mayor, a Commissioner or the Auditor fails to qualify by taking the oath following his or her election, or when any officer or employee dies, resigns, is removed from office, is convicted of a felony, is judicially declared to be mentally incompetent, is convicted of an offense which constitutes corruption, malfeasance or delinquency in office, forfeits his or her office under specific provisions of this Charter, or is elected or appointed to a different office, and qualifies, takes and assumes the duties of such different office.

(b) If a vacancy occurs in an office elective under this Charter more than one hundred (100) days preceding the regular primary election to be held in the fourth year of the term of that office, but less than seventy-one (71) days preceding the regular general election to be held in that year, the Council, by a single resolution, shall call for two (2) special elections not more than forty-five (45) days apart. The first special election will be for the purpose of nomination. It shall be held not more than ninety (90) days after the vacancy occurs, unless the Council finds reasonable cause for delay beyond ninety (90) days. If one candidate receives a majority of the votes cast for the office, that candidate will be deemed elected to fill the unexpired term of the office and the second special election will not be held. If no candidate receives a majority, one of the two candidates receiving the highest number of votes cast in the first special election will be elected to fill the unexpired term in the second special election.

(c) If a vacancy occurs in an office elective under this Charter less than one hundred and one (101) days and more than seventy (70) days preceding the regular primary election to be held in the fourth year of the term of that office, the Council shall call for a special election to be held not more than forty-five (45) days following the regular primary election. The regular primary election will be for the purpose of nomination to fill the unexpired term and nomination of candidates for the next four-year term of the office to be voted upon in the regular general election. If one candidate receives a majority of the votes cast for the office, that candidate will be deemed elected to fill the unexpired term of the office and the special election will not be held. If no candidate receives a majority, one of the two candidates receiving the highest number of votes cast in the regular primary election will be elected to fill the unexpired term in the special election.

(d) If a vacancy occurs in an office elective under this Charter less than

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seventy-one (71) days preceding the regular primary election, but more than seventy (70) days preceding the regular general election, to be held in the fourth year of the term of that office, and the incumbent vacating the office:

(1) Was one of two or more candidates for the same office in the regular primary election, then if an opposing candidate was nominated by a majority of votes cast in that primary, that candidate will be deemed elected to fill the vacated office until the regular general election and the candidate elected at the regular general election will fill the balance of the unexpired term. If no candidate opposing the incumbent was nominated by a majority of votes cast in that primary, the Council shall call for a special primary election as provided in paragraph (2) of this subsection.

(2) Was an unopposed candidate for the same office in the regular primary election, then the Council shall call for a special primary election. If the special primary election is held less than one hundred and one (101) days preceding the regular general election and no candidate is nominated by a majority of votes cast, the candidate elected in the regular election will fill the balance of the unexpired term. If the special primary election is held less than one hundred and one (101) days preceding the regular general election and a candidate is nominated by a majority of votes cast, that candidate will be deemed elected to fill the balance of the unexpired term. If the special primary election is held more than one hundred (100) days preceding the regular general election and a candidate is nominated by a majority of votes cast, that candidate will be deemed elected to fill the balance of the unexpired term.

(3) Was not a candidate for the same office in the regular primary election, then if a candidate is nominated by a majority of votes cast in that primary, that candidate will be deemed elected to fill the balance of the unexpired term. If no candidate is nominated by a majority of votes cast, the Council shall call for a special election in which the candidate receiving a majority of votes cast will be deemed elected to fill the balance of the unexpired term.

Any election required by this subsection, between two nominees who received the highest number of votes cast in a prior election, shall be held not more than forty-five (45) days after the prior election.

(e) A person holding an office elective under this Charter may file with the Auditor a written notice of intent to resign from office on a specific future date

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of the occurrence of a specific event within the unexpired term of the office. The Council then may by resolution schedule and hold the special election or elections, as provided in subsections (b) through (d) of this Section, although no vacancy has occurred. However, no candidate elected to fill an unexpired term under this subsection may take and assume the duties of the office unless and until the vacancy occurs.

(f) If a vacancy occurs in the Office of the Auditor, the Council may fill the office by appointment pending election as provided therein.

(g) In the event of the death or crippling disability preventing the performance of three (3) or more members of the City Council due to natural disaster, calamity, accident or enemy attack, the following City officials in the order named shall succeed to the vacancies on the City Council: City Auditor, City Attorney, Director of Office of Fiscal Administration, executive assistants of disabled Council members in the order of their seniority as an executive assistant. Any individual serving under this Section shall have all qualifications required in this Charter for an elected official. The City Council thus constituted shall serve as an interim Council for the purpose of transacting necessary City business. The interim Council so constituted shall as soon as practical select from among qualified citizens of the City of Portland, as defined by Section 2-202 of this Charter, persons to serve as members of the City Council. The persons so selected shall serve until the next regular election. The City Council as thus constituted shall, if the regularly elected Mayor is not a member thereof, elect one of their number as Mayor. Members of the Council as thus constituted shall serve as City Commissioners by this Charter. The Council as constituted under authority of this subsection shall meet in the City Hall, if possible, but may meet at an alternate location which shall be designated in advance by the Council as an alternate site for the transaction of City business. In the event of martial law, the Council shall be organized as by this subsection provided, and it shall function to the extent possible under the order establishing martial law. The provisions of this subsection shall be supreme in the event it shall be employed, notwithstanding any other provisions of this Charter or ordinances of the City in conflict therewith. [May 3, 1913, new secs. 17 and 18; rev. 1914, secs. 29 and 30; 1928 pub., secs. 29 and 30; sec. 29, am. May 18, 1934; sec. 30, am. May 17, 1940; 1942 recod., secs. 2-115 and 2-116; sub. sec. 5 added to sec. 2-116, Nov. 2, 1954; secs. 2-115 and 2-116 revised and combined Nov. 6, 1962; am. May 26, 1970; am. Dec. 14, 1971; am. May 20, 1980; am. May 17, 1988; am May 18, 1994.]

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ARTICLE 3. EXECUTIVE AND ADMINISTRATIVE POWERS.

Section 2-301. The Departments. The executive and administrative powers, authority and duties, not otherwise provided for herein, shall be distributed among at least five (5) departments as follows:

- (a) Department of Public Affairs
- (b) Department of Finance and Administration
- (c) Department of Public Safety
- (d) Department of Public Utilities
- (e) Department of Public Works

Bureaus and their functions shall be fixed by the Council by ordinance. The distribution of the bureaus and work among departments shall be made and may be changed from time to time by the Mayor by order which shall be filed and preserved as an ordinance. The names of the departments may be changed in like manner. The Mayor may in like manner assign matters relating to any commission to a particular department. [May 3, 1913, part of new sec. 36; rev. 1914, sec. 54; 1928 pub., sec. 54; 1942 recod., sec. 2-201; rev. Nov. 6, 1962.]

Section 2-302. Assignment and Authority of Commissioners. At the first regular meeting after the election of any Council member, the Mayor shall designate one member to be Commissioner In Charge of each department, who shall thereafter be designated as Commissioner of such department, which designation may be changed and a transfer of Commissioners from one department to another be made, whenever it appears that the public service will be benefitted thereby. Such assignment shall be made by the Mayor by order which shall be filed and preserved as an ordinance. The Commissioner In Charge of each department shall have the supervision and control of all the affairs and property which belong to that department, subject to the provisions of this Charter and to such regulation as may be prescribed by the Council. [May 3, 1913, new sec. 37; rev. 1914, secs. 55 and 56; 1928 pub., secs. 55 and 56; 1942 recod., sec. 2-202; rev. Nov. 6, 1962.]

Section 2-303. Assignment of Work to Subordinates. The Council shall prescribe the powers and duties of officers and employees, may assign particular

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officers to one or more of the departments and may require an officer or employee to perform duties in two or more departments. The Council shall make such rules and regulations as may be necessary and proper for the efficient and economical conduct of the business of the City. [May 3, 1913, part of new sec. 36; rev. 1914, sec. 57; 1928 pub., sec. 57; 1942 recod., sec. 2-203; rev. Nov. 6, 1962.]

Section 2-304. Codes. Codes providing for the administration of the powers, duties and affairs of the different departments and for their organization shall be enacted. Such codes shall provide for a uniform standard for the purchase of materials and supplies and shall provide for a purchasing agent and may provide for inspection and testing of the quality and quantity of the materials and supplies purchased to determine their exact conformity to specifications. Provision shall be made for the transfer of employees from one department to another. Methods shall be provided by which the heads of departments may determine and compare the work accomplished by the department with reference to its expenditures and a comparison with work during a prior period. A definite system of accounting shall be provided for each department showing the work performed and the material furnished compared with the cost thereof, so itemized that it can be determined whether each department is becoming more efficient or less efficient. All materials and supplies of the City shall be properly housed, segregated and tabulated and a perpetual inventory kept showing the additions and depletions thereof. Each department shall report its time and expenses for comparison with the prior month and prior year to show percentage of increase or decrease and shall also report stores and material accounts for like comparison. [May 3, 1913, part of new sec. 36; rev. 1914, sec. 58; 1928 pub., sec. 58; 1942 recod., sec. 2-204; rev. Nov. 6, 1962.]

ARTICLE 4. THE MAYOR.

Section 2-401. Duties. The Mayor shall exercise a careful supervision over the general affairs of the City. [Ch. 1903, sec. 147; rev. 1914, sec. 59; 1928 pub., sec. 59; 1942 recod., sec. 2-301; rev. Nov. 6, 1962.]

Section 2-402. Investigation of and Suits to Cancel Franchises. The Mayor may, on his or her own motion, and must upon a resolution passed by the Council directing the Mayor so to do, cause to be instituted on behalf of the City such actions or proceedings as may be necessary to revoke, cancel or annul all franchises that may have been granted by the City to any person, company or corporation, which have been forfeited in whole or in part or which for any reason

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may be irregular and void and not binding upon the City, and the City Attorney, upon the Mayor's demand, must institute and prosecute the suits or actions required to enforce the provisions of this Section. Each Mayor taking office under this Charter shall cause a careful investigation to be made of the exact condition of all franchises theretofore granted by the City, and of the respective rights and obligations of the parties, and the performance of the same. [Ch. 1903, sec. 151; rev. 1914, sec. 60; 1928 pub., sec. 60; 1942 recod., sec. 2-302; rev. Nov. 6, 1962.]

Section 2-403. Investigation of Offices. The Mayor may at any time, with or without notice, investigate in person, or through one or more competent persons appointed by the Mayor for the purpose, the offices and accounts of any department of the City or of any employee, and the official acts and conduct of any official or employee in the administrative service of the City, and the money, securities and property belonging to the City in the possession or charge of such department, officer or employee. For the purpose of ascertaining facts in connection with these examinations, the Mayor shall have full power to compel the attendance and testimony of witnesses, to administer oaths, and to examine such persons as he or she may deem necessary, and to compel the production of books, papers, and other evidence. Willful false swearing in such investigations and examinations shall be perjury, and punishable as such. The expense of any such investigation shall be paid out of the General Fund, in the same manner as other claims against the City are paid. The result of all such examinations and investigations shall be reported to the Council, and such report be filed with the Auditor. [Ch. 1903, sec. 152; rev. 1914, sec. 61; 1928 pub., sec. 61; 1942 recod., sec. 2-303; rev. Nov. 6, 1962.]

Section 2-404. Suspensions Pending Investigation. The Mayor shall have power to suspend, pending an official investigation, any officer of the City except Council members or the Auditor for any official defalcation or willful neglect of duty or official misconduct. [Ch. 1903, sec. 153; rev. 1914, sec. 62; 1928 pub., sec. 62; 1942 recod., sec. 2-304; rev. Nov. 6, 1962.]

Section 2-405. Notification of Contract Violations. It shall be the duty of every officer and person in the employ or service of the City, when it shall come to such officer's or person's knowledge that any contract or agreement with the City, or with any officer or department thereof, or relating to the business of any office, has been or is about to be violated, forthwith to report to the Mayor all the facts and information within such officer's or person's possession concerning such matter. A willful failure so to do shall be sufficient cause for the removal of such officer or employee. The Mayor shall give a certificate on demand to any person

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reporting such facts and information that such person has done so, and such certificate shall be evidence in exoneration from a charge of neglect of duty in that respect. [Ch. 1903, sec. 158; rev. 1914, sec. 63; 1928 pub., sec. 63; 1942 recod., sec. 2-305; rev. Nov. 6, 1962.]

ARTICLE 5. THE AUDITOR.

Section 2-501. Qualifications and Restrictions on Other City Candidacy. There shall be an Auditor of the City of Portland who shall possess the same qualifications required of a Commissioner, and in addition, shall at the time of filing a declaration of candidacy, or a nominating petition for the office of Auditor be a Certified Public Accountant, Certified Internal Auditor, or Certified Management Accountant and remain certified as such throughout the term of office, if elected. The Auditor shall be elected at the general municipal election and shall serve for a term of four (4) years. If an Auditor shall be elected without such qualifications or shall cease to have the same, the office shall immediately become vacant. The Auditor shall not run for election to any other City office during his or her term. The act of filing for another City office will be the same as a resignation, which shall be effective as of the date of such filing. [Ch. 1903, sec. 269; am. May 3, 1913, sec. 97; rev. 1914, sec. 64; 1928 pub., sec. 64; 1942 recod., sec. 2-401; rev. Nov. 6, 1962; am. May 15, 1984; am. May 20, 1986; am. May 18, 1994.]

Section 2-502. Salary. The salary of the Auditor shall be fixed by the Council. [Ch. 1903, sec. 270; am. May 3, 1913, sec. 98; rev. 1914, sec. 65; 1928 pub., sec. 65; 1942 recod., sec. 2-402; rev. Nov. 6, 1962; am. May 18, 1994.]

Section 2-503. Deputies. The Auditor may appoint one chief deputy who shall serve at the pleasure of the Auditor. In addition, the Auditor may deputize other staff in the Auditor's Office to perform duties required by the Council or the Charter. The deputies shall have power to do and perform any act or duty required of the Auditor, and the Auditor shall be responsible for their conduct. The compensation to be paid to all of the Auditor's Office staff shall be determined by Council as part of the City's general compensation plan. [Ch. 1903, sec. 271; rev. 1914, sec. 67; 1928 pub., sec. 67; 1942 recod., sec. 2-403; rev. Nov. 6, 1962; am. Nov. 2, 1982; am. May 18, 1994.]

Section 2-504. Duties in General.

(a) The Auditor shall be responsible for the following activities:

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1. Performance of financial and performance audits of the City, including audits of its boards and commissions, franchises and contracts;
2. Supervision of City elections;
3. Maintenance of all official records, including records of the various bureaus, records regarding the City Charter and City Code, and all other records regarding City business;
4. Provision of official certifications as required by this Charter; and
5. Other duties as may be assigned by the Council with the consent of the Auditor, or as prescribed by Charter.

(b) The Auditor may delegate, subject to the Auditor's supervision, any of these duties to other City officials or may contract with outside service providers. The Auditor shall remain responsible for the provision of these services. The Council shall provide staffing, funding, and facilities for the Auditor to carry out these duties. [Ch. 1903, sec. 272; rev. 1914, sec. 68; 1928 pub., sec. 68; 1942 recod., sec. 2-402; rev. Nov. 6, 1962; am. May, 20, 1986; am. May 18, 1994.]

Section 2-505. Audits.

- (a) The Auditor shall conduct financial and performance audits of City government in accordance with generally accepted governmental auditing standards, and shall appoint, coordinate and monitor the annual audit of the City's financial statements by an independent licensed public accountant.
- (b) City bureau managers shall respond to audit recommendations made by the Auditor, through the Commissioner In Charge, to the Auditor, in writing within the time specified by the Auditor. All audit reports and responses shall be made available to the public. The Auditor shall retain workpaper files concerning all audit reports issued for at least six years.
- (c) The Auditor shall make the final determination of acceptability and legitimacy of all claims for payment made against the City.
- (d) The Auditor may require at any time that any or all demands upon the City for payment of money out of the treasury be presented to the Auditor before it

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can be paid in order to determine whether the money is legally due and payable, and the fund from which it should be paid. Any ordinance or resolution of the City Council providing for the payment of any demand out of the treasury, whether from public funds or private funds shall be construed as allowing the auditing of the demand by the Auditor, either before payment or as part of the financial audit. The Auditor shall keep an official record of all demands audited by the Auditor showing the number, date, amount, name of the payee, the appropriation if any against which it was drawn and the fund from which it was paid.

(e) The Auditor shall have access to all information and records required to conduct an audit or otherwise perform audit duties.

[Ch. 1903, sec. 273; am. May 3, 1913, sec. 99; rev. 1914, sec. 66; 1928 pub., sec. 66; 1942 recod., sec. 2-405; rev. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994.]

Section 2-506 Auditor's Duties as Clerk of the Council. The Auditor shall serve as the Clerk of the Council and shall maintain a journal of its proceedings and all of the public records in connection with the Council's official business. The Auditor shall produce an agenda for all formal meetings of the Council; maintain a record of the Council's actions; and make the records available for public inspection as provided by the State Public Records laws. As Clerk of the Council, the Auditor shall maintain and make available current versions of the City Charter and Code and maintain a record of Charter and Code revisions. [Ch. 1903, sec. 274; rev. 1914, sec. 69; 1928 pub., sec. 69; 1942 recod., sec. 2-406 and 2-407; rev. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994.]

Section 2- 507. Charter Arrangement and Corrections. Subject to Council approval, the Auditor shall have authority to rearrange, renumber, reletter, capitalize, punctuate and divide provisions of this Charter, and to correct clerical errors and omissions and insert captions in accordance with the meaning and intent of the provisions of this Charter, from time to time, and may delete provisions which have become inoperative or any provision ruled invalid by a court of competent jurisdiction. The Auditor may substitute any current title of an officer, bureau, department, or commission in lieu of the title originally appearing in the Charter provision, in accordance with the changes of title or duties subsequently made by law. [New sec. Nov. 6, 1962; am. May 18, 1994.]

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Section 2- 508. Deletion of Charter Terms Referring to Masculine or Feminine Gender. Future amendments to the City Charter shall require the use of terms which are neither masculine nor feminine, unless the context of such Charter provision shall require otherwise.

The City Auditor, with approval of the City Attorney, shall be authorized to change the provisions of the City Charter to delete use of terms which are masculine or feminine, unless the context of such Charter provisions shall require otherwise. [New sec. May 15, 1984; am. May 18, 1994.]

Section 2-509. Official Oaths and Certifications and Custodian of the City Seal.

(a) The Auditor, and each of the Auditor's deputies, are authorized to administer an oath and certify any acknowledgement authorized or required to be taken by City ordinance, or law of this State, and the Auditor may require any person presenting for settlement an account or claim of any kind against the City to be sworn before him or her regarding such account or claim, and when so sworn, to answer orally or in writing as to any facts relative to the merits or justice of such account or claim.

(b) The Auditor shall cause his or her signature to be affixed to all warrants, contracts, bonds, and other official documents of the City as affirmation that the document and the action it represents have been duly authorized as required by this Charter and that the signatures of the other City officials on the document are true and duly authorized.

(c) The Auditor shall be the custodian of the City's seal.

[New Sec. May 18, 1994.]

ARTICLE 6. OFFICERS AND EMPLOYEES.

Section 2-601. Appointive Officers. The Council shall appoint the City Attorney. The Mayor shall appoint members of boards and commissions subject to Council confirmation. Heads of other offices and bureaus shall be appointed by the Commissioner In Charge of the department to which such office or bureau is

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assigned. [May 3, 1913, new sec. 102; rev. 1914, sec. 80; 1928 pub., sec. 80; 1942 recod., sec. 2-501; rev. Nov. 6, 1962; am. May 20, 1980.]

Section 2-602. Qualifications and Removals. All officers appointed by the Council shall serve during the pleasure of the Council. Any may be removed for cause at any time by a majority vote of the Council. A statement of reasons for the removal shall be included in the order, and the officer removed shall have the right to make a counter statement in writing which shall be filed and preserved with the order of removal. The order of removal shall not be reviewable. Vacancies in any of such offices shall be filled by the Council. The Council may by ordinance impose any duties upon any officer not inconsistent with the general character of such office, and may divide or consolidate any of said offices. It shall also fix and may change from time to time the salaries of every officer. The officers appointed by the Council shall at the time of their appointment be citizens of the United States.

The City Attorney shall be a member in good standing of the Bar of the State of Oregon. The City Attorney may have one or more deputies who are members of the Bar of the State of Oregon to be appointed by the City Attorney in writing and to continue during the City Attorney's pleasure. The number and compensation of such deputies shall be fixed by the Council and they shall be deemed removed on the removal or resignation of the City Attorney. The Chief of Police shall have had at least ten years active police experience. [May 3, 1913, new sec. 103; rev. 1914, sec. 81; 1928 pub., sec. 81; 1942 recod., sec. 2-502; rev. Nov. 6, 1962.]

Section 2-603. Subordinate Offices and Employments. The Council shall have the power by ordinance to create and abolish all such subordinate offices, places and employments in the service of the City as it may deem necessary for efficient and economical administration. The Mayor and each Commissioner shall appoint and may suspend or remove the incumbents of all subordinate offices and employments in his or her department, subject to other provisions of this Charter. The Auditor shall appoint and may suspend or remove the incumbents of all subordinate offices and employments within his or her office, or under his or her supervision. The chief executive officer of any board, or commission, when authorized to do so by the board or commission, or the board or commission itself shall appoint and may suspend or remove the incumbents of all subordinate offices and employments within his or her offices, or under his or her supervision. All such appointments, suspensions and removals shall be subject to the civil service rules of this Charter except as to incumbents of positions expressly exempted

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therefrom. [May 3, 1913, new sec. 104; rev. 1914, sec. 82; 1928 pub., sec. 82; 1942 recod., sec. 2-503; rev. Nov. 6, 1962; am. May 18, 1994.]

Section 2-604. Experts. The Council may from time to time appoint consulting employees to perform technical or scientific services whose employment shall continue only so long as the particular occasion shall continue and who shall not be subject to the civil service rules of this Charter and of whom the qualifications elsewhere prescribed in this Charter shall not be required. [May 3, 1913, new sec. 105; rev. 1914, sec. 83; 1928 pub., sec. 83; 1942 recod., sec. 2-504; rev. Nov. 6, 1962.]

Section 2-605. Requirements for All Officials. No person shall at any time hold more than one office yielding pecuniary compensation under this Charter or under the Mayor, Council or any departments of the City, unless such offices are part-time or the hours of work of one of such offices do not conflict with the hours of the other office and such employment in different offices is expressly authorized by ordinance. [Ch. 1903, sec. 128; rev. 1914, sec. 85; 1928 pub., sec. 85; 1942 recod., sec. 2-505; am. Nov. 2, 1954; rev. Nov. 6, 1962.]

Section 2-606. City Contracts, Interest In. Any officer, agent or employee of the City who executes a contract with the City other than an employment contract, any grant, privilege or franchise from the City, who seeks to acquire any City property or interest therein, who seeks to transfer any property or interest therein to the City by sale, rental, lease or legal process of any kind for compensation from City funds, or who has a direct pecuniary interest in such contract, grant, privilege, franchise, or transfer sought by another, shall be disqualified from participating on behalf of the City in any negotiations and or proceedings relating thereto, and all such negotiations and proceedings shall be carried on by the person who would have acted in such officer's, agent's or employee's stead in his or her absence. Subject to statutory restrictions and limitations, such contracts, grants, privileges, franchises and transfers made in accordance with the foregoing provisions of this Section shall not be void by reason of such City position, but shall be voidable by the City for cause. If any officer, agent or employee of the City shall fail to disqualify himself or herself as aforesaid, the contract, grant, privilege, franchise or transfer shall be wholly void and unenforceable in the hands of any person other than a bona fide purchaser for value without notice, and the position of such officer, agent or employee shall immediately be forfeited and such position shall be vacant.

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For the purpose of this Section, direct pecuniary interest in a contract, grant, privilege, franchise or transfer shall mean any interest in a partnership, any co-tenancy, a controlling or policy-determining ownership in or managerial control of an association, firm or corporation or its local office or agency, acting as a promoter of an association, firm or corporation, or any commission or brokerage arrangement with or receiving from the City such contract, grant, privilege, franchise or transfer.

Unless permitted by statute and notwithstanding the foregoing provisions of this Section, no Council member shall enter into any contract with the City, seek any grant, privilege or franchise from the City, acquire any City property or interest therein, or sell or transfer to the City without legal process any property or interest therein for compensation from City funds, or have any direct pecuniary interest in any such matters. No Council member shall have any direct ownership interest in any public utility subject to City regulation; however, this prohibition shall not apply to ownership in another association, firm or corporation which maintains varied investments, provided such other association, firm or corporation does not own a controlling interest in such public utility. If any Council member shall voluntarily acquire any direct pecuniary interest in any of such matters with the City while in office, such office shall at once become vacant. If the Council member shall become so interested otherwise than voluntarily, he or she shall within ninety (90) days divest himself or herself of such interest and upon failure to do so, his or her office shall become vacant upon the expiration of the said period of ninety (90) days. Any contract, grant, privilege, franchise or transfer made in violation of this paragraph shall be wholly void, and the City may recover property transferred by it or compensation paid by it and may retain any benefits received by it without right of recovery from it by quantum meruit action or otherwise. [Ch. 1903, sec. 135; rev. 1914, sec. 91; 1928 pub., sec. 91; 1942 recod., sec. 2-506; rev. Nov. 6, 1962.]

Section 2-607. Appointments. All appointments of officers, deputies and clerks, to be made under any provision of this Charter, must be made in writing and authenticated by the person or persons, board or officer, making the same. Any such writing must be filed with the Secretary of the Civil Service Board. [Ch. 1903, sec. 138; rev. 1914, sec. 93; 1928 pub., sec. 93; 1942 recod., sec. 2-507; rev. Nov. 6, 1962; am. May 20, 1986.]

Section 2-608. Salaries. The salaries provided in this Charter shall be in full compensation for all services rendered to the City, and excepting such salaries, or except as specifically authorized by the Council, every officer shall pay all

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moneys coming into his or her hands as such officer, no matter from what source derived or received into the treasury of the City within twenty-four (24) hours after receipt of the same. In the event an officer or employee collects damages from a third person for time lost from such officer's or employee's City service, such officer or employee shall pay to the City Treasurer the money so collected or the total amount paid to such officer or employee by the City or City pension and disability Fund for such time lost, whichever is the lesser. [Ch. 1903, sec. 139; rev. 1914, sec. 94; 1928 pub., sec. 94; 1942 recod., sec. 2-508; rev. Nov. 6, 1962.]

Section 2-609. Bidders, Favoring of. Any officer of the City or of any department thereof, who shall aid or assist a bidder in securing a contract to furnish labor, material or supplies, at a higher price or rate than that proposed by any other bidder, or who shall favor one bidder over another, by giving or withholding information, or who shall willfully mislead any bidder in regard to the character of the material or supplies called for, or who shall knowingly accept materials or supplies of a quality inferior to that called for by the contract, or who shall knowingly certify to a greater amount of labor performed than has been actually performed, or to the receipt of a greater amount of different kinds of material or supplies than has been actually received, shall be deemed guilty of malfeasance and shall be removed from office, and may be required to reimburse the City for its damages. [Ch. 1903, sec. 140; rev. 1914, sec. 95; 1928 pub., sec. 95; 1942 recod., sec. 2-509; rev. Nov. 6, 1962.]

Section 2-610. City Business, Time Devoted to. All officers and employees receiving pay from this City for full time work shall devote their time during business or duty hours to the interest of the City, except when excused as in this Charter provided. [Ch. 1903, sec. 142; am. May 3, 1913, sec. 94; rev. 1914, sec. 96; 1928 pub., sec. 96; 1942 recod., sec. 2-510; rev. Nov. 6, 1962.]

Section 2-611. Residence of Officials and Employees. All elected officials receiving salary or wages from the City shall qualify as elsewhere in this Charter provided, and shall be residents of the City at the time of their election and continuously thereafter while they hold office. The Council may require by ordinance that appointed officers and employees who begin City employment after the effective date of the ordinance be or become City residents. Violation of a residence requirement enacted pursuant to this Section shall be cause for demotion, suspension, or termination of an officer or employee, if so provided by Council. The Council may provide by ordinance that applicants for appointment or promotion in the classified service of the City be given preference for appointment or promotion if they are residents of the City at the time of application.

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[New sec. Nov. 2, 1954; am. May 20, 1960; am. Nov. 2, 1982; am. March 29, 1983; am. May 17, 1988.]

ARTICLE 7. OFFICIAL UNDERTAKINGS AND BONDS.

Section 2-701. Requirements for Undertakings and Bonds. Official undertakings or bonds for City officers or employees shall be obtained from surety companies qualified to do surety business in the State of Oregon. The Council may obtain a faithful performance bond, an honesty bond, or insurance for City officers or employees. The Council may obtain an additional undertaking, bond or insurance whenever in the opinion of the Council an undertaking or bond becomes insufficient or additional protection is deemed necessary. Premiums on such bonds and insurance shall be paid by the City. [Ch. 1903, sec. 131; rev. 1914, sec. 87; 1928 pub., sec. 87; 1942 recod., sec. 2-601; rev. Nov. 6, 1962.]

ARTICLE 8. RECORDS.

Section 2-801. Official Public Records. The public records of all the officers mentioned in this Charter are City property, and must be kept as such by such officers during their continuance in office, and then delivered to their successors or to the Auditor; and such public records may be inspected at any time by any member of the Council, by the Mayor, or by the Auditor. The Auditor shall receive and preserve in his or her office all public records regarding City business filed with him or her according to the Public Records laws of the State of Oregon. [Ch. 1903, sec. 122; rev. 1914, sec. 84; 1928 pub., sec. 84; 1942 recod., sec. 2-701; rev. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994.]

Section 2-802. Inspection and Certified Copies. All public records of every office and department shall be open to the inspection of any citizen at any time during business hours subject to the provisions of the State Public Records laws, except records of bureaus charged with law enforcement relating to investigations for possible prosecutions and interdepartmental or interbureau advice and memoranda, which records shall not be opened for such inspection unless such opening is ordered by a court or specific permission is given by the Council or Commissioner In Charge. Certified copies or extracts from public records which are open to inspection shall be given by the officer in custody of the record to any person demanding the record who pays or tenders the fee prescribed by the Council for such copies or extracts. [Ch. 1903, sec. 137; rev. 1914, sec. 92; 1928

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pub., sec. 92; 1942 recod., sec. 2-702, rev. Nov. 6, 1962; am. May 18, 1994.]

Section 2-803. Ownership Records. The City officers responsible for property management shall keep a record of all property owned by the City and the income derived from it. [Ch. 1903, sec. 284; rev. 1914, sec. 79; 1928 pub., sec. 79; 1942 recod., sec. 2-416; rev. Nov. 6, 1962; am. Dec. 14, 1971; am. May 20, 1986; am. May 18, 1994.]

ARTICLE 9. THE MUNICIPAL COURT.

[Sections 2-901 and 2-902, new in 1971, provided for the transfer of municipal court matters to the district court of Multnomah County. These sections were deleted in the 1984 edition of the Charter since the transfer has been completed.]

CHARTER, CITY OF PORTLAND, OREGON

CHAPTER 3

NOMINATIONS AND ELECTIONS

ARTICLE 1. GENERAL PROCEDURE.

Section 3-101. Time of Taking Office and Terms. At the general election held on each fourth year counting from the year 1960 A.D., the person elected Mayor and the two (2) persons elected Commissioners shall take office on the following January 1, and shall hold office until January 1, four (4) years later. At the general election on even numbered years between such fourth years the person elected Auditor and the two (2) persons elected Commissioners shall take office on January 1 of the following year, and they shall hold office until January 1 four (4) years later. The incumbents of the above mentioned offices shall hold their respective offices until their successors are elected and have qualified, or until their death, resignation or removal. [May 3, 1913, new sec. 41; rev. 1914, sec. 123; 1928 pub., sec. 123; am. Nov. 8, 1932; 1942 recod., sec. 3-101; am. Nov. 6, 1962.]

Section 3-102. Primary Elections. A nonpartisan primary election shall be held in each even numbered year, or as hereafter provided by the Constitution or general laws of Oregon regulating State partisan primaries, and on the day and month fixed for such State partisan primaries. Such primary election shall be deemed a general election for all matters other than candidacies. [May 3, 1913, new sec. 42; rev. 1914, sec. 124; 1928 pub., sec. 124; am. Nov. 8, 1932; 1942 recod., sec. 3-102; am. Nov. 6, 1962.]

Section 3-103. General Elections. A general municipal election shall be held on the first Tuesday after the first Monday in November in each even numbered year. [May 3, 1913, new sec. 43; rev. 1914, sec. 125; 1928 pub., sec. 125; am. Nov. 8, 1932; 1942 recod., sec. 3-103; am. Nov. 6, 1962.]

Section 3-104. Special Elections. The Council shall have power to call special elections and shall set up procedure for calling such special elections by ordinance. Thereafter, filing dates for measures to be presented at such special elections shall be changed only by regular ordinance, except for correction of errors or omissions in the general ordinance. [May 3, 1913, new sec. 44; rev. 1914, sec. 126; 1928 pub., sec. 126; am. Nov. 8, 1932; 1942 recod., sec. 3-104; am. Nov. 6, 1962.]

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Section 3-105. Nonpartisan Primaries. Nomination of Mayor, Auditor and Commissioners, the elective officers under this Charter, shall be nonpartisan and shall be made in conformity with primary methods hereinafter prescribed and provided, subject to the provisions elsewhere contained in this Charter relating to filling of vacancies. The positions of the Commissioners shall be designated as Position No. 1, Position No. 2, Position No. 3, or Position No. 4. Commissioners shall be designated by the same position as the Commissioner whom they have succeeded or will succeed in office. In all proceedings for the nomination of candidates for the office of Commissioner, every petition and individual nomination certificate or declaration for nomination, nominee's acceptance and certificate of election, ballot, or other document used in connection with nominations for Commissioner, shall state the official number of the position as Commissioner, as herein designated, to which such candidate aspires, and his or her name shall appear on the ballot only for such designated position. At all elections each such office of Commissioner to be filled shall be separately designated on the ballot by official position number as herein provided, in addition to other matter required by law to appear thereon. In case no nomination is made at the primary election, nominations may be made at the general election as set forth in this Charter for vacancies occurring at a subsequent date. [May 3, 1913, new sec. 45; rev. 1914, sec. 127; 1928 pub., sec. 127; am. Nov. 8, 1932; am. Nov. 6, 1934; 1942 recod., sec. 3-105; am. Nov. 6, 1962.]

Section 3-106. Elections Procedures. The Council shall adopt by ordinance procedures for conducting City elections. [Ch. 1903, sec. 23; rev. 1914, sec. 128; 1928 pub., sec. 128; am. Nov. 8, 1932; 1942 recod., sec. 3-106; am. Nov. 6, 1962; am. May 18, 1994.]

ARTICLE 2. INITIATIVE, REFERENDUM AND RECALL.

Section 3-201. Exercise of Rights. The initiative, referendum and recall shall be exercised within the City of Portland in the manner provided by the Constitution and general laws of the State, and ordinances of the City of Portland, enacted in pursuance thereof. [May 3, 1913, part of new sec. 56; rev. 1914, sec. 19; 1928 pub., sec. 19; 1942 recod., sec. 3-201.]

Section 3-202. Effective Date of Measures. Charter amendments, ordinances or measures adopted by the electors of the City under the initiative or approved by the electors of the City when submitted under the referendum shall take effect at the time fixed therein if such time occurs after the vote thereon; if no such time

NOMINATIONS AND ELECTIONS

is designated therein, at the day of the adoption. [May 3, 1913, part of new sec. 27; rev. 1914, sec. 49; 1928 pub., sec. 49; 1942 recod., sec. 3-202; am. Nov. 6, 1962.]

CHARTER, CITY OF PORTLAND, OREGON

CHAPTER 4

CIVIL SERVICE

ARTICLE 1. PRINCIPLES AND OPERATION.

Section 4-101. Scope of the Merit System. All appointments to and promotions in the subordinate administrative service of the City shall be made solely according to fitness, which shall be ascertained by open competitive examination, and merit and fidelity in service, as provided for in this Chapter. The provisions of this Chapter shall apply to the incumbents of all offices, places and employments in the public service of the City except the following: all officers chosen by popular election or by appointment by the Council, the members of all boards and commissions, the deputies of the City Attorney, the City Engineer, the Superintendent and Chief Engineer of the Bureau of Water Works, the Secretary of the Civil Service Board and of the Auditor, the Chief Deputy City Auditor, the secretary and administrative staff of each Council member, and the Chief of Police. The Mayor shall appoint a Chief of Police, who shall have had ten (10) years of active police service. The Chief of Police shall be subject to removal by the Mayor. [Ch. 1903, sec. 306; rev. 1914, sec. 97; 1928 pub., sec. 97; am. Nov. 6, 1934; 1942 recod., sec. 4-101; am. Nov. 2, 1982.]

[Ch. 1903, sec. 307 - 327; rev. 1914 sec. 98 - 121; 1942 recod., sec. 4-102 to 4-126; am. and rev. at subsequent elections; secs. 4-102 to 4-126 repealed, secs. 4-102 to 4-107 enacted in lieu Nov. 4, 1968, effective July 1, 1987.]

Section 4-102. Policy and Purpose. It is the purpose of this Chapter to establish for the City a system of personnel administration which:

1. Provides all citizens with a fair and equal opportunity for public service;
2. Establishes conditions of service which will attract and retain officers and employees of good character, technical knowledge, skill and ability;
3. Improves the efficiency and economy of the agencies of City service by the improvement of methods of personnel administration.

Section 4-103. Definitions. As used in this Chapter, unless the context clearly requires otherwise:

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1. "Appointing authority" means the Commissioner In Charge of a Bureau and the City Auditor.
2. "Class" or "classification" means a group of positions in the City classified service sufficiently alike in duties, authority, and responsibility that the same qualification may reasonably be required for, and the same schedule of pay can be equitably applied to, all position sin the group.
3. "Board" means the Civil Service Board.
4. "Department" means the Bureau of Personnel Services.
5. "Director" means the Director of the Bureau of Personnel Services.
6. "Permanent employee" means an employee who has been appointed to a position in the classified service in accordance with this Chapter after completing the probationary period which applies.

Section 4-104. Civil Service Board. The Civil Service Board shall consist of three (3) Commissioners. Within thirty (30) days after the taking effect of this Charter, the Mayor shall appoint, as such Commissioners, three (3) persons, known to the Mayor to be devoted to the principles of civil service reform, one of whom shall serve for two (2) years, one for four (4) years and one for six (6) years; and between the first and tenth days of July in 1905 and each second year thereafter, the Mayor shall, in like manner, appoint one person, as the successor of the Commissioner whose term of office expires in that year, to serve as such Commissioner for six (6) years. The Mayor may remove any Commissioner at any time. In the event of any such removal, the Mayor shall, within five (5) days thereafter, transmit to the Council a written report thereof and of the Mayor's reason therefor, and the Council shall forthwith appoint another person to fill the vacancy. Vacancies arising from any other cause shall be filled by appointment by the Mayor. All appointments to fill vacancies shall be for the unexpired term. No person shall be appointed as a Commissioner unless that person is a resident of the City.

Section 4-105. Offices and Equipment of the Civil Service Board. The Council shall furnish the Board with suitable offices, books and stationery, and through the Department, provide administrative support and clerical assistance reasonably necessary for the Board to perform its duties under his Chapter.

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Section 4-106. Duties of the Board. The duties of the Board shall be:

1. Reviewing any classification action taken by the Director affecting an employee in the classified service, where the employee alleges such action to be without a rational basis or contrary to law or rule or taken for political reasons. The Board shall set aside such action if it finds these allegations to be correct and remand the decision back to the Personnel Director for further review.

2. Review the suspension, demotion or discharge of permanent employees in the classified service, where the employee alleges the discipline was for a political or religious reason, or was not in good faith, for the purpose of improving the public service. If the Board finds these allegations to be correct, the Board may order the employee's reinstatement upon such terms or conditions as maybe imposed by the Board.

3. Review appeals by candidates for appointment or promotion to positions in the classified service, where the applicant for appointment or employee/candidate for promotion alleges that the director failed to follow rules promulgated by the Director under this Chapter for selecting candidates for appointment or promotion to classified positions. If the Board finds the allegation to be correct, the Board shall order such action as it deems necessary to fulfill the purposes and principles of this Chapter.

ARTICLE II. CATEGORIES OF SERVICE.

Section 4-201. Classification, Minimum Qualifications for Each Class.

1. The Department, under the supervision of the Director, shall adopt a classification plan which shall group all positions in the classified service in classifications based on their duties, authority and responsibilities; and which shall set forth for each classification a class title, a statement of the minimum qualifications, duties and authority and responsibility thereof.

2. In adopting a classification system, the Department shall consult with the appointing authorities, bureau directors, managers and employees involved. In determining the appropriate class for a position the focus of the Department shall be limited to the duties and responsibilities assigned to the position, the knowledge and skills needed to perform the duties and the relationship of the position to other classes in the classification plan. The Director shall avoid the

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proliferation of "single person classifications."

3. The Director shall conduct a periodic review of the classification plan to ensure that all positions are allocated appropriately to classifications within the plan. The classification plan and amendments thereto shall be subject to the approval of the Council.

Section 4-202. Reclassifications. A reclassification is the reallocation of a position from one classification to another classification caused by substantial changes in the duties, authority and responsibility of the position. Reclassifications must be based on a finding that the duties and responsibilities of a position have been or shall be significantly enlarged, diminished or altered.

ARTICLE III. APPOINTMENTS AND PROMOTIONS.

Section 4-301. Recruitment, Selection and Promotions; Criteria; Procedures; Duties of the Director.

1. Recruiting, selecting and promoting employees shall be on the basis of relative ability, knowledge, experience and skills, determined by open competition and consideration of qualified applicants, without regard to race, color, religion, marital status or other non-job related factors except for City residence if residents are given preference pursuant to Section 2-611 of this Charter.

2. The Director shall establish procedures for recruitment and selection which shall include adequate public notice, affirmative action to seek out underutilized members of minority groups or women where they are underutilized, and job related testing.

3. Competition for specific positions may be limited to facilitate employment of those which a substantial physical or mental impairment or for purposes of implementing a specific affirmative action program.

4. Appointments to positions in the classified service shall be made on the basis of qualifications and merit by selection from eligible lists established by the Department. To fill a vacancy, the Department shall certify to the appointing authority the names of the five (5) eligible candidates standing highest upon the register for the classification. Scores may be handed where no statistically significant difference exists between candidate scores on an examination.

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5. Non-competitive selection and appointment procedures may be used for unskilled or semi-skilled positions, or where job related ranking measures are not practical or appropriate. Nothing in this Chapter shall prevent the director for adopting selection procedures which follow the principles of "apprenticeship and training" as an alternative to written tests. Where "apprenticeship and training" principles are utilized, minimum qualifications and performance requirements and duties of a classification may be appropriately modified to permit appointment and promotion to trainees to positions normally filled at full proficiency level.

6. The Department shall establish systems to provide opportunities for promotion through training, education and career development assignments in addition to the regular competitions by examination. [am. May 17, 1988.]

Section 4-302. Temporary Appointments.

1. Temporary appointments shall be used for the purpose of meeting emergency, non-recurring and short-term workload needs of the City. However, such appointments do not carry with them "status" in the classification and are outside the classified service, and they shall not be used to defeat the open competition and objective selection procedures established by the Director.

2. Temporary appointments may be made by the appointing authority in the absence and pending the preparation of an appropriate eligible list from which appointments can be made, in emergencies to prevent delay or injury to the public service, to meet a non-recurring or short-term workload need, or when the position is authorized for a seasonal period not to exceed five (5) months in duration.

3. Each bureau shall report its use of temporary employment to the Director each fiscal year, including the duration and reason for use or extensions, if any. The Director shall report such use to the City Council.

ARTICLE IV. RULES AND REGULATIONS.

Section 4-401. Procedures.

1. The Director shall make rules to carry out the propose and provisions of this Chapter.

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2. Prior to the adoption, amendment or repeal of any rule by the Director, the Director shall give public notice of the proposed action at least fifteen (15) days prior to the effective date by mailing the notice to each Council member, all Bureau Directors, and every labor organization representing City employees pursuant to ORS Chapter 243. Any person interested in such rules may attend a hearing schedules by the Director and give evidence or testimony, or may present such evidence in writing on or before a date established by the Director. After any hearing or after the date established by the Director for receipt of evidence if a hearing is not to be held, the proposed rules shall be submitted to the City Council for approval by resolution. The proposed rules shall then be adopted and filed with the Director.

ARTICLE V. HEARING AND APPEALS.

Section 4-501. Demotion, Suspension and Termination.

1. No employee holding a permanent position in the classified service shall be demoted, suspended or terminated, except for cause, a written statement of which shall be service upon said employee and a duplicate filed with the Director. Any employee so removed may, within ten (10) days from the action, file with the Director a written demand for a hearing before the Board. The demand must state the grounds for the appeal. The hearing before the Board shall be confined solely to determination of the question whether the decision was or was not for a political or religious reason, or was or was not made in good faith for the purpose of improving the public service. This provision shall not apply to any employee for whom there exists a grievance procedure unless a collective bargaining agreement expressly authorizes an appeal to the Board as the method or alternative method to obtain a review of the decision.

2. The Director shall submit to the Board proposed rules and regulations to carry out the purposes of this Section. The provisions of Article I, pertaining to notice and adoption of rules by the City Council, shall apply to adoption of rules by the Board pursuant to this Section.

Section 4-502. Classification Actions; Appeals.

1. Before requesting the reclassification of any position, proposing a new classification, or proposing that a classification be abolished, the bureau head shall give written notice of the request or proposal to the Director who shall give written

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notice to the employee(s) affected, if any, and to each labor organization representing City employees in the classified service. The requirement of written notice shall also apply to a classification action that the Director initiates.

2. Any employee adversely affected by a change in classification, or whose request was denied, and any appointment authority who disagrees with the classification determination, may file with the Director, a written request for reconsideration thereof, and must be given a reasonable opportunity to be heard thereon by the Director.

3. Any employee or appointing authority who is aggrieved by the Director's decision on an appeal under Subsection 2 above, may have that decision reviewed by the Board, if the employee or appointing authority submits a written request alleging that there is no rational basis to support the Personnel Director's decision, or that the decision is contrary to a provision of this Chapter, to law or to rule, or is for a political reason. The Director shall adopt rules to carry out the purposes of this Section pursuant to the rule making authority provided by this Chapter.

4. Absent an appeal to the Director concerning a classification action, the action shall take effect upon approval by the City Council as a consent calendar item.

Section 4-503. Examination; Appeals.

1. Any person aggrieved by the Director's decision in the examination process for appointment or promotion to a position in the classified service must be given, at the candidate's written request, a reasonable opportunity to be heard thereon by the Director.

2. Any candidate for appointment or promotion aggrieved by the Director's decision on the appeal referred to by Subsection 1 above, is entitled to have that decision reviewed by the Board if the employee submits a written request to the Board for such review not later than fifteen (15) days after the Director's decision. The request must allege that the decision by the Director was contrary to rules promulgated for examinations, or that the decision was contrary to law or for a political reason.

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ARTICLE VI. JUDICIAL REVIEW.

Section 4-601. Appeals. The final decision of the Board or any appeal to the Board shall be subject to review by the Circuit Court in the manner provided by statute for review of quasi-judicial decisions of lower tribunals.

ARTICLE VII. EFFECTIVE DATE.

Section 4-701. Effectiveness. This Chapter shall become effective on July 1, 1987.

[Secs. 4-102 to 4-701 enacted Nov. 4, 1986, effective July 1, 1987.]

CHARTER, CITY OF PORTLAND, OREGON

CHAPTER 5.

FIRE AND POLICE DISABILITY, RETIREMENT AND DEATH BENEFIT PLAN

[Chapter 5 am. June 2, 1913; am. June 2, 1914; am. June 7, 1915; am. Nov. 5, 1918; 1928 pub.; am. Nov. 6, 1928; am. Nov. 5, 1940; 1942 recod.; am. Nov. 2, 1948; am. Nov. 7, 1950; am. Nov. 2, 1954; am. May 18, 1962; rev. Nov. 3, 1964; am. May 20, 1986; amended and restated Nov. 7, 1989, effective July 1, 1990.]

ARTICLE 1. FUNDING

Section 5-101. Creation of Fund. There is hereby created and established a Fire and Police Disability and Retirement Fund for the benefit of the Members employed by the Bureau of Fire, Rescue and Emergency Services or by the Bureau of Police of the City of Portland and for the benefit of the Surviving Spouses and Dependent Minor Children of deceased Members.

When used alone in this Chapter, the word "Fund" shall mean the Fire and Police Disability and Retirement Fund. References in this Chapter to the "Bureau of Fire" shall mean the Bureau of Fire, Rescue and Emergency Services or any bureau, department or agency, howsoever designated, hereafter succeeding to the functions of the Bureau of Fire, Rescue and Emergency Services. References in this Chapter to the "Bureau of Police" shall mean the Bureau of Police or any bureau, department or agency, howsoever designated, hereafter succeeding to the functions of the Bureau of Police.

Section 5-102. Sources of Fund. The Fund shall consist of the following:

(a) Existing Fund. All moneys, property and investments held in the Fire and Police Disability and Retirement Fund under the provisions of the Charter of the City of Portland, as in effect prior to the amendments enacted in 1989, and all moneys hereafter earned by or paid into the Fund in accordance with Sections 5-103 and 7-107.

(b) Member Contributions. Compulsory contribution to the Fund from each Member who, as a result of Section 5-401, is subject to the provisions of Sections 5-113 through 5-123 and 5-126 of this Chapter, set out in Article 5, amounting to seven percent of such Member's then current salary but not to exceed seven percent of the then current salary of a First Class Fire Fighter, or whatever name said position shall hereafter bear, for Members employed in the Bureau of Fire, and not to exceed seven percent of the then current salary of a

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First Class Police Officer, or whatever name said position shall hereafter bear, for Members employed in the Bureau of Police and the contribution required by the Supplementary Retirement Program described in Subsection 5-401(d) from Members described in that Subsection.

(c) **Extraordinary Amounts.** All bequests, fees, gifts or other emoluments paid or given on account of any extraordinary service of any Member (except when specifically allowed to be retained by such Member by the Council.)

(d) **Other Moneys.** All other moneys herein made available and all other moneys which may be hereafter made available by law, including loans from the General Fund and advances from the Reserve Fund created in this Article.

Section 5-103. Levy by Council.

(a) **Statement by Board.** The Board of Trustees created in Article 2 shall annually, on or before the date set for such purpose by the Council, prepare and transmit to the Council a statement containing the following items:

1. The amount of money required for the next succeeding fiscal year to pay and discharge all requirements of the Fund for such succeeding fiscal year except repayment of authorized loans and advances.

2. The estimated revenue to the Fund during the next succeeding fiscal year from all sources except the levy in this Section provided plus the estimated balance in the Fund at the beginning of said year.

3. A statement of all payments made and estimated to be made from the Fund during the current fiscal year.

4. The total amount paid into and estimated to be paid into the Fund from all sources except loans from the General Fund and advances from the Reserve Fund created by Section 5-104 of this Article, during the current fiscal year plus the balance in the Fund at the beginning of said year.

5. A statement setting forth in dollars and cents the total amount of money required by the Fund to discharge its requirements for the next succeeding fiscal year and the current fiscal year. This amount of money shall be computed by adding the amount that item 1 exceeds item 2, if any, to the amount that item 3 exceeds item 4, if any.

FIRE & POLICE DISABILITY, RETIREMENT & DEATH BENEFIT PLAN

(b) Levy. The Council shall levy each year, at the same time and in the same manner that other taxes are levied, a tax upon all taxable property within the City of Portland not exempt from taxation, not to exceed two and one-half (2-1/2) mills on each dollar valuation, sufficient to produce and provide a sum equal to said required amounts so prepared and transmitted by the Board.

(c) Minimum Levy. Said levy shall in no event be less than one (1) mill on said dollar valuation, unless the Reserve Fund created in the following Section will as a result of said minimum levy exceed seven hundred-fifty thousand dollars (\$750,000) in which event said levy shall only be sufficient to provide the amount required and to maintain said Reserve Fund at seven hundred-fifty thousand dollars (\$750,000).

(d) Status and Use of Levy. The additional tax herein provided for hereby is specifically authorized and shall not be computed as a part of the revenue raised by taxation which is subject to the tax limitation of Section 11, Article XI of the Constitution of the State of Oregon, and said tax levy hereby authorized shall be in addition to all other taxes which may be levied according to law. The proceeds of said tax levy to the extent of the amount required by the Fund shall be paid into the Fund. Any balance shall be paid into the Reserve Fund created in Section 5-104.

Section 5-104. Reserve Fund. There is hereby created and established a Reserve Fund which shall consist of all moneys paid into it as provided in Section 5-103. Advances may be made by the Board of Trustees hereinafter created from said Reserve Fund to the Fire and Police Disability and Retirement Fund in cases where said Fund is depleted to the extent that it cannot meet its current obligations. The City Treasurer shall have the same powers of investment of the Reserve Fund that such officer has with the Fire and Police Disability and Retirement Fund. If the balance in the Reserve Fund exceeds \$750,000, the excess shall be transferred to the Fire and Police Disability and Retirement Fund.

Section 5-105. Salary Deductions. It shall be the duty of the City officer responsible for accounting, in making out regular salary warrants or checks, to deduct and withhold from the salary of each Member described in Subsection 5-102(b) the amount provided during all the time such Member may be in the employ of the Bureau of Fire or the Bureau of Police. It shall be the duty of the City officer responsible for accounting to draw a warrant or check for the total amount so withheld, payable to the Fund at the times regular salaries are paid.

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Section 5-106. Investments. The assets of the Fund shall be deposited with the City Treasurer. The City Treasurer shall invest the Fund and the Reserve Fund in such investments as are lawful for the investment of public funds of cities in the State of Oregon.

ARTICLE 2. ADMINISTRATION

Section 5-201. BOARD OF TRUSTEES.

(a) **Composition.** This Chapter shall be administered by a Board of Trustees, which also shall supervise and control the Fire and Police Disability and Retirement Fund and the Reserve Fund. The Board of Trustees shall be composed of eleven members who shall be the following: The Mayor (who shall act as Chairperson); the City Treasurer (who shall act as Treasurer); the City Auditor (who shall act as Secretary); the Chief Engineer of the Bureau of Fire (Chief of the Bureau of Fire); the Chief of Police; three Active Members serving in the Bureau of Fire, to be elected to the Board by all Active Members in the Bureau of Fire; and three Active Members serving in the Bureau of Police, to be elected to the Board by all Active Members in the Bureau of Police. In the absence of the Mayor, the City Treasurer and/or City Auditor, the following persons shall be entitled to be substituted on the Board of Trustees to all intents and purposes as if the named officer were present: Whoever is empowered to act in such officer's absence in the respective office; or whoever is designated from such office to serve regularly on the Board in such officer's place; or any Council member designated by the Mayor to serve for the Mayor. In the absence of the Mayor, whoever is empowered to serve for the Mayor shall serve as Chairperson Pro Tempore. All members of the Board shall serve without compensation. References in this Chapter to the "Board" shall mean the Board of Trustees created by this Section.

(b) **Election of Board Members.** Elections shall be under the supervision of the City Auditor and shall be held annually in the month of June, at which election one Active Member from the Bureau of Fire and one Active Member from the Bureau of Police shall be elected to the Board for three-year terms to succeed the members whose terms expire the month following the time of said election. Members so elected in June shall take office the following July. Similar elections for unexpired terms shall be held to fill other vacancies within thirty days after they occur. Elections shall be held in a manner prescribed by the rules and regulations adopted by the Board, which must be in writing and filed with the Secretary of the

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Board. A Board member who ceases to be an Active Member may complete the remainder of the Board member's term. The Board shall keep a record of all of its proceedings and hold regular meetings each month, at a time to be set by the Board. Seven members shall constitute a quorum at any and all meetings of the Board and the affirmative vote of a majority of a quorum shall constitute an action of the Board.

(c) **Rehabilitation Subcommittee.** The Board shall have a Rehabilitation Subcommittee consisting of four Board members: the Mayor, or the person serving on the Board in place of the Mayor; the City Treasurer, or the person serving on the Board in place of the City Treasurer; one of the Members elected from the Bureau of Fire; and one of the Members elected from the Bureau of Police. Such elected Members shall be chosen by the Board. The Rehabilitation Subcommittee shall oversee the vocational rehabilitation of disabled Members and determine whether such Members are capable of other employment. The Rehabilitation Subcommittee may, by a majority vote of its members, exercise the authority of the Board to suspend or reduce benefits under Paragraph 5-306(c)5 or Subsection 5- 307(b). Any Member adversely affected by a decision of the Rehabilitation Subcommittee to reduce or suspend benefits has the right of appeal to the full Board.

(d) **Indemnity.** The members of the Board and the Fund Administrator appointed under Subsection 5-202(b) shall be indemnified by the Fund from any claim or liability, including the cost of legal defense by counsel approved by the City Attorney, that arises from any action or inaction in connection with their functions under this Chapter subject to the following:

1. Coverage shall be limited to actions taken in good faith that the person reasonably believed were not opposed to the best interest of the Fund.
2. Coverage shall be reduced by the extent of any insurance coverage.

Section 5-202. Powers of Board.

(a) **As to Benefits.** The Board shall decide applications for benefits provided by this Chapter. The Board shall have the power to prescribe rules and regulations for administration of this Chapter and to enforce the same by forfeiture of any benefit payment or by denial of any claim, if such rules and regulations are not followed. The Board is authorized to suspend or reduce any disability benefit

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if the Member does not cooperate in treatment of the disability or in vocational rehabilitation or does not pursue other employment. The Board is hereby authorized and empowered to designate one or more licensed physicians or psychologists to act at any time with the physicians appointed by the City Personnel Director in the mental and physical examinations of applicants for membership in the Bureau of Fire or Bureau of Police. The Board is further authorized and empowered to require applicants for benefits from the Fund and persons receiving benefits from the Fund to submit to and undergo mental and physical examinations by one or more licensed physicians or psychologists designated by the Board for that purpose. The Board is hereby authorized and empowered to administer oaths, subpoena and examine witnesses, and to require the production and examination of papers and documents. The Board may appoint one or more hearings officers and may establish rules of evidence and procedure for the conduct of hearings. The Board may pay from the Fund the expenses of vocational rehabilitation of disabled Members to reduce disability benefits, but shall have no obligation to pay for such expenses. No member of the Board shall act on the member's own claim.

(b) Generally. The Board may pay its administrative expenses from the Fund and may borrow from the General Fund. The Board may purchase bonds or insurance covering any act or failure to act. The Board shall appoint a Fund Administrator, who shall be selected and may be discharged by joint action of the Board and the City Auditor. The Board may appoint other agents or advisers to assist it, including actuaries and attorneys.

Section 5-203. Review.

(a) Medical Determinations. Any Member, or Surviving Spouse or Dependent Minor Child of a Member, adversely affected by a determination of the Board based upon the findings of its physicians or psychologists may request review of any question of the physical or mental condition of the Member by a three- person medical panel by filing with the Secretary of the Board a written request for such review within 30 days after such determination by the Board. The Board shall then refer the matter to a panel of three licensed medical doctors or psychologists, one of whom shall be selected by the Board, another by the person making the request, and the third by the first two selectees. If the first two selectees cannot agree on a third member of the panel, such third member shall be selected under rules of the Board. The Board shall base its determination upon review on the findings of the majority of such panel as to the mental or physical condition of the Member. The Board shall not be required to follow the findings

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of the majority of the panel as to the cause of the Member's physical or mental condition if there is substantial evidence to support the Board's decision.

(b) **Court Review.** Any review by the courts from any decision of the Board of Trustees must be taken within 60 days after said decision has been made.

Section 5-204. Custodian and Disbursing Officer. The funds created in Sections 5-101 and 5-104 shall be in the care and custody of the City Treasurer, and shall be paid out by the Treasurer on warrants or checks signed by the Chairperson (Mayor) and countersigned by the Secretary of the Board (Auditor) and not otherwise; provided, however, that no warrants or checks shall be drawn upon either of said funds except by order of the Board, which order shall be duly entered upon the record of the proceedings of the Board.

Section 5-205. Books and Accounts. The books and accounts of the Board, shall, at all times, be subject to the inspection of any person interested, and shall be audited annually at the expense of the Fund by a licensed public accountant or firm of accountants approved by the Board. Upon the expiration of the term of office of the Auditor, all books and accounts of the Board shall be surrendered and delivered to the Auditor's successor, together with all records and documents. All securities, moneys and properties of the Fund which have come into the possession of the Treasurer shall be delivered at the expiration of the Treasurer's term to the Treasurer's successor.

Section 5-206. Legal Adviser. It shall be the duty of the City Attorney to give advice to the Board of Trustees in all matters pertaining to their duties and the management of either of the Fund or the Reserve Fund whenever required by the Board, and the City Attorney shall represent and defend the Board as its attorney in all suits or actions at law or in equity that may be brought against it, and institute all suits and actions in its behalf that may be required or determined upon by said Board; provided that the foregoing shall not prevent the Board from retaining other legal counsel to advise or represent it as provided in Section 5-202(b).

Section 5-207. Monthly Payments. All benefits and allowances payable out of the Fund and hereinafter provided for and allowed by the Board shall be paid monthly out of the Fund by warrants or checks as herein provided, except where a different schedule of payment is provided in Article 3.

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Section 5-208. Applications. All applications under this Chapter shall be made within such time and in such form as may be fixed by the rules and regulations of the Board.

ARTICLE 3. CURRENT BENEFITS

Section 5-301. Member, Surviving Spouse, Dependent Minor Child.

(a) **Member.** Retirement, termination and disability benefits shall be paid to Members in accordance with this Chapter. Members shall consist of those persons who are permanently appointed as sworn employees in the Bureau of Police or Fire, except as follows:

1. Persons who participate in the Public Employe Retirement System of the State of Oregon, or will so participate after a waiting period, shall not be Members.

2. The chief of the Bureau of Police or of the Bureau of Fire shall be a Member unless the terms of employment of such chief provide otherwise.

(b) **Active Member.** An Active Member is a person who is actively employed as a Member in the Bureau of Fire or Police and does not include a Member receiving benefits under this Chapter.

(c) **Surviving Spouse.** Death benefits shall be paid to the Surviving Spouse of a deceased Member in accordance with this Chapter. The Surviving Spouse is a person to whom the Member was legally married throughout the 12-month period preceding death and from whom the Member was not judicially separated or divorced by interlocutory or final court decree at the time of death.

(d) **Dependent Minor Child.** Death benefits shall be paid to a Dependent Minor Child of a deceased Member in accordance with this Chapter. A Dependent Minor Child is a child, natural or adopted, of a Member who is substantially supported by the Member, the Member's Surviving Spouse or the Member's estate and is under 18 years of age and unmarried.

(e) **More Than One Status.** No person shall receive more than one survivor benefit under this Chapter at the same time, despite qualifying under both of Subsections (c) and (d), or qualifying under Subsection (c) or (d) with respect

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to more than one Member. A person so qualifying shall receive in any month the greatest of the benefits payable for that month.

Section 5-302. Years of Service.

(a) Generally. A Member shall be credited with Years of Service for periods of service as an Active Member. One Year of Service shall be credited for each completed 12 months in such periods and 1/12th of a Year of Service shall be credited for each additional completed month. A Member shall not be credited with more than 30 Years of Service.

(b) Military Service. A Member who leaves active duty in the Bureau of Fire or Police to enter the military service of the United States and returns to active duty in one of those Bureaus with reemployment rights protected by federal law shall be credited with Years of Service on the same basis as though the military service had been service described in Subsection (a), if the Member pays the Member contributions, as determined under rules established by the Board, for any period of such service preceding July 1, 1990.

(c) Disability Service. A Member receiving disability benefits under Section 5-306 or 5-307 shall be credited with Years of Service for the period such benefits are received. The amount credited for each year shall be a fractional Year of Service equal to the Member's disability benefits received during the year divided by 75 percent of the Base Pay for the year for the position held by the Member at disability.

Section 5-303. Base Pay and Final Pay.

(a) Base Pay. As used in this Chapter, Base Pay means the base pay of the Member's position in the Bureau of Fire or Police, including premium pay but excluding overtime and payments for unused vacation or sick leave.

(b) Final Pay. As used in this Chapter, Final Pay means the highest Base Pay received by the Member during any of the three consecutive 12-month periods preceding the month in which the Member retires, dies, becomes disabled, or otherwise terminates employment with the Bureau of Fire or Police.

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Section 5-304. Retirement Benefits.

(a) **Eligibility.** A Member shall be eligible to receive a retirement benefit upon termination of employment with the Bureau of Fire or Police on or after attaining age 50 if the Member has 25 or more Years of Service or on or after attaining age 55. A Member receiving disability benefits under Section 5-306 or 5-307 shall be eligible to receive a retirement benefit at Disability Retirement Age, which shall be the earlier of the date the Member earns 30 Years of Service under Section 5-302 or the date the Member attains social security retirement age. For purposes of this Subsection, social security retirement age means the retirement age provided in Section 216(l)(1) of the Social Security Act.

(b) **Amount of Benefit.** The retirement benefit shall be 2.2 percent of the Member's Final Pay times the Member's Years of Service. The amount shall not exceed the maximum benefit permissible under Section 415 of the Internal Revenue Code of 1986 or any successor provision, and regulations issued thereunder, as they may be amended from time to time. The provisions of such Section 415 or its successor, and such regulations, are incorporated by this reference.

(c) **Form of Benefit.** One-twelfth of the retirement benefit shall be payable monthly for the life of the Member, commencing with the month following retirement. The benefit shall be adjusted as provided in Section 5-312.

Section 5-305. Termination Benefits.

(a) **Eligibility.** A Member whose employment with the Bureau of Fire or Police terminates after completing five Years of Service shall be eligible to receive the benefit on vested termination. A Member whose employment with the Bureau of Fire or Police terminates after completing one-half Year of Service and before completing five Years of Service shall be paid the benefit on unvested termination. For purposes of determining eligibility to receive termination benefits, Years of Service include periods of service recognized by the Public Employee Retirement System of the State of Oregon for accrual of benefits or as a waiting period before such accrual begins. A Member who fails to return to work upon recovery from disability shall be treated as terminating employment on the date of recovery.

(b) **Amount of Benefit on Vested Termination.** The benefit on vested termination shall be the Member's retirement benefit accrued under Section 5-304 to the date of the Member's termination of employment with the Bureau of Fire or

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Police based on Final Pay at such termination. If the Member is employed after termination in service recognized by the Public Employee Retirement System of the State of Oregon for accrual of benefits or as a waiting period before such accrual begins, the benefit on vested termination shall be increased in the same proportion as any increases during the period of such service in the rate of Base Pay for the Member's position in the Bureau of Fire or Police held at termination.

(c) **Form of Benefit on Vested Termination.** The benefit on vested termination shall be payable monthly for the life of the Member commencing on Earliest Retirement Date which shall be the date the Member would have been eligible to receive a retirement benefit under Section 5-304 assuming continued service as an Active Member. The benefit shall be adjusted as provided in Section 5-312.

(d) **Amount and Form of Benefit on Unvested Termination.** The benefit on unvested termination shall be a lump sum, payable at termination, equal to the sum of the following:

1. The Member's contributions to the Fund prior to July 1, 1990, if any.
2. Seven percent of the Member's Base Pay received after June 30, 1990, disregarding Base Pay received during the first six months after becoming a Member.

(e) **Reappointment.** A Member who has received the benefit on unvested termination and is later reappointed as an Active Member may repay to the Fund the amount received within 60 days after such reappointment and have Years of Service before the earlier termination restored. If the Member does not make such repayment, Years of Service before the earlier termination shall be disregarded in any later calculation of benefits under this Chapter.

(f) **Transfer from PERS.** A Member who is appointed an Active Member after July 1, 1990 immediately after leaving service as a police officer or fire fighter under the Public Employee Retirement System of the State of Oregon and receives a payment of employee contributions from such System, including contributions picked up by the employer, may pay to the Fund the amount received within 60 days after such appointment. A Member who makes such repayment shall receive Years of Service credit for the service as a police officer or a fire fighter with such System to which the employee contributions relate.

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Section 5-306. Service-Connected and Occupational Disability Benefits.

(a) Eligibility for Service-Connected Disability Benefit. An Active Member shall be eligible for the service-connected disability benefit when unable to perform the Member's required duties because of an injury or illness arising out of and in the course of the Member's employment in the Bureau of Police or Fire. The Board shall determine the existence of a disability and whether it arises out of and in the course of such employment. A Member shall not be eligible for the service-connected disability benefit based on an injury suffered in assaults or combats which are not connected to the job assignment and which amount to a deviation from customary duties or incurred while engaging in, or as the result of engaging in, any recreational or social activities solely for the Member's personal pleasure. A Member shall not be eligible for the service-connected disability benefit on the basis of a condition of stress or mental disorder unless:

1. The employment conditions producing the stress or mental disorder exist in a real and objective sense;
2. The employment conditions producing the stress or mental disorder are conditions other than conditions generally inherent in police or fire employment or reasonable disciplinary, corrective, or job performance evaluation actions by the employer, or cessation of employment;
3. There is a diagnosis of a mental or emotional disorder which is generally recognized in the medical or psychological community;
4. There is clear and convincing evidence that the stress or mental disorder arose out of and in the course of employment as an Active Member; and
5. The Member's employment conditions are the primary cause of the stress or mental disorder.

(b) Eligibility for Occupational Disability Benefit. An Active Member shall be eligible for the occupational disability benefit when unable to perform the Member's required duties because of heart disease, hernia of abdominal cavity or diaphragm, AIDS, AIDS-related complex, tuberculosis, hepatitis B, or pneumonia (except terminal pneumonia). A Member shall not be eligible for an occupational disability benefit because of heart disease unless the Member has five or more Years of Service when the disability arises. The Board shall deny an occupational

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disability benefit if it determines, by a preponderance of the evidence, that the disability was not contracted as a result of service as a police officer or fire fighter. No Member shall be eligible to receive a benefit for an occupational disability incurred while receiving benefits under Section 5-307, unless such occupational disability is incurred within two years after such Member had commenced and continued to receive benefits under Section 5-307, or unless such occupational disability is a recurrence of an occupational disability which became disabling and was compensated for under this Section.

(c) Amount of Benefits. During the period the Member continues to be eligible under Subsection (a) or (b) benefits shall be paid as follows:

1. During the first year from the date of disability, the Member shall be paid 75 percent of the Member's rate of Base Pay in effect at disability, reduced by 50 percent of any wages earned in other employment during the period the benefit is payable.

2. The Member shall continue to be paid the benefit described in Paragraph 1 after one year from the date of disability until the earliest date on which the Member is both medically stationary and capable of Substantial Gainful Activity. If not medically stationary sooner, the Member shall be treated as medically stationary for purposes of this Section on the fourth anniversary of the date of disability, regardless of the Member's condition. The Member is capable of Substantial Gainful Activity if qualified, physically and by education and experience, to pursue employment with earnings equal to or exceeding one-third of the Member's rate of Base Pay at disability.

3. After the date described in Paragraph 2, the Member shall be paid 50 percent of the Member's rate of Base Pay at disability, reduced by 25 percent of any wages earned in other employment during the same period.

4. The minimum benefit shall be 25 percent of the Member's rate of Base Pay, regardless of the amount of wages earned in other employment.

5. The Board may suspend or reduce the benefit if the Member does not cooperate in treatment of the disability or in vocational rehabilitation or does not pursue other employment.

(d) Form of Benefits. The service-connected and occupational disability benefits shall be paid bi-weekly during the first year from the date of disability and

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paid monthly thereafter. The benefits shall be adjusted to reflect changes in the rate of Base Pay of the position held by the Member at disability. The benefits shall cease when the Member reaches Disability Retirement Age under Subsection 5-304(a).

(e) **Medical and Hospital Expenses.** In addition to the benefits described above, a Member with a service-connected or occupational injury or illness shall be reimbursed from the Fund for reasonable medical and hospital expenses arising from the injury or illness, as determined by the Board. Such reimbursement shall be allowed for expenses incurred while serving as an Active Member, while the Member's disability benefits under this Section continue and, if the Member continues to receive such benefits until Disability Retirement Age, while retirement benefits under Section 5-304 continue to the Member. The Board may limit reimbursement to particular medical and hospital service providers with which it has made fee arrangements and may join in the purchase of services and administration of claims for other employees of the City of Portland.

(f) **Waiver of Other Remedies.** By applying for and accepting service-connected or occupational disability benefits, a Member waives any right to recover any other compensation or damages from the City of Portland as a result of such disability.

Section 5-307. Nonservice-Connected Disability Benefits.

(a) **Eligibility.** An Active Member shall be eligible for the nonservice-connected disability benefit if the Member has 10 or more Years of Service and is unable to perform the Member's required duties because of an injury or illness that does not qualify as service-connected or occupational under Subsection 5-306(a) or (b). No Member shall receive benefits under this Section as a result of the following: willful injuries; injuries sustained while, or illness contracted as a result of, willfully doing an unlawful act; or weakness, illness or disability resulting directly or indirectly from the habitual excessive use of or addiction to use of alcoholic beverages or illegal drugs.

(b) **Amount of Benefit.** The benefit shall be 50 percent of the Member's Base Pay at disability, reduced by 50 percent of any wages the Member earns in other employment during the period the benefit is payable. The Board may reduce or terminate the benefit if the Member does not cooperate in treatment of the disability or in vocational rehabilitation or does not pursue other employment.

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(c) **Form of Benefit.** The nonservice -connected disability benefit shall be payable monthly from the date of disability. The amount shall be adjusted to reflect changes in the rate of Base Pay of the position held by the Member at disability. The benefit shall cease when the Member reaches Disability Retirement Age under Subsection 5-304(a).

Section 5-308. Benefits on Service-Connected or Occupational Death Before Retirement.

(a) **Eligibility.** A Surviving Spouse of a Member who dies before retirement as a result of an illness or injury that qualifies as service-connected or occupational under Subsection 5-306(a) or (b) shall be eligible to receive a death benefit. A Dependent Minor Child of such a Member shall be eligible to receive the benefit if the Member has no Surviving Spouse. If the Member has more than one Dependent Minor Child, the benefit shall be divided equally among them. If the Member has a Surviving Spouse and one or more Dependent Minor Children of a former marriage, one-half the benefit shall be paid to the Surviving Spouse. The other half shall be paid to the Dependent Minor Children until the last ceases to be minor and then paid to the Surviving Spouse.

(b) **Amount of Benefit.** The benefit on service-connected or occupational death before retirement shall be 75 percent of the Member's rate of Base Pay at death until the earliest date on which the Member would have been eligible for retirement benefits under Section 5-304 if the Member had survived and continued in service as an Active Member. After such date, the benefit shall be 50 percent of the Member's Final Pay.

(c) **Form of Benefit.** A Surviving Spouse shall be paid the benefit monthly starting with the month following the Member's death and continuing for the spouse's life. A Dependent Minor Child shall be paid the benefit until ceasing to be a minor. The benefit shall be adjusted as provided in Section 5-312.

Section 5-309. Benefits on Nonservice-Connected Death Before Retirement.

(a) **Eligibility.** A Surviving Spouse of a Member who has one or more Years of Service and dies before retirement not as a result of a cause described in Subsection 5-308(a), shall be eligible to receive a death benefit. A Dependent Minor Child of such a Member shall be eligible to receive the benefit if the Member has no Surviving Spouse or if the spouse is under age 55. If the Member has

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more than one Dependent Minor Child, the benefit shall be divided equally among them. If the Member has a Surviving Spouse and one or more Dependent Minor Children of a former marriage, one-half the benefit shall be paid to the Surviving Spouse. The other half shall be paid to the Dependent Minor Children until the last ceases to be minor and then paid to the Surviving Spouse.

(b) Amount on Death Before 10 Years of Service. If the Member had less than 10 Years of Service, the benefit on nonservice-connected death before retirement shall be a lump sum equal to the amount of the Member's contributions as provided in Paragraph 5-305(d)1, less any benefits paid to the Member under this Chapter.

(c) Amount on Death After 10 Years of Service. If the Member had 10 or more Years of Service, the benefit on nonservice-connected death before retirement shall be an annuity equal to 50 percent of the Member's accrued retirement benefit under Section 5-304, based on 2.6 percent of the Member's Final Pay instead of 2.2 percent.

(d) Form of Benefit. A benefit payable under Subsection (b) shall be paid in a lump sum. A benefit payable under Subsection (c) to a Surviving Spouse shall be paid monthly commencing with the month after the Member's death if the spouse is age 55 or over and otherwise with the month after the spouse attains age 55 and shall continue for the spouse's life. A benefit payable under Subsection (c) to a Dependent Minor Child shall be paid monthly commencing with the month after the Member's death and shall continue until the child ceases to be a minor. A benefit payable under Subsection (c) shall be adjusted as provided in Section 5-312.

Section 5-310. Benefits on Death After Retirement.

(a) Eligibility. The Surviving Spouse of a Member who dies after retirement shall be eligible to receive a death benefit, except as provided in Subsection (b). The Dependent Minor Child of the Member shall be eligible to receive the benefit if the Member has no Surviving Spouse. If the Member has more than one Dependent Minor Child, the benefit shall be divided equally among them. If the Member has a Surviving Spouse and one or more Dependent Minor Children of a former marriage, one-half the benefit shall be paid to the Surviving Spouse. The other half shall be paid to the Dependent Minor Children until the last ceases to be a minor and then paid to the Surviving Spouse. Eligibility for death benefits after retirement shall be based on status as a Surviving Spouse or

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Dependent Minor Child at the date of the Member's death and without regard to a person's status at the time of the Member's retirement.

(b) Certain Disabled Members. If the Member retired after a nonservice-connected disability and had less than 10 Years of Service, including service recognized by the Public Employe Retirement System of the State of Oregon for accrual of benefits or as a waiting period before such accrual begins, no death benefit shall be paid.

(c) Amount of Benefit. The benefit on death after retirement shall be 100 percent of the Member's retirement benefit. A Member may make an irrevocable election at the time of retirement under rules established by the Board to be covered by a reduced death benefit and receive a retirement benefit under Section 5-304 based on a larger percentage of Final Pay as follows:

1. With a death benefit equal to 100 percent of the Member's retirement benefit, the Member's retirement benefit shall be based on 2.2 percent of Final Pay.
2. With a death benefit equal to 75 percent of the Member's retirement benefit, the Member's retirement benefit shall be based on 2.4 percent of Final Pay.
3. With a death benefit equal to 50 percent of the Member's retirement benefit, the Member's retirement benefit shall be based on 2.6 percent of Final Pay.
4. With a death benefit equal to 25 percent of the Member's retirement benefit, the Member's retirement benefit shall be based on 2.8 percent of Final Pay.

(d) No Spouse or Children. If a Member has no Surviving Spouse or Dependent Minor Child at death, no death benefit shall be paid except for the benefit based on return of Member contributions provided in Section 5-311, if any. In no event shall a Member receive a retirement benefit based on more than 2.8 percent of Final Pay regardless of not having a Surviving Spouse or Dependent Minor Child.

(e) Form of Benefit. The benefit shall be paid monthly commencing with the month after death and shall continue until the later of the death of the

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Surviving Spouse or the date the last Dependent Minor Child ceases to be a minor. The benefit shall be adjusted as provided in Section 5-312.

Section 5-311. Return of Member Contributions. If a Member's contributions under Paragraph 5-305(d)1 exceed the total of all benefits paid under this Chapter to the Member and to the Member's Surviving Spouse and Dependent Minor Children at the time the last of such benefits ceases to be paid, the excess shall be paid as an additional benefit. The additional benefit shall be paid in a lump sum to the person who was formerly a Dependent Minor Child of the Member receiving benefits under this Chapter or, if there are more than one such persons, divided equally among them. If there are no such persons, the additional benefit shall be paid to the estate of the Member's Surviving Spouse. If there was no Surviving Spouse, the additional benefit shall be paid to the Member's estate.

Section 5-312. Benefit Adjustments. Benefits payable under this Chapter shall be adjusted, where so indicated in the Section of this Article in which each benefit is described, in accordance with this Section after payment commences. The Board shall determine the amount and timing of such adjustments in its discretion, except the percentage rate of change shall not exceed the percentage rate applied to retirement benefits payable to police and fire employees by the Public Employee Retirement System of the State of Oregon.

Section 5-313. Limits on Time and Form of Payment.

(a) **Payment to Members.** Payment of benefits to a Member shall comply with the following restrictions:

1. Payment shall begin no later than the April 1 following the calendar year in which the Member attains age 70 1/2 or retires, whichever is later.
2. Payment shall be made over a period no longer than the lives or joint life expectancy of the Member and any designated beneficiary.
3. The benefit form shall be limited so that the benefit payable after death is incidental to the plan's primary purpose of providing retirement benefits.

(b) **Payment to Beneficiaries.** Payment of death benefits shall begin no later than one year after the Member's death and shall be made over a period no longer than the beneficiary's life or life expectancy.

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(c) **Applicable Regulations.** The restrictions of this Section shall be complied with by payments in accordance with Treasury Regulation Sections 1.401(a)(9)-1 and 1.401(a)(9)-2, or any successor provisions, as they may be amended from time to time. This Section shall override any inconsistent distribution options provided in this Chapter.

Section 5-314. Funeral Benefit. A funeral benefit shall be paid on death of any Active Member or Member actively receiving disability or retirement benefits. The funeral benefit shall be one-half of the monthly salary at the date of death payable to the civil service classification of fire fighter if the Member was employed in the Bureau of Fire, or of police officer if the Member was employed in the Bureau of Police. If such classifications cease to exist, the benefit shall be based on the salary of comparable successor positions. The funeral benefit shall be paid to the Member's Surviving Spouse or, if there is no Surviving Spouse, to the Member's estate.

ARTICLE 4. MISCELLANEOUS.

Section 5-401. Amendment of Chapter.

(a) **Effective Date.** Chapter 5 shall be amended and restated as set forth in Articles 1 through 3 above and this Article 4, effective July 1, 1990. These amended provisions shall apply to all persons who become Members, and to the surviving spouses and Dependent Minor Children of such Members, after the date they are enacted. These amended provisions also shall apply to all other Members, and to the surviving spouses and Dependent Minor Children of such Members, except as provided in Subsections (b) and (c).

(b) **Persons Receiving Benefits.** The benefit rights of Members, Surviving Spouses and Dependent Minor Children actively receiving pensions or benefits on January 1, 1990 shall be controlled by Sections 5-113 through 5-123 and 5-126, set out in Article 5 of this Chapter, and by the Supplementary Retirement Program described in Subsection (d), instead of by Article 3, except as follows:

1. Death benefits payable to a spouse shall continue to be paid regardless of whether the spouse remarries.
2. The Surviving Spouse of a Member who dies after June 30, 1990 and

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after retirement and who has been married to the Member continuously for the 12-month period prior to death shall receive the death benefit provided by Section 5-118 regardless of not having 5 continuous years of marriage before retirement.

3. The Surviving Spouse of a Member who had a nonservice-connected disability, retired and then dies after June 30, 1990 shall receive the death benefit provided by Section 5-118 if the Member had 10 or more Years of Service.

4. The Board may permit a Member receiving disability benefits on January 1, 1990 to make the election described in Subsection (c) at the same time as other Members if the Member's disability is expected to be of less than one year in duration.

5. A Member receiving disability benefits on January 1, 1990 who was not permitted an election under Paragraph 4, who subsequently returns to service as an Active Member in the Bureau of Fire or Police capable of performing full duty without limitation and who earns two more Years of Service under Subsection 5-302(a) shall be given the opportunity, upon completing such two Years of Service, to make the election described in Subsection (c). Upon making such election, the Member shall receive a refund of the Member contributions paid during such two Years of Service.

(c) Election. The provisions of Article 3 shall apply to persons who became Members before the date of enactment and who are not described in Subsection (b) only if such Members make an irrevocable election to have them apply. The election shall be made on forms and under procedures established by the Board. Benefits for a Member who makes the election, and for the Surviving Spouse and Dependent Minor Children of such a Member, shall be determined under Article 3 and not Article 5. Benefits for a Member who does not make the election, and for the Surviving Spouse and Dependent Minor Children of such a Member, shall be determined under Article 5, as modified by Subsection (b), and by the Supplementary Retirement Program described in Subsection (d), and not under Article 3. A Member who retires between January 1, 1990 and June 30, 1990 shall choose at retirement the level of death benefit after retirement under Section 5-310, which shall apply starting July 1, 1990 unless the Member does not make the election described in this Subsection. A Member who makes the election and starts receiving retirement or disability benefits between January 1, 1990 and June 30, 1990 shall start receiving benefits determined under Article 3 effective July 1, 1990.

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(d) **Supplementary Retirement Program.** The benefits provided by the Supplementary Retirement Program created by Ordinance No. 136977, and amended by Ordinance No. 152182, of the City of Portland shall be paid from the Fund pursuant to this Chapter effective July 1, 1990 to:

1. Persons described in Subsection (b); and
2. Members described in Subsection (c) who do not make the election provided therein, and the Surviving Spouses and Dependent Minor Children of such Members.

(e) **Repeal of Prior Sections.** Except for the continued applicability of Sections 5-113 through 5-123 and 5-126 as provided in Subsections (b) and (c), the provisions of this Chapter as previously in effect are repealed and superseded.

(f) **Continuity of Board.** Notwithstanding anything expressed or implied in the amendments to this Chapter enacted in 1989, the members of the Board duly elected and serving as such immediately prior to the effective date of such amendments shall continue after the effective date of such amendments to serve as members of the Board for the remainder of the term for which they were elected.

Section 5-402. Tax Qualification. The benefits provided by this Chapter are intended to constitute a tax qualified pension plan that satisfies the requirements of Section 401(a) of the Internal Revenue Code of 1986, or any successor provision, as it may be amended from time to time.

Section 5-403. Changes by Council.

(a) **Mandated Benefits.** If the City of Portland is required by law to extend to the Members additional benefits not described by this Chapter, the Council may provide for such benefits by ordinance and such additional benefits shall be paid from the Fund. Such ordinance may include reductions in corresponding benefits described in this Chapter, which shall override inconsistent provisions of this Chapter.

(b) **PERS, Social Security and Workers' Compensation.** If the City of Portland is required by law to cover all, or substantially all, of its police officers and fire fighters under one or more of the programs described in Paragraph 1, 2 or 3

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below, or if the Council acts voluntarily to do so and such action is ratified by the affirmative vote of a majority of the Active Members, the corresponding benefits provided by this Chapter, as determined by the Council, shall cease to be provided and the City's employer contributions, taxes, benefit payments or other costs of the newly extended program for police officers and fire fighters shall be paid from the Fund. Such costs shall be requirements levied under Section 5-103. The programs are:

1. The Public Employe Retirement System of the State of Oregon;
2. The federal Social Security system; and
3. The workers' compensation benefits required by statutes of the State of Oregon.

(c) **Tax Qualified Status.** The Council is authorized to change the benefits provided by this Chapter by ordinance to the extent necessary to comply with changes in the requirements for tax qualified status as described in Section 5-402.

(d) **Advice by Board.** The Council shall not take action under this Section without seeking the advice of the Board on the action proposed to be taken.

Section 5-404. Exemption from Execution. All pensions, allowances or benefits due or paid under this Chapter shall be exempt from attachment, execution, garnishment or other process issued out of any court for the payment or satisfaction, in whole, or in part, of any debt, damage, claim, demand or judgment against the beneficiary thereof. The rights of Members and of their Surviving Spouses and Dependent Minor Children are personal and cannot be assigned or transferred to any other party in any way.

Section 5-405. Waiver of Benefits. A person entitled to benefits under this Chapter may, before the beginning of the fiscal year, file a written notice with the Board waiving such benefits or a portion thereof, for the ensuing fiscal year. Such waiver once filed and accepted by the Board shall be irrevocable, except death of such person during the term of the waiver shall automatically terminate the effectiveness of the waiver. Any benefits, or portion thereof, so waived shall be forever forfeited.

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Section 5-406. Invalidity. If any part or section of this Chapter shall be declared invalid or unenforceable for any reason, it shall only void that part or section so declared and the remainder shall remain in full force and effect.

ARTICLE 5. PRIOR BENEFITS.

Section 5-113. Retirement, Resignation, and Discharge. The Board of Trustees shall, upon duly verified written application by any member who shall have been an active member for thirty (30) years and who shall have reached the age of fifty (50) years, retire and relieve said member from service and said member shall receive a monthly pension equal to the earned portion of a maximum pension as hereinafter defined, and said pension shall cease upon the member's death except as hereinafter provided.

The Board of Trustees shall, upon duly verified written application by any member who shall have been an active member for twenty-five (25) years and who shall have reached the age of fifty (50) years, retire and relieve said member from service and said member shall be paid a monthly pension equal to the earned portion of a maximum pension as hereinafter defined, and said pension shall cease upon the member's death except as hereinafter provided.

The Board of Trustees shall, upon duly verified written application by any member who shall have been an active member for twenty (20) years and who shall have reached the age of fifty-five (55) years, retire and relieve said member from service, and said member shall be paid monthly a pension equal to the earned portion of a maximum pension as hereinafter defined, and said pension shall cease upon the member's death except as hereinafter provided.

The Board of Trustees may upon its own motion and by two-thirds (2/3) vote of the entire Board, relieve from service any aged, disabled or infirm member whom it finds unfit for the performance of his or her duty. The Board may by majority vote require any member to appear, submit to and undergo mental or physical examinations by its physician or such additional physicians or psychiatrists as it may appoint. In such cases review of determination based upon the findings of the Board's physicians or psychiatrists may be had as provided in Section 5-107. The member so relieved shall receive his or her earned portion of the maximum pension as hereinafter set forth. Said pension shall cease at the member's death, except as hereinafter provided.

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Any member coming within the provisions of this Article having twenty (20) years or more of active service who is discharged shall be entitled to receive his earned portion of the maximum pension upon reaching that age at which such member would otherwise have been eligible to receive the maximum pension had such member not been so discharged; or the member may elect to receive at the time of discharge a refund of all contributions made by the member, less the amount of non-service connected disability benefits paid to the member from the Fund or previously established pension funds.

Any member who shall resign after five (5) years of active service shall receive at that time a refund of all his or her contributions made as a regular member during the member's entire service in his or her Bureau, unless the amount of non-service connected disability benefits paid to the member from the Fund or previously established pension funds.

Any member who shall be discharged after five (5) years of active service but before completing twenty (20) years of active service, shall receive at that time a refund of all contributions made by him or her, less the amount of non-service connected disability benefits paid to such member from the Fund or previously established pension funds.

Contributions made by a member while such member was a temporary employe shall not be included in computing contributions made by the member for funds. Any member who shall resign or be discharged before completing five (5) years of active service shall not be entitled to refunds of any contributions paid.

Section 5-114. Compulsory Retirement. Any member who has reached his or her sixty-fourth (64th) birthday anniversary shall be retired by the Board forthwith, subject to the provisions of the following Section relating to retirement of members receiving benefits upon service-connected or occupational disabilities; provided, however, that the Chief Engineer of the Bureau of Fire (Chief of the Bureau of Fire) and the Chief of the Bureau of Police who hold such positions on the effective date of this Act shall not be retired under the provisions of this Section prior to August 1, 1968. Any member retired under the provisions of this Section having any service less than thirty (30) years, shall be retired at the member's earned portion of the maximum pension.

Section 5-115. Benefits for Service-Connected Disability or Occupational Disability. Upon duly verified application of a member and a finding by the Board that through injury suffered in line of duty, or sickness caused

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by the performance of duty, the member is or has been unable to perform his or her required duties, said member shall be paid service-connected disability benefits equal to but not in excess of his full salary from the Fund until such member recovers or for a period of one (1) year, whichever period is shorter. A member accepting service-connected disability benefits waives any right such member may have against the City of Portland as a result of said disability. In the event that said member has not recovered at the end of one (1) year, the member shall receive after said first year and until the member recovers, but for a period of not to exceed three (3) additional years, service-connected disability benefits from the Fund equal to but not in excess of the member's full salary but in no event in excess of the then current salary of a First Class Fire Fighter or First Class Police Officer, as the case may be. If the service-connected disability continues after the end of four (4) years, the member shall be paid benefits from the Fund in an amount equal to sixty percent of the then current salary of a First Class Fire Fighter or First Class Police Officer, as the case may be, until the member recovers or if the member does not recover until the member reaches compulsory retirement age. Upon reaching compulsory retirement age, said member shall be retired by the Board and shall receive his or her maximum earned pension. In the event a member, disabled from an injury in line of duty or sickness caused by the performance of duty, reaches compulsory retirement age before the expiration of one (1) year from the date of such disability, said member shall be paid benefits equal to the member's full salary from the Fund until the member recovers or for one (1) year from the date of such disability, whichever event first occurs, at which time the member shall be retired at his or her maximum earned pension. A member receiving service-connected disability benefits upon reaching compulsory retirement age, shall not receive any payments from the Fund in excess of such member's maximum earned pension except as hereinbefore provided plus such medical and hospital expenses as are authorized in this Article.

For the purpose of this Act the disabilities of heart disease, hernia of the abdominal cavity or diaphragm, tuberculosis and pneumonia (except terminal pneumonia) are occupational disabilities and a member so disabled shall not be considered to have suffered injury in line of duty or sickness caused by the performance of duty, but shall be entitled to the same benefits from the Fund as a member injured in line of duty or in the performance of duty until the member recovers or for the period of one (1) year from the date of such disability, whichever period is shorter, at which time the member shall be paid benefits from the Fund in an amount equal to sixty percent of the then current salary of a First Class Fire Fighter or a First Class Police Officer, as the case may be, until the member recovers or if the member has not recovered until he reaches compulsory

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retirement age, at which time the member shall be retired by the Board and shall receive his or her maximum earned pension. If such occupational disability occurs within one (1) year prior to the member's compulsory retirement date said member shall be paid benefits from the Fund equal to the member's full salary until he recovers or for a period of one (1) year from the date of said disability, whichever period is the shorter and in the event the member has not recovered from said disability after the expiration of said one (1) year period, said member shall be retired by the Board and shall receive his or her maximum earned pension. A member in accepting occupational disability benefits waives any right such member may have against the City of Portland as a result of said disability.

No member shall be given service-connected disability benefits or occupational disability benefits if the Board finds that said disability can probably be successfully corrected by competent medical or psychiatric treatment, or both, and said member fails or refuses to be so treated.

In the event of recovery of any member from service-connected disability or occupational disability prior to retirement, as attested by the member's attending physician, and the concurring approval of the Board's physician, the chief in charge of the respective bureau shall authorize return to work of such member, subject to the subsequent certification by the Board, which shall be retroactive to the time the member returns to work. Such return to work shall not be subject to other time limitations on such return contained elsewhere in this Charter. Said member returning to service shall be restored to service in the rank the member occupied at the time of his or her disability and his or her disability benefits shall cease upon restoration to service.

In the event a member is unable to perform his or her required duties from a recurrence of a prior service-connected disability, the period of such recurrence or periods of successive recurrences from the same original sickness or injury shall be added to the period or periods of prior disability for the purpose of computing total disability benefits to which the member is entitled, provided, however, if one (1) year or more lapse from the date of recovery from such original sickness or injury, the subsequent period of such recurrence or periods of successive recurrences of such disability shall be treated as a new disability for the purpose of computing benefits.

A member shall not be entitled to benefits from the Fund under the provisions of this Section during any period while such member is not a resident of the State of Oregon unless the Board has specially waived the requirement as

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permitted in this Article.

An additional percentage allowance for Dependent Minor Children shall be paid from the Fund to a member receiving under this section a sum equal to sixty percent of the then current salary of a First Class Fire Fighter or First Class Police Officer, as the case may be, until said member reaches age sixty-four (64). This allowance shall be based on the member's benefit amount and shall be according to the following percentages: Twenty-five percent for one Dependent Minor Child, fifteen percent for the second Dependent Minor Child, and ten percent in toto for all other Dependent Minor Children over two (2) in number. The additional allowance shall be reduced or shall cease when the child or children are no longer Dependent Minor Children.

Medical and hospital expenses of a member shall be payable from the Fund only in accordance with the following provisions: All medical and hospital expenses arising from a service-connected disability under this Section shall be paid from the Fund until the member's retirement pursuant to any Section of this Chapter; after retirement, if the member was off duty at the time of said member's retirement as the result of a service-connected disability, such medical and hospital expenses for the same service-connected disability shall continue to be paid from the Fund until the member's recovery from such disability; all medical and hospital expenses arising from an occupational disability under this Section shall be paid from the Fund until the expiration of one (1) year from the date of such disability or retirement of the member, whichever event occurs first.

No member shall be eligible to receive benefits under this section, in lieu of benefits under Section 5-116, for an occupational disability incurred while receiving benefits under Section 5-116, unless such occupational disability is incurred within two (2) years after such member had commenced and continued to receive benefits under Section 5-116, or unless such occupational disability is a recurrence of an occupational disability which became disabling and was compensated for under Section 5-115.

Section 5-116. Benefits for Nonservice-Connected Disability. Any member who is in active service and who has at least one (1) year of active service and who becomes incapacitated from performing his required duties on account of injury or sickness not service connected, and who at the time of said disability was either a recipient of disability benefits under Section 5-115 of this Article or was contributing to the Fund from his current or her salary in accordance with the provisions of this article, shall, upon the cessation of his or her sick leave

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benefits for such cause and upon cessation of his or her current salary other than vacation pay, be entitled to benefits equal to his or her maximum earned pension, but in no event less than twenty percent of the then current salary of a First Class Fire Fighter or First Class Police Officer, as the case may be, until he or she recovers, or if he or she has not recovered, until he or she reaches compulsory retirement age. If a member reaches compulsory retirement age while receiving nonservice -connected disability benefits under this Section, such benefits shall cease forthwith, and the member shall be retired by the Board and shall receive his or her maximum earned pension. All applications for benefits under this Section shall be duly verified and accompanied by a certificate from a legally licensed physician setting forth the cause or basis of the disability claimed. The Board shall determine whether the applicant for benefits meets the requirements herein set forth.

No member shall be given benefits under this Section if the Board finds that said disability can probably be successfully corrected by competent medical or psychiatric treatment or both, and said member fails or refuses to be so treated. In the event of recovery of any member from nonservice-connected disability prior to retirement as attested by the member's attending physician and the concurring approval of the Board's physician, the chief in charge of the respective bureau shall authorize return to work of such member subject to subsequent certification by the Board, which certification shall be retroactive to the time the member returns to work. Such return to duty shall not be subject to other time limitations on such return contained elsewhere in this Charter. Said member returning to service shall be restored to service in the rank the member occupied at the time of his or her disability.

A member shall not be entitled to benefits from the Fund under the provisions of this Section during any period while the member is not a resident of the State of Oregon, unless the Board has specially waived the requirement as permitted in this Article.

No member shall receive benefits under this Section as a result of the following: willful injuries; injuries sustained while willfully doing an unlawful act; or weakness, illness or disability resulting directly or indirectly from immoral practices or the habitual excessive use of or addiction to use of alcoholic beverages or narcotic drugs.

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Section 5-117. Benefits and Pensions to Surviving Spouses and Children in Service-Connected or Occupational Disability Deaths. If any member shall die prior to retirement from an injury suffered in line of duty, or sickness caused by the performance of duty, or as a result of an occupational disability of heart disease, hernia of the abdominal cavity or diaphragm, tuberculosis, or pneumonia (except terminal pneumonia), and shall leave a Surviving Spouse, said Surviving Spouse shall be entitled to benefits or pension as herein provided, while remaining unmarried. Said benefits shall be paid from the Fund and shall be at the rate of fifty percent of the current salary of a First Class Fire Fighter or First Class Police Officer, as the case may be, until such time as the deceased member would have had thirty (30) years of active service or would have reached compulsory retirement age, had the member lived, whichever event would have first occurred, at which time said Surviving Spouse while unmarried shall receive a monthly pension from the Fund. A qualified Surviving Spouse's pension shall be computed in accordance with the Survivor Annuity Table as set forth in Section 5-118 and shall be based on the deceased member's years of active service at compulsory retirement age, had the member lived, but in no event shall it exceed the maximum pension allowable to a Surviving Spouse.

An additional percentage allowance for a Dependent Minor Child or children shall be paid from the Fund to a Surviving Spouse qualified to receive benefits or pension under this Section. This allowance shall be based on the qualified Surviving Spouse's benefit or pension amount and shall be according to the following percentages: twenty-five percent for one Dependent Minor Child, fifteen percent for the second Dependent Minor Child, and ten percent in toto for all other Dependent Minor Children over two (2) in number. In the event the Dependent Minor Child or children are not in fact substantially supported by the Surviving Spouse, the additional percentage allowance for such Dependent Minor Child or children shall be paid not to the Surviving Spouse, as provided above, but shall be paid to the Dependent Minor Child or shall be divided equally among the Dependent Minor Children, as the case may be. The additional allowance shall be reduced or shall cease when the child or children are no longer Dependent Minor Children.

If there be no Surviving Spouse qualified to receive a Surviving Spouse's benefits or pension, or if the Surviving Spouse becomes disqualified, then the Dependent Minor Child or children of such deceased member shall receive the benefits or pension to which a Surviving Spouse without Dependent Minor Child or children would have been entitled, as heretofore provided in this Section, to be divided equally among them, if there is more than one. Any Dependent Minor

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Child's interest in said benefits or pension shall cease when is no longer a Dependent Minor Child.

If any member shall die prior to retirement from any causes specified in the first paragraph of this Section, leaving a Dependent Minor Child or children of a former marriage or marriages and a qualified Surviving Spouse, then the qualified Surviving Spouse's benefits or pension, as the case may be, plus children's allowances to which the Surviving Spouse might be entitled were all the children of the Surviving Spouse, shall be divided with the Dependent Minor Child or children of all marriages, fifty percent to said qualified Surviving Spouse, and fifty percent to the Dependent Minor Child or children of all the marriages to be divided equally among said children. Any Dependent Minor Child's interest in said benefits or pension plus allowances, if any, shall cease when the child is no longer a Dependent Minor Child as defined herein, and any qualified Surviving Spouse's right to an additional allowance for a Dependent Minor Child shall cease under the same conditions.

A Surviving Spouse is disqualified and the Surviving Spouse's right to any benefits or pension from this Fund is thereafter and forever terminated when the Surviving Spouse remarries.

All persons deriving benefits from the death of any one member under the provisions of this Section may elect, if the Board after hearing finds it to be financially beneficial to the Fund, to receive collectively a five thousand dollar (\$5,000) cash settlement from the Fund in lieu of all further claims to benefits and/or pension. Said cash settlement shall not be paid if the deceased member was at the time of his or her death or within (1) one year thereafter would have been eligible for a maximum pension or would have reached compulsory retirement age.

Section 5-118. Benefits and Pensions to Surviving Spouses and Children on Deaths of Members After Retirement or on Non-Service Connected Deaths Before Retirement.

Deaths of Members After Retirement. Upon the death of any member who retires under the provisions of this Article, other than a member who retired prior to July 1, 1947, the Surviving Spouse of said deceased member until such Surviving Spouse's death or remarriage shall receive a monthly pension to be computed from the "Survivor Annuity Table," set forth below, and in accordance with this Section; provided, however, that as to any member relieved from service

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by the Board under Section 5-113 for a nonservice -connected disability or retiring under Section 5-116 of this Act, the provision of this Section shall apply only to a member having twenty (20) years or more active service. Said table below shows the basis for computing the pension to which the Surviving Spouse shall be entitled. In using the table the difference between the member's and Surviving Spouse's ages shall be determined to the closest year. If at the time of said retired member's death, there be no Surviving Spouse, the Dependent Minor Child or children while so remaining shall receive the Surviving Spouse's pension as set forth in the "Survivor Annuity Table" below, computed on the basis of a member and Surviving Spouse of the same age, and said pension shall be divided equally among them, if there be more than one. If at the time of said retired member's death, the Surviving Spouse fails to qualify for a pension under this section, but the deceased member leaves a surviving Dependent Minor Child or children, the Dependent Minor Child or children while so remaining shall receive a pension as set forth below in the "Survivor Annuity Table" computed as though the Surviving Spouse had qualified as a for a pension. If the Surviving Spouse qualifies for a pension under this Section and later dies or remarries and there is a surviving Dependent Minor Child or children of the member, the Dependent Minor Child or children while so remaining shall receive said Surviving Spouse's pension and said pension shall be divided equally among them, if there be more than one.

SURVIVOR ANNUITY TABLE

Difference Between Member's and Surviving Spouse's Age	Surviving Spouse's Pension Shall be determined as Percent of Member's Maximum Earned Pension
Member same age or Surviving Spouse Older	56%
" 1 year older	55%
" 2 years "	54%
" 3 " "	53%
" 4 " "	52%
" 5 " "	51%
" 6 " "	50%
" 7 " "	49%
" 8 " "	48%
" 9 " "	47%
" 10 " "	46%
" 11 " "	45%

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"	12	"	"	44%
"	13	"	"	43%
"	14	"	"	42%
"	15	"	"	41%
"	16	"	"	40%
"	17	"	"	39%
"	18	"	"	38%
"	19	"	"	37%
"	20	"	"	36%

The Surviving Spouse of any member who retires under the provisions of this Article, shall receive a pension only if the Surviving Spouse was lawfully married to the member for five (5) continuous years immediately prior to the date of the member's retirement and not otherwise.

Non-Service Connected Deaths Before Retirement. If a member has less than one (1) year of active service and dies before retirement for any cause not in line of duty, the member's Surviving Spouse and/or Dependent Minor Child or children shall have no rights under this Fund.

If a member has at least one (1) year but less than twenty (20) years of active service and dies before retirement from any cause not in line of duty, the member's Surviving Spouse, if said Surviving Spouse has been married to the member for at least one (1) year, shall be entitled to an option to either: (1) the return of the member's contributions made to the Fund and previously established pension funds less the amount of nonservice-connected disability benefits paid to the member from the Fund and any previously established pension funds, or (2) a cash settlement of fifteen hundred dollars (\$1,500) plus an additional one hundred dollars (\$100) for every year of the member's active service up to twenty (20) years. If at the time of said member's death, there be no Surviving Spouse who has been married to the member for at least one (1) year, the deceased member's surviving Dependent Minor Child or children, if any, shall have the same rights of a qualifying Surviving Spouse as set forth above in this paragraph.

If a member has twenty (20) years or more of active service and dies before retirement from any cause not in line of duty, the member's Surviving Spouse, if said Surviving Spouse has been married to the member for at least one (1) year, shall be entitled to a pension to be computed from the "Survivor Annuity Table" set forth above, based upon the maximum earned pension of the deceased member; or said Surviving Spouse may elect at his or her option within one (1) year after

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the member's death, if the Board, after hearing so permits, to receive in lieu of further pension payments either: (1) a return of the member's contributions made to the Fund and previously established pension funds, less the amount of nonservice-connected disability benefits paid to the member from the Fund and any previously established pension funds; or (2) a cash settlement of thirty five hundred dollars (\$3,500). If at the time of said member's death there be no Surviving Spouse who has been married to the member for at least one (1) year, the deceased member's surviving Dependent Minor Child or children, if any, while so remaining shall be entitled to the same pension to which a qualifying Surviving Spouse of the same age as the member would have been entitled under the provisions of this paragraph. If a Surviving Spouse qualifies for and is receiving a pension under this paragraph and later dies or remarries, the surviving Dependent Minor Child or children of the deceased member while so remaining shall receive, in lieu of the Surviving Spouse, said Surviving Spouse's pension, and said pension shall be divided equally among them, if there be more than one.

Notwithstanding the above, if the member shall die before retirement from any cause not in the line of duty, leaving a Dependent Minor Child or children by a former marriage or marriages and the Surviving Spouse qualifies to receive a pension under this Section, then the Surviving Spouse's pension shall be shared with the Dependent Minor Child or children of all marriages, fifty percent to the said Surviving Spouse and fifty percent to the Dependent Minor Child or children of all marriages, to be divided equally among said children, if there be more than one. No Dependent Minor Child shall share in such division of the fifty percent last named, after such child has ceased to be a Dependent Minor Child as that term is defined in this Article. When there is no longer a Dependent Minor Child, the entire Surviving Spouse's pension shall be paid to the qualified Surviving Spouse until his or her death or remarriage. If the Surviving Spouse remarries or dies while there remain Dependent Minor Child or children, the entire Surviving Spouse's pension shall be paid to the Dependent Minor Child or children while they so remain, to be divided equally among said children, if there be more than one.

In the event a cash settlement option is available and exercised pursuant by this Section, the election to accept it must be by or on behalf of all persons deriving or possibly entitled to derive benefits therefrom.

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Section 5-119. Pensions for Previously Retired Members and Their Surviving Spouses and Children. The pension of any retired member of the pension or a Surviving Spouse or Dependent Minor Child or children of a deceased member, being paid as of July 1, 1947, shall be increased one-third (1/3) over and above the amount being paid on said July 1, 1947, and the total amount of such pension shall be paid from the Fund established by this Act, and not otherwise. The minimum pension for any person covered by this Section and on pension before July 1, 1947, shall be fifty dollars (\$50.00) per month after the above-mentioned one-third (1/3) increase has been effected. Effective July 1, 1962, the Board shall determine the percentage which the actual pension paid under this Section on July 1, 1949, is of the full salary of a First Class Police Officer or First Class Fire Fighter, as the case may be, as such salary was fixed on July 1, 1947; commencing July 1, 1962, and thereafter, increases or decreases shall be made annually at the beginning of each fiscal year of the pensions to be paid under this Section, subject to the minimum fixed above, by applying the percentage determined above to the full salary established by the City for a First Class Police Officer or First Class Fire Fighter, as the case may be, on July 1, 1962, and July 1 of each year thereafter, provided, however, in no event shall the amount paid as so computed, be less than the pension paid immediately prior to July 1, 1962. If a member who retired prior to July 1, 1947 dies or died after July 1, 1947, such member's Surviving Spouse or any Dependent Minor Child or children of such deceased member must qualify in the same manner as Surviving Spouse and children receiving a pension as of July 1, 1947, and those Surviving Spouses and children who qualify shall be paid a pension computed in the same manner as Surviving Spouses and children receiving a pension as of July 1, 1947.

Previously retired members of the Bureau of Police or Fire and their Surviving Spouses and Dependent Minor Children, by accepting any benefits provided herein, shall thereby waive any and all alleged, asserted or claimed rights under the provisions of any previous retirement and/or relief act in effect before the passage of this article.

Section 5-120. Variation in Amount of Benefit or Pension Payments. All benefits and pensions granted and paid under this Act shall vary annually and shall be based upon the current salary of a First Class Fire Fighter or First Class Police Officer, as the case may be, computed annually at the beginning of the fiscal year. A person entitled to benefits or pension under this Act may, before the beginning of the fiscal year, file a written notice with the Board waiving said benefits or pension or a portion thereof, for the ensuing fiscal year. Said waiver once filed and accepted by the Board shall be irrevocable, except death of said person

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during the term of the waiver shall automatically terminate the effectiveness of said waiver. Any benefits or pension, or portion thereof, so waived shall be forever forfeited. This Section shall not apply to pensions for previously retired members and their Surviving Spouses and children coming under provisions of Section 5-119, which shall be governed solely by said Section.

Section 5-121. Temporary Members. A temporary fire fighter or police officer, or the Surviving Spouse and/ or Dependent Minor Children of either, shall only be eligible for the provisions of this Act relating to service-connected disabilities and service-connected death, not including occupational disabilities as herein defined, and not otherwise.

Section 5-122. Military Service. Members entering military service in time of a national emergency so declared by the President of the United States or inducted by the federal or State government into the armed forces or the reserve components thereof at a time of said national emergency shall receive credit for all time spent in said service toward retirement under this Act; provided said member returns to active duty in the Bureau of Fire or Police, as the case may be, within sixty (60) days after being relieved with a favorable discharge from said service and does not voluntarily remain in said service after the emergency; and provided further, however, that if a member shall become eligible, while in said service, to receive a pension according to years of service and age, as provided in Section 5-113, it shall not be necessary for such member to return to active duty in the Bureau of Fire or Bureau of Police in order to receive his retirement pension. In case of the member's death while in said service the member's Surviving Spouse and Dependent Minor Child or children shall be eligible for benefits as provided in Section 5-118. In case of injury or sickness contracted by said member while in said service, after being relieved from said service the member shall be entitled to the same benefits the member would have received under the paragraph in Section 5-116 hereof providing for benefits upon nonservice-connected disabilities.

Section 5-123. Funeral Expenses. Upon the death of any active or retired member, the Board shall pay to the person responsible for the funeral expenses of said deceased member a sum not exceeding two hundred dollars (\$200) to be used for funeral expenses.

Section 5-126. Definitions of Terms. The following terms where used herein shall mean as follows:

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1. The term "First Class Fire Fighter" shall mean a member of the Bureau of Fire who receives the maximum payment in the fire fighter classification, as set forth in the classification of positions in the Bureau of Fire by the Civil Service Board, and in the event of the change of the name of said classification where the term "First Class Fire Fighter" is used it shall be that position by whatever name it may hereafter be called;
2. The term "First Class Police Officer" shall mean a member of the Bureau of Police who receives the maximum pay in the police bureau classification as set forth in the classification of positions in the Bureau of Police by the Civil Service Board, and in the event of the change of the name of said classification where the term "First Class Police Officer" is used it shall be that position by whatever name it may hereafter be called;
3. The term "Surviving Spouse" shall include widower, and shall mean the spouse of a member who was legally married to a member and not judicially separated or divorced by interlocutory or final decree of court from the member at the time of the member's death;
4. The term "Dependent Minor Child" shall mean a child, natural (including posthumous) or adopted, of a member, who is in fact substantially supported by said member, or such member's Surviving Spouse or estate, while said child remains under eighteen (18) years of age and unmarried;
5. The term "maximum pension" shall mean a pension equal to sixty percent of the then current salary of a First Class Fire Fighter for fire fighters, or that of a First Class Police Officer for police officers, as the case may be, and said pension shall vary annually as said salaries may vary from time to time;
6. The term "earned portion of maximum pension" or "maximum earned pension" shall mean that portion of a maximum pension that the member's years of service bear to the years of service required for a maximum pension, but in no event shall it exceed the maximum pension;
7. The term "active service" shall mean that period of time after the date of permanent appointment during which a member serves and is paid from the payroll of the respective bureau of which he or she is a member; and likewise shall include time spent on military leave to the extent provided in Section 50-122, leave of absence from the Bureau of Police or Bureau of Fire to serve as a Chief of the Bureau thereof, during which time the member shall be classified as a member,

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and time lost as a result of occupational disabilities and service-connected disabilities. Time served under temporary appointment before date of permanent appointment shall not be included in computing "active service." Time lost from active duty as a result of a nonservice-connected disability for which period of time benefits are paid to a member from the Fund shall not be included in computing "active service";

8. The term "in line of duty" shall mean those acts connected with or resulting from duties assigned, required or authorized of members of the Bureau of Police or Bureau of Fire, as the case may be, which occur during the period of time which elapses between the time a member reports for duty until the time he is relieved from duty, and any other time the member is performing fire or police duties for the City of Portland, provided such acts are not in violation of departmental rules and regulations, City ordinances or State or federal laws;

9. The term "member" shall mean any person permanently and duly appointed in the Bureau of Fire or the Bureau of Police, under Civil Service rules and regulations, to perform the duties of a regular fire fighter or police officer, including police women, police harbor pilots, police matrons, fireboat pilots and fire department engineers, or any person permanently and duly appointed prior to July 1, 1947, who has paid into the established Fire fighter's and Policemen's Relief and Pension Funds prior to July 1, 1947, in the City of Portland, under whatever designation he or she may be described, in any salary or budget ordinance providing compensation for the members of said Bureau of Fire or Bureau of Police; provided, however, that personnel of the Bureau of Fire or Bureau of Police, who are excluded from membership in the Fund pursuant to statutory authority shall not be deemed "members" under this Article;

10. The term "residence in the State of Oregon" or "resident of the State of Oregon" shall mean actually living in the State of Oregon as well as maintaining residence and domicile therein;

11. The terms "current salary of a First Class Fire Fighter" or "current salary of a First Class Police Officer" shall mean all wages or salary paid on a monthly basis to a member for service in that Civil Service classification. The terms shall not include wages or salaries for extra duties or extra services. For the purposes of payments under this Article "current salary of a First Class Fire fighter " and "current salary of a First Class Police Officer" shall be computed annually at the beginning of the fiscal year;

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12. The term "full salary" shall mean the regular wages or salary paid on a monthly basis to a member in the member's particular salary range and step, but shall not include overtime pay;

13. The term "fund" or "Fund" when not accompanied by any descriptive words shall mean the Fire and Police Disability and Retirement Fund created by Section 5-101 of this Article;

14. The term "contributions" unless otherwise qualified, shall mean all moneys contributed by a member to the Fund established by this Act or to previously established fire and police pension funds of the City of Portland;

15. Pronoun: In construing this Article, if the context so requires, the singular pronoun shall be taken to mean and include the plural and vice versa.

CHARTER, CITY OF PORTLAND, OREGON

CHAPTER 6

[Chapter 6, Dock Commission, was deleted in 1984 pursuant to Charter Section 2-512, which authorizes the City Auditor to delete administratively, with Council approval, Charter provisions that have become inoperative. Ordinance No. 155423, passed by Council December 14, 1983, stated that the City Attorney and legal counsel for the Port of Portland had determined that Charter Chapter 6 was no longer operative since the Dock Commission had been consolidated into the Port of Portland as authorized by the voters in November, 1970, and all debts incurred in the name of the Dock Commission had subsequently been paid in full.]

CHARTER, CITY OF PORTLAND, OREGON

CHAPTER 7

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ARTICLE 1. ACCOUNTING PROCEDURES AND TAXATION.

Section 7-101. Public Moneys and Accounting.

1. The Council shall by ordinance provide a system for the collection, custody and disbursements of all public moneys, not inconsistent with the provisions of statute and this Charter, and shall by ordinance provide a system of accounting for the City, which shall be so planned as to enable a clear and intelligent statement to be made of the financial affairs of the City from time to time as provided by this Charter.

2. The City Officer responsible for accounting shall keep an account of all moneys paid into and out of the treasury. The City Officer responsible for accounting shall keep a register of warrants, check-warrants and checks, showing the funds upon which they are drawn, the numbers, in whose favor, and the appropriations, if any, applicable to the payment thereof.

3. The chief financial officer of the City shall give information as to the exact condition of the treasury and of every appropriation and Fund thereof under control of the Council, upon demand of the Mayor, or the Council, or any Commissioner or the Auditor. The chief financial officer of the City shall keep the records and accounts of the City in a complete and intelligible manner, but may keep a summary of departmental or bureau records and accounts where he or she finds such summary to be sufficient. He or she shall make an annual statement to the Council showing the receipts and disbursements of the City and the state of each particular Fund and the City's financial condition as soon as records are complete after the close of business on the last day of each fiscal year. The annual report shall contain an accurate statement in summarized form of the financial receipts of the City from all sources and of the expenditures of the City for all purposes, together with a detailed statement of the debt of said City, of the purposes for which said debt has been incurred, and of the accounts of said City with grantees of franchises and the names of the present owners of each thereof, and a summary of the assets and liabilities of the City. [May 3, 1913, new sec. 84; rev. 1914, sec. 185; 1928 pub., sec. 185; 1942 recod., sec. 7-101; am. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994.]

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Section 7-102. Expenditures. No money shall be expended or payment made from any fund of the City, except assessment, trust, agency, revolving or working capital funds, until an appropriation shall be made therefor, but this requirement shall not apply to judgments or lawful investments. An ordinance making an appropriation of money shall not contain a provision on any other subject.

All obligations for interest on the bonded indebtedness of the City and other fixed charges shall be paid as the same mature, or in accordance with the terms of contract or law.

Any liability or liabilities willfully incurred by the Council to be paid in any fiscal year, which singly or in the aggregate shall be in excess of the revenues and receipts for such a year, shall be null and void.

The Council may by ordinance limit the expenditures of every department of the City government, except interest charges and other charges fixed by contract or by this Charter during each fiscal year, or during any month thereof, and any contracts made, debts created or liability willfully incurred in excess of the amounts authorized by the Council, where the Council may so limit the expenditures of moneys, shall be null and void, and the Council shall not authorize any expenditures during any fiscal year, nor shall any liability or liabilities be incurred by or on account of the City of Portland, to be paid in any particular fiscal year (for the payment of which approval of the Council shall be necessary) which singly or in the aggregate shall be in excess of the revenues and receipts received or available during such year, applicable, or made applicable by transfer, to the payment of such liability or liabilities. Nothing contained in this Charter shall authorize the enforcement against or collection from said City, on account of any debt, contract or liability, of any sum in excess of the limitations prescribed in this Section.

The City shall issue no warrants or other evidences of indebtedness, except upon special assessment funds, and the payment of judgments against the City, unless there is money in the treasury applicable to the payment of the same on presentation, and all evidences of indebtedness issued contrary to this provision shall be null and void. Any member of the Council knowingly voting to incur any liability or to create any debt in excess of the amount limited and authorized by the law, shall be deemed guilty of malfeasance in office, and for such malfeasance such member may be removed from office. [Ch. 1903, sec. 117; am. May 3, 1913, sec. 91; rev. 1914, sec. 193; 1928 pub., sec. 193; 1942 recod., sec. 7-102; am.

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Nov. 6, 1962.]

Section 7-103. Demands for Payment. Every demand upon the City for payment of money out of the treasury, must, before it can be paid, be presented to the chief financial officer of the City, who shall examine such demand to satisfy himself or herself whether the money is legally due and payable, and out of what Fund it is payable. No demand shall be approved or paid unless it specify each several item, date and amount composing it, and have endorsed thereon the legal authority for its payment. However, the provisions of this paragraph shall not apply to demands for payment out of funds from which any officers, boards or Commissioners are empowered by this Charter or other law to require payment without Council authorization, nor to requisitions, checks or warrants thereon. The chief financial officer of the City shall keep an official record of all demands examined by the chief financial officer of the City showing the number, date, amount, name of the payee and against what appropriation, if any, drawn and out of what Fund payable. The chief financial officer of the City shall not allow any demand out of its order to give priority to one demand over another drawn upon the same specific Fund, except that when liability for any claim presented is not sufficiently apparent to the chief financial officer of the City, he or she may delay the payment thereof until such liability shall be determined. [Ch. 1903, sec. 274; rev. 1914, sec. 69; 1928 pub., sec. 69; 1942 recod., sec. 2-406 and 2-407; rev. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994.]

Section 7-104. Demands, Nonallowance. No demand shall be allowed by the chief financial officer of the City in favor of any corporation or person indebted to the City in any manner, except for assessments or taxes not delinquent, without first deducting the amount of any indebtedness then due of which the chief financial officer has notice, nor in favor of any person having the collection, custody or disbursement of public funds, unless such person's account has been presented, passed, approved and allowed as herein required, nor in favor of any officer determined by the Mayor or Commissioner In Charge to have neglected to make his or her official returns or reports in the manner and at the time required by law, ordinance or the regulation of the Council, or to have neglected or refused to comply with any of the provisions of law regulating such officer's duties, nor in favor of any officer or employee found by the Mayor or Commissioner In Charge to have absented himself or herself without legal cause or duly granted leave of absence from the duties of his or her office during office hours, after such determination has been transmitted and filed with the chief financial officer. [Ch. 1903, sec. 277; am. May 3, 1913, sec. 101; rev. 1914, sec. 72; 1928 pub., sec. 72; 1942 recod., sec. 2-409; rev. Nov. 6, 1962; am. May 18,

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1994.]

Section 7-105. Warrants. When payment of a demand has been authorized by the Council and approved as provided in this article, the Mayor and Auditor shall draw warrants on the Treasurer therefor. Such warrants must be signed by the Mayor and attested by the Auditor; but no warrants, except such as are issued upon funds created by special assessments, or warrants issued in settlement of judgments of the courts, shall be drawn signed by the Mayor or attested by the Auditor until the money for the payment thereof is in the hands or under the control of the City Treasurer. Check-warrants countersigned by the Treasurer, checks signed by the Treasurer, or other method of payment authorized by law may be used in lieu of warrants. Such check-warrants or checks shall be drawn upon a bank in which the Treasurer has deposited money for such purpose. [Ch. 1903, sec. 280; rev. 1914, sec. 75; 1928 pub., sec. 75; 1942 recod., sec. 2-412; rev. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994.]

Section 7-106. Transfers from Funds. It shall be lawful to transfer money from the General Fund to any other fund of the City and from the bonded indebtedness interest fund to the Improvement Bond Interest Fund, and to make any transfer permitted by statute, and the Council may provide that money transferred must be returned to the fund from which it was transferred. [Ch. 1903, sec. 115; am. May 3, 1913, sec. 89; rev. 1914, sec. 191; 1928 pub., sec. 191; 1942 recod., sec. 7-103; am. Nov. 6, 1962; am. May 18, 1994.]

Section 7-107. Reversions to General Fund. When the necessity for maintaining any fund of the City has ceased to exist and a balance remains in such fund, the Council shall so declare by ordinance, and upon such declaration, such balance shall be forthwith transferred to the General Fund unless other provisions have been made in the original creation of the fund. However, the purposes of a special fund may be enlarged for similar objects. [Ch. 1903, sec. 116; am. May 3, 1913, sec. 90; rev. 1914, sec. 192; am. May 17, 1918; 1928 pub., sec. 192; 1942, recod., sec. 7-104; am. Nov. 6, 1962; am. May 18, 1994.]

Section 7-108. Investments. Whenever bonds of the City of Portland are offered for sale, and there is a balance to the credit of any fund, not invested, said bonds may be awarded at par and accrued interest to the City Treasurer for the nearest practical amount, to consume said balance, and shall be held by the City Treasurer as an investment for said fund. When the bonds of the City of Portland are not offered for sale at a time or in sufficient amount to provide for the investing of any such balance, the Council may provide for investing the same in any

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general obligations of the United States Government, State of Oregon, the City of Portland, Multnomah County, School District No. 1 of Multnomah County or Port of Portland, or in any other bonds or investments permitted by statute, and to that end the Council may authorize the Treasurer to purchase the same on the open market if there is an established market therefor, or to submit a bid for any such bonds which are about to be issued for sale, or may authorize the Treasurer to advertise for proposals from persons holding any such bonds. Purchase of bonds upon bids shall be made by the Council on the basis of the most advantageous bid received, reserving the right to reject any and all bids. All interest received from such investments shall be credited to the fund from which the investment was made unless specifically provided otherwise by Charter or statute, provided, that two (2) or more funds may be joined in one investment, a suitable provision being made for keeping an account of the amount invested from each fund and making an apportionment of the interest and principal when received. The Council may sell any bond or investment so purchased, when the same may not be payable at or near the time when such funds may be needed for the purpose for which the sinking fund or special fund was created, on the open market, if there is an established market for such investments, or, if there is no such established market, to the highest and best bidder after advertising for proposals in the City official newspaper by publication for at least five (5) days. Pending the investment as herein provided of any surplus or idle funds, the same shall be deposited in a depository bank which has qualified and been selected as a depository pursuant to statute. [Ch. 1903, sec. 116; am. May 3, 1913, sec. 90; rev. 1914, sec. 192; am. May 17, 1918; 1928 pub., sec. 192; 1942 recod., sec. 7-104; rev. Nov. 6, 1962; am. May 18, 1994.]

Section 7-109. Independent Audits. At the close of each fiscal year the books and accounts and the financial affairs and transactions of the City shall be audited by an independent licensed public accountant or firm of such accountants appointed by the City Auditor with the approval of the Council. Such audits shall also be made for various departments, as provided in this Charter. The City Auditor may from time to time and as often as he or she shall deem necessary, have like audit made of the books and accounts, and the financial affairs and transactions of the City or any part of City government. [May 3, 1913, new sec. 34; rev. 1914, sec. 195; 1928 pub., sec. 195; 1942 recod., sec. 7-106; am. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994.]

Section 7-110. Annual Tax Levy. The Council shall, subject to applicable statutory provisions and at the time provided by law, levy upon all property not exempt from taxation, taxes for the coming fiscal year, as follows:

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1. A tax to provide for the payment of the expenses of the City, subject to constitutional limitations, aside from any special levy or levies authorized for said year and aside from any levy for the payment of bonded indebtedness and interest thereon. The proceeds from the tax levy so made shall be credited to the General Fund.

2. Also a tax sufficient to meet the interest on the bonded indebtedness of the City to be credited to the Bonded Indebtedness Interest Fund.

3. Also a tax of not less than four-tenths of one mill on each dollar valuation not exempt from taxation to provide for the purchase of securities as an investment and/or payment or redemption of the bonded indebtedness of the City, to be credited to the sinking funds, or bond redemption funds. In all cases a tax shall be levied sufficient to provide for principal repayments on general obligations of the City.

4. Nothing herein contained authorizing general or special tax levies shall affect the right or power of other commissions to levy a tax as provided elsewhere in this Charter.

5. At the same time other levies of taxes are made and in addition to tax levies authorized by the Charter or other authorizations by the voters, the Council shall levy each year a special tax of three-tenths of a mill on each dollar of the assessed valuation of the property in the City of Portland not exempt from taxation, which shall be credited each year to the Fire and Police Disability and Retirement Fund provided for by Section 5-101 of the Charter and said special tax of three-tenths of a mill shall be in addition to all other taxes which may be levied according to law.

6. Nothing herein contained shall affect the right, power or duty of the Council to levy special taxes heretofore or hereafter authorized by the voters, and special taxes authorized and found necessary shall be levied.

[Ch. 1903, sec. 114; am. June 5, 1905; am. May 3, 1913, sec. 88; rev. 1914, sec. 190; am. July 1, 1926; 1928 pub., sec. 190; am. Nov. 6, 1928; am. Nov. 5, 1940; 1942 recod., sec. 7-110; rev. Nov. 6, 1962; am. May 18, 1994.]

Section 7-111. Interim Borrowing. The Council of the City of Portland is hereby authorized to borrow from time to time sufficient funds to meet the current expenses of the City of Portland during each fiscal year pending the collection of

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the annual tax levy for such fiscal year. [1942 recod., sec. 7-110, par. 7; rev. Nov. 6, 1962; am. May 18, 1994.]

Section 7-112. Limited Special Tax Levies. Special taxes for fixed amounts or limited terms, may be levied and collected at the same time and in the same manner as other tax levies, upon approval by a majority of the City electors voting thereon. Measures for such special tax levies shall be submitted to the electors in the form of separate acts at a general or special election as authorizations or directions to the City Council or other levying body, without provision for amendment to this Charter. Copies of such measures approved by the voting majority shall be kept by the City officer responsible for accounting in a separate Current Special Tax Levy Register, and shall be public records having the same effect as though included in this Charter by amendment. All such authorizations for special tax levies not fully used or which have not fully expired by their terms, which were included in the City Charter at the time of passage of this amendment or approved at the time of passage of this amendment, shall be continued in full force and effect regardless of deletion from the Charter and shall be included by the City officer responsible for accounting in the Current Special Tax Levy Register. After the authority for a special tax levy has been fully used or has expired, it shall be removed from the current register and placed in a File of Completed Special Tax Levies. This Section shall not apply to authorizations to levy special taxes which by the provisions thereof, grant continuing authority from year to year without period limitations, notwithstanding stated maximum amounts or millage limits on the taxes which may be levied for any one year. Such authorizations shall continue as part of this Charter. [New sec. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994.]

Section 7-113. Transient Lodgings Tax.

1. The Council may by ordinance impose and levy a tax not exceeding five percent on gross amounts of money, credit or other things of value paid to or received for lodging by the owner or operator of any hotel, motel, apartment or lodging house, mobile home or trailer park or court, or any other place in the City where space designed or intended for lodging occupancy is rented by any person or persons, for any period less than monthly. This tax shall not apply to hospitals, convalescent or nursing homes, or public institutions, or permanent occupancy as defined by ordinance. Minimum rentals to which the tax shall apply may be fixed by ordinance. The tax imposed shall be collected by the owner or operator of the rental space in addition to the rental charge, at the time of payment of rent. City

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revenues from such taxes shall be credited to the General Fund of the City and used for general City purposes, as the Council may find appropriate, which may include provision for and the acquisition, construction, operation and maintenance of recreational, cultural, convention or tourist-related facilities or services.

2. In addition to any other tax authorized by this Section of the Charter the Council shall by ordinance impose and levy a tax of one percent on gross amounts of money, credit or other things of value paid to or received for lodging by the owner or operator of any hotel, motel, apartment or lodging house, mobile home or trailer park or court, or any other place in the City where space designed or intended for lodging occupancy is rented by any person or persons, for any period less than monthly. This tax shall not apply to hospitals, convalescent or nursing homes, public institutions, or permanent occupancy as defined by ordinance. Minimum rentals to which the tax shall apply may be fixed by ordinance. The tax imposed shall be collected by the owner or operator of the rental space in addition to the rental charge, at the time of payment of rent. City revenues from such one percent tax increase, after providing for the cost of administration and any refunds or credits authorized by ordinance, shall be used exclusively as provided hereinafter for the promotion, solicitation, procurement, and service of convention business and tourism in the City. Notwithstanding any other provision of this Charter, the City from time to time for periods not to exceed five (5) years, subject to annual review, shall negotiate contracts with a non-profit corporation or with non-profit corporations organized under the laws of Oregon, whose primary purpose during the term of the contract or contracts is the promotion, solicitation, procurement and service of convention business and tourism in the City, for that corporation or corporations to expend revenues collected pursuant to this subsection for the purposes set forth in the subsection. In entering into the contract or contracts, the Council shall consider the recommendations of the persons subject to the tax imposed by this subsection. The Council shall in its sole discretion determine the portion of such revenues to be allocated between convention business and tourism. [Add. Dec. 14, 1971; Am. Nov. 7, 1978; am. May 18, 1994.]

ARTICLE 2. BOND ISSUES.

Section 7-201. Issuance of Bonds. No bonds, other than bonds for public improvements payable out of assessments upon the property benefited and sewer bonds if otherwise authorized, shall be issued unless authorized by Charter or statute or unless approved by vote of the people at a general or special election.

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After the effective date of this amendment, measures for such bond issues limited in time or total amount shall be submitted to the electors, in the form of separate acts, without provision of amendment of this Charter, as authorizations or directions to the City Council or a commission established under this Charter. Copies of such measures approved by the voting majority shall be kept in a separate Book of Bond Issue Authorizations, and shall be public records, having the same effect as though included in this Charter by amendment. All such bond authorizations not fully used or which have not fully expired by their terms, which were included in the City Charter at the time of passage of this amendment or are approved at the time of passage of this amendment shall be continued in full force and effect regardless of deletion from the Charter and shall be included in the Book of Bond Issue Authorizations. After the authority for a bond issue or serial issues has been fully used and all the bonds issued thereunder have been paid or matured, the copy of the measure or authorization shall be removed from the current book and placed in a file of Completed Bond Issue Authorizations. This Section shall not apply to authorizations to issue bonds or other evidences of indebtedness which, by the provisions thereof, grant continuing authority without a stated total which may be issued thereunder, notwithstanding stated debt limitations or maximum amounts which may be outstanding at any one time. Such authorizations shall continue as part of this Charter. [May 3, 1913, new sec. 92; rev. 1914, sec. 227; 1928 pub., sec. 227; 1942 recod., sec. 11-101; rev. Nov. 6, 1962; am. May 20, 1986.]

Section 7-202. Refunding Bonds. For the purpose of funding any bonded indebtedness, including water bonds, of the City of Portland, or any bonded indebtedness for which the City of Portland has become or will become liable by operation of law through annexation, merger or consolidation of any part or all of a municipal corporation or unit of government, already matured or to mature in the future, the City of Portland is authorized and empowered to issue and dispose of bonds of the City of Portland, Oregon, of the denominations of from one hundred dollars (\$100) to one thousand dollars (\$1,000) as the purchaser may desire, or as the Council may find appropriate, which bonds may be made general or limited obligations of the City. Such bonds shall be for a term fixed by the Council and the total amount of such refunding bonds shall not exceed the face or par value of the bonds to be refunded. Before such refunding bonds can be sold, the Council shall cause to be inserted for two (2) successive weeks in the City official newspaper and in at least one paper in New York City making a specialty of such matters, an advertisement inviting sealed bids for the purchase of said refunding bonds. Among equal bidders preference in the sale and allotment shall be given to the bidders residing in the State of Oregon and subscribing for the smallest

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denominations. [Ch. 1903, part of sec. 118; rev. 1914, sec. 229; am. May 17, 1918; 1928 pub., sec. 229; 1942 recod., sec. 11-103; rev. Nov. 6, 1962.]

Section 7-203. Bond Issuance Procedure. Measures to authorize issuance of bonds shall state therein whether such bonds will be general obligations of the City or limited to particular sources of revenue. Such measures shall also state in general terms the objectives or purposes for which the proceeds are to be used, but need not state that a portion of the proceeds may be used for cost of advertising, bond issuance and sale, legal fees and costs, planning, engineering, inspection, administrative costs and other costs found necessary to permit utilization, furtherance or completion of the objectives and purposes set forth in such measure, and such use hereby is authorized. The Council may provide by ordinance details or amplification in connection with the expenditure of the proceeds of any bond issue.

After approval by a majority of the electors voting on a bond measure, the Council shall, before issuing any such bonds, determine the denominations, form and term for such bonds. The Council shall prescribe the dates for the redemption of each bond issue and may authorize the issuance of bonds from time to time within the limitation of the amount authorized. Such bonds shall bear the facsimile signature of the Mayor and the Auditor of the City of Portland in the manner prescribed by the City in authorizing the sale of bonds. By each of such bonds the City shall be held in substance and effect to undertake and promise to pay to the holder of each of said bonds at the expiration of the time specified therein, the sum named therein, in lawful money of the United States of America, and promise to pay interest thereon in like lawful money at such rate as the Council may determine, not exceeding the percentage fixed by the Council, payable at such periods as shall be provided by the Council. The Council may prescribe other features of such bonds.

None of such bonds shall be sold without prior advertisement in the manner prescribed by law, and all sales shall be to the bidder whom the Council finds to have made the bid most advantageous to the City. The Council may, in its discretion, provide that competitive bidding shall be partially or wholly upon rate or rates of interest, and in that case the award shall be fixed according to the bid which, in the opinion of the Council, would be most advantageous to the City. The Council shall have the right to reject any and all bids or alternative bids, and to proceed to readvertise when bids are not satisfactory, so as to obtain satisfactory bids, which may be called for on the same or different basis. The Council shall exercise such other and additional powers and authority, within the restrictions

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above mentioned, relating to the issuance of bonds as may be necessary or convenient for accomplishing the objectives hereof.

The Council shall by ordinance establish a special fund and fix the designation thereof, into which fund the proceeds from the sale of bonds issued under particular authority shall be placed, and the City Treasurer shall have the care and custody of all money deposited in such fund.

The Council may establish a separate sinking fund from which to pay and redeem bonds issued under a particular authorization.

Whenever a commission has been or shall be authorized to issue bonds, by an existing Charter provision or provision approved simultaneously with adoption of this Section or any future measure, acts required or authorized by this Section to be done by the Council shall be required or authorized to be done by such commission. [1942 recod., see Chapter XI; new sec. Nov. 6, 1962; rev. May 15, 1984.]

Section 7-204. Bonded Debt Limitation. Bonds which are general obligations of the City shall not be issued if the total of such bonds outstanding minus reserves accumulated for repayment thereof exceeds four percent of the true cash value of all taxable real and personal property in the City, but in estimating such bonded indebtedness, bonds issued pursuant to applications to pay assessments for improvements in installments under statutory or Charter authority, bonds on which principal and interest are payable exclusively from revenues derived from the sources fixed in said bonds, and bonds excluded from statutory debt limitations for cities shall not be counted. This limitation does not affect the right of the City to issue refunding bonds. This Section shall not apply to bonds specifically authorized by a majority of the electors to be issued notwithstanding this limitation. [New sec. Nov. 6, 1962.]

CHARTER, CITY OF PORTLAND, OREGON

CHAPTER 8

ADVERTISING AND CONTRACTS

ARTICLE 1. AUTHORIZATION.

Section 8-101. Annual Contract for Official Advertising. A contract for official advertising shall be let periodically by the Council to the lowest responsible bidder publishing a daily newspaper in the City of Portland and which has a bona fide circulation therein.

The paper to which the award of such advertising is made shall be known and designated as the "City official newspaper."

If the City official newspaper ceases to be published, or for any cause the contract in effect is canceled or terminated, a new contract for the unexpired term of the current contract shall be let to the lowest responsible bidder publishing a daily newspaper as provided in this Charter, and until such new contract is let the Council shall designate a daily newspaper in which all advertising shall be published, which newspaper shall be known and designated for the time being as the "City official newspaper." [May 3, 1913, new sec. 38; rev. 1914, sec. 144; 1928 pub., sec. 144; 1942 recod., sec. 8-101; am. Nov. 6, 1962; am. May 17, 1988.]

Section 8-102. Place for Advertisements. All advertising and publications provided for in this Charter must be made in the City official newspaper and may be made in such other publications as the Council may direct. [May 3, 1913, new sec. 40; rev. 1914, sec. 146; 1928 pub., sec. 146; 1942 recod., sec. 8-103; rev. Nov. 6, 1962.]

Section 8-103. Definitions, "Successive" and "Consecutive." Any requirement of this Charter for any form of notice to be published in the City official newspaper for a stated number of successive or consecutive days shall be construed to mean publication of such notice in the stated number of consecutive issues of said newspaper, and publication of said notice in said stated number of consecutive issues of said newspaper shall be a full compliance with such requirements. [Ch. 1903, sec. 61; rev. 1914, sec. 147; 1928 pub., sec. 147; 1942 recod., sec. 8-104; rev. Nov. 6, 1962.]

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Section 8-104. When Written Contracts Required. The City of Portland shall not be bound by any contract nor in any way liable thereon, unless the same is authorized by an ordinance and made in writing and signed by some person or persons duly authorized by the Council. But an ordinance may authorize any board, body, officer or agent to bind the City without contract in writing for the payment of any sum not exceeding twenty thousand dollars (\$20,000); such amount to be adjusted annually based on the average inflation rate for the Portland Metropolitan Area as determined from the U.S. Department of Labor statistics. Notwithstanding the provisions of this Section, however, the Council may waive the written contract requirement when work, materials or supplies are necessary for an emergency involving public safety or health. [Ch. 1903, sec. 6; am. May 3, 1913, sec. 3; rev. 1914, sec. 148; 1928 pub., sec. 148; 1942 recod., sec. 8-105; rev. Nov. 6, 1962; am. Nov. 7, 1978; am. May 17, 1988; am. May 14, 1994.]

Section 8-105. When Formal Bids Required. The Council shall make no purchase of supplies or material in which a written contract is required under this Charter, without having duly advertised for bids on the same in the City official newspaper. On all other purchases of supplies and material, informal bids may be obtained. The Council shall have no power to let any contract for any public improvement or for any supplies for the City of Portland for which formal bids are required unless such contract be let to the responsible bidder for the class or kinds selected by the Council whose bid is found by the Council to be most advantageous to the City. The Council shall have the right to reject any and all bids or any part thereof. This provision shall not prevent the Council from employing labor direct to construct or carry on public works or to make public improvements. This Section shall not be applicable to purchase of particular supplies or material when the Council determines that no other product of equal value, utility or merit to the City is available for the same purpose or that the particular make or design of product is necessary for use in connection with equipment or property already owned or being acquired by the City, or that it is otherwise impracticable to obtain competition; in the event of such determination, the Council may authorize purchase without prior bidding or advertisement therefor.

Notwithstanding the provisions of this Section, the Council may authorize obtaining informal bids without advertising when materials or supplies or a particular public improvement are urgently necessary for the public welfare and the time for advertising would result in delay improper in the circumstance.

If the Council has rejected all bids on the ground that the same were

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excessive, identical, collusive, non-responsive or otherwise unacceptable in the public interest, further advertising may be waived by the Council, and purchases or improvements may be authorized within ninety (90) days after such rejection without bids on a negotiated basis. [Ch. 1903, sec. 164; am. May 3, 1913, part of new sec. 96; rev. 1914, sec. 150; 1928 pub., sec. 150; 1942 recod., sec. 8-106; am. May 21, 1954; rev. Nov. 6, 1962.]

Section 8-106. Contract for Animal Pound. The Council may, in its discretion, make and enter into a contract with any association or corporation which shall have been organized and engaged in the prevention of cruelty to animals, delegating thereto upon such terms as may be fixed by the Council the duty and power of maintaining and operating a pound and enforcing in a humane way ordinances relative to the regulation, restraint and disposition of, dogs and other animals, birds, fowl and reptiles; the Council may invest agents and employees of said organization with all necessary police authority for the enforcement of said ordinances. [June 7, 1915, new sec. 290; 1928 pub., sec. 290; 1942 recod., sec. 8-109; rev. Nov. 6, 1962.]

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CHAPTER 9

LOCAL IMPROVEMENTS; ASSESSMENTS; COLLECTIONS

ARTICLE 1. GENERAL PROVISIONS.

Section 9-101. Definition, "Street." As used in this Charter, "street" includes any street, avenue, boulevard, alley, lane, bridge, bicycle path, road, walk, public thoroughfare or public way, and any land over which a right of way has been obtained, or granted and accepted for any purpose of public travel. [Ch. 1903, sec. 75, am. May 3, 1913, sec. 57; 1914 rev., sec. 255; 1928 pub., sec. 255; 1942 recod., sec. 9-102; rev. Nov. 8, 1966.]

Section 9-102. Definition, "Sewer." As used in this Charter, "sewer" includes all trunks, mains and extensions thereof, pipes, ducts, laterals, branches, manholes, lampholes, catch-basins, pumping stations and appurtenances, ditches, canals, ducts, aqueducts, gates and all other apparatus, structures and devices which the council finds reasonably necessary or proper for the disposal of sanitary sewage, or for drainage including storm water drainage, and also the relaying, repairing, reconstruction or renewal thereof. The term includes widening, deepening, straightening and diverting channels of streams, improving water fronts, filling or grading lakes, ponds or other waters and increasing or diminishing the flow of waters in natural or artificial channels, and other acts and things found necessary or appropriate for sewerage, drainage and proper disposal thereof. Use of the term "sewer" shall not require that all purposes set forth above be handled by a single facility, and construction and use of a sewer may be limited to any one or any combination of said purposes. [June 4, 1917, new sec. 275c; 1928 pub., sec. 275c; 1942 recod., sec. 9-503; rev. Nov. 8, 1966.]

Section 9-103. County Roads as Streets. All County roads lying within the limits of the City of Portland which have not been laid out or accepted as streets by authority of the City shall remain and be County roads until they are laid out or accepted by the City as streets, and be under the jurisdiction of the County court or the Board of County Commissioners of the County in which such road is located, and shall be worked, maintained and improved as County roads outside the limits of the City are worked, maintained and improved.

The Council may, by resolution, upon order of the County signifying its willingness to accept the same, relinquish to the County for the purpose of work or improvement, control of all or any portion of any street connecting with a County

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road. Thereupon such street to that extent shall be under County control and shall be worked and improved in like manner as County roads until the County relinquishes its jurisdiction, and the City accepts the same. [Ch. 1903, sec. 422; 1914 rev., sec. 276; 1928 pub., sec. 276; 1942 recod., sec. 9-103; rev. Nov. 8, 1966.]

Section 9-104. Costs of Improvement. For estimated assessment and final assessment purposes the cost of a local improvement shall be the actual cost as defined by ordinance. Allowances for engineering and superintendence as part of the actual cost shall be fixed by the Council by general ordinance from time to time. [May 17, 1918, new sec. 284-b; 1928 pub., sec. 284-b; am. Nov. 4, 1924; 1942 recod., sec. 9-106; rev. Nov. 8, 1966; am. May 20, 1986; am. Nov. 3, 1992.]

Section 9-105. Progress Payments. The Council may make progress payments for all local improvement work by the issuance of interest-bearing warrants against the special assessment fund to be created for such improvement. [Nov. 2, 1920, new sec. 337; 1928 pub., sec. 337; 1942 recod., sec. 9-108; rev. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-106. Payment for Work. Payment for costs of a local improvement shall be drawn against and payable solely from a special assessment fund. Into this fund shall be paid all money collected from assessments for local improvements. The fund shall be used for payment of actual costs of the improvements. Each local improvement project shall be accounted for separately in the special assessment fund. [New sec. Nov. 8, 1966; am. May 20, 1986; am. Nov. 3, 1992.]

Section 9-107. Local Improvements. The definition of a local improvement and the procedures for making local improvements shall be governed by this Charter, ordinance, or State law. [New sec. Nov. 3, 1992.]

Section 9-108. Condemnation. Whenever the Council finds it necessary to take private property for a public purpose, it may purchase the same or may direct proceedings to be taken under the general laws of the State or the general ordinances of the City to obtain the property or interest therein. [New sec. Nov. 3, 1992.]

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ARTICLE 2. STREET GRADES.

Section 9-201. Original Establishment. When the Council has not established the grade of a street or part thereof, it may at any time be established by the Council without taking any of the proceedings provided for in this Article, by setting forth the elevation of the finished road surface at the center line of the street or portion of a street designated for travel. [Nov. 7, 1922, new sec. 256; 1928 pub., sec. 256; 1942 recod., sec. 9-201; am. Nov. 8, 1966.]

Section 9-202. Authority to Change Grades. The Council may change any established street grade, may determine the amount of any damages to be paid as a result of the change, and may make a local assessment therefor. Variation of one foot or less above or below an established grade shall not constitute a change of established grade. When a structure, including pavement, driveway, building, or other construction, has been constructed upon abutting property after original establishment of grade, and damages are claimed as hereinafter provided for that structure, no change of grade shall be made without determining whether any damage is sustained and providing for payment of any such damages as set forth in this Article. In other cases the Council shall determine whether or not damages to abutting property shall be considered or awarded. [Nov. 7, 1922, new sec. 257; 1928 pub., sec. 257; 1942 recod., sec. 9-202; am. Nov. 8, 1966.]

Section 9-203. Initial Engineer's Report. Whenever the Council deems it expedient to change the grade of any street or part thereof within a district continuously affected by the change of grade, it shall direct the Engineer to report thereof. The Engineer shall thereafter, as soon as convenient, file with the Auditor a report showing the location and nature of grade changes which in the Engineer's judgment should be made. The report shall also describe the area which the Engineer deems to be affected by the proposed change of grade. [Nov. 7, 1922, new sec. 258; 1928 pub., sec. 258; 1942 recod., sec. 9-203; am. Nov. 8, 1966.]

Section 9-204. Notices and Hearing. The Council may approve the initial report of the City Engineer by resolution, or make changes therein, and declare its intention to make such change of grade, stating the location and nature of the proposed grade change. The Auditor shall publish in five (5) successive publications of the City official newspaper notice of the proposed change of grade, setting forth the nature of the proposed change, the time within which objections against such proposed change of grade and claim for damages may be filed in writing with the City official designated by ordinance, and the time when said

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matter and objections will be heard by the Council. Objections and claims for damages may be filed within twenty (20) days from the first publication of the notice. The time for hearing shall be the next regular meeting of the Council following said twenty (20) days. Within five (5) days from first publication of the notice, the City Engineer shall cause to be posted on the street or streets affected by the proposed change of grade, a notice headed, "Notice of Change of Grade," containing a legible copy of the notice published. One of such notices shall be posted at or near each street intersection where the proposed change of grade is to be made. If no intersection is affected by the change of grade then the posting of one notice at or near the intersection closest to the maximum point of change of grade shall be sufficient. The City Engineer shall maintain in the project file an affidavit of posting stating the date when and the places where the notices were posted. The Auditor also shall send notice to the persons named as owners of the property within the affected area designated in the Engineer's report as adopted by the Council. If the address of any named owner is unknown and if that person has an agent whose name and address is known,, notice shall be mailed to that agent; otherwise it shall be mailed to the named owner addressed at Portland, Oregon. However, failure of any such person or the true owner to receive the mailed notice shall not invalidate the proceedings. [Nov. 7, 1922, new sec. 259; 1928 pub., sec. 259; 1942 recod., sec. 9-204; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-205. Objections, Claims for Damages. At the time of hearing, if the Council finds that no claims for structural damages have been presented by property owners and that any objections filed do not represent three-fifths in area of the property affected, the Council may by ordinance make such change of grade without awarding damages and without further proceedings, or may determine that a further report concerning damages to owners of property injured and benefits to owners of property specially benefitted should be made by the City Engineer. If the Council finds that the owners of more than three-fifths in area of the property affected have filed written objections, no further proceedings shall be taken for a period of six (6) months, except on petition of the owners of more than half in area of the affected property, or unless the Council determines that an award of damages shall be made for probable injuries to property. If the Council determines at the hearing that there are probable injuries to affected property as a result of the proposed change, then the Council may direct the City Engineer to report on damages and benefits. All owners' claims for damages shall be verified and shall state the facts upon which the claim is based and the amount thereof. [Nov. 7, 1922, new sec. 260; 1928 pub., sec. 260; 1942 recod., sec. 9-205; am. Nov. 8, 1966; am. Nov. 3, 1992.]

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Section 9-206. Award of Damages and Assessment of Benefits. A report by the City Engineer on damages and benefits shall state the amount of damages which in the Engineer's judgment should be awarded to the owner of each property injuriously affected by the proposed grade change and a detailed proposed assessment on each lot and parcel of land in the Engineer's judgment specially benefitted, proportionate to its share of benefits resulting from the change. Upon the filing of the report the same procedural steps shall be taken with like force and effect as provided for municipal condemnation proceedings. [Nov. 7, 1922, new sec. 261; 1928 pub., sec. 261; 1942 recod., sec. 9-206; am. Nov. 8, 1966.]

ARTICLE 3. ELIMINATION OF GRADE CROSSINGS.

Section 9-301. Authority of Council. The Council has authority to determine whether any railroad crossing of any street within the corporate limits of the City at or near street grade is dangerous, and to provide for the elimination of that grade crossing. [June 2, 1913, subdn. a of new sec. 372 1/2; 1928 pub., sec. 265; 1942 recod., sec. 9-401; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-302. Plans and Specifications. Whenever the Council finds that a railroad grade crossing should be eliminated, it may by ordinance require the City Engineer to prepare plans and specifications for, and estimates of, the cost. [June 2, 1913, subdn. b, new sec. 372 1/2; 1928 pub., sec. 266; 1942 recod., sec. 9-402; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-303. Conference with Railroad Engineer. In preparing plans, specifications and estimates, the City Engineer shall confer with the Civil Engineer of any railroad company having an interest in the crossing, for the purpose of determining a reasonable plan and method for eliminating it. If the City Engineer is unable to agree with the Engineer of the railroad company, the City Engineer shall proceed to determine a proper and reasonable plan and method of eliminating said grade crossing; provided, however, that if the civil engineer of an interested railroad company does not confer with the City Engineer after ten (10) days written notice, the City Engineer may proceed with the preparation of plans, specifications and estimates without a conference. [June 2, 1913, subdn. c, new sec. 372 1/2; 1928 pub., sec. 267; 1942 recod., sec. 9-403; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-304. Filing of Plans and Objections. The City Engineer shall file with the Auditor a report on elimination of the grade crossing with the

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necessary plans, specifications and estimates of the cost. The City official designated by ordinance shall notify in writing each interested railroad company, and any company shall have thirty (30) days from date of the notice to file with the Auditor objections thereto, or to propose modifications thereof, or to file other or different plans and specifications, together with the estimates of the cost. [June 2, 1913; subdn. d, new sec. 372 1/2; 1928 pub., sec. 268; 1942 recod., sec. 9-404; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-305. Consideration of Plans and Report of Damages. Within three (3) months after the thirty (30) day period for filing objections, the Council shall consider the report, objections, plans, specifications and estimates filed, or may refer the matter to a commissioner or committee of commissioners for this purpose, in which event the City official designated by ordinance shall mail five (5) days notice in writing to any company interested when the commissioner or committee will consider the matter, and at the time specified any company may attend and be heard thereon. Upon filing of the commissioner's or committee's findings and recommendations, the Council may adopt a plan and method for eliminating the grade crossing and adopt specifications therefor, or it may dismiss the proceedings. If it appears that change of street grade will be required in eliminating the grade crossing, the Council shall determine whether such grade shall be changed, with or without considering damages to adjacent property. If the Council determines to consider damages to adjacent property, it shall require the City Engineer to report the estimated damages that property may sustain by reason of the change of street grade, based on the depreciation, if any, in market value on account of the change of street grade. In estimating the depreciation of market value, the City Engineer shall take into account the benefits, if any, the effect which the proposed improvement will have upon market value of the property, and the probable assessment against the property for the improvement. [June 2, 1913, subdn. e, new sec. 372 1/2; 1928 pub., sec. 269; 1942 recod., sec. 9-405; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-306. Apportionment of Damages and Benefits. Upon filing of the City Engineer's report on damages, the Auditor shall publish in four (4) successive publications in the City official newspaper a notice that such report has been filed, stating the amount of damages to each property as estimated by the City Engineer, the date when the report of the City Engineer will be heard by the Council, and that written objections thereto may be filed with the Auditor any time prior to the day of hearing. The date of hearing shall be not less than five (5) days after the last publication of notice. The Auditor shall also send a copy of the published notice to each person interested in land affected. If the address of such

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person is unknown, and if such person has an agent whose name and address is known, notice shall be mailed to the agent; otherwise it shall be mailed to the owner addressed at Portland, Oregon. At the time of hearing the Council shall consider the report and all objections thereto and may refer it to any committee or commissioner for further hearing and report. At any time thereafter the Council may determine the damages to be awarded for the change of street grade.

If construction is contemplated by the Council in order to effect the elimination of a railroad grade crossing, no proposed assessment to property benefitted by the change of street grade need be made in the proceedings for change of street grade, but rather a statement may be made that such damages will be assessed as a part of the total improvement cost or will be financed in a particular manner. Thereafter the cost of making the change and improvement shall include, as part of the cost, the total damages awarded on account of such change of street grade. The Council shall determine whether any portion of the total cost of the improvement shall be financed by assessment of benefits to property within an assessment district as a local improvement, and if so, the total cost shall be apportioned as follows: sixty percent shall be paid by the company or companies owning or controlling the railroad trackage at the crossing; no more than twenty percent shall be assessed against the property benefitted thereby within the district fixed by the Council; and the balance may be paid by the City, or as the Council may determine. Total cost shall include the cost of raising or lowering tracks within street boundaries, but the raising or lowering of tracks outside street boundaries shall be the sole responsibility and expense of the railroad company. Total cost shall also include all other costs and expenses of the improvement, plus damages to property within the district. Whenever the street is occupied or used by more than one railroad company, the railroad's share of the total cost of the improvement shall be apportioned among them. The cost and expense of raising or lowering the grades or tracks outside street area to be borne by the affected companies shall be apportioned by the Council unless, within thirty (30) days after the Council orders the improvement, all affected companies file with the Auditor their mutual agreement thereon. [June 2, 1913, subdn. f, new sec. 372 1/2; 1928 pub. sec, 270; 1942 recod., sec. 9-406; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-307. Advancement to Special Fund. If damages are allowed to adjacent property owners because of the change of street grade, upon final determination of the amount to be awarded to each property owner and upon determination by the Council to proceed with the improvement as provided in Section 9-408, the Council shall loan or otherwise transfer from any available fund

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to the special assessment fund , an amount sufficient to pay all such awards. The warrants then shall be drawn in favor of the persons entitled thereto in the amounts awarded, payable upon demand, with interest as set by ordinance. No such warrant shall be delivered to a property owner who has been allowed damages until the owner applies therefor and files written acceptance of such allowance, or until the amount of award has been finally determined. The advancement authorized herein, with interest as set by ordinance, is part of the cost of the improvement and the amount of the advancement with interest shall be returned to the fund from which it was advanced, subject to the apportionment of the City's share, if any. [June 2, 1913, subdn. g, new sec. 372 1/2; 1928 pub., sec. 271; 1942 recod., sec. 9-407; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-308. Remonstrances, Assessments and Collections. If a portion of the cost of eliminating a railroad grade crossing is to be financed by local improvement assessments, the procedures for establishing a local improvement district and assessing property shall be followed. Remonstrances may be filed with the Auditor by property owners within the time to be fixed by resolution. Upon the expiration of that time, the Council shall determine whether or not to proceed with the matter. If the Council determines to proceed it may overrule any and all remonstrances. Assessments made hereunder shall be entered in the docket of City liens and collected in the same manner as other assessments and the amount to be paid by a railroad company also shall be entered on the docket of City liens and shall constitute a lien against all property of the company in the City. If any railroad company fails to pay or bond the assessment within the time provided for paying or bonding assessments for street improvements, the City may proceed by court process to require payment, or may proceed to collect the same by suit or action as other assessments are or may be collected, or by both procedures. [June 2, 1913, subdn. h, new sec. 372 1/2; 1928 pub., sec. 272; 1942 recod., sec. 9-408; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-309. Bonding of Assessments; Changes of Grade. Persons, including railroad companies whose property has been assessed for the improvement eliminating a railroad grade crossing, have the right to bond their assessments in the same manner as provided for bonding assessments for other local improvements. No further proceedings shall be required to change the grade of the street than as specified in this Article, and upon the completion of the improvement, the grade of the street shall be deemed changed to the grade established by the improvement. [June 2, 1913, subdn. i, new sec. 372 1/2; 1928 pub., sec. 273; 1942 recod., sec. 9-409; am. Nov. 8, 1966; am. Nov. 3, 1992.]

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Section 9-310. No Impairment of Duty Under Franchise or Ordinance. Nothing in this Article shall impair the right of the City to require the holder of a franchise or other person, required by ordinance or otherwise to pave a portion of street, to move any facility at his or her own expense or to improve a portion of street, to carry out his or her obligation without expense to the City. For this purpose, elimination of grade crossings is a public work and improvement. No duty, express or implied, of the holder of a franchise, contract or permit shall be impaired by amendments to this Chapter subsequent to the grant of franchise, contract or permit. [June 2, 1913, subdn. j, new sec. 372 1/2; 1928 pub., sec. 274; 1942 recod., sec. 9-410; rev. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-311. Construction of Article. The provisions of this Article relating to change of grade affect other provisions relating to change of grade in this Chapter. The provisions of this Article shall be construed as an additional procedure which the Council may follow in eliminating railroad grade crossings. [June 2, 1913, subdn. k, new sec. 372 1/2; 1928 pub., sec. 275; 1942 recod., sec. 9-411; rev. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-312. Elimination of Several Crossings in One Proceeding. The Council may provide in one proceeding under this Article for the elimination of the grade crossings of two (2) or more streets by any railroad or railroads in a district. [June 7, 1915, new sec. 275 1/2; 1928 pub., sec. 275 1/2; 1942 recod., sec. 9-412; am. Nov. 8, 1966; am. Nov. 3, 1992.]

ARTICLE 4. STREETS AND STREET IMPROVEMENTS.

Section 9-401. Definition of "Improve" and "Improvement." As used in this Article, the terms "improve" and "improvement" include all construction, reconstruction, grading, regrading, paving, repaving, surfacing, resurfacing, bettering and repairing roadways, bridges, trestles, means of access and egress, underpasses, overpasses, sidewalks, crosswalks, pedestrian ways, gutters, curbs, street drainage facilities and appurtenances therefor within any street. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-402. Improvement Procedure. The Council hereby is authorized: to order from time to time all or part of the streets of the City to be improved; to determine the character, kind and extent of each improvement; to levy and collect an assessment upon all lots and parcels of land specially benefitted by the improvement to defray the whole or any portion of the cost; and to determine what lands are specially benefitted by the improvement and the

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amount to which each parcel or tract of land is benefitted. The procedural steps for an improvement shall be prescribed by ordinance. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-403. Remonstrances. Street improvement procedures established by ordinance shall provide for mailed notice to the property owners within the proposed district of the Council's intention to improve any street, and an opportunity for the owners of the property within the proposed assessment district to make and file written objections or remonstrances against the proposed improvement. The period for filing of written objections or remonstrances shall be set by ordinance but shall not exceed sixty days from the date notice is mailed. If the owners of three-fifths or more in area of the property file objections, further proceedings in the making of such improvement are barred for a period of six (6) months unless the owners of one-half or more of the property affected subsequently petition therefor. If an objection, remonstrance or petition is signed by the agent or attorney of any property owner, the agent or attorney's authority to sign shall be filed with the Auditor within the time provided for the remonstrance or petition or the signature shall be disregarded. If objections or remonstrances legally signed by the owners of three-fifths of the property affected are not filed, the Council may order the improvement. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-404. Use of Earth. When the Council by ordinance provides for making an improvement, the City may, at its option, remove, alter, dispose of or otherwise use all earth within the street lines for that improvement. [New sec. Nov. 3, 1992.]

Section 9-405. Completion of Work; Spread of Assessments. When a street improvement is wholly or partially completed to the satisfaction of the City Engineer, the completed work may be accepted and property within the district assessed for the cost under procedures established by ordinance, with opportunity for objections to be heard. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-406. Improvement by Permit. Whenever the grade of any street has been established, the Council may authorize any person to cut or fill the street in front of such property according to such grade, or to improve the same, or both, as the City Engineer may direct, at the expense of that person. This authority shall not be granted after notice has been given of the Council's intention to improve the street so long as the Council retains jurisdiction for the

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proposed improvement. In giving this authority, the Council may impose such terms and conditions as it may find appropriate. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-407. Sidewalk Improvements and Repairs; Duty of Owners. Sidewalks may be improved either as a part of a general street improvement or by separate proceedings. The Council may determine the grade and width of all sidewalks, materials to be used and specifications for construction. It is the duty of all owners of land abutting any street in the City to construct, reconstruct and maintain in good repair the adjoining sidewalks. If the owner of any parcel of land allows an adjoining sidewalk to be out of repair, the City Engineer shall post notice on the property directing the owner, agent or occupant thereof immediately to repair it in accordance with City specifications. If the owner, agent or occupant of any parcel of land does not properly make the sidewalk repairs within the time designated in the notice, the City Engineer may make the repairs, keeping an account of the cost and reporting it to the Council with description of the parcel of land abutting the repaired sidewalk. The Council has the same general authority and supervision over sidewalk repairs as over street improvements. If the Council finds the costs reported by the City Engineer to be reasonable, it shall approve them and thereafter, at least once a year, by ordinance assess upon each of the parcels of land abutting repaired sidewalks, the cost of making the repairs with an additional overhead charge to defray the cost of notice, engineering and advertising. All such assessments may be combined in one assessment roll and they shall be entered in the docket of City liens and collected in the same manner as are other local improvement assessments. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-408. Damages for Negligence. Owners of land within the City are liable for all damages resulting from their failure to put an adjoining sidewalk in repair after notice to repair as provided in this Article. No action shall be maintained against the City by or for any person injured because of any sidewalk defect. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

ARTICLE 5. SEWER IMPROVEMENTS.

Section 9-501. Assessment District; Remonstrances. When the Council has declared its intention to construct a sewer or sewer system and has fixed the boundaries of the assessment district to be benefitted and assessed therefor, the Auditor shall mail notice of such intention to the property owners within the proposed district, in accordance with procedures prescribed by ordinance. The

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procedures shall provide that an owner of any property within the proposed assessment district or such owner's agent who files proof of his or her authority, may file with the Auditor a written remonstrance against the proposed sewer or the plans therefor, and the Council, upon hearing the remonstrance, may discontinue proceedings in the matter. The period for filing of written objections or remonstrances shall be set by ordinance but shall not exceed sixty days from the date notice is mailed. The Council, however, may overrule any and all remonstrances and may order the improvement. The Council also may require changes in the proposed plans or changes in the boundaries of the proposed assessment district, and declare by resolution its intention to proceed on the revised basis. Such resolution shall be published and remonstrance period given as in the first instance. The improvement shall conform substantially to the plans and specifications adopted by the Council. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-502. Joint Construction with County. The Council may take action and proceedings for the construction of any sewer or drain jointly with any County; may levy and collect special assessments of benefits therefor; may enter into an agreement or agreements with any county for the construction, maintenance and use of sewers or drains and paying the cost thereof; may issue bonds to finance that portion of the cost agreed to be chargeable to property outside of the City; may do all other things necessary or proper to provide for the construction of sewers or drains when the design, plan or method of construction will render them beneficial to property both within and without the limits of the City; and may perform all acts necessary to implement statutes relating thereto. [Sections 95-1818 to 95-1846 O.C.L.A.; June 4, 1917, new sec. 275a; 1928 pub., sec. 275a; 1942 recod., sec. 9-501; rev. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-503. Issuance and Sale of Bonds. Bonds may be issued and sold after construction of any such sewer or drain has been authorized, and each bond issue shall be limited to an amount that does not exceed the portion of the cost of such sewer or drain agreed upon with the County as the amount justly and equitably to be borne by property lying beyond the City limits. Such bonds shall not be issued for longer than twenty (20) years, and may be general obligations of the City. No bonds shall be issued when the total of such bonds then outstanding would exceed five hundred thousand dollars (\$500,000). In lieu of issuing bonds, the Council may provide for financing part or all of the cost agreed upon as chargeable to property outside of the City from City funds. The Council has authority to levy and collect an assessment against the property benefitted by any sewer or drain lying beyond the City limits whenever that property is included

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within the City limits, if no previous assessments therefor have been made on the property, and to apply the money so collected toward payment of such bonds, or to reimburse the City for any payment, expenditure or advancement for such sewer or drain. Any agreement with the County may provide for the levy and collection by the County of an assessment against property whenever the sewer or drain may immediately benefit the property because of construction of an extension, lateral, branch, or otherwise. [June 4, 1917, new sec. 275b; 1928 pub., sec. 275b; 1942 recod., sec. 9-502; rev. Nov. 8, 1966; am. Nov. 3, 1992.]

ARTICLE 6. OTHER IMPROVEMENTS.

Section 9-601. Fire Stops. As used in this Article, "fire stop" includes any fireproof wall or other device to prevent the spread of fire. The Council has authority by agreement or by condemnation to acquire property, easements and rights needed for the construction of fire stops; to perform the work of erecting fire stops either by direct employment of labor or by awarding contracts; and to provide for the payment of the costs thereof by the levy and collection of local assessments according to benefits for the improvement. Before fire stops are constructed an estimate shall be made of the probable cost and of the probable saving in fire risks and insurance expenses. Where a fire stop is to be constructed at the expense of property benefitted and assessed therefor, the Council shall take proceedings similar to those required for constructing sewers. The method of making and collecting assessments shall be the same as for other local improvements. The cost of acquiring property, easements or rights shall be included in the cost of the fire stop. [June 7, 1915, new sec. 294; 1928 pub., sec. 294; 1942 recod., sec. 9-601; rev. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-602. Lighting Districts. Whenever the owners of fifty percent or more in area of the property within any district make and file with the Auditor a petition to establish a special street lighting system within that district, the Council has authority to install, operate and maintain such a system as a local improvement and to furnish electrical current therefor. The improvement may include initial installation, continuance or change of an existing installation, substitution of different materials or special styles or locations of lights or related facilities within the district, replacements, or any combination of those items. The Council may award contracts for all or a portion of the work, maintenance or electrical energy. The Council may levy and collect local assessments on property benefitted thereby for all or a portion of the cost. The Council may authorize contribution from City funds to the cost of energy, operation and maintenance in the amount it finds an appropriate allowance for regular street lights rendered

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unnecessary by the special lighting system. Whenever all or part of the cost of a system is to be assessed to property benefitted, the Council shall take proceedings similar to those required for street improvement districts . [Nov. 4, 1924, new sec. 338; 1928 pub., sec. 338; 1942 recod., sec. 9-602; rev. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-603. Other Local Improvements. When the Council determines that a local improvement as defined by this Charter or by ordinance affords a special and peculiar benefit to property within a particular district different in kind or degree from that afforded to the general public, the Council may classify it as a local improvement and provide for the payment of all or a portion of the cost thereof by levy and collection of local assessments on the property benefitted. The procedure for street improvements shall be followed. Jurisdiction of the Council shall depend upon the extent and strength of remonstrance; provided, however, if the Council determines that the public health or public safety demands immediate construction, the Council may overrule any and all remonstrances and shall proceed as provided for sewer improvements. The Council may combine in one proceeding a street improvement, sewer improvement, street lighting improvement, and any other improvement allowed by this Charter. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

ARTICLE 7. ASSESSMENTS AND COLLECTIONS.

Section 9-701. Assessment District. If the Council finds that a particular lot, tract, or parcel of land within the boundaries of a local improvement assessment district does not in fact receive any special and peculiar benefit from that improvement, it may exclude that property or show the assessment at zero (0) when apportioning costs of the local improvement in accordance with benefits and spreading the assessment. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-702. Procedures for Assessments; Assessments Confirmed. The Council shall establish procedures by ordinance for the estimated assessment, assessment, and reassessment of benefitted properties. An assessment shall not exceed the apportioned share of actual costs nor exceed the amount of the benefits. Each parcel of land shall be considered benefitted by the local improvement to the full amount of the assessment levied on it. Delays, mistakes, errors or irregularities in any act or proceeding in an improvement, in notices, in entry of assessment or in any related matter shall not prejudice or invalidate any final assessment, but the defect may be corrected by subsequent action. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

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Section 9-703. Assessment Lien; Payment. The docket of City liens is a public writing, and from the date of entry of any assessment, the sum entered is a lien upon the land against which it is entered. Assessment liens shall have priority over all other liens and encumbrances. The sum assessed for a local improvement shall be due and payable from the date of entry upon the lien docket, and if not paid or bonded as provided by law within thirty (30) days from that date, the amount of assessment then shall be delinquent and shall bear interest at the rate fixed by ordinance from the date of assessment. [am. Nov. 3, 1992.]

Section 9-704. Delinquency and Sale for Unpaid Assessments. The Treasurer shall proceed to collect the unpaid assessments by advertising and selling the assessed land in the manner provided by State law or City ordinance. Rates of penalty and interest shall be determined by ordinance. The sale price shall include all assessment principal and interest due, penalties and charges due, and all costs associated with the sale of the property.

Whenever the market valuation for tax purposes of land assessed and subject to sale for collection of unpaid assessment exceeds the sum payable to the City of the unpaid assessment, interest and estimated costs plus the total of any past due taxes by twenty-five percent or more of the City and tax liens, the Treasurer may, subject to general guidelines of the Commissioner In Charge and/or the Council, withhold or withdraw such property from public sale and in lieu thereof may sell the property by private sale to the City upon payment by the City from the Assessment Collection Fund, elsewhere provided in this Charter, of the unpaid assessment, interest and costs. If land is not valued for tax purposes, the market value estimated by the City shall be considered the market valuation for tax purposes under this Section.

The Treasurer shall report to the Council the sales and collections on delinquencies and the City official designated by ordinance shall make proper entries in the lien docket. Thereafter no transfer or assignment of any certificate of sale hereunder shall be valid unless entry of that transfer or assignment has been noted in the lien docket after appropriate filing with the City. In case any property remains unsold, that property again may be offered for sale in like manner. [New sec. Nov. 8, 1966; am. Dec. 14, 1971; am. May 20, 1986; am. Nov. 3, 1992.]

Section 9-705. Redemption. The City ordinance authorizing sale of property for delinquent assessments and the notice of sale to persons with an interest in the property stating that the property has been sold shall clearly state

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the provisions for redemption of the property by the prior owner as provided by State law or City ordinance. [am. Nov. 3, 1992.]

ARTICLE 8. FINANCING LOCAL IMPROVEMENTS; BONDING.

Section 9-801. Applications for Bonding. Within thirty (30) days after notice of an assessment, deficit assessment or reassessment for a local improvement is first mailed, if the assessment exceeds a minimum fixed by the Council, the owner of the property assessed may file a written application to pay the assessment in installments. The application shall provide that the owner agrees to pay the assessment in installments including interest and charges as specified by the Council. The application also shall describe the applicant's property assessed for the improvement. [June 7, 1915, new sec. 278; 1928 pub., sec. 278; 1942 recod., sec. 9-701; rev. Nov. 8, 1966; am. May 20, 1986; am. Nov. 3, 1992.]

Section 9-802. Final Assessment Bond Lien Docket. After the time expires for filing applications to pay assessments in installments, the City official designated by ordinance shall enter all applications received in a docket kept for that purpose under separate heading for each improvement. Thereafter, that docket shall stand as a bond lien docket in favor of the City for the amount of the unpaid assessments docketed therein, with interest on unpaid assessments at a rate determined by ordinance, against each parcel of land assessed, until the assessments and interest are paid. All unpaid assessments and interest are a lien upon each parcel of land in favor of the City, and that lien shall have priority over all other liens and encumbrances. [New sec. Nov. 8, 1966; am. May 20, 1986; am. Nov. 3, 1992.]

Section 9-803. Improvement Bonds. After the bond lien docket is made up for the particular local improvement, the Council shall authorize by ordinance the issuance of bonds not exceeding the actual costs of the unpaid improvement assessments as shown on the bond lien docket. [New sec. Nov. 8, 1966; May 20, 1986; am. Nov. 3, 1992.]

Section 9-804. Installment Payments; Delinquency and Collections. Bonded assessments shall be paid in installments, plus accrued interest, penalties, and charges, as specified by ordinance. If payment of any installment is delinquent thirty (30) days, the entire unpaid balance is immediately due and payable, and the installment contract may be declared void. The property owner

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may execute a new agreement as provided by City Code, or the City may collect the total amount due in the manner as provided by ordinance. Prior to sale of the property for collection, the owner may remove the property from the sale list in the manner provided by Code. [New sec. Nov. 8, 1966; am. May 20, 1986; am. Nov. 3, 1992; am. May 18, 1994.]

Section 9-805. Sinking Funds; Investment; Bond Reissuance and Rebonding. After issuance of improvement bonds covering unpaid bonded assessment for a particular improvement, the City official designated by ordinance shall keep an account of money paid upon bonded improvement assessments separate from other City funds, as provided by ordinance.

Whenever improvement bonds issued upon bonded assessments are redeemable and it appears to the Council advantageous to redeem them, but money available in the sinking fund account is insufficient, the Council may transfer money from another sinking fund or sinking fund account as a temporary loan to the sinking fund account to be redeemed, to be repaid with interest at the rate fixed by the Council. The Council may authorize and provide for issuance and sale of new bonds upon bonded assessments to redeem outstanding bonds. Such new bonds shall be limited in amount to the amount of bonds to be redeemed from the proceeds, shall bear interest, be sold and be redeemable as provided in this Charter. In case of a temporary loan, if property owners fail to pay into the sinking fund a sufficient amount to repay the temporary loan, when needed, the Council shall provide money for repayment by the sale of bonds as provided in this Section. [New sec. Nov. 8, 1966; am. May 20, 1986; am. Nov. 3, 1992.]

Section 9-806. Assessment-Collection Bonds; Assessment Collection Fund. To facilitate collection of delinquent assessments and to assist in financing local improvements, the Council may issue and dispose of bonds to be known as Assessment-Collection Bonds. The total amount of these bonds shall not exceed one million five hundred thousand dollars (\$1,500,000) outstanding at any one time. The bonds shall be general obligations of the City and shall be issued and sold in any denominations in the same manner as other bonds of the City. The rate of interest thereon shall not exceed the maximum rate permitted under State law, and their maturity shall not exceed twenty (20) years.

Money from the sale of the bonds, after paying from the proceeds the costs of advertising and sale, shall be deposited in a special fund known as the "Assessment Collection Fund," which may be used under Council direction for purchasing property by and in the name of the City at Treasurer's sale or other

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sale for City assessments, and at foreclosure sales for delinquent taxes, to protect the interest and rights of the City in the property. Net proceeds from the sale of property purchased from the Assessment Collection Fund shall be credited to that fund.

In selling property purchased from the Assessment Collection Fund, or Treasurer's certificates thereon, no transfer of certificate of sale or deed to the City shall be held void or insufficient because of any omission, error, defect or objection, jurisdictional or otherwise, in the assessment or other proceedings if, at some stage of the proceedings before assessment was made, notice was given, and if the description of the property in the certificate or deed is reasonably sufficient to identify it. This provision is intended to be curative as fully as the people may enact, as to all matters affecting the validity of the certificate or deed. Every certificate of sale or deed shall be presumptive evidence of the regularity and sufficiency of all things affecting its validity. In any case where this curative provision is found insufficient, the money realized from the attempted sale shall be treated as not applying to the payment of the attempted assessment, and shall not discharge any obligation of the owner of the property to bear a fair and just proportion of the cost of the local improvement for which the attempted assessment was made. Proceeds from the attempted sale shall be refunded to the Assessment Collection Fund and the Council may make a reassessment against that property.

The Council may renew the Assessment Collection Fund from time to time by selling additional bonds, subject to the limitation in this Article on total amount.

The Council may provide for the sale and assignment of certificates of sale and the assignment or conveyance of the rights of the City in such property either before or after receiving the deed from the City Treasurer or from County officials; may provide for sale of the property under contract for not more than ten (10) years; may pay real estate commissions, court costs, legal and clerical services and all other expenses related to the purchase and clearance of title; may purchase or redeem any Treasurer's certificates of sale outstanding against the property; may pay any tax liens outstanding against the property; may transfer money from the Assessment Collection Fund to the General Fund, provided that provision is made for redemption of outstanding Assessment-Collection Bonds; may provide for waiving all or part of accrued penalties; may pay any bonded or open liens outstanding against the property and cancel assessments against it; and may enact ordinances to give full effect to this Section.

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The Assessment Collection Fund may also be used to purchase and hold warrants issued upon any special local improvement fund formed or to be formed. The face amount and interest on warrants so purchased shall be credited, upon payment, to the Assessment Collection Fund. [New sec. Nov. 8, 1966; am. Dec. 14, 1971; am. May 20, 1986; am. Nov. 3, 1992.]

CHARTER, CITY OF PORTLAND, OREGON

CHAPTER 10

PUBLIC UTILITIES AND FRANCHISES

ARTICLE 1. PUBLIC UTILITIES.

Section 10-101. Definition, "Public Utility." The term "public utility" as used in this Charter shall be deemed to include every plant, property or system engaged in the public service within the City or operated as a public utility as such terms are commonly understood. [May 3, 1913, new sec. 60; rev. 1914, sec. 153; 1928 pub., sec. 153; 1942 recod., sec. 10-101.]

Section 10-102. General Provisions. The City of Portland shall have the power to construct, condemn, purchase, add to, acquire, maintain, operate and own all or any part of any public utility or any plant or enterprise, for the purpose of serving the City and the people thereof for uses public and private. Such power may be exercised in any lawful manner and shall include the power to purchase, condemn or otherwise acquire any franchise heretofore granted to operate a public utility. [May 3, 1913, new sec. 58; rev. 1914, sec. 151; 1928 pub., sec. 151; 1942 recod., sec. 10-102.]

Section 10-103. Power of Construction and Acquisition. The City shall have the power to construct and acquire in any legal way and to maintain and operate works, plants and facilities for the purpose of doing any and all municipal work by direct employment of labor under the supervision of the City, and may use such works, plants and facilities, and the product thereof, for the purpose of doing municipal work of all kinds, and shall have the power to sell such product for use in the construction of municipal improvements of all kinds. It shall have power to provide payment for the whole or any part of local improvements constructed or done by the City directly under the provisions of this Section by assessment against the property benefited thereby.

Funds for the carrying out of this Section may be provided by issuing bonds as provided in Section 7-201 of this Charter or by the use of any moneys in the General Fund at the end of the fiscal year. [May 3, 1913, new sec. 59; rev. 1914, sec. 152; 1928 pub., sec. 152; 1942 recod., sec. 10-103.)

Section 10-104. Debt Limitation. No indebtedness shall be incurred for the acquisition of any public utility under the provisions of this Charter, which, together with the existing bonded indebtedness of the City, shall exceed at any

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one time seven percent of the assessed value of all real and personal property in the City, but in estimating such bonded indebtedness, all bonds given for the acquisition or construction of public properties and utilities the interest on which bonds is paid out of the earnings of said public utilities or properties, shall be excluded; provided, that whenever and for so long as such utility or undertaking fails to produce a sufficient revenue to pay all costs of operation and administration (including interest on the City bonds issued therefor and the cost of insurance against loss by fire, accidents, and injuries to persons), and an annual amount sufficient to pay at or before maturity all bonds issued on account of said undertaking, all such bonds outstanding shall be included in determining the limitation of the City's power to incur indebtedness, unless the principal and interest thereof be payable exclusively from the receipts of such undertaking. The City officer responsible for accounting shall annually report to the Council, in detail, the amount of revenue from each such undertaking, and whether there is any, and if so, what, deficit in meeting the requirements above set forth. [Ch. 1903, sec. 88; rev. 1914, sec. 160; 1928 pub., sec. 160; 1942 recod., sec. 10-105; rev. Nov. 8, 1966; am. May 20, 1986.]

Section 10-105. Supervision and Regulation. The Council shall have general supervision and power of regulation of all public utilities within the City of Portland, and of all persons and corporations engaged in the operation thereof. [May 3, 1913, part of new sec. 61; rev. 1914, sec. 154; 1928 pub., sec. 154; 1942 recod., sec. 10-106; rev. Nov. 8, 1966.]

Section 10-106. Investigations and Rate Fixing. The Council shall have the power to investigate from time to time, and whenever they shall deem that the public service, health or welfare require it, the affairs, business and property of any public utility within the City. For that purpose they shall have the right to compel the attendance of witnesses and the production of books, papers and records, and of entry in person or by authorized agent upon any premises or places of any person or corporation engaged in the operation of a public utility. They shall have the power to control, regulate and order such changes, improvements, extensions, additional facilities, appliances or equipment in or upon the plant and property of any person or corporation operating public utilities within the City as may be deemed necessary to promote the public interest, convenience or safety, and to protect its employees in the construction, maintenance or operation of any such public utilities.

Every charge, rate, fare or compensation made, charged or demanded by any person or corporation engaged in the operation of a public utility within the City

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of Portland for any service rendered or to be rendered shall be just, fair and reasonable. The Council shall have the power to hear and determine what are just, fair and reasonable rates, fares and charges and to fix and limit such rates, fares and charges and for that purpose may make valuations of the property of any person or corporation engaged in the operation of a public utility within the City. To that end they shall make and enforce regulations providing that at the time of construction or acquisition of any plant or property rendering a public service and of any improvement or additions thereto the person or corporation having charge thereof shall record with the City Officer responsible for accounting a description of all property which such person or corporation shall intend to present for such valuation and all later improvements when made, together with full information as to the cost thereof and vouchers supporting the same, to the end that a complete record of all property to be valued under this Section shall be at all times available. [May 3, 1913, new sec. 62; rev. 1914, sec. 156; 1928 pub., sec. 156; 1942 recod., sec. 10-107; rev. Nov. 8, 1966; am. May 20, 1986.]

Section 10-107. Quarterly Reports. Every person or corporation operating a public utility within the City rendering service to be paid for wholly or in part by the users of such service shall keep full and correct books and accounts and make stated quarterly reports in writing to the Council, verified by such person or an officer of the corporation, which shall contain an accurate statement in summarized form as well as in detail of all receipts from all sources and all expenditures for all purposes together with a full statement of all assets and debts including stock and bond issues as well as such other information as to the cost and profits of said service, and the financial condition of such grantee as the Council may require. Such reports shall be public and a summary thereof shall be printed as a part of the City's annual financial report, and the Council may inspect or examine, or cause to be inspected or examined, at all reasonable hours, any and all books of account and vouchers of such grantee.

Such books of account shall be kept and reports made in accordance with forms and methods prescribed by the Council and so far as practicable shall be uniform for all grantees and holders of franchises, and shall, except for important and necessary changes, conform to such reports as are required by state or federal public utility commissions.

[May 3, 1913, new sec. 63; rev. 1914, sec. 157; 1928 pub., sec. 157; 1942 recod., sec. 10-108; rev. Nov. 8, 1966; am. May 20, 1986.]

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Section 10-108. Orders, Rules, and Regulations. The Council shall have power to make all orders, rules and regulations necessary or appropriate to carry into effect the powers granted and to make the same effective by penalties and forfeitures, and upon failure by any franchise holder to comply with any of the requirements of Section 10-107, 10-216, 10-213 or 10-214 of this Charter for a period of thirty (30) days after notice, the Council shall have power to declare by ordinance a forfeiture of the franchise under which any person or corporation so failing to comply is operating a public utility within the City of Portland.

Every such order, rule or regulation of the Council shall take effect at a time to be therein specified, and shall continue in force until modified or abrogated by the Council or modified, suspended or set aside by the decree or judgment of a court of competent jurisdiction.

Whenever any person or corporation against whom any rule, order or regulation is directed, as provided by the foregoing subdivision shall believe an order to be unjust or unreasonable, such person or corporation may test its justice or reasonableness by a proper action in the courts commenced within thirty (30) days after service of any such order, rule or regulation, and in such action such further order may be entered in the premises as shall be warranted by the facts developed upon the trial and the law applicable thereto. [May 3, 1913, new sec. 64; rev. 1914, sec. 158; 1928 pub., sec. 158; 1942 recod., sec. 10-109; rev. Nov. 8, 1966.]

Section 10-109. Bridges and Ferries. All ferries now or hereafter owned or leased, and all bridges together with approaches and terminals, heretofore erected or leased, or hereafter to be erected or leased, by the City of Portland across the Willamette River shall be operated by the county of Multnomah, as now provided by law, or as may hereafter be provided by law at the expense of said county of Multnomah. No exclusive franchise or privilege shall be granted to any person, firm or corporation, for the use of the whole or any part of such bridges, approaches or terminals. All privileges or franchises that may be granted by the City of Portland for the use of the whole or any part of such bridges, approaches or terminals shall be for a term not exceeding twenty-five (25) years, and the compensation to be paid the City by any person, firm or corporation desiring to use such bridges for the operation of cars thereover, shall be not less than three cents (\$.03) per car for each and every car that crosses such bridges in each direction. Said rental shall be paid at the end of each calendar month to the City Treasurer. The Council shall specifically reserve in any franchise granted over any of said bridges the right to reasonably regulate the number and routing of cars across any

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such bridges. [Nov. 2, 1912, new sec. 118-3/4; rev. 1914, sec. 184; 1928 pub., sec. 184; 1942 recod., sec. 10-110; rev. Nov. 8, 1966.]

ARTICLE 2. FRANCHISES.

Section 10-201. Control by Charter Provisions. Every franchise hereafter granted shall be expressly subject to all the provisions of the foregoing sections and the power of control and regulation as authorized by such sections cannot be limited, divested or granted away. Subject to the initiative and referendum such power of control and regulation shall be exercised by the Council and may be exercised by the Council through its agents. [May 3, 1913, new sec. 65; rev. 1914, sec. 159; 1928 pub., sec. 159; 1942 recod., sec. 10-201.]

Section 10-202. Property Nature of Franchises. Every franchise granted under this Charter shall be taken and deemed as property and shall be subject to taxation as property. [Ch. 1903, sec. 100; am. May 3, 1913, sec. 67; rev. 1914, sec. 166; 1928 pub., sec. 166; 1942 recod., sec. 10-202.]

Section 10-203. Authorization of Industrial Tracks. The Council shall have power on application or assent in writing of the owners of a majority part in extent of the lots or tracts of land fronting on each side of that portion of any street or part of a street on which it is desired to construct railroad tracks for spurs, sidings or switches, other than those for street railways, to grant revocable permits for the use of streets for that purpose, subject to sections 10-108 and 10-206 of this Charter. [Ch. 1903, sec. 102; am. May 3, 1913, new sec. 68; rev. 1914, sec. 167; 1928 pub., sec. 167; 1942 recod., sec. 10-203.]

Section 10-204. Agreements with Railroads. The Council shall have power and authority by ordinance duly passed to agree with any corporation, firm or person constructing a commercial railroad and desiring to enter the City, upon the extent, terms and conditions upon which the streets, alleys, or public grounds of the City may be appropriated, used or occupied by such railroad and upon the manner, terms and conditions under which the cars and locomotives of such railroad may be run over and upon such streets, alleys and public grounds; such agreement shall be subject to the provisions and requirements of sections 10-101 to 10-103, 10-105 to 10-108, 10-201 to 10-209, 10-212 and (e) and (f) of Section 10-210 of this Charter.

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No exclusive right for the aforesaid purposes shall be granted to any corporation, firm or person and the use of all such rights shall at all times be subject to regulation by the Council.

In addition to the other requirements of this Charter every ordinance granting such right shall be upon the condition that such grantee shall allow any other railroad company to use in common with it the same track or tracks throughout their entire length between the extreme limits for which the franchise is granted including any private rights of way which may intervene upon obtaining the consent of the Council expressed by ordinance prescribing the regulations for such use, and the compensation therefor, each paying an equitable and proper proportion of the construction, maintenance and repair of the tracks and appurtenances and any private right of way used by such railroad companies jointly, such proportion to be fixed by the Council. [Ch. 1903; sec. 103; am. May 3, 1913, secs. 69 and 70; rev. 1914, secs. 168 and 169; 1928 pub., secs. 168 and 169; 1942 recod., sec. 10-204.]

Section 10-205. Limited Time. Franchises may be granted for a limited time in and upon the streets, highways and public places and property of the City of Portland, in the manner and subject to the conditions hereinafter contained. [May 3, 1913, new sec. 71; rev. 1914, sec. 170; 1928 pub., sec. 170; 1942 recod., sec. 10-205.]

Section 10-206. Nonexclusiveness. No exclusive franchise shall be granted nor shall any franchise, lease or rights be granted for a longer period than twenty-five (25) years. [May 3, 1913, new sec. 72; rev. 1914, sec. 171; 1928 pub., sec. 171; 1942 recod., sec. 10-206.]

Section 10-207. Method of Granting. Every franchise shall be embodied in an ordinance, which shall contain all the terms and conditions of the proposed grant, and shall be filed with the Auditor. Thereupon such proposed ordinance shall be published in full, once in the City official newspaper. There shall also be published, in a conspicuous place in such daily newspaper of the City having a circulation in excess of fifteen thousand (15,000), as the Council may direct, a notice prepared by the Auditor, that an application has been made for a franchise, giving the name of the applicant, the character and location of the proposed grant, and requesting any person having any objections to such proposed franchise or any provisions thereof to file the same in writing with the Auditor within twenty (20) days from the first publication of such notice. If the request is made therefor, the Council shall fix a time for a hearing upon such objections and give reasonable

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notice of the time thereof and not less than five (5) days. All of such publications and notices shall be at the expense of the applicants for such franchises.

Such ordinances shall not come up for first reading until after the expiration of the said twenty (20) days.

If such ordinance shall be amended, it shall be republished in the City official newspaper in full as amended.

No such ordinance granting a franchise shall be put on final passage within thirty (30) days after the first reading nor within twenty (20) days after any amendment thereto, and the affirmative vote of four (4) Commissioners shall be required to pass the same. [May 3, 1913, new sec. 73; rev. 1914, sec. 172; 1928 pub., sec. 172; 1942 recod., sec. 10-207.]

Section 10-208. Effective Date. No franchise shall take effect until sixty (60) days after its passage unless it shall receive a majority of the votes cast thereon at a referendum election held for that purpose within a less time. The filing of a petition for referendum shall defer the taking effect of a franchise until after the election. A petition signed by two thousand (2,000) registered voters shall be sufficient to call a referendum upon any franchise ordinance. [May 3, 1913, new sec. 74; rev. 1914, sec. 173; 1928 pub., sec. 173; 1942 recod., sec. 10-208.]

Section 10-209. Specific Conditions. Every franchise granted by the City of Portland shall contain full and explicit statements of its conditions in the following particulars:

(a) In case of railroads and street railways it shall specify plainly the streets or other public places or parts thereof to which they apply. Any other franchises shall state the boundary of the district or districts within which they shall be exercised.

(b) The amount and manner of payment of the compensation to be paid by the grantee for the right. The Council shall make an estimate of the cash value of any franchise upon the filing of the application, or an estimate for what it may consider fair compensation to the City for such franchise, and the same shall be entered upon the minutes of the proceedings of the Council and published with the published copy of the franchise. In lieu of a money valuation the Council may at its option declare what will be a reasonable reduction of fares, rates or charges, either at the beginning or progressively from time to time, to be made by the

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grantee in compensation for the grant.

(c) The time of beginning the construction or other work thereunder, the estimated total cost of such work, the monthly or yearly sums of money to be expended thereon, and in case of franchises to transportation companies or other franchises covering certain streets or portion of streets, the time within which the work under such franchise shall be completed upon such streets or portions of streets, respectively.

(d) Every grant of a franchise which provides for or permits the changing of rates, fares or charges shall contain a provision fixing the maximum that the holder can collect for services rendered by virtue of said franchise and the operation of the plant or property thereunder; subject, however, to the power of regulation prescribed in Section 10-108 of this Charter.

Rates, however, shall always be uniform to all persons of like classes, under similar circumstances and conditions.

[May 3, 1913, new sec. 75; rev. 1914, sec. 174; 1928 pub., sec. 174; 1942 recod., sec. 10-209.]

Section 10-210. Conditions and Restrictions. Every franchise granted by the City shall be subject to the conditions and restrictions hereinafter provided, to wit:

(a) That the City may in lawful manner and upon the payment of a fair valuation lawfully ascertained, purchase, condemn, acquire, take over and hold the property and plant of the grantee in whole or in part; if such purchase or taking over be at the expiration of the term of the franchise such valuation shall not include any sum for the value of the franchise or grant under which such plant and property is being operated.

(b) That upon payment by the City of Portland of a fair valuation, as above stated, the plant and property so acquired shall become the property of the City without formal execution of any instrument of conveyance; provided, however, the City may at its option compel the execution to it of an instrument of transfer and conveyance.

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(c) That upon the acquisition of any such plant or property the right of the holder of any such franchise pursuant to which such plant or property was operated shall cease and determine, and the acquisition by the City of any such property or plant shall operate to divest the holder of any such franchise of all right, title and interest therein.

(d) No franchise shall be granted without fair compensation to the City therefor, either by way of direct payment or by reduction of rates, fares or charges, and in addition to the other forms of compensation to be therein provided, the grantee may be required to pay annually to the City such part of its gross receipts as may be fixed in the grant of said franchise. This provision shall not exempt the holder of the franchise from any lawful taxation upon its property nor from any license, charge or imposition not levied on account of such use.

(e) Every franchise and all things constructed thereunder or used in connection therewith, other than rolling stock and power, shall be subject to common use by any person or corporation, including the City, operating a similar public utility whenever it shall be advantageous to the public upon payment or tender of fair compensation for such use. The compensation for the franchise itself shall be payable only to the City and not to the holder of the original franchise.

The Council shall have power to determine what is a fair compensation and to regulate the manner of such use subject to judicial review, but no judicial proceedings shall suspend or postpone such use if the person or corporation desiring such common use shall deposit in the court such sum as the court on a preliminary hearing may determine.

Such compensation shall not include any remuneration for the franchise or rights conferred by the City, except that the new user may be required to pay a ratable part of any tax or public charge imposed upon the original grantee by reason of said franchise, in addition to such other payment to the City as the Council may deem equitable.

(f) The holder for the time being of any franchise to construct or operate railways in the streets or public places shall keep those portions of streets or other places occupied by such holder in good order, as required by the Council, and shall pave, improve, or repair and maintain from time to time in the manner and within the time directed by the Council, that portion of the street occupied by it lying between the rails of any track and extending one foot outside of such rail and

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portion of the streets lying between the tracks.

In addition any franchise granted to any street or other railroad, for the operation thereof, may provide that the holder thereof for the time being shall pave, repave and keep in repair at the time and in the manner required by the Council any street or part thereof used pursuant to such franchise for the whole or any part of the entire width of the street.

Failure or neglect upon the part of any holder of a franchise to do the work in the manner and within the time required by the Council, shall constitute an offense punishable by a fine of not less than ten dollars (\$10) nor more than one hundred dollars (\$100) for each and every day such refusal or neglect shall continue.

[May 3, 1913, new sec. 78; rev. 1914, sec. 177; 1928 pub., sec. 177; 1942 recod., sec. 10-210.]

Section 10-211. Additional Conditions. The enumeration and specification of particular matters which must be included in every franchise granted shall not be construed to impair the right of the City to insert in such franchise such other and further conditions and restrictions as the Council may deem proper for the public welfare. [May 3, 1913, new sec. 77; rev. 1914, sec. 176; 1928 pub., sec. 176; 1942 recod., sec. 10-211.]

Section 10-212. Written Acceptance. Every grantee of any franchise, right or privilege shall within thirty (30) days after the ordinance granting the same shall be enforced, file with the City Recorder a written acceptance of the same, and a failure on the part of the grantee to file such written acceptance within the time specified shall be deemed an abandonment and rejection of the rights and privileges conferred, and the ordinance granting the same shall thereupon be null and void; such acceptance shall be unqualified and shall be construed to be an acceptance of all the terms, conditions and restrictions contained in the ordinance granting the same. [May 3, 1913, new sec. 76; rev. 1914, sec. 175; 1928 pub., sec. 175; 1942 recod., sec. 10-212; am. May 20, 1986.]

Section 10-213. Statements. Within ninety (90) days after this Charter shall take effect, the holder of any franchise shall file with the Auditor a full and correct statement of the franchise, rights and privileges owned or claimed to be owned, and shall designate the same by the numbers and titles of the ordinances by which such franchises were granted, and any holder of any franchise, on failure

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so to do, shall be guilty of an offense punishable by a fine of not less than ten dollars (\$10) and not more than one hundred dollars (\$100) per day while such refusal or neglect continue. The holder of every franchise, and the grantees of every franchise hereafter granted, on sale, transfer, mortgage or lease being made of such franchise, shall within sixty (60) days thereafter file with the Auditor a copy of the deed, agreement, mortgage, lease, or other written instrument evidencing such sale, transfer or lease, certified and sworn to as correct by the grantee, in person, if an individual, or by the president or secretary or authorized agent, if a corporation.

Every sale, transfer, mortgage or lease of such franchise, whether voluntary or involuntary, shall be deemed void and of no effect unless the grantee shall, within sixty (60) days after the same shall have been made, file such certified copy as required by this Section and consented to as provided in Section 10-216 of this Charter, also unless the Council agrees to such sale by an ordinance expressly passed for that purpose, as provided by Section 10-216.

The Auditor shall file all such documents and shall make and keep an index of the same in a book to be kept by the Auditor for that purpose, which book shall be a part of the public records of the City. [May 3, 1913, new sec. 80; rev. 1914, sec. 179; 1928 pub., sec. 179; 1942 recod., sec. 10-213.]

Section 10-214. Records. The City officer responsible for accounting shall keep a separate record for each grantee of a franchise from the City rendering service to be paid for wholly or in part by users of such service, which record shall show in the case of each such grantee:

1. The true and entire cost of construction, of equipment, of maintenance and of the administration and operation thereof; the amount of stock issued, if any; the amount of cash paid in, the number and par value of shares, the amount and character of indebtedness, if any; the rate of taxes, the dividends declared; the character and amount of all fixed charges; the allowance, if any, for interest, for wear and tear or depreciation; all amounts and sources of income.
2. The amount collected annually from the City treasury and the character and extent of the service rendered therefor to the City.
3. The amount collected annually from other users of the service and the character and extent of the service rendered therefor to them. Such books of record shall be open to public examination at any time during City business hours.

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Such information, in addition to any further data which may be required by the City, under this Charter, shall be furnished by the grantees or holders of such franchises upon request, and at such grantee's own cost and expense.

4. In case any grantee or holder of a franchise fails or refuses to furnish such information when requested so to do on petition being presented on behalf of the City to the circuit court, such court shall have jurisdiction to compel such grantee or owner to furnish such information and tax the costs of such application against the defendant in such proceedings and in addition may impose a fine of not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) for every such offense. All fines collected under this Section shall be paid into the General Fund. The procedure on such application shall be as far as possible analogous to that on mandamus.

[May 3, 1913, new sec. 81; rev. 1914, sec. 180; 1928 pub., sec. 180; 1942 recod., sec. 10-214; am. May 20, 1986.]

Section 10-215. Nonabandonment. No abandonment, nonuser or failure to comply with the terms of the franchise shall release the holder from any of the obligations thereof without the consent of the City expressed by ordinance which shall be subject to the referendum. Notwithstanding such abandonment the provisions of the franchise may be enforced, but upon abandonment, nonuser, or failure to comply with any of the terms of the franchises, the City may by ordinance declare a forfeiture, whereupon all rights of the holders of the franchise shall immediately be divested without a further act upon the part of the City, and in case of a franchise for occupancy of streets, the holder shall be required notwithstanding such forfeiture, to remove its structures or property from the streets and restore the streets to such condition as the Council may require or as may be stipulated in the grant; and upon failure to do so the City may perform the work and collect the cost thereof from the holder of the franchise. The cost thereof shall be a lien upon all the plant and property of the holder of the franchise, prior to any other lien except that of City assessments or general tax, and the City may collect the same as a City assessment or in any other lawful manner. [May 3, 1913, new sec. 83; rev. 1914, sec. 182; 1928 pub., sec. 182; 1942 recod., sec. 10-215.]

Section 10-216. Assignments. No franchise shall be sublet or assigned, nor shall any of the rights or privileges thereby granted or authorized be leased, assigned, sold or transferred without the consent of the City expressed by ordinance which shall be subject as other ordinances to the referendum. [May 3,

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1913, new sec. 79; rev. 1914, sec. 178; 1928 pub., sec. 178; 1942 recod., sec. 10-216.]

Section 10-217. Forfeiture. All franchises or privileges heretofore granted by the City which are not in actual use or enjoyment or which the grantee thereof has not in good faith commenced to exercise within the time required by the terms thereof are hereby declared forfeited and of no validity. This Charter shall in no wise validate any contract, privilege or franchise not heretofore a legal and valid obligation of the City. [May 3, 1913, sec. 82; rev. 1914, sec. 181; 1928 pub., sec. 181; 1942 recod., sec. 10-217.]

Section 10-218. Common Transportation Terminal. It shall be the policy of the City of Portland to create a common transportation terminal, both land and water, embracing both sides of the harbor for its full extent in the City, which shall be subject to entry and use throughout its full extent by all common carriers on equal terms, as far as the property, rights and jurisdictions of the City may apply to secure same; and all such property, rights and jurisdictions of the City within one thousand (1,000) feet of meander line specified in Section 1-104 of this Charter shall be subject to use and demands for such common terminal purposes and needed connecting roadways, tracks and appurtenant facilities; provided that the public docks may be furnished with warehouses subject to lease.

All proposed franchises, grants, privileges, and public improvements and other improvements as far as the jurisdiction of the City may extend, affecting such territory must be considered in relation to said common terminal and adapted thereto in a systematic way, and shall to that end be submitted to the City Engineer and the official or officials in charge of the public docks for approval. Without the approval of these, it shall require a four-fifths vote of the Council to pass such measure. If the Council pass such measure without the approval aforesaid, the Mayor shall have the measure placed upon the ballot at the next ensuing regular election for approval or rejection by the people.

No grant or franchise affecting this territory shall confer any superior right that may operate to defeat the purpose of this act to protect the common access on equal terms in said territory and any provision in any grant or franchise contrary to said purpose shall be null and void.

The purpose of this act is to provide connections for and means of interchange of traffic upon the lines or tracks of all common carriers, public or private, with the greatest facility and economy and the least obstruction,

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inconvenience and cost possible. The City Engineer and the official or officials in charge of the public docks shall at once draw up such plan and elaborate and extend it from time to time to meet the purpose of this act as public needs develop.

In pursuance of the policy established by this amendment, the Mayor shall cause to be made an inventory of all public properties and rights within the one thousand (1,000) foot limit defined herein, and to have said properties defined and recorded, especially between meander and harbor lines, and utilize the same to the fullest possible extent in the development of the terminal plan herein provided for. And where, in such development, the City may lack jurisdiction for control, the Mayor and Council are required to use, under wise discretion, their best efforts to secure the jurisdiction and control necessary.

All acts and parts of acts in conflict with this act are hereby repealed. [June 2, 1913, new sec. 93-1/2; rev. 1914, sec. 183; 1928 pub., sec. 183; 1942 recod., sec. 10-218.]

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CHAPTER 11

SPECIAL SERVICES

ARTICLE 1. WATER WORKS

Section 11-101. General Authority. The City may construct, reconstruct, purchase or otherwise acquire, keep, maintain, improve, alter and change water works and all plants and facilities found appropriate by the Council for furnishing water to the City, its property, its inhabitants, and the places and people along or in the vicinity of the pipes, conduits or aqueducts constructed or used for that purpose. The City may acquire by purchase or otherwise, own and possess real and personal property or interests therein, within and without the limits of the City, which the Council finds necessary or convenient. The Council may establish and maintain headworks and supply sources, with all convenient reservoirs, tanks, pumps, supply systems, distribution and related facilities, including land and interests in land, and may acquire other water systems serving property within present or future boundaries of the City. The Council may make all necessary expenditures to carry out these purposes and may enter into contracts for supply of water by the City or supply of water to the City or its inhabitants. Any surplus water may be sold to persons, public or private, outside the City, on terms and conditions the Council finds appropriate. [New sec. Nov. 8, 1966.]

Section 11-102. Administration. The City may employ personnel, contract for services and perform services under contract or otherwise, found necessary or convenient to carry out the powers granted in this Article. The Council may obtain materials and supplies and do any acts in the operation, maintenance, improvement and extension of City water works which the Council finds necessary or advantageous.

The Council may prescribe regulations relating to water supply, distribution and service, and may impose conditions, and require deposits or cost contributions for water main extensions and water distribution system. The Council may rent or lease equipment or facilities to or from others, and may sell or otherwise dispose of City property, facilities, supplies or equipment, as it finds convenient.

In the Bureau of Water, the Engineer in charge of the engineering staff, the person in charge of the business office, and the head of the Bureau shall not be subject to Civil Service requirements of this Charter. [New sec. Nov. 8, 1966.]

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Section 11-103. Water Bonds. In order to provide funds for construction, reconstruction, replacement, extension, acquisition and maintenance of water plant and property, and the acquisition of water systems, the Council may issue bonds of the City in denominations and for terms the Council determines, in the same manner other bonds of the City are issued. These bonds shall be general obligations of the City, but primarily payable from water revenue. These bonds shall not be included within the debt limit elsewhere prescribed in this Charter. No bonds shall be issued under this section in any year which, with the net outstanding water bond indebtedness, would exceed the total original cost of existing plant and property of the water works and system. [Nov. 8, 1932, new sec. 228-1/2; 1942 recod., sec. 11-201; am. May 16, 1952; rev. Nov. 8, 1966.]

Section 11-104. Funds. After payment of expenses for issuance of water bonds, the proceeds shall be placed in the Water Construction Fund.

Money from the sale of water and charges related to water works or service shall be placed in the Water Fund. After deducting sinking fund requirements, operating expenses of the water works and plant and the Water Bureau, which may include depreciation on plant and property, and maintenance expense found necessary or appropriate, the Council may transfer any excess in the Water Fund to the Water Construction Fund.

The Council may make transfers between funds in the Water Bureau, but the funds and accounts of the Water Bureau relating to water plant and works shall be separate from other accounts and funds of the City and treated as a separate municipal operation. The Council may impose charges it finds equitable upon the operation of the water system for municipal services of other departments, bureaus and officers, and may impose fees of the same character as for public utilities. Otherwise, money in the Water Fund or the Water Construction Fund shall not be transferred to the General Fund of the City, nor to special funds unrelated to the water works, water system and the sinking funds for water bond debt service. [New sec. Nov. 8, 1966.]

Section 11-105. Rates and Charges. For each fiscal year the Council shall fix water rates which will provide an estimated income to equal expenses and debt service relating to water bonds. No charge shall be made for water used in extinguishing fires in the City.

The Council may fix special charges for connections, disconnections, turn-ons, discontinuances of service, all special services or work, and other

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contingencies, situations or conditions, which it finds advantageous or appropriate from time to time. Charges and bills may be adjusted as found just and equitable. [New sec. Nov. 8, 1966.]

Section 11-106. Collections. The Council may make regulations, impose conditions, penalties and forfeitures and institute civil or penal process it finds necessary or appropriate to collect bills for water or charges, and in addition may refuse or discontinue water service to premises for which a bill or charge remains unpaid. Penal enforcement is subject to the penalty limitations fixed in the Charter for ordinance violations. [New sec. Nov. 8, 1966.]

ARTICLE 2. SPECIAL FACILITIES.

Section 11-201. Municipal Auditorium. The Council may construct, reconstruct, repair and maintain a building or buildings for use as municipal auditorium and related facilities. The Council may fix fees and impose charges for the use of auditorium facilities and services, and may waive or reduce the fees and charges to the extent it finds appropriate in the public interest. The Council or the Commissioner In Charge may make rules and regulations for management and control of the auditorium facilities and services. The Council may delegate management and control to any commission established by Charter, notwithstanding stated functions and limitations on that commission, or to any commission established by ordinance for that purpose. Employees and positions connected with the Municipal Auditorium and related facilities are not within the classified Civil Service of the City unless included therein by vote of the people. In case the revenues from the auditorium and any related facilities are insufficient to pay for maintenance and operation, the Council may pay the deficit out of the General Fund. The Council may permit use without charge of any surplus space in a building or facility, for the purposes of a nonprofit organization devoted in whole or in part to the preservation of matters of historical interest, and for use and occupancy by any bureau, department or office of City government. [June 5, 1911, new sec. 425-3/4; 1914 rev., secs. 239-248; 1928 pub., secs. 239-248; 1942 recod., sec. 11-1001; rev. Nov. 3, 1964, sec. 11-201; am. Nov. 8, 1966.]

ARTICLE 3. SEWAGE DISPOSAL OR PURIFICATION.

Section 11-301. Sewage Disposal or Purification System. The Council may construct, reconstruct, enlarge, alter, modify, equip, operate and maintain a sewage disposal or sewage purification system within or without the corporate

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limits or both, including but not limited to: all methods of storm drainage, intercepting sewers, diversion sewers, relieving or interconnection sewers, sewers to separate storm and sanitary sewage, pump or ejector stations and equipment, and plants for the treatment and disposal of sewage. For that purpose the City may acquire by any lawful means property, real or personal, interests in property, equipment, and related facilities and may make all expenditures which the Council finds necessary or appropriate to carry out such purposes, either within or without the corporate limits. The City may sell or otherwise dispose of any or all by-products or salvage products from this operation. The City also may contract with any other person, public or private, to further purification of public waters or protection of the public health. [Nov. 8, 1938, new sec. 347; 1942 recod., sec. 9-604; rev. Nov. 8, 1966.]

Section 11-302. Service Charges. For all purposes relating to design, construction, acquisition, operation, maintenance and contract requirements of sewage treatment or purification facilities and related facilities, the City may fix fees and charges for connection or use or both of sewers and sewage purification or disposal systems to be paid by property which is served or is capable of being served for use of the sewage disposal system. Sewer user service charges may be collected by the Water Bureau which shall be compensated for such service as determined by the Council. The City may establish procedures for collection and may provide for penalties, interest and costs. The City may establish requirements and impose regulations as it finds appropriate. Sewer user service charges shall be paid for all premises connected with City sewers, directly or indirectly, notwithstanding that such premises may have been assessed or may in the future be assessed for construction of sewers under local improvement assessment procedures or may have otherwise paid for sewers.

The City may enter into contracts relating to sewage disposal, treatment or purification or all such functions. The City may impose charges for sewage transportation, disposal, treatment or purification or any or all such functions, on property outside the City served through City facilities, at rates no less than those imposed for similar service inside the City to similar classifications.

Proceeds of such charges shall be placed in the Sewage Disposal Fund, and may be expended for any matter connected with the sewer or sewage disposal or treatment system of the City, and bonded debt and debt service related thereto. [Added Nov. 8, 1938, sec. 347; 1942 recod., sec. 9-604; Nov. 8, 1960, new sec. 9-606; rev. Nov. 8, 1966 as sec. 11-302; am. May 26, 1970.]

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Section 11-303. Use of Sewers. The Council may require any property located within one hundred (100) feet of a right of way in which there is a City sewer to connect to that sewer.

The Council may prohibit discharge of sewage or harmful matter or impurities into any stream or river within the City. This prohibition may extend to any source whatever, including ships, houseboats and water craft of all kinds. These sources may be required to connect to the City's sewer system when physically possible, or otherwise to construct and use a prescribed sewage or waste disposal system.

To facilitate sewage treatment and protect the City's sewage facilities, the City may limit the classes or kinds of sewage that may be discharged or may continue to be discharged into public sewers, may prohibit discharge of wastes other than domestic sanitary sewage into public sewers or facilities, and may require private pretreatment before discharge, upon terms fixed by the City Engineer. [New sec. Nov. 8, 1966.]

Section 11-304. Intent of Article. This Article shall be construed as granting additional authority, and not in derogation of any authority granted elsewhere in this Charter. This Article shall not affect authority of the Council concerning local sewer improvements and the assessment of benefits therefor. The Council also shall have all authority now or hereafter granted by statute concerning disposal and purification of sewage and waste. [New sec. Nov. 8, 1966.]

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CHAPTER 12

PUBLIC FACILITIES AND WORKS

ARTICLE 1. RECREATION AREAS.

Section 12-101. Parks and Recreational Areas and Facilities. The Council may establish parks, playgrounds, recreation areas and facilities of all kinds. For that purpose the Council may acquire by purchase, condemnation, gift, grant, donation, exchange or otherwise, real and personal property and any interest therein; may rent or lease property of any kind for public use; and may construct, reconstruct, remodel, alter, repair, maintain, improve and equip areas and facilities which the Council finds necessary, appropriate or desirable, either inside or outside the City. The Council may exchange any property for other property which it deems more suitable or convenient for park and recreation use, and may dispose of the property not needed for those purposes. The Council may establish exhibits and conduct programs for the education or the furtherance of public enjoyment and recreation, and may change, alter or discontinue them. The Council may construct, reconstruct, alter, remodel, furnish and equip improvements found necessary or appropriate for the convenience of the public using park and recreation facilities, or of persons or employees conducting or assisting park or recreational programs or maintaining parks, areas, facilities, or improvements. The Council may contract with any public or private person in any matter relating to services or programs. The Council may do all things it finds necessary or convenient to promote recreational facilities and aesthetic enjoyment of the people, and the beautification of City property. [May 19, 1950, new sec. 9-605; rev. Nov. 8, 1966.]

Section 12-102. Regulations and Restrictions. The Council or the Commissioner to whom authority has been delegated may make regulations and impose restrictions on public use of parks, recreational areas and facilities as found needed and appropriate, may exclude some or all kinds of vehicles from all or particular areas of any park or facilities, may limit to a particular class or classes of persons those permitted to use any particular area or facility if the limitation is not based on race, color, creed or national origin, and may restrict the kinds and times of public use. [New sec. Nov. 8, 1966.]

Section 12-103. Fees and Charges. The Council may fix fees it finds reasonable for specialized facilities, special services, conveniences, materials or supplies used in a program and for special programs of all kinds. After their

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establishment, payment of the fees shall be a condition prerequisite to use or participation. Establishment and collection of fees does not change the public character of any area, facility or program. [New sec. Nov. 8, 1966.]

ARTICLE 2. FINANCING OF REVENUE PRODUCING FACILITIES.

Section 12-201. Revenue Bonds. For financing the acquisition of any public utility operating or to be operated within City jurisdiction, or of utility plant or property used or useful in connection with operation within the City, or for the construction, establishment or betterment of a facility inside or outside the City owned or to be owned by the City, and producing or intended to produce revenue, the City may issue and sell interest bearing revenue bonds. Revenue bonds shall not be a general liability of the City and shall be paid solely from the revenues derived from the facility and other pledged facilities or from the rental, lease or sale thereof. The Council may secure these bonds by mortgage or similar encumbrance upon the plant and property, may pledge the revenues thereof and revenues from similar facilities, and may agree in the bond that the rates and charges shall be fixed at specific, general or minimum amounts. Issuance of the bonds shall be pursuant to ordinance which shall be subject to referendum. The bonds shall be issued and sold the same as other bonds of the City. The proceeds derived from the sale of the bonds may be used for the costs of advertising, bond issuance and sale, legal fees and costs, planning, engineering, inspection, administrative costs, the acquisition by any lawful means of plant and property, real or personal, and interests in land and structures, construction, reconstruction, remodeling, equipment betterment, additions to and supply of the particular facility, and related matters. [New sec. Nov. 8, 1966.]

ARTICLE 3. PERFORMANCE OF PUBLIC WORKS.

Section 12-301. Contract or Direct Labor on Public Work. Subject to other requirements of this Charter, the Council may enter into contracts it finds in the public interest, for the design, construction, reconstruction, alteration, remodeling, repair or maintenance of any public work, improvement, facility or structure, including any local improvement, or may at its option directly employ labor for this purpose or any portion thereof or function connected therewith. The Council may by practice or regulation classify various improvements and functions, some of which may be performed under contract and others of which may be performed by direct labor. [New sec. Nov. 8, 1966.]

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Section 12-302. Production of Materials. The Council may provide for the manufacture, compounding, mixture or production of any products, materials or supplies for use in public works, improvements or facilities, including local improvements, whether used by the City directly or by its contractor or contractors, but no such product, materials or supplies shall be sold to private persons for use in private enterprises in competition with private businesses. [New sec. Nov. 8, 1966.]

CHARTER, CITY OF PORTLAND, OREGON

CHAPTER 13

CHARTER REVISION AND INTERPRETATION

ARTICLE 1. REPEALS, AMENDMENTS AND RE-ENACTMENTS.

Section 13-101. Effect of Repeal, Amendment and Substitution. When a particular grant of authority contained in the Charter subsequently is removed, expressly or by implication, the prior grant of authority nevertheless shall continue in force unless specifically forbidden, to the following extent: if the City has contracted with another person under such authority, if the City has begun a public work, facility, structure, project or program pursuant thereto and termination would entail risk of City liability for damages, or if the Council finds that third persons have materially changed their position in reliance upon Council action thereunder, then the authority previously contained in the Charter shall continue until the contract, public work, facility, structure, project or program is completed, or the action carried out.

When a particular procedure is changed, expressly or by implication, proceedings pending or in process under the prior procedure may continue as though unchanged, or the Council may use the changed procedure for the balance of the proceedings after the change, or the Council may use the prior procedure in part and the changed procedure in part, as it finds appropriate or convenient. [New sec. Nov. 8, 1966.]

Section 13-102. Continuance of Original Charter Provisions as Ordinances. Ordinance provisions originally included in a Charter, subsequently continued as ordinances and not amended, repealed or superseded, shall continue in full force and effect as ordinances until amended, repealed or superseded by the Council. Reinclusion of the same authority or procedure in the Charter removes authority of the Council to affect them. [May 3, 1913, part of new sec. 96; 1914 rev. sec. 283; 1928 pub. sec. 283; 1942 recod., sec. 12-103; rev. Nov. 8, 1962.]

Section 13-103. Procedural Ordinances. When a Charter provision is to be implemented by general ordinance, lack of general ordinance setting forth the procedural steps shall not prevent an improvement, work or act. Existing ordinances may be followed so far as applicable, and the Council may, by resolution or ordinance relating to that improvement, work or act, carry out the public purpose by resolution or ordinance recognizing and approving the procedure

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followed. Lack of a general procedural ordinance shall not impair the validity of the proceedings. A subsequent general ordinance need not follow the same procedure.

In following procedures provided in this Charter, the Council by ordinance may fix additional procedures in any matter for which the procedures provided in this Charter are incomplete or silent. [New sec. Nov. 8, 1966.]

ARTICLE 2. CONSTRUCTION AND INTERPRETATION.

Section 13-201. Restrictions and Limitations. Any restriction or limitation imposed on the authority of the Council by Charter provision, applies only as its language explicitly and necessarily requires. Simultaneous or subsequent specification of authority is not exclusive and does not impair other or general authority and power granted by existing or future Charter provisions, by statute or by general law. Specification of procedures does not exclude other or alternative procedures unless expressly stated to be exclusive. The City has authority to carry out general or special powers expressed or implied by Charter, statute or general law, as the Council finds necessary or convenient. This Section applies, unless expressly negated, to all present and future Charter provisions. [New sec. Nov. 8, 1966.]

Section 13-202. Intent of Re inclusion of Former Charter Provisions. Whenever a provision in a City Charter has been continued as an ordinance provision and subsequently reincluded in the Charter without substantive change, the reincluded provision shall be a continuance of the prior Charter provision to the extent of its reinclusion as though continued in the Charter without interruption. [New sec. Nov. 8, 1966.]

CHARTER, CITY OF PORTLAND, OREGON

CHAPTER 14

EXPOSITION - RECREATION COMMISSION

ARTICLE 1. ADMINISTRATION, POWERS AND BONDS.

Section 14-101. Creation of Department. There hereby is created a department in the City of Portland to be known as the Department of Exposition and Recreation.

Section 14-102. Exposition - Recreation Commission. The Department of Exposition and Recreation shall be administered by an Exposition - Recreation Commission composed of five (5) members who shall be appointed by the Mayor, subject to the approval of the Council. Within thirty (30) days after the adoption of this Chapter, the Mayor shall appoint five (5) persons who are qualified voters of the City as members of the Exposition - Recreation Commission. One of such members shall be appointed for a one-year term; one for a two-year term; one for a three-year term; one for a four-year term; and one for a five-year term. Thereafter appointments shall be made for a five-year term. A vacancy shall occur from the death, resignation or inability to serve of any members or removal of a member by a majority vote of the Council. Resignation when made shall be addressed to and accepted by the Mayor. Successors shall be appointed by the Mayor subject to Council approval, for the unexpired term. The members shall serve without salary or compensation of any nature. Within ten (10) days after appointment the Commission shall meet and organize by the election of a chairperson and a secretary and by making provision for stated meetings and may adopt its own rules of procedure. [Rev. Nov. 2, 1976.]

Section 14-103. Powers and Duties. The Exposition - Recreation Commission shall have power and authority and it shall be its duty for and on behalf of the City of Portland:

To construct, erect, equip, maintain and repair buildings and facilities for a multi-purpose coliseum stadium, playfield, exposition and exhibition center and war memorial, for conventions, expositions, sports events, concerts, shows of all kinds including livestock shows, automobile shows, housing shows and ice shows, patriotic, educational and fraternal meetings, and church conventions, and any other types of entertainment and recreational events, whether of exhibition or of participation character, that the Commission may find appropriate, including educational exhibits and park and recreational facilities, together with facilities for

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veterans' organizations as the Commission may find desirable or appropriate, and facilities connected therewith, including but not limited to parking area for use of the public for exhibitors and for the storage of supplies incidental to exhibitions, shows, etc., or for storage of maintenance equipment;

To acquire therefor the fee simple title to real property or interests therein by gift, grant, purchase, condemnation or otherwise as the Commission shall deem suitable for the site thereof; and to that end the Commission may acquire the fee simple title to real property for the purpose of exchange for other property which the Commission deems to be a suitable site or sites for such purposes; and to acquire by purchase, condemnation or otherwise such excess property adjacent to such site or sites selected as the Commission may find necessary or appropriate or convenient for the protection, improvement or access to the site or sites selected; to drain, fill and otherwise improve the site or sites and access property adjacent thereto as the Commission may find necessary or convenient, and to sell, lease for a term not exceeding ninety-nine (99) years, rent or otherwise dispose of such excess property for private industrial or commercial development;

To purchase and install equipment and facilities in or adjacent to the buildings or structures herein set forth and to purchase materials and supplies, and to maintain and repair any and all such equipment and facilities;

To provide such additional facilities for sports, recreation and entertainment purposes and for the convenience of persons using the same as the Commission may find suitable or necessary;

To operate said exposition and recreation center and facilities;

To lease such facilities for periodic exhibitions or shows for a term not exceeding twenty (20) years plus renewal option; to rent such facilities, or to provide such facilities without charge for civic or charitable events as the Commission may find appropriate and to fix the terms and conditions of such lease, rental or provision; to fix fees and charges relating to the use of said buildings, structures or facilities, and to make and enforce regulations concerning the same;

To employ professional and technical assistance including managerial and promotional services, special legal services, engineering, auditing, architect's preparation of plans and all other special assistance as the Commission may find necessary or convenient, and to employ clerical assistance and labor and fix the

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rates of compensation therefor;

To enter into contracts, incur obligations and do all other acts and things necessary or convenient to carry out the purposes of providing an exposition and recreation center as aforesaid;

To accept gifts and donations and to contract for and receive federal aid and assistance if available;

To make orders, rules and regulations in the form of resolutions to carry out the authority granted the Commission in this Chapter, certified copies of which shall, upon their adoption, be transmitted to the Auditor of the City of Portland, who shall cause the same to be filed in a special record of such resolutions. All such resolutions of the Commission shall be accessible to the public under like terms as ordinances of the City of Portland. Any resolution of the Commission shall be subject to amendment, repeal or alteration or enactment by the City Council. The Council shall provide by ordinance for a procedure for Council review of commission action.

All records, accounts and minutes of the Commission shall be public records and available for inspection at the same time as the public records of the City. [Rev. Nov. 2, 1976.]

Section 14-104. Exposition - Recreation Bonds. [This Section deleted in the 1984 edition of the Charter. All bonds authorized under this Section have been issued and redeemed.]

Section 14-105. Fiscal Matters of Commission. The revenues of the Commission from rental or other agreements shall be paid into the Exposition - Recreation Fund provided in this Chapter which shall be in the custody of the City Treasurer, provided, however, that the Commission may maintain a bank account not to exceed an average monthly balance of fifteen thousand dollars (\$15,000) at any one time to care for current operating expenses. The Commission may draw requisitions upon said Fund and the Mayor and Auditor hereby are authorized and directed to draw and deliver warrants upon the order of such requisitions. The Commission may transfer funds from the Exposition - Recreation Fund by requisition as before set forth and deposit the same in the separate bank account above mentioned. The Commission may also transfer funds from the Exposition - Recreation Fund to the General Fund of the City. The accounts of the Commission shall be kept in conformity with the accounting practices of the City

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of Portland and shall be audited yearly and the Commission shall comply with the budgetary requirements of the City. The Commission shall annually prepare a budget in accordance with the local budget law and submit it to the City Council prior to the beginning of the ensuing fiscal year for approval by the Council and inclusion as part of the total City budget. After adoption of the Commission's budget, transfers of appropriations may be made as permitted by law by the Council. [Rev. Nov. 2, 1976.]

Section 14-106. Use of City Facilities. The Commission may obtain the advice, recommendation and assistance of any officer, board or commission of the City of Portland and when called upon the City Attorney and the City Attorney's staff shall render legal assistance and advice. Payments for such legal services or special services by the other departments, offices or officers of the City shall be made by the Commission. Purchases on a bid basis shall be made through the purchasing agent of the City but at the option of the Commission open market purchases need not be made through the purchasing agent. The limitation and restrictions on purchases elsewhere contained in this Charter shall not apply but the Commission may purchase materials and supplies in amounts not exceeding one thousand five hundred dollars (\$1500) without advertising for bids, on the open market.

Section 14-107. Exemption of Certain Employees from Civil Service. Employees of the Commission permanently appointed to clerical or maintenance positions shall be subject to the civil service requirements of this Charter, and all other employees and positions shall be exempt from such requirements. [Chapter 14 added May 21, 1954.]

CHARTER, CITY OF PORTLAND, OREGON

CHAPTER 15

PORTLAND DEVELOPMENT COMMISSION

ARTICLE 1. ADMINISTRATION, POWERS AND DUTIES.

Section 15-101. Creation of Department. There hereby is created a department in the City of Portland known as the Department of Development and Civic Promotion. [New sec. May 16, 1958.]

Section 15-102. Portland Development Commission. The Department of Development and Civic Promotion shall be administered by a Portland Development Commission consisting of five (5) members who shall be appointed by the Mayor, subject to approval by the Council. Within sixty (60) days after the adoption of this Chapter, the Mayor shall appoint five (5) persons as members of said Portland Development Commission. One (1) of such members shall be appointed for a term of one (1) year, two (2) for a term of two (2) years, and two (2) for a term of three (3) years. Thereafter, regular appointments shall be made for a three (3) year term. A vacancy shall occur from the death, resignation or inability to serve of any member, or failure without cause to attend three (3) successive regular meetings. Resignation when made shall be addressed to and accepted by the Mayor. Successors shall be appointed by the Mayor, subject to Council approval for the unexpired term of any such vacancy. Commission members shall serve without salary or compensation of any nature. Within ten (10) days after all members of the Commission initially appointed have accepted such appointment, the Commission shall meet under the direction of the Mayor and organize by the election of a Chairperson and Secretary from their number. The Commission shall make provision for regular meetings at fixed times and may adopt bylaws, rules and regulations to govern its own procedures. The Commission may delegate to one or more of its members as a special board or boards, such duties and responsibilities as it may deem proper, subject to the administrative provisions contained in this Chapter. [New sec. May 16, 1958.]

Section 15-103. General Powers and Duties. The Portland Development Commission shall be and serve as the Urban Renewal and Redevelopment Agency of the City of Portland, pursuant to ORS Chapter 457, as amended, and shall have all the powers and perform all the duties of the City's urban renewal agency under ORS Chapter 457, as amended, and shall serve as the local public agency and shall perform all the functions prescribed therefor in Title 42 U.S.

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Code, relating to slum clearance, urban renewal and urban development and redevelopment in, or within a five-mile radius from the City boundaries. Said Commission shall automatically by its formation, assume all duties and obligations of the Housing Authority of Portland, Oregon, relative to urban renewal and redevelopment, upon the relinquishment by the housing authority of Portland, Oregon, of such duties and transfer of any funds obligated thereto. The Commission may make and continue preliminary studies; formulate urban renewal and redevelopment plans; and carry out such work or undertaking; acquire by purchase, condemnation or otherwise, real property or interests therein and personal property within an urban renewal area, or where the acquisition is necessary to carry out a redevelopment plan, for the purpose of removing, preventing or reducing blight or blighting factors or the causes of blight; prepare and develop the property; clear areas acquired; install, construct or reconstruct structures, facilities and site improvements found essential or appropriate to the preparation of sites for uses in accordance with the redevelopment plan; make disposition, including the sale or lease, of land for terms not exceeding ninety-nine (99) years, within an urban renewal area or otherwise, for uses in accordance with the redevelopment plan, without auction or advertising for bids; carry out any rehabilitation or conservation work in an urban renewal area; demolish, remove or rehabilitate buildings and improvements; assist in relocating persons living on property situated in the urban renewal area, and make relocation plans pursuant to the restrictions of federal law; dispose of personal property acquired without auction or advertising for bids; or any combination of such activities. The Commission shall also have authority to accept gifts, gratuities, federal grants-in-aid, advances or other moneys, and to negotiate loans and advances. The Commission shall also have authority to perform any other act or carry out any other function authorized or permitted by ORS Chapter 457, as now provided or hereafter amended. In connection therewith, the Commission shall have authority to enter into agreements with any other public body or any other department or bureau of the City of Portland and enter into any other contracts to carry out its urban renewal and redevelopment functions. The Commission may impose conditions or restrictions by deed or lease upon the use of land or property within an urban renewal area. The work of carrying out an urban renewal plan and any such urban renewal or redevelopment plan shall be deemed a public project.

The Portland Development Commission shall, in addition, promote industrial expansion and location, and may acquire such property, real or personal, or interest therein, inside or outside the City, as the Commission and the Council may find appropriate or convenient in accordance with comprehensive zoning and development plans, if such plans are available, and in compliance with zoning laws

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and regulations, may carry out the purposes of this Charter for lease of property not presently needed for municipal purposes to new industries, and may make recommendations to the City Council thereon, and on the exchange of property for other property which is suitable for leasing, and may promote industrial growth and assist in securing additional business within or near the City, and other matters provided for in Section 2-126 of this Charter; and in relation thereto shall take over and perform the duties of the City Council set forth in Section 2-126, except for appropriations and expenditures from the General Fund for advertising the advantages of the City, which power shall be exercised only by the City Council. The Commission shall control and manage and may lease in the name of the City to the extent permitted by Oregon Revised Statutes, Chapter 271, all properties placed under its administration by the City Council for industrial purposes and may improve any property which it acquires or controls to make it available or suitable for industrial sites. [New sec. May 16, 1958.]

Section 15-104. Administrative Powers and Procedures. The Commission shall have power for and on behalf of said City of Portland to perform the following acts and the following administrative procedures shall be followed:

1. The Commission shall have authority to make orders, rules and regulations in the form of resolutions to carry out the authority granted the Commission in this Chapter, certified copies of which resolution shall, forthwith upon their adoption, be transmitted to the Auditor of the City of Portland, who shall cause the same to be transcribed at length in a record kept for that purpose or to be filed in a special record of such resolutions. Such record shall be public and the same and copies thereof shall be accessible to the public under like terms as ordinances and resolutions of the City of Portland. All such resolutions of the Commission (other than purely administrative regulations, or those of a temporary nature) shall be subject to amendment, repeal or alteration or enactment under the referendum or initiative to the same extent as ordinances of the City of Portland. All such resolutions shall require an affirmative vote of three (3) members of the Commission and shall take effect thirty (30) days after adoption by the Commission unless some other date be fixed in such resolution. If a date earlier than thirty (30) days from adoption be so fixed as the effective date, such resolution must receive the affirmative vote of at least four (4) members and all of the members present at the time of adoption. No Commissioner and no official or employee of the Commission shall take part in negotiations or proceedings, nor shall any Commissioner vote upon any matter in which such Commissioner is interested in a personal rather than official capacity, as a promoter, stockholder, shareholder or owner, or on any contract or order connected therewith.

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2. The Commission shall have authority to appoint, employ and discharge such officers, employees and agents, including but not limited to clerical staff, experts, appraisers, accountants and other technicians, and craftspersons and laborers, as the Commission finds necessary or convenient for the efficient and economical performance of its duties, and to fix and provide for their compensation. Permanent officers and employees of the Commission shall be subject to the Civil Service provisions of this Charter and shall be appointed or removed by the Commission or person designated by the Commission in accordance with such provisions with the following exceptions: the Commissioners, a Director, the Director's secretary, an Assistant Director and all consulting or technical employees. All offices and positions in the permanent service of the Commission shall be provided for by resolution, a copy of which shall be sent to the Civil Service Board. Resolutions establishing positions within the Civil Service provisions of this Chapter shall be transmitted to the Civil Service Board for classification in like manner as other positions in the service of the City.

3. The Commission may obtain the advice, recommendation and assistance of any officer, board or commission of the City of Portland, and the City Attorney and the City Attorney's staff shall render legal assistance and advice as required by the Commission. Payment for such legal service or other service of departments, officers or employees of the City shall be made to the City by the Commission. This shall not prevent the employment of technical assistance nor the employment of special legal counsel. Purchases need not be made through the purchasing agent of the City, but otherwise the limitations and restrictions on purchases contained elsewhere in this Charter shall apply.

4. The Commission may establish offices in or outside the City hall or other City building, as space may be available or convenient.

5. The Commission shall have authority to incur expenses for administration and such maintenance, construction, reconstruction, alteration, rehabilitation, replacement, repair or purchase or other mode of acquisition or rental of equipment, property or facilities as the Commission may find necessary or convenient. All property acquired shall be acquired in the name of the City of Portland. The Commission may purchase material and supplies and make such other disbursements and incur such other expenses as the Commission finds necessary or appropriate to carry out the purposes set forth in this Chapter.

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6. The Commission shall have power to borrow money, negotiate federal advances of funds and execute notes as evidence of obligations, and pledge property acquired or any part thereof, and the City Council may make loans to the Commission from any available City fund.

7. The Commission shall pay all moneys received in connection with an urban renewal plan or property acquired in connection therewith, to the Treasurer of the City of Portland who shall maintain a separate and distinct fund to be known as the Urban Redevelopment Fund, in which all such moneys shall be deposited in the name of the City of Portland for the use and expenditure of the Commission. The Commission shall pay all money received in connection with civic promotion to the City Treasurer who shall keep the same in a separate fund to be known as the Civic Promotion Fund. The Commission shall also have authority to establish reserve funds, special funds or sinking funds for the payment of indebtedness, obligations or interest thereon as may be permitted by law. The Commission may transfer money from its General Fund to its special or reserve funds and may transfer surplus of money to its General Fund, and may transfer to the General Fund of the City. Disbursements shall be made by the City Treasurer on warrants signed by the Chairperson or designated member of the Commission and the Secretary or acting secretary or the Commission, pursuant to powers granted in this Chapter, after designation of signatory authority by resolution of the Commission. However, the Commission may maintain a separate bank account not exceeding a balance of twenty five thousand dollars (\$25,000) in addition to current payroll, for meeting salaries, wages and current miscellaneous expenses. Such account shall be designated as a revolving fund and may be drawn upon for such purposes by officials designated by the Commission. An accounting with reference to such account shall be filed monthly with the City officer responsible for accounting.

8. Such officers and employees of the Commission as the City Council shall direct shall give bond in such amount and type with such security as may be approved by the City Council, which bond shall be filed with the City Auditor and premiums thereon paid from commission funds.

9. The Commission shall be responsible for the design, installation and maintenance of an accounting system which will conform to the requirements of state laws and Charter provisions regarding budgeting, expenditure, receipt and custody of public funds except as specifically modified in this Chapter.

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10. The Commission shall provide for a comprehensive independent audit of all funds and accounts of the Commission by a qualified Certified Public Accountant or firm of such accountants selected with the approval of the City Council. The cost of the audit shall be at the expense of the Commission. Copies of the audit report shall be furnished to the City Council and filed with the City Auditor, and a copy shall be sent to the Tax Supervising and Conservation Commission. [New sec. May 16, 1958; am. Nov. 5, 1974; am. May 20, 1986.]

Section 15-105. Report and Budget Estimates. The Commission shall annually prepare a budget in accordance with the local budget law and submit it to the City Council at least fifty (50) days prior to the beginning of the ensuing fiscal year for inclusion as a part of the total City budget. As soon as possible after the close of each fiscal year, the Commission shall prepare a comprehensive annual report to the City Council for that year. Such report shall include a full report of receipts and expenditures for the year, including a comparison with budget estimates. Financial statements showing the financial condition of each fund, analysis, cash, surplus of each fund and a statement of indebtedness, if any, and such statistical information regarding finances and obligations as will clarify the financial condition and results of operation, shall be included in such report. [New sec. May 16, 1958.]

Section 15-106. Issuance of Revenue Bonds. Upon the request of the Commission, the Council may from time to time issue revenue bonds, certificates or debentures, to be repaid, to the extent permitted or to be permitted by law, solely out of: revenues from an urban renewal and redevelopment or civic promotion project; or from the sales of property involved in an urban renewal and redevelopment or civic promotion project; or from tax revenues attributable to improvements existing or subsequently constructed on property in an urban renewal and redevelopment project, or tax revenues exceeding a specified level within such project, to the extent that such is permitted by law; or any combination of such methods of repayment, and to that end the Commission, with the concurrence of the Council, may, to the extent permitted or to be permitted by law, pledge such tax revenues or other revenues as hereinbefore mentioned. Such bonds or other evidences of indebtedness shall be issued by the Council in accordance with the procedures established by law and as the Council may prescribe by ordinance, and shall bear the facsimile signatures of the Mayor and Auditor and be known as "Urban Renewal and Redevelopment Bonds, Series" [New sec. May 16, 1958; Am. Nov. 5, 1974.]

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Section 15-107. Continuing Special Tax Levy. In order to provide funds for the expenses of the Commission and the purposes set forth in this Chapter, the City hereby is authorized, subject to the condition hereinafter stated, to levy a tax of two-thirds of one mill on each dollar of assessed valuation on property not tax exempt within the City of Portland, or four hundred thousand dollars (\$400,000), whichever is the lesser, for each of five (5) successive years beginning with the fiscal year 1958-59, provided, however, that if in any year less than such amount is levied or no levy is made, the City may and hereby is authorized to make such levy or carried-over portion thereof in any year within ten (10) successive years beginning with the 1958-59 fiscal year, but such levy shall not in any one year exceed two-thirds of one mill on each dollar of assessed valuation as hereinbefore mentioned, or four hundred thousand dollars (\$400,000), whichever is the lesser, nor shall the total amount levied under this section exceed two million dollars (\$2,000,000). No special tax levy may be made in any year unless the City Council and the Commission both determine prior to such levy for such year that the expenditures budgeted by the Commission for the succeeding fiscal year or portion thereof, proposed to be financed by tax levy, cannot feasibly or adequately be financed by means of revenue bonds as authorized elsewhere in this Chapter, such levy shall be in addition to and shall not be counted in the tax limitations prescribed in this Constitution of Oregon. [New sec. May 16, 1958.]