

RESOLUTION NO.

29365

BE IT RESOLVED by the Council of the city of Portland, Oregon, that an Act entitled:

"An Act to amend an Act of the Legislative Assembly of the State of Oregon entitled: "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 subsequently amended by said Legislative Assembly and by the people of the city of Portland from time to time, and as recodified, revised, arranged and annotated, pursuant to Ordinance No. 76832, by revising Chapters IX, XI, XII and XIII of said charter relating to local improvements, assessments, and collections, special services, public facilities and works and charter revision and construction so as to modernize, simplify, clarify, broaden or make more specific various matters contained or implied therein, and to make certain changes to facilitate more efficient administration,"

be and the same hereby is submitted to the legal voters of the City of Portland, Oregon, for their adoption or rejection at the ensuing municipal nonpartisan general election to be held in the city of Portland in Multnomah, Clackamas and Washington Counties, on the 3rd day of November, 1964, notwithstanding the provisions of Ordinance No. 77641 (Legislation and Election Code) and particularly Section 2-611 thereof, which requirements of presentation prior to the next ensuing general election hereby are specifically waived. Each voter who votes upon said proposed Act shall vote "yes" or "no" in the space indicated for such vote upon the city ballot at said election. Said Act hereby submitted reads as follows:

AN ACT

To amend an Act of the Legislative Assembly of the State of Oregon entitled: "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 subsequently amended by said Legislative Assembly and by the people of the city of Portland from time to time, and as recodified, revised, arranged and annotated, pursuant to Ordinance No. 76832, by revising Chapters IX, XI, XII and XIII of said charter relating to local improvements, assessments, and collections, special services, public facilities and works and charter revision and construction so as to modernize, simplify, clarify, broaden or make more specific various matters contained or implied therein, and to make certain changes to facilitate more efficient administration.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF PORTLAND, OREGON:

Section 1. The Act of the Legislative Assembly of the State of Oregon entitled: "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 subsequently amended by said Legislative Assembly and by the people of the city of Portland from time to time and as recodified, revised, arranged and annotated pursuant to Ordinance No. 76832 hereby is amended by amending all of Chapter IX of said charter, which Chapter IX shall read as follows:

CHAPTER IX

LOCAL IMPROVEMENTS; ASSESSMENTS; COLLECTIONS.

ARTICLE 1. GENERAL PROVISIONS.

Section 9-101. Definition, "Street." The term "street" as used in this charter shall be construed to include any street, avenue, boulevard, alley, lane, bridge, bicycle path, road, public thoroughfare or public way, and any land over which any right of way has been obtained or granted for any purpose of public travel.

Section 9-102. Definition of "Sewer." The term "sewer" shall embrace and include all trunks and extensions thereof, pipes, ducts, laterals, branches, manholes, lampholes, catch-basins, pumping stations and apparatus therefor, ditches, canals, ducts, aqueducts, pumping stations, gates and all other apparatus, structures and devices which

the council may find reasonably necessary or proper for the disposal of sanitary sewage, or drainage including storm water drainage, and also the relaying, repairing, reconstruction or renewal thereof. The term shall include the widening, straightening or diverting channels of streams, the improvement of water fronts, filling or grading lakes, ponds or other waters and increasing or diminishing the flow of waters in natural or artificial channels, and such other acts and things as may be found necessary or appropriate for sewerage, drainage and proper disposal thereof.

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 the authority of said city shall remain and be county roads until they shall be 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 said 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 working or improving the same, control of all that part between the curb lines of any street connecting with a county road. Thereupon such street shall to that extent be under the control of the county and shall be worked and improved in like manner as county roads until such time as the county relinquishes its jurisdiction.

Section 9-104. Pending Procedures. No amendment of this charter shall affect in any way the validity of any proceedings pending at the time such amendment shall take effect for the opening, widening, laying out or establishing of any street, or for the change or establishing of any grade thereon, or making any kind of street improvement or for the construction of any drain or sewer, or the making of any other kind of local improvement and the levy and collection of assessments therefor. Such proceedings that shall have been taken shall be deemed to be regularly and legally taken, and such proceedings may be continued and further proceedings taken thereon in accordance with the law in effect prior to such charter amendment, or in accordance with the provisions of the charter amendment as the council may find appropriate. All such proceedings thereafter of whatever nature shall be proceeded with and enforced in accordance with and by virtue of the provisions of this charter as amended.

Section 9-105. Costs of Improvement. For assessment purposes the cost of a local improvement shall be the contract price, the costs of land or interests in land and the expenses related to acquisition, the cost of advertising prior to filing of proposed apportionment, an allowance for engineering and superintendence as set forth in this section, and interest on progress payment

warrants to the estimated date of assessment. The allowance for engineering and superintendence shall be ten per cent of the contract price for contracts not exceeding the sum of \$2500; eight per cent on contracts exceeding \$2500, but not exceeding \$5000 with a \$250 minimum; and six per cent on contracts above \$5000 with a \$400 minimum. Such costs of improvement may also include special preliminary services or studies if such preliminary or special costs have been included in the estimate of the city engineer prior to the construction contract. The city treasurer shall apply the first money received on account of any local improvement toward the payment of the warrants held by the city drawn for the payment of engineering and superintendence.

Section 9-106. Progress Payments. The council shall have power and authority to make progress payments for all local improvement work which may be performed, by the issuance of interest-bearing warrants against the special assessment fund to be created for such improvement; provided, that the interest on such warrant shall not exceed six per cent per annum, and such warrant shall not exceed eighty per cent of the reasonable value of the work and material therefor performed upon such local improvement as shown by a certificate to be furnished by the city engineer. For the purpose of computing said percentage, the contract price estimated by the city engineer, the cost of land or interests in land and expenses of acquiring or condemning land or interests therein, and the interest accrued and accruing upon progress payment warrants from the date of issuance thereof to a date not exceeding sixty days after the filing of the certificate of the accuracy of the original estimate or a corrected estimate, shall be considered.

ARTICLE 2. STREET GRADES.

Section 9-201. Original Establishment. When the council has not established the grade of any street or streets or part or parts thereof, the grade of such street or streets or part or parts thereof may at any time be established by the council without taking any of the proceedings provided for in this article.

Section 9-202. Authority to Change Grades. The council may change any street grade which has been previously established, may determine the amount of damages to be paid, if any, as a result of such change and may make a local assessment therefor. When a structure, including pavement, driveway, building, or other artificial construction, shall have been constructed upon abutting property after original establishment of grade, and damages are claimed as hereinafter provided for such structure, no such change of grade shall be made without ascertaining whether any damage is sustained and providing for payment of any such damage as hereinafter set forth. In other cases the council shall determine whether or not damages to abutting property shall be considered or awarded.

Section 9-203. Initial Engineer's Report. Whenever the council shall deem it expedient to change the grade of any street or streets or any part or parts thereof within a district continuously affected by such change of grade, it shall direct the engineer to make a report thereon. The engineer shall thereafter, as soon as can be conveniently done, file with the auditor his report which shall show the location and nature of grade changes which in his judgment should be made. Said report shall also describe the area which the engineer deems to be affected by the proposed change of grade.

Section 9-204. Notices and Hearing. The council may adopt a resolution approving the initial report of the city engineer if it finds such report satisfactory, or make changes therein, and declare its intention to make such proposed change of grade, stating the location and nature of the proposed change. The auditor shall publish in the city official newspaper for a period of five consecutive insertions notice of the proposed change of grade, setting forth the nature of the proposed change and the time within which objections against such proposed change of grade and claim for damages may be filed in writing with the auditor and the time when said matter and objections will be heard by the council. Objections and claims for damages may be filed at any time within 20 days from the first publication of such notice. The time for hearing shall be the next regular meeting of the council following the expiration of said 20 days. Within five days from the first publication of such resolution, the city engineer shall cause to be posted on the street or streets affected by such proposed change of grade a notice headed, "Notice of Change of Grade," containing a legible copy of the notice so published. One of such notices shall be posted at or near each street intersection where such proposed change of grade is to be made, but if no intersection is affected by such 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 file with the auditor an affidavit of posting stating therein the date when and the places where such notices were posted. The auditor shall also send to the persons named as owners of property within the affected area set forth in the initial engineer's report notice of such change of grade. If the address of any such person is unknown to the auditor and if such person has an agent whose name and address is known to the auditor, he shall mail such notice to such agent; otherwise he shall mail it to the owner addressed at Portland, Oregon. However, failure of any such person, or the true owner to receive such mailed notice shall not invalidate the proceedings.

Section 9-205. Objections, Claims for Damages. At the time of such hearing if the council finds that no claim for structural damages has been presented by the owner thereof and that the objections filed do not represent 3/5ths 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 further report concerning damages to owners of property injured should be made by the city engineer. If the council finds that the owners of more than 3/5ths in area of the property affected have filed written objections, no further proceedings shall be taken for a period of six months, except on a petition of the owners of more than half in area of affected property, or unless the council determines that an award of damages shall be made for probable injuries to property. In the event that the council determines at such hearing that there are probable injuries to affected property as a result of the proposed change, then the council may refer the matter to the city engineer for a report on damages and benefits. All claims for damages shall be verified and shall set out the facts upon which such claim is based and the amount thereof. If the council retains jurisdiction by failure of more than 3/5ths in area of the property affected to object, or by its determination that it will make an award of damages in the event property is injured, and any claim for damages has been filed, the council may then refer the matter to the city engineer for his report on damages and benefits.

Section 9-206. Award of Damages and Assessment of Benefits. After referral by the council to the city engineer for a report on damages and benefits, the city engineer shall thereafter make a report to the council setting out the amount of damages which in his 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 specially benefited in the judgment of the city engineer according to its proportionate share of benefits resulting from such change. Upon the filing of such report the same procedural steps shall be taken with like force and effect as are provided for municipal condemnation proceedings.

ARTICLE 3. CONDEMNATION PROCEDURES.

Section 9-301. Alternative Methods of Acquisition. 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 to obtain such property or interests therein. When the property to be taken is an interest in land amounting to less than full fee simple title, and the council finds it necessary to take the same for the purpose of establishing, laying out, extending or widening streets or other public places within the city, for slope easements, or for rights of way for sewers or aqueducts, or for widening, straightening or diverting channels or streams and the improvement of water fronts, as an alternative to other methods, the council may take the property desired in accordance with the procedures set forth in this article.

Section 9-302. Report from City Engineer. Whenever the council shall deem it necessary or expedient to appropriate an

interest in real property for or relating to the purposes set forth above, by special municipal proceedings, it shall by resolution direct the city engineer to make a survey and plat of such proposed taking and a written report. The city engineer shall make such survey, plat and report and file such plat and report with the auditor within sixty days from the date of such resolution unless the council shall grant an extension of time. Such report shall contain a description of the purpose for which such interest in land is desired, a description of each lot, tract or parcel of land or portion thereof to be appropriated, the amount of damages which in his judgment should be awarded for such appropriation with the name of the owner or owners and other persons whom he may find to have an interest in or lien upon said property, a description of the boundaries of the district he deems benefited and to be assessed for such taking, and a description of each lot, tract or parcel of land (other than land taken) in such district. If the city appropriation is proposed in connection with other proceedings for local improvement, such report shall so state, and may state that the benefits should be assessed as a part of the cost of the other improvement and spread therein. The engineer's report shall contain a proposed assessment of benefits which he deems just to the property in such district. If the assessment of benefits in connection with the taking is not postponed for inclusion within the costs of another improvement, the city engineer shall include in his report a summary showing the excess of benefits and excess of damages relative to lots, tracts or parcels of land, a part of which is embraced within such proposed taking, which damages and benefits may be offset pro tanto. The engineer's report shall be deemed a proposed assessment district and a proposed award of damages and assessment of benefits.

Section 9-303. Notices, Objections and Claims. Within 30 days after the filing of such report the auditor shall cause a notice to be published for five successive publications in the city official newspaper stating that such report is on file in his office subject to examination, giving the date when the same was filed, the probable cost of such proposed taking, a statement of the district embracing the property proposed to be assessed therefor and notifying all persons interested to present in writing their objections to said report, if any they have, and that said objections, if any there be, together with said report, will be heard by the council on a date specified in such notice, not less than ten (10) days after the date of the first publication of said notice. It shall also be the duty of the auditor forthwith to send by mail postpaid to each of those designated in the engineer's report a notice stating the estimate of total cost of such taking, a brief description of the property in which such person is interested, a statement of the amount proposed to be assessed against such property or a statement that the total assessment of benefits will be included in the cost of another described improvement, the time within which written objections may be filed against such proposed appropriation and assessment, and the

date when the council will hear such report and objections, and, if such person be named as owner or party interested in land to be taken, the amount of damages proposed to be awarded for such property. If the address of any such person be unknown to the auditor and if such person have an agent whose name and address is known to the auditor, he shall mail such notice to such agent; otherwise he shall mail it to the owner addressed at Portland, Oregon.

Section 9-304. Hearings, Awards and Assessments. If the council after hearing the objections, if any, determines that the assessment district boundaries proposed in the engineer's report are appropriate and that the proposed awards of damages and the assessments of benefits or postponement for inclusion in the cost of another improvement are just and reasonable, it may adopt such engineer's report and at any time after the hearing hereinbefore specified may pass an ordinance setting forth in detail such assessment district and awards, and assessment of benefits or postponement. If it appears to the council that the assessment district proposed by the engineer in his report should be enlarged or that the damages allowed or damages assessed are unreasonable, unjust or improper in any respect, it may require a supplementary or further report from the city engineer, upon the filing of which the auditor shall cause similar notices as in the case of the original hearing to be published and sent by mail to the owner of each parcel of land affected, stating the new proposal and the time when objections thereto will be heard by the council. After holding such hearing, the council may pass an ordinance fixing the assessment district and making an award of damages and making an assessment of benefits to each parcel of property affected in accordance with its determination of what is fair, just and proper, or directing that the assessment of benefits be included in the cost of another specified improvement. No findings or conclusions need be entered relative to objections.

Section 9-305. Appeals. Any owner, lessee, mortgagee, or other person having an interest in or lien upon the property intended to be appropriated or assessed by such proceedings may appeal to the circuit court from the ordinance making an award of damages and assessment of benefits or postponing such assessment, in accordance with the procedures provided by statute concerning appeals from municipal awards in condemnation proceedings.

Section 9-306. Collection of Assessment Benefits. The council, after the expiration of the time limited for an appeal to the circuit court, if no appeal be taken, or after the filing of a certified copy of a final judgment on appeal if an appeal be taken, shall, if it still deems it advisable to take the interests in property as described, adopt a resolution directing the auditor to enter in the docket of city liens a statement of the respective amounts of benefits assessed upon each particular lot or parcel of land and the names of the owners, in like manner as assessments

for street improvements are entered in said lien docket, or if such assessment is to be included in the cost of another specified improvement, directing that it be so included. In cases where a part of a lot or tract of land is taken and an award made for the part taken and an assessment made against the residue, credit shall be made so that, if the award exceed the assessment, the assessment shall be cancelled and the balance of the award paid to the owner and, if the assessment exceed the award, the amount of the award shall be applied on the assessment and the balance of the assessment entered upon the lien docket. Upon such entry in the lien docket, the amounts so entered shall be a lien and charge upon the respective lots, tracts and parcels of land against which the same are placed. Such liens shall have the same force and effect as other liens entered in such docket. Notice of such entry shall be given and such liens enforced and collected in the same manner as is or may be provided for other assessments, except that if any property be not sold when offered for sale to collect such assessment, the sale may be continued from week to week or month to month, in the discretion of the treasurer, not exceeding six months, until such sale be made or assessment paid; or the city may bid in the property in the amount of the city lien plus any tax lien plus cost of advertising, sale and court costs. All moneys arising from such separate assessment of benefits shall be kept in a separate fund and be applicable to satisfaction of the amounts to be paid for damages, including the amounts due for advertising, court costs and other expenses.

Section 9-307. Completion of Condemnation. Whenever the full amount assessed as entered in the docket of city liens shall have been paid into the city treasury, the designated property shall be deemed to be appropriated for the public purpose, and thereupon the auditor shall notify the persons who are supposed to be entitled to or interested in any portion of such fund that such fund has been provided and is ready for distribution and that a warrant will, upon demand, be drawn in favor of each person entitled thereto. Before drawing any such warrant the auditor shall inquire into the matter of city liens, and other lien incumbrances or claim with reference to such property to the end that the title be cleared before or upon the payment of the award, and, in case he be in doubt or uncertain as to the right of any person, he shall lay the matter before the council which shall inquire into and determine the same, subject to the right of appeal to the circuit court of the state of Oregon for the county in which the property is located. For the purpose of such inquiry the council may summon persons and subpoena witnesses and grant a hearing, and the council's determination shall be final if not reversed on appeal; if no appeal is taken, the council may direct a suit of interpleader or other proceeding to be instituted.

Section 9-308. Failure of Proceedings. If the fund for the payment of damages is not collected and ready for the drawing of warrants within nine (9) months from the termination of the time limited for appeal, if no appeal is taken, or within nine (9) months from the date of the rendition of final judgment on appeal, if an appeal is taken, all acts and proceedings for the city approp-

riation shall be null and void. But in case of two or more appeals, the time shall start to run from the date of the last final judgment.

However, if assessment of benefits resulting from city appropriation of interests in real property is postponed for inclusion in the costs of another specified improvement, the proceedings shall not be void, and payment of such damages shall be a charge upon the special fund for the other improvement to be paid immediately after the charge for engineering and superintendence.

Section 9-309. Abandonment of Proceedings. The council shall have full power and authority to abandon and rescind proceedings for taking of interests in real property at any time prior to the drawing of warrants for property taken or the final consummation of such proceedings. The council may drop from any proceedings any property acquired after proceedings have been started. The council may terminate proceedings to acquire an interest in any particular property if it determines that alternative procedure should be followed for a particular acquisition thereof.

Section 9-310. Scope of Proceedings. The council in its discretion may combine in a single proceeding two or more streets or proposed streets or disconnected portions of one or more streets. Also the council in its discretion may combine in one proceeding the property interests required for a whole local improvement. In cases where property interests have previously been donated or dedicated and it appears just and proper that account be taken of such donation or dedication and suitable credit or allowance made in favor of the person making the same, or his successors, such credit or allowance may be made. In case any city lien or liens exist against property, a part of which is taken or to be taken by the city, the council may provide for segregating the same so that the portion against the land taken may be paid.

Section 9-311. Filing of Plat. When property has been acquired in condemnation proceedings under this article the city engineer shall, within 90 days thereafter, file in appropriate county records a plat of the acquisition, containing reference to the city proceedings.

ARTICLE 4. ELIMINATION OF GRADE CROSSINGS.

Section 9-401. Authority of Council. The council shall have the right, power and authority to determine whether any railroad crossing of any street or highway within the corporate limits of the city of Portland is dangerous, and to provide for the elimination of any grade crossing of any railroad on such street or highway whenever, in the opinion of the council, it is

necessary to eliminate the same.

Section 9-402. Plans and Specifications. Whenever the council shall deem that any crossing of a railroad and street or public highway is dangerous to public safety the council may by ordinance require the city engineer to prepare plans and specifications for, and estimates of, the cost of making such change as will eliminate such grade crossing.

Section 9-403. Conference with Railroad Engineer. The city engineer, upon being required to prepare such plans, specifications and estimates, shall confer with the civil engineer of the railroad company representing such railroad for the purpose of determining upon a reasonable plan and method for eliminating such grade crossing, and in the event that the city engineer is unable to agree with the engineer of the railroad company as to said matter, the city engineer shall thereupon proceed to determine upon a proper and reasonable plan and method of eliminating said grade crossing; provided, however, that in the event two or more railroads, or one or more interurban or urban rail line or lines are affected by such proposed elimination of grade crossing, the city engineer shall confer with the civil engineer of each of such companies for the purpose of determining upon a reasonable plan or method of eliminating such grade crossing; provided, further, that in the event the city engineer shall be unable to agree with such engineers he shall proceed to determine on a reasonable plan for the elimination of such grade crossing; and provided, further, that in the event such civil engineers, or any of them shall neglect to confer with the city engineer after ten days' notice in writing, the city engineer shall proceed with the preparation of such plans, specifications and estimates without such conference.

Section 9-404. Filing of Plans and Objections. When a plan is determined upon as herein provided the city engineer shall file with the auditor at his earliest convenience, and within such time as may be fixed by the council, the report on such matter, with the necessary plans, specifications and estimates of the cost thereof, and upon the filing thereof the auditor shall immediately notify in writing the railroad, interurban or urban railway companies interested of such filing, and each of such companies shall have 30 days from the date of the receipt of such notice within which 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 thereof; provided, however, that the city engineer shall not neglect the filing of plans, specifications and estimates therefor because of the inability of the engineers of such companies to agree, or their failure or neglect to confer with him in regard to the same or their neglect to attend such conference as the city engineer may call.

Section 9-405. Consideration of Plans and Report of Damages. The council, at any regular meeting held within three months after the expiration of said 30 day period mentioned above, shall consider the report, plans, specifications and estimates filed, and may refer the same to a committee of the council or to a commissioner designated by the council for this purpose, in which event the auditor shall mail five (5) days notice in writing to the company or companies interested when such committee or commissioner will consider said matter, and at the time specified said company or companies may attend and be heard thereon. Thereafter such committee or commissioner shall report findings and recommendations to the council, and thereafter the council shall select from said plans so submitted the plan and method for eliminating said grade crossings and adopt specifications therefor, or dismiss said proceedings. Upon the determination by the council of the manner of eliminating such grade crossing, if it appear that a change of street grade be required upon any portion of such street or road, it shall determine whether such grade shall be changed, with or without considering damages to adjacent property. If it determines to consider damages to adjacent property, it shall require the city engineer to determine and report to the council the amount of damages which such property may sustain by reason of the change of street grade. The basis for determination of such damages shall be the depreciation, if any, in the market value of such property on account of such change of street grade, and in reckoning such depreciation of market value the city engineer shall take into account the benefits, if any, and the effect which such proposed improvement will have upon the market value of such property, and also the probable amount of the assessment which may be placed against such property on account of the making of such improvement. The city engineer shall, at his earliest convenience, file with the auditor a report in writing setting forth the amount of damages which the owners of the lots, blocks and parcels of land affected by such change of street grade will, in his opinion, sustain thereby.

Section 9-406. Apportionment of Damages and Benefits. Upon the filing of such report the auditor shall forthwith publish in the city official newspaper a notice that such report has been filed and shall state the amount of damages estimated by the city engineer to be sustained by each property owner, specifying the property for which he has allowed such damage. Such notice shall be published for four consecutive insertions in the city official newspaper. Said notice shall also state the date when said report of the city engineer will be heard by the council, which date shall be not less than five days from the date of last publication of such notice, and shall further state that objections thereto may be made in writing and filed with the auditor at any time prior to the day of such hearing. The auditor shall also send a copy of such published notice to each owner or party interested in land to be damaged, and if the address of any such person be unknown to the auditor, and if such person has an agent whose name and

address is known to the auditor, he shall mail such notice to such agent; otherwise he shall mail it to the owner addressed at Portland, Oregon. At the time fixed for the hearing the council shall hear and consider said report and all objections and remonstrances thereto and may refer the same to any committee or commissioner to further consider the same, hear all evidence offered and report thereon to the council, and at any time thereafter the council may determine the amount of damages to be awarded to any or all persons on account of such change of street grade. If construction is contemplated by the council in order to effect the elimination of a railroad crossing at grade, no proposed assessment of benefits to property benefited by the change of street grade need be made in such proceedings for change of street grade, but rather a statement shall 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 such change and improvement shall include as a part of such cost the total amount of 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 (60%) per cent thereof shall be paid by the company owning or controlling the railroad track-
age at such crossing; not more than twenty (20%) per cent thereof shall be assessed against property benefited thereby and comprised within the district fixed or determined by the council; and not more than twenty (20%) per cent thereof may be paid by the city of Portland, or as the council may determine. Such total cost shall include the cost of raising or lowering the tracks involved within the street or highway boundaries, but shall not include the raising or lowering of tracks outside street or highway boundaries which shall be the sole responsibility and expense of the railroad company, and the total costs of the improvement shall include all other costs and expenses therefor plus damages to property within the district. Whenever the said street or highway is occupied or used by another railroad or interurban or urban railway company or companies, or whenever said street crosses more than one railroad and such tracks are embraced and included within the said improvement, then the railroads' share of the total cost of the improvement shall be apportioned among all the railroads, interurban and urban railway companies affected by such change.

The cost and expense of raising or lowering the grades or tracks outside street area to be borne by each of said respective companies shall be determined by the council unless said interested companies within thirty days after the final determination of the council ordering said improvements shall file with the auditor their mutual agreement thereon.

Section 9-407. Advancements to Special Fund. In case of

the allowance of damages to adjacent property by reason of such change of grade, the city shall, 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 the following section, as soon as can reasonably be done, loan or otherwise transfer from any available fund to the special assessment fund to be created as hereinafter provided, an amount sufficient to pay all such awards of damages. Thereupon warrants shall be drawn in favor of the various persons entitled thereto in the respective amounts awarded which warrants shall be payable upon demand together with interest thereon from the date of delivery thereof at the rate of six per cent per annum and shall be delivered to such persons upon their application therefor as hereafter provided. No such warrants shall be delivered to a property owner who has been allowed damages until he files his written acceptance of such allowance or until the amount of award shall have been finally determined. The advancement herein provided for together with interest thereon at the rate of six per cent per annum from the date of such transfer shall be deemed a part of the cost of such alteration and improvement and shall be included in any apportionment hereinbefore specified and the amount of such advancement together with interest as aforesaid shall be returned to the fund from which the same was advanced, subject to the apportionment to the city of its share of not more than twenty (20%) per cent as aforesaid.

Section 9-408. Remonstrances, Assessments and Collections. If a portion of the cost of eliminating a railroad crossing at grade is to be financed in part by local improvement assessments, the council shall, before adopting plans and specifications for such work, by resolution describe the property benefited thereby and to be assessed for the portion of the cost thereof above specified and notice of the adoption of such resolution shall be given in the same manner as for street improvements. Remonstrances may be made by property owners but such property owners shall not have the right by remonstrance to veto or defeat such proposed improvement. Said remonstrance shall be filed with the auditor within the time to be fixed by said resolution and upon the expiration of such time the council shall determine whether or not to proceed with said matter. If the council determines to proceed it may overrule any and all remonstrances. If the council determines to proceed on the basis of partial financing by assessment it shall by ordinance fix such assessment district and fix the time and manner of making such change and improvement and adopt plans and specifications therefor as in the case of a street improvement. A contract or contracts for the doing of such work and the furnishing of such material as may be necessary under the plans and specifications therefor adopted for the purpose of making such change and improvement, shall thereupon be made. Such contract shall be awarded, entered into and the work inspected, accepted and the assessment of that portion of the cost assessable against the property within the assessment district made in the same manner and with the same effect as is or may be provided for

street improvements. Such contract shall not embrace the work of raising or lowering the railroad tracks beyond the boundaries of the street or highway. Assessments made as herein provided 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 said railroads, interurban or urban companies shall also be entered in the docket of city liens and shall constitute a lien against any property of each of such companies in the city of Portland including rights of way, depots, freight yards and stations. If any such company or companies fail to pay or bond the same within the time provided for paying or bonding assessments for street improvements, the city may proceed by court process to require the payment thereof or may proceed to collect the same by suit or action in the same manner as other assessments are or may be collected, or by any and all of such methods.

Section 9-409. Bonding of Assessments; Changes of Grade. Any and all persons whose property may have been assessed for such improvement including such company or companies, shall have the right to bond such assessments in the same manner as is or may be provided for bonding assessments for other local improvements. No further proceedings shall be required or had relative to changing the grade of such road or street further than specified in this article, and upon the completion of such improvement, the grade of such road or street shall be deemed altered and changed in accordance with the grade established by the improvement under the provisions of this article and the city engineer shall make suitable record thereof.

Section 9-410. No Impairment of Duty Under Franchise or Ordinance. Nothing in this act shall impair the right of the city of Portland to require the holder of any franchise or any other person required by ordinance or otherwise to pave a portion of street to move any facility at his own expense or to improve a portion of street or road, to perform the same without expense to the city in accordance with such franchise or ordinance. For such purpose elimination of grade crossings is a public work and improvement. No duty of a grantee of franchise or operating permit, included therein expressly or by implication, shall be impaired by changes in this chapter subsequent to the grant of such franchise or permit.

Section 9-411. Construction of Article. The provisions of this article relating to change of grade shall not affect other provisions relating to change of grade contained in this chapter, and the provisions of this article shall be construed as an additional procedure which the council may follow in the case of elimination of railroad grade crossings on public streets and highways.

Section 9-412. 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 or more streets with any railroad or railroads in a district.

ARTICLE 5. STREETS AND STREET IMPROVEMENTS.

Section 9-501. Definition of "Improve," and "Improvement." The terms "improve" and "improvement" as used in this article include all grading or regrading, paving or repaving, surfacing or resurfacing, all manner of bridge work and roadway improvement or repair and all manner of constructing or reconstructing sidewalks, crosswalks, gutters and curbs within any street or part thereof.

Section 9-502. Improvement Procedure. The council, whenever it may deem it expedient, is hereby authorized and empowered to order the whole or any part of the streets of the city to be improved, to determine the character, kind and extent of such improvement, to levy and collect an assessment upon all lots and parcels of land specially benefited by such improvements to defray the whole or any portion of the cost and expense thereof, and to determine what lands are specially benefited by such improvement and the amount to which each parcel or tract of land is benefited. The procedural steps for an improvement shall be as are or may be prescribed by ordinance.

Section 9-503. Remonstrances. Street improvement procedures established by ordinance shall provide in such procedures for notice by publication of the council's intention to improve any street or streets or any part or parts thereof. If within 20 days from the date of first publication of the council's intention, the owners of three-fifths or more in area of the property within the proposed assessment district make and file with the auditor written objections or remonstrances against said proposed improvement, said objection or remonstrance shall be a bar to any further proceedings in the making of such improvement for a period of six months unless the owners of one-half or more of the property affected as aforesaid shall subsequently petition therefor. If any such objection, remonstrance or petition shall be signed by the agent or attorney of any property owner, there shall be filed with the auditor within the time provided for such remonstrance or petition the written authority for such agent or attorney to sign any such remonstrance or petition, otherwise the signature shall be disregarded. If no such objection or remonstrance be made and filed with the auditor within the time designated or if any remonstrance filed is not legally signed by the owners of three-fifths of the property affected, the council shall be deemed to have acquired jurisdiction to order the improvement to be made and the council may thereafter and within three months from the date of final hearing on remonstrances by ordinance provide for making said improvement.

Section 9-504. Ownership of Earth. When the council shall by ordinance provide for making an improvement, the city shall be deemed to have appropriated and acquired ownership of all earth above grade and within the street lines for said improve-

ment, and no private ownership shall thereafter be claimed in said earth.

Section 9-505. Notice of Completion, Acceptance. Whenever any street improvement is completed in whole or in part to the satisfaction of the city engineer, he shall file a certificate of completion and his approval of such work so completed with the auditor, who shall thereafter publish notice of such completion stating when the acceptance of the same will be considered by the council. At that time or at any time prior thereto any owner of any interest in, or the agent of, any property within the assessment district of said improvement may appear and file objections to the acceptance of said improvement, and such objections shall be considered and the merits thereof determined by said council. If it appears that said work or improvement has not been completed in accordance with the specifications and contract, the council shall require the same to be so completed before accepting it. Whenever any work or improvement is accepted, the auditor shall endorse its approval on the certificate of the city engineer and after the assessment therefor is made and docketed the mayor and auditor shall draw warrants on the fund created for said improvement and in favor of the parties entitled thereto.

Section 9-506. Improvement by Permit. Whenever the grade of any street has been established the council may authorize the owner or owners of any property thereon to cut down or fill such street in front of such property according to such grade, or to improve the same or both, under the direction of the city engineer, at the expense of such owner or owners. The authority mentioned in this section shall not be granted after notice has been given by the council of intention to improve the street in front of such property so long as the council retains jurisdiction for such proposed street improvement. In giving such authority the council may impose such terms and conditions thereon as it may find appropriate.

Section 9-507. Sidewalk Improvements and Repairs; Duty of Owners. Sidewalks may be improved either as a part of a general street improvement or may be improved by separate proceedings. The council may determine the grade and width of all sidewalks, materials to be used and specifications for construction thereof. It is the duty of all owners of land adjoining any street in the city to construct, reconstruct and maintain in good repair the sidewalks in front of said lands. If the owner of any lot or part thereof or parcel of land shall suffer any sidewalk along the same to become out of repair, it shall be the duty of the city engineer to post notice on the adjacent property directing the owners, agent or occupant thereof immediately to repair the same in a good and substantial manner in accordance with city specifications. If the owner, agent or occupant of any such lot or part thereof or parcel of land shall fail, neglect or refuse to make the sidewalk repairs within the time designated in the notice, the city engineer may make such

repairs and keep an account of the cost, reporting the same to the council with a description of the lot or parcel thereof or parcel of land fronting on the sidewalk upon which such repairs are made. The council shall have 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 the same and thereafter shall, at least once each year, by ordinance assess upon each of the lots or parts thereof or parcels of land fronting upon sidewalks which have been so repaired, the cost of making such repairs as approved by the council with an additional overhead charge to defray the cost of notice, engineering and advertising. In each case all such assessments may be combined in one assessment roll and the same shall be entered on the docket of city liens and collected in the same manner as is provided for other local improvement assessments.

Section 9-508. Damages for Negligence. It is not only the duty of all owners of land within the city to keep in repair all sidewalks constructed or existing in front of, along or abutting upon their respective lots or parts thereof and parcels of land, but such owners are hereby declared to be liable for all damages to whomsoever resulting arising from their fault or negligence in failing to put any such sidewalk in repair after the owner or agent thereof has been notified to repair the same as provided in this article. No action shall be maintained against the city of Portland by any person injured through or by means of any defect in any sidewalk.

ARTICLE 6. SEWER IMPROVEMENTS.

Section 9-601. Assessment District; Remonstrances. When the council has declared its purpose to construct a sewer or sewer system and fixed the boundaries of the assessment district to be benefited and assessed therefor, the auditor shall publish notice of such action, all in accordance with procedure fixed by ordinance. Within 20 days from the date of first publication of the notice declaring such intention of the council, the owner or owners of any property within the proposed assessment district may file with the auditor a written remonstrance against said proposed sewer or the plans therefor, and the council upon hearing said remonstrance may in its discretion discontinue proceedings in said matter. The council, however, may in its discretion overrule any and all remonstrances and shall have the power and authority to order said improvement. The council may also in its discretion require changes in the proposed plans or changes in the boundaries of the proposed assessment district, and in such event it shall by resolution declare its intention to proceed on the revised basis and such resolution shall be published and a similar remonstrance period given as in the first instance. Within three months from the date of final hearing on the intention of the council, the council may by ordinance provide for the improvement. Such improvement shall

substantially conform to the plans and specifications previously adopted by the council.

Section 9-602. Joint Construction with County. The council is hereby authorized and empowered to take such action and proceedings from time to time as it may deem necessary for the construction of any sewer and/or drain jointly with any county or counties within which the city of Portland is or may be wholly or partially situated, or with which the boundary of the city of Portland is or may be adjoining or contiguous; to levy and to collect special assessments of benefits therefor; to enter into an agreement or agreements with such county or counties with reference to the construction, maintenance and use of every such sewer or drain and paying the cost thereof; to issue bonds for the purpose of financing that portion of the cost which may be agreed upon as chargeable to property outside of the city, and to do all other things necessary or proper to be done in order to provide for the construction of sewers and/or drains partially within and partially without the city of Portland, or wholly within the city or wholly without the city, when the design, plan or method of construction will render the same beneficial to property both within and without the limits of the city; and to do and perform all such acts as are necessary to implement statutes relating thereto.

Section 9-603. Issuance and Sale of Bonds. The issuance and sale of bonds may be made from time to time after the construction of any such sewer or drain has been authorized, and each of such bond issues shall be limited in amount so as not to exceed the portion of the cost of such sewer or drain which may be agreed upon with such county or counties as the amount justly and equitably to be borne by the property lying beyond the limits of the city of Portland for the construction of such sewer or drain. Such bonds shall not be issued for longer period of time than 20 years, and shall be general obligations of the city of Portland. No such bonds shall be issued when the same, together with similar bonds outstanding, will exceed \$500,000.00. In lieu of issuing such bonds the council may provide for the financing of a part or all of the portion of the cost which may be agreed upon as chargeable to property outside of the city from the fund raised from the tax for the construction of bridges elsewhere than across the Willamette river, the filling of streets across gulches and ravines and the construction of overhead or underground crossings across railroad tracks. The council shall have the right and authority to levy and collect an assessment against the property benefited by any such sewer or drain and lying beyond the city limits whenever such property shall be included within the city limits if no previous assessments therefor shall have been made on such property and to apply the money so collected to the payment of such bonds, or to reimburse the city for any payment thereof, or expenditure or advancement for

such sewer or drain, and any agreement with such county or counties may provide for the levy and collection by such county or counties of an assessment against such property whenever such sewer or drain shall be of immediate benefit to such property, or may be of benefit thereto by reason of the construction of any extension, lateral, branch, or otherwise.

ARTICLE 7. OTHER IMPROVEMENTS.

Section 9-701. Fire Stops. The council shall have power and authority to acquire by agreement or by condemnation such property, easements or rights as may be needed for the construction of fire stops; to perform the work of erecting fire stops either by the direct employment of labor or by awarding contracts therefor, and to provide for the payment of the costs thereof by the levy and collection of local assessments for benefits. Before any such fire stops shall be constructed an estimate shall be made of the probable cost and of the probable saving in fire risks and insurance expenses. Where any such fire stop or fire stops are to be constructed at the expense of property benefited and to be assessed therefor, the council shall take proceedings similar to those required for constructing sewers and the method of making assessments and collecting the same shall be the same as is or may be provided for other local improvements. The cost of acquiring the necessary property, easements or rights shall be included in the cost of such fire stop or fire stops.

The term "fire stop" shall be deemed to include any fire-proof wall or other device to prevent the spread of fire.

Section 9-702. Lighting Districts. Whenever the owners of fifty per cent or more in area of the property within any district make and file with the auditor a petition to establish a special lighting system within such district, the council shall have the power and authority to install, operate and maintain a special street lighting system or systems on any street or streets or any part or parts thereof within said district and to furnish electrical current for the lighting thereof as a local improvement. Such special lighting system may include initial installation, continuance of an existing installation, substitution of different materials or special styles or locations of lights or related facilities within such district, or replacement thereof, or any combination of such items. The council may award contracts for all or any portion of such work or maintenance or furnishing of energy therefor. The council may levy and collect local assessments on property benefited thereby to the extent of all or a portion of such cost in its discretion. The council may authorize contribution from city funds to the cost of energy, operation and maintenance as found to be an appropriate allowance for regular street lights rendered unnecessary by the special lighting system to the extent the council finds appropriate. Whenever any such system is to be installed, operated,

maintained and lighted or any one or more of such items at the expense of property benefited and to be assessed therefor, the council shall take proceedings similar to those required for street improvements and the method of making assessments and collecting the same as is or may be provided for such street improvements shall apply, including the right to remonstrance and the right and privilege of bonding the costs thereof for such period of time as may be fixed by the council, not exceeding five years.

Section 9-703. Other Local Improvements. Whenever the council determines that some other particular improvement 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 the same as a local improvement and provide for the payment of all or a portion of the cost thereof by the levy and collection of local assessments on the property benefited thereby. Unless the council determines that the public health or the public safety demands immediate construction of the improvement, the procedure to be followed shall be that of street improvements, and the jurisdiction of the council shall depend upon the extent and strength of remonstrance. 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 follow the same procedure as provided for sewer improvements.

ARTICLE 3. ASSESSMENTS AND COLLECTIONS.

Section 9-301. 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 such improvement, it may exclude such property or show the assessment at zero when apportioning the costs of the local improvement in accordance with benefits, and spreading the assessment.

Section 9-302. Proposed Apportionment of Costs. When the estimated cost of a local improvement is ascertained on the basis of the contract award or city departmental cost, or when the improvement is completed in whole, or in such part that the cost of the whole can be determined, the city engineer shall file an estimate or corrected estimate in detail of such work. The auditor shall then apportion the cost of the improvement in accordance with the certificate of the city engineer or such portion of such cost as the council has determined should be borne by property benefited within the assessment district, upon the lots, parts of lots and parcels of land benefited thereby and within such assessment district. When the auditor

has ascertained what he deems a just apportionment of such cost in accordance with the special and peculiar benefits derived by each lot or part thereof and parcel of land within the district, the same shall be a proposed assessment. The auditor shall give notice of the same by publication for five consecutive insertions in the city official newspaper, therein specifying the character of the local improvement, the total cost, the boundaries of the assessment district, that said proposed assessment has been apportioned and is on file in the office of the auditor and subject to examination, and also that any objection to such apportionment made in writing to the council and filed with the auditor within ten days from first publication of such notice will be heard and determined by the council before passage of any ordinance assessing the cost of such improvement. The auditor shall also send by mail postpaid or deliver a notice of the share so apportioned to each lot or part thereof or parcel of land stating the time within which objections to such apportionment may be made in writing to the council and filed with the auditor, to the owner (if known) of each lot or part thereof or parcel of land, or to the agent of such owner directed to the post office address of such owner or agent when such post office address is known to him and if such post office address be unknown to him then such notice shall be directed to such owner or agent at Portland, Oregon. Any such objection shall state the grounds thereof.

Section 9-303. Assessment of Benefits. After the time specified in said notice has elapsed, the council shall consider said proposed assessment and all objections made thereto, and shall have the power at its discretion and without further notice to consider, ascertain and determine the amount of the special and peculiar benefits accruing to each lot or part thereof or parcel of land so assessed by reason of the particular local improvement. If the amount proposed to be apportioned by the auditor to any lot or part thereof or parcel of land shall not be in just proportion to such benefits, the assessment against such lot or part thereof or parcel of land shall be so reduced or increased by the council from the auditor's proposal that it shall be in just proportion to such benefits. In no case shall any such assessment exceed such benefits. The assessment roll shall then be numbered and the council shall declare said assessment by ordinance which shall designate the local improvement for which the assessment is levied, the number of the assessment roll and the whole cost of said improvement, but such assessment need not be set out at large in said ordinance.

Section 9-304. Assessments Confirmed. Each lot or part thereof or parcel of land shall be deemed to be benefited by the local improvement to the full amount of the assessment levied thereon.

Section 9-305. Mistakes in Proceedings. No assessment for

local improvement shall be held invalid by reason of failure to enter the name of the owner of any lot or part of a lot or parcel of land so assessed or by a mistake in the name of the owner or the entry of a name other than the name of the owner in said assessment, or in any acts or proceedings connected therewith, and no delays, mistakes, errors, or irregularities in any act or proceeding in the improvement shall prejudice or invalidate any final assessment but the same may be remedied by subsequent or amended acts or proceedings.

Section 9-806. Docketing and Notice of Assessment. When an assessment has been declared by ordinance, it shall be the duty of the auditor to enter a statement of said assessment in the docket of city liens, to furnish a copy of said assessment to the city treasurer, and to give notice of said assessment to the owner (if known) of each lot, part of lot or parcel of land assessed or to the agent of such owner directed to the post office address of such owner or agent when such post office address is known to him and if such post office address be unknown to him, then such notice shall be directed to such person or agent at Portland, Oregon.

Section 9-807. Docket of City Liens. The docket of city liens is a book in which must be entered the following matter in relation to special assessments for local improvements: the date of the entry, the number or letter of each lot or part thereof assessed, and the number or letter of the block of which it is a part, name of the subdivision, and a reference to description of each unplatted tract or parcel of land, the sum assessed upon each lot, or part thereof, or tract of land, and the name of the owner or that the owner is unknown; provided, that failing to enter the name of the owner or mistake in the name of the owner or the entry of name other than that of the true owner in such lien docket, shall not render void any assessment or in any way affect the lien of the city on the property described in such lien docket.

Section 9-808. Assessment Lien; Payment. The docket of city liens is a public writing, and from the date of the entry therein of an assessment, the sum as entered is hereby declared to be a tax levied and a lien upon such lot, part thereof or tract of land, which liens shall have priority over all other liens and encumbrances whatsoever thereon, and the sum or sums of money assessed for any local improvements, entered upon such lien docket, shall be due and payable from the date of such entry, and if not paid or bonded as provided by law, within ten days from the date of such entry, thereafter the same shall be delinquent and shall bear interest at the rate fixed by law.

When an assessment upon any lot or part thereof becomes delinquent, any person having a lien on such land by judgment, decree or mortgage, or having purchased the same for any delinquent tax or assessment, may at any time before the sale of such lot or part thereof, pay the same, and such payment discharges

the property from the effect of the assessment, and the amount of such delinquent taxes and all accruing costs and charges, if any, when so paid, is thereafter to be deemed a part of such lien creditor's judgment, decree, mortgage or tax lien, as the case may be, and shall bear interest and may be enforced and collected as a part thereof.

If the holder of any tax lien or claim pays off such assessment, he may thereafter present the receipt to the officer who shall have charge of the tax roll or docket containing the record of tax sale at which he purchased such property, and thereupon such officer shall make a note of the amount of such assessment so paid by such purchaser and shall exact repayment thereof, together with interest as above prescribed, from any person making redemption from such sale. No redemption shall discharge the property from the effect of such sale which shall not include the amount of such assessment paid by the purchaser after the purchaser shall have presented the receipt as above described.

Statement of any assessment shall be made to the treasurer, who shall file duplicate receipts therefor with the auditor, and the treasurer shall keep all money collected upon each assessment in a separate fund, and the same shall not be used for any purpose other than that connected with the improvement, as hereinafter set forth.

Section 9-809. Delinquents. If within thirty days from the date of an entry of an assessment in the lien docket the sum assessed upon any lot or part thereof or tract of land is not wholly paid to the treasurer and a duplicate receipt filed as provided above, the auditor shall thereafter prepare and transmit to the treasurer a list made up from the lien docket describing the assessment, the property, the name of the person to whom assessed, the amount and any other facts found appropriate.

Section 9-310. Sale for Unpaid Assessments. The treasurer shall proceed to collect the unpaid assessments shown on such list of delinquents by advertising and selling the assessed lots, parts of lots or tracts of land in the manner provided by law for sale of real property on execution except as herein otherwise provided. Each piece or tract of land shall be sold separately and for a sum payable to the city equal to but not exceeding the unpaid assessment thereon, and the interest and cost of advertising and sale. Where there shall be more than one bid, the land shall be sold to the bidder offering first the lowest penalty and next the lowest interest to be paid on redemption. Penalty shall not exceed in any case ten per cent of the amount paid to the city on the sale, and interest shall in no case exceed ten per cent per annum from the date of sale to the date of redemption. A sale of real property hereunder conveys to the purchaser subject to redemption as herein provided all estate, interest, liens or claims therein or

thereto of any person or persons whomsoever, together with all rights and appurtenances thereunto belonging. No levy upon such lots or parcels of land shall be required except that a notice shall be posted at least four weeks before said sale upon every lot or parcel assessed to an unknown owner. A delinquent assessment together with interest and costs incurred to that date may be paid at any time prior to the actual sale. In all cases of such sale payment must be made in lawful money of the United States and not otherwise.

The treasurer, immediately after having sold any real property appearing on the list of delinquents, shall make and deliver to the purchaser a certificate of sale of the property so sold describing the property sold, the amount of sale, the name of the purchaser and that the sale is made subject to redemption within three years from the date of certificate, and such other information as he finds appropriate. Such certificate of sale shall also show the rate of penalty and interest bid and for which the sale was made over and above the principal sum of the sale payable to the city. The treasurer shall deliver such certificate to the purchaser.

The treasurer shall report to the auditor the sales and collections made on the list of delinquents and the auditor shall thereupon make proper entries in the docket of city liens. Thereafter no transfer or assignment of any certificate of purchase of real property sold under the provisions hereof shall be deemed valid unless an entry of such transfer or assignment shall have been noted by the auditor in said lien docket upon appropriate filing in his office. In case any property shall remain unsold, the same may be again, at the discretion of the auditor, offered for sale in like manner.

Section 9-811. Redemption. The owner, his legal representative, his successor in interest or any person having a lien by judgment, decree or mortgage or owner of a tax lien on any property sold by the treasurer, may redeem the same by paying to the treasurer and presenting proof of payment to the auditor, at any time within the redemption period fixed by general ordinance which shall be not less than one year nor more than three years from the date of certificate of sale, the purchase price of the certificate plus the penalty and interest on the purchase price from the date of such certificate in accordance with the successful bid. However, if redemption be made within three months from the date of sale, the penalty to be paid shall be five per cent or the penalty bid, whichever is the lesser. Such redemption shall discharge the property sold from the effect of such sale, and if made by a lien creditor the amount paid for the redemption shall thereafter be deemed a part of his judgment, decree, mortgage or tax lien, as the case may be, and shall bear like interest and may be enforced and collected as a part thereof.

Upon such redemption the treasurer shall note in his records

a cancellation of the outstanding treasurer's certificate, and on the deposit of the sum paid in redemption shall issue a check or warrant for the amount paid to the holder of the certificate as shown on the auditor's records.

Section 9-812. Deed; Effect Thereof. After the expiration of the redemption period, if the property has not been redeemed, the treasurer upon presentation of the certificate and demand by the holder thereof shall execute to such holder, his heirs and assigns, a deed of conveyance of the property sold showing the date of the sale, the amount bid, the date of the assessment and a description of the purpose thereof and a statement that the assessment was unpaid at the time of sale, and that the property has not been redeemed, and need contain no further recital of the proceedings prior to the sale. Such deed shall convey to the grantee the legal and equitable title in fee simple to the real property described in such deed. Such deed shall be prima facie evidence of title in such grantee and that all proceedings and acts necessary to make such deed in all respects good and valid have been had and done, and such prima facie evidence shall not be disputed, overcome or rebutted or the effect thereof avoided except by satisfactory proof either: (1) fraud in making the assessment, or in the assessment or collection of the assessment; (2) payment of the assessment before sale or redemption after sale; (3) that payment or redemption was prevented by fraud of the purchaser; or (4) that the property was sold for an assessment for which neither said property nor the owner thereof at the time of sale was liable and that no part of the assessment was assessed upon the property sold.

Section 9-813. Limitations of Actions; Tender. Unless the assessment for which land was sold by the treasurer was paid before the sale, or the land redeemed as provided by law, every action, suit or proceeding which may be commenced for the recovery of land sold by the treasurer for any assessments, or to quiet the title of the former owner or his successors in interest against such sale, or to set aside such sale or to remove the cloud thereof, shall be commenced within three years from the date of recording the treasurer's deed and not thereafter. In any such action, suit or proceeding, whether before or after issuance of the treasurer's deed, the party claiming to be the owner as against the party claiming under such sale, must tender with his first pleading in such case and pay into court at the time of filing such pleading the amount of the purchase price for which the lands were sold by the treasurer together with the additional penalty fixed at the time of the sale, the amount of all taxes and assessments levied or made upon or against the land or any part thereof which shall have been paid after such sale by the purchaser at the sale, or his heirs or assigns, together with interest thereon at the rate of ten per cent per annum from the respective times of the payment of said purchase price, taxes and assessments by said purchaser, or his heirs or assigns, as the case may be, up to the time of the filing of such

pleading, to be paid to such purchaser, his heirs and assigns, in case the right or title of such purchaser at such sale shall fail in such action, suit or proceeding.

Section 9-314. Mistakes in Notice. No record need be kept of the mailing of any notice prescribed in this article, and a failure to mail or a mistake in the mailing of, or a mistake in any such notice shall not invalidate the proceedings when notice is published as required in this article or posted.

Section 9-315. Deficit Assessment. If it found that the total sum assessed for a local improvement is insufficient to defray the total cost thereof, and the amount charged to any lot or part thereof or tract of land within the district is less than the benefits accruing thereto, the council shall ascertain the deficit and spread the assessment therefor upon the land so benefited in excess of the original assessment. The proceedings shall be substantially similar to the original assessment with a proposed apportionment of costs by the auditor and the succeeding procedures as in the case of the original assessment. When the assessment for said deficit is so spread, the auditor shall enter the same in the docket of city liens and such deficit assessment shall thereafter be a lien upon such lot or part thereof or parcel of land in like manner and with like effect as in the case of the sum originally assessed and shall also be payable and may be collected in like manner and with like effect as the original assessment.

Section 9-316. Surplus. If the council finds that the total cost of an improvement is less than the total sum previously assessed therefor, the auditor shall estimate the apportionment of such surplus in proportion to the original assessment. If he determines that such pro rata apportionment would amount to less than one dollar on a 5000 square foot lot with fifty foot street frontage receiving maximum benefits from the improvement, such surplus need not be distributed but shall be kept in the fund for said local improvement until such fund is terminated. Otherwise such surplus shall be distributed as a credit to the assessment or a refund in case the assessment has already been paid, proportionately to the amount of the original assessment. Such refund shall be made to the person who paid such surplus or his legal representative, heirs or assigns out of the fund for such improvement.

Section 9-317. Reassessment. Whenever an assessment or deficit assessment for any local improvement is set aside, annulled, declared or rendered void, or its enforcement refused by any court of this state or any federal court having jurisdiction therein, whether directly or as the result of any court decision, or when the council shall be in doubt as to the validity of such assessment or any part thereof, the council may by ordinance make a

new assessment or reassessment upon lots, parts of lots or parcels of land which have been benefited by such improvement to the extent of their respective and proportionate shares of the full value of such benefit at the time of the original assessment. Interest from the date of delinquency of the original assessment may be added at the discretion of the council. Such reassessment shall be made in an equitable manner as nearly as may be in accordance with the law in force at the time it is made. The council may adopt a different plan of apportionment of benefits when in its judgment essential to secure an equitable assessment. The proceedings required to be had prior to the making of the original assessment, shall not be required to be taken or had within the intent of this section. Such reassessment shall be made and shall become a charge upon the property upon which the same is laid notwithstanding the omission, failure or neglect of any officer, body or person to comply with the provisions of this charter connected with or relating to such improvement and assessment and notwithstanding the proceedings of the council or any officer, contractor or other person connected with such work may have been irregular or defective, whether such irregularity be jurisdictional or otherwise. However, such reassessment shall not be made in case of an improvement where a remonstrance sufficient in law to defeat the same shall have been timely filed. The council shall by resolution declare the district that will be benefited by the improvement for which the reassessment is made and shall direct the auditor to prepare a proposed assessment upon the property included therein within the time fixed in such resolution. Similar procedures shall be followed in notices, hearings and spread of assessment as are provided for the initial assessment. The council shall have power to adjourn hearings from time to time and shall have the power in its discretion to revise and correct or set aside and order the remaking of such assessment. Such reassessment made by the council shall be entered in the docket of city liens which shall be enforced and collected as in the case of an original assessment. The council may omit any property on which the original assessment was paid and in any case all sums paid upon the former assessment shall be credited to the property on account of which the same were paid as of the date of such payment. When a treasurer's certificate has been issued on property in the process of collection of the original assessment and such sale is found or declared void, upon the making of the reassessment the property shall be resold and the proceeds of such sale shall be paid to the purchaser at the former void sale or to his assigns. No proceedings shall be instituted for reassessment after ten years from the date action by the council stating its intention to make the original improvement.

Section 9-813. Correction of Assessments. After the council has ordered the spread of an initial assessment, a deficit assessment or a reassessment, if it subsequently determines that the assessment on any particular lot, part of lot or tract of land exceeds the actual special and peculiar benefit to such land, the

council may correct the assessment by subsequent action or amendment to the original assessment, deficit assessment or reassessment to accord with the actual benefit to such land. If the council determines that the particular local improvement fund is likely to be insufficient to pay for such shortage derived from the correction of assessment, the council may direct a deficit assessment for such shortage.

Section 9-819. Appeal. Any person who has filed objections to an initial assessment, a deficit assessment or a reassessment, which have not been satisfied by the council or by amendments to the assessing ordinance, may appeal to the circuit court of the county in which the property is located from such assessment to the extent permitted by statute and in accordance with the procedures set forth in such statutes.

Section 9-820. Proceedings Presumed Regular. In any action, suit or proceeding in any court concerning any assessment of property, whether by initial assessment, deficit assessment or reassessment or the collection thereof, such assessment and all proceedings connected therewith shall be presumed to be regular and to have been duly done or taken until the contrary is shown.

Section 9-821. Collection of Deficit Assessments or Reassessments. Any deficit assessment or reassessment which becomes delinquent may be collected in the same way as an initial or original assessment.

If any lot or part thereof or tract of land is sold to collect such deficit assessment, to any person other than to the purchaser at the first sale or his successor in interest, the holder of the treasurer's certificate from the first sale is to be deemed an owner within the meaning of this article.

Section 9-822. Alternative Methods and Procedures. Procedures provided by statute may be used in lieu of the procedures set forth in this article as to any original assessment, deficit assessment or reassessment and for the collection of delinquent assessments in any of said categories.

Section 9-823. Termination of Particular Local Improvement Fund. After the purposes of the particular local improvement fund are completed, if any surplus remains in said fund, the balance may be transferred to the assessment collection fund provided for in this charter.

ARTICLE 9. FINANCING LOCAL IMPROVEMENTS; BONDING.

Section 9-901. Applications for Bonding. Within twenty days after notice of an assessment including deficit assessment or reassessment) for a local improvement is first published, if such assessment exceeds a minimum fixed by the council the owner of the property assessed may file with the auditor a written

application to pay said assessment in installments. Such written application shall state that the property owner thereby waives all irregularities and defects, jurisdictional or otherwise, in the proceedings for the local improvement and in the spread by assessment of the cost thereof. Said application shall contain a provision that the said property owner agrees to pay said assessment in twenty semi-annual installments or such other number of semi-annual installments as may be within the limitation or permission relating to the particular type of local improvement, with interest on all installments at six per cent. Said application shall also contain a statement by lots, blocks or other convenient description of the property of the applicant assessed for such improvement. The auditor shall not receive or file such application if the amount of such assessment with any previous assessment or assessments for local improvements against the same property and remaining unpaid shall exceed the valuation or ratio to valuation fixed by the council of said property as shown by the last tax roll of the county unless such excess of unpaid assessments shall have been paid to the city treasurer in cash before the application.

Section 9-902. Bond Lien Docket. After the expiration of time for filing applications to pay assessments in installments, the auditor shall enter in a docket kept for that purpose under separate heading for each improvement by name or number a description of each lot, part of lot or parcel of land against which the assessment is made or which bears and is chargeable for the cost of such improvement, the name of the owner and the amount of the assessment for which application to bond has been duly filed. The date of entry in the bond lien docket shall in each particular case be the same as the date of entry in the original lien docket. Such docket shall thereafter stand as a bond lien docket in favor of the city for the amount of such unpaid assessments therein docketed with interest on such unpaid assessments at six per cent against each lot, part of lot or parcel of land assessed until such assessments and interest are paid in the manner hereinafter provided. All unpaid assessments and interest shall be and remain a lien upon each lot, part of lot or parcel of land in favor of the city and such lien shall have priority over all other liens and encumbrances whatsoever.

Section 9-903. Improvement Bonds. After the bond lien docket is made up for the particular local improvement, the council shall by ordinance authorize issuance of bonds in such denominations as it may fix, in all not exceeding the total amount of the unpaid assessments for such local improvements for which applications to pay in installments have been filed, as shown by said bond lien docket. Such bond shall mature in ten years unless a different period is fixed by law for the particular type of local improvement, in which event the maturity date shall extend for such other period from the date of issuance. Such bond shall bear interest not to exceed six per cent per annum, interest payable

semi-annually, and the regulations concerning issuance shall be the same as for other bonds of the city as provided elsewhere in this charter. Each of such bonds shall provide that it may be called for redemption upon the first day of any month at or after the period of three years from the date of such bond. After notice of call or after the date of redemption, as the case may be, interest shall not accrue. Each of such bonds shall have inscribed or printed on the face thereof the registered number and the words "Improvement Bond" with the name of the city of Portland. At no time shall such bonds be sold for less than par and accrued interest. Such bonds may be purchased by the city. The proceeds shall be paid by the purchaser to the city treasurer and the par value thereof shall be credited to the respective improvement funds for which the bond was issued and the accrued interest and any premium accruing from the sale of such bonds shall be credited to the general fund of the city or such other fund as the council may direct.

Section 9-904. Installment Payments; Delinquency and Collections. After an application to pay an assessment in installments has been received and filed by the city auditor and entry made in the bond lien docket, the first payment shall be due and payable at the expiration of six months from the date of said assessment in the original lien docket in the sum of the share of the assessment attributable to the first six months on the basis of the spread over the entire installment period whether ten years or otherwise as set forth heretofore in this article, plus interest thereon for six months at six per cent per annum. Subsequent payments shall be due and payable at the expiration of each six months thereafter covering the principal amount and accrued interest. Should such owner or owners neglect or refuse to pay such sum or sums aforesaid as the same shall become due and payable for a period of 20 days, then the whole amount of said installments remaining unpaid shall immediately become delinquent together with interest and penalties established thereon and such delinquencies shall be collected in the same manner as delinquent assessments are collected. Prior to treasurer's sale and issuance of treasurer's certificate in collection or other sale in collection, the owner or owners may pay a delinquent installment or installments with interest thereon as herein provided together with the cost of advertisement or advertisements, and a penalty of five per cent on the entire unpaid assessment from the date of the earliest delinquent assessment to the date of payment, whereupon the remaining installments under said assessment shall be payable as though no delinquency had occurred.

At any time after making application to pay an assessment in installments, the owner of any lot, part of lot or parcel of land against which an assessment is made, may pay into the city treasury the whole amount of such assessment for which such lien is docketed together with the full amount of interest and costs accrued thereon to the date of payment.

Interest paid by a property owner on bonded assessments from the date of entry in the original lien docket to the date of bond issuance, if such assessment is bonded, or otherwise to the date of each payment by the property owner, shall be credited to the fund to which interest on payment warrants accruing after assessment is charged.

Section 9-905. Sinking Funds; Investment and Reissuance. The treasurer shall keep an account of moneys paid upon bonded improvements separate and apart from other funds of the city, and the amount of payments of installments and interest upon unpaid installments shall be placed to the credit of the "Improvement Bond Sinking Fund" and the "Improvement Bond Interest Fund," respectively, for application in accordance with the terms of such bonds. Any excess in such funds may be transferred to the general fund, or such other fund as the council may direct. The principal of such bonds shall be paid from the Improvement Bond Sinking Fund and interest accruing thereon shall be paid from the Improvement Bond Interest fund.

The city may invest available moneys of other funds in improvement bonds and may invest the moneys of the Improvement Bond Sinking Fund or of the Improvement Bond Interest Fund in such improvement bonds. Improvement bonds purchased by the Improvement Bond Sinking Fund or the Improvement Bond Interest Fund may be held by the city and may be reissued by direction of the council if found necessary for payment on bonds outstanding on their call or redemption. The council may direct that bonds purchased by the Improvement Bond Sinking Fund or the Improvement Bond Interest Fund be cancelled.

Whenever improvement bonds which may have been issued upon bonded assessments may be redeemable, and it appears to the council to be of advantage to the city to redeem the same but the money available in the improvement bond sinking fund is insufficient, the council may transfer money from any other sinking fund as a temporary loan to the improvement bond sinking fund to be returned from said improvement bond sinking fund with interest fixed by the council at the time of loan. The council may authorize and provide the issuance and sale of new bonds upon such bonded assessment for the purpose of redeeming such old bonds. Such new bonds shall be limited in amount to the amount of bonds to be taken up thereby and shall bear interest, be sold and be redeemable in the manner provided by this charter. In case of any temporary loan, as above provided, and a failure of property owners to pay into the improvement bond sinking fund a sufficient amount to return such temporary loan when needed, the council shall make provision for the return thereof by the sale of bonds as above provided.

Section 9-906. Subdivision of Assessments. In case a tract or parcel of land has been assessed for a local improve-

ment and such assessment has been bonded, if the owner desires to divide such tract or parcel into two or more tracts or parcels or to subdivide the same into lots, he may make written application to apportion the lien of indebtedness standing against the whole tract upon the different tracts or lots. The auditor may make such apportionment and thereafter the initial bonding application shall be deemed to apply to all the lots or tracts separately. The lien standing against each such tract or parcel may be released upon payment of the remaining apportioned share and interest as though the initial assessment had been separately apportioned and bonded.

Section 9-907. Assessment-Collection Bonds; Assessment-Collection Fund. For the purpose of facilitating collection of delinquent assessments and to assist in financing local improvements, the council is authorized from time to time to issue and dispose of bonds to be known as Assessment-Collection Bonds. The amount of such bonds shall not exceed one million five hundred thousand dollars (\$1,500,000) outstanding at any one time. Such bonds shall be of such denominations as the council may direct, shall be general obligations of the city, and shall be issued and sold in the same manner as other bonds of the city are issued and sold. The rate of interest thereon shall not exceed six per cent (6%) per annum and the term of such bonds shall not exceed 20 years.

The money realized from the sale of such bonds after paying from the proceeds the cost of advertising and sale, shall be deposited in the special fund known as the "Assessment-Collection Fund," which shall be used under the direction of the council for purchasing property by and in the name of the city at city treasurer's sale or other sale for city assessments, and at foreclosure sales for delinquent taxes, or either thereof, so as to protect the interest and rights of the city in and to such property. All moneys derived by sale of any such property so purchased from the Assessment-Collection Fund shall be credited back to such 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 such assessment was made, notice was given and a description of the property in the certificate or deed is sufficient reasonably to identify the same. This provision is intended to provide a curative provision as fully as the people may enact the same with respect to any and all matters in any way affecting the validity of such certificate or deed. Every such certificate of sale or deed shall be presumptive evidence of the regularity and sufficiency of all things pertaining to the validity thereof, and in any and all cases where this curative provision may be found insufficient, the money realized from the attempted sale shall not be deemed to have been applied in payment of the attempted assessment,

or in any manner discharging the obligations of the owner of such property to bear his or its fair and just portion of the cost of the local improvement for which such attempted assessment was made. The money realized upon such attempted sale shall be refunded to said Assessment-Collection Fund and the council may make a reassessment against such property.

The council shall have power to renew said Assessment-Collection Fund from time to time by selling additional bonds subject to the limitation on such outstanding bonds.

The council shall have the right and authority to provide for the sale and assignment of such certificates of sale and the assignment or conveyance of the rights of the city in and to all such property either before or after receiving the treasurer's deed from the city treasurer or from the appropriate county officials; to provide for the sale of said property by the city under contracts not exceeding a ten year period; to pay all necessary real estate commissions, court costs, legal and clerical services and all other necessary expenses in connection with the purchase and clearing of title to property acquired; to purchase or redeem any city treasurer's certificates of sale outstanding against any such property, and the payment of any tax liens outstanding against such property; to transfer money from said Assessment-Collection Fund to the general fund, provided that adequate provision shall be made for the redemption of all outstanding Assessment-Collection Bonds; to provide for waiving the penalty in case redemption be made within the first six months after sale; and also to provide that in case redemption be made thereafter and within the next six months, the penalty in excess of five (5%) per cent be remitted, but no further remission shall be made; to pay any bonded or open liens or both outstanding against any property acquired by the city under authority of this section or to cancel such assessments at the discretion of the council; and to enact such ordinances as may be needed to give full effect to this section.

The Assessment-Collection Fund may also be used to purchase and hold until payment warrants issued upon any special local improvement fund formed or to be formed, whether progress payment or otherwise. The face amount thereof and the specified interest on such warrants so purchased shall be credited upon payment to the Assessment-Collection Fund.

Section 2. Said charter is further amended by amending Chapter XI, which Chapter XI shall read as follows:

CHAPTER XI

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 the city, its property, and its inhabitants with water as well as the places and people along and in the vicinity of the lines of pipes, conduits or aqueducts constructed or used for such purpose, and to that end may acquire by purchase or otherwise, own and possess such real and

personal property or interests therein within and without the limits of the city as the council may find necessary or convenient. The council may establish and maintain headworks and supply sources as it may find appropriate together with all convenient reservoirs, tanks, pumps, supply systems, distribution facilities and related facilities, including land and interests in land, and may acquire other water systems serving property in the city as it now exists or in the future may be enlarged. The council may make all necessary expenditures to carry out such 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 such terms and conditions as the council may find appropriate.

Section 11-102. Administration. The city may employ such personnel, contract for such services and perform such services under contract or otherwise as the council or the commissioner in charge may find necessary or appropriate and convenient to carry out the powers set forth in this article. The council may obtain such materials and supplies and do such acts in the operation, maintenance, improvement and extension of the water works of the city as the council may find necessary or advantageous.

The council may prescribe such regulations relating to water supply, distribution and service as it deems appropriate, and may impose such conditions, require such deposits or such cost contributions for water main extensions and its distribution system as it finds necessary or appropriate. The council may rent or lease equipment or facilities of others and may rent or lease equipment or facilities of the city to others and sell or otherwise dispose of city property, facilities, supplies or equipment as it finds convenient.

The positions of the engineer in charge of engineering staff of the bureau, the person in charge of the business office of such bureau and the head of such bureau shall not be within the civil service requirements of this charter.

Section 11-103. Water Bonds. In order to provide funds for city expenditures relating to construction, reconstruction, replacement, extension, acquisition and maintenance of water plant and property, and the acquisition of water systems, the council may from time to time as it deems expedient and necessary issue and dispose of bonds of the city of Portland in such denominations and for such terms as the council may determine in the manner in which other bonds of the city are issued. Such bonds shall be general obligations of the city of Portland, but shall be primarily payable from water revenues. Such bonds shall not be included within the debt limit elsewhere prescribed in this charter. No bonds shall be issued in any year under this section which with the net outstanding water bond indebtedness shall exceed an amount equal to the total original cost of existing plant and property of the water works and system.

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

Money from the sale of water and charges relative thereto, shall be placed in the Water Fund. After sinking fund requirements are met and expenses of operation of the water works and plant and the water bureau, which may include depreciation on plant and property, together with all maintenance found necessary or appropriate, any excess in such Water Fund may be transferred to the Water Construction Fund.

The council may make transfers between funds in the water bureau, but the funds and accounts of such water bureau which relate to water plant and works shall be kept separate from other accounts and funds of the city, and such accounts and funds shall be treated as a separate municipal operation. The council may impose such charges upon the operation of the water system for municipal services of other departments, bureaus and officers as it finds equitable 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 not related to the water works, water system and the sinking funds for water bond debt service.

Section 11-105. Rates and Charges. The council shall for each fiscal year fix water rates for such year which will provide an estimated income from the sale of water to pay for 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 from time to time fix such special charges for connections, disconnections, turn-ons, discontinuances of service, all special services or work, and other contingencies, situations or conditions, which it finds advantageous or appropriate.

Charges and bills may be adjusted as the council finds just and equitable.

Section 11-106. Collections. The council may make such regulations and impose such conditions, penalties and forfeitures and institute such civil or penal process as it finds necessary or appropriate to collect bills for water or charges, and may in addition refuse water service or continuance thereof to premises for which a bill or charge remains unpaid. Penal enforcement shall be subject to the penalty limitations fixed in the charter for ordinance violations.

ARTICLE 2. SPECIAL FACILITIES.

Section 11-201. Municipal Auditorium. The council may construct, repair and maintain a building or buildings for use as

municipal auditorium and related facilities. The council may fix fees and impose charges for use of such auditorium or parts thereof or related facilities and services connected therewith, and may waive or reduce such fees and charges to the extent it finds appropriate in the public interest. The council or the commissioner in charge may make any and all rules and regulations found appropriate for the management and control of the facility or facilities. The council may delegate management and control to any commission set up by this charter or to be established for such management and control by ordinance, notwithstanding the stated purposes and functions of such established commission. Employees and positions connected with the municipal auditorium and related facilities shall not be within the classified civil service of the city unless and until included therein by vote of the people. In case the revenues from such auditorium and any related facilities are insufficient to pay for the maintenance and operation thereof, the council may pay any such deficit out of the general fund. The council may permit use without charge of any surplus space in such building and facilities for the purposes of a non-profit 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 the city government.

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 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, treatment or disposal plant or plants or both, for the treatment or disposal or 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 such operation. The city may also contract with any other person, public or private, in matters relating to sewage disposal or purification or both, as it may find convenient or appropriate for aiding in the purification of public waters or protecting the public health.

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. A sewer user service charge may be imposed and collected as the council may find necessary or appropriate to be paid by property which is served or is capable of being served for each month's use of the sewage disposal system. The amount of the sewer user service charge to be imposed upon users within the city shall not exceed $66\frac{2}{3}$ per cent of the water charge as currently fixed by the council for such water service. The monthly sewer user service charge for a dwelling in the city during the months of June, July, August and September in any year shall not exceed $66\frac{2}{3}$ per cent of the monthly average of the water bills to such dwelling for the previous four months, or if bills have not been incurred for each of the four months prior to June, then such monthly sewer user service charges for said summer period shall not exceed $66\frac{2}{3}$ per cent of the average of the water bills of the previous months, less than the said four months. Where there has been no water bill for one month prior to June in any year, the sewer user service charge for said summer period shall not exceed $66\frac{2}{3}$ per cent of the minimum water charge for that particular dwelling. All sewer user service charges shall be collected by the water bureau coincidentally with its collection of water bills and charges and the water bureau 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. For the purpose of adjusting the sewer user service charges in any particular case, the council may establish or continue a board of equalization and define its powers and authority. Where the city does not provide water to particular premises, or where use of water is such that a portion of the water delivered to particular premises does not flow into a city sewer directly or indirectly, or where additional water not supplied by the city is discharged into a city sewer, the city may establish such requirements and impose such 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.

Section 11-303. Use of Sewers. Where there is a sewer within one hundred (100) feet of any property put to a use which requires sewage facilities and not connected to a city sewer, the sewer user service charge shall be assessed against such property as though the same were connected to such sewer. The council may require any property within 100 feet of any sewer line to connect to the same. The council may prohibit discharge of sewage or deleterious matter or impurities into any stream or river within the city. Such prohibition may extend to all structures or facilities adjacent to such waters or located over, on or under such waters and shall include ships, vessels, houseboats and water craft of all kinds. Such premises or facilities may be required to connect to the city's sewage disposal system when physically possible, or if physically impossible, then the council may require such properties or facilities to construct and use a sewage or waste disposal system, as may be prescribed. In order to facilitate sewage treatment and to protect city's sewage facilities, the city may limit the classes or kinds of sewage which may be discharged or continue to be discharged into public sewers, and may prohibit discharge of wastes other than domestic sanitary sewage into public sewers or facilities, and may require private pre-treatment as a prerequisite to such discharge upon such terms as may be fixed by the city engineer.

Section 11-304. Intent of Article. This section shall be construed as additional authority and power and shall not be in derogation of any other power or authority covered elsewhere in this charter. This article is not intended to affect in any way the rights of the council concerning local sewer improvements and assessment of benefits therefor. The council shall have all other authority concerning such matters as may be or presently are granted to it by statute.

Section ³4. Said charter is further amended by amending Chapter XII, which Chapter XII shall read as follows:

CHAPTER XII

PUBLIC FACILITIES AND WORKS

ARTICLE 1. RECREATION AREAS.

Section 12-101. Parks and Recreation 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, may construct, reconstruct, remodel, alter, repair, maintain, improve and equip

such areas and facilities thereon or connected therewith as 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 property not needed or no longer needed for such purpose. The council may establish such exhibits and conduct such programs as it finds desirable or convenient for the education or the furtherance of the enjoyment and recreation of the public, and may change, alter or discontinue the same from time to time as it finds appropriate. The council may construct, reconstruct, alter, remodel, furnish and equip such structures and facilities as it deems necessary or appropriate to further the convenience of the public using park and recreation facilities, or of staff or employees conducting such park or recreation programs or maintaining the same. The council may contract with any person, public or private, in any matter relating to such services or programs. The council may do all things found necessary or convenient to promote recreational facilities and aesthetic enjoyment of the people, and the beautification of city owned property.

Section 12-102. Regulations and Restrictions. The council or the commissioner to whom such authority has been delegated may make such regulation and impose such restrictions on public use of parks, recreational areas and recreational facilities as are 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, provided that such limitation is not based on race, color, creed or national origin, and may restrict the kinds and times of public use.

Section 12-103. Fees and Charges. The council may fix fees which it finds reasonable for specialized facilities, special services, special conveniences, materials or supplies used in a program and special programs of all kinds. After such establishment payment of such fees shall be a condition prerequisite to use or participation. Establishment and collection of such fees shall not be deemed to change the public character of any area, facility or program.

ARTICLE 2. FINANCING OF REVENUE-PRODUCING FACILITIES.

Section 12-201. Revenue Bonds. For the purpose of financing the acquisition of any public utility operating or to be operated within the city, or its jurisdiction, 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 to produce revenue, the city may issue and sell interest bearing revenue bonds. Such bonds shall not be a general liability of the city and shall be paid

solely from the revenues derived from the facility or from the rental, lease or sale thereof. The council may secure such bonds by a mortgage or mortgages or similar encumbrance upon such plant and property, may pledge the revenues thereof and any revenues from similar facilities, and may agree in such bond that the rates and charges shall be fixed at specific, general or minimum amounts. Such issuance shall be made only pursuant to ordinance, which shall be subject to referendum, in like manner and upon like terms and conditions as franchise ordinances. Such bonds shall be issued and sold in the same manner as other bonds of the city. The proceeds derived from the sale of such bonds may be used for the cost of advertising, bond issuance and sale, legal fees and costs, planning, engineering, inspection, administrative costs, the acquisition by any lawful means of plant, property, real or personal or both, interests in land and structures, construction, reconstruction, remodeling, equipment, betterment, equipment, additions to and supply of the particular facility, and matters relating thereto.

ARTICLE 3. PERFORMANCE OF PUBLIC WORKS.

Section 12-301. Contract or Direct Labor on Public Work. The council may enter into contracts as it finds in the public interest for the design, construction, reconstruction, alteration, remodeling, repair or maintenance of any public works, improvement, facility or structure, including any local improvement, or may at its option employ labor direct for such purpose or any portion thereof or any 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.

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.

Section 5. Said charter is further amended by amending Chapter XIII, which Chapter XIII shall read as follows:

CHAPTER XIII

CHARTER REVISION AND CONSTRUCTION

ARTICLE 1. REPEALS, AMENDMENTS AND REENACTMENTS.

Section 13-101. Effect of Repeal, Amendment and Substitution. Whenever a particular grant of authority is contained in the city charter and subsequently, either now or in the future, repealed, expressly or by implication, whether by direct repeal, amendment or substitution of different language, such prior grant of authority shall nevertheless continue, unless specifically forbidden, for the following purpose: If the city has contracted with another person pursuant to such authority, if the city has begun a public work, facility, structure, project or program pursuant thereto termination of which would entail risk of liability in damages, or if the council finds that third persons have materially changed their position in reliance upon council action thereunder, then such authority previously contained in the charter shall be deemed to continue until the contract, public work, facility, structure, project or program is completed or the action carried out.

Whenever a particular procedure is changed by express or implied repeal of charter provision, by amendment or by substitution of different procedure in this charter, proceedings in process under such prior procedure may continue as though unchanged, or the council may use the changed procedure for the proceedings after such change, or the council may use the prior procedure in part and the changed procedure in part, as it finds appropriate or convenient.

Section 13-102. Continuance of Original Charter Provisions as Ordinances. All ordinances containing provisions originally included in a city charter which were subsequently continued as ordinances and which have not been amended, repealed or superseded, shall continue in full force and effect as ordinances until amended, repealed or superseded by the council. Reinclusion of such provisions in the charter shall remove authority of the council to affect those provisions as reincluded.

Section 13-103. Procedural Ordinances. When a charter provision contemplates implementation by general ordinance, lack of such 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 the improvement, work or act, carry out a public purpose, by such resolution or ordinance recognizing and approving the procedure followed. Such lack of general ordinance shall not impair the validity of the proceedings. A subsequent general ordinance need not follow the same procedure.

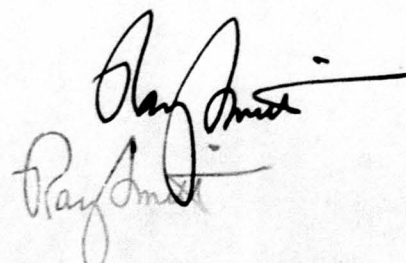
In following procedures set forth in this charter the council may by ordinance fix additional procedures in any matter in which the procedures set forth in this charter are incomplete or are silent.

ARTICLE 2. CONSTRUCTION AND INTERPRETATION.

Section 13-201. Restrictions and Limitations. Any restriction or limitation contained in or in the future imposed on the authority of the council by charter provision, shall apply only as the language of such provision explicitly and necessarily requires. Simultaneous or subsequent specification of authority shall not be deemed exclusive, nor to impair other or general authority and power, either in existing or future charter provisions, by statute or by general law. Specification of procedures shall not exclude other or alternative procedures unless such procedure is expressly stated to be the sole procedure permitted. The city shall have all powers and authority to carry out general or special authority expressed, as the council finds necessary or convenient. This section shall apply, unless expressly negated, to all present and future charter provisions.

Section 13-202. Intent of Reinclusion of Former Charter Provisions. Whenever a provision included in a city charter has been reenacted as an ordinance provision and such provision has been subsequently included in the charter without substantial change, such reincluded provision shall be considered a continuance of the prior charter provision to the extent of the reinclusion as though the same had never been reenacted as an ordinance provision, but had remained in the charter without interruption.

Adopted by the Council AUG 14 1964



Auditor of the City of Portland

Order of Council
August 5, 1964
MCR/fg

RESOLUTION NO. 29365

A Resolution placing on the ballot in the November General Election an Act amending the City charter by revising Chapters IX, XI, XII, and XIII relating to local improvements, and collections, special services, public facilities and works and charter revision and construction so as to modernize, simplify, clarify, broaden or make more specific various matters contained or implied therein, and to make certain changes to facilitate more efficient administration.

THE COMMISSIONERS VOTED AS FOLLOWS		
	YEAS	NAVS
BEAN	1	
BOWES	1	
EARL	1	
GRAYSON	1	
SCHUNK	1	

Filed AUG 6 1964

RAY SMITH

Auditor of the CITY OF PORTLAND

By

Robert E. Gyle
Deputy