

## 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 Sections 6-102 and 6-103 of Chapter VI, and all of Chapters IX, XI, XII and XIII of said charter, relating to administration and function of the Commission of Public Docks, local improvements, special services, public facilities and works, and charter revision and interpretation, so as to remove ambiguities and inconsistencies, clarify certain provisions, delete obsolete or unnecessary matter, and to modify, simplify, clarify, broaden or make more specific various matters contained or implied in the charter and charter ordinances, and 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 Section 6-102 of Article 1, Chapter VI of said charter, which section shall read as follows:

Section 6-102. Commission of Public Docks. The department of public docks shall be administered by a Commission of Public Docks composed of five (5) members who shall be appointed by the mayor. The regular term of office of each member shall be five (5) years, with the term of one commissioner expiring on December 6th of each year. Resignations when made shall be addressed to and accepted by the mayor, and vacancies filled by him by appointment for the unexpired term. The members shall serve without salary or compensation. By January 15 of each year the commission shall meet and elect a chairman

and secretary and such other officers as it may deem convenient. The Commission shall make provision for regular meetings. The commission may make and alter its own rules of procedure and shall provide such administrative regulations as it deems necessary or appropriate.

Section 2. Section 6-103 of Article 1, Chapter VI of said charter hereby is amended to read as follows:

Section 6-103. Powers and Duties. The Commission shall have power and it shall be its duty for and on behalf of said City of Portland to exercise the following functions:

(a) The Commission shall cause to be prepared a plan or plans for the development or redevelopment of the harbor front and areas adjacent thereto for the City of Portland, making provision for the needs of commerce, shipping and commercial and industrial activities related to, or which promote commerce or shipping, including but not limited to, construction and reconstruction of such docks, piers, slips, wharves, basins, boat landings, bunkers, oil tanks, cranes and loading and unloading apparatus, equipment, storage facilities, storehouses, warehouses, offices, trade display facilities, foreign trade zones, elevators, and other port and terminal facilities of similar or different character as may be determined to be in the public interest; and it may modify such plans from time to time as the requirements of commerce or shipping and the advance of knowledge and information on the subject may suggest.

(b) The Commission may acquire or provide for and operate publicly owned docks and such other facilities as are provided for in (a) above, of such number and character and in such places inside or outside the city as the Commission may deem desirable or necessary.

(c) The Commission may purchase or acquire by condemnation, or by other lawful means, such lands or rights, or interests therein, as may be desirable or necessary for use in the construction or operation of any publicly owned structure or facility as may be provided for in such plan. If the Commission shall deem it proper and expedient that the City should acquire possession of such property, land or facility and no price can be agreed upon by the Commission and the owner thereof, the Commission may direct that legal proceedings be taken to acquire the same for the City by exercise of the right of eminent domain in any manner provided by law. The title to all lands acquired by the Commission shall be taken in the name of the City of Portland. If any lands acquired by the Commission shall become unavailable or unnecessary for the purpose for which they

were acquired, they may be used for any other purpose of the Commission, and otherwise, if not needed for any other such purpose, shall become the property of the City of Portland, free from any restriction upon the passing of a resolution so declaring by the Commission; and the Commission may exchange or otherwise dispose of the same in the discharge of its duties as hereinafter set forth.

The City of Portland, acting through its Commission of Public Docks, is hereby authorized and empowered to lease any property or facility acquired by it or to contract for operation thereof, for such period of time and on such terms and conditions as permitted by law and found reasonable by the Commission.

(d) The Commission shall have exclusive charge, government, regulation and control of the wharf property belonging to the City of Portland, including all the wharves, piers, bulkheads and structures thereon and water immediately adjacent thereto and all the slips, basins, docks, water fronts, lands under water and structures thereon and the appurtenances, easements, uses, reversions and rights belonging thereto which are now owned or possessed by said City or to which said City is or may become entitled, or which said City has acquired or may acquire under the provisions hereof. The Commission shall have the exclusive charge and control of the repairing, building, rebuilding, operation, alteration, and leasing of said property and every part thereof and all of the cleaning, dredging and deepening necessary in and about the same.

(e) The said Commission shall further have and exercise all the powers, rights and duties with respect to matters covered by this article that are now or in the future may be had or enjoyed by the City of Portland or by any of its departments or officers, including the powers and duties conferred by this charter. The powers conferred by the statutes of Oregon with relation to improvement and use of navigable streams and for municipal regulation of construction of wharves as such statutes concern piers and wharves are hereby vested in the said Commission. The authority of the Commission under this article, however, shall not extend to harbor regulations applicable to movement of water craft, nor to matters affecting the waters of rivers or streams within the city, nor general regulation or enforcement under the police power.

(f) The Commission shall have the power to make general rules and regulations for carrying out plans for the building, rebuilding, repairing, alteration and maintenance of all structures and constructions upon or adjacent to



the water front of the City of Portland. No new structures or repairs upon or along said water front shall be undertaken except upon approval of the Commission. The approval of the Commission for construction or repairs shall be limited to consideration of location, type of structure and whether the same will conform to its plans for harbor development and general rules and regulations. Such approval shall be in addition to any other permit or approval required by law and compliance with city building or other codes or regulations required, notwithstanding such Commission approval. The Commission shall have authority to regulate and control uses of private property along the water front to enforce compliance with its plan or plans as described in subsection (a) herein.

The general rules and regulations of the Commission shall be embodied in the form of ordinances and certified copies shall be transmitted to the City Auditor, and the same shall be included in any compilation of ordinances of the City of Portland. They shall be considered public records; provided, however, that the Commission may, in its discretion, withhold from publication the places where the public owned docks or other facilities proposed by it are to be situated until the same shall be acquired. All such ordinances or general regulations shall be subject to referendum or initiative in like manner as ordinances of the City of Portland. The Commission, however, shall have power and authority to prescribe administrative regulations of a temporary nature and to alter the same from time to time without other record of the same than in its own books.

(g) In the purchase of materials, equipment and supplies, in the performance of new construction, or in the performance of any repair, maintenance and rehabilitation, where the estimated amount exceeds \$2,500, the Commission shall proceed only after calling for bids by advertisement in a newspaper of general circulation published in the city of Portland asking for proposals based upon plans or specifications or both approved by the Commission. Materials, equipment, supplies or works estimated to cost less than said stated amounts may be obtained on informal bids. No contract shall be let for any purchase or work for which formal bids are required unless such contract be let to the responsible bidder for the class or kinds selected by the Commission or its authorized agent whose bid is found by the Commission to be most advantageous to the City. The Commission shall at all times have the right to reject any and all bids in whole or in part. Purchases need not be made through the purchasing agent of the City. The Commission may waive the requirement of bidding and may waive written contracts when work, materials, supplies or equipment are found necessary for



an emergency involving public safety or when the delay of bidding procedure might cause serious loss of or injury to property in the custody or under the control of the Commission. This subsection shall not be applicable to purchases of particular supplies, equipment or material when the Commission determines that no other product of equal value, utility or merit to the City is available for the same purpose, or that the particular make or design of product is necessary for use in connection with equipment or property already owned or being acquired by the Commission, or that it is otherwise impractical to obtain competition, or when no bids were received on a prior call therefor, or if the Commission has rejected all prior bids on the ground that the same were excessive, identical, collusive, nonresponsive or otherwise unacceptable in the public interest. Notwithstanding any requirement contained in this subsection, the Commission shall have the power to employ labor directly to construct, perform maintenance or carry out any work or to fabricate any equipment.

(h) The Commission shall have the power to fix and regulate from time to time and to alter charges for all publicly owned facilities and the port, service, equipment rental and terminal fees relating to City terminals and other facilities and use of street ends within the scope of this article and schedules of such regulations, fees and charges shall be enacted in the form of ordinances and certified copies thereof shall be transmitted to the auditor of the City of Portland in like manner as other ordinances.

(i) The power and authority over that part of the streets of the city of Portland which abut upon or intersect its navigable waters, lying between the low water mark and the first intersecting street located inland from the river, is hereby conferred upon and vested in the Commission of Public Docks to the extent only that may be necessary or requisite in carrying out the powers elsewhere vested in it by this act; and it is hereby declared that such power shall include the right to build and operate docks, wharves, piers, retaining or sea walls, or other facility, structure or construction across and upon such streets; and the Commission may use such street ends for parking, loading and landing goods or passengers; providing, only, that access be provided to the public at the shoreward end thereof.

In case it shall be necessary to vacate any street or part of street in this section referred to for the purpose of carrying out the powers vested in the Commission of

Public Docks under this act, proceedings for such vacation may be conducted in any manner permitted by statute or the Commission may petition the council to vacate the same on its own motion.

(j) Except for matters relating to tariff and terminal charges and the management and operation of publicly owned terminal facilities and properties, the Commission and the City Council, by concurrent resolutions may provide that authority granted to the Commission in this section shall be exercised by the Council or other officers or departments as to any particular power or duty, and in such event, the particular responsibility, control and authority vested in the Commission by this charter shall not apply.

(k) The Commission shall have the power to employ such officers, employees, agents and professional consultants as may be necessary in the efficient and economical discharge of its duties and to fix and provide for their compensation. Officers and employees of the Commission shall be exempt and excluded from the civil service provisions of this charter. For all matters relating to its purposes and functions, the Commission shall have authority to incur expenses for administration, operation, promotion, improvements, development and use of its properties and facilities, and may contract and cooperate with persons, corporations, organizations and associations.

(l) The Commission shall annually make to the mayor of the City of Portland a full report of its operations for the preceding fiscal year, including an account of receipts and expenditures. It shall also file with the mayor a report of estimated receipts and expenditures for the ensuing year, in the form of a budget, at the same time as budgets of other departments of the City are submitted. Such report shall include a careful estimate of the amount necessary over and above net current receipts of the Commission to pay interest on its bonded indebtedness then outstanding; to provide for any sinking fund required for outstanding obligations or indebtedness issued or contracted for by the Commission; and to provide for the necessary expenses of the Commission in the maintenance and operation of property within the scope of this article. A tax levy sufficient to raise the amount named in said estimate shall annually be made by the Council of the City of Portland in such manner and at such time as other taxes are levied. In the event of the failure of the Council to make such levy, the amount of the estimate of the Commission may be certified by it to the County Clerks in like manner and with the same effect as in the case of other corporations having the power to levy a tax.

The amount of such tax, however, shall in no case exceed one-tenth of one mill upon the assessed valuation of taxable property within the city of Portland in addition to the amount necessary to pay the interest and sinking fund requirements on the outstanding bonds of the Commission.

(m) All moneys received by the Commission shall be paid to the City Treasurer and by him kept in a separate fund or funds as established by the Commission. Disbursements shall be made by him on warrants of the chairman or designated member of the Commission and the Secretary or Acting Secretary of the Commission after designation of signatory authority by resolution of the Commission. However, the Commission may maintain an open bank account not exceeding an average weekly balance of current payroll plus Twenty-five Thousand (\$25,000) Dollars for meeting salaries, wages, and miscellaneous expenses. Such account shall be a revolving account and may be drawn upon for such purposes by officials designated by the Commission. An accounting with reference to such account shall be filed monthly with the City Auditor. The books of the Commission may from time to time be audited by the City Auditor under the direction of the mayor in such manner and at such time as he may prescribe. The Commission, at its expense, shall pay for a comprehensive independent annual audit of all funds and accounts of the Commission by a qualified licensed accountant or firm of such accountants. A copy of the audit report shall be furnished to the City Council, filed with the City Auditor and a copy shall be sent to the Tax Supervising and Conservation Commission for Multnomah County.

(n) The Commission may solicit and promote trade, advertise, and operate such offices inside or outside the city as may be necessary or advantageous in carrying out its functions and responsibilities.

(o) The Commission may enter into contracts with any city port, county, governmental or public corporation or other unit or subdivision of government, to provide any service or facilities within the scope of the duties and powers of the Commission.

(p) The Commission shall have power to borrow money, execute notes, mortgages or other evidence of obligations, may enter into conditional sales or purchase contracts, may enter into lease-purchase agreements for such periods of time as the Commission finds expedient, and may accept gifts, donations and grants and carry out the terms and conditions of any such gifts or grants, if any, all with respect to the properties and terminal and port facilities under the jurisdiction of the Commission. The Commission may secure



money so borrowed by executing and giving a mortgage or similar indenture on real or personal property.

(q) The Commission may obtain the advice, recommendation and assistance of any officer or other commission of the City of Portland, and the City Attorney and his staff shall render legal assistance and advice as requested by the Commission. Payment for such legal service or other service of departments of the City shall be made to the City by the Commission. This shall not prevent the employment of technical assistants nor the employment of special legal counsel by the Commission.

(r) The Commission shall have authority to establish funds, contingent funds, and sinking funds and may transfer money from one fund to another.

(s) The Commission may incur expenses and spend money for any of the purposes set forth or implied in this article, and for administration and operation of any facilities or functions of the Commission as the Commission finds necessary or convenient.

(t) Except for matters of legislation, general policy or general regulation, the Commission may delegate to employees or agents any function or duty not specifically required in this article to be performed by the Commission.

Section 3. All of Chapter IX of said charter is amended by substituting for the present Chapter IX thereof a new Chapter IX which shall read as follows:

#### CHAPTER IX

#### LOCAL IMPROVEMENTS; ASSESSMENTS; COLLECTIONS

#### ARTICLE 1. GENERAL PROVISIONS.

Section 9-101. Definition, "Street." As used in this charter, "street" includes any street, avenue, boulevard, alley, lane, bridge, bicycle path, road, walk, public thoroughfare or public way, and any land over which a right of way has been obtained, or granted and accepted for any purpose of public travel.

Section 9-102. Definition of "Sewer." As used in this charter, "sewer" includes all trunks, mains and extensions thereof, pipes, ducts, laterals, branches, manholes, lampholes, catch-basins, pumping stations and appurtenances, ditches, canals, ducts, aqueducts, gates and all other apparatus, structures and devices which the

council finds reasonably necessary or proper for the disposal of sanitary sewage, or for drainage including storm water drainage, and also the relaying, repairing, reconstruction or renewal thereof. The term includes widening, deepening, straightening and diverting channels of streams, improving water fronts, filling or grading lakes, ponds or other waters and increasing or diminishing the flow of waters in natural or artificial channels, and other acts and things found necessary or appropriate for sewerage, drainage and proper disposal thereof. Use of the term "sewer" shall not require that all purposes set forth above be handled by a single facility, and construction and use of a sewer may be limited to any one or any combination of said purposes.

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

The council may by resolution, upon order of the county signifying its willingness to accept the same, relinquish to the county for the purpose of work or improvement, control of all or any portion of any street connecting with a county road. Thereupon such street to that extent shall be under county control and shall be worked and improved in like manner as county roads until the county relinquishes its jurisdiction, and the city accepts the same.

Section 9-104. 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, allowance for engineering and superintendence as provided in this section, and interest on progress payment warrants to the estimated date of entry of assessment in the lien docket. The allowance for engineering and superintendence shall be fixed by the council by general ordinance from time to time. Costs of improvement may also include special preliminary services or studies if those costs have been included in the estimate of the city engineer prior to the construction contract.

Section 9-105. Progress Payments. The council may make progress payments for all local improvement work by the issuance of interest-bearing warrants against the special assessment fund to be created for such improvement; provided that the interest on such warrant shall not exceed six per cent per annum, and the warrant shall not exceed eighty-five per cent of the reasonable value of the work and material performed upon such local improvement or set aside therefor and delivered thereto, as shown by a certificate furnished by the city engineer.

Section 9-106. Payment for Work. Warrants in payment for costs of a local improvement shall be drawn against and payable solely from the separate fund created or to be created for that particular improvement. Into the special fund shall be paid all money collected from assessments for that improvement, and the fund shall be used first for payment of warrants held by the city for city expenditures for the improvement, including engineering and superintendence, then for repayment of loans and advances, if any, and then for other costs of the improvement.

## ARTICLE 2. STREET GRADES.

Section 9-201. Original Establishment. When the council has not established the grade of a street or part thereof, it may at any time be established by the council without taking any of the proceedings provided for in this article, by setting forth the elevation of the finished road surface at the center line of the street or portion of a street designated for travel.

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



Section 9-203. Initial Engineer's Report. Whenever the council deems it expedient to change the grade of any street or part thereof within a district continuously affected by the change of grade, it shall direct the engineer to report thereof. The engineer shall thereafter, as soon as convenient, file with the auditor his report showing the location and nature of grade changes which in his judgment should be made. The 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 grade change. The auditor shall publish in five successive publications of the city official newspaper 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 within 20 days from the first publication of the notice. The time for hearing shall be the next regular meeting of the council following said 20 days. Within five days from first publication of the notice, the city engineer shall cause to be posted on the street or streets affected by the proposed change of grade, a notice headed, "Notice of Change of Grade," containing a legible copy of the notice published. One of such notices shall be posted at or near each street intersection where the proposed change of grade is to be made, but if no intersection is affected by the change of grade then the posting of one notice at or near the intersection closest to the maximum point of change of grade shall be sufficient. The city engineer shall file with the auditor an affidavit of posting stating the date when and the places where the notices were posted. The auditor also shall send notice to the persons named as owners of the property within the affected area designated in the engineer's report as adopted by the council. If the address of any named owner is unknown to the auditor and if that person has an agent whose name and address is known to the auditor, he shall mail the notice to that agent; otherwise he shall mail it to the named owner addressed at Portland, Oregon. However, failure of any such person or the true owner to receive the mailed notice shall not invalidate the proceedings.

Section 9-205. Objections, Claims for Damages. At the time of hearing, if the council finds that no claim for structural damages has been presented by the owner and that any 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 a further report concerning damages to owners of property injured and benefits to owners of property specially benefited 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 petition of the owners of more than half in area of the affected property, or unless the council determines that an award of damages shall be made for probable injuries to property if the council determines at the hearing that there are probable injuries to affected property as a result of the proposed change, then the council may direct the city engineer to report on damages and benefits. All owners' claims for damages shall be verified and shall state the facts upon which the claim is based and the amount thereof.

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

### 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 the 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, for rights of way for sewers or aqueducts, for widening, straightening or diverting channels or streams or the improvement of water fronts, as an alternative to other

methods, the council may take the property desired according to the special procedures contained in this article.

Section 9-302. Report from City Engineer. Whenever the council deems 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 the proposed taking and a written report. The city engineer shall make such survey, plat and report, and file the plat and report with the auditor, within sixty days from the date of the resolution unless the council grants an extension of time. The 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 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 in that district, other than land taken. 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 the 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, all or part of which are embraced within the 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 the report the auditor shall publish notice for five successive publications in the city official newspaper stating that the report is on file in his office subject to examination, when it was filed, the probable cost of the proposed taking, a description of the district embracing the property proposed to be assessed therefor, notifying all persons interested to present in writing their objections to said report, if any, and that any such objections and the report will be heard by the council on a date specified in the notice, not less than ten (10) days after the date of first publication of



the notice. The auditor shall forthwith send by mail postpaid to each person designated in the engineer's report a notice stating the estimate of total cost of the taking, a brief description of the property in which that person has an interest, 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 the proposed appropriation and assessment, and the date when the council will hear the report and objections, and, if such person is 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 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 the notice to that 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 any objections, 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 at any time after the hearing and may pass an ordinance setting forth in detail the assessment district, the awards, and the assessment of benefits or postponement thereof. If it appears to the council that the assessment district proposed in the engineer's 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 any objections thereto will be heard by the council. After holding such hearing, the council may pass an ordinance fixing the assessment district, awarding damages and assessing benefits to each parcel of property affected according to 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 on objections need be made.

Section 9-305. Appeals. Any 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 statutory procedures concerning appeals from municipal awards in condemnation proceedings.

If the judgment on appeal provides a larger sum in damages for an appropriation than the sum awarded to the appellant as damages in the ordinance, the appellant may recover his costs on appeal and reasonable attorney's fees therefor, which shall thereafter be included as a part of the total costs of the condemnation or improvement for assessment, reassessment or deficit assessment.

Section 9-306. Collection of Assessment Benefits. After expiration of the time for appeal to the circuit court, if no appeal is taken, or after the filing of a certified copy of a final judgment on appeal, if an appeal is taken, the council may 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 the lien docket, or if the assessments are to be included in the cost of another specified improvement, directing that they be so included. Where an award is made for a part of a lot or tract of land taken and an assessment made against the residue, the award and assessment shall be offset so that, if the award exceeds the assessment, the assessment shall be cancelled and the balance of the award paid to the owner and, if the assessment exceeds 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 entry in the lien docket, the amounts so entered shall be a lien and charge upon the respective lots, tracts and parcels. Such liens shall have the same force and effect as other liens entered in the 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 is 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 is made or assessment paid; or the city may bid in the property in the amount of the city lien plus any tax lien, costs related to the sale, and court costs. All money from separate assessment of benefits shall be kept in a separate fund applicable to satisfaction of the amounts to be paid for damages, including the amounts due for costs related to the sale, court costs and other expenses.

Section 9-307. Completion of Condemnation. Whenever the full amount assessed, as entered in the docket of city liens, has been paid into the city treasury, the designated property thereby is appropriated for the public purpose, and the auditor shall then notify the persons who are interested in any part of the fund that it is ready for distribution and that, upon demand, a warrant will be drawn in favor of each person entitled thereto. Before drawing any warrant, the auditor shall search for city liens, and other encumbrances or claims, and verify that the title is cleared before payment of the award. In case he is in doubt or uncertain as to the right of any person, he shall present the matter to the council for determination, 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 its inquiry, the council may summon persons, subpoena witnesses and grant a hearing. The council's determination shall be final if not reversed on appeal. If no appeal is taken, the council may direct that court proceedings be instituted.

Section 9-308. Failure of Proceedings. If the fund for payment of damages is not collected and ready for distribution of warrants within nine months after the time limited for appeal, if no appeal is taken, or within nine months after final judgment, if an appeal is taken, all acts and proceedings for the city appropriation shall be void. In case of two or more appeals, time shall run from the date of the last final judgment. The amount of interest on unbonded assessments collected by the city shall be apportioned among those to whom damages are paid if the proceedings fail.

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, provided that proceedings for the other improvement are started within one year after the time limited for appeal, if no appeal is taken, or if one or more appeals are taken, from the date of the last final judgment. Otherwise, all acts and proceedings for the appropriation shall be void. The assessment by subsequent improvement proceedings shall include interest on the amount of award at six per cent per annum from the time proceedings would have been void under the preceding paragraph in this section, to the estimated date of entry in the lien docket of the assessment for the other improvement or the date of payment, whichever is first.



Section 9-309. Abandonment of Proceedings. The council may terminate proceedings for taking of interests in real property at any time prior to payment for property taken or the consummation of the proceedings. The council may exclude from proceedings any property acquired after proceedings have been commenced. The council may terminate proceedings to acquire an interest in any property any time prior to determination of the award of damages, if it finds that an alternative procedure should be followed.

Section 9-310. Scope of Proceedings. The council may combine in a single proceeding two or more streets or proposed streets or unconnected portions of one or more streets. The council may combine in one proceeding the property interests required for an entire local improvement. Where property interests have been previously donated or dedicated and it appears just and proper that a suitable credit should be allowed in favor of the person making it, or his successors, such credit may be allowed. Where a city lien or liens exist against property partially to be taken by the city, the council may provide for segregating the lien so that the portion against the land taken may be paid.

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

#### ARTICLE 4. ELIMINATION OF GRADE CROSSINGS.

Section 9-401. Authority of Council. The council has authority to determine whether any railroad crossing of any street within the corporate limits of the city at or near street grade is dangerous, and to provide for the elimination of that grade crossing.

Section 9-402. Plans and Specifications. Whenever the council finds that a railroad grade crossing should be eliminated, it may by ordinance require the city engineer to prepare plans and specifications for, and estimates of, the cost.

Section 9-403. Conference with Railroad Engineer. In preparing plans, specifications and estimates, the city engineer shall confer with the civil engineer of any railroad company having an interest in the crossing, for the purpose of determining a reasonable plan and method for eliminating it. If the city engineer is unable to agree with the engineer of the railroad company, the city

engineer shall proceed to determine a proper and reasonable plan and method of eliminating said grade crossing; provided, however, that if the civil engineer of an interested railroad company does not confer with the city engineer after ten days' written notice, the city engineer may proceed with the preparation of plans, specifications and estimates without a conference.

Section 9-404. Filing of Plans and Objections. The city engineer shall file with the auditor his report on elimination of the grade crossing with the necessary plans, specifications and estimates of the cost. The auditor shall notify in writing each interested railroad company, and any company shall have 30 days from date of the notice to file with the auditor objections thereto, or to propose modifications thereof, or to file other or different plans and specifications, together with the estimates of the cost.

Section 9-405. Consideration of Plans and Report of Damages. Within three months after the 30 day period for filing objections, the council shall consider the report, objections, plans, specifications and estimates filed, or may refer the matter to a commissioner or committee of commissioners for this purpose, in which event the auditor shall mail five days' notice in writing to any company interested when the commissioner or committee will consider the matter, and at the time specified any company may attend and be heard thereon. Upon filing of the commissioner's or committee's findings and recommendations, the council may adopt a plan and method for eliminating the grade crossing and adopt specifications therefor, or it may dismiss the proceedings. If it appears that a change of street grade will be required in eliminating the grade crossing, the council shall determine whether such grade shall be changed, with or without considering damages to adjacent property. If the council determines to consider damages to adjacent property, it shall require the city engineer to report the estimated damages that property may sustain by reason of the change of street grade, based on the depreciation, if any, in market value on account of the change of street grade. In estimating depreciation of market value, the city engineer shall take into account the benefits, if any, the effect which the proposed improvement will have upon market value of the property, and the probable assessment against the property for the improvement.

Section 9-406. Apportionment of Damages and Benefits. Upon filing of the city engineer's report on damages, the auditor shall publish in four successive publications in the city official newspaper a notice that such report has been filed, stating the amount of damages to each property

as estimated by the city engineer, the date when the report of the city engineer will be heard by the council, and that written objections thereto may be filed with the auditor any time prior to the day of hearing. The date of hearing shall be not less than five days after last publication of notice. The auditor shall also send a copy of the published notice to each person interested in land affected. If the address of such 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 the notice to that agent; otherwise he shall mail it to the owner addressed at Portland, Oregon. At the time of hearing the council shall consider the report and all objections thereto and may refer it to any committee or commissioner for further hearing and report. At any time thereafter the council may determine the damages to be awarded for the change of street grade.

If construction is contemplated by the council in order to effect the elimination of a railroad grade crossing, no proposed assessment to property benefited by the change of street grade need be made in the proceedings for change of street grade, but rather a statement may be made that such damages will be assessed as a part of the total improvement cost or will be financed in a particular manner. Thereafter the cost of making the change and improvement shall include, as a part of the cost, the total damages awarded on account of such change of street grade. The council shall determine whether any portion of the total cost of the improvement shall be financed by assessment of benefits to property within an assessment district as a local improvement, and if so, the total cost shall be apportioned as follows: sixty per cent shall be paid by the company or companies owning or controlling the railroad trackage at the crossing; nor more than twenty per cent shall be assessed against the property benefited thereby within the district fixed by the council; and the balance may be paid by the city, or as the council may determine. Total cost shall include the cost of raising or lowering tracks within the street boundaries, but the raising or lowering of tracks outside street boundaries shall be the sole responsibility and expense of the railroad company. Total cost shall also include all other costs and expenses of the improvement, plus damages to property within the district. Whenever the street is occupied or used by more than one railroad company, the railroads' share of the total cost of the improvement shall be apportioned among them. The cost and expense of raising or lowering the grades or tracks outside street area to be borne by the affected companies shall be apportioned by the council unless, within thirty days after the council orders the improvement, all affected companies file with the auditor their mutual agreement thereon.



Section 9-407. Advancement to Special Fund. If damages are allowed to adjacent property owners because of the change of street grade, upon final determination of the amount to be awarded to each property owner and upon determination by the council to proceed with the improvement as provided in Section 9-408, the council shall loan or otherwise transfer from any available fund to the special assessment fund to be created as hereinafter provided, an amount sufficient to pay all such awards. Warrants then shall be drawn in favor of the persons entitled thereto in the amounts awarded, payable upon demand, with interest from the date of delivery at the rate of six per cent per annum. No such warrant shall be delivered to a property owner who has been allowed damages until he applies therefor and files his written acceptance of such allowance, or until the amount of award has been finally determined. The advancement authorized herein, with interest thereon at the rate of six per cent per annum from the date of transfer, is part of the cost of the improvement and the amount of the advancement with interest shall be returned to the fund from which it was advanced, subject to the apportionment of the city's share, if any.

Section 9-408. Remonstrances, Assessments and Collections. If a portion of the cost of eliminating a railroad grade crossing is to be financed by local improvement assessments, before adopting plans and specifications for the work, the council shall by resolution describe the property benefited and to be assessed. Notice of adoption of the resolution shall be given in the same manner as for street improvements. Remonstrances may be filed with the auditor by property owners within the time to be fixed by said resolution. Upon the expiration of that time, the council shall determine whether or not to proceed with the matter. If the council determines to proceed it may overrule any and all remonstrances. If the council elects to proceed on the basis of partial financing by assessment, it shall by ordinance fix the assessment district, fix the time and manner of making the improvement, and adopt plans and specifications therefor, as in the case of a street improvement. A contract or contracts for work and materials under the plans and specifications thereupon shall be made. The assessable portion of the cost shall be assessed against the property within the assessment district in the same manner as for street improvements. The contract shall not include raising or lowering tracks beyond the boundaries of the street. Assessments made hereunder shall be entered in the docket of city liens and collected in the same manner as other assessments and the amount to be paid by a railroad company also shall be entered in the docket of city liens and shall constitute

a lien against all property of the company in the city. If any railroad company fails to pay or bond the assessment within the time provided for paying or bonding assessments for street improvements, the city may proceed by court process to require payment, or may proceed to collect the same by suit or action as other assessments are or may be collected, or by both procedures.

Section 9-409. Bonding of Assessments; Changes of Grade. Persons, including railroad companies whose property has been assessed for the improvement eliminating a railroad grade crossing, have the right to bond their assessments in the same manner as provided for bonding assessments for other local improvements. No further proceedings shall be required to change the grade of the street than as specified in this article, and upon the completion of the improvement, the grade of the street shall be deemed changed to the grade established by the improvement.

Section 9-410. No Impairment of Duty Under Franchise or Ordinance. Nothing in this article shall impair the right of the city to require the holder of a franchise or other person, required by ordinance or otherwise to pave a portion of street, to move any facility at his own expense or to improve a portion of street, to carry out his obligation without expense to the city. For this purpose, elimination of grade crossings is a public work and improvement. No duty, express or implied, of the holder of a franchise, contract or permit shall be impaired by amendments to this chapter subsequent to the grant of franchise, contract or permit.

Section 9-411. Construction of Article. The provisions of this article relating to change of grade do affect other provisions relating to change of grade in this chapter. The provisions of this article shall be construed as an additional procedure which the council may follow in eliminating railroad grade crossings.

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 by any railroad or railroads in a district.

## ARTICLE 5. STREETS AND STREET IMPROVEMENTS.

Section 9-501. Definition of "Improve," and "Improvement." As used in this article, the terms "improve" and "improvement" include all construction, reconstruction, grading, regrading, paving, repaving,

surfacing, resurfacing, bettering and repairing roadways, bridges, trestles, means of access and egress, underpasses, overpasses, sidewalks, crosswalks, pedestrian ways, gutters, curbs, street drainage facilities and appurtenances therefor within any street.

Section 9-502. Improvement Procedure. The Council hereby is authorized: to order from time to time all or part of the streets of the city to be improved; to determine the character, kind and extent of each improvement; to levy and collect an assessment upon all lots and parcels of land specially benefited by the improvement to defray the whole or any portion of the cost; and to determine what lands are specially benefited by the improvement and the amount to which each parcel or tract of land is benefited. The procedural steps for an improvement shall be prescribed by ordinance.

Section 9-503. Remonstrances. Street improvement procedures established by ordinance shall provide for notice by publication of the council's intention to improve any street. 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 the proposed improvement, further proceedings in the making of such improvement are barred for a period of six months unless the owners of one-half or more of the property affected subsequently petition therefor. If an objection, remonstrance or petition is signed by the agent or attorney of any property owner, his authority to sign shall be filed with the auditor within the time provided for the remonstrance or petition, or the signature shall be disregarded. If no such objection or remonstrance legally signed by the owners of three-fifths of the property affected is filed, the council shall have acquired jurisdiction to order the improvement and may thereafter, 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 by ordinance provides for making an improvement, the city is deemed to have appropriated and acquired exclusive ownership of all earth above grade and within the street lines for that improvement.

Section 9-505. Completion of Work; Spread of Assessments. When a street improvement is wholly or partially completed to the satisfaction of the city engineer, the completed work may be accepted and property within the district assessed for the cost under procedures established by ordinance, with opportunity for objections to be heard.



Section 9-506. Improvement by Permit. Whenever the grade of any street has been established, the council may authorize the owner of abutting property to cut or fill the street in front of his property according to such grade, or to improve the same, or both, as the city engineer may direct, at the expense of that owner. This authority shall not be granted after notice has been given of the council's intention to improve the street so long as the council retains jurisdiction for the proposed improvement. In giving this authority, the council may impose such terms and conditions 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 by separate proceedings. The council may determine the grade and width of all sidewalks, materials to be used and specifications for construction. It is the duty of all owners of land abutting any street in the city to construct, reconstruct and maintain in good repair the adjoining sidewalks. If the owner of any parcel of land allows an adjoining sidewalk to be out of repair, the city engineer shall post notice on the property directing the owner, agent or occupant thereof immediately to repair it in accordance with city specifications. If the owner, agent or occupant of any parcel of land does not properly make the sidewalk repairs within the time designated in the notice, the city engineer may make the repairs, keeping an account of the cost and reporting it to the council with a description of the parcel of land abutting the repaired sidewalk. The council has the same general authority and supervision over sidewalk repairs as over street improvements. If the council finds the costs reported by the city engineer to be reasonable, it shall approve them and thereafter, at least once a year, by ordinance assess upon each of the parcels of land abutting repaired sidewalks, the cost of making the repairs with an additional overhead charge to defray the cost of notice, engineering and advertising. All such assessments may be combined in one assessment roll and they shall be entered on the docket of city liens and collected in the same manner as are other local improvement assessments.

Section 9-508. Damages for Negligence. Owners of land within the city are liable for all damages resulting from their failure to put an adjoining sidewalk in repair after notice to repair as provided in this article. No action shall be maintained against the city by or for any person injured because of any sidewalk defect.

**ARTICLE 6. SEWER IMPROVEMENTS.**

Section 9-601. Assessment District; Remonstrances. When the council has declared its intention 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 intention, in accordance with procedures prescribed by ordinance. Within 20 days from the date of first publication of the notice of intention, the owner of any property within the proposed assessment district or his agent who files proof of his authority, may file with the auditor a written remonstrance against the proposed sewer or the plans therefor, and the council, upon hearing the remonstrance, may discontinue proceedings in the matter. The council, however, may overrule any and all remonstrances and may order the improvement. The council also may require changes in the proposed plans or changes in the boundaries of the proposed assessment district, and in that event it shall declare by resolution its intention to proceed on the revised basis. Such resolution shall be published and remonstrance period given as in the first instance. Within three months from the date of final hearing on remonstrances, the council may provide by ordinance for the construction of the sewer as a local improvement. The improvement shall conform substantially to the plans and specifications previously adopted by the council.

Section 9-602. Joint Construction with County. The council may take action and proceedings for the construction of any sewer or drain jointly with any county; may levy and collect special assessments of benefits therefor; may enter into an agreement or agreements with any county for the construction, maintenance and use of sewers or drains and paying the cost thereof; may issue bonds to finance that portion of the cost agreed to be chargeable to property outside of the city; and may do all other things necessary or proper to provide for the construction of sewers or drains when the design, plan or method of construction will render them beneficial to property both within and without the limits of the city; and may perform all acts necessary to implement statutes relating thereto.

Section 9-603. Issuance and Sale of Bonds. Bonds may be issued and sold after construction of any such sewer or drain has been authorized, and each bond issue shall be limited to an amount that does not exceed the portion of the cost of such sewer or drain agreed upon with the county as the amount justly and equitably to be borne by property lying beyond the city limits. Such bonds shall not be issued for longer than 20 years, and shall be

general obligations of the city. No bonds shall be issued when the total such bonds then outstanding would exceed \$500,000.00. In lieu of issuing bonds, the council may provide for financing part or all of the cost agreed upon as chargeable to property outside of the city, from city funds. The council has authority to levy and collect an assessment against the property benefited by any sewer or drain lying beyond the city limits whenever that property is included within the city limits, if no previous assessments therefor have been made on the property, and to apply the money so collected toward payment of such bonds, or to reimburse the city for any payment, expenditure or advancement for such sewer or drain. Any agreement with the county may provide for the levy and collection by the county of an assessment against property whenever the sewer or drain may immediately benefit the property because of construction of an extension, lateral, branch, or otherwise.

#### ARTICLE 7. OTHER IMPROVEMENTS.

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

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 street lighting system within that district, the council has authority to install, operate and maintain such a system as a local improvement and to furnish electrical current therefor. The improvement may include initial installation, continuance or change of an existing installation, substitution of different materials or special styles or locations of lights or related facilities within the district, replacements, or any combination of



those items. The council may award contracts for all or a portion of the work, maintenance or electrical energy. The council may levy and collect local assessments on property benefited thereby for all or a portion of the cost. The council may authorize contribution from city funds to the cost of energy, operation and maintenance in the amount it finds an appropriate allowance for regular street lights rendered unnecessary by the special lighting system. Whenever all or part of the cost of a system is to be assessed to property benefited, the council shall take proceedings similar to those required for street improvement and the method of making and collecting assessments for street improvements shall apply, including the right to remonstrance and to bond the assessments for a period of time fixed by the council, not exceeding five years.

Section 9-703. Other Local Improvements. When the council determines that a certain 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 it as a local improvement and provide for the payment of all or a portion of the cost thereof by levy and collection of local assessments on the property benefited. The procedure for street improvements shall be followed. Jurisdiction of the council shall depend upon the extent and strength of remonstrance; provided, however, if the council determines that the public health or public safety demands immediate construction, the council may overrule any and all remonstrances and shall proceed as provided for sewer improvements.

#### ARTICLE 8. ASSESSMENTS AND COLLECTIONS.

Section 9-801. Assessment District. If the council finds that a particular lot, tract or parcel of land within the boundaries of a local improvement assessment district does not in fact receive any special and peculiar benefit from that improvement, it may exclude that property or show the assessment at zero when apportioning costs of the local improvement in accordance with benefits and spreading the assessment.

Section 9-802. Procedures for Assessments; Assessments Confirmed. By ordinance the council shall establish necessary or appropriate procedures concerning: proposals for assessment upon property within an assessment district of all or part of the cost of a local improvement; notice to property owners; opportunity to be heard on objections; approval and acceptance of work completed; and assessments by the council of the amounts of special and peculiar benefits accruing to each parcel of land from the particular local improvement.

An assessment shall not exceed the apportioned share of improvement costs nor exceed the amount of the benefits. Each parcel of land shall be considered benefited by the local improvement to the full amount of the assessment levied on it. Delays, mistakes, errors or irregularities in any act or proceeding in an improvement, in notices, in entry of assessment or in any related matter shall not prejudice or invalidate any final assessment, but the defect may be corrected by subsequent action.

Section 9-803. Assessment Lien; Payment. The docket of city liens is a public writing, and from the date of entry therein of an assessment, the sum entered is a tax levied and a lien upon the land against which it is entered. Assessment liens shall have priority over all other liens and encumbrances. The sum assessed for a local improvement shall be due and payable from the date of entry upon the lien docket, and if not paid or bonded as provided by law within ten days from that date, the amount of assessment then shall be delinquent and shall bear interest at the rate fixed by law.

When an assessment upon land becomes delinquent, any person who has a lien on that land by judgment, decree or mortgage, or who has purchased the land for any delinquent tax or assessment may, at any time before the sale of that land to collect the assessment, pay the same. Payment discharges the property from the effect of the assessment, and after payment the amount of delinquent assessment and any accruing costs and charges are part of that creditor's lien, and shall bear interest and be enforced and collected as a part thereof.

If the holder of any tax lien or claim pays the assessment, thereafter he may present the receipt to the officer who has charge of the tax roll or docket containing the record of tax sale at which he purchased the property. That officer shall note the amount of the assessment, interest, costs and penalties paid by that purchaser and shall exact repayment thereof with interest, from any person making redemption from the sale. No redemption shall discharge the property from the effect of sale unless that redemption includes the amount paid by the purchaser, after the purchaser has presented his receipt.

Payment of an assessment shall be made to the treasurer, who shall file a duplicate of the receipt with the auditor. The treasurer shall keep all money collected upon assessments for each improvement in a separate fund, which shall be used only for purposes connected with the improvement, except as otherwise provided in this chapter.

Section 9-804. Delinquency and Sale for Unpaid Assessments. If the sum assessed upon any land is not wholly paid within thirty days after entry of that assessment in the lien docket, or bonded within the time prescribed if bonding is permitted, the treasurer shall proceed to collect the unpaid assessments by advertising and selling the assessed land in the manner provided by law for sale of real property on execution, except as otherwise provided herein. Each parcel of land shall be sold separately and for a sum payable to the city equal to but not exceeding the unpaid assessment, interest and the cost of advertising and sale. Where there is 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 ten per cent of the amount paid to the city on the sale, and interest shall not exceed ten per cent per annum from the date of sale to the date of redemption. A sale of land hereunder conveys to the purchaser, subject to redemption, all the estate, interest, liens or claims of all persons, together with all rights and appurtenances belonging to it. No levy upon the land shall be required, except that a notice shall be posted at least four weeks before sale upon every parcel assessed to an unknown owner. A delinquent assessment, with interest and costs incurred to that date, may be paid any time prior to the sale. In case of sale, payment must be made in lawful money of the United States.

Immediately after a sale of land for delinquent assessment, the treasurer shall make and deliver to the purchaser a certificate of sale describing the property sold, the amount of sale, the name of the purchaser, and stating that the sale is made subject to redemption within the period fixed by ordinance, and any other information he finds appropriate. The certificate of sale also shall show the rate of penalty and interest bid and for which the sale was made, in addition to the principal sum of the sale payable to the city.

The treasurer shall report to the auditor the sales and collections on delinquencies and the auditor shall make proper entries in the lien docket. Thereafter no transfer or assignment of any certificate of sale hereunder shall be valid unless entry of that transfer or assignment has been noted by the auditor in the lien docket, after appropriate filing in his office. In case any property remains unsold, at the discretion of the auditor that property again may be offered for sale in like manner.



Section 9-805. Redemption. 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 owner, his legal representative, his successor in interest, any person having a lien by judgment, decree or mortgage, or the owner of a tax lien on property sold by the treasurer, may redeem it by paying to the treasurer, and presenting proof of payment to the auditor, the purchase price of the certificate, plus the penalty and interest on the purchase price from the date of the certificate. However, if redemption is 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. Redemption discharges the property from the effect of the sale. If redemption is made by a lien creditor, the amount paid for the redemption shall thereafter be a part of his lien, and shall bear like interest and may be enforced and collected as a part thereof.

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

Section 9-806. Deed; Effect Thereof. If the property is not redeemed during the redemption period, upon presentation of the certificate and demand by the holder, the treasurer shall execute to that holder, his heirs and assigns, a deed conveying the property sold, showing the date of the sale, the amount bid, the date of the assessment, a description of the assessment purpose, and a statement that the assessment was unpaid and the property not redeemed at the time of sale. The deed need contain no further recital of the proceedings prior to the sale. The treasurer's deed conveys to the grantee the legal and equitable title in fee simple to the real property described. That deed is prima facie evidence that title is in the grantee and that all proceedings and acts necessary to make the deed good and valid in all respects have been done. Such evidence shall not be disputed, overcome or rebutted, or the effect thereof avoided, except by satisfactory proof: (1) of fraud in making or collecting the assessment; (2) of payment of the assessment before sale or redemption after sale; (3) of fraud by the purchaser that prevented payment or redemption; or (4) that the property was sold for an assessment for which the property was not liable, and the owner at the time of sale was not liable.

Section 9-807. Limitations of Actions; Tender. Unless the assessment for which land was sold had been paid before the sale, or the land redeemed, every action, suit or legal proceeding that may be commenced to recover land sold by the treasurer for assessment, to quiet title of the former owner or his successors in interest against treasurer's sale, to set aside the sale or remove the cloud thereof, shall be commenced within three years from the date of recording the treasurer's deed. In such action, suit or proceeding, the party claiming ownership against the purchaser under the sale must pay into court at the time of filing his first pleading the purchase price and penalty paid the treasurer at the time of the sale, all taxes and assessments levied upon the land and paid after sale by the purchaser, his heirs or assigns, with interest thereon at ten per cent per annum from the respective dates of payment of purchase price, taxes and assessments by that purchaser, his heirs or assigns, up to the time of filing the pleading. This deposit is for payment to the purchaser, his heirs and assigns, if the right or title of the purchaser at the treasurer's sale is held insufficient.

Section 9-808. Mistakes in Notice. No record need be kept of mailing any notice prescribed in this article. A failure to mail, a mistake in mailing, or a mistake in a notice, does not invalidate the proceedings when notice is published or posted.

Section 9-809. Deficit Assessment. If the total sum assessed for a local improvement is found insufficient to defray its total cost, and the amount assessed to a parcel of land within the district is less than the benefits accruing to it, the council shall determine the deficit and spread the assessment therefor upon that land. The procedure shall be substantially the same as for spreading, recording and collecting the original assessment. The deficit assessment shall thereafter be a lien upon the parcel of land in like manner and with like effect as the sum originally assessed.

Section 9-810. Surplus. If the total cost of an improvement is less than the total sum previously assessed therefor, the auditor shall apportion the surplus in proportion to the original assessment. If he finds that the pro rata apportionment is equivalent to less than one dollar on a 5000 square foot lot with fifty foot street frontage receiving maximum benefit, the surplus need not be distributed but may be kept in the fund for the improvement until the fund is terminated. Otherwise the surplus shall be refunded or distributed proportionately as a credit to the assessment. Refund shall be made to the person who paid the surplus or his legal representative, heirs or assigns.

Section 9-811. Reassessment. When an assessment or deficit assessment for a local improvement is specifically or indirectly set aside, annulled, declared void, or its enforcement refused by any court having jurisdiction, or when the council is in doubt as to the validity of an assessment, a new assessment or reassessment may be made upon parcels of land benefited by the improvement to the extent of their proportionate shares of the full value of the benefit accruing at the time of the original assessment. A new assessment on property not previously assessed for a local improvement, with a change or cancellation of amounts originally assessed on other properties benefited by that improvement, is included within the term "reassessment." The council may add interest from the date of delinquency of the original assessment. The council may adopt a different plan of apportionment of benefits when it finds that change necessary to secure an equitable assessment of costs. The proceedings required before making the original assessment shall not be required for reassessments under this section. Reassessment procedure shall be established by ordinance. The reassessment shall be a lien upon the property against which it is entered in the lien docket, notwithstanding the failure of any person to comply with the provisions of this charter relating to the improvement and assessment, and notwithstanding that the proceedings of the council, an administrative act or the work may have been irregular or defective, whether such failure or irregularity is jurisdictional or otherwise. However, reassessment shall not be made for an improvement when remonstrances legally sufficient to defeat the improvement were timely filed. The council may revise, correct, or set aside and order the remaking of the reassessment. The reassessment made by the council shall be entered in the docket of city liens, enforced and collected as in the case of an original assessment. The council may omit from reassessment any property on which the original assessment was paid, and in any case all sums paid upon the original assessment shall be credited to the property for which they were paid, according to the date of each payment. When a treasurer's certificate has been issued on property in collecting the original assessment, upon the making of the reassessment the title to the property is cleared of the former sale to the extent prescribed by statutory procedure. A holder of an original treasurer's certificate under a void sale is entitled to reimbursement as prescribed by statute. No proceedings shall be instituted for reassessment after ten years from the date the council declares its intention to make the original improvement.

Section 9-812. Correction of Assessments. If the council finds that the assessment on any particular parcel of land exceeds the actual special benefit to that



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. If the council finds that the particular local improvement fund will be insufficient to pay for the shortage resulting from a correction of assessment, it may direct a deficit assessment for that shortage.

Section 9-813. Appeal. Any person who has filed objections to an initial assessment, a deficit assessment or a reassessment, that were not satisfied by the council or by amendments to the assessing ordinance, may appeal from that assessment to the circuit court of the county in which the property is located, to the extent permitted by statute and in accordance with statutory procedures.

Section 9-814. Proceedings Presumed Regular. In any action, suit or proceeding in court concerning assessment, deficit assessment or reassessment, or concerning the collection thereof, the assessment and all proceedings connected therewith are presumed to be regular and duly done or taken, until the contrary is shown.

Section 9-815. Collection of Deficit Assessments or Reassessments. A delinquent deficit assessment or reassessment may be collected by the same method as an original assessment.

If any parcel of land previously sold to collect an assessment is sold again to collect a deficit assessment, to any person other than the purchaser at the first sale or his successor in interest, the holder of the treasurer's certificate from the first sale is an owner for the purpose of notice and redemption, subject to the right of redemption by the owner of the property at the time of first sale, or his successor in interest.

Section 9-816. Alternate Methods and Procedures. Procedures provided by statute may be used in lieu of the procedures set forth in this article for original assessment, deficit assessment or reassessment and their collection.

Section 9-817. Termination of A Local Improvement Fund. After the purposes of a local improvement fund are completed, if any surplus remains in that fund, it may be transferred to the assessment collection fund provided for in this chapter.

## ARTICLE 9. FINANCING LOCAL IMPROVEMENTS; BONDING.

Section 9-901. Applications for Bonding. Within twenty days after notice of an assessment, deficit assessment or reassessment for a local improvement is first published, if the assessment exceeds a minimum fixed by the council, the owner of the property assessed may file with the Auditor a written application to pay the assessment in installments. The application shall state that the owner waives all irregularities and defects, jurisdictional or otherwise, in the proceedings for the local improvement and in the spread by assessment of the cost. It shall provide that the owner agrees to pay the assessment in twenty semi-annual installments, or the number of semi-annual installments permitted for the particular type of local improvement, with interest on all installments at six per cent per annum. The application also shall describe the applicant's property assessed for the improvement. The auditor shall not accept an application if the amount of that assessment, and all prior unpaid assessments on the same property, total more than the assessed value of the property or would exceed the ratio of total improvement assessments to assessed value fixed by the council, unless such excess is paid to the city treasurer in cash at the time of the application.

Section 9-902. Bond Lien Docket. After the time expires 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 parcel of land against which the assessment is made, the name of the owner, and the amount of assessment for which application to bond has been filed. The date of entry in the bond lien docket shall be the same as the date of entry in the original lien docket. Thereafter, that docket shall stand as a bond lien docket in favor of the city for the amount of the unpaid assessments docketed therein, with interest on unpaid assessments at six per cent per annum, against each parcel of land assessed, until the assessments and interest are paid. All unpaid assessments and interest are a lien upon each parcel of land in favor of the city, and that lien shall have priority over all other liens and encumbrances.

Section 9-903. Improvement Bonds. After the bond lien docket is made up for the particular local improvement, the council shall authorize by ordinance the issuance of bonds in any denomination, not exceeding the total amount of the unpaid improvement assessments as shown on the bond lien docket. Each bond shall mature in ten years unless

a different maturity is fixed by law. The bond shall bear interest, not to exceed six per cent per annum, payable semi-annually. Regulations concerning issuance shall be the same as for other bonds of the city. Each bond shall contain a call date and may be called for redemption upon the first day of any month at or after that call date. After notice of call or the date of redemption, interest shall not accrue. Each bond shall bear a registered number and the words "Improvement Bond" with the name of the city of Portland. At no time shall improvement bonds be sold for less than par and accrued interest. The bonds may be purchased by the city. The purchaser shall pay the proceeds to the city treasurer, and the par value of each bond shall be credited to the respective improvement funds for which the bond was issued. Accrued interest and any premium from the sale of the bonds may be credited to the general fund or such other fund as the council may direct.

Section 9-904. Installment Payments; Delinquency and Collections. Bonded assessments shall be paid in semi-annual installments beginning six months after entry in the original lien docket and extending equally over the bonding period for that class of improvement, plus accrued interest at six per cent per annum on the unpaid assessment balance. If payment of any installment is delinquent 20 days, the entire unpaid assessment balance is immediately due and payable, together with interest and penalties, and may be collected in the same manner as other delinquent assessments. Prior to sale of the property for collection, the owner may reinstate installment procedure by paying the delinquent installments with interest, costs of any advertising of sale, and a penalty of three per cent of the delinquent installments, whereupon the remaining installments shall be payable as though no delinquency had occurred.

Any time after applying to pay an assessment in installments and before sale of the property assessed for collection of delinquency, the owner may pay into the city treasury the entire assessment remaining unpaid, with accrued interest, and any costs and penalties applicable to delinquencies.

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, and interest paid on unbonded assessments, shall be credited to the fund charged with interest on payment warrants.



2552

Section 9-905. Sinking Funds; Investment; Bond Reissuance and Rebonding. After issuance of improvement bonds covering unpaid bonded assessment for a particular improvement, the treasurer shall keep an account of money paid upon bonded improvement assessments separate from other city funds. Installments paid on assessment principal and interest shall be placed to the credit of the "Improvement Bond Sinking Fund" and the "Improvement Bond Interest Fund," respectively, for application according to the terms of the bonds. Any excess in these funds may be transferred to the general fund, or other fund as the council directs. The principal of the bonds shall be paid from the Improvement Bond Sinking Fund and accrued interest shall be paid from the Improvement Bond Interest Fund.

The city may invest available money of other funds in improvement bonds, and may invest the money of the Improvement Bond Sinking Fund or of the Improvement Bond Interest Fund in improvement bonds. Improvement bonds purchased by the Improvement Bond Sinking Fund or the Improvement Bond Interest Fund may be held by the city and reissued or resold by direction of the council if necessary for payment of outstanding bonds on their call or redemption. The council may cancel bonds purchased by the Improvement Bond Sinking Fund or the Improvement Bond Interest Fund.

Whenever improvement bonds issued upon bonded assessments are redeemable and it appears to the council advantageous to redeem them, but money available in the Improvement Bond Sinking Fund is insufficient, the council may transfer money from another sinking fund as a temporary loan to the Improvement Bond Sinking Fund, to be repaid from the Improvement Bond Sinking Fund with interest at the rate fixed by the council not exceeding six per cent per annum. The council may authorize and provide for issuance and sale of new bonds upon bonded assessments to redeem outstanding bonds. Such new bonds shall be limited in amount to the amount of bonds to be redeemed from the proceeds, shall bear interest, be sold and be redeemable as provided in this charter. In case of a temporary loan, if property owners fail to pay into the Improvement Bond Sinking Fund a sufficient amount to repay the temporary loan when needed, the council shall provide money for repayment by the sale of bonds as provided in this section.

Section 9-906. Subdivision of Assessments. If the owner of a parcel of land assessed for a local improvement desires to divide that parcel into two or more parcels or to subdivide it into lots, he may make written application to apportion the lien standing against the whole parcel among the different parcels or lots.

25852

The auditor may make such apportionment and thereafter an initial bonding application applies to all the parcels or lots separately. The lien against each parcel or lot shall be released upon payment of its remaining apportioned share with interest.

Section 9-907. Assessment-Collection Bonds; Assessment-Collection Fund. To facilitate collection of delinquent assessments and to assist in financing local improvements, the council may issue and dispose of bonds to be known as Assessment-Collection Bonds. The total amount of these bonds shall not exceed \$1,500,000 outstanding at any one time. The bonds shall be general obligations of the city, and shall be issued and sold in any denominations in the same manner as other bonds of the city. The rate of interest thereon shall not exceed six per cent per annum and their maturity shall not exceed 20 years.

Money from the sale of the bonds, after paying from the proceeds the costs of advertising and sale, shall be deposited in a special fund known as the "Assessment-Collection Fund," which may be used under council direction for purchasing property by and in the name of the city at treasurer's sale or other sale for city assessments, and at foreclosure sales for delinquent taxes, to protect the interest and rights of the city in the property. Net proceeds from the sale of property purchased from the Assessment-Collection Fund shall be credited to that fund.

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

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

The council may provide for the sale and assignment of certificates of sale and the assignment or conveyance of the rights of the city in such property either before or after receiving the deed from the city treasurer or from county officials; may provide for sale of the property under contract for not more than ten years; may pay real estate commissions, court costs, legal and clerical services and all other expenses related to the purchase and clearance of title; may purchase or redeem any treasurer's certificates of sale outstanding against the property; may pay any tax liens outstanding against the property; may transfer money from the Assessment-Collection Fund to the general fund, provided that provision is made for redemption of outstanding Assessment-Collection Bonds; may provide for waiving penalty in case redemption is made within the first six months after sale; may provide that in case redemption is made between six and twelve months after sale, the penalty in excess of five per cent shall be remitted; may pay any bonded or open liens outstanding against the property and cancel assessments against it; and may enact ordinances to give full effect to this section.

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



Section 4. All of Chapter XI of said charter is amended by substituting for the present Chapter XI thereof a new Chapter XI which 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 water to the city, its property, its inhabitants, and the places and people along or in the vicinity of the pipes, conduits or aqueducts constructed or used for that purpose. The city may acquire by purchase or otherwise, own and possess real and personal property or interests therein, within and without the limits of the city, which the council finds necessary or convenient. The council may establish and maintain headworks and supply sources, with all convenient reservoirs, tanks, pumps, supply systems, distribution and related facilities, including land and interests in land, and may acquire other water systems serving property within present or future boundaries of the city. The council may make all necessary expenditures to carry out these purposes and may enter into contracts for supply of water by the city or supply of water to the city or its inhabitants. Any surplus water may be sold to persons, public or private, outside the city, on terms and conditions the council finds appropriate.

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

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

In the bureau of water, the engineer in charge of the engineering staff, the person in charge of the business office, and the head of the bureau shall not be subject to civil service requirements of this charter.

Section 11-103. Water Bonds. In order to provide funds for construction, reconstruction, replacement, extension, acquisition and maintenance of water plant and property, and the acquisition of water systems, the council may issue bonds of the city in denominations and for terms the council determines, in the same manner other bonds of the city are issued. These bonds shall be general obligations of the city, but primarily payable from water revenue. These bonds shall not be included within the debt limit elsewhere prescribed in this charter. No bonds shall be issued under this section in any year which, with the net outstanding water bond indebtedness, would exceed the total original cost of existing plant and property of the water works and system.

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

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

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

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

The council may fix special charges for connections, disconnections, turn-ons, discontinuances of service, all special services or work, and other contingencies, situations or conditions, which it finds advantageous or appropriate from time to time. Charges and bills may be adjusted as found just and equitable.

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

## ARTICLE 2. SPECIAL FACILITIES.

Section 11-201. Municipal Auditorium. The council may construct, reconstruct, repair and maintain a building or buildings for use as municipal auditorium and related facilities. The council may fix fees and impose charges for use of auditorium facilities and services, and may waive or reduce the fees and charges to the extent it finds appropriate in the public interest. The council or the commissioner in charge may make rules and regulations for management and control of the auditorium facilities and services. The council may delegate management and control to any commission established by charter, notwithstanding stated functions and limitations on that commission, or to any commission established by ordinance for that purpose. Employees and positions connected with the municipal auditorium and related facilities are not within the classified civil service of the city unless included therein by vote of the people. In case the revenues from the auditorium and any related facilities are insufficient to pay for maintenance and operation, the council may pay the deficit out of the general fund. The council may permit use without charge of any surplus space in a building or facility, for the purposes of a nonprofit organization devoted in whole or in part to the preservation of matters of historical interest, and for use and occupancy by any bureau, department or office of city government.

## 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, and plants for the treatment and disposal of sewage. For that purpose the city may acquire by any lawful means property, real or personal, interests in property, equipment, and related facilities and may make all expenditures which the council finds necessary or appropriate to carry out such purposes, either within or without the corporate limits. The city may sell or otherwise dispose of any or all by-products or salvage products from this operation. The city also may contract with any other person, public or private, to further purification of public waters or protection of the public health.

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, use or both, of sewers and sewage purification or disposal systems. A sewer user service charge may be imposed and collected as the council finds necessary or appropriate to be paid by property which is served or is capable of being served by the sewage disposal system, for each billing period. The amount of the city sewer user service charge within the city shall not exceed 66-2/3rds per cent of the charge then currently fixed by the council for 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 66-2/3rds per cent of the monthly average of the water bills to that dwelling for the previous four months. If bills have not been incurred for each of the four months prior to June, then the monthly sewer user service charges for the summer period shall not exceed 66-2/3rds per cent of the average of the water bills of the previous months, less than four months. Where there has been no water bill for one month prior to June in any year, the sewer user service charge for the summer period shall not exceed 66-2/3rds per cent of the minimum water charge for that dwelling. All sewer user service charges shall be collected by the water bureau coincidentally with its collection of water bills and charges. The water bureau shall be compensated for billing and collection 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 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 special requirements and regulations. Sewer user service charges shall be paid for all premises directly or indirectly connected to a city sewer, whether or not the cost of constructing that sewer has been or may be charged to the premises through local improvement procedures or otherwise. Sewer user service charges shall be paid for every parcel of land within 100 feet of a right of way in which a sewer is located, whether or not the parcel is connected to that sewer, if the parcel is put to a use requiring sewage facilities.

The city may contract to provide or obtain sewage disposal, treatment and purification. The city may impose charges for sewer connection, sewage transportation, disposal, treatment, and purification, 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 from the charges shall be placed in the Sewage Disposal Fund, and may be expended for any matter connected with the sewer, sewage disposal or treatment system of the city, and related bonded debt and debt service.

Section 11-303. Use of Sewers. The council may require any property located within 100 feet of a right of way in which there is a city sewer, to connect to that sewer.

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

To facilitate sewage treatment and protect the city's sewage facilities, the city may limit the classes or kinds of sewage that may be discharged or may continue to be discharged into public sewers, may prohibit discharge of wastes other than domestic sanitary sewage into public sewers or facilities, and may require private pretreatment before discharge, upon terms fixed by the city engineer.

Section 11-304. Intent of Article. This article shall be construed as granting additional authority, and not in derogation of any authority granted elsewhere in this charter. This article shall not affect authority of the council concerning local sewer improvements and the assessment of benefits therefor. The council also shall have all authority now or hereafter granted by statute concerning disposal and purification of sewage and waste.

Section 5. All of Chapter XII of said charter is amended by substituting for the present Chapter XII thereof a new Chapter XII which shall read as follows:

## CHAPTER XII

### PUBLIC FACILITIES AND WORKS

#### ARTICLE 1. RECREATION AREAS.

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



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

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

## ARTICLE 2. FINANCING OF REVENUE PRODUCING FACILITIES.

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

facility, and related matters.

### ARTICLE 3. PERFORMANCE OF PUBLIC WORKS.

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

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 6. All of Chapter XIII of said charter is amended by substituting for the present Chapter XIII thereof a new Chapter XIII which shall read as follows:

#### CHAPTER XIII

#### CHARTER REVISION AND INTERPRETATION

#### ARTICLE 1. REPEALS, AMENDMENTS AND RE-ENACTMENTS.

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

previously contained in the charter shall continue until the contract, public work, facility, structure, project or program is completed, or the action carried out.

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

Section 13-102. Continuance of Original Charter Provisions as Ordinances. Ordinance provisions originally included in a charter, subsequently continued as ordinances and not amended, repealed or superseded, shall continue in full force and effect as ordinances until amended, repealed or superseded by the council. Reinclusion of the same authority or procedure in the charter removes authority of the council to affect them.

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

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

## ARTICLE 2. CONSTRUCTION AND INTERPRETATION.

Section 13-201. Restrictions and Limitations. Any restriction or limitation imposed on the authority of the council by charter provision, applies only as its language explicitly and necessarily requires. Simultaneous or subsequent specification of authority is not exclusive and does not impair other or general authority and power granted by existing or future charter provisions, by statute or by general law. Specification of procedures does not exclude other or alternative procedures unless expressly stated to be exclusive. The city has authority



to carry out general or special powers expressed or implied by charter, statute or general law, as the council finds necessary or convenient. This section applies, unless expressly negated, to all present and future charter provisions.

Section 13-202. Intent of Reinclusion of Former Charter Provisions. Whenever a provision in a city charter has been continued as an ordinance provision and subsequently reincluded in the charter without substantive change, the reincluded provision shall be a continuance of the prior charter provision to the extent of its reinclusion as though continued in the charter without interruption.

Adopted by the Council AUG 10 1966

*MS*

*[Signature]*  
Auditor of the City of Portland

Order of Council  
MCR:jw 8/5/66

*[Signature]*

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RESOLUTION No. **29852**

A Resolution submitting to the voters at a special election to be held at the same time as the municipal general election in the city November 8, 1966, an act revising certain sections of Chapter VI and all of Chapters IX, XI, XII and XIII of the City Charter, relating to administration and function of the Commission of Public Docks, local improvements, special services, public facilities and works, and interpretation, so as to remove obsolete or inconsistent provisions and to modify, simplify, clarify and modernize other provisions.

THE COMMISSIONERS VOTED AS FOLLOWS		YEAS	NAYS
BEAN	/		
BOWES	/		
EARL	/		
GRAYSON	/		
SCHRUNK	/		

Filed AUG 5 1966

**RAY SMITH**

Auditor **CITY OF PORTLAND**

By *Robert [Signature]*  
Deputy