

## **APPENDIX A**

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### **CITY OF PORTLAND CHARTER**

**CHAPTER 9  
LOCAL IMPROVEMENTS; ASSESSMENTS; COLLECTIONS**

**ARTICLE 4           STREETS AND STREET IMPROVEMENTS**

**Section 9-401 Definition of “Improve” and “Improvement”**

(New sec. November 8, 1966; am. November 3, 1992)

As used in this Article, the terms “improve” and “improvement” include all construction, reconstruction, grading, re-grading, paving, re-paving, 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 9-403 Remonstrances**

(New sec. November 8, 1966; am. November 3, 1992.)

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

**Section 9-407           Sidewalk Improvements and Repairs; Duty of Owners**

(New sec. November 8, 1966; am. November 3, 1992.)

Sidewalks may be improved either as a part of a general street improvement or by separate proceedings. The Council may determine the grade and width of all sidewalks, materials to be used and specifications for construction. It is the duty of all owners of land abutting any street in the City to construct, reconstruct and maintain in good repair the adjoining sidewalks. If the owner of any parcel of land allows an adjoining sidewalk to be out of repair, the City Engineer shall post notice on the property directing the

owner, agent or occupant thereof immediately to repair it in accordance with City specifications.

If the owner, agent or occupant of any parcel of land does not properly make the sidewalk repairs within the time designated in the notice, the City Engineer may make the repairs, keeping an account of the cost and reporting it to the Council with description of the parcel of land abutting the repaired sidewalk. The Council has the same general authority and supervision over sidewalk repairs as over street improvements.

If the Council finds the costs reported by the City Engineer to be reasonable, it shall approve them and thereafter, at least once a year, by ordinance assess upon each of the parcels of land abutting repaired sidewalks, the cost of making the repairs with an additional overhead charge to defray the cost of notice, engineering and advertising. All such assessments may be combined in one assessment roll and they shall be entered in the docket of City liens and collected in the same manner as are other local improvement assessments.

### **Section 9-408 Damages for Negligence**

(New sec. November 8, 1966; am. November 3, 1992)

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.

## **CITY OF PORTLAND CODE**

### **TITLE 10 EROSION AND SEDIMENT CONTROL REGULATIONS**

(Amended by Ord. No. 175205; effective March 1, 2001.)

The City has determined that the health of rivers within and serving the City is important to our environmental and economic health. A public outreach and review process was conducted to discuss the future of erosion control within the City. The public process revealed a need for greater erosion control throughout the City.

**10.10.020** This Title provides requirements for development and construction related activities in order to control the creation of sediment and to prevent the occurrence of erosion at the source during construction and development.

**10.30.010** This Title applies to all ground disturbing activities whether or not a permit is required, unless such activities otherwise are exempted by Portland City code. All non-permitted ground disturbing activities that are

permanent or temporary in nature shall comply with this Title unless otherwise noted.

- 10.30.020** The following minimum requirements apply to all development and ground disturbing activities:
1. No visible and measurable sediment or pollutant shall exit the site, enter the public right-of-way or be deposited into any water body or storm drainage system.
  2. Depositing or washing soil into a water body or the storm drainage system is prohibited.
  3. Ground disturbing activities requiring a permit shall provide adequate public notification of the City's Erosion Control Complaint Hotline.
- 10.70.060** Violations of this Title may result in civil penalties and/or Administrative Enforcement fees.
- 10.70.070** A responsible party may appeal a written notice of a violation or civil penalty to the Codes Hearings Officer in accordance with Title 22 of the City Code.

## **TITLE 16 VEHICLES AND TRAFFIC**

### **16.70.810 Street Obstructions and Dangerous Conditions (Barricades)**

(Added by Ord. No. 176585; effective July 5, 2002.)

No persons, whether acting as **private citizen**, principal, employee or agent, shall:

- A. Between the hours of sunset and sunrise, place or allow to remain on any street any obstruction, other than a lawfully parked vehicle or any permitted structure, unless a clearly displayed warning light or lights are;
  1. plainly visible for 200 feet in either direction parallel to the street and at least 25 feet in all other directions and,
  2. placed on the edge or side of the obstruction nearest the center of the street.
- B. At any time, create a dangerous condition on any street without erecting and maintaining a distinctly visible barricade which provides a clear indication of the danger and directs people safely around it; and/or
- C. Remove such a barricade from any street while the danger continues.

## **TITLE 17 PUBLIC IMPROVEMENTS**

(Revised December 31, 1997)

### **17.28.010 Sidewalk Defined**

(Amended by Ord. No. 177028; effective December 14, 2002.)

A “sidewalk” means the portion of the street intended for the use of pedestrians. Unless the street area has been designated as a pedestrian mall, or unless the entire street has been designated primarily for pedestrian use, for the purpose of this Chapter, “sidewalk” is that part of a street on the side thereof intended for the use of pedestrians, improved by surfacing.

### **17.28.020 Responsibility for Sidewalks and Curbs**

- A. The owner(s) of land abutting any street in the City shall be responsible for constructing, reconstructing, maintaining and repairing the sidewalks, curbs, driveways and parking strips abutting or immediately adjacent to said land, except as provided in Subsection B.

Said property owner(s) shall be liable for any and all damages to any person who is injured or otherwise suffers damage resulting from the defective condition of any sidewalk, curb, driveway or parking strip adjacent to said land, or by reason of the property owner’s failure to keep such sidewalk, curb, driveway or parking strip in safe condition and good repair.

- B. Curbs shall be maintained by the City, except when in combination with the sidewalk and when they have been willfully damaged. Intersection corners and curbs adjacent thereto may be installed by the City when sidewalks and curbs are constructed up to the intersection on the same side of the street.
- C. The City Engineer shall maintain general construction and maintenance specifications for sidewalks, curbs, driveways and/or parking strips. The City Engineer shall use the specifications to determine compliance with this Chapter of Code. The City Engineer shall provide copies of the specification to any person upon request, and make the specifications available for public inspection during normal office hours.

### **17.28.025 Property Owner Responsible for Snow and Ice on Sidewalks**

- A The owner(s) and/or occupant(s) of land adjacent to any street in the City shall be responsible for snow and ice removal from sidewalks abutting or immediately adjacent to such land, notwithstanding any time limitations.

- B. Property owner(s) and/or occupant(s) shall be liable for any and all damages to any person who is injured or otherwise suffers damage resulting from failure to remove snow and/or ice accumulations.
- C. Property owner(s) and/or occupants shall be liable to the City of Portland for any amounts paid or incurred consequent from claims, judgment or settlement, and for all reasonable investigation costs and attorney fees, resulting from the responsible property owner's or occupant's failure to remove snow and ice accumulations from such sidewalks as imposed by this Code.

**17.28.070 Owners to Repair Sidewalks and Curbs – Notice to Repair**

(Amended by Ord. No. 155279, effective November 3, 1983.)

After a sidewalk has been improved or constructed, either alone or in combination with a curb, the owner of land abutting the street area in which the sidewalk has been constructed shall be responsible for maintaining such sidewalk and curb in good repair. If the City Engineer finds that any such sidewalk or curb needs repair, he shall post a notice on the adjacent property headed "Notice to Repair Sidewalk" (or curb) which shall in legible characters direct the owner, agent, or occupant of the property immediately to repair the sidewalk or curb, or both in a good and substantial manner in accordance with the plans, specification and regulations of the City.

The City Engineer shall file with the Auditor an affidavit of posting of the notice, stating the date when and the place where the same was posted. After filing, the Auditor shall send by mail a notice to repair the sidewalk or curb, or both, to the owner, if known, of such property, or to the agent (if known) of the owner, directed to the post office address of the owner or agent when known to the Auditor, or if the post office address is unknown to the Auditor, the notice shall be directed to the owner or agent at Portland, Oregon. A mistake in the name of the owner or agent, or a name other than that of the true owner or agent of the property, or mistake in address shall not invalidate said notice, but in such case the posted notice shall be sufficient.

**17.28.080 Permit for Sidewalk and Curb Repairs**

After notice to repair defective sidewalk or curb, or both, has been posted, the owner, agent or occupant shall make the repairs within 20 days from the date of posting. Any person desiring to repair a defective sidewalk, curb or both, either before or after notice to repair has been posted, shall first obtain a permit for which no fee will be charged. The permit shall prescribe the kind of repair to be made, the material to be used, and specifications therefor, including the location and size. Any person desiring to construct or reconstruct sidewalk or curb, or both, shall first obtain a permit therefor and pay the fees elsewhere prescribed in Chapter 17.24.

### **17.28.090      Repair by City**

If the owner, agent or occupant of any lot, part thereof or parcel of land which has been posted with notice to repair a sidewalk or curb, or both, shall fail, neglect or refuse to make repairs within the period of 20 days after posting, the City Engineer may as soon as the work can be conveniently scheduled, make the repairs, and the cost shall be determined and assessment made as provided in this Chapter.

### **17.28.150      Billing for Charges**

- A.      When work is completed on any construction, reconstruction or repair of a sidewalk, curb or driveway, the amount of the charge shall be determined by the City Engineer or responsible bureau and reported to the City Auditor. The City Auditor shall calculate a proposed assessment that includes the amount of the improvement charge plus 10% of the charge to defray the administration costs of notice, assessment and recording.
  
- B.      The City Auditor shall prepare a proposed assessment notice consisting of the following information:
  - 1. The legal description and site address of the property;
  - 2. The proposed assessment amount;
  - 3. The manner and deadline for filing written objections to the proposed assessment amount and a statement that the specific reasons for the objection must be stated in writing;
  - 4. The date, time and location of the public hearing for Council consideration of the proposed assessment;
  - 5. A statement that the final assessment will be recorded in the Docket of City Liens, and will be a lien which has first priority against the property as provided by state statute;
  - 6. A statement that the final assessment may be paid in full or paid in installments if authorized by Code;
  - 7. A statement that the assessment shall be paid or financed, or an objection filed, within 20 days of the date of the notice. The statement must state that the objection must be in writing, must state the particular reasons for the objection, and must be filed with the City Auditor;
  - 8. A statement that if an objection is filed, the assessment shall be paid or financed within 20 days of the date of the notice of the final decision in

response to the appeal and the amount of assessment and interest shall date back to the date of the notice of the final decision; and

9. A statement that a delinquent final assessments may be collected by foreclosure and property sale.
- C. The City Auditor shall mail the proposed assessment notice by first class mail to the owners of the affected property. The notice shall be deemed given upon deposit U.S. mail.

**17.28.160 Assessment of Charges**

- A. The City Auditor shall refer to the City Engineer or responsible bureau all remonstrances and remove from further assessment action the proposed assessments which are associated with the remonstrances. The City Engineer or responsible bureau shall review each remonstrance by taking the following actions:
1. Determine whether the improvement work was required by Code and whether the conditions required the improvements, whether the required improvements are consistent with Code and City specifications, and whether the improvement charges are calculated as provided by Code; and
  2. Determine the extent of actions or adjustments which are necessary to bring the proposed assessment into compliance with Code and program standards; and
  3. Mail a statement of findings to the remonstrating property owner, and file a copy with the City Auditor. The findings shall include a statement that the property owner may appeal the determination to the Council.
- B. The Council shall conduct a public hearing on the proposed assessments, however is should be held no sooner than 20 days following the date of the proposed assessment notice as provided in this Chapter. The Council shall consider and make its determinations based on the requirements of this Code and the City specifications maintained by the City Engineer. The Council shall affirm or modify the proposed assessments based on its findings. The Council's decisions shall be implemented by ordinance which sets forth its findings and decision. The decision of the Council may be appealed to the court by writ of review.
- C. Following adoption of the assessing ordinance, the City Auditor shall mail a final assessment notice to the owners of the affected property as shown on the last available assessment roll in the office of the county assessor. The notice shall be deemed given upon deposit in the U.S. mail. The notice shall contain the following information:
1. The legal description and site address of the property;



2. The final assessment amount;
  3. A statement that the final assessment is recorded in the Docket of City Liens, and is a lien which has first priority against the property as provided by state statute;
  4. The manner and deadline for paying the final assessment in full or requesting to pay the final assessment in installments if authorized by Code;
  5. The interest, penalties and collections costs which shall be charged if the final assessment is not paid or an installment payment contract is not filed before the deadline contained in the notice; and
  6. A statement that delinquent final assessments may be collected by foreclosure and property sale.
- D. The City Auditor shall maintain a Docket of City Liens containing final assessments on property. Any unpaid final assessment shall be recorded in the City lien docket, and it shall be binding upon the property owner and all subsequent property owners of the property or any segregated part of it. The docket shall stand thereafter as a lien docket the same as ad valorem property taxes assessed in favor of the City against each lot or parcel of land until paid, for the following;
1. The amount of the unpaid final assessments docketed, with accrued interest at the rate determined by the City Council, or in the case of an installment contract, at the rate set forth in the contract, and
  2. Any additional interest, penalties, or billing charges imposed by the City with respect to any installments of final assessments which are not paid when due.
- E. All unpaid final assessments together with accrued and unpaid interest and penalties and billing charges are a lien on each lot or parcel of land respectively, in favor of the City and the lien shall have first priority over all other liens and encumbrances whatsoever.
- F. The City shall enforce assessment liens and installment payment contracts under this Chapter in the same manner as other City assessments as set forth in Title 5.

**17.52.020 Sidewalks to be Kept Cleaned of Leaves and Organic Matter**

It is the duty of the occupants of the premises or the owner of such premises, if the same is unoccupied, to keep the sidewalk clean from branches, leaves, flowers, fruit or other organic matter fallen thereon.

**17.52.040 Curb or Sidewalk Damage from Ornamental Trees**

When the curb or sidewalk, or both, abutting any land becomes damaged or in a state of disrepair because of an ornamental tree maintained by the property owner, the repair of the curb or sidewalk, or both, shall be treated as other curb or sidewalk repairs in accordance with the provisions of this Title. The removal of any tree or portion thereof as the City Engineer may determine necessary, shall be deemed a part of the curb or sidewalk repair.