

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

**RECODIFIED AND ANNOTATED**

Recodification Adopted  
by the Council  
of the  
City of Portland, Oregon  
by  
Ordinance number 76832, passed March 11, 1942  
and revised in part by subsequent amendments  
through November 8, 1966.

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### EXPLANATORY NOTE

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

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### THE CHARTER of the CITY OF PORTLAND, OREGON

#### "AN ACT.

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

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### CHAPTER I

#### CORPORATE EXISTENCE AND POWERS

##### **ARTICLE 1. POWERS, RIGHTS AND LIABILITIES.**

###### **Section 1-101. Continuation and Grant of Corporate Powers.**

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

**Section 1-102. Grant of General Powers.** The city of Portland shall be invested within its corporate limits and within the limits of property it holds or occupies outside its corporate limits, with authority to perform all public and private services, including those of an educational or recreative character as well as others, with all governmental powers except such as are expressly conferred by law upon other public corporations within such limits and subject to the limitations prescribed by the constitution and laws of the state, and with authority to acquire by purchase, condemnation or otherwise property within and without its limits, and to perform

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any function or service or to have any authority permitted by law outside its limits. [Ch. 1903, sec. 3; am. May 3, 1913, sec. 2; rev. 1914, sec. 3; 1928 pub., sec. 3; 1942 recod., sec. 1-103; rev. May 18, 1962.]

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

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

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

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

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

No dedication by the city of any park, playground or public place shall be terminated unless the council finds that such dedi-

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cated area is no longer needed for the dedication purpose, or that another public use has a greater need for such property, or that another location would further the public use. When such dedication is terminated, the property may be leased, sold or exchanged.

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

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

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

**Section 1-105. Nonliability for Defective Sidewalks, Etc.** No recourse shall be had against the city for damage or loss to person or property suffered or sustained by reason of the defective condition of any sidewalk, curb, street, avenue, lane, alley, court or place, or by reason of the defective condition of any sewer, or by reason of any defective drainage, whether any of said defects originally existed, or whether they were occasioned by construction, excavation or embankment; nor shall there be any recourse against the city for want of repair of any sidewalk, curb, street, avenue, lane, alley, court, or place, or by want of repair of any sewer; nor shall there be any recourse against the city for damage to person or property suffered or sustained by reason of accident on sidewalk, curb, street, avenue, lane, alley, court or place or by falling from any embankment thereon or into any excavation therein; but in such case the person or persons on whom the law may have imposed the obligation to repair such defect in the sidewalk, curb, street, or public highway, or in the sewer, and also the officer or officers through whose official negligence such defect remains un-repaired shall be jointly and severally liable to the party injured for the damage sustained. [Ch. 1903, sec. 8; rev. 1914, sec. 281; 1928 pub., sec. 281; 1942 recod. sec. 1-110; rev. May 18, 1962.]

**Section 1-106. Damage Claims.** Every claim for damages against the city arising from an alleged tort or from a claim of

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implied contract must be presented to the council and filed with the auditor within six months from the taking effect of this amendment if not otherwise barred, or within six month after the event which caused the claim unless the council, upon proof of a good excuse, permits a later filing; otherwise there shall be no recovery on any such claim. No ordinance shall be passed allowing any such claim, or any part thereof, or appropriating money or other property to pay or satisfy the same, or any part thereof, until such claim has been referred to the proper department, nor until such department has made its report to the council thereon pursuant to such reference, unless judgment has been rendered on such claim. No action shall be maintained against the city for any claim for damages until the same has been presented to the council and filed with the auditor, as above set out, and sixty days have elapsed after such presentation. [Ch. 1903, sec. 9; rev. 1914, sec. 282; 1928 pub., sec. 282; 1942 recod. sec. 1-111; rev. May 18, 1962]

### **Section 1-107. Certain Fair and Moral Obligations May Be Paid.**

To the end that the council may provide for paying claims which it finds to be fair and moral obligations of the city but barred by charter exemption or by reason of governmental immunity, it may in its discretion direct payment or settlement, provided that an affidavit of the claimant or person representing the claimant and having knowledge of the facts is filed with the city auditor within thirty days after the event which caused the claim (unless the council, upon proof of a good excuse, permits a later filing) showing therein the name, age and address of the claimant, the time and facts which give rise to the claim, the persons present, if any, able to substantiate the facts and circumstances, the name of the city officer or employe first contacted with reference to the claim, the name and address of the physician and/or surgeon who attended the claimant if the claim be based on personal injury treated by a physician or surgeon, a description of the injuries if personal injury was sustained, a particular statement of the damage, if real and/or personal property was damaged, the places of residence and address of the claimant during three years preceding the claim, a detail of the expense constituting the claim, in so far as expense shall have been and/or probably will be incurred, and such other data as will give the city an opportunity to readily ascertain the facts, extent of injury, cost resulting therefrom and the integrity of the claimant. When insurance (covering the claimant, the city or the city employe involved) applies, the claim shall not be allowed as to any portion covered by the insurance and inuring to the claimant. No claim shall be allowed the enforcement of which would be barred by the statute of limitations, and no payment shall be made unless the claimant accepts the amount allowed as in full compromise and settlement of all amounts claimed or to be claimed against the city, its officers or employes arising from the same facts. In the event that no settlement is made, nothing herein contained or done hereunder shall prejudice the city in any defense that it may have in any suit or action. Nothing con-

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tained herein shall be construed as giving any right to institute or maintain any suit or action which would not otherwise exist. [May 17, 1946, new sec., 1-112; recod., May 18, 1962.]

### ARTICLE 2. BOUNDARIES AND ANNEXATION.

**Section 1-201. Boundaries.** All property surrounded by the corporate limits of the city of Portland as described and officially filed from time to time as set forth in this section is hereby embraced within the city of Portland. Within ten days after this amendment becomes effective and the official canvass of votes is completed and results of election on this amendment are proclaimed, the council shall adopt a resolution describing such boundaries. Certified copies of such resolution shall be filed by the city auditor with the Secretary of State and the Librarian of the Supreme Court of the State of Oregon, with the county commission or county court of each county in which a portion of the city is located, and with the clerk, assessor, surveyor, engineer, elections officer, and tax supervising and conservation commission, if any, of each such county, and such other official as may be required by statute. [Ch. 1903, sec. 12; rev. 1914, sec. 9; 1928 pub., sec. 9; 1942 recod., sec. 1-201; am. May 18, 1962.]

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

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

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### CHAPTER II GOVERNMENT

#### ARTICLE 1. THE COUNCIL.

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

**Section 2-102. City Council.** The city council of the city of Portland shall consist of a mayor and four commissioners. [1942 recod. sec. 2-101; rev. Nov. 6, 1962.]

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

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

**Section 2-105. Continuation of Specific Powers.** The city of Portland by its council has power and authority, subject to the provisions, limitations and restrictions contained in this charter or in statute, to exercise any power or authority granted to the city by statute, general or special, or by this charter, and may do any other act necessary or appropriate to carry out such authority, or exercise any other power implied by the specific power granted. [Ch. 1903, sec. 73; May 3, 1913, new sec. 34; rev. 1914, sec. 34; 1928 pub., sec. 34; 1942 recod. sec. 2-105; am. Nov. 6, 1962.]

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

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1. To exercise within the city and city-owned property, all the powers commonly known as the police power to the same extent as the State of Oregon has or could exercise said power within said areas, and to make and enforce within said areas all necessary or appropriate water, local, police, sanitary and safety laws and regulations.
2. To secure the protection of persons and property and to provide for the health, cleanliness, ornament, peace, safety and good order of the city.
3. To provide for entering into contracts by the city for a period not exceeding five years and the extension or renewal thereof by option or otherwise, for not to exceed an additional five years, except as to property contracts which may extend for more than five years, or as otherwise permitted by this charter or by statute.
4. To enter into agreements without limitation as to term, as the council finds appropriate, for cooperation, consolidation of services, joint acquisition or ownership and maintenance of facilities or services, with any other public corporation or unit of government.
5. To establish, construct, maintain, equip and alter buildings and facilities found necessary or appropriate for administration of government or for use by or for the public.
6. To purchase, or acquire by condemnation or otherwise, or to lease, for such term as the council may find appropriate, which need not be limited to five years, such property, real and personal, as may be needed for public use; in purchasing property, to enter into lease-purchase agreements or other contracts of purchase which may extend for more than a five year period; to obtain options; and to mortgage for the term of the purchase as security for the purchase price the property being purchased.
7. To provide for the purchase of property levied upon under execution in favor of the city.
8. To purchase, take and hold real or personal property when sold for a delinquent tax or assessment levied or imposed under the authority of the city of Portland, and to sell and convey the same. But the sum bid by the city on or for any such property so sold for a delinquent tax or assessment, shall not exceed the amount of all taxes and assessments plus interest and penalties, and the necessary costs and expenses.
9. To sell by bid or public auction abandoned or impounded and unclaimed property, and property for which storage charges and removal charges, if any, have not been paid.
10. To provide a seal for the city and seals for the several boards and officers thereof and a seal for the municipal court.



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**11.** To establish and regulate the fees and compensation of all officers of the city, and for all official services not otherwise provided for in this charter.

**12.** To fix by ordinance the hours during which all offices and departments of the city shall be kept open for business.

**13.** To appropriate money to pay the debts, liabilities and expenditures of the city or any part or item thereof.

**14.** To appropriate annually to the mayor \$2000.00 as and for a secret service fund, for which he need furnish no vouchers, and such appropriation shall be made.

**15.** To issue city bonds authorized by this charter or statute or expressly authorized by vote of the city electors, certificates, warrants, checks and other evidences of indebtedness, but otherwise the city shall not have the power to issue its bonds for any indebtedness or for any purpose, or to increase the bonded indebtedness of the city in any amount or for any purpose whatsoever.

**16.** To fix fees for establishing street grades, surveying and marking the boundaries of streets, lots or blocks, granting permits for the opening or temporary use of street surfaces, planning of improvements, laying sidewalks, vacating street area, processing of all types of applications, erection and inspection of buildings or facilities, and any special services or functions performed by the city or bureaus thereof.

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

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

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

**20.** To provide for surveying the blocks and streets of the city and for marking the boundary lines of such blocks and streets; to change by ordinance the number, letter or designation of any lot, block or tract of land within the city which may be conflicting or otherwise unsuitable and to give by ordinance a

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designation to any tract of land within the city not numbered, lettered or designated. A certified copy of such ordinance shall be transmitted by the auditor to the recording officer of the county, who shall record the same in the record of plats of said county and shall make a reference to the record of such ordinance upon the recorded plat on file. No charge shall be made by the recording officer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**42.** To make regulations to prevent the introduction of contagious diseases into the city, and to remove persons afflicted with such diseases to suitable hospitals which the city may designate or provide for that purpose either within or without said city; and to regulate such hospitals.

**43.** To provide a standard of weights and measures and to authorize inspection of weights, measures, food, beverages, and fuel; to regulation the commodity, size, weight and ingredients of food or beverage products and fuel, and to prevent the sale of adulterated, unhealthful or unwholesome food and beverages, and to provide for the seizure and forfeiture of food or food products, beverages and fuel offered for sale or sold contrary to said regulations.

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- 44.** To prevent and remove nuisances, to declare what shall constitute the same, to punish persons committing or suffering nuisances, to provide the manner of removal of nuisances, and to make the cost of such removal a lien upon the property where such nuisance existed; and to fill up or drain any lots, blocks or parcels of land subject to flood or where any stagnant water stands, to declare the same a nuisance, and to make the cost of filling up or draining the same a lien upon the property so filled or drained. Liens for abatement of nuisances may upon the order of the council be entered in the docket of city liens and thereafter collected in such manner as the council may direct.
- 45.** To regulate or prevent the storage, manufacture, sale, use and transportation of dangerous, explosive, radioactive or combustible materials or weapons, and to provide for the inspection of the same, and to prevent by all proper means risks of injury or damage therefrom.
- 46.** To regulate, prevent and prohibit loud or unnecessary noise.
- 47.** To prevent trespassing and punish trespassers upon real and personal property.
- 48.** To restrain and punish intoxication, fighting and quarreling in the city, and any disturbance, riot or riotous assemblage or participation therein, or any unlawful or indecent practice, and to define what shall constitute the same.
- 49.** To prevent and suppress gaming and gambling houses, lotteries or places where any game in which chance predominates is played for anything of value, and to punish any person who engages in such game, or keeps or frequents such houses or sets up or promotes lotteries or sells lottery tickets; to prevent and suppress bawdy houses or places where fornication is practiced, and to punish any inmate, keeper or frequenter thereof; to prevent and suppress use of narcotics and dangerous drugs and houses and places kept therefor, and to punish any keeper of such house or place, or person who frequents the same.
- 50.** To prevent the sale, circulation, display and disposition of obscene matter, including books, papers, prints, pictures, films and other material, and of obscene advertisements of any kind, and to punish any person who sells or offers for sale, displays, or who circulates or disposes of such literature, books, papers, prints, pictures, films, advertising matter and other material, and to define and declare from time to time what literature, books, papers, prints, pictures, films, advertising matter and other material are obscene within the purposes and province of this provision.

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

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

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

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

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

**56.** To establish, change, discontinue, or re-establish city jails, prisons, police stations, workhouses and houses of detention, punishment, confinement or rehabilitation, within or without the city.

**57.** To regulate and restrain the keeping of all pets, birds, fowl, reptiles, and animals of any kind, and to prevent any and all animals from running at large within the city or any part thereof, and to punish persons who allow animals to run at large or to be unlicensed; to provide for impounding, sale and disposition when found at large, or when kept against city regulations or when no license has been obtained or tax paid as provided by the council.

**58.** To regulate, prevent and prohibit the erection, maintenance or display of signboards, billboards, signs, posters and advertisements designed to attract the attention of persons on sidewalks, streets or public places.

**59.** To regulate and prohibit the exhibition and hanging of material in or across the street or from houses or other buildings or structures.

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**60.** To regulate and control water-borne commerce and recreational uses within the city, and uses of and activities in or upon bodies of water within the city.

**61.** To provide for the removal of obstructions, debris and deleterious matter from waters within the city limits and to prohibit putting or negligently or wilfully suffering the same to be put therein.

**62.** To regulate the building of wharves, and the driving of piles in any body of water or watercourse within the limits of the city and to establish lines beyond which wharves shall not be built nor piles be driven.

**63.** To provide for the construction and regulation of public facilities and landings at the foot of the streets terminating at a watercourse or body of water within the city.

**64.** To appropriate money for the deepening, widening, docking, covering, walling, altering, or changing channels, water, or watercourses within the city, and to provide for the construction and maintenance of canals, slips, public landing places, wharves, docks and levees, and all such other work as may be required for the accommodation of commerce or recreation; to control and regulate the use thereof and to provide for the acquisition by condemnation or otherwise of all such work or works by the city, and for the construction, maintenance and ownership of the same by the city.

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

**Section 2-107. Punishment for Ordinance Violations.** The council has power and authority, subject to the provisions, limitations and restrictions contained in this charter, to provide for the punishment of a violation of any ordinance of the city by a fine not exceeding five hundred dollars or by imprisonment, or by both, or by confinement in a house of detention, industrial home or prison farm or place of rehabilitation, such as may now or hereafter be provided by ordinance, and for working any person sentenced to such confinement upon any public or other work under official supervision, or in any public place during the term thereof, and to provide for the punishment of any such person who shall refuse to work when ordered, and for forfeiture as an additional penalty. Such imprisonment in jail shall be for a term not exceeding six

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months, but in case of commitment to a house of detention, industrial home, prison farm or place of rehabilitation, shall be for a term not exceeding two years; provided, however, that any inmate of such jail, place of detention or rehabilitation, or industrial home may be paroled or released, if in the judgment of the council such action is advisable, before the sentence is fully served. The council may delegate to a parole officer authority to order parole, subject to council review. In addition to the foregoing penalties, forfeiture of property or license of any kind may be provided. The limitations as to amount of fine or length of sentence contained in this section shall not apply to any offense for which different limitations are fixed elsewhere in this charter. [Ch. 1903 subdn. 3 sec. 73; rev. May 3, 1913; effective in July; new sec. June 2, 1913, subdn. 3, sec. 73; rev. 1914; sec. 35; 1928 pub., sec. 35; 1942 recod., sec. 2-106; rev. Nov. 6, 1962.]

**Section 2-108. Emergency Fund.** There shall be annually appropriated and set apart the sum of \$5000.00 to be known as the emergency fund of the council and the council may use and expend such fund, or any part thereof, in its discretion for any purpose it may deem proper or advantageous to the public welfare, and shall not be required to furnish vouchers showing the purposes for which such expenditures were made. No part of such fund shall be used as compensation or additional salary or for the personal benefit of the mayor or any commissioner. [May 3, 1913, new sec. 33; rev. 1914, sec. 31; 1928 pub., sec. 31; 1942 recod. sec. 2-117 rev. Nov. 6, 1962.]

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

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



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

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

**Section 2-113. Calendar.** The council shall cause to be printed for public use and placed with the auditor for distribution at least twenty-four hours before each legislative session a summary of all matters to come before it at the next regular legislative session. No matter not contained in said summary shall be considered at such legislative session unless four members of the council shall vote to consider the same. [May 3, 1913, new sec. 30; rev. 1914, sec. 38; 1928 pub., sec. 38; 1942 recod., sec. 2-124; rev. Nov. 6, 1962.]

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

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

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

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

**Section 2-118. Ordinances, Subject.** No ordinance, except one making an appropriation, shall contain more than one general

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subject; ordinances making appropriations shall be confined to the subject of appropriations. [May 3, 1913, new sec. 23; rev. 1914, sec. 45; 1928 pub., sec. 45; 1942 recod., sec. 2-129; rev. Nov. 6, 1962.]

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

**Section 2-120. Ordinances, Passage.** Every ordinance shall have three public readings of its title or the effect thereof, not more than two of which shall be at the same legislative session, except for emergency ordinances. At least five days shall elapse between the introduction and final passage of any ordinance and no ordinance shall be amended within five days of its final passage, except in the case of an emergency ordinance. An emergency ordinance may be enacted upon the date of its introduction, providing that it contains the statement that an emergency exists and specifies with distinctness the facts or reasons constituting such emergency. The unanimous vote of all members of the council present, and of not less than four (4) members shall be required to pass an emergency ordinance. [May 3, 1913, new sec. 25; rev. 1914, sec. 47; 1928 pub., sec. 47; 1942 recod., sec. 2-131; rev. Nov. 6, 1962.]

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

**Section 2-122. Ordinances, Attestation.** An ordinance when passed by the council shall be signed by the mayor, or in his absence, by the president of the council and attested by the auditor. It shall be carefully filed and preserved and a record thereof made in a book kept for that purpose, marked "ordinance record." [May 3, 1913, part of new sec. 29; rev. 1914, sec. 51; 1928 pub., sec. 51; 1942 recod., sec. 2-133; rev. Nov. 6, 1962.]

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

**Section 2-124. Ordinances, Objections.** At any time within ten days after the passage of any ordinance which shall not take effect

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immediately, any member of the council may file, in writing, objections to said ordinance, which shall be considered and voted upon by the council at its next regular meeting. If a majority shall vote to sustain such objections, the ordinance shall be deemed repealed and shall not take effect unless again passed in the same manner as a new ordinance. If a majority shall vote not to sustain such objections, the same shall have no effect on the ordinance. The objections, together with the vote thereon, shall be preserved on record. [May 3, 1913, part of new sec. 29; rev. 1914, sec. 52; 1928 pub., sec. 52; 1942 recod., sec. 2-135; rev. Nov. 6, 1962.]

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

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

## ARTICLE 2. ELECTIVE OFFICES.

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

**Section 2-202. Qualifications.** Each elected official shall be a citizen of the United States and of the State of Oregon, and shall have been a resident of the city of Portland or area which has become a part of the city prior to nomination, for a period of not less than three years immediately preceding the beginning of his term. If any officer shall be elected without such qualifications or shall cease to have the same, the office shall immediately become vacant. [May 3, 1913, new sec. 9; rev. 1914, sec. 22; 1928 pub., sec. 22; 1942 recod., sec. 2-108; rev. Nov. 6, 1962.]

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**Section 2-203. Official Bonds.** Each elected official before entering upon the duties of his office shall execute to the city of Portland a penal bond in the sum of \$25,000.00, payable to the city of Portland and conditioned generally for the faithful performance and discharge of his duties and office, and the full amount of such bond shall be recoverable by, and shall be forfeited to the city of Portland as fixed and liquidated damages accruing to the city of Portland upon proof of unfaithfulness, corruption, malfeasance or delinquency in office with respect to any official duty.

An action to establish such unfaithfulness, corruption, malfeasance or delinquency may be brought in the name of the city of Portland in any court of competent jurisdiction. Such bond shall be executed as surety by some responsible surety company authorized to do a surety business in the State of Oregon, and approved by the council. The council may require, by a resolution adopted by majority vote, other or additional surety, whenever, in its judgment, the surety on any such bond is not satisfactory or responsible. Such bond when so executed and approved by the council shall be filed with the auditor. The premiums on such bonds shall be paid by the city.

Every such undertaking or bond for the auditor shall contain a condition that the principal will faithfully perform all official duties then or that may thereafter be imposed upon or required of him by law, ordinance, or this charter, and at the expiration of his term of office he will surrender to his successor all property, books, papers and documents that may come into his possession as such officer. [May 3, 1913, new sec. 10; rev. 1914, sec. 23; 1928 pub., sec. 23; 1942 recod., sec. 2-109; rev. Nov. 6, 1962.]

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

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

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

(a) A vacancy in office shall exist when the mayor, a commissioner or the auditor fails to qualify by taking the oath and fil-

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ing the bond prior to January 1 of the year following his election, or within ten days after notice of appointment to fill a vacancy, or when any officer or employe dies, resigns, is removed from office, is convicted of a felony, is judicially declared to be mentally ill, is judicially convicted of corruption, malfeasance or delinquency in office, or forfeits his office under specific provisions of this charter. A vacancy in office shall occur whenever the mayor, a commissioner or the auditor shall, during his term of office, become a candidate for any lucrative district, county, state or national office elective by the people, or whenever the city attorney or any of his deputies, a municipal judge, the city engineer, the city treasurer, a deputy city treasurer, the purchasing agent, or a member of any city board, or commission who has been appointed by the mayor or the council, becomes a candidate for any lucrative district, city, county, state or national office elective by the people. All such vacancies resulting from candidacies shall commence when such person shall file his declaration or acceptance of candidacy with the officer authorized to receive and file the same.

**(b)** Except as hereinafter provided, if a vacancy occur in the office of mayor, commissioner or auditor, the council shall appoint an eligible person to fill such vacancy until his successor is elected at a regular election and qualifies.

**(c)** Whenever the mayor or any commissioner or the auditor shall have become a candidate for any municipal office other than the one which he holds, and shall have been nominated at a municipal nonpartisan primary election, the office held by said mayor or commissioner or auditor at the time of such primary election shall become vacant as of January 1 of the year following such primary election, and the person to succeed him as of such date shall be elected by the voters at the general election following such primary election, which person shall take office as of said January 1, provided such mayor or commissioner or auditor, having been nominated at the primary election, shall be actually elected at the general election, and a certificate of election issued, and such mayor or commissioner or auditor shall have qualified for the new municipal office to which he has been elected. Any person who possesses the required qualifications for the office thus about to become vacant may become a candidate for the unexpired portion of the term, either by the usual methods of filing for nomination at the primary election, or if there is no nomination at the primary election, then by obtaining and filing one hundred or more certificates of nomination similar to the certificates for nomination at a primary election, or by paying the filing fee prescribed, all within the time prescribed by law, and in such case the names of all nominees shall appear upon the ballot at the general election, and the person who at the general election receives the greatest number of votes shall be elected. Such filing subse-

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quent to the primary election shall be made with the city auditor not later than seventy (70) days before the general election. The nomination by certificate or by filing declaration of candidacy with payment of fee shall be a sufficient nomination for final election at the general election. The person so elected shall, upon qualifying and assuming the office, serve for the unexpired term of the person whom he succeeds.

**(d)** Whenever the mayor or a commissioner or the auditor shall die, resign, or be removed from office during the period from the last day when declaration of candidacy may be filed and seventy (70) days prior to the general election in any election year, or if there are no nominations at the primary election, his successor shall be elected by the voters at the general election in accordance with the foregoing procedure applicable.

Whenever the mayor or commissioner or the auditor shall die, resign or be removed from office before the last day when declaration of candidacy may be filed at a primary election, his successor shall be nominated and elected by the voters at the next regular primary and general election, in accordance with the usual procedure therefor.

Whenever the mayor or commissioner or auditor shall die, resign or be removed from office, his successor who has been elected shall, upon qualifying, take office immediately upon the certificate of election having been issued by the auditor and the person so elected shall serve the unexpired term of the person whom he succeeds.

**(e)** A person who is appointed or elected to the office of mayor, commissioner or auditor, shall be deemed to have qualified if he meets the citizenship and residence requirements set forth in this charter, has taken the oath of office and filed the bond which has been approved by the council, as provided in this charter. If any person fails to qualify within ten days after interim appointment or election to a vacancy occurring because of death, resignation or removal from office, he shall not thereafter qualify under the same appointment or election.

**(f)** In the event of the death or crippling disability preventing the performance of duty of three or more members of the city council due to natural disaster, calamity, accident or enemy attack, the following city officials in the order named shall succeed to the vacancies in the city council: city attorney, city engineer, city treasurer, health officer, chief of the bureau of police, chief of the bureau of fire, presiding municipal judge, other permanently appointed municipal judges in the order of their seniority. The city council as thus constituted shall serve as an interim council for the purpose of transacting necessary city business, and the city officials serving as members of such interim city council shall serve without bond, notwithstanding the provisions of Section 2-203 of this charter and the foregoing provisions relating to qualification. The interim council so con-

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stituted shall as soon as practical select from among qualified citizens of the city of Portland, as defined by Section 2-202 of this charter, persons to serve as members of the city council. The persons so selected shall qualify and take an oath of office before entering upon their duties, but such persons shall have 60 days within which to provide bond, notwithstanding the provisions of this charter, making filing thereof a prerequisite to qualifying. The person so selected shall serve until the next regular election. The city council as thus constituted shall, if the regularly elected mayor is not a member thereof, elect one of their number as mayor. Members of the council as thus constituted shall serve as city commissioners and shall be assigned to positions and departments by the mayor, and shall have all the powers and duties assigned to the mayor and commissioners by this charter. The council as constituted under authority of this subsection shall meet in the city hall, if possible, but may meet at an alternate location which shall be designated in advance by the council as an alternate site for the transaction of city business. In the event of martial law, the council shall be organized as by this subsection provided, and it shall function to the extent possible under the order establishing martial law. The provisions of this subsection shall be supreme in the event it shall be employed, notwithstanding any other provisions of this charter or ordinances of the city in conflict therewith.

[May 3, 1913, secs. 17 and 18; rev. 1914, secs. 29 and 30; 1928 pub., secs. 29 and 30; sec. 29, am. May 18, 1934; sec. 30 am. May 17, 1940; 1942 recod., secs. 2-115 and 2-116; sub. sec. 5 added to sec. 2-116, Nov. 2, 1954; secs. 2-115 and 2-116 revised and combined Nov. 6, 1962.]

### ARTICLE 3. EXECUTIVE AND ADMINISTRATIVE POWERS.

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

- (a) Department of Public Affairs
- (b) Department of Public Services
- (c) Department of Public Safety
- (d) Department of Public Utilities
- (e) Department of Public Works

Bureaus and their functions shall be fixed by the council by ordinance. The distribution of the bureaus and work among departments shall be made and may be changed from time to time by the mayor by order which shall be filed and preserved as an ordinance. The names of the departments may be changed in like manner. The mayor may in like manner assign matters relating to any com-

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mission to a particular department. [May 3, 1913, part of new sec. 36; rev. 1914, sec. 54; 1928 pub., sec. 54; 1942 recod., sec. 2-201; rev. Nov. 6, 1962.]

### **Section 2-302. Assignment and Authority of Commissioners.**

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

### **Section 2-303. Assignment of Work to Subordinates.**

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

### **Section 2-304. Codes.**

Codes providing for the administration of the powers, duties and affairs of the different departments and for their organization shall be enacted. Such codes shall provide for a uniform standard for the purchase of materials and supplies and shall provide for a purchasing agent and may provide for inspection and testing of the quality and quantity of the materials and supplies purchased to determine their exact conformity to specifications. Provision shall be made for the transfer of employes from one department to another. Methods shall be provided by which the heads of departments may determine and compare the work accomplished by the department with reference to its expenditures and a comparison with work during a prior period. A definite system of accounting shall be provided for each department showing the work performed and the material furnished compared with the cost thereof, so itemized that it can be determined whether each department is becoming more efficient or less efficient. All materials and supplies of the city shall be properly housed, segregated and tabulated and a perpetual inventory kept showing the additions and depletions thereof. Each department shall report its time and expenses for comparison with the prior month and prior year to show percentage of increase or decrease



and shall also report stores and material accounts for like comparison. [May 3, 1913, part of new sec. 36; rev. 1914, sec. 58; 1928 pub., sec. 58; 1942 recod., sec. 2-204; rev. Nov. 6, 1962.]

#### **ARTICLE 4. THE MAYOR.**

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

**Section 2-402. Investigation of and Suits to Cancel Franchises.** The mayor may, on his own motion, and must upon a resolution passed by the council directing him so to do, cause to be instituted on behalf of the city such actions or proceedings as may be necessary to revoke, cancel or annul all franchises that may have been granted by the city to any person, company or corporation, which have been forfeited in whole or in part or which for any reason may be irregular and void and not binding upon the city, and the city attorney upon his demand must institute and prosecute the suits or actions required to enforce the provisions of this section. Each mayor taking office under this charter shall cause a careful investigation to be made of the exact condition of all franchises theretofore granted by the city, and of the respective rights and obligations of the parties, and the performance of the same. [Ch. 1903, sec. 151; rev. 1914, sec. 60; 1928 pub., sec. 60; 1942 recod., sec. 2-302; rev. Nov. 6, 1962.]

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

**Section 2-404. Suspensions Pending Investigation.** The mayor shall have power to suspend, pending an official investigation, any officer of the city except councilmen or the auditor for any official

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defalcation or wilful neglect of duty or official misconduct. [Ch. 1903, sec. 153; rev. 1914, sec. 62; 1928 pub., sec. 62; 1942 recod., sec. 2-304; rev. Nov. 6, 1962.]

**Section 2-405. Notification of Contract Violations.** It shall be the duty of every officer and person in the employ or service of the city, when it shall come to his knowledge that any contract or agreement with the city, or with any officer or department thereof, or relating to the business of any office, has been or is about to be violated, forthwith to report to the mayor all the facts and information within his possession concerning such matter. A wilful failure so to do shall be sufficient cause for the removal of such officer or employee. The mayor shall give a certificate on demand to any person reporting such facts and information that he has done so, and such certificate shall be evidence in exoneration from a charge of neglect of duty in that respect. [Ch. 1903, sec. 158; rev. 1914, sec. 63; 1928 pub., sec. 63; 1942 recod., sec. 2-305; rev. Nov. 6, 1962.]

### ARTICLE 5. THE AUDITOR.

**Section 2-501. Qualifications.** There shall be an auditor of the city of Portland who shall possess the same qualifications required of a commissioner, and in addition, those of an expert accountant. He shall be elected at the general municipal election and shall serve for a term of four years. [Ch. 1903, sec. 269; am. May 3, 1913, sec. 97; rev. 1914, sec. 64; 1928 pub., sec. 64; 1942 recod., sec. 2-401; rev. Nov. 6, 1962.]

**Section 2-502. Salary and Bond.** The salary of the auditor shall be fixed by the council. He shall give a bond for the faithful performance of his duties in such sum as the council may determine, at city expense. [Ch. 1903, sec. 270; am. May 3, 1913, sec. 98; rev. 1914, sec. 65; 1928 pub., sec. 65; 1942 recod., sec. 2-402; rev. Nov. 6, 1962.]

**Section 2-503. Deputies and Clerks.** The auditor may appoint, subject to the civil service rules of this charter, one chief deputy, and such other deputies and clerks as the council may authorize. Said deputies shall have power to do and perform any act or duty required of the auditor, and the auditor shall be responsible for their conduct. The compensation to be paid such deputies and clerks shall be determined by the council. [Ch. 1903, sec. 271; rev. 1914, sec. 67; 1928 pub., sec. 67; 1942 recod., sec. 2-403; rev. Nov. 6, 1962.]

**Section 2-504. Authority to Administer Oaths.** The auditor, and each of his deputies, is authorized to administer an oath and certify any acknowledgment authorized or required to be taken by any city ordinance, or law of this state, and he may require any person presenting for settlement an account or claim of any kind

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against the city to be sworn before him touching such account or claim, and when so sworn, to answer orally as to any facts relative to the merits or justice of such account or claim. [Ch. 1903, sec. 272, rev. 1914, sec. 68; 1928 pub., sec. 68; 1942 recod., sec. 2-402; rev. Nov. 6, 1962.]

**Section 2-505. Duties in General.** The auditor is the accounting and clerical officer of the city. He shall be in personal attendance at his office during office hours. He shall receive and preserve in his office all accounts, books, vouchers, documents and papers filed with him relating to the accounts and contracts of the city, its debts, revenues and other financial affairs. He shall give information as to the exact condition of the treasury and of every appropriation and fund thereof under control of the council, upon demand of the mayor, or the council, or any commissioner. He shall be the custodian of the city's seal and shall perform such other duties as this charter or the council may direct. He shall keep the records and accounts of the city in a complete and intelligible manner, but may keep a summary of departmental or bureau records and accounts where he finds such summary to be sufficient. He shall make a semiannual statement to the council showing the receipts and disbursements of the city and the state of each particular fund and the city's financial condition as soon as records are complete after the close of business on the last day of each fiscal year, and also the last day of each calendar year. The semiannual reports shall contain an accurate statement in summarized form of the financial receipts of the city from all sources and of the expenditures of the city for all purposes, together with a detailed statement of the debt of said city, of the purposes for which said debt has been incurred, and of the accounts of said city with grantees of franchises and the names of the present owners of each thereof, and a summary of the assets and liabilities of the city. [Ch. 1903, sec. 273; am. May 3, 1913, sec. 99; rev. 1914, sec. 66; 1928 pub., sec. 66; 1942 recod., sec. 2-405; rev. Nov. 6, 1962.]

**Section 2-506. Accounts and Demands.** The auditor shall keep an account of all moneys paid into and out of the treasury. Every demand upon the city for payment of money out of the treasury, except the salary of the auditor, must, before it can be paid, be presented to the auditor, who shall audit such demand to satisfy himself whether the money is legally due and payable, and out of what fund it is payable. No demand shall be approved or paid unless it specify each several item, date and amount composing it, and have endorsed thereon the legal authority for its payment. However, the provisions of this paragraph shall not apply to demands for payment out of funds from which any officers, boards or commissioners are empowered by this charter or other law to require payment without council authorization, nor to requisitions, checks or warrants thereon. Any ordinance or resolution of the city council providing for the payment of any demand out of the treasury, whether from public funds or private funds therein, shall

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always be construed as requiring the auditing of such demand by the auditor before the same is paid. The auditor shall number and keep an official record of all demands audited by him showing the number, date, amount, name of the payee and against what appropriation, if any, drawn and out of what fund payable. The auditor shall not allow any demand out of its order to give priority to one demand over another drawn upon the same specific fund, except that when liability for any claim presented is not sufficiently apparent to him, he may delay the payment thereof until such liability shall be determined. [Ch. 1903, sec. 274; rev. 1914, sec. 69; 1928 pub., sec. 69; 1942 recod., sec. 2-406 and 2-407; rev. Nov. 6, 1962.]

**Section 2-507. Demands, Nonallowance.** No demand shall be allowed by the auditor in favor of any corporation or person indebted to the city in any manner, except for assessments or taxes not delinquent, without first deducting the amount of any indebtedness then due of which he has notice, nor in favor of any person having the collection, custody or disbursement of public funds, unless his account has been presented, passed, approved and allowed as herein required, nor in favor of any officer determined by the mayor or commissioner in charge to have neglected to make his official returns or reports in the manner and at the time required by law, ordinance or the regulation of the council, or to have neglected or refused to comply with any of the provisions of law regulating his duties, nor in favor of any officer or employe found by the mayor or commissioner in charge to have absented himself without legal cause or duly granted leave of absence from the duties of his office during office hours, after such determination has been transmitted and filed with the auditor. [Ch. 1903, sec. 277; am. May 3, 1913, sec. 101; rev. 1914, sec. 72; 1928 pub., sec. 72; 1942 recod., sec. 2-409; rev. Nov. 6, 1962.]

**Section 2-508. Warrants.** When payment of a demand has been authorized by the council and approved as provided in this article, the mayor and auditor shall draw warrants on the treasurer therefor. Such warrants must be signed by the mayor and attested by the auditor; but no warrants, except such as are issued upon funds created by special assessments, or warrants issued in settlement of judgments of the courts, shall be drawn signed by the mayor or attested by the auditor until the money for the payment thereof is in the hands or under the control of the city treasurer. Check-warrants countersigned by the treasurer, checks signed by the treasurer, or other method of payment authorized by law may be used in lieu of warrants. Such check-warrants or checks shall be drawn upon a bank in which the treasurer has deposited money for such purpose. The auditor shall keep a register of warrants, check-warrants and checks, showing the funds upon which they are drawn, the numbers, in whose favor, and the appropriations, if any, applicable to the payment thereof. [Ch. 1903, sec. 280; rev. 1914, sec. 75; 1928 pub., sec. 75; 1942 recod., sec. 2-412; rev. Nov. 6, 1962.]

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**Section 2-509. Records and Files of Council.** As clerk of the council, the auditor shall keep a correct journal of its proceedings, and shall file and keep all books, papers and maps connected with the business of the council. [Ch. 1903, sec. 282; rev. 1914, sec. 77; 1928 pub., sec. 77; 1942 recod., sec. 2-414; rev. Nov. 6, 1962.]

**Section 2-510. Certified Copies.** The auditor shall make certified copies of any papers or maps or transcripts of any records kept in his office when so required, upon the payment of his fees therefor, and such fees shall be deposited with the city treasurer for the credit of the general fund. The fees charged shall be those provided for in this charter or by ordinance, and no charge shall be made for any copies, transcripts, or certificates required or demanded by any official or board when such are needed for the official business of the city. [Ch. 1903, sec. 283; rev. 1914, sec. 78; 1928 pub., sec. 78; 1942 recod., sec. 2-415; rev. Nov. 6, 1962.]

**Section 2-511. Ownership, Records.** The auditor shall keep a record of ownership of real property within the limits of the city of Portland, and correct said record as changes of ownership shall be recorded in the office of the county clerk for the county of Multnomah, and he shall also keep a record of all property owned by the city and the income derived therefrom. [Ch. 1903, sec. 284; rev. 1914, sec. 79; 1928 pub., sec. 79; 1942 recod., sec. 2-416; rev. Nov. 6, 1962.]

**Section 2-512. Charter Arrangement and Corrections.** Subject to council approval, the auditor shall have authority to rearrange, renumber, reletter, capitalize, punctuate and divide provisions of this charter, and to correct clerical errors and omissions and insert captions in accordance with the meaning and intent of the provisions of this charter, from time to time, and may delete provisions which have become inoperative or any provision ruled invalid by a court of competent jurisdiction. The auditor may substitute any current title of an officer, bureau, department, or commission in lieu of the title originally appearing in the charter provision, in accordance with the changes of title or duties subsequently made by law. [New sec. Nov. 6, 1962.]

## ARTICLE 6. OFFICERS AND EMPLOYEES.

**Section 2-601. Appointive Officers.** The council shall appoint the following officers: treasurer, city engineer, city attorney, municipal judges, city health officer and purchasing agent. The mayor shall appoint members of boards and commissions subject to council confirmation. Heads of other offices and bureaus shall be appointed by the commissioner in charge of the department to which such office or bureau is assigned. [May 3, 1913, new sec. 102; rev. 1914, sec. 80; 1928 pub., sec. 80; 1942 recod., sec. 2-501; rev. Nov. 6, 1962.]

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

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

**Section 2-603. Subordinate Offices and Employments.** The council shall have the power by ordinance to create and abolish all such subordinate offices, places and employments in the service of the city as it may deem necessary for efficient and economical administration. The mayor and each commissioner shall appoint and may suspend or remove the incumbents of all subordinate offices and employments in his department, subject to other provisions of this charter. The auditor shall appoint and may suspend or remove, and the chief executive officer of any board or commission, when authorized to do so by the board or commission, or the board or commission itself shall appoint and may suspend or remove the incumbents of all subordinate offices and employments within their offices, or under their supervision. All such appointments, suspensions and removals shall be subject to the civil service rules of this charter except as to incumbents of positions expressly exempted therefrom. [May 3, 1913, new sec. 104; rev. 1914, sec. 82; 1928 pub., sec. 82; 1942 recod., sec. 2-503; rev. Nov. 6, 1962.]

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

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

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

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

Unless permitted by statute and notwithstanding the foregoing provisions of this section, no council member shall enter into any contract with the city, seek any grant, privilege or franchise from the city, acquire any city property or interest therein, or sell or transfer to the city without legal process any property or interest therein for compensation from city funds, or have any direct pecuniary interest in any of such matters. No council member shall have any direct ownership interest in any public utility subject to city regulation; however, this prohibition shall not apply to own-

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ership in another association, firm or corporation which maintains varied investments, provided such other association, firm or corporation does not own a controlling interest in such public utility. If any council member shall voluntarily acquire any direct pecuniary interest in any of such matters with the city while in office, his office shall at once become vacant. If he shall become so interested otherwise than voluntarily, he shall within 90 days divest himself of such interest and upon failure to do so, his office shall become vacant upon the expiration of the said period of 90 days. Any contract, grant, privilege, franchise or transfer made in violation of this paragraph shall be wholly void, and the city may recover property transferred by it or compensation paid by it and may retain any benefits received by it without right of recovery from it by quantum meruit action or otherwise. [Ch. 1903, sec. 135; rev. 1914, sec. 91; 1928 pub. sec. 91; 1942 recod., sec. 2-506; rev. Nov. 6, 1962.]

**Section 2-607. Appointments.** All appointments of officers, deputies and clerks, to be made under any provision of this charter, must be made in writing and in duplicate, authenticated by the person or persons, board or officer, making the same. One of such duplicates must be filed with the secretary of the civil service board and the other with the auditor. [Ch. 1903, sec. 138; rev. 1914, sec. 93; 1928 pub., sec. 93; 1942 recod., sec. 2-507; rev. Nov. 6, 1962.]

**Section 2-608. Salaries.** The salaries provided in this charter shall be in full compensation for all services rendered to the city, and excepting such salaries, or except as specifically authorized by the council, every officer shall pay all moneys coming into his hands as such officer, no matter from what source derived or received, into the treasury of the city within twenty-four hours after receipt of the same. In the event an officer or employe collects damages from a third person for time lost from his city service, he shall pay to the city treasurer the money so collected or the total amount paid to him by the city or city pension and disability fund for such time lost, whichever is the lesser. [Ch. 1903, sec. 139; rev. 1914, sec. 94; 1928 pub., sec. 94; 1942 recod., sec. 2-508; rev. Nov. 6, 1962.]

**Section 2-609. Bidders, Favoring of.** Any officer of the city or of any department thereof, who shall aid or assist a bidder in securing a contract to furnish labor, material or supplies, at a higher price or rate than that proposed by any other bidder, or who shall favor one bidder over another, by giving or withholding information, or who shall wilfully mislead any bidder in regard to the character of the material or supplies called for, or who shall knowingly accept materials or supplies of a quality inferior to that called for by the contract, or who shall knowingly certify to a greater amount of labor performed than has been actually performed, or to the receipt of a greater amount of different kinds of material or supplies than has been actually received, shall be deemed guilty of malfeasance and shall be removed from office,

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and may be required to reimburse the city for its damages. [Ch. 1903, sec. 140; rev. 1914, sec. 95; 1928 pub., sec. 95, 1942 recod., sec. 2-509; rev. Nov. 6, 1962.]

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

**Section 2-611. Residence of Officials and Employes.** All elected officials receiving salary or wages from the city shall qualify as elsewhere in this charter provided, and shall be residents of the city at the time of their election and continuously thereafter while they hold office. The area or location of residence of all other employes or officials, paid or unpaid, shall not be limited and no prejudice or benefit shall accrue to any such employe or official, his appointment, position or salary, if any, because of his place of residence. This section shall not be deemed to repeal or prevent residence restrictions as a condition to payment of disability or retirement benefits or allowances, and this section shall not be deemed to prevent the city from furnishing living quarters to employes whose duties necessitate residence on city property. [New sec. Nov. 2, 1954; am. May 20, 1960.]

### ARTICLE 7. OFFICIAL UNDERTAKINGS AND BONDS.

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

### ARTICLE 8. RECORDS.

**Section 2-801. Official Books and Papers.** The official books and papers of all the officers mentioned in this charter are city property, and must be kept as such by such officers during their continuance in office, and then delivered to their successors; and such books and papers may be inspected at any time by any member of the council or by the mayor. [Ch. 1903, sec. 122; rev. 1914, sec. 84; 1928 pub., sec. 84; 1942 recod., sec. 2-701; rev. Nov. 6, 1962.]

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**Section 2-802. Inspection and Certified Copies.** All books and records of every office and department shall be open to the inspection of any citizen at any time during business hours, except records of bureaus charged with law enforcement relating to investigations for possible prosecutions and interdepartmental or inter-bureau advice and memoranda, which records shall not be opened for such inspection unless such opening is ordered by a court or specific permission is given by the council or commissioner in charge. Certified copies or extracts from said books or records which are open to inspection shall be given by the officer having the same in custody to any person demanding the same who pays or tenders the fee prescribed by the council for such copies or extracts. [Ch. 1903, sec. 137; rev. 1914, sec. 92; 1928 pub., sec. 92; 1942 recod., sec. 2-702; rev. Nov. 6, 1962.]

### ARTICLE 9. THE MUNICIPAL COURT.

**Section 2-901. Municipal Court, Creation.** There hereby is created a municipal court for the city of Portland which shall be known as the municipal court of the city of Portland which shall have a seal. [New sec. Nov. 6, 1962.]

**Section 2-902. Departments, Judges and Bureaus.** The municipal court may be divided into departments, each presided over by a full time judge of said municipal court. Full time municipal judges shall be appointed, sufficient in number, to serve in each department established by ordinance, and the municipal judge presiding shall have power and authority to assign or reassign the other judges to serve in the departments. Additional full time judges may be appointed. The council may also appoint alternate, relief and substitute judges and in an emergency necessitating the temporary assistance of an additional judge, the mayor may appoint some suitable person qualified as required by this charter to serve as an acting municipal judge, pending council consideration for temporary or permanent appointment as may be appropriate. The presiding judge shall assign the work to all such additional judges. The council may at any time for cause by a majority of vote of all its members, remove a municipal judge from office. Upon such removal, the council shall appoint a successor to said municipal judge who shall possess the qualifications of the municipal judge required by this charter and shall qualify in like manner. The council shall fix the salaries for judges. The council may create by ordinance, bureaus or other persons to assist the court with its clerical, administrative or other work. [New sec. Nov. 6, 1962.]

**Section 2-903. Qualifications of Municipal Judges.** Every judge of the municipal court must be a member in good standing of the Bar of the State of Oregon. [New sec. Nov. 6, 1962.]

**Section 2-904. Jurisdiction of Municipal Court.** The municipal court shall have jurisdiction over all offenses defined by ordinance 2-802 to 2-904

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or charter provision of the city of Portland and of all actions brought to enforce or recover any forfeiture or penalty declared or given by any such ordinance or charter provision, and shall likewise have within the city of Portland the jurisdiction and authority of a justice of the peace and committing magistrate, and shall be subject to all of the general laws of the state prescribing the duties of the justice of the peace and the mode of performing them, except as herein otherwise provided. The powers, duties and jurisdiction herein conferred upon such municipal court may be exercised by the judges thereof by their respective successors or by a person appointed as herein provided. [New sec. Nov. 6, 1962.]

**Section 2-905. Rules of Court, Procedure and Prerequisites for Jury Trials.** The municipal judges shall have power to promulgate rules of court. In all procedural matters not covered by the rules of court, the council may enact ordinances prescribing such rules of procedure, but if the rules of court and ordinance provisions are silent in any respect, the statutory rules of procedure relating to justices' courts shall apply. The council may by ordinance fix the prerequisites and procedures for jury trials. [New sec. Nov. 6, 1962.]

**Section 2-906. Clerk of the Municipal Court, Records.** The mayor or commissioner to whom the municipal court is assigned for administration, is authorized and empowered to appoint a clerk of said court who shall perform the duties prescribed by the court as clerk thereof. He shall record all the proceedings of said court in convenient books or records kept by him for that purpose. He shall have power and it shall be his duty: to take oaths and affidavits; to file, keep and preserve the records and files of the court, and in this connection he shall keep a record showing suspensions of sentences and probations granted by the municipal court including the terms thereof, and such other information as may be required by ordinance or by the court; to receipt for and on behalf of the court or the judges thereof, and subject to the direction of the presiding judge, money deposited for bail and all fines and costs imposed by the court or the judges thereof; to keep the seal of the court and affix it to any process, transcript, certificate, or paper, as required by law, and to perform such other duties as the presiding judge may require of him. The council may create additional positions and the mayor or commissioner in charge may appoint such additional persons to such additional positions with such duties as may be found by ordinance necessary or convenient to handle the work of the court. [New sec. Nov. 6, 1962.]

**Section 2-907. Fines, Costs, Fees and Expenses Recovered To Be Paid to Treasurer.** All forfeitures, fines, costs, fees and expenses taxed against or received from any defendant in any proceeding before the court or judge thereof, either for violation of a city ordinance or a law of the state, including the fees or compensation prescribed by law to be charged by a justice of the peace

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for any service performed as such, shall be received and collected by the clerk of said court and be paid by him to the city treasurer. Said judges shall not be entitled to have any fee or compensation for any official act done or performed, other than as provided by the city council. [New sec. Nov. 6, 1962.]

**Section 2-908. Appeals from Municipal Court.** Except as hereinafter stated, appeals may be taken by a defendant and shall be allowed from final judgments rendered against the defendant in the municipal court and from orders of said court appealable under statute, in all actions, both civil and criminal, to the extent specifically permitted by state statute. Except for appeal on an issue of the validity or constitutionality of a charter or ordinance provision, no appeal shall be taken from conviction in the municipal court of any offense defined or created by the charter, or of a violation of any ordinance, rule or regulation of the city of Portland, unless the defendant is sentenced to any imprisonment or to pay a fine exceeding Twenty (\$20.00) Dollars. Appeal permitted hereunder shall be taken to the circuit court of the State of Oregon for the county of Multnomah by serving upon the city attorney or his deputy a written notice of appeal signed by the defendant's attorney, if any, or by the defendant, and an undertaking on appeal, and filing in the municipal court said notice of appeal and undertaking with proof of service endorsed thereon, all within thirty (30) days from the date of imposing sentence. The undertaking of the defendant-appellant must be given in accordance with the requirements established by the council as to surety or sureties, which undertaking shall be to the effect that such defendant-appellant or his surety or sureties will pay all costs awarded against the defendant on the appeal and that the defendant will render himself in execution of any judgment rendered against the defendant and pay any fine imposed on appeal and that in the event the appeal is dismissed or the case remanded to the municipal court the surety or sureties will pay the fine imposed by the municipal court and any costs, and that the defendant will render himself in performance of any jail sentence in the municipal court resulting from such dismissal of appeal or remand.

The city may appeal to the circuit court from any final judgment in any such action by serving upon the defendant or his attorney and filing in said municipal court a written notice of appeal within five days from the rendition of such final judgment, and may take any appeal granted by statute in the manner provided therein. The council may fix the fees for preparation and certification of transcript, and for other procedures in connection with appeals. The council may establish appeal procedures on any matter in which this charter or the statutes of Oregon are silent. [New sec. Nov. 6, 1962.]

**Section 2-909. Municipal Court Matters.** On all matters concerning the municipal court, its administration and procedures on which this charter is silent, the council may provide by ordinance. [New sec. Nov. 6, 1962.]

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# CHARTER, CITY OF PORTLAND, OREGON

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## CHAPTER III NOMINATIONS AND ELECTIONS

### ARTICLE 1. GENERAL PROCEDURE.

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

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

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

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

**Section 3-105. Nonpartisan Primaries.** Nomination of mayor, auditor and commissioners, the elective officers under this charter, shall be nonpartisan and shall be made in conformity with primary methods hereinafter prescribed and provided, subject to the provisions elsewhere contained in this charter relating to filling of

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

**Section 3-106. Declarations of Candidacy, Filing.** Except for declarations of candidates for filling a vacancy at a general election, or where there are no nominations at the primary election, all declarations of candidacy shall be filed with the auditor within the time prescribed by statute relating to state partisan primaries prior to the nonpartisan primary election. [Ch. 1903, sec. 23; rev. 1914, sec. 128; 1928 pub., sec. 128; am. Nov. 8, 1932; 1942 recod., sec. 3-106; am. Nov. 6, 1962]

### **Section 3-107. Declarations, Form, Withdrawals and Certified List.**

**(a) Form of Declaration.** Any person eligible, or who will be eligible at the time of taking office, who shall desire to become a candidate for nomination for any elective office, shall file in the office of the auditor a declaration of candidacy. The form of such declaration of candidacy shall be furnished by the auditor and shall be substantially as follows:

State of Oregon	}	ss.
County of Multnomah		
City of Portland		

I, \_\_\_\_\_, being first duly sworn, on oath depose and say: That I reside at No. \_\_\_\_\_ Street (or Avenue) in the city of Portland, Oregon; that I am a registered and qualified voter therein; that I hereby declare myself a candidate for the nomination for the office of \_\_\_\_\_ (if a candidate for commissioner, state the official number of position) to be made at the municipal nonpartisan election to be held in the city on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_; that in making this declaration I am not becoming a candidate

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as the nominee of, or because of any promised support from any national or state political party or any committee or convention representing or acting for any such political party.

Subscribed and sworn to before me this.....day of  
....., 19.....

Auditor of the City of Portland

By.....

Deputy

**(b) Fee.** The declaration of candidacy shall be accompanied by a fee of \$30.00 if for the office of commissioner or auditor, and \$50.00 if for the office of mayor.

**(c) Withdrawal of Nomination.** Any person whose name has been presented under this section as a candidate may, within the time fixed by the general laws of Oregon applicable to partisan primaries, cause his or her name to be withdrawn from nomination by filing with the auditor a request therefor in writing, and no name so withdrawn shall be printed upon the official ballot. The auditor shall preserve in his office for a period of four years all declarations of candidacy filed under the provisions of this section.

**(d) List of Candidates to be Certified.** The auditor shall, within the time fixed by general laws of Oregon applicable to partisan primaries, certify a list of the candidates for the respective offices whose names are entitled to appear upon the municipal nonpartisan ballot, together with a list of the offices to be filled and the official number of the position of commissioner and file the list in his office.

[May 3, 1913, new sec. 46; rev. 1914, sec. 129; 1928 pub., sec. 129; am. Nov. 8, 1932; am. Nov. 6, 1934; 1942 recod., sec. 3-107; am. Nov. 6, 1962.]

**Section 3-108. Nomination by Petition.** As an additional method of seeking nonpartisan nomination any person then eligible or who will be eligible at the time of taking office may file with the auditor nominating petitions within the time and in the manner provided in this section.

**(a) Nomination, Petition, Certificates.** The petition for the nomination of every candidate shall consist of no less than 100 individual certificates. Each certificate shall be of uniform size to be determined by the auditor, shall be signed and verified by one registered voter and shall contain the name of only one candidate.

If a legal voter sign certificates for more than one person for the same office, the first certificate filed shall be accepted but all certificates of said voter subsequently filed shall be rejected.

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**(b) Form of Certificate.** The form of certificate shall be substantially as follows:

INDIVIDUAL NONPARTISAN NOMINATION CERTIFICATE

State of Oregon  
County of Multnomah } ss.  
City of Portland

I do hereby join in a petition for the nonpartisan primary nomination of \_\_\_\_\_ whose residence is at No. \_\_\_\_\_ Street (or Avenue), Portland, Oregon, for the office of \_\_\_\_\_ (if a candidate for commissioner, state the official number of position) to be voted for at the municipal nonpartisan election to be held in the city on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. And I make oath and say that I am a registered voter in the city of Portland, and have not signed certificates nominating any other candidate for this city elective office; that my residence is at No. \_\_\_\_\_ Street, Portland, Oregon.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

By \_\_\_\_\_  
Notary Public for Oregon

My commission expires \_\_\_\_\_.

The said petition for nomination of which this certificate forms a part, if found defective, shall be returned to \_\_\_\_\_ at No. \_\_\_\_\_ Street, Portland, Oregon.

**(c) Filing Petitions.** The said petition consisting of at least 100 sufficient certificates, shall be presented to the auditor for filing within the time prescribed by statute for partisan primary elections or, in the case of nomination at a general election, then not later than 70 days before the general election. The auditor shall indorse thereon the day and hour of its presentation and by whom presented. If the petition appears sufficient he shall file the same at once, but such filing shall not prevent rejection of certificates subsequently within three days if found improper or defective.

**(d) Amendment of Petition.** If, upon examination by the auditor, the petition be found not to conform to the provisions of this charter, he shall state immediately in writing on said petition the reason why it cannot be filed. He shall then within three days, return the defective petition, personally or by mail, to the person designated for that purpose. Within five days of its return by the auditor the petition may be amended and again presented for filing. In no case shall any petition be received or considered after the final day fixed by statute relating to partisan elections for filing of declarations of candidacy.

**(e) Nominee's Acceptance.** The acceptance of any person nominated under this section shall be filed with the petition



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with the auditor, and in the absence of such acceptance the petitions shall not be filed.

Such acceptance shall be substantially in the following form:

State of Oregon  
County of Multnomah } ss.  
City of Portland

I, \_\_\_\_\_ of No. \_\_\_\_\_  
Street (or Avenue), Portland, do hereby accept nomination for  
the office of \_\_\_\_\_  
(if nominated as commissioner, state the official number of  
position). If elected I will qualify.

Subscribed and sworn to before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary Public for Oregon

My commission expires \_\_\_\_\_.

**(f) Validity.** The validity or legality of an election shall not be in any way affected by any defect or irregularity in any nominating petition. If the auditor finds that a nominee is not a registered voter or would otherwise be unable to qualify at the beginning of his term if elected, or if other material defect is found by the auditor which is not remediable, as provided in the previous subsection to this section permitting amendments, then the nomination shall be rejected.

**(g) Forms Supplied by Auditor.** It shall be the duty of the auditor, upon application, to furnish 200 printed forms of such individual certificates and two forms of acceptance of nomination.

**(h) Preservation of Nomination Petitions.** The auditor shall preserve in his office for a period of four years, and during the pendency of litigation relating to the election, all papers relative to nomination.

[May 3, 1913, new sec. 47; rev. 1914, sec. 130; 1928 pub., sec. 130; am. Nov. 8, 1932; am. Nov. 6, 1934; 1942 recod., sec. 3-108; am. Nov. 6, 1962.]

**Section 3-109. Election Notices.** The auditor, beginning not later than the tenth day before every municipal election, shall cause to be published in all successive issues of the city official newspaper, up to and including the day of election, an election notice, which notice shall contain a complete list of the offices to be filled, stating whether for a full or unexpired term, the official number for commissioner, and the candidates for each office who are entitled to have their names appear upon the ballot and, in case measures are to be voted on, the ballot title of the measure; also the time of holding the same. The failure to publish will not invalidate any municipal election. No voters' pamphlet is required.

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[May 3, 1913, new sec. 48; rev. 1914, sec. 131; 1928 pub., sec. 131; am. Nov. 8, 1932; am. Nov. 6, 1934; 1942 recod., sec. 3-109; am. Nov. 4, 1958; am. Nov. 6, 1962.]

**Section 3-110. Informalities Disregarded.** No informalities in conducting municipal elections shall invalidate the same, if they be conducted fairly and in substantial conformity with the requirements of this charter, or the constitution, or general laws of Oregon. [May 3, 1913, new sec. 49; rev. 1914, sec. 132; 1928 pub., sec. 132; am. Nov. 8, 1932; 1942 recod., sec. 3-110.]

**Section 3-111. State Election Law.** The provisions of this charter and ordinances passed by the council to implement the same or to provide procedure where this charter is silent relating to the manner of voting, the duties of electing officers, the canvassing of returns, and all other provisions with respect to the management of elections, where applicable, shall apply to all municipal elections, except insofar as the same are in conflict with the constitution and mandatory general laws of Oregon in force at the time of any election, in which case the provisions of the constitution and mandatory general laws shall control. If this charter and ordinance provisions of the city are both silent concerning any particular procedure, then the general state law shall apply. The powers conferred and duties imposed by the constitution and general laws upon state and county officers are hereby conferred and imposed upon the corresponding city officers, where applicable under the provisions of this charter. [Ch. 1903, sec. 24; rev. 1914; sec. 133; 1928 pub., sec. 133; am. Nov. 8, 1932; 1942 recod., sec. 3-111; am. Nov. 6, 1962.]

**Section 3-112. Ballots, Form for Primaries.** All names of candidates to be voted upon at the municipal nonpartisan primary election shall be printed upon the official municipal nonpartisan primary ballot in groups under the designation of the respective titles and numbers of the offices for which they are candidates.

No ballot shall have printed thereon any party or political designation or mark, and there shall not be appended to the name of any candidate any such party or political designation or mark, nor any title or prefix designating occupation, profession or degree (but words not exceeding 12 indicating his views on strictly municipal questions may be).

All ballots shall conform as to size, quality and other requirement to the general laws of Oregon regulating ballots for state partisan primary elections. [Ch. 1903, sec. 25; rev. 1914, sec. 134; 1928 pub., sec. 134; am. Nov. 8, 1932; am. Nov. 6, 1934; 1942 recod., sec. 3-112; am. Nov. 6, 1962.]

**Section 3-113. Ballots, Sample.** The auditor, at least ten days before any election, shall cause to be printed not less than ten thousand sample ballots upon paper of different color but other-  
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wise identical with the ballot to be used at said election except for rotation of names of candidates, and shall distribute the same to registered voters at his office and may cause a copy thereof in convenient form to be published in one or more daily papers of general circulation. [May 3, 1913, new sec. 50; rev. 1914, sec. 136; 1928 pub., sec. 136; am. Nov. 8, 1932; 1942 recod., sec. 3-114; rev. Nov. 6, 1962.]

**Section 3-114. Canvass of Returns.** As soon as possible after the close of any election, an abstract of the votes cast shall be made by the auditor, which shall be deemed the canvass. In all municipal nonpartisan primary nominating elections, the auditor shall certify the name of each of the persons having the highest number of votes and also the name of each of the persons having the second highest number of votes for nomination as candidates for office; provided, where the office of commissioner is divided into positions the number of nominees shall not exceed two for any one position. When a tie shall exist between two or more persons for the same nomination by reason of said two or more persons having an equal number of votes for nomination to one and the same office, the auditor shall give notice in writing to the several persons so having the equal number of votes to attend the auditor's office at a time appointed by the auditor, who shall then and there proceed publicly to decide by lot which of the persons so having an equal number of votes shall be declared nominated. The auditor shall thereafter certify the name of the nominated person.

In all municipal nonpartisan primary nomination elections the two persons having the highest number of votes to any office shall be deemed to have been nominated for that office, unless one candidate receives a majority of all votes cast at said nomination for that municipal office, in which event said person alone shall be deemed to have been nominated for the office. [Ch. 1903, sec. 27; am. May 3, 1913; sec. 51; rev. 1914, sec. 137; 1928 pub., sec. 137; am. Nov. 8, 1932; am. Nov. 6, 1934; 1942 recod., sec. 3-115; rev. Nov. 6, 1962.]

**Section 3-115. Dates of Elections.** The dates fixed in the constitution and general laws of Oregon shall apply to all nonpartisan primary and general city elections. [Ch. 1903, sec. 31; am. May 3, 1913, sec. 52; rev. 1914, sec. 138; 1928 pub., sec. 138; am. Nov. 8, 1932; 1942 recod., sec. 3-116; rev. Nov. 6, 1962.]

**Section 3-116. Judges and Clerks.** The judges and clerks of election appointed to serve in any state primary or general election shall serve as the judges and clerks in the city elections held simultaneously. The city may appoint judges and clerks of election to serve in any special election who have been appointed to serve in any other special election held simultaneously and the city and one or more subdivisions of government may divide expenses of any special election held simultaneously. [Ch. 1903, sec. 32; rev. 1914, sec. 139; 1928 pub., sec. 139; am. Nov. 8, 1932; 1942 recod., sec. 3-117; rev. Nov. 6, 1962.]

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**Section 3-117. Qualification of Voters.** No person is qualified to vote at an election held under this charter who is not a resident of the city and who is not a legal registered voter of the state of Oregon. [Ch. 1903, sec. 33; rev. 1914, sec. 140; 1928 pub., sec. 140; am. Nov. 8, 1932; 1942 recod., sec. 3-118; rev. Nov. 6, 1962.]

**Section 3-118. Certification of Nominees.** Immediately after the returns of a municipal nonpartisan primary election are canvassed, the auditor shall certify a list of the nominees for the respective offices and the same shall be published in the official newspaper of the city.

In the event of death, withdrawal, removal or disqualification of any nominee for any office for any other cause, at any time prior to the certification of names for printing of the ballots for the general election, the name of the person receiving the next highest vote for that office at the municipal primary election, and otherwise qualified, shall be substituted therefor. The auditor shall also prepare a certificate and certify the same to the county officials charged with supervision of election ballots with the time fixed by the general laws of Oregon of the names of the successful nominees. A blank line shall be left below the name or names of the nominees for each office wherein the voter may write in the name of any person for whom the voter may vote. No ballot shall have printed thereon any party or political designation or mark and there shall not be appended to the name of any candidate any such party or political designation or mark. The auditor shall not print upon the general ballot the name of any person as an independent candidate for any office. Whenever any candidate for any municipal office shall receive a majority of all votes cast at the municipal nonpartisan primary election for such office, the name of no opposing candidate shall be printed on such ballot in opposition to such candidate, but one space shall be left following such name in which the voter may insert the name of any other person for whom the voter wishes to cast his ballot. [Ch. 1903, sec. 34; am. May 3, 1913, sec. 53; rev. 1914, sec. 141; 1928 pub., sec. 141; am. Nov. 8, 1932; am. Nov. 6, 1934; 1942 recod., sec. 3-119; rev. Nov. 6, 1962.]

**Section 3-119. Certificates of Election.** Immediately after the filing of the canvass by the auditor; the auditor shall make and sign a certificate of election for each person determined by such canvass to have been elected, and deliver the same to the elected officer.

A certificate of nomination or election is primary evidence of the facts therein stated, but the council is the judge of the qualifications and election of its own members, and in case of a contest between two persons claiming to be elected thereto, must determine the same, subject, however, to review by any court of competent jurisdiction. [Ch. 1903, sec. 35; rev. 1914, sec. 142; 1928 pub., sec. 142; am. Nov. 8, 1932; 1942 recod., sec. 3-120; rev. Nov. 6, 1962.]

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**Section 3-120. Contested Elections.** A contested election for the office of auditor shall be determined according to the general laws of Oregon regulating proceedings in contested elections for county officers. [Ch. 1903, sec. 40; am. May 3, 1913; sec. 54; rev. 1914, sec. 143; 1928 pub., sec. 143; am. Nov. 8, 1932; 1942 recod., sec. 3-121; rev. Nov. 6, 1962.]

### **Section 3-121. Election Expenditures.**

**(a) Expense of Candidates.** No sums of money shall be paid by a candidate in his campaign for nomination to elective municipal office, and no expenses shall be authorized or incurred to be paid by him in his campaign for nomination to elective municipal office, in excess of fifteen per cent (15%) of one year's compensation or salary of the office for which he is a candidate; but no candidate shall be restricted to less than \$100 in such campaign.

No sums of money shall be paid and no expenses authorized or incurred to be paid by a nominee for elective municipal office in his campaign for election in excess of ten per cent (10%) of one year's salary or compensation of the office for which he has been nominated, but no candidate shall be restricted to less than \$100.

Every candidate for nomination or election to municipal office shall file with the auditor not more than five days nor later than one day prior to the election at which he is a candidate, an itemized sworn statement setting forth in detail all the moneys contributed, expended or to be expended or promised by him to aid and promote his nomination or election or both, as the case may be, and also setting forth all existing unfulfilled promises of every character and all liabilities relating to the election remaining uncanceled and in force at the time such statement is made, whether such expenditures, promises, and liabilities were made or incurred before or during such election campaign. If no money or other valuable thing was given, paid, expended, contributed or promised, and no unfulfilled liabilities were incurred or promised by a candidate for public office to aid or promote his nomination or election, he shall file a statement to that effect not more than five days nor later than one day prior to the election at which he is a candidate. If any candidate fails to file such a statement, he shall be ineligible to receive such nomination and ineligible to qualify, if elected, unless excused by order of court. Similar accounting shall be made in the case of any recall election, and a similar statement must be filed not more than five days nor later than one day prior to the recall election, but the limitations on expenditures shall not apply.

**(b) Campaign Accounts by Others.** Every organization or committee advocating or promoting any candidate for nomination or election, or advocating or opposing any ballot measure shall have a treasurer who is a registered voter and cause him

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to keep detailed accounts of all receipts, payments and liabilities. Such accounts shall cover all transactions in any way affecting or connected with the campaign, nomination or election concerned, whether primary, general or recall. Such treasurer shall, not more than five days nor later than one day prior to the election in which money or value was expended or promised by such organization or committee, file with the auditor an itemized statement of its receipts, expenditures and liabilities, and at the same time deliver to the candidate whose success or defeat he has sought to promote, a duplicate of such statement. The books of account of every treasurer of any organization or committee shall be open during an election campaign at all reasonable office hours to the inspection of the candidates or any other candidate for the same office, and to the inspection of the treasurer and chairman of any opposing organization for the same electoral district, and such right of inspection may be enforced by writ of mandamus by any court of competent jurisdiction.

Every person or corporation that in the aggregate receives or expends money or incurs liabilities to the amount of more than \$50 for municipal campaign purposes in advocating or promoting any candidate for nomination or election or advocating or opposing any ballot measure shall keep detailed accounts of receipts, payments and liabilities covering all transactions in any way affecting or connected with the campaign, nomination, election or recall election concerned. On demand, and in any event not more than five days nor later than one day prior to the election, such person shall give the candidate or his agent, or the treasurer of the organization or committee on whose behalf such expenses or liabilities were incurred, a detailed account thereof and file a copy with the auditor. Such accounts shall be a part of the accounts and files of such candidate, agent or treasurer. Any person not a candidate for any office or nomination who expends money or value to an amount greater than \$50 in any campaign for nomination or election or in any campaign relating to recall election or to aid in the election or defeat of any candidate or measures before the people shall, not more than five days nor later than one day prior to the election in which said money or value was expended or liability incurred, file with the auditor an itemized statement of such receipts and expenditures.

**(c) Preservation of Accounts.** The auditor shall preserve all statements and accounts relating to any election for six months after such election.

**(d) Failure to File, Penalty.** Any candidate who fails to file the statement hereinbefore required, shall be ineligible to receive nomination if such failure precedes a primary election, and ineligible to qualify if elected unless excused by court order.

In addition to the foregoing disqualification, any candidate or other person who shall fail to file the statements or accounts

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required by this section, shall, upon conviction in the municipal court, be fined \$25.00 for every day on which he was in default, unless the court orders otherwise. Five days after any such election, the auditor shall notify the city attorney of any failure, or grounds he has to believe that there is a failure, of any person to file the required statement or account, and within five days thereafter the city attorney shall proceed to prosecute said candidate or other person for such offense if he finds there is reasonable grounds therefor, by filing a complaint in the municipal court and such court shall have jurisdiction of such offense.

[Nov. 6, 1934, new sec. 143½; 1942 recod., sec. 3-122; rev. Nov. 6, 1962.]

### **ARTICLE 2. INITIATIVE, REFERENDUM AND RECALL.**

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

**Section 3-202. Effective Date of Measures.** Charter amendments, ordinances or measures adopted by the electors of the city under the initiative or approved by the electors of the city when submitted under the referendum shall take effect at the time fixed therein if such time occurs after the vote thereon; if no such time is designated therein, at the day of the adoption. [May 3, 1913, new sec. 27; rev. 1914, sec. 49; 1928 pub., sec. 49; 1942 recod., sec. 3-202; am. Nov. 6, 1962.]





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### CHAPTER IV CIVIL SERVICE

#### ARTICLE 1. PRINCIPLES AND OPERATION

**Section 4-101. Scope of Merit System.** All appointments to and promotions in the subordinate administrative service of the city shall be made solely according to fitness, which shall be ascertained by open competitive examination, and merit and fidelity in service, as provided for in this article. The provisions of this article shall apply to the incumbents of all offices, places and employments in the public service of the city except the following: all officers chosen by popular election or by appointment by the council, the members of all boards and commissions, the judges and clerks of elections, the deputies of the city attorney, the chief deputy of the city treasurer, the city engineer, the superintendent and the chief engineer of the water department [bureau of water works] and the secretary of the civil service board, the mayor's secretary, the members of the health department [bureau of health] and the librarian and chief of police. The mayor shall appoint a chief of police, who shall have had ten years' active police service. The chief of police shall be subject to removal by the mayor. [Ch. 1903, sec. 306; 1914 rev., sec. 97; 1928 pub., sec. 97; am. November 6, 1934; 1942 recod., sec. 4-101.]

**Section 4-102. Civil Service Board.** The civil service board shall consist of three commissioners. Within 30 days after the taking effect of this charter, the mayor shall appoint, as such commissioners, three persons, known to him to be devoted to the principles of civil service reform, one of whom shall serve for two years, one for four years and one for six years; and between the first and tenth days of July in 1905 and each second year thereafter, the mayor shall, in like manner, appoint one person, as the successor of the commissioner whose term of office expires in that year, to serve as such commissioner for six years. The mayor may remove any commissioner at any time. In the event of any such removal, the mayor shall, within five days thereafter, transmit to the council a written report thereof and of his reasons therefor, and the council shall forthwith appoint another person to fill the vacancy. Vacancies arising from any other cause shall be filled by appointment by the mayor. All appointments to fill vacancies shall be for the unexpired term. No person shall be appointed as a commissioner unless he shall have been a resident of the city three years immediately preceding his appointment. The commissioners shall receive no salary or compensation for their services. [Ch. 1903, sec. 307; 1914 rev., sec. 98; 1928 pub., sec. 98; 1942 recod., sec. 4-102.]

**Section 4-103. Secretary.** The board shall appoint a secretary, who shall keep records of its proceedings, preserve all reports made

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to it, superintend and keep a record of all examinations held under its direction, and perform such other duties as it may prescribe. Such secretary shall hold office during the pleasure of the board. His salary shall be fixed by the council, and shall be not less than \$100.00 per month. At the request of the board, the council shall, if practicable, devolve the duties of such secretary upon the auditor, who shall receive no extra or additional compensation for his services as such secretary. [Ch. 1903, sec. 308; am. May 3, 1913, sec. 308; 1914 rev., sec. 99; 1928 pub., sec. 99; 1942 recod., sec. 4-103.]

**Section 4-104. Classification.** The board shall classify, with reference to the examinations hereinafter provided for, all the offices, places and employments in the public service of the city to which the provisions of this article are applicable. Such classification shall be based upon the respective functions of said offices, places and employments, and the compensation attached thereto, and shall be arranged so as to permit the grading of offices, places and employments of like character in groups and subdivisions. The offices, places and employments so classified shall constitute the classified civil service of the city; and after the taking effect of this charter, no appointment or promotion to any such office, place or position shall be made except in the manner provided in this article. [Ch. 1903, sec. 309; 1914 rev., sec. 100; 1928 pub., sec. 100; 1942 recod., sec. 4-104.]

**Section 4-105. Rules and Records.** The board shall make rules to carry out the purpose and provisions of this article, which rules shall provide, in detail, the manner in which examinations shall be held, and the appointments, promotions and removals made in pursuance thereof; and the board may, from time to time, change its rules. Such rules, and all changes therein, shall be forthwith printed for distribution by the board, and the board shall, not less than ten days before the same go into effect, give notice, by publication in the city official newspaper, of the place where printed copies of said rules, or changes therein, may be obtained. The board shall keep on file all papers, documents, and communications received by them; and all records and files of the board shall be public and accessible at convenient times, except examination papers and the markings thereof. Such examination papers and the markings thereof shall be open to inspection only by candidates who took such examinations for a period of thirty days after the results of examinations are officially announced by the Board. Thereafter such examination papers and the markings thereof shall not be open to inspection except as provided in Section 4-108 of this Charter and need not be preserved for more than five years. [Ch. 1903, sec. 310; 1914 rev., sec. 101; 1928 pub. sec. 101; 1942 recod., sec. 4-105; am. May 17, 1946.]

**Section 4-106. Examinations.** The board shall, from time to time, hold public competitive examinations to ascertain the fitness of applicants for all offices, places and employments in the classified civil service. Said entrance examinations shall be confined to 4-103 to 4-106

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citizens of the United States who can read and write the English language and shall be open to all such citizens who possess such qualifications as may, by rule, be prescribed by the board. Notice of the time, place and general scope of every examination shall be given by the board by publication in the city official newspaper once each week for two successive weeks and by posting such notice in a conspicuous place in the office of the board not less than two weeks preceding the examination. Such examinations shall be practical in their character, and shall relate only to those matters which may fairly test the relative fitness of the persons examined to discharge the duties of the positions for which they are applicants and shall include, when appropriate, tests of health and physical qualifications and of manual, clerical or professional skill. No question in any examination shall relate to political or religious opinion, affiliations or services. The board shall control all examinations and shall designate the persons who shall act as examiners at any examination. When a person in the official service of the city is designated by the board, he shall, without being entitled to extra compensation therefor, act as such examiner. Any commissioner may act as an examiner.

All patrolmen shall be between the ages of 21 and 30 years and all hosemen shall be between the ages of 21 and 26 years on the dates of their respective appointments; provided, that in the case of an applicant for either of said positions who, being a citizen of the United States, has honorably served in the armed forces of the United States of America during any war to which the United States was or shall be a party belligerent, the maximum age limit shall be extended to 35 years for a patrolman and to 31 years for a hoseman. [Ch. 1903, sec. 311; 1914 rev., sec. 102; 1928 pub., sec. 102; am. November 6, 1934; am. November 8, 1938; 1942 recod., sec. 4-106; am. May 17, 1946.]

**Section 4-107. Register of Positions.** The board shall prepare and keep a register for each grade or class of positions in the classified civil service of the persons whose general average standing upon examination for such grade or class is not less than the minimum fixed by the rules of the board, and who are otherwise eligible. Such persons shall take rank upon such register as candidates in the order of their relative excellence, as determined by examination, without reference to priority of time of examination. Candidates of equal standing shall take rank upon the register according to the order in which their applications were filed. The board may, by rule, provide for striking candidates from the register after they have remained thereon for a specified time, and may limit the number of times the same candidate shall be certified to the appointing authority. [Ch. 1903, sec. 312; 1914 rev., sec. 103; 1928 pub., sec. 103; 1942 recod., sec. 4-107.]

**Section 4-108. Vacancies and Reappointments.** Whenever there shall be a vacancy in any position in the classified civil service, the appointing authority shall immediately notify the board

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thereof. The board shall thereupon certify to such appointing authority the names and addresses of the three eligible candidates standing highest upon the register for the class or grade to which such position belongs, but, if there be less than three, the board shall so certify all such candidates upon the register. When vacancies exist in two or more positions of the same class in the same department at the same time, the board may certify a less number than three candidates for each position, but those certified must be the eligible candidates standing highest upon the register. The appointing authority may require the candidates so certified to come before him, and shall be entitled to inspect their examination papers. The appointing authority shall appoint to each vacant position, on probation for a period to be fixed by the rules, one of the candidates so certified. Within such period, the appointing authority may discharge such probationer, and, in like manner, appoint another of such candidates, and so continue until all said candidates have been so appointed; but the appointing authority must make permanent appointment from said list of candidates unless, upon reasons assigned in writing by the appointing authority, the board consents to and does certify a new list of candidates. If any probationer is not discharged within the period of probation, his appointment shall be deemed permanent. Any person who has been employed in any one department of the public service of the city for the six years immediately preceding the taking effect of this charter, shall, upon making satisfactory proof of such employment to the board, within thirty days after its appointment, provided the position which he occupies at the time this charter goes into effect is included in the classified civil service, be certified by the board to the appointing authority for that position as entitled to appointment, and such appointing authority shall forthwith appoint said person to such position. The appointing authority shall immediately notify the commission of any appointment or discharge. [Ch. 1903, sec. 313; 1914 rev., sec. 104; 1928 pub., sec. 104; 1942 recod., sec. 4-108.]

**Section 4-109. Temporary Appointments.** In the absence and pending the preparation of an appropriate eligible list from which appointments can be made, or, in extraordinary emergencies to prevent delay or injury to the public business, any office, place, or employment in the classified civil service may be filled temporarily by the appointing authority, but not for a longer period than thirty days. [Ch. 1903, sec. 314; 1914 rev., sec. 105; 1928 pub., sec. 105; 1942 recod., sec. 4-109.]

**Section 4-110. Restrictions on Appointments.** No person shall be appointed or employed under any title not appropriate to the duties to be performed, and no person shall, without examination, be transferred to or assigned to perform the duties of any position in the classified civil service unless he shall have been appointed to the position from which such transfer is made as the result of an open competitive examination equivalent to that required for the position to which the transfer is made, or unless he shall have

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served with fidelity for at least six years in a like position in the service of the city. No person habitually using intoxicating beverages to excess shall be appointed to or retained in any office, place or employment in the classified civil service; provided, that nothing in this section shall prevent the demotion, for cause, of officers in the bureau of police. [Ch. 1903, sec. 315; 1914 rev., sec. 106; 1928 pub., sec. 106; am. November 6, 1934; 1942 recod., sec. 4-110.]

**Section 4-111. Promotions.** The board shall, by its rules, provide for promotions in the classified service, on the basis of ascertained merit and seniority in service, and standing upon examination, and shall provide that in all cases where practicable, vacancies shall be filled by promotion. All examinations for promotion shall be competitive among such members of the lower ranks established by the board for each department as desire to submit themselves to such examination; and the board shall submit to the appointing authority the names of not more than three applicants, having the highest rating, for each promotion; and the promotion shall thereupon be made as in case of original appointments. The method of examining and the rules governing the same and the method of certifying shall be the same, as near as may be, as provided for applicants for original appointment. But the board may, by its rules, prescribe the weight to be given to the recommendation of the head of the department in which the candidate for promotion has served; and where record of fidelity and efficiency of employes is regularly kept in good faith in any department, the board shall give the same at least equal value with the record on examination for promotion. [Ch. 1903, sec. 316; 1914 rev., sec. 107; 1928 pub., sec. 107; 1942 recod., sec. 4-111.]

**Section 4-112. Removals and Investigations.** No employe in the classified civil service who shall have been permanently appointed under the provisions of this chapter shall be removed or discharged, or in the case of the members or officers of the bureau of police, demoted, except for cause, a written statement of which in general terms shall be served upon him and a duplicate filed with the board. Such removal or discharge may be made without any trial or hearing. In the bureau of police removal, discharge or demotion may be made only after a hearing before the mayor, chief of police, or a discipline committee of superior officers appointed as may be provided by ordinance, said hearing to be based on written charges filed by the mayor, chief of police, inspector of police, or other superior officer of the bureau of police. Any employe so removed or demoted may within ten days from his removal or demotion file with the board a written demand for investigation. If such demand shall allege, or, if it shall otherwise appear to the board that the discharge or removal, and in the case of the bureau of police, demotion, was for political or religious reasons, or was not in good faith, for the purpose of improving the public service, the matter shall forthwith be investigated by or before the board, or by or before some officer or board appointed by the board to conduct such investigation. The investigation shall

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be confined solely to the determination of the question of whether such removal or discharge, or, in the case of the bureau of police, demotion, was or was not for political or religious reasons, or was or was not made in good faith for the purpose of improving the public service. The burden of proof shall be upon the discharged employee. On such grounds the board may find that the employee is entitled to reinstatement upon such terms or conditions as may be imposed by the board, or may affirm his removal. The findings of the board shall be certified to the appointing officer and shall forthwith be enforced by such officer. [Ch. 1903, part of sec. 317; am. June 7, 1909, part of sec. 317; am. May 3, 1913, part of sec. 317; 1914 rev., sec. 108; 1928 pub., sec. 108; am. November 6, 1934; 1942 recod., sec. 4-112.]

**Section 4-113. Suspensions and Reduction of Force.** Any appointing authority may suspend a subordinate for a reasonable period not exceeding thirty days, but such suspension if occurring more than once a year shall be deemed a removal and subject to investigation in like manner. But, if at any time the council or other city authority shall abolish any office or employment, or reduce the number of employees, discharges shall be made in the inverse order of appointment, and if such offices or places shall again be created or reinstated the employees so removed (except as to emergency employees), shall have preference for reappointment in the order of their original appointment. [Ch. 1903, part of sec. 317; am. June 7, 1909, part of sec. 317; am. May 3, 1913, part of sec. 317; 1914 rev., sec. 109; am. June 7, 1915; 1928 pub., sec. 109; 1942 recod., sec. 4-113.]

**Section 4-114. Holdover Employees.** The present incumbents of all offices, places, and employments under the civil service rules shall continue to hold their respective places, subject to the provisions of this article. [Ch. 1903, part of sec. 317; am. June 7, 1909, part of sec. 317; am. May 3, 1913, part of sec. 317; 1914 rev., sec. 110; 1928 pub., sec. 110; 1942 recod., sec. 4-114.]

**Section 4-115. Reinstatement.** Each act of the civil service board, subsequent to July 1, 1913, in reinstating to his civil service standing any officer or employee who had resigned from or otherwise relinquished a position to which he had been regularly and permanently appointed under the civil service laws of this charter, is hereby ratified and confirmed. [Nov. 2, 1920, new sec. 110½; 1928 pub., sec. 110½; 1942 recod., sec. 4-115.]

**Section 4-116. Annual Report.** The board shall, on or before the first day of January of each year, make to the mayor for transmission to the council a report showing its own actions, the rules in force, the practical effect thereof, and any suggestions it may approve for the more effectual accomplishment of the purposes of this article. The mayor may require a report from the board at any reasonable time. [Ch. 1903, part of sec. 317; am. June 7, 1909, part of sec. 317; am. May 3, 1913, part of sec. 317; 1914 rev., sec. 111; 1928 pub., sec. 111; 1942 recod., sec. 4-116.]

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**Section 4-117. Offices and Equipment.** The council shall furnish the board with suitable offices, office furniture, books, stationery, blanks, heat and light and shall provide for the payment of such other expenses as may necessarily be incurred in carrying out the provisions of this article. [Ch. 1903, sec. 318; 1914 rev., sec. 112; 1928 pub., sec. 112; 1942 recod., sec. 4-117.]

**Section 4-118. Roster and Payroll.** It shall be the duty of said civil service board to prepare, continue, and keep in their office a complete roster of all persons in the classified civil service of the city. This roster shall be open for inspection at all reasonable hours. It shall show in reference to each of said persons his name, the date of appointment to or employment in such service, his compensation, the title of the place or office he holds, the nature of the duties thereof and the date of any termination of such service. It shall be the duty of all officers and employes of the city to give the board all the information which may be reasonably requested, or which the regulations established by the board may require, in aid of the preparation or continuance of said roster, and, so far as practicable, it shall indicate whether any and what persons are holding any and what offices or places aforesaid in violation of this article or of any regulations made thereunder. Said civil service board shall have access to all public records and papers, the examination of which will aid in the discharge of their duties in connection with said roster. It shall be the duty of said board to certify to the auditor the name of each person appointed or employed in the classified civil service stating in each case the title or character of the office or employment, the date of the commencement of service by virtue thereof, and the salary or other compensation paid, and, also, as far as practicable, the name of each person employed in violation of this act or of the regulations established thereunder, and to certify to the said auditor in like manner every change occurring in any office or employment of the classified civil service forthwith on the occurrence of the change. No officer or employe of the city shall draw, sign, countersign, or issue any warrant or order for the payment of, or pay any salary or compensation to any person in the classified civil service who is not certified by the board to the auditor as having been appointed or employed in pursuance of this article and of the regulations in force thereunder. Any person entitled to be certified as aforesaid may maintain a proceeding by mandamus to compel the issuance of such certificate. Any sums paid contrary to the provisions of this section may be recovered in an action in the name of the city from any officer or employe of the city paying the same, or from any officer signing, countersigning, drawing or issuing or authorizing the drawing, signing, countersigning or issuing of any warrant or order for the payment thereof, and from the sureties on his official bond. All money recovered in any such action must, when collected, after paying all the expenses of such action, be paid into the city treasury. [Ch. 1903, sec. 319; 1914 rev., sec. 113; 1928 pub., sec. 113; 1942 recod., sec. 4-118.]

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**Section 4-119. Investigations.** The said commissioners may make investigations concerning the facts in respect to the execution of the provisions of this article, and of the regulations established under its authority. In the course of any investigation made by the board under the provisions of this article each commissioner and the secretary shall have the power to administer oaths. Said board shall have the power, for the purpose of this article, to examine into books and records, compel the production of books, papers, records or documents, subpoena witnesses, and compel their attendance and examination, as though such subpoena had issued from a court of record of this state; and all officers and employees of the city shall afford the said board all reasonable facilities in conducting any investigations authorized by this article, and give inspection to said board of all books, papers and documents belonging or in anywise appertaining to any offices or departments of the city; and, also, shall produce said books and papers, and shall attend and testify when required to do so by said commissioners without receiving any extra or special compensation therefor. Wilful false swearing in such investigations and examinations shall be perjury and punishable as such. [Ch. 1903, sec. 320; 1914 rev., sec. 114; 1928 pub., sec. 114; 1942 recod., sec. 4-119.]

**Section 4-120. Misdemeanors of Commissioners, Examiners and Others.** Any commissioner, examiner, or any other person who shall wilfully or corruptly, by himself or in cooperation with one or more persons, defeat, deceive or obstruct any person in respect to his or her right to examination or registration according to the regulations prescribed pursuant to the provisions of this article, or who shall, wilfully or corruptly, falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified according to any regulation prescribed pursuant to the provisions of this article, or aid in so doing or shall wilfully or corruptly make any false representations concerning the same, or concerning the persons examined, registered or certified, or who shall wilfully or corruptly furnish to any person any special or secret information for the purpose either of improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered, or certified, or who shall personate any other person, or permit or aid in any manner any other person to personate him, in connection with any examination or registration or application, or request to be examined or registered, shall for each offense be deemed guilty of a misdemeanor. [Ch. 1903, sec. 321; 1914 rev., sec. 115; 1928 pub., sec. 115; 1942 recod., sec. 4-120.]

**Section 4-121. Prohibition of Political Assessments.** No person in the national public service or the public service of the state or any civil division thereof, including counties, cities, towns, shall directly or indirectly use his authority or official influence to compel or induce any person in the public service of the city to pay or to promise to pay any political assessment, subscription, or contri-



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bution. Every person who may have charge or control in any building, office, or room, occupied for any purpose of said public service of the city, is hereby authorized to prohibit the entry of any person into the same for the purpose of therein making, collecting, receiving, or giving notice of any political assessment, subscription, or contribution, and no person shall enter or remain in any said office, building, or room, or send or direct any letter or other writing thereto, for the purpose of giving notice of, demanding, or collecting, nor shall any person therein give notice of, demand, collect or receive any such assessment, subscription, or contribution; and no person shall prepare or make out, or take part in the preparing or making out of any political assessment, subscription, or contribution with the intent that the same shall be sent or presented to or collected from any person in the public service of the city, and no person shall knowingly send or present any political assesment, subscription, or contribution to or request its payment by any person in said public service.

Any person who shall be guilty of violating any provision of this section shall be deemed guilty of a misdemeanor. [Ch. 1903, sec. 322; 1914 rev., sec. 116; 1928 pub., sec. 116; 1942 recod., sec. 4-121.]

**Section 4-122. Bribery of Public Officers or Employees.** Whoever, being a public officer, or being in nomination for, or while seeking a nomination or appointment for, any public office, shall use, or promise to use, whether directly or indirectly, any official authority or influence (whether then possessed or merely anticipated) in the way of conferring upon any person, or in order to secure or aid any person to secure any office or appointment in the public service, or any nomination, confirmation, or promotion, or increase of salary on consideration that the vote, political influence, or action of the last-named person, or any other, shall be given or used in behalf of any candidate, officer, or political party or association, or upon any other corrupt condition or consideration, shall be deemed guilty of bribery or an attempt at bribery; and whoever, being a public officer or employe, or having or claiming to have any authority or influence for or affecting the nomination, public employment, confirmation, promotion, removal, or increase or decrease of salary of any public officer or employe, shall corruptly use, or promise or threaten to use, any such authority or influence, directly or indirectly, in order to coerce or persuade the political vote or action of any citizen, or the removal, discharge, or promotion of any public officer or public employe, or upon any corrupt consideration, shall also be guilty of bribery, or an attempt of bribery; and every person found guilty of such bribery, or an attempt to commit the same, as aforesaid, shall, upon conviction thereof, be liable to be punished by a fine of not less than fifty dollars or more than one thousand dollars, or to be imprisoned not less than ten days or more than two years, or to both said fine and said imprisonment, in the discretion of the court. If the person convicted be a public officer he shall, in addition to any other

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punishment imposed, be deprived of his office and be ineligible to any public office or employment for ten years thereafter. The phrase "public officer" shall be held to include all public officials within this city, whether paid directly or indirectly from the public treasury of the state or of the United States, or from that of any civil division thereof, including counties, cities, and towns; and whether by fees or otherwise; and the phrase "public employes" shall be held to include every person not being an officer who is paid from any said treasury. [Ch. 1903, sec. 323; 1914 rev., sec. 117; 1928 pub., sec. 117; 1942 recod., sec. 4-122.]

**Section 4-123. Recommendations of Applicants.** No recommendation in favor of any person who shall apply for office or place, or for examination or registration under the provisions of this article or the regulations established under the authority thereof, except as to residence and as to character, and in the case of former employes as to abilities, when said recommendation as to character and abilities is specifically required by said regulations, shall be given to or considered by any person concerned in making any examination, registration, appointment or promotion under this article, or under the regulations established under the authority thereof. No recommendation under the authority of this article shall relate to the religious or political opinions or affiliations of any person whomsoever. [Ch. 1903, sec. 324; 1914 rev., sec. 118; 1928 pub., sec. 118; 1942 recod., sec. 4-123.]

**Section 4-124. Disregard of Political Services and Contributions.** No person in the service of the city is for that reason under any obligation to contribute to any political fund or to render any political service, and no person shall be removed, reduced in grade or salary, or otherwise prejudiced for refusing to do so. No person in the service of the city shall discharge or promote or degrade, or in any manner change the official rank or compensation of any other person in said service, or promise or threaten to do so for giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose. No person in said service shall use his official authority or influence to coerce the political action of any person or body, or to affect or to interfere with any nomination, appointment or election to public office. [Ch. 1903, sec. 325; 1914 rev., sec. 119; 1928 pub., sec. 119; 1942 recod., sec. 4-124.]

**Section 4-125. Violations of Civil Service Provisions A Misdemeanor.** Whoever makes appointment to office in the public service of the city or selects a person for employment therein contrary to the provisions of this article or of any regulation duly established under the authority thereof, or wilfully refuses or neglects otherwise to comply therewith, or conform to the provisions of this article, or violates any of such provisions, shall be guilty of a misdemeanor. [Ch. 1903, sec. 326; 1914 rev., sec. 120; 1928 pub., sec. 120; 1942 recod., sec. 4-125.]

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**Section 4-126. Penalties and Jurisdiction of Circuit Court.** Misdemeanors under the provisions of this article shall be punishable by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment in the county jail for not longer than one year, or by both such fine and imprisonment. The circuit court of the State of Oregon shall have jurisdiction of offenses defined in this article. [Ch. 1903, sec. 327; am. May 3, 1913, part of sec. 106; 1914 rev., sec. 121; 1928 pub., sec. 121; 1942 recod., sec. 4-126.]

**Section 4-127. Preference to Citizens, Minimum Wages and Hours of Work.** In the employment of mechanics and unskilled laborers preference shall in all cases be given to those who are citizens of the United States or those who have declared their intention to become such and who have resided within the city for one year next before entering into the city's employment. Eight hours shall constitute a day's work for all laborers, workmen and mechanics who may be employed by the city, and the minimum wage to unskilled laborers employed by the city shall be \$2.00 per day. [May 3, 1913, part of new sec. 106; 1914 rev., sec. 122; 1928 pub., sec. 122; 1942 recod., sec. 4-127.]

**Section 4-128. Hours of Regular Duty, Special Duty and Salary Provisions for Uniformed Members of the Bureau of Fire.**

1. HOURS OF REGULAR DUTY. No member of the uniformed force of the Bureau of Fire shall be required to be on regular duty over an average of sixty (60) hours per week computed annually over the city's fiscal year or any unexpired portion thereof.

2. SUBJECT TO SPECIAL DUTY AT ALL TIMES. As a condition of their employment members of the uniformed force of the Bureau of Fire at all times shall in addition to such regular duty be subject to special duty when there is grave or unusual danger of conflagration or other emergency requiring such service as is usually performed by those generally engaged in that occupation.

3. SALARY PROVISIONS. There shall be no reduction in salaries or rates of pay for members of the uniformed force of the Bureau of Fire because of the number of hours prescribed in this act as constituting the average work week of regular duty.

4. EFFECTIVE DATE. This act shall become effective at the pleasure of the council but in no case later than the beginning of the fiscal year commencing July 1, 1947. [November 5, 1918, new sec. 122-a; 1928 pub., sec. 122-a; 1942 recod., sec. 4-128; am. Nov. 5, 1946.]

**Section 4-129. Limit of Laid Off and Indefinite Sick Leave Lists.** When any person's name shall have been on the laid off list or indefinite sick leave list for a continuous period of more than five years, he shall be removed from the list and have no further right of appointment except through a new eligible list;

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provided, that no person on such laid off or indefinite sick leave list at the time this section becomes effective shall be removed from the list until six months after the effective date of this section. But the provisions of this section shall not apply to civil service employes who shall have gained a promotional position as provided in this charter and then by reduction of forces or otherwise been restored to his former position. [May 17, 1946, new sec.]

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## CHAPTER V DISABILITY, RETIREMENT AND DEATH BENEFITS

### ARTICLE 1. FIRE AND POLICE DISABILITY, RETIREMENT AND DEATH BENEFIT PLAN

**Section 5-101. Creation of Fund.** There is hereby created and established a Fire and Police Disability and Retirement Fund for the benefit of the members of the Bureau of Fire and Bureau of Police of the City of Portland and for the benefit of the widows and dependent minor children of deceased members. [Am. June 2, 1913, subdn. 1, sec. 176; 1914 rev., sec. 196; 1928 pub., sec. 196; am. Nov. 5, 1940; 1942 recod., sec. 5-101.]

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

1. Compulsory contribution to the Fund from each member amounting to seven per cent (7%) of his then current salary but not to exceed seven per cent (7%) of the then current salary of a first class fire fighter, or whatever name said position shall hereafter bear, for members of the Bureau of Fire, and not to exceed seven per cent (7%) of the then current salary of a first class patrolman, or whatever name said position shall hereafter bear, for members of the Bureau of Police, and from each temporary member a contribution to the Fund amounting to four per cent (4%) of his then current salary.
2. All moneys, property and investments in that Fund known as the Firemen's Relief and Pension Fund of the charter of the city of Portland in effect prior to July 1, 1949, and all moneys hereafter earned by or paid into said Fund in accordance with provisions of this charter, and all proceeds of any tax levy authorized elsewhere in this charter for the Firemen's Relief and Pension Fund which proceeds shall hereafter be paid into the Fund created by this article.
3. All moneys, property and investments in that Fund known as the Policemen's Relief and Pension Fund of the charter of the city of Portland in effect prior to July 1, 1949, and all moneys hereafter earned by or paid into said Fund in accordance with provisions of this charter, and all proceeds of any tax levy authorized elsewhere in this charter for the Policemen's Relief and Pension Fund which proceeds shall hereafter be paid into the Fund created by this article.
4. All interest on the investment of any portion of the Firemen's Relief and Pension Fund, the Policemen's Relief and Pension Fund and funds created in this article.
5. All bequests, fees, gifts or other emoluments paid or given on account of any extraordinary service of any member (except when specifically allowed to be retained by such member by the Council).

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6. All other moneys herein made available and all other moneys which may be hereafter made available by law, including loans from the General Fund and advances from the Reserve Fund created in this article.

[Am. June 2, 1914, subdn. 2, sec. 176; 1914 rev., sec. 197; 1928 pub., sec. 197; am. Nov. 6, 1928; am. Nov. 5, 1940; 1942 recod., sec. 5-102; am. Nov. 3, 1964.]

**Section 5-103. Levy By Council.** The Board of Trustees hereinafter in this article created shall annually, on or before the first day of March of each year, prepare and transmit to the Council a statement containing the following items:

1. The amount of money required for the next succeeding fiscal year to pay and discharge all requirements of the Fund for said succeeding fiscal year except repayment of authorized loans and advances.
2. The estimated revenue to said Fund during the next succeeding fiscal year from all sources except the levy in this section provided plus the estimated balance in said Fund at the beginning of said year.
3. A statement of all payments made and estimated to be made from the Fund during the current fiscal year.
4. The total amount paid into and estimated to be paid into said Fund from all sources except loans from the General Fund and advances from the Reserve Fund created by Section 5-104 of this article, during the current fiscal year plus the balance in said Fund at the beginning of said year.
5. A statement setting forth in dollars and cents the total amount of money required by the Fund to discharge its requirements for the next succeeding fiscal year and the current fiscal year. This amount of money shall be computed by adding the amount that item 1 exceeds item 2, if any, to the amount that item 3 exceeds item 4, if any.

The Council shall levy each year, at the same time and in the same manner that other taxes are levied, a tax upon all taxable property within the city of Portland not exempt from taxation, not to exceed two and one-half (2½) mills on each dollar valuation, sufficient to produce and provide a sum equal to said required amounts so prepared and transmitted by the Board.

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

The additional tax herein provided for hereby is specifically authorized and shall not be computed as a part of the revenue

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raised by taxation which is subject to the tax limitation of Section 11, Article XI of the Constitution of the State of Oregon, and said tax levy hereby authorized shall be in addition to all other taxes which may be levied according to law. The proceeds of said tax levy to the extent of the amount required by the Fund shall be paid into the Fund. Any balance shall be paid into the Reserve Fund created in Section 5-104. [New sec. Nov. 2, 1948; am. Nov. 7, 1950.]

**Section 5-104. Reserve Fund.** There is hereby created and established a Reserve Fund which shall consist of all moneys paid into it as provided in Section 5-103. Advances may be made by the Board of Trustees hereinafter created from said Reserve Fund to the Fire and Police Disability and Retirement Fund in cases where said Fund is depleted to the extent that it cannot meet its current obligations. Said advances shall be repaid at a time set by said Board of Trustees, which time shall not exceed two (2) years from the date of the advances. The Board of Trustees shall have the same powers of investment of said Reserve Fund that it has with the Fire and Police Disability and Retirement Fund. [New sec. Nov. 2, 1948.]

**Section 5-105. Salary Deductions.** It shall be the duty of the Auditor, in making out regular salary warrants, to deduct and withhold from the salary of each member the amount above provided during all the time such member may be in the employ of said Bureau of Fire or said Bureau of Police. It shall be the duty of the Auditor to draw a warrant for the total amount so withheld, payable to the Fund at the times regular salaries are paid. [Am. June 7, 1915, new sec. 204; 1928 pub., sec. 204; am. Nov. 6, 1928; am. Nov. 5, 1940; 1942 recod., sec. 5-104; rev. Nov. 3, 1964.]

**Section 5-106. Board of Trustees.** The Fire and Police Disability and Retirement Fund shall be under the supervision and control of the Board of Trustees, which shall be composed of eleven (11) members who shall be the following: The Mayor (who shall act as Chairman); the City Treasurer (who shall act as Treasurer); the City Auditor (who shall act as Secretary); the Chief Engineer of the Bureau of Fire (Chief of the Bureau of Fire); the Chief of Police; three members of the Bureau of Fire, one of whom shall be elected annually to the membership on the Board by the regular membership of said Bureau of Fire, and three members of the Bureau of Police, one of whom shall be elected annually to the membership on the Board by the regular membership of said Bureau of Police. In the absence of the Mayor, the City Treasurer and/or City Auditor, the following persons shall be entitled to be substituted on the Board of Trustees to all intents and purposes as if the named officer were present: Whoever is empowered to act in his or their absence in the respective office; or whoever is designated from his office to serve regularly on the Board in his place; or any Council member designated by the Mayor to serve for him. In the absence of the Mayor, who ever is empowered to serve for him

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shall serve as Chairman Pro Tempore. All members of the Board shall serve without compensation. Members elected from each bureau holding office at the time of the enactment of this article shall continue to serve as Board members for the duration of their terms of office.

Elections shall be under the supervision of the City Auditor and shall be held annually in the month of June, at which election one regular member of the Bureau of Fire and one regular member of the Bureau of Police shall be elected to the Board for three-year terms to succeed the members whose terms expire the month following the time of said election. Members so elected in June shall take office the following July. Similar elections for unexpired terms shall be held to fill other vacancies within thirty (30) days after they occur. Said elections shall be held in a manner prescribed by the rules and regulations adopted by the Board of Trustees, which must be in writing and filed with the Secretary of the Board. Said Board shall keep a record of all of its proceedings and hold regular meetings each month, at a time to be set by said Board, and seven (7) members shall constitute a quorum at any and all meetings of the Board. [Am. June 2, 1913, subdn. 3, sec. 176; 1914 rev., sec. 198; 1928 pub., sec. 198; am. Nov. 6, 1928; 1942 recod., sec. 5-105; am. Nov. 7, 1950; rev. Nov. 3, 1964.]

**Section 5-107. Powers of Board.** Said Board of Trustees shall have the power to prescribe its own rules and regulations, to fix procedures for payment of benefits or pensions and enforce the same by forfeiture of any benefit or pension payment or by denial of any claim, if such rules, regulations and procedures are not followed. Said Board is hereby authorized and empowered to designate one or more regularly licensed physicians or psychiatrists to act at any time with the physicians appointed by the Civil Service Board in the mental and physical examinations of applicants for membership in the Bureau of Fire or Bureau of Police. Said Board is further authorized and empowered to require applicants for pension and/or benefits from the Fund and persons receiving pensions or benefits from the Fund to submit to and undergo mental and physical examinations by one or more regularly licensed physicians or psychiatrists, designated by said Board for that purpose. The Board shall keep a permanent record of all examinations made on its own order as well as those made by its physicians in association with any physician or psychiatrist that may be appointed by the Civil Service Board; provided, however, that no such records need be kept more than five (5) years after the death of any beneficiary. It shall hear and determine all applications for pensions or benefits as hereinafter provided for; provided, however, that the Board shall review any of its determinations based upon the findings of its physicians or psychiatrists upon the written request of any applicant; in such cases, it shall refer any matter concerning a question of physical or mental condition to three physicians or psychiatrists, one of whom shall be selected by members of the Board, one of whom shall be selected by the applicant,



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and the third shall be selected by the other two selectees; the Board may re-refer the matter to the physicians or psychiatrists for clarification and may obtain the reports of medical specialists for the information of the panel of three physicians or psychiatrists. The Board of Trustees shall base its findings upon review on the findings of the majority of said panel of physicians or psychiatrists as to the mental or physical condition of the member. Said Board is hereby authorized and empowered to administer oaths, subpoena and examine witnesses, to require the production and examination of papers and documents, to waive the residence requirements of this article upon proper showing of necessity or hardship, to pay its administrative expenses from the Fund and to borrow from the General Fund. The Board may order any member drawing benefits or pension for disability to appear, submit to and undergo physical and mental examination; after the Board acts upon the basis of such examination, such member may request in writing the appointment of a panel of physicians or psychiatrists and in such cases, the procedure set forth above relating to such panels and their findings shall be followed. If the Board determines from its review of the findings of a majority of said panel of physicians or psychiatrists that such member is no longer entitled to draw benefits or pension for disability as a result of change in his physical or mental condition, the Board shall forthwith cease the payments of such pension or benefits. Failure or refusal on the part of a member drawing pension or disability benefits to undergo such examination or to supply the information necessary therefor shall be sufficient basis for refusal of further benefits until such examination is duly completed to the satisfaction of the Board. No member of the Board shall act on his own claim.

Any person adversely affected by a determination of the Board based upon the findings of its physicians or psychiatrists, desiring a review of such determination, may apply for review by a three-man medical panel by filing with the Secretary of the Board a written request for such review within thirty (30) days after such determination by the Board.

The Board of Trustees of the Fire and Police Disability and Retirement Fund is hereby authorized and empowered to invest in its name any part of said Fund or the Reserve Fund in interest bearing securities of the classes in which the City of Portland may invest its funds, preference, however, to be given in all instances to interest bearing bonds of the City of Portland. All such securities shall be deposited with the City Treasurer. [Am. June 2, 1913, subdn. 4, sec. 176; 1914 rev., sec. 199; 1928 pub., sec. 199; am. Nov. 6, 1928; 1942 recod., sec. 5-106; am. Nov. 7, 1950; rev. Nov. 3, 1964.]

**Section 5-108. Review.** Any review by the courts from any decision of the Board of Trustees must be taken within sixty (60) days after said decision has been made. [Am. June 2, 1913, subdn. 5, sec. 176; 1914 rev., sec. 200; 1928 pub., sec. 200; 1942 recod., sec. 5-107; rev. Nov. 7, 1950; am. Nov. 3, 1964.]

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**Section 5-109. Custodian and Disbursing Officer.** Said funds created in Sections 5-101 and 5-104 shall be in the care and custody of the City Treasurer, and shall be paid out by him on warrants signed by the Chairman (Mayor) and countersigned by the Secretary of said Board (Auditor) and not otherwise; provided, however, that no warrants shall be drawn upon either of said funds except by order of the Board, which order shall be duly entered upon the record of the proceedings of said Board. [Am. June 2, 1913, subdn. 6, sec. 176; 1914 rev., sec. 201; 1928 pub., sec. 201; 1942 recod., sec. 5-108; rev., Nov. 3, 1964.]

**Section 5-110. Books and Accounts.** The books and accounts of said Board of Trustees shall, at all times, be subject to the inspection of any person interested, and shall be audited annually at the expense of the Fund by a licensed public accountant or firm of accountants approved by the Board. Upon the expiration of the term of office of the Auditor, all books and accounts of said Board of Trustees shall be surrendered and delivered to his successor, together with all records and documents. All securities, monies and properties of the Fund which have come into the possession of the Treasurer shall be delivered at the expiration of his term to his successor. [Am. June 2, 1913, subdn. 25, sec. 176; 1914 rev., sec. 219; 1928 pub., sec. 219; 1942 recod., sec. 5-109; rev. Nov. 3, 1964.]

**Section 5-111. Legal Adviser.** It shall be the duty of the City Attorney to give advice to the Board of Trustees in all matters pertaining to their duties and the management of either of said funds whenever required by said Board, and he shall represent and defend said Board as its attorney in all suits or actions at law or in equity that may be brought against it, and institute all suits and actions in its behalf that may be required or determined upon by said Board. [Am. June 2, 1913, subdn. 29, sec. 176; 1914 rev., sec. 223; 1928 pub., sec. 223; 1942 recod., sec. 5-110; rev. Nov. 3, 1964.]

**Section 5-112. Monthly Payments.** All pensions, benefits and allowances payable out of the Fire and Police Disability and Retirement Fund and hereinafter provided for and allowed by said Board of Trustees shall be paid monthly out of said Fund by warrants as herein provided, except that in cases involving financial hardship as result of disabilities the Board may direct otherwise. [Am. June 2, 1913, subdn. 10, sec. 176; 1914 rev., sec. 205; 1928 pub., sec. 205; 1942 recod., sec. 5-111; rev. Nov. 3, 1964.]

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

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

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

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

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

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

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

Contributions made by a member while he was a temporary employe shall not be included in computing contributions made by him for refunds. Any member who shall resign or be discharged

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before completing five (5) years of active service shall not be entitled to refunds of any contributions paid. [Nov. 5, 1918, new sec. 304; 1928 pub., sec. 304; 1942 recod., sec. 5-211; rev. Nov. 7, 1950; am. Nov. 3, 1964.]

**Section 5-114. Compulsory Retirement.** Any member who has reached his sixty-fourth (64th) birthday anniversary shall be retired by the Board forthwith, subject to the provisions of the following section relating to retirement of members receiving benefits upon service-connected or occupational disabilities; provided, however, that the Chief Engineer of the Bureau of Fire (Chief of the Bureau of Fire) and the Chief of the Bureau of Police who hold such positions on the effective date of this Act shall not be retired under the provisions of this section prior to August 1, 1968. Any member retired under the provisions of this section having any service less than thirty (30) years, shall be retired at his earned portion of the maximum pension. [New sec. Nov. 2, 1948; am. Nov. 3, 1964.]

**Section 5-115. Benefits for Service-Connected Disability or Occupational Disability.** Upon duly verified application of a member and a finding by the Board that through injury suffered in line of duty, or sickness caused by the performance of duty, the member is or has been unable to perform his required duties, said member shall be paid service-connected disability benefits equal to but not in excess of his full salary from the Fund until such member recovers or for a period of one (1) year, whichever period is shorter. A member in accepting service-connected disability benefits waives any right he may have against the city of Portland as a result of said disability. In the event that said member has not recovered at the end of one (1) year, he shall receive after said first year and until he recovers, but for a period of not to exceed three (3) additional years, service-connected disability benefits from the Fund equal to but not in excess of his full salary but in no event in excess of the then current salary of a First Class Fire Fighter or First Class Patrolman, as the case may be. If the service-connected disability continues after the end of four (4) years, the member shall be paid benefits from the Fund in an amount equal to sixty per cent (60%) of the then current salary of a First Class Fire Fighter or First Class Patrolman, as the case may be, until he recovers or if he does not recover until he reaches compulsory retirement age. Upon reaching compulsory retirement age, said member shall be retired by the Board and shall receive his maximum earned pension. In the event a member, disabled from an injury in line of duty or sickness caused by the performance of duty, reaches compulsory retirement age before the expiration of one (1) year from the date of such disability, said member shall be paid benefits equal to his full salary from the Fund until he recovers or for one (1) year from the date of such disability, whichever event first occurs, at which time he shall be retired at his maximum earned pension. A member receiving service-connected disability benefits upon reaching compulsory retirement age, shall not receive any

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payments from the Fund in excess of his maximum earned pension except as hereinbefore provided plus such medical and hospital expenses as are authorized in this article.

For the purpose of this Act the disabilities of heart disease, hernia of the abdominal cavity or diaphragm, tuberculosis and pneumonia (except terminal pneumonia) are occupational disabilities and a member so disabled shall not be considered to have suffered injury in line of duty or sickness caused by the performance of duty, but shall be entitled to the same benefits from the Fund as a member injured in line of duty or in the performance of duty until he recovers or for the period of one (1) year from the date of such disability, whichever period is shorter, at which time he shall be paid benefits from the Fund in an amount equal to sixty per cent (60%) of the then current salary of a First Class Fire Fighter or a First Class Patrolman, as the case may be, until he recovers or if he has not recovered until he reaches compulsory retirement age, at which time he shall be retired by the Board and shall receive his maximum earned pension. If such occupational disability occurs within one (1) year prior to the member's compulsory retirement date said member shall be paid benefits from the Fund equal to his full salary until he recovers or for a period of one (1) year from the date of said disability, whichever period is the shorter and in the event the member has not recovered from said disability after the expiration of said one (1) year period, said member shall be retired by the Board and shall receive his maximum earned pension. A member in accepting occupational disability benefits waives any right he may have against the city of Portland as a result of said disability.

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

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

In the event a member is unable to perform his required duties from a recurrence of a prior service-connected disability, the period of such recurrence or periods of successive recurrences from the same original sickness or injury shall be added to the period or periods of prior disability for the purpose of computing total disa-

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bility benefits to which the member is entitled, provided, however, if one (1) year or more elapse from the date of recovery from such original sickness or injury, the subsequent period of such recurrence or periods of successive recurrences of such disability shall be treated as a new disability for the purpose of computing benefits.

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

An additional percentage allowance for dependent minor children shall be paid from the Fund to a member receiving under this section a sum equal to sixty per cent (60%) of the then current salary of a First Class Fire Fighter or First Class Patrolman, as the case may be, until said member reaches age 64. This allowance shall be based on the member's benefit amount and shall be according to the following percentages: Twenty-five per cent (25%) for one dependent minor child, fifteen per cent (15%) for the second dependent minor child, and ten per cent (10%) in toto for all other dependent minor children over two (2) in number. The additional allowance shall be reduced or shall cease when the child or children are no longer dependent minor children.

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

No member shall be eligible to receive benefits under this section, in lieu of benefits under Section 5-116, for an occupational disability incurred while receiving benefits under Section 5-116, unless such occupational disability is incurred within two (2) years after such member had commenced and continued to receive benefits under Section 5-116, or unless such occupational disability is a recurrence of an occupational disability which became disabling and was compensated for under Section 5-115. [Am. June 2, 1913, subdn. 11, sec. 176; 1914 rev., sec. 206; 1928 pub., sec. 206; am. Nov. 6, 1928; am. Nov. 5, 1940; 1942 recod., sec. 5-112; rev. Nov. 7, 1950; am. Nov. 3, 1964.]

### **Section 5-116. Benefits for Nonservice-Connected Disability.**

Any member who is in active service and who has at least one (1)  
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year of active service and who becomes incapacitated from performing his required duties on account of injury or sickness not service connected, and who at the time of his disability was either a recipient of disability benefits under Section 5-115 of this article or was contributing to the Fund from his current salary in accordance with the provisions of this article, shall, upon the cessation of his sick leave benefits for such cause and upon cessation of his current salary other than vacation pay, be entitled to benefits equal to his maximum earned pension, but in no event less than twenty per cent (20%) of the then current salary of a First Class Fire Fighter or First Class Patrolman, as the case may be, until he recovers, or if he has not recovered, until he reaches compulsory retirement age. If a member reaches compulsory retirement age while receiving nonservice-connected disability benefits under this section, such benefits shall cease forthwith, and the member shall be retired by the Board and shall receive his maximum earned pension. All applications for benefits under this section shall be duly verified and accompanied by a certificate from a legally licensed physician setting forth the cause or basis of the disability claimed. The Board shall determine whether the applicant for benefits meets the requirements herein set forth.

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

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

No member shall receive benefits under this section as a result of the following: willful injuries; injuries sustained while willfully doing an unlawful act; or weakness, illness or disability resulting directly or indirectly from immoral practices or the habitual excessive use of or addiction to use of alcoholic beverages or narcotic drugs. [New sec. Nov. 2, 1948; am. Nov. 7, 1950; am. Nov. 3, 1964.]

**Section 5-117. Benefits and Pensions to Widows and Children in Service-Connected or Occupational Disability Deaths.** If any member shall die prior to retirement from any injury suffered in line of duty, or sickness caused by the performance of duty, or as

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a result of an occupational disability of heart disease, hernia of the abdominal cavity or diaphragm, tuberculosis, or pneumonia (except terminal pneumonia), and shall leave a widow, said widow shall be entitled to benefits or pension as herein provided, while remaining unmarried. Said benefits shall be paid from the Fund and shall be at the rate of fifty per cent (50%) of the current salary of a First Class Fire Fighter or First Class Patrolman, as the case may be, until such time as the deceased member would have had thirty (30) years of active service or would have reached compulsory retirement age, had he lived, whichever event would have first occurred, at which time said widow while unmarried shall receive a monthly pension from the Fund. A qualified widow's pension shall be computed in accordance with the Survivor Annuity Table as set forth in Section 5-118 and shall be based on the deceased member's years of active service at compulsory retirement age, had he lived, but in no event shall it exceed the maximum pension allowable to a widow.

An additional percentage allowance for a dependent minor child or children shall be paid from the Fund to a widow qualified to receive benefits or pension under this section. This allowance shall be based on the qualified widow's benefit or pension amount and shall be according to the following percentages: twenty-five per cent (25%) for one dependent minor child, fifteen per cent (15%) for the second dependent minor child, and ten per cent (10%) in toto for all other dependent minor children over two (2) in number. In the event the dependent minor child or children are not in fact substantially supported by the widow, the additional percentage allowance for such dependent minor child or children shall be paid not to the widow, as provided above, but shall be paid to the dependent minor child or shall be divided equally among the dependent minor children, as the case may be. The additional allowance shall be reduced or shall cease when the child or children are no longer dependent minor children.

If there be no widow qualified to receive a widow's benefits or pension, or if the widow becomes disqualified, then the dependent minor child or children of such deceased member shall receive the benefits or pension to which a widow without a dependent minor child or children would have been entitled, as heretofore provided in this section, to be divided equally among them, if there is more than one. Any dependent minor child's interest in said benefits or pension shall cease when he is no longer a dependent minor child.

If any member shall die prior to retirement from any causes specified in the first paragraph of this section, leaving a dependent minor child or children of a former marriage or marriages and a qualified widow, then the qualified widow's benefits or pension, as the case may be, plus children's allowances to which she might be entitled were all the children hers, shall be divided with the dependent minor child or children of all marriages, fifty per cent (50%) to said qualified widow, and fifty per cent (50%) to the dependent minor child or children of all the marriages to be divided equally



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among said children. Any dependent minor child's interest in said benefits or pension plus allowances, if any, shall cease when he is no longer a dependent minor child as defined herein, and any qualified widow's right to an additional allowance for a dependent minor child shall cease under the same conditions.

A widow is disqualified and her right to any benefits or pension from this Fund is thereafter and forever terminated when she remarries.

All persons deriving benefits from the death of any one member under the provisions of this section may elect, if the Board after hearing finds it to be financially beneficial to the Fund, to receive collectively a five thousand dollar (\$5,000.00) cash settlement from the Fund in lieu of all further claims to benefits and/or pension. Said cash settlement shall not be paid if the deceased member was at the time of his death or within one year thereafter would have been eligible for a maximum pension or would have reached compulsory retirement age. [New sec. Nov. 2, 1948; am. Nov. 3, 1964.]

### **Section 5-118. Benefits and Pensions to Widows and Children on Deaths of Members after Retirement or on Nonservice-Connected Deaths Before Retirement.**

**Deaths of Members After Retirement.** Upon the death of any member who retires under the provisions of this article, other than a member who retired prior to July 1, 1947, the widow of said deceased member until her death or remarriage shall receive a monthly pension to be computed from the "Survivor Annuity Table," set forth below, and in accordance with this section; provided, however, that as to any member relieved from service by the Board under Section 5-113 for a nonservice-connected disability or retiring under Section 5-116 of this Act, the provision of this section shall apply only to a member having twenty (20) years or more active service. Said table below shows the basis for computing the pension to which the widow shall be entitled. In using the table the difference between the member's and widow's ages shall be determined to the closest year. If at the time of said retired member's death, there be no widow, the dependent minor child or children while so remaining shall receive the widow's pension as set forth in the "Survivor Annuity Table" below, computed on the basis of a member and widow of the same age, and said pension shall be divided equally among them, if there be more than one. If at the time of said retired member's death, the surviving spouse fails to qualify for a pension under this section, but the deceased member leaves a surviving dependent minor child or children, the dependent minor child or children while so remaining shall receive a pension as set forth below in the "Survivor Annuity Table" computed as though the surviving spouse had qualified as a widow. If the widow qualifies for a pension under this section and later dies or remarries and there is a surviving dependent minor child or children of the member, the dependent minor child or children

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while so remaining shall receive said widow's pension and said pension shall be divided equally among them, if there be more than one.

**SURVIVOR ANNUITY TABLE**

Difference Between Member's and Widow's Age	Widow's Pension Shall be determined as Per Cent of Member's Maximum Earned Pension
Member same age or Widow Older.....	56%
" 1 year older .....	55%
" 2 years older .....	54%
" 3 years older .....	53%
" 4 years older .....	52%
" 5 years older .....	51%
" 6 years older .....	50%
" 7 years older .....	49%
" 8 years older .....	48%
" 9 years older .....	47%
" 10 years older .....	46%
" 11 years older .....	45%
" 12 years older .....	44%
" 13 years older .....	43%
" 14 years older .....	42%
" 15 years older .....	41%
" 16 years older .....	40%
" 17 years older .....	39%
" 18 years older .....	38%
" 19 years older .....	37%
" 20 years older or more .....	36%

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

**Nonservice-Connected Deaths Before Retirement.** If a member has less than one (1) year of active service and dies before retirement for any cause not in line of duty, his widow and/or dependent minor child or children shall have no rights under this Fund.

If a member has at least one (1) year but less than twenty (20) years of active service and dies before retirement from any cause not in line of duty, his widow, if she has been married to him for at least one (1) year, shall be entitled to her option to either: (1) the return of the member's contributions made to the Fund and previously established pension funds less the amount of nonservice-connected disability benefits paid to him from the Fund and any previously established pension funds, or (2) a cash settlement of Fifteen Hundred Dollars (\$1500) plus an additional One Hundred Dollars (\$100) for every year of the member's active service up to twenty (20) years. If at the time of said member's death,

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there be no widow who has been married to the member for at least one (1) year, the deceased member's surviving dependent minor child or children, if any, shall have the same rights of a qualifying widow as set forth above in this paragraph.

If a member has twenty (20) years or more of active service and dies before retirement from any cause not in line of duty, his widow, if she has been married to him for at least one (1) year, shall be entitled to a pension to be computed from the "Survivor Annuity Table" set forth above, based upon the maximum earned pension of the deceased member; or said widow may elect at her option within one (1) year after the member's death, if the Board, after hearing so permits, to receive in lieu of further pension payments either: (1) a return of the member's contributions made to the Fund and previously established pension funds, less the amount of nonservice-connected disability benefits paid to him from the Fund and any previously established pension funds; or (2) a cash settlement of Thirty Five Hundred Dollars (\$3500). If at the time of said member's death there be no widow who has been married to the member for at least one (1) year, the deceased member's surviving dependent minor child or children, if any, while so remaining shall be entitled to the same pension to which a qualifying widow of the same age as the member would have been entitled under the provisions of this paragraph. If a widow qualifies for and is receiving a pension under this paragraph and later dies or remarries, the surviving dependent minor child or children of the deceased member while so remaining shall receive, in lieu of the widow, said widow's pension, and said pension shall be divided equally among them, if there be more than one.

Notwithstanding the above, if the member shall die before retirement from any cause not in the line of duty, leaving a dependent minor child or children by a former marriage or marriages and the widow qualifies to receive a pension under this section, then the widow's pension shall be shared with the dependent minor child or children of all marriages, fifty per cent (50%) to the said widow and fifty per cent (50%) to the dependent minor child or children of all marriages, to be divided equally among said children, if there be more than one. No dependent minor child shall share in such division of the fifty per cent (50%) last named, after he has ceased to be a dependent minor child as that term is defined in this article. When there is no longer a dependent minor child, the entire widow's pension shall be paid to the qualified widow until her death or remarriage. If the widow remarries or dies while there remain dependent minor child or children, the entire widow's pension shall be paid to the dependent minor child or children while they so remain, to be divided equally among said children, if there be more than one.

In the event a cash settlement option is available and exercised pursuant to this section, the election to accept it must be by or on behalf of all persons deriving or possibly entitled to derive benefits therefrom. [New sec. Nov. 2, 1948; am. Nov. 7, 1950; am. Nov. 3, 1964.]

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

Previously retired members of the Bureau of Police or Fire and their widows and dependent minor children, by accepting any benefits provided herein, shall thereby waive any and all alleged, asserted or claimed rights under the provisions of any previous retirement and/or relief act in effect before the passage of this article. [New sec. Nov. 2, 1948; am. Nov. 2, 1954; am. May 18, 1962.]

**Section 5-120. Variation in Amount of Benefit or Pension Payments.** All benefits and pensions granted and paid under this Act shall vary annually and shall be based upon the current salary of a First Class Fire Fighter or First Class Patrolman, as the case may be, computed annually at the beginning of the fiscal year. A person entitled to benefits or pension under this Act may, before the beginning of the fiscal year, file a written notice with the Board waiving said benefits or pension or a portion thereof, for the ensuing fiscal year. Said waiver once filed and accepted by the Board shall be irrevocable, except death of said person during the term of the waiver shall automatically terminate the effectiveness of said waiver. Any benefits or pension, or portion thereof, so waived shall be forever forfeited. This section shall not apply to pensions for previously retired members and their widows and children coming under provisions of Section 5-119, which shall be governed solely by said section. [New sec. Nov. 2, 1948; am. Nov. 3, 1964.]

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**Section 5-121. Temporary Members.** A temporary fire fighter or police officer, or the widow and/or dependent minor children of either, shall only be eligible for the provisions of this Act relating to service-connected disabilities and service-connected death, not including occupational disabilities as herein defined, and not otherwise. [New sec. Nov. 2, 1948; am. Nov. 3, 1964.]

**Section 5-122. Military Service.** Members entering military service in time of a national emergency so declared by the President of the United States or inducted by the federal or state government into the armed forces or the reserve components thereof at a time of said national emergency shall receive credit for all time spent in said service toward retirement under this Act; provided said member returns to active duty in the Bureau of Fire or Police, as the case may be, within sixty (60) days after being relieved with a favorable discharge from said service and does not voluntarily remain in said service after the emergency; and provided further, however, that if a member shall become eligible, while in said service, to receive a pension according to years of service and age, as provided in Section 5-113, it shall not be necessary for him to return to active duty in the Bureau of Fire or Bureau of Police in order to receive his retirement pension. In case of his death while in said service his widow and dependent minor child or children shall be eligible for benefits as provided in Section 5-118. In case of injury or sickness contracted by said member while in said service, after being relieved from said service he shall be entitled to the same benefits he would have received under the paragraph in Section 5-116 hereof providing for benefits upon non-service-connected disabilities. [New sec. Nov. 2, 1948; am. Nov. 3, 1964.]

**Section 5-123. Funeral Expenses.** Upon the death of any active or retired member, the Board shall pay to the person responsible for the funeral expenses of said deceased member a sum not exceeding Two Hundred Dollars (\$200.00) to be used for funeral expenses. [New sec. Nov. 2, 1948; am. Nov. 3, 1964.]

**Section 5-124. Applications.** All applications under this Act shall be made within such time and in such form as may be fixed by the rules and regulations of the Board of Trustees. [New sec. Nov. 2, 1948; am. Nov. 7, 1950; am. Nov. 3, 1964.]

**Section 5-125. Exemption from Execution.** All pensions, allowances or benefits due or paid under this article shall be exempt from attachment, execution, garnishment or other process issued out of any court for the payment or satisfaction, in whole, or in part, of any debt, damage, claim, demand or judgment against the beneficiary thereof. [New sec. Nov. 2, 1948.]

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

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1. The term "First Class Fire Fighter" shall mean a member of the Bureau of Fire who receives the maximum payment in the fire fighter classification, as set forth in the classification of positions in the Bureau of Fire by the Civil Service Board, and in the event of the change of the name of said classification where the term "First Class Fire Fighter" is used it shall be that position by whatever name it may hereafter be called;
2. The term "First Class Patrolman" shall mean a member of the Bureau of Police who receives the maximum pay in the police bureau classification as set forth in the classification of positions in the Bureau of Police by the Civil Service Board, and in the event of the change of the name of said classification where the term "First Class Patrolman" is used it shall be that position by whatever name it may hereafter be called;
3. The term "widow" shall include widower, and shall mean the spouse of a member who was legally married to a member and not judicially separated or divorced by interlocutory or final decree of court from the member at the time of his death;
4. The term "dependent minor child" shall mean a child, natural (including posthumous) or adopted, of a member, who is in fact substantially supported by said member, or his widow or estate, while said child remains under eighteen (18) years of age and unmarried;
5. The term "Maximum Pension" shall mean a pension equal to sixty per cent (60%) of the then current salary of a First Class Fire Fighter for firemen, or that of a First Class Patrolman for police officers, as the case may be, and said pension shall vary annually as said salaries may vary from time to time;
6. The term "earned portion of maximum pension" or "maximum earned pension" shall mean that portion of a maximum pension that the member's years of service bear to the years of service required for a maximum pension, but in no event shall it exceed the maximum pension;
7. The term "active service" shall mean that period of time after the date of permanent appointment during which a member serves and is paid from the payroll of the respective bureau of which he is a member; and likewise shall include time spent on military leave to the extent provided in Section 5-122, leave of absence from the Bureau of Police or Bureau of Fire to serve as a Chief of the Bureau thereof, during which time he shall be classified as a member, and time lost as a result of occupational disabilities and service-connected disabilities. Time served under temporary appointment before date of permanent appointment shall not be included in computing "active service." Time lost from active duty as a result of a nonservice-connected disability for which period of time benefits are paid to a member from the Fund shall not be included in computing "active service";

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

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

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

**11.** The terms "current salary of a first-class fire fighter" or "current salary of a first-class patrolman" shall mean all wages or salary paid on a monthly basis to a member for service in that Civil Service classification. The terms shall not include wages or salaries for extra duties or extra services. For the purposes of payments under this article "current salary of a first-class fire fighter" and "current salary of a first-class patrolman" shall be computed annually at the beginning of the fiscal year;

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

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

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

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

[New sec. Nov. 2, 1948; am. Nov. 3, 1964.]

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**Section 5-127. Pensions Prorated When Fund Insufficient.** If at any time said Fire and Police Disability and Retirement Fund becomes insufficient to pay in full all the pensions or benefits allowed by the Board of Trustees, and cannot be made sufficient by loans and advances from other funds, the Board shall pay said pensions and/or benefits pro rata. No deficit shall be made up. [New sec. Nov. 2, 1948.]

**Section 5-128. Effective Date; Application; Repeal of Prior Sections.** This Act shall be effective on and after January 1, 1965, subject to the provisions of this section. If a pension and/or allowance for dependent minor child or children was being paid or was payable to a widow and/or dependent minor child or children immediately prior to January 1, 1965, on and after said date payments thereof shall be made on the basis of: this article before its amendment by this Act, or this Act, whichever basis results in the greater particular payment. If a retired member died prior to January 1, 1965, his widow and/or dependent minor child or children not entitled to pension, benefit or allowance prior to January 1, 1965, shall not be granted any right to such payment by this Act. Pensions, benefits and allowances payable on and after January 1, 1965, to members who have not retired prior to said date, and to widows and/or dependent minor children of such members, shall be governed in all respects by the provisions of this Act. Pensions, benefits and allowances payable on and after January 1, 1965, to members retired prior to said date and pensions, benefits and allowances subsequently payable to widows and/or dependent minor children of such members shall be computed and paid in conformity with this Act, but limitations and conditions newly applicable by this Act to years of active service or retirement, shall not affect such retired members, their widows or dependent minor children. Notwithstanding the foregoing, payments to previously retired members, their widows and dependent minor children entitled to receive such payments under Section 5-119, shall be governed solely by Section 5-119. This Act shall not apply to pension, benefit or allowance payments made or payable prior to January 1, 1965, nor grant any right of retroactive adjustment nor validate any claim for pension, benefit or allowance prior to January 1, 1965, nor shall this Act grant to any retired member a right of city re-employment.

By accepting any pension, benefit, or allowance provided by this Act, any member, widow and/or dependent minor child shall thereby waive all alleged, asserted or claimed rights under the provisions of this article before its amendment by this Act.

Subject to the foregoing provisions of this section, the provisions of this chapter in effect prior to this Act are repealed and superseded. [New sec. Nov. 2, 1948; am. Nov. 7, 1950; am. Nov. 3, 1964.]

**Section 5-129. Constitutionality.** If any part or section of this article shall be declared unconstitutional, it shall only void that part or section so declared unconstitutional and the remainder shall remain in full force and effect. [New sec. Nov. 2, 1948.]

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## CHAPTER VI DOCK COMMISSION

### ARTICLE 1. ADMINISTRATION AND POWERS.

**Section 6-101. Creation of Department.** There is hereby created a department in the city of Portland known as the department of public docks. [Ch. 1903, part of sec. 118; am. June 3, 1907, part of sec. 118; am. November 8, 1910, subdn. 1, sec. 118; 1914 rev., sec. 161; 1928 pub., sec. 161; 1942 recod., sec. 6-101.]

**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. [Ch. 1903, part of sec. 118; am. June 3, 1907, part of sec. 118; am. Nov. 8, 1910, subdn. 2, sec. 118; 1914 rev., sec. 162; 1928 pub., sec. 162; 1942 recod., sec. 6-102; am. Nov. 8, 1966.]

**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

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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 the pur-

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chase 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.

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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 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

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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

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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.

[Ch. 1903, part of sec. 118; am. June 3, 1907, part of sec. 118; am. Nov. 8, 1910, subdn. 3, sec. 118; 1914 rev., sec. 163; am. Nov. 7, 1922, subdn. c, sec. 163; 1928 pub., sec. 163; 1942 recod., sec. 6-103; am. Nov. 8, 1966.]

**Section 6-104. Repeal of 1907 Dock Bond Act.** That that part part of section 118 of an act entitled "An Act to Incorporate the City of Portland, Multnomah County, State of Oregon, and to provide authority (a charter) therefor, and to repeal all acts or parts of acts in conflict therewith," filed in the office of the secretary of state, January 3, 1903, which was added to said section 118 by an act adopted by the people of the city of Portland on January 3, 1907, under and pursuant to a resolution of the council of the city of Portland, adopted April 3, 1907, the ballot title of which in said election was, "five hundred thousand dollars of dock bonds to be authorized for the purchase of land for docks, and construction and improvement of public docks, to be owned by the city of Portland, by an amendment to Section 118, of the city charter," be and the same is hereby repealed. [Ch. 1903, part of sec. 118; am. June 3, 1907, part of sec. 118; am. November 8, 1910, subdn. 4 of sec. 118; 1914 rev., sec. 164; 1928 pub., sec. 164; 1942 recod., sec. 6-104.]

**Section 6-105. Authorization of Transfer of Property to Port of Portland.** [This section is inoperative by reason of the dates set forth therein.] [November 2, 1920, new sec. 164 $\frac{2}{3}$ ; 1942 recod., sec. 6-105.]

**Section 6-106. Revenue Certificates.** The Commission of Public Docks of the City of Portland, Oregon, hereby is authorized in the name of and under the corporate seal of the City of Portland to contract indebtedness and issue revenue certificates of the City of Portland, Oregon, in conformity with the provisions hereinafter set forth, to provide funds for any of the purposes herein stated.

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Revenue certificates may be issued and sold by said Commission from time to time and in such amounts as may be deemed necessary in the judgment of said Commission to provide sufficient funds for the carrying out of any or all the powers vested in the Commission, including, but without limiting, the generality thereof, the construction, reconstruction and/or acquisition by purchase or otherwise, of piers, wharves, docks, boat landings, terminals, warehouses, elevators, storehouses, bunkers, oil tanks, industrial sites and other harbor improvements, transfer and transportation terminal facilities, and such machinery, equipment and other facilities and structures as may be necessary or convenient to the successful operation of the same; the reconstruction and/or improvement of such properties, structures and facilities as may be owned or controlled by the Commission or hereafter acquired by it, and may include in the cost thereof engineering, inspection, accounting, fiscal, trustee, and legal expenses, the cost of issuance of certificates, including printing, engraving and advertising and other similar expenses, and to pay interest on the outstanding certificates issued for any project during the period of actual construction and for six (6) months after the completion thereof, and the proceeds of such certificates issued are hereby made available for any of such purposes. The term facility or facilities whenever used in the section shall be defined for the purposes of this Section to mean all such properties, structures and/or facilities as may come under the jurisdiction of the Commission or be controlled by it, or hereafter acquired by it. The said Commission shall determine the form, conditions and denominations of all such certificates and shall determine the maturity dates which the certificates so sold shall bear and the interest rate or rates thereon, which shall not exceed six (6) per cent per annum. The Commission in its discretion may sell said certificates at a discount. Principal and interest of such certificates shall be payable at the office of the City Treasurer of the City of Portland. Said certificates shall be issued in coupon form. The Commission may, at the time of issuance, provide for the retirement of certificates issued under this section at any time or times prior to their maturity, and in such manner and upon the payment of such premiums as may be fixed and determined by resolution of the Commission.

Whenever all certificates and amounts payable thereon have been paid and retired so that no charge remains upon such special fund or funds, the Commission may, by resolution, transfer the remainder of such fund or funds to any fund of the Commission as would permit such funds to be available and used for capital improvements.

Such certificates, when issued, shall be signed by the mayor of the City of Portland, and shall also be countersigned by the Auditor of the City of Portland.

Said certificates may be authorized by a resolution adopted by the Commission, which resolution may provide for the creation of a special fund or funds. The Commission may obligate and bind



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itself to set aside and pay into said special fund or funds a portion of or all of the revenues from the specific facility or facilities being constructed, reconstructed and/or acquired hereunder, whether said revenues are derived from rental, operation or otherwise. The Commission may, in addition thereto, pledge for the payment of the principal and interest of any said issue of certificates, a portion of or all of the revenues from any and/or all of its facilities so long as the total face value of all certificates outstanding together with the issue then proposed to be authorized does not exceed 60% of the reasonable market value of all of the facilities under the control of the Commission. Said fund or funds shall be drawn upon solely for the purpose of paying the principal and interest upon the certificate issued pursuant to this section. The certificates shall be negotiable instruments under the law merchant, even though they shall be payable solely from such special fund or funds, but shall never be deemed a charge upon the tax or other revenues of the City of Portland, except revenues of the Commission specifically pledged pursuant hereto, excluding tax revenues. The certificates shall state on their faces that they are payable solely from such special fund or funds and shall briefly describe the source of such fund or funds. Should the Commission fail to set aside and pay into such fund or funds the payment provided for in such resolution, the holder of any such certificates may bring suit to compel compliance with the provisions of such resolution.

Nothing herein contained shall prevent the Commission in its discretion from transferring any moneys at its disposal to said special fund or funds, except moneys derived from tax revenues of the City of Portland.

Certificates issued pursuant hereto shall not be governed by any debt or amount limitations otherwise prescribed by charter provisions, state statutes, or ordinances of the City of Portland, other than as may be prescribed in this Section.

The Commission may, from time to time, refund any certificates authorized by or issued pursuant to any provision of this section by the issuance of new certificates as herein provided whether the certificates to be refunded have matured or have been called, and may issue certificates to refund matured coupons evidencing interest upon any such certificate so refunded.

Moneys in said special fund or funds may by resolution of the Commission be invested in interest bearing bonds or securities of United States, the State of Oregon and the City of Portland, and all such securities or bonds shall be sold by the direction of the Commission whenever necessary for the payment or retirement of certificates and/or interest, or at such other times as the Commission may direct.

Any resolution authorizing the issuance of certificates pursuant to the provisions of this section may contain covenants of the Commission to protect and safeguard the security and rights of holders of any such certificates and such other covenants not inconsistent

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with the provisions of this section which the Commission decides will increase the marketability of such certificates. The provisions of this section and any such resolution shall constitute a contract with the holders of such certificates, and the provisions thereof shall be enforceable by any owner or holder of such certificates.

The Commission, in order to carry out the provisions of this Section, shall have the power to lease for a period not exceeding thirty years, all or any part of the interest of the City of Portland in any facility or facilities constructed, acquired and/or reconstructed by the Commission under the authority of this section. The rental to be paid for such facilities leased under the authority of this section shall be a reasonable rental based on the value and use of the facility leased, and said lease may be on such terms and conditions as the Commission may deem advisable, without reference to percentage of market value and without the necessity of advertising.

This section shall be complete authority for the issuance of the certificates hereby authorized, and the leasing of any facility or facilities constructed, acquired, reconstructed, and/or operated by the Commission pursuant to the authority of this section. This section shall be construed as giving additional authority to the Commission and not as limiting any other authority of the Commission. Any restrictions, limitations or regulations relative to the issuance of such certificates, or incurring of indebtedness by the Commission, or the leasing of any facility or facilities, contained in any other section of the charter of the City of Portland, Oregon, shall not apply to the certificates issued under this section or to the leasing of any such facility or facilities. Any section of the charter of the City of Portland, Oregon, inconsistent herewith shall be deemed modified to conform with the provisions of this section for the purpose of this section only. This section shall be liberally construed to accomplish its purpose. [New section Nov. 4, 1952.]

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### CHAPTER VII FINANCE

#### ARTICLE 1. ACCOUNTING PROCEDURES AND TAXATION.

**Section 7-101. Public Moneys and Accounting.** The Council shall by ordinance provide a system for the collection, custody and disbursements of all public moneys, not inconsistent with the provisions of statute and this charter, and shall by ordinance provide a system of accounting for the city, which shall be so planned as to enable a clear and intelligent statement to be made of the financial affairs of the city from time to time as provided by this charter. [May 3, 1913, new sec. 84; rev. 1914, sec. 185; 1928 pub., sec. 185; 1942 recod., sec. 7-101; am. Nov. 6, 1962.]

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

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

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

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

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The city shall issue no warrants or other evidences of indebtedness, except upon special assessment funds, and the payment of judgments against the city, unless there is money in the treasury applicable to the payment of the same on presentation, and all evidences of indebtedness issued contrary to this provision shall be null and void. Any member of the council knowingly voting to incur any liability or to create any debt in excess of the amount limited and authorized by law, shall be deemed guilty of malfeasance in office, and for such malfeasance such member may be removed from office. [Ch. 1903, sec. 117; am. May 3, 1913, sec. 91; rev. 1914, sec. 193; 1928 pub., sec. 193; 1942 recod., sec. 7-102; am. Nov. 6, 1962.]

**Section 7-103. Transfers from Funds.** It shall be lawful to transfer money from the general fund to any other fund of the city and from the bonded indebtedness interest fund to the improvement bond interest fund, and to make any transfer permitted by statute, and the council may provide that money transferred must be returned to the fund from which it was transferred. [Ch. 1903, sec. 115; am. May 3, 1913, sec. 89; rev. 1914, sec. 191; 1928 pub., sec. 191; 1942 recod., sec. 7-103; am. Nov. 6, 1962.]

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

**Section 7-105. Investments.** Whenever bonds of the city of Portland are offered for sale, and there is a balance to the credit of any fund, not invested, said bonds may be awarded at par and accrued interest to the city treasurer for the nearest practical amount, to consume said balance, and shall be held by the city treasurer as an investment for said fund. When bonds of the city of Portland are not offered for sale at a time or in sufficient amount to provide for the investing of any such balance, the council may provide for investing the same in any general obligations of the United States Government, State of Oregon, the city of Portland, Multnomah County, School District No. 1 of Multnomah County or Port of Portland, or in any other bonds or investments permitted by statute, and to that end the council may authorize the treasurer to purchase the same on the open market if there is an established market therefor, or to submit a bid for any such bonds which are about to be issued for sale, or may authorize the treasurer to advertise for proposals from persons holding any such bonds. Purchase of bonds upon bids shall be made by the council on the basis of the most advantageous bid received, reserving the

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right to reject any and all bids. All interest received from such investments shall be credited to the fund from which the investment was made unless specifically provided otherwise by charter or statute, provided, that two or more funds may be joined in one investment, a suitable provision being made for keeping an account of the amount invested from each fund and making an apportionment of the interest and principal when received. The council may sell any bond or investment so purchased, when the same may not be payable at or near the time when such funds may be needed for the purpose for which the sinking fund or special fund was created, on the open market, if there is an established market for such investments, or, if there is no such established market, to the highest and best bidder after advertising for proposals in the city official newspaper by publication for at least five days. Pending the investment as herein provided of any surplus or idle funds, the same shall be deposited in a depository bank which has qualified and been selected as a depository pursuant to statute. [Ch. 1903, sec. 116; am. May 3, 1913, sec. 90; rev. 1914, sec. 192; am. May 17, 1918; 1928 pub., sec. 192; 1942 recod., sec. 7-104; rev. Nov. 6, 1962.]

**Section 7-106. Independent Audits.** At the close of each fiscal year the books and accounts and the financial affairs and transactions of the city shall be audited by a licensed public accountant or firm of such accountants appointed by the council. Such audits shall also be made for various departments, as provided in this charter. The council may from time to time and as often as it shall deem necessary, have like audit made of the books and accounts, and the financial affairs and transactions of the city or any part of city government. [May 3, 1913, new sec. 34; rev. 1914, sec. 195; 1928 pub., sec. 195; 1942 recod., sec. 7-106; am. Nov. 6, 1962.]

**Section 7-107. Annual Tax Levy** The council shall, subject to applicable statutory provisions and at the time provided by law, levy upon all property not exempt from taxation, taxes for the coming fiscal year, as follows:

1. A tax to provide for the payment of the expenses of the city, subject to constitutional limitations, aside from any special levy or levies authorized for said year and aside from any levy for the payment of bonded indebtedness and interest thereon. The proceeds from the tax levy so made shall be credited to the general fund.
2. Also a tax sufficient to meet the interest on the bonded indebtedness of the city to be credited to the bonded indebtedness interest fund.
3. Also a tax of not less than four-tenths of one mill on each dollar valuation not exempt from taxation to provide for the purchase of securities as an investment and/or payment or redemption of the bonded indebtedness of the city, to be credited

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to the sinking funds, or bond redemption funds. In all cases a tax shall be levied sufficient to provide for principal repayments on general obligations of the city.

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

5. At the same time other levies of taxes are made and in addition to tax levies authorized by the charter or other authorizations by the voters, the council shall levy each year a special tax of three-tenths of a mill on each dollar of the assessed valuation of the property in the city of Portland not exempt from taxation, which shall be credited each year to the firemen's relief and pension fund provided for by Section 5-102 of the charter and said special tax of three-tenths of a mill shall be in addition to all other taxes which may be levied according to law.

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

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

**Section 7-108. Interim Borrowing.** The council of the city of Portland is hereby authorized to borrow from time to time sufficient funds to meet the current expenses of the city of Portland during each fiscal year pending the collection of the annual tax levy for such fiscal year. [1942 recod., sec. 7-110, par. 7; rev. Nov. 6, 1962.]

**Section 7-109. Limited Special Tax Levies.** Special taxes for fixed amounts or limited terms, may be levied and collected at the same time and in the same manner as other tax levies, upon approval by a majority of the city electors voting thereon. Measures for such special tax levies shall be submitted to the electors in the form of separate acts at a general or special election as authorizations or directions to the city council or other levying body, without provision for amendment to this charter. Copies of such measures approved by the voting majority, shall be kept by the city auditor in a separate Current Special Tax Levy Register, and shall be public records having the same effect as though included in this charter by amendment. All such authorizations for special tax levies not fully used or which have not fully expired by their terms, which were included in the city charter at the time of passage of this amendment or approved at the time of passage of this amendment, shall be continued in full force and effect regardless of deletion from the charter and shall be included by the auditor in the

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Current Special Tax Levy Register. After the authority for a special tax levy has been fully used or has expired, it shall be removed from the current register and placed in a File of Completed Special Tax Levies. This section shall not apply to authorizations to levy special taxes which by the provisions thereof, grant continuing authority from year to year without period limitations, notwithstanding stated maximum amounts or millage limits on the taxes which may be levied for any one year. Such authorizations shall continue as part of this charter. [New sec. Nov. 6, 1962.]

### ARTICLE 2. BOND ISSUES.

**Section 7-201. Issuance of Bonds.** No bonds, other than bonds for public improvements payable out of assessments upon the property benefited and sewer bonds if otherwise authorized, shall be issued unless authorized by charter or statute or unless approved by vote of the people at a general or special election. After the effective date of this amendment, measures for such bond issues limited in time or total amount shall be submitted to the electors, in the form of separate acts, without provision of amendment of this charter, as authorizations or directions to the city council or a commission established under this charter. Copies of such measures approved by the voting majority shall be kept by the city auditor in a separate Book of Bond Issue Authorizations, and shall be public records, having the same effect as though included in this charter by amendment. All such bond authorizations not fully used or which have not fully expired by their terms, which were included in the city charter at the time of passage of this amendment or are approved at the time of passage of this amendment shall be continued in full force and effect regardless of deletion from the charter and shall be included by the auditor in the Book of Bond Issue Authorizations. After the authority for a bond issue or serial issues has been fully used and all the bonds issued thereunder have been paid or matured, the copy of the measure or authorization shall be removed from the current book and placed in a File of Completed Bond Issue Authorizations. This section shall not apply to authorizations to issue bonds or other evidences of indebtedness which, by the provisions thereof, grant continuing authority without a stated total which may be issued thereunder, notwithstanding stated debt limitations or maximum amounts which may be outstanding at any one time. Such authorizations shall continue as part of this charter. [May 3, 1913, new sec. 92; rev. 1914, sec. 227; 1928 pub., sec. 227; 1942 recod., sec. 11-101; rev. Nov. 6, 1962.]

**Section 7-202. Refunding Bonds.** For the purpose of funding any bonded indebtedness, including water bonds, of the city of Portland, or any bonded indebtedness for which the city of Portland has become or will become liable by operation of law through annexation, merger or consolidation of any part or all of a municipal corporation or unit of government, already matured or to

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mature in the future, the city of Portland is authorized and empowered to issue and dispose of bonds of the city of Portland, Oregon, of the denominations of from \$100.00 to \$1,000.00 as the purchaser may desire, or as the council may find appropriate, which bonds may be made general or limited obligations of the city. Such bonds shall be for a term fixed by the council and the total amount of such refunding bonds shall not exceed the face or par value of the bonds to be refunded. Before such refunding bonds can be sold, the council shall cause to be inserted for two successive weeks in the city official newspaper and in at least one paper in New York City making a specialty of such matters, an advertisement inviting sealed bids for the purchase of said refunding bonds. Among equal bidders preference in the sale and allotment shall be given to the bidders residing in the State of Oregon and subscribing for the smallest denominations. [Ch. 1903, part of sec. 118; rev. 1914, sec. 229; am. May 17, 1918; 1928 pub., sec. 229; 1942 recod., sec. 11-103; rev. Nov. 6, 1962.]

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

After approval by a majority of the electors voting on a bond measure, the council shall, before issuing any such bonds, determine the denominations, form and term for such bonds and whether or not interest coupons are to be attached thereto. The council shall prescribe the dates for the redemption of each bond issue and may authorize issuance of bonds from time to time within the limitation of the amount authorized. Such bonds shall bear the facsimile signature of the mayor and the counter-signature of the auditor of the city of Portland, and each coupon, if any, shall have the signatures of the mayor and the auditor printed thereon. By each of such bonds the city shall be held in substance and effect to undertake and promise to pay to the bearer of each of said bonds at the expiration of the time specified therein, the sum named therein, in lawful money of the United States of America, and may include by coupons an undertaking and promise to pay interest thereon in like lawful money at such rate as the council may determine, not exceeding the percentage fixed by the council, payable at such periods as shall be provided in such coupons. The council may prescribe other features of such bonds.



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

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

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

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

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



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CHAPTER VIII  
ADVERTISING AND CONTRACTS

**ARTICLE 1. AUTHORIZATION.**

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

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

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

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

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

**Section 8-104. When Written Contracts Required.** The city of Portland shall not be bound by any contract nor in any way liable thereon, unless the same is authorized by an ordinance and made in writing and signed by some person or persons duly authorized by the council. But an ordinance may authorize any board, body, officer or agent to bind the city without contract in writing for the payment of any sum not exceeding Two Thousand Five Hundred Dollars (\$2,500.00). Notwithstanding the provisions of this section, however, the council may waive the written contract requirement when work, materials or supplies are necessary for an emergency

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involving public safety or health. [Ch. 1903, sec. 6; am. May 3, 1913, sec. 3; rev. 1914, sec. 148; 1928 pub., sec. 148; 1942 recod., sec. 8-105; rev. Nov. 6, 1962.]

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

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

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

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

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### CHAPTER 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. [Ch. 1903, sec. 75, am. May 3, 1913, sec. 57; 1914 rev. sec. 255; 1928 pub., sec. 255, 1942 recod., sec. 9-102; rev. Nov. 8, 1966.]

**Section 9-102. Definition 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. [June 4, 1917, new sec. 275c; 1928 pub., sec. 275c; 1942 recod., sec. 9-503; rev. Nov. 8, 1966.]

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

The council may by resolution, upon order of the county signifying its willingness to accept the same, relinquish to the county for the purpose of work or improvement, control of all or any portion of any street connecting with a county road. Thereupon such street to that extent shall be under county control and shall be worked and improved in like manner as county roads until the county relinquishes its jurisdiction, and the city accepts the same. [Ch. 1903, sec. 422; 1914 rev., sec. 276; 1928 pub., sec. 276; 1942 recod., sec. 9-103; rev. Nov. 8, 1966.]

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**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. [May 17, 1918, new sec. 284-b; 1928 pub., sec. 284-b; am. Nov. 4, 1924; 1942 recod., sec. 9-106; rev. Nov. 8, 1966.]

**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. [Nov. 2, 1920, new sec. 337; 1928 pub., sec. 337; 1942 recod., sec. 9-108; rev. Nov. 8, 1966.]

**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. [New sec. Nov. 8, 1966.]

## ARTICLE 2. STREET GRADES.

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

**Section 9-202. Authority to Change Grades.** The council may change any established street grade, may determine the amount of any damages to be paid as a result of the change, and may make a local assessment therefor. Variation of one foot or less

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above or below an established grade shall not constitute a change of established grade. When a structure, including pavement, driveway, building, or other construction, has been constructed upon abutting property after original establishment of grade, and damages are claimed as hereinafter provided for that structure, no change of grade shall be made without determining whether any damage is sustained and providing for payment of any such damages as set forth in this article. In other cases the council shall determine whether or not damages to abutting property shall be considered or awarded. [Nov. 7, 1922, new sec. 257; 1928 pub., sec. 257; 1942 recod., sec. 9-202; am. Nov. 8, 1966.]

**Section 9-203. Initial Engineer's Report.** Whenever the council deems it expedient to change the grade of any street or part thereof within a district continuously affected by the change of grade, it shall direct the engineer to report thereof. The engineer shall thereafter, as soon as convenient, file with the auditor 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. [Nov. 7, 1922, new sec. 258; 1928 pub., sec. 258; 1942 recod., sec. 9-203; am. Nov. 8, 1966.]

**Section 9-204. Notices and Hearing.** The council may 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

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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. [Nov. 7, 1922, new sec. 259; 1928 pub., sec. 259; 1942 recod., sec. 9-204; am. Nov. 8, 1966.]

**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. [Nov. 7, 1922, new sec. 260; 1928 pub., sec. 260; 1942 recod., sec. 9-205; am. Nov. 8, 1966.]

**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. [Nov. 7, 1922, new sec. 261; 1928 pub., sec. 261; 1942 recod., sec. 9-206; am. Nov. 8, 1966.]

### 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

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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. [New sec. Nov. 8, 1966.]

**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. [June 3, 1919, new sec. 322; 1928 pub., sec. 322; 1942 recod., sec. 9-302; am. Nov. 8, 1966.]

**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

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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. [June 3, 1919, new sec. 323; 1928 pub., sec. 323; 1942 recod., sec. 9-303; am. Nov. 8, 1966]

**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. [June 3, 1919, new sec. 324; 1928 pub., sec. 324; 1942 recod., sec. 9-304; am. Nov. 8, 1966.]

**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 9-303 to 9-305

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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. [June 3, 1919, new sec. 325; 1928 pub., sec. 325; 1942 recod., sec. 9-305; am. Nov. 8, 1966.]

**Section 9-306. Collection of Assessment Benefits.** After the 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 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 as 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 on 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. [June 3, 1919, new sec. 326; 1928 pub., sec. 326; 1942 recod., sec. 9-306; am. Nov. 8, 1966.]

**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

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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. [June 3, 1919, new sec.]

**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. [June 3, 1919, new sec. 328; 1928 pub., sec. 328; 1942 recod., sec. 9-308; am. Nov. 8, 1966.]

**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. [June 3, 1919, new sec. 333; 1928 pub., sec. 333; 1942 recod., sec. 9-313; rev. Nov. 8, 1966.]

**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

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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. [New sec. Nov. 8, 1966.]

**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. [New sec. Nov. 8, 1966.]

### 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. [June 2, 1913, subdn. a of new sec. 372½; 1928 pub. sec. 265; 1942 recod., sec. 9-401; am. Nov. 8, 1966.]

**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. [June 2, 1913, subdn. b, new sec. 372½; 1928 pub., sec. 266; 1942 recod., sec. 9-402; am. Nov. 8, 1966.]

**Section 9-403. Conference with Railroad Engineer.** In preparing plans, specifications and estimates, the city engineer shall confer with the civil engineer or 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. [June 2, 1913, subdn. c, new sec. 372½; 1928 pub., sec. 267; 1942 recod., sec. 9-403; am. Nov. 8, 1966.]

**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

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propose modifications thereof, or to file other or different plans and specifications, together with the estimates of the cost. [June 2, 1913, subdn. d, new sec. 372½; 1928 pub., sec. 268; 1942 recod., sec. 9-404; am. Nov. 8, 1966.]

### **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. [June 2, 1913, subdn. e, new sec. 372½; 1928 pub., sec. 269; 1942 recod., sec. 9-405; am. Nov. 8, 1966.]

### **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.

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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 railroad's share of the total cost of the improvement shall be apportioned among them. The cost and expense of raising or lowering the grades or tracks outside street area to be borne by the affected companies shall be apportioned by the council unless, within thirty days after the council orders the improvement, all affected companies file with the auditor their mutual agreement thereon. [June 2, 1913, subdn. f, new sec. 372½; 1928 pub. sec. 270; 1942 recod., sec. 9-406; am. Nov. 8, 1966.]

**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

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it was advanced, subject to the apportionment of the city's share, if any. [June 2, 1913, subdn. g, new sec. 372½; 1928 pub. sec. 271; 1942 recod., sec. 9-407; am. Nov. 8, 1966.]

### **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. [June 2, 1913, subdn. h, new sec. 372½; 1928 pub., sec. 272; 1942 recod., sec. 9-408; am. Nov. 8, 1966.]

### **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. [June 2, 1913, subdn. i, new sec. 372½; 1928 pub., sec. 273; 1942 recod., sec. 9-409; am. Nov. 8, 1966.]

**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

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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. [June 2, 1913, subdn. j, new sec. 372½; 1928 pub., sec. 274; 1942 recod., sec. 9-410; rev. Nov. 8, 1966.]

**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. [June 2, 1913, subdn. k, new sec. 372½; 1928 pub., sec. 275; 1942 recod., sec. 9-411; rev. Nov. 8, 1966.]

**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. [June 7, 1915, new sec. 275½; 1928 pub., sec. 275½; 1942 recod., sec. 9-412; am. Nov. 8, 1966.]

### 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. [New sec. Nov. 8, 1966.]

**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. [New sec. Nov. 8, 1966.]

**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

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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. [New sec. Nov. 8, 1966.]

**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. [New sec. Nov. 8, 1966.]

**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. [New sec. Nov. 8, 1966.]

**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. [New sec. Nov. 8, 1966.]

**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

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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. [New sec. Nov. 8, 1966.]

**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. [New sec. Nov. 8, 1966.]

### 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. [New sec. Nov. 8, 1966.]

**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 as-

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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. [Sections 95-1818 to 95-1846 O.C.L.A.; June 4, 1917, new sec. 275a; 1928 pub., sec. 275a; 1942 recod., sec. 9-501, rev. Nov. 8, 1966.]

**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. [June 4, 1917, new sec. 275b; 1928 pub., sec. 275b; 1942 recod., sec. 9-502; rev. Nov. 8, 1966.]

## 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

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the expense of property benefited and assessed therefore, the council shall take proceedings similar to those required for constructing sewers. The method of making and collecting assessments shall be the same as for other local improvements. The cost of acquiring property, easements or rights shall be included in the cost of the fire stop. [June 7, 1915, new sec. 294; 1928 pub., sec. 294; 1942 recod., sec. 9-601; rev. Nov. 8, 1966.]

**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. [Nov. 4, 1924, new sec. 338; 1928 pub., sec. 338; 1942 recod., sec. 9-602; rev. Nov. 8, 1966.]

**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. [New sec. Nov. 8, 1966.]

## 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

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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. [New sec. Nov. 8, 1966.]

**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. [New sec. Nov. 8, 1966.]

**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.

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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. [New sec. Nov. 8, 1966.]

### **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. [New sec. Nov. 8, 1966.]

**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

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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. [New sec. Nov. 8, 1966.]

**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. [New sec. Nov. 8, 1966.]

**Section 9-807. Limitations of Actions; Tender.** Unless the assessment for which land was sold has 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 pur-



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chase 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. [New sec. Nov. 8, 1966.]

**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. [New sec. Nov. 8, 1966.]

**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. [New sec. Nov. 8, 1966.]

**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. [New sec. Nov. 8, 1966.]

**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

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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. [New sec. Nov. 8, 1966.]

**Section 9-812. Correction of Assessments.** If the council finds that the assessment of 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. [New sec. Nov. 8, 1966.]

**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. [New sec. Nov. 8, 1966.]

**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

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assessment and all proceedings connected therewith are presumed to be regular and duly done or taken, until the contrary is shown. [New sec. Nov. 8, 1966.]

**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. [New sec. Nov. 8, 1966.]

**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. [New section Nov. 8, 1966.]

**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. [New sec. Nov. 8, 1966.]

### 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 exceed 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. [June 7, 1915, new sec. 278; 1928 pub., sec. 278; 1942 recod., sec. 9-701; rev. Nov. 8, 1966.]

**Section 9-902. Bond Lien Docket.** After the time expires for filing applications to pay assessments in installments, the auditor

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shall enter in a docket kept for that purpose under separate heading for each improvement by name or number, a description of each parcel and 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. [New sec. Nov. 8, 1966.]

**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. [New sec. Nov. 8, 1966.]

**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 procedures 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.

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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. [New sec. Nov. 8, 1966.]

**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, 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. [New sec. Nov. 8, 1966.]

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**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. 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. [New sec. Nov. 8, 1966.]

**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.

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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. [New sec. Nov. 8, 1966.]

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CHAPTER X  
PUBLIC UTILITIES AND FRANCHISES

**ARTICLE 1. PUBLIC UTILITIES.**

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

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

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

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

**Section 10-104. Debt Limitation.** No indebtedness shall be incurred for the acquisition of any public utility under the provisions of this charter, which, together with the existing bonded indebtedness of the city, shall exceed at any one time seven per centum of the assessed value of all real and personal property in the city, but in estimating such bonded indebtedness, all bonds given for the acquisition or construction of public properties and utilities the interest on which bonds is paid out of the earnings of said public utilities or properties, shall be excluded; provided, that

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whenever and for so long as such utility or undertaking fails to produce a sufficient revenue to pay all costs of operation and administration (including interest on the city bonds issued therefor and the cost of insurance against loss by fire, accidents, and injuries to persons), and an annual amount sufficient to pay at or before maturity all bonds issued on account of said undertaking, all such bonds outstanding shall be included in determining the limitation of the city's power to incur indebtedness, unless the principal and interest thereof be payable exclusively from the receipts of such undertaking. The auditor shall annually report to the council, in detail, the amount of revenue from each such undertaking, and whether there is any, and if so, what, deficit in meeting the requirements above set forth. [Ch. 1903, sec. 88; 1914 rev., sec. 160; 1928 pub., sec. 160; 1942 recod., sec. 10-105; rev. Nov. 8, 1966.]

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

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

Every charge, rate, fare or compensation made, charged or demanded by any person or corporation engaged in the operation of a public utility within the city of Portland for any service rendered or to be rendered shall be just, fair and reasonable. The council shall have the power to hear and determine what are just, fair and reasonable rates, fares and charges and to fix and limit such rates, fares and charges and for that purpose may make valuations of the property of any person or corporation engaged in the operation of a public utility within the city. To that end they shall make and enforce regulations providing that at the time of construction or acquisition of any plant or property rendering a public service and of any improvement or additions thereto the

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person or corporation having charge thereof shall record with the auditor a description of all property which such person or corporation shall intend to present for such valuation and all later improvements when made, together with full information as to the cost thereof and vouchers supporting the same, to the end that a complete record of all property to be valued under this section shall be at all times available. [May 3, 1913, new sec. 62; 1914 rev., sec. 156; 1928 pub., sec. 156; 1942 recod., sec. 10-107; rev. Nov. 8, 1966.]

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

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

Every failure or neglect on the part of the grantee or holder of a franchise to keep books of account or to make reports under this section shall be deemed an offense and the council may by ordinance provide for the punishment of every such violation, failure or neglect by fine or imprisonment, or both, of the persons or person whose duty it shall be to keep such books of account and make such reports.

The enumeration in this chapter of any particular or special power or duty shall be construed as additional and supplementary to any and all other powers residing in or otherwise conferred upon the city of Portland. [May 3, 1913, new sec. 63; 1914 rev., sec. 157; 1928 pub., sec. 157; 1942 recod., sec. 10-108; rev. Nov. 8, 1966.]

**Section 10-108. Orders, Rules, and Regulations.** The council shall have power to make all orders, rules and regulations necessary or appropriate to carry into effect the powers granted and to make the same effective by penalties and forfeitures, and upon failure by any franchise holder to comply with any of the require-

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ments of section 10-107, 10-216, 10-213 or 10-124 of this charter for a period of thirty days after notice, the council shall have power to declare by ordinance a forfeiture of the franchise under which any person or corporation so failing to comply is operating a public utility within the city of Portland.

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

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

**Section 10-109. Bridges and Ferries.** All ferries now or hereafter owned or leased, and all bridges together with approaches and terminals, heretofore erected or leased, or hereafter to be erected or leased, by the city of Portland across the Willamette river shall be operated by the county of Multnomah, as now provided by law, or as may hereafter be provided by law at the expense of said county of Multnomah. No exclusive franchise or privilege shall be granted to any person, firm or corporation, for the use of the whole or any part of such bridges, approaches or terminals. All privileges or franchises that may be granted by the city of Portland for the use of the whole or any part of such bridges, approaches or terminals shall be for a term not exceeding twenty-five years, and the compensation to be paid the city by any person, firm or corporation desiring to use such bridges for the operation of cars thereover, shall be not less than three cents per car for each and every car that crosses such bridges in each direction. Said rental shall be paid at the end of each calendar month to the city treasurer. The council shall specifically reserve in any franchise granted over any of said bridges the right to reasonably regulate the number and routing of cars across any such bridges. [November 2, 1912, new sec. 118¾; 1914 rev., sec. 184; 1928 pub., sec. 184; 1942 recod., sec. 10-110; rev. Nov. 8, 1966.]

## ARTICLE 2. FRANCHISES.

**Section 10-201. Control by Charter Provisions.** Every franchise hereafter granted shall be expressly subject to all the provisions of the foregoing sections and the power of control and regulation as authorized by such sections cannot be limited, 10-108 to 10-201

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vested or granted away. Subject to the initiative and referendum such power of control and regulation shall be exercised by the council and may be exercised by the council through its agents. [May 3, 1913, new sec. 65; 1914 rev., sec. 159; 1928 pub., sec. 159; 1942 recod., sec. 10-201.]

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

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

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

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

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

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

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

**Section 10-207. Method of Granting.** Every franchise shall be embodied in an ordinance, which shall contain all the terms and conditions of the proposed grant, and shall be filed with the auditor. Thereupon such proposed ordinance shall be published in full, once in the city official newspaper. There shall also be published, in a conspicuous place in such daily newspaper of the city having a circulation in excess of 15,000, as the council may direct, a notice prepared by the auditor, that an application has been made for a franchise, giving the name of the applicant, the character and location of the proposed grant, and requesting any person having any objections to such proposed franchise or any provisions thereof to file the same in writing with the auditor within twenty days from the first publication of such notice. If the request is made therefor, the council shall fix a time for a hearing upon such objections and give reasonable notice of the time thereof and not less than five days. All of such publications and notices shall be at the expense of the applicants for such franchises.

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

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

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

**Section 10-208. Effective Date.** No franchise shall take effect until sixty days after its passage unless it shall receive a majority of the votes cast thereon at a referendum election held for that purpose within a less time. The filing of a petition for referendum shall defer the taking effect of a franchise until after the election. A petition signed by 2000 registered voters shall be sufficient to call a referendum upon any franchise ordinance. [May 3, 1913, new sec. 74; 1914 rev., sec. 173; 1928 pub., sec. 173; 1942 recod., sec. 10-208.]

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

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

(b) The amount and manner of payment of the compensation to be paid by the grantee for the right.

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

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

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

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

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

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

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

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

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

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

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

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

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

**(f)** The holder for the time being of any franchise to construct or operate railways in the streets or public places shall keep those portions of streets or other places occupied by such holder, in good order, as required by the council, and shall pave, improve, or repair and maintain from time to time in the manner and within the time directed by the council, that portion

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of the street occupied by them lying between the rails of any track and extending one foot outside of such rail and portion of the streets lying between the tracks.

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

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

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

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

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

**Section 10-213. Statements.** Within ninety days after this charter shall take effect, the holder of any franchise shall file with the auditor a full and correct statement of the franchise, rights and privileges owned or claimed to be owned by him or it, and shall designate the same by the numbers and titles of the ordinances by which such franchises were granted, and any holder of any franchise, on failure so to do, shall be guilty of an offense punishable by a fine of not less than ten dollars and not more than one hundred dollars per day while such refusal or neglect continue. The holder of every franchise, and the grantees of every franchise hereafter granted, on sale, transfer, mortgage or lease being made of such franchise, shall within sixty days thereafter file with the



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auditor a copy of the deed, agreement, mortgage, lease, or other written instrument evidencing such sale, transfer or lease, certified and sworn to as correct by the grantee, in person, if an individual, or by the president or secretary or authorized agent, if a corporation.

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

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

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

1. The true and entire cost of construction, of equipment, of maintenance and of the administration and operation thereof; the amount of stock issued, if any; the amount of cash paid in, the number and par value of shares, the amount and character of indebtedness, if any; the rate of taxes, the dividends declared; the character and amount of all fixed charges; the allowance, if any, for interest, for wear and tear or depreciation; all amounts and sources of income.
2. The amount collected annually from the city treasury and the character and extent of the service rendered therefor to the city.
3. The amount collected annually from other users of the service and the character and extent of the service rendered therefor to them. Such books of record shall be open to public examination at any time during the business hours of the auditor's office. Such information, in addition to any further data which may be required by the auditor, under this charter, shall be furnished by the grantees or holders of such franchises to the auditor upon his request, and at such grantees' own cost and expense.
4. In case any grantee or holder of a franchise fails or refuses to furnish such information when requested so to do on petition being presented on behalf of the city to the municipal court, such court shall have jurisdiction to compel such grantee or owner to furnish such information and tax the costs of such application against the defendant in such proceeding and in

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addition may impose a fine of not less than twenty-five nor more than five hundred dollars for every such offense. All fines collected under this section shall be paid into the general fund. The procedure on such application shall be as far as possible analogous to that on mandamus.

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

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

**Section 10-216. Assignments.** No franchise shall be sublet or assigned, nor shall any of the rights or privileges thereby granted or authorized be leased, assigned, sold or transferred without the consent of the city expressed by ordinance which shall be subject as other ordinances to the referendum. [May 3, 1913, new sec. 79; 1914 rev., sec. 178; 1928 pub., sec. 178; 1942 recod., sec. 10-216.]

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

**Section 10-218. Common Transportation Terminal.** It shall be the policy of the city of Portland to create a common transportation terminal, both land and water, embracing both sides of the harbor for its full extent in the city, which shall be subject to entry and use throughout its full extent by all common carriers on equal

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terms, as far as the property, rights and jurisdictions of the city may apply to secure same; and all such property, rights and jurisdictions of the city within one thousand (1,000) feet of meander line specified in section 1-104 of this charter shall be subject to use and demands for such common terminal purposes and needed connecting roadways, tracks and appurtenant facilities; provided that the public docks may be furnished with warehouses subject to lease.

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

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

The purpose of this act is to provide connections for and means of interchange of traffic upon the lines or tracks of all common carriers, public or private, with the greatest facility and economy and the least obstruction, inconvenience and cost possible. The city engineer and the official or officials in charge of the public docks shall at once draw up such plan and elaborate and extend it from time to time to meet the purpose of this act as public needs develop.

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

All acts and parts of acts in conflict with this act are hereby repealed. [June 2, 1913, new sec. 93½; 1914 rev., sec. 183; 1928 pub., sec. 183; 1942 recod., sec. 10-218.]

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### 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. [New sec. Nov. 8, 1966.]

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

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

In the bureau of water, the engineer in charge of the engineering staff, the person in charge of the business office, and the head of the bureau shall not be subject to civil service requirements of this charter. [New sec. Nov. 8, 1966.]

**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

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of water systems, the council may issue bonds of the city in denominations and for terms the council determines, in the same manner other bonds of the city are issued. These bonds shall be general obligations of the city, but primarily payable from water revenue. These bonds shall not be included within the debt limit elsewhere prescribed in this charter. No bonds shall be issued under this section in any year which, with the net outstanding water bond indebtedness, would exceed the total original cost of existing plant and property of the water works and system. [Nov. 8, 1932, new sec. 228 $\frac{1}{2}$ ; 1942 recod., sec. 11-201; am. May 16, 1952; rev. Nov. 8, 1966.]

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

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

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

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

The council may fix special charges for connections, disconnections, turn-ons, discontinuances of service, all special services or work, and other contingencies, situations or conditions, which it finds advantageous or appropriate from time to time. Charges and bills may be adjusted as found just and equitable. [New sec. Nov. 8, 1966.]

**Section 11-106. Collections.** The council may make regulations, impose conditions, penalties and forfeitures and institute civil or penal process it finds necessary or appropriate to collect

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bills for water or charges, and in addition may refuse or discontinue water service to premises for which a bill or charge remains unpaid. Penal enforcement is subject to the penalty limitations fixed in the charter for ordinance violations. [New sec. Nov. 8, 1966.]

### ARTICLE 2. SPECIAL FACILITIES.

**Section 11-201. Municipal Auditorium.** The council may construct, reconstruct, repair and maintain a building or buildings for use as municipal auditorium and related facilities. The council may fix fees and impose charges for use of auditorium facilities and services, and may waive or reduce the fees and charges to the extent it finds appropriate in the public interest. The council or the commissioner in charge may make rules and regulations for management and control of the auditorium facilities and services. The council may delegate management and control to any commission established by charter, notwithstanding stated functions and limitations on that commission, or to any commission established by ordinance for that purpose. Employees and positions connected with the municipal auditorium and related facilities are not within the classified civil service of the city unless included therein by vote of the people. In case the revenues from the auditorium and any related facilities are insufficient to pay for maintenance and operation, the council may pay the deficit out of the general fund. The council may permit use without charge of any surplus space in a building or facility, for the purposes of a nonprofit organization devoted in whole or in part to the preservation of matters of historical interest, and for use and occupancy by any bureau, department or office of city government. [June 5, 1911, new sec. 425¾; 1914 rev., secs. 239-248; 1928 pub., secs. 239-248; 1942 recod., sec. 11-1001; rev. Nov. 3, 1964, sec. 11-201; am. Nov. 8, 1966.]

### ARTICLE 3. SEWAGE DISPOSAL OR PURIFICATION.

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

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lic or private, to further purification of public waters or protection of the public health. [Nov. 8, 1938, new sec. 347; 1942 recod., sec. 9-604; rev., Nov. 8, 1966.]

**Section 11-302. Service Charges.** For all purposes relating to design, construction, acquisition, operation, maintenance and contract requirements of sewage treatment or purification facilities and related facilities, the city may fix fees and charges for connection, 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  $66\frac{2}{3}$ rds 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  $66\frac{2}{3}$ rds 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  $66\frac{2}{3}$ rds 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  $66\frac{2}{3}$ rds 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,

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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. [Nov. 8, 1960, new sec. 9-606; rev. Nov. 8, 1966.]

**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. [New sec. Nov. 8, 1966.]

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



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### CHAPTER 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 employees conducting or assisting park or recreational programs or maintaining parks, areas, facilities or improvements. The council may contract with any public or private person in any matter relating to services or programs. The council may do all things it finds necessary or convenient to promote recreational facilities and aesthetic enjoyment of the people, and the beautification of city property. [May 19, 1950, new sec. 9-605; rev. Nov. 8, 1966.]

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

**Section 12-103. Fees and Charges.** The council may fix fees it finds reasonable for specialized facilities, special services, conveniences, materials or supplies used in a program and for special programs of all kinds. After their establishment, payment of the fees shall be a condition prerequisite to use or participation. Establishment and collection of fees does not change the public character of any area, facility or program. [New sec. Nov. 8, 1966.]

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### **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. [New sec. Nov. 8, 1966.]

### **ARTICLE 3. PERFORMANCE OF PUBLIC WORKS.**

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

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

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## 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. [New sec. Nov. 8, 1966.]

**Section 13-102. Continuance of Original Charter Provisions as Ordinances.** Ordinance provisions originally included in a charter, subsequently continued as ordinances and not amended, repealed or superseded, shall continue in full force and effect as ordinances until amended, repealed or superseded by the council. Reinclusion of the same authority or procedure in the charter removes authority of the council to affect them. [May 3, 1913, part of new sec. 96; 1914 rev., sec. 283; 1928 pub., sec. 283; 1942 recod., sec. 12-103; rev. Nov. 8, 1966.]

**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.

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

### **ARTICLE 2. CONSTRUCTION AND INTERPRETATION.**

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

**Section 13-202. Intent of 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. [New sec. Nov. 8, 1966.]

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### CHAPTER XIV EXPOSITION-RECREATION COMMISSION

#### ARTICLE 1. ADMINISTRATION, POWERS AND BONDS.

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

**Section 14-102. Exposition-Recreation Commission.** The department of exposition and recreation shall be administered by an Exposition-Recreation Commission composed of five members who shall be appointed by the Mayor, subject to the approval of the Council. Within thirty days after the adoption of this chapter, the Mayor shall appoint five persons who are qualified voters of the city as members of the Exposition-Recreation Commission. One of such members shall be appointed for a one-year term, one for a two-year term; one for a three-year term; one for a four-year term, and one for a five-year term. Thereafter appointments shall be made for a five-year term. A vacancy shall occur from the death, resignation or inability to serve of any member. Resignation when made shall be addressed to and accepted by the Mayor. Successors shall be appointed by the Mayor subject to Council approval, for the unexpired term. The members shall serve without salary or compensation of any nature. Within ten days after appointment the Commission shall meet and organize by the election of a chairman and secretary and by making provision for stated meetings and may adopt its own rules of procedure.

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

To construct, erect, equip, maintain and repair buildings and facilities for a multi-purpose coliseum stadium, playfield, exposition and exhibition center and war memorial, for conventions, expositions, sports events, concerts, shows of all kinds including livestock shows, automobile shows, housing shows and ice shows, patriotic, educational and fraternal meetings, and church conventions, and any other types of entertainment and recreational events, whether of exhibition or of participation character, that the Commission may find appropriate, including educational exhibits and park and recreational facilities, together with facilities for veterans' organizations as the Commission may find desirable or appropriate, and facilities connected therewith, including but not limited to parking area for use of the public for exhibitors and for the storage of supplies incidental to exhibitions, shows, etc., or for storage of maintenance equipment;

To acquire therefor the fee simple title to real property or interests therein by gift, grant, purchase, condemnation or other-

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

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

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

To operate said exposition and recreation center and facilities;

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

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

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

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

**Section 14-104. Exposition-Recreation Bonds.** The Council of the city of Portland is hereby authorized in the name and under the corporate seal of the city of Portland, to issue and dispose of bonds for the said City to an amount not exceeding \$8,000,000 of such denomination as the Council may determine and in such form as said Council shall select, with interest coupons attached thereto. Such bonds may be issued serially and said bonds shall bear the

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facsimile signature of the Mayor and counter-signature of the Auditor of said city of Portland and each of said coupons shall bear the facsimile signatures of the Mayor and Auditor of said city of Portland, whereby the said city of Portland shall be considered in substance and effect to undertake and promise to pay to the bearer of each of said bonds at the expiration of the time specified therein, the sum named therein in lawful money of the United States of America, together with interest thereon in like lawful money at such rate as the Council may determine, not exceeding 5% per annum, payable semi-annually as shall be provided in such coupons. The Council shall have authority to fix the dates for the redemption of the bonds, provided that no such period of redemption shall be less than three years nor more than twenty years from the date of issuance. The bonds issued pursuant to authority hereby granted shall be known as Exposition-Recreation Bonds of the city of Portland, Oregon, and the net revenues of the Exposition-Recreation Center over and above the cost of operation and maintenance may be used for improvements and additions or may be applied in payment of principal and interest due under said bonds. Such bonds shall be general obligations of the City. Such bonds may be issued and sold from time to time as the Council may direct upon notice from the Commission of request for such issuance. None of such bonds shall be sold without prior advertisement of not less than two weeks in the city official newspaper and/or such other means of advertisement as the Council may direct, calling for bids and all sales shall be to the bidder whom the Council finds to be the highest responsible bidder. The Council may in its discretion provide that competitive bidding shall be partially or wholly upon the rate of interest and in that case the rate shall be fixed according to the bid which in the opinion of the Council would be most advantageous to the City. The Council shall have a right to reject any and all bids and to proceed to readvertise when bids are not satisfactory, in obtaining new bids which may be called for on the same or a different basis. The Council shall exercise such other and additional power and authority within the restrictions above mentioned relating to the issuance of bonds as may be necessary or convenient for accomplishing the objectives hereof. The proceeds from sale of said bonds shall be expended in the payment of the cost of advertising, issuing and selling the same, including legal and other fees, and the balance shall be placed in a special fund to be known as the Exposition-Recreation Fund and said fund shall be expended upon the order of the Exposition-Recreation Commission for the purposes set forth in this chapter, including the cost of site acquisition, engineering, preparation of plans and specifications, preliminary costs and incidental expenses including court costs and legal expenses, the cost of construction, equipment and maintenance and operation, and all other costs connected with the purposes set forth in this chapter, including the cost of administrative expenses of said Commission.

**Section 14-105. Fiscal Matters of Commission.** The revenues of the Commission from rental or other agreements shall be paid

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into the Exposition-Recreation Fund provided in this chapter which shall be in the custody of the City Treasurer, provided, however, that the Commission may maintain a bank account not to exceed an average monthly balance of \$15,000 at any one time, to care for current operating expenses. The Commission may draw requisitions upon said fund and the Mayor and Auditor hereby are authorized and directed to draw and deliver warrants upon the order of such requisitions. The Commission may transfer funds from the Exposition-Recreation Fund by requisition as before set forth and deposit the same in the separate bank account above mentioned. The Commission may also transfer funds from the Exposition-Recreation Fund to the General Fund of the City. The accounts of the Commission shall be kept in conformity with the accounting practices of the city of Portland and shall be audited yearly and the Commission shall comply with the budgetary requirements of the City.

**Section 14-106. Use of City Facilities.** The Commission may obtain the advice, recommendation and assistance of any officer, board or commission of the city of Portland and when called upon the City Attorney and his staff shall render legal assistance and advice. Payment for such legal services or special services by the other departments, offices or officers of the City shall be made by the Commission. Purchases on a bid basis shall be made through the Purchasing Agent of the City but at the option of the Commission open market purchases need not be made through the Purchasing Agent. The limitation and restrictions on purchases elsewhere contained in this charter shall not apply but the Commission may purchase materials and supplies in amounts not exceeding \$1500.00 without advertising for bids, on the open market.

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

**Section 14-108. Location.** The powers and authority granted the Exposition-Recreation Commission by section 14-103 shall be exercised only with respect to acquisition of real property, construction, erection, maintenance and repair of buildings and facilities located easterly of the main channel of the Willamette River. [New sec. May 18, 1956.]

**Section 14-109. Use of City Owned Property.** In the event that any city property east of the main channel of the Willamette River be selected as a site for an Exposition-Recreation center, the Council shall make such property available to the Exposition-Recreation Commission for the purposes of this act, without charge. [New sec. May 18, 1956.]

14-105 to 14-109



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### CHAPTER XV PORTLAND DEVELOPMENT COMMISSION

#### ARTICLE 1. ADMINISTRATION, POWERS AND DUTIES.

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

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

**Section 15-103. General Powers and Duties.** The Portland Development Commission shall be and serve as the urban renewal and redevelopment agency of the city of Portland, pursuant to ORS Chapter 457, as amended, and shall have all the powers and perform all the duties of the City's urban renewal agency under ORS Chapter 457, as amended, and shall serve as the local public agency and shall perform all the functions prescribed therefor in Title 42 U. S. Code, relating to slum clearance, urban renewal and urban development and redevelopment in, or within a five-mile radius from the city boundaries. Said Commission shall automatically by its formation, assume all duties and obligations of the

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

The Portland Development Commission shall, in addition, promote industrial expansion and location, and may acquire such property, real or personal, or interest therein, inside or outside the city, as the Commission and the Council may find appropriate or convenient in accordance with comprehensive zoning and development plans, if such plans are available, and in compliance with zoning laws and regulations, may carry out the purposes of this Charter for lease of property not presently needed for municipal purposes to new industries, and may make recommendations to the City Council thereon, and on the exchange of property for other property which is suitable for leasing, and may promote industrial growth and assist in securing additional business within or near the city, and other matters provided for in Section 2-126 of this

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Charter; and in relation thereto shall take over and perform the duties of the City Council set forth in Section 2-126, except for appropriations and expenditures from the General Fund for advertising the advantages of the City, which power shall be exercised only by the City Council. The Commission shall control and manage and may lease in the name of the City to the extent permitted by Oregon Revised Statutes, Chapter 271, all properties placed under its administration by the City Council for industrial purposes and may improve any property which it acquires or controls to make it available or suitable for industrial sites. [New sec. May 16, 1958.]

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

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

2. The Commission shall have authority to appoint, employ and discharge such officers, employes and agents, including but not limited to clerical staff, experts, appraisers, accountants and other technicians, and craftsmen and laborers, as the Commission finds necessary or convenient for the efficient and economical performance of its duties, and to fix and provide for their compensation. Permanent officers and employes of the

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Commission shall be subject to the Civil Service provisions of this Charter and shall be appointed or removed by the Commission or person designated by the Commission in accordance with such provisions with the following exceptions: the commissioners, a director, his secretary, an assistant director and all consulting or technical employees. All offices and positions in the permanent service of the Commission shall be provided for by resolution, a copy of which shall be sent to the Civil Service Board. Resolutions establishing positions within the Civil Service provisions of this Chapter shall be transmitted to the Civil Service Board for classification in like manner as other positions in the service of the City.

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

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

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

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

**7.** The Commission shall pay all moneys received in connection with an urban renewal plan or property acquired in connection therewith, to the Treasurer of the city of Portland who shall maintain a separate and distinct fund to be known as the Urban Redevelopment Fund, in which all such moneys shall be deposited in the name of the city of Portland for the use and expenditure of the Commission. The Commission shall pay all money received in connection with civic promotion to the City

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Treasurer and he shall keep the same in a separate fund to be known as the Civic Promotion Fund. The Commission shall also have authority to establish reserve funds, special funds or sinking funds for the payment of indebtedness, obligations or interest thereon as may be permitted by law. The Commission may transfer money from its general fund to its special or reserve funds and may transfer surplus of money to its general fund, and may transfer to the general fund of the City. Disbursements shall be made by the City Treasurer on warrants signed by the chairman or designated member of the Commission and the secretary or acting secretary of the Commission, pursuant to powers granted in this Chapter, after designation of signatory authority by resolution of the Commission. However, the Commission may maintain a separate bank account not exceeding a balance of \$25,000 in addition to current payroll, for meeting salaries, wages and current miscellaneous expenses. Such account shall be designated as a revolving fund and may be drawn upon for such purposes by officials designated by the Commission. An accounting with reference to such account shall be filed monthly with the City Auditor.

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

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

10. The Commission shall provide for a comprehensive independent audit of all funds and accounts of the Commission by a qualified certified public accountant or firm of such accountants selected with the approval of the City Council. The cost of the audit shall be at the expense of the Commission. Copies of the audit report shall be furnished to the City Council and filed with the City Auditor, and a copy shall be sent to the Tax Supervising and Conservation Commission. [New sec. May 16, 1958.]

**Section 15-105. Report and Budget Estimates.** The Commission shall annually prepare a budget in accordance with the local budget law and submit it to the City Council at least fifty (50) days prior to the beginning of the ensuing fiscal year for inclusion as a part of the total city budget. As soon as possible after the close of each fiscal year, the Commission shall prepare a comprehensive annual report to the City Council for that year. Such report shall include a full report of receipts and expenditures for the year, including a comparison with budget estimates. Financial

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statements showing the financial condition of each fund, analysis, cash, surplus of each fund and a statement of indebtedness, if any, and such statistical information regarding finances and obligations as will clarify the financial condition and results of operation, shall be included in such report. [New sec. May 16, 1958.]

**Section 15-106. Issuance of Revenue Bonds.** Upon the request of the Commission, the Council may from time to time issue revenue bonds, certificates or debentures, to be repaid, to the extent permitted or to be permitted by law, solely out of: revenues from an urban renewal and redevelopment or civic promotion project; or from the sales of property involved in an urban renewal and redevelopment or civic promotion project; or from tax revenues attributable to improvements existing or subsequently constructed on property in an urban renewal and redevelopment project, or tax revenues exceeding a specified level within such project, to the extent that such is permitted by law; or any combination of such methods of repayment; and to that end the Commission, with the concurrence of the Council, may, to the extent permitted or to be permitted by law, pledge such tax revenues or other revenues as hereinbefore mentioned; provided, however, that not more than five million dollars (\$5,000,000) face value of such revenue bonds or other evidence of indebtedness pursuant to this section shall be outstanding at any one time. Such bonds or other evidences of indebtedness shall be issued by the Council in accordance with the procedures established by law and as the Council may prescribe by ordinance, and shall bear the facsimile signatures of the Mayor and Auditor and be known as "Urban Renewal and Redevelopment Bonds, Series....." [New sec. May 16, 1958.]

**Section 15-107. Continuing Special Tax Levy.** In order to provide funds for the expenses of the Commission and the purposes set forth in this Chapter, the City hereby is authorized, subject to the condition hereinafter stated, to levy a tax of two-thirds of one mill on each dollar of assessed valuation on property not tax exempt within the city of Portland, or \$400,000, whichever is the lesser, for each of five (5) successive years beginning with the fiscal year 1958-1959, provided, however, that if in any year less than such amount is levied or no levy is made, the City may and hereby is authorized to make such levy or carried-over portion thereof in any year within ten (10) successive years beginning with the 1958-1959 fiscal year, but such levy shall not in any one year exceed two-thirds of one mill on each dollar of assessed valuation as hereinbefore mentioned, or \$400,000, whichever is the lesser, nor shall the total amount levied under this section exceed \$2,000,000. No special tax levy may be made in any year unless the City Council and the Commission both determine prior to such levy for such year that the expenditures budgeted by the Commission for the succeeding fiscal year or portion thereof, proposed to be financed by tax levy, cannot feasibly or adequately be financed by means of revenue bonds as authorized elsewhere in this Chap-

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ter, such levy shall be in addition to and shall not be counted in the tax limitations prescribed in this Constitution of Oregon. [New sec. May 16, 1958.]

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